CONGRESSIONAL RECORD.

PROCEEDINGS AND DEBATES OF THE SIXTY-SECOND CONGRESS.

THIRD SESSION.

SENATE.

Monday, December 2, 1912.

The first Monday in December being the day prescribed by the Constitution of the United States for the annual meeting of Congress, the third session of the Sixty-second Congress commenced on this day.

The Senate assembled in its Chamber at the Capitol.

AUGUSTUS O. BACON, a Senator from the State of Georgia, took the chair as President pro tempore under the order of the Senate of August 17, 1912.

The PRESIDENT pro tempore called the Senate to order at

12 o'clock noon.

PRAYER.

The Chaplain, Rev. Ulysses G. B. Pierce, D. D., offered the fol-

Almighty God, our heavenly Father, in whose presence we now stand, we are come together in Thy name and to do Thy will. At the opening of this session of Congress we invoke Thy blessing. Without Thee we can do nothing. Until Thou dost bless us, our highest wisdom is but folly and our utmost strength Thee, wisdom and strength from above, that so we may glorify thee, accomplishing that which Thou givest us to do.

We come before Thee, our Father, with a deepened sense of our dependence upon Thee. Thou hast made us to know how

frail we are. Thou hast showed us that the way of man is not in himself alone, and that it is not in us who walk to direct our steps. Thou hast called from his earthly labors Thy servant, the Vice President of our Nation. While we thought it was still day Thou didst cause the sun of his life to go down, bringing the night, when no man can work. We murmur not nor repine, our Father, knowing that alike the day and the night are Thine. Thou hast taken from our side fellow laborers and companions, leaving in this Senate empty seats and in our hearts loneliness and sorrow. We can not forget them, our Father, though in the flesh we behold their faces no more. Thou hast removed from his post of duty an officer of this body and hast made us to know that in the midst of life we are in death. Comfort our hearts, we beseech Thee, for all our sorrows, and keep us evermore in Thy love, and though Thou feed us with the bread of adversity and give us to drink of the water

of affliction, yet take not from us Thy holy spirit.

We pray Thee to bless the President of the United States.

Uphold him by Thy power, watch over him by Thy providence, guide him by Thy wisdom, and strengthen him with Thy heavenly grace. Bless him who shall preside over this Senate, bestowing upon him all things as shall seem good unto Thee. For all who are in authority we pray that they may serve Thee with singleness of purpose, for the good of this people and for

Thy glory.

So, our Father, may this session of Congress, begun in Thy name, be continued in Thy fear and ended to Thine honor. Grant us so to labor that by our deliberations we may hasten the time when Thy kingdom shall come and Thy will shall be done on earth as it is in heaven.

In the name which is above every name, hear our prayer. Amen. CALLING OF THE ROLL.

The PRESIDENT pro tempore. The Secretary will call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst Bacon Bailey Borah Brandegee Bristow

Burnham Burton Clapp Clark, Wyo. Clarke, Ark.

Crawford Culberson Cullom Cummins Curtis

Dixon du Pont Fletcher Gallinger

Gardner Gore Gore Guggenheim Hitchcock Johnson, Me. Johnston, Ala. Kenyon La Follette Lippitt Lodge McCumber McLean Martin, Va. Martine, N. J. Massey Myers Nelson Newlands O'Gorman Overman Penrose

Percy Perkins Pomerene Richardson Root Sanders Shively Simmons Smith, Ariz. Smith, Ga. Smith, Md.

Smith, S. C. Smoot Stephenson Swanson Thornton Tillman Townsend Warren Wetmore Works

Mr. WORKS. The senior Senator from Washington [Mr.

Jones] is necessarily absent on business of the Senate.

Mr. PENROSE. My colleague [Mr. Oliver] is necessarily

absent on account of sickness.

Mr. SMOOT. On account of sickness my colleague [Mr. SUTHERLAND] is necessarily detained from the Senate.

Mr. CURTIS. I was requested to announce that the Senator from Kentucky [Mr. Bradley] is absent on account of sickness. Mr. PAGE. I wish to announce that my colleague [Mr. Dil-LINGHAM] is detained from the Senate on account of illness

Mr. SHIVELY. I wish to announce that my colleague [Mr. KERN] is detained from the Senate on important business, and that he is paired with the Senator from Kentucky [Mr. Bradley].

Mr. TOWNSEND. I wish to announce that the senior Senator from Michigan [Mr. SMITH] is unavoidably detained from the Senate this morning.

The PRESIDENT pro tempore. On the call of the roll of the Senate 67 Senators have answered to their names, and a quorum is present.

LIST OF SENATORS.

The list of Senators, by States, is as follows: Alabama—John H. Bankhead and Joseph F. Johnston. Arizona—Henry F. Ashurst and Marcus A. Smith. Arkansas—James P. Clarke and Jeff Davis. California—George C. Perkins and John D. Works. Colorado-Simon Guggenheim. Connecticut-Frank B. Brandegee and George P. McLean.

Delaware-Henry A. du Pont and Harry A. Richardson. Florida-Nathan P. Bryan and Duncan U. Fletcher. -Augustus O. Bacon and Hoke Smith. Idaho-William E. Borah.

Illinois—Shelby M. Cullom. Indiana—John W. Kern and Benjamin F. Shively. Iowa-Albert B. Cummins and William S. Kenyon. Kansas-Joseph L. Bristow and Charles Curtis. Kentucky-William O. Bradley and Thomas H. Paynter. Louisiana-Murphy J. Foster and John R. Thornton.

Maine-Obadiah Gardner and Charles F. Johnson. Maryland-John Walter Smith.

Massachusetts-Winthrop Murray Crane and Henry Cabot

Michigan-William Alden Smith and Charles E. Townsend. Minnesota-Moses E. Clapp and Knute Nelson. Mississippi-Le Roy Percy and John Sharp Williams. Missouri-James A. Reed and William J. Stone. Montana-Joseph M. Dixon and Henry L. Myers. Nebraska-Norris Brown and Gilbert M. Hitchcock. Nevada—William A. Massey and Francis G. Newlands. New Hampshire—Henry E. Burnham and Jacob H. Gallinger. New Jersey—Frank O. Briggs and James E. Martine. New Mexico-Thomas B. Catron and Albert B. Fall, New York-James A. O'Gorman and Elihu Root. North Carolina-Lee S. Overman and F. M. Simmons. North Dakota-Asle J. Gronna and Porter J. McCumber. Ohio-Theodore E. Burton and Atlee Pomerene. Oklahoma-Tom P. Gore and Robert L. Owen. Oregon—Jonathan Bourne, jr., and George E. Chamberlain.

Pennsylvania—George T. Oliver and Boles Penrose.

Rhode Island-Henry F. Lippitt and George Peabody Wetmore.

South Carolina-Ellison D. Smith and Benjamin R. Tillman. South Dakota-Coe I. Crawford and Robert J. Gamble.

Tennessco-Luke Lea and Newell Sanders.

Texas-Joseph W. Bailey and Charles A. Culberson.

Utah-Reed Smoot and George Sutherland.

Vermont—William P. Dillingham and Carroll S. Page. Virginia—Thomas S. Martin and Claude A. Swanson. Washington—Wesley L. Jones and Miles Poindexter.

West Virginia-William E. Chilton and Clarence W. Watson. Wisconsin-Robert M. La Follette and Isaac Stephenson. Wyoming-Clarence D. Clark and Francis E. Warren.

NOTIFICATION TO THE HOUSE.

Mr. GALLINGER submitted the following resolution (S. Res. 388), which was considered by unanimous consent and agreed to:

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

NOTIFICATION TO THE PRESIDENT.

Mr. CULLOM submitted the following resolution (S. Res. 389), which was considered by unanimous consent and agreed to:

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled, and that Congress is ready to receive any communication he may be pleased to make.

The PRESIDENT pro tempore appointed as the committee Mr. Cullom and Mr. Martin of Virginia.

HOUR OF MEETING TO-MORROW.

Mr. LODGE. I move that when the Senate adjourns to-day If be to meet to-morrow at 11 o'clock. The motion was agreed to.

DEATH OF THE VICE PRESIDENT.

Mr. ROOT. Mr. President, with a deep sense of public loss and of personal bereavement I discharge the duty of announcing to the Senate that on the 30th day of October last, at his home in the city of Utica, JAMES SCHOOLCRAFT SHERMAN, the Vice President of the United States, departed this life.

His serene and cheerful temperament, inspired by love of country and of his kind, will no more diffuse through this body a sense of reasonableness, of friendliness, and of kindly con-sideration. His faculty of swift and just decision which has promoted and cleared the path of public business in the Senate for the three years which are past will no longer aid us in our deliberations.

I have the honor to offer the resolutions which I now send to

the desk.

The resolutions (S. Res. 300) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow and regret the announcement of the death of JAMES SCHOOLCEAFT SHERMAN, late Vice President of the United States.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of

The PRESIDENT pro tempore. In connection with the announcement just made the Chair now lays before the Senate a cablegram received from the Brazilian Senate and the reply thereto, in order that the same may now be read and become a part of the record, and to be on a later day given such disposition as the Senate may direct.

The matter entire is as follows:

Rio de Janeiro, via Bakar, November 6, 1912.

Sr. Presidente Senado. Senate, Washington.

Cumpro dever communicar V. ex. que Senado Brasil sentido vivamente morte eminente Sr. James Sheeman, Vice Presidente dessa grande Republica, deliberou inserir acta seus trabalhos voto profundo pezar por esse doloroso acontecimento, e transmittir Senado Americano sinceras condoleancias, o que em seu nome faco por intermedio V. ex. a quem apresento minhas attenciosas saudacões.

FERREIRA CHAVES 1º Secretario do Senado.

[Cablegram-Translation.]

RIO DE JANEIRO, VIA DAKAR, November 6, 1912.

PRESIDENT OF THE SENATE. Washington:

I perform the duty of informing Your Excellency that the Senate of Brazil, keenly afflicted by the death of the eminent Mr. James Sherman, Vice President of your great Hepublic, has voted to enter upon its journal a resolution of profound sympathy in that sorrowful event and to

transmit to the American Senate sincere condolence, which I do in its name through Your Excellency, to whom I present my respectful salu-

FERREIRA CHAVES, First Secretary of the Senate. [Cablegram.]

Washington, November 7, 1912.

To the PRESIDENT OF THE BRAZILIAN SENATE:

I have received your very considerate and cordial message of sympathy, addressed to the American Senate, on the occasion of the death of the late Vice President James Sherman.

The Senate of the United States is not now in session. So soon as it convenes in December I will have the honor to lay before that body your highly esteemed message. I beg, in the meantime, to thank your honorable body for its kindly consideration and sympathy.

Augustus O. Bacon,

Augustus O. Bacon, President of the Senate pro tempore.

[Norg.—The foregoing reply to the cablegram of the Brazilian Seasowas, upon the request of Senator Bacon, cabled to the American ambassador at Brazil by the Acting Secretary of State, with directions for immediate delivery.]

DEATH OF SENATOR WELDON B. HEYBURN.

Mr. BORAH. Mr. President, it becomes my sad duty to announce to the Senate the death of my late colleague, Hon. W. B. HEYBURN. To those who witnessed his singular devotion to duty in the closing hours of the last session and the death of the last session and the last session are the last session and the last session and the last session are the last session ar tions which all realized imperiled his life, the news of his death came as no surprise. One less determined to perform faithfully the obligations of his high office, one less mindful of the responsibilities which rest upon us here, would have yielded to the solicitation of friends and sought the rest and recuperation which he so much needed. But understanding perfectly the forfeit which he might be called upon to pay, he nevertheless met without hesitancy and with spirit and purpose the exacting duties of that trying session. With equal fortitude and courage he paid the forfeit when the time came to do so.

Senator Herburn was a remarkable man, a strong, sturdy, self-reliant, dominant figure. But this is not the time nor the appropriate occasion for extended remarks; upon some other occasion I shall ask the Senate to set aside a day upon which his colleagues may pay tribute to his work and worth as a man and as a legislator.

I offer the following resolutions and ask for their adoption. The PRESIDENT pro tempore. The Secretary will read the

resolutions sent to the desk by the Senator from Idaho.

The resolutions (S. Res. 391) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow of the death of the Hon. Weldon Brinton Heyburn, late a Senator from the State of Idaho.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

DEATH OF SENATOR ISIDOR RAYNER.

Mr. SMITH of Maryland. Mr. President, it is my melancholy duty to announce to my colleagues in the Senate that since our last adjournment death has claimed our loved associate, ISIDOR RAYNER. His death occurred at his home in Washington on the 25th of last November. His end followed an acute illness lasting several weeks. Watching with him during the period of progressing physical weakness and intense suffering were those he loved best-his wife, his son, and his grandchildren.

He was in a large sense a martyr to his sympathies, his conscience, and his talents. The ambition to do his fullest duty as a Member of this body spurred him to undertake tasks far beyond his physical capacity to stand, for his mental energy and power always outran his physical capacity. A quick, sensitive, and all-compelling sympathy for all who suffer, for all who bear burdens, however imposed, pained and wore upon him to his very soul, and deeper than I ever knew in any other case. He finally succumbed under the rack and strain. His tensely nervous temperament could not withstand the weight of others' woes added to his habit of overwork, accentuated toward the latter part of his life by obligations assumed at great risk, as he knew, to himself, and assumed in spite of the warnings and entreaties of his intimate friends.

I shall make no effort to-day to speak of Senator RAYNER'S character or life nor of the qualities of mind and heart which elevated him to so many places of trust and fixed him in so many places of affectionate esteem. I shall only make the bare announcement of his decease.

I shall in due season ask the Senate to devote some future day to ceremonies befitting his memory. Then when time has somewhat cleared our finite sight we may review his life and character, not altogether in the darkness of our own present sense of personal calamity in his loss, but rather in the light of his everlasting gain.

Mr. President, I offer the resolutions which I send to the desk, and ask for their adoption.

The PRESIDENT pro tempore. The Secretary will read the resolutions presented by the Senator from Maryland.

The resolutions (S. Res. 392) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. ISIDOR RAYNER, late a Senator from the State of Maryland.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Mr. CULLOM. Mr. President, I desire as a further mark of respect to offer the following resolution, and I ask for its present consideration.

The resolution (S. Res. 393) was read, considered by unani-

mous consent, and unanimously agreed to, as follows:

*Resolved**, That as a further mark of respect to the memory of the late Vice President James Schoolcraft Sherman and the late Senators Wellows Brinton Herburn and Islode Rayner, whose deaths have just been announced, the Senate do now adjourn.

Thereupon the Senate (at 12 o'clock and 22 minutes p. m.) adjourned until to-morrow, Tuesday, December 3, 1912, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

Monday, December 2, 1912.

This being the day fixed by the Constitution for the annual meeting of the Congress of the United States, the House of Representatives of the Sixty-second Congress met in its Hall at 12 o'clock m. for its third session, and was called to order by the Speaker, Hon. CHAMP CLARK, a Representative from the State of Missouri.

The Chaplain, Rev. Henry N. Couden, D. D., offered the fol-

lowing prayer:

God of the universe, Father of all souls, whose spirit divine pervades all space, the light of the world, the inspiration of men, source of all good, continue, we beseech Thee, Thy ministrations unto us as a people, that with patriotic zeal and re-ligious fervor we may press forward to the higher altitudes contemplated by our fathers in a Government "conceived in liberty and dedicated to the proposition that all men are created

That the full fruition of its genius may at last obtain to the betterment of mankind, so move upon the hearts of these Thy servants now convened to conclude the work of the Sixtysecond Congress, that their efforts may be well pleasing in Thy

Imbue with wisdom, strength, and courage the Speaker of this House, that he may preside over its deliberations with justice and equity, that its resolves and enactments may redound to the good of the millions here represented.

Inspire, bless, guide the President of these United States and his counselors, that the laws of the land may be faithfully executed and the affairs of State amicably adjusted in consonance with the ideals of righteousness, truth, and justice. Let Thy wisdom guide the judiciary in their high and holy calling, that justice may fulfill its perfect work. So may the people, with their servants in the coordinate branches of the Government, strive for the ideals in all that makes a nation great and glorious, that the dear Old Flag may float its stars and stripes in graceful folds over a land of peace and plenty now and evermore, in the spirit of the Prince of Peace. Amen.

CALL OF ROLL.

The SPEAKER. The Clerk will call the roll of Members by States.

The roll was called, and the following Members answered to their names: ALABAMA.

George W. Taylor, S. H. Dent, jr. Henry D. Clayton, F. L. Blackmon. J. Thomas Heffin.

Richmond P. Hobson. John L. Burnett. William Richardson. Oscar W. Underwood.

Carl Hayden. ARKANSAS. Henderson M. Jacoway. W. S. Goodwin.

Robert Bruce Macon. William A. Oldfield. John C. Floyd.

John E. Raker. Julius Kahn.

CALIFORNIA. James C. Needham. William D. Stephens. COLORADO.

CONNECTICUT.

Thomas L. Reilly. Edwin W. Higgins.

Stephen M. Sparkman.

Atterson W. Rucker. Ebenezer J. Hill.

> FLORIDA Frank Clark.

Charles G. Edwards. S. A. Roddenbery. Dudley M. Hughes. William C. Adamson, Charles L. Bartlett.

Martin B. Madden.
James R. Mann.
William W. Wilson.
James T. McDermott.
Adolph J. Sabath.
Frank Buchanan.
Thomas Gallagher.
Lynden Evans.
George Edmund Foss,
Ira C. Copley. Ira C. Copley. Charles E. Fuller.

William A. Cullop. William E. Cox. Lincoln Dixon. Ralph W. Moss. Charles A. Korbly. John A. M. Adair.

Charles A. Kennedy, Charles E. Pickett, James W. Good,

Joseph Taggart. Philip P. Campbell.

Ollie M. James. Augustus O. Stanley. R. Y. Thomas, jr. Ben Johnson. Swagar Sherley. Arthur B. Rouse,

Albert Estopinal. H. Garland Dupré. Robert F. Broussard.

Asher C. Hinds. Daniel J. McGillicuddy.

J. Harry Covington. Joshua F. C. Talbott. J. Chas. Linthicum,

George P. Lawrence. Frederick H. Gillett, William H. Wilder. Butler Ames. Ernest W. Roberts.

Frank E. Doremus, Edward L. Hamilton, Edwin F. Sweet, Henry McMorran,

Sydney Anderson. Charles R. Davis. Frederick C. Stevens. Frank M. Nye.

Ezekiel S. Candler, jr. Hubert D. Stephens.

James T. Lloyd. Joshua W. Alexander, Charles F. Booher. William P. Borland. Clement C. Dickinson. Courtney W. Hamlin.

John A. Maguire. Dan V. Stephens. Charles H. Sloan.

William J. Browning. Thomas J. Scully. Ira W. Wood. William E. Tuttle, jr.

George Curry.

George H. Lindsay, James P. Maher. Frank E. Wilson. William C. Redfield. William M. Calder. John J. Fitzgerald, Daniel J. Riordan. Henry M. Goldfogle. William Sulzer. Charles V. Fornes. Michael F. Conry.

GEORGIA.

Gordon Lee. Samuel J. Tribble. Thomas W. Hardwick. William G. Brantley.

ILLINOIS.

Nois.
John C. McKenzie.
James McKinney.
Claude U. Stone.
John A. Sterling.
Joseph G. Cannon.
William B. McKinley.
James M. Graham.
William A. Rodenberg.
Martin D. Foster.
H. Robert Fowler.

Martin A. Morrison, Edgar D. Crumpacker, George W. Rauch, Cyrus Cline. Henry A. Barnhart.

S. F. Prouty. Horace M. Towner. William R. Green.

KANSAS.

George A. Neeley. Victor Murdock.

KENTUCKY.

James C. Cantrill, Harvey Helm, W. J. Fields, John W. Langley, Caleb Powers.

LOUISIANA.

John T. Watkins, Joseph E. Ransdell, Arsene P. Pujo,

MAINE.

Samuel W. Gould. Frank E. Guernsey. MARYLAND.

Thomas Parran. David J. Lewis.

MASSACHUSETTS.

Samuel W. McCall. William F. Murray. Andrew J. Peters. John W. Weeks.

Joseph W. Fordney. James C. McLaughlin, Francis H. Dodds. H. Olin Young.

MINNESOTA.

Charles A. Lindbergh, Clarence B. Miller, Halyor Steenerson.

Benjamin G. Humphreys. Samuel A. Witherspoon.

MISSOURI.

Dorsey W. Shackleford. Champ Clark. Richard Bartholdt. Walter L. Hensley. Joseph J. Russell. James A. Daugherty.

MONTANA. Charles N. Pray.

NEBRASKA.

George W. Norris, Moses P. Kinkaid.

NEVADA. E. E. Roberts. NEW JERSEY.

Edward W. Townsend, Walter I. McCoy, Eugene F. Kinkead,

NEW MEXICO.

Harvey B. Fergusson.

YORK.

YORK.
John J. Kindred.
Thomas G. Patten.
Henry George, jr.
Steven B. Ayres.
Henry S. De Forest.
Theron Akin.
Charles A. Talcott.
John W. Dwight.
Sereno E. Payne.
Henry G. Danferthis and the Edwin S. Underhill.

NORTH DAKOTA.

OHIO.

OKLAHOMA.

OREGON. A. W. Lafferty.

Robert N. Page. Robert L. Doughton. Edwin Y. Webb. James M. Gudger.

H. T. Helgesen.

Scott Ferris.

Horatio C. Claypool.
Edward L. Taylor, jr.
George White.
W. B. Francis.
William A. Ashbrook,
John J. Whitacre.
E. R. Bathrick.
Paul Howland.
R. J. Bulkley.

Louis B. Hanna.

John H. Small, John M. Faison, Edward W. Pou. Charles M. Stedman, Hannibal L. Godwin.

Nicholas Longworth. Nicholas Longworth, Alfred G. Allen. James M. Cox. J. H. Goeke. Timothy T. Ansberry. Matthew R. Denver, J. D. Post. Frank B. Willis. Isaac R. Sherwood, Robert M. Switzer,

Dick T. Morgan.

William S. Vare.
William Stuart Reyburn.
J. Hampton Moore.
Michael Donohoe.
George D. McCreary.
Thomas S. Butler.
Robert E. Difenderfer.
William W. Griest.
John R. Farr.
Charles C. Bowman.
Robert E. Lee.
John H. Rothermel.
William B. Wilson.
Marlin E. Olmsted.

James F. Byrnes. Joseph T. Johnson.

Sam R. Sells. Richard W. Austin, John A. Moon. Cordell Hull. William C. Houston.

Morris Sheppard. Martin Dies. Jack Beall. Rufus Hardy. George F. Burgess. Albert S. Burleson.

E. E. Holland. John Lamb. E. W. Saunders. Carter Glass.

Stanton Warburton.

John W. Davis. William G. Brown.

Arthur W. Kopp. Victor L. Berger. Michael E. Burke. John J. Esch.

PENNSYLVANIA. MIVANIA.
Jesse L. Hartman.
Daniel F. Lafean.
Charles E. Patton.
Curtis H. Gregg.
Thomas S. Crago.
Charles Matthews.
A. Mitchell Palmer.
J. N. Langham.
Peter M. Speer.
Stephen G. Porter.
John Dalzell.
James F. Burke.
Andrew J. Barchfeld.

RHODE ISLAND. George F. O'Shaunessy.

SOUTH CAROLINA. Asbury F. Lever.

SOUTH DAKOTA.

Charles H. Burke.

TENNESSEE.

Joseph W. Byrns. Lemuel P. Padgett. Thetus W. Sims. Finis J. Garrett. Kenneth D. McKellar.

Robert L. Henry. Oscar Callaway. John H. Stephens. James L. Slayden. John N. Garner. William R. Smith.

VERMONT. Frank Plumley.

VIRGINIA.

James Hay. Charles C. Carlin. C. Bascom Slemp. Henry D. Flood.

WASHINGTON.

William L. La Follette.

WEST VIRGINIA.

John M. Hamilton.

WISCONSIN.

James H. Davidson, Thomas F. Konop. Irvine L. Lenroot.

WYOMING. Frank W. Mondell.

The SPEAKER. Two hundred and seventy-eight Members, a quorum, have answered to their names.

SWEARING IN OF MEMBERS.

The SPEAKER. The Chair understands that certain new Members desire to be sworn in. If so, they will take their places in front of the Speaker's desk and receive the oath of office.

Mr. BROUSSARD. Mr. Speaker, Mr. Lewis L. Morgan, a newly elected Member of the House from the sixth district of Louisiana, is present and desires to be sworn in.

The SPEAKER. The Chair will state to the gentleman from Louisiana that the credentials of his colleague [Mr. Morgan] have not yet been received.

Mr. BROUSSARD. I ask unanimous consent that the gen-tleman from Louisiana [Mr. Morgan] be sworn in.

The SPEAKER. There is no question about his election?
Mr. BROUSSARD. None whatever.
The SPEAKER. The gentleman from Louisiana [Mr. Brous-SARD] asks unanimous consent that his colleague [Mr. Morgan]

be sworn in in advance of the receipt of his credentials, there being no question of his election. Is there objection?

There was no objection.

The SPEAKER. The Clerk will read the following memorandum:

The Clerk read as follows:

CLERK'S OFFICE, House of Representatives, Washington, D. C., December 2, 1912.

Hon. CHAMP CLARK, Speaker of the House of Representatives.

Dear Sir: The following certificates of election to the Sixty-second Congress have been received and filed:

Hon. Archibald C. Harr, of the State of New Jersey, to fill vacancy caused by the resignation of Hon. William Hughes.

Hon. George C. Scott, of the State of Iowa, to fill the vacancy caused by the death of Hon. Elbert H. Hubbard.

Hon. Elbwin A. Merritt, Jr., of the State of New York, to fill the vacancy caused by the death of Hon. George R. Malby.

Respectfully,

South Trimble.

SOUTH TRIMBLE, Clerk of House of Representatives.

The SPEAKER. The Chair will state that the credentials of the three Members referred to in this memorandum have been received, and that they are correct in every respect. Unless there be objection, the Chair will assume that unanimous consent is given to waive the reading of the credentials, and the Members elect will receive the oath of office.

Messrs. Morgan of Louisiana, Hart of New Jersey, Scott of Iowa, and MERRITT of New York appeared at the bar of the

House and took the oath of office.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following resolu-

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that Congress is ready to receive any communication he may be pleased to make.

In compliance with the foregoing resolution the President pro tempore appointed as said committee Mr. Cullon and Mr. Martin of Virginia.

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled, and that the Senate is ready to proceed to business.

NOTIFICATION OF THE PRESIDENT.

Mr. UNDERWOOD. Mr. Speaker, I offer the following resolution, which I send to the Clerk's desk.

The Clerk read as follows:

House resolution 710.

Resolved. That a committee of three Members be appointed on the part of the House to join the committee appointed by the Senate to wait upon the President and inform him that a quorum of the two Houses has assembled and that Congress is ready to receive any communication he may have to make.

The resolution was agreed to, and the Speaker appointed Messrs. Underwood, Johnson of Kentucky, and Mann as members of the committee on the part of the House.

NOTIFICATION OF THE SENATE.

Mr. FITZGERALD. Mr. Speaker, I present the following resolution and ask for its immediate consideration.

The Clerk read as follows:

House resolution 711.

Resolved, That the Clerk of the House inform the Senate that a quorum of the House of Representatives has appeared, and that the House is ready to proceed to business.

The resolution was agreed to.

DAILY HOUR OF MEETING.

Mr. HAY. Mr. Speaker, I offer the following resolution and ask for its immediate consideration.

The Clerk read as follows:

House resolution 712.

Resolved, That until otherwise ordered the hour of daily meeting of the House of Representatives shall be 12 o'clock m.

The resolution was agreed to.

THE LATE REPRESENTATIVE ANDERSON OF OHIO.

Mr. ANSBERRY. Mr. Speaker, I offer the following resolu-tions, which I send to the Clerk's desk and ask for their immediate consideration.

The Clerk read as follows:

House resolution 713.

Resolved, That the House has heard with profound sorrow of the death of the Hon. Carl Carry Anderson, a Representative from the State of Ohio.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

The resolutions were agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate has heard with profound sorrow the announcement of the death of Hon. ISIDOR RAYNER, late a Senator from the State of Maryland.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Also:

Resolved. That the Senate has heard with profound sorrow of the death of the Hon. Weldon Brinton Heyburn, late a Senator from the State of Idaho.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

Resolved, That the Senate has heard with profound sorrow and regret the announcement of the death of James Schoolchaft Sherman, late Vice President of the United States.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Also:

Resolved. That as a further mark of respect to the memory of the late Vice President James Schoolcraft Sherman and the late Senators Weldon Brinton Heyburn and Islode Ratner, whose deaths have just been announced, the Senate do now adjourn.

THE LATE REPRESENTATIVE UTTER.

Mr. O'SHAUNESSY. Mr. Speaker, I offer the following resolutions and ask for their immediate consideration.

The Clerk read as follows:

House resolution 714.

Resolved. That the House has heard with profound sorrow of the death of Hon. George Herbert Utter, late a Member of the House from the State of Rhode Island.

Resolved, That the Clerk of the House be directed to transmit a copy of these resolutions to the Senate and send a copy thereof to the family

of the deceased.

The resolutions were agreed to.

DEATH OF SENATOR RAYNER.

Mr. LINTHICUM. Mr. Speaker, I offer the following resolutions, which I send to the desk, and ask for their immediate consideration.

The Clerk read as follows:

House resolution 715.

Resolved, That the House has heard with profound sorrow of the death of Hon. Isinon RAYNER, a Senator of the United States from the State of Maryland.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased Senator.

The resolutions were agreed to.

THE LATE REPRESENTATIVE CONNELL.

Mr. SULZER. Mr. Speaker, I offer the following resolutions and ask for their immediate consideration.

The Clerk read as follows:

Resolved, That the House of Representatives has heard with profound sorrow of the death of the Hon. RICHARD E. CONNELL, late a Representative from the State of New York.

Resolved, That the Clerk be directed to communicate these resolutions to the Senate and transmit a copy thereof to the family of the decased.

The resolutions were agreed to.

DEATH OF THE VICE PRESIDENT.

Mr. CANNON. Mr. Speaker, I announce to the House that JAMES SCHOOLCRAFT SHERMAN, Vice President of the United States, departed this life at his home in Utica, N. Y., on the 30th day of October, 1912.

The admirable administration of the high office which he held, the second in the gift of the Republic, his brilliant and useful career for so many years in the House of Representatives, his sympathetic touch with every class, the unsullied purity of his public and private life, had so impressed the country that his death occasioned expression of deep-felt grief so universal as to manifest a general and profound sense of national bereave-

Congress will doubtless, by concurrent action of the two Houses, at an early moment set apart a time for proper expression touching the life, character, and services of this eminent citizen.

I move you, sir, that out of regard for his memory and the memory of the Members of this House and of the Senate who have departed this life since the adjournment of the last session of Congress this House do now adjourn.

The motion was agreed to; and accordingly (at 1 o'clock and 8 minutes p. m.) the House adjourned until to-morrow, Tuesday, December 3, 1912, at 12 o'clock noon.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. BROWNING (by request): A bill (H. R. 26454) to establish a complete financial and banking system for the United States of America; to the Committee on Banking and Currency.

By Mr. HOLLAND: A bill (H. R. 26455) to provide for an examination and survey of Elizabeth River, Va., with special reference to Norfolk Harbor, including approaches thereto and channel to Newport News, with a view to increasing the width of the 35-foot channel and providing additional anchoring space;

to the Committee on Rivers and Harbors.

By Mr. BARCHFELD: A bill (H. R. 26456) to provide for the purchase of a site and the erection of a public building thereon at McKees Rocks, Pa.; to the Committee on Public

Buildings and Grounds.

By Mr. GARNER: A bill (H. R. 26457) to increase the limit of cost for the Federal building heretofore authorized at Corpus Christi, Tex.; to the Committee on Public Buildings and Grounds.

By Messrs. DALZELL, BARCHFELD, and PORTER: A bill (H. R. 26458) to provide for the erection of a public building at Pittsburgh, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. DE FOREST: A bill (H. R. 26459) to loan to the State of New York the brass fieldpieces and one brass howitzer captured by Gen. Burgoyne at the Battle of Saratoga; to the Committee on Military Affairs.

By Mr. DODDS: A bill (H. R. 26460) granting a pension to

Roy Layton Moffatt; to the Committee on Invalid Pensions. By Mr. ROBERTS of Massachusetts: A bill (H. R. 26461) to

authorize the construction of a public building at Malden, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. CLAYTON: A bill (H. R. 26462) to authorize the Supreme Court to prescribe forms and rules and generally to

regulate pleading, procedure, and practice on the common-law side of the Federal courts; to the Committee on the Judiciary.

By Mr. BURKE of Pennsylvania; A bill (H. R. 26463) for

By Mr. BURKE of Pennsylvania: A bill (H. R. 26463) for the erection of a public building at Pittsburgh, Pa.; to the Com-

mittee on Public Buidings and Grounds.

By Mr. DE FOREST: A bill (H. R. 26464) to pension all persons who have served or hereafter serve as President of the United States of America, including their widows and minor

children; to the Committee on Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 26465) for the erection of a Federal building for the United States post office at Warren, R. I.; to the Committee on Public Buildings and Grounds.

By Mr. SCULLY: A bill (H. R. 20466) to provide for the examination and survey of the Manasquan River, N. J.; to the Committee on Rivers and Harbors.

By Mr. NORRIS: A bill (H. R. 26467) to increase the limit of cost of the public building at McCook, Nebr.; to the Committee on Public Buildings and Grounds.

By Mr. HART: Resolution (H. Res. 717) authorizing Post-master of House to appoint messenger for session; to the Committee on Accounts.

By Mr. O'SHAUNESSY: Resolution (H. Res. 718) that a committee be appointed to investigate alleged violations of the antitrust act of July 2, 1890, and various other acts supplementary thereto and amendatory thereof; to the Committee on

By Mr. AYRES: Resolution (H. Res. 719) requesting the Secretary of the Navy to furnish the House with the result of investigations as to the use of the Diesel oil engine; to the Committee on Naval Affairs.

By Mr. LINDBERGH: Resolution (H. Res. 720) directing the Committee on Banking and Currency to report as to its investigation of the Money Trust; to the Committee on Rules.

By Mr. TALBOTT of Maryland: Resolution (H. Res. 721) authorizing appointment of messenger to Joint Select Committee on Disposition of Useless Executive Papers; to the Committee on Accounts.

By Mr. CARLIN: Resolution (H. Res. 722) authorizing the Committee on the Judiciary to employ additional assistant clerk; to the Committee on Accounts.

By Mr. BURGESS: Joint resolution (H, J. Res. 363) requesting the President to consider the expediency of effecting a treaty with European powers providing for the neutralization of the Philippine Islands and to protect an independent government there when established; to the Committee on Insular Affairs. 200 ANTEL STOP 13.1

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PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 26468) granting a pension to

Augusta J. Houser; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26469) granting an increase of pension to Phoebe Dorton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26470) granting an increase of pension to

John B. Stults; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26471) granting an increase of pension to

James S. Strother; to the Committee on Invalid Pensions. By Mr. ANSBERRY: A bill (H. R. 26472) granting an increase of pension to George W. Durkee; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 26473) granting a pension

to Thomas West; to the Committee on Pensions.

Also, a bill (H. R. 26474) granting an increase of pension to John W. Etiner; to the Committee on Invalid Pensions.

By Mr. BROWNING: A bill (H. R. 26475) granting a pension to Mettle Baymore; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26476) granting an increase of pension to William K. Ridgate; to the Committee on Pensions.

By Mr. CAMPBELL: A bill (H. R. 26477) granting an increase of pension to Abram H. Birdsall; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26478) granting an increase of pension to

David D. Mikesell; to the Committee on Invalid Pensions.

By Mr. CARLIN: A bill (H. R. 26479) to transfer Capt. Armistead Rust from the retired to the active list of the United

States Navy; to the Committee on Naval Affairs.

By Mr. COPLEY: A bill (H. R. 26480) granting a pension to Wiley L. Edmonds; to the Committee on Pensions.

Also, a bill (H. R. 26481) granting an increase of pension to Sarah M. Kinley; to the Committee on Invalid Pensions.

By Mr. DAUGHERTY: A bill (H. R. 26482) for the relief of the county of Barton, State of Missouri; to the Committee on

By Mr. FAIRCHILD: A bill (H. R. 26483) granting a pension to Augusta H. Wilson; to the Committee on Invalid Pen-

Also, a bill (H. R. 26484) granting an increase of pension to Helen E. Stowal; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26485) granting an increase of pension to

Eliza Butts; to the Committee on Invalid Pensions. Also, a bill (H. R. 26486) granting a pension to Ann E. Cummings; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26487) granting an increase of pension to

Susan M. Rynders; to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 26488) granting a pension to

Leora R. Maxon; to the Committee on Invalid Pensions. Also, a bill (H. R. 26489) granting an increase of pension to

Mary L. Merchant; to the Committee on Invalid Pensions. By Mr. GREGG of Pennsylvania: A bill (H. R. 26490) granting a pension to Mary J. France; to the Committee on Invalid

By Mr. GUERNSEY: A bill (H. R. 26491) granting a pension

to Leonora V. Lunt; to the Committee on Invalid Pensions.
Also, a bill (H. R. 26492) granting a pension to Joseph M. Arey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26493) granting an increase of pension to Michael Cassidy; to the Committee on Invalid Pensions.

By Mr. KORBLY: A bill (H. R. 26494) granting a pension to Curtis O. Hayes; to the Committee on Pensions.

By Mr. LAFEAN: A bill (H. R. 26495) to correct the military record of Frederick Sapp; to the Committee on Military

Also, a bill (H. R. 26496) granting an increase of pension to David F. Forney; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26497) granting an increase of pension to

William G. Stine; to the Committee on Invalid Pensions.

By Mr. LANGHAM: A bill (H. R. 26498) granting an increase of pension to John Travis Mathews; to the Committee on Invalid

Also, a bill (H. R. 26499) granting an increase of pension to

John R. Stumpf; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26500) granting a pension to James P.

Jack; to the Committee on Pensions.

Also, a bill (H. R. 26501) granting a pension to Nancy J.

Sharp; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26502) granting an increase of pension to John A. Bennett; to the Committee on Invalid Pensions.

By Mr. LINDSAY: A bill (H. R. 26503) granting an increase of pension to Laura V. Brooke; to the Committee on Pensions.

By Mr. MAHER: A bill (H. R. 26504) granting an increase pension to Catherine C. Schryver; to the Committee on Invalid Pensions

By Mr. MANN: A bill (H. R. 26505) granting a pension to Edward W. Deegan; to the Committee on Pensions.

By Mr. MORRISON: A bill (H. R. 26506) for the relief of

Frank W. Tucker; to the Committee on War Claims.

By Mr. PETERS: A bill (H. R. 26507) granting a pension to

Marion A. Hey; to the Committee on Invalid Pensions

Also, a bill (H. B. 26508) granting a pension to Margaret Gately; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26500) granting a pension to Annie Mc-Leod; to the Committee on Pensions.

Also, a bill (H. R. 26510) granting a pension to Cornelius Leary; to the Committee on Pensions.

By Mr. REDFIELD: A bill (H. R. 26511) granting a pension to Nellie McMillan; to the Committee on Invalid Pensions

By Mr. REILLY: A bill (H. R. 26512) granting a pension to Walter J. Hawthorne; to the Committee on Pensions.

Also, a bill (H. R. 26513) granting a pension to Verena Ray

Hartman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26514) granting an increase of pension to Rosanna Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26515) granting an increase of pension to Sarah M. Mitchell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26516) granting an increase of pension to Gould T. Hubbell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26517) granting an increase of pension to

John M. Culver; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26518) granting a pension to Mary G.

Doyle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26519) granting an increase of pension to William A. S. Welch; to the Committee on Invalid Pensions.

By Mr. ROBERTS of Massachusetts: A bill (H. R. 26520) granting an increase of pension to Charles H. Colgate; to the Committee on Invalid Pensions.

By Mr. SCULLY: A bill (H. R. 26521) granting an increase

of pension to Ellen V. N. Wilson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26522) granting a pension to Laura Culberson; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 26523) granting a pen-

sion to John King; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26524) granting an increase of pension to

Also, a bill (H. R. 20524) granting an increase of pension to Belle Spencer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26525) granting a pension to John W. Morse; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26526) granting an increase of pension to Sarah Ann Wamsley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26527) granting a pension to Augusta Batdorf; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26528) granting an increase of pension to

Carver S. Griffin; to the Committee on Invalid Pensions.

By Mr. SMITH of New York: A bill (H. R. 26529) granting

an increase of pension to George H. Harris; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26530) granting an increase of pension to Conrad Haag; to the Committee on Invalid Pensions

Also, a bill (H. R. 26531) granting a pension to William C. Roderick; to the Committee on Pensions.

Also, a bill (H. R. 26532) granting an increase of pension to Charles Meal; to the Committee on Invalid Pensions.

By Mr. STEPHENS of Texas: A bill (H. R. 26533) granting a pension to Rebecca J. Pool; to the Committee on Invalid Pensions.

By Mr. WILLIS: A bill (H. R. 26534) granting an increase of pension to James McEvoy; to the Committee on Invalid Pensions.

By Mr. WILSON of New York: A bill (H. R. 26535) granting an increase of pension to Ferdinand Jubitz; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Papers to accompany bill (H. R. 26497)

for relief of Thomas West; to the Committee on Pensions.

Also, petition of Division No. 564, Order of Railway Conduc-Also, partial Committee on the Judiciary.

Also, papers to accompany bill (H. R. 26027) for the relief of John W. Etinel; to the Committee on Invalid Pensions.

By Mr. BURKE of Wisconsin: Petition of John V. Zweck and 12 other merchants of Beaver Dam, Wis.; of William Peters and 3 other merchants of West Bend, Wis.; and of Mrs. K. Endlick and 4 other merchants of Keewaskum, Wis., asking that the Interstate Commerce Commission be given further power for the regulation of express rates; to the Committee on the Judiciary.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring passage of bill (H. R. 17736) reducing rate of letter postage to 1 cent; to the Commit-

tee on the Post Office and Post Roads.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, asking for a change in the manner in which national elections are held; to the Committee on Election of President, Vice President, and Representatives in Congress.

Also, petition of Milwaukee (Wis.) Council, No. 54, Order of United Commercial Travelers of America, favoring passage of House bill 20590, providing for a change of date of the general election; to the Committee on Election of President, Vice President, and Representatives in Congress.

Also, petition of Merchants and business men of Beaver Dam and Horicon, Wis., protesting against any change in the present parcel-post system; to the Committee on the Post Office and

Post Roads.

By Mr. ESCH: Petition of the Memphis Merchants' Exchange, favoring passage of Pomerene substitute bill (S. 957); to the

Committee on Interstate and Foreign Commerce.

Also, petition of Farmers' Educational and Cooperative Union of America, favoring passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FITZGERALD: Petition of the Council of Grain Exchange, Chicago, Ill., favoring passage of Senate bill 6810, the Pomerene Senate substitute bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of the board of directors of the Maritime Association of the Port of New York, favoring establishment of a Weather Bureau station at Sandy Hook; to the Committee on Appropriations.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring passage of House bill 20590, changing the date of the general election; to the Committee on Election of President, Vice President, and Representatives in Congress.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring passage of House bill 17736, for reduction of postage rate to 1 cent; to the Com-

mittee on the Post Office and Post Roads.

Also, petition of the Manila Welfare Committee, urging a bond issue of \$10,000,000 be issued, so that \$2,250,000 be made available for urgent humanitarian purposes; to the Committee on Appropriations.

Also, petition of Farmers' Educational and Cooperative Union of America, favoring passage of Senate bill 3175, relative to immigration; to the Committee on Immigration and Naturalization.

migration; to the Committee on Immigration and Naturalization. By Mr. FULLER: Papers to accompany bill (H. R. 25354) for relief of Charles Logan; to the Committee on Invalid Pensions.

Also, papers to accompany bill for relief of Mrs. Mary L. Merchant; to the Committee on Invalid Pensions.

By Mr. KINKEAD of New Jersey: Letter from Branch No. 221, National Association of Letter Carriers, Bayonne, N. J., relative to prevailing upon Congressman Thomas Rellex to accept an invitation as honor guest at a dinner showing their appreciation of his successful efforts in passing the postal em-

ployees' eight-ten hour law; to the Committee on Labor.

By Mr. LAFEAN: Papers accompanying bill granting increase of pension to William G. Stine; to the Committee on Invalid

Pensions.

By Mr. LEVY: Petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring a change in the date of the general election; to the Committee on Election of President, Vice President, and Representatives in Congress.

Also, petition of the Maritime Association of the Port of New York, favoring the establishment of a Weather Bureau station at Sandy Hook; to the Committee on Appropriations.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring reduction of postage rate to 1 cent; to the Committee on the Post Office and Post Roads.

By Mr. LINDSAY: Petition of Farmers' Educational and Cooperative Union of America, of Rogue, Ark., favoring passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization. Also, petition of A. Habernicht & Co., of New York, protesting against the passage of the Webb-Kenyon bill; to the Committee on the Judiciary.

By Mr. REILLY: Petition of the National Society for the Promotion of Industrial Education, favoring the passage of the

Page-Wilson bill; to the Committee on Agriculture.

Also, petition of the New Haven Chamber of Commerce, New Haven, Conn., favoring the widening of the main channel of the New Haven Harbor; to the Committee on Rivers and Harbors.

Also, petition of the New Haven Chamber of Commerce, New Haven, Conn., favoring passage of House bill 26277, for creation of final court of patent appeals; to the Committee on the Judiciary.

Also, petition of the Board of Harbor Commissioners for New Haven Harbor, favoring the widening and improvement of the main channel of the New Haven Harbor; to the Committee on Rivers and Harbors.

Also, petition of Farmers' Educational and Cooperative Union of America, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and

Naturalization.

By Mr. WILLIS: Petition of Robinson & Richter Co. and 4 other citizens of Milford Center, Ohio, and Ambrose & Knight and 10 other citizens of Urbana, Ohio, favoring enactment of legislation giving Interstate Commerce Commission further power toward regulation of express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. WILSON of New York: Petition of the Maritime Association of the Port of New York, favoring establishment of a Weather Bureau station at Sandy Hook; to the Committee on

Appropriations.

Also, petition of the Wyckoff Heights Taxpayers' Association, of Brooklyn, N. Y., relative to giving the postmen a holiday on Thanksgiving Day; to the Committee on the Post Office and Post Roads.

SENATE.

Tuesday, December 3, 1912.

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. Bacon took the chair as President pro tempore under

the previous order of the Senate.

NORRIS BROWN, a Senator from the State of Nebraska; Miles Poindexter, a Senator from the State of Washington; William Alden Smith, a Senator from the State of Michigan; and George Sutherland, a Senator from the State of Utah, appeared in their seats to-day.

The Journal of yesterday's proceedings was read and approved.

SENATORS FROM IDAHO AND MARYLAND.

Mr. BORAH. I present the certificate of the governor of the State of Idaho naming Hon. Kirtland I. Perky a Senator to succeed the late Weldon B. Heyburn. I ask that it be read.

The credentials of Kirlland I. Perky, appointed by the governor of the State of Idaho a Senator from that State to fill until the next meeting of the legislature thereof the vacancy in the term ending March 3, 1915, were read and ordered to be filed.

Mr. SMITH of Maryland. I present the certificate of the governor of Maryland appointing Mr. William P. Jackson a Senator from Maryland to succeed Hon. Isidor Rayner, deceased. I ask that the credentials may be read.

The credentials of William Purnell Jackson, appointed by the governor of the State of Maryland a Senator from that State to fill until the next meeting of the legislature thereof the vacancy in the term ending March 3, 1917, were read and ordered to be filed.

Mr. BORAH. I desire to state that the Senator who has been appointed from Idaho is now in the Chamber and ready

to take the oath of office.

Mr. SMITH of Maryland. Mr. Jackson is also present and ready to be sworn.

The PRESIDENT pro tempore. The Senators who have been appointed will present themselves at the desk and take the oath of office.

Mr. Perky and Mr. Jackson were escorted to the Vice President's desk by Mr. Borah and Mr. Smith of Maryland, respectively; and the oath prescribed by law having been administered to them, they took their seats in the Senate.

CREDENTIALS.

Mr. Foster presented the credentials of Robert F. Broussard, chosen by the Legislature of the State of Louisiana a Senator

from that State for the term beginning March 4, 1915, which were read and ordered to be filed.

NOTIFICATION TO THE PRESIDENT.

Mr. Cullom and Mr. Martin of Virginia, the committee appointed to wait on the President of the United States, appeared, and

Mr. CULLOM said: Mr. President, the committee appointed to wait upon the President of the United States in connection with a similar committee on the part of the House of Representatives and inform him that the two Houses had organized and were ready to receive any communication he might be pleased to make have performed that duty. The President stated to the committee that he would communicate with the two Houses this morning in writing. I understand that his message is now in the hands of an executive clerk at the door.

PRESIDENT'S ANNUAL MESSAGE (H. DOC. NO. 927).

M. C. Latta, one of the executive clerks, appeared and said:
I am directed by the President of the United States to deliver to the Senate a message in writing.

The message was received by the Secretary and handed to

the President pro tempore.

The PRESIDENT pro tempore. The Chair lays before the Senate a message from the President of the United States, which will be read.

The Secretary read the message, as follows:

To the Senate and House of Representatives:

The foreign relations of the United States actually and potentially affect the state of the Union to a degree not widely realized and hardly surpassed by any other factor in the welfare of the whole Nation. The position of the United States in the moral, intellectual, and material relations of the family of nations should be a matter of vital interest to every patriotic The national prosperity and power impose upon us duties which we can not shirk if we are to be true to our ideals. The tremendous growth of the export trade of the United States has already made that trade a very real factor in the industrial and commercial prosperity of the country. With the development of our industries the foreign commerce of the United States must rapidly become a still more essential factor in its economic welfare. Whether we have a farseeing and wise diplomacy and are not recklessly plunged into unnecessary wars, and whether our foreign policies are based upon an intelligent grasp of present-day world conditions and a clear view of the potentialities of the future, or are governed by a temporary and timid expediency or by narrow views befitting an infant nation, are questions in the alternative consideration of which must convince any thoughtful citizen that no department of national polity offers greater opportunity for promoting the interests of the whole people on the one hand, or greater chance on the other of permanent national injury, than that which deals with the foreign relations of the United States.

The fundamental foreign policies of the United States should be raised high above the conflict of partisanship and wholly dissociated from differences as to domestic policy. In its foreign affairs the United States should present to the world a united front. The intellectual, financial, and industrial interests of the country and the publicist, the wage earner, the farmer, and citizen of whatever occupation must cooperate in a spirit of high patriotism to promote that national solidarity which is indispensable to national efficiency and to the attain-

ment of national ideals.

The relations of the United States with all foreign powers remain upon a sound basis of peace, harmony, and friendship. A greater insistence upon justice to American citizens or interests wherever it may have been denied and a stronger emphasis of the need of mutuality in commercial and other relations have only served to strengthen our friendships with foreign countries by placing those friendships upon a firm foundation of realities as well as aspirations.

Before briefly reviewing the more important events of the last year in our foreign relations, which it is my duty to do as charged with their conduct and because diplomatic affairs are not of a nature to make it appropriate that the Secretary of State make a formal annual report, I desire to touch upon some of the essentials to the safe management of the foreign relations of the United States and to endeavor, also, to define clearly certain concrete policies which are the logical modern corollaries of the undisputed and traditional fundamentals of the foreign policy of the United States.

REORGANIZATION OF THE STATE DEPARTMENT.

At the beginning of the present administration the United States, having fully entered upon its position as a world power, with the responsibilities thrust upon it by the results of the

Spanish-American War, and already engaged in laying the groundwork of a vast foreign trade upon which it should one day become more and more dependent, found itself without the machinery for giving thorough attention to, and taking effective action upon, a mass of intricate business vital to American interests in every country in the world.

The Department of State was an archaic and inadequate machine lacking most of the attributes of the foreign office of any great modern power. With an appropriation made upon my recommendation by the Congress on August 5, 1909, the Department of State was completely reorganized. There were created Divisions of Latin-American Affairs and of Far Eastern, Near Eastern, and Western European Affairs. To these divisions were called from the foreign service diplomatic and consular officers possessing experience and knowledge gained by actual service in different parts of the world and thus familiar with political and commercial conditions in the regions concerned, The work was highly specialized. The result is that where previously this Government from time to time would emphasize in its foreign relations one or another policy, now American interests in every quarter of the globe are being cultivated with equal assiduity. This principle of politico-geographical division possesses also the good feature of making possible rotation between the officers of the departmental, the diplomatic, and the consular branches of the foreign service, and thus keeps the whole diplomatic and consular establishments under the Department of State in close touch and equally inspired with the aims and policy of the Government. Through the newly created Division of Information the foreign service is kept fully informed of what transpires from day to day in the international relations of the country, and contemporary foreign comment affecting American interests is promptly brought to the attention of the department. The law offices of the department were greatly strengthened. There were added foreign-trade advisers to cooperate with the diplomatic and consular bureaus and the politico-geographical divisions in the innumerable matters where commercial diplomacy or consular work calls for such special The same officers, together with the rest of the new organization, are able at all times to give to American citizens accurate information as to conditions in foreign countries with which they have business and likewise to cooperate more effectively with the Congress and also with the other executive departments.

MERIT SYSTEM IN CONSULAR AND DIPLOMATIC CORPS.

Expert knowledge and professional training must evidently be the essence of this reorganization. Without a trained foreign service there would not be men available for the work in the reorganized Department of State. President Cleveland had taken the first step toward introducing the merit system in the foreign service. That had been followed by the application of the merit principle, with excellent results, to the entire consular branch. Almost nothing, however, had been done in this direction with regard to the Diplomatic Service. In this age of commercial diplomacy it was evidently of the first importance to train an adequate personnel in that branch of the service. Therefore, on November 26, 1909, by an Executive order I placed the Diplomatic Service up to the grade of secretary of embassy, inclusive, upon exactly the same strict nonpartisan basis of the merit system, rigid examination for appointment and promotion only for efficiency, as had been maintained without exception in the Consular Service.

How faithful to the merit system and how nonpartisan has been the conduct of the Diplomatic and Consular Services in the last four years may be judged from the following: Three ambassadors now serving held their present rank at the beginning of my administration. Of the 10 ambassadors whom I have appointed, 5 were by promotion from the rank of minister. Nine ministers now serving held their present rank at the beginning of the administration. Of the 30 ministers whom I have appointed, 11 were promoted from the lower grades of the foreign service or from the Department of State. Of the 19 missions in Latin America, where our relations are close and our interest is great, 15 chiefs of mission are service men, 3 having entered the service during this administration. The 37 secretaries of embassy or legation who have received their initial appointments after passing successfully the required examination were chosen for ascertained fitness, without regard to political affiliations. A dearth of candidates from Southern and Western States has alone made it impossible thus far completely to equalize all the States' representations in the foreign service. In the effort to equalize the representation of the various States in the Consular Service I have made 16 of the 29 new appointments as consul which have occurred during my administration from the Southern States. This is 55 per cent.

Every other consular appointment made, including the promotion of 11 young men from the consular assistant and student interpreter corps, has been by promotion or transfer, based

solely upon efficiency shown in the service.

In order to assure to the business and other interests of the United States a continuance of the resulting benefits of this reform, I earnestly renew my previous recommendations of legislation making it permanent along some such lines as those of the measure now pending in Congress.

LARGER PROVISION FOR EMBASSIES AND LEGATIONS AND FOR OTHER EXPENSES OF OUR FOREIGN REPRESENTATIVES RECOMMENDED.

In connection with legislation for the amelioration of the foreign service, I wish to invite attention to the advisability of placing the salary appropriations upon a better basis. I believe that the best results would be obtained by a moderate scale of salaries, with adequate funds for the expenses of proper representation, based in each case upon the scale and cost of living at each post, controlled by a system of accounting, and under the

general direction of the Department of State.

In line with the object which I have sought of placing our foreign service on a basis of permanency, I have at various times advocated provision by Congress for the acquisition of Government-owned buildings for the residence and offices of our diplomatic officers, so as to place them more nearly on an equality with similar officers of other nations and to do away with the discrimination which otherwise must necessarily be made, in some cases, in favor of men having large private fortunes. The act of Congress which I approved on February 17, 1911, was a right step in this direction. The Secretary of State has already made the limited recommendations permitted by the act for any one year, and it is my hope that the bill introduced in the House of Representatives to carry out these recommendations will be favorably acted on by the Congress during its present session.

In some Latin-American countries the expense of Government-owned legations will be less than elsewhere, and it is certainly very urgent that in such countries as some of the Republics of Central America and the Caribbean, where it is peculiarly difficult to rent suitable quarters, the representatives of the United States should be justly and adequately provided with dignified and suitable official residences. Indeed, it is high time that the dignity and power of this great Nation should be fittingly signalized by proper buildings for the occupancy of the Nation's representatives everywhere abroad.

DIPLOMACY A HANDMAID OF COMMERCIAL INTERCOURSE AND PEACE.

The diplomacy of the present administration has sought to respond to modern ideas of commercial intercourse. policy has been characterized as substituting dollars for bul-It is one that appeals alike to idealistic humanitarian sentiments, to the dictates of sound policy and strategy, and to It is an effort frankly directed legitimate commercial aims. to the increase of American trade upon the axiomatic principle that the Government of the United States shall extend all proper support to every legitimate and beneficial American en-How great have been the results of this diplomacy, coupled with the maximum and minimum provision of the tariff law, will be seen by some consideration of the wonderful increase in the export trade of the United States. Because modern diplomacy is commercial, there has been a disposition in some quarters to attribute to it none but materialistic aims. How strikingly erroneous is such an impression may be seen from a study of the results by which the diplomacy of the United States can be judged.

SUCCESSFUL EFFORTS IN PROMOTION OF PEACE.

In the field of work toward the ideals of peace this Government negotiated, but to my regret was unable to consummate, two arbitration treaties which set the highest mark of the aspiration of nations toward the substitution of arbitration and reason for war in the settlement of international disputes. Through the efforts of American diplomacy several wars have been prevented or ended. I refer to the successful tripartite mediation of the Argentine Republic, Brazil, and the United States between Peru and Ecuador; the bringing of the bound-ary dispute between Panama and Costa Rica to peaceful arbitration; the staying of warlike preparations when Haiti and the Dominican Republic were on the verge of hostilities; the stopping of a war in Nicaragua; the halting of internecine strife in Honduras. The Government of the United States was thanked for its influence toward the restoration of amicable relations between the Argentine Republic and Bolivia. The diplomacy of the United States is active in seeking to assuage the remaining ill-feeling between this country and the Republic of Colombia. In the recent civil war, in China the United States successfully joined with the other interested powers in

urging an early cessation of hostilities. An agreement has been reached between the Governments of Chile and Peru whereby the celebrated Tacna-Arica dispute, which has so long embit-tered international relations on the west coast of South America, has at last been adjusted. Simultaneously came the news that the boundary dispute between Peru and Ecuador had entered upon a stage of amicable settlement. The position of the United States in reference to the Tacna-Arica dispute between Chile and Peru has been one of nonintervention, but one of friendly influence and pacific counsel throughout the period during which the dispute in question has been the subject of interchange of views between this Government and the two Governments immediately concerned. In the general easing of international tension on the west coast of South America the tripartite mediation, to which I have referred, has been a most potent and beneficent factor.

CHINA.

In China the policy of encouraging financial investment to enable that country to help itself has had the result of giving new life and practical application to the open-door policy. consistent purpose of the present administration has been to encourage the use of American capital in the development of China by the promotion of those essential reforms to which China is pledged by treaties with the United States and other powers. The hypothecation to foreign bankers in connection with certain industrial enterprises, such as the Hukuang railways, of the national revenues upon which these reforms depended, led the Department of State early in the administration to demand for American citizens participation in such enter-prises, in order that the United States might have equal rights and an equal voice in all questions pertaining to the disposition of the public revenues concerned. The same policy of promoting international accord among the powers having similar treaty rights as ourselves in the matters of reform, which could not be put into practical effect without the common consent of all, was likewise adopted in the case of the loan desired by China for the reform of its currency. The principle of international cooperation in matters of common interest upon which our policy had already been based in all of the above instances has admittedly been a great factor in that concert of the powers which has been so happily conspicuous during the perilous period of transition through which the great Chinese nation has been passing.

CENTRAL AMERICA NEEDS OUR HELP IN DEBT ADJUSTMENT.

In Central America the aim has been to help such countries as Nicaragua and Honduras to help themselves. immediate beneficiaries. The national benefit to the United States is twofold. First, it is obvious that the Monroe doctrine is more vital in the neighborhood of the Panama Canal and the zone of the Caribbean than anywhere else. There, too, the maintenance of that doctrine falls most heavily upon the United States. It is therefore essential that the countries within that sphere shall be removed from the jeopardy involved by heavy foreign debt and chaotic national finances and from the ever-present danger of international complications due to disorder at home. Hence the United States has been glad to encourage and support American bankers who were willing to lend a helping hand to the financial rehabilitation of such countries, because this financial rehabilitation and the protection of their customhouses from being the prey of would-be dictators would remove at one stroke the menace of foreign creditors and the menace of revolutionary disorder.

The second advantage to the United States is one affecting chiefly all the southern and Gulf ports and the business and industry of the South. The Republics of Central America and the Caribbean possess great natural wealth. They need only a measure of stability and the means of financial regeneration to enter upon an era of peace and prosperity, bringing profit and happiness to themselves and at the same time creating conditions sure to lead to a flourishing interchange of trade with

this country.

I wish to call your especial attention to the recent occurrences in Nicaragua, for I believe the terrible events recorded there during the revolution of the past summer—the uscless loss of life, the devastation of property, the bombardment of defenseless cities, the killing and wounding of women and children, the torturing of noncombatants to exact contributions, and the suffering of thousands of human beings—night have been averted had the Department of State, through approval of the loan convention by the Senate, been permitted to carry out its now well-developed policy of encouraging the extending of financial aid to weak Central American States with the primary objects of avoiding just such revolutions by assisting those Republies to rehabilitate their finances, to establish their currency on a stable basis, to remove the custom-

houses from the danger of revolutions by arranging for their secure administration, and to establish reliable banks.

During this last revolution in Nicaragua, the Government of that Republic having admitted its inability to protect American life and property against acts of sheer lawlessness on the part of the malcontents, and having requested this Government to assume that office, it became necessary to land over 2,000 marines and bluejackets in Nicaragua. Owing to their presence the constituted Government of Nicaragua was free to devote its attention wholly to its internal troubles, and was thus enabled to stamp out the rebellion in a short space of time. When the Red Cross supplies sent to Granada had been exhausted, 8,000 persons having been given food in one day upon the arrival of the American forces, our men supplied other unfortunate, needy Nicaraguans from their own haversacks. I wish to congratulate the officers and men of the United States Navy and Marine Corps who took part in reestablishing order in Nicaragua upon their splendid conduct, and to record with sorrow the death of seven American marines and bluejackets. Since the reestablishment of peace and order, elections have been held amid conditions of quiet and tranquillity. Nearly all the American marines have now been withdrawn. The country should soon be on the road to recovery. The only apparent danger now threatening Nicaragua arises from the shortage of funds. Although American bankers have already rendered assistance, they may naturally be loath to advance a loan adequate to set the country upon its feet without the support of some such convention as that of June, 1911, upon which the Senate has not yet acted.

ENFORCEMENT OF NEUTRALITY LAWS.

In the general effort to contribute to the enjoyment of peace by those Republics which are near neighbors of the United States, the administration has enforced the so-called neutrality statutes with a new vigor, and those statutes were greatly strengthened in restricting the exportation of arms and munitions by the joint resolution of last March. It is still a regrettable fact that certain American ports are made the rendezvous of professional revolutionists and others engaged in intrigue against the peace of those Republics. admitted that occasionally a revolution in this region is justified as a real popular movement to throw off the shackles of a vicious and tyrannical government. Such was the Nicaraguan revolution against the Zelaya régime. A nation enjoying our liberal institutions can not escape sympathy with a true popular movement, and one so well justified. In very many however, revolutions in the Republics in question have no basis in principle, but are due merely to the machinations of conscienceless and ambitious men, and have no effect but to bring new suffering and fresh burdens to an already oppressed people. The question whether the use of American ports as foci of revolutionary intrigue can be best dealt with by a further amendment to the neutrality statutes or whether it would be safer to deal with special cases by special laws is one worthy of the careful consideration of the Congress.

VISIT OF SECRETARY KNOX TO CENTRAL AMERICA AND THE CARIBBEAN.

Impressed with the particular importance of the relations between the United States and the Republics of Central America and the Caribbean region, which of necessity must become still more intimate by reason of the mutual advantages which will be presented by the opening of the Panama Canal, I directed the Secretary of State last February to visit these Republics for the purpose of giving evidence of the sincere friendship and good will which the Government and people of the United States bear toward them. Ten Republics were visited. Everywhere he was received with a cordiality of welcome and a generosity of hospitality such as to impress me deeply and to merit our warmest thanks. The appreciation of the Governments and peoples of the countries visited, which has been appropriately shown in various ways, leaves me no doubt that his visit will conduce to that closer union and better understanding between the United States and those Republics which I have had it much at heart to promote.

OUR MEXICAN POLICY.

For two years revolution and counter-revolution have distraught the neighboring Republic of Mexico. Brigandage has involved a great deal of depredation upon foreign interests. There have constantly recurred questions of extreme delicacy. On several occasions very difficult situations have arisen on our frontier. Throughout the trying period the policy of the United States has been one of patient nonintervention, steadfast recognition of constituted authority in the neighboring nation, and the exertion of every effort to care for American interests. I profoundly hope that the Mexican nation may soon

resume the path of order, prosperity, and progress. To that nation in its sore troubles the sympathetic friendship of the United States has been demonstrated to a high degree. There were in Mexico at the beginning of the revolution some thirty or forty thousand American citizens engaged in enterprises contributing greatly to the prosperity of that Republic and also benefiting the important trade between the two countries. The investment of American capital in Mexico has been estimated at \$1,000,000,000. The responsibility of endeavoring to safeguard those interests and the dangers inseparable from propinquity to so turbulent a situation have been great, but I am happy to have been able to adhere to the policy above outlined—a policy which I hope may be soon justified by the complete success of the Mexican people in regaining the blessings of peace and good order.

AGRICULTURAL CREDITS.

A most important work, accomplished in the past year by the American diplomatic officers in Europe, is the investigation of the agricultural credit system in the European countries. Both as a means to afford relief to the consumers of this country through a more thorough development of agricultural resources and as a means of more sufficiently maintaining the agricultural population, the project to establish credit facilities for the farmers is a concern of vital importance to this Nation. No evidence of prosperity among well-established farmers should blind us to the fact that lack of capital is preventing a development of the Nation's agricultural resources and an adequate increase of the land under cultivation; that agricultural production is fast falling behind the increase in population; and that, in fact, although these well-established farmers are maintained in increasing prosperity because of the natural increase in population, we are not developing the industry of agriculture. not breeding in proportionate numbers a race of independent and independence-loving landowners, for a lack of which no growth of cities can compensate. Our farmers have been our mainstay in times of crisis, and in future it must still largely be upon their stability and common sense that this democracy must rely to conserve its principles of self-government.

The need of capital which American farmers feel to-day had been experienced by the farmers of Europe, with their centuries-old farms, many years ago. The problem had been successfully solved in the Old World and it was evident that the farmers of this country might profit by a study of their systems. I therefore ordered, through the Department of State, an investigation to be made by the diplomatic officers in Europe, and I have laid the results of this investigation before the governors of the various States with the hope that they will be used to advantage in their forthcoming meeting.

INCREASE OF FOREIGN TRADE.

In my last annual message I said that the fiscal year ended June 30, 1911, was noteworthy as marking the highest record of exports of American products to foreign countries. The fiscal year 1912 shows that this rate of advance has been maintained, the total domestic exports having a valuation approximately of \$2,200,000,000, as compared with a fraction over \$2,000,000,000 the previous year. It is also significant that manufactured and partly manufactured articles continue to be the chief commodities forming the volume of our augmented exports, the demands of our own people for consumption requiring that an increasing proportion of our abundant agricultural products be kept at home. In the fiscal year 1911 the exports of articles in the various stages of manufacture, not including foodstuffs partly or wholly manufactured, amounted approximately to \$907,500,000. In the fiscal year 1912 the total was nearly \$1,022,000,000, a gain of \$114,000,000.

ADVANTAGE OF MAXIMUM AND MINIMUM TARIFF PROVISION.

The importance which our manufactures have assumed in the commerce of the world in competition with the manufactures of other countries again draws attention to the duty of this Government to use its utmost endeavors to secure impartial treatment for American products in all markets. Healthy commercial rivalry in international intercourse is best assured by the possession of proper means for protecting and promoting our foreign trade. It is natural that competitive countries should view with some concern this steady expansion of our commerce. If in some instances the measure taken by them to meet it are not entirely equitable, a remedy should be found. In former messages I have described the negotiations of the Department of State with foreign Governments for the adjustment of the maximum and minimum tariff as provided in section 2 of the tariff law of 1909. The advantages secured by the adjustment of our trade relations under this law have continued during the last year, and some additional cases of, discriminatory treatment of which we had reason to complain have

been removed. The Department of State has for the first time in the history of this country obtained substantial most-favored-nation treatment from all the countries of the world. There are, however, other instances which, while apparently not constituting undue discrimination in the sense of section 2, are nevertheless exceptions to the complete equity of tariff treatment for American products that the Department of State consistently has sought to obtain for American commerce abroad.

NECESSITY FOR SUPPLEMENTARY LEGISLATION.

These developments confirm the opinion conveyed to you in my annual message of 1911, that while the maximum and minimum provision of the tariff law of 1909 has been fully justified by the success achieved in removing previously existing undue discriminations against American products, yet experience has shown that this feature of the law should be amended in such way as to provide a fully effective means of meeting the varying degrees of discriminatory treatment of American commerce in foreign countries still encountered, as well as to protect against injurious treatment on the part of foreign Governments, through either legislative or administrative measures, the financial interests abroad of American citizens whose enterprises enlarge the market for American commodities.

I can not too strongly recommend to the Congress the passage of some such enabling measure as the bill which was recommended by the Secretary of State in his letter of December 13, The object of the proposed legislation is, in brief, to enable the Executive to apply, as the case may require, to any or all commodities, whether or not on the free list from a country which discriminates against the United States, a graduated scale of duties up to the maximum of 25 per cent ad valorem provided in the present law. Flat tariffs are out of date. Nations no longer accord equal tariff treatment to all other nations irrespective of the treatment from them received. flexible power at the command of the Executive would serve to moderate any unfavorable tendencies on the part of those countries from which the importations into the United States are substantially confined to articles on the free list as well as of the countries which find a lucrative market in the United States for their products under existing customs rates. very necessary that the American Government should be equipped with weapons of negotiation adapted to modern economic conditions, in order that we may at all times be in a position to gain not only technically just but actually equitable treatment for our trade, and also for American enterprise and vested interests abroad.

BUSINESS SECURED TO OUR COUNTRY BY DIRECT OFFICIAL EFFORT.

As illustrating the commercial benefits to the Nation derived from the new diplomacy and its effectiveness upon the material as well as the more ideal side, it may be remarked that through direct official efforts alone there have been obtained in the course of this administration contracts from foreign Governments involving an expenditure of \$50,000,000 in the factories of the United States. Consideration of this fact and some reflection upon the necessary effects of a scientific tariff system and a foreign service alert and equipped to cooperate with the business men of America carry the conviction that the gratifying increase in the export trade of this country is, in substantial amount, due to our improved governmental methods of protecting and stimulating it. It is germane to these observations to remark that in the two years that have elapsed since the successful negotiation of our new treaty with Japan, which at the time seemed to present so many practical difficulties, our export trade to that country has increased at the rate of over \$1,000,000 a month. Our exports to Japan for the year ended June 30, 1910, were \$21,959,310, while for the year ended June 30, 1912, the exports were \$53,478,046, a net increase in the sale of American products of nearly 150 per cent.

SPECIAL CLAIMS ARBITRATION WITH GREAT BRITAIN.

Under the special agreement entered into between the United States and Great Britain on August 18, 1910, for the arbitration of outstanding pecuniary claims, a schedule of claims and the terms of submission have been agreed upon by the two Governments, and together with the special agreement were approved by the Senate on July 19, 1911, but in accordance with the terms of the agreement they did not go into effect until confirmed by the two Governments by an exchange of notes, which was done on April 26 last. Negotiations are still in progress for a supplemental schedule of claims to be submitted to arbitration under this agreement, and meanwhile the necessary preparations for the arbitration of the claims included in the first schedule have been undertaken and are being carried on under the authority of an appropriation made for that purpose at the last session of Congress. It is anticipated that the two Governments will be prepared to call upon the arbitration tri-

bunal, established under this agreement, to meet at Washington early next year to proceed with this arbitration.

FUR-SEAL TREATY AND NEED FOR AMENDMENT OF OUR STATUTE. The act adopted at the last session of Congress to give effect to the fur-seal convention of July 7, 1911, between Great Britain, Japan, Russia, and the United States, provided for the suspension of all land killing of seals on the Pribilof Islands for a period of five years, and an objection has now been presented to this provision by the other parties in interest, which raises the issue as to whether or not this prohibition of land killing is inconsistent with the spirit, if not the letter, of the treaty stipulations. The justification for establishing this close season depends, under the terms of the convention, upon how far, if at all, it is necessary for protecting and preserving the American fur-seal herd and for increasing its number. This is a question requiring examination of the present condition of the herd and the treatment which it needs in the light of actual experience and scientific investigation. A careful examination of the subject is now being made, and this Government will soon be in possession of a considerable amount of new information about the American seal herd, which has been secured during the past season and will be of great value in determining this question; and if it should appear that there is any uncertainty as to the real necessity for imposing a close season at this time I shall take an early opportunity to address a special message to Congress on this subject, in the belief that this Government should yield on this point rather than give the slightest ground for the charge that we have been in any way remiss in observing our treaty obligations.

FINAL SETTLEMENT OF NORTH ATLANTIC FISHERIES DISPUTE.

On the 20th day of July last an agreement was concluded between the United States and Great Britain adopting, with certain modifications, the rules and method of procedure recommended in the award rendered by the North Atlantic Coast Fisheries Arbitration Tribunal on September 7, 1910, for the settlement hereafter, in accordance with the principles laid down in the award, of questions arising with reference to the exercise of the American fishing liberties under Article I of the treaty of October 20, 1818, between the United States and Great This agreement received the approval of the Senate on August 1 and was formally ratified by the two Governments November 15 last. The rules and a method of procedure embodied in the award provided for determining by an impartial tribunal the reasonableness of any new fishery regulations on the treaty coasts of Newfoundland and Canada before such regulations could be enforced against American fishermen exercising their treaty liberties on those coasts, and also for determining the delimitation of bays on such coasts more than 10 miles wide, in accordance with the definition adopted by the tribunal of the meaning of the word "bays" as used in the treaty. In the subsequent negotiations between the two Governments, undertaken for the purpose of giving practical effect to these rules and methods of procedure, it was found that certain modifications therein were desirable from the point of view of both Governments, and these negotiations have finally resulted in the agreement above mentioned by which the award recommendations as modified by mutual consent of the two Governments are finally adopted and made effective, thus bringing this century-old controversy to a final conclusion, which is equally beneficial and satisfactory to both Governments.

IMPERIAL VALLEY AND MEXICO.

In order to make possible the more effective performance of the work necessary for the confinement in their present channel of the waters of the lower Colorado River, and thus to protect the people of the Imperial Valley, as well as in order to reach with the Government of Mexico an understanding regarding the distribution of the waters of the Colorado River, in which both Governments are much interested, negotiations are going forward with a view to the establishment of a preliminary Colorado River commission, which shall have the powers necessary to enable it to do the needful work and with authority to study the question of the equitable distribution of the waters. There is every reason to believe that an understanding upon this point will be reached and that an agreement will be signed in the near future.

CHAMIZAL DISPUTE.

In the interest of the people and city of El Paso this Government has been assiduous in its efforts to bring to an early settlement the long-standing Chamizal dispute with Mexico. Much has been accomplished, and, while the final solution of the dispute is not immediate, the favorable attitude lately assumed by the Mexican Government encourages the hope that this troublesome question will be satisfactorily and definitively settled at an early day.

INTERNATIONAL COMMISSION OF JURISTS.

In pursuance of the convention of August 23, 1906, signed at the Third Pan American Conference, held at Rio de Janeiro, the International Commission of Jurists met at that capital during the month of last June. At this meeting 16 American Republics were represented, including the United States, and comprehensive plans for the future work of the commission were adopted. At the next meeting, fixed for June, 1914, committees already appointed are instructed to report regarding topics assigned to them.

OPIUM CONFERENCE—UNFORTUNATE FAILURE OF OUR GOVERNMENT TO ENACT RECOMMENDED LEGISLATION.

In my message on foreign relations communicated to the two Houses of Congress December 7, 1911, I called especial attention to the assembling of the Opium Conference at The Hague, to the fact that that conference was to review all pertinent municipal laws relating to the opium and allied evils, and certainly all international rules regarding these evils, and to the fact that it seemed to me most essential that the Congress should take immediate action on the antinarcotic legislation before the Congress, to which I had previously called attention by a special message.

The international convention adopted by the conference conforms almost entirely to the principles contained in the proposed antinarcotic legislation which has been before the last two Congresses. It was most unfortunate that this Government, having taken the initiative in the international action which eventuated in the important international opium convention, failed to do its share in the great work by neglecting to pass the necessary legislation to correct the deplorable narcotic evil in the United States as well as to redeem international pledges upon which it entered by virtue of the above-mentioned convention. The Congress at its present session should enact into law those bills now before it which have been so carefully drawn up in collaboration between the Department of State and the other executive departments, and which have behind them not only the moral sentiment of the country, but the practical support of all the legitimate trade interests likely to be affected. Since the international convention was signed adherence to it has been made by several European States not represented at the conference at The Hague and also by 17 Latin-American Republics.

EUROPE AND THE NEAR EAST.

The war between Italy and Turkey came to a close in October last by the signature of a treaty of peace, subsequent to which the Ottoman Empire renounced sovereignty over Cyrenaica and Tripolitania in favor of Italy. During the past year the Near East has unfortunately been the theater of constant hostilities. with the conclusion of peace between Almost simultaneously Italy and Turkey and their arrival at an adjustment of the complex question at issue between them war broke out between Turkey on the one hand and Bulgaria, Greece, Montenegro, and Servia on the other. The United States has happily been involved neither directly nor indirectly with the causes or questions incident to any of these hostilities and has maintained in regard to them an attitude of absolute neutrality and of complete political disinterestedness. In the second war in which the Ottoman Empire has been engaged the loss of life and the consequent distress on both sides have been appalling, and the United States has found occasion, in the interest of humanity, to carry out the charitable desires of the American people to extend a measure of relief to the sufferers on either side through the impartial medium of the Red Cross. Beyond this the chief care of the Government of the United States has been to make due provision for the protection of its nationals resident in belligerent territory. In the exercise of my duty in this matter I have dispatched to Turkish waters a specialservice squadron, consisting of two armored cruisers, in order that this Government may if need be bear its part in such measures as it may be necessary for the interested nations to adopt for the safeguarding of foreign lives and property in the Ottoman Empire in the event that a dangerous situation should develop. In the meanwhile the several interested European powers have promised to extend to American citizens the benefit of such precautionary or protective measures as they might adopt, in the same manner in which it has been the practice of this Government to extend its protection to all foreigners resident in those countries of the Western Hemisphere in which it has from time to time been the task of the United States to act in the interest of peace and good order. The early appearance of a large fleet of European warships in the Bosphorus apparation. ently assured the protection of foreigners in that quarter, where the presence of the American stationnaire, the U. S. S. Scorpion, sufficed, under the circumstances, to represent the United States. Our cruisers were thus left free to act if need be along the

Mediterranean coasts should any unexpected contingency arise affecting the numerous American interests in the neighborhood of Smyrna and Belrut

SPITZBERGEN.

The great preponderance of American material interests in the subarctic island of Spitzbergen, which has always been regarded politically as "no man's land," impels this Government to a continued and lively interest in the international dispositions to be made for the political governance and administration of that region. The conflict of certain claims of American citizens and others is in a fair way to adjustment, while the settlement of matters of administration, whether by international conference of the interested powers or otherwise, continues to be the subject of exchange of views between the Governments concerned.

LIBERIA.

As a result of the efforts of this Government to place the Government of Liberia in position to pay its outstanding indebtedness and to maintain a stable and efficient government, negotiations for a loan of \$1,700,000 have been successfully concluded, and it is anticipated that the payment of the old loan and the issuance of the bonds of the 1912 loan for the rehabilitation of the finances of Liberia will follow at an early date, when the new receivership will go into active operation. The new receivership will consist of a general receiver of customs designated by the Government of the United States and three receivers of customs designated by the Governments of Germany, France, and Great Britain, which countries have commercial interests in the Republic of Liberia.

In carrying out the understanding between the Government of Liberia and that of the United States, and in fulfilling the terms of the agreement between the former Government and the American bankers, three competent ex-army officers are now effectively employed by the Liberian Government in reorganizing the police force of the Republic, not only to keep in order the native tribes in the hinterland, but to serve as a necessary police force along the frontier. It is hoped that these measures will assure not only the continued existence but the prosperity and welfare of the Republic of Liberia. Liberia possesses fertility of soil and natural resources which should insure to its people a reasonable prosperity. It was the duty of the United States to assist the Republic of Liberia in accordance with our historical interest and moral guardianship of a community founded by American citizens, as it was also the duty of the American Government to attempt to assure permanence to a country of much sentimental and perhaps future real interest to a large body of our citizens.

MOROCCO.

The legation at Tangier is now in charge of our consul general, who is acting as chargé d'affaires, as well as caring for our commercial interests in that country. In view of the fact that many of the foreign powers are now represented by chargés d'affaires, it has not been deemed necessary to appoint at the present time a minister to fill a vacancy occurring in that post.

The political disturbances in China in the autumn and winter of 1911–12 resulted in the abdication of the Manchu rulers on February 12, followed by the formation of a provisional republican government empowered to conduct the affairs of the nation until a permanent government might be regularly established. The natural sympathy of the American people with the assumption of republican principles by the Chinese people was appropriately expressed in a concurrent resolution of Congress on April 17, 1912. A constituent assembly, composed of representatives duly chosen by the people of China in the elections that are now being held, has been called to meet in January next to adopt a permanent constitution and organize the Government of the nascent Republic. During the formative constitutional stage and pending definite action by the assembly, as expressive of the popular will and the hoped-for establishment of a stable republican form of government capable of fulfilling its international obligations, the United States is, according to precedent, maintaining full and friendly de facto relations with the provisional government.

The new condition of affairs thus created has presented many

The new condition of affairs thus created has presented many serious and complicated problems, both of internal rehabilitation and of international relations, whose solution it was realized would necessarily require much time and patience. From the beginning of the upheaval last autumn it was felt by the United States, in common with the other powers having large interests in China, that independent action by the foreign Governments in their own individual interests would add further confusion to a situation already complicated. A policy of international cooperation was accordingly adopted in an under-

standing, reached early in the disturbances, to act together for the protection of the lives and property of foreigners if menaced, to maintain an attitude of strict impartiality as between the contending factions, and to abstaln from any endeavor to influence the Chinese in their organization of a new form of government. In view of the seriousness of the disturbances and their general character, the American minister at Peking was instructed at his discretion to advise our nationals in the affected districts to concentrate at such centers as were easily accessible to foreign troops or men-of-war. Nineteen of our naval vessels were stationed at various Chinese ports, and other measures were promptly taken for the adequate protection of American interests.

It was further mutually agreed, in the hope of hastening an end to hostilities, that none of the interested powers would approve the making of loans by its nationals to either side. As soon, however, as a united provisional government of China was assured, the United States joined in a favorable consideration of that government's request for advances needed for immediate administrative necessities and later for a loan to effect a permanent national reorganization. The interested Governments had already, by common consent, adopted, in respect to the purposes, expenditure, and security of any loans to China made by their nationals, certain conditions which were held to be essential not only to secure reasonable protection for the foreign investors, but also to safeguard and strengthen China's credit by discouraging indiscriminate borrowing and by insuring the application of the funds toward the establishment of the stable and effective government necessary to China's In June last representative banking groups of the United States, France, Germany, Great Britain, Japan, and Russia formulated, with the general sanction of their respective Governments, the guaranties that would be expected in relation to the expenditure and security of the large reorganization loan desired by China, which, however, have thus far proved unacceptable to the provisional government.

SPECIAL MISSION OF CONDOLENCE TO JAPAN,

In August last I accredited the Secretary of State as special ambassador to Japan, charged with the mission of bearing to the imperial family, the Government, and the people of that Empire the sympathetic message of the American Commonwealth on the sad occasion of the death of His Majesty the Emperor Mutsuhito, whose long and benevolent reign was the greater part of Japan's modern history. The kindly reception everywhere accorded to Secretary Knox showed that his mission was deeply appreciated by the Japanese nation and emphasized strongly the friendly relations that have for so many years existed between the two peoples.

SOUTH AMERICA.

Our relations with the Argentine Republic are most friendly and cordial. So, also, are our relations with Brazil, whose Government has accepted the invitation of the United States to send two army officers to study at the Coast Artillery School at Fort Monroe. The long-standing Alsop claim, which had been the only hindrance to the healthy growth of the most friendly relations between the United States and Chile, having been eliminated through the submission of the question to His Britannic Majesty King George V as "amiable compositeur," it is a cause of much gratification to me that our relations with Chile are now established upon a firm basis of growing friendship. The Chilean Government has placed an officer of the United States Coast Artillery in charge of the Chilean Coast Artillery School, and has shown appreciation of American methods by confiding to an American firm important work for the Chilean coast defenses.

Last year a revolution against the established Government of Ecuador broke out at the principal port of that Republic. Previous to this occurrence the chief American interest in Ecuador, represented by the Guayaquil & Quito Railway Co., incorporated in the United States, had rendered extensive transportation and other services on account to the Ecuadorian Government, the amount of which ran into a sum which was steadily increasing and which the Ecuadorian Government had made no provision to pay, thereby threatening to crush out the very existence of this American enterprise. When tranquillity had been restored to Ecuador as a result of the triumphant progress of the Government forces from Quito, this Government interposed its good offices to the end that the American interests in Ecuador might be saved from complete extinction. As a part of the arrangement which was reached between the parties, and at the request of the Government of Ecuador, I have consented to name an arbitrator, who, acting under the terms of the railroad contract, with an arbitrator named by the Ecuadorian Government, will pass upon the claims that have arisen since the ar-

rangement reached through the action of a similar arbitral tribunal in 1908.

In pursuance of a request made some time ago by the Ecuadorian Government, the Department of State has given much attention to the problem of the proper sanitation of Guayaquil. As a result a detail of officers of the Canal Zone will be sent to Guayaquil to recommend measures that will lead to the complete permanent sanitation of this plague and fever infected region of that Republic, which has for so long constituted a menace to health conditions on the Canal Zone. It is hoped that the report which this mission will furnish will point out a way whereby the modicum of assistance which the United States may properly lend the Ecuadorian Government may be made effective in ridding the west coast of South America of a focus of contagion to the future commercial current passing through the Panama Canal.

In the matter of the claim of John Celestine Landreau against the Government of Peru, which claim arises out of certain contracts and transactions in connection with the discovery and exploitation of guano, and which has been under discussion between the two Governments since 1874, I am glad to report that as the result of prolonged negotiations, which have been characterized by the utmost friendliness and good will on both sides, the Department of State has succeeded in securing the consent of Peru to the arbitration of the claim, and that the negotiations attending the drafting and signature of a protocol submitting the claim to an arbitral tribunal are proceeding with due celerity.

An officer of the American Public Health Service and an American sanitary engineer are now on the way to Iquitos, in the employ of the Peruvian Government, to take charge of the sanitation of that river port. Peru is building a number of submarines in this country, and continues to show every desire to have American capital invested in the Republic.

In July the United States sent undergraduate delegates to the 'Third International Students' Congress held at Lima, American students having been for the first time invited to one of these meetings.

The Republic of Uruguay has shown its appreciation of American agricultural and other methods by sending a large commission to this country and by employing many American experts to assist in building up agricultural and allied industries in Uruguay.

Venezuela is paying off the last of the claims the settlement of which was provided for by the Washington protocols, including those of American citizens. Our relations with Venezuela are most cordial, and the trade of that Republic with the United States is now greater than with any other country.

CENTRAL AMERICA AND THE CARIBBEAN.

During the past summer the revolution against the administration which followed the assassination of President Caceres a year ago last November brought the Dominican Republic to the verge of administrative chaos, without offering any guaranties of eventual stability in the ultimate success of either party. In pursuance of the treaty relations of the United States with the Dominican Republic, which were threatened by the necess sity of suspending the operation under American administration of the customhouses on the Haitian frontier, it was found necessary to dispatch special commissioners to the island to reestablish the customhouses and with a guard sufficient to insure needed protection to the customs administration. which have been made appear to have resulted in the restoration of normal conditions throughout the Republic. The good offices which the commissioners were able to exercise were instrumental in bringing the contending parties together and in furnishing a basis of adjustment which it is hoped will result in permanent benefit to the Dominican people.

Mindful of its treaty relations, and owing to the position of the Government of the United States as mediator between the Dominican Republic and Haiti in their boundary dispute, and because of the further fact that the revolutionary activities on the Haitian-Dominican frontier had become so active as practically to obliterate the line of demarcation that had been here-tofore recognized pending the definitive settlement of the boundary in controversy, it was found necessary to indicate to the two island Governments a provisional de facto boundary line. This was done without prejudice to the rights or obligations of either country in a final settlement to be reached by arbitration. The tentative line chosen was one which, under the circumstances brought to the knowledge of this Government, seemed to conform to the best interests of the disputants. The border patrol which it had been found necessary to reestablish for customs purposes between the two countries was instructed provisionally to observe this line.

The Republic of Cuba last May was in the throes of a lawless uprising that for a time threatened the destruction of a great deal of valuable property—much of it owned by Americans and other foreigners—as well as the existence of the Government itself. The armed forces of Cuba being inadequate to guard property from attack and at the same time properly to operate against the rebels, a force of American marines was dispatched from our naval station at Guantanamo into the Province of Oriente for the protection of American and other foreign life and property. The Cuban Government was thus able to use all its forces in putting down the outbreak, which it succeeded in doing in a period of six weeks. The presence of two American warships in the harbor of Habana during the most critical period of this disturbance contributed in great measure to allay the fears of the inhabitants, including a large foreign colony.

There has been under discussion with the Government of Cuba for some time the question of the release by this Government of its leasehold rights at Bahia Honda, on the northern coast of Cuba, and the enlargement, in exchange therefor, of the naval station which has been established at Guantanamo Bay, on the south. As the result of the negotiations thus carried on an agreement has been reached between the two Governments providing for the suitable enlargement of the Guantanamo Bay station upon terms which are entirely fair and equitable to all parties concerned.

At the request alike of the Government and both political parties in Panama, an American commission undertook supervision of the recent presidential election in that Republic, where our treaty relations, and, indeed, every geographical consideration, make the maintenance of order and satisfactory conditions of peculiar interest to the Government of the United States. The elections passed without disorder, and the new administration has entered upon its functions.

The Government of Great Britain has asked the support of the United States for the protection of the interests of British holders of the foreign bonded debt of Guatemala. While this Government is hopeful of an arrangement equitable to the British bondholders, it is naturally unable to view the question apart from its relation to the broad subject of financial stability in Central America, in which the policy of the United States does not permit it to escape a vital interest. renewal of negotiations between the Government of Guatemala and American bankers, the aim of which is a loan for the rehabilitation of Guatemalan finances, a way appears to be open by which the Government of Guatemala could promptly satisfy any equitable and just British claims, and at the same time so improve its whole financial position as to contribute greatly to the increased prosperity of the Republic and to redound to the benefit of foreign investments and foreign trade with that country. Failing such an arrangement, it may become impossible for the Government of the United States to escape its obligations in connection with such measures as may become necessary to exact justice to legitimate foreign claims

In the recent revolution in Nicaragua, which, it was generally admitted, might well have resulted in a general Central American conflict but for the intervention of the United States, the Government of Honduras was especially menaced; but fortunately peaceful conditions were maintained within the borders of that Republic. The financial condition of that country remains unchanged, no means having been found for the final adjustment of pressing outstanding foreign claims. This makes it the more regrettable that the financial convention between the United States and Honduras has thus far failed of ratification. The Government of the United States continues to hold itself ready to cooperate with the Government of Honduras, which, it is believed, can not much longer delay the meeting of its foreign obligations, and it is hoped at the proper time American bankers will be willing to cooperate for this purpose.

NECESSITY FOR GREATER GOVERNMENTAL EFFORT IN RETENTION AND EXPANSION OF OUR FOREIGN TRADE.

It is not possible to make to the Congress a communication upon the present foreign relations of the United States so detailed as to convey an adequate impression of the enormous increase in the importance and activities of those relations. If this Government is really to preserve to the American people that free opportunity in foreign markets which will soon be indispensable to our prosperity, even greater efforts must be made. Otherwise the American merchant, manufacturer, and exporter will find many a field in which American trade should logically predominate preempted through the more energetic efforts of other governments and other commercial nations.

There are many ways in which through hearty cooperation the legislative and executive branches of this Government can do much. The absolute essential is the spirit of united effort and singleness of purpose. I will allude only to a very few

specific examples of action which ought then to result. America can not take its proper place in the most important fields for its commercial activity and enterprise unless we have a merchant American commerce and enterprise can not be effectively fostered in those fields unless we have good American banks in the countries referred to. We need American newspapers in those countries and proper means for public information about them. We need to assure the permanency of a trained foreign service. We need legislation enabling the members of the foreign service to be systematically brought in direct contact with the industrial, manufacturing, and exporting interests of this country in order that American business men may enter the foreign field with a clear perception of the exact conditions to be dealt with and the officers themselves may prosecute their work with a clear idea of what American industrial and manufacturing interests require.

CONCLUSION.

Congress should fully realize the conditions which obtain in the world as we find ourselves at the threshold of our middle age as a Nation. We have emerged full grown as a peer in the great concourse of nations. We have passed through various formative periods. We have been self-centered in the struggle to develop our domestic resources and deal with our domestic questions. The Nation is now too mature to continue in its foreign relations those temporary expedients natural to a people to whom domestic affairs are the sole concern. In the past our diplomacy has often consisted, in normal times, in a mere assertion of the right to international existence. We are now in a larger relation with broader rights of our own and obligations to others than ourselves. A number of great guiding principles were laid down early in the history of this Govern-The recent task of our diplomacy has been to adjust those principles to the conditions of to-day, to develop their corollaries, to find practical applications of the old principles expanded to meet new situations. Thus are being evolved bases upon which can rest the superstructure of policies which must grow with the destined progress of this Nation. The successful conduct of our foreign relations demands a broad and a modern view. We can not meet new questions nor build for the future if we confine ourselves to outworn dogmas of the past and to the perspective appropriate at our emergence from colonial times and conditions. The opening of the Panama Canal will mark a new era in our international life and create new and world-wide conditions which, with their vast correlations and consequences, will obtain for hundreds of years to come. We must not wait for events to overtake us unawares. With continuity of purpose we must deal with the problems of our external relations by a diplomacy modern, resourceful, magnanimous, and fittingly expressive of the high ideals of a great nation.

WM. H. TAFT.

THE WHITE House, December 3, 1912.

The PRESIDENT pro tempore. The message with the accompanying documents will be printed and lie on the table.

COURT OF CUSTOMS APPEALS (S. DOC. NO. 957).

The PRESIDENT pro tempore laid before the Senate a communication from the Attorney General transmitting, pursuant to law, a statement of the expenditures of the appropriation for the United States Court of Customs Appeals for the year ended June 30, 1912, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

MESSAGE FROM THE HOUSE.

J. C. South, Chief Clerk of the House of Representatives, appeared and delivered the following message:

Mr. President, I am directed by the House of Representatives to inform the Senate that a quorum of the House of Representatives has assembled, and that the House is ready to proceed to business.

Also, that a committee of three Members has been appointed by the Speaker on the part of the House of Representatives to join a committee of the Senate to wait upon the President of the United States and inform him that a quorum of the two Houses has assembled and that Congress is ready to receive any communication he may have to make, and that Mr. Underwood, Mr. Johnson of Kentucky, and Mr. Mann have been appointed members of the committee on the part of the House.

PETITIONS.

Mr. CULLOM presented a petition of sundry citizens of Clay City, Ill., praying for the enactment of legislation to prohibit the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

Mr. WETMORE presented a resolution adopted by the State Federation of Woman's Clubs of Rhode Island, favoring the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which was referred to the Committee on Agriculture and Forestry.

SUPPORT OF AGRICULTURAL COLLEGES.

Mr. SMITH of Georgia. There have been pending in the Senate and in the House since early in January bills provid-ing for the creation of extension departments in the different agricultural colleges established as a result of national legis-A few days before the close of the last session the bill lation. passed the House of Representatives. I desire to present a memorial from the Association of American Agricultural Colleges and Experiment Stations favoring the passage of this legislation and also extracts from letters indorsing the same. I ask that the memorials be printed in the RECORD.

The PRESIDENT pro tempore. Does the Senator from

Georgia desire a reference to a committee?

Mr. SMITH of Georgia. I merely desire to have the papers

printed in the RECORD.

There being no objection, the memorial and accompanying papers were ordered to lie on the table and to be printed in the RECORD, as follows:

MEMORIAL TO THE UNITED STATES SENATE.

The Association of American Agricultural Colleges and Experiment Stations, in session at Atlanta, Ga., November 14, 1912, most respectfully requests the United States Senate to pass the agricultural extension bill, H. R. 22871, during the coming session of the Sixty-second Congress.

sion bill, H. R. 22871, during the coming session of the Sixty-second Congress.

For some years the institutions represented in this association have been urging the development of work in agricultural extension for the purpose of carrying to the farmer in his own community the successful experience of the experiment stations and the approved teachings of the colleges of agriculture.

During the sessions of the Sixty-first Congress several bills looking to this end were introduced and hearings given to the representatives of the agricultural colleges, of the National Grange, of bankers' associations, and of others interested in the development of the Nation's agricultural resources.

On January 16, 1912, the Hon. Hore Smith introduced in the United States Senate and the Hon. A. F. Lever introduced in the House of Representatives a bill to establish agricultural extension departments in connection with the agricultural colleges in the several States receiving the benefits of the act of Congress approved July 2, 1862. The bill now known as H. R. 22871, embodying substantially the provisions of the two bills referred to above, has passed the House of Representatives and is now pending in the Senate.

The provisions of this bill have been fully discussed in the hearings before the Committees on Agriculture in both the House of Representatives and the Senate. Its provisions are simple and clear. The bill seeks to bring to the practical farmer by correspondence, instruction, and demonstration the accumulated and approved experiment and the colleges and experiment stations during the past 50 years.

Fifty years ago the United States Congress passed the act providing

seeks to bring to the practical farmer by correspondence, instruction, and demonstration the accumulated and approved experience and methods of the colleges and experiment stations during the past 50 years.

Fifty years ago the United States Congress passed the act providing for the land-grant colleges. Twenty-five years ago Congress passed the act providing for the experiment stations. Both these acts have been supplemented with legislation increasing the funds and the efficiency of both colleges and stations. It is now urged that on this anniversary year the agricultural extension bill be passed in order to enable these colleges to carry to the farmer who can not come to the college or station such demonstration of the results obtained in these institutions as shall enable him to maintain and develop the agricultural resources under his direction. This movement we believe to be in accord with sound public policy lying at the basis of the economic policies looking toward increased production as an important factor in determining the comfort and welfare of the whole people. This bill naturally and logically completes the chain of agencies fostered by the Federal Government for the betterment of agriculture. Hitherto we have maintained laboratories and field experiments at our colleges and stations, have put the results into bulletins, and have taught them in the classroom. It is now proposed to take these results to the local community, carry the school to the farmer, and make his own fields a laboratory in which we can demonstrate the value of science when applied to agriculture.

The association would call the attention of the Senate to two facts: First, the universal approval the country over of the wisdom of passing the land-grant act after an experience of 25 years; and.

Second, to the fact that the agricultural interests as represented by farmers, the colleges, the experiment stations, the agricultural press, and other interests as represented in bankers' associations and philanthropic agencies of variou

Attention is respectfully called to the hearings before the Committee on Agriculture and Forestry in the United States Senate, Sixty-second Congress, second session (S. 4563), March 1, 1912, for a more complete statement of the merits of the bill and of the reasons for its enactment into law.

Passed by the Association of American Agricultural Colleges and Experiment Stations, Atlanta, Ga., November 14, 1912.

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Abstract of indorsements of S. 4563, a bill to establish agricultural extension departments, etc.

ALABAMA.

President State Agricultural and Mechanical College says it is "a splendid piece of prospective legislation."

President Alabama Polytechnic Institute: "We regard this work as one of the greatest possible goods that can be rendered by the Government to our great farming interests * * *. This sort of constructive work done with the Government money seems to me is of even more value than what night be called the destructive work of the appropriations for guns and battleships."

ARIZONA.

President University of Arizona: "The newer sections of the country are in great need of the national help that such a bill as yours contemplates * * *. I am glad the whole subject is engaging the attention of Congress * * *."

ARKANSAS.

ARKANSAS.

President University of Arkansas: "I heartily approve of the bill and hope that it will be passed."

Dean and director College of Agriculture: "Senate bill 4563 * * * is a piece of proposed legislation which, to my mind, is of great importance."

CALIFORNIA.

President University of California: "There is no way in which we can do real good for the masses of our people better than through agricultural extension work * * *. There can be no question about our favoring the bill; we know what it means."

CONNECTICUT.

President Connecticut Agricultural College: "My personal opinion is that carrying of the latest scientific knowledge to the working farmer is one of the most important duties of the land-grant colleges. I sincerely hope that this bill will have favorable consideration by the present session of Congress."

DELAWARE.

President Delaware College: "I am very much pleased, indeed, to hear that the bill * * * has been read twice and referred to the Committee on Agriculture and Forestry * * *. Boys and girls of the common-school and high-school ages usually decide into what sphere of life they wish to enter. Formerly the dearth of agricultural education in that formative period rendered it impossible for the boy or girl to realize the importance of such instruction, and consequently the country boy usually found a home in the city. I believe that this condition of affairs will be remedied by the operation of such a bill as you have proposed."

President University of Florida: "I sincerely hope that you will be successful in passing this measure. Our State at the present time is giving \$7.500 annually for farmers' institutes and agricultural extension work. With double this amount we believe that the efficiency of the agricultural extension work would be quadrupled, as paradoxical as this may seem." GEORGIA.

Chancellor University of Georgia: "It is the best bill for extension work that I have ever seen. It is the only bill for extension work which I have been able to read and understand. If there is any way in which I can aid in its passage, I will be glad to know it."

President State College of Agriculture: "We are naturally very much gratified to see the progress you are making with your measure in the Senate, and hope Mr. Lever will have equal success in the House."

President the College of Hawaii: "I have read the bill over carefully and heartily commend your efforts to secure this benefit for the large and important class of our people who are in need of its provisions. This is constructive legislation of the truest type. Efficiency and contentment in agriculture are at the foundation of the Nation's welfare. * * I believe that extension teaching is most important of all our methods for the propagation of knowledge. * * * There is sufficient data to show that the endowment for the agricultural colleges and experiment stations and the appropriations for the Department of Agriculture must be considered as among the best investments that the Nation has ever made."

IDAHO.

President University of Idaho: "Even with the best preparation we can make and the most generous support from the Government in all of its divisions we expect to be swamped by applications for assistance through extension instruction. Practically every community in the State is clamoring for extension work, and only a small percentage of the requests can be compiled with. With reasonable support, however, from the United States and the State we may expect that practically the whole agricultural population of Idaho will go to school for a portion of each year." ILLINOIS.

Vice president University of Illinois: "The bill, S. 4563, introduced by you into the Senate of the United States is one of very great importance to the people of our country, and if passed is destined to work wonderfully great results. It is well known to everybody who has thought on the matter that agriculture with us is in a state of low development. * * * The people of the rural districts are not sharing adequately in the general prosperity of the country, and the latter can not be maintained without a forward movement among these rural people. Everywhere of late is heard the cry, 'Back to the farm.' But until the farm becomes as desirable as a source of living and of community life no adequate result can be reached. This bill will serve in a practical way to make this movement really successful. * * * The University of Illinois is doing a great deal of this work now from State appropriations. It can do much more with the aid that the bill is destined to give."

Editor Orange Judd Farmer, Chicago: "The demonstration idea has not been given great attention at the North. Its wonderful success South ought to be sufficient proof that it would be just as satisfactory at the North. We are heartily in favor of this kind of work. I am very anxious to do what I can to help this bill along."

INDIANA.

President Purdue University: "I am in favor of this kind of legis-lation rather than some of the other measures which are now before Congress. * * I find the demands upon us for attention and for work which we would like to do far in excess of our resources. This

kind of work is the thing now most needed in our agricultural colleges, and I hope the measure will pass."

KANSAS.

President State Agricultural College: "We shall be very glad to do anything necessary to be done to indicate the interest of the farming classes in this matter and to assure the Members of Congress that they will appreciate the enactment of a law along the line of this bill."

KENTUCKY.

Editor Home and Farm, Louisville: "The policy will result in great good. * * * Only through a better agricultural education will the farmers be able to diversify their crops intelligently, care for their soils, and increase their profits."

MAINE.

President University of Maine: "I have gone over Senate bill 4563 with very great interest. I see nothing whatever to criticize or change in the bill. If this bill becomes a law, it will enable the land-grant colleges to render unusual service to the people of this country. If I can be of any service in bringing about the favorable consideration of this bill it will be a pleasure."

MASSACHUSETTS.

President Massachusetts Agricultural College: "I am more than glad to give a hearty indorsement to the bill. * * * I think that this is one of the most important educational measures ever introduced into Congress. I believe the time is ripe for a great Federal movement in popular education in agriculture and rural affairs. The States are doing something, but we need the stimulus, direction, and practical assistance of the National Government. * * * You will find the agricultural educators and farmers of America back of you in this effort to inaugurate a great movement. I know of nothing that the present Congress could do that would be more popular. I hope the bill may be passed at this session."

MICHIGAN.

President Michigan Agricultural College: "This bill has my hearty indorsement, and I hope may pass. I shall do all I can to that end." MISSISSIPPI.

MISSISSIFI.

President Agricultural and Mechanical College: "I heartily indorse your bill, While I was president of the American Association of Institute Workers I delivered an address urging that such a bill be passed by the National Congress, Extension work is by far the most important work of the land-grant colleges at this time. * * * We already have enough information to transform our agriculture if we could get the people to incorporate it in their practices."

MONTANA.

President Montana State College of Agriculture and Mechanic Arts: "I am heartily in favor of this movement, and I believe that the provisions of this bill will meet the approval of all the interests concerned. The amount required to carry out this bill is insignificant, and yet it will stimulate the States to expend several times this amount."

NEBRASKA.

Chancellor University of Nebraska: "The University of Nebraska has already organized a department of agricultural extension. For lack of funds, however, our work is conducted mainly along the line of farmers' institutes. I have read the bill and most cordially indorse it in every particular."

President Rutgers College: "I am glad to express to you my emphatic indorsement of this measure and my earnest hope that it will be passed. The State Agricultural College of New Jersey, Rutgers College, is surely in position to do extension work throughout the State, and the work ought to be done."

NEVADA.

President College of Agriculture and Mechanical Arts: "I heartily approve your bill and hope that it will be adopted."

NEW HAMPSHIRE,

President New Hampshire College of Agriculture and the Mechanic Arts: "My personal belief is that if this bill is passed by Congress it will be one of the wisest pieces of legislation since the land-grant act of 1862. * * To my mind agricultural extension work is of the utmost importance at the present time. Our experiment stations have accumulated a large mass of facts and our colleges have done a wonderful work in accumulating and assimilating agricultural information of all kinds, and the most important thing we can do now is to extend this information to the farmers. This can be done only by demonstration and by other practical, thoroughgoing methods. I hope that your bill will receive the hearty support of every Member of Congress."

NEW MEXICO.

President New Mexico College of Agriculture and Mechanic Arts:
"I have read the bill with great care and will say that I believe it to be the best of the several bills now pending before Congress which have this object in view. Whatever may be the merits of the various propositions to have the Federal Government support agricultural high schools, trade schools, district agricultural schools, and branch experiment stations, it seems clear that none of these ought to be tied up with the agricultural extension proposition, of which almost everybody is in favor. The Association of Agricultural Colleges at its recent meeting took the position that the support of agricultural extension work was the most important advance movement to be accomplished by legislation at this time."

NEW YORK.

President Cornell University: "It is a species of instruction which appeals to the public more than college instruction or investigation, for which provision has been made in previous acts of Congress."

NORTH CAROLINA.

President College of Agriculture and Mechanic Arts: "There is no work which the Nation can do now which would tell more for material progress than the extension work, which would be so healthfully aided by your bill. If there is anything that our farmers need more than another it is for some one to carry directly to them the vast amount of scientific knowledge about crops and methods which has been made available in the past few years. The passage of this bill would give an opportunity to do this thing, and I am sure no step could count more for progress than would be taken by such action on the part of our Congress."

NORTH DAKOTA.

President North Dakota Agricultural College: "A resolution was adopted at the Tristate Grain Growers' Convention, indorsing the passage of your bill, and as president of the convention I sent copies of the resolutions to the Members of both Houses in Minnesota and the two Dakotas. I trust the bill will find favor with both Congressmen and Senators and become a law."

OKLAHOMA.

President Oklahoma Agricultural and Mechanical College: "I am in hearty sympathy with the purpose of your bill."

OREGON.

President Oregon Agricultural College: "I am in hearty accord with all the provisions of this bill. I have already written Members of the Oregon delegation urging that they give it their support. The Oregon State Agricultural College has a regularly organized department or division for extension work in agriculture and home economics. One great need is for money with which to carry on this work. I sincerely trust that your bill may be passed by the present Congress."

PENNSYLVANIA.

PENNSYLVANIA.

President The Pennsylvania State College. "Let me thank you for copy of Senate bill 4563. * * * Wishing the bill success and thanking you for your efforts for the benefit of public education, I am. * * *"

Secretary State Horticultural Association of Pennsylvania: "I take this opportunity to especially commend Senate bill 4563, introduced by you, and to assure you of the interest and support of this association. This is a matter of immediate need and far-reaching advantage to the agricultural interests of the country. I sincerely hope that it may become a law."

RHODE ISLAND.

President Rhode Island State College: "I heartily approve of your bill and have no criticisms to make. This college has been prosecuting extension work for seven or eight years, laboring under the difficulty of lack of funds, but I am anxious to do whatever is possible to aid in the passage of this measure and have written our Senators accordingly."

President the Clemson Agricultural College; "I have read this bill with a great deal of interest. * * * I consider it one of the most important pieces of constructive legislation proposed since the Hatch Act establishing the Agricultural Experiment Stations. There is no question but that the great need to-day is the dissemination of agricultural information among our rural people. We would welcome the passage of such a bill as yours, and assure you that we would try to make its application in South Carolina of the greatest usefulness to our people."

President South Dakota State College: "The cause is one that has our hearty indorsement, I have not been negligent of Senate bill 4563. I believe that our delegation will support it."

Principal the School of Agriculture: "I think our farming people * * have almost no realization of the advantages that will come from legislation of this kind. * * * I feel positive that this work will greatly advance the agricultural interests of this great State of South Dakota."

TENNESSEE.

President University of Tennessee: "I am heartily in favor of the passage of this act. I believe the work contemplated by it to be of the greatest importance. I will be glad to do anything in my power to influence its passage."

TEXAS. President Agricultural and Mechanical College: "If this bill should become a law I am sure that it will mark a new era in agricultural education among the masses in America. " I can think of no expenditure of money by the Government that would be more remnerative to the Nation and which would redound to the amelioration of so large a number of our most deserving fellow citizens."

Editor Farm and Ranch: "This is a very important measure and one that should be passed without opposition."

President Agricultural College of Utah: "Utah established an agricultural extension department several years ago. * * We are unable, however, with the means at our disposal, to meet the demands made upon us. * * * You are at perfect liberty to quote the officials of the Utah Agricultural College as being in very hearty sympathy with any measure for the promotion of our industrial life through the development of extension work among the farmers and farmers' wives throughout the country. It is possibly the most important work now lying before the agricultural colleges, since it permits the proper distribution among those who need it of the splendid mass of facts gathered by the agricultural experiment stations."

VIRGINIA.

President Virginia Polytechnic Institute: "This is by far the best preposition which has yet come forward. * * * The bill seems carefully drawn, and I can most heartly indorse it."

WASHINGTON.

WASHINGTON.

Vice president the State College of Washington: "I have been waiting a little to find what was recommended by the meeting of the agricultural college representatives, and find that they are all of them backing this particular bill. There is certainly a large demand for more extension work in the country. We need to rationalize our education and make it more helpful to the young men and young women who do not expect to enter professional life. I will write to our Representatives and Senators and ask for their hearty cooperation in the passage of Senate bill 4563."

WEST VIRGINIA.

President West Virginia University: "I thank you very much for a copy of the bill sent and hasten to express my wish that it may become a law. " "This is one of the greatest works for the benefit of the entire country to which public money can be devoted. It is through the extension work, and through it alone, as far as I can see, that the people of most of our rural communities can be thoroughly awakened to the need and value of agricultural education. The proposed bill seems to me to be satisfactory in every detail, and I hope that you will be successful in securing its passage."

Dean and director College of Agriculture, West Virginia University: "I am sending out a letter to some of our leading people urging the

support of your bill, and would like to send a copy of the bill with these letters. * * * We shall give this measure every support possible." WISCONSIN.

WISCONSIN.

Dean University of Wisconsin: "Bill, Senate 5463, * * * is to my mind the most suggestive measure that is under consideration in Congress for the advancement of the agricultural welfare of the Nation. What is needed most imperatively is the carrying of present agricultural knowledge to the man on the farm. * * * The agricultural extension service is the only way in which this can be most effectively accomplished, and your bill most satisfactorily fulfills this need. * * * We in Wisconsin will do all that we can to aid in the passage of this measure."

Measure."

Secretary Wisconsin Country Life Conference Association: "The following resolution was unanimously adopted by the conference association, representing all the varied interests of country life and rural progress in all parts of Wisconsin:

"Resolved, That it is the sentiment of this conference association that we urge our Representatives in Congress to support the bill 'To establish agricultural extension departments in connection with the agricultural colleges in the several States,' etc. House bill No. 18160, Senate bill No. 4563.

"I take pleasure in acquainting you with representative Wisconsin sentiment on this measure."

Secretary Wisconsin Live Stock Breeders' Association: "Inclosed herewith please find copy of resolution passed unanimously by the Wisconsin Live Stock Breeders' Association, an organization representing all of Wisconsin's best live-stock breeders:

"Maddison, Wis., February 8, 1912.

"MADISON, WIS., February 8, 1912.

"Resolved, That the Wisconsin Live Stock Breeders' Association assembled in annual convention heartily indorses the principle of Government aid to agricultural college extension as embodied in the Lever bill (House bill 18160), and that we authorize the secretary of this association to send a copy of these resolutions to the chairmen of the Senate and House Committees on Agriculture and to Members of the Wisconsin delegation in Congress.

"Secretary Wisconsin Live Stock Breeders' Association."

"Secretary Wisconsin Live Stock Breeders' Association."

Secretary National Association of State Universities: "I am deeply interested in your Senate bill 4563. The bill ought to pass, and I should be glad to cooperate with you in any way within my power to bring about the desired result."

Mr. W. O. Thompson, member executive committee Association of American Agricultural Colleges and Experiment Stations, and president Ohio State University: "As chairman of the executive committee of the Association of American Agricultural Colleges and Experiment Stations I should be very much pleased to be heard before the committees of both the House and Senate. As a little evidence of our interest, I may say that we started agricultural evidence of our interest, I may say that we started agricultural extension four years before the legislature authorized it, and had as many as 8,000 boys on the farms doing experimental work. * * * The Agricultural College Association expressed itself very decidedly last November in favor of agricultural extension."

Secretary New England Conference on Rural Progress, March 8, at the offices of the State board of agriculture, State House, Boston, the following resolutions were unanimously voted:

"Recognizing the latent possibilities of the New England States for agricultural development, especially along certain high-class, specialized lines, and realizing that this development can be most speedly and effectively brought about through well-organized extension teaching in agriculture, the New England Conference on Rural Progress, representing more than 70 organizations interested in rural life, to-day assembled in convention in the city of Boston, would respectfully urge upon Congress the necessity and advisability of passing legislation yet proposed."

The delegates represent the agricultural colleges, the experiment stations, the State granges, and various special agricultural, live-stock, deriving and other organizations and agreedes of New England."

proposed." The delegates represent the agricultural colleges, the experiment stations, the State granges, and various special agricultural, live-stock, dairying, and other organizations and agencies of New England." State superintendent of farmers' institutes, Lansing, Mich.: "At the Michigan State Round-up Farmers' Institute, held at this place on Pebruary 27 to March 1, at which representative farmers from more than 50 of the counties of the State were present, the following resolution was adopted:

""Whereas Representative A. F. Lever, of the seventh district of South Carolina, has introduced a bill to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act approved July 2, 1862, and acts supplementary thereto, and referred to the Committee on Agriculture: Therefore

culture: Therefore

"Resolved, That the members of the Seventeenth Annual Farmers'
Institute Round-up, in session at the Michigan Agricultural College,
ask and urge its Senators and Members of Congress to favor the passage
of this bill.

"I would say that in addition to the above delegates the executive
officers of the State grange, State Federation of Farmers' Clubs, State
Horticultural Society, and nearly 1,000 farmers were present and voted
unanimously for the resolution."

Editor Agricultural Epitomist, Spencer, Ind.: "I congratulate you on
so far-reaching a measure as bill S. 4563 is intended to be. If Congress
does nothing else than pass this bill, it will justify the wisdom of the
forefathers."

forefathers

UNION CITY, GA., February 26, 1912.

Dr. A. M. Soule (care Hom. Hoke Smith), Washington, D. C.:

Resolutions adopted by Georgia Farmers' Union that the bills now pending in Congress which propose to appropriate a sum of money to each State for agricultural education, providing the State will appropriate a similar amount, known as House bill 18160 and Senate bill 4563, be heartily indorsed and supported.

J. F. McDaniel, Secretary-Treasurer.

THE INCOME TAX.

Mr. BURTON. I present a joint resolution of the General Assembly of the State of Ohio, dated January 19, 1911, in ratification of the proposed amendment to the Constitution of the United States empowering the Congress to lay and collect

taxes on incomes. I ask that the joint resolution lie on the table and be printed in the RECORD.

There being no objection, the joint resolution was ordered to lie on the table and to be printed in the RECORD, as follows:

Senate joint resolution 6.

Seventy-ninth general assembly, regular session. Mr. Yount.

Whereas both Houses of the Sixty-first Congress of the United States of America at its first session, by a constitutional majority of two-thirds thereof, made the following proposition to amend the Constitution of the United States of America in the following words, to wit: "A joint resolution proposing an amendment to the Constitution of the United States.

United States.

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several States, which when ratified to all intents and purposes as a part of the Constitution, namely:

"'ART. XVI. The Congress shall have power to lay and collect taxes on incomes from whatever source derived without apportionment among the several States and without regard to any census or enumeration."

Therefore be it

Resolved by the Senate and House of Representatives of the State of Ohio, That the said proposed amendment to the Constitution of the United States of America be, and the same is hereby, ratified by the General Assembly of the State of Ohio: And further be it

Resolved, That the certified copies of this joint resolution be forwarded by the governor of this State to the Secretary of State at Washington and to the presiding officers of each House of the National Congress.

Congress.

I, W. V. Goshorn, clerk of Ohio Senate, certify the above and foregoing to be a true and correct copy of original resolution passed by General Assembly of Ohio as shown from the records of both houses.

W. V. Goshorn,

Clerk of Ohio Senate.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. PENROSE:

A bill (S. 7502) for the erection of a public building at Ridgway, Pa., to the Committee on Public Buildings and Grounds.

A bill (S. 7503) for reduction of postage on first-class mail matter; to the Committee on Post Offices and Post Roads.

A bill (S. 7504) granting a pension to James A. Stine (with accompanying paper); and A bill (S. 7505) granting an increase of pension to Sarah A.

Stockman (with accompanying paper); to the Committee on Pensions.

By Mr. BORAH (by request):

A bill (S. 7506) to establish a complete financial and banking system for the United States of America; to the Committee on Finance.

By Mr. GORE:

A bill (S. 7507) to amend section 1 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911; to the Committee on the Judiciary. By Mr. GALLINGER:

A bill (S. 7508) to amend "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia" (with accompanying (with accompanying

paper); and
A bill (S. 7509) to authorize the extension of Twenty-fifth
Street SE, and of White Place; to the Committee on the Dis-

trict of Columbia. A bill (S. 7510) granting an increase of pension to Rodney S. Vaughan (with accompanying papers); to the Committee on

Pensions. By Mr. SWANSON:

A bill (S. 7511) to transfer Capt. Armistead Rust from the retired to the active list of the United States Navy; to the

Committee on Naval Affairs.

By Mr. WORKS:

A bill (S. 7512) to amend an act entitled "An act to codify, revise, and amend the penal laws of the United States," approved March 4, 1909; to the Committee on the Judiciary.

By Mr. MYERS: A bill (S. 7513) for the establishment of a fish-cultural station in the State of Montana, near the city of Hamilton, and

appropriating money therefor; to the Committee on Fisheries.

A bill (8, 7514) to amend an act entitled "An act making appropriation for the support of the Army for the fiscal year ending June 30, 1913, and for other purposes"; and

A bill (8, 7515) for the relief of Col. Richard H. Wilson, Fourteenth Infantry, United States Army; to the Committee on Military Affairs. By Mr. CULLOM:

A bill (S. 7516) for the relief of Helen M. Kennicott; to the Committee on Claims.

A bill (S. 7517) granting a pension to William H. Mayo (with accompanying papers); and

A bill (S. 7518) granting an increase of pension to C. W. Birg, alias Calvin W. Burton (with accompanying papers); to the Committee on Pensions.

By Mr. McCUMBER:

A bill (S. 7519) to provide for placing ex-Presidents of the United States on the retired list as commander in chief of the Army and Navy of the United States, and to provide for an annuity for the widows of Presidents and ex-Presidents; to the Committee on Pensions.

A bill (8. 7520) to amend an act entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes," approved August 24, 1912; to the Committee on Post Offices and Post Roads.

By Mr. JOHNSTON of Alabama:

A bill (S. 7521) to provide for the additional compensation of rural letter carriers; to the Committee on Post Offices and Post Roads.

A bill (S. 7522) for the erection of a public building at the

city of Greenville, Ala.; and

A bill (S. 7523) to provide for the purchase of a site for the erection of a public building in Greenville, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. BRISTOW:

A bill (S. 7524) granting an increase of pension to Thomas T. Keibler

A bill (S. 7525) granting an increase of pension to John H.

Beatty (with accompanying papers);
A bill (S. 7526) granting an increase of pension to Isaac A. Sharp (with accompanying papers); and

A bill (S. 7527) granting a pension to Francis M. Jones; to the Committee on Pensions.

By Mr. KENYON:

A bill (S. 7528) granting a pension to Mary Josephine Stotts; A bill (S. 7529) granting an increase of pension to Turner S. Bailey; and

A bill (S. 7530) granting a pension to Sarah Tout; to the Committee on Pensions.

By Mr. NELSON: A bill (S. 7531) to authorize the Secretary of Commerce and Labor to purchase certain land required for lighthouse purposes at Port Ferro Light Station, P. R.; to the Committee on Commerce.

By Mr. PERKINS:

A bill (S. 7532) to regulate and increase the efficiency of the personnel of the United States Navy and Marine Corps; to the Committee on Naval Affairs.

By Mr. CURTIS:

A bill (S. 7533) for the relief of John A. Clark; A bill (S. 7534) for the relief of Dr. William H. Hayes (with accompanying paper);

A bill (8. 7535) for the relief of Martha J. Wharton (with

accompanying paper); and
A bill (S. 7536) for the relief of Charles Dade (with accompanying paper); to the Committee on Military Affairs.

A bill (S. 7537) for the relief of Kate Rudolph Wilson and other heirs of Zebulon Brown Rudolph (with accompanying papers);

A bill (S. 7538) for the relief of Kate Rudolph Wilson and other heirs of Tobias S. Rudolph, deceased (with accompanying papers); and

A bill (S. 7539) for the relief of Frank Hodges (with accom-

panying papers); to the Committee on Claims.

A bill (S. 7540) granting an increase of pension to William Bruce (with accompanying papers);

A bill (S. 7541) granting an increase of pension to Anna M. Johnson (with accompanying papers);

A bill (S. 7542) granting a pension to Eli Evans (with accom-

panying papers);
A bill (S. 7543) granting an increase of pension to Samuel S.

Gipe (with accompanying papers); A bill (S. 7544) granting an increase of pension to J. Jay

Buck (with accompanying paper); A bill (S. 7545) granting an increase of pension to William H. Thompson (with accompanying papers);

A bill (S. 7546) granting a pension to Adelaide Oaks (with accompanying papers);
A bill (S. 7547) granting an increase of pension to Alpheus

K. Rodgers (with accompanying papers);
A bill (S. 7548) granting an increase of pension to James M. Dilley (with accompanying papers);

A bill (S. 7549) granting an increase of pension to Sue N. Inness;

A bill (S. 7550) granting an increase of pension to Susan

Owens (with accompanying papers); and A bill (S. 7551) granting an increase of pension to Alice L. Kane; to the Committee on Pensions.

By Mr. CLAPP (by request):
A bill (8.7552) for payment to the Chicago, Milwaukee & St. Paul Railway Co. \$4,583.67 improperly collected under the act of August 5, 1909; to the Committee on Claims.

By Mr. SHIVELY:

A bill (S. 7553) granting an increase of pension to Lorenzo F. Nolan (with accompanying papers);

A bill (S. 7554) granting an increase of pension to John Bailey (with accompanying papers); and

A bill (S. 7555) granting an increase of pension to Thomas B. Fouty (with accompanying papers); to the Committee on Pensions.

By Mr. CRANE:

A bill (S. 7556) granting an increase of pension to Christina Higgins; and

A bill (S. 7557) granting an increase of pension to Josiah Brainerd Hall; to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 7558) granting an increase of pension to Maria Lewis

A bill (S. 7559) granting an increase of pension to Lucy A. Hunter

A bill (S. 7560) granting an increase of pension to David H. Geer

A bill (S. 7561) granting an increase of pension to Mrs. A. M. Barstow

A bill (S. 7562) granting a pension to John H. Broadwell; and

A bill (S. 7563) granting an increase of pension to James Turner; to the Committee on Pensions.

ELECTION OF PRESIDENT AND VICE PRESIDENT.

Mr. WORKS. I introduce a joint resolution, and I ask that it be read.

The joint resolution (S. J. Res. 140) proposing an amendment of the Constitution of the United States was read the first time by its title and the second time at length and referred to the Committee on the Judiciary, as follows:

by its title and the second time at length and referred to the Committee on the Judiciary, as follows:

Resolved, etc., That the following be proposed as an amendment to section 1 of Article II and Article XII of the Constitution of the United States, which will be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the States, namely: Amend the second paragraph of said section, providing for the manner of electing the President and Vice President of the United States, to read as follows:

"Such President and Vice President shall be elected by the direct vote of the qualified electors of the several States. The election shall be held, the returns made, and the votes canvassed in each of the States as provided by law for the holding of general elections in said States. The number of votes cast for each candidate, when canvassed by the proper officers, as provided for by the laws of the States, shall within 30 days after such election be certified to the secretary of state of each of the States, or to such other officer as may be authorized by the law of the States, or to such other officer as may be authorized by the law of the States to receive and certify such vote. That such secretary, or other qualified officer, shall canvass, compute, and on or before January 1 following certify to the Secretary of State of the United States the total number of votes cast in the State for each of the candidates for President and Vice President."

That the Secretary of State of the United States shall canvass and compute the votes received by each of the candidates for President and Vice President of the United States as certified to him by the secretaries of state or other qualified officers of the several States, and shall on or before the 1st day of February following such election certify and transmit sealed to the President of the Senate of the United States lists of all persons voted for as President and of all persons voted for as Vice President and of

AMENDMENT TO NAVAL APPROPRIATION BILL

Mr. CULLOM submitted an amendment authorizing the Superintendent of the Naval Academy to make rules for the prevention of the practice of hazing, etc., intended to be proposed by him to the naval appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

OMNIBUS CLAIMS BILL.

Mr. O'GORMAN submitted three amendments intended to be proposed by him to the omnibus claims bill, which were ordered to lie on the table and to be printed.

Mr. JOHNSON of Maine submitted an amendment intended

to be proposed by him to the omnibus claims bill, which was ordered to be printed and, with the accompanying paper, to lie on the table.

FUNERAL EXPENSES OF THE LATE VICE PRESIDENT.

Mr. BRISTOW submitted the following resolution (S. Res. 396), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by direction of the President pro tempore (under Senate resolution No. 384, Aug. 17. 1912) in arranging for and attending the funeral of the late Vice President of the United States and President of the Senate, James S. Sherman, at Utica, N. Y., on the 2d of November, 1912, upon vouchers to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

FUNERAL EXPENSES OF THE LATE SENATOR HEYBURN.

Mr. BORAH submitted the following resolution (S. Res. 394), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed by the Vice President in arranging for and attending the funeral of the late Senator Weldow B. Heyburn from the State of Idaho, vouchers for the same to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

FUNERAL EXPENSES OF THE LATE SENATOR RAYNER.

Mr. SMITH of Maryland submitted the following resolution (S. Res. 395), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed by the President pro tempore of the Senate in arranging for and attending the funeral of the late Senator Isidor Rayner from the State of Maryland, vouchers for the same to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

ALCOHOL AND OFFICIALS (S. DOC. NO. 958).

Mr. TOWNSEND. I have an address by Col. L. Mervin Maus, Medical Corps, United States Army, chief surgeon eastern division, delivered before a meeting of the military surgeons at Washington, D. C., October 2 last. I ask that the address be printed as a Senate document.

Mr. SMOOT. I understand that the Senator from Michigan has consented that the illustrations contained in the address

shall not be printed.

Mr. TOWNSEND. I ask that the address be printed as a

Senate document without the illustrations.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Michigan? The Chair hears none, and it is so ordered.

STATISTICS OF CORPORATIONS (S. DOC. NO. 956).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Finance and ordered to be printed:

To the Senate:

In response to the resolution of the Senate of June 15, 1912, requesting certain information regarding the profits and business of certain corporations for the years 1910 and 1911, as specified in Senate resolution 321, I transmit herewith a report from the Secretary of the Treasury, which contains the desired information in reference to beet sugar, sugar and molasses, cotton goods, cotton small wares, wool and woolen goods, and iron and steel products.

WM. H. TAFT.

THE WHITE HOUSE, December 3, 1912.

REPORT OF COMMISSION OF FINE ARTS.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on the Library and ordered to be printed: To the Senate and House of Representatives:

I transmit herewith for the information of the Congress the report of the Commission of Fine Arts for the fiscal year ended June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, December 3, 1912.

REPORT OF INTERNATIONAL WATERWAYS COMMISSION (S. DOC. NO. 959).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers and illus-

tration, was referred to the Committee on Commerce and ordered to be printed:

To the Senate and House of Representatives:

The act making appropriations for sundry civil expenses of the Government approved August 24, 1912, provided for the International Waterways Commission in the following terms,

For continuing until December 31, 1912, the work of investigation and report by the International Waterways Commission, authorized by section 4 of the river and harbor act approved June 13, 1902, \$10,000: Provided, That report as to the progress of the work be made by the American commissioners to Congress at the beginning of the next session.

The American commissioners have rendered a full report of all their acts up to this time, which I herewith transmit. It appears from this report that the commission still has two pieces of work to complete before it can properly go out of existence.

One is its final report upon a dam at the outlet of Lake Erie, a difficult and important question upon which it has expended a vast amount of labor. It should be allowed to finish its work, to clear the ground for its successor, the International Joint Commission, which will consider all future questions of this nature. I am informed that the report has been delayed, and may be further delayed, by the illness and absence in Europe of one of the Canadian engineers, but that it can probably be completed within a few months, certainly before the completion of the other piece of unfinished work.

The other is to ascertain and reestablish, to mark upon the ground, and to delineate upon modern charts, the location of a portion of the international boundary between the United States and Canada, which work was specifically assigned to the International Waterways Commission by article 4 of the treaty between the United States and Great Britain dated April 11, 1908. This work the commission states can not be completed by December 31, 1912, but will require from a year

to 15 months more time beyond that date.

The work of the commission has been of a high order, and has been prosecuted with diligence. International courtesy as well as treaty obligations require that the commission be allowed to complete its work. I recommend that the items to be found in the estimates for its support during the second half of the current fiscal year and for a part of the next fiscal year receive the favorable consideration of Congress.

WM. H. TAFT.

THE WHITE HOUSE, December 3, 1912.

THE CALENDAR.

The PRESIDENT pro tempore. The morning business is closed and the calendar under Rule VIII is in order.

The bill (S. 2493) authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri was announced as first in order on the calendar.

Mr. BURTON. I ask that the bill may go over. The PRESIDENT pro tempore. It will go over.

The bill (S. 1505) for the relief of certain officers on the retired list of the United States Navy was announced as next

Mr. SMOOT. I ask that the bill may go over.

The PRESIDENT pro tempore. On the request of the Senator from Utah the bill goes over.

The bill (S. 2151) to authorize the Secretary of the Treasury

to use at his discretion surplus moneys in the Treasury in the purchase or redemption of the outstanding interest-bearing obligations of the United States was announced as next in order.

Mr. OVERMAN. Let that bill go over, Mr. President. The PRESIDENT pro tempore. The bill goes over. The bill (8, 256) affecting the sale and disposal of public or Indian lands in town sites, and for other purposes, was announced as next in order, and was read.

Mr. SHIVELY. Let that bill go over. The PRESIDENT pro tempore. The bill goes over.

The bill (S. 3) to cooperate with the States in encouraging instruction in agriculture, the trades and industries, and home economics in secondary schools; in maintaining instruction in these vocational subjects in State normal schools; in maintaining extension departments in State colleges of agriculture and mechanic arts; and to appropriate money and regulate its expenditure, was announced as next in order.

Mr. LODGE. That bill should go over, as it is a special order.

The PRESIDENT pro tempore. The bill goes over.

PROMOTION OF INSTRUCTION IN FORESTRY.

The bill (S. 5076) to promote instruction in forestry in States and Territories which contain national forests was considered as in Committee of the Whole. The bill had been reported from the Committee on Public Lands with an amendment, which was, in section 2, page 2, line 16, after the word "instruction," to strike out "offered to forest rangers" and to insert "in forestry offered," so as to make the section read:

offered," so as to make the section read:

SEC. 2. That when any State or Territory which contains national forests shall provide instruction in forestry at the State university or other educational institution maintained by the State or Territory, which, in the judgment of the Secretary of Agriculture, is adapted to the training of forest rangers employed or to be employed in the protection and administration of the national forests, the Secretary of the Treasury shall pay to the State or Territory for the benefit of such institution, designated by the Secretary of Agriculture, from the moneys made available by this act, to be expended during the fiscal year for which said allotment is made, such sum as in the judgment of the Secretary of Agriculture will adequately assist the State or Territory in the instruction in forestry offered at such institution: Provided, That only one institution may receive benefits under this act in any State or Territory during any one fiscal year, and the amount paid to any State or Territory during any one fiscal year shall not exceed \$7,500.

The amendment was agreed to.

The amendment was agreed to.

Mr. McCUMBER. I ask that the bill go over.

The PRESIDENT pro tempore. The bill goes over.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. If it is in order, I desire to announce that, at the conclusion of the morning business on to-morrow, if the Senate shall then be in session, I shall call up and ask that it be considered, House bill 19115, known as the omnibus claims

PRESIDENTIAL PRIMARIES IN THE DISTRICT OF COLUMBIA.

The bill (S. 2234) to provide for a primary nominating election in the District of Columbia, at which the qualified electors of the said District shall have the opportunity to vote for their first and second choice among those aspiring to be candidates of their respective political parties for President and Vice President of the United States, to elect their party delegates to their national conventions, and to elect their national committeemen, was announced as next in order.

Mr. LODGE. Let that bill go over.

Mr. OVERMAN. Let it go over to the calendar under Rule IX. The PRESIDENT pro tempore. The Senator from North Carolina suggests that the bill, the title of which has just been read, shall go to the calendar under Rule IX.

Mr. BRISTOW. I must object to the bill going to the calendar under Rule IX. I wish to have it considered during this

Mr. OVERMAN. I withdraw the request.
The PRESIDENT pro tempore. The bill will be passed over, retaining its place.

THE LIFE-SAVING SERVICE.

The bill (S. 2051) to promote the efficiency of the Life-Saving Service was announced as next in order, and the Secretary proceeded to read the bill.

IMPEACHMENT OF ROBERT W. ARCHBALD,

The PRESIDENT pro tempore (Mr. Bacon). The hour of 12.30 o'clock having arrived, under the order of the Senate, the Senate is now in session sitting as a Court of Impeachment for the trial of articles of impeachment against Judge Robert W. Archbald. Due proclamation will be made.

The Assistant Doorkeeper (Mr. C. A. Loeffler) made the

following proclamation:
"Hear ye! Hear ye! Hear ye! The Senate of the United States, sitting as a Court of Impeachment, is now in session."

The managers on the part of the House of Representatives-HENRY D. CLAYTON of Alabama, Edwin Y. Webb of North Carolina, John C. Floyd of Arkansas, John W. Davis of West Virginia, John A. Sterling of Illinois, Paul Howland of Ohio, and George W. Norris of Nebraska—were announced by the Acting Assistant Doorkeeper (Mr. Thomas W. Keller) and conducted to the seats assigned them.

The PRESIDENT pro tempore. There are certain Senators who have not yet taken the oath required in this proceeding, and they will present themselves at the desk for that purpose. The Secretary will call the names of the Senators who have not

as yet taken the oath.

The Secretary called the names of Mr. Brown, Mr. Chilton, Mr. Curtis, Mr. Davis, Mr. Dixon, Mr. du Pont, Mr. Gore, Mr. Jackson, Mr. Lea, Mr. Owen, Mr. Perky, and Mr. Richardson; and Mr. Brown, Mr. Curtis, Mr. Dixon, Mr. du Pont, Mr. Gore, Mr. Jackson, Mr. Perky, and Mr. Richardson presented themselves at the desk and the oath was administered to them by the President pro tempore.

The respondent, Robert W. Archbald, and his counsel, A. S. Worthington, Esq., and Robert W. Archbald, jr., Esq., entered

the Chamber and took the seats assigned them.

Mr. WORTHINGTON. Mr. President, I wish to introduce Mr. Alexander Simpson, jr., of the Philadelphia bar, who will be associated with the counsel for Judge Archbald in this trial, The PRESIDENT pro tempore. The name of Mr. Simpson

will be entered as of counsel for the respondent.

Mr. CLARK of Wyoming. Mr. President, I send to the desk an order, and ask unanimous consent for its present considera-

The PRESIDENT pro tempore. The order submitted by the Senator from Wyoming will be read by the Secretary.

The Secretary read as follows:

Ordered, That the daily sessions of the Senate sitting in the trial of impeachment of Robert W. Archbald, additional circuit judge of the United States, shall, unless otherwise ordered, commence at 2 o'clock in the afternoon.

The PRESIDENT pro tempore. If there be no objection, the order will be considered as having been agreed to unanimously. It is so ordered.

Mr. NELSON. I move the adoption of the order which I send to the desk.

The PRESIDENT pro tempore. The Senator from Minnesota offers an order, which will be read by the Secretary.

The Secretary read as follows:

Ordered, That the opening statement on behalf of the managers shall be made by one person, to be immediately followed by one person who shall make the opening statement on behalf of the respondent.

The PRESIDENT pro tempore. Without objection, it will be considered that the order just read has been unanimously agreed to. It is so ordered.

Mr. CLARK of Wyoming. I ask the adoption of the order which I send to the desk.

The PRESIDENT pro tempore. The Senator form Wyoming submits an order, which will now be read.

The Secretary read as follows:

Ordered, That the Senate sitting in the Court of Impeachment do now take a recess until 2 o'clock p. m. this day.

Mr. Manager CLAYTON. Mr. President, before the question is put on the adoption of that order, if it is agreeable to the Senate sitting as a Court of Impeachment, hereafter the managers on the part of the House of Representatives will appear without the formality of an announcement.

The PRESIDENT pro tempore. The Chair will give proper

direction in that regard.

Mr. WORTHINGTON. I presume that might apply, Mr. President, to the counsel for the respondent and to the respondent himself.

The PRESIDENT pro tempore. Proper order will be given in the premises. The order presented by the Senator from Wyoming [Mr. Clark], unless there be objection, will be considered as unanimously adopted. It is so ordered.

Thereupon (at 12 o'clock and 40 minutes p. m.) the Senate sitting as a Court of Impeachment took a recess until 2 o'clock

The managers on the part of the House of Representatives and the respondent and his counsel withdrew from the Chamber. LIFE-SAVING SERVICE.

The PRESIDENT pro tempore (Mr. Bacon). The Secretary will resume the reading of the bill which was being read when the Senate resolved itself into a Court of Impeachment.

The Secretary resumed the reading of the bill (S. 2051) to

promote the efficiency of the Life-Saving Service.

Mr. GALLINGER. Mr. President, inasmuch as we met at an early hour this morning and there is very little interest in the calendar as it is being read, I move that the Senate take a recess until 2 o'clock.

Mr. NELSON. I trust the Senator from New Hampshire will withdraw his motion, so that we can dispose of this bill. It is a bill which the Senate has heretofore passed several times, and I think there will be no objection to it.

Mr. GALLINGER. I will withdraw the motion until the bill shall have been acted upon.

The PRESIDENT pro tempore. The Sen Hampshire withdraws the motion temporarily. The Senator from New

The Secretary resumed and concluded the reading of the bill.

The PRESIDENT pro tempore. The bill is in the Senate as in Committee of the Whole and open to amendment.

Mr. BAILEY. Mr. President, is the bill properly before the Senate, and is it before it subject to an objection?

The PRESIDENT pro tempore. The bill is subject to an

The Senate is proceeding under Rule VIII.

Mr. BAILEY. Mr. President, as we seem now inclined to pension or retire everybody except the men who really are entitled to the consideration of the Government—and those are the men who pay the taxes-I suppose I ought not to interpose any

objection to this bill; and I shall not prevent its consideration. If the Senate of the United States thinks we have reached a time when this class of employees ought to follow other employees of the Government onto a civil pension list—for that is all this is—and thus broaden the precedent and hasten the coming of the day when everybody who works for the Government shall likewise draw a pension, either military or civil, the Senate can take its own responsibility and say so.

For my part. I am opposed to this just as I am opposed to all provisions for the retirement of any man. I believe to-day, just as I have always believed, that every man who serves this Government ought to receive a fair compensation for his services, and he ought to save it or spend it according to his own folly or his own prudence; and then he ought to suffer the consequences of his folly if he is foolish, or enjoy the reward of

his prudence if he is prudent.

I suppose the time will come when we will contrive some way to pension the taxpayer. Just exactly how a system for that can be devised is past my comprehension. But with modern legislative legerdemain I have no doubt a way will be devised to make everybody support everybody else without anybody working either for himself or for others.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the

third time.

The PRESIDENT pro tempore. The question is, Shall the bill pass?

Mr. BAILEY. On that I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. BAILEY. I ask the Chair to count the other side, to see whether one-fifth of those present demanded them or not.

The PRESIDENT pro tempore. There was less than one-fifth of a quorum. That is the reason the Chair—Mr. BAILEY. Then I make the point that no quorum is

present.

The PRESIDENT pro tempore. The Senator from Texas having made that point, the roll will be called; but the Chair was about to do what the Senator had previously asked. The Secretary will call the roll.

The Secretary called the roll, and the following Senators an-

swered to their names:

Ashurst Bacon Bailey Bankhead Borah Brandegee Curtis Dixon du Pont Fletcher Foster Martine, N. J. Simmons Smith, Ariz. Smith, Ga. Smith, Md. Smith, Mich. Smith, S. C. Massey Massey Myers Nelson O'Gorman Overman Page Foster Gallinger Bristow Smoot Gore Hitchcock Brown Bryan Burnham Penrose Percy Perkins Perky Stephenson Sutherland Swanson Johnson, Me. Johnston, Ala. Kenyon Burton Clark, Wyo. Crane Crawford Culberson Thornton Tillman Lodge McCumber McLean Martin, Va. Pomerene Townsend Wetmore Works Richardson Root Shively

Mr. WORKS. The senior Senator from Washington [Mr. Jones] is necessarily absent on business of the Senate.

Mr. PAGE. My colleague [Mr. DILLINGHAM] is detained from the Senate by illness

Mr. SHIVELY. The junior Senator from Indiana [Mr.

KERN] is unavoidably absent.

The PRESIDENT pro tempore. On the call of the roll of the Senate 60 Senators have responded to their names. quorum is present. The Senator from Texas calls for the yeas and nays on the question of the passage of the pending bill.

Mr. O'GORMAN. Mr. President—
The PRESIDENT pro tempore. Nothing is in order now, unless the Senator from New York proposes to address his remarks to the call for the yeas and nays, until after the vote is

Mr. O'GORMAN. The yeas and nays on what question? The PRESIDENT pro tempore. The yeas and nays are demanded on the question of the passage of the bill which has been

Mr. O'GORMAN. Has the bill been discussed? The PRESIDENT pro tempore. It has not been discussed at any length. The Senator from Texas [Mr. BAILEY] had something to say on the subject.

Mr. O'GORMAN. I object to the bill being taken up out of

its order unless we can have a discussion of it.

The PRESIDENT pro tempore. The bill is not up out of its eder. It was read under Rule VIII, and is subject to objection. Does the Senator from New York object?

Mr. O'GORMAN. I object at this time. There has been no discussion of the bill on the floor of the Senate, and under the circumstances it would be impossible for Senators to vote in-

telligently on the merits of this important question at the pres-

The PRESIDENT pro tempore. The Senator from New York objects, and the bill goes over.

RECESS.

Mr. GALLINGER. I renew my motion that the Senate take recess until 2 o'clock p. m.

The motion was agreed to, and (at 12 o'clock and 55 minutes p. m.) the Senate took a recess until 2 o'clock p. m.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The Senate sitting as a Court of Impeachment resumed its session at 2 o'clock p. m.

Mr. SMOOT. Mr. President, I suggest the absence of a

The PRESIDENT pro tempore (Mr. Bacon). The Secretary will call the roll of the Senate.

The Secretary called the roll, and the following Senators

answered to their names:

McLean Martin, Va. Martine, N. J. Myers Nelson O'Gorman Overman Page Penrose Perkins Perky Pomerene Richardson Root Smith, Ariz. Smith, Ga. Smith, Md. Smith, S. C. Smoot Stephenson Sutherland Swanson Ashurst Bacon Bailey Borah Brandegee Bristow Brown Cummins Curtis Dixon du Pont Foster Gallinger Gore Guggenheim Hitchcock Brown Bryan Burnham Burton Swanson Thornton Tillman Townsend Wetmore Jackson Johnson, Me. Johnston, Ala. Clapp Clark, Wyo. Clarke, Ark. Crane Crawford Culberson Cullom Kenyon La Follette Lippitt Lodge McCumber Works Root Shively Simmons

Mr. PENROSE. My colleague [Mr. OLIVER] is unavoidably absent on account of illness.

Mr. PAGE. I wish to announce that my colleague [Mr. DIL-LINGHAM], owing to illness, is necessarily absent.

The PRESIDENT pro tempore. On the call of the roll 65

Senators are present. A quorum of the Senate is present.

Mr. Manager CLAYTON. Mr. President, as I understand

the action of the Senate, it contemplated that at this time the managers should proceed to make a statement embodying the facts upon which the articles of impeachment are predicated in this case.

Mr. President, this proceeding had its origin in the resolu-tion adopted by the House of Representatives on April 25, 1912, which is embodied in the message sent by the President of the United States to the House of Representatives on May 3, 1912, in the following words:
To the House of Representatives:

in the following words:

To the House of Representatives:

I am in receipt of a copy of a resolution adopted by the House on April 25, reading as follows:

"Resolved, That the President of the United States be, and he is hereby, requested, if not incompatible with the public interest, to transmit to the House of Representatives a copy of any charges filed against Robert W. Archbald, associate judge of the United States Commerce Court, together with the report of any special attorney or agent appointed by the Department of Justice to investigate such charges, and a copy of any and all affidavits, photographs, and evidence filed in the Department of Justice in relation to said charges, together with a statement of the action of the Department of Justice, if any, taken upon said charges and report."

In reply I have to state that in February last certain charges of improper conduct by the Hon. Robert W. Archbald, formerly district judge of the United States court for the middle district of Pennsylvania and now judge of the Commerce Court, were brought to my attention by Commissioner Meyer, of the Interstate Commerce Commission. I transmitted these charges to the Attorney General by letter dated February 13, instructing him to investigate the matter, confer fully with Commissioner Meyer, and have his agents make as full report upon the subject as might be necessary, and, should the charges be established sufficiently to justify proceeding on them, bring the matter before the Judiciary Committee of the House of Representatives.

The Attorney General has made a careful investigation of the charges, and as a result of that investigation has advised me that, in his opinion, the papers should be transmitted to the Committee on the Judiciary; but in my opinion—and I think it will prove in the opinion of the committee—it is not compatible with the public interests to lay all these papers before the House of Representatives until the Committee on the Judiciary shall have sifted them out and determined the extent to which t

THE WHITE HOUSE, May 3, 1912.

Upon receipt of this message from the President the Committee on the Judiciary of the House of Representatives gave consideration to the matter referred to in the President's message of the alleged improper conduct of Judge Robert W. Archbald. Following the action of the committee the House of Representatives itself adopted articles of impeachment in this

cause, which articles have been heretofore submitted to the Senate sitting as a Court of Impeachment.

JUDGE ARCHBALD'S APPOINTMENT.

Robert W. Archbald was appointed in vacation a United States district judge for the middle district of Pennsylvania and was duly commissioned as such judge on the 29th day of March, 1901, as appears from his commission, which is in the following words and figures:

(William McKinley, President of the United States of America.)

To all who shall see these presents, greeting:

To all who shall see these presents, greeting:

Know ye, that, reposing special trust and confidence in the wisdom, uprightness, and learning of Robert Wodrow Archbald, of Pennsylvania, I do appoint him United States district judge for the middle district of Pennsylvania as provided for by act approved March 2, 1901, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining, unto him, the said Robert Wodrow Archbald, until the end of the next session of the Senate of the United States, and no longer, subject to the conditions and provisions prescribed by law.

In testimony whereof I have caused these letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Given under my hand, at the city of Washington, the 29th day of March, in the year of our Lord 1901, and of the independence of the United States of America the one hundred and twenty-fifth.

[SEAL.]

By the President:

By the President:
JOHN W. GRIGGS, Attorney General. After the vacation and upon the convening of Congress Robert W. Archbald was appointed a United States district judge for the middle district of Pennsylvania and was duly commissioned as such judge on the 17th day of December, 1901, as appears from his commission, which is in the following words

and figures:

(Theodore Roosevelt, President of the United States of America.)

(Theodore Roosevelt, President of the United States of America.)

To all who shall see these presents, greeting:

Know ye, that, reposing special trust and confidence in the wisdom, uprightness, and learning of Robert W. Archbald, of Pennsylvania, I have nominated and, by and with the advice and consent of the Senate, do appoint him United States district judge for the middle district of Pennsylvania, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining, unto him, the said Robert W. Archbald, during his good behavior.

behavior.

In testimony whereof I have caused these letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Given under my hand, at the city of Washington, the 17th day of December, in the year of our Lord 1901, and of the independence of the United States of America the one hundredth and twenty-fifth.

[SEAL.]

THEODORE ROOSEVELT.

By the President:
P. C. KNOX, Attorney General.

The said Robert W. Archbald was duly appointed an additional circuit judge of the United States for the third judicial circuit and designated as a judge of the United States Commerce Court and was confirmed by the Senate and was duly commissioned as such judge on the 31st day of January, 1911, as will appear from his commission, which is in the following words and figures, to wit:

(William H. Taft, President of the United States.)

To all who shall see these presents, greeting:

To all who shall see these presents, greeting:

Know ye, that, reposing special trust and confidence in the wisdom, pprightness, and learning of Robert Wodrow Archbald, of Pennsylvania, I have nominated, and, by and with the advice and consent of the Senate, do appoint him additional circuit judge of the United States from the third judicial circuit, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining, unto him, the said Robert Wodrow Archbald, during his good behavior. Appointed pursuant to the act of June 18, 1910 (36 Stats., 540), and hereby designated to serve for four years in the Commerce Court.

In testimony whereof I have caused these letters to be made patent.

Commerce Court.

In testimony whereof I have caused these letters to be made patent, and the seal of the Department of Justice to be hereunto affixed.

Given under my hand, at the city of Washington, the 31st day of January, in the year of our Lord nineteen hundred and eleven and of the independence of the United States of America the one hundred and thirty-fifth.

[SEAL.]

WILLIAM H. TAFT.

By the President:

GEORGE W. WICKERSHAM,

Attorney General.

Mr. President, under the authority of the House of Representatives and upon the suggestion of my associate managers on the part of the House the duty has devolved upon me to open this case and to make a statement of the facts upon which the House of Representatives, acting as a grand inquest inquiring in the name of all the people of the United States, have impeached Robert W. Archbald, additional circuit judge of the United States from the third judicial circuit, appointed pursuant to the act of June 18, 1910 (U. S. Stats. L., vol. 36, p. 540), and having duly qualified and having been duly commissioned and designated on the 31st day of January, 1911, to serve four years in the Commerce Court, of high crimes and misdely gross tons, of which approximately 46,704 tons are marketable

meanors, and the facts upon which the managers propose to

make good the articles of impeachment.

It would be a waste of time of this honorable court to pronounce any panegyric upon the great tribunal which now sits as a High Court of Impeachment. It is unnecessary to dwell upon the magnitude of the questions here involved or of the grave consequences of the failure to do justice either to the people or to the respondent. The fact that the members of this court are commissioned to sit in this Chamber where renowned men have always sat is sufficient guaranty that selected men, some of them learned lawyers and all wise statesmen, will do impartial justice according to the Constitution and the law, as their solemn oath requires. And the people of this great Republic and the House of Representatives of the United States have confidence that if this respondent is guilty he will be deprived of the office which he now holds, or if innocent of the misbehaviors charged against him he will be acquitted.

The articles are 13 in number, and the facts upon which they

are predicated are substantially as follows:

THE NEGOTIATIONS WITH THE HILLSIDE COAL & IRON CO. RELATIVE TO THE KATYDID CULM DUMP AT MOOSIC, PA.

(See Art. 1.)

On or about March 31, 1911, Judge Archbald entered into a partnership agreement with one Edward J. Williams, of Scranton, Pa., for the purchase of a certain culm dump known as the Katydid culm dump, located near Moosic, Lackawanna County, Pa., for the purpose of disposing of the said property at a pecuniary profit to themselves.

Mr. President, I may say here that a culm dump is a pile composed partly of refuse and partly of coal, which, in the days gone by, was not deemed merchantable. This pile is accumulated in this way: During the process of mining anthracite coal there is some slate; there may be some rock; there may be some dirt; there may be other unmerchantable things brought from the mine. This refuse, together with the finer particles of coal and coal dust, is thrown into a dump, and this is what is

called a culm dump.

Most of the coal contained in this culm dump was taken from land known as the Caldwell lot, which is owned in fee simple by the Hillside Coal & Iron Co. The larger portion of the dump now rests on land known as lot 46, which is jointly owned by the Hillside Coal & Iron Co., the Everhart estate, and others. The entire capital stock of the Hillside Coal & Iron Co. is owned by the Erie Railroad Co., and a number of the managing officers and directors of the coal company are also officers of the railroad company. The Katydid dump was formed from the operation of the Katydid colliery by the firm of Robertson & Law, and later by John M. Robertson, who succeeded the firm, which operated the colliery under a verbal agreement to pay the Hillside Coal & Iron Co. certain royalties on all coal mined. It appears that the Everhart estate received certain royalties from the Hillside Coal & Iron Co. for all coal above the size of pea taken from the tract in which the Everhart estate held a one-half undivided interest. The plant was operated from 1887 to 1909, when the breaker and washery were destroyed by fire, and since then the operation has been abandoned by Robertson.

In furtherance of his agreement with Williams, Judge Archbald used his official position as judge of the Commerce Court. on March 31, 1911, and at various other times, by correspondence, personal conferences, and otherwise, to improperly induce and influence the officers of the Hillside Coal & Iron Co. and the Erie Railroad Co. to enter into an agreement with himself and Williams to sell the interest of the Hillside Coal & Iron Co. in the Katydid culm dump for a consideration of \$4,500; this agreement was against the policy and practice of the Erie Railroad Co. and its subsidiary, the Hillside Coal & Iron Co., their policy being not to sell their culm dumps. Judge

Archbald's name did not appear in this written agreement.

Judge Archbald and Williams then secured an option to purchase whatever equity Robertson held in this property for a consideration of \$3,500, and entered into negotiations with several parties with a view to the sale of the culm dump at a large profit. One of these parties was the manager of an electric railroad, who was then purchasing large quantities of coal consumed in the operation of the road from the Hillside Coal & Iron Co. at the usual market rates. It was claimed that there were certain complications in the title to this property, but however this may be Judge Archbald considered that the options from the Hillside Coal & Iron Co. and Robertson covered the entire interest in the dump, and so stated in a

coal. This coal is appraised by the engineer at \$47,533.18, subject to an increase of \$3,803.40, provided that an increment of small coal can be saved in the process of reclamation. It is further estimated that the operation of this culm dump by the Hillside Coal & Iron Co. would net it approximately \$35,000 profit and that the Erie Railroad Co. in addition would realize a profit for the transportation of the coal to tidewater.

During the period covering these negotiations with the officers of the Hillside Coal & Iron Co. and the Erie Railroad Co. Judge Archbald was a United States circuit judge, duly assigned to serve in the Commerce Court, and the Eric Railroad Co., a common carrier engaged in interstate commerce, was a party litigant in certain suits then pending in the Commerce Court and known as the Baltimore & Ohio Railroad Co. et al. r. The Interstate Commerce Commission, No. 38, and the Baltimore & Ohio Railroad Co. et al. v. The Interstate Commerce Commission, No. 39.

THE AFTEMPT TO SELL THE STOCK OF THE MARIAN COAL CO. TO THE DELAWARE, LACKAWANNA & WESTERN BAILROAD CO.

(See Art. 2.)

On October 18, 1910, the Marian Coal Co., which operated a washery at Taylor, Pa., filed a complaint against the Delaware, Lackawanna & Western Railroad Co. and several other railroads before the Interstate Commerce Commission, containing a demand for reparation for damages alleged to have been suffered by the complainant in the amount of \$55,238.27, with interest, for overcharges and discrimination in freight rates, and concluding with a prayer that the Interstate Commerce Commission issue an order requiring the defendants to cease various acts alleged to have been committed for the purpose of suppressing the competition of the complainant in the coal market, and establishing just and reasonable rates upon commodities shipped by the complainant from its washery at Taylor, Pa., to all points within the jurisdiction of the commission.

Some time in July or August, 1911, William P. Boland and Christopher G. Boland, who were the controlling stockholders of the Marian Coal Co., employed one George M. Watson, of Scranton, Pa., as an attorney to effect a sale of two-thirds of the stock of the Marian Coal Co. to the Delaware, Lackawanna & Western Railroad Co. and to settle this case which was still pending before the Commerce Commission. The decision of the Interstate Commerce Commission in this case was subject to review by the Commerce Court, and there was at that time pending in the Commerce Court a suit entitled "The Baltimore & Ohio Railroad Co. et al. v. The Interstate Commerce Commission, No. 38," to which the Delaware, Lackawanna & Western

Railroad Co. was a party litigant.

With full knowledge of these facts Judge Archbald entered into an agreement to assist George M. Watson, for a valuable consideration, to sell the stock of the Marian Coal Co. held by the Bolands to the Delaware, Lackawanna & Western Railroad Co. and settle the case between the said coal company and the rail-road company. In pursuance of this agreement Judge Arch-bald, by means of correspondence, personal conferences, and otherwise, persistently attempted to induce the officers of the Delaware, Lackawanna & Western Railroad Co. to enter into an agreement with Watson to settle the case then pending before the Interstate Commerce Commission and purchase the stock of the Marian Coal Co. at a highly exorbitant price.

In all of his correspondence with the officers of the Delaware, Lackawanna & Western Railroad Co. relative to this matter Judge Archbald used the official stationery of the United States Commerce Court, and he also used his influence as a judge of that court to bring about, or in an attempt to bring about, the

successful consummation of these negotiations.

THE NEGOTIATIONS WITH THE LEHIGH VALLEY COAL CO. AND THE GIRARD ESTATE RELATIVE TO A CULM DUMP KNOWN AS PACKER NO. 3, NEAR SHENANDOAH, PA.

(See Art. 3.)

The Lehigh Valley Coal Co., which is owned by the Lehigh Valley Railroad Co., holds a lease on certain coal land near Shenandoah, Pa., and owned by the Girard estate. This lease was made to run for a period of 15 years, of which about 13

years have elapsed.

On August 11, 1911, and at numerous other times thereafter, Judge Archbald, by means of correspondence and personal interviews persistently sought to induce, and did induce, that company to agree to waive its rights under the lease from the Girard estate and to permit a company in which Judge Archbald was interested, known as the Jones Coal Co., to operate a cer-tain culm dump, known as Packer No. 3, containing approxi-mately 472,670 gross tons and located on the land leased from the Girard estate, provided that a very small royalty should be paid the coal company for coal reclaimed from the dump, and pro-

vided further, that the coal should be shipped over the lines of the Lehigh Valley Railroad. Judge Archbald thereafter applied to the Girard estate for an operating lease on the culm dump known as Packer No. 3, stating that he had secured the consent of the Lehigh Valley Coal Co. to operate the property if the Girard estate would approve of the arrangement. The judge proposed to pay the Girard estate the same royalties on various sizes of coal which were being paid by the Lehigh Valley Coal Co. under its lease, which was executed about 13 years theretofore, when coal values were materially less than they were at the time Judge Archbald's proposition was made. The trustees of the Girard estate promptly declined to grant Judge Archbald the lease on the terms proposed, and the deal has never been consummated.

While these negotiations with the Lehigh Valley Coal Co. were in progress the Lehigh Valley Railroad Co. was a party litigant in two suits pending before the United States Commerce Court, known as The Baltimore & Ohio Railroad Co., et al., v. The Interstate Commerce Commission, No. 38, and The Lehigh Valley Railroad Co. v. The Interstate Commerce Commission, Henry E. Meeker, intervener, No. 49.

THE LOUISVILLE & NASHVILLE RAILROAD CASE. (See Art. 4.)

In February, 1911, upon the organization of the Commerce Court, a suit known as The Louisville & Nashville Railroad Co. v. The Interstate Commerce Commission, which had theretofore been filed in the United States Circuit Court at Louisville, Ky., was transferred to the United States Commerce Court (Docket No. 4). The case was argued on the 2d and 3d of April, 1911, and submitted to the court for adjudication. On August 22, 1911, Judge Archbald, who afterwards delivered the majority opinion in this case, wrote to Helm Bruce, the attorney for the Louisville & Nashville Railroad Co., at Louisville, Ky., requesting him to confer with one Compton, traffic manager of the Louisville & Nashville Railroad, who had given material testimony before the Interstate Commerce Commission, and to advise the judge whether the witness intended to give an affirmative answer, as appeared from the record, or whether he intended to give a negative answer to a question propounded to him by the chairman of the commission. In pursuance of this request, Bruce conferred with Compton and advised the judge that the witness intended to give a negative answer to the question referred to. The receipt of this letter was acknowledged by Judge

Archbald on August 26, 1911. On January 10, 1912, Judge Archbald again wrote to Bruce, calling attention to certain conclusions reached by another member of the court, which, it was claimed, refuted statements and contentions advanced in Bruce's original brief and sustained the action of the Interstate Commerce Commission with respect to certain features of the case. In this letter Judge Archbald asked Bruce whether he would still affirm the position taken in his brief, and, if so, upon what theory it could be sustained, assuming that the conclusions of the other members of the court were correct. The judge followed this question with a number of other questions relative to the features of the case which were not then clear to the court. On January 24, 1912, Bruce sent the judge a letter in answer to the questions which had been propounded to him, wherein he argued these special features of the case in behalf of the railroad company at considerable length. His letter was in the nature of a supplemental brief submitted for the purpose of overcoming certain doubts as to the merits of the case of the railroad company which apparently had arisen in the minds of some of the members of the court.

On February 28, 1912, this case was decided by the Commerce Court in favor of the railroad company. Judge Archbald wrote the opinion of the majority, which followed the views ex-pressed by Bruce, and Judge Mack dissented. The attorneys for the Interstate Commerce Commission and the United States were given no opportunity to examine and answer the arguments advanced by the attorney for the Louisville & Nashville Railroad Co. in his communication to Judge Archbald of January 24, 1912, nor were they informed that such correspondence had been had.

NEGOTIATIONS WITH THE PHILADELPHIA & READING COAL & IRON CO.
RELATIVE TO THE LINCOLN CULM DUMP, NEAR LORBERRY, PA., AND THE
WRONGFUL ACCEPTANCE OF A GIFT, REWARD, OR PRESENT FROM FREDEMICK WARNER, OF SCRANTON, PA.

(See Art. 5.)

In 1904 Frederick Warnke, of Scranton, Pa., purchased a twothirds interest in an operating lease on some coal land located near Lorberry Junction, Pa., and owned by the Philadelphia & Reading Coal & Iron Co. The entire capital stock of the Philadelphia & Reading Coal & Iron Co. is owned by the Reading Co., which owns the entire capital stock of the Philadelphia

& Reading Railway Co., a common carrier engaged in interstate commerce. He put up a number of improvements and operated the culm dump on the property for several years, but owing to the action of the elements his operations were carried on at a loss. Warnke then applied to the Reading Co. for mining maps of the land covered by his lease. He was informed that the lease under which he claimed had been forfeited two years before its assignment to him, and his application was therefore denied. He then made a proposition to George F. Baer, president of the Philadelphia & Reading Railway Co., and president of the Philadelphia & Reading Coal & Iron Co., to relinquish any claim that he might have in this property under his lease, provided that the Philadelphia & Reading Coal & Iron Co. would grant him an operating lease on another property owned by said corporation at Lorberry, Pa., and known as the Lincoln culm bank.

Mr. Baer referred Warnke's proposition to Mr. W. J. Richards, vice president and general manager of the Philadelphia & Reading Coal & Iron Co., for consideration and action. Richards and Baer thereafter concluded that there was no valid reason why they should make an exception to the general rule of the coal company not to lease its culm bank. Warnke then made several attempts, through attorneys and friends, to have this decision reconsidered, and falling in this, he asked Judge Archbald to intercede in his behalf with Richards.

In the latter part of November, 1911, Judge Archbald called upon Mr. Richards at his office in Pottsville, Pa., and in pursuance of an appointment made by Judge Archbald's solicitation, attempted to influence Richards to reconsider his refusal to accede to Warnke's proposition. Judge Archbald was informed, however, that the decision of Richards and Baer must be considered final, and the judge so advised Warnke.

be considered final, and the judge so advised Warnke.

In December, 1911, Warnke was considering the advisability of purchasing a certain culm fill located near Pittston, Pa., and owned by the Lacoe & Shiffer Coal Co. One John Henry Jones, of Scranton, Pa., advised him that Judge Archbald was familiar with the title to the property and the rights of way of certain railroads over it. In pursuance of this assurance from Jones, Warnke consulted the judge, who advised him that the title was clear. Warnke had but two conversations with Judge Archbald regarding this matter, not exceeding 30 minutes in length altogether, but he at that time stated to Judge Archbald that he would pay the judge \$500 for the information which he had received. Shortly thereafter Warnke and several business associates purchased this property for a consideration of \$7,500, and in the month of March, 1911, a day or so after Judge Archbald had called at the office of Warnke and his associates, Warnke drew a promissory note of \$500, as president of the coal company which had purchased the fill, and caused the same to be delivered to Judge Archbald. The note was discounted in one of the banks of Scranton.

THE NEGOTIATIONS WITH THE LEHIGH VALLEY COAL CO. RELATIVE TO THE EVERHART TRACT AND THE MORRIS AND ESSEX TRACT, (See Art. 6.)

Since 1884 the Lehigh Valley Coal Co., which is a subsidiary of the Lehigh Valley Railroad Co., has owned one-half interest in a certain tract of coal land located near Wilkes-Barre, Pa., which consists of about 800 acres. During the past few years this company has purchased about four-fifths of the remaining one-half interest in this tract. The remaining portion of the tract is leased by the coal company from certain beneficiaries of the Everhart estate. The coal company has been negotiating for several years to purchase the fee to this outstanding portion of the tract, but the owners would not accept the terms offered.

In December, 1911, or January, 1912, Judge Archbald entered into an agreement with one James R. Dainty, of Scranton, Pa., to open negotiations with the Lehigh Valley Coal Co. and the Everhart estate for the purpose of effecting the sale of this property to the coal company on the understanding that he and Dainty should secure an operating lease on another tract of about 325 acres of coal land owned by the Lehigh Valley Coal Co. and known as the Morris and Essex tract, as a consideration in the nature of a commission for their services.

In furtherance of this agreement Judge Archbald attempted to use his official influence as a member of the Commerce Court, through telephone conversations and personal conferences, to affect the action of the general manager of the Lehigh Valley Coal Co. with respect to the purchase of this property. While these negotiations were in progress the cases of the Lehigh Valley Railroad Co. v. The Interstate Commerce Commission and Henry E. Meeker, intervener, No. 49, and the Baltimore & Ohio Railroad Co. et al. v. The Interstate Commerce Commission, No. 38, in which the Lehigh Valley Railroad Co. was a

party litigant, were pending before the Commerce Court for adjudication.

THE DISCOUNT OF THE W. W. BISSINGER NOTE. (See Art. 7.)

In the fall of 1908 the case of The Old Plymouth Coal Co. v. The Equitable Fire & Marine Insurance Co. et al. was pending before the United States district court over which Judge Archbefore the United States district court over which badge bald presided. Mr. W. W. Rissinger, of Scranton, Pa., was the controlling stockholder of the plaintiff company. The case was predicated on certain insurance contracts between the Old Plymouth Coal Co. and the various insurance companies named as parties defendant, and the total damages sought to be recovered amounted to about \$30,000. The case was on trial in November, 1908, and after the plaintiff's evidence had been presented the defendant insurance companies demurred to the sufficiency of the evidence and moved for a nonsuit. After extended argument by attorneys for both plaintiff and defendant, Judge Archbald overruled the motion, and the defendant companies proceeded to introduce their evidence. Before the evidence was all in the attorneys for the insurance companies made a proposition of compromise to the attorneys for the Old Plymouth Coal Co., which was accepted on November 23, 1908. sent judgments were entered on that day, in which the plaintiff ultimately recovered about \$28,000, and the defendant companies were given 15 days in which to satisfy the judgments.

Some time prior to November 28, 1908, Judge Archbald entered into a deal with Rissinger for the purchase of an interest in a gold-mining project in Honduras, which Rissinger was then promoting in Scranton. In order to finance the transaction it became necessary to raise \$2,500, and on November 28, 1908, or five days after the judgments in favor of the Old Plymouth Coal Co. were entered, a promissory note for that amount, to run three months, signed by Rissinger, in favor of and indorsed by Judge Archbald and Sophia J. Hutchison, Mr. Rissinger's mother-in-law, was presented to the County Savings Bank of Scranton, Pa., for discount. The bank evidently put no reliance upon Judge Archbald's indorsement of the note, but made an extended investigation of Mrs. Hutchison's financial condition, and on December 12, 1908, discounted the note, after having first filed a judgment against Mrs. Hutchison in the county court of Lackawanna County, Pa., according to the practice in that State.

Shortly after the consent judgments in favor of the Old Plymouth Coal Co. were entered on November 23, 1908, this note was also presented for discount to Mr. John T. Lenahan, one of the attorneys for Rissinger and the Old Plymouth Coal Co. in the litigation with the insurance companies, but Lenahan refused to discount the note or have the same discounted in a trust company of which he was a director. The note has never been paid, but has been renewed at the end of each successive period of three months by Mr. Rissinger, and the discount on the renewals has been paid wholly by him.

THE DISCOUNT OF THE JOHN HENRY JONES NOTE. (See Arts. 8 and 9.)

In the fall of the year 1909 the case of John W. Peale v. The Marian Coal Co., which involved a considerable sum of money, was pending before the United States district court of Scranton, Pa., over which Judge Archbald presided. The Marian Coal Co. was practically owned and controlled by Christopher G. Boland and William P. Boland, of Scranton, Pa., and this fact was well known to Judge Archbald. In the latter part of November or the early part of December, 1909, for the purpose of raising funds to invest in a timber project in Venezuela which was being promoted by one John Henry Jones, of Scranton, Pa., Judge Archbald drew and indorsed a promisory note for \$500, payable to himself, which note was signed by Jones as promisor.

Judge Archbald thereupon agreed and consented that Edward J. Williams should present this note to Christopher G. Boland and William P. Boland, or either of them, for discount. In pursuance of this agreement or approval of Judge Archbald, Williams did present the note to each of the Bolands for the purpose of having the same discounted, but they refused to grant the discount on the ground that it would be highly improper for them to do so under the existing circumstances. Williams reported the refusal of the Bolands to discount the note to Judge Archbald, and thereafter took it to the Merchants & Mechanics' Bank of Scranton, but this bank also refused to discount the paper.

paper.
The note was finally discounted on application of John Henry Jones by the Providence Bank, a small State bank located in a suburb of Scranton. The president of this bank was one C. H. Von Storch, of Scranton, Pa., an attorney at law who had prevailed as a party in interest in litigation before Judge Archbald's court within a year prior to the date of the discount of

The note was brought to Von Storch by Jones at the suggestion of Judge Archbald. Moreover, Judge Archbald advised Von Storch that he would consider it a great favor if the discount should be granted. The note has never been paid, although the bank has made at least one call for payment, and the discount on each renewal has been wholly paid by John Henry

Judge Archbald's financial condition at the time the incident occurred was such that his note was not considered good bankable paper, and we are forced to the conclusion that he attempted to use his influence as judge to secure the loan from parties litigant before his court, and, failing this, he did use his influence as such judge to secure the loan through an attorney who was then practicing before his court and who had but short while before received favorable judgment in a suit adjudicated therein.

THE WRONGFUL ACCEPTANCE OF MONEY ON THE OCCASION OF A PLEASURE TRIP TO EUROPE

(See Arts. 10 and 11.)

In the spring of 1910 Judge Archbald allowed one Henry W. Cannon, of New York City, to pay his entire expenses on a pleasure trip to Europe. Mr. Cannon was then, and still is, a stockholder and an officer in various interstate railroad corporations, including the Great Northern; the Lake Erie & Western Railroad Co.; the Fort Wayne, Cincinnati & Louisville Railroad Co.; the Pacific Coast Co., which owns the entire stock of the Columbia & Puget Sound Railroad Co.; the Pacific Coast Railroad Co.; and the Pacific Coast Steamship Co., together with various other corporations engaged in the business of mining and shipping coal.

On the occasion of this same pleasure trip to Europe one Edward R. W. Searle, clerk of the United States district court of Scranton, Pa., and one J. B. Woodward, of Wilkes-Barre, Pa., jury commissioner of said court, both of whom were appointed by Judge Archbald, raised a subscription fund of money amounting to more than \$500, which was presented to Judge Archbald on his departure. This fund was not raised as the result of a bar-association movement, but was composed of contributions of various amounts from certain attorneys practicing before the United States district court, some of whom had cases then pending before said court for adjudication.

Judge Archbald accepted this fund of money and acknowledged receipt of the same to the contributors, whose names were submitted to him at the time that the fund was presented.

THE APPOINTMENT OF A BAILROAD ATTORNEY AS JURY COMMISSIONER. (See Art. 12.)

On March 29, 1901, Judge Archbald was appointed United States district judge for the middle district of Pennsylvania. On April 9, 1901, under the exercise of authority granted by the act of June 30, 1879 (21 Stat., 43), Judge Archbald appointed one J. B. Woodward, of Wilkes-Barre, Pa., as jury commissioner of the said district court. The said Woodward was then and has since been a general attorney for the Lehigh Valley Rail-

Under the annual appropriation acts the compensation of jury commissioners is limited to \$5 per day, for not more than three days at any one term of court. The compensation attached to this position is so insignificant that the appointment would have no attraction for a railroad attorney, except for the power it affords in the selection of juries for the trial of cases in the Federal courts.

> GENERAL MISBEHAVIOR OF JUDGE ARCHBALD. (See Art. 13.)

The testimony in the whole case will tend to support the charge of general misbehavior on the part of Judge Archbald. Judge Archbald was appointed a United States district judge for the middle district of Pennsylvania on the 29th day of March, 1901, and held such office until January 31, 1911, on which last-named date he was appointed an additional United States circuit judge, and on the same day he was duly designated as one of the judges of the United States Commerce Court, which position he has since and now holds.

At different times while Judge Archbald was a judge of the United States district court he sought and obtained credit and in other instances sought to obtain credit from persons who had litigation pending in his said court or who had had litigation

pending in his said court.

The testimony will show that after Judge Archbald had been promoted to the position of United States circuit judge and had been duly designated as one of the judges of the United States Commerce Court he, in connection with different persons, sought to obtain options on culm dumps and other coal properties from officers and agents of coal companies which were owned and controlled by railroad companies.

The testimony will further show that in order to influence the officers of the coal companies, which were subsidiary to and owned by the railroad companies engaged in interstate commerce, Judge Archbald repeatedly sought to influence the officials of the railroads to enter into contracts with his associates for the financial benefit of himself and his said associates. In most instances the contracts were executed in the name of the person associated with the judge in the particular transaction or trade, and the judge's name was not disclosed on the face of the contract. The testimony will show, however, that he was, as a matter of fact, pecuniarily interested in such contracts, and that while his interest was not known to the public it was known to the officials of the railroad companies, and of the coal companies subsidiary corporations thereof. The evidence will disclose that while the judge's several associates or partners would locate properties the judge would take up the matter of the purchase or sale of said properties with the officials of the coal companies and of the railroad companies which, as already stated, in most instances owned or controlled the coal companies. The testimony will show that while these negotiations were being conducted and agreements were made and sought to be made the railroad companies with whose officers Judge Archbald was making contracts and agreements and seeking to make contracts and agreements were common carriers engaged in interstate commmerce and had litigation pending in the United States Commerce Court.

Such options, contracts, and agreements were sought and obtained and sought to be obtained by Judge Archbald to such an extent that the exposure of the judge's several transactions through the press gave rise to a public scandal.

The testimony will show that Judge Archbald invested no money of his own in any of these several trades or deals, but used his influence as a judge, in consideration of which he received or was to receive his share or interest in the property

or his profits in the deal.

Mr. President, the managers on the part of the House believe. that this statement meets the requirement of the Senate and the practice in such cases as the one now pending. It is expected that, of course, during the trial the testimony will show the facts in greater detail than has been attempted to be shown in this preliminary statement.

The managers respectfully call attention to a few of the in-

disputable features of this case.

After Judge Archbald became judge he was evidently seized with an abnormal and unjudgelike desire to make money by trading directly and through others with railroads and their subsidiary corporations, which concerns had, or were likely to have, litigation in his court or to become directly or indirectly interested in cases coming before it for adjudication.

He abused his potentiality as judge to further these trades and place himself, or showed a willingness to place himself,

under obligations to these corporate concerns.

In practically all of his correspondence had with these corporations and their subsidiaries he used the official stationery that is, the letter heads of the United States Commerce Court thereby constantly keeping before the minds of these officials that he was a member of the tribunal invested with the power of passing upon the rights of common carriers engaged in interstate commerce in their dealings with the shippers of the country and the general public. He had personal interviews and communications otherwise with these railroad officials at Scranton, in New York, and elsewhere, in which he sought to secure or to promote these trades in order to make money for himself out of the property or interest of these corporate con-cerns that had litigation in his court or were likely to have such litigation before him.

As indicated in the statement, a number of other misbehaviors on the part of Judge Archbald will be established by the evidence to be adduced during the trial of this case.

In concluding this statement, Mr. President, the managers respectfully invite the attention of the Senate-this honorable court-to the condition upon which judges are allowed to hold office, and that is, judges, in the language of the Constitution, The framers "shall hold their offices during good behavior." of that instrument were desirous of having an independent and incorruptible judiciary, but they never intended to provide that any judge should hold his office upon nonforfeitable life tenure. It was their intention that there should be a reasonable check and balance on the independence of the judiciary that would enable the people to divest an unworthy judge of his power and exalted position. It was therefore sought in the organic law to provide an adequate remedy to protect the people against the malfeasance, malversation, and misfeasance of unjust and corrupt judges. The tenure of office was wisely limited to during good behavior, and the remedy provided in case of misbehavior was forfeiture of the right to hold office and the removal therefrom by impeachment.

The conduct of this judge has been exceedingly reprehensible and in marked contrast with the high sense of judicial ethics and probity which generally characterize American judges. Let unworthy judges be shorn of power so that an upright and independent judiciary may be maintained for the perpetuation of our Government of laws.

A judge should be the personification of uprightness in his daily walk and conversation. He should hold his exalted office and the administration of justice above the sordid desire to accumulate wealth by trading or trafficking with the actual or probable litigants in his court. He should be free and unaffected by any bias born of avarice and unhampered by pecuniary or other improper obligations.

Judge Archbald's sense of moral responsibility has become deadened. He has prostituted his high office for personal profit, in attempts to make gainful bargains for himself and his business associates. In short, Mr. President, he has attempted by various transactions to commercialize his potentiality as judge, and has not hesitated to use his official power and influence to drive bargains with those who had or had had or would probably have litigation before his court. He has degraded his high office, has destroyed the confidence of the public in his judicial integrity, and has forfeited the condition upon which he holds his commission of trust, responsibility, and power. Therefore, Mr. President, by authority of the House of Representatives and in the name of the American people, the managers on the part of the House of Representatives demand his conviction upon these articles of impeachment and his removal from the office of United States circuit judge designated to sit in the Commerce Court.

Mr. President, that concludes the statement of the managers. Mr. WORTHINGTON. Mr. President and Senators, for the first time in an impeachment trial in this tribunal the opening statement for the respondent is to be made at the beginning of the case instead of at the close of the testimony on behalf of the managers. We have desired to do this and are doing it with the acquiescence of the honorable managers for two reasons. One is that the Members of the Senate may know when the introduction of testimony is going on what are the questions of fact in dispute. The other is that Senators may know from the beginning what we rely upon as the law of the case.

I had supposed that the Senate would be informed as to what the managers claim are the principles of law under which they ask the Senate to convict this respondent of the offenses which are supposed to be set forth in these 13 articles of impeachment. I waited until the closing words of the honorable gentleman who has just taken his seat to get his views of the law of the case. If I understand what he has said in behalf of himself and his brother managers, they claim that the respondent should be impeached because he has violated that clause of the Constitution which says that judges of the Federal courts shall hold their offices during good behavior. I had supposed until this minute that nobody would come here speaking for the House of Representatives and ask the conviction of a judge of a Federal court, or of any civil officer of the United States, except under that other clause of the Constitution of the United States which says that the President, the Vice President, or the other civil officers of the Government may be impeached for treason, bribery, or other high crimes and misdemeanors. That is the only provision authorizing this proceeding. The learned gentleman has seen fit to ignore it, I must assume, on the ground that if he does rely on that he will find that he can not expect a conviction.

Now, inasmuch as he has not gone into this subject at all, I shall state very briefly what are the contentions on our part.

In the first place, we contend that no officer of the Government may be properly convicted in this tribunal in an impeachment proceeding unless he has committed an offense which is punishable in a criminal court.

Passing by for the present the authorities and the arguments by which we had expected to outline that position at this time, we further say that if that be not so, then the offense must be one, to paraphrase the language which Mr. Buchanan used in the Peck impeachment trial—Mr. Buchanan who was afterwards President of the United States—the offense must be one which consists in the violation of a known law and one which, if not punishable criminally, at least might properly be made punishable criminally.

It was claimed on behalf of the minority of the Judiciary Committee, in the first attempt to impeach Andrew Johnson, what I have stated, that the offense must be an indictable one; and that minority opinion was sustained by the House of Representatives in that case by a vote of about 2 to 1, overruling the report of the majority of the committee that indictability was not essential to impeachability, if I may use that expression.

I will refer to just one thing that I have on my notes on this subject, because, to my mind, the attention of the Senate has never been called to the precise question before when this matter was under argument.

In the case of the United States against Hudson and Goodwin, which is reported in 7 Cranch, the doctrine was laid down that the Federal courts did not have jurisdiction in criminal cases unless there was a statute of the United States which conferred that jurisdiction—in other words, as it is frequently but erroneously, I think, stated, the Federal courts have no common-law criminal jurisdiction. This is the language which was used in the opinion of the court in that case, referring to the course of reasoning which is relied upon against that proposition:

The powers of the General Government are made up of concessions from the several States; whatever is not expressly given to the former, the latter expressly reserve. The judicial power of the United States is a constituent part of those concessions; that power is to be exercised by courts organized for the purpose and brought into existence by an effort of the legislative power of the Union. Of all the courts which the United States may under their general powers constitute, one only, the Supreme Court, possesses jurisdiction derived immediately from the Constitution and of which the legislative power can not deprive it. All other courts created by the General Government possess no jurisdiction but what is given them by the power that creates them, and can be vested with none but what the power ceded to the General Government will authorize them to confer.

I maintain that under that principle this court, like the Supreme Court of the United States, is a court which is created by the Constitution and which gets its powers from the Constitution, and needs no aid from the laws of Congress to give it power to impeach for crimes and misdemeanors.

So we maintain that what was a crime at the common law may be made impeachable here, and that any laws which Congress has passed since that time if violated by any civil officer of the Government, judge or President, or anyone else, may be the subject of impeachment, and that there can be no other impeachable offenses.

I come now to deal with the facts in this particular case—in these particular cases, for there are 13 of them—and we are trying Judge Archbald here for 13 offenses, or alleged offenses, instead of 1. All these cases had their origin in that region of Pennsylvania that lies in the neighborhood of Scranton. We find in that region that practically the only business that people engage in there in a large way relates in one way or another to the anthracite coal, which is found in that vicinity, and if men do undertake to go into business at all it is about the only business in which they can go into except in a small way.

You will find that it is the custom in that country—and nothing exceptional has been done in the matters with which Judge Archbald was connected—it is the custom to-day, as it will come out here in the taking of evidence, that men get what they call an option on coal property without paying anything for it, and that instead of being an option it amounts practically to the creation of an agency, so that the agent has a right to sell property to whoever he pleases, and he makes whatever he can get over and above the amount he is to pay to the person who creates the agency.

Now, a word or two about the parties. Judge Archbald is now 64 years old. He has lived in Scranton ever since he was a boy of 9 years. In 1884 the people of the district where he resides elected him to the office of State judge, the tenure of the office being for 10 years, and for the last 7 years of that time he was the presiding judge, the court being composed of three judges.

In 1904, at the expiration of his term, his people reelected him to that office, and he held the position of presiding judge of that court from 1894 until the early part of 1901, when he was appointed United States district judge. The middle district of Pennsylvania was created at that time, and he was appointed the first district judge to preside in that district. He held that office, still sitting at Scranton, as he had done all the years before, until in the latter part of January, 1911, he was promoted to the position of circuit judge and assigned to duty on the Commerce Court, which position he holds to this time. So that you will see that the man who is brought here and accused of these offenses is one who held the position of judge in the city of Scranton for about 27 years—until he was appointed judge of the Commerce Court. I take it, as in every case where a man is accused of doing that which is wrong and the inquiry comes into a court of any kind, especially where the question is what was his intent in doing the things that he has done—and that is the whole matter here—his character and standing in the community where he has lived are of the highest possible

value as evidence. I make bold to say that nowhere in the United States can evidence be produced as to the integrity, the honesty, the industry, and the ability of any Federal judge which will put him on a higher plane than Judge Archbald will be put here by men of standing and influence in the region from which he comes, and who, if we would allow them and you would permit it, would swarm into this Chamber to testify as to their belief in him and their knowledge that he is a man who is above the corruption and wrongdoing with which he is charged here—by inference. I use the expression "by inference" because you do not find in a single one of these articles of impeachment, and you will find in nothing that has been said here to-day, any evidence or any proof that will show that in what the respondent did he acted corruptly. The articles of impeachment, so far as that is concerned, use adverbs and not facts, and we are here practically fighting adverbs and not evidence.

There are three other persons who live in Scranton whose names figure in so many of these articles that before going on with the facts in the particular cases I desire incidentally to mention them, so that the Members of the Senate will hereafter recognize who they are. There are three brothers there-William P. Boland, Christopher G. Boland, and James M. Boland. As to the latter, he plays no part in this case so far as I know. William P. Boland and Christopher G. Boland are men of standing there, and Christopher G. Boland and Judge Archbald have been neighbors and friends for a great many years. In a town of that size they see each other practically every day and

often a great many times every day.

There is another gentleman, Edward J. Williams, whose testimony and doings will figure very largely in several of these transactions. He is a man who, perhaps, I can best describe by saying, as I believe has been brought out by the managers elsewhere, that he is called "Option" Williams; that he is a man who is not engaged in any regular pursuit, but has endeavored to make a living in the past by finding coal properties, getting options on them, and making what he can in that way. Mr. Edward J. Williams, during the time with which we are concerned, made the office of the Bolands his office, and was there, as he says and as the proof will show, practically every

Now, as to the first article of impeachment: My friend, Mr. Manager Clayton, has told you what a dump is. Then he has told you something about what the proof will show as to the value of a certain dump, and especially he has told of some investigations and calculations made by a Mr. Rittenhouse.

I should like to have it understood that all that was done after Judge Archbald's connection with this dump terminated. The question here, of course, is not what some expert in making calculations as to what was in the dump, the proportion of available coal as against the proportion of waste, and making investigations as to freight rates on the Erie road, might find it was worth, but what would be known to the ordinary man who was in the position that Judge Archbald was when he had any connection with it. You will then find that, as a matter of fact, what the Hillside Coal & Iron Co., through Capt. May, asked for its interest in this dump was very much more than it was worth, and that, as a matter of fact, the same Hillside Coal & Iron Co., through the same Capt. May, had tried to sell its interest in this same dump a short time before for \$2,000 to the Du Pont Powder Co., but when that trade was about to be completed, the powder company concluded that it would get its power elsewhere and not furnish it itself, so that the sale fell

The trouble with that Katydid dump is that nobody knows who owns it. I am not going to weary you with any of the details of the intricacies and complications involving the title that will sufficiently come out in the evidence-but you will find that not only does the Hillside Coal & Iron Co. not own it, but the question is whether it has any interest in it, and if it has, certainly it will appear that that interest is very small. While it is true that, as a general rule, the Erie Railroad Co., which owned the Hillside Coal & Iron Co., and the other companies which own coal property up there do not sell it, but hold it to utilize the property for themselves, they do frequently make exceptions; and in this case an exception had been made or tried to be made of the Katydid dump before Judge Archbald had anything to do with it. The reason of it was because the Hillside Co. had no title, and there were other reasons that no doubt the witnesses who will come here will tell about,

I want at this point to stop one moment to make a complaint on the part of Judge Archbald. In the thirteenth article of impeachment, after detailing in other articles particular offenses charged against Judge Archbald so that he might know as to most of them exactly what was meant, and as to one or two of them which are very general, he could guess, it is charged

that in various ways he sought to use his influence as a judge to get suitors before his court to give him credit, and that in various ways and with various railroads which had cases pending in his court, or might have cases pending in his court, he sought to get them to make bargains with him; but neither in the thirteenth article nor in anything that has been said here to-day have we one word of intimation as to who it was from whom those credits were sought or with what railroad companies the respondent had these dealings, or where or how or when, and we are asked here now to enter upon this trial, if the Senate shall sustain the managers in their contention, on charges the meaning of which nobody under heaven knows, except the managers, and I doubt whether they know what they mean by that thirteenth article. If they undertake under that general imputation in the thirteenth article to bring in any new alleged offenses against Judge Archbald, we shall then ask the Senate to pass upon the question whether it is competent to bring a high officer of the Government to trial in this way so that he will not know what he is to meet.

I mention that at this point, because as to the Katydid dump it is all important to know that Judge Archbald did not of his own motion make up his mind that he would go into it and see if he could make money. Mr. William P. Boland, for reasons which will appear hereafter, sent Edward J. Williams to Judge Archbald, saying, "Go to Judge Archbald and get him to give you a letter to Capt. May asking that you be given an option on the Katydid dump." In pursuance of that request from Mr. Williams, Judge Archbald, who had had no thought or intention of having anything to do with the Katydid dump, gave Mr. Williams a letter to Capt. May, and that was the way

that negotiation began.

There is some doubt in the evidence as to just what Capt. May said to Mr. Williams when he went there with the letter which simply asked whether he would sell that dump, and, if so, at what figure. I will not enter upon it now, but the option was not given promptly. Not long afterwards Mr. William P. Boland said to Mr. Williams, "Go to Judge Archbald again and get him to go to the New York office of the Eric Railroad Co." In pursuance of that suggestion, Judge Archbald did go to see Brownell, who was the general counsel of the Eric Railroad Co., to inquire, as Judge Archbald recollects, whether the question of the title to the dump had yet been settled or how he could learn something about it. The paper which Capt. May gave I will not attempt to describe; it is simply a statement by Capt. May saying that he will recommend the sale of the interest of the Hillside Coal & Iron Co. in the Katydid dump for \$4,500, and that an agreement must be fully drawn up and submitted to the proper authorities of the company before any sale can be made.

You will perceive that in order to implicate Judge Archbald it was necessary not only that he should have dealings with the railroad company in reference to the proposed purchase of this dump, but to find a purchaser. William P. Borland, behind the scenes, therefore went to Mr. Conn, who was the general manager of the little road that runs between Wilkes-Barre and Scranton, called the Laurel line, and urged him to buy it. Then when he finds Conn is in a humor to buy it, once more he says to Williams, "Go to Judge Archbald and get a letter to Mr. Conn, asking him to buy this Katydid property." Mr. Williams goes to Judge Archbald, and Judge Archbald, at Williams's request, utterly ignorant of the fact that Mr. William P. Boland had anything to do with it, writes a letter to Conn. Mr. Williams takes that letter to Mr. William P. Boland instead of to Conn, and delivers it over to William P. Boland. who has it photographed, and then sends it on by the hands of Williams to Mr. Conn. Mr. Conn, after some considerable delay, upon the advice of his attorneys as to the title to the dump, refused to buy it. That was sometime in November,

So much for that. It is necessary, before I go on with this matter, so that Senators may understand the questions that are going to arise here, to refer to certain litigation a little more

particularly than Mr. Manager Clayton has done.

There was a corporation called the Marian Coal Co., of which these two Bolands, I believe, did own the most of the stock; and the three Bolands certainly owned two-thirds of it. company was a proprietor of one of these coal dumps. entered into a contract with a man named Peale, by which Peale was given the exclusive right to wash the coal in the dump and market it. He was to pay certain moneys to the Marian Coal Co., and was to have certain rights, the details of which I need not go into.

The Bolands became dissatisfied with Peale and turned him out, claiming that the contract was at an end and that Peale had not properly conducted himself. They took possession.

Peale then brought the suit which figures throughout these proceedings as Peale against the Marian Coal Co. They brought the suit in the court over which Judge Archbald was presiding in the spring of 1909; and here dates become of the utmost importance.

In September, 1909, Judge Archbald was called upon to pass on a demurrer to the complaint filed by the Marian Coal Co. He overruled the demurrer. It was simply a question about whether the suit could be brought there or would have to be brought somewhere else, and Judge Archbald held, under a decision of the Supreme Court and some other decisions, that because the company had filed its demurrer and had not raised the question of jurisdiction in the first instance it was in court and would have to stay, a decision, I believe, which nobody questions the correctness of to this day.

The note which Mr. Manager Clayton referred to as the \$500 note, which he said was sent to the Bolands for discount, was made in December following the September in which this demurrer was overruled, but for some reason Mr. William P. Boland months afterwards got into his mind the idea that Judge Archbald had overruled the demurrer because Boland had not discounted the judge's note. That conviction became lodged in his mind and stayed lodged there until a few weeks ago at another place in this building, where he seemed to be very much surprised to find that he had been laboring under such a mistake.

After Judge Archbald was put upon the Commerce Court he was succeeded as district judge for the middle district of Pennsylvania by Judge Witmer, who presides there still. To Judge Witmer, of course, came over the case of Peale against the Marian Coal Co., and Mr. William P. Boland got it into his mind in some way—if it can be determined how, we will be glad to know; we do not yet know—that Judge Witmer, when he decided that case on the merits in August, 1911, against the Marian Coal Co., had been required to enter that decree by Judge Archbald, who had acted under the instigation of a Mr. Loomis, who was an officer of the Lackawanna Railroad Co. I say that that was a figment of his brain, and that there will be and can be no evidence to support it; but that he had it in his mind there can be no doubt.

He also got the idea, by reason of a certain letter that was written by Mr. Seager, of counsel for the Lackawanna Railroad Co., to the Interstate Commerce Commission that Mr. Seager had been informed in advance how this suit of Peale against the Marian Coal Co. was going to be decided, and generally got it into his head that Judge Witmer's court was being run by the railroad company.

Having all these things—every one of which, in fact, is without a particle of foundation—in his mind, Mr. W. P. Boland, on the 5th of January last, came down to the Interstate Commerce Commission and to them narrated these things which had got into his mind—how Judge Archbald had overruled a demurrer because he would not discount his note; how Judge Archbald had, at the direction of Mr. Loomis, gone to Judge Witmer and commanded him to enter up this final decree; how Mr. Senger was in full communication with the court and knew what it was going to do—that he was being ruined by the court, and that he came down to the Interstate Commerce Commission for this reason.

The Marian Coal Co. had brought another suit against the railroad company in the Interstate Commerce Commission, for the purpose of getting some relief against the rates charged for the shipment of its coal, and that suit was pending before the Interstate Commerce Commission. When he gave these unfounded statements to the members of the Interstate Commerce Commission-Judge Archbald knowing no more about what was going on than any of you-they went to the President and stated these delusions to the President. The President then sent them to the Attorney General, and on the day that that rate case before the Interstate Commerce Commission was finally argued on the merits, after the argument was over, a representative of the Interstate Commerce Commission took Boland and took this man Williams, who had been sent here in the meantime, before the Attorney General, and there these misstatements and delusions were again stated to the Attorney General, all without any knowledge on the part of Judge Archbald or any suggestion from anybody that he was entitled to be heard. And as the honorable manager has told you how the President and the Attorney General came to the conclusion that this was a matter which required action by the Judiciary Committee of the House of Representatives, I beg leave to read, from page 133 of the first volume of the proceedings in this case, an extract from the letter of the Attorney General to the President, dated April 29,

1912, in which he sets forth in a general way the charges against Judge Archbald, and then says:

If had been my intention, before advising definite action in these matters, to call upon Judge Archbaid himself for his own explanation of them, but, in view of the newspaper publication of the charges and the House resolution (calling for the papers), I think it would be better to transmit the papers to the Judiciary Committee of the House of Representatives, together with a copy of Wrisley Brown's report and of this letter, to the end that the transaction may be thoroughly investigated by that committee.

So it would appear that, instead of the Attorney General making a careful investigation, as Mr. Manager Clayton has said, and reporting to the President that the matter ought to be sent to the Judiciary Committee of the House, the Judiciary Committee of the House sent for the papers, or had a resolution adopted, which the Attorney General considered made it proper for him to send the papers, and so cut off the doing of what he was about to do—sending for Judge Archbald and giving him a chance to show the true facts in regard to the charges against him.

So the matter went to the House of Representatives, to the Judiciary Committee of the House, with these delusions of Mr. Boland that I have spoken of as the principal charges against Judge Archbald, and you see by the articles of impeachment and what has been said here to-day that it was shown that every one of them was a delusion, and they do not at all figure in the charges that have been preferred. There were some other matters of smaller moment which were before the Attorney General. But most of the charges in these articles, I think, originated with the committee and were not under consideration at all by the Attorney General.

at all by the Attorney General.

After Mr. Boland had been here in January and after he had been here again before the Attorney General on the 12th of February, or some time in February of this year, Mr. Boland went back to Scranton. He, of course, knew that an investiga-tion was going on, and no sale of the Katydid Mine had yet been made, and he immediately stirred up Mr. Williams, telling him that he must go to work and get a sale. He also concocted in his office a letter for Williams to sign, which Williams did sign, addressed to Conn, urging him again to buy. He had that letter prepared and signed by Williams and sent him off again, saying "Hurry, hurry; there is a storm coming." So he went to Conn again and Mr. Conn again refused to buy. Then he found a man who was engaged in the coal business, named Bradley. In Mr. Boland's office a sale to Bradley was hurried through for \$20,000 for this Katydid Mine; and Capt. May, on behalf of the Hillside Coal & Iron Co., agreed to sell its title to Bradley for \$4,500, under the option which had been held so long. He drew a form of contract which he submitted to Bradley and sent a copy to Williams on or about the 10th of April last.

On the day he did that, or the day after—it makes no difference which—he received letters from a number of the people who were called the Everhardt heirs, who claimed an interest in this title, telling him they understood that he was trying to sell that dump and informing him that he would have trouble if he sold it, even if he sold only his own title.

There were other properties in which Capt. May's company was interested as to which the Everhardt heirs might give a great deal of trouble. All this induced Capt. May to recall the contract with Bradley. He met Bradley at the Laurel line station where each of them had gone to take a train, and there told him he wanted Bradley to return the contract, and Bradley did return it.

Mr. President and Senators, when this matter was presented to the House of Representatives by my learned friends who are here, the House was told that Judge Archbald prepared that contract and that he met Bradley at the station, and that he knew that an investigation was coming, and that he recalled the contract, when there was not a particle of evidence in the case—and I think there never will be a particle of evidence in the case—that he made the contract or recalled it, or that he even knew that a sale to Bradley was then contemplated. That was the situation in reference to this Katydid coal-dump transaction when these proceedings were begun at the other end of this building.

I wish to deviate now in just one respect from the order in which these articles of impeachment are prepared, to pass by No. 2 for the moment and take up No. 3, because it refers to another coal-dump transaction—the so-called Packer No. 3.

It will appear that instead of Judge Archbald making up his mind that he would go into the business of speculating in coal dumps to be obtained from railroads that might have cases before him that as to this transaction, too, it was the merest accident that he had anything to do with it at all. There was up

in that region a coal dump called the Oxford dump, owned by private individuals, with which no railroad had any concern whatever. Judge Archbald, with some other persons, was proposing to acquire a lease on the Oxford dump when he was informed, or they were informed, that because of the quality of the dump it probably would be impossible to work it profitably by itself; but that right across the little creek on which that dump borders there were some other dumps, which were owned by the Lehigh Valley Coal Co., in such wise that the Oxford dump, with one or more of those, could be worked profitably. It was that that led him to inquire of the officials of the coal company which controlled the other dumps to see whether an arrangement could be made by which one or more of them could be worked with the Oxford dump.

Those dumps on the other side of the creek were called the Packer dumps—Packer No. 1, No. 2, and No. 3, and so on—and this was No. 3. The subordinate officers of that company investigated the matter, and they came to the conclusion that as to Packer No. 3 dump, it could not be utilized by the company itself. The reasons for that I need not state, but it is perfectly apparent that Judge Archbald's position had nothing in the world to do with that matter, and that they came to the conclusion that they would waive their rights in that particular dump because they could not make any money out of it themselves or do anything with it.

All those dumps, the Senators will remember, were owned by the Girard estate, and were controlled through a certain corporation in the city of Philadelphia. The Lehigh Valley Coal Co. merely had them leased, as they had leased a vast amount of other coal property belonging to the Girard estate. This Packer No. 3 was but a mere speck in the vast domain which they had leased from that estate.

The leases were to expire in less than two years, and there was talk of new leases. They simply agreed that they would give up their rights as to that particular dump, and anybody who could make proper arrangements with the Girard estate could take it, so far as they were concerned.

You have heard much said about Judge Archbald having gone into a great speculation and the business of dealing in coal dumps or coal properties of railroad companies which might have cases in the Commerce Court. These two cases—the Katydid and Packer No. 3—are the only ones of which we have been so far advised that come within that category, and with which there is any attempt to show that Judge Archbald was connected; and you will see how he got into them—one of them by its being suggested to him by Williams, who was pushed forward by Boland; and the other because he was attempting to work with others the Oxford dump, and they found that it could not be done profitably without getting one of those on the other side of the creek.

It is said here—and if it were true it would be a matter of vast importance—as it is said in the articles of impeachment, that Judge Archbald concealed his relation to these matters and put dummies forward as the real parties in interest.

Now, as a matter of fact, the exact contrary is the truth in this matter. When he wrote to Capt. May he did not say anything about Williams having any interest, but simply sent Williams as the bearer of a letter saying "Will you sell this Katydid dump?" and whatever transaction took place out of his presence anywhere else by which his name was sought to be concealed was without his knowledge and without his consent and authority.

When Mr. Robertson's option was given, which was shortly after Capt. May gave his option, Judge Archbald in his own handwriting wrote out the contract with Robertson and signed it as a witness to the signature of Mr. Robertson. When he wrote to Conn he wrote in his own name, as a person having interest. And, finally, more important than all—perhaps the managers are excusable as to this, because probably they hear it now for the first time—when the sale with Conn was about to be concluded, in October or November, 1911, Judge Archbald prepared the contract with Conn, giving the terms of the proposed sale of the Katydid dump, and he put it as a contract between Robert W. Archbald and Edward J. Williams, on the one hand, and this company of which Conn was the manager on the other hand. That we will show by evidence which will not be disputed by anybody. And as to concealing his name with reference to the Packer No. 3 transaction, the managers themselves, if they go on with that charge, will have to put in evidence the letter signed by Judge Archbald himself and signed by the other persons with whom he was interested, proposing to buy that dump and stating the terms on which they would buy it. This idea of Judge Archbald engaging in something that

was wrong and concealing his name is absolutely without the slightest foundation.

Now, I want to go back a minute to the second article. That concerns the charge that Judge Archbald "for a valuable consideration"—that is the information we are given in the article—"for a valuable consideration" undertook to bring about a settlement of this suit of Peale against the Marion Coal Co., which was pending before Judge Witmer at the time, and the case of the Marion Coal Co. against the Delaware, Lackawanna & Western Railroad Co., which was pending before the Interstate Commerce Commission. Observe that neither of these cases was pending in his court. One of them was pending before Judge Witmer, who now had become district Judge, and the other was pending before the Interstate Commerce Commission.

William P. Boland and Christopher G. Boland employed a lawyer named Watson in Scranton in an attempt to bring about a settlement of both those litigations, and he carried on negotiations for some time in that regard.

Judge Archbald, at the request of Mr. Watson, a long-time friend of his, and at the request of Christopher G. Boland, who implored him to assist him in the matter and who said to him with tears in his eyes, "I am afraid my brother, William P. Boland, will lose his mind if the matter is not settled; he can not sleep," lent his aid to bring the parties together. That is what he did and nothing else.

If the learned managers have any evidence to produce which will tend to show that it ever entered the mind of this respondent that he was to get a cent out of the transaction or any benefit of any kind personal to himself or that he engaged in it for any purpose other than to help friends of his for the reasons I have stated, they will produce some evidence which they have not produced and which is unknown to us.

I may say in this connection that when I was in Scranton—as I was two or three weeks ago—Mr. Watson, as we were all informed, was seized with an attack of some kind and carried to his house, and his illness is of such a character—or was then—that we fear it will be impossible for him to come here or even to have his deposition taken.

Now, as to the other articles of impeachment, I shall go over them in a very hasty way. The fourth article charges certain things as to which there is no dispute with respect to the facts. The case of the Louisville & Nashville Railroad Co. had been pending in the Interstate Commerce Commission and had come up before the Commerce Court, and that court was considering what action it would take in reference to the matter. It had been argued and submitted to the court, and Judge Archbald was engaged in writing an opinion.

Now, in going over the testimony in the case there was a certain place where a Mr. Compton, who was the principal witness for the railroad company, had used in reference to something the expression, "We did"; at least that is what he was made to say in the reporter's version of it and as it appears in the deposition before the Interstate Commerce Commission and as it was transmitted to the Commerce Court. It was perfectly apparent from the context that what the witness said and what should have been there was "We did not" do the things.

Judge Archbald wrote to Mr. Bruce—Mr. Bruce being a lawyer in Louisville whose standing as a man of honor in the profession is as high as that of any man in the country—and asked him to speak to Mr. Compton and see whether a mistake had not been made. Mr. Bruce did speak to Mr. Compton, and Mr. Compton said that was what he had said, and he called attention to the context, showing that that was what he had said.

Judge Archbald, who is charged with having engaged in this transaction corruptly, took that letter and pasted it into the record at the point where occurred the expression, "We did," where anybody might see the letter; and there it is to-day.

As a matter of fact, when Judge Archbald came to write his opinion, he based it upon the answer as it originally stood. So that this correction had no effect whatever on the decision.

Later, it is true, a question arose, the nature of which is such that to explain it would require a long statement of what had occurred in the case, which I will not attempt now and may not have to attempt in the future. He asked Mr. Bruce what he had to say about it, and Mr. Bruce at considerable length wrote back. It related to a detail of evidence. The defendants in the case in the Commerce Court were the Interstate Commerce Commission and the United States. Both of these defendants had refused to go into the questions of evidence at all, and based their defense solely upon the ground that the Commerce Court had no right to go into the evidence, so that this explanation by Mr. Bruce related to what in a proper sense was ex parte.

So far as concerns the opinion upon that subject which Mr. Manager Clayton has said followed the line of Mr. Bruce's

argument, I think it will be very hard for him to maintain that I have read the letter several times and read the opinion, and I confess I have not been able so far to see the connection. At all events, the case will be barren of any evidence that in what Judge Archbald did in that matter he had any wrongful intention or any motive except to arrive at the facts and to do justice between the parties.

The fifth article of impeachment is based upon the alleged gift of \$500 by one Warnke to Judge Archbald as compensation for Judge Archbald having gone to an official of the Reading Railroad Co. and asked that official to give Mr. Warnke a cer-

tain right which he claimed.

The facts in that matter are these: Judge Archbald did go at the request of Mr. Warnke to ask this officer to allow Mr. Warnke to have a certain lease. He made an appointment He was told that the with that officer for that purpose. matter was closed and so reported to Mr. Warnke, and that was the end of it. As a matter of fact it appears that some months before Mr. Warnke had been endeavoring to get that same favor from the railroad company and had failed. Judge Archbald knew nothing of that and simply went as a friend of Mr. Warnke and asked that the favor be given him without any expectation or promise of any reward whatever, and never thought of any.

But one John Henry Jones and Judge Archbald were together in another transaction which involved the sale of another dump with which no railroad had any concern whatever. It is known as the Gravity fill, the coal being dumped where it made a fill instead of being piled up. It will appear beyond any dispute whatever that Judge Archbald was the principal factor in bringing about that sale, for which the purchasers agreed to pay a commission of \$500. That commission was given to Judge Archbald in the form of a note for \$510. He discounted it and gave half the proceeds to Jones. Warnke and his assoclates in the Premier Co., which was the purchaser of this property, paid the commission to Judge Archbald and had no concern with his dividing it with Jones. It is believed that it is not a criminal offense for the judge of a Federal court to have a transaction of this kind with a private individual who probably never will have any business in his court.

I hesitate to deal with the sixth article because, as a lawyer, I do not like to recognize the fact that a man may be brought into a court of justice anywhere and asked to respond to a charge so vague and indefinite as that is. Its five or six lines convey no idea as to what it is intended to charge. We are told now by the managers it was an endeavor to get the Lehigh Valley Coal Co. to purchase the interest of the Everhardt heirs in a certain tract of land, which the company owned for the most part. It had acquired the title of some of the Everhardt heirs and wanted to get the title of the others. It would appear, as to that, that Judge Archbald was interested in the Everhardt heirs because they had an outstanding claim to the Katydid culm bank, and he was trying to clear up that title so

that he could sell it.

You will remember the sale had fallen through because he could not give a good title, on account of the claim of these Everhardt people, among others. When he learned that the company wanted to get the title of the Everhardt heirs to the land which they owned, he sought to have the Everhardt heirs brought into the matter so that he could get the title that they had to the Katydid dump and enable him to sell it. all the connection he had with that matter. That was

Next is article 7 with reference to the Rissinger note. It is true that Mr. Rissinger was the principal stockholder in a concern called the Old Plymouth Coal Co. That company has lost some of its property by fire and had a number of suits pending against insurance companies, and those of them which involved a sufficient amount to enable the defendant companies to remove them into the Federal court had been so removed into Judge Archbald's court. The cases were tried there to-While the trial was going on the parties settled and a judgment was entered in favor of the plaintiff company against the different insurance companies for an amount somewhat less than the amount claimed. It is true that at the time that trial was going on, and sometime before and sometime after, Judge Archbald had had some negotiations with Mr. Rissinger and a number of other people who were concerned in a speculation about some property in Honduras. After the trial Judge Archbald did lend his indorsement to a note for forty-five hundred dollars, which was discounted by some bank there. Judge Archbald claimed that he indorsed that note absolutely and entirely as an accommodation to Mr. Rissinger and had no interest in that speculation. Mr. Rissinger's theory of it, as we are given to understand, is that Judge Archbald did acquire an interest in that property, and it was for that purpose that

he indorsed the note. Whether he indorsed it as an accommodation for Rissinger or indorsed it because he acquired an interest in the speculation in that far-away country does not make a particle of difference, because it is absolutely impossible to connect his relations with Rissinger in that transaction with anything that took place in the trial in which Rissinger was interested as an owner of stock in the old Plymouth Coal Co. I think every lawyer who was connected with that case will tell you that so far as the rulings of Judge Archbald during the trial are concerned there is no question but that they were right, and there is no supposition, I believe, entertained by anybody that he made any ruling in that case in favor of Rissinger that was not justified by the law of the case.

It is said that this note was presented for discount to Mr. Lanahan, who had been of counsel for Ressinger in the insur-If that was done, it was without the knowledge

of Judge Archbald.

The next two counts refer to a note for \$500. That is the note I referred to some time ago as the one that Mr. Boland thought the judge wanted him to discount and punished him thought the judge wanted him to discount and punished him thought the judge wanted him to discount and punished him thought the judge wanted him to discount and punished him thought the judge wanted him to discount and punished him thought the judge wanted him to discount and punished him thought the judge wanted him to discount and punished him to discount an thing which got into Boland's brain and lodged there for many

months.

John Henry Jones came to Judge Archbald in the latter part of the year 1909, after this demurrer had been overruled, and told him of a speculation in some property in Venezuela. Judge Archbald's understanding is that he indorsed a \$500 note for Jones at that time as an accommodation to Jones. I think Jones so understands it, and that there was no interest acquired or intended to be acquired by Judge Archbald in the speculation. Whether that is true or not, of course, is of no consequence here. That note it appears was taken by Edward J. Williams, who was concerned in this speculation in Venezuela with Jones. It was taken first to Christopher G. Boland and then to William P. Boland, and they were asked to discount it.

It should be borne in mind, however, that at that time

Christopher G. Boland was president, I think, of a bank in the State of New York, not far from Buffalo, and that it was not a rare transaction for him to have dealings concerning dis-counts for that bank in Scranton. However that may be, all that Judge Archbald had to do with this matter was that Mr. Jones some time after the transaction told him he had presented his note to the Bolands for a discount, or Williams in-

tended to do it, or something of that kind.

It is true that Judge Archbald lived in Scranton and knew the Bolands, and no doubt had known of their interest in the Marian Coal Co. It is true that in the September preceding this transaction he had passed upon the demurrer in the case of Peale against the Marian Coal Co. If a judge is supposed to remember and have in mind all the time the names of every person interested in every case before him, the respondent may be charged with having in mind at the time in question that the

Bolands were concerned with litigation in his court.

So it is said here that that note was taken after the Bolands had refused to discount it to Von Storch, an officer of the bank, at the request of Judge Archbald. I ask Senators to wait until they hear the evidence tending to show that that note was taken to Von Storch on any suggestion from Judge Archbald. The fact is it was taken there without any suggestion from him. After it was presented there Von Storch called the judge to the bank and had some conversation with him as to whether it was all right to discount it. It certainly is far-fetched that the honorable managers claim here that that was done by Von Storch for two reasons, in the first place because he was a lawyer practicing before Judge Archbald. As a matter of fact his practice before Judge Archbald was practically nil. On the other hand, they say that a case in Judge Archbald's court in which Von Storch had been a party and not counsel about a year before had been decided by Judge Archbald in Von Storch's So they say Judge Archbald is corrupt because the note favor. he had indorsed was taken for discount to a man in whose favor he had some time before decided a case. That is all there is in that transaction.

Article 10 comes next. Henry W. Cannon is a full cousin of He is a man of large means, has Judge Archbald's wife. a fine villa or house in Florence, Italy, and has been in the habit of making trips abroad in the summer. In 1910 he was going on his summer trip, and he wrote a letter to his cousin, who was not only his full cousin but a lifelong intimate and dear friend, and invited her to go abroad with him as his guest, and suggesting that some other member of the family might come along, and saying in the letter he assumed that Judge Archbald's public duties would not allow him to go along.

After that letter was received Judge Archbald conferred with the other judges of that circuit, and they all concluded that he not only could go but that he ought to go, as he had not had a vacation for seven or eight years. So he and his wife went abroad as the guests of Mrs. Archbald's cousin, Mr. Cannon, and were with him for several months, and returned with him.

In order to make a crime out of that innocent transaction this article of impeachment goes on to charge that Mr. Cannon was an officer of various corporations, nearly all of which were doing business on the Pacific coast of the United States. There is no corporation he was connected with, I believe, that ever had any case that came before Judge Archbald. Nobody thought of that possibility until it originated in the minds of our honorable friends here. It had never occurred to anybody that that could constitute an offense or that there was anything improper in Judge Archbald doing what he did in that matter.

On the day that that ship sailed from New York Harbor, and just before the hour of sailing, when those who were not to go were to be cleared from the deck, Judge Searle, who was a member of the judiciary of the State of Pennsylvania, a man of as high standing for honor and integrity as any man in the State, walked up to Judge Archbald on board the ship and said, "Here is something for you, Judge, but you are not to open it until you get away from this port." Judge Archbald knew nothing about what this meant until the ship had sailed and he had opened the package. He then found a letter from a number of his friends at the bar in and about Scranton, most of them lawyers, all of high standing, as to whom it would be impossible for anybody to suggest any corrupt or wrongful intention, making Judge Archbald this present and asking him to take it and enjoy it for his private expenses. They knew that Mr. Cannon was going to pay his traveling expenses, and they gave him this in addition. It would certainly have been extremely embarrassing for Judge Archbald to have returned this fund to the donors with the intimation that they had been guilty of And this gross misbehavior in presenting him with the money. transaction is the subject matter of the eleventh article.

Now, it has been said here to-day that Mr. Searle, the clerk of Judge Archbald's court (not the Judge Searle who presented the fund which I have referred to to Judge Archbald) and Mr. Woodward, the jury commissioner for that district, were the two men who had raised this fund. Just how it was raised Judge Archbald does not know. He had no more to do with it than any of us had; he knew nothing about it, until after the money was presented to him on the ship by Judge

Searle.

It is charged in the twelfth article that Judge Archbald appointed as jury commissioner of his court a lawyer named Woodward, and that Mr. Woodward was attorney for a railroad company which might have litigation in his court. This is one of the articles where by some inadvertence, I must suppose, on the part of the learned managers, the adverbs to which I have heretofore referred are omitted. It is not even charged that he made that appointment wrongfully or corruptly. It simply rests upon the proposition that to appoint as jury commissioner a man who was attorney for a railroad company is an impeachable offense.

As a matter of fact Mr. Woodward was appointed in 1901

As a matter of fact Mr. Woodward was appointed in 1901 and served until about a year ago, I believe, with eminent satisfaction to all the members of the bar, whether they were attorneys for railroad companies or not. He did not leave his position there, I believe, until after Judge Archbald came to the Commerce Court. Mr. Woodward will probably be here, and if there is any information to be obtained from him as to whether he had any collusive arrangement with Judge Archbald he may impart it. But to our mind the article as it stands charging simply this appointment without any suggestion that he did it corruptly or wrongfully is a novelty in criminal

pleading

I have little to say in reply to the concluding paragraphs of the very able and eloquent presentation that was made by Mr. Manager CLAYTON. I do not understand that we here have to determine whether the provisions of the Constitution of the United States which provide for the impeachment not only of judges but of all civil officers of the Government, including perhaps Senators and Members of the House of Representatives, are to be changed from what they have been to this day to a provision for the "recall" of judges and other officers or not. If the learned Manager means what it seems to me he has plainly indicated—it follows that he contends that if for any cause a majority of the Members of the House of Representatives and two-thirds of this body come to the conclusion that the President of the United States or any other civil officer from the President down does not conduct himself in a manner which is satisfactory to the Members of these two bodies, he should be removed from his office whether he has committed any crime or not.

In the convention of 1787, which framed the Constitution of the United States, it was at first suggested that civil officers of the United States might be impeached for maladministration. but the convention, by an almost unanimous vote, refused to adopt that provision because it was too general and too uncer-They substituted for it the words "treason, bribery, or other high crimes or misdemeanors." The effort of the managers in this case, if I understand what has been said by them here to-day and what has been said elsewhere, is to take those words "treason, bribery, or other high crimes or misdemeanors' out of the Constitution and write back the words that the convention would not put in that instrument, "maladministration or misbehavior." I think it will be a long day before the Senate will yield to that suggestion and tear the Constitution of the United States to pieces in that fashion.

Mr. Manager CLAYTÔN. Mr. President, may I have permis-

sion to make a brief statement?

The PRESIDENT pro tempore. Without objection on the

part of the Senate, permission is granted.

Mr. Manager CLAYTON. I wish to say, Mr. President, that the view of the law in this case was expressed to the Senate last summer. You will find on pages 86 and 87 of the proceedings then had in the Senate a statement on the part of the managers—and I may say, Mr. President, I was the manager who made the statement—of what is considered to be the general law of this case. The authorities are there cited, and

some of them quoted somewhat at length,

Mr. President, in further reply to the complaint which has been made by the honorable gentleman who represents the respondent here, that we did not go into the discussion of the law in the preliminary statement which the managers had the honor to submit this afternoon, I beg to say that we followed what we believed to be the practice in such cases. I have before me the record in the case of Judge Swayne. I observe that Judge Palmer, who was then the manager speaking for all the managers, after he concluded his statement of facts, winding up, I may say, with a condensed summary of all the statements which he had made at length, ended the preliminary statement of facts which is required according to the rules and practice of the Senate. He did not at that time present any brief or any argument or any views on the law of impeachment. The managers, Mr. President, have already prepared in a formal way a brief, and can present that brief, and in argument fully cover their views as to the law of impeachment; but we thought that this brief and what the managers said last summer, which is in the RECORD and to which I have referred, would amply apprise the honorable counsel for the respondent of the line of argument on the law in this case that the managers would pursue.

I say that, Mr. President, because I think that the complaint—for so I consider it—which the counsel for the respondent has lodged against the managers because they have not presented their view of the law on this question at this time is not a well-

founded complaint.

Mr. WORTHINGTON. Mr. President, I do not want to be understood as impeaching the honorable managers for the course they have pursued. I simply stated what I had expected they would do. As I have read the proceedings in impeachment cases, aside from the Swayne case, especially the case of the impeachment of Andrew Johnson, the case of the impeachment of Judge Peck, and the case of the impeachment of Judge Chase—as I read them, the propositions of law upon which the case should be presented were gone into very fully in the opening statement.

The PRESIDENT pro tempore. What is the pleasure of the

managers as to proceeding?

Mr. Manager CLAYTON. As the managers understand, Mr. President, we expect to be ready to comply with the order of the Senate, the purpose of the Senate, to proceed with the examination of witnesses on to-morrow. We have some of the witnesses here this afternoon, but I had understood by conference with some of the Senators that perhaps it would not be the desire of the Senate to examine any witnesses this afternoon. It is our purpose at the convening of the court to-morrow to proceed at once to swear and examine witnesses.

Mr. CLARK of Wyoming (at 4 o'clock and 25 minutes p. m.). Mr. President, under the statement by the managers on the part of the House, I move that the Senate sitting as a Court of

Impeachment do now adjourn.

The PRESIDENT pro tempore. The Senator from Wyoming moves that the Senate sitting as a Court of Impeachment do now adjourn.

The motion was agreed to.

The managers on the part of the House and the respondent and his counsel thereupon withdrew from the Chamber.

HOUR OF DAILY MEETING.

On motion of Mr. Gallinger, it was

Ordered, That the hour of daily meeting of the Senate be 12 o'clock meridian until otherwise ordered.

EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 8 minutes spent in executive session the doors were reopened, and (at 4 o'clock and 35 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, December 4, 1912, at 12 o'clock m.

NOMINATIONS.

Executive nominations received by the Senate December 3, 1912.

Collectors of Customs.

Dascar O. Newberry, of North Carolina, to be collector of customs for the district of Albemarle, in the State of North Carolina. (Reappointment.)

James A. Harvin, of Texas, to be collector of customs for the district of Saluria, in the State of Texas, in place of Robert W. Dowe, removed. Mr. Harvin is now serving under a temporary commission issued during the recess of the Senate.

PROMOTIONS IN THE PUBLIC HEALTH SERVICE OF THE UNITED STATES.

Surg. Hiram W. Austin to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Austin is now serving under a temporary commission issued during the recess of the Senate.

Surg. Charles E. Banks to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Banks is now serving under a temporary commission issued during the recess of the Senate.

Surg. Duncan A. Carmichael to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Carmichael is now serving under a temporary commission issued during the recess of the Senate

Surg. Henry R. Carter to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Carter is now serving under a temporary commission issued during the recess of the Senate.

Surg. James W. Gassaway to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Gassaway is now serving under a temporary commission issued during the recess of the Senate.

Surg. Arthur H. Glennan to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Glennan is now serving under a temporary commission issued during the recess of the Senate.

Surg. Fairfax Irwin to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Irwin is now serving under a temporary commission issued during the recess of the Senate.

Surg. Parker C. Kalloch to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Kalloch is now serving under a temporary commission issued during the recess of the Senate.

Surg. Frank W. Mead to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Mead is now serving under a temporary commission issued during the recess of the Senate.

Surg. George W. Stoner to be senior surgeon in the Public Health Service, United States, to rank as such from October 1, 1912. (New office created by act of Congress approved Aug. 14, 1912.) Mr. Stoner is now serving under a temporary commission issued during the recess of the Senate.

mission issued during the recess of the Senate.

Passed Asst. Surg. John F. Anderson to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. Charles E. Banks, promoted. Mr. Anderson is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. Milton H. Foster to be surgeon in the Public Health Service, United States, to rank as such from

October 1, 1912, in place of Surg. Frank W. Mead, promoted. Mr. Foster is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. Lunsford D. Fricks to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. Parker C. Kalloch, promoted. Mr. Fricks is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. Samuel B. Grubbs to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. George W. Stoner, promoted. Mr. Grubbs is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. Claude H. Lavinder to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. Hiram W. Austin, promoted. Mr. Lavinder is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. Leslie L. Lumsden to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. Henry R. Carter, promoted. Mr. Lumsden is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. John McMullen to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. James M. Gassaway, promoted. Mr. McMullen is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. Rudolph H. von Ezdorf to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. Fairfax Irwin, promoted. Mr. Von Ezdorf is now serving under a temporary commission issued during the recess of the Senate.

Passed Asst. Surg. Mark J. White to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. Duncan A. Carmichael, promoted. Mr. White is now serving under a temporary commission issued during the recess of the Senate.

Asst. Surg. Randolph M. Grimm to be passed assistant surgeon in the Public Health Service, United States, to rank as such from October 28, 1912. Mr. Grimm is now serving under a temporary commission issued during the recess of the Senate.

Asst. Surg. Paul Preble to be passed assistant surgeon in the Public Health Service, United States, to rank as such from October 26, 1912. Mr. Preble is now serving under a temporary commission issued during the recess of the Senate.

PROMOTIONS IN THE REVENUE-CUTTER SERVICE,

Capt. Howard Miles Broadbent to be senior captain in the Revenue-Cutter Service of the United States, to rank as such from September 12, 1912, in place of Senior Capt. Alexander Perry Rodgers Hanks, retired. Mr. Broadbent is now serving under a temporary commission issued during the recess of the Senate. Third Lieut, of Engineers Alvan Hovey Bixby to be second

Third Lieut, of Engineers Alvan Hovey Bixby to be second lieutenant of engineers in the Revenue-Cutter Service of the United States, to rank as such from May 2, 1912, in place of Second Lieut. of Engineers Lorenzo Chase Farwell, promoted. Mr. Bixby is now serving under a temporary commission issued during the recess of the Senate.

TREASURER OF THE UNITED STATES.

Carmi A. Thompson, of Ohio, to be Treasurer of the United States, in place of Lee McClung, resigned. Mr. Thompson is now serving under a temporary commission issued during the recess of the Senate.

ASSISTANT TREASURER OF THE UNITED STATES.

Christian S. Pearce, of Tennessee, to be Assistant Treasurer of the United States, in place of Gideon C. Bantz, resigned.

ASSISTANT REGISTER OF THE TREASURY.

James P. Strickland, of Arkansas, to be Assistant Register of the Treasury, in place of Cyrus Field Adams, resigned. Mr. Strickland is now serving under a temporary commission issued during the recess of the Senate.

APPRAISER OF MERCHANDISE.

Charles V. Johnson, of Oregon, to be appraiser of merchandise in the district of Portland, in the State of Oregon, in place of Owen Summers, deceased. Mr. Johnson is now serving under a temporary commission issued during the recess of the Senate.

ASSISTANT APPRAISERS OF MERCHANDISE.

Albert McClellan Barnes, jr., of New York, to be assistant appraiser of merchandise in the district of New York, in the State of New York, to fill an existing vacancy. Mr. Barnes is now serving under a temporary commission issued during the recess of the Senate.

William Schnitzspan, of New York, to be assistant appraiser of merchandise in the district of New York, in the State of New York, to fill an existing vacancy. Mr. Schnitzpan is now serving under a temporary commission issued during the recess of the

AMBASSADOR.

Larz Anderson, of the District of Columbia, lately envoy extraordinary and minister plenipotentiary to Belgium, to be ambassador extraordinary and plenipotentiary of the United States of America to Japan, to which office he was appointed during the last recess of the Senate, vice Charles Page Bryan, resigned.

MINISTERS.

Theodore Marburg, of Maryland, to be envoy extraordinary and minister plenipotentiary of the United States of America to Belgium, to which office he was appointed during the last recess of the Senate, vice Larz Anderson, appointed ambassador

extraordinary and plenipotentiary to Japan.
Fred W. Carpenter, of California, lately envoy extraordinary and minister plenipotentiary to Morocco, to be envoy extraordinary and minister plenipotentiary of the United States of America to Siam, to which office he was appointed during the last recess of the Senate, vice Hamilton King, deceased.

SECRETARIES OF EMBASSY.

Irwin B. Laughlin, of Pennsylvania, lately secretary of the embassy at Berlin, to be secretary of the embassy of the United States of America at London, England, to which office he was appointed during the last recess of the Senate, vice William Phillips, resigned.

U. Grant-Smith, of Pennsylvania, lately secretary of the legation at Brussels, to be secretary of the embassy of the United States of America at Vienna, Austria, to which office he was appointed during the last recess of the Senate, vice Joseph C. Grew, appointed secretary of the embassy at Berlin.

Joseph C. Grew, of Massachusetts, lately secretary of the embassy at Vienna, to be secretary of the embassy of the United States of America at Berlin, Germany, to which office he was appointed during the last recess of the Senate, vice Irwin B. Laughlin, appointed secretary of the embassy at London.

SECRETARIES OF LEGATION.

J. Butler Wright, of Wyoming, lately of the Division of Latin-American Affairs, Department of State, to be secretary of the legation of the United States of America at Brussels, Belgium, to which office he was appointed during the last recess of the Senate, vice U. Grant-Smith, appointed secretary of the embassy at Vienna.

Francis Travis Coxe, of Pennsylvania, to be second secretary of the legation of the United States of America at Habana, Cuba, to which office he was appointed during the last recess of the Senate, vice Edward Bell, appointed in the Division of Latin-American Affairs, Department of State.

CONSUL.

Hubert G. Baugh, of California, formerly consul at Saigon, to be consul of the United States of America at Saigon, Cochin China, to which office he was reappoined during the last recess of the Senate.

AGENT OF ALASKA SALMON FISHERIES.

Ward T. Bower, of Michigan, to be agent, Alaska salmon fisheries, Division of Alaska Fisheries, in the Bureau of Fisheries, Department of Commerce and Labor, vice Frederic M. Chamberlain, resigned.

COMMISSIONER OF IMMIGRATION.

Graham L. Rice, of Wisconsin, to be commissioner of immigration at the port of San Juan, P. R., Department of Commerce and Labor. (Reappointment.)

INTERSTATE COMMERCE COMMISSIONER.

Edgar E. Clark, of Iowa, to be an Interstate Commerce Commissioner for a term of seven years from January 1, 1913. (Re-

UNITED STATES DISTRICT JUDGES.

Richard E. Sloan, of Arizona, to be United States district judge for the district of Arizona (under the provisions of sec. 31 of the act of Congress approved June 20, 1910). He was appointed during the last recess of the Senate, his nomination for the appointment having failed of confirmation.

John M. Cheney, of Florida, to be United States district judge for the southern district of Florida, to which position he was appointed during the last recess of the Senate, vice James W. Locke, resigned. (Mr. Cheney was nominated at the last session of the Senate, but failed of confirmation.)

Clinton W. Howard, of Washington, to be United States district judge for the western district of Washington, to which position he was appointed during the last recess of the Senate, vice C. H. Hanford, resigned. (Mr. Howard was nominated at the last session of the Senate, but failed of confirmation.)

UNITED STATES ATTORNEYS.

James B. Sloan, of Alabama, to be United States attorney for the southern district of Alabama, to which position he was appointed during the last recess of the Senate, vice William H. Armbrecht, resigned.

Richard P. Marks, of Florida, to be United States attorney for the southern district of Florida, to which position he was appointed during the last recess of the Senate, vice John M. Cheney, appointed United States district judge.

Lester G. Fant, of Mississippi, to be United States attorney for the northern district of Mississippi, to which position he was appointed during the last recess of the Senate, vice William D. Frazee, deceased.

Beverly W. Coiner, of Washington, to be United States attorney for the western district of Washington, to which position he was appointed during the last recess of the Senate, vice E. E. Todd, resigned. (Mr. Coiner was nominated at the last session of the Senate, but failed of confirmation.)

UNITED STATES MARSHAL.

Bert J. McDowell, of Texas, to be United States marshal, western district of Texas, vice Eugene Nolte, removed.

REGISTER OF THE LAND OFFICE.

Julius C. Peters, of Great Falls, Mont., who was appointed October 28, 1912, during the recess of the Senate, to be register of the land office at Great Falls, Mont., vice Edward L. Barnes,

RECEIVERS OF PUBLIC MONEYS.

Andrew P. Adolphson, of Colorado, to be receiver of public moneys at Leadville, Colo., his term expiring December 17, 1912. (Reappointment.)

James W. Roberts, of Great Falls, Mont., who was appointed October 28, 1912, during the recess of the Senate, to be receiver of public moneys at Great Falls, Mont., vice Charles A. Wilson, resigned.

POSTMASTERS. ALABAMA.

George C. Adams to be postmaster at Ragland, Ala. Office became presidential October 1, 1912.

Oscar L. Chancy to be postmaster at Hartford, Ala., in place

of John B. Daughtry, removed.

William B. James to be postmaster at Evergreen, Ala., in place of G. Cullen Dean. Incumbent's commission expired February 27, 1912.

W. J. Renfroe to be postmaster at Dothan, Ala., in place of

Byron Trammell, removed.

Robert B. Thompson to be postmaster at Cullman, Ala., in place of John F. Sutterer, removed.

ALASKA.

Daniel W. Figgins to be postmaster at Ketchikan, Alaska, in place of A. Zilpah Hopkins, resigned.

John E. Worden to be postmaster at Wrangell, Alaska. Office became presidential October 1, 1912.

ARIZONA.

W. A. Harwood, jr., to be postmaster at Tombstone, Ariz., in place of Francis D. Crable, resigned.

E. N. Collett to be postmaster at Huttig, Ark., in place of

James U. Brown, removed.
John W. Rogers to be postmaster at Alma, Ark., in place of Thomas B. Murphy. Incumbent's commission expired April 28, 1912.

CALIFORNIA.

John R. Chace to be postmaster at San Jose, Cal., in place of William G. Hawley, deceased.

William H. Lear to be postmaster at Portola, Cal. Office became presidential October 1, 1912.

James G. Mason to be postmaster at Menlo Park, Cal., in place of James G. Mason. Incumbent's commission expires

December 14, 1912.

Robert L. Perry to be postmaster at San Miguel, Cal. Office became presidential October 1, 1912.

CONNECTICUT.

Elsie D. Bennett to be postmaster at Georgetown, Conn., in place of Charles H. Taylor. Incumbent's commission expires December 14, 1912,

Lucy A. Broadhead to be postmaster at Central Village, Conn. Office became presidential October 1, 1912.

Giles P. Lecrenier to be postmaster at Moodus, Conn., in place of Giles P. Lecrenier. Incumbent's commission expires December 14, 1912.

FLORIDA

Albert C. Dittmar to be postmaster at Fort Pierce, Fla., in

place of William F. Keefer, resigned. Elmer J. Roux to be postmaster at Fernandina, Fla., in place

of Oliver S. Oakes, deceased.

David B. Thomas to be postmaster at South Jacksonville, Fla. Office became presidential January 1, 1912.

GEORGIA.

J. W. Adams to be postmaster at Moultrie, Ga., in place of Hugh M. Pierce. Incumbent's commission expired February 27, 1912.

Nathan C. Alexander to be postmaster at Commerce, Ga., in place of Cicero C. Alexander. Incumbent's commission expired April 13, 1912.

C. L. Bennett to be postmaster at Eastman, Ga., in place of Henry C. Newman. Incumbent's commission expired January

William M. Griffin to be postmaster at Manchester, Ga. Office

became presidential January 1, 1911.

Mattie E. Gunter to be postmaster at Social Circle, Ga., in place of Mattie E. Gunter. Incumbent's commission expired February 27, 1912.

John F. Jenkins to be postmaster at Ashburn, Ga., in place of

John F. Jenkins. Incumbent's commission expired May 7, 1912.
Leila M. Swann to be postmaster at Palmetto, Ga. Office became presidential October 1, 1912.

J. W. Westbrook to be postmaster at Winder, Ga., in place of Job R. Smith. Incumbent's commission expired May 22, 1912. Young A. Williams to be postmaster at Greenville, Ga., in

place of Pearl Williams, deceased.

Reuben H. Mercer to be postmaster at Plummer, Idaho. Office became presidential July 1, 1912.

ILLINOIS.

Jonah Bennett to be postmaster at Homer, Ill., in place of Moses C. Thomas, deceased.

Frank J. Chapman to be postmaster at McLeansboro, Ill., in place of Frank J. Chapman. Incumbent's commission expires December 14, 1912.

Samuel Clark to be postmaster at Sherrard, Ill., in place of George M. Bell, resigned.

Ernest C. Foster to be postmaster at Assumption, Ill., in place of Edward C. Watson, deceased.

John A. Morrow to be postmaster at Roodhouse, Ill., in place of William C. Roodhouse. Incumbent's commission expired March 26, 1910.

Frederick J. Simater to be postmaster at Minonk, Ill., in place of Frederick J. Simater. Incumbent's commission expires December 14, 1912.

Charles G. Watrous to be postmaster at Waukegan, Ill., in place of Charles G. Watrous. Incumbent's commission expires

December 14, 1912.

John C. Williams to be postmaster at Pocahontas, Ill. Office became presidential October 1, 1912.

INDIANA.

Dirrelle Chaney to be postmaster at Sullivan, Ind., in place of Arthur A. Holmes, deceased.

Luther I. Aasgaard to be postmaster at Forest City, Iowa, in place of Eugene Secor. Incumbent's commission expired December 9, 1911.

Fred J. Fearis to be postmaster at Richland, Iowa, in place of Fred J. Fearis. Incumbent's commission expires December 14,

S. A. Finger to be postmaster at Davenport, Iowa, in place of Alonzo Bryson. Incumbent's commission expired January 29, 1912

Emil M. Holstad to be postmaster at Lake Mills, Iowa, in place of Martin A. Aasgaard, resigned.

Oscar I. Johnson to be postmaster at Jewell, Iowa, in place of Frederick N. Taylor. Incumbent's commission expired April

John P. Kennedy to be postmaster at Montrose, Iowa. Office became presidential October 1, 1912.

M. S. McFarland to be postmaster at Marshalltown, Iowa, in place of Charles H. Smith, deceased.

George A. Poff to be postmaster at What Cheer, Iowa, in place of George A. Poff. Incumbent's commission expired March 16, 1909.

Osmond O. Stole to be postmaster at Roland, Iowa. Office

became presidential October 1, 1912.

Homer Thompson to be postmaster at Valley Junction, Iowa, in place of Albert S. Burnett, resigned.

KANSAS.

Harry C. Achenbach to be postmaster at Clay Center, Kans., in place of Harry C. Achenbach. Incumbent's commission expired December 18, 1911.

Eli A. Baum to be postmaster at Burden, Kans., in place of Eli A. Baum. Incumbent's commission expires December 17, 1912

Joel H. Buckman to be postmaster at Lyndon, Kans., in place of Joel H. Buckman. Incumbent's commission expired December 11, 1911.

Bird Chambers to be postmaster at Humboldt, Kans., in place

of William T. McElroy, deceased.

C. A. Connelly to be postmaster at Independence, Kans., in place of Henry W. Conrad. Incumbent's commission expired January 9, 1912.

Daniel H. Crawford to be postmaster at Little River, Kans., in place of January 9.

in place of James W. Crawford, deceased.

William C. Edwards to be postmaster at Wichita, Kans., in place of William C. Edwards. Incumbent's commission expired

January 21, 1912.

Charles M. Harger to be postmaster at Abilene, Kans., in place of Richard Waring, deceased.

E. H. Myers to be postmaster at Protection, Kans., in place of W. C. Monticue, removed.

James A. Roberts to be postmaster at La Harpe, Kans., in place of James A. Roberts. Incumbent's commission expired December 9, 1911.

Ollie H. Stewart to be postmaster at Parsons, Kans., in place of Benjamin L. Taft. Incumbent's commission expired February 12, 1912.

KENTUCKY.

Edward F. Coffman to be postmaster at Russellville, Ky., in place of Jacob B. Coffman, deceased.

Edna E. Proctor to be postmaster at Leitchfield, Ky., in place of William A. Wallace, deceased.

LOUISIANA.

J. W. Dawson to be postmaster at Boyce, La. Office became

presidential October 1, 1912. Charles C. Dow to be postmaster at Bernice, La., in place of

Charles C. Dow. Incumbent's commission expired May 14, 1912. Earl G. Eagles to be postmaster at Winnfield, La., in place of Edward Eagles. Incumbent's commission expired May 14, Richard E. Oden to be postmaster at Kinder, La. Office be-

came presidential October 1, 1912. Thomas J. Perkins to be postmaster at De Quincy, La., in

place of Hugo Naegele, declined appointment. Lillian Reiley to be postmaster at Clinton, La., in place of Elizabeth Reiley, resigned.

MAINE.

Boyd Bartlett to be postmaster at Castine, Me., in place of Charles H. Hooper, deceased.

Charles B. Haskell to be postmaster at Pittsfield, Me., in place of Charles B. Haskell. Incumbent's commission expires

December 14, 1912.

Charles W. Prescott to be postmaster at Monmouth, Me. Office became presidential July 1, 1912.

Mary J. Perkins to be postmaster at Hancock, Md., in place of Mary J. Perkins. Incumbent's commission expired January, 31, 1912,

Morris L. Rouzer to be postmaster at Thurmont, Md., in place of Jacob H. Cover. Incumbent's commission expired December 10, 1911.

MASSACHUSETTS.

James S. Burbank to be postmaster at Mattapoisett, Mass., in place of James S. Burbank. Incumbent's commission expires December 14, 1912.

Eunice Agnes Burtch to be postmaster at Sheffield, Mass., in place of Eunice Agnes Burtch. Incumbent's commission expires

December 14, 1912.

William S. Curtis to be postmaster at Hanover, Mass. Office became presidential October 1, 1912.

Alice Maxwell to be postmaster at North Billerica, Mass. Office became presidential October 1, 1912.

Joseph C. Sheehan to be postmaster at East Bridgewater, Mass., in place of Joseph C. Sheehan. Incumbent's commission expires December 14, 1912.

Osgood L. Small to be postmaster at Sagamore, Mass., in

place of Osgood L. Small. December 14, 1912. Incumbent's commission expires

George B. Waterman to be postmaster at Williamstown, Mass.,

in place of James A. Eldridge, deceased.

Marie E. White to be postmaster at South Hadley, Mass., in place of Marie E. White. Incumbent's commission expires December 14, 1912.

MICHIGAN.

Eber S. Andrews to be postmaster at Williamston, Mich., in place of Eber S. Andrews. Incumbent's commission expires December 14, 1912.

Charles M. Butler to be postmaster at Morenci, Mich., in place of Charles M. Butler. Incumbent's commission expires

December 14, 1912.

Richard A. Foy to be postmaster at Trenton, Mich. Office be-

came presidential October 1, 1912.

Charles W. Glover to be postmaster at Bear Lake, Mich., in place of Charles W. Glover. Incumbent's commission expires December 14, 1912.

A. M. Humphrey to be postmaster at Saline, Mich., in place of A. M. Humphrey. Incumbent's commission expires December 14, 1912.

James F. Locke to be postmaster at Grosse Pointe Farms,

Mich. Office became presidential July 1, 1912.

Charles L. Morse to be postmaster at Elkton, Mich., in place of Aaron Cornell, resigned.

Winfield S. Nelson to be postmaster at Gwinn, Mich. Office

became presidential October 1, 1912. Charles S. Parks to be postmaster at Kent City, Mich. Office

became presidential October 1, 1912.

MINNESOTA.

Mary H. James to be postmaster at Virginia, Minn., in place of Mary H. James. Incumbent's commission expired December

Anton K. Kapeller to be postmaster at Gilbert, Minn. Office

became presidential July 1, 1910.

Daniel W. Meeker to be postmaster at Moorhead, Minn., in place of Edward J. Bjorkquist, deceased.

Lucia Ruth Spaulding to be postmaster at Mapleton, Minn., in

place of Charles G. Spaulding, resigned.

MISSOURI.

Alfred K. Bailey to be postmaster at Meadville, Mo., in place of Alfred K. Bailey. Incumbent's commission expired March 10, 1912.

Edwin S. Brown to be postmaster at Edina, Mo., in place of Edwin S. Brown. Incumbent's commission expires January 12,

1913.

John H. Bryant to be postmaster at Burlington Junction, Mo., in place of John H. Bryant. Incumbent's commission expires February 17, 1913.

Albert J. Caywood to be postmaster at Laclede, Mo., in place of Albert J. Caywood. Incumbent's commission expired May

15, 1912.

J. W. Elliott to be postmaster at New London, Mo., in place of Blanche G. Smith. Incumbent's commission expired May 15,

Charles E. Giebler to be postmaster at Festus, Mo., in place of William E. Osterwald. Incumbent's commission expired

March 10, 1912. Clifford M. Harrison to be postmaster at Gallatin, Mo., in place of Clifford M. Harrison. Incumbent's commission expired

April 2, 1912. Henry H. Kappelmann to be postmaster at Bourbon, Mo.

Office became presidential October 1, 1912.

Jennie A. Mahan to be postmaster at Knobnoster, Mo., in place of Jennie A. Mahan. Incumbent's commission expired May 15, 1912.

James G. B. Marquis to be postmaster at Schell City, Mo.

Office became presidential October 1, 1912.

Campbell F. Reid to be postmaster at Warrenton, Mo., iu place of Iola W. Morsey. Incumbent's commission expires December 14, 1912.

William Russell to be postmaster at Republic, Mo., in place of Martin L. Howard. Incumbent's commission expired March

20, 1912. William L. Taylor to be postmaster at Green Castle, Mo. Office became presidential January 1, 1912.

MONTANA.

Nona Burgess to be postmaster at Kendall, Mont., in place of Lottie M. Conyngham, resigned.

Office Lucius Whitney to be postmaster at Joliet, Mont. became presidential October 1, 1912.

MISSISSIPPI.

Dora E. Tate to be postmaster at Picayune, Miss. Office became presidential July 1, 1912.

NEBRASKA.

Charles F. Leetham to be postmaster at St. Paul, Nebr., in place of Charles F. Leetham. Incumbent's commission expires December 17, 1912.

John Ring to be postmaster at Hooper, Nebr., in place of John Ring. Incumbent's commission expired May 26, 1912.

NEW JERSEY.

William G. Wright to be postmaster at Berlin, N. J. Office became presidential October 1, 1912.

NEW MEXICO.

Eli Crockett to be postmaster at Vaughn, N. Mex., in place of

Spence Hardie, resigned. Edward Pennington to be postmaster at Deming, N. Mex., in place of Edward Pennington. Incumbent's commission expires December 17, 1912.

NEW YORK.

William W. Allerdice to be postmaster at Saratoga Springs, N. Y., in place of William W. Worden. Incumbent's commission expired March 6, 1912.

William L. Bennett to be postmaster at Medina, N. Y., in

place of Frank E. Colburn, deceased.

David L. Bruce to be postmaster at Andes, N. Y. Office became presidential October 1, 1912.

Gertrude R. Burrows to be postmaster at Andover, N. Y., in place of Arthur B. Burrows, deceased.

James H. Callanan to be postmaster at Schenectady, N. Y., in place of James H. Callanan. Incumbent's commission expired January 16, 1912.

M. Francis Doyle to be postmaster at Katonah, N. Y., in place of David A. Doyle, deceased.

William H. Foster to be postmaster at Homer, N. Y., in place

of Zera T. Nye, removed. Lee V. Gardner to be postmaster at Centerville Station, N. Y.,

in place of Lee V. Gardner. Incumbent's commission expires December 16, 1912.

William Harding to be postmaster at Roscoe, N. Y., in place

of Marshall H. Dean, resigned.

Durward B. Kelly to be postmaster at Griffin Corners, N. Y., in place of Durward B. Kelly. Incumbent's commission expires December 16, 1912. George H. Martins to be postmaster at Fort Totten, N. Y.

Office became presidential October 1, 1912.

Henry Morgan to be postmaster at Aurora, N. Y., in place of Henry Morgan. Incumbent's commission expires December 16,

Michael O'Malley to be postmaster at Barker, N. Y., in place of George M. Nellist. Incumbent's commission expired February 10, 1912.

Thomas W. Peeling to be postmaster at East Bloomfield, N. Y.

Office became presidential October 1, 1912

William Rake to be postmaster at Harriman, N. Y. Office

became presidential October 1, 1912. Gordon A. Teller to be postmaster at Waterloo, N. Y., in

place of J. B. H. Mongin, removed.

Elvira Williams to be postmaster at Fort Terry, N. Y. Office became presidential October 1, 1912.

NORTH CAROLINA.

Cicero Osborne Ball to be postmaster at West Raleigh, N. C. Office became presidential January 1, 1911.

Maggie Lewis Baucom to be postmaster at Littleton, N. C., in place of McMurray Furgerson, resigned.

Walter C. Brinson to be postmaster at Belhaven, N. C., in place of Walter C. Brinson. Incumbent's commission expired March 20, 1912.

John M. Burrows to be postmaster at Ashboro, N. C. Office

became presidential January 1, 1908.

William D. Deal to be postmaster at Taylorsville, N. C. Office became presidential April 1, 1912.

Thomas H. Dickens to be postmaster at Enfield, N. C., in place of Thomas H. Dickens. Incumbent's commission expired December 17, 1911.

Willis P. Edwards to be postmaster at Franklinton, N. C., in

place of Willis P. Edwards. Incumbent's commission expired February 11, 1912. Walter H. Everhart to be postmaster at Newton, N. C., in place of Walter H. Everhart. Incumbent's commission expired February 10, 1912.

John R. Gurganus to be postmaster at Vineland, N. C. Office became presidential July 1, 1910.

James W. Ingle to be postmaster at Elon College, N. C. Office

became presidential January 1, 1912.

James McN. Johnson to be postmaster at Aberdeen, N. C., in place of James McN. Johnson. Incumbent's commission expired January 28, 1912.

I. J. Frank Jones to be postmaster at Spray, N. C., in place of J. Sanford Patterson. Incumbent's commission expired

March 20, 1912.

William H. Keaton to be postmaster at Elizabeth City, N. C. in place of John P. Overman. Incumbent's commission expired May 14, 1912.

Samuel E. Marshall to be postmaster at Mount Airey, N. C., in

place of Robert T. Joyce, removed.

John C. Matthews to be postmaster at Spring Hope, N. C., in

place of Mack Brantley, deceased.

W. Eugene Miller to be postmaster at Lenoir, N. C., in place of W. Eugene Miller. Incumbent's commission expired December 17, 1911.

Lonnie E. Pickard to be postmaster at West Durham, N. C. in place of Lonnie E. Pickard. Incumbent's commission expired February 19, 1912.

William S. Saunders to be postmaster at Roanoke Rapids, N. C. Office became presidential January 1, 1911.

Henry T. Scarboro to be postmaster at Mount Gilead, N. C.

Office became presidential January 1, 1912. Carl W. Smith to be postmaster at Hamlet, N. C., in place of Elisha C. Terry. Incumbent's commission expired January 28, 1912

James E. Smith to be postmaster at Kittrell, N. C., in place of James E. Smith. Incumbent's commission expired February 12, 1912.

Thomas C. Smith to be postmaster at Rutherfordton, N. C. in place of Thomas C. Smith. Incumbent's commission expired April 28, 1912.

Isaac F. Snipes to be postmaster at Ahoskie, N. C. Office became presidential January 1, 1909.

NORTH DAKOTA.

W. William Beebe to be postmaster at Belfield, N. Dak., in

place of Roswell C. Davis, resigned.

John Berger to be postmaster at Richardton, N. Dak., in place of Charles C. Hill. Incumbent's commission expired February 19, 1912.

T. A. Evenson to be postmaster at McClusky, N. Dak., in place of Robert J. Saueressig, resigned.

John F. Faytle to be postmaster at McHenry, N. Dak., in place of George B. Mansfield, resigned.

OHIO.

Melissa Argo to be postmaster at Cleves, Ohio. Office be-

came presidential October 1, 1912.

Charles W. Bieser to be postmaster at Dayton, Ohio, in place of Frederick G. Withoft. Incumbent's commission expired February 28, 1912.

George C. Braden to be postmaster at Warren, Ohio, in place of George C. Braden. Incumbent's commission expires December 17, 1912. Kate V. Drinkle to be postmaster at Lancaster, Ohio, in place

of H. Clay Drinkle, deceased.

J. Winn Fuller to be postmaster at Wickliffe, Ohio. Office

became presidential October 1, 1912.

William C. Newell to be postmaster at Bainbridge, Ohio, in place of William C. Newell. Incumbent's commission expires December 17, 1912.

OKLAHOMA.

Earl V. Croxton to be postmaster at Medford, Okla., in place of Jacob P. Becker, resigned.

William I. Fisher to be postmaster at Cordell, Okla., in place

of Carlos C. Curtis, resigned.

William J. Hadlock to be postmaster at Foss, Okla., in place of Charles F. Hartronft. Incumbent's commission expired April 28, 1912.

Charles Turner Hocker to be postmaster at Purcell, Okla., in

place of L. D. Dickerson, resigned.

Jerman B. Morris to be postmaster at Hastings, Okla., in place of Newton S. Figley. Incumbent's commission expired February 28, 1912.

A. J. Thompson to be postmaster at Okarche, Okla., in place of A. J. Thompson. Incumbent's commission expires December 17, 1912.

OREGON.

A. H. Studer to be postmaster at Sumpter, Oreg., in place of Harvey S. Buck, removed.

Ben Weathers to be postmaster at Enterprise, Oreg., in place of Ben Weathers. Incumbent's commission expires December 14, 1912.

PENNSYLVANIA.

Jacob A. Bromer to be postmaster at Schwenkville, Pa., in place of Valentine G. Prizer, resigned.

William U. Carr to be postmaster at Wrightsville, Pa., in place of William H. Flora. Incumbent's commission expired May 14, 1912.

Thomas Garis to be postmaster at Port Carbon, Pa. Office became presidential October 1, 1912.

Harry C. Gibson to be postmaster at Harrisville, Pa. Office

became presidential January 1, 1912.

Jennings U. Kurtz to be postmaster at Berwick, Pa., in place of Jennings U. Kurtz. Incumbent's commission expires February 20, 1913.

Dorff A. Lahr to be postmaster at Millerstown, Pa., in place of Jerome B. Lahr, resigned.

Oakley W. Megargel to be postmaster at Mount Pocono, Pa. Office became presidential July 1, 1911.

Frank F. Morris to be postmaster at Dallas, Pa. Office be-

came presidential October 1, 1912.

Isaac W. Speakman to be postmaster at Westgrove, Pa., in place of William T. Dantz. Incumbent's commission expired February 15, 1911.

Henry M. Stetler to be postmaster at Wyomissing, Pa. Office became presidential October 1, 1912.

PORTO RICO.

Lee Nixon to be postmaster at San Juan, P. R., in place of Walter K. Landis, removed.

SOUTH CAROLINA.

W. Clarence Clinkscales to be postmaster at Belton, S. C., in place of W. Clarence Clinkscales. Incumbent's commission expires December 16, 1912.

Arthur R. Garner to be postmaster at Timmonsville, S. C., in place of Arthur R. Garner. Incumbent's commission expires December 16, 1912.

Roberta McAulay to be postmaster at Woodruff, S. C., in place of Roberta McAulay. Incumbent's commission expires January 12, 1913.

Rachel H. Minshall to be postmaster at Abbeville, S. C., in place of Frederic Minshall, deceased.

SOUTH DAKOTA.

Timothy Norton to be postmaster at Armour, S. Dak., in place of Ernest E. Edwards. Incumbent's commission expired May 22, 1912.

James D. Reeves to be postmaster at Groton, S. Dak., in place

of John G. Ropes, removed.

TENNESSEE.

William A. Anderson to be postmaster at Bellbuckle, Tenn., in place of William A. Anderson. Incumbent's commission expires December 16, 1912.

A. R. Appleby to be postmaster at Lexington, Tenn., in place of John L. Murray. Incumbent's commission expired January 31, 1912.

Vincent A. Biggs to be postmaster at Martin, Tenn., in place of W. H. Wilson. Incumbent's commission expired April 28,

Jesse L. Callahan to be postmaster at Sweetwater, Tenn., in place of Richard N. Hudson. Incumbent's commission expired January 31, 1912.

Madison T. Fouts to be postmaster at Cleveland, Tenn., in place of James I. Harrison. Incumbent's commission expired

April 28, 1912. John H. Latture to be postmaster at Winchester, Tenn., in place of Joseph C. Hale. Incumbent's commission expired Jan-

uary 21, 1909. John Rains to be postmaster at Etowah, Tenn., in place of John Rains. Incumbent's commission expired May 15, 1912.

Leonidas T. Reagor to be postmaster at Shelbyville, Tenn., in place of Leonidas T. Reagor. Incumbent's commission expired January 31, 1912.

Finis R. Sharp to be postmaster at Manchester, Tenn., in

place of Finis R. Sharp. Incumbent's commission expired January 31, 1912.

H. E. Smartt to be postmaster at Watertown, Tenn., in place of James A. Cox. Incumbent's commission expired May 23,

Cora E. Antram to be postmaster at Nocona, Tex., in place of William N. Merritt. Incumbent's commission expired April 28, 1912.

E. D. Bivens to be postmaster at Farmersville, Tex., in place

of Edward W. Morten, deceased.

Henry Bradford to be postmaster at Chillicothe, Tex., in place of John W. Hedley. Incumbent's commission expired April 2, 1912.

M. G. Brooks to be postmaster at Wortham, Tex., in place of George C. Ross, resigned.

McDougal Bybee to be postmaster at Childress, Tex., in place

of U. S. Weddington, removed.

W. B. Carson to be postmaster at Pilot Point, Tex., in place of W. B. Carson. Incumbent's commission expired May 22,

James I. Carter to be postmaster at Arlington, Tex., in place of James I. Carter. Incumbent's commission expired February 19, 1912.

Luther Cline to be postmaster at Emory, Tex. Office became presidential January 1, 1912.

Hugh B. Eades to be postmaster at Blossom, Tex., in place of

Newton H. Eades, deceased.

John F. Furlow to be postmaster at Alvord, Tex., in place of

Henry L. Sands, deceased.

Howell D. Greene to be postmaster at Sanger, Tex., in place of Howell D. Greene. Incumbent's commission expired April 2,

Fred P. Ingerson to be postmaster at Barstow, Tex., in place of Fred P. Ingerson. Incumbent's commission expired April 28,

Thomas Randall Keck to be postmaster at Cotulla, Tex., in place of Caroline Cotulla, deceased.

Ralph H. Kelly to be postmaster at Stanton, Tex., in place

of William B. Montgomery, resigned.
D. H. Kennett to be postmaster at Mercedes, Tex., in place

of Henry A. Appel, removed.

Henry Krabbenschmidt to be postmaster at Grand Prairle, Tex. Office became presidential January 1, 1912.

Cyrus L. McCullough to be postmaster at Iowa Park, Tex., in place of William L. Yanger, deceased.

William H. Mallory to be postmaster at Port Lavaca, Tex., in place of Charles Rubert. Incumbent's commission expired December 16, 1911.

Frank J. Meason to be postmaster at Crowell, Tex., in place

of Jacob A. Wright, removed.

John W. Miller to be postmaster at Dilley, Tex. Office became presidential October 1, 1912.

Albert J. Neece to be postmaster at Pecan Gap, Tex. Office

became presidential October 1, 1912.

William J. Porter to be postmaster at Mesquite, Tex., in place of Americus C. Nafus, removed.

Charles W. Showaker to be postmaster at Aransas Pass, Tex. Office became presidential April 1, 1910.

R. B. Slight to be postmaster at Alpine, Tex., in place of Louis W. Durrell. Incumbent's commission expired April 28, 1912.

B. F. Warnock to be postmaster at Dalhart, Tex., in place of Wesley J. Clarke, resigned.

Ross Williams to be postmaster at Jasper, Tex. Office became presidential January 1, 1911.

George Wohleb, jr., to be postmaster at Rogers, Tex., in place of Frank Leahy. Incumbent's commission expired April

Tillman F. Wolfe to be postmaster at Cross Plains, Tex. Office became presidential July 1, 1912.

VERMONT.

Nelson S. Wood to be postmaster at Fair Haven, Vt., in place of Charles E. Little, removed.

Cecil R. Crabill to be postmaster at New Market, Va., in place of Charles W. Wickes. Incumbent's commission expired May 13, 1912,

Roy T. Hart to be postmaster at Buena Vista, Va., in place of James M. Updike. Incumbent's commission expired April 21, 1912.

Alfred Hayes to be postmaster at Virgilina, Va., in place of William D. Amis. Incumbent's commission expired May 23, 1912

J. Minor Haynes to be postmaster at Cambria, Va., in place of Archie W. Moses. Incumbent's commission expired May 20,

D. H. Lewis to be postmaster at Chincoteague Island, Va., in place of John W. Field, deceased.

Edward A. Lindsey to be postmaster at Berryville, Va., in place of John R. Elder. Incumbent's commission expired April

Albert L. Taylor to be postmaster at Parksley, Va. Office became presidential October 1, 1911.

L. Bruce Wolfe to be postmaster at Mount Jackson, Va., in place of Albert A. Evans, deceased.

WASHINGTON.

Charles E. Leonard to be postmaster at Winlock, Wash., in place of John L. Gruber, resigned.

WEST VIRGINIA.

Albert Snedeker to be postmaster at Wellsburg, W. Va., in place of William R. Miller. Incumbent's commission expired February 4, 1912.

WISCONSIN

Fred A. Brandt to be postmaster at Sparta, Wis., in place of Fred A. Brandt. Incumbent's commission expires December 14.

Isa Faulds to be postmaster at Arcadia, Wis., in place of Isa Faulds. Incumbent's commission expires December 14, 1912.

W. A. Jones to be postmaster at Oconomowoc, Wis., in place

of John G. Gorth, removed.

Fred W. Kubasta to be postmaster at Merrill, Wis., in place of Christian N. Johnson. Incumbent's commission expired June 1, 1910.

George W. Leberman to be postmaster at Sheboygan, Wis., in place of Edward B. Mattoon, deceased.

Judson L. Marvin to be postmaster at Mauston, Wis., in place of Judson L. Marvin. Incumbent's commission expires December 14, 1912.

Margaret J. Perry to be postmaster at Marion, Wis., in place of Stephen L. Perry, deceased.

WYOMING.

Elizabeth W. Kieffer to be postmaster at Fort Russell, Wyo., in place of John F. Crowley, resigned.

HOUSE OF REPRESENTATIVES.

Tuesday, December 3, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Be graciously near to us, O God, our Father, as we thus try to draw near to Thee in spirit and in truth. Help us to seek first Thy kingdom and Thy righteousness, that all things may be added unto us. We are weak, Thou art mighty; impart unto us strength. Our knowledge is limited, Thou knowest all things; impart unto us wisdom that we may direct our knowledge. edge aright. We are selfish, Thou art gracious and kind; make us magnanimous in all our relationships, that Thy kingdom may come in our hearts through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT.

Messrs. Underwood, Johnson of Kentucky, and Mann, the committee appointed to wait on the President and inform him that a quorum of the House was present, appeared at the bar of the House.

Mr. UNDERWOOD. Mr. Speaker, I desire to report that the committee appointed by the House on yesterday to wait on the President of the United States, in company with a similar committee on the part of the Senate, have performed that function and the President directs us to say that he will communicate with the House in writing.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. SAMUEL W. SMITH, for four days, on account of important business.

To Mr. Bell of Georgia, for 10 days, on account of sickness. To Mr. Adamson, indefinitely, on account of serious illness in his family.

To Mr. Martin of Colorado, indefinitely, on account of sick-

To Mr. TAYLOR of Colorado, indefinitely, on account of the illness of his wife.

To Mr. Howard, indefinitely, on account of sickness in his

PROPOSED SIXTEENTH AMENDMENT TO THE CONSTITUTION.

The SPEAKER laid before the House the following communications, which were read:

STATE OF OHIO, EXECUTIVE DEPARTMENT,

To the honorable Speaker of the House of Representatives,

Care Clerk of House of Representatives,

Sir: By direction of the governor, in accord with the instruction of the senate joint resolution of the Ohio Legislature adopted January 13,

1911. I am herewith inclosing a copy of senate joint resolution No. 6, by Mr. Yount, ratifying the proposed sixteenth amendment to the Constitution of the United States.

Acknowledgment is respectfully requested.

Very truly, yours,

Geo. S. Long,

GEO. S. LONG, Secretary to the Governor.

Seventy-ninth general assembly, regular session. Mr. Yount.

Senate joint resolution 6.

Whereas both Houses of the Sixty-first Congress of the United States of America at its first session by a constitutional majority of two-thirds thereof made the following proposition to amend the Constitution of the United States of America in the following words, to wit:

"A joint resolution proposing an amendment to the Constitution of the United States.

United States.

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution, namely:

"'ART, XVI. The Congress shall have power to lay and collect taxes on incomes from whatever source derived without apportionment among the several States and without regard to any census or enumeration."

Therefore be it

Resolved by the Senate and House of Representaives of the State of Ohio, That the said proposed amendment to the Constitution of the United States of America be, and the same is hereby, ratified by the General Assembly of the State of Ohio; and further be it

Resolved, That the certified copies of this joint resolution be forwarded by the governor of this State to the Secretary of State at Washington and to the Presiding Officers of each House of the National Congress.

Congress.

I. W. V. Goshorn, clerk of Ohio Senate, certify the above and foregoing is a true and correct copy of original resolution passed by General Assembly of Ohio as shown from the records of both houses.

W. V. Goshorn,

Clerk of Ohio Senate.

STATE OF LOUISIANA,
DEPARTMENT OF STATE,
Baton Rouge, La., October 26, 1912.

Hon. Champ Clark.

Speaker of the House of Representatives Washington, D. C.

DEAR SIR: I am directed by His Excellency Luther E. Hall, governor of Louisiana, in compliance with act 47 of the General Assembly of the State of Louisiana for the year 1912, to transmit to you a certified copy of said act No. 47 of 1912. I have the honor to be, Yours, very obediently,

ALVIN E. HEBERT Secretary of State.

STATE OF LOUISIANA:

I, the undersigned secretary of state of the State of Louisiana, do hereby certify that the annexed and following one page contains a true and correct transcript of act No. 47 of the session acts of the General Assembly of the State of Louisiana for the year 1912, approved July 1, 1912, as is shown by comparing the same with the original act on file and of record in this office.

Given under my signature, authenticated with the impress of my seal of office, at the city of Baton Rouge, this 26th day of October, A. D. 1912.

A. D. 191 [SEAL.]

ALVIN E. HEBERT. Secretary of State.

Act. No. 47.

Act. No. 47.

House concurrent resolution 8. By Mr. Johnson. Ratifying the sixteenth amendment to the Constitution of the United States.

Whereas the Congress of the United States, on the — day of July, 1903, adopted a joint resolution proposing an amendment to the Constitution of the United States, as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein). That the following article is proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution:

"'Arr. XVI. The Congress shall have power to lay and collect taxes on incomes from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

And the foregoing amendment having been laid before the General Assembly of the State of Louisiana, That the foregoing amendment to the Constitution of the United States be, and the same is hereby, ratified, to all intents and purposes, as a part of the Constitution of the United States do forward to the President of the State of Louisiana is hereby requested to forward to the President of the United States and to the Secretary of State of the United States an authentic copy of the foregoing joint resolution.

L. E. Thomas,

E. E. THOMAS,

Speaker of the House of Representatives.
THOMAS C. BARRET,

Licutenant Governor and President of the Senate.

Approved, July 1, 1912.

L. E. HALL, Governor of the State of Louisiana.

A true copy.

ALVIN E. HEBERT, Secretary of State.

ORDER OF BUSINESS.

The SPEAKER. The Chair desires to make an announcement about the order of business for to-day. As soon as the gentleman from Missouri [Mr. Lloyd] presents some little matters, and the President's message is read, the Chair intends to recognize the gentleman from Tennessee [Mr. Sims] to call up a bill made privileged by a special order of the House in regard to the physical valuation of railroads.

CLERKS, ETC., TO EXPENDITURES COMMITTEES.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of the following privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 727 (H. Rept. 1259).

House resolution 727 (H. Rept. 1259).

Resolved, That there shall be paid out of the contingent fund of the House, for services of a clerk to each of the following-named committees, compensation at the rate of \$125 per month during the third session of the Sixty-second Congress, to wit:

Committee on Expenditures in the State Department;
Committee on Expenditures in the Treasury Department;
Committee on Expenditures in the War Department;
Committee on Expenditures in the Navy Department;
Committee on Expenditures in the Post Office Department;
Committee on Expenditures on Public Buildings;
Committee on Expenditures in the Interior Department;
Committee on Expenditures in the Department of Agriculture;
Committee on Expenditures in the Department of Commerce and Labor; and

Committee on Expenditures in the Department of Commerce and Labor; and
Committee on Expenditures in the Department of Justice.
And there shall also be paid out of the contingent fund of the House compensation at the rate of \$60 per month each, during the third session of the Sixty-second Congress, for the services of two messengers, to be appointed by the Doorkeeper, who shall perform messengerjanitor duty in the rooms of said committees on expenditures in the several departments.

Mr. LLOYD. Mr. Speaker, this resolution provides for the several clerks who were assigned to these several expenditure committees in the extra session and also in the regular session. It provides for no additional help beyond that which we had in those sessions.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the resolution was agreed to.

SESSION CLERKS TO COMMITTEES.

Mr. LLOYD. Mr. Speaker, I ask unanimous consent for the present consideration of the following resolution, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 726 (H. Rept. 1258).

Resolved, That clerks to committees of the House during the session provided for by the legislative, executive, and judicial appropriation act for the fiscal year ending June 30, 1913, be, and they are hereby, assigned for the present session of Congress to the following committees, to wit.

signed for the present session of Congress to the London to wit:

Committee on Education.

Committee on Mines and Mining.

Committee on Reform in the Civil Service.

Committee on Alcoholic Liquor Traffic.

Committee on Election of President, Vice President, and Representatives in Congress.

Committee on Disposition of Useless Executive Papers.

Committee on Enrolled Bills.

Committee on Invalid Pensions (assistant clerk).

The SPEAKER. Is there objection?
Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Missouri [Mr. Lloyd] whether this is identical with the resolution passed heretofore? Mr. LLOYD. It is identical with the resolution passed at the last session.

The SPEAKER. Is there objection?

There was no objection.

The resolution was agreed to.

MESSENGER FOR POSTMASTER OF HOUSE,

Mr. LLOYD. Mr. Speaker, I ask unanimous consent for the present consideration of the following privileged resolution from the Committee on Accounts.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 717 (H. Rept. 1256).

Resolved, That the Postmaster of the House be, and he is hereby, authorized to appoint a messenger who shall be paid out of the contingent fund of the House at the rate of \$100 per month during the third session of the Sixty-second Congress.

Mr. LLOYD. Mr. Speaker, this messenger has been heretofore provided, but not provided under the legislative bill, and he has been paid from time to time out of the contingent fund. It does not add anything to the pay roll beyond that which we had in the last session.

The SPEAKER. Is there objection?

There was no objection.

The resolution was agreed to.

MESSENGER FOR COMMITTEE ON DISPOSITION OF USELESS PAPERS.

Mr. LLOYD. Mr. Speaker, I ask unanimous consent for the present consideration of the following privileged resolution from the Committee on Accounts.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 721 (H. Rept. 1257).

Resolved, That the chairman of the Joint Select Committee on Disposition of Useless Executive Papers be, and he is hereby, authorized to appoint a messenger to said committee, who shall be paid out of the contingent fund of the House at the rate of \$60 per month for

Mr. MANN. Is that the same provision which was made before?

Mr. LLOYD. This is the same provision that was made at the last session. This clerk was provided for then.

The SPEAKER. The question is on agreeing to the reso-

Intion.

The question was taken, and the resolution was agreed to.

MESSENGER TO OFFICIAL REPORTERS OF DEBATES.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of the following privileged resolution from the Committee on Accounts

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

House resolution 728.

Resolved. That the official reporters of debates be, and they are hereby, authorized to appoint a messenger, who shall be paid out of the contingent fund of the House at the rate of \$60 per month during the third session of the Sixty-second Congress.

Report (No. 1261) to accompany House resolution 728

The Committee on Accounts has had under consideration 128.

The Committee on Accounts has had under consideration the accompanying resolution, providing a messenger for the official reporters of debates. The same provision as made at last session is herein asked, and believing it a necessary provision and the resolution a proper one its adoption is recommended.

Mr. LLOYD. Mr. Speaker, this officer was provided in the last Congress and paid out of the contingent fund. The resolution adds nothing to the expense beyond that authorized by the last session of Congress.

The SPEAKER. The question is on agreeing to the reso-

Intion.

The question was taken, and the resolution was agreed to.

ADDITIONAL ASSISTANT CLERK, COMMITTEE ON THE JUDICIARY.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of the following privileged resolution from the Committee on Accounts

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

House resolution 722.

Resolved, That the Committee on the Judiciary is hereby authorized to employ an additional assistant clerk at the salary of \$6 per day.

With an amendment set forth in the report, as follows:

Report (No. 1260) to accompany House resolution 722. he Committee on Accounts, to whom was referred House resolution 722, have had the same under consideration and recommend the

After the word "day," in line 3, insert "during the third session of the Sixty-second Congress, to be paid out of the contingent fund of the

House."

The additional assistant clerk herein provided for was found to be necessary during the last session, and believing that the necessity still exists, the committee recommends the adoption of the resolution as amended.

Mr. LLOYD. Mr. Speaker, during the last session of Congress there was an extra clerk provided for the Committee on the Judiciary, and this is to provide for an additional clerk to the Committee on the Judiciary during the present session of Con-

The SPEAKER. The question is on agreeing to the amendment

The amendment was agreed to.

The SPEAKER. The question is on agreeing to the resolution as amended.

The question was taken, and the resolution as amended was agreed to.

MESSAGES FROM THE PRESIDENT OF THE UNITED STATES.

Sundry messages, in writing, from the President of the United States were communicated to the House of Representatives by Mr. Latta, one of his secretaries.

REPORT OF THE COMMISSION OF FINE ARTS.

The SPEAKER laid before the House the following message from the President of the United States, which was read and, with the accompanying documents, referred to the Committee on the Library and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the information of the Congress the report of the Commission of Fine Arts for the fiscal year ended June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, December 3, 1912.

INTERNATIONAL WATERWAYS COMMISSION (S. DOC. NO. 959).

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with the accompanying documents, referred to the Committee on Rivers and Harbors and ordered to be printed:

To the Senate and House of Representatives:

The act making appropriations for sundry civil expenses of the Government approved August 24, 1912, provided for the International Waterways Commission in the following terms,

For continuing until December 31, 1912, the work of investigation and report by the International Waterways Commission, authorized by section 4 of the river and harbor act approved June 13, 1902, \$10,000: Provided, That report as to the progress of the work be made by the American commissioners to Congress at the beginning of the next session.

The American commissioners have rendered a full report of all their acts up to this time, which I herewith transmit. It appears from this report that the commission still has two pieces

of work to complete before it can properly go out of existence.

One is its final report upon a dam at the outlet of Lake Erie, a difficult and important question, upon which it has expended a vast amount of labor. It should be allowed to finish this work to clear the ground for its successor, the International Joint Commission, which will consider all future questions of this nature. I am informed that the report has been delayed, and may be further delayed, by the illness and absence in Europe of one of the Canadian engineers, but that it can probably be completed within a few months—certainly before the completion of the other piece of unfinished work.

The other is to ascertain and reestablish, to mark upon the ground, and to delineate upon modern charts the location of a portion of the international boundary between the United States and Canada, which work was specifically assigned to the International Waterways Commission by article 4 of the treaty between the United States and Great Britain dated April 11, 1908. This work, the commission states, can not be completed by December 31, 1912, but will require from a year to 15 months' more time beyond that date.

The work of the commission has been of a high order and has been prosecuted with diligence. International courtesy, as well as treaty obligations, require that the commission be allowed to complete its work. I recommend that the items to be found in the estimates for its support during the second half of the current fiscal year and for a part of the next fiscal year receive

the favorable consideration of Congress.

WM. H. TAFT.

THE WHITE House, December 3, 1912.

OUR FOREIGN RELATIONS (H. DOC. NO. 927).

The SPEAKER also laid before the House the following message from the President of the United States, which was read and referred to the Committee of the Whole House on the state of the Union and ordered to be printed:

To the Senate and House of Representatives:

The foreign relations of the United States actually and potentially affect the state of the Union to a degree not widely realized and hardly surpassed by any other factor in the welfare of the whole Nation. The position of the United States in the moral, intellectual, and material relations of the family of nations should be a matter of vital interest to every patriotic The national prosperity and power impose upon us duties which we can not shirk if we are to be true to our ideals. The tremendous growth of the export trade of the United States has already made that trade a very real factor in the industrial and commercial prosperity of the country. With the development of our industries the foreign commerce of the United States must rapidly become a still more essential factor in its economic welfare. Whether we have a farseeing and wise diplomacy and are not recklessly plunged into unnecessary wars, and whether our foreign policies are based upon an intelligent grasp of present-day world conditions and a clear view of the potentialities of the future, or are governed by a temporary and timid expediency or by narrow views befitting an infant nation, are questions in the alternative consideration of which must convince any thoughtful citizen that no department of national polity offers greater opportunity for promoting the interests of the whole people on the one hand, or greater chance on the other of permanent national injury, than that which deals with the foreign relations of the United States.

The fundamental foreign policies of the United States should be raised high above the conflict of partisanship and wholly dissociated from differences as to domestic policy. In its foreign affairs the United States should present to the world a united front. The intellectual, financial, and industrial interests of the country and the publicist, the wage earner, the farmer,

and citizen of whatever occupation must cooperate in a spirit of high patriotism to promote that national solidarity which is indispensable to national efficiency and to the attainment of national ideals.

The relations of the United States with all foreign powers remain upon a sound basis of peace, harmony, and friendship. A greater insistence upon justice to American citizens or interests wherever it may have been denied and a stronger emphasis of the need of mutuality in commercial and other relations have only served to strengthen our friendships with foreign countries by placing those friendships upon a firm foundation of realities as well as aspirations.

Before briefly reviewing the more important events of the last year in our foreign relations, which it is my duty to do as charged with their conduct and because diplomatic affairs are not of a nature to make it appropriate that the Secretary of State make a formal annual report, I desire to touch upon some of the essentials to the safe management of the foreign relations of the United States and to endeavor, also, to define clearly certain concrete policies which are the logical modern corollaries of the undisputed and traditional fundamentals of the foreign policy of the United States.

REORGANIZATION OF THE STATE DEPARTMENT.

At the beginning of the present administration the United States having fully entered upon its position as a world power, with the responsibilities thrust upon it by the results of the Spanish-American War, and already engaged in laying the groundwork of a vast foreign trade upon which it should one day become more and more dependent, found itself without the machinery for giving thorough attention to, and taking effective action upon, a mass of intricate business vital to American

interests in every country in the world.

The Department of State was an archaic and inadequate machine lacking most of the attributes of the foreign office of any great modern power. With an appropriation made upon my recommendation by the Congress on August 5, 1909, the Department of State was completely reorganized. There were created ment of State was completely reorganized.

Divisions of Latin-American Affairs and of Far Eastern, Near

Contains and Western European Affairs. To these divisions were called from the foreign service diplomatic and consular officers possessing experience and knowledge gained by actual service in different parts of the world, and thus familiar with political and commercial conditions in the regions concerned. The work was highly specialized. The result is that where previously this Government from time to time would emphasize in its foreign relations one or another policy, now American interests in every quarter of the globe are being cultivated with This principle of politico-geographical division possesses also the good feature of making possible rotation between the officers of the departmental, the diplomatic, and the consular branches of the foreign service, and thus keeps the whole diplomatic and consular establishments under the Department of State in close touch and equally inspired with the aims and policy of the Government. Through the newly created Division of Information the foreign service is kept fully informed of what transpires from day to day in the international relations of the country, and contemporary foreign comment affecting American interests is promptly brought to the attention of the department. The law offices of the department were greatly strengthened. There were added foreign-trade advisers to cooperate with the diplomatic and consular bureaus and the politico-geographical divisions in the innumerable matters where commercial diplomacy or consular work calls for such special knowledge. The same officers, together with the rest of the new organization, are able at all times to give to American citizens accurate information as to conditions in foreign countries with which they have business and likewise to cooperate more effectively with the Congress and also with the other executive departments.

MERIT SYSTEM IN CONSULAR AND DIPLOMATIC CORPS.

Expert knowledge and professional training must evidently be the essence of this reorganization. Without a trained for eign service there would not be men available for the work in the reorganized Department of State. President Cleveland had taken the first step toward introducing the merit system in the foreign service. That had been followed by the application of the merit principle, with excellent results, to the entire consular branch. Almost nothing, however, had been done in this direction with regard to the Diplomatic Service. In this age of commercial diplomacy it was evidently of the first importance to train an adequate personnel in that branch of the service. Therefore, on November 26, 1909, by an Executive order I placed the Diplomatic Service up to the grade of secretary of embassy, inclusive, upon exactly the same strict nonpartisan basis of the merit system, rigid examination for appointment and pro-

motion only for efficiency, as had been maintained without exception in the Consular Service.

STATISTICS AS TO MERIT AND NONPARTISAN CHARACTER OF APPOINTMENTS. How faithtful to the merit system and how nonpartisan has been the conduct of the Diplomatic and Consular Services in the last four years may be judged from the following: Three ambassadors now serving held their present rank at the beginning of my administration. Of the 10 ambassadors whom I have appointed, 5 were by promotion from the rank of minister. Nine ministers now serving held their present rank at the beginning of the administration. Of the 30 ministers whom I have appointed, 11 were promoted from the lower grades of the foreign service or from the Department of State. Of the 19 missions in Latin America, where our relations are close and our interest is great, 15 chiefs of mission are service men, 3 having entered the service during this administration. The 37 secretaries of embassy or legation who have received their initial appointments after passing successfully the required examination were chosen for ascertained fitness, without regard to political affiliations. A dearth of candidates from Southern and Western States has alone made it impossible thus far completely to equalize all the States' representations in the foreign service. In the effort to equalize the representation of the various States in the Consular Service I have made 16 of the 29 new appointments as consul which have occurred during my administration from the Southern States. This is 55 per cent. Every other consular appointment made, including the promotion of 11 young men from the consular assistant and student interpreter corps, has been by promotion or transfer, based solely upon efficiency shown in the service.

In order to assure to the business and other interests of the United States a continuance of the resulting benefits of this reform, I earnestly renew my previous recommendations of legislation making it permanent along some such lines as those of

the measure now pending in Congress.

LARGER PROVISION FOR EMBASSIES AND LEGATIONS AND FOR OTHER EXPENSES OF OUR FOREIGN REPRESENTATIVES RECOMMENDED.

In connection with legislation for the amelioration of the foreign service, I wish to invite attention to the advisability of placing the salary appropriations upon a better basis. I believe that the best results would be obtained by a moderate scale of salaries, with adequate funds for the expenses of proper representation, based in each case upon the scale and cost of living at each post, controlled by a system of accounting, and under the

general direction of the Department of State.

In line with the object which I have sought of placing our foreign service on a basis of permanency, I have at various times advocated provision by Congress for the acquisition of Government-owned buildings for the residence and offices of our diplomatic officers, so as to place them more nearly on an equality with similar officers of other nations and to do away with the discrimination which otherwise must necessarily be made, in some cases, in favor of men having large private fortunes. The act of Congress which I approved on February 17, 1911, was a right step in this direction. The Secretary of State has already made the limited recommendations permitted by the act for any one year, and it is my hope that the bill introduced in the House of Representatives to carry out these recommendations will be favorably acted on by the Congress during its present session.

In some Latin-American countries the expense of Government-owned legations will be less than elsewhere, and it is certainly very urgent that in such countries as some of the Republics of Central America and the Caribbean, where it is peculiarly difficult to rent suitable quarters, the representatives of the United States should be justly and adequately provided with dignified and suitable official residences. Indeed, it is high time that the dignity and power of this great Natlon should be fittingly signalized by proper buildings for the occupancy of the Nation's representatives everywhere abroad.

DIPLOMACY A HANDMAID OF COMMERCIAL INTERCOURSE AND PEACE.

The diplomacy of the present administration has sought to respond to modern ideas of commercial intercourse. This policy has been characterized as substituting dollars for bullets. It is one that appeals alike to idealistic humanitarian sentiments, to the dictates of sound policy and strategy, and to legitimate commercial aims. It is an effort frankly directed to the increase of American trade upon the axiomatic principle that the Government of the United States shall extend all proper support to every legitimate and beneficial American enterprise abroad. How great have been the results of diplomacy, coupled with the maximum and minimum provision of the tariff law, will be seen by some consideration of the wonderful increase in the export trade of the United States.

Because modern diplomacy is commercial, there has been a disposition in some quarters to attribute to it none but materialistic aims. How strikingly erroneous is such an impression may be seen from a study of the results by which the diplomacy of the United States can be judged.

SUCCESSFUL EFFORTS IN PROMOTION OF PEACE.

In the field of work toward the ideals of peace this Government negotiated, but to my regret was unable to consummate, two arbitration treaties which set the highest mark of the aspiration of nations toward the substitution of arbitration and reason for war in the settlement of international disputes. Through the efforts of American diplomacy several wars have been prevented or ended. I refer to the successful tripartite mediation of the Argentine Republic, Brazil, and the United States between Peru and Ecuador; the bringing of the boundary dispute between Panama and Costa Rica to peaceful arbitration; the staying of warlike preparations when Haiti and the Dominican Republic were on the verge of hostilities; the stopping of a war in Nicaragua; the halting of internecine strife in The Government of the United States was thanked for its influence toward the restoration of amicable relations between the Argentine Republic and Bolivia. The diplomacy of the United States is active in seeking to assuage the remaining ill-feeling between this country and the Republic of Colombia In the recent civil war in China the United States successfully joined with the other interested powers in urging an early cessation of hostilities. An agreement has been reached between the Governments of Chile and Peru whereby the celebrated Tacna-Arica dispute, which has so long embittered international relations on the west coast of South America, has at last been adjusted. Simultaneously came the news that the boundary dispute between Peru and Ecuador had entered upon a stage of amicable settlement. The position of the United States in reference to the Tacna-Arica dispute between Chile and Peru has been one of nonintervention, but one of friendly influence and pacific counsel throughout the period during which the dispute in question has been the subject of interchange of views between this Government and the two Governments immediately concerned. In the general easing of international tension on the west coast of South America the tripartite mediation, to which I have referred, has been a most potent and beneficent factor.

CHINA.

In China the policy of encouraging financial investment to enable that country to help itself has had the result of giving new life and practical application to the open-door policy. consistent purpose of the present administration has been to encourage the use of American capital in the development of China by the promotion of those essential reforms to which China is pledged by treaties with the United States and other powers. The hypothecation to foreign bankers in connection with certain industrial enterprises, such as the Hukuang railways, of the national revenues upon which these reforms depended, led the Department of State early in the administration to demand for American citizens participation in such enterprises, in order that the United States might have equal rights and an equal voice in all questions pertaining to the disposition of the public revenues concerned. The same policy of promoting international accord among the powers having similar treaty rights as ourselves in the matters of reform, which could not be put into practical effect without the common consent of all, was likewise adopted in the case of the loan desired by China for the reform of its currency. The principle of international cooperation in matters of common interest upon which our policy had already been based in all of the above instances has admittedly been a great factor in that concert of the powers which has been so happily conspicuous during the perilous period of transition through which the great Chinese nation has

CENTRAL AMERICA NEEDS OUR HELP IN DEBT ADJUSTMENT.

In Central America the aim has been to help such countries as Nicaragua and Honduras to help themselves. They are the immediate beneficiaries. The national benefit to the United States is twofold. First, it is obvious that the Monroe doctrine is more vital in the neighborhood of the Panama Canal and the zone of the Caribbean than anywhere else. There, too, the maintenance of that doctrine falls most heavily upon the United States. It is therefore essential that the countries within that sphere shall be removed from the jeopardy involved by heavy foreign debt and chaotic national finances and from the ever-present danger of international complications due to disorder at home. Hence the United States has been glad to encourage and support American bankers who were willing to lend a helping hand to the financial rehabilitation of such countries, because this financial rehabilitation and the protection of their customhouses from

being the prey of would-be dictators would remove at one stroke the menace of foreign creditors and the menace of revolutionary disorder.

The second advantage to the United States is one affecting chiefly all the southern and Gulf ports and the business and industry of the South. The Republics of Central America and the Caribbean possess great natural wealth. They need only a measure of stability and the means of financial regeneration to enter upon an era of peace and prosperity, bringing profit and happiness to themselves, and at the same time creating conditions sure to lead to a flourishing interchange of trade with this country.

I wish to call your especial attention to the recent occurrences in Nicaragua, for I believe the terrible events recorded there during the revolution of the past summer—the useless loss of life, the devastation of property, the bombardment of defenseless cities, the killing and wounding of women and children, the torturing of noncombatants to exact contributions, and the suffering of thousands of human beings—might have been averted had the Department of State, through approval of the loan convention by the Senate, been permitted to carry out its now well-developed policy of encouraging the extending of financial aid to weak Central American States, with the primary objects of avoiding just such revolutions by assisting those Republics to rehabilitate their finances, to establish their currency on a stable basis, to remove the customhouses from the danger of revolutions by arranging for their secure administration, and to establish reliable banks.

During this last revolution in Nicaragua, the Government of that Republic having admitted its inability to protect American life and property against acts of sheer lawlessness on the part of the malcontents, and having requested this Government to assume that office, it became necessary to land over 2,000 marines and bluejackets in Nicaragua. Owing to their presence the constituted Government of Nicaragua was free to devote its attention wholly to its internal troubles, and was thus enabled to stamp out the rebellion in a short space of time. When the Red Cross supplies sent to Granada had been exhausted, 8,000 persons having been given food in one day upon the arrival of the American forces, our men supplied other unfortunate, needy Nicaraguans from their own haversacks. I wish to congratulate the officers and men of the United States Navy and Marine Corps who took part in reestablishing order in Nicaragua upon their splendid conduct, and to record with sorrow the death of seven American marines and bluejackets. Since the reestablishment of peace and order, elections have been held amid conditions of quiet and tranquillity. Nearly all the American marines have now been withdrawn. The country should soon be on the road to recovery. The only apparent danger now threatening Nicaragua arises from the shortage of funds. Although American bankers have already rendered assistance, they may naturally be leath to advance a loan adequate to set the country upon its feet without the support of some such convention as that of June, 1911, upon which the Senate has not yet acted.

ENFORCEMENT OF NEUTRALITY LAWS.

In the general effort to contribute to the enjoyment of peace by these Republics which are near neighbors of the United States, the administration has enforced the so-called neutrality statutes with a new vigor, and those statutes were greatly strengthened in restricting the exportation of arms and munitions by the joint resolution of last March. It is still a regrettable fact that certain American ports are made the rendezvous of professional revolutionists and others engaged in intrigue against the peace of those Republics. It must be admitted that occasionally a revolution in this region is justified as a real popular movement to throw off the shackles of a vicious and tyrannical government. Such was the Nicaraguan revolution against the Zelaya régime. A nation enjoying our liberal institutions can not escape sympathy with a true popular movement, and one so well justified. In very many cases, however, revolutions in the Republics in question have no basis in principle, but are due merely to the machinations of conscienceless and ambitious men, and have no effect but to bring new suffering and fresh burdens to an already oppressed people. The question whether the use of American ports as foci revolutionary intrigue can be best dealt with by a further amendment to the neutrality statutes or whether it would be safer to deal with special cases by special laws is one worthy of the careful consideration of the Congress.

VISIT OF SECRETARY KNOX TO CENTRAL AMERICA AND THE CARIBGEAN.

Impressed with the particular importance of the relations between the United States and the Republics of Central America and the Caribbean region, which of necessity must become still more intimate by reason of the mutual advantages which will be presented by the opening of the Panama Canal, I directed

the Secretary of State last February to visit these Republics for the purpose of giving evidence of the sincere friendship and good will which the Government and people of the United States bear toward them. Ten Republics were visited. Everywhere he was received with a cordiality of welcome and a generosity of hospitality such as to impress me deeply and to merit our warmest thanks. The appreciation of the Governments and peoples of the countries visited, which has been appropriately shown in various ways, leaves me no doubt that his visit will conduce to that closer union and better understanding between the United States and those Republics which I have had it much at heart to promote.

OUR MEXICAN POLICY.

For two years revolution and counter-revolution have distraught the neighboring Republic of Mexico. Brigandage has involved a great deal of depredation upon foreign interests. There have constantly recurred questions of extreme delicacy. On several occasions very difficult situations have arisen on our Throughout this trying period the policy of the United States has been one of patient nonintervention, steadfast recognition of constituted authority in the neighboring nation, and the exertion of every effort to care for American interests. I profoundly hope that the Mexican nation may soon resume the path of order, prosperity, and progress. To that nation in its sore troubles the sympathetic friendship of the United States has been demonstrated to a high degree. There were in Mexico at the beginning of the revolution some thirty or forty thousand American citizens engaged in enterprises contributing greatly to the prosperity of that Republic and also benefiting the important trade between the two countries. The investment of American capital in Mexico has been estimated at \$1,000,000,000. The responsibility of endeavoring to safeguard those interests and the dangers inseparable from propinguity to so turbulent a situation have been great, but I am happy to have been able to adhere to the policy above outlined-a policy which I hope may be soon justified by the complete success of the Mexican people in regaining the blessings of peace and good order.

AGRICULTURAL CREDITS.

A most important work, accomplished in the past year by the American diplomatic officers in Europe, is the investigation of the agricultural credit system in the European countries, Both as a means to afford relief to the consumers of this country through a more thorough development of agricultural resources and as a means of more sufficiently maintaining the agricultural population, the project to establish credit facilities for the farmers is a concern of vital importance to this Nation. No evidence of prosperity among well-established farmers should blind us to the fact that lack of capital is preventing a development of the Nation's agricultural resources and an adequate increase of the land under cultivation; that agricultural production is fast falling behind the increase in population; and that, in fact, although these well-established farmers are maintained in increasing prosperity because of the natural increase in population, we are not developing the industry of We are not breeding in proportionate numbers a agriculture. race of independent and independence-loving landowners, for a lack of which no growth of cities can compensate. farmers have been our mainstay in times of crisis, and in future it must still largely be upon their stability and common sense that this democracy must rely to conserve its principles of selfgovernment.

The need of capital which American farmers feel to-day had been experienced by the farmers of Europe, with their centuries-old farms, many years ago. The problem had been successfully solved in the Old World and it was evident that the farmers of this country might profit by a study of their systems. I therefore ordered, through the Department of State, an investigation to be made by the diplomatic officers in Europe, and I have laid the results of this investigation before the governors of the various States with the hope that they will be used to advantage in their forthcoming meeting.

INCREASE OF FOREIGN TRADE.

In my last annual message I said that the fiscal year ended June 30, 1911, was noteworthy as marking the highest record of exports of American products to foreign countries. The fiscal year 1912 shows that this rate of advance has been maintained, the total domestic exports having a valuation approximately of \$2,200,000,000, as compared with a fraction over \$2,000,000,000 the previous year. It is also significant that manufactured and partly manufactured articles continue to be the chief commodities forming the volume of our augmented exports, the demands of our own people for consumption requiring that an

increasing proportion of our abundant agricultural products be kept at home. In the fiscal year 1911 the exports of articles in the various stages of manufacture, not including foodstuffs partly or wholly manufactured, amounted approximately to \$907,500,000. In the fiscal year 1912 the total was nearly \$1,022,000,000, a gain of \$114,000,000.

ADVANTAGE OF MAXIMUM AND MINIMUM TARIFF PROVISION,

The importance which our manufactures have assumed in the commerce of the world in competition with the manufactures of other countries again draws attention to the duty of this Government to use its utmost endeavors to secure impartial treatment for American products in all markets. Healthy commercial rivalry in international intercourse is best assured by the possession of proper means for protecting and promoting our eign trade. It is natural that competitive countries should view with some concern this steady expansion of our commerce. If in some instances the measure taken by them to meet it are not entirely equitable, a remedy should be found. In former messages I have described the negotiations of the Department of State with foreign Governments for the adjustment of the maximum and minimum tariff as provided in section 2 of the tariff law of 1909. The advantages secured by the adjustment of our trade relations under this law have continued during the last year, and some additional cases of discriminatory treatment of which we had reason to complain have been removed. The Department of State has for the first time in the history of this country obtained substantial most-favored-nation treatment from all the countries of the world. There are, however, other inan the countries of the world. There are, however, other instances which, while apparently not constituting undue discrimination in the sense of section 2, are nevertheless exceptions to the complete equity of tariff treatment for American products that the Department of State consistently has sought to obtain for American commerce abroad.

NECESSITY FOR SUPPLEMENTARY LEGISLATION.

These developments confirm the opinion conveyed to you in my annual message of 1911, that while the maximum and minimum provision of the tariff law of 1909 has been fully justified by the success achieved in removing previously existing undue discriminations against American products, yet experience has shown that this feature of the law should be amended in such way as to provide a fully effective means of meeting the varying degrees of discriminatory treatment of American commerce in foreign countries still encountered, as well as to protect against injurious treatment on the part of foreign Governments, through either legislative or administrative measures, the financial interests abroad of American citizens whose enterprises enlarge the market for American commodities.

I can not too strongly recommend to the Congress the passage of some such enabling measure as the bill which was recommended by the Secretary of State in his letter of December 13, 1911. The object of the proposed legislation is, in brief, to enable the Executive to apply, as the case may require, to any or all commodities, whether or not on the free list from a country which discriminates against the United States, a graduated scale of duties up to the maximum of 25 per cent ad valorem provided in the present law. Flat tariffs are out of date. Nations no longer accord equal tariff treatment to all other nations irrespective of the treatment from them received. Such a flexible power at the command of the Executive would serve to moderate any unfavorable tendencies on the part of those countries from which the importations into the United States are substantially confined to articles on the free list as well as of the countries which find a lucrative market in the United States for their products under existing customs rates. It is very necessary that the American Government should be equipped with weapons of negotiation adapted to modern economic conditions, in order that we may at all times be in a position to gain not only technically just but actually equitable treatment for our trade, and also for American enterprise and vested interests abroad.

BUSINESS SECURED TO OUR COUNTRY BY DIRECT OFFICIAL EFFORT.

As illustrating the commercial benefits to the Nation derived from the new diplomacy and its effectiveness upon the material as well as the more ideal side, it may be remarked that through direct official efforts alone there have been obtained in the course of this administration, contracts from foreign Governments involving an expenditure of \$50,000,000 in the factories of the United States. Consideration of this fact and some reflection upon the necessary effects of a scientific tariff system and a foreign service alert and equipped to cooperate with the business men of America carry the conviction that the gratifying increase in the export trade of this country is, in substantial amount, due to our improved governmental methods of protecting and stimulating it. It is germane to these observations

to remark that in the two years that have elapsed since the successful negotiation of our new treaty with Japan, which at the time seemed to present so many practical difficulties, our export trade to that country has increased at the rate of over \$1,000,000 a month. Our exports to Japan for the year ended June 30, 1910, were \$21,959,310, while for the year ended June 30, 1912, the exports were \$53,478,046, a net increase in the sale of American products of nearly 150 per cent.

SPECIAL CLAIMS ARBITRATION WITH GREAT BRITAIN.

Under the special agreement entered into between the United States and Great Britain on August 18, 1910, for the arbitration of outstanding pecuniary claims, a schedule of claims and the terms of submission have been agreed upon by the two Governments, and together with the special agreement were approved by the Senate on July 19, 1911, but in accordance with the terms of the agreement they did not go into effect until confirmed by the two Governments by an exchange of notes, which was done on April 26 last. Negotiations are still in progress for a supplemental schedule of claims to be submitted to arbitration under this agreement, and meanwhile the necessary preparations for the arbitration of the claims included in the first schedule have been undertaken and are being carried on under the authority of an appropriation made for that purpose at the last session of Congress. It is anticipated that the two Governments will be prepared to call upon the arbitration tribunal, established under this agreement, to meet at Washington early next year to proceed with this arbitration.

FUR SEAL TREATY AND NEED FOR AMENDMENT OF OUR STATUTE.

The act adopted at the last session of Congress to give effect to the fur-seal convention of July 7, 1911, between Great Britain, Japan, Russia, and the United States provided for the suspension of all land killing of seals on the Pribilof Islands for a period of five years, and an objection has now been presented to this provision by the other parties in interest, which raises the issue as to whether or not this prohibition of land killing is inconsistent with the spirit, if not the letter, of the treaty stipu-The justification for establishing this close season depends, under the terms of the convention, upon how far, if at all, it is necessary for protecting and preserving the American fur-seal herd and for increasing its number. This is a question seal herd and for increasing its number. This is a question requiring examination of the present condition of the herd and the treatment which it needs in the light of actual experience and scientific investigation. A careful examination of the subject is now being made, and this Government will soon be in possession of a considerable amount of new information about the American seal herd, which has been secured during the past season and will be of great value in determining this question; and if it should appear that there is any uncertainty as to the real necessity for imposing a close season at this time I shall take an early opportunity to address a special message to Congress on this subject, in the belief that this Government should yield on this point rather than give the slightest ground for the charge that we have been in any way remiss in observing our treaty obligations.

FINAL SETTLEMENT OF NORTH ATLANTIC FISHERIES DISPUTE.

On the 20th of July last an agreement was concluded between the United States and Great Britain adopting, with certain modifications, the rules and method of procedure recommended in the award rendered by the North Atlantic Coast Fisheries Arbitration Tribunal on September 7, 1910, for the settlement hereafter, in accordance with the principles laid down in the award, of questions arising with reference to the exercise of the American fishing liberties under article 1 of the treaty of October 20, 1818, between the United States and Great Britain. This agreement received the approval of the Senate on August 1 and was formally ratified by the two Governments on Novem-The rules and a method of procedure embodied in the award provided for determining by an impartial tribunal the reasonableness of any new fishery regulations on the treaty coasts of Newfoundland and Canada before such regulations could be enforced against American fishermen exercising their treaty liberties on those coasts, and also for determining the delimitation of bays on such coasts more than 10 miles wide, in accordance with the definition adopted by the tribunal of the meaning of the word "bays" as used in the treaty. In the subsequent negotiations between the two Governments, undertaken for the purpose of giving practical effect to these rules and methods of procedure, it was found that certain modifications therein were desirable from the point of view of both Governments, and these negotiations have finally resulted in the agreement above mentioned by which the award recommendations as modified by mutual consent of the two Governments are finally adopted and made effective, thus bringing this century-old controversy to a final conclusion, which is equally beneficial and satisfactory to both Governments.

IMPERIAL VALLEY AND MEXICO.

In order to make possible the more effective performance of the work necessary for the confinement in their present channel of the waters of the lower Colorado River, and thus to protect the people of the Imperial Valley, as well as in order to reach with the Government of Mexico an understanding regarding the distribution of the waters of the Colorado River, in which both Governments are much interested, negotiations are going forward with a view to the establishment of a preliminary Colorado River commission, which shall have the powers necessary to enable it to do the needful work and with authority to study the question of the equitable distribution of the waters. There is every reason to believe that an understanding upon this point will be reached and that an agreement will be signed in the near future.

CHAMIZAL DISPUTE.

In the interest of the people and city of El Paso this Government has been assiduous in its efforts to bring to an early settlement the long-standing Chamizal dispute with Mexico. Much has been accomplished, and while the final solution of the dispute is not immediate, the favorable attitude lately assumed by the Mexican Government encourages the hope that this troublesome question will be satisfactorily and definitely settled at an early day.

INTERNATIONAL COMMISSION OF JURISTS.

In pursuance of the convention of August 23, 1906, signed at the Third Pan American Conference, held at Rio de Janeiro, the International Commission of Jurists met at that capital during the month of last June. At this meeting 16 American Republics were represented, including the United States, and comprehensive plans for the future work of the commission were adopted. At the next meeting, fixed for June, 1914, committees already appointed are instructed to report regarding topics assigned to them.

OPIUM CONFERENCE—UNFORTUNATE FAILURE OF OUR GOVERNMENT TO ENACT RECOMMENDED LEGISLATION.

In my message on foreign relations communicated to the two Houses of Congress December 7, 1911, I called especial attention to the assembling of the Opium Conference at The Hague, to the fact that that conference was to review all pertinent municipal laws relating to the opium and allied evils, and certainly all international rules regarding these evils, and to the fact that it seemed to me most essential that the Congress should take immediate action on the antinarcotic legislation before the Congress, to which I had previously called attention_by a special message

The international convention adopted by the conference conforms almost entirely to the principles contained in the proposed antinarcotic legislation which has been before the last two Congresses. It was most unfortunate that this Government, having taken the initiative in the international action which eventuated in the important international opium convention, failed to do its share in the great work by neglecting to pass the necessary legislation to correct the deplorable narcotic evil in the United States as well as to redeem international pledges upon which it entered by virtue of the above-mentioned convention. The Congress at its present session should enact into law those bills now before it which have been so carefully drawn up in collaboration between the Department of State and the other executive departments, and which have behind them not only the moral sentiment of the country but the practical support of all the legitimate trade interests likely to be affected. Since the international convention was signed, adherence to it has been made by several European States not represented at the conference at The Hague and also by 17 Latin-American Republics.

EUROPE AND THE NEAR EAST.

The war between Italy and Turkey came to a close in October last by the signature of a treaty of peace, subsequently to which the Ottoman Empire renounced sovereignty over Cyrenaica and Tripolitania in favor of Italy. During the past year the Near East has unfortunately been the theater of constant Almost simultaneously with the conclusion of peace between Italy and Turkey and their arrival at an adjustment of the complex questions at issue between them, war broke out between Turkey on the one hand and Bulgaria, Greece, Montenegro, and Servia on the other. The United States has happily been involved neither directly nor indirectly with the causes or questions incident to any of these hostilities and has maintained in regard to them an attitude of absolute neutrality and of compolitical disinterestedness. In the second war in which the Ottoman Empire has been engaged the loss of life and the consequent distress on both sides have been appalling, and the United States has found occasion, in the interest of humanity, to carry out the charitable desires of the American people, to extend a measure of relief to the sufferers on either side through the impartial medium of the Red Cross. Beyond this the chief care of the Government of the United States has been to make due provision for the protection of its nationals resident in belligerent territory. In the exercise of my duty in this matter I have dispatched to Turkish waters a special-service squadron, consisting of two armored cruisers, in order that this Government may if need be bear its part in such measures as it may be necessary for the interested nations to adopt for the safeguarding of foreign lives and property in the Ottoman Empire in the event that a dangerous situation should develop. In the meanwhile the several interested European powers have promised to extend to American citizens the benefit of such precautionary or protective measures as they might adopt, in the same manner in which it has been the practice of this Government to extend its protection to all foreigners resident in those countries of the Western Hemisphere in which it has from time to time been the task of the United States to act in the interest of peace and good order. The early appearance of a large fleet of European warships in the Bosphorus apparently assured the protection of foreigners in that quarter, where the presence of the American stationnaire the U.S. S. Scorpion sufficed, under the circumstances, to represent the United States. Our cruisers were thus left free to act if need be along the Mediterranean coasts should any unexpected contingency arise affecting the numerous American interests in the neighborhood of Smyrna and Beirut.

SPITZBERGEN.

The great preponderance of American material interests in the subarctic island of Spitzbergen, which has always been tegarded politically as "no man's land," impels this Government to a continued and lively interest in the international dispositions to be made for the political goverance and administration of that region. The conflict of certain claims of American citizens and others is in a fair way to adjustment, while the settlement of matters of administration, whether by international conference of the interested powers or otherwise, continues to be the subject of exchange of views between the Governments concerned.

LIBERIA.

As a result of the efforts of this Government to place the Government of Liberia in position to pay its outstanding indebtedness and to maintain a stable and efficient government, negotiations for a loan of \$1,700,000 have been successfully concluded, and it is anticipated that the payment of the old loan and the issuance of the bonds of the 1912 loan for the rehabilitation of the finances of Liberia will follow at an early date, when the new receivership will go into active operation. The new receivership will consist of a general receiver of customs designated by the Government of the United States and three receivers of customs designated by the Governments of Germany, France, and Great Britain, which countries have commercial interests in the Republic of Liberia.

In carrying out the understanding between the Government of Liberia and that of the United States, and in fulfilling the terms of the agreement between the former Government and the American bankers, three competent ex-army officers are now effectively employed by the Liberian Government in reorganizing the police force of the Republic, not only to keep in order the native tribes in the hinterland but to serve as a necessary police force along the frontier. It is hoped that these measures will assure not only the continued existence but the prosperity and welfare of the Republic of Liberia. Liberia possesses fertility of soil and natural resources which should insure to its people a reasonable prosperity. It was the duty of the United States to assist the Republic of Liberia in accordance with our historical interest and moral guardianship of a community founded by American citizens, as it was also the duty of the American Government to attempt to assure permanence to a country of much sentimental and perhaps future real interest to a large body of our citizens.

MOROCCO.

The legation at Tangier is now in charge of our consul general, who is acting as chargé d'affaires, as well as caring for our commercial interests in that country. In view of the fact that many of the foreign powers are now represented by chargés d'affaires it has not been deemed necessary to appoint at the present time a minister to fill a vacancy occurring in that post.

THE FAR EAST.

The political disturbances in China in the autumn and winter of 1911–12 resulted in the abdication of the Manchu rulers on February 12, followed by the formation of a provisional republican government empowered to conduct the affairs of the nation until a permanent government might be regularly established. The natural sympathy of the American people with the assump-

tion of republican principles by the Chinese people was appropriately expressed in a concurrent resolution of Congress on April 17, 1912. A constituent assembly, composed of representatives duly chosen by the people of China in the elections that are now being held, has been called to meet in January next to adopt a permanent constitution and organize the Government of the nascent Republic. During the formative constitutional stage and pending definitive action by the assembly, as expressive of the popular will, and the hoped-for establishment of a stable republican form of government, capable of fulfilling its international obligations, the United States is, according to precedent, maintaining full and friendly de facto relations with the provisional Government.

The new condition of affairs thus created has presented many serious and complicated problems, both of internal rehabilitation and of international relations, whose solution it was realized would necessarily require much time and patience. From the beginning of the upheaval last autumn it was felt by the United States, in common with the other powers having large interests in China, that independent action by the foreign Governments in their own individual interests would add further confusion to a situation already complicated. A policy of international cooperation was accordingly adopted in an understanding, reached early in the disturbances, to act together for the protection of the lives and property of foreigners if menaced, to maintain an attitude of strict impartiality as between the contending factions, and to abstain from any endeavor to influence the Chinese in their organization of a new form of government. In view of the seriousness of the disturbances and their general character, the American minister at Peking was instructed at his discretion to advise our nationals in the affected districts to concentrate at such centers as were easily accessible to foreign troops or men of war. Nineteen of our naval vessels were stationed at various Chinese ports, and other measures were promptly taken for the adequate protection of American

It was further mutually agreed, in the hope of hastening an end to hostilities, that none of the interested powers would approve the making of loans by its nationals to either side. soon, however, as a united provisional Government of China was assured, the United States joined in a favorable consideration of that Government's request for advances needed for immediate administrative necessities and later for a loan to effect a permanent national reorganization. The interested Governments had already, by common consent, adopted, in respect to the purposes, expenditure, and security of any loans to China made by their nationals, certain conditions which were held to be essential, not only to secure reasonable protection for the foreign investors, but also to safeguard and strengthen China's credit by discouraging indiscriminate borrowing and by insuring the application of the funds toward the establishment of the stable and effective government necessary to China's welfare. In June last representative banking groups of the United States, France, Germany, Great Britain, Japan, and Russia formulated, with the general sanction of their respective Governments, the guaranties that would be expected in relation to the expenditure and security of the large reorganization loan desired by China, which, however, have thus far proved unacceptable to the provisional Government.

SPECIAL MISSION OF CONDOLENCE TO JAPAN.

In August last I accredited the Secretary of State as special ambassador to Japan, charged with the mission of bearing to the imperial family, the Government, and the people of that Empire the sympathetic message of the American Commonwealth on the sad occasion of the death of His Majesty the Emperor Mutsuhito, whose long and benevolent reign was the greater part of Japan's modern history. The kindly reception everywhere accorded to Secretary Knox showed that his mission was deeply appreciated by the Japanese nation and emphasized strongly the friendly relations that have for so many years existed between the two peoples.

SOUTH AMERICA.

Our relations with the Argentine Republic are most friendly and cordial. So, also, are our relations with Brazil, whose Government has accepted the invitation of the United States to send two army officers to study at the Coast Artillery School at Fort Monroe. The long-standing Alsop claim, which had been the only hindrance to the healthy growth of the most friendly relations between the United States and Chile, having been eliminated through the submission of the question to His Britannic Majesty King George V as "amiable compositeur," it is a cause of much gratification to me that our relations with Chile are now established upon a firm basis of growing friendship. The Chilean Government has placed an officer of the

United States Coast Artillery in charge of the Chilean Coast Artillery School, and has shown appreciation of American methods by confiding to an American firm important work for

the Chilean coast defenses.

Last year a revolution against the established Government of Ecuador broke out at the principal port of that Republic. Previous to this occurrence the chief American interest in Ecuador, represented by the Guayaquil & Quito Railway Co., incorporated in the United States, had rendered extensive transportation and other services on account to the Ecuadorian Government, the amount of which ran into a sum which was steadily increasing and which the Ecuadorian Government had made no provision to pay, thereby threatening to crush out the very existence of this American enterprise. When tranquillity had been restored to Ecuador as a result of the triumphant progress of the Government forces from Quito, this Government interposed its good offices to the end that the American interests in Ecuador might be saved from complete extinction. As a part of the arrangement which was reached between the parties, and at the request of the Government of Ecuador, I have consented to name an arbitrator, who, acting under the terms of the railroad contract, with an arbitrator named by the Ecuadorian Government, will pass upon the claims that have arisen since the arrangement reached through the action of a similar arbitral tribunal in 1908.

In pursuance of a request made some time ago by the Ecuadorian Government, the Department of State has given much attention to the problem of the proper sanitation of Guayaquil. As a result a detail of officers of the Canal Zone will be sent to Guayaquil to recommend measures that will lead to the complete permanent sanitation of this plague and fever infected region of that Republic, which has for so long constituted a menace to health conditions on the Canal Zone. It is hoped that the report which this mission will furnish will point out a way whereby the modicum of assistance which the United States may properly lend the Ecuadorian Government may be made effective in ridding the west coast of South America of a focus of contagion to the future commercial current passing

through the Panama Canal.

In the matter of the claim of John Celestine Landreau against the Government of Peru, which claim arises out of certain contracts and transactions in connection with the discovery and exploitation of guano, and which has been under discussion between the two Governments since 1874, I am glad to report that as the result of prolonged negotiations, which have been characterized by the utmost friendliness and good will on both sides, the Department of State has succeeded in securing the consent of Peru to the arbitration of the claim, and that the negotiations attending the drafting and signature of a protocol submitting the claim to an arbitral tribunal are proceeding with due celerity.

An officer of the American Public Health Service and an American sanitary engineer are now on the way to Iquitos, in the employ of the Peruvian Government, to take charge of the sanitation of that river port. Peru is building a number of submarines in this country and continues to show every desire

to have American capital invested in the Republic.

In July the United States sent undergraduate delegates to the Third International Students' Congress held at Lima, American students having been for the first time invited to one of these meetings.

The Republic of Uruguay has shown its appreciation of American agricultural and other methods by sending a large commission to this country and by employing many American experts to assist in building up agricultural and allied industries in Uruguay.

Venezuela is paying off the last of the claims the settlement of which was provided for by the Washington protocols, including those of American citizens. Our relations with Venezuela are most cordial, and the trade of that Republic with the United States is now greater than with any other country.

CENTRAL AMERICA AND THE CARIBBEAN.

During the past summer the revolution against the administration which followed the assassination of President Caceres a year ago last November brought the Dominican Republic to the verge of administrative chaos, without offering any guaranties of eventual stability in the ultimate success of either party. In pursuance of the treaty relations of the United States with the Dominican Republic, which were threatened by the necessity of suspending the operation under American administration of the customhouses on the Haitian frontier, it was found necessary to dispatch special commissioners to the island to reestablish the customhouses and with a guard sufficient to insure needed protection to the customs administration. The efforts which have been made appear to have resulted in

the restoration of normal conditions throughout the Republic. The good offices which the commissioners were able to exercise were instrumental in bringing the contending parties together and in furnishing a basis of adjustment which it is hoped will result in permanent benefit to the Dominican people.

Mindful of its treaty relations, and owing to the position of the Government of the United States as mediator between the Dominican Republic and Haiti in their boundary dispute, and because of the further fact that the revolutionary activities on the Haitian-Dominican frontier had become so active as practically to obliterate the line of demarcation that had been heretofore recognized pending the definitive settlement of the boundary in controversy, it was found necessary to indicate to the two island Governments a provisional de facto boundary line. This was done without prejudice to the rights or obligations of either country in a final settlement to be reached by arbitration. The tentative line chosen was one which, under the circumstances brought to the knowledge of this Government, seemed to conform to the best interests of the disputants. The border patrol which it had been found necessary to reestablish for customs purposes between the two countries was instructed provisionally to observe this line.

The Republic of Cuba last May was in the throes of a lawless uprising that for a time threatened the destruction of a great deal of valuable property—much of it owned by Americans and other foreigners—as well as the existence of the Government itself. The armed forces of Cuba being inadequate to guard property from attack and at the same time properly to operate against the rebels, a force of American marines was dispatched from our naval station at Guantanamo into the Province of Oriente for the protection of American and other foreign life and property. The Cuban Government was thus able to use all its forces in putting down the outbreak, which it succeeded in doing in a period of six weeks. The presence of two American warships in the harbor of Habana during the most critical period of this disturbance contributed in great measure to allay

the fears of the inhabitants, including a large foreign colony. There has been under discussion with the Government of Cuba for some time the question of the release by this Government of its leasehold rights at Bahia Honda, on the northern coast of Cuba, and the enlargement, in exchange therefor, of the naval station which has been established at Guantanamo Bay, on the south. As the result of the negotiations thus carried on an agreement has been reached between the two Governments providing for the suitable enlargement of the Guantanamo Bay station upon terms which are entirely fair and equitable to all parties concerned.

At the request alike of the Government and both political parties in Panama, an American commission undertook supervision of the recent presidential election in that Republic, where our treaty relations, and, indeed, every geographical consideration, make the maintenance of order and satisfactory conditions of peculiar interest to the Government of the United States. The elections passed without disorder, and the new administra-

tion has entered upon its functions, The Government of Great Britain has asked the support of the United States for the protection of the interests of British holders of the foreign bonded debt of Guatemala. Government is hopeful of an arrangement equitable to the British bondholders, it is naturally unable to view the question apart from its relation to the broad subject of financial stability in Central America, in which the policy of the United States does not permit it to escape a vital interest. Through a renewal of negotiations between the Government of Guatemala and American bankers, the aim of which is a loan for the rehabilitation of Guatemalan finances, a way appears to be open by which the Government of Guatemala could promptly satisfy any equitable and just British claims, and at the same time so improve its whole financial position as to contribute greatly to the increased prosperity of the Republic and to redound to the benefit of foreign investments and foreign trade with that Failing such an arrangement, it may become impossible for the Government of the United States to escape its obligations in connection with such measures as may become necessary to exact justice to legitimate foreign claims.

In the recent revolution in Nicaragua which, it was generally admitted, might well have resulted in a general Central American conflict but for the intervention of the United States, the Government of Honduras was especially menaced; but fortunately peaceful conditions were maintained within the borders of that Republic. The financial condition of that country remains unchanged, no means having been found for the final adjustment of pressing outstanding foreign claims. This makes it the more regrettable that the financial convention between the United States and Honduras has thus far failed of ratifica-

tion. The Government of the United States continues to hold itself ready to cooperate with the Government of Honduras, which, it is believed, can not much longer delay the meeting of of its foreign obligations, and it is hoped at the proper time American bankers will be willing to cooperate for this purpose. NECESSITY FOR GREATER GOVERNMENTAL EFFORT IN RETENTION AND EXPANSION OF OUR FOREIGN TRADE.

It is not possible to make to the Congress a communication upon the present foreign relations of the United States so detailed as to convey an adequate impression of the enormous increase in the importance and activities of those relations. If this Government is really to preserve to the American people that free opportunity in foreign markets which will soon be indispensable to our prosperity, even greater efforts must be made. Otherwise the American merchant, manufacturer, and exporter will find many a field in which American trade should logically predominate preempted through the more energetic efforts of other governments and other commercial nations.

There are many ways in which through hearty cooperation the legislative and executive branches of this Government can do much. The absolute essential is the spirit of united effort and singleness of purpose. I will allude only to a very few specific examples of action which ought then to result. can not take its proper place in the most important fields for its commercial activity and enterprise unless we have a merchant marine. American commerce and enterprise can not be effectively fostered in those fields unless we have good American banks in the countries referred to. We need American newspapers in those countries and proper means for public information about them. We need to assure the permanency of a trained foreign service. We need legislation enabling the members of the foreign service to be systematically brought in direct contact with the industrial, manufacturing, and exporting interests of this country in order that American business men may enter the foreign field with a clear perception of the exact conditions to be dealt with and the officers themselves may prosecute their work with a clear idea of what American industrial and manufacturing interests require.

CONCLUSION.

Congress should fully realize the conditions which obtain in the world as we find ourselves at the threshold of our middle age as a Nation. We have emerged full grown as a peer in the great concourse of nations. We have passed through various formative periods. We have been self-centered in the struggle to develop our domestic resources and deal with our domestic The Nation is now too mature to continue in its foreign relations those temporary expedients natural to a people to whom domestic affairs are the sole concern. In the past our diplomacy has often consisted, in normal times, in a mere assertion of the right to international existence. We are now in a larger relation with broader rights of our own and obligations to others than ourselves. A number of great guiding principles were laid down early in the history of this Government. The recent task of our diplomacy has been to adjust those principles to the conditions of to-day, to develop their corollaries, to find practical applications of the old principles expanded to meet new situations. Thus are being evolved bases upon which can rest the superstructure of policies which must grow with the destined progress of this Nation. The successful conduct of our foreign relations demands a broad and a modern view. We can not meet new questions nor build for the future if we confine ourselves to outworn dogmas of the past and to the perspective appropriate at our emergence from colonial times and condi-The opening of the Panama Canal will mark a new era in our international life and create new and world-wide conditions which, with their vast correlations and consequences, will obtain for hundreds of years to come. We must not wait for events to overtake us unawares. With continuity of purpose we must deal with the problems of our external relations by a diplomacy modern, resourceful, magnanimous, and fittingly expressive of the high ideals of a great nation.

WM. H. TAFT.

THE WHITE HOUSE, December 3, 1912.

PHYSICAL VALUATION OF RAILROADS.

Mr. Speaker, I call up House bill 22593, to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors, made privileged under a special order of the House, and ask for its present consideration.

The SPEAKER. This bill is on the Union Calendar.

Mr. SIMS. Then, Mr. Speaker, I move to go into Committee of the Whole House on the state of the Union for the consideration of the bill mentioned, and, pending that motion, I wish to ask if there can not be some arrangement made as to general I believe the gentleman from Minnesota [Mr. Stevens]

The SPEAKER. The gentleman from Tennessee [Mr. Sims] moves that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 22593, for the physical valuation of railroads, and, pending that, he desires to make some arrangement about the length of time to be consumed in debate.

Mr. SIMS. About how much time does the gentleman from

Minnesota desire for general debate?

Mr. STEVENS of Minnesota. I think, Mr. Speaker, that this side would like about two hours.

Mr. SIMS. Does the gentleman mean two hours for that side?

Mr. STEVENS of Minnesota. Yes. The time that has been asked for will consume nearly two hours. It is a very important subject, and quite a number of bills have been presented to the committee, and quite a number of gentlemen desire to discuss their measures.

Mr. SIMS. I am anxious, under the request of the Chair, to try and get the bill passed this afternoon.

Mr. STEVENS of Minnesota. Mr. Speaker, I have half a dozen bills here, and the authors of those bills desire time in which to discuss this very important matter.

Mr. SIMS. Does the gentleman think we can complete the consideration of the bill this afternoon under the five-minute

Mr. STEVENS of Minnesota. There are some amendments to be offered. I have some amendments, and I understand others have some which they desire to offer under the fiveminute rule, but the consideration of those amendments ought not to consume very much time. They are for the correction of obvious defects in the bill.

Mr. SIMS. If we conclude the general debate in less than four hours, the gentleman will have no objection to taking up the bill under the five-minute rule?

Mr. STEVENS of Minnesota. Not at all. We desire to expedite the passage of the bill. We have no objection whatever to the general features of it.

Mr. SIMS. Then, Mr. Speaker, I ask unanimous consent that the general debate on this bill be limited to four hours, the gentleman from Minnesota [Mr. Stevens] to control one half of that time and myself to control the other half.

The SPEAKER. The gentleman from Tennessee [Mr. Sims] asks that the general debate on this bill be limited to four hours, two hours on a side, one-half the time to be controlled by himself and the other half by the gentleman from Minnesota [Mr. STEVENS].

Mr. SIMS. With the understanding that if we consume less time than that, we may enter upon the consideration of the bill under the five-minute rule at the conclusion of the general debate.

The SPEAKER. And with the further understanding that the general debate will not necessarily have to run four hours, but that if it runs out in less time, then the bill may be taken up under the five-minute rule. Is there objection?

There was no objection.

The SPEAKER. The question is on the motion of the gentleman from Tennessee that the House resolve itself into the Committee of the Whole House on the state of the Union,

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 22593) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors, with Mr. RAINEY in the chair.

Mr. SIMS. Mr. Chairman, I ask that the bill be read.

The CHAIRMAN. The Clerk will read the bill,

The Clerk began the reading of the bill.

Mr. SIMS. Mr. Chairman, I ask unanimous consent that the further first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Tennessee asks unani-

mous consent that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

Mr. SIMS. Mr. Chairman, this is a very important bill, as its title indicates. It was introduced by the chairman of the Committee on Interstate and Foreign Commerce, the gentleman from Georgia [Mr. Adamson], and was reported by him. It was his intention to call up the bill this morning under the special

rule which authorizes it to be called up, and he had intended to take charge of it himself. As the gentleman from Georgia [Mr. Adamson] reported the bill, some members of the committee, I for one, did not give to its details that attention that would have been given had I expected to have charge of it on the floor of the House.

The gentleman from Georgia [Mr. Adamson] was called home this morning by a telegram announcing the serious and dangerous illness of Mrs. Adamson. In view of the fact that he is so familiar with this subject, and that he wrote the report, I ask that the report be read in my time as a part of my

The CHAIRMAN. If there be no objection, the Clerk will read the report in the time of the gentleman from Tennessee.

There was no objection.

The Clerk read as follows:

read the report in the time of the gentleman from Tennessee. There was no objection.

The Clerk read as follows:

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 2503) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors, having considered the same, report thereon with a recommendation that it pass,

The Interstate Commerce Commission in its annual reports has often set forth the importance of an official valuation of the property of the carriers subject to the act to regulate commerce. The difficulties encountered in the effort to correct rates through the claims as to valuate the property of the carriers subject to the act to regulate commerce. The difficulties encountered in the effort to correct rates through the claims as to value have have have set sees spont the element of valuation as a factor in determining rates. The people not only acquiesce in those views but they desire accurate information on the subject. Perhaps at one time or another every Member of the House of Representatives who has served more than one term has voted to authorize such official valuation. It seems to be universally favored regardless of partisan lines. Not less important is the matter of information as to the stocks and bonds of the carrier corporations, the manipulation of the finances which control those carriers, and the boards of directors, stockholders, and bondholders themselves, who really give direction to all their affairs, grown up in the courts themselves as well as the commission, that public carriers are to be allowed to charge an income on what they owe as well as on what they own. Nobody else in the world with whom we are acquainted is allowed that privilege. First, there is a claim set up of the investment, actual or watered, and an income is allowed

Mr. SIMS. Mr. Chairman, the very able and clear report which has just been read, and which was prepared by the chairman of the committee, Mr. Adamson, explains the objects and purposes of the bill. This is not a new subject. This matter has been before the committee many years, as I am informed by Members who have served longer than I have on the committee. The question of the physical valuation of the property of common carriers is made necessary in every question in which the reasonableness of a rate is involved in the courts and before the Interstate Commerce Commission and before the various State commissions. I am informed by those who have served longer than I have on the committee that this bill, or similar bills, have been favorably reported frequently by the committee. This is a unanimous report from the committee. There is no objection to the bill that I know of coming from any member of the committee, and for the present, not knowing what objections, if any, there may be to the bill, I will reserve

the balance of my time.

Mr. MANN. Will the gentleman from Tennessee yield?

Mr. SIMS. Certainly.

Mr. MANN. Would not the gentleman be willing to inform the House what the bill does do?

Mr. SIMS. The bill speaks for itself. The report analyzes the bill and states the objects and purposes of the bill, I expect, with more clearness and precision than I am prepared to do.

Mr. MANN. Oh, the gentleman from Tennessee always speaks with clearness of definition in the House, and I am sure he will be able to explain what this bill will accomplish.

Mr. SIMS. Does the gentleman from Illinois mean what the

effect of the bill will be?

Mr. MANN. What will be done under the provisions of the

Mr. SIMS. The bill states what ought to be done, what is expected, and what will be done.

Mr. MANN. If we should proceed on that theory we never would have any speeches explaining a measure, but only the reading of the bill. The bill always speaks for itself. Still, it seems to me, the gentleman from Tennessee ought to explain the provisions of the bill so that it will be in the RECORD.

Mr. SIMS. At present, Mr. Chairman, while I would like very much to grant the gentleman's request, but inasmuch as this is a unanimous report of the committee, put in shape by the chairman of the committee, it seems to me that any statement of mine would be a mere repetition at least in substance, and at present I hope the gentleman from Illinois will excuse me from taking further time of the committee in explaining the bill

Mr. MANN. I would like to ask the gentleman from Tennessee a question in reference to the provisions of the bill, as he is familiar with it. I notice, next to the last paragraph of the bill, on page 6, there is a penalty provision which provides that in case of failure or refusal on the part of any carrier, receiver, or trustee to comply with all the requirements of this act, and so forth, he shall forfeit \$500 for each such offense. The language "this act" there means, as I understand it, the inter-state-commerce act, because this is a new section of the interstate-commerce act. Here is a penalty provision relating to the failure to comply with all the requirements of the interstatecommerce act, but there are now many penalty provisions in the interstate-commerce act itself. The question I want to ask the gentleman is, Would not this operate as a repeal, this being a new provision relating to penalty, assuming that you can not have two penalties for the same violation of the law?

Mr. SIMS. Mr. Chairman, I think this amendment which

has just been read, which is an amendment to the interstatecommerce law, has reference to the penalty that will be applied to the violation of the provisions of this amendment and will not apply to the entire interstate-commerce act. That is my opinion.

Mr. SABATH I think it is quite clear, Mr. Chairman, that the language of this section applies to the refusal of the carrier, receiver, or trustee in this section alone.

Mr. MANN. I think my colleague from Illinois did not hear what I read from the bill. Immediately following the provision which my colleague refers to is a provision relating to the requirements of the act. The act is the interstate-commerce act, and it is so treated in all amendments of the interstate-commerce act.

Mr. SABATH. I notice what the gentleman has in mind. Mr. MANN. I think that ought to be made the provisions of the section, because some of the penalties provided in the interstate-commerce act are much more onerous than the penalties provided in this section. I did not know whether there was any reason for it or not.

Mr. SIMS. Of course it is not the purpose of the committee to relax, reduce, or minimize any penalty now in the law with reference to other matters.

Mr. MANN. I am quite sure that is not the desire of the committee.

Mr. SIMS. And the words "this act," I feel, were intended to apply only to this section. I think that would be a fair con-

struction, especially in penal cases. Mr. MANN. I think that would not be the construction given by the act, because in all the amendments to the interstatecommerce act, and there are many of them, wherever the term "this act" is used in any of the amended sections it means the entire interstate-commerce act and not the act making the

amendment. Mr. SIMS. And if it should be thought by the committee that the word "act" should be stricken out and the word "section" inserted in lieu thereof, of course that can be done when we consider the bill under the five-minute rule. As I stated before, I did not prepare this bill.

Mr. MANN. I thought possibly it would be easier to arrive at an understanding now than it would be when we had ex-

hausted the general debate.

Mr. SIMS. I would not be willing myself to say what the committee would be willing to do without consulting the other members of the committee.

I reserve the balance of my time.

Mr. BUTLER. Mr. Chairman, before the gentleman sits down I desire to ask him a question. It is stated in the report here that a measure similar to this has been voted for by the Members of the House who have attended more than one session of Congress. No such bill as this has ever passed the House, has it?

Mr. SIMS. I can not state from my own knowledge. I have been a member of this committee only one Congress prior to this Congress

Mr. MANN. Mr. Chairman, if the gentleman will pardon me, I think I can answer the gentleman from Pennsylvania.

Certainly.

Mr. MANN. When there was up for consideration in the last Congress a bill to amend the interstate-commerce law, on the floor of the House my colleague from Illinois [Mr. MADDEN] offered an amendment very similar to the provisions of this bill, providing for the physical valuation of railroads, which amendment was agreed to. In conference I tried to have that provision retained, but was unable to do so. It was not in the law when it was enacted. The provision went out in conference.

Mr. SIMS. Mr. Chairman, I reserve the balance of my time, and ask that the gentleman from Minnesota now use some of his

IMr. STEVENS of Minnesota addressed the committee. See Appendix.]

Mr. SIMS. Mr. Chairman, I yield to the gentleman from Indiana [Mr. Cullor], a member of the committee, such time as he may desire to use.

Mr. CULLOP. Mr. Chairman, the purpose of this measure is to ascertain the physical valuation of the railroads, for the purpose of preventing impositions on the public, in the sale of capital stock, bonds, and the fixing of transportation charges.

There can be no question that there is a demand for such legislation, and the object of this bill is to satisfy that demand.

Railroad rates are to-day fixed in a manner which is absolutely unjust to the ultimate consumers and the shippers of the Transportation rates are fixed on three items of consideration as the basis, first, to pay operating expenses and improvement charges; second, to pay interest on the bonded indebtedness; and, third, to pay a reasonable dividend upon the capital stock. The first basis is just. The second is absolutely wrong, and if the second and third are both employed, as is now done, they constitute a double charge upon the shipping public, which must be paid by the ultimate consumers of the country and thereby constitutes a burden on them. It is not fair to charge a rate that will make a sufficient earning to pay the interest on the bonded indebtedness and a dividend on the capital stock. Either the money raised by the bonded indebtedness went into the pockets of the owners of the railroad as a net profit, or it was invested in the construction and equipment of the road. If, therefore, a rate is charged which will create earnings to pay the interest on the bonded indebtedness and also a dividend on the capital stock-which more than covers every dollar of bonded indebtedness-such a basis necessarily constitutes a double charge. For that reason the present basis of fixing railroad rates in this country is absolutely erroneous, and gives the owners an unjust advantage over other business enterprises.

I call attention to the fact that the ultimate consumer necessarily pays every dollar of freight rates imposed in this country. Those freight rates are a charge upon the products which are shipped, and are added to the cost price, which the ultimate consumer must inevitably pay. He suffers the unjust consequences of such a method and bears the burden of the

intolerable system.

Again it is a well-known fact that there is an overcapitalization of nearly every railroad in the country. The capital stock, as a usual thing, is more than double the actual cost of the building and equipping of the railroad. In many instances not only is the capital stock double the amount of the bonded indebtedness, but sometimes three or four times the value of the road, and in many instances the bonded indebtedness, the mortgage indebtedness, of the railroad is greater than the actual cost of the building and equipping of the road itself. So that,

therefore, to charge a freight rate and fix it on the basis now employed enough to pay the interest on the bonded indebtedness and a dividend on the capital stock is an outrage against the ultimate consumers of the country. It is this manner of fixing rates as now employed in this country, this manner of fixing transportation charges by the great common carriers of the country, which retards the development of the country and prevents the full realization on investments in other industrial

Many things are produced on the farm and in the factories for which there is a demand in the congested centers of population, but because the cost of the conveyance of these things from the point of production to the point of consumption is so expensive such articles can not enter the commerce of the country and are valueless to the producer. The manner in which these rates are fixed does injury to the investment of the people in other lines of business as well as to the ultimate consumers of the country. Producers and consumers are affected alike.

That is why a new policy and a new system for the levying of transportation rates should be adopted by every line of common carriers throughout the country. This is why the demand for this legislation is so universal and is hailed as a relief.

Some objection has been made to this measure because of its cost. On this subject I wish to call the attention of the committee to what the institution of this system of ascertaining the physical valuation of railroads would cost the country. I want to read from the testimony of Judge Clements, a member of the Interstate Commerce Commission, upon this subject. On page 4 of the hearings before the committee he said:

of the hearings before the committee he said:

Speaking of the probable cost, it is, of course, very difficult even to make an estimate that would be at all reliable. Prof. Adams, who was our former statistician, and who was employed as a special agent of the commission to aid us in putting in practice the operation of a system of bookkeeping and accounting of reports under the twentieth section of the Hepburn Act, considered this matter when he was with us a few years ago, and his final estimate was, as well as he could judge, that it would probably take \$3,000,000 for valuation. He had previously made a smaller estimate than that, but on account of increased mileage and a review of what would probably be necessary in the way of employing a sufficient corps of engineers and experts to do this work, and do it accurately and satisfactorily, he revised his estimate and, in the year 1908, when this subject was up, expressed the view, in connection with a bill that was pending before the Senate committee and some correspondence we had with President Roosevelt, that it would probably take \$3,000,000. Mr. Adams had aided in making the valuation in Michigan of the railroads in that State some years ago, which I understand was made for taxation purposes.

Now, it may be further added that it will probably take from

Now, it may be further added that it will probably take from three to five years' time to do this work properly, thoroughly, and well. This demand made for the revision of the method of levying rates now requires early action in order to afford the facilities necessary to aid the public in seeking lower rates for transportation and relief from unjust burdens which bear heavily on the business of the entire country.

There is another thing about this bill that ought to be considered, and that is that it will to a large degree, if not altogether, stop the overcapitalization of railroads and the overbonding of them. It will stop the imposition which to-day and for years has been practiced, the abuse of selling watered stocks and inflated bonds to innocent purchasers. I am aware of one argument that will be made against it, and that is that these stocks have passed into the hands of widows and orphans of the country and superannuated preachers. I take it that that argument is not sufficient in the mind of any gentleman upon this floor to oppose the passage of such a measure as this. If such people have been unfortunate in their investments, they must stand upon the same basis with other people who have been likewise unfortunate. But it is not fair to 90,000,000 of people that they should be required to pay unjust and enormous transportation tolls and have the development of our country restricted in order that the investments of a few may be made safe and good. Better it would be that Congress would appropriate the money to make restitution to them than to impose upon 90,000,000 of people, as is being done now in the fixing of transportation rates in this country, and retarding the commerce of a great country. It would be cheaper to the people in the end.

Mr. COX of Indiana. Will the gentleman yield?

Mr. CULLOP. I will. Mr. COX of Indiana. In that connection I want to ask this question, if I can make myself plain to the gentleman. I do not remember the total bonded indebtedness of the railroads, but it is several billion dollars.

Mr. CULLOP. And then some.

Mr. COX of Indiana. I do not remember the total capitalization; but the gentleman stated a moment ago, and I think truthfully, that now railroads charge freight rates with the view of paying the interest on fixed charges, and some of the fixed charges are the bonded indebtedness of the railroads. Suppose this bill becomes a law, and then suppose the commission finds that certain railroads in this country are overcapitalized—that they have more bonds issued which are making fixed charges against the railroad than are really necessary. Does not the gentleman believe that still the railroads will have the right to fix their freight rates with a view to meeting those

fixed charges?

Mr. CULLOP. Mr. Chairman, I will answer the gentleman in this way. It is the object of this bill, according to my understanding, that the capital stock and bonded indebtedness should have nothing whatever to do with the fixing of the railroad rates in this country. It should be the policy of the Govern-ment that private business is never to be guaranteed; and if the owners of railroads make bad investments in their business methods, make extravagant purchases, and the construction of the roads is imprudently done, then the innocent public should never, as a matter of common justice, be taxed to make up for the errors of any man's business judgment. It is not right as a public policy, and it is not the intention, I will say to the gentleman, to let the bonded indebtedness or the overcapitalization, the creation of great financiers, those engaged in high finance, be the subjects for the plunder of the innocent people of the country or to retard the development of the greatest country on earth, as is now being done. In every line of business men suffer for their own mistakes in judgment and not the public.

Mr. COX of Indiana. Will the gentleman permit me further?

Mr. CULLOP. Certainly. Mr. COX of Indiana. Right in that connection, that may all be true, but does the gentleman believe that the Supreme Court of the United States would stand for the Interstate Commerce Commission or any other power fixing freight rates to the extent that the freight rates thus fixed would become confiscatory of the bonded indebtedness or capitalization of the

railroads of the country?

Mr. CULLOP. Mr. Chairman, the term "confiscation" has been used as a scarecrow in this country for more than a quarter of a century. It has been made do overtime. Why should the Government guarantee anybody's private investment? has no more right to do that than to guarantee the investment

of a man in his farm, in a store, or in a factory.

Yet it is proposed by some that when a man undertakes to build a public utility, building it for making profit, for earning money on his investment, the Government ought to step in and permit him to fleece the public in order to make his business successful. Such a proposition is indefensible, and whenever presented it should be rebuked. Governments were instituted for the benefit of the governed and not the governed for the benefit of governments. Courts should uphold, if it can reasonably be done, the will of the people as expressed by their lawmaking powers, and the principle involved in this measure is not repugnant to the rule of our courts so far expressed on similar questions.

To-day, under the method in which railroad rates are levied, the basis employed, there is not a railroad in the country that can lose money if it employs intelligent business methods. If it does not earn profits, it is because of its bad business management. Against this no legislation could safely be enacted which

would assure good business management.

Mr. COX of Indiana. Will the gentleman yield for one other

question?

Mr. CULLOP. Certainly.

Mr. COX of Indiana. Let me ask the gentleman this question: Does he believe it would be just and equitable to any person, innocent or otherwise, who is the holder of railroad stock or bonds, for any commission or power to fix freight rates to the ex-tent that the railroad company that had issued the bonds or the stock would be unable to meet those obligations when they fell

Mr. CULLOP. Which side does the gentleman mean to be fair and just to? There are two sides. I want to be fair and just to both; but that question implies to be fair to only one side, and that is the railroad side of the question. The public, which bears the burdens, have some rights which should not

Mr. COX of Indiana. Oh, I beg the gentleman's pardon. I

mean the investors in the stock.

Mr. CULLOP. But it was the duty of the investor in the stock to examine before he invested. If he was careless, he must suffer the consequences.

Mr. COX of Indiana. Suppose he did examine before he invested and satisfied himself that he was safe in investing his money?

Mr. CULLOP. Then he stands upon the same basis as every other investor in this country. He can ask no more and should expect no less.

Mr. COX of Indiana. He stands upon the basis, then, of an innocent purchaser for value.

Mr. CULLOP. No; he took his chances. He was not an innocent purchaser if he knew there was more capital stock than the property was worth. If he purchased inflated stock he, rather than the public, should suffer.

Mr. COX of Indiana. But suppose he did not know that? Mr. CULLOP. But it was his duty to examine and see. He was not an innocent purchaser if he knew or by vigilance could have known there were more bonds or stock issued than the railroad was worth.

Mr. COX of Indiana. But perhaps the fault might have been in Congress or in some other legislative body.

Mr. CULLOP. Then his duty was to examine more carefully before he put his money into the project, and if he did not he would be estopped from complaining.

Mr. COX of Indiana. Suppose he exhausted his ability in examination? Then, does the gentleman believe that man

should be cut out?

Mr. CULLOP. Then he made a bad business venture, and, like many others have done, must suffer the consequences. the same arguments were made as to the reduction of the tariff? Then revision downward could never be made—and here is a greater source of fleecing the public as now employed than ever existed by virtue of any protective tariff in this country, because where the protective tariff takes one dollar out of the pockets of the ultimate consumers the railroad companies take five every day in the year.

Now, if some man, in his zeal to buy cheap stock and earn

large dividends or large interest on his investment, steps in and takes his chance with the rest of the world, he can not come to Congress and demand legislation to make it good at the expense of the public. The many who are made to suffer by it have as much right to be protected in the fruits of their toil as does the man who buys railroad stock or railroad bonds or

any other speculative security.

Mr. SABATH. There is nothing in this bill that would prevent anyone from disposing of any of his stocks or bonds?

Mr. CULLOP. Nothing whatever. Every holder is at liberty

to sell when he pleases.

Mr. SABATH. And anyone could easily dispose of his hold-

Mr. CULLOP. Certainly he could. Now, let us look at the origin of the present system employed. Fifteen years ago there started in a movement for legislation to make just such a thing as we have now constructed the basis upon which rates should be levied. Railroad companies increased their capital stock three, four, and five hundred per cent without adding values, Why? Because it was to be taken as the latest and the latest and the latest and the latest are Because it was to be taken as the basis for earning dividends for them on the amount of capitalization. It was well-directed and well-conceived plan to get exorbitant rates—dividends on watered stocks, on fictitious values. There was a well-directed plan to get at the basis which is now employed, and with that purpose in view the railroad companies began to increase their capital stock without additional investment of any consequence until they increased it in many instances more than three hundredfold. What was the result? Then they began to bond, and many of the best railroads of the country to-day are bonded for more than enough to build and equip them. What was the object in all of this? The object was to increase earnings, and not to improve facilities. It is the only institution so far known which earns a profit on its indebtedness. Indebtedness is always loss, but here is an instance in which indebtedness is a great profit to the transportation companies. Such has been the method all along the line in the regulation of this great busines

Mr. HARDY. Will the gentleman yield just for a question

or suggestion?

Mr. CULLOP.

Mr. HARDY. It seems to me by way of answer to what the gentleman from Indiana [Mr. Cox] asked, or the proposition he has suggested, that the supreme courts themselves have already held that the standard of rate or measure of rate is not to be determined by the capitalization of the road.

Mr. CULLOP. Certainly.
Mr. HARDY. And that the capitalization is only to be considered by the court, if at all, as one of the elements of evidence as to what is the real capital upon which the companies are entitled to earn a dividend, and they are entitled to earn a dividend upon nothing more than their real capital. I think that is the holding of the courts.

Mr. CULLOP. The gentleman is correct. Now, I will call the attention of the gentleman from Indiana [Mr. Cox] to the cases collated in the hearings in which the doctrine is laid down in a number of them, in which the very basis that the gentleman from Indiana incorporated in his question is denied by the court and the opposite contention is sustained.

Mr. COX of Indiana. I beg the gentleman's pardon, I am not assuming any position; I was simply seeking information.

Mr. CULLOP. Well, the one involved in your question.

Mr. COX of Indiana. I was trying to get at the gentleman's views, taking it for granted that the gentleman, being a member of the committee, has given it a lot of study. I have not.

Mr. CULLOP. The courts all over the country have held, as I recall the cases, that the proper basis of levying of rates for transportation is not by taking into consideration alone the capital stock and the bonded indebtedness, but it is the real invest-ment as the true basis. The actual investment is the proper basis, and that is a fair way to look at it; that is an equitable basis that the courts ought to and do assume and which individuals ought to assume in adjusting this matter by legislation. This question has become a public matter-one of the greatest importance. Its proper solution requires the serious consideration of every lover of our country who has its welfare at heart. Every year upon the farm go to waste great values in products, cheap products, because the cost of conveyance to market is too expensive. In the congested centers of population hungry mouths are pleading for them, but the cost of transportation between the points of production and the points of consumption is so great that the people can not afford to have these products; neither the producer nor the consumer can afford to pay the cost charged for conveying them to points of consumption. Now, that is the situation which confronts us. Go to your coal mines, and to-day coal rates in the best part of the coal-mining districts of the great Mississippi Valley are so high that it hampers this great industry and retards its development. Cost of transportation eats up the profits and retards the industry.

It is the cost of transporting the coal from the mines to the places of consumption which is holding back in our country one of the greatest industries ever developed in it. It is reducing the amount of production in the manufactories. ing back industrial pursuits, because the cost of putting the goods upon the market is so great. The cheaper you make an article to the ultimate consumer the more of it is consumed. The higher you make it the less of it is consumed. And the cost of transportation to-day is doing more to affect the high cost of living than perhaps any other one item which enters into it at this time. Products which are going to waste on the farms, for which the farmer ought to realize profits on his investment, on his labor, could be, if properly regulated, transported for less money to the places where there are demands for them and thereby be of value to the country and the people who desire them and a profit to the men who produce them. But this is prevented because of the cost of transportation as levied upon the basis fixed at the present time.

It is not fair to the public that it be taxed to earn dividends on watered stock; that freight rates be fixed at such price as to pay dividends upon watered stock that cost the railroads nothing. When such a procedure is permitted nothing is turned into value, and millions are made by such a policy which have never been earned. Such a policy is unjust and unfair. This bill will in a very large measure eliminate that system and will to a certain extent wipe out the system of high financing in this country by which the innocent public is exploited so often. That is one of the objects of it, and the country will approve it.

Mr. BUCHANAN. Will the gentleman yield?

Mr. CULLOP. Certainly. Mr. BUCHANAN. I am aware that there is a great difference between the price of products at the farm and the price in the cities, but I do not know that it is all due to the high freight rates. For example, I have known potatoes to sell for 30 cents a bushel on the farm and probably sell for 40 or 50 cents a peck in the cities. I am not certain that the railroad rates has all to do with that. I think commission merchants and stock exchanges have often something to do with this great difference in the cost of the price to the producer and the price to the consumer. Can the gentleman give any informa-tion in regard to that? Has there been any explanation given in the hearing?

Mr. CULLOP. I will be pleased to answer the gentleman so far as I can. I do not claim, and never have claimed, that the cost of transportation was the sole cause of the high cost of

living. But I do claim it is an element which enters into it.

Mr. BUCHANAN. If the gentleman will please permit— Mr. CULLOP. Let me answer the gentleman's question.

Mr. BUCHANAN. I would like to get at just one thing. that due to the fact that the farmer can not often ship his produce because of not being able to get a market for it and abnormal high price for the product that the producer can not

Mr. CULLOP. In part, yes. What I do claim is that one of the items which enters into the high cost of living is the high cost of transporting the products to market. There are other items which enter into it. This bill will not eliminate all of them. We are not claiming that for it. But we must eliminate those, if we can, one by one. You will not eliminate all of them with one great legislative swoop, because there is a combination of circumstances which brings about that result, and this is one of them. Now, it is true that sometimes the want of transportation facilities does have something to do with it. The scarcity of cars, bad roads, and a number of things may enter into it which prevent producers from putting products on the market.

Why is wheat higher in the district of the gentleman from Illinois [Mr. Cannon] than it is in my district? Is it because he is nearer the initial market than the people of my district? The difference in transportation alone makes the difference in the price of wheat between my city and his city.

Why is wheat higher in Indiana than it is in Oklahoma? Because of the difference in the cost of the difference in distance from the initial market. Chicago is the initial wheat market for all the Mississippi Valley. Why is wheat higher in Chicago than it is in St. Louis? Because Chicago is the initial market and the cost of transportation from St. Louis to Chicago is the difference. Now, just as long as the present system prevails that long will the public have to bear this unjust burden. Just as soon as it is eliminated the burden it imposes will be removed and the producer and consumer alike will be benefited

It is unfair to the public that the Government should guarantee the investment in stocks and bonds, and yet that is the effect of the present system. If the stock and bond speculator wants to go on the market and speculate, the Government ought not to guarantee his investments. Who ought the Government to protect? The producers and consumers, and not alone the speculator who thrives by the manipulation of the stock market. The speculator is taking his chances in the mad race of specu-Should the Government throw its strong arm around him and protect his chance speculation at the expense of the innocent producer and the helpless ultimate consumer of the country, or should it protect the one who earns his living by the employment of his muscle and mind? That is the proposition involved here. For me, I want to stand by the producer: I want to help the helpless consumer of this country, and not the stock speculator who takes his chances on the opportunities of trade of this country, because he is not so deserving as the other, whoever he may be. It would give a great impetus to every manufacturing industry, to every mining industry, to every farmer in this country, and it would multiply the productions of the farm, factory, and mine, and the cheaper products which now go to waste could be put into the markets of the world where there is a demand by the ultimate consumer, and it would thereby help all.

Now, Mr. Chairman— Mr. FOSTER. Mr. Chairman, I would like to ask the gentleman from Indiana a question.

The CHAIRMAN. Does the gentleman yield?

Mr. CULLOP. With pleasure.
Mr. FOSTER. Is there anything in this bill which excludes watered stock in railroads, or which in the future would prevent the issuance of watered stocks, or which makes the investment secure in stocks where the railroads do not go out and sell watered stocks?

Mr. CULLOP. I may state to the gentleman from Illinois that the theory of this bill is that the physical valuation of the properties shall be determined irrespective of their capitalization and their bonded indebtedness, and the rates fixed upon that, so that there will be no inducements to the overzealous speculator of the country to rush in and buy watered stock or inflated bonds

Mr. FOSTER. Well, is there anything in this bill to prevent

Mr. CULLOP. No, there is nothing to prevent it; but the basis for regulation, if adopted, will of itself prevent it. to ascertain what is watered stock, how much is overbonded indebtedness, and get at the genuine or real value of the property, and fix the transportation rates upon what the real values That is the purpose and object of the bill. Then it takes away, when fixed on that basis, the inducement to persons to buy watered stocks, because the opportunity to earn dividends

on such stocks by the operation of the properties will be destroyed, and hence there will be no demand on the market for

I can say further to the gentleman, here is the trouble about that proposition in Federal legislation: These corporations, as a rule, get their charters from States and not from the National Government, and that regulation necessarily belongs to the several States of the Union. But when you fix the rate on the basis contemplated by this bill, there will be no inducement for overcapitalization or excessive bonded indebtedness.

Mr. FOSTER. Well, does the gentleman think that when this valuation is made that will prevent the issuance of watered stock by common carriers?

Mr. CULLOP. Yes; I think there would be no inducement, and if there is no inducement to issue watered stocks, then none would be issued. Such stock is issued only upon the inducement

that it can be sold, and if you will eliminate the inducement entirely, then you will have removed the evil from the public. Mr. ADAIR. Mr. Chairman, will the gentleman yield for a moment?

The CHAIRMAN. Does the gentleman yield?

Mr. CULLOP. Yes; certainly.

Mr. ADAIR. Would not the very fact that the valuation of

Mr. ADAIR. would not the very fact that the valuation of these roads is known make it impossible to unload watered stock on the public, because the public would know the value?

Mr. CUILOP. Exactly. That is it exactly.

There is another proposition which I want to call to the attention of the committee. These companies give one valuation for purposes of taxation, to raise public revenues, and then an altogether different valuation of the property to the Interstate Commerce Commission for the basis of charging the public for service to earn revenues from the public, which all, I take it, will concede to be unfair to the public. If the roads fix one value for taxation, why should they not be bound by the same valuation for the fixing of service charges. If it is fair that they should be taxed upon a certain valuation, then it is also fair that the public should be taxed on the same valuation for the transportation services performed. I do not believe any man will deny that proposition.

The question involved in this legislation is of vast importance to the public and upon the result depends much the conditions which shall follow, whether it shall retard or accelerate the development of our country and inspire the prosperity of the people. Common carriers render public service and should be regulated to the end that the country should be benefited thereby.

We are living in an age of wonderful progress and the evolution of the times produces marvelous strides in the development of every human activity. More is being done daily and more is required to be done to aid every agency human ingenuity can employ to facilitate the progress of the times so essential to secure the contentment and happiness of the people and to inspire and accelerate the prosperity of our country. Legislation to this end is demanded in order that the requirements of public weal may be assisted and public wants supplied for the promotion of the common welfare and the general benefit of the entire public.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. Esch] 10 minutes.

[Mr. ESCH addressed the committee. See Appendix.]

Mr. STEVENS of Minnesota. Mr. Chairman, I now yield 10 minutes to the gentleman from Wisconsin [Mr. Lenroot].

Mr. LENROOT. Mr. Chairman, I shall vote very cheerfully for this bill, although I am not wholly in favor of certain provisions of it. My chief criticism is found in the first paragraph, which is a mandate to the commission to find the value of the property of every common carrier subject to the provisions of the act and used by it for the convenience of the public. That is a mandate to the commission to find the value of the property, and the value so found is to be taken as the value for rate-making purposes.

Now I believe, Mr. Chairman, that that is a mistake, for the question is far from being settled in this country, either by judicial interpretation or legislation, as to what elements go to make up the value of the property of the railroad for ratemaking purposes. No hard and fast rule has ever been declared by any court; but the courts are unanimous upon one proposition, and that is that the physical valuation of the railroads is an indispensable element to be taken into consideration in the making of rates, and for that reason I wish, instead of a mandate to the commission to find what the value of the property is, that this bill had been limited, as far as value is concerned, to finding the physical value of the property, and then leaving

to the commission to determine the question of value in each particular case as it comes up.

Now, Mr. Chairman, there are a great many questions that remain to be settled with reference to this question of value. For instance, take this great passenger station of the Pennsylvania Railroad here in this city, their station in New York, and the North Western Station in Chicago. Under this bill I take it the commission in finding the value of the property of the Pennsylvania Railroad used for the convenience of the public, will include the value of this station, running into many millions of dollars, and I take it that the policy of this bill is that that shall be included as a basis of rate-making purposes. Mr. Chairman, it is not at all certain that that is the correct basis for rate-making purposes, especially for freight rates.

It is certainly a doubtful question whether those who ship freight upon the Pennsylvania Railroad should be compelled to pay in freight rates for these expensive passenger stations, erected exclusively for the use of passenger traffic. one of the questions; and yet if we have the commission in an ex parte way find the value of these properties as an entity, I take it that the railroads will claim that Congress has declared the policy that they shall be entitled to exact such rates as will a fair return upon the total value of the property so

And so, Mr. Chairman, I wish that the very first paragraph might be limited to ascertaining the value of the physical property of the railroads, leaving the question entirely open, to be decided in each given case, as to what the value of the property is when used in that particular case for the purpose of rate making. If the commission had the value of the physical property-and that is the difficult thing to ascertain always-and kept it corrected and revised and changed from time to time as is provided in this bill, there would be no difficulty for the commission to apply the other elements as the cases may arise.

Further, Mr. Chairman, we have now a case pending in the Supreme Court, which will shortly be decided, namely, Minnesota case, which will no doubt settle many of these questions and may indeed form a new basis, or at least a somewhat different basis, for the fixing of valuations for the purposes of rate making. Let me say here, Mr. Chairman, that the value of the property of a common carrier for purposes of taxation or for commercial purposes may be and very often isyes, usually is—a very different one than a valuation used for rate-making purposes. If we are fixing the value of a railway for taxation purposes we look at the market value of that property, and the market value of that property depends almost wholly upon the earnings that the property makes

The earnings depend upon the rates that the railroad charges, and if the railroad is permitted to charge rates 50 per cent bigher than it ought to charge, 50 per cent greater than are reasonable, that is immediately reflected in the market value of the road; and the very purpose of regulation is to get a reasonable rate, and with a reasonable rate the market value of the road would be very much less than it is, of course, with

an unreasonable rate.

I should seriously object to, and in fact feel compelled to vote against, this bill if it rested with the first paragraph as to the value of property; but there is another section later on that permits the commission to revise its valuations from time to time and change and correct them, so that I do not know that any great harm will come; but when this bill comes up for amendment I shall offer an amendment limiting the valuation of the property to a physical valuation. If we have the physical valuation, if we have the other information that is provided for in the bill, which I am heartily in favor of, then I see no occasion for the commission at this time in an ex parte proceeding going any further. I doubt if the railroads will be heard in this proceeding, because they will have an opportunity, a coustitutional right, to be heard upon the question when the matter gets into the courts, for, after all, we make this valuation only prima facie evidence of the value and that is all we can I shall offer an amendment limiting the finding to the physical valuation, and then we will have all of the elements: but so far as the final conclusion of the commission is coucerned, in fixing the value of a particular road, we can well leave that until the question comes before the commission with

reference to the rates of that carrier. [Applause.]
Mr. FOWLER. Mr. Chairman, before the gentleman takes his seat I desire to ask him a question. On what does he base

the physical valuation of the property?

Mr. LENROOT. Just what the term implies-the value of the right of way, the value of the rolling stock, the rails, the equipment, and everything that is physical that is used for the convenience of the public.

Mr. FOWLER. The gentleman means the cost value of these articles

Mr. LENROOT. I do not. The value of the physical property in a railway is derived in this way: First, one consideration is the original cost both of equipment and right of way. Another is the present value. That is readily ascertainable. The cost of reproduction is another element, and from those elements we arrive at the present value of the physical property of the railway company.

Mr. HARDY. Is not that just the standard this bill pre-

Mr. LENROOT. It does when you go into detail, but the commission is required to ascertain the valuation of the property

Mr. HARDY. And the gentleman would add the word " physical "?

Mr. LENROOT. Yes.

Mr. HARDY. And the gentleman would define it——
Mr. LENROOT. Exactly.
Mr. HARDY. So that there is no real substantial difference? Mr. LENROOT. No; except that I do not think it is confined, so far as the final conclusion of the commission is concerned, to the physical property.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. SIMS. Mr. Chairman, I yield 15 minutes to the gentleman from Missouri [Mr. Borland].

Mr. BORLAND. Mr. Chairman, waiving any criticism as to the details or language of this particular bill, it seems to me that there is a very unanimous sentiment in this House in favor of it. I am heartily in favor of the measure and substantially in accord with the language in which the bill is There is no problem now before the people of the great interior sections of this country so serious, so constant, or so pressing as the problem of railway transportation. Many of the Members of this House come from districts the whole commercial and economic advancement of which depends entirely upon railroad transportation, and most of us come from districts where that is substantially true. In a great extent of the interior country such as we have, a great productive area removed from the seaboard, railroad rates are a general tax upon the entire consuming and producing public. I would not undertake to set up as an authority on economics and say who ultimately pays the cost of transportation, whether it be the producer or the consumer. I have always believed that as to the foreign transportation, as to export goods, the producer in this country pays the cost of transportation. When we export a bushel of wheat we must sell it upon a free-trade market in competition with the strongest competitive forces in the world, the wheat of South America, of Australia, of Russia, of India, of Canada, and of every wheat-producing area on the globe. The advantage we have over them is in the quality of our wheat and the cheapness of getting that wheat to the seaboard, for in water transportation distance is rarel the main factor. The great cost of putting our wheat on the foreign market is ordinarily the cost between the farm and the seaboard, and every penny saved in the cost of transportation from the farm to the seaboard is a penny left in the pocket of the producer of the wheat to enter into the channels of legitimate trade in

As to domestic commerce, so much of our products as were consumed here in our own country, I have always believed that the consumer must ultimately pay the cost of everything that went upon his table or upon his back. No matter how much the cost of transportation was, he must ultimately pay a price sufficient to cover it all. Regarding, therefore, the two great elements of the transportation business, the export and the domestic consumption, as to one it has occurred to me we were in competition with the nations of the world where every facility and improvement of transportation was a direct economic gain and growth to the wealth of this country in placing our products on the foreign markets, cheaper, quicker, and better than our competitor; and as to the other, the feeding of our own home people, it is a factor in the cost of living of the man who earns a daily wage to take home on Saturday night and hand over to his wife for the necessities of his family. So there is no class of the public that is free from this universal tax of railroad rates. We have come to a time when the question of the physical valuation of railroad properties is an absolute pressing necessity. We have come to a time when the conditions are ripe for such a physical valuation. The speculative age of railroad building is probably at an end in this country. A generation or a generation and a half ago all the great West was eagerly bidding for railroads. Land grants, aid bonds,

public subscription of stock, anything on earth was offered to get a railroad out there in a country that could not produce the business that justified a railroad when it was first built. Now all of those railroads have been built. They were cheaply built; many of them built entirely out of land grants or aid bonds, and yet stocks and bonds were put upon the market based upon such properties. In 1893 came a period which was a clearing house of all these western railroads. Almost without exception they went through a period of receivership and all scaled down their indebtedness and all wiped out public stocks and bonds and all control the public had over the management, and they all consolidated great systems. began to rebuild out of the earnings and capitalization of that property an entirely new and adequate system of transportation throughout the West. But now the period of railroad specula-tion is almost at an end and a period of railroad operation has come when the roads are putting in heavier rails, straighter roadbeds, broader ties, better bridges, double tracking in most cases, running bigger trains, heavier engines, and fewer men to the train crew.

So they have more opportunity now to operate upon a purely operative basis than they ever did during the speculative age. Railroads were built to sell originally, like the jackanapes razors which are mentioned in the old poem. Now they are built to operate, like any other business property on the market. The great question we have had to confront is what is a fair rate between the shipper and the railroad. In this question the railroad has universally had the advantage of the shipper, for the railroad would not disclose the value of the property upon which it operated. It never undertook to disclose that fact. Much has been said about the difficulty of getting at the value of railroads. Unquestionably there is a practical difficulty in getting at the value of anything. Even 10 feet of ground necessary to open a public alley will cause a great deal of controversy. Value is a question of opinion, but the difficulty in getting at the value is not insurmountable, and great as it may be it is necessary to be met and met just as early as possible.

I believe, with the gentleman who last spoke, that we should confine this investigation to the physical valuation of the railroads. I do not believe we ought to value a railroad as a going concern, for the minute that you do that you add something to it besides the physical valuation of the property itself for taxation or sale purposes. Now, what do you add to it in valuing it as a going concern? You must add one of two things, either good will or franchise. Which of those belongs to the railroadthe good will or the franchise? The franchise does not. It is not the franchise of the railroad, but of the public. Did not the railroad seek the franchise on the ground that it would invest its capital in a business productive to the public and that the public might have the right of control by reason of the franchise that was given to the railroad? The railroad does not own the franchise, and I have never believed in the capitalization of the franchise of public utilities. There never has been a more vicious principle in this country than the capitalization of the value of a franchise, for the franchise is the free gift of the country upon consideration by which the railroad invests its property.

Mr. HOBSON. Does not the gentleman recognize the same

principle as in the capitalization of monopolies?

Mr. BORLAND. Unquestionably it is the same principle as capitalization of monopolies. We give the railroad a right to do a certain business a private individual can not do, and then they undertake to capitalize that right, which is practically a monopoly, because no person can invest a similar amount of money without the proper franchise and compete under the same terms.

Mr. OLMSTED. Will the gentleman yield to me?

Mr. BORLAND. I will.

Mr. OLMSTED The gentleman is discussing the matter from an intelligent standpoint, and it has occurred to me to ask him a question which has troubled me a great deal, namely, What would be the physical valuation of a railroad that had no freight or passengers to carry?

Mr. BORLAND. I will answer that question.

Mr. OLMSTED. And then I follow that by asking what would be its physical valuation if it had no franchise to carry freight or passengers? And, after all, does the physical valuation of a railroad have anything to do with what would be a proper rate of transportation over it?

Mr. BORLAND. The physical valuation of a railroad that had no freight or passengers to carry would be only, of course, the value of the rails when they were torn up and the value of the land when it was turned back for some other purpose. Of course, there would be no question about the physical valuation of a railroad with no freight or passengers to carry.

Mr. OLMSTED. Ordinarily that would be a mere right of way, which, when the rails were torn up, would go back to the

original owner.

And the terminal facilities in the city. Mr. BORLAND. The physical valuation of a railroad which had no freight or passengers to carry would not be a hard thing to determine. As to the second question, I would say the physical valuation of a railroad with no franchise would not be conceivable.

Mr. OLMSTED. Which would be permitted in any State if

built on private ground.

Mr. BORLAND. But a railroad without a franchise could The difficulty which the gentleman from not be a carrier. Pennsylvania [Mr. Olmsted] has not touched upon in his question, but which I thought he might touch upon, is the physical valuation of a railroad which is operated at a loss. There is some difficulty connected with that proposition. Some branchline railroads operated in connection or under the control of trunk lines are operated at a loss, but whether that is due to the management of the company or the conditions of the community is a matter of dispute. Ordinarily it is due to the policy of the company which owns the road.

Mr. OLMSTED. I can name several independent railroads that are operated at a loss, that never have paid a dividend, and probably never will, and yet they are railroads which cost sev-

eral millions of dollars.

Mr. BORLAND. That is true. It sometimes happens, frequently happens, that money is improvidently invested in railroad enterprises that do not pay a dividend and never will pay a dividend. But it has been universally true also that all money invested in railroad enterprises was unprofitable at the first investment and only grew into profit as the community grew

and the business of that road increased.

Mr. OLMSTED. I do not wish to take up the gentleman's time, but I have only another instance to present. It is a matter of history that one of the steam railroads from here to Baltimore cost a great deal more to construct and to establish than the other one, because the first road interfered with the second one in getting a franchise into Baltimore and the second one had to take an expensive route. You will see it every time you go over to Baltimore. It has to go through long and costly tunnels. Now, does the fact that one road cost possibly twice as much as the other increase its physical value, or would that physical valuation have any bearing at all on the ascertainment of what would be a proper rate for the transportation of freight or passengers from here to Baltimore?

Mr. BORLAND. That is a very important question, and I may say to the gentleman that instances of that may be multiplied all over the country, where one railroad has cost more to build, competing with another one, than the original line by reason of the cost of terminals, or the scarcity of terminals, or the difficulty of entering into a city, or whatever the reason

Mr. OLMSTED. One road secures a right of way through a canyon or narrow defile and another company, to build a competitive line, may have to tunnel through a mountain.

Mr. BORLAND. Unquestionably.

Mr. OLMSTED. How, then, are you going to determine the physical valuation of the railroads under such circumstances?

Mr. BORLAND. This bill takes care of that by providing for the ascertainment of the original cost of the property for railroad purposes. Whether that would result in a uniform standard of physical valuation for all railroads that were competitive on the question of rates is another question that has not yet been reached by this bill. This bill, as I understand it, is to get at the original cost of the railroad and the present value of it, and ascertain how much of that present value is due to added improvements. If that is done in the case of each railroad, then whether or not it will serve as a basis for the fixing of rates is a matter for the court and the commission to decide as the question arises.

Mr. OLMSTED. Would we not get at it more effectively and readily by a bill regulating the issuance of stocks and bonds, so that there could be no fictitious increase of either?

Mr. BORLAND. No; I do not think there can be any possi-bility of regulating the issuance of stocks and bonds except on the basis of the known physical valuation of the property.

Mr. OLMSTED. Well, we have it in New York. They have an excellent public utilities commission there. No increase of stock or bonds can be made except by its permission, and other States have similar commissions.

Mr. BORLAND. It is possible to provide limits and safeguards to the issuance of stocks and bonds, but I do not think there could be any real and effective limitation on the issuance of stocks and bonds short of a physical valuation of the property upon which the stocks and bonds are issued. Now,

it certainly is an evil in the transportation business that bonded indebtedness and fixed charges to pay interest on bonded indebtedness are figured into the rate making. If I guarantee a mortgage for a man who has mortgaged his house for \$5,000 when it is worth only \$4,000, and he has sold to your client the mortgage for \$5,000, he can not sell it for any greater sum or rent it for more than it is worth any more readily than he could have done before I gave him the guaranty.

The CHAIRMAN. I would like to have five minutes more.

The CHAIRMAN. Is there objection to the request of the

gentleman from Missouri? There was no objection.

Mr. LENROOT. Mr. Chairman, I would like to ask the gentleman from Missouri a question.

The CHAIRMAN. Does the gentleman yield?

Mr. BORLAND. Certainly.

Mr. LENROOT. As the bill now stands, would it not compel the commission to decide the very question that has been raised by the gentleman from Pennsylvania [Mr. Olmsted], as to two roads doing the same line of business, one costing very much more than the other, whereas if it were limited to the valuation of the physical property that question would remain to be decided in each particular case?

Mr. BORLAND. It might in this respect, that the bill provides that the commission shall report the present value of the property for railroad purposes, which might raise the cheaper and earlier railroad to the value of the competitive railroad that

was afterwards put in.

But those are simply questions of information and enlightenment for this House which I regard as absolutely essential that we should have. We can not have too much of this information. The use we make of it afterwards will be such as occasion may require, but I think the bill itself is right in theory. We ought to know the cost of the physical property in the first instance. We ought to know the cost of the added improvements, and we ought to have the commission's estimate of the present value for railroad purposes. We ought to have at least those three items.

Mr. LENROOT. If I am correct in assuming that the bill is a mandate to find out the ultimate value, then is it not beyond the power of the commission itself to fix rates other than on

that basis afterwards?

Mr. BORLAND. It probably would be. Now, I wanted to say this-that I believe the time has come when a physical valuation of railroads can be made on a fairer basis than ever before in the history of the railroads of this country, fairer to the railroads themselves and fairer to the shippers. I believe that railroading has gotten down to a legitimate basis. I believe that 90 per cent of the railroads of this country are entirely out of the realm of speculation and are being operated as closely and cheaply as any other large business can be

Mr. HARDY. Mr. Chairman, I have not studied this bill thoroughly. I wish to ask if there is anything in it which requires that when this value is ascertained that shall be the

standard upon which rates shall be fixed.

Mr. BORLAND. No; there is no requirement of that kind. Mr. SIMS. The physical value would only be prima facie evidence.

Mr. BORLAND. It would only be prima facie evidence on which the commission could act.

Mr. HARDY. As I understand, it would just be one element to be taken into consideration in passing on rates.

Mr. BORLAND. It would be one element.
But I wanted to say this further, that we have now had about 25 years of railroad legislation, and I do not hesitate to say that all of it has redounded to the profit of the railroads themselves more than to the profit of the shipping public. The railroads have put an end to discriminations between shippers by wiping out rebates to favored shippers. There was a time, a few years ago, when no large dealer ever expected to ship a carload of stuff on the published tariff. He went to the soliciting agent of the railroad company or the soliciting agents chased him around town to get him to ship his carload of watermelons over their road at a special rate. Every railroad had a commercial agency, consisting of a number of young men of pleasing appearance, who went about town soliciting every pound of freight shipped in that community, to get it carried over that line at a special secret rate. Now the railroads have abolished all that, and they are getting full rates. getting any rebate. Who is getting the benefit of that? Ulti-mately and directly the railroads themselves. The railroads used to give a pass to every respectable man in the community. There was hardly an exception. The man who did not ride on a pass felt himself to be beneath the social standing of other persons in that community. Now every man pays his fare. Even some of the members of the lordly State legislatures pay their railroad fares.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

Mr. SIMS. I yield to the gentleman from Missouri five min-

Mr. BORLAND. The railroads used to take all the baggage you wanted to send, even theatrical and traveling men's baggage, and ship it all over the country on a passenger ticket. Now you can not even take a collar box without paying excess baggage. I have never made the trip from Kansas City to

Washington without paying from \$4 to \$9 excess baggage.

Mr. CAMPBELL. The gentleman carries too many clothes.

Mr. HAMILTON of Michigan. The gentleman has too many

Mr. BORLAND. I do like a clean collar, but beyond that I do not plead guilty to being a dude. The railroads are getting more money for their business to-day than ever before in the history of transportation, and the regulation in which we have been indulging has not been reflected in cheaper rates to the consumer or to the producer or to the shipper in any single, solitary instance.

Now, the railroads claim that they are paying more for ma-terial and more for labor. I have no doubt that in many cases they are paying more for material, but my judgment is they are paying less in the aggregate for labor. We find that they have raised the labor cost 15 to 18 per cent on the average, but I think they have raised their rates much more than that. They have cut down the number of men employed on the railroads very materially. The consolidation of terminals, the consolidation of switching facilities, the running of heavier trains, the cutting out of a flagman here and a shopman there, the cutting out of little repair shops have reduced the labor roll very materially, and I doubt very much whether any portion of the increase of the rates of the railroad are justified by an increased pay roll, although there may be an increase in the rates of individual employees.

But, Mr. Chairman, the time has come now when some of this railroad regulation should be reflected in cheaper and more uniform rates for the shipping public, and I hope that that will be the outcome of this bill.

Mr. BUCHANAN. Will the gentleman yield?
Mr. BORLAND. I will.
Mr. BUCHANAN. Is it not a fact that the labor cost on a tonnage basis over the railroads is very much less than what it

Mr. BORLAND. It is very much less than what it was, and that is the only true test of the labor cost, and it is smaller now than it has ever been in the history of the railroads and is getting smaller every day.

The railroads have no reason to complain of the physical valuation of their property as a basis for making rates. If this Minnesota case is confirmed, there will be practically no power left in a State to regulate railroad rates. In that Minuesota case the court said that the making of an intrastate rate so directly affected the interstate rate that the intrastate rate could not be reduced without affecting the transcontinental rate. This is true. Any man who has studied railroading knows that the change of a rate from a point to a point in Minnesota will affect every rate between Chicago and Puget Sound. There is no doubt about it, and so there is but one agency through which the regulation of rates can effectively be made and but one basis upon which they can make that rate, and that is cutting out the value of the franchises, the value of the good will which the shipper has created, and give them a fair and just return on the property they have invested. [Applause.]

Mr. SIMS. I now yield 10 minutes to the gentleman from

Alabama [Mr. Hobson].

Mr. HOBSON. Mr. Chairman, this bill is in the interest of truth and honesty in offering a way to establish the facts in the various controversies arising between the public carriers and the public. The bill is in the interest of promoting an orderly evolution of our social system. The transportation system of a nation is closely analogous to the circulatory system of a living being. It is first in evolution in passing from a lower order to a higher order, and upon the development of the circulatory system depends in large measure the development of the organism. The Interstate Commerce Commission is closely analogous to the vasa motor center of a human being. The Interstate Commerce Commission is The world is passing from a cold-blooded creature to a warm-blooded creature, and nations are evolving centers which can systematically regulate transportation for the whole nation as the vasa motor center regulates circulation for the whole body.

Now, our Interstate Commerce Commission itself may be likened to the vasa motor center, but the evolution of the Interstate Commerce Commission is still in its early stages.

This bill removes the obstacle in the path of its next stage of development. The references made here in the remarks of various gentlemen who have preceded me will convince anyone that the time is fully ripe for this whole question to be systematized. We are a warm-blooded creature now, and the circulation is the very life of our development. We can not proceed in an orderly system of development unless we can have transportation properly systematized and regulated.

To illustrate, take the conditions now found in my State of Alabama. One system of railroads in our State maintains that the 21-cent passenger rate fixed by statute is confiscatory, while the other railroads accept that rate and have not been going into

bankruptcy on account of it.

But this particular system has had the matter referred to the Federal judge of the district, and that judge has decided that the rate is confiscatory; and, Mr. Chairman, the search for evidence on the part of the State to present its case was met by insuperable barriers and obstacles; so that it was decided substantially, as all such cases must be decided, from one state-ment—the statement of one side—ex parte evidence. This bill if enacted would enable us to get recourse and relief.

Mr. CULLOP. Mr. Chairman, will the gentleman yield?

Mr. HOBSON. Certainly.

Mr. HOBSON. Certainly.
Mr. CULLOP. What was the passenger rate on the railroads

before you passed your statute in Alabama?

Mr. HOBSON. It was variable. It was usually 3 cents on

the larger railroads.

Mr. CULLOP. Is it not true that the railroads which have accepted the 2½ cents a mile statute rate are carrying more passengers and making more money out of the passenger traffic than ever before?

Mr. HOBSON. It certainly is a fact that whenever a passenger can travel by one of those other roads he always chooses it, and whenever a shipper can ship by one of those roads he always ships by it; but there are many localities where there is no choice. The railroads charging the rate in violation of the statute have been issuing coupons, in which they agree to return the difference in the rates if they are not sustained in the higher court. Nobody can keep those coupons, and the railroads know it, and they will not allow those coupons to be bought and sold, so as to insure their being lost. In some cases they make you sign your own name and announce that only the original purchaser will be reimbursed. This is the case in Oklahoma. They pretend that they will abide by the decision of the superior court, but they make the conditions such that when the time comes it will be a physical impossibility for the refund to be collected, showing a clear intent to hold the increase, whether

lawful or unlawful.

Mr. CULLOP. I will ask the gentleman if the courts have not made this proposition of confiscatory rates do overtime in the

last few years:

Mr. HOBSON. Unquestionably. Where reduced rates have been fixed by law and accepted, I find no evidence of the railroads going out of business or of any great decline in profits. I cite these as instances of the obstacles still remaining in the path of proper regulation. I travel a good deal between States. I find now many railroads, most of the roads passing through the gentleman's State [Mr. CULLOP] and the other States of the Middle West, charge more because of the simple act of crossing the State line; so that in effect the rate in both States violates the State law. In other words, they charge a rate that, sepa-

rated in two parts, is illegal in both States.

Mr. CULLOP. I will say to the gentleman from Alabama that there is now pending before the Committee on Interstate and Foreign Commerce a bill introduced by myself to correct

that practice on the part of the railroads.

Mr. HOBSON. I will say to the gentleman that I am surprised that the great self-governing people of the Central West, who have passed the 2-cent rate bills in their States and have found that they are fair and just, have submitted all these years to the common carriers between the States charging illegal rates under the cloak of the Interstate Commerce Commission.

Mr. CULLOP. It is not an illegal rate, I will say to the gentleman.

Mr. HOBSON. Only because it is interstate. The rates charged within the States have not been declared unreasonable, nor in practice have they proved unreasonable.

Mr. CULLOP. Yes; the Interstate Commerce Commission is opposing the proposed remedy on that subject, I will say to the gentleman. I want, furthermore, to say that in my State we have a 2-cent fare bill, passed some years ago, and the railroads have been carrying more passengers and have been making more

money out of the passenger business since that was passed than they ever did before, when they charged a 3-cent rate.

Mr. HOBSON. Showing that there was no warrant whatsoever, in fact, for them to charge a larger rate in passing from Indiana to Illinois. Each of those States has a 2-cent rate, and yet if you pass from one State to the other you are charged

Mr. FOSTER. Three.
Mr. HOBSON. Some of them charge three, but most of them, I think, charge two and a half, though many times they do charge three. I have been traveling recently, and the question arises in my mind, Why are we confronted by such a situation? Is there no recourse for the people of those States? Is the Interstate Commerce Commission to be an intrenchment for re-calcitrant roads to defy the just laws of the States? As long as the physical valuation of the roads is not made the Interstate Commerce Commission is thwarted in its best intentions to relieve this condition, and State authorities are thwarted in their legal processes for relief. Is this to continue forever? course the railroads go to the Interstate Commerce Commission and actually put up what looks like a reasonable argument that the lower rate between those States would be confiscatory. I can not understand any other reason why the Interstate Commerce Commission should submit to it. At this point I wish to bring out another point where the railroads are unreasonable. We have declared that the Pullman Co. is a public carrier, and yet if you buy mileage to Pittsburgh on one of the roads from here to Pittsburgh, having a mileage book from Pittsburgh west, say on the C. P. A., and have both mileages in your pocket, the Pullman Co. will not sell you a berth to Chicago or a point be-yond Pittsburgh; it will not sell you a berth across the point where you change your mileage books. Going west you pass through Pittsburgh usually about 2 o'clock in the morning and do not want to get out of your berth to go down to get mileage exchanged for a ticket. They will not let the conductor or porter get it done, and you either have to buy two berths, one to Pittsburgh and one from Pittsburgh on, or you just have to pay the full fare of 21-cent through rate from the starting point instead of the 2-cent rate. Those two public carriers are cooperating to practically interfere with the reasonableness of rates both on the Pullman and in transportation. I made complaint to a railroad and they announced the authority of the Interstate Commerce Commission for their unreasonable practice. I simply state this not to make a case out here, but with large experience in traveling throughout the country I find great irregularities, and I believe that this bill will be a most effective means of finally getting a basis upon which our transportation can be systematized, which will be for the best interests of the public carriers as well as for the traveling and ship-Mr. SIMS. Will the ping public.

Will the gentleman from Minnesota use some

of his time?

Mr. STEVENS of Minnesota. Mr. Chairman, how much time has the gentleman from Tennessee used?

The CHAIRMAN. One hour and twenty-six minutes.

Mr. STEVENS of Minnesota. How much time have I used?

The CHAIRMAN. Forty minutes.

Mr. STEVENS of Minnesota. I yield 10 minutes to the gen-

tleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Mr. Chairman, the power to make a rate involves the power to levy a tax. The people all over the United States are always solicitous that taxes are not levied too high, and if we should be able to get the correct values of railroad properties and those values were made one of the elements in rate making we would have a more intelligent conception than we have now of whether we were having a just and reasonable tax for railroad transportation. The taxes levied by railroads in the United States every year for the transportation of freight and passengers amounts now to about \$3,000,000,000, so that the railroad-transportation revenues in the United States are nearly three times as much as the revenues derived from taxation by the Treasury of the United States. The people all over the country are looking forward to the time when everybody will understand whether a rate is reasonable or unreasonable. Up to the present time there has been no sufficient information given to the public to enable the public to understand whether the rates are right or wrong. Everybody believes they are wrong in most cases. The railroad companies' representatives throughout the United States are constantly arguing for power to levy higher rates on the theory that the wages of the men employed by the railroad companies are much higher now than they used to be and the volume of work done by each man employed is much less, and that the total aggregate cost per ton of freight carried by the railroads of the country is greater than it ever was before, and that the dividends paid on the capitalization of

the roads are much less than they ever were before. The question arises whether railroad rates should be based upon the amount of money to be earned to be applied to the payment of dividends or whether the rate should be made upon the basis of the actual value of the property of the railroads, regardless of whether the property is considered in a going concern or not. My own judgment is that where a railroad claims to be running at a loss and its capitalization is more than twice what it ought to be the question of gain or loss in such case ought not to be taken into account. If the railroad rates are fixed on the basis of valuation provided by the first section of this bill, it looks to me that in some cases they will be fixed at much higher rates than they ought to be fixed at, because this bill provides that the commission shall ascertain the value of the property for railroad purposes or for rate-making purposes, and then in the case of the railroad referred to by my friend from Pennsylvania [Mr. Olmsted], where it was required to construct expensive tunnels to get into Baltimore, if the rate were made on the basis of cost to that road in order that it might be able to earn dividends the earning power of the railroad running in competition with it would be twice as much as it ought to be.

I believe that in many cases the values of railroad properties will be found to be greater than the actual capitalization of the railroad. But, on the other hand, I believe that in many other cases the values of the railroad properties will be found to be materially less. At any rate, whether it is higher or lower, the public is entitled to the information which this bill will enable the commission to obtain, and I am very glad that the time has come when Congress feels that the legislation demanded for so long a time by the people ought to be enacted

into law.

I am fully committed to the policy of the bill, and have a bill for the same purpose pending before the committee reporting this bill, the Committee on Interstate and Foreign Commerce. But while I may give my vote for the principle at stake, my views as to what ought to be done in the form of legislation do not fully conform to that of the committee and members of the Interstate Commerce Commission on this subject. Indeed, views will be found widely divergent.

I have advocated the appraisement or valuation of railroad properties in every Congress of which I have been a Member. In the last Congress I introduced, and the House adopted, an amendment to the Mann bill providing for a valuation. amendment was stricken out in the Senate and not restored in conference. Immediately thereafter I introduced the bill to which I have already referred and addressed the House at some length upon its subject matter and provisions

Before taking up the provisions of the bill which has been reported I shall address myself to the history of Government regulation of rates, and the situation surrounding a valuation essential to be thoroughly understood before there can be any

effective regulation.

This bill provides that the Interstate Commerce Commission "shall investigate and ascertain the value of the property of every common carrier subject to the provisions of this act and used by it for the convenience of the public." It then directs how and through what instrumentalities the duty shall be performed. I will now, for a text, state a definite proposition, namely, that this imposes, or seeks to impose, upon the commission an impossible and a useless task.

Ignoring for all present purposes telegraph, water, and pipe lines, and express companies, all common carriers subject to the act, there are over a thousand railroad corporations in the country hardly one of which is not in some respect or to some extent engaged in interstate commerce. I would be surprised if shown a single little road anywhere that did not connect in some way either with a longer line or a water carrier whose business extended directly or indirectly across a State line. And to the extent at least of the business done by virtue of such connection the corporations owning these short lines, though wholly within particular States, are subject to the interstatecommerce act.

It is safe to say that not one line of railway wholly within a State is distinct, independent, and free from the control of some more important carrier with respect to rates on traffic going beyond or coming from beyond the State boundary. In fixing the proportion of a joint or through rate which each shall receive or retain, the value of the investment in or the entire value of the shorter line, if ever an element at all, is one of the simplest propositions imaginable. But not one time in a hundred that such a rate might come before the commission would the value of the properties of one of these lesser and subordinate carriers become an essential fact. If it ever did become necessary in any particular case, that could then be done by

the commission for that particular case without difficulty and without any provision for it in this bill. In fact, however, a controlling interest in the stocks of the intrastate and of many short interstate lines is held by great railway systems, which are comparatively few in number.

I now advance another proposition. It is neither expedient, just, nor economical to ascertain the values of all the railroad properties devoted to interstate commerce, and it will best subserve public as well as private interests if the investigation and valuation be by entire organized railway systems and limited to the important and dominating even among these. With all the light obtainable from every source, with a force of engineers, experts, and other helpers equal in number to the Standing Army of the United States at work all the time gathering and tabulating data, even if when assembled any finite mind could grasp it all, the question of what is a reasonable rate or a just and reasonable schedule of rates would still remain a matter of opinion and judgment. Compromise and the arbitrary striking of averages are an incident of all rate fixing. It is as impossible now to fix rates which in the future will pay all outlays and leave a definite sum for dividends as it would be to fix next year's prices for eggs or potatoes, and for almost identically the same reasons. All those railway economists, whether holding professorships in colleges or seats in Congress or on the Interstate Commerce Commission, who expect to make or to see made of rate fixing an exact science or even susceptible of becoming subject to any definite rules or standards are doomed to disappointment. Nevertheless it is possible to fall into habits of thought and accept principles and standards which being conformed to in practice destroy public justice and deeply wrong the freight-paying public.

am about to discuss and expose some of the mischievious dicta of commissioners and others, but lest I forget it I will, with the permission of the House, here insert without reading

my amendment in the form of a substitute bill:

dicta of commissioners and others, but lest I forget it I will, with the permission of the House, here insert without reading my amendment in the form of a substitute bill:

Section 1. Section 11 of the act to regulate commerce approved February 4, 1857, is hereby amended to read as follows:

"SEC, 11. That a commission is hereby created and established to be known as the Interstate Commerce Commission, which shall be composed of 1 chief commissioner and 14 commissioners to be appointed by the President, by and with the advice of the Senate: Provided, That any commissioners holding offices as such at the taking effect of this act shall continue in office until the expiration of their respective terms, and for all the purposes of this act such incumbents shall participate in the organization of the commission hereby created with the same vided for new appointees. Said commissions shall be constituted by the appointment of a chief commissioner to hold office for the term of four years and to receive a salary of \$11,000 annually, and 7 additional commissioners to hold office four years and receive salaries of \$10,000 each annually; and their successors in office shall have the same tenures of office and receive the same salaries, except when appointed to fill a vacancy caused by death, resignation, removal, or other cause, in which case the appointee shall only hold office until the expiration of the terms for which his predecessor was appointed. The commissioner terms, except in cases of death, resignation, or removal, in which case their successors shall hold office only until the expiration of the terms of their respective predecessors: Provided, however, That no appointment shall hereafter be made, whether to fill a vacancy or otherwise, for a longer period than four years. Any commissioner may be impeached or removed by the Senate for inefficiency, neglect of duty, or official malfeasance, upon articles of impeachment preferred and provided as herein provided as 1, not more than 4 of such here years and the r

of rates, fares, and charges in lieu of those previously formulated and put in force by the carriers themselves or by the commission, either when an increase of rates, fares, or charge is proposed or attempted by any carrier or by several carriers acting conjointy or contemporaneously, or at any time, upon the motion or initiative of the commission or upon a procedure instituted by any party authorized and empowered by this act to present a complaint against a carrier concerning a rate, fare, charge, or practice. And whenever the commission shall deem it are to present a complaint against a carrier concerning a rate, fare, charge, or practice. And whenever the commission shall deem it in rates between commodities, kinds or deep to present discrimination in rates between commodities, kinds or or properly and fairly formulate and put in force new schedules, it may increase as well as reduce a rate or rates, fare or fares, charge or charges, and may rearrange and newly create classifications, as well as transfer commodities from one class to another, or may transfer a commodity from a special class, where a special rate is charged, to an ordinary established class, "At any hearing or examination, whether in departments or in hanc, rules of evidence shall, as far as is possible, be observed and applied as in the courts of the United States; and in determining he reasonable and just rates of service by corporations subject to the jurisdiction of the commission the test of reasonableness and justness shall be in conformity to the requirements declared and so established by the Suprement of the commission and property it is hereby made the duty of the said commission, and it is hereby required, to proceed for the transportation by rail of persons and property it is hereby made the duty of the said commission, and it is hereby required, to proceed for the with to the appraisement and valuation of the properties of at least 10 of the ;eadhappraisement and valuation of the properties of at least 10 of the ;eadhappa

Before discussing its provisions I will combat and endeavor to overthrow some of the errors and fallacious views before alluded to.

First, I fear that we do not sufficiently and at all times appreciate the importance of transportation. It is the one thing under human control that is essential to every human being in the world under modern conditions and not living in the most primitive and simple condition. Those uncivilized nations not dependent upon some form of transportation are so few in number or so obscure as not to be factors in present-day affairs. It is not only a universal necessity but one of common public interest. That may be one reason why so few outside the comparatively small class profitably engaged in conducting trans-portation devote special and persistent study to it. Few give more than a transient thought to the atmosphere so essential to life or to the water supply for domestic use until it is vitiated or its supply is reduced to the danger point. So with respect to transportation, especially that by rail. Not only have we here-tofore and do we now leave the management, the character of the service, and the rates to the care and keeping of the private corporations engaged in it, but we have allowed them almost exclusively to educate the people and their official representatives as to the rules and economic principles to govern herein.

We are living in a haze or glare of illumination, but without much steady, instructive light. There was, at a former period, a proper conception of the true relation of organized society to public-service agencies, but new ideas and strange doctrinesdoctrines which are totally destructive of public justice and private right-have been sprung and industriousy inculcated

during the last two decades. They have found lodgment not only in the minds of the representatives of shippers' associations, boards of trade, and other commercial bodies, but of judges, Interstate Commerce Commissioners, Senators, and Rep-The most dangerous and far-reaching of these is the economic view that, at any rate and aside from all other considerations, the corporation conducting business as a common carrier is entitled as of right to a fair return, usually asserted to be equal to the prevailing rate of interest, upon the value of the property devoted to the public service. Sometimes the expression varies, and it is said that the carrier is entitled to some such measure of return as the prevailing rate of interest on its investment. But the whole question of what is or what should be the proper basis or measure of rates is encumbered and befogged with inconsistencies and conflicting theories, the result of which is seen in the adoption by the committee and report of the pending bill, which provides for an investigation and report by the commission upon numerous incongruous and, as I insist, nonessential matters.

Transportation has been a matter of common as well as of vital interest from the dawn of civilization. Carters, charioteers, draymen, and cabmen for hire were, by ancient law as well as by the common law of England, subject to regulation as distinct classes, and strict rules and principles of law were applied to them for the protection of the public. So when I say that the earlier decisions of our courts in cases involving corporations employed as carriers and in other public services, before interests in transportation became so vastly valuable and inextricably interwoven with all commercial and industrial activities, and prior to the organizations for the propagation of error and confusion, are entitled to the greatest respect. The heresy that it is the duty of government to safeguard the earnings of any particular class of business men up to the point of realizing a reasonable, or, indeed, any, profit upon their ventures is a most vicious form of paternalism which finds no sanction or encouragement in the decisions of the courts or otherwise until within the last few years, during which serious attempts were made to regulate the rates for service by carriers in interstate

I shall not encumber my remarks with citations to the extent of making it resemble a lawyer's brief, but will call attention to such decisions as are necessary to prove my point. the case of Covington & Lexington Turnpike Road Co. v. Sandford (164 U. S., 578), involving rates or tolls to be charged over a turnpike, was decided. We see, upon a moment's reflection, that the question there was exactly the same as that raised in any case involving a railroad rate. In that case successive acts of the Legislature of Kentucky had greatly reduced the tolls until in 1896 the company sought to prevent the final reduction by suit in court on the ground that the rate fixed by it was confiscatory, but in the proofs it failed to show that the rate did not yield some small profit or even if it did not that insolvency would not be attributable to competition and loss of business rather than to the reduction of rates.

Here are some of the principles stated by the Supreme Court of the United States, after stating the facts and quoting literally from the complaint:

from the complaint:

It is proper to say that if the answer had not alleged, in substance, that the toils prescribed by the act of 1890 were wholly inadequate for keeping the road in proper repair and for earning dividends, we could not say that the act was unconstitutional merely because the company (as was alleged and as the demurrer admitted) could not earn more than 4 per cent on its capital stock. It can not be said that a corporation is entitled, as of right, and without reference to the interests of the public, to realize a given per cent upon its capital stock. When the question arises whether the legislature has exceeded its constitutional power in prescribing rates to be charged by a corporation controlling a public highway, stockholders are not the only persons whose rights or interests are to be considered. The rights of the public are not to be ignored. It is alleged here that the rates prescribed are unreasonable and unjust to the company and its stockholders. But that involves an inquiry as to what is reasonable and just for the public. If the establishing of new lines of transportation should cause a diminution in the number of those who need to use a turnpike road and, consequently, a diminution in the toils collected, that is not, in itself, a sufficient reason why the corporation operating the road should be allowed to maintain rates that would be unjust to those who must of ouse its property. The public can not properly be subjected to unreasonable-rates in order simply that stockholders may earn dlyidends. The legislature has the authority, in every case, where its power has not been restrained by contract, to proceed upon the ground that the public may not rightfully be required to submit to unreasonable rates in order simply that stockholders may earn dlyidends. The legislature has the authority, in every case, where its power has not been restrained by contract, to proceed upon the ground that the public may not rightfully be required to submit to unreasonable rates in order simply that

The court here plainly said in effect that the matter of first importance was the interest of the public in having reasonable rates, and that that should outweigh all other considerations so long as any profit whatsoever was in sight for the company and its stockholders. The court refused to hold an act of the legis-

lature fixing rates to be confiscatory until a point of reduction of rates was reached at which business could only be done at a loss. The court did not deem it necessary to set forth the reasoning underlying this rule in that case, but did state them in a subsequent case, Cotting v. Kansas City Stock-yards Co. (183

U. S., 79), as follows:

U. S., 79), as follows:

If in such a case an individual is willing to undertake the work of the State, may it not be urged that he in a measure subjects himself to the same rules of action, and that if the body which expresses the judgment of the State believes that the particular services should be rendered without profit he is not at liberty to complain? While we have said again and again that one volunteering to do such services can not be compelled to expose his property to confiscation, that he can not be compelled to submit its use to such rates as do not pay the expenses of the work, and therefore create a constantly increasing debt which ultimately works its appropriation, still is there not force in the suggestion that as the State may do the work without profit, if he voluntarily undertakes to act for the State he must submit to a like determination as to the paramount interests of the public? * * * The authority of the legislature to interfere by a regulation of rates is not an authority to destroy the principles of these decisions, but simply to enforce them. Its prescription of rates is prima facie evidence of their reasonableness. In other words, it is a legislative declaration that such charges are reasonable compensation for the services rendered, but it does not follow therefrom that the legislature has power to reduce any reasonable charges because by reason of the volume of business done by the party he is making more profit than others in the same or other business. The question is always not what does he make as the aggregate of his profits, but what is the value of the services which he renders to the one seeking and receiving such services.

The latter was not a railroad case, but like principles apply The gist of these decisions is that it is for Congress or the Interstate Commerce Commission in its place or stead to fix the rates, which the courts should presume to be just and reasonable until the carriers affected thereby show them to be confiscatory; that it is not sufficient merely to show that the rates are low or even unreasonably low, which being a matter of opinion is not susceptible of exact proof; that a public-service corporation assumes duties pertaining to government, such duties as the Government might, except for the interposition of the individual or corporation, itself perform for the people to be served; and finally that so long as the governmental authority fixing the rate stops short of a deprivation of all profit, or of any whatever, the party affected can not complain, he may at any time abandon the service and allow it to be resumed by the Government. So the proper question in all such cases is, not whether the rate is reasonable in point of profityielding power, but reasonable from the standpoint of the man who pays it; and this consideration ought to control the case, notwithstanding that the rate may be low, or even unreasonably low, until the actual confiscatory point is reached.

But the Covington Turnpike case was the last of a long line of decisions beginning with Munn v. Illinois. The railroad economists had, by 1897, when Smyth v. Ames (169 U. S., 466) was decided, succeeded in creating a hesitating state of judicial mind and a reluctance to carry forward into cases involving railroad rates the principles which they had previously established and adhered to. The decision in the last-mentioned case was, we might say, rather hazy. It was what in chemistry would be called a blend, rather than a compound. The sound views in prior cases were ingenuously mixed with the self-serving views of the railroad lawyers and economists. In one part of the opinion it was said that the sole criterion was the value of the property devoted to the public use, while in another several other matters were mentioned to be properly considered. and, among them, the market value of stocks and bonds.

was said (p. 546) :

was said (p. 546):

We hold, however, that the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public. And in order to ascertain that value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses are all matters for consideration, and are to be given such weight as may be just and right in each case. We do not say that there may not be other matters to be regarded in estimating the value of the property. What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth.

There may be those blessed with sufficient mental skill or subtlety to state how all the matters here mentioned can be brought together, with other matters intimated but not specified. as a basis of fixing a rate. But I must confess myself unequal to the task. If the value of the property is to receive principal consideration, as the court asserts, then what consideration should or can the market value of stocks and bonds receive?

We need not dwell upon one or two decisions of the Supreme Court and several by the Interstate Commerce Commission and the Federal courts intermediary between those above referred

to and that in Wilcox v. Consolidated Gas Co. (212 U. S., 19). The latter case-evidences progressive strides in false and vicious economic education. Now, the Consolidated Gas case presented exactly the same issue as that presented in any rallroad rate case. The body of gas consumers answer to the whole body of transportation consumers on the lines of a railway system anywhere, and the relation of the gas company to the public is in all essentials similar to that of the railroad company. While the action of the court was not conclusive of the ultimate rights of the parties, yet the views of the court, expressed in the course of its opinion, are significant of its changed economic attitude since the decisions in the turnpike and stockyards cases.

There must-

Says the court-

be a fair return upon the reasonable value of the property at the time it is being used for the public.

The word "must," inserted by the court in lieu of the words "may, on condition that the rates to consumers are just and reasonable," contained in earlier opinions, marks the great change wrought by the schools for the propagation of economic error maintained in this country. They are maintained out of the vast profits realized on exploitation of the public through exorbitant rates. But the court declared that the franchises of the company, which it was admitted did not cost it a penny and represented merely the voluntary abdication by the State of New York of a particle of its sovereignty, should also be valued as part of the aggregate upon which the consumers should be compelled to pay rates. The court said:

It can not be disputed that franchises of this nature are property and can not be taken or used by others without compensation.

We do not fully comprehend the significance of this declaration, principle, or dogma of rate fixing unless we reflect that the Consolidated Gas Co. is an absolute monopoly, with the usual history of such monopolies of which flagrant dealings with municipal authorities and scandalous stock inflations were prominent incidents, and that the so-called franchises simply stand for monopolistic power acquired through practices which I would not care to properly designate unless willing, which I am not, to take up your time to insert the proofs. But that gas company, like all such, and like all railroad companies, possesses real taxing powers within and throughout the territory in which it operates. The folly and injustice of placing a valuation upon the monopolistic sovereign power after valuing all tangible assets is readily seen. But that is a right or privilege that municipal monopolies and railroad companies now insist upon, and what, I regret to say, the courts and Interstate Commerce Commission now concede.

That the assets of the Consolidated Gas Co. represented little, if any, original investment but what Thomas Lawson would call "made" dollars, is shown by another part of the opinion, where it said:

The evidence shows that from their creation down to the consolidation in 1884, these companies had been free from legislative regulation upon the amount of the rates to be charged for gas. They had been most prosperous and had divided very large earnings in the shape of dividends to their stockholders, dividends which are characterized by the Senate committee appointed in 1885 to investigate the facts surrounding the consolidation as enormous. The report of that committee shows that several of the companies had averaged, from their creation, dividends over 16 per cent, and six companies in the year 1884 paid a dividend upon capital which had been increased by earnings, as in the case of the Manhattan and the New York, of 18 per cent, and, had it been upon the money actually paid in, it would have been nearly 25 per cent.

It is these views and similar views of the courts and their echo and repetition by interstate commerce commissioners which have led me to offer the substitute amendments already inserted in the record. The true theory is that the Government shall regulate and control rates. But the views which I have quoted and intend to quote would make the Government the guarantor and underwriter of profits, and the vice of such views is but slightly alleviated, if at all, by the use of the qualifying word "fair." The Government has no better authority from the people or from the laws of the land to insure fair profits to a particular class of business men than to insure to them the re-ceipt of an unfair or exorbitant profit. The one rule makes of public-service corporations the servants of the public, which was the original and is the proper conception of them. The other rule makes of them the unbridled masters of the people. The proper view is that the citizens of the Republic are freeholders in their relation to common carriers and that the latter are their agents. The perverted view adopted by judges and commissioners makes every ratepayer a taxpayer to each and all of so many little sovereignties or municipalities within their own domain and hewers of wood and drawers of water under sublords ruling them in the name and right of private corpora-

tions clothed with sovereign powers of taxation and exploitation. In the report of the commission for 1908 on the question of what constitutes the reasonable rate we find this language:

When, however, all has been said along these lines that may properly be said it nevertheless remains as a fundamental proposition that the actual investment in an enterprise needed for giving the public adequate transportation facilities is entitled to and should have a reasonable return, and no more than a reasonable return, in the form of a constant profit; and a reasonable schedule of rates is one that will produce such a result.

So, here we see the words "constant profit" used; so, here the commission declares its policy to be to fix its eyes constantly and exclusively upon railroad interests until they are secure in receipt of a "constant profit." And the same in some form is to be found in each subsequent annual report. The statement is on its face plausible and well calculated to deceive one who is simple-minded or indiscriminating in thought and expression.

The true rule is that if the public be well served at fair and reasonable rates, or rates fixed under really competition conditions, then there should be no reduction of rates so long as they produce only a reasonable return on the property. rule of rate making compels the rate-fixing authority to begin at the shipper's side of the question and to only take up the carrier's side if that becomes necessary; that is to say, when it is alleged that fair and reasonable rates for the shipper are confiscatory of the carrier's property. It is no valid objection to rates which are only fair and reasonable from the shipper's standpoint that they are unreasonably low from the carrier's standpoint, because even unreasonably low rates may yield some profit, however small, and be therefore nonconfiscatory. What the courts and commissioners have done in recent years was to start the consideration of each question from the carrier's side; to start with this heresy that at all events, aside from all other considerations and regardless of the effect upon the fortunes of shippers, the carrier was entitled not merely to protection against a confiscatory rate, but to a return, usually placed at or a little above the rate of interest on mortgage loans. To give such a rule universal application is to guarantee not only the solvency but the financial success of the most recklessly, dishonestly, and wastefully managed roads in the country, or those which but for the Government sanction thus given to exploitation of the public would have to go into liquidation and reorganize on a sound and honest basis. An exemplification of the practical application of this modern theory is seen in the Spokane rate case, where the commissioners decided that rates which satisfied the financial needs of the Northern Pacific and gave the holders of its enormously inflated stocks the dividends which they demanded were just and reasonable, though the same rates in the case of its competitor, the Great Northern, yielded nearly twice the same dividend rate in addition to enabling it to pile up a large surplus for extensions and outside investments.

It was in view of the earlier decisions of the courts that the words "fairly remunerative" in the provision requiring the commission to ascertain and enforce reasonable rates were stricken out of the Hepburn bill in the Senate in 1906, as the record of debates shows. But, contrary to congressional intent, as thus expressed, these words were, by the commission, in the Spokane case and in other cases, interpolated by construction as part of the statute, and the real purpose of the law nullified. Another proposition, well established by former decisions, has been completely ignored or overlooked by the commission, as well as the courts, in recent years; that is, that no loss, whatever its form or extent, is protected by the rule against confiscatory rates unless resulting directly from the action of a legislative or official body, though such loss might be so great as to end in insolvency. If in fixing reasonable rates on one road another in competition with it finds its rates so reduced that it can not do business except at a loss, that should be attributed to the operation of competition and only indirectly, if at all, to the action of the commission.

The decision of the commission in such a case would be unassailable and invulnerable as against any constitutional objection. The disastrous and far-reaching effects of the non-observance of this principle can scarcely be exaggerated. The counter proposition that the weaker, worse managed, more injudiciously located or constructed facility, or the one whose mechanical form has been antiquated and superseded must nevertheless be secured and safeguarded against loss and the possibility of destruction from competition has found favor in the official minds of the commissioner. Outside the commission there is no help and but little sympathy for one who has been struck down by the wheels of progress; but with carriers in interstate commerce, under the interstate-commerce act as paternally administered by the commission, it is very different. The

whole situation is best shown and illustrated by a discussion of the history of some of the trunk lines, and a statement of the relations between the carriers between the Atlantic seaboard and Chicago and other cities of the Central West. I deem it unnecessary, however, to encumber the record with the details of that history which must be already well known to many Representatives.

But in the case of what are known as the trunk lines, there is presented a striking and important illustration of results flowing from the adoption by the commission of the "constantprofit" theory of rate making. The rates of the Pennsylvania and New York Central, whose lines reach all the important business centers of the West, have been fixed exclusively by the railroad managements themselves, with no limitations whatever except with reference to what the traffic would bear. Their rates have never been examined or investigated by the commission as to their reasonableness or unreasonableness It appears to have been considered entirely proper that the public should pay these companies considerably more for a given passenger service than is paid for the same service to the Baltimore & Ohio, the Erie, and certain other trunk lines. Now, it is undeniably true, a fact admitted by the railway managers at the rate-advance hearings in 1910, that a hard and fast agreement exists between all the trunk lines, and that they maintain a central association, or bureau, in New York City. Their combination would, however, be powerless to maintain unreasonable rates without the recognition given by the commission to the "constant-profit" theory. But with that recognition and adherence to their established practices, the associated trunk lines are able to exactly reverse the natural order and substitute self-interest for the interest and welfare of the public. If the economic law of competition were allowed to operate in trunk line territory the lowest rates between the East and West would be those over the most natural and direct and the best equipped routes-that is to say, over the New York Central and Pennsylvania. They have eliminated all difficult grades and curves, duplicated trackage, acquired terminal facilities, and provided themselves with superior motive power and rolling stock until they can move a given tonnage over a long distance at less than one-half what the same would cost over other and inferior roads.

By acting secretly in concert and by constant readjustment and classifications of rates, thus working them up from one level to another, they have escaped entirely the regulative powers of the commission and become a law unto themselves. The commission could not now, under existing law, even if so inclined, examine and pass upon the rate question in its application to the whole trunk-line situation and establish in trunk-line territory a system of rates. Indeed, Congress has heretofore, unwisely I think, withheld from the commission any such power. Without it it is idle to talk about any general rule for ascertaining the reasonable rate, and the rule of a constant profit for the carriers, in addition to being destructive of all other interests, is a pure invention to serve the selfish purposes of the railroads.

The difficulty of fixing reasonable rates for a single railroad lies in the great differences between conditions affecting railroads which under normal conditions would be in competition. In this same trunk-line territory are lines of varying financial strength and condition with reference to the cost of operation and volume and profitableness of traffic. For instance, there is in trunk-line territory the Pennsylvania and the Erie. The financial condition of the Pennsylvania is such that it can refund its bonds at 3 and 3½ per cent, and its stocks, though inflated and consisting largely of duplications through absorption of subsidiary lines, is far above par, and the company could continue its 6 per cent dividend rate with even lower rates than it now charges and still accumulate large annual surpluses. The Erie, according to testimony given by its vice president in the rate-advance cases, has the most pressing financial needs, paying no dividends on its common stock and being under an immediate necessity of raising \$13,000,000 for general improvements. He also stated that \$35,000,000 was required to put it in effective condition of construction and equipment. Now, the rates which are necessary to keep so weak an enterprise as that in a competitive position as against the stronger trunk lines must necessarily render the same rates on the business of the latter exorbitant. To reduce their rates on through traffic without a reduction also of the Erie's rates, or to increase the Erie's rates without also increasing theirs, would do the Erie no good, because the immediate effect would be to divert to them most or all of the Erie's through business. So, in order to make a practical application of the theory of a constant profit to all carriers and keep water-logged enter-

prises afloat, the public must pay annual bounties amounting in the aggregate to hundreds of millions of dollars over and above what the shippers consider just and reasonable rates.

The uniformity and stability of rates required by the business interests of the country can never be secured through the commission so long as its functions and powers are limited as at present by the interstate-commerce act. It must have power to revise and readjust entire schedules, and not only entire schedules of particular roads, but of whole systems and by large areas, thereby producing uniformity, justice, and reasonableness on all lines; for instance, on all the lines in trunk-line territory, on all lines in central, western, and southwestern territory, simultaneously, and from time to time, as often as is necessary to maintain justice, reasonableness, and equal treatment of shippers. The commission must be authorized to harmonize inconsistent rates, to equalize discriminating rates, and to reduce high rates wherever found. These powers it can not exercise without the enlarged powers which would be conferred by the adoption of my amendments. The only uniformity provided for in the interstate-commerce act is uniformity in the treatment by each railroad of its own patrons. The second section of the interstate-commerce act prohibits a common carrier from charging one person more than another for the same service, but it does not prohibit a carrier from charging one person more or less than another railroad charges the same person or another for an equal service.

The third section of the interstate-commerce act forbids a carrier giving any undue preference or advantage to any person or locality, or kind of traffic, over another. But this only applies to the action of a railroad toward the people or places served by it. It does not protect them from monopolistic and exorbitant rates when no competition is at hand, and so, too, with reference to the long-and-short haul provision in the fourth section.

To enable the commission to fully perform its duties, it should have power, as contemplated by my amendments, to increase, as well as to reduce, a rate. Without this additional power it can not effectively harmonize and equalize rates or deal with entire schedules.

Two principal reasons have been heretofore urged against conferring the power upon the commission to formulate or revise The first was presented by the railroads. claimed the right to initiate all rates themselves. that to confer so broad a power upon a governmental agency was to take from them the only power which rendered their properties of any value. The second objection was constitutional, though probably originating in the same fertile brains of counsel for the railroads. It was argued that if the commission could adopt and put in force rates by wholesale for one company, it could do so for all at once, which was not merely applying a statute to facts, but the exercise of outright legislative functions. The constitutional objection was not clearly, if at all, distinguishable from that based upon policy. Without turning aside to debate the Issue, I venture to pronounce both objections untenable. The Supreme Court in the Southern Pacific Lumber rate case, decided last year, limited the construction of the powers of the commission under the present law as I have just stated.

We are disadvantaged by our environment in the very midst of events constantly transpiring all around us in the world of railroad construction, finance, and operation. Transportation of persons and property are interwoven with our every-day affairs and our very existence, so that we have failed to see the trend and drift of the matter, or to discern the final solution of the problems presented to us. The figures representing the present financial status of the railroads mystify us by their magnitudes. We can only understand their significance by comparisons.

The present capitalization upon which we are paying interest and dividends by way of rates and fares is, according to the latest report of the Interstate Commerce Commission, eighteen billions of dollars. In so far as this vast sum represents actual investment, it is for the most part investment made by the people who use—and who have no choice in the matter—the facilities provided, comparatively few of whom own any of the stocks or bonds. Yet the holders of these are constantly referred to as investors whose investments must be safeguarded against any diminution of returns which have gone on increasing proportionately as their property has been added to by accretions from collections which their patrons had no option but to pay.

My theory, and that upon which my substitute is based, is that existing rates on the strong and dominating lines in each group of railways are kept too high in order that their weaker competitors may enjoy, as of right, this constant profit; that this ignores the right and interest in the subject of the public; that the commission should be constrained by law to take up

the rates on each of these stronger lines as a schedule or body of rates and reduce them to the point of reasonableness and justice to the shippers, ignoring the claims of the stockholders until in the course of the reduction the confiscatory point is reached. The rates of the weaker lines are now regulated by their stronger competitors, the rates of the latter not being regulated at all. If the commissioners be given power to take up the schedules of the strong roads upon their own initiative and without having to wait for complaints, and to regulate them, by which I mean reduce their rates, the rates of the weaker lines will be thus indirectly and automatically regulated, without attention and labor on the part of the commission. That is what I have in mind in confining the physical valuation to selected systems and dealing with all the lines and subsidiaries constituting such systems in their entireties. My purpose is to have regulation assume a direct, practical, and effective form, to be more economical, and not to continue as a mere farcical but costly pretense, as it has been thus far.

There is nothing, either in the law or in what is popularly known as equity, as applied to matters of public concern, to warrant the commission in giving consideration to the alleged financial necessities of any corporation. A railroad corporation is not a public institution, nor public in any other sense which would place its affairs under the care of the Government or make it the duty of the commission to provide for its safe deliverance from the inconvenience of scant revenues, or even from The railroads are not of public concern in any such sense and their managers do not so consider them, when discussing their legal relation, except when insisting upon being safeguarded by the Government through high rates against the results of each other's competition. No matter how important any single railroad company may be to a particular city or section, not one of them is of common interest to all the people of the Nation. The transportation business of the whole country, which practically resolves itself into what may be designated as "the railroad business," is of general, or, rather, of universal interest; and it is that business rather than any particular railroad corporation which Congress has been empowered by the Constitution to regulate. This is the view thus far taken by Congress; and the proposition that the financial welfare or the financial affairs of any particular railroad ought to be considered by the commission as the subject matter or part of the subject matter of any rate case or question before them, or otherwise than as a limitation to be pleaded in a proper case by the particular carrier involved, was never within the purview of any legislation thus far enacted, but was a pure invention by commissioners unwilling to perform their full official duties.

The services and the rates are the only matters pertaining to common carriers with which the public have to deal or with which they come in contact. They have nothing to do with internal management, nor should their interest in just and reasonable rates be confounded or complicated with those of stock and bond holders. The commission would have plenty to do if they looked carefully after the rates and service.

The provision of the committee bill injecting the subject of stock and bond issues into the scheme of valuation is one, which in my judgment, is fraught with mischief. It imposes upon the commission a useless, if not in fact an impossible task. But the strongest argument against it is that it carries with it an assumption that the Government is under some sort of obligation to the carriers with respect to their internal finances and private relations to the holders of stocks and bonds. An inquiry, such as is provided for in the bill, as to the minute history of every issue of railroad stocks and bonds is one from which a commission composed of many members and provided with unlimited revenues might well wish to be excused. It appears to me as impossible as it is useless; and if the expenditures by the commission during recent fiscal years when it was engaged in only its routine duties may be accepted as an indication of the cost of the work directed by the bill to be done, we would do well to give that phase of the subject our most serious consideration. The estimates of cost given by the commissioners are mere guesses and not very shrewd guesses at that. It will take several years to obtain the data, and at the end of that time it will be fit only for the junk heap. So many changes will have occurred that the data would afford no satisfactory light on any question properly before the commission, even if it could ever be placed in manageable form. None of the commissioners nor any member of the committee was able at the hearings or is able now to suggest any definite use for the outcome of all this laboration outcome of all this labor and expense. I do not deny the power of Congress to obtain all the information specified in the bill and to spend all the money necessary to obtain it. But I look upon the theory of rate making underlying it as peculiarly and stupendously vicious. I favor a fair valuation of the properties of not more than 10 great dominating railway systems, not with a view to making the values found a basis of rates, but in order that when the commission undertakes to establish a rate or a schedule of rates in any particular instance, it may have at hand a minimum standard below which it can not go. That is not any standard prescribed by Congress, but that already fixed in the Constitution. The rule given by Congress to the commission that all rates shall be just and reasonable is the equivalent to no rule at all and leaves with the commission unlimited arbitrary power anywhere and everywhere above the confiscatory point. With the transfer of this great discretionary power I find no fault. It is the best that Congress could do under all the circumstances.

But I am interested in having the power justly and wisely executed in the public interest. And inasmuch as I know that the commission has been controlled in the exercise of power by theories which were subversive of public interests and of great practical and unfair advantage to special interests, I have provided in the substitute bill for a complete reorganization of the commission. The substitute contains a comprehensive new grant of powers to the commission, as heretofore explained, and the people are entitled to have these broad and far-reaching powers exercised by men who are untrammeled by their records and unfettered by their preconceptions of duty under the law. It is provided that the terms of office of the present incumbents shall end upon the appointment of their respective successors, but the present incumbents are not disqualified for reappointment. The membership of the commission is increased from 7 to 15, a provision which is obviously proper and necessary if these important and comprehensive new powers and duties are conferred. But I do not care to go into the details of procedure.

The revision of a vast schedule of rates for one of our great systems, affecting directly the salability and market price of thousands of articles of commerce, consulting and conserving the material interests of all the people of large sections of the country, are of equal importance with a revision of one, and if the power conferred upon Congress herein is not to remain a dead letter, or its exercise not to be purely farcical and perfunctory, this great power must be lodged somewhere. The policy of vesting it in a commission is too firmly established to be reversed; and the time has come when the work of regulation must be begun in earnest. The matter can not longer be trifled with on any shallow pretext or false theory whatever. It is a work having the practical effects of legislation, though the unquestionably constitutional form will be administrative.

There are those, and their number is not small nor are they without influence, who will object to the giving of such large discretionary powers to a commission. But to continue the methods pursued thus far is to make a mere pretense of regulating the rates and service of the railroads. Congress, after illegalizing all except just and reasonable rates, has left the determination of the question of what rates are just and reasonable entirely to the commission with the due process of law clause of the Constitution, forbidding confiscation, as an irreducible minimum, with all the traffic will bear as the maximum limit. The policy and practice of the present commissioners has, as a general rule, allowed the railroads to reach, practice, and maintain the maximum. As to what constitutes a just and resonable rate is, and under any plan of regulation through a commission that can be devised must ever remain, largely a matter of opinion, and yet it should be understood by the present commission and by any commission that may be appointed hereafter that the freight-paying public will consider any rate too high which gives the carrier too much of the margin of profit between production and sale, a margin which is represented in the selling price and must be divided between producer, carrier, and one or more intermediaries, and that any schedule or system of rates is too high which produces in any one year a large surplus to pay dividends on watered stock, or to be laid out in the same year in additions and permanent im-provements. To merely say that rates on a given kind or class of goods, or on a given commodity, are too low, or that they do not yield enough revenue to suitably compensate for the service performed in their transportation proves nothing. Nor would the fact that the service actually cost more than the rate charged necessarily justify an increase of the rate, since many services of carriers are performed at rates which do not equal Nor would evidence that any single rate produced less revenue than the outlay to have the service performed be accepted as satisfactory proof that such rate was confiscatory or even uneconomical.

These points have been decided and settled from time to time by the courts and by the commission itself, and by such decisions have conclusively established the necessity for the consideration by the commission of the relation of rates and of the combined effect of entire schedules of rates. The commission has in fact, and necessarily, exercised the power to consider such relation, to make comparison of particular rates in issue with rates not in issue—in short, to consider correlated rates in order to reach anything like intelligent conclusions, notwithstanding that the courts have, as before shown, denied to the commission the exercise of any such ample and essential powers.

The railroad managers and representatives earnestly and even persistently cultivate in the people those hopes and fears which make for corporate enrichment and popular loss. them and their activities more than to aught else is due that morbid appetite for commercial conquest which has led to a wasteful exploitation of our diminishing natural resources. a few square miles are found remote from railroad lines, the residents of that area are soon convinced of their complete isolation from the balance of the world and made to believe that the only thing needed to insure them plenteous prosperity and content is the advent of a railroad. And urban populations are in divers ways and through various channels and instrumentalities of false construction convinced that any legislative interference with railroad extension is a dire menace to progress, and that the financial condition of the railroads, reflected in earnings and dividends, is the true barometer of general business, and that a showing therein of a large balance in favor of the railroads constitutes the mainspring of universal as well as individual prosperity. Much that is promulgated on this subject begs the question and ignores not only the presence in the statute books of the interstate-commerce act but also the public duties of the carriers.

With a view to promoting general prosperity the carriers would compel large contributions from the purses of rate payers to those who in the opinion of the railroad economists are best qualified to bring about and maintain it by the circulation of money that such extensions would require. The railroad corporations dominate all other business, in addition to having absolute dominion over their own, and often rob particular sections of the country of the advantages which would naturally belong to them by reason of water transportation or otherwise, and the brazen claim is now made that their demand for high rates should be sustained in order that the shortest through route to general prosperity is by way of increased employment for labor by them, to be paid from large surpluses,

only possible if high rates be charged and collected.

There was recently published an article by a leading railway president and publicist containing a eulogistic passage concerning the tendency of present freight adjustments to give to purchasers the choice of supply from various producing regions, inducing and compelling competition to hold down prices and give them uniformity. Thus we see that the railroads, while claiming and receiving exemption from each other's competition and clamoring at the doors of Congress to have legalized their practice of eliminating competition by combination, yet claim and exercise the prerogative of promoting and intensifying it among persons engaged in the production and sale of commodities.

The Interstate Commerce Commission made a report in 1904 showing that the railroads were then realizing dividends on their outstanding stocks of 5½ per cent. They also showed that at least one-half of the stocks did not represent any original investment. So the equitable owners of the railroads were then enjoying at least 11 per cent net profits on investments. Since that report was made there have been vast issues of stocks, estimated by competent authorities at \$5,000,000,000. That means upon this new doctrine of "a constant profit" a vast inflation of the mortgages held by the railroad financiers ostensibly upon the properties, but in reality upon the Nation's commerce and industries. Nevertheless, the average dividend rate has increased until, according to the 1910 report of the commission, it averaged 6.43 per cent, and according to the latest report is nearer 7 per cent. And the railway overlords and those who officially favor them now claim that a guaranty of this, or at any rate some fixed income, should become a settled policy of the Government.

As a further illustration of the view taken by railroad managers the testimony of Vice President Gardiner, of the Chicago & North Western, in his testimony taken at Chicago by the Interstate Commerce Commission, in 1910, is interesting. His opinion coincides with that of the commissioners thus far expressed, that the railroads should collect rates high enough to safeguard them against embarrassment and enable them to accumulate surpluses in anticipation of all possible contingencies and periods of general depression, without reference to the

nature or cause of its effect upon other interests. Speaking of the size of this surplus, he said:

It should be large enough, however, as an insurance against the loss of crops for two or three years, or a calamity, or something of that sort, It would take a wise man to say even how much surplus the North Western should have. The directors would be the only body I know of who could say that finally.

I would like to know what Vice President Gardiner and others would say to a proposition coming from the merchants, farmers, and shippers generally of the Northwest that the balance of the people of the country should be compelled to pay them for what they have to sell prices sufficiently above the competitive market price to enable them to carry their indebtedness, pay wages to their employees, profits equivalent to the dividends paid by the railroads, and still enough more for large bank balances to meet all reverses and misfortunes, including those resulting from bad management. And the company for which Mr. Gardiner spoke has carried out his theory in practice. In the past 10 years not only has it paid out of its surplus \$56,000,000 as dividends on \$85,000,000 of capital stock, but accumulated an mappropriated surplus of \$30,000,000, constituting in the aggregate a net return to its stockholders of more

than 10 per cent per annum.

In view of the fact that consideration of the pending bills and of my substitute in comparison therewith renders proper, or rather necessary, an examination of the whole subject of railroad finance, I will call attention to the railroad returns for 1910, the latest available which are complete as shown by the report of the commission. It will be remembered that in that year there was a concerted and preconcerted increase of rates, which was checked by timely action on the part of Congress authorizing the commission to suspend the increases and placing on the carriers the burden of proof to show necessity for the increases. The figures for that year are a study by themselves and an object lesson of the limitless greed and rapacity of railroad managers when left without legal check or control. The total net operating revenues—that is, the profits of operation—were \$938,121,000, or an increase over 1909 of \$110,306,000. One significant fact about the figures is that the gross revenues or collections for 1910 were \$335,934,000 more than for the preceding year. For 1909 they were \$2,443,312,900, and for 1910 \$2,799,246,000. At the same rate of increase they will soon reach and pass, if indeed they have not already reached and passed, the three-billion mark, while if the increase in net revenues is maintained, these will soon reach and exceed the billion mark. Another significant fact is that the increase of net, despite all that was then said about increased cost of operation, almost exactly kept pace with the gross increase, being 131 per cent. It was a substantial increase not only of aggregates and per unit of service but per mile of railroad.

Here are the figures:

	average	Operating revenue per mile.	expense	come per
1909	233,002	\$10,486	\$6,983	\$3,553
	236,690	11,742	7,778	3,964

The ordinary business man may, out of the profits of one year's business, buy an adjoining lot and enlarge his store or otherwise invest money to make it more convenient and attractive. He does not thereby acquire any claim, based on right, to increase the price of his goods, even if not prevented by competitive conditions. He enlarges his plant by investing more money. If he has the capital, so much the better. If he has it not, it may be expedient to borrow it in order to meet the demands of a growing business. In the latter case he must pay interest. In either case he must take the risk and determine at his peril whether the enlargement or addition will result in profit or loss. He never attempts to add the cost of enlargement or the interest on the indebtedness so increased to the price of what he has to sell, but looks to an increased volume of sales at the usual and normal profit. But the railroads object to any such view being taken of their business. Not content to await the growth of business and the rise of normal demand for the utilization of their improved facilities of transportation to restore their cash or meet their obligations, they are constantly insisting upon increases in the price for the service which they furnish and increased profits. Nor is there anything in the bill reported by the committee to prevent or check this tendency and practice of the railroads, but its inevitable effect will be to sanction, aid,

There is an important phase of railroad finance which has thus far received very little public attention, but which becomes important in any thorough consideration of the issue presented by the committee bill. Notwithstanding that the railroad corporations have worked up their net revenues from operation to the billion dollar mark, they are in receipt of additional large incomes from investments in what is really a banking or moneylending business. This refers to the large holdings of some of the principal companies in the stocks and bonds of other companies. According to the latest report of the commission on the subject the aggregate of all issues of stocks and bonds is eighteen billions of dollars, of which about four and a half billions are duplications. Most of these duplications consist of "trusteed" stocks, upon which interest-bearing bonds have been issued, constituting two distinct capitalizations, the one concealed beneath the other, upon both of which profits, to wit, dividends on the stocks and interest on the bonds are received by the holding company. But as I went into this phase of the subject at some length on a former occasion I will not now dwell upon it,

The indifference of large shippers with reference to increases of rates by changes of classification is remarkable. This remark is especially applicable to the big eastern shipper. His goods are sold "free on board," and he has no interest in the movement and but little in the rates. He leaves the classification exclusively to the railroads as a matter of no personal concern, and without even noting the changes through which the carriers gradually and almost imperceptibly work up the rates until they are actually unjust and unreasonable, without anybody being able to prove it otherwise than by comparing them with the rates made years ago, the burden being shifted to the West and South. But though we may be unable to trace out and describe the minute steps and processes by which rates have been increased, or the dates and methods, except in particular instances of litigation before the commission, yet we are able to demonstrate from general statistics that there has been a general increase in the cost of transportation. The aggregates of increased earnings and profits are no doubt due in part to increased volume of business, but that falls short of accounting for all of it. If all or nearly all of it were assignable to that cause it would involve the assumption that there had been an abnormal increase in railroad traffic during the last decade, an increase out of due proportion to that shown in the preceding decade, and we know that there was no such disproportion. Nor can it be, except in some small part, attributed to the increased capacity and effectiveness of railroad mechanism, because locomotives and cars had almost reached their maximum capacity and roadbeds had already been placed in good condition 10 years ago. Whether attributable, however, to increased rates or not, this increased and constantly increasing profitableness of railroad operation has its origin in the rates paid by shippers, rates which should be reduced, especially in view of the fact that net earnings have reached a glaring disproportion to the average returns to persons engaged in other occupations.

We all know that this question, presently and prospectively, is one of greatest concern. The question of transportation finance is scarcely less important nationally than that of government finance. The establishment by legislation of an incorrect principle or policy for dealing with the railroads may be as fatal to general prosperity as would be a vital change in our form of government. It is much to be deplored that we can not fully understand the effects of a new economic power until it has grown to gigantic proportions, and even then by long and painful experience. With respect to the railroad-system policy and practices we are now far into, but not near the end of, the educational and experimental stage. We are now in that stage of mental unpreparedness where we are liable to make huge mistakes, to be much regretted afterwards. To pass the committee bill in its present form will in my opinion be such a mistake. We have already endured many of the evils of our almost fatal optimism on this subject. We could not believe that the predicted and threatened abuses of power that we recklessly surrendered to the railroads would occur until after they had occurred in an aggravated form. We feared at first that they would displace labor and in various ways disturb our peace, but we could not foresee that they would turn the advantages we gave them to the complete domination of all other kind of business.

I would not care to go into an analysis of the meaning of railroad finance during the past 35 years. But it should not be overlooked that more than half of the \$8,000,000,000 going into railroad property as the basis for the huge capitalization consisted in profits on profits. That is to say, large surpluses collected from rate payers were used in betterments, extensions, and other improvements and then more money was obtained

from money lenders on these as additional security. were issued to them and a further drain on the pockets of rate payers thus instituted to keep down the interest as fixed charges. So the people were taxed in the first instance to pay for the improvements, and the same people are now being taxed to pay interest on investments in what might be equitably considered the proceeds from, or profits upon, their own invest-ments. Legally, of course, all these new constructions belong to the railroads, in addition to being a basis for the interest charges, and also operated to earn dividends for the stockholders. But I can not detain you to explain all the intrica-cles of railroad finance. When, however, we begin to discuss fixed charges and dividends we should fully understand what we are discussing. If any man could exchange eighteen billion quarter dollars, hand them over to the Federal Government, and the Government should hand over in return its perpetual obligations to pay eighteen billion 100-cent dollars, bearing interest at 7 per cent, that would be a fair illustration of what is contemplated in the constant-profit scheme of rate regulation. The man who received and held these obligations would bankrupt the Nation in 50 years. And that is what the railroads will do, if we do not right about face in our views of duty to the people in this matter. We must not permit ourselves to be won over or misled as to the meaning of this self-serving doctrine which seems to have found acceptance by the Interstate Commerce Commission. The rate of interest here specified, waiving the point that part of the investment was of surplus and not original, is really 14 per cent, or nearly five times the rate at which the Government can refund its bonds. would be thought of us if we authorized and the executive department sanctioned and carried out such a funding scheme with some powerful syndicate enjoying a monopoly of favor just as the railroads enjoy their power in the absence of legal

The impossibility of dealing with rate increases and inequalities in detail, or with any such purpose as that of reducing or equalizing them or more equitably distributing them among the 8,000 and more commodities and between the many thousands of shipping points, without conferring additional powers upon the commission must be so clear as to require no elucidation. The equalization, adjustment, and distribution of the increases and changes of rates is being constantly referred to as a science by itself, and one of great difficulty. All writers on the railroad question emphasize the delicacy of the existing rate adjustment and strive to show why the change of a single rate between any two important points necessitates thousands of changes so as to prevent widespread market disturbances, notwithstanding that the carriers have never hesitated to make many rate changes arbitrarily and by sweeping decrees of councils of traffic managers without reference to any rule or scientific basis or knowledge of or regard for the effect of such changes upon producing, shipping, and trading interests. How can the commission ever reach the ends of justice in all these matters without the possession of the broadest and most searching powers?

The fact had better be given recognition now than later, that any effective Government regulation of railroads partakes of the imperialistic, but should never be allowed to become paternalistic. The right to regulate grows out of the interstate-commerce clause of the Constitution and the close connection between interstate carriers and interstate commerce itself, and the regulation itself is the exercise of a power which is to some extent arbitrary. But this attitude toward the carriers should never be held to impose upon the Government an obligation to safeguard the interests of that particular class of persons and corporations engaged in transportation any more than if they were engaged in any other line of business—any more than where the law of the land is enforced against the private citi-All business is subject and subjected to legal restrictions, regulations, and penal provisions. And in addition to the many laws which encompass the ordinary business man, he is always in contact with the law of competition, from which the railroads find ways to exempt themselves. Any Government going into the insurance business and guaranteeing constant profits in all lines of business would be proclaimed a failure and disappointment, and by none more promptly than by the prudent and conservative business men, the manufacturers, merchants, miners, and farmers of the country.

Much has been said about a claim of great and prosperous lines to enjoy, in form of greater profits, the rewards of superior engineering foresight and managerial ability. It is said that such a great institution should be conceded an organization value in the establishment of rates. Those who make that claim will regard as presumptious any attempt to answer this plausible claim, appealing as it does to our natural inclination to applaud those who have achieved success in any pursuit or

line of activity. But that the claim is superficial and utterly destitute of merit is not so difficult to demonstrate as it seems to be upon first impression. In the first place it entirely ignores the distinction between private and public service. It must be borne in mind that recognition for this claim is presented at the bar of the legislative body of the Nation and consideration is asked for it as a feature of the pending bill. It is therefore to be treated as a claim preferred for recognition at the hands of the general public, and as such I will examine and discuss it.

In the first place, it entirely ignores the distinction between private and public service. Men devote superior talent and industry to the public on the same terms and subject to the same sovereign powers as they devote talent and industry of mediocre and inferior quality, or as one devotes more and another less of capital. In the second place it is impossible to find any deserving recipient of any reward that it might, upon this new theory be proper to bestow. No man living, nor the descendants of any that have died, are entitled to compensation in any form for projecting, for instance, the New York Central as it was projected. In addition to the fact that the original and builders quickly pocketed great fortunes by manipulating the stocks and bonds, and not by superior public service, is the fact that they enjoyed the favor and aid of State and municipal authorities without which their enterprise and foresight would have availed them nothing. In the third place, speaking now with reference to the present active managers, there is no basis for any claim of superior management. But assuming that the management is excellent, it is a safe assumption that all in a supervisorial capacity are in the enjoyment of adequate salaries. Then we have the corporation itself, the nonsentiment figment of the imagination which need not be considered aside from its stockholders. as to the latter, the question of why their dividends should be rendered constant and secure by action taken by the Government has not been answered and will remain unanswered. Finally, as for the claim of the New York Central and other such companies based on superior management, it does not appear that a well constructed, highly improved, and thoroughly equipped railroad is any more difficult to manage, or even as difficult, as one of a different kind. Of all mechanical appliances that used in the transportation of persons and property from place to place is the simplest, involving a comparatively low degree of mechanical skill.

Of course, a railroad system is complicated in its entirety, as would be a great department store, but the task assigned to each man is simple. Again, transportation considered apart from its instrumentalities is too important a function to come under the absolute unsupervised control of any person or persons, either in an individual or privately organized capacity. It is to modern life what chemical forces, gravitation, and motion are to the earth. It is the one thing that makes production worth while and exchange possible, as the recurrence of the seasons causes vegetation to grow and the fruits of the field to multiply. Therefore these great conquests of the wilderness, these great advances of civilization, for which so much credit is claimed for individuals and corporations, were the mere applications of forces which belong to the whole people. Those in control temporarily of these powerful instrumentalities are the mere accidents of a day. Their achievements were not attributable so much to their superior business sagacity as to popular tolerance, credulity, and optimism.

The railroads are now claiming that rates should be maintained or increased so as to produce surpluses beyond a fair return on existing capitalizations in order to sustain the credit of the railroads. In other words, they expect Congress, the President, the Interstate Commerce Commission, and everybody having anything to do with regulation to depart from all fundamental principles governing railroad rates and set up a new rule, a rule which, while leaving the control of stock and bond issues, as well as the financial and operating control, exclusively in private hands, would impose the duty first upon Congress and then upon the commission, and ultimately upon the people to insure a market price for stocks and bonds such as will facilitate the borrowing of money and steady the market for stocks and bonds. To all familiar with the subject, to all who have in mind the public interest, the proposition is absurd and preposterous on its face. It would impose a task which, even if supportable on any just principle, would be impossible to perform, even though all the constitutional powers of the Government were fully exerted.

The doctrine of an assured constant profit to unwisely projected or badly managed roads was touched upon at the hearing in the rate-advance cases in 1910, but the discussion was quickly dropped and did not receive any further serious consideration.

One of the vice presidents of the Chicago & North Western answering a query of one of the commissioners, said:

I admit that what might be justice to some lesser line would extravagantly increase us, if you please, but I have not the wisdom to say how that thing shall be disposed of.

The people's representatives in Congress and other legislative bodies had been then for a long time insisting upon a reduction of rates and had freely expressed themselves to the effect that substantial reductions should be made. And there are ample reasons for saying that few railroad officials entered upon that scheme of wholesale advances with the expectation that the commission would dare establish the advanced rates as just and reasonable. The purpose of the railroads in taking the and reasonable. The purpose of the familiar action taken by them was, no doubt, to make a demand such as the people are now making for a decrease of rates—a demand which was then and is still being urged—appear pre-posterous and unreasonable. I, for one, shall be surprised and disappointed if the millions of rate payers in the country allow their just demand for a reduction to be thwarted by such tactics. Of course the heads of some of the weaker roads, those which pretend to be having a hard struggle at best, think that any general reduction of rates would be very harsh and unjust to them, notwithstanding that the maintenance of present rates would unduly enrich the stronger companies, and of course the latter are ever ready to grasp whatever may come within their So that the question finally resolves itself into one of sacrificing general interests to temporarily sustaining and keeping afloat these weak but ambitious enterprises which might otherwise have to liquidate and reorganize on a narrower financial basis.

The rate issue thus shifts and the contest comes on between the people and greatest of all the railroad systems. We are constantly invited to consider, not what is good business policy, for the public, but to be profoundly impressed with the promotion of the financial prosperity of private corporations having extensive control of general business interests.

Of course-

Said Mr. McCrea, president of the Pennsylvania, at the rate increase investigation on October 12, 1910—

it would be possible to get money by raising the interest on bonds to a substantially higher level.

But he did not think such a course would be good finance. His alternative was to increase the price of what his company has to sell. To do that is not a difficult task for monopolies of its class, in the absence of objections by the commission. But men in other business, contemplating new acquisitions for enlargement of plant or extension of operations, must obtain the needed funds as best they can and at the prevailing rates of interest. Moreover, they must find the security for their financial accommodations. But these transportation monopolies, now that the trick of concealing surpluses expended under various heads, practiced by them hitherto, is exposed and generally understood, are urging the need for further railroad extensions and facilities, and backing up their demand for high rates with an implied threat that if they be not allowed a free hand in continued and more drastic exploitation of the Nation's freight payers the extensions and facilities will not be provided and that the quality of service which they give their patrons will depreciate. What they really have in reserve is the acquisition of more and more of the weaker lines, further consolidations, and more impregnable monopolies. Any pretense that they intend to stand still is the baldest assumption, and any fear that they may or can create a commercial or financial collapse is The statement that there has been any advance in the cost of borrowed money except when borrowed by commercial and industrial interests is incredible in view of the fact that nearly all the bonded indebtedness of the New York Central, funded only a few years ago, bears interest at only 31 per cent and that of the Pennsylvania at even a lower rate. What the railroad presidents say on the subject is, to take a charitable view of it, mere speculation. They make no pretense of ever having even an unpleasant experience in testing the money market. In fact, the financial conditions of all the controlling railroads are such that no test of their ability to borrow money at the lowest rates of interest has been necessary.

In resisting measures looking to effective regulation of their rates and services the railroads are inviting something even more drastic and far-reaching. The high-handed attempt made two years ago to arbitrarily and generally increase their rates aroused the country to a high pitch of indignation and moved Congress to place what proved for that occasion an insuperable obstacle in the way in the form of the burden-of-proof provision. The action thus taken by Congress, the general and widespread discussion which ensued, and the final action adverse to the railroads taken by the commission served to focus public atten-

tion upon railroad management and finance as never before. The whole period was educational. The people will claim the full measure of justice at our hands and in the end will find ways to obtain it. The country is rapidly filling up, population is greater and more homogeneous, and the proportion of articles for use and consumption not produced on the spot but requiring to be transported is increasing year by year. In other words, and in railroad parlance, the traffic is becoming denser, and all these are pointing to the necessity for lower rates. That necessity will not regard with favor any law not having for its primary object the common interest.

I will now call attention to certain phraseology of the Adamson, or committee, bill. I pass by for the present the fact that the investigation which the commission is to undertake covers so many important subjects and so many conditions which are constantly changing that it can never be concluded. The bill limits the commission to no standard or rule of procedure and confers the widest range of authority. Among other matters, it is authorized to-

ascertain and report in such detail as it may deem necessary as to each piece of property owned or used by said common carrier, the original cost for railway purposes, the cost and value to the present owner, and what increase in value is due to cost of improvements. Such investigation and report shall also show separately that property actually used in transportation and that held for other purposes, and shall contain a statement of the elements forming the basis of the estimate of value

What I have quoted is but a fraction of all that the bill authorizes the commission to do at public expense, much the larger proportion of it being, in my judgment, not only entirely futile and worthless if done but impossible of being done at all. the midst of many authorizations is the ascertainment of the value of each piece of property to the present owner and in each instance the elements forming the basis of the estimate of value. One of the meanings which I extract from all the verbiage used is that a valuation shall be placed upon railroad property as such. To value the right of way of the Pennsylvania through the gaps and narrow valleys of the Alleghenies and of the New York Central along the Hudson or of their terminal facilities in New York City for railroad purposes is to place valuations upon properties which are essentially and unqualifiedly monopolistic. The task would be vain even if possible. It would be like attempting to value the taxing and governing powers of a State or city. The bill contains not even an intimation of what the commission shall do with its valuation and report when completed; and I now call attention to tion and report when completed; and I now call attention to the fact that the commission would be, according to its own oftrepeated declarations, at a loss as to the use to make of it.

Without quoting from the hearings before the committee, I call attention to the fact that the commissioners appearing and making statements were even more vague and noncommittal as to any uses that might be made of their valuation, notwithstanding their willingness to undertake the labor, with its incidental expenditure of millions of dollars.

I will now state what I consider a very important practical objection to making the investment a standard. Some railroads were started with very small original investments of private capital. For instance, the Union Pacific and Central Pacific, now a continuous line from Council Bluffs to San Francisco, were started with enormous land grants and Government guaranties, out of which the roads were built and equipped, leaving to the stockholders the stocks and to the corporations extensive areas of land which cost them nothing. The Union Pacific was subsequently bankrupted to construct the Oregon Short Line and other unprofitable branches, and the Central Pacific was brought to the verge of insolvency by a diversion of business to the Southern Pacific. the revenues of the Union Pacific and Central Pacific became very large. Enormous sums were taken from earnings and invested in betterments, additions, and branch lines, still leaving a great annual surplus for dividends. Now, take the Sante Fe, a competing line: It represents a very large percentage of original investment, but a great deal less money has been used in its construction per average mile than in the cases of the Union Pacific and Central Pacific, notwithstanding that it is just as efficient and necessary. Now, suppose you take invest-ment as a standard, without distinguishing between original investment and investment out of income. First you would authorize the Union Pacific and Central Pacific lines to fix much higher rates from Missouri River points to the Pacific than those fixed by the Sante Fe. To say nothing of its primary injustice, that would at once divert the great bulk of traffic to the Sante Fe and defeat the very purpose of giving the Union Pacific and Central Pacific lines the higher rate.

But many roads other than the Union Pacific have been built up

almost entirely out of earnings. For instance, the original invest- lack of mandatory rules of procedure for the commission, and

ment in the Erie was much less than in the Pennsylvania, and yet the ultimate cost of the Erie was double per average mile that of either the Pennsylvania or the New York Central, owing to engineering difficulties. The inherent injustice of allowing rates to pay income on reinvestments of earnings is shown by Commissioner Lane's report in the recent rate-increase cases and illustrated by the result, if the theory were applied to the Burlington. (See p. 28 et seq. of Commissioner Lane's report in rate-advance cases.)

I also find very serious objections to making a separate valuation of each corporate property a rigid basis of rates. There would result nonpermissible inequalities. But that objection would be to a great extent obviated by making valuations in the aggregate of whole systems, as is provided for in my substitute. I suppose if you value the thousands of miles of the Pennsylvania system and the thousands of miles of the New York Central system you will not find a material difference per average mile. The deduction for obsolescence and depreciation will constitute an enormous subtraction from cost in many instances. The Pennsylvania will under my plan have its New York City and West Philadelphia improvements valued, but much of their total will be subtracted from cost of Jersey City and Broad Street terminals. But in each of the exceptional values it is to be spread over thousands of miles. And you may remember it is my plan to directly regulate these dominating lines and thus indirectly regulate the secondary or dependent lines.

I find some foundation for the objection recently advanced that a valuation would in some instances equal or exceed the capitalization. But you will note that I have anticipated that objection. With reference to equipment and trackage I make cost of reproduction, less a deduction for obsolescence, the standard or measure of value, in addition to averaging the mileage. I think we have no reason to fear that an excessive valuation would result if to this were added the land values of rights of way, terminal, and station grounds (actually used), plus actual cost (less depreciation) of improvements.

There remains to be noticed the objection that much, and in some instances nearly all, of the value was contributed out of earnings and were in fact contributed by rate payers. But, except in aggravated cases, which I think might be dealt with by the commission under power given it in the substitute to establish additional rules, I do not think it either just or expedient at this late date to rigidly distinguish between the values created by original investment and those added from current revenues. Nearly all the capital now employed in farming, manufacturing, and in trade represents surpluses resulting from farming, manufacturing, and trade. Besides, the difficulty, or rather impossibility, of segregating investment from reinvestment in these lines I could see no justice in it, if proposed with a view to giving them different treatment in legislation. I am aware that effective regulation requires a departure from the prevailing habit of thought, and that railroad properties must be recognized and treated more and more as governmental instrumentalities and less as subjects for private investment and profit. But if we try to begin upon too low a level we may not be able to begin at all. We have been discussing the subject of making a valuation or appraisement for years. Some one should come forward with a concrete plan. If the plan I propose in this substitute is not the best, let us hear from others and adopt the best. As for myself, I assure you that I am open-minded on the question.

I had thought of asking for the views of the Interstate Commerce Commissioners and others before introducing a substitute, but I know I would find them timid and unprepared. The quickest way to stimulate thought, elicit expression, and get it is to introduce a bill containing a practical, progressive plan, and get the question before the House.

This plan is not too moderate or conservative. It will not satisfy the railroads. They will strenuously object to the exclusion of so-called franchises or good will. Most of them will begin lobbying against it, and keep it up to the end.

It hardly seems necessary on this occasion to further call attention to amendments which should be made to the interstatecommerce act to make it effective. The whole mass of exising legislation, although much of it was well directed and intended, has proven ineffective to prevent an enormous increase of aggregate cost of transportation, dangerous massing and concentration of wealth with attendant general distress, and enormous and startling inflation of corporate securities, the dividend and interest charges on which constitute an ever-increasing burden and drain from all business and all industry.

If I am not much mistaken, there has been thus far no real bona fide regulation of interstate commerce. There is a total

so much is left to discretion that the commissioners can, without a violation of law, exercise at once and over the whole subject powers which are as extensive as and, in some respects, more extensive than those exercised by either of the three

departments of the Government or by all combined.

The present law amounts to just this: The carriers shall deal fairly by the public, and when a question of fairness or unfairness is raised the commission shall sit as an arbitration board with full powers in the premises. The reports in the rateincrease cases fully supports this view. I understand from these reports that the value of property devoted to the public use, even if any satisfactory proof of it had been made, would have constituted only one of many important elements in the And I infer from the language of both Lane and Prouty, commissioners, that if the railroads had made strong showings as to revenue requirements many of the proposed increases would have been allowed. Be that as it may, it is a fact, one which should arouse serious concern, that the railroads are now engaged in the preparation of a valuation of their properties to be used in making up a case upon which the commission can not reasonably prevent further increases in their rates. So the issue before the commission between the carriers and the public has been within two years converted from one raised by shippers demanding a reduction of rates to one now raised by the railroads for an increase. Though widespread protest, amounting almost to a popular uprising, stand in the way of a wholesale increase, practically the same end may now be reached gradually, covertly, and in detail, and without attracting public attention.

Transportation rates, both for freight and passengers, are too high in this country, and if I had the power I would materially reduce them. Measures of public justice are often harsh. And if rates were properly reduced on the great dominating railways, that would without any further legislative act whatever force several important and many unimportant railroad companies into receiverships and reorganizations. And yet, sooner or later, Congress must assert its constitutional powers. And ver.

Why do newspapers, lawmakers, and Interstate Commerce Commissioners discuss this as they would a humanitarian question? The corporations are artificial, nonsentient. The officers and agents are presumably interested only to the extent of their salaries, which are not to be affected by any reduction proposed by anyone. The stockholders are but a small percentage of the entire population, having no better right to obstruct measures in the public interest than have the smallest

beneficiaries of exorbitant taxation.

While the commission now has unlimited discretion in determining the reasonable rate and in allowing a just and reasonable or in disallowing an increased rate, it has no power to increase a rate. Lacking this, it can not take up a schedule of rates in which inequalities and discriminations exist and adjust and equalize them. If, to illustrate, the commission could increase the rates of sugar and coal going West, that would permit of a material reduction on many other commodities without or with only moderate diminution of revenues. This would also diminish the power of the sugar trust and coal trust to injure western interests. The commission should be given the power to revise and readjust whole schedules. In other words, it should be given real rate-making power. Along with this increase should come a numerical increase in the membership of the commission and its division into departments.

And in view of the fact that the railroads have been vastly aided and benefited by the existence and work of the commission, the fee system ought to be established requiring them, in each instance of a decision adverse to the carrier, to pay all the costs and expenses of the contest. I have not seen fit to provide for that in the substitute because I did not care to insert a mere matter of detail upon which there might arise wide differences of opinion and extensive discussion, but I would heartily accept an amendment to that effect. Undoubtedly Congress should give attention to the great and increasing expenses of the commission, and the institution of the fee system would much more than offset the increased cost to result from enlarg-

ing the membership of the commission.

Notwithstanding the extreme length of my discourse, I have not said all that I would like to have said nor have I explained all the features of the substitute which I ask you and each of you to carefully examine. The subject is one the importance of which is second to none with which we have to deal. Indeed, the problem of railroad transportation, especially the monopoly and cost phases of it, is of such magnitude as to cast a shadow over the land; but I trust we shall prove equal to meeting it courageously and dealing with it intelligently and justly.

Mr. HOBSON. Mr. Chairman, I ask unanimous consent to

extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Alabama [Mr. Hobson] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman from Illinois [Mr. Mann] 10 minutes.

Mr. MANN. Mr. Chairman, it will be noted that the bill itself provides that the commission shall investigate and ascertain the value of the property of every common carrier subject to the provisions of this act and used by it for the convenience of the public. It is to ascertain the value of the property. In making investigation the bill further provides that the commission shall ascertain and report in such detail as they may deem necessary as to each piece of property owned or used by the carrier, the original cost for railroad purposes, the cost and value to the present owner, and what increase in value is due to cost of improvements. Then the bill provides that the valuation made by the commission shall be fixed and considered as What is that valuation made by the commission? It is the value of the property to the present owner, so far as we can ascertain from the bill; the valuation of the property of the carrier, used by it for the convenience of the public, to the present owner. It is true the bill provides the ascertainment of the original cost for railway purposes and what increase in value is due to the cost of improvements; but the value which is finally to be ascertained is the value of the property to the All of the rest of the detail provided in the bill present owner. is a mere method of making the valuation, which ought to be left out of the bill, because the commission itself ought to be the ones who are the best judges as to the method of proceeding and making a valuation for their information and their benefit when they arrive at a judgment concerning the rates. This valuation, if no protest is filed by the railroad company, becomes final, but if a protest is filed by the railway the commission is obliged to take the protest into consideration.

I am not entirely clear as to what will be the result of ascertaining the present value to the railway companies of the property used for railway purposes. Some years ago a railroad desired to enter the city of Chicago and expended for that purpose, I believe, some \$10,000,000 or \$15,000,000 to have the right of way into the city. That road and another road somewhat similarly situated have no such right of way yet, but some of the original road that came into the city of Chicago. Those original rights of way cost very little. The Illinois Central original rights of way cost very little. The Illinois Central Railroad, which comes into the city of Chicago along the lake front, with which most of you are familiar, came in over the lake bed, and cost practically nothing at the time. The value of that right of way to the present owner of it amounts to millions upon millions of dollars now. It could not be replaced to the Illinois Central Railroad probably for \$50,000,000.

Under the provisions of this bill the commission is required to ascertain the present value to the railroad company of that roadway, and it is supposed to take that into consideration in fixing the rates of the railroad. Of course there is no other object in ascertaining the value of this property on this basis except as it may affect the fixing of railroad rates. There is not a railroad in the United States probably passing through towns that have grown in size since the road was constructed where the present value of that property to the railroad company for its uses does not far exceed not only the cost to the railroad company but its capitalization, which it goes into and

helps make up.

There are people who believe that you can take the value of any one railroad property and thereby determine absolutely the rate. There are seven or eight or nine trunk lines between Chicago and New York, all engaged in carrying in competition freight between those points. Some of those roads run fairly directly between Chicago and New York, Some of them run through Kentucky and Virginia; some through Canada. roads which have the nearest routes probably cost the least. I do not know. The roads which have the longest routes probably carry the freight the cheapest. The longer routes require a little cheaper freight rate in order to get the freight carried over that line, because few shippers will prefer to send their freight up through Canada and around through the New England States in order to reach New York when they can send it directly east over the Lake Shore or the Pennsylvania Railroad. And yet it is perfectly patent to anyone that after you arrive at the physical valuation, or the present value, or whatever you please, the capitalization of those roads—and they will not be the same—the rate that is to be fixed must be the same, practically speaking. The Pennsylvania Railroad Co. can not make a different freight rate between Chicago and New York from that of the Lake Shore and the New York Central Railroad Co., and the Canadian railroad company can not make a rate much

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different, at least, from the roads which run through Kentucky-the Big Four and the Chesapeake & Ohio.

The valuation of the railroads ought to be known. judgment the original interstate-commerce law gives to the Interstate Commerce Commission the power to make a physical valuation of the railroads or to acquire any other information which relates to the railroad business. It is possibly true that they have not done so because of a lack of appropriations. It is mainly true, I think, because they thought it was easier to keep on telling Congress how much they needed the power to make the valuation instead of doing that which they already had the power to do. It became the custom of the commission in every one of its annual reports to ask for increased authority from Congress. I presume that custom will continue, no matter what Congress does, although I am in favor, so far as I am concerned—as we have undertaken to carry out the theory of letting the Interstate Commerce Commission practically manage the railroads of the country-of giving them all the information that is possible.

I do not believe the present bill, if enacted into law, will accomplish a great deal of good. It will not fix rates by ascertaining the present value of the property. What we ought to do is to govern and regulate the issuance of stocks and bonds by the railroad companies and prevent the manipulation of stocks and bonds by a few gentlemen for their own benefit with secret information which they obtain. I wish I could have my way, so that every man and woman in the United States who desired to invest a little of savings might know something true in reference to the stocks and bonds which they might desire to buy, and then feel that that investment on their part could not be taken away from them by manipulation, which has been the

custom in the past. [Applause.]
The CHAIRMAN. The time of the gentleman has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield five minutes of my time to the gentleman from Kansas [Mr.

The CHAIRMAN. The gentleman from Kansas [Mr. CAMPLELL] is recognized for five minutes.

Mr. CAMPBELL. Mr. Chairman, I shall vote for this bill, although I regard it as incomplete. Merely providing for finding the valuation of railroads accomplishes but a short step in the right direction. The provision in the Mann bill as it passed the House in the Sixty-first Congress on this subject was more complete, and it is unfortunate that that provision went out of the bill in another part of the Capitol, where it was contended that Federal control of the issuance of stocks and bonds of railroads was an interference with the doctrine of State rights. assume this bill is the best we can hope for at this time.

Two results should follow the ascertainment of the valuation of railroads: First of all, a regulation of the issuance of their stocks and bonds. The gentleman from Illinois [Mr. Mann] closed as I would begin, if I had the time, with a discussion of one of the most vital subjects connected with this matter-the issuance of stocks and bonds of common carriers. Every investor eight to know, by the valuation of the property, what his stock is worth. He ought to know the amount of stock that has been issued, the amount of bonds that have been issued, and by that be able to place some value upon the property that he has purchased. Then let the manipulators manipulate. Then let the stock gamblers gamble. If the investor who owns the stock does not see fit to throw his property upon the market for sale, it will still represent a value based upon the actual value of the road.

The time is coming when investors will be found in every part of the country who will purchase stocks of the transporta-tion companies of the country, and that sort of investment should be encouraged.

The stock of transportation companies ought to be made a safe investment for every person who has the money to invest.

It ought not to be a speculation or perhaps, more properly, gambling. The matter ought not to be left to the manipulators who sometimes gamble in the price of the stocks of railroad This has been done and no doubt will continue to commanies. be done until either the State where the gambling places are operated or the Nation that controls interstate commerce shall find a way to put a stop to that species of stock manipulation and gambling. The day is past when promoters should have the right to fix the amount of either the capital stock or the bonded indebtedness of railroads without limit or check upon

The bill therefore ought to be completed by providing for a control of the issuance of stocks and bonds of these companies, based upon the valuation as found by the commission.

Then the second step should follow, that of fixing rates upon the valuation so found. The discussion by Members here this

afternoon has related almost wholly to the question of freight rates, while as a matter of fact the bill does not provide for the fixing of rates at all.

Mr. CULLOP. I would like to ask the gentleman from Kansas a question.

Mr. CAMPBELL. Yes.

Mr. CULLOP. Is it the gentleman's idea that there ought to be a provision in the bill that when the commission ascertains the value of the property all stocks in excess of the ascertained value shall be canceled?

Mr. CAMPBELL. No; increases prohibited in the future.

Mr. CULLOP. But the stock has already been issued. These corporations exist. They are organized in the States, under

Mr. CAMPBELL. I understand that, but Congress assumes the right here to find the valuation of railroad property. It does not do so to gratify the caprices of the Interstate Commerce Commission, and it should be for the purpose of fixing the amount of stock or bonds that may be issued upon railway property in the future and to fix rates.

Mr. CULLOP. It would give notice by such reports to the public of the excess in amount of stock over the actual value of the property, but it is also for the purpose of ascertaining the facts upon which an equitable rate can be established.

Mr. CAMPBELL. The bill does not so provide, and I want to call attention to that if the gentleman will let me have my time. I listened with a great deal of interest to the remarks of the gentleman from Indiana on this subject. Until this afternoon I had heard it said that the tariff alone was responsible for the high cost of living; but after listening to the gentleman from Indiana I came to the conclusion that, after all, the campaign of last fall was made upon an entirely erroneous hypothesis, and that the cost of living is attributable wholly to the high cost of transportation on the railroads. But this bill does not propose that the value of the railroads shall be used as a measure for fixing rates.

Mr. CULLOP. I beg the gentleman's pardon. That is one of the elements that enters into it.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. STEVENS of Minnesota. I yield two minutes more to the gentleman from Kansas.

Mr. CAMPBELL. My contention is that this bill should provide that the information obtained as to the value of railroads shall be used as a basis for fixing rates. Otherwise, what is the object of ascertaining the value of the property if not for the purpose of fixing the amount of stocks and bonds that shall be issued and the freight and passenger rates that may be charged in the use of the property of the common carriers? Believing that the information the commission is authorized to get by this bill may be put to these uses, I shall vote for the

Mr. STEVENS of Minnesota. Mr. Chairman, I now yield to the gentleman from Wisconsin [Mr. Escu].

Mr. ESCH. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman from Oregon [Mr. LAFFERTY] five minutes.

Mr. LAFFERTY. Mr. Chairman, I desire merely to make a general observation.

In my travels over the country I have not found any man who wants any corporation to give him anything or to sell him anything for less than what it is reasonably worth, and the idea that is now in the minds of the American people, known as the Progressive movement, does not mean anything more than that they desire laws passed by Congress that will provide that they shall not be charged unreasonable rates by public-utility cor-porations and that they shall not be charged unreasonable prices by industrial corporations that have acquired monopolies in their several lines of business.

The remedy is simple. Whenever you get a majority of men in Congress who desire to serve the public it will not require the brains of a Daniel Webster, of a John C. Calhoun, of a James G. Blaine to formulate laws suitable to meet the present situation in the United States. The only requirement is that we get a majority of men in our legislative bodies, both in the States and in the United States, who desire to do the right thing.

Now, for years there has been an agitation in favor of giving to the Interstate Commerce Commission the power to make physical valuation of the property of the common carriers coming under the interstate-commerce act. I desire to congratulate the committee for having reported this bill, also the Committee on Rules for having brought in a rule making it a privileged bill, and to congratulate the majority party in control of this House at this time upon its certain passage. You are on the right track, and so long as you stay on the right track you will

enjoy the confidence of the American people.

I agree entirely with the minority leader in the comments he made here this afternoon and the comments of several of my colleagues on the Republican side of this House that this bill does not go far enough. It should be made broader; it should specify that the making of this valuation of the common carriers is for the purpose of fixing reasonable rates; and it should specify also that the Interstate Commerce Commission may regulate the issuance of stocks and bonds in the matter of carriers engaged in interstate commerce.

But I wish to be frank enough as a member of the Republican Party to say that our party was in control here for 16 years and did not give to the country as good a bill as this in this

connection.

We passed one in the House, I think, in 1910. Mr. MADDEN.

I introduced the bill.

Mr. LAFFERTY. My colleague reminds me that a bill of this character was passed in the House. I was not aware of that, and I want to say that the Republican House that passed it is entitled to great credit. However, we are all here now to represent the country regardless of party lines, regardless of any other considerations than those of the public welfare. That is why, Mr. Chairman, I desire to remind my colleagues that as poor as I may be in merit and ability I went back to my district and was reelected by an increased majority on the 5th day of last month. Any Member of this House who comes here and serves the public to the best of his ability, as he holds up his hand and takes a solemn oath that he will do, will be trusted by the people of this country. Of course we may be misrepresented and may not be able to meet the false accusations, but if the man is in reasonably good health and has a good nervous system and gets out and meets the opposition in an open fight he will win out.

The point I desired to make was that the people of the United States do not demand anything radical or unreasonable. We had a little illustration of the conservatism of the people in Oregon at the election on the 5th of last month. A proposition was submitted to pass a graduated income-tax law.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield five

minutes more to the gentleman.

Mr. LAFFERTY. Mr. Chairman, the proposition was submitted to the vote of the people as to whether we would adopt a graduated single tax which provided that any man owning more than \$10,000 worth of real estate should pay a specific, graduated tax of \$2.50 per thousand, and so on up, as the amount of his holdings increased, until it got to \$30 a thousand on \$100,000 and over. Naturally, nine voters out of ten who went into the voting booths on the 5th of last month in Oregon would have benefited upon the surface of things by the passage of such a law. If the voters were actuated by their selfish interests, if they did not look beyond that, they would have passed the graduated single tax. It was urged by the Fels fund commission, and was ably presented in an argument to the voters and in the voters' pamphlet of that State. Yet the people of Oregon went into the polls and defeated that consti-tutional amendment by a vote of 5 to 2. That is only an illustration going to show that you can trust the people to be conservative and that they will not pass a law until thoroughly satisfied that it will work no injustice to any man.

In conclusion, permit me to say that when each State in this Union has created a State public-service commission having the power to fix the rates of monopolies doing business wholly within the State, and the power to make physical valuations to that end, and when Congress has made the Interstate Commerce Commission a Federal public-service commission for the same purpose, having jurisdiction over interstate monopolies, the question of the control of monopolies will have been settled. And when you reduce the tariff properly—and I am in favor of a reasonable protection for the people of this country-and provide for an asset currency to prevent a few men in Wall Street from cornering our money and bringing on a panic whenever they feel like it, you will enjoy in this country, in the whenever they feet like it, you will enjoy in this country, in the future as in the past, the greatest advancement, both moral and temporal, of any country in the world. [Applause.]

Mr. SIMS. Mr. Chairman, I think that the bill has been so ably and thoroughly and exhaustively discussed in general de-

bate that we may close the general debate at this time and read

the bill for amendment under the five-minute rule. If no one wishes to use further time, I will ask that that be done.

The CHAIRMAN. Without objection, the Clerk will read the bill for amendment under the five-minute rule.

There was no objection, and the Clerk read as follows:

Be it enacted, etc., That section 19 of an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, be amended by adding thereto a new section, to be known as section 19a and to read as follows:

Mr. MANN. Mr. Chairman, I desire to propound a parliamentary inquiry. This bill consists of one section and a number of paragraphs. Is it subject to amendment by paragraphs, or may amendments to any part be offered at the conclusion of the reading of the entire bill?

The CHAIRMAN. The Chair understands that this bill is

subject to amendment by sections only.

Mr. MANN. There is but one section in the bill.

The CHAIRMAN. It so appears to the Chair. The Clerk will read.

The Clerk read as follows:

Mr. MANN. There is but one section in the bill.

The Clerk read as follows:

Sic. 16a. That the commission shall investigate and ascertain the value of the property of very common carrier subject to the provisions of this act and used by it for the convenience of the public. For the purpose of such an investigation and ascertainment of value the commission is authorized to employ such engineers, experts, and other assistants as may be necessary, who shall have power to administer assistants as may be necessary, who shall have power to administer of every common carrier subject to the provisions of this act in detail, and shall classify the physical elements of such property in conformity with the classification of expenditures for road and equipment, as prescribed by the interstate Commerce Commission.

secretain and report, in such detail as it may deem necessary, as to each piece of property owned or used by said common carrier, the original cost for railway purposes, the cost and value to the present owner, and what increase in value is due to cost of improvements, actually used in transportation and that held for other purposes, and shall contain a statement of the elements forming the basis of the estimate of value. They should also show, as the commission may deem necessary, the history of the organization of the present corporation which are the state of value. They should also show, as the commission may deem necessary, the history of the organization of the present corporation which are the state of the state of the commands of such companies, and how the moneys were expended or paid out. The said investigation and report shall also show the amounts and dates of all bonds cutstanding against each public-service corporation and the amount paid therefor, and the names of all stockholders and bondholders with the amount held by each, and also the name of each to the commercial commands of the commercial property of the commission shall be commenced within 60 days after the approval of this act and shall h

a protest of the same with the commission. If no protest is filed within 30 days, said valuation shall become final.

If notice of protest is filed by any common carrier, the commission shall fix a time for hearing the same, and shall proceed as promptly as may be to hear and consider any matter relative and material thereto which may be presented by such common carrier in support of its protest so filed as aforesaid. If after hearing any protest of such valuation under the provisions of this act the commission shall be of the opinion that its valuation is incorrect, it shall make such changes as may be necessary, and shall issue an order making such corrected valuation final. All final valuations by the commission and the classification thereof shall be published and shall be prima facie evidence relative to the value of the property in all proceedings under this act.

The provisions of this section shall apply to receivers of carriers and operating trustees. In case of failure or refusal on the part of any carrier, receiver, or trustee to comply with all the requirements of this act and in the manner prescribed by the commission such carrier, receiver, or trustee shall forfeit to the United States the sum of \$500 for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this act.

That the district courts of the United States shall have jurisdiction, upon the application of the Attorney General of the United States at the request of the commission, alleging a failure to comply with or a violation of any of the provisions of this act by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of this act.

Mr. SABATH. Mr. Chairman, I offer the following amend-

Mr. SABATH. Mr. Chairman, I offer the following amendment: On page 6, line 19, substitute the word "section" in place of the word "act," after the word "this."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 6, line 19, strike out the word "act" and insert in lieu thereof the word "section."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was agreed to. · Mr. SABATH. Mr. Chairman, also amend, on page 7, line 5, by substituting the word "section" for the word "act."

The CHAIRMAN. The Clerk will report the amendment,

The Clerk read as follows:

Page 7, line 5, strike out the word "act" and insert in lieu thereof the word "section."

The CHAIRMAN. The question is on agreeing to the amend-

The amendment was agreed to.

Mr. SABATH. Also, amend by striking out the word "act" and inserting in lieu thereof the word "section," on line 7,

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 7, line 7, strike out the word "act" and insert in lieu thereof the word "section."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to. Mr. STEVENS of Minnesota. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 5, line 10, by adding after the word "property" the following: "showing such revision and correction as a whole and in each of the several States and Territories and the District of Columbia."

Mr. STEVENS of Minnesota. Exactly the same language is used on page 4, lines 3 and 4, so that not only the original report but all subsequent reports shall conform to the State laws as much as may be possible. That will coordinate with the State authorities.

The question was taken, and the amendment was agreed to.
Mr. HARDY. Mr. Chairman, I wish to make a suggestion,
with some hesitation, and still I believe it is an improvement.
In line 8, page 3, the words "for the purposes of such payment," seem to me to be surplusage or to convey no clear menning, because there are no payments mentioned above, and "such payments" seems to refer to something foregoing. I think the sentence would be complete just to let it end with the word "out," so that that part of the sentence would read "the net and gross earnings of such companies, and how the moneys were expended or paid out." I would strike out all after the word "out," in line 8.

Mr. MANN. Will the gentleman yield?

Mr. HARDY. Certainly. Mr. MANN. I think the word "for" ought to be made Mr. MANN. I think the word "for" ought to be made "and"—"and the purpose of such payments."
Mr. HARDY. Well, with the word "and" it would be all

Mr. MANN. It may possibly be a misprint somewhere.
Mr. HARDY. I will offer, then, the amendment to strike out
the word "for" and substitute the word "and." However,
that would still leave in the words "such payments," when there are no payments referred to before that.

Mr. MANN. It provides for the moneys expended and paid out and the purposes of such payments.

Mr. HARDY. I will make the motion to strike out the word

"for" and insert the word "and."

The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

Amend, page 3, line 8, by striking out the word "for" and inserting in lieu thereof the word "and."

The question was taken, and the amendment was agreed to. Mr. LENROOT. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

In line 2, page 2, insert, before the word "property," the word "physical"; also, in line 2, page 4, insert, before the word "property," the word "physical."

Mr. LENROOT. Mr. Chairman, I do not know I can add anything more to what I said when I had the floor before with reference to this question, but the more I think of the matter the more important it seems to me that this valuation of the commission should be confined to a physical valuation of the property. Now, it has been said during the afternoon a number of times that this valuation was not necessarily for ratemaking purposes at all, but I call the attention of the committee to this fact-that this valuation must be for no other purpose, for the bill itself provides for a valuation when certain procedure has been taken, so it seems to me that it is for no other purpose than the purpose of a basis for making rates. I want particularly to call the attention of the committee to the familiar and leading case of Smyth against Ames. There it is held:

We hold, however, that the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sauction must be the fair value of the property being used by it for the convenience of the public.

Just exactly what is proposed to be done by the bill in its present form, the fair value of the property of the carrier. Then the decision goes on to say:

And in order to ascertain that value, the original cost of construction, the amount expended in permanent improvement, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statutes, and the sum required to meet operating expenses are all matters for consideration and are to be given such weight as may be just and right in each case.

Now, there are several elements that the Supreme Court speaks of in this case that are to be considered in arriving at the value, but there are only three of those elements that relate

to the physical valuation of the property.

A great many illustrations have been given this afternoon, or a great many questions asked, as to what shall be done in a given case. For instance, by the gentleman from Pennsylvania [Mr. Olmsted]. Here is one railroad, the cost of which was twice, perhaps, the cost of another, and the value actually might be twice the value of another, and yet as the bill reads in its present form you are asking the commission, you are compelling the commission, in an ex parte proceeding, to find the value of those two roads, and when they have found the value the commission itself will be governed by the value so found, for it is the value of the property that becomes the basis for rate-making purposes.

Now, I do insist that that question, so far as the ultimate question of value is concerned, should not be left to be decided in this ex parte proceeding. When we have the physical valuation we have one of the indispensable elements that are When we have the physical necessary. The commission should have that, should keep it revised from time to time, but in determining the ultimate question of value of a given property of a common carrier, it seems to me that with this information they should be left free to make that value in a given case when the carrier itself has an opportunity to be heard and presents all the facts before it.

Mr. MANN. Mr. Chairman, will the gentleman yield for a question?

Mr. LENROOT. Certainly.

Mr. MANN. Is the gentleman convinced that in making the rates the court ought not, or can not, or will not, take into consideration the value of a franchise?

Mr. LENROOT. Not at all.

Mr. MANN. Well, if you are to obtain the value of a property as an aid to rate making, is it not desirable to obtain both the value of the physical property and also the value of the franchise?

Mr. LENROOT. That might be.

Mr. MANN. Would not that be the case under the provisions of this bill?

Mr. LENROOT. That is the point exactly. They might find the value of a franchise, and find the value of a great many

other intangible things that become settled-that become finalin this ex parte proceeding. But I say that ought not to be done in that kind of proceeding, because those things can be determined in a given case by testimony. It is the physical valuation that takes one or two or three years of time. It is that valuation that the Interstate Commerce Commission has been asking for; it is that valuation that the commission could not get under the 9 or 10 months' suspension of the interstate commerce law.

The CHAIRMAN. The time of the gentleman from Wiscon-

sin [Mr. LENROOT] has expired.

Mr. MANN. Mr. Chairman, I ask unanimous consent that

the gentleman may have five minutes more.

The CHAIRMAN. The gentleman from Illinois [Mr. Mann] asks unanimous consent that the gentleman from Wisconsin have five minutes more. Is there objection?

There was no objection,

Mr. MANN. Here is the point I wanted to get at: The ascertainment of this information is for the aid of the commission. They may have a case before them involving the freight on lemons, and another on eggs, between two points not far apart, where it is absolutely impossible to acquire the information in reference to the value of the property for the settlement of that case. In ascertaining the information is it not desirable to ascertain the value of all of the property, differentiating, as the gentle-man would suggest, the value of a physical property and the value of the other property, which is for the aid of the com-mission and for the aid of any shipper who has a complaint? Is it not desirable to obtain all the information?

Mr. LENROOT. I think it is, and I would have no objection to that being a separate element to be found by commission. My point is that I am opposed to the commission making the ultimate finding in this proceeding of the value of the property, which will bind the Government or the commis-

sion afterwards.

Mr. MANN. I am not sure that the gentleman is not correct, but the bill provides that the statement of the valuation shall contain a statement of the elements forming the basis and elements of value. Under this bill would not the commission be required to obtain the value of the property and ascertain how much of that is the physical value and how much is the value of the franchise, if any, and the other elements that go into

Mr. LENROOT. I think the gentleman from Illinois has helped me to make plain what my idea is. I have no objection in the world to the commission finding all these different ele-What I do object to is the commission combining all of those into a final, ultimate finding at this time of the value

of the property as a whole.

Mr. MANN. Of course, I agree with the gentleman

Mr. MADDEN. In a single item, does the gentleman mean? Mr. MANN. That that is not the proper method of doing it,

although it is probably better than it is now.

Mr. BUCHANAN. Mr. Chairman, does the gentleman yield? Mr. LENROOT. I would like to call attention to one other Evidently from the title of the bill it was the intention or thought of the committee that the valuation should be confined to a physical valuation, for the title of the bill is, "Providing for physical valuation of the property of common carriers.'

Now I yield to the gentleman.

Mr. BUCHANAN. I am somewhat confused about the question of fixing rates on the basis of the valuation of transportation lines, for the reason that sometimes the addition of value is made by an additional expenditure of money that increases the facilities of the transportation line to such an extent that it can reduce the rates and be able to pay a greater dividend than ever on the amount of money invested, as, for instance,

by shortening a line or by bridging or by tunneling.

I have in mind one place in Utah where they constructed a line across Salt Lake at great expense. I am informed that it is a great investment. At other places they have added tunnels which add to the expense of the line. In still other places they have constructed elevated roads, as has been done in Chicago. In such cases there has been a great expenditure of money, but, due to the fact that they can transport much faster and with a reduced force of workingmen, made possible by the elimination of watchmen, and so on, they have reduced the cost of transportation to such a extent that even though the value of their property is much greater they still can reduce their freight

Mr. LENROOT. Of course, that is often true. The gentle-

man understands. Mr. BUCHANAN! Can the rates be fixed justly and equitably to all concerned on the basis of the valuation of the property?

Mr. LENROOT. The gentleman understands, and the committee will understand that, with certain exceptionsrare—the carrier is always entitled to such a rate as will pay operating expenses and bring a fair return on the value of the property; and that is why the value of the property becomes a very important question.

Mr. STEVENS of Minnesota. Mr. Chairman, will the gentle-

man allow me?

The CHAIRMAN. Does the gentleman yield? Mr. LENROOT. Certainly.

Mr. STEVENS of Minnesota. Has the gentleman considered the paragraphs beginning on page 5, perhaps, with the paragraph in the middle of page 6? Those two paragraphs in substance state this, that after the commission shall have completed the valuation, and before the valuation shall have become final, the commission shall give notice to the carrier, stating the valuation placed upon the several classes of property. Now, that would include the physical property and the franchise-

Mr. FOWLER. And it might not—
Mr. STEVENS of Minnesota. And the going value of the property in actual use.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I ask unanimous consent that the time of the gentleman from Wisconsin

[Mr. Lenroot] be extended five minutes more.

The CHAIRMAN. Is there objection to the request of the

gentleman from Minnesota? There was no objection.

Mr. STEVENS of Minnesota. Then the commission shall make a separate valuation of those several classes, covering everything that the gentleman has stated. Then the notice shall be given to the carrier. The carrier then has its hearing before the commission before the value of these several classes has been definitely fixed by the commission. Now, after the commission receives all the evidence that it sees fit from the carrier as to the different classes, it makes an order, as provided on line 11 of page 6; it issues an order making such corrected valuation final, and after that it provides for making such corrections as it sees fit later; and then these final values,

including the values of the various classes, shall be made public and become prima facie evidence. Now, do not these two provisions of these two paragraphs accomplish what the gentleman has in mind? Mr. LENROOT. I think not, because experience has demon-

strated that they do not in every case where the question has come up. I know it is true in the case of railroad litigation in Wisconsin, where I was interested as one of the attorneys in that litigation. The cases of valuation comprehended all of these different elements, but in my opinion it is impossible,

when you come to fix the valuation, to divide it up into these various elements.

For instance, after taking all these elements then you must add a sum because of its being a going concern, a sum for the cost of building up the business for a series of years. That has been approved by the courts; and yet it will not show in any of these separate elements that are provided for by this schedule; and when the commission comes to make its final valuation, in my judgment, it will be compelled to add things that it can not distribute into the different elements; and the commission should be left free, according to the testimony in each case, when it comes to make its final determination, having these elements in the findings as provided in the bill; but when it comes to determine the question finally, it should be left free to consider all of these questions. In my judgment, it is not left free to do so under the bill as it now stands.

Mr. STEVENS of Minnesota. Does not the method proposed by the gentleman put a much heavier burden on the shipper who desires to contest a rate than the provision that I have just read from the bill? In other words, if in each contest the shipper is compelled to prove the additional facts stated by the gentleman, while in the bill these matters are made matters of record with the commission, does it not put an additional burden on the shipper which in some cases may be very

Mr. LENROOT. I think not; because in nearly every case these will be matters of judgment for the commission, considering the property of the carrier as a whole and the character of its business. It can not be separated into different elements. They will have all of this information, so far as the different elements are concerned, all that any investigation can produce. It will remain a matter of judgment on the part of the commission, but my idea is that the judgment should be exercised at the time the question is up for rate-making purposes, rather than in an ex parte proceeding.

Mr. CRUMPACKER. Will the gentleman yield for a question?

Mr. LENROOT. Yes.
Mr. CRUMPACKER. If the gentleman from Wisconsin will permit me, my understanding of his proposed amendment is that it inserts in line 2, page 2, just before the word "property," the word "physical."

Mr. LENROOT. Yes.

Mr. CRUMPACKER. That does not require, does it, that the physical valuation of property shall be made separate from the valuation of all other classes of railroad property? simply requires the physical valuation of the property to be

Mr. LENROOT. It is limited to the valuation of physical

property

Mr. CRUMPACKER. So that the purpose of the bill is simply to ascertain the value of the physical properties of railroads?

Mr. LENROOT. Of course, these other provisions with reference to stocks and bonds are not affected by this amendment. They remain the same.

Mr. CRUMPACKER. So that the question of the value of frauchises and other rights that may vitally affect even the physical value will not be included in the bill at all if the gentleman's amendment is adopted.

Mr. LENROOT. The franchises will not.

Mr. CRUMPACKER. Or any other intangible rights.
Mr. LENROOT. No other intangible rights.

Mr. SIMS. Mr. Chairman, I appreciate the statement made by the gentleman from Wisconsin and the strong argument which he has made, but I hope this amendment will not pre-vail, because my understanding is that it narrows the scope of the bill, and to that extent limits its usefulness in the work of the commission. If I understand this bill, the object of it is to furnish the commission with information which the commission needs in order to enable it to fix rates. Well, the commission needs all elements of value to be considered the same as courts do, because if the commission can not consider every element of value that the courts will consider in determining whether the order is to be a valid one or not, it seems to me that would be narrowing the scope of the bill, and that the bill will not accomplish all the purposes that it can accomplish by leaving it unamended.

Mr. LENROOT. Will the gentleman yield?

Mr. SIMS. Certainly.
Mr. LENROOT. The bill does not limit the power of the commission in any way. The only purpose of the amendment is to leave the ultimate question of value to be determined by the commission later according to the facts, having all this information before the commission.

Mr. SIMS. As I understand it, there is to be an inventory investigation and valuation. The commission will set down the physical value and any other element of value which the commission ascertains in this investigation which it would regard as its duty in fixing a rate. I can not see that it would add to the expense of making the investigation or cause it to be delayed; and then the facts ascertained as to any other element of value will be no more binding on the commission or on a court passing on it than will the finding of the element of physical value. It is all only prima facie.

Mr. LENROOT. The commission will be bound thereafter by its own valuation unless it afterwards takes the procedure of revising and correcting the valuation. I would leave the commission free to make use of all the information provided in the bill, but come to its own conclusion in regard to the question of the rates.

Mr. SIMS. I understand the commission will not determine the rate by any one element of value, but upon the consideration of all the information that it acquires in this investigation or that it may have otherwise.

Mr. LENROOT. If the commission makes a finding of valuation and thereafter is to be permitted to go back and consider any different elements that have gone to make up the final determination—that is what I object to.

Mr. SIMS. If a question should arise sufficiently long after the valuation upon a charge that the valuation has changed, that the physical value is greater or less, or any other item of value is greater or less, the commission will investigate that statement on application made affecting a rate based on the former valuation. It would not be precluded from making any additional investigation that the new conditions may authorize.

Mr. LENROOT. That is true; but they might and very likely will be mistaken as to some of their calculations as to what elements should be considered in arriving at the value.

Mr. SABATH. Who shall pass upon it but the commission, and they are to have all the light and information that they

Mr. HARDY. Will the gentleman yield?

I will yield to the gentleman from Texas. Mr. SIMS.

Mr. HARDY. I want to suggest that this bill really only provides for a valuation of the physical property; that is the intention of it. I believe that it is possibly liable to considerable misinterpretation. Several gentlemen have spoken about the valuation of the franchise as part of the value, but this bill itself provides the standard by which they shall fix the value, as follows:

as follows:

Sec. 19a. That the commission shall investigate and ascertain the value of the property of every common carrier subject to the provisions of this act and used by it for the convenience of the public. For the purpose of such an investigation and ascertainment of value the commission is authorized to employ such engineers, experts, and other assistants as may be necessary, who shall have power to administer oaths, examine witnesses, and take testimony. The value shall be ascertained by means of an inventory which shall list the property of every common carrier subject to the provisions of this act in detail, and shall classify the physical elements of such property in conformity with the classification of expenditures for road and equipment, as prescribed by the Interstate Commerce Commission.

Then it further prayides that in such investigation the com-

Then it further provides that in such investigation the commission shall have authority to ascertain and report in such detail as it may deem necessary as to each piece of property owned or used by said common carrier, the original cost for railway purposes, the cost and value to the present owner, and what increase in value is due to cost of improvements.

The bill really only provides for a physical valuation of items, a detailed list of the property of the company, and it was not intended, as I read the bill, to incorporate the value of the franchise in the report required of the commission. I believe that you will have clarified the situation by putting the word "physical," as suggested by the amendment of the gentleman from isconsin. That will make the meaning indisputable.
Mr. SIMS. It has been stated by a gentleman on the com-Wisconsin.

mittee, who undoubtedly states it authoritatively, that this bill was drawn by the Interstate Commerce Commission itself. As far as I am concerned, I would not know how to draw such a bill, and unless I was satisfied that this amendment would not restrict the object and purpose of the bill-that is, that it would not narrow rather than widen the scope of the bill-I would not want to accept this amendment under the circumstances. Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin.

The question was taken, and the amendment was lost.

Mr. MANN. Mr. Chairman, I move to amend, page 1, line 3, by striking out the words "section 19 of an" and inserting in lieu thereof the word "the."

The Clerk read as follows:

Page 1, line 3, strike out the words "section 19 of an" and insert in lieu thereof the word "the."

Mr. MANN. Mr. Chairman, as the bill reads it provides that section 19 of the act to regulate commerce be amended by adding section 19a thereafter. Of course section 19 of the act is not amended at all. It is entirely a separate proposition from the one involved here. The amendment is in fact an amendment of the act to regulate commerce. As the bill reads now,

That section 19 of an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof be amended— And so forth.

There are no amendments to section 19 of the interstate-commerce act. Although many other sections have been amended, the original section 19 reads now as it was enacted in 1887. I would suggest that the language of the bill be changed so as to provide that the act to regulate commerce as amended be further amended by adding this new section.

Mr. SIMS. Has the gentleman his amendment in form, so that he can state it correctly? I have no objection to the

amendment.

Mr. MANN. I offered just the first part of it, and then intended to move to strike out, in line 5, "and all acts amendatory thereof," and insert in lieu thereof the words "as amended."

Mr. SIMS. So that it would read?
Mr. MANN. And then insert after the word "be," in line 5, the word "further," so that it will read:

That the act entitled "An act to regulate commerce," approved February 4, 1887, as amended, be further amended by adding thereto a new section, to be known as section 19a, and to read as follows.

Mr. SIMS. Mr. Chairman, I have no objection to that.

The CHAIRMAN. The question is on the first amendment offered by the gentleman from Illinois, which the Clerk will The Clerk read as follows:

Page 1, line 3, strike out the words "section 19 of an" and insert in lieu thereof the word "the."

The CHAIRMAN. The question is on agreeing to the amend-

The question was taken, and the amendment was agreed to. The CHAIRMAN. The Clerk will report the next amendment offered by the gentleman from Illinois,

The Clerk read as follows:

Page 1, line 5, strike out the words "and all acts amendatory thereof" and insert in lieu thereof the words "as amended."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will report the next amendment offered by the gentleman from Illinois.

The Clerk read as follows:

Page 1, line 5, after the word "be," at the end of the line, insert the word "further."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. OLMSTED. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 2, line 8, after the word "testimony," insert the following: "Upon three days' notice to the common carrier, which shall be permitted to attend by counsel or otherwise and examine or cross-examine the witnesses and to call and examine other witnesses."

Mr. OLMSTED. Mr. Chairman, just a word upon this amendment. This bill in its present form provides for the ascertainment and determination of the value of the physical property of common carriers by the Interstate Commerce Commission, which is authorized to employ such engineers, experts, and other assistants as may be necessary, who shall have power to administer oaths, examine witnesses, and take testimony; that is, I take it, touching the valuation to be ascertained. We are given to understand that the valuation is for the purpose of assisting the commission in fixing the rates which may be charged by common carriers. It is to be one of the elements at least. which a common carrier may charge, the right to charge a rate, is its most important right. Without that right a rail-road would have very little physical or other valuation, and it seems to me that in a matter so important as that the common carrier itself ought to have some notice of the taking of testimony and the right to be present and examine and cross-examine witnesses

That is the sole purpose and object of my proposed amendment. If the physical valuation of railroads, which is to be determined by the commission in the matter pointed out by this bill, is to be used as the basis for the fixing of rates by the Interstate Commerce Commission, it is no more than fair and equitable, and in harmony with universally recognized principles of enlightened civilization, that the party to be affected shall have notice and an opportunity to be heard. It is true that the bill does provide that after the Interstate Commerce Commission, through its agents, experts, or other assistants shall have concluded the taking of testimony, and the commission, based upon such testimony, shall have adjudicated the matter and fixed the valuation, the carrier may have 30 days within which to file a protest, and that upon the filing of any protest by a common carrier-

The commission shall fix a time for hearing the same and shall proceed as promptly as may be to hear and consider any matter relative and material thereto which may be presented by such common carrier in support of its protest so filed.

The bill, however, makes no provision for the taking of testimony upon such a hearing. If witnesses were desired to be recalled for examination or cross-examination, the common carrier would have to hunt them up, and it would have no power to compel their attendance. The whole proceeding would be, in any event, anomalous and unreasonable. It would be like depriving a defendant of the right to participate in the taking of testimony on the trial of his case and then allowing him the mere right to file a protest after the court shall have entered judgment against him. There is no State in this Union under the laws of which \$10 worth of property could be taken from any man in a proceeding in which he was not permitted to cross-examine the witnesses produced against him or to call witnesses in his own behalf; and surely that ordinary right and privilege ought not to be denied in a matter the determination of which may, and in many instances will, little, if anything, more than the value of the rails less the cost

involve millions of dollars. This is, in any event, a remarkable provision in the bill, that—

for the purpose of such an investigation and ascertainment of value, the commission in authorized to employ such engineers, experts, and other assistants as may be necessary, who shall have power to administer oaths, examine witnesses, and take testimony.

My amendment adds, after the word "testimony," these words:

Upon three days' notice to the common carrier which shall be permitted to attend by counsel or otherwise and examine or cross-examine witnesses and to call and examine other witnesses.

It seems to me that, upon the commonest principles of justice, the amendment ought to prevail.

Now, just a few words upon the bill itself. If it would accomplish what is hinted in the report of the Committee on Interstate and Foreign Commerce, which has presented the bill to this House, and what has been intimated by some of its supporters who have spoken in its behalf, it would be a most monstrous proposition. In the report of the Committee on Interstate and Foreign Commerce accompanying this bill I find this language:

The anomaly has grown up gradually and unconsciously, as it were-grown up in the courts themselves, as well as in the commission—that public carriers are to be allowed to charge an income on what they owe as well as upon what they own. No one else in the world with whom we are acquainted is allowed that privilege.

And then, again, the report complains that:

As a part of the fixed charges to the annual burden of doing business the interest on the bonds is considered and allowance made for them.

What "anomaly" is there in the proposition that a common carrier ought to be permitted to charge rates sufficient to enable it to pay the interest upon its bonds? Let us suppose the case of a railroad costing \$2,000,000. The stockholders themselves put in one million and issue stock for that amount. They borrow another million on a first mortgage and issue bonds for that amount. Why should not the company be permitted to pay the interest upon its bonds? What is wrong about that? Putting aside for the moment all questions of right and wrong, of constitutionality or of unconstitutionality, is there any gentleman upon this floor who can not discern the condition into which not only our common carriers but our whole country would be thrown if common carriers were not permitted to earn and pay their interest, as well as a reasonable return to stockholders? The regulation of common carriers is right and proper, but it is time for the baiting of common carriers to cease. Without stopping to consider the effect upon existing concerns, what would be the effect upon future railroad building? It has been suggested that the day of railroad promotion is past; that the country is already well supplied. That is far from true. There are vast areas of country, particularly in the Southern States, not penetrated by railroads at all. Railroads are needed for their development; but what sane man would invest a dollar in their construction if the sentiments of some of those who have spoken upon this floor should be enacted into law?

Happily, this bill will not bring about any such state of affairs. It provides for the physical valuation of the property of common carriers, and undoubtedly the physical valuation thus ascertained will be considered by the Interstate Commerce Commission in the fixing of rates; but it does not by any means follow that the rates will be fixed so low that the common carriers can not earn the interest upon their indebtedness. Rather than that it would be better that the Interstate Commerce Commission itself should be abolished. It is manifest from what has already taken place that this bill is destined to pass. Personally I do not believe that it will prove of very much value. It will, in the first place, require for its execution the employment of a vast army of engineers, experts, and other assistants, including clerks, stenographers, bookkeepers, and the like; will involve the Government in the expense of taking testimony in practically every part of the United States; and, in addition to making a large hole in the Federal Treasury, will take up the time of officials and employees and prove annoying and expensive to common carriers as well as enormously expensive to the Government itself. When the physical valuations have been thus ascertained, I very much fear that they will not serve any useful purpose in a degree at all commensurate with the expense involved. I agree with Theodore Roosevelt that the physical valuation of railroads is of doubtful value in the determination of proper rates of transportation. It has been urged upon this floor to-day that rates ought to be based upon physical valuation alone; that the value of the franchise should not be taken into consideration at all, because the franchise is derived from the Government or from the State. Well, what would be the physical valuation of a railroad without the franchise to carry freight and passengers? Practically nothing; but of removing them. Some years ago a railroad through the State of Pennsylvania was contemplated and commenced in competition with the Pennsylvania Railroad. The route was surveyed and a large amount of work done, particularly in the digging of a great number of costly tunnels through the mountains. It is said that more than \$3,000,000 were expended in these tunnels. The project was finally abandoned; no rails were laid. What is the physical valuation of those holes in the ground today? And what would be the physical valuation if rails were laid over that route, and the company owning it had no right to carry freight or passengers? What would be the value of that line if there were no freight and passengers to carry? I have already, during this discussion, called attention to the fact that one of the lines between Washington and Baltimore cost a great deal more than the other because the second line was compelled to enter the city by way of a series of lengthy and expensive tunnels.

Is its physical valuation greater because of its greater cost? Would you, because of that greater cost, permit that company to charge a higher rate for freight or passengers than you would permit the other company to charge? And if you did permit it, would not the old company, being restricted to the lower rate, secure all the traffic? Or would you, basing the rate upon the physical valuation alone, require the older company to charge a higher rate so as to enable the second company to compete for business? I know of a railroad something over 200 miles in length constructed at great cost through a mountainous country for the purpose of reaching an article of commerce which for some years afforded it a profitable traffic. That commodity along its line has now been practically exhausted, and the railroad hardly pays the cost of operation. Stockholders are receiving no dividends and the bondholders are not getting the interest upon their bonds. How would you determine the valuation of that road? It would cost several millions of dollars to duplicate it to-day, but there is insufficient traffic upon the line to make it pay. No valuation which could be placed upon the property will have any effect upon the value of the stock and bonds of that corporation. The physical value of that road has little, if any, relation to the question of reasonableness of rates charged upon that line. In my judgment the valuation of the physical property of a common carrier will prove a very poor and in many cases a very misleading factor. The value of a railroad depends almost entirely upon its traffic, the probable continuance thereof, and the rates which the owner is permitted to charge for the transportation of freight and passengers. The opening of coal mines along the line of a railroad would enhance the value of the railroad and of its capital stock. On the other hand, the closing down or the exhaustion of such a mine would depreciate the value. The building of new factories would increase the value of the railroad and its capital stock. The destruction or closing down of factories would reduce its value. An increase of population in the cities or towns along the line would increase its value, while a reduction in population would have the opposite effect. If the com-mon carrier has a reasonable amount of traffic and is permitted to charge, say, 10 cents per ton per mile and can secure that rate, it may do an exceedingly prosperous business and be a very valuable property.

If, then, the Interstate Commerce Commission should restrict its charge to 1 cent per ton per mile the value of that road and of its capital stock would be vastly decreased. The physical value of the property would not be a very important factor. The Committee on Interstate and Foreign Commerce in presenting this bill has rejected and excluded a proposition which, to my mind, would be of far more value and importance than a physical valuation of the property of common carriers. I refer to the proposition to regulate the issuance of stocks and bonds by railroad companies and other common carriers. It has been charged here upon this floor during this discussion over and over again that watered stocks and bonds are to a large degree responsible for high rates of transportation because companies strive or are permitted to pay interest and dividends upon them. If, then, we so legislate as to prevent the watering of stocks and require both stocks and bonds to be issued only for actual value we shall do much to eliminate that evil and to keep transportation rates within proper bounds. An effort will be made to insert such a provision, and it shall certainly have my support.

I regret to see that there is a disposition in some quarters to deal very unfairly with common carriers. There seems to be a disposition to make them not only common carriers, but practically free carriers, without authority to charge sufficient rates to enable them to pay interest upon the money they have to borrow to construct their lines and to keep them in operation. Reference has been made to the present existing and lamentable

car shortage. The railroad companies can not buy cars without money, and they frequently—indeed almost invariably—have to make either temporary or permanent loans for that purpose. But who will lend them money if they are not permitted to pay interest upon their bonds? Another gentleman of exceeding ability argued that rates should be based exclusively upon physical valuation, and expressed doubt if in that valuation there should be included the extension of expensive terminals which within the past few years have been built in Chicago, in New York, and in this city of Washington for the convenience of the public, because, he said, they are not used in the transportation of freight, but only in the transportation or for the convenience of passengers. Another gentleman charged that the high cost of living in this country is due almost entirely to high rates of transportation. He ought either to travel abroad himself or else read the official reports of railroad operation in other countries. He would then learn that rates are very much lower here than elsewhere in the world; that the train service here is very much better; and that in the matter of speed, safety, and luxury of passenger travel, as well as in cheapness, the United States leads the world. [Applause]

the United States leads the world. [Applause.]

Mr. SIMS. Mr. Chairman, I feel called upon to oppose the amendment. This is an ex parte examination by the commission, one that will take a great deal of time to properly conduct, and to require notice and to permit the carrier to introduce testimony would be virtually a litigation which would continue through an interminable time. I do not charge the carriers, of course, with any intention to delay, but necessarily, if they have to have cross-examinations and the attendance of witnesses that the railroads would furnish, there will certainly be a very great delay in this ex parte proceeding of the commission, which is not conclusive upon the carriers when it is completed

Mr. LENROOT. Mr. Chairman, will the gentleman yield? Mr. SIMS. Certainly.

Mr. LENROOT. I would remind the gentleman that the bill itself provides for a full hearing by the carrier after the preliminary valuation is made before it becomes final.

Mr. SIMS. Yes; and not while it is proceeding. I therefore hope the amendment will be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the amendment was rejected.

Mr. LENROOT. Mr. Chairman, I offer the following amendment

The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

In line 19, page 2, after the word "owner," insert the words "the cost of reproduction."

Mr. LENROOT. Mr. Chairman, inasmuch as this paragraph undertakes to specify the elements which shall be considered by the commission in arriving at the valuation, it seems very clear to me that the cost of reproduction is one of the indispensable elements, and it should also be specified. A number of the decisions hold that the cost of reproduction is one of the elements that must be considered in arriving at the value. As you all know, perhaps the last leading case is that of the Knoxville Water Co. against Knoxville (212 U. S., 1), in which this opinion is used:

The cost of reproduction is one way of ascertaining the value of a plant like a water company.

And, going back to the case of Smythe against Ames-

The value to be ascertained by considering original cost of construction, amount expended in permanent improvement, amount and market value of stocks and bonds, present as compared with original cost of construction.

Now, that is not provided in this bill, and it seems to me it ought to be there, so long as we are specifying the different elements that shall be considered.

The question was taken, and the amendment was agreed to.
Mr. SIMS. Mr. Chariman, if there are no further amendments I move that the committee rise and report the bill as amended.

Mr. LAFFERTY. Mr. Chairman, I desire to offer an amendment which I send to the Clerk's desk, merely to perfect the language on page 2.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, lines 24 and 25, strike out the following, "They should also show as the commission may deem necessary," and insert in lieu thereof the following, "Such investigation and report shall further show whenever the commission may deem necessary."

Mr. LAFFERTY. Mr. Chairman, the bill on page 2 in this connection is very awkward in its language. For example, it reads like this:

Such investigation and report shall also show separately that property actually used in transportation and held for other purposes,

and shall contain a statement of the elements forming a basis of the estimate of value. They should also show, as the commission may

Now, there occurs the word "should." In all my reading of public statutes the word "should" has never appeared in a connection like this. The law reads that it "shall" do or "shall not" do: not that it "should not" do.

Mr. SIMS. Mr. Chairman, I want to say to the gentleman from Oregon that I do not think his amendment in any way hurts the bill, but may help it, and I have no purpose of opposing it.

The question was taken, and the Chairman announced that

the amendment was rejected.

Mr. LAFFERTY. Mr. Chairman, was my amendment rejected?

The CHAIRMAN. It was. Mr. LAFFERTY. I ask for a division.

Mr. LAFFERTY. I ask for a division.
Mr. FOWLER. Mr. Chairman, on page 2, line 23, after the word "statement," I desire to amend by inserting—
Mr. LAFFERTY. Mr. Chairman, a parliamentary inquiry.

The gentleman will state it.

The CHAIRMAN. The gentleman will state it.
Mr. LAFFERTY. Mr. Chairman, during the confusion I did not understand whether the amendment I offered was agreed to or not

The CHAIRMAN. It was not agreed to.
Mr. LAFFERTY. I demand a division. I understood the gentleman in charge of the bill stated he would agree to it.

The CHAIRMAN. The Chair has stated that it was not agreed to

Mr. LAFFERTY. Mr. Chairman, I ask for a division. not understand the Chair, and if I am permitted I will state that the gentleman in charge of the bill accepted my amendment, and that is why I did not explain it further.

Mr. SIMS. I said I did not object.

Mr. SABATH. The gentleman from Tennessee did not object, but a majority of the Members did.

The CHAIRMAN. The gentleman from Oregon demands a

division on his amendment. The committee divided; and there were—ayes 41, noes 4.

So the amendment was agreed to.

Mr. FOWLER. Mr. Chairman, on page 2, line 23, after the word "statement," I desire to amend by adding the words "and value," so that it shall read:

Such investigation and report shall also show separately that property actually used in transportation and that held for other purposes, and shall contain a statement and value of the elements forming the basis of the estimate of value.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 23, after the word "statement," insert the words "and

Mr. FOWLER. Mr. Chairman, the purpose which I have in offering this amendment is that the different elements which are taken into consideration in making up the value of the property may be estimated separately, so that the public may understand of just what the value is made. For instance, a property may consist of physical value, a franchise value, a growing value, and a good-will value. If these four elements are to be considered in making public the value of this property, then I think they ought to be stated separately, so that the public may understand just what values are taken into consideration by the commission in making up the total value. Should the estimate of the various elements entering into the value of railroad property be combined in one sum it might present a good showing for the roads and seem to justify a greater rate than would be just to the public. Franchise value, good-will value, and value occasioned by the growth of business and the increase of population are not elements, in my opinion, which should enter into the sum total upon which to fix rates. These elements of value are created by civilization and industry, and the public ought not to be taxed because of such increase of value. It is like paying interest upon interest and more. For this reason each of the elements of value ought to be estimated separately.

Mr. SABATH. Mr. Chairman, do I understand the gentleman from Illinois [Mr. Fowler] to amend by adding the word

Mr. FOWLER. The words "and value," so that it will

Shall contain a statement and value of the elements.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. Fowler].

The question was taken, and the amendment was rejected. Mr. OLMSTED. Mr. Chairman, I ask unanimous consent to extend in the RECORD the remarks which I made awhile ago.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SIMS. Mr. Chairman, I move that the committee do now rise and report the bill to the House as amended.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. RAINEY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 22593) entitled "A bill to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors," and had directed him to report the bill to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Is a separate vote demanded on any amendments? If not, the Chair will put them en grosse. [After a The Chair hears no objection. The question is on

agreeing to the amendments.

The question was taken, and the amendments were agreed to. The bill as amended was ordered to be engrossed and read a

third time, and was read a third time.

Mr. MANN. Mr. Speaker, I offer a privileged motion, which send to the Clerk's desk.

The SPEAKER. The gentleman from Illinois offers a privileged motion, which the Clerk will report.

The Clerk read as follows:

Mr. Mann moves to recommit the bill (II. R. 22593) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of property of carriers subject thereto, and securing information concerning their stocks and bonds and boards of directors, to the Committee on Interstate and Foreign Commerce, with directions to that committee to forthwith report the said bill back to the House with the following amendment, to wit:

or property of canadars, subject the company of the committee on Interstate and Foreign Commerce, with directions to the Committee on Interstate and Foreign Commerce, with directions to that committee to forthwith report the said bill back to the House with the following amendment, to wit:

Insert at the end of the bill the following:

"SEC. 2. That a new section be added to said act to regulate commerce, to be numbered as section 25, as follows:

"SEC. 25. That no railroad corporation which is a common carrier subject to the provisions of this act as amended any stock, that the commerce of the common carriers of the common carriers of the common carriers of the common carriers of the commerce of the commerce

nonperformance of any of the conditions thereof, be sold or become the property of the holders of the notes, bonds, or other evidences of indebtedness so secured, either directly or through a trustee for their benefit, except at or through public sale, notice whereof shall be published at least once a week for not less than three successive weeks prior thereto in at least one daily newspaper of general circulation published in the place where such sale shall take place: And provided further, That if such notes, bonds, or other evidences of indebtedness, if any, shall provide that the owners thereof shall have the right to convert the same into the bonds or other evidences of indebtedness, on orter the same into the bonds or other evidences of indebtedness so mortgaged or pledged, the Interstate Commerce Commission, previously to the making of such lean, shall have ascertained and stated in a certificate issued by the commission to such corporation or to any person or persons intending to organize such corporation and recorded with the commission or otherwise, as authorized by this act, the reasonable market or selling value of such bonds or other evidences of indebtedness so mortgaged or pledged and the rate which said reasonable market or selling value bears to the reasonable market or selling value of such secured notes, bonds, or other evidences of indebtedness, and that such secured notes, bonds, or other evidences of indebtedness shall not provide that the owners thereof shall have the right, upon such conversion, to receive in exchange therefor bonds or other evidences of indebtedness so mortgaged or pledged to an amount greater than would be receivable at the rate so found and stated in such certificate of the commission.

"'Nothing in this act contained shall be taken to prohibit the issue

be receivable at the rate so found and stated in such certificate of the commission.

"Nothing in this act contained shall be taken to prohibit the issue of any bond or other evidence of indebtedness pursuant to the terms of any instrument heretofore executed, provided the same shall not be sold except in conformity with the provisions of this section.

"Nothing in this act contained shall in any way affect or impair the validity of any mortgage or pledge of any capital stock, certificate of stock, bond, or other evidence of indebtedness now mortgaged or pledged as security for or as part security for any loan heretofore made to any such corporation, or prohibit the sale, upon foreclosure or otherwise, of any such mortgaged or pledged stock, certificate of stock, bonds, or other evidences of indebtedness upon the terms and conditions provided in the instrument, if any, whereunder such securities may have been pledged or in the contract of loan; and nothing in this section contained shall be construed in any way to prohibit or affect the issue of any capital stock or the delivery of any certificate of stock, or the issue of any bond or other evidence of indebtedness in exchange for or to provide for the retirement of any capital stock, certificate of stock, bond, or other evidence of indebtedness now outstanding or provided to be issued, or the pledge of the exchanged or retired stock or securities on such terms and conditions as may be provided in the instruments whereunder any of the stocks, bonds, or other evidences of indebtedness referred to in this paragraph are respectively issued or authorized to be issued.

"Sec. 3. That a new section be added to said act to regulate compared to be a section." issued.'
"SEC. 3. That a new section be added to said act to regulate commerce, to be numbered as section 26, as follows:

referred to in this paragraph are respectively issued or authorized to be issued."

"SEC, 3. That a new section be added to said act to regulate commerce, to be numbered as section 26, as follows:

"SEC, 26. That in case at any time it shall be proposed by or pursuant to any plan of reorganization of any railroad corporation or corporations incorporated prior to January 1, 1910, the properties whereof shall be in the hands of a receiver or of receivers, or shall be subject to be sold in any suit or suits or other judicial proceedings for foreclosure of any mortrage or deed of trust herefore executed, or for the dissolution or winding up of such corporation, or to procure the satisfaction of its debts or the application of its property thereto, pending at the time of such proposal, that any corporation utilized or to be utilized for the purposes of such reorganization, which at such time shall be, or, when organized and operating, will be, subject to the provisions of this act as amended (every corporation), shall issue stock and bonds and other evidences of indebted or to be utilized being hereinafter referred to by the term "New corporation", shall issue stock and bonds and other evidences of indebted ness, or any thereof, for any purpose connected with or relating to any part of its business governed by this act as amended, application for any certificate of the Interstate Commerce Commission that may be requisite under the provisions of this section may be made by any person, committee, or representatives of any committee, or by managers having in charge the formulating or carrying out of any such plan of reorganization, and such certificate may be issued to such person, committee, representatives, or managers for the use of the new corporations so reorganized or to be reorganized or two procedus and other evidences of indebtedness, whether unsecured or such

"I'i In case two or more railroad, corporations subject to the provisions of this act as amended shall be consolidated or merged pursu-

ant to the laws of a State or States applicable thereto and such consolidation or merger shall consist in uniting the organizations, properties, businesses, and stocks of said corporations; and if the interstate Commerce Commission shall have ascertained and stated in a certificate issued by it to the corporations in respect to which such consolidation or merger is to take place or shall have taken place, or to one of them for to any person, committee, or representatives of any committee, or to managers having in charge the formulating or carrying out of any plan of reorganization such as is hereinbefore mentioned under which the corporation that is to issue new securities to be distributed under such plan will be a corporation resulting from any consolidation or consolidations, merger or mergers), that the stock to be issued by such consolidated corporation and the bonds and other obligations, if any, to be assumed and issued thereby does not exceed the fair estimated value of the properties of such consolidated corporation, nothing in this act contained shall be deemed to prohibit the issue of such stock and bonds and other obligations, or any of them, or the assumption of all or any of the bonds or other obligations of the corporations so consolidated or merged.

and other obligations, or any of them, or the assumption of an of the bonds or other obligations of the corporations so consolidated or merged.

"Nothing in this act contained shall prevent a railroad corporation, subject to the provisions of this act as amended, from acquiring the entire issue of the stock and bonds of another railroad corporation, subject to said act, which is not directly and substantially competitive with that of such first-mentioned corporation, by the issue of its own stock and bonds, provided the aggregate amount of the par values of the stocks and bonds so issued shall not exceed the fair value of the property of the corporation whose stock and bonds are so acquired, which value shall be ascertained by the Interstate Commerce Commission: Provided, That the stock and bonds of another railroad corporations so acquired shall not be in any way sold or distributed by the railroad corporation acquiring them, except in accordance with the provisions of section 25 of this act relating to the issuance of stock and bonds, which are hereby made applicable thereto.

"But nothing herein contained shall be construed to authorize or to validate or permit the consolidation or merger in any manner of two or more corporations in violation of any act of Congress, including the act approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraint and monopolies."

Mr. SIMS. Mr. Speaker, I make a point of order against this

Mr. Speaker, I make a point of order against this motion, that it is not germane to the bill.

The SPEAKER. The Chair will hear the gentleman.

Mr. SIMS. The motion is a long legislative proposition as to the issuance of stocks and bonds, while the bill is a bill to provide for the physical valuation of railroads; and while I might be very much in favor of the bill as a separate proposition, although, having heard it read in this way, it is impossible to understand it fully, yet it is not germane to the object and purpose of this bill in any respect.

This bill is to obtain information. Its whole object and purpose is to enable the commission to acquire information and to enable it to apply that information in determining a rate, a reasonable rate. This proposition is in reference to the merging of railroads and in reference to the issuance of stocks and bonds, and is not in any way germane to the object and purpose

of this bill.

The SPEAKER. Does the gentleman from Illinois desire to be heard?

Mr. MANN. Mr. Speaker, the present bill is a bill to amend the act to regulate commerce, covering the particular section which it is proposed to insert in the law, and this bill proposes to insert a new section in the interstate-commerce law. new section affects the physical valuation of railroads, and also the issuance of stocks and bonds. It requires an investigation. The bill provides not only for the valuation of railroad property, but it also provides for an investigation and report of the amounts and dates of all bonds outstanding and the amounts paid for the bonds, and requires a report of the money raised by bonds and invested by the railway corporation. It deals with all phases of the property of a railroad, both as to the property itself and as to the bonds which may be issued by the railroad company. It is simply an insertion of these provisions in the act to regulate commerce. The act to regulate commerce covers the entire scope of control of the railroads.

The amendment which I have offered is in the identical language of provisions which passed this House as a part of the bill amending the interstate-commerce law two years ago. They were then germane to that bill, which was a bill amending the interstate-commerce law, and they are offered here as an amendment to a bill which proposes to amend the interstate-commerce law and which specifically provides in regard to the issuance of bonds and in regard to the value. This provision which I have offered follows up the provisions of this bill by providing that no bonds shall be issued except for money actually received and the money invested in the property of the railroad company.

Mr. UNDERWOOD. Mr. Speaker, will the gentleman from Illinois yield?

Mr. MANN. Certainly.
Mr. UNDERWOOD. I am not familiar with the provisions of the bill that has been offered by the gentleman from Illinois. I desire to get some information. Does the gentleman from Illinois contend that the motion to recommit with instructions that the bill shall be reported back on the motion to recommit is germane to the original bill that was proposed-by the gentleman from Tennessee [Mr. Sims], or does he contend that its germaneness lies in the fact that it is germane to the general interstate-commerce act?

Mr. MANN. I contend both. It is not only germane to the provisions of the bill, but it is in order, because the bill itself is an amendment of the interstate-commerce law, and hence a

further amendment of that law is in order.

Mr. UNDERWOOD. The gentleman does not contend that an amendment to a law makes a provision germane as to everything that happens to be in the law; that if a bill were in here providing for a duty on cereals—on wheat—that, because it did amend the general tariff act it would make it in order to

offer an amendment to put sugar on the free list?

Mr. MANN. I would not make the last contention under the rules adopted by the Democratic majority of the House in this Congress, because you adopted a special rule to prevent that, knowing that if that special rule-which only relates to tariff legislation-had not been adopted, then when you offered a bill to amend the tariff on cereals, a proposition to amend the tariff on sugar would have been in order. To prevent that you put a special provision in your rules, thereby admitting that without that the general rule which I have named was good.

Mr. UNDERWOOD. If the gentleman will allow me, I will say that, as I recall the decisions, many of them held that exactly what was in that special rule was the parliamentary law of this House; but as there was a conflict in the decisions, we cleared up the conflict by expressly putting it in the rule.

Mr. MANN. Oh, the gentleman is begging the question. Mr. UNDERWOOD. There was a line of decisions, and is

Mr. MANN. The line of decisions is very clear in favor of the proposition which I have suggested; and because of that fact the gentleman from Alabama [Mr. Underwood], or whoever prepared the rules for this House, put in a special rule removing tariff legislation from the principles of the general rule that I have stated.

But, outside of that question, I contend that the amendment which I have offered would have been in order if this had been an original bill. It relates to the entire subject of railroad property and the bonds issued for it. I propose a further amendment in reference to the issuance of these stocks and bonds. I think if these provisions were in order two years ago they are in order now, and they were in order at that time.

The SPEAKER. The Chair will inquire of the gentleman as to the purpose of his motion. Of course, the truth is that when anybody proposes to offer a complicated motion to recommit, he should furnish a copy of his motion to the Chair in advance. so as to give the Chair a chance to have a clear understanding of it.

Mr. MANN. I have not prevented the House from adjourning with the point of order pending before the Speaker. I have never considered that it was necessary to tell the other side of the House in advance what I proposed to do. I notice

that they do not do that for me.

The SPEAKER. The Chair, like everybody else, did not comprehend the full import of the motion from listening to the reading of it. The Chair wishes to ask the gentleman from Illinois. Does this motion to recommit go to the matter of investigating these subjects which are referred to in the bill of the gentleman from Tennessee [Mr. Sims] or not?

Mr. MANN. It goes to the matter of regulating the issuance of stocks and bonds.

The SPEAKER. What is the general subject of the bill of the gentleman from Tennessee? Is it simply investigation?

Mr. MANN. The general subject of the bill of the gentleman from Tennessee is a new proposition to be inserted in the interstate-commerce law.

Mr. FITZGERALD. Mr. Speaker-

The SPEAKER. Does the gentleman from Tennessee [Mr. SIMS] desire to be heard further?

Mr. SIMS. The gentleman from New York has addressed the Chair.

The SPEAKER. The gentleman from New York.

Mr. FITZGERALD. Mr. Speaker, the question at issue has been definitely settled in the past. The rule is clear that to a bill purporting to amend a law in one particular an amendment proposing to amend it in some other respect is not germane.

Such a decision was quoted by Mr. Speaker Cannon on April , 1910. Members of the House will recall the situation. The legislative bill was returned from the Senate with an amend-ment amending the publicity feature of the corporation-tax law which was a part of the Payne-Aldrich tariff law. I sub-

mitted a motion to recommit, with instructions to report the bill with an amendment repealing the entire tariff law.

After very considerable debate Speaker Cannon held that that motion was not in order, and he quoted from Hinds' Precedents, volume 5, page 411, section 5806, as follows:

To a bill amendatory of an existing law as to one specific particular, an amendment relating to the terms of the law rather than to those of the bill was held not to be germane.

That decision arose on a bill to provide for the administration of civil affairs in Porto Rico pending the appointment and qualification of civil officers provided for in the act. An amendment was offered in relation to franchises, and a point of order was made that the bill and Senate amendments proposed to amend an existing statute in one particular and that the question of franchises was not germane to the provisions in the bill before the House; that while they might have been germane to the original law, as the bill purported to amend existing law in but one particular, any amendment submitted must be germane to the bill that was pending.

The bill pending before the House provides for a physical valuation of railroads and outlines a scheme to be followed by the Interstate Commerce Commission in carrying out that work. The amendment proposed by the gentleman from Illinois is not germane to the proposition pending before the House, but relates to an entirely different subject. If the original law were before the House the proposition of the gentleman from Illinois might be germane to some features of that law; the question of germaneness in this instance must be determined in relation

to the bill that is now pending.

I understood from the argument of the gentleman from Illinois himself that he did not contend that his amendment was germane to the proposition pending before the House, but contends that it is germane because the proposition pending in the House amends a certain existing statute, and the amendment that he proposes amends or adds to that statute additional provisions to those proposed in the pending bill. The authority to which I have called attention is not the only one to the same effect cited in the precedents, but there are a number of other decisions along similar lines.

For instance, on April 23, 1902, as appears in paragraph 5808, volume 5, of Hinds' Precedents, there were Senate amendments to a bill relating to oleomargarine and other imitation dairy products under consideration in Committee of the Whole House on the state of the Union, when Mr. James R. Mann, of Illinois, offered a further amendment to a law of which a Senate amendment proposed to amend a certain portion. Mr. James A. Tawney, of Minnesota, having made a point of order, the Chairman, Mr. Olmsted, of Pennsylvania, ruled as follows:

Senate amendment No. 5 reads thus:
"Section 3 of said act is hereby amended by adding thereto the

"Section 3 of said act is hereby amended by adding thereto the following:"

And then follows a certain proviso. The amendment offered by the gentieman from Illinois is to add at the end of that proviso these words: "And provided further, That the artificial coloration provided for in the preceding paragraph shall not include colored butter."

The "preceding paragraph shall not include colored butter."

The "preceding paragraph" referred to, as the Chair understands, is section 3 of a former act of Congress which is not now before the Committee of the Whole.

On page 323 of the Manual the Chair finds this language:

"To a bill amending a general law on a specific point an amendment relating to the terms of the law rather than to those of the bill was offered and ruled not to be germane."

That ruling was made by Speaker Reed. The Chair thinks that it covers this case. The amendment of the gentleman from Illinois, while it may be germane to the preceding paragraph of section 3 of the earlier act of Congress to which it refers, is not germane to the proviso which constitutes the Senate amendment, and therefore the Chair sustains the point of order.

In this instance, the amendment proposed by the gentleman.

In this instance, the amendment proposed by the gentleman from Illinois might be germane to some provision of the law proposed to be amended by the pending bill, but it is not germane to any provision in or to the subject matter of the pending bill, and under the rulings that I have cited the amendment

The SPEAKER. The Chair will suggest to the gentleman from New York that he thinks the gentleman from New York misapprehends the claim of the gentleman from Illinois. The understood the gentleman from Illinois, in reply to a question asked by the gentleman from Alabama [Mr. Underwood), on what ground he claimed that this was germane, to say that it was germane both to the law itself and to this bill. He claims that it is germane to both propositions.

Mr. FITZGERALD. I have no doubt that the gentleman from Illinois asserts for the purpose of argument that his amendment

is germane to the present bill.

Mr. MANN. Mr. Speaker, I am not like the gentleman from New York [Mr. FITZGERALD]. I do not assert anything unless I believe it. [Laughter.]

Mr. FITZGERALD. Mr. Speaker, I have no doubt that the gentleman from Illinois may even believe the amendment germane, but neither the assertion nor the belief of the gentleman from Illinois can control the House in its deliberations, because if so, this side of the House might as well abandon its attempt to control its deliberations. The gentleman from Illinois [Mr. MANN] must point out the specific proposition in the bill under consideration to which his amendment is germane. While I have only the substance of the amendment in mind, I listened attentively to the argument of the gentleman from Illinois, but I could not determine any provision of the bill to which it is The substance of the pending bill is to create the machinery for the physical valuation of railroads. The gentleman from Illinois proposes to confer power upon the Interstate Commerce Commission to cancel certain outstanding obligations heretofore existing. That is not necessary nor essential nor does it relate in any way to the pending bill, and while it might relate to and be germane to some provision of existing statutes, under the decision of the gentleman from Pennsylvania [Mr. Olmsted], which I know commends itself not only to the House, but in which he thoroughly believes, the amendment proposed can not be held to be in order.

Mr. UNDERWOOD. Mr. Speaker, the Chair intimated that he desired to have opportunity to read these bills. I will ask the gentleman from Illinois if he has any objection to ordering the previous question pending this point of order, and allowing the House to adjourn, and the Speaker to take the point of order up when the bill is next up for consideration?

Mr. MANN. I would have no objection; but I do not know whether it would be possible to order the previous question pending the point of order. Why not have an agreement that this matter come up Thursday morning immediately after the reading of the Journal? It will take only a few minutes.

Mr. UNDERWOOD. If the previous question be ordered that

would be the case, unless the gentleman wants to have further discussion upon the merits.

Mr. MANN. I am perfectly willing to have an understanding that there will be no debate of the proposition.

Mr. FITZGERALD. I suggest that the previous question be

ordered on the bill and amendments.

Mr. MANN. I have no objection to the previous question being ordered on the bill and amendments. The amendments have already been agreed to. I am not so sure that you can order the previous question on my motion with a point of order If that can be done I am perfectly willing.

Mr. UNDERWOOD. The only way it can be done is by unanimous consent.

Mr. SIMS. Then I will ask unanimous consent that that

order, suggested by the gentleman from Alabama, be made.
Mr. OLMSTED. Mr. Speaker, a parliamentary inquiry. If
the order be made, will it prevent further discussion of the point of order?

The SPEAKER. Not if the Chair desires further information on the subject. The gentleman from Tennessee asks unanimous consent, because of the lateness of the hour and the length of the motion to recommit, that the whole matter go over until Thursday morning.

Mr. UNDERWOOD. And that the previous question be ordered on the bill and amendments to final passage.

The SPEAKER. And the previous question ordered on the bill and amendments.

Mr. MANN. On the motion to recommit. The amendments

have been agreed to.

The SPEAKER. Very well, on the bill and motion to recommit. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

MILITIA PAY BILL.

Mr. SLAYDEN. Mr. Speaker, I ask unanimous consent for one week, within which to submit the minority views on the bill, H. R. 8141, known as the militia pay bill.

The SPEAKER. The gentleman from Texas asks for one week within which to submit the minority views on the militia pay bill. Is there objection?

There was no objection.

ADJOURNMENT.

Then on motion of Mr. Underwood (at 5 o'clock and 58 minutes p. m.), the House adjourned until to-morrow, Wednesday, December 4, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were

officers during the Sixty-second Congress (H. Doc. No. 990) : to the Committee on Accounts and ordered to be printed.

letter from the Clerk of the House of Representatives. submitting a statement as to employees, disbursements, balances, stationery, etc., for the fiscal year ended June 30, 1912; to the Committee on Accounts and ordered to be printed.

A letter from the Postmaster General, transmitting list of claims of postmasters for reimbursement for losses of money orders and postal funds acted on by the Postmaster General during the fiscal year ended June 30, 1912 (H. Doc. No. 991); to the Committee on Expenditures in the Post Office Department and ordered to be printed.

A letter from the chief clerk of the Court of Claims, transmitting to Congress statement of all judgments rendered by said court for the year ended November 30, 1912 (H. Doc. No. 988); to the Committee on Claims and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting a statement of contingent expenditures of the Treasury Department for the fiscal year ended June 30, 1912 (H. Doc. No. 1008); to the Committee on Expenditures in the Treasury Department and ordered to be printed.

6. A letter from the Sergeant at Arms of the House of Representatives, transmitting statement showing sums of money drawn and disbursed by him from December 1, 1911, to November 30, 1912 (H. Doc. No. 1007); to the Committee on Accounts and ordered to be printed.

A letter from the Secretary of Commerce and Labor, transmitting, with favorable recommendation, draft of a bill authorizing the purchase of certain land for lighthouse purposes at Port Ferro Light Station, P. R. (H. Doc. No. 994); to the Committee on Interstate and Foreign Commerce and ordered to be

8. A letter from the Postmaster General, transmitting a statement showing travel expenses of officers and employees of the department when out of Washington on official business during the year 1912 (H. Doc. No. 1000); to the Committee on Expenditures in the Post Office Department and ordered to be

9. A letter from the Secretary of War, transmitting, with letter from the Acting Chief of Engineers, report on examination and survey of all lands subject to overflow from the Mississippi River between Brunswick, Miss., and Baton Rouge, La., and between Bessle and Memphis, Tenn. (H. Doc. No. 1010); to the Committee on Rivers and Harbors and ordered to be printed.

10. A letter from the Secretary of the Navy, submitting information relating to construction and repair of various vessels of the United States Navy (H. Doc. No. 992); to the Committee on Naval Affairs and ordered to be printed.

11. A letter from the Secretary of Agriculture, transmitting a detailed statement of travel expense incurred by officers and employees of the Department of Agriculture during the fiscal year ending June 30, 1912 (H. Doc. No. 998); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

12. A letter from the Secretary of Commerce and Labor, transmitting a detailed statement of disbursements made by the Department of Commerce and Labor from December 1, 1911, to November 30, 1912 (H. Doc. No. 1004); to the Committee on Expenditures in the Department of Commerce and Labor and ordered to be printed.

13. A letter from the Secretary of Agriculture, transmitting detailed statement of expenditures by the Department of Agriculture for the fiscal year ending June 30, 1912 (H. Doc. No. 955); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

14. A letter from the Sergeant at Arms of the House of Representatives, transmitting list of property in his charge on December 2, 1912 (H. Doc. No. 989); to the Committee on Accounts and ordered to be printed.

15. A letter from the Librarian of Congress, transmitting statement of travel expense incurred during the fiscal year 1911-12 (H. Doc. No. 1001); to the Committee on the Library and ordered to be printed.

16. A letter from the president of the Board of Commissioners of the District of Columbia, submitting report as to the cost and feasibility of adapting one or more of the vacant buildings upon the site of the Washington Asylum and Jail for use for municipal hospital purposes (H. Doc. No. 995); to the Committee on the District of Columbia and ordered to be

taken from the Speaker's table and referred as follows:

17. A letter from the Acting Secretary of War, transmitting statement showing in detail travel expenses of officers and employees of the War Department during the fiscal year ended

June 30, 1912 (H. Doc. No. 1002); to the Committee on Expenditures in the War Department and ordered to be printed.

18. A letter from the president of the United States Civil Service Commission, transmitting statement of travel expenses of officers and employees of said commission for the fiscal year ended June 30, 1912 (H. Doc. No. 999); to the Committee on Reform in the Civil Service and ordered to be printed.

19. A letter from the Postmaster General, transmitting report of public property, Post Office Department, Washington, on November 1, 1912 (H. Doc. No. 996); to the Committee on Expenditures in the Post Office Department and ordered to be

printed.

20. A letter from the Secretary of Agriculture, transmitting statement showing the number of copies of publications of the various bureaus, divisions, and offices of the United States Department of Agriculture turned over to the Public Printer on October 1, 1912, according to the provisions of section 8 of the legislative act approved August 23, 1912 (H. Doc. No. 993); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

21. A letter from the Secretary of Agriculture, transmitting a detailed statement of all money paid out by the Bureau of Chemistry for compensation of or payment of expenses to officers or other persons employed by State, county, or municipal governments during the fiscal year 1912 (H. Doc. No. 1006); to the Committee on Expenditures in the Department of Agriculture

and ordered to be printed.

22. A letter from the Secretary of the Smithsonian Institution, transmitting a statement of travel on official business for Smithsonian branch during fiscal year ended June 30, 1912 (H. Doc. No. 1003); to the Committee on the Library and ordered to be

printed.

23. A letter from the Secretary of War, transmitting letter from the Chief of Engineers, submitting claim for damages to schooner Annie F. Conlon, caused by collision with a mud scow in tow of the U. S. tug Philadelphia, on the Delaware River, November 11, 1911 (H. Doc. No. 997); to the Committee on Appropriations and ordered to be printed.

24. A letter from the Secretary of the Smithsonian Institution, transmitting a detailed statement of expenditures for the fiscal year ending June 30, 1912, under appropriations "International exchange," "American ethnology," "Astrophysical Observatory," "The International Catalogue of Scientific Literature," "National Museum," and the "National Zoological Park" (H. Doc. No. 1005); to the Committee on the Library and ordered to be printed.

CHANGE OF REFERENCE.

Under clause 2 of rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows

A bill (H. R. 1151) granting an increase of pension to James M. Freeman; Committee on Invalid Pensions discharged, and

referred to the Committee on Pensions.

A bill (H. R. 13816) granting an increase of pension to Edward M. Yochem; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS. RESOLUTIONS, AND MEMORIALS.

Under clause 3 of rule XXII, bills, resolutions, and memorials

were introduced and severally referred as follows:

By Mr. FRANCIS: A bill (H. R. 26536) to authorize the donation of certain unused and obsolete guns now at Chickamauga Park, Ga., to the Stanton Monument Association at Steubenville, Ohio; to the Committee on Military Affairs.

By Mr. GRIEST: A bill (H. R. 26537) authorizing the Secretary of War to donate to the city of Lancaster, Pa., two bronze or brass fieldpieces for the use of the General William S. Mc-Caskey Camp, United Spanish War Veterans; to the Committee on Military Affairs.

By Mr. HOUSTON: A bill (H. R. 26538) to provide for the examination and survey of Caney Fork River from its mouth up to the mouth of Holmes Creek, in Dekalb County, Tenn.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 26539) making an appropriation for clearing out the channel of Caney Fork River from its mouth to the mouth of Holmes Creek, in Dekalb County, Tenn.; to the Committee on Rivers and Harbors.

By Mr. MONDELL: A bill (H. R. 26540) dedicating 25 per cent of the proceeds of public lands to the construction and improvement of public roads; to the Committee on the Public Lands.

By Mr. PADGETT: A bill (H. R. 26541) to regulate and increase the efficiency of the personnel of the United States Navy and Marine Corps; to the Committee on Naval Affairs.

By Mr. MOON of Tennessee; A bill (H. R. 26542) authorizing the purchase of additional land for post-office site at Winchester, Tenn.; to the Committee on Public Buildings and Grounds.

By Mr. WILDER: A bill (H. R. 26543) to provide for the purchase of a site and the erection thereon of a public building at Leominster, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. CURRIER: A bill (H. R. 26544) to provide for the erection of a public building at Berlin, N. H.; to the Committee

on Public Buildings and Grounds.

By Mr. CANTRILL: A bill (H. R. 26545) for the enlargement of the Federal building at Winchester, Ky.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26546) to increase the limit of cost of the Federal building heretofore authorized at Georgetown, Ky.;

to the Committee on Public Buildings and Grounds.

By Mr. HUMPHREYS of Mississippi: A bill (H. R. 26547) to increase the limit of cost of the post office and courthouse at Clarksdale, Miss.; to the Committee on Public Buildings and Grounds

By Mr. WEEKS: A bill (H. R. 26548) for the purchase of a site and the erection thereon of a public building at South Framingham, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. GARNER: A bill (H. R. 26549) to provide for the construction or purchase of motor boat for customs service; to

the Committee on Interstate and Foreign Commerce. By Mr. GRIEST: A bill (H. R. 26550) to provide for the permanent establishment of town and village mail-delivery service at post offices of the second and third classes; to the Committee on the Post Office and Post Roads.

By Mr. DE FOREST: A bill (H. R. 26551) to repeal part of section 2 of public law No. 336, approved August 24, 1912, entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes"; to the Committee on the Post Office and Post Roads.

By Mr. GARRETT: A bill (H. R. 26552) for the erection of a public building at Humboldt, Tenn.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26553) for the erection of a public building at Martin, Tenn.; to the Committee on Public Buildings and Grounds.

By Mr. MACON: A bill (H. R. 26554) amending section 71 of the act approved March 3, 1911, to codify, revise, and amend the laws relating to the judiciary; to the Committee on the Judiciary.

By Mr. JAMES: A bill (H. R. 26555) to provide for the erection of a public building at Murray, Ky.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26556) to provide for the erection of a public building at Marion, Ky.; to the Committee on Public Buildings and Grounds.

By Mr. STEVENS of Minnesota: A bill (H. R. 26557) to authorize the Secretary of War to make an agreement with the Municipal Electric Co., a corporation, for the disposal of the hydroelectric power developed by the dam between St. Paul and Minneapolis, Minn.; to the Committee on Rivers and Harbors.

By Mr. COPLEY: A bill (H. R. 26558) for the purchase of a site and the erection of a public building in the city of Batavia, State of Illinois; to the Committee on Public Buildings and Grounds.

By Mr. McKINNEY: A bill (H. R. 26559) to authorize the construction of a railroad, wagon, and foot-passenger bridge across the Mississippi River near Keokuk, Iowa; to the Com-

mittee on Interstate and Foreign Commerce.

By Mr. JACOWAY: A bill (H. R. 26560) to provide for the examination and survey of the Arkansas River banks around what is known as Fourche Island, and just below Little Rock, Ark.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 26561) to provide for the examination and survey of the Arkansas River banks about 5 miles below Dardanelle, Yell County, Ark., and at or near what was known as the old Gleason & Cravens mercantile establishment; to the Committee on Rivers and Harbors.

Committee on Rivers and Harbors.

By Mr. LEE of Georgia: A bill (H. R. 26562) for the purchase of a site for a post-office building at Rossville, Ga.; to the Committee on Public Buildings and Grounds.

By Mr. BLACKMON: A bill (H. R. 26563) to provide for the erection of a public building at the city of Sylacauga, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. FOWLER: A bill (H. R. 26564) making appropriation for the purchase of a site and the erection of a public building thereon in the city of Metropolis, Ill.; to the Committee on Public Buildings and Grounds.

By Mr. LAFEAN: A bill (H. R. 26565) for the reduction of postage on first-class matter to 1 cent per ounce; to the Committee on the Post Office and Post Roads.

By Mr. PADGETT: A bill (H. R. 26566) to create the grades of admiral and vice admiral in the Navy of the United States;

to the Committee on Naval Affairs.

By Mr. LINTHICUM: A bill (H. R. 26661) to increase the appropriation for the purchase of a site and the erection of an immigration station at Baltimore, Md.; to the Committee on Public Buildings and Grounds.

By Mr. SULZER: A bill (H. R. 26662) to amend the eighth section of the Post Office appropriation act approved August 24, 1912; to the Committee on the Post Office and Post Roads.

By Mr. CARLIN; Resolution (H. Res. 723) authorizing the Doorkeeper to expend the sum of \$2,000 for folding speeches;

to the Committee on Accounts.

By Mr. GREENE of Massachusetts: Resolution (H. Res. 724) authorizing and directing the Secretary of War to cause a preliminary examination and surveys of Buzzards Bay to provide 25 feet of water up to the dredged channel in the harbor of New Bedford, Mass.; to the Committee on Rivers and Harbors.

Also, resolution (H. Res. 725) authorizing and directing the Secretary of War to cause preliminary examination and surveys to be made of Taunton River, Mass.; to the Committee on

Rivers and Harbors.

By Mr. LEVY: Resolution (H. Res. 729) directing the Secretary of the Treasury to use the authority invested in him by law to relieve the continued stringency in the money market by depositing in the national banks throughout the country the sum of \$50,000,000 out of the general fund in the Treasury of the United States; to the Committee on Banking and Currency.

By Mr. DE FOREST: Joint resolution (H. J. Res. 364) proposing an amendment to the Constitution of the United States; to the Committee on Election of President, Vice President, and Representatives in Congress.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions

were introduced and severally referred as follows:

By Mr. ASHBROOK: A bill (H. R. 26567) granting a pension

to Avis Coan; to the Committee on Invalid Pensions.

By Mr. AUSTIN; A bill (H. R. 26568) for the relief of George Lane; to the Committee on Military Affairs.

Also, a bill (H. R. 26569) granting a pension to Eliza Early; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26570) granting a pension to John H.

Also, a bill (H. R. 26570) granting a pension to John H.

Smith; to the Committee on Pensions.

Also, a bill (H. R. 26571) granting a pension to Leatie Wilson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26572) granting an increase of pension to

Lucy A. Rose; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26573) granting a pension to Frank
Tucker; to the Committee on Pensions.

Also, a bill (H. R. 26574) for the relief of the heirs of Henry Hommell; to the Committee on War Claims.

Also, a bill (H. R. 26575) granting a pension to James C. Tedford; to the Committee on Pensions.

By Mr. BOOHER: A bill (H. R. 26576) granting an increase

of pension to John H. Steele; to the Committee on Invalid Pen-

By Mr. BRADLEY: A bill (H. R. 26577) granting a pension to Margaret F. Searle; to the Committee on Invalid Pensions. Also, a bill (H. R. 26578) granting an increase of pension to

John Lavin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26579) granting an increase of pension to Celestia Sprague; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26580) granting an increase of pension to Rosalia Spohr; to the Committee on Pensions.

Also, a bill (H. R. 26581) granting an increase of pension to Katharine A. Weyant; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26582) granting an increase of pension to Maria Jane Stevens; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 26583) for the relief of the heirs of Henry Harris, deceased; to the Committee on War Claims.

By Mr. BULKLEY: A bill (H. R. 26584) granting a pension to Millie B. Spooner; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: A bill (H. R. 26585) for the reflef of the trustees of the Lick Creek Methodist Episcopal

Church South, Stewart County, Tenn.; to the Committee on War Claims.

Also, a bill (H. R. 26586) for the relief of the estate of

Thomas J. Hill, deceased; to the Committee on War Claims. Also, a bill (H. R. 26587) for the relief of Frederick W. Palmore; to the Committee on War Claims.

Also, a bill (H. R. 26588) for the relief of William T. Wright;

to the Committee on War Claims.

Also, a bill (H. R. 26589) granting a pension to Gambo C. Villines; to the Committee on Pensions.

Also, a bill (H. R. 26590) granting an increase of pension to Elizabeth M. Harper; to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 26591) granting

an increase of pension to John Marx; to the Committee on Invalid Pensions.

By Mr. DENVER: A bill (H. R. 26592) granting an increase of pension to Asa Jenkins; to the Committee on Invalid Pen-

Also, a bill (H. R. 26593) granting an increase of pension to Jacob Supinger; to the Committee on Invalid Pensions.

By Mr. FAIRCHILD: A bill (H. R. 26594) granting an increase of pension to Erastus L. Merrill; to the Committee on Invalid Pensions.

By Mr. GRIEST: A bill (H. F. 26595) granting a pension to Edward D. Henderson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26596) granting an increase of pension to John C. O'Brien; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26597) granting an increase of pension to Franklin Bryson; to the Committee on Invalid Pensions. By Mr. HINDS: A bill (H. R. 26598) granting an increase of

pension to William M. McArthur; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26599) granting an increase of pension to Lucinda P. Brackett; to the Committee on Invalid Pensions, Also, a bill (H. R. 26600) granting a pension to Charles H. Boyd; to the Committee on Invalid Pensions.

By Mr. JOHNSON of Kentucky: A bill (H. R. 26601) for the relief of the trustees of the Bloomfield Lodge, No. 57, Ancient Free and Accepted Masons, of Bloomfield, Ky.; to the Committee on War Claims.

By Mr. LANGLEY: A bill (H. R. 26602) granting an increase of pension to Elizabeth McIntosh; to the Committee on Invalid

By Mr. LINDBERGH: A bill (H. R. 26603) granting an increase of pension to Lottie A. Fox; to the Committee on Invalid Pensions.

By Mr. LLOYD: A bill (H. R. 26604) granting a pension to Emma Steel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26605) granting a pension to Grant W. Berry; to the Committee on Pensions.

By Mr. MADDEN: A bill (H. R. 26606) for the relief of James H. Rhodes & Co.; to the Committee on Claims.

By Mr. MARTIN of South Dakota: A bill (H. R. 26607) granting a pension to Michael Kelly; to the Committee on Pensions.

Also, a bill (H. R. 26608) granting an increase of pension to James Rafferty; to the Committee on Pensions.

By Mr. MORRISON: A bill (H. R. 26609) granting a pension to Mary B. Berry; to the Committee on Invalid Pensions.

By Mr. NYE: A bill (H. R. 26610) granting an increase of pension to Frank C. Bowen; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26611) granting an increase of pension to Cynthia E. Robinson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26612) granting an increase of pension to Lizzie McKay; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26613) granting a pension to Rosa L.

Wells; to the Committee on Invalid Pensions,

Also, a bill (H. R. 26614) granting a pension to Adaline A. Middaugh; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26615) granting a pension to Alice Fenton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26616) to correct the military record of Charles D. Pillar; to the Committee on Military Affairs.

By Mr. O'SHAUNESSY: A bill (H. R. 26617) granting an increase of pension to Johanna Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26618) granting an increase of pension to Bernard Boyle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26619) granting an increase of pension to

Sarah J. Millikin; to the Committee on Invalid Pensions. Also, a bill (H. R. 26620) granting an increase of pension to

Catharine Loud; to the Committee on Invalid Pensions. Also, a bill (H. R. 26621) granting an increase of pension to Maria A. Mathewson; to the Committee on Invalid Pensions,

Also, a bill (H. R. 26622) granting an increase of pension to Lucy A. Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26623) granting an increase of pension to

Annie Buckley; to the Committee on Invalid Pensions. By Mr. PAYNE: A bill (H. R. 26624) granting an increase of pension to William V. Walker; to the Committee on Invalid Pen-

Also, a bill (H. R. 26625) granting an increase of pension to James Nolan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26626) granting an increase of pension to John Stickle; to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 26627) granting an increase of pension to Cynthia C. Pickard; to the Committee on Pen-

By Mr. POST: A bill (H. R. 26628) granting a pension to Frank Chroneberry; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26629) granting an increase of pension to Lycurgus P. Saxton; to the Committee on Invalid Pensions. Also, a bill (H. R. 26630) granting an increase of pension to

Martin McNeely; to the Committee on Invalid Pensions. Also, a bill (H. R. 26631) granting an increase of pension to

Vincent Miley; to the Committee on Invalid Pensions.
Also, a bill (H. R. 26632) granting an increase of pension to Charles F. Wolverton; to the Committee on Invalid Pensions. Also, a bill (H. R. 26633) granting an increase of pension to

Francis M. Whitteear; to the Committee on Invalid Pensions.
Also, a bill (H. R. 26634) granting an increase of pension to

Robert Moore; to the Committee on Invalid Pensions. Also, a bill (H. R. 26635) granting an increase of pension to

John Hartman; to the Committee on Invalid Pensions. Also, a bill (II. R. 26636) granting an increase of pension to

John Gedling; to the Committee on Invalid Pensions. Also, a bill (H. R. 26637) granting an increase of pension to Samuel Eyman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26638) granting an increase of pension to William D. Grove; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26639) granting an increase of pension to James P. Bodkins; to the Committee on Invalid Pensions. Also, a bill (H. R. 26640) granting an increase of pension to

Silas Barton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26641) granting an increase of pension to George W. Butters; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26642) granting an increase of pension to

William A. Barnes; to the Committee on Invalid Pensions. Also, a bill (H. R. 26643) granting an increase of pension to

Eli Berreman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26644) to remove the charge of desertion from the military record of William S. Whaley; to the Commit-

tee on Military Affairs.

Also, a bill (H. R. 26645) to remove the charge of desertion from the military record of John Vankirk; to the Committee

on Military Affairs.

Also, a bill (H. R. 26646) granting an increase of pension to

John S. Clark; to the Committee on Invalid Pensions.

By Mr. RAKER: A bill (H. R. 26647) for the relief of Victor Shaw, and for other purposes; to the Committee on the

By Mr. REDFIELD: A bill (H. R. 26648) for the relief of David Crowther: to the Committee on Military Affairs.

Also, a bill (H. R. 26649) for the relief of Andrew Gaffney; to the Committee on Military Affairs.

By Mr. SHERWOOD: A bill (H. R. 26650) granting an increase of pension to Catherine Ann Bartelle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26651) granting an increase of pension to Bavin Copeland; to the Committee on Invalid Pensions. Also, a bill (H. R. 26652) granting an increase of pension to

James O. Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26653) granting a pension to William A. Jacques; to the Committee on Invalid Pensions. Also, a bill (H. R. 26654) granting an increase of pension to

Jacob Peffer: to the Committee on Invalid Pensions.

By Mr. STERLING: A bill (H. R. 26655) granting a pension to Helena F. Stone; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26656) granting an increase of pension to Harmon McChesney; to the Committee on Invalid Pensions. By Mr. TALBOTT of Maryland: A bill (H. R. 26657) grant-

ing a pension to John P. Yingling; to the Committee on Invalid Pensions.

By Mr. VARE: A bill (H. R. 26658) for the relief of Maria N. Kulicke; to the Committee on Claims.

By Mr. YOUNG of Michigan: A bill (H. R. 26659) to correct the military record of James A. Cooper; to the Committee on Military Affairs.

Also, a bill (H. R. 26660) granting a pension to Thomas J. McQuillen, alias Thomas J. Jones; to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. B. 26663) granting an increase of pension to Julia Maher; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26664) granting an increase of pension to Ellen Miller; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 26665) for the relief of the estate of Charles Evans, deceased; to the Committee on War Claims

By Mr. LINDBERGH: A bill (H. R. 26666) granting an increase of pension to George W. Young; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26667) granting a pension to Almira D. Pettingill; to the Committee on Invalid Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 26668) granting an increase of pension to William Jones; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Evidence to accompany special bill for the relief of Avis Coon; to the Committee on Invalid Pensions. Also, evidence to accompany the special bill (H. R. 1362) for

the relief of Eliza Jells; to the Committee on Invalid Pensions. Also, petition of the Chamber of Commerce of Cleveland, Ohio, favoring passage of House bill 25016, for the Federal incorporation of the Chamber of Commerce of the United States; to the Committee on the Judiciary.

By Mr. BULKLEY: Petition of Army and Navy Post, No. 187, Grand Army of the Republic, Cleveland, Ohio, urging the amendment of pension laws to grant pensions to helpless children of honorably discharged soldiers and sailors of the Civil War; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: Papers to accompany bill for relief of the trustees of the Lick Creek Methodist Episcopal Church South; to the Committee on Claims.

Also, papers to accompany bill for increase of pension to Elizabeth M. Harper; to the Committee on Invalid Pensions.

Also, papers to accompany bill granting increase of pension to Gantho C. Villmer; to the Committee on Pensions.

Also, papers to accompany bill for relief of William T.

Wright; to the Committee on War Claims. Also, papers to accompany bill for relief of Frederick W.

Palmore; to the Committee on War Claims. By Mr. FORNES: Petition of B. L. Kenyon, favoring passage of bill for Federal protection of migratory birds; to the Committee on Agriculture.

By Mr. FULLER: Petition of Duncan McEwan, Chicago, Ill., favoring the passage of the vocational education bill (S. 3); to the Committee on Education.

Also, petition of C. A. Burrows, favoring the passage of the old-age pension bill (H. R. 13114); to the Committee on

Also, petition of the Council of Grain Exchanges, favoring the passage of the Pomerene substitute bill (S. 6810); to the Committee on Interstate and Foreign Commerce.

By Mr. GRIEST: Petition of Emily P. Gilbert, Lancaster, favoring the passage of the Federal old-age pension bill (H. R. 13114); to the Committee on Pensions.

By Mr. HAYDEN: Petition of the Arizona Mission Conference, Bisbee, Ariz., favoring the passage of the Webb-Sheppard liquor bill; to the Committee on the Judiciary.

By Mr. HINDS: Memorial of Brig. Gen. William M. McArthur; to the Committee on Invalid Pensions.

Also, memorial of Capt. Charles H. Boyd; to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: Papers to accompany bill to purchase additional land for post-office site at Winchester, Tenn.; to the Committee on Public Buildings and Grounds. By Mr. PADGETT: Papers to accompany bill for granting

increase of pension to Cynthia C. Pickard; to the Committee on Invalid Pensions.

By Mr. SPEER: Evidence to accompany bill (H. R. 26365) granting an increase of pension to Philip Shirk; to the Committee on Invalid Pensions.

By Mr. WILLIS: Papers to accompany bill (H. R. 26534) granting an increase of pension to James McEvoy; to the Committee on Invalid Pensions.

Also, petition of the Supreme Council. Order United Commercial Travelers of America, in favor of changing the day of the national election; to the Committee on Election of President, Vice President, and Representatives in Congress.

SENATE.

Wednesday, December 4, 1912.

The Senate met at 12 o'clock m. Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

JOHN H. BANKHEAD, a Senator from the State of Alabama, and George T. Oliver, a Senator from the State of Pennsylvania, appeared in their seats to-day.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. Lodge and by unanimous consent, the further reading was dispensed with, and the Journal was approved.

REPORTS OF SECRETARY OF THE SENATE.

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate a communication from the Secretary of the Senate, transmitting, pursuant to law, a full and complete statement of the receipts and expenditures of the Senate and the condition of public moneys in his possession from July 1, 1911, to June 30, 1912 (S. Doc. No. 954), which, with the accompanying paper, was ordered to lie on the table and be printed.

He also laid before the Senate a communication from the Secretary of the Senate, transmitting, pursuant to law, a full and complete account of all property, including stationery, belonging to the United States in his possession on the 2d day of December, 1912 (S. Doc. No. 963), which, with the accompanying paper, was ordered to lie on the table and be printed.

REPORTS OF ASSISTANT SERGEANT AT ARMS.

The PRESIDENT pro tempore laid before the Senate a communication from the Assistant Sergeant at Arms, transmitting a statement of receipts from the sale of condemned property in his possession since December 4, 1911 (S. Doc. No. 961), which, with the accompanying paper, was ordered to lie on the table and be printed.

He also laid before the Senate a communication from the Assistant Sergeant at Arms, transmitting a full and complete account of all property belonging to the United States in his possession on December 2, 1912 (S. Doc. No. 962), which, with the accompanying paper, was ordered to lie on the table and be printed.

ANNUAL REPORT OF THE LIBRARIAN OF CONGRESS (H. DOC. NO. 962).

The PRESIDENT pro tempore laid before the Senate the anhual report of the Librarian of Congress and of the Superintendent of the Library Building and Grounds for the fiscal year ended June 30, 1912, which was referred to the Committee on the Library.

BRIDGE AT SHIP ROCK, N. MEX. (H. DOC. NO. 1015).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the investigation, surveys, plans, estimated limit of cost, etc., for the construction of a bridge on the Navajo Indian Reservation at Ship Rock, N. Mex., which, with the accompanying papers, was referred to the Committee on Commerce and ordered to be printed.

ANNUAL REPORT OF THE SECRETARY OF THE TREASURY.

The PRESIDENT pro tempore laid before the Senate the annual report of the Secretary of the Treasury on the state of the finances for the fiscal year ended June 30, 1912, which was referred to the Committee on Finance and ordered to be printed.

SUPPORT OF AGRICULTURAL COLLEGES (H. DOC. NO. 1030).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the application of a portion of the proceeds of the public lands to colleges for the benefit of agriculture and the mechanic arts for the fiscal year ending June 30, 1913, which, with the accompanying paper, was referred to the Committee on Agriculture and Forestry and ordered to be printed.

REPORT OF FREEDMEN'S HOSPITAL (H. DOC. NO. 1029).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the expenditures for salaries, etc., at the Freedmen's Hospital, Washington, D. C., which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

EXPENDITURES ON IRRIGATION PROJECTS (H. DOC. NO. 1034).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the distribution of moneys expended for irrigation and drainage, Indian Service, for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed.

GOVERNMENT HOSPITAL FOR THE INSANE (41. DOC. NO. 1011).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the Superintendent of the Government Hospital for the Insane for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

ANNUAL REPORT OF THE PUBLIC PRINTER.

The PRESIDENT pro tempore laid before the Senate the annual report of the Public Printer showing the operations of the Government Printing Office for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Printing and ordered to be printed.

SURVEYS OF PUBLIC LANDS (H. DOC. NO. 1019).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of surveys of public lands lying within the limits of land grants for the fiscal year ended June 30, 1912, which was referred to the Committee on Public Lands and ordered to be printed.

INDIAN TRIBES AT PEACE (H. DOC. NO. 1022).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to moneys paid or annuities delivered to any Indian tribe, which, since the last payment or delivery, has engaged in hostilities against the United States or its citizens, which was referred to the Committee on Indian Affairs and ordered to be printed.

BUREAU OF CHEMISTRY, DEPARTMENT OF AGRICULTURE.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Agriculture, transmitting, pursuant to law, a statement of the expenditures paid by the Bureau of Chemistry, Department of Agriculture, for compensation of or payments of expenses to officers or other persons employed by State, county, or municipal governments during the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Agriculture and Forestry and ordered to be printed.

DISTRIBUTION OF PUBLIC DOCUMENTS (H. DOC. NO. 1014).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a statement showing the number of public documents received and distributed during the fiscal year ended June 30, 1912, which was ordered to lie on the table and be printed.

TRAVEL OF EMPLOYEES OF LIBRARY OF CONGRESS.

The PRESIDENT pro tempore laid before the Senate a communication from the Librarian of Congress, transmitting, pursuant to law, a statement showing in detail the number of officers or employees of the Library of Congress who have traveled on official business outside of the District of Columbia during the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

MUNICIPAL HOSPITAL BUILDING.

The PRESIDENT pro tempore laid before the Senate a communication from the Commissioners of the District of Columbia, transmitting, pursuant to law, a report as to the cost and feasibility of adapting one or more of the vacant buildings upon the site of the Washington Asylum and Jail, reservation No. 13, for use for municipal hospital purposes, which, with the accompanying papers, was referred to the Committee on the District of Columbia and ordered to be printed.

TRAVEL OF EMPLOYEES OF WAR DEPARTMENT.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of War, transmitting, pursuant to law, a statement of travel and expenditures by officials or employees of the War Department outside of the District of Columbia for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

TRAVEL OF EMPLOYEES OF INTERIOR DEPARTMENT (H. DOC. NO. 1017).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a statement showing the number of officers and employees of the Interior Department who have traveled on offi-cial business outside the District of Columbia during the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

CONTINGENT EXPENSES, DEPARTMENT OF THE INTERIOR (H. DOC. NO. 1012).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, an itemized statement of expenditures made and charged to the appropriation, "Contingent expenses, Department of the Interior, 1912," for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

REPAIRS OF BUILDINGS, DEPARTMENT OF THE INTERIOR (H. DOC. NO. 1016).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, an itemized statement of the expenditures made and charged to the appropriation, "Repairs of buildings, Department of the Interior, 1912," for the fiscal year ended June 30, 1912, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

TRAVEL OF EMPLOYEES OF INTERSTATE COMMERCE COMMISSION (H. DOC. NO. 1040).

The PRESIDENT pro tempore laid before the Senate a communication from the Interstate Commerce Commission, transmitting, pursuant to law, a statement showing the travel of all officials and employees of the commission on official business outside the District of Columbia during the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

COLORADO RIVER BRIDGE (H. DOC. NO. 1020).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the survey, with plans and estimated limit of cost, for a bridge across the Colorado River between Fort Yuma, Cal., and the town of Yuma, Ariz., etc., which, with the accompanying paper, was referred to the Committee on Commerce and ordered to be printed.

ANNUAL REPORT OF THE SECRETARY OF AGRICULTURE.

The PRESIDENT pro tempore laid before the Senate the annual report of the Secretary of Agriculture for the fiscal year ended June 30, 1912, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

WHITE MOUNTAIN INDIAN RESERVATION, ARIZ. (H. DOC. NO. 1013).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the surveys, plans, and estimates of costs for certain bridges on the White Mountain or San Carlos Indian Reservation, Ariz., etc., which, with the accompanying paper, was referred to the Committee on Commerce and ordered to be printed.

TONGUE RIVER RESERVATION, MONT. (H. DOC. NO. 1033).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the expenditures for encouraging industrial work among the Indians of the Tongue River Reservation, Mont., during the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

EMPLOYEES IN THE INDIAN SERVICE (H. DOC. NO. 1021).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report showing the diversion of appropriations for the pay of specified employees in the Indian Service for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

INDIAN MONEYS, PROCEEDS OF LABOR (H. DOC. NO. 1031).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a detailed report of the expenditures of money carried on the books of the Department of the Interior under the caption of "Indian moneys, proceeds of labor," during the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

RELIEF OF DESTITUTE INDIANS (H. DOC. NO. 1026).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report showing the expenditures for the relief of destitute Indians for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

SIOUX INDIAN FUND (H. DOC. NO. 1032).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the expenditures from the permanent fund of the Sioux Indians for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

SUBSISTENCE FOR INDIAN TRIBES (H. DOC. NO. 1023).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the use of surplus appropriations for subsistence of any Indian tribes during the fiscal year ended June 30, 1912, which was referred to the Committee on Indian Affairs and ordered to be printed.

INDUSTRIES AMONG INDIANS (H. DOC. NO. 1027).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report showing the expenditures under the appropriation for encouraging industry among Indians for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

SUPPLIES FOR INDIAN SERVICE (H. DOC. NO. 1028).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the purchase of supplies in the open market for the Indian service for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

TRAVEL OF EMPLOYEES OF DEPARTMENT OF AGRICULTURE.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Agriculture, transmitting, pursuant to law, a statement of travel and expenditures of officers and employees of the Department of Agriculture outside of the District of Columbia for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

SUPPORT OF INDIAN SCHOOLS (H. DOC. NO. 1018).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the manner and for what purposes the general education fund for the preceding fiscal year has been expended for the maintenance of the Indian school and agency buildings, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

INDUSTRIAL WORK AND CARE OF TIMBER (H. DOC. NO. 1025).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a statement of the expenditures from the appropriation "Industrial work and care of timber" for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Agriculture and Forestry and ordered to be printed.

SURVEY AND ALLOTMENT WORK ON INDIAN RESERVATIONS (II. DOC. NO. 1024).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a statement of the cost of all survey and allotment work on Indian reservations for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Indian Affairs and ordered to be printed.

DISPOSITION OF USELESS PAPERS (H. DOC. NO. 1041).

The PRESIDENT pro tempore. The Chair lays before the Senate a communication from the Attorney General, recommending the disposal of certain papers on file in the Department of Justice which have no permanent value or historical interest.

The communication will be referred to the Joint Select Committee on the Disposition of Useless Papers in the Executive Departments. The Chair appoints as the committee on the part of the Senate the Senator from Arkansas [Mr. Clarke] and the Senator from New Hampshire [Mr. Burnham].

The Secretary will notify the House of Representatives of the appointment of the committee on the part of the Senate.

DEATH OF THE VICE PRESIDENT.

Mr. POINDEXTER. Mr. President, I present a series of resolutions adopted by the people of the city of Olympia, State of

Washington, in commemoration of the late Vice President. ask that the resolutions may lie on the table and be printed in the RECORD.

By unanimous consent, the resolutions were ordered to lie on the table and to be printed in the RECORD, as follows:

Whereas death has removed from his earthly labors the Hon. James Schoolcraft Sherman, late Vice President of the United States; and Whereas we realize that he represented the highest type of American manhood, and that by his unwavering devotion to duty as he saw it he deserved well of his country and the world: Now therefore be it Resolved by the people of the city of Olympia, Wash., and vicinity, assembled vithout regard to political affiliations or beliefs, That we deplore the untimely death of Hon. James Schoolcraft Sherman and deeply feel the loss that our Nation has sustained, and that we extend to his stricken family the heartfelt sympathy of this community; be it further it further

Resolved, That the chairman of this meeting, over his signature, trans-

mit a copy of these resolutions to the widow of our lamented Vice President, a copy to the President of the United States, and a copy to the Senators from the State of Washington to be presented to the Senate of the United States.

The foregoing resolution was unanimously passed at an assemblage of the citizens of Olympia, Wash., held in the Capital Park on Saturday, November 2, 1912

November 2, 1912.

CHAS. D. KING, Chairman.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a resolution adopted by the International Longshoremen's Association, favoring the establishment of a national department of health, which was ordered to lie on the table.

Mr. HITCHCOCK presented a petition of 603 members of the Christian Endeavor Society of Shelby, Nebr., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered

to lie on the table. Mr. SMOOT presented a petition of members of the Utah Federation of Women's Clubs, praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which was referred to the Committee on

Agriculture and Forestry. Mr. O'GORMAN presented a resolution adopted by members of the Republican Club of the State of New York, favoring the recognition by the United States of the Republic of China, which was referred to the Committee on Foreign Relations.

He also presented a resolution adopted by Chenango Council, United Commercial Travelers, of Norwich, N. Y., favoring a change in the date for the holding of the national elections, which was referred to the Committee on the Judiciary.

He also presented a resolution adopted by the members of the Merchants and Manufacturers' Association of Los Angeles, Cal., remonstrating against certain provisions of the so-called Wilson bill, providing for the protection of American seamen, which was referred to the Committee on Commerce.

Mr. DU PONT presented a resolution adopted at the Christian Endeavor Convention at Laurel, Del., favoring the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SWANSON:

A bill (S. 7564) providing for the reorganization of the police force of the Congressional Library; to the Committee on the Library.

By Mr. CULLOM:

A bill (8. 7565) to authorize the construction of a railroad, wagon, and foot-passenger bridge across the Mississippi River near Keokuk, Iowa; to the Committee on Commerce.

By Mr. GALLINGER:

A bill (S. 7566) to authorize the widening and opening of Western Avenue, District of Columbia (with accompanying paper); to the Committee on the District of Columbia.

By Mr. SMOOT:

A bill (S. 7567) to provide a penalty for retention or misuse

of confidential records by former Government employees; to the Committee on the Judiciary.

A bill (S. 7568) to validate certain homestead entries; to the

Committee on Public Lands.

By Mr. STEPHENSON:

A bill (S. 7569) granting a pension to Ellen Taggart Gardner Tyson (with accompanying papers);
A bill (S. 7570) granting an increase of pension to Frank D.

Murdock (with accampanying papers);

A bill (S. 7571) granting a pension to Eveline Titus (with accompanying paper);

A bill (S. 7572) granting an increase of pension to Helen R. Blackburn; and

A bill (S. 7573) granting an increase of pension to Joshua Oyster (with accompanying papers); to the Committee on Pensions.

By Mr. BURNHAM:

A bill (S. 7574) providing for the deposit of a model of any vessel of war of the United States Navy bearing the name of a State of the United States in the capitol building of said State; to the Committee on Naval Affairs.

A bill (S. 7575) granting an increase of pension to Moses Rowell; and

A bill (S. 7576) granting a pension to Susan J. Littlefield; to the Committee on Pensions,

By Mr. NELSON: A bill (S. 7577) for the relief of John Miller; to the Committee on Military Affairs,
A bill (S. 7578) granting a pension to Jane Gascoigne;

A bill (S. 7579) granting an increase of pension to Mary F. Read:

A bill (S. 7580) granting an increase of pension to Clinton E. Olmstead; and

A bill (S. 7581) granting an increase of pension to William Hoover (with accompanying papers); to the Committee on Pen-

A bill (S. 7582) allowing certain homestead entrymen choice of making proof under law of June 6, 1912, or previous law: to the Committee on Public Lands.

By Mr. DU PONT:

A bill (S. 7583) granting a pension to Charles S. Scanlon; to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 7584) granting an increase of pension to Philander B. Sargent (with accompanying papers);

A bill (S. 7585) granting an increase of pension to William L. McCormick (with accompanying papers); and A bill (S. 7586) granting an increase of pension to Ivory Phil-

lips (with accompanying papers); to the Committee on Pen-

By Mr. LODGE:

A bill (S. 7587) granting an increase of pension to Abby E. Carpenter (with accompanying paper); to the Committee on

By Mr. PENROSE:

A bill (S. 7588) granting an increase of pension to Sarah Gross; to the Committee on Pensions.

By Mr. CLAPP:

A bill (S. 7589) granting an increase of pension to Jeanette Dring (with accompanying papers);

A bill (S. 7590) granting an increase of pension to Susan C. Brown (now Perrin) (with accompanying papers); A bill (S. 7591) granting an increase of pension to Agnes

Hallworth (with accompanying papers);

A bill (S. 7592) granting an increase of pension to Frank B. Doran (with accompanying paper); and

A bill (S. 7593) granting an increase of pension to Kathryn Riley (with accompanying papers); to the Committee on Pen-

A bill (S. 7594) to remove the charge of desertion against Peter Gannon; to the Committee on Military Affairs.

By Mr. BROWN:

A bill (S. 7595) granting an increase of pension to Nelson Taylor;

A bill (S. 7596) granting an increase of pension to Carrie

Crockett (with accompanying paper);
A bill (S. 7597) granting a pension to Charles F. Lane (with accompanying paper); and

A bill (S. 7598) granting an increase of pension to James W. Coburn (with accompanying paper); to the Committee on Pensions.

SUBMISSION OF MEASURES TO THE PEOPLE.

Mr. BRISTOW. Mr. President, I desire to introduce two joint resolutions. I send the first to the desk and ask that it be read.

The joint resolution (S. J. Res. 141) proposing an amendment to the Constitution providing for the submission by the President to the electors of measures recommended by him which Congress has failed to enact was read the first time by its title and the second time at length, as follows:

Resolved, etc.. That the following be proposed as an amendment to section 3, Article II of the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the States.

If Congress fails to enact any measure which the President has recommended in proper form within six months from the date of such recommendation, the President, at the regular congressional election following the expiration of such period, may submit the measure to the

electors at such election, and if a majority of the electors voting on such measure in a majority of the congressional districts and also in a majority of the States approve the measure, it shall become a law.

Mr. BRISTOW. Mr. President, this amendment makes provision for the President to submit to the country a measure which he has recommended to Congress, and which Congress has failed to enact. It enables him to appeal from a dilatory or adverse Congress to the people upon questions of vital public concern, and I believe it will be most beneficial.

Furthermore, a President could not, as an excuse for signing an undesirable measure, say that it was the best that he could get from an unfriendly Congress. The Constitution now authorizes the President to recommend to Congress measures, but there the matter ends if Congress does not act. If the proposed amendment is adopted, and Congress either fails to act or passes a bill in lieu of the measure submitted that does not meet the approval of the President then it becomes his duty to sign the bill passed by Congress or to submit the measure which he thinks should be enacted to the people for their approval or rejection.

One of the weaknesses of our form of government is that the Congress may be of one political party and the executive administration of another, and legislation is theh tied up for two years or longer, to the detriment of the country, and when this condition exists a system of political jockeying is inaugurated, usually by both sides, for partisan purposes. This amendment to the Constitution provides a means by which the people may, with reasonable promptness, decide such controversies, and it will not require the overturning of our entire civil administration to secure the enactment of a desirable law, which either the President has refused to accept or the Congress declined to enact.

The PRESIDENT pro tempore. The joint resolution will be referred to the Committee on the Judiciary.

Mr. BRISTOW. I introduce a joint resolution proposing an amendment to the Constitution providing for submitting to the people of the United States acts of Congress for their approval. I should like to have it read.

The joint resolution (S. J. Res. 142) proposing an amendment to the Constitution providing for submitting to the people of the United States acts of Congress for their approval, was read the first time by its title and the second time at length, as

Resolved, etc., That the following be proposed as an amendment to the Constitution of the United States, the same to be section 4 of Article III, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of

of the Constitution when ratined by the States:

If the Supreme Court shall decide that a law enacted by Congress is in violation of the provisions of the Constitution of the United States, the Congress, at a regular session held after such decision, may submit the act to the electors at a regular congressional election, and if a majority of the electors voting on such measure in a majority of the congressional districts and also in a majority of the States approve the measure, it shall become a law.

Decrops Wr. President, the Constitution is the survey of the measure.

preme law of the land. It was enacted by the people themselves. It is the business of the courts to interpret the will of the people as expressed in this instrument. When Congress, the representative of the people in legislative matters, passes a measure and the President, whose signature is necessary before it becomes a law, has approved it the Supreme Court of the United States may declare that, in its opinion, such a measure is not in harmony with certain provisions of the Constitution which the people have adopted. This proposed amendment gives to the people an opportunity to state whether or not they desire the law, as enacted by Congress and approved by the President, to stand as the last expression of their will and judgment.

The courts did not make the Constitution. They simply in-

terpret what they think it means. It is the people's law, enacted by them, and if they do not desire the interpretation placed upon it by the courts to stand as their will, this provision gives them the opportunity to so declare. The will of the people is the supreme law of the land. This is the very basic principle

upon which our form of government rests.

The chief objection that may be offered to this proposition is that it gives the people an easy facility for interpreting the Constitution, which province has been assigned to the courts, and that hasty or immature action might result. But a careful examination of the amendment will demonstrate that ample time has been given for full and free discussion and mature deliberation, so that action with undue haste is impossible.

First, Congress enacts the law after the full discussion that occurs in passing the measure through the two Houses. Then is has to be fought through the courts, which requires the most thorough consideration, before the final decision is ultimately rendered. After such decision, with the opinions of the court

before it, the Congress must decide whether it considers the question involved of sufficient national importance to justify its submission to the electors for their final decision and judgment. This, of course, would only be done when questions of political magnitude were involved. Furthermore, Congress can not consider the submission of the proposition until the first regular session after the decision has been rendered, and then it can not be acted upon by the people until the regular congressional election following the session of Congress at which the matter was submitted, so that most ample time must intervene before final determination by the electors. The fullest discussion and most mature consideration possible is required, yet the amendment does provide a way by which a decision can be had with a reasonable degree of promptness upon a specific and definite question.

Seventeen years have elapsed since the Supreme Court declared the income-tax law unconstitutional, and we have not yet amended the Constitution so as to make an income tax possible, though few will claim that the people do not favor and desire such a law. This unnecessary and exasperating delay in vital matters makes an amendment of this kind to our Constitution desirable and, in my opinion, necessary to the country's welfare.

Mr. President, I ask that the joint resolution be referred to the Committee on the Judiciary; and I will add that I hope that committee will act favorably upon these joint resolutions with the same promptness with which it acted upon the joint resolution now pending, which takes from the people powers which they now have. These joint resolutions extend to them additional power and give them more direct authority over their government, while the amendment that has been reported takes from them powers which they already possess.

The PRESIDENT pro tempore. The joint resolution will be referred, as requested, to the Committee on the Judiciary.

OMNIBUS CLAIMS BILL.

Mr. LODGE. I submitted at the last session an amendment to the bill known as the omnibus claims bill. I ask to have a reprint of the amendment, as I have made some changes in it. The PRESIDENT pro tempore. Without objection, it will be

so ordered

Mr. LODGE. In this connection, I ask to have printed as a Senate document (No. 964) an article giving the history of the French spoliation claims, which appeared in the American Journal of International Law.

The PRESIDENT pro tempore. Without objection, the paper

will be printed as a Senate document.

Mr. O'GORMAN submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to lie on the table and be printed.

Mr. SMITH of Maryland submitted an amendment intended to be proposed by him to the omnibus claims bill, which was

ordered to lie on the table and be printed.

Mr. BRANDEGEE submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to lie on the table and be printed.

AMELIA WISSMAN.

Mr. CULLOM submitted the following resolution (S. Res. 399), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate bc, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Amelia Wissman, mother of Franklin W. Wissman, late a skilled laborer in the Senate library, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

MAMIE ELSIE.

Mr. BRISTOW submitted the following resolution (S. Res. 398), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Mamie Elsie, widow of Alfred Elsie, late a laborer of the United States Senate, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

MARY P. PIERCE.

Mr. SMITH of Michigan submitted the following resolution (S. Res. 397), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Mary P. Pierce, widow of Edwin S. Pierce, late a skilled laborer in the Senate document room, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

DEMOTION OF WILLIAM HALL AND OTHERS.

Mr. HITCHCOCK submitted the following resolution (S. Res. 490), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Postmaster General be, and he is hereby, directed to lay before the Senate all correspondence in the possession of the Post Office Department between himself, all other officials, and employees of the Post Office Department, and all other persons relating to the demotion during the years 1911 and 1912 of William Hall, C. H. Erwin, R. E. Erwin, J. J. Negley, and C. P. Rodman, clerks in the Rallway Mail Service.

REPORT OF COMMISSION OF FINE ARTS.

Mr. SMOOT. I find that the message from the President of the United States transmitting the report of the Commission of Fine Arts for the fiscal year ended June 30, 1912, contains a number of illustrations. I ask that an order be entered for the printing of the illustrations.

The PRESIDENT pro tempore. Without objection, it is so

ordered.

AMERICAN HOSPITAL OF PARIS.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 6380) to incorporate the American Hospital of Paris.

Mr. GALLINGER. I move that the Senate disagree to the amendments made by the House of Representatives, and ask for a conference on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed as the conferees on the part of the Senate Mr. Gal-LINGER, Mr. CURTIS, and Mr. MARTIN of Virginia.

THE PRESIDENTIAL TERM.

Mr. WORKS. I desire to give notice that on next Monday, immediately after the close of the routine morning business, I will, with the permission of the Senate, submit some remarks upon Senate joint resolution No. 78, the unfinished business.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. Pursuant to the notice which I gave yesterday, I ask that the Senate take up for consideration House

bill No. 19115, known as the omnibus claims bill.

The PRESIDENT pro tempore. The Senator from South Dakota asks that the Senate proceed to the consideration of House bill 19115. Is there objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, which had been reported from the Committee on Claims with amendments.

Mr. LODGE. Has the bill been read, Mr. President? The PRESIDENT pro tempore. It has not been read.

Mr. LODGE. Let it be read.

Mr. CRAWFORD. Just a word, please, before the Secretary begins the reading of the bill. There have been so many requests made for the report submitted by the Committee on Claims in connection with this bill that there are now only about 40 copies of the report left, not enough to furnish each Member of the Senate with a copy. I therefore ask for an order that 250 additional copies of the report be printed.

The PRESIDENT pro tempore. The Senator from South Dakota asks that the Senate order the printing of 250 additional copies of the report referred to by him. Is there objection?

The Chair hears none, and it is so ordered.

The Senator from Massachusetts [Mr. Lodge] asks for the reading of the bill. The Chair will inquire of the Senator from Massachusetts whether his demand is for the reading of the bill including the parts stricken out?

Mr. LÖDGE. Mr. President—— Mr. CRAWFORD. I ask that the formal reading of the bill be dispensed with and that the bill be read for the purpose of amendment.

Mr. LODGE. I think the bill had better be read, Mr. President

The PRESIDENT pro tempore. The Senator from Massachusetts desires the entire bill read?

Mr. LODGE. Yes

The PRESIDENT pro tempore. The Secretary will read the bill.

The Secretary proceeded to read the bill, and read to line 12, on page 26.

Mr. LODGE. I ask that the further formal reading of the bill be dispensed with and that the bill be read for action on the amendments.

The PRESIDING OFFICER (Mr. O'GORMAN in the chair). Is there objection? The Chair hears none, and the bill will be read for amendment.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Claims was, under the subhead "Alabama," on page 2, after line 1, to strike out:

The Secrejary proceeded to read the bill.

The first amendment of the Committee on Claims was, under the subhead "Alabama," on page 2, after line 1, to strike out:

To Houston L. Bell, of Madison County, \$130.

To Mary F. Casey Tucker, sole heir of Solomon L. Casey, deceased, of Lee County, \$7120.

To Janiel Carroll, of Tuscaloosa County, \$150.

To J. H. Carter, of Colbert County, \$150.

To J. H. Carter, of Colbert County, \$150.

To T. F. Vann, Administrator of Bethel G. Chandler, deceased, of Lauderdale County, \$475.

To John A. Chandler, administrator of Bethel G. Chandler, deceased, of Lauderdale County, \$435.

To Bayles Taylor, administrator of Caswell B. Derrick, deceased, of Lauderdale County, \$435.

To Bayle C. Acung, administrator of Caswell B. Derrick, deceased, of Jackson County, \$1,675.

To Bayle G. Acung, administrator of Caswell B. Derrick, deceased, of Jackson County, \$1,675.

To Belle F. Nell, administrator of Veter H. Gold, deceased, of Jackson County, \$1,675.

To Belle F. Nell, administrator of Peter H. Gold, deceased, of Jackson County, \$1,675.

To Louls Colchane Gordon, daughter and heir of William Cochrane, deceased, late of Tuscaloosa County, \$1,878.

To W. H. Gilbert, administrator of Green Guest, deceased, of Dekalb County, \$127.

To J. H. E. Guest, administrator of Green Guest, deceased, of Dekalb County, \$217.

To J. H. E. Guest, administrator of Green Guest, deceased, of Morgan County, \$2,900.

To Nanne H. Jones and Mary E. Hereford (nee Jones), of Madison County, Sunn T. Hammer, of Tuscaloosa County, \$805.

To C. J. McKee, administrator of the estate of David B. Johnson, deceased, of Morgan County, \$2,900.

To Manne H. Jones and Mary E. Hereford (nee Jones), of Madison County, and William F. Hereford, of Japan, heirs of Fannle J. Hereford, Eannle H. Jones, and Martha J. Orman, of Madison County, and William F. Hereford, of Japan, heirs of Fannle J. Mercford, deceased, daughter and heir of John W. McDanale, deceased, 1 ato of Jackson County, \$200.

To Manne M. Massengale, administrator

The amendment was agreed to.

The next amendment was, on page 6, after line 22, to strike

To the trustees of Decatur Lodge, No. 52, Independent Order of Odd Fellows, of Decatur, \$6,000.

The amendment was agreed to.

The next amendment was, at the top of page 7, to strike out: To the trustees of the First Baptist Church, of Decatur, \$2,200.

The amendment was agreed to.

The next amendment was, on page 7, after line 11, to strike

To the trustees of the Missionary Baptist Church, of Huntsville, successor to the Primitive Baptist Church, of Huntsville, \$1,760.

The amendment was agreed to.

The next amendment was, on page 7, line 22, before the word "hundred," to strike out "four thousand two" and insert "three thousand three," so as to make the clause read:

To the Medical College of Alabama, of Mobile, \$3,300.

The amendment was agreed to.

The next amendment was, on page 7, after line 24, to strike out

To the Bolivar Lodge, No. 127, Free and Accepted Masons, of Steven-son, Jackson County, \$1,150.

The amendment was agreed to.

The next amendment was, on page 8, after line 2, to insert: To the Masonic Lodge of Bexar, Marion County, \$600.

The amendment was agreed to.

The next amendment was, on page 8, after line 4, to insert: To the trustees of the Methodist Episcopal Church South, of Huntsville, \$7,500.

The amendment was agreed to.

The next amendment was, under the subhead "Arkansas," on page 8, after line 7, to strike out:

The next amendment was, under the subhead "Arkansas," on page 8, after line 7, to strike out:

To John W. Bean, of Washington County, \$290.

To Joseph N. Bean, administrator of the estate of Joseph Bean, decased, of Nevada County, \$488.

To Chester Bethell, of Scott County, \$300.

To Sarah Brewer, widow and sole heir of John Brewer, deceased, late of Madison County, \$322.

To T. J. Conner, administrator of estate of Isaac S. Conner, deceased, late of Washington County, \$575.

To William E. Floyd, administrator of Asa Crow, deceased, late of Pulaski County, \$715.

To Isaiah L. Bair, administrator de bonis non of John N. Curtis, deceased, of Benion County, \$1,720.

To Isaiah L. Bair, administrator de bonis non of John N. Curtis, deceased, and Mary M. Loudon, daughter of Thomas Austin, deceased, composing the firm of Curtis & Austin, of Benton County, \$775.

To J. M. Derreberry, administrator of the estate of Samnel B. Derreberry, deceased, late of Benton County, \$716.

To J. W. Wallace Benton County, \$716.

To J. H. Duke, administrator of the estate of Samnel B. Derreberry, deceased, late of Genton, \$2,205.

To William H. Engles, of Washington County, \$1,510.

To Sam Edmondson, administrator of the estate of Isaac T. Eppler, deceased, late of Sebastian County, \$2,205.

To Mattle U. Boykin, Thaddeus C. Ferrell, and Lulu D. Meriwether, helrs of Thaddeus N. Ferrell, deceased, of Arkansas County, \$5,119.

To Sam Edmondson, administrator of the estate of John G. Freeman, deceased, of Morroe County, \$772.

To Mrs. A. M. McFarlane, administrator of the estate of John G. Freeman, deceased, of Pulaski County, \$2,991.

To John H. Bryson, administrator of the estate of Martha Haritshugh, deceased, and administrator of the estate of Martha Haritshugh, deceased, and ministrator of the estate of Martha Haritshugh, deceased, and ministrator of the estate of Martha Haritshugh, deceased, of Pulaski County, \$1,900.

To Dan Thomason, administrator of the estate of Martha Haritshugh, deceased, of Pulaski County, \$1,900.

To Bon Mahu

The amendment was agreed to. The next amendment was, on page 12, line 7, before the word "dollars," to strike out "hundred" and insert "thousand," so as to make the clause read:

To the trustees of the Methodist Episcopal Church South, of Clarksville, \$4,000.

The amendment was agreed to.

The next amendment was, on page 12, after line 9, to strike out:

To the trustees of the First Baptist Church of Helena, \$1,790.

The amendment was agreed to.

The next aemndment was, on page 12, after line 13, to strike

To the trustees of the Old School Presbyterian Church, of Helena, \$1,900.

The amendment was agreed to.

The next amendment was, on page 12, after line 17, to strike

To the trustees of the First Baptist Church of Pine Bluff, \$1,960. To the trustees of the Methodist Episcopal Church South, of Pine Bluff, \$1,300.

The amendment was agreed to.

The next amendment was, on page 12, after line 21, to strike out .

CALIFORNIA.

To Joseph M. Clark, of Santa Clara County, \$184.12.
To Wilford Cubbage, of San Bernardino County, \$137.42.
To Richard N. Doyle, of Los Angeles County, \$397.97.
To Andrew J. Gullford, of Alameda County, \$547.25.
To David H. Hilderbrand, of Sacramento County, \$480.
To Julia H. Castle, daughter of John H. Howe, deceased, of Los Angeles County, \$575.93.

The amendment was agreed to.

The next amendment was, on page 13, after line 11, to strike

COLORADO.

To Lewis B. Brasher, of Denver, \$372.83.
To Jesse W. Coleman, of Custer County, \$675.
To James W. Hanna, of Denver County, \$148.34.
To William B. Palmer, of Denver, \$366.65.
To George T. Shackelford, of Denver, \$43.80.

The amendment was agreed to.

The next amendment was, on page 13, after line 22, to strike

CONNECTICUT.

To James F. Brown, of New London County, \$262.98.
To E. W. Hubbell and R. H. Hubbell, executors of the estate of James
Hubbell, deceased, of Fairfield County, \$109.27.
To Charles H. Simmons, of Windham County, \$39.94.

The amendment was agreed to.

The next amendment was, under the subhead "District of Columbia," on page 14, after line 6, to strike out:

To Harrison L. Deam, of Washington City, \$115.74.
To Ella L. Deweese, widow of John T. Deweese, deceased, of Washington City, \$155.09.
To Thomas Fahey, of Washington City, \$1,840.

The amendment was agreed to. The next amendment was, on page 14, line 16, before the word cents," to strike out "sixty dollars and eighty-nine" and insert "twenty-four dollars and seventy-one," so as to make the clause read:

To Horatio G. Gibson, of Washington, \$1,724.71.

The amendment was agreed to.

The next amendment was, on page 14, after line 16, to strike

To Heber L. Thornton and Grayson L. Thornton, trustees of the estate of Gottlieb C. Grammer, deceased, \$2,340.

To Benjamin F. Hasson, of Washington City, \$365.39.

The amendment was agreed to.

The next amendment was, at the top of page 15, to strike out: To Elizabeth Thomas, of Brightwood, \$1,835.

The amendment was agreed to.

The next amendment was, under the subhead "Florida," on page 15, after line 8, to strike out:

page 15, after line 8, to strike out:

To Robert von Balsan; Eliza C. von Balsan, administratrix of Rinaldo von Balsan, deceased; and Sarah von Balsan, administratrix of Isadore von Balsan, deceased, of St. John County, \$1,280.

To Joseph D. Hazzard, of Lake County, \$1,280.

To Telesfor D. Quigles, administrator of the estate of Manette Marsons, deceased, late of Escambla County, \$4,300.

To Richard H. Turner, in his own right and as administrator of the estate of Eliza Turner, deceased, and Eliza Am Turner, of Duval County, \$2,130.

To the First Baptist Church of Jacksonville, \$1,170.

The amendment was agreed to.

The next amendment was, on page 15, after line 24, to insert: To the rector, wardens, and vestry of St. John's Church, at Jackson-ville, \$12,000.

The amendment was agreed to.

The next amendment was, under the subhead "Georgia," on page 16, after line 1, to strike out:

Page 16, after line 1, to strike out:

To July Anderson, jr., administrator of the estate of July Anderson, deceased, of Liberty County, \$290.

To G. W. Aycock, administrator of the estate of Reddick Aycock, deceased, late of Walton County, \$515.

To Caldwell C. Baggs and William A. Baggs, of Liberty County, and to Mary A. Baggs Latham, of Duval County, Fla., in equal shares, \$660.

To James F. Hicks, administrator of the estate of Larkin Clark, deceased, of Hart County, \$165.

To Mrs. M. E. Arrowood, administratrix of the estate of William Coursey, deceased, of Fulton County, \$617.

To George Creel, of Clayton County, \$865.

To Fannle Crow, administratrix of the estate of Levi Crow, deceased, late of Paulding County, \$710.

To Daniel M. Dempsey, administrator of the estate of Berryman S. Dempsey, deceased, of Floyd County, \$857.

To N. C. Fears, administrator of the estate of David Floyd, deceased, of Gordon County, \$310.

To Plymouth Frazier, jr., of Liberty County, \$122.

To H. B. Godbee, son and heir of Albert Godbee, deceased, of Clayton County, \$430.

To A. G. McDonald, administrator of the estate of Robert H. Green, deceased, of Clayton County, \$595.

To Abraham Greeson, of Gordon County, \$405.

To Archibald A. Griggs, administrator of estate of Archibald P. Griggs, deceased, late of Cobb County, \$760.

To J. M. Ballew, administrator of the estate of Sarah Hays, deceased, late of Gordon County, \$330.

To Mary E. Humphreys, independent executrix of the estate of Enoch Humphreys, deceased, of Gordon County, \$370.

To Dennis H. Hunt, administrator of estate of Samuel Hunt, deceased, late of Floyd County, \$508.

To J. W. Jennings, administrator of the estate of Patrick Jennings, deceased, late of Patrow County, \$190.

To Sabini Jones, of Pike County, \$215.

To Catherine Kelton, of Fulton County, \$500.

To Mary A. Landis, administratrix of estate of Solomon Landis, deceased, late of Atlanta, Ga., \$1,100.

To Joe M. Moon, administrator of the estate of Elijah Pinson, deceased, late of Bartow County, \$705.

To Julia A. Crusells, administrator of William H. Rice, deceased, of Fulton County, \$8,190.

To S. Inman, administrator of the estate of Jacob B. Russell, deceased, late of Catoosa County, \$3,210.

To Matilda J. Smith, widow of Melvin J. Smith, deceased, late of Whitfield County, \$295.

To B. J. Cowart, administrator of Aaron Turner, deceased, of Campbell County, \$415.

To W. C. Waldrop, administrator of the estate of Millinton Waldrop, deceased, late of Paulding County, \$641.

To Otto Seller, administrator of the estate of Carl Weiland, deceased, late of Chatham County, \$3,022.

The amendment was agreed to.

The amendment was agreed to.

The next amendment was, on page 19, after line 13, to strike

To the rector, wardens, and vestrymen of St. Philip's Episcopal Church, of Atlanta, \$800.

The amendment was agreed to.

The next amendment was, on page 19, after line 17, to strike out:

To the trustees of the Jerusalem Evangelical Lutheran Church, of

Ebenezer, \$225.

To the trustees of the African Methodist Episcopal Church, of Marietta, \$425.

The amendment was agreed to.

The next amendment was, on page 20, after line 4, to insert:

To the trustees of the Catholic Church, at Dalton, \$3,680.

The amendment was agreed to.

The next amendment was, on page 20, after line 6, to strike out:

ILLINOIS.

To Martha J. Bowen, widow of Edwin A. Bowen, deceased, late of Lasalle County, \$221.80.

To Andrew L. Carter, of Sangamon County, \$48.16.
To Bennett Depenbrock, of Marion County, \$952.19.
To Thomas O. Eddins, of Pike County, \$227.90.
To Mary J. Ely, widow of Benjamin F. Ely, deceased, of Coles County, \$259.68.
To James P. Files, son, and Alice White, granddaughter, sole heirs of James P. Files, deceased, late of Wayne County, \$80.01.
To Benjamin S. Ford, of Tazewell County, \$30.43.
To Thomas Foster, of Cook County, \$1.400.
To William T. Glenn, of Cook County, \$334.75.
To William Hanna, of Adams County, \$395.57.
To Annie Mahar, widow (remarried) of Theodore S. Loveland, of Cook County, \$590.39.
To Orrin L. Mann, of Vermillon County, \$283.35.
To John E. Mullaly, of Cook County, \$99.30.
To Fanaie Pemberton, of Golconda, \$4.000.
To Nannie L. Schmitt, widow of William A. Schmitt, deceased, of Cook County, \$129.25.
To Mary L. Scott, widow of Pleasant S. Scott, deceased, of Menard County, \$67.77.
To Augusta A. Smith, executrix of the estate of E. Leonidas Smith, deceased, of Cook County, \$1,400.
To John H. Stibbs, of Cook County, \$216.18.
To Carrie M. Persons, executrix of William Stubbs, deceased, of Cook County, \$411.17.
To John J. Vincent, of Williamson County, \$282.

The amendment was agreed to.

The next amendment was, on page 22, after line 5, to strike

To Lewis J. Blair, of Dekalb County, \$434.14.

To Sarah E. Smith and George W. Browne, brother and sister and sole heirs of Thomas M. Browne, deceased, of Randolph County, \$202.84.

To Samuel E. Calvert, late a resident of Kentucky, now residing in Grant County, Ind., \$274.92.

To William G. Dudley, of Sullivan County, \$1831.87.

To Russell P. Finney, of Clark County, \$153.95.

To John W. Foland, of Madison County, \$477.04.

To Andrew G. Gorreli, of Wells County, \$284.71.

To Silas Grimes, of Monroe County, \$288.37.

To John W. Headington, of Jay County, \$194.19.

To Nimrod Headington, of Jay County, \$276.45.

To Hram Hines, of Hamilton County, \$309.45.

To Jeannette J. Guard, administratrix of the estate of Josiah Jennison, deceased, late of Dearborn County, \$1,200.

To Kate Morehead, Clara M. Girard, and Florence E. Cochran, heirs of Joseph P. Leslie, deceased, \$55.43.

To John D. Longfellow, of Grant County, \$98.51.

To Cyrus J. McCole, of Hamilton County, \$330.44.

To Leonard H. Mahan, of Vigo County, \$119.14.

To Ernest C. North, of Ohio County, \$90.90.

To Robert W. Pemberton, of Tippecanoe County, \$473.02.

To John W. Sale, of Allen County, \$299.62.

To Joseph D. Wyatt, a resident of the National Military Home in the State of Indiana, \$102.81.

The amendment was agreed to.

The next amendment was, on page 24, after line 3, to strike

IOWA.

To Hiram Atkinson, of Fremont County, \$64.59.

To Charles C. Bauman, late of Illinois, now resident of Davenport, Iowa, \$238.16.

To Annis M. Dana, widow of Newell B. Dana, deceased, of Washington County, \$242.

To Henry Green, of Clay County, \$83.81.

To Paris P. Henderson, of Warren County, \$392.09.

To Johannah H. Houps, widow of Michael Houps, deceased, of Dubuque County, \$442.74.

To Nancy J. Gilleland, widow (remarried) of John Paul Jones, deceased, of Madison County, \$173.13.

To Hamilton L. Karr, of Clark County, \$66.54.

To Basil D. Mowery, of Keokuk County, \$461.22.

To D. W. Poor, son and heir at law of James A. Poor, deceased, of Buchanan County, \$138.83.

To August Schlapp, \$399.36.

To George A. Smith, of Clinton County, \$416.67.

To Abram Treadwell, of Clayton County, \$450.40.

The amendment was agreed to.

The amendment was agreed to.

The next amendment was, on page 25, after line 11, to strike

KANSAS.

To James P. Barnett, of Sedgwick County, \$97.71.
To Samuel A. Shelton, administrator of the estate of Henry Bennett, deceased, of Allen County, \$845.

Mr. CURTIS. I hope the amendment regarding the claim of Shelton will not be agreed to. I ask to have read the following statement in regard to the claim.

The PRESIDING OFFICER. The Secretary will read, as requested.

The Secretary read as follows:

BRIEF IN THE CASE OF HENRY BENNETT.

The present claimant in that case is Samuel A. Shelton, administrator of the estate.

The grounds given for striking this case out of the omnibus claims bill are as follows:

"No. 226. Henry Bennett. Referred in 1888; loyalty found in 1902, 14 years later, during which period it slept in Court of Claims without motion; was not brought on for trial in Court of Claims until 1908, 20 years after reference; stores and supplies taken in 1861-1864; never presented to any department; slept 24 years before reference and 20 years in Court of Claims after reference; laches (H. 875, 60th Cong., 1st sess.)."

20 years in Court of Claims after reference; laches (H. 875, 60th Cong., 1st sess.)."

These statements of fact are not correct. The case did not sleep 24 years before reference, as stated, for the simple reason that the claimant made a proper presentation of his claim to the Quartermaster General under the act of July 4, 1864, and this claim remained unadjudicated in that office until 1881, where it was rejected by the Quartermaster General.

No further relief was open to the claimant at this time, but so many cases were rejected by the Quartermaster General in summary manner, without considering really competent evidence, that Congress passed the act of March 3, 1883, commonly known as the Bowman Act, authorizing the examination into the facts of these cases by a court. A bill for the relief of the claimant was introduced in the Fiftieth Congress, first session, and on May 1, 1888, the Committee on War Claims ordered the case referred to the Court of Claims for findings of fact under the Bowman Act.

PROCEEDINGS UNDER BOWMAN ACT.

The claimant is charged with having slept on his rights in the Court of Claims 14 years without motion. This statement is not correct, and it will appear from the transcript of the docket entries annexed hereto. There was a delay of 12 years in securing the claimant's testimony. Attention is asked to what is said in the inclosed printed brief relative to stores and supplies cases, about the delays of the Government in taking testimony, beginning with page 14.

In December, 1900, however, the claimant got the depositions of seven witnesses on the subject of loyalty. Claimant's brief was promptly filed on April 6, 1901, and then there was a wait until January 22, 1902, for the defendants' brief. December 20, 1904, the case was remanded to the general docket. On April 18, 1906, the defendants moved to dismiss the case for want of prosecution. The court, however, did not order the case dismissed, and the claimant's brief on merits was filed in 1907, and findings were made in the claimant's favor in the same year.

There were delays in this case, without question, but they were not all due to the claimant. The claimant was ready to go ahead and take his testimony, but found it impossible to make arrangements for having Government counsel present to conduct the cross-examination.

FINDINGS BY THE COURT.

The findings of the court are reported to Congress in House Document No. 875, Sixtleth Congress, first session. The findings by the court are as follows:

"This case being a claim for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, the court on a preliminary inquiry finds that Henry Bennett, the person alleged to have furnished such supplies or stores, or from whom the same are alleged to have been taken, was loyal to the Government of the United States throughout said war.

"During the war for the suppression of the rebellion there was taken from the claimant's decedent in Allen County, State of Kansas, by various soldiers under the command of Col. Jennison, of the Fifteenth Kansas Volunteers, property of the character and kind described in the petition, but the authority therefor is not shown. The reasonable value of the property so taken was at the time and place the sum of \$845, no part of which appears to have been paid."

TRANSCRIET OF DOCKET ENTRIES IN CASE NO, 4394, CONGRESSIONAL, IN

TRANSCRIFT OF DOCKET ENTRIES IN CASE NO. 4394, CONGRESSIONAL, IN THE COURT OF CLAIMS.

Claimant: Henry Bennett v. The United States.
Attorney of record: Charles and William B. King.
May 5, 1888, Order Committee on War Claims, House of Representatives, dated May 1, 1888, referring case, and one paper filed. Notified Assistant Adjutant General and claimant care of clerk.

June 5, 1888. Call on War Department issued. June 5, 1888. Call on Treasury Department issued. June 30, 1888. Reply Treasury Department; 12 papers filed; parties notified

otified.
July 21, 1888. Call on War Department issued.
November 26, 1888. Reply War Department; 19 filed; parties notified.
June 2, 1891. Call on Treasury Department issued.
August 4, 1891. Call on War Department (letter) issued.
August 17, 1891. Call on War Department (letter) returned with own indorsed thereon; parties notified.
December 5, 1891. Reply Treasury Department received; parties notified. notified

August 19, 1892. Report War Department filed by defendants; parties

notified.

November 21, 1900. Petition filed; copies and notice to defendants.

November 30, 1900. Report of War Department filed by defendants; attorney notified.

December 27, 1900. Depositions of Samuel J. Stewart, E. Strosnider, Allen Dickinson, G. B. Balch, N. Kemmer, Mrs. Emma R. Lassman, and G. De Witt for claimant filed; parties notified.

April 6, 1901. Claimant's brief on loyalty filed; copy and notice to defendants.

1901. Report Treasury Department filed by defendants;

attorney notified.

June 20, 1901. Report Treasury Department on loyalty filed by defendants; attorney notified.

January 23, 1902. Defendants' brief on loyalty filed; attorney

notified.

January 24, 1902. Report War Department on loyalty filed by defendants; attorney notified.

January 27, 1902. Submitted on evidence and briefs.
February 3, 1902. Loyalty of Henry Bennett found.
December 20, 1904. Remanded to general docket.

April 18, 1906. Defendants' motion to dismiss for want of prosecution under rule 93 filed; attorney notified; see 9519, House Journal.
September 10, 1906. Claimant's objection to motion to dismiss filed; defendants notified.

September 12, 1906. Defendants, reals to defend to dismiss filed;

12, 1906. Defendants' reply to claimant's objection to

25, 1907. Claimant's brief on merits filed; copy and notice

January 25, 1907. Claimant's order to defendants.
February 27, 1907. Defendants' brief on merits filed; attorney

4, 1907. Claimant's reply brief filed; copy and notice to

March 14, 1907. Submitted on evidence and briefs.

March 11, 1907. Submitted on evidence and briefs.

April 1, 1907. Court filed findings of fact in favor of claimant for the sum of \$205, to be certified to the Speaker, House of Representatives.

December 21, 1907. Claimant's motion to amend findings of fact th brief in support filed; defendants notified with copy; House

with brief in support mer, described in the following of the following Journal.

December 21, 1907. Certificate of register of deeds of Allen County, Kans., filed by claimants; defendants notified.

January 13, 1908. Claimant's motion of December 21, 1907, to law coloniars.

February 14, 1908. Motion to substitute Samuel A. Shelton, administrator of estate of Henry Bennett, deceased, with certified copy of letters of administration filed; allowed under rule 45; defendants

February 25, 1908. Defendants' reply to claimant's motion to amend findings of fact filed; attorney notified.

February 25, 1908. Claimant's motion to amend findings of fact submitted.

submitted.

February 25, 1908. Claimant's motion to amend findings of fact allowed in part and overruled in part; former findings withdrawn and new findings filed in the sum of \$845, to be certified to the Speaker, House of Representatives.

April 21, 1908. Findings certified to the Speaker, House of Representatives.

Mr. CRAWFORD. Mr. President, I wish to say to the Senator from Kansas that this case is very similar to several hundred others in this bill. The position of the Committee on Claims rests upon what appears on the face of the finding of the Court of Claims. We have never undertaken to go into files, records, and pleadings outside of what appears on the face of the report made to us, because to do so would be to open up questions lying beyond the report of the Court of Claims and involve the committee in inextricable confusion and difficulty.

What is set forth in the recitals does appear on the face of this claim in paragraph 226, page 62, of the report of the com-mittee. The court does not find that this property was taken by authority. It may have been taken by soldiers and carried off, but that would be an individual act of plunder or spoliation on the part of individual soldiers. The court did not find that the property was taken by authority of any military head, and it does appear that the claim remained in this situation of inactivity all these years.

Necessarily, having passed the other House as several hundred other claims very similar to it have done, it will have to be dealt with in conference. If we make an exception of this item, raise questions of a quorum, and have roll calls, we will have an endless number of such cases, so I think the Senator ought to allow the item to go with others similarly situated and have them treated together in conference.

Mr. CURTIS. Mr. President, I have no desire to interfere with the plan of the chairman of the committee. I had noticed in this report that undoubtedly the chairman, or whoever wrote the report or looked into the cases, had not thoroughly studied them, because there are misstatements of fact. There had been diligence by the claimant. However, if that matter is to be tried out in conference and this case is to be treated with other cases, I will not insist on a separate vote, but will let the matter go so that it may be settled in conference. However, I do want to say for a number of these Kansas cases that I have looked into the facts and find that the claimants were diligent, and that the delay was more on account of the nonaction of Congress than on the part of the claimants. In many cases the delay was caused by inaction on the part of the War Department, where claims were held some 10 or 15 years before any action was taken upon them by the Quartermaster General's Department.

Mr. CRAWFORD. Upon that I simply desire to say to the Senator that I decline to plead guilty of any failure in the exercise of diligence. I do not think that when a tribunal has been created under the law for the very purpose of having it thrash out all these questions, take testimony, and make reports as advisory to us it then becomes the duty of the committees of Congress to go away back behind the record sent to us by the court and ascertain whether or not the court was at fault in not having given us a fuller statement because there was evidence that justified some fuller statement by the Court of Claims than that court had made to us. In other words, I do not think we are required to go behind the report of the Court of Claims and retry or reexamine these cases. So we did not undertake to do so, and I do not think we are subject to the charge of lack of diligence because we did decline to do so. But, as I have said, the House passed these items which the Senate committee has suggested be stricken from the bill. That necessarily will bring the matter, if the action of the Senate committee is sustained, before the conferees, where advocates of both views may be heard and some conclusion reached. I think it better to do that than to open up these individual cases and involve us in endless examination of details here. It is very much like the action of a master with a long account. There are probably 3,000 different items involved in this bill, and if the Senate is to undertake to weigh testimony. in each one of them we are defeated in the attempt to consider this bill before we begin. On that account I suggest to the Senator that it would be better to let it go in that way.

Mr. CURTIS. Mr. President, as I said in my opening statement, I have no desire to oppose the policy which the chairman of the committee desires to follow in regard to these different items. If he wants to settle the matter in conference with the object of going into these cases and examining the reports that are on file with the committee of the House, I will not ask for a separate vote. I have looked up these several cases from Kansas, however, and I am satisfied that the claimants did use due diligence. With that statement, I will simply ask to withdraw my request for a separate vote upon the amendment.

The PRESIDING OFFICER. The request for a vote is withdrawn, and, without objection, the committee amendment is agreed to. The Secretary will resume the reading of the bill.

The reading of the bill was resumed. The next amendment of the Committee on Claims was, under the head of "Kansas," on page 25, to strike out from line 18 to line 24, inclusive, as follows:

To Frank Crathorne, of Wilson County, \$201.17.
To Jane H. Haynes, widow of Charles H. Haynes, deceased, of Bourbon County, \$100.70.
To Alfred W. Kent, of Clay County, \$664.

Mr. CURTIS. In this connection, without having it read, I will ask leave to have printed in the RECORD a statement relating to the claim of Alfred W. Kent, at the bottom of page 25.

The PRESIDING OFFICER. Without objection, permission is granted.

The statement referred to is as follows:

BRIEF IN THE CASE OF ALFRED W. KENT.

Claimant is a resident of Broughton, Clay County, Kans. He is represented locally by Mr. F. L. Williams, of Clay Center.

The reasons given by the committee for the exclusion of this claim from the omnibus claims bill are as follows (see S. Rept. No. 770, p. 62):

"No. 229. Alfred W. Kent. Referred in 1900; loyalty found in 1905; stores and supplies taken in 1864; claim presented to no department; slept for 36 years before reference; laches. (S. 455, 50th Cong., 1st sess.)"

This last statement that the claim was never presented is not correct, for the claim could not have been considered by the court under the Bowman Act had it not first been presented in accordance with the law. On this point attention is asked to the printed brief relating to the stores and supplies cases, beginning page 22.

FIRST PRESENTATION OF CLAIM.

This claim was first presented to the Third Auditor of the Treasury in April, 1883. It was rejected August 9, 1889. (See claim No. 21099, office Third Auditor of the Treasury). The comptroller concurred in this disallowance August 15, 1889. The claimant filed additional evidence with the comptroller, who authorized a further examination into the claim. Under date of January 10, 1891, the claim was again disallowed by the accounting officers. The case was rejected on the ground that the records did not show that any voucher was given to the claimant, and his name was not found upon the report submitted to the Quartermaster General.

On February 2 the claimant petitioned Congress for relief. This petition was presented by Senator W. A. Harris, and on March 28, 1900, the bill for the claimant's relief (S. 3462) was referred by resolution of the Senate to the Court of Claims for findings of fact under the act of March 3, 1887, commonly known as the Tucker Act.

PROCEEDINGS UNDER THE TUCKER ACT.

PROCEEDINGS UNDER THE TUCKER ACT.

It is claimed that the claimant was guilty of laches, but the transcript of docket entries hereto annexed shows that this was not the case. The case was referred in 1900; the petition was filed in 1901; depositions were taken in 1902 and 1904; the claimant was found loyal in February, 1905; and the case brought to trial on the merits in 1906. The case was under prosecution in the court six years.

The findings of the court are set out in Senate Document No. 455, Fifty-nint Congress, first session. This document shows that—

"On a preliminary inquiry the court, on the 20th day of February, 1905, found that the person alleged to have furnished the supplies or stores, or from whom they were alleged to have been taken, was loyal to the Government of the United States throughout said war."

And also found that—

"During the war for the suppression of the Rebellion the military forces of the United States, by proper authority, for the use of the Army, took from claimant, in Johnson County, State of Kansas, horses, as above described. The reasonable value of said horses, together with the hire for 22 days of two teams, is the sum of \$664.

"No payment appears to have been made therefor."

APPROPRIATIONS.

Provisions have been made on the following bills which have passed one or the other Houses of Congress, as indicated, for the payment of findings in these cases:

S. 7971, Sixty-first Congress, second session, as reported (S. Rept. No. 603) and passed by the Senate December 20, 1910.

H. R. 32767, Sixty-first Congress, second session, passed by the House of Representatives February 17, 1911, as a substitute for Senate bill 1971. On account of the shortness of remaining time this bill was not acted on in the Senate.

H. R. 19115, Sixty-second Congress, second session, passed by the House of Representatives February 19, 1912. Senate committee recommends striking out practically every southern war claim.

TRANSCRIPT OF DOCKET ENTRIES IN CASE NO 10149, CONGRESSIONAL, IN THE COURT OF CLAIMS.

Claimant: Alfred W. Kent v. The United States.
Attorney of record: George A. & William B. King.
March 29, 1900, Resolution of the United States Senate dated March 28, 1900, referring case and one paper under act of March 3, 1887, also (Senate bill No. 3462—see accompanying letter of the Secretary of the United States Senate dated March 28, 1900, referring case and one paper under act of March 3, 1887, also (Senate bill No. 3462—see accompanying letter of the Secretary of the United States Senate filed in No. 10147) filed; amount claimed, \$1,265. Notified A. A. G. and claimant—address Johnson County, Kans.
May 7, 1900. Appearance of George A. and William B. King filed (power of attorney to be filed when petition is filed).
May 30, 1900. Call on Treasury Department filed, allowed, and issued June 8, 1900.
June 29, 1901. Petition filed; defendants notified with copies.
July 9, 1901. Report of War Department on loyalty filed by defendants; parties notified.
July 9, 1901. Report of Treasury Department on loyalty and merits filed; attorney notified.
April 14, 1902. Deposition of Alfred W. Kent for claimant filed; parties notified.
September 3, 1902. Deposition of G. W. Stabler for claimant filed; parties notified.
September 3, 1902. Depositions of William T. Turner, S. T. Duffield, and P. Duffield for claimant filed; parties notified.
December 1, 1902. Reply Treasury Department (39 papers) filed; parties notified.
October 12, 1904. Deposition of V. R. Blush for claimant filed; parties notified.
December 2, 1904. Claimant's brief on loyalty filed; copy and notice

notified.

notified.

December 2, 1904. Claimant's brief on loyalty filed; copy and notice to defendants.

February 13, 1905. Submitted on evidence and brief.
February 20, 1905. Loyalty of Alfred W. Kent found.
October 14, 1905. Claimant's brief, request for findings of fact and brief on merits filed; copy and notice to defendants.
December 6, 1905. Defendants' brief on merits filed; attorney notified.

March 20, 1906. Claimant's reply brief filed; copy and notice to defendants.

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fendants.

April 4, 1906. Submitted on evidence and briefs.

April 9, 1906. Court filed findings of fact in favor of claimant for the sum of \$664 to be certified to the President of the Senate.

May 21, 1906. Motion to certify findings to Congress filed; allowed.

May 22, 1906. Findings certified to the President of the United States

The reading of the bill was resumed.

The next amendment of the Committee on Claims was, to strike out all the items from line 1, on page 26, to and including line 9, on page 36, as follows:

To B. C. Matthews, administrator of the estate of Fenelon B. Matthews, deceased, late of Nemaha County, \$550,52.

To Florence M. Metz, widow of Edmund Metz, deceased, of Reno County, \$113.23.

To Martin V. B. Sheafer, of Cloud County, \$152.76.

To William Hr Sparrow, of Labette County, \$165.26.

To Jacob Samuel Weaver, of Bourbon County, \$82.26.

KENTUCKY.

To Mary E. Martin, widow (remarried) of Samson M. Archer, deceased, of Bourbon County, \$115.70.

To Thomas N. Arnold, jr., administrator of the estate of Thomas N. Arnold, deceased, late of Kenton County, \$5,015.

To William A. Attersall, of Clark County, \$30.74.

To A. W. Richards, administrator of the estate of Kinchen Bell, deceased, of Union County, \$1,420.

To Margaret A. Bloom, widow of Andrew S. Bloom, deceased, of Fayette County, \$789.20.

To William H. Boswell, of Anderson County, \$540.

To R. B. Bottom, executor of the last will and testament of Henry P. Bottom, deceased, of Boyle County, \$1.715.

To Valentine S. Brewer, of Owsley County, \$469.90.

To Thomas R. Hill, of Bath County, \$495.
To E. S. Holloway and W. S. Holloway, surviving executors of the estate of John G. Holloway, deceased, late of Henderson County,

\$2.102.
To William B. Kelly, of Clay County, \$50.
To Harriet N. Lair, of Pulaski County, \$350.
To Eliza Leathers, administratrix of the estate of Alfred Leathers, deceased, late of Anderson County, \$825.
To Mary H. Letcher, administratrix of estate of Thomas K. Letcher, deceased, late of Jessamine County, \$420.
To Joseph E. Lindsey, surviving partner of the firm of John Lindsey & Son, of Montgomery County, \$1,080.
To Katherine McClelland, administratrix of the estate of Robert M. McClelland, deceased, late of Fayette County, \$900.
To Elizabeth Magruder, niece and heir at law of Alexander Magruder, deceased, of Nelson County, \$220.56.
To Daniel Mans, of Maysville, Ky., late of Goochland County, Va., \$250.

deceased, of Nelson County, \$220.56.
To Daniel Mans, of Maysville, Ky., late of Goochland County, Va., \$250.
To George Leonard, administrator of the estate of Catherine Marin, deceased, of Campbell County, \$1,105.
To John H. Marshali, of Pendleton County, \$300.
To Samuel P. Martin, of Anderson County, \$300.
To Kate W. Milward, widow of Hubbard K. Milward, deceased, of Fayctic County, \$545.10.
To Rudolph Minton, of Jefferson County, \$310.
To Rudolph Minton, of Jefferson County, \$213.
To Ella J. Vermillion and others, children and heirs at law of Zachariah A. Morgan, deceased, of Letcher County, \$22.60.
To Miriam F. Munday, widow of Jesse S. Munday, deceased, of Mercer County, \$501.86.
To Ion B. Nall, of Jefferson County, \$46.40.
To Hannah Nall, executrix, of William A. Nally, deceased, late of Louisville, \$2.013.
To Samuel H. Pipes, of Washington County, \$1,210.
To Fannie C. Poynter, administratrix of the estate of William L. Poynter, deceased, of Barren County, \$610.
To Belle M. Robards, of Boyle County, \$425.
To John W. Robbins, of Bracken County, \$263.
To Margaret P. Robinson, wildow of Richard M. Robinson, late of Garrard County, \$227.
To T. P. Salyer, of Lawrence County, \$350.
To C. H. Webb, jr., administrator of the estate of David B. Sanders, deceased, late of Livingston County, \$1,975.
To Mary Speak, widow of Jesse C. Speak, deceased, late of County, \$36.60.
To Andrew J. Tranghber, of Logan County, \$760.
To R. A. Walker, executor of John L. Walker, deceased, late of Boyle County, \$324.
To Benjamin R. Waller, of Green County, \$524.77.
To Elijab Warren, of Green County, \$256.24.
To Benjamin R. Waller, of Green County, \$524.77.
To Eleanor G. Whitney, of Scott County, \$54,66.
To John E. Wells, of Mason County, \$256.24.
To Eleanor G. Whitney, of Scott County, \$54,66.
To John M. Wilson, administrator of the estate of Joseph Wilson, deceased, late of Fulton County, \$2,300.
To the trustees of the Baptist Church of Bowling Green, \$650.
To the deacons of the First Presbyterian Church of Bowling Green, \$730.
To the

\$1.125.
To the stewards of the Methodist Episcopal Church South, of Bowling Green, \$730.
To the trustees of the Baptist Church of Brandenburg, \$180.
To the secretary and treasurer of Harrison Masonic Lodge, No. 122, of Brandenburg, \$125.
To the trustees of the Methodist Episcopal Church South, of Brandenburg, \$125.
To the trustees of the Methodist Episcopal Church South, of Bryantsville, \$410.
To the trustees of the Baptist Church of Crab Orchard, \$1,050.
To St. Andrews Lodge, No. 18, Free and Accepted Masons, of Cynthiana, \$600.
To the trustees of the Christian Church of Danville, \$725.
To the trustees of the First Baptist Church of Danville, \$700.
To the trustees of the First Presbyterian Church of Danville, \$610.
To the trustees of the Methodist Episcopal Church South, of Danville, \$520.
To the directors of the Presbyterian Theological Seminary of Kentucky, at Danville, \$1,150.
To J. Harrison Planck and P. S. Dudley, trustees of the Baptist Church of Flemingsburg, \$775.
To the trustees of the Glasgow graded common schools, of Glasgow, successor to the Glasgow Academy, or Urania College, of Glasgow, \$1,215.
To the trustees of the Baptist Church of Harrodsburg, \$675.

To the trustees of the Baptist Church of Harrodsburg, \$675.

To the trustees of the First Presbyterian Church of Harrodsburg, \$1,100.

To the trustees of the Methodist Episcopal Church South, of Harrodsburg, \$750.

To the trustees of the First Presbyterian Church at Lebanon, \$1,380.

To the rector of St. Augustine's Roman Catholic Church, of Lebanon,

To the trustees of the Methodist Episcopal Church South, of Mount

\$405.
To the trustees of the Methodist Episcopal Church South, of Mount Sterling, \$460.
To the trustees of the Presbyterian Church of Mount Sterling, \$650.
To the treasurer of Salt River Lodge, No. 180, Free Ancient and Accepted Masons, of Mount Washington, \$120.
To the trustees of the Green River Collegiate Institute, successor to the Hart Seminary, of Munfordville, \$525.
To the trustees of the Jessamine Female Institute, successor of Bethel Academy, of Nicholasville, \$725.
To the trustees of the Christian Church of Nicholasville, \$940.
To the trustees of the Sulphur Well Christian Church, near Nicholasville, \$300.
To the trustees of the Baptist Church of Paris, \$600.
To the trustees of the First Presbyterian Church of Faris, \$1,215.
To the trustees of the Ewing Institute, of Perryville, \$270.
To the trustees of the Methodist Episcopal Church South, of Perryville, \$425.
To the trustees of the Baptist Church of Princeton, \$110.
To the Madison Female Institute, in Madison County, near Richmond, \$6,500.
To the trustees of the Baptist Church of Shepherdsville, \$150.
To the trustees of the Baptist Church of Shepherdsville, \$150.
To the trustees of the Baptist Church of Somerset, \$1,500.
To the trustees of the Presbyterian Church of Somerset, \$550.
To the trustees of the Presbyterian Church of Somerset, \$550.
To the trustees of the Presbyterian Church of Somerset, \$550.
To the trustees of the Antioch Methodist Episcopal Church South, of Stewart, Mercer County, \$240.

The amendment was agreed to.

The next amendment was, under the head of "Louisiana," on page 36, to strike out from line 11 to line 23, inclusive, on page 38, as follows:

38, as follows:

To Victorie C. Avet, administratrix of the estate of Vincent Avet, deceased, late of Plaquemine, Iberville Parish, \$2,425.

To Remy Bagarry, of Iberia Parish, \$1,520.

To John Fisher, administrator of estate of Henry Bauman, deceased, late of Iberia Parish, \$950.

To Eugene Barrow, administrator of the estate of Mary J. Barrow, deceased, late of West Feliciana Parish, \$12,625.

To Adelia B. Greely, of Jones County, Miss., sole heir of H. B. Benjamin, deceased, late of East Baton Rouge Parish, \$755.

To Mrs. Marie Ernestine Bourcy, Marie Ernestine Bourcy, jr., Stanislaus L. B. Bourcy, and Augustin Theodore Bourcy, heirs of Eugene Augustin Bourcy, deceased, late of New Iberia, \$1,125.

To Felix Guidry, Arsene Broussard (née Guidry), Cecilia Alabarado (née Guidry), and Loretta Broussard (née Guidry), heirs of Louisa Breaux, late of Lafayette Parish, in equal shares, \$7,780.

To Sarah Bushnell, of Rapides Parish, \$1,725; to Rosa Brown, Meeker Brown, and Jennie May Brown, of said parish, heirs of Linday L. Brown, deceased, in equal shares, \$1,725.

To Athenais Chretten Le More, administratrix of Felicite Neda Chretien, deceased, and of Charles L. Clark, deceased, of Catahoula Parish, \$1,240.

To J. Martin Compton, of Rapides Parish, \$1,990.

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\$4.240.

To J. Martin Compton, of Rapides Parish, \$1,990.

To J. G. Le Blanc, administrator of the estate of Jean Crouchet, deceased, late of Iberia Parish, \$1,040.

To Antoine Decuir, Joseph Auguste Decuir, and Rosa Decuir Macias, helrs of Antoine Decuir, sr., deceased, late of Pointe Coupee Parish, in equal shares, \$4,115.

To Charles R. Delatte, administrator of the estate of Louis Delatte, deceased, late of the city of Baton Rouge, \$1,010.

To Odile Deslonde, sole heir of Eloise Deslonde, deceased, late of Iberville Parish, \$5.325.

To Nicalse Lemelle, administrator of estate of Bellot A. Donato, deceased, late of St. Landry Parish, \$750.

To Ludger Lemelle, administrator of estate of Clarisse Donato, deceased, late of St. Landry Parish, \$2,160.

The amendment was agreed to.

The amendment was agreed to.

The next amendment was, beginning with line 3, on page 39, to strike out down to and including line 25, on page 44, as

To Calvin H. Dyson, administrator of the estate of George W. Dyson, deceased, of Washington Parish, \$715.

To Martin Guillory, of St. Landry Parish, \$311.

To Adorea Honore, widow and sole heir of Emile Honore, deceased, late of Pointe Coupee Parish, \$976.

To Annie E. Jones, Robert McElroy Jones, Alice J. Jones, Mattie E. Blanchard, Clemence W. Brian, Cecilia McElroy Dunn, and Robert M. Jones (administrator of the estate of Emma H. Wells, deceased), heirs of Matthew J. Jones, deceased, in equal shares, the sum of \$4,143.

To Florville Kerlegan, of Lafayette Parish, \$671.

To E. G. Beuker, administrator of estates of Rosamond Lacour, deceased, and of Colin Lacour, deceased, late of West Baton Rouge Parish, \$635.

\$635.
To C. La Branche, of New Orleans, dative testamentary executor of Adele Rixner Lanaux, deceased, \$5,090.
To Estelle Landry, administratrix of estate of Joseph Landry, deceased, late of Ascension Parish, \$1,320.
To Augustin Lazare, administrator of the estate of Jean Baptiste Lazare, deceased, late of St. Landry Parish, \$697.
To Mariane T. Lemelle, administratrix of estate of Alexander Lemelle, deceased, late of St. Landry Parish, \$565.
To Barthelemy Lemelle, administrator of estate of Euphemie Lemelle, deceased, late of St. Landry Parish, \$1,520.
To Flack Lemelle, administrator of Leon Lemelle, deceased, late of St. Landry Parish, \$845.
To Marianne D. Lemelle, administratrix of the estate of Rigobert Lemelle, deceased, late of St. Landry Parish, \$845.

To Marie Melanie Bronssard, Nunez Lyons, Mary Azelima Simon, Mary Jane Campbell, and Benjamin Bronssard (administrator of the estate of Sarah Jane Lyons Bronssard, deceased), heirs of Bosman Lyons, deceased, and the of Vermilion Parish, \$3,126.

To the heirs of Laura P. Maddox, deceased, of Rapides Parish, \$15,000.

To Jules Malveau, administrator of the estate of Jean Louis Malveau, deceased, late of St. Landry Parish, \$375.

To Achille P. Rachal, administrator of the estate of Jean Louis Malveau, deceased, late of Natchitoches Parish, \$950.

To Louis e Meyer, administrator of the estate of Caram D. Metoyer, deceased, late of Natchitoches Parish, \$950.

To Alphonse Meuillon, of St. Landry Parish, \$245.

To Marie Josephine Le Sassier, administratrix of estate of Francois Meuillon, deceased, late of St. Landry Parish, \$2,810.

To Aurore D. Kerlegan, administrator of estate of Lucien Meuillon, deceased, late of St. Landry Parish, \$200.

To Entrude Nolasco, of West Felician Parish, \$540.

To Gertrude Nolasco, of West Felician Parish, \$540.

To Auguste Guirard, administrator of estate of Caroline Pierront, deceased, late of the parish of St. Martin, \$1,960.

To Adolph Hartiens, tutor of Sidney L. Hartiens, William W. Hartiens, and Mary R. Hartiens, grandchildren and heirs at law of William H. Osborne, deceased, late of Rapides Parish, \$54,875.

To Alfred C. Parham, administrator of the estates of Harvey N. Parham, deceased; Mrs. Euphrasie Parham, deceased; and Mars, Amelia E. Smith, deceased; Mrs. Euphrasie Parham, deceased; and Corinne B. McRight in her own right, of the parish of Rapides, \$2,120. The respective interests of the claimants, being their respective shrees of the claimants, being their respective horeests of the Carolinants, being their respectiv

The amendment was agreed to.

The next amendment was, on page 45, to strike out from line 4 to line 10, inclusive, as follows:

MAINE.

To Jacob B. Loring, of Knox County, \$148.23. To Whitman L. Orcutt, of Aroostook County, \$878.47. To William L. Ross, of Penobscot County, \$47.56.

The amendment was agreed to.

The next amendment was, under the head of "Maryland," beginning with line 12, on page 45, to strike out to and including line 26, on page 49, as follows:

ginning with line 12, on page 45, to strike out to and including line 26, on page 49, as follows:

To Jacob R. Adams, of Washington County, \$210.

To Martin H. Avey, of Washington County, \$220.

To mayor and city council of Baltimore, \$2,996.94.

To Elizabeth V. Belt, administratrix of the estate of Alfred C. Belt, deceased, late of Montgomery County, \$2,970.

To A. Rosa Bevans, of Washington County, \$570.

To William E. Boteler, administrator of Hezekiah Boteler, deceased, of Frederick County, \$568.

To Richard T. Gott and Benjamin N. Gott, executors of the estate of Thomas N. Gott, deceased, late of Montgomery County, \$1,200.

To Maria M. Harris, widow of Henry N. Harris, deceased, late of Montgomery County, \$121.08; and to Frank N. Harris, John W. Harris, George W. Harris, Alla V. Harris, Annie E. Harris, John W. Harris, William Harris, and Thomas D. Harris, children and heirs of said Henry N. Harris, deceased, in equal shares, \$242.17.

To Harmon W. Hessen, formerly of Allegany County, now of Martinsburg, W. Va., \$2,035.

To Cornelia Jones, administratrix of John L. T. Jones, deceased, late of Montgomery County, \$240.

To Jeremiah Kanode, of Frederick County, \$136.

To Mary J. Langley Norris, administratrix of the estate of Ignatius J. Langley, deceased, of St. Mary County, \$1,050.

To Raleigh Sherman, administrator of the estate of William P. Leaman, deceased, late of Montgomery County, \$590.

To Sarah C. Mitchell, executrix of the estate of Richard T. Mitchell, deceased, late of Wontgomery County, \$1,200.

To William H. Staubs, administrator of the estate of Eli Moats, deceased, late of Washington County, \$381.

To S. Sollers Maynard, executor of Augustine D. O'Leary, deceased, late of Frederick County, \$1,450.

To J. Sprigg Poole, administrator de bonis non of the estate of William D. Poole, deceased, late of Montgomery County, \$1,000.

To Elmer K. Ramsburg and Alvah S. Ramsburg, executors of the estate of Urias D. Ramsburg, deceased, late of Frederick County, \$819.

To Perry Rennoe, administrator of estate of Beverly A. Rennoe, deceased, late of Charles County, \$200.

To Zachariah D. Ridout, surviving executor of Hester Ann Ridout, deceased, late of Anne Arundel County, \$3,800.

To Nathan F. Edmonds, administrator of the estate of Henry Show, deceased, late of Washington County, \$225.

To John L. Snyder, executor of George Snyder, deceased, late of Washington County, \$1,800.

To George L. Stull. of Frederick County, \$200.

To William Viers Boule, administrator of the estate of Elijah Thompson, deceased, late of Montgomery County, \$1,880.

To Cornelius Virts, of Washington County, \$600.

To William W. Wenner, executor of Joseph Waltman, deceased, late of Frederick County, \$3,270.

To Lewis D. Williams, administrator of estate of Lewis W. Williams, deceased, late of Montgomery County, \$385.

To John A. Windsor, administrator of the estate of Zachariah L. Windsor, deceased, late of Montgomery County, \$372.

To Grant Wyand, executor of the estate of Frederick Wyand, deceased, late of Washington County, \$135.

To Marion B. Young and Geno D. Weller, sole heirs of Samuel C. Young, deceased, of Montgomery County, \$407.

To La Grange Lodge, No. 36, Independent Order of Odd Fellows, of Boonsboro, \$370.

To the trustees of the Methodist Episcopal Church of Boonsboro, \$120.

\$120. To the trustees of the United Brethren Church of Boonsboro, \$170. To the trustees of the Evangelical Lutheran Church of Burkittsyille.

To the trustees of the Frederick Presbyterian Church of Frederick, To the corporation of the Methodist Episcopal Church of Hancock, \$550. \$200.

To the rector of St. Peters Roman Catholic Church, of Hancock, \$80. To the vestry of St. Thomas Protestant Episcopal Church, of Hancock, \$173.33.

To the trustees and consistory of Mount Vernon Reformed Church, of Keedysville, \$515.

To the consistory of Grace Reformed Church, of Knoxville, \$410.

To the trustees of the Christ Reformed Congregation, of Middletown, successors to the German Reformed Church of Middletown, \$450.

The amendment was agreed to.

The next amendment was, on page 50, to strike out from line 3 to line 9, inclusive, as follows:

To the vestry of St. Paul's Protestant Episcopal Church, situated near Point of Rocks, \$790.

To the rector, wardens, and vestry of St. Paul's Protestant Episcopal Church, of Sharpsburg-Antietam parish, Washington County, \$1,350.

The amendment was agreed to.

The next amendment was, under the head of "Massachusetts," on page 50, to strike out from line 11 to line 14, inclusive, as follows:

To William W. Dutcher, of Essex County, \$457.84. To William B. Kimball, of Hampshire County, \$21.84.

The amendment was agreed to.

The next amendment was, on page 50, to strike out from line 18 to line 22, inclusive, as follows:

To Susan Shatswell, executrix of Nathaniel Shatswell, deceased, of Essex County, \$244.90.

To Horace P. Williams, of Boston, \$1,604.14.

The amendment was agreed to.

The next amendment was, under the head of "Michigan," on page 50, to strike out from line 24 to line 26, inclusive, as follows:

To Harriet C. Begole, mother of William M. Begole, deceased, of Genesee County, \$19.33.

The amendment was agreed to.

The next amendment was, on page 51, to strike out lines 3 and 4, as follows:

To Lemuel C. Canfield, of Mason County, \$587.68.

The amendment was agreed to.

The next amendment was to strike out from line 7, on page 51, to and including line 26, as follows:

To William A. Clark, of Ann Harbor, \$329.30.

To James S. De Land, of Detroit, \$202.88.

To Lucius E. Gould, Abby E. Allison, and Mary I. Todd, children of Ebenezer Gould, deceased, of Shiawassee County, \$42.70.

To Elvira D. Gregg, widow of Judson H. Gregg, deceased, of Ingham County, \$116.28.

To Frederick S. Hutchinson, of Ionia County, \$118.80.

To George J. Lockley, Joseph F. Lockley, and Sarah E. Todd, children of George Lockley, deceased, \$99.50.

To Myron Powers, of Kalamazoo County, \$327.20.

To Marla N. Swain, widow of Elisha R. Swain, deceased, \$361.86.

The amendment was agreed to.

The next amendment was, on page 52, to strike out from line 3 to line 11, inclusive, as follows:

MINNESOTA.

To Omar H. Case, of Fillmore County, \$191.63. To Frederick Lambrecht, of Ramsey County, \$324.73, To Warren Onan, of Clay County, \$39.74. To Randolph M. Probsfield, of Clay County, \$200.

The amendment was agreed to.

The next amendment was, under the head of "Mississippi," on page 52, to strike out from line 13 to and including line 22 on page 54, as follows:

on page 54, as follows:

To T. A. Norris, administrator of the estate of N. M. Aldridge, deceased, late of Tishomingo County, \$980.

To I. P. Watts, administratrix of estate of Charles Baker, deceased, late of Warren County, \$8,213.

To Leopold Bickart, of Natchez, \$1,500.

To Hiram Baldwin, of Adams County, Miss.; Joseph De France Baldwin, of Madison Parish, La.; and Richard Robert Baldwin, of Tensas Parish, La., in equal shares, as heirs of Robert Bradley, deceased, \$2,000.

To D. H. Chamberlain of Law.

win, of Madison Parish, La.; and Richard Robert Baidwin, of Tensas Parish, La., in equal shares, as heirs of Robert Bradley, deceased, \$2.000.

To D. H. Chamberlain, of Jefferson County, \$340.
To Eliza Chambers, administratrix of the estate of Royall Chambers, deceased, of Yazoo County, \$670.

To William T. Ratliff, administrator of estate of Sarah G. Clark, deceased, late of Hinds County, \$1,355.

To W. T. Ratliff, administrator of estate of S. N. Clark, deceased, late of Hinds County, \$5,650.

To G. B. Harper and J. D. Clearman, executors of William L. Clearman, deceased, late of Newton County, \$1,010.

To T. M. Davidson, administrator of the estate of Margaret Davidson, deceased, of Warren County, \$2,450.

To Charles A. Dook and John R. Dook, heirs of Alfred W. Dook, deceased, of Lafayette County, \$1,794.48.

To Jefferson T. Cowling, administrator of the estate of Eliza A. Fielder, deceased, and Benjamin L. Fielder, living, of Corinth, \$655.

To Hardinia P. Kelsey and Mildred E. Franklin, heirs of Hardin P. Franklin, deceased, late of Marshall County, \$860.

To Susan R. Jones, administrativ of the estate of William Freeman, deceased, late of Warren County, \$4,010.

To John Fuller, administrator of estate of Matilda B. Harvey, deceased, late of Scott County, \$1,382.

To J. A. Hill, administrator of the estate of Benjamin Hawes, deceased, late of Tippah County, \$1,360.

To California M. Hearn, in her own right and as administratix of the estates of Susan L. Balley, deceased, and of Julla B. Hancock, deceased, late of Alcorn County, \$1,500.

To J. B. Hubbard, administrator of the estate of David R. Hubbard, deceased, late of Alcorn County, \$300.

To J. B. Hubbard, administrator of the estate of David R. Hubbard, deceased, of Tishomingo County, \$1,500.

The amendment was agreed to.

The next amendment was, on page 55, beginning with line 1, to strike out down to and including line 15 on page 58, as follows:

The next amendment was, on page 55, beginning with line 1, to strike out down to and including line 15 on page 58, as follows:

To John B. Jarratt, administrator of Sarah T. Jarratt, deceased, late of Marshall County, \$1,389.

To Elizabeth Johnson, of Yazoo County, \$1,170.

To Mary Julia Quick, of Landerdale County, \$1,980; to Belle O. Coward, of Leflore County, \$1,980; and to John Anderson, of Rusk County, Tex., \$360, as heirs of Vernon H. Johnston, deceased. To Jane Jones, administratrix of the estate of Henry Jones, deceased, late of Marshall County, \$215.

To Henry W. King, of Marshall County, in his own right, and to W. H. King, administrator of the estate of Edward King, deceased, late of Marshall County, as heirs of Kinchen W. King, deceased, late of Marshall County, as heirs of Kinchen W. King, deceased, late of Marshall County, \$215.

To Robert M. Lay, administrator of Nancy Lay, deceased, late of Scott County, \$2,804.

To Emma Jones and Leon Lewis, sole heirs of Emma S. Lewis, deceased, late of Hinds County, \$1,815.

To Ammon F. Lindley, administrator of the estate of Wartha W. Lindley, deceased, of Lauderdale County, \$220.

To William Lunenburger, administrator of the estate of Uriah Lunenburger, deceased, late of Alavine County, \$250.

To Harvey McRaven, of Marshall County, \$1,730.

To Harvey McRaven, of Marshall County, \$1,730.

To Harvey McRaven, of Marshall County, \$1,730.

To Mrs. L. H. Rowland, administrator of the estate of William O. Moselcy, deceased, late of Hunton County, \$465.

To A. A. Raley, administrator of the estate of William O. Moselcy, deceased, late of Marren County, \$665.

To A. A. Raley, administrator of the estate of Mary Ann Nagle, decased, late of Moren County, \$665.

To Margaret Raiford Loftin (née Margaret Raiford), administrativ of the estate of Margaret Raiford, edecased, late of Hinds County, \$2160.

To W. A. Montgomery, administrator of the estate of Marshall County, \$2,557.

To Margaret Raiford Loftin (née Margaret Raiford), administrativ of the estate of Melchisedec

The amendment was agreed to.

The next amendment was, on page 58, to strike out lines 20 and 21, as follows:

To the trustees of the Cumberland Presbyterian Church, of Corinth, \$833.

The amendment was agreed to.

The next amendment was, under the head of "Missouri," to strike out from line 25, on page 58, to and including line 6, on page 64, as follows:

To Merit F. Thomas, administrator of Willis M. Allman, of Lawrence County, \$210.

To Francis T. Buckner, administrator de bonis non cum testamento annexo of John M. Armstrong, deceased, late of Cass County, \$460.

To Caroline E. Bagg, widow of John Bagg, deceased, of Adair County, \$922,00.

annexo of John M. Armstrong, deceased, late of Cass County, \$400.

To Caroline E. Bagg, widow of John Bagg, deceased, of Adair County, \$922.90.

To William Baker, of Stone County, \$140.

To Louis Benecke, of Chariton County, \$1.763.

To Jane S. Bishop, executrix of E. W. Bishop, deceased, of Phelps County, \$600.

To Joseph C. Black, of Barry County, \$235.

To Sarah Katherine Blue, executrix of the estate of Jesse M. Blue, deceased, and William Traughber, administrator de bonis non of the estate of David Blue, deceased, of Carroll County, \$710.

To William R. Boyse, heir at law of Sterling M. Boyse, deceased, of Cole County, \$365.

To the heirs of Alexander Bradshaw, deceased, late of Jackson County, \$420.

To William C. Brummett, of Cass County, \$399.93.

To John W. Brooks, son and heir of Isaac Brooks, deceased, of Johnson County, \$320.

To Nannie, Oscar W., John R., and Emma Cogswell, heirs of O. H. Cogswell, deceased, of Jackson County, \$1,600.

To C. C. Bundy, administrator of the estate of Anselm L. Davidson, deceased, of Cass County, \$600.

To John P. Duke, of Independence, \$2,390.

To the estate of Hugh G. Glenn, deceased, late of Cass County, \$1,280.

To John R. Hamacher, of Ray County, \$1,208.19.

To John R. Hamacher, of Ray County, \$1,208.19.

To John B. Harrelson, administrator of the estate of John Hammontree, deceased, of Cass County, \$42.38.

To Elijah B. Hammontree, administrator of the estate of John Hammontree, deceased, of Cass County, \$425.

To John B. Harrelson, deceased, of Cass County, \$5,268.

To John B. Harrelson, deceased, of Cass County, \$5,268.

To Jackson County, \$410.

To Mary E. James, widow of Thomas James, deceased, of Jackson County, \$149.90.

To Abram Jones, of Barton County, \$245.

To H. N. Vaughn, executor of estate of Benjamin Kirk, deceased, of

To Jackson County, \$410.

To Mary E. James, widow of Thomas James, deceased, of Jackson County, \$149.90.

To Abram Jones, of Barton County, \$245.

To H. N. Vaughn, executor of estate of Benjamin Kirk, deceased, of Newton County, \$336.

To Amanda M. Livesay, administratrix of John W. Livesay, deceased, of Dent County, \$816.

To Benjamin F. Lutman, of Cole County, \$388.96.

To Philip Michael, son of Philip Michael, deceased, of Barry County, \$425.

To Karoline Mulhaupt, of Jackson County, \$1,395.

To Charles W. Munn, administrator of the estate of Mrs. E. S. Munn, deceased, late a resident of Barry County, \$1,615.

To Jay H. Neff, administrator of Andrew J. Neff, deceased, late of Jackson County, \$240.28.

To Levi S. North, of Adair County, \$490.

To William B. Payne, late a resident of Cass County, \$4,754.

To Phelps County, Mo., \$890.

To Daniel K. Ponder, of Ripley County, \$530.

To Mary L. Cropper, Sallie Z. McCulloh, Dora Schmitt, and Belle Wisson, sole heirs of Tillard and Sophia L. Ragan, deceased, of Cass County, \$2,970.

To George W. January, administrator de bonis non cum testamento annexo of estate of William A. Ryan, deceased, late of Cass County, \$1,260.

To Francis M. Sheppard, of Chariton County, late of Company I.

To George W. January, administrator de bonis non cum testamento annexo of estate of William A. Ryan, deceased, late of Cass County, \$1.260.

To Francis M. Sheppard, of Chariton County, late of Company I, One hundred and sixteenth Regiment Illinois Volunteer Infantry, \$330.

To county court of Ste. Genevieve County, \$1,200.

To william W. Trigg, administrator of the estate of Lowell G. Spaulding, deceased, of Cooper County, \$12,500.

To John P. Bell, treasurer of State Hospital No. 1, of Fulton, \$14,000.

To Merit F. Thomas, of Lawrence County, \$210.

To Midred Turley, administratrix of the estate of John Turley, deceased, of Cass County, \$3.390.

To Eli D. Wilson and Narcissus Wilson, executors of the estate of John Wilson, deceased, of Laclede County, \$425.

To Harriet L. Young, administratrix de bonis non of Solomon Young, deceased, of Jackson County, \$3.800.

To the trustees of the Christian Church of Harrisonville, \$650.

To the trustees of the Methodist Episcopal Church South, of Harrisonville, \$779.75.

To the trustees of the Methodist Episcopal Church of Macon, \$760.

To the trustees of the Presbyterian Church of Macon, \$600.

To the trustees of the Christian Church of Macon, \$600.

To the trustees of the Christian Church of Macon, \$600.

To the trustees of the First Christian Church of Macon, \$600.

To the trustees of the First Christian Church of Macon, \$600.

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To the trustees of the Erist Christian Church of Macon, \$600.

To the trustees of the Methodist Episcopal Church South, of Mexico, \$710.

ico. \$710. To the University of Missouri, \$5,075.

The amendment was agreed to.

The next amendment was, on page 64, to strike out from line 9, to and including line 21, on page 65, as follows:

To the trustees of the First Christian Church of Springfield, \$275.
To the trustees of the Methodist Episcopal Church South, of Springfield, \$3,150.
To the trustees of the Christian Church of Sturgeon, \$550.
To the trustees of the Christian Church of Warsaw, \$660.

MONTANA.

To Mary E. L. Calloway, widow of James E. Calloway, deceased, of Madison County, \$53.23.

NEBRASKA.

To Margaret C. French, widow of Columbus P. French, deceased, \$176.40.
To Michael Trucks, of Cuming County, \$377.67.

To John Allman, formerly of Virginia City, now a resident of the State of California, \$2,358.

To John M. Forsyth, formerly of Carson City, now a resident of the State of California, \$2,728.

To Frank J. McWorthy, formerly of the State of Nevada, now a resident of the State of California, \$450.

To Thomas Rodgers, formerly of Virginia City, now a resident of the State of California, \$440.

To the legal representatives of James M. Thompson, deceased, late of Carson City, \$3,730.

NEW HAMPSHIRE.

To Eleazer L. Sarsons, of Sullivan County, \$40.33.

The amendment was agreed to.

The next amendment was, under the head of "New Jersey," on page 65, to strike out lines 23 and 24, as follows:

To John H. Arey, of Mercer County, \$20.39.

The amendment was agreed to.

The next amendment was, on page 66, to strike out, from line 4 to line 12, inclusive, as follows:

NEW MEXICO TERRITORY.

To Anastacio de Baca, administrator of Francisco de Baca, deceased, of Santa Ana County, \$1,325.

To Edward H. Bergmann, of New Mexico, \$1,200.

To Mary W. Littell, widow of William J. Littell, deceased, of Lincoln County, \$632.18.

The amendment was agreed to.

The next amendment was, under the head of "New York," on page 66, to strike out, from line 14 to line 18, as follows:

To Luther S. Bryant, of Franklin County, \$45.31.
To Josephine Campbell, widow of George Campbell, deceased, of Rensselaer County, \$272.14.

The amendment was agreed to.

The next amendment was, beginning on page 66, with line 22, to strike out down to and including line 21, on page 67, as follows:

follows:

To Benjamin Fenton, surviving partner of the firm of Fenton & Co., of the city of Buffalo, \$10,520.66.

To Anna Cayanaugh, sister and sole heir of John Fryer, deceased, of Otsego County, \$60.80.

To Harry V. Hoes, administrator of Theodore Hoes, deceased, of Columbia County, \$491.68.

To Emily A. Lockwood, widow of Harrison Lockwood, deceased, of Warren County, \$484.11.

To Abby C. McNett, widow of Andrew J. McNett, deceased, of Allegany County, \$816.77.

To Martin H. Mullin, of Oneida County, \$351.68.

To Lucius V. S. Mattison, of Oswego County, \$490.44.

To Cornelia P. Beckley and Maude P. Clark, daughters of Hamilton S. Preston, deceased, of Delaware County, \$104.05.

To Alice A. Sheldon, widow of Allen Sheldon, deceased, of Columbia County, \$274.54.

The amendment was agreed to.

The next amendment was, under the head of "North Carolina," beginning with line 23, on page 67, to strike out down to and including line 15, on page 69, as follows:

and including line 15, on page 69, as follows:

To E. M. Allison, administrator of estate of Francis Allison, deceased, of Transylvania County, \$550.

To John E. Berry and Lovey T. Williamson, sole heirs of Esau Berry, deceased, late of Dare County, \$450.

To Hardy A. Brewington administrator of the estate of Raiford Brewington, deceased, late of Sampson County, \$530.

To William H. Bucklin, of Craven County, \$390.

To Louise C. Smith, administrator of the estate of Isadore Cohen, deceased, late of Edgecombe County, \$532.

To William Cohen, administrator of the estate of Isadore Cohen, deceased, late of Edgecombe County, \$532.

To Lucy A. Dibble, administratrix of the estate of Sylvester Dibble, deceased, late of Beaufort County, \$705.

To J. W. Howett, administrator of William Howett, deceased, late of Tyrrell County, \$1,480.

To B. A. Critcher, administrator of estate of Harmon Modlin, deceased, late of Martin County, \$293.

To John S. Morton, administrator of David W. Morton, deceased, late of Carteret County, \$350.

To Mary Lee Dennis, executrix of the estate of Levi T. Oglesby, deceased, late of Craven County, \$4,350.

To O. H. Perry, administrator of the estate of George W. Perry, deceased, late of Craven County, \$4,350.

To William O. Robards, of Henderson County, formerly of Boyle County, Ky., \$1,980.

To J. A. Reagan, of Buncombe County, \$240.

To Jacob West, of Harnett County, \$215.

To the Methodist Episcopal Church South, of Beaufort, \$1,280.

The amendment was agreed to.

The next amendment was, on page 69, to strike out lines 23 and 24, as follows:

To the First Baptist Church, of Newbern, \$1,200.

The amendment was agreed to.

The next amendment was, under the head of "North Carolina," at the top of page 70, to insert the following:

To the trustees of Beulah Primitive Baptist Church, of Johnston County, \$420.

To the trustees of the Primitive Baptist Church, of Newport, \$350. To the trustees of the Catholic Church, of Washington, \$4,000. To the trustees of the Methodist Episcopal Church South, of Washgton, \$4,500. ington, \$4,500.

To the trustees of the Presbyterian Church, of Washington, \$4,500.

The amendment was agreed to.

The next amendment was, beginning with line 11, on page 70, to strike out down to and including line 19, on page 71, as

NORTH DAKOTA.

To Martha A. Mullery, widow of James W. Mullery, deceased, of Stutsman County, \$260.35. OHIO

To Henry L. Biddle, of Montgomery County, \$362.44.
To Jeremiah Cain, of Urbana, \$684.34.
To Amanda W. Claney, widow of Charles W. Clancy, deceased, of Jefferson County, \$374.88.
To John Hamilton, of Franklin County, \$272.77.
To Barton A. Holland, of Hardin County, \$182.82.
To George W. Northup, of Montgomery County, \$482.40.
To David Skeeles, of Carroll County, \$245.85.
To Ellen R. Smith, widow of James R. Smith, deceased, of Lucas County, \$514.71.
To the trustees of the Baptist Church of Gallipolis, \$175.

OKLAHOMA.

To George W. Clark, of Oklahoma, late a resident of the Indian Territory, \$106.26.

To Robert C. Cozine, son of John S. Cozine, deceased, of Eda, \$520.22.

OREGON.

To John E. Butler, of Lane County, \$417.31. The amendment was agreed to.

The next amendment was, under the head of "Pennsylvania,"

on page 71, to strike out from line 21, to and including line 12, on page 72, as follows:

on page 72, as follows:

To William Ashworth and Adam I. Ashworth, heirs of James Ashworth, deceased, of Philadelphia, \$44.57.

To John H. Black, of Blair County, \$361.28.
To John Craig, of Carbon County, \$88.85.
To John Danks, son and sole heir of John A. Danks, deceased, of Allegheny County, \$187.81.

To Frank E. Foster, of Warren County, \$569.52.
To Eliza J. Houston, widow of John Houston, deceased, of Indiana County, \$136.78.
To Milton S. Johnson, assignee of Jacob Johnson, deceased, late of York, \$580.

To Augustus B. Miller, of Norristown, \$1,120.

The amendment was agreed to.

The next amendment was, on page 72, to strike out, beginning with line 16, to and including line 25, as follows:

To the trustees of the Tonoloway Baptist Church, of Fulton County, \$225.

To the trustees of the St. James Evangelical Lutheran Church, of Gettysburg, \$150.

To the trustees of the St. Mark's German Reform Church, of Gettysburg, \$215.

RHODE ISLAND.

To Willard H. Greene, late of Company E, Twelfth Regiment Rhode Island Volunteer Infantry, \$701.26.

The amendment was agreed to.

The next amendment was, on page 73, under the heading "South Carolina," beginning in line 2, to strike out down to and including line 21, as follows:

and including line 21, as follows:

To A. J. Buero, administrator of the estate of Angelo Buero, deceased, of Charleston, \$725.

To J. P. Matthews, administrator of Nathan Gradick, deceased, late of Richland County, \$1,180.

To Robert B. Howard, heir of James B. Howard, deceased, of Charleston County, \$1,100.

To the trustees of the Baptist Church of Beaufort, \$2,200.

To the wardens and vestry of St. Helena Episcopal Church, of Beaufort, \$1,150.

To the board of trustees of the public schools of Darlington, \$980.

To the vestry of Trinity Protestant Episcopal Church, on Edisto Island, \$1,200.

To the Mount Zion Society, of Fairfield County, \$6,000.

The amendment was agreed to.

The next amendment was, on page 74, after line 2, to strike

To the trustees of the German Lutheran Church, of Orangeburg, \$983.33.

The amendment was agreed to.

The next amendment was, on page 74, after line 5, to insert: To the trustees of Three-mile Creek Church of Christ, of Barnwell County, \$309.

To the trustees of Winyah Lodge, No. 40, Ancient Free and Accepted Masons, of Georgetown, \$4,200.

The amendment was agreed to.

The next amendment was, on page 74, after line 10, to strike out:

SOUTH DAKOTA.

To John B. Geddis, of Beadle County, \$391.31.

The amendment was agreed to.

The next amendment was, on page 74, under the heading "Tennessee," beginning in line 15, to strike out:

To Susan E. Joyner, Mary E. Roberson, Martha F. Luster, and Jane F. Crump, sole heirs of Josiah Anthony, deceased, late of Sumner County, \$4,520.

To Emma R. Bailey, executrix of John J. Bailey, deceased, late of Shelby County, \$3,353.

To Daniel W. Beckham, administrator of the estate of Alexander F. Beckham, deceased, late a resident of Lake County, \$7,880.

To H. B. Bond, administrator of John B. Baird, deceased, of Wilson County, \$2,650.

To James Boro and Mary Boro, heirs of James Boro, deceased, late of Shelby County, \$1,800.

To the legal representatives of Reese B. Brabson, deceased, late a resident of Hamilton County, \$6,500.

To John L. Smith, administrator of Nancy N. B. Bridges, deceased, of Rutherford County, \$1,520.

To John C. Brooks, formerly of Davidson County, \$600.

To Octavia P. Brooks, of Hardeman County, \$350.

To John Brown, of Maury County, \$150.

To Leonidas Thompson, administrator of the estate of Mathew Brown, deceased, late of Shelby County, \$1,420.

To Eli Marshall, executor of William Brown, deceased, of Greene County, \$80.

To Ell Marshall, executor of Wilhall Drown, accounty, \$80.

To Charles C. Burke, administrator of the estate of Elizabeth Burke, deceased, late of Shelby County, \$812.

To Mitchell H. Butt, heir of Thomas P. Butt, deceased, of Maury

To Charles C. Burke, administrator of the estate of Elizabeth Burke, deceased, late of Shelby County, \$812.

To Mitchell H. Butt, heir of Thomas P. Butt, deceased, of Maury County, \$465.

To George N. L. Buyers, administrator of the estate of Nelson M. Buyers, deceased, late of Maury County, \$425.

To S. J. McDowall, administrator of James F. Calhoon, deceased, of Bedford County, \$290.

To James M. Campbell, of Maury County, \$200.

To A. A. Wade, administrator of S. L. Carpenter, deceased, late of Fayette County, \$468.

To Virginia Carter, administrator of the estate of Melvina A. Carter, deceased, of Hardeman County, \$240.

To William F. Carter, administratrix of the estate of Melvina A. Carter, deceased, of Hardeman County, \$240.

To Effic Cawood, administratrix of the estate of Alexander Cawood, deceased, of Sullivan County, \$390.

To Edgar Cherry and James M. Head, executors of William H. Cherry, deceased, of Hardin County, \$2,787.

To C. H. Corn, administrator of the estate of John Chitwood, deceased, of Franklin County, \$200.

To J. W. Cloyd, administrator of the estate of John Chitwood, deceased, of Franklin County, \$200.

To Sylvannus Cobble, of Greene County, \$475.

To Salvannus Cobble, of Greene County, \$475.

To Ida J. Cole, sole heir of Martha C. Cole, deceased, of Shelby County, \$923.

To Andrew A. Colter, of Sevier County, \$173.

To Elam C. Cooper, of Lauderdale County, \$185.

To John Coppinger, of Monroe County, \$315.

To John Coppinger, of Monroe County, \$355.

To Thomas W. Crutchfield, executor of the estate of Rebecca Cummings, deceased, late of Hamilton County, \$385.

To To Thomas W. Crutchfield, executor of the estate of Rebecca Cummings, deceased, of Hamilton County, \$365.

To R. C. M. Cunnyngham and W. H. Cunnyngham, executors of the estate of Elvina Cunnyngham, deceased, of Rhea County, \$933.

To C. R. Holmes, administrator of the estate of Harriet Day, deceased, of Glies County, \$310.

To William H. Dawson, of Monroe County, \$680.

To Robert A. Dickson, of James County, \$680.

To William

The amendment was agreed to. The next amendment was, on page 78, beginning in line 22, to strike out, down to and including line 16, on page 88, as

follows:

follows:

To Warham Easley, of Loudon County, \$2.807.
To Edward W. Eggleston, of Williamson County, \$590.
To Joseph Ewing, of Maury County, \$90.
To John B. McEwen, executor of the estate of Lemuel Farmer, deceased, of Williamson County, \$340.
To W. F. Forbes, administrator of Archie B. Forbes, deceased, late of Memphis, \$2,600.
To Rial Foster, of Maury County, \$135.
To Julia Gailey, sole heir of Hiram Galley, deceased, of Wayne County, \$232.
To John W. Harvey, jr., administrator of the estate of Z. H. German, deceased, late of Williamson County, \$500.
To John G. Henson, guardian of Mrs. Catherine J. Gilson (insane), and administrator of the estate of Samuel L. Gilson, deceased, of Knox County, \$945.

To John G. Henson, guardian of Mrs. Catherine J. Gilson (Insane), and administrator of the estate of Samuel L. Gilson, deceased, of Knox County, \$945.

To Minna H. Glassie, of Davidson County, \$1,410.

To George W. Pearson, administrator of the estate of Charles Gotthardt, deceased, late of Perry County, \$1,575.

To Peter H. Harlan, administrator of the estate of George B. Harlan, deceased, of Davidson County, \$1,060.

To D. N. Kelley, administrator of the estate of Daniel B. Harold, deceased, of Bradley County, \$1,265.

To James C. Anderson, administrator of the estate of Thomas C. Hawley, deceased, late a resident of Hamilton County, \$1,030.

To W. O. Batey, administrator of John Haynes, deceased, late of Rutherford County, \$675.

To R. M. Rogan, administrator of the estate of F. S. Heiskell, deceased, of Knox County, \$390.

To W. R. Henson, administrator of the estate of John Henson, deceased, of Sequatchic County, \$2,990.

To John A. Herrod, of Rutherford County, \$400.

To John T. Hester, administrator of the estate of John W. Hester, deceased, late of Fayette County, \$1,190.

To Charles W. Hewgley, of Wilson County, \$580.

To J. M. Nelson, administrator of the estate of John R. Hickman, deceased, of Rhea County, \$195.

To Henry E. Hilliard, of Fayette County, \$1,115.

To J. B. Carter, administrator of estate of Catherine Hopson, deceased, late of Claiborne County, \$90.

To Sarah Bibb, Ada B. Ewing, Alice G. Warner, Benjamin M. Hord, Mildred Washington, and Thomas E. Hord, sole heirs of Thomas Hord, deceased, late of Rutherford County, \$2,913.

To R. P. Moss, administrator of the estate of Brice M. Hughes, deceased, late of Williamson County, \$300.

To John Hughes, of Shelby County, \$43.33.

To Baxter Smith, administrator of the estate of Hugh C. Jackson, deceased, of Dayldson County, \$2.795.

To Robert C. Jameson, administrator of the estate of Dayld Jameson, deceased, late of Shelby County, \$300.

To J. E. Smalling, administrator of Henry Johnson, deceased, late of Williamson County, \$450.

To Richard M. Johnson, of Dekalb County, \$183.26.

To Mrs. Pettie Light Johnston and Mrs. Scrappy Light Bradshaw, of Dyer County, \$327.50.

To Nathaniel W. Jones, of Maury County, \$480.

To Henry J. Kinzel, of Knox County, \$60.

To E. M. McNamee, administrator of the estate of John Krider, deceased, of Fayette County, \$221.

To William H. Landrum, of Gibson County, \$257.

To Annis Lawrence, of Fayette County, \$415.

To Maria Lester, widow of Joe. Lester, deceased, of Giles County, \$225.

To Abner D. Lewis, of Fayette County, \$200.

ceased, of Fayette County, \$221.
To Milliam H. Landrum, of Gibson County, \$415.
To Maria Lester, widow of Joe. Lester, deceased, of Giles County, \$228.
To Maria Lester, widow of Joe. Lester, deceased, of Giles County, \$229.
Anner D. Lewis, of Fayette County, \$250.
To Elabarth Lewis, of Williamson County, \$220.
To Benjamin F. Lillard, administrator of the estate of Benjamin Illiard, deceased, late of Rutherford County, \$16,805.
To A. J. Williford, administrator of estate of Charity M. Locke, deceased, late of Shelby County, \$605.
To R. D. Grizzle, administrator of the estate of James G. Logan, deceased, late of Gaministrator of the estate of John McClarin, deceased, late of Giles County, \$7,315.
To W. A. Simpson, administrator of the estate of John McClarin, deceased, late of Giles County, \$7,315.
To W. S. Shannon, administrator of the estate of David V. Marney, deceased, of Roane County, \$877.
To O. S. Shannon, administrator of the estate of William M. Mayfield, deceased, of Williamson County, \$650.
To James E. Maccham, of Hamilton typ, \$27,250.
To Marney, deceased, administrator of James P. Moore, deceased, late of Maury County, \$2,100.
To John B. Fariss, administrator of James P. Moore, deceased, late of Maury County, \$2,100.
To John H. Neely, administrator of James P. Moore, deceased, late of Maury County, \$2,200.
To John H. Neely, administrator of the estate of Heary M. Neely, deceased, of Sunner County, \$5,232.
To Mary K. Henry, Alice A. Pope, Jennie Alexander, and Nannie Newby, helrs of Oswell P. Newby, deceased, late of Memphis, \$4,500.
To Francis M. Newhouse, administrator of the estate of Charles N. Ordwy, deceased, of Giles County, \$3,025.
To Henry Pepper and Elizabeth H. Cleveland, of Bedford County, 100,000.
To Francis M. Newhouse, administrator of estate of W. W. Newhouse, deceased, late of Giles County, \$3,025.
To Henry Pepper and Elizabeth H. Cleveland, of Bedford County, 110,000.
To Francis M. Newhouse, administrator of the estate of Charles N. Ordwy, deceased, of Giles County, \$2,05.
To Henry P

To William Stone, heir of Mark Stone, deceased, of Maury County, \$110.

To M. T. Swick, of Hamilton County, \$1,985.

To North Memphis Savings Bank, administrator of the estate of Mary F. Swindell, deceased, late of Shelby County, \$650.

To Clarissa H. Tipton, administratrix of Isaac Tipton, deceased, of Knox County, \$82.

To George Todd, of Maury County, \$110.

To Mrs. Sallie H. Perkins, daughter and heir of J. J. Todd, deceased, of Shelby County, \$5,684.

To Alpheus Truett, of Williamson County, \$790.

To George T. and Guy P. Vance, executors of the estate of William L. Vance, deceased, of Memphis, \$41,667.

To Ezeklah W. Walker, of Henderson County, \$300.

To Jesse A. Wallace, of Hamilton County, \$215.

To Florence Walters, Eli Walters, and Dora Mahon, heirs of Mary E. Walters, deceased, late of Williamson County, \$490.

To W. P. Boales, administrator of the estate of A. J. Wiglesworth, deceased, of Fayette County, \$105.

To Edmond W. Williams, executor of Joseph R. Williams, deceased, late of Shelby County, \$11,440.

To George T. Wilson, of Williamson County, \$60.

To W. M. Wilson, administrator of the estate of William S. Wilson, deceased, of Fayette County, \$315.

To J. R. Wright, administrator of the estate of Nancy Wright, deased, of Hardeman County, \$225.

To the trustees of the Missionary Baptist Church, of Antioch, \$600,

The amendment was agreed to.

The next amendment was, on page 88, beginning in line 19, to strike out down to and including line 23, as follows:

To the trustees of the Baptist Church, of Bolivar, Hardeman County, \$3,400. To Hiwassee Masonic Lodge, No. 188, of Calhoun, \$620.

The amendment was agreed to.

The next amendment was, on page 89, beginning in line 1, to strike out down to and including line 20, as follows:

strike out down to and including line 20, as follows:

To the trustees of the Cumberland Presbyterian Church, of Charleston, \$530.

To the trustees of the Methodist Episcopal Church South, of Charleston, \$960.

To the trustees of the Methodist Episcopal Church South, of Chattanooga, \$1,800.

To the vestry of St. Paul's Protestant Episcopal Church, of Chattanooga, \$1,500.

To the trustees of the Cumberland Presbyterian Church, of Clarksville, \$1,200.

To the Cleveland Masonic Lodge, No. 134, of Cleveland, \$940.

To the trustees of the Methodist Episcopal Church South, of Cleveland, \$3,000.

To the trustees of the Cumberland Presbyterian Church, of Clifton.

To the wardens and vestry of St. Peter's Protestant Episcopal Church, of Clifton, Columbia, Maury County, \$3,120.

The amendment was agreed to.

The next amendment was, on page 89, to strike out lines 23 and 24, as follows:

To the trustees of the Mill Creek Baptist Church, of Davidson County, \$1,650.

The amendment was agreed to.

The next amendment was, on page 90, beginning in line 4, to strike out down to and including line 20, as follows:

strike out down to and including line 20, as follows:

To the trustees of the Christian Church of Franklin, \$620.
To the trustees of Hiram Lodge, No. 7, Free and Accepted Masons, of Franklin, \$2,120.

To the trustees of the Methodist Episcopal Church South, of Franklin, \$875.

To the deacons of the Missionary Baptist Church, of Franklin, \$600.
To the trustees of the Presbyterian Church of Franklin, \$800.
To Clifton Lodge, No. 173, Free and Accepted Masons, of Clifton, Wayne County, \$1,500.
To Franklin Lodge, No. 4, Independent Order of Odd Fellows, of Franklin, \$1,200.

The amendment was agreed to.

The next amendment was, on page 90, beginning in line 23, to strike out down to and including line 6, on page 91, as follows:

To the wardens and vestrymen of the St. Paul's Episcopal Church, of Franklin, \$2,450.

To the treasurer of Howard Lodge, No. 13, Independent Order of Odd Fellows, of Gallatin, \$2,300.

To the board of deacons of the Germantown Baptist Church, of Shelby County, \$1,250.

The amendment was agreed to.

The next amendment was, on page 91, to strike out lines 9 and 10, as follows:

To G. S. Lannom, receiver of the Humboldt Female College, of Gibson County, \$4,100.

The amendment was agreed to.

The next amendment was, on page 91, to strike out lines 23 and 24, as follows:

To the Cumberland University, of Lebanon, \$8,000.

The amendment was agreed to.

The next amendment was, on page 92, to strike out from line 5 to line 15, inclusive, as follows:

To the Grand Lodge, Independent Order of Odd Fellows of the State To the Grand Lodge, Independent Order of Odd Fellows of the State of Tennessee, \$700.

To the board of deacons of the First Baptist Church of Memphis, \$1,200.

To the trustees of the Union University, of Murfreesboro, \$5,474.

To the trustees of Mount Olivet Methodist Episcopal Church South, of Nolensville, \$390.

The amendment was agreed to.

The next amendment was, on page 92, beginning in line 20, to strike out down to and including line 23, as follows:

To the trustees of the Cumberland Presbyterian Church, of Pulaski, \$700.

To the trustees of the Methodist Episcopal Church South, of Saulsbury, \$240.

The amendment was agreed to.

The next amendment was, on page 93, beginning in line 5, to strike out down to line 7, as follows:

To the trustees of the Methodist Episcopal Church South, of Triune, Williamson County, \$3,800.

The amendment was agreed to.

The next amendment was, on page 93, beginning in line 12, to strike out down to and including line 17, as follows:

To the trustees of Washington College, \$4,200.
To the trustees of the Cumberland Presbyterian Church of Waverly, \$1,040.

To the trustees of the Eudora Baptist Church, of White Station, \$1,295.

The amendment was agreed to.

The next amendment was, on page 93, beginning in line 20, to strike out down to and including line 9, on page 24, as

TEXAS.

To Mrs. Gertrude O'Bannon, of Hunt County, \$1,350.

To Mary A. Shaw, of Corpus Christi, Nueces County, \$700.

To Robert E. Williams, John T. Williams, Mary E. Williams, George M. Williams, and Ida Williams Eddy, heirs of estate of Robert M. Williams, deceased, of the city of Dallas, late a resident of Cooper County, Mo., \$1,140.

VERMONT.

To Henrietta V. Dale, widow of John J. Dale, deceased, of Windham County, \$124.06.

The amendment was agreed to.

The next amendment was, under the subhead "Virginia," on page 94, after line 10, to strike out:

The amendment was, under the subhead "Virginia," on page 94, after line 10, to strike out:

To Thomas R. Hardaway, administrator of the estate of Alfred Anderson, deceased, of Amelia County, \$783.

To Edward Anderson, administrator of Mary Anderson, deceased, late of Alexandria County, \$8,150.

To Robert G. Griffin, Catharine H. Harris, and Isaac P. Cromwell, administrators of the estate of Hannah T. Cromwell, deceased, sole heirs of the estate of Robert Anderson, deceased, of York County, \$18,475.

To John H. Baker, of Clark County, Kans., formerly of Shenandoah County, Va., \$790.

To John H. Baker, of Clark County, Kans., formerly of Shenandoah County, Va., \$790.

To Mary S. Bland, Anna Bland, and Sue P. Bland, legal heirs of Theodoric Bland, deceased, late of Prince George County, \$3,600.

To Rosa M. Bowden, Zenobia Porter, Mary E. Bowden, and Martha Bowden Gustin, heirs of Lenucl J. Bowden, deceased, late of the city of Williamsburg, \$3,540.

To Francis M. Brobham, of Loudoun County, \$500.

To Solomon P. Brockway, of Angusta County, \$92,64.

To the heirs of John B. Brown, deceased, late of Alexandria County, \$800, to be proportioned as follows:

To Harriett A. Mills, four-inths, or \$355,55.

To Addison M. Brown, one-ninth, or \$88,89.

To William A. Law, two-ninths, or \$177,78.

To Maye C. Law, two-ninths, or \$177,78.

To Maye C. Law, two-ninths, or \$177,78.

To Maye C. Law, two-ninths, or \$177,78.

To Mariah McDermott, administrativa of the estate of William Burley, deceased, late of Alexandria County, \$75.

To Francis F. Curtis, of Fauquier County, \$603,75.

To Francis F. Curtis, of Fauquier County, \$603,75.

To Margaret M. Donnelly, widow of Edward W. Donnelly, deceased, of Fauquier County, \$300.

To Lewis Ellison and Helen Louise Crawford, heirs of Lewis Ellison, deceased, late of Dinwiddle County, \$3,300.

To Margaret R. Shipley, administrator of the estate of John Flower, deceased, late of Englier and Science of Fauguier County, \$300.

To Noah Folz, of Page County, \$3,300.

To Robert M. Wilkinson, admi

To William F. McKimmy, administrator of the estate of John McKimmy, deceased, late of Loudoun County, \$1,240.

To Eleanor McWilliams, administrativ of Henry McWilliams, deceased, \$575.

To R. G. Johnson, administrator of estate of Lewis W. Mann, deceased, late of Loudoun County, \$500.

To Robert M. Wilkinson, administrator of the estate of Samuel Marsh, deceased, late of the city of Norfolk, \$830.

To John B. Meyers, administrator of the estate of Alexander Myers, deceased, late of Charles City County, \$2,682.

To Elijah P. Myers, of Loudoun County, \$1,190.

To P. L. Williams, administrator of the estate of John S. Pendleton, deceased, late of Culpeper County, \$6,120.

To George W. Z. Black, administrator of the estate of Alexander Poland, deceased, late a resident of Loudoun County, \$4,200.

To Margaret A. Proctor, administrator of samuel K. Proctor, deceased, of Fauquier County, \$520.

To William H. Poland, administrator of the estate of John Poland, deceased, late a resident of Prince William County, \$2,017.

To John W. Kellar, administrator of the estate of Eliza J. Ricketts, deceased, of Washington County, \$645.

To Joseph Roberson, administrator of the estate of Joseph W. Roberson, deceased, of Fairfax County, \$420.

To the legal representatives of the estate of Felix Richards, deceased, late of Fairfax County, \$5,300.

To Joshua Sherwood, heir of Lewis A. Sherwood, deceased, late of Alexandria County, \$400.

To Sarah Lou Smith, Mary Ellen Smith, and Susan Virginia Smith, heirs of Sarah G. Smith, deceased, late of Stafford County, \$2,762.

To William H. Tallaferro, administrator of the estate of James G. Taliaferro, deceased, of King George County, \$8,910.

To John R. Taylor and Charles F. Taylor, of Fairfax County, \$4,323.

To Robert Waters, of Prince William County, \$5,58.

To W. C. Gill, administrator de bonis non of the estate of Edward O. Watkins, deceased, late of Chesterfield County, \$4,312.

To Addie L. Balley, sole heir of William G. Webber, deceased, late of Norfolk County, \$450.

To Mary E. White, S. M. White, Robert D. White, Henry K. White, and Laura B. Alexander, heirs of Joshua White, deceased, of Clarke County, \$550.

To Joseph Williams, of Washington, D. C., formerly of Fredericksburg, Va., \$821.

To Samuel A. Wine, executor of Michael Wine, jr., deceased, late of Shenandoah County, \$750.

To the trustees of Mount Zion Old School Baptist Church, near Aldie, Loudoun County, \$275.

To the trustees of the Alfred Street Baptist Church, of Alexandria, \$900.

To the trustees of the First Baptist Church of Alexandria, \$3,900.

To the vestry of St. Paul's Episcopal Church of Alexandria, \$2,000.

The amendment was agreed to.

The next amendment was, on page 100, after line 19, to strike

To the trustees of the Washington Street Methodist Episcopal Church South, of Alexandria, \$4,600.

The amendment was agreed to.

The next amendment was, at the top of page 101, to strike

To the trustees of Grace Episcopal Church, of Berryville, \$650.

To the trustees of Zoar Baptist Church, of Bristersburg, \$700.

To the trustees of Westover Church, of Charles City County, \$750.

To the trustees of the Salem Baptist Church, of Clarke County, \$600.

To the trustees of the Baptist Church of Culpeper, \$1,750.

To the trustees of Fairfax Lodge, No. 43, Ancient Free and Accepted Masons, of Culpeper, \$700.

To the trustees of the Methodist Episcopal Church South, of Culpeper, \$1,850.

To the vestry of St. Stephen's Protestant Episcopal Church, of Culpeper, \$1,000.

peper, \$1,000.

The amendment was agreed to.

The next amendment was, on page 102, after line 4, to strike out:

To the wardens and vestrymen of St. Paul's Episcopal Church, of Culpeper County, \$700.

The amendment was agreed to.

The next amendment was, on page 102, after line 10, to strike

To the trustees of the Calvary Episcopal Church, of Dinwiddie Court House, \$520.

To the trustees of Liberty Church, of Dranesville, \$700.

To the trustees of Makemie Presbyterian Church, of Drummondtown, \$400.

To the trustees of the Methodist Episcopal Church of Drummondtown, \$300.

The amendment was agreed to.

The next amendment was, on page 102, after line 22, to strike

To the trustees of Union Church, of Falmouth, \$750.

The amendment was agreed to.

The next amendment was, on page 103, after line 2, to strike

To the trustees of Andrew Chapel, Methodist Episcopal Church South, of Fairfax County, \$450.

The amendment was agreed to.

The next amendment was, on page 103, after line 12, to strike

To the trustees of Grove Baptist Church, of Fauquier County, \$600. To the trustees of Mount Horeb Methodist Episcopal Church South, of Fauquier County, \$150.

The amendment was agreed to.

The next amendment was, on page 103, after line 21, to strike out:

To the trustees of the Mount Zion Church of United Brethren, of Frederick County, \$800.

To the trustees of the Christian Church of Fredericksburg, \$2.125.
To the trustees of the Fredericksburg Baptist Church, of Fredericksburg, \$3,000.

To the trustees of Fredericksburg Lodge, No. 4, Ancient Free and Accepted Masons, of Fredericksburg, \$610.

To the trustees of the Presbyterian Church of Fredericksburg, \$2.625.
To the trustees of St. George's Episcopal Church, of Fredericksburg, \$900.

\$900. To the trustecs of St. Mary's Catholic Church, of Fredericksburg,

To the trustees of St. Shiloh (old site) Baptist Church, of Fredericksburg, \$1.500.

To the trustees of Ebenezer Methodist Episcopal Church South, of Garrisonville, \$600.

The amendment was agreed to.

The next amendment was, on page 104, after line 17. to strike out:

To the trustees of Abingdon Protestant Episcopal Church, of Gloucester County, \$650.

To the trustees of the Muhlenberg Evangelical Lutheran Church, of Harrisonburg, Rockingham County, \$925.

To the vestry of St. Paul's Protestant Episcopal Church, of Haymarket, Prince William County, \$1,000.

The amendment was agreed to.

The next amendment was, on page 105, after line 2, to strike out:

To the trustees of Olive Branch Christian Church, of James City County, \$410.

To the trustees of the Methodist Episcopal Church South of Jeffersonton, \$325.

The amendment was agreed to.

The next amendment was, on page 105, after line 8, to strike

To the trustees of the Opequon Presbyterian Church, of Kernstown, \$1.750.

To the trustees of Fletcher Chapel, of King George County, \$1.500.

To the vestry of Lambs Creek Protestant Episcopal Church, of King George County, \$800.

To the trustees of the Methodist Episcopal Church of Lamberts Point, \$780.

The amendment was agreed to.

The next amendment was, on page 105, after line 18, to strike

To the trustees of the Presbyterian Church of Lovettsville, \$425.

To the trustees of the Presbyterian Church of McDowell, Highland County, \$150.

To the trustees of the Methodist Episcopal Church South of Marshall, \$600.

\$600.

To the trustees of the Presbyterian Church of Marshall, \$300.

To the trustees of Massaponax Baptist Church, of Massaponax, \$195.

To the trustees of the Methodist Episcopal Church South of Middleburg, \$195.

To the trustees of the Methodist Episcopal Church of Middletown,

\$851.

The amendment was agreed to.

The next amendment was, on page 106, after line 10, to strike out:

To the wardens of the St. Thomas Episcopal Church, of Middletown, \$600.

The amendment was agreed to.

The next amendment was, on page 106, after line 20, to strike out .

To the trustees of Roper Church, of New Kent County, \$250.

To the trustees of the Oak Grove Methodist Episcopal Church, of Norfolk County, \$1,290.

To the trustees of the Downing Methodist Episcopal Church South, of Oak Hill, \$235.

To the trustees of the New Hope Baptist Church, of Orange County, \$150.

the trustees of the Methodist Episcopal Church South of Paris,

\$200.
To the wardens and vestrymen of the Merchant's Hope Protestant Episcopal Church, of Prince George County, \$1,150.
To the trustees of the Methodist Episcopal Church South of Pungoteague, \$780.
To the St. George Protestant Episcopal Church, of Pungoteague, \$2,800.

The amendment was agreed to.

I dislike to interrupt the Mr. BACON. Mr. President, progress of the consideration of this bill, but it strikes me that the situation is not exactly fair to Senators. The bill was taken up this morning, and the question was distinctly presented whether the bill should be read through or whether it should be read for amendment; and the Senator from Massachusetts [Mr. Longe] insisted that the bill should be read through without being taken up for amendment. There is now, I understand, an agreement to the contrary on the part of some of the Senators, that the Senate shall proceed with the bill for

the purpose of acting upon amendments.

This is a bill in which almost every Senator in this Chamber is interested, and interested particularly in these amendments, and Senators have evidently absented themselves, gone to luncheon, and to their committee rooms, and so forth, with the understanding that the bill was simply to be read and that no amendments were to be acted upon until after the bill had been read. I speak for myself when I say that there has been an amendment already acted upon, the adoption of which I certainly would have opposed if I had been present. I was absent, as most Senators are, during the lunch hour, and I think it is hardly fair to the great body of Senators to proceed in this way when we have a comparatively empty Chamber. I presume almost every Senator interested in this bill like myself has been absent during the luncheon hour upon the understanding that the bill would be proceeded with under the order already made.

I do not wish to interfere, but I want to suggest to the Senator in charge of the bill that Senators will feel that they have not been treated with perfect fairness in regard to the matter.

Mr. CRAWFORD. I will say to the Senator from Georgia that when I called up the bill I requested that its formal reading be waived and that it be read for amendment. The Senator from Massachusetts asked for the first formal reading of the bill, and the clerk proceeded to comply with that request. himself afterwards moved that the formal reading be dispensed with and that the bill be read for amendment.

Mr. BACON. The Senator will pardon me for a suggestion. Not only was it as stated by him, but, in addition thereto, after the Senator from Massachusetts had asked for the reading of

consent that it be taken up and read for amendment, and the Senator from Massachusetts declined and desired that the bill be read in full, which emphasized the fact that the bill would

be read in its entirety.

Mr. CRAWFORD. I simply want to say to the Senator that the fact that the bill is now being read for amendment is not due to any action on the part of the chairman of the committee in charge of the bill, but is due to the fact that the Senator who insisted on its formal reading himself moved that the formal reading be dispensed with and that the bill be read for amendment, which was agreed to by unanimous consent. So that it is hardly fair to put the chairman of the committee in the attitude of continuing in this way through some motion of his own, when it is the result of a motion made by the Senator who

himself had asked for the formal reading of the bill.

Mr. BACON. If the Senate had been put upon notice of the change, of course there could be no possible criticism of what has been done; but having left the Chamber, and with Senators absent on the understanding referred to, and absent at a time when most of them are usually absent, it seems to me it is but fair that they should be put upon notice of the fact that a bill in which they are all interested had been given a different direction from that which they understood would be followed. I do not know of any remedy in the matter except to reserve every amendment that is acted upon now and have it acted upon again in the Senate. That will be the result, and the Senator will not gain any time by this procedure. That is undoubtedly what will result-that every amendment will be

Mr. CRAWFORD. I wish again to disclaim being responsi-ble for that situation. There was a good number of Senators here, and the Senator from Massachusetts, who had asked for the formal reading, himself made the request here in the open Senate; all who were present were, of course, apprised of it, and there was no objection to it. It was acted upon.

I assure the Senator from Georgia that there are too many complications connected with and too large a number of items in this bill for me in the slightest degree to involve the Senate in any unnecessary repetition of its work, and I have no such

purpose.

Mr. BACON. I am not reflecting upon the Senator in any way, but I thought it proper to call attention to the fact that a bill in which all Senators, with scarcely an exception, have a more or less direct interest is being proceeded with in this way when they are not informed of the fact.

Mr. CLARKE of Arkansas. Mr. President, I do not think the manner in which the Senator from South Dakota is proceeding is prejudicial at all to the interests of those who desire this bill passed. Reference to the history of the bill here will con-

firm what I say.

This bill was prepared for passage at the last session of Congress. In the draft presented to the Senate individual claims were largely omitted and the provisions of the bill confined to adjudicated claims in favor of churches and schools. There is such a great congestion of claims that if all were included in the bill at this time the consideration of the bill would be protracted beyond the time the Senate would be willing to devote to its attention. I think we make real progress when we separate the bill with reference to the class of claims to be included in it and to get out of the way of disputed claims those whose validity and propriety are admitted.

I do not believe that if every Senator interested in this bill was in his seat there would be serious objection to the manner in which the Senator from South Dakota is now proceeding. Whatever differences of opinion exist between the two Houses can and will be reconciled in conference, where the different views may be presented, and those claims as to which there is disagreement can be remitted for subsequent consideration.

I approve entirely of what the Senator from South Dakota is doing, because I believe it is in the interest of an expeditious disposition of a very large and pressing class of claims and one for which there is being made a more earnest and more repeated appeal from my section of the country than for any other items in the bill.

The PRESIDING OFFICER (Mr. JOHNSTON of Alabama in the chair). The reading of the bill will be proceeded with. The Secretary resumed and continued the reading of the bill

to the end of line 18 on page 107.

Mr. GALLINGER. Mr. President, I desire to ask the chairman of the committee—perhaps I ought to know without asking the question-whether these church claims are claims which grew out of the Civil War.

Mr. CRAWFORD. All of them, Mr. President, and all of the bill, the Senator from South Dakota asked if he would not | them which are reported favorably by the committee are for

churches that were destroyed, and destroyed not as a military necessity, but destroyed while occupied as storehouses or hospitals or were destroyed for the purpose of using the material in the construction of bridges and things of that sort.

Mr. GALLINGER. I will ask the Senator a further question as to the approximate number of claims of a similar nature that have been filed, which are now before the committee and have not been acted upon and are not in this bill. Are these claims for the destruction of churches a half a century ago

constantly coming in?

Mr. CRAWFORD. The items of that character which are in this bill are mostly claims that have been reported from the Court of Claims during the last 10 years, up to and including the year 1911. This bill, however, as reported by the committee contains a clause which, if it should go through and meet with the approval of the President of the United States, will stop the sending of any further claims of this character to the Court of Claims; and I think that is one of the best provisions in the bill as reported by the committee.

Mr. GALLINGER. If that be so, and if that could be settled now and forever, it would be a substantial reason in my mind why the bill should pass. But I will ask the Senator if a future Congress may not repeal that provision in the pending

Mr. CRAWFORD. Undoubtedly, Mr. President. Bars which have been erected repeatedly against these claims have been overridden by Congress, and I presume that could happen

Mr. GALLINGER. I am not going to make any factious opposition to this class of claims, but it has seemed to me extraordinary, absolutely incomprehensible, that we should have bills of this character, reimbursing for the destruction of churches in whole or in part, presented to Congress 50 years after the close of the war.

I recall the fact that two or three years ago a very distinguished Senator on the other side of the Chamber declared in debate—possibly he spoke a little hurriedly—that these cases were all fraudulent and that it was time we stopped paying

any of them.

Mr. OVERMAN. Mr. President, I think the Senator from New Hampshire is mistaken about that. I think he refers to the cotton claims and claims for the destruction of property, but not to churches.

Mr. GALLINGER. Well, the Senator from New Hampshire is absolutely correct in what he has said, as he remembers it.

I said possibly the Senator spoke somewhat hurriedly.

Mr. CLARKE of Arkansas. No, Mr. President, I did not speak hurriedly, but I did not speak about church claims. Their claims do not sound in positive right. They are somewhat of a military benevolence. Claims of this character came in for consideration at the instance of former Senator Hoar of Massachusetts. It was not intended that they should be scrutinized from a legal standpoint as are individual claims. I spoke of claims for the destruction and consumption of property by the Army. I have said repeatedly that at this late day and time it is utterly impossible to get at the right of one per cent of them, and they are worked up by claim agents and constructive claimants, persons who are constructively and remotely interested in them. I have no better opinion of them than I have of the French spoliation claims; and I do not hesitate to express myself. But these church claims are on an entirely different footing. It is a matter of the benevolent recognition of the ravages of war upon a subject against which war is not usually directed.

Mr. CRAWFORD. If the Senator from New Hampshire will look through the bill as reported by the committee and the report made by the committee, I think he will find ample evidence of the desire on the part of the committee to rid this bill of the objectionable claims which he has in mind, because I think the report of the committee eliminates about four-fifths of the private claims. If this is sustained here, the conference committee will have to settle the question upon its

merits as between the two Houses.

Mr. GALLINGER. Mr. President, I have been gratified, in looking at the bill, to observe that a very large proportion of that class of claims has been stricken from it.

I will not enter into a controversy with my good friend the Senator from Arkansas as to the exact language he used, but will content myself by suggesting to him that if he will go back to the Record he will find that I have stated the case substantially correct.

I simply rose for the purpose of expressing the hope that after the passage of this bill we would stop—

Mr. CLARKE of Arkansas. I join with the Senator in that

Mr. GALLINGER. That we would pay these little claims, some of which are just, while probably a great many have been

worked up by claim agents—
Mr. CRAWFORD. May I give notice?

Mr. GALLINGER. Certainly.

Mr. CRAWFORD. I simply desire to keep this bill before the Senate during the morning hour until it is disposed of, to carry out my obligations to Senators whom I promised I would bring up the bill.

Mr. GALLINGER. I have now said all I care to say, Mr.

President.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. Bacon) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives

appeared in the seats provided for them.

The PRESIDENT pro tempore. The Senate is in session as a Court of Impeachment. The Sergeant at Arms will make proclamation.

The Assistant Sergeant at Arms (Mr. E. Livingstone Cor-

nelius) made proclamation as follows:

"Hear ye! Hear ye! The Senate of the United States, sitting as a Court of Impeachment, is now in session."

The PRESIDENT pro tempore. Senators who are present and have not taken the oath required in the impeachment case will present themselves at the desk for that purpose. The names of the Senators who have not so taken the oath will be called by the Secretary.

The Secretary called the names of Mr. Chilton, Mr. Davis, Mr. Lea, and Mr. Owen.
Mr. Davis advanced to the desk and the oath was administered

Mr. Davis advanced to the to him by the President pro tempore. The Senate sitting as a Court of Impeachment is now ready to proceed with the case. The Journal of the proceedings of the last day of the Court of Impeachment will be read.

The Journal of yesterday's proceedings was read and approved.

Mr. CULBERSON. Mr. President, I suggest the absence of

a quorum.

The PRESIDENT pro tempore. The Senator from Texas suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

TAMOTI CA COL	CHICIL MILLINGS,		
Ashurst Bacon Bankhead Borah Brandegee Bristow Brown Bryan Burtham Burtham Clapp Clark, Ark. Crane Culberson Cullom Cummins	Curtis Davis Dixon du Pont Fletcher Foster Gallinger Gardner Guggenheim Hitchcock Jackson Johnson, Me. Johnston, Ala. Kenyon La Follette Lippitt Lodge	McCumber McLean Martin, Va. Martine, N. J. Massey Myers O'Gorman Overman Page Penrose Perkins Perky Poindexter Pomerene Richardson Root Sanders	Shively Simmons Smith, Ariz. Smith, Ga. Smith, Md. Smith, Mich. Smoot Stephenson Sutherland Swanson Thornton Townsend Wetmore Works

Mr. WORKS. The senior Senator from Washington [Mr. Jones] is necessarily absent on business of the Senate.

Mr. PENROSE. My colleague [Mr. Oliver] is necessarily absent from the Chamber on account of his recent illness.

Mr. PAGE. I am still compelled to report the illness of my colleague [Mr. DILLINGHAM].

The PRESIDENT pro tempore. On the call of the roll of the Senate 65 Senators have responded to their names. A quorum of the Senate is present.

Mr. Manager CLAYTON. Mr. President, the managers desire to call the attention of the court to a verbal inaccuracy in the

proceedings of yesterday. It, perhaps, is immaterial— Mr. BORAH. Mr. President, I should like to submit a matter for the consideration of the managers, and I presume it should

be submitted through the President pro tempore.

The PRESIDENT pro tempore. The Senator will send it to the desk.

Mr. Manager CLAYTON. May I correct the printed record of yesterday before the managers are required to consider other matters?

The PRESIDENT pro tempore. The manager will proceed.

Mr. Manager CLAYTON. As I was proceeding to say, Mr.

President, perhaps this slight verbal inaccuracy is immaterial to the statement as made on yesterday, but for the sake of better English I desire to have a correction made in the record.

At the bottom of page 110 of the proceedings No. 5 had on yesterday, and on page 27, toward the top, of the Congressional RECORD, I desire to make a correction in this sentence:

The conduct of this judge has been exceedingly reprehensible and in marked contrast with the high sense of judicial ethics and probity which generally characterize American judges.

There should be a period there, and I desire to have a period. Then in lieu of the dash and in lieu of the word "that" I desire a new sentence to begin with the word "Let," so that the paragraph will read:

The conduct of this judge has been exceedingly reprehensible and in marked contrast with the high sense of judicial ethics and probity which generally characterize American judges. Let unworthy judges be shorn of power so that an upright and independent judiciary may be maintained for the perpetuation of our government of laws.

Instead of "government of law."

The PRESIDENT pro tempore. The correction will be made as desired by the manager.

Mr. Manager CLAYTON. Mr. President.

The PRESIDENT pro tempore. If the manager is through with the correction, the Chair will submit the matter which has been presented by the Senator from Idaho [Mr. Borah]. The Senator from Idaho propounds, in writing, the following inquiry for the consideration of the managers, and the Secretary will read it.

The Secretary read as follows:

Are the managers prepared at this time to present their brief as to our power to impeach for offenses or acts which were not committed or done during the term of the office which the party charged now holds?

Mr. Manager CLAYTON. Mr. President, on behalf of the managers, in reply to the suggestion, I beg to say that that question has been thoroughly considered by the managers, and they have no doubt that this judge can be impeached for a misbehavior of a grave character that he may have committed while he held the office of district judge, his tenure of the one having dovetailed into the tenure of the present office.

We have gathered as best we could the authorities to sustain that position. We began with the celebrated case of Judge Barnard, which is familiar, I assume, to all the lawyers in this body, and we have collated the other authorities touching upon that subject that we could find. We have made a brief, and we are prepared to make the argument on that proposition.

But, Mr. President, the managers have not up to this time deemed it proper or, I might say, advisable to bring that question to the attention of the court for the reason that we are pursuing in this case the practice which was pursued in other cases, notably the practice in the Swayne case. After the statement of facts in that case, as the present occupant of the chair knows, immediately the managers began the introduction of their witnesses, and neither the law nor the facts bearing upon any phase of the different controversies involved in that case were argued until the respondent had also made his opening statement and introduced his witnesses; and after all the witnesses had been examined, then the case was opened for discussion both upon the law and the facts.

So, Mr. President, the managers have followed what they deemed the practice to be in like cases.

Then another reason, Mr. President, why the managers have not brought that argument or that question to the attention of the Senate is because the managers were under the impression that the question itself had not been raised by the respondent or his counsel, and the managers thought as lawyers conducting this case that it was quite sufficient for them to take care of every question, both of law and fact, when that question was

Notwithstanding this view, the second reason that I have assigned, it was, however, the intention of the managers to invite the attention of the Senate to a consideration of that question in the orderly way in which the argument was conducted in the Swayne case and, I think, in other cases, because the managers realize that although the respondent or his counsel might not have raised that question they knew that the Senate would wish to be advised upon all the law of the subject, whether the respondent saw proper to raise any particular question or not.

I may say, therefore, Mr. President, while we are prepared to argue that proposition now, we do not think it advisable in view of what we have said, and in view of the further fact that we have a multitude of witnesses here now whom we expect to examine, and we had expected to proceed with the examination of the witnesses at this time, and in order that some of these witnesses who are away from their business might go home.

Therefore, Mr. President, unless the Senate shall indicate its desire that the managers do so it is not the purpose of the managers at this time to submit an argument on the question

which has been suggested by the Senator from Idaho.

Mr. WORTHINGTON. Mr. President, the counsel for the respondent have considered very carefully the question of raising at the beginning of the proceedings the question as to the impeachability of any of the offenses set forth in any of these articles. The answer to each article begins with an averment that the article does not set forth an impeachable offense; that the facts stated, if true, do not make the respondent responsible under the Constitution to this tribunal. We concluded that these questions—and in that we agree with the managers might be left until the evidence is closed. That course was pursued in the Swayne case and in the other impeachment cases, except in the case of Secretary Belknap, which was the last case before the Swayne case. In the Belknap case his counsel filed an answer which raised the question whether, as he was no longer a civil officer of the Government, he could be impeached. After a very long and able discussion of that question, a majority of the Senate held that he could be impeached notwithstanding the fact that he was no longer in the service of the Government. But less than two-thirds so held. Accordingly Belknap's counsel refused to file any answer on the merits, because more than one-third of the Senate had voted that the Senate had no jurisdiction. The case went on to a final conclusion, and then all the Senators, with the exception of two, who had voted at the beginning that the court had no

jurisdiction, voted not guilty on that ground.

I may add, Mr. President, that in what Mr. Manager Clayton has just said the managers are not to assume that we yield

the point which has been suggested by the Senator from Idaho.

Mr. Manager CLAYTON. Mr. President, in reply to the suggestion just interposed by the counsel for the respondent, the managers did credit to the honorable counsel to believe that he would raise that question before these proceedings were concluded. However, we believed and now believe that it would be proper for the Senate to know it, whether he raised it or not, and we prepared to give our view on that question and for that additional reason. We thought the counsel for the respondent was too good a lawyer not to avail himself of every possible defense that the respondent might be entitled to.

Mr. President, I therefore assume that the Senate does not at this time wish the managers to discuss the proposition which was suggested by the honorable Senator from Idaho.

Mr. President, we would like to have the witnesses called. Before having the witnesses called I desire to make a very brief statement, and that is that for the proper investigation of this case it has been necessary to bring here by subpœna a large number of witnesses. Many of these witnesses are men of affairs, of great affairs, in the business world, and the managers have undertaken to have enough witnesses before the Senate each day to occupy the entire time of the session daily. We have taken the liberty of telling some of the gentlemen who will be used as witnesses that we will call them hereafter by wire, and when they do come in response to such wire when we shall need them, we shall ask that they be then sworn and examined. We have therefore present to-day a part only of the witnesses on behalf of the House of Representatives.

We therefore ask at this time that the Secretary read the whole list of witnesses on behalf of the managers on the part of the House of Representatives, and then after that list is read I will do as the Chair may suggest, either have all the witnesses sworn en bloc or have each one sworn separately as we produce him to testify. If the Chair would prefer that each witness be sworn separately as he is produced, that course will be followed.

The PRESIDENT pro tempore. The presumption is that the Senate will allow the managers to pursue their own course in

Mr. Manager CLAYTON. I would therefore ask that the witnesses be called, and all of them required to enter the Chamber who are present to-day and that the oath be administered to them.

The PRESIDENT pro tempore. The Secretary will call the names of those who are here. Does the manager ask that the entire list of witnesses be now read?

Mr. Manager CLAYTON. Yes, sir.
Mr. WORTHINGTON. That is, witnesses for the managers.
Mr. Manager CLAYTON. Witnesses for the managers. Of course, I have no control and no disposition to control the matter of witnesses for the respondent.

The PRESIDENT pro tempore. The Secretary will read the

The Secretary read as follows:

The Secretary read as follows:

WITNESSES UPON WHOM SERVICE HAS BEEN MADE.

Leo Well, Pittsburgh, Pa.
Edward Loomis, New York City, N. Y.
W. H. Truesdale, New York City, N. Y.
John R. Wilson, Scranton, Pa.
M. Y.
John L. Seager, New York City, N. Y.
Douglas Swift, New York City, N. Y.
Douglas Swift, New York City, N. Y.
Elsen B. Thomas, New York City, N. Y.
T. J. Farrell, New York City, N. Y.
T. J. Farrell, New York City, N. Y.
George Russell, New York City, N. Y.
John Henry Jones, Scranton, Pa.
John M. Robertson, Scranton, Pa.
James H. Rittenhouse, Scranton, Pa.
Ledward R. W. Searle, Scranton, Pa.
Ledward R. Searle, WITNESSES UPON WHOM SERVICE HAS BEEN MADE. James H. Rittenhouse, Scranton, Pa.
John M. Robertson, Scranton, Pa.
Edward R. W. Searle, Scranton, Pa.
Edward R. W. Searle, Scranton, Pa.
Charles F. Conn, Scranton, Pa.
Miss Mary Boland, Scranton, Pa.
Rollin B. Carr, Scranton, Pa.
Rollin B. Carr, Scranton, Pa.
William A. May, Scranton, Pa.
William A. May, Scranton, Pa.
Edwin M. Rine, Scranton, Pa.
C. H. Von Storch, Scranton, Pa.
C. H. Von Storch, Scranton, D. C.
A. F. Gallagher, Washington, D. C.
B. H. Meyer, Washington, D. C.
W. W. Watson, Scranton, Pa.
Miss Veda M. Barber, Scranton, Pa.
F. L. Belin, Scranton, Pa.
James E. Brown, Scranton, Pa.
James E. Brown, Scranton, Pa.
Frank E. Donnelly, Scranton, Pa.
Henry W. Edwards, Scranton, Pa.
Henry W. Edwards, Scranton, Pa.
Henry A. Knapp, Scranton, Pa.
Henry A. Knapp, Scranton, Pa.
Joseph O'Brien, Scranton, Pa.
Jaseph O'Brien, Scranton, Pa.
Walter L. Schlager, Scranton, Pa.
Samuel H. Swingle, Scranton, Pa.

The PRESIDENT pro tempore. The Secretary will now proceed to read the names of witnesses who are present in order that they may be swern.

Mr. Manager CLAYTON. I suppose, Mr. President, that it would be a difficult matter for the Secretary to call the names

of witnesses.

The PRESIDENT pro tempore. Are the managers prepared to furnish the names of those whom they now wish to be sworn? If so, they will be called into the Chamber.

Mr. Manager CLAYTON. We will proceed to swear each

witness as we produce him.

The PRESIDENT pro tempore. Very well, if that course is

preferred.

Mr. Manager CLAYTON. And, Mr. President, in the division of labor, we have decided that Mr. Manager Webb, of North Carolina, shall examine the first witness; and the first witness that we now ask to call is Mr. Edward J. Williams.

Mr. Edward J. Williams entered the Chamber.

The PRESIDENT pro tempore. Please give your name and place of residence to the Secretary.

Mr. WILLIAMS. Edward J. Williams, 626 South Blakely Street, Dunmore, Pa.

Edward J. Williams sworn and examined.

Mr. Manager WEBB. Mr. President, is it desired that the witness shall sit or stand?

The PRESIDENT pro tempore. The present position of the witness is probably the one from which he can be best heard by the Senate.

Mr. Manager WEBB (to the witness). What is your full

name, Mr. Williams?

Mr. WORTHINGTON. Mr. President, may I ask a question? The practice differs. In some courts it is required that counsel examining a witness shall stand; but it is not customary where I have been; and I presume it is a matter about which the examining counsel or manager may use his judgment.

The PRESIDENT pro tempore. Absolutely on both sides. The managers and counsel may assume such posture as they

prefer.

Mr. POINDEXTER. Mr. President, is it required that the witness should remain standing while he is giving his testimony?

The PRESIDENT pro tempore. The Chair directed that he should, because he did not think that if the witness took his sent he could be heard on the other side of the Chamber.

Mr. POINDEXTER. I beg the Chair's pardon. I did not hear the order of the Chair.

The PRESIDENT pro tempore. It is for that purpose that it was directed that the witness should stand; otherwise, of course, he would be permitted to sit.

Q. (By Mr. Manager WEBB.) State your full name, Mr. Williams.—A. Edward J. Williams.

Q. Where were you born?-A. Born in Wales.

Q. How old were you when you came to America?—A. I am 73 now, and I was born in 1840. I came here in 1866.

Q. You came here when 26 years old?—A. I came in 1866.

In 1866?-A. Yes.

Q. Where have you lived since that time?—A. I first lived in Schuylkill County.

Q. Where do you live now?-A. I live in Dunmore.

Q. What is the name of the town?-A. I have lived in Olyphant before-42 years.

Q. How far is Olyphant from Scranton?-A. Six miles.

Q. Six miles from Scranton?-A. Yes, sir.

Q. How often have you visited Scranton during the last three

or four years?—A. Mostly every day except Sunday.
Q. Did you have an agreement with Judge Archbald to purchase what is known as a culm dump from one Robertson and from the Erie Railroad Co.?-A. No, sir; I never had an agreement with him.

Q. State to the Senate what connection you and the judge had, if any, about the leasing of a culm dump from Robertson & Law and from the Hillside Coal & Iron Co .- A. It was not lease, sir.

Q. Call it an "option."-A. It was an option to buy from the Erie their part-there were two owners to it-for \$4,500.

Q. That is from the Erie?-A. From the Erie-and \$3,500 to Mr. Robertson for his part.

Making a total that you were to give them of \$8,000?-Eight thousand dollars; yes, sir.

Q. Robertson & Law owned one part of it; is that right?-A. Robertson & Law.

Q. And the Erie Railroad Co., which owns the Hillside Coal & Iron Co., owned the other half?—A. Yes, sir.

Q. What did Judge Archbald have to do with it?-A. Why. the judge did not have anything to do any more than he gave me a letter to Capt. May; that is all he done.

Q. When was it that the judge gave you a letter to Capt.

May?—A. Well, I do not remember exactly the date of it. Q. What May is that—W. A. May?—A. W. A. May; yes, sir. Superintendent of the Hillside Coal & Iron Co.?-A. Yes, Q. sir.

Q. Which is owned by the Erie Railroad Co.?-A. Yes, sir.

Q. Do you know when that letter was written by Judge Archbald to Mr. May ?-A. I can not remember-I do not remember the date.

Q. Let me ask you if this is the letter:

SCRANTON, PA., March 31, 1911.

W. A. Max, Esq., Superintendent Hillside Coal & Iron Co.

DEAR SIR: I write to inquire whether your company will dispose of your interest in the Katydid culm dump belonging to the old Robertson & Law operation, at Brownsville? And if so, will you kindly put a price upon it?
Yours, very truly,

R. W. ARCHBALD.

Is that the letter?

A. I do not think so. I think that he only recommended me to him.

Q. Only recommended you to Mr. May?-A. Yes, sir.

Q. Did you ever see this letter [exhibiting]?—A. I never saw it; I never opened the letter. I took the letter as it was

Q. In consequence of the letter that you did take you went to Mr. May?-A. Yes, sir.

Q. What did he tell you?-A. Mr. May was not very willing to give it at the time.

Q. Did he talk roughly to you?—A. No; he did not.
Mr. WORTHINGTON. One moment. I submit, Mr. President, we had as well try this case with some appearance of conformity to the rules of a court. That was a leading question, which ought never to have been asked and should not be allowed to be answered.

The PRESIDENT pro tempore. Counsel, as far as possible,

will avoid leading questions.

Mr. Manager WEBB. Mr. President, later on, I think, it will be developed that it will be absolutely necessary to ask the Senate to cross-examine this witness. I shall conform as far as possible to the ordinary rules in an ordinary court, but, of course, we realize that this court has no limits as to its discretion as to what evidence shall be introduced.

Mr. WORTHINGTON. I should not like, by sitting silent, for a moment to consent to that proposition. I understand the Senate of the United States has held in every impeachment trial that it is governed by the rules of evidence.

Q. (By Mr. Manager WEBB.) Did you say that he did not want to consider the proposition when you first went to him with the letter of recommendation?-A. No; he did not give

Q. What did you do then?-A. He did not say he would give it to me.

Q. Did he decline to give you the option?-A. Well, he did not give it to me.

Q. Did he decline to do it?—A. Well, I do not remember exactly what his words were—his answer to me.
Q. Do you not know what his words were?—A. I did not

get it: that is all. Q. You want it to stand that way—that you did not get it?—A. Yes, sir.

Q. What did you do then when you did not get it? Did you go to Judge Archbald and tell him about it?

Mr. WORTHINGTON. I submit, sir, that we ought not to have this leading style of interrogatories until something has appeared to justify it. Before a committee of inquiry it seems to be the custom to lead the witness to say what he is expected to say; but I submit that in a tribunal which has the form and dignity of a court the witness should be allowed to testify and not counsel. Over and over again in impeachment proceedings the fact that a leading question was asked has been ruled to be improper, and over and over again the Presiding Officer has warned counsel not to ask leading questions. If it is necessary to inform the Senate about that, we can send for the history of these cases and read from the record. It ought not to be necessary; but certainly the managers know as well as we do that leading questions are prohibited here as well as in any court, unless there may be some exceptional case where the Senate may be satisfied that it is proper to do so because the witness is endeavoring to conceal the facts.

Mr. Manager WEBB. Mr. President, this is not what could

be construed as a leading question. I do not want the witness to tell me every little transaction he did outside of the main feature of this case. I simply asked him if he went to Judge Archbald. I do not want him to detail a great many other

things. I want to bring him up for the sake of time.
Q. (By Mr. Manager WEBB.) Tell what you did with reference to Judge Archbald after you did not get the option from Capt. May .- A. I told the judge that I did not get it; that is all.

Q. How long after you saw May was it that you told the judge you did not get it?—A. Right away.

Q. What did the judge say?-A. Well, the judge said he would see about it.

Q. What else did the judge say?-A. That is all.

Q. I ask you if he said anything about going to New York and seeing Mr. Brownell, general counsel of the Erie Railroad Co.

Mr. WORTHINGTON. I object to that as a leading question. As the court will see, in starting out, to have the manager do the testifying for a witness ought not to be allowed here in any case, and especially in such a case as this. The witness has not yet shown any indisposition to tell the truth. The managers are assuming that he is concealing facts, but nothing has appeared to justify that assumption. Why should not the manager write out what it is desired the witness shall say? Let me read from a case I have had occasion to cite on that subject in the Supreme Court of the United States. I think, perhaps, we may just as well spare the time now as on any other occasion, as this is the beginning of this trial. I read from an opinion delivered by the present Chief Justice of the Supreme Court in the case of Putnam against the United States in 162 United States Reports. In the conclusion of the opinion in that case, where this question was involved, the Chief Justice said:

case, where this question was involved, the Chief Justice said:

Brevity prevents a detailed review of the other cases on this subject previously mentioned in the margin hereof. Suffice it to say that an examination discloses that they all rest upon the mistaken idea which we have pointed out. Indeed, if the principles upon which these cases necessarily rest are pushed to their logical conclusion, they not only under the guise of an exception overthrow the general rule as to refreshing memory but also subvert the elementary principles of judicial evidence. The fact that these consequences are the legitimate and necessary outcome of the cases we have reviewed depends not on mere abstract reasoning but is demonstrated by the case of People v. Kelly (113 N. Y., 647, 651, 1889). In that case, upon the sole authority of Bullard v. Pearsall, it was held that where inconsistent or adverse statements had not been given by a witness for the State but, from mere forgetfulness or a wish to befriend the accused, the witness had omitted to testify to certain details, error had not been committed by the court in allowing the prosecuting attorney, for the purpose of refreshing the recollection of the witness, to inquire of him whether he

had not testified to the omitted facts before the committing magistrate and grand jury, and, upon his admission that he had done so, to ask if the statements theretofore made were not true, and that the affirmative reply of the witness was competent evidence to submit to the jury. Not only the error but the grave consequences to result from such a doctrine were aptly pointed out by Chief Justice Shaw in Commonwealth v. Phelps (11 Gray, 73), where an attempt was made to refresh the memory of a witness by reference to testimony before a grand jury not contemporaneously given.

Mr. President, that was a case in which the attention of the witness was called to statements he had previously made for the purpose of refreshing his memory that he had testified otherwise. Now, the managers, instead of doing that, are undertaking to do what is much more objectionable-putting language into the mouth of the witness here without calling his attention to anything that he has said heretofore. Counsel have no right to cross-examine except upon the theory that somewhere the witness has said things as to which he is being examined. I submit, Mr. President, that we ought not to start out in this trial of the respondent, who sits here, and have it concluded by the testimony of witnesses as to a matter so important that it might be vital to him without letting the witness in the first place go on and tell his story and see what he says, and then, if it is sought to put words in his mouth, let the Senate, after hearing him through, determine whether or not it is a case in which that sort of procedure shall be allowed.

The PRESIDENT pro tempore. Does counsel object to the

question propounded?

Mr. WORTHINGTON. We object to the question propounded for the reasons I have stated.

The PRESIDENT pro tempore. The manager will please state the question, so that it may be reduced to writing.

Mr. Manager WEBB. I asked the witness, when he returned from Mr. May, who had declined to allow him an option, what Judge Archbald said, and if he said anything about going to New York to see Mr. Brownell, who was the general counsel of the Erie Railway Co.

The WITNESS. Yes, sir.

The PRESIDENT pro tempore. The Chair is of the opinion that, in the absence of any suggestion of counsel as to what was said, the question would be competent as to his having gone there and something having been said which may afterwards be disclosed.

Mr. WORTHINGTON. As the witness has already answered the question, for the present purposes it is futile to proceed. I think the witness should be cautioned, when objection is made, not to answer a question until the Presiding Officer or the Sen-

ate has ruled upon it.

The PRESIDENT pro tempore. That is a very proper suggestion. The witness will be governed by that. Hereafter when there is an objection to testimony the witness will not reply until after the matter has been passed upon.

Q. (By Mr. Manager WEBB.) You say he did tell you that he would go to New York and see Brownell?—A. Yes, sir.

Q. What else did he say about it?—A. That is all. He did not say more than that. He said he would see about it.

Q. Do you know whether or not at that time the Eric Railroad Co, was a defendant in a suit then pending in the United States Commerce Court?

Mr. WORTHINGTON. I should like to cross-examine the witness before that question is put to him, to see what his source of knowledge is as to what was pending in the Commerce Court of the United States.

The PRESIDENT pro tempore. That can be brought out afterwards by counsel.

Mr. WORTHINGTON. Very well. Q. (By Mr. Manager WEBB.) Did you know that the Erie Railroad Co. was having a litigation before the Commerce I said that before in my testimony-that I Court?—A. Yes. seen it in the bill or what you call-

Q. The brief-the judge's docket?-A. Not in the brief-the bill of the next court that named all the trials-what do

you call them-the trial list?

Q. Where did you see that?-A. On the table, sir; on the desk.

Q. On the desk? Whose desk?—A. Mr. Archbald's desk.

Q. The judge's desk?—A. On the judge's desk.
Q. Where was that? In what building in Scranton?—A. That was in the Federal Building, sir.

Q. What did you see on this table, and what did it tell you, if anything, about these suits?-A. This trial list was on there. I looked at it, and there were two cases there against the Erie; and I said, What does this case mean—this lighterage case? What does "lighterage" mean, I said to the judge.

Q. You said that to the judge?—A. Yes, sir; and he told me what lighterage meant; that it was these little boats that

carry the cars across the river. That is all that was said about it.

Q. State whether or not he said anything about seeing Brownell and being able to do Mr. May an injury if he did not grant so small a request.

Mr. WORTHINGTON. Mr. President-

The WITNESS. No; he never said that.

Mr. WORTHINGTON. I do not see any use in objecting after the witness has answered.

The PRESIDENT pro tempore. What is the objection?

Mr. WORTHINGTON. I was about to object, Mr. President, but the witness has answered the question. I should like to see what the Reporter has got as his answer.

The PRESIDENT pro tempore. The witness will hereafter be careful when counsel objects to a question not to reply until the objection has been passed upon.

Mr. WORTHINGTON. I asked that the answer of the witness to the last question be read. I did not catch it.

The Reporter read as follows:

Q. (By Mr. Manager Webb.) State whether or not he said anything about seeing Brownell and being able to do Mr. May an injury if he did not grant so small a request?—A. No; he never said that.

Q. (By Mr. Manager WEBB). Did he say anything about May?—A. About May? I do not remember that he said anything—that he was going to see Brownell and Richardson—no; Brownell, he said, not Richardson. He did not say only one.

Q. Who is Brownell?-A. Brownell is one of the vice presidents of the Erie Co.

Q. He lives where?-A. He is counsel for them.

Q. And lives where?—A. He lives in New York, I suppose; I do not know.

Q. Why were you and the judge talking about the lighterage case?—A. This was in his office in the Federal building.

Q. But what did that have to do with the transaction? were you talking to him about the lighterage case?-A. I only took the thing up as I seen it on the table-on the desk.

Q. Did you know what a lighter was?-A. No, sir; didn't I tell you that I didn't know?

Q. And who did tell you what it was?-A. The judge told me what it was.

Q. What connection had the lighterage case with the Erie Railroad Co.?—A. Well, it was a lawsuit on that subject. I did not know what it was.

Q. State whether or not you knew that Mr. Brownell was marked as counsel for the Erie Railroad Co. in the lighterage

case?—A. I told you that; yes, sir.

Q. That he was counsel. Well, did the judge go to New York to see Brownell?—A. He did.

Q. How do you know?-A. I only know by what was told to me.

Q. By whom?—A. I do not remember whether the judge told me or not. I could not swear that the judge told me that.

Q. Did you see the judge about it after he had gone to New York?—A. Yes, sir; I did. This is all he told me: "I seen Capt. May, and he says 'You go over and get that." He told me "you shall have it." No more than that, sir.

Q. State whether or not the judge told you he had seen Brownell.—A. Well, I do not remember whether he told me or not that he seen Brownell. When he came back he told me to

go and get it, that he had met Capt. May.

Q. Who did—the judge?—A. The judge told me that; yes, sir.

Q. Well, what did you do when he told you to go and get that?-A. I went and got it.

Q. Got what?-A. Got the culm-got the contract.

Q. Got the option?—A. Yes, sir. Q. From whom?—A. From William A. May.

How long was it after you first saw May that you finally got the option?-A. I could not tell you; I could not say whether it was a week or whether it was two weeks; I do not remember.

Q. Let me ask you if this [reading to witness] is the

(Pennsylvania Coal Co., Hillside Coal & Iron Co., New York; Susquehanna & Western Coal Co., Northwestern Mining & Exchange Co., and Blossburg Coal Co.)

Office of the General Manager, Scranton, Pa., August 30, 1911.

Mr. E. J. WILLIAMS,
626 South Blakely Street, Dunmore, Pa.

DEAN SIR: As stated to you to-day verbally, I shall recommend the sale of whatever interest the Hillside Coal & Iron Co. has in what is known as the Katydid culm dump, made by Messrs. Robertson & Law in the operation of the Katydid breaker, for \$4.500.

In order that it may not be lost sight of, I will mention that any coal above the size of pea coal will be subject to a royalty to the owners of Iot 46, upon the surface of which the bank is located.

It is also understood that the bank will not be conveyed to anyone else without the consent of the Hillside Coal & Iron Co., and that if the offer its accepted articles of agreement will be drawn to cover the transactions action Yours, very truly,

W. A. MAY, General Manager.

Q. Is that his letter?—A. That is it.

Q. That is what you called an option?—A. Yes, sir.

Q. Prior to that time had you obtained the option from Mr. Robertson ?-A. I did, sir; yes.

Q. Who drew that option?-A. Robertson himself.

Mr. Manager WEBB. Mr. President, we offer this letter of August 30, 1911, from May to Williams, in evidence.

Q. (By Mr. Manager WEBB.) You say Mr. Robertson drew the option?-A. Yes, sir; on his part.

Q. Do you know Judge Archbald's handwriting?—A. Yes, sir, Q. I ask if this [handing letter to witness] is his handwriting? Can you read it?—A. Yes, sir.

Q. What is that?

Mr. WORTHINGTON. I do not know whether the managers wish to save time in this way, but, as we have already stated, we admit that that paper is in Judge Archbald's handwriting.

The Witness. I got one from Robertson himself-The PRESIDENT pro tempore. The witness will suspend.

The WITNESS. I got it a second time—
Mr. WORTHINGTON. So far as we are concerned, that paper may be read in evidence. We admit that it is in Judge Archbald's handwriting and is witnessed by himself.

Mr. Manager WEBB. I ask, Mr. President, that the Secretary read this agreement.

The PRESIDENT pro tempore. Does the manager desire that it shall be read at this time?

Mr. Manager WEBB. Yes, sir.

Mr. WORTHINGTON. Our admission does not apply to what is below the agreement itself. There is an acknowledgment there as to which we should like to have the evidence at the proper time.

Mr. Manager WEBB. I ask the Secretary to read.

The PRESIDENT pro tempore. The Secretary will read as requested.

The paper was read, as follows:

[U. S. S. Exhibit 2.]

This agreement made and concluded this 4th day of September, A. D. 1911, by and between John M. Robertson, of Moosic, Pa., of the one part, and Edward J. Williams, of Scranton, Pa., of the other part, witnesseth.

Whereas the said party of the first part is the owner of that certain culm dump in the vicinity of Moosic, made in the operation by the firm of Robertson & Law, of the so-called Katydid mine or colliery, and whereas the said party of the second part is desirous of purchasing the same.

and whereas the said party of the second part is desirous of purchasing the same.

Now, this agreement witnesseth, that for and in consideration of \$1 to him in hand paid, the receipt of which is hereby acknowledged, the said party of the first part hereby grants and conveys unto the said party of the second part, his heirs, executors, administrators, and assigns, the right or option to purchase his interest in and to the said culm dump for the price or sum of \$3,500, which said option is to be exercised within 60 days from this date, the terms to be cash within 5 days after the exercise of said option. It is understood that this option is intended to cover and include all the interest of the said party of the first part and of the said late firm of Robertson & Law.

In witness whereof the parties hereto have hereunto set their hands and seals the day and year aforesaid.

JNO. M. ROBERTSON. E. J. WILLIAMS.

Witness:

R. W. ARCHBALD.

STATE OF PENNSYLVANIA, County of Lackawanna, 88:

On this 12th day of September, A. D. 1911, personally appeared before me, a notary public in and for said State and county duly commissioned, residing city of Scranton, county aforesaid, the abovenamed E. J. Williams, who, in due form, of law acknowledged the foregoing indenture to be his act and deed and desired the same might be recorded as such.

Witness my hand and official seal the day and year aforesaid.

[SEAL.] GEO. W. BENEDICT, Jr., Notary Public.

(My commission expires March 10, 1913.)

Now. November 4, 1911, the terms of the within agreement are mutually extended for 30 days.

JNO. M. ROBERTSON. E. J. WILLIAMS. [SEAL.]

Recorded in the office for recording of deeds, etc., in and for Lackawanna County, Pa., in deed book 246, volume —, page 203, etc.
Witness my hand and seal of office this 13th day of September, A. D. 1911. [SEAL.] M. P. JUDGE, Recorder.

Mr. WORTHINGTON. Mr. President, let it be clearly understood by the Senate that the admission I just made does not apply to the acknowledgment just read. The admission is only as to Judge Archbald's signature. The managers will not claim that the acknowledgment is in the handwriting of Judge Arch-

bald.

Mr. Manager WEBB. We understand that. Mr. WORTHINGTON. No doubt it will appear later on who did write it, and why.

Mr. Manager WEBB. We should like to mark the first letter Exhibit No. 1 and the second No. 2; and we presume the Secretary will take care of the exhibits.

Q. (By Mr. Manager WEBB.) Mr. Williams, you say Judge Archbald drew this option or contract?-A. Yes, sir.

Q. And he witnessed it?

Mr. WORTHINGTON. I admit that that is his signature. Mr. Manager WEBB. All right.

Q. (By Mr. Manager WEBB.) When did you get another op-

tion from Mr. Robertson?-A. What-another one?

Q. Yes. You say you got another one that the judge did not draw?-A. I do not remember exactly. I think I did; I am not sure; but here is a letter I got from him. I forget now whether I had another option; but he agreed to extend it, anyhow.

Q. I understand that.—A. Yes, sir.
Q. But was the original option from Mr. Robertson to you drawn by Judge Archbald and witnessed by him? I believe that is admitted in the pleadings.

Mr. SIMPSON. Yes; that is admitted. The WITNESS. That has been admitted.

- Q. (By Mr. Manager WEBB.) How much coal or culm was in this bank?-A. I will read you a report of Mr. Robertson himself.
- Q. No; you need not read that. I ask you how much culm, in your judgment, was in this bank?-A. About 140,000 tons.
- Q. You had your option from Mr. Robertson, and you had your option from the Erie Railroad or the Hillside Coal & Iron Co.?-A. Yes, sir.
- Q. The entire option cost you \$8,000. Is that right?-A. Yes, sir.
- Q. After you got the option what did you do? What was the next step? In other words, did you undertake to sell it? That is what I want to get at .- A. Yes; I did.

Q. To whom did you try to sell it?—A. The first party I tried to sell it to was Mr. Conn, the manager of the Laurel

- Q. I ask you if you and the judge did or did not have an agreement that he was to have one-half of this culm-bank profit?-A. Yes, sir.
- Q. Who wrote a letter to Mr. Conn?-A. I wrote one letter to Mr. Conn.
 - Q. Did you pay any money for the option?-A. No, sir.
 - Q. Did the judge pay any?—A. No, sir; paid nothing. Q. What is the royally up there on this kind of coal?
- The WITNESS. What is the royalty for the coal that the Erie mined, you mean?

Q. Yes.—A. Twenty cents. Q. Twenty cents or 27½ cents?—A. Oh, no; 20 cents.

- Q. If there were 140,000 tons in the bank, worth 20 cents a ton, what would that make your profit?-A. You would not have that royalty for that. They do not pay any such royalty for the lower sizes.
- Q. Well, what was your proposition to Mr. Conn?—A. The proposition to Mr. Conn was to sell it for 27½ cents per ton, sir.
- Q. Exactly. What would that have made the profit—\$30,000 less \$8,000? Is that right? It is a matter of calculation. I thought I would hurry you along .- A. I suppose it might be about that.
- Q. Did you take the letter from Judge Archbald to Mr. Conn?-A. No, sir; I did not.

Q. State whether or not the judge told you he had written a

letter to Conn.-A. I did not take a letter.

- Q. State whether or not the judge told you he had written a letter to Mr. Conn.-A. I do not remember whether the judge told me or not.
- Q. You do not?-A. No, sir; I do not. To tell you the honest truth, I do not know whether he told me that or not.
- Mr. Manager WEBB (addressing counsel for respondent). You admit this letter?

- Mr. WORTHINGTON. Certainly.
 Mr. Manager WEBB. Mr. President, we would like to introduce Exhibit No. 3, which I should like to read to the Senate.
 Mr. WORTHINGTON. We admit that Judge Archbald sent
- that letter to Mr. Conn and that that is his signature.

- Mr. Manager WEBB. All right. Q. (By Mr. Manager WEBB). In the first place, let me ask you who Mr. Conn is?-A. Mr. Conn is manager of the Laurel
- Q. The Laurel Line is an electric railroad in Pennsylvania?-Yes, sir.
- Q. Did Mr. Conn buy a great deal of coal to run his rail-

road?-A. He uses a hundred tons a day, sir.

Q. Do you know from whom he bought his coal?—A. He bought some from the Erie.
Q. That is, the Hillside Coal & Iron Co.?—A. Yes, sir; but

the Erie did not want to supply him with coal.

Mr. Manager WEBB. Mr. President, I should like to read this letter:

[U. S. S. Exhibit 3.]

(R. W. Archbald, Judge United States Commerce Court, Washington.) SCRANTON, PA., November 6, 1911.

C. F. Conn, Esq.

Dear Sir: On behalf of Mr. Edward J. Williams and myself I offer you the so-called Katydid culm dump, in the vicinity of Moosic, on a royalty basis at a flat rate of 30 cents a ton for all sizes, with the understanding that a minimum of 20,000 tons a year shall be taken or paid for, you to pay us \$12,000 on account as advance royalties and to be entitled to take 40,000 tons without further payment therefor. In washing or screening the coal, if any of the prepared sizes are found there will be an additional charge of 5 cents a ton on such prepared sizes payable to the Hillside Coal & Fron Co. It will be satisfactory to us if you desire to remove the material from time to time in quantity without screening or washing it on the ground with the idea of screening or washing it on the ground with the idea of screening or washing it elsewhere, provided we can be sufficiently protected and informed with respect to the actual number of tons taken, for which you would be accountable. In the execution of a formal agreement there may be other minor details in order to make a complete working contract; but the above will give you the substance of what we are ready to do.

Trusting that you will find these terms acceptable, I remain, Yours, very truly,

R. W. Archbald.

R. W. ARCHBALD.

Q. (By Mr. Manager WEBB.) Did you ever see that letter?-A. I have seen it; yes, sir.

Q. You have seen it. Did the judge tell you that he had writen that letter? Did you know at that time that letter was written?—A. What is that?

Q. Did you know at the time the letter was written that it had been written?-A. I can not tell you. I do not remember now. It is quite a while ago. I do not really remember whether I-

Q. That letter was written November 6, 1911. Did you sell

to Mr. Conn?-A. No, sir.

Q. What was the reason?-A. Well, they doubted the title, sir; but the title is just as good to-day as it ever was, because the Erie Co. received their royalty every month from that company the same as they did the first day. So that agreement is proven every time they take the royalty.

Q. What was the judge to do and what did he do to entitle him to one-half of the profits in this culm dump?—A. It was none of anybody's business, if I wished to give it to him.

- Q. Did you give it to him?-A. Well, I would have given it to him.

Q. What for?—A. Well, for what he did for me.
Q. What was that?—A. I told you a little while ago.
Q. Let us have it again. What did he do for you to make you give him half the profits in this culm bank?-A. It was partly through his influence I got it.

Q. Then you gave him one-half the profits for his influence; is that it?-A. But I had the other half before that; a long time before that.

Q. I understand that you and the judge claimed that you owned the entire interest in this culm dump; is that right?-A. Yes, sir.

Q. You claimed there were 140,000 tons. Was there any negotiation with Mr. Conn by you for the judge or by the judge with Mr. Conn that you know of?—A. No; but there was with me myself after that.

Q. You were the judge's partner. What did you tell him—
Mr. WORTHINGTON. Mr. President, I submit that that
ought not to be said. I hope counsel will not undertake to
proceed in that way in this tribunal. Counsel has no right to say that the witness was the judge's partner. The witness was giving testimony as to what he knows about it. That does not prove anything until the evidence is closed. Not that I care one way or the other whether he considers that the judge was his partner or not, but I object to that kind of procedure and examination.

The PRESIDENT pro tempore. The manager on the part of

the House will put his question in another form.
Mr. Manager WEBB. Mr. President, I want to say that the only reason I put the question in that form is because in the

letter the statement was made that they were partners.
Q. (By Manager WEBB.) Did you and the judge have any other negotiations with Mr. Conn with reference to the sale of this dump?—A. Not the judge. Q. Did you?—A. Yes, sir.

Q. What did you do?—A. I sent another letter explaining the title to him; that the title was all right; proving to him that the title was all right according to any law of the land. Q. I will ask you if this is the letter you wrote Mr. Conn:

[U. S. S. Exhibit 4.]

CHARLES F. CONN, Esq., Scranton, Pa. SCRANTON, PA., March 13, 1912.

Dear Sin. Research DEAR SIR: Regarding the culm bank located at Moosie, Pa., which you have been negotiating for, would say this matter has been hanging fire for some time, and the party who has been dealing with you is desirous

of your having the bank. He believes that the title to this property is not a complicated one.

You, as a business man, understand the conditions under which the Hillside Coal & Iron Co. are operating under this lease. For any coal which they, their successors or assigns take from this bank larger than pea coal they are to pay to the Everhart heirs a royalty of 20 cents per ton. Now, I think you do not intend preparing any of the larger sizes of coal, and, if not, the Everhart heirs et al, would have no interest in the bank.

The Hillside Coal & Iron Co. and Mr. John M. Robertson, the only recognized owners of this bank, have agreed to sell me their interest, and I would be glad to have you let me know at your earliest convenience what you intend doing in the matter, as other parties are anxious to negotiate for it. I may say that should you have any doubts you could deposit one-half or two-thirds of the royalty in the bank or retain it for a reasonable time as a guaranty against any claims. I am making this at the suggestion of the party who has been dealing with you to assure you of our desire that you should sustain no loss.

Very truly, yours,

E. J. WILLIAMS.

Q. Did you sign that?—A. Yes, sir; I did.

Q. Did you consult with the judge before you wrote it?-A. No, sir; I did not.

Q. Do you know whether that statement was agreeable to the judge or not?--A. I did not know; but I guessed it would be all right.

Q. You took that responsibility yourself?-A. I did, sir.

That is right.

Q. Then, what happened after you wrote that letter-between you and Mr. Conn?-A. Mr. Conn told me he could not do anything with the lawyer who was assigned to look after their titles; that he would not agree; that he would not recommend it to the company.

Q. All right. Now, after you failed to sell to Mr. Conn, who was the next person you negotiated with for the sale of it? A. Mr. Bradley. The deed was made out to Mr. Bradley.

Q. What is his full name?—A. Richard Bradley.

Q. Do you know what month it was in that you made these negotiations with Mr. Bradley?-A. No; I do not. About three or four months ago.

Q. May I refresh your memory? The letter you wrote to Mr. Coun is dated March 13, 1912. Was it after that letter?— A. Right away.

Q. Right away after that?-A. Yes, sir.

Q. Did you and Mr. Bradley and the judge agree to trade or not?-A. I did not say anything to the judge. I sold it to Mr. Bradley.

Q. Without the judge knowing anything about it?-A. I did

not say a word about it to the judge; no, sir.

Mr. O'GORMAN. Mr. President—
The PRESIDENT pro tempore. The Senator from New York. Mr. O'GORMAN. Mr. President, I desire to submit a question to be addressed to the witness.

The PRESIDENT pro tempore. The Senator from New York

asks that the following question be propounded to the witness. The Secretary will read the question.

The Secretary read as follows:

Q. Who dictated the letter to Conn, which you signed?

A. Well, William P. Boland dictated part of it and so did

I dictate some part. He did not do it all himself.
Mr. LODGE. I did not hear the first part of the I did not hear the first part of the answer. I should like to have the answer repeated.

The Reporter read the question and answer.

The Witness. He was helping me to send a letter to himto Conn.

Q. (By Mr. Manager WEBB.) After the letter had been written to Mr. Conn, dictated in part by Boland and in part by yourself, what transaction did you have with Richard Bradley with reference to the sale of this culm bank?

The Witness. What transaction? Mr. Manager WEBB. Yes. What

What did you do?

A. I sold it to him.

Q. For what price?—A. At \$20,000.

Did he pay the money for it?-A. He offered the check to Mr. May, sir.

Q. He offered the \$20,000 to whom?-A. To Mr. May-not the \$20,000. The \$20,000 was not coming to Capt. May. It was not due to him; only the \$4,500.

Q. Did Mr. May agree that you should sell the option to Mr. Bradley?—A. Yes, sir.

Q. To whom was the option to be made at that timeor to you and the judge, or to Bradley or to you and Bradley from May?—A. I would sell it to Bradley.

Q. I ask you if Mr. May did make a contract with you .-- A.

Q. And you were to assign the contract to Bradley?—A. Yes,

Mr. Manager WEBB. Now, Mr. President, we should like to introduce a copy of the contract, which I believe is admitted.

Mr. WORTHINGTON. What contract?
Mr. Manager WEBB. The contract from May to Williams, selling the Katydid culm dump.
Mr. WORTHINGTON. I have no objection to its introduction as a paper, but it is hardly right to call it a contract. It was never executed.

Mr. Manager WEBB. I understand that. Mr. WORTHINGTON. Suppose you subn

Suppose you submit it-

Mr. Manager WEBB. I want to submit a tentative contract

drawn by Mr. May for this culm bank.

Mr. WORTHINGTON. We agree that a tentative contract was drawn by May and submitted to Bradley, and as such it may be read, so far as we are concerned.

Mr. Manager WEBB. I ask that it be read.

The PRESIDENT pro tempore. The Secretary will read as requested.

The paper was marked "Exhibit No. 5," and was read by the Secretary as follows:

[U. S. S. Exhibit 5.]

Agreement made the — day of — — A. D. 1912, between Hillside Coal & Iron Co., a corporation of the State of Pennsylvania, party of the first part, and E. J. Williams, of the borough of Dunmore, Pa., party of the second part.

Whereas a certain tract of land situated partly in Lackawanna and partly in Luzerne County, known and designated as lot No. 46, of certified Pittston Township, patented to John Bennett March 25, 1849, is owned in the following proportions, to wit, the Hillside Coal & Iron Co., twelve twenty-fourths; E. & G. Brook Land Co., ix twenty-fourths; estate of James Everhart, five twenty-fourths; and heirs of John T. Everhart, one twenty-fourth; and Whereas since 1878 the Hillside Coal & Iron Co. have mined coal from said tract of land, partly because of their own partial ownership of the same and partly by reason of verbal permission granted by the other owners to do so; and

Whereas certain culm piles are situated upon the surface of said tract of land, one of which is known as the Katydid culm bank, which was made by the operations of the Katydid Colliery, heretofore operated by Robertson & Law, the said Robertson & Law having been in the nature of sublessees of the Hillside Coal & Iron Co. for a time in the mining of certain coal from said tract of land; and

Whereas the Hillside Coal & Iron Co. claim to have an interest in the material constituting the said Katydid culm bank, and it is understood that the said Robertson & Law also make a like claim, and it may be that the other owners of said tract of land, at this time or at some subsequent time, may also claim to have an interest therein; and the said party of the second part proposes to purchase all the right, title, and interest of the Hillside Coal & Iron Co. (subject to the payment of royalties as hereinafter set forth) in and to the material constituting the said Katydid culm bank; and the Hillside Coal & Iron Co. is willing to grant, bargain, sell, and convey unto the party of the second part all its said right, title, and interest, su

the party of the second part all its said right, title, and interest, subject as aforesaid, without in any way warranting or guaranteeing the title thereto or any part thereof as against any person or persons whomsoever:

Now, therefore, in consideration of the premises and of the sum of \$1\$ by each of the said parties unto the other in hand well and truly paid, at and before the ensealing and delivery of these presents, the receipt whereof is hereby agreed by and between the said parties and the successors and assigns of the party of the first part and the heirs, executors, administrators, and assigns of the party of the second part as follows, to wit:

First. The Hilliside Coal & Iron Co. doth hereby grant, bargain, sell, and convey (subject to the payment of royally as hereinafter set forth) unto the said Edward J. Williams all its right, title, and interest in and to the said Katydid culm bank, with leave to the said Edward J. Williams, his heirs, executors, administrators, or assigns, to enter thereon and take away the said material, wash out the various sizes of coal therefrom, and send the same to market over the Erie Railroad Co. for the only proper use, benefit, and behoof of the said Edward J. Williams, his heirs, executors, administrators, or assigns. If, however, any attempt is made to ship the said product or any part thereof over the line of any other railroad whatsoever without first obtaining the written consent of the Hilliside Coal & Iron Co, thereto, then this contract shall be utterly null and void and the party of the first part shall have the right, upon filing a bill in equity setting forth such voiation of the same, to have an injunction to prevent the mining, washing, or producing or removal of any further material whatsoever from said culm bank.

Second. Upon the execution and delivery of this indenture, the party of the second part shall pay unto the party of the first part he sum of \$4,500 in cash.

Third. For all coal of the size of pea coal or larger sizes, being all sizes of coal

tions now carried on by the Hillside Coal & Iron Co. upon sald tract, and it is distinctly understood that no warranty of the possession is hereby made as against the coowners of the party of the first part, for the reason that the party of the first part is only hereby contracting for its own interest in the premises and not for the interest of its co-

for its own interest in the premises and not for the interest of its coowners.

Fifth. It is understood and agreed that all operations of the party
of the second part upon said tract of land shall be concluded at the
expiration of three years from the date hereof, at which time, if the
party of the second part has faithfully complied with the terms of this
agreement and paid the moneys herein required to be paid, he shall
have the right to remove any machinery, fixtures, buildings, railroad
tracks, or other things of value placed by him upon said tract of land.
All of which articles to be removed shall be removed within a period of
three months after the expiration of said period of three years, and if
not so removed, then they shall become the property of the party of
the first part.

Sixth. The party of the first part shall have the right at any time
to examine the sales book, shipping books or other books of account of
the party of the second part wherein the accounts are kept showing the
number of tons of coal and the sizes thereof shipped from said property, and shall also have the right to come upon the premises of the
party of the second part at any and all reasonable times to ascertain
how the operations authorized by this indenture are conducted and
carried on.

Seventh. It is distinctly understood and agreed that by this indenture
no warrant or guaranty of title, right, or interest is conveyed whatsoever unto the party of the second part and against any party or parties whomsoever who may claim to have rights or interests in the said
culm bank, this indenture being merely for the purpose of conveying
unto the party of the second part such right and interest as the Hillside Coal & Iron Co. hath therein.

Eighth. The party of the second part shall have the right to assign
this agreement to any person or persons whomsoever, but with this
distinct condition, understanding, and agreement that the person so
taking an assignment hereof shall become obligated to do and perform
all the covenants and

Q. (By Mr. Manager WEBB.) Mr. Williams, did you receive a copy of that contract?—A. I did not. There is a letter here

that was sent to me. He said he had sent it to Bradley.

Q. Did you ever receive a copy of that contract after Bradley received it?—A. I did not. Bradley gave it back the next day, and he had no right to give it back.

Q. Why was that contract made to E. J. Williams alone instead of to E. J. Williams and R. W. Archbald, if you can tell us?-A. Because the other contract was in my name.

Q. Is this the letter you received from Capt. May, dated April 11, 1912?

IU. S. S. Exhibit 6.]

APRIL 11, 1912.

Mr. RICHARD BRADLEY.

Peckville, Pa.

Dean Sig: Herewith please find proposed form of agreement conveying the interest of the Hillside Coal & Iron Co. in the culm piles on the surface of lot 46, situate partly in Lackawanna and partly in Luzerne Counties, Pa.

Will you please confer with Mr. E. J. Williams, to whom I have sent a copy of this letter in regard to the form herewith, and advise whether or not same meets with your approval. If the agreement is satisfactory to you, it will be submitted to the executive officers of the H. C. & I. Co. for their consideration and approval.

Yours, very truly,

W. A. May,

Vice President and General Manager.

(Enclosure: Copy to Mr. E. J. Williams, 626 South Blakely Street, Dunmore, Pa.)

Did you receive that letter?—A. I gave it to the committee. Q. Why was that contract between Mr. May and yourself never executed?—A. That I do not know.

Q. Did you ever write a letter or sign an agreement assigning

a part of this culm-bank dump in which referred to Judge Archbald as a silent party?

Mr. WORTHINGTON. Mr. President, I object to the contents of the paper. Before that paper is to be read, we wish to have the opinion of the Senate on it.

The PRESIDENT pro tempore. What is the objection of counsel?

Mr. WORTHINGTON. The paper about to be produced is one prepared in the office of William P. Boland signed by this witness. Our objection is that it ought not to be allowed to go in evidence or constitute a part of the record until it is shown by some competent evidence that Judge Archbald had

something to do with it.

The Witness. I do not think he had anything to do with it.

Mr. WORTHINGTON. That paper is claimed to be a damning piece of evidence against Judge Archbald, but we assert that it was a paper that was prepared for the purpose of making a case against him, in his absence, of which he knew nothing and never heard until after this proceeding began. I submit it is against every principle of law and justice to have this paper go in at all until some evidence has been offered tending to show that Judge Archbald knew about it or was responsible

I submit that the paper was not prepared under such circumstances as that Judge Archbald could be held accountable, or that it could be admitted as evidence against him. This yery question was raised, as you will remember, Mr. President, in the

Swayne case. An attempt was made to prove that Judge Swayne had made certain admissions when examined as a witness before the Committee on the Judiciary of the House of Representatives, and the managers then proposed to state to the Senate what those admissions were. It was then ruled out and that ruling was affirmed by a second vote of the Senate. This ruling was under a statute of the United States, which provides that evidence given before a committee of Congress by any person shall not be used against that person in any criminal proceeding.

We do not care a great deal about this matter when the facts in regard to it will appear, and it might well be introduced when we come to present our evidence as showing a conspiracy against Judge Archbald. But until some evidence is produced tending to show that Judge Archbald had some responsibility for that paper, or knew that it was prepared or authorized it to be prepared, I submit the contents of it ought

not to be put into this record at all.

I have no fear that the members of this tribunal will give any credence to it, but it will go to the country and so do Judge

Archbald great harm.

The position of the managers in regard Mr. Manager WEBB. to this matter is that Mr. Williams and Judge Archbald had a combination or understanding by which they were to secure certain concessions from the railroad; that his name was to be kept silent; and in pursuance of that arrangement this witness did give an assignment of a portion of his option to W. P. Boland and a "silent party," and this witness will testify that the silent party was Judge Archbald.

In pursuance of that agreement, which we say inhered in the very first thought of the effort to secure a sale from Robertson and the last contract made by May was made to Williams alone, though the judge had a half interest; that Judge Archbald's name does not appear anywhere in this tentative deed; and that it was the understanding and agreement between witness and the judge that this witness was Judge Archbald's agent and partner, and as such signed this "silent party" contract and referred to the judge as the "silent party." We care not under what circumstances the contract was drawn. The point we make is that this contract was signed by Mr. Williams and that Judge Archbald knew that his name was used in the contract or assignment as a "silent party."

Mr. WORTHINGTON. Whenever any evidence shall be introduced tending to show that Judge Archbald requested or authorized that his name should be kept out, this will become competent evidence. This witness has not been asked, and there has been no opportunity for anyone else to testify, whether Judge Archbald ever requested or suggested that his name should be kept out of papers relating to the purchase or sale

of the Katydid dump.

I submit that it is against every principle of law of evidence and against common justice. This witness has not said and has been very far from saying that Judge Archbald ever said that his name should be kept out of it. It appears that when the respondent wrote to May he signed his own name and did not refer to Williams at all. It appears that when he wrote to Mr. Conn and proposed to sell this dump to him he stated that he was one of the parties in interest. It appears as to Robertson's contract, which has been read, that Judge Archbald wrote it with his own hand and signed his own name to it as a witness

There has not been a scintilla of evidence tending to show that Judge Archbald was trying to conceal anything or trying to keep his name out of it. Everything is to the contrary.

I may say that this is but the first step as we anticipate from

what we know of prior proceedings in this case, and it will be undertaken to introduce a mass of evidence here as to transactions between other parties as to which no witness will testify that Judge Archbald knew of them or authorized them. Until there is some evidence that the respondent was cognizant of the reference to him as a "silent party," I submit this paper ought not to go into the record.

Mr. Manager WEBB. Mr. President, just a word. We do not regard this entirely as a criminal action. It is a quasi civil action. There is no criminal penalty to be fixed by the Senate. Our contention is that this witness is an agent, a partner of the respondent, and that the respondent is bound by any act or word of this witness with reference to this particular transaction. That is why we propose to introduce this contract in which he is referred to as a "silent party," and to show that the judge knew he was referred to as such "silent party."

Mr. Manager STERLING. Mr. President, the question, I understand, is whether or not this letter shall be read to the court. It is in the nature of a contract, signed by this witness, in which

he at that time was a partner of Judge Archbald. I think there will be no controversy about that. The letter has already been read here, written by Judge Archbald, in which he says he is interested with Mr. Williams in this coal dump.

The purpose of the contract which is offered in evidence now by Mr. Manager Webb and signed by Mr. Williams is simply a transfer of one-third interest in the coal dump to William P. Boland. I dare say that Williams, whether it had been expressed by Judge Archbald or not, had authority as partner of Judge Archbald to convey this interest in the coal dump to Mr. Boland.

In any event, I do not understand how the court can pass upon the admissibility of a contract until it has been read. We are entitled to have the court know what the evidence offered is, and I think if the court hears this contract they will be able to judge of its admissibility, and I think they will find

that it is admissible.

The objection to the admission of this contract on the part of Mr. Worthington is that some party referred to in the contract is referred to as a silent party. There are Mr. Boland, Mr. Williams, and a silent party. It does not make any difference who that refers to, whether to Judge Archbald or whom it may refer to, in determining the admissibility of this evidence. It is a part of this transaction; it is a part of the res gestæ; it must go in this line of testimony to connect the transaction and show what relation Williams and Boland and Judge Archbald had to each other in the ownership of this coal dump.

So, I submit, in any event it must be read to the court before

the court can pass upon its admissibility.

Mr. SIMPSON. Mr. President, there is only one thing that I should like to call the attention of yourself and Senators to in should like to call the attention of yourself and Senators to in answer to something that Mr. Manager Webb has said, because, after all, that which is a fundamental proposition will generally lead us to a correct conclusion if we can find what the fundamental proposition, in fact, is.

Mr. Webb's statement was that this is not a criminal proceeding. I want to take issue with him upon that point directly,

and in the most forcible way that it can be taken, and I shail do so very briefly, for I recognize the fact that the time of the

Senate is of exceeding importance.

I propose, sir, first to read a paragraph from an article on the subject of impeachment by Prof. Dwight. It is as follows:

When a criminal act has been committed, it may evidently be regarded in three aspects—

Mind you, a criminal act-

first, the injury to the individual or his family may be considered; second, the wrong to the executive officer charged with the administration of the laws may be looked at; and, third, the mind may dwell upon the general wrong done to the state, or "the people," as we say in modern times. This view was early taken in the common law; the injury to the individual was redressed by a proceeding called an appeal; the injury to the king by a process called an indictment; the wrong to the entire nation by a proceeding called an impeachment. In process of time the injury to the individual came to be regarded as a private and not as a public wrong, so that in the progress of the law there remained two great criminal proceedings—indictment and impeachment.

There can not be found, I submit, sir, in any well-considered article or case any variance whatever from that conclusion, and that it is not varied in this country is evident from the language of the Constitution itself, two or three of the clauses of which I desire now to read:

When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the Members present.

What I want to know is whether the word "conviction" is in any way relevant to a civil or a quasi civil proceeding. Again:

The President shall * * * have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

I want to know whether there are offenses against the United States which are not in their nature criminal.

Mr. Manager STERLING. Mr. President, may I interrupt the gentleman. There will be no controversy, I think, as to the proposition which the gentleman lays down.

Mr. SIMPSON. Mr. Manager Webb made the controversy.

Mr. Manager STERLING. I say broadly, as the gentleman seems to interpret it. But the proposition, it seems to me, is on the admissibility of this contract, and regardless of the question whether these proceedings be criminal or civil proceedings we insist that this is admissible in evidence. understand that there is any difference in the rule of admitting testimony of this kind whether it be in a criminal case or in a That is the point I am making.

Mr. SIMPSON. I submit there is or may be a difference. agree with the manager that there is no difference in the particular matter now before the Senate, and I should not have

bothered the Senate about it had it not seemed to me, from Mr. Manager Webb's statement of it, that it was an entry of the wedge opening apart for the purpose of reaching to another conclusion, which will be reached very shortly. If, however, the managers agree with Mr. Manager Sterling, that there is no controversy over this branch of the matter, I, of course, have

nothing further to say in regard to it.

There is, however, on the other branch of the case a very important proposition which I do not care at this time at any length to discuss before the Senate, because it can not very well be discussed unless the presiding officer or some one connected with the Senate shall in fact see the paper. I know of no other way in which that question can be raised, but you will see, if the paper is examined into, that it is not a statement of a current existing present thing to be acted upon, in so far as Judge Archbald is concerned, but it is a recital of a past occurrence; and the authorities are absolutely uniform that, whether it is by an agent, if Mr. Manager Webs chooses to call him so, or whether he be his partner, as the original arrangement between them and the first of these articles of impeachment seem to call it, or whether it be a coconspirator, it makes no difference, if the paper is a recital of a past occurrence or anything which has any relevancy to a past occurrence rather than to a present thing, no one of them, agent, copartner, or coconspirator, can by such a recital bind one not a party directly to the paper or declaration which is proposed to be offered in evidence.

So far as this present matter is concerned, there must necessarily be some ultimate purpose beyond that which is here expressed, because it has been conceded here, and it is now conceded upon the behalf of Judge Archbald that he did have an interest in this matter and would have obtained a portion of the profits had there been any profits to be obtained from it.

Mr. Manager CLAYTON. Mr. President, may I be permitted to make a brief statement?

The PRESIDENT pro tempore. Without objection, the mana-

ger will proceed.

Mr. Manager CLAYTON. Mr. President, those of you who have had the opportunity to examine the article written by Prof. Dwight, and which the gentleman was proceeding to read to the Senate, know that almost all the views expressed by Prof. Dwight on the law of impeachment have not been upheld

by other writers upon the same subject.

However, Mr. President, I may say here and now for the benefit of the court and for the satisfaction of the counsel for the respondent, that I do not think there will be much disagreement between the lawyers on the respective sides in regard to the fundamental law of impeachment, so far particularly as the first six articles here preferred are concerned. Of course, we have to-day been informed of a disagreement as to the last six articles. The first six relating to Judge Arch-bald's conduct as a judge of the Commerce Court, the next six relating to his conduct as district judge, and the thirteenth article relating to his general conduct in his judicial capacity and while he was filling the offices of district and circuit judges.

Now, Mr. President, I desire to call the attention of the Senate to a thought that perhaps has not occurred to all the Members of the Senate. This, in all the history of our jurisprudence, stands unique as a tribunal. It is unique not because this is a constitutional court; we have another court created by the Constitution, the Supreme Court. It is not unique in the annals of jurisprudence as being the only Court of Impeachment that ever existed. It is unique in the history of our own jurisprudence in that this body is charged with the duty of determining the law and the facts in one and the same verdict. It is said by some of the writers that this court renders a mixed verdict; that is, in reaching a verdict and judgment the court pronounce both upon the law and the evidence in the case.

Mr. President, that at once lifts this tribunal above the atmos-

phere of a mere petty courthouse trial where a \$5 pettifogging lawyer may undertake in the defense of a criminal to interpose all sorts of technical objections, and where the judge is to pass upon the law and the jury upon the facts. This is a different tribunal from that. It is higher than that. This tribunal wants

to know all the facts.

Mr. President, I would not do myself the discredit nor would I reflect upon the intelligence nor the good intentions of this great body by suggesting that the public wish to know all the facts pertaining to the conduct of their high judicial officer.

This is more than a mere petty criminal case.

Mr. President, I have digressed somewhat from the question and I come back to it, and that is the admissibility of this testimony. I lay down the proposition-and I take it it will be assented to by every lawyer—that in determining the admissibility of evidence the same rule obtains whether the case be criminal in its nature strictly or whether it be civil or

whether it be quasi criminal. The character of the case matters not; it is the character of the testimony that concerns its

admissibility.

In this case why is this testimony admissible? Mr. President, the article charges that Judge Archbald has abused his office by seeking to trade and traffic in culm dumps, and this being one of the culm dumps, it is charged certainly in the statements of facts that Williams was his partner. It has been shown by the witness that Judge Archbald and Williams were shown by the witness that Judge Archbald and Williams were partners in this transaction. And in his answer Judge Archbald admits the partnership. This contract is a part of a transaction of the partnership. We connect it, we have all along connected it up to this time, and Judge Archbald can not object to what his partner does. If I select an agent, if I have a partner in a joint enterprise, can I be heard in any court anywhere the resultate the conduct and the action of my partner.

where to repudiate the conduct and the action of my partner, my agent, acting within the scope of the partnership or agency?

So here, Mr. President, it is necessary for the orderly statement and full presentation of this evidence, that this part of it, which follows right along with the other testimony in the case, be put in here to elucidate the whole conduct of Judge Archbald. As it will be shown, and has been shown, that Williams is his partner, this is a part not only of that, but it is a part of the res gestae; it is a continuation of the transaction that was entered into by Archbald and Williams, Judge Archbald's partner. If that be not true, it can be disputed, but we offer it for the purpose of establishing it and keeping up the chain of this whole transaction and connecting Judge Archbald with it, and there can not be any doubt but that we will connect Judge Archbald otherwise, as I think, with this transaction.

Then again, Mr. President, upon the theory that has been suggested, if this contract relates to a conspiracy to violate the law, it is admissible. If it can be shown that while a conspirator may be here in this Chamber, if pursuant to the agreement had with the coconspirator the coconspirator commits crime down on Pennsylvania Avenue, all law writers tell us that the man who was in this Chamber when the act was committed is just as guilty as if he had been present at the scene

of the crime.

Mr. President, I do not think I violate propriety when I call attention to contemporaneous history that will illustrate this It was said in one of the noted cases in Alabama, contention. my own State, by one of her great chief justices, that courts will take judicial notice of contemporaneous history, and in that case the contemporaneous history was the action of a mob

in Birmingham, Ala., in violating the law.

The court took judicial cognizance of that contemporaneous history. So, I am certain, the Senate, this court, is as broad in its power and rights to take judicial notice of contemporaneous history as is any court. I think I violate no propriety when I say that in the recent case in New York City, where a police lieutenant was charged with murder, it was not pretended that he was there at the time the murder was committed, or that he had anything directly to do with it, but he was convicted, and was sentenced upon the theory that he instigated it; that he entered into the conspiracy elsewhere sometime before the act, and that the conspirators did his bidding.

Upon these principles, Mr. President, both of law and of the rules of evidence obtaining in the courts and upon the desire that this tribunal wants to do full justice-wants all the factsand the honorable counsel for the respondent does himself justice when he credits the Senate with the ability and the fairness and the intention to pass upon these questions, I insist on

the admissibility of this paper.

Mr. President, it seems to me that we might conduct this trial and save much time, and that justice can be had as well in the end, without interposing what I may think, I respectfully submit, sometimes to be captious objections to the testimony.

I participated, Mr. President, if you will pardon a personal allusion, in the Swayne case; and, as I remember it, the ordinary hidebound rules—if I may use a vulgarism—were not pursued. For instance, repeatedly during the trial of that case a witness was introduced; he was cross-examined; then he was put back and reexamined; and then he was put back and recross-examined. So that narrowness in proceedings have never been adhered to by the Senate.

Mr. President, in the economy of time, do you not think, and does not the Senate think, that it can take care of all these questions, so that justice may be fully done to the respondent?

I want to say, Mr. President, in behalf of the managers, that the managers do not desire and will not claim a verdict of conviction in this case unless, after they have adduced the testi-mony, they are of opinion that they have made a case that would warrant such a judgment at the bands of the Senate.

Mr. WORTHINGTON. I dislike very much to further occupy the time of the Senate in the discussion of the admissibility of this particular piece of evidence, but it may not be amiss now, on this first day of our proceedings, to have the Senate informed as to what is contended here with respect to rules of evidence and their application. It may save repeating it in the subsequent course of the trial.

I must express my surprise to hear my friend Mr. Manager CLAYTON intimate that the rules of evidence do not guide us here. I do not suppose he meant by what he said to indicate that we are pettifogging. We have resolved that at the outset

of this case

Mr. Manager CLAYTON. Mr. President, lest the gentleman shall permit that remark to stand, I wish to state that I did not say that the rules of evidence do not guide us, but I said the narrow, technical rules which characterize the proceedings in the ordinary courthouse have never characterized proceedings of this kind in the Senate.

Mr. WORTHINGTON. I was about to say, Mr. President—and I think that what has taken place so far in the presence

of the Senate will justify me in saying it—that we have re-solved that we would make no technical objection here; that whenever objection was made it should be to something that

was very substantial.

My friend refers to what was done in the Swayne case. are here exactly in the position in which you were in the Swayne case, in which counsel offered to introduce evidence as to statements made by Judge Swayne before the Judiciary Committee under oath. The evidence was objected to by counsel who represented Judge Swayne here; and, after very full argument and after reargument, on motion of the junior Senator from Texas [Mr. Bailey], with closed doors, the evidence was ruled out. Now it is attempted here not to show what Judge Archbald said, but because he had entered into a simple venture with Mr. Williams, the witness in this case, to see if they could get a right to buy and sell the Katylid culm dump, to undertake to show that a paper which was executed by Mr. Williams, prepared in the office of Mr. Boland behind the back of Judge Archbald, and which was not anything in the execution of the business of the partnership—if you choose to call it a partnership—is to be evidence against Judge Archbald without showing that he had authorized or had anything to do with it.

Does the fact that I enter into a partnership with a man to purchase a piece of property authorize him, without anything more, to go and sell me out? He is authorized to do anything that may be necessary in the ordinary course of buying and selling that property; that is all I have agreed to; but when he goes into the office of another person, behind my back, and signs a paper of which I have no knowledge and years afterwards it is sought to introduce it in evidence against me in support of a criminal charge—a paper in which he undertakes to sell me out and to make statements as to what I have said or done at some prior time—I say that every principle of evidence

and of justice requires its exclusion.

This witness has not been asked—the managers have not dared ask him—whether he was authorized by Judge Archbald to take Boland into partnership, for that is what it amounts to. Here is evidence that A and B entered into a partnership. Now, evidence is offered to show that one of them created another partnership made up of A, B, and C. That can not be done without the knowledge and consent of both of them. When it is undertaken to do that and to go further and to show not only that Judge Archbald was brought into a new partnership, but to put into that writing something purporting to recite past transactions, which may be used against him criminally in a subsequent proceeding, and the instrument is put away in somebody's drawer and kept from the light of day until a prosecution is sprung, it seems to me that the Senate should require some evidence to connect Judge Archbald with it before it is put in evidence. case of Judge Swayne the managers insisted that the Senate should hear what Judge Swayne had said before they ruled it out, but the Senate sustained the argument which was made on this side of the Chamber by counsel for the respondent—that it should not be heard and should not be put into the record until it was determined that it was competent. The Senate held that it was incompetent. After reargument it sustained that conclusion, and the evidence never did appear in the record, and nobody knows to this day what it is without going to a record in another place.

Mr. Manager WEBB, Mr. President—
The PRESIDENT pro tempore. It is necessary that argument shall conclude at some time, the Chair will say to the managers.

Mr. Manager WEBB. I just want to make the point, Mr. President, that the ruling in the Senate with reference to the Swayne case has no application to this evidence, because there it was a constitutional question as to whether or not a man under the Constitution of the United States could have his evidence used in two different places and be confronted with it in the Senate-entirely a different question. This is a question of trying the conduct of this judge. We say that he knew his conduct was bad, and that he knew that this contract was made with his name as a silent party in it. We say that the Senate ought to hear it; it is a part of the gist of this charge and ought to be made known as evidence in this case

Mr. WORTHINGTON. When counsel prove that Judge Arch-

bald knew it, we shall withdraw our objection.

The PRESIDENT pro tempore. Before taking action in regard to this question, the Chair desires to make a statement to the Senate. Anticipating that questions of the admissibility of evidence would arise, the present occupant of the chair has examined former impeachment cases in order to ascertain what was the practice of Presiding Officers themselves in regard to deciding questions of this character, or of submitting them to the Senate. Upon examination, it is found in former impeachment cases that very liberally, to say the least, the Presiding Officer had availed himself of the privilege of submitting the matter to the Senate. In the Andrew Johnson impeachment case in particular, which was presided over by the highest judicial officer in the land, Chief Justice Chase, almost invariably every question as to the admissibility of evidence was submitted by him to the Senate for its determination. While the present occupant of the chair is not averse to taking responsibility in a matter that is alleged by the counsel to be peculiarly vital to the case, he feels that the matter should be submitted to the Senate. He is more inclined to that course by the fact that if one single Senator differed from the conclusion of the Chair he would have the right to have the vote taken by the Senate. Therefore, in this case the present occupant of the chair will submit to the Senate the question as to the admissibility of the evidence.

Mr. CULBERSON. Mr. President, I ask that the paper be read, so that we may know what it is before we vote on its

admissibility.

The PRESIDENT pro tempore. The Chair was about to state that, in the opinion of the present occupant, it is necessary that the Senate should be informed of the nature of the paper before Senators could determine whether or not it is admissible. Therefore, in the absence of any objection—and if objected to that question will be submitted to the Senate—the present occupant of the chair will direct that the paper be read to the

The Secretary read the paper, which is marked "Exhibit 7,"

as follows:

EXHIBIT 7.

Assignment made this 5th day of September, A. D. 1911, by Edward J. Williams, of the borough of Dunmore, County of Lackawanna and State of Pennsylvania, party of the first part, to William P. Boland and a silent party, both of the city of Scranton, county and State above mentioned, parties of the second part. For services rendered or to be rendered in the future by William P. Boland and silent party, whose name for the present is only known to Edward J. Williams, W. P. Boland, John M. Robertson, and Capt. W. A. May, superintendent of the Hillside Coal & Iron Co., it is agreed by said Edward J. Williams who is the owner of two options covering a culm bank known as the "Katydid," situate in the vicinity of Moosic, Pa., that he hereby assigns two-thirds of any profits arising from the sale of the above-mentioned property over and above the amounts to be paid John M. Robertson and the Hillside Coal & Iron Co. \$3,500 and \$4,500 respectively, to be divided equally between William P. Boland and silent party mentioned above, their heirs, successors or assigns, and this shall be their voucher for same.

E. J. WILLIAMS. [SEAL.]

E. J. WILLIAMS. [SEAL.]

W. L. PRYOR

The PRESIDENT pro tempore. The question is now submitted for the determination of the Senate whether the paper, which has just been read, shall be admitted in evidence. the rule the vote must be taken by yeas and nays. When so taken those who favor the admissibility of the paper will vote yea," and those who oppose the admissibility of the paper in evidence will vote "nay."

The Secretary will call the roll.
Mr. POINDEXTER. Mr. President, I should like to inquire if it be within the rules of the Senate sitting as a Court of Impeachment to receive this evidence and to reserve a decision as to its admissibility? That practice is common in the courts. If we undertake to vote upon each objection to the testimony, or at least each important objection to the testimony of wit-

The PRESIDENT pro tempore. The Senator has no right under the rule to discuss the question. The Senator has the right, if he so desires, to submit an order to the Senate, which would cover the point that he wishes to make.

Mr. POINDEXTER. Well, I ask leave to submit such an order.

The PRESIDENT pro tempore. The Senator will please reduce it to writing.

Mr. LODGE and Mr. GALLINGER. Call the roll.

The PRESIDENT pro tempore. The Senator from Washington desires to have an order submitted to the Senate preliminary to the vote, as the Chair understands from the Senator's state-Of course, he has the right to submit it, if the Chair is correct in that statement.

Mr. LODGE. I did not so understand him.

The PRESIDENT pro tempore. The Chair may have misunderstood the Senator from Washington, but that was the Chair's understanding.

Mr. POINDEXTER. I present the following order.

President, I will say—
The PRESIDENT pro tempore. The Senator has not the right to discuss it.

Mr. POINDEXTER. Have I no right to make an explanation?

The PRESIDENT pro tempore. No; the Secretary will report to the Senate the order submitted by the Senator from Washington.

The Secretary read as follows:

Ordered, That the evidence be received and the decision as to its admissibility be reserved.

The PRESIDENT pro tempore. The Chair does not understand that that is subject to a point of order on his part, and is obliged to submit it to the Senate as he would any other order which is asked for. Therefore—

Mr. LODGE. The roll call must first come on the order

proposed.

The PRESIDENT pro tempore. The Chair will give it that direction—that the question of admissibility will be first taken, and then the question as to what office it shall perform. The Chair will put the question upon the admissibility of the evidence unless the Senator from Washington desires this as an order preliminary to it.

Mr. POINDEXTER. I should like to have an opportunity.

to read the written evidence proposed to be introduced before being required to vote upon its admissibility. It is impracticable to do that here. Consequently I have submitted this Consequently I have submitted this

The PRESIDENT pro tempore. The Chair will submit the order to the Senate, and the Secretary will call the roll upon the order asked for by the Senator from Washington. Those who favor the adoption of the order will, as their names are called, vote "yea"; those who are opposed to the adoption of the order submitted by the Senator from Washington will, as their names are called, vote "nay."

Mr. CULBERSON. Mr. President, are we required to take

yea-and-nay vote on this preliminary order? I think not

under the rule.

The PRESIDENT pro tempore. The rule is that every vote shall be taken by yeas and nays.
Mr. GALLINGER. Regular order!

The PRESIDENT pro tempore. The Secretary will call the

The roll be	ing called, result	ed—yeas 3, nays	57, as follows
	YE	AS-3.	
Clapp	Dixon	Poindexter	
	NA	YS-57.	
Ashurst Bacon Borah Brandegee Brown Bryan Burton Clark, Wyo. Clarke, Ark. Crane Crawford Culberson Cullom Cummins	du Pont Fletcher Foster Gallinger Gardner Gore Guggenheim Hitchcock Johnson, Me. Johnston, Ala. Kenyon La Follette Lodge McCumber McLean	Martin, Va. Martine, N. J. Massey Myers Nelson O'Gorman Overman Page Penrose Perkins Perky Pomerene Richardson Root Sanders	Shively Simmons Smith, Ga. Smith, Md. Smoot Sutherland Swanson Thornton Tillman Townsend Warren Works
	NOT V	OTING-34.	
Bailey Bankhead Bourne Bradley Briggs Bristow Catron Chamberlain Chilton	Curtis Davis Dillingham Fall Gamble Gronna Jackson Jones Kern	Lea Lippitt Newlands Oliver Owen Paynter Percy Reed Smith, Arlz.	Smith, Mich, Smith, S. C. Stephenson Stone Watson Wetmore Williams

The PRESIDENT pro tempore. The order is not adopted. The question recurs upon the question submitted by the present occupant of the chair, as to whether the paper read shall or shall not be admitted in evidence. As their names are called Senators who favor the admission of the paper in evidence will vote "yea"; those who oppose it will, as their names are called, vote "nay."

Mr. CLAPP. Could not the requirement for a yea-and-nay

vote be waived if there was no objection made?
The PRESIDENT pro tempore. Undoubtedly.

Mr. CLAPP. Why not test it in that way?

The PRESIDENT pro tempore. If it is unanimous, the Chair is of the opinion that a yea-and-nay vote is not required, because it is the same as if every Senator voted.

Mr. CLAPP. I suggest that the Chair first submit in a suggestive way whether it would be unanimous, and if so it would

save calling the roll.

The PRESIDENT pro tempore. The Chair will adopt the suggestion of the Senator from Minnesota and ask if there is any objection to the admissibility of the paper in evidence?

Mr. WORTHINGTON. Mr. President, I should like to call the attention of the Presiding Officer and of the Senate to Rule VII adopted by the Senate and governing the proceedings in impeachment cases. It provides:

That is, the Presiding Officer-

Or he may, at his option, in the first instance, submit any such question to a vote of the Members of the Senate. Upon all such questions the vote shall be without a division, unless the yeas and nays be demanded by one-fifth of the Members present, when the same shall be taken.

The PRESIDENT pro tempore. That is seemingly in conflict with Rule XXIII, and the Chair construes it to be governed by the first portion of Rule XXIII, which expressly provides that all orders and decisions of the Senate must be by yeas and nays. The only variation is when there is no division, which is the same as if the roll had been called and everybody had voted yea. Therefore the Chair repeats the question.

Mr. CULBERSON. I suggest to the Chair that Rule XXIII

makes provision subject to Rule VII, which counsel has just

The PRESIDENT pro tempore. That is true, but then it does not have reference to that part of the rule. The Chair can not now discuss that question. The Chair will put the question again. Is there objection by any Senator to the admissibility of the paper in evidence?

Mr. CLARK of Wyoming. There is,
The PRESIDENT pro tempore. The Senator from Wyoming objects. Therefore the roll will be called. As their names are called those in favor of the admissibility of the evidence will vote "yea"; those opposed will, as their names are called, vote "nay."

The roll was called; and the result was announced-yeas 55,

nays 6, as follows:

	YE.	AS-55.	
Ashurst Racon Bacah Bristow Brown Bryan Burton Clapp Crawford Culberson Cullom Cummins Dixon du Pont	Fletcher Foster Gardner Gore Hitchcock Johnson, Me. Johnston, Ala. Kenyon La Follette Lodge McCumber McLean Martin, Va. Martine, N. J.	Massey Myers Nelson O'Gorman Overman Page Perkins Perky Foindexter Pomerene Richardson Root Sanders Shively YS—6.	Simmons Smith, Ga. Smith, Md. Smith, Mich. Smith, Sc. Smoot Sutherland Swanson Thornton Townsend Warren Wetmore Works
Brandegee Burnham	Clark, Wyo. Crane	Gallinger	Guggenheim
	NOT V	OTING-33.	
** **	The Control of the Co	THE RESERVE OF THE PERSON NAMED IN	

Bailey Bankhead Davis Dillingham Stephenson Rourne Tillman

Bradley Briggs Catron Chamberlain Fall Gamble Gronna Jackson Chilton Clarke, Ark. Jones

Lea Lippitt Newlands Oliver Owen Paynter Penrose Percy Reed

Watson Williams

The PRESIDENT pro tempore. The Senate decides that the paper is admissible, and it is so ordered.

The Chair desires, in the interest of expedition and orderly procedure, to suggest to both the managers on the part of the House and counsel for the respondent that hereafter when incidental questions are to be discussed they be confined to an opening and a reply and a conclusion. The Chair will not rule that arbitrarily or positively, but trusts that counsel will act upon its suggestion.

Mr. Manager WEBB. I understand that the contract is now

in evidence?

The PRESIDENT pro tempore. The Senate has so ordered. :1 E

Q. (By Mr. Manager WEBB.) Mr. Williams, who was the silent party referred to in this contract?-A. I do not know. I do not think I ever had anything to do with that.

Q. Is that your signature [exhibiting paper to witness]?—A. That is my signature, but this is not the original. Where is the one you took a picture of?

Q. Is that your signature?—A. Yes.

Q. You say this is your signature?—A. That is my signature;

Q. Is it a copy of the one you signed. [A pause.] Did you sign it in duplicate?—A. No; I did not. Here they are; here are two of them [indicating].

Q. I will ask you this question: Did you testify before the

Judiciary Committee of the House?—A. Yes; I did.
Q. Did you swear there that this contract contained the

names--A. (Interrupting.) I do not remember anything about such a paper.

Let me ask my question first. Did you swear before the Judiciary Committee of the House that the silent party referred to there was Judge Archbald, and that he knew that he was put in that contract as a silent party?-A. I did; yes.

Q. Sir?—A. That is what it meant; yes. Q. Is that so?—A. Yes, sir.

Q. What do you say is so?—A. What is that?

Q. I want to know what you say is so; was he the silent party referred to in this contract? Did he know that you had put him in the contract as a silent party?—A. No; he did not know anything about it; the judge did not know anything about that.

Q. Who, then, was the party that you referred to in this contract as the silent party?—A. I do not remember that I

ever did make that-

Q. I ask you again, did you swear before the Judiciary Committee of the House in this investigation?—A. I did acknowledge it at last.

Q. Did you acknowledge at last that you referred to him as the silent party?-A. Because my name was there; but how it

got there I do not know.

Q. I ask you if you swore before the Judiciary Committee of the House that you put the judge's name to this contract as a silent party because you thought it would be unlawful to put his name in it?-A. That it would be unlawful?

Q. I ask you if you testified to that before the Judiciary

Committee?—A. I do not remember.

Q. I ask you if you answered Judge Norris, on the com-

mittee, that the judge knew that he was a silent party.
Mr. Manager CLAYTON. Judge Archbald.
Q. (By Mr. Manager WEBB.) That Judge Archbald knew that he was a silent party?-A. I do not know about that; I do not know whether I did or not; I do not remember.

Q. Did you insert his name in there as a silent party?—A. No; I did not put his name in there. I did not put that silent party in there. I did not make that paper at all.

Q. To whom did you refer as the silent party?-A. What is that?

Q. To whom did you refer as the silent party?—A. Boland drew up that paper. Here are two more here.

Q. To whom did you refer when you signed that? Whom did you refer to as a silent party? I will ask you if you swore before the Judiciary Committee that you put this in here, or that it was put in at your own suggestion—"silent party"?—A. I did not put it in.

Mr. NELSON. I submit we are entitled to an answer to the preceding question before the managers ask another.

Mr. Manager WEBB. I think the Senator is right.

Q. (By Mr. Manager WEBB.) I ask you again if you swore before the Judiciary Committee of the House of Representatives, when this matter was under investigation before it, that the silent party referred to in this contract was Judge Archbald, and that you told the judge you had referred to him as a silent party?-A. I never told the judge.

Q. I ask you if you swore to that before the Judiciary Committee.—A. Well, it was a mistake, because I never told the

judge about it.

Q. Then, I ask you if you put his name in this contract and referred to him as the silent party?-A. I told you it was not me that put that in there.

Q. It was you who signed it, was it not?-A. I may have

signed it, but I never made that paper.

Q. I ask you whether you did not say when you signed it that the judge was a silent party?-A. Well, it meant the judge, of course.

Mr. Manager WEBB. You could have said that two or three duntes and a said that two or three minutes ago.

Mr. WORTHINGTON. Mr. President, I object to the gentleman lecturing the witness.

Q. (By Mr. Manager WEBB.) You say "silent party" meant the judge. Why did you not put the judge's name in there?-

A. I did not put his name in there.

Q. I ask if you did not swear before the Judiciary Committee that the reason you did not put his name in was because you thought it would not be lawful? [A pause.] Sir?—A. I do not remember saying that. I do not remember that.

Q. I ask you now, then, if that was not the reason?

Mr. POMERENE. Mr. President, I desire to submit a question to be addressed to the witness.

The PRESIDENT pro tempore. The Senator from Ohio asks that the following question be prepounded to the witness. Secretary will read the question.

The Secretary read as follows:

Q. Was the paper read to you or by you before you signed it?

A. I do not think it was.

Mr. Manager WEBB. On behalf of the managers, I ask permission of the Senate at this point to cross-examine this witness. My reason for asking it is that it is perfectly evident that he is a party in this transaction, that he is a friend to Judge Archbald, and an unwilling witness, and hostile to this case. As a preliminary to this request, however, I want to ask the witness this question.

Q. (By Mr. Manager WEBB.) I will ask you, Mr. Williams, if you did not say in the Scranton Times, on the 27th of April, a week before you came to Washington to testify before the Judiciary Committee, that you had papers in your possession

which would clear the judge?—A. Well before—
Q. Just answer that question.—A. Before the Attorney Gen-

eral, do you mean?
Q. No; before you came to Washington to testify before the Judiciary Committee. Was not this published in the Scranton Times on April 27:

I have the papers in my pocket which will show the price we paid, and when the case comes to that point my testimony will clear Judge Archbald.

Did you not admit before the Judiciary Committee that you put that in the Scranton Times; and did you not tell that to a correspondent of the Scranton Times, and was it not published in your city?-A. I do not remember anything about that-not a word.

Q. Who paid your expenses when you came to testify before the Judiciary Committee?-A. The judge paid them. He gave me the ticket to come down.

Q. You mean Judge Archbald?-A. Yes, sir.

Q. Are you a friend of the judge?-A. I was friendly with

him; yes, sir.

Mr. Manager WEBB. Mr. President, under these circumstances we feel that in order to get from this witness the facts that he has testified to here before, even, or to get a full statement from him, we are entitled to cross-examine him or lead

The PRESIDENT pro tempore. The Chair would suggest that the manager proceed a little further without doing so.

Mr. Manager WEBB. Very well, sir. Q. (By Mr. Manager WEBB.) I will ask you if you did not swear before the Judiciary Committee that you did sign this? A. Yes, sir; I did.

Q. You did?-A. I did sign that. That is my handwriting. Mr. Manager WEBB. That answers the question. That is

your handwriting.

Mr. Manager CLAYTON. May I interrupt my colleague to ask that he please identify the paper as to which the witness now answers?

Mr. Manager WEBB. This is the "silent-party" contract

about which I am now talking.
Q. (By Mr. Manager WEBB.) You admit you signed it?—
A. Yes; I signed it.

Q. You admit now that you signed it?—A. Yes, sir; I did. Mr. Manager CLAYTON. What is the number of the exhibit?

Mr. Manager WEBB. Exhibit No. 7.
Q. (By Mr. Manager WEBB.) When you signed it, did you know the "silent party" was in it?—A. No; I did not know it; and I do not know now. I do not know when or how that was signed; I can not tell you.

will ask you again now, and please listen to this question—A. (Interrupting.) You know that in the Crawford will case there have been some signatures put on the papers—

Q. I understand .- A. And it was not written by Jim Craw-

Q. You do not deny that at one time-whether it was in this paper or not-you signed a paper in which you referred to

Judge Archbald as a silent party?-A. No, sir. I would not swear I signed that.

Q. This paper?-A. Yes,

Q. Then we will discard this paper for the present. You did sign a paper?-A. I did.

Q. And did that "silent party" refer to Judge Archbald?-A. Yes, sir.

Q. Did you tell Judge Archbald that you had done that?-A. To Bill Boland, you mean?

Q. No; did you tell Judge Archbald that you had referred to him as a silent party-A. No; I do not know.

Q. In any kind of a contract?-A. I do not know whether I

did or not. Q. I will ask you if you made this response to Mr. Norris in

the Judiciary Committee. Mr. WORTHINGTON. Give the page, please,

Mr. Manager WEBB. Page 516.

Q. (By Mr. Manager WEBB.) This is a question Mr. Norris asked you:

Did the judge know that he was a silent partner? Mr. WILLIAMS. He knew that he was a silent partner all right.

Is that true?-A. Yes; he knew that he was a silent partner. Q. After the letter from Mr. May submitting a copy of the contract to you from him, did he rescind that contract a little later by another letter?-A. How is that?

Q. I mean did Mr. May annul or withdraw the contract for the Katydid culm dump which he was making to you so that he could make it to Mr. Bradley ?- A. No; Mr. Bradley took the deed back to him-that deed you read here to-day.

That is right. Mr. Bradley did hand it back to him?-

A. Yes.

Mr. Manager WEBB. There is no controversy about that? Mr. WORTHINGTON. No.

The Witness. Because this lawsuit was coming on.
Mr. Manager WEBB. I introduce Exhibit 8.
Q. (By Mr. Manager WEBB.) I wish you would listen to this and see if you received that letter.

The Secretary read the letter referred to, which was marked "Exhibit 8," as follows:

[U. S. S. Exhibit 8.]

APRIL 13, 1912.

Mr. RICHARD BRADLEY, Peckville, Pa.

DEAR SIR: Further in the matter of the interest of the Hillside Coal & Iron Co. in the Katydid dump, referred to in mine of the 11th instant

Because of the complications brought to your attention yesterday at the Laurel Line station our attorneys believe that it will be best for you not to do anything whatever in connection with the matter until you hear further from me.

Yours, very truly,

W. A. Max,

Vice President and General Manager.

(Copy to Mr. E. J. Williams, 626 South Blakely Street, Dunmore, Pa.) Q. (By Mr. Manager WEBB.) Did you receive a copy of that letter?-A. Yes, sir.

Q. Was the contract returned to Mr. May—this contract of sale?—A. The deed was returned to him; yes, sir.

Q. Well, the deed. It was returned to Mr. May?—A. It was sent to Mr. Bradley to examine, to see if it was acceptable to him.

Q. And it was acceptable to him?-A. It was acceptable.

Q. This letter received two days later called it in, did it?-A. Yes, sir. Q. Since Mr. Bradley returned the contract, have you tried

to sell the culm bank to anyone else?-A. No, sir.

Q. I ask you if you tried to sell it to Mr. Thomas Howell Jones ?- A. Oh, no. That was before that.

Q. Did you try to sell it to Mr. Thomas Howell Jones ?- A. No; that was before Bradley.

Q. Whenever it was, did you try to sell it to Thomas Howell Jones?-A. Yes, sir.

Q. Did you carry Thomas Howell Jones to the judge's office?-What is that?

Q. Did you carry Thomas Howell Jones to the judge's office; did you go with him to the judge's office?-A. Yes, sir.

Q. Did you in the presence of the judge give him a 10-day option, at \$25,000, on this dump?-A. Yes, sir.

Q. Do you know when it was that you gave Thomas Howell Jones this 10-day option?-A. It was before Bradley; a few days before that.

Q. A few days before?—A. Yes; a few days before Bradley Q. Are you quite sure it was before, or was it since?-A. Oh,

it was before. Q. Why should it be before the time when you negotiated with Bradley for it?-A. I did not negotiate with Bradley until

after Tom Jones. Q. Then I will ask you if Mr. Thomas Howell Jones went down to examine the culm dump after he had his \$25,000 option;

did he examine it to see whether or not it was worth buying?-A. He was ready to buy it, but his parties did not come on.

Q. After he came back from examining the dump I will ask you if you and he did not go to the judge's office and if the judge did not tell Mr. Thomas Howell Jones that he (the judge) had no title to this dump, and that you got out of the office; and that a few days later you asked Jones where he was going and you told him not to go to the judge's office, that he had nothing to do with it?-A. No, sir; I did not. I did not say that.

Q. Did you have any discussion of that sort with Thomas

Howell Jones?-A. No, sir; I did not.

Q. You gave him an option, did you not; a 10-day option?-Yes, sir.

Q. Who drew it?—A. It was only a verbal option; that was all; no paper.

Q. It was not written?-A. No, sir.

Q. Was it given in the presence of the judge?-A. Why, yes; it was given in the presence of the judge, but it was only a verbal option. I do not remember any written option to him.

Q. Now, returning to the other proposition, let me ask you this question, Mr. Williams: If this conversation between you and Judge Norris did not occur before the Judiciary Committee investigating this matter?

I read from page 513 of the volume already referred to:

I read from page 515 of the volume alrendy referred to:

Mr. Norris. Mr. Williams, why was it that you gave Judge Archbald a half interest in this contract?

Mr. WILLIAMS. Why was it?

Mr. Norris. Yes.

Mr. WILLIAMS. Did I not have a right to give it?

Mr. Norris. Yes; I am not questioning that, but I ask you why you did it?

Mr. WILLIAMS. Because he was doing something for it—to help me to get it.

Mr. Norris. What was he doing beyond writing these letters?

Mr. Norris. Did you have any idea that on account of his position he might have some influence that might be important in negotiating the deals?

might have some influence that might be important in negotiating the deals?

Mr. Williams. Well, no; not exactly that, sir.

Mr. Norris. Teil the committee why it was in this assignment that you gave you referred to Judge Archbald as a silent party.

Mr. Williams. Tell them why?

Mr. Norris. Yes.

Mr. Williams. Only of the service he done to me in getting it.

Mr. Norris. Yes; but in this assignment you gave to Boland you referred to a silent party, which you say means Judge Archbald. Why was he not referred to by name? In other words, why was it kept a secret that Judge Archbald was the party? What purpose did you have in view in withholding his name?

Mr. Williams. I do not know. I thought maybe that it was not lawful.

Did you swear that before the Judiciary Committee?-A. Yes, sir.

Q. Is it still so?—A. Yes.
Q. Did you say "yes" or "no"?—A. "Yes."
Q. Now, Mr. Williams, when you went back to the judge after the first time you applied to Mr. May for this option and he (May) refused or declined to let you have it did not the judge say "I will go to New York and see Brownell, and I may be able to do him some hurt for refusing such a small favor"? I will ask if you did not swear that before the Judiciary Committee?—A. I forget whether I did or not. I do not remember that I said that, but I said that he was going to New York; yes, sir.

Q. But did he not say that he had some cases, the lighterage cases, on his desk at that time?-A. No, sir. It was I who

said that.

Q. Did you not swear that the judge pointed to some lighterage cases on his desk and you did not know what a lighterage case was?—A. Yes; I asked him what lighterage meant.

Q. Did you not swear before the committee that the judge said "I will go to New York and see Brownell, and I may be able to do him some hurt for refusing such a small favor"? Did you not swear that before the Judiciary Committee? No, sir; I do not remember saying that. I do not know whether I did or not say that.

Q. I will ask you if you did not swear it before the com-

mittee?-A. I do not remember.

Q. Is it not a fact that you did say that the judge said "I will go to New York and see Brownell and I may be able to do him some injury," and when you came to explain who "him" meant you said the judge did not mean Brownell, but meant May? Is that not what you swore before the committee?-A. I do not remember.

Q. I ask you now if you do not remember the judge did say that and you explained that he did not mean to hurt Brownell but to hurt May? Is not that true; did you not swear that before the committee?

Mr. WORTHINGTON. I think that the witness ought to understand whether he is being asked whether it is true or

whether he swore to that before the committee. Both questions are being put to him.

Mr. Manager WEBB. I am asking, first, whether he swore to

that before the committee. You understand that?

Mr. WORTHINGTON. You say I understand it?

Mr. Manager WEBB. I referred to Mr. Williams.

The WITNESS. I guess I did.

Q. (By Mr. Manager WEBB.) If you swore to it, it is true, is it not?-A. Yes, sir.

Q. Because that was nearer to the time of the transaction than the present day. I ask you if, when the judge came back from New York, he told you that he had seen Brownell, and for you to go to Mr. May and get that option; that Mr. May thought a great deal of you and liked you very much?-A. No; not in that way

Q. Tell how it occurred, then.—A. The judge did not tell me that. He said, "I met Capt. May, and he told me to tell you to come up and get it." That is what he told me.

Q. May told the judge to tell you to come up?-A. Yes, sir.

Q. And the judge did tell you?—A. Yes.
Q. And he told you that Mr. May liked you very much?—A. Yes; he did.

Q. And in response to the judge's suggestion to go and get it you did go to May and get it?—A. I got it; yes.
Q. That was after the judge had returned from New York

and told you he had seen Brownell; that is correct, is it not?-A. Yes, sir.

Q. Then Mr. May had changed his attitude about the proposition between the first time you saw him and the last time, because he finally did agree to give you the option. Is not that right?-A. He gave me the option.

Q. When you went to see him about it first, would he talk to you about the matter?-A. Oh, yes; he talked to me.

Q. Did he not decline to give you any satisfaction?-A. He declined to give it to me.

Q. He declined to give you any satisfaction and talked to you pretty gruff, did he not?-A. Yes, sir. I told him I had a lease for all the culm that was mined from Forest City to Moosic in one lease, and he remembered it all right.

Q. Do you know whether Mr. May went to New York sometime in August after you saw him?-A. No, sir; I do not

know anything about Mr. May's movements. Q. Do you know Jim Dainty?

Mr. Manager WEBB. This is article 6 we are now entering upon, Mr. President.

A. Yes, sir.

Q. (By Mr. Manager WEBB.) State whether you ever took Jim Dainty to the judge for the purpose of getting the judge to assist Dainty in the sale of the Everhardt interests in a tract of land owned by the Lehigh Valley Railroad Co.; and if so, what part the judge played in that negotiation. Tell us so, what part the judge played in that negotiation. about that.—A. I do not know much about that. I heard him telephoning to the manager of the Lehigh Valley——

Q. Before we get to that, please—A. (Interrupting.) And

that is all I heard.

Q. How did you come to take Jim Dainty to the judge? Did you take Dainty to the judge?—A. I do not know whether Jim asked me to introduce him to the judge.

Q. Well, anyway, did you go with Dainty to the judge?-A.

I did; yes.

Q. What was said between you and Dainty and the judge?—A. I introduced Dainty to the judge and he introduced the subject to him, and I went out.

Q. What was the subject?-A. The sale of one interest in The other interest had been sold to the Lehigh lease. Valley.

Q. I understand the Lehigh Valley owned about four-fifths of a tract of land. Is that right?-A. Yes, sir.

Q. And the Everhart heirs owned the remaining one-fifth.

Is that right?-A. Yes, sir.

Q. And that the railroad company wanted to buy this remaining one-fifth, but did not want to pay the price that the Everhart heirs had asked. Is that right?-A. They had refused until then.

Q. What did Dainty ask the judge to do when he went in?-A. He asked him to communicate with the manager.

Q. Who was the manager?-A. Mr. Warriner, or some name like that.

Q. Did he communicate then and there with him on the phone?-A. Yes, sir; and that is the last I know. I walked out and went downstairs. I do not know anything more about that.

Q. But what did you hear the judge say to Warriner?—A. Oh, just called him, and I did not hear what he talked about. Q. Did you not swear before the committee that you heard him ask him if he would not pay this price?-A. I do not remember. Did I say that? I do not remember what I said about

Q. Why did you go out immediately that you took Dainty in to see the judge?—A. Because I had nothing to do with that.
Q. You introduced Dainty to the judge?—A. I introduced

him; yes.
Q. What for? Why?—A. Jim told me what for.
Q. Why did you want Jim to know the judge in reference to the sale of this land to the railroad company?—A. Because the judge was acquainted with the Everharts, and he did that as a friendly act to-

Q. I will ask you again what the judge said to Mr. Warriner

when he saw him?-A. I do not know what he said.

Q. Do you know when this was-what time last year or this year?-A. I do not remember what time.

Q. Was it a year ago? Was it in 1911?—A. Yes, sir; I think it was in 1911. I think it was before this year. I think it was

over a year ago.
Q. Did Dainty tell the judge when you took him in that he had influence with the Everhart heirs, and if the judge would assist in selling this land to the railroad company he expected to get a lease of 324 acres of isolated coal land, in which he would give the judge an interest?

Mr. WORTHINGTON. Is it competent to ask the witness what took place between Dainty and the judge?

Mr. Manager WEBB. I did ask him if this occurred in the presence of the judge [to the witness], and I ask you again.

A. I do not remember whether Jim said that or not.
Q. (By Mr. Manager WEBB.) Was anything like that said?—
A. Yes; there was something, but I do not remember how much land or how much coal was on the land. I do not think that Jim knew himself how much coal there was.

Q. Aside from the amount of coal and the number of acres, was that the conversation, that if the Everhart heirs sold to the railroad company the railroad company would lease to Dainty 324 or some number of acres of coal land isolated, and the judge

would share in the profit of it?—A. I do not know. Q. Was there something like that conversation before the judge?-A. I can not tell you about that, because I told you I

went out right away.

Mr. Manager WEBB. I understood you to say a moment ago that you introduced Dainty to the judge.—A. I did introduce him.

Q. And told him the business he had with him?-A. I told him he knew the Everhart heirs; that he was acquainted with the Everharts.

Q. Dainty did?—A. I told the judge. Q. That Dainty knew the Everharts?—A. That he was acquainted with the Everhart heirs; that he was friendly with

Q. Then did you hear Dainty ask the judge to help him sell the Everhart interest to the railroad company?-A. I just heard that and that is all. I went out.

Q. You heard that much?-A. Yes, sir.

You saw the judge immediately take up the telephone and

call Warriner, did you not?—A. Yes, sir.
Q. You said a while ago you saw him take up the telephone

and call Warriner, the general manager?—A. I did.

Q. How far does Warriner have his office from the judge?-A. At Wilkes-Barre.

Q. Eighty miles?—A. Twenty miles.

Q. Twenty miles away? You introduced Dainty in the judge's office, and this transaction took place there?—A. Yes, sir.

Q. Did you tell Dainty that you could tell him a man who would help him make that sale?

Mr. WORTHINGTON. I object to that, Mr. President. Mr. Manager WEBB. If there is going to be an objection I

will withdraw it.

Mr. WORTHINGTON. I certainly do object to trying to influence against Judge Archbald by producing what people outside of his presence may have said, which was not communicated to him.

Q. (By Mr. Manager WEBB.) Was there anything said in this conversation between Judge Archbald and Dainty and you about the Everhart heirs wanting \$20,000 more for the land than the railroad company wanted to pay?—A. I do not remember about the amount. I do not remember.

Q. I will ask you if you did not say to Dainty, in the presence of the judge, that the judge was the only man you knew in Scranton who could effectuate or effect that sale?-A. I

guess I did.

Q. I will ask you if you did swear that from the conversation you gathered in the presence of the judge the judge was to act as negotiator with the Everharts and the Lehigh Railroad Co. for the sale of this tract of land to them?-A. Yes, sir.

Q. You said that?-A. Yes, sir.

Q. I will ask you if you know Thomas Darling?-A. I met him once; that is all.

Q. Is he an attorney for the Lehigh Valley Railroad Co.?-A. He is.

Q. Have you ever seen him practice law before Judge Archbald's court ?-A. No; I never have.

Q. Mr. Williams, I ask you if you did not swear before the committee that you had seen him often in cases before the judge's court?—A. I never seen him only as I went to see him with that letter to his office in Wilkes-Barre.

Q. You know he is a lawyer representing the Lehigh Valley Railroad Co.?-A. I know he is a lawyer. That is all I know

about him.

Q. How do you know that he represents the Lehigh Valley Railroad Co.?-A. I did not know it. I did not think he was a lawyer of the Lehigh Valley.

Q. Did you ever have any dealing with him besides this letter which you carried from Judge Archbald?-A. No; I never had any dealing with him. I was a perfect stranger to Darling.

Q. Look at this letter [exhibiting], please, and see if that is the one that you carried to Mr. Darling.—A. I do not know, because I did not open the letter.

Mr. WORTHINGTON. Under what article of impeachment is that offered in evidence, may I ask?

Mr. Manager WEBB. I think it is covered in article 13. Mr. WORTHINGTON. If it is offered only under the thir-

Mr. Worthingfox. If it is offered only under the thirteenth article, we object to it.

Q. (By Mr. Manager WEBB.) Do you know Judge Archbald's handwriting? I believe you said you did. Is that it [presenting letter]?—A. (Examining letter.) Yes, sir.

Mr. Manager WEBB. I should like the Secretary to read this letter, Mr. President.

The PRESIDENT pro tempore. It is offered in evidence? Mr. Manager WEBB. It is offered in evidence.

The PRESIDENT pro tempore. The Secretary will read the letter.

The Secretary read as follows:

(United States Commerce Court, Washington.) SCHANTON, August 3.

My Dear Darling: This will introduce Mr. Edward Williams, of this city, who wishes to talk with you about the purchase of a culm dump which you control. Mr. Williams is a coal man of experience and is in touch with parties who are able to handle the dump if you are inclined to dispose of it.

Yours, very truly,

R. W. Abchbald.

Mr. Manager WEBB. Let the Secretary read the heading.

The Secretary. I did read the heading. Mr. Manager WEBB. Read it again.

The Secretary read as follows:

United States Commerce Court, Washington. Scranton, August 3

Mr. WORTHINGTON. I do not care to insist on the objection until it is offered under the thirteenth article. What we

have to say about that may be reserved.

Mr. Manager WEBB. I am not confined to any particular article in this particular evidence, of course. We think the letter is entirely competent. [To the witness:] Mr. Williams, the judge says here that "Mr. Williams is a coal man of experience and is in touch with parties who are able to handle the dump." Do you know whom you were in touch with then who was able to handle this dump if you could buy it? Did he refer to himself?—A. No.

Q. To whom did he refer, then?-A. I do not know. That

was my business, sir.

Q. Exactly .- A. Exactly; yes, sir.

Q. He says you are in touch with coal men who would be able to handle the dump. To whom does he refer as the persons you were in touch with to handle the dump?—A. I do not know. I know all the coal men myself-all the coal operators. am well acquainted with them.

Q. Before you got this letter from the judge did you tell him that you were going to give him an interest in it?—A. No; I did not say anything to him about that. I never talked about

that. Q. How is that?-A. No.

Q. How did you come to get this letter from Judge Archbald?—A. I went to see him about Darling. I did not know that Darling was a Lehigh Valley lawyer.

Q. We will leave that out. Why did you go to the judge to get this letter to Darling?—A. Well, because he was friendly; that is, I knew he was friendly with Darling.

Q. You knew he was friendly with him. Is that all you

have to say?-A. Yes.

O. Did you tell him when he wrote the letter that you intended to give him half of it if you got the dump?-A. I do not remember telling him.

Q. I ask you if, on page 547 of the hearings before the Judiciary Committee, you did not swear this in response to Mr.

Nonnis's questions:

Mr. Norris. Did you intend to give him a half interest in it if you get it from Durling?

Mr. Williams, I intended to give him an interest; yes, sir.

Mr. Norris. You did?

Mr. Williams. Yes, sir.

Mr. Norris. Did you ever tell him that?

Mr. Williams. Yes, sir; I did.

Mr. Norris. When did you tell him that?

Mr. Williams. Before I went I told him that.

Mr. Norris. You told him before you got the letter, did you? Is that right? that right? Mr. WILLIAMS. Yes, sir.

Did you swear that before the Judiciary Committee?

Mr. WORTHINGTON. Mr. Webb, I think you are making a mistake there. That relates to the Katydid dump and not the Darling transaction.

Mr. Manager WEBB. I beg your pardon, Mr. Worthington; that is a difference in construction. The leading question was, Did you intend to give him a half interest in it if you got it from Darling? and the subsequent question-

The WITNESS. Never anything come out of that.

Q. (By Mr. Manager WEBB.) I understand; but did you tell the judge that if you got the dump you would give him a half interest?—A. Yes, sir. Q. That is so?—A. Yes; I intended-

Q. You told him that you intended to do it?-A. Yes, sir. Mr. Manager WEBB. Under article 9, Mr. President, I wish to examine the witness now. [To the witness.] Mr. Williams, how long have you known Judge Archbald?

A. For over 30 years.

Q. Are you a man of any financial means?-A. I was some time ago; not now.

Q. Were you last year? Were you a year ago?-A. No; I

was not a year ago.

Q. Were you four years ago?-A. Yes, sir.

Q. What did you have four years ago in the way of property?—A. Four, five, or six thousand dollars.
Q. Six thousand dollars?—A. About \$6,000.

Q. What has been your business since you came to this country ?-A. Coal.

Q. A miner and operator?-A. A miner. I know every part of mining, making leases.

Q. You have been all through it?—A. Yes, sir.
Q. Making leases and options?—A. I have made leases. have made leases for the Delaware, Lackawanna & Western.

I made leases for different people.

Q. Did you ever have a conversation with the judge in which you induced him to join you in a Venezuelan venture, to buy an option on a million acres of land in Venezuela, and in that conversation or transaction the judge gave you a \$500 note, or gave a \$500 note to John Henry Jones, indorsed by him and yourself?—A. He did not give it to me.

Q. Now state all about it.—A. We got papers from Venezuela. We had just got the option from there and we had been negotiating for quite awhile. I seen every letter that came from Deman Santo, the consul there from Spain. He told us to send a man down there, that there was some valuable property there, and we could get an option on it, iron ore, copper, and very valuable timberland. So I gave the first money to go down there and got the option on the million acres right on the Orinoco River-what is the line through the country going up to Brazil.

Q. Now come down to the transaction between you and the judge and John Henry Jones, please.—A. After we got the option I told the judge about it, and he said, "I would like to see those papers. Will you let me see them?" I said, "Yes." John brought them over the next day.

Q. John who?-A. John Henry Jones.

Q. All right. Proceed .- A. And he showed them to the judge, and the judge said they were first-class papers, all right.

Q. Well, proceed, please.—A. He would like to invest some money in them. He said he would give a note to John. This was to go to London to pay expenses to negotiate to sell the land.

Q. Did he agree to take an interest in the option?-A. Yes,

sir.
Q. What interest was he to have—one-third and you one-third? Did you say yes or no?—A. Yes, sir.
Q. What interest did Jones have?—A. The same.
Q. One-third?—A. For his services. He put nothing in it.

Q. What did the judge pay for his one-third interest; and did he give a note for it or not?-A. A note.

Q. Do you know whom the note was payable to?-A. John

Henry Jones.

Q. How much was the note?-A. \$500. The Providence Bank cashed it.

Q. Wait a minute. You are going too fast. Who indorsed that note?—A. The judge indorsed it. I indorsed it. Q. Did the judge indorse it?—A. Yes, sir.

Q. Who drew it?—A. The judge, I think.
Q. That is, did he write it himself?—A. I think he did.

Q. Do you know when that was?-A. I could not say exactly the date.

Q. Was it four years ago?—A. About that. Q. At that time did you know that the Marian Coal Co. was party defendant in a suit before Judge Archbald, in which Peale was plaintiff?-A. I do not think they were fighting yet. I do not think they were.

Q. Do you not know?-A. I do not think there was a case

on at all.

Q. Do you not know that Mr. Peale had sued the Marian Coal Co.?-A. I know all about Peale, but I do not think that that case had been started at that time.

Q. Leave that out. Do you know the Bolands own the principal stock of the Marian Coal Co., William P. Boland and Christopher G. Boland?—A. I do, very well. I have good reason to know it.

Q. When that note was drawn did you take it to C. G. Boland

to have it discounted?-A. I did; yes ,sir.

Q. Did you tell the Judge that you were going to take it to Boland?—A. I think I did; but he said "Take it where you like; I do not care where you take it." He did not induce me to go there.

Q. I understand that. When the note was drawn the next question was to get it discounted, was it not?-A. Yes.

Q. And you told the judge that you were going to carry it to

C. G. Boland for discount, and he told you to take it where you pleased?-A. Yes, sir.

Q. You took it to C. G. Boland and he declined to discount

-A. He kept it for two days, sir.

Q. And declined to discount it?-A. And he never said anything about litigation, because there was no litigation-

Q. I am not asking you about that, Mr. Williams. show that later. He did not discount it?-A. No, sir: he did

Q. And what did you do with the note?-A. I went to the Merchants & Mechanics' Bank with it.

Q. Did you get it discounted there?-A. I did not. it back to John Henry Jones, and he went up to the Providence

Bank and got Von Storch, the president of the bank, to cash it. Mr. Manager WEBB. I will state, Mr. President, that the note in question is a commercial paper, and we will be able to produce it a little later and introduce it in connection with this

testimony. It is now in the bank.
Q. (By Mr. Manager WEBB.) Has that note ever been paid the note drawn then?-A. No; it is partly paid; I do not know

how much of it is paid.

Q. What part of it has been paid?—A. It is partly paid. Q. How much-what part?-A. I do not know; it is none of

my business to know.

Q. Do you know how much of that note has been paid during the last four years since it was made?-A. No, sir; I do not know. Only the first time I indersed it, and I do not know anything about it.

Q. You indersed it the first time. Have you not indersed it

since?-A. No, sir.

Q. Has it been renewed every four months since originally made?-A. Yes, sir; and they paid so much; but whether it is paid in full or not I can not say.

Q. You do not mean to say you did not indorse it, Mr. Williams? Did you not indorse it every time?—A. No, sir; not after that.

Q. Did you not indorse it on the 6th of last May in the judge's office, with Jones present?-A. I indorsed it once, I think, and that is all. He never asked me to indorse it.

Q. He did not ask you to indorse it? Did you take it to any

other private citizen except Boland ?-A. What?

Q. Did you take that note for discount to any other private party except Boland?-A. No, sir; not any person. I never asked anybody.

Q. After Boland had declined to discount it did you subsequently tell him that he had made a mistake in not discounting the judge's note?-A. No; I did not tell him that. He says that I said that; that he would save all expense; but I never said such a thing to him, sir, never.

Q. Did you ever sign a statement to that effect?—A. No, sir; I never signed a statement to that effect. I would be crazy-I am mad enough now-but would be crazier than a bug, sir, if I said such a thing as that, because this man never told me such a thing, and how could I say it?

Q. Let me refresh your memory. Do you not know that a man by the name of John W. Peale had sued the Marian Coal Co. in Judge Archbald's court; that he had secured an injunction and taken an account, and that that suit was pending in the judge's court when this note was made?-A. I do not know such a thing. I did not know that case was on.

Q. You were in the judge's office very frequently, were you not?—A. Yes, sir.

Q. And did you not know something about the sults pending in the district court there?—A. I knew about it when it came on to trial; but I did not think it was on then.

Q. You do not think it was on then?—A. In 1909, was it

not-

Q. Well, 1909?-A. This note was made, was it not, and in 1910 or 1911 that suit came on.

Q. The suit was determined then, but I am asking you if the suit was not pending?-A. No; it was determined in 1912.

Q. When were you subpænaed to come down to the hearing before the Judiciary Committee? Was it Sunday, May 4?-A. Yes; it was on Sunday.

Q. Where were you on Monday next following? Where did

you go?-A. I do not know.

Q. I ask you if you did not go to the judge's office immediately after you were subpænaed to come here in the investigation before the Judiciary Committee of the House?-A. I do not remember.

Q. What, Mr. Williams?-A. I do not remember.

- Q. Perhaps I can refresh your memory. I ask if you did not go to the judge's office to tell him you wanted to get the money to come down here; that John Henry Jones was there; that you renewed this very \$500 note we have been talking about; that Jones took it back and the bank renewed it; and that you told the judge you would meet him at the depot, and he did meet you there and bought your ticket?-A. Yes; I know that.
- Q. Did you go to the judge's office on Monday morning after you were subpænaed on Sunday?-A. I forget; I do not re-

Q. Speak a little louder, please, sir.—A. I do not remember

whether I did or not; I do not remember about that.

- Q. I ask you, then, if you did not swear before the Judiciary Committee of the House that you did go to Judge Archbald on the Monday following your subpæna on Sunday, and ask him for the money to come to Washington, and he told you he would meet you at the depot and give you a ticket, and he did do it? A. Well, I do not remember that; but I did get the ticket anyhow.
- Q. Did you go to Judge Archbald's office on Monday morning after you were subpænaed on Sunday? You can answer that question .- A. Well, all I remember -- I remember that I got the I do not remember that I went there on Monday

Q. Do you remember seeing John Henry Jones in the judge's office?-A. No; I do not.

Q. Where did you get the ticket and from whom?-A. In the depot.

Q. From whom?—A. From the judge.

Q. How did you know that the judge was going to be at the depot?-A. I went there at the same time.

Q. How did you know that the judge was going to be at the depot if you had not seen him before that time?-A. I seen him going there.

Q. Had you not seen him in his office in the morning?—A. No; I did not go up with him from the office. I met him on the street.

Q. You met him on the street. What did you tell him?-A.

I told him that I had no money to go down.

Q. Did you tell him that you were subpænaed to come down here and testify against him?-A. To testify in this thing, anyhow.

Q. And at the depot he gave you the money, or rather the ticket, to come down here with?—A. He gave me the ticket; no money.

Q. You did not have money enough to come on ?-A. No, sir;

I did not.

- Q. Where were all these transactions between you and Dainty and you and the judge about the Katydid dump and the Darling transaction had-in the judge's office in Scranton?-A.
- Q. Where were the others had?-A. It was those three, any-

Q. Those three. Is the judge's office in the Federal building in Scranton?—A. Yes, sir.

Q. How often have you been in the judge's office during the last two years do you suppose?-A. Oh, very often; about three or four times a week maybe.

Q. Did you come down to Washington in February and testify in this Katydid matter?—A. What?

Q. Did you come to Washington on or about February 21, 1912, and testify before another tribunal, other than the Judiclary Committee, about this matter?—A. Yes. Q. That was some time in February?—A. Yes.

Q. When you went back home did you tell the judge that you

had testified down here?—A. What?
Q. When you went back to Scranton did you tell the judge that you had come down here and made this statement?-A. I did; yes. Q. You say you did?—A. Yes.

Q. How long was it after you returned to Scranton that you told him that you had been down here?-A. I do not remember how long it was-whether it was the next day or whether it was in a week; I could not say.

Q. At any rate, immediately after you testified before the Attorney General?—A. I do not know.

Q. You did go back to Scranton and tell the judge about it?—
A. I did tell him; yes.

Mr. CLARK of Wyoming. Mr. President, the Senate has now been in session since 12 o'clock. I doubt from the course of the examination whether this witness can conclude his testimony this evening; and, if it is entirely agreeable to the managers on the part of the House, I should like to make a motion that the Senate sitting as a Court of Impeachment do now adjourn.

Mr. Manager WEBB. I will say, Mr. President, that that is entirely agreeable to the managers.

The PRESIDENT pro tempore. The Senator from Wyoming moves that the Senate sitting as a Court of Impeachment do now adjourn.

The motion was agreed to, and (at 5 o'clock and 30 minutes p. m.) the Senate sitting as a Court of Impeachment adjourned.

The managers on the part of the House and the respondent and his counsel withdrew from the Chamber.

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to, and (at 5 o'clock and 31 minutes p. m.) the Senate adjourned until to-morrow, Thursday, December 5, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

Wednesday, December 4, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the fol-

lowing prayer:

O Thou who art the life and light of men, the inspiration of every great thought, noble deed, and honest endeavor in the fields of activity which lead on to the higher and better forms of life, inspire us, quicken our activities, that we may be worthy sons of the living God, and leave behind us a record worthy of emulation, and merit at last Thine approbation, for Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and

approved.

DEATH OF SENATOR HEYBURN.

Mr. FRENCH. Mr. Speaker, I offer the following resolution and move its adoption.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 730.

Resolved, That the House of Representatives has heard with profound sorrow of the death of the Hon. Weldon Brinton Heyburn, late a Senator from the State of Idaho.

Resolved, That the Clerk be directed to communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased

Senator.

The question was taken, and the resolution was unanimously agreed to.

CALENDAR WEDNESDAY.

The SPEAKER. This is Calendar Wednesday, and on the last Calendar Wednesday when the House adjourned the situation was this: What is known as the Crago pension bill for widows and children of Spanish veterans, H. R. 17470, had been reported favorably from the committee, and the gentleman from Georgia [Mr. RODDENBERY] had made a motion to recommit it with instructions; and on the motion to recommit on a viva voce vote the motion to recommit was lost. Thereupon the gentleman from Georgia made the point of no quorum. There

was a call of the House, and, no quorum appearing, the House adjourned and left it in that condition. The first thing is to take a vote on the motion to recommit de novo. The Clerk will read the motion to recommit with instructions.

The Clerk read as follows:

The Clerk read as follows:

Moved to recommit H. R. 17470, a bill to pension widow and minor children of any officer or enlisted man who served in the War with Spain or Philippine insurrection, to the Committee on Pensions, with instructions to said committee to report the same back with the following amendments:

Amend, on page 2, by adding in line 19 after the colon the following: "Provided further, That no widow or child as aforesaid shall be construed to have a pensionable status under this act unless it is affirmatively shown that the deceased husband or father—being an officer or enlisted man—was during the said War with Spain or the Philippine insurrection actually engaged in or present and exposed to danger in one or more battles or skirmishes."

Mr. CULLOP. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CULLOP. I would like to ask if the motion to recommit was not lost and so declared by the Chair?

The SPEAKER. It was lost on the viva voce vote.

And that a roll call was demanded on the Mr. CULLOP. passage of the bill?

The SPEAKER. You can not recommit if anybody raises the point of no quorum present; that ends the whole business.

Mr. CULLOP. Had not that stage of the proceedings been passed and the point of no quorum made on the passage of the

The SPEAKER. Oh, no; the motion to recommit was made

properly at the right time.

Mr. CULLOP. The inquiry I was making was if that had not been voted down and the Chair had so declared, and the point of no quorum was not made on that proposition?

The SPEAKER. The gentleman from Indiana is mistaken about the facts. The question is on the motion to recommit with instructions.

The question was taken, and the Chair announced the noes seemed to have it.

Mr. RODDENBERY. Division, Mr. Speaker.

The House divided; and there were—ayes 3, noes 101.
Mr. RODDENBERY. Mr. Speaker, I make the point of

order that there is no quorum present.

The SPEAKER. The gentleman from Georgia makes the point of order that there is no quorum present, and evidently there is not. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 25, nays 252, answered "present" 3, not voting 110, as follows: YEAS-25.

Olderla

Beall, Tex.	Evans	Oldfield	Stephens, Miss.	
Burleson	Faison	Roddenbery	Stephens, Tex.	
Callaway	Garrett	Saunders	Townsend.	
Candler	Harrison, Miss.	Sheppard	Tribble	
Clark, Fla.	Hughes, Ga.	Sisson		
Dies .	Jacoway	Slavden		
Doughton	Macon	Smith, Tex.		
Doughton				
NAYS—252.				
Adair	Copley	French	Jones	
Ainey	Covington	Fuller	Kahn	
Akin, N. Y.	Cox, Ind.	Gallagher	Kendall	
Alexander	Crago	Gardner, Mass.	Kennedy	
Allen	Crumpacker	Gardner, N. J.	Kent	
Anderson	Cullop	Garner	Kindred	
Andrus	Curley	George	Kinkaid, Nebr.	
Anthony	Curry	Gill	Kinkead, N. J.	
Ashbrook	Dalzell	Gillett	Kitchin	
Austin	Danforth	Godwin, N. C.	Konig	
Barchfeld	Daugherty	Goeke	Konop	
Barnhart	Davis, Minn.	Goldfogle	Korbly	
Bartholdt	Davis, W. Va.	Good	Lafeau	
Bartlett	De Forest	Green, Iowa	Lafferty	
Berger	Dent	Greene, Mass.	La Follette	
Blackmon	Dickinson	Griest	Lamb	
Boehne	Dixon, Ind.	Gudger	Langham	
Booher	Dodds	Hamilton, Mich.	Langley	
Borland	Donohoe	Hamlin	Lawrence	
Bowman		Hanna	Lee, Ga.	
Brantley	Doremus	Hardwick	Lee, Pa.	
Browning	Draper Draper	Hardy	Lenroot	
Buchanan	Driscoll, D. A.	Hart	Lever	
Bulkley	Dupré	Hartman	Levy	
Burgess	Dyer	Hawley	Lewis	
Burke, Pa.	Edwards	Hayden	Lindbergh	
Burke, S. Dak.	Ellerbe	Heald	Linthicum	
	Esch	Heflin	Littlepage	
Burke, Wis. Butler	Estopinal	Helgesen	Lloyd	
	Farr	Helm	Lobeck	
Byrnes, S. C.	Fergusson	Henry, Tex.	Longworth	
Byrns, Tenn. Calder	Ferris	Hinds	McCall	
	Fields	Holland	McCoy	
Campbell	Fitzgerald		McDermott	
Cannon	Flood, Va.	Houston Howland	McGillicuddy	
Cantrill	Floyd, Ark.		McKellar	
Carlin	Fordney	Hull Wash	McKenai	
Claypool	Fornes	Humphrey, Wash, Humphreys, Miss.	McKinnor	
Clayton	Foss		McLaughlin	
Cline	Foster	James Johnson Kr	McMorran	
Conry	Fowler	Johnson, Ky.	Madden	
Cooper	Francis	Jehnson, S. C.	praduct	

Maguire, Nebr,
Maher
Matthews
Mays
Merritt
Mondell
Moon, Tenn.
Moore, Pa.
Moore, Tex.
Morgan, La.
Morgan, Okla.
Murdock
Murray
Needham
Neeley
Nelson
Norris
Nye
Olmsted
Padgett Switzer Patton, Pa. Russell Sabath Switzer
Taggart
Talbott, Md.
Talcott, N. Y.
Taylor, Ala.
Thistlewood
Tilson
Towner
Tuttle
Underhill
Vare
Volstead
Watkins
Webb
Whitacre
White Fayne Peters Pickett Plumley Scott Scully Shackleford Post Powers Pray Prince Sherley Sherwood Sims Sloan Prouty Pujo Raker Randell, Tex. Small Smith, J. M. C. Smith, N. Y. Sparkman Rauch Speer Stedman Redfield Reilly Riordan Steenerson Stephens, Cal. Stephens, Nebr. Sterling White White Wilder Willis Wilson, III. Wood, N. J. Young, Kans. Young, Mich. Roberts, Mass. Rodenberg Rothermel Padgett Page Palmer Stone Rouse Rucker, Colo. Sulzer Sweet ANSWERED "PRESENT"-3. Mann Burnett Carter NOT VOTING-110. Gould Littleton Rucker, Mo. Adamson Aiken, S. C. Littleton
Loud
McCreary
McGuire, Okla,
McHenry
McKinley
Martin, Colo,
Martin, S. Dak.
Miller
Moon, Pa,
Morrison
Morse, Wis,
Moss, Ind.
Mott
O'Shaunessy Graham Sells Granam Gray Greene, Vt. Gregg, Pa. Gregg, Tex. Guernsey Hamilton V Sharp Sharp Simmons Slemp Smith, Saml. W. Smith, Cal. Ames Ansberry Ansberry Ayres Bates Bathrick Bell, Ga. Bradley Browsard Brown Carv Smith, Cai.
Stack
Stanley
Stevens, Minn.
Sulloway
Taylor, Colo.
Taylor, Ohio
Thayer
Thomas
Turnbull Hamilton, W. Va. Hammond Harris Harrison, N. Y. Cary Collier Cox, Ohio Haugen Hav Cravens Currier Davenport Davidson Haves O'Shaunessy Parran Patten, N. Y. Pepper Porter Pou Henry, Conn. Hensley Higgins Hill Turnbull Underwood Vrceland Warburton Wedemeyer Denver Dickson, Miss. Difenderfer Driscoll, M. E. Hobson Pou Rainey Ransdell, La. Rees Reyburn Richardson Roberts, Nev. Robinson Rubey Howard Howell Weeks Weeks Wilson, N. Y. Wilson, Pa. Witherspoon Woods, Iowa Young, Tex. Hughes, W. Va. Dwight Fairchild Finley Focht Glass Jackson Jackson Knowland Kopp Legare Lindsay Goodwin, Ark. The Clerk announced the following pairs: For the session:

Mr. Hobson with Mr. FAIRCHILD.

Mr. Adamson with Mr. Stevens of Minnesota,

Mr. LITTLETON with Mr. DWIGHT. Mr. Fornes with Mr. Bradley.

Until further notice:

Mr. AIKEN of South Carolina with Mr. AMES.

Mr. Ansberry with Mr. Bates. Mr. Bathrick with Mr. McCreary.

Mr. FINLEY with Mr. CURRIER. Mr. BELL of Georgia with Mr. Mott.

Mr. COLLIER with Mr. Woods of Iowa. Mr. BROUSSARD with Mr. CARY.

Mr. Cox of Ohio with Mr. Davidson. Mr. Davenport with Mr. Michael E. Driscoll.

Mr. DIFENDERFER with Mr. FOCHT.

Mr. Goodwin of Arkansas with Mr. Greene of Vermont.

Mr. GLASS with Mr. SLEMP. Mr. GRAHAM with Mr. GUERNSEY.

Mr. GRAY with Mr. HAUGEN.

Mr. GREGG of Pennsylvania with Mr. HENRY of Connecticut.

Mr. Gregg of Texas with Mr. HILL. Mr. HAMILL with Mr. HIGGINS.

Mr. HAMMOND with Mr. HOWELL, Mr. HENSLEY with Mr. HARRIS.

Mr. Harrison of New York with Mr. Hughes of West Virginia.

Mr. Hay with Mr. Knowland. Mr. Howard with Mr. Jackson. Mr. Legare with Mr. Loud.

Mr. Moss of Indiana with Mr. McGuire of Oklahoma. Mr. O'Shaunessy with Mr. Martin of South Dakota,

Mr. PATTEN of New York with Mr. MILLER. Mr. PEPPER with Mr. Moon of Pennsylvania.

Mr. Pou with Mr. Porter. Mr. Rainey with Mr. McKinley.

Mr. RANSDELL of Louisiana with Mr. ROBERTS of Nevada.

Mr. ROBINSON with Mr. REYBURN.

Mr. RUBEY with Mr. SELLS.

Mr. RUCKER of Missouri with Mr. SIMMONS.

Mr. Sharp with Mr. Samuel W. Smith.

Mr. STANLEY with Mr. SULLOWAY.

Mr. TAYLOR of Colorado with Mr. SMITH of California.

Mr. TURNBULL with Mr. VREELAND.

Mr. Thomas with Mr. Taylor of Ohio. Mr. Wilson of New York with Mr. Warburton.

Mr. Young of Texas with Mr. WEEKS.

Mr. UNDERWOOD with Mr. MANN.

For the vote:

WITHERSPOON (for recommitting) with Mr. Brown Mr. (against).

For the day:

Mr. Morrison with Mr. WEDEMEYER.

Until December 6:

Mr. DENVER with Mr. HAYES.

The SPEAKER. On this vote the yeas are 25, the nays 252, a quorum. The Doorkeeper will open the doors, The motion to recommit is rejected, and the question now is on the passage of

The question was taken, and the bill was passed.

On motion of Mr. Crasco, a motion to reconsider the vote by which the bill was passed was laid on the table.

MEMBERS' ELEVATOR, HOUSE OF REPRESENTATIVES.

The SPEAKER. The Chair desires to make to the House a statement in which all the Members are interested. been much complaint about persons who are not Members of Congress coming up in the elevator in the southeast corner. Members complain that they can not get over here from the House Office Building in time to vote, and it is a very serious discommoding and might interrupt the public business. summer the Chair ordered the elevator men not to allow anybody except Members to come up in that elevator. They did not pay much attention to it, so the Chair issued an order to them this morning not to let anybody travel up and down in that elevator except Members of the House and the newspaper men, because the newspaper men have to come up that way or else go clear around the Hall of the House to the southwest corner.

That order can only be enforced by the Members of the House assisting the Speaker in enforcing it. It will not be properly enforced if they undertake to bully the elevator men to let other people in with them, for of course the elevator men are afraid of being discharged on complaint. The only way to enforce that order for the benefit of Members is for the Members to help the Speaker enforce it. For himself the Speaker will say that he Speaker enforce it. For himself the Speaker will say that he will direct his family, when they come up, to come up in one of these other elevators [applause], and the Chair requests Mem-

bers to do the same.

CALL OF COMMITTEES.

The SPEAKER. The Clerk will call the next committee. The Clerk proceeded with the call of committees.

ALLEGATION AND PROOF OF LOYALTY IN CERTAIN CASES.

Mr. WATKINS (when the Committee on the Revision of the Laws was reached). I am instructed, Mr. Speaker, by the Committee on the Revision of the Laws to ask consideration of the bill H. R. 16314, to amend section 162 of the act to codify and amend the laws relating to the judiciary, approved March

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911.

1911.

Be it enacted, etc., That section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, be amended and reenacted so as to read as follows:

"Sec. 162. The Court of Claims shall have jurisdiction to hear and determine the claims of those whose property was taken subsequent to June 1, 1865, under the provisions of the act of Congress approved March 12, 1863, entitled 'An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States,' and acts amendatory thereof where the property so taken was sold and the net proceeds thereof were placed in the Treasury of the United States; and the Secretary of the Uradgment of said court, and full jurisdiction is given to said court to adjudge said claims, any statutes of limitations to the courterry not-withstanding: Provided, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims."

With a committee amendment.

Mr. MANN. Mr. Speaker, I make the point of order that this bill should be on the Union Calendar instead of on the House Calendar.

The SPEAKER. The gentleman will state why he thinks that.

Mr. MANN. The bill is an amendment to the judiciary title in reference to the jurisdiction of the Court of Claims, and among other things it provides that "the Secretary of the Treasury shall return said net proceeds to the owners thereof on the judgment of said court," which is an indirect appropriation of money out of the Treasury. Under the rules of the

House the bill must be considered in the Committee of the Whole House on the state of the Union. I have no objection to the consideration of the bill to-day if it be considered in that way.

The SPEAKER. The Chair thinks that the point of the gentleman is well taken, and the bill will be transferred to the

Union Calendar.

Mr. WATKINS. Mr. Speaker, I ask unanimous consent to consider it in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Louisiana asks unanimous consent to consider this bill in the House as in Committee of the Whole.

Mr. MANN. I would prefer to have the gentleman make a motion to go into Committee of the Whole.

The SPEAKER. The gentleman does not have to make a motion to go into Committee of the Whole.

Mr. MANN. That is true.

The SPEAKER. The House will resolve itself automatically into Committee of the Whole House on the state of the Union for the consideration of this bill, and Mr. Rucker of Colorado will take the chair.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 16314, with Mr. RUCKER of Colorado in the chair.

The CHAIRMAN. The House is now in Committee of the

Whole House on the state of the Union for the consideration of the bill H. R. 16314. The Clerk will report the bill.

The bill was again read.

The CHAIRMAN. The gentleman from Louisiana [Mr. WAT-KINS] is recognized.

Mr. WATKINS. Mr. Chairman, I move the adoption of the

committee amendment and the passage of the bill.

The CHAIRMAN. The motion of the gentleman from Louisi-

ana is not in order, because general debate is allowable.

Mr. MANN. I understood the bill was read for amendment, and I supposed the gentleman from Louisiana would explain the purport of the bill.

Mr. SHERLEY. I would like to know, Mr. Chairman, what the request was. I could not hear it stated.

The CHAIRMAN. The request was for the passage of the

Mr. SABATH. I would like to know something about the bill,

Mr. Chairman.

Mr. WATKINS. Mr. Chairman, I did not anticipate that there would be any objection at all to the passage of the bill. It is simply an amendment to the revision code adopted on the 3d of March, 1911, and it was really an oversight in not having incorporated in section 162 the provision which is intended to be incorporated by the passage of this bill. It is simply intended to amend that section.

Mr. GOLDFOGLE. What section is it?

Mr. WATKINS. I will read the section. It is in the same words as the bill, except that it does not dispense with the necessity of alleging and proving loyalty in those cases which arose after the cessation of hostilities, after the Civil War was

But, Mr. Chairman, if there is to be debate upon this, we ought to have some agreement as to the length of time which is to be consumed and who is to control the time. The ranking minority member of this committee, the gentleman from Pennsylvania [Mr. Moon], would naturally control the time on that side, and I had expected him to do so. I expect to control the time on this side. As he does not seem to be in the Hall at this moment, I suppose the gentleman from Illinois [Mr. MANN] will control the time on that side.

Mr. MANN. I suggest to the gentleman that he explain fully the purport of the bill. If I understand it, the effect of it will be to take out of the Treasury of the United States \$10,000,000 or \$12,000,000 without any further appropriation by Congress. It is important enough to be considered fully.

Mr. WATKINS. If the gentleman will pardon the inter-ruption, I simply want now to arrange as to the time to be

consumed. I expect to explain the bill.

Mr. MANN. I think no more time will be occupied than is necessary for the consideration of the bill. I do not see how it is practicable to fix the time in advance.

Mr. WATKINS. Then, Mr. Chairman, I will proceed in the regular order. I should like to know, though, if anyone on that side is to control the time, so that I can know what disposition

to make of the time on this side. Mr. SHERLEY. I suggest to the gentleman that the ordinary rules of the House, which give to any gentleman taking the floor one hour for the discussion of the bill, be observed until the matter develops sufficiently to show how much discussion the bill will naturally evoke.

Mr. WATKINS. If we can not agree on the time, then that course will be taken.

The CHAIRMAN. The gentleman from Louisiana [Mr.

WATKINS] is recognized.

Mr. WATKINS. Mr. Chairman, on March 3, 1911, the Committee on the Revision of the Laws secured the final passage of the bill for the codification of the laws relating to the judi-Section 162 of that codification, under the title of the judiciary, reads in this way:

Judiciary, reads in this way:

SEC. 162. The Court of Claims shall have jurisdiction to hear and determine the claims of those whose property was taken subsequent to June 1, 1865, under the provisions of the act of Congress approved March 12, 1863, entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States," and acts amendatory thereof where the property so taken was sold and the net proceeds thereof were placed in the Treasury of the United States; and the Secretary of the Treasury shall return said net proceeds to the owners thereof, on the judgment of said court, and full jurisdiction is given to said court to adjudge said claims, any statutes of limitation to the contrary notwithstanding.

Mr. Chairman, when this section was incorporated in this revision it was not anticipated that any objection, technical or otherwise, would be raised to the payment of the proceeds of the property arising out of the act of Congress of 1863. It was not anticipated that the question of loyalty would be raised. For that reason that proposition was not submitted in the amendment to the section offered at that time and which finally

became section 162.

The situation was just this: There was an old statute providing that in all cases arising before the Court of Claims allegation and proof of loyalty was necessary; but in the case of the United States against Klein the Supreme Court of the United States decided that under this captured and abandoned property act, passed in 1863 and amended later, no allegation or proof of loyalty was necessary, because the Supreme Court, in inter-preting the act of 1863, has said that the fund so created is simply and purely a trust fund, that the property taken was taken for the benefit of those to whom it belonged, that it is not contraband of war, that it was taken solely for the purpose of converting the property and placing the proceeds in the Treasury of the United States for the benefit of the owner, and that being a trust fund it did not come under the requirements of the allegation and proof of loyalty as in the cases where the property taken was contraband of war. This property was not confiscated.

You will notice from the reading of the last section of this act that the statement made by the gentleman from Illinois [Mr. Mann] is untenable, because it requires that all the proceeds of that property shall be paid over to the owners of the property or their heirs, administrators, executors, or assigns. Therefore the property is to be paid over to the owners of it. But if there is not enough money to pay all, it is to be paid out

ratably, or pro rata, to the different claimants.

The gentleman from Illinois has stated that some \$10,000,000 or \$12,000,000 of this fund will be paid. I have here a complete list of all these funds in the Treasury. The total amount was originally more than \$26,000,000. There were paid out of it \$16,000,000. The amount was further cut down by charges against the fund and under amendments to the original act until the fund now amounts to somewhere in the neighborhood of or a little less than \$5,000,000 arising from the sale of the property after June 1, 1865. This \$5,000,000 will never pay the claims already presented to the Treasury Department, and it is for the purpose of getting an equitable rate of distribution that we ask for this amendment. If the amendment is not incorporated in the code, the adventurers, camp followers, and speculators who came from various sections of the country after the Civil War into the South and bought up and took possession, either legally or without law, of this property will be the only ones who will benefit by the revision which was intended to

benefit the heirs of the owners, the widows, and the orphans.

Mr. Chairman, the object of the House of Representatives in passing this act was to do simple justice to these parties who had taken from them property by the great Government of the United States; taken as a trust and put in charge of the agents of the Government as a trust fund, and the proceeds placed in the Treasury for the benefit of these persons. The proceeds of that property have never been allowed to be touched by any officer for any purpose. I do not think any appropria-tion is necessary for the purpose of carrying the law into execution. If it had been necessary, this amendment will not make it so. We do not here ask for any appropriation; we simply ask that the trust fund that is there now, and has been for 47 years, be paid out equitably and not turned over entirely to the horde of speculators and those who defrauded the people of their rights after the war; we ask that it be distributed to the rightful claimants and their heirs and representatives.

Now, Mr. Chairman, I had not thought that it would be necessary at all to discuss this question from a legal standpoint, but I have authorities here ready to make a legal argument if it becomes necessary. The reason I did not anticipate that there would be any controversy or objection to it was

Mr. TOWNSEND. Before the gentleman enters upon his legal argument I would like to ask for information. What is the total sum of this trust fund that he speaks of?

Mr. WATKINS. Approximately \$5,000,000 in the Treasury which under the law would have to be paid out, and it is only a question of who it would have to be paid to.

Mr. TOWNSEND. Can the gentleman state the number of

claimants?

Mr. WATKINS. I have the whole volume of them here; there are several thousand of them. I have not added them up. There are a great many from all over the country. There is hardly a section of the country but has a representative in these claims.

Mr. BUTLER. Will the gentleman yield? Mr. WATKINS. Certainly.

Mr. BUTLER. How much was the fund originally?

Mr. WATKINS. About \$26,000,000.
Mr. BUTLER. Will the gentleman be kind enough to tell us

under what circumstances it arose?

Mr. WATKINS. In 1863 the Congress of the United States passed a law providing that all abandoned property in the insurrectory States-the States in the South in which the war was being waged-which had been captured should be taken in charge by the Federal authorities; that is, property not contraband of war, not subject to confiscation. It provided that the property which could not be confiscated as contraband of war should be taken in charge by the United States and put in a trust fund. People were moving from the South all over the southern section of the country and getting out of the way, leaving and abandoning property, particularly cotton. That act was intended to authorize the Federal authorities to take charge of it in a fiduciary capacity, selling the cotton or property and charging the cost of sale and transportation to the fund, and then to deposit the balance of the fund in the United States Treasury to remain there until it was claimed.

The original act limited the right to claim in two years, but that was afterwards extended, and now the expiration of that time has elapsed. There were a great number of people in that section of the country, particularly minors, who knew nothing of the passage of the law and did not avail themselves of an

opportunity to take advantage of it. All of this fund has been distributed, except this remnant of about \$5,000,000.

Mr. BUTLER. The act of 1863 was one of the confiscation

Mr. WATKINS. It was not a confiscation act; it was a provision for the Government to take charge of the property, and in the case of the United States against Kline the court says that it was not a confiscation, but simply property taken in charge by the United States Government for the benefit of the owners of the property.

Mr. BUTLER. The fund that now remains in the Treasury arose from the sale of property that was seized after hostilities

Mr. WATKINS. Entirely after the war was over. Mr. BUTLER. And none of it is from the sale of property that was seized before hostilities ceased?

Mr. WATKINS. Not at all; and the very section, section 162, of the revision of the laws explains it definitely and explicitly. There can not be any doubt about it at all. It fixes the date absolutely, as the 1st of June, 1865—after the war was over.

Mr. Chairman, the reason that I made the statement that I could not anticipate any objection was because not only on account of the justice of this claim—

Mr. BUTLER. Mr. Chairman, if the gentleman will permit, of course this property was seized in the South?

Mr. WATKINS. Yes.

Mr. BUTLER. And the object of the gentleman's bill, as I understand it, is to remove the burden of proving loyalty?

Mr. WATKINS. Yes.

Mr. BUTLER. This property was seized after the war was over?

Mr. WATKINS. Yes. That is the whole thing in a nutshell. That is the reason, when this amendment came before the Committee on Revision of the Laws, that there was not a scintilla of objection to it. The ranking minority member on that committee, the gentleman from Pennsylvania [Mr. Moon], when the question was presented to him as to whether he would vote in favor of reporting the bill, said it would be not only bad faith but it would be wrong from every standpoint for any Member to vote against the amendment. When the Democratic Members had gone before the conference committee, when this revision was in conference, they agreed with the conferees that if they would allow this measure to remain in the codification, they, the Democratic Members, would not object to other features about which they had contended in the passage of the

Mr. BUTLER. Mr. Chairman, will the gentleman please tell us as a bit of history why this property was seized after hostilities had ceased?

Mr. WATKINS. Because the law provided for it.

Mr. BUTLER. Hostilities were done?

Mr. WATKINS. Yes.

Mr. BUTLER. I do not see the reason for it.

Mr. WATKINS. The law did not make any limit upon the time within which it should operate. The law went into effect as all other laws do and was general in its terms. No one knew when the law of 1863 was passed that the war would end in the spring of 1865. It made no limitation, except as to the time in which the owners should assert their claims. It simply ordered the Federal authorities to take possession of and to convert into money property that was abandoned by people in that section of the country, not placing any limit or stating any time. That continued. The gentleman will bear in mind that the people during the war for a number of years had been leaving that section of the country, and leaving behind them property, mainly cotton, though a great deal of land was left as well as other property.

Mr. BARTLETT. Mr. Chairman, will the gentleman from

Louisiana yield for a moment?

Mr. WATKINS. Certainly.

Mr. BARTLETT. Mr. Chairman, if the gentleman will permit, I desire to suggest to the gentleman from Pennsylvania [Mr. BUTLER] that he will recall that from 1865 to 1866 the Southern States had located in them the forces of the United States Army. At that time we of the South were not under our own Government, but under the Government of the United States, either military or provisional. It was before we had obtained the status of civil government, and the United States Army officers, in pursuance of the act of 1863, deemed it to be their duty to seize all the cotton.

Mr. BUTLER. I have not been able to understand why it

was seized. I do not see the justice of it.

Ar. BARTLETT. There was no justice in seizing it, and because there was no justice in seizing it this House, Republicans and Democrats alike, under an amendment that I myself offered to the revision-of-the-laws bill, voted to remove the statute of limitations from the abandoned and captured property act, to permit these people whose property had been unjustly seized and sold to have opportunity to recover their money which had been unjustly taken from them.

Mr. BUTLER. Congress has already determined that the question of loyalty shall not be considered in the distribution of

this money, has it not; in 1911?

Mr. BARTLETT. There was nothing said about loyalty.
Mr. LANGLEY. Not as to this fund.
Mr. GARRETT. Mr. Chairman, will the gentleman from Louisiana yield?

Mr. WATKINS. Certainly. Mr. GARRETT. Mr. Chairman, it has been my understanding-and I will ask the gentleman from Louisiana if it is not correct-that in many instances the cotton which was seized had become the property of the Confederate Government?

Mr. WATKINS. That is not involved in this question. Mr. GARRETT. I know that it is not involved in this question, but it has something to do with the proposition as an explanation of why much privately owned cotton was seized. I say that for the information of the gentleman from Pennsylvania [Mr. Butler]. Much cotton, a great deal of cotton, had been acquired by the Confederate Government itself and in seizing the cotton that belonged to the Confederate Government very frequently they took cotton that belonged to private individuals as well. Of course the question as to whether it belonged to the Confederate Government or not does not belong to this amendment at all, but it is a matter of historical information.

Mr. BUTLER. The gentleman from Georgia made an explanation, but I can not see why the Government should seize cotton or any other commodity in the South after the war was over.

Mr. BARTLETT. There was no reason. It was an absolute

injustice to those people which the Republican Congress undertook to correct after so many years.

Mr. WATKINS. Mr. Chairman, I have in this desultory way, interrupted by these questions, undertaken to explain the purpose of the bill, and I have about covered the main features of

the case. As I desire to reserve the balance of my time, if there should be any objection to the bill, which I really can not conceive, I will now give the floor to any gentleman who desires to discuss the question, reserving the balance of my time.

Mr. WILLIS. It seems to me, Mr. Chairman, that this bill ought not to be agreed to by the committee or by the House without the most careful consideration. If I understand this bill correctly as I have read it and as I have listened to the explanation by the gentleman from Louisiana [Mr. WATKINS], it provides in substance, first, that the absolutely unbroken policy of the Government since the time of the Civil War should be abandoned. Second, that the decisions of the Supreme Court that have been made in every case of this kind shall practically be reversed by legislation. Third, that approximately \$5,000,000 in the Treasury of the United States shall be paid out to some one. It seems to me, Mr. Chairman, we ought not to embark upon legislation of that kind without a most careful investigation and a most complete understanding of the facts. Now, as I understand the facts, substantially every dollar of this \$5,000,000, which it is alleged is a trust fund, represents the proceeds of the sale of cotton that was captured—not taken from individuals, but captured—from the Confederate Government.

Mr. BARTLETT. May I interrupt the gentleman there? Mr. WILLIS. Certainly; I yield to the gentleman from Georgia.

Mr. BARTLETT. I do not know where the gentleman gets his information or understanding, but it is very wide of the mark, because the evidence is, and I know it to be a fact, not only not captured but taken from the farms and warehouses where it was stored, and the records of the Treasury Department will show not only it was so taken but the names and marks of the owners from whom taken.

Mr. WILLIS. Mr. Chairman, I am quite familiar with the record to which the gentleman refers, and I want to say if he desires to have the authority for the statement I have just made it is a circular, No. 4, issued by the Treasury Department January 9, 1900, that gives a very complete analysis of this whole transaction and all of these claims, and the conclusions arrived at by the Secretary of the Treasury are stated in these words, which I shall read from the circular:

It follows, therefore, that the balance of the fund in the Treasury received from the sale of cotton represents the proceeds received from the sale of cotton that belonged to the Confederacy.

At all events the gentleman from Georgia happens to find himself in conflict with the authorities of the Treasury De-partment. That is the deliberate opinion of the men who have investigated the records and gone over these cases, that these \$5,000,000 are not a trust fund at all, but they simply represent the proceeds from the sale of cotton that belonged to the Confederacy. Now, where these individuals come in is in another proposition. There is a series of bills here that seem to be all working together. Attention was first called to this in the eloquent remarks of the gentleman from the Tombigbee. He has a proposition which in substance undertakes to provide that when cotton was sold to the Confederacy in good faith, paid for absolutely, but left in the hands of the original vendor, that such transaction is not a sale, that the cotton is not the property of the Confederacy, but, because the property has not been delivered, the property rights reside in the original vendor, and consequently these parties are coming in and claiming individual ownership, notwithstanding the fact that they voluntarily sold the cotton to the Confederacy at the market price and received their pay for it.

Mr. CANDLER. Will the gentleman yield?

Mr. WILLIS. Yes.

Mr. CANDLER. Mr. Chairman, I do not think the gentleman from Ohio states accurately the proposition which I submitted to the House in a speech heretofore made.

The proposition involved there is this: That where the property was contracted for but never paid for at all, and left in the hands of the original vendor, that by reason of the fact it never had been paid for, he had the right when the vendee became insolvent to repossess that property and apply it to the payment of his debt, which is the old doctrine which has been well established and recognized not only by the English but American authorities, as to stoppage in transit. It never had been paid for, and, therefore, the original vendor had the right to take it and subject it to the payment of his debt.

Mr. WILLIS. I am glad to know I did not misunderstand

my friend. I correctly understood him and am familiar with the contention in his bill, which I did not mean to discuss at this time. I referred to it only incidentally. However, when we come to that I wish to say that I shall disagree entirely with his proposition. The purchase by the Government of the

Confederacy in the open market and the payment for that stock of cotton either in notes of the Confederate Government or in bonds of the Confederate Government, I contend, is a sale, and that is the law of this land now as set forth in Whitfield v. United States (92 U. S., 165), and it is the proposition of the gentleman to change the law. That is where I shall take issue with him when the time comes.

But reverting to this question as raised, as to whether this is a trust fund, Mr. Chairman, I deny entirely the proposition that these \$5,000,000 constitute a trust fund. It is not a trust fund under the decision of the Supreme Court of the United That brings me around to what I said in the first place, that it is the purpose of this bill, which appears to be so innocent on its surface, to reverse a well-established policy of the Government of the United States and practically by legislation to undertake to reverse at least two or three well-considered opinions of the Supreme Court. It seems to me that such procedure ought not to be had except upon the most careful investigation.

Now, let us go into this trust fund proposition a little bit. The gentleman says that this is a trust fund that really belongs to these individuals. I have already shown you that, based upon the most careful examination, the Treasury Department holds in this circular which I have read, that these \$5,000,000 represent the proceeds of the sale of cotton that belonged to the Confederacy, and that, therefore, individuals have no right, claim, or title to it, and that there is no trust fund at all. But suppose that the cotton did not belong to the Confederate Government. Let us see what the court says about this trust fund. Reference is made here by the gentleman from Louisiana to the Klein case. Let us see what the court says in a later case about these matters. I am quoting here from the Haycraft case, 22 Wallace, page 92. The court said:

The claim is that the trust in favor of the owner having then been created, the remedy for its enforcement in the Court of Claims as a contract was restored to the disloyal owner by the operation of the President's proclamation of December 25, 186S, granting unconditional pardon to all who participated in the rebellion.

According to the doctrine of Klein's case, as I understood my friend from Louisiana [Mr. WATKINS], it was upon that case that he based his argument. But here is what the court said about the Klein case in a later decision:

According to the doctrine of Klein's case, if a suit was commenced within two years a pardoned enemy could recover as well as a loyal friend. But the commencement of the suit within the prescribed time was a condition precedent to the ultimate relief. The right of recovery was made to depend upon the employment of the remedy provided by

Then the court summed it up in this striking sentence: Pardon and amnesty have no effect except to such as sue in time.

These parties have not sued in time. They have been guilty of laches. They have sinned away their day of grace. They had the opportunity under the act which allowed them to sue within two years of the time the war closed. They had their remedy under the act of 1872. Now it is proposed not only to change the doctrine that has been absolutely the unbroken policy, but, mark you, sir, it is proposed to amend the law so as to take away from the Government of the United States the defense as to requiring proof of loyalty by claimants which its own attorneys are making now in the cases pending in court

Mr. GARRETT. Will the gentleman permit an interruption?

Mr. WILLIS. Certainly.
Mr. GARRETT. The gentleman speaks of changing the policy of the Government. Does the gentleman mean for us to infer from that he insists it was necessary heretofore to prove loyalty in these claims?

Mr. WILLIS. Not under the act of 1872.

Mr. GARRETT. Nor the first act, which was the act of

1865, was it not?
Mr. WILLIS. That has just been covered. Evidently the gentleman was not listening to what I read. It was not necessary, as the court said, as to those who sued in time, but as to those who did not sue in time it was necessary to prove loyalty.

Mr. GARRETT. They had no case if they did not sue in time.

Mr. WILLIS. Certainly.

Mr. GARRETT. Of course, even if they had proven loyalty they could not have recovered if they did not sue in time.

Mr. WILLIS. I understand that perfectly. The act of 1872 gave the parties their remedy. They did not need to prove loyalty under the act of 1872.

Mr. GARRETT. If they sued in time.

Mr. WILLIS. But under the new act, under section 162 of the judicial code, the officers of the Government contend that proof of loyalty is necessary. That is one of their defenses in cases actually pending, and if we enact this bill into law we are proposing to take away from the Government the defense that it now has.

Mr. GARRETT. I understand that, but I take issue with the gentleman on the proposition that this involves a change in the unbroken policy of the Government. All that this bill proposes to do is to suspend the action of a statute of limitations. It does not change any fundamental policy of the Government or differ in any respect from the decisions that have been had heretofore.

Mr. WILLIS. Not if that is all that is proposed.

Mr. GARRETT. It does that.

Mr. WILLIS. Then there would be no objection to striking out the proviso in lines 12, 13, and 14. This proviso reads as

Provided, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims.

But would that action meet the approval of the friends of the bill? If that is all that is in this bill, if it is simply to remove the bar of the statute of limitations, the friends of the bill ought to agree to the amendment to strike out what follows the colon in

Provided, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims,

The point is right there. That is the crux of the bill-the removal of the charge of disloyalty; the defense that the Government is now making in the Court of Claims to protect this \$5,000,000, which is not a trust fund, which is not the property of any individual, but which belongs to the United States.

Now I yield to the gentleman from Pennsylvania.

Mr. BURKE of Pennsylvania. The gentleman's position is that this cotton, as I understand, had been assigned by the original owners to the Confederacy

Mr. WILLIS. Had been sold and paid for.

Mr. BURKE of Pennsylvania. And paid for either in the form of cash, notes, or bonds; that the title had passed and that was an executed contract?

Mr. WILLIS. Absolutely. Mr. BURKE of Pennsylvania. Assuming that that is true, this bill, as I understand it, only gives the court jurisdiction to reimburse the owners of the property. Now, let us assume that the gentleman's contention is true. The owner of the property is the Confederacy.

Mr. WILLIS. If the gentleman will allow me just there, I think I can obviate any further difficulty. To fully understand this measure you must understand also two or three other measures that are pending here. This bill is to be followed by other measures which propose to provide that that was not a bona fide sale to the Confederacy and that the cotton belonged to the original vendors.

Mr. BURKE of Pennsylvania. Of course that is not obvious on the face of this measure. It would require an enabling act

after the passage of this measure, would it not?

Mr. WILLIS. Surely it would.
Mr. GARRETT. Will the gentleman from Ohio yield further?

Mr. WILLIS. Certainly.

Mr. GARRETT. Let me ask the gentleman, as a matter of merit, his opinion on this proposition: This bill provides for the taking care of that property which was taken after June 1, 1865. At that time the War of Secession was ended, was it not?

Mr. WILLIS. Practically, but not legally. Mr. MANN. It was not legally ended then.

Mr. GARRETT. I mean practically, not legally. Now, let me ask the gentleman from Ohio this question: Does he think that it was right for the Federal Government to take the property of private individuals after the war was ended, after there was peace, and not pay for it?

Mr. SIMS. Or require loyalty to be proven?

Mr. WILLIS. I would have one very definite idea if that property were the property of individuals, and an entirely different idea if it were, as I contend it actually was, and as the authorities of the Treasury Department hold that it was, the property of the Confederate Government. If this property was the property of the Confederate Government the mere fact that it remained in the possession of the original vendor as a bailee did not give him any title to the cotton whatsoever.

Mr. GARRETT. Of course I am familiar with the conten-tion of the gentleman in that respect, and I do not care to go into that class of cases. I do not think it is true that all of this cotton belonged to the Confederate Government. I will say to the gentleman, however, that I have no personal interest in the matter. None of these transactions occurred in my State, or very few of them.

But the gentleman has insisted here, on this question of loyalty, that it is taking away a defense that the Government now has; and I simply wanted to get at the opinion of the gen-

tleman whether the defense of loyalty ought not to be taken away where the property was not taken until after the war was ended and in a time of peace. Why should loyalty have to be proven then? I understand the general rule among nations is that the property of an enemy is the legitimate prey of an army, but after June 1, 1865, there was no enemy.

Mr. WILLIS. Of course the gentleman understands that legally the war did not close until August, 1866.

Mr. GARRETT. I am talking about the practical fact of it. There is considerable dispute as to when the war really did end legally.

Mr. WILLIS. That has been settled by the Supreme Court of

the United States, that it ended on August 20, 1866.

Mr. GARRETT. I should like the opinion of the gentleman on that question: If the property was not taken until after June 1, 1865, after there was a practical state of peace, does the gentleman think it is right to require proof of loyalty?

Mr. WILLIS. I have no hesitancy in answering that question. If the Government took property which during the war would have been regarded as the property of an enemy or as contraband of war-and cotton was so regarded-if that property was taken from an individual after the war was practically ended, then I should say there was just ground for recompense; but my contention is that that is not the case that we have before us, and that is the contention of the officers of the Treasury Department.

Mr. BYRNES of South Carolina. Would it not, then, be a matter of proof for the claimant to prove in the Court of Claims whether he did have title to the property at the time it was taken from him? Is not that a proper matter of proof

in the court?

Mr. WILLIS. Undoubtedly so.

Mr. BYRNES of South Carolina. Then, if the gentleman has

no objection, why not report this bill favorably?

Mr. WILLIS. In reply to that let me read a letter which I have. And before I forget it, I ask unanimous consent to insert in the Record certain correspondence that I have had with the Department of Justice and the Treasury Department relative to these several bills-my letters to the departments and their replies.

The CHAIRMAN. If there be no objection, it will be so ordered.

There was no objection.

Mr. BUTLER. Has the gentleman the opinion of the department?

Mr. WILLIS. I have it, and I will put it in the RECORD in full

Mr. BUTLER. Let the gentleman give it.
Mr. WILLIS. I am going to, if the gentleman will give me time. Here is what the Attorney General says:

In some of these cases under section 162 the Government has raised questions of law which have not as yet been determined by the courts. Among these is the contention—

Note that this is the contention of the Government in these cases involving this \$5,000,000-

Among these is the contention that the loyalty required under the abandoned and captured property act is still in force and will affect all suits under said section 162, and that allegations of loyalty are necessary in the petition, which must be sustained by satisfactory proof.

Now, what I am saying is that when we have these cases actually pending in court, cases involving vast sums of money, approximately \$5,000,000, it is unwise and undesirable, especially in view of other legislation that is contemplated here, let somebody get into the Treasury and to take away from the Government a perfectly valid defense that it now has.

In further response to the inquiry of the gentleman from Pennsylvania [Mr. Butler], I desire to present here certain cor-

respondence had with the Department of Justice:

WASHINGTON, July 1, 1912.

Washington, July 1, 1912.

Hon. George Wickersham.

Attorney General, Washington, D. C.

Dear Sir: I desire to secure any information that may be in the possession of your department relative to the subject matter of House bill 23465, introduced by Mr. Candler, of Mississippi, now pending in the Judiciary Committee of the House, and House bill 16314, introduced by Mr. Watkins, of Louisiana, and recently reported to the House from the Committee on the Revision of the Laws. These bills deal with the alleged liability of the Government of the United States to the original vendors of certain cotton, which cotton during the period of the Civil War was sold to the Government of the Confederate States and was permitted to remain in the care of the original vendors as ballees. Subsequently, under authority of United States statutes, the United States took possession of this cotton, holding that it was the property of the Government of the Confederate States. I is now proposed under these bills to make the Government of the United States liable for this cotton to the original vendors and their heirs. House bill 23465 proposes so to amend section 162 of the act to codify, revise, and amend the law relating to the judiciary, approved March 3, 1911, that, first, "that all judgments and payments under the act shall be free from claims of assignees in bankruptcy or insolvency of the original owner of said claims; second, that no allegation or proof of loyalty shall be

required in the presentation or adjudication of such claims; and, third, that judgment thereunder shall not be denied by reason of any bill of sale or other conveyance of such property to the Confederate Government in consideration of securities of said government unless accompanied or followed by actual delivery of such property.

I wish to know what the policy of the Government has been heretofore in dealing with cases of this kind and what the legal effect of the proposed legislation will be. Any information concerning the subject matter of either of these bills that may be in the possession of your department that can properly be furnished me will be appreciated.

Very respectfully,

FRANK B. WILLIS

DEPARTMENT OF JUSTICE, Washington, July 8, 1912.

Hon. Frank B. Willis,

House of Representatives, Washington, D. C.

Hon. Frank B. Willis,

House of Representatives, Washington, D. C.

Dear Mr. Willis: I am in receipt of your favor of the 1st instant, wherein you desire information relative to so-called "cotton claims."

It is my understanding that the Treasury Department has forwarded to you certain facts and data which to a great degree make reply to the communication received by me.

The act of March 12, 1863, provided for the collection of abandoned property, etc., in insurrectionary districts within the United States and authorized the Secretary of the Treasury to appoint agents to receive and collect all abandoned or captured property in any State or Territory in insurrection, with certain exceptions. Said act contains the following provision:

"And any person claiming to have been the owner of any such abandoned or captured property may, at any time within two years after the suppression of the rebellion, prefer his claim to the proceeds thereof in the Court of Claims; and on proof to the satisfaction of said court of his ownership of said property, of his right to the proceeds thereof, and that he has never given any aid or comfort to the present rebellion, to receive the residue of such proceeds after the deduction of any purchase money which may have been paid, together with the expense of transportation and sale of said property, and any other lawful expenses attending the disposition thereof."

Under this act numerous suits were filed in the Court of Claims for property, including the disposition thereof."

Under this act numerous suits were filed in the Court of Claims for property, including the disposition thereof."

Under this act numerous suits were filed in the Court, in the case of the act, soled both before and after June 30, 1866, Anderson 9 Wall, 56, held that the Supreme Court, in the case of the act with the case of the claimants failed to establish loyality in compliance in the proclamation of the President of August 29 disposition thereof."

The United States (13 Wall, 128), and other cases that cour

by the act. * * * *

"Pardon and amnesty have no effect, except to such as sue in time."
The same principle was affirmed in the case of James A. Briggs (25 C. Cls., 126; 143 U. S., 351).
In that case a special act of Congress (act of June 4, 1888, ch. 348, Stat. L., 1075) was under consideration.
In the last few years quite a large number of abandoned and captured cases have been referred to the Court of Claims for findings of fact under the act of March 3, 1887, known as the Tucker Act. In the case of Brandon, administrator of Colboun (46 C. Cls., 559), the Court of Claims decided that it had no jurisdiction of such cases under Tucker Act references.

case of Brandon, administration of Claims decided that it had no jurisdiction of such cases under Tucker Act references.

Section 162 of the revised Judiciary Code (act of Mar. 3, 1911) revived the abandoned and captured property act as to all cases where the property was taken subsequent to June 1, 1865. A large number of suits have been filed under this act, but none of them have been brought to trial.

In some of these cases under section 162, the Government has raised questions of law, which have not as yet been determined by the court. Among these is the contention that the loyalty requirement of the abandoned and captured property act is still in force and will affect all suits under said section 162, and that allegations of loyalty are necessary in the petitions which must be sustained by satisfactory proof.

proof.
Sections 159, 160, and 161 of the new judicial code require allegation and proof of loyalty in all cases, and we shall ask the court to construe these sections in connection with said section 162.

I herewith attach to this communication a circular dated January 9, 1900, issued by the Secretary of the Treasury, and known as Department Circular No. 4. It appears from this document that the cotton, the proceeds of which amounted to nearly \$5,000,000, was seized after June 30, 1865.

By section 5 of the act of May 18, 1872 (17 Stats., 134), it was recorded.

by section 5 of the act of May 18, 1872 (17 Stats., 134), it was provided:

"That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the lawful owners, or their legal representatives, of all cotton selzed after the 30th day of June, 1865, by the agents

of the Government unlawfully and in violation of their instructions, the net proceeds, without interest, of the sales of said cotten actually paid into the Treasury of the United States," etc.

It will be observed that this act did not require proof of loyalty. One thousand three hundred and thirty-six claims were filed under the last-named act for 136,000 bales, estimated at the value of \$13,000,600 (Ex. Doc. H. R., 45th Cong., 2d sess., p. 36), and there was allowed by the Secretary of the Treasury \$195,896.21 on account of these claims. Most of the claims were rejected on the ground that the cotton had been sold to the Confederate Government by the original owners, as shown by bills of sale. In the case of Whitfield v. The United States (92 U. S., 165), the Supreme Court held that such bills of sale passed title and no recovery could be had by the original owners for cotton so disposed of.

The object and legal effect of the bills referred to by you are to amend

The object and legal effect of the bills referred to by you are to amend section 162 so as to dispense with proof of loyalty, to nullify the bills of sale to the Confederate Government, and to make judgments in this class of cases free from the claims of assignees in bankruptcy or

of sale to the Confederate Government, and to make judgments in this class of cases free from the claims of assignees in bankruptcy or insolvency.

The policy of enacting such legislation is a matter entirely for the consideration of Congress.

The reports from the Treasury Department in the cases that have been filed since the 1st of January under said section 162 of the new judicial code mostly show that the cotton had been sold to the Confederate Government and bills of sale given by the original owners. The reports in another class of cases show that cotton had been bought by the Confederate Government and resold or contracted for to individuals who now make claims to the proceeds thereof.

In view of the fact that section 162 of the new judicial code did not go into effect until the 1st of last January, and, furthermore, that the various questions which the Government have raised under this act have not been passed upon by the court, and, in addition to this, the fact that in no instance have the claimants' attorneys who are now seeking to recover under this section presented a case in which they are ready for trial, it would seem that before further legislation time should be given for adjudication of some cases under the recent law.

Respectfully, for the Attorney General,

JOHN Q. THOMPSON, Assistant Attorney General.

Mr. SIMS. Will the gentleman yield for a question?

Mr. WILLIS. Yes. Mr. SIMS. Suppose the Government had taken property from an individual in July, 1866, cotton that was planted and raised after the war. Does the gentleman think that the question of loyalty as a matter of substance should affect the ownership of that cotton, although it may have been raised by an ex-Confederate soldier after he was paroled and had gone home?

Mr. WILLIS. The fact that he was a Confederate soldier would not make any difference.

Mr. SIMS. He was just as disloyal as a man could be during the war. Now, this act confines it to June 1, 1865, a time when in fact there was no war. After that time why should there be any difference between June, 1865, and June, 1866, because the war ended legally on August 20, 1866?

Mr. WILLIS. Can the gentleman tell me any good reason why, when there have been given three several opportunities whereby relief could be had in just such cases, there should be another? First, application to the Secretary of the Treasury; second, under the proclamation the law allowed two years after the legal close of the war—that is, up to August 20, 1868—and third, there was the law of 1872. Here were three separate remedies given to the parties, and now why should we, 50 years after that, break down the statute of limitations, break down the rules that heretofore have obtained in these

Mr. SIMS. The gentleman's inquiry relates wholly to the removal of the statute of limitations, but my question was as to loyalty.

Mr. WILLIS. But the gentleman from South Carolina raised

the question as to the statute of limitations.

Mr. SIMS. I can not see why there should be any question of loyalty raised after 1866, unless the owner was a belligerent and still fighting and refusing to accept the issues of war.

Mr. WILLIS. Now, Mr. Chairman, I wanted to see—

Mr. BYRNES of South Carolina. I would like to answer the

question that the gentleman from Ohio has just asked.

Mr. WILLIS. I hope the gentleman from South Carolina will

do that in his own time, as I would like to close. I do not desire to seem discourteous, but I want to proceed. I want to go on with this first proposition, that this is not a trust fund. Supreme Court has clearly and distinctly so stated in what I have quoted and in what I shall insert in the RECORD.

Now let me read from another case the decision of the Court of Claims in the Brandon case, decided in 1897. The court is

quoting from Ford's case (19 C. Cls., 519-525):

But as was said by the court in Ford's case respecting the right even of a loyal man in insurrectionary territory "he had no shadow of lawful claim against the Government before the act of March 12, 1803, was passed; nor had he after that, except as that act gave it to him." So that in any event, whatever right such claimant had to the proceeds arising from the sale of his cotton was given to him by the abandoned and captured property act, the determination of which was contingent upon his pursuing the remedy and establishing his loyalty and ownership within the time and as in the act provided. This was the extent of the trust. (Young v. U. S., 97 U. S., 39, 61.)

Then it goes on to say-

As to all persons within the privileges of the act-

Not as to all persons, but as to those who sued in time.

As to all persons within the privileges of the act the proceeds were held in trust, but in all others the title of the United States as captor was absolute. Whoever could bring himself within the terms of the trust might sue the United States and recover, but no one else.

In other words, the Supreme Court has said, as clearly as the English language will permit it to state, that this fund under discussion to-day is not a trust fund at all; that the title of the Government of the United States to this fund is absolute. What I am giving to you here is not any conclusion of my own, but

the conclusion of the court itself.

The same doctrine is borne out in the Sprott case, which I will not take the time to read, but simply refer you to it. It is in Twentieth Wallace, pages 460 to 462; and, Mr. Chairman, I

ask permission to insert that in the Record.

The CHAIRMAN. If there is no objection, the request will be granted.

There was no objection.

Mr. WILLIS. The decision referred to is, in part, as follows:

The act known as the captured and abandoned property act, passed March 12, 1863 (12 Stat. L., 820), providing for "the collection of abandoned property, etc., in the insurrectionary districts within the United States," enacts that any person claiming to have been the owner of any such abandoned or captured property may, within a time specified in the act, prefer his claim to the proceeds thereof in the Court of Claims, and, on proof to the satisfaction of the court (1) of his ownership, (2) of his right to the proceeds thereof, and (3) that he has never given any aid or comfort to the rebellion, receive the residue of such proceeds, after deducting any purchase money which may have been paid, etc.

It is a fact so well known as to need no finding of the court to establish it, a fact which, like many other historical events, all courts take notice of, that cotton was the principal support of the rebellion, so far as pecuniary aid was necessary to its support. The Confederate Government early adopted the policy of collecting large quantities of cotton under its control, either by exchanging its bonds for the cotton, or, when that failed, by forced contributions. So long as the imperfect blockade of the southern ports and the unguarded condition of the Mexican frontier enabled them to export this cotton, they were well supplied in return with arms, ammunition, medicine, and the necessaries of life not grown within their lines, as well as with that other great sinew of war, gold. If the rebel government could freely have exchanged the cotton of which it was enabled to possess itself for the munitions of war or for gold, it seems very doubtful if it could have been suppressed. So when the rigor of the blockade prevented successful export of this cotton, their next resource was to sell it among their own people or to such persons claiming outwardly to be loyal to the United States as would buy of them for the money necessary to support the tottering fabric of rebellion which they called a government.

The cotton which is the subject of this controversy was of this class. It had been in the possession and under the control of the Confederate Government, with claim of title. It was captured during the last days of the existence of that government by our forces and sold by the officers appointed for that purpose, and the money deposited in the Treasury.

The claimant now asserts a right to this money on the ground that

officers appointed for that purpose, and the money on the ground that Treasury.

The claimant now asserts a right to this money on the ground that he was the owner of the cotton when it was so captured. This claim of right or ownership he must prove in the Court of Claims. He attempts to do so by showing that he purchased it of the Confederate Government and paid them for it in money. In doing this he gave aid and assistance to the rebellion in the most efficient manner he possibly could. He could not have aided that cause more acceptably if he had entered its service and become a blockade runner or, under the guise of a privateer, had preyed upon the unoffending commerce of his country.

The substance of the decision is that in the first part it gives a statement of the facts as to how this thing came about, that the Confederate Government was the purchaser of cotton. understand it purchased the cotton; it did not confiscate it. It did not go to the planter and say, "You have got to turn this over," not go to the planter and say, "You have got to turn this over," but it went out in the open market and bought the cotton as any other buyer might, and it paid for it. It was the practice to leave the cotton in the hands of the vendor; that was not peculiar as to the Confederate Government. It was the custom of the country, as the court says in one of the decisions. That is the way it was generally done. The sale was complete, but the cotton was left in the hands of the vendor as a bailee, but the title passed entirely and completely to the Confederate Government.

The court goes on to say in substance, in the latter part of the decision, that if it shall be permitted to be held that this cotton that was actually sold in good faith, paid for in Confederate currency, notes, or bonds, which was the only money in circulation in that portion of the country at that time—if, after the Confederacy had fallen, the people who happened to have that cotton in possession should be allowed to say that the cotton was theirs, the court says that would be giving the individual an unfair advantage and allowing him a chance to profit on a contract which by all the decisions of the court was held illegal and unwarranted. That is the substance of the decision in Twentieth Wallace, at the pages to which I have referred.

There has been a good deal written about this matter. have seen some newspaper and magazine articles, and have

heard some discussion relative to the amount of this fund. I expected to hear it stated that it was much larger than it is. I am glad to know that the gentleman from Louisiana [Mr. Wat-KINS] has stated it with substantfal accuracy. I have read at various times that this fund which was awaiting distribution—this so-called trust fund that was held in the interest of the common people of our great Southern States—amounted to twenty-five or twenty-six millions of dollars. I shall insert in the RECORD some brief tables from this Treasury circular that are highly interesting and important in this discussion, which show the sources of this fund and how the fund has gradually been paid up until now, as has been stated by the gentleman from Louisiana [Mr. Watkins], the sum total remaining for distribution is \$4,992,349.92. The tables referred to are as

Amount received and covered into the Treasury____ \$26, 887, 584, 39

remount received that covered into the	11000013	\$20,001,001.00
Profits on cotton purchased Premium on gold Miscellaneous property Rents Sale of captured vessels, etc Amount paid in since May 11, 1868	\$3, 444, 715, 14 2, 571, 090, 25 1, 309, 650, 69 613, 284, 96 1, 438, 526, 39 1, 629, 652, 77	11, 006, 920, 20
Leaving receipts from sale of individua	15, 880, 664, 19	
Amount covered into the Treasury derivindividual cotton— From this amount deduct payments judgment Court of Claims under act Mar. 12, 1863, to Feb. 4, 1888. Judgments of court since Feb. 4, 1888, and private acts of Congress— Disbursed as expenses under section 3, joint resolution, Mar. 30, 1868, and subsequent acts— Judgments against Treasury agents under act of July 27, 1868— Claims allowed by the Secretary under section 5, act of May 18, 1872————————————————————————————————————	\$9, 864, 300. 75 520, 700. 18 242, 140. 34 65, 276. 79 195, 896. 21	15, 880, 664. 19 10, 888, 314. 27
		4, 992, 349, 92

The Secretary of the Treasury, after giving the argument that I have given, substantially, goes on to say:

It follows, therefore, that the balance of the fund in the Treasury received from the sale of cotton represents the proceeds of the sale of cotton that belonged to the Confederacy.

A little further along he says:

It will be seen from the foregoing that ample provision was made a law for all persons who claimed that their property was unlaw-

It will be seen from the foregoing that ample provision was made by law for all persons who claimed that their property was unlawfully taken.

1. Until the fund was covered into the Treasury in 1868, the Secretary of the Treasury could return the property or the proceeds in all cases where a claim was substantiated by proper evidence.

2. The Court of Claims had jurisdiction for all claims filed before August 20, 1868.

3. The act of 1872 provided that claims for cotton could be filed with the Secretary of the Treasury until November, 1872.

I commend that circular to the study of Members, if they have not already seen it. It is Treasury Circular No. 4, issued in the year 1900.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. WILLIS. Yes. Mr. BUTLER. That I may understand better, I desire to ask the gentleman a question. The gentleman is anticipating that there may be a measure pressed here authorizing individuals to collect money from the Treasury of the United States for cotton which was sold to the Confederate Government. I will agree with the gentleman that such a sale, except as to creditors, there being no delivery made, is good; but will not the gentleman concede that it is only right to pay an individual for property that was seized from him and sold after the hostilities between the North and the South had ceased?

Mr. WILLIS. Mr. Chairman, I am not anticipating a bill that will be urged. I am anticipating a bill that is now on the calendar and that has been urged, and which, in my judgment, is to be passed as a companion piece to this bill, if this bill passes. But I am not talking about that. We are talking about this bill, and the contention I seek to make is that, as a matter of fact, after years of the most careful investigation of records that are extremely voluminous-and if gentlemen have not examined these records they ought to do so and must do so before they can come to a proper conclusion—the Treasury Department officials, after most laborious research in a carload of musty documents, came to the conclusion that the funds they now have are the proceeds of the sale of cotton that belonged to the Confederacy. In other words, shorn of its verbiage, my contention is that this fund does not belong to any individuals at all.

Mr. BUTLER. Then this bill would not enable the owners of the cotton to make any claim if it belongs to the Confederacy.

There is no such thing as the Confederacy at the present time, and no claim can be set up by it. Is not that the result?

Mr. WILLIS. Precisely the result, as I have stated.

Mr. WILLIS. Precisely the result, as I have stated.
Mr. GARRETT. Mr. Chairman, will the gentleman yield?
Mr. WILLIS. Certainly.
Mr. GARRETT. The question propounded by the gentleman from Pennsylvania [Mr. BUTLER] was really the question that I was about to propound. As a matter of fact, under the terms of this bill there can not be any payment if it belonged to the Confederate Government. The gentleman is not insisting upon that, is he?

Mr. WILLIS. Certainly not. I have been unfortunate in the use of terms if I have not made it clear that I am trying to discuss this general cotton proposition as evidenced by this

bill and other related measures.

Mr. GARRETT. But I feared that some gentleman who might be friendly to this bill might get an erroneous impression from the fact that the gentleman is arguing another bill.

Mr. WILLIS. I am talking about this bill and about another bill of a good deal of importance that is pending here. As a matter of fact, if the statement which I believe the gentleman from Tennessee [Mr. Garrett] made about the bill awhile ago be true, that it simply removes the bar of the statute of limitations, then we can strike out this provision as to the requirement of proof of loyalty. We can strike out lines 12, 13, and 14. and then there will be no objection to it. I do not think any-body would object to the bill then, but the gentleman from Tennessee will not be able to get the friends of this bill to agree to that. It is not the limitation proposition, but it is the loyalty proposition that is of importance.

Mr. GARRETT. Mr. Chairman, I will say to the gentleman that I would not be willing myself to agree to that, because I do not believe where the property was taken after the war was ended that there ought to be any proof of loyalty.

Mr. BUTLER. How could there be any disloyalty after the war was over?

Mr. WILLIS. Mr. Chairman, I now yield to the other gentleman from Tennessee [Mr. McKellar].

Mr. McKELLAR. Mr. Chairman, as I understand the gentleman, he concedes that there is about \$4,000,000 left, arising

from the sale of this cotton. Is that correct?

Mr. WILLIS. About \$4,000,000.

Mr. McKELLAR. Then this bill simply provides the individuals who owned the cotton subsequent to June 1, 1865, shall have the right to come forward to the Court of Claims and put forth their claim to it?

Mr. WILLIS. Without proof of loyalty.

Mr. McKELLAR. Without proof of loyalty. The war was then over, and if these men had the ownership and can prove the ownership to the property and the proceeds of that property are still in the Treasury, as the gentleman admits, why should the United States Government not permit the real owners of the property to come forward and make proof to their ownership and right?

Mr. WILLIS. If the gentleman asks me for my humble

Mr. McKELLAR. I do.

Mr. WILLIS. My contention is that the real owner of that cotton is no longer in existence. That is, I mean to say, the vendee of the cotton-the Confederate Government-was the owner of the cotton, and, of course, with the close of the war, the Confederacy passed out of existence. Therefore the Supreme Court said (Young v. United States, 97 U. S., 39, 61) in the case which I read in the gentleman's presence, the title is absolutely in the United States. That is my contention, if the gentleman is interested in my very humble view of the matter.

Mr. SIMS. If the gentleman will permit, this bill does not provide for paying the Confederate Government anything or any assignee of the Confederate Government.

Mr. WILLIS. If I see a snake is crawling along through a rail fence, I will whack at it then whether it be passing at this, that, or the other corner. I do not mean, of course, any offense by the illustration.

Mr. SIMS. Some people imagine they see snakes. [Laughter.]

I accept the pleasantry of the gentleman; "Out of the fullness of the heart the mouth speaketh," and I have no doubt the gentleman, from his wide experience, refers to the matter in that way. What I am getting at is this: I am referring to this general proposition. I think this is only one of a series of bills which it is proposed to pass in order somehow to enable somebody to get \$5,000,000 out of the Treasury that belongs properly to the United States. But let me proceed a little further with this specific bill. I have tried to

state the facts involved in this case and in similar cases. the second place, what is the law and what has been the history of the law? We first had the act of March 12, 1863, to which reference has been made, the captured and abandoned property act. Then that was followed up by the act of May 1872, under which proof of loyalty was not required. As I said a little bit ago, out of order in my argument, there have three separate and distinct remedies that have been afforded to these people. If there are any individuals who actually own this cotton, the law has already provided three separate and distinct periods and three separate means whereby they could get relief. Mr. Secretary Sherman, Secretary of the Treasury, in his annual message of 1877-78, in discussing these very cases spoke of the operation of the act of 1872, under which \$194,000 was paid. Under the operation of that act 1,189 claims were rejected and 49 claims were allowed. Then he goes on to say here, in substance:

That it is desirable there should be somewhere, some time, somehow an end to this period of litigation. We have already had three separate and distinct remedies and three distinct periods in which these aggreeved persons could have been relieved.

And yet gentlemen come in here more than a generation after and say we must open this thing all up again and take away the defense by the Government which has been heretofore allowed.

Mr. McKELLAR. I want to ask the gentleman this question: The gentleman speaks of this cotton being actually the property of the Confederacy. Under this bill does not the gentleman concede that the claimant has to make proof of ownership to the satisfaction of the Court of Claims before he can sustain his claim against the Federal Government?

Certainly.

Mr. McKELLAR. Then why should not he have that right? Mr. WILLIS. I have tried to make it clear. This bill may not amount to so much, but I conceive the whole proposition here is involved in the various measures that are reported out in order to allow certain persons to get hold of this \$5,000,000 that does not belong to anybody except the United States, and they will not be allowed to get it if I can help it.

Mr. BURKE of Pennsylvania. Will the gentleman yield for

just one question?

Mr. WILLIS. Certainly.

Mr. BURKE of Pennsylvania. I would like more definitely to see the issue joined here. What are these bills? Will the gentleman name one of them or give some indication by which the Members can ascertain what bill is proposed to be tacked onto this legislation in the event of this enactment?

Mr. WILLIS. I think it would be hardly profitable to go into

that discussion.

Mr. BURKE of Pennsylvania. It is a contingency which

may arise.

Mr. WILLIS. I can give the gentleman the number of some of the bills that I can commend to him for his careful con-There is the present bill, H. R. 16314, and H. R. sideration. 16820, and a bill, the number of which I have just now forgotten, but which was elaborately and eloquently discussed by the gentleman from Mississippi [Mr. CANDLER], the able Representative from the Tombigbee district.

Mr. BURKE of Pennsylvania. House bill 16820 was evi-

dently introduced subsequent to this bill?

I am not alleging any conspiracy or any-WILLIS. thing of that kind. I am not going into that.

Mr. BURKE of Pennsylvania. Has the bill H. R. 16820 been reported to the House?

Mr. WILLIS. I am not clear about that. My recollection is that it has been reported, however.

Mr. MANN. It is on the calendar. Mr. WILLIS. I think it is on the calendar.

Mr. BURKE of Pennsylvania. That confirms the gentleman's

If the House passes this bill that bill will Mr. WILLIS. be called up. It is apparently a perfect system. To one is assigned the cry of "Onset" and another the "Charge." The object is to get away with the \$5,000,000. That is what we are opposing.

Now, in this Brandon case, to which I have referred, and which I commend to the gentlemen for careful consideration,

the court gives this splendid summary on page 8:

Of the proceeds remaining in the Treasury amounting to \$4.886,671 from cotton seized after June 30, 1865, the Secretary of the Treasury allowed, under the act of May 18, 1872, section 5 (17 Stat. L., 122, 134), \$195,896.21, leaving \$4.690.774.79, which the Secretary refused to return because the owners, he held, had sold the cotton to the Confederate Government, and the same was not, therefore, individual cotton when seized after June 30, 1865, but was the property of the Confederate Government.

Now, this whole proposition has been gone into by preceding Congresses. Reference is made here by the court to Senate Document No. 23, Forty-third Congress, second session, and to House executive document, Forty-fifth Congress. They quote that as authority. Let me read that again. It is as follows:

And the same was not therefore individual cotton when seized after June 30, 1865, but was the property of the Confederate Government.

You have not only the opinion of the Executive Department, that of the Secretary of the Treasury, the present Secretary of the Treasury, as well as past Secretaries of the Treasury. have here the report of Mr. Secretary Sherman in 1877 and 1878. The Executive Department has decided time and again against the proposition involved in this bill. The legislative department has gone on record in the same way, and I have already quoted to you at great length the decisions of the Supreme Court of the United States, which it is proposed shall be overturned by this apparently harmless little bill. I do not believe the committee or the House or the country want to enter upon a scheme of legislation the ultimate result of which will be the payment of \$5,000,000, which is the property of the United States, to somebody, the good Lord only knows who it will be.

Now, there are two or three other cases. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. Fifteen minutes.

Mr. WILLIS. There are two or three other cases I shall refer to only in passing. I have already referred to the Haycraft case and read a portion of it. Another is the Sprott case, which I referred to very briefly. The only difference between that case and the other case is that in this case the Confederate Government had sold the cotton to an individual. The Supreme Court held in a later case that it made no difference as to the nature of the transaction whether the Confederate Government bought the cotton of an individual or sold it to an individual, and that the nature of the transaction, so far as its legality was concerned, was exactly the same.

I do not believe, Mr. Chairman, that the House under the guise of passing a seemingly innocent sort of a bill to carry into effect what is alleged to be the existing intention of the law, desires to enter upon a policy which in reality, as I have said before, proposes, first, to fly in the face of the facts; second, to reverse the legislative department of the Government that has already made careful investigation of this subject and has expressed its opinion in positive law no later than the time

of the passage of the judicial code.

I have read to you a portion of the letter from the Attorney General, all of which letter I shall insert in the RECORD by permission of the committee. In that letter it is said that the Department of Justice insists as one of the defenses in the case now pending in court that loyalty must be proved. That is one of the defenses. In the face, then, not only of legislative decisions, but also in the face of the contention of the appropriate executive department that under the law, as the Congress passed it only just recently, it still is the rule of law that loyalty must be proved; in view of the fact that the Attorney General's Department, whenever it has gone into this matter, has taken a position exactly opposed to this proposed legislation; in view of the fact that every time the matter has been before the Supreme Court of the United States that tribunal has taken the contrary view to that proposed by this legislation; in view of the fact that in the passage of this apparently innocent and harmless measure it is proposed to change the policy of the Government and actually to interfere with the trial of cases now pending in the Court of Claims; in view of the fact that this legislation proposes to lead into one of two ways-either that it proposes to lead nobody knows whither or else to the Treasury of the United States, and proposes to give away to somebody \$5,000,000, which, according to the decision of the Supreme Court in the Young case, absolutely belongs to the Federal Government-I say, in view of the magnitude of the sum and the importance of the principle involved, this bill ought not to pass. [Applause.]
I desire to add here a communication recently received from

the Secretary of the Treasury in response to an inquiry addressed to him by me relative to H. R. 16314 and H. R. 23465:

> TREASURY DEPARTMENT. OFFICE OF THE SECRETARY, Washington, July 9, 1912.

Hon. Frank B. Willis,

House of Representatives.

Sir: I have the honor to acknowledge the receipt of your communication of the 1st instant, requesting such information as may be in the possession of this department relative to the subject matter of H. R. 23465 and H. R. 16314, pending in the present Congress.

The bills have a direct bearing upon the so-called cotton claims, which, by section 162 of the judicial code, approved March 3. 1911 (36 Stat., 1139), were referred to the Court of Claims for adjudication, jurisdiction being conferred to hear and determine the claims of persons from whom property was taken subsequent to June 1, 1865, under the previsions of the captured and abandoned property act of March 12, 1863 (12 Stat., 820), and acts amendatory thereof.

In reply I have to advise you that the enactment of the proposed legislation would effect the following changes in respect to the hearing and determination of the claims:

I. Requiring the filing of all such claims prior to January 1, 1915, no limit of time being prescribed by existing law.

2. Eliminating proof of loyalty as a jurisdictional fact in the adjudication of such claims.

3. Declaring that judgment shall not be denied a claimant because of any bill of sale or other conveyance of such property to the Confederate States Government, unless accompanied or followed by actual delivery of such property.

4. Restricting payments under judgments in such cases to the personal representatives of the original claimants.

It is proposed to limit the time for filing such claims to January 1, 1915, thus giving claimants three years' time in which to file their claims, the period running from January 1, 1912, when the judicial code became effective.

This period is one year longer than was allowed for filing claims under the captured and abandoned property act of March 12, 1863, and while the matter is entirely in the discretion of the Congress it is suggested that delay in the adjudication of the cases may be caused if the court shall find that moneys derived from sales of intermingled cotton coming from a particular locality can not be traced to individual lots, and if it can not be shown that all claimants upon the fund are before the court, judgments may be suspended to await the expiration of the time for filing claims in order that all persons whose cot

before the court, judgments may be suspended to await the expiration of the time for filing claims in order that all persons whose cotton contributed to the fund may receive their pro rata share of the proceeds thereof.

In the matter of the bills of sale for cotton sold to the Confederate States it is disclosed by the Confederate Government purchased in competition with private parties, paying approximately the same price per pound for the cotton and making payment in the same kind of money or securities.

The seller of cotton to the Confederate States received as consideration for his property identically the same consideration as though he had sold to a private buyer, and the records show instances wherein the same person at or about the same time sold some of his cotton to the Confederate States and the remainder to private purchasers.

The sales to the Confederate Government were made by two classes of persons, namely, producers selling direct to the Confederate States and merchants or factors selling to the Confederate States cotton which had been purchased at private sale.

The bills of sale given by the seller for either a sale to a private dealer or to the Confederate States were substantially in the same terms and similarly conditioned. In either case the cotton was to remain in store on the plantation of the seller until called for. Actual possession of the cotton was not necessary. It was the custom of the country in making sales of cotton to transfer the planter's certificate as if negotiable, and this was the usual and generally the only mode of delivery required.

Many of the agents of the Confederate States making purchases of cotton agent, was of this number, and subsequently, through the firm of Baskerville & Whitfield, of which he was a member, sold upward of 2,000 bales of cotton to the Confederate States, which he purchased at private sale from Mississippi planters. Baskerville, a Confederate cotton agent, was of this number, and subsequently sold by Baskerville & Whitfield to the Confedera

States Treasury agents as property of the Confederate States surrendered to the United States.

The legal representative of the surviving partner of Baskerville & Whitfield has filed chaims for this cotton in the Court of Claims, under section 162 of the judicial code, and similar claims for the same cotton have been filed by the legal representatives of the planters from whom Baskerville & Whitfield purchased it at private sale.

Many dealers other than Baskerville & Whitfield purchased from the planters at private sale and subsequently sold the same cotton to the Confederate States, and their claims have been filed with the court, the same cotton being also claimed in court by the legal representatives of the planters who produced it.

Of the 30,000 bales of cotton collected in the four Mississippi counties of Lowndes, Monroe, Noxubee, and Oktibbeha, approximately one-fifth was sold to the Confederate States by cotton merchants or other persons who purchased it from the planters at private sale.

Under the terms of the proposed amendment of section 162 of the Judicial Code (H. R. 23465), nullifying hills of sale of cotton sold to the Confederate States, it would appear that judgment would be given to the legal representative of the surviving partner of Baskerville and Whitfield and not to the legal representatives of the planters who retained possession of the cotton, though the bills of sale from the planters to Baskerville and Whitfield rest upon the same consideration as the bills of sale from Baskerville and Whitfield to the Confederate States.

The Confederate records further show that the cotton so purchased

States. The Confederate records further show that the cotton so purchased was regularly inspected by Confederate States cotton agents and its condition reported upon, of which record was made from time to time. Such records show sales of cotton to procure funds for supplies for the Confederate army as well as the removal of cotton to prevent its capture by the Federal military forces.

In some instances the Union and Confederate military commanders of a district authorized sales of Confederate States cotton to persons holding purchasing permits issued under section 8 of the act of July 2, 1864 (13 Stat., 377), but the cotton was not removed from the plantations until after the surrender of the Confederate military forces.

Claims arising under such purchasing permits were paid from the Treasury out of the proceeds of the cotton taken and sold. Claimants for this cotton are also before the Court of Claims under section 162 of the Judicial Code, and if the bills of sale to the Confederate States are nullified by the enactment into law of H. R. 23465, a question may arise whether the judgment to be given shall be for the whole sum which reached the Treasury or only for the balance remaining.

The changes in section 162 of the Judicial Code proposed by H. R. 16314 and H. R. 23465 are apparently matters of public policy to be determined by Congress in the exercise of its discretion. In this connection attention is called to H. R. 16820, "A bill to revive the right of action under the captured and abandoned property acts, and for other purposes," favorably reported from the Committee on War Claims.

and for other purposes, Tavorably reported from the Committee on War Claims.

This bill contemplates the filing in the Court of Claims of all claims not previously filed and the reinstatement on the docket of the court of all cases dismissed for the causes stated in the bill.

Under the original jurisdiction conferred upon the Court of Claims by the captured and abandoned property acts 1,578 claims cases were filed in that court, the aggregate amount claimed being \$77,785,962.10, as stated in Court of Claims Report, volume 18, page 703.

There is inclosed for your information a copy of Treasury Department Circular No. 4 of January 9, 1900, containing a statement of transactions under the captured and abandoned property acts, showing the gross receipts, sources from which derived, payments therefrom, and the balance remaining in the Treasury of approximately \$5,000,000.

Should H. R. 23465 become a law it is probable that the whole of that sum would be required to be paid in carrying out its provisions. It is understood that the Attorney General has lately communicated with you in reply to a similar inquiry upon this subject.

Respectfully,

FRANKLIN MACVEAGH, Secretary.

Mr. SISSON. Mr. Chairman, I shall not attempt to answer all of the speech of the gentleman [Mr. Willis] who has just taken his seat, because a great deals that he has said is not applicable to this bill at all. A great deal of misconception could be obtained, however, from listening to that speech, because one would imagine from hearing it that all the money in the Treasury is involved in this bill. That is not the case at all. My recollection is that this bill will carry, if passed, not over from \$900,000 to \$1,000,000.

Now, the entire amount of cotton, the net proceeds of the sale of which were paid into the Treasury, aggregated, according to my recollection, something like \$10,000,000. A great deal of this cotton, under the acts referred to by the gentleman as having been enacted in past years, was recovered by citizens of the South who could prove loyalty to the Federal Government. My recollection is that something like \$5,000,000 was paid out on that account between the close of the Civil War and the present time as the result of suits filed by people who were able to prove loyalty to the Federal Government. All of the proceeds of this other cotton, except that which is specifically covered by this bill, can not possibly be reached under this legislation.

I think it necessary that the Members of the House should thoroughly understand the situation. I am sure that there is not a Member of this House on either side who does not desire the Federal Government to be just and fair to its citizens. I agree with the position taken by any Member of this House who is unwilling that the cotton that has been properly taken from the Confederate Government should be paid for, because that cotton became absolutely the property of the Federal Government. That question is not involved in this bill, nor is the question of the payment of \$3,000,000, as I recollect, of the proceeds of that cotton which belonged properly to the Confederate Government. This bill will carry only, as I recollect, something like a million dellars.

Now, if you will go down to the Treasury Department you will find that the names of the parties to whom this cotton belonged are on the books of the Treasury Department, and if those people who could prove loyalty got their money because they could prove loyalty their claims are identical with the claims of those people who have the money in the Treasury but

who are unable to prove loyalty. When the Committee on the Revision of the Laws proceeded to act upon the report of the commission codifying the law in the last Congress it took under consideration this section 162. That committee was presided over by the distinguished attorney from Philadelphia, Mr. Moon, who was also on the joint com-mission from the House and the Senate to revise the statute laws of the United States, as were also the gentleman from Kentucky [Mr. Sherley] and the gentleman from Tennessee [Mr. Houston]. If you will turn to section 159 of the code, you will find that the right of recovery is there given, and from that section was removed the statute of limitations which ran against these claims for cotton the proceeds of which were actually turned into the Treasury, that cotton having been taken from a private citizen who had never parted with his title to it to the Confederate Government. In addition to removing the statute of limitations there was a clause in that section in reference to loyalty. Section 159 gives the citizen the right of recovery. But there was another section which the committee entirely overlooked. The gentleman from Tennessee [Mr. Hous-TON] will bear testimony to this fact. The other members of the committee and the members of the Senate committee who were interested in it thought that they had removed not only the statute of limitations as to these claims, but they thought that they had removed the requirement of loyalty as to these specific claims for cotton; but when the clerks made up the code, or, rather, assembled the sections, it was discovered that in section 161, which has solely to do with procedure and with the right of a man to go into court, it was provided that the claimant must in his petition to the Court of Claims allege his loyalty in order to get into court to assert the right which is given him in section 159. If this fact had been discovered while the bill was under consideration, it would have been remedied.

Mr. BURKE of Pennsylvania. As I understand the gentleman's contention, it is that there is at the utmost \$1,000,000

involved in this legislation.

Mr. SISSON. I am stating that as my recollection from a report which I saw which included the names of the parties who could recover if this law should be enacted.

Mr. BURKE of Pennsylvania. That conclusion is predicated upon some action either of the court or of the Treasury officials.

Mr. SISSON. Well-

Mr. BURKE of Pennsylvania. Did that action turn upon the proof of loyalty alone?

Mr. SISSON. Yes.

Mr. BURKE of Pennsylvania. Then there is an official record showing that there is \$1,000,000 which would be paid to these claimants if it were not for the fact that they were compelled, as the gentleman says unnecessarily and unjustly, to prove their lovalty.

Mr. SISSON. Yes.

Mr. BURKE of Pennsylvania. And that is the purpose sought to be accomplished by this bill.

Mr. SISSON. That is the sole purpose of this bill.

Mr. BURKE of Pennsylvania. Is the gentleman familiar with the so-called Byrnes bill (H. R. 16820), subsequently reported from the Committee on War Claims?

Mr. SISSON. I am not familiar with that, nor do I know how much money will be covered by that bill. If I recollect it aright, I think that covers a period broader than the one covered in this bill.

Mr. SIMS. Yes; it does; to that extent. Mr. SISSON. It does to that extent.

Mr. BURKE of Pennsylvania. That to my mind is a very important question to be decided by the gentlemen who are advocating the passage of this bill, and I would like to vote in the light of the fact that the statement is made by the gentleman from Ohio [Mr. Willis] that this bill in itself may be innocent enough, but coupled with subsequent legislation reported from the Committee on War Claims it would be a vicious enactment.

Mr. SISSON. Well—

Mr. BURKE of Pennsylvania. Is it the intention to follow this bill with the bill subsequently reported from the Committee on War Claims, and, if so, in what way does that bill (H. R. 16820) enlarge upon the provisions of the bill now under discussion?

Mr. SISSON. I will state to the gentleman from Pennsylvania that I am not in any sense of the word sponsor for the Byrnes bill, nor am I the sponsor for any other bill in reference to these matters, because I take this position, that where cotton was sold by a citizen-as it was sold by members of my own family—and Confederate money was paid for it, or receipts which were made money by the Confederate Government were issued for that cotton, if after the Civil War was over they turned over to the Federal Government the cotton which they had produced during the Civil War, for which they had taken either Confederate money or receipts of the kind which I have described, I do not believe they have a right now to come and ask the Federal Government to repay them for property which went into the Confederate treasury for the purpose of enabling them to win the cause for which they were fighting. I take that broad ground.

Mr. BURKE of Pennsylvania. Is there any litigation in any court which would in itself be evidence of the fact that this title

is really in dispute as to the \$1,000,000 spoken of?

Mr. SISSON. I do not believe there could be a question about that. Now, the gentleman from Pennsylvania does not live in a cotton country. Cotton is put up in what they call A bale of cotton has its gin number, and each bale of cotton has the initials of the party upon the cotton. before a man could recover he would be compelled under this bill to prove his specific ownership to that specific bale of cotton, the proceeds of which went into the Treasury. will be compelled to prove that before he would have any status in the Court of Claims.

It might be contended that a man might go into the court and swear falsely that he did not sell the cotton to the Federal Government, and the records of the Treasury Department might show that the proceeds of that particular cotton were taken, and the records would show that he sold it to the Gov-

My judgment is that in that sort of a case the ernment. record in the Treasury Department would be conclusive against him, for I do not believe he would be permitted to deny what the record showed as to that cotton.

Mr. BURKE of Pennsylvania. Has that question as to the title been adjudicated; that is, whether it belongs to the individual or the Confederacy? The gentleman from Ohio [Mr. WILLIS] claims that it belongs to the Confederacy.

Mr. SISSON. I do not think the gentleman from Ohio contended that any cotton under this bill, the title of which was in the Confederate Government, could be obtained.

Mr. BURKE of Pennsylvania. Then I misunderstood him. I agree with the gentleman from Mississippi in his contention from a legal standpoint and take issue with the gentleman from Ohio if that is the fact. What I want to ask the gentleman is whether or not this title to a million dollars' worth of cotton has been adjudicated by anybody.

Mr. SISSON. It has not. Mr. BURKE of Pennsylvania. I mean as to whether it belongs to the Confederate Government or to the individual.

Mr. SISSON. It has not by any court that I know of.
Mr. BURKE of Pennsylvania. The assumption or statement of the gentleman is that the only question at issue is the question of the party's loyalty.

Mr. SISSON. That is all.

Mr. BURKE of Penusylvania. But there must be another

question, and that is the question of title.

Mr. SISSON. And his right to go into court is barred by the question of loyalty. Now, the gentleman from Ohio argued a moment ago that these parties having these claims had been given three separate opportunities to assert their claims. This is hardly fair, because these claims intended to be covered by this bill have never been given a chance. The thing that has kept all who were loyal to the Confederate Government, even though a widow who had no relative in the Army, from recovering is the test of loyalty, and if she was even in sympathy with the Confederate Government this test would compel her to commit perjury or she had no standing in court, and never has had under any of the acts referred to by the gentleman from Ohio. Now, to answer the question of the gentleman from Pennsylvania as to the proof as to who was entitled to this cotton in controversy in this bill it would only be necessary to go down to the Treasury Department and find, for example, that certain cotton was taken from T. U. Sisson, of such number and weight, and the net proceeds turned into the Treasury. If the cotton was turned into the Treasury by the officer who took it as cotton, which did not show on it marks that it had been sold to the Confederate Government and had no receipt of any kind attached to it, I could go into the Court of Claims if I had been living at that time and recover, if this bill passes

Mr. BURKE of Pennsylvania. The manner of confiscation is

a matter of record.

Mr. SISSON. Absolutely.

Mr. BURKE of Pennsylvania. Has that record been officially

interpreted by any Treasury authority?

Mr. SISSON. I will say frankly that it never has as far as Γ know, because we have never been able to get up to the point on account of the bar of loyalty which has kept us away from the courts that could adjudicate the question.

Mr. WILLIS. Mr. Chairman, will the gentleman yield?

Mr. SISSON. Certainly.
Mr. WILLIS. I am interested in the gentleman's generous and fair statement that if he was a citizen of Mississippi and had sold his cotton to the Confederate Government, and it had gone into the general property of the Confederate Government, and had been used in the war, that he would not contend that he as a citizen would have any claim against the Federal Government.

Mr. SISSON. I do not think I would.

Mr. WILLIS. I think that statement is fair. But what I want to ask of the gentleman, who is an exceptionally good lawyer, is, Would it, in his judgment, have made any difference if the Confederate Government had bought that cotton absolutely, a bill of sale had been made out, and the price had been paid to him by the Confederate Government in the currency that was the only kind in circulation in that portion of the country at that time, the cotton having been left in the gentleman's possession as bailee, would he then say that he had any claim against the Federal Government?

Mr. SISSON. I do not think I would have.

Mr. WILLIS. Then the gentleman disagrees with his col-

Mr. SISSON. I understand that, and I dislike very much to do so, but I am not governed by any desire of mine as to what I would like to have the law to be if I should happen to have a claim in court, in stating my opinion of what the law is. I think that prior to the time the cotton got out of his reach, prior to the time the cotton got away from him, he then could have gone into court and subjected the cotton to his claim, if he had never received anything of value for it; but since he failed to do that I do not believe that under the law of the case, so far as my little learning of the law goes, he would have any legal status in any court in England or in America.

Mr. SIMS. Mr. Chairman, will the gentleman yield?

Mr. SISSON. Certainly.

Mr. SIMS. The burden of proof would be wholly upon the person asserting the claim to show his title to it.

Mr. SISSON. Yes.

Mr. SIMS. And if the Confederate Government took it in any way, or had purchased it, or the claimant had parted with his title, how could he have any standing under this bill?

Mr. SISSON. Mr. Chairman, I take it that these gentlemen here are lawyers, and I shall not be like Judge Becket when once before the Supreme Court of the State of Mississippi. On one occasion he argued at considerable length some perfectly elementary principles of law. Among them was one which he stated in about this way: "The court will understand that the burden of proof is upon the plaintiff; that that is the general burden of proof is upon the plaintiff; that that is the general rule in law." He continued to thus discuss elementary principles of law in that way. Finally the chief justice, Judge Woods, became impatient and said: "Judge Becket, why do you not get down to the facts and the law in your case and cease discussing elementary principles of law? Why not presume that the court knows a little law?" Judge Becket then, with a little laugh, said: "Ah, your honor, I did that in the lower court and lost my case." [Laughter.] I shall presume, I will say to my distinguished friend from Tennessee, that the Members of the House understand that elementary principle of law.

Mr. SIMS. From the conclusions they draw from this bill. I

Mr. SIMS. From the conclusions they draw from this bill, I

did not know.

Mr. SISSON. As I understand the argument of the gentleman from Ohio [Mr. Willis], it is not so much to this bill that he directs it as to the legislation that he fears might follow in the wake of it. This matter was thrashed out very thoroughly by the subcommittee, of which Judge Moon was the chairman, and then was reported back to the Committee on the Revision of the Laws. These statutes, as Judge Moon stated, were scattered through about 17 large volumes, and to get them together and place them side by side, making it a harmonious whole, was a herculean task, and no men but patient lawyers like Judge Moon and Judge Houston and Judge Sherley and all of the other judges who were on that committee would have gone through with the task as well as they did.

It was the love of the law that impelled them to hunt it up. In this particular instance they failed to amend this section, which goes entirely to the proceeding, to the affidavit which is required to be made. That learned committee gave to the claimant the right, by removing the statute of limitations and by removing the clause in reference to loyalty, section 159, to recover. Prior to that time, even after he got into court, he would have to establish his loyalty, but there was another section that had to do wholly with the question of procedure. The affidavit-the proof of loyalty of the claimant was a jurisdictional question-had to affirmatively show upon its face before he could get into court that he was loyal, and the court then could require him to establish to its satisfaction, in addition to

this, his loyalty.

I presume that there is not a man from any section of the country who does not want the United States Government to pay all just, legitimate, and fair demands of the citizens against Government. I believe I have made some little record here in Congress, if for nothing else, upon the question of conserving as far as I can the Treasury of the United States. I have not voted for bills which I thought were extravagant. times I have been rather held up and forced to do it, but there never has been and never will be a case where the Federal Government owes a citizen an honest debt, an honest obligation, that I would not be willing to pay the last dollar in the Treasury to settle it. In addition to that, before I would have the Government's paper dishonored I would mortgage posterity. I would take care of the honor, the honesty, and integrity of the Federal Government at all hazards, so that when the citizen has the obligation of his Government in the form of a Treasury note, a gold certificate, or any other piece of paper he may rest assured that the paper is good. In this particular case it is contended that the citizens of the South were disloyal to the Federal Government in the assertion of what they believed to be their rights, but the time has now come in the history of this great Republic when this next year in the great State of

Pennsylvania we are to have a reunion of these two sections, and damned be he who would say one word that would cause the Union not to be complete, not to be perfect. [Applause.]

In this particular class of cases the citizen had been permitted to lay down his arms and go back home, and much of this cotton was absolutely gathered during the fail of 1865 and some of this cotton was absolutely produced in 1866; and even then, when the officer of the Federal Government went there for the purpose of collecting the property of the Federal Government, they would frequently get the property of a citizen who would make an affidavit before the proper officer of the Army, who stated to him "If you can prove that this cotton is yours and does not belong to the Confederate Government, you will get your money; and rather than resist an Army officer when he had no right to go into court and in the prostrate condition they were in then they permitted their cotton to be taken, and a great deal of this cotton never found its way into the Treasury; but there were many honest Army officers there who would take the affidavit and the proof of the citizen, and when the proceeds of the cotton was received after it was sold in New Orleans, or Yazoo City, or some other cotton market, after taking the expenses of handling, hauling, and selling it, these honest Army officers would turn into the Treasury this money as the property of the citizen; and no proof to the contrary has even been shown; but when they came to court for the purpose of establishing these claims they were met at the door of the temple of justice with this clause in each of these bills saying to the citizen, "You have no standing in court because you have been disloyal." The only thing I ask this House to do is to remove that one clause in reference to these claims where the cotton honestly belonged to the citizen who produced it and never parted with his title to the Confederate Government. It is his of right.

Why, the English people in the Boer War never required that sort of affidavit of the citizen with a claim against the English Government. Our own Government did not require it of the Mexican in the Mexican War. No civilized government demands that when its citizen's property has been taken. When the private property of the citizen has been taken all civilized governments of the world have paid the citizen for his property. I am not asking you to pay one penny to the South for Confederate cotton; I am not asking one penny for the cotton that was sold to the Confederate Government; I am not asking that this Government should respond to these sort of claims, but I am asking in common justice that those people who produced and gathered this cotton and who can establish to the satisfaction of the court that this cotton was never sold, directly or indirectly, to the Confederate Government, even at this late date be permitted to make their claim. It is never too late for either a man or for a nation to do justice to a people, and I love a government as well as a man who at a late date will pay his honest obligations although he might have the right to

plead the statute of limitation.

Mr. BUTLER. Will the gentleman yield?
Mr. SISSON. Yes.
Mr. BUTLER. There is a provision in this bill to which the gentleman from Ohio [Mr. WILLIS] referred, the object of which is to avoid the question of loyalty to the United States Government.

Mr. SISSON. That is the only thing that is amended, too.
Mr. BUTLER. Now, the question of whether or not the
claimant was loyal from June 1, 1865, is not, of course, involved in this measure. Was he loyal after June, 1865, up to the time the war was declared to be ended in August, 1866?

Mr. SISSON. Now, let me say to the gentleman, he raises a question about which the courts are very much at a difference. There are several decisions of the courts, and I have had opportunity to investigate these matters; but as a matter of fact Mr. Lincoln in the proposition which was made to the Southern States gave to the world the condition that when the Confederate States abolished slavery by law and assumed their former relations with the Union, that then the war would be over. That happened in June, 1865, after Mr. Lincoln had been assassinated.

Now, so far as certain acts on the part of the Federal Government are concerned in reference to the disbanding of its Army, in reference to getting all of these people back into peaceful pursuits, there were many questions which arose which made it necessary for the Federal Government and made it necessary for the Congress to say that these armies were still organized and that the military government was still in existence. As a fact, to convince any man that both Houses of Congress felt that the war was indeed over in 1865, in December, 1864, Mr. Lincoln proposed in a message to the Congress that in order that the southern people might understand the

terms upon which this bloody war should cease it would be necessary for them to abolish slavery by law and to make his emancipation proclamation the law of the land and resume

their peaceful relations to the Union.

What happened? The thirteenth amendment, which abolishes slavery, passed the House of Representatives in February, 1865, and the following December of that year every State in the Union had ratified that amendment, and the Congress which met put it in the Constitution of the United States, and every Southern State ratified it as well, and both Houses received that ratification which they had submitted to the Southern States. So I presume that that unquestionably, so far as this body is concerned, settled that controversy as to when the war absolutely ended.

Mr. BUTLER. Mr. Chairman, there seems to be a question

in the minds of perhaps some of us as to whether or not there was an act of hostility on the part of any of these claimants toward the Government after June, 1865-whether there could have been on the part of any claimants toward the Government

subsequent to June, 1865.

Mr. SISSON. One man could not be disloyal. Mr. BUTLER. Yes, he could. He might raise a good deal

of trouble, although he might not bear arms.

Mr. SISSON. You know that there has been one thing the world has been proud of, and the people of the South have been proud of, and the people of America can be proud of, and it is the example set to all the world, that where a great people differed on a great question and they appealed to the supreme court of all courts, that great court of nations, the court of might and war, when one side had lost in that great contest the miracle before the world was that the Confederate soldier went back in his tattered gray jacket to his destroyed country, beat his sword into a plowshare and went to rebuilding his peaceable, good, quiet, loyal citizen. None of them were disloyal who were good Confederate soldiers. Those who were disloyal were not good Confederate soldiers.

Mr. BUTLER. Gen. Grant gave him back his horses so that

he might go to work-

Mr. SISSON. I know that the gentleman, from my past knowledge of him, has that good honest heart in him that permits him to say those good things.

Mr. BUTLER. I do not think the cotton of a citizen who was loyal to the Government ought to have been confiscated

after 1860

Mr. SISSON. As a matter of fact, a great many of the people who were loyal to the Government had lost their cotton in identically the same way and have since recovered it. This act leaves the law just exactly as it is here, except we add this one proviso. You removed in your last Congress, when Judge Moon was presiding over the bill, the statute of limitation to permit him to come in to prove his case. You removed the question of loyalty from a section of the old act, and it is now in this act, section 159, I think.

Mr. BUTLER. I think I made the motion to remove it.

Mr. SISSON. Perhaps the gentleman did. I do not know. Mr. MANN. No; the gentleman did not. The gentleman

from Georgia [Mr. BARTLETT] made it.
Mr. SISSON. Now, the only thing that this does is to make

section 161 correspond with section 159.

Mr. BURKE of Pennsylvania. The gentleman states that this question of loyalty is still a mooted question as to the period subsequent to June 1, 1865.

Mr. SISSON. I do not think so, as far as any matter of this kind is concerned. It was not, so far as every Confederate soldier was concerned in reference to voting on those constitutional amendments and sending members of the legislature in reference to the adoption of the thirteenth amendment to the Federal Constitution. But the gentleman must be aware, when a great struggle like that has ended, there are a great many things that have to be done through the military arm of the Government before the civil arm can take complete control. Now, to that extent the military law prevailed in certain portions of the South, but just as soon as they could remove that they did so. But, so far as the legal status of the citizen was concerned, it ended June 1, 1865.

Mr. BURKE of Pennsylvania. Eighteen hundred and sixty-

five, as to his loyalty or disloyalty?

Mr. SISSON. Yes. Mr. BURKE of Pennsylvania. Then, the gentleman's contention is that subsequent to June 1, 1865, a citizen was loyal to the Government?

Mr. SISSON. To the Government. Mr. BURKE of Pennsylvania. If that is true, what is to prevent his making the allegation and proof essential to the establishment of his claim?

Mr. SIMS. That is where the trouble comes in. They require him to prove his loyalty during the war.

Mr. BUTLER. We can amend it so as to eliminate that.

Mr. BURKE of Pennsylvania. That feature can be remedied, Mr. SISSON. I will ask the gentleman from Pennsylvania [Mr. Burke] if he has ever seen an affidavit in one of these cases?

Mr. BURKE of Pennsylvania. No.

Mr. SISSON. Is the gentleman a member of the Masonic fraternity? It is almost as searching as the oath they exact of a Mason.

Mr. BURKE of Pennsylvania. The affidavit in this case would be in strict accordance with the act, necessarily, and that affidavit would go no further than the declaration of loyalty

during this period.

Mr. SISSON. I will say to the gentleman from Pennsylvania, that so far as I am concerned, I believe that the purpose and intention of this act would enable the citizen to go into court now and make the proof. He ought to be permitted to go into court and make the proof. There has been no decision yet, so far as the Court of Claims is concerned, as to whether or not it is necessary even now under these acts to prove loyalty, but this removes all doubt about it.

Mr. BURKE of Pennsylvania. But, that being the case, there being no decision of the Court of Claims or any other authoritative body on the subject, what is the necessity of this legis-

lation?

Mr. SISSON. If you do not enact it, we do not get into

Mr. BURKE of Pennsylvania. But there is nothing of record in the way of opinion or decision that does declare that.

Mr. SISSON. Oh, that is the trouble. You would have to prove that you had been loyal to the Federal Government at

all times during the entire struggle.

Mr. BURKE of Pennsylvania. I will be guided entirely by the argument in this case. I know that the gentleman from Mississippi is making a very able argument, and that he can enlighten me and other members of the committee on the subject. There has been no adjudication of the question of the citizen's loyalty subsequent to June 1, 1865?

Mr. SISSON. Oh, yes; there have been a number of them. Mr. BURKE of Pennsylvania. By the Court of Claims?

Mr. SISSON. Yes; by the Court of Claims. But let us get down now to the facts of this case. There has been no adjudication since the amendment of section 159 of the present civil code.

Mr. BURKE of Pennsylvania. The gentleman says that under section 159 of the present civil code there has been no decision and there has been no determination of the necessity of new legislation?

Mr. SISSON. No. I will read a part of section 184. I will not read all the section, but I will read as to the question of lovalty:

In any case of a claim for supplies or stores taken by or furnished to any part of the military or naval forces of the United States for their use during the late Civil War the petition shall aver that the person who furnished such supplies or stores, or from whom such supplies or stores were taken, did not give any aid or comfort to said rebellion, but was throughout that war loyal to the Government of the United States, and the fact of such loyalty shall be a jurisdictional fact.

Now, that is what I have been endeavoring to state throughout this whole argument—that, so far as the petition was con-cerned, it was necessary that the petition alleged loyalty before the court should get jurisdiction to try the petitioner's right to the property.

Mr. SIMS. Throughout the Civil War?

Mr. SISSON. Yes. Mr. BURKE of Pennsylvania. Would not this be entirely inadequate, then, if that is the provision-this applying only to

the period subsequent to June 1, 1865?

Mr. SISSON. If it is presumed that the war did not end, and if the court should hold as a finality that it did not end until June, 1866. Then this cotton could not be recovered for at all unless it was taken after June, 1866. But with the amendment proposed in this bill the question of loyalty would not bar the citizen from recovering his property. The date at which the war, according to all the acts of Congress, ended, however, is June. 1865.

Mr. BURKE of Pennsylvania. Would this meet the gentle-man's approval: "Provided, That no allegation or proof of loyalty subsequent to June 1, 1865, shall be necessary"? Would

that suit the gentleman?

Mr. SISSON. I am not the proponent of the bill.

Mr. BURKE of Pennsylvania. But the gentleman is one of the ablest advocates of the bill.

Mr. SISSON. I am an advocate of the bill, but, so far as I am individually concerned, I can see no serious objection to that.

Now, there is this point in the case, however, which might do some parties an injustice: We will presume that in the spring of 1865 some of the cotton was taken from a citizen who had not sold it to the Government, and the proceeds were actually turned into the Treasury. The gentleman would not contend that that citizen would not have the right to recover his own property. He ought to have the right to take that which was his own. All the civilized governments take that view in reference to the ownership of private property. Now, as I recollect, the captured and abandoned property act was passed in 1863.

Mr. SIMS. Yes.

Mr. SISSON. Therefore it could not be until along in 1864, wherever the Federal Army was in possession of the means of transportation, that this cotton could be taken. I think, as a matter of fact, practically all of this cotton was taken after January 1, 1865, and by far the greater part of it was taken after June, 1865. I am not absolutely sure, however, but that it might do injustice to a few individuals not to permit them to recover prior to June, 1865.

Mr. BURKE of Pennsylvania. The gentleman will admit that in determining this proposition the question of loyalty ought to be divided into two periods, namely, the period prior to June 1, 1865, and the period subsequent to that. That would be a fair assumption, would it not? When you come to open the doors of the Treasury to a citizen whose claim is based upon his loyalty to that Government, it is fair to assume that he ought to have been loyal at the time the confiscation took place. Is not that true?

Mr. SIMS. Then it ought to apply to all claims.
Mr. BURKE of Pennsylvania. I am catechizing the gentleman from Mississippi [Mr. Sisson], who is eminently able to take care of himself.

Mr. SISSON. So far as my own individual opinion of private property is concerned, I do not believe that one government in making war upon another government would have the right, solely because the citizens of one country feel kindly and feel loyal toward the government of that country, to take their private property. At the time the committee reported the legislation which they hoped would reach this case their idea was

that they would begin with June, 1865.

Mr. BURKE of Pennsylvania. Would the gentleman assert that it would be reasonable to take money from the Treasury of the United States to pay for the destruction of property

prior to June 1, 1865?

Mr. SISSON. No, sir. I do not believe that a government ought ever or can ever be called upon to pay for the destruction of property, which destruction is an incident to war. In other words, if it becomes necessary for the Government to destroy a house, or to destroy corn or meat or supplies, or property of any kind, although the supplies may belong to a private citizen, I do not believe any government would pay for those supplies whose destruction was necessary, unless at the time of their destruction the officer in charge agreed with the owner, "We will pay you for the property." In some instances that was done in the Southern States.

Mr. BURKE of Pennsylvania. Yes; because of the presumed

disloyalty of the individual-

Mr. SISSON. I do not think that ought to cut any figure

Mr. BURKE of Pennsylvania. That is what I want to get at. Does the loyalty or disloyalty of the claimant in this case cut

any figure at all as to his right of recovery?

Mr. SISSON. I think it does. I am going to be just as frank as I know how to be, as I try to be with everybody. I do not believe the Federal Government, the Confederate Government, the English Government, the German Government, or any Government should ever profit by the sale of private property which it takes from the citizen during a struggle. I do not believe that ought to be done.

Mr. BURKE of Pennsylvania. No; you say it should not profit by the sale of property taken from the citizen after the struggle is terminated and after the period of disloyalty is consummated. Now, assuming that a citizen prolongs indefi-nitely the period of disloyalty, would the gentleman say that in that case, in spite of the action of the Federal Government, in spite of the surrender of the Federal Government—suppose the individual continued in his disloyalty and during the period of disloyalty suffered a loss such as is supposed to be covered by this litigation-would be be entitled to recover?

Mr. SISSON. I think he would, and I will give the gentleman my reason. I do not believe, in the first place, that one man

loyal in his heart, because if one man should become disloyal to the Government he becomes guilty of a crime, and you can punish him in the criminal court. Under our system of government, under our modern system, you can not confiscate the citizen's property

Mr. BURKE of Pennsylvania. You can confiscate his prop-

erty if he commits a crime.

Mr. SISSON. Yes; you do that, but you do it by imposing upon him a punishment for committing a crime. The man who committed acts disloyal to the Government could be punished in court and could be fined, and therefore you take his property away from him. But you can not take it by governmental action, by an army going down and taking property, and it ought not to do it solely because the man happens to be disloyal. It should be done by due process of law and not by legislative

Mr. BURKE of Pennsylvania. The gentleman will understand, of course, that my suggestion as to the commission of a crime has no connection with this case. Of course, I did not intend that it should have any bearing on this case.

Mr. SISSON. I understand that. I think the gentleman and

can come to an agreement.

Mr. BURKE of Pennsylvania. My question is, If the individual subsequent to June 1, 1865, continued in his disloyalty to the Government, would he be entitled to relief under this bill if it became a law?

Mr. SISSON. Well, first I want to understand what is the gentleman's definition of disloyalty. Would it be his disloyalty

at heart, or must be manifest it in some act?

Mr. BURKE of Pennsylvania. In some overt act.

Mr. SISSON. If the army is in an organized state, every member of that army would be disloyal up until the moment of its surrender, but the moment the soldier surrendered, took his parole, the moment he agrees to lay down his arms against the Government and go back to his home, that moment that citizen's disloyalty ceases.

Mr. BURKE of Pennsylvania. But not the other citizens who had no connection with the military organization.

Mr. SISSON. That rule would determine the loyalty of every citizen—that the moment he surrenders and his parole is given and he goes home and agrees not to take up arms against the

Government. Now, that was the case in 1865.

Mr. BURKE of Pennsylvania. If the citizens, on June 1, 1865, had surrendered, given up arms, made their peace, renewed their devotion to the Federal Government, then they were loyal citizens, and there is no bar in making that allegation and producing the proof as the law exists to-day.

Mr. SISSON. But unfortunately the law is as I read a

moment ago.

Mr. BURKE of Pennsylvania. I recollect what the gentleman said. Would the gentleman, in the face of that admission, deny that any allegation of proof of loyalty subsequent to

June 1, 1865, would be necessary in order to recover?

Mr. SISSON. So far as I am concerned I would be willing to answer the question, if it could settle the entire controversy and the bill could be passed. As far as I am individually concerned I would be willing to accept that sort of a compromise.

Mr. BEALL of Texas. But does the gentleman from Mississippi understand what that language means—subsequent to June 1, 1865?

Mr. BUTLER. I think the gentleman means prior to June 1, 1865

Mr. BURKE of Pennsylvania. No; I do not mean prior to June 1, 1865. These claims here are based on the assumption that these citizens were loyal because the war had ended. There was no disloyalty existing there in their hearts or proven by their acts, but at the time of their loyalty in a period of peace the Federal Government confiscated their property, converted the property into money, and placed it in the Treasury, and they are seeking relief through the courts. My question is, If that is the case, and they were loyal, what is there to bar them against making an allegation and proving it?

Mr. BYRNES of South Carolina. Does the gentleman from Pennsylvania favor extending this requirement of loyalty to all claimants against the United States Government for property

taken from them?

Mr. BURKE of Pennsylvania. I do not propose to enter into any academic discussion of the claims that have been and will be made against the United States Government.

Mr. BYRNES of South Carolina. I mean a claim arising

to-day.

Mr. BURKE of Pennsylvania. This is a concrete proposition, and one of the most important that will arise in this Congress. can be disloyal to the Government unless you say he is dis- It is one to which every Member of this House will give his very best thought. The people who seek to make these recoveries are entitled to recovery if they are loyal and were loyal citizens of the United States and were not at fault and did nothing to defeat the justice of their claims.

Mr. BYRNES of South Carolina rose.

Mr. SISSON. Mr. Chairman, I must decline to yield further at this time. I desire to say to my friend from Pennsylvania [Mr. Burke] that there is this difficulty about his fixing the period definitely. For example, quite a number of the Confederate soldiers surrendered prior to June 1, 1865. In fact, practically all of the soldiers had surrendered and nearly all of them were period refer to surrendered, and nearly all of them were paroled prior to June, 1865. Therefore if during the early part of 1865, after the Confederate Government had gone to pieces, after practically all of Tennessee, all of Mississippi, practically all of Louisiana, practically all of the eastern portion of Arkansas, all of Missouri and all of Kentucky had fallen within the Union lines, and during six months prior to this time this property was being taken, then the citizen who lost his property in the beginning of 1865, who himself had surrendered under that sort of an agreement, would be done an injustice. If we could arrive at the exact moment at which the citizen himself ceased to be disloyal to the Government, I would have no objection myself to fixing that date, but I fear that in many instances an injustice would be done to a great many people who ought to be paid for the cotton which was improperly taken from them.

Mr. BURKE of Pennsylvania. Does the gentleman think the claimant would be entitled to recover if he could not prove his loyalty on June 1, 1865, the day on which his property was taken? Under the suggested amendment, if he were not capable of proving his loyalty on June 1, 1865, the day on which his property was confiscated, does the gentleman think he ought to be entitled to recover? That is the crux of this

whole proposition.

Mr. SISSON. I do not know that the gentleman and I could get any closer together than we have already gotten on this proposition. My proposition is that the private citizen should never lose his property so that the other government gets the benefit of his property. I think that is confiscation. To be frank, I think it is confiscation without due process of law. I think it is unjust and unfair. We would like to have all wars nice little affairs, but all wars are cruel. They are terrible. Therefore when a government is prosecuting a war and bom-barding a city, it is utterly impossible for the government to direct its shots exactly where they will hit the fellow who is in arms. It is necessary that the government shall prosecute the war to a rapid and successful conclusion. Therefore no civilized government has ever paid for property which was destroyed as an incident of war. Nobody would ask the Federal Government to do it. I think he would be a very peculiar man who would ask the Federal Government to pay for property which was destroyed in the prosecution of a war, but I think it just and fair that if the Federal Government takes a private citizen's property and then goes into the market with that property and sells it and covers the net proceeds of the property into the Treasury, that the Government pay it back to the citizen, even though he had been disloyal. It is just and fair that he get it, even if at the time they took the property he was I think the Government should pay him back what it took away from him. I hope I have made my position plain.

Mr. BURKE of Pennsylvania. The gentleman has, and my

heart is with the gentleman as a general proposition that the Government should be both merciful and generous in all legisla-

tion affecting a period of this kind.

Mr. CARLIN. And just.

Mr. BURKE of Pennsylvania. And just, but the question in my mind, and it is a serious one, is whether or not the Government can go to the extent of paying out of its Treasury money that has been converted into it from the sale of property taken from individuals who were not loyal-who were positively disloyal-at the time the act of confiscation took place.

Mr. SISSON. I can realize fully how the gentleman's feeling would be in reference to this matter-perfectly honest and perfectly fair, as he is just as good as I am-and he can well understand that perhaps I would take a somewhat different view from what he does, maybe due to our peculiar environments and to the history and traditions of the respective sections in which we live, but I appreciate fully the gentleman's position and fairness, and, so far as I am individually concerned, I state without hesitation that if we could settle this matter upon that theory-while I do not agree with the gentleman in all his conclusions—and make June, 1865, the date at which the disloyalty should cease and the loyalty begin and all cotton taken after June, 1865, should be paid for provided the of the gentleman from Louisiana [Mr. Watkins]?

citizen could satisfy the Court of Claims that it was his cotton or that he was the heir to the party whose cotton was taken, I would be willing to settle it just that way if I could, but, of course. I am not in charge of the bill and could not do so.

Mr. WILLIS. I do not want to interrupt the gentleman, but in regard to the question of international law I understood the gentleman to say that if two countries were at war neither one of them would be allowed to make any profit out of the property of a private citizen of the other country. Did I understand

Mr. SISSON. I think that is true.
Mr. WILLIS. How does the gentleman apply that theory to the well-known doctrine with respect to contraband of war

as recognized in international law?

Mr. SISSON. A contraband of war is based upon the doctrine that each government has the right of self-defense; therefore, to deprive the other government of the articles that have been agreed upon is proper, and those articles which are contraband of war now are very much less than articles which were contraband of war in the savage age of the world's history, because in the savage age of the world's history everything could be taken and a private citizen could be sold into slavery and you could bring in triumphant entry into your home a citizen chained to your chariot wheels. But governments have gotten more merciful, governments have become more civilized and have gotten upon a higher plane of thought and action, and it is something that we all ought to be proud of that we are permitted to live in an age when contraband of war has been so much restricted, for only those things which tend to prolong a war and tend to prolong the suffering and tend to prolong bloodshed have been construed to be contraband of war.

Mr. WILLIS. Just one more question. Does the gentleman think that cotton should properly have been considered contra-

band of war?

Mr. SISSON. Not under any circumstances. For instance, you could not take your cotton and eat it, you could not make powder out of it. Ordinary clothing is not contraband of war, or shoes

Mr. WILLIS. How about money?

Mr. SISSON. Well, money, of course-Mr. WILLIS. Now, cotton was money.

Mr. SISSON. I do not think the Confederate money would ever have been contraband of war. But seriously, for I consider the gentleman asked the question in good faith-

Mr. WILLIS. Oh, yes.

Mr. SISSON. There is no question but that cotton when sold to the Confederate Government was a proper contraband of war, because it then became an instrument in the hands of the enemy for the purpose of prosecuting the war, and therefore the Federal Government had the right to deprive the other Government of it. It is upon that theory, upon the theory of justice and in the interest of humanity and for the purpose of preventing bloodshed that the nations have made certain articles contraband of war.

Now, I do not know that there is anything I could say in sup-

port of this proposition more than I have said.

The CHAIRMAN. The time of the gentleman has expired. Mr. SIMS. Mr. Chairman, I will not delay the House but a few minute

The CHAIRMAN. May the Chair ask the gentleman is he

for or against the bill? Mr. SIMS. Oh, I am for it.

The CHAIRMAN. It has been tacitly understood that discussion would be alternated, and the Chair would like to know if any gentleman opposed to the bill desires to speak?

Mr. SIMS. I do not know whether the gentleman from Mississippi has used as much time as the gentleman from Ohio or not. I do not desire to use more than 10 minutes in connection

with this question of loyalty.

The CHAIRMAN. The Chair will say to the gentleman that he had promised to recognize the gentleman from Mississippi [Mr. CANDLER] after some one had spoken against the bill. If there is no one now desiring to speak against the bill, the Chair feels that he should recognize the gentleman from Mississippi.

Mr. MANN. Mr. Chairman, a parliamentary inquiry?

The CHAIRMAN. The gentleman will state it.

Mr. MANN. How has the time so far been divided?

Mr. MANN. How has the time so far been divided?

The CHAIRMAN. The Chair thinks it has been divided equally, barring the fact that the gentleman from Ohio [Mr. Willis] did not take his hour as intended.

Mr. MANN. I take it the gentlemen who desire to speak in favor of the bill are entitled to recognition. Did not the gentleman from Mississippi [Mr. Sisson] speak in the time

Mr. SISSON. No; I did not. I spoke in my own right. The CHAIRMAN. The gentleman from Mississippi was beaking in his own right. There was a tacit understanding. speaking in his own right. The Chair recognizes the gentleman from Mississippi [Mr. CANDLERI

Mr. SIMS. I did not want over 5 or 10 minutes right on this point.

Mr. CANDLER. Mr. Chairman, it is not my purpose or intention to detain the House for any considerable length of time, but I do feel it is important in discussion of this measure that we get back to the question itself and discuss that for a few moments, and if we can find out exactly what is involved here, then to dispose of this question and eliminate all these side issues that have been injected into it up to the present

Now, section 162, which is a part of the Judiciary Code, and which was adopted and approved on March 3, 1911, provides that the Court of Claims shall have jurisdiction to hear and determine the claims of those whose property was taken subsequent to June 1, 1865, under the specifications of the act of Congress approved March 12, 1863, entitled:

An act to provide for the collection of abandoned property and for the prevention of frauds and insurrection in districts within the United States.

And this bill simply provides for adding one provision to that section. That is all there is involved in it, and that provision is simply this:

Provided, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims.

When Congress passed this act, section 162 of the Judiciary Code, it was the intention at the time that this money which is in the Treasury of the United States should be refunded to the people to whom it belonged. That was their intention, and it was evident at the time, and there was no question about it. Subsequent to that there has arisen some idea that possibly the question of loyalty is involved. If it had arisen at that time there is no doubt that it would have been incorporated in section 162, because Congress had the power to say that this money that had lain in the Treasury all these years should go back to the people to whom it belonged. That was the purpose, that was what was intended, and that was what was desired. It not having accomplished that beyond question, this idea of loyalty being involved and having arisen, and being presented since, this provision is intended to remove that, no more and no less.

This money has been in the Treasury of the United States for all these years. It belongs to these people who are mentioned in the report of the Treasury Department. They have furnished a list of them, which is included in the Senate document printed in the Forty-third Congress. As to the question

of whether it belongs to these people there can be no doubt.

The gentleman from Ohio [Mr. Willis] asserted a moment ago in his argument that it belonged to the United States, that it was not a trust fund, but the propery of the Government, and that if these claims were allowed and were paid it would come out of the general funds of the Treasury and would be that much of a charge upon the Treasury of the United States. He is incorrect in that if the Supreme Court is correct, because the Supreme Court has held, in so many words, in the case of Klein, which is decided in Thirteenth Wallace, that this is a trust fund and that the Government of the United States is simply the trustee of these parties, holding the money for the time to arrive when they establish and prove their claim and time to arrive when they establish and prove their claim and receive the proceeds arising therefrom.

Mr. WILLIS. Will the gentleman yield?

Mr. CANDLER. Right on that point, yes; I yield with

pleasure.

Mr. WILLIS. Has the gentleman considered the Haycraft case, which was a later case than the Klein case, in which it distinctly and clearly says it is not a trust fund? that is held in the Haycraft case. It says so clearly and definitely. I wondered whether his attention had been called to that decision or not. It is a later decision than the one in the Klein case.

Mr. CANDLER. Does it profess to overrule the Klein case? Mr. WILLIS. Oh, absolutely. Mr. CANDLER. I do not agree with my friend. In this case it says, in so many words:

We conclude, therefore, that the title to the proceeds of the property which came to the possession of the Government by capture or abandomment, with the exceptions already noticed, was in no case divested out of the original owner. It was for the Government itself to determine whether these proceeds should be restored to the owner or not. The promise of the restoration of all rights of property decides that question affirmatively as to all persons who availed themselves of the proffered prefere

I am frank to say if that case has been overruled I am not advised of it, and my information is, after investigation made by myself and by others, that it has not been overruled, but is the United States. That being true, the only question which is presented here is whether or not at this late day you will continue to interpose technical objections which have no substance to them in order to prevent the return of the money to these people that is held by the Government of the United States simply as a trust fund, acting as a trustee for these people. I do not believe after all these years that have passed and gone you will continue to resist the return of the money which honestly belongs to these people, but that in these days of peace, plenty, prosperity, and happiness, which is broadcast in the land, we will arise above technicality and do that which is just and which is right, that which ought to have been done a long time ago, in order to meet the standard of justice and the standard of right when it is applied to these people.

The gentleman referred to other bills and stated what was volved in them. There is no bill pending before this House at involved in them. this time except this little simple bill which is now under consideration, and what may be contained in other bills of course

has nothing to do with this bill.

As I said at the outset, the question for us to determine at this time is what is involved in this identical bill itself, and as to whether it is just, and as to whether it is right, and as to whether it should be passed or not, and not to consider in any degree any other bill which may come up hereafter. such another bill does come up, it will be considered on its own merits and be disposed of as may be just and right at that time. So, I say, let us eliminate everything else and simply take this bill itself into consideration and determine it upon its merits and pass upon the justice of its provisions; and when we shall have done that we shall have discharged our duty

Now, I do not care to detain the committee further. wanted to call attention to this one proposition which is presented in this bill, and to impress upon the Members of the House the fact that propositions in other bills have nothing to do with this bill at the present time. If these other bills come up later, they will be considered and disposed of when the time

arrives for their consideration.

Mr. BURKE of Pennsylvania. Mr. Chairman, will the gentleman yield for a question?

Mr. CANDLER. I will yield for any question that occurs on

this point, but I do not care to take up these outside matters. Mr. BURKE of Pennsylvania. I hope the gentleman does not think that I would attempt to argue an irrevelant question.

Mr. CANDLER. I did not insinuate anything like that.

Mr. BURKE of Pennsylvania. Do I not understand that the gentleman from Mississippi made a very able argument in support of another House bill of this character?

Mr. CANDLER. Will the gentleman please designate the

Mr. BURKE of Pennsylvania. That is the Byrnes bill. Mr. CANDLER. I have not seen it and do not know its

provisions. Mr. BYRNES of South Carolina. I can inform the gentle-

man that the bill he refers to has not been considered, and that therefore the gentleman from Mississippi has not spoken upon it. Mr. CANDLER. I have not seen its provisions, and therefore

I could not express my opinion about it. Mr. BURKE of Pennsylvania. I understood that the gentle-

man from Mississippi made a very able speech in favor of that

Mr. CANDLER. No, sir. The gentleman from Mississippi made a speech in favor of the consideration of a bill of his own. Mr. BURKE of Pennsylvania. I know he did make a very

able speech in favor of a bill.

Mr: CANDLER. I thank you for insisting I made a "very able speech" on that bill, but the thing I am now seeking to impress upon the House is that we should not consider extraneous matters or other bills that may come up later, but to only consider this bill at this time. The future will take care of itself. [Applause.] We should consider this and dispose of it now, and when we shall have done that, we will have done I do not want to detain the House, but again urge upon well. the Members the importance of considering this bill and disposing of it, and the sooner the better, and thereby we will do tardy justice to patriotic citizens who have waited long, but I hope waited not in vain. [Applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. Roddenbery having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the

Senate had disagreed to the amendments of the House of Representatives to the bill (S. 6380) to incorporate the American Hospital of Paris, had asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. Gallinger, Mr. Curtis, and Mr. Martine of New

Jersey as conferees on the part of the Senate.

The message also announced that the President pro tempore had appointed Mr. Clarke of Arkansas and Mr. Burnham members of the joint select committee on the part of the Senate, as provided for in the act of February 16, 1889, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the Department of Justice.

ALLEGATION AND PROOF OF LOYALTY IN CERTAIN CASES.

The committee resumed its session.

Mr. GREEN of Iowa. Mr. Chairman, I was at first opposed to this bill, but on further examination as to the title of this

property I am led to favor it.

I wish to speak now very briefly concerning it, because I think a misapprehension rests upon the minds of many Members on this side of the House as to the status of the title of this property. This money is not the property of the United States. This property, of which the proceeds have been paid into the Treasury of the United States, has never been confiscated. The title to it has never been divested. It is still held in trust for the owners, and it never can become the property of the United States or be made available to the people of the United States except by some further act of confiscation at this late date.

Now, that is the precise holding in the Klein case, which has been cited by the gentleman from Ohio [Mr. Willis], who has so vigorously opposed this bill, and yet I doubt very much whether he would be ready at this time to advocate the passage

of any further act of confiscation.

Mr. BUTLER. Then, Mr. Chairman, it will require a law, as I understand it, to make it the money of anybody?

Mr. GREEN of Iowa. It would, most assuredly.
Mr. WILLIS. Mr. Chairman, is the gentleman aware that in the Young case, which I mentioned a moment ago-the stenographers have the transcript now in hand, otherwise I could quote the passage—the court says definitely that the bonds to which reference is made are not a trust fund, but belong absolutely to the Government of the United States? That is what the Supreme Court says in the Young case, quoted in the Brandon case.

Mr. GREEN of Iowa. I think the gentleman refers to a case

based on altogether different facts.

Mr. WILLIS. No; that is the case.

Mr. SISSON. I do not want to interrupt the gentleman, but I think the gentleman from Ohio is referring to the contention that is made, that where cotton was sold to the Confederate Government and none of the proceeds ever went into the hands of the original vendor of the cotton, then the Confederate Government became the trustee of the vendor, and the court held that that was not true, that it was the absolute property of the Confederate Government. That, however, has no application to the cases that would come under this bill.

Mr. GREEN of Iowa. I think the gentleman from Missis-

sippi is absolutely correct, as will be found from an examina-tion of the case. I wish to read to the House the holding in the Klein case. The syllabus says that—

The act of March 12, 1863, to provide for the collection of abandoned and captured property in insurrectionary districts within the United States, does not confiscate or in any case absolutely divest the property of the original owner, even though disloyal.

And in the dissenting opinion in that case, in which, however, the dissent was based on grounds which are not material to the discussion now being carried on, the author of the dissenting opinion says:

If I understand the present opinion, it maintains that the Government, in taking possession of this property and selling it, became the trustee of all the former owners, whether loyal or disloyal, and holds it for the latter until pardoned by the President, or until Congress orders it to be restored to him.

Now, as has been so often said here, more than a generation has elapsed since the Civil War. The passions which were aroused by that great struggle have subsided, if they have not totally disappeared. The bitterness which was brought about by it has died away. In my judgment it is too late now to originate any new punishments for the acts which were committed at that time. The mantle of charity, if nothing else, ought to be thrown over all of the deeds done at that time. [Applause.] We ought not now to bring up these questions in this manner, which would enlarge rather than restrict the doctrine of confiscation for acts done in time of war, but, on the and could not be paid for under this bill.

contrary, we should now say that peace has so long prevailed that the time for punishment for the acts done in those days has passed, and that they ought to be forgotten.

As I said before, this act takes nothing from the Government. It takes nothing out of the Treasury except in the sense that when a man draws a check on his own account in a bank he removes money from it. In such a case it is money which belongs to him. This money now in the Treasury can never be used by the people of the United States, can never belong to them without some further act of Congress, and I do not believe there is a man in the House who would countenance any action of that kind. [Applause.]

Mr. SIMS. Mr. Chairman, I do not wish to take very much time, but I want to explain first, as I think I can, why there are two bills here substantially for the same purpose, one the Byrnes bill and the other the bill under discussion. The Byrnes bill was introduced and referred to the Committee on War Claims, reported by that committee, and went on the calendar. Speaking for myself, and I think I can speak for every member of the committee, we did not even know that the present bill had been introduced. I do not know what the fact is with reference to the Committee on the Revision of the Laws, but it is quite probable that it did not know that the War Claims Committee had a similar bill, and therefore two bills have been reported by two different committees for substantially the same purpose, each bill having been properly referred. In other words, the committees having jurisdiction could have acted in each case.

Some amendments may be offered to this bill when we reach that stage, but if this bill becomes a law it is not my purpose as chairman of the Committee on War Claims, nor do I think it is the purpose of the gentleman from South Carolina [Mr. Byrnes] to press that bill for passage at all, it being practically for the same purpose. I say this to remove the idea that there was a "system" by which a number of hills were to be passed, one to by which a number of bills were to be passed, one to accomplish one purpose, another another, and each to dovetail into a general system by which money could be gotten out of the Treasury which otherwise could not be taken out of it.

On the question of loyalty I wish to be heard for a few moments. Before the Civil War the Court of Claims was open to the people of the South as well as to anybody else to assert claims against the Government of the United States; but when certain States were declared to be in a state of insurrection and war, the people of those States were not permitted to bring suit in the Court of Claims, but exception was made that persons bringing suit in the Court of Claims must prove their loyalty as a jurisdictional fact in order to get into the court at all. Even now the court will not hear any proof whatever on the merits of a claim, when the question of loyalty applies, until that question is settled by the court.

It is jurisdictional. If the court finds against the loyalty of the claimant there is no use in taking any proof in reference

to the value of the property.

Now, with reference to the act of 1863, I did not know that the gentleman from Iowa [Mr. GREEN] was going to refer to the decision he has, but I am glad he did so, for I intended to do so myself. I understand the decision read holds that the question of loyalty has no relation to the title of the Government to captured and abandoned property, and holds same in trust for the true owners.

Mr. MANN. Will the gentleman yield? Mr. SIMS. Certainly. Mr. MANN. The gentleman does not wish to make an erroneous statement?

Mr. SIMS. Not at all.

Mr. MANN. The gentleman from Tennessee must be familiar with the fact that under the act of 1863 no person could recover in the Court of Claims who had given aid and comfort to the rebellion.

Mr. SIMS. I understood the decision of the court which was read held that captured and abandoned property, under the act, was not the property of the United States.

Mr. MANN. But the gentleman's statement was that the act

did not have anything in it as to a question of loyalty.

Mr. SIMS. Now this bill, I think erroneously, limits the claims arising under it to June 1, 1865. I think it ought to apply to all of them because the bugaboo of Confederate ownership of the cotton has nothing in it. In order to recover the claimant must prove his ownership. It would be an absolute defense to show that the Confederate Government owned the property or that an individual owned it other than the claimant. That is a positive requirement of the owner of a property in any suit, to show title is in himself. Consequently the bugaboo that a large amount of this cotton did belong to the Confederate Government has nothing to do with this matter

What is loyalty? Mere negative do-nothing loyalty does not count for anything in the court; it is the loyalty that is active and affirmative, loyalty that can be shown and proved by affirmative acts. But I want to say that it was a much harder matter to be affirmatively loyal in the South than it was north of the Ohio River. More penalty and more misfortune might follow an act of loyalty in the South than it would in the North. In the North a man might get some credit for it, and at heart hope that the Confederates would win. Some men in the South may have failed to show any affirmative evidence of loyalty when, perhaps, in their hearts they were very loyal. We should look at the surrounding circumstances at the time that the property was taken. But the court has held that loyalty must be established by affirmative acts. The gentleman from Pennsylvania wants an amendment to this bill so that a man should show loyalty by an affirmative act after 1865. When the war was flagrant in the Southern States the presumption was that all were disloyal who lived in those States, consequently he wants the benefit of it and the applicant must prove his loyalty. Now, does the gentleman from Pennsylvania want a statute that any party suing for property taken after June 1, 1865, must prove by affirmative acts his loyalty in order to go into the court of the country or the Nation that took the property? Such an amendment ought not to be tolerated for a moment. The presumption is, after the war was over and all armed bodies of men opposing the Government had surrendered, and men who had shot at each other in battle were at home plowing the fields, that then a man could go into the court without establishing affirmatively that he is still loyal or that he has been loyal all the time, or loyal at all. I am surprised that the liberal-minded gentleman from Pennsylvania would advocate an amendment of that kind to a bill; that a person whose cotton was taken after June 1, 1865, should as a condition precedent have to prove that he is or was loyal. You might as well say now that he would have to prove a condition of loyalty in order to go into the courts. The general pre-sumption should be that every man is loyal until proof shows the contrary, and he should not be required to assert it in his petition.

Mr. BURKE of Pennsylvania. Mr. Chairman, will the gentle-

man yield?

Mr. SIMS. Certainly.

Mr. BURKE of Pennsylvania. Is not that very presumption which the gentleman now mentions, that every man once having been disloyal continues to be disloyal, the basis of the necessity for this bill? And if that presumption did not exist, would this bill be in the House to-day?

Mr. SIMS. The gentleman's presumption-

Mr. BURKE of Pennsylvania. But it is not my presumption. It is the presumption on which this measure is predicated.

Mr. SIMS. The law which the bill is intended to amend provides that the claimant must prove loyalty throughout the war. Mr. BURKE of Pennsylvania. The gentleman now is discussing my proposed amendment.

Mr. SIMS. Yes. I mean the law as it now stands provides that he must assert and prove loyalty during the Civil War.

Mr. BURKE of Pennsylvania. If he is presumed to be loyal on the 1st day of June, 1865, and, as a matter of fact, he is loyal, what harm can there come from inserting that amendatory provision in this bill?

Mr. SIMS. If there is a general presumption in favor of his loyalty, why the requirement that he shall prove that he is

Mr. BURKE of Pennsylvania. If there is a general presump-

tion in favor of loyalty, why is this bill here at all?

Mr. SIMS. Because it is to amend a law that says his loyalty must be proven throughout the Civil War.

Mr. BURKE of Pennsylvania. Then it is to fix definitely his status before the Court of Claims, is it not; and if the purpose is

to fix it definitely, why not insert the date? Mr. SIMS. This is to waive the question of loyalty as a defense for property taken after June 1, 1865, and has nothing to do with the condition of a citizen who had property taken after that time occupied prior to that time, and the gentleman from Pennsylvania wants to amend this bill by requiring the

citizen whose property is taken after all reason and cause for

being disloyal has ceased to prove that he was a loyal citizen at

the time it was taken. Mr. BURKE of Pennsylvania. The gentleman wishes to amend the bill so as to carry out the very provision that the gentleman from Tennessee says exists as a matter of fact, and that is that the citizen was loyal on and after June 1, 1865, and that because he was loyal then he is entitled to recover, and should not suffer because of the act of the Federal Government. The gentleman and I do not disagree in one iota except as to the insertion of this date.

Mr. SIMS. If there is a general presumption of loyalty, then there is no need of making proof of the general presumption as a jurisdictional fact.

Mr. BUTLER. When does that presumption arise?

Mr. SIMS. We propose to make it arise from and after the 1st of June, 1865—from that date on.

Mr. BUTLER. It does not arise when the war was legally held to be ended?

Mr. SIMS. For some purposes, as has been expressly stated here, August 20, 1866, was declared by act of Congress to be the end of the war, but does the gentleman from Pennsylvania want the whole country to think, and the people who follow us and read our history to think, that we became loyal only or ceased to be disloyal after August 20, 1866?

Mr. BUTLER. No; I do not want anything of the kind. Mr. SIMS. Then why, as a jurisdictional fact, does the gentleman want citizens of the United States south of the Ohio River, or those residing in the States in insurrection, to prove loyalty in order to go into a United States court to recover property taken after the war had ended but prior to August 20, 1866? It would simply be practically making the legislation useless to put in this requirement. To compel a man whose property was taken after June 1, 1865, to go to court and allege that he was loyal from that time on, and compel him to prove that before he can take one syllable of proof as to the value of the cotton taken, would be to make the legislation useless

Mr. BURKE of Pennsylvania. Would it be useless if the claimant were capable of proving that fact absolutely?

Mr. SIMS. If he were capable of proving the fact, he could recover his claim. Was not almost every man north of the Ohio River during the war capable of proving his loyalty? And yet we do not require that of him.

Mr. BURKE of Pennsylvania. But there is no sectional line drawn in this bill, and there is no reference to it at all. Mr. SIMS. The facts of history draw it.

Mr. BURKE of Pennsylvania. The facts of history might draw it.

Mr. SIMS. And the law requiring proof of loyalty may draw it.

Mr. BURKE of Pennsylvania. The gentleman now, by this legislation and by his admission on the floor of this House, has established a period during which he admits there was an active hostility and a real disloyalty and after which there was no hostility, and after which there was peace, harmony, love, and devotion to the Republic; and during that latter period, he says, it is an imposition to compel the individual to state as a matter of fact in his pleading that he was loyal on the day after the war and on the day his property was confiscated for which he desires compensation from the United States.

Mr. SIMS. I do so, and think it is a reflection on him. The presumption is that, outside a state of hostility and war, all people are loyal to the flag under which they live; and to say that a citizen of the United States has to prove loyalty to the Nation before he can go into a court to have his grievance adjusted is a reflection upon every person to whom such a law can apply. You might prove it as a defense that a man was an outlaw and no longer entitled to go into the courts of the

country, but I know of no such defense.

Mr. BUTLER. If the gentleman will permit, I am not asking the gentleman for the purpose of asking questions-Mr. SIMS. I know that.

Mr. BUTLER. I wish to ask why the 1st of June is fixed? Mr. SIMS. We have fixed this arbitrarily because of the fact, as the gentleman knows, there was no state of organized insurrection or a state of war after that time, and it seems to me absolutely, with all due respect, to be raising a technical defense against just claims to require anything of the sort. is wholly unnecessary and useless. I do not care even if he was a Confederate soldier who came home and raised the cotton and it was taken from him after June 1, 1865, even if he was a paroled soldier, to say that he must go into court and affirmatively allege that he had not violated the terms of surrender, in order to have a standing in the court, is wrong. Much of this cotton was planted after the war ended, and harvested, and it was taken after the war was ended.

Now, I am like the gentleman from Mississippi as to the property bought by the Confederate Government to which title had passed. I do not see there is any reason, unless as a matter of charity, that we should pay those claims, and this bill does not provide anything of that sort. I do not know how many of these claims are left unpaid, but the Attorney General seems, from the communication read by the gentleman from Ohio [Mr. WILLIS], to speak about depriving the Government of the defense of limitations. There is not a man in this House who will plead the statute of limitations to any admitted liability

against himself.

Mr. BUTLER. Will the gentleman inform me—this fund was originally about \$25,000,000 or \$26,000,000?

Mr. SIMS. I do not know how much it was. Mr. BUTLER. The gentleman can not state?

Mr. SIMS. About \$10,000,000 is my recollection. Mr. BUTLER. A reduction has been made in it?

Mr. SIMS. Yes.

Mr. BUTLER. Can the gentleman tell how that reduction was made upon proof of claims against it?

Mr. SIMS. By payment of claims out of it. Mr. BUTLER. Was loyalty in the case of those claims insisted upon?

Mr. SIMS. I can not answer positively about that. Mr. BUTLER. The gentleman does not know?

Mr. SIMS. No, I do not; but I will say there is not a man who will plead the statute of limitations to an admitted liability. There is not a gentleman in this House who would as a man do a thing of that sort. Why would he get up here and ask that the Government of the United States should have a lower standard of honor than the citizenship of the United States? Here are these claims paid into the United States Treasury. They are there now. As the gentleman from Iowa [Mr. Green] showed, the Government has no title to the money, but is the mere custodian of it, and yet the Attorney General of the United States wants to plead the statute of limitations as a custodian.

Mr. GREEN of Iowa. I will say the statute of limitations was removed by the statute to which this is an amendment, and it is put in this statute simply to make all in one statute, but the limitation was removed by a previous statute.

Mr. BURKE of Pennsylvania. Does the gentleman regard

the pleading of the statute of limitations as an evil?

Mr. SIMS. I would regard any man or any government pleading the statute of limitations to an admitted liability as being morally wrong.

Mr. BURKE of Pennsylvania. Then, if that is true, is it not a greater evil to establish a statute of limitations, which the gentleman does in this bill?

Mr. SIMS. No, sir.

Mr. BURKE of Pennsylvania. If the claim is just, why establish a limitation at all, as he does in this bill, after January 1, 19153

Mr. SIMS. I am not in favor of it, and it is not in the bill that the Committee on War Claims reported.

Mr. BURKE of Pennsylvania. If it is an evil here, does the gentleman defend it at all?

Mr. SIMS. The gentleman as a lawyer understands the policy of the statute of limitations.

Mr. BURKE of Pennsylvania. I do not see any evil in it. Mr. SIMS. There is an evil in it when you recite it in a

case where the person is sued sui juris.

Mr. BURKE of Pennsylvania. If these claims are right, why should any man be limited to any period of time for the recovery?

Mr. SIMS. I am not in favor of it.

Mr. BURKE of Pennsylvania. Will the gentleman move to amend the bill accordingly?

Mr. SIMS. I will be glad to vote for such an amendment.

Mr. BURKE of Pennsylvania. I will be glad to see you do it. Mr. SIMS. I will be glad to strike it out. The object of the statute of limitations is to quiet titles and cause people to settle matters while they are fresh in the minds of everyone, and to avoid perjury or temptation to perjury. If these claims had to be proven by witnesses at this late day, the temptation of in-terested parties to color their testimony and swear falsely would be so great that the House ought to hesitate to open the doors of the courts to them, but when the money has been in the Treasury of the United States so long that the memory of man runneth not to the contrary—

Mr. BURKE of Pennsylvania. And the loss to the owners of

that money

Mr. SIMS. Yes; and the loss to those who were reported to the Treasury as being the ones who lost it. The Treasury has had it long enough that, if it had been put out at simple interest, it would have doubled two or three times, and with the amounts admitted, shall we, representing the people of the United States, refuse to open the doors of the courts to persons who own this property and those persons who will have to establish their cases according to the law and rules of evidence as required by the Court of Claims?

Mr. GREEN of Iowa. Will the gentleman yield for a mo-

ment?

Mr. SIMS. Certainly.

Mr. GREEN of Iowa. On that question of the statute of limitations, section 162, which is amended and reenacted, or limitations, section 162, which is amended and reenacted, or confiscated as an incident of that war or that antagonism, he proposed, rather, to be amended and reenacted by this bill, can not come to-day to the Treasury of the United States with

provides that full jurisdiction as given to the court to adjudge said claim, any statute of limitations to the contrary notwith-This is not a new provision at all, so far as the statute of limitations is concerned. It is simply put in to make the clause complete.

Mr. SIMS. I understand that; but the gentleman from Ohio [Mr. Willis] very eloquently argued the benefit of the statute of limitations, and he seemed to be borne out by the Department of Justice saying it would remove a defense which now

existed.

Mr. COX of Indiana. I would like to ask the gentleman a question for information.

Mr. SIMS. Certainly.

Mr. COX of Indiana. I heard a great deal here about the names of certain claimants in some document. claims been adjudicated by the Court of Claims? Have those

Mr. SIMS. No; it simply gives them the opportunity to go

there.

Mr. COX of Indiana. That opens the doors?

Mr. SIMS. That opens the doors.

Mr. COX of Indiana. Is this bill on the part of these claimants introduced because the law has already cut them out?

Mr. SIMS. It is for those who did not file while the law permitted filing. They have been shut out, of course.

Mr. FOWLER. Is there any other fact in the way of making out these claims except the requirement that proof of loyalty shall be made by the claimant?

Mr. SIMS. I think that is all.

Mr. FOWLER. And when that is proved, then that gives the claimant an opportunity to make his proof complete. Is that true?

Mr. SIMS. In the Court of Claims. That is my understanding.

Mr. Chairman, I did not aim to occupy as much time as I have, as this bill is still to be considered under the five-minute rule; but I hope that neither the gentleman from Pennsylvania [Mr. Burke] nor any other gentleman will offer an amendment that will require anybody to prove loyalty in order to recover for property taken subsequent to June, 1865, as a jurisdictional fact that must be established before they can even submit the evident merits of their claims to the consideration of the court.

Mr. BURKE of Pennsylvania. With reference to the last suggestion of the gentleman from Tennessee [Mr. Sims] and the remarks of the gentleman from Iowa [Mr. Green], we are not concerned as to what particular fund this money is applied in the Treasury of the United States, so long as it remains there. The question before this committee is, Shall it be removed from the Treasury; and if so, by whom? And the question in my mind is, as this appears to be advanced as an equitable proposition, whether or not the individual who seeks the removal of that money from the Treasury of the United States to his own pocket shall do so with clean hands.

It is perfectly obvious to me that there can be no legitimate objection whatsoever to the amendment that I have suggested, and to which the gentleman from Tennessee [Mr. Sims] has so vigorously objected. He says, in substance, that it would be an insult to compel any man south of Mason and Dixon's line to make an affidavit as to his loyalty. Mr. Chairman, the absurdity of that argument is apparent from the fact that every Member of this House, the gentleman from Tennessee included, when he entered this House at the beginning of this session, and at the beginning of every session since he has rendered able service in the American Congress, has raised his hand before the Speaker and took the oath that he would be loyal to and defend the Constitution of the United States. Was there any insult, either actual or implied, in compelling Members from the North and South to do that? Was there anything degrading in it? Was there anything humiliating? And if a Member of the House of Representatives, chosen by his people to perform the high function which we are sent here to perform, can do so without surrendering his honor or his self-respect, why can not a claimant who seeks to place his hand in the Treasury of the United States go at least to that extent without being humiliated or being deprived of any inherent rights as a citizen?

The gentleman from Tennessee says we are living now in a period in which the war should be forgotten. Every American should subscribe to that suggestion, and I will go one step further and say that it was the duty of every man who now seeks to drain the Treasury of the United States to have forgotten the war after June, 1865, and if he did not forget the war and prolonged his antagonism to the Government, and if during that active hostility to the Government his property was clean hands and is not entitled to the equitable relief which is sought to be granted by this measure.

Mr. GREEN of Iowa, Mr. Chairman, will the gentleman

vield?

Mr. BURKE of Pennsylvania. Very gladly.

Mr. GREEN of Iowa. Does the gentleman mean to say that the cath now required of Members of this House goes further than the oath now required of these claimants under this stat-

ute to enable them to recover?

Mr. BURKE of Pennsylvania. I did not. The oath required in the amendment which I have suggested appertains to the loyalty of a citizen in a time of peace in this country, when, as the gentleman from Iowa and the gentleman from Tennessee declare, every citizen was presumed to be loyal; and if he was presumed to be loyal, I am willing to have the presumption coincide with the fact that he was loyal, and I want the record to show it. Every Member of this House is presumed to defend and support the Constitution of the United States, and I am willing in that case to have the presumption and the actuality harmonized and encouraged by taking my official oath. And inasmuch as we do take that oath in accordance with law and custom, I can see no humiliation, no surrender of my rights, no detraction from my dignity in appearing before the Speaker and taking the oath to which I referred.

Mr. GREEN of Iowa. With the gentleman's permission, I would inquire a little further, if the gentleman thinks it would be proper to require Members of Congress to take an oath similar to the one required of claimants under this statute?

Mr. BURKE of Pennsylvania. I would say that if a Member of the House were seeking to take from the Treasury of the United States money based upon a transaction 50 years old, at a time when his loyalty to the Republic may have been in question, it would be perfectly proper to compel him to make the declaration that at the time of the act complained of he was loyal to the Union and entitled to relief at that time, because if he was not entitled to relief at the hour of the confiscation he is not entitled to relief now, nor would he be 100 years from

Mr. GREEN of Iowa. If the gentleman puts it on that ground, is he not aware that under the laws of nations the property of noncombatants is, as a rule, exempt from seizure?

Mr. BURKE of Pennsylvania. That may possibly be.

Mr. GREEN of Iowa. And that this provision as to proof of loyalty goes much beyond that.

Mr. BURKE of Pennsylvania. But the proposed amendment only states that he was a noncombatant on June 1, 1865.

Mr. GREEN of Iowa. Oh, no; it goes much further than

Mr. BURKE of Pennsylvania. It simply states that he was loyal in June, 1865. To be disloyal involved the same offense as being a combatant. There is no question about that. The as being a combatant. There is no question about that. The disloyalty is established by his attitude toward the Government at that time. The gentleman will not contend that if he was disloyal at the time, whether it was in bearing arms or in giving aid and comfort to another enemy of the Republic, it would make any difference. If he was disloyal at noon on the 1st day of June, 1865, and at noon on the 1st day of June, 1865, the Government confiscated his property, as an incident to and during his disloyalty, he is not entitled to relief. There can be no hardship in compelling him to state what my friend says is an obvious fact, that he was loyal on that date and that he then sustained and was then maintaining the same status of loyalty to the Government as the gentleman from Tennessee [Mr. Sims] and the gentleman from Iowa [Mr. Green] now sustain with reference to the Government and with reference to this House.

The gentleman says it is a shame and an imposition upon citizens of this Republic that the Attorney General should plead the statute of limitations after half a century of time has passed, during which time the party to which he belongs has been in control of the Government. Yet now at this time the gentleman from Tennessee [Mr. Sims] and the proponents of this bill establish a statute of limitation in the very act now pending before the committee.

Mr. GREEN of Iowa. Will the gentleman yield for a ques-

tion?

Mr. BURKE of Pennsylvania. Yes.

Mr. GREEN of Iowa. Is not the gentleman aware that this bill does not bring forward the statute of limitations, but that it was in the statute and is there now without this bill?

Mr. BURKE of Pennsylvania. The gentleman knows that in italics on the first page, in the second section of this bill, there appears a provision which in itself is a statute of limitation, and which in itself controverts the argument of the gentleman from Iowa [Mr. Green] and of the gentleman from Tennessee

behalf of a government against a citizen of that government. If it should work in this case and in this measure, which they propose and which the gentleman from Iowa advocates, why should it not in a greater degree obtain with reference to au act occurring nearly 50 years ago?

Mr. SISSON. In view of the fact that the clause relating to loyalty has always been in the laws since the Civil War, does the gentleman think it quite fair to say that the Government ought to invoke the statute of limitations, when the parties have been prevented by that very statute from bringing the

suit?

Mr. BURKE of Pennsylvania. The contention of the gentleman from Tennessee [Mr. SIMS] is that it is fundamentally improper for the Government to plead the statute of limitations against a citizen and an innocent claimant.

Mr. SISSON. I do not know that I go quite so far as the

Mr. SISSON. I do not know that I go quite so far as the gentleman from Tennessee does, but in this particular case—
Mr. BURKE of Pennsylvania. I do not believe the gentleman from Mississippi will go that far. I have not found any two gentlemen, advocates of this bill, who did agree.

Mr. SISSON. But in this particular case the fact that the citizen could not bring the suit would be at least an extenuation and a reason why he had not brought it prior to that time.

Mr. BURKE of Pennsylvania. There have been 50 years of

legislation and legislative bodies during which that statute could have been removed.

Mr. SISSON. Will the gentleman yield again?

Mr. BURKE of Pennsylvania. Yes.
Mr. SISSON. The gentleman realizes that the temper of the country in former times was entirely unlike the temper of the country now; and he realizes also that we sometimes, perhaps unwisely, take advantage of certain situations in politics that we would not take advantage of in business with each other. And, while it is not necessary to discuss that condition which formerly prevailed, we are all happy that that condition does not now prevail.

Mr. BÜRKE of Pennsylvania. There is no gentleman more happy over the realization of what was once a dream and is now a reality than the gentleman who has the floor; and the gentleman from Pennsylvania, who has the floor, had the honor to present to the House the bill appropriating a quarter of a million dollars to bring about and perfect the great reunion on the battlefield of Gettysburg, in which we hope every Confederate veteran will join with the boys in blue who fought

against them in former days. [Applause.]
Mr. SISSON. In answer to what the gentleman said about the reunion, I want to say that I believe that all Confederate

soldiers are going to be there that can get there. [Applause.]

Mr. BURKE of Pennsylvania. I hope the gentleman from
Mississippi will come along. I will state further that, much to my gratification and State pride, the Commonwealth of Pennsylvania has done her share and will do more to carry out the program both from the standpoint of the treasury and that of hospitality which the gentlemen of the South are so much entitled to. [Applause.]

Now, the fact that this statute of limitations has existed during all this period to my mind, instead of being a basis of criticism, is a vindication of it, because it has been sanctified by the seal of 40 or 50 years of approving history during which men have considered it probably in every Congress, if not formally,

at least they have in their minds.

The fact that it has never been removed and still remains the law is in itself a vindication of its right to exist, and if its right to exist in that form and in the form of the amended bill before us is vindicated, what justification can there be for the criticism directed against it by the gentleman from Tennessee?

Mr. GREEN of Iowa. Why does the gentleman from Penn-

sylvania say that the bar of the statute was never removed

when it was removed by a clause in the revised code?

Mr. BURKE of Pennsylvania. I find there is a conflict between gentlemen advocating the bill. The gentleman from Tennessee says the statute of limitations did and does exist, and now the gentleman from Iowa proposes to show that it has been removed and does not exist. I am at a loss to reconcile the arguments of gentlemen behind the bill. I am willing to agree with the gentleman from Iowa if his statement stands alone, and I only disagree with him to the extent that I am justified by the gentleman from Tennessee saying that the statute does exist and that it is to remove that statute practically that this bill is proposed.

Mr. GREEN of Iowa. I hold the authority in my hand, which the gentleman can examine, or I will read it to him.

Mr. BURKE of Pennsylvania. I will take the gentleman's statement of fact, or any statement of facts he may make on this floor. We may disagree on a legal proposition, but I state [Mr. Sims] that a statute of limitations should never work in again that I find the gentleman from Iowa and the gentleman

from Tennessee in wholly irreconcilable positions. That is my misfortune, because I would like to have the light of both their

torches blaze my way.

Mr. SISSON. If the gentleman from Pennsylvania will pardon me, I did not hear what the gentleman from Tennessee said, but if he made the statement that the statute of limitations now interferes, he is entirely mistaken, because the civil code repealed the statute of limitations in reference to these claims.

Mr. BURKE of Pennsylvania. If that is true and the statute of limitations does not exist, then what justification is there in the complaint of the gentleman from Tennessee that the Attorney General of the United States has committed an unjust act in pleading the statute of limitations in these cases?

Mr. SISSON. I did not hear the gentleman's statement; but the only trouble now in the way of these claims is the

question of loyalty.

Mr. BURKE of Pennsylvania. That is very true; and I say at this time that any man who seeks to take from the Treasury of the United States under circumstances similar to this, who hesitates to admit his loyalty to the Nation on the date of the confiscation, whether he hesitates because of the fact, or because of false pride, or from any other motive, is not entitled to recover a copper from the Treasury of the United States.

Mr. MANN. Mr. Chairman, I would like to make a suggestion to the gentleman from Louisiana. I desire to address the House at some length on this bill, and I know that there are a number of Members who are anxious to attend the river and harbor convention. I would like to ask the gentleman from Louisiana whether it would be possible for us to make some agreement as to the closing of debate on the next calendar Wednesday and adjourn now?

Mr. WATKINS. If we can agree on a limit for general debate I should be glad to do so. If we can agree upon a limit of one hour I will be willing to let the bill go over.

Mr. MANN. I would like to have one hour myself. Mr. WATKINS. Well, make it two hours, then.

Mr. MANN. There has not been much time taken by those in opposition to the bill, and I am willing to agree to two hours. Mr. WATKINS. Mr. Chairman, I move that the committee do now rise.

Mr. SISSON. It is understood, is it, that two hours will be agreed upon in the House?

Mr. MANN and Mr. GARNER. Yes.

Mr. RODDENBERY. Mr. Chairman, I did not hear the tentative agreement between the gentleman from Louisiana and the gentleman from Illinois.

Mr. WATKINS. Quite a number of Members want to attend the river and harbor convention, and a number of Members requested me to give them an opportunity to be away from the I did not care to insist on their presence here during the debate, but if we can get an agreement to close debate in

two hours I am willing to let the bill go over.

Mr. RODDENBERY. Mr. Chairman, in view of the fact that
the Rules Committee have agreed to bring in a special rule permitting consideration of the immigration bill without reference to Calendar Wednesday, I see no objection. But if the Committee on Rules does not propose to bring in a rule of that kind I think we ought to expedite this matter now so that we may reach the bill on Calendar Wednesday notwithstanding.

Mr. MANN. Mr. Chairman, I will say to the gentleman from Georgia [Mr. RODDENBERY], agreeing with him as to the procedure, that if the House should be disposed to proceed to-night I should follow his example and make the point of no quorum, so that I might have some Members present to whom I could

address myself.

Mr. GARNER. Mr. Chairman, may I suggest to the gentleman from Georgia that this is in the interest of the expedition of this bill to final conclusion. An agreement in the House to limit the debate to two hours and then take the bill up for consideration under the five-minute rule would be as short a time Mr. RODDENBERY. But that carries this bill over until next Wednesday.

Mr. GARNER. That is true. as one could possibly get consideration of the bill if some one

That is true.

Mr. RODDENBERY. Of course if the Committee on Rules should, according to the letter of the chairman, bring in early this session a special rule to consider the immigration bill, then the immigration matter is not relevant to this subject. However, Members, even new Members like myself, with a small smattering idea of procedure, realize and well recognize that it is but dilly-dallying with legislation and trifling with the people to delay for two or three weeks consideration of the immigration bill and then to pass it with great gusto and let it die in conference or in the Senate. I do not want to be a party by

acquiescense, by silence, or by inaction to any procedure that is putting up buncomble on the people of this country by going to them and saying we have passed the immigration bill when we know it is passed under such conditions that it is deader than Hector. That is all I was asking about—to get the inthan Hector. That is all I was asking about—to get the information. Of course I presume the Committee on Rules will bring in the special rule, according to written promise

Mr. GARNER. If the gentleman from Georgia will permit, if he objects to the agreement to limit debate to two hours, carrying the bill over until next Wednesday, unless he had a majority to enable him to rise and limit debate by a vote of the House he would be unable to accomplish his purpose in any event.

Mr. RODDENBERY. Of course most of my preliminaries have been carried on in recent days without a majority being in accord with me. We have long ago abandoned the idea of proceeding with a majority on these matters, especially just before an election and right after an election.

Mr. MANN. Do I understand the gentleman will object to

the arrangement made?

Mr. RODDENBERY. Oh, not at all, because I can not anticipate that the Committee on Rules will not bring in a special order for the immediate consideration of the immigration bill.

Mr. MANN. I think myself that the committee ought to, although I am not a member of that committee.

Mr. WATKINS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. RUCKER of Colorado, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, and had come to no resolution thereon.

Mr. WATKINS. Mr. Speaker, I ask unanimous consent that general debate on the bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, be limited to two hours, to be divided equally, one half to be controlled by myself and the other

half by the gentleman from Illinois [Mr. MANN].

The SPEAKER. The gentleman from Louisiana [Mr. WAT-KINS] asks unanimous consent that general debate on the bill H. R. 16314 be limited to two hours, one half to be controlled by himself and the other half by the gentleman from Illinois [Mr. MANN]. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina, by direction of the Committee on Appropriations, reported the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, which was read a first and second time, and, with the accompanying report, referred to the Committee of the Whole House on the state of the Union and ordered printed. (H. Rept. 1262.)

Mr. MANN. Mr. Speaker, I reserve all points of order on

the bill.

The SPEAKER. The gentleman from Illinois reserves all points of order on the bill.

Mr. MANN. Mr. Speaker, I would like to make an inquiry of the gentleman from South Carolina. First, I should like to compliment the gentleman and his committee on being able to report this bill so early in the session. I would like to inquire of the gentleman if it is the intention to have the bill printed as some appropriation bills were printed last year-to show the amounts in figures instead of in words?

Mr. JOHNSON of South Carolina. This bill will be printed

in figures instead of words.

Mr. MANN. Well, I think that is a great reform that is being

Mr. JOHNSON of South Carolina. Mr. Speaker, I desire to give notice that to-morrow and on each day thereafter when the bill is in order under the rule I shall press for its consideration until final passage.

EXTENSION OF REMARKS.

Mr. WATKINS. Mr. Speaker, I ask unanimous consent that those who have spoken upon the bill under consideration to-day (H. R. 16314) be allowed to extend their remarks.

The SPEAKER. For how long?

Mr. WATKINS. For five days.

The SPEAKER. The gentleman from Louisiana asks unanimous consent that all Members who have spoken on this bill under consideration to-day be given five legislative days in which to extend their remarks. Is there objection? [After a pause.] The Chair hears none.

CONTESTED-ELECTION CASE OF M'LEAN AGAINST BOWMAN.

Mr. ANSBERRY. Mr. Speaker, I desire to give notice that on next Tuesday I shall call up the privileged resolution in the McLean against Bowman election-contest case.

Mr. MANN. Mr. Speaker, may I make an inquiry of the gentleman in reference to that?

Mr. ANSBERRY. I shall be glad to answer any question the

gentleman may ask.

Mr. MANN. The legislative appropriation bill will be taken up to-morrow. It might not be finished by next Tuesday; in fact, it would be very unusual if it were finished by that time. Does the gentleman intend to take up the election case on Tuesday in any event or, if the appropriation is not finished, to follow the appropriation bill?

Mr. ANSBERRY. If the appropriation bill is not finished, I shall not insist on the resolution being considered, but under an agreement I have with the gentleman from Iowa [Mr. PROUTY] I want to dispose of it by the 12th of the month if possible, for the reason he is going away and I think they are relying on the gentleman from Iowa [Mr. PROUTY] and the gentleman from Ohio [Mr. WILLIS] to defend Mr. BOWMAN.

Mr. MANN. If the gentleman has an understanding with him,

is not necessary for me to make any inquiry.

Mr. ANSBERRY. I do not mean to say that it is agreed to be taken up Tuesday, but I want to get it out of the road.

Mr. MANN. I understand.

The SPEAKER. The gentleman from Ohio [Mr. ANSBERRY] gives notice that on next Tuesday he will call up the election case of McLean against Bowman, not to interfere with the legislative, executive, and judicial appropriation bill. The Chair would like to inquire of the gentleman from South Carolina [Mr. Johnson] if he has any idea how long the legislative appropriation bill will take?

Mr. JOHNSON of South Carolina. No; I do not know, but I

hope we will get through this week.

CHANGE OF REFERENCE.

The SPEAKER. The Chair desires to make the following announcement.

The Clerk read as follows:

By unanimous consent the reference heretofore made of House Executive Documents Nos. 1001, 995, 999, 1003, and 1005 is hereby vacated and said documents are referred to the Committee on Appropriations.

The SPEAKER. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. WATKINS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 22 minutes p. m.) the House adjourned to meet to-morrow, Thursday, December 5, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Attorney General of the United States, transmitting a list of useless papers on file in the Department of Justice and requesting authority to have same destroyed (H. Doc. No. 1041); to the Committee on Disposition of Useless

Executive Papers and ordered to be printed.

2. A letter from the Secretary of the Treasury, submitting a detailed statement of expenses of the Revenue-Cutter Service for the fiscal year ended June 30, 1912 (H. Doc. No. 1035); to the Committee on Expenditures in the Treasury Department and

ordered to be printed.

3. A letter from the Secretary of the Navy, transmitting list of Government publications received and distributed by the Navy Department during the fiscal year ended June 30, 1912 (H. Doc. No. 1038); to the Committee on Expenditures in the Navy Department and ordered to be printed.

4. A letter from the Attorney General of the United States, transmitting a statement of expenditures of the United States Court of Customs Appeals for the fiscal year ended June 30, 1912; to the Committee on Expenditures in the Department of Justice and ordered to be printed.

5. A letter from the Secretary of the Navy, transmitting request of employees of the department for increased pay with

unfavorable recommendation (H. Doc. No. 1037); to the Committee on Appropriations and ordered to be printed.

6. A letter from the Secretary of the Interior, transmitting a detailed statement of travel expenses incurred by officers and employees of the department when absent from Washington on official business for the fiscal year ended June 30, 1912 (H. Doc. No. 1017); to the Committee on Expenditures in the Department of the Interior and ordered to be printed.

7. A letter from the chairman of Interstate Commerce Commission, transmitting a statement of expenses incurred by officials and employees of the commission on account of travel when absent from Washington, D. C., on official business during the fiscal year ended June 30, 1912 (H. Doc. No. 1040); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

8. A letter from the Secretary of the Interior, transmitting statement of expenditures, repair of buildings, Department of the Interior, for the fiscal year ended June 30, 1912 (H. Doc. No. 1016); to the Committee on Expenditures in the Interior

Department and ordered to be printed.

9. A letter from the First Assistant Secretary of the Interior, transmitting, as required by act of August 24, 1912, result of investigation of conditions on the Yuma Reservation in California, with respect to the necessity of constructing bridge at Yuma, Ariz. (H. Doc. No. 1020); to the Committee on Indian Affairs and ordered to be printed.

10. A letter from the Secretary of the Interior, transmitting a statement of expenditures, contingent expenses, Department of the Interior, for the fiscal year ended June 30, 1912 (H. Doc. No. 1012); to the Committee on Expenditures in the Depart-

ment of the Interior and ordered to be printed.

11. A letter from the Secretary of War, transmitting, pursuant to law, a letter from the Acting Chief of Ordnance, United States Army, containing statement of the cost of the manufacture of all types of guns and other articles at the several arsenals of the United States during the fiscal year ended June 30, 1912, (H. Doc. No. 1039); to the Committee on Expenditures in the War Department and ordered to be printed.

12. A letter from the Secretary of the Interior, reporting the number of acres of public lands surveyed during the fiscal year ended June 30, 1912 (H. Doc. No. 1019); to the Committee on

the Public Lands and ordered to be printed.

13. A letter from the Secretary of the Interior, transmitting a statement showing distribution of moneys expended for irrigation and drainage, Indian service, for fiscal year 1912 (H. Doc. No. 1034); to the Committee on Indian Affairs and ordered to be printed.

14. A letter from the Secretary of the Interior, transmitting copy of letter from the surgeon in chief of the Freedman's Hospital showing detailed statement of expenditures for salaries, etc. (H. Doc. No. 1029); to the Committee on the District

ries, etc. (H. Doc. No. 1029); to the Committee on the District of Columbia and ordered to be printed.

15. A letter from the president of the Board of Commissioners of the District of Columbia, transmitting detailed statement of the contingent expenses of the District of Columbia for the fiscal year ended June 30, 1912 (H. Doc. No. 1042); to the Committee on the District of Columbia and ordered to be printed.

16. A letter from the Secretary of the Interior, submitting, pursuant to section 5, act of August 30, 1890, information as to the amount disbursed to certain States of the Union for support of the colleges for the benefit of agriculture and mechanic arts during the fiscal year ended June 30, 1912 (H. Doc. No. 1030); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

17. A letter from the Secretary of the Treasury, transmitting statement of expenses incurred by officers and employees of the Treasury Department while traveling on official business during the fiscal year ended June 30, 1912 (H. Doc. No. 1036); to the Committee on Expenditures in the Treasury Department and ordered to be printed.

18. A letter from the Librarian of Congress, transmitting annual report of the superintendent of the Library building and grounds for the fiscal year ended June 30, 1912 (H. Doc. No. 962); to the Committee on the Library and ordered to be

19. A letter from the Secretary of the Interior, submitting report showing the diversion of appropriations for pay of specified employees in Indian service for the fiscal year ended June 30, 1912 (H. Doc. No. 1021); to the Committee on Indian Affairs and ordered to be printed.

20. A letter from the Secretary of the Interior, transmitting copy of letter from the superintendent of the Government Hospital for the Insane, with a detailed statement of the receipts and expenditures for all purposes connected with the hospital (H. Doc. No. 1011); to the Committee on the District of Columbia and ordered to be printed.

21. A letter from the Secretary of the Interior, transmitting pursuant to law, result of investigation of conditions on San Carlos Indian Reservation with view to constructing bridges for the use of the Indians across San Carlos Creek and Gila River in the vicinity of San Carlos (H. Doc. No. 1013); to the Committee on Indian Affairs and ordered to be printed. 22. A letter from the Secretary of the Interior, submitting report of expenditures from the permanent fund of the Sioux Indians during the fiscal year ended June 30, 1912 (H. Doc. No. 1032); to the Committee on Indian Affairs and ordered to

be printed.
23. A letter from the Secretary of the Interior, transmitting detailed report of expenditures of money carried under the cap-tion of "Indian moneys, proceeds of labor," during the fiscal year ended June 30, 1912 (H. Doc. No. 1031); to the Committee

on Indian Affairs and ordered to be printed.

24. A letter from the Secretary of the Interior, transmitting report showing the expenditures for encouraging industry among Indians during the fiscal year ended June 30, 1912 (H. Doc. No. 1027); to the Committee on Indian Affairs and ordered to be printed.

25. A letter from the Secretary of the Interior, transmitting report of expenditures for encouraging industrial work among the Indians of the Tongue River Reservation, Mont., during the fiscal year ended June 30, 1912 (H. Doc. No. 1033); to the Com-

mittee on Indian Affairs and ordered to be printed.

26. A letter from the Secretary of the Interior, transmitting letter of the Acting Commissioner of Indian Affairs, reporting that no Indian tribe for which appropriations were made has engaged in hostilities against the United States or its citizens during the fiscal year ended June 30, 1912 (H. Doc. No. 1022); to the Committee on Indian Affairs and ordered to be printed.

27. A letter from the Secretary of the Interior, reporting that there were no diversions of appropriations for purchase of subsistence for Indian tribes during the fiscal year ended June 30, 1912 (H. Doc. No. 1023); to the Committee on Indian Affairs

and ordered to be printed.

28. A letter from the Secretary of the Interior, transmitting report showing expenditures for the relief of destitute Indians for the fiscal year ended June 30, 1912 (H. Doc. No. 1026); to the Committee on Indian Affairs and ordered to be printed.

29. A letter from the Secretary of the Interior, transmitting report regarding the purchase of supplies in the open market for the Indian Service for the fiscal year ended June 30, 1912 (H. Doc. No. 1028); to the Committee on Indian Affairs and ordered to be printed.

30. A letter from the Secretary of the Interior, transmitting statement of expenses for the fiscal year 1912 from the appropriation "Industrial work and care of timber" (H. Doc. No. 1025); to the Committee on Appropriations and ordered to be

printed.

31. A letter from the Secretary of the Interior, transmitting statement of cost of survey and allotment work on Indian reservations for the fiscal year 1912 (H. Doc. No. 1024); to the Com-

mittee on Indian Affairs and ordered to be printed.

32. A letter from the Secretary of the Interior, transmitting, pursuant to law, result of investigations made as to conditions on the Navajo Indian Reservation at Shiprock, N. Mex., with respect to necessity of constructing bridges across San Juan River at Shiprock (H. Doc. No. 1015); to the Committee on Indian Affairs and ordered to be printed.

33. A letter from the Secretary of the Interior, transmitting statement of documents received and distributed by the Department of the Interior during the fiscal year ended June 30, 1912 (H. Doc. No. 1014); to the Committee on Expenditures in the

Department of the Interior and ordered to be printed.

34. A letter from the Secretary of the Interior, transmitting, pursuant to law, a list of buildings, etc., contracted for during the fiscal year 1911-12 payable from Indian school and agency buildings appropriations (H. Doc. No. 1018); to the Committee on Indian Affairs and ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:
By Mr. RAKER: A bill (H. R. 26669) for the support and

education of the Indian pupils at the Fort Bidwell Indian School, California, and for repairs and improvements, and for other purposes; to the Committee on Indian Affairs.

Also, a bill (H. R. 26670) for the support and education of the Indian pupils at the Greenville Indian School, California, for repairs and improvements, to purchase and provide grounds, erect buildings, and furnish the same, and for other purposes; to the Committee on Indian Affairs.

By Mr. PAYNE: A bill (H. R. 26671) for the purchase of a site and the erection thereon of a public building at Lyons, N. Y.; to the Committee on Public Buildings and Grounds.

By Mr. KENNEDY: A bill (H. R. 20672) granting to the Inter-City Bridge Co., its successors and assigns, the right to construct, acquire, maintain, and operate a railway bridge across the Mississippi River; to the Committee on Interstate and Foreign Commerce.

By Mr. CARTER: A bill (H. R. 26673) providing for the final disposition of the affairs of the Five Civilized Tribes, and for other purposes; to the Committee on Indian Affairs. By Mr. GRIEST: A bill (H. R. 26674) authorizing the Secre-

tary of War to donate to the Grand Army Post of Mount Joy, Pa., two bronze or brass cannon or fieldpieces; to the Committee on Military Affairs.

By Mr. BRANTLEY: A bill (H. R. 26675) for the survey of Brunswick (Ga.) Harbor and outer bar; to the Committee on

Rivers and Harbors.

By Mr. LAFFERTY: A bill (H. R. 26676) to provide additional entries for certain homestead entrymen in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming; to the Committee on the Public Lands.

By Mr. SULZER: A bill (H. R. 26677) to promote the foreign commerce of the United States, and providing for the relocation of the pierhead line in the Hudson River between pier 1 and West Thirtieth Street, Borough of Manhattan, in the city of New York; to the Committee on Interstate and Foreign Com-

By Mr. PROUTY: A bill (H. R. 26678) to facilitate transportation and to prevent the use of railroad cars for storage purposes; to the Committee on Interstate and Foreign Com-

By Mr. LAFFERTY: A bill (H. R. 26679) to amend an act entitled "An act to amend section 2291 and section 2297 of the Revised Statutes of the United States relating to homesteads," approved June 6, 1912; to the Committee on the Public Lands.

By Mr. JOHNSON of South Carolina: A bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes; to the Committee of the Whole House on the state of the Union.

By Mr. GARNER; Resolution (H. Res. 731) assigning a certain room in the House wing of the Capitol to the official re-

porters of debates; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK: A bill (H. R. 26681) granting an increase of pension to William L. Johnson; to the Committee on Pensions.

By Mr. CANTRILL: A bill (H. R. 26682) granting a pension to Mary E. Ewers; to the Committee on Pensions.

By Mr. CLINE: A bill (H. R. 20683) granting an increase of pension to John Dixon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26684) granting an increase of pension to James H. Rowland; to the Committee on Invalid Pensions. Alse, a bill (H. R. 26685) granting an increase of pension to

Charles Ehrman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26686) granting an increase of pension to Benjamin F. Conners; to the Committee on Invalid Pensions. Also, a bill (H. R. 26687) granting an increase of pension to

John W. Paulus; to the Committee on Invalid Pensions.

By Mr. DRAPER: A bill (H. R. 26688) granting a pension to Louisa I. Baldwin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26689) granting an increase of pension to Caroline A. Dodge; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26690) granting an increase of pension to Lythor B. Caroline A. Caroli

Luther B. Grover; to the Committee on Invalid Pensions.

By Mr. DUPRE: A bill (H. R. 26691) for the relief of the

estate of Hypolite Abadie, deceased; to the Committee on War Claims.

By Mr. GARRETT: A bill (H. R. 26692) granting an increase of pension to Daniel H. Rankin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26693) granting a pension to Levi William Walden; to the Committee on Pensions.

By Mr. GOEKE (by request); A bill (H. R. 26694) granting an increase of pension to Junius Thomas Turner; to the Committee on Invalid Pensions.

By Mr. HAMILTON of West Virginia: A bill (H. R. 26695) granting a pension to Charles L. Boggess; to the Committee on Pensions.

Also, a bill (H. R. 26696) granting an increase of pension to

Eliza Taggart; to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 26697) for the relief of the heirs of John G. Burris; to the Committee on War Claims.

By Mr. JACOWAY: A bill (H. R. 26698) granting an increase of pension to Samuel R. Price; to the Committee on

Invalid Pensions.

By Mr. LAFFERTY: A bill (H. R. 26699) granting a pension to Harriet L. Newton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26700) granting a pension to Larkin Russell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26701) granting an increase of pension to Regina F. Palmer; to the Committee on Invalid Pensions.

By Mr. LEE of Georgia: A bill (H. R. 26702) granting a pension to Stacy Ann Wacker; to the Committee on Invalid Pen-

By Mr. LITTLEPAGE: A bill (H. R. 26703) granting an increase of pension to James Youell, alias James Moses; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26704) granting an increase of pension to George W. Connelly; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26705) for the relief of the legal representatives of George W. McGinnis; to the Committee on War

By Mr. MARTIN of South Dakota: A bill (H. R. 26706) granting an increase of pension to Alonzo Wagoner; to the Committee on Invalid Pensions.

By Mr. NORRIS: A bill (H. R. 26707) granting an increase of pension to John H. Yarger; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 26708) granting an increase of pension to Margurite D. Pollard; to the Committee on Invalid Pensions.

By Mr. PALMER: A bill (H. R. 26709) granting a pension to

Ezra R. Fuller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26710) for the relief of John S. Dorshimer;

to the Committee on Military Affairs.

By Mr. POST: A bill (H. R. 26711) granting an increase of pension to T. J. Lindsey; to the Committee on Invalid Pensions. Also, a bill (H. R. 26712) granting an increase of pension to

Zachariah T. Alexander; to the Committee on Invalid Pensions. By Mr. RUSSELL: A bill (H. R. 26713) granting a pension to George W. Hilton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26714) granting an increase of pension to Newton D. Cantwell; to the Committee on Pensions.

Also, a bill (H. R. 26715) granting an increase of pension to Lefford Mathews; to the Committee on Invalid Pensions.

By Mr. SCULLY: A bill (H. R. 26716) granting an increase of pension to John I. White; to the Committee on Invalid Pen-

By Mr. SHERWOOD: A bill (H. R. 26717) granting an increase of pension to Sarah J. Cooper; to the Committee on Invalid Pensions.

Valid Pensions.

Also, a bill (H. R. 26718) granting an increase of pension to Sarah J. Hill; to the Committee on Invalid Pensions.

By Mr. SWITZER: A bill (H. R. 26719) granting a pension to James C. Boyd; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26720) granting a pension to Homer Hoover; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26721) granting an increase of pension to Alexander R. Cating; to the Committee on Invalid Pensions.

By Mr. TILSON: A bill (H. R. 26722) granting an increase of pension to John B. Doolittle; to the Committee on Invalid Pensions.

By Mr. TOWNER: A bill (H. R. 26723) granting a pension to Mary A. Millsap; to the Committee on Invalid Pensions. By Mr. WHITACRE: A bill (H. R. 26724) granting an in-

crease of pension to Chalkley Milbourne; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26725) granting an increase of pension to John A. Sapp; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Memorial of the American Chamber of Commerce in Paris, favoring the enactment of legis-

lation tending to restore the American merchant marine to its former importance; to the Committee on the Merchant Marine

By Mr. ASHBROOK: Evidence to accompany bill (H. R. 16469) for the relief of Lucien B. Beaumont; to the Committee on Invalid Pensions.

By Mr. AYRES: Petition of the Chamber of Commerce of New York City, protesting against the General Board of Ap-praisers of New York customhouse being placed under control of Treasury Department; to the Committee on Expenditures in the Treasury Department

By Mr. DRAPER: Petition of the Chamber of Commerce of the State of New York, protesting against placing the Board of General Appraisers under any department of the Government; to the Committee on Expenditures in the Treasury Department.

By Mr. ESCH: Petition of business men of Thorp, Strum, Eleva, Osseo, Mondovi, Eau Claire, Fairchild, Greenwood,

Withee, and Owen, Wis., all asking that the Interstate Commerce Commission be given further power toward controlling the express rates; to the Committee on Interstate and Foreign

By Mr. FOSS: Petition of Lake Michigan Sanitary Association, Chicago, Ill., favoring an appropriation to investigate the extent of pollution in the lake waters; to the Committee on Interstate and Foreign Commerce.

By Mr. GARRETT: Papers to accompany bill granting an increase of pension to Daniel H. Rankin; to the Committee on Invalid Pensions.

Also, papers to accompany bill for granting a pension to Levi William Walden; to the Committee on Pensions

By Mr. MANN: Petition of the Deep Gulf Waterways Association, Little Rock, Ark., relative to the improvement of the Mississippi River and its harbers, etc.; to the Committee on Rivers and Harbors.

Also, petition of Division No. 1, Order of Railway Conductors, protesting against the passage of the employers' liability and workmen's compensation bill; to the Committee on the Judiciary

Also, petition of the Lake Michigan Sanitary Association, relative to preventing the pollution of the waters of the Great Lakes; to the Committee on Interstate and Foreign Commerce.

By Mr. MOORE of Pennsylvania: Petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring the passage of House bill 17736, changing the letter-postage rate to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring the enactment of legislation changing the date of the national election; to the Committee on Election of President, Vice President, and Representatives in Congress

By Mr. REILLY: Petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring the reduction of letter-postage rate to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring a change in the date of the national election; to the Committee on Election of President, Vice President, and Representatives in Con-

By Mr. STEPHENS of California: Petition of W. S. Hancock Council No. 20, Junior Order United American Mechanics, Los Angeles, Cal., favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. STEPHENS of Texas: Petition of citizens of the thirteenth congressional district of Texas, favoring passage of bill for eradication of the Russian thistle; to the Committee on Agriculture.

By Mr. SULZER: Petition of citizens of New York and Pittsburgh, Pa., favoring the passage of House bill 26277, establishing a United States Court of Appeals; to the Committee on the Judiciary.

By Mr. TILSON: Petition of the Chamber of Commerce of New Haven, Conn., favoring the passage of bill making appropriation for the improvement of the New Haven Harbor; to the Committee on Appropriations.

SENATE.

Thursday, December 5, 1912.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D. LUKE LEA, a Senator from the State of Tennessee, and ROBERT L OWEN, a Senator from the State of Oklahoma, appeared in their seats to-day.

The Journal of yesterday's proceedings was read and approved. ANNUAL REPORT OF THE ATTORNEY GENERAL (H. DOC. NO. 930).

The PRESIDENT pro tempore (Mr. Bacon) laid before the Senate the annual report of the Attorney General for the fiscal year ended June 30, 1912, which was ordered to lie on the table and be printed.

CITIZENSHIP IN PORTO RICO (S. DOC. NO. 968).

The PRESIDENT pro tempore laid before the Senate a communication from the Chief of the Bureau of Insular Affairs, transmitting, at the request of the Governor of Porto Rico, a petition adopted at a mass meeting of workingmen of Porto Rico, praying for the enactment of legislation granting American citizenship to the people of that Territory, which was referred to the Committee on Pacific Islands and Porto Rico and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, transmitted to the Senate resolutions of the House on the death of Hon. Weldon Brinton Heyburn, late a Senator from the State of Idaho.

The message also transmitted to the Senate resolutions of the House on the death of Hon. ISIDOR RAYNER, late a Senator

from the State of Maryland.

The message further communicated to the Senate the intelli-gence of the death of Hon. George Herbert Utter, late a Representative from the State of Rhode Island, and transmitted resolutions of the House thereon.

The message also communicated to the Senate the intelligence of the death of Hon. RICHARD E. CONNELL, late a Representative from the State of New York, and transmitted resolutions of

the House thereon.

The message further communicated to the Senate the intelligence of the death of Hon. Carl Carly Anderson, late a Representative from the State of Ohio, and transmitted resolutions of the House thereon.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the

Senate:

H. R. 16450. An act to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same; and

H. R. 17470. An act to pension widow and minor children of any officer or enlisted man who served in the War with Spain

or Philippine insurrection.

PETITIONS AND MEMORIALS.

Mr. BRANDEGEE. I present resolutions adopted by the board of directors of the American Institute of Electrical Engineers, of New York, relating to the American patent system. I ask that the resolutions be printed in the Record and referred to the Committee on Patents.

There being no objection, the resolutions were referred to the Committee on Patents and ordered to be printed in the RECORD,

as follows:

AMERICAN PATENT SYSTEM.

(Resolutions adopted by the board of directors of the American Institute of Electrical Engineers, Nov. 8, 1912.)

of Electrical Engineers, Not. 5, 2012.

American Institute of Electrical Engineers, New York.

Whereas there are pending before the Congress numerous bills affecting and greatly modifying the patent system in the United States; and Whereas the patent system has been and is a tremendous factor in building up the present industrial prosperity of this country, thereby greatly contributing to the prosperity of the country as a whole; and Whereas any untoward change in the patent situation might diastrously affect this condition of industrial and general prosperity and the conditions contributing to their continual augmentation; and Whereas in view of the intimate relation of the patent system to the general welfare, no action looking toward any radical change in the patent system should be taken without most careful consideration; and

Whereas in our opinion proper consideration of such important changes as are proposed can be had only by an unbiased, nonpartisan commis-sion made up of men from various walks of life and not from any one vocation or interest: Be it

sion made up of men from various walks of life and not from any one vocation or interest: Be it *Resolved*, That the American Institute of Electrical Engineers, acting through its officers and board of directors, respectfully urge the Congress of the United States that they provide for a commission made up of unblased, independent, nonpartisan men of such national standing as will command the respect of the whole country, and chosen from different walks of life, and not more than one from any one calling or interest, and serving without pay. Such commission to hold public hearings and otherwise, as may appear to them best, to make a thorough and careful study of the American patent situation and to prepare and submit a comprehensive report and recommendations to Congress for such changes, if any, as may, as the result of their study, appear to them expedient, whether in the Patent Offide, in the method of court procedure, or in the organic patent law, and recommendations as to the legislation they would propose for effecting said changes. And that we further respectfully urge that the Congress make ample provision for the expenses of said commission; and be it *Resolved*, That we respectfully urge the Congress of the United States to hold in abeyance all proposed legislation affecting the patent system in whatsoever way until such time as the said commission shall have had ample opportunity to hold the said hearings and make the said study and report; and be it further *Resolved*, That these resolutions be printed and a copy be sent to each Senator and Representative of the United States who is a member of the Senator and Representative of the United States who is a member of the Senator and Representative of the United States who is a member of the Senator and Representative of the United States who is a member of the Senator of House Committee on Patents.

RALPH D. MERSHON. **President.

RALPH D. MERSHON. **President.

RALPH D. MERSHON. **President.

RALPH D. MERSHON. **President.

**RALPH D.

Mr. SUTHERLAND presented a petition of the Utah Federation of Women's Clubs, praying for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which was referred to the Committee on Agriculture and Forestry.

Mr. McLEAN presented a petition of the Chamber of Commerce of New Haven, Conn., praying for the creation of a final court of patent appeals, which was referred to the Committee on Patents.

He also presented a petition of the Chamber of Commerce of New Haven, Conn., praying that an appropriation be made for the improvement of the harbor at that city, which was referred

to the Committee on Commerce.

Mr. JOHNSON of Maine presented a petition of the congregation of the First Baptist Church of Yarmouth, Me., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

JAMES C. ESLOW.

Mr. CLARK of Wyoming, from the Committee on the Judiciary, to which was referred the bill (S. 6022) for the relief of James C. Eslow, asked to be discharged from its further consideration and that it be referred to the Committee on Claims, which was agreed to.

AMERICAN RED CROSS.

Mr. CLARK of Wyoming. From the Committee on the Judiciary I report back favorably without amendment the bill (H. R. 20287) to amend section 5 of the act entitled "An act to incorporate the American Red Cross," approved January 5, 1905, and ask for its immediate consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to amend section 5 of the act for the incorporation of the American National Red Cross, approved January 5, 1905, so that the annual meeting of the organization shall hereafter be held on Wednesday preceding the second Thursday in the month of December in each and every year.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FERRO LIGHT STATION, PORTO RICO.

Mr. NELSON. From the Committee on Commerce I report back favorably without amendment the bill (S. 7531) to authorize the Secretary of Commerce and Labor to purchase certain land required for lighthouse purposes at Port Ferro Light Station, Porto Rico, and I submit a report (No. 1070) thereon. I ask for the present consideration of the bill.

There being no objection, the Senate, as in Committee of the

Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULLOM:

A bill (S. 7599) authorizing the reappointment of Midshipman Walter J. Tigan, recently dismissed from the Naval Academy for hazing; to the Committee on Naval Affairs.

By Mr. MASSEY:

A bill (S. 7600) legalizing certain conveyances heretofore made by the Central Pacific Railroad Co. and others, within the State of Nevada; to the Committee on the Judiciary,

By Mr. LODGE:

bill (S. 7601) granting a pension to Lulu W. Gallagher (with accompanying papers); to the Committee on Pensions. By Mr. WARREN

bill (S. 7602) for the relief of Fred C. and C. Hellen Fisher; to the Committee on Public Lands.

A bill (S. 7603) granting an increase of pension to Mary A. Hubbell (with accompanying paper); and A bill (S. 7604) granting an increase of pension to Mary E. Lafontaine (with accompanying papers); to the Committee on

Pensions.

A bill (S. 7605) for the relief of Theresa A. Murray (with accompanying papers); to the Committee on Claims, By Mr. PENROSE:

A bill (8, 7606) granting an increase of pension to Charles Bridger, alias Charles Mahoney (with accompanying paper); to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 7607) granting an increase of pension to Melly L. Smith Ford (with accompanying papers); and
A bill (S. 7608) granting an increase of pension to Eliza J. Sparrow (with accompanying papers); to the Committee on Pensions:

By Mr. STEPHENSON: A bill (S. 7609) granting a pension to Mettie I. Liskum (with accompanying papers);

A bill (S. 7610) granting an increase of pension to Horace L.

Chadbourne (with accompanying papers); and

A bill (S. 7611) granting an increase of pension to Edward R. Dudley (with accompanying papers); to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 7612) granting an increase of pension to Daniel H. Strout (with accompanying papers);

A bill (S. 7613) granting an increase of pension to Erastus G.

Cummings (with accompanying paper); and

A bill (S. 7614) granting an increase of pension to Fred F. Harris (with accompanying papers); to the Committee on Pensions.

By Mr. WETMORE:

A bill (S. 7615) granting an increase of pension to Lucy H. Collins (with accompanying paper); to the Committee on Pensions.

By Mr. LA FOLLETTE:

A bill (S. 7616) granting a pension to Huldah Nesbitt; and A bill (S. 7617) granting an increase of pension to Elisha L. Ashley; to the Committee on Pensions.

AGRICULTURAL CREDIT SYSTEM (S. DOCS. NOS. 966 AND 967).

Mr. FLETCHER. I ask to have printed as a document a preliminary report on land and agricultural credit in Europe and also a communication from the International Institute of Agriculture, entitled "The way out of the rut." I ask that they be

The PRESIDENT pro tempore. The Senator from Florida asks that the two papers which he has submitted to the Senate be each printed as a Senate document. Without objection, it

will be so ordered.

LINCOLN MEMORIAL COMMISSION (S. DOC. NO. 965).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, and, on motion of Mr. Cullom, was, with the accompanying papers and illustrations, referred to the Committee on the Library and ordered to be printed:

To the Senate and House of Representatives:

I beg herewith to submit a report of the Lincoln Memorial Commission and its recommendation upon the location, plan, and design for a memorial in the city of Washington, D. C., to the memory of Abraham Lincoln, in accordance with an act providing a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln, approved February 9, 1911.

WM. H. TAFT.

THE WHITE HOUSE, December 5, 1912.

HOUSE BILLS REFERRED.

H. R. 16450. An act to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or taggage or articles in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same, was read twice by its title and referred to the Committee on Interstate Commerce.

H. R. 17470. An act to pension widow and minor children of any officer or enlisted man who served in the War with Spain or Philippine insurrection, was read twice by its title and re-

ferred to the Committee on Pensions.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move that the Senate proceed with the further consideration of House bill 19115, known as the omnibus claims bill.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CRAWFORD. Let the reading for the purpose of con-

sidering the committee amendments be resumed.

The PRESIDENT pro tempore. The reading of the bill will be continued.

The Secretary resumed the reading of the bill at line 15, on

The next amendment of the Committee on Claims was, on page 107, under the subhead "Virginia," after line 18, to strike

To the trustees of Oak Grove Methodist Episcopal Church, of Reams Station, \$800.

The amendment was agreed to.

The next amendment was, at the top of page 108, to strike out:

To the trustees of St. Paul's Free Church, of Routts Hills, \$600.

The amendment was agreed to.

The next amendment was, on page 108, after line 4, to strike

To the trustees of the Wilderness Baptist Church, of Spottsylvania County, \$300.

The amendment was agreed to.

The next amendment was, on page 108, after line 8, to strike out:

To the vestry of Aquia Protestant Episcopal Church, of Stafford County, \$1,500.

To the trustees of Berea Baptist Church, of Stafford County, \$600.

To the trustees of Hartwood Presbyterian Church, of Stafford County,

To the trustees of Macedonia Methodist Episcopal Church, of Stafford County, \$310.

To the trustees of the Methodist Episcopal Church South, of Stephens

To the trustees of the Methodist Episcopal Church South, of Stephens City, \$500.

To the trustees of Trinity Lutheran Church, of Stephens City, \$500.

To the trustees of the Presbyterian Church of Strasburg, \$730.

To the First Baptist Church of Suffolk, \$550.

To the trustees of the Methodist Episcopal Church South, of Suffolk, Nansemond County, \$2,100.

To the trustees of the Providence Methodist Episcopal Church, near Suffolk, Nansemond County, \$890.

To the vestry of The Plains Episcopal Church, of The Plains, \$550.

To the trustees of the Lutheran Church, of Toms Brook, and the trustees of the Reformed Church, of Toms Brook, successors to the Union Church, of Toms Brook, \$250.

To the trustees of the Methodist Episcopal Church South, of Unison, \$150.

The amendment was agreed to. The next amendment was, on page 109, after line 16, to strike out:

strike out:

To the trustees of the Old School Baptist Church, of Upperville, \$250. To the trustees of the Methodist Episcopal Church South, of Warrenton, \$1,190.

To the trustees of the Presbyterian Church of Warrenton, \$890. To the trustees of the Baptist Church of Waterford, \$525. To the trustees of the Baptist Church of Williamsburg, \$1,540.

To the trustees of the Methodist Episcopal Church South, of Williamsburg, \$1,300.

To the trustees of the Grace Evangelical Lutheran Church, of Winchester, \$810.

To the trustees of John Mann Methodist Episcopal Church (colored), of Winchester, \$600.

To the trustees of the Kent Street Presbyterian Church, of Winchester, \$2,750.

To the trustees of the Loudoun Street Presbyterian Church, of Winchester, \$2,600.

To the trustees of the Market Street Methodist Episcopal Church, of Winchester, \$1,740.

To the trustees of the St. Paul Reformed Church, of Woodstock, \$325.

To the trustees of the Presbyterian Church of McDowell, Highland County, \$150.

The amendment was agreed to.

The amendment was agreed to.

The next amendment was, on page 110, after line 19, to insert:

To the trustees of Chestnut Fork Old School Baptist Church, of Cul-peper County, \$1,180.

The amendment was agreed to.

The next amendment was, on page 110, after line 22, to insert:

To the trustees of the Methodist Episcopal Church South, of Fairfax Court House, \$1,000.

The amendment was agreed to.

The next amendment was, at the top of page 111, to insert: To the trustees of Warrenton Academy, of Warrenton, \$1,200.

The amendment was agreed to.

The next amendment was, on page 111, after line 2, to strike

WASHINGTON.

To Joseph Hinson, of Pierce County, \$115.41.

The amendment was agreed to.

The next amendment was, under the heading "West Virginia," on page 111, after line 6, to strike out:

To Sarah A. Bodkin, widow of William H. Bodkin, deceased, late of Upshur County, \$278.50.
To Mary E. Buckey, of Beverly, \$115.
To Charles Cook, administrator of John Cook, deceased, late of Fayette

To Charles Cook, administrator of John Cook, deceased, late of Fayette County, \$550.

To Lorenzo D. Corrick, administrator of the estate of William Corrick, deceased, late of Tucker County, \$150.

To Edward M. Craig, administrator of the estate of George W. Craig, deceased, late of Mason County, \$2,114.

To Andrew Crouch, Newton Crouch, and B. L. Butcher, executors of Jacob Crouch, deceased, late of Randolph County, \$3,710.

To John T. Sharp, administrator of the estate of George Dickson, deceased, late of Fayette County, \$99.

To John Fitz, executor of Samuel Fitz, deceased, late of Martinsburg, \$1,200.

To Mary Foreman, widow of Jacob J. Foreman, deceased, late of Berkeley County, \$316.

To John H. Fout, administrator of the estate of George Fout, deceased, of Grant County, \$780.

To Mary V. Chambers, administratrix of the estate of Lydia A. Hockensmith, deceased, late of Jefferson County, \$355.

To T. J. Hudson, administrator of the estate of Jacob W. Hudson, deceased, of Lewis County, \$15.

To L. H. Kelly, administrator of the estate of John McH. Kelly and Allie V. Kelly, deceased, of Braxton County, \$535.

To Joseph Loudermilk, of Monroe County, \$530.

To James S. Lucas, administrator of the estate of Catharine S. Lucas, deceased, of Jefferson County, \$710.

To Ruth Milbourn, Louise V. Milbourn, and Henry W. Milbourn, sole heirs of the estate of Oliver Milbourn, deceased, late of Jefferson County, \$430.

A Stand Miller, of Monroe County, \$620.

To Sarah Miller, of Monroe County, \$620.

To William W. Myers, executor of James W. Myers, deceased, late of Jefferson County, \$650.

To Henry O'Bannon and William A. O'Bannon, sole heirs of Alfred O'Bannon, deceased, late of Jefferson County, \$304.

To J. W. Gardner, administrator of the estate of F. A. Roeder, deceased, late of Jefferson County, \$320.

To John T. Sharp, administrator of the estate of John Sharp, deceased, late of Fayette County, \$340.

To L. H. Briscoe, sole heir of Maria Shirley, deceased, late of Jefferson County, \$260.

To Joseph C. Smith, of Jefferson County, \$620.

To Joseph C. Smith, of Jefferson County, \$244.

To David Tuckwiller and Sarah Bettle Wilson, of Greenbrier County, \$600.

To the trustees of the Methodist Episcopal Church South, of Barbours-ville, \$500.

To the trustees of the Presbyterian Church of Beverly, \$1.500.

To the trustees of the Methodist Episcopal Church of Bunker Hill,

\$1.000

To the trustees of the Free Church of Burlington, Mineral County,

To the trustees of the Methodist Episcopal Church South, of Charles-

town, \$600.

To the trustees of St. John's Episcopal Church, of Charleston, \$1,850.

To the trustees of Zion Protestant Episcopal Church, of Charlestown,

To the trustees of the Methodist Episcopal Church South, of Clarksburg, \$1,400.

To the trustees of the Presbyterian Church of Clarksburg, \$525.

To the trustees of Elk Branch Presbyterian Church, of Duffields, \$600.

The amendment was agreed to.

The next amendment was, on page 114, after line 20, to strike

To the trustees of the Methodist Episcopal Church of Flatwoods, \$390. To the trustees of the Fetterman (now West Main Street) Episcopal Church, of Grafon, \$490.

The amendment was agreed to.

The next amendment was, on page 115, after line 4, to strike

To the trustees of St. John's Protestant Episcopal Church, of Harpers Ferry, \$1.700.

To the trustees of the Presbyterian Church of Huttonsville, \$791.
To the trustees of the Trinity Protestant Episcopal Church, of Martinsburg, \$1.340.

To the trustees of the Methodist Protestant Church of Middleway, \$825.

To the trustees of the Presbyterian Church of Moorefield, \$1.430.

To the trustees of the Presbyterian Church of Moorefield, \$1,430.

The amendment was agreed to.

The next amendment was, on page 115, after line 20, to strike

Out:

To the trustees of the Methodist Episcopal Church of Philippi, \$600.
To the trustees of the Mount Olivet Primitive Baptist Church, of Philippi, \$250.
To the trustees of the Methodist Episcopal Church South, of Point Pleasant, \$1,090.
To the trustees of the Methodist Episcopal Church South, of St. Albans, \$1,400.
To the wardens and vestrymen of St. Mark's Protestant Episcopal Church, of St. Albans, \$2,400.
To the trustees of Caledonia Lodge, No. 4, Independent Order of Odd Fellows, of Shepherdstown, \$115.
To the trustees of the Presbyterian Church of Springfield, \$600.
To the trustees of St. John's Catholic Church, of Summersville, \$1,050.

The amendment was agreed to.

The next amendment was, on page 116, after line 14, to strike

To the trustees of the Methodist Episcopal Church of Webster, \$450. The amendment was agreed to.

The next amendment was, on page 116, after line 16, to insert: To the trustees of the Methodist Episcopal Church South, of Glenville, \$800.

The amendment was agreed to.

The next amendment was, on page 116, after line 18, to strike

WISCONSIN. To Irving V. Bliss, of Milwaukee, \$334.22.
To Ole Jacobson, of Walworth County, \$138.78.
To Hiram F. Lyke, of Waukesha County, \$188.56.

The amendment was agreed to.

The next amendment was, at the top of page 117, to insert: CLAIMS FOR OVERTIME DUE EMPLOYEES IN UNITED STATES NAVY YARDS. CALIFORNIA.

CALIFORNIA.

To the following-named persons (representing six claims) the following sums, respectively, as found by the Court of Claims in the case of James Blessington and others against the United States, for payment for extra labor above the legal day of eight hours at the Mare Island Navy Yard, namely:

James Blessington. \$701.76.

Thomas Coffey, \$393.43.

Nathantel Damuth, \$431.30.

Thomas W. Dixon, \$35.70.

Louisa Keyes, widow of James H. Keyes, deceased, \$487.49.

Thomas Ney, \$294.

The amendment was agreed to.

The next amendment was to insert after line 19, page 117:

The next amendment was to insert after line 19, page 117:

To the following-named persons (representing 11 claims) the following sums, respectively, as found by the Court of Claims in the case of Joseph Borton and others against the United States, for payment for extra labor above the legal day of eight hours at the Mare Island Navy Yard, namely:

Ira M. Butler, \$146.12.
Orin S. Cooper, \$76.48.
J. H. Dalton, \$467.62.
Daniel Gray, \$81.50.
William Hooper, \$57.17.
James Macarty, \$484.83.
Jonathan Newcomb, jr., \$108.75.
Ira M. Butler, executor of O. H. Butler, deceased, \$579.92.
Margaret Geary, widow of Michael Geary, deceased, \$275.
Katherin Lipp, widow of Charles M. Lipp, deceased, \$340.66.
The amendment was agreed to.

The amendment was agreed to.

The next amendment was, after line 19, page 118, to insert:

The amendment was agreed to.

The next amendment was, after line 19, page 118, to insert:

To the following-named persons (representing 34 claims) the following sums, respectively, as found by the Court of Claims in the case of Ellen Brew, widow of Frank Brew, deceased, and others against the United States, for payment for extra labor above the legal day of eight hours at the Mare Island Navy Yard, namely:

Ellen Brew, widow of Frank Brew, deceased, \$411.11,

James Brosanahan, \$61.35.

William A. Brown, \$379.96.

Dorothea T. Bryant, widow of John Bryant, deceased, \$353.31,

Edward Campion, \$447.62.
Henry Cassady, \$129.64.

Dennis Corbett, \$9.18.

Kennedy Creighton, \$226.28.

Retta A. Hawes, widow of Henry A. Hawes, deceased, \$266.75,

Corlis Hinds, \$324.53.

Julia Lee, widow of Edward Lee, deceased, \$191.40.

John Lynch, \$84.69.

Duncan McLean, \$514.60.
Henry MacKenzie, \$179.66.

Patrick Mayoch, \$10.64.

Charles Ortlieb, \$456.17.

Elias Shillingsburg, \$275.05.

Ann Sweeney, widow of James Sweeney, deceased, \$262.25.

William H. Taylor, \$328.53.

Patrick O'Day, \$474.89.

William Farrell, \$267.01.

Charles John Wall, \$184.16.

William A. Brace, \$28.25.

Charles C. Crocker, \$337.20.

Louise T. Farley, widow of John Harvey, deceased, \$12.24.

Mary J. Towle, widow of Benjamin C. Towle, deceased, \$78.59.

George Osborne, \$451.86.

Mary Riley, widow of Theodore Riley, deceased, \$406.49.

John Thompson, \$410.40.

Rosa King, widow of Joseph King, deceased, \$567.64.

Albert Sylvester, \$241.27.

John Wise, \$19.43.

Sarah A. Dunbar, widow of Joseph J. Dunbar, deceased, \$498.99.

Olive A. Sides, widow of George E. Sides, deceased, \$489.21.

Mary G. Lockwood, widow and executrix of William Harrison Lockwood, deceased, \$438.07.

The amendment was agreed to.

The next amendment was, on page 121, after line 21, to insert:

The amendment was agreed to.

The next amendment was, on page 121, after line 21, to insert:

DISTRICT OF COLUMBIA.

DISTRICT OF COLUMBIA.

To the following-named persons (representing 46 claims) the following sums, respectively, as found by the Court of Claims in the case of Mary E. Alcorn, widow of John Alcorn, deceased, and others against the United States, for payment for extra labor above the legal day of eight hours at the Washington Navy Yard, namely:

Mary E. Alcorn, widow of John Alcorn, deceased, \$471.78.

George G. Auguste, \$261.79.

Adaline Bivens, widow of Thomas H. Bivens, deceased, \$225.50.

Thomas Cheek, \$102.69.

Albert Dean, \$297.94.

Henry C. Fowler, \$150.16.

Charles W. F. Garcia, \$72.02.

Mary M. Getzendanner, widow of William Getzendanner, deceased, \$196.07.

Thomas S. Gosnell, \$201.64.

Charles W. F. Garcia, \$72.02.
Mary M. Getzendanner, widow of William Getzendanner, deceased, \$196.07.
Thomas S. Gosnell, \$201.64.
Lawrence J. Grant, \$34.05.
Mary J. Haygle, widow of John L. Haygle, deceased, \$359.82.
William B. Hardester, \$1.50.
Aberrellah Holt, widow of George C. Holt, deceased, \$209.77.
Aberrellah Holt, next friend of Hannah Davis (insane), widow of George E. Davis, deceased, \$710.40.
Catherine A. Hunt, widow of George N. Hunt, deceased, \$339.86.
Francis S. Hutchinson, \$149.94.
William H. Hutchinson, \$77.85.
Simpson Johnsen, \$195.95.
Mary C. Kidwell, widow of William Albert Kidwell, deceased, \$293.99, John H. King, \$10.07.
W. Oscar Knott, \$195.83.
Gertrude Lang, widow of Charles A. Lang, deceased, \$5.87.
Abraham B. Lescallett, \$493.81.
Albert Lewis, \$271.05.
Herbert Lewis, \$261.84.
Frank A. Lowe, \$304.68.
George Lowry, \$134.52.
William Luskey, \$22.42.
William Luskey, \$22.42.
William Luskey, \$25.348.
George M. Posey, \$159.01.
George Selby, \$91.48.
Anna C. Simmonds, widow of Daniel Simmonds, deceased, \$82.60.
Mary E. Smith, widow (remarried) of Louis Browning, deceased, \$1.02.
Mary A. Smithson, widow of Isaac Smithson, deceased, \$20.16.
John Smallwood, \$279.34.
Mary H. Summers, widow of Edward Summers, deceased, \$376.89.

Mrs. E. Thompson, widow of John H. Thompson, deceased, \$306.89, John C. White, \$161.62, William T. Hutchinson, administrator of William E. Hutchinson, deceased, \$701.92.
W. B. Todd, \$20.07.
Thomas H. Risler, \$577.42.
Artemus R. Warfield, \$92.67.
Katle Langley, widow of Robert C. Langley, deceased, \$215.35. The amendment was agreed to. The next amendment was, on page 125, after line 21, to insert: To the following-named persons (representing 93 claims) the following sums, respectively, as found by the Court of Claims in the case of David Auld and others against the United States, for payment for extra labor above the legal eight hours at the Washington Navy Yard, namely: In the chowing-manned persons (representing 9s claims) in the case of David Auld and others against the United States, for payment for extra labor above the legal eight hours at the Washington Navy Yard, namely:

David Auld, \$461.10.

Everette E. Auguste, sole heir of Samuel R. Auguste, deceased, \$293.98. Martha E. Burton, widow of John F. Burton, deceased, \$481.60.

Brooks Burr, \$321.30.

William W. Boswell, \$19.97.

Isaac Benham, \$421.38.

John Beron, \$361.10.

Samuel Brown Bates, \$360.32.

Oliver T. Beaumont, \$45.71.

William F. Brown, \$287.13.

Amanda Berkeley, widow of Thomas Berkeley, deceased, \$156.26.

James T. Bell, \$97.61.

Salile R. Bailey, executrix of John A. Bailey, deceased, \$327.45.

Perry Baidwin, \$199.97.

Walter Caddington, \$29.80.

Mary J. Carrico, widow of James W. Cornelius, deceased, \$420.42.

Hezekiah J. Cawood, \$403.52.

Sarah E. Cawood, executrix of Philip A. Cawood, deceased, \$436.

Robert Craig, \$7.10.

Peter Cooksey, \$187.14.

George A. Cross, \$211.84.

Edward M. Cox. 21.

Robert Campbell, \$430.37.

Patrick Coleman, \$310.04.

Lawrence Callan, \$416.32.

Thomas J. Duwall, \$204.95.

Ida C. Duvall, administratrix of George Duvall, deceased, \$49.80.

Mary E. Dwyer, executrix of Henry F. Dwyer, deceased, \$487.46.

William F. Dove, \$481.07.

Sarah Dement, widow of James E. Dement, deceased, \$487.46.

William F. Dove, \$451.07.

Sarah Dement, widow of George W. Edelin, deceased, \$270.52.

John T. Evely, \$456.70.

Thomas R. Fry, \$2.53.

Fanny Fullalove, executrix of James Fullalove, deceased, \$461.08.

Andrew Gray, \$114.34.

Mary B. Gill. widow of William Gill, deceased, \$348.10.

Richard Gates, \$192.83.

John Glasgow, \$81.90.

George W. Gates, \$350.19.

Robert Greenwell, \$246.86.

Josiah Gray, \$13.87.

James Griffith, \$62.51.

James Griffith, \$62.51.

James O. Marceron, administrator of James A. Marceron, deceased, \$76.82.

James O. Marceron, administrator of James A. Marceron, deceased, \$76.94.

Howard Miller, \$370.56.

Charles E. Morris, \$43.15.

Davison McCullough, \$224.60.

Benjamin McEl James O. Marceron, administrator of James A. Marceron, deceased, \$476.94.
Howard Miller, \$370.56.
Charles E. Morris, \$43.15.
Davison McCullough, \$224.60.
Benjamin McElwee, \$274.18.
Peter McCarthy, \$261.88.
George W. Mackabee, \$139.30.
Laura McKenney, widow of Robert V. McKenney, deceased, \$279.08.
Lillie M. Mohler, widow of John H. Baldwin, deceased, \$265.75.
William C. Nicholson, \$50.78.
Alfred Nally, \$159.21.
Barbara C. Oliver, widow of H. Lewis Oliver, deceased, \$58.36.
Henry A. Otterback, \$149.67.
Susan Forts, widow of Perry O. Ports, deceased, \$508.03.
Martha A. Perkins, widow of Samuel F. Perkins, deceased, \$377.27.
Margaret O. Purcell, widow of James Purcell, deceased, \$195.59.
Mary M. Padgett, widow of James Padgett, deceased, \$13.10.
Ann Margaret Russell, executrix of David N. Russell, deceased, \$538.80.
Richard Riggles, \$231.92.
Marcus Richardson, \$260.41.
Thonas B. Lear, \$143.01.
Ellie S. Sweeney, administratrix of Edward Sweeney, deceased,
Philip Sherwood, \$226.52. Ellie S. Sweeney, administratrix of Edward Sweeney, deceased 429.60.

Philip Sherwood, \$226.52,
John A. Snith, \$22.78,
Charles H. Smithson, \$29.38,
George S. Stewart, \$459.84,
Ann R. Turner, widow of Zachariah A. Turner, deceased, \$435.11,
Eliza P. Walson, executrix of Charles F. Walson, \$657.58,
Margaret Street, widow of James R. Street, deceased, \$478.79,
Belle Steele, executrix of H. N. Steele, deceased, \$402.45,
George W. Stockett, \$1.87,
J. H. Tayman, \$97.85,
Charles A. Tupper, \$471.47,
Benjamin Van Horn, \$476.25,
Emma Umpleby, widow of John Umpleby, deceased, \$521.40,
James Watson, \$319.18,
Elenora Warner, widow of John Warner, deceased, \$436.05,
Joseph Webb, \$474.60,
Ellen Bowling, widow of William Bowling, deceased, \$228.40,
James D. Quigley, \$477.80,
To Robert A. Barker, \$23.37,
To Charles P. Morris, \$216.43.

The amendment was agreed to.

The next amendment was, on page 133, after line 18, to insert: To the following-named persons (representing 23 claims) the following sums, respectively, as found by the Court of Claims in the case of Mary F. Smith, administratrix of John W. Bowling, deceased, and others against the United States for payment for extra labor above the legal day of eight hours at the Washington Navy Yard, namely:

Mary F. Smith, administratrix of John W. Bowling, deceased, \$9.58. Edgar Baldwin, \$274.81. Mr. CRAWFORD. I desire to offer an amendment in lieu of lines 1 and 2, at the top of page 134. The amendment is made necessary by the death of the claimant since the bill was passed through the House. I move to substitute the name I send to the desk. The PRESIDING OFFICER (Mr. CLAPP in the chair). The amendment to the amendment will be stated. The Secretary. On page 134, lines 1 and 2, it is proposed to strike out: Edgar Baldwin, \$274.81. And insert: Maria E. Baldwin, widow of Edgar Baldwin, deceased, \$274.81. The amendment to the amendment was agreed to. The amendment as amended was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Claims was, on page 134, after line 2, to insert: Marion K. Cross, \$11.12.
George C. Cumberland, heir at law of George Cumberland, deceased, \$383.90.
Isabella F. Knott, heir at law of John Cook, deceased, \$343.57.
Rachel Wilker, heir at law of William Crawford, deceased, \$377.60.
Caroline Nicholson, daughter of Joseph H. Carroll, deceased, \$355.84.
Daniel D. Davis, son of John T. Davis, deceased, \$414.87.
Catherine H. Burns, daughter of Coombs Greenwell, deceased, \$450.16.
Mary J. Holmes, executrix of George W. Holmes, deceased, \$389.82.
John A. Lescallett, son of Samuel M. Lescallett, deceased, \$132.43.
James E. Lewis, \$133.72.
Maud E. Banker, granddaughter of Edward McKenney, deceased, \$351.38.
Robert J. Nicholson, son of Walter Nicholson, deceased, \$80.17. Robert J. Nicholson, son of Walter Nicholson, deceased, \$80.17. Robert T. Padgett, heir at law of Robert G. Padgett, deceased, 42.36. Robert T. Padgett, neir at law of Book.

\$442.36.

Margaret O. Purcell, daughter of John Wood, deceased, \$269.98.

Mary A. R. K. Rose and Ann E. Willmuth, daughters of Adam L. Rose, deceased, \$631.99.

Joseph J. Spollen, son of John Spollen, deceased, \$233.64.

William E. Simpson, son of James E. Simpson, deceased, \$100.13.

Laura Crowther, heir at law of George W. Smith, deceased, \$258.17.

Mary E. Smith, daughter of Alexander Sword, deceased, \$509.08.

Charles M. Smithson, son of George Smithson, deceased, \$382.26.

Mary R. Watkins, daughter of John Johnson, deceased, \$548.40. The next amendment was, on page 136, beginning in line 1, to insert:

To the following-named persons (representing 19 claims) the following sums, respectively, as found by the Court of Claims in the case of William A. Clements and others against the United States, for payment for extra labor above the legal day of eight hours at the Washington Navy Yard, namely:

William A. Clements, \$171.63.

Dennis A. Daily, \$76.04.

Bartholomew Diggins, \$428.78.

James H. Jones, \$594.46.

Edward Rockett, \$169.60.

Anton Schladt, \$87.82.

John Simpson, \$247.55.

Thomas Wise, \$50.36.

Alice Cleeves, widow of Anthony Despeaux, deceased, \$357.88.

Elizabeth Gordon, widow of William Gordon, deceased, \$2.38.

Annie D. Keithley, widow of George W. Keithley, deceased, \$239.78.

Harriet Lee, widow of Oscar Lee, \$172.98.

Jane E. Marshall, widow of Chesterfield Marshall, deceased, \$240.99.

Mary A. Perkins, widow (remarried) of Thomas C. Lyles, \$3.06.

Henrietta H. Stahl, widow of Stephen C. Walles, deceased, \$175.17.

Charles F. Fugitt, sole heir of Thomas M. Fugitt, deceased, \$354.37.

Frank A. Leach, sole heir of Thomas M. Fugitt, deceased, \$354.37. insert: The amendment was agreed to. The next amendment was, on page 137, after line 18, to insert: To the following-named persons (representing 5 claims) the following sums, respectively, as found by the Court of Claims in the case of Clements T. Dant and others against the United States, for payment for extra labor above the legal day of eight hours at the Washington Navy Yard, namely:

Clements T. Dant, \$20.27.

Margaret H. Balderston, widow of Marcellus Balderston, deceased, \$77.14 Frank Smith, \$14.09.
Edwin B. Arnold and William T. Arnold, sole heirs of Thomas O. Arnold, deceased, \$94.89.
John C. Keithley, \$411.52.

The next amendment was, on page 155, after time 0, to insert:

To the following-named persons (representing 63 claims) the following sums, respectively, as found by the Court of Claims in the case of Robert Dugan and others against the United States, for payment for extra labor above the legal day of eight hours at the Washington Navy Yard, namely:

Robert Dugan, \$24.74.

Jennie Olcott, widow (remarried) of Massey T. Quigley, deceased, \$280.86. \$380.86. John W. Robertson, \$54.59. Jasper Sarra, \$122.69.

The next amendment was, on page 138, after line 6, to insert:

The amendment was agreed to.

Charlotte Butler, widow of Louis Butler, deceased, \$11.31.
Ladd Whiting, \$98.96.
Louisa Lewis, widow of George Lewis, deceased, \$258.71.
Jefferson W. Cohron, \$57.07.
Dorette H. Busching, widow of Henry C. Busching, deceased, \$144.69.
Elizabeth J. Ballenger, widow of Richard F. Ballenger, deceased, 60 70. 160.70.
William Bolger, \$39.18.
Emma F. Brown, widow of William Brown, deceased, \$230.41.
Patrick Cahill, \$83.22.
George T. Dean, \$71.61.
William L. Fletcher, \$26.18.
Charles Forrest, \$240.55.
Martha J. Gill, sister and sole heir of Samuel F. Gill, deceased, 313. Charles Forrest, \$240.55.

Martha J. Gill, sister and sole heir of Samuel F. Gill, deceased, \$13.13.

George R. Herbert, \$44.13.

Susannah Harris, widow of Marbury Harris, deceased, \$99.18.
Powhatan Hall, \$384.08.
James O'Connor, \$231.48.

Sarah Price, widow (remarried) of Richard Langley, deceased, \$301.45.

Margaret H. Root, widow of Albert L. Root, deceased, \$572.27.
Charles H. Venable, \$245.25.
George F. Mathieson, \$199.37.

Nora C. Butler, widow of John H. Butler, deceased, \$166.75.
Hannah Cook, widow of William H. Cook, deceased, \$63.85.
John Lanham, \$249.32.
Albert A. Leavy, \$45.50.
John D. Simpson, \$336.85.
Henry J. Phelps, \$285.58.
John Cooney, \$1.18.
Almedia Gardiner, widow of James Gardiner, deceased, \$110.42.
Josephine Williams, widow of George A. Williams, deceased, \$175.08.
Minnie Holmes, widow of John Holmes, deceased, \$130.42.
Frank Muhall, \$29.96.
Charles B. Prospert, \$35.29.
Thomas E. Rockett, \$75.41.
William R. Rockett, \$95.21.
William R. Fitzgerald, \$201.92.
Thomas E. Rockett, \$95.21.
William H. Fitzgerald, \$201.92.
Thomas A. Ellis, \$261.84.
Virginia Locke, widow of William P. Locke, deceased, \$174.65.
John W. Wood, \$217.77.
James F. Byrne, \$35.69.
Catherine R. A. Smith, widow of Samuel M. Smith, deceased, \$30.40.
Ann M. Clark, widow of Milliard F. Coxen, deceased, \$59.28.
Indiana Ferguson, widow of William C. Ferguson, deceased, \$264.83.
William H. Johnson, \$361.40.
Valentine Connor, \$70.16.
Ella Rebecca Landstreet, widow (remarried) of Thomas Myers Downing, deceased, \$178.48.
Georgeanna Better, widow of William H. Better, deceased, \$60.53, Henry Lowry, \$217.62.
Susie E. Sears, executrix of Henry Kelley, deceased, \$400.62.
William E. Peake, \$91.72.
John Edwin Simms, \$438.34.
Nelle Anderson, widow of Dallas Anderson, deceased, \$20.53.
James Allman, \$239.63.
James Allman, \$239.63.
James Allman, \$239.63.
James Allman, \$438.90. Daniel Allman, \$239.63 James Allman, \$145.90. The amendment was agreed to. The next amendment was, on page 143, after line 12, to in-

The next amendment was, on page 143, after line 12, to insert:

To the following-named persons (representing 30 claims) the following sums, respectively, as found by the Court of Claims in the case of Richard Emmons and others against the United States, for payment for extra labor above the legal day of eight hours at the Washington Navy Yard, namely:

Richard Emmons, \$425.84.
George C. Acton, \$152.57.
George W. Ballinger, \$182.44.
Edward R. Barbour, \$193.56.
James Breast, \$419.41.
George R. Cook, \$497.88.
Joshua Cooksey, \$331.30.
John D. Davis, \$330.13.
Philip A. Delano, \$337.81.
Oliver A. Emmons, \$106.60.
William B. Flood, \$161.80.
Samuel S. Fowler, \$148.50.
Theodore Gates, \$227.31.
Thomas J. Harrison, \$286.47.
Richard Holland, \$222.68.
John T. Hardester, \$194.16.
William Kemp, \$389.01.
William Kemp, \$389.01.
William H. Krepps, \$224.97.
Abraham Lee, \$319.12.
George E. Luckett, \$135.06.
William B. Miller, \$367.28.
Charles M. Nicholson, \$192.49.
John W. Reed, \$242.23.
Richard Smith, \$284.04.
Isaac Smith, \$284.04.
Isaac Scott, \$101.83.
John A. Smith, \$194.16.
Isaac Smallwood, \$80.54.
Isaac Tillman, \$91.27.
Augustus M. Warfield, \$382.99.
To Walter H. Ewans, \$197.70.
To William Evans, \$294.93.
To Joshua B. Stoops, \$202.58.
To Laura Waddey (widow) and Jennie E. Waddey (daughter), sole heirs of Hodgson E. Waddey, deceased, \$398.31.

To Emma Heath, daughter and sole heir of James O. Kibbey, deceased, \$398.31.

To Emma Heath, daughter and sole heir of Richard Heath, deceased, \$350.66.

To Mary T. Russell, daughter and sole heir of Thomas F. Russell, deceased, \$622.06.
To Mary E. Smith, sister and sole heir of Joseph Gibson, deceased, \$427.65. The amendment was agreed to. The amendment was agreed to.

The next amendment was, on page 147, beginning in line 1, to insert:

To the following-named persons (representing 41 claims) the following sums, respectively, as found by the Court of Claims in the case of William W. Langley and others against the United States, for payment for extra labor above the legal day of eight hours at the Washington Navy Yard, namely:
John Buckingham, \$315.70.
William Breslyn, \$94.
Samuel Brown, \$29.78.
Henry S. Berkely, \$203.80.
George Couner, \$628.84.
Hamilton Cook, \$341.58.
George F. Cunningham, \$199.35.
Mirs. F. A. Jefferls, widow of William T. Jefferls, deceased, \$512.38.
Catherine Hutchinson, widow of Philip Hutchinson, deceased, \$64.68.
Joseph H. Lawrence, \$327.76.
William C. Kellum, \$67.23.
William W. Langley, \$20.88.
Katie Mck. Morgan, widow (remarried) of William Little, deceased, \$73.72.
James G. Murray, \$295.28.
James F. Manning, \$112.20.
William H. R. Martin, \$186.02.
Samuel I. Miller, \$118.60.
Mary F. Morgan, widow of John T. Morgan, deceased, \$316.71.
William McDermott, \$404.17.
John McNelley, \$243.63.
George B. Nelson, \$203.60.
Fred Pope, \$453.12.
Benjamin Auguste, \$99.43.
Betty Brown, widow of Amon Brown, deceased, \$200.60.
R. J. Prather, \$23.46.
Charles G. Robinson, \$357.51.
George Schaffer, \$17.62.
Arthur E. Van Riswick, \$8.28.
Luther Relley, \$56.14.
William H. Talbert, \$398.30.
Charles T. Morgan, \$28.75.
Benjamin McCathran, \$174.86.
Barbara Burgee, \$122.95.
John E. Nalley, \$22.14.
George W. Richmond, \$87.41.
Ellen C. Sanderson, widow of Lower T. Burgee, deceased, \$461.10.
Thaddeus Shine, \$12.95.
John E. Nalley, \$23.47.
Alice Sheffield, widow of George W. Sheffield, deceased, \$24.37.
To Sussana R. Lovejoy, widow of John T. Lovejoy, deceased, \$364.51.
To Ada E. Much. widow of George W. Sheffield, deceased, \$364.51.
To Joseph Thompson, \$90.28.
The amendment was agreed to. The next amendment was, on page 147, beginning in line 1, to insert: \$661.99. To Joseph Thompson, \$99.28. The amendment was agreed to. The next amendment was, on page 150, after line 22, to insert: The next amenument was, on page 190, after line 22, to insert:

To the following-named persons (representing 27 claims) the following sums, respectively, as found by the Court of Claims in the case of Andelina Scarf, executrix of Thomas T. Scarf, deceased, and others against the United States, for payment for extra labor above the legal day of eight hours at the Washington Navy Yard, namely:

Angelina Scarf, executrix of Thomas T. Scarf, deceased, \$208.20.

William W. Chase, \$107.09.

William H. Bennett, administrator of William Bennett, deceased, \$447.46. William W. Chase, \$107.09.
William H. Bennett, administrator of William Bennett, deceased, \$447.46.
Sarah E. Robey, widow of Richard T. Robey, deceased, \$10.17.
Elizabeth R. Betts, widow of William Betts, deceased, \$120.48.
Elizabeth Bladen, widow of Thomas S. Bladen, deceased, \$33.78.
James Barker, \$603.13.
George F. Waters, \$626.72.
Charles F. Williams, \$418.39.
William H. Vogelson, \$45.63.
Margaret F. Watson, widow of William A. Watson, deceased, \$249.93.
Arthur Tudge, \$154.03.
Sarah J. Barker, wife of William H. Barker, insane, \$226.15.
H. I. Meader, \$263.74.
Sarah M. Sanderson, widow of L. W. Sanderson, deceased, \$336.10.
Mary Boettcher, executrix of Frederick Boettcher, deceased, \$417.55.
Mary L. Cissell, widow of Thomas Cissell, deceased, \$196.50.
William W. Burdine, John T. Burdine, Annie Morgan, and Alfred H.
Burdine, sole heirs of James W. Burdine, deceased, \$12.75.
Hannah Langley, widow of Charles W. Langley, deceased, \$422.45.
John T. Roberts, \$60.60.
Esther G. Nally, widow of James S. Nally, deceased, \$238.50.
Amanda E. Coates, widow (remarried) of Thomas Robey, deceased, \$182.21.
Ceylon Boswell, \$126.42.
Peter Bonn. \$150.18. .82.21.
Ceylon Boswell, \$126.42.
Peter Bopp, \$150.18.
Emily J. Cannon, widow of Joseph Cannon, deceased, \$179.13.
Sarah Kernan, executrix of Bernard Kernan, deceased, \$309.39.
W. C. White, \$94.96.

To Henry Antone, \$321.89.
To Frank Swaris. \$2.
To Fred Blum, \$211.01.
To William Handlon, \$6.99.
To Margaret A. Moungey, Annie Moungey, Alice Moungey, John P. Moungey, Catherine F. Kanen, and Janie Bond, sole heirs of William Moungey, deceased, \$14.48.

FLORIDA.

The next amendment was, on page 153, after line 12, to

The amendment was agreed to.

insert:

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To Lawson Turner and William Turner, jr., sole heirs of William Turner, deceased, $284.52.
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The amendment was agreed to.

The next amendment was, at the top of page 154, to insert:

The following-named persons (representing 14 claims) the following sums, respectively, as found by the Court of Claims in the case of Frank Bond and others against the United States, for payment for extra labor above the legal day of eight hours at the Pensacola Navy Yard, namely:

xtra labor above the legal day of eight hours at the Pensacola N ard, namely:
Frank Bond, \$136.23.
Mary F. Boyden, widow of Paul Boyden, deceased, \$560.76.
Allan Bush, \$267.03.
E. P. Chaffin, \$158.01.
Benjamin Dolphin, \$46.30.
Abraham Harris, \$184.89.
Peter Hatcher, \$224.05.
Alfred Jones, \$253.77.
Johanna Massey, widow of James Massey, deceased, \$611.06.
Henry Skeet, \$299.42.
Edward Sweeney, \$82.96.
John Sweeny, \$294.78.
Lizzie Wheat, widow of William J. Wheat, deceased, \$458.92.
Cornelia Higgins, heir at law of C. A. Higgins, deceased, \$722.62.

The amendment was agreed to.

The next amendment was, on page 155, after line 6, to insert:

To the following-named persons (representing 22 claims) the following sums, respectively, as found by the Court of Claims in the case of John P. Capell and others against the United States, for payment for extra labor above the legal day of eight hours at the Pensacola Navy Vard, namely:

solin F. Capell and others against the United States, for payment for extra labor above the legal day of eight hours at the Pensacola Navy Yard, namely:
John P. Capell, \$96.21.
Peter Carroll, \$97.55.
Frank Elijah, \$128.27.
A. G. Fell, \$350.48.
John J. Fell, \$550.28.
William Hession, \$447.06.
William M. Johnson, \$43.50.
Longhlin Quigley, \$284.65.
Stephen M. Scarritt, \$528.85.
Henry Smith, \$600.19.
Lawson Turner, \$84.25.
Hattle Davidson, widow of Gam B. Davidson, deceased, \$136.50.
Matilda Jackson, widow of Robert Jackson, deceased, \$174.65.
Bertha McDonald, widow of John McLellan, deceased, \$1,909.87.
Isabella McLellan, widow of John McLellan, deceased, \$450.60.
Catherine J. Roy, widow of H. Roy, ir., deceased, \$822.50.
Annie Unger, widow (remarried) of William C. Kelly, deceased, \$151.27.

Annie Unger, widow (remarried) of William C. Kelly, deceased, \$151.27.

Fannie White, widow (remarried) of Alfred Willis, deceased, \$559.02. Phillip Walter Jones, G. F. Jones, Lee L. Jones, Maggie M. Jones, and Ella L. Jones, sole heirs of J. W. Jones, deceased, \$167.41.

Maria Robinson, William Robinson, and Louis Robinson, sole heirs of Louis Robinson, deceased, \$115.92.

Fannie Sparks, Charlotte Saunders. Mary Reese, Gertrude Smith, and Henry Smith, sole heirs of Curtis Smith, deceased, \$462.40.

Mary Burch and Thomas F. Wrighton, sole heirs of Thomas Wrighton, deceased, \$114.55.

To Clarence Marks, \$87.24.

To George T. Clifford, \$56.26.

The amendment was agreed to.

The next amendment was, on page 157, after line 14, to in-

MASSACHUSETTS.

To the following-named persons (representing 131 claims) the following sums, respectively, as found by the Court of Claims in the case of Charles Adams and others against the United States for payment for extra labor above the legal day of eight hours at the Boston Navy Yard, namely:

Charles Adams, \$343.01.

T. A. Bradford, \$362.86.

Bridget A. Bailey, widow of William Bailey, deceased, \$112.29.

James Edward Bell, William Bell, and Ellen J. Dow, sole heirs of James Bell, deceased, \$759.56.

Elias Bourne, \$33.

John W. Burnham, \$97.03.

James D. Bateman, \$125.93.

Katherine V. Barrett, administratrix of Daniel Barrett, deceased, \$898.49.

Katherine V. Barrett, administratrix of Daniel Barrett, deceased, 898.49.
Joshua Barker, \$320.
William Bentley, son of Thomas Bentley, deceased, \$424.28.
Jeremiah L. Bean, \$124.41.
Joshua P. Bushee, \$319.68.
William E. Bruce, \$338.50.
Edward J. Baker, \$81.66.
William F. Blake, son of William Blake, deceased, \$591.86.
James E. Byrne, \$7.89.
Lydia M. Bolster, widow of Oliver Bolster, deceased, \$246.18.
Ella A. Bearse, administratrix of Ezra L. Hersey, deceased, \$508.87.
Julia V. Buckley, daughter of John Buckley, deceased, \$62.48.
Emery R. Currier, \$174.87.
William N. Currier, \$174.87.
William N. Currier, \$144.56.
John A. Cronin, \$40.54.
Jos, A. Cassidy, \$293.86.
John Cutler, \$192.18.
Arthur B. Cassidy, \$315.42.
Anne Belle Currier, daughter of Charles H. Currier, deceased, \$277.18.
William W. Collier, \$165.18.
Sarah J. Clarridge, widow of Frederick Clarridge, deceased, \$257.52.
Richard Donahue, \$206.12.
Catherine Donlary, widow of Frank Donlary, deceased, \$19.50.
John Davles, \$53.87.
Henry G. Dwight, \$109.39.
Henry Dawson, \$289.70.
Ellen Dillon, wife of James E. Dillon, demented, \$284.31.
William G. Ewell, executor of Augustus Ewell, deceased, \$403.89.
J. Homer Edgerly, \$884.53.

Ellen Eaton, widow of George B. Eaton, deceased, \$447.54, Daniel F. Egan, \$314.40.
John L. Frisbee, \$614.93.
Annie Finn, widow of William Finn, deceased, \$242.26.
Charlotte J. Jackson, widow of Nathan B. Jackson, \$340.30, Josiah D. Folsom, \$767.44.
Edwin W. Frisbee, \$103.53.
John B. Fitzpatrick, \$125.93.
James H. Finn, \$423.71.
Timothy Guiney, \$102.19.
John S. Gardner, \$201.87.
William F. Gillings, \$77.34.
Albert S. Greene, \$483.06.
Daniel Greene, \$373.74.
Alice F. Gates, daughter of Jacob Gates, deceased, \$394.42.
Lewis G. Hilton, \$378.41.
Henry G. Hichborn, one of the next of kin of William Hichborn, decased, \$896.61.
Michael H. Hudson, \$141.57.
Andrew B. Hubbard, son of Robert H. G. Hubbard, deceased, \$281.40.
Thomas L. Hayes, \$142.35.
Mary H. Hutchings, widow of J. Clark Hutchings, deceased, \$233.20.
Peter A. Hayes, \$147.57.
Marcia E. Hatch, daughter of Zina H. Webber, deceased, \$110.40.
John Handrahan, \$330.75.
Sarah B. James, sister of James Hutchings, deceased, \$305.59.
George W. King, \$85.
George W. King, \$85.
George W. King, \$85.
George H. Kincaid, \$65.31.
John A. Long, \$242.02.
William W. Locke, \$21.37.
Caroline M. Loring, sister of Frank E. Melvin, deceased, \$113.28.
Dennis Lowney, \$90.30.
Patrick Leary, \$263.22.
William Mahoney, jr., one of the heirs of William Mahoney, deceased, 144.46.
Mary A. Marrow, heir of John H. Marrow, deceased, \$182.45.

Dennis Lowney, \$263.29.
Patrick Leary, \$263.22.
William Mahoney, jr., one of the heirs of William Mahoney, deceased, \$144.46.
Mary A. Marrow, heir of John H. Marrow, deceased, \$182.45.
Charles P. Morris, \$197.52.
James J. McAuliffe, \$4.50.
Catherine Melvin, daughter of Charles Freeman, deceased, \$175.04.
Theodore A. Melvin, \$901.82.
Hugh P. McNally, \$88.73.
Agnes J. Musgrave, heir of Joseph Bibein, \$254.36.
Charles Manser, son of Charles C. Manser, deceased, \$180.21.
Mary E. Murphy, daughter of Jeremiah Murphy, deceased, \$64.11.
Anna M. McLeod, widow of James McLeod, deceased, \$51.06.
Harriet M. Metcalf, widow of William P. Metcalf, \$240.40.
Mary A. McCarthy, widow of Frank McCarthy, \$49.03.
Thomas Nixon, \$404.04.
John L. Nicholson, \$604.59.
Harriet R. Newhall, widow of Thomas E. Newhall, deceased, \$332.27.
Joseph W. Newhall, one of the heirs of Joseph Newhall, deceased, \$355.76.
Mary F. Overn, sister of Richard Dennis, deceased, \$177.58.
Allen E. Proctor, heir of James P. Proctor, deceased, \$419.44.
William Proctor, otherwise William H. Proctor, \$168.78.
George E. Poor, \$323.65.
Charles W. Pearson, \$33.75.
John M. Pitman, \$48.54.
William T. Phippin, \$48.76.
Abbie H. Pedrick and Susan M. C. Crosby, executrixes of Joseph Pedrick, deceased, \$965.
Elizabeth M. Preble, executrix of Jeremiah Preble, deceased, \$423.88.
Augustine S. Quinn, \$125.80.
Thomas Riordan, otherwise Thomas D. Riordan, \$159.74.
Edward H. Rogers, \$356.21.
Joseph O. Rice, \$241.76.
Emily A. Roberts, widow of John H. Roberts, deceased, \$898.95.
Thomas H. Ramsey, son of James Ramsey, deceased, \$898.95.
Thomas H. Ramsey, son of John H. Roberts, deceased, \$246.69.
John J. Ryan, for Jeremiah J. Ryan, demented, \$128.04.
Mary Rowley, widow of Michael Rowley, deceased, \$246.69.
John J. Ryan, for Jeremiah J. Ryan, demented, \$128.04.
Mary Rowley, widow of Michael Rowley, deceased, \$261.47.
Benjamin Roach, \$717.35.
Catherine A. Regan, widow of Cornelius F. Regan, deceased, \$144.56.
Joseph S. G. Sweatt, \$258.76.
Danlel S. Sullivan, \$297.42.
Winslow Sampson, s

Charles A. Stebbins, \$297.42.
Winslow Sampson, son of Alden Sampson, deceased, \$901.82.
Benjamin F. Sampson, son of Benjamin H. Sampson, deceased,

\$212.20.
William C. Sprague, \$204.03.
Fred S. Soule, son of Thomas Soule, deceased, \$93.43.
Samuel Staples, \$178.91.
John M. Stockman, \$304.46.
Robert A. Southworth, administrator of Alexander Southworth, deceased, \$362.11.
Charles H. Taylor, son of John T. Taylor, deceased, \$280.03.
John Tierney, \$88.75.
Constantine Towle, \$95.35.
Mary M. A. Thayer, sister of Daniel J. Hurley, deceased, \$379.45.
Annie E. Vincent, daughter of Joseph H. Wainwright, deceased, \$63.17.
George T. Wiley, only heir of Benjamin D. Wiley, deceased, \$966.25.
Frank L. Weston, administrator of Samuel F. Weston, deceased, \$472.50.
Harriet Wilson, widow of William Wilson, deceased, \$729.47.

Harriet Wilson, widow of William Wilson, deceased, \$753.45. Agnes V. W. Walker, sole heir of Reuben Goff, deceased, \$358.32. Thomas Ward, \$200.55. Samuel A. Wright, jr., son of Samuel A. Wright, deceased, \$232.56. John H. Wright, \$97.71. John Yonkers, \$740.81.

The amendment was agreed to.

The next amendment was, on page 168, after line 17, to insert: The next amendment was, on page 10s, after the 11, to dissert:

To the following-named persons (representing 59 claims) the following sums, respectively, as found by the Court of Claims in the case of Mary A. F. Barry, widow of Daniel S. Barry, deceased, and others against the United States, for payment for extra labor above the legal day of eight hours at the Boston Navy Yard, namely:

Mary A. F. Barry, widow of Daniel S. Barry, deceased, \$302.10.

Elizabeth Smith, daughter, and Charles M. Black, son, of John Black, deceased, \$59.

Joseph O. Briggs, \$72.77.

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William B. Bothamly, $292.77.

Mary L. Brown, daughter of Joseph H. Till, deceased, $273.56.

Sarah A. Blandin, executrix of Benjamin A. Blandin, deceased,
         Saran A. Blandin, Caccurate States and A. Blandin, Caccurate States and 
     William H. Cate, jr., heir at law of William H. Cate, deceased, $67.87.

Emily M. Carter, widow (remarried) of Alexander H. Wright, deceased, $187.34.

Mary E. Curry, daughter of James Griffin, deceased, $109.78.
Isaac Downs, $254.93.
Otis W. Dutton, son of Benjamin Dutton, deceased, $19.87.
Charles H. Frisbee, son of Henry Frisbee, deceased, $223.06.
Ellen B. Fisher, daughter of Calvin Lewis, deceased, $257.75.
Austena Gundlach, daughter of Thomas J. McKenna, deceased, $15.75.
Theodore W. Goodspeed, $83.75.
Mary J. Gordon, daughter of Timothy J. Mahoney, deceased, $37.62.
Samuel Grant, $323.93.
Esther Ann Hudson, daughter of Patrick Hudson, deceased, $46.06.
Joseph E. Hoey, $82.93.
Harriet N. Hanscom, widow of Alvah Hanscom, deceased, $73.62.
William P. Holmes, $105.59.
John H. Holt, $70.68.
William T. Harris, $90.43.
Mrs. C. H. Harper, daughter of Abraham Larkin, deceased, $153.15.
Benjamin P. Hodgkins, $10.12.
Christy Hanscom, widow of Samuel Willard Hanscom, deceased,
$412.34.

112.34.
Athelia Hill, widow of George C. Hill, deceased, $77.17.
Alonzo H. Haynes, $60.50.
Ellen H. Leighton, daughter of James Chambers, deceased, $35.18.
Adelphus Leavitt, $41.12.
George F. Lewis, $128.63.
Alice M. Lowell, daughter of Alpheus A. W. Lake, deceased, $530.56.
Alice M. Lowell, sister of Alpheus A. Lake, deceased, $218.93.
Timothy W. Mahoney, brother of George W. Mahoney, deceased, $203.89.

 Timothy W. Mahoney, brother of George W. Mahoney, deceased, $203.89.

Timothy W. Mahoney, $229.57.

Timothy W. Mahoney, son of Michael K. Mahoney, deceased, $62.40.

James Mullen, $126.50.

Edward A. McDonough, $419.61.

George Morrison, $62.62.

George McConnell, son of William McConnell, deceased, $112.59.

Florence Gertrude Magee, granddaughter and sole heir of James A.

German, deceased, $183.

Bridget McNulty, daughter of John Mongan, deceased, $77.03.

Terence T. McNulty, $167.60.

Louisa S. Nash, widow of William H. Nash, deceased, $272.90.

Julia Ryan, widow of Michael Ryan, deceased, $33.02.

Addie R. Rice, widow of Benjamin Rice, deceased, $33.62.

Matthew Redmond, $171.12.

David L. Rigby, $211.86.

Alexander A. Selden, $80.10.

Mabel F. Swain, granddaughter of Thomas Dunham Rice, deceased, $353.18.

Mary A. C. Smith, daughter of George Golbert, deceased, $87.37.

John D. Sanborn, $295.90.

Eugene S. Sullivan, brother of Humphrey J. Sullivan, deceased, $71.60.

Charles E. Stone, $78.82.

George Short, $191.68.

Eugene S. Sullivan, $41.62.

Minnie Swett, daughter of James L. Williams, deceased, $465.92.

The amendment was agreed to.
           $203.89.
                                The amendment was agreed to.
The next amendment was agreed to.

The next amendment was, on page 173, after line 17, to insert:

To the following-named persons (representing 24 claims) the following sums, respectively, as found by the Court of Claims in the case of Alfred D. Bullock and others against the United States, for payment for extra labor above the legal day of eight hours at the Boston Navy Yard, namely:

Alfred D. Bullock, $232.11,
Joseph F. Baketr $210.77.
John Clark, $142.64.

William M. Carr, $79.67.

Winslow L. Crafts, $371.87.
Charles H. Crocker, $330.83,
Samuel Dwight, $786.62.
John Flynn, $400.94.
John F. Gilmore, $275.44.
Henry G. Hichborn, $349.93.
Patrick Marrow, $171.40.
Eben P. Oakes, $126.79.
Joseph Riley, $418.59.

William F. Raymond, $381.44.
Jennie A. Sawyer, widow of Jefferson Sawyer, deceased, $281.87.
George D. V. Smith, $33.
Chester R. Streeter, $488.10.
George K. Sawyer, $473.15.
Samuel J. Cochran, $445.83.

William H. Rigby, $905.78.

William H. Rigby, $905.78.

William Mard, $57.75.
George H. Young, $92.81.
                                The next amendment was, on page 173, after line 17, to insert:
                              The amendment was agreed to.
                                The next amendment was, on page 175, after line 19, to insert:
     NEW HAMPSHIRE.

To the following-named persons (representing 11 claims) the following sums. respectively, as found by the Court of Claims in the case of Hannah J. Adams, widow of Augustus H. Adams, deceased, and others against the United States, for payment of extra labor above the legal day of eight hours at the Portsmouth Navy Yard, namely:

Hannah J. Adams, widow of Augustus H. Adams, deceased, $87.75.

George Beal, $8.14.

Charles S. Hobbs, $290.83.

Alfred H. Hook, $61.16.

Stacy G. Moran, $32.43.

Susan Y. Perry, widow of William H. Perry, deceased, $171.49.

Sarah A. Trefethen, widow (remarried) of Benjamin E. Seaward, deceased, $685.40.
                                                                                                                                                                                                                                                            NEW HAMPSHIRE.
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Rose A. Spinney, widow of William M. Spinney, deceased, $312.93, Mary A. Willey, widow of Joseph Willey, deceased, $2.93, Ivan L. Meloon, $167.10. Fred A. Moore, $231.14.
                         The amendment was agreed to.
                         The next amendment was, on page 176, after line 23, to insert:
       To the following-named persons (representing 182 claims) the following sums, respectively, as found by the Court of Claims in the case of Nathan F. Amee and others against the United States, for payment for extra labor above the legal day of eight hours at the Portsmouth Navy Yard:

Nathan F. Amee. $396.75

    Xard:
    Nathan F. Amee, $396.75.
    George A. Adams and Stephen E. Adams, heirs of Albert J. Adams, deceased, $365.53.
    Stephen E. Adams, $94.74.
    Mary Jane Anderson, widow of Montgomery Anderson, deceased, $308.68.

George A. Adams and Stephen E. Adams, heirs of Albert J. Adams, deceased, $365.53.
Stephen E. Adams, $94.74.
Mary Jane Anderson, widow of Montgomery Anderson, deceased, $308.68.
George P. Abbott, $122.
George P. Abbott, $123.
George P. Abbott, $123.
George P. Abbott, $124.
James Boardman, $473.53.
Albert F. Billings, administrator of Frederick A. Billings, deceased, $310.12.
Hannah A. Briard, widow of Robert Briard, deceased, $486.63.
George D. Boulter, $2.86.
George D. Boulter, $2.86.
George D. Boulter, $2.80.
Mary Bright, widow of Robert Briard, deceased, $486.63.
George D. Boulter, $2.80.
Mary Bright, widow of John Bright, deceased, $51.33.
Benjamin F. Bunker, $30.51.
John S. Bennett, $553.19.
Charlotte E. Betton, widow of Thornton Betton, deceased, $160.02.
Eben F. Brackett, $428.06.
Elizabeth L. Brown, widow of Frank S. Brown, deceased, $130.12.
Mary Brown, Mrs. A. T. Hackett, Mrs. A. C. Pimmer, and Mrs. A. L.
Martin, sole beirs of Franklin K. Brown, deceased, $155.62.
Anna A. Brooks, widow of Johns Brocks, deceased, $902.50.
Levi M. Brooks, $9.37.
L. Mahlon Bickford, be heirs of Joshua Bickford, deceased, $247.91.
Jacob B. Burns, $28.25.
Jacob B. Burns, $28.25.
Jacob B. Burns, $28.25.
Jacob B. Burns, $28.40.53.
John W. Chickering, $356.05.
George A. Clough, Arthur B. Clough, Roland C. Clough, and Florence
J. Clough, sole heirs of Elijah Clough, deceased, $345.75.
Mary Berns, Sulphan Charlon B. Colley, widow of Julian B. Colley, widow of Julian B. Colley, sole heirs of Elijah Clough, Geceased, $345.75.
Mary B. Burns, $100.55.
Mary B. George A. Clough, Arthur B. Clough, Roland C. Clough, and Florence
J. Clough, sole heirs of Elijah Clough, Geceased, $345.75.
Mary B. George W. George S. Silviey B. Davis, and Lemuel T. Davis, sole heirs of Elijah Clough, Geceased, $347.34.
Mary B. George W. Foto, $132.24.
Mary Brown S. Silviey B. Davis, and Lemuel T. Davis, sole heirs of Robert Walter P. Frank A. Figur, $322.45.
Mi
     Elizabeth H. Hanscom, widow of Jackson A. Hanscom, deceased, $160.16.
Freeman Hurd, $158.47.
Lucinda A. Hayes, widow of Charles E. Hayes, deceased, $190.26.
Ira Hanscom, $164.02.
C. Dwight Hanscom and Albert H. Hanscom, executors of Nathaniel Hanscom, deceased, $152.01.
Margaret P. Humphreys, widow of George Humphreys, deceased, $274.12.
     $274.12.
Mary A. Hersey, widow of George L. Hersey, deceased, $63.20.
Mabel Idella Hayes, guardian of Roy C. Philbrick, sole heir of
Robert S. Philbrick, deceased, $246.06.
Samuel M. Joy, $204.94.
Walter S. Jackson and Ernest Jackson, two of the heirs of Zina H.
Jackson, deceased, $391.59.
Mrs. William S. Jackson, widow of William S. Jackson, deceased,
$284.25.
Joseph P. Jenkins, $179.14.
James M. Knapp, $680.49.
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Joseph Keen, $167.20.
Ira C. Keen, $75.16.
Willis E. Keen, $181.06.
Elmer H. McKenney, $179.38.
Benjamin Keen, $317.62.
Harry M Kimball and Mrs. George W. Smith, sole heirs of Charles W. Kimball, deceased, $206.12.
Catherine Killorian, sole heir of James Mahoney, deceased, $162.33.
Charles J. Lydston, $250.47.
Isaac H. Lambert, $343.48.
Adam Lutts, $384.50.
William H. Lovell, $729.
Charles Lowd, otherwise Frank Lowd, $60.72.
Maria M. Lowd, widow of Horace S. Lowd, deceased, $209.75.
Winfield S. Lord, $337.95.
James C. Lydston, $409.50.
Alfred M. Lang, $360.50.
Ellen A. Lewis, widow of Thomas Lewis, deceased, $126.
John O. Langley, $387.09.
Elizabeth Mason Lenry, sole heir of Daniel Mason, deceased, $191.60.
F. Josephine Lombard, Henry A. Lombard, Elizabeth L. Moon, and Mary L. Shannon, sole heirs of Henry Lombard, deceased, $39.75.
Frank H. Lewis, Arthur H. Lewis, George W. Lewis, Emma L. Carr, Wentworth Lewis, Fred Lewis, Maud L. Foge, Harry F. Lewis, and Sydney Lewis, sole heirs of Reuben Lewis, deceased, $35.75.
James S. Lawry, $86.13.
Ellen Lowd, widow of Edwin Lowd, deceased, $55.93.
Lemuel McIntire, $78.02.
John D. Medcalf, administrator of Henry Knight, deceased, $676.75.
Oliver B. Moody, $71.92.
George Manent, $383.96.
Daniel W. Marden, $047.87.
Harriet N. Moore, widow of Moses D. Moore, deceased, $829.85.
Benjamin F. Martin, $225.
Albert Manson, $25.64.
Frank Moore, Hannah E. Atkinson, and Blanche V. Hull, sole heirs of John Moore, deceased, $49.43.
Catherine G. Nutter, widow of William H. Nutter, deceased, $137.13.
Martha J. Noyes, widow of William F. Noyes, deceased, $137.13.
Martha J. Noyes, widow of William F. Noyes, deceased, $109.97.
Frank E. Osgood, $288.93.
Isaac H. M. Pray, one of the heirs of James B. Pray, deceased, $77.37.
Walter Philbrick, $310.15.
Eben N. Odlorne, $128.25.
Eileen E. Obrey, administratrix of Benjamin Smith, deceased, $77.37.
Walter Philbrick, $310.15.
John E. Pinkham, $107.87.
Fred J. Pillsbury, one of the heirs of Samuel H. Pillsbury, deceased, $321.24.
Mary E. Palfrey, H
        Fred J. Pillsbury, one of the heirs of Samuel H. Pillsbury, deceased, $732.24.

Mary E. Palfrey, administratrix of Hanson Hoyt, deceased, $127.34. George R. Palfrey, Harry B. Palfrey, William H. Palfrey, Robert R. Palfrey, and I. Miller Palfrey, sole heirs of William W. Palfrey, deceased, $361.93.

Benjamin F. Powell, William Powell, and Mrs. Harry M. Kimball, sole heirs of Benjamin Powell, deceased, $253.97.

Mary E. Parker, widow of Pierce Parker, deceased, $301.75.

Annie E. Prior, widow of Warren Prior, deceased, $355.25.

Sarah A. Paul, widow of John A. Paul, deceased, $392.84.

Thomas Prior, $290.49.

Mary E. Paul, widow of Franklin N. Paul, deceased, $170.25.

Eliza A. Parks, widow of George L. Parks, deceased, $385.50.

Daniel H. Plaisted, Elen O. Littlefield, James S. Plaisted, Fronie R. Colby, George E. Plaisted, Sarah E. Batting, Mark R. Plaisted, and Annie M. Bingham, sole heirs of Mark R. Plaisted, deceased, $471.39.

Edwin D. Rand, executor of Albert H. White, deceased, $345.20.

Joseph C. Remick, $170.63.

Sarah A. Richardson, widow of James W. Richardson, deceased, $307.63.
                 $307.63.
                                             Maria Rand, widow of Reuben Rand, deceased, $329.25.
Frank Remick, executor of John Remick, deceased, $379.87.
Walter C. Rogers, sole heir of John H. Rogers, deceased, $590.68.
Howard E. Spinney, one of the heirs of Samuel H. Spinney, deceased,
        Howard E. Spinney, one of the heirs of Samuel H. Spinney, deceased, $126.

Howard E. Spinney, $122.83.

Willard Spinney, otherwise Willard T. Spinney, $289.41.

Hervey E. Seaward, $66.33.

William Shields, $1.03.

Mary E. Sherman, widow of Eli Sherman, deceased, $583.44.

George Stringer, $378.

Mary Spinney, widow of Azariah L. Spinney, deceased, $232.06.

George W. Stillson, $52.11.

Mary A. Spinney, widow of Sylvester Spinney, deceased, $165.

Mary Salmon, widow of Thomas Salmon, deceased, $286.81.

Margaret L. Stringer, widow of William Stringer, deceased, $261.04.

Ida Estelle Shackley and Susie H. Shackley, sole heirs of George Shackley, deceased, $324.

Elizabeth E. Swain, widow of John D. Swain, deceased, $361.87.

Frank Sides, administrator of Robert C. Sides, deceased, $286.61.

Morris Tobin, $55.21.

Ernest C. Tobey, Winfield L. Tobey, and Edgar L. Tobey, sole heirs of Meshach Tobey, deceased, $130.37.

Edwin Underhill, $177.43.

Thomas J. F. Varrell, $452.25.

Clement M. Waterhouse, sole heir of James A. Waterhouse, deceased, $377.71.

Charles A. Wendall, $905.62.
        Clement M. Waterhouse, sole heir of James A. Waternouse, deceased, $377.71.
Charles A. Wendall, $905.62.
Clement Waterhouse, $244.32.
Reuben Worster, $58.50.
Asa Wilson, $38.43.
Warren P. Webster, $21.65.
John R. Wentworth, $310.99.
George A. Williams, $280.46.
Lorenzo Witham, otherwise Lorenzo D. Witham, $113.99.
John Wood, $484.50.
George S. Welch, $2.01.
Daniel L. Wendell, $211.64.
Emma E. Young and Fred C. Young, sole heirs of Charles E. Young, deceased, $352.88.
John E. Yeaton, $205.66.
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John E. Yeaton, one of the heirs of Benjamin Yeaton, deceased, 37
    Fred C. Young, Emma E. Young, and Clara W. Bennett, sole heirs of Charles Lane, deceased, $18.48.
Edward P. Yeaton, sole heir of Nathaniel W. Yeaton, deceased,
                   The amendment was agreed to.
                   The next amendment was to insert, beginning with line 1,
      page 193, the following:
  page 193, the following:

To the following-named persons (representing 12 claims) the following sums, respectively, as found by the Court of Claims in the case of William A. Ashe and others against the United States, for payment for extra labor above the legal day of eight hours at the Portsmouth Navy Yard. namely:

William A. Ashe, $461.37.
Ivah R. Davis, $111.98.
George F. Randall, $142.35,
Charles H. Rowe, $201.96.
John Walton, $201.16.
Miriam W. Adams, widow of Daniel Adams, deceased, $162.75.
Emma L. Caswell, widow of Perry Caswell, deceased, $68.20.
Lois J. Howell, widow of John S. Howell, deceased, $457.67.
Annie F. Rich, widow of Robert E. Rich, deceased, $230.02
Cedric C. Campbell, John H. Campbell, Noel Campbell, Lucy Campbell, and Ethel Gillis, sole heirs of Nathaniel Campbell, deceased, $204.51.
Alice M. Rand, sole heir of William H. Deverson, deceased, $83.25.
The amendment was agreed to
                   The amendment was agreed to.
                   The next amendment was, on page 194, after line 8, to insert:
 The next amendment was, on page 194, after line S, to insert:

To the following-named persons (representing 38 claims) the following sums, respectively, as found by the Court of Claims in the case of Sylvester L. Backus and others against the United States, for payment for extra labor above the legal day of eight hours at the Portsmouth Navy Yard, namely:

George W. Bailey and Charles T. Bailey, sole heirs of Joseph Bailey, deceased, $106.80.

Sylvester L. Backus, $39.75.
Charles H. Bessellevre, $82.28.
Carrie R. Bragden and Lyman T. Pray, sole heirs of Charles T. Pray, deceased, $32.60.

Carrie R. Bragden and Lyman T. Pray, sole heirs of Peter Pray, deceased, $175.87.

George Campbell, Alice Campbell Stevens, and Helen Campbell Ricker, sole heirs of Thomas Campbell, deceased, $44.91.

Oscar L. Collum, sole heir of George H. Collum, deceased, $44.55.

Mrs. M. E. Critchley, widow (remarried) of John A. Yeaton, deceased, $320.19.

Lizzie A. Cram, Lydia P. Lowell, and Eliza W. Hoyt, sole heirs of
 Mrs. M. E. Critchiey, widow (remarried) of John A. Yeaton, deceased, $320.19.

Lizzie A. Cram, Lydia P. Lowell, and Eliza W. Hoyt, sole heirs of Josiah W. Hussey, deceased, $96.60.

Pender Davis, $87.

Richard Davidson, Elizabeth J. Davidson, Elizabeth S. Jenness, James Davidson, and Deborah Currier, sole heirs of James Davidson, deceased, $76.95.

John J. Downes, $33.

Agnes Emery, widow of Joseph H. Emery, deceased, $224.08.

George W. French, Ruth E. Burns, Anna T. Ham, and Sadie B. Schurman, sole heirs of Joseph T. French, deceased, $367.23.

Ezra M. Goodwin, $121.71.

Susan O. Green, widow of Charles B. Green, deceased, $255.37.

Elizabeth E. Gilman, Jennie L. Grindell, Sarah L. Quackenbush. William H. Noyes, Howard A. Noyes, and Fred A. Noyes, sole heirs of William H. Noyes, deceased, $370.50.

Caroline Bird Hammond, widow of Henry Clay Hammond, deceased, $376.12.
         Amanda M. Jellison, widow of Alvah Jellison, deceased, $218.88.

Samuel H. Kingsbury, $262.50.

Ira C. Keene, $75.16.

Clara I. Lewis, widow of Enoch Lewis, deceased, $5.50

Julia A. Moses, widow of Alfred D. Moses, deceased, $378.37.

Addie F. Marks, widow of Frank L. Marks, deceased, $394.12.

Ida F. Neal, sole heir of Daniel R. Neal, deceased, $82.12.

Moses Plummer, $544.27.

Mary L. Quinn, widow of Stephen H. Quinn, deceased, $417.

Ednah M. Ford Rowe, sole heir of James Edgar Ford, deceased, 416.70.

Rebecca Y. Raitt, widow of Daniel G. Raitt deceased, $566.70.
           110.70. Accessed, $10.70. Accessed, $10.70. Rebecca Y. Raitt, widow of Daniel G. Raitt, deceased, $566.70. Frederick A. Staples, Thomas F. Staples, and Calvin H. Staples, sole eirs of Thomas Staples, deceased, $420.37. Frank W. Smith, $123.16. Willard Sears, $284.74. Samuel Taylor, $438.46. Henry Wallace, $438.46. Henry Wallace, $129.50. Mrs. Jesse N. Wilson, widow of Jesse N. Wilson, deceased, $181.50. Lucy Whalley, widow of Edmund Whalley, deceased, $267.81. George Woods, $257.92. George H. Young, $40.50.
                 The amendment was agreed to.
               The next amendment was to insert, beginning at the top of
   page 198, the following:
page 198, the following:

To the following-named persons (representing 26 claims) the following sums, respectively, as found by the Court of Claims in the case of Robert B. Billings and others against the United States, for payment for extra labor above the legal day of eight hours at the Portsmouth Navy Yard, namely:

Robert B. Billings, $274.83.
Franklin H. Bond, $291.40.
William H. Brown, $316.66.
William C. Bray, $271.15.
Isaac H. Farr, $433.90.
John Grant, $519.77.
Robert M. Ham, $19.36.
Henry H. Ham, $509.08.
Albert Hanscom, $46.17.
James M. Jarvis, $379.34.
Thomas L. Jose, $388.66.
Michael E. Long, $308.90.
Frank E. Lawry, $78.49.
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Brackett Lewis, $45.18.
William W. Locke, $228.56.
Walter N. Meloon, $166.81.
George W. Muchmore, $810.34.
Christopher Remick, $117.16.
Edwin D. Rand, $295.89.
Augustus Stevenson, $917.60.
George E. Stackpole, $180.60.
William H. Wilson, $191.55.
Benjamin F. Winn, $224.90.
Augustus S. Zara, $429.75.
Joseph A. Meloon and Charles O. Meloon, executors of Nathaniel L.
Meloon, deceased, $471.30.
Charles Stewart, $349.90.
The amendment was agreed to.
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The amendment was agreed to.

The next amendment was, on page 200, after line 7, to insert:

The next amendment was, on page 200, after line 7, to insert:

To the following-named persons (representing nine claims) the following sums, respectively, as found by the Court of Claims in the case of George W. Brown and others against the United States, for payment for extra labor above the legal day of eight hours, at the Portsmouth Navy Yard, namely:

George W. Brown, \$33.75.

John L. Emery, \$257.62.

Mary Mozart, widow of William J. Mozart, deceased, \$77.43.

Joseph B. Remick, \$257.62.

Timothy Tratton, \$145.48.

William P. Titcomb, \$78.

Rhasa Perkins, \$5.82.

Thomas J. Pettigrew, \$420.

Alexander N. Perry, \$314.25.

The amendment was agreed to

The amendment was agreed to.

The next amendment was, on page 201, after line 3, to insert:

The next amendment was, on page 201, after line 3, to insert:

To the following-named persons (representing 17 claims) the following sums, respectively, as found by the Court of Claims in the case of John W. Knight and others against the United States, for payment for extra labor above the legal day of eight hours, at the Portsmouth Navy Yard, namely:

John W. Knight, \$459.37.

Ruth A. Kuse, widow of Joseph Kuse, deceased, \$308.74.

Charles M. Prince, son of Charles M. Prince, deceased, \$306.12.

Nathaniel Bowden, \$54.34.

Dennis M. Shapleigh, \$425.25.

Horace Mitchell, son of Reuben Mitchell, deceased, \$251.70.

John R. Dinsmore, \$506.46.

George O. Athorne, son of Oliver Athorne, deceased, \$13.12.

Fred Spinney, \$34.40.

Thomas E. Wilson, heir of Joseph D. Frost, deceased, \$310.78.

Mabel J. Morse, daughter of P. Wentworth, deceased, \$554.89.

Emily J. Morse, widow of William Morse, deceased, \$98.95.

Mary S. Wilcox, widow of Theodore Wilcox, deceased, \$633.42

George O. Wilson, \$382.50.

James R. Philbrick, \$243.55.

William F. Pinkham, \$611.81.

C. H. Staples, \$285.50.

To Holman Marr, \$106.12.

To Charles L. Duncan, \$169.57.

The amendment was agreed to.

The amendment was agreed to.

The next amendment was, on page 202, after line 21, to insert:

The next amendment was, on page 202, after line 21, to insert:

To the following-named persons (representing eight claims) the following sums, respectively, as found by the Court of Claims in the case of Edward H. Norton and others against the United States, for payment for extra labor above the legal day of eight hours at the Portsmouth Navy Yard, namely:

Edward H. Norton, \$260.74.

John W. Bickford, \$136.35.

John Flanigan, \$330.64.

Edwin A. Duncan, \$188.76.

Charles E. Whitehouse, \$461.

George F. Tobey, \$57.25.

Edward E. McIntire, \$294.31.

J. Mahlon Bickford, \$314.39.

The amendment was agreed to.

The next amendment was, on page 203, after line 18, to insert:

NEW YORK.

NEW YORK.

To the following-named persons (representing 21 claims) the following sums, respectively, as found by the Court of Claims in the case of Hans Anderson and others against the United States, for payment for extra labor above the legal day of eight hours at the Brooklyn Navy Yard, namely:

Hans Anderson, \$4.32.
William B. Burtingame, \$20.12.
John W. Buckley, \$189.32.
William H. Bulmer, \$18.
Anthony J. Bommer, \$112.23.
Daniel Coffey, \$33.90.
William Ford, \$93.38.
Michael Halloran, \$341.95.
Rebecca E. Jansen, one of the heirs of Isaac Wallack, deceased, \$276.66.

Rebecca E. Jansen, one of the heirs of Isaac Wallack, deceased, \$276.66.
Mary Raulston B. Johnston, one of the heirs of Samuel Raulston, deceased, \$232.81.
Maria L. Lane, one of the heirs of John Scott, deceased, \$119.87.
James Norton, \$65.23.
Humphrey H. Owens, \$42.45.
Isaac A. Rose, administrator of Isaac A. Rose, deceased, \$146.37.
Isaac Alonzo Rose, \$15.30.
Leon Ridoux, \$9.18.
Robert J. Ross, one of the heirs of Robert J. Ross, deceased, \$20.10.
Everett W. Sharkey, one of the heirs of Alexander Sharkey, deceased, \$68.66.
Charles H. Totten, \$312.40.

\$68.66. Charles H. Totten, \$312.40. Peter Watson, \$88.15. Elizabeth M. Clark, Annie Malloy, and Annie Kenney, heirs of Patrick Kenney, deceased, 45 cents. To Nicholas A. Brooks, \$136.32.

The amendment was agreed to.

The next amendment was, on page 205, after line 16, to insert:

To the following-named persons (representing 13 claims) the following sums, respectively, as found by the Court of Claims in the case of George W. Brown and others against the United States, for payment for extra labor above the legal day of eight hours at the Brooklyn Navy Yard, namely:

George W. Brown, \$422.96.
Richard Dezendorf, \$158.27.
Peter Doyle, \$217.26.
Manuel Glass, \$7.72.
William Hamilton, \$179.17.
Rodger Howard, \$291.93.
Andrew Kane, \$292.45.
Patrick McNamara, \$74.04.
William Phipps, jr., \$131.69.
John R. Powers, \$21.86.
John Rauscher, \$183.68.
Joseph Sands, \$307.43.
Elizabeth Tyson, widow of Peter Tyson, deccased, \$93.84.
The amendment was agreed to. The next amendment was, on page 205, after line 16, to insert:

The amendment was agreed to.

The next amendment was, on page 206, after line 19, to insert: The next amendment was, on page 206, after line 19, to insert:

To the following-named persons (representing five claims) the following sums, respectively, as found by the Court of Claims in the case of William L. Buckley and others against the United States, for payment for extra labor above the legal day of eight hours at the Brooklyn Navy Yard, namely:

William L. Buckley, \$12.27.

John Dwyer, \$385.50.

James Palmer, \$99.32.

Mary M. Parent, widow of David Parent, deceased, \$185.56.

Helen L. Burnett, George S. Burnett, and Mary O. Powles, sole heirs of Joseph Burnett, deceased, \$424.53.

The amendment was agreed to

The amendment was agreed to.

The next amendment was, on page 207, after line 10, to insert:

The next amendment was agreed to.

The next amendment was, on page 207, after line 10, to insert:

To the following-named persons (representing 14 claims) the following sums, respectively, as found by the Court of Claims in the case of John H. Burtis and others against the United States, for payment for extra labor above the legal day of eight hours at the Brooklyn Navy Yard, namely:

John H. Burtis, \$346.39.

Cornelius Bennett, \$332.80.

William Croft, \$95.13.

Joseph Clyne, \$150.03.

Jacob Callas, \$66.75.

James A. Driver, \$379.80.

Wellington Griffith, \$58.22.

George W. Heald, \$181.34.

James Hepenstall, \$905.10.

George B. Heald, \$433.77.

John Knight, \$245.80.

Edward Northup, \$278.47.

John D. Post, \$290.92.

Patrick H. White, \$71.59.

To Clarkson V. Hendrickson, \$35.96.

To Jasper Chisholm, \$86.21.

To John T. R. Mearns, \$217.17.

To Richard Rollins, \$145.81.

To Mary E. Hare, widow of John E. Hare, deceased, \$128.90.

The amendment was agreed to.

The next amendment was, on page 209, after line 4, to insert: PENNSYLVANIA.

PENNSYLVANIA.

To the following-named persons (representing 19 claims) the following sums, respectively, as found by the Court of Claims in the case of Christopher Alexander and others against the United States, for payment for extra labor above the legal day of eight hours at the League Island Navy Yard, namely:
Christopher Alexander, \$374.83.
Albert O. Chamberlain, \$24.94.
David Craig, \$29.87.
William Coates, \$373.91.
Daniel H. Chattin, \$401.09.
Josephine Cramp, widow of Martin C. Cramp, deceased, \$186.06.
Thomas Denney, \$24.60.
John B. Grover, jr., \$225.81.
William Lynn, \$184.60.
George W. Margerum, \$269.43.
Theodore Mitchell, \$274.60.
Joseph W. Meyers, \$1.75.
John H. Pettit, \$421.31.
Robert Pogue, \$91.75.
James Spear, \$906.76.
Edward T. Weaver, \$447.37.
Thomas R. Walters, \$247.69.
George A. Zirnberg, \$455.15.
The amendment was agreed to.

The amendment was agreed to.

The next amendment was, on page 210, after line 20, to

Insert:

To the following-named persons (representing 35 claims) the following sums, respectively, as found by the Court of Claims in the case of Sanford Bilyen and others against the United States, for payment for extra labor above the legal day of eight hours at the League Island Navy Yard, viz:

Sanford Bilyen, \$55.5.62.

Harry Davenport, \$379.83.
Thomas P. Ferguson, \$38.63.
Charles P. Grice, \$237.47.
Francis Grice, \$149.01.
Henry Hockery, \$116.30.
Joseph Magliton, \$13.47.
George W. Mahorn, \$68.01.
Daniel McCall, \$370.09.
Charles P. Montgomery, \$433.01.
John A. Newcomb, \$316.31.
Richard H. O'Donnell, \$503.71.
Edward E. Packer, \$438.50.

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John H. Redfield, $412.60.
Peter A. Slote, $214.82.
Mary A. Corkery, widow of John Corkery, deceased, $365.06.
Lizzie C. Land, widow of George M. Land, deceased, $276.67.
Eleanor F. Martin, widow of George S. Martin, deceased, $79.53.
Lois Room, widow of Benjamin A. Room, deceased, $113.98.
Annie E. Sheer, widow of John Sheer, deceased, $434.62.
Elizabeth Smith, widow of John Smith, deceased, $434.62.
Mary J. Quinton and Lizzie S. Horner, sole heirs of Nathan D. Room, deceased, $264.35.
Peter A. Slote, George W. Slote, Mamle Slote, Lidle Lutz, Andrew Wells, and Daniel Wells, sole heirs of Franklin S. Wells, deceased, $38.56.
Peter A. Slote, George W. Slote, Mamle Slote, Lidle Lutz, Andrew Wells, and Daniel Wells, sole heirs of Franklin S. Wells, deceased, $28.56.
     $68.56.
Peter A. Slote, George W. Slote, Mamie Slote, Lidie Lutz, Andrew Wells, and Daniel Wells, sole heirs of Frank Wells, deceased $52.20.
William C. Bessellevre, jr., $16.14.
Sidney I. Bessellevre, $71.31.
Parry T. McCurdy, $266.96.
Harry C. Scott, $68.58.
Charles P. Grice and Francis Grice, sole heirs of Francis E. Grice, deceased, $487.60.
William C. Bessellevre, administrator of John A. Bessellevre, deceased, $75.
     George G. Cressey, $217.32,
George G. Cressey, $217.32,
Edwin Phillips, $455.84,
Ida M. Hoffacker, Susie A. Antrim, Margaret Meager, Fannie Fort,
Harry Tantum, Elmer Tantum, Fred Tantum, and Walter Tantum, sole
heirs of Henry N. Bennett, deceased, $457.63,
Emily Powell, widow of George Powell, deceased, $224.79,
Mary A. Dunn, Rebecca Patterson, Elizabeth Hunter, and William C.
Barnes, sole heirs of Frederick B. Barnes, $132.36.
                           The amendment was agreed to.
 The next amendment was, on page 214, after line 5, to insert:

To the following-named persons (representing 15 claims) the following sums, respectively, as found by the Court of Claims in the case of Francis B. Black and others against the United States, for the payment for extra labor above the legal day of eight hours at the League Island Navy Yard, namely:

Francis B. Black, $404.21.

Arthur F. Corgee, $333.43.

Harry L. Davies, $72.91.

Harry L. Davies and John M. Davies, jr., sole heirs of John M. Davies, deceased, $898.12.

Samuel B. Edwards, $64.81.

George Hunter, $54.16.

William Kinsley, $236.66.

Mary A. McKay, widow of John McKay, deceased, $137.96.

Harry M. Mitchell and Margaret W. Eppright, sole heirs of Charles B. Mitchell, deceased, $514.46.

Slimon McIlhare, $55.14.

George H. Pattison, $79.07.

Walter S. Rick, sole heir of George Rick, deceased, $469.95.

David S. Scott, $337.88.

Frederick Uber, $113.81.

Joseph Vile, $240.16.

The amendment was agreed to.
                           The next amendment was, on page 214, after line 5, to insert:
The amendment was agreed to.

The next amendment was, on page 215, after line 16, to insert:

To the following-named persons (representing 30 claims) the following sums, respectively, as found by the Court of Claims in the case of Jacob M. Davis and others against the United States, for payment for extra labor above the legal day of eight hours at the League Island Navy Yard, namely:

Jacob M. Davis, $309.01.

William R. Day, $156.53.

Sarah A. Gali, widow of William Gali, deceased, $13.46.

Elizabeth T. Mitchell, widow of George W. Mitchell, deceased, $48.75.

George W. Mager, one of the heirs of Adam Mager, deceased, $48.75.

George W. Mager, one of the heirs of Adam Mager, deceased, $161.03, Alcana Wilkinson, otherwise Kane Wilkinson, $256.58.

Benjamin L. Berry, $131.90.

William H. Beidman, $57.25.

William Wilson, $437.37.

Harry M. Mitchell, $281.23.

Martha L. Roberts, widow of John S. Roberts, deceased, $441.81, James Schouler, $397.06.

Catherine Trinkle, executrix of David Irelan, deceased, $423.31.

John Sexton, $101.19.

Anna D. Benner, widow of James Benner, deceased, $423.31.

John Sexton, $101.19.

Anna D. Benner, widow of James Benner, deceased, $210.41.

George W. Clothier, $422.59.

Edwin W. Dougherty (on rolls as Edward Dougherty), $328.37.

James Ingram, $309.93.

Andrew J. Keyser, fr., $428.06.

Sarah M. Keyser, widow of Andrew J. Keyser, sr., deceased, $879.06.

Emily R. McCalla, widow of Frank L. McCalla, deceased, $400.03.

Andrew B. Doebler, $861.41.

Charles Ewing, $97.47.

Robert C. Kochersperger, $165.94.

Jennie McCalla, widow of John A. McCalla, deceased, $400.03.

Andrew B. Doebler, $81.41.

Ohn Virden, $903.59.

To Caroline Flomerfelt, widow of George W. Flomerfelt, deceased, $481.22.

To Edward McCann, $84.93.

To Elizabeth Siegfried, widow (remarried) of Robert Serro, deceased, $279.56.

The amendment was agreed to.

The next amendment was, on page 218. after line 18. to
                             The amendment was agreed to.
                           The next amendment was, on page 215, after line 16, to insert:
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insert: The amendment was agreed to. The amendment was agreed to.

The next amendment was, on page 223, after line 21, to insert:

To the following-named persons (representing 28 claims) the following sums, respectively, as found by the Court of Claims in the case of Georgie R. Ricketts, widow of Augustus Ricketts, deceased, and others against the United States, for payment for extra labor above the legal day of eight hours, at the Norfolk Navy Yard, namely:

Georgie R. Ricketts, widow of John Cox, deceased, \$60.12,

Margaret Cox, widow of John Cox, deceased, \$2.06.

Alfred Bergerson, \$10.82.

Moses Cornick, \$91.50.

Robert E. Crump, \$264.15.

Henry H. Epps, \$164.97.

Robert Francis, \$8.25.

Harrison Gaffney, \$51.20.

Everett Gildersleeve, \$220.82.

Samuel Gordon, \$110.79.

James Kennedy, \$3.52.

Enos Kitchen, \$6.49.

John Land, \$8.17.

Dennis Michaels, \$86.56.

Isaac Miller, \$283.66.

Edward V. Rauschert, \$125.91.

Charles A. Shafer, \$432.92.

Hm S. Whitehurst, \$58.50.

Moses Whitehurst, \$58.50.

Moses Whitehurst, \$58.55.

Samuel P. Wigg, \$301.15.

Fanny Brown, widow (remarried) of Joseph Williams, deceased, \$35.26. The amendment was agreed to. The next amendment was, on page 218, after line 18, to RHODE ISLAND. To the following-named persons (representing four claims) the following sums, respectively, as found by the Court of Claims in the case of George A. Brown and others against the United States, for payment for extra labor above the legal day of eight hours at the naval torpedo station, Newport, namely:

George A. Brown, \$291.19.

Mary C. Butts, widow of Noah Butts, deceased, \$388.10. \$35.26.

DECEMBER 5. Jacob C. Chase, \$4.47. Thomas Twigg, \$217.80. The amendment was agreed to. The next amendment was, on page 210, after line 7, to insert: VIRGINIA. To the following-named persons (representing four claims) the following sums, respectively, as found by the Court of Claims in the case of Mary Beasley, widow of Mordecai Beasley, deceased, and others against the United States, for payment for extra labor above the legal day of eight hours at the Norfolk Navy Yard, namely:

Mary E. Beasley, widow of Mordecai Beasley, deceased, \$64.84.

Peter Gallillee, \$17.63.

Sarah Richardson, widow of Noah Richardson, deceased, \$130.18.

Albert E. West, \$30.32. The amendment was agreed to.

The next amendment was, on page 219, after line 20, to insert:

To the following-named persons (representing 33 claims) the following sums, respectively, as found by the Court of Claims in the case of George W. Boushell and others against the United States, for payment of extra labor above the legal day of eight hours at the Norfolk Navy Yard, namely:

George Boushell, \$121.13.

John T. Brown, \$72.76.

William T. Boole, \$122.25.

James O. Corprew, \$88.70.

Mary F. Connor, widow of Robert Connor, deceased, \$28.38.

James O. Corprew, \$88.70.

Mary F. Connor, widow of Robert Connor, deceased, \$228.

Nelson Carney, \$38.94.

John A. McDonald, \$174.

Hugh Smith, \$97.87.

Richard S. Wilson, \$59.02.

Thomas P. Cooke, \$132.79.

Richard M. Diggs, \$4.37.

Frank E. Eaton, \$28.84.

John T. Gallam, administrator of Michael Moran, deceased, \$35.26.

Thomas J. Howe, \$533.12.

Ignatius Howe, \$138.12.

John W. Howe, \$238.35.

Charles A. Jakeman, \$100.62.

William F. Luke, \$12.75.

James W. McDonough, \$529.78.

Louis McCloud, \$182.25.

Thomas O'Rourke, \$70.90.

Mary J. Pyle, widow of Midlin J. Pyle, deceased, \$266.87.

Thomas Riley, \$67.04.

Henry W. Roble, \$369.51.

Mary E. Rollins, widow of James W. Rollins, deceased, \$121.50.

Miles Riddick, \$120.12.

Robert T. Trafton, \$132.70.

Watson Vellines, \$123.42.

Scott White, \$88.88.

Edward Whitehurst, \$118.87.

Miles C. Wood, \$46.12.

To Mary A. Curran, executrix of the estate of John J. Curran, deceased, late claimant in his own right, and as sole heir of Murty Curran, deceased, \$1,032.94.

To Mrs. Martin Grady, widow of Martin Grady, deceased, \$389.25.

The amendment was agreed to.

The next amendment was, on page 222, after line 19, to The amendment was agreed to. The next amendment was, on page 210, after line 20, to insert: The amendment was agreed to. The next amendment was, on page 222, after line 19, to insert:

To the following-named persons (representing six claims) the following sums, respectively, as found by the Court of Claims in the case of Sadie F. Curtis and Annie E. C. Partin, heirs at law of Henry W. Neville, deceased, and others against the United States, for payment for extra labor above the legal day of eight hours at the Norfolk Navy Yard, namely:

Sadie F. Curtis and Annie E. C. Partin, sole heirs of Henry Willis Neville, deceased, \$376.62.

Everett Gildersleeve, Emma Francis Hathaway, Josephine Hewitt, and Ruth Clark, sole heirs of Samuel W. Gildersleeve, deceased, \$873.33.

Everett Gildersleeve, Emma Francis Hathaway, Josephine Hewitt, and Ruth Clark, sole heirs of Samuel Gildersleeve, deceased, \$414.42.

Thomas Hinton, Agnes Hinton, Harrison Hinton, and Henry Marshall, sole heirs of Harrison Hinton deceased, \$272.60.

Charles A. McCourt and Ella A. McCourt, sole heirs of John A. McCourt, deceased, \$182.16.

Rebecca Pope, widow of John Pope, deceased, \$140.31.

The amendment was agreed to. The next amendment was, on page 223, after line 21, to insert:

Mattie A. Bushnell, widow of Albert Bushnell, deceased, \$354.75.
Mary E. Crandol, widow of William E. Crandol, deceased, \$375.62.
Virginia Hurlbut, widow of Albert B. Hurlbut, deceased, \$241.90.
Mary L. Lamar, widow of Henry Lamar, deceased, 88 cents.
Mary McDowell, widow (remarried) of Alexander Howell, deceased, 50.

Mary E. Moore, widow of Augustus W. Moore, deceased, \$504.20. Emma Ryder, widow of William R. Ryder, deceased, \$23.62.

The amendment was agreed to.

The next amendment was, at the top of page 226, to insert:

CLAIMS FOR DIFFERENCE IN PAY BY OFFICERS AND EMPLOYEES IN THE UNITED STATES NAVY GROWING OUT OF FACTS RELATING TO WHETHER OR NOT THE SERVICE WAS PERFORMED ON THE LAND OR ON THE SEA, THE OFFICER OF SAILOR BEING ENTITLED TO A HIGHER RATE FOR SERVICE ON SEA THAN ON LAND,

CALIFORNIA.

CALIFORNIA.

To Hannah M. Coon, widow (remarried) of Edward B. Bingham, deceased, of Sonoma County, \$308.49.

To Emily V. Cutts, widow of Richard M. Cutts, deceased, of Mare Island, \$250.90.

To Francenia H. Dale, widow of Frank C. Dale, deceased, of Merced County, \$61.64.

To Marcus D. Hyde, of Alameda County, \$225.98.

To Louisa I. Laine, widow of Richard W. Laine, deceased, of San Francisco County, \$125.55.

To Nicholas Pratt, late of the United States Navy, \$352.54.

To Fannie B. Stothard, widow of Thomas Stothard, deceased, late of the receiving ship Independence, \$373.72.

The amendment was agreed to.

The next amendment was, on page 227, after line 5, to insert: COLORADO.

To Josephine A. Buell, widow of James W. Buell, deceased, of Jefferson County, \$97.61.

To Robert Dickey, of Denver, \$243.45.

To James Thayer, of Crested Butte, \$184.95.

The amendment was agreed to.

The next amendment was, on page 227, after line 13, to

CONNECTICUT.

To Lila J. Baldwin, widow of William S. Baldwin, deceased, of Norwich, \$212.

To Elizabeth F. Curtis, administratrix de bonis non of William Barrymore, deceased, late of the United States Navy, \$603.57.

To Julius G. Rathbone, administrator of George C. Campbell, deceased, of Hartford County, \$230.19.

To Gideon E. Holloway, son of Gideon E. Holloway, deceased, of New London County, \$139.50.

To Adelaide L. Spall, administratrix of George Sands, deceased, of Stratford, \$504.54.

To Harriet B. Gaylord, sister of Dudley E. Taylor, deceased, of New Haven County, \$142.89.

The amendment was agreed to.

The next amendment was, on page 288, after line 6, to insert:

DELAWARE.

To George R. Gray, of New Castle County, \$490.74.

The amendment was agreed to.

The next amendment was, on page 228, after line 9, to insert: DISTRICT OF COLUMBIA.

The next amendment was, on page 228, after line 9, to insert:

DISTRICT OF COLUMBIA.

To Benjamin Atwood, of Washington, \$124.63.
To Otway C. and William M. Berryman, Alice B. Bromwell, Columbia N. Payne, children of O. H. Berryman, deceased, of Washington, \$67.25.
To John C. Boyd, of Washington, \$238.62.
To John B. Briggs, of Washington, \$238.64.
To Martha J. Briscoe, widow of John A. Briscoe, deceased, of Washington, \$899.48.
To Roberdeau Buchanan, administrator de bonis non of McKean Buchanan, deceased, of Washington, \$855.
To Charles E. Carter, of the District of Columbia, \$65.50.
To Charles E. Carter, lizabeth Crawford Bronson, and Lawrence C. Crawford, heirs at law of John C. Carter, deceased, of Washington and the State of New York, \$372.91.
To Louisa A. Crosby, widow of Pierce Crosby, deceased, \$269.17.
To Samuel Cross, of Washington, \$26.85.
To Thomas T. Didier and Frederick W. Didier, heirs of Frederick B. Didier, deceased, \$129.30.
To William S. Dixon, \$136.44.
To Edward B., Emily K., and Charles R. Doran, children of Edward C. Doran, deceased, of Washington, \$108.25.
To Edward J. Dorn, \$202.19.
To Kate R. Emmerich, Parthenia E. Altemus, sisters of Charles F. Emmerich, deceased, of Washington, \$452.87.
To James M. Filint, \$193.30.
To Marina B. Harding, widow (remarried) of Henry O. Handy, deceased, of Washington, \$105.23.
To Isaac Hazlett, \$131.51.
To Cumberland G. Herndon, \$204.65.
To Mary H. Corbett, granddaughter of Samuel Howard, deceased, of Washington, \$370.13.
To John Hubbard, of Washington, \$95.34.
To Henrietta M. D. Oliphant, widow (remarried) of Henry J. Hunt, deceased, \$20.04.

To Bella A. Leach, widow of Boynton Leach, deceased, of Washington, \$351.70.
To Bella A. Leach, widow of William F. Lee, deceased, of Washington, \$3.83.
To Alice V. Lee, widow of William F. Lee, deceased, of Washington, \$107.70.

Alice V. Lee, widow of William F. Lee, deccased, of Washington,

\$127.08.
To Harriet B. Loring and Francis B. Loring, sole heirs at law of Charles G. Loring, deceased, of Washington, \$446.41.
To Florence Murray, widow of Alexander Murray, deceased, of Washington, \$19.80.
To John A. Norris, of Washington, \$79.73.
To Christine I. Owen, Kathleen D. Owen, Albert T. Owen, and Alfred C. Owen, children of Alfred M. Owen, deceased, of Washington, \$175.89.

To James H. Perry, of Washington, \$129.86.
To Christiana C. Queen, widow of W. W. Queen, deceased, of Washington, \$49.25.
To Presley M. Rixey, \$123.29.
To Albert Ross, of Washington, \$583.01.
To Lily Davis White, widow of Henry W. Schaefer, deceased, \$96.49.
To Amanda M. Swain, widow of Oliver Swain, deceased, of Washington, \$284.52

To Amanda M. Swam, who ton, \$284.52.
To William T. Swinburne, of Washington, \$36.16.
To John D. Cahill, administrator of Dennis Twiggs, deceased, of Washington, \$126.58.
To Frederick E. Upton, of Washington, \$134.79.
To John J. Walsh, of Washington, \$274.21.

The amendment was agreed to.

The next amendment was, on page 232, after line 9, to insert: FLORIDA.

To Catherine Delap, widow of George Delap, deceased, late of the United States Navy, \$168.64.

To William W. Dewhurst, administrator with the will annexed of George Dewhurst, deceased, late of the United States Navy, \$831.43.

The amendment was agreed to.

The next amendment was, on page 232, after line 17, to insert: GEORGIA.

To John T. Plunkett, heir at law of Thomas S. Plunkett, deceased, late of the United States Navy, \$97.81.

The amendment was agreed to.

The next amendment was, on page 232, after line 21, to insert:

ILLINOIS.

To Louise M. Dodge, widow of Thomas W. Dodge, deceased, late of the United States Navy, \$297.35.

To Antonia Lynch, Margaret Lynch, Charlotte L. Carmody, Josephine L. Ridgeway, Jane L. Canby, children of Dominick Lynch, deceased, of Cook County, \$73.97.

To Mary J. Owen, widow of Elias K. Owen, deceased, of Randolph County, \$1,631.42.

To Merrill Spalding, executor of Enoch G. Parrott, deceased, of Cook County, \$1,888.60.

To Horatio L. Wait, of Cook County, \$164.48.

The amendment was agreed to.

The next amendment was, on page 233, after line 12, to insert: INDIANA.

To Simeon P. Gillett, of Vanderburg County, \$689.98. To G. V. Menzies, of Posey County, \$39.86.

The amendment was agreed to.

The next amendment was, on page 233, after line 17, to insert: KENTUCKY.

To Harry Pearson and Elba P. Gassaway, grandchildren of William Pearson, deceased, of Hickman County, \$30.80.

To Theodore Speiden and William S. Speiden, sons of William Speiden, deceased, of Jefferson County, \$60.80.

The amendment was agreed to.

The next amendment was, at the top of page 234, to insert:

MAINE.

To William H. Anderson, of the United States Navy, \$282.02.
To Thomas W. Bell, of Kennebunkport, \$323.02.
To Daniel Butland, brother of Francis Butland, deceased, of York County, \$718.58.
To Josephine E. Dermett, executrix of Joseph E. Cox, deceased, of York County, \$287.81.
To Loring G. Emerson, of Hancock County, \$760.61.
To Charles H. Evans, executor of Alice Evans, deceased, daughter of William F. Laighton, deceased, late of the United States Navy, \$384.49; and to Bessie D. Laighton, widow of said William F. Laighton, deceased, \$192.25.

To Merrill Snalding Jewes A. Spelding William F. Laighton, deceased,

To Merrill Spalding, James A. Spalding, Elizabeth T. Spalding, children of Lyman G. Spalding, deceased, of Cumberland County, \$64.11. The amendment was agreed to.

The next amendment was, on page 234, after line 22, to insert:

The next amendment was, on page 234, after line 22, to insert:

MARYLAND.

To Edward A. Coughlin, next of kin and heir at law of Paul Armandt, deceased, late of the United States Navy, §63.

To Fannie S. B. Halm, widow (remarried) of John C. Beaumont, deceased, of Washington County, §81.

To James T. Bowling, late of the United States Navy, \$395.73.

To Mary A. Brannan, widow of James A. Brannan, deceased, late of the United States Navy, \$1.318.48.

To Harriet C. Brown, administratrix of Thomas R. Brown, deceased, of Baltimore City County, \$256.22.

To Henry H. Clark, of Anne Arundel County, \$1.390.36.

To Francis A. Cook, of Anne Arundel County, \$870.47.

To Louis A. Cornthwaite, of Baltimore, \$861.39.

To George T. Douglass, son of Daniel T. Douglass, deceased, of Baltimore County, \$21.40.

To Alfred C. Doyle, administrator de bonis non of James A. Doyle, deceased, of Baltimore, \$61.9.26.

To Mary J. Field, widow of William Field, deceased, late of the United States Navy, \$694.89.

To Herbert Harlan and William Beatty Harlan, administrators cum testamento annexo of the estate of David Harlan, deceased, late of the United States Navy, \$501.50.

To Peter Heede, of Baltimore, \$63.38.

To Howard F. Downs, administrator de bonis non of the estate of James Hutchinson, deceased, of Govans, Baltimore County, \$236.12.

To Mary T. Sweeting, heir at law of John Joins, deceased, late of the United States Navy, \$179.59.

To Charles F. Bennett, administrator of Nicholas Lynch, deceased, late of the United States Navy, \$22.93.

To Charles F. Bennett, administrator of Nicholas Lynch, deceased, late of the United States Navy, \$22.67.

To James McDonnell, executor of James McDonnell, deceased, late of the United States Navy, \$422.45.

To William Moody, late of the United States Navy, \$543.94.
To Edward K. Rawson, of Anne Arundel County, \$136.99.
To Albert P. Southwick, administrator of the estate of John Southwick, deceased, late of the United States Navy, \$641.68.
To William G. Sprostan, brother of John G. Sprostan, deceased, of Baltimore County, \$59.25.

The amendment was agreed to.

The next amendment was, on page 237, after line 13, to insert: MASSACHUSETTS.

The amendment was, on page 237, after line 13, to insert:

MASSACHUSETTS.

To Mary J. Abbott, widow of William A. Abbott, deceased, of Essex County, \$2.50.

To Josiah B. Alken, of Suffolk County, \$149.04.

To Lucy M. Allen and Joseph A. Holmes, administrators of the estate of Weld N. Allen, deceased, late of the United States Navy, \$410.03.

To Mary Elizabeth Babbitt, daughter of Charles W. Babbitt, deceased, of Bristol County, \$97.70.

To Almena B. Bares, daughter of John A. Bates, deceased, of Suffolk County, \$643.04.

To Helen Bryant, granddaughter of William Black, deceased, of Note of Suffolk County, \$643.04.

To Grace E. Bolton and Mary E. Bolton, sole heirs at law of William H. Bolton, deceased, late of the United States Navy, \$164.88.

To William F. Burditt, Eleanora B. Kimball, Albert B. Burditt, Charlotte Ferguson, children of William Burditt, deceased, of Suffolk County, \$317.10.

To Virginia M. Chase, daughter of Moses B. Chase, deceased, of Suffolk County, \$152.80.

To Federick W. County, \$152.80.

To Federick W. County, \$152.80.

To Erderick W. County, \$152.94.

To Eavard Cronin, of Suffolk County, \$70.20.

To Alexander D. Damon, of Suffolk County, \$70.20.

To Ergaz Z. Derr, of Suffolk County, \$70.20.

To Ergaz Z. Derr, of Suffolk County, \$70.20.

To Ergaz Z. Derr, of Suffolk County, \$157.40.

To Emily A. Gifford, widow of George P. Gifford, deceased, of Bristol County, \$33.63.

To Artemas P. Hannum, administrator cum testamento annexo de honis non-of-solah A. Hannum, deceased, late of the United States Nov. \$10.00.

To Harry M. Stearns, administrator of the estate of Francis Josselva, deceased, late of the United States Navy, \$118.93.

To Elilott C. Harrington, of Suffolk County, \$117.44.

To Mary J. Iverson, widow of Andrew Jackson, deceased, of Essex County, \$410.96.

To Harry N. Stearns, administrator of the estate of Francis Josselva, deceased, late of the United States Navy, \$1,183.19.

To Goorge E. Leach, administrator of the estate of Francis Josselva, deceased, late of the United States N

The amendment was agreed to.

The next amendment was, on page 242, after line 3, to insert: MICHIGAN.

To Mary F. Clark, widow of Frank H. Clark, deceased, of Houghton County, \$200.55.

To George G. Clay, of Kent County, \$305.76.

The amendment was agreed to.

The next amendment was, on page 242, after line 8, to insert: MISSOURI.

To Maria L. Rodgers, granddaughter of Andrew E. Long, deceased, of St. Louis City County, \$98.60.

To Thomas J. Manning, only son of John Manning, deceased, of Macon County, \$155.75.

To Belle M. Raborg, widow of George B. Raborg, deceased, of St. Louis City County, \$199.20.

To Mary S. McQuade and William A. Chambers, children of William Smith, deceased, of St. Louis County, \$188.75.

The amendment was agreed to.

The next amendment was, on page 242, after line 21, to insert: NEBRASKA

To Willard Foster, helr at law of Edward Foster, deceased, late of the United States Navy, \$259.66.

The amendment was agreed to.

The next amendment was, at the top of page 243, to insert: NEW HAMPSHIRE.

To S. Augusta Tasker, widow of George E. Anderson, deceased, of Belknap County, \$48.59.

To Emma G. Jenness, widow of Thomas B. Gammon, deceased, of Rockingham County, \$208.60.

To Emma M. Gay, widow and executrix of Thomas S. Gay, deceased, late of the United States Navy, \$477.65.

To Hazel O. Goodsoe, Perle E. Nute, Leonora W. Goodsoe, and E. Shirlet Rundlett, children of Augustus O. Goodsoe, deceased, of Rockingham County, \$293.70.

To Marie S. Perrimond, widow of Xavier Perrimond, deceased, of Rockingham County, \$60.

The amendment was agreed to.

The next amendment was, on page 243, after line 16, to insert: NEW JERSEY.

To Katharine M. Burnett, widow of Joseph C. Burnett, deceased, late of the United States Navy, \$96.31.

To Robert C. Ribbans, guardian of the minor heirs of Isalah E. Crowell, deceased, of Essex County, \$523.14.

To Helen M. Dodge, widow of Edward R. Dodge, deceased, of Camden, \$147.81.

147.81.

To Nelson H. Drake, of Morris County, \$346.85.

To Louise E. Elder, widow of Robert D. Elder, deceased, of Essex County, \$144.84.

To Clara B. Hassler, widow of Charles W. Hassler, deceased, late of the United States Navy, \$566.35.

To Andrew McCleary, of Camden County, \$397.45.

To Amanda E. Macfarlane, widow of John Macfarlane, deceased, late of the United States Navy, \$254.79.

To Thomas Mason, late of the United States Navy, \$37.94.

To Robert C. Ribbans, guardian of the minor heirs of William N. Maull, deceased, of Essex County, \$159.

To Walter J. Mayer, Alfred J. Mayer, and Ida J. Mayer Storch, heirs of William H. Mayer, jr., deceased, late of the United States Navy, \$181.92.

of William H. Mayer, jr., deceased, late of the United States Navy, \$181.92.

To Clifford C. Pearson, jr., administrator of the estate of Clifford C. Pearson, deceased, of Middlesex County, \$294.49.

To Martha Singleton, widow of Edward B. J. Singleton, deceased, late of the United States Navy, \$102.49.

To Mary K. S. Brakeley, only child of Watson Smith, deceased, of Burlington County, \$102.

To Winnie M. Stillwell, widow of James Stillwell, deceased, of Essex County, \$30.75.

To Edward Lasell, guardian of the heirs at law of William H. Yeaton, deceased, of East Orange, \$628.06.

Mr. CRAWFORD. I offer an amendment in connection with this amendment. On page 244, in line 3, strike out the words

this amendment. On page 244, in line 3, strike out the words "Robert D. Elder" and insert in lieu thereof "Robert B. Elder." It is to correct an error in an initial.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.
The next amendment was, on page 245, after line 10, to insert: NEW MEXICO.

To Clifford B. Gill, of Dona Ana County, \$766.35.

The amendment was agreed to.

The next amendment was, on page 245, after line 13, to insert: NEW YORK.

The amendment was agreed to.

The next amendment was, on page 245, after line 13, to insert:

NEW YORK.

To Helen S. Abernethy and Charles H. Abernethy, sole heirs at law of John J. Abernethy, deceased, late of the United States Navy, \$191.05.

To William H. Bacon and Annie M. Smith, heirs at law of Francis H. Bacon, deceased, late of the United States Navy, \$186.22.

To Belle Bateman, widow of Arthur E. Bateman, deceased, late of the United States Navy, \$112.89.

To Fanny Belknap, widow of Charles Belknap, deceased, late of the United States Navy, \$172.89.

To A. Nelson Bell, of Kings County, \$131.

To Louisa C. Bell, widow of Edward B. Bell, deceased, late of the United States Navy, \$875.92.

To Caroline H. Broadhead, widow of Edgar Broadhead, deceased, of Orange County, \$253.33.

To Christopher Bruns, of New York County, \$141.37.

To Albert Buhner, of Kings County, \$65.17.

To Rosalie C. Tone, heir at law of John Calhoun, deceased, late of the United States Navy, \$156.94.

To Marie L. Clark, widow of Lewis Clark, deceased, of Richfield Springs, \$195.06.

To Owen S. M. Cone, of Brooklyn, \$237.09.

To John P. Gillis, son of John P. Gillis, deceased, of New York County, \$74.14.

To Francis C. Green, executor of the estate of Francis M. Green, deceased, inte of the United States Navy, \$373.24.

To G. De B. Greene, son of S. Dana Greene, of Schenectady County, \$373.95.

To William H. Hall, Charles G. Hall, Eleanor Darling, and Alexander H. Wells, heirs at law of Michael Hall, deceased, of Kings County, \$194.60.

To Martha D. Sturgis, daughter of Samuel F. Hazzard, deceased, of New York County, \$194.60.

To Harriet F. Hibben, widow of Henry B. Hibben, deceased, late of the United States Navy, \$722.45.

To Jessie F. Cole, sister of Frederick A. Howes, deceased, late of the United States Navy, \$319.

To Robert Hudson, of Onondaga County, \$26.03.

To Frances R. Hunsicker, widow of Henry Kloeppel, deceased, late of the United States Navy, \$319.

To Caroline H. Lillie and Julia W. L. Symington, executrixes of the estat

To James Phillips, of New York City, \$724.65.

To Alice H. Pierce, widow of Allen W. Pierce, deceased, late of the United States Navy, \$209.94.

To Elizabeth M. Pitkin and Carrie Pitkin McDowell, heirs of Henry S. Pitkin, deceased, late of the United States Navy, \$382.21.

To Ebenezer S. Prime, of Suffolk County, \$325.20.

To George H. Sampson, Leander P. Sampson, Ellias S. Willis, Henry P. Willis, James M. Willis, Ir., and Maria J. Akin, heirs at law of Daniel W. Sampson, deceased, residing in the States of New York, Massachusetts, and Oregon, \$936.68.

To Louisa P. Seaman, widow of Stephen Seaman, deceased, late of the United States Navy, \$465.68.

To Augusta W. Seely, widow of Henry B. Seely, deceased, of New York County, \$513.70.

To John M. Stele, of Kings County, \$25.20.

To Eleanor R. Swan and Charles B. Swan, heirs at law of Robert Swan, deceased, late of the United States Navy, \$233.42.

To Edward D. Taussig, of Kings County, \$33.97.

To Hobart L. Tremain, of Sullivan County, \$295.89.

To Henrietta L. Tucker, widow of Thomas B. Tucker, deceased, late of the United States Navy, \$796.63.

To Charles A. White and Isabelle G. White, sole heirs at law of Leverett H. White, deceased, residing in the States of New York and New Jersey, \$250.87.

To Ira C. Whitehead, of Orange County, \$148.76.

To Frederick W. Wunderlich, late of the United States Navy, \$58.04.

The amendment was agreed to.

The next amendment was, on page 250, after line 18, to insert: NORTH CAROLINA

To Augustus Rodney Macdonough, administrator of Charles S. McDonough, deceased, late of the United States Navy, \$651.37.

To Stephen A. Norfleet, administrator of Ernest Norfleet, deceased, of Bertie County, \$53.70.

The amendment was agreed to.

The next amendment was, at the top of page 251, to insert:

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OHIO.

To L. C. Barclay, granddaughter of J. O'Connor Barclay, deceased, of Jefferson County, \$119.45.

To James F. Fitzhugh, administrator of William E. Fitzhugh, deceased, of Clinton County, \$1,681.37.

To Mary S. Franklin, widow of Gustavus S. Franklin, deceased, of Ross County, \$324.31.

To Charles B. Gilmore, brother of Fernando P. Gilmore, deceased, of Jefferson County, \$44.11.

To Esther H. Kautz, executrix of the estate of Albert Kautz, deceased, late of the United States Navy, \$211.07.

To Fred B. McConnell, heir at law of Rufus S. McConnell, deceased, late of the United States Navy, \$566.03.

To Nople M. Le Breton, daughter of David McDougal, deceased, of Ross County, \$49.75.

To Mrs. George C. Hagan, widow (remarried) of John G. Mitchell, deceased, of Huron County, \$101.88.

To Joseph A. Scarlett, of Hamilton County, \$371.06.

To Joseph G. C. Schenck and Sarah Crane, children of James E. Schenck, deceased, of Montgomery County, \$100.25.

To Mary P. Shirley, executrix of the estate of James R. Shirley, only child of Paul Shirley, deceased, late of the United States Navy, \$1,167.43.

To Maria S. Wright, sister of Arthur H. Wright, deceased, of Franklin County, \$23.29.

The amendment was agreed to.

The amendment was agreed to.

The next amendment was, on page 252, after line 12, to insert:

PENNSYLVANIA.

PENNSYLVANIA.

To Richard Ashbridge, of Philadelphia County, \$49.31.
To Adam K. Baylor, of York, \$275.59.
To Lucius B. Blydenburgh, brother of Benjamin B. Blydenburgh, deceased, of Philadelphia County, \$378.59.
To Georgiana Bonsall, widow of Edward Bonsall, deceased, of Delaware County, \$75.07.
To Mattie H. Chaplin, widow of J. Crossan Chaplin, deceased, late of the United States Navy, \$102.50.
To Elizabeth C. Van Reed, heir at law of George Cochran, deceased, late of the United States Navy, \$214.47.
To William Cuddy, of Philadelphia County, \$74.79.
To William L. Degn, Annette N. Degn McCoy, Minnie H. Degn Wilson, and Albert L. Degn, heirs of Laust E. Degn, deceased, late of the United States Navy, \$342.16.
To Walter B. Dick, late of the United States Navy, \$64.31.
To Michael C. Drennan, of Northampton County, \$15.89.
To William W. W. Dwier, of Philadelphia County, \$241.60.
To the Commonwealth Title Insurance & Trust Co., administrator de bonis non cum testamente annexo of the estate of Daniel Egbert, of Philadelphia, \$916.45.
To the Pennsylvania Co. for Insurance on Lives and Granting Annuities, executor of Henry Etting, deceased, of Philadelphia County, \$665.86.
To Ellen L. Faunce, widow of Peter Faunce, deceased, late of the United States Navy \$14.76

Annulties, executor of Henry Etting, deceased, of Philadelphia County, \$665.86.

To Ellen L. Faunce, widow of Peter Faunce, deceased, late of the United States Navy, \$401.76.

To Herbert R. Green, administrator de bonis non of the estate of Nathaniel Green, deceased, of Berks County, \$400.75.

To Margaret A. Hoffner, widow of Richard J. Hoffner, deceased, late of the United States Navy, \$255.78.

To Samuel W. Latta, of Philadelphia County, \$105.68.

To Margaretta D. Abbey, Henry Lelar, ir., William D. Lelar, Mary D. Pierce, and Ellen D. Lelar, children and sole heirs at law of Henry Lelar, deceased, late of the United States Navy, \$321.2.7.

To Mary E. Maxwell and Blanche M. Lewis, daughters of James McCleiland, deceased, of Northampton County, \$684.25.

To Mary McLeod, widow of Norman McLeod, deceased, late of the United States Navy, \$326.75.

To E. Rittenhouse Miller, executor of J. Dickenson Miller, deceased, late of the United States Navy, \$1,852.33.

To Rebecca P. Nields, executrix of Henry C. Nields, deceased, late of the United States Navy, \$960.

To Adelaide R. Shaw, widow of Samuel F. Shaw, deceased, late of the United States Navy, \$960.

To Adelaide R. Shaw, widow of Samuel F. Shaw, deceased, late of the United States Navy, \$953.48.

To John C. Spear, of Montgomery County, \$232.60.
To Robert Steel, late of the United States Navy, \$158.83.
To Cornella A. Ulmer, widow of Albert F. Ulmer, deceased, late of the United States Navy, \$388.51.
To Phoebe N. Ver Meulen, widow of Edmund C. Ver Meulen, deceased, of Philadelphia County, \$55.89.
To Henry Whelen, of Philadelphia County, \$158.12.
To Fred White, son and heir at law of Edward W. White, deceased, late of the United States Navy, \$652.75.
To P. Fendall Young, executor of William S. Young, deceased, of Philadelphia County, \$231.05.

The amendment was agreed to. The next amendment was, at the top of page 256, to insert:

RHODE ISLAND.

RHODE ISLAND.

To Frederick A. Caldwell, administrator of the estate of Charles H. B. Caldwell, deceased, of Woonsocket, \$80.75.

To Charles L. Green and Samuel T. Green, executors of Charles Green, deceased, residing in Providence, R. I., and South Windsor, Conn., respectively, \$1,550.87.

To Thomas Dunn, administrator of Charles Hunter, deceased, of Newport County, \$41.20.

The amendment was agreed to. The next amendment was, on page 256, after line 12, to insert: TENNESSEE.

To Flora C. Martine, widow of Alfred H. Martine, deceased, late of the United States Navy, \$691.91.

The amendment was agreed to.

The next amendment was, on page 256, after line 16, to insert: UTAH.

To Mary V. R. Shipley, widow of George T. Shipley, deceased, late of the United States Navy, \$231.42.

The amendment was agreed to.

The next amendment was, on page 256, after line 20, to insert: VERMONT

To Henry L. Johnson, late of the United States Navy, \$142.47.

The amendment was agreed to.

The next amendment was, at the top of page 257, to insert: VIRGINIA.

VIRGINIA.

To Edward Ambler, executor of James M. Ambler, deceased, of Fauquier County, \$176.71.

To George P. Barnes, of Norfolk County, \$160.27.

To Mary J. Frothingham, Margaret E. Cavendy, Mary F. Coy, heirs at law of Edward Cavendy, deceased, late of the United States Navy, \$353.59.

To Charles Schroeder, administrator of the estate of Samuel G. City, deceased, of Norfolk, \$332.72.

To Margaret A. Blackmore, daughter of Charles F. Guillon, deceased, of Elizabeth City County, \$225.56.

To H. S. Herman, administrator of William M. King, deceased, of Norfolk County, \$207.99.

To John T. Newton, of Norfolk County, \$66.30.

To James M. Odend'hal, administrator of John W. Odend'hal, deceased, of Norfolk County, \$671.23.

To Alice C. McRitchie, Waring F. Reynolds, Clarence A. Reynolds, Henry S. Reynolds, C. Russell Reynolds, Virginia J. Reynolds, Frank H. Reynolds, Vernon T. Reynolds, and Fannie W. Reynolds, beirs at law of Silas Reynolds, deceased, residing in the States of Virginia, Maryland, and the District of Columbia, \$748.68.

To Mary S. McIntosh and Elizabeth S. Taylor, children of John L. Saunders, deceased, of Norfolk County, \$337.17.

To Mary E. R. Smith, widow (remarried) of Emory H. Taunt, deceased, of Culpeper County, \$105.20.

The amendment was agreed to.

The amendment was agreed to.

The next amendment was, on page 258, after line 16, to insert: WEST VIRGINIA.

To Julia M. Woods and Mary E. Hagan, daughters: Mary J. Edelen and William M. Junkin, grandchildren, of David X. Junkin, deceased, of Berkeley County, \$203.16.

To Harriet S. Lyeth, administratrix of Clinton H. Lyeth, deceased, late of the United States Navy, \$202.19.

To Thornton T. Perry, son of Roger Perry, deceased, of Jefferson County, \$51.80.

The amendment was agreed to.

The next amendment was, at the top of page 250, to insert: WISCONSIN.

To Charles C. Grafton, brother of Edward C. Grafton, deceased, of Fond du Lac County, \$720.39.

The amendment was agreed to.

The next amendment was, on page 260, after line 4, to insert: CLAIMS OF OFFICERS OF THE UNITED STATES ARMY FOR ADJINITIONAL PAY, COMMONLY KNOWN AS LONGEVITY CLAIMS, SO AS TO INCLUDE THE PERIOD OF CADET SERVICE IN THE UNITED STATES MILITARY ACADEMY AT WEST POINT.

CALIFORNIA.

To Virginia Forse, administratrix of the estate of Albert Gallatin Forse, deceased, of Riverside County, \$1,924.62.

To Flora A. Janes, administratrix of Leroy L. Janes, deceased, of San Jose, \$752.08.

To James M. Seawell, administrator of the estate of Washington Seawell, deceased, of San Francisco, \$2,237.55.

To Julia E. Wilcox, widow of Orlando B. Wilcox, deceased, late of the United States Army, \$806.40.

DISTRICT OF COLUMBIA.

To Katherine Du B. Beale, administratrix of the estate of Samuel S. Carroll, deceased, of Washington, \$955.77.

To Thomas L. Casey and Edward P. Casey, surviving executors of the estate of Thomas L. Casey, deceased, of Washington, \$1,699.83.

To Richard G. Davenport, brother and sole heir at law of Thomas Corbin Davenport, deceased, of Washington, \$1,190.95.

To Annie H. Eastman, administratrix of the estate of Seth Eastman, deceased, late of the United States Army, \$2,833.89.

To Ulrica Dahlgren Pierce, administratrix of the estate of Vinton A. Goddard, deceased, of Washington, \$549.84.

To Francis H. Hardie, Joseph C. Hardie, Caroline H. Neal, Catherine M. Hardie, and Isabelle H. Hardie, children and sole heirs at law of James Allen Hardie, deceased, of the District of Columbia, \$1,760.23.

To the Washington Loan & Trust Co., administrator of the estate of Edward McK. Hudson, deceased, of Washington, \$1,624.45.

To Mary B. Hunt, executrix of the estate of Henry J. Hunt, deceased, of the District of Columbia, \$1,781.29.

To Alexander Mackenzie, of the District of Columbia, \$2,215.47.

To Cornelia M. Mason, widow of John Sanford Mason, deceased, of the District of Columbia, \$1,412.14.

To Clara D. Miller, widow of John Miller, deceased, of the District of Columbia, \$5,335.44.

To the Washington Loan & Trust Co., administrator of the estate of Alfred Pleasanton, deceased, of Washington, \$1,320.83.

To the Washington Loan & Trust Co., administrator of the estate of Rufus Saxton, deceased, of Washington, \$1,320.83.

To John Paul Earnest, administrator of the estate of Scbree Smith, deceased, of the District of Columbia, \$1,188.73.

To the American Security & Trust Co., executor of the estate of Thomas Crook Sullivan, deceased, of Washington, \$2,009.38.

To Mary Tassin, widow of Augustus G. Tassin, deceased, of Washington, \$100.30.

To John A. Baker, administrator of the estate of William J. Twining, deceased, of the District of Columbia, \$2,438.85.

To Mary Tassin, widow of Augustus G. Tassin, deceased, of Washington, \$100.30.

To Elizabeth P. O'Conner, widow (remarried), and Edward B. Wright, son and only child of Edward Maxwell Wright, deceased, late of the United States Army, \$1,101.32, to be proportioned as follows:

To Edward B. Wright, of the Dis

FLORIDA.

To Hugh T. Reed, of Orange County, \$814.68.

ILLINOIS. To Maria N. Flint, widow of Franklin Foster Flint, deceased, of Highland Park, \$2,065.12.

IOWA. To Daniel Robinson, of Des Moines, \$4,756.06.

KENTUCKY. To Seneca H. Norton, of Ashland, \$436.32.

MAINE.

To Lincoln H. Newcomb, administrator de bonis non cum testamento annexo of the estate of Henry Prince, deceased, of Eastport, \$1,946.56. MARYLAND.

To William M. Graham, sr., administrator of the estate of William Montrose Graham, deceased, of Anne Arundel County, \$590.80.

To Elizabeth B. Hughes, executrix of the estate of William Burton Hughes, deceased, of Baltimore, \$2,041.29.

To Catherine Tully, executrix of the estate of Redmund Tully, deceased, of Cumberland, \$2,013.06.

MASSACHUSETTS.

To Henry L. Abbot, of Cambridge, \$2,029.57.
To Isabelle H. Adams, administratrix of the estate of Arthur Hubert Burnham, deceased, of Boston, \$1,912.97.
To Henry M. Lazelle, of Worcester County, \$2,330.03.
To Mary O. H. Stoneman, administratrix of the estate of George Stoneman, deceased, of Boston, \$1,291.30.

MICHIGAN.

To Julia S. Weeks, administratrix of the estate of Capt. Harrison S. Weeks, deceased, late of the United States Army, \$1,572.70.

NEBRASKA. To William F. Norris, of the United States Army, \$1,009.20.

NEW JERSEY.

To James Davison, United States Army, retired, \$2,917.98.
To John Henry Edson, of Union County, \$676.40.
To Henrietta B. Hawes, administratrix of the estate of David C.
Houston, deceased, of Bergen County, \$2,071.02.

NEW YORK.

To H. W. Dresser, administrator de bonis non cum testamento annexo of the estate of William C. Forbush, deceased, of Erie County, \$1,737.65.

To Campbell T. Hamilton, administrator of the estate of John Hamilton, deceased, of New York City, \$1,757.91.

To Edward H. Peaslee and Edmund P. Kendrick, executors of the estate of Henry L. Kendrick, deceased, of New York City and Springfield, Mass., respectively, \$2,179.60.

To Jacob Ford Kent, of Albany County, \$2,755.84.

To Alexander Logan Morton, of New York City, \$1,542.27.

To Annie Fraser Wood, administratrix of the estate of Lafayette B. Wood, deceased, late of the United States Army, \$1,202.10.

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To Caroline M. Clous, widow of John W. Clous, deceased, of Dayton, \$2.841.18.
To Virginia Lape, administratrix of the estate of Wentz Curtis Miller, deceased, of Hamilton County, \$1,543.60.

PENNSYLVANIA

To the Fidelity Trust Co., executor of the estate of Joseph Roberts, deceased, of Philadelphia, \$2,246.19.

To Annie E. Ruff, executrix of the estate of Charles Frederick Ruff, deceased, of Philadelphia, \$1,755.52.

RHODE ISLAND.

To Mary Tooker Best, executrix of the estate of Clermont Livingston Best, deceased, of Newport, \$2,363.76.

SOUTH CAROLINA.

To Cecile W. King, daughter and only child of Stephen Moore Westmore, otherwise known as Stephen West-Moore, of Charleston, \$486.72.

Provided, That in the settlement of claims for longevity pay and allowances on account of services of officers in the Regular Army aris-

ing under section 15 of an act approved July 5, 1838, entitled "An act to increase the present military establishment of the United States, and for other purposes," and subsequent acts affecting longevity pay and allowances, the accounting officers of the Treasury shall credit as service in the Army of the United States, within the meaning of said acts, all services rendered as a cadet at the United States Military Academy and as an enlisted man or commissioned officer in the Regular and Volunteer Armies, and no settlement heretofore made shall preclude a settlement under the terms of this act.

The amendment was agreed to.
Mr. JOHNSTON of Alabama. I wish to ask the chairman of
the committee if it is in order now for me to offer an amend-

ment to the paragraph which has just been read.

Mr. CRAWFORD. I would prefer to have the amendments of the Committee on Claims disposed of first. Then I shall be glad to give an opportunity for individual amendments.

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The reading of the bill will be resumed.

The reading of the bill was resumed.

The next amendment of the Committee on Claims was, on page 267, after line 17, to insert:

MISCELLANEOUS CLAIMS WHICH ARE BASED ON COURT FINDINGS.

CALIFORNIA.

To the State of California, \$5,265.95. KENTUCKY.

To the legal representative of James Harvey Dennis, \$26,538.50, being the sum found by the Court of Claims to be due to him by reason of certain contracts for the improvement of the Tennessee River.

To Louis Landram, administrator of William J. Landram, deceased, late collector of internal revenue for the eighth collection district of Kontreks, \$5,346.99

Kentucky, \$5,346.29.

MICHIGAN.

To John Alexander Besonen, of Marquette County, \$297.27.

NEW YORK.

To Isabella G. Francis, administratrix of the estate of Roger A. Francis, deceased, late a resident of the State of New York, \$17,185.47. PENNSYLVANIA.

To Clayton G. Landis, administrator of the estate of David B. Landis, deceased, late of Lancaster. \$11,112.22; and to the estate of Jacob F. Sheaffer, deceased, late of Lancaster, \$34,055.

VIRGINIA.

To D. B. Barbour and Andrew P. Gladden, of Newport News, Va., and Clarksburg, W. Va., respectively, \$758.

Mr. CRAWFORD. There is an error in the computation of the

items under California, and it is necessary to amend the amendment. I offer the amendment I send to the desk.

The PRESIDING OFFICER. The amendment to the amend-

ment will be stated.

The Secretary. On page 267, line 20, strike out the word five" and insert in lieu thereof the word "twenty-eight."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. CRAWFORD. I desire to offer an amendment, to be inserted in line 9, on page 269. It is to save administration costs where the amounts are so small that the cost of administration would eat up the amount of the claim.
The PRESIDING OFFICER. T The amendment will be

stated.

The Secretary. On page 269, line 9, after the words "Army or Navy," it is proposed to insert:

Or for overtime in United States navy yards.

The amendment was agreed to.

The next amendment was, on page 270, after line 9, to insert as a new section the following:

as a new section the following:

Sec. 4. That from and after the passage and approval of this act the jurisdiction of the Court of Claims shall not extend to or include any claim against the United States based upon or growing out of the destruction of any property or damage done to any property by the military or naval forces of the United States during the war for the suppression of the rebellion; nor to any claim for stores and supplies taken by or furnished to or for the use of the military or naval forces of the United States, nor to any claim for the value of any use and occupation of any real estate by the military or naval forces of the United States during said war; nor shall said Court of Claims have jurisdiction of any claim which is now barred by the provisions of any law of the United States.

The amondment was agreed to

The amendment was agreed to.

The reading of the bill was concluded.

Mr. CRAWFORD. Mr. President, this is probably as far as we shall be able to proceed this morning. It concludes the reading of the amendments so far as concerns those proposed by the committee.

I desire to press the bill for consideration during the morning hour to-morrow, and if Senators have amendments which they wish to present and have voted upon I hope they will then be

Mr. LODGE. Mr. President, I have two amendments. The PRESIDING OFFICER. The bill is still in the Senate as in Committee of the Whole and open to amendment.

Mr. LODGE. I have two amendments to offer, to come in on page 264, after line 17. They are two claims for longevity pay, which came in too late to be dealt with by the committee.

Longevity claims have all been allowed, and the committee has gone further and has brought in a clause providing for their being paid without the necessity of going in as separate claims in bills—a general payment. Therefore, I think these two should be included with the other longevity claims.

Mr. CRAWFORD. I think the committee can accept those

amendments. They are in exactly the same class and are governed by the same law and decisions of the courts as the items

of that character in the bill.

Mr. SMOOT. I should like to ask the chairman of the committee whether he expects to accept amendments embracing other classes of claims under the headings as found in this bill?

Mr. CRAWFORD. Certainly not. But I think that in a case like this, where the courts have settled the question and the Court of Claims has made a finding, it being exactly the same as 75 others, the committee ought really to accept the amendment, but outside of cases which come within such classes I do not propose to accept amendments.

Mr. LODGE. A general clause has been put in covering all these claims. They are not open to a single objection, of course.

Mr. SMOOT. I did not rise to make any objection, but I wanted to know what the policy of the chairman of the committee was to be in relation to other amendments that may be offered, because if such amendments are to be offered to this bill, and are to be accepted by the chairman, it seems to me the bill will be opened so widely and loaded so heavily that it will be almost impossible to pass it.

Mr. CRAWFORD. I will say very frankly that I shall oppose, generally, amendments to this bill unless there is some reason so manifest why they should be allowed that the committee can accept them. Otherwise I certainly shall feel like referring them to the Senate and having them discussed.

The PRESIDING OFFICER. The Secretary will state the

amendments proposed by the Senator from Massachusetts.

The Secretary. On page 264, after line 17, it is proposed to

To Frank H. Phipps, of Springfield, Mass., \$2,314.17.
To Clifford H. Frost and Frank B. McAllister, trustees under the will of Zealous B. Tower, late of the United States Army, \$1,669.51.

The amendments were agreed to. Mr. SHIVELY obtained the floor.

Mr. CRAWFORD. The Senator from Connecticut has an amendment exactly the same as that of the Senator from

The PRESIDING OFFICER. The Chair has recognized the Senator from Indiana, who has the floor.

Mr. SHIVELY. Mr. President, I have here an amendment which I think is identical in nature with the amendment just offered, which was accepted by the chairman of the committee. It is an amendment to come in on page 259, after line 4. I send the amendment to the desk.

The PRESIDING OFFICER. The amendment proposed by

the Senator from Indiana will be stated.

The Secretary. On page 259, after line 4, it is proposed to insert:

To Thomas Addington, of Winchester, Ind., \$78.54.

Mr. CRAWFORD. At what place on page 259 is it to be inserted?

The PRESIDING OFFICER. On page 259, after line 4. Mr. CRAWFORD. Is that a longevity claim? I will ask the Senator from Indiana to hand it to me, and let it go over until we take up the bill to-morrow.

Mr. SHIVELY. I do not want to take any chances.

Mr. CRAWFORD. I shall probably have no objection to it. Mr. SHIVELY. I think it is exactly the same kind of claim that was presented and which was accepted by the chairman of the committee. I want to add, however, that it seems there has been some change in the print of the bill since I filed this report, so that perhaps that is not precisely the place in the bill where the amendment should appear.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. Bacon) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives

appeared in the seats provided for them.

The PRESIDENT pro tempore. The Sergeant at Arms will make proclamation.

The Assistant Sergeant at Arms (Mr. Cornelius) made the usual proclamation.

The PRESIDENT pro tempore. The Journal of the last sitting of the court will be read.

Mr. GALLINGER. Mr. President, I would raise the question of a quorum.

The PRESIDENT pro tempore. The Senator from New Hampshire makes the point of no quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Cullom Curtis Davis Dixon Smith, Ariz. Smith, Ga. Smith, Md. Smith, Mich. Smith, S. C. Ashurst McLean Martin, Va. Martine, N. J. Bailey Bankhead Massev Borah du Pont Myers Fletcher Smoot Stephenson Sutherland Swanson Newlands O'Gorman Brandegee Bristow Foster Gallinger Gardner Oliver Brown Overman Bryan Overman Page Penrose Perkins Perky Pomerene Richardson Guggenheim Hitchcock Johnson, Me. Johnston, Ala. Thornton Townsend Warren Burnham Burton Clapp Clark, Wyo. Clarke, Ark. Wetmore La Follette Works Crane Crawford Culberson Lea Lodge McCumber Root Shively

Mr. CULBERSON. The Senator from Oregon [Mr. CHAM-BERLAIN] is absent necessarily on business of the Senate. I make that announcement for the day.

Mr. PAGE. On account of the continued illness of my col-

league [Mr. DILLINGHAM], he is absent from the city.
Mr. WORKS. The senior Senator from Washington [Mr. Jones is necessarily absent on business of the Senate. this announcement for the day.

Mr. SHIVELY. My colleague [Mr. Kern] is unavoidably absent from the Senate. I make this announcement to stand for the day.

The PRESIDENT pro tempore. Upon the call of the roll of the Senate 65 Senators have responded to their names. quorum of the Senate is present. The Secretary will read the Journal of the last session of the Senate sitting as a Court of Impeachment.

The Journal of yesterday's proceedings of the Senate sitting

as a Court of Impeachment was read.

Mr. WORTHINGTON. I should like to hear read again what is in the minutes as to the description of the papers which were subject matter of the vote. As I understood it, it did not seem to me to be correct

The PRESIDENT pro tempore. The Secretary will again

read the item.

The Secretary read as follows:

Pending the examination of the witness, Mr. Webb offered in evidence copy of an assignment by E. J. Williams to William P. Boland of two options covering a culm bank known as Katydid, executed on the 5th of September, A. D. 1911.

Mr. WORTHINGTON. That is correct.

The PRESIDENT pro tempore. If there are no objections to the Journal, it will be considered as approved.

Mr. BANKHEAD. Mr. President, I ask that I may be sworn. The PRESIDENT pro tempore. Senators who are present who have not heretofore been sworn will advance to the desk and take the oath.

Mr. BANKHEAD and Mr. LEA advanced to the Vice President's desk, and the oath was administered to them by the President

Mr. WORKS. Mr. President, I offer the following order.

The PRESIDENT pro tempore. It will be read.

The Secretary read as follows:

Ordered, That such briefs and citations of authorities as have already been prepared by the managers on the part of the House and counsel for the respondent be filed with the Secretary and printed in the Record for the immediate use of Senators.

Mr. Manager CLAYTON. Mr. President, I thought the Senate had indicated its pleasure yesterday to await the disposition of the matter of presenting the briefs until the argument of the case was to be had.

I wish to say, Mr. President, assuming the ruling of the Senate yesterday to be to the effect that the managers would not be expected to bring any brief to-day, they have not brought a brief into the Senate at this time. If, however, Mr President, the Senate sees fit to adopt that order the managers will acquiesce in it and will at the earliest practicable moment bring into the Senate the brief which they have prepared—and to which perhaps they may wish to add a little between now and the time of its presentation—and file it in accordance with the order, so that it may be printed.

Mr. WORTHINGTON. We, too, Mr. President, had assumed that that matter would come up later in the trial. But very soon after the brief of the managers shall be filed, of which we will be furnished a copy, of course, we will submit our brief

The PRESIDENT pro tempore. Is there objection to the order which has been read from the desk? The Chair hears none, and it will be considered as having been unanimously ordered.

Mr. Manager WEBB. Mr. President, may I at this point make one correction in the Record? On page 98, in the righthand column, five paragraphs from the bottom, the question was, "I understand that when the note was gone," and so forth. It should read "when the note was drawn."

The PRESIDENT pro tempore. That correction is recognized

as proper by all, and it will be made.

Mr. WORTHINGTON. Mr. President, I would like to ask whether we can be furnished with a copy of the proceedings each day.

The PRESIDENT pro tempore. Undoubtedly.

Mr. WORTHINGTON. We have none on our desks.
The PRESIDENT pro tempore. The Chair will direct that there be furnished each day to the counsel and to the managers a sufficient number of copies. The Chair is informed that they

are now upon the desks of the counsel. Mr. WORTHINGTON. I meant the Congressional Record. The PRESIDENT pro tempore. The Chair will direct that the managers and the counsel for the respondent be furnished with copies of the Record also each day.

Mr. Manager WEBB. May I now ask that Mr. E. J. Williams be recalled as a witness?

Mr. Manager CLAYTON. Mr. President, my brother Webb was not at the session held by the managers this morning. He was detained elsewhere, but all the managers with the exception of my brother Webb were present. It was called to our attention that a certain witness who has been subpœnaed announced that he did not intend to come here unless brought on process issued by the Senate. It appeared yesterday, Mr. President, from reading the returns of the Sergeant at Arms, that Mr. J. H. Rittenhouse, an important witness in this case, had been regularly subposnaed to attend and was required to be here yesterday. He was not here yesterday. He is not here to-day. He is the witness who, we are informed, said he would not come unless brought here by process of the Senate.

Therefore, Mr. President, I ask to have called the officer who served the subpœna upon the witness and prove the

Then I shall ask for an attachment to bring him here. service.

The PRESIDENT pro tempore. He will be called.

James K. Julian appeared and was sworn.

Mr. Manager CLAYTON. Mr. President, will you interrogate him as to the service?

The PRESIDENT pro tempore. Mr. Julian, were you charged with the service of a subpæna upon Mr. J. H. Rittenhouse?

Mr. JULIAN. I was.

The PRESIDENT pro tempore. Did you serve it?

Mr. JULIAN. I did.

The PRESIDENT pro tempore. At what time and place? Mr. JULIAN. Saturday, November 3, at 10 a. m., 713 Connell Building, Scranton, Pa.

The PRESIDENT pro tempore. In what manner did you serve him?

Mr. JULIAN. I served him personally and left a copy. The PRESIDENT pro tempore. Delivering him a copy?

Mr. JULIAN. Delivering him a copy.
Mr. Manager CLAYTON. I failed to catch, Mr. President, whether you asked the witness what his office is.

Mr. Julian. I am an employee in the office of the Sergeant

at Arms of the Senate.
Mr. Manager CLAYTON. And by the direction of the Sergeant at Arms of that office you served this subpœna upon J. H. Rittenhouse?

J. H. Rittennouse:
Mr. JULIAN. I did.
Mr. Manager CLAYTON. Mr. President, I make the statement that we are entitled to this attachment by reason that the ment that we are entitled to this attachment by reason that the witness was not here at the sitting when his name was called. Therefore I should like for him to be called now.

The PRESIDENT pro tempore. The Sergeant at Arms will call the name of the witness.

The Assistant Sergeant at Arms. Mr. James H. Rittenbuse! James H. Rittenbuse! Appear and answer the summons.

Mr. Manager CLAYTON. The witness not having answered, Mr. President, I move for the appropriate order.

The PRESIDENT pro tempore. The manager will send it to

the desk and it will be acted upon at once.

Mr. Manager CLAYTON (after a pause). I will ask that

the Secretary report the proposed order.

The PRESIDENT pro tempore. The Secretary will report it.

The Secretary read as follows:

Ordered, That an attachment do issue in accordance with the rules of the Senate of the United States for one J. H. Rittenhouse, a witness heretofore duly subpœnaed in this proceeding on behalf of the managers of the House of Representatives.

The PRESIDENT pro tempore. Is there objection to the adoption of the order just read from the desk? If not, it will be considered as having been unanimously adopted, and the necessary attachment will be issued.

TESTIMONY OF E. J. WILLIAMS-CONTINUED.

Mr. Manager WEBB. Now, I ask that E. J. Williams be called. It has been suggested that the few remaining questions which I am to ask this witness may be heard more distinctly by standing at this point in the Chamber. [Taking a position in the aisle.]

E. J. Williams appeared and took the seat at the Secretary's

desk provided for witnesses. Q. (By Mr. Manager WEBB.) Mr. Williams, yesterday afternoon, just before the Senate adjourned, I asked you if you knew that C. G. and W. P. Boland were parties to a lawsuit pending at the time you presented that note to them from Judge Archbald, and you said you did not remember. Is that correct?—A.

I can not hear you very well, sir.

Q. Yesterday afternoon I understood you to say that when the note was drawn by Judge Archbald to John Henry Jones and signed by Judge Archbald, and indorsed by Judge Archbald, yourself, and Jones, and was turned over to you to be discounted, and when you started to Mr. Boland to have him discount it, you did not know that W. P. or Christy Boland were parties to a suit then pending in Judge Archbald's court.-A. I do not think they were, sir.

Q. If I may be permitted to refresh your recollection, let me ask you if you did not swear before the Judiciary Committee

last May

Mr. WORTHINGTON. On what page?

Mr. Manager WEBB. Page 479.

The WITNESS. Look at the date on the note and look at the date of the suit.

Q. (By Mr. Manager WEBB.) If the note was drawn in the summer or fall of 1909——A. Yes. There was not suit then.
Q. Let me ask you this question: Did you not swear before

the Judiciary Committee as follows--A. I might swear wrong, you know, because I did not know the date exactly.

Q. Listen to this question please, Mr. Williams:

The CHAIRMAN. At the time you presented the note to Boland and asked him to discount it, did you know that either one or both of the Bolands was party defendant in a case pending before Judge Archbald? Mr. WILLIAMS. Well, I did know; but I did not think of that, though—that that had anything to do with it.

Did you swear to that before the Judiciary Committee?

A. I did not know and never considered anything of the kind. Q. Judge Archbald, in his answer, admits that when this note was executed by him and turned over to you and Jones for discount there was a suit pending in his court in which the two Bolands were parties because they owned two-thirds interest in the Marian Coal Co. If the judge knew that, I ask if you did not know it too?—A. No, sir; I did not know it.

Q. I ask you if you did not swear before the Judiciary Com-

mittee that you did know it-

Well, I did know, but I did not think that had-

A. No, sir. Q. "That had anything to do with it" ?-A. No, sir; not with me at that time. I did not go there on any suit or any consideration of any suit. I went there as a friend to them.

Q. I understand that, Mr. Williams,-A. They were, I think,

friendly with me all right.

Q. The point I want to bring out is whether or not you knew when you carried that note to the Bolands that they were interested in a suit then pending in Judge Archbald's court?-A. I never considered that at all.

Q. Did you swear last May before the Judiciary Committee that you knew it?-A. I do not remember whether I did or not.

Q. You were intimate with the Bolands, were you not?—
. Very intimate with them; yes, sir.
Q. And intimate with the Judge?—A. Yes, sir; with them all. Q. Do you mean to say that you did not know the Bolands were interested in a suit with Peale against the Marian Coal Co.?—A. No, sir; I did not know. I am perfectly honest in my opinion all right that I did not know, and never considered it in the transaction at all.

Q. I asked you yesterday afternoon if you did not go to Judge Archbald immediately after you were subpensed to come down and testify before the Judiciary Committee, and you answered "I do not remember." Do you remember now whether or not

you did go to Judge Archbald's office immediately after you were subprenaed to come before the Judiciary Committee?-A. I should not wonder a bit if I did. Q. Did you?—A. Yes, sir; I did.

Q. Did you go to his office in the Federal Building in Scranton immediately after you were subpænaed to come before the Judiciary Committee ?- A. Yes, sir.

Q. I ask you if you swore this before the Judiciary Com-

mittee-

Mr. WORTHINGTON. On what page? Mr. Manager WEBB. Page 800 [reading]:

Mr. Manager Webs. Page 800 [reading]:

The Chairman. John Henry Jones, testifying last Saturday, I believe, said that when he went to Judge Archbald's office last Monday—that is, the Monday before the one just gone—to have a note indorsed by the judge he found you present. Were you there?

Mr. Williams. Yes, sir.

The Chairman. That was after you had been subpœnaed to testify before this committee, was it not?

Mr. Williams. I guess it was; yes, sir.

The Chairman. Why did you go to Judge Archbald's office after you had been subpœnaed to come before this committee to testify?

Mr. Williams. I did not go about the—I just told him I was subpœnaed on the case.

The Chairman. You went down to his office to tell him you had been subpœnaed?

The CHAIRMAN. You went down to his omce to tell him?

Mr. WILLIAMS. Yes, sir; I got subpœnaed.

The CHAIRMAN. What else did you tell him?

Mr. WILLIAMS. That is all he said to me—to tell the truth and the whole truth about it—and that is all. And that is all the talk I had about the thing altogether. "Tell the whole truth to them," he says, "the whole thing." That is what the judge said to me.

The CHAIRMAN. How many conversations have you had with Judge Archbald about the sale of this culm bank since Mr. Brown examined you on March 23, 1912?

Mr. WILLIAMS. Not many.

The CHAIRMAN. How many would you say, Mr. Williams?

Mr. WILLIAMS. Well, I might have three or four talks with him now and then.

Is that correct? Is it true that you were in Judge Archbald's

office?-A. Yes, sir. Q. On Monday morning, after having been subpænaed here on Sunday?—A. Yes, sir.

Q. Why did you go to Judge Archbald's office immediately after you were subpensed to come down here and testify in this investigation before the House committee?-A. I think it was natural for me to go there. Was it not?

Q. Why was it natural?-A. And tell him what was going on. That is the point. He told me then, sir, to tell the truth and let the consequences go where they will. That is what he told

me, and I am telling you the truth.

Q. So you remember this morning that you did go to his office, and you did not remember it yesterday. Now, I ask you if you did not give this to the Judiciary Committee as a reason why you went there? It is found on page 803, in your testimony :

Mr. Williams. He did pay my fare; yes, sir.
Mr. Webb. You did say, too, that the only time you saw him was at
the railroad station; is that right?
Mr. Williams. I seen him. I was in the office Monday morning,
and I was there for the same purpose as I was when I went to the
depot to meet him—to get money to come here. That was my object.

Did you swear that before the Judiciary Committee?-A. Yes, sir

The PRESIDENT pro tempore (after a pause). The witness has answered the question.

The WITNESS. Yes, sir.

Q. (By Mr. Manager WEBB.) Now, one more question, Mr. Williams. When you were talking to the judge about Mr. May's refusal to let you have this option after, as you said yesterday, Mr. May had gruffly declined to give it to you, did the judge then and there tell you that he had some cases in which Brownell was interested, and that he would go to see Brownell?—A. You say that. I do not understand you all right. Let me understand you better.
Q. I ask you if, after Mr. May had gruffly declined to let you

have this option on the Katydid culm bank and you returned to the judge with that information, if the judge told you then and there that he had some cases before his court in which Brownell was interested?—A. No; I picked up the paper myself, sir, off the desk there. "Here are some cases," I said, "against the Erie, ain't they-these lighterage cases; two cases there?"

Q. Let me ask you this question, then. On page 588 of the record before the House Committee on the Judiciary I ask you if the chairman did not make this statement to you.

And he told you-

Referring to the judge-

that the lighterage case was one of the cases that Brownell and the railroad company were interested in?

Mr. Williams. Yes, sir.

The WITNESS. Yes, sir; those are the cases that are on the paper.

Q. (By Mr. Manager WEBB.) Did he tell you that Brownell was interested in those cases?-A. No, sir; he did not tell me nothing of that kind.

Q. I thought you said yesterday that you knew that Mr. Brownell was marked counsel?—A. I did not tell you any such

thing, sir.
Q. What?—A. I did not tell you that. I told you that I picked up that paper off the desk and the two cases I seen there, and I asked what "lighterage" meant. I did not know what it meant at all. I did not know what lighterage was, and he explained to me the lighterage.

Q. Why were you examining the United States Commerce Court judge's docket? Why were you examining his docket at that time? When you were talking about securing this culm dump from the Erie Railroad, why were you examining his docket?—A. I do not understand that.

Q. Why were you examining the judge's docket—the brief, or whatever you call it?-A. The trial list was on the table, on the desk.

Q. Why were you looking into the trial list of cases before his court?—A. I just looked at it and picked it up.
Q. Was the word "lighterage" written on it?—A. Yes, sir.
Q. Did you then ask the judge what "lighterage" meant?—

A. I did; yes, sir.
Q. Did he tell you then that that was one of the cases in which Brownell was interested, and that he would go to see Brownell?-A. That that was one of the cases against the Eric at the time.

Q. Why were you talking about cases which the Erie had? Was it because you were trying to get this dump from the Erie?-A. Because those were the cases that I seen on the list, sir.

Q. And you were trying to get the Katydid dump from the

Erie, from Mr. May; is that right?-A. What?

Q. And that you were trying to get the Katydid culm dump through Mr. May from the Erie Railroad; is that right?-No; I was not. I told you that those are the first cases that I seen on the list.

Q. I understand. And the Erie Railroad owned this culm

dump?—A. Yes, sir.

Q. And you were trying to get the culm dump from Mr. May, who was the agent of the Erie Railroad by being the manager of the coal company-that you were trying to get this dump from Mr. May? Now, can you tell me why you and Judge Archbald should discuss the two cases at that particular time concerning the Erie Railroad Co., which company was a party defendant in his Commerce Court at that time?—A. I can not tell you why.

Q. You can not tell us why?—A. I can not tell you why, sir; because those were the first cases I seen there on the paper

Q. Let me ask you this question: How long after you and the judge discussed these lighterage cases was it before the judge went to New York to see Brownell?-A. Oh, well, I could not tell you that.

Q. Was it three days or a week?-A. How could I tell you that? I do not keep those things stamped on my mind, you know. I could not tell you whether it was a week or whether

it was a month. I do not know.

Q. You know it was not a month, do you not?-A. What?

Q. You know it was not a month?—A. I could not tell you. Q. Anyway, I understood you to say that the judge told you that he had gone to New York and had seen Brownell, and also that he had seen Mr. May on the street the day before, and that Mr. May said "tell Mr. Williams to come up and he can get that."—A. That is right, sir.

Q. Listen, Mr. Williams: "Mr. May likes you very much and

you can get that and anything else you want."-A. Oh, well,

that is right.

Q. How much of that did he tell you?-A. That is all right. How is that?

Q. How much of that did he tell you? Did he tell you that May had told him to tell you to come up and get the option? A. I went up right straight, sir, and got it.

Q. Who told you to go and get it?-A. Judge Archbald told me to go and get it; that he had seen May, happened to meet him on the street, and that he told him to tell me to come up and see him. I went up and I got it.

Q. And at that time he had already seen Brownell? Is that right?-A. Yes, sir.

Q. That he had been to New York and had seen Brownell?-That is all right.

Q. I want to ask you if you talked—
Mr. POMERENE. Mr. President, I should like to have the question submitted to the witness which I send to the desk, and also, following that question, one other.

The PRESIDENT pro tempore. The question desired to be propounded to the witness by the Senator from Ohio will be read.

The Secretary read as follows:

Q. Did you or Judge Archbald first speak about these cases being on the trial list?

The Witness. No, sir.
Mr. POMERENE. I suggest that the question be repeated to the witness

The PRESIDENT pro tempore. The Secretary will again read the question to the witness.

The Secretary again read the question.

The WITNESS. No, sir. I looked at the cases myself. Judge Archbald did not tell me.

Mr. POMERENE. I do not believe the witness understands the question.

The PRESIDENT pro tempore. The witness has substan-

tially answered the question, the Chair thinks.

Mr. POMERENE. Which one first mentioned the fact of these cases being on the docket?
The Witness. Me, sir.

The PRESIDENT pro tempore. The next question desired to be propounded by the Senator from Ohio will be read:

The Secretary read as follows:

Q. Did you and the judge ever before speak of other cases on the docket?

The WITNESS. No, sir; never before.

Q. (By Mr. Manager WEBB.) Mr. Williams, then you say that that is the only time you and the judge ever discussed cases on his docket?—A. What?

Q. I understand you to say that that is the only time you and the judge ever discussed cases on his docket?-A. Only as I asked him the question of what lighterage meant. That was the only question, sir.

Q. But the question was, did you and the judge ever discuss

any other cases on his docket?-A. No, sir.

Q. That is the only case, then, that you ever discussed with

him?—A. The only case, sir.

Mr. Manager WEBB. Mr. President, I should like to introduce the following letter-

Mr. WORTHINGTON (after examining the letter). That is

agreed to. Mr. Manager WEBB. I desire that the letter shall be read. Now, Mr. Williams, I wish you would please listen to this letter. The PRESIDENT pro tempore. The Secretary will read, as

requested. The Secretary read the following letter, which was marked "Exhibit No. 10":

[U. S. S. Exhibit 10.]

(R. W. Archbald, Judge United States Commerce Court, Washington.)

SCRANTON, PA., September 20, 1911. SCRANTON, PA., September 20, 1911.

My Dear Mr. Conn: This will introduce Mr. Edward Williams, who is interested with me in the culm dump about which I spoke to you the other day. We have options on it both from the Hillside Coal Co. and from Mr. Robertson, representing Robertson & Law, these options covering the whole interest in the dump. This dump was produced in the operation of the Katydid colliery by Robertson & Law, and extends to the whole of the dump so produced. I have not seen it myself, but, as I understand it, this dump consists of two dumps a little separate from each other, but all making up one general culm or refuse pile made at that colliery. Mr. Williams will explain further with regard to it, if there is anything which you want to know.

Yours, very truly,

R. W. Archbald.

Q. (By Mr. Manager WEBB.) Mr. Williams, did you carry that letter by your hand to Mr. Conn?-A. Yes, sir.

Q. You did?—A. Yes, sir.

Q. I believe you stated yesterday that you proposed to sell to Mr. Conn for \$20,000?—A. What?

Q. I believe that you stated that you proposed to sell to Mr.

- Conn for \$20,000?—A. No, sir; I did not.
 Q. No; it was 27½ cents a ton that you agreed to sell to him for.—A. Yes, sir; that is right now; but the \$20,000 was not in it at all.
- Q. Anyway that deal was not consummated, not closed; Conn did not buy it?-A. They did not think that the title was good

Q. I understand. He did not buy it?—A. No, sir. Q. Then later you negotiated with Jones—Thomas Howell Jones—for it, and he did not buy it?—A. No; but it was not on account of the title that Thomas Jones did not take it.

Q. I understand that. Then you negotiated the sale of it with Bradley last April. Is that right?—A. I told you yester-

day that this thing was sold for \$20,000, sir.
Q. To Bradley?—A. To Bradley; yes, sir.

Q. And did this investigation which was going on in Scranton and in Washington break up that sale?-A. If this investiga-

tion had not come for two days I would have sold it and got the money, sir.

Q. Did Judge Archbald write you and give you the letter to take to Conn?—A. Judge Archbald did, and I wrote the last letter; me and Boland—Bill Boland—had that letter to Conn dictated, and I took it over myself to him.

Q. I understand; but as to the letter you have just heard read

from the Secretary's desk, did the judge give you that letter to take to Conn?—A. The judge?
Q. Yes; the letter which was just read from the desk there a moment ago introducing you to Mr. Conn.-A. I think that was my own letter, was it not?

Q. What was your answer to that?-A. Was not that my own

letter?

Q. I suspect you have the letters confused. The letter I refer to is the one dated Scranton, September 20, 1911:

MY DEAR MR. CONN: This will introduce Mr. Edward Williams, who is interested with me in the culm dump-

The WITNESS. All right. Yes; that is right.

Q. (By Mr. Manager WEBB.) Who gave you this letter to take to Conn?—A. The judge.
Q. Who wrote it?—A. I guess the judge.
Q. Judge Archbald, do you mean?
Mr. WORTHINGTON. That is admitted. There is no ques-

tion about it.

Mr. Manager WEBB. Very well.
Q. (By Mr. Manager WEBB.) After the deal with Bradley for the dump failed, did you talk to Judge Archbald about this matter?—A. No, sir; I did not tell Judge Archbald when I was selling it to Bradley. I made that from my own mind. I did not tell Judge Archbald that I was going to sell it. He did not know that I was selling it.

Q. I ask you this question: If, after May recalled that tentative deed to Bradley and the contract was withdrawn and Bradley was unable to buy it on account of May's refusing to make the deed-I ask you if you talked to Judge Archbald about the failure to make the trade with Bradley?-A. I did not; no, sir. I did not tell Judge Archbald about the sale of it at all. I

went on and done it myself. Q. You mean that you would make an important deal of that kind without your partner or friend being consulted?-A. Oh, yes; I was going to sell it, anyhow. I meant to give him half, all right. I did not mean to cheat him out of it at all; no, sir.

I am not that kind of a man, sir.
Q. I ask you this question: If you did not swear before the Judiciary Committee with reference to the question as to whether or not you had talked with Judge Archbald after Bradley had failed to get the deed, as follows:

The CHAIRMAN-

Mr. WORTHINGTON. I ask from what page the manager is reading?

Mr. Manager WEBB. Pages 524 and 525.

The CHAIRMAN. After the deal failed of consummation, did you talk with him?

with him?

Mr. WILLIAMS. Yes.

The CHAIRMAN. What was that conversation?

Mr. WILLIAMS. Well, he did not want to sell it.

The CHAIRMAN. Why?

Mr. WILLIAMS. He wanted to let it stand there.

The CHAIRMAN. Then he changed front entirely on the matter of selling it and dividing the profit, he taking a third; he had changed his mind entirely about it, had he?

Mr. WILLIAMS. He thought it would be worth more some other time.

The CHAIRMAN. Then you and he agreed that all your efforts to sell to Conn were not in earnest, and you did not want to sell to Conn?

Mr. WILLIAMS. Yes, sir.

The CHAIRMAN. You agreed to do that. Why did you agree that you did not want to sell it, and when did you reach the conclusion that you did not want to sell it?

Mr. WILLIAMS. About three or four weeks ago.

I ask you if you swore that before the Judiciary Com-

I ask you if you swore that before the Judiciary Committee?—A. What is your question? Ask me the question square, and then I will answer it.

Q. The question, then, boiled down, is, after the Bradley deal failed the chairman asked you if you talked to the judge, and you said yes. Is that right?—A. Yes.

Q. And that you and the judge then agreed that you did not want to sell this dump; that the judge thought it would bring more at some later time?-A. The judge did not want to

Q. At that time?-A. No, sir.

Q. Then, I suppose you did swear this before the Judiciary Committee?—A. The judge did not want to sell it at the time, but I did; I wanted to sell it.

Q. And that was in April, was it not, that he did not want

to sell?-A. I could not tell you the time. I can not tell you

exactly the time or the date.

Q. You swore before the committee that it was "three or four weeks ago," when you were examined here about the 9th

or 10th of May, so that would have made it some time in April.

Is that right?—A. Oh, yes.
Q. I ask you now if at that time it was not rumored around in Scranton that this investigation was being held into Judge Archbald's conduct, and I ask you if that is the reason that the judge stopped you from making any other sale of this culm dump?-A. Yes.

Q. That is true, is it?—A. Yes.

Q. Mr. Williams, after you had presented this \$500 note to one of the Bolands, or both of them, for discount, and they declined to discount, I ask you if, subsequent to that time, several months, you did not tell one of the Bolands, or both of them, that they made a great mistake in not discounting that note-

Mr. WORTHINGTON. I object to that question.
Mr. Manager WEBB. Let me finish it—if they did not make a great mistake in failing to discount that note; that if they had discounted it they would not have lost their suit?

The Witness. I never said such a thing, sir.

The PRESIDENT pro tempore. Wait a moment. The Chair

understands counsel to object.

Mr. WORTHINGTON. What is the use of objecting, Mr. President, since the witness has stated sufficient of his answer to show what it will be?

The PRESIDENT pro tempore. The Chair has cautioned him

repeatedly not to do so.

Mr. WORTHINGTON. The Chair has done his duty, surely. Mr. Manager WEBB. That is all the questions we have to ask the witness at present.

Mr. THORNTON. Mr. President, I desire that the witness answer the question I send to the desk before he is released by

The PRESIDENT pro tempore. The Senator from Louisiana requests that a question be propounded to the witness by the Secretary. The Secretary will read the question.

The Secretary read as follows:

Q. Have you read your testimony before the committee since it was given, or has it or any part of it been read to you since?

The WITNESS. No, sir.

Mr. Manager WEBB. Mr. President, in view of the last question asked by the Senator from Louisiana, I want to ask the witness one more question.

Q. (Mr. Manager WEBB.) Since you were here and testified before the Judiciary Committee last May have you talked with Judge Archbald in his home at Scranton?-A. In his home?

Q. In his home, in his office, or anywhere.-A. Yes.

You have?-A. Oh, I talked to him.

Q. Have you talked to Judge Archbald since you testified before the Judiciary Committee?-A. Not anything about the

Q. Have you talked with Judge Archbald since you testified before the Judiciary Committee?-A. Not anything about the case at all. sir.

The PRESIDENT pro tempore (to the witness). Answer the question.

The WITNESS. Don't I answer the question?

The PRESIDENT pro tempore. No.
The Witness. I have talked to him; but I never talked about the case.

Q. (By Mr. Manager WEBB.) Where did you talk to him?-

A. I have talked to him on the street.
Q. Where else?—A. Why, I have talked to him in the Federal building, but not in his office.

Q. Where is the Federal building you speak of-in Scranton ?-A. Scranton; yes.

Q. In the judge's room there?-A. No.

Q. Well, where were you in the Federal building when you and the judge talked?-A. I was out in the corridor.

Q. Anywhere else?-A. No.

Q. Did you ever talk to him in his home about it?-A. No: I never was in his home to talk to him about it.

Q. Did you ever talk to him anywhere else besides on the street and in the Federal building?-A. No, sir.

Q. What did you talk about then?-A. We talked about different things as he passed, but never talked about the case

Q. You never even mentioned this case?-A. No; never mentioned the case; I never talked to him a word about the case, because he would not talk about the case.

Q. Why? How do you know he would not?-A. Because he did not want to. [Laughter in the galleries.]

The PRESIDENT pro tempore. Occupants of the galleries must refrain from any expression of approval or disapproval, merriment, or otherwise.

Q. (By Mr. Manager WEBB.) How do you know, Mr. Williams, that he did not want to talk about the case?—A. Because he never talked about the case.

Q. How do you know he did not want to talk about it? You said he would not, and did not want to .- A. He said he did not

want to talk about the case.

Q. Did you begin, then, to talk with him about it?—A. What?
Q. Did you begin to talk with him about it?—A. No. He said, "Now, Williams, you know very well that we were told by the House not to talk anything about the case." I know

Q. Why did the judge admonish you in that way?—A. What? Q. Why did the judge advise you in that style?-A. Well, he

warned me not to talk about the case.

Q. Why? Had you begun to talk to him about it?-A. No,

Q. Why should he volunteer that warning?-A. Because he did not want to talk about the case at all.

Q. Have you talked with Judge Archbald's attorneys about the case since you were here last May?-A. Judge Archbald's attorneys?

Q. Any of them; you know them .- A. Not that I know of.

Q. Well, now, think, please .- A. What?

Q. Do you know whether you have talked to any of Judge Archbald's attorneys about this case since last May?-A. Yes; I think I did.

Q. Did you see Mr. Price?—A. No; I seen Mr. Worthington.

Q. You saw Mr. Worthington?-A. Yes, sir.

Q. Did you talk with him about this case?—A. In Scranton; yes, sir; I did.

Q. Where were you?-A. I was in the Federal building, sir.

Q. Where was the judge?-A. The judge was there, but he never said a word.

Q. Oh, the judge was present and heard you and Mr. Worthington talk about this case?—A. Yes, sir.

Q. How many times did you talk to Mr. Worthington about

the case?—A. That is the only time.
Q. How many times did Mr. Worthington go to Scranton since last April?—A. Only once I seen him; that is all.

Q. I ask you if Judge Archbald's counsel, Mr. Worthington, called your attention in the presence of the judge to any of

your testimony?—A. What?
Q. I ask you if Col. Worthington, when he was in the Federal building in the judge's office and in the judge's presence, suggested to you that you had made a mistake or asked you to change, if you had made a mistake, any testimony that you had given before the Judiciary Committee?—A. I did not make any mistake, sir. Q. You did not make any mistake?—A. No, sir.

Q. So whatever is written in your testimony before the Judiciary Committee is correct?—A. I guess so.

Q. But answer my question: Were you asked in the presence of the judge about changing your testimony or as to whether your testimony before the Judiciary Committee was correct or not?—A. What was your question? Ask me that question

again, sir.

Q. I ask you if any one of the judge's lawyers in the Federal building in Scranton in the presence of the judge asked you about the testimony you had given before the Judiciary Committee and either suggested that you had made a mistake or that you should change some part of it because you had made a mistake?-A. I do not know.

Q. Was that question discussed by any of the judge's counsel before the judge in the Federal building at Scranton?-A. I

do not know; I could not say that it was. Q. Well, tell us, then, what was discussed in the presence of the judge by his counsel with reference to your testimony?-A. I do not remember exactly what it was.

Q. How long ago has it been?—A. Quite a while ago. Q. Two or three months?—A. Yes; more than that. Q. It has been since last May, you say?-A. Yes, sir.

Q. And you can not remember what happened two or three months ago?-A. I can not remember everything

Q. Did you not think that was an unusual meeting, and, therewould you not charge your memory-A. I met Mr. Worthington on the street at the courthouse, when he was going over, and talked to him, but I do not remember of the transaction, whether we talked over it, and I do not know that I ever

changed anything in my evidence at all.

Q. Then I ask you if C . Worthington had a copy of your testimony before him when he examined you in the presence of

the judge in the Federal building in Scranton?—A. Yes, sir.

Q. He did have a copy of your testimony?—A. I remember one thing. He asked me if I ever told the judge that I was going to sell the thing. "Well," I says to the judge, "Did I tell

you, judge? I do not know whether I told you or not." "Well," he said, "don't ask the judge," he says, "but you say so."

Q. Now, maybe you can remember something else that was said?—A. What is that?

Q. Maybe you can remember something else that was said. How long were you in the judge's presence with Mr. Worthington?-A. I do not know,

Q. Half an hour?-A. I could not tell you how long I was there. I might have been there an hour, and I might have been there half an hour; I do not remember how long.
Mr. Manager WEBB. That is all, Mr. President.

The PRESIDENT pro tempore. The witness is with the counsel for the respondent.

Cross-examination by Mr. Worthington:

Q. Mr. Williams, that conversation with me which you have just mentioned occurred in the latter part of last August, did it not?-A. I do not remember when it was, Mr. Worthington; I could not say.

Q. Do you remember that I talked to you on two different

days-one day, and then the next day?-A. Yes, sir.

Q. And on the first day I asked you to bring certain papers you had referred to which you did not have with you?-A. Yes,

Q. And you came the next day and brought them. Now, are you not mistaken in saying that Judge Archbald was present the first day?—A. I do not remember; but you remember very well when I asked the judge whether I told him or not about the sale of the property, you said to me "Don't ask the judge at all." You says, "You say so."

Q. Was not that the second day when you came back with

the papers?-A. I am not sure.

Q. There were other people there, were there not, besides you and myself?-A. Yes, sir.

Q. Who were they?—A. Mr. Martin was there. Q. Mr. Martin was there?—A. Mr. Price was there.

Q. And who else?—A. I can not say. The judge was there. Q. Was not Mr. Robert W. Archbald, the judge's son there?-A. Yes. I guess he was.

Q. Was there not a stenographer there?-A. Yes, sir; a stenographer.

Q. On both occasions?-A. Yes, sir.

Q. Mr. Williams, have you had any business in the last 10 years; any regular business, I mean?-A. Have I had any business?

Q. Any 'regular business, I mean; any regular vocation?-A. Yes, sir.

Q. What is it?-A. Coal.

Q. Coal generally and not specifically?-A. Nothing else.

Q. Have you been known as Option Williams on account of your custom of dealing in options?-A. Boland is the author of that, you know.

Q. He gave you that title, did he?-A. Oh, yes.

Q. You have never repudiated it, have you?-A. No. I could

get options when they could not touch them, sir.

Q. As to your relations with Judge Archbald prior to the time that you took to Capt. May this letter from Judge Archbald, did you ever have any business transactions of any kind with Judge Archbald?—A. No; I did not.

Q. That was the first business relation?-A. The first busi-

ness: ves. sir.

Q. As to your other relations, had you up to that time ever

been in his house?—A. No, sir.

Q. Have you ever been to his house since that time?—A.

Q. Has he ever been in your house?-A. No, sir.

Q. Have you during the last few years had any office anywhere?-A. Not an office.

Q. You live, I believe, about 6 miles from Scranton?-A. I used to, but I live at Dunmore now.

Q. How far is that from Scranton?-A. That is about 2 miles away from the city.

Q. How long have you lived there?-A. I have been there now about three years; since my wife died.

Q. And before that, how many miles from Scranton did you live?—A. Six miles.

Q. You were in Scranton nearly every day, except-A. (In-

terrupting.) I lived there 42 years.

Q. While you lived in these places you were in Scranton nearly every day, were you not?—A. Every day.

Q. Every day, except Sundays?—A. Every day, except Sundays?—A.

days; yes, sir.

Q. Where did you stay; where were your headquarters, if you had no office ?-A. Any office where I had any business, sir.

Q. Did you have no particular place where you went regularly when you had no special object in view?-A. I was dealing with the Bolands, and they owe me money to-day, and I always went there to try to get some of that money, sir, [Laughter in the galleries.]

The PRESIDENT pro tempore. Counsel will suspend. The Chair desires to say to the occupants of the galleries that absolute silence must be preserved, and if necessary measures will be taken to accomplish that end. Occupants of the galleries

must not audibly interrupt the proceedings in this Chamber.
Q. (By Mr. WORTHINGTON.) Is it not a fact that you spent your time, when you were not doing business anywhere else, in the office of W. P. Boland?—A. I spent a good deal of my time there.

Q. You spent more time at the office of W. P. Boland during the last few years than you did anywhere else, by a great deal,

did you not?—A. Yes; I did.
Q. What office is that? Is it the office of William P. Boland or the office of the Marian Coal Co., or what?-A. Office of the Marian Coal Co.; yes. Q. Did Mr. Christopher G. Boland, a brother of Mr. W. P.

Boland, have an office there, too?—A. Right next to it.
Q. So you have been in the habit of seeing both of them prac-

tically every day for years, except Sunday?—A. Yes, sir. Q. You first gave testimony in this matter, I think, Mr. Williams, before Mr. Wrisley Brown, in Scranton, in March last?-A. I did, on a Sunday morning, sir-what I would never do again on Sunday.

Q. I am glad to know you have reformed. Who was present when Mr. Brown took your testimony?-A. William P. Boland

and Wrisley Brown.

William P. Boland was there all the time, was he not?-A. William P. Boland was the man who asked all the questions.

Q. I was going to ask you whether he did not conduct the examination largely?—A. Yes; he conducted the inquiry. Q. And the next time you testified about this matter was in

the office of the Attorney General, was it not?-A. Yes-no-Q. On the 12th of February last?-A. Yes. Oh, no; that was before.

Q. The first time was in the Attorney General's office .- A. Yes, sir.

Q. Who was present when you were examined there?-A. There was nobody there but a stenographer and Wrisley Brown and William P. Boland.

Q. Are you not mistaken in saying that Wrisley Brown was in the Attorney General's office when you were examined? was not there when you were examined?-A. No, sir: he was

not there.

Q. Mr. William P. Boland was there.—A. Yes, sir. Q. Was not Mr. Christopher G. Boland there?—A. Yes, sir. Q. And Mr. Cochran, of the Interstate Commerce Commission?-A. Yes, sir.

O. And William P. Boland there suggested questions to you, did he not?-A. He did.

Q. And the next time you were examined was before the Judiciary Committee, several months ago, I believe?—A. Yes,

Q. Do you remember that when your examination took place there Mr. William P. Boland came and took his seat at the witness table right at your side and stayed there some time, until a member of the committee suggested that was the witness table and then he went back?-A. Yes, sir.

Q. I understand you to say, Mr. Williams, when this letter of March 31 from Judge Archbald to Capt. May was shown to you, that that was not the letter you took to Capt. May. Where were you when Judge Archbald gave you the letter to Capt. -A. In his office in the Federal building.

Q. Did he dictate it to a stenographer?-A. I do not know. Q. Did he not go out and have the letter prepared?sir; I never saw the letter, because I never opened the letter.

Q. Exactly-A. I could not swear to the letter to-day, because I took it as it was.

Q. Did Capt. May show you the letter?-A. No, sir.

Q. You never saw it?-A. No, sir.

Q. Then, how do you know what was in it?-A. I did not

Q. You said yesterday that it simply recommended you as a person—A. That is all I expected it to do.
Q. Then, how do you know that this is not the letter?—A. Well, I do not know whether it is the letter. I could not swear

to that letter.

Q. Did you take a letter about the Katydid dump from Judge Archbald to Capt. May more than once ?- A. Only once.

Q. You took only one letter?—A. Only one letter.

Q. Then, if you took this letter of March 31 this must be it .-A. Well, I do not know; I guess so.

Q. How did you happen to ask Judge Archbald to give you a letter to Capt. May?—A. If I can remember aright, it was William P. Boland that told me to ask Judge Archbald for a letter.

Q. Well, is not that the truth?—A. What?

Q. Is that not the truth about it?—A. That is the truth

about it.

Q. Before that had you not had some negotiations with William P. Boland about this Katydid dump?—A. I did. He had told me about it before that; but he could not touch it with a 10-foot pole.

Q. Did you not sign a writing giving him an interest in it? I did, but when I went there to Mr. Robertson, he told me: "If you have anything to do with William P. Boland, you can

Q. I am coming to that --- A. (Interrupting.) I had to deny

him any interest at all.

did sign a paper.

Q. Let me finish my question-A. And then I cut him out. Q. If you will let me finish my question, Mr. Williams, we

will get along a little faster.—A. All right.
Q. Did you not sign a paper giving William P. Boland an interest in this projected Katydid dump transaction?—A. I did.

Q. One moment. [Continuing.] Before you went to Judge Archbald about the matter at all?—A. He would not tell me what dump it was until I would sign it, and when I signed it I went over to Robertson, and Robertson told me, "If you have anything to do with William P. Boland, I will not have anything to do with you at all."

Q. I want to talk about what happened before you went to

Capt. May with this letter?-A. Yes, sir.

Q. Had you not signed an agreement giving William P. Boland an interest in the proposed venture before you saw Judge Archbald and got the letter to Capt. May?—A. Yes, sir; but I cut him out.

Q. One moment. And after you had signed that paper, then he suggested that you go to Judge Archbald and get a letter to Capt. May, did he not?—A. What is that?

Q. After you had signed this paper giving Mr. William P. Boland an interest in the transaction, at William P. Boland's suggestion you went to Judge Archbald and got the letter to Capt. May?—A. That is right; yes.

Q. That is right, is it not?—A. Yes, sir.

Q. After you had failed to get the option agreement from Capt. May did not William P. Boland suggest to you to go to Judge Archbald and get him to go to the Erie officials over Capt. May's head?-A. No; he recommended me, or he tried to induce me, to go to Judge Archbald and get a letter from him, Q. To whom?—A. To the Erie.
Q. To the Erie officials?—A. To Capt. May.

Q. I understand that, but after you had been to Capt. May and had not got the option, did not William P. Boland, when you reported that fact to him, ask you to go to the judge again and ask him to go see the Erie officials over Capt. May's head?—

A. No.

Q. You say that did not happen?—A. No; he did not say that.
Q. You are quite clear he did not say that in William P.
Boland's office?—A. No; he did not. I do not want to blame any man for what is not right. He did not tell me that.

Q. We have here the Robertson option, so-called, which has been put in evidence and proved that it is in the handwriting of Judge Archbald, and the signature admitted to be that of Robertson.—A. Yes, sir.

Q. And your signature at the foot of it?-A. I guess it is. Q. You will see that has an acknowledgment to it [exhibiting paper to witness]. The paper itself is dated September 4, 1911, and the acknowledgment is dated September 12, 1911. It is recorded in the proper land office up there on the 13th of September, 1911. Do you know how that happened to be acknowledged and recorded?-A. Yes; I remember about it.

Q. You remember about that. Well, tell the Senate about it, please. Just tell us about it-how it came to be recorded .- A. It was William P. Boland who went and took it and put it on record.

Q. Did Judge Archbald or Mr. Robertson state anything about

having it recorded?—A. No.
Q. Had you?—A. It was him that took it.
Q. William P. Boland?—A. William P. Boland.
Q. Had you said anything about having it recorded before that?—A. I had not.

Q. Now, about the dealings with Mr. Conn. Do you know how it happened that Judge Archbald got into communication with I it because the lawyer would not recommend it.

Mr. Conn as a purchaser for his little railroad up there for this coal dump?

The Witness, How he got into communication? Mr. WORTHINGTON. Yes; who suggested it to him? A. I did not suggest it to him.

Q. Did not William P. Boland tell you that Conn was a probable purchaser, and to go and see Judge Archbald and to get Q. Then you got this letter on the 30th of September, which is in evidence here, and took it to Conn?—A. Yes, sir.

Q. Did you not first go to Boland's office with it? The WITNESS. With what?

Mr. WORTHINGTON. That letter to Conn. Did you not receive that letter from Judge Archbald to take it to Conn, and instead of taking it to Conn did you not take it to the office of William P. Boland and show it to him?—A. I do not think I ever took the letter from Judge Archbald to Conn. I think it was sent some other way; not by me.

Q. I will ask whether before the Judiciary Committee, referring to page 507 of the testimony before that committee-

I do not remember that I took it there.

Q. Referring to the top of page 507, I will ask you whether this happened with respect to this very letter:

A member of the Judiciary Committee-

We have a photographed letter here that has just been shown you—
a letter of introduction to Mr. Conn.
Mr. WILLIAMS. Yes, sir.
Mr. CARLIN. Did you show that letter to anybody?
Mr. WILLIAMS. The contract with Conn, you mean?
Mr. CARLIN. I mean the letter introducing you to Mr. Conn, recommending you to Mr. Conn.
Mr. WILLIAMS. Did I show it?
Mr. CARLIN. Yes.
Mr. WILLIAMS. I do not remember whether I did or not.

Mr. Williams, if there was a photographic copy of that letter to Mr. Conn made, can you explain how it was made? Did you make it?

A. No, sir; I could not explain.

Q. You thought the title to this dump was all right, you said?

The WITNESS. What is that?

Q. You said you thought the title to the dump was all right?—A. It is all right to-day. It is just as much all right to-day as it ever will be.

Q. Mr. Conn's lawyers did not agree with you?—A. No, sir. Q. They are Messrs. Wells & Torrey, an eminent law firm in Scranton, is it not?—A. Yes. It is not Torrey, but it is Wells.

Q. Wells, the senior member of the firm. After you came down here and appeared before the Attorney General in February last, there was another effort made to get Conn to take the property—the dump?—A. That was by myself. That was the last.

Q. That is the letter of March 13, Exhibit 4 in this case?—A. Yes, sir.

Q. That [exhibiting] is the letter you refer to, is it not?-A. I do not know.

Q. Look at it, please. I should like you to be sure .- A.

(Examining paper.) Yes.
Q. That is right? That letter was prepared in the office of Mr. Boland?—A. Yes, sir.

Q. And Mr. Boland helped to put the words in it-dictated them?-A. Yes, sir; he did.

Q. He dictated it to the stenographer, his niece, Miss Boland?-A. Yes, sir.

Q. Then you signed it?-A. I took it over myself. Q. Mr. Boland told you to hurry?-A. Yes, sir.

Q. Did he tell you why he wanted to have you hurry?-A. Because this suit was coming on-

Q. And he wanted to get the sale through before the storm came. He used that language or that in substance?-A. He did.

Q. You helped him to do that without telling Judge Archbald

what was going on?—A. No, sir; I did not tell Judge Archbald. Q. By the way, this letter of March 13 seems to have had a part of it cut off. Can you tell me whether you saw that done?-A. Oh, they always did that.

Q. Who always does it?-A. Mary, the stenographer.

Q. Did you see her cut the top off of this?-A. I did not notice it; no, sir.

Q. Did you not say before the Judiciary Committee that you did see her cut it off?-A. I have seen her cut it off at different

Q. You took that letter to Mr. Conn, and Mr. Conn still refused to buy because he did not think, or because his lawyer did not think, the title was good?—A. He could not recommend Q. Exactly. Then right away Mr. Boland helped you get up the sale to Mr. Bradley for \$20,000?—A. I had done that myself before Mr. Boland ever-

Q. You say it was done before Mr. Conn refused to take it the last time?-A. Yes, sir. I could have sold, but I would rather sell it to Mr. Conn, because there was more money in it, than to sell it to Bradley.

Q. Was not the arrangement to sell to Bradley made in Wil-

liam P. Boland's office?—A. No, sir.
Q. You say it was not?—A. No, no. I had agreed with Mr. Bradley myself, outside of anybody else in the world, to sell it to him for \$20,000.

Q. Did not Mr. Boland urge you to hurry up this Bradley

sale?-A. Yes; he did. That is true enough.

Q. And so you went on hurrying up a sale—that is, trying to get Conn to buy-and when he would not, to get Bradley to buy it, and arranging a sale to Bradley without saying a word to Judge Archbald?—A. Yes, sir; but I did not mean to cheat Judge Archbald.

Mr. WORTHINGTON. I do not mean to intimate that.

A. No, sir. I am not doing that kind of work.

Q. Another thing, to make certain of this March 31 letter. The first time you saw Capt. May about this Katydid dump business was when you took that letter from Judge Archbald. You had not had any talk with Capt. May about the Katydid dump until you went to him with that letter from Judge Arch--A. I do not think I had any talk with him at all.

Q. What arrangement did you have with Judge Archbald about what his interest in this dump should be and what your interest should be when you went to Capt. May with that letter on the 31st of March?-A. I never had any particular arrange-

ment with Judge Archbald.

Q. You went and asked him for this letter and got it?-

A. Yes, sir.

Q. And after the letter you entered into the negotiations without saying a word to Judge Archbald as to whether he was to have an interest or not?-A. I said he was to have an interest. I did not say how much or what he was to get.

Q. You never had any writing with him on the subject?—
A. No, sir; only my word of mouth. That is all he had.
Q. Very well. Did Judge Archbald ever at any time tell you that his name was to be concealed or kept out of the Katydid transaction?—A. He never told me.

Q. Did he ever intimate or suggest such a thing to you?-

A. No, sir.

Q. Did you ever tell him that it was contemplated to keep his name out?—A. No, sir.

Q. Or to execute any paper and refer to him as a silent party?—A. No, sir. I considered that he knew more about that

- than I did, and for that reason I would leave that to him.

 Q. I want to come down to what you were saying a few moments ago. You say when you went to Robertson he told you that William P. Boland must not have anything to do with it?—A. Nothing to do with it at all.

 Q. Or the sale would not go through?—Λ. Yes, sir.

Q. Or he would not sell his interest?-A. Yes, sir.

Q. Did he tell you why?—A. No, sir.
Q. He gave no reason?—A. He gave no reason; no, sir.
Q. Did he tell you that before he would sign the agreement with Judge Archbald agreeing to sell his interest for \$3,500the paper which I have just shown you, which Boland had re-

corded——A. I do not understand your question.

Q. No doubt it is my fault. I refer to this paper [exhibiting], Exhibit No. 2 in this case—the Robertson agreement—which is in Judge Archbald's handwriting. You say that you and Robertson signed it, and then you say it was recorded a few days afterward by Boland?—A. Yes, sir.

Q. I want to know whether Robertson told you, before that

paper was signed, that William P. Boland must have no interest

in the property?—A. Yes, sir; particularly.

Q. That is dated the 4th of September. I want to ask you if that is so, why it was that on the next day, the 5th of September, you signed a paper assigning two-thirds interest in this transaction to William P. Boland?-A. I never did.

Q. You never did?-A. No, sir.

Q. This paper which we have referred to in these proceedings as the "silent-party" paper was dated the 5th of September, and says:

For services rendered or to be rendered in the future by William P. Boland and silent party, whose name for the present is only known to Edward J. Williams, W. P. Boland, John M. Robertson, and Capt. W. A. May, superintendent of the Hillside Coal & Iron Co., it is agreed by said Edward J. Williams, who is the owner of two options covering a culm bank known as the Katydid, situate in the vicinity of Moosic, Pa., that he hereby assigns two-thirds of any profits arising from the sale of the above-mentioned property over and above the amounts to be

paid John M. Robertson and the Hillside Coal & Iron Co., \$3,500 and \$4,500, respectively, to be divided equally between William P. Boland and silent party mentioned above.

A. I never did, sir.

Q. After Robertson had told you that William P. Boland must not have anything to do with the matter, did you tell him?-A. I told him, and he says to me, "Well, I quit; I am out."
Q. Was that before or after the Robertson paper was

signed?-A. It was right after Robertson told me.

Q. Right afterwards?—A. Right after Robertson said it. He says, "All right, I am out; I quit." Why should I sign anything to him? I never signed it.
Q. About this "silent-party" paper; did you receive any

copy of it?—A. No, sir.
Q. This appears to have come from the possession of the managers.—A. I got two copies here, but they were never signed.

Q. Did you not swear before the Judiciary Committee that you never received any copy of the paper?-A. There are two copies. There is another one here, but I never signed any of

Q. Did you not swear before the Judiciary Committee-Did he not swear that there were three copies? Is it not in the

book there that three copies were signed?

Q. We will find that in a moment. When you were testifying before the Judiciary Committee where were these copies?-A. They were in my pocket then, and I did not know they were in my pocket when I was here before.

Q. You did not know how they got there?-A. When I went to look at my pocket when I got home I found those copies.

Q. In your pocket?-A. Yes, sir.

Q. When I talked with you the first day, last August-A.

showed you it, did not I?

Q. You said you had such papers, but they were at your home, did you not?—A. No; they were right in this pocket

Q. Did you not tell me that they were at your house; and did I not ask you to bring them down the next day?—A. No; they were in the same pocket. It may not be the same coat, all right.

Mr. WORTHINGTON. Mr. Managers, I propose to add these exhibits to the contribution which you have made. [After a pause.] The managers have no objection to these papers going into the evidence. I will not undertake to read them, because the wording is the same as in the original paper itself. They have a line for the signature and the word "seal" in typewriting after that line.

The PRESIDENT pro tempore. Does the counsel propose

to introduce them now or prove them?

Mr. WORTHINGTON. I would like to introduce them now, know sometimes it is said that exhibits for the defense or the respondent should be put in when the time comes to put in evidence. I find always that it is very much more convenient for the court and everybody else to put them in as we go along.

Mr. Manager CLAYTON. I hope they will be printed in the

RECORD right at this point.

The PRESIDENT pro tempore. There is no objection, the Chair understands.

Mr. WORTHINGTON. All right. Then I offer them, and they are in evidence.

The matter referred to is as follows:

[U. S. S. Exhibit A.]

Assignment made this 5th day of September, A. D. 1911, by Edward J. Williams, of the borough of Dunmore, County of Lackawanna and State of Pennsylvania, party of the first part, to William P. Boland and a silent party, both of the city of Scranton, county and State above mentioned, parties of the second part. For services rendered or to be rendered in the future by William P. Boland and silent party, whose name for the present is only known to Edward J. Williams, W. P. Boland, John M. Robertson, and Captain W. A. May, Sup't, of the Hillside Coal & Iron Company, it is agreed by said Edward J. Williams who is the owner of two options covering a Culm Bank known as the "Katydid," situate in the vicinity of Moosic, Pa., that he hereby assigns two-thirds of any profits arising from the sale of the above-mentioned property over and above the amounts to be paid John M. Robertson and the Hillside Coal & Iron Company, \$3,500 and \$4,500 respectively, to be divided equally between William P. Boland and silent party mentioned above, their heirs, successors or assigns, and this shall be their voucher for same. their voucher for same.

[U. S. S. Exhibit B.]

[U. S. S. Exhibit B.]

Assignment made this 5th day of September, A. D. 1911, by Edward J. Williams, of the borough of Dunmore, County of Lackawanna and State of Pennsylvania, party of the first part, to William P. Boland and a silent party, both of the city of Scranton, county and State above mentioned, parties of the second part. For services rendered or to be rendered in the future by William P. Boland and silent party, whose name for the present is only known to Edward J. Williams, W. P. Boland, John M. Robertson, and Capt. W. A. May, Sup't., of the Hillside Coal & Iron Company, it is agreed by said Edward J. Williams who is the owner of two options covering a Culm Bank known as the "Katydid," situate in the vicinity of Moosic, Pa., that he hereby assigns two-thirds of any profits arising from the sale of the above-

mentioned property over and above the amounts to be paid John M. Robertson and the Hillside Coal & Iron Company, \$3,500 and \$4,500 respectively, to be divided equally between William P. Boland and silent party mentioned above, their heirs, successors or assigns, and this shall be their voucher for same.

Q. (By Mr. WORTHINGTON.) Did you ever get any authority from Judge Archbald to sell any part of his interest in the Katydid dump-any part of the contract-to anyone else?-A. No, sir.

Q. Did you ever tell him that you had assigned an interest

to William P. Boland?-A. No, sir.

Q. I should like to know, Mr. Williams, in your own way, what is the truth about whether you did or did not say anything to Judge Archbald about this "silent-party" paper?— A. I do not know nothing about it.

Q. Did you not swear before the Judiciary Committee several times that you never executed that paper and did not know anything about it?-A. I did not know anything about it, and

I do not know anything about it to-day, sir.

- Q. Did you not several times swear, as you have sworn here, that you put Judge Archbald in that paper as a silent party because you did not think it was lawful for him to be in the transaction?-A. I did not. I always said I did not know anything about that paper. The signature was wrote across the typewriting on the paper, and I never signed that. I never did
- Q. Do you say now that, as a matter of fact, you never told Judge Archbald that you had referred to him as a silent party or never told him such a thing was contemplated?-A. No, sir.

Q. Do you mean that you did not tell him any such thing?-

A. You can ask him now, if you want to.

Q. But for the present I have to confine my questions to you, Mr. Williams. Did you ever tell him?—A. No, sir. Q. Or intimate to him——A. No, sir; I did not.

- Q. That such a thing was done or contemplated?-A. I did
- Q. Or did he ever intimate or suggest to you that he desired his connection in that matter to be concealed from anybody?-A. No, sir; he did not.
- Q. At one time I believe it was supposed that the contract with Conn was going to be executed, was it not?—A. Yes; I thought it was going through all right.

Q. Did not Judge Archbald prepare a contract and submit it to Mr. Conn?—A. Yes, sir; he did.

- Q. Did you see that contract?—A. Yes, sir; I did see it.
 Q. Did you read it?—A. No; I did not read it. I seen it.
 Q. Did you look at it at all so as to see whether Judge Arch-
- bald's name was mentioned in it?-A. Judge Archbald's name was in it.

Q. How do you know?—A. He read it to me.
Q. He read it to you?—A. Yes, sir.
Q. You can not identify the paper, then?—A. No, sir.

Q. Now, Mr. Williams, about another matter. You took this letter from Judge Archbald to Capt. May and did not get any You took this agreement from Capt. May about the option?—A. No, sir.
Q. How soon did you go back to Judge Archbald and report

that result?—A. I could not say.
Q. Was it the same day?—A. Whether I went in two days or the next day, or when, I do not remember.

Q. Where was this letter delivered to you?-A. It was two

Q. This letter was given to you in the Federal building to be taken to Capt. May?-A. Yes, sir.

Q. Where was Capt. May when you delivered it to him?-A. In the office of the Erie Co.

Q. How far away was that from Judge Archbald's office in the Federal building?—A. About 2 miles away.

Q. Had you not said several times that you right away went to Judge Archbald and told him about what Capt. May had said?-A. Now, I could not say. I guess I did go as soon as possible.

- Q. From a distance of 2 miles?—A. Yes, sir. Q. When you got back to Judge Archbald's office you saw on his desk this trial list, you say, on which was the word "lighterage." Is that right?—A. Yes, sir.
- Q. And you picked up that paper and asked Judge Archbald what lighterage meant?-A. Yes, sir; I did.
- Q. Was that the way that came about?-A. That is a fact, sir. Q. Have you ever seen that paper since?-A. I never seen it since; no, sir.
- Q. Was this trial list one on which there were a number of -A. Oh, lots of cases.
- Q. The cases numbered?—A. Oh, there was lots of cases. looked through it, all over the list.

Q. In what court was it?-A. I do not know. I could not say what court it was.

Q. You do not know whether it was a trial list of the Commerce Court or Interstate Commerce Commission-A. I could not say. I could not swear to that.

Q. Or the district court of the United States for the middle

district of Pennsylvania?-A. I could not say.

Q. You can not say?-A. No, sir. If I would swear I could not swear what court it was.

Q. In order to be clear about this I will ask you whether, when you were giving your deposition to Mr. Wrisley Brown in Scranton, page 228, you did not say that after delivering that letter to Capt. May you "went to the judge right away"? "Yes; I went to the judge right away."—A. Well, that might be: I do not remember.

Q. You do not remember whether you said that or not?-A.

No; I do not remember. That is pretty near two years ago. Q. But you were testifying very shortly after the occurrence.

It was only in April.—A. I do not remember.
Q. It was the year afterwards. I do not want to misrepresent it.—A. You know this, Mr. Worthington, that when that testimony was taken it was in a hurry on a Sunday morning, and they would run over it in a hurry, there were so many questions asked. I was there about four or five hours.

Q. Then I will ask you whether, when testifying before the Judiciary Committee, page 511, you did not say this in referof the committee, "Was it the next day after you had seen May that you went back to the judge," your answer was, "Yes, sir"; do you remember that?—A. I do not.

Q. Can you be clear about this matter at all, Mr. Williams? After you had taken this letter to him and he did not give you an agreement or agree to sell, did you go to sleep on it and do nothing or were you active about it?-A. I went to see the

judge that day or the next day. Q. Then you saw this trial list with the lighterage case on

-A. Yes, sir; that is the time.

Q. Then you had the conversation with the judge which you have narrated as well as you remember about what that case was?—A. Yes, sir.

Q. He explained to you the matter?—A. I did not know in the world what lighterage meant, and I asked him the question.

- Q. To make sure what the case was, tell us again what the judge said the lighterage business was.-A. He said it was those little tugboats that carried railroad cars across the river there.
- Q. To get some idea as to how correct you are about dates, I should like to ask you what is your recollection as to how long it was after you first went to Capt. May about this business until he gave you the option, as it is called here?—A. I could not say whether it was a week or a month. I could not say, I could not be sure.

sir. I could not be sure.

Q. You think it was somewhere in the neighborhood of a week or a month?—A. Yes, sir.

Q. If, as a matter of fact, the first letter to Capt. May was March 31 and the option was August 30, how do you account for being so far out on your dates?—A. I could not remember how long it was.

Q. I will ask you, Mr. Williams, whether, as a matter of fact, this talk with Judge Archbald about the lighterage case was not long after he had been to see Mr. Brownell and after Capt. May had given the option?-A. No; I think that was before he went to see Brownell, if I remember.

Q. I will ask you whether or not on the 28th day of September, 1911, in the office of William P. Boland, you did not say, in substance, that you were "going to the judge's office to look at a brief which the judge was preparing for the Erie

Railroad Co."?—A. No, sir.
Q. Nothing of that kind happened?—A. No, sir; I did not see about a brief. I do not know what a brief is. I do not know the difference between a brief and something else.

Q. No such conversation occurred, then?—A. No, sir.

Q. I will ask you whether you did not call later in the day to see William P. Boland, and tell Miss Mary F. Boland, or somebody in her presence, that you had seen the brief "and it was about a case against the Erie Railroad Co. for a lighterage charge"?—A. No, sir; I never told him.

Q. Nothing of that kind happened?—A. No, sir.

Q. Away down in Sentamban of the tile with the control of the contr

Q. Away down in September, after the option had been given by Capt. May?—A. No. sir; nothing of the kind at all.

Mr. WORTHINGTON. Mr. President, we would be very glad if the Senate would take a recess for about 10 minutes in order that I may confer with my associates about some other matters. I think we will save time by it,

The PRESIDENT pro tempore. If there be no objection, it will be so ordered. The court will stand in recess for 10 minutes, until 5 minutes before 4 o'clock, it being now 15 minutes

The Senate sitting as a Court of Impeachment thereupon took a recess for 10 minutes and reassembled at 3 o'clock and 55

Mr. GALLINGER. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from New Hampshire suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	Martin, Va.	Root
Bacon	Curtis	Martine, N. J.	Shively
Bailey	Foster	Massey	Smith. Ariz.
Borah	Gallinger	Myers	Smith, Ga.
Brandegee	Gardner	Nelson	Smith, Md.
Bristow	Gore	Newlands	Smith, S. C.
Brown	Hitchcock	Oliver	Smoot
Bryan	Johnston, Ala.	Overman	Sutherland
Burnham	Kenyon	Page	Thornton
Burton	La Follette	Perkins	Townsend
Clapp	Lea	Perky	Warren
Clark, Wyo.	Lodge	Pomerene	Works
Culberson	McLean	Richardson	11.00000

The PRESIDENT pro tempore. On the call of the roll of the Senate 51 Senators have responded to their names, and a quorum of the Senate is present.

CROSS-EXAMINATION OF E. J. WILLIAMS-CONTINUED.

Q. (By Mr. WORTHINGTON.) Mr. Williams, you said yesterday that you had good reason to know that the Bolands owned a large amount of the stock of the Marian Coal Co. What did you mean by that?-A. How is that?

Q. You said yesterday that you had good reason to know that the Bolands own most of the stock of the Marian Coal -A. Yes, sir.

Q. What did you mean by that?—A. Because I had to sell out to them, sir. I was squeezed out of it, sir.

Q. You said something about their owing you money.—A. They owe me \$1,300 and \$1,100.

Mr. Manager WEBB. We think the question and answer are immaterial. Whether the Bolands owe him money or whether he owes the Bolands money we do not think has anything to do

with the conduct of Judge Archbald.

Mr. WORTHINGTON. I think that what has been brought out, Mr. President, sufficiently shows that the relations between this witness and the Bolands are quite important.

The PRESIDENT pro tempore. The counsel will propound the question.

Q. (By Mr. WORTHINGTON.) The question is whether the Bolands are indebted to you, and, if so, why—I mean William P. Boland and Christopher G. Boland, or either of them?—A.

Christopher G. Boland owes me money.
Q. Can you tell us briefly what is that about?—A. Why, that is part payment. They paid a part of the agreement that they had to sell out.

O. To sell out what?-A. The Marian coal lease-the culm lesse.

Q. Does Christopher G. Boland recognize that indebtedness to you or does he dispute it?-A. Yes; he does, of course.

Q. He does?—A. Yes, sir. Q. Why does he not pay you?—A. Well, because they claim it was to be paid out of the dividends, but they claim that there was no dividends yet until they get this money. Now, if they will ever get it from the D. L. & W. for overcharges, for reduction of rates

Q. Well, what has that got to do with your going to them with this \$500 note? I think you gave that as a reason why you went to them .- A. Oh, that has nothing to do with my going to them about that \$500 note.

-I thought you said something to that effect yesterday?-

A. Oh, no; I was always friendly with them.

Q. Well, they owe you money and they recognize that they owe you money?—A. Yes, sir.

Q. And you expect to get it from them in the future?-A. Yes,

Q. Have they said anything as to when you may expect to get that money?—A. How is that?

Q. Have they said anything to you as to when you may expect to get that money?—A. As soon as they get money out of it, and if they get this \$50,000 from the D. L. & W., why that is money, is it not, and they are able to pay me then.

Q. Well, I do not care anything more about that. Mr. Williams, did you suggest to Judge Archbald in reference to the papers, or some of the papers connected with this Katydid

transaction, that he should have one of his sons sign the papers and not sign them himself; and did he not say that he proposed to sign the papers himself and not have his son sign them?-A. No; he did not.

Q. Nothing of that kind happened?—A. No, sir.
Q. I want to ask you whether, on or about January 16, 1912, in the office of Mr. W. P. Boland, in Scranton, Pa., you said, in substance, that Mr. Archbald told you it would be better for him to sign the papers in this deal, that you agreed with him, but that you later told the judge that it would be better for his son to sign the papers, and you said the judge intended singing them, and you could not prevent his doing it?—A.

Q. Nothing of that kind was said by you?-A. I never told

the judge that, or the judge never told me that.

Q. Now, about this visit you made to the judge just before you came down to testify before the Judiciary Committee. subpœna was served upon you, I understand. On what day of the week was it served?—A. I don't remember.

Q. You were required to appear on what day of the week;

do you remember?-A. I don't remember.

Q. Anyhow, you went to the judge and told him you had been subpensed and had not the money to pay your fare, did you not?-A. I did.

Q. You went to his office in the Federal Building?-A. I told him so.

Q. And you asked him to lend you the money so that you could come down here?-A. Yes.

Q. You told him you were going to testify or had been sub-pænaed before the Judiciary Committee in his matter, did you not?-A. Yes, sir.

Q. Did he not say that he would not give you any money, but that he was going on the train somewhere the next day, and that if you would meet him at the station at that time he would give you a ticket to Washington?-A. That is all; yes, sir.

Q. And you did meet him there?-A. I did meet him at the

Delaware, Lackawanna and Western depot, sir.
Q. And he went around to the window and bought that ticket and handed it to you right there?—A. He did.

Q. In the presence of a number of people who were in the

room?-A. All that was around there at the time.

Q. And you say that he told you to come down here and tell the truth?-A. He told me to tell the truth and never mind the consequences. He said, "Tell the truth."

Q. You said twice, as I understood you, that this Bradley deal was stopped because this investigation was coming on, or this lawsuit, you said once. You mean the investigation which has resulted in this trial, do you not?—A. Yes, sir.

Q. Now, what do you know about that? I want to know whether you have personal knowledge about that or whether you are giving what you have heard rumored on the street or somewhere else. What do you know about why Capt. May recalled the contract which he had submitted to Mr. Bradley?— A. What do I know? I know that I asked the deed back from Bradley that he had had sent to him to see whether he would accept the deed under the conditions.

Q. I understand you. The contract was sent by Capt. May to Mr. Bradley to see if it was satisfactory to him?—A. Yes, sir.

Q. And the next day, or very soon, Capt. May recalled the contract and said it could not be executed. That is so ?- A.

Q. But you say that that was done because this investigation was coming on. I want to know what the source of your information on that subject is .- A. That is all I got.

Q. Who told you that? Who told you that Capt. May re-

Q. Who?—A. Mr. Bradley told me.
Q. Who?—A. Mr. Bradley told me.
Q. Mr. Bradley told you?—A. Mr. Bradley.
Q. He told you that Capt. May had recalled the deed?—A. Yes, sir.

Q. Did Mr. Bradley undertake to tell you why he recalled -A. No; he did not. it?-Q. Did he tell you?-A. That Capt. May wanted it back.

Q. Did he not tell you that Capt. May had told him that there had been letters written making claims against the mine on behalf of the Everhart heirs, and that his counsel had advised him that under the circumstances it would not do to go on with the contract?-A. I guess he did; yes, sir.

Q. Where did you get this idea into your head that it was because of this investigation that Capt. May recalled the contract?-A. Well, I got that from other sources; not from Capt.

Q. You did not get it from Capt. May or from Mr. Bradley?—A. No, sir.

Q. Now, is it not a fact that the day you went to Judge Archbald's office in the Federal building, just before you came down here to testify before the Judiciary Committee, that \$500 Jones note had to be renewed?-A. I do not know.

If that was so, you have forgotten it, have you?-A. Yes, sir. Q. But did you not go there to meet Jones and the judge for

that purpose?-A. I do not remember. Q. You do not remember?-A. No, sir.

Q. About this letter to Mr. Darling that is in evidence. You took that letter to Mr. Darling, and he told you that that dump had been sold or leased or something of that kind?-A. The dump had been leased to Peale, Peacock & Kerr.

Q. That was the end of it?-A. Yes, sir.

Q. You took the judge's letter to him?-A. That settled that deal.

Q. Very well. I should like to know how you came to go to Mr. Darling. Who suggested to you to go to Judge Archbald and get a letter to Mr. Darling?—A. It was William P. Boland who told me about it, but he did not know that Peale had leased it already.

Who was it suggested to you to take Mr. Dainty to Judge Archbald and to try to get Judge Archbald to help him about the selling of the outstanding Everhart interest to the Lehigh Valley?-A. I do not think anybody suggested that to me.

Q. Did not William P. Boland suggest it?-A. No; I could

not say that.

Q. You could not say that?—A. No, sir. Mr. WORTHINGTON. That is all, Mr. President.

Redirect examination by Mr. Manager WEBB:

Q. Mr. Williams, did you tell Mr. Worthington a few minutes ago that in the examination before Wrisley Brown, in Scranton, William P. Boland asked most of the questions?-A. Yes, sir.

Q. You say that now?—A. I say that now; yes, sir. Mr. Manager WEBB. Mr. President, at this point we offer the deposition of E. J. Williams, taken on the 23d day of March, 1912, in Scranton, with reference to this matter.

Q. (By Mr. Manager WEBB.) Mr. Williams, did you sign this statement?—A. Oh, I might have signed it, but I did not know what was in it; it was not read to me at that time.

Q. Answer the first question. Did you sign it?—A. I signed it; yes, sir; but I did not know what was in it altogether.

Mr. WORTHINGTON. Mr. President, if that paper is offered solely for the purpose of showing what proportion of questions were propounded to Mr. Williams by Mr. Boland, and how were propounded by Mr. Brown, we have no objection. many were propounded by Mr. Brown, we have no objection; but if it is offered in evidence to make what this witness said there in that ex parte investigation evidence against Judge Archbald we do object to it.

Q. (By Mr. Manager WEBB.) Mr. Williams, I ask you again if this statement was not read over to you by Mr. Brown, who asked you if you wanted to make any change in your testi-We were in such a hurry, sir, to get out from A. No. there after being there four or five hours. I wanted to get some time to get dinner. It was about, I think, 2 o'clock, and I got

there in the morning.

Mr. Manager WEBB. Mr. President, we think it is competent to show that these questions were all asked by Mr. Wrisley Brown and the responses thereto were corroborative of what he has sworn with reference to this matter here to-day.

The WITNESS. Mr. Wrisley Brown would not know how to ask these questions altogether without the help of William

Mr. WORTHINGTON. Mr. President, it seems to me that it would be very unfortunate if we should have to try to get into this case what might be considered evidence against Judge Archbald of what this witness happened to say in an ex parte investigation in Scranton. The questions are all there; it is stated who asked them; and it is easy enough for the managers to do what I have done, count the number of questions that were asked by Mr. Boland, and it will appear that he asked I out of 10, or something of that kind. The witness is mis-1 out of 10, or something of that kind. taken-there is no question about that-in saying that Mr. Boland asked most of the questions, so far as the report shows, and we ought not to have a statement made in this way by this witness or anybody else when there was no opportunity for

Judge Archbald to be represented, put into this case as evidence.
The PRESIDENT pro tempore. The Chair is of opinion that
the paper could not be put in evidence for the purpose of proving the testimony of the witness upon that occasion, unless the managers are prepared to take the position that they have been entrapped by the witness and desire to show what he has testified to on a former occasion; and the Chair does not understand that to be the proposition.

Mr. Manager WEBB. Well, Mr. President, in one view of the matter we think it is competent to show that Mr. Brown asked the questions, and not Mr. Boland. In another view of the question we take it that it is competent for the reason that the witness was examined on the 22d day of March, when the facts were fresh in his mind, and that it is competent to corroborate him as to what he has sworn here to-day to show that he has sworn it on other occasions.

The PRESIDENT pro tempore. The Chair is not of opinion that the corroboration of the witness is in order unless he is impeached in some way. There is no doubt about the right of the managers to prove that the questions were asked by who-ever the party is, but the Chair does not think that the paper itself would be admissible as evidence of what the witness then

swore to.

Mr. Manager WEBB. Then does the President admit it in evidence for the purpose of showing who did ask the questions? Mr. WORTHINGTON. I would object to that. It seems to me if it is admitted for any purpose, of course, it goes into the record. It is an easy matter, of course, for anybody to ascertain how many questions were asked by Mr. Boland. As a matter of fact, only 12 were asked by him during a long examination.

The PRESIDENT pro tempore. The Chair would suggest that it would be better for the managers to prove what they desire without introducing the entire paper, because that would be putting in evidence that which is not proper for considera-

tion as evidence.

Mr. Manager WEBB. To prove it in any other way would be an almost endless task, because there are 48 pages of typewritten matter, and the witness would probably have to go over

it to see

Mr. SIMPSON. To see what?

Mr. Manager WEBB. To see who asked the questions.

Mr. SIMPSON. We are quite willing that Mr. Webb or any of his colleagues shall count them and their say so be put in the record.

Mr. Manager WEBB. I do not care to testify.

Mr. SIMPSON. We do not ask you to testify; but you can get some one outside. Mr. Brown can count them, and his say so

Mr. WORTHINGTON. I happened to think this question might arise, and so I counted them myself. There are only 12 questions by Mr. Boland and 100 or more by Mr. Brown.

Mr. Manager CLAYTON. Mr. President, I dislike to do any-

thing that may seem to be an abuse of the patience of the Senate, but it seems to me, inasmuch as Col. Worthington has seen proper to bring into this case a part of this deposition, that therefore we are entitled to have it all. It is upon that familiar principle that we insist upon our right to introduce this document in evidence in its entirety.

Mr. President, as to the limitation or the effect of this instrument, that is reserved to the Senate when it comes to render its verdict or judgment. We are addressing, as I undertook to say yesterday, a tribunal that acts in the double capacity of the judge of the law and the jury to determine the facts. Therefore, Mr. President, if you as judges admit this paper now, when you come to consider the question of fact as jurors, then you can, if you see fit, limit the effect of its operation. It is impossible for us to separate the function of the judge from the function of the jury here. Inasmuch, I repeat, as counsel for the respondent has introduced a part of this deposition, I insist that it is right and proper for us to have it all in the record—the whole truth, and not a part of it.

Mr. WORTHINGTON. I presume we are entitled to close on our objection, Mr. President. We introduced no part of this deposition in evidence. I asked the question of Mr. Williams as to whether Mr. Boland was not present when he was examined, and he answered that question, which was all I asked. Then he volunteered the statement, "Yes, and asked most of the ques-I did not ask him who asked the questions. I showed that Mr. Boland was present at the very time he has testified.

The PRESIDENT pro tempore. If a part of the deposition has been offered by counsel for the respondent, of course the Chair will recognize the right of the managers to offer the entire paper; but that is a question that seems to be in dispute. That proposition was not first suggested by the manager who first offered the paper. He put it upon an entirely different ground, as the managers and the Senate will remember. Chair is not prepared to pass upon the question as to whether or not there has been in fact any part of the deposition put in evidence by the counsel for the respondent. If there has been a part of it put in evidence, the Chair recognizes the right of

the managers to have all of it on that ground alone. The Chair thinks the other propositions are untenable. The Chair, of course, recognizes the right of the managers to prove how many of these questions were asked by the respective parties.

Mr. Manager WEBB. Then we will offer, Mr. President, that

part of it for that purpose. I do not recall the exact questions that Col. Worthington excerpted from the deposition.

The PRESIDENT pro tempore. Offer it for what purpose? Mr. Manager WEBB. For the purpose of showing the entire questions and answers with reference to the matter about which Col. Worthington asked the witness.

Mr. SIMPSON. There was no such offer-

The PRESIDENT pro tempore. Probably the stenographer's notes would have to be consulted to see what part of it, if any, was offered by counsel for the respondent.

Mr. SIMPSON. There was no such offer made at all. There have been questions asked by Mr. WEBB for the managers and there have been questions asked by counsel for the respondent as to whether the witness did not testify at a certain place in a certain way. The managers might just as well say that because they asked whether or not on such and such a date he did not testify to such and such a thing before the Judiciary Committee the whole of his testimony may be put in in bulk here in that way. That is not the result which flows out of any such a suggestion as that. It is an inquiry of him for the purpose of putting him straight upon the record, and it is a particular right which those who are cross-examining have; otherwise cross-examination would amount to nothing. there grows out of that no right to put in a whole bulk of testimony. Such a thing would be the most absurd rule of law imaginable.

If Mr. Worthington had said, "Mr. Williams, did you not on such and such a day testify thus and so?" and read the question and answer, and the managers then thought there was something in some other question or answer in that document which in some way corrected or straightened out or affected that matter, they could then ask him, "Did you not also testify thus and so on that same day?" and get that straightened out in the record in that way; but to put the whole document in,

whether it relates to the question or not, would be-Mr. Manager CLAYTON. May I ask the counsel-

The PRESIDENT pro tempore. The Chair must insist that the argument proceed in order. If there is objection, counsel will be heard, a reply will then be received by the Senate, and a conclusion accorded to the party making the objection; but irregular discussion can not be continued without manifest inconvenience and ill result.

Mr. Manager CLAYTON. I did not intend to interrupt, Mr. President, except by permission of the Senate and the consent of counsel, and it was for the purpose of directing-

The PRESIDENT pro tempore. The Chair had reference to the entire discussion and not to the particular manager who last addressed the Chair. It is necessary that we proceed in order. When there is objection, counsel will be heard; then a reply will be heard, and then a conclusion, but it must be done in that order if we are to proceed methodically.

Mr. SIMPSON. I think, sir, I have brought before the Senate what I desired.

Mr. WORTHINGTON. Mr. President, we have agreed that this matter may go over until to-morrow, so that we may see just what has taken place.
Mr. Manager WEBB, That was the agreement, Mr. Presi-

dent.

Q. (By Mr. Manager WEBB.) You told Col. Worthington a few moments ago that you could get options when others could not do it. What peculiar influence or power did you have to get options when other men failed to get them? Was it the influence of Judge Archbald?—A. How is that?
Q. You told Col. Worthington a few moments ago that you

could get options on culm banks when other men failed to get them. What was your peculiar influence to enable you to get these culm banks when other men could not—was it Judge Archbald's assistance—A. No, sir.

Q. What did you mean when you told the colonel that?—A. What?

Q. What did you mean when you told Col. Worthington that?

Mr. WORTHINGTON. Please say "Mr. Worthington."
Mr. Manager WEBB. "Mr. Worthington," I beg pardon.
A. I had one lease from Forest City to Moosic of all the Erie

culm without the judge's aid. I never asked the judge—Q. Why did you tell Mr. Worthington that you could get eptions when other men failed?—A. I could. I could get this one when Boland could not touch it at all,

Q. You got this option on the Katydid when other men had

failed?—A. Yes, sir.
Q. That was the one you referred to; and you got that through the influence of Judge Archbald, did you not?—A. I did not, sir. I only got one part of it through Judge Archbald.

Q. That was the Katydid?—A. Yes; one part of it.

Q. And the Katydid dump belonged to the Erie Railroad Co.—one part of it?—A. One part of it; one-half of it; yes, sir, Q. Mr. Robertson wanted to sell his part, did he not?-A. Yes, sir.

Q. And the Eric Railroad Co. would not buy it? Is not that true?—A. No; he wanted to sell it; he had been trying to sell it to the Erie Co.

Q. The Erie would not buy it?—A. No, sir. Q. And the Erie would not lease their part?—A. No.

Q. Until you took hold of it?-A. Yes. They had agreed to sell it to the Du Pont Powder man before that for less than onehalf what I offered for it.

Q. But it was never carried up to Mr. Thomas by Mr. May, and nothing ever came of it. Is not that true?-A. No; but they offered it for \$2,000 to du Pont, sir.

Q. Then you say you got the Erie Railroad Co.'s part of this dump through Judge Archbald's influence. Is not that your

statement?—A. Yes; by paying a double price for it.
Q. I understand, but at whatever price it might be?—A. They did not favor me because of his influence, because I paid \$2,500

more for it than they offered it before. Q. You alone could not get it from Capt. May; you could not get it by yourself?—A. I do not know.

Q. You tried it and failed?—A. I did at the time, but he did not say he would not give it to me.

Q. He declined to let you have it?-A. He declined at the time.

Q. Yes; and you carried the matter back to Judge Archbald?—A. I did.

Q. And are you willing to swear now that you got this culm dump from the Erie Railroad Co. through your influence or through Judge Archbald?—A. I got part of it; yes; their half. Q. Their half through whose influence?—A. Judge Archbald's.

Q. Before you took this letter to Mr. May, did the judge tell you that he had already phoned May in advance that you were coming to see him?—A. No, sir.

Q. I believe the judge in his answer to this article says that

before he wrote this letter to Mr. May he had already phoned May about this Katydid dump. Did he ever tell you that he

had phoned him?—A. I do not remember anything about it.

Q. When he sent the letter up there to May by you did he tell you he had already communicated with May about the

dump?-A. No, sir.

Q. I want to ask you a question or two about this silent-party agreement. It seems that you have stated that you did sign a silent-party agreement and stated that you do not remember it. I ask you if this is not the way it occurred, and if you did not swear to this before the Judiciary Committee: That you did have a silent-party agreement with Mr. Robertson?—A. What-that I did?

Q. I ask you whether, after you had been examined back and forth on this question before the Judiciary Committee, I did not ask you the question, "Mr. Williams, it seems that you did sign a silent-party agreement, but you think that this one in evidence, September 4, is not the one, because that is not the date"?-A. Do you not know that other copy you showed me last night here?

Q. Yes. What about it?-A. That is not the copy. Where did it come from?

Q. That is not the copy you signed?-A. I did not sign any,

Q. Did you sign--A. (Interrupting.) I never signed it. I do not know anything about the copy that you are talking about, where the writing is across the typewriting; I never signed that. I told them at first that I never had signed that.

Q. That particular copy; but I ask you again now, leaving out that particular copy which we referred to last night, did you not sign a silent-party agreement when you got the lease from Robertson, and did you not swear that before the Judiciary Committee?-A. To whom did I sign?

Q. Let me ask you if this statement was not made by you before the committee?

Mr. Rucker. Who was the silent party referred to in that paper?
Mr. Williams. I think that was—
Mr. Rucker. I am not talking about that. Who was the party you referred to when you said "silent party"?
Mr. Williams. It was Judge Archbald.
Mr. Rucker. There is no question about you signing such a paper, is thore?

is there?
Mr. Williams. Yes, sir.
Mr. Rucker, And it had reference to Judge Archbald?

Mr. WILLIAMS. I think it was in John——
Mr. RUCKER. I am not asking what it was in.
Mr. WILLIAMS. Let me tell you. It was in John M. Robertson's option. That is where the "silent party" was.
Mr. RUCKER. Why did you write in this paper the phrase "silent party," referring to Judge Archbald? [Page 575.]

Now, then, was not that reference to "silent party" in the option that you first secured from Robertson? you seem to have finally sworn before the Judiciary Committee?-A. I could not say that I ever saw that in Robertson's

Q. Did you ever sign an agreement in which there was a silent party mentioned? I am not talking about the one of September 4 or 5 now, but I am asking this: Did you ever, with Robertson or with anyone else, sign a contract or an assignment in which "silent party" was mentioned?-A. I do not remember any such contract; I do not remember.

Q. Let me ask you if you did not tell Mr. Worthington this on his examination of you before the Judiciary Committee,

reading at page 579 of the record:

Mr. Worthington. I would like to ask you to explain, if you can, why it is you say to me that you executed only one contract or assignment to Mr. Boland, in which there was nothing said about a silent party, and then the next minute you say to the members of the committee that you did understand you signed something in which there was reference to a silent party? How do you explain that contradiction?

Mr. Williams. I don't remember signing such a contract as that, but I tell you that there was a silent party in one paper that we had—a silent partner.

Did you tell Mr. Worthington that?—A. I do not know. Q. Sir?—A. I could not say whether I said that or not.

Q. Was there any paper that you ever signed, whether in the presence of Mr. Boland or any other person, in which the words "silent party" were used?—A. Why should he use the "silent party" when he put his own name in the Conn paper? Why should he put in "silent party"?

Q. You need not argue the case. I wish you would listen to

this question. Again, on page 590:

The ACTING CHAIRMAN. Then your contention is that the contract which has been shown you here, Exhibit 20-

That is the contract of September 5, in which you refer to the silent party and which you now say you did not sign-

which contains the language "and a silent party, whose name is known only to the persons named therein," was drawn in August and not in September? In other words, I understood you to say that the date had been changed on it?

Mr. Willlams. It was drawn before April, sir.

The Acting Chairman. It was drawn before April?

Mr. Williams. Yes, sir.

The Acting Chairman. But it was drawn and signed by you? Is that right?

Mr. Carlin. He says a contract was, but this contract never was.

The Acting Chairman. I understand; but I am asking about this particular contract. As I remembered his testimony day before yesterday, he contended that while he signed this contract with the "silent-party" language in it. it was really signed before he ever tried to make the deal with Robertson, and that after the deal was made with Boland he contends the date was changed on it to September 5. Was not that your contention the other day, Mr. Williams?

Mr. Williams. Wait, now—

The Acting Chairman. I wish you would listen to my question.

Mr. Williams. Yes, sir.

The Acting Chairman. I say, was not that your contention the other day?

Mr. Williams. Yes, sir.

The Acting Chairman. That while you did sign this contract, this assignment to Mr. Boland, it was really signed not on September 5 but at some day before that time?

Mr. Williams. It was signed before this [exhibiting memorandum book]. Now, there is the time I got the culm from Robertson. You will see the date.

The Acting Chairman. April 5?

Mr. Williams. April 5; yes, sir.

Mr. Graham. Mr. Chairman, I suggest that you put in the record what that book is.

Is that your present contention—that you did sign a silent-

Is that your present contention—that you did sign a silent-party contract, but that it was not dated September 5, but some prior time? [A pause.] What do you say about that now, Mr. Williams?—A. I do not know anything about that contract that Boland claims that was wrote right on an angle across the paper there; I do not know anything about it; I can not have any memory of such a paper that ever came before me.

Q. Did you ever before September 5 sign any contract containing a silent-party reference?—A. The only paper I signed to him was before the option was got; before I got the option

from Robertson.

Q. I believe you admit that you did sign this paper exhibited to you yesterday—the assignment of September 5—in which the silent party is included. You signed that?—A. I never signed that paper. I can not remember anything about such a paper in the world. And where did you get the paper you brought before me last night? Where did you get the paper? Will you bring that here? [A paper was handed to the witness by Mr. Manager Weel.]—A. Oh, that is it? Well, this is not the paper, you know.

Q. (By Mr. Manager WEBB.) Now, which was the paper you signed?—A. Let me tell you now. That paper was printed down to the bottom here [indicating] and written across that This is not the paper, sir. No, sir.

Q. Did you sign this paper?—A. Did I sign it?

Q. Is not that your signature?—A. Yes, sir; that is my signature; but how did they get it there? That is the question. It is my signature all right; but you know how Jim Crawford's will was made, but I never signed. Why did he not bring that before, instead of bringing the other paper that was signed right across the printing of the stenographer?

Q. Are you in the habit of signing papers the contents of

which you do not know?-A. No; not very often, sir,

Q. Then you did sign this paper?—A. Did I?
Q. You say you did?—A. Oh, you say so. No; I do not say so, because that paper—why did you bring that paper? Last night was the first time I saw it. The other paper, I told you, was signed at an angle across the writing on the paper.

Q. Well, Mr. Williams, I understand you to say that is your signature?—A. I say that, but I say Jim Crawford's will was

signed the same way.

Q. Then you say that that is your signature?—A. Yes; it is my signature; but where did they get it? That is the point.
Q. That is Exhibit 7. One more question, please. When you went to the judge, after having seen May, and the conversation arose about the lighterage case, who mentioned the lighterage cases first?-A. I did.

Q. Let me ask you if you did not swear this before the House Judiciary Committee last May [reading from page 497]:

The CHAIRMAN. Did the judge, about that time, mention the lighterage cases to you in any conversation?

Mr. WILLIAMS. I seen them right there on the desk.

The CHAIRMAN. Was anything said about the lighterage cases?

Mr. WILLIAMS. He said that he had cases for them there at the time.

That is all.

The CHAIRMAN. Meaning that he had cases before him in the court

The CHAIRMAN. Meaning that he had class that time?

Mr. WILLIAMS. Yes, sir. I did not understand what lighterage was at all.

The CHAIRMAN. And did he say that the Eric Railroad was a party defendant to those cases?

Mr. WILLIAMS. Yes, sir.

Did you swear to that?-A. Yes, sir.

Q. That is true, is it not?—A. Yes, sir; that is true. Mr. Manager WEBB. That is all, Mr. President.

Recross-examination by Mr. Worthington:

Q. When you said just now, "Yes; that is true," in answer to Mr. Webb's question, what did you mean?—A. What did I

Q. What was it you meant was true?-A. It was true that

we talked about the lighterage case.

Q. Do you mean to say it is true the judge asked the question first?—A. No; I do not say that. I say that we talked about it. Q. How do you know that Mr. Robertson offered to sell his

interest in the Katydid culm dump to Capt. May's company and

could not do it?—A. He told me himself.
Q. Robertson told you?—A. Yes, sir.
Q. That is all you know about it—what Robertson told you?— A. Yes, sir. There is the man there.

Q. Where?—A. Up there [indicating the gallery].
Q. I understood you to say to Mr. Webb just now that you tried to get the Katydid yourself before you went there with a letter from Judge Archbald. That is not so, is it?—A. I got the Robertson part of it, I told you; yes, sir.
Q. You did not go to Capt. May until you went there with a

etter from the judge?—A. No, sir.

Mr. WORTHINGTON. That is all.

Mr. SMITH of Georgia. Mr. President, I send to the desk two questions which I should like to have the witness answer.

The PRESIDENT pro tempore. The Senator from Georgia asks that the questions submitted by him be propounded to the witness. The Secretary will read them.

The Secretary read as follows:

Q. Was the docket which you saw in Judge Archbald's room in writing or in print?

A. In print.

The PRESIDENT pro tempore. The next question offered by the Senator from Georgia will be read by the Secretary.

The Secretary read as follows:

Q. Please describe the appearance of the docket, and state at what place, with reference to the top or bottom of the page, the Erie cases were printed in the docket.

A. They were printed on top of the page.

The PRESIDENT pro tempore. The witness may retire. The

managers will call their next witness.

Mr. Manager CLAYTON. Mr. President, we do not wish the witness to be discharged at this time, because we may desire to recall him.

The PRESIDENT pro tempore. Yes. The witness will remain in attendance.

Mr. WORTHINGTON. I think it should be understood that no witnesses are to be discharged unless counsel on both sides consent.

The PRESIDENT pro tempore. That will be the order given, then.

Mr. Manager CLAYTON. Do you mean to say-I ask for information—that if we are through with a witness and hear no expression of a desire on the part of the respondent that the witness attend further upon the court, we shall not have him discharged until we get the consent of the opposing counsel?

The PRESIDENT pro tempore. That was the suggestion of

counsel.

Mr. WORTHINGTON. I think it much better, if either side wishes to discharge a witness, to ask the other side whether it

has any objection.

Mr. Manager CLAYTON. I ask that because I think in one or two instances we have already, perhaps, dispensed with the attendance of some of the witnesses, and it seems to me that that makes a very difficult rule for us to follow. But we will do the best we can.

The PRESIDENT pro tempore. That is a different case altogether. The suggestion refers only to witnesses put upon the

Mr. WORTHINGTON. I meant it to apply to those who are subpænaed. As a matter of fact, we have refrained from issuing subpænas to witnesses because we have understood they would be brought here by the managers on the part of the House. I think it might be very troublesome if a witness subpænaed here should be discharged without our knowing it. It is very easy to arrange the matter. Counsel and the managers are here together every day, and we can communicate with them by telephone when we are not here.

The PRESIDENT pro tempore. Unless the matter is arranged between counsel, the Chair suggests that if the counsel for the respondent desires a witness it is perfectly competent

for him to subpæna the witness on his own account.

Mr. Manager CLAYTON. I would say, in fairness to the managers on the part of the House, that in quite a number of instances gentlemen having important business engagements have asked the managers to let them go home, and, if needed, to call them back by wire and they would come. We have done that in a number of instances. Now, it may be developed in the case that we may not want to call back those gentlemen.

The PRESIDENT pro tempore. The Chair has already suggested to counsel for the respondent that if he desires the attendance of any witness who has also been subpoenaed by the managers, it is competent for counsel to subpæna him, and that will insure his attendance.

Mr. Manager CLAYTON. That is entirely satisfactory.

Mr. Manager WEBB. Mr. President, Mr. Sterling, one of the managers, will examine the next witness, who is Mr. W. A. May.

The PRESIDENT pro tempore. Call in the witness.

TESTIMONY OF WILLIAM A. MAY.

William A. May, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager STERLING.) Where do you live?-A. Scranton, Pa.

Q. How long have you lived in Scranton?-A. Thirty-nine years.

Q. What is your business?-A. I am now vice president and general manager of the Hillside Coal & Iron Co.

Q. Where is the office of the Hillside Coal & Iron Co.?-A. Their office is in Dunmore, Pa.

Q. Where is Dunmore with reference to Scranton?-A. It is a suburb of Scranton, joining it.

Q. How long have you been vice president and general manager of the Hillside Coal & Iron Co.?-A. About one year.

Q. How long have you been connected with that company?-A. Since July 1, 1873.

- Q. In what capacity were you connected with the Hillside company prior to the time you became manager and vice president?-A. Before becoming vice president and general manager I was general manager. Previous to that I was superintendent.
- Q. Are the duties of your office now as vice president and general manager substantially the same as they were prior to a year ago?—A. They are substantially the same.
- Q. What is the relation of the Hillside Coal & Iron Co. to the Erie Railroad Co.?-A. The Erie controls the Hillside Coal & Iron Co.
- Q. In what way does it control it?-A. I believe by stock ownership.

Q. Does the Eric Railroad Co. as a corporation own the Hillside Coal & Iron Co. ?-A. I believe so.

Q. All of it?—A. I so understand.

Q. Who are the officers of the Hillside Coal & Iron Co.?-A. Mr. F. D. Underwood, president; G. A. Richardson, vice president; D. W. Bigoney, treasurer; David Bossman, secretary. Q. Who is president of the Erie Railroad Co.?-A. Mr. F. D.

Underwood.

Q. How long has he been president?—A. I can not tell you. Q. He is also president of the Hillside Coal & Iron Co.?-

A. He is.

Q. Do you hold any official position with the Eric Railroad Co.?-A. I do not.

Q. Who is the general counsel for the Eric Railroad Co.?—A. Mr. George F. Brownell. Q. What office, if any, does he hold in the Hillside Coal &

Iron Co.?-A. He is general solicitor. Q. He is general solicitor for both of those corporations?-A. He is vice president and general solicitor for the Erie and general solicitor for the Hillside Coal & Iron Co.

Q. Mr. Richardson is vice president of the Erie Railroad Co.?-A. He is.

Q. What is his office, if any, with the Hillside Coal & Iron Co.?-A. He is vice president.

Q. Who is your immediate superior officer ?- A. Mr. Richardson.

Q. In the Hillside Coal & Iron Co.?-A. He is. Q. Do you know Judge Archbald?-A. I do.

Q. Do you know E. J. Williams?-A. I do. Q. How long have you known E. J. Williams?—A. I think I first met him about 20 years ago.

Q. Has your acquaintance with him been continuous since that time?-A. It has not.

Q. To what extent does your acquaintance with E. J. Williams go?-A. Very slight.

Q. Have you had any business negotiations with him?-A. I have not, except in the case of the Katydid dump, now in ques-

Q. What do you mean by the Katydid dump?dump made by the operations of the Katydid colliery.

Q. Describe briefly what you mean by a culm dump.—A. Culm is the refuse coal made in preparing coal for market.

Q. How is the refuse made?—A. By breaking up run-of-mine coal, running it through the breaker and making it into the various sizes.

Q. A culm dump is not made except as an incident to mining coal, is it?—A. That is all.
Q. And is thrown aside, and at one time was abandoned as

refuse?-A. That is correct.

Q. And as worthless?-A. Yes, sir.

Q. And the accumulation of this refuse at the different collieries are called culm dumps?—A. Yes, sir.
Q. Or culm banks?—A. Yes, sir; coal dumps or coal banks.

Q. In the mining of what kind of coal is the culm bank created?-A. Anthracite coal.

Q. Where is the Katydid culm bank situated?-A. It is situated near Moosic, Pa.

Q. Where is that, with reference to Scranton?-A. Moosic is about 5 miles away.

Q. You are familiar with the Katydid culm bank?-A. Yes.

Q. I will ask you to state what were the beginnings of the negotiations for the sale of the Katydid bank to Mr. Williams. A. Mr. Williams brought to me a letter from Judge Archbald. That was the beginning.

Q. Before that had not Judge Archbald telephoned you in regard to it?-A. He may have done so. I do not remember it,

Q. Did you not suggest to Judge Archbald in the conversation over the phone that he send you a letter?-A. It may be possible; I do not remember,

Q. In any event, Mr. Williams came to you with a letter?-A. Yes, sir; he did.

Mr. Manager STERLING. I ask that this be marked as an exhibit.

The letter referred to was marked "Exhibit No. 11."

Q. (By Mr. Manager STERLING.) Look at Exhibit No. 11, Mr. May, and state if that is the letter Mr. Williams brought to you about the day it bears date .- A. (After examination.) That is the letter.

Mr. Manager STERLING (to Mr. Worthington). Do you want to see it?

Mr. WORTHINGTON. We are familiar with it.

Mr. Manager STERLING. We offer the letter, and will ask the Clerk to read it.

The PRESIDENT pro tempore. In the absence of objection, it will be marked and read.

The letter referred to was marked "Exhibit No. 11" and was read, as follows:

[U. S. S. Exhibit 11.]

(United States Commerce Court, Washington.)

SCRANTON, PA., March 31, 1911.

W. A. MAY, Esq., Superintendent Hillside Coal & Iron Co.

DEAR SIR: I write to inquire whether your company will dispose of your interest in the Katydid culm dump belonging to the old Robertson & Law operation at Brownsville? And, if so, will you kindly put a value with a proper it? price upon it?

Yours, very truly, R. W. ARCHBALD.

Q. (By Mr. Manager STERLING). I wish you would look at the notation at the bottom of the letter and state who put that there—A. I put the upper notation; that is, just below the signature. That is in my handwriting.

Q. When did you do that?—A. On March 31, 1911.
Q. Please read your notation.—A. "Have asked Beyea to have an estimate made of the quantity of material in this bank."

Q. Who is Beyen?—A. He is the land agent.

Q. When Mr. Williams presented that letter to you, just state what he said to you and what you said to him .- A. I do not remember anything he said to me.

Q. Do you remember the substance?-A. I do not.

Q. What did you say to him?—A. I took the letter and put the notations thereon. I do not remember what I said to him. Whether I told him I would have an examination made or not, I do not remember.

Q. To refresh your recollection, Mr. May, did you not say to him that it was not the policy of the railroad company or the Hillside Coal & Iron Co. to dispose of its coal properties?—A. I do not believe I said so.

Q. Did you write Judge Archbald--A. I did not.

Q. In reply to that letter?-A. I did not.

Q. Did you not send any word to Judge Archbald by Mr. Williams at that time?-A. I do not remember.

Q. Do you say now that you did not?-A. I do not say that I did or that I did not.

Q. Do you say that you probably did?-A. I would not.

Q. Do you know whether or not you made any answer in any way, either by letter or by word, through Mr. Williams to Judge Archbald to that letter?-A. I do not remember what I said.

Q. What did you do next after you had made the notation on

the letter?-A. I do not remember what I did. Q. Did you order an estimate made of it?-A. I did.

When?-A. The notation was on there.

When did you do it, I am asking you?-A. March 31, 1911.

Q. Why did you do that?-A. Because we wanted to get at the quantity of material in the bank.

Q. Did Mr. Beyea make an estimate of the material?-A. He

Q. Why did he not?-A. He gave it to the engineer in his office to make it.

Q. Was it made by your office or by your company?-A. The estimate was made.

Q. When?—A. Shortly after this date.
Q. What was done about it, then, when you got the estimate?—A. The estimate was made, the sizes of the coal arrived at, and then the matter was brought again to my attention.

Q. By whom?-A. By Mr. Beyea and by Mr. F. A. Johnson. who arrived at the quantity, or rather the percentage, of the

various sizes in the bank.

Q. What did you do when you got the report from the engineer?-A. Nothing was done, as I recall it; nothing was done at that particular time.

Q. What did you next do with reference to the matter?-A. The next thing I recall is that I spoke to Mr. Richardson

Q. Had you heard again from Judge Archbald between the 31st of March and the time you spoke to Richardson with reference to it?-A. I do not remember that I did.

Q. What did you and Mr. Richardson do with reference to it?—A. When he visited the mines I spoke to him about it.

Q. What did you say to him?-A. We merely discussed the advisability of selling the dump and concluded not to sell it.

Q. And concluded not to sell it?—A. At that time.
Q. How is that?—A. We concluded we would do nothing at that time.

Q. You decided that it was against the policy of the company to sell its coal property and determined not to sell it?-A. Not

Q. Not necessarily? Did you do it or did you not do it? What was the result of your conference with reference to

selling the Katydid?-A. The matter was dropped for the time

Q. What conclusion did you come to with Mr. Richardson with reference to selling the Katydid?-A. We simply stopped at that point-did nothing more.

Q. You decided not to sell it?-A. We decided not to sell it. Q. Then Williams came to you again, did he not?-A. He

might have come to me again.

Q. What did you say to him then--A. I do not remember. Q. After you and Mr. Richardson had concluded not to sell it?-A. I do not remember.

Q. He came then with a letter from the judge, did he not ?-I have no recollection of getting a letter from the judge

through Mr. Williams.

Q. Did you not say to Mr. Williams when he came to you after you conferred with Richardson that you were not going to sell the Katydid?-A. I might have done so; I do not remember.

Q. Did you learn then, after Williams had been to you that time, that he had gone back to Judge Archbald ?- A. I did not.

Q. When did you next hear of this negotiation for this Katydid coal bank on the part of Judge Archbald and Mr. Williams?-A. I think it was in August.

Q. About what time in August?-A. About the 25th of August.

Where did you hear of it?-A. In New York.

Q. Where?-A. In Mr. Richardson's office.

Q. Both his office and Mr. Brownell's office are in New York?-A. They are.

Q. At the same place, are they not?-A. Yes, sir.

Q. What did Richardson say to you then?—A. As I recall it, he told me to take up the Katydid dump matter again.

Q. With whom?—A. With Mr. Williams.

Q. Did he say why?-A. He told me that Judge Archbald had seen him.

Q. Did he tell you when Judge Archbald had seen him?-A. He did not.

O. Did he tell you where he had seen him?—A. I do not recall that.

Q. Did he not tell you that Judge Archbald had come to his offices in New York; that he desired to buy the Katydid coal dump, and that he had told Judge Archbald that he would take it up with you again? Is not that what he said to you?—A. I think that is so.

Q. That is substantially what he said to you?-A. Yes.

Q. And from that you began negotiations again for the sale of the Katydid coal dump?-A. I did.

Q. What did you do?-A. I casually met Judge Archbald and told him

Q. You say you casually met him. What do you mean casually meeting him?—A. I accidentally met him, then.
Q. Where did you meet him?—A. I met him on the street. What do you mean by

Q. When?-A. I think the 29th of August.

Four days after you had been in New York?-A. Yes, sir. Q. What did you say to him?—A. As nearly as I recall it I told him to send Mr. Williams up to see me about the Katydid

bank.
Q. Why did you send that message by Judge Archbald?—A.

I incidentally met him and told him because the letter had originally come from him.

Q. And Mr. Richardson told you to open up negotiations again with Williams, you say?—A. Yes.
Q. The reason you told Judge Archbald to send Williams to

you again was because you knew that Judge Archbald was interested in the proposed purchase of the coal dump. Is not that true?—A. Not necessarily.

Q. You say "not necessarily." Now, was it true or not? Did you suppose that he was interested at that time?—A. I

knew he was interested, but what the character of his interest was I did not know.

Q. Did Williams come up to see you after you sent word to him by Judge Archbald?-A. He did.

Q. The same day?-A. No, sir.

Q. When?-A. I think it was the next day.

Then what did you do when Williams came?-A. I told him that I would recommend the sale of the dump for \$4,500. I do not remember whether I told him I would write him, but because of that interview I wrote a letter.

Q. To Mr. Williams?-A. To Mr. Williams,

Q. When you met Judge Archbald on the street, what else did you say to him besides telling him to send Mr. Williams up to see you?-A. Nothing that I recall,

Q. Did you not say to him that you would let them have the Katydid coal dump?—A. No, sir; I do not recall.

Q. You told him what you wanted to see Williams about, did you not?-A. I do not think I did. I might have. I do not remember.

Q. Is this the letter [exhibiting], marked Exhibit One-half, in which you say to Mr. Williams that you recommend the sale of whatever interest the Hillside Co. have?-A. (Examining.) That is the letter

Q. It is the letter you have just referred to?-A. Yes, sir.

Q. What occurred next, after you had written that letter to Mr. Williams, the one dated August 30?-A. I think the next thing was the bringing of Mr. Bradley to my office by Mr. Williams.

Q. When was that ?-A. That was in April of this year.

Q. Do you remember about what time it was?—A. It must have been about April 8 or 9.

Q. Who came with Mr. Bradley to your office?-A. Mr. Williams.

Q. What occurred there?-A. Mr. Williams introduced Mr. Bradley to me as a purchaser of our interest in the Katydid

Q. In this letter of August 30 you propose to sell the interest of the Hillside Co. for \$4,500. Now, when Williams came there with Bradley, did they state to you the terms on which Bradley was taking the property?—A. No; they did not. Q. You say they did not?—A. They did not.

Q. Go ahead and state what was said .- A. As nearly as I remember it, I asked Mr. Bradley for references as to his financial responsibility, and he gave me the references; and as I was going down to the Consolidated breaker, which is situated in that vicinity, I told him I would go down to the dump with them, and I did go down to the dump, I think that afternoon, and Mr. Bradley looked at it and said he was willing to take it.

Q. At what price?-A. At \$4,500 for everything below pea

size, and to pay royalty on pea and above.

Q. You say that Bradley said he would take it at that price?-A. He did.

Q. Was not that the price at which Williams and Archbald were buying it?—A. It was the price that they were to get it at. Q. From you?—A. From us.

Q. But you knew they had sold it to Bradley for \$20,000?-A. I did not.

Q. Did you know what price they had sold it at?-A. I did

Q. Then Bradley did not say he would take it at \$4,500, did he?-A. No; he said that he was willing to take the bank, after looking at it. I do not believe he said he would take it at \$4,500.

Q. Did you not know of an effort on the part of Williams and

Archbald to sell this property to Conn?-A. I did.

Q. Then this was not the next thing that occurred. was it with reference to the sale of the property to Conn?—A. The sale of the property to Conn was his request from me to know what our investigations disclosed as to what the bank contained. That is my recollection.

Q. That inquiry was from Conn?-A. That was from Conn.

Q. Had you received a letter from Judge Archbald prior to that about the sale to Conn?-A. No; I think that Mr. Conn inquired before that letter came.

Q. Look at this letter [presenting letter], Exhibit 12, and state if you got that letter from Judge Archbald?—A. (Examining letter.) Yes, sir; I got that letter from Judge Archbald.

Q. What date does it bear?—A. November 29, 1911. Q. Did you make any notations on that letter?—A. No, sir. Mr. Manager STERLING. Just give it to the clerk. We offer it, Mr. President, and ask that it be read.

The PRESIDENT pro tempore. It will be read.

Mr. Manager STERLING. Did you want to see it, Mr. Worth-

Mr. WORTHINGTON. Oh, no. The Secretary read as follows:

[U. S. S. Exhibit 12.]

SCRANTON, November 29, 1911.

W. A. May, Esq., General Manager Hillside Coal & Iron Co.

My Dear Carr. May: I have closed a deal on behalf of Mr. Williams for the Katydid culm dump with the Laurel Line Co., as reported to you by telephone this morning, and am therefore ready to close with you at any time you indicate—the earlier the better. Please let me look over the papers you have drawn before you execute them. I go to Washington on Monday for a few days, and, if not too much to ask, I would like before I go to get the preliminaries disposed of.

Very truly, yours,

R. W. Archeald

Q. (By Mr. Manager STERLING). The letter that has just been read, marked Exhibit 12, was in the handwriting of Judge Archbald, was it not?-A. It was.

Q. Did you answer that letter?-A. I answered the letter;

yes, sir.

Q. Look at Exhibit 13 [presenting letter] and state if that is the answer which you made?—A. (Examining letter.) That is the answer I made.

Mr. Manager STERLING. We offer it in evidence, and I ask the Clerk to read it.

The PRESIDENT pro tempore. The letter will be read. The Secretary read as follows:

[U. S. S. Exhibit 13.]

DECEMBER 1, 1911.

Hon. R. W. ARCHBALD, Scranton, Pa.

My Dear Judge: Your note of the 29th ultimo, telling me of the consummation of the sale of the Katydid culm dump and requesting that the papers for the sale of the Hillside's interest be submitted to you before you leave for Washington on the 4th instant, is received.

I regret very much that I can not have the papers ready by that time. I shall, however, take the matter up with our attorneys to-day and do the very best I can. If it were not necessary to submit the papers to our New York office I could do as you wish, but that is the obstacle. obstacle. Yours, very truly,

General Manager.

Q. (By Mr. Manager STERLING.) Mr. May, the letter just read was not the original?-A. No. sir.

Q. That was just a copy of the letter which you sent to Judge Archbald?-A. Just a copy.

Q. Look at Exhibit 14 [presenting letter] and state if you received that letter from Judge Archbald.—A. (Examining let-

ter.) I received that letter from Judge Archbald. Mr. Manager STERLING. We offer it and ask that it be read. The PRESIDENT pro tempore. The Secretary will read it. The Secretary read as follows:

[U. S. S. Exhibit 14.]

(United States Commerce Court, Washington.)

SCRANTON, PA., December 14, 1911.

MY DEAR CAPT. MAY: The closer I look into the claim of Mr. Debertson, the more I am impressed with the idea that it is something substantial. And the less, on the other hand, do I feel that there is very much consideration to be given to the Everhart end of it. In order, however, to relieve the matter of any question, I am endeavoring to see whether I can secure from them and from the E. & G. Brookes Co. people a release of their respective interests, for which I have made them what I consider a fair offer. In the meantime, may I ask that you regard the price which you have given us for the Hillside Coal & Iron Co. interest as confidential.

Yours, very truly,

R. W. Archbald.

Q. (By Mr. Manager STERLING.) Mr. May, when you received that letter did you form the opinion then that Judge Archbald had a pecuniary interest in this transaction?-A. I

arrived at no conclusion as to his interest.

Q. He spoke about the price he was paying for it in that letter? Did it occur to you that he himself had any interest in the dump?-A. I did not know what interest he had.

Q. That is not the question, Mr. May. Did it occur to you from the letter which he wrote you at that time that he was buying this on his own account or that he had an interest in the dump?-A. I did not know what his interest was.

Q. I am not asking you that. Did it occur to you that he had any interest at all in it?—A. He might have had an interest of some kind, but what his interest was I do not know.

Q. Well, you thought he had an interest of some kind in it, did you not?-A. Of some kind; but just what it was I did not

Q. Then you replied to that letter by Exhibit 15, did you not [handing a letter to the witness] ?-A. (After examination.) I

Mr. Manager STERLING. Will the Secretary please read the letter which we offer?

The PRESIDENT pro tempore. The letter will be read.

The Secretary read as follows:

[U. S. S. Exhibit 15.]

DECEMBER 15, 1911.

Hon. R. W. ARCHBALD, Scranton, Pa.

MY DEAR JUDGE: Your letter of the 14th instant in regard to claim of Mr. Robertson, stating that you were trying to get in touch with the E. & G. Brooks Co. people, etc., and requesting that I say nothing about the price given you by the Hillside Coal & Iron Co. for its interest, is received.

I shall say nothing to anyone about our interest.

Yours, very truly,

Vice President and General Manager.

Q. (By Mr. Manager STERLING.) That is a copy of the letter which you sent to Judge Archbald, is it not?-A. Yes, sir.

Q. It was not until April, until Mr. Bradley came with Mr. Williams to your office, as I understood you?-A. It was in April.

Q. And after you had gone with Mr. Bradley to look at the

dump did you have any meeting with him?—A. Yes, sir.

Q. When was it that you told him or that he told you that he would take the dump?-A. I think it was when we were on the dump

Q. Was there any arrangement made at that time about drawing up the contract?-A. I think there was; at least the form was drawn.

- Q. When?-A. It was drawn within a day or two after we were down at the bank.
- Q. To whom was that contract made?-A. To Mr. Williams. Q. It is the contract that was offered in evidence here yester-

day, is it not?—A. I presume so.

Mr. WORTHINGTON. That is admitted.

Q. (By Mr. Manager STERLING.) Well, it is this contract without date, or proposed contract, marked "Exhibit 5," in which it is stated that the Hillside Coal & Iron Co. grants and conveys unto Edward J. Williams all its right, title, and interest to the Katydid culm bank. That [showing the paper to the witness] is the contract which you drew up at that time, is it not?-A. That is the form.

Q. And what did you do with it?-A. I sent that form to Mr.

Bradley.

Q. With a letter?-A. With a letter.

Q. Is the letter in here [indicating]?-A. I do not know Mr. Manager STERLING (to Mr. Manager WEBB). Did you

offer that letter yesterday? Mr. Manager WEBB. Yes. The Secretary. It is Exhibit 6.

Q. (By Mr. Manager STERLING.) Is this letter, marked "Exhibit 6," signed by yourself, and dated April 11, the letter which accompanied the contract which you sent to Mr. Bradley?-A. That is the letter, but it is signed by my chief clerk.

Q. Is not that your signature?-A. It is my signature; but he

signed it.

Q. Well, it was signed on your authority?—A. Yes; it was.

Q. That was a copy that you looked at, was it not?-A. I think it was.

Q. Now look at this [handing paper to the witness] and see if this is not the original—the upper part of it?—A. Yes; that is correct; that is the original.

Q. Look at the notation at the bottom in typewriting. Who put that at the bottom of that letter?-A. The typewritten portion?

Q. Yes, sir.-A. My stenographer.

Mr. Manager STERLING. That is Exhibit 16, is it not, I will inquire of the Secretary?

The PRESIDENT pro tempore. It is marked "Exhibit 16." Mr. Manager STERLING. We offer Exhibit 16, including the typewritten statement at the bottom under the signature.

ask to have the entire letter and the notation read. The PRESIDENT pro tempore. The Secretary will read as

requested.

Inc.

The Secretary read as follows:

[U. S. S. Exhibit 16.]

(Pennsylvania Coal Co., Hillside Coal & Iron Co., New York, Susque-hanna & Western Coal Co., Northwestern Mining & Exchange Co., Blossburg Coal Co.)

OFFICE OF THE GENERAL MANAGER, Scranton, Pa., April 11, 1912.

Mr. RICHARD BRADLEY, Peckville, Pa.

Dear Sir: Herewith please find proposed form of agreement conveying the interest of the Hillside Coal & Iron Co. in the culm pfles on the surface of lot 46, sinate partly in Lackawanna and partly in Luzerne Counties, Pa.

Will you please confer with Mr. E. J. Williams, to whom I have sent a copy of this letter, in regard to the form herewith and advise whether or not same meets with your approval. If the agreement is satisfactory to you, it will submitted to the executive officers of the Hillside Coal & Iron Co. for their consideration and approval.

Yours, very truly,

W. A. May,

W. A. MAY, Vice President and General Manager.

APRIL 12, 1912.

APRIL 12, 1912.

This letter and the attached form were returned to me at the Laurel Line station at 1.10 p. m., April 12, 1912, by Mr. Bradley, who stated that the form was satisfactory to him. I at the same time told him that notice was served on me by C. P. Holden not to dispose of the interest of the E. & G. Brook Land Co., as he held an option, and also in the name of his wife, who also has a small interest, and a notice from James E. Heckel, administrator of the James Everhart estate, which is the owner of five twenty-fourths. Mr. Bradley wanted to know whether he should go down there to-day, he being on the way there at the time I saw him. I told him I saw no objections to him going down, but I would have to consult our attorneys before going any further with the matter. He did not say whether he had seen Mr. Williams or not. williams or not.

Q. (By Mr. Manager STERLING.) That was the notation that you put at the bottom of the letter after Bradley had returned it to you?-A. Yes, sir.

Q. And after he had returned it to you at your request?-A.

Yes, sir. Q. That occurred the next day, or two days, after you had sent that letter with the contract to Mr. Bradley?—A. It occurred on the 12th of April, and I sent it on the 11th.

Q. The next day?—A. The next day. Q. Now, what had occurred in the meantime to cause you

Williams?—A. Mr. C. P. Holden called on me at my office and objected to the sale of our interest. On the morning of the 12th I received two or three letters, one from him, one from his attorney, and I think one from the administrator of the James Everhart estate.

Q. Do you know how it came about that all these people sent

these letters in to you at that time, just at the time you were about to convey your interest?—A. I do not know why.

Q. Do you think it remarkable that all these persons would get these letters in there objecting to the sale of that property after it had been lying dormant there for so long and they had never made any claim to it?-A. Not necessarily.

Q. You do not think it strange at all?-A. Not at all.

Q. They did not object to your selling your interest in it, did they?-A. There was a question as to-

Q. Just answer my question. In your notation you say that they objected to your selling their interest in it. Did they object to your selling their interest in it, or did they object to the Hillside Coal & Iron Co. selling its interest in it?—A. They objected to a sale of any kind, as I understood it.

Q. Then your notation is not correct?—A. That may be.

Q. Did you consider it of any importance that somebody else would notify you not to sell the interest of the Hillside Coal & Iron Co. in this dump?—A. It was of importance to us.

Q. You were not selling anything but your interest, were you?—A. That was all.

Q. This contract which you had prepared to send to Bradley simply specified that you were conveying the right, title, and interest of the Hillside Coal & Iron Co.?-A. That is right.

Q. And you were not intending to warrant anything, were you?—A. But—

Q. Wait. You were not intending in that contract to warrant anything, were you?—A. We were not going to warrant anything. thing; but we had other interests that I had to look after, and this was a very small matter.

Q. Just answer my question. Is it not a fact that between the time you sent this contract to Bradley and the time you met him at the Laurel Station and demanded it back it had developed that this investigation was going on from the Department of Justice with reference to Judge Archbald's connection with this deal and the Erie Railroad Co.?-A. If it did I did not know it.

Q. Had you not heard-A. I had not.

Q. Had you not heard just at that time, when it was beginning to be rumored about the streets of Scrantonnot.

Q. Wait-that an agent was there from the Department of Justice investigating these deals which Judge Archbald was having with the railroad companies, and was not that the reason you demanded this contract back from Bradley?—A. It was not.

Q. At what hour of the day did you see Bradley?-A. About 1 o'clock.

Q. On the 12th?-A. On the 12th.

Q. And you had mailed this contract to him on the 11th?-A. On the 11th.

Q. What time of day had you mailed it?-A. I think it was mailed in the afternoon.

Q. Of the 11th?-A. Yes; of the 11th.

Q. Now, when was it that these letters which you speak of came into your hands from these people notifying you not to sell?-A. On the morning of the 12th.

Q. They were all there on the morning of the 12th?-A. Not all of them. There were two or three; some came later.

Q. Did you get information from anybody, or did somebody tell you, that a tip had gone out from the office of the Hillside Coal & Iron Co. that they wanted an excuse for withdrawing this contract, and for that reason had these letters sent in there?-A. No, sir.

Q. At any rate, you refused to make the conveyance to Mr. Williams at that time, did you?-A. I did at that time.

Q. Now, going back, it was during the negotiations after you had received that letter in April from Judge Archbald, after you had talked with Mr. Richardson and had a conference with him-I mean the conference in which you and he determined not to sell the Katydid coal dump-that you and he changed your minds with reference to it, or he changed his mind and gave you different directions from what he had given you before?-A. He told me-

Q. Wait now. That occurred, did it not, between those dates?-A. Please repeat that question. I did not get it. I want to answer it.

Q. Between the time that you got the letter from Judge Archbald in April and after the time that you and Richardson to change your mind with reference to selling that dump to Mr. | had conferred and decided not to sell the Katydid coal dumpit was after that and before you sent word by Judge Archbald to Williams that you would sell him the mine-that you and he changed your minds with reference to selling the coal dump, was it not?-A. There was no change in my mind, but Mr. Richardson told me to take the matter up again.

Q. And he told you that Judge Archbald had been to New York to see him at that time, did he not?—A. That is as I

remember it.

Q. Did he tell you when he was in New York?-A. No; he did not, as I recall.

Q. Do you know when he was in New York?-A. Judge Archbald?

Q. Yes.--A. I do not.

Q. What effect did the fact that Judge Archbald appeared to be interested in this proposition have upon the Hillside Coal & Iron Co. and the Erie Railroad Co. with reference to the change of policy?

Mr. WORTHINGTON. Mr. President, I object to that question except as it may refer to what is in the witness's own mind to what he knows of his own knowledge with reference to

the others.

Mr. Manager STERLING. I am merely asking for his knowl-

edge about it—if he has knowledge.

Mr. WORTHINGTON. If I understand it is confined to his knowledge, of course I do not object; but we do not want any hearsay

- The Witness. Will you repeat that question?
 Q. (By Mr. Manager STERLING.) What effect did the fact that Judge Archbald appeared at that time to have an interest in this dymp have upon the officials of the Hillside Coal & Iron Co. and the Erie Railroad Co. with reference to changing their policy in regard to selling this coal dump?-A. I do not know. I only know that Mr. Richardson, in the ordinary course of business, told me to take the matter up again and see what could be done with it.
- Q. Now, that is not all he told you, is it?-A. That is all I remember.

Q. He told you that Judge Archbald had been to see him, did he not?-A. Yes; that is correct.

Q. And you talked about the fact that Robert W. Archbald was a judge of the Federal court, did you not, at that time?-A. No, sir: we did not.

Q. And do you not know as a fact that because Judge Archbald saw him about it and because he was a judge of the Federal court was the reason that you changed your mind with reference to the sale of the Katydid dump?-A. Not at all.

Q. Did you not swear to that before the committee?-A. I

did not.

Q. Well, you would not have sold it to Williams, would you?-A. No; we would not.

Q. You would not have sold it to anybody else, would you?-A. Yes; we would.

Q. What is the answer?-A. We would have if there had been no entanglements or complications in connection with it.

Q. Why would you not sell it to Williams until after Judge Archbald came into the deal?-A. Because I did not consider him responsible.

O. You knew that he was not paying a dollar for it; that he was just getting an option and depending on the sale of it to pay you anyhow, even with Judge Archbald in it, did you not?—
A. I do not remember that I knew what he was going to do with it.

Q. Did you know when you made this contract with Bradley that Mr. Bradley was to give you a check for \$4,500?-A. Yes;

that was subsequent.

Q. You knew, then, that Bradley was paying to you the price which they had agreed to pay you?—A. Yes; that was in April, but the letter was given to Mr. Williams in August of the previous year. Of course at the time

Q. You were not expecting Judge Archbald or Williams to pay anything until they sold it, anyhow, were you?-A. I do not

remember that I thought anything about it.

Q. Did you ever ask him for pay after you told him he could

have it?—A. No, sir; I did not.
Q. It was in August—the 30th day of August—that you wrote that letter to Williams——A. It was.

Q. Stating the terms on which he could have it?-A. It was. Q. They did not pay you then, and they never offered to pay you; and not until April, until Bradley came there and agreed to take the mine from Williams and Archbald, was anything said about the Hillside Iron & Coal Co. getting its forty-five hundred dollars?-A. Bradley was the first man that offered to pay us, or, rather, he was the first man we expected to get any pay from.

Q. Why would you not have been just as secure in your pay if you had sold it to Williams on those terms as you were in selling it to Williams and Archbald?

The WITNESS. Please repeat that.

Q. Why were you not just as secure in getting your pay, if you had sold it to Williams on those same terms, as you were by selling it to Archbald and Williams together?—A. No, sir.

Q. Why not?-A. Because we did not know where the money

was to come from.

Q. You knew it was not to come from anywhere until they sold it. You were giving them an option and if they did not sell it they would not take it from you .- A. If they had offered the price themselves, we would have accepted that of course.

Q. But you did not expect them to do that?-A. I do not

remember anything

Q. Although Archbald was in it, you did not expect them to do that?—A. I do not know.

Q. You expected to wait for your money until they had sold it and that is what you did do, although Archbald was in it; is not that true?—A. That is what we did in Bradley's case.

Q. Now, let me ask you. You testified last summer before

the Committee on the Judiciary in this investigation?-A. I did.

Q. I will ask you if this question was asked you by Chairman CLAYTON:

The CHAIRMAN. What I want to know, Mr. May, to be perfectly frank with you, is, was it on account of Judge Archbald's influence with you that you afterwards wrote Williams this letter of August 30, in which you signified a desire to sell the property?

And did you not make this answer:

Mr. May. It was the receipt of Judge Archbald's letter, in the first place, that caused me to make the examination. Even after August 31—or August 30—and up to April of this year I have refused to sell the bank, or our interest in the bank.

And then this question:

The CHAIRMAN. Then you paid no attention to Williams in his nogotiations, except whenever he presented a request from Judge Archbald, about the sale of this property. Is that the fact?

And your answer:

Mr. May. I think that is so.

A. That is correct. I answered that way.

Q. You would answer the question the same way now ?-A.

Q. And then this question by Chairman CLAYTON:

It was through Judge Archbald's influence that Williams was getting or seeking to get from you the sale of this property?

Mr. May. Yes.

A. That is right. But if you will allow me, I should like to add to that-

Mr. Manager STERLING. Wait until I ask you these questions:

Q. (By Mr. Manager STERLING.) And were you asked this question:

The CHAIRMAN, And without Judge Archbald's influence Mr. Williams could not even have had an investigation of the value and the title of that property made?

Mr. May. No.

The CHAIRMAN, He could not have done that?

Mr. MAY. No.

That is correct?—A. That is correct.

Q. And this question:

The CHAIRMAN, It was through Judge Archbald's influence that Williams was enabled to have you make this investigation as to the value of the property, the physical contents of the culm bank, and the legal title? Is that true?

Mr. Max. That is right.

A. That is correct.

Q. And this question:

The CHAIRMAN. And it was through Judge Archbald that you finally signified your willingness to sell this culm bank?
Mr. MAY. My willingness to recommend its sale,

Is that correct?-A. That is correct.

Q. And this question:

The CHAIRMAN, You would have had nothing to do with Williams without the influence or suggestion of Judge Archbald?

Mr. May. No; I would not.

A. That is correct. Now may I say what I wanted to say a moment ago?

Mr. Manager STERLING. Just a minute.

The Witness. It is with reference to what you have asked. Mr. Manager STERLING. You may make a statement, if

you desire to.

The WITNESS. It was only the judgeship added to his influence as a man and in no other way that these answers were made.

Q. (By Mr. Manager STERLING.) As I understand you, then, it was the fact of the judgeship and Robert W. Archbald as a man that had its influence upon the Erie Railroad Co. and the Hillside Coal & Iron Co. that induced you to sell the Katydid

coal dump to Mr. Williams and Mr. Archbald?-A. It certainly added

Q. Wait; is that true now?-A. I want to explain.

Q. Can you not answer it yes or no?—A. No; I can not. Mr. Manager STERLING. Go ahead and explain.

A. It simply added to his position; I mean as a man. The thought was not with the expectation-

Q. (By Mr. Manager STERLING.) Not what the thought was

with reference to it. What I want to know is, what effect the fact that Mr. Archbald was a judge had upon this transaction?

Mr. WORTHINGTON. Mr. President, I submit when a witness is asked what was operating in his mind he has a right and should be allowed to answer. The witness was asked what he was thinking, and he was proceeding to state what he was thinking when counsel stopped him. I do not think that is thinking when counsel stopped him. I do not think that right. The witness should be allowed to finish his answer.

Mr. Manager STERLING. I withdraw the objection and will

The PRESIDENT pro tempore. The witness will answer the

question and make the explanation he desires

The Witness. Only as it added to his influence, only as it added to his standing as a man, did it affect me. I had no thought of influencing him as a judge.

Q. (By Mr. Manager STERLING.) It added what to his standing as a man—the fact that he was a judge?—A. Yes, sir.

Q. I will ask if this question was asked (p. 743):

Mr. RUCKER I am not asking you about your practice, but I am asking you a direct question: Did the fact of Judge Archbald's making the application, he being a Federal judge, prompt you in whole or in part to make this deal?

Mr. Max. It might have influenced me.

That is correct?-A. I want to add that-

Q. Wait. Did you answer that question in that way?—A. I did.

Q. Did he ask this question, page 742:

Mr. RUCKER. But when Judge Archbald wrote you and asked if you would sell it, and if so, to fix a price, you immediately set about to do that work, did you not?

Mr. May. Yes; I did.

That is correct?-A. That is correct.

Q. And Mr. Rucker proceeded:

Let me ask you this direct question: He was on the Federal bench at that time?

Mr. May. Yes; he was.

That is correct?-A. That is correct.

Q. You knew at the time that the Erie Railroad Co. had a litigation pending in the Commerce Court, of which Judge Archbald was a member, did you not?-A. I did not.

Q. Mr. Richardson knew it, of course, did he not?-A. I do

not know.

Q. He is connected with the general solicitor's office there in New York?—A. No, sir. Q. How?—A. No, sir; he is not connected with the general

solicitor's office.

Q. He is in the same office with the general solicitor?-A. He has an office on the same floor.

Q. Right next to Mr. Brownell, the general solicitor?-A. No.

sir. It is on the same floor; it is not right next door.
Q. It is all one suite of rooms occupied there by the Erie Railroad Co.?-A. All of the rooms are occupied by the Erie

company, but Mr. Brownell's is some distance away.

Q. Mr. Richardson told you that Mr. Brownell had brought Judge Archbald into his office, did he not?—A. No; I do not

recall that.

Q. Did you not know at the time that Mr. Brownell had introduced Judge Archbald to Mr. Richardson?-A. No; I do not think I did.

Q. Mr. Brownell, of course, knew what litigation it had pending in the Commerce Court, did he not?-A. Why, presumably.

Q. I will ask you another question, referring to the record at page 742:

Mr. RUCKER. Then, I will ask you if the fact that Judge Archbald was the judge before whom litigation might be taken had anything to do with your determination to sell that property to Mr. Williams at his, Judge Archbald's, request?

Mr. MAY. Well, it might have.

You answered in that way, did you not?-A. Well, it might

No. but I do not think it did.

Q. Mr. May, how many personal conversations have you had with Judge Archbald, or did you have with him, about this transaction prior to the time you withdrew this contract from Bradley?-A. I do not remember.

Q. About how many?-A. I could not tell you.

Q. Have you any estimate at all now of how many times you talked with him personally or over the phone about this?-A. No; I have not.

Q. It was quite a number of times, was it not?—A. No. sir; I can not say; I do not know.

Q. Was it many or few?-A. Well, I do not know.

Q. You talked with him more times about it than you did with E. J. Williams, did you not?—A. No; I do not believe I

Q. As many times?-A. I do not know. I want to answer your questions, but I can not do it.

Q. How many times did Judge Archbald call you up on the phone about it?—A. I do not know.

Q. Williams brought this first letter to you personally, did he not—that was in March?—A. Yes. Q. The 31st day of March?—A. Yes; he did.

Q. Then he came back in June and talked to you about it, did he not?-A. I do not remember.

Q. You testified to that before, did you not?—A. I do not remember it if I did. I would like to have the record read.

Q. In any event, Williams told you, did he not, in some conversation, that Judge Archbald was going to New York to see Brownell?—A. Yes, sir.

Q. When did you first learn that he had been to New York?-A. In June.

Q. In June?-A. No; I beg your pardon, not in June-in August.

Q. Judge Archbald was there the 4th of August. You say you did not know it until the 25th of August?—A. I did not know it until the 25th of August.

Q. And that is when Richardson told you that Judge Archbald had been down there and told you in the same conversation to take up the negotiations again?-A. That is right.

Q. Is that the first time you had seen Richardson after the

4th of August?-A. That was the first time.

Q. He told you that he had told Judge Archbald he would have you do this, did he not?-A. I do not remember what he

Q. And did he not also say to you at that time that Mr. Brownell, the general solicitor, had brought Judge Archbald into his office?-A. I do not remember that he did.

Q. I will ask you if the chairman did not ask you this question, reading at page 722 of the record:

The CHAIRMAN. Did you refuse to talk business about the sale of the Katydid culm bank with Williams?
Mr. May. Yes; I did.

A. If it is there, I said that; yes, sir.

Q. (Reading:)

The Chairman. When was it you refused to talk over this matter of e sale of the Katydid culm bank with Williams?

Mr. May. I think it was the latter part of June.

That is correct, is it not?—A. If it is there it is correct.

Q. I read further:

The CHAIRMAN. Where was it, and when was it Williams saw you at the time you have just mentioned?

Mr. Max. I think it was in my office; but I do not remember.

The CHAIRMAN. In the latter part of June, to the best of your recol-

lection? Mr. May. Yes, sir.

A. That is right.

Q. That was after you and Mr. Richardson had first conferred and decided not to sell the coal dump?-A. That is correct.

Q. And it was after Archbald's trip to New York, and after you had been to New York that you notified Archbald to send Williams around and you would let him have it?—A. That is correct.

Mr. Manager STERLING. Mr. President, I think we are through with this witness now, but I would like to reserve the right, if it is the intention to adjourn now, to ask him further questions in the morning, if I see fit.

standing.

Mr. Manager CLAYTON. Mr. President, before adjourning I will state that the witness for whom the order was taken

to-day for the attachment has come, and he is now in the corridor of the Senate Chamber, I believe. I should like him to be brought in and to have him admonished to be present at the session of the court to-morrow and until discharged, refer to Mr. James H. Rittenhouse.

The PRESIDENT pro tempore. into the presence of the court. The witness will be brought

Mr. James H. Rittenhouse appeared in the Chamber.

The PRESIDENT pro tempore. Mr. Witness, you are brought before the court to be admonished that you must scrupulously obey the orders you have received in the summons to appear here and not to absent yourself without leave of the Senate. You may now retire.

Thereupon Mr. Rittenhouse retired from the Chamber.

The PRESIDENT pro tempore. Does the manager on the part of the House desire that the order for attachment be vacated?

Mr. Manager CLAYTON. I ask that that be the course

pursued.

The PRESIDENT pro tempore. The order for the attachment will, under the circumstances, be vacated, unless there be objection. The Chair hears no objection, and it is so ordered. Mr. CLARK of Wyoming. Mr. President, I offer the order I

send to the desk.

The Secretary read as follows:

Ordered, That the daily sessions of the Senate, sitting in the trial of impeachment of Robert W. Archbald, shall until otherwise ordered commence at 1 o'clock and 30 minutes in the afternoon and continue until 6 o'clock in the afternoon of each day.

The PRESIDENT pro tempore. Is there objection on the part of any Senator to the adoption of the order? If not, the Chair will consider it as having been unanimously adopted.

Mr. CLARK of Wyoming. I move that the Senate sitting as Court of Impeachment adjourn.

The motion was agreed to.

The managers on the part of the House of Representatives, the respondent, and the counsel for the respondent retired from the Chamber.

DEATH OF REPRESENTATIVE CARL CARRY ANDERSON.

Mr. POMERENE. Mr. President, I ask that the resolutions of the House on the death of my late colleague in that body be laid before the Senate.

The PRESIDENT pro tempore. The Chair lays before the Senate resolutions of the House of Representatives, which will be read.

The Secretary read the resolutions, as follows:

IN THE HOUSE OF REPRESENTATIVES, December 2, 1912.

House resolution 713.

Resolved, That the House has heard with profound sorrow of the death of the Hon. Carl Carry Anderson, a Representative from the State of Ohio.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Mr. POMERENE. Mr. President, I offer the following reso-

lution and ask for its adoption.

The PRESIDENT pro tempore. The resolution will be read. The resolution was read, considered by unanimous consent, and unanimously agreed to, as follows:

Senate resolution 403.

Resolved, That the Senate has heard with deep sensibility the ar-nouncement of the death of the Hon. Carl Carly Anderson, late a Representative from the State of Ohio.

DEATH OF REPRESENTATIVE GEORGE HERBERT UTTER.

Mr. WETMORE. I ask the Chair to lay before the Senate the resolutions of the other House on the death of Representative UTTER, of Rhode Island.

The PRESIDENT pro tempore. The Chair lays before the Senate resolutions of the House of Representatives, which will

be read.

The Secretary read the resolutions, as follows:

IN THE HOUSE OF REPRESENTATIVES, December 2, 1912. House resolution 714.

Resolved. That the House has heard with profound sorrow of the death of Hon. George Herrer Utter, late a Member of the House from the State of Rhode Island.

Resolved. That the Clerk of the House be directed to transmit a copy of these resolutions to the Senate and send a copy thereof to the family of the deceased.

Mr. WETMORE. Mr. President, I offer the following resolutions, and ask for their adoption.

The PRESIDENT pro tempore. The Senator from Rhode Island offers resolutions, which will be read.

The resolutions were read, considered by unanimous consent, and unanimously agreed to, as follows:

Senate resolution 401.

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. George H. UTTER, late a Representative from the State of Rhode Island.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

DEATH OF REPRESENTATIVE RICHARD E. CONNELL.

Mr. ROOT. Mr. President, I ask that the resolutions of the House of Representatives on the death of the late Representative Connell may be laid before the Senate.

The PRESIDENT pro tempore. The Chair lays before the Senate resolutions of the House of Representatives, which will be read.

The Secretary read the resolutions, as follows:

IN THE HOUSE OF REPRESENTATIVES,

House resolution 716.

December 2, 1912.

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Resolved, That the House of Representatives has heard with profound sorrow of the death of the Hon. RICHARD E. CONNELL, late a Representative from the State of New York.

Resolved, That the Clerk be directed to communicate these resolutions to the Senate and transmit a copy thereof to the family of the

deceased.

Mr. ROOT. Mr. President, I offer the following resolutions which I send to the desk, and ask for their present consideration.

The PRESIDENT pro tempore. The Senator from New York offers resolutions, which will be read.

The resolutions were read, considered by unanimous consent, and unanimously agreed to, as follows:

Senate resolution 402.

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. RICHARD E. CONNELL, late a Representative from the State of New York.

Resolved, That as a further mark of respect to the memory of those Representatives whose deaths have been announced the Senate do now adjourn.

Thereupon (at 6 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Friday, December 6, 1912, at 12 o'clock m.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 5, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the fol-

lowing prayer:

O Lord, our God, we come to Thee with glad hearts when we remember that amid the busy whirl and turmoil of life's activities we ofttimes forget Thee, yet Thou art ever mindful of us, and though by devious ways we ofttimes wander from the paths of rectitude and duty Thou art constant in Thy ministrations to us.

Pardon, we beseech Thee, our shortcomings, our weakness, our sins, and hold us close to Thee and life's duties henceforth. And Thine be the praise forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. Brown, by unanimous consent, was granted leave of absence for three days, on account of illness.

PHYSICAL VALUATION OF RAILBOADS.

The SPEAKER. When the House adjourned last Tuesday the previous question had been ordered on the bill H. R. 22593, known as the Adamson bill, providing for the physical valuation of railroads, and there was pending a motion to recommit with instructions, offered by the gentleman from Illinois [Mr. Mann], and the gentleman from Tennessee [Mr. Sims] raised a point of order that the motion to recommit was not in order because it was not germane to the subject matter of the bill.

Unless some gentleman desires to be heard on it, the Chair

is ready to rule.

Mr. OLMSTED. Mr. Speaker-The SPEAKER. The gentler The gentleman from Pennsylvania [Mr.

OLMSTED] is recognized.

Mr. OLMSTED. Mr. Speaker, so far as I am concerned, I concede at once the high authority of the precedent cited by the gentleman from New York [Mr. FITZGERALD] in support of the proposition that it is not sufficient for the amendment to be germane to the original bill to which this bill is offered as an amendment, but it must be germane to this pending bill. The question is whether this amendment is germane to this bill.

I call attention to page 386, section 780, of the Manual, which

treats of the whole subject in this way:

A general subject may be amended by specific propositions of the same class. Thus, the following have been held to be germane: To a bill admitting several Territories into the Union, an amendment adding another Territory; to a bill providing for the construction of buildings in each of two cities, an amendment providing for similar buildings in several other cities; to a resolution embodying two distinct phases of international relationship, an amendment embodying a third.

In section 5838, volume 5, of Hinds' Precedents of the House of Representatives appears a ruling that-

To a bill admitting several Territories into the Union, an amendment adding another Territory is germane.

And, then, in the next section-5839-it says:

To a resolution embodying two distinct phases of international relationship an amendment embodying a third was held to be germane.

There was pending in that case a resolution setting forth that was an imperative duty, in the interest of humanity, to express the earnest hope that the European concert would do certain things in relation to the fanaticism and lawless violence prevalent in Turkey. The resolution then pending combined three resolutions in one. The first one was as I have stated. The second was-

That the President be requested to communicate these resolutions to be Governments of Great Britain, Germany, Austria, France, Italy, the Government and Russia.

And, further:

That the Senate of the United States, the House of Representatives concurring, will support the President in the most vigorous action he may take for the protection and security of American citizens in Turkey.

Then Mr. Hepburn, of Iowa, offered an amendment, as follows:

That, for the purpose of emphasizing our protest against the murders and outrages above recited, the President is directed to furnish the trutish minister his dismissal as a representative of the Sultan at this capital, and to at once terminate all diplomatic relations with the Capital, and to at one Government of Turkey.

That was an entirely new, a different, and distinct subject.

A point of order was made against it by Mr. McCreary, of Kentucky, which was overruled by Speaker Reed, presumably upon the same ground as these other cases to which I have referred were ruled, that such resolution embracing more than one subject it was germane to add still another subject.

Then, in section 5840 it was held that to a bill providing for the construction of a building in each of two cities an amendment providing for similar buildings in other cities would be germane. That was decided longer ago by Speaker Banks, of

Massachusetts.

Now, the question, it seems to me, is whether this pending bill contains more than one subject, more than one substantive proposition. If it does, then a third or new substantive proposition would be germane and in order under the rulings which I have cited. Does this bill contain more than one substantive proposition?

The SPEAKER. Is that the rule on that-as to the substantive propositions? What is the subject of this Adamson

Mr. OLMSTED. This bill has at least two subjects. The first provides for the physical valuation of the property of common That is one separate and distinct subject. The Interstate Commerce Commission is to take testimony and determine the value of the property of common carriers. The common carriers may appeal or protest. Then a hearing is awarded upon the protest, and after the hearing the commission is to fix finally the physical value of the property of the common carrier.

That is one proposition. Then the bill contains another. It empowers the commission to investigate as to the amounts and dates of all bonds and stocks outstanding. That is a separate and distinct proposition contained in this bill. The physical valuation of railroads has nothing to do with stocks and bonds, and stocks and bonds have nothing to do with the physical valuation of the railroads. The commission is to find absolutely and determine the value of the physical property; and in addition to that—an entirely separate and distinct proposition-it is to investigate concerning stocks and bonds.

Mr. FITZGERALD. Mr. Speaker, will the gentleman yield

for a question?

Mr. OLMSTED. Certainly.
Mr. FITZGERALD. The Adamson bill proposes to add a section to the existing law, and in this section is embraced a scheme which is considered essential in order to enable the Interstate Commerce Commission properly to determine whether the rates are reasonable. They are parts of one scheme, and not two independent substantive propositions.

And has not the gentleman, in quoting his authorities, entirely ignored all the decisions, including one by himself, which have established the rule that when a bill proposes to amend an existing law in certain particulars, amendments that might be germane to other provisions of the law but are not intimately related to the thing before the House are not germane to that

Mr. OLMSTED. No, Mr. Speaker; I have not ignored that proposition. I referred to it particularly at the outset. Perhaps the gentleman from New York was not listening.

Mr. FITZGERALD. I was listening carefully.

Mr. OLMSTED. I admitted that authority in support of the proposition that the proposed amendment must be germane to this bill. I concede that proposition. In fact, as the gentleman from New York has stated, I made such a ruling myself when occupying the chair upon a former occasion. The question is, Does this bill itself contain more than one proposition? Now, does it? First, there is the physical valuation of the property of common carriers to be determined by the Interstate Commerce Commission. That is one thing complete in itself. Then there is a second proposi-

tion, that the Interstate Commerce Commission shall determine as to the amount of bonds outstanding and the names of the stockholders and bondholders, and so forth. The names of the stockholders have nothing to do with the physical valuation of the property of the railroad or with the fixing of rates of that railroad, nor have the names of the bondholders. The commission is instructed to-

find and report the facts as to the connection of any bank or banker, capitalist or association of capitalists, or financial institutions or holding company with the ownership, manipulation, management, or control of any stocks and bonds of any such company.

That has nothing to do with the fixing of rates. This amendment of the gentleman from Illinois [Mr. MANN] proposes to go further, and after the commission has ascertained these facts about stocks and bonds, provide against the fictitious issue of stocks and bonds in the future—a most important proposition, and, if the gentleman from New York [Mr. Fitz-GERALD] please, fully as important as touching upon the question of rates as anything involved in this bill or any other bill, because if we stop the fictitious issuance of stocks and bonds and the watering of stocks and bonds we stop the inflation of the capital upon which interest and dividends are paid, and rates must be fixed proportionately. So that even upon that argument this proposition to stop fictitious issuance of stocks and bonds may be held germane.

But what I suggest to the Chair is that this bill already containing two or more propositions, an amendment introducing

a still further proposition is in order under the rule.

The SPEAKER. The Chair will ask the gentleman a ques-Has this Adamson bill any provision in it whatever about the issuance of bonds and stocks?

Mr. OLMSTED. Not about the issuance of bonds. The SPEAKER. The Mann amendment has entirely to do with the issuance of bonds and stocks, has it not?

Mr. OLMSTED. Substantially so; yes.

The SPEAKER. Does the gentleman contend that if a bill contains two different substantive propositions, that authorizes a general omnium gatherum of everything that everybody wants put in it on the subject?

Mr. OLMSTED. That is the effect of the rulings which I have cited, particularly the ruling of Mr. Speaker Reed, permitting as germane an amendment canceling the commission of the Turkish ambassador.

The SPEAKER. What was the main proposition in that resolution?

Mr. OLMSTED. It was expressing the sentiments of the Senate and House, deploring the outrages which were being perpetrated in Turkey, and another resolution requiring these timents to be expressed to the Governments of Great Britain, France, and other countries; and then an amendment offered by the gentleman from Iowa, Mr. Hepburn, requesting the President to cancel the commission of the Turkish representative at this Capital was declared to be in order.

The SPEAKER. But those things were on the same subject. Mr. OLMSTED. I think not. There was nothing in the original resolution about the Turkish ambassador, or severing relations with the Turkish Government.

The SPEAKER. The original resolution expressed our horror of the way that the Turks were treating people.

Mr. OLMSTED. That is correct. The SPEAKER. And the Henburgh And the Hepburn amendment simply emphasized our opinion of it by adding something that made it effective.

Mr. OLMSTED. This proposal emphasizes the ascertainment of stocks and bonds and the physical valuation, and gives some effect to this bill by providing against the future issuance of stocks and bonds except under certain conditions. The investigation as to stocks and bonds is already provided for in The amendment goes a step further in the same direction and makes the bill effective just as the Hepburn amendment made the Turkish resolution effective by the introduction of a new proposition.

Mr. GARRETT. Mr. Speaker, if the gentleman will permit, does not the gentleman from Pennsylvania think that even granting the force of the precedents which he has cited a different philosophy applies to legislation than to the passage

of resolutions that have no legal effect?

Mr. OLMSTED. I do not think there is any difference in principle, but I have cited several instances which applied directly to legislation. For instance, if we had here a bill granting a pension to John Smith, simply that and nothing more, an amendment granting a pension to John Jones would be held not to be germane, but if the original bill granted a pension to John Smith and another pension to John Jones, it would be held under the rulings that an amendment to pension also John Williams would be in order.

Mr. SIMS. Will the gentleman yield for a question?

Mr. OLMSTED. Yes.

Mr. SIMS. Suppose that we were back previous to 1860 in this country, and were considering a bill providing for the enumeration of slaves, or telling how they should be enumerated, as an amendment to an act already in existence. Does the gentleman hold that an amendment abolishing slavery would be in order upon such a bill as that?

Mr. OLMSTED. No: because that bill would contain simply one proposition, the enumeration of slaves, and the abolition of slavery would not be germane to a single proposition to take a

census of slaves.

Mr. SIMS. And this bill has only one object and purpose, and that is the valuation of railroads. Then admitting that the information authorized to be acquired by ascertaining the amount of outstanding bonds and stocks is germane to ascertaining the value of the property of the railroads, how, then, can a bill proposing to regulate the issuance of stocks and bonds, directed against railroads themselves, be germane to a mere inquiry as to the amount of outstanding bonds?

Mr. OLMSTED. I have tried to explain that this bill contains more than one proposition. It is to a certain extent a general bill. It provides for the physical valuation of railroads. That is one thing that is definite and complete. After that has been provided, it provides for the ascertainment of the names of stockholders and bondholders and the amount of stocks and bonds and all that sort of thing, and the relation of banks to the companies. I submit that under the precedents it is germane to add a provision that, as the result of that investigation, bonds and stocks shall be issued hereafter only on certain conditions and subject to certain limitations, and with the consent of the Interstate Commerce Commission.

Mr. SIMS. Does not the amendment offered in this case have to do with the issuance in future, and not with the fact

of how many have already been issued?

Mr. OLMSTED. It does

Mr. SIMS. How can it be any more germane to the second

subject of the bill than to the first?

Mr. OLMSTED. I have tried to explain that when the bill itself contains more than one proposition, under the uniform rulings of different Speakers it is germane to add a new proposition.

Mr. SIMS. To add one that is not germane to any proposi-

tion in the bill?

Mr. OLMSTED. It need not be germane to any proposition in the bill. But I submit that this is germane to a proposition in the bill and is on the same subject. If you say all this is to have relation to fixing the rates, nothing is more important in fixing the rates than that there shall be no fictitious issuance of stocks and bonds. I submit these observations for the consideration of the Chair.

Mr. GREEN of Iowa. Mr. Speaker, the gentleman from Illinois, in his remarks upon this point of order day before yester-day, contended, first, that this amendment which he had proposed was in order because it was germane to the act which was proposed to be amended, and, second, because it was ger-

mane to the bill which we now have before us,

I shall not discuss the first proposition he advanced, but will speak very briefly indeed in support of the second contention which he made. As has already been stated by the gentleman from Pennsylvania [Mr. OLMSTED], this bill contains two different propositions. The first relates to the physical valuation of railroads and the second relates to the issuance of stocks and bonds. It provides in the most sweeping and specific terms for the investigation into the amount of stocks and bonds that have been issued, the purpose to which the moneys received therefor have been applied, the persons who have been connected with the issuance of stocks and bonds, any manipulation thereof, and the whole history of the transaction; and then it goes further and provides that the railroad corporations themselves must furnish for this purpose, among others, full access to their books, records, papers, documents of all kinds, and further provides that the commission may make rules and regulations for the enforcement of the provisions in this bill.

Now, what is the object of this provision with reference to the amount of stocks and bonds issued here and the manner in which they have been issued? Abstractly considered, neither this House nor any person in the United States cares how much stocks and bonds have been issued in the past. The money has been spent, it has gone, and the liens created must stand and be recognized as valid obligations.

The argument here was when the bill was under discussion that publicity thereby obtained would be a restraining factor in the issuance of stocks and bonds in the future, and in a measure control it.

I wish to go further in my argument and show that the bill undertakes to exercise control over the issuance of stocks and bonds; to go further and show that the amendment offered by the gentleman from Illinois goes further and is relevant to the subject which it seeks to amend, and therefore, in dictionary

terms at least, is germane thereto.

As I said, I wish to show that this bill, in fact, provides for the control over the issuance of stocks and bonds. Hereafter, if this bill passes, no stocks and bonds can be issued without the commission has the right to call for and report upon them, without the commission has the right to investigate into the issuance of them and the manner in which the proceeds have been spent. Up to this time, and as a matter of circumstance now, the commission has nothing whatever to do with the issuance of stocks and bonds, except that it may bear in some remote degree on some other question sought to be investigated.

The SPEAKER. The Chair will ask the gentleman from Iowa to point out in the bill anything that has to do with the future

issuance of stocks and bonds.

Mr. GREEN of Iowa. If the Chair will pardon me, I did not suppose it would be contended that the matters provided for in this bill with reference to the present stocks and bonds would not apply to stocks and bonds issued in the future.

The SPEAKER. Is there anything in the Adamson bill about the issuance of stocks and bonds? If there is, I wish the gentle-

man would point it out.

Mr. GREEN of Iowa. In case any stocks and bonds are issued in the future, I hardly think it would be contended that thereupon the Interstate Commerce Commission will not have the right, if the bill passes, to investigate the issuance of stocks and bonds and require the railway company to furnish a full report, and then to make orders, regulations, and rules which will have the force of a law.

Of course, if it is contended here and if the Chair should hold that these provisions with reference to stocks and bonds had application only to stocks and bonds which have been heretofore issued, I shall have to admit that my argument falls to

the ground.

Mr. SIMS. It can only have reference to the stocks and bonds outstanding at the time the investigation is made, and could Mr. SIMS. not possibly apply to subsequent stock and bond issues unless there is a subsequent investigation.

Mr. GREEN of Iowa. Will the gentleman from Tennessee say that if this act is passed and stocks and bonds are subsequently issued by railroad companies under and by virtue of this act, the commission will have no right to investigate as to the issuance of those stocks and bonds?

Mr. SIMS. Incidentally to making the physical valuation-Mr. GREEN of Iowa. But the gentleman is not answering the question at all. The question can be answered by yes or no. Mr. SIMS. Under this law it does not make any investiga-

tion conditional and precedent to the issuance of stocks and

Mr. GREEN of Iowa. It does not. That is true, but this amendment which is offered by the gentleman from Illinois [Mr. Mann] simply seeks to further control, to exercise a further act of control. This investigation is an act of control over the issuance of stocks and bonds.

Mr. SIMS. Oh, no.

Mr. GREEN of Iowa. It must be, necessarily,

Mr. SIMS. Not at all. Mr. GREEN of Iowa. And the amendment of the gentleman from Illinois goes only one step further toward the process of controlling it.

Mr. CULLOP. Mr. Speaker, will the gentleman yield?

Mr. GREEN of Iowa. Certainly.
Mr. CULLOP. From the tenor of the gentleman's argument I take it he misapprehends the purpose of the measure. It is for the purpose of changing the method by which freight rates or transportation tolls are now fixed, and it has nothing to do, so far as the amount of overcapitalization or overbonded indebtedness is concerned, with the fixing of rates at all. That is not the subject matter of the bill. It is upon the actual valuation of the physical property and not its capital stock or its bonded indebtedness. That is the purpose and object of the measure, and so far as the bonded indebtedness or capital stock is concerned, if this measure passes, they do not enter into the consideration as an element in the fixing of the transportation tolls in any manner whatever. Therefore, this amendment offered is not germane to either the text or the subject matter of the proposed measure.

The SPEAKER. The Chair would like to ask the gentleman from Indiana a question. His contention in this matter, as I understand it, is that this Adamson bill is solely for the purpose of fixing the physical valuation of railroads and that part

which is in the bill about stocks and bonds is simply to throw light on that subject

Mr. CULLOP. Only, and for no other purpose.

The SPEAKER. And that the Mann amendment treats with an entirely different subject of controlling the issuance of stocks

Mr. CULLOP. That is it exactly. That is my contention

Mr. GREEN of Iowa. Mr. Speaker, the remarks of the gentleman from Indiana in the general discussion of the bill are not, so far as I know, yet in the RECORD; but if I mistake not he, or at least some other gentlemen who were speaking at the time, contended in that discussion that the object and purpose of this provision to which I have alluded was altogether different from what he now sees; and, indeed, how could it be otherwise? What has the amount of stocks and bonds to be issued to do with the physical valuation of a railway or any of its property?

Mr. CULLOP. Mr. Speaker, the gentleman misapprehended my statement of that question if he refers to me. What I said was, if we resorted to the physical valuation of transportation property for the purpose of fixing rates, that as an incidental matter following from that it would destroy as a natural result or consequence the overcapitalization or the making of overbonded indebtedness in the future, and that it would eliminate that feature as a speculative matter in dealing with these properties on the market. This result will follow as an inevitable conclusion. That was my statement.

Mr. GREEN of Iowa. That is exactly what the gentleman

was arguing before.

Mr. CULLOP. It was the effect and not the language that I

had in mind.

Mr. GREEN of Iowa. That the purpose and object of these provisions was to prevent overcapitalization and that that would be the effect, and now I think I have shown here by this act of investigation, by this act of summoning as they may the evidence of clerks of the railways, or of any party connected with it, to give information regarding that, to give information with relation to stocks and bonds, they must and do exercise a control over the issuance of them. For that reason the amendment

introduced by the gentleman from Illinois is germane.

Mr. STEVENS of Minnesota. Mr. Speaker, before the Chair finally determines the point of order he should have in mind the history of this legislation. The records of the House will show that during the last session the majority of this House directed a general scheme of investigations of alleged wrongdoing of various large business interests of the country, and I think the report of the Committee on Rules on this subject divided the work of investigation among several of the committees of the House, and among them was that the Committee on Interstate and Foreign Commerce should investigate this subject. ent sorts of investigations have been had. I think some are pending, and some very important reports have been made. One of the investigations concerning the financing and issuance of securities by common carriers, as just stated, was directed to be made by the Committee on Interstate and Foreign Commerce, and I think that the report of the Committee on Rules will so show. The records of the Committee on Interstate and Foreign Commerce, which are public and open to inspection, will show that the committee, after some discussion, thought it best to conduct its share of the investigation not by means of summoning witnesses itself to ascertain what facts there were relative to the subject matter and what plans and reports should be made, but by directing the Interstate Commerce Commission itself, which had the experience and the machinery, to make the investigation and to report its views upon the methods to right some of the wrongs which would be shown by such an The hearings before that committee will show investigation. such to be the fact, and in the process of its work the Committee on Interstate and Foreign Commerce had this bill as a basis and measure of some part of what it ought to do. Now, the investigation directed by the House concerned not only the alleged wrongs which had previously existed, but the method and plan of righting those wrongs, in order to properly subserve the welfare of the people, as might be shown by the investigation. So this measure was planned to accomplish these results. The records show it was so reported, and it came before the House to meet the report of the Committee on Rules for such an investigation and the submission of a proper plan for a righting of the different wrongs shown and known to exist in the issuance of securities by common carriers. Now, if the Chair will examine the text of the bill and consider the powers of the Interstate Commerce Commission under it, I think the question he addressed to the gentleman from Iowa [Mr. Green] will be answered. On page 2, lines 1 and 2, of the bill:

That the commission shall investigate and ascertain the value of the

Of course "property" means not only the physical property but it means every sort of property, and the value is measured not only by the cost of reproduction, not only by the amount that has been expended in its construction, but by the market value as evidenced by the outstanding securities. Now, the other committees, upon their investigations and in their reports, I think, have invariably reported to us some method—at least they reported different means and different plans of legislation by which the alleged wrongs shown by their investigation shall be righted. This bill does exactly that same thing, except we contend that it does not go far enough, but there is enough in the bill as a basis for the legislation which ought to be had, under the investigation ordered by the House, to warrant the amendment of the gentleman from Illinois [Mr. MANN]. fixing the value of the property, of course, it would include the market value of the stocks and bonds. The bill provides the history of these stocks and bonds shall be investigated and reported, and if evils be disclosed the remedies for those evils should be ascertained and set forth in the legislation, and the remedies can be carried into effect by the very organization, by the very body, provided by this bill to conduct the investigation. The very purpose of the investigation directed by this House, the very purpose of the investigation directed by this measure and by the committee, can not be made fully effective unless by some such amendment as is proposed by the gentleman from Illinois and as was proposed by the minority of the committee in the process of its hearings and consideration. And for that reason the history of the bill shows that the whole subject matter is germane; that it was considered; that this House wanted it so considered; and there is enough in the bill under the common acceptation of construction, under the construction of the courts as to the definition of values, under the language of the bill, to take that additional step and provide a remedy for the wrongs which will be found to exist by the In-

remedy for the wrongs which will be found to exist by the interstate Commerce Commission in conducting its investigation. The SPEAKER. The Chair would like to ask the gentleman from Minnesota a question. Now, if that is true—and the Chair has no doubt it is—what is the reason the committee did not report some such proposition as the Mann proposition in

the bill?

Mr. STEVENS of Minnesota. The matter was discussed by the committee, Mr. Speaker, and the majority of the committee took the responsibility of reporting the bill in its present form. The records of the committee will show the minority did propose this identical plan suggested by the gentleman from Illinois and the majority, for reasons best known to themselves, refused to consider it.

Mr. FITZGERALD. That hardly has any bearing upon the question of whether the Mann amendment is in order on the

pending bill.

Mr. SIMS. Mr. Speaker-

The SPEAKER. The Chair will not bother the gentleman from Tennessee to make an argument on his side.

Mr. SIMS. I was only going to refer to the history to which

the gentleman from Minnesota referred.

The SPEAKER. The Chair has investigated the parliamentary phase of this question fully. We have not anything to do here with the merits of the substance of the motion to recommit which was submitted by the gentleman from Illinois [Mr. If that proposition were submitted in a bill, or if the Chair thought it was germane, he would be very much in favor It is not necessary in this opinion, but it is stated anyhow, that the issue of stocks and bonds by public-service cor-porations ought to be regulated by law. That, however, has nothing to do with this preliminary question which is pending here now.

The rule about motions to recommit is this: A proposition is not germane in a motion to recommit unless it would have

been germane as an amendment to the bill.

The authorities all run one way. I have investigated them range and the first one way. I have investigated them carefully. The proposition laid down by the gentleman from Pennsylvania [Mr. Olmstep] is partly correct and partly incorrect. It does not go to the extent which he undertook to make it go. The rule is not that, if there are two substantive propositions in a bill you can add anything else to it. The rule is that on such a question as admitting Territories into the Union as States; if you were trying to admit Idaho, for instance, alone, you could not add Montana and Washington, and so forth. But if you turn it around the other way and make the bill general in its character to admit Montana and Idaho and Washington, then you might add to it, as an amendment, Wyoming, for instance.

At one time there was a proposition pending to appropriate money to destroy the boll weevil and the gentleman from Massachusetts [Mr. Gillett] offered a proposition to add some money to destroy the gypsy moth. Mr. Speaker Cannon held that there was no connection between the two propositions, and ruled out

the amendment of the gentleman from Massachusetts.

There have been divers and sundry rulings of that kind. In the case cited by the gentleman from Pennsylvania [Mr. Olmsted], when the House was expressing its opinion as to what the Turks were doing to the Christians over in Turkey, that was the subject matter. The resolution was to express our horror of what they were doing, and the gentleman from Iowa, Mr. Hepburn, offered an amendment which was more emphatic in its expression of horror than any of the rest, proposing to give the Turkish ambassador his passport. Consequently it was held to be germane.

During the term of the present Speaker a proposition was up to prohibit the trading in cotton futures on the exchanges of the country. Some Member offered an amendment to that the country. proposition to include wheat and corn and other products. Chair ruled it out by citing all these precedents which he has just cited and some additional ones. The Chair was more in just cited and some additional ones. The Chair was more in favor of prohibiting the dealing in futures in wheat and corn than on cotton, because he has more to do with those products, but that fact did not have anything to do with the parliamentary point. Therefore he sustained the point of order made against

the germaneness of the amendment,

The situation here is that the Committee on Interstate and Foreign Commerce brings in a bill which deals with one subject, and one subject only, and that is to fix a physical valuation of railroads. The only reason that they mention bonds or stocks in the bill at all is that, whether right or wrong, in this country we have fallen into the habit of estimating the value of a railroad by counting in both bonds and stocks, one being property and the other being debts. So that evidently the committee, in reporting this bill, thought that out of deference to the rule which prevails in this country we ought to find out what stocks and bonds have been issued. But this bill as reported nowhere provides or says a word about authorizing or directing anybody to issue stocks and bonds. The motion of the gentleman from Illinois [Mr. MANN] to recommit with instructions has entirely to do with the future issuance of stocks and bonds. It seems to be a very elaborate and perfect scheme. The Chair will say that for it. But I have asked the gentlemen who have argued this question in favor of the germaneness of this motion to recommit to point out in the bill a single word or clause that makes the resolution of the gentleman from Illinois [Mr. MANN] germane.

A case in point arose here—and it happened to be on the 1st day of April, 1910—and I will quote from the argument of the gentleman from Illinois [Mr. Mann] in that case, which seems to be absolutely unanswerable. He said:

Mr. Speaker, the gentleman from New York [Mr. FITZGERALD] referred to amendment 78 of the Senate, and it has been referred to by other gentlemen, as an amendment to the tariff law. It is not an amendment to the tariff. It is a provision which relates to reports required by that law.

And that is what it man to

And that is what it was, too.

But the provision in the Senate amendment is neither in form nor substance an amendment to the tariff law. Now, I insist that the amendment of the gentleman from New York [Mr. FITZGERALD] is not germane to the Senate amendment.

The Senate amendment provided that a certain section—section 78, the Chair believes it was—in the Payne tariff law about ascertaining the property that the corporations had, in order to levy that tax on them, should only be made public on a resolution of the House or Senate, whereupon Mr. Fitzgerald, of New York, offered an amendment to repeal the entire Payne tariff law. Mr. Mann said:

An amendment to repeal the tariff act is not germane to that Senate amendment.

Mr. Mann, continuing, said further:

Mr. Mann, continuing, said further:

The gentleman from New York is too well acquainted with the rules of the House not to know that this amendment which he offers is not germane. If the gentleman from New York, while the Senate amendment was before the House, had proposed an amendment similar to that which he now offers to this amendment, any chairman would have held it out of order as not a germane amendment to the proposition of the Senate. If the gentleman could provide for a repeal of the entire tariff act under the Senate amendment, then he could have provided for a repeal of a particular part of the tariff act. If it be in order to offer an amendment under the Senate amendment to repeal the entire tariff act, it will be in order—and I wish it were—to repeal the duty on wood pulp and paper [applause], because if it had been in order I should have offered such an amendment.

After a great deal of argument on both sides by distinguished parliamentarians, Mr. Speaker Cannon rendered the following opinion:

The SPEAKER. The Chair will cause to be read the amendment which has been agreed to.
The Clerk read as follows:
"Concur with the following amendment:
"Strike out all of amendment No. 78 and insert instead thereof the following:

following:
"'For classifying, indexing, exhibiting, and properly caring for the returns of all corporations required by section 38 of an act entitled "An act to provide revenue, equalize duties, encourage the industries

of the United States, and for other purposes," approved August 5, 1909, including the employment in the District of Columbia of such clerical and other personal services, and for rent of such quarters as may be necessary, \$25,000: Provided, That any and all such returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President."

Then the Speaker said:

The Speaker. The House will notice that this is a proposition or an amendment covering one specific subject in the tariff act—as to the returns made by corporations. It does not relate to the amount of the tax, the kind of corporations to be levied upon, the time of levying, or touching any other matter, but only and simply the returns of corporations.

Upon the motion to concur with an amendment, which amendment provides for striking out of the Senate amendment and inserting what has just been read, the previous question was ordered, and the House has, on a yea-and-nay vote, agreed to the amendment, so that is a closed incident.

ow, the argument of the gentleman from New York brings up a ingenious theory-It will be observed that these two gentlemen have swapped places. [Laughter.]

places. [Laughter.]

But the Chair does not feel called upon to decide upon his theory, because it has been held—and, so far as the Chair has been able to ascertain, uniformly held—that where there is a proposition to amend a law in one particular—a specific particular—a proposition to amend generally or to repeal the law would not be germane. The Chair, after a hasty examination, finds as follows:

Hinds' Precedents, volume 5, page 411:

"5806. To a bill amendatory of an existing law as to one specific particular an amendment relating to the terms of the law rather than to those of the bill was held not to be germane."

Under that decision, if the amendment of the gentleman had been offered before the previous question operated, it would not have been in order, as the precedents are uniform that you can not by a motion to recommit make that in order which would not have been in order if offered as an amendment. Therefore the Chair sustains the point of order.

And the Chair sustains the point of order made by the gentleman from Tennessee [Mr. Sims] in this case.

Mr. MANN. Mr. Speaker, I offer a motion to recommit. The SPEAKER. The gentleman from Illinois [Mr. MANN] offers a motion to recommit.

Mr. FITZGERALD. I make the point of order, Mr. Speaker, that it is too late, the previous question having been ordered.

Mr. MANN. Ordered on what? Mr. SIMS. On the passage of the bill. It is too late.

The SPEAKER. The Clerk will report the motion, and then we shall see.

The Clerk read as follows:

Mr. Mann moves to recommit the bill H. R. 22593, "To amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors," to the Committee on Interstate and Foreign Commerce, with directions to that committee to report said bill back to the House forthwith, with the following amendment, to wit: Insert, page 3, after line 21, the following:

following amendment, to wit: Insert, page 3, after line 21, the lollowing:

"Sald investigation and report shall also fully cover as far as practicable questions pertaining to the issuance of stocks and bonds by common carrier corporations subject to the provisions of this act and the power of Congress to regulate or affect the same and particularly the power of Congress to prevent the issuance of stocks and bonds by such corporations without full value being received therefor, and to require the application of the proceeds from the sale of stocks and bonds to be actually invested for the benefit of the corporation to the end that interstate railroad rates may be based upon reasonable and honest capitalization, and to the further end that the investing public may have full knowledge concerning proposed investments so that such corporations may be able to obtain money on better terms and thereby give better service at lower rates."

Mr. CULLOP. Mr. Speaker, I desire to make a point of order against the motion, for two reasons. The first is that the previous question has been ordered on the passage of the bill, and all that was reserved when that order was made was the right to rule on the point of order which was pending at the time that the previous question was ordered; second, that the proposed amendment is not germane to the bill. In other words, it is the same objection which lay against the other motion to re-Those are the two reasons for which I make the point commit. of order.

Mr. MANN. Mr. Speaker—
The SPEAKER. The Chair will hear the gentleman from

Illinois on this point of order.

Mr. MANN. Mr. Speaker, I will not take the time to enter into an extended discussion of the first point of order made by the gentleman from Indiana [Mr. CULLOP], because the rules expressly provide that a motion to recommit shall be in order after the previous question is ordered on the bill; and I direct the attention of the gentleman from Indiana to that provision of the rule, because it is wholly unnecessary to direct the attention of the Chair to that provision of the rule. The previous question does not operate upon a motion to recommit until the motion is before the House.

On the second proposition, as to whether this is germane to the bill, I call the attention of the Speaker to what is proposed

by the bill.

The Speaker a moment ago, in making the ruling which he made, stated that the purpose of the bill was to make a physical The Speaker did not hear the valuation of railroad property. discussion on the bill in Committee of the Whole, probably. While the title of the bill refers to the physical valuation of the property, the bill itself provides that the commission shall investigate and ascertain the value of the property of every common carrier; and as was clearly brought out in the discussion in the Committee of the Whole, the investigation is not confined to the valuation of the physical property, because the Committee of the Whole, under the lead of the distinguished gentleman from Tennessee [Mr. Sims], in charge of the bill, voted down a proposition to confine the investigation to the value of the physical property, for the gentleman from Tennessee [Mr. Smrs] contended that the purpose of the bill was much broader than that, and it is.

I call the attention of the Speaker to the provisions of the bill in reference to the investigation and report:

They shall also show, as the commission may deem necessary, the story of the organization of the present corporation operating such

The SPEAKER. Where is the gentleman reading?

Mr. MANN. At the bottom of page 2 and the top of page 3.

Mr. MANN. At the bottom of page 2 and the top of page 3. Of the present corporation operating such property or of any previous corporation operating such property in such detail as may be deemed necessary, and any increases or decreases of capital stock in any reorganizations, and moneys received by any of such corporations by reason of any issues of stocks, bonds, or other securities, or from the net and gross earnings of such companies, and how the moneys were expended or paid out for the purposes of such payments.

The said investigation and report shall also show the amounts and dates of all bonds outstanding against each public-service corporation and the amount paid therefor, and the names of all stockholders and bondholders, with the amount held by each, and also the name of each director on each board of directors; and find and report the facts as to the connection of any bank or banker, capitalist or association of capitalists, or financial institution or holding company with the ownership, manipulation, management, or control of any stocks and bonds of any such company, and the transactions and connections of any bank or banker, financier, financial institution, or holding company with the reorganization of any such company in recent years.

Now, Mr. Speaker, these provisions of the bill do not, as was

Now, Mr. Speaker, these provisions of the bill do not, as was intimated by gentlemen, confine the investigation to the issuance of stocks and bonds now outstanding. It will be years before the full investigation of these matters is completed by the Interstate Commerce Commission, and the commission will be directed and is directed in each of its reports to bring its investigations down to the date when the investigation is made.

Mr. OLMSTED. Will the gentleman from Illinois permit me?

Mr. MANN. Yes.

Mr. OLMSTED. I call the gentleman's attention also to the paragraph in the middle of page 5, which contemplates keeping the commission informed with reference to future changes and

Mr. MANN. I was just going to read that to the Speaker. Mr. OLMSTED. It apparently contemplates reports from

time to time.

Mr. MANN. On page 5 of the bill, as suggested by the gentleman from Pennsylvania, is the following:

Upon the completion of the valuation herein provided for the commission shall thereafter in like manner keep itself informed of all extensions and improvements or other changes in the condition and value of the property of all common carriers, and shall ascertain the value thereof, and shall from time to time, as may be required for the proper regulation of such common carriers under the provisions of this act, revise and correct its valuation of property, which shall be reported to Congress at the beginning of each regular session.

This bill as it stands endeavors to confer upon the Interstate Commerce Commission full power in reference to future issues of stocks and bonds, so far as obtaining information is concerned, and reporting it to Congress. The amendment which I have offered directs the commission to include in its investigation and report matters relating, so far as practicable, to the issuance of stocks and bonds of these common-carrier corporations for the purpose of affecting railroad rates and requiring that the issuance of stocks and bonds shall, as a result of the investigation of the Interstate Commerce Commission, be reported to Congress, to the end that in the future we may be able to have information by which we may require that stocks and bonds shall only be issued for actual value, and when issued for actual value received shall be properly invested, to the end of regulating the rates of the railroads.

Mr. FITZGERALD. Will the gentleman yield?

Mr. MANN. Certainly.
Mr. FITZGERALD. The gentleman's contention is that his amendment merely extends the character of the investigation? Mr. MANN. That is all.

Mr. FITZGERALD. Does it not do more than that? Mr. MANN. It does not.

It does not.

Mr. FITZGERALD. I suggest to the gentleman, although it

scope of the investigation, but it confers upon the Interstate Commerce Commission the power to inquire and investigate into the issuance of stocks and bonds in a certain way.

Mr. MANN. Not at all. It says:

Mr. FITZGERALD. If the gentleman will look at the punctuation

Mr. MANN. I have not only looked at the punctuation, but I punctuated it

Mr. FITZGERALD. Apparently very ingenuously.

Mr. MANN. There is nothing ingenuous about it at all. Mr. FITZGERALD. There is no connection between the inquiry as to the proceeds of the issuance of the stocks and bonds and the investigations that are outlined.

Mr. MANN. Oh, the gentleman has not read the amendment

Mr. FITZGERALD. I have read it carefully.

Mr. MANN. Very well; the gentleman has read it carefully and lacks appreciation of what it contains. The gentleman can

Mr. FITZGERALD. Sometimes it take more genius than I profess to have to understand some of the amendments drafted

and proposed by the gentleman from Illinois.

Mr. MANN. The gentleman from New York lacks a great deal of appreciation of propositions sometimes. I can not expect to bring myself to the point where I can write everything so that it will be perfectly plain to the gentleman from New

Mr. FITZGERALD. That is an ambition which, if it could be realized by the gentleman from Illinois, would give him

great happiness

Mr. SIMS. Will the gentleman from Illinois yield?
Mr. MANN. Certainly.
Mr. SIMS. Does not this amendment offered by the gentleman from Illinois require that the commission shall make an investigation as to the proceeds of the issuance of the stocks and

Mr. MANN. Not at all. The investigation and report is to cover, as far as practicable, questions relating to the issuance of stocks and bonds by the corporation and the power of Congress to regulate or affect the same, and particularly the power of Congress to prevent the issuance of stocks and bonds by such corporations without full value being received therefor.

Mr. SIMS. The object of the gentleman's amendment is to authorize the commission to report as to the method to be hereafter pursued in the application of funds growing out of the

sale of stocks and bonds.

Mr. MANN. Certainly. The object of the amendment is to have the commission investigate the matter of the issuance of stocks and bonds, with a view of reporting to Congress, so that Congress may hereafter legislate upon the subject.

Mr. SIMS. Does the gentleman consider that as germane to a proposition to ascertain the value—the existing value—of the amount of outstanding stocks and bonds, to investigate what shall be done with the proceeds of stocks and bonds hereafter issued?

Mr. MANN. Certainly I do. Your own bill provides for the report of the stocks and bonds which may be issued between now and the time when the final report is made upon the last railroad, and even then after that, when stocks and bonds are issued the commission will have the authority to investigate that matter and report upon it.

Mr. SIMS. And as to what shall be done with the proceeds, does the gentleman think that is germane?

Mr. MANN. Certainly, Mr. COOPER. Will the gentleman from Illinois yield?

Mr. MANN. Certainly.

Mr. COOPER. As I understand the amendment offered by the gentleman from Illinois, it requires the Interstate Commerce Commission to report upon questions of some sort? Mr. MANN. Yes.

Mr. COOPER. Is not the whole intent of the original bill that the commission shall report upon facts and not upon questions?

Mr. MANN. A great many questions will arise besides facts

under the original bill.

Mr. COOPER. I have not observed it. I have been looking at the bill very carefully, and it is my understanding that what they are required to report on is questions of fact up to the may not have been his purpose, that it not only extends the time of the report, facts of various kinds. But when they are

called upon to report as to the power of corporations to issue stocks and bonds they may be getting into questions of law.

Mr. MANN. The commission will meet a thousand and one questions of law before it makes a report under the original bill. They are required to report upon the management and control of stocks and bonds in the past.

Mr. TOWNSEND. Mr. Speaker, will the gentleman yield?

Mr. MANN. Certainly.

Mr. TOWNSEND. Mr. Speaker, I will ask the gentleman from Illinois if there is not this distinction between the two propositions; the one contained in the bill and the one proposed by his amendment? The gentleman from Pennsylvania [Mr. Olmsted] called the attention of the gentleman from Illinois to the paragraph on page 5 as to the commission obtaining information concerning matters treated of in the amendment proposed by the gentleman, but is not that limited by the provisions of this bill entirely to the issuance of stocks and bonds which shall have been made, whereas it is proposed by the gentleman from Illinois to inquire into proposed issues?

Mr. MANN. Does the gentleman from New Jersey mean stocks and bonds issued now?
Mr. TOWNSEND. No.
Mr. MANN. On the date of the passage of the law?
Mr. TOWNSEND. No.

Mr. MANN. Or stocks and bonds which may be issued here-

after?

Mr. TOWNSEND. Hereafter, but which shall have been is sued in the future when information concerning them is sought. There is no proposal, as I understand it, in this paragraph on page 5, to which attention has been called, to make inquiry for the sake of informing the commission of proposed issues of securities, but to make inquiry in the future of issues which shall have been made at the time of the inquiry.

Mr. MANN. That is true.

Mr. TOWNSEND. And the proposition of the gentleman from Illinois-

Mr. MANN. That is the reason I offered the amendment.

Mr. TOWNSEND. Then there is a distinction between the two propositions.

Mr. MANN. Oh, if my proposition were a duplicate of what is already in the bill, I would not have offered it.

Mr. TOWNSEND. But it is not continuing work nor sug-

gesting work of similar kind it is proposed to have done by the provisions of this bill.

Mr. MANN. Here is the proposition: This bill is for the purpose of obtaining information for the purpose of aiding the commission in the control of railroad rates. That is the only interest we have in the matter, and when you say that the commission shall report as to the stocks and bonds already issued, and you give them power to investigate that subject, certainly, if you want to control railroad rates at all, or have any influence on them, you should investigate the proposed issuance of stocks and bonds, because those that are already issued have no such influence upon railroad rates as the manipulation of the issuance of stocks and bonds in the future will have.

Mr. TOWNSEND. I did not suppose when I asked the gentle-man's permission to interrupt that he was offering a duplicate, as his answer would suggest I thought. My point is this: That there are two entirely different propositions proposed, and one is not germane to the other. One is a proposition to acquire information regarding an accomplished fact, and the other is a proposition to acquire information regarding a proposed action, and one is not germane to the other. I knew they were not duplicate propositions, because I have too much faith in the gentleman's integrity as a legislator to think for a

moment that he would offer a duplicate proposition.

Mr. MANN. The gentleman's position is that stocks and bonds which do not have any influence over rates ought to be investigated, and those that do have influence over rates ought not to be investigated. My proposition is, when you give the power to the commission to investigate this subject you have the right as a germane amendment to direct the commission to go a step further in the same line—not a different kind of subject at all, but in the same direction. To say when you propose to do something that you can not offer an amendment to go a step further is to say that you can not offer an amendment at all to a bill, leaving it wholly to a committee and not to the House to determine what may be in the propositions to be brought in and voted upon by the House.

Mr. TOWNSEND. I do not deny that; but this is not a proposed step in the same direction, but in a different direction.

Mr. SIMS. Mr. Speaker, it seems to me in all candor—and I of course do not understand the amendment as well as the gentleman who drew it, having heard it read only once-the ob-

ject of the bill is making an inventory of existing facts in order to ascertain the physical value of the property of common carriers, and it does not even remotely relate to how proceeds shall be invested in stocks and bonds to be issued, or created by a new issue of same; and this amendment certainly does relate to what is to be done in the future as well as what has been done in the past. I desire to say frankly to the House, not speaking for the Committee on Interstate and Foreign Commerce nor for any member of it except myself, I have always favored legislation by the Congress of the United States to properly control proposed capitalization of corporations doing interstate business, but the object of this bill is only for the valuation of existing property, and only authorizes the investigation as to outstanding stocks and bonds, because, as the Speaker intimated, it is necessary to have all the light on all existing transactions in order to determine the value of existing property. Now, the object of this amendment offered by the gentleman from Illinois is to go further, just as the object of the first motion to recommit was to go further and to legislate positively as to what shall be done hereafter with proceeds of sales of stocks and bonds, and, Mr. Speaker, I do not understand it to be germane to require a report and an investigation as to what shall hereafter be done by way of limitation of the issuance of stocks and bonds and to make a recommendation as to legislation is not germane to this bill. Why should we have an investigation of facts and a report from a commission on subjects not germane to the bill any more than the offering of such an amendment in the first instance? Now, this amendment says, if I read it right-I will read all of this paragraph:

Said investigation and report shall also fully cover, so far as practicable, questions pertaining to the issuance of stocks and bonds by common-carrier corporations subject to the provisions of this act and the power of Congress to regulate or affect the same.

Purely a question of law. Congress is better able to determine that than any commission.

And particularly methods to prevent the Issuance of stocks and bonds by such corporations without full value being required therefor, and to require the application of the proceeds from the sale of stocks and bonds to be actually invested for the benefit of the corporation to the end that interstate railroad rates may be based upon reasonable and end that interstate r honest capitalization.

The object of that section of the bill is to prevent future over-The bill unamended, if it should pass uncapitalization. amended, will have the moral effect to prevent overcapitalization, but is not mandatory in language looking to that end.

Mr. MANN. Mr. Speaker, will the gentleman yield? The SPEAKER. Does the gentleman yield to the gentleman

from Illinois?

Mr. SIMS. Certainly. Mr. MANN. The reason I asked the gentleman to yield is because in view of the criticisms that have been made on that part of the amendment which I had inserted in the amendment mainly for the purpose of making sure of the power of the commission in making its investigation, I ask to withdraw that

motion which I offered and to offer the following motion.

The SPEAKER. The gentleman from Illinois withdraws his motion to recommit and offers another motion. The Clerk will

read the part that is left in.

The Clerk read as follows:

Insert, page 3, after line 21, the following:

"Said investigation and report shall also fully cover, so far as practicable, questions pertaining to the issuance of stocks and bonds by common-carrier corporations subject to the provisions of this act and the power of Congress to regulate or affect the same, and particularly methods to prevent the issuance of stocks and bonds by such corporations without full value being received therefor."

Mr. CULLOP. Now, Mr. Speaker, I make the same point of order against this that was made against the original motion for which this is a substitute.

The SPEAKER. The Chair is ready to rule. overrules the first point of order that this motion to recommit could not be offered after the previous question was ordered. The rule is clear on that question. Rule XXVII, page 388 of the Manual, says:

It shall be in order, pending the motion for or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

The Chair, for the elucidation of the matter, will state this in regard to how many motions anybody is allowed to make to recommit. Of course a Member can only make one if it is germane, but a motion to recommit is not a motion to recommit at all if it is ruled out on the point of order, and the logic of the rule is that everybody wanted the privilege of making a motion to recommit to be absolute so nobody could take the power away from a Member, and a Member would have the right to offer a motion to recommit which is germane. If that

turned out to be obnoxious to the point of order, that would Well, now, the Chair does not undertake to say that a Member can stand up and offer motions to recommit inter-minably that are not germane. That is a matter in the discretion of the Chairman at the time, but where the Chair believes a Member is acting in good faith he will entertain them within reasonable limits. The Chair overrules the second point of order on the proposition submitted now, and the question is on the motion to recommit with the last instructions read.

The question was taken, and the motion was agreed to.

Mr. SIMS. Mr. Speaker, I report back from the Committee on Interstate and Foreign Commerce the bill H. R. 22593, with the following amendments,

The SPEAKER. The Clerk will report the amendment offered by the gentleman from Tennessee.

The Clerk read as follows:

Insert, page 3, after line 21, the following:

"Said investigation and report shall also fully cover, so far as practicable, questions pertaining to the issuance of stocks and bonds by common-carrier corporations, subject to the provisions of this act and the power of Congress to regulate or affect the same, and particularly methods to prevent the issuance of stocks and bonds by such corporations without full value being received therefor."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read a third time, and passed.

On motion of Mr. Sims, a motion to reconsider the vote by which the bill was passed was laid on the table.

MOTIONS TO RECOMMIT.

The SPEAKER. The Chair wishes to repeat the request which he made day before yesterday, that when gentlemen have complicated motions to recommit they submit them to the Chair in advance, if they can do so, because the Chair's mental apparatus does not work any more rapidly than that of other people, and it is not always possible to catch the meaning of a motion by merely hearing it read.

LINCOLN MEMORIAL (S. DOC. NO. 965).

The SPEAKER laid before the House the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Appropriations and ordered to be printed.

To the Senate and House of Representatives:

I beg herewith to submit a report of the Lincoln Memorial Commission, and its recommendation, upon the location, plan, and design for a memorial in the city of Washington, D. C., to the memory of Abraham Lincoln, in accordance with an act providing a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln, approved February 9, 1911.

WM. H. TAFT.

THE WHITE HOUSE, December 5, 1912.

LEAVE TO ADDRESS THE HOUSE.

Mr. BURGESS. Mr. Speaker, I ask unanimous consent for 10 minutes in which to address the House

The SPEAKER. The gentleman from Texas asks unanimous consent for 10 minutes in which to address the House. Is there

Mr. FITZGERALD. For what purpose does the gentleman wish to address the House?

Mr. BURGESS. I desire to make a short statement and to insert an editorial in the RECORD.

Mr. FITZGERALD. I would suggest the gentleman take the time on the appropriation bill which is to follow. Mr. Speaker, it will be impossible to give Members time as was done in the long session. We have only 40 days to pass all the bills. I ask that the gentleman take his time in general debate.

Mr. BURGESS. All right.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 26680, the legislative, executive, and judicial appropriation bill.

Mr. MANN. Mr. Speaker, pending that, may I ask the gentleman for the information of the House if there is any notion

as to how much, if any, general debate there will be on the bill?

Mr. JOHNSON of South Carolina. There has been no request for time on either side of the House, except that the gentleman from Texas [Mr. Burgess] has indicated that he desires 10 minutes.

The SPEAKER. The question is on the motion of the gentleman from South Carolina that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 26680, the legislative, executive, and judicial appropriation bill, with Mr. Garner in the chair.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

Mr. JOHNSON of South Carolina. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent that the first reading of the bill be dispensed with. Is there objection? [After a pause.] The Chair hears none.

Mr. JOHNSON of South Carolina. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. Burgess].

Mr. BURGESS. Mr. Chairman, during the 12 years I have been a Member of this House I have not spoken on the race problem, although I was born and reared in a county in the district I represent where the population at the time was 80 per cent negroes, and it is one of the districts known as being in the "black belt." But I have refrained from discussing the race question because I am the friend of the negro and I realized no good could come from discussing a problem that all the South is wrestling with, the ultimate solution of which no man knows. But I ask permission to have read into the Record an editorial from the Fort Worth Record, of Texas, written by one of the most brilliant and one of the ablest of southern journalists-Clarence Ousley-and I do this not for the purpose of provoking any discussion, but simply because I think the article so well written that it will appeal to all thoughtful men.

The CHAIRMAN. The Clerk will read the article referred to.

The Clerk read as follows:

[From the Fort Worth Record.] DEBASING NATURE AND DESPISING GOD.

The Clerk read as follows:

[From the Fort Worth Record.]

DEBASING NATURE AND DESPISING GOD.

Shocking and sickening as is the Chicago story of a young white girl's infatuation with Jack Johnson and the black animal's brutish insistence upon holding her within the toils of his power, it should not surprise any man who has the slightest ken of racial instinct or the faintest appreciation of the philosophy of social consequence.

The only wonder is that an intelligent people have permitted associations that make the least compromise with fundamental principle.

To put it in a paradox, this development is the natural result of an unnatural contact of whites and blacks tolerated for gain, or for sport, or for convenience. When white men meet negro men in the prize ring, when they ride together in street cars or railread cars, or when they meet upon any common plane, they stand upon a footing of equality for the occasion, and repeating the occasion establishes a status which has no limitation or differentiation in the mind of the heedless white or the covetous and lustful black.

There is no culture of mind or heart or uplift of soul of the individual black man that warrants social equality with the white man. That is a hard saying, but it is the decree of nature and God, and to ignore it is to debase nature and despise God.

May not the black man aspire? Yes, as high as the heavens. May he not expand? Yes, throughout the whole wide universe. But aspiration and expansion are not hindered by confinement within the association of his own race. By and of himself, among his own, he must pursue his own way—and he may not be permitted to pursue any other without consequences revolting to the white man and ultimately destructive to himself, for such instances as this repeated will provoke revulsion and antagonism merciless and far-reaching.

They play with fire who venture to cross the line of racial separation by so much as the slightest step or in the faintest degree. It is not because the individual black man may not b

born the purpose of impudence and insult and outrage to be visited upon white women any time and anywhere.

What have we of the South to be concerned about in this unspeakable infamy which the undiscerning North tolerates? May we not be content to preserve our own standards, maintain our social integrity and let others indulge animalism and amalgamation to the utmost of their bestial bent? their bestial bent?

and let others indulge animalism and amalgamation to the utmost of their bestial bent?

No, for we have knowledge they do not know; we have experiences which should teach them to beware, and we are not faithful as our brothers' keepers if we do not cry aloud and warn them of their peril.

Besides, they can not conceal these exploits from the knowledge of our blacks, and our blacks will be tempted to more wicked deeds. Quick and sure vengeance awaits the least encroachment here, but it would be little less than criminal not to endeavor to prevent the occasion for vengeance.

Thousands of black brutes all over the land will be moved by this circumstance to entertain the nameless desire which always lurks in the mind of the low and lustful.

We may not calculate how many white women must suffer the consequence of such example—nor how many black men may be destroyed to hold the others of the race in leash.

Will men never learn that nature can not be mocked without punishment? That the God of heaven is the God of races? That the pigment of the skin, while not a badge of dishonor, is an outward and visible sign of a status decreed from everlasting to everlasting? Association, dalliance, or trespass, by whatever action or custom, is outlawry which invites the wrath of the Most High.

Mr. JOHNSON of South Carolina. Mr. Chairman, I yield

Mr. JOHNSON of South Carolina. Mr. Chairman, I yield 15 minutes to the gentleman from Pennsylvania [Mr. PALMER].

The CHAIRMAN. The gentleman from Pennsylvania [Mr. Palmer] is recognized for 15 minutes.

Mr. PALMER. Mr. Chairman, I recognize that in the short session of Congress debate on appropriation bills should not be interrupted to any great extent by the discussion of matters which do not relate to those bills; but I crave the indulgence of the House for a few minutes this afternoon to call attention to a matter which has no relation whatever to this bill, but which I think is of sufficient importance to command the attention of the House.

On the 31st day of October, 1912, an American ambassador at a foreign court made an address which contains so many aspersions upon the character and life of a great American who was twice President of the United States, once Secretary of State, and whose name has reached the height of immortality in the world, that I feel we ought not to allow the occasion to pass without some mention of it in this House. Ambassador Reid, at the autumn session of the University College of Wales, delivered a lecture entitled "One Welshman: A Glance at a Great Career," and under that title made comment upon the life, character, and achievements of Thomas Jefferson.

There seems to be just now considerable renewed interest in Thomas Jefferson's life. I have been myself much attracted by some of the recent literature about Jefferson and about his beautiful home in Virginia and its history. I have been at-tracted also by the scholarly and brilliant work of the distin-guished Senator from Mississippi, who has been lecturing upon the life of this great man before the students of Columbia University in New York. And it is a jarring note, especially at a time when the philosophy and the political theories of Thomas Jefferson seem to come in for enlarged support among the American people, to have the American ambassador at the court of the greatest monarchy on earth take pains to go out of his way to call attention to what he himself calls the "odious details" in the conduct of this great man as indicative, in his own language, "of the real character" of Thomas Jefferson.

He starts out by giving to Jefferson due and proper credit for many of the great things which he did, referring to his "head of gold," and then goes on in two-thirds of his address to prove that he had "feet of clay," by calling attention to what he calls the "absurd inconsistencies and extravagances" of his life, his works, and his utterances. He not only flings his jibes to what Lofferson did and said, but speers at the accomplishat what Jefferson did and said, but sneers at the accomplish-ments of the great political party which Jefferson founded, and by misrepresentations and misstatements of the facts seeks to give the impression that they are not worthy followers of that great man.

I admit that this sort of thing, coming from a man of letters who desires to be known as a writer of history, would not be worthy of any criticism here; but I declare that when an American ambassador at a foreign court undertakes thus untruly and improperly to criticize a man who occupies the position in our country's history held by Thomas Jefferson, the occasion is worthy not only of comment but perhaps of censure.

Mr. Reid begins by stating the admission of Jefferson's admirers that "his political career was checkered, his executive course many times open to criticism, his modes of expressing conviction often ill-considered and extravagant and amazingly inconsistent, and his acts as a politician frequently far below the standard of the philosophical writer on government." He refers to him as "possessed with such wild notions that he could not mind his own business" when a member of Washing-ton's Cabinet; and he finally begins his citations of isolated

utterances of Jefferson to prove his inconsistency of conduct and extravagance of behavior by this description of the man:

Mr. Jefferson was not a man of genius. We have seen that he was not an orator, not a soldier, not a good Executive, least of all, a well-balanced statesman. But he was a philosophical thinker or dreamer, and yet with a wonderfully practical gift for reading the tendencies of the populace and for putting their wishes into persuasive and stately language. * He was at once a philosopher and a partisan, But his philosophy was sometimes ill-balanced and ill-considered; his partisanship was always adroit and carefully considered, generally successful and sometimes useful.

When analyzed that reasograph gives him wealth sale for

When analyzed that paragraph gives him credit only for sometimes being useful as a party man. The ambassador goes on to say:

I began by asking you to consider a few reasons why some work of his gave as much credit to the Welsh stock as anything done by any other man of the blood. But I did not commend him as a uniformly sound political thinker or as an altogether admirable man. In fact, as a political opponent he was at times ungenerous and underhanded. Even his close friend, James Madison, was constrained to apologize for his frequent extravagance and inconsistency.

A few examples—

Says Ambassador Reid-

may show the urgent need of this allowance, and at the same time bring his real character and its limitations into clearer relief. They will also show the absurd extravagance to which he habitually re-sorted as the surest means of impressing the less intelligent voters.

If the American ambassador could have employed any words which would have more accurately been intended to call this great man a demagogue, I know not the words which he could have chosen. He goes on then in many pages, citing sentences from his writings and isolated instances of conduct and actions on the part of Jefferson, to prove these "absurd extravagances" which he says denote Jefferson's "real character." The accuwhich he says denote Jenerson's real character. The accurracy of these citations may well be judged by these. He says:

And in curious contrast with his political descendants, who now wish to have the decisions of the highest courts reviewed or even reversed at popular elections, he said bluntly: "The people are not qualified to judge questions of law."

It seems to me the only excuse for such an utterance, which charges the Democratic Party with having within its ranks as one of the descendants of Thomas Jefferson the author of the doctrine which the ambassador here describes, must be found in the ambassador's absence from the country during the last few months. [Applause on the Democratic side.]

He goes on to say, further:

He reconciled his personal feeling with holding office almost continuously for 40 years, but when he became President he was vehemently in favor of rotation in office and was the author of the doctrine that "to the victors belong the spoils."

A statement which history will not corroborate. goes on to give his definition of the attitude of the Democratic Party to-day, which nothing except perhaps an isolated sentence taken out of the context in some of Jefferson's writings could possibly justify or excuse. He says:

He wished to confine the great General Government solely to for-eign affairs—to be thus conducted without diplomatic establishment. Every other subject of public concern, excepting solely foreign affairs, he wished left to the independent States. Nine-tenths of the present useful activities of the General Government would thus have been de-stroyed at one stroke.

And he accompanies all this with a sneer at the government of the great city of New York, which he declares has been for many generations in control of the party which is proud to claim Thomas Jefferson as its founder, and which, in the instance cited by Ambassador Reid, he declares without justification the party has wandered far from the course laid down by the founder.

After citing these instances and others that I shall not stop to read or comment upon, he says:

Surely here are enough inconsistencies and extravagances to show the need for Mr. Madison's plea that "allowance be made for them." In most of them he was absolutely sincere. But no sketch of his career or estimate of his character would be honest without some men-tion of others for which such an excuse can not be offered.

And then he, the ambassador of this Government, standing before a foreign audience upon foreign soil, talking about the man who was the first Secretary of the department under which he, the ambassador, serves, goes on to detail the extravagances in Jefferson's character which, he says, show his absolute insincerity, and he winds up this description of the man by reference to his vulgar and ill-bred habit of sneering at conscientious beliefs, his doubt of his sincerity when he carried through Virginia the statute for religious freedom in the colony, summing it all up by reference to him as-

That strange medley of inconsistency, extravagance, enthuslasm, and fervid patriotic devotion.

Mr. Chairman, I shall not go further in this. I admit there is much in this address of Ambassador Reid which is true and which is entirely worthy of the subject. There is much in it which must of necessity have found a place in any sketch of his great career which shows a proper estimate of the man in some of the aspects of his life, character, and great achieve-

ments; but there is so much in it which impugns his motives, doubts his honesty of purpose, and condemns his methods that the whole constitutes an aspersion upon the life, character, and conduct of this great man, whose memory we revere down to this day. And I, for one, as an American Representative in Congress, would not let the occasion pass without entering my protest against the impropriety, the misconduct, of an American ambassador at a foreign court who would thus misrepresent before a foreign audience one of the greatest men who ever lived upon American soil. [Applause on the Democratic side.]

Mr. GILLETT. Will the gentleman from Pennsylvania yield

to me?

Mr. PALMER. Certainly. Mr. GILLETT. I have not read the address of Ambassador Reid, but I would like to ask the gentleman if it consists mainly of these criticisms which he has read, or if it does not also fairly represent the great qualities of Mr. Jefferson?

Mr. PALMER. I said that the ambassador did rather briefly give him his due credit for great things accomplished, but he devotes the larger part of his address to what he himself calls the "odious details" which show the "true character" of the man. No man in this House could read the address without being shocked at the thought that the American ambassador would thus describe him. [Applause on the Democratic side.]

Mr. GILLETT. I listened to what the gentleman read, and I supposed the larger part of his quotations portrayed weaknesses which the most devoted friend of Mr. Jefferson fully recognized that he possessed, and while I think we all of us admire, as I certainly do, his great qualities and great achievements, I certainly supposed the members of the gentleman's party would recognize that a large part of the criticism which he has detailed was founded on history.

Mr. LANGLEY. And these statements of the ambassador are in the main sustained by citations in the various volumes to which he refers.

Mr. GILLETT. Mr. Chairman, I ask unanimous consent that the full address of Ambassador Reid be printed in the RECORD so that we may see as a whole what impression it carries.

Mr. PALMER. I have no objection whatever.

The CHAIRMAN. The gentleman from Massachusetts asks that the full address of Ambassador Reid be printed in the RECORD.

Mr. JONES and Mr. SHACKLEFORD objected.

Mr. GILLETT. That shows the spirit of this criticism. Mr. SHACKLEFORD. We do not want to circulate this

libel any further.

Mr. GOOD. Mr. Chairman, in order that Ambassador Reid may be put right in this matter, I ask that there may be printed, with the remarks of the gentleman from Pennsylvania, the estimate of Thomas Jefferson placed upon him by President elect Woodrow Wilson, as found on page 3, volume 4, of Mr. Wilson's History of the United States, which reads as follows.

Mr. PALMER. Mr. Chairman, there was no intent on my

Mr. Chairman, I demand the regular order. The CHAIRMAN. The regular order is that the gentleman from Pennsylvania has the floor.

Mr. PALMER. I have no objection to the gentleman reading the extract.

Mr. GOOD. It reads as follows:

The difference between Mr. Jefferson and Gen. Jackson was not a difference of moral quality so much as a difference in social stock and breeding. Mr. Jefferson, an aristocrat, and yet a philosophical radical, deliberately practiced the arts of the politician and exhibited oftentimes the sort of insincerity which subtle natures yield to without loss of essential integrity. Washington found him a guide who needed watching

[Applause on the Republican side.]

Mr. PALMER. Mr. Chairman, I do not know whether my time is exhausted or not.

Mr. JOHNSON of South Carolina. I will yield to the gentleman five minutes more.

Mr. PALMER. Mr. Chairman, I only want to say that I had no intention of making political capital out of this proposition. Mr. Reid is an official of this Government. He is the ambassador of the American Government at the Court of St. James, and his conduct and his utterances are not the opinion of a historian or a man of letters. They are being presented to foreign people as indicative of the sentiment of the American There is nothing in the gentleman's quotation from the speech of Mr. Rodenberg, which was read here last spring during the presidential campaign as the utterances of President-elect Wilson, which compares for a single moment with the scathing, untrue description of Thomas Jefferson contained in this address by Mr. Reid. [Applause on the Democratic side]

Analyze everything that Woodrow Wilson, as a writer of history, has said about Thomas Jefferson, and any man who is not blinded by partisanship in the present circumstances in this country, when Mr. Wilson has reached a high place in the Democratic Party, would admit that his estimate of Thomas Jefferson was that of a man who believed him to be the greatest philosopher and statesman of his time. [Applause on the Democratic side.]

I did not take from Ambassador Reid's address a single sentence out of its context by which it might be judged. I am willing that the entire address shall be printed in the RECORD, and would be glad to have it there. I made no objection when the request was made. The impression that any man would get in reading all that Mr. Wilson has said about Thomas Jefferson would be that he had the highest admiration and respect and veneration for the character and achievements of Jefferson. while the impression any man would get from reading the address of Ambassador Reid must be that he has a sneering contempt for many of the attributes of character of this great man. [Applause on the Democratic side.]

Mr. GOOD. Can the gentleman from Pennsylvania point to a single sentence in the address of Ambassador Reid where there is such a reflection upon the character and integrity of Thomas Jefferson as is contained in the sentence of Woodrow Wilson where he says that Washington found in him a guide who

needed watching?

Mr. PALMER. I have pointed out a dozen sentences where there is more.

Mr. GOOD. What are they?

Mr. MANN. Mr. Chairman, I will ask the gentleman from South Carolina to yield me one minute.

Mr. JOHNSON of South Carolina. Mr. Chairman, I yield one

minute to the gentleman from Illinois.

Mr. MANN. Mr. Chairman, I have read the address of Ambassador Reid, as has the gentleman from Pennsylvania [Mr. Palmer]. My impression from reading the address was that in the main it was laudatory of Thomas Jefferson, and there certainly is nothing in that address which in any way whatever is so condemnatory of the life or character of Thomas Jefferson as the expression in Mr. Woodrow Wilson's printed article.

Mr. BUTLER. What does it all amount to, anyway? You can not disturb Thomas Jefferson in history

Mr. LEWIS. Mr. Chairman, I will ask the gentleman from South Carolina to yield me two minutes,

Mr. JOHNSON of South Carolina. Mr. Chairman, I yield the

gentleman from Maryland two minutes.

Mr. LEWIS. Mr. Chairman, I think the two gentlemen who have spoken in regard to this matter have wholly missed the There was a time in the history of this Republic when its ambassadors were not found in the highways of Europe belittling and slandering citizens of this Republic, living or dead, and there was a time even in the history of the other side of the House when, had they done so, their conduct would not have met with its applause. The difference between Mr. Wilson, the historian, and Mr. Reid, the ambassador, is the difference between a private citizen and a representative of this Republic wearing its robes of office and authority, and presumably under the duty of presenting it to foreign countries in a manner to invite respect, and not in its most discreditable guise. Thomas Jefferson himself is safe, even from the attacks of this ambassador. If the President of this Republic did his duty, Ambassador Reid would not be long safe in his office. [Applause on the Democratic side.]

Mr. JOHNSON of South Carolina. Mr. Chairman-

Mr. HEFLIN. Mr. Chairman, will the gentleman from South Carolina yield me three minutes? Mr. JOHNSON of South Carolina. After I have made my

statement respecting the bill.

Mr. Chairman, in presenting the legislative, executive, and judicial appropriation bill to the committee, I shall detain the committee long enough to call attention to the material facts of the bill. While the bill is under discussion under the fiveminute rule I shall feel it my duty to explain any item in the bill to Members who may desire information. The bill as it comes to the House carries \$319,000 less than the bill for the current year. It provides for 310 less salaried employees than the bill for the present year. It provides for 347 less people than the departments, in the estimates, asked Congress for.

Of the 310 employees whose services are no longer needed, there are 175 who were employed in the Census Office completing the work of the last census. The further services of these people are dispensed with because the work upon which they were engaged is now about completed.

There is a reduction of 100 in the force in the War Department. Gen. Wood testified before the committee during the last session of Congress that more "paper" work was being done than was necessary. The bill as it was finally approved provided that vacancies in the War Department should not be filled until the whole number of vacancies should equal 5 per cent of the entire clerical force. Under that provision of law 78 places became vacant and were not filled. The last military appropriation bill consolidated three bureaus in the War Department. The consolidation of those bureaus enabled the department to dispense with the services of 24 people. So that there has been a reduction of 100 clerks in the War Department, but those reductions were made without turning any person out of the Government service. They were made by not filling vacancies as they occurred. But for the fact that it was filling vacancies as they occurred. But for the fact that it was necessary for us in some particulars to increase this bill, we could have made a larger reduction. We slightly increased the force in the Library of Congress. In the Copyright Office the force was not sufficient to keep the work current. That office is self-sustaining. During the last year it paid into the Treasury about \$20,000 in excess of the cost of operating it. We therefore gave an increased force in the Copyright Office. also gave an increased force in the card-indexing department. That likewise is self-sustaining.

In the Civil Service Commission we were compelled to increase the force, first, because the efficiency law of the last Congress placed additional burdens upon the Civil Service Com-

mission in the keeping of the efficiency records.

The President has recently promulgated an order placing all the fourth-class postmasters in the classified service. Service Commission claim that the keeping of the efficiency records of the clerks and the attention that will be required in filling all fourth-class post offices of the country will necessitate an additional clerical force. We were liberal in granting these allowances. Speaking for myself, I was particularly anxious that they should have the increased force. The Government on on 4th of March will change from one great political party to the other. [Applause on the Democratic side.] There will be people unscrupulous or ignorant who would create the impression that the incoming administration and its friends are hungry for spoils. I wanted no excuse for the Civil Service Commission to say that we had denied it the force necessary to enforce For these reasons we greatly increased their force. The Post Office Department has been reducing expenses. The country is constantly growing, but the Post Office Department, in spite of that fact, has been able from year to year to reduce its force. This time the department came to the committee asking for no increase on account of the general increase of the country's population and business, but asking for an increase on account of the burdens that will be placed on the department under the postal savings banks and the parcel-post laws. The increased work of that department on account of those two laws necessitated adding 30 clerks, at a cost of about \$40,000. We increased, also, the permanent force in the Census Office because during the last session Congress passed an act requiring the Census Bureau to gather tobacco statistics. Congress also passed an act requiring the Census Bureau to gather additional cotton statistics. The work required of that bureau under the two laws mentioned necessitated an increased force, which we have granted.

All through the bill, where we found that the testimony indicated particularly meritorious cases we have increased salaries. Generally we have increased those in the higher grades, in order that there may be promotions all along the line. We have endeavored to provide that promotions in any division shall be made from the clerks employed in the particular division. We found that many clerks, in order to avoid the provisions of the transfer law, were resigning outright and being reemployed in another department. We have tried in this bill to correct that

evil.

Now, Mr. Chairman, as I have said, as the items in the bill are reached, if any Member desires any information in regard to what we have done and why we have done it, I shall feel it

my duty to explain it as best I can.

Mr. PALMER. Mr. Chairman, I would like to get a little information from the gentleman in charge of the bill about this appropriation for the maintenance of the internal-revenue collectors' offices. How many offices are appropriated for in this bill?

Mr. JOHNSON of South Carolina. Sixty-three.

Mr. PALMER. Is that the same number that was appropriated for in the last bill?

Mr. JOHNSON of South Carolina. It is.

Mr. PALMER. And that is four less than was carried before? Mr. JOHNSON of South Carolina. Four less than were carried prior to October 1, 1912.

Mr. PALMER. I assume when the Appropriations Committee cut down the appropriation for the internal-revenue offices the committee had in mind there were four offices which could properly be abandoned for the good of the service.

Mr. JOHNSON of South Carolina. We had information to the effect that there were five that could be dispensed with.

Mr. PALMER. What districts were they? Mr. JOHNSON of South Carolina, That information was given to a member of the Committee on Appropriations outside of the committee room, and I do not now remember what districts they were.

Mr. BURLESON. I am the Member referred to, but I do not now recall the location of the districts, save one. I recall that one was in the State of Iowa. I will state to the gentleman from Pennsylvania that the districts the committee had in mind that could be abolished were not the districts that were afterwards abolished.

Mr. PALMER. That is what I am getting at.

Which were they? Mr. CARLIN.

Mr. JOHNSON of South Carolina. One was in South Carolina, one in Texas, from obvious reasons, one in Pennsylvania,

and I do not know where the other was.

Mr. PALMER. The one in Pennsylvania was the district in which I live. [Laughter.] The one in Texas, I think, is in the district in which the gentleman from Texas [Mr. Burleson]

Mr. BURLESON. No; it was the Dallas district that was abolished.

Mr. PALMER. And the other is the district in which the gentleman from South Carolina [Mr. Johnson] lives. I take it for granted that as far as the South Carolina and Texas districts are concerned, at least, the Appropriations Committee had no idea of having them wiped out.

Mr. MANN. Why should not they if they did not need them? Does the gentleman assume that the Appropriations Committee is unwilling to abolish a district in Texas because a gentleman from Texas is on the committee? I think that is a violent

assumption.

Mr. PALMER. I assume the districts in those States are so important that it would be necessary to continue the offices in those districts.

Mr. MANN. How many districts are there in Texas?

Mr. BURLESON. One now.

That is doing pretty well. Mr. MANN.

Mr. BURLESON. How many districts are there in Illinois? Mr. MANN. Illinois collects more revenue than all the other districts combined, and there are very few districts

Mr. BURLESON. The Peoria district pays more into the Treasury than all the other districts in Illinois combined, the gentleman might also add.

Mr. MANN. That is true, and any one of the Illinois districts pays more internal-revenue tax than all of Texas combined.

Mr. PALMER. I want to ask the gentleman in charge of the bill if he believes this Texas district, and the South Carolina district, and the Pennsylvania district ought to be wiped out?

Mr. JOHNSON of South Carolina. I have no information on that subject. I will state, as far as I am at liberty to state, that a Member of Congress came to the Committee on Appropriations and asked that his name should not be used-

Mr. BURLESON. A Republican Member of Congress.
Mr. JOHNSON of South Carolina, A Republican Member.
He said he had knowledge that there was an internal-revenue district in his State that was absolutely useless for any purpose except to give somebody a place. That led the committee to inquire of the Commissioner of Internal Revenue if there were any districts that could be dispensed with without injury to the public service. The commissioner furnished to the gentleman from Texas, who waited on him, a list of five districts which I understood he thought could be dispensed with without injury to the public service.

Mr. GILLETT. Why, Mr. Chairman— Mr. PALMER. Mr. Chairman, would there be any impropriety in submitting that communication of the commissioner to the House?

Mr. BURLESON. It was not a communication in writing. The information was received in a personal conference. to state in fairness to the gentleman from South Carolina [Mr. JOHNSON] that at the time the committee was considering the abolishment of a number of these revenue districts it was understood that probably the district in South Carolina would be one of the districts abolished. I want to state, furthermore, that in my judgment the public service will not suffer by reason of the abolishment of the district in Texas. I want to state, furthermore, that I believe that the number of internal-revenue districts now authorized could be still further reduced without any injury to the public service.

Mr. PALMER. Mr. Chairman, if the committee was right last year in reducing this appropriation because there were five districts that could be dispensed with, and after the appropriation has been reduced other districts are abolished, the only way to accomplish the purpose of the last year's action would be to

still further reduce the appropriation, would it not?

Mr. JOHNSON of South Carolina. No; because the President has the power by Executive order to rearrange these districts and to abolish as many as he sees fit, and we had an idea that very shortly there would be a new Secretary of the Treasury and a new Executive who would abolish the useless districts, and it was not necessary for the Committee on Appropriations to put it in the form of law that it had to be done,

Mr. PALMER. Can the Executive, change the boundaries of these districts? without legislation,

Mr. JOHNSON of South Carolina. Yes, sir. Mr. PALMER. So he can arrange an entirely new system,

dividing the country into 63 districts?

Mr. JOHNSON of South Carolina. That is my understanding.

Mr. GILLETT. May I state to the gentleman that I do not know about the private communications of Members of Congress to members of the committee or of the Internal Revenue Commissioner to Members of Congress. I do not think that is a proper kind of evidence to bring on the floor of the House, but I would like to ask the gentleman if the collector of internal revenue did not, in his official statement before the committee, state that he thought it was to the detriment of the public service to decrease the number of the districts?

Mr. JOHNSON of South Carolina. He did say in his examination on this bill that the discontinuance of the districts that

had been discontinued was a detriment to the service.

Mr. GILLETT. And that in his opinion the number ought not to be diminished?

Mr. JOHNSON of South Carolina. I do not know whether he said that or not.

Mr. GILLETT. That is my recollection.
Mr. BURLESON. Undoubtedly it is true that there ought to be a rearrangement of these districts, and it is probable that the number which we now have, if a rearrangement should be effected, would be continued, but with the arrangement as it is now some of these districts could be abolished without in-

jury to the public service.

Mr. GILLETT. Mr. Chairman, this is the first indication that we have had of the attitude of the majority toward appropriations, now that the campaign is over. I think in that light it is somewhat suggestive and interesting. We all remember that last year just on the eve of a political campaign the cry on that side of the House was all for economy and reform. The pork barrel was closed up, patronage in this House was cut off, appropriation bills were diminished, and we were told that the Democratic Party was bound for reform.

The committees on expenditures, which have jurisdiction of the different departments, were all put to work, and it was expected that revelations of extravagance and scandals would be brought before us. All of those hopes entirely failed of realization, and all of those committees accomplished nothing, though I presume they affected public opinion; and now, at the beginning of this Congress, we are going to see what the Democratic Party will do along those lines after election. That was all

before election, and that was all to make a platform.

This very bill in the last Congress came in so stingy, parsimonious, and vicious in what it did and what it did not do that the Republican members of the committee felt bound to take the very unusual step of submitting a minority report—something which had not been done before, if I remember correctly,

since I have been a member of the committee.

Now, we all wonder, after the object was achieved, after they had gone before the people on this platform of economy, now that they have won power, whether they will carry out those platform pledges and the precedents which they tried to start

in the last Congress.

In that light I think this bill is suggestive, because in the last Congress in this bill there was not a single increase either of salary or of force except, I believe, one very small increase of a salary which had been diminished by mistake in the pre-Except for that in the last Congress you ceding Congress. could look through all the pages of this printed statement on the legislative bill and you would not find a single increase. either of salary or of force. They not only did that, but they went a step further, and against a hostile Republican administration, as they seemed to have considered it, an administration that had distinguished itself by more genuine efforts for reform than any other administration that has been here in the 20 years that I have seen, an administration which by its efforts and investigations has cut down the expense of the departments here in Washington by hundreds of thousands of dollars a year, against that administration they made a lump-sum reduction. They not only would not allow that administration a single increase of force or of salary, but, unable to say where the administration should diminish its expenditures, unable to go into details, unable to give any intelligent judgment as to where a reduction could be made, they made a lump-sum reduction, and said that during the year whatever loss in force might occur should not be filled.

That was their attitude last year toward the Republican administration, and now what is their attitude this year? Is it the same? Last year, as I said, if you looked through these pages you would not find a single increase. That was for the Republican administration. Now, if you will take up the report accompanying this bill, you will find on more than half of its pages increases of force, increases of salary, and in some cases

increases of both force and salary.

The gentleman from South Carolina [Mr. Johnson] says that some people are unscrupulous and ignorant enough—I think those were his complimentary adjectives—to feel that the Democratic Party is hungry for spoils. [Laughter.] I admit that I am one of those persons who come within that category.

Mr. JOHNSON of South Carolina. Will my friend from

Massachusetts allow me to interrupt him?

Mr. GILLETT. Certainly.

Mr. JOHNSON of South Carolina. I am sorry that my friend from Massachusetts suspects the Democratic Party. I will look into the dictionary for another adjective to describe the gentleman. I want to ask the gentleman whether he is complaining because we have made increases either in force or in

Mr. GILLETT. I am not. I am complaining because you treated the administration last year in the way you did and

now begin to take a different tack.

Mr. JOHNSON of South Carolina. Has the administration suffered in any particular by reason of the reductions that were

Mr. GILLETT. Well, we have had only three months since that bill went into effect. You can not tell, but I have no doubt You can not tell, but I have no doubt the administration has suffered.

Mr. JOHNSON of South Carolina. I know you would have

suffered, unless that bill had passed, very greatly.

Mr. GILLETT. I have no doubt the administration has suffered. I have no doubt it would have been better to have given some of these increases then. I agree that many of these increases of force and of salary are proper. I am not sure but that they all are; but, under the circumstances, I do criticize the increases of salary in this bill. I criticize the way in which they are made. I believe many of the salaries to clerks in the departments are now inadequate. I believe they ought to be increased, but I believe the way to increase them is not for our committee to pick out its favorites and increase them by a bill like this

Mr. BURLESON. I should like to ask the gentleman whether he says that has been done in this bill?

Mr. GILLETT. I do not know.

Mr. BURLESON. Does he mean to insinuate that it has been done in this bill?

Mr. GILLETT. I do not mean that they are your personal

favorites. I mean that they are favorites, because they are picked out when undoubtedly there are many others in the

departments equally deserving.

Mr. BURLESON. Will the gentleman indicate or particularize? Will he put his finger on one case where a man has

been selected out as a favorite?

Mr. GILLETT. Everyone of them who is selected out is the recipient of favoritism.

Mr. BURLESON. Will the gentleman state whose favorite

Mr. GILLETT. I do not mean that he is your favorite or any other man's favorite on the committee. He is the favorite of this legislation, and the exercising of this favoritism will lead to further favoritism, as you well know, because you know that when we have increased the salaries here the bill will go over to the Senate, and they will put on many other additions, and we will have to agree to them.

Mr. BURLESON. Right at this particular point—
Mr. GILLETT. I decline to yield right in the middle of a sentence. I say that our increasing of these salaries will lead the Senate to do the same thing. Those increases will come back here, and we will have to consent to their increases. Now, what we ought to have done is to have reclassified the whole service. There are many places which are inadequately paid. I presume I voted for most of these increases of salary. not remember opposing any of them. I think they are worthy,

but if you are starting in on your principle of reform and economy, I think the proper way to do it is not to refuse, as you did last year, to make a single increase either of force or salary and then come in this year to make increases. Instead of that you ought to pass a reclassification of the whole civil service. That is one of the crying needs. There are some of these clerks who are too highly paid. There are some who are paid too little. There is a bill which was considered by the Committee on Appropriations a few years ago, and I think it was favorably reported by that committee, but did not pass the House. There is a bill reported by the Committee on Reform in the Civil Service in the last session for reclassifying the service. Either of those bills contains a foundation which might have been taken up and enacted into law; but instead of adopting the system recommended by the Committee on Appropriations and by the Committee on Reform in the Civil Service, you would return to the old-fashioned way which, I am sorry to say, we have been pursuing right along. You have relaxed from your last year's stern and ascetic principle of not making any increases, and now for the Democratic administration you are making increases both of force and salary.

Mr. BURLESON. I want to ascertain the viewpoint of the gentleman. He insinuates that these increases which have been made in this bill are made as the result of favoritism. I want to know if that is the operating cause that moved those in charge of this bill for the last 16 years to grant the increases that have been made in the legislative bill and other appropria-

Mr. GILLETT. I have just criticized it myself and have said it is the wrong principle. It is the same principle that we have

Mr. JOHNSON of South Carolina. Let me ask the gentleman a question.

Mr. GILLETT. Certainly.

Mr. JOHNSON of South Carolina. Suppose we should pass a law reclassifying the service. Who would put the clerks in class 4 and class 3 and class 2 and class 1?

Mr. GILLETT. The gentleman is not familiar with the bill that has been before our committee and before the House, which provides for reclassifying them not simply by grades, as they are now, which is a vicious way, but classifying them according to the quality of the work that they do.

Mr. JOHNSON of South Carolina. Who is to do that?

Mr. GILLETT. The head of the department does it. Mr. JOHNSON of South Carolina. Who came down here before our committee saying: "This man who is drawing \$1,600

is worth \$1,800"?

Mr. GILLETT. The head of the department, of course.

Mr. JOHNSON of South Carolina. The same people who

would do the reclassifying.

Mr. GILLETT. No: but then they would reclassify according to the character of the work.

Mr. JOHNSON of South Carolina. That is what they testified before the committee, that they are asking for an increase because of the men's work. If there is any favoritism it is shown by the department and not by Congress. I do not know any of these people.

Mr. GILLETT. I will say frankly that I do not suspect these are the personal favorites of any member of the committee, but it is the system of favoritism appointing them in this way. The way they ought to be appointed is the other way. The very austere self-control which gentlemen exercised in the last Congress is very different from the generosity they are exercising here.

Another contrast is in reference to another branch of departmental service which is subject to great improvement. The committee last year recognized that superannuation was one of the evils of the service. It is one of the greatest problems that can be tackled by any committee, and if the Committee on Appropriations would strike out these two evils, would reclassify and would strike out superannuation, they would do something of permanent value.

Mr. FITZGERALD. Will the gentleman yield?

Mr. GILLETT. Certainly.
Mr. FITZGERALD. I suggest that the committee did do that, but with the gentleman's assistance the President wrote a veto message with reference to it.

Mr. GILLETT. The committee did do it; but in such a crude and preposterous way that I venture to say they will not dare repeat it when they come into power. I agree that there is no inconsistency in not doing it at this session, because they know it would be vetoed again; but I venture to say now that you will not dare to do it in the next Congress, because you know it is not the right way.

Mr. FITZGERALD. The gentleman from Massachusetts characterizes the method in very harsh language. My recollection is that he made the statement that if we were not to adopt a civil retirement law, in his opinion this was the very next best thing to be done.

Mr. GILLETT. The gentleman is mistaken in his recollection.

Mr. FITZGERALD. I was of the opinion that that was what

the gentleman from Massachusetts believed about it.

Mr. GILLETT. No. Now, as to this question of superannuation, the committee met it in a crude way in the last Congress, which, as I say, was utterly inadequate and which I do not believe they will press when they have the power and are able to put it into effect. So the criticism I make of the committee is not on this bill. I think this bill is a good bill, a much better bill than that of the last session. The criticism I make is that last session they flung out the banner of economy and reform and put through a bill they praised highly because it did not have in it any increases for the Republican administration, and just as they are going to have an administration of their own they abandon that policy and bring in the same kind of a bill that had been going on before and which they so harshly criticized.

Mr. JOHNSON of South Carolina. Will not we have to operate under that bill from March until July of next year?

Mr. GILLETT. Yes. Mr. JOHNSON of South Carolina. We knew it then as well

as we know it now.

Mr. GILLETT. Of course, I had not an idea then that you were going to operate under it for 12 months.

Mr. FITZGERALD. Is it not a fact that all the increases recommended in this bill are positions in the classified service? Mr. GILLETT. Certainly.

Mr. FITZGERALD. And so far as any party affairs is con-

cerned, there are none.

Mr. GILLETT. That depends upon what you do to the classified service. That is what we are all waiting to see. The gentleman from South Carolina says that only unscrupulous and ignorant persons think there is any hunger for spoils on that side. If that is true, there are many unscrupulous and ignorant persons.

Mr. FITZGERALD. Well, I am not hungry for spoils, neither are my constituents. I have a great many patriotic and competent citizens who believe they can materially improve the character of the administration by being made a part of it.

Mr. MANN. With a fixed salary.
Mr. FITZGERALD. And I hope to have them given an opportunity to demonstrate what they can do.

Mr. GILLETT. That confirms my suspicion that was so criticized by the gentleman from South Carolina.

Mr. FITZGERALD. That does not mean that the classified service is to be utterly demoralized, although in my own opinion there are some positions in the classified service, filled by some Republicans who were covered there by Executive order, which would be very greatly improved by having a change in the occupants.

Mr. GILLETT. I presume that the gentleman from New York has a certain number and other gentleman have a larger number, so that among you all the whole service could be changed

and much improved.

Mr. FITZGERALD. I might add this: If the gentleman from Massachusetts [Mr. GILLETT] will give me a list of the places that he knows would be the easiest for me to obtain for my constituents after his long experience with the administrations of his own party I would feel very grateful to him.

Mr. MANN. Mr. Chairman, would the gentleman from New York [Mr. FITZGERALD] be willing to take a list of the places which the gentleman from Massachusetts has been instrumental in filling and be satisfied with them?

Mr. FITZGERALD. Oh, it is very easy to satisfy me.

Mr. MANN. The gentleman is skillfully evading the question. Mr. FITZGERALD. I do not believe that the gentleman from Massachusetts should be put in a position where he might be forced to confess that perhaps he has not been as arduous in some phases of his work as recent events would make him believe he should have been.

Mr. MANN. Would the gentleman from New York be willing to take the same number of places or the places which have been filled through the instrumentality and personal solicitation

of the gentleman from Massachusetts?

Mr. BURLESON. Mr. Chairman, I do not think it is right for the gentleman from Illinois to try and force a declaration from the gentleman from Massachusetts upon that point. It might coerce the gentleman into making a statement that is not exactly founded upon facts.

Mr. MANN. Would the gentleman from Texas be willing to be satisfied with filling the places that have been filled under Republican administrations through my instrumentality?

Mr. FITZGERALD. Oh, no. We know the gentleman has never been persona grata for over 10 minutes in any administration. I wish to announce for myself that I do not intend to put any limitations either upon my activities or my desires to serve to the best of my ability the most intelligent constituency in the United States.

Mr. MANN. It is quite evident that none of the gentlemen are willing to confine themselves. All are after the spoils, red-

hot, all the time, chasing them down.

Mr. FITZGERALD. Mr. Chairman, if displacing an incompetent Republican with an efficient Democrat is being after the spoils, then I am after the spoils.

Mr. MANN. And if replacing a competent Republican by an inefficient Democrat is after the spoils the gentleman will still

be after the spoils.

Mr. FITZGERALD: Mr. Chairman, that is a situation that can not possibly exist. There are no inefficient Democrats seeking positions, and there are many incompetent Republicans hold-

Mr. MANN. I have no doubt that that is the attitude of all

the Democratic Members.

Mr. GILLETT. Yes. Mr. Chairman, I was going to say that that, I think, pretty well justifies me in putting myself in the class reprobated by the gentleman from South Carolina [Mr. All Democrats who want office are efficient in the eyes of the majority, and any Republican who is in the place they want is inefficient. We have been wondering what would be their attitude, and this bill is the first indication, and apparently their Spartan self-denial of last session is loosening, and I expect their zeal for economy will steadily diminish and their appetite for spoils increase. I want it to be made clear that I am not criticizing this bill, but it is the last year's humbug that I am criticizing, when they pretended they were not going to increase any office or salary, when they paraded themselves as the great apostles of reform and economy, and now just as soon as they have the administration they desert their past professions.

Mr. SLAYDEN. Mr. Chairman, will the gentleman yield?

Mr. GILLETT. Certainly.
Mr. SLAYDEN. Is not that statement perfectly consistent with the moderate increase that is made necessary by the in-

crease in population?

Mr. GILLETT. There was just as much increase last year as there is this year. They did not give a single increase last year; instead they cut the bill down. Last year it was a Republican administration that they were providing for, and this year it is a Democratic administration that they are pro-I will agree that the gentleman is correct, that there ought to be, in the natural course of things, an increase every year.

Mr. SLAYDEN. A moderate increase commensurate with

actual demands.

Certainly, there ought to be, and last year Mr. GILLETT. it was not given; and the present administration, above any administration I know of, has disclosed a genuine zeal for economy, and has introduced reforms that right here in Washington have cut off the salary list hundreds of thousands of dollars a year. Yet, despite that fact, last year while business was growing not an increase was made.

Mr. BYRNS of Tennessee. Will the gentleman yield?

Mr. GILLETT. Certainly.

Mr. BYRNS of Tennessee. The gentleman speaks of increases in salary. Will the gentleman, for the information of the committee, state the largest increase of salary that is contained in the pending bill?

Mr. GILLETT. Oh, I do not remember. Mr. BYRNS of Tennessee. Is it not a fact that no increase of salary has been made to a greater extent than \$250?

Mr. GILLETT. I should not wonder.

Mr. BYRNS of Tennessee. And there are not over 12 or 15 increases in the entire bill.

Mr. GILLETT. I think there are more than that, but the amount is not important; it is the principle I am criticizing. Why do not you live up to the principle you laid down last year-a principle that is good enough for a Republican administration? Why do not you follow it when your own administra-tion comes into power? That is my criticism. I am not criti-cizing the bill, but I am simply stating that you are not follow-ing out now the same unintelligent parsimony which you showed last year; and I expect that it was just a prelude to an equally unintelligent prodigality when you will come to appropriate for your own administration.

Mr. JOHNSON of South Carolina. Mr. Chairman, inasmuch as the gentleman from Massachusetts [Mr. GHLETT] can not find anything in this bill to criticize, and is compelled to go back and criticize the bill that was passed at the last Con-

gress, I ask for a reading of this bill.

Mr. BURLESON. Mr. Chairman, every intelligent Member of Congress recognizes that there is a crying necessity for a reform in the classified service of the Government. the House who are chargeable with the responsibility of framing the appropriation bills in recognition of that fact during the past 8 or 10 years have made repeated efforts to effect this reform by embodying paragraphs in appropriation bills dealing with this subject. Of course such paragraphs in appropriation bills are subject to the point of order, and if we should manage to get over the point of order we are in danger of running counter to a presidential veto for attempting legislation on an appropriation bill; but, Mr. Chairman, there is a committee of the House of high standing

Mr. GILLETT. Will the gentleman allow a question? Mr. BURLESON. Not now. I will yield to the gentleman in a minute. There is a committee of the House of great influence and high standing chargeable with the duty under our rules of dealing with this subject matter, upon which the grave responsibility is imposed of reporting to this House remedial legislation looking to the correction of this great evil, not only of reorganizing the classified service but also of looking to the elimination of admitted superannuation which exists in all the departments of the Government. That committee was for many years presided over by a very distinguished Republican. will not charge that the distinguished gentleman has been guilty of neglect of duty, I will not charge that he has idled on the job, but the chairman of the Committee on Reform in the Civil Service in the Sixty-first Congress, in the Sixtieth Congress, in the Fifty-ninth Congress, at any time that he desired to correct this great evil that has been pointed out by the gentleman from Massachusetts, could have assembled that great committee, formulated his proposition of reform in the shape of a bill, and reported it to this House for consideration. Now, Mr. Chairman, it was not the fault of the minority, the Democrats, in the Sixty-first, the Sixtieth, and the Fifty-ninth Congresses that this action was not taken. It was a fault, if I may say so, which rested more with the chairman of the Committee on Reform in the Civil Service than with any other; and I must say that it comes with poor grace from the gentleman from Massachusetts, who held the chairmanship on the Committee on Reform in the Civil Service for so long, to come here now and point out that a feeble effort is being made by the majority at this time to correct some of these manifest abuses that now exist in our Civil Service. If the gentleman had been diligent when he was at the head of the committee which he presided over with such grace and such dignity for so long a time, if he had been diligent in the discharge of his duty, there would not now be substantial basis for the criticism he directs against those who have had the preparation of this bill,

Mr. GILLETT. Mr. Chairman, I am obliged to the gentleman for his suggestion, because he unfortunately is ignorant of the fact, as is quite apt to be the case with that side of the House. He says if I had done my duty as chairman of that committee there would have been such a report. Now, as a matter of fact there was. That committee was called together and that committee worked with great diligence through two Congresses, and it reported a bill which was the result of a vast amount of work upon both these subjects, which I am now criticizing the Committee on Appropriations for neglecting.

Mr. BURLESON. The gentleman's side controlled the House, why did not you put it through?

Mr. GILLETT. I did not control the House; I did the best I could. I did get a report out of the committee in favor of a bill to cure this superannuation and a bill for a reclassification. Those bills the present Committee on Reform in the Civil Service, although I have urged it upon the committee, has paid no attention to; but the Committee on Appropriations, which last year had a rule which made everything in order on a bill, could have undoubtedly with equal ease this year secured just such a rule. They had before them, or might have if they were not all as ignorant as the gentleman from Texas that such bills had been reported—they might have those bills which were re-ported before them, might have brought them in here and used them as a basis for the bill they made and with the consent of the Committee on Rules brought them up.

It is a reform that is as crying a need for the administration of this Government as anything of which I know—those two points, the reclassification of the service and the cure of superannuation—and yet the majority on that side of the House has done nothing toward it except that preposterous and crude

proposition which was made in the last Congress, and which I will venture to predict that now when they have the three branches of the Government they will not try to put through the next Congress, but will abandon it.

Mr. BURLESON. The gentleman berates this side of the House for failing to do in 6 months what the gentleman failed

to do in 14 years.

Mr. GILLETT. You might have started it. You had the results of our work before you which you might have taken as a basis.

Mr. SLAYDEN. Is not the superannuation plan a pension bill?

Mr. GILLETT. A contributory pension bill.

Mr. FITZGERALD. Mr. Chairman, some features of the gentleman's statement are hardly in accordance with the general gentleness of discourse for which he is noted. As I happened to enter the House the gentleman was endeavoring to point out the fact that the Committee on Appropriations had recommended no increases of compensation during the last session, and that in the pending bill some increases had been made. He seemed to assume that the committee had refused in the last session to recommend any increases because a Republican administration would be the beneficiary of such increases, while their conduct at this time was prompted by the fact that the Democratic administration would be the beneficiary of these in-The Committee on Appropriations during the last sesereases. sion of Congress, in view of the fact that all branches of the Government had been in complete control of the Republicans for a long period, realizing that the demand existed throughout the country for a halt in the extravagant program that had been followed for years in appropriating and expending public money, laid down a rule that it would not recommend any increases of compensation in any bill reported from that committee, and that unless imperative reasons were shown it would not recommend the creation of any new positions. lection is that the Committee on Appropriations made but four recommendations for increases in the bills coming from that committee-one to correct an unintentional reduction of the compensation of a laborer, made by the preceding Congress; two to increase the compensation of laundry women in a tuberculosis hospital in the District of Columbia; and one other that I do not recall. The purpose was to halt the custom that had been in existence of granting indiscriminately favors to those with the largest amount of influence and the most powerful connections. It was attempted to get the estimates on a fair basis in order to be in a position to proceed to do justice in such instances as the future might disclose changes to be necessary. What the committee has done in the present bill is the best answer to the charge that the Democratic committee has attempted to make recommendations that would be for the benefit of a Democratic administration after the knowledge had come to the country that the Democrats were to control the Government after the 4th of next March.

The estimates submitted by this administration for amounts to be carried in the legislative appropriation bill are \$2,298, 492.12 in excess of the amount actually appropriated for the current fiscal year, and the committee recommends a bill carrying \$317,627.88 less than the amount enacted in the law for the current year. So that the committee has recommended a bill of two million and about six hundred thousand dollars less than the present administration estimates will be required after the 1st of July to carry on the departmental service. Ample justification was given to a Democratic House very greatly to enlarge the public service in Washington if it had a desire to take any mere petty political advantage of the situation. But, Mr. Chairman, the committee is confronted by the fact that the estimates submitted by the administration for the ensuing fiscal year are \$113,415,455.14 more than the revenues for 1914 estimated by the Secretary of the Treasury, as required by This does not take into contemplation the estimates for deficiencies that may for any reason, proper or improper, require additional appropriations during this session; nor does it take into account whatever appropriations may be made for miscellaneous items outside of appropriation bills.

Even if the appropriations, estimated, in round numbers, at \$30,000,000, for the Panama Canal, reimbursable out of the issuance of bonds, be eliminated there will still be a deficit of some \$\$3,000,000 contrasted with the estimated revenues forecast by the Secretary of the Treasury. In his report to Congress in accordance with the law, in order to wipe out this deficit or make it as low as possible, the Secretary of the Treasury eliminates the \$60,000,000 required under the terms of the sinking-fund act for the redemption of the public debt. Eliminating the amount required for sinking-fund purposes, and also eliminating the \$30,000,000 required for Panama Canal construction purposes, reimbursable out of the bonds authorized to be issued, there will still be a deficit of over \$22,000,000. without taking into consideration deficiencies or miscellaneous items and without considering any authorizations of any character for new river and harbor projects or new public buildings.

It seems to me that, instead of criticizing the Democratic House for making the comparatively few recommendations for increases of compensation of persons in the classified service in the legislative bill, gentlemen on that side of the House might better devote themselves to some discussion or explanation of the very remarkable financing of public operations in which this administration seems to be engaged. I take it that if Congress were to accept the estimates of the various executive departments and appropriate in accordance with them this administration would have the satisfaction of knowing that a Democratic Congress would be required to find at least \$83,000,000 additional to the revenues now available in order to meet the obligations of the Government.

I hope Members of the House will bear these facts in mind during this coming winter, and that in the consideration of legislation designed to fix permanently large annual charges upon the revenues of the Government some attention will be paid to the fact that it is not necessary that Congress shall devote its time to the means by which the public revenues shall be expended, but that it will be necessary to give considerable time and thought to ascertaining sources from which additional

public revenues may be obtained. [Applause.]
Mr. MANN. Mr. Chairman, the gentleman from Massachusetts [Mr. Gillett] seems to have provoked some personal criticism of himself by suggestions which he made, which apparently were not understood on the Democratic side of the House. did not understand the gentleman from Massachusetts to criticize the items of increase of salaries in this bill at all. merely called attention to the fact that in the last session, when it was uncertain as to who would have control of the Government the next time, the Democrats had taken the position that they would not make any increase of salary, and that at this time they have made some increases to which, I think, he does not object.

The distinguished gentleman from Texas [Mr. Burleson], who hopes to be in the Cabinet of the next President-and agree with him in that respect [applause]—suggested that it was the fault of the gentleman from Massachusetts, as the chairman of the Committee on Reform in the Civil Service, that

changes have not been made.

I served on that committee for many years with the gentleman from Massachusetts as chairman, and I can testify that there were many rocks placed in the road of his automobile in the line and direction which he sought to run it. I threw some of them myself. [Laughter.] He has worked diligently in this House for many years for the purpose of effecting reforms in the administrative branch of the Government, and no one ought to criticize him for again calling attention to what he believes are necessary reforms, and for criticizing the other side of the House for not bringing in those reforms.

I do not object, Mr. Chairman, to the Committee on Appropriations having made recommendations of increases of salary. think last year there ought to have been some increases. have no doubt this year there ought to be some increases. not believe that the Committee on Appropriations in making recommendations this year have been influenced by the fact that they were personally interested in the offices where the salaries were increased, or that their party was personally in-terested in those offices. After a while we will reach the real distinction between Democrats seeking election and Democrats after election, when we are called upon to vote for an extravagant and unnecessary public-building bill and an extrava-gant river and harbor bill, when the boys really get in their work on the pork-barrel bills which they were afraid to pass at the last session of Congress, but which they determined to have at this session.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows: For mileage of Senators, \$51,000.

Mr. COX of Indiana. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend by adding after line 4, page 2, the following:
"Provided, That hereafter Members of Congress. Delegates from Territorles, the Resident Commissioner from Porto Rico, and the Resident Commissioners from the Philippine Islands shall be paid only their actual traveling expenses while traveling from their homes to Washington City and return on the usual and ordinary route of travel from their legal residence: Provided, That said sums of money shall be paid out

upon the certificate of the Members of Congress. Delegates from Territories, the Resident Commissioner from Porto Rico, and the Resident Commissioners from the Philippine Islands, and not otherwise."

Mr. FITZGERALD. Mr. Chairman, I make the point of order that that amendment is not germane to the portion of the bill which has just been read. This portion of the bill deals with the appropriation for the Members and officers of the United States Senate. The amendment suggested by the gentleman covers a great many things not at all relating to the Senate.

The CHAIRMAN. The Chair will hear the gentleman from

Indiana [Mr. Cox].

Mr. COX of Indiana. Mr. Chairman, I think the amendment is germane to the subject under consideration. The part of the bill to which the amendment proposes to apply is—

For mileage of Senators, \$51,000.

The subject of inquiry now under consideration is the question of mileage, and anything which relates to that subject is,

in my judgment, germane. Under clause 2 of Rule XXI, known as the old Holman rule, it certainly becomes germane. Anything is in order which tends to reduce the public expenditures and to bring economy in the administration of the affairs of this country. I insist that it is germane because it relates particularly and peculiarly to the

subject under inquiry.

The subject under inquiry is that of the mileage of Senators. While it is true that the amendment which I propose here is somewhat broader than the language set out in this paragraph, relating exclusively to the mileage of Senators, and the amendment relates not only to the mileage of Senators but to the mileage of Representatives, Delegates, and Resident Commissioners, I do not believe that under the rules and practices of the House its germaneness is destroyed. The vital question, as far as germaneness is concerned, is the question, Does the amendment relate to the subject under inquiry? If it does, it becomes germane. I do not believe the point of order is well

The CHAIRMAN. Does the gentleman from New York [Mr. FITZGERALD] desire to be heard further on the point of order?

Mr. FITZGERALD. No; I do not.
The CHAIRMAN. It seems to the Chair that this comes within the Holman rule and is germane, for the reason that it applies to Members of Congress and is a limitation on the appropriation.

Mr. MANN. If the Chairman will permit, the portion of the

bill under consideration is headed:

Legislative-Senate.

It is a familiar rule that an item which may be germane to a bill may still not be germane to a particular portion of the bill. This amendment is offered in connection with the appropriation for the mileage of Senators, but is not confined to the mileage It includes the question of mileage for the Memof Senators. bers of the House. The appropriation for mileage of Members of the House is carried in an entirely different portion of the bill.

The CHAIRMAN. The Chair will ask the gentleman from

Illinois a question in that connection.

This paragraph simply appropriates for the mileage of Senators, while the amendment undertakes to designate the amount of money that may be received either by a Senator or by a Member of the House?

Mr. MANN. Yes.

The CHAIRMAN. If this amendment is adopted here, would it not apply equally to Members of the House, although the appropriation for their mileage is made at a different point in the bill'

Mr. MANN. It would apply if it were offered at that point in the bill.

The CHAIRMAN. Even if this amendment is not offered at that point, this being a limitation on the appropriation made elsewhere for the mileage of Members of the House, it seems to the Chair that it would apply to that appropriation wherever made.

Mr. FITZGERALD. There is no appropriation in this paragraph for mileage for Members of the House, and an amendment providing for mileage for Members of the House, Delegates and Commissioners would not be in order at this point, because it would not be germane. At this point provision is made to pay the mileage of Senators. Any amendment to be in order at this point must be germane. An amendment proposing to reduce the stationery allowance of Members of the House would not be in order here. No more is an amendment to control the amount of mileage to be paid a Member.

The CHAIRMAN. Does the gentleman from New York contend that a limitation on the amount of mileage received by

Senators would not be in order?

Mr. FITZGERALD. That is not this question. The question is much more comprehensive than that; it embraces Members of the Senate and Members of the House, Delegates, and Resident Commissioners. An amendment affecting them is not germane to a provision confined exclusively to Members of the Senate.

Mr. MANN. Mr. Chairman, personally, I doubt whether the amendment is permissible under the provisions of the Holman rule. But I am inclined to think that both the gentleman from New York and myself are mistaken. An amendment if it was offered is germane to this portion of the bill affecting the mileage of Senators, and if the item was offered as to the mileage of Senators, I think an amendment to that effect as to the mileage of the Members of the House would be in order, and if so,

The CHAIRMAN. The Chair is ready to rule unless the gentleman from Indiana wishes to be heard.

Mr. COX of Indiana. Mr. Chairman, I do not think I have anything further to say except that I think it comes clearly under article 2, Rule XXI, what is known as the Holman rule, and, as I said a moment ago, I think it is germane. What is the subject under inquiry? It is the question of mileage. True, the paragraph relates to the mileage of Senators, but as the Chairman knows, Senators are Members of Congress exactly as are Members of the House, and because my amendment brings in two more classes of persons who are Members of this same body, to wit, the Resident Commissioner of Porto Rico and the Commissioners of the Philippine Islands, yet I insist that that does not destroy the germaneness of the amendment which I

The Chair, of course, is conversant with the rule to which

I have referred. It reads, in part:

Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except as such as being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of the amounts of money covered by the bill.

And so forth.

Capital.

It seems to me, Mr. Chairman, that the amendment I have proposed to the bill comes squarely within that part of the rule. It is germane because the subject of inquiry is that of the mileage of a part of the Members of the Congress of the United States, because my amendment uses language which covers two or three other persons, yet the subject to which my amendment already applies is that of mileage, and I insist is germane.

The CHAIRMAN. This amendment proposes to cut down or limit the mileage allowed to Senators, Members of Congress, Resident Commissioners, and Delegates. If it applied only to Senators it would undoubtedly be germane to this paragraph, but it is a broader amendment than that and applies to all Members of Congress. Now if an amendment, as suggested by the gentleman from Illinois, was offered to limit the mileage of Senators had been submitted, an amendment to that amendment to include Members of the lower House of this body would have been in order. So it seems to the Chair that since the amendment embraces both of the subjects that would have been in order it is germane, and the Chair overrules the point of order.

Mr. COX of Indiana. Mr. Chairman, I do not desire to take much of the time of the House in discussing this question, because it has been discussed on the floor of the House time and time again. I do not know that I can add anything to what has been said on this subject by men abler than I am to present it. But, Mr. Chairman, I do believe that this amendment should carry and that it should be made permanent law. I think the Appropriations Committee last winter and summer did splendid work in reducing the appropriations, and I think they should be commended for it, and I have no doubt that their splendid work in reducing the appropriations was reechoed throughout the country during the campaign and materially aided the Democratic Party in achieving the splendid victory in the November election.

The appropriations last year were reduced something like \$31,000,000 below what any previous Congress had made them. I have believed for some time that it was the odds and ends of Congress in making appropriations that the people have a meritorious right to protest against. The people have no right to object, nor do I believe they do object, against meritorious appropriations, made to legitimately run the Government. It will not be contended by any Member of this House for a moment that it costs him 20 cents per mile each way to travel from his home to the city of Washington and return by the usual and ordinary routes of travel between his residence and the

In fact, it can not possibly cost him 20 cents per mile. Almost all railroads in the country sell tickets for 2 cents per mile, and this, with sleeping-car berths and meals en route, does not amount to 5 cents per mile. There is not a Member of the House, though he live at the remotest corner or section of the United States, who can not travel from his home to

Washington City on 5 cents a mile or less.

It is not so much a question of saving this amount of money, though this is an item to be considered, as it is the principle involved in the case. When the Democratic Party got control of this House a little over a year ago it began with its pruning knife. It lopped off a tremendous lot of useless jobs here and there, and which were conceded to be useless, because, after cutting out these useless jobs, the organization of the House moved right on, showing that the jobs disposed of had been useless, so far as efficiency of the organization of the House is concerned.

I believe that the cutting out of these useless jobs saved the Government approximately \$180,000 per year in the way of salaries. Another practice has grown up here to which I could not subscribe, and that was allowing the employees of the House a month's extra salary. This was cut out by the Democratic caucus and saved the country approximately \$65,000. I believe the country agreed with the Democratic Party, when in caucus assembled, that it did right in abolishing the large number of useless jobs and cutting out the extra month's pay for the

employees of the House.

What kind of position have we got ourselves into by this kind of legislation? Let me appeal to you, my Democratic friends, who propose to stand for economy, to look this question squarely in the face. Are we doing justice, are we doing right, when we say to the little employee who travels from the Pacific coast, at a cost to him of from \$65 to \$100, making a trip here to fill a position the salary of which ranges from \$1,200 to \$1,500 per year or less, we will deny him his extra month's salary, which was given to him for the purpose of compensating him for his mileage, and at the same time refuse to repeal our 20 cents per mile and allow ourselves to be paid our actual traveling expense? Is this justice? Is it right to refuse to allow the employees of the House their month's salary in lieu of mileage and at the same time refuse to repeal the law allowing us 20 cents per mile each way for going and returning, and in lieu of that allow ourselves actual traveling expenses when this is more than we are giving to the employees of the House?

Mr. BYRNS of Tennessee. Mr. Chairman, will the gentleman

yield?

Mr. COX of Indiana. Certainly.

Mr. BYRNS of Tennessee. Mr. Chairman, I want to say to the gentleman that I am thoroughly and heartily in sympathy with the purpose of his amendment, and I have taken occasion to say so several times upon this floor. I want to ask the gentleman, with reference to the amendment as it is drawn, if it is not, as a matter of fact, possible under that amendment, as it was read from the Clerk's desk, for Members of the House to go back and forth from their homes and the city of Washington go back and forth from their homes and the city of Washington any number of times during the session and collect actual traveling expenses for each trip?

Mr. COX of Indiana. I do not believe so. The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. COX of Indiana. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection? There was no ob-

Mr. COX of Indiana. The language used by me in the amendment read from the desk follows very closely the language of the old statute, which allows Members to collect 20 cents per mile each way, going and returning by the usual routes of travel.

Mr. BYRNS of Tennessee. Does not the gentleman think, in order that there may be no question about it, that he better provide expressly upon the face of the amendment that it

should be paid only once during each session?

Mr. COX of Indiana. If the gentleman has any question about it, I would be very glad to accept such an amendment.

Mr. BYRNS of Tennessee. I am just suggesting that to the

Mr. COX of Indiana. Mr. Chairman, I do not believe that the amendment I have offered will permit a Member of Congress to charge for different trips. In any event, I take it that no Member of Congress would undertake to charge for more than one trip. I regard Members of Congress as being high-priced men, and I would not believe for a moment that any Member, even though the amendment which I have offered might permit him to do so, would charge for extra trips to his

home. I do not think he would do it, because of the moral obloquy he would undoubtedly bring upon himself if he attempted to do so.

Mr. KINDRED. Mr. Chairman, will the gentleman yield?

Mr. COX of Indiana. Certainly. Mr. KINDRED. Mr. Chairman, I am sorry that I lost the drift of what the gentleman said on this phase of the subject. How many trips does the gentleman's amendment anticipate?

Mr. COX of Indiana. One here and one home. Mr. Chair man, a year ago last summer I looked into the question of mileage with some considerable degree of care. It is much broader than the mere question of mileage to Members of Congress. I give it as my sincere judgment that this country could save approximately a million dollars a year by looking into the mileage proposition. The officers of the Army while traveling on duty are allowed 7 cents a mile while coming and going to and from their posts of duty. A short time ago I asked the War Department to furnish me with vouchers or copies of vouchers for travel pay of officers, the appropriation of which was something like \$500,000, and on reading these vouchers I found some exceedingly interesting reading. instance, each year a tremendous amount of money is paid out to officers of the Army at the rate of 7 cents per mile while traveling from one point to another for the sole purpose of taking test rides. If this was remedied and the officers of the Army put on actual expense basis, it would save the people a tremendous sum of money each year.

The statute allowing Members of Congress 20 cents per mile was passed in 1799, long before the era of railroads in this country and at a time when travel was made on foot, on horseback, and conveyance, and at a time when, no doubt, it cost the Members of Congress at least 20 cents per mile each way to make the journeys from their homes to the capital and return. For instance, Members living in New England and in Georgia, where they had to travel 600 or 700 miles in order to reach the capital, and over poor roads which no doubt existed at that time, and being several days on their journey, no doubt but what it cost them at least 20 cents per mile to make their journey; but to-day when the remotest sections of our country, the United States, can easily be reached by rail in four or five days' travel, with fare reduced on all trunk-line railroads to 2 cents per mile, there is no reason why the old statute passed in 1799 should not be either repealed outright or amended so as to meet

improved conditions of travel of to-day.

At the time when the old statute was enacted the salary of Members of Congress was \$7 per day, and the salary has been increased from time to time, until to-day it is \$7,500 per year. To repeal the old statute or to amend it by paying actual traveling expense is in line of progress with the interests of the day. I know of no business house in this country that pays its employees mileage, but all of them pay their employees actual traveling expenses, and these expenses are paid out on vouchers furnished by the employees.

Mr. Chairman, we can not in good faith remedy the mileage evil as I think it exists in other branches of the Government to-day so long as we fail to remedy our own mileage. The law should either be repealed outright or should be amended so as to pay each Member his actual traveling expenses. This is fair, just, and equitable and is in line with progressive business

interests of the country.

Mr. SIMS. Mr. Chairman, the gentleman from Indiana [Mr. Cox] is talking about a reform making a large saving. I am not taking issue with him on that point, but why should not the gentleman go further? I think when a man is elected to this House and paid a salary for his services the Government ought to be entitled to his entire time. We are asked here daily to excuse Members from attendance upon the sessions of the House on account of important business. Under the rules of the House, when a Member is absent without leave

Mr. COX of Indiana. Is the gentleman addressing that to me? Mr. SIMS. The gentleman from Indiana was talking on the subject, and I want to invite the gentleman's attention to this point: Under the rules of the House, perhaps the law—I am not sure about that—when a Member is absent without leave he forfeits his salary, and yet we every day excuse men from at-tendance on the House on account of important business. If the gentleman will figure upon that he will find that perhaps he can save the Treasury a great deal by deducting the salary from Members who are absent on important business by refusing to permit them to leave this House to attend to important private business. I admit that when a man's family, or a member of same, is ill, or something of that sort, that he should be permitted to leave and remain away during such illness; but when Members leave to attend to business that pays them better than their salary, why should not they forfeit the salary for

the time they have been away attending preferably to important private business? I do not desire the gentleman to understand me as making a speech in opposition to his amendment; but since the gentleman has started on a line of economy, why not pursue it in this direction and not have the whip of this House wear himself out to get a quorum here at times when it is very important to have one because gentlemen are excused by this House on account of important business. It seems to me while the gentleman is advocating reforms-and I think he is perfectly sincere-that he might urge reforms all along the line and refuse any Member of this House leave to be absent simply because he has important business, and thereby he will save many more thousands of dollars than he is now trying to save to the Treasury and at the same time expedite the legislation of this House very materially; and yet when we hear read from the desk that Mr. A or Mr. B asks leave of absence for 10 days on account of important business I do not hear the gentleman from Indiana or anybody else object.

Mr. BUTLER. How do you save the Treasury when he is

here?

Mr. FITZGERALD. Mr. Chairman, this question of mileage has been discussed in the House during my entire 14 years of service. From time to time various Members have suggested that the amount of mileage allowed to Members be reduced. I have very little interest in the matter; that is why I have at times participated in the discussion. The amount of money paid to me each session of Congress under the law is \$92, so that it makes little difference whether we abolish the mileage reduce the rate, or fix some other basis upon which it shall be paid. The Committee on Appropriations reports the amount necessary to pay the amount of mileage under the existing law. It did not take up or discuss or consider the advisability of changing the present allowance. During the present Congress at each of the two previous sessions the matter was presented, debated, and decided in the House, and upon each occasion the House by a substantial majority determined that it would not change the rate of mileage.

In view of those circumstances, the committee presented the bill carrying the amount necessary to pay mileage in accordance with existing law. I do not care at this time to discuss at length the necessity, the advisability, or the propriety of changing the present rate. Members from a long distance who are compelled to close their homes and move their families in many instances part of their household goods-and establish themselves in Washington for a period running from four to eight or nine months, insist that the expense incident to such change or transfer of residence for themselves and their families is not more than met by the allowance under this statute. Arguments have been made that the purpose was not only to cover the personal traveling expenses of the Member himself, but to compensate him for all the expenditures necessitated by the transfer of his family and his home to the capital during the period he is required to remain here. All the reasons for and against the present rate and proposed change of rate are familiar to the Members of the House. I think we can easily determine the question without very much discussion.

Mr. SISSON. Mr. Chairman, I will detain the House for but a moment. I do not know that the amendment is so drawn that it would limit the Members to only one trip, but the proponent of the amendment states to me that that is his purpose and his intention. My objection to the present system of paying mileage is this: The gentlemen who live within a few miles of the Capital get a very small or practically no com-pensation at all. A man living at the distance from the Capital that I do gets something like \$400 mileage. Those out West

get over \$1,000 mileage.

Now, the original discussion in reference to mileage paid in the First Congress hung upon this proposition, that the compensation of all Members of Congress should be the same. Therefore, in settling the question as to the location of the Capital, it was arranged so that those people who lived close to the Capital, who would have to pay but little money to get here, and those who lived a long distance from the Capital, who would have to pay a great deal more to reach the Capital, should get the same amount of salary. Under the old rules of traveling by stagecoach the amount paid originally was to pay actual traveling expenses for one round trip. Now, this mileage proposition presents an inequality of compensation which is not justified. I would prefer, rather than to have items for all sorts of expenses paid, to have a mileage basis such that it would be fixed by law, say 5 cents a mile for each way. That would certainly cover the expenses of a man and his wife, because you only pay now about 2 cents a mile for traveling expenses. Nor do I think it absolutely necessary that the expenses of the entire household should be borne by the Federal Government in

getting to the Capital. I shall vote for the amendment which s offered by the gentleman from Indiana [Mr. Cox], but I hope he will so word the amendment that it can be beyond question that only one mileage shall be allowed.

The CHAIRMAN. The question is on agreeing to the amend-

ment.

Mr. MANN. Mr. Chairman, there never will be any entirely satisfactory solution of the question of the payment of expenses for Members coming to Washington from their homes, because there is no way, of which I know, at least, of absolutely equalizing the matter. It would be a very easy matter to provide for the payment of expenses of the Member of Congress himself, and if it is the desire of Congress to have men come here from home and leave their families behind, that is a very good way to proceed. I would much rather have a Congress composed of Members with their families here, and men living with their families in Washington than have the families of Members at home and Members carousing here in Washington, because that is almost the inevitable effect. There is not a legislature in this country at any State capital where members go to the legislature for a few days in the week by themselves and go home at the end of the week, where they transact business with the same degree of propriety and sobriety as is done in Washington, where Members come and bring their families with them.

Now, there is no equitable way that I know of fully determining the method of expenditure for bringing a man's family here. The gentleman from Mississippi [Mr. Sisson] suggests that 5 cents a mile each way will bring a man and his wife here. I do not know where it will do that. Possibly it will from Chicago, but I do not know. I know of no place in the country generally where you can travel at that rate. But a man and his wife are not the only members of many families. It is desirable that men who are elected to Congress have the ability to bring their children here, who ought to be under the control of the father and the mother. It is immaterial to me whether this amendment is agreed to or whether they pay mileage at all; but I know Members in this House whose mileage does not cover the expenditures which they make to bring their families to Washington. I believe that it is to the interest of the Government that the families of Members do

come, as far as it is possible to bring them.

The CHAIRMAN. The question is on agreeing to the amend-

ment offered by the gentleman from Indiana [Mr. Cox]. Mr. COX of Indiana. Mr. Chairman, there seems to be some question about the amendment. I ask unanimous consent to insert in my amendment the following words: "going to and "going to and

returning from each session, for one trip only. The CHAIRMAN. The gentleman from Indiana asks unanimous consent to amend his amendment in certain particulars

named by him. Is there objection?

There was no objection.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Indiana.

Mr. CANNON. What is the amendment?

The CHAIRMAN. The amendment will be reported again.

The Clerk read as follows:

After the word "residences" insert "in going to and returning from each session, for one trip only."

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Indiana.

The question was taken, and the Chairman announced that the "noes" appeared to have it.

Mr. COX of Indiana. A division, Mr. Chairman. The House divided; and there were—ayes 21, noes 37.

Mr. COX of Indiana. I make the point that there is no quorum present.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and three Members are present—a quorum. The Clerk will read.

The Clerk read as follows:

Office of the Vice President: Secretary to the Vice President, \$4.000; messenger, \$1,440; telegraph operator, \$1,500; telegraph page, \$600; in all, \$7,540.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I would like to inquire what are the duties of the telegraph operator to the Vice President and of the telegraph page. We abolished the telegraph instruments in the House apparently without any detriment to anyone except those who held the places. But why does the Vice President need a telegraph operator and a telegraph page-both?

Mr. JOHNSON of South Carolina. I will say to the gentle-man that the telegraph office at the Senate end of the Capitol is not exclusively for the use of the Vice President, nor is the page exclusively for his use. It is simply a convenience pro-

vided for the use of the Senate.

Mr. MANN. That applies to the telegraph operator provided for by the Senate?

Mr. JOHNSON of South Carolina. Yes; to the telegraph operator provided for by the Senate. The Vice President ap-

points the messenger.

Mr. PALMER. Mr. Chairman, is it not a fact that the appropriation for the maintenance of this telegraph wire that formerly ran between the Capitol and the departments has been

Mr. JOHNSON of South Carolina. Only as to the House of

Representatives.

Mr. PALMER. Do they still maintain a telegraph line from the Capitol around to the departments?

Mr. JOHNSON of South Carolina. I understand that they do.

Mr. PALMER. It ought to be cut out.

Mr. MANN. I agree with the gentleman from Pennsylvania that it ought to be cut out.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Office of Secretary: Secretary of the Senate, including compensation as disbursing officer of salaries of Senators and of the contingent fund of the Senate, \$6,500; hire of horse and wagon for the Secretary's office, \$420; Assistant Secretary, Henry M. Rose, \$5,000; chief clerk, \$3,250; financial clerk, \$3,000 and \$1,250 additional while the office is held by the present incumbent; minute and journal clerk, principal clerk, reading clerk, and enrolling clerk, at \$3,000 each; executive clerk, and assistant financial clerk, at \$2,750 each; librarian, file clerk, chief bookkeeper, assistant journal clerk, two clerks, printing clerk, and clerk compiling a history of revenue bills, at \$2,500 each; first assistant librarian, \$2,400; keeper of stationery, \$2,400; compiler of Navy Yearbook and Senate report on river and harbor bill, \$2,220; indexer for Senate public documents and two clerks, at \$2,200 each; two clerks, at \$2,100 each; assistant librarian, \$1,600; skilled laborer, \$1,200; clerk, \$1,800; clerk, \$1,600; assistant keeper of stationery, \$2,000; clerk, \$1,800; clerk, \$1,600; assistant keeper of stationery, \$2,000; assistant in stationery room, \$1,200; messenger, \$1,440; assistant messenger, \$1,200; three laborers, at \$840 each; three laborers, at \$720 each; laborer in stationery room, \$720; in all, \$94,040.

Mr. CULLOP. Mr. Chairman, I desire to reserve a point of order against the following in the bill, on lines 16 and 17: "And \$1,250 while the office is held by the present incumbent." I desire to reserve a point of order against that part of it. would like to ask the author of the bill or the gentleman in charge of the bill a question about that. Is the salary of this officer, the financial clerk, fixed by law at \$3,000 a year?

Mr. JOHNSON of South Carolina. No.
Mr. CULLOP. Why is it that it is proposed in this bill to say that this incumbent shall have an increase of \$1,250 while

he holds the office?

Mr. JOHNSON of South Carolina. This appropriation has been carried in the bill for many years. It was put in by the Senate, and under the rules of comity that obtain between the House and the Senate we have no means of inquiring into the propriety of those expenditures that they make for their convenience and comfort.

Mr. FITZGERALD. Mr. Chairman, there is a different reason. The occupant of this place has not only occupied it for many years, but he is a peculiarly expert man. The Senate has done with reference to this officer what the House has done with reference to the clerk of the Committee on Appropriations. Everybody recognizes his peculiar fitness. They did not fix the compensation above a certain amount, but they felt that because of long years of faithful and efficient service this particular officer, while occupying the place, should be paid this additional sum, and that when he went out of the office his successor would be paid what it had been customary to pay prior to the time it was thought proper to give him this pro-

Mr. CULLOP. With all due deference to that explanation, think it would be proper, if the salary is to be raised, to raise it in the regular way. Everybody knows that if this is carried in this manner in the appropriation bill it means that this will

Mr. FITZGERALD. Oh, no.

Mr. CULLOP. That it will be the salary of the successor of this man. I do not think that is a proper way to raise the salaries of officers. If he is worth \$1,250 a year more than the salary, his salary ought to be increased by the amount of \$1,250 a year, and we ought not to carry it along in this way, in my judgment, because it means the fixing of the permanent

salary at \$4,250 a year.

Mr. FITZGERALD. The gentleman is absolutely mistaken. Mr. Cleaves, who was connected with the Committee on Appropriations in the Senate for about 36 years, received during the latter years of his service \$1,000 additional to the usual compensation. Provision was made that during his incumbency that additional sum should be paid to him. When he died and his successor was appointed, that additional \$1,000 was dropped out of the appropriation bill. The purpose was to make it pos-

sible to fix adequate compensation for the men who, regardless of the change of political control of these two Houses, are retained, and perform faithful and peculiarly efficient service, by giving them additional compensation. When they go out of office, their successors are given the compensation fixed for the

The disbursing officer of the Senate has been receiving this compensation for many years, and it would be manifestly unfair to him at this time to attempt to reduce his compensation \$1,250. Mr. CULLOP. How long has this gentleman held this posi-

Mr. FITZGERALD. The clerk of the Committee on Appropriations says he has been there about 40 years.

Mr. CULLOP. How long has this item been carried in the

bill in this way at the increased salary? Mr. FITZGERALD. Six or eight years.

Mr. CULLOP. I think it ought to be dropped, and I move to amend by striking out, in lines 16 and 17, the words "and \$1,250 additional while the office is held by the present incumbent."

The CHAIRMAN. The gentleman from Indiana [Mr. Cullor] withdraws his point of order and offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 2, lines 16 and 17, by striking out, after the figures "\$3,000," the words "and \$1,250 additional while the office is held by the present incumbent."

Mr. FOWLER. Mr. Chairman, I desire to reserve a point of order against this paragraph. I was on my feet for the purpose of doing so when the point of order was reserved by the gentleman from Indiana [Mr. CULLOP].

The CHAIRMAN. The gentleman from Illinois reserves the

point of order against the item.

Mr. FITZGERALD. Is the gentleman going to make the point or not? This is the salary that this man has been receiving. If the gentleman intends to make the point of order, let him make it

Mr. FOWLER. I make the point of order, Mr. Chairman.
Mr. FITZGERALD. I wish to submit to the Chair that it is
not subject to the point of order. This man is receiving this
particular sum for the current year, and under the rulings of
the Chair where the compensation of an officer is not fixed by
statute his compensation is the amount which he receives in the current appropriation act. This particular compensation, expressed in this particular form, is the compensation fixed by the current law

The CHAIRMAN. The Chair does not understand whether

this salary is fixed by statute.

Mr. FITZGERALD. It is not. It is only fixed by the cur-

rent appropriation law.

Mr. CULLOP. Mr. Chairman, that was the reason why I made my motion to amend instead of making the point of order, because the gentleman from New York [Mr. FITZGERALD] had answered me that the salary was not fixed by law.

The CHAIRMAN. If this compensation is not statutory, the

point is not well taken. If the gentleman from Illinois [Mr. Fowler] has any statute provision fixing this salary, the Chair

will hear it.

Mr. FOWLER. Mr. Chairman, I do not know whether there is a statute fixing this salary or not. I presumed that there was, as the salary had been fixed at \$3,000 and the appropriation for this has been carried for many years past at that amount. I have not taken the pains to look up this salary as to whether it is fixed by law or not. This bill came in and was printed last night, and this morning was the first opportunity had for the purpose of making an examination of the bill.

The CHAIRMAN. The precedents are to the effect that where the salary is not fixed by statute the past and current appropriations make it law, and therefore the Chair overrules the point of order. The question recurs on the amendment offered by the gentleman from Indiana to strike out certain lan-

guage.

The question was taken, and the amendment was lost.

The Clerk read as follows:

The Clerk read as follows:

Clerks and messengers to the following committees: Additional Accommodations for the Library of Congress—clerk \$2,220, messenger \$1,440; Agriculture and Forestry—clerk \$2,500, assistant clerk \$1,800, messenger \$1,440; Appropriations—clerk \$4,000, two assistant clerks at \$2,500 each, two assistant clerks at \$1,440 each, messenger \$1,440, laborer \$720; To Andit and Control the Contingent Expenses of the Senate—clerk \$2,500, messenger \$1,440, messenger \$1,200; Canadian Relations—clerk \$2,220, messenger \$1,440, messenger \$1,200; Canadian Relations—clerk \$2,220, messenger \$1,440, messenger \$1,200; Canadian Retrenchment—clerk \$2,220, messenger \$1,440, messenger \$1,200; Claims—clerk \$2,500, assistant clerk \$2,000, assistant clerk \$1,440, messenger \$1,200; Coast and Insular Survey—clerk \$2,220, messenger \$1,440; Coast Defenses—clerk \$2,220, assistant clerk \$1,440, messenger \$1,200; Commerce—clerk \$2,220, assistant clerk \$1,440, messenger \$1,200; Commerce—clerk \$2,200, assistant clerk \$1,440, messenger \$1,200; Commerce—clerk \$2,200, assistant clerk \$1,440; messenger \$1,200; Commerce—clerk \$2,200, assistant clerk \$1,400; messenger \$1,200; messenger \$1,200; messenge

clerk \$1,800, messenger \$1,200; Conservation of National Resources—clerk \$2,220, assistant clerk \$1,200, messenger \$1,440; Corporations Organized in the District of Columbia—clerk \$2,220, messenger \$1,440; Corporations Organized in the District of Columbia—clerk \$1,200; Disposition of Useless Papers in the Executive Departments—clerk \$2,220, assistant clerk \$1,400; messenger \$1,400; Education and Labor—clerk \$2,220, messenger \$1,440; Education and Labor—clerk \$2,220, messenger \$1,440; Enrolled Ellis—clerk \$2,220; messenger \$1,440; Enrolled Ellis—clerk \$2,220; messenger \$1,440; Expenditures in the Department of Agriculture—clerk \$2,220, messenger \$1,440; Expenditures in the Department of Agriculture—clerk \$2,220, messenger \$1,440; Expenditures in the Department of Agriculture—clerk \$2,220, messenger \$1,440; Expenditures in the Interior Department—clerk \$2,220, messenger \$1,440; messenger \$1,200; Expenditures in the Interior Department—clerk \$2,220, messenger \$1,440; messenger \$1,200; Expenditures in the Post \$1,440; messenger \$1,240; in the Navy Department—clerk \$2,220, messenger \$1,200; Expenditures in the Post \$1,440; messenger \$1,240; messenger \$2,220, messenger \$1,240; messenger \$2,220, messenger \$1,240; messenger \$2,220, messenger \$2,220; messenger \$1,240; messenger \$2,220, messenger \$2,220; messenger

Mr. FOSTER. Mr. Chairman, I move to strike out the last I want to inquire of the gentleman in charge of the bill in relation to these clerks. I observe here that it has provided for clerks in the Senate to the amount of \$370,940, while for the clerks of the House the amount is \$162,230. I realize that this has been the practice for some time, but I want to inquire if the committee has ever made any investigation in reference to this matter of the great difference in the amount between the two Houses—the amount appropriated for the Senate clerks and messengers and janitors and those of the House. For instance, in the Post Office and Post Roads they have a clerk at \$2,500, three assistants at \$1,440 each, and a messenger at \$1,440; while in the House Post Office and Post Roads Committee, the committee that prepares the bill and gets it ready, they only have a clerk at \$2,500 and an assistant clerk at \$1,400 and a janitor at \$1,000. There seems to be a great difference in these two items.

Mr. BUTLER. Senators have more post offices than Members of the House.

Mr. FOSTER. The question with me is whether the committee has ever investigated this matter to ascertain if there was any real necessity for this large number of clerks or is it simply because the Senate has asked for them?

Mr. JOHNSON of South Carolina. The Committee on Appropriations of the House has no means of ascertaining the value of the work of clerks to Senate committees. I will say that the conference committee on the last legislative bill held out for many days and weeks against what the Senate was asking for, but it is simply impossible to get this bill through without giving them the clerical help they think they need.

Mr. FOSTER. So they simply make the claim that they need this great number of clerks.

Mr. JOHNSON of South Carolina. We can not contradict their statement or prove that it is not true.

Mr. COX of Indiana. Mr. Chairman, I want to ask a ques tion. I have not had time to compare the present bill with the last bill, but I want to ask the gentleman in charge of the bill when did the clerk to the Committee on Woman Suffrage creep into the appropriation bill?

Mr. JOHNSON of South Carolina. I do not know, but they

have such a committee there and it has a chairman.

Mr. COX of Indiana. This is the first time that I ever saw it carried in an appropriation bill.

Mr. FITZGERALD. It has been in the bill right along.
Mr. COX of Indiana. For how many years?
Mr. FITZGERALD. I do not remember, but long enough.
The Clerk read as follows:

The Clerk read as follows:

Office of Sergeant at Arms and Doorkeeper: Sergeant at Arms and Doorkeeper, \$6,500; horse and wagon for his use, \$420, or so much thereof as may be necessary; Assistant Sergeant at Arms, \$2,500; Assistant Doorkeeper, \$2,592; Acting Assistant Doorkeeper, \$2,592; Assistant Doorkeeper, \$2,592; 4 messengers, acting as assistant doorkeepers, \$1,800 each; 37 messengers, at \$1,440 each; 2 messengers on the floor of the Senate, at \$2,000 each; messenger at card door, \$1,600; clerk on Journal work for Congressional Record, to be selected by the official reporters, \$2,000; storekeeper, \$2,220; upholsterer and locksmith, \$1,440; cabinetmaker, \$1,200; 3 carpenters, at \$1,080 each; janitor, \$1,200; 4 skilled laborers, at \$1,000 each; skilled laborer, \$900; laborer in charge of private passage, \$840; 3 female attendants in charge of ladies' retiring room, at \$720 each; chief telephone operator, \$1,200; 2 telephone operators, at \$900 each; night telephone operator, \$720; telephone operators, at \$900 each; night telephone operator, \$720; telephone page, \$720; superintendent of press gallery, \$1,800; assistant superintendent of press gallery, \$1,400; laborer, \$840; 27 laborers, at \$720 each; 16 pages for the Senate Chamber, at the rate of \$2.50 per day each during the session, \$8,440; in all, \$136,244.

Mr. MANN. Mr. Chairman, I move to strike out the last

Mr. MANN. Mr. Chairman, I move to strike out the last word. I notice an item is carried here for pages for the session at two and a half dollars per day. The computation is for 211 days. I notice that the bill provides that wherever the words "during the session" occur it shall mean 211 days from December 1 to June 30.

Mr. JOHNSON of South Carolina. These estimates were submitted by the Secretary of the Treasury.

I understand that the arithmetical computation Mr. MANN. was made by the Secretary of the Treasury, but probably not personally. It amounts to 212 days, as anybody can easily see,

and I wondered whether it was desired to have it accurate.

Mr. JOHNSON of South Carolina. It will be corrected. This is a Senate matter.

Mr. MANN. It is immaterial to me whether they appropriate a sufficient amount or not; I do not know whether it ever is expended or not.

The Clerk read as follows:

For mileage of Representatives and Delegates and expenses of Resident Commissioners, \$175,000.

Mr. COX of Indiana. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk and ask to have

The Clerk read as follows:

The Clerk read as follows:

Amend by striking out the period at the end of line 7, page 12, and insert a colon and add:

"Provided, That hereafter Members of Congress, Delegates from Territories, and Resident Commissioners from Porto Rico and the Resident Commissioners from the Philippine Islands shall be paid only their actual traveling expenses while traveling from their residences by the usual route of travel to Washington City and return once for each session of Congress, and which sums of money shall be paid out on the certificate of the Member of Congress, the Delegates from Territories, Resident Commissioners from Porto Rico, and Resident Commissioners from the Philippine Islands and not otherwise."

The CHALEMAN. The question is an agreeing to the amend-

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Indiana.

Mr. COX of Indiana. Mr. Chairman, I do not desire to detain the committee but a moment. In response to what the gentleman from Tennessee [Mr. Sims] said a moment ago, when the other amendment was under discussion before the House—and regret he is not now in the Chamber-there may be evils along the line that he suggested, and if there be any let him go to work and correct them. A part of his speech, I take it, was not addressed to me personally. I think every Member of this House knows that last year I could not be here.

Mr. MANN. Oh, the gentleman ought to know that the gentleman from Tennessee did not refer to him. In the absence of the gentleman from Tennessee [Mr. Sims], permit me to suggest to the gentleman from Indiana that his statement is entirely unnecessary, and he is too sensitive. The gentleman from Tennessee carefully stated that he referred to absence on account of important business, and the gentleman from Tennessee explained to me that he did not wish the gentleman from Indiana to think his remarks were personal to the gentle-

man from Indiana.

Mr. COX of Indiana. I take it for granted that they were not personal.

Mr. MANN. And I think the Members of the House under-

Mr. COX of Indiana. I want to take this occasion here to say that I have never, during the six years I have served in this House, asked to be excused on account of important business. Only one business has ever kept me away from this House, and I do not care anything about discussing that.

I desire to reply to what my friend from Illinois, who said a moment ago when the other amendment was up, about our not being able to bring our families here if either of these amendments should obtain, without paying their expenses out of our own pocket. The people in our districts do not vote for the members of our families, but they voted for us, and while I am in thorough accord with the gentleman from Illinois in that every Member of Congress, if it be within his power, should bring his family here, yet I do not believe that the family should be brought here at the expense of the people of this country.

I desire to enlarge a little on the course that we have pursued in this House. I do not understand how a Member of Congress can justify himself in voting against this amendment when he stood in this caucus and voted against appropriating one dollar to pay the little employees of this House an extra month's salary, because, forsooth, they have never been allowed mileage. I always understood that during the time that the Republican Party had control of this House the month's salary was allowed to the employees of the House to compensate them because of the fact they were not allowed mileage and in a measure to equalize and justify the mileage which the Members of Congress appropriated to themselves. I am not quarreling about that. In my candid judgment the position assumed by that side of the House was much more equitable and just than the position which this side of the House is assuming to-day. I believe that the country thoroughly approved the course which our party adopted in cutting out that extra month's salary allowed to the employees. I think that the country believes that the employee who wanted the job and knew exactly what the pay was before he took it was perfectly willing to pay his traveling expenses here to assume the job with the burden it carried. I think the country is in accord with us upon the theory that we did right in cutting it out. We give to ourselves 20 cents a mile. Is it right, is it just, is it equitable, are we dealing with our own employees upon a just basis? I appeal to the Members upon this side of the House. I believe, as I said a while ago, that the entire traveling allowance for all Government employees should be put upon an actual cost basis, or else wipe it all out. It is not alone to us that this applies, but it should apply to various other branches of the Government, and if we on this side of the House are in good faith trying to work out economies along this line, we can save the country approximately \$1,000,000 a year; but can we do it? Can we afford to take from the Army officers of this country their 7 cents a mile unless we take out ours? Can we afford to put the Army officers of this country upon an actual travel pay unless we put ourselves upon that basis?

The CHAIRMAN. The time of the gentleman has expired. The question was taken, and the Chairman announced that the noes seemed to have it

On a division (demanded by Mr. Cox of Indiana) there were-ayes 18, noes 40.

Mr. COX of Indiana. Mr. Chairman, I make the point of order there is no quorum present.

The CHAIRMAN. The Chair will count. [After counting.] One hundred Members are present, and there is a quorum in the committee.

Mr. RODDENBERY. Mr. Chairman, I offer the following amendment: After the words "one hundred and seventy-five thousand dollars" insert.

The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

Provided, That not in excess of 10 cents a mile by nearest route be allowed for mileage in any event for one trip to or from Washington for each Member during a session of Congress.

Mr. RODDENBERY. Mr. Chairman, it is evident from the vote of the committee just had on the two amendments offered by the gentleman from Indiana [Mr. Cox] that the temper of the committee is not such as to reduce the mileage of Members and Senators to the actual expenses of travel. I supported both amendments offered by the gentleman from Indiana and now offer this amendment as a fair, reasonable compromise and concession in the matter if it should be the disposition of the committee to reduce the present 20-cent mileage. It occurs to me, Mr. Chairman, that 10 cents a mile each way, cutting half in two the present mileage, is fair, and will allow a Member who may desire to bring his wife and an additional member of his family actual traveling expenses, and at the same time extracts

from the existing law that phase that the public can not fully comprehend, which is, Why is it under the name of mileage 20 cents a mile each way should be allowed a Member of Congress for railroad fare, when 2 cents is the usual rate? I favor this amendment for the sake of the policy that it involves rather than the amount of money it saves. No great sum, viewed from the standpoint of appropriations for the support of the Government, will be saved if this amendment is adopted, or if the amendments of the gentleman from Indiana were adopted, but when we deal with what is nominally an allowance for our expenses in coming to and from Washington it seems to me that we might by adopting this amendment occupy a ground that would be better comprehended by the public and appropriate a sum adequate for our expenses where our families are not unusually large. I trust that the committee may give to this amendment favorable consideration. Viewing the entire mileage proposition in its present light and recognizing that session after session this question of 20 cents a mile each way for a Member of Congress from his home arises, and it will continue to arise, we may well adopt 10 cents for traveling expenses instead of the 20 cents.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. FOWLER. Mr. Chairman, I desire to ask the gentleman a question.

The CHAIRMAN. The time of the gentleman has expired. Mr. FOWLER. I ask for an extension of his time for one minute.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. FOWLER. I desire to know why the gentleman did not include Senators in his amendment as well as Members of the

Mr. RODDENBERY. The Senate provision has already been passed and that of Representatives just reached. If the House should place this limitation now upon the mileage of Members, as a matter of course the limitation could be placed by recurrence to the Senate provision. I have no objection to its being placed in at this time, if such amendment be offered. I propose this amendment with no personal element involved. When I come on to Washington with my crowd I bring a wife and four other passengers who pay full fare, and in the course of a year or two will have another one paying full fare. As a general policy, however, it seems to me wise and right to at least cut the present allowance for travel from 20 cents a mile to 10 cents. Therefore the pending amendment is addressed to the judgment of Members.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia.

The question was taken, and the Chairman announced the noes had it.

On a division (demanded by Mr. Roddenbery) there wereayes 16, noes 51.

So the amendment was rejected.

Mr. COX of Indiana. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Provided, That hereafter not more than 5 cents a mile shall be paid to Members of Congress, Delegates, and Resident Commissioners of Porto Rico and the Philippine Islands, for one trip in traveling from their homes to Washington City and return, traveling by the usual and ordinary route of travel.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. Cox].

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. COX of Indiana. Division, Mr. Chairman.

The committee divided; and there were—ayes 15, noes 48. So the amendment was rejected.

Mr. COX of Indiana. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the Record.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to revise and extend his remarks in the RECORD

on this subject. Is there objection?

Mr. MANN. Mr. Chairman, reserving the right to object, I simply would like to ask the gentleman whether in extending his remarks in the Record it is his intention to represent the Members of Congress outside of those who agree with him as a kind of crook, trying to grab money out of the Treasury without being entitled to it; whether he expects to show in his remarks that his associates in Congress are far beneath him on the question of honesty and honor?

Mr. COX of Indiana. Mr. Chairman, I am astonished at the gentleman from Illinois.

Mr. MANN. The gentleman is not more astonished at me than I have been at him this afternoon.

Mr. COX of Indiana. He has certainly never found anything inserted in the RECORD yet which I have put in by unanimous consent with which he could find any criticism whatever.

Mr. MANN. I frankly say that I never have. Mr. COX of Indiana. And I frankly say that I would not, under leave to print, print that which I would not say on the floor of this House in the presence of every man here.

Mr. MANN. I have no objection to the gentleman stating facts as long as he does not impugn the motives of Members of Congress, and there is a great temptation to do it, I have noticed, from gentlemen who have made this proposition.

The CHAIRMAN. The gentleman from Indiana [Mr. Cox] asks unanimous consent to extend his remarks in the Record on this subject. Is there objection? [After a pause.] The Chair hears none. The Clerk will read.

The Clerk read as follows:

The Clerk read as follows:

Office of the Clerk: Clerk of the House of Representatives, including compensation as disbursing officer of the contingent fund, \$6,500; hire of horse and wagon for use of the Clerk's office, \$900, or so much thereof as may be necessary; Chief Clerk, \$4,500; Journal clerk, and two reading clerks, at \$4,000 cach; disbursing clerk, \$3,400; tally clerk, \$3,300; file clerk, \$3,250; enrolling clerk, \$3,000; chief bill clerk, \$3,300; assistant to Chief Clerk, and assistant enrolling clerk, at \$2,500 each; stasistant disbursing clerk, \$2,400; stationery clerk, \$2,200; librarian, \$2,100; assistant file clerk, \$1,900; two assistant librarians, and one clerk, at \$1,800 each; three clerks, at \$1,680 each; bookkeeper, and assistant in disbursing office, at \$1,600 each; four assistants to chief bill clerk, at \$1,500 each; stenographer to Clerk, \$1,400; locksmith, who shall be skilled in his trade, \$1,300; messenger in Chief Clerk's office, and assistant in stationery room, at \$1,200 each; messenger in file room, messenger in disbursing office, and assistant in thouse library, at \$1,100 each; stenographer to chief bill clerk, \$1,000; three telephone operators, at \$900 each; three telephone session operators, at \$75 per month each from December 1, 1913, to June 30, 1914; telephone operator, \$900; for services of a substitute telephone operator when required, at \$2.50 per fay, \$200; two laborers in the bathroom, at \$900 each; two laborers, and page in enrolling room, at \$720 each; allowance to Chief Clerk for stenographic and typewriter services, \$1,000; in all, \$92,825.

Mr. FOWLER. Mr. Chairman, I reserve a point of order to

Mr. FOWLER. Mr. Chairman, I reserve a point of order to this paragraph. I desire to ask the chairman of the committee wherein the \$575 is for which is proposed in this paragraph more than was appropriated for the same purpose in the bill

during the last session.

Mr. JOHNSON of South Carolina. This bill provided for some people who were paid for the session only, and the bill that was passed last year provided for the short term of Congress, from December to March, and this bill provides for the long session.

Mr. FOWLER. Does it come in the item of three telephone session operators, at \$75 a month each, from December 1, 1913, to June 30, 1914? I compared it carefully with the law passed at last session, and I could not find where the discrepancy came in unless it comes in with the item I have referred to.

Mr. JOHNSON of South Carolina. We have not changed any rate of salary, and have not provided for anybody who is not

provided for by law.

Mr. FOWLER. The bill last year provided for \$92,250. Now this provides for \$92,825. I have compared it carefully, and I have been unable to detect wherein the amounts for the several items in this bill differ from those in the law of last session.

Mr. JOHNSON of South Carolina. The gentleman can under-

stand very well that the session employees who are paid from December to March would not get as much as the session employees who are paid from the 1st of December to the following July

Mr. FOWLER. They are only for the telephone operators

who are so employed?

Mr. JOHNSON of South Carolina. That is all. Mr. FOWLER. And it must appear in that item?

Mr. MANN. That is what it is. That is the amount of money. Mr. GARRETT. Mr. Chairman, I ask unanimous consent to return to line 5 on page 12, for the purpose of offering an amendment.

The CHAIRMAN. The gentleman from Tennessee [Mr. GAR-ETT] asks unanimous consent to return to line 5, page 12, for the purpose of offering an amendment.

Mr. JOHNSON of South Carolina. What is the amendment, Mr. Chairman? I reserve the right to object. I want to know what it is.

Mr. GARRETT. I said it was for the purpose of offering an amendment, which I send to the Clerk's desk

The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

At the end of line 5, add:

"Provided, That no part of this appropriation shall be expended in the payment of any salary to any Member, Delegate, or Resident Commissioner for any time prior to the filing of his certificate of election with the Clerk of the House of Representatives."

Mr. JOHNSON of South Carolina. Mr. Chairman, I can not consent to go back in the bill.

Mr. GARRETT. Mr. Chairman, will the gentleman withhold his objection for a moment, while I explain exactly what it is? The amendment may not be clear.

The CHAIRMAN. Does the gentleman from South Carolina

reserve his objection?

Mr. JOHNSON of South Carolina. I reserve it.

Mr. GARRETT. Mr. Chairman, the purpose of the amendment is this: I understand that it is now the law, where a vacancy occurs, by death or otherwise, from a district and that vacancy is filled by an election held some time subsequent, no matter how long, that when the Member so elected to fill the vacancy takes his seat as a Member of the House he draws the salary from the date of the death of his predecessor. Now, Mr. Chairman, that is the law, as I understand it.

Mr. MANN. Does the gentleman yield for a question? Mr. FITZGERALD. There is no such law.

Mr. GARRETT. Has it not been the practice? Mr. FITZGERALD. The practice has been that when a Member is elected to fill a vacancy the compensation has accumulated. Nobody has ever discovered any law authorizing it, and in some instances Members have declined to draw the money.

Mr. MANN. Would the gentleman from Tennessee explain what would happen under the gentleman's provision if some one is seated by the House? He does not file any certificate of election. Would he not be entitled to any pay?

Mr. GARRETT. Oh, of course the gentleman knows my

amendment does not contemplate that.

Mr. MANN. The gentleman's amendment covers it, whether it contemplates it or not. I have just read the gentleman's amendment. It not only covers that, but it would also cover any time until the certificate of election is filed.

Mr. GARRETT. Of course I did not have that in mind. Mr. MANN. That is the reason why I called the gentleman's attention to it.

Mr. FITZGERALD. I suggest that the gentleman from Tennessee be permitted to make his statement about it.

Mr. GARRETT. Mr. Chairman, if it be, then, the practice and not the law, then the law and not the practice should prevail. It has at least been a custom long continued in the House, and no reflection, of course, is intended by me on any Member who has taken the salary, because it is the custom. But, Mr. Chairman, there is no reason for, there is no equity in, the payment, by custom or by law, of a salary that accumulates before a man ever takes his seat in this House or before he is even elected.

Mr. MANN. Mr. Chairman, would not the gentleman yield

for another question?

Mr. GARRETT. Certainly.

Mr. MANN. Supposing the Member, as was the case in the last Congress, was unseated in the House and the contestant was sworn in. Does the gentleman from Tennessee desire to have the contestant receive the pay only from the time he was sworn in?

Mr. GARRETT. No; I think in equity the contestant ought

to draw the salary.

Mr. MANN. What difference is there between them? The contestee has been serving, and has been receiving the pay. Why should the contestant be paid if he was not serving, was not here, had nothing to do, and rendered no service?

Mr. GARRETT. That, of course, was not the fault of the

contestant. There is an equity there. I think the gentleman recognizes a decided difference in the equity between the case I have presented and the case he presents. Does the gentleman from South Carolina object to returning to that point in the bill?

Mr. JOHNSON of South Carolina. Mr. Chairman, the discussion that is going on between the gentleman from Tennessee [Mr. Garrett] and the gentleman from Illinois [Mr. Mann] shows that it is a matter that ought to be referred to some committee having jurisdiction. I do not want to be discourteous, but I can not consent to go back in the bill.

The CHAIRMAN. The gentleman from South Carolina ob-

jects. The Clerk will read.

Mr. LAFFERTY. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Oregon offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 13, line 16, after the word "cach," strike out the semi-colon and insert the following: "Provided, That the bathroom shall remain open during the sessions of Congress until 7 o'clock at night."



Mr. FITZGERALD. I make the point of order that that is

Mr. JOHNSON of South Carolina. We have passed the paragraph.

Mr. FITZGERALD. That makes no difference. It is legislation anyway, and subject to the point of order.

The CHAIRMAN. The gentleman from New York makes the point of order that this amendment is legislation.

Mr. LAFFERTY. If the gentleman will reserve his point of

Mr. FITZGERALD. Oh, no; it is a matter that ought not to be in this bill at all.

The CHAIRMAN. The Chair sustains the point of order. The Clerk will read.

The Clerk read as follows:

The Clerk will read.

The Clerk read as follows:

Clerks, messengers, and janitors to the following committees: Accounts—clerk \$2,500, assistant clerk \$1,800, janitor \$1,000; Agriculture—clerk \$2,500, assistant clerk \$1,800, janitor \$1,000; Appropriations—clerk \$4,000, and \$1,000 additional while the office is held by the present incumbent, assistant clerk and stenographer \$2,500, assistant clerk \$1,900, janitor \$1,000; Banking and Currency—clerk \$2,000, assistant clerk \$1,200, janitor \$720; Census—clerk \$2,000, janitor \$720; Claims—clerk \$2,500, assistant clerk \$1,200, janitor \$720; Coinage, Weights, and Measures—clerk \$2,000, janitor \$720; District of Columbia—clerk \$2,500, assistant clerk \$1,800, janitor \$720; Elections No. 1—clerk \$2,000, janitor \$720; Elections No. 3—clerk \$2,000, janitor \$720; Indian Affairs—clerk \$2,500, assistant clerk \$1,800, janitor \$720; Indian Affairs—clerk \$2,500, assistant clerk \$1,800, janitor \$720; Indian Affairs—clerk \$2,500, assistant clerk \$1,500, janitor \$720; Indian Affairs—clerk \$2,000, janitor \$720; Interstate and Foreign Commerce—clerk \$2,500, additional clerk \$2,000, janitor \$1,000; Irrigation of Arid Lands—clerk \$2,000, janitor \$720; Indian Affairs—clerk \$2,000, janitor \$720; Indian \$720; Indian Affairs—clerk \$2,000, janitor \$720; Indian \$72

Mr. LAFFERTY. Mr. Chairman, I move to strike out the last word. I do so for the purpose of calling the attention of Members of the House to the amendment I offered a while ago, which was ruled out on a point of order.

The Government has expended thousands of dollars to provide a bathroom in the House Office Building. The bathtubs, towels, and everything have been provided at Government ex-This bill carries an appropriation of \$1,800 to employ two colored gentlemen over there to look after the establishment, but they close up at 6 o'clock sharp every evening. If any Member of this House desires to go over there after adjournment this evening to take a bath, he will be unable to do so. There is no reason why a mandatory provision should not be put in this bill requiring that the bathroom shall remain open till 7 o'clock p. m.

Will the gentleman yield for a question?

Mr. FITZGERALD. Will the gentleman yield for a question? Mr. LAFFERTY. Yes. Mr. FITZGERALD. Does the gentleman from Oregon think these two colored gentlemen who work all day should work all night as well?

Mr. LAFFERTY. I contend that no man should work more than eight hours a day at any occupation, but there are two of these colored gentlemen, and there is no reason why one of them should not work part of the day and the other one the other part.

Mr. FITZGERALD. They are both busy giving baths to

Members during the daytime.

Mr. LAFFERTY. One of these gentlemen is a masseur and the other is a corn doctor, and they ply their occupations during the daytime, receiving tips from each individual whom they wait upon, and incidentally they perform the services for which they receive \$900 a year each. For that reason I say they should be required to devote their services to the Government of the United States.

I would not have voted in the first place to put a bathroom in the House Office Building for the use of Members of the House of Representatives, but as long as it is there, I say these gentlemen, who are serving the Government, should be required to stay there at least until the hour the House usually adjourns. But I do not go that far in my amendment. I only require that they wait there until 7 o'clock.

Mr. MANN. There are plenty of places in hotels and elsewhere where bathrooms are open all night.

Mr. FITZGERALD. There is a commission, a superintendent, and a custodian in charge of that building. Any complaint which the gentleman may have as to the hours of labor of the various gentlemenly employees in the building could properly be presented to them. I do not think it makes much difference in the gentleman's attitude to assert that he would not have voted to put a bathroom in the building, but that as long as it was put in before he came to Congress he is perfectly willing to avail himself of the facilities afforded, not only in the day time, which seems to be sufficient to satisfy everybody else, but even in the unseemly hours of the night.

Mr. OLMSTED. Mr. Chairman, some few years ago I stopped at a large and fashionable hotel in Richmond, Va., where in each bedroom there was posted on the wall a notice giving the rates charged for the use of the room and cautioning guests to put their valuables in the safe, and below that there was this:

N. B .- Massage treatment on the office floor.

I have no doubt that in the gentleman's hotel he can get massage either on the office floor or elsewhere, and can also take a bath; or it would perhaps obviate the difficulty if he would obtain permission of the House to absent himself while the House is in session and take a bath over here in the daytime. It seems to me it is unnecessary to make these colored men work more than 8 or 10 hours a day to accommodate Members who want to take a bath at night.

Mr. LAFFERTY. The gentleman from Pennsylvania is going out of Congress, and I do not think he has taken a bath very

often while he has been here.

Mr. OLMSTED. I have never taken one at the expense of the public, here or elsewhere.

The CHAIRMAN. The Clerk will proceed with the reading of the bill.

The Clerk read as follows:

For nine clerks to committees, at \$6 each per day during the session, \$11,340.

Mr. JOHNSON of South Carolina. Mr. Chairman, I have an amendment to offer.

The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

On page 16, line 9, strike out \$11,340 and insert in lieu thereof \$11,448.

The amendment was agreed to. The Clerk read as follows:

The Clerk read as follows:

Office of Doorkeeper: Doorkeeper, \$5,000; hire of horses and wagons and repairs of same, \$1,200, or so much thereof as may be necessary; special employee, John T. Chancey, \$1,800; special employee, \$1,500; superintendent of reporters' gallery, \$1,400; janitor, \$1,500; 16 messengers at \$1,180 each; 14 messengers on the soldiers' roll, at \$1,200 each; 15 laborers, at \$720 each; laborer in the water-closet, \$720; laborer, \$680; 2 laborers, known as cloakroom men, at \$840 each; 8 laborers, known as cloakroom men, at \$840 each; 8 laborers, known as cloakroom men, at \$600; superintendent of folding room, \$2,500; foreman, \$1,800; 3 clerks, at \$1,600 each; messenger, \$1,200; janitor, \$720; laborer, \$720; 32 folders, at \$900 each; 2 drivers, at \$840 each; 2 chief pages, at \$1,200 each; 2 messengers in charge of telephones (one for the minority), at \$1,200 each; 2d frivers, at \$840 each; 2 chief pages, at \$1,200 each; 2 messengers in charge of telephones (one for the minority), at \$1,200 each; 2d pages, press-gallery page, and 10 pages for duty at the entrances to the Hall of the House, at \$2,500 per day each, \$23,150; superintendent of document room, \$2,900; assistant superintendent, \$2,100; clerk, \$1,700; assistant clerk, \$1,600; assistants—7 at \$1,280 each, one at \$1,100; janitor, \$920; messenger to press room, \$1,000; in all, \$158,250.

Mr. FOWLER. Mr. Chairman, I reserve a point of order on line 10, page 17, two messengers in charge of telephones. The last bill contained but one.

Mr. JOHNSON of South Carolina. There is no increase in the force.

Mr. FITZGERALD. There have always been two messengers.

Mr. FOWLER. The appropriation for this same item was \$13,800 in last year's bill. Now it is \$23,150. What is the necessity for the increase?

Mr. JOHNSON of South Carolina. That is due to the fact that we are now appropriating for the long session of Congress, while in the last bill we appropriated for the short session.

Mr. FOWLER. Is it all due to that?

Mr. JOHNSON of South Carolina. It is all due to that. have not provided for a single person in the House force that has not been provided for by law. We have created no new offices and have increased no salary. Any differences that may appear in the paragraphs are caused by people being transferred from one paragraph to another, or from one bill to another, and from the fact that this is appropriating for the long session instead of the short. There is no change in the law as to the number of offices or rate of compensation.

Mr. FOWLER. Mr. Chairman, with that explanation, I

withdraw the point of order.

The Clerk read as follows:

The Clerk read as follows:

Office of Doorkeeper: Doorkeeper, \$5,000; hire of horses and wagons and repairs of same, \$1,200, or so much thereof as may be necessary; special employee, John T. Chancey, \$1,800; special employee, \$1,500; superintendent of reporters' gallery, \$1,400; janitor, \$1,500; 16 messengers at \$1,180 each; 14 messengers on the soldiers' roll, at \$1,200 each; 15 laborers, at \$720 each; laborer in the water-closet, \$720; laborers, \$680; 2 laborers, known as cloakroom men, at \$840 each; 8 laborers, known as cloakroom men, at \$840 each; 8 laborers, known as cloakroom men, at \$840 each; 6 male attendant in ladies' retiring room, \$800; superintendent of folding room, \$2,300; foreman, \$1,800; 3 clerks, at \$1,600 each; messenger, \$1,200; janitor, \$720; laborer, \$720; 32 folders, at \$900 each; 2 drivers, at \$840 each; 2 chief pages, at \$1,200 each; 2 messengers in charge of telephones (1 for the minority), at \$1,200 each; 46 pages, during the session, including 2 riding pages, 4 telephone pages, press-gallery page, and 10 pages for duty at the entrances to the Hall of the House, at \$2,300; assistant superintendent, \$2,100; clerk, \$1,700; assistant clerk, \$1,600; assistants—7 at \$1,280 each, 1 at \$1,100; janitor, \$920; messenger to press room, \$1,000; in all, \$158,250.

Mr. JOHNSON of South Carolina. Mr. Chairman, I offer the

Mr. JOHNSON of South Carolina. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 17, in line 14, strike out "\$23,150" and insert "\$24,380," In line 18, strike out "\$158,250" and insert in lieu thereof "\$159,480."

The amendment was agreed to.

The Clerk read as follows:

For clerk to the conference minority of the House of Representatives, \$2,000; assistant clerk, \$1,200; janitor, \$1,000; in all, \$4,200. Said clerk, assistant clerk, and janitor to be appointed by the chairman of the conference minority.

Mr. JOHNSON of South Carolina. Mr. Chairman, I desire to offer the following amendment.

The Clerk read as follows:

For messenger in the minority caucus room, \$1,200; and for messenger in the majority caucus room, \$1,200.

Mr. JOHNSON of South Carolina. Mr. Chairman, these two places are carried in the deficiency bill of last year, and it was desired that all of the employees of the House should be provided for in this bill, and so they are brought forward from another appropriation bill.

Mr. BARTLETT. May I inquire if the House did not pass a resolution providing for their continuation to June, 1913?

Mr. MANN. There was a resolution passed first by the House, and then it was put in the deficiency bill in conformity with the resolution.

Mr. FITZGERALD. Mr. Chairman, I am familiar with the matter. In the last session the request was made of the Committee on Appropriations to carry these two messengers as they had been provided at other times. No resolution had been adopted by the House upon the report of the Committee on Ac-The Committee on Appropriations thought that was the authority needed to give the Committee on Appropriations authority to provide for the messengers in the legislative bill. Subsequently the Committee on Accounts reported a resolution providing for these messengers, and when the deficiency bill was before the House provision was made for them in accordance with the resolution.

Mr. BARTLETT. My recollection from the Record is that the resolution in the deficiency bill carried them to the 1st of July, 1913, and the statement was made, as I recall, that that was the intention only to provide for them to that time. This provides for them from the 1st of July, 1913, to the 1st of July, This 1914.

Mr. FITZGERALD. Under repeated rulings, once an employee has been authorized by resolution of the Committee on Accounts it is in order to carry him on the legislative bill.

Mr. BARTLETT. I want to say to the gentleman that I have made no point of order against this.

Mr. FITZGERALD. I understand; I am explaining the reason for this action. At the last session the committee declined to carry them because there had been no resolution. They were originally put in the bill by the Senate.

Mr. BARTLETT. That is correct.

Mr. FITZGERALD. When the Committee on Appropriations

made up the bill for the current year, as there had been no resolution adopted by the House, the committee refused to carry these messengers. Subsequently the Committee on Accounts took the matter up and the House adopted the resolution and they were carried in the deficiency bill.

Mr. MANN. Mr. Chairman, I think this appropriation should be made, but it seems to me there ought to be a provision made as to the method of the appointment of these messengers, Would there be any objection to providing in the bill directly that they shall be appointed by the respective whips of the two These messergers, while they are called messengers to the caucus rooms, have been and are intended to be, so I understand, messengers for the two whips of the two sides of the The whips need the men to help do the work in getting Members here and in keeping Members advised as to what

is going on in the House. It seems to me the whips ought to make these appointments.

Mr. JOHNSON of South Carolina. We understand that these employees are to aid the whips of the respective sides of the House. I supposed they would make the appointments. I have no objection to an amendment that will so provide.

Mr. MANN. In the resolution which was first passed in the deficiency appropriation bill, the men were specifically named. That is all right as far as it goes, because they were named by the two whips of the two sides of the House, but the whips will be different in the next Congress, possibly-certainly, on this side. The whip on this side of the House is elected by the caucus, and I suppose that is true of the gentleman's side of the

Mr. BARTLETT. Yes.

Mr. MANN. So that when they are elected, it seems to me, they ought to have the naming of the men who are to do the work under them. I have prepared an amendment putting it all in one item:

To continue the employment of messengers in the majority and minority caucus rooms, to be appointed by the minority and majority whips, respectively, at \$1,200 each; in all, \$2,400.

Mr. JOHNSON of South Carolina. I have no objection to that, and I will withdraw the amendment that I have and offer that one.

The CHAIRMAN. The gentleman from South Carolina offers the following amendment, which the Clerk will read.

The Clerk read as follows:

After line 3, page 19, insert:
"To continue the employment of messengers in the majority and minority caucus rooms, to be appointed by the majority and minority whips, respectively, at \$1,200 each; in all, \$2,400.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina.

Mr. FOWLER. Mr. Chairman, I make the point of order gainst that. There is a method of appointing employees in against that. this House, which was adopted at the beginning of the Sixtysecond Congress and is in force now, whereby the employees of the House are selected, and a committee for that purpose is now in existence.

Mr. FITZGERALD. But the gentleman misunderstands. This is not a change of the present practice. These two mes sengers are authorized and provided for and have practically

been appointed by the two whips, as designated here.

Mr. FOWLER. That may be true now, and may have been so in the past

Mr. FITZGERALD. They were at the time of the arrange-

ment of which the gentleman speaks. Mr. FOWLER. I do not so understand it. I do not understand that there was any exception made whatever. If you lay

down the bars in the case of these two messengers, you may just as well lay down the bars in every other sense of the word and let it all go back to the Speaker of the House.

Mr. FITZGERALD. The gentleman is mistaken. There is only one place that might be affected. The minority employees were never selected by any committee of the majority. One of these is for the minority caucus room and the other is for the majority caucus room. At the time the Democratic caucus adopted the rule appointing a patronage committee this was not one of the places that was distributed as patronage in that way. The occupant was selected by the Democratic whip.

Mr. FOWLER. Is there any reason why these employees should be selected different from other employees?

Mr. FITZGERALD. Yes; there is.

Mr. FOWLER. And was there any exception made at the time of our caucus rule? Mr. FITZGERALD. T

There is a reason for it.

Mr. MANN. Mr. Chairman, will my colleague permit an interruption for a moment?

Mr. FOWLER. Yes.

Mr. MANN. This would not affect the selection of this employee by the Democratic caucus or by the committee on patronage appointed by the Democratic caucus. This is only a method, so far as the House is concerned. The patronage committee of the Democratic caucus is not a committee recognized by the House itself. For instance, we provide in this bill for offices under the Doorkeeper. The Doorkeeper makes the appointments as far as the House is concerned. The Postmaster makes his appointments so far as the House is concerned, as does the Clerk of the House and the Sergeant at Arms; but the Democratic patronage committee, as far as those officials are concerned, selects for them the officials, and that committee can do the same thing about this. This provision would not affect that at all if the caucus desires it to be included in the appointments to be made by the patronage committee.

Mr. FITZGERALD. The gentleman is mistaken about this.

Mr. FOWLER. I do not so understand it. If we make an exception in one case, you then lay down the bars and make an exception all along the line.

Mr. GARRETT. Will the gentleman permit?
Mr. FOWLER. Certainly.
Mr. GARRETT. I call the attention of the gentleman from Illinois to the fact that the rules of the House provide that these various officials under the Sergeant at Arms, the Clerk, the Doorkeeper, the Postmaster, shall be appointed by those respective officers, and theoretically they are so appointed. The method by which they are chosen now is an unofficial method, with no regular or appointing force as far as the law is concerned or as far as the rules of the House are concerned.

Mr. FITZGERALD. Unless the appointment of these officials is vested in some one, if a vacancy occur no one has authority to place his successor on the pay roll, so as to get any money, unless the Committee on Accounts reports a resolution.

Mr. FOWLER. Mr. Chairman, if these two messengers are to be appointed in a different way from that which was adopted by the majority of the House at the beginning of this Congress, then I repeat that you might just as well do away with the committee which was appointed to distribute the patronage in this

Mr. MANN. I can assure my colleague there is no such intention on my part, and I do not think the amendment offered by the gentleman from South Carolina would affect the patron-

age committee at all.

Mr. FOWLER. I am not complaining at anyone for offering such a resolution. I am only complaining because of the fact that in my opinion such a precedent as contemplated by this amendment might become an entering wedge to destroy our method of selecting the patronage by a committee instead of

leaving it to the Speaker.

Mr. MANN. Unless I am misinformed about it, the chairmen of some of the committees who had patronage thought the committee did not share in the other patronage in the House. Now, the bill specifically provides that the chairman shall appoint certain clerks and janitors. It is very easy for the Democratic caucus to provide that these messengers, if appointed, shall be charged to the Democratic whip as part of the patronage of the Democratic side of the House.

Mr. FOWLER. Then, if that is true, might not all the patronage of the House be taken away from the committee on patronage by virtue of bills passed by the House?

Mr. MANN. I do not think so. I do not think it has anything to do with that. The reason I put in this provision is that without it there is no authority for anybody to appoint these messengers. Heretofore we named them specifically, but nobody wants to name now the messengers for the whips, be-cause no one knows who the whips will be until the new caucus Without that there is no provision for anybody to meets. appoint them.

Mr. FOWLER. Why not provide for the place and leave the appointing of these messengers to the future Congress, the

Sixty-third?

Mr. MANN. Well, that requires the preparation of an additional resolution, and so forth, brought before the House, and is a minutia matter. The Democratic caucus can control the question when you settle in the next House, as you will have to, the question of patronage, and consider this as part of the patronage of the House as they consider every other place, and taking into consideration all the other places, they take that

into consideration.

Mr. FOWLER. I concede that the House might continue these two servants in the House, but I do not concede that we ought to pass a law here prohibiting the majority of the House from adopting a method of selecting employees of the House as was fixed at the beginning of the Sixty-second Congress.

Mr. MANN. My colleague will recall, of course, that was done by the Democratic caucus; that is, in the caucus you arranged and appointed a patronage committee.

The CHAIRMAN. The time of the gentleman from Illinois has expired. The question is on the adoption of the amendment offered by the gentleman from South Carolina.

The question was taken, and the amendment was agreed to.

Mr. FOWLER. Mr. Chairman, what became of my point of order?

The CHAIRMAN. The Chair did not recall the gentleman made one.

Mr. FOWLER. Mr. Chairman, I desire to withdraw the point of order to relieve the situation.

Mr. GARRETT. Mr. Chairman, I move to strike out the last word.

Referring to the matter concerning which I offered or proposed to offer an amendment a few moments ago, I wish to say

just a few words. I stated when I proposed the amendment that I was under the impression that the law provides that where a vacancy occurred that the person elected to fill that vacancy drew the salary of a Member from the time that the salary of his predecessor ceased. The gentleman from New York [Mr. FITZGERALD] was under the impression that it was not a provision of law, but was simply a custom, and, not being sure of my own ground at the time, I readily accepted the statement of the gentleman from New York. But I have since examined it, and, as a matter of interest here, I will say that section 51 of the Revised Statutes makes this provision:

Whenever a vacancy occurs in either House of Congress, by death or otherwise of any Member or Delegate elected or appointed thereto, after the commencement of Congress to which he has been elected or appointed, the person elected or appointed to fill it shall be compensated and paid from the time that the compensation of his predecessor ceased.

So it seems unquestionably, Mr. Chairman, that there is a statute providing for it. But the statute is wrong in principle. It is not based on any equity or any policy of right, and I hope to prepare an amendment-

Mr. JOHNSON of South Carolina. What is the date of the

original enactment?

Mr. GARRETT. The date of the enactment is July 16, 1862. Now, there has been a case upon which there was a report in the Fifty-ninth Congress, what is known as the Pollard case, in which the Committee on the Judiciary dealt with the ques-That committee held that Representative Pollard was not entitled to the salary; but that occurred in this way: Mr. Burkett, who was a Member of the Fifty-eighth Congress, reelected to the Fifty-ninth Congress, but before the expiration of the Fifty-eighth Congress he was elected to the Senate, and prior to March 4, 1905, when his term in the Fifty-eighth Congress expired, he resigned, the resignation to take effect on the 4th of March.

Mr. Pollard was elected at a special election to succeed him, and when he became a Member of the House in the Fifty-ninth Congress, some months later, the Sergeant at Arms paid to him-and he was, I suppose, of the opinion that under the law he was entitled to receive it-some \$1,800. Becoming convinced later that he was not entitled to receive it, he sought to repay it, and a bill was introduced to authorize the Secretary of the Treasury to accept it. The matter was referred to the Committee on the Judiciary of the House, and upon investigation they reported that under the peculiar circumstances of that case no vacancy really occurred in the Fifty-ninth Congress by reason of the resignation of Mr. Burkett, and that consequently this statute did not apply. That is one case of which I know that has been passed on by a committee of the House. I repeat that this statute is not right.

Mr. BARTLETT. The gentleman from Tennessee will recall that the Committee on Ways and Means, to which was referred a bill authorizing the Secretary of the Treasury to accept the money and pay it into the Treasury, made a report that he was

entitled to it.

Mr. GARRETT. Yes; I think the gentleman is right about that. But to return, there is not equity in that statute. I hope before this bill is finally passed upon to prepare an amendment and prevail upon my friend from South Carolina [Mr. Johnson] to return to the paragraph. I withdraw the pro forma amendment.

Mr. MANN. There was nothing before the House before, but hope the gentleman from South Carolina will now bring

before the committee a motion to rise.

Mr. JOHNSON of South Carolina. Mr. Chairman, in view of the lateness of the hour, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. Garner, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 26680the legislative, executive, and judicial appropriation bill-and had come to no resolution thereon.

CHANGE OF REFERENCE.

By unanimous consent, reference heretofore made of House Documents Nos. 1029, 1040, 1042, and Senate Document Nos. 959 was vacated, and the said documents referred to the committee on Appropriations.

ADJOURNMENT.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 30 minutes p. m.) the House adjourned until Friday, December 6, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting his annual report on the state of the finances for the fiscal year ended June 30, 1912 (H. Doc. No. 928); to the Committee on Ways and Means and ordered to be printed.

2. A letter from the Attorney General of the United States, transmitting to Congress his annual report (H. Doc. No. 930); to the Committee on the Judiciary and ordered to be printed.

3. A letter from the Secretary of the Interior, transmitting a statement of the fiscal affairs of Indian tribes for the fiscal year ended June 30, 1912 (H. Doc. No. 1049); to the Committee on Indian Affairs and ordered to be printed.

4. A letter from the Secretary of the Treasury, transmitting a statement of the proceeds of all sales of old material, condemned stores, supplies, and other public property for the fiscal year ended June 30, 1912 (H. Doc. No. 1048); to the Committee on Ways and Means and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting a statement prepared by the Secretary of Agriculture showing the number of persons employed in meat inspection, the amount paid each, etc., for the fiscal year ended June 30, 1912 (H. Doc. No. 1050); to the Committee on Agriculture and ordered to be printed.

6. A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of State submitting an estimate of appropriation to continue efforts to mitigate the opium, morphine, and other allied drug evils (H. Doc. No. 1043); to the Committee on Appropriations and ordered to be printed.

7. A letter from the Secretary of the Interior, transmitting a report of the Maritime Canal Co. of Nicaragua, in accordance with section 6 of the act of Congress approved February 20, 1889 (H. Doc. No. 1044); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

S. A letter from the Secretary of the Treasury, transmitting communications from the Assistant Secretary of War submitting statements of all moneys arising from the proceeds of sales of public property for the fiscal year ended June 30, 1912 (H. Doc. No. 1045); to the Committee on Military Affairs and ordered to be printed.

9. A letter from the commissioner of the Freedman's Savings & Trust Co., submitting his annual report for the year ended December 1, 1912, as required by act of February 21, 1912 (H. Doc. No. 1046); to the Committee on the District of Columbia and ordered to be printed.

10. A letter from the Secretary of the Treasury, transmitting a communication from the Secretary of the Interior submitting an estimate of appropriation for collection of statistics concerning accidents in the mining industry (H. Doc. No. 1047); to the Committee on Appropriations and ordered to be printed.

11. A letter from the president of the Board of Managers of the National Home for Disabled Volunteer Soldiers, submitting a report of the board for the fiscal year ended June 30, 1912 (H. Doc. No. 1009); to the Committee on Military Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. PETERS, from the Committee on Ways and Means, to which was referred to bill (H. R. 4434) to provide an allowance for loss of distilled spirits deposited in internal-revenue warehouses, reported the same with amendment, accompanied by a report (No. 1263), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. RAKER: A bill (H. R. 26726) making an appropriation for continuation of post-office building at Grass Valley under the present limit, and for other purposes; to the Committee on Appropriations.

Also, a bill (H. R. 26727) making an appropriation for continuing improvement and for maintenance of the Mokelumne River, Cal.; to the Committee on Rivers and Harbors.

River, Cal.; to the Committee on Rivers and Harbors.
 Also, a bill (H. R. 26728) making an appropriation for the deepening and widening of the channel and for snagging and wing-dam construction for the improvement of the Sacramento River from Sacramento to Red Bluff, Cal.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 26729) appropriating money for the continuing improvement of harbor at the entrance to Humboldt Bay, Cal.; to the Committee on Appropriations.

Also, a bill (H. R. 26730) making an appropriation for improving the Sacramento and Feather Rivers, Cal., continuing improvement, and for maintenance, including improvement above Sacramento to Red Bluff; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 26731) making an appropriation for investigating the food habits of North American birds and mammals in relation to agriculture, horticulture, and forestry, including experiments and demonstrations in destroying noxious animals, and for investigations and experiments in connection with rearing of fur-bearing animals, including mink and marten, and for use in the destruction of ground squirrels on the national forests in California; to the Committee on Agriculture.

Also, a bill (H. R. 26732) authorizing and directing the Sec-

Also, a bill (H. R. 26732) authorizing and directing the Secretary of War to cause a preliminary examination and survey to be made of the inner channels of Humboldt Bay, Cal., and for other purposes; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 26733) appropriating money for the maintenance of the improvement of the channel in front of Eureka, in Humboldt Bay, Cal.; to the Committee on Rivers and Harbors.

By Mr. PETERS: A bill (H. R. 26734) to provide for a survey for the construction of a continuous waterway from Boston, Mass., to the coast of Maine; to the Committee on Rivers and Harbors.

By Mr. LINTHICUM: A bill (H. R. 26735) to provide for an examination and survey of Patapsco River and the Chesapeake Bay and channel to Baltimore with a view to increasing the depth of the channel leading from Baltimore to the sea to a depth of 40 feet; to the Committee on Rivers and Harbors.

By Mr. CLAYPOOL: A bill (H. R. 26736) to authorize the construction of a public building at Logan, Ohio; to the Committee on Public Buildings and Grounds.

By Mr. RAKER: A bill (H. R. 26737) to amend an act approved October 1, 1890, entitled "An act to set apart certain tracts of land in the State of California as forest reservations"; to the Committee on the Public Lands.

to the Committee on the Public Lands.

By Mr. FOSTER: A bill (H. R. 26738) to increase the limit of cost for the post-office building heretofore authorized at Mount Vernon, Ill.; to the Committee on Public Buildings and Grounds.

Vernon, Ill.; to the Committee on Public Buildings and Grounds. By Mr. RODENBERG: A bill (H. R. 26739) to enlarge the authority of the Mississippi River Commission in making allotments and expenditures of funds appropriated by Congress for the improvement of the Mississippi River; to the Committee on Rivers and Harbors.

By Mr. WHITACRE: A bill (H. R. 26740) to increase the limit of cost of the Federal building heretofore authorized at Alliance, Ohio; to the Committee on Public Buildings and Grounds.

By Mr. McCOY: A bill (H. R. 26741) to provide for the purchase of a site for a public building in the city of Newark, in the State of New Jersey; to the Committee on Public Buildings and Grounds.

By Mr. MOORE of Pennsylvania: A bill (H. R. 26742) to provide a foundation and pedestal on ground belonging to the United States Government in the city of Washington upon which to place a memorial or statue to be furnished by the State of Pennsylvania of Maj. Gen. George Gordon Meade; to the Committee on the Library.

the Committee on the Library.

By Mr. HAY: A bill (H. R. 26743) for the purchase of a site and the erection of a public building in the town of Front Royal, Va.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26744) to provide for the purchase of a site and the erection thereon of a public building at Luray, Va.; to the Committee on Public Buildings and Grounds.

By Mr. RODDENBERY: A bill (H. R. 26745) for the reduction of postage on first-class matter to 1 cent per ounce; to the Committee on the Post Office and Post Roads.

By Mr. KAHN: A bill (H. R. 26746) to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia," approved February 6, 1901; to the Committee on the District of Columbia

the District of Columbia.

By Mr. HEALD: A bill (H. R. 26747) to provide for a site and public building at Newark, Del.; to the Committee on Public Buildings and Grounds.

By Mr. EVANS: A bill (H. R. 26748) to grant relief to persons erroneously convicted in courts of the United States; to the Committee on the Judiciary

the Committee on the Judiciary.

By Mr. NORRIS: A bill (H. R. 26749) providing for publicity in taking evidence under act of July 2, 1890; to the Committee on the Judiciary.

By Mr. GUERNSEY: A bill (H. R. 26750) to authorize the Secretary of the Treasury to sell certain land to the trustees of the charity fund of Star in the East Lodge, of Old Town, Me.; to the Committee on Public Buildings and Grounds.

By Mr. CLINE (by request): A bill (H. R. 26751) granting pensions to volunteer Army nurses of the Civil War; to the

Committee on Invalid Pensions.

By Mr. LEE of Georgia: A bill (H. R. 26752) to increase the limit of cost for the construction of the Federal building at Cartersville, Ga.; to the Committee on Public Buildings and

By Mr. POU: A bill (H. R. 26753) to increase the limit of cost of the public building at Rocky Mount, N. C.; to the Committee

on Public Buildings and Grounds.

By Mr. GILLETT: A bill (H. R. 26754) for the erection of a public building at Amherst, Mass.; to the Committee on Public Bulldings and Grounds.

By Mr. RODDENBERY: A bill (H. R. 26755) to provide for the purchase of a site and the erection of a public building thereon at Moultrie, in the State of Georgia; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26756) to provide for the purchase of a site and the erection of a public building thereon at Dawson, in the State of Georgia; to the Committee on Public Buildings

By Mr. FITZGERALD: Joint resolution (H. J. Res. 365) to permit Col. William C. Gorgas and certain other officers of the Medical Corps and certain officers of the Engineer Corps of the Army to accept service under the Republic of Ecuador; to the Committee on Military Affairs.

By Mr. RIORDAN: Resolution (H. Res. 732) to provide for

the printing and distribution of Washington's Farewell Ad-

dress; to the Committee on Printing.

By Mr. SABATH: Resolution (H. Res. 733) directing the Secretary of War to submit to the House the latest survey of the Chicago River; to the Committee on Rivers and Harbors.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions

were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 26757) granting an increase of pension to Mary Thomas; to the Committee on Invalid Pensions.

By Mr. ALEXANDER: A bill (H. R. 26758) granting an increase of pension to John W. Warren; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26759) granting an increase of pension to Ephriam Clark; to the Committee on Invalid Pensions.

By Mr. ANSBERRY: A bill (H. R. 26760) granting an in-

crease of pension to Jacob Strunk; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 26761) granting a pension to Rachel A. Graham; to the Committee on Invalid Pensions.

By Mr. BROWNING: A bill (H. R. 26762) granting a pension to Harriet P. Hale; to the Committee on Invalid Pensions.

By Mr. BURKE of Wisconsin: A bill (H. R. 26763) granting an increase of pension to Thomas P. Wentworth; to the Committee on Invalid Pensions.

By Mr. COOPER: A bill (H. R. 26764) granting an increase of pension to Mary F. Deane; to the Committee on Invalid

By Mr. CRAGO: A bill (H. R. 26765) granting a pension to Jennie McMurtie; to the Committee on Invalid Pensions, By Mr. DAUGHERTY: A bill (H. R. 26766) granting a

sion to Nicey A. Laderach; to the Committee on Invalid Pen-

Also, a bill (H. R. 26767) granting a pension to Almyra Vancil; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26768) granting an increase of pension to Elizabeth W. Wilcox; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26769) granting an increase of pension to Emily A. Kennedy; to the Committee on Invalid Pensions.

By Mr. DAVIDSON: A bill (H. R. 26770) granting an increase of pension to Horatio D. Elliott; to the Committee on Invalid Pensions.

By Mr. GILL: A bill (H. R. 26771) for the relief of James Bartlett: to the Committee on Military Affairs.

Also, a bill (H. R. 26772) granting a pension to Helen Hascall Woodward; to the Committee on Pensions.

Also, a bill (H. R. 26773) to correct the military record of John Quinn; to the Committee on Military Affairs.

Also, a bill (H. R. 26774) granting an increase of pension to Charles G. Sanders; to the Committee on Invalid Pensions.

By Mr. GOEKE: A bill (H. R. 26775) granting a pension to Henry M. Agenbroad; to the Committee on Invalid Pensions, Also, a bill (H. R. 26776) granting an increase of pension to

Levi Boysel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26777) granting an increase of pension to Maria E. Seib; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26778) granting an increase of pension to

Also, a bill (H. R. 20779) granting an increase of pension to James Ligget; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26779) granting an increase of pension to Alexander Fleming; to the Committee on Invalid Pensions.

By Mr. HINDS: A bill (H. R. 26780) granting a pension to

Charles H. Boyd; to the Committee on Invalid Pensions. By Mr. HOLLAND: A bill (H. R. 26781) for the relief of Ida

Banks; to the Committee on Claims.

By Mr. KAHN: A bill (H. R. 26782) granting an increase of pension to Dorothy E. Bacon; to the Committee on Invalid Pensions

By Mr. LAWRENCE: A bill (H. R. 26783) granting an increase of pension to Mary M. Jones; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26784) granting an increase of pension to Simon Hoafmyre; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26785) granting an increase of pension to William H. Hinckley; to the Committee on Invalid Pensions.

By Mr. McKELLAR: A bill (H. R. 26786) for the relief of B. McKee, administrator de bonis non of John R. McKee; to the Committee on War Claims,

Also, a bill (H. R. 26787) for the relief of the Court Avenue Presbyterian Church, incorporated as the First Cumberland Presbyterian Church of Memphis, Tenn.; to the Committee on War Claims.

By Mr. MAHER: A bill (H. R. 26788) granting an increase of pension to Rosa T. Wallace; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26789) granting an increase of pension to Mary T. Hartigan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26790) granting an increase of pension to Frank T. Sickler; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 26791) granting a pension to Daniel M. Blevins; to the Committee on Pensions.

Also, a bill (H. R. 26792) granting a pension to David A. Patton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26793) granting a pension to Charlie Forbes; to the Committee on Pensions.

Also, a bill (H. R. 26794) granting an increase of pension to William Collins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26795) granting an increase of pension to John J. Wolfe; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26796) granting an increase of pension to Samuel C. Robertson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26797) granting an increase of pension to Edward McClellan; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 26798) granting a pension

to Mary Earle; to the Committee on Invalid Pensions. Also, a bill (H. R. 26799) granting a pension to Anna M. Consaul; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26800) granting an increase of pension to John W. Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26801) granting an increase of pension to Hiland Goodwin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26802) granting an increase of pension to Albert S. Bloomer; to the Committee on Invalid Pensions.

By Mr. STERLING: A bill (H. R. 26803) granting an increase of pension to Sterrett McClellan; to the Committee on Invalid

By Mr. TILSON: A bill (H. R. 26804) for the relief of Allen

M. Hiller; to the Committee on Military Affairs.

By Mr. WHITACRE: A bill (H. R. 26803) granting a pension to Austin P. Walker; to the Committee on Invalid Pensions. By Mr. YOUNG of Kansas: A bill (H. R. 26806) granting an

increase of pension to Samuel Amich; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26807) granting an increase of pension to Sylvester Cary; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid

on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of Eventide Council of the Daughters of America, of Coshocton, Ohio, favoring the passage of the Burnett immigration bill; to the Committee on Immigration and Naturalization.

By Mr. BURKE of Wisconsin: Paper to accompany bill

(H. R. 14192) granting a pension to Flora Tuscott; to the Com-

mittee on Pensions.

By Mr. FULLER: Petition of David Felmley, president of the Illinois State Normal University, favoring the passage of the vocational education bill (S. 3); to the Committee on Education.

Also, petition of A. H. Bliss, Chicago, Ill., favoring passage of House bill 2920, pensioning military telegraphers; to the Committee on Invalid Pensions.

By Mr. GILL: Petition of the American Federation of Labor, favoring enactment of legislation decreasing the tax on oleomargarine; to the Committee on Agriculture

By Mr. HAMLIN: Papers to accompany bill (H. R. 1811) to grant a pension to Marion West; to the Committee on Invalid

By Mr. HINDS: Memorial of Capt. Charles H. Boyd; to the

Committee on Invalid Pensions.

By Mr. KAHN: Petition of John H. Robins, of San Francisco, Cal., favoring the passage of the Kenyon-Sheppard liquor bill, preventing shipment of liquor into "dry" territory; to the Committee on the Judiciary.

By Mr. KINKEAD of New Jersey: Petition of the Intercontinental Rubber Co., Jersey City, N. J., favoring the passage of House bill 26377, to establish a United States court of patent

appears; to the Committee on the Judiciary.

By Mr. LAWRENCE: Petition of merchants of Greenfield, Mass., favoring enactment of legislation giving the Interstate Commerce Commission further power toward controlling the express rates; to the Committee on Interstate and Foreign Com-

By Mr. LEE of Georgia: Papers to accompany bill (H. R. 26702) granting a pension to Stacy Ann Wacker; to the Com-

mittee on Invalid Pensions.

By Mr. LINDSAY: Petition of the Chamber of Commerce of the State of New York, protesting against the placing of the Board of General Appraisers under control of any department of the Government; to the Committee on Expenditures in the Treasury Department.

By Mr. NEEDHAM: Petition of dairymen of Texas, protesting against the passage of any legislation removing the tax on

oleomargarine; to the Committee on Agriculture.

By Mr. OLMSTED: Petition of the Woman's Home Missionary Society of Carlisle Presbytery, favoring passage of a bill abolishing polygamy in the United States; to the Committee on the Judiciary.

By Mr. SLOAN: Petition of the Union Thanksgiving Services, Osceola, Nebr., favoring passage of an effective interstate liquor

bill; to the Committee on the Judiciary.

By Mr. THESON: Petition of the New Haven Chamber of Commerce, favoring passage of bill (H. R. 26277) creating a final court of patent appeals; to the Committee on the Judi-

By Mr. UNDERHILL: Petition of citizens of Seneca Falls, N. Y., favoring a reduction in the duty on raw and refined sugars; to the Committee on Ways and Means.

SENATE.

FRIDAY, December 6, 1912.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D. Albert B. Fall, a Senator from the State of New Mexico; ASLE J. GRONNA, a Senator from the State of North Dakota; WILLIAM J. STONE, a Senator from the State of Missouri; and JOHN S. WILLIAMS, a Senator from the State of Mississippi, appeared in their seats to-day.

The Secretary proceeded to read the Journal of yesterday's proceedings when, on request of Mr. Brandeger and by unanimous consent, the further reading was dispensed with, and the

Journal was approved.

DISPOSITION OF USELESS PAPERS.

The PRESIDENT pro tempore (Mr. Bacon). The Chair lays before the Senate a communication from the Secretary of War transmitting, pursuant to law, reports of the chiefs of the several bureaus of the War Department, listing papers in their respective offices not needed or useful in the transaction of business and having no permanent value or historic interest and recommending the disposal of the same.

The communication will be referred to the Joint Select Committee on the Disposition of Useless Papers in the Executive Departments. The Chair appoints as the committee on the part of the Senate the Senator from Arkansas [Mr. CLARKE] and

the Senator from New Hampshire [Mr. Burnham].

The Secretary will notify the House of Representatives of the appointment of the committee on the part of the Senate.

REPORT ON ORDNANCE AND FORTIFICATIONS.

The PRESIDENT pro tempore laid before the Senate the Twenty-second Annual Report of the Board of Ordnance and Fortifications for the fiscal year ended June 30, 1912, which was referred to the Committee on Military Affairs and ordered to be printed.

SPRINGFIELD ARMORY AND ROCK ISLAND ARSENAL (H. DOC. NO. 1065).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of War, transmitting, pursuant to law, statements of the expenditures, etc., of the Springfield Armory, Mass., and at the Rock Island Arsenal, Ill., for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Military Affairs and ordered to be printed.

CHARLES J. ALLEN V. UNITED STATES (S. DOC. NO. 969).

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion filed by the court in the cause of Charles J. Allen v. United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed a bill (H. R. 22593) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

Mr. McCUMBER presented petitions of sundry citizens of Inkster and Valley City, in the State of North Dakota, praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

Mr. ASHURST presented a petition of members of the Arizona Mission of the Methodist Episcopal Church of Bisbie, Ariz., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers,

which was ordered to lie on the table.

Mr. BROWN presented resolutions adopted by the Chamber of Commerce of North Platte, Nebr., favoring the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which were referred to the Committee on Agriculture and Forestry.

Mr. RICHARDSON presented a resolution adopted at the Christian Endeavor Convention held at Laurel, Del., favoring the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was or-

dered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SMOOT:

A bill (S. 7618) granting an increase of pension to John Miller (with accompanying papers); to the Committee on Pensions. By Mr. GALLINGER

A bill (S. 7619) for the relief of Lactitia M. Robbins (with

accompanying papers); to the Committee on Claims. By Mr. MARTINE of New Jersey (for Mr. Briggs);

A bill (S. 7620) for the relief of Ernest C. Stahl; to the Committee on Military Affairs.

By Mr. MARTIN of Virginia:

A bill (S. 7621) for the relief of James C. Hilton; to the Committee on Naval Affairs.

By Mr. OVERMAN:

A bill (S. 7622) for the relief of Stanley Mitchell (with accompanying paper); to the Committee on Naval Affairs.

By Mr. TOWNSEND:

A bill (S. 7623) granting an increase of pension to Henry W. Bradley (with accompanying paper); and

A bill (S. 7624) granting an increase of pension to Royal H. Stevens (with accompanying paper); to the Committee on Pensions.

By Mr. McCUMBER:

A bill (S. 7625) for the relief of certain members of the Five Civilized Tribes in Oklahoma; to the Committee on Indian

By Mr. KENYON:

A bill (S. 7626) granting an increase of pension to George W. Stratton; and

A bill (S. 7627) granting a pension to Ada Brott; to the Committee on Pensions

By Mr. BURNHAM:

A bill (S. 7628) granting an increase of pension to Araminta Sargent: to the Committee on Pensions.

By Mr. NELSON:

A bill (S. 7629) to provide for the further Federal regulation of pilotage; to the Committee on Commerce.

A bill (S. 7630) granting a pension to Emelia McNicol; and A bill (S. 7631) granting a pension to Margaret J. Yolkley; to the Committee on Pensions.

By Mr. ASHURST:

A bill (S. 7632) granting an increase of pension to Junius Thomas Turner; to the Committee on Pensions.

By Mr. BROWN:
A bill (S. 7633) granting a pension to Henry Wegworth (with accompanying paper); to the Committee on Pensions. By Mr. McLEAN:

A bill (S. 7634) to correct the military record of Thomas

Smart: to the Committee on Military Affairs.

A bill (S. 7635) granting an increase of pension to Catherine A. Payne (with accompanying papers); to the Committee on Pensions:

By Mr. PENROSE:

A bill (S. 7636) for the relief of Cecelia Barr (with accompanying paper); to the Committee on Claims.

OMNIBUS CLAIMS BILL.

Mr. MARTINE of New Jersey submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to lie on the table and be printed.

THE AVIATION SERVICE.

Mr. MARTINE of New Jersey submitted an amendment intended to be proposed by him to the bill (H. R. 17256) to fix the status of officers of the Army and Navy detailed for aviation duty, and to increase the efficiency of the aviation service, which was referred to the Committee on Military Affairs and ordered to be printed.

THE COURTS AND THE CONSTITUTION (S. DOC. NO. 970).

Mr. LODGE. I have a copy of the address by Senator George SUTHERLAND, of Utah, delivered at the meeting of the American Bar Association, at Milwaukee, Wis., August, 1912, on the courts and the Constitution. I ask that the address be printed as a Senate document.

The PRESIDENT pro tempore. Without objection, it is so

ordered.

ADDRESS BY PRESIDENT TAFT (S. DOC. NO. 971).

Mr. JOHNSTON of Alabama. I ask that an address delivered by President Taft at the opening session of the convention of United Daughters of the Confederacy, November 12, 1912, be printed as a public document. I make this request because of the broad statesmanship of the address and the eloquent and patriotic sentiments expressed in it. I think it ought to be given to every citizen of the United States to read.

The PRESIDENT pro tempore. Without objection, it will

be so ordered.

VOLUNTEER OFFICERS' RETIRED LIST.

Mr. TOWNSEND. I ask that 1,000 copies of a hearing had before a subcommittee of the Committee on Military Affairs on the bill relating to the Civil War volunteer officers' retired list be printed for the use of the subcommittee.

There being no objection, the order was agreed to, and it was

reduced to writing, as follows:

Ordered, That 1,000 copies, "Hearing before a subcommittee of the Committee on Military Affairs, United States Senate, Civil War volunteer officers' retired list," be printed for the use of the subcommittee.

HOUSE BILL REFERRED.

H. R. 22593. An act to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors, was read twice by its title and referred to the Committee on Interstate Com-

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move that the Senate resume the consideration of House bill 19115, the omnibus claims bill.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. items in it, is here for consideration, to ask him in the midst 19115) making appropriation for payment of certain claims in of it to take the findings of the Court of Claims and go through

accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and Tucker Acts. Mr. CRAWFORD. Mr. President, the committee amendments

have

Mr. WORKS. Mr. President——
The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from California?

Mr. WORKS. I desire to offer an amendment to the bill, if this is the proper occasion.

Mr. CRAWFORD. If the Senator will permit me to make a statement

Mr. WORKS. Certainly.

Mr. CRAWFORD. I desire to say that the amendments reported by the committee have now been acted upon by the Senate and the bill is open to amendments which may be offered not coming from the committee. If the Senator from California will permit me, in this connection I wish to state the position of the committee with reference to such amendments as may now be offered in the open Senate.

There are certain claims, such, for instance, as claims for overtime in the navy yards, that are practically all of one character. The legal questions connected with them have been absolutely settled by the court, and the only question is the number of hours of overtime and the rate of wages. If a case which comes within that class that has not been reported should be offered here, it would be so simple that there would be no questions of facts to discuss in relation to it, and I do not think that the committee would be averse to accepting an amendment that might include an additional claim of that character.

The same is true with reference to what are known as the longevity claims. They are all exactly the same and have been settled by the decisions. An amendment that should propose the insertion of an additional claim of that kind could involve no questions of fact, and I do not think it would open

up a discussion.

But outside of those particular cases the offering of amendments without the committee having had an opportunity to investigate the claims or the offering of amendments which the committee has investigated and for reasons satisfactory to it have declined to put into the bill will necessarily meet with the opposition of the committee.

Mr. OVERMAN. May I ask the Senator a question? Mr. CRAWFORD. Certainly. Mr. OVERMAN. I appreciate what the Senator says; am on the committee with him; but I desire to ask what his policy will be as to those claims where the court findings have come in since the committee acted which are on a par with claims we have already included in the bill. Suppose that since the bill was prepared court findings should have come in

on the same kind and class of claims?

Mr. CRAWFORD. As I have just stated, should they be claims in relation to overtime in the navy yards or longevity—
Mr. OVERMAN. I understood what the Senator said as to

those, but there are church claims. We have included certain kinds of church claims. According to a certain rule they have been included. Suppose a case comes in here to-day from the Court of Claims that is exactly on all fours with the church claims which are included in the bill, why should such claims be objected to if they are on all fours with every church claim in the bill?

Mr. CRAWFORD. The committee have declined to put in the bill a great many claims that are for the use and occupation of churches, and they have declined to put in the bill some claims for the destruction of churches where that destruction was an act of war.

Each of these cases necessarily rests upon a particular state! facts. Where the committee have had no opportunity as a of facts. committee to investigate the findings of the court and analyze them or pass upon them, I do not think it would be a good way to legislate claims into the bill, to act upon those amendments here for the first time in the Senate, without their having gone to the committee at all. I should feel that it would be my duty to insist that they should be considered by the committee,

Mr. OVERMAN. The Senator knows, as I know, under what rule the committee acted, and I agreed to it for the time being, hoping to get some legislation. But suppose the chairman of the committee, after reading the court findings, concludes that these church claims fall within the class under the rule we

adopted, will not the Senator agree to accept them?

Mr. CRAWFORD. The Senator from North Carolina is imposing almost too much work upon the chairman of the committee at a time when this long bill, with several thousand them for the purpose of ascertaining whether they fall on this side or that side of the rule which the committee adopted.

Mr. OVERMAN. I know the Senator so well that I know

he can read five lines of a court finding and determine within a minute whether or not it falls within the rule we adopted.

Mr. CRAWFORD. I will say to the Senator I do not think it would be quite fair to the full committee for the chairman to

take that responsibility.

Mr. OVERMAN. I do not see why he should not take that responsibility with reference to those claims as well as any other claims.

Mr. BAILEY. Let the Senate take the responsibility.

Mr. CRAWFORD. I am perfectly willing that that should be done. Of course I could not have any objection to that, but the Senator was asking the chairman to accept the amendments.

Mr. BAILEY. Of course the Senator would have a good deal to say about it, because the Senate would naturally and properly attach great weight to what the chairman of the committee would say. I can understand how the chairman would not feel authorized, speaking as chairman of the committee, to say that he would consent to that, but I can also understand that the chairman of the committee would not feel obliged to make any special resistance against an amendment of that kind.

I rose, however, for the purpose of suggesting this kind of a case to the Senator. Suppose it be a case where there is no question about the facts, and the findings of the Court of Claims filed since the bill was reported decide that a certain person is entitled to payment. To make it plain by illustration, the bill carries pay for certain claims for longevity pay. Now, suppose that a case identical with those provided for should have been reported since the bill was prepared. Surely there could be no possible reason for excluding that claim.

Mr. CRAWFORD. If the Senator will permit me, I have already stated with reference to overtime claims in the navy yards and longevity claims that they are so simple and the rule is so well settled that with those two classes, and those only, I feel that there would be little risk-in fact, none-in admitting those claims if they have been found by the Court of Claims.

Mr. BAILEY. I heard the Senator's statement about the overtime claims, but I did not hear it about the longevity claims. Mr. CRAWFORD. It included the longevity claims.

Mr. BAILEY. That covers an amendment that I have to pre-

Mr. CRAWFORD. The Senator can see, I think, with reference to the question whether or not a church was occupied, with the great variety of facts and findings that are passed upon, that that would be a very different case from a longevity claim or a claim for overtime at a navy yard.

Mr. BAILEY. Where the facts might be material, I agree

to that.

Mr. CRAWFORD. That is just the distinction.

Now, Mr. President, the bill, so far as the amendments proposed by the Senate committee are concerned, has been acted upon and it is open to amendment; but I sincerely hope that general amendments will not be offered to the bill on the floor of the Senate where they have not been acted upon by the committee.

I want to say to the Senate that the bill is a most difficult kind of a bill to deal with. It embraces a vast number of claims. We were a good many months going over the different items, and the door must be closed some time against the consideration of claims that are to go into this particular bill. If we open that door to the consideration of a vast number of amendments of all kinds and characters, I shall almost despair of the bill being passed at all, because of the great mass of details that will involve discussion in the Senate.

Mr. WORKS rose.

Mr. NEWLANDS. Mr. President

The PRESIDENT pro tempore. The Senator from Nevada. Mr. NEWLANDS. I offer the amendment which I send to the desk

The PRESIDENT pro tempore. The Chair begs pardon. He had not noticed that the Senator from California was on the

Mr. WORKS. I gave way to the Senator from Nevada. Mr. NEWLANDS. I do not wish to interfere with the Senator from California.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Nevada will be stated.

The Secretary. On page 268, after the word "cents," in line 8, it is proposed to insert:

To John Glanzmann, of Carson City, Ormsby County, in said State, \$3,206.

Mr. NEWLANDS. Mr. President, I will ask to have inserted in the Record a letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings of the court in the case of John Glanzmann. I will ask the Secretary to read the findings of fact, and I should like also to have the entire communication inserted in the RECORD.

The PRESIDENT pro tempore. Without objection, it will be so ordered, and the Secretary will read as requested.

The Secretary read as follows:

FINDINGS OF FACT.

FINDINGS OF FACT.

I. The claimant, John Glanzmann, is a citizen of the United States, residing at Carson City, Ormsby County, State of Nevada, and from August 1, 1892, until May 8, 1993, he was employed as a watchman-laborer in the United States customhouse and post-office building at Carson City, Nev., at a salary of \$720 per annum. During the time he was so employed he worked 12 hours each day, not including Sundays and legal holidays.

II. In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

III. The number of hours worked by claimant in excess of eight hours a day during the period from August 1, 1892, as set forth in Finding I, is 13,184; and his services for said hours, computed upon the basis of the salary he was receiving during said period, namely, 8720 per annum, would amount to \$3,296.

IV. It does not appear that said claim was ever presented to any officer or department of the Government prior to its presentation to Congress and reference to this court as aforesaid.

The letter from the assistant clerk of the Court of Claims is as follows:

[Senate Document No. 522, Sixty-second Congress, second session.] JOHN GLANZMANN.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS, TRANS MITTING A COPY OF THE PINDINGS OF THE COURT IN THE CASE OF JOHN GLANZMANN AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE, Washington, April 5, 1912.

Hon. James S. Sherman,

President of the Senate.

Sir: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,

JOEN RANDOLPH,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[Court of Claims of the United States. Congressional, No. 13805, sub-No. 5. John Glanzmann v. The United States.] STATEMENT OF CASE.

This is a claim for compensation of watchman-laborer employed under the Treasury Department for time alleged to have been worked in excess of eight hours per day.

On March 2, 1909, the Semate of the United States, by resolution, referred to the court, under the act of March 3, 1887, known as the Tucker Act, a bill in the following words:

"[S. 6903, Sixtieth Congress, first session.]

"[S. 6903, Sixtieth Congress, first session.]

"A bill for the relief of John L Conroy and others.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to John L Conroy, of St Paul, Minn., and the other persons whose names appear on the memorial of John L Conroy and others, such amount as may by findings of fact by the Court of Claims under section 14 of the act of Congress approved March 3, 1887, known as the Tucker Act, be awarded them, respectively, for work in excess of eight hours in each calendar day while employed in the care of public buildings of the United States at St. Paul, Minn., and elsewhere."

The claimant appeared and filed his petition in this court on June 17, 1908, in which he makes substantially the following allegations:

That he is a citizen of the United States and resides at Carson City, Nev.

That your petitioner is one of the persons named in the memorial referred to in said bill, and has a claim against the United States for compensation for time worked by him in excess of eight hours per day while employed at the United States public building at Carson City, Nev., as watchman-laborer.

That the act of August 1, 1892, prescribes in mandatory terms for the benefit of all laborers and mechanics employed by the Government eight hours of labor in any one calendar day as the limit for a day's work.

That your petitioner has been required, notwithstanding this pro-

eight hours of labor in any one calendar day as the limit for a day's work.

That your petitioner has been required, notwithstanding this provision of law, to work 12 hours per day since the date of his employment, namely, August I, 1890, to May 8, 1993.

That the greater part of the force of laborers and mechanics employed in the care of buildings under the Treasury Department is worked on an eight-hour schedule, and that the rates of pay for all employees are fixed by the department uniformly in accordance with the character and grade of the employment without regard to the number of hours per day they will be required to work.

That the extra work rendered by your petitioner was necessary for the protection and care of the Government building and machinery, and was not work which the claimant could have been required to have performed had he refused.

That the amount of this claim for extra pay for this work is much less than the Government would have been required to expend to employ an additional laborer or mechanic to comply with the eight-hour law.

That the Treasury Department has paid some of the employees in the same branch of the service, performing exactly the same kind of work, additional compensation for the services rendered in excess of eight hours per day.

That by requiring your petitioner to work in excess of eight hours per day the General Government has taken from him the equivalent of property without compensation, and under circumstances which almost uniformly in other branches of the public service, either by regulation or order of the head of the department or by action of Congress, has been compensated by granting extra pay either at the rate of regular pay or at an increased rate for such extra time.

That the amount which would be sufficient to compensate your petitioner for the extra work so performed by him at the rate of his regular compensation is the sum of \$3,296.

The case was brought to a hearing on the 6th day of December, 1909. Fred B. Rhodes, Esq., appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant, and under his direction, appeared for the protection and defense of the interests of the United States.

The court, upon the evidence adduced, and after considering the arguments and briefs of counsel on both sides, makes the following FINDINGS OF FACT.

FINDINGS OF FACT.

I. The claimant, John Glanzmann, is a citizen of the United States, residing at Carson City, Ormsby County, State of Nevada, and from August 1, 1892, until May 8, 1903, he was employed as a watchman-laborer in the United States Customhouse and Post Office Building at Carson City, Nev., at a salary of \$720 per annum. During the time he was so employed he worked 12 hours each day, not including Sundays and legal holidays.

II. In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

III. The number of hours worked by claimant in excess of eight hours a day during the period from August 1, 1892, as set forth in Finding I, is 13,184; and his services for said hours, computed upon the basis of the salary he was receiving during said period, namely, \$720 per annum, would amount to \$3,296.

IV. It does not appear that said claim was ever presented to any officer or department of the Government prior to its presentation to Congress and reference to this court as aforesaid.

By the Court.

Filed December 20, 1909. A true copy. Test this 3d day of April, 1912.

JOHN RANDOLPH, Assistant Clerk Court of Claims.

Mr. NEWLANDS. I would ask the Senator from South Dakota whether he has any objection to this amendment?

Mr. CRAWFORD. Mr. President, the amendment proposed by the Senator from Nevada, if allowed, will establish a precedent under which the custodians and watchmen employed in Government buildings throughout the United States will be allowed overtime pay where they were on duty more than eight hours a day. There are a large number of claims of that kind. If we allow one of them, we should allow all. The committee declined to put any of that class of claims into the bill. The reason they did so was because of this finding, which is a finding that runs through every claim of that character and is made by the court in each and every case, where the court say:

by the court in each and every case, where the court say.

In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

It is very apparent that it would be practically impossible to observe an eight-hour law with reference to this class of employees-custodians and watchmen-and the understanding, according to this finding, at the time they were employed was that their yearly salary was fixed at a rate which was adequate, considering the size and character of the building, the cost of living, the locality where they lived, and so forth; that all those matters were taken into consideration in fixing their yearly compensation, without regard to the number of hours they might be required to labor. In other words, the Court of Claims finds that these men have received ample compensation for their work, whether they work more than eight hours a day or not, and that in fixing their yearly compensation all those matters were taken into consideration.

The Senator knows that, so far as his personal claim is concerned, it was submitted to me and it was submitted to the committee some time ago; but to allow this claim would make it necessary to go back through this bill and put into it several thousand claims of custodians, watchmen, and men of that class, in face of the fact that the Court of Claims finds that the consideration per annum for their services was fixed for the purpose of making it adequate and taking into consideration that they would work more than eight hours a day. So the committee could not, in fairness to the other claimants and to this finding of the court, consent to the amendment.

Mr. NEWLANDS. I would ask the Senator from South Dakota whether janitors and custodians of buildings are now required to work more than eight hours a day in the public

Mr. CRAWFORD. They are whenever the exigencies of the service appear to require it. Whether or not it is done as a

general rule, I am not advised.

Mr. NEWLANDS. The Senator will observe that this is a general rule, that the Court of Claims find that during this entire period this man worked 12 hours a day instead of 8 hours

Mr. CRAWFORD. And I think it is quite universal in the case of custodians that they work more than eight hours a day.

Mr. NEWLANDS. The Senator is not informed as to the

practice?

Mr. CRAWFORD. They are simply custodians; and it is impossible, under the conditions, to observe a hard and fast eight-hour rule with reference to them; and their compen-

sation, the court finds, is fixed, having in view the fact that they are to work more than eight hours a day.

Mr. NEWLANDS. In view of the Senator's statement that the committee has had this class of claims under consideration and did not deem it advisable to present them in this bill, I can, perhaps, hardly hope for the favorable consideration of this amendment now. I will, however, ask the Senator whether this matter was fully argued before the committee by counsel

for these various claimants?

Mr. CRAWFORD. Mr. President, the Committee on Claims, since I have been a member of it, has not given, and, so for as I know its history, it never has undertaken to give the counsel who represent claimants hearings before the committee. I think, if the Senator from Nevada was a member of the committee, he would soon realize how utterly impossible

it would be to do a thing of that kind.

The archives of that committee are crowded with claims of all sorts and kinds, together with voluminous briefs and long The offices on the streets of Washington are crowded with attorneys whose chief occupation appears to be to hunt up and promote the collection of such claims, and they are on the trail, I will say to the Senator, more than eight hours a day. In the corridors of the Senate Office Building and elsewhere they not only seek interviews with the chairman, but they seek interviews with the members of the committee; and when they can not approach them they undertake to influence their clerks. If we were to undertake to open the hearings of that committee to argument by counsel upon these questions we never would be able to make a report of any kind. We have not granted such hearings, and I understand it has never been the practice of the committee to allow them. look over the briefs submitted to us; we look over the findings; we give careful consideration to the claims. We gave very careful consideration to this class of claims and came to the conclusion that in the face of that finding they should not be placed in this bill.

Mr. MASSEY. Mr. President, so far as the particular claim is concerned covered by the amendment offered by my colleague [Mr. NEWLANDS], I desire to say that I know personally, and have known for many years personally, the claimant, and I do not believe he would be insisting in this body or before any body representing the Government of the United States upon

the payment of a claim if it were not just.

I desire also at this time to state that, in determining the question of justice as between claimants and the Government of the United States, a matter of establishing or breaking a precedent, so far as I am individually concerned, will have but very little weight. I believe it is the duty of the Senate to break precedents whenever a just claim is presented against the Government of the United States, and that it is the duty of the Senate to establish precedents whenever it is necessary to establish just claims against the Government of the United States.

Out in our State we have not been asking much and we have gotten less, but we do insist that this is a just claim so far as the Government of the United States is concerned, and that this great Government of ours can not afford to treat this claimant, based upon precedent, otherwise than justly in the

allowance of his claim.

I believe, Mr. President, that I am a member of the Committee on Claims, I want frankly to confess that I have never had an opportunity of meeting with that committee, and I know nothing of its burdens or the character of its labors. I believe, however, the committee have been actuated by a desire to segregate from the very many claims that are presented against the Government those which are fair and just and to award to just claimants that which is justly due them; but being personally acquainted with the man and the conditions under

which this labor was performed, conditions different from those existing in every other State in the Union, I believe the Senate of the United States can not afford to reject the request for that consideration at the hands of Senators to which the claim is entitled. I join my colleague in asking that the amendment

may be adopted.

Mr. NEWLANDS. Mr. President, I observe that the Senator from Idaho [Mr. Borah] desired to be heard upon this matter, but I do not now see him upon the floor. I will state, Mr. President, that in view of the chairman's statement that the committee considered a large number of claims of this class, aggregating several thousand, and concluded to insert none of them in this bill, I do not feel like pressing the amendment to a vote, and I will withdraw it temporarily, with a view to consulting with any collection and I will be the consulting with the consulting w sulting with my colleague and with other Members of the Senate who have presented similar claims.

The PRESIDING OFFICER (Mr. FLETCHER in the chair). The amendment is temporarily withdrawn.

Mr. GALLINGER. Mr. President—
Mr. CRAWFORD. May I be allowed to make a statement to the Senator from Nevada?

Mr. GALLINGER. Certainly.
Mr. CRAWFORD. I find from the report that there are 88 claimants whose claims are very similar to this, and the aggregate amount involved is \$97,752.20. There are 88 claims of custodians, and in every one the court has found that in fixing their yearly compensation the Government took into consideration the character of their employment and the necessity of their working for a longer period than eight hours a day and fixed the compensation with that fact in view. We treated them all alike and left them out of the bill.

Mr. NEWLANDS. May I ask the Senator from Idaho

whether he wishes to say anything upon this subject?

Mr. BORAH. I did not understand the Senator. Mr. NEWLANDS. I understood the Senator was claiming the attention of the Chair a few moments ago with a view of saying something regarding this bill.

Mr. BORAH. It was not in connection with this matter.
Mr. NEWLANDS. I will not withdraw the amendment, but
will simply withhold it temporarily, in order to consult with

my colleague in regard to it.

The PRESIDING OFFICER. The Senator from Nevada

withholds the amendment.

Mr. GALLINGER. I submit a proposed amendment, Mr. President.

The PRESIDING OFFICER. The Senator from New Hamp-

shire submits an amendment, which will be stated.

Mr. WORKS. Mr. President, I was entitled to the floor and yielded to the Senator from Nevada [Mr. Newlands], but I did not intend to open the door for all Senators to offer amendments. I have an amendment, and, if the Senator will allow me a moment, I think we can dispose of the amendment I am about to offer.

Mr. GALLINGER. If the Senator from California was entitled to the floor-I had no knowledge of that fact-I will allow my amendment to rest on the table for a moment.

Mr. WORKS. I offer the amendment which I send to the

The PRESIDING OFFICER. The Senator from California

offers an amendment, which will be stated.

The Secretary. On page 259, after line 25, it is proposed to insert:

To Edgar L. Swaine, administrator of the estate of Peter T. Swaine, deceased, of Los Angeles, \$2,175.09.

To Oliver D. Greene, administrator of the estate of Oliver D. Greene, deceased, of Berkeley, \$2,433.78.

Mr. WORKS. Mr. President, these are two of the longevity claims that have been adjudicated by the Court of Claims since the bill was reported. As I understand, under the statement of the chairman of the committee, these are amendments which should be allowed.

Mr. CRAWFORD. Has the Senator the reports from the Court of Claims on his desk?

Mr. WORKS. I have

Mr. CRAWFORD. Will the Senator hand them to me?

Mr. WORKS. Certainly.
Mr. CRAWFORD. If I find, as I have no doubt I shall, that
the cases come within the rule, I will offer no objection.

Mr. LODGE. Let the findings be read.
Mr. CRAWFORD. I ask that they be read.
The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

FINDINGS OF FACT.

I. The claimant, Edgar L. Swaine, is a citizen of the United States, residing at Los Angeles, Cal., and is the administrator of the estate of

Peter T. Swaine, deceased, who, during his lifetime, was an officer in the United States Army, having been appointed as a cadet at the United States Military Academy September 1, 1847. He graduated therefrom and was appointed second lieutenant July 1, 1852; first lieutenant, August 8, 1855; captain, May 14, 1861; major, December 29, 1865; lieutenant colonel, October 24, 1874.

II. Said decedent was paid his first longevity ration from July 1, 1857, and one additional ration for each five years subsequent thereto. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional allowances, as reported by the Auditor for the War Department, amounting to \$2,200.29, from which would be deducted overpayments amounting to \$25.20, leaving a balance of \$2,175.09.

III. The claim was presented to the accounting officers of the Treasury and was disallowed December 27, 1890.

Except as above stated the claim was never presented to any officer or department of the Government prior to its presentation to Congress and reference to the court as hereinbefore set forth.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States in so far as they received the benefit of the services of said decedent while a cadet at the Military Academy, which service the Supreme Court decided in the case of United States v. Watson (130 U. S., 80) was service in the

BY THE COURT.

Filed June 17, 1912. A true copy. Test this 22d day of June, 1912. [SEAL.]

ARCHIBALD HOPKINS, Chief Clerk Court of Claims.

Mr. CRAWFORD. All these claims are exactly of that character. One of the auditors of the War Department rejected a number of these claims on the ground that the officers were not entitled to recover for the period during which the young men were cadets at West Point. The question was carried to the United States Supreme Court, and it held that they were entitled for that period.

Now the claims are presented under that decision, and the auditor allows them, with the exception of those which had been presented to the prior auditor and rejected by him. They refuse to allow them, on the ground that it is not their policy to reverse the decision of one of the prior officers. That

is the technical point which is involved.

If we allow any of them, this is just as good as the rest. That is all there is to it.

Mr. WORKS. Let me ask the Senator from South Dakota whether the claims which have already been allowed and in-

cluded in the bill are of similar kind. Mr. CRAWFORD. They are. I say, if we allow any of

them these are the same as the rest. The amendment was agreed to.

Mr. WORKS. I ask that the findings of fact in the other case may be included in the Record. Only one of them was read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The findings of fact in the Greene case are as follows:

FINDINGS OF FACT.

I. Claimant's decedent was an officer in the United States Army, having been appointed a cadet at the United States Military Academy July 1, 1849. He graduated therefrom and was appointed second lieutenant, Third Artillery, July 1, 1854; promoted to be first lieutenant April 25, 1861, and captain and assistant adjutant general August 3, 1861; major and assistant adjutant general, July 17, 1862; lieutenant colonel and assistant adjutant general July 9, 1892.

II. In settlement of said decedent's account by the accounting officers of the Treasury, he has been paid first longevity ration from July 1, 1859, and one additional ration for each five years subsequent thereto, and in a settlement made November 17, 1890, said officers refused to count his service as a cadet at the Military Academy in computing his longevity pay and allowances for service prior to February 24, 1881.

III. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) claimant would be entitled to additional allowances as follows, as reported by the Auditor for the War Department.

First longevity ration, July 1, 1854, to June 30, 1859	\$474, 70
Second logevity ration, July 1, 1859, to June 30, 1864	548. 10
Third longevity ration, July 1, 1864, to June 30, 1869	663, 60
Fourth longevity increase, July 1, 1869, to June 30, 1874	1, 103. 98

2, 790.38 \$45. 21 4.50 306, 89 356. 60

> 2, 433, 78 Leaving a balance of _____ BY THE COURT.

Filed May 20, 1912. true copy. est this 27th day of May, 1912.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. LODGE. I ask that the report, including the findings of fact by the Court of Claims in respect to the cases to which amendments were adopted yesterday, being two similar longevity claims, may be printed in the RECORD, so as to make the record

The PRESIDING OFFICER. In the absence of objection,

it is so ordered.

The reports are as follows:

[House Document No. 795, Sixty-second Congress, second session.] FRANK H. PHIPPS.

LETTER FEOM THE ASSISTANT CLERK OF THE COURT OF CLAIMS TRANS-MITTING A COPY OF THE FINDINGS FILED BY THE COURT IN THE CASE OF FRANK H. PHIPPS AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE, Washington, May 31, 1912.

Hon. CHAMP CLARK, Speaker of the House of Representatives.

Signature of the house of hepresentatives.

Signature of the following of the court, I transmit herewith a certified copy of the findings of fact filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours,

JOHN RANDOLPH, Assistant Clerk Court of Claims.

[Court of Claims of the United States. Congressional, No. 15557. Frank H. Phipps v. The United States.]

STATEMENT OF CASE.

Frank H. Phipps v. The United States.]

STATEMENT OF CASE.

This case was referred to the court by the Committee on War Claims of the House of Representatives on December 9, 1911, under the act of March 3, 1883, known as the Bowman Act.

The case was brought to a hearing on its merits on the 13th day of May, 1912.

Richard R. McMahon, Esq., appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The claimant in his petition makes the following allegations:
That he is a citizen of the United States, residing in the city of Springfield, State of Massachusetts.

That he entered the United States Military Academy as a cadet July 1, 1859; was appointed first lieutenant of ordnance, June 11, 1863; promoted captain, June 23, 1874; major, December 4, 1882; lieutenant colonel, July 7, 1898; colonel, February 17, 1903; and was retired with the rank of brigadier general, Angust 9, 1907.

That during the period of the petitioner's service as a commissioned officer in the Army of the United States the following statutory provisions respecting longevity pay were in force:

"That every commissioned officer of the line or staff, exclusive of general officers, shall be entitled to receive one additional ration per diem for every five years he may have served or shall serve in the Army of the United States." (Act of July 5, 1838, sec. 15; 5 Stat. L., p. 258.)

"There shall be allowed and paid to each commissioned officer below the rank of brigadier general, including chaplains and others having assimilated rank or pay, 10 per cent of their current yearly pay for each term of five years' service." (Act of July 15, 1870; now sec. 1262, R. S.)

"The the actual time of service in the Army and Navy, or both, shall be allowed all officers in computing their pay." (Act of Feb. 24, 1881; 21 Stat. L. p. 346.)

assimilated rank of pay, 10 per cent of their current yearly pay for each term of five years' service." (Act of July 15, 1870; now sec. 1262, R. S.)

" * * * the actual time of service in the Army and Navy, or both, shall be allowed all officers in computing their pay." (Act of Feb. 24, 1881; 21 Stat. L., p. 346.)

That under a decision of the Second Comptroller of the Treasury made July 24, 1838, the accounting officers of the Treasury, in the settlement of the petitioner's accounts, did not count his service at the Military Academy in computing his longevity pay and allowances for service prior to February 24, 1881.

That upon the construction of the act of July 5, 1838, by the Supreme Court of the United States, in the case of United States v. Watson (130 U. S., 80), the petitioner made application to the proper accounting officers of the Treasury for a settlement of his longevity pay and allowances in accordance with said decision, and, under the then prevailing ruling that service as a cadet could not be counted in computing longevity pay and allowances for service prior to February 24, 1881, petitioner's application was rejected December 15, 1890.

That upon the revocation of that ruling by the Comptroller of the Treasury on May 18, 1908, the petitioner again made application to the accounting officers of the Treasury for settlement of the longevity pay and allowances due him for service prior to February 24, 1881, but the Auditor for the War Department, May 2, 1910, refused to consider the petitioner's claim, because it had been previously disallowed by the settlement of 1890.

That by this action of the accounting officers in refusing to allow petitioner credit for his service at the Military Academy prior to February 24, 1881, there has been withheld from the petitioner the sum of \$2,361.92, the amount he would have received had he been dealt with according to law.

That this claim has not been paid, assigned, or transferred, in whole or in part, and that petitioner has all his life been loyal to the G

FINDINGS OF FACT.

I. The claimant herein, Frank H. Phipps, is an officer in the United States Army, having entered the United States Military Academy July I, 1859. He graduated therefrom and was appointed first lieutenant of ordnance June 11, 1863; was promoted to be captain June 23, 1874; major, December 4, 1882; lieutenant colonel, July 7, 1898; colonel, February 17, 1903; and was retired August 9, 1907.

II. Claimant was paid his first longevity ration from June 11, 1868, and 10 per cent increase each five years subsequent thereto, and by settlements with the accounting officers he was paid longevity increase under the Tyler and Morton decisions, but said officers refused to allow longevity pay under the Watson decision.

III. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said claimant's first longevity period

should begin July 1, 1864, and there would be due him, as reported by the Auditor for the War Department, the additional sum of \$2.314.17.

BY THE COURT.

Filed May 20, 1912.

A true copy.
Test this 29th day of May, 1912.
[SEAL.]

Assistant Clerk Court of Claims.

[House Document No. 790, Sixty-second Congress, second session.] CLIFFORD H. FROST, TRUSTEE.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS, TRANS-MITTING A COPY OF THE FINDINGS FILED BY THE COURT IN THE CASE OF CLIFFORD H. FROST AND FRANK B. M'ALLISTER, TRUSTEES, UNDER THE WILL OF THE ESTATE OF ZEALOUS B. TOWER, DECEASED, AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE, Washington, May 31, 1912.

Hon. Champ Clark,
Speaker of the House of Representatives.

Sir: Pursuant to the order of the court, I transmit herewith a certified copy of the findings filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883, known as the Rowman Act Bowman Act. I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[In the Court of Claims. Congressional, No. 14503. Clifford H. Frost and Frank B. McAllister, trustees, under the will of the estate of Zealous Bates Tower, deceased, v. The United States.]

STATEMENT OF CASE.

The claim in the above-entitled case for longevity pay alleged to be due on the service of said Zealous Bates Tower in the Army of the United States was transmitted to this court by order of the Committee on War Claims of the House of Representatives on February 26, 1910.

The case was brought to a hearing on its merits on the 8th day of May, 1912.

Fred C. Coldern appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The claimants, Clifford H. Frost and Frank Barr McAllister, in their petition, make the following allegations:

That they are trustees, under his will, of the estate of said Zealous Bates Tower.

That the said Zealous Bates Tower entered the military service of the United States as a cadet in the United States Military Academy July 1, 1837, from which date he served as an officer of the United States Army until placed on the retired list January 10, 1883, as a colonel, and served thereafter on the retired list until his death, March 20, 1900.

That under the act of July 5, 1838, he became entitled to an additional ration for each five years' service, and under the act of July 15, 1870, he became entitled to 10 per cent increase of pay for each five years of service, but in computing such allowance of longevity rations and pay, computation was made on the basis that his service began at the date he was appointed second lieutenant, after graduating from the Military Academy, instead of the date of entering said Military Academy.

That under the decisions in the case of United States v. Tyler (105 U. S., 244). United States v. Morton (112 U. S., 1), and United States v. Waston (130 U. S., 80), longevity rations and pay should have been computed on the basis that his service began when he entered the Military Academy, and his estate is therefore entitled to the following amounts, being the difference between the amounts actually paid him and the amounts to which he was entitled for said periods:

First longevity ration, July 1, 1842, to June 30, 1846, in-

First longevity ration, July 1, 1842, to June 30, 1846, in-\$292, 20

longevity ration, July 1, 1852, to June 30, 1856, in-292, 20

438, 30 fth longevity ration, Jan. 15, 1866, to June 30, 1866, in-clusive _____ 59, 70 Sixth longevity ration, July 1, 1867, to July 14, 1870, in-

333.00 Total_____Less internal-revenue tax_____ 1, 707. 60 37. 79

That claim for said difference of pay was filed with the Auditor for the War Department and disallowed by that officer on the ground that under the rulings in force in that office when his pay was computed, no allowance was made for service as cadet in the United States Military Academy, and by said adjudication said office had now lost jurisdiction and could not reopen the account.

That said claim is correct and just; that it has not been paid, assigned in whole or in part; and that said decedent was loyal to the Government of the United States throughout the Civil War.

The court upon the evidence, and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimants Clifford H. Frost and Frank Barr McAllister are citizens of the United States, residing in Boston, State of Massachusetts, and are trustees under the will of the estate of Zealous Bates Tower, deceased, who was during his lifetime an officer in the United States Army, having entered the United States Military Academy as a cadet July 1, 1837. He graduated therefrom and was apopinted second lieutenant of Engineers July 1, 1841; was promoted to be first lieutenant april 24, 1847; captain July 1, 1855; major August 6, 1861; brigadier general of Volunteers November 23, 1861, to January 15, 1866; was appointed lieutenant colonel of Engineers November 11, 1865; colonel January 13, 1874; was retired January 10, 1883; and died March 20, 1900.

II. Said decedent was paid his longevity increase ration for each five years' service from July 1, 1846, and his claim for longevity pay and allowances under the Watson decision was disallowed by the accounting officers of the Treasury.

III. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) there would be due said decedent additional longevity allowances, as reported by the Auditor for the War Department, amounting to the sum of \$1,669.51.

BY THE COURT.

Filed May 13, 1912. A true copy. Test this 14th day of May, 1912.

JOHN RANDOLPH, Assistant Clerk Court of Claims.

Mr. GALLINGER. I ask that the amendment I offered may now be read.

The Secretary. On page 203, after line 18, it is proposed to insert:

Edward B. Prime, \$339.45.

Mr. GALLINGER. Mr. President, this is a case for overtime work in the navy yard, and the findings of the court were made four days after the report of the committee. It is absolutely based upon fact and ought to be allowed.

Mr. CRAWFORD. I wish to say this in regard to Navy overtime: They are the claims of laborers in navy yards.

Mr. GALLINGER. This man was a mechanic. Mr. CRAWFORD. The Secretary of the Navy issued a circular, which went to all the employees, in which he fixed the hours of employment within certain hours-an eight hours' He specifically stated that in cases where the men worked beyond the term of eight hours they would be allowed for the extra time at the same rate. They went on and performed the service on the strength of this order issued by the Secretary of the Navy.

They had their claims adjudicated. There can be no question about them. The timekeeper kept the number of hours they worked; the wage they were receiving was a matter of record; and the whole thing is a mere matter of computation as to what the overtime amounted to. That has been found by

the Court of Claims

The court found that these men worked so many extra hours; that they were receiving such and such a wage, and the proportionate amount for the extra time was so much, and the claims of the bill are claims of that kind which have been reported to the committee after it made its report.

These claims now offered are exactly of the same character, with the same sort of finding, but they have come in since the

committee made its report.

I see no reason why, if we allow any of them, these regularly reported since the bill was reported should not be inserted in the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from New Hampshire.

The amendment was agreed to. Mr. BAILEY. Mr. President, I offer an amendment, to be inserted after line 2 on page 267.

The Secretary. On page 267, after line 2, insert:

TEXAS.

To the Union Trust Co., of the District of Columbia, administrator de bonis non of the estate of Thomas Murray Tolman, deceased, \$2,126.24.

Mr. BAILEY. Mr. President, the amendment involves a case in all respects similar to the one which the Senator from California has just explained to the Senate, and, without detaining the Senate, I will simply ask that the finding of the Court of Claims be incorporated in the RECORD.

Mr. CRAWFORD. Is it a longevity claim? Mr. BAILEY. It is a longevity claim. The PRESIDING OFFICER. Without objection, the finding of facts will be inserted in the Record, as requested by the Senator from Texas.

The findings of fact are as follows:

FINDINGS OF FACT

I. The claimant herein, the Union Trust Co. of the District of Columbia, is the administrator de bonis non of the estate of Thomas Murray Tolman, deceased, who during his lifetime was an officer in the United States Army, having entered the United States Military Academy as a cadet on July 1, 1861. He graduated therefrom and was appointed a second lieutenant, Sixth United States Cavalry, June 23, 1865; was promoted to first lieutenant January 25, 1866, captain November 18, 1867, and died December 14, 1883.

He was paid his first longevity increase from June 23, 1870, and an additional 10 per cent for each five years subsequent thereto, but the accounting officers of the Treasury in computing his longevity pay and allowances refused to count his service as a cadet at the Military Academy.

II. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional allowances on account of longevity, as reported by the Auditor for the War Department, amounting to \$2,142.56, from which

would be deducted \$16.32 overpaid said decedent, leaving a balance of \$2,126.24. BY THE COURT.

Filed May 20, 1912. A true copy. Test this 29th day of May, 1912. [SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Texas,

The amendment was agreed to.

Mr. ROOT. Mr. President, I offer an amendment to the bill relating to certain longevity claims. I think they are on exactly the same basis as those included in the bill, all of them having findings of the Court of Claims.

Mr. CRAWFORD. The Senator, I suppose, wants them

under the head of the New York claims?

Mr. ROOT. Yes.

The Secretary. On page 266, after line 5, in the New York items, it is proposed to insert:

To Diantha G. Littlejohn, administratrix of the estate of John Egan, deceased, of Brooklyn, \$2,276.91.

To Ida C. Hughes and Ellen C. McNally, daughters and sole heirs at law of Christopher H. McNally, deceased, of New York City, \$2,559.21.

To George H. Chadeayne, ancillary executor of Joseph H. McArthur, deceased, late of the United States Army, \$1,488.84.

To Hamilton Trust Co., of Brooklyn, N. Y., executor of Loomis Lyman Langdon, deceased, late of the United States Army, \$1,793.59.

To William E. Carlin, of New York City, administrator of the estate of William Passmore Carlin, deceased, late of the United States Army, \$1,250.73.

To Isabella H. Silvey, widow and administratry of William Silvey.

\$1,250,73.

To Isabella H. Silvey, widow and administratrix of William Silvey, late of the United States Army, \$1,549,30.

The amendment was agreed to.
The PRESIDING OFFICER. Does the Senator from New York want the findings of facts in connection with these cases printed in the RECORD?

Mr. ROOT. I think they should be.
The PRESIDING OFFICER. Without objection, it will be so ordered

The findings of facts are as follows:

DIANTHA G. LITTLEJOHN, ADMINISTRATRIX.

FINDINGS OF FACT.

FINDINGS OF FACT.

I. The claimant herein, Diantha G. Littlejohn, is a citizen of the United States and a resident of Brooklyn, State of New York, and is the duly appointed administratrix of the estate of John Egan, deceased, who during his lifetime was an officer in the United States Army, having entered the Military Academy as a cadet July 1, 1858.

He graduated therefrom and was appointed second lieutenant, First Artillery, June 17, 1862; was promoted to be first lieutenant May 19, 1864; captain, Eleventh Infantry, July 28, 1866; accepted his appointment November 26, 1866. He was unassigned from April 14, 1869; assigned to the Twenty-third Infantry September 1, 1869; transferred to the Fourth Artillery January 1, 1871; promoted to be major, First Artillery, January 25, 1889; and retired September 1, 1896. He died July 23, 1996.

II. Said decedent was paid his first longevity ration from June 17, 1867, and 10 per cent increase for every five years subsequent thereto, and by settlement in 1883 and 1885 he was paid longevity pay under the rules and decisions then in force. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80), said decedent would be entitled to additional allowances for longevity, as reported by the Auditor for the War Department, in the sum of \$2.276.91.

III. The claim was presented to the accounting officers of the Treasury and some was disallered. Warenber 15, 1800.

\$2.276.91.

III. The claim was presented to the accounting officers of the Treasury and same was disallowed November 15, 1890. Except as above stated, the claim was never presented to any department or officer of the Government prior to its presentation to Congress and reference to this court, as hereinbefore set forth.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States in so far as they received the benefit of the service of said decedent while a cadet at the Military Academy, which service the Supreme Court, in the case of United States v. Watson (130 U. S., 80), decided was service in the Army the Army.

BY THE COURT.

Filed June 17, 1912. A true copy. Test this 22d day of June, 1912.

ARCHIBALD HOPKINS, Chief Clerk Court of Claims.

IDA C. HUGHES AND ELLEN C. MCNALLY. FINDINGS OF FACT.

I. The claimants herein are citizens of the United States residing in the city of New York, State of New York, and are the sole heirs of Christopher H. McNally, who during his lifetime served in the United States Army, having served as an enlisted man from December 21, 1848, to June 14, 1855, when he was discharged and accepted a commission as second lieutenant Mounted Rifles. He was promoted to be first lieutenant May 5, 1861, captain September 28, 1861, and retired December 24, 1866.

II. Said decedent was paid longevity pay and allowances under the Tyler decision, but the accounting officers of the Treasury refused to count his service as an enlisted man in computing longevity pay and allowances.

III. Under the decision of this court in the case of James Stewart, No. 20810, decided February 23, 1899, claimants would be entitled to additional longevity increase amounting to \$2,666.10, as reported by

the Auditor for the War Department, from which would be deducted overpayments amounting to \$106.89, leaving a balance of \$2,559.21.

IV. Said claim was presented to the accounting officers of the Treasury and was disallowed November 3, 1883. Except as above stated, the claim was never presented to any officer or department of the Government prior to its presentation to Congress and reference to this court as hereinbefore set forth in the statement of the case, and no evidence is adduced showing why claimants did not earlier prosecute said claim.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States in so far as they received the benefit of said decedent's service as an enlisted man, which service this court decided, in the case of James Stewart, No. 20810, was service in the Army.

By THE COURT.

BY THE COURT.

A true copy. Test this 27th day of May, 1912. [SEAL.]

JOHN RANDOLPH. Assistant Clerk Court of Claims.

GEORGE H. CHADEAYNE, EXECUTOR. FINDINGS OF FACT.

I. Claimant's decedent, Joseph H. McArthur, was during his lifetime an officer in the United States Army, having entered the United States Military Academy as a cadet July 1, 1845. He graduated therefrom and was appointed brevet second lieutenant, Second Infantry, July 1, 1849; second lieutenant, Fifty Infantry, August 12, 1850; first lieutenant, Second Cavalry, April 11, 1855; was promoted to be captain, Fifth Cavalry, June 28, 1860, major, Third Cavalry, September 25, 1863, and retired November 2, 1863. He was on active duty from date of retirement to February 8, 1866; from May 24, 1866, to May 10, 1867, and from October 2, 1867, to November 30, 1867. He served as lieutenant colonel, Sixth Pennsylvania Cavalry, from September 11, 1861, to February 15, 1862, and died January 23, 1902.

II. Said decedent was paid his first longevity ration from July 1, 1854, and one additional ration for each five years subsequent thereto, and his claim for longevity increase on account of his service as a cadet was disallowed by the accounting officers April 4, 1891.

III. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional allowances, as reported by the Auditor for the War Department, amounting to \$1,488.84.

Events of the Events of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional allowances, as reported by the Auditor for the War Department, amounting to \$1,488.84.

BY THE COURT.

Filed May 27, 1912.

A true copy.
Test this 28th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims,

HAMILTON TRUST CO., EXECUTOR.

FINDINGS OF FACT.

I. Claimant's decedent, Loomis Lyman Langdon, was an officer in the United States Army, having been appointed a cadet at the United States Military Academy July 1, 1850. He was graduated therefrom and appointed a second lieutenant July 1, 1854; promoted to be first lieutenant July 13, 1860; captain August 28, 1861; major March 20, 1870; lieutenant colonel December 1, 1883; colonel January 25, 1889; and retired as such October 25, 1894.

In the settlement of his accounts by the accounting officers of the Treasury said decedent has been paid on account of longevity commencing July 1, 1869, and one additional ration for each five years subsequent thereto, and said accounting officers refused by certificate No. 120306, confirmed by the comptroller December 5, 1890, to count his service at the Military Academy as service in the Army in computing longevity pay and allowances for service prior to February 24, 1881.

II. Under the decision of the Supreme Court in the case United States v. Watson (130 U. S., 80) said decedent's first longevity period should commence July 1, 1855, and the difference between the amounts which he has received and the amount to which he would be entitled under said decision, as reported by the Auditor for the War Department, is as follows:

First longevity ration, July 1, 1855, to June 30, 1859	\$401.70
Second longevity ration, July 1, 1860, to June 30, 1864	438.30
Third longevity ration, July 1, 1865, to June 30, 1869Fourth longevity increase, July 1, 1870, to June 30, 1874	500. 75 494. 39

		15.000 15.000
Less	Totaltax	1, 835. 14 31. 67

from which should be deducted an overpayment of \$9.88, leaving a balance of \$1,793.59. By THE COURT.

Filed May 13, 1912. A true copy. Test this 14th day of May, 1912.

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

WILLIAM E. CARLIN, ADMINISTRATOR.

FINDINGS OF FACT.

I. Claimant's decedent, William P: Carlin, was during his lifetime an officer in the United States Army, having entered the Military Academy as a cadet July 1, 1846. He graduated therefrom and was appointed brevet second lieutenant, Sixth United States Infantry, July 1, 1850; was prounoted second lieutenant April 15, 1851; first lieutenant March 3, 1855; captain March 2, 1861; major, Sixteenth United States Infantry, February 8, 1864; lieutenant colonel, Seventeenth Infantry, July 1, 1872; colonel, Fourth Infantry, April 11, 1882; brigadier general May 17, 1893; retired November 24, 1893; and died October 4, 1903. He served as colonel, Thirty-eighth Illinois Infantry, from August 15, 1861, to November 28, 1862, and as brigadier general of Volunteers from November 29, 1862, to August 24, 1865.

II. Said decedent was paid his first longevity ration from July 1, 1855, and one additional ration for each five years subsequent thereto, except for the period he served as a brigadier general.

Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional longevity allowances after deducting overpayments, as reported by the Auditor for the War Department, amounting to \$1,250.73.

By THE COURT.

Filed June 17, 1912. A true copy. Test this 21st day of June, 1912. [SEAL]

ARCHIBALD HOPKINS, Chief Clerk.

ISABELLA H. SILVEY, ADMINISTRATRIX.

FINDINGS OF FACT.

I. Claimant's decedent, William Silvey, was, during his lifetime, an officer in the United States Army, having entered the United States Military Academy as a cadet July 1, 1845. He graduated therefrom and was appointed a second lieutenant, Third United States Artillery, on July 1, 1849; was promoted to be first lieutenant October 31, 1853; captain, May 14, 1861; major, February 7, 1875, and retired as such May 1, 1875.

II. Said decedent was paid his first longevity increase ration from July 1, 1854, and one additional ration for each five years subsequent thereto, and the accounting officers of the Treasury have refused to count his said service as a cadet at the military Academy in computing longevity allowances for services prior to February 24, 1881.

III. Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) there would be duc claimant, after deducting overpayments and internal-revenue tax, the sum of \$1,549.30, as reported by the Auditor for the War Department, Filed May 6, 1912.

Filed May 6, 1912. A true copy.
Test this 11th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. BRANDEGEE. I offer the amendment I send to the desk. It is a longevity claim exactly on a par with those already accepted. I ask that the findings of the Court of Claims may be printed in the RECORD.

Mr. CRAWFORD. I will say that the amendment was handed to me by the Senator from Connecticut, and I am satisfied it is

exactly the same as the others referred to.

The PRESIDING OFFICER. The amendment will be stated.

The Secretary. On page 259, after line 25, and after the amendments already agreed to at that point, it is proposed to

CONNECTICUT.

To Lizzie F. Remington, of Windsor, executrix of Philip Halsey Remington, deceased, late of the United States Army, \$2,297.81.

The amendment was agreed to.

The PRESIDING OFFICER. The findings of fact will be printed in the RECORD as requested by the Senator from Connecticut.

The findings of fact are as follows:

The findings of fact are as follows;

I. Claimant's decedent, Philip Halsey Remington, was an officer in the United States Army, having entered the United States Military Academy as a cadet on July 1, 1857. He graduated therefrom and was appointed a second lieutenant, Eighth United States Infantry, June 24, 1861; was promoted to be first lieutenant August 23, 1861; captain July 28, 1866, and retired as such February 20, 1891.

In settlement of said decedent's account by the accounting officers of the Treasury in 1890 he was paid his first longevity ration from June 24, 1866, and one additional ration for each five years subsequent thereto, and said officers refused to count his service as a cadet at the Military Academy in computing longevity pay and allowances for service prior to February 24, 1881.

II. Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) and the case of United States v. Tyler (105 U. S., 244) said decedent's first longevity ration should begin July 1, 1862, and the difference between the amounts he has received and the amounts to which he would be entitled under said decisions, as reported by the Auditor for the War Department, amounts to \$2,297.81, no part of which has been paid.

By THE COURT.

Filed May 20, 1912. A true copy.
Test this 29th day of May, 1912.
[SEAL.]

JOHN RANDOLPH, Assistant Clerk Court of Claims.

BY THE COURT.

Mr. JOHNSTON of Alabama. I offer the amendment I send to the desk.

The Secretary. On page 267, at the end of line 16, after the words "this act," it is proposed to insert:

And section 3480 of the Revised Statutes, so far as applicable to these claims, is hereby repealed.

Mr. CRAWFORD. I did not catch the force of the amendment. I wish the Secretary would read it again. I should like an opportunity to examine it.

Mr. JOHNSTON of Alabama. How much time does the Senator from South Dakota want? This bill will probably be passed to-day.

Mr. GALLINGER, Mr. SMITH of Arizona, and others. Mr. JOHNSTON of Alabama. I am perfectly willing to have it go over if the bill is not to be disposed of to-day.

Mr. CRAWFORD. I ask that the amendment be printed and go over.

Mr. JOHNSTON of Alabama. It has already been printed

and referred to the committee, but I will consent to that course.

I will state here now that the Judiciary Committee of the Senate has twice reported unanimously for the repeal of this statute. It is a statute which prevents the heirs of certain officers who belonged to the Regular Army and went South when the contest between the two sections arose from being paid some small sums of money that are due.

In the case of Stonewall Jackson there would be \$292 coming to his heirs; in the case of Robert E. Lee, \$1,400; in the case of Joseph Wheeler, \$219. That is the class of claims involved, and they amount to about \$100,000. I will ask the Senator from South Dakota to look into it, if he desires to do so,

before to-morrow

Mr. CRAWFORD. I should like to have the amendment

printed, if the Senator please

Mr. JOHNSTON of Alabama. It has already been printed. Mr. CRAWFORD. And go to the committee. If it involves the expenditure of a substantial sum, I should certainly want to examine it carefully

The PRESIDING OFFICER. Without objection, it will be

There are messages from the President which the Chair thinks ought to be laid before the Senate. One is very brief. Mr. CRAWFORD. We close legislative proceedings at 1

o'clock. The PRESIDING OFFICER. At 1.30.

ANNUAL REPORT OF THE ISTHMIAN CANAL COMMISSION (H. DOC. NO. 965).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Interoceanic Canals and ordered to be printed.

To the Senate and House of Representatives:

I transmit herewith, in pursuance of the requirements of chapter 1302 (32 Stats., p. 483), "An act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans," approved June 28, 1902, the Annual Report of the Isthmian Canal Commission for the fiscal year ended June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, December 6, 1912.

The PRESIDING OFFICER. There is another message

from the President of the United States.

Mr. CRAWFORD. So that Senators may not be misled about the present status of the bill, I will ask that it be laid aside for the purpose of having the message of the President

The PRESIDING OFFICER. That is not necessary, but without objection that will be the order. Messages of the President are privileged.

Mr. CRAWFORD. That may be. I am not familiar with

the rule.

FISCAL, JUDICIAL, MILITARY, AND INSULAR AFFAIRS (H. DOC. No. 1067).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, ordered to lie on the table, and to be printed:

To the Senate and House of Representatives:

On the 3d of December I sent a message to the Congress, which was confined to our foreign relations. The Secretary of State makes no report to the President or to Congress, and a review of the history of the transactions of the State Department in one year must therefore be included by the President in his annual message or Congress will not be fully informed of them. A full discussion of all the transactions of the Government, with view to informing the Congress of the important events of the year and recommending new legislation, requires more space than one message of reasonable length affords. I have therefore adopted the course of sending three or four messages during the first 10 days of the session, so as to include reference to the more important matters that should be brought to the attention of the Congress.

BUSINESS CONDITIONS.

The condition of the country with reference to business could hardly be better. While the four years of the administration now drawing to a close have not developed great speculative expansion or a wide field of new investment, the recovery and progress made from the depressing conditions following the panic of 1907 have been steady and the improvement has been clear and easily traced in the statistics. The business of the country is now on a solid basis. Credits are not unduly extended, and every phase of the situation seems in a state of

preparedness for a period of unexampled prosperity. Manufacturing concerns are running at their full capacity and the demand for labor was never so constant and growing. The foreign trade of the country for this year will exceed \$4,000,000,000, while the balance in our favor-that of the excess of exports over imports-will exceed \$500,000,000. More than half our exports are manufactures or partly manufactured material, while our exports of farm products do not show the same increase because of domestic consumption. It is a year of bumper crops; the total money value of farm products will exceed \$9,500,000,000. It is a year when the bushel or unit price of agricultural products has gradually fallen, and yet the total value of the entire crop is greater by over \$1,000,000,000 than we have known in our history.

CONDITION OF THE TREASURY.

The condition of the Treasury is very satisfactory. The total interest-bearing debt is \$963,777,770, of which \$134,631,980 constitute the Panama Canal loan. The noninterest-bearing debt is \$378,301,284.90, including \$346,681,016 of greenbacks. We have in the Treasury \$150,000,000 in gold coin as a reserve against the outstanding greenbacks, and in addition resolves against the outstanding greenbacks; and in addition we have a cash balance in the Treasury as a general fund of \$167,152,478.99, or an increase of \$26,975,552 over the general fund last year.

RECEIPTS AND EXPENDITURES,

For three years the expenditures of the Government have decreased under the influence of an effort to economize. year presents an apparent exception. The estimate by the Secretary of the Treasury of the ordinary receipts, exclusive of postal revenues, for the year ending June 30, 1914, indicates that they will amount to \$710,000,000. The sum of the estimates of the expenditures for that same year, exclusive of Panama Canal disbursements and postal disbursements pay-able from postal revenues, is \$732,000,000, indicating a deficit of \$22,000,000. For the year ending June 30, 1913, similarly estimated receipts were \$667,000,000, while the total corresponding estimate of expenditures for that year, submitted through the Secretary of the Treasury to Congress, amounted to \$656,000,000. This shows an increase of \$76,000,000 in the estimates for 1914 over the total estimates of 1913. This is due to an increase of \$25,000,000 in the estimate for rivers and harbors for the next year on projects and surveys authorized by Congress; to an increase under the new pension bill of \$32,-500,000; and to an increase in the estimates for expenses of the Navy Department of \$24,000,000. The estimate for the Navy Department for the year 1913 included two battleships. gress made provision for only one battleship, and therefore the Navy Department has deemed it necessary and proper to make an estimate which includes the first year's expenditure for three battleships in addition to the amount required for work on the uncompleted ships now under construction. In addition to the natural increase in the expenditures for the uncompleted ships, and the additional battleship estimated for, the other increases are due to the pay required for 4,000 or more additional enlisted men in the Navy; and to this must be added the additional cost of construction imposed by the change in the 8-hour law which makes it applicable to ships built in private shipvards.

With the exceptions of these three items, the estimates show a reduction this year below the total estimates for 1913 of more than \$5,000,000.

The estimates for Panama Canal construction for 1914 are \$17,000,000 less than for 1913.

OUR BANKING AND CURRENCY SYSTEM.

A time when panics seem far removed is the best time for us to prepare our financial system to withstand a storm. most crying need this country has is a proper banking and cur-The existing one is inadequate, and everyone rency system. who has studied the question admits it.

It is the business of the National Government to provide a medium, automatically contracting and expanding in volume, to meet the needs of trade. Our present system lacks the indis-

pensable quality of elasticity.

The only part of our monetary medium that has elasticity is The peculiar provisions of the law the bank-note currency. requiring national banks to maintain reserves to meet the call of the depositors operates to increase the money stringency when it arises rather than to expand the supply of currency and It operates upon each bank and furnishes a motive relieve it. for the withdrawal of currency from the channels of trade by, each bank to save itself, and offers no inducement whatever for the use of the reserve to expand the supply of currency to meet the exceptional demand.

After the panic of 1907 Congress realized that the present system was not adapted to the country's needs and that under it panics were possible that might properly be avoided by legislative provision. Accordingly a monetary commission was appointed which made a report in February, 1912. The system which they recommended involved a National Reserve Association, which was, in certain of its faculties and functions, a bank, and which was given through its governing authorities the power, by issuing circulating notes for approved commercial paper, by fixing discounts, and by other methods of transfer of currency, to expand the supply of the monetary medium where it was most needed to prevent the export or hoarding of gold and generally to exercise such supervision over the supply of money in every part of the country as to prevent a stringency and a panic. The stock in this association was to be distributed to the banks of the whole United States, State and National, in a mixed proportion to bank units and to capital stock paid The control of the association was vested in a board of directors to be elected by representatives of the banks, except certain ex officio directors, three Cabinet officers, and the Comptroller of the Currency. The President was to appoint the governor of the association from three persons to be selected by the directors, while the two deputy governors were to be elected by the board of directors. The details of the plan were worked out with great care and ability, and the plan in general seems to me to furnish the basis for a proper solution of our present difficulties. I feel that the Government might very properly be given a greater voice in the executive committee of the board of directors without danger of injecting politics into its man-agement, but I think the federation system of banks is a good one, provided proper precautions are taken to prevent banks of large capital from absorbing power through ownership of stock in other banks. The objections to a central bank it seems to me are obviated if the onwership of the reserve association is distributed among all the banks of a country in which banking The earnings of the reserve association are limited in percentage to a reasonable and fixed amount, and the profits over and above this are to be turned into the Government Treasury. It is quite probable that still greater security against control by money centers may be worked into the plan.

Certain it is, however, that the objections which were made in the past history of this country to a central bank as furnishing a monopoly of financial power to private individuals, would not apply to an association whose ownership and control is so widely distributed and is divided between all the banks of the country, State and National, on the one hand, and the Chief Executive through three department heads and his Comptroller of the Currency, on the other. The ancient hostility to a national bank, with its branches, in which is concentrated the privilege of doing a banking business and carrying on the financial transactions of the Government, has prevented the establishment of such a bank since it was abolished in the Jackson Administration. Our present national banking law has obviated objections growing out of the same cause by providing a free banking system in which any set of stockholders can establish a national bank if they comply with the conditions of law. It seems to me that the National Reserve Association meets the same objection in a similar way; that is, by giving to each bank, State and National, in accordance with its size, a certain share in the stock of the reserve association, nontransferable and only to be held by the bank while it perform its

functions as a partner in the reserve association.

The report of the commission recommends provisions for the imposition of a graduated tax on the expanded currency of such a character as to furnish a motive for reducing the issue of notes whenever their presence in the money market is not required by the exigencies of trade. In other words, the whole system has been worked out with the greatest care. Theoretically it presents a plan that ought to command support. Practically it may require modification in various of its provisions in order to make the security against abuses by combinations among the banks impossible. But in the face of the crying necessity that there is for improvement in our present system, I urgently invite the attention of Congress to the proposed plan and the report of the commission, with the hope that an earnest consideration may suggest amendments and changes within the general plan which will lead to its adoption for the benefit of the country. There is no class in the community more interested in a safe and sane banking and currency system, one which will prevent panics and automatically furnish in each trade center the currency needed in the carrying on of the business at that center, than the wage earner. There is no class in the community whose experience better qualifies them to make suggestions as to the sufficiency of a currency and banking system than the bankers and business men. Ought we, therefore, to ignore their recommendations and reject their financial judgment as to the proper method of reforming our

financial system merely because of the suspicion which exists against them in the minds of many of our fellow citizens? it not the duty of Congress to take up the plan suggested, examine it from all standpoints, give impartial consideration to the testimony of those whose experience ought to fit them to give the best advice on the subject, and then to adopt some plan which will secure the benefits desired?

A banking and currency system seems far away from the wage earner and the farmer, but the fact is that they are vitally interested in a safe system of currency which shall graduate its volume to the amount needed and which shall prevent times of artificial stringency that frighten capital, stop employment, prevent the meeting of the pay roll, destroy local

markets, and produce penury and want.

THE TARIFF.

I have regarded it as my duty in former messages to the Congress to urge the revision of the tariff upon principles of protection. It was my judgment that the customs duties ought to be revised downward, but that the reduction ought not to be below a rate which would represent the difference in the cost of production between the article in question at home and abroad, and for this and other reasons I vetoed several bills which were presented to me in the last session of this Congress. Now that a new Congress has been elected on a platform of a tariff for revenue only rather than a protective tariff, and is to revise the tariff on that basis, it is needless for me to occupy the time of this Congress with arguments or recommendations

in favor of a protective tariff.

Before passing from the tariff law, however, known as the Payne tariff law of August 5, 1909, I desire to call attention to section 38 of that act, assessing a special excise tax on corpora-It contains a provision requiring the levy of an additional 50 per cent to the annual tax in cases of neglect to verify the prescribed return or to file it before the time required by This additional charge of 50 per cent operates in some cases as a harsh penalty for what may have been a mere inadvertence or unintentional oversight, and the law should be so amended as to mitigate the severity of the charge in such instances. Provision should also be made for the refund of additional taxes heretofore collected because of such infractions in those cases where the penalty imposed has been so disproportionate to the offense as equitably to demand relief. BUDGET.

The estimates for the next fiscal year have been assembled by the Secretary of the Treasury and by him transmitted to Congress. I purpose at a later day to submit to Congress a form of budget prepared for me and recommended by the President's Commission on Economy and Efficiency, with a view of suggesting the useful and informing character of a properly framed budget.

WAR DEPARTMENT.

The War Department combines within its jurisdiction functions which in other countries usually occupy three depart-It not only has the management of the Army and the coast defenses, but its jurisdiction extends to the government of the Philippines and of Porto Rico and the control of the receivership of the customs revenues of the Dominican Republic; it also includes the recommendation of all plans for the improvement of harbors and waterways and their execution when adopted; and, by virtue of an Executive order, the supervision of the construction of the Panama Canal.

ARMY REORGANIZATION.

Our small Army now consists of 83,809 men, excluding the 5,000 Philippine Scouts. Leaving out of consideration the Coast Artillery force, whose position is fixed in our various seacoast defenses, and the present garrisons of our various insular possessions, we have to-day within the continental United States a mobile Army of only about 35,000 men. This little force must be still further drawn upon to supply the new garrisons for the great naval base which is being established at Pearl Harbor, in the Hawaiian Islands, and to protect the locks now rapidly approching completion at Panama. The forces remaining in the United States are now scattered in nearly 50 posts, situated for a variety of historical reasons in 24 States. These posts contain only fractions of regiments, averaging less than 700 men In time of peace it has been our historical policy to administer these units separately by a geographical organiza-tion. In other words, our Army in time of peace has never been a united organization but merely scattered groups of companies, battalions, and regiments, and the first task in time of war has been to create out of these scattered units an Army fit for effective teamwork and cooperation.

To the task of meeting these patent defects, the War Department has been addressing itself during the past year. For many years we had no officer or division whose business it was to study these problems and plan remedies for these defects. With the establishment of the General Staff nine years ago a body was created for this purpose. It has, necessarily, required time to overcome, even in its own personnel, the habits of mind engendered by a century of lack of method, but of late years its work has become systematic and effective, and it has recently been addressing itself vigorously to these problems.

A comprehensive plan of Army reorganization was prepared by the War College Division of the General Staff. This plan was thoroughly discussed last summer at a series of open conferences held by the Secretary of War and attended by representatives from all branches of the Army and from Congress. In printed form it has been distributed to Members of Congress and throughout the Army and the National Guard, and widely through institutions of learning and elsewhere in the United States. In it, for the first time, we have a tentative chart for

future progress,

Under the influence of this study definite and effective steps have been taken toward Army reorganization so far as such reorganization lies within the Executive power. Hitherto there has been no difference of policy in the treatment of the organization of our foreign garrisons from those of troops within the United States. The difference of situation is vital, and the foreign garrison should be prepared to defend itself at an instant's notice against a foe who may command the sea. Unlike the troops in the United States, it can not count upon reenforcements or recruitment. It is an outpost, upon which will fall the brunt of the first attack in case of war. The historical policy of the United States of carrying its regiments during time of peace at half strength has no application to our foreign garrisons. During the past year this defect has been remedied as to the Philippines garrison. The former garrison of 12 reduced regiments has been replaced by a garrison of 6 regiments at full strength, giving fully the same number of riflemen at an estimated economy in cost of maintenance of over \$1,000,000 per year. This garrison is to be permanent. Its regimental units, instead of being transferred periodically back and forth from the United States, will remain in the islands. The officers and men composing these units will, however, serve a regular tropical detail as usual, thus involving no greater hardship upon the personnel and greatly increasing the effectiveness of the garrison. A similar policy is proposed for the Hawaiian and Panama garrisons as fast as the barracks for them are completed. I strongly urge upon Congress that the necessary appropriations for this purpose should be promptly made. It is, in my opinion, of first importance that these national contracts that these national outposts, upon which a successful home defense will, primarily, depend, should be finished and placed in effective condition at the earliest possible day.

THE HOME ARMY.

Simultaneously with the foregoing steps the War Department has been proceeding with the reorganization of the Army The formerly disassociated units are being united into a tactical organization of three divisions, each consisting of two or three brigades of Infantry and, so far as practicable, a proper proportion of divisional Cavalry and Artillery. Of course the extent to which this reform can be carried by the Executive is practically limited to a paper organization. The Executive is practically limited to a paper organization. scattered units can be brought under a proper organization, but they will remain physically scattered until Congress supplies the necessary funds for grouping them in more concentrated posts. Until that is done the present difficulty of drilling our scattered groups together, and thus training them for the proper team play, can not be removed. But we shall, at least, have an Army which will know its own organization and will be inspected by its proper commanders, and to which, as a unit, emergency orders can be issued in time of war or other emergency. Moreover, the organization, which in many respects is necessarily a skeleton, will furnish a guide for future development. The separate regiments and companies will know the brigades and divisions to which they belong. They will be maneuvered together whenever maneuvers are established by Congress, and the gaps in their organization will show the pattern into which can be filled new troops as the Nation grows and a larger Army is provided.

REGULAR ARMY RESERVE.

One of the most impotant reforms accomplished during the past year has been the legislation enacted in the Army appropriation bill of last summer, providing for a Regular Army reserve. Hitherto our national policy has assumed that at the outbreak of war our regiments would be immediately raised to full strength. But our laws have provided no means by which this could be accomplished, or by which the losses of the regiments when once sent to the front could be repaired.

In this respect we have neglected the lessons learned by other nations. The new law provides that the soldier, after serving four years with colors, shall pass into a reserve for three years. At his option he may go into the reserve at the end of three years, remaining there for four years. While in the reserve he can be called to active duty only in case of war or other national emergency, and when so called and only in such case will receive a stated amount of pay for all of the period in which he has been a member of the reserve. The legislation is imperfect, in my opinion, in certain particulars, but it is a most important step in the right direction, and I carnestly hope that it will be carefully studied and perfected by Congress.

THE NATIONAL GUARD.

Under existing law the National Guard constitutes, after the Regular Army, the first line of national defense. Its organization, discipline, training, and equipment, under recent legislation, have been assimilated, as far as possible, to those of the Regular Army, and its practical efficiency, under the effect of this training, has very greatly increased. Our citizen soldiers under present conditions have reached a stage of development beyond which they can not reasonably be asked to go without further direct assistance in the form of pay from the Federal Government. On the other hand, such pay from the rederal Government. On the other hand, such pay from the National Treasury would not be justified unless it produced a proper equivalent in additional efficiency on the part of the National Guard. The Organized Militia to-day can not be ordered outside of the limits of the United States, and thus can not lawfully be used for general military purposes. The officers and men are ambitious and eager to make themselves thus available and to become an efficient national reserve of citizen soldiery. They are the only force of trained men, other than the Regular Army, upon which we can rely. The so-called militia pay bill, in the form agreed on between the authorities of the War Department and the representatives of the National Guard, in my opinion adequately meets these conditions and offers a proper return for the pay which it is proposed to give to the National Guard. I believe that its enactment into law would be a very long step toward providing this Nation with a first line of citizen soldiery, upon which its main reliance must depend in case of any national emergency. Plans for the organization of the National Guard into tactical divisions, on the same lines as those adopted for the Regular Army, are being formulated by the War College Division of the General Staff.

NATIONAL VOLUNTEERS.

The National Guard consists of only about 110,000 men. In any serious war in the past it has always been necessary, and in such a war in the future it doubtless will be necessary, for the Nation to depend, in addition to the Regular Army and the National Guard, upon a large force of volunteers. present no adequate provision of law for the raising of such a force. There is now pending in Congress, however, a bill which makes such provision, and which I believe is admirably adapted to meet the exigencies which would be presented in case of war. The passage of the bill would not entail a dollar's expense upon the Government at this time or in the future until war comes. But if war comes the methods therein directed are in accordance with the best military judgment as to what they ought to be, and the act would prevent the necessity for a discussion of any legislation and the delays incident to its consideration and adoption. I earnestly urge its passage.

CONSOLIDATION OF THE SUPPLY CORPS.

The Army appropriation act of 1912 also carried legislation for the consolidation of the Quartermaster's Department, the Subsistence Department, and the Pay Corps into a single supply department, to be known as the Quartermaster's Corps. It also provided for the organization of a special force of enlisted men, to be known as the Service Corps, gradually to replace many of the civilian employees engaged in the manual labor necessary in every army. I believe that both of these enactments will improve the administration of our military establishment. The consolidation of the supply corps has already been effected, and the organization of the Service Corps is being put into effect.

All of the foregoing reforms are in the direction of economy and efficiency. Except for the slight increase necessary to garrison our outposts in Hawaii and Panama, they do not call for a larger Army, but they do tend to produce a much more efficient one. The only substantial new appropriations required are those which, as I have pointed out, are necessary to complete the fortifications and barracks at our naval bases and outposts beyond the sea.

PORTO RICO.

Porto Rico continues to show notable progress, both commercially and in the spread of education. Its external commerce

has increased 17 per cent over the preceding year, bringing the total value up to \$92,631,886, or more than five times the value of the commerce of the island in 1901. During the year 160,657 pupils were enrolled in the public schools, as against 145,525 for the preceding year, and as compared with 26,000 for the first year of American administration. Special efforts are under way for the promotion of vocational and industrial training, the need of which is particularly pressing in the island. When the bubonic plague broke out last June, the quick and efficient response of the people of Porto Rico to the demands of modern sanitation was strikingly shown by the thorough campaign which was instituted against the plague and the hearty public opinion which supported the Government's efforts to check its progress and to prevent its recurrence.

The failure thus far to grant American citizenship continues to be the only ground of dissatisfaction. The bill conferring such citizenship has passed the House of Representatives and is now awaiting the action of the Senate. I am heartily in favor of the passage of this bill. I believe that the demand for citizenship is just, and that it is amply earned by sustained loyalty on the part of the inhabitants of the island. But it should be remembered that the demand must be, and in the minds of most Porto Ricans is, entirely disassociated from any thought of statehood. I believe that no substantial approved public opinion in the United States or in Porto Rico contemplates statehood for the island as the ultimate form of relation between us. I believe that the aim to be striven for is the fullest possible allowance of legal and fiscal self-government, with American citizenship as the bond between us; in other words, a relation analogous to the present relation between Great Britain and such self-governing colonies as Canada and Australia. This would conduce to the fullest and most selfsustaining development of Porto Rico, while at the same time it would grant her the economic and political benefits of being under the American flag.

PHILIPPINES.

A bill is pending in Congress which revolutionizes the carefully worked out scheme of government under which the Philippine Islands are now governed and which proposes to render them virtually autonomous at once and absolutely independent in eight years. Such a proposal can only be founded on the assumption that we have now discharged our trusteeship to the Filipino people and our responsibility for them to the world, and that they are now prepared for self-government as well as national sovereignty. A thorough and unbiased knowledge of the facts clearly shows that these assumptions are absolutely without justification. As to this, I believe that there is no substantial difference of opinion among any of those who have had the responsibility of facing Philippine problems in the administration of the islands, and I believe that no one to whom the future of this people is a responsible concern can countenance a policy fraught with the direct consequences to those on whose behalf it is ostensibly urged.

In the Philippine Islands we have embarked upon an experiment unprecedented in dealing with dependent peoples. We are developing there conditions exclusively for their own welfare. We found an archipelago containing 24 tribes and races, speaking a great variety of languages, and with a population over 80 per cent of which could neither read nor write. Through the unifying forces of a common education, of commercial and economic development, and of gradual participation in local self-government we are endeavoring to evolve a homogeneous people fit to determine, when the time arrives, their own destiny. We are seeking to arouse a national spirit and not, as under the older colonial theory, to suppress such a spirit. The character of the work we have been doing is keenly recognized in the Orient, and our success thus far followed with not a little envy by those who, initiating the same policy, find themselves hampered by conditions grown up in earlier days and under different theories of administration. But our work is far from done. Our duty to the Filipinos is far from discharged. Over half a million Filipino students are now in the Philippine schools helping to mold the men of the future into a homogeneous people, but there still remain more than a million Filipino children of school age yet to be reached. Freed from American control the integrating forces of a common education and a common language will cease and the educational system now well started will slip back into inefficiency and disorder.

An enormous increase in the commercial development of the islands has been made since they were virtually granted full access to our markets three years ago, with every prospect of increasing development and diversified industries. Freed from American control, such development is bound to decline. Every observer speaks of the great progress in public works for the

benefit of the Filipinos, of harbor improvements, of roads and railways, of irrigation and artesian wells, public buildings, and better means of communication. But large parts of the islands are still unreached, still even unexplored, roads and railways are needed in many parts, irrigation systems are still to be installed, and wells to be driven. Whole villages and towns are still without means of communication other than almost impassable roads and trails. Even the great progress in sanitation, which has successfully suppressed smallpox, the bubonic plague, and Asiatic cholera, has found the cause of and a cure for beriberi, has segregated the lepers, has helped to make Manila the most healthful city in the Orient, and to free life throughout the whole archipelago from its former dread diseases, is nevertheless incomplete in many essentials of permanence in sanitary policy. Even more remains to be accomplished. If freed from American control, sanitary progress is bound to be arrested and all that has been achieved likely to be lost.

Concurrent with the economic, social, and industrial develop-ment of the islands has been the development of the political capacity of the people. By their progressive participation in government the Filipinos are being steadily and hopefully trained for self-government. Under Spanish control they shared in no way in the government. Under American control they have shared largely and increasingly. Within the last dozen years they have gradually been given complete autonomy in the municipalities, the right to elect two-thirds of the provincial governing boards and the lower house of the insular legislature. They have four native members out of nine members of the commission, or upper house. The chief justice and two justices of the supreme court, about one-half of the higher judicial positions, and all of the justices of the peace are natives. In the classified civil service the proportion of Filipinos increased from 51 per cent in 1904 to 67 per cent in 1911. Thus to-day all the municipal employees, over 90 per cent of the provincial employees, and 60 per cent of the officials and employees of the central government are Filipinos. The ideal which has been kept in mind in our political guidance of the islands has been real popular self-government and not mere paper independence. I am happy to say that the Filipinos have done well enough in the places they have filled and in the discharge of the political power with which they have been intrusted to warrant the belief that they can be educated and trained to complete self-government. But the present satisfactory results are due to constant support and supervision at every step by Americans.

If the task we have undertaken is higher than that assumed by other nations, its accomplishment must demand even more patience. We must not forget that we found the Filipinos wholly untrained in government. Up to our advent all other experience sought to repress rather than encourage political power. It takes a long time and much experience to ingrain political habits of steadiness and efficiency. Popular self-government ultimately must rest upon common habits of thought and upon a reasonably developed public opinion. No such foundations for self-government, let alone independence, are now present in the Philippine Islands. Disregarding even their racial heterogeneity and the lack of ability to think as a nation, it is sufficient to point out that under liberal franchise privileges only about 3 per cent of the Filipinos vote and only 5 per cent of the people are said to read the public press. To confer independence upon the Filipinos now is, therefore, to subject the great mass of their people to the dominance of an oligarchical and, probably, exploiting minority. Such a course will be as cruel to those people as it would be shameful to us.

Our true course is to pursue steadily and courageously the path we have thus far followed; to guide the Filipinos into self-sustaining pursuits; to continue the cultivation of sound political habits through education and political practice; to encourage the diversification of industries, and to realize the advantages of their industrial education by conservatively approved cooperative methods, at once checking the dangers of concentrated wealth and building up a sturdy, independent citizenship. We should do all this with a disinterested endeavor to secure for the Filipinos economic independence and to fit them for complete self-government, with the power to decide eventually, according to their own largest good, whether such self-government shall be accompanied by independence. A present declaration even of future independence would retard progress by the dissension and disorder it would arouse. On our part it would be a disingenuous attempt, under the guise of conferring a benefit on them, to relieve ourselves from the heavy and difficult burden which thus far we have been bravely and consistently sustaining. It would be a dis-

guised policy of scuttle. It would make the helpless Filipino the football of oriental politics, under the protection of a guaranty of their independence, which we would be powerless to enforce.

REGULATION OF WATER POWER.

There are pending before Congress a large number of bills proposing to grant privileges of erecting dams for the purpose of creating water power in our navigable rivers. The pend-ency of these bills has brought out an important defect in the existing general dam act. That act does not, in my opinion, grant sufficient power to the Federal Government in dealing with the construction of such dams to exact protective conditions in the interest of navigation. It does not permit the Federal Government, as a condition of its permit, to require that a part of the value thus created shall be applied to the further general improvement and protection of the stream. T believe this to be one of the most important matters of internal improvement now confronting the Government. Most of the navigable rivers of this country are comparatively long and shallow. In order that they may be made fully useful for navigation there has come into vogue a method of improvement known as canalization, or the slack-water method, which consists in building a series of dams and locks, each of which will create a long pool of deep navigable water. At each of these dams there is usually created also water power of commercial value. If the water power thus created can be made available for the further improvement of navigation in the stream, it is manifest that the improvement will be much more quickly effected on the one hand and, on the other, that the burden on the general tax-payers of the country will be very much reduced. Private interests seeking permits to build water-power dams in navigable streams usually urge that they thus improve navigation, and that if they do not impair navigation they should be allowed to take for themselves the entire profits of the waterpower development. Whatever they may do by way of relieving the Government of the expense of improving navigation should be given due consideration, but it must be apparent that there may be a profit beyond a reasonably liberal return upon the private investment which is a potential asset of the Government in carrying out a comprehensive policy of waterway development. It is no objection to the retention and use of such an asset by the Government that a comprehensive waterway policy will include the protection and development of the other public uses of water, which can not and should not be ignored in making and executing plans for the protection and development of navigation. It is also equally clear that inasmuch as the water power thus created is or may be an incident of a general scheme of waterway improvement within the constitutional jurisdiction of the Federal Government, the regulation of such water power lies also within that jurisdiction. In my opinion, constructive statesmanship requires that legislation should be enacted which will permit the development of navigation in these great rivers to go hand in hand with the utilization of this by-product of water power, created in the course of the same improvement, and that the general dam act should be so amended as to make this possible. I deem it highly important that the Nation should adopt a consistent and harmonious treatment of these water-power projects, which will preserve for this purpose their value to the Government, whose right it is to grant the permit. Any other policy is equivalent to throwing away a most valuable national asset.

THE PANAMA CANAL,

During the past year the work of construction upon the canal has progressed most satisfactorily. About 87 per cent of the excavation work has been completed, and more than 93 per cent of the concrete for all the locks is in place. In view of the great interest which has been manifested as to some slides in the Culebra Cut, I am glad to say that the report of Col. Goethals should allay any apprehension on this point. It is gratifying to note that none of the slides which occurred during this year would have interfered with the passage of the ships had the canal, in fact, been in operation, and when the slope pressures will have been finally adjusted and the growth of vegetation will minimize erosion in the banks of the cut, the slide problem will be practically solved and an ample stability assured for the Culebra Cut.

Although the official date of the opening has been set for January 1, 1915, the canal will, in fact, from present indications, be opened for shipping during the latter half of 1913. No fixed date can as yet be set, but shipping interests will be advised as soon as assurances can be given that vessels can pass through

without unnecessary delay.

Recognizing the administrative problem in the management of the canal, Congress in the act of August 24, 1912, has made

admirable provisions for executive responsibility in the control of the canal and the government of the Canal Zone. The problem of most efficient organization is receiving careful consideration, so that a scheme of organization and control best adapted to the conditions of the canal may be formulated and put in to the conditions of the canal may be formulated and put in operation as expeditiously as possible. Acting under the authority conferred on me by Congress, I have, by Executive proclamation, promulgated the following schedule of tolls for ships passing through the canal, based upon the thorough report of Emory R. Johnson, special commissioner on traffic and tolls:

1. On merchant vessels carrying passengers or cargo, \$1.20 per net vessel ton—each 100 cubic feet—of actual carning capacity.

2. On vessels in ballast without passengers or cargo, 40 per cent less than the rate of tolls for vessels with passengers or cargo, 3. Upon naval vessels, other than transports, colliers, hospital ships, and supply ships, 50 cents per displacement ton.

4. Upon Army and Navy transports, colliers, hospital ships, and supply ships, \$1.20 per net ton, the vessels to be measured by the same rules as are employed in determining the net tonnage of merchant vessels.

Rules for the determination of the tonnage upon which toll charges are based are now in course of preparation and will be promulgated in due season.

PANAMA CANAL TREATY.

The proclamation which I have issued in respect to the Panama Canal tolls is in accord with the Panama Canal act passed by this Congress August 24, 1912. We have been advised that the British Government has prepared a protest against the act and its enforcement in so far as it relieves from the payment of tolls American ships engaged in the American coastwise trade on the ground that it violates British rights under the Hay-Pauncefote treaty concerning the Panama Canal. When the protest is presented, it will be promptly considered and an effort made to reach a satisfactory adjustment of any differences there may be between the two Governments.

WORKMEN'S COMPENSATION ACT.

The promulgation of an efficient workmen's compensation act, adapted to the particular conditions of the zone, is awaiting adequate appropriation by Congress for the payment of claims arising thereunder. I urge that speedy provision be made in order that we may install upon the zone a system of settling claims for injuries in best accord with modern humane, social, and industrial theories.

PROMOTION FOR COL. GOETHALS.

As the completion of the canal grows nearer, and as the wonderful executive work of Col. Goethals becomes more conspicuous in the eyes of the country and of the world, it seems to me wise and proper to make provision by law for such reward to him as may be commensurate with the service that he has rendered to his country. I suggest that this reward take the form of an appointment of Col. Goethals as a major general in the Army of the United States, and that the law authorizing such appointment be accompanied with a provision permitting his designation as Chief of Engineers upon the retirement of the present incumbent of that office.

NAVY DEPARTMENT.

The Navy of the United States is in a greater state of efficiency and is more powerful than it has ever been before, but in the emulation which exists between different countries in respect to the increase of naval and military armaments this condition is not a permanent one. In view of the many improvements and increases by foreign Governments the slightest halt on our part in respect to new construction throws us back and reduces us from a naval power of the first rank and places us among the nations of the second rank. In the past 15 years the Navy has expanded rapidly and yet far less rapidly than our country. From now on reduced expenditures in the Navy means reduced military strength. The world's history has shown the importance of sea power both for adequate defense and for the support of important and definite policies.

I had the pleasure of attending this autumn a mobilization of

the Atlantic Fleet, and was glad to observe and note the preparedness of the fleet for instant action. The review brought before the President and the Secretary of the Navy a greater and more powerful collection of vessels than had ever been gathered in American waters. The condition of the fleet and of the offi-cers and enlisted men and of the equipment of the vessels entitled those in authority to the greatest credit.

I again commend to Congress the giving of legislative sanction to the appointment of the naval aids to the Secretary of the Navy. These aids and the council of aids appointed by the Secretary of the Navy to assist him in the conduct of his department have proven to be of the highest utility. They have furnished an executive committee of the most skilled naval

experts, who have coordinated the action of the various bureaus in the Navy, and by their advice have enabled the Secretary to give an administration at the same time economical and most efficient. Never before has the United States had a Navy that compared in efficiency with its present one, but never before have the requirements with respect to naval warfare been higher and more exacting than now. A year ago Congress refused to appropriate for more than one battleship. In this I think a great mistake of policy was made, and I urgently recommend that this Congress make up for the mistake of the last session by appropriations authorizing the construction of three battleships, in addition to destroyers, fuel ships, and the other auxiliary vessels as shown in the building program of the general board. We are confronted by a condition in respect to the navies of the world which requires us, if we would maintain our Navy as an insurance of peace, to augment our naval force by at least two battleships a year and by battle cruisers, gunboats, torpedo destroyers, and submarine boats in a proper proportion. We have no desire for war. We would go as far as any nation in the world to avoid war, but we are Our population, our wealth, our definite polia world power. cies, our responsibilities in the Pacific and the Atlantic, our defense of the Panama Canal, together with our enormous world trade and our missionary outposts on the frontiers of civilization, require us to recognize our position as one of the foremost in the family of nations, and to clothe ourselves with sufficient naval power to give force to our reasonable demands, and to give weight to our influence in those directions of progress that a powerful Christian nation should advocate.

I observe that the Secretary of the Navy devotes some space to a change in the disciplinary system in vogue in that branch of the service. I think there is nothing quite so unsatisfactory to either the Army or the Navy as the severe puhishments necessarily inflicted by court-martial for desertions and purely military offenses, and I am glad to hear that the British have solved this important and difficult matter in a satisfactory way. I commend to the consideration of Congress the details of the new disciplinary system, and recommend that laws be passed putting the same into force both in the Army and the Navy.

I invite the attention of Congress to that part of the report of the Secretary of the Navy in which he recommends the formation of a naval reserve by the organization of the ex-sailors of the Navy.

I repeat my recommendation made last year that proper provision should be made for the rank of the commander in chief of the squadrons and fleets of the Navy. The inconvenience attending the necessary precedence that most foreign admirals have over our own whenever they meet in official functions ought to be avoided. It impairs the prestige of our Navy and is a defect that can be very easily removed.

DEPARTMENT OF JUSTICE.

This department has been very active in the enforcement of the law. It has been better organized and with a larger force than ever before in the history of the Government. The prosecutions which have been successfully concluded and which are now pending testify to the effectiveness of the departmental

The prosecution of trusts under the Sherman antitrust law has gone on without restraint or diminution, and decrees similar to those entered in the Standard Oil and the Tobacco cases have been entered in other suits, like the suits against the Powder Trust and the Bathtub Trust. I am very strongly convinced that a steady, consistent course in this regard, with a continuing of Supreme Court decisions upon new phases of the trust question not already finally decided is going to offer a solution of this much-discussed and troublesome issue in a quiet, calm, and judicial way, without any radical legislation changing the governmental policy in regard to combinations now denounced by the Sherman antitrust law. I have already recommended as an aid in this matter legislation which would declare unlawful certain well-known phases of unfair competition in interstate trade, and I have also advocated voluntary national incorporation for the larger industrial enterprises, with provision for a closer supervision by the Bureau of Corporations, or a board appointed for the purpose, so as to make more certain compliance with the antitrust law on the one hand and to give greater security to the stockholders against possible prosecutions on the other. I believe, however, that the orderly course of litigation in the courts and the regular prosecution of trusts charged with the violation of the antitrust law is producing among business men a clearer and clearer perception of the line of distinction between business that is to be encouraged and business that is to be condemned, and

that in this quiet way the question of trusts can be settled and competition retained as an economic force to secure reasonableness in prices and freedom and independence in trade.

REFORM OF COURT PROCEDURE.

I am glad to bring to the attention of Congress the fact that the Supreme Court has radically altered the equity rules governing the procedure on the equity side of all Federal courts, and though, as these changes have not been yet put in practice so as to enable us to state from actual results what the reform will accomplish, they are of such a character that we can reasonably prophesy that they will greatly reduce the time and cost of litigation in such courts. The court has adopted many of the shorter methods of the present English procedure, and while it may take a little while for the profession to accustom itself to these methods, it is certain greatly to facilitate litigation. The action of the Supreme Court has been so drastic and so full of appreciation of the necessity for a great reform in court procedure that I have no hesitation in following up this action with a recommendation which I foreshadowed in my message of three years ago, that the sections of the statute governing the procedure in the Federal courts on the commonlaw side should be so amended as to give to the Supreme Court the same right to make rules of procedure in common law as they have, since the beginning of the court, exercised in equity. I do not doubt that a full consideration of the subject enable the court while giving effect to the substantial differences in right and remedy between the system of common law and the system of equity so to unite the two procedures into the form of one civil action and to shorten the procedure in such civil action as to furnish a model to all the State courts exercising concurrent jurisdiction with the Federal courts of first instance.

Under the statute now in force the common-law procedure in each Federal court is made to conform to the procedure in the State in which the court is held. In these days, when we should be making progress in court procedure, such a conformity statute makes the Federal method too dependent upon the action of State legislatures. I can but think it a great opportunity for Congress to intrust to the highest tribunal in this country, evidently imbued with a strong spirit in favor of a reform of procedure, the power to frame a model code of procedure, which, while preserving all that is valuable and necessary of the rights and remedies at common law and in equity, shall lessen the burden of the poor litigant to a minimum in the expedition and cheapness with which his cause can be fought or defended through Federal courts to final judgment.

WORKMAN'S COMPENSATION ACT.

The workman's compensation act reported by the special commission appointed by Congress and the Executive, which passed the Senate and is now pending in the House, the passage of which I have in previous messages urged upon Congress, venture again to call to its attention. The opposition to it which developed in the Senate, but which was overcome by a majority in that body, seemed to me to grow out rather of a misapprehension of its effect than of opposition to its principle. I say again that I think no act can have a better effect directly upon the relations between the employer and employee than this act applying to railroads and common carriers of an interstate character, and I am sure that the passage of the act would greatly relieve the courts of the heaviest burden of litigation that they have, and would enable them to dispatch other business with a speed never before attained in courts of justice in this country.

WM. H. TAFT.

THE WHITE HOUSE, December 6, 1912.

Mr. TOWNSEND. I ask that the omnibus claims bill go over until to-morrow.

The PRESIDENT pro tempore. It will go over necessarily and be then called up as it was to-day.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. Bacon) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives

appeared in the seats provided for them.

Mr. SMOOT. I suggest the absence of a quorum, Mr. Presi-

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum, and the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Davis Dixon du Pont Fletcher Gallinger Smith, Ariz. Smith, Ga. Smith, Md. Smith, S. C. Smoot Stephenson Ashurst Bacon Bailey Bankhead Myers Nelson Oliver Overman Borah)wen Brandegee Bristow Gardner Page Johnson, Me. Johnston, Ala. Penrose Perkins Perky Pomerene Sutherland Brown Johnston, Ala. Kenyon La Follette Lodge McLean Martine, N. J. Massey anson Bryan Burnham Tillman Townsend Wetmore Clapp Clark, Wyo. Clarke, Ark. Richardson Shively Simmons Works Culberson

Mr. CULBERSON. I will state for the day that the Senator from Oregon [Mr. Chamberlain] is necessarily absent on business of the Senate.

Mr. PAGE. I desire to announce that the continued illness of my colleague [Mr. Dillingham] prevents his attendance on the Senate.

Mr. TOWNSEND. I wish to state that the senior Senator from Washington [Mr. Jones] is unavoidably absent on business of the Senate

Mr. JOHNSON of Maine. I wish to announce that the junior Senator from New York [Mr. O'GORMAN] is absent on important business of the Senate. I make that announcement for the

Mr. MARTINE of New Jersey. I am requested to announce that my colleague, the senior Senator from New Jersey [Mr. Briggs], is detained by serious illness.

Mr. KENYON. I desire to announce that my colleague [Mr. CUMMINS] was called out of the city by serious illness in his family.

The PRESIDENT pro tempore. On the call of the roll of the Senate 55 Senators have answered to their names. A quorum The Sergeant at Arms will make procof the Senate is present. lamation of the sitting of the Court of Impeachment.

The Assistant Sergeant at Arms (Mr. Cornelius) made the usual proclamation.

The PRESIDENT pro tempore. Senators present who have not heretofore been sworn will present themselves at the desk.

Mr. Owen advanced to the Vice President's desk, and the

oath was administered to him by the President pro tempore. The PRESIDENT pro tempore. The journal of the last sitting of the court will be read.

The Journal of yesterday's proceedings of the Senate sitting

as a Court of Impeachment was read. The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will be confirmed. The managers will

TESTIMONY OF WILLIAM A. MAY-CONTINUED. Q. (By Mr. Manager STERLING.) Mr. May, you stated yesterday that Robertson & Law had operated the Katydid col-

-A. Yes, sir. Q. And they paid to the Hillside Coal & Iron Co. a royalty

on the coal that came from that colliery.—A. They did. Q. And the Katydid culm dump was created by refuse coming

from the Katydid colliery.-A. It was, Q. You had written arrangements with Robertson & Law as to the royalty which your company was to get from them on your coal.—A. Yes, sir.

Q. Was there any other person or corporation interested in

the coal that came from the Katydid colliery?-A. The Hillside only had an undivided half-

Q. That is not my question. Was there any other person besides the Hillside Coal & Iron Co. who had any interest in the coal coming from that colliery and who received a royalty from Robertson & Law?-A. Yes, sir.

Q. Who was it?-A. But they received the royalty through the

Q. That is, you paid it to them?—A. Yes, sir; we paid it to

Q. Who was that party?-A. The E. & G. Brooks Land Co., the James Everhart estate, and the heirs of John T. Everhart.

Q. And out of the 371 cents per ton which the Hillside Coal & Iron Co. got from Robertson & Law you paid these three

other parties?—A. We did.
Q. And you had been doing that for years?—A. Yes, sir.
Q. You knew before Judge Archbald or Mr. Williams approached you with reference to the purchase of this culm dump that these parties claimed and had some interest in that col-liery?—A. They had an interest in the coal prepared at the colliery.

Q. Does the Hillside Coal & Iron Co. make its claim or did it make its claim to an interest in the Katydid culm dump by reason of the fact that it owns an interest in the Katydid

reason of the fact that it owns an interest in the Katydia colliery?—A. They did not.

Q. On what did they base their claim to an interest in the Katydid culm dump?—A. The interest that they had in the culm dump was a royalty interest. That is, they would get the royalty from the coal that was shipped; that is, won from the culm bank.

Q. Why were they entitled to any royalty on the coal that was shipped from the culm dump?—A. Because it was understood by the Hillside that Robertson & Law had the ownership of the culm bank subject to the royalty to be paid the

Q. So your title to the culm dump was based on the fact that you had title to a part of the coal in the colliery, was it -A. No, sir.

Q. The fact that this culm dump came from the colliery was what gave you or the Hillside Co. the title to a part of the dump?-A. No, sir. Our title rested on the agreement made with them. It was not necessarily on the undivided interest that we had or that Hillside had in the property. It rested upon the agreement between Hillside and Robertson and Law.

Q. Did you buy from Robertson & Law an interest in the culm dump?-A. We did not.

Q. You simply owned it because you had an interest in that mine. Is not that true?-A. We owned it because we had an

interest in the royalty to accrue from the coal. Q. And these other persons whom you have named, with whom you shared the royalty that you got, based their claim to royalty on the very same ground?—A. They based their claim to royalty-that is, whatever royalty they were to get out of coal from the culm-on the arrangement they had with us.

Q. What arrangements did they have with you?-A. The arrangement was we were to pay them 20 cents a ton for their proportion of the coal won from this particular tract.

Q. And that was due to the fact that they owned some of the land on which the coal was situated?—A. That is correct.

Q. You and the Hillside Coal & Iron Co. were entirely familiar for years with the fact that these three parties claimed an interest in the colliery and in the culm dump?—A. They claimed an interest in the colliery. I did not know they claimed an interest in the culm bank.

Q. Would not their interest in the culm bank follow, just as the interest of the Hillside Coal & Iron Co. in the culm bank followed, having an interest in the mine?—A. Only to the ex-

tent of the royalty they would receive from us.

Q. Certainly; and that is all they got?—A. That is all they got.

Q. That is all they claimed?-A. I do not know about that. Q. They never made any claim on you for any other, did they?—A. They served notice on me that they had a right to that culm bank.

Q. When was that?-A. That was the letters-I do not know that they are in evidence before you, but they were in evidence before the committee.

Q. You knew that; you knew that they were just as much entitled to their proportionate share in the culm bank as the Hillside Coal & Iron Co., did you not, because they owned a part of the mine, a part of the land on which the coal was situated?-A. They were entitled to their proportionate share of the royalty as fixed in the agreement. They did not own the culm bank.

Mr. Manager STERLING. I ask that this be marked as an exhibit.

The paper referred to was marked "Exhibit 17."

Q. (By Mr. Manager STERLING.) Exhibit No. 17 is a letter by you to Robertson & Law in which you state the royalty that you believe you are entitled to?-A. This is a copy of a letter that I sent to them dated March 11, 1901. It is not the original letter.

Q. And that is what constitutes the contract as to the amount of royalty your company was to receive?—A. That is correct.

Q. And it had been in force from that time until Robertson & Law ceased to operate?—A. It is in force up to the present time. It is in force now.

Q. There was a time when your company even disputed title

in Robertson and Law to any part of this colliery?-A. To the colliery?

Q. To the culm dump?-A. There was a question, I can not say that it was as much as a dispute, but a question arose as to their ownership, because of an apparent abandonment, or a seeming abandonment, rather.

Q. Well, you protested against them having any rights there, did you not?—A. No, sir; I do not believe I did.

Q. I ask you if on June 23, 1911, John W. Robertson wrote this letter to you, marked "Exhibit 18," in which he says:

There are at present responsible parties negotiating with me for the purchase of the culm, and I feel that I am not only legally the owner but also morally am entitled to it, for it has certainly cost me considerable money to mine and pile it.

I hope you will give this your careful consideration and that your company will recognize my rights in the culm. Before selling to others I would prefer to sell to your company. Should your company desire to purchase. I shall be pleased to hear from you promptly. If, as I understand it, your company claim that I no longer own the culm, subject only to royalty, will you kindly advise me when my ownership ceased?

That is a letter you got from Robertson, is it not?-A. That is correct.

Q. And at that time you had notified Robertson that your company was claiming title to the culm?—A. No, sir.

Q. Why did Robertson-A. (Interrupting.) There was a

question as to their title. I never questioned it.

Q. Why did John W. Robertson write you that letter in that way?-A. Because there were questions as to whether they had abandoned the property or not.

Q. Who did question it, if you did not?—A. Among various officials connected with the organization.

Q. With your organization?—A. Our organization.
Q. Then there did come from the Hillside Coal & Iron Co., either through you or some other official, a claim that Robertson & Law had not any interest in the culm bank?—A. There was a doubt as to their ownership.

Q. And that was about the time you were having your nego-

tiations with Judge Archbald and Mr. Williams—A. No—Q. Regarding the sale of it?—A. Yes. I beg your pardon; yes; that is right.

Mr. Manager STERLING. What is the date of the letter from which I just read?

June 23, 1911. Mr. WORTHINGTON.

Mr. Manager STERLING. That is what I thought.

The Witness. Yes, sir; June 23, 1911. Mr. Manager STERLING. I offer Exhibits Nos. 17 and 18 in evidence. Does Mr. Worthington care to see them?

Mr. WORTHINGTON. I take it that they are in evidence; they have been read. I have no objection to them.

Mr. Manager STERLING. I read only an extract from one of them. I did that to identify the letter. It is really the only material part of the letter.

Mr. WORTHINGTON. We have no objection. The PRESIDENT pro tempore. The papers will be read. The Secretary read as follows:

[U. S. S. Exhibit 17.]

(Pennsylvania Coal Co., Hillside Coal & Iron Co.)

OFFICE OF GENERAL SUPERINTENDENT,

Scranton, Pa., March II, 1901.

Messrs. Robertson & Law, Moosic, Pa.

Gentlemen: As I understand, the arrangement entered into with you was that you were to be paid on the 60 per cent basis from November 1, 1900, until further notice. The royality on coal mined from the lands of this company from that date will be 37½ cents per ton for sizes above pea coal, 18 cents per ton for pea coal, 9 cents per ton for buckwheat coal No. 1, and 6 cents per ton for smaller sizes, a ton in each case to constitute 2,240 pounds.

Upon the receipt of a reply from you that the above is your understanding I shall at once request that vouchers be made in your favor for the balance due you since November 1, 1900.

Yours, very truly,

W. A. May, Superintendant

[U. S. S. Exhibit 18.]

SCRANTON, PA., June 23, 1911.

Mr. W. A. MAY, General Manager, Hillside Coal & Iron Co., Dunmore, Pa.

Mr. W. A. May,

General Manager, Hillside Coal & Iron Co., Dunmore, Pa.

Dear Sir: Relative to the culm mined through the Katydid Colliery and now in bank at Moosic, beg to say you will remember at the time Mr. Law and myself built the breaker and commenced mining we were only mining a small amount of coal, which at the time it was supposed the company would never be able to mine. Under our agreement we sold all the coal as well as the culm produced at our breaker and washery to your company.

We went on in good faith and operated the breaker and washery, mining the coal and washing the culm from the bank continuously until the Delaware & Hudson Co. broke through the barrier pillar, which occurred a few months before the breaker and washery were totally destroyed by fire. The effect of the breaking through of the barrier pillar was to immediately diminish our water supply, and to such an extent that in extremely dry weather we were obliged to shut down our breaker and washery. This, however, occurred only in times of drought, so that continuously until the breaker and washers burned, with the exception noted, we were selling to the company the culm, and the company never questioned our right to it.

The breaker and washery were destroyed by fire in 1908. This fire was caused by a fire in the culm bank belonging to your company, which was dumped long after our breaker and washery were located and erected. At the time the breaker was destroyed there was very little coal left, and the operations of your company had by this time extended so that your company could advantageously mine the balance of the coal, and for that reason the breaker was never rebuilt.

Shortly after the fire we endeavored to sell the culm to the Dupont Powder Co. We took the matter up with you at that time, and there was no question raised as to our ownling an interest in the bank. You will remember at that time at my request your engineers went

to the culm bank and measured it in order that the company might arrive at the value of its interest in the same. The report of the engineers was, I think, about 80,000 tons. Before anything definite had been done, however, the Dupont Powder Co. decided not to take the culm, and the negotiations ceased.

Since then I have been trying to dispose of the culm pile, and have talked frequently with you about the same. No question has ever been raised as to my interest in it. I have never in any way intimated to anyone that I had abandoned my title to it, but have always, on the contrary, asserted whenever possible my rights in it. I have had a number of offers from time to time for my interest in the culm, but these offers came from persons who I knew would be antagonisite to your company, and for that reason have declined to dispose of it to such persons. There are at present responsible parties negotiating with me for the purchase of the culm, and I feel that I am not only legally the owner, but also morally am entitled to it, for it has certainly cost me considerable money to mine and pile it.

I hope you will give this your careful consideration, and that your company will recognize my rights in the culm. Before selling to others I would prefer to sell to your company. Should your company desire to purchase I shall be pleased to hear from you promptly. If, as I understand it, your company claim that I no longer own the culm, subject only to royalty, will you kindiy advise me when my ownership ceased?

Yours, truly,

JNO. M. ROBERTSON.

Q. (By Mr. Manager STERLING.) Mr. May, how many

Q. (By Mr. Manager STERLING.) Mr. May, how many culm banks does the Hillside Coal & Iron Co. own?—A. Between 8 and 10 banks.

Q. Have you ever owned any more than that?-A. No, sir. The Hillside has never owned any more than that.
Q. How many fills do you own?—A. We own no fills.

Q. You have never sold any culm banks?—A. Yes; we have. Q. When?—A. We did not sell an entire bank. We sold our interest in what is known as the Florence bank.

Q. When was that?—A. In 1910.

Q. Have you never sold any others than that?—A. The Hill-

side has never sold any others.

Q. Why did you sell the one you just mentioned?-A. There was some question. If I may be allowed to make an extended statement, we owned lot 39. The Everhart heirs owned lots 38 and 40. The coal was leased to the Florence Coal Co. The Florence Coal Co. was subsequently bought out by the Hill-A question then arose as to some minimum royalties which had not been paid, and rather than to have litigation about it Hillside surrendered whatever right it had to lots 38 and 40, retaining only its right in the culm coming from lot 39 in the bank. Believing that we would have difficulty in cleaning it up we disposed of our interest in that bank.

Q. It was under those peculiar circumstances, then, that you

sold that one particular dump?—A. Yes, sir.
Q. Had you ever priced the Katydid culm dump prior to the time you priced it to Archbald and Williams?—A. Tentatively; Mr. Robertson came to me, and whether I named \$2,000 or whether he asked whether we would take \$2,000, I do not remember.

Q. Is it not a fact that he came to you and asked you if you

would take \$2,000, and you refused?—A. I refused?
Q. You refused to take \$2,000 for it?—A. I do not remember that.

Mr. Manager STERLING. Let me refresh your recollection.

Mr. WORTHINGTON. On what page? Mr. Manager STERLING. On page 776 of the testimony before the committee, by Mr. RUCKER:

Mr. RUCKER. While it is true that you had given some consideration to the sale of this culm pile before your trip to New York, at the time you conferred with your superior officer, Mr. Richardson, you had never fixed a price on it until after that, had you?

Mr. Max. No; I had not.

A. I think that refers to the price to Mr. Williams, if I am not very much mistaken. I thought you referred to the price of the Florence bank.

Q. (By Mr. Manager STERLING.) No; I am talking about the Katydid culm bank. You had never fixed a price on it to anybody prior to the time you priced it to Judge Archbald and Mr. Williams at \$4,500, had you?—A. I had not fixed a price to Mr. Williams until after my visit in New York.

Q. Had you at any time fixed a price to any other person on your interest in this culm bank prior to the time you fixed a price to Williams and Archbald?-A. Mr. Robertson came to

Q. You can answer that "yes" or "no."-A. No; I can not; because it will not be a straight answer.

Q. Is the testimony which you gave before the committee and which I read correct or not?—A. That testimony is correct as referring to the transaction between Williams and the Hill-

York to Mr. Williams. That is what I intended to say.

Q. Was there a price fixed by you or your company to any other person on the Katydid prior to that time; and if so, to whom was it fixed. A Only as Mr. Robertson come to make the fixed. whom was it fixed?—A. Only as Mr. Robertson came to me wanting to sell to the Du Pont Powder Co., and I think he named the price, \$2,000, and wanted to know whether I would take it, and I said I would recommend it. But as far as the price to Mr. Williams is concerned, there was no price fixed until after my visit to New York.

Q. Yes; I understand that. You did not accept Robertson's offer of \$2,000 for your interest in the culm bank?-A. It did

not go that far. It did not reach that stage.

You never reached the stage where you accepted his offer?-A. It never was consummated, because the Du Ponts did not take the bank.

Q. Do you know how much Robertson was to get from the Du Pont Co. for his interest?—A. I think it was \$10,000.

Q. For the entire culm dump?-A. The entire culm bank. Q. For which Williams and Archbald some time after that

were to pay only \$8,000?-A. That is correct.

Q. How long before your negotiations with Williams and Judge Archbald was it that this proposition came from Robertson with reference to selling it to the Du Pont Powder Co?-A. I think that was in 1909.

Q. Two years?-A. Yes, sir.

Q. Is it not true, Mr. May, that the value of culm dumps has gone up very rapidly in the last four or five years?—A. The

price has gone up, generally speaking.

Q. And that is due to the fact that the price of anthracite coal has gone up, and also to the fact that machinery has been developed by which coal can be separated from the dirt in the

culm banks?—A. Yes, sir.
Q. As I understand it, you went to New York on the 25th of August, 1911?—A. I was in New York on the 25th day of August. I think I went there the day before, I was in New York on the 25th of August.

Q. You saw Mr. Richardson on the 25th?-A. Yes, sir.

Q. And returned to Scranton on the 26th?-A. On the 26th. Q. And the 29th, as I remember it, was the date when you sent word by Judge Archbald to Williams that you would let them have the dump?-A. That is correct.

Mr. President, I wish to ask a question. Mr. BORAH. The PRESIDENT pro tempore. The Senator from Idaho

asks that the following question be propounded to the witness. The Secretary read as follows:

The Du Pont Powder Co. refused to take the Katydid at \$10,000. Was it because the price was too high?

The WITNESS. I do not know.

Q. (By Mr. Manager STERLING.) Mr. May, is it not true that the Du Pont Powder Co. was willing to pay \$10,000 for the culm and your company and Mr. Robertson refused to take it?—A. No, sir.
Q. Is not that the fact?—A. No, sir.

And is not that why it fell through?-A. No, sir.

Q. You returned on the 26th, you say, and on the 29th you

saw Judge Archbald?-A. Yes, sir.

Q. What, if anything, had you done between those two dates toward investigating the title to the Katydid culm damp or toward removing any cloud or correcting the title?-A. I had done nothing.

Q. Nothing at all?-A. No, sir.

Was there any further reason why that negotiation with the Du Pont Powder Co. failed? The Du Pont Powder Co. afterwards decided to get their power from other sources and concluded they did not want the coal?—A. I do not know that. Q. You do not know about that?—A. No.

Q. Did you not testify before the committee, Mr. May, that the reason that negotiation fell through was the fact that the Du Pont Powder Co. decided not to buy this coal, but decided to put up a plant elsewhere and get their power in another way? Did you not swear that before the Judiciary Committee?—A. I do not recall that I did.

Q. Do you know that is one of the reasons why it fell through?—A. No; I do not.

Mr. WORTHINGTON. The Du Pont Powder Co. state that.

Mr. Manager STERLING. And we admit it is one of the reasons. We are not saying it is the only reason. We do not want to be bound by that as the only reason.

Mr. WORTHINGTON. I do not admit that there is any other

reason.

- Q. (By Mr. Manager STERLING.) Mr. May, after you had returned the contract to Bradley at the time you saw him in the Laurel Station did you send any telegrams to Mr. Richardson about the matter or write him any letters?-A. No, sir; I did not.
- Q. It was on the 13th of April, as I remember it, when you returned the contract?-A. The 12th of April.

Q. Was it not the 13th?—A. The 12th, as I recall it.

Q. What was the date when the newspapers published the fact that this investigation had been made or was being made by the Department of Justice?—A. On the 21st.

- Q. It appeared in the Scranton papers on that date, did it?-A. I do not remember whether it appeared in the Scranton papers on that date. It appeared in the North American on that date.
- Q. Do you remember when it did appear in the Scranton papers?—A. No; I do not.
 Q. The North American is published at what place?—A.

At Philadelphia.

Q. It circulates at Scranton?—A. Yes, sir.

Q. And immediately on the receipt of those papers, the Scranton papers and the North American, you clipped the articles out referring to the matter and sent them to Mr. Richardson, did-you not?—A. I did.

Q. Why did you send those articles to Mr. Richardson?—A. Because the papers said that they had an interview with me, and it referred to the company business, and I wanted him to

know it.

Q. Then did he wire you to come to New York at once?—A. I dink he did. I do not remember the date of the telegram, but think he did. I think he did.

- Q. You went immediately, did you not?—A. I did. Q. Was it Richardson or Underwood who wired you?—A. Mr. Richardson wired first, I think, and then Mr. Underwood subsequently.
 Q. Mr. Underwood was president of the company?—A. He
- Q. The president of the Hillside Co.?-A. The president of the Hillside.

Q. And also the Erie?-A. Yes, sir.

Q. And you got this telegram-Mr. WORTHINGTON. The page, please.

Mr. Manager STERLING. On page 879.

APRIL 26, 1912.

Capt. W. A. MAY:

pt. W. A. MAY:
Please call on me at your earliest convenience.
F. D. Underwood.

A. That is correct.

- Q. (By Mr. Manager STERLING.) You got that on the 26th?—A. I did.
- Q. And you replied on the same date:

F. D. UNDERWOOD, New York:

Your message. Will be at your office to-morrow morning.
W. A. Max.

A. That is correct.

Q. And you went?-A. Yes.

- Q. And you discussed with Mr. Underwood this whole situation, the entire transaction that was being negotiated between Judge Archbald and Williams on the one hand and yourself on the other, did you not?-A. I made a statement to him of the matter brought out by the newspaper article. I want to correct what I said about Mr. Richardson telegraphing me. think that is incorrect. I think Mr. Underwood was the one who sent the message.
- Q. Mr. May, we have not got the originals of those telegrams, but we have a copy of them, as you read them in your evidence before the committee. As I remember it, you asked the privilege of keeping them in your file. Have you them here now?—A. I beg your pardon, I left my file with the chairman of the committee. My file is in his possession.

 Mr. WORTHINGTON. We have no objection to reading

those from the record without producing the originals.

Mr. Manager STERLING. If there is no objection, then we will let those stand. We have not been able to find the original and we offer that part of the record, the two telegrams I have just read, as a part of the evidence.

Mr. WORTHINGTON. Just the telegrams?

- Mr. Manager STERLING. The two telegrams. [To the witness.] Did you send some of the clippings to Underwood, too?
- A. No, sir; I did not. Q. Where is Mr. Underwood's office?—A. At 50 Church Street, New York.
- Q. Where is it with reference to Brownell's office and Richardson's office?-A. On the same floor.

Mr. Manager STERLING. That is all.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Mr. May, with reference to this Katydid dump transaction, did you have Williams come to you with more than one letter from Judge Archbald, or was the letter of March 31 the only one from Judge Archbald that Williams brought to you?—A. That was the only one.

Q. (Presenting a letter.) Is this that letter of March 31,

1911?—A. (After examining the letter.) That is the letter.
Q. There are various memoranda on that letter that you referred to in your examination. I wish you would take each one of them up in its order and state what it means and give the history of the transaction so far as is indicated on that paper.—A. Upon the receipt of the letter I wrote upon it—it must have been shortly after because I say—"have asked Beyea to have an estimate made of the quantity of the material in the bank.'

Q. Beyea was your engineer or your subordinate?—A. He was the land agent.

Q. The land agent?-A. In whose charge, or rather under whose supervision, the measurements of banks had been made. Q. I understand it to be claimed here that when you got that

letter of March 31 you simply refused to do anything and told Mr. Williams you would not sell it?-A. That is incorrect.

Q. It is incorrect?-A. It is incorrect.

Q. On the contrary, you say you referred it to your land agent for investigation as to quantities and values.—A. I referred it to the land agent to have the cubical contents ascertained.

Q. Very well.—A. The other is a memorandum made by my

chief clerk to the general coal inspector.
Q. Read that, please.—A. (Reading:) "Please note Mr. May wants you to make your usual report on this. Please confer with Mr. Beyea as to time estimate is to be made."

Then, apparently, a conference was held and it was decided to go on the ground Monday, April 3, 1911.

Q. Who was to go on the ground, and on what ground?— A. On lot 46, where the culm bank is, in order to get the cubical contents and to get the sizes of the coal to be found therein, and Mr. Merriman and Mr. Johnson went on the ground.

Q. Who are they?-A. Mr. Merriman was the surveyor for the land department and Mr. Johnson is the general coal inspector.

Q. Of the Hillside Coal & Iron Co.?-A. Of the Hillside Coal & Iron Co.

Q. So, instead of refusing to pay any attention to this request and refusing to sell, you directed an investigation to be made to

see what your interest was worth?—A. I did.
Q. Had you had that inquiry made before?—A. From whom? Q. I mean, had you had this investigation made at any time before that?—A. There was an investigation made at the time the Du Ponts were talking about buying, but I had entirely forgotten that. I think the investigation was made at Mr. Robertson's suggestion by one of our engineers who did Mr.

Robertson's work.

Q. Very well. Now, Capt. May, am I to infer from what you did that at that time you contemplated you might recommend the sale of the interest of your company in this Katydid dump when you had this inquiry made to see what was there?—A. When an inquiry is made we do not usually turn it down. investigate, and that occurs quite often. I presume in this instance I followed that procedure. There was not a price; there was nothing fixed at that time. It was simply preliminary.

Q. The inquiry in that letter is as to whether you would sell;

and if so, at what price, is it not?—A. Yes, sir.

Q. Up to the time you had that conversation with Mr. Richardson, in June following, what was your state of mind or willingness to recommend the sale of your interest in this Katydid dump?-A. It was conflicting

Q You had not determined that you would recommend it or

that you would not?—A. No, sir.
Q. What can you tell us, if anything, about any concealment of the fact that Judge Archbald was connected with this Katydid transaction as far as your part of it was concerned?-A. I never thought of it.

Q. What was done with that letter which came from him dated March 31 and on which there was this indorsement?—

A. It took the usual course of business.

- Q. Where would that take It-into whose hands?-A. The chief clerk opens the mail. He places the mail upon my desk, and I look at it and decide what to do with it. Then the succeeding morning all the correspondence of the past day is put again upon my desk and I check it off.
- Q. Where did this particular letter go, can you tell us, after you had determined that you would have an investigation made?—A. It was filed in the office file.
- Q. With the first memorandum on it, a direction to your chief clerk?—A. No; the first memorandum is—the way it reads I must have spoken to Mr. Beyea himself.
- Q. Did he see the letter and know Judge Archbald had written it?-A. I do not know. I do not remember.
- Q. Was there any attempt to conceal from everybody in your office that that letter was there and that Judge Archbald had written it?-A. There was no attempt to conceal it.

Q. Did Judge Archbald or anybody else ever suggest to you that his connection with the matter was to be covered up?-A. He never suggested anything of the kind.

Q. Did anybody?—A. No, sir. Q. When you finally did determine to recommend the sale of the interest of your company for \$4,500, who fixed that figure. Whose judgment decided that?—A. My judgment decided that. Q. And you are an official of the Hillside Coal & Iron Co.?-

A. Yes, sir.

Q. You are not connected with the main company which owns the Hillside?-A. The Erie?

Q. Yes .- A. No, sir; I am not.

Q. Had your company had, and did you have any anticipation that it ever would have, any litigation in the Commerce Court?—A. I had no thought of it.

Court?—A. I had no thought of it.

Q. Has your company, the Hillside Coal & Iron Co., ever had so far?—A. No, sir; our company never has had.

Q. And it was you who fixed the price, I understand, upon which you would recommend the sale?—A. Yes, sir.

Q. Now, in reference to what you said that Judge Archbald's position might have influenced you, I think some passages were read from your testimony before the Judiciary Committee, and I should like to read a little more from that document. I read I should like to read a little more from that document. I read from page 756, the last question on that page, by Mr. Worth-

Let me ask you if you ever had any suggestion, until this inquiry began, from any source, that Judge Archbald's connection with this matter had any relation whatever to his position as a Federal judge?

Mr. Max. No suggestion of that character.

Is that true?-A. That is true.

Q. From pages 747 and 748 I want to read quite a passage when you were examined by Mr. Dodds, a member of the Judiciary Committee:

Mr. Dodds. I would like to ask a question: You say that the fact that Judge Archbald was a judge may have influenced you in the making of this sale for the consideration stated?

Mr. Max. Yes; it may have influenced me.

Mr. Dodds. In what way could it have influenced you, if it did influence you?

Mr. Dodds. In what way could be a state prominence of any man in public fluence you?

Mr. Max. His prominence, just as the prominence of any man in public life, you know, would cause us to listen favorably to their suggestions.

Mr. Dodds. Did you take into consideration the fact that, being a judge, he might possibly, because of your making this sale, make some decision favoring yourself or one of your companies in which you were interested?

Mr. Dodds. Did you take into consideration the fact that, being a judge, he might possibly, because of your making this sale, make some decision favoring yourself or one of your companies in which you were interested?

Mr. MAY. No, sir.

Mr. Dodds. Did that influence you at all in your making the sale to him?

Mr. MAY. No, sir.

Mr. Dodds. That was not considered at all by you?

Mr. MAY. No, sir.

Mr. Dodds. How long have you known Judge Archbald?

Mr. MAY. I have known him about 38 years.

Mr. Dodds. How long have you known Judge Archbald?

Mr. MAY. Have known him about 38 years.

Mr. Dodds. What kind of a man has he been, so far as your experience would indicate?

Mr. MAY. His reputation with me was that he was as straight as he could be.

Mr. Dodds. Did you think so, and did you have that in mind when you were making this sale, or thinking about making it? I mean, did you consider that you were dealing with a good man?

Mr. MAY. I did.

Mr. Dodds. And you did not have in mind at all the fact that by reason of making the sale to him, or making the sale as he advised—to some one else—you would place him in a position where he would be likely to make some decision that he might be called upon to make as a judge that would favor yourself or one of these companies?

Mr. MAY. No. Now, let me say this: I did not believe, knowing Judge Archbald, that the transaction, if carried through, would influence him a particle in his decisions.

Mr. Dodds. You did not have that phase of the matter in mind at all?

Mr. MAY. No.

Mr. Webb. You very rarely have suits for your coal company in the Federal court, do you?

Mr. MAY. No; I do not believe we have.

Mr. MAY. No; I do not believe we have.

Mr. MAY. No; I do not believe we have.

Mr. MAY. No; I do not believe we have.

Mr. MAY. No; I did not know.

Now, you gave that testimony before the Judiciary Com
mittee Cart. May.

Now, you gave that testimony before the Judiciary Committee, Capt. May?—A. That is correct.

Q. Is it true from beginning to end?—A. That is true.

Q. And when you fixed this price of \$4,500 in your mind you were acting for the company and had no litigation in the Commerce Court, and never expected to have any, and you did not know the Erie Railroad Co. had any?—A. That is correct. Mr. TOWNSEND. Mr. President, I should like to ask a

question.

The PRESIDENT pro tempore. The Senator from Michigan proposes a question to the witness, which will be read by the Secretary.

The Secretary read as follows:

Prior to fixing the price of \$4,500 on the cuim dump, did you talk with any officer or other person connected with the Eric Railroad Co. as to the price?

The WITNESS. No, sir; I did not.

Q. (By Mr. WORTHINGTON.) With reference to the matter of Robertson's interest or claim in this dump in addition to what has been brought out by Mr. STERLING, do you know whether or not, as a matter of fact, after Robertson & Law had stopped their operations because of the burning down of their plant, they went there from time to time and took away the coal from that dump, thereby continuing to assert their title?-A. I did not know it at the time. I have heard it since.

Q. You did not know it while it was going on?-A. No, sir.

Q. You have said, as I understood you, that one reason why you agreed to recommend this particular sale of the interest of your company was the condition of the title?-A. It was not only the condition of the title, but it was our relations with the other interests, if I may be allowed to explain.

Q. You said yesterday, when asked why you should object—why after selling your interest in this coal dump—you should care who made claims against it if you were only selling your You said, if I remember, that you had to look out for other interests. That is what you were going on to tell us?-

A. That is what I want to tell you now.

Q. Explain that, please .- A. We have on this same lot, or did have at that time, a culm bank made from the consolidated breaker. It is about 200 yards from this Katydid culm bank, upon the same lot. We had relations with the undivided other owners and it could affect not only our interest or our property rights in the culm bank which we owned ourselves, but it might involve the breaker building. Therefore it was to our interest to keep upon as good terms as we could with the other

Q. Who were the other owners—the Consolidated Breaker property?-A. The Consolidated Breaker property is on this

lot 46.

Q. And the Everhart heirs had the same interest that they had in the Katydid culm property?—A. The Consolidated Breaker property is upon the very lot, upon the very piece of ground that the Katydid bank is on; and that lot is owned by

the interests named herebefore.

Q. Capt. May, I understand it to be claimed, or at least intimated here, that the letters which you received on the 11th or 12th of April, 1912, notifying you of the claim of these other persons were fictitious; that they were made for the purpose of giving a possible reason for your recalling the contract with Bradley, when the real reason was that this investigation was coming on?—A. That is, that I had those made or that I inspired those?

Q. Well, you have heard the examination ?- A. That is a lie. The PRESIDENT pro tempore. The witness will confine

himself to proper language.

The Witness. I beg pardon; I am sorry; I forgot myself.

I did not mean to do that.

Q. (By Mr. WORTHINGTON.) I want to show you those letters, and put them in evidence here, and find out who the people are who wrote them. Here [exhibiting] is one dated April 11, 1912. Will you look at that and tell me if that was one of the letters in question?-A. (After examining.) That is one of the letters in question.

Q. What day did you receive that?-A. April 12, 1912.

Q. Before or after you saw Bradley at the station and re-called the contract?—A. This was before I recalled the con-

Q. On the same morning?—A. Yes.

Q. I will show you another letter of the same date, April 11, 1912. As to the letter I have just shown you, by whom is

that signed?—A. That is signed by Charles P. Holden.
Q. I will show you another letter of the same date signed
"James E. Heckel, administrator." When did you receive
that?—A. I received that April 12, 1912.

Q. Before or after you met Bradley at the station and recalled the contract with him?—A. Before.
Q. I show you another letter of the same date signed "Walter S. Bevan, attorney for Charles P. Holden." When did you receive that?-A. I received that April 12, 1912.

Q. Before or after you saw Bradley at the station and re-called the contract?—A. Before.

Q. I have here one dated April 13, purporting to be signed by R. M. Saltonstall, per O. When did you receive that?—A. I received that on April 16, 1912.

Q. Finally, I show you one dated April 19, 1912, purporting to be signed by William Rice Taylor. When did you receive that?—A. That I received April 20.

Q. Do you know the bandwriting of these letters-the signatures ?-A. I do not know. I would not want to say that I know them.

Q. Did you see these gentlemen afterwards and have conversation, and did they recognize that they had sent these letters, or did you hear from them?-A. No, sir. I have not seen them

Q. At all events, these are letters you received upon which you recalled the contract-I mean those dated April 11?-A. Yes, sir.

Mr. WORTHINGTON. I offer these letters in evidence. Mr. Manager STERLING. Mr. President, before that is done, I should like to ask the Reporter to read Judge Worthington's question when he began his statement with reference to these letters, or when he began the examination on this subject.

The PRESIDENT pro tempore. The Reporter will read the question desired.

The Reporter read as follows:

Q. Capt. May, I understand it to be claimed, or at least intimated here, that the letters which you received on the 11th or 12th of April, 1912, notifying you of the claim of these other persons were fictitions; that they were made for the purpose of giving a possible reason for your recalling the contract with Bradley, when the real reason was that this investigation was coming on?

Mr. Manager STERLING. I think, Mr. President, that we are entitled to know on what Judge Worthington bases that statement. There was nothing said on our side intimating that we thought they were fictitious. We have never had any idea but that the letters were actually written. I suggested in the examination of this witness yesterday that they might have been written upon the suggestion of somebody connected with the Hillside Coal & Iron Co., but we never did suggest that they were not written by these parties; and they might have been written by these parties in good faith. There is nothing in the record to the contrary.

Mr. WORTHINGTON. Perhaps the word "fictitious" not a happy one, Mr. President, and I will withdraw that; but I certainly did understand the claim to be that in some way these letters were concocted and sent for the purpose of giving an ostensible reason for withdrawing the Bradley contract, when the real reason was that this investigation was coming on. Let me read from page 225 of yesterday's proceedings:

Q. Did you get information from anybody or did somebody tell you that a tip had gone out from the office of the Hillside Coal & Iron Co. that they wanted an excuse for withdrawing this contract and for that reason had these letters sent in there?—A. No, sir.

Now, if that is not what it means, I do not appreciate the use of the English language.

Mr. Manager STERLING. I submit that that is not what it means, and I do not think counsel is fair with the question when he undertakes to put that interpretation on it. question followed the testimony proving that all these letters came in there on the very same day and just at that peculiar time when they sought to withdraw this contract which they had submitted to Bradley. I say it is a fair inference that these people from some source of other got wind of the fact that this deal might be closed up, and that it was at the suggestion of the Hillside Coal & Iron Co. that they began then to make their claims so they could have an excuse for with-drawing that contract from Bradley. We never did say the letters were fictitious or anything of that kind.

Mr. WORTHINGTON. I propose to offer these letters in evidence, and then I propose to bring the persons here who wrote them to see whether the scheme which existed in the imagine.

them, to see whether the scheme which existed in the imagination of my learned friend was in existence or whether they were written in good faith.

The PRESIDENT pro tempore. Does the Chair understand the manager to object to the introduction of the letters?

Mr. Manager STERLING. We do not object to the letters. The PRESIDENT pro tempore. What was the objection? Mr. WORTHINGTON. The objection was to my language about them.

Mr. Manager STERLING. My objection was to the language of Mr. Worthington, in which he said we had intimated that the letters were fictitious; that is, that we had intimated that the Hillside Coal & Iron Co. had manufactured the letters, which is not the case at all.

The PRESIDENT pro tempore. Without objection, the Sec-

retary will read the letters.

The Secretary read the letters, marked "Exhibits C. D. E. F, and G," respectively, as follows:

[U. S. S. Exhibit C.]

THE BELLEVUE-STRATFORD, Philadelphia, April 19, 1912.

Capt. W. A. Max, Vice President and General Manager Hillside Coal & Iron Co.

DEAR SIE: On behalf of my wife, Elizabeth M. Everhart Taylor, I beg to notify you that she claims an interest in the culm piles on lot No. 46, certified Pittston Township, and that she will be obliged if you will advise her of the status of this property, in which your company has a joint interest.

Very respectfully,

WILLIAM RICE TAYLOR,

[U. S. S. Exhibit D.]

(Grand Union Hotel, opposite Grand Central Station; Ford & Shaw, proprietors.) NEW YORK, April 11, 1912.

W. A. Max, Esq., Vice President and General Manager Hillside Coal & Iron Co.,

DEAR SIR: Please take notice that I claim an interest in the culm dumps on lot 46, certified Pittston Township, Luzerne County, Pa., by virtue of an option given by the E. & G. Brooke Land Co., also on behalf of my wife, Mary E. Holden.

Yours, respectfully,

CHAS. P. HOLDEN. 625 Commonwealth Avenue, Boston, Mass.

[U. S. S. Exhibit E.]

(The Everhart Brass Works, manufacturers of brass goods for water, gas, and steam. Established 1857.)

SCRANTON, PA., April 11, 1912.

W. A. MAY, Vice President and General Manager Hillside Coal & Iron Co., Scranton, Pa.

My Dear Sir: In reference to the five twenty-fourths interest in the coal in lot 46 and the culm derived therefrom, I beg to notify you, as administrator for the estate of James Everhart, deceased, that we claim ownership of the above amount and not to dispose of same without our consent. Yours, very truly,

JAS. E. HECKEL, Administrator.

[U. S. S. Exhibit F.]

WALTER S. BEVAN, ATTORNEY AND COUNSELOR, Scranton, Pa., April 11, 1912.

Mr. W. A. May,
Smith and Mill Streets, Dunmore, Pa.

Dear Sir: Having learned that you are about to sell and dispose of the interests you represent in lot No. 46, certified Pittston Township, you are hereby notified that Mr. Charles P. Holden, who owns certain interests in said lot, opposes said sale and hereby protests against the same, and he further notifies you that the sale will in nowise change or affect his interests in said lot, and that the said sale will be made without his approval or consent. You will therefore govern yourself accordingly.

Very truly, yours,

Walter S. Bevan,
Attorncy for Charles P. Holden.

[U. S. S. Exhibit G.]

(Gaston, Snow & Saltonstall: William A. Gaston, Frederic E. Snow, Richard M. Saltonstall, Thomas Hunt, Lawrence A. Ford, Henry Endicott, jr., John C. Rice, Arthur A. Ballantine, and Warren Motley.)

SHAWMUT BANK BUILDING, Boston, April 13, 1912.

Capt. W. A. Max, Vice President Hillside Coal & Iron Co., Scranton, Pa.

Vice President Hillside Coal & Iron Co., Scranton, Pa.

Dear Sir: I have been in conference with Mr. Charles P. Holden in connection with mining operations as conducted by your company upon lot 46, Pittston Township, Luzerne County, Pa., and as one of the guardians of the minor children of John F. Everhart, deceased, I should be glad to be advised under what right your company is mining coal from this lot 46.

Mr. Holden informs me that a sale is about to be made of one of the culm piles on this land, and I hereby notify you that Nina D. E. Jones and R. M. Saltonstall, the undersigned, guardians as aforesaid of said minor children of said John F. Everhart, deceased, claim an interest in said culm pile and give you notice of that fact at this time so as to protect our rights in the premises. We should be glad to hear from you in reply to this letter at your early convenience.

Very truly, yours,

R. M. Saltonstall,

Per O. M. SALTONSTALL,

Q. (By Mr. WORTHINGTON.) Who is Mr. William Rice Taylor, who signed the last letter which was written?—A. I do not know him. I think he is the husband of one of the daughters of John F. Everhart.

Q. You do not know anything of your own knowledge about his standing or business?—A. No; I do not.
Q. Do you know Charles P. Holden, who signs one of these letters of April 11?—A. I do.

Q. Who is he?-A. He is married to a daughter of John F. Everhart, deceased.

Q. Where does he live?—A. In Boston.
Q. Do you know anything about his business or standing?—A. I do not.

Q. Who is James E. Heckel, if you know?-A. He lives in Scranton, and is in business in Scranton.

Q. In what business?—A. He is in the brass business.

Q. Do you know him?-A. I will not say positively that I know him.

Q. Do you know who Walter S. Bevan is?-A. I know him by reputation.

Q. Where does he live?-A. In Scranton.

Q. And what is his business?—A. A lawyer.

Q. And, finally, do you know R. M. Saltonstall?—A. No, sir; I am not acquainted with him.

Q. As a matter of fact-I do not want to repeat, but I want to see if I understand clearly-you yourself had no knowledge of this coming investigation until the matter appeared in the Philadelphia North American of the 21st of April?-A. No, sir; I did not.

Q. Had you any suspicion that any such thing was pending?—A. No suspicion whatever.

Q. What, so far as you know, had Judge Archbald to do with the making of this Bradley contract or the recalling of it?—A.

He had nothing whatever to do with it, so far as I know.

Q. In that connection, I should like to ask you what foundation there is, so far as you know, for this statement which I read from the proceedings in this case on page 59:

That-

Referring to the contract-

That was sent to Bradley on one day, and the next day Archbald sees Bradley at the depot and asks him to call that off, that some complications have arisen and they had better stop the negotiations, and also writes him a letter to the same effect, in which he tells him the transaction will be withdrawn on account of certain complications. No one knows what complications were referred to, excepting there had appeared in the newspapers in the meantime this scandal about Judge Archbald's relations with persons who had litigation in his court.

Mr. Manager CLAYTON. Mr. President, before the witness answers the question I desire to know from what counsel he is reading.

Mr. WORTHINGTON. I am reading from the proceedings in the House the statement made by Mr. Sterling, now one of the managers of the House, as to the facts in this case,

Mr. Manager CLAYTON. Does the court think that is

proper?

The PRESIDENT pro tempore. What is the question that counsel for the respondent is asking in connection with it?

Mr. WORTHINGTON. I am asking, so far as the witness knows, whether or not there is any foundation whatever for that statement which was made to the House as one of the rea-

that statement which was made to the House as one of the reasons for impeaching Judge Archbald.

Mr. Manager STERLING. May I see it, Mr. Worthington?

Mr. WORTHINGTON. Certainly.

Mr. Manager CLAYTON. May I be permitted to say that it is a speech delivered in the House of Representatives by Mr. STERLING. I think to bring it here in this way offends several rules. It offends propriety, Mr. President, as well as the rules of evidence. I need not make any further comment, in view of the intimation of the Chair not to allow the question to be answered.

The PRESIDENT pro tempore. Does the counsel for the respondent desire to be heard?

Mr. WORTHINGTON. I do.

Mr. Manager STERLING. Mr. President, I think in this print of what I had to say in the House the name of Judge Archbald is used instead of "May." I think it is purely a mistake. I do not believe there is any controversy about it at all.

The PRESIDENT pro tempore. Does the counsel for the re-

spondent desire to be heard on the question?

Mr. WORTHINGTON. I do.

Mr. WORTHINGTON. I do.

The PRESIDENT pro tempore. Counsel will proceed.
Mr. WORTHINGTON. In view of the objection, Mr. President, which I hardly supposed would come from the managers, I will change the phraseology of the question and put it in a different way. I ask you, Capt. May, whether, so far as you know, Judge Archbald met Bradley at the depot and asked him to call the Bradley deal off?

him to call the Bradley deal off?

A. I know nothing of that character at all.

Q. (By Mr. WORTHINGTON.) And whether, as a matter of fact, when you called it off anything had appeared in the news-

papers about the charges against Judge Archbald?

Mr. Manager CLAYTON. There is no objection to that.

The PRESIDENT pro tempore. What did the manager say?

Mr. Manager CLAYTON. I say we have no objection to that question at all. The Chair apprehended the ground of my objection to the other question.

The PRESIDENT pro tempore. The question as originally propounded and objected to was withdrawn and it is not neces-

sary for the Chair to rule upon it.

Q. (By Mr. WORTHINGTON.) Now, about the sale of the Du Pont Powder Co., Capt. May, you have been asked about your previous testimony on that subject, and I will ask you whether this occurred. I read first from page 760:

Whether this occurred. I read first from page 700;

Mr. Worthington. What was the date of the negotiations about a sale to the Du Pont Powder Co.?

Mr. May. 1908.

Mr. Worthington. 1908?

Mr. Morthington. And you were willing to sell then, I understand?

Mr. Worthington. And you were willing to sell then, I understand?

Mr. May. No; we would consider it.

Mr. Worthington. You told them you would consider it?

Mr. May. Yes.

Mr. Worthington. Just what you said to Williams when you talked to him?

Mr. Worthkofox. Just what you said to whitams when you taked to him?

Mr. Max. Yes.

Mr. Worthkofox. And you were then, in your own mind, ready to recommend a sale in the interest of the Hillside Coal & Iron Co. for \$2,000?

Mr. May. Yes, sir. That is, that was only a beginning, you know. Doubtless, Mr. Robertson came to me and wanted to know whether I would recommend the sale of whatever equity we had in it for \$2.000, and I told him that I would recommend it. Now, that is the sum and substance of it.

Is that right?-A. That is correct.

Q. And the same thing on page 750, where you were asked this question by Mr. Norris:

But the man Robertson must have known how much it would cost to get your interest before he could make a bona fide offer to anybody else to sell?

Mr. May. Yes. Well, he would believe that whatever recommendation I made would go through.

Mr. Norris. Certainly; and you undoubtedly told him you would recommend \$2,000?

Mr. May. Yes.

Is that right?

Mr. Manager NORRIS. Mr. President, before the witness answers the question I desire to object to this form of interrogation of the witness. As I understand, we would not be allowed to call his attention to the testimony unless we had first asked him about the same matter and he had testified differently. Counsel has been asking questions of this witness, reading evidence that was taken before the Judiciary Committee, without any intimation that there is anything different in his testimony now. He reads a lot of testimony and asks the witness if that was true. It seems to me that that is not a proper examination of the witness, particularly an examination—
The PRESIDENT pro tempore. The Chair was of the opin-

ion that it was done by consent.

Mr. WORTHINGTON. I was going to say that it is my recollection that we had quite a discussion about that matter the other day, when we very earnestly opposed reading from this testimony by the manager who called the witness. Now we are cross-examining, and I submit that if it is competent for the managers who call the witness to ask him whether he had not testified at some other place so and so, and then ask, "Is not that true?" instead of asking him to testify here without reference to what he testified to anywhere else and give his present recollection of it, it certainly is much more competent for us on cross-examination to ask him. As I understood Capt. May to testify here this morning with reference to that sale to the Du Pont Powder Co., or attempted sale or negotiation with that company, he did not say explicitly as to what I have asked him here what he did say before the Judiciary Committee. I therefore submit that on cross-examination we have the right to ask him or any other witness about any matter as to which he has testified here or anything he said anywhere else which would bring out more fully what his recollection is on the subject or what it was at some prior time.

Of course, it is a very vital matter here. The great contention here on the part of the managers has been, as we see by the articles of impeachment and by what they have said here, that the Hillside Coal & Iron Co., which meant, in the first instance at least, this witness, offered to sell their interest in this Katydid dump to Judge Archbald, or to somebody who was associated with him, for \$4,500, and that was a great deal less than that interest was worth. Of course, it is important in that connection to show that in the negotiations with the Du Pont Powder Co. he had offered to sell that same interest for less than that amount. I do not recollect that when Capt. May testified this morning he stated the matter as explicitly as he had stated it twice before the Judiciary Committee. I have already asked him without objection, and he has answered, that on one occasion during his examination before the Judiciary Committee he did say that he had recommended this sale for \$2,000 to the Du Pont Powder Co. I asked him on another occasion during his testimony, but he did not repeat it when the objection was made.

The PRESIDENT pro tempore. Is the counsel through?

Mr. WORTHINGTON. Yes.
The PRESIDENT pro tempore. The previous testimony of this witness can be read to him for two purposes. As the Chair recollects the rule, it can be read for the purpose of contradicting him or for the purpose of refreshing his memory. If counsel examine the witness as to a matter and his testimony is not clear on the subject, the Chair would hold that then, after having attempted to elicit testimony in the usual way without success, he could go further and call attention of the witness to what he had previously testified to by way of refreshing his memory. The Chair thinks that is the correct rank.

Mr. WORTHINGTON. That is entirely satisfactory. The Chair thinks that is the correct rule of law.

The PRESIDENT pro tempore. The Chair would suggest to counsel for the respondent that it is perfectly competent for him to put questions as to the particular matters that he desires to have testimony upon without reading from the questions and answers, but in either case the Chair would rule that counsel

has the right to bring out the testimony if it is either for the purpose of calling attention to the fact that the witness had previously made conflicting statements or for the purpose of refreshing his memory upon some things in regard to which he is not now clear.

Mr. WORTHINGTON. As the witness distinctly answered when I read the first question and answer from the record, I

will not press the second one.

Q. (By Mr. WORTHINGTON.) Why was it when you had been willing in 1909—you say it was in that year that the Du Pont Powder Co. transaction occurred--A. 1908 or 1909, do not remember which.

Q. Why was it that when you were willing to sell the interest of your company then for \$2,000 you asked Judge Archbald or Williams \$4,500? You say prices had gone up.—A. Prices had gone up; we had measured the bank; and we thought the price that I named to Judge Archbald would cover our royalty and any profit that we ought to have.

Q. You were asked, as I recollect, something about how the Du Pont Powder Co. were willing to pay \$10,000 for this whole property in 1908 or 1909, and the other parties were going to get it for \$8,000, and then it was Robertson that came down on

his price and you had gone up on yours?—A. Yes, sir.

Q. Do you remember whether or not when Williams first came to you, or when you first talked to him about the price, you fixed any different price than \$4,500?—A. I have a distinct recollection that I first named \$6,000.

Q. And he did not accept that?-A. No, sir. Q. What would you say now as to that interest after all that has taken place and has led you to investigate this matter?— A. If we were sure of not getting into litigation we would be glad to sell for \$4,500.

Q. Your interest in it?-A. Yes, sir; our interest.

Q. To go back one moment, at the time that you received the letters which were read a few moments ago, when you recalled that contract from Bradley, did you consult anybody in reference to that before you took that action?—A. Before recalling it?

Q. Yes,—A. My recollection is that I discussed it with our

Q. Who are the attorneys whom you consulted?-A. Warren,

Knapp, and O'Malley. Q. And they are attorneys in Scranton?-A. In Scranton.

Q. Do you remember-

The WITNESS. Excuse me, as to question before the last one that I answered, would you be kind enough to read that question to me again—the one before the last?

The PRESIDENT pro tempore. The Reporter will read as

requested.

The Reporter read as follows:

Q. What would you say now as to that interest after all that has taken place and has led you to investigate this matter?

The WITNESS. Now, I want to add to that: I said that if we were free of litigation, and if we were sure that we would not get into any difficulty with the owners of that property, so far as the consolidated breaker and our own holdings upon that lot

are concerned. I want to make sure of that.

Q. (By Mr. WORTHINGTON.) You say if that could be fixed, you would now be willing to sell for \$4,500?—A. Yes, sir.

Q. What value would that Katydid dump be to your company if you had the whole interest-owned it clear and free-and nobody else had an interest of a claim to any part of it?

Mr. Manager STERLING. We object to that as immaterial.

The PRESIDENT pro tempore. What is the question? The Reporter read the question.

The PRESIDENT pro tempore. The Chair thinks that is relevant.

A. I never considered it in that light. I would not feel at liberty now, without careful consideration, to say what it would be worth to us.

Q. (By Mr. WORTHINGTON.) Now, in view of that answer, I will ask you, if I may be permitted, about your testimony which was given before the Judiciary Committee in answer to a similar question from a member of the committee, Mr. McCov. Do not answer, Captain, until we see whether there is any objection to the question.

The PRESIDENT pro tempore. The counsel offers this for the purpose of refreshing the memory of the witness?

Mr. WORTHINGTON. Yes, sir.

Mr. Manager STERLING. On what page?

Mr. WORTHINGTON. Page 734; pretty near the top.

Mr. McCoy. Assuming that the title had been perfectly clear and that all the titles could have been gotten into the ownership of the Hillside Co., would it have had any considerable value then as a proposition to be worked?

Mr. Max. The value was doubtful. If you will allow me to explain, we have a breaker called the Consolidated breaker, situated, I would

say—well, just about the distance Mr. Rittenhouse said yesterday—and we have next to that breaker a washery that I think was erected since this matter came up.

Mr. McCoy. You mean the Hillside Co. when you say "we"?

Mr. May. Yes; the Hillside Co.—always the Hillside Co. when I say "we"—that is, in this case. We had a culm bank made, or the Hillside I will say, has a culm bank made, from the operations of the Consolidated breaker. As I told you early in the session, the mine is on fire. Our culm bank is right over that fire. Our culm bank is on fire also. Now, it is to our interest to get that coal away from there as quickly as possible. We have been embarrassed for the want of water. We went to a great deal of expense—I wish I had the figures—to get water to wash our own bank, and then we have not enough. We are on the ragged edge there very often. Now we want to get that bank out of the road. We do not care to invest money in another bank that might burn while we were getting our own out of the road, when we could buy it later, probably, when values were more, and when we could get something out of it.

A. That is correct. I remember that now.

A. That is correct. I remember that now.

Q. You remember you so testified; and is that your present opinion about it?—A. Yes, sir.

Q. Is the fire still burning? The WITNESS. In the mine? Mr. WORTHINGTON. Yes.

A. It is. No, I beg pardon; we put it out; we just put it

out a month or two ago.

Q. When you were having these negotiations with Judge Archbald for the sale of the Katydid culm dump was there any plant for washing at the Katydid dump?-A. Not at the Katydid dump.

Q. How much would it have cost to put a proper plant there to wash the dump?—A. It would cost, I estimated, to wash that bank itself, about \$10,000—that is, to erect the plant.

Q. What would the plant be worth as soon as the dump was washed away and the work finished?-A. It would be practi-

cally scrap.

Q. Capt. May, something has been said about Mr. Robertson wanting to buy this dump. I think in a letter which has been read here from Robertson to you, written in the summer of 1911, if I remember correctly, he said something about wanting to sell to or buy from the Hillside Co.?—A. Yes, sir.

Q. Do you remember that?—A. Yes, sir.
Q. What was that?—A. He wanted to know whether we wanted to buy his dump. That is in the letter.
Q. Did you seek to buy?—A. No; we did not seek to buy, for

the reasons named that you read from the—
Q. That I read a few moments ago?—A. Yes, sir.

- Q. Had the fact that Mr. Robertson was connected with this proposed sale anything to do with your recommending it?-A. Yes, sir. Q. What was that?

The Witness. You mean which sale?
Mr. WORTHINGTON. The sale you were negotiating with Mr. Williams and Judge Archbald?

A. Yes.

Q. You knew, I presume, that while they were negotiating for your interest they were also negotiating for the Robertson interest?—A. The principal reason that I favored it we because I wanted Mr. Robertson to get his money out of it.

Q. Why? What were your feelings toward and relations with Robertson?—A. They were very friendly.

Q. Now what were the reasons you gave as to why the company sold the Florence dump or sold part of it or its interest

in it?-A. We wanted to be free

Mr. Manager CLAYTON. Mr. President, I respectfully submit to the Chair that where the counsel for the respondent has gone fully into a matter and the witness has given his testimony at length, it is a useless consumption of the time of the Senate to repeat it.

Mr. SIMPSON. We have not gone into it at all

Mr. WORTHINGTON. It is the first question I have asked him about the sale of the Florence dump.

Mr. Manager CLAYTON. You predicated your question by

saying to the witness you said so-and-so about it.

Mr. WORTHINGTON. He said something about it when examined by one of the managers. I have not asked him anything about it. I want to elaborate that a little and to show that the conditions surrounding the sale of the Florence dump were almost precisely the same as those which obtained in the case of the Katydid dump.

The PRESIDENT pro tempore. The witness will answer the

question.

- Q. (By Mr. WORTHINGTON.) I want to know what were the particular circumstances or what was the situation that induced you to recommend the sale of the Florence dump of the Hillside Coal & Iron Co.?—A. There were conflicting interests
- Q. Conflicting interests as to what?-A. Conflicting interests as to what should be done with the bank, and in order to get

out of the trouble ourselves I was glad to recommend its saleour interest in the sale.

Q. You mean your interest in the property?-A. In the bank. Q. You did recommend it, and the sale was made?-A. Yes, sir.

Q. How long ago was that?-A. In 1910.

Q. About a year before you recommended the sale of the Katydid dump or agreed to recommend the sale of your interest

in the Katydid dump?—A. Yes, sir.

Q. I notice you said "our company" to Mr. Sterling—"the Hillside Co. has not sold any other dumps." Was there any other particular thing you had in mind when you said "our"?— A. I meant the Hillside Co.

Q. On the letterhead you were using here the other day I noticed that the names of a number of companies appeared on

the same letterhead?—A. Yes.
Q. How were they connected with the Hillside? You have all their names on the one letterhead?-A. I am vice president and general manager of three or four companies.

Q. Are they all subordinates of the Erie?-A. They are.

Q. Had these other companies been selling dumps?-A. The Pennsylvania Coal Co. has sold some fills-the old gravity roadbed. They were fills made with culm, and they have been disposed of.

Q. Is there any difference between a fill and a dump in regard to the question whether the railroad company will sell it or not?—A. Each transaction is surrounded with certain circum-

stances, and I can not remember what they are.
Q. It is a fact, then, that this other company, situated like the Hillside Coal & Iron Co., of which you are an officer, and another subordinate company of the Erie, has sold a number of culm dumps?—A. Has sold gravity railroad fills, but no dumps, as we call them.

Q. When these negotiations with Judge Archbald were going on, and when you agreed to sell to Bradley, what did you know, if anything, about the price that Conn was to pay?-A. I did not know.

Q. Did you know what Bradley was to pay, except what he was to pay to you?—A. No; I did not.
Mr. WORTHINGTON. That is all, Mr. President.

The PRESIDENT pro tempore. Is there anything further that the managers desire from this witness?

Mr. Manager STERLING. Yes; Mr. President.

Redirect examination:

- (By Mr. Manager STERLING.) Mr. May, you understood at that time that the Hillside Coal & Iron Co. owned a half interest in the Katydid dump, did you not?-A. That is, not a half interest in the dump; in the coal from which the dump was made.
- Q. Well, you claimed that you owned a half interest in whatever merchantable coal was made or was gotten out of the dump, did you not?—A. We had a royalty interest in the coal to be won out of the dump. I think, Judge, if you will allow me, that I know what you refer to. I did make the statement there-one-half interest in the bank. That was a mistake. I meant to say a half interest-
- Q. Now, wait. You did testify before the committee that you had a half interest in the bank, did you not?—A. I said that; but that was an error.

 Q. How many tons of merchantable coal in that bank did

you estimate at that time?-A. That we estimated?

Q. Yes; or your engineers.-A. The estimate that our engineers made at the time that this letter refers to, in April, 1911—they gave the report to me of 55,000 tons of material in the entire bank—that is, in the entire culm bank.
Q. Let me refresh your recollection. This is immediately

following what Mr. Worthington read to you. Mr. SIMPSON. Page what?

Mr. Manager STERLING. Page 734. Mr. Thomas asked the question-

Mr. Thomas. I want to ask a question. Capt. May, as I understand, the Hillside owns a half interest in fee simple in the culm bank, does it?

And you answered-

That is right.

A. Yes; but there was the error that I want to speak of-

Q. Then Mr. Thomas asked you-

According to your estimate, how many tons of coal did that bank contain? I do not care for you to go into the buckwheat and other kinds of coal, but what is the total number of tons of coal that the bank contained, according to your estimate?

Mr. Max. Well—my own estimate?

Mr. Thomas. Yes; the estimate you got from your engineers?

Mr. Max. One of the engineers estimated 80,000 tons of material in the bank, and, based upon the test of our general inspector, he found there would be in the bank 556 tons of pea—

Mr. THOMAS. I do not care anything about that. I want the total Mr. May. Forty-five thousand two hundred tons of merchantable

You made that answer, did you not, when you were asked those questions?-A. I made that answer.

Q. I read from the record:

Mr. Thomas. What is the total number of tons of coal that you estimate in that bank?

And did you not reply-

Forty-five thousand two hundred tons of merchantable coal. Mr. THOMAS. Of merchantable coal? Mr. May. Yes.

Those questions were asked you, and you made those answers, did you not?-A. Yes; I made those answers, but 42,000-

O. Wait until I finish .- A. I beg your pardon.

O. I again read:

Mr. THOMAS. And of that amount the Hillside Coal Co. would own one-half in fee simple?
Mr. May. They would.
Mr. THOMAS. That would be 22,500 tons?
Mr. May. Twenty-two thousand six hundred tons.
Mr. THOMAS. Twenty-two thousand six hundred tons?
Mr. May. Yes, sir.

Those questions were asked you, and you made those answers?-A. I made those answers, but

Q. Wait until I finish .- A. All right.

Q. I again read:

Mr. Thomas. Independent of the cost to get it on the market, what was that coal worth on the market?

Mr. Max. I do not know.

Then at the bottom of the page:

Then at the bottom of the page:

Mr. Thomas. I am not asking for the net amount. I am asking you what that coal brings on the market. What would it sell for a ton if it were shipped to Philadelphia or New York? What would it bring on the market there—such coal as there was in this culm bank? How much per ton would it bring on the market there?

Mr. May. I can give you the prices here. I think that will answer your question. This is a copy of the voucher from the Hillside Coal & Iron Co. to the Sterry Creek Coal Co., Scranton, Fa., for the month of August, 1911, paid on the 65 per cent basis, being the price at the breaker: Egg coal, 3.1468; stove, 3.1538; chestnut, 3.3081; pea, 1.7812; buckwheat, 1.4093; rice, 0.70; barley, 0.45.

Those were the prices which you quoted from a statement of

Those were the prices which you quoted from a statement of an account which you had with the Sterry Creek Coal Co. at Scranton for coal which your company had sold to them, were they not?-A. I had that statement there giving-

Q. It was the price at which you sold the coal there in Scranton, was it not?—A. I had a copy of the Sterry Creek

voucher there, and I read the prices off that voucher. Q. "At the breaker." What does that mean—the price at the breaker?-A. It means just what it says; the price on board cars at the breaker.

Q. That is, at the mine?—A. At the mine.

Q. Was there egg coal in this dump?-A. No, sir.

Q. Any stove coal?—A. No, sir. Q. Any chestnut?—A. There was a mixture of these three sizes in the dump, but not merchantable coal.

Q. Was there any chestnut coal?-A. Not that we could market.

Q. Any pea coal?-A. About one-half the pea coal could be marketed, probably.

Q. Buckwheat coal?—A. The buckwheat could be marketed.

Q. Well, there was buckwheat coal there?—A. Yes. Q. And rice coal?—A. Yes.

And barley?-A. Yes.

O. So that the coal that you would expect to find in that Q. So that the coal that you would expect to find in that dump was pea size, buckwheat size, rice size, and barley size?—
A. Will you repeat that, please?
Q. The grades of coal that you would expect to get out or that were actually there in the dump were pea size, buckwheat size, rice size, and barley size?—A. Yes, sir.
Q. And that coal was worth in Scranton the price that you

stated there in that examination, was it not?-A. It was worth that price at the consolidated breaker. I would like to explain, if you will allow me, that that was all based upon the theory that we owned an undivided half interest in the bank. That was based upon the theory that Robertson & Law had abandoned the property. I did not say that that was my theory, but based upon that theory that would be the result.

Q. What would be the result?—A. The values that you give there if there were 42,500 tons of coal in the bank.

Q. What difference does it make, Mr. May, as to the price of the coal per ton whether you owned a half interest or whether you owned all in the dump?—A. It would not make any difference as to the price of the coal, but it would make a difference as to the price we would charge for the property. That is, whatever right we had in it would make the price; and that was based upon the theory that the culm bank had been aban-

doned and that we would have an undivided half interest in the

Q. And your estimate, as you gave it there gave to the Hillside Coal & Iron Co. 22,600 tons of coal?-A. Based upon that theory.

Q. And the kind of coal that was in the dump was worth the prices which you stated there, ranging from \$1.78 to 45 cents per ton?-A. Yes, sir; that is correct.

Q. And it would average more than a dollar a ton in value right there at the dump, would it not?-A. No; it would not

average that.

Q. Well, what do you think it would be worth, on an average?—A. On an average I could not tell you. I would have to have the proportion of sizes that would come out of the

Q. Even if it were all barley coal, if that is the smallest

size?—A. That would be 45 cents.

Q. Barley coal was worth 45 cents. Even if it was all barley coal, at 45 cents, the coal in your half would be worth four or five times as much as you were charging Judge Archbald and Williams for your interest in the dump, would it not?-A. No. sir.

Q. Well, how much would it amout to-22,600 tons?-A. You have not taken out of it at all the cost to put it on cars

Q. How much would it amount to-22,600 tons, at half a dola ton, would be \$11,000, would it not?-A. Just about \$11,000; yes, sir.

Q. Let us look at these letters here which you received immediately after you sent this contract to Mr. Bradley. On that day, the 11th of April, Mr. Holden came into your office, did he not?-A. He did.

Q. And he gave you verbal notice not to sell his interest in

the dump?-A. Yes, he did; I think he did.

Q. Yes; and you told him you were about to sell it?-A. I did

Q. And talked with him about this transaction you were

having with Williams?—A. As near as I recall it—
Q. Just answer my question, please. You talked with him about the transaction you were having with Williams?—A. No; not with Williams. I talked with Holden—

Q. I know, but you talked with Holden about the transaction you were about to have with Williams?-A. Yes.

Q. And you told him you had made out a contract and had sent it to Bradley for his approval?—A. No; because the con-

tract had not yet been sent. Q. Had you not made it out at that time?-A. Yes; it had

been made out. It was on my desk.
Q. You sent it on the 11th?—A. I sent it on the 11th; yes.

Q. And you had the contract there?-A. Yes.

Q. And even after Holden notified you that he had an interest in there you sent the contract?-A. I did.

Q. Then Holden went to New York that day, did he not?-A. He did.

Q. And he wrote you a letter notifying you not to sell his interest?-A. He did.

Q. That is Exhibit D.-A. Yes.

Q. And then Mr. Bevan, as attorney for Mr. Holden, wrote you a letter the same date, April 11?-A. Yes, sir.

Q. Which gave you the same notice that Holden had given you when the contract was lying on your desk there, before you

had sent it to Mr. Bradley?—A. Yes.
Q. What effect did those letters have upon you in having you recall the contract after you had sent it? If you sent it after Holden had already given you the notice, why did those letters influence you?—A. The very fact that I recalled it showed what effect they had upon me.

Q. Why did not the verbal notice given you by Holden have some effect and thus prevent you from sending it, if these letters from Holden and his lawyer had any influence on your conduct in that transaction?—A. It did have an influence upon That is what made me call it back-those letters.

Q. But you sent it out after you knew Mr. Holden's claim,

did you not?-A. Yes; I did.

Q. Here is a letter from James A. Heckel, administrator for the Everhart estate, notifying you they had an interest. You got that, did you?—A. I did.

Q. It did not have any influence on your withdrawing it, did it?—A. It did.

Q. What is the date of that?—A. April 11. Q. You knew before that that the Everharts had an interest and you were paying a royalty right along on their interest?-A. Royalty on sizes above pea, but not on sizes be-

Q. Were you manufacturing any coal in the colliery below pea size?-A. We were.

Q. You knew they had just the same interest in the dump that they had in the colliery, did you not, the dump having been created from the operation of the colliery?—A. No, sir.

Q. Did you not know that?-A. They had no interest in the

colliery.

Q. Why do you say that they had no interest in the col-They had an interest in the land, did they not, on which the colliery--A. They had an interest in the land.

Q. Yes; and the Hillside Coal & Iron Co. had an interest if

the land?-A. Yes.

Q. And the Hillside Coal & Iron Co. based its title to an interest in the dump on the fact that they had an interest in the land?-A. No. sir.

Q. On what did they base it?-A. The interest the Hillside Co. had in the bank was only a royalty interest. I have said

that here several times.

Q. It was an interest in the coal, was it not?-A. It was a

royalty interest in the coal.

Q. And it arose from the fact that the Hillside Coal & Iron Co. owned an interest in the land, did it not?-A. No; not necessarily.

Q. Not necessarily? Why would it not?-A. Because they also had the right to take the coal from the entire lot, lot 46, in which the Hillside had an undivided half interest. They sublet that to

Q. Why did they not have a right to take the coal from that

Mr. WORTHINGTON. I submit that the witness should not be interrupted in the midst of an answer. Let him finish. The PRESIDENT pro tempore. Let the witness finish his

The WITNESS. The Hillside Co. sublet that at an increased royalty to Robertson & Law. Therefore the Hillside only had a royalty right in the coal that could be won from that bank.

Q. (By Mr. Manager STERLING.) It was based on your in-

terest in the land, was it not?-A. No, sir.

Q. How could you lease anything if you did not have an interest in the land?-A. We had an interest. I hate to take up the time, but we had the right from the other interests, by a letter, to mine that coal.

Q. From what other interests?-A. The other undivided half interest. And based upon that we had a right to the coal. Whether it was a fee right or not is for the lawyers to determine. We sublet that to Robertson & Law, and the royalty that we were to obtain from the coal was what we were to get for our right.

Q. And the Everhart interest was based on the same sort of a claim, was it not-that they had an interest in the land?-

A. No. Their interest—yes; that is true in one sense.
Q. Of course it is true. There is no use to try to—
Mr. WORTHINGTON. I object to any such remark being made to a witness

Mr. Manager STERLING. The witness has answered it, and let us stop right there.

The PRESIDENT pro tempore. Let the witness complete

the reply.

Mr. WORTHINGTON. May I ask whether the President heard the remark made by Mr. STERLING to the witness? If not, I should like to have it read, to see whether the Chair rules that it is proper to address the witness in that way.

The PRESIDENT pro tempore. What was the particular

Mr. WORTHINGTON. It was referring to the witness, practically telling him, as a matter of fact, that what he was saying was not true, as I understood it.

Mr. Manager STERLING. I did not say anything like that

to the witness.

Mr. WORTHINGTON. I ask to have it read. Mr. Manager STERLING. Let us have it read.

The PRESIDENT pro tempore. The stenographer will read the question or remark of the manager. .

The Reporter read as follows:

Q. And the Everhart interest was based on the same sort of a claim, was it not—that they had an interest in the land?—A. No; their interest—yes; that is true in one sense.

Q. Of course it is true. There is no use to try to—

Mr. WORTHINGTON. "There is no use to try to." you did not finish, but you were telling the witness practically that there was no use in trying to conceal something.

Mr. Manager STERLING. My purpose was that I wanted to insist that the witness had answered the question already.

The PRESIDENT pro tempore. At least the manager had

not uttered the word which the counsel anticipated he would utter.

Mr. WORTHINGTON. I stopped him.

The PRESIDENT pro tempore. The Chair can not assume what was the intention of the manager.

Q. (By Mr. Manager STERLING). Did this letter from Mr. Taylor have any influence on you in publishing your recall of the Bradley contract?—A. No, sir.

Q. It was not written until the week after the Bradley con-

tract was withdrawn, was it?-A. Yes, sir; it was written

afterwards.

Q. On the 19th. This letter from Mr. Saltonstall was written on April 13, and it was received on the 16th?-A. It was afterwards.

Q. That was after you had withdrawn the contract, was it not?-A. Yes, sir.

Q. So that the only notice you had before you withdrew the contract was the one from Holden, and you had that before you sent the contract out—the verbal notice—did you not?—A. Oh, no. I had from Mr. Heckel, the administrator

Q. Wait, now. You had the verbal notice from Holden before you sent the contract out, did you not?-A. That is correct.

Q. Then you got one other letter-and just one-after you had sent it out and before you got it in, did you not?-A. I received three letters.

Q. Listen to my question. After you had sent the contract to Bradley and before you got it back, you received just one letter?-A. No; I can not agree to that.

Q. What three did you get besides the Holden claim?-A. Oh, I only received the Heckel letter outside of the letter from Mr. C. P. Holden and his attorney. Now I understand you.

Q. You do not mean Heckel-that is, the Everhart interest?-A. James Everhart.

Q. Outside the Holden notice you just got the Heckel notice, this administrator of the Everhart estate?-A. Yes, sir.

Q. The Everhart estate you knew had an interest in it, because you had been paying them a royalty for years, had you not?-A. Not an interest in the land, but in the bank.

Q. Mr. May, as a matter of fact, these notices had not a particle of influence in your action in rescinding that contract with Bradley?—A. Yes; they did.

Mr. Manager STERLING. I think that is all.

Cross-examination:

Q. (By Mr. WORTHINGTON.) When did you consult your counsel or the counsel of the Hillside Coal & Iron Co. about the effect of this notice?-A. I think it was on the morning of the That is my recollection.

Q. Did you state which member or members of the firm you

consulted ?-A. Judge Knapp.

Q. Of the firm you mentioned?-A. Yes, sir.

Q. Is he still living?—A. He is.

Q. You said, I understand, that the interest of the Everharts or the relations between you and Everhart were represented by a letter?-A. That is tradition, that it is represented by a letter.

Q. I ask you if this matter is complicated by that letter having become lost?-A. The letter is lost; that is, we can not find it, and therefore it must be lost.

Q. In reference to your testimony before the Judiciary Committee, which has just been read from pages 734 and 735, where you said that you had a one-half interest in this dump, and you say that was a mistake, I want to ask you whether you did not almost immediately correct it before the Judiciary Committee by what you said on page 737? I read from page 737, question by Mr. FLOYD:

If you agree to sell-

Mr. Manager CLAYTON. Mr. President, I submit the proper way is to ask the witness if he did correct it, and then, if the witness says he did not correct it, it is proper to read from the That has been the ruling of the Chair, as I underrecord. stand it.

Mr. WORTHINGTON. I do not understand that the Chair

made such a ruling. It would be very imperfect.

The PRESIDENT pro tempore. The Chair thinks if the testimony of the witness was read from the book it will be competent for further reading in the same direction. So that the Chair may not be misunderstood, he will state that in the absence of the fact that it had been so done the Chair would rule otherwise.

Mr. WORTHINGTON. I read from page 737:

Mr. WORTHINGTON. I read from page 737:

Mr. FLOYD. If you agree to sell it to Mr. Williams for a certain price and Mr. Williams in turn makes a contract to sell it to this railroad company that you had been supplying with fuel, do you regard it as good business to sell it at this reduced price when you might have sold it directly to the railroad company for this advanced price?

Mr. Max. But we did not own the bank. We only had an undivided interest. We only had an interest in the royalty arising from the coal taken out of that bank.

Mr. FLOYD. That does not answer my question.

Mr. Max. We had not the authority to sell that bank, or rather the right, I mean.

Mr. FLOYD. You owned in fee simple an undivided half interest in it,

did you not?

Mr. Max. Yes; an undivided one-half interest; but it had been made by Robertson & Law under an arrangement with us, and equitably the bank belonged to Robertson & Law.

[To the witness.] Is that what you testified to there?-A. That is correct.

Q. In reference to what you have been asked about the sale of the Katydid and the value of the different kinds of coal in that dump. I think you said that amount on the cars at the dump would be worth \$12,000; was it?-A. That was only a supposition. The judge asked me whether if it were worth 50 cents a ton it would be worth so much on the cars and I

said yes.

Q. Then you said something about that not taking into account the cost of putting it on the cars?-A. That is correct.

Q. What would be the cost of putting it on the cars which would bring the figure up to \$12,000?-A. If you take the average of our washers, it would be about 45 cents a ton.

Q. That would be the cost of putting it on the cars?-A. Yes,

Q. And if you sold it for 45 cents a ton you would not make anything?-A. No, sir.

Mr. WORTHINGTON. That is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager STERLING.) Just one question. The 45cent coal was the barley size, was it not?-A. Yes, sir.

Q. What proportion of it was barley ?- A. This is a guess. About 31 per cent I should say.

Q. Then more than two-thirds of it was ranging from 70 cents to \$1.78 a ton?-A. Yes, sir.

Mr. Manager STERLING. That is all.

The PRESIDENT pro tempore. The witness will retire. The Sergeant at Arms will call the next witness.

Am I excused?

The PRESIDENT pro tempore. Do the managers desire to

have the witness remain in attendance?

Mr. Manager STERLING. I think we are not prepared to excuse him now. If he can see Manager Clayton after adjournment he will probably find whether he can be excused permanently or not.

Mr. Manager CLAYTON. I may say, Mr. President, I think we will excuse him, but I desire to have a brief conversation with my brother managers before finally determining that matter. I say this for the benefit of Col. Worthington now. I should have said Mr. Worthington, for he stripped himself of his military title yesterday.

COURT OF COMMERCE CALENDAR.

Mr. ROOT. Mr. President, I submit a request and ask that

The PRESIDENT pro tempore. The Senator from New York makes a request, which will be put in the form of an order if it is desired. The Secretary will read it.

The Secretary read as follows:

I ask for the production and identification of the printed trial list or calendar of the Court of Commerce in March and April, 1911.

The PRESIDENT pro tempore. The Chair suggests that the Senate will act upon it as if put in the form of an order.

Is there objection to the adoption of this order?

Mr. Manager CLAYTON. Mr. President, may I be permitted to make a statement? The managers determined in the preparation of this case to produce the document which the Senate desires. I may say that I do not think an order of the kind is necessary, for we can inform the Chair that it is our purpose and that we will produce the document specified in the request

which is preferred by the Senator from New York,
Mr. WORTHINGTON. There will be no objection from us, Mr. President. We have been trying ourselves to get that doc-

ument.

Mr. ROOT. I withdraw the request.

The PRESIDENT pro tempore. The managers will call the next witness.

DEPOSITION OF E. J. WILLIAMS BEFORE WRISLEY BROWN.

Mr. Manager STERLING. Mr. President, when the court adjourned last night the question was pending as to the admission of the examination of Mr. Williams before Mr. Brown at Scranton, Pa. We offered it and Mr. Worthington objected. We desire now to renew the offer and hear from Mr. Worthing-

ton if he has anything further to say in regard to it.

The PRESIDENT pro tempore. The Chair will desire to hear from the counsel for the respondent on that subject and

the Chair will also hear the managers.

Mr. Manager STERLING. Mr. President, we believe that this is entirely competent and we believe that it is highly important. The paper which we offered in evidence yesterday and |

for which we again renew our offer is Exhibit 7, the examination of Edward J. Williams, at Scranton, Pa., March 16 and 17 of this year, made by Mr. Wrisley Brown, representing the Department of Justice, who was sent there by the Attorney General to investigate this case.

The PRESIDENT pro tempore. The Chair will desire the manager to state the ground upon which he offers it, whether it is for the purpose of contradicting the witness; and, if so, upon what ground he claims the right to contradict the witness; or whether it is because of the fact that the managers

claim they have been entrapped by the wkness.

Mr. Manager STERLING. We have two grounds, Mr. President, on which we insist that it is competent to have it read to the court. In the examination of Mr. Williams yesterday the counsel for the respondent referred to it at two different times and in two different ways. In one instance he asked the witness if Mr. William P. Boland had not conducted most of the examination and had not asked most of the questions at the time the deposition was taken. The fact is, and the deposition itself will disclose the fact, that Mr. Boland did not ask the questions. I think in only two or three instances did he ask questions.

The PRESIDENT pro tempore. The Chair does not rule that the questions themselves can not be proven, but, as the Chair stated yesterday, he wants to hear from the managers or the counsel now on the question whether not only the ques-

tions but the answers should be put in evidence.

Mr. Manager STERLING. Yes, sir; we desire to have all of it put in. The first reason for it is to rebut the assumption made by the counsel on the other side and to rebut the testimony of the witness in which he answered that William P. Boland had asked the questions. The deposition will disclose that Boland asked three or four questions and suggested in several instances what should be asked the witness.

Now, we think it is competent to have it go in to disprove that fact for the reason that Mr. Worthington's contention in this case largely seems to be that there was a conspiracy in which Mr. William P. Boland was a party to inveigle the judge into this transaction. So we think that it all ought to go in for that purpose. But it is competent on another ground, and it

is very important on another ground.

In numerous instances the statements made by this witness, when examined by Mr. Brown, of Scranton, contradict the answers which were drawn out of him on cross-examination by counsel for the respondent. We think this is entirely proper where counsel on the other side draws answers from this witto contradict statements he has made before, and especially statements in an examination on the very same subject and statements made under oath. We think it is perfectly competent to offer the entire deposition for the purpose of contradicting this witness as to those parts of his cross-examination where he contradicted his former statements.

I believe it is the universal rule of evidence that where a witness makes statements on the stand contrary to statements he had made prior to that time his former statements, in whatever form they may be, especially when they are sworn to, when they relate to the same case and are evidence given in the same case, are competent to contradict the statements of that witness. This deposition here is replete with evidence contradicting statements made by Mr. Williams yesterday on cross-examination drawn out of him by counsel for the respondent.

May I call the attention of the court to some of these instances?

The PRESIDENT pro tempore. If the honorable manager will permit the Chair, it may hasten the consideration of the question. The Chair ruled on yesterday that if the managers in offering conflicting testimony to that furnished by their own witness would state that they had been entrapped by the witness-in other words, that they had relied upon his testimony in the confidence that he would testify as he had previously testified—they would be entitled to show that he had sworn differently on a former occasion. But unless the managers do state that, the Chair will hear further argument on it from

Mr. Manager STERLING. I will say further, Mr. President, that in the statement which I just now made I confined myself to the fact that it contradicted many statements made by the witness on cross-examination. It is true that it does contradict many statements he made on the stand before this court in direct examination.

I am aware of the usual rule that we could not put in documentary evidence or a deposition to contradict our own witness. But there is an exception to that rule. I think this is a case where the exception should be applied and where it has already been applied by the ruling of the Presiding Officer in

this case, because Mr. Manager Webb was allowed to refer to the examination before the Judiciary Committee. That was before the cross-examination had occurred. He asked the witness if he had not made statements then contradictory to his statements here, and the Chair admitted it for the reason that he was an unwilling and a hostile witness.

Of course, we expected this witness to testify to what he had testified to before. We were deceived in the testimony of this witness. It was on the ground that he was hostile and adverse, as I understand it, that the court permitted Manager Webb to ask him on direct examination as to whether he had not made statements to a contrary effect in his examination before the Judiciary Committee.

So we say now that this is a different examination on the same subject by Mr. Brown at Scranton, and that it contradicts this witness both in the statements he made here on direct examination and in the statements he made on cross-examina-They are entirely different. He made answers that we were not expecting from this witness. He made answers, too, after he had conferred at least twice with the counsel on the other side of this case and after he had made the other deposi-

We submit that it is perfectly proper, and we submit that this court can not get the truth of this case unless it knows what this man Williams said and what he gave out to be the truth before he was called here before this court, when these things were fresh in his mind.

I submit that it ought to be the purpose of every investigation of this kind that the body to determine the rights of this man should know the truth and all the truth, and it is on that ground, to get at the simple, plain facts in this case, so that we may know all, that we ask that the testimony of this witness Williams be read in full as it was taken at Scranton.

Mr. WORTHINGTON. Mr. President—

Before the counsel pro-The PRESIDENT pro tempore.

Mr. Manager CLAYTON. Mr. President, I do not wish to of-

fend against the suggestion made by the Chair yesterday—
The PRESIDENT pro tempore. The manager will permit The PRESIDENT pro tempore. The manager will permit the Chair to make a statement, and possibly it may make the argument unnecessary.

Mr. Manager CLAYTON. I submit to the suggestion of the Chair very cheerfully.

The PRESIDENT pro tempore. The Chair simply wishes to know whether it is the purpose or design of the managers to offer this deposition upon the ground that they have been deceived by the witness and entrapped by him?

Mr. Manager STERLING. Yes, sir; that is one of the reasons,

will say, Mr. President.
The PRESIDENT pro tempore. Very well. The Chair stated yesterday if it was offered on that ground, then, in the opinion of the Chair, it would be competent evidence. The Chair still adheres to that, but will hear from counsel for the respondent on that proposition.

Mr. Manager CLAYTON. Mr. President, I wanted to know if I might be permitted—I do not know whether I can be permitted—to reply to Col. Worthington, I beg his pardon, I should have said Mr. Worthington, after he has concluded, or if I shall submit my observation now. I wish to be directed by the Chair as to the time.

The PRESIDENT pro tempore. The Chair has substantially indicated his purpose to rule with the managers, but if the managers desire it they will be further heard on the proposition.

Mr. Manager CLAYTON. Then I suppose unless the Chair's present mental attitude is disturbed by the argument of the counsel for the respondent he will adhere to his ruling. If he should indicate a change, then I shall ask to be heard.

The PRESIDENT pro tempore. If after hearing from counsel for respondent the view of the Chair is in any manner changed

he will hear further from the managers.

Mr. WORTHINGTON. Mr. President, so far as the order of argument is concerned, as the Chair announced the other day, ordinarily the objector makes his objection, the opposing side answers it, and the objector has the conclusion. I was about making the opening, but the Chair permitted the managers to state what they have to say about it, and I can now reply so far as I am concerned.

The PRESIDENT pro tempore. The attitude of the Chair is that upon the proposition as presented the evidence would be admissible to the extent that it contradicted the evidence which the witness had given in either direct or indirect examination, upon the distinct ground that relying upon evidence previously given by him they had put up the witness and had been entrapped by him in the fact that he had given evidence to the contrary upon this examination.

Mr. WORTHINGTON. Let me, in the first place, recur to what happened which first drew attention to this testimony or deposition, or whatever it may be called, that Williams made to Mr. Wrisley Brown. This is what took place on page 191 of the record of these proceedings:

Q. Who was present when Mr. Brown took your testimony?—A. William P. Boland and Wrisley Brown,
Q. William P. Boland was there all the time, was he not?—A. William P. Boland was the man who asked all the questions.
Q. I was going to ask you whether he did not conduct the examination, largely?—A. Yes; he conducted the inquiry.

My proposition, in the first place, would be that the managers would have the right to show how many questions were asked by Boland and what was the proportion of those to the questions asked altogether. If it is proposed to do that I have no

Now, as to the situation in reference to putting in this deposition en bloc, I certainly submit, Mr. President, it is un-precedented. If the managers wish to show that as to certain matters in his statement before Wrisley Brown under oath he stated things which were contradictory to what he testified here, either on the direct examination or on the cross-examination, for the purpose of showing that he is not to be believed on his oath; if they put a witness on the stand whom they believed to be a credible witness and were surprised by the testimony, and want to show that he has made statements to the contrary elsewhere, for the purpose of showing that he ought not to be believed on oath, they have that right, not to have the whole deposition put in, but such parts of it as they think will have that effect. If they offer it for that purpose we have no objection.

If, on the other hand, the purpose is or it should be intended to use anything that was said there for the purpose of refreshing the recollection of the witness or for the purpose of showing merely that he has made different statements for the purpose of letting the Senate get at the truth of the matter, the first principle of the law of evidence and the first principle, it seems to me, of common justice is that Mr. Williams must be brought here and must be asked whether he did not testify thus and so before Mr. Wrisley Brown, so that he may be afforded the opportunity which every witness is afforded when it is undertaken to show that he made contradictory statements to the court and to see what explanation he has to make of them.

Now, if it is proposed to read the whole deposition without reference as to whether it bears upon anything that was said here or not, or without having Mr. Williams brought here, it seems to me that that can not be done and that it would be very unfair to Judge Archbald, as well as unfair to the witness himself.

The PRESIDENT pro tempore. If the proposition be simply to disprove the statement of the witness as to the number of questions which had been asked by Mr. Boland, the Chair would undoubtedly rule that only the questions themselves could be put in evidence for the purpose of contradicting him to that extent. But the Chair thinks it is a well-recognized rule, which is found in every jurisdiction, that where a witness is put up by a party and where the party who offers him as a witness has had previous information from him as to what his testimony would be, and upon his examination he gives testimony contrary to that former testimony, the party offering that witness can prove the former statements of the witness if he will state in his place that he has been entrapped by him; that relying upon the evidence that he had given and that he would again testify as he had previously done, they have put him up and they have been entrapped and surprised by the fact that he then testified to matters in conflict to what he had previously testified.

The Chair thinks that is a well-recognized rule of law. It is not for the purpose of impeaching the witness, though it might be called one class of impeachment. It is for the purpose of negativing testimony which he had given and which the counsel otherwise would be bound by, they themselves having put him up.

It is upon that ground alone that the Chair made the same announcement yesterday he now makes. If the managers yesterday had stated that they offered the deposition on the ground that they had been entrapped, the Chair would then have ruled that, in the opinion of the Chair, subject, of course, always to the judgment of the Senate, the deposition could be received.

The Chair will add, so far as the bulk of this testimony is concerned, unless it is in the main, generally as well as specifically, upon the particular points in which the counsel have been entrapped, that only such parts of it as do relate to that contradiction in his testimony would be admissible; but on the statement of the counsel, that they have been thus en-

trapped, the Chair is of the opinion that to that extent it is

Mr. WORTHINGTON. Let me add just one word, Mr. Presient. I concede that, if the managers offer the evidence for the purpose of showing that they had been entrapped, it would be competent, and we would not object, provided it is put in for the purpose of showing that the witness is not to be believed on oath. That is the reason it can be admitted. I submit now, Mr. President, that statements made under such circumstances by any witness in an ex parte examination up there in Scranton, when Judge Archbald was not present and was not represented by counsel, can not be used as evidence of facts testified to here as against him. No evidence can be used as against Judge Archbald except that which was taken when he had an opportunity

The PRESIDENT pro tempore. Counsel for the respondent will, of course, have the right to recall the witness and require him to make such explanation of the apparent conflict as is proper and consistent with his information; he is not debarred from that privilege; but the Chair will respectfully suggest to the counsel that the purpose of that rule is not to impeach a witness and establish the fact that he is not to be believed on oath, because, if that were the case, a party could never put up an adverse witness. He is entitled to the testimony of this witness, and he is entitled to have the truth ascertained from the testimony of the witness and from his conflicting state-ments, so far as that can be done by the court. The Chair has said "the court," but he means any court, not simply this one. The Chair thinks that is a correct rule of law and that is the principle upon which it is based.

Mr. WORTHINGTON. That what was said to Mr. Brown

in Scranton is evidence against Judge Archbald?

The PRESIDENT pro tempore. It is for the purpose of negativing the testimony which he has now stated in conflict with his previous statements. That is the purpose of it. The counsel will recognize the fact that a party when he puts up a witness is bound by his evidence, and when that witness gives evidence which is adverse to the interest of the party putting him up, but has previously made statements upon which the party relied when he put him up, the party is entitled to introduce that evidence for the purpose of negativing the effect of that unfavorable testimony. That is the extent to which, as the Chair understands, the purpose of the introduction of the evidence is limited.

Mr. SIMPSON. Does not the Chair think that the managers are obliged, even under that rule, to pick out the evidence which they say caused them to be entrapped and not put in in bulk a deposition of 28 pages, for that is what they are undertaking

The PRESIDENT pro tempore. The Chair stated that unless the evidence was contradictory of evidence which the witness had given, unless it was either specifically or in the main generally so, of course, that which was not so classified would not be admitted. The Chair is not able to say whether there are matters in the paper which go beyond that limitation. If there are, the Chair thinks the suggestion of counsel is correct and that that additional matter should not be admitted.

Then there is but one way to do. Mr. SIMPSON.

The PRESIDENT pro tempore. The Chair would suggest that as that is a voluminous document, possibly it had better be withheld-there is ample time for it-for the purpose of having counsel examine and determine what part is strictly contradictory and what is not.

Mr. Manager STERLING. There are 53 pages. The evidence which contradicts Mr. Williams's statement is scattered through the entire deposition. Of course we do not care to take the time of the court to read any part of that except that which does contradict it, and, at the suggestion of the president, we will withhold it and pick out those parts that we want to read and submit them at some other time.

Mr. SIMPSON. And advise counsel for the respondent which they are, so that if there is any objection to them it may be brought to the attention of the President.

Mr. Manager STERLING. I did not catch the suggestion.

Mr. SIMPSON. And advise counsel which are the parts which the managers think ought to be read under the rule, so that if there is any objection to their reading any part of them the President and the Senate may know of it and rule upon it in due course.

Mr. Manager STERLING. We will submit it to counsel for

the respondent.

Mr. Manager CLAYTON. Mr. President, may I inquire when the argument on the admissibility of this testimony will be concluded? The counsel for the respondent yesterday claimed

the right to conclude, and the Chair very kindly-and I thank him for it—made a very valuable suggestion, which should guide the counsel. It seems to me that the Chair has been very indulgent and has prolonged the debate between the Chair and counsel for the respondent. I wish to know if the debate upon this proposition is to be continued to-morrow, or if when we indicate, in response to the suggestion of the Chair, what we think is admissible, that will conclude the debate, and the Chair will then declare the deposition or the paper admitted to evi-

dence without any further debate on the question?

The PRESIDENT pro tempore. The Chair did not desire to discriminate against the managers. He decided in favor of the managers, and did not suppose that any further argument would be desired on that side. Of course, if an issue is hereafter raised as to which part of the paper is admissible and which part of it should be excluded, then the same rule will apply as to the continuation of the discussion, and certainly both sides shall have full right to be heard upon it. Chair only now puts it upon the ground that he has decided the paper admissible so far as it contains the matter in ques-

Mr. Manager CLAYTON. I so understand. I think that so far as the matter now stands the argument has been concluded.

The PRESIDENT pro tempere. It has been.

Mr. Manager CLAYTON. Mr. President, the other day, in the opening of this case, Mr. J. A. Richardson was subpensed as a witness on behalf of the managers of the House of Representatives, and service was made upon him, according to the return, as I have been informed, by the Sergeant at Arms of the A telegram has been received here at Washington-I have forgotten exactly by whom, but it was called to my attention-containing a request on the part of Mr. Richardson that he be notified when his presence would be required. He was notified yesterday by wire. I had the clerk of the Judiciary Committee of the House of Representatives send, at my instance, a wire to Mr. Richardson informing him that he must be here to-day. He is not here; and we wanted to examine him at this time for the orderly conduct and presentation of the case. I shall, therefore, ask for an attachment. First, I will ask if the Chair-and I rather think in a matter of this sort that is the proper course-if service has been made upon Mr. Rich-

The PRESIDENT pro tempore. The Chair is informed by the Assistant Sergeant at Arms that this witness is ill and in a hospital in New York, consequent upon a stroke of paralysis, and that the officers have not been permitted to serve him.

Mr. Manager CLAYTON. Mr. President, I should not insist upon an order of attachment if that statement could be made to the Senate under oath, that from reliable information the deponent believes-and he will state the facts upon which he founds that belief-that this witness is ill and detained by the circumstances which have just been stated by the Chair. shall not, however, now ask for the order.

The PRESIDENT pro tempore. The Chair suggests that the application for the order be postponed until to-morrow, as the officer from whom this information has been secured and who endeavored to make the service is not now immediately in the Capitol Building, but the information will be definitely given

the managers to-morrow.

Mr. Manager CLAYTON. I can say, then, that the managers will adopt the suggestion made by the Chair and will let it

take that course.

Mr. Manager STERLING. Mr. President, in the event the witness is sick and can not appear, we shall offer the deposition of his evidence that was made before the Judiciary Committee in lieu of his testimony here. I do not know whether or not there will be any objection to that by counsel.

Mr. SIMPSON. When we get that far we will decide that,

Mr. STERLING.

I may say, Mr. President, there will be no necessity to call the stenographer who took the testimony. If we agree that it shall be read, it may be read from the printed book. disagree, we shall still agree that the printed book shows it with substantial accuracy, so that you may have no more trouble about it.

Mr. Manager NORRIS. May I ask the counsel whether, since we have another witness who is in the same condition,

that will apply to Witness Watson?

Mr. SIMPSON. That will apply to any witness whatsoever.

Mr. Manager STERLING. It will not be necessary to call the stenographer in any case where we can agree that the printed testimony shall be subject only to such objections as the stenographer's testimony would be subject to.

Mr. SIMPSON. Precisely so, sir.

The manager in examining a witness has the right to confine him within the limits of the interrogation which he desires to submit, but the witness certainly must have the opportunity either before the direct examination concludes or under cross

examination to explain fully any answer which he may make.

Q. (By Mr. Manager HOWLAND.) Mr. Brownell, are you acquainted with Judge Archbald?—A. Slightly, sir.

Q. Where did you first meet the judge?—A. I first met Judge

Archbald in Washington shortly after the organization of the Commerce Court, when I was present in the courthouse, and together with other members of the bar was presented by the Chief Justice to Judge Archbald in common with the other justices of the Commerce Court.

Q. Did you have any correspondence or have you received any letters from Judge Archbald?—A. On the first day of August, 1911, I received a note from Judge Archbald, bearing date of July 31, to which I made a reply on the date of its receipt. I have had no other correspondence with him.

Q. I hand you a paper writing and ask you whether or not that is the note which you received from Judge Archbald on

the date you mention?-A. Yes, sir.

Mr. Manager HOWLAND. I will ask to have the letter read by the Secretary, and then I will offer it in evidence. I do not know what exhibit it will be, but it will be the next consecutive number

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read the paper marked "Exhibit 19," as follows:

[U. S. S. Exhibit 19.1

(United States Commerce Court.)

SCRANTON, PA., July 31.

DECEMBER 6.

DEAR SIR: Permit me to inquire whether you are to be in your office on Friday of this week and at what hour other than between 2 and 3 it would be convenient for you to see me. I am to be in New York that day and may desire to call and see you for a few minutes.

Yours, very truly,

R. W. ARCHBALD.

The Secretary. On the front page is the stamp:

Erie Railroad, August 1, 1911. Vice president and general solicitor.

Mr. Manager HOWLAND. Mr. President, I offer that letter in evidence and ask to have it marked.

The PRESIDENT pro tempore. The letter just read is in evidence.

Q. (By Mr. Manager HOWLAND.) Did you reply to that letter from Judge Archbald, Mr. Brownell?-A. Yes, sir; on August 1.

Q. I will hand you a paper writing and ask you to identify it if you will. [The paper was handed to the witness.] What is that paper writing?—A. It is a carbon copy of the letter I wrote to Judge Archbald on the date of August 1, in reply to the one which has just been read.

Q. Written by you or dictated by yourself in reply to that?-A. It was dictated by myself. It bears the initial of my stenographer, and the original was signed by me.

Mr. Manager HOWLAND. I now ask to have the letter

The PRESIDENT pro tempore. The Secretary will read the letter.

The Secretary read the letter, marked "Exhibit 20," as fol-

[U. S. S. Exhibit 20.]

AUGUST 1, 1911.

Hon. R. W. ARCHBALD, Scranton, Pa.

Dear Sir: I have just received your favor of yesterday. Unless prevented by something now unforeseen, I will be at my office all day Friday and shall be glad to see you at any time convenient for you which you may designate. If equally convenient for you, I would suggest some time between 10 and 12 a. m., or, if you have no other engagement for that hour, I would be very glad to have you lunch with me at the Railroad Club, which is in this building, at 1 o'clock.

Yours, very truly,

Mr. Manager HOWLAND. I now offer the letter in evidence and ask to have it marked the proper number as an exhibit.

The PRESIDENT pro tempore. That will be done. Q. (By Mr. Manager HOWLAND.) Mr. Brownell, did Judge Archbald keep the engagement which you made with him in this correspondence?-A. I do not understand that I made an engagement by the correspondence.

Q. Did Judge Archbald meet you at your offices at the time which you suggested?-A. I did not receive any further word or message from Judge Archbald, but he called at my office during the forenoon of Friday, August 4.

Q. What did Judge Archbald say to you when he called?—
A. I can only give you my best recollection of the substance. I can not undertake to state the language of the conversation.

Mr. Manager CLAYTON. Mr. President, do I understand the counsel to assent to this proposition as being the law-it is the law in some of the States of the Union, if not in all of themthat where a witness has appeared before a court, has been duly sworn, examined, and cross-examined by the person accused or by the person entitled to cross-examine him, if the witness is dead or is beyond the jurisdiction of the court it is quite competent to introduce his testimony given in the former court proceeding? I understand that proposition to be agreed to.
Mr. WORTHINGTON and Mr. SIMPSON. No! No!

Mr. Manager CLAYTON. Of course, the testimony is subject to legal exceptions. That rule applies only to legal testimony.

to legal exceptions. That rule applies only to legal testimony.

The PRESIDENT pro tempore. The Chair will rule on that question when such evidence is offered.

Mr. Manager CLAYTON. I was not asking the Chair to rule upon it. I was only asking, for information, if the counsel for the respondent assented to that proposition.

Mr. WORTHINGTON. I will state to the managers that I have assent to it. It may be that as to any testimony they

do not assent to it. It may be that as to any testimony they may offer we will not object to its going in, but if we do, it will be on the ground that we do not object to the testimony getting before the Senate because we think it states the facts; but if the question of law should arise as to whether they have any right to use testimony taken before the Judiciary Committee, we shall probably want to have that matter settled by the Presiding Officer or by the Senate.

The managers will call their The PRESIDENT pro tempore.

next witness

TESTIMONY OF GEORGE F. BROWNELL.

George F. Brownell entered the Chamber.

The PRESIDENT pro tempore (to the witness). Give your name and address to the Secretary.

The Witness. George F. Brownell, 50 Church Street, New

The witness having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager HOWLAND.) Mr. Brownell, where do

you reside?—A. New York City. Q. What is your business?—A. I am a member of the New York bar and am a railroad official.

Q. What railroad are you connected with?-A. Principally with the Erie Railroad Co.

Q. What official capacity do you have with the Erie Railroad Co.?-A. Vice president and general solicitor of the Erie Railroad Co.

Q. Where are your offices in New York City?-A. 50 Church Street

Q. What relation does the Erie Railroad sustain to the Hill-

side Coal & Iron Co.?—A. That of stockholder.

Q. What relation does it sustain as to whether or not it is a majority stockholder or controls all the stock?—A. It is the owner of substantially all of the capital stock.

Q. How about the officers of the Hillside and the Erie; are

they interlocking officers?—A. A number of the officers of the Erie Railroad Co. are also officers of the Hillside Co.

Q. On or about August 4, 1911, did the Erie road have any litigation in the Commerce Court of the United States?—A. At

that time there were two cases on the docket of the Commerce Court. I will say

Mr. Manager HOWLAND. That answers the question. Mr. SIMPSON. The witness has a right to explain it so as to

make it clear. Mr. Manager HOWLAND. The manager is asking the questions just now. There will be plenty of opportunity to explain

all of these questions in due order. Mr. SIMPSON. I submit, Mr. President, when a witness is answering a question he has a right to complete his answer so as to make it clear to the Senate what his answer is, and the manager has no right to interrupt him in making a clear state-

ment as to what his answer is. If the witness gets beyond that point, of course, the manager has the right to interrupt him.

Mr. Manager CLAYTON. Mr. President, I desire to make a remark, with your permission. If the counsel wishes to arrest the examination, if counsel objects to the question asked by the manager or to the conduct of the manager, the rules of the Senate, as I understand, and of this court require him to address the Chair, and through the Chair make known his objection, and not by injecting these "side-bar" remarks that are common to a courthouse, but, I am glad to say, are uncommon in the practice of the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. The Chair will rule that the

manager has the right to conduct his examination in his own way and confine it within the limits of his questions if he desires to do so, and that then the witness shall, before he leaves the stand, have full opportunity to explain any answer he has made. Q. What did he say, to the best of your recollection?—A. Judge Archbald said, in substance, that he was interested in an endeavor to clear up the title to certain coal property near Scranton or Moosic, Pa.; that the Hillside Coal & Iron Co. had or claimed some interest or claim, as I understood, of a disputed fractional character to this property; that negotiations had been had with Capt. May, the then general manager of the Hillside Coal & Iron Co., for the acquisition of this claim or interest of the Hillside Co.; that no reply had been receivedno final reply-and that he understood that the matter had been referred to the New York offices; that he was in the city, I understood him to say, in connection with other matters than court duties, and that he had called for the purpose of ascertaining where the matter was. My recollection is that he said-

Mr. Manager HOWLAND. Go ahead, if he said anything

The Witness. My recollection is that he said that he did not know any other of the New York officers of the company except myself, and so had taken the liberty of asking me if I could tell him who would have charge of the subject matter.

I said to Judge Archbald-

Q. Wait a minute. I was about to ask you what you said to Judge Archbald in reply to this preliminary statement of his. Now, go ahead .-- A. I said to Judge Archbald that while I was counsel for the Hillside Coal & Iron Co. I was not an executive officer of that company and had nothing to do with its business operations; that Mr. G. A. Richardson was the sole vice president at that time of the Hillside Coal & Iron Co., and was the official to whom Capt. May reported; that Mr. Richardson would probably know of the matter or at least would know who would have it in charge.

Q. That is what you told him?-A. In part. I further said to him, according to the best of my recollection, that if he desired I would introduce him to Mr. Richardson. The best of my recollection is that I volunteered that myself, and that

it was not asked.

Q. Now, if you will allow me to ask you another question, Mr. Brownell: After you had at some considerable length explained to Judge Archbald the fact that you were not an executive officer, what did you do?—A. I offered to introduce him to Mr. Richardson if he so desired. He said that he would be glad for me to do so. I went with him into the office of Mr. Richardson.

Q. If you will allow me, did you introduce him to Mr. Richardson?—A. I introduced him to Mr. Richardson.

Q. What took place in your presence after you had introduced him to Mr. Richardson?—A. Very little; I left almost immediately afterwards. I did not remain during the conversation. I had a slight conversation-

Q. I think that answers the questionconversation with Mr. Richardson at the time I introduced the

Q. I ask you to relate what took place while Judge Archbald, Mr. Richardson, and yourself were present after you had introduced him to Mr. Richardson?—A. To the best of my recollection I said to him, in substance, that Judge Archbald said that he had had, or that some one had had, negotiations with Capt. May in regard to some coal property or this coal property-I do not remember whether or not at the time I had a description of it-and that he desired to know who had the matter in charge and to obtain some definite answer. Mr. Richardson said that he recalled having had a conversation with Capt. May upon the subject and that he would talk with Judge Archbald. Thereupon I left, and I do not know at all of the conversation that occurred between them.

Q. And Mr. Richardson was the man who had charge of the Hillside Coal & Iron Co. matters and was the immediate superior to Capt. May in that company?—A. He was the sole vice president, his superior, and did have charge under the president.

Q. Oh, under the president?—A. Yes. Q. Will you kindly give us, Mr. Brownell, the title of the two suits which you say were pending in the Commerce Court on or about August 4, 1911?—A. As nearly as I can recollect, without referring to monographs the title of the two out referring to memoranda, the title of one of the cases was "The Baltimore & Ohio Railroad Co. et al."—the "et al." meaning a number of other railroad companies—"against the Interstate Commerce Commission."

Q. Do you remember the number? Was the number 38? Does that suggest anything to you?-A. The one to which I now refer to identify it was the one commonly known as the Differential Fuel Coal rate case, and was not an appeal from a decree of the commission, as I now recall, and there were no intervening parties. In that way I may distinguish it from the other.

Q. What was the other ?-A. The other was The Baltimore & Ohio Railroad Co. et al. against the Interstate Commerce Commission, and there had intervened, in addition to the railroad companies as petitioners, Arbuckle and Jamison as two partners under the name of the Jay Street Terminal and the Brooklyn Eastern District Terminal Co. There also intervened—and it appeared in the title in the Supreme Court and in the Commerce Court—one other party—— Q. Now, Mr. Brownell, those two cases

Mr. WORTHINGTON. He has not finished describing the

Mr. Manager HOWLAND. Excuse me, I thought he had

The WITNESS. You asked me for all the parties and I was trying to the best of my recollection to give them. There was simply one more intervenor, the Federal Sugar Co.

Q. You had immediate charge of these matters in the Commerce Court and argued the cases there?-A. There were, I think, six attorneys of record, but I bore the laboring oar there in that case and in the Supreme Court.

Q. There and in the Supreme Court, both?-A. Yes, sir; for the railroad company. Other counsel represented in argument

the intervening parties.

Q. When was the argument submitted in the Baltimore & Ohio case?-A. The differential coal-rate case, which was argued by counsel for the Baltimore & Ohio Co., was argued in the Commerce Court in May, probably the 15th or 17th of May, upon the motion of the Government and the Interstate Commerce Commission to dismiss the complaint for want of equity and the motion on the part of the petitioners for a temporary in-

Q. Was that in May, 1911?-A. Yes, sir.

Q. The Federal Sugar Co. case was the other case, was it not?-A. Yes, sir.

Q. That is sometimes referred to in common parlance as the Lighterage case?-A. I have heard it in these proceedings referred to as such, but whenever so referred to it is the same that I refer to as the Federal Sugar Refining Co. case.

Q. Have you, since you introduced Judge Archbald to Mr. Richardson and retired from the room, had any correspondence with Judge Archbald, or have you had any conferences or conversations with him?-A. No correspondence or communication, written or oral.

Mr. Manager HOWLAND. I think the counsel for the re-

spondent may take the witness.

The PRESIDENT pro tempore. The witness is with the counsel for the respondent.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Can you tell, Mr. Brownell, when the case which Mr. HOWLAND referred to as the lighterage case was first taken into the Commerce Court-when the petition there was filed-and there could have been anything of that case to get on the trial list?-A. My recollection would be the 1st or shortly before May, 1911.

Q. At all events, there was no such case there on the 31st of

March, 1911?-A. No, sir.

Q. Do you remember whether in the conversation you had with Judge Archbald, either when he was with you or when you and he were with Mr. Richardson, anything was said about Capt. May in reference to complaints against him, or the reverse?-A. I have no recollection of anything in the nature of a complaint against Capt. May, sir.

Q. Do you remember anything complimentary to him being said?—A. To the best of my recollection, in Mr. Richardson's office, a remark was made by Judge Archbald, or some reference to Capt. May, which was in the nature of a complimentary

remark.

Q. Do you remember——A. I can not recall what it was,

Q. At any time when you were with Judge Archbald, when you were either in Mr. Richardson's office or your office or on the way there, can you remember whether there was any reference to Judge Archbald's position in the Commerce Court?— A. No. sir.

Q. Or to any cases that were pending or might be pending there?-A. I have not the slightest recollection of any.

Q. Did Judge Archbald ask anything of you except to tell him who was the man who had charge of the matter he was inquiring about?-A. That is all, sir.

Q. Had you heard this case, which we now speak of as the lighterage case, referred to by that name before you heard it was so called in these proceedings?—A. I do not recall having

Q. It was not the common name of it?-A. Among counsel and those interested we have been accustomed to speak of it

as the Federal Sugar Refining Co. case. It has had some discussion under that title.

Q. So far as you know were there any papers in it which were backed "lighterage case" or in which the word "lighter-

age" was used in the title?-A. No, sir.

Q. Do you recall whether you saw that case on the trial list of the Commerce Court at any time?—A. I have no recollection of it. I am not at all clear, sir, that I have ever seen the trial list of the Commerce Court. I think that would be attended to by some of my office force.

Mr. WORTHINGTON. That is all, Mr. President. Mr. Manager HOWLAND. That is all, Mr. President.

The PRESIDENT pro tempore. Is there any further ques-

Mr. HITCHCOCK. Mr. President, I submit the question I send to the desk.

The PRESIDENT pro tempore. The Senator from Nebraska asks that a question be propounded to the witness. The Secretary will read it.

The Secretary read as follows:

Q. Did Judge Archbald, when he called at your office, represent himself as a partner in the proposed purchase of the coal property or as a friend or attorney for the purchaser?

A. No, sir; he did not represent himself in either of those specific characters. He stated, as I recall it, that he was interested in the clearing up of this property, and, to that end, in the acquisition of the interest or claim of the Hillside Co., concerning which negotiations, he stated, had been under way with Capt. May. The nature or extent of that interest on his part was not stated; I mean the nature or extent of the interest which he stated he had.

Mr. Manager HOWLAND. No further examination.

The PRESIDENT pro tempore. The witness may retire.
Mr. Manager CLAYTON. Mr. President, this witness may
e discharged finally. We do not apprehend that we will have be discharged finally. We do not apprehend that we will have any occasion to recall him.

The PRESIDENT pro tempore. He is discharged. The

managers will call the next witness.

Mr. Manager CLAYTON, Call Mr. W. L. Pryor.

The PRESIDENT pro tempore. The Sergeant at Arms will call Mr. Pryor.

TESTIMONY OF WILLIAM L. PRYOR.

William L. Pryor, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager NORRIS.) Where do you reside?-A. Seranton, Pa.

Q. What is your occupation ?-A. Manager of the Scranton Autopoise Co.

Q. How long have you resided in Scranton?-A. Twenty-six years.

Q. Are you acquainted with Judge Archbald?-A. I am.

Q. Are you acquainted with Mr. E. J. Williams?-A. I am,

Q. How long have you been acquainted with Mr. Williams?-A. Probably not more than two years; two years or two and a half.

Q. Where were you, Mr. Pryor, and in what business were you engaged on or about the 5th day of September, 1911?-A. I was engaged as accountant for the Marian Coal Co. in preparing their case before the Interstate Commerce Commission.

Q. In preparing what?-A. In helping to prepare their case before the Interstate Commerce Commission.

Q. In what capacity? Were you an atterney?-A. No, sir; I was preparing the statistics.

Q. You were an accountant, then?-A. Yes, sir.

Q. You were an accountant, then ?—A. Yes, sir.
Q. You were working for them at that time?—A. Yes, sir.
Q. Did you see E. J. Williams on or about the 5th day of
September?—A. I did. He was a daily visitor.
Q. I hand you exhibit No. 7, Mr. Pryor, which has been referred to in the evidence here as the silent party agreement, and
I ask you if you have seen that before?—A. Yes; I have.

Q. When and where ?-A. In the office of W. P. Boland; about

the date, the fore part of September.
Q. Who was present at that time?—A. Mr. E. J. Williams, Mr. W. P. Boland, and the stenographer, Miss Mary Boland, and myself.

Q. The instrument bears your name, does it not?—A. It does.

Q. Did you sign your name to it?—A. I did. Q. As a witness?—A. I did.

Q. To the signature of Mr. Williams?—A. Yes, sir. Q. Did you see Mr. Williams sign it?—A. I did.

Q. Were you there when the instrument was prepared?—A. was in the room; yes, sir.

Q. Was Mr. Williams there?-A. He was.

Q. By whom was the instrument dictated?-A. It was prepared, I believe, jointly by Mr. E. J. Williams and Mr. W. P. Boland; dictated to the stenographer.

Q. You mean each one dictated parts of it?-A. Yes, sir. Q. After it was written out by the stenographer what was done with it?-A. A copy of it was handed to E. J. Williams and it was read to him.

Q. Who read it to him?-A. I believe it was Mr. W. P. Boland.

Q. He read it over in the presence and hearing of all of

you?-A. Yes. Q. And then what was done with it?-A. Mr. Williams sat

down at a table and signed two copies, if not three. Q. Mr. Pryor, are you sure he signed more than one copy?-A. I am almost sure that I signed two copies, and therefore it would signify that he signed two.

Q. How many copies were taken?-A. That I am not prepared to state.

Q. They were carbon copies, taken on the typewriter?-The original and a carbon; yes, sir.

Q. What did Mr. Williams do with the copies he took?-That I could not say.

Q. Did he leave them there?-A. That I could not answer. Q. Do you know whether he took them away with him or

not?-A. No, sir.

Q. I hand you respondent's Exhibits A and B, Mr. Pryor, and ask you to examine them, which you can do in connection with the original exhibit, and tell me whether they are the copies the carbon copies—that were kept by Mr. Williams?—A. (Examining.) That I could not answer.

Q. Mr. Pryor, what was said, if anything, there in the presence of Mr. Williams and in his hearing by anyone in regard to who was the silent party referred to in this instrument that Mr. Williams signed?—A. I believe—
Mr. WORTHINGTON. One moment.
Mr. Manager NORRIS. Just wait, Mr. Pryor.

The PRESIDENT pro tempore. One moment.

Mr. WORTHINGTON. Mr. President, I believe you held, and the Senate has held, that this paper itself is competent evidence, notwithstanding that it was not shown, and there is not any evidence tending to show, that Judge Archbald had anything to do with it.

The PRESIDENT pro tempore. Counsel will please speak

Mr. WORTHINGTON. I say, as I recollect, it was held by the Senate, by the vote, on the first day of our taking testimony here, that this silent-party paper was admissible in evidence, or at least should be introduced here, although no evidence was offered tending to show Judge Archbald knew of it or authorized it. But I do not understand that that ruling went so far as to hold that the parties who may have made statements about Judge Archbald would be competent witnesses against him, or that any statement made against Judge Archbald by Williams or Pryor or perhaps other persons who were in Boland's office would be competent and proper evidence in this matter.

Mr. Manager NORRIS. Mr. President, you will remember what the testimony of Mr. Williams was in regard to this silent party, and a great deal of time was taken up trying to have him admit certain testimony that he had given before the Judiciary Committee. If this witness heard him state there or in his presence who the silent party was, it seems to me it is perfectly proper and competent for the witness to tell it as explaining not only the instrument itself but Williams's testimony, wherein we claim he contradicted himself in his testimony here.

The PRESIDENT pro tempore. The Chair will inquire whether the testimony before the Judiciary Committee was in conflict with what the witness testified to here on that subject?

Mr. Manager NORRIS. I think the testimony there—at least, parts of it—were in conflict with each other, and it was certainly in conflict with the testimony here. I think the Chair will remember that in the examination conducted by Mr. Webb, Mr. Webb called the witness's attention to some of the testimony on that subject which he had given before the Judiciary Committee. At least, it is in dispute, as I understand it, as to just what was intended by the reference here, and we have a right to show, I think, by those who drew the instru-ment and by the man who signed it, what was intended when a term was used that on its face shows that some explanation is necessary.

The instrument itself says that the silent party is known to certain persons, who are named, and, as I remember it, I think this witness is one of them. I now have the paper before me.

The language is: "and the silent party whose name for the present is only known to Edward J. Williams, William P. Boland, John M. Robertson, and Capt. W. A. May, superintendent of the Hillside Coal & Coke Co." It therefore seems that this witness is not one of the names mentioned; but if this witness was present and heard the man Williams make the statement as to who the silent party was, or heard some one else make it, in the conversation and in the hearing of Williams, then it is proper for us to show who the silent party was.

Mr. WORTHINGTON. Mr. President, I have only to suggest this illustration: If a man is on trial for murder and a paper is produced which was prepared in an office where he was not present, and at a meeting of which he had no knowledge, and a paper was drawn up reciting that he and somebody else had committed that murder, would that paper, or anything with reference to the execution of that paper, be evidence against him to show that he did commit the murder?

It is true that we admit in the answer and admit here that Judge Archbald agreed with Mr. Williams that they would together undertake to buy and to sell this coal dump; but he is charged here with the crime of attempting to use his influence as a judge of the Commerce Court with the Erie Railroad people to get them to sell that dump to him on favorable terms; and as a part of the evidence against him it is said that he agreed that his name should be concealed in that transaction because he knew he was doing wrong. Here were some other people concealing his name and preparing a paper which was concealing it, and the talk among them as to who he was and why he was concealing his name is sought to be introduced in a court of justice as affecting him.

I do not see how I can say anything more. It is against all rules of evidence under which I have been accustomed to practice, and it seems to me there is no rule in justice or equity

why it should be introduced.

Mr. Manager NORRIS. Mr. President, I want to make a suggestion I omitted to make, if the President will allow me. It is at least the theory of the managers on the part of the House, and for the purpose of passing on the evidence I think it will be consided that the Chair will take the chair. it will be conceded that the Chair will take the theory, that Mr. Williams and Judge Archbald were partners, and I think that ought to be called to the attention of the Chair before the Chair passes upon it, because what he said there or did there in carrying out the purposes of whatever plans they had would certainly be proper from this witness.

Mr. WORTHINGTON. I suppose, Mr. President, in the case I have supposed if the paper had been prepared and recited the manner in which the murder was to be committed, that would make it competent against the man on trial charged with the

Mr. Manager NORRIS. Oh, no; that is not a similar case.

The PRESIDENT pro tempore. The paper has been admitted as a legitimate piece of evidence. The Chair is of the opinion that everything that is necessary for a proper explanation of the meaning of that paper is competent. What effect it would have upon the respondent is a question of law that would afterwards be determined. But as to the question of the admis-sibility of the evidence, the Chair is of the opinion that whenever there is an ambiguity in an instrument, which itself is admitted in evidence, it is competent to show what those who made the paper intended. How far that would be binding upon the respondent is an altogether different question, and the Chair does not mean in the ruling to rule on that point. That would be a question for the Senate to determine when it comes to consider the weight of the evidence. As to whether or not a partnership has been proven, and whether the respondent should be bound by statements made by one who is alleged to be his partner, is a question to be determined by the Senate sitting as a court.

Upon the naked question as to whether or not the paper which is proven to have been executed and which the Senate has decided to be proper evidence shall have any ambiguous term explained by showing what the parties to it said it meant, the Chair is not in any doubt whatever.

Mr. Manager NORRIS. I would like to have the stenographer read the question to the witness.

The Reporter read as follows:

Q. Mr. Pryor, what was said, if anything, there in the presence of Mr. Williams and in his hearing by anyone in regard to who was the silent party referred to in this instrument that Mr. Williams signed?

A. The mention of Judge Archbald's name was brought up by Mr. Williams, as being interested in the transaction, and was to

be known as the silent party.

Mr. Manager NORRIS. I think that is all. You may cross-

The PRESIDENT pro tempore. The witness is with the counsel for the respondent.

Mr. WORTHINGTON. We have no questions to ask. The PRESIDENT pro tempore. The witness may retire.

Mr. WORTHINGTON. I should like to have the witness reminded that he is under subpœna by us on another matter, and that he is not to consider himself discharged.

The PRESIDENT pro tempore. The witness will not con-

sider himself discharged.

We do not anticipate that we will Mr. Manager CLAYTON. need him any more, so that hereafter if he desires to get away he may apply to counsel for the respondent.

The PRESIDENT pro tempore. Call the next witness.

Mr. Manager CLAYTON. Please have Charles F. Conn called as a witness. Mr. Davis will conduct the examination of this witness.

TESTIMONY OF CHARLES F. CONN.

Charles F. Conn, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager DAVIS.) Where do you live?—A. Scranton, Pa.

Q. What is your occupation?—A. Vice president and general manager of the Lackawanna & Wyoming Valley Railroad Co.
Q. What is the character of that railroad?—A. It is an elec-

tric railroad operating between Scranton and Wilkes-Barre. Q. Does it sustain any business relationship, by traffic agree-

ment or otherwise, with the Erie Railroad?—A. It does. Q. From what source has your railroad company been purchasing its fuel supply ?- A. From the Erie Co. or some of its subsidiary companies.

Q. Including the Hillside Coal & Iron Co.?-A. I can not say which of the companies have rendered the bills.

Q. Do you know Judge Robert W. Archbald?—A. I do.
Q. How long have you known him?—A. Four or five years.
Q. Do you know Edward J. Williams?—A. I do.
Q. How long have you known him?—A. I think it was in

September, 1911, when I first met him.

Q. Have you, in your capacity as manager of the Lackawanna & Wyoming Valley Railroad, had any transactions with those gentlemen, or either of them, for the purchase of any coal property?—A. Yes, sir; I have.

Q. When did you have such transaction; and if with both, when and where?—A. My recollection is that the transaction began in September of 1911.

Q. Who of those first introduced the transaction to your notice?-A. Judge Archbald.

Q. When and where?—A. On the street in Scranton.
Q. What conversation had you with him at that time?—A.
He stated that he would like to present a culm bank for my consideration.

Q. Was that the entire conversation?-A. That is the substance of it.

Q. To what culm bank did he refer?-A. My recollection is that he did not refer to any specific bank by name.

Q. Did he tell you by or through whom he proposed to pre-

sent it?-A. I think not.

Q. What was your next connection with the transaction?-I received a letter. Mr. Williams brought a letter to my office introducing him and referring to the culm bank.

Q. From whom was that letter?—A. From Judge Archbald. Q. Please look at the paper [presenting letter] I hand you, which is identified as Exhibit No. 10, and state whether that is or is not the letter to which you referred .- A. (After examining letter.) That is the letter.

Mr. Manager DAVIS. The letter is in evidence, but in order that the Senate may understand the document I will ask the

Secretary to read it.

The PRESIDENT pro tempore. The Secretary will read the letter.

The Secretary read as follows:

[U. S. S. Exhibit 10.]

(R. W. Archbald, judge. United States Commerce Court, Washington.) SCRANTON, PA., September 20, 1911.

Scranton, Pa., September 29, 1911.

My Dear Mr. Conn: This will introduce Mr. Edward Williams, who is interested with me in the culm dump about which I spoke to you the other day. We have options on it both from the Hillside Coal Co. and from Mr. Robertson, representing Robertson & Law, these options covering the whole interest in the dump. This dump was produced in the operation of the Katydid colliery by Robertson & Law and extends to the whole of the dump so produced. I have not seen it myself, but, as I understand it, this dump consists of two dumps a little separate from each other, but all making up one general culm or refuse pile made at that colliery. Mr. Williams will explain further with regard to it if there is anything which you want to know.

Yours, very truly,

R. W. Archbald.

Q. (By Mr. Manager DAVIS.) That letter was brought to you by Mr. Williams in person, was it?—A. It was.
Q. On the date given in the letter—the 20th of September?—

A. I could not say as to that.

Q On or about that day?-A. About that time.

Q. Did you have any conversation with Mr. Williams on the

subject at that time?-A. Yes, sir.

Q. State the substance of your conversation .- A. I asked him as to the location of the dump and the approximate amount of material in it. He gave me that information, and I stated I would investigate it and inform Judge Archbald of my conclusion.

Q. Did you investigate it?—A. I did; yes, sir.
Q. When?—A. Within a week or 10 days. I went to the dump and looked it over. I had with me the engineer of our power plant.

Mr. THORNTON. Mr. President, I request that the witness be instructed to speak just a little louder. The PRESIDENT pro tempore. The witness will please raise his voice.

Q. (Mr. Manager DAVIS.) Was anyone else there with you?—A. I think on that trip I met Mr. Williams and Mr. Pryor at the bank.

Q. In addition to your personal inspection of the bank at that time did you have it inspected by any other person in your behalf?—A. Yes, sir.
Q. By whom?—A. By Mr. Rittenhouse.

- Q. Who is Mr. Rittenhouse?-A. Civil and mining engineer in Scranton.
- Q. Did you employ him for the purpose of making an inspection of the bank in your interest?—A. Yes, sir.
 Q. Did he make a report on it to you?—A. He did.

Q. Verbally or in writing?-A. He gave me a written report

of the quantity of material.

Q. After your receipt of the report from Mr. Rittenhouse, when did you next see either Judge Archbald or Mr. Williams?-A. At Judge Archbald's office a short time after that. Mr. Williams was present at that time.

Q. How did you come to go to Judge Archbald's office?-

To see him in connection with this matter.

Q. Will you detail the conversation you then had with either or both those gentlemen?-A. I stated to them that I did not care to purchase the bank for a lump sum, but that if they cared to sell it on a royalty basis I would be glad to consider it further.

Q. Had they made a proposition of a lump-sum price prior

to that meeting?-A. I think so-\$25,000.

Q. When was that proposition made to you?-A. My impression is that that was the price named by Mr. Williams when

he presented this letter.

Q. And after your conversation at Judge Archbald's office, at which you refused to consider it at a lump sum and desired a royalty, did you receive any further proposition from them?-A. Yes; I had a letter from Judge Archbald making a proposition.

Q. Look at the paper [presenting paper] which I hand you, which is identified as Exhibit No. 3, and state whether that is the letter to which you refer?-A. (After examining paper.) That is the letter.

Mr. JOHNSTON of Alabama. Mr. President, I should like to ask one question of the witness.

The PRESIDENT pro tempore. The Senator from Alabama desires that the following question be propounded to the witness. ness, and the Secretary will propound it to the witness.

The Secretary read as follows:

Did Judge Archbald in any interview with you tell you that he had any personal interest in the dump?

The WITNESS. I do not know that he did in those words, but I gained the impression from my conversation with him and the letters which I received from him that he had an interest in the dump.

Q. (By Mr. Manager DAVIS.) Did he at the conference you had at his office, to which you have just referred, tell you what the condition of the title was and how much of title he and Mr. Williams controlled?—A. I think no reference was made to the title.

Mr. Manager DAVIS. We have identified a letter from Judge Archbald, under date of November 6, 1911. It is already in evidence, but I shall ask that the Secretary read it at this

The PRESIDENT pro tempore. The letter will be read. The Secretary read as follows:

[U. S. S. Exhibit 3.]

(R. W. Archbald, judge United States Commerce Court, Washington.) SCRANTON, PA., November 6, 1911. C. F. CONN, Esq.

DEAR Sin: On behalf of Mr. Edward J. Williams and myself I offer you the so-called Katydid culm dump, in the vicinity of Moosic, on a royalty basis at a flat rate of 30 cents a ton for all sizes, with the

understanding that a minimum of 20,000 tons a year shall be taken or paid for, you to pay us \$12,000 on account as advance royalties and to be entitled to take 40,000 tons without further payment therefor. In washing or screening the coal, if any of the prepared sizes are found there will be an additional charge of 5 cents a ton on such prepared sizes, payable to the Hillside Coal & Iron Co. It will be satisfactory to us if you desire to remove the material from time to time in quantity without screening or washing it on the ground, with the idea of screening or washing it elsewhere, provided we can be sufficiently protected and informed with respect to the actual number of tons taken, for which you would be accountable. In the execution of a formal agreement there may be other minor details in order to make a complete working contract, but the above will give you the substance of what we are ready to do.

Trusting that you will find these terms acceptable. I remain

ady 10 do.

Trusting that you will find these terms acceptable, I remain,
Yours, very truly,
R. W. ARCHBALD.

Q. (By Mr. Manager DAVIS.) Did you reply to that letter, Mr. Conn?-A. I did.

Q. Have you a copy of your reply in your own possession?—A. My copy was left with the committee.

Q. Look at the paper [presenting paper] I hand you and state whether this is the office copy of your reply.—A. (After

examining paper.) That is my reply.

Q. At the top of the letter there is a pencil notation, "closed, as below, November 29, '11." In whose handwriting is that In whose handwriting is that

notation?—A. It is mine.

Mr. Manager DAVIS. Will you hand that to the Secretary that it may be read? We offer it in evidence.

The PRESIDENT pro tempore. It will be read.

The Secretary. Notation in pencil at top:

Closed, as below, November 29, '11. The letter is as follows:

[U. S. S. Exhibit 21.]

NOVEMBER 29, 1911.

Hon. R. W. ARCHBALD, Scranton, Pa.

Hon. R. W. Archeald, Scranton, Pa.

My Dear Judge: In reference to your proposition for the purchase of the Katydid bank at Moosic, I beg to say that I have had figures made of the investment necessary for us to prepare this coal and get it to our road, and I find that the cost per ton will be somewhat larger than I anticipated. I still feel, however, that it may be possible for us to handle this proposition on a basis which will enable us to reduce our cost of ccal a little and have submitted the matter to our people for their advice.

I believe that I can close the matter with you on the basis of a royality of 21s cents per gross ton for all coal shipped, with a minimum of 20,000 tons per year, and if you care to accept this proposition, will arrange to pay \$10,000 as advanced royalties on the signing of the papers.

arrange to pay \$10,000 as advanced loyalities of the papers.

As it is our plan to erect a washery adjacent to our tracks it will be necessary for us to purchase some land for this purpose and for the disposition of the waste material, and I should wish to have it understood that the waste material belonged to this company, so that it might be used for filling, etc., if desirable to do so. I have made no effort thus far to obtain any land, so would be glad to have no mention made of this transaction until this has been accomplished.

If my proposition is satisfactory, the matter can be closed up at once. Yours, truly,

V. P. & G. M.

Q. (By Mr. Manager DAVIS.) You signed the original of that and transmitted it to Judge Archbald in due course of mail, did you?-A. I did.

Q. What did the pencil notation, "closed, as below, November 29, '11," mean?—A. Judge Archbald came to my office on that day after his receipt of the letter and accepted the proposition. I made that notation and considered it was closed.

Q. What conversation occurred between yourself and him at that time?—A. I only recall that I stated this was subject to the approval of our attorneys as to title, and that I would ask

them at once to investigate it.

Q. Was there any discussion with reference to the formation of the contract or the reduction of the agreement to writing? A. Yes, sir. I think Judge Archbald asked if we should exchange letters confirming this arrangement and I said that it was immaterial.

Q. When did you next see Judge Archbald with reference to the matter?-A. I met him in our attorney's office a few days

after that, within three or four days I should say.

Q. What occurred at that conference?-A. Our attorneys had advised that the title was not satisfactory, and that statement was made in Judge Archbald's presence. I think that is the substance of the conversation.

Q. Who were your attorneys and where was their office?-

Welles & Torrey, in the Connell Building, Scranton.

Q. What was Judge Archbald's contention with reference to the title? What response, if any, did he make to their criticism, in other words?-A. My recollection is that he said he would look up the question raised by Wells and Torrey. It was of the Everhart interest.

Q. Was anything said as to some form of indemnity to you as the purchaser against their claim?—A. I think something of that kind was brought up at that interview, the question of Judge Archbald giving us a bond to protect us against any other claimant.

Q. Was such a bond given?-A. No, sir.

Q. That interview took place within what length of time after your letter of November 29, 1911?—A. My recollection is that it was within a week.

Q. Had you any further connection with the transaction?-A. I received a letter from Mr. Williams subsequently.

Q. Do you remember the date of that subsequent letter?-

A. In March, I believe.

Q. Look at the paper [presenting paper] I had you, identified as Exhibit No. 4, bearing date the 13th of March, 1912; and signed E. J. Williams. State if that is the letter to which you refer.—A. (After examining paper.) That is the letter.

Mr. Manager DAVIS. The Secretary will read the letter.

It is already in evidence.

The PRESIDENT pro tempore. The letter will be read. The Secretary read as follows:

[U. S. S. Exhibit 4.]

CHARLES F. CONN, Esq., Scranton, Pa., March 13, 1912.

CHARLES F. CONN, Esq., Scranton, Pa., March 13, 1912.

Dean Sir: Regarding the culm bank located at Moosic, Pa., which you have been negotiating for, would say this matter has been hanging fire for some time, and the party who has been dealing with you is desirous of your having the bank. He believes that the title to this property is not a complicated one.

You as a business man understand the conditions under which the Hillside Coal & Iron Co. are operating under this lease. For any coal which they, their successors or assigns, take from this bank larger than pea coal they are to pay to the Everhart heirs a royalty of 20 cents per ton. Now, I think you do not intend preparing any of the larger sizes of coal; and if not, the Everhart heirs a royalty of 20 cents per ton. Now, I think you do not intend preparing any of the larger sizes of coal; and if not, the Everhart heirs et al. would have no interest in the bank.

The Hillside Coal & Iron Co. and Mr. John M. Robertson, the only recognized owners of this bank, have agreed to sell me their interest, and I would be glad to have you let me know at your earliest convenience what you intend doing in the matter, as other parties are anxious to negotiate for it. I may say that should you have any doubts you could deposit one-half or two-thirds of the royalty in the bank or retain it for a reasonable time as a guaranty against any claims. I am making this at the suggestion of the party who has been dealing with you to assure you of our desire that you should sustain no loss.

Very truly, yours,

Q. (By Mr. Manager DAVIS.) Did you receive that letter by mail or was it delivered in person, Mr. Conn?-A. I could not say. Q. Did you see either Mr. Williams or Judge Archbald after

its receipt?-A. Yes, sir.

Q. When did you next see either of those gentlemen?-A. I do not recall the date. Judge Archbald came to my office a short time after that letter came to me, and I showed him the letter.

Q. He read the letter, did he?—A. Yes, sir.
Q. What was the purpose of his visit to your office at that time?—A. To discontinue the negotiations with us for the sale of the bank.

O. What was said? What conversation took place between yourself and him?—A. In substance, that he was unable to clear up the Everhart matter, and that the proposition made to us was withdrawn.

Q. Was he still desirous that you should purchase the bank

at that time?-A. I do not know as to that.

Q. What did you gather from his conversation?-A. I do not think there was any conversation on that end of the subject. The negotiations closed at that visit.

Q. You yourself told him at that time that you could not take

it with the title in that condition?-A. Yes, sir.

Q. And he told you, in substance, that he could not meet the demands which had been made by your attorneys?-A. That is my recollection.

Q. And that ended the negotiations, so far as you were con-

cerued?-A. Yes, sir.

Q. Had you invited him to your office at that time?—A. No, sir. Q. Your last previous interview with him had been in the month of November, had it not, immediately after the writing of your last letter at the office of your attorney?-A. I should not want to say that I had not seen him in the interim, but I do not recall any meeting with him.

Q. You had not had any discussion of this proposal with him in the meantime, had you?—A. Not so far as I recall.

Q. You had not invited him to your office on the 29th of

March?-A. No. sir.

Q. On the 13th of March, I believe it was. He came there of his own volition?-A. Yes, sir.

Q. And again brought up with you the question of this transaction?

Mr. WORTHINGTON. The manager assumes that the witness had said that he saw Judge Archbald on the 13th of March. He said it was soon afterwards.

Mr. Manager DAVIS. I admit the correction. The letter of Williams is dated the 13th.

Q. (By Mr. Manager DAVIS.) How long was it after the receipt of the Williams letter of the 13th of March that Judge Archbald came to your office?-A. I can not say.

Q. Had he any other business with you at that time?-A. I

think not.

Q. The only matter which you discussed was this transaction?-A. So far as I recollect.

Q. Was any written form of contract submitted to you at any time during the negotiations?-A. There was,

Q. By whom?-A. By Judge Archbald.

Q. Do you have that paper?—A. No, sir.
Q. Who has it?—A. I think Col. Worthington has it.
Mr. WORTHINGTON. I will say to the manager that I have
it in my pocket, and it is at his disposal if he wishes to see it or use it

Mr. Manager DAVIS. I should like to see it, if you please. Q. (By Mr. Manager DAVIS.) When did you deliver it to Col. Worthington?—A. I did not deliver it to him.

Q. From whom did you receive it?—A. From Judge Archbald.
 Q. And when?—A. Soon after the 29th of November.

Q. And where was it delivered to you?-A. I think by mail. Q. What did you do with it?-A. I made some notations on it and sent it to our attorneys, I think, to the best of my recollection.

Q. Did you ever redeliver it to Judge Archbald?-A. I do not know

Q. Did you ever receive it back again from your attorneys?-A. I can not say.

Q. Do you know where that paper has been since you delivered it to your attorneys?-A. I do not know that.

Q. Is it or is it not a fact that at your last interview with Judge Archbald, had in the month of March after the receipt of the Williams letter, he asked you to redeliver that contract to him?-A. I do not remember that.

Q. Have you no recollection at all on that subject?-A. None

at all.

Q. You say that he came there that evening to close the negotiations?—A. Yes, sir.

Q. Or to withdraw the negotiations?-A. Yes, sir.

Q. Do you not remember that at that time he asked you for the redelivery of this draft?—A. I do not remember that.

Q. Do you remember that he did not?—A. No, sir; I could

not say that.

Q. Can you say whether this paper was or was not at that time in your possession or in the possession of your counsel?— A. I can not. Q. Do I understand you to say that you have no recollec-

tion whatever of this paper after you delivered it to your counsel in December?—A. None whatever.

Q. Can you account in any way for its possession from that time until this?-A. I can not.

Q. Did you ever instruct your counsel to redeliver it to Judge Archbald or to any of his representatives?—A. I did not.

Q. You do not assume that they would have done so without your consent, do you?-A. I should not expect them to.

Q. So far as you know, they did not deliver it to Judge Arch-

bald?—A. So far as I know.

Q. Are you willing to state positively that you did not deliver it to him?-A. I am not.

Q. Then it is possible, so far as the present state of your recollection is concerned, that Judge Archbald did ask you for this paper at your final interview with him in March, and you did redeliver it to him at that time?-A. It is possible.

Q. Will you look at the paper which was just handed to me by counsel and see whether that is the document to which you refer?

The WITNESS (examining paper). That is the one. Mr. Manager DAVIS. Mr. President, I should like to offer that document in evidence in connection with the testimony of

The PRESIDENT pro tempore. Does the manager desire that it be now read?

Mr. Manager DAVIS. Not at this instant. Mr. WORTHINGTON. I might ask, before doing that, that the handwriting be identified?

Mr. Manager DAVIS. I was just about to do that. Mr. WORTHINGTON. There are some interlineations in handwriting.

Q. (By Mr. Manager DAVIS.) On that paper there are certain pencil notations and interlineations. Do you know by whom those were made, Mr. Conn?—A. Yes, sir; they were made by me.

Q. When?-A. I presume shortly after this contract was placed in my hands.

- Q. Before or after its submission to your counsel?-A. Before,
- Q. Are there any notations on there in any handwriting other than your own?-A. It has just been marked "Exhibit"-
- Q. Leaving that out, of course.-A. No, sir; they are all
- Mr. Manager DAVIS. Now, Mr. President, I shall ask to have the document read without the notations, unless counsel prefers to have them read also.

Mr. WORTHINGTON. They can be read later.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read the paper, marked "Exhibit 22," as fol-

[U. S. S. Exhibit 22.1

This agreement made this — day of December, A. D. 1911, by and between Edward J. Williams and R. W. Archbald, of Scranton, I'a., of the one part, and the Erie & Wyoming Valley Railroad Co., a corporation of the State of Pennsylvania, of the other part, witnesseth:

Whereas the said parties of the first part are the owners of a certain culm dump or bank of waste coal and refuse, produced in the mining operations of the late firm of Robertson & Law, at the so-called Katydid mines and colliery, which dump or bank is located in the vicinity of Moosic, Pa., and known and called the "Katydid" culm dump; and, whereas, the party of the second part is desirous of purchasing the same;

Now, this agreement witnesseth that for and in consideration of the terms and conditions hereinafter mentioned the parties of the first part do hereby grant, bargain, sell, and convey unto the party of the second part, its successors and assigns, all of the said culm dump, with the right to take, remove, and dispose of the same, subject always as follows, that is to say:

1. It is the purpose of the said party of the second part, and it hereby undertakes and agrees, at some convenient place along the line of its railroad to erect and construct a so-called washery or building with suitable screens, rolls, chutes, and other appliances for the handling, screening, sorting, cleaning, and preparing for use the coal and material obtained from the said culm dump, with or without the use of water; and the same to equip with proper scales to the end that an accurate record may be kept of the weight and quantity of the said coal derived from the material taken from the said dump or bank; all of which material, excepting rock, shall be taken and be passed through the said washery, and afterwards weighed at the said washery in the cars when ready for use, or, in default thereof, shall be accounted and paid for according to the gross ton of material removed from the said dump.

2. For each ton of coal of 2,240 pounds obtained from the said dump as afor

screen being regarded as dirt or waste, for which no payment is to be required;

Provided however, that in the screening, sorting, cleaning, washing, or preparing the said material it shall not be broken down or crushed by the said party of the second part, so as purposely to make any such dirt or waste; and

Provided further, that any such waste material that is used or sold by the said party of the second part for steam or fuel purposes shall be paid for at the same rate as though of the size aforesaid.

3. The said party of the second part shall render monthly statements of the number of tons passed through, or cleaned and prepared at the said washery, which statements, in duplicate, shall be mailed to the said washery, which statements, in duplicate, shall be mailed to the said marties of the first part, severally, on or before the 10th day of each calendar month for the month then next preceding; and on the 20th day of each month shall make payment therefor, one half to each of the said first parties, which the said parties of the first part shall severally receipt for by signing and returning proper youchers therefor.

half to each of the said first parties, which the said parties of the first part shall severally receipt for by signing and returning proper vouchers therefor.

4. The said party of the second part agrees to pay at the rate per ton aforesaid for at least 20,000 tons per annum, in equal monthly installments, whether that quantity shall have been removed and obtained from said dump or bank and washed and prepared or not, until all the said material other than rock composing the said dump shall have been removed and disposed of, or all the coal to be derived therefrom shall have been paid for. When royalties have been paid in advance, and, in the opinion of the party of the second part, payment has been made at the rate aforesaid for all of the coal capable of being obtained from said dump, if there is any dispute between the parties hereto with regard to the same, the matter shall be submitted to three arbitrators; one of whom shall be chosen by the parties of the first part, one by the party of the second part, and the two arbitrators so chosen shall agree on the third arbitrator, and the decision of any two of them shall be binding and conclusive. In case of the neglect or refusal of either party to appoint an arbitrator, the appointment may be made at the instance of the other party by the Court of Common Pleas of Lackawanna County.

5. Where, in the screening, sorting, cleaning, and preparing the said material, any coal above the size of pea coal is obtained the party of the second part, in addition to the royalty of 27½ cents per ton to be paid to the parties of the first part, shall pay to the Hillside Coal & Iron Co. on account of the owners of lot No. "46," from which the said coal was originally mined, the sum of 5 cents per gross ton, in accordance with the terms on which the said culm dump is sold to the parties of the first part, by the said Hillside Coal & Iron Co.

6. The party of the second part shall pay to the parties of the first part, on the execution and delivery of this agreement, the sum of

thereof.
7. In case of the failure of the party of the second part for 30 days to make the payments herein provided for, or to otherwise for a like period comply with any of the terms of this agreement, the parties of the first part may forfeit this agreement on 30 days' notice in writing of their intention so to do.
8. This agreement shall take effect as of December 1, 1911, from which date the minimum herein provided for shall begin to run.

9. When this agreement shall have been fully complied with by the party of the second part the parties of the first part, at its request, shall execute an acknowledgment, releasing and discharging the said party of the second part from any further obligation thereon.

10. The terms and conditions of this agreement shall be binding upon and operate in favor of the executors, administrators, and assigns of the parties of the first part and of the successors and assigns of the party of the second part as though in each instance severally and expressly mentioned.

In witness whereof the parties of the first part have hereunto set their hands and seals, and the party of the second part has hereunto affixed its corporate seal, attested by the signature of its president and secretary on the day and year first above written.

Mr. GALLINGER. Mr. President, I desire to make an inquiry. The Senate has some important business to transact, and I wish to ask the managers and the counsel for the respondent if it would be agreeable to have the court adjourn at the present time, shortening the session a few minutes for the day

Mr. Manager CLAYTON. Mr. President, on behalf of the managers, I may say that the suggestion is entirely agreeable.

Mr. WORTHINGTON. Likewise to us, Mr. President.
Mr. THORNTON. Mr. President, before adjournment, I
desire to have a question propounded to the witness.

The PRESIDENT pro tempore. The Senator from Louisiana desires to have a question propounded to the witness. question will be read by the Secretary.

The Secretary read as follows:

Q. Why did you say in the examination that you thought Col. Worthington had the document?

Mr. CULBERSON. Mr. President, may I ask that that question be read again. My attention was diverted.

The Secretary again read the question.

The WITNESS.

The Witness. I knew that it was in his possession. Q. (By Mr. Manager DAVIS.) How did you come by that knowledge?-A. I went to his office when I first came to Washington and asked to see it.

Q. How did you know that you would find it at his office?-A. It was sent to my office in Scranton in my absence so that I might see it.

Q. Who sent it to your office in Scranton?-A. It came from

Welles & Torrey.
Q. Who are Welles & Torrey?—A. Attorneys for my railroad.

Q. When did they send it to your office that you might see it?-A. One day last week.

Q. How did it get from your custody to Mr. Worthington?-A. It was not left at my office. It was sent there in my absence, and the messenger took it away with him.

Q. What did the messenger do with it?-A. That I can not

Q. Had you made a request that you might see it?—A. I had. Q. Of whom had you made that request?—A. I think I asked Judge Archbald if I might see it.

Q. Judge Archbald had it, then, in his custody?-A. I so understood it.

Q. And you do not know even now where he got it?-A. Not of my own knowledge.

Q. What is your best information on that subject?-A. I do not think I understand your question.

Mr. Manager CLAYTON. Mr. President, we shall desire to

continue the examination of the witness in the morning. Mr. GALLINGER. I move that the Senate sitting as a

Court of Impeachment adjourn.

Mr. SMITH of Georgia. Is not the hour for ending the ses-

sion of the court fixed by order of the Senate?

The PRESIDENT pro tempore. It is, and it can be changed only by unanimous consent unless there is an order formally passed by a majority of the Senate.

Mr. SMITH of Georgia. Unless the managers on the part

Mr. SMITH of Georgia. Unless the managers on the part of the House or counsel for the respondent desire an adjournment at this time, I would prefer to go on.

Mr. Manager CLAYTON. To relieve the situation of any embarrassment, if I may I move that the Senate sitting as a Court

of Impeachment do now adjourn until to-morrow.

Mr. CULBERSON. Can that motion be made by the managers or counsel?

The PRESIDENT pro tempore. The Chair does not think it can go further than a suggestion from the managers or counsel. Mr. Manager CLAYTON. Then I modify it and suggest that

course.

Senator GALLINGER. That is agreeable. The PRESIDENT pro tempore. It will be a question whether the Senate will pass an order to that effect in view of the fact that there is objection. The Chair understood the Senator from Georgia to object. Is the Chair correct?

Mr. SMITH of Georgia. Yes. I think unless there is some reason why the court should adjourn at this time we should adhere to the order.

The PRESIDENT pro tempore. Does the Senator from New Hampshire desire to have an order passed to the effect that the Senate sitting as a Court of Impeachment shall now adjourn?

Mr. GALLINGER. Mr. President, I will not insist upon my motion at all if there is objection.

Mr. Manager CLAYTON. Counsel for the respondent has just suggested, and I agree with him in the suggestion, that both the managers and the respondent desire that the court take a recess at this time until to-morrow at the usual hour an adjournment or a recess, whichever is the proper form.

The PRESIDENT pro tempore. Does the Senator from Georgia still object? [After a pause.] The Chair awaits the response of the Senator from Georgia.

Mr. SMITH of Georgia. I do not desire to be captious. I will withdraw my objection, but—

The PRESIDENT pro tempore. It was impossible for the Chair to hear the latter part of what the Senator from Georgia said.

Mr. SMITH of Georgia. I will not insist upon my objection. The PRESIDENT pro tempore. Very well. It is moved that the Senate sitting as a Court of Impeachment do now adjourn. Unless there be objection it will be so ordered. The Chair hears none, and the Senate sitting as a Court of Impeachment stands adjourned until the usual hour to-morrow.

Thereupon the managers on the part of the House, the re-

spondent, and his counsel retired.

PROPOSED EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

Mr. SMITH of Georgia. I suggest the absence of a quorum. The PRESIDENT pro tempore. The Senator from Georgia makes the point that there is no quorum present. The Secre-

tary will call the roll of the Senate.

The Secretary called the roll, and the following Senators

answered to their names:

Gallinger Gore Hitchcock Johnson, Me. Johnston, Ala, Smith, Ga. Smith, S. C. Martine, N. J. Myers Overman Page Bacon Bristow Bryan Smoot Stephenson Crane Page Penrose Perky Pomerene Root Shively Culberson Cullom Curtis Stone Swanson Thornton Townsend Warren McCumber Martin, Va. Fletcher Foster

The PRESIDENT pro tempore. On the call of the roll 36 Senators have responded to their names. A quorum of the Senate is not present.

Mr. SMITH of Georgia. I move that the Senate adjourn.
The motion was agreed to, and (at 5 o'clock and 50 minutes p. m.) the Senate adjourned until to-morrow, Saturday, December 7, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, December 6, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the fol-

lowing prayer:

We approach Thee, Almighty God, our heavenly Father, in prayer, that we may renew our spiritual life and thus be enabled to resist evil and strengthened to do the right as the duties of life unfold themselves to us moment by moment. Hear us and thus bless us, that Thy kingdom may come in all its fullness and strength and possess our hearts as it possessed the heart of the Master. And blessing and honor and praise be

Thine for ever. Amen.

The Journal of the proceedings of yesterday was read and

approved.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of House ын 26680.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (II. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, with Mr. GARNER in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 26680, which the Clerk will report by title.

The title of the bill was read.

The CHAIRMAN. The Clerk will proceed with the reading of the bill.

The Clerk read as follows:

Wherever the words "during the session" occur in the foregoing paragraphs they shall be construed to mean the 211 days from December 1, 1913, to June 30, 1914, both inclusive.

Mr. JOHNSON of South Carolina. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from South Carolina [Mr. JOHNSON] offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 19, line 23, strike out the word "eleven" and insert

Mr. JOHNSON of South Carolina. The only purpose of the amendment is to correct the total number of days.

Mr. FOSTER. Mr. Chairman, I notice here that this provides for the session from December 1, 1913, until June 30, 1914, both inclusive. I got the impression somehow that in this short session the appropriation ended March 31.

Mr. JOHNSON of South Carolina. We are now making appropriations for the fiscal year beginning July 1, 1913, and end-

ing June 30, 1914.

Mr. FOSTER. I understand.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina [Mr. JOHNSON].

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Copyright Office, under the direction of the Librarian of Congress: Register of copyrights, \$4,000; assistant register of copyrights, \$3,000; clerks—4 at \$2,000 each, 3 at \$1,800 each, 7 at \$1,600 each, 1 \$1,500, 8 at \$1,400 each, 10 at \$1,200 each, 10 at \$1,000 each, 18 at \$900 each, 2 at \$800 each, 10 at \$20 each, 4 at \$600 each, 2 at \$480 each, 4 at \$600 each; 2 at \$480 each; 4 \$1,200 each; 2 at \$1,200

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the last paragraph. On line 3, page 25, I see there are three clerks, at \$1,800 each, a creation of one new clerk. line 4 four new clerks are provided for by the bill, at \$2,000, a creation of one new clerk. I desire to ask the chairman of the committee what cause there is for these two additional clerks.

Mr. JOHNSON of South Carolina. Mr. Chairman, the Copyright Office has work devolved upon it by law. The work increases year by year. During the last fiscal year the receipts of the Copyright Office aggregated \$116,000. The total amount paid for the services of those employed in the Copyright Office was, in round figures, \$96,000, leaving a surplus of \$20,000.

Mr. FOWLER. Ninety-six thousand nine hundred and eighty

dollars last year.

Mr. JOHNSON of South Carolina. In round numbers, I say, leaving a net surplus of \$20,000 over and above the operating expenses. The work of the Copyright Office is not now current and can not be kept current unless we increase the force. We therefore gave them two additional men. But the work that these men do will bring in more than enough to pay their sal-

Mr. GILLETT. Mr. Chairman, may I add a word? Mr. JOHNSON of South Carolina. Certainly. Mr. GILLETT. This \$2,000 clerk is the head of a division, the index division, which is the largest division in the Copyright Office. The other heads of divisions are all getting \$2,000, whereas he is now getting but \$1,800, so that this is to put him, the head of really the largest division of all, on a par with the others in the bill.

Mr. JOHNSON of South Carolina. Mr. Chairman, I am requested to read from the hearings with respect to the copyright

office:

office:

Mr. PUTNAM. The total number of registrations was, roughly, 121,000, and the total fees received \$116,000; the expenditures for service and for stationery and sundries amounted to \$96,000, leaving the net margin of receipts about \$20,000. Now, the register, who is here, explains to me that these three additional positions are particularly to undertake certain indexing and cataloguing work that the law contemplates shall be done, but which it is impossible for them to do without neglecting the current work which must be kept up; and if the committee desires to go into the situation which requires that, or to have any details about the situation in the Copyright Office or its organization, the register is here at my suggestion, and of course he can answer with the experience of daily contact.

Mr. FOWLER. Mr. Chairman, I withdraw the point of

The CHAIRMAN. The Clerk will read.

The Cierk read as follows:

Distribution of card indexes: For service in connection with the distribution of card indexes and other publications of the Library, including not exceeding \$500 for freight charges, expressage, traveling expenses connected with such distribution, and the expenses of attendance at meetings when incurred on the written authority and direction of the Librarian of Congress, \$30,000.

Mr. MANN. Mr. Chairman, I reserve the point of order on that paragraph. I believe in the last session there was inserted in the District of Columbia appropriation bill a provision in reference to paying the expenses of attendance at meetings. suppose the latter part of the paragraph which has just been read is designed to meet that former legislation and to authorize attendance upon meetings as stated in the paragraph. I do not know that there is any objection to that.

Mr. JOHNSON of South Carolina. That is the purpose of the language inserted. The librarian stated that there were many meetings of the librarians of the country, and this library undertakes to cooperate with all other libraries in this scientific work, and it is necessary for him to send experts to the national meetings of the librarians. He asks permission to do so, and he says the cost will not in any year exceed \$500, and it does not increase the appropriation in any sum whatever.

Mr. MANN. I do not know whether this item increases the appropriation, but the total is increased by \$6,500. Is this authorization in this item, which is under the head of "Distribution of card indexes," supposed to cover only traveling expenses in attendance upon meetings which relate to card indexes or any meetings to which the librarian may send delegates?

Mr. GILLETT. I think it relates simply to card indexing. There is another appropriation for the general library work.

Mr. JOHNSON of South Carolina. It applies only to meet-

ings that are held in relation to that one subject.

Mr. MANN. Then I should like to ask the gentleman if he has any information generally concerning the effect of the operation of that provision in the District bill, which I think was not very well understood in Congress when it went through either body. I do not believe anybody woke up to it much, unless it was the members of the committee who reported it, until after it had received the signature of the President.

Mr. JOHNSON of South Carolina. All the governmental

departments are awake to it now.

Mr. MANN. Yes; and I notice that there are a number of places in this bill where it is proposed to allow the expenses of attendance upon meetings. Have the Committee on Appropriations changed their views upon this subject, they having reported the original provision in very drastic form, which for-bade the payment of any expenses for attendance upon any meetings:

Mr. JOHNSON of South Carolina. We have inquired very particularly why it was necessary to send anybody to these meetings, and we have ascertained that no part of the money was to be paid for annual dues or initiation fees in joining any societies; and only in the cases where it was made to appear to the committee that it was necessary for the Government to send its experts have we permitted this language to go into the bill, and in every case we have ascertained about how much

money would be used for that purpose.

Mr. MANN. I am frank to say that I doubt the advisability of the provision which went into the District bill last year, and

therefore I withdraw the point of order on this item.
The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CIVIL SERVICE COMMISSION.

CIVIL SERVICE COMMISSION.

For commissioner, acting as president of the commission, \$4,500; 2 commissioners, at \$4,000 each; chief examiner, \$3,000; secretary, \$2,500; assistant chief examiner, \$2,250; chiefs of division—3 at \$2,000 each; examiners—1, \$2,400, 3 at \$2,000 each, 4 at \$1,800 each; clerks—5 of class 4, 25 of class 3, 32 of class 2, 42 of class 1, 32 at \$1,000 each, 20 at \$900 each; messenger; assistant messenger; skilled laborer, \$720; 4 messenger boys, at \$360 each. Custodian force: Engineer, \$840; general mechanic, \$840; telephone-switchboard operator; 2 firemen; 2 watchmen; 2 elevator conductors, at \$720 each; 3 laborers; 2 charwomen; in all, \$248,950.

Mr. BARTLETT. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the subcommittee if in providing for the Civil Service Commission expenses there were increases made by reason of the new order issued on the 15th of October, by which the President placed a number of fourth-class postmasters under the classified service. I was not present at the hearing, but I have the testimony of Gen. Black, chairman of the Civil Service Commission, in which it appears that he insisted that the expenses of the Civil Service Commission would be increased by reason of that fact. I would like to inquire if there has been any increase in the appropriations made to the Civil Service Commission by reason of that

Mr. JOHNSON of South Carolina. Mr. Chairman, as I stated yesterday when the bill was taken up for general debate, one of the items of increase in the bill is for the Civil Service Commission. It was contended by the commission that the effi-ciency law of the last Congress imposed upon the commission additional labors. It was further claimed by the commission that the order of the President placing a number of fourth-class post offices in the classified service would greatly increase the labor of the Civil Service Commission. In order that there might not be even the appearance of an attempt to evade the civil-service law, either in letter or in spirit, the subcommittee and the full committee reported to this House considerable increases for the Civil Service Commission. In the particular paragraph now under consideration the increase over the current year is \$19,000.

Mr. BARTLETT. Occasioned by that order?

Mr. JOHNSON of South Carolina. Occasioned by the additional work caused by the efficiency law and the order of the President placing the fourth-class post offices in the classified

Mr. BARTLETT. Mr. Chairman, I made this inquiry for the purpose of placing in the Record, which I shall do, the regula-tions which have been adopted by the Civil Service Commission and the Post Office Department in the appointment of fourthclass postmasters. I call the attention of the House to the fact, and the information I elicited from the gentleman from South Carolina, because in the hearings before the subcommittee it was stated by the chairman of the Civil Service Commission and by the witnesses that there would be an increase in the expenditures of that office.

I want to read and place in the RECORD this order. It is as

follows:

[Form 1752, November, 1912.]

UNITED STATES CIVIL SERVICE COMMISSION.

REGULATIONS GOVERNING THE APPOINTMENT OF POSTMASTERS OF THE FOURTH CLASS.

(Approved Nov. 25, 1912.)

EGULATIONS GOVERNING THE APPOINTMENT OF POSTMASTERS OF THE FOLETH CLASS.

(Approved Nov. 25, 1912.)

All positions of postmaster of the fourth class, except in Alaska, Guam, Hawali, Porto Rico, and Samoa, having been by the Executive order of October 15, 1912, placed in the competitive classified service and made subject to the civil-service laws and rules, the following regulations shall govern appointments to such positions:

1. Appointment to offices having an annual compensation of as much as \$500 shall be made in the same manner as provided by the civil-service law and rules for other positions in the competitive classified service, except as may hereinafter be provided.

2. Appointment to offices having an annual compensation of less than \$500 shall be made in the following manner: When a vacancy has occurred or is about to occur in any such office, the Postmaster General shall direct a post-office inspector to visit the locality and make selecting of the post-office inspector to visit the locality and make selecting and the control of the sultability of the applicant of the applicant of the post-office inspector for locality and make selecting in the property of the sultability of the applicant and his shill onto be based solely upon the sultability of the applicant and his shill onto to be based solely upon the sultability of the applicant and his shill onto the based solely property in duplicate and accompany each duplicate with a list of all applicants. Such report shall include a statement of the qualifications of each applicant and of the reasons for the selection and recommendation. The Post Office Department shall transmit to the Civil Service Commission one copy of such report, showing its action thereon.

3. Whenever persons who are property taxpayers and patrons of a post office having an annual compensation of less than \$500 submit to the Civil Service Commission and to the Post Office Department sworn statements in duplicate, over their own signatures, that an applicant, he shall not be furth

in the competitive classified service. A postmaster of the fourth class having an annual compensation of as much as \$500 may, in accordance with law and the civil-service rules, be transferred to a position of rural carrier at the same post office after having passed the examination prescribed for original appointment as rural carrier or its equivalent; and he may be transferred under like restrictions to any other position in the competitive classified service after having served three years in such sarvice.

the competitive classified service after naving served three years in such service.

6. When the annual compensation of an office is increased to as much as \$500 the incumbent of such office shall be given all the rights and privileges of persons appointed to offices with annual compensation of as much as \$500.

Approved, November 20, 1912.

FRANK H. HITCHCOCK, Postmaster General.

Approved by direction of the United States Civil Service Commission, November 21, 1912. JOHN C. BLACK. President.

THE WHITE HOUSE, November 25, 1912.

Approved.

I also have here the questions that are to be submitted. They are as follows:

UNITED STATES CIVIL SERVICE COMMISSION, Washington, D. C.

INFORMATION TO APPLICANTS FOR EXAMINATION FOR THE POSITION OF FOURTH-CLASS POSTMASTER.

The examinations for the position of fourth-class postmaster are as follows:

(a) For positions the annual compensation of which amounts to

\$500 or more.

The examination for positions under (a), for which not to exceed four hours will be allowed, will consist of the subjects mentioned below, weighted as indicated: SUBJECTS.

Elementary arithmetic and accounts (simple tests in addition, subtraction, multiplication, and division of whole numbers and decimals, and a statement of a postmaster's money-order ac-

count)
Penmanship (the handwriting of the competitor in the subject of letterwriting will be considered with special reference to the elements of legibility, neatness, and general appearance)
Letterwriting (a letter of not less than 125 words on a topic suggested by facts furnished)
Copying addresses (a simple test in copying accurately addresses given)
Facilities for transacting postal business (based on the location of the post-office site, the convenience of office arrangements, etc., as shown in the application form)

10

According to the testimony of Gen. Black there will be quite a number of offices, a majority of them in which the salary is

less than \$500. I will read from the hearings: less than \$500. I will read from the hearings:

Gen. Black. Fourth-class post offices. They are divided into two classes by a horizontal line, those that are above \$500 and those that are below \$500. Those that are above \$500 are 4.457, besides 3,411 that were already included; and those that are below the \$500 line are 31,799, added by the order to 10.575 who already were in the service, and that makes a total of fourth-class postmasters of 50,222 places, 36,236 having been added, as I said before, on the 15th of October. Now the men that are below \$500 are appointed primarily upon an inspection made by the post-office inspectors under certain regulations, but there is not one of those appointments that may not at some time or another come within the purview of the commission and present facts that may require an investigation.

So that by this order, out of 36,000 offices that are to be filled, there are 31,799 that are to be filled upon the report of a postoffice inspector. As far as I am concerned, a majority of the fourth-class post offices in the country I come from are in the same condition that they are in other parts of the country; the salaries are less than \$500. So that hereafter we are to dave under this Executive order, if it shall remain, if Congress does not undertake to do anything to suspend or revoke it—there will be nearly 32,000 fourth-class post offices in which the postmaster is to be selected by a post-office inspector. As far as I am concerned, I do not relish, nor do I approve of that Executive anxiety for the civil service of the country which waited for four years and more, until a very few days of election, before it thought proper to place 36,000 post offices under the civil service, and of that number 31,799 will receive appointment only on the recommendation of the post-office inspector.

As far as I am concerned, I have no hesitancy in uttering my disapproval of that order. If it was necessary during the previous administration that this service should have been so nonpartisan, should have been covered within the provisions of the civil-service law, why was it not done before? Why did he wait until they were used—if it is true they were used, and it has been charged that they were used in advancing the political aspirations of the candidate for President. I know that in my State, in the section from which I come, they have not heretofore been appointed on the indorsement of the patrons of the office.

They have been appointed generally upon the recommenda-tion of men who did not reside within the districts where they were appointed. In the State of Georgia there were three referees to whom the application was made, and no Member of Congress from the district in which these offices were situated. no Member from the State of Georgia, and no Senator could change or alter the result where the recommendation for the postmastership was made by the referee. That applied to all post offices of the fourth class as well as to post offices of the first, second, and third classes. I say that it is not a proper administration of affairs in the appointment of postmasters to have post-office inspectors, many of whom-in fact, most of whom-are not familiar with the people of the particular locality, have the determining voice in who shall be the postmaster in these 31,797 offices. I trust, Mr. Chairman, that if Congress shall not see fit to do something which will alter it the incoming administration will not permit that order which has been put into effect at the end of a Republican administration to remain. [Applause on the Democratic side.]

So far as I am concerned, I stand ready here and now to provide, if I can get the indorsement of the Members of this House, that not one dollar of the money appropriated in this section shall be paid to inspectors who are sent into my State and my district and in your State and your district to find out whom they shall recommend for the office of postmaster, and if I could, without violating the rule respecting new legislation. or if I could get past the point of order, I would offer an amendment which I have ready here now to repeal the order of October 15, which put under the civil service something over 36,000 post offices in this country. I do not say this because I am a spoilsman. I do not say this because I am anxious or bungry for office for my people, but I say so because I know what the people where I come from have endured for all the 16 years in which this system of permitting men to be appointed to the fourth-class post offices and other offices upon the recommendation of referees, and not upon the recommendation of men who represent those districts or States, the referee being selected by reason of his political affiliations.

Mr. MANN. Mr. Chairman, I am not in favor of the proposition which the gentleman from Georgia has stated to the House, but I can suggest to him a method by which he can bring it before the House if he so desires. All he needs to do is to move to strike out this paragraph, leave out the appropriation for one messenger at \$360, and reduce the total appropriation from \$248,950 to \$248,590, which makes a reduction of the amount carried by the bill, and add his provision repealing the order and permitting no other order to be made. Under the Holman rule that would make it in order.

Mr. BARTLETT. I have it ready. Mr. MANN. I would like to see that side of the House vote upon it.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Field force: District secretaries—2 at \$2,400 each, 1 at \$2,200, 4 at \$2,000 each, 5 at \$1,800 each; clerks—1 of class 4, 1 of class 3, 1 of class 1, 7 at \$1,000 each, 6 at \$900 each, 5 at \$840 each; messenger boy, \$480; in all, \$45,680.

Mr. FOWLER. Mr. Chairman, I make the point of order against that paragraph. There are three new clerks provided for there at \$1,800 each. It is new legislation, and I insist upon the point of order.

The CHAIRMAN. Does the gentleman make the point of

order against the entire paragraph?

Mr. FOWLER. I do; under the rule that where there is new legislation in a paragraph the whole paragraph goes out.

Mr. JOHNSON of South Carolina. Mr. Chairman, I do not think the item in the bill is subject to the point of order. There is no law fixing the number of people that can be employed in the Civil Service Commission's office.

Mr. FITZGERALD. Mr. Chairman, is the point of order up for discussion?

The CHAIRMAN. The point of order has been made against the entire paragraph on page 30, lines 19 to 23, inclusive, for the reason that the provision for three of the five clerks at \$1,800 each is new legislation. Do I state the point of order

correctly?
Mr. FOWLER.

Mr. FOWLER. Yes; that is correct.
Mr. FITZGERALD. It does not necessarily follow, because a place is additional to those already provided for for the current year, that the provision therefore is subject to a point of order. That happens only under certain contingencies.

The CHAIRMAN. The principal thing the Chair would like to know is whether these five offices are authorized by law.

Mr. FITZGERALD. Mr. Chairman, I wish to call the attention of the Chair to section 169 of the Revised Statutes of the United States:

Each head of a department is authorized to employ in his department such number of clerks in the several classes recognized by law, and such mossengers, assistant messengers, copyists, watchmen, laborers, and other employees, and at such rates of compensation, respectively, as may be appropriated for by Congress from year to year.

There are a number of rulings under this particular provision that in the various departments of the Government, unless the organic act specifically enumerates the positions to be created, that there can be carried in the acts appropriating for the service such clerical or other force as Congress may recommend.

Mr. FOWLER. May I interrupt the gentleman?

Mr. FITZGERALD. Certainly.
Mr. FOWLER. In this case these new positions are district secretaries. Prior to that there were only two district secretaries, and here it is attempted to create three new district secretaries. Does that fall under the gentleman's contention?

The CHAIRMAN. Does the gentleman from New York desire to argue the point further?

Mr. FITZGERALD. No; I have concluded what I have to

Mr. MANN. Mr. Chairman, if the Chair will permit, I would like to make an observation in reference to the rule. Mr. Chairman, the rulings in regard to matters of this sort are so arbitrary and artificial that sometimes it is necessary to restate them. The rulings are uniform for many years that so far as the salary is concerned the salary in the current law fixes the salary for the bill. In other words, an increase in the salary of an official when that salary is covered by the current law can not be made over a point of order. This is a purely artificial ruling, because there is no salary fixed by law for these places, but long ago some Chairman held that current law fixed the salary, because without that the House was in confusion. Now, there is also no law fixing the number of these places, but there is a uniform ruling that where the position was authorized at all you could increase the number of places in that position unless the law fixed the number. Take, for instance, the most common illustration, which is the Post Office Department. The number of clerks and carriers in the Post Office Department is not fixed by law except the current law. They have to be increased every year. It is impossible as a matter of practice to pass a law definitely fixing for future years the number of clerks or carriers in the Post Office Department. The same is true of clerks in the different departments in Washington, but where a certain number is carried in the current law, say, two at \$1,800, while the salary fixed is in the present bill and current law the number is not governed by the current law, and in this case the Civil Service Commission, being authorized to do this work and have these employees, the number of employees in the current law does not control the House in fixing the number in the bill each year, although the salary is controlled by the current law. Now, these officers being authorized by the law, the number may be increased by Congress from time to time without being subject to a point of order.

The CHAIRMAN. Does the gentleman from Illinois [Mr. FOWLER] desire to be heard further on the point of order?

Mr. FOWLER. Mr. Chairman, according to the rules of this House no new position can be created in an appropriation bill without being subject to a point of order. This has been the holding of the Chair almost universally since I have been a Member of this House. It was the holding of the Chair during the last session of Congress, and only in a few instances, where the Chairman had been called from the body of the House, was that ruling digressed from. In fact, Mr. Chairman, in this instance there is a creation of three new positions at \$1,800 each. The contention of the gentleman from Illinois [Mr. Mann] that where the work of a department is authorized and the number of servants fixed by law might not control in that decision upon the point of order is not, in my mind, borne out by the rulings of this House in the past. There are three distinct and important positions created here known as district secretaries, and prior to this time there were only two district secretaries. They received each \$1,800. Now it is proposed by this bill to create two additional district secretaries at \$1,800 each.

It is just as much new legislation in this instance as though it had created three assistant district secretaries at a salary of \$1,800 each. And there is no difference, and there is no getting away from the rules of this House which have been the controlling force in passing upon questions of this character.

I had an occasion during last session to present this question and recite the authorities which had been given by former rulings of the Chair. I have not those authorities before me now. But I say, Mr. Chairman, that this is new legislation,

and under the rules of this House it is subject to a point of order, and we can not escape it however much the gentlemen who are in charge of this bill may desire to do so.

The CHAIRMAN. The Chair is ready to rule. It seems to the Chair that the first question for the Chair to ascertain is whether or not section 169 of the Revised Statutes authorizes these clerks or whether the head of a department has the right to employ these five clerks. In 1906 Mr. Hull, of Iowa, was in the chair, and this identical question came up and was decided by him on a point of order made by Mr. Tawney upon clerks of a similar nature in the War Department. Mr. Hull held at that time, quoting section 169, that where the statute had authorized the heads of the department to employ clerks and other laborers that it was in order, and he overruled the point of order. He used this language:

The first question is. What law authorizes this appropriation? The only law referred to is that contained in section 169 of the Revised Statutes, which is as follows:

Here he quotes the statute. This is a similar case, where the gentleman from New York [Mr. FITZGERALD] cites the statute, section 169, as authority for this legislation. Mr. Hull made this comment.

The next question, of course, is whether these clerks referred to in the items to which objection has been made are to be employed by the head of a department and in his department. The gentleman from Iowa, Mr. Hull, is quite correct in his statement of the ruling made by the occupant of the chair, Mr. Hopkins, as referred to on page 2404 of the Record, third session Fifty-fifth Congress, but it appears that at that time the Chairman of the Committee of the Whole was not familiar with the ruling of the Attorney General, which has been submitted to. submitted to.

And he went on and held that these clerks were to be employed as contemplated in section 169 of the Revised Statutes. The Chair is of the opinion that section 169 would apply to the clerks in this item, and therefore overrules the point of order.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. Rubey having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment bill of the following title:

H. R. 20287. An act to amend section 5 of the act entitled "An act to incorporate the American Red Cross," approved January

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 7531. An act to authorize the Secretary of Commerce and Labor to purchase certain land required for lighthouse purposes at Port Ferro Light Station, P. R.

The message also announced that the President pro tempore had appointed Mr. Clarke of Arkansas and Mr. Burnham members of the Joint Select Committee on the part of the Senate as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the Executive departments," for the disposition of useless papers in the War Department.

The message also announced that the Senate had passed the

following resolutions:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. George H. Utter, late a Representative from the State of Rhode Island,

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the de-

Representatives whose deaths have been announced, the Senate do now adjourn.

Also:

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. RICHARD E. CONNELL, late a Representative from the State of New York.

Resolved. That as a further mark of respect to the memory of those Representatives whose deaths have been announced the Senate do now

Resolved. That the Senate has heard with deep sensibility the announcement of the death of the Hon, Carl Carly Anderson, late a Representative from the State of Ohio.

Resolved. That as a further mark of respect to the memory of those Representatives whose deaths have been announced the Senate do now adjourn.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

Expert examiners: For the employment of expert examiners not in the Federal service to prepare questions and rate papers in examinations on special subjects for which examiners within the service are not available, \$2,000.

Mr. BARTLETT. Mr. Chairman, I desire to offer an amendment to that paragraph.

The CHAIRMAN. The gentleman from Georgia [Mr. Bart-LETT] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 31, line 11, after the figures "\$2,000," insert the following: "Provided, That no part of the amounts appropriated under this paragraph or in this bill shall be used to pay for inspectors of the Post Office Department for expenses incurred in making selections and recommendations for the appointment of fourth-class postmasters."

Mr. JOHNSON of South Carolina, Mr. Chairman, I make a point of order against that amendment. It changes existing law and seeks to regulate Executive orders.

Mr. FITZGERALD. Mr. Chairman, I reserve a point of

The CHAIRMAN. The gentleman from South Carolina [Mr. Johnson | makes the point of order that this changes existing

law and Executive orders made under existing law.

Mr. BARTLETT. But, nevertheless, Mr. Chairman, under the rules of the House under which we operate we can change existing law if it reduces expenses. And the gentleman from South Carolina [Mr. Johnson] has stated in this House that the increase in the expenditures of the Civil Service Commission in its operations during the coming fiscal year was due to the fact of the Executive order issued on October 15. It will appear from the testimony which I called attention to which was taken before the subcommittee of the Committee on Appropriations, of which the gentleman from South Carolina [Mr. Johnson] is the chairman, that the increase in the expenditures was due to the fact that examiners would have to be appointed especially and their expenses paid by reason of this order. I will not undertake to reread that which I have read upon the subject from the hearings, but if the Executive order is law—and it is—we can at all times, even when we are not operating under the Holman rule, limit that expenditure, even though that expenditure were provided for by law. It is a simple limitation of the expenditure, and I need not, I apprehend, call the Chair's attention to the frequent ruling that, while you can not change the existing law, you can limit an expenditure under the existing law.

Mr. TRIBBLE. Mr. Chairman, I desire to join my colleague from Georgia [Mr. Babtlett] in his protest against civilservice examination for fourth-class postmasters. I feel that I am especially justified in raising my voice against this Executive order, because if there ever was an official negro-ridden town it is the city of Athens, Ga., where I live. I have seriously considered the civil-service proposition as applied to post offices, and I see danger in the proposition. If you will analyze this order and its requirements you will find that the examination under the civil-service order will place in the fourth-class post offices in the South, as well as those in the other parts of the United States, many negroes. They will stand the examinations and take their places at the windows of small country and village post offices. I want to say to you here to-day that the people of this country will not stand for it. Gentlemen from all sections, let me say to you, your constituents in the West, in the East, or in the North will not stand for it. In my district there is a negro rural carrier. How would your constituents like that? It is not fair to my people; it it not just to the South. I shall not sit quietly in my seat and permit an order placing post offices under civil service, knowing that negroes will have the way open to stand behind the windows and deliver mail as postmaster, and not protest with all the earnestness of

This order becomes odious to my people the very moment negroes stand examination for post-office positions. Every man in this House would join in this fight to defeat this order if it placed you in the situation it places me. I know from experience the humiliation of negro officeholders, and I warn you here to-day of danger in the enforcement of that order. years, since my sojourn in Athens, there have been negroes in the post office of that classic city, and during 12 years of that time there was a negro postmaster. In this city the State university is located, and there are over a thousand students. Today nearly every carrier in that city is a negro. White people will not stand the examinations and compete with these negro carriers. When an examination is held the negro is there.

The city carriers are not so objectionable as the rural carriers. A rural carrier goes among the country people. He meets the lady of the house at the door. She may be alone. She may be a widow, a sister, or an only daughter; to her he sells stamps. and she has to deal with this negro in all postal affairs. It is not fair to my constituents; they are law-abiding citizens and have submitted unwillingly. I repeat, it is not fair to any section of this country to place the holders of fourth-class post offices under a civil-service examination, especially the rural districts

in the South, This Executive order places fourth-class offices alongside the rural carrier and city carrier examinations, and you add to the negro carrier list a long list of negro postmasters in the South.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield? Mr. GILLETT. Mr. Chairman, will the gentleman allow me to ask him a question?

The CHAIRMAN. Does the gentleman yield? Mr. TRIBBLE. Yes.

Mr. GILLETT. Does the gentleman from Georgia know of any cases where these negro carriers that he speaks of have abused their positions? Mr. TRIBBLE, Yes.

Mr. GILLETT. Where?

Mr. TRIBBLE. I have made two fights since I have been in Congress before the Post Office Department against an official rural carrier who has been shown to be incompetent, ignorant, old, and offensive to the patrons, and yet he has been retained on that route. I made one fight on him before I was elected to Congress and I never expect to let up until a white man succeeds him. He can not read and write well enough to read the addresses on the pieces of mail, and yet the Post Office Department has refused to dismiss him.

Mr. GILLETT. Has there been any abuse of women? Mr. TRIBBLE. I made no such charge as that in the

I made no such charge as that in that case. Mr. GILLETT. Have there been any charges of that kind in these cases?

Mr. TRIBBLE. None in the case of which I have spoken. Mr. HILL. Mr. Chairman, when I entered Congress 18 years

ago there were 167 post offices, according to my recollection, in the fourth district of Connecticut. About 32 of those were presidential and the rest were fourth-class offices. Now. I do presidential and the less were loading any benefit whatever to gentlemen who are coming into full and absolutely complete control of the Government for the next four years. You notice limit it to four years. [Laughter.]

Mr. MANN. Make it two years.
Mr. HILL. No; I will not limit it to two years. I will limit it to four years. By Executive order all but 32 of these post offices were taken from my jurisdiction, and the happiest time of my political life has been since they were taken away.

Make no mistake about that. I am a firm believer that not only the fourth-class offices but the presidential offices as well should be put under civil service. There is nothing in my experience that is so distasteful as a post-office fight, unless it is school-district fight or a church fight, one or the other, and am still in doubt as to which is the most distasteful. believe that the wisest thing for you gentlemen is to have the recent Executive order go into effect and remain in operation.

I realize the conditions in the South to which the gentleman has referred, and that, as he says, the South will not stand it. I notice that you do stand it, so far as your house servants are concerned, and you do stand it in a great many other respects. I do not believe it is any worse for a colored man to hand you a letter through a general-delivery window than it is for a house servant to hand you your food at your meals. going into that discussion at all. I am simply looking at it from my standpoint. From my standpoint, the wisest thing that can happen to you gentlemen is to be divested of the responsibility of naming postmasters.

I want to say another thing to you: A determined effort is doubtless being made to have that order revoked. Since I have been a Member of the House of Representatives from Connecticut no Democrat has ever been removed from a postmastership in my district, and there is to-day one presidential postmaster there appointed by Grover Cleveland still serving. Why? Because I never felt it my duty to go around the district and hunt up some man to take his place and no Republican ever asked to have him removed, and there are several fourthclass postmasters appointed, as I recollect, by Grover Cleveland. who are still serving there or who were when President Roosevelt put them in the classified service.

May I ask the gentleman a question? Mr. BARTLETT.

Mr. HILL. Certainly.

Mr. BARTLETT. What would the gentleman do if ninetenths of the patrons of an office should ask him to have a particular person appointed to a fourth-class office, and there was no one else who objected to it? Would you not think that man ought to be appointed?

Mr. HILL. My rule has been this, that every man should serve out his time, and then if there was a Republican who made application, indorsed unanimously by the Republican town committee, I made it my business to see that the Republican was appointed, and I assume that every one of you would do the same thing.

Mr. BARTLETT. I know I would. The CHAIRMAN. The time of the gentleman from Connecticut has expired.

Mr. HILL. I ask unanimous consent for five minutes more. The CHAIRMAN. The gentleman from Connecticut asks unanimous consent that his time be extended five minutes. Is there objection?

There was no objection.

Mr. BARTLETT. The gentleman did not answer my question. There are innumerable cases where appointments have been made to post offices where the applicant did not receive the indorsement of any of the patrons of the office, but was appointed solely upon the recommendation of some Republican referee who did not live in the town or in the district.

Mr. HILL. Of course I can not appreciate that condition. My rule has been this: If the Republican town committee were unanimous in behalf of any man, I recognized that committee as the official representative of the party in the town and car-

ried out their wishes.

Mr. BARTLETT. I think the gentleman did right.

Mr. HILL. If they were not unanimous, I felt that the burden rested upon me, and looked at it always as a burden resting upon me to determine the case. Now, gentlemen, leaving out the question of the peculiar conditions in the South to which the gentleman has referred, and which I think are magnified in some respects, you will be better off to have that responsibility lifted from your shoulders than to carry the burden.

Mr. TRIBBLE. Will the gentleman yield for a question?

Mr. HILL, Yes.

Mr. TRIBBLE. I should like to know if this Democratic postmaster in the gentleman's district has not been voting the

Republican ticket lately?

Mr. HILL. Possibly so; I do not know, and I do not care how he has voted. He has made a good postmaster, and no Republican in that town has ever asked for his removal. If they had united in asking for it, I should have removed him. I am frank to say that. I think you are entitled to the legitimate patronage of this office to which you have elected Dr. Wilson. The responsibility is going to be a terrific burden upon you, and you are just beginning to realize that. But I want to say to the gentleman from Georgia just one other thing, that there is a feeling in the North that you can not absolutely take away from the colored man in the South all of the privileges of citizenship if you hold him to its responsibilities. You can not always have representation on this floor by counting him as a citizen and absolutely ignoring him as a vital living factor in this Republic, and the time will come—I say it frankly to you—when the present system must be changed. You can not seat eight men on this floor with an aggregate of 23,000 votes and at the same time find each one of the Members on this side representing 35,000 to 40,000 votes. I do not know the best way to meet the situation, but it is one which you have got to face in the next four years, for it is not fair to us in the North.

But let that go as it is. I give it to you as my experience that when the hundred or more fourth-class post offices were taken out from under my responsibility by order of President Roosevelt it was the happiest time of my political career. [Applause.]

Mr. COOPER. Mr. Chairman, I ask unanimous consent to

address the House on this question.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent to address the House for five minutes. Is there objection?

There was no objection.

Mr. COOPER. Mr. Chairman, some years ago, at the time of the famous Machen case, which the House will remember, this question as to the repeal of all appropriations for the Civil Service Commission came up. During the debate I opposed the repeal and quoted from the utterances of some very distinguished statesmen who had been perfectly familiar with the abuses which existed prior to the enactment of the civil-service

I will read from my speech in that debate what Gen. Garfield said in an article in the Atlantic Monthly, and also what other distinguished men said in the Senate and on the floor of the

One-third of the working hours of Senators and Representatives is hardly sufficient to meet the demands made upon them in reference to appointments in office. * * * Impairs the efficiency of the legislators; * * * it degrades the civil service; * * * it repels from the service those high and manly qualities which are so necessary to a pure and efficient administration; and, finally, it debauches the public mind by holding up public office as the reward of mere party zeal.

zeal.

To reform this service in one of the highest and most imperative duties of statesmanship.

On the floor of the House, Gen. Garfield said, on the 4th of March, 1870:

We press such appointments upon the departments; we crowd the doors; we fill the corridors; Senators and Representatives throng the offices and bureaus until the public business is obstructed; the patience of officers is worn out, and sometimes, for fear of losing their places by our influence, they at last give way and appoint men, not because they are fit for their positions, but because we ask it.

President Grant, speaking in 1870 of the great evils of the spoils system, said:

There is no duty which so much embarrasses the Executive and heads of departments as that of appointment, nor is there any such thankless labor imposed on Senators and Representatives as that of finding places for constituents. The present system does not secure the best men, and often not even fit men, for the public places. The elevation and purification of the civil service of the Government will be halled with approval by the whole people of the United States.

Senator Vest, a very distinguished Democrat from Missouri, said:

When I entered the Senate I became chairman of the Committee to Examine the Several Branches of the Civil Service, and for two years I was engaged with the rest of that committee in taking testimony upon the subject of civil-service reform. That very great evils exist there can be no sort of question—evils so monstrous, so deadly in their effects that men of all political parties have come to the conclusion that some remedy must be applied.

That evils exist there can be no sort of question. Money has become the great factor in the politics of the United States.

Now, Mr. Chairman, I will read only one more quotation. It is from an equally distinguished Democrat, who served the Nation with distinction in the Senate and afterwards in the diplomatic service at the Court of St. James, Senator Bayard, of Delaware.

Senator Bayard said:

No man obtained an office except he was a violent partisan, and the office was given to him as a reward for party services; and so things went on until the offices generally were filled under that system, which was false and dangerous in the extreme—a system which, as my friend from Ohio said, is absolutely fatal to the integrity of republican institutions, I care not what party or under what name it may be organized and carried on.

Mr. Chairman, that is the testimony of witnesses of unimpeachable character and of the highest ability-statesmen, Democrats as well as Republicans-depicting the evils and abuses then in vogue, and speaking for the betterment of the service. [Applause.]

Mr. SLAYDEN. Mr. Chairman, I ask unanimous consent to

address the House for two minutes.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to address the House for two minutes. Is there objection?

There was no objection.

Mr. SLAYDEN. Mr. Chairman, I want to ask the gentleman from Wisconsin [Mr. Cooper] a question, if he will permit me. I agree substantially with all that Senator Vest said, and I agree generally with the doctrine of an orderly and permanent agree generally with the doctrine of an orderly and permanent civil service. My misgivings with reference to it have grown out of the fact that in my judgment every time that you strengthen the civil service you increase the army of pension beggars, and at last you will have a horde of them supported by pensions. If the President, for whom I have great respect, wanted to be perfectly fair, should he have waited until the close, or nearly the close, of his administration, when practically every office in the South had been filled with Republicans, and then put this blanket of civil-service protection over them and then put this blanket of civil-service protection over them and deny the people in a large section of this country the right to be represented by men whom they want in office?

Mr. HILL. Mr. Cleveland did the same thing.

Mr. HILL.

Mr. SLAYDEN. If he did the same thing, I will say that he

did what I do not approve.

Mr. HAMILTON of Michigan. I desire to call the gentleman's attention to the fact that a large number of the fourthclass posmasters were covered into the civil service under Mr. Roosevelt.

Mr. SLAYDEN. Surely the gentleman does not expect me to approve of what President Roosevelt did.

Mr. HAMILTON of Michigan. But the gentleman has stated

that all these postmasters-

Mr. SLAYDEN. Oh, no; I have reference to this last order, issued October 15, by the present incumbent of the Executive Office. Does the gentleman from Wisconsin think that it was fair and proper?

Mr. COOPER. Mr. Chairman, the gentleman's interrogatory

consists of two branches.

Mr. SLAYDEN. Answer the last one first, please. Mr. COOPER. The first one was whether the establishment of a civil service did not look to the establishment of a civil pension list. That is a non sequitur. I do not see how one fol-

Mr. SLAYDEN. It does.

Mr. COOPER. I do not consider that men in office on salary are pensioners while they are discharging the duties of office. It is a misuse of words to apply the term "pensioner" to such a person. That answers that part of the interrogatory. To the next part of the question I would say this: It always has seemed to me that one of the greatest evils in our political life is the old-fashioned spoils system, under which men think that they have discharged their political duties when they have voted for a man who has appointed a postmaster to suit them. Then they become quiescent for four years, caring nothing about public affairs except who is postmaster.

Mr. SLAYDEN. Does the gentleman think he was fair in

that order?

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. STANLEY. Mr. Chairman, I ask unanimous consent to address the committee for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. STANLEY. Mr. Chairman, it is passing strange to me that gentlemen on the other side of the Chamber did not become conscious of their agony until after they were relieved of their pain. Usually men suffering under an intolerable burden, like men suffering from a bunion, complain of it at the time, but we have heard nothing of the woe of these gentlemen who have been forced to name these fourth-class postmasters under an antiquated spoils system until after the power to appoint them was gone, and then we are overwhelmed with jeremiads. Their pity for us in enduring and assuming this great burden is appreciated, but we would feel, down in our hearts, still greater gratitude and we would attribute to them greater sincerity if we had heard this tale of woe at an earlier date. For 16 years they have been in power and they have not spent 16 minutes of all that time in complaining of the monstrous iniquity of being forced to name fourth-class postmasters. Is it possible that these men could have understood-these able gentlemen-what a monstrous thing it was to be forced to fill fourth-class offices with postmasters most agreeable to their constituents; that that was altogether an inquitous procedure, and that a President, 1,000 miles away, could perform the job much better? They are guilty of nonaction, of a conspiracy of silence akin to misfeasance, in keeping still so long. It is, the poet has said, a noble thing to suffer and be silent and strong. They have certainly borne their agony with amazing fortitude as long as they were called upon to endure it. [Laughter and applause.] If it was such a righteous thing-and God knows they were in dire need of having a President perform righteous acts for the last year or two-why did not some one of those gentlemen, so conscious of the iniquity of this system, whisper it a year or two earlier into the willing ear of the President of the United States? Years ago they might have been relieved, years ago they might have been happy, even as the gentleman from Connecticut [Mr. Hull] is happy; years ago they might have danced around this Chamber with the heavy load off their shoulders, with nothing to do but to consider great constitu-tional questions, with these letters about petty jobs off their desks and off their minds, if they had but spoken the word. But, Mr. Chairman, they forget the capacity for labor of a Democratic Congressman; they forget our willingness to suffer. [Laughter and applause.]

They forget how we love the people; they forget we worship that God who sees the sparrow's fall; that humble as we are, not so accustomed as those we succeed to the consideration of great constitutional questions, new in office, we are willing to listen to the plaintive cry of the humble postmaster and to take some time even from our more pretentious duties to attend to his claims and see that the will of the people in small communities is met and satisfied. [Loud applause on the Demo-

The CHAIRMAN. The gentleman from South Carolina [Mr. Johnson] made a point of order against the amendment offered by the gentleman from Georgia upon the ground that it changed existing law and limited Executive authority. A careful examination of the amendment will reveal the fact that it does not in any respect change existing law, but does place a limitation upon this particular appropriation and in a way limits the Executive authority. The rules of the House provide that you may place a limitation upon appropriations, and there are a number of rulings to the effect that you may place a condition upon an appropriation as to even limit the Executive authority.

One quotation I have from Chairman Watson, of Indiana, will

convince the House of that ruling. In passing upon what is known as the "canteen" amendment he made this statement:

It has been repeatedly held in this House and is an invariable precedent that the House may provide that no part of an appropriation shall be used except in a certain way even though the Executive discretion be thereby restricted.

It seems to the Chair this is clearly a limitation on the appropriation and a possible limitation on the Executive discretion, and is in order under the rules of the House. The Chair overrules the point of order, and the Clerk will report the amendment.

The amendment was again reported.

Mr. MANN. Mr. Chairman, a few moments ago the gentle-man from Kentucky [Mr. STANLEY] became very eloquent in defending the patronage system as to fourth-class post offices, and enunciated the doctrine, which I take it I agree with him on, that that side of the House is much more competent to seek jobs than it is to determine constitutional questions. [Applause on the Republican side.] The gentleman seemed to assume, however, that this side of the House has been enjoying in recent years the naming of fourth-class postmasters. It is very natural gentlemen on that side of the House should assume that because they have not had any connection probably with fourthclass postmasters

Mr. BURLESON. Nor experience.

Mr. MANN. But a great majority of this side of the House for years have had nothing whatever to do with the appointment of fourth-class postmasters, because it was during the Roosevelt administration that fourth-class offices east of the Mississippi River and north of the Ohio River were placed in the classified service, and that rule was in fact applied to most of the other Northern States.

Mr. BARTLETT. May I interrupt the gentleman?
The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Georgia?

I do. Mr. MANN.

Mr. BARTLETT. Of course, I was aware of the fact that President Roosevelt placed the fourth-class post offices in a certain territory under the civil service a few years ago, but can the gentleman suggest any reason why the President withheld from its operation the other portions of the country south of the Potomac?

Mr. MANN. Mr. MANN. I can suggest a very good reason. It was not practicable with the limitations of the civil service to cover the entire country into the classified service at one time. Before these offices were covered into the classified service the rule had already been announced by the Post Office Department that it would not remove a fourth-class postmaster in office for the purpose of appointing a new one without charges and cause. These offices have not been patronage offices for many years to the extent that gentlemen on that side of the House assume. It is the fact that when the civil-service law was passed it was in contemplation at the time that as administrations were retired the President would issue orders covering new offices into the classified service, and most of the classified service now is composed of offices which were covered into that service under the civil-service law by retiring Presidents. I came to Congress with the McKinley administration, following the Cleveland administration.

President Cleveland, shortly before he went out of office, covered into the classified service most of the offices not then in which amounted to anything. I listened for some years to arguments and speeches on this side of the House, in the majority under the McKinley administration, much like those I have listened to on that side of the House. This side of the House, in control, had the nerve to stand against the demand of the few office seekers as compared with the many people to be served, and resisted the attempt to return to the undesirable spoils system of the offices of the country. [Applause.] You are now in a position where I hope you will have nerve to vote and not dodge. If you vote for this provision in the law it will be vetoed by the President, but you will be on record before the country as favoring the spoils system instead of the merit system. [Applause.] And when your own President goes into the White House he will not permit you, in the light of the history of his career, to return to the demoralizing spoils system those offices which are at the beginning of his administration under the merit system.

I dare you to vote this amendment into the bill. [Applause

on the Republican side.]
Mr. CULLOP. Mr. Chairman, I will say, in reply to the gentleman from Illinois, that for one I shall vote for this amendment, and when I am voting for this amendment I am voting to tear down a rotten spoils system. These men who have had

their life tenure fixed by this order secured their offices by the spoils system, and you want us to ratify it now. It is in bad taste for any administration as it is going out of power and there is a change of party to undertake to fasten upon the country officeholders of its own political faith when that party has been repudiated at the polls. [Applause on the Democratic side. l

What does this extension of the civil-service class mean? It means to increase the power that is being brought to bear on Congress to-day to create a civil pension list. To-day the power of patronage in the hands of the Executive of this Nation, it matters not of what political faith, is one of the things that menaces the welfare of the country. Five hundred thousand men are subject to appointment, removal, promotion, or demo-tion in office by the order of the Chief Executive of this Republic. Behind them is a great sum as the annual pay in salaries. A most powerful leverage is brought to bear by virtue of this system to continue the administration in power. And the abuse of this patronage by the former President of the United States and the present Chief Executive brought about the downfall of the Republican Party in the last election. The present Chief Executive was nominated through the official patronage of the former President of the United States. He was renominated at Chicago last June by virtue of the Federal patronage and not as the choice of a majority of the Republicans in this country. It has been used as a political asset and created a great power.

It is time to eliminate it. It has been the subject of political abuse, and to-day these offices are filled by the appointees as Republicans, and they have not come into office by virtue of the civil service, but it is proposed they shall retain their office by virtue of it and feed for the remainder of their lives at the public crib. For one I shall oppose the proposition in whatever form it presents itself. Life tenure of office I deny is advantageous to the public service. It nullifies inspiration and ambition in the holder, because there is no inducement for him to exert himself and elevate the service. Service under it should be for a fixed period of duration, not to exceed four years, with opportunity of reappointment. Then there would be inducement for improvement of service, but as it now is there is none. He is fixed for life, and because of that fact he becomes indifferent in the discharge of his duties and careless as to public sentiment. Both of these are not likely to improve the service, and the public suffers in consequence thereof.

The civil-service law as administered has become a great political machine, and it is no surprise in view of this condition that nearly all appointees are of one political faith. It is no surprise in view of this fact that it has become a powerful factor in the Republican machine and plays an important part in every campaign. It was said many years ago by Roscoe Conkling, of New York, that it would become a "snivel service" instead of a civil service. Has it not practically become so now as administered? Does not everyone know that its administration for some years has been partisan, and as such it has manifested itself throughout every department of the service in which it is known? It needs attention and changes should be made or its beneficial purposes will all be nullified. We all favor good public service, but we know this law as now administered does not produce such a result, and we all deplore that fact. Changes in the law and its administration should be made in order to promote the service and secure to the people and the country the very best service possible.

Mr. JOHNSON of South Carolina. Mr. Chairman, the par-

ticular item in the bill to which the amendment of the gentleman from Georgia [Mr. BARTLETT] has been offered, provides for the employment of technical men to prepare examination questions upon scientific subjects. There is not a dollar carried in this bill to pay post-office inspectors to carry out the Execu-The post-office inspectors are provided for in the Post Office appropriation bill. This proposed amendment can have no effect in law. It limits no appropriation that is necessary to carry on the work under the last Executive order. If gentlemen want to come upon the floor and vote to repeal the civil-service law, let them do it in a proper manner, on a proper bill, from a committee having jurisdiction of that subject. Under the original law the Executive is authorized by Executive order to extend the civil service from time to time. You may by this vote express your disapproval of President Taft's order, but he could renew it to-morrow. You may by a vote upon an amendment that can have no legal effect put yourselves and your party in an embarrassing attitude before the country. After the 4th of March there will be another President. He will consider with great care whether or not the recent order of the President shall stand. He may modify it or he may, in

spite of any amendment we put here in this bill, extend it

beyond it present scope.

Now, Mr. Chairman, I hope that we will not put ourselves in the attitude of making the country believe that we intend to evade either the letter or the spirit of the civil-service law. [Applause.] I believe that the committee acted wisely and justly when it increased the appropriation for the Civil Service Commission, in order that that commission might have ample force to carry on its work. So, now, what is the use of voting for this amendment to this particular paragraph of the bill? It carries \$2,000, with which to employ experts to prepare questions on scientific subjects-chemistry and things of that kind. The original law puts it in the power of the President to extend the civil service. You can not control the Executive unless you repeal the law, and for my part I do not want to repeal the law.

Mr. FITZGERALD. Mr. Chairman, I hope that the amendment will not be adopted. If the purpose be to prevent the use of certain appropriations to defray the expenses of post-office inspectors who are assigned to make investigations in connection with the appointment of fourth-class postmasters under the recent Executive order, it has not been drawn with the usual

care and skill of the gentleman who presents it.

The gentleman from South Carolina [Mr. Johnson] has said there are no appropriations in this bill available for the pay of post-office inspectors or for their expenses. But if there were, Mr. Chairman, this amendment would not only prohibit the payment of money to post-office inspectors detailed to select persons to fill fourth-class post offices under the recent Executive order putting them in the classified service, but it would prevent the expenditure of money to defray the expenses of such inspectors to do that work if that Executive order were rescinded, suspended, or revoked. It provides that no part of the amounts appropriated under this paragraph or in this bill shall be used to pay inspectors of the Post Office Department for expenses incurred in making selections and recommendations for the appointment of fourth-class postmasters. Prior to the issuance of the recent Executive order the post-office inspectors were detailed for that very work. This would prevent, regardless of whether they were in the classified service or in the unclassified service, appropriations being utilized for such a purpose.

Moreover, Mr. Chairman, I do not believe it is proper to attempt to penalize an employee for discharging the functions of his office under orders of his superior. The post-office inspectors would have no discretion. If they were directed to make the investigation, even if Congress prohibited the payment of their salaries or expenses when engaged on certain work, they could not assign as a reason for not making it that a particular appropriation could not be utilized to pay them. They would have to do it, and Congress would be attempting to penalize a subordinate for discharging the duties of his office under the direction of his superior. Regardless of the merits of the controversy as to the wisdom or propriety of the order of the President placing fourth-class postmasters in the classified service, I feel quite confident that gentlemen on this side of the House do not wish to enact such a provision as this, that makes it impossible to utilize the post-office inspectors to investigate applicants for fourth-class post offices under any conditions or to penalize them if they do so, at the direction of their superiors. I hope the amendment will not prevail.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia [Mr. BARTLETT]. The question was taken, and the Chairman announced that

the "noes" seemed to have it.
Mr. MANN. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 11, noes 67.

So the amendment was rejected. The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Establishment and maintenance of system of efficiency ratings for initial year: Clerks—1 (in charge) of class 3, 2 of class 2, 3 of class 1, 1 (stenographer and typewriter), \$1,000; 5 temporary clerks, at \$900 each, needed for one year during the installation of the system; in all

Mr. FOWLER. Mr. Chairman, I make a point of order against this paragraph. It is new legislation.

The CHAIRMAN. Will the gentleman from Illinois point

out in what particular it is new legislation?

Mr. FOWLER. It is not authorized by law, neither has it been carried in any previous appropriation bill. It is entirely No part of it has ever been enacted heretofore. is no provision for any of the positions created in this paragraph, and it is entirely new legislation.

Mr. JOHNSON of South Carolina. Mr. Chairman, the last legislative bill provided that a system of efficiency ratings should be kept by the Civil Service Commission. This appropriation is made to enable the commission to carry out the duties imposed upon it by the law. I do not think it is necessary to say anything more.

The CHAIRMAN. The Chair will ask the gentleman if he has before him the provision in the last legislative bill. If the Chair understands the position of the gentleman from Illinois,

it is that this is not authorized by law.

Mr. FOWLER. I desire to call the attention of the Chair to the note to Rule XXI in the Manual, beginning with the last

An appropriation for an object not otherwise authorized does not make authorization to justify the continuance of the appropriation another year, and a mere appropriation for a salary does not create an office, so as to justify appropriations in succeeding years, it being the general rule that propositions to appropriate for salaries not established by law or to increase salaries fixed by law are out of order.

Citing authorities heretofore passed upon.

The CHAIRMAN. The Chair will ask the Clerk to read a portion of section 4 of the last appropriation act which the Chair has marked in brackets.

The Clerk read as follows:

SEC. 4. The Civil Service Commission shall, subject to the approval of the President, establish a system of efficiency ratings for the classified service in the several executive departments in the District of Columbia, based upon records kept in each department and independent establishment, with such frequency as to make them as nearly as possible records of fact.

The CHAIRMAN. It must be very clear to the gentleman from Illinois [Mr. Fowler] that this authorizes the creation of a system of efficiency ratings. To create such a system there must necessarily be employees to perform the work. This point of order would probably have been good against this provision in the former appropriation bill on the ground of being new legislation. The provision in the present bill is clearly within the authority authorized in the last appropriation bill, which the Clerk has just read from the desk. The Chair thinks the point of order is not well taken, this authorization having been

fully made in the last appropriation bill.

Mr. FOWLER. But, Mr. Chairman, in that bill there was no creation of certain offices, which this bill purports to do. If the Civil Service Commission has the authority to discharge certain duties, there is no need, then, of specifying and limiting that Civil Service Commission to any certain line of duty by naming just the specific work, through certain offices, which shall be done. In other words, the Civil Service Commission law does not create the offices which are created in this paragraph, and it has been the universal holding, so far as I have been able to find, that an appropriation bill creating new positions and fixing new salaries is subject to a point of order, and that is just what I read from the book of rules of this House.

The CHAIRMAN. There is no question that the gentleman is correct, except where there is a specific provision authorizing certain work. Where you have a specific authorization there must necessarily be carried with it the power to do that work, and the Committee on Appropriations at this session is appropriating for clerks, and so carrying out the provision of law carried in the last appropriation bill. The point of order is overruled. The Clerk will read.

The Clerk read as follows:

For necessary traveling expenses, including those of examiners acting under the direction of the commission, and for expenses of examinations and investigations held elsewhere than at Washington, and including not exceeding \$1,000 for expenses of attendance at meetings of public officials when specifically directed by the commission, \$12,000.

Mr. FOWLER. Mr. Chairman, I make a point of order against at least a portion of this paragraph—that part which appropriates \$1,000 for the purpose of attending public meetings. It is new legislation, and in my opinion it is not warranted by any authority in the civil-service act.

The CHAIRMAN. The Chair will ask the chairman of the committee in charge of the bill whether that is new legislation.

Mr. JOHNSON of South Carolina. Mr. Chairman, I call the attention of the Chair to section 8 of the appropriation bill in which that law was first enacted.

No money appropriated by this or any other act shall be expended for membership fees or dues or any officer or employee of the United States or of the District of Columbia in any society or association, or for expenses of attendance of any person at any meeting or convention of members of any society or association, unless such fees, dues, or expenses are authorized to be paid by specific appropriation for such purpose or are provided for in express terms in the appropriation act.

That covers the exact language that we have followed here. Mr. COX of Indiana. What is the gentleman reading from? Mr. JOHNSON of South Carolina. I am reading from the law limiting the expenditure of money for these purposes.

Mr. COX of Indiana. Section 8?

Mr. JOHNSON of South Carolina. Section 8 of the District of Columbia appropriation act for the current year.

Mr. FOWLER. But that is only for the District of Columbia. Mr. BURLESON. But it was made to apply to all the departments

Mr. JOHNSON of South Carolina. That was where the law came from that limited it.

The CHAIRMAN. Has the gentleman from Illinois [Mr. Fowler] anything further to suggest?

Mr. FOWLER.

Mr. FOWLER. No.

The CHAIRMAN. It strikes the Chair, from the language read by the chairman of the committee having the bill in charge, that it was contemplated that the Committee on Appropriations should have authority and that it does have authority to make this specific appropriation, if they see proper, and the Chair thinks the point of order is not well taken. The point of order

Mr. BARTLETT. Mr. Chairman, I offer an amendment.
The CHAIRMAN. The gentleman from Georgia offers an amendment, which the Clerk will report.

Mr. BARTLETT. A new independent paragraph at the end of page 31.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

That the Executive order of October 15, 1912, issued by the President of the United States, placing in the competitive classified service postmasters of the fourth class, is hereby repealed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia.

Mr. MANN. Mr. Chairman, I would like to have the amendment again reported.

The CHAIRMAN. Without objection, the amendment will again be reported.

There was no objection, and the Clerk again reported the

amendment. Mr. JOHNSON of South Carolina. Mr. Chairman, I make a point of order against that as being legislation.

Mr. CULLOP. Mr. Chairman, the point of order comes too

late; action had already been taken.

The CHAIRMAN. The gentleman from South Carolina raises the point of order against the amendment, and it occurs to the Chair that the gentleman from South Carolina is a little late, because the Chair looked around to see whether anybody rose, and then the gentleman from Illinois requested that the amendment be again reported.

Mr. JOHNSON of South Carolina. Mr. Chairman, I did not at first understand the reading of the amendment. The gentleman from Illinois asked for the reading a second time, and then I made the point of order as soon as I knew what it was.

Mr. BURLESON. Mr. Chairman, the gentleman from South Carolina was laboring under the apprehension that it was the same amendment that had been heretofore offered and to which the point of order had been made and overruled, and consequently he did not make it at first, but did as soon as he understood the purport of it,

Mr. MANN. Mr. Chairman, while I think the point of order was made too late, I did not make a point of order that it was

too late.

The CHAIRMAN. It seems to the Chair that as to this question of a point of order being made too late it ought to be liberally construed, so that the House may have the benefit of the point of order if it is well taken, and the Chair in this case will hold that the point of order was made in time. The Chair does not pass upon the validity of the point of order, but holds that it was in time.

Mr. BARTLETT. Mr. Chairman, I did not make the point that the point of order came too late, because I understand how those things occur, and sometimes in the confusion Members do not understand the purport of the amendment offered. I admit frankly that it is legislation, and the purpose of it is to repeal that which is now law under the order of the President. I do not know, but I think it will reduce expenditures. So far as I am now concerned, Mr. Chairman, I am free to say that it is legislation upon this bill. There is no question about it, and I intended it to be legislation.

Mr. MANN. Mr. Chairman, Rule XXI provides in effect that an amendment is in order which shall retrench the expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or

by the reduction of the amounts of money covered by the bill.

While it is clear that the amendment offered by the gentleman from Georgia is subject to a point of order, still if the gentleman from Georgia will offer an amendment reducing the \$12,000 of this appropriation to \$11,999, provided, etc., his

proposition will be in order under the Holman rule and under the repeated decisions of the Chair. I would like very much to aid the gentleman from Georgia in getting the proposition clearly before the House. I would like to know whether gentlemen on that side of the House who for the next few years will be engaged in telling applicants for office that they would appoint them if they could, but a cruel President forbids them the opportunity of recommending any man for these offices, will have the nerve when they have the chance given them of becoming job hunters instead of statesmen.

Mr. BARTLETT. Mr. Chairman, if I may be heard for a moment, I do not speak for anybody but myself, and I stand here to say right now that if the point of order is withdrawn I am ready to vote for this amendment. I offered it with the hope that I might have an opportunity to vote for the amendment to revoke and repeal this order which was enacted or passed on the 15th of October, 1912, about 15 days before the election, placing the fourth-class postmasters under the civilservice law. Now, I have not been a job hunter since I have been a Member of Congress.

Mr. MANN. The gentleman from Georgia has been and is a distinguished statesman, and I hope we will enable him to preserve that attitude.

Mr. BARTLETT. I have not been a distinguished statesman, and I have not aspired to that category. I have endeavored during the 18 years of service, two of which were during the last Democratic administration, to do the best in my ability, but then I was not a place hunter.

But, Mr. Chairman, we have this as the history of placing fourth-class postmasters under the civil-service law. It is a well-known fact in this country that the delegates to the Republican presidential nominating conventions from the South are composed, generally, of the postmasters and the United States officeholders in that section of the country, and a roll call of the delegates at any presidential convention of the Republican Party for the past few years would have been like calling the roll of the postmasters in the South. We believe they were placed in the classified service for political reasons and we believe that they were covered recently into the civil service in order to take care of political favorites, and I for one am ready to vote to repeal an order passed as this was done, for the purpose for which it was passed, to give the people I represent and the section from which I come an opportunity for once in 14 or 16 years to have some voice in the selection of the fourth-class postmasters, which they have not had for that period of time.

The CHAIRMAN. The Chair is ready to rule. It is not contended by anyone that this puts a limitation on appropriations or that it comes within what is known as the Holman rule. It is a clear change of existing law and is therefore subject to The Chair sustains the point of order, and the point of order. the Clerk will read.

The Clerk read as follows:

The Clerk read as follows:

Office of chief clerk and superintendent: Chief clerk, including \$300 as superintendent of Treasury Building, who shall be the chief executive officer of the department and who may be designated by the Secretary of the Treasury to sign official papers and documents during the temporary absence of the Secretary and the Assistant Secretaries of the department, \$4,000; assistant superintendent of Treasury Building, \$2,500; clerks—4 of class 4, 1 of class 3, 2 of class 2, 2 of class 1, one \$1,000, one \$900; 2 messengers; 3 assistant messengers; messenger boy, \$360; storekeeper, \$1,200; telegraph operator, \$1,200; telephone operator and assistant telegraph operator, \$1,200; chief engineer, \$1,400; 3 assistant engineers, at \$1,000; each; 8 elevator conductors, at \$720 each, and the use of laborers as relief elevator conductors during rush bours is authorized; 8 firemen; coal passer, \$500; locksmith and electrician, \$1,400; captain of the watch, \$1,400; two lieutenants of the watch, at \$900 each; 65 watchmen; foreman of laborers, \$1,000; skilled laborers—2 at \$840 each, 2 at \$720 each; wiremen—1, \$900; electrician, \$1,200; 34 laborers; 10 laborers, at \$500 each; 1 plumber and 1 painter, at \$1,100 each; plumber's assistant, \$720; 85 charwomen; carpenters—2 at \$1,000 each; 1, \$720. For the Winder Building: Engineer, \$1,000; 3 firemen; conductor of elevator, \$720; 4 watchmen; 3 laborers, 1 of whom, when necessary, shall assist and relieve the conductor of elevator; laborer, \$480; 8 charwomen. For the Cox Building, 1709 New York Avenue; Two watchmen-firemen, at \$720 each; one laborer; in all, \$170,960.

Mr. FOWLER, Mr. Chairman, I reserve the point of order

Mr. FOWLER. Mr. Chairman, I reserve the point of order on the provision in line 10, page 35. I notice this bill carries a provision for an electrician, which is a new office. I would be glad to have the chairman explain the reason for this new office.

Mr. JOHNSON of South Carolina. Mr. Chairman, the current law provides for one wireman at \$1,000 a year. The testimony before the committee was that the man was a very efficient one. They desire to promote him from \$1,000 a year to \$1,200 a year because he is an expert, and to change his designation. In view of the fact that the Treasury Department has reduced its force by several hundred employees, the committee felt that when that department came before the committee and requested that a man's salary be advanced, giving good reasons

therefor, we ought to do something for them. If the gentleman from Illinois desires to assume the responsibility of keeping this workman up here in the Treasury Department, who is now receiving the salary of \$1,000 and is very efficient and worthy, from having an increase to \$1,200 we shall have to submit.

Mr. FOWLER. Mr. Chairman, I will be very glad to know why the committee did not increase the salary of the two skilled laborers who are receiving a salary of \$840 a year and the two at \$720 a year?

Mr. JOHNSON of South Carolina. Because there was nothing brought before the committee. There was no request that their salaries be increased, and no testimony given to the committee which would have justified the committee in increasing

Mr. FOWLER. Mr. Chairman, I will be very glad to leave the \$1,200 as it stands, if the committee would increase the salaries of these two skilled laborers,

Mr. JOHNSON of South Carolina. Mr. Chairman, we can not do that. The gentleman understands there are 30,000 employees in the city of Washington, and the committee can have no knowledge of the efficiency and worth of any particular man unless it is brought to the attention of the committee. We do not know who these men are. They are presumably getting what they are worth.

Mr. FOWLER. Mr. Chairman, I will be very glad to say that I am in favor of increasing the salaries of these lowsalaried people. They have been working for a long time at a bare subsistence on a very economical basis, and I have no disposition to hold down the salary of any of these low-salaried men; but I am going to insist that whenever there is an increase it shall cover at least a portion of the low-salaried men, and if it can not be applied to them, whenever there is an attempt to increase the salary of a high-salaried man I shall make the point of order. Inasmuch as this man is a low-

salaried man, I shall refrain from making the point of order.

The CHAIRMAN. The gentleman from Illinois withdraws the point of order and the Clerk will read.

The Clerk read as follows:

Division of Bookkeeping and Warrants: Chief of division, \$3,500; assistant chief of division, \$2,700; estimate and digest clerk, \$2,500; 2 principal bookkeepers, at \$2,100 each; 12 bookkeepers, at \$2,000 each; clerks—14 of class 4, 6 of class 3, 6 of class 2, 3 of class 1; messenger; 3 assistant messengers; messenger boy, \$480; in all, \$87,180.

Mr. FOWLER. Mr. Chairman, I reserve the point of order

on that paragraph.
The CHAIRMAN. Does the gentleman from Illinois reserve

the point of order to the paragraph?

Mr. FOWLER. No; to that portion of the paragraph which creates the office of messenger boy. I would be glad to ask the chairman of the committee what necessity there is for a new messenger boy, when the bill carries one messenger and three assistant messengers, the same as has been carried in the bill heretofore?

Mr. JOHNSON of South Carolina. Mr. Chairman, the Division of Bookkeeping and Warrants is unquestionably the most important division in the Treasury Department. It has intimate relations with every other division. It has more intimate and close relations with the Committee on Appropriations than any other division. It is through that division that estimates are all transmitted to the Congress. The work of this office are all transmitted to the Congress. The work of this office increases from year to year, and we have given them one messenger boy only at \$480 a year. That is the only increase we allowed them, notwithstanding the great volume of work and the great responsibility. The situation is simply this: If we do not give them this messenger boy at \$480 it will be necessary to take some other person who is employed as a clerk or in some other capacity to do the work of carrying papers to the different departments that a boy would do if we allow him.

Mr. FOWLER. Mr. Chairman, if a messenger boy is absolutely necessary, I have no objection to it; but I desire to ask the chairman if the committee unanimously agreed to insert this new legislation?

Mr. JOHNSON of South Carolina. I do not remember there was any opposition whatever in the committee.

Mr. FOWLER. Mr. Chairman, I withdraw the point of

order.

The Clerk read as follows:

Division of Appointments: Chief of division, \$3,000; assistant chief of division, \$2,000; executive clerk, \$2,000; law and bond clerk, \$2,000; clerks—3 of class 4, 4 of class 3, 5 of class 2, 6 of class 1, 4 at \$1,000 each, 1 \$900; messenger; 2 assistant messengers; in all, \$42,180.

Mr. COX of Indiana. Mr. Chairman, I move to strike out the last word, for the purpose of getting some information from the chairman of the committee. The Committee on Expenditures in the Treasury Department last summer had considerable investigation in sifting out the contingent funds which Congress appropriated and gave to the Secretary of the Treasury for the purpose of improving conditions in the department. With a part of those funds the Secretary employed a firm in Chicago, I believe by the name of Young & Co., if I recollect correctly. They went through the Treasury Department rather carefully, and that committee recommended the abolishment of this Appointment Division, and I am not sure but what some committee formulated and prepared by the Secretary himself-I mean the employees of the department who were made members of the committee-recommended the same thing. I would like to ask the chairman of the committee now whether or not the committee of which he is a member has investigated that question, with a view of seeing whether or not there is any necessity for the maintenance of this bureau in the Treasury Department, or, in other words, whether it can be abandoned without crippling the service'

Mr. JOHNSON of South Carolina. This division is a very important one, I will say to the gentleman from Indiana. A great number of the people who are employed by the Government are bonded. A large number are under heavy bond. Now, this division not only appoints, sifts out in the various bureaus, and makes these formal appointments, but it keeps the bonds of all these officials. I would say frankly, while we have not directed any special investigation toward the abolishment of this particular division, the Treasury Department has shown such a determination to do away with useless employees and to abolish useless divisions that we have felt inclined to grant them within the bounds of reason what they did ask for. I them within the bounds of reason what they did ask for. I think that the Treasury Department has reduced the force something like 700 people.

Mr. COX of Indiana. That is true.

Mr. JOHNSON of South Carolina. I do not know how many

divisions have been abolished and consolidated, but no information has been brought to the committee that would justify the curtailing of any force for which they have asked.

Mr. COX of Indiana. Well, I desire to know whether or not

the committee has made any inquiry along that line?

Mr. JOHNSON of South Carolina. We have not made any specific inquiry as to whether this division should be abolished, and particularly for the reason that the department shows such

earnest efforts to do away with useless places.

Mr. COX of Indiana. One of the chief objections that I have observed to this division, as far as I am personally concerned, is, it seems to me, it serves as a rather circuitous route through which employees are procured for the department. If I understand the workings of the machinery in this bureau, if an application is made for an employee that application is made to the appointment division. The appointment division then calls upon the Civil Service Commission, and the Civil Service Commission makes its recommendations to the appointment division, and the appointment division fills the place that may be requested by the department. I was under the impression, while our committee had that matter under investigation, that so far as that part of the work was concerned it could be better served by the heads of the departments themselves than to have it go through the circuitous route that it now takes.

Mr. MANN. Will the gentleman yield?

Mr. COX of Indiana. I do. Mr. MANN. Is not it a fact that the appointment division keeps the roster of the employees of the whole department, and that all promotions and every change in position goes through the appointment division?

Mr. COX of Indiana. That is true; and for that very rea-

son before our committee last summer there was some very

stringent criticism on it.

Mr. MANN. That may be.
Mr. COX of Indiana. And the criticism that seemed to our committee pertinent was, as I recall it now—it has been some time since I refreshed my memory on it—that the appointment division did not know the employees who really were entitled to promotion as well as the chiefs of bureaus themselves did.

As I understand, the chiefs of the bureaus make their recommendations, the matter is taken up by the appointment division, and questions in reference to efficiency are considered, and the appointment division lays those matters before the Assistant Secretary of the Treasury who has charge of those matters. The gentleman knows that Mr. Lyman, who is at the head of this division, was formerly Civil Service Commissioner under Mr. Cleveland?

Mr. COX of Indiana. And that very reason is what brought on some considerable criticism.

Mr. MANN. No doubt there has been a good deal of criticism of the appointments of the division, but I think it was because

it was not responsive enough in the opinion of certain gentle-

men to political pressure.

The criticism was that when a recommendation was made to the chief of the bureau to this appointment division for promotion, sometimes the recommendation would be turned down by the appointment division, and that brought about some considerable criticism before our com-

Mr. MANN. The gentleman understands that in many of these places it is almost impossible for the head of the division to determine in reference to the appointment without its going through somebody else's hands, of course. I do not know whether the appointment division is necessary or not. I do not see how the appointment division could be maintained in control of that part of it without having control of the calling

upon the Civil Service Commission for original appointments.

Mr. COX of Indiana. That is what I recollect as being the chlef criticism so far as that was concerned. This appointment division, if I recollect, has something to do with the collec-This appointtion of internal revenue or the payment of salaries in the inter-

nal-revenue department. Is that correct?

Mr. JOHNSON of South Carolina. The division of appointments under the order of the Secretary of the Treasury audits the accounts of the customs service, which amount to \$10,000,000 a year.

Mr. COX of Indiana. When you speak of the auditing of the accounts, that is the auditing of the salaries of the employees in the service?

Mr. JOHNSON of South Carolina. And other expenditures, The total expenditures of the customs service, amounting to \$10,000,000, are audited in this division.

Mr. COX of Indiana. Did the gentleman have any thought in this connection, whether this particular branch of that work would not be better served by turning it over to the customs

department of the Government?

Mr. JOHNSON of South Carolina. During the last Congress the question of auditing the claims against the Government received very careful consideration at the hands of the Committee on Appropriations, because we found in many of the disbursing offices of the Government an auditing system had In other words, disbursing officers had gathered around them a sufficient force to transpose an ordinary disbursing office into an auditing office. So we went into the question of administrative audit with the departments of the Government, and in the last legislative bill provided there should be an administrative audit and that the disbursing officers should discharge the functions of disbursing officers. And we think we saved a great deal. And this since the last session of Congress has been the division that gives the administrative audits of the customs service.

Mr. COX of Indiana. I will state to the Chairman what was said. I do not know anything about it. I am simply asking for information. The criticism came from Mr. Young, expert accountant, that it should be abolished, and that it would effect an economy of \$40,000. And then another criticism came because of the circuitous route through which these appointments were made, and that the auditing in the payment of accounts growing out of the Internal-Revenue Service was in the customs service itself, but I do not know. I am stating now my recollection that some of the committee down there—I think a committee of five, or two out of three-reported at one time that it should be abolished, but I think the gentleman is right in saying that the Secretary himself did not approve of that committee of three. At least, if I recall correctly, his spokesman, if I remember right, Mr. Wilmeth, said it would not bring about any economy. So I simply wanted to get the gentleman's opinion about it, and as to whether they had looked into it with the view of abolishing it.

The Clerk read as follows:

The services of skilled draftsmen, and such other technical services as the Secretary of the Treasury may deem necessary, may be employed only in the Division of Revenue-Cutter Service in connection with the construction and repair of revenue cutters, to be paid from the appropriation "Repairs to revenue cutters,": Provided, That the expenditures on this account for the fiscal year 1914 shall not exceed \$3,400. A statement of the persons employed hereunder, their duties, and the compensation paid to each shall be made to Congress each year in the annual estimates.

Mr. MANN. Mr. Chairman, I reserve a point of order on the paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] reserves a point of order on the last paragraph read by the

Mr. MANN. I do not expect to make the point of order. This provision, apparently, is contemplated to remain as permanent law, except the proviso. I do not know, but ordinarily a provision of this sort in the bill would apply only to the fiscal year in which the appropriation is made, and you limit that to \$3,400. That is all right. Then you go ahead with a provision that is at right. Then you go ahead that the that it a statement of the persons employed hereunder, their duties, and the compensation paid to each shall be made to Congress each year in the annual estimates." That would seem to contemplate a permanent provision of law, without any limitation in it at all, because the limitation of amount applies only to the fiscal year ending June 30, 1914. Do you want to make a provision of this sort, which has no limitation in it at all?

Mr. JOHNSON of South Carolina. Mr. Chairman, I would say that that contemplates an annual appropriation under the Chief of Engineers.

Mr. MANN. I understand that. They have some work.

They are constructing some revenue cutters.

Mr. JOHNSON of South Carolina. They have some construction work to do in connection with the Revenue-Cutter Service. The gentleman who appeared before the committee whether an Army officer or otherwise I am not sure

Mr. MANN. He is not an Army engineer. I suppose it was

the chief of the Revenue-Cutter Service.

Mr. JOHNSON of South Carolina. He said that the plans

must be made.

Mr. MANN. I am calling the attention of the gentleman from South Carolina to this proviso, limiting the amount to be expended to \$3,400. But if this is a permanent provision of law, then there is no limitation hereafter.

Mr. JOHNSON of South Carolina. It is just like the provision that has been in the bill for 25 years. It is a lump-sum appropriation, and we require them to specify in each bill how

much they have. Mr. MANN. Is this in the current law?

Mr. JOHNSON of South Carolina. A similar provi found elsewhere in the bill under the Chief of Engineers. A similar provision is

Mr. MANN. Here is the point about this: An item similar to this occurs in various branches of the service, where it is nece sary to have it every year; but it is not necessary to have this

every year in the Revenue-Cutter Service, I think.

Mr. JOHNSON of South Carolina. If they do not ask for it,

we shall not appropriate it.

Mr. MANN. You do not have to appropriate at all. You have that permanent provision of law here, which does not require any appropriation. That is what I am calling to the gentleman's attention—that it is whally outside the control of the Committee on Appropriations. If the policy of the committee is to expect to cover this every year, it is immaterial to me; but if you do not put this item in every year, mind you, and there were any appropriations for the repair of revenue cutters, they could transfer just as much as they pleased, because there is no limitation upon it.

Mr. JOHNSON of South Carolina. I will read to the gentle-

man what Mr. Allen said about it. He said:

In January, 1912, we abolished an office in Baltimore in which we had a draftsman, an assistant draftsman, and a clerk. They were handling the drafting work connected with repairs of revenue cutters. We thought we could do without them, but after trying it we find we can not. This new provision is drawn to correspond with one which appears in the naval appropriation bill each year. It will permit us to pay not to exceed \$3,400 for drafting and other services in connection with resenue-cutter work.

pay not to exceed \$3,400 for drafting and other services in connection with revenue-cutter work.

Mr. JOHNSON. There is no increase in the appropriation?

Mr. ALLEN. No increase. It simply enables us to expend from the appropriation for repairs this amount of money, which is required in making blue prints and kindred work. I do not think the work will be continuous or that we will have to spend \$3,400. We ask that because it was what it approximately cost us in Baltimore.

Mr. MANN. Well, he says he does not think the work will be continuous. Mr. Allen did not explain to you the real reason. I will. Probably he did not think about it, or was not aware of it; I do not know. But under the law appropriations for the construction of revenue cutters can not be used for the payment of employees in the District of Columbia for this kind of work. The money could be used over in Baltimore and the office was over in Baltimore. Then they brought the office over here, and it is very proper that the amount necessary for the repair of vessels of the Revenue-Cutter Service should be used

for that purpose. But under your provision that goes into the permanent law. They do not have to ask you for it hereafter.

Mr. JOHNSON of South Carolina. The clerk to the committee, who understands these matters thoroughly, says that this item is identical with a number of others that we carry every year, and of course the gentleman from Illinois understands that this item will be carried from year to year, because, as I stated, this work was hitherto done in Baltimore and paid for out of appropriations for the Revenue-Cutter Service.

If we are going to use the money for the Revenue-Cutter Service in the District of Columbia there must be a specific authorization to that effect in order to make it law. Now, if they determine to dispense with the services of anybody in the city of Washington hereafter, then the estimates that come

down to the Congress will not contain that item.

Mr. MANN. I think I will try to make myself more clear to the committee. Two or three years ago we made an appropriation for two new revenue cutters, with a limitation of cost. That limitation of cost is supposed to cover all of this work. The office was maintained outside of the District of Columbia, and there was no authority to maintain anybody inside of the District of Columbia for that work, except by specific authority of Congress. Now, under this provision hereafter, if it remains permanent law, whatever the Committee on Appropriations may do, the limit of cost will not cover the services of skilled draftsmen and other technical services in connection with the con-struction of these new revenue cutters, but that will be paid out of the appropriation for repairs to the revenue cutters. That is not a very desirable thing to do. However, I withdraw the point of order.

The CHAIRMAN. The gentleman from the point of order. The Clerk will read. The gentleman from Illinois withdraws

The Clerk read as follows:

Division of Mail and Files: Superintendent of Mail, \$2,500; registry clerk, \$1,800; distributing clerk, \$1,400; clerks—1 of class 2, 1 of class 1, 1 \$1,000; mail messenger, \$1,200; 2 assistant messengers; messenger boy, \$360; in all, \$12,300.

Mr. FOWLER. Mr. Chairman, I reserve a point of order on the paragraph. I desire to inquire of the chairman of the committee why you increased the mail messenger's salary from

\$1,000 to \$1,200

Mr. JOHNSON of South Carolina. His salary was \$1,200. In submitting the estimates for the present fiscal year, by a mistake made by somebody, the estimate was made to call for a salary of only \$1,000. We provided in the law for the present year that his salary should be \$1,000, thereby reducing the salary \$200 on account of the mistake in the estimates.

Mr. FOWLER. But it is increased \$200 in this bill.

Mr. JOHNSON of South Carolina. As I have said, his salary for last year was \$1,200. The Treasury Department, in sending the estimates to Congress, called for a salary for this man of \$1,000, reducing the salary \$200 by inadvertence. The committee made the appropriation for the current year only \$1,000. It was purely a mistake, and we are simply putting the salary back to what it formerly was and to what it was intended to be. Mr. FOWLER. I withdraw the point of order.

The CHAIRMAN. The gentleman from Illinois withdraws

the point of order, and the Clerk will read.

The Clerk read as follows:

the point of order, and the Clerk will read.

The Clerk read as follows:

Office of the Supervising Architect: Supervising Architect, \$5,000; executive officer, \$3,250; technical officer (in lieu of chief, technical division, transferred from salary roll, sundry civil act), \$3,000; drafting division—superintendent (in lieu of chief constructor), \$3,000; drafting division—superintendent (in lieu of chief constructor), \$3,000; assistant superintendent (in lieu of assistant constructor), \$2,750; superintendent, computing division (in lieu of chief computer), \$2,750; mechanical engineering division—superintendent (in lieu of chief mechanical engineering division—superintendent (in lieu of chief mechanical and electrical engineer, etansferred from general expenses, sundry civil act), \$2,760; structural division—superintendent (in lieu of chief structural engineer, transferred from salary roll, general expenses, sundry civil act), \$2,400; structural division—superintendent (in lieu of chief structural engineer, transferred from salary roll, general expenses, sundry civil act), \$2,400; structural engineer, transferred from salary roll, general expenses, sundry civil act), \$2,400; superintendent, in lieu of assistant chief structural engineer, transferred from salary roll, general expenses, sundry civil act), \$2,500; superintendent, accounts division (in lieu of architectural draftsman, acting as chief, repairs division (in lieu of architectural draftsman, acting as chief, repairs division), \$2,500; superintendent, maintenance division (in lieu of chief of accounts division), \$2,500; superintendent, maintenance division (in lieu of chief of maintenance division), \$2,500; files and records division—chief, \$2,500; assistant chief (transferred from salary roll, general expenses, sundry civil act), \$2,500; inspectors—5 at \$2,300 each (transferred from salary roll, general expenses, sundry civil act), \$2,500; inspectors—5 at \$2,500 each (transferred from salary roll, general expenses, sundry civil act), at \$1,500 each, 13 o

salary roll, general expenses, sundry civil act); skilled laborers—4 at \$1,000 each (transferred from salary roll, general expenses, sundry civil act), 7 at \$960 each (transferred from salary roll, general expenses, sundry civil act), 1 \$900 (transferred from salary roll, general expenses, sundry civil act), 1 \$840 (transferred from salary roll, general expenses, sundry civil act); laborers—1 \$660, 1 \$600 (transferred from salary roll, general expenses, sundry civil act); in all, \$235,920.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

Mr. FOWLER. I desire to reserve a point of order on the paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. Fowler] reserves a point of order.

Mr. MANN. Perhaps we had better dispose of the point of

order first. Mr. JOHNSON of South Carolina. Does the gentleman make the point of order?

Mr. FOWLER. No; I do not make the point. I reserve it. Mr. JOHNSON of South Carolina. It is not subject to a

point of order, Mr. Chairman.

The gentleman from Illinois has not The CHAIRMAN. stated the ground of his point of order.

I reserved the point of order. I did not Mr. FOWLER. want to take the floor away from the gentleman from Illinois [Mr. MANN]

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] is no longer seeking the floor, and the Chair was trying to settle the point of order. What is the point of order?

Mr. FOWLER. I desire to know the reason for the increases

of various salaries in this paragraph.

Mr. JOHNSON of South Carolina. There is not an increase of a salary in the paragraph. Heretofore a certain part of the force in the Supervising Architect's Office has been paid out of appropriations made in the legislative bill and another part of his force was paid out of appropriations made in the sundry civil bill. The last sundry civil act required that hereafter all persons who were paid out of the lump sums in the sundry civil bill shall be appropriated for in the legislative bill. So we have simply consolidated the two forces, as we are required to do by law. Not a single additional person has been provided for and not a single salary has been increased. They asked us to do both, both of which we refused to do.

Mr. FOWLER. In line 19, page 38, I see that the salary of the drafting superintendent is \$3,000, and it was carried in the

last bill at \$2,750.

Mr. JOHNSON of South Carolina. The gentleman will find, if he examines that item, that the superintendent carried in this bill is the chief constructor, who was paid \$3,000.

Mr. FOWLER. Yes; but there was a drafting division, and the superintendent thereof in the last bill was paid a salary of

Mr. JOHNSON of South Carolina. The amount that is carried here at \$3,000 is carried in the last bill at \$3,000 under the words "chief constructor."

Mr. FOWLER. Then on the same page, line 21, under a heading of "General expenses," there was transferred from the salary roll one of the assistants who was drawing \$2,500, and under this appropriation in this bill he is given \$2,750.

Mr. JOHNSON of South Carolina. He was carried in the

last bill as an assistant constructor at \$2,750, just what we have given him here.

Mr. FOWLER. In the other bill it was an assistant superintendent, and he only drew \$2,500. Now it is proposed to give him \$2,750.

Mr. JOHNSON of South Carolina. There is the law on page 202, assistant constructor, \$2,750.

Mr. FOWLER. And here he is assistant superintendent.
Mr. JOHNSON of South Carolina. He was carried in the
last bill under the words "assistant constructor." We call it assistant superintendent instead of assistant constructor, but I state to the gentleman from Illinois that we have not changed

a single salary in the paragraph. Mr. FOWLER. Then how does the gentleman account for the increased appropriation?

Mr. JOHNSON of South Carolina. There is no increase. Mr. FOWLER. In the last bill it was \$228,620 and now it is \$235,920, according to this bill.

Mr. JOHNSON of South Carolina. I thought I had explained to the gentleman that there were two forces in the Supervising Architect's Office; one part of the force was paid out of appropriations in this bill—the legislative bill—and the other part of the forces was paid out of appropriations in the sundry civil bill. The last sundry civil bill required that these forces should be consolidated, and that hereafter they should all be carried specifically in the legislative bill. So that this bill now

before the committee carries two forces that have hitherto been carried in that office under the two appropriations. But I state to the gentleman that not a single dollar is added to any salary and not a single person is added to the force.

Mr. FOWLER. Mr. Chairman, with the explanation given, I

withdraw the point of order.

Mr. MANN. Mr. Chairman, as a matter of information I want to ask the gentleman a question or two. On page 39, at the end of line 3, commences the item "Structural division superintendent (in lieu of chief structural engineer transferred from salary roll, general expenses, sundry civil act), \$2,750." As a matter of fact, that man is not transferred from the sundry civil roll, is he? Is he not the same as the structural engineer carried in the appropriation bill?

Mr. JOHNSON of South Carolina. They were paid out of a mp sum. They were specifically appropriated for in the lump sum. sundry civil bill while a great many were paid out of a lump

Mr. MANN. But we specifically provided for them in the legislative bill.

Mr. JOHNSON of South Carolina. Not in this particular. Mr. MANN. I do not know where you will find anybody that corresponds to the chief structural engineer carried in the legislative bill.

Mr. JOHNSON of South Carolina. He is paid out of a lumpsum appropriation, outside of these two rolls, and he is brought into this bill.

Mr. MANN. Who draws a salary of the present chief structural engineer and the assistant structural engineer?

Mr. JOHNSON of South Carolina. I do not know any in-

dividual in the Supervising Architect's Office.

Mr. MANN. I do not mean the individual. We have here a chief structural engineer at \$2,750 and an assistant structural engineer at \$2,400, and these are the identical places carried in your bill, under the head of "Structural division—superintendent (in lieu of chief structural engineer transferred from salary roll, general expenses, sundry civil act), \$2,750, and assistant superintendent (in lieu of assistant chief structural engineer transferred from the salary roll, general expenses, sundry civil act), \$2,400." You say they are transferred from the sundry civil list when they are not.

Mr. JOHNSON of South Carolina. I will say to the gentle-

man from Illinois that the estimates that came down from the Treasury Department in regard to the consolidation of these two forces was the most complicated thing I ever saw, and the most competent man in Washington-and the gentleman knows to whom I refer-spent several days in unraveling it and get-

ting all the men fixed.

I am perfectly satisfied, and I state it without any hesitation, that this bill as it is now written provides for every man who is provided for in the previous bills and does not provide for any more.

Mr. MANN. I think that is correct. I am not disputing that, but while a very competent man-the competent man-has been over this, still I take the liberty of making a correction even to him. This bill erroneously states that these two places are transferred from the salary roll of the general expense under the sundry civil act, whereas, as a matter of fact, they are both provided for by the current legislative appropriation bill and are not paid out of the sundry civil general expense account

Mr. Chairman, I understand that the point of order was withdrawn.

The CHAIRMAN. The point of order has been withdrawn. Mr. MANN. Mr. Chairman, I move to strike out the last word. As I understand, this, to a certain extent, remodels the office of the Supervising Architect. Of course, it is true it only brings together men who are paid out of different rolls. What information is the gentleman able to give the House with reference to the progress which the Supervising Architect's Office is making concerning that highly mooted question of the construction of public buildings heretofore authorized? I think it is due to the House that we be informed now what progress is being made by the Supervising Architect's Office, because I take it that we will soon again be up to the question of whether it is necessary for the House, in order to aid the public business in other matters, to pass a new bill providing for additional public

Mr. JOHNSON of South Carolina. Mr. Chairman, in the interest of my friends who are concerned in public buildings, I inquired of the Supervising Architect, or of some other authority, what progress they were making under the new regulations in regard to using old plans in part, and he stated that without increasing the force they would be able to get out plans much more rapidly than they had hitherto.

Mr. MANN. How many buildings have been already authorized, plans for which have not yet been prepared or begun?

Mr. JOHNSON of South Carolina. I can not answer that

question, but quite a number of buildings have been authorized for which no plans have been begun.

Mr. MANN. Are there as many as several hundred?

Mr. JOHNSON of South Carolina. I think there are probably 200 or more.

Mr. MANN. Is the gentleman able to say whether, with the appropriation that is made here, the Supervising Architect's Office will be able to prepare the plans for the buildings already authorized within the next fiscal year?

Mr. JOHNSON of South Carolina. No. He stated that they had been preparing about 90 plans a year, but that under the changed conditions they would be able to get out about 110

with the same force.

Mr. MANN. I take it, then, that the gentleman does not consider it absolutely necessary at this time to authorize the construction of new buildings, except those that may be in the nature of emergencies?

Mr. JOHNSON of South Carolina. I think there are many things of far more pressing importance to this country than

the construction of new buildings

Mr. MANN. I was in hopes that we might get some observation from some member of the Committee on Public Buildings, but I suppose they are so busily engaged in attending to the ordinary duties of that committee, at the committee room, that they are not able to be present on this floor at this time, because I do not see any of them here.

The Clerk read as follows:

Office of Comptroller of the Treasury: Comptroller of the Treasury, \$6,000; Assistant Comptroller of the Treasury, \$4,500; chief clerk, \$2,500; chief law clerk, \$2,500; nine law clerks revising accounts and briefing opinions—one \$2,100, eight at \$2,000 each; expert accountants—six at \$2,000 each; private secretary, \$1,800; clerks—eight of class four, three of class three, one of class two; stenographer and typewriter, \$1,400; typewriter-copyist, \$1,000; two messengers; assistant messenger; laborer; in all, \$73,460.

Mr. COX of Indiana. Mr. Chairman, I reserve the point of order on that portion of the paragraph touching the salary of the Comptroller of the Treasury, \$6,000. My recollection is that the law creating the office fixed that salary at \$5,500, and that his salary was increased, probably at the close of the Sixty-first Congress, by an appropriation committee. I would like to ask the chairman of the committee whether or not he thinks a salary of \$6,000 is really due that office?

Mr. JOHNSON of South Carolina. Mr. Chairman, I believe the salary is fixed by law at \$5,500. It has been increased not

by this committee but by some former Congress

Mr. COX of Indiana. At the close of the Sixty-first Congress,

think, it was increased.

Mr. JOHNSON of South Carolina. This committee is simply carrying the amount, that has been carried. The man who is at the head of that department is a very important man. He is one of the most powerful men connected with the Government so far as the expenditure of the public money is concerned. He must pass upon and construe every act of Congress that authorizes public expenditure, and this committee did not feel justified in undoing what a former Congress had done.

Mr. COX of Indiana. Was the gentleman from South Caro-

lina a member of the Appropriations Committee when this in-

crease was given him?

Mr. JOHNSON of South Carolina. No.

Mr. COX of Indiana. Simply followed the current law of the previous year. That is my understanding of it.

Mr. JOHNSON of South Carolina. Yes.

Mr. COX of Indiana. What does the gentleman really feel as to whether or not the office is worth \$6,000?

Mr. JOHNSON of South Carolina. Well, I think it takes

one of the best lawyers connected with the Government service to fill it well.

Mr. COX of Indiana. I quite agree with the gentleman on It is a very responsible position, but I do not agree with the plan of increasing the salary in this way on an appropriation act.

Mr. JOHNSON of South Carolina. We have not increased it; we took it as we found it. Of course, it is subject to the point of order.

Mr. COX of Indiana. And I agree the gentleman's committee has not increased it, but it has been increased. Does the

gentleman feel it ought to be \$6,000?

Mr. JOHNSON of South Carolina. Well, I think that the man in that place now has certainly earned \$6,000. I do not know who the next man will be. It is a very responsible position.

Mr. COX of Indiana. What I am trying to get at—perhaps I am not putting it to the gentleman in a fair way and manner—is whether or not he feels the salary of \$6,000 is commensurate with his responsibility.

Mr. JOHNSON of South Carolina. Well, certainly a man filling an office of that responsibility ought to have that amount of salary, and I should not care to fill it at all; the responsibil-

ity is too great.

Mr. COX of Indiana. Mr. Chairman, I will withdraw the point of order, then.

The Clerk read as follows:

Office of Auditor for War Department: Auditor, \$4,000; assistant and chief clerk, \$2,250; law clerk, \$2,000; chief of division of accounts, \$2,500; chief of division, \$2,000; 2 assistant chiefs of division, at \$1,900 each; chief transportation clerk, \$2,000; clerks—22 of class 4, 49 of class 3, 62 of class 2, 50 of class 1, 9 at \$1,000 each, 3 at \$900 each; skilled laborer, \$900; messenger; 5 assistant messengers; 10 laborers; messenger boy, \$480; in all, \$307,470.

Mr. FOWLER. Mr. Chairman, I reserve a point of order on this paragraph. I desire to inquire of the chairman of the committee, on page 42, line 1, what is the necessity for two assistant chiefs of divisions at \$1,900 each, and also chief transportation clerk at \$2,000? All three of these positions are new. Mr. JOHNSON of South Carolina. Those are new positions.

Mr. Chairman, I want to say, if the gentleman desires to make a point of order against this item, that it is subject to the point of order; but I also want to call his attention to the fact that the appropriations for this particular office were reduced in the last year from \$336,750 to \$310,070, or a reduction in round numbers of \$26,700, and 21 people were dropped. There was a saving of \$26,000 and the services of 21 people were dispensed with. Now, as I have said on this floor before, and I repeat now, this department has shown such a commendable zeal in trying to reduce expenditures and to do away with useless employees that when we find them coming back here and asking us for a small increase of salary we feel like giving it to them.

Mr. FOWLER. Well, Mr. Chairman, I commend the gentle-

man's committee for its great work of retrenchment, but I thought that the work had been done by the force that is already provided for in the last legislative bill. Now here is an increase of three new positions over that of the last bill.

Mr. MANN. Is not there a reduction in this bill from two chiefs of division at \$2,000 to one chief of division?

Mr. JOHNSON of South Carolina. Yes; we drop out one man. We only have one in this bill.

Mr. MANN. There are two in the current law and one in

this bill. Mr. FOWLER. But in this bill there are two assistant chiefs

of division. Mr. MANN. There were two in the current law at \$2,000-

that is, chiefs of division-and there is only one in this bill. Mr. FOWLER. This is current law

Mr. MANN. In the current law there are two chiefs of division at \$2,000 and in this bill there is only one.

Mr. FOWLER. I am speaking of assistant chiefs of division, Mr. MANN. At \$1,900? I say they had two chiefs of division and they cut out one and there is only one additional office.

Mr. FOWLER. There were two transportation clerks? Mr. MANN. No; there were two chiefs of division, and instead of that they drop one and make two assistant chiefs. would like to say a word about the transportation clerks; do not know anything about this item.

Mr. FOWLER. I wanted to ascertain the use for this transportation clerk. It seems to be an entirely new position.

Mr. MANN. If the gentleman will permit, for several years, at different times, I have taken up with the War Department the question of the railroad rates paid by that department for transportation. Of course, it is a very complex matter to figure out the railroad rates so as to get the best where you are shipping stuff throughout the United States. I have called the attention—because, I suppose, of my connection with the Commit-tee on Interstate and Foreign Commerce so long on railway matters-of the War Department a number of times to the fact that in some cases the rates that were being paid for freight were probably higher than ought to be paid to secure transportation between two points, although I will say that the transportation branch of the War Department is, I think, exceedingly efficient. But the War Department is shipping both personnel and freight in very large amounts throughout the United States. It becomes extremely important to know whether we get the best rate that is practicable. When these items are passed upon by the War Department they must be audited in the Office of the Auditor for the War Department, and it is extremely important that we have a very efficient force in the auditor's office so that, if improperly or unnecessarily, the War

Department starts in to allow a higher rate of transportation or ships freight over a route where the expense is greater, they will be called down by the auditor's office.

Mr. COX of Indiana. Will the gentleman yield for a ques-

Mr. MANN. Certainly.

Mr. COX of Indiana. I do not know whether the gentleman has investigated this phase of the subject or not, nor do I know whether my information is accurate or not, but I have received information to this effect: For instance, the War Department would buy a carload of salt in New York City and ship it to Fort Sam Houston, Tex., where the freight during that haul would actually cost as much or more than the salt would cost; have you ever had occasion to investigate that question?

Mr. MANN. I think that is not the case, but I think this has happened: For instance, when the troops were ordered to Texas a year or two ago, or whenever it was, I ascertained that there was considerable freight shipped from the various Army posts to Texas, where probably the expense of the freight, together with the original cost, were far greater than would have been the expense of purchasing the material in Texas. Here was the case: The War Department had contracted to purchase, perhaps, hay to be delivered to Fort Sheridan, Chicago. They had purchased a lot of hay, and they had a lot of hay on hand. They had a contract agreeing to take a certain amount of it. Now, that was transferred in various ways to Texas, certainly at some higher expense than would have been the case if they had purchased the hay in Texas, but relieving the Government from responsibility under its contract for failure to carry it out and dispose of the material, which otherwise might have had to be sold at second hand. I investigated that matter in the Quartermaster General's Office, and have been over this freight matter with his office a number of times. It is a very complicated proposition.

Mr. FOWLER. Who has been discharging the duties of this transportation clerk heretofore?

Mr. MANN. Really I am unable to furnish my colleague information on this subject concerning the auditor's office. do not know. My communications and work have been in con-nection with the Quartermaster General's Office, which incurred the original liability, but these accounts all have to be audited in the auditor's office. I say it is extremely important that there be an efficient force there, because any mistake that may be made in the Quartermaster General's Office will be corrected in the auditor's office. I do not know who occupies the place, nor am I familiar with the force in the office which has to do with that subject.

Mr. FOWLER. I can not understand the use of a transpor-

tation clerk in this department.

Mr. MANN. Well, this transportation clerk, I supposetainly of the office-has to audit all the freight bills of the War Department, an extremely complicated proposition. If the War Department wants to ship freight from Chicago to Omaha, or from Chicago to Texas, or anywhere else throughout the country, first you have the land-grant railroads that have to be taken into consideration, where you get a cheaper rate of freight. Then perhaps it is cheaper to ship by one route than Then there is a quarrel all the time as to classification of freight, and the War Department succeeds every once in a while in having the classification changed in the interest of the Government, and, on the other hand, the railroads are frequently seeking to change the classification of freight so as to put freight in a higher classification and charge more. Now, all these cases have to be figured out by the auditor's office as well as by the Quartermaster General's office, because the auditor has to audit these claims.

Mr. JOHNSON of South Carolina. I will give the gentleman in concrete form just what the difference is between the proposed bill and the current law. In the office of the Auditor for the War Department an assistant and chief clerk, at \$2,250, is provided for instead of a chief clerk and chief of division at the same salary; a chief of division, at \$2,000; two assistant chiefs of division, at \$1,900 each; and a chief transportation clerk, at \$2,000, are provided for instead of two chiefs of division, at \$2,000-that is one of these men who is taken care of under another designation-and two clerks, at \$1,800 each; and a reduction is made of one clerk, at \$1,000, and two clerks, at \$900 each, so that the appropriation in this bill is \$307,470,

while in the current law it is \$310,070.

Mr. FOWLER. I know. Mr. JOHNSON of South Carolina. We reduced that office \$26,750 this year below the figures of last year, and notwithstanding these slight changes here we are reducing it this year about \$3,000.

Mr. FOWLER. You reduced the number of clerks in class 4 from 24 to 22?

Mr. JOHNSON of South Carolina, Yes. They get \$1,800 each.

Mr. FOWLER. And you reduced from 10 to 9 the number of clerks drawing \$1,000 each, and from 5 to 3 the number of clerks drawing \$900 each?

Mr. JOHNSON of South Carolina. Yes, sir.

Mr. FOWLER. I congratulate the gentleman on the good service, but I could not understand the reason for this chief

transportation clerk especially, and I do not yet.

Mr. JOHNSON of South Carolina. The gentleman from Illinois [Mr. Mann] has explained to his colleague that the transportation question is a very large question with the United States Government, and particularly with the War Depart-

Mr. FOWLER. Mr. Chairman, I withdraw the point of order. The CHAIRMAN. The point of order is withdrawn. The Clerk will read.

The Clerk read as follows:

For compensation on a piece-rate basis, to be fixed by the Secretary of the Treasury, of such number of employees as may be necessary to tabulate by the use of mechanical devices the accounts and vouchers of the postal service, \$166,960.

Mr. MANN. I reserve a point of order on the paragraph. The CHAIRMAN. The gentleman from Illinois [Mr. Mann]

reserves a point of order on the paragraph.

Mr. MANN. I understand we authorize the Auditor for the Post Office Department to employ the piecework system in that office at least to a certain extent. How far is it expected that the piecework system is to be inaugurated in the auditor's office and other branches of the Government service, and what is the occasion for departing from the principle that the Government has maintained, as a rule, at least certainly in Washington, of employing competent people to work a certain number of hours a day, without starting in on the principle which is condemned generally by people of having people do work on the piecework basis?

Mr. FOSTER. May I inquire of my colleague whether under this a lump sum is given?

Mr. MANN. Yes.
Mr. FOSTER. And then the Auditor for the Post Office Department or the Secretary of the Treasury fixes the amount that should be paid for this piecework?

Mr. MANN. Of course they fix the amount. As I understand, this is done with machinery now. This is the work of tabulating money-order returns and money orders, I suppose. But is there a good reason for our starting in to establish the piecework system in the Government service? I think we have not done it in the Census Office, although the work there is very similar.

Mr. FOSTER. Is it the gentleman's idea, then, that in operating these machines they should be operated by persons who are employed on a yearly salary instead of by the piecework

system?

Mr. MANN. Yes; that is on one side of it, and the piecework system is on the other side.

Mr. FOSTER. Is it possible that these machines are not operated continuously, and for that reason it might be more convenient and economical to use the piecework system?

Mr. MANN. Oh, no. These machines are operated just as continuously as machines in any other branch of the service are operated. This is the operating work, I understand, of the money-order division, work formerly done by hand under a very poor and long-drawn-out system. This introduces the machine-tabulation system, a very desirable thing to do. why is it necessary to introduce the piecework system simply because we introduce the machines?

Mr. FOSTER. Like my colleague, I am trying to get some information. As I understand it, they use these tabulating

machines in the Census Office.

Mr. MANN. They do not use these machines, but they do use tabulating machines

Mr. FOSTER. Machines of this kind.

Mr. FOSTER. Machines of this kind.
Mr. MANN. They use tabulating machines.
Mr. FOSTER. Are they on a piecework basis?
Mr. MANN. I think not. I do not know whether any of them are. Personally, I doubt the desirability of introducing the piecework basis in the departmental service.

Mr. FOSTER. What is the objection?

Mr. COX of Indiana. What is the objection to putting them on a piecework basis?

Mr. MANN. We have had discussed here and elsewhere, for instance, the Taylor efficiency system.

Mr. COX of Indiana. This does not apply to the Taylor

efficiency system, does it?

Mr. MANN. No; but this applies the Taylor efficiency system to us. The inevitable result, where people work upon a piece basis, is that they strain themselves in doing the work, or many of them do, and, as a rule, work that can be fairly measured and compensated by day work is not put on the piece basis and ought not to be.

Mr. COX of Indiana. I take it when the genfleman says they strain themselves in doing piecework that they do it because the

more work they do the greater is their pay?

Mr. MANN. Certainly.

Mr. FITZGERALD. I do not believe that is the objection to piecework among mechanics. The objection that labor organizations have had to the piecework system has been that after the rate per unit had been fixed, especially skillful men, who are known as pacemakers, are able to earn what the people in control of the establishment consider to be more than a man in their position of life ought to be paid, and they regulate the rate per unit upon the ability of the pacemaker, so that the average man and the man a little below the average is unable to earn reasonable compensation for his work. That is the objection that mechanics and labor unions usually have to the piecework system. Mr. MANN.

The gentleman is correct, but I did not quite finish my statement. Some people absolutely strain themselves under a piecework system, and through that and through personal adeptness are able to turn out a large amount of work. Others are told that they ought to be able to do as well. they do as well, the result is a decrease in the compensation per piece, and if they do not do as well they are apt to be fired

from the service.

Mr. BUCHANAN. I should like to ask the gentleman in charge of the bill, When did the Government establish a piecework system of this sort and why was it done?

Mr. JOHNSON of South Carolina. Piecework has been going on in this particular department for two or three years, I think.

When the Auditor for the Post Office Department was before the Committee on Appropriations he was asking that annual leave be extended to people engaged in this piecework, and this bill extends it to them. This question was asked Mr. Kram:

Mr. Gillett. Has this piece system worked well?

Mr. Kram. It has been very satisfactory. An analysis of the pay rolls shows that the average compensation paid employees transferred from the salary roll to the piece-rate basis has been increased 15 per cent as a result of the transfer. On the other hand, the increased output of work has reduced the cost of key-punching cards from 24 cents per hundred to 15 cents per hundred, resulting in a net saving to the Government of approximately 36 per cent.

Mr. Bailey. There was a decrease of \$100,120 last year in that office.

So that under the piecework system, as it is in operation in the auditor's office, the employees have increased their earnings 15 per cent and the Government has had a saving of 36 per cent.

Mr. BUCHANAN. Is there any other reason? Is it due to the piecework system that this result has been obtained? hardly see how the compensation of employees could be increased to that extent and the cost of the work reduced to that extent as a result of the piecework basis. It must be due to some new methods of doing the work or something of that kind.

Mr. JOHNSON of South Carolina. The labor-saving devices I have never seen, but these people are not complaining.

Mr. BUCHANAN. I am opposed to the Government establishing a piece-rate system without there is some special reason, because a piece-rate system, as a general thing, has proved to be to the disadvantage of the working people. Wherever it has been changed from piecework to day wages the employees as a rule are satisfied, and it has been at their request.

Mr. JOHNSON of South Carolina. I will call the gentleman's attention to the fact that we are not inaugurating the system.

Mr. BUCHANAN. There can be no good results from the

piecework system.

Mr. FITZGERALD. This does not set a precedent. Government pays on the piece-rate system in a number of departments. In the Government yards in a number of lines the mechanics were paid on a piece-rate basis. At first they were reluctant to have it established, but now they are heartily in favor of it. The reason is that the same changes and conditions were not common in Government employment that has been common in private establishments. It seemed to the committee that this was one of those exceptional cases in the auditor's office and the Post Office Department. This applies only to those employed on the auditing of the money-order The result has been that instead of taking nine months from the time the money order was issued to complete the audit they are now completed in about three months.

do not understand that there is any objection whatever on the

part of the employees

Mr. JOHNSON of South Carolina. We have heard no complaint whatever from any employee who is working on a piecework basis. There are many people so employed in the Government Printing Office, in the Bureau of Engraving and Printing, in the navy yard, and all through the Government service, and we have had no complaint.

The Clerk read as follows:

The Clerk read as follows:

The Secretary of the Treasury may, during the fiscal year 1914, in his discretion, diminish the number of positions of the several grades below the grade of clerk at \$1,000 per annum in the office of the Auditor for the Post Office Department and use the unexpended balances of the appropriations for the positions so diminished as a fund to pay, on a piece-rate basis, to be fixed by the Secretary of the Treasury, the compensation of such number of employees as may be necessary to tabulate, by the use of mechanical devices, the accounts and vouchers of the postal service.

Mr. FOSTER. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman for information in relation to tabulating machines, whether it is intended to purchase them or whether they are to be used by the Government

for an annual rental?

Mr. JOHNSON of South Carolina. We buy some and we rent others. We are carrying in this bill—and have been carrying for a number of years—an item under the Census Office authorizing them to make experiments in developing calculating ma-In the taking of the last census we purchased outright and acquired many machines at very much less expense than 10 years before it had cost us to rent them. In 1900 it cost about \$400,000 to rent the machines that were used in the tabulation of the census returns. In 1910, under this system of appropriating from year to year a small amount of money for developing these tabulating machines, we are able, for something over \$300,000, to develop and buy the machines that were

The machines that are used in the Census Office for the purose of enumerating the population will be used in the Auditor's Office for the Interior Department in auditing pension checks.

Mr. FOSTER. Does the gentleman know about the value of those machines?

Mr. JOHNSON of South Carolina. No; I am not familiar with their value. I believe where we can not buy and must rent that the rental is excessive, and that is why the Government is trying to develop and improve machines.

Mr. FOSTER. The hearings show that \$480 was paid as an annual rental for certain machines and \$240 for others. the committee get any information as to the value of those

machines?

Mr. JOHNSON of South Carolina. No; we have not the information to enable us to state accurately what one of these machines would be worth on the market if sold. Unfortunately they are not sold; they are protected by patents; and the owners refuse to sell and the Government is obliged to rent. In these cases I am satisfied that the rental is excessive.

Mr. FOSTER. Are there no other tabulating machines ex-

cept these that they rent that are successful?

Mr. JOHNSON of South Carolina. There are many devices. I am not familiar with them, but all the time improvements are in progress

Mr. FOSTER. There is no particular competition in reference to renting these machines, but the department, I suppose, selects the kind that they believe best adapted to the purpose.

Mr. JOHNSON of South Carolina. They select the machines best adapted to the purpose in hand.

Mr. FOSTER. Mr. Chairman, I withdraw the pro forma

amendment.

The Clerk read as follows:

The Cierk read as follows:

Office of the Commissioner of Internal Revenue; Commissioner of Internal Revenue, \$6,000; deputy commissioner, \$4,000; deputy commissioner, \$3,600; chemists—chief \$3,000, 1 \$2,500; assistant chemists—2 at \$1,800 each, 1 \$1,600, 1 \$1,400; heads of divisions—4 at \$2,500 each, 5 at \$2,250 each; superintendent of stamp vault, \$2,000; private secretary, \$1.8(0; clerks—3 at \$2,000 each, 31 of class 4, 27 of class 3, 41 of class 2, 40 of class 1, 32 at \$1,000 each, 42 at \$900 each; 4 messengers; 21 assistant messengers; 16 laborers; in all, \$359,990.

Mr. FOWLER. Mr. Chairman, I reserve the point of order on this paragraph. I shall confine it to some specific parts. I desire to ask the chairman of the committee the necessity for

creating a chief chemist and an assistant chemist?

Mr. JOHNSON of South Carolina. They are simply brought

from another place.

Mr. FOWLER. But the chemist in the last appropriation bill drew only \$2,500 a year. Then there was another chemist.

Mr. JOHNSON of South Carolina. If the gentleman will look at the copy of the law he has in his hand, he will find that last year there were three short paragraphs providing for that force, and if he will look in the second paragraph he will find a chief chemist provided for at \$3,000. It is simply a consolidation of all of them, and they are merged into one para-

Mr. FOWLER. That may be true. I am inclined to think the gentleman is correct about that. I desire, however, to further ask why it is that there is an increase in the force.

The bill provides for "heads of divisions, four at \$2,500 each." Last year there were provided only three at \$2,500 each.

Mr. JOHNSON of South Carolina. We increased the force in that office by one clerk at \$2,000, one clerk at \$1,800, one clerk at \$1,600, and the salary of the head of one division was increased from \$2,250 to \$2,500.

Mr. FOWLER. What was the occasion for that increase? Mr. JOHNSON of South Carolina. The occasion for the increase in the office of the Internal Revenue Commissioner is that he has charge of the collection of many millions of revenue. The commissioner stated before the committee that within reasonable limitations for every dollar that we gave him he could increase the revenues many dollars.

Mr. FOWLER. Could he not increase it with a salary of

\$2,000 the same as with a salary of \$2,500?

Mr. JOHNSON of South Carolina. We gave one man an increase of \$250. Outside of that there is no increase in any-body's salary. We simply gave him an increase of force. Mr. FOWLER. I see there is an increase of the force all

Mr. JOHNSON of South Carolina. We have not increased the force in the same proportion that the work has been increased.

Mr. FOWLER. There is an increased appropriation of \$23,990 over that of last year.

Mr. JOHNSON of South Carolina. Yes; and the work in

that office is very rapidly increasing. Which one of the clerks received an in-

Mr. FOWLER. creased salary of \$250?

Mr. JOHNSON of South Carolina. It is the clerk that passes on technical matters in that office relating to the collection of over \$150,000,000 a year. He is certainly a man of very great ability. He passes upon the technical matters in that office involved in the collection of \$150,000,000 a year, and we thought he was certainly entitled to the salary that we provide.

Mr. FOWLER. Mr. Chairman, I desire to make the point

of order against the increase in the salary of that clerk. The CHAIRMAN. Does the gentleman withdraw the other

point of order?

Mr. FOWLER. I desire to make the point of order against the increase in chief of division. I think there is the creation of a new clerk under the item "Heads of divisions." There were three in the last appropriation bill and four in this at

Mr. JOHNSON of South Carolina. But we have the right to increase the number of men to do the work from year to year. The current law is taken as fixing the salary, and an increase in salary is subject to the point of order. But to give six clerks instead of four is not subject to a point of order; otherwise the governmental service could never grow with the

growth of the country.

Mr. FOWLER, Mr. Chairman, I think the whole paragraph is subject to the point of order. If the gentlemen are not willing to point out those increases where there can be a specific point of order made against the increase of salaries, I desire to make the point of order against the whole paragraph. This bill came in at such an hour that it gave no one of the Members of the House an opportunity to make an examination of it in order to

point out specifically all of the increases.

Mr. MANN. Mr. Chairman, there is, I believe, authority under the statutes for the appointment of heads of division or chiefs of division. chiefs of division. Of course if there be no such authority as that, there is no authority for appropriating for any of these heads of division. Now, what has been done in this case? In the current law there are three heads of division carried at \$2,500 each and six heads of division carried at \$2,250 each. It is quite competent for Congress to increase that to four heads of division at \$2,500 and seven heads of division at \$2,250, because the number of heads of division is not limited by any act of Congress. The Treasury Department having authority under the law to have heads of division, the number is wholly within the control of Congress, and we are not limited by the existing appropriation act as to the number. Now, what has been done by this bill is, in fact, to increase the number of heads of division at \$2,500 by one and decrease the number of heads of division at \$2,250 by one, and it is assumed by gentlemen that there was some one individual who is increased!

from \$2,250 to \$2,500. On the centrary, it may be that the Treasury Department proposes to abolish one of the heads of division now existing, which it has the right to do, and provide for a new head of division, which it has a right to do. The items must be considered entirely apart from each other, so far as the bill is concerned. Private information which gentlemen may have which leads them to assume that a particular individual or a particular head of division is to have an increase of salary is not shown on the face of the bill and is not information for the use of the Chairman of the committee on the point of order. We could make this four heads of division at \$2,500 if we can provide for one at all, hence the item is not subject to the point of order.

Mr. JOHNSON of South Carolina. Allow me to interrupt the gentleman. In 1866 Congress specifically authorized seven heads of divisions, at an annual salary of \$2,500, for the Internal-

Revenue Office, so we are within the law.

Mr. MANN. Well, if the law fixes seven at \$2,500, four cer-

tainly comes within the law.

The CHAIRMAN. The Chair understood the gentleman from South Carolina to make the statement that the organic act itself authorizes seven of these heads of divisions.

That is my understanding.

Mr. JOHNSON of South Carolina. The statute passed in 1866 authorized seven heads of divisions at \$2,500. We put in

this bill only four at that amount.

The CHAIRMAN. It seems to the Chair it is quite clear that if the statute authorizes seven of these heads of divisions it is mere matter of discretion with Congress as to how many they will create in the different divisions; and if the statute does authorize it, the point of order will not be considered as being well taken.

Mr. FOWLER. Well, Mr. Chairman, there is an increase in

the various positions subordinate to the chiefs of divisions.

The CHAIRMAN. The Chair understood the gentleman from Illinois [Mr. Fowler] to make the point of order upon the ground that on page 48, line 1, the word "four" was inserted instead of the word "three."

Mr. FOWLER. I say I made the point of order against the paragraph and was trying to pick out the specific instances wherein there was an increase, but the bill is so drawn that it is difficult to get at the specific increases at a glance. It has certainly increased the appropriation, which is patent on its face. For instance, in the case of clerks there are three at \$2,000 each, wherein there was only a provision for two. Another class of clerks of the fourth grade are increased from 29 to 31, of the third grade from 25 to 27, and of class 2 from 37 to 41, and of class 1 from 37 to 40. Then, there is an increase of messengers from 3 to 4, which makes it patent upon the face of

the bill there is an increase.

The CHAIRMAN. It is the understanding of the Chair there is an increase in the total appropriation on this item, but the point I understood the gentleman from Illinois to make was that he made the point of order that the committee had no right to make these increases.

Mr. FOWLER. No; I am making the point of order against the entire paragraph because of the fact of these increases;

there is an increase in the appropriation.

The CHAIRMAN. The Chair is ready to rule on that ques-Congress is authorized by the organic act to provide heads of divisions and clerks. It is a mere matter of discretion of the committee as to the number they will carry under each one of these heads. The point of order is overruled.

The Clerk read as follows:

Office of Surgeon General of Public Health Service: Surgeon General, \$6,000; chief clerk, \$2,000; private secretary to the Surgeon General, \$1,800; assistant editor, \$1,800; clerks—3 of class 4, 2 of class 3, 6 of class 2, 1 of whom shall be translator, 7 of class 1, 3 at \$900 each; messenger; 3 assistant messengers; 2 laborers, at \$540 each; in all, \$43,780.

Mr. FOWLER. Mr. Chairman, I make a point of order against this paragraph.

The CHAIRMAN. The gentleman from Illinois r point of order against the paragraph—line 23, page 50. The gentleman from Illinois makes a

Mr. FOWLER. In line 18 the salary of the Surgeon General is increased from \$5,000 to \$6,000, which is an increase of \$1,000. There is also an assistant private secretary at \$1,800 and then an assistant editor at \$1,800. The assistant editor is a new office. I desire to ask the chairman of the committee the reason for increasing the Surgeon General's salary?

Mr. JOHNSON of South Carolina. Mr. Chairman, I was going to ask the gentleman from Illinois if he did not vote for an act approved August 14, 1912, which passed this House on a Calendar Wednesday, specifically increasing the salary of the Surgeon General from \$5,000 to \$6,000 a year?

Mr. FOWLER. I will ask the gentleman if that was not in an appropriation bill and not in a general bill?

Mr. JOHNSON of South Carolina. It was a special act that came from the Committee on Interstate and Foreign Commerce.
Mr. MANN. I have the act here.

Mr. FITZGERALD. It came up one Saturday afternoon when nobody anticipated it would come up.

Mr. FOWLER. What have you to say about the editor? Mr. MANN. Mr. Chairman, I probably can answer the question of my colleague from Illinois in reference to the editor, unless the gentleman from South Carolina [Mr. Johnson] happens to have the act. The act of Congress changing the name of the Public Health and Marine-Hospital Service to the Public Health Service, which was approved August 14, 1912, contained this language:

There may be employed in the Public Health Service such help as may be provided for from time to time by Congress.

Mr. Chairman, that language has been inserted in laws on several occasions for the express purpose of leaving it to Congress to determine the number of employees, and has been held to be sufficient authority for an item in a bill over a point of order, and that was the purpose of putting it in the law.

Mr. JOHNSON of South Carolina. And the only increase of force that we gave this office under that law was this assistant editor, against which the gentleman's colleague desires to make the point of order.

Mr. MANN. Yes

Mr. FOWLER. Where is the editor? You have an assistant editor here

Mr. JOHNSON of South Carolina. One of the commissioned officers in charge of the publication division-

Mr. FOWLER. This is an assistant editor. Where is the editor?

Mr. JOHNSON of South Carolina. He is probably an Army officer.

Mr. MANN. He is a commissioned officer. Mr. JOHNSON of South Carolina. He is a commissioned officer of this service.

Mr. MANN. One of the medical doctors. They are carried in the sundry civil appropriation bill and not in this.

The CHAIRMAN. Does the gentleman from Illinois [Mr. Fowler] withdraw his point of order?

Mr. FOWLER. Mr. Chairman, in view of the explanation

made by the gentlemen on the question of the Surgean Genern's increase of salary, I withdraw the point of order so far as that is concerned, and desire to make it apply to the creation of an assistant editor, at \$1,800.

The CHAIRMAN. The point of order is not well taken, for the reason that the organic act authorizes Congress to create such help in this department as it may seem proper. It is not a question of the right of the committee, but it is a question of the wisdom of the committee. The point of order is overruled.

The Clerk read as follows:

The Clerk read as folllows:

Contingent expenses, Teasury Department: For stationery for the Treasury Department and its several bureaus and offices, \$50,000, and in addition thereto sums amounting to \$76,000 shall be deducted from other appropriations made for the fiscal year 1913, as follows: Contingent expenses, Independent Treasury, \$6,000; contingent expenses, mint at Philadelphia, \$350; contingent expenses, mint at San Francisco, \$200; contingent expenses, mint at Denver, \$200; contingent expenses, assay office at New York, \$350; materials and miscellaneous expenses, Bureau of Engraving and Printing, \$3,300; suppressing counterfeiting and other crimes, \$200; expenses of Revenue-Cutter Service, \$1,600; Public Health Service, \$1,800; Quarantine Service, \$500; preventing the spread of epidemic diseases, \$200; Life-Saving Service, \$1,900; general expenses of public buildings, \$6,000; collecting the revenue from customs, \$37,300; miscellaneous expenses of collecting internal revenue, \$14,000; and for expenses of collecting the constitute, together with the first-named sum of \$50,000, the total appropriation for stationery for the Treasury Department and its several bureaus and offices for the fiscal year 1914.

Mr. JOHNSON of South Carolina, Mr. Chairman, I offer

Mr. JOHNSON of South Carolina. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from South Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 51, in line 4, strike out the word "thirteen" and insert in lieu thereof the word "fourteen."

Mr. JOHNSON of South Carolina. The purpose of the amendment is to correct a typographical error.

The CHAIRMAN. The question is on agreeing to the amend-

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

For purchase of labor-saving machines, including the purchase and exchange of registering accountants, numbering machines, and other

machines of a similar character, including time stamps for stamping date of receipt of official mail and telegrams, and repairs thereto, and the purchase of supplies for photostat, \$8,000.

Mr. BORLAND. Mr. Chairman, I offer an amendment to that paragraph, to strike out the word "photostat" and insert in lieu thereof the words "photographic reproduction machines," so that it will read "Supplies for photographic reproduction machines." With a word of explanation I can make that clear. With a word of explanation I can make that clear.

The CHAIRMAN. Will the gentleman wait until the amendment is reported?

Mr. BORLAND. Certainly.
The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Missouri [Mr. Borland]. The Clerk read as follows:

Amend, page 54, line 6, by striking out the word "photostat" and inserting in lieu thereof the words "photographic reproduction machines."

Mr. BORLAND. Mr. Chairman, the word "photostat" is the name of a particular kind of patented machine used for the purpose of photographing documents, making reproductions by the use of photography instead of by typewriting or otherwise. The name "photostat" is not, as might be supposed from this wording, a generic term, but the name of a particular machine. There are other machines in the market; some of them called "cameragraphs" and other names in a general way designating the kind of machines they are, which are used for the same purpose—that is, to make photographic copies of documents. It happens that there are a certain number of photostats in this particular department. I believe the auditor has ruled that the supplies for photostats may be stationery, and, possibly, might be included in the general appropriation for stationery. But in order to make the thing perfectly safe he advised that they put into that particular clause for contingent expenses the phrase "supplies for photostats." They now have in contemplation the purchase and employment of other machines besides the photostat, and will probably have them in operation during the life of this bill, so that the wording should be broad enough to include supplies of any kind of a photographic reproduction machine, whether called a "photostat" or not. That is the idea of the amendment.

Mr. JOHNSON of South Carolina. Mr. Chairman, they have in certain departments of the Government a machine called a "photostat." We are making appropriations for that. called a "photostat." We are making appropriations for that. If other machines should be purchased hereafter, I think it would be early enough then to change the language of the appropriation bill.

Mr. BORLAND. I do not believe it would be for this reason

Mr. JOHNSON of South Carolina. For instance, we have given the Treasury Department no money out of which they can buy any other machines, so far as I am aware. They have a photostat already installed.

Mr. BORLAND. Under this appropriation, Mr. Chairman, they can buy labor-saving machinery, and under that designation they could buy any other machine for the same purpose that was not called a "photostat." They could buy a machine not called a "photostat," which is a labor-saving machine, and if they undertook to buy it under this item authorizing the purchase of labor-saving machinery they would need some supplies for it, and probably would need some supplies for it, and probably would need some supplies for it during the current year. It is just as easy as not to make that language broad enough to include supplies in labor-saving machinery whether called "photostats" or otherwise.

Mr. JOHNSON of South Carolina. I suggest that the gentleman withhold his amendment.

Mr. BORLAND. I have the amendment here.

Mr. JOHNSON of South Carolina. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARNER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, and had come to no resolution thereon.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 7531. An act to authorize the Secretary of Commerce and Labor to purchase certain land required for lighthouse pur-

poses at Port Ferro Light Station, P. R.; to the Committee on Interstate and Foreign Commerce.

ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 20287. An act to amend section 5 of the act entitled "An act to incorporate the American Red Cross," approved January 5, 1905.

LINCOLN MEMORIAL (S. DOC. NO. 965).

The SPEAKER. The Chair will state to the House that yesterday there came in a short message from the President of the United States, transmitting a report of the commission on the Lincoln Memorial, and the Chair ordered the message to be printed according to the usual formality, but did not include in the order the printing of the report. Unless there is objection, by unanimous consent the Chair will order it printed for the information of the Members.

Mr. MANN. It would be printed with illustrations, I presume. I do not know whether there are any illustrations, but I presume there are

The SPEAKER. If there are illustrations, they will be printed, too.

PANAMA CANAL (H. DOC. NO. 965).

The SPEAKER laid before the House the following message from the President of the United States, which was read, and, with the accompanying report, ordered to be printed and referred to the Committee on Interstate and Foreign Commerce:

To the Senate and House of Representatives:

I transmit herewith, in pursuance of the requirements of chapter 1302 (32 Stats., p. 483), "An act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans," approved June 28, 1902, the Annual Report of the Isthmian Canal Commission for the fiscal year ended June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, December 6, 1912.

FISCAL, JUDICIAL, MILITARY, AND INSULAR AFFAIRS (H. DOC. NO. 1067).

The SPEAKER laid befor the House a message from the President of the United States, which was read, ordered to be printed, and referred to the Committee of the Whole House on the state of the Union.

[For text of message see Senate proceedings of this day.]

At the conclusion of the reading of the message there was applause on the Republican side.

ADJOURNMENT.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 27 minutes p. m.) the House adjourned until to-morrow, Saturday, December 7, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Des Moines River, Iowa (H. Doc. No. 1063); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of survey of Cohasset Harbor, Mass. (H. Doc. No. 1052); to the Committee on Rivers and Harbors and ordered to be printed.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of entrance to Kuskokwim River, Alaska (H. Doc. No. 1051); to the Committee on Rivers and Harbors and ordered to be printed.

4. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Sergius Narrows, Alaska (H. Doc. No. 1053); to the Committee on Rivers and Harbors and ordered to be printed.

5. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Sammamish River, Wash. (H. Doc. No. 1062); to the Committee on Rivers and Harbors and ordered to be printed.

6. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Green River, Ky. (H. Doc. No. 1061); to the Committee on Rivers and Harbors and ordered to be printed.

7. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Falls of the Willamette River at Oregon City, Oreg. (H. Doc. No. 1060); to the Committee on Rivers and Harbors

and ordered to be printed.

8. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of South Fork of Edisto River to Guignords Landing, S. C. (H. Doc. No. 1054); to the Committee on Rivers and Harbors and ordered to be printed.

9. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Indian River Inlet, Del. (H. Doc. No. 1055); to the Committee on Rivers and Harbors and ordered to be printed.

10. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Mississippi River opposite St. Louis (H. Doc. No. 1059); to the Committee on Rivers and Harbors and ordered to be printed.

11. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Murderkill River, Del. (H. Doc. No. 1058); to the Committee on Rivers and Harbors and ordered to be printed.

12. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Apalachicola Bay and St. George Sound, Fla. (H. Doc. No. 1057); to the Committee on Rivers and Harbors and ordered to be printed.

13. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Bayou Courtableau, La. (H. Doc. No. 1056); to the Committee on Rivers and Harbors and ordered to be printed.

14. A letter from the Secretary of War, transmitting, pursuant to law, statement submitted by Acting Chief of Ordnance of expenditures at Springfield Armory, Springfield, Mass., and Rock Island Arsenal, Rock Island, Ill., during the fiscal year ended June 30, 1912 (H. Doc. 1065); to the Committee on Expenditures in the War Department and ordered to be printed.

15. A letter from the Secretary of War, transmitting list of useless executive papers on file in the various bureaus in the War Department and requesting that same be destroyed (H. Doc. No. 1064); to the Committee on Disposition of Useless Executive Papers and ordered to be printed.

16. A letter from the president of the Board of Commissioners of the District of Columbia, transmitting report of the commissioners on the necessity of establishing a reform school for white girls within the District of Columbia, as requested by act of June 26, 1912 (H. Doc. No. 1066); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. LEE of Georgia, from the Committee on War Claims, to which was referred the bill H. R. 16737, reported in lieu thereof a resolution (H. Res. 734) referring to the Court of Claims the papers in the case of the heirs of Nicholas Chano, accompanied by a report (No. 1264), which said resolution and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. CARTER: A bill (H. R. 26808) to provide for the completion of the survey and appraisement of the segregated mineral land in Oklahoma; to the Committee on Indian Affairs. By Mr. LEE of Georgia: A bill (H. R. 26809) to increase the

By Mr. LEE of Georgia: A bill (H. R. 26809) to increase the limit of cost for the construction of a Federal building at Cedartown, Ga.; to the Committee on Public Buildings and Grounds.

By Mr. McKENZIE: A bill (H. R. 26810) to extend the time for the construction of a dam across Rock River, Ill.; to the Committee on Interstate and Foreign Commerce.

By Mr. McKELLAR: A bill (H. R. 26811) to amend an act providing for the appointment of the Mississippi River Commission, and other purposes, approved June 28, 1879, and an amendatory act thereto approved February 18, 1901; to the Committee on Rivers and Harbors.

By Mr. FRENCH: A bill (H. R. 26812) to provide for State selection of phosphate and oil lands; to the Committee on the Public Lands.

Also, a bill (H. R. 26813) making it unlawful for any society, order, or association to send or receive through the United States mails, or to deposit in the United States mails, any written or printed matter representing such society, fraternal order, or association to be named or designated or entitled by any name hereafter adopted, any word or part of which title shall be the name of any bird or animal the name of which bird or animal is already being used as a part of its title or name by any other society, fraternal order, or association; to the Committee on the Post Office and Post Roads.

By Mr. DIES: A bill (H, R. 26814) to authorize the erection of a public building at Nacogdoches, Tex.; to the Committee on

Public Buildings and Grounds.

Also, a bill (H. R. 26815) to authorize the purchase of a site for a public building at Orange, Tex.; to the Committee on

Public Buildings and Grounds.

By Mr. DIXON of Indiana: A bill (H. R. 26816) to provide for the purchase of a site and the erection of a public building at Greensburg, Ind.; to the Committee on Public Buildings and

Also, a bill (H. R. 26817) to provide for the purchase of a site and the erection of a public building thereon at North Vernon, in the State of Indiana, and appropriating money therefor; to the Committee on Public Buildings and Grounds.

By Mr. AKIN of New York: A bill (H. R. 26818) for the purchase of a site and the erection thereon of a public building at Fort Plain, N. Y.; to the Committee on Public Buildings and

By Mr. MOON of Tennessee: A bill (H. R. 26819) to regulate the pay of substitute letter carriers in the City Delivery Service and provide for their status when appointed to permanent positions as regular carriers; to the Committee on the Post Office and Post Roads.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions

were introduced and severally referred, as follows:

By Mr. ADAIR: A bill (H. R. 26820) granting an increase of pension to Mary J. Smith; to the Committee on Invalid Pensions.

By Mr. ALEXANDER: A bill (H. R. 26821) for the relief of the trustees of the Christian Church at Missouri City, Clay County, Mo.; to the Committee on War Claims.

By Mr. ASHBROOK: A bill (H. R. 26822) granting a pension

to Sarah Harmon; to the Committee on Invalid Pensions. By Mr. BORLAND: A bill (H. R. 26823) granting an increase of pension to Hester Ann Steel; to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 26824) granting

a pension to Roy Vest Smith; to the Committee on Pensions. By Mr. CRAVENS: A bill (H. R. 26825) granting a pension to James T. Kissinger; to the Committee on Invalid Pensions. By Mr. FAIRCHILD: A bill (H. R. 26826) granting a pension to Celestia Betts; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26827) granting an increase of pension to

Emma M. Barrett; to the Committee on Invalid Pensions. By Mr. FOSTER: A bill (H. R. 26828) for the relief of Peter

Helfman; to the Committee on Claims. Also, a bill (H. R. 26829) granting a pension to Mary O'Brien; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26830) granting a pension to Rebecca E. Fowler; to the Committee on Invalid Pensions.

By Mr. GILL: A bill (H. R. 26831) granting an increase of pension to Rodney W. Anderson; to the Committee on Pensions. By Mr. HARTMAN: A bill (H. R. 26832) granting a pension

to Hannah McVicker; to the Committee on Invalid Pensions.

By Mr. HAYES: A bill (H. R. 26833) granting a pension to William Trots; to the Committee on Invalid Pensions.

By Mr. JACOWAY: A bill (H. R. 26834) granting a pension to Kate Chance; to the Committee on Invalid Pensions.

By Mr. LAFFERTY: A bill (H. R. 26835) granting an increase of pension to Daniel J. Haynes; to the Committee on Invalid Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 26836) granting an increase of pension to Levi P. Miller; to the Committee on Invalid Pensions.

By Mr. LEWIS: A bill (H. R. 26837) for the relief of the trustees of the Quinn African Methodist Episcopal Church, of Frederick, Md.; to the Committee on War Claims.

By Mr. LINDBERGH: A bill (H. R. 26838) to correct the military record of John Brown; to the Committee on Military

Also, a bill (H. R. 26839) granting an increase of pension to Henry B. Frey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26840) granting an increase of pension to

Elias S. Baker; to the Committee on Invalid Pensions.

By Mr. McKENZIE: A bill (H. R. 26841) granting a pension to Miles S. Bennett; to the Committee on Invalid Pensions. Also, a bill (H. R. 26842) granting a pension to Emma C.

Weinhold; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26843) granting an increase of pension to James C. Burwell; to the Committee on Invalid Pensions. By Mr. MANN: A bill (H. R. 26844) granting a pension to Mary Hahn; to the Committee on Invalid Pensions.

By Mr. PARRAN: A bill (H. R. 26845) granting a pension to Marian Eva Keyes; to the Committee on Pensions.

Also, a bill (H. R. 26846) granting a pension to Martha A.

Rea; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26847) granting an honorable discharge from the military service of the United States to Adam Thur-

mon; to the Committee on Military Affairs.

By Mr. PATTON of Pennsylvania: A bill (H. R. 26848) granting an increase of pension to Mary B. Garretson; to the Commit-

tee on Invalid Pensions. By Mr. PETERS: A bill (H. R. 26849) for the relief of

Charles Dudley Daly; to the Committee on Military Affairs. By Mr. RUCKER of Missouri; A bill (H. R. 26850) granting an increase of pension to George W. Runion; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26851) granting an increase of pension to David Shulz; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26852) granting an increase of pension to Emanuel Carmack; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 26853) granting a pension to John H. Baker; to the Committee on Invalid Pensions.

By Mr. J. M. C. SMITH: A bill (H. R. 26854) granting an increase of pension to Edmund Buck; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26855) restoring the name of Sarah E. Wilson to the pension roll; to the Committee on Invalid Pensions. By Mr. STONE: A bill (H. R. 26856) granting a pension to Laura Newman, née Mount; to the Committee on Invalid

Pensions

Also, a bill (H. R. 26857) granting an increase of pension to Thomas Daugherty; to the Committee on Pensions.

Also, a bill (H. R. 26858) granting an increase of pension to

Isaac Byers; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26859) granting an increase of pension to George Ingersoll; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26860) granting an increase of pension to John L. Beck; to the Committee on Invalid Pensions. Also, a bill (H. R. 26861) granting an increase of pension to

Charles Saunders; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26862) granting an increase of pension to Samuel Webb; to the Committee on Invalid Pensions. Also, a bill (H. R. 26863) granting an increase of pension to

Mary B. Taylor; to the Committee on Invalid Pensions. By Mr. SWITZER: A bill (H. R. 26864) granting an increase

of pension to Jesse A. Ross; to the Committee on Invalid Pensions. By Mr. THOMAS: A bill (H. R. 20865) for the relief of the

county court of Allen County, Ky.; to the Committee on War Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of Mr. J. H. Reiser and 3 other merchants of Tuscarawas, Ohio, asking that Congress further increase the power of the Interstate Commerce Commission toward controlling the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. AYRES: Petition of the Lake Michigan Sanitary Association, favoring an appropriation for investigating the extent of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. DYER: Petition of the National Society for the Promotion of Industrial Education, favoring the passage of the Page-Wilson bill giving Federal aid to vocational education; to

the Committee on Agriculture.

Also, petition of the Stark Distillery Co., St. Louis, Mo., protesting against the passage of the Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

Also, petition of James E. Cowan, St. Louis, Mo., favoring enactment of legislation securing pension for the Missouri Militia; to the Committee on Pensions.

By Mr. ESCH: Petition of the Supreme Council of United Commercial Travelers of America, favoring passage of bill changing the day of the national elections; to the Committee on Election of President, Vice President, and Representatives in

Also, petition of the Chamber of Commerce of the State of New York, protesting against legislation placing the Board of General Appraisers under any department of the Government;

to the Committee on Ways and Means.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring the reduction of letter postage to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of the Grand Council of Wisconsin, Order of United Commercial Travelers of America, favoring the changing of the general election day to Monday; to the Committee on Election of President, Vice President, and Representatives in Congress

Also, petition of the Manila Welfare Committee relative to reclaiming and making sanitary the lowlands around Manila;

to the Committee on Appropriations.

Also, petition of the Lake Michigan Sanitary Association, favoring appropriation for the investigation of the extent of the pollution of the waters of the Great Lakes; to the Com-

mittee on Appropriations.

By Mr. ESTOPINAL: Petition of postal clerks of New Orleans, La., relative to the interpretation of the section of the Post Office appropriation bill relating to classification and advancement of railway postal clerks; to the Committee on the Post Office and Post Roads.

Also, petition of the Southern Agricultural Workers, favoring an appropriation for the eradication of the cow ticks; to

the Committee on Agriculture.

Also, petition of the Central Trades and Labor Council of New Orleans, La., protesting against the passage of the amended bill of Mr. Kenyon (S. 4043); to the Committee on the Judiciary.

Also, petition of New Orleans (La.) Lodge, No. 161, of the United Brewery Workers of America, protesting against the passage of the Webb-Kenyon liquor bills; to the Committee on the Judiciary.

By Mr. FULLER: Petition of the Illinois Daughters of the American Revolution, favoring the passage of the Cox bill, to prevent desecration of the American flag; to the Committee on the Library.

Also, petition of R. C. Brown, clerk of the United States district court for the southern district of Illinois, favoring passage of House bill 21226, to put such clerks on a salary basis;

sage of House bill 21226, to put such elerks on a salary basis, to the Committee on the Judiciary.

Also, petition of the Lake Michigan Sanitary Association, favoring an appropriation for the investigation of the extent of the pollution of the Great Lakes; to the Committee on Ap-

By Mr. LINDSAY: Petition of the Lake Michigan Sanitary Association, favoring investigation of the pollution of the waters

of the Great Lakes; to the Committee on Appropriations. By Mr. MILLER: Petition of citizens of Proctor, Minn., favoring enactment of legislation requiring civil-service examina-

tions for third-class postmasters; to the Committee on the Post Office and Post Roads. By Mr. MOTT: Petition of the Chamber of Commerce of the

State of New York, protesting against placing the Board of General Appraisers under control of the Treasury Department; to the Committee on Expenditures in the Treasury Department.

By Mr. SCULLY: Petition of Capt. J. W. Conwer Post, No. 63, Grand Army of the Republic, favoring the passage of House bill 14070, for relief of veterans whose hearing is defective; to the Committee on Invalid Pensions.

By Mr. SULZER: Petition of the Lake Michigan Sanitary Association, favoring appropriation for investigating the extent of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. WEEKS: Petition of citizens of Boston, favoring enactment of legislation establishing a United States court of appeals; to the Committee on the Judiciary.

By Mr. WILLIS: Petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring the reduction of letter postage to 1 cent; to the Committee on the Post Office and Post Roads.

SENATE.

SATURDAY, December 7, 1912.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D. The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. Culberson and by unanimous consent, the further reading was dispensed with and the Journal was approved.

UNITED STATES COMMERCE COURT (H. DOC. NO. 1081).

The PRESIDENT pro tempore (Mr. Bacon) laid before the Senate a communication from the Attorney General, transmitting, pursuant to law, a statement of the expenditures of the appropriation for the United States Commerce Court for the year ended June 30, 1912, etc., which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

MARITIME CANAL CO. OF NICARAGUA (H. DOC. NO. 1944).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, the report of the Maritime Canal Co. of Nicaragua, which, with the accompanying paper, was referred to the Committee on Interoceanic Canals and ordered to be printed.

YORKTOWN CELEBRATION.

The PRESIDENT pro tempore laid before the Senate a communication from the Yorktown Historical Society, which was read and ordered to lie on the table, as follows:

YORKTOWN HISTORICAL SOCIETY OF THE UNITED STATES, London, September 28, 1912.

The honorable the Secretary of the Senate of the United States of America, Washington, D. C., U. S. A.:

The Yorktown Historical Society of the United States requests the honor of the presence of the honorables the Members of the Senate of the United States of America at the annual celebration of the surrender of Gen. Lord Cornwallis to Gen. Washington, to be held at Yorktown on the 19th day of October, 1912, and also on the same date in the year 1913.

R. S. V. P. to the secretary of the society, Mrs. Carroll Van Ness.

PETITIONS AND MEMORIALS.

Mr. GRONNA. I present petitions signed by sundry citizens of Buxton, Valley City, Drayton, Inkster, and Casselton, all in the State of North Dakota, praying for the passage of the Kenyon bill, No. 4043, providing for the ratification of an interest of ligner law. Lask that the heavy of one of the petitions terstate liquor law. I ask that the body of one of the petitions may be printed in the Record in full.

There being no objection, the petitions were ordered to lie on the table, and the body of one of the petitions was ordered to be

printed in the RECORD, as follows:

To the Hon. A. J. Gronna, United States Senator, Washington, D. C.:

The undersigned, citizens and residents of the State of North Dakota, realizing the evil effects of the liquor traffic and the difficulty of enforcing the prohibition law of this State under the present interstate-commerce law, earnestly request you as our representative to use all legitimate means within your power to secure the passage of the bill known as the "Amended Kenyon bill," No. 4043, which will come up in the United States Senate on December 16 next.

Mr. CLAPP. I present a petition relative to the payment of the balance due the depositors in the Freedmen's Savings & Trust Co. I ask that the statement on the front page be printed in the RECORD and that the rest of the petition be filed.

There being no objection, the petition was referred to the Committee on Education and Labor, and the statement was or-

dered to be printed in the RECORD, as follows:

dered to be printed in the RECORD, as follows:

This petition is indorsed by the National Baptist Convention, representing two millions and a half communicants; the African Methodist Episcopal Church, representing 800,000 communicants; the Methodist Episcopal Zion Church, representing 600,000 communicants; the National Negro Business League, representing the colored business men throughout the United States; and sundry other citizens and organizations, praying for the enactment of legislation to pay the balance due the depositors in the Freedmen's Savings & Trust Co.

R. James L. White.

BRISTOW presented a petition of sundry citizens of Scandia, Kans., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULLOM:

A bill (S. 7637) to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill.; to the Committee on Commerce.

By Mr. BORAH:

A bill (S. 7638) to provide for State selections on phosphate and oil lands; to the Committee on Public Lands.

By Mr. CULBERSON:

A bill (S. 7639) to provide for the erection of a public building in the city of Bay City, in the State of Texas; to the Committee on Public Buildings and Grounds.

By Mr. BANKHEAD:

bill (S. 7640) to incorporate the Virginia Terminal Co.; to the Committee on the District of Columbia.

By Mr. JOHNSON of Maine:

A bill (S. 7641) granting a pension to Mary O'Neil (with accompanying papers); to the Committee on Pensions.

By Mr. POMERENE:

A bill (S. 7642) for the erection of a public building at the city of Sandusky, in the State of Ohio, and appropriating moneys therefor; to the Committee on Public Buildings and Grounds.

By Mr. GARDNER:

A bill (S. 7643) granting an increase of pension to Julius A. Record (with accompanying papers);

A bill (S. 7644) granting an increase of pension to William

L. Ham (with accompanying paper);

A bill (S. 7645) granting an increase of pension to Charles S.

Penley (with accompanying papers); and

A bill (S. 7646) granting an increase of pension to David H. Gray (with accompanying paper); to the Committee on Pensions.

By Mr. CLAPP:

A bill (S. 7648) granting a pension to Lucretia B. Crockett; and

A bill (S. 7649) granting an increase of pension to Giles A. Woolsey; to the Committee on Pensions. By Mr. HITCHCOCK:

A bill (S. 7650) for the relief of the estate of Samuel Richards; to the Committee on Claims.

By Mr. SANDERS (for Mr. BRADLEY) :

A bill (S. 7651) for the relief of the trustees of Bloomfield Lodge, No. 57, Ancient Free and Accepted Masons, of Bloomfield, Ky.; and

A bill (S. 7652) for the relief of the county court of Allen

County, Ky.; to the Committee on Claims. By Mr. McLEAN:

A bill (S. 7653) granting an increase of pension to Lillian A. Loomis (with accompanying papers);

A bill (S. 7654) granting an increase of pension to Ann E.

Newport (with accompanying papers); and

A bill (S. 7655) granting an increase of pension to James A. Fancher (with accompanying papers); to the Committee on

By Mr. CULBERSON:

A joint resolution (S. J. Res. 143) authorizing the Secretary of War to loan certain tents for use at the meeting of the Imperial Council of the Ancient Arabic Order of the Nobles of the Mystic Shrine to be held at Dallas, Tex., in May, 1913; to the Committee on Military Affairs.

CAMPAIGN CONTRIBUTIONS.

Mr. CLAPP. I introduce a bill and ask that it be read. The bill (S. 7647) to limit the use of campaign funds in presi-

dential and national elections was read the first time by its title and the second time at length, as follows:

title and the second time at length, as follows:

Be it enacted, etc., That hereafter it shall be unlawful for any person, firm, corporation, association, or committee, or any officer or agent of any person, firm, corporation, association, or committee to send any money or other thing of value from any State or Territory of the United States to any person, firm, corporation, association, or committee in any other State or Territory of the United States to any person, firm, corporation, association, or committee in any State or Territory of the United States to any person, firm, corporation, association, or committee in any State or Territory of the United States, including the District of Columbla, to be used or expended for and on behalf of the nomination or election of a President or Vice President of the United States, or of any Member of the House of Representatives or any Member of the United States Senate: Provided, That this act shall not apply to the payment of bills incurred by a national campaign committee in the fitting out and maintenance of speaking campaigns by a candidate for the office of President or Vice President where a train is fitted out and maintained by the national committee; nor shall it include the transportation and hotel expenses of speakers sent out by a national committee, the expenses of literature distributed by a national committee, or campaign funds raised for and sent to a national committee, or campaign funds raised for and sent to a national committee properly reported as required by law.

SEC. 2. Any person violating the provisions of the foregoing section shall, upon conviction therefor, be guilty of a misdemeanor and be punished by imprisonment of not less than six months nor more than one year.

Mr. CLAPP. I ask that the bill be referred to the subcommittee of the Committee on Privileges and Elections created under resolutions 79 and 386 of the Senate.

The PRESIDENT pro tempore. It will be so referred, without objection.

Mr. CLAPP. Mr. President, I simply desire at this time to say that the bill is aimed to meet the vice of gathering funds in large centers and in sending them to distant States to influence presidential, congressional, and senatorial elections.

It recognizes the continued existence of the national committee. It recognizes the right of the national committee to receive money from any portion of the country and to use those funds in the maintenance of speakers, literature, and advertising.

It would seem, of course, as though there were many exceptions to the general prohibition. These exceptions are included so as to leave it in the hands of the committee to use the funds for these specified purposes and at the same time to prevent the gathering of large sums in money centers and sending those sums to distant States and Territories.

I have no pride of opinion in the expressions of the bill. have introduced it, and those who take an interest in the sub-ject may consider the bill, and perhaps as the result of consideration and discussion the bill may be materially perfected.

AMENDMENT TO DEFICIENCY APPROPRIATION BILL.

Mr. CLAPP submitted an amendment proposing to pay the balance due the depositors of the Freedmen's Savings & Trust Co., intended to be proposed by him to the general deficiency appropriation bill; which was referred to the Committee on Education and Labor and ordered to be printed.

OMNIBUS CLAIMS BILL.

The PRESIDENT pro tempore. The morning business is closed.

Mr. CRAWFORD. I ask that the Senate may resume consideration of House bill 19115, known as the omnibus claims hill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. OLIVER. I offer proposed amendments to the pending

The PRESIDENT pro tempore. The amendments will lie on the table until they are reached in order.

Mr. TOWNSEND. I desire to offer an amendment to the

pending bill, to be inserted after line 22, page 264.

The PRESIDENT pro tempore. The Chair is informed that there is now a pending amendment. The Senator from Michigan will withhold his amendment until that is disposed of. The pending amendment is the amendment offered by the Senator from Alabama [Mr. Johnston].

Mr. JOHNSTON of Alabama. I ask the Senator from South Dakota if he has had an opportunity to examine

amendment?

Mr. CRAWFORD. I understood the Senator to say that he offered it with a view to having it printed, so that we might examine it, and I expected the printed copy to be here this morning. I understand that it proposes to repeal a general statute, and is hardly within the scope of this bill.

Mr. JOHNSTON of Alabama. It is exactly within the scope of the bill, because it repeals the statute as to longevity pay

only. But if the Senator from South Dakota desires to wait until the printed amendment comes in I shall be perfectly content with that course.

The PRESIDENT pro tempore. The amendment has been printed.

inted. There is a copy of the amendment at the desk.
Mr. JOHNSTON of Alabama. The Senator from South Dakota asks that the amendment be again printed?

The PRESIDENT pro tempore. It is now in print.

Mr. CRAWFORD. This amendment was proposed by the Senator from Alabama, I think, before the close of the last session. Mr. JOHNSTON of Alabama. Yes.

Mr. CRAWFORD. And at that time it was printed. I presume the copy offered yesterday was one of the old copies, printed last spring. The committee in charge of the bill never considered the amendment as printed and offered at the last session. They had no opportunity to do that, because, as I recollect it, the bill had gone through consideration by the committee and the report was all made up and printed, if not actually made when the Senator from Alabama offered the amendment; so it was never considered by the committee. I had not even remembered that it had been proposed until the Senator offered it again yesterday. Whether we have enough old copies to go around I do not know, but the committee have lost track of it. It did not come into their possession until after they acted on the bill and made their report. I suggested yesterday that it be again printed, so that copies could be furnished to the Members, and I expected to find a copy on my

desk this morning, but have not done so.

I do not feel that under those circumstances the committee as a committee can accept the amendment. It has not been considered by the committee. Its purpose is to repeal some statute that has not been considered at all, and it seems to me it would be better to have it presented as an independent proposition and considered as such.

Mr. JOHNSTON of Alabama. Independent of this bill?

Mr. CRAWFORD. Independent of this bill.

Mr. JOHNSTON of Alabama. It is directly in line with this bill. It carries a repeal of that section so far as the items

preceding it in this bill are concerned.

Mr. CRAWFORD. What I am seeking to do is to avoid, so far as it is possible to do so, subjects that may involve us in differences and in debate. If we get many such questions in here in connection with the consideration of the bill, I shall have a good deal of doubt about our getting it through.

I do not express any opinion whatever as to the merits of the amendment proposed by the Senator from Alabama, but I do say that it repeals an existing statute. I have not had an opportunity to see that existing statute. It could, it seems to me, more properly be considered if it was presented as an independent proposition to repeal that statute, and it should be considered as an independent bill. Otherwise I do not know how much discussion it may provoke or what it may open up in the way of debate. On that account, I do not feel like consenting.

Mr. JOHNSTON of Alabama. Mr. President, I want to say that this is a modified repeal of section 3480. It has been heretofore passed twice by the Senate as an independent proposition; first, on the 8th of March, 1907; and, again, on the 1st of April, 1908. So the Senate has fully considered the matter in a broader sense than it is offered here to-day, because it is

only offered to-day in connection with this longevity pay.

Mr. CRAWFORD. Mr. President, would the Senator from Alabama kindly state in a few words the nature of the amend-

ment and just what it is intended to repeal?

Mr. JOHNSTON of Alabama. I shall be glad to do that. Section 3480 requires the accounting officers to refuse to audit the claims that arose prior to April 13, 1861, which covered all the longevity pay of officers of the Army. Amongst those officers of the Army were a number who went South on the breaking out of hostilities. This amendment simply proposes to repeal that section so far as those officers are concerned. It has no operation upon any others.

Mr. CRAWFORD. I will ask the Senator from Alabama if, as to every officer who was in the Confederate Army and who taken the military course at West Point, it would not establish the precedent that all of them should come in and receive what we call the longevity allowance, and if it would not involve an expenditure, according to my recollection as to what the Senator from Alabama stated yesterday, of \$100,000?

Mr. JOHNSTON of Alabama. Something like that.

Mr. CRAWFORD. Mr. President, that simply means that we are opening the door to the allowance of claims amounting to at least \$100,000. It is a matter of conjecture whether it would be \$100,000 or a good deal more than \$100,000. Without saying one word against the merit of the proposition-it may be that this should be done-I do not believe that, without the matter having been considered by the committee and without its coming in under any existing law, we ought, in considering this bill, to repeal a statute of that kind. If the Senate has acted on it once or twice it may act upon it favorably again; but it seems to me that it would be better to have an independent bill dealing with that repeal standing alone and have it

acted upon by this body.

Mr. JOHNSTON of Alabama. Mr. President, the Senator from South Dakota has properly said that this amendment applies only to officers of the Army who resigned and went South to take part in the war between the States. This bill opens the door to all those who remained in the Army. question of loyalty has long since passed out, and most of those officers are dead and the money will go to their children. It involves a small amount of money—a little over \$100,000—and applies to no other class in the world. I do not see why we should hesitate here to grant to these officers for the services they rendered the United States before they retired from the Army the pay that was due them under the laws of the United

Mr. CULLOM. I have amendments for two longevity claims at the desk, not from the South, but from the North.

The PRESIDING OFFICER (Mr. WORKS in the chair). There is an amendment pending at the present time.

Mr. CULLOM. I supposed that amendment had been ob-

jected to for the present.

Mr. JOHNSTON of Alabama. I am willing for it to lie over for the present until the printed amendment comes in. I shall then insist upon the amendment.

The PRESIDING OFFICER. The Senator from Illinois [Mr.

CULLOM] offers an amendment, which will be stated.

Mr. CULLOM. I suppose there will be no objection to these longevity claims.

Mr. CRAWFORD. I hope the Senator from Alabama [Mr. JOHNSTON) will not urge his amendment in connection with this bill. I say that not as one unfriendly, but because I do not think it is fair to the committee, the matter never having been before the present committee in any form. The former bills on this subject were not before the committee and never have been considered by it. I do not think it is fair to the committee to have the amendment put in with this vast number of claims, upon which we have acted at the expenditure of a great deal of time and labor. If the amendments proposed by the Senator from Illinois [Mr. Cultom] cover longevity claims that have been reported by the Court of Claims

Mr. CULLOM. Both of them have been so reported.

Mr. CRAWFORD. If they are exactly the same as those allowed yesterday, I shall not object to them.

Mr. CULLOM. They are exactly the same.

Mr. CRAWFORD. I ask that they be read.

The PRESIDING OFFICER. The first amendment proposed by the Senator from Illinois will be read.

Mr. CRAWFORD. I desire also that the findings of the

Court of Claims be read.

The PRESIDING OFFICER. The amendment proposed by the Senator from Illinois will first be stated.

The Secretary. On page 263, after line 9, under the heading

"Illinois," it is proposed to insert:

To Susan Dye Baylies, daughter and only surviving child of William McEntire Dye, deceased, late of the United States Army, and Pearl Walter Dye, widow and sole legatee of John Henry Dye, deceased, who was a son of said William McEntire Dye, \$1,616.72, to be proportioned

To Susan Dye Baylies, of Chicago, Ill., \$1,077.81. To Pearl Walter Dye, \$538.91.

Mr. CRAWFORD. I ask that the findings of the Court of Claims be read.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

FINDINGS OF FACT.

FINDINGS OF FACT.

I. The claimant Susan Dye Baylies is the daughter and only living child of William McEntire Dye, who died intestate in November, 1899, and Pearl Waiter Dye is the widow and sole beir under the will of John Henry Dye, a deceased son of said William McEntire Dye, Said John Henry Dye, died in April, 1903, leaving a will by which he bequeathed all his property, real and personal, to his widow. Pearl Waiter Dye, who is still living. He left no children. Annette M. Dye, the only other child of said William McEntire Dye, died intestate in March, 1904, never having been married and leaving as her sole heir her sister, the said Susan Dye Baylies. The widow of said William McEntire Dye died in 1901.

II. Claimant's decedent, William McEntire Dye, was during his lifetime an officer in the United States Army, having entered the Military Academy as a cadet July 1, 1849. He graduated therefrom and was appointed brevet second lieutenant of Infantry July 1, 1853; was promoted to second lieutenant, Eight Infantry, November 9, 1854; first lieutenant, February 1, 1856; captain, May 14, 1861; and major, January 14, 1866, and was discharged at his own request September 30, 1870. He served as colonel Twentieth Iowa Infantry from August 1, 1862, to July 26, 1865.

III. Said decedent was paid his first longevity ration from July 1, 1858, and one additional ration for each five years subsequent thereto, and third 10 per cent increase from July 15, 1870.

Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be cnitited to additional longevity allowances, as reported by the Auditor for the War Department, amounting to \$1,616.72, which would be divided two-thirds (\$1,577.81) to Susan Dye Baylies and one-third (\$538.91) to Pearl Walter Dye.

BY THE COURT.

Filed June 17, 1912.

A true copy.
Test this 18th day of June, A. D. 1912.
[SEAL.]

ARCHIBALD HOPKINS, Chief Clerk Court of Claims.

Mr. CRAWFORD. That is satisfactory. The amendment comes within the rule.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Illinois [Mr. Cullom], which has just been read.

The amendment was agreed to.
The PRESIDING OFFICER. The next amendment proposed by the Senator from Illinois will be stated.

The Secretary. It is also proposed, on page 263, after the amendment just adopted, to insert:

To Thomas J. Medill, of Rock Island, administrator de bonis non of the estate of Thomas J. Rodman, deceased, \$2,113.54, as reported by the Court of Claims in House Document No. 850, Sixty-second Congress, second session.

Mr. CRAWFORD. Now I desire that the Secretary read the findings in that case.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

FINDINGS OF FACT.

I. The claimant is the duly appointed administrator de bonis non of the estate of Thomas J. Rodman, late brigadier general, United States

the estate of Thomas J. Rodman, late brigadier general, United States Army.

II. The claimant's intestate entered the United States Military Academy as a cadet July 1, 1837; was appointed brevet second lieutenant of ordnance July 1, 1841; promoted first lieutenant March 3, 1847; captain, July 1, 1855; major, June 1, 1863; lieutenant colonel, March 7, 1867; and died June 7, 1871, at Rock Island Arsenal, III.

III. Claimant's intestate was paid his first longevity ration from July 1, 1846, and one additional ration for each five years subsequent thereto. December 22, 1890, the accounting officers of the Treasury disallowed his claim for longevity increase on account of service as a cadet at the Military Academy.

Military Academy.

IV. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said claimant would be entitled to additional allowance, as reported by the Auditor for the War Department, as follows:

First longevity ration, July 1, 1842, to June 30, 1846. Second longevity ration, July 1, 1847, to June 30, 1851. Third longevity ration, July 1, 1852, to June 30, 1856. Fourth longevity ration, July 1, 1857, to June 30, 1861. Fifth longevity ration, July 1, 1862, to June 30, 1866. Sixth longevity ration, July 1, 1867, to July 14, 1870.	\$292, 20 292, 20 292, 20 438, 30 535, 70 333, 00
Making a total of	182 80

from which the following should be deducted:	7505	a, 100. 00
	\$38.50 31.56	70.00

_____ 2, 113, 54 Leaving a balance of _____

Filed June 17, 1912. A true copy. Test this 20th day of June, 1912.

ARCHIBALD HOPKINS, Chief Clerk Court of Claims.

Mr. CRAWFORD. The committee will accept that amendment, Mr. President.

The amendment was agreed to.

Mr. TOWNSEND. I now ask that the amendment which I proposed be stated.

The PRESIDING OFFICER. The amendment proposed by the Senator from Michigan will be stated. The Secretary. On page 264, after line 22, under the head

of "Michigan," it is proposed to insert: To Sophie M. Guard, executrix of Alexander McCook Guard, deceased, late of the United States Army, \$1,499.58.

The PRESIDING OFFICER. The Secretary will read the

findings in that case.

The Secretary read as follows:

FINDINGS OF FACT.

FINDINGS OF FACT.

I. The claimant, Sophic M. Guard, is a citizen of the United States, residing in Chippewa County, State of Michigan, and is the widow and executrix of Alexander McCook Guard, late an officer in the United States Army.

II. Said decedent, Alexander McCook Guard, entered the United States Military Academy as a cadet July 1, 1866. He was graduated therefrom June 12, 1871, and was appointed second lieutenant, Nineteenth United States Infantry, but did not take the oath of office until August 10, 1871, at which time he was still on graduating leave. He was promoted to be first lieutenant March 20, 1879; captain, February 20, 1891; was placed on the retired list with the rank of major September 8, 1899, and died July 19, 1905.

III. Said decedent was paid his first longevity increase from June 12, 1876, and each subsequent longevity increase was made to commence at intervals of five years following that date. In a settlement by the accounting officers of the Treasury June 29, 1885, he was allowed longevity increase under the Morton and Tyler decisions counting his cadet service from February 24, 1881, and no longevity increase for cadet service prior to that date was allowed by said officers.

IV. Claimant's decedent was paid the difference between the pay of a captain and major, amounting to \$784.03, for exercising the command of a major by reason of seniority from June 12, 1898, to March 29, 1899, and this amount would not now, under the act of March 3, 1911 (36 Stats., 1039), be deducted by the accounting officers of the Treasury from any amount found due on account of longevity pay.

V. If the accounting officers of the Treasury now had jurisdiction to settle this claim for longevity allowances there would be deducted from any amount found due the following sums, to wit:

Difference between pay as second lieutenant and cadet errone-ously paid from June 15, 1871, to Aug. 9, 1871, 1 month 25

\$120.78

21, 97

Difference between pay as second lieutenant and cadet erroneously paid from June 15, 1871, to Aug. 9, 1871, 1 month 25
days, at \$65.88 per month

Half pay on longevity pay for 5 years' service as second lieutenant, not mounted (Brodie decision), from Oct. 8, 1871, to
Jan. 31, 1872, 3 months 23 days, at \$5.83

First longevity increase of 10 per cent for 5 years' service as
second lieutenant, not mounted (Brodie decision), while absent without leave on Mar. 1, 1874 . 39

Making a total of 143. 14

VI. Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent's longevity periods should begin on the following dates: First period, July 1, 1871; second period, July 1, 1876; third period, July 1, 1881; fourth period, July 1, 1886; and the difference between the amounts actually paid to him and the amounts to which he would be entitled under said decision is \$1,642.72, from which would be deducted the \$143.14 referred to in Finding V, leaving a balance of \$1,499.58.

If the amount paid to decedent for difference in pay of a captain and major for exercising higher command by reason of seniority, amounting to \$784.03, as set forth in Finding IV, should be deducted from any amount found due on account of longevity pay, the balance would be \$715.55.

VII. In June, 1908, a claim was filed with the accounting officers of the Treasury for longevity pay for the period prior to February 24, 1881, in accordance with the decision in the Watson case, but same was not considered for the reason that a previous settlement had been made. The claim was presented to the Sixtieth Congress, and Senate bill 6998, for the relief of the claimant herein, was by resolution of the United States Senate referred to this court under the provisions of the Tucker Act, and said claim was given docket No. 13318, congressional, and was afterwards consolidated with the present claim.

Except as above stated, the claim was never presented to any officer or department of the Government prior to its presentation to the Sixty-second Congress and reference to this court as hereinbefore set forth, and no evidence is adduced to show why claimant did not earlier prosecute said claim.

CONCLUSION.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred. The claim is an equitable one against the United States in so far as they received the benefit of the services of said decedent while a cadet at the Military Academy, which service the Supreme Court, in the case of United States v. Watson (130 U. S., 80), decided was service in the Army.

Event Mary 20, 1012.

By the Court.

Filed May 20, 1912. A true copy. Test this 27th day of May, 1912.

JOHN RANDOLPH, Assistant Clerk Court of Claims.

Mr. CRAWFORD. There is no objection to that amendment. The amendment was agreed to.

Mr. JOHNSON of Maine. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated. The Secretary. On page 263, after line 20, it is proposed to

To George Lemuel Turner, of Portland, Me., \$654.61.

Mr. CRAWFORD. What is the last paragraph of the findings of fact in that case.

The PRESIDING OFFICER. The Secretary will read.

The Secretary read as follows:

FINDINGS OF FACT.

I. The claimant herein was officer in the United States Army, having been appointed a cadet at the United States Military Academy July 1, 1870. He graduated therefrom and was appointed second lieutenant Eighteenth United States Infantry June 17, 1874, promoted to be first lieutenant January 16, 1884, and was dismissed November 20, 1890.

JI. In the settlement of said claimant's account by the accounting officers of the Treasury he was paid first longevity increase from June 17, 1879, and he was also paid longevity increase for the period from February 24, 1881, to June 30, 1884, and thereafter, but said officers refused to count the service of said claimant as a cadet at the Military Academy in computing longevity pay and allowances for service prior to February 24, 1881.

JII. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said claimant's first longevity increase should begin July 1, 1875, and the difference between the amounts actually paid to him and the amount to which he was entitled under said decision is \$654.61.

BY THE COURT.

Filed May 13, 1912. A true copy. Test this 14th day of May, 1912.

JOHN RANDOLPH.
Assistant Clerk Court of Claims.

Mr. CRAWFORD. The committee will accept the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. JOHNSON of Maine. At the request of the junior Senator from New York [Mr. O'GORMAN], I offer the amendments which I send to the desk, being claims for longevity pay, together with the findings of the court.

Mr. CRAWFORD. I ask that the amounts be read and then the findings, without all the details.

The PRESIDING OFFICER. The first proposed amendment will be stated.

The Secretary. On page 209, after line 4, it is proposed to insert:

To Frank H. Fletcher, \$61.52.
To Octavia Cavendy, widow of Joseph S. Cavendy, \$73.44.
Mr. CRAWFORD. There are two cases there?
The PRESIDING OFFICER. There are two cases.
Mr. CRAWFORD. Are they both longevity claims or are they overtime claims for work in navy yards? I inquire if the Senator from Maine knows.

Mr. JOHNSON of Maine. The information I have is that they are all for longevity pay.

The PRESIDING OFFICER. The Chair is informed that they are for longevity pay.

Mr. CRAWFORD. I ask that the findings of the court be

read.

The Secretary proceeded to read from the findings of the Court of Claims

Mr. CRAWFORD. I think this is an overtime navy-yard claim, but it has the same merit.

The PRESIDING OFFICER. The Secretary will continue

to read the findings, as requested.

The Secretary resumed and concluded the reading, as follows:

FINDINGS OF FACT. I. Between the 21st day of March, 1878, and the 22d day of September, 1882, the claimants herein or their decedents, and each of them, were in the employ of the United States in the navy yard at Brooklyn, N. Y., during which time the following order was in force:

Circular No. 8.

Circular No. 8.

Washington, D. C., March 21, 1878.

The following is hereby substituted, to take effect from this date, for the circular of October 25, 1877, in relation to the working hours at the several navy yards and shore stations:

The working hours will be—
From March 21 to September 21, from 7 a. m. to 6 p. m.: from September 22 to March 20, from 7.40 a. m. to 4.30 p. m., with the usual intermission of one hour for dinner.

The departments will contract for the labor of mechanics, foremen, leading men, and laborers on the basis of 8 hours a day. All workmen electing to labor 10 hours a day will receive a proportionate increase of their wages.

crease of their wages.

The commandants will notify the men employed, or to be employed, of these conditions, and they are at liberty to continue or accept employment under them or not.

R. W. Thompson,

ployment under them or not.

R. W. Thompson,
Secretary of the Navy.

II. Said claimants and each of them or their decedents while in the employ of the United States as aforesaid worked on the average the number of hours set opposite their respective names in excess of 8 hours a day and at the wages below stated, to wit:

No. 89. Frank H. Fletcher:

150 hours at \$1.76 per day.

131 hours at \$1.76 per day, and 2\(\frac{5}{2}\) hours less than 8 hours a day at \$1.76 per day.

132 hours at \$1.76 per day.

No. 101. Joseph S. Cavendy:

132 hours at \$2.76 per day.

77 hours at \$2 per day, and 2\(\frac{5}{2}\) hours less than 8 hours a day at \$2.76 per day.

78 hours at \$3 per day, and 2\(\frac{5}{2}\) hours less than 8 hours a day at \$2.76 per day.

111. If it is considered that 8 hours a day constituted a day's work during the period from March 21, 1878, to September 22, 1882, under said Circular No. 8, then the claimants or their decedents have been underpaid as follows:

Frank H. Fletcher, \$61.52.

Octavia Cavendy, widow of Joseph S. Cavendy, \$73.44.

IV. The claims herein were never presented to any department or officer of the Government prior to the presentation to Congress and reference to this court as hereinbefore set forth, and no evidence is adduced to show why said claimants did not earlier prosecute their claims.

CONCLUSION. Upon the foregoing findings of fact the court concludes that the claims herein are not legal ones against the United States, and are equitable only in the sense that the United States received the benefit of the services of said Frank H. Fletcher and said Joseph S. Cavendy in excess of 8 hours a day as above set forth.

BY THE COURT. Filed May 20, 1912.

A true copy. Test this 24th day of May, 1912,

[SEAL.] JOHN RANDOLPH.

Assistant Clerk Court of Claims,

Mr. CRAWFORD. That is an overtime navy-yard claim.

The PRESIDING OFFICER. The correction is made. They

are navy-yard claims for overtime. Mr. CRAWFORD. The findings are in favor of the claimants; and, on behalf of the committee, I accept the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The next amendment, submitted by Mr. Johnson of Maine for Mr. O'GORMAN, was stated by the Secretary as follows:

On page 266, after line 5, it is proposed to insert:
"To Henry Catley, of Syracuse, \$2,351.29, as reported by the Court of Claims in House Document No. 801, Sixty-second Congress, second seed on "

Mr. CRAWFORD. What are the findings of the court? The PRESIDING OFFICER. The Secretary will read: The Secretary read as follows:

FINDINGS OF FACT.

I. Claimant served as enlisted man, United States Army, from July 3, 1855, to December 31, 1864. He was mustered in as first lieutenant, First Oregon Infantry, January 2, 1865, and mustered out February 9, 1866; was appointed second lieutenant, Sixteenth United States Infantry, February 23, 1866; accepted the appointment May 31, 1866; promoted first lieutenant August 5, 1866, and transferred to the Second Infantry April 17, 1891; promoted captain June 22, 1882, and retired April 17, 1891.

II. In the settlement of claimant's accounts by the accounting officers of the Treasury, he was paid on account of longevity periods as follows: First period, from April 23, 1870; second period, from April 23, 1875; fourth period, from June 18, 1878. September 19, 1883, he was paid longevity increase under the Tyler decision (105 U. S., 244) without taking into account his service as an enlisted man from July 3, 1855, to December 31, 1864.

III. Under the principle of the decision of the Supreme Court of the United States in the case of United States v. Watson (130 U. S., 80), and the decision of this court in the case of Stewart v. United States (No. 20810, 34 C. Cls. R., 553), claimant's longevity periods should begin on the following dates: First period, May 31, 1866; second period, December 3, 1866; third period, October 25, 1870; fourth period, October 25, 1875; and the difference between the amounts actually paid to him and the amounts to which he was entitled under said decisions for said periods is as follows:

First additional ration from May 31, 1886, to Dec. 2, 1866_—Second additional ration from Dec. 3, 1866, to July 14, 1870_—Second 10 per cent increase, July 15, 1870, to Oct. 24, 1870_—Third 10 per cent increase from Oct. 25, 1870, to Oct. 24, 1875_—Fourth 10 per cent increase from Oct. 25, 1875, to June 18, 1875

_ 3, 440, 09

Leaving a balance of..... _ 3, 343, 76

From a debit and credit statement of claimant's account he is entitled to an additional credit of \$7.53 for short payments of pay and allowances during his service, which sum, added to the above-named balance, makes \$3,351.29. BY THE COURT.

Filed May 13, 1912.

A true copy.
Test this 29th day of May, 1912.
[SEAL.]

JOHN RANDOLPH, Assistant Clerk Court of Claims.

Mr. CRAWFORD. The committee will accept that amend-

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The next amendment, submitted by Mr. Johnson of Maine for Mr. O'GORMAN, was, on page 266, after the amendment just agreed to, to insert:

To Maria T. Knox, administratrix cum testamento annexo of the estate of George T. Balch, deceased, of Troy, \$1,017.66

Mr. CRAWFORD. I ask that the findings of the court be

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

FINDINGS OF FACT.

I. Claimant's decedent, George Thatcher Balch, was during his lifetime an officer in the United States Army, having entered the United States Military Academy as a cadet July 1, 1847. He graduated therefrom and was appointed second lieutenant July 1, 1851; promoted to be first lieutenant July 1, 1854; captain, November 1, 1861; and resigned to take effect December 1, 1865.

II. In the settlement of his accounts the accounting officers of the Treasury allowed said decedent his first longevity ration from July 1, 1856, and one additional ration for each subsequent five years, and made no allowance in computing his longevity allowances for his services as a cadet at the Military Academy.

III. Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional allowances, as reported by the Auditor for the War Department, amounting to \$1,137.96, from which would be deducted the sum of \$120.30 due by him to the United States, leaving a balance of \$1,017.66.

BY THE COURT.

Filed May 6, 1912. True copy. Attest this 8th day of May, 1912. [SEAL.]

JOHN RANDOLPH, Assistant Clerk Court of Claims.

Mr. CRAWFORD. The amendment is accepted by the committee.

The PRESIDING OFFICER. Without objection, the amendment is agreed to. Mr. MARTINE of New Jersey. Mr. President, I present a

similar amendment for longevity pay, together with the findings of the court.

The PRESIDING OFFICER. The amendment will be stated. The Secretary. On page 263, after line 2, it is proposed to insert:

To the Washington Loan & Trust Co., administrator of the estate of James W. Cuyler, deceased, of Washington, \$2,431.89.

Mr. CRAWFORD. I ask that the findings of fact be read. The Secretary read as follows:

FINDINGS OF FACT.

I. The claimant, the Washington Lean & Trust Co., of the District of Columbia, is the duly appointed administrator of the estate of James W. Cuyler, deceased, who, during his lifetime, was an officer in the United States Army, having entered the Military Academy as a cadet July 1, 1860. He graduated therefrom and was appointed first lieutenant of Engineers June 13, 1864; was promoted to be captain March 7, 1867; major, July 17, 1881; and died April 16, 1883.

II. Said decedent was paid his first longevity ration June 13, 1869, and one additional ration for each five years subsequent thereto, and by settlements of the accounting officers of the Treasury, in 1884 and 1885, he was allowed longevity increase under the Tyler and Morton decisions.

Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional allowances, as reported by the Auditor for the War Department, amounting to \$2,444.67, from which would be deducted overpayment of \$12.78, leaving a balance of \$2,431.89.

III. The claim was presented to the accounting officers of the Treasury at various times and was disallowed in 1883, 1884, 1885, and again in 1910. Except as above stated, the claim was never presented to any officer or department of the Government prior to the presentation to Congress and reference to this court as hereinbefore set forth.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States in so far as they received the benefit of the services of said decedent while a cadet at the Military Academy, which service the Supreme Court, in the case of United States v. Watson (130 U. S., 80), decided was service in the Army.

BY THE COURT.

Filed June 17, 1912.

A true copy. Test this 24th day of June, 1912. [SEAL.]

ARCHIBALD HOPKINS, Chief Clerk Court of Claims.

Mr. CRAWFORD. The amendment is accepted by the com-

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. GALLINGER. I offer a trifling amendment for overtime work in the Washington Navy Yard, and will ask that the findings of fact be inserted in the RECORD.

The PRESIDING OFFICER. The amendment will be stated.
The Secretary. On page 153, after line 12, under the heading "District of Columbia," it is proposed to insert:

Alfred C. Cassell, \$223.38.

Mr. CRAWFORD. What is the finding? Mr. GALLINGER. The finding is precisely as in the other

Mr. CRAWFORD. Very well; the committee accepts the amendment.

Mr. GALLINGER. I ask that the findings be inserted in the RECORD without reading.

Mr. CRAWFORD. I ask that in each of these cases the clause of the findings which gives the amount be inserted in the RECORD.

The PRESIDING OFFICER. Without objection, that order will be entered. The findings in the case covered by the last amendment will be inserted in the RECORD.

The matter referred to is as follows:

FINDINGS OF FACT.

I. Between the 21st day of March, 1878, and the 22d day of September, 1882, the claimant herein was in the employ of the United States in the navy yard at Washington, D. C., during which time the following order was in force: Circular No. 8.

NAVY DEPARTMENT, Washington, D. C., March 21, 1878.

Washington, D. C., March 21, 1878.

The following is hereby substituted, to take effect from this date, for the circular of October 25, 1877, in relation to the working hours at the several navy yards and shore stations:

The working hours will be—
From March 21 to September 21, from 7 a. m. to 6 p. m.; from September 22 to March 20, from 7.40 a. m. to 4.30 p. m., with the usual intermission of one hour for dinner.

The departments will contract for the labor of mechanics, foremen, leading men, and laborers on the basis of eight hours a day. All workmen electing to labor 10 hours a day will receive a proportionate increase of their wages.

The commandants will notify the men employed, or to be employed, of these conditions, and they are at liberty to continue or accept employment under them or not.

R. W. Thompson,

R. W. THOMPSON, Secretary of the Navy.

Secretary of the Navy.

II. Said claimant, while in the employ of the United States as aforesaid, worked on the average the number of hours set opposite his name in excess of eight hours a day, and at the wages below stated, to wit: 533\forall hours, at \$1.50 per day; 231\forall hours, at \$1.75 per day; 145\forall hours, at \$2 per day.

III. If it is considered that eight hours constituted a day's work during the period from March 21, 1878, to September 22, 1882, under said Circular No. 8, then the claimant has been underpaid the sum of \$292.38

IV. The claim was never presented to any officer or department of the Government prior to the presentation to Congress and reference to this court as hereinbefore set forth, and no evidence is adduced to show why claimant did not earlier prosecute his said claim.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein is not a legal one against the United States, and is equitable only in the sense that the United States received the benefit of the services of said claimant in excess of eight hours a day as above set BY THE COURT.

Filed May 27, 1912.

A true copy. Test this 29th day of May, 1912.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

The PRESIDING OFFICER. Without objection, the amendment offered by the Senator from New Hampshire is agreed to. Mr. STONE. I offer the amendment I send to the desk.

The Secretary. On page 264, after line 22, it is proposed to

MISSOURI.

To Simon Lyon, administrator of the estate of John A. Campbell, deceased, of Kansas City, \$785.66.

To Martha R. Hitchcock, widow and executrix of Ethan Allen Hitchcock, deceased, of St. Louis, \$754.79.

To Louis J. Garesche, of Washington, administrator of the estate of Julius P. Garesche, deceased, \$1,366.11.

Mr. CRAWFORD. Is each one of these a longevity case?

Mr. STONE. Each is a longevity claim. I have sent the findings of the court to the desk. These claims are in the exact condition of those which have been accepted by the committee.

Mr. CRAWFORD. Is there a finding in each case? Mr. STONE. In each case. They are exactly on a par, I will

say to the Senator, with the other claims of this kind. Mr. CRAWFORD. I want the record made complete; that

Mr. STONE. I ask that the report in each case be printed in

the RECORD. Mr. CRAWFORD. I will ask that the reports be printed, and I will not detain the Senate in asking that they be read. I will state that after they have been printed I will inspect them, and if I find any reason for doing so, I shall move to strike out any item that I may find erroneous.

Mr. STONE. That is all right, but I can not see why the Senator from South Dakota can not say now what the committee will do. He has done so in every other instance.

Mr. CRAWFORD. Certainly. I simply mean to save the time which would be consumed by having the finding in each case read. I certainly do not mean any reflection upon the Senator from Missouri.

Mr. STONE. I give the Senator from South Dakota the assurance that they are on that exact line.

Mr. CRAWFORD. If there is any error, I want the privilege of making the motion to strike out.

Mr. STONE. What disposition is now to be made of the amendment?

Mr. CRAWFORD. The committee is willing to accept it in that way. Mr. STONE. That is all I ask.

The PRESIDING OFFICER. Without objection, the amendment will be adopted and the reports indicated will be printed in the RECORD.

The reports are as follows:

[House Document No. 803, Sixty-second Congress, second session.] SIMON LYON, ADMINISTRATOR.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS TRANS-MITTING A COPY OF THE FIXDINGS FILED BY THE COURT IN THE CASE OF SIMON LYON, ADMINISTRATOR OF THE ESTATE OF JOHN A. CAMP-BELL, DECEASED, AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE, Washington, May 31, 1912.

Hon. Champ Clark, Speaker of the House of Representatives.

Sir: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours,

JOHN RANDOLPH, Assistant Clerk Court of Claims.

[Court of Claims. Congressional, No. 15062: Simon Lyon, administrator of the estate of John A. Campbell, v. The United States.] STATEMENT OF THE CASE.

The claim in the above-entitled case for arrears of increase of pay due on account of the services of John A. Campbell in the United States Army was transmitted to the court by the Committee on War Claims of the House of Representatives on the 12th day of January.

Claims of the House of Representatives on the 12th day of January, 1912.

The case was brought to a hearing on its merits on the 1st day of April, 1912.

Lyon & Lyon appeared for the claimant and the Attorney General, by George M. Anderson, his assistant, and under his direction, appeared for the defense and protection of the United States.

The claimant in his petition makes the following allegations:

That he is a citizen of the United States and a resident of the city of Washington, in the District of Columbia, and is the administrator of the estate of John A. Campbell, who died while serving in the United States Army on the 29th day of October, 1875.

That the aforesaid John A. Campbell, deceased, entered the military service of the United States as a cadet at the Military Academy on the 29th day of October, 1863; appointed second lieutenant June 17, 1867, Second United States Artillery; first lieutenant July 24, 1874, which grade he held until his death on the aforesaid date, and by reason of such service is entitled to longevity pay, computing the time he served at the Military Academy as a cadet, in accordance with the decisions of the Supreme Court of the United States as laid down in the case of United States v. Watson (130 U. S. Rep., p. 80) and United States v. Tyler (105 U. S. Rep., p. 244), which has never been paid to the deceased officer or his heirs.

That application for such longevity increase pay was made to the accounting officers of the Treasury Department by Sophia B. Campbell, his widow, then and now residing at Kansas City, Mo., but said claim was disallowed on the 13th day of July, 1896, on the ground "service"

Total_____Less internal-revenue tax______

785.66 Leaving net amount due officer That the court, upon the evidence and after considering the briefs and arguments of counsel upon both sides, makes the following

I. Claimant's decedent, John A. Campbell, after having served as an enlisted man in the Fifth and Third Missouri Infantry, was appointed a cadet in the United States Military Academy and entered same October 19, 1863. He graduated therefrom and was appointed second lieutenant, Second Artillery, June 17, 1867; was promoted first lieutenant July 24, 1874, and died October 29, 1875.

II. In the settlement of said decedent's accounts by the accounting officers of the Treasury he was paid his first longevity increase from June 17, 1872.

Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) he would be entitled to additional longevity allowances as follows:

First longevity ration, Oct. 19, 1868, to July 14, 1870. FINDINGS OF FACT.

First longevity ration, Oct. 19, 1868, to July 14, 1870______\$190, 20 First 10 per cent increase, July 15, 1870, to June 16, 1872_____ 269, 11 Second 10 per cent increase, Oct. 19, 1872, to Oct. 29, 1875____ 336, 17

from which should be deducted \$9.82 internal-revenue tax, leaving a balance of \$785.66.

BY THE COURT.

Filed May 6, 1912. True copy. Attest this 8th day of May, 1912. [SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[House Document No. 791, Sixty-second Congress, second session.] MARTHA R. HITCHCOCK, EXECUTRIX.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS, TRANSMITTING A COPY OF THE FIXDINGS FILED BY THE COURT IN THE CASE OF MARTHA R. HITCHCOCK, WILDOW AND EXECUTRIX OF ETHAN ALLEN HITCHCOCK, DECEASED, AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE. Washington, May 31, 1912.

Hon. CHAMP CLARK, Speaker of the House of Representatives.

Speaker of the House of Representatives.

Sir: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims of the House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours,

Assistant Clerk Court of Claims.

[In the Court of Claims. Congressional, No. 15078. Martha R. Hitchcock, widow and executrix of Ethan Allen Hitchcock, v. The United States.]

STATEMENT OF THE CASE.

States.]

STATEMENT OF THE CASE.

The claim in the above-entitled case for arrears of increase of pay due on account of the services of Ethan Allen Hitchcock in the United States Army, was transmitted to the court by order of the Committee on War Claims of the House of Representatives on the 30th day of January, 1911.

The case was brought to a hearing on its merits on the 1st day of April, 1912.

Lyon & Lyon appeared for the claimant, and the Attorney General, by George M. Anderson, his assistant and under his direction, appeared for the defense and protection of the United States.

The claimant in her petition makes the following allegations:
That she is a citizen of the United States and at this time residing in the city of Washington in the District of Columbia, and is the widow and executrix of Ethan Allen Hitchcock, who deceased August 5, 1870.

That the aforesaid Ethan Allen Hitchcock, deceased, entered the military service of the United States as a cadet at the Military Academy on the 11th day of October, 1814; promoted third lieutenant, Corps Artillery, July 17, 1817; second lieutenant, Eighth Infantry, February 13, 1818; first lieutenant, October 31, 1818; regimental adjutant, July, 1819, to June 1, 1821; transferred to First Infantry, June 1, 1821; regimental adjutant, July 16, to September 16, 1821; captain, December 31, 1824; major, Eighth Infantry, July 7, 1838; lieutenant colonel Third Infantry, January 31, 1842; colonel Second Infantry, April 15, 1851; resigned October 18, 1855; major general, Volunteers, February 10, 1862; honorably mustered out October 1, 1867; died August 5, 1870, and by reason of such service is entitled to longevity pay computing the time he served at the Military Academy as a cadet in accordance with the decisions of the Supreme Court of the United States as Iaid down in the case of United States v. Watson (130 U. S. Rept., p. 80) and United States v. Typer (105 U. S. Rept., p. 244), which has never been paid to the deceased officer or his heirs.

That application for such

ary 24, 1881," contrary to the decisions of the Supreme Court of the United States in the cases of Watson and Tyler above stated.

Application was again made for same longevity increase pay in accordance with the decision of the Comptroller of the Treasury in the case of Alexander O. Brodie (14 Comp. Dec., p. 795), but this application was disallowed on the 20th day of April, 1909, on the ground that there was no authority of law to reopen an adverse settlement made by a predecessor, irrespective of the fact that the law now favors the settlement of this class of cases.

That there is due the claimant under the law as decided by the Supreme Court of the United States in the cases of United States v. Watson and Tyler above stated, the following amount of longevity increase pay:

increase pay:

201.80 202.0074. 60 64. 20 14. 10 758. 70 3. 91

Balance__

That the deceased officer was loyal to the United States throughout the War of the Rebellion, he having served in the United States Army through the entire period of said rebellion, and the claimant was born subsequent to said War of the Rebellion.

The court, upon the evidence and after considering the briefs and arguments of counsel upon both sides, makes the following

FINDINGS OF FACT.

I. Claimant's decedent, Ethan Allen Hitchcock, during his lifetime was an officer in the United States Army, having entered the United States Military Academy as a cadet on October 11, 1814. He graduated therefrom and was appointed a third lieutenant, Corps of Artillery, July 17, 1817; promoted to be second lieutenant, February 13, 1818; first lieutenant, October 31, 1818; captain, December 3, 1824; major, Eighth Infantry, July 7, 1838; lieutenant colonel, January 31, 1842; colonel, April 15, 1851, and resigned October 18, 1855.

II. In the settlement of said decedent's longevity pay and allowances the accounting officers of the Treasury refused to count the time he served as a cadet at the Military Academy.

III. Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) there would be due to said decedent the sum of \$754.79.

BY THE COURT.

Filed May 6, 1912. True copy.
Attest this 8th day of May, 1912.
[SEAL.]

JOHN RANDOLPH, Assistant Clerk Court of Claims.

[House Document No. 794, Sixty-second Congress, second session.] LOUIS J. GARESCHÉ, ADMINISTRATOR.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS, TRANSMITTING A COPY OF THE FINDINGS FILED BY THE COURT IN THE CASE OF LOUIS J. GRAESCHÉ, ADMINISTRATOR OF J. P. GARESCHÉ, DECEASED, AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE, Washington, May 31, 1912.

Hon. CHAMP CLARK, Speaker of the House of Representatives.

Sir: Pursuant to the order of the court, I transmit herewith a certified copy of the findings filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours,

JOHN RANDOLPH

JOHN RANDOLPH,

Assistant Clerk Court of Claims.

[Court of Claims of the United States. Congressional, No. 15529.

Louis J. Garesché, administrator of Julius P. Garesché, deceased, v.

The United States.]

STATEMENT OF CASE,

The United States.]

STATEMENT OF CASE.

The claim in the above-entitled case for longevity pay, alleged to be due on account of the service of said decedent in the United States Army, was transmitted to the court by the Committee on War Claims of the House of Representatives on the 18th day of Angust, 1911, under the act of March 3, 1883, known as the Bowman Act.

The case was brought to a hearing on its merits on the 8th day of May, 1912.

Richard R. McMahon, Esq., appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The claimant in his petition makes the following allegations:
That he is a citizen of the United States, residing in Washington, D. C., and is the duly appointed administrator of Julius P. Garesché, late a lieutenant colonel, United States Army.

That said Julius P. Garesché entered the United States Military Academy as a cadet July 1, 1837; was appointed second lieutenant Fourth United States Armillery July 1, 1841; first lieutenant June 18, 1846, and served as such until February 14, 1856; brevet captain and assistant adjutant general May 14, 1861; major and assistant of the United States of the Incompany of the States of the Transury of the States of the Transury of the States. That during the period of the service of said Julius P. Garesché the following statutory provision respecting longevity pay was in force:

"That every commissioned officer of the line or staff, exclusive of general officers, shall be entitled to receive one additional ration per diem for every five years he may have served or shall serve in the Army of the United States." (A

officers of the Treasury for a settlement of the longevity pay and allow-ances due claimant's decedent in accordance with said decision, and, under the rulings then in force, said claim was disallowed October 18,

That upon the revocation of the ruling of the comptroller that service as a cadet could not be counted in computing longevity pay and allowances, May 18, 1908, the claimant made application to the accounting officers of the Treasury for settlement of the longevity pay and allowances due under the act of July 5, 1838, but, January 14, 1909, the Auditor for the War Department refused to reconsider the settlement of 1890.

That by this action of the accounting officers there has been withheld from claimant's decedent the sum of \$1,500 which is justly due.

That the claim has not been assigned or transferred, in whole or in part, and that claimant has all his life been loyal to the Government of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant is the duly appointed administrator of the estate of Julius P. Garesché, late an officer of the Army of the United States.

II. Claimant's decedent entered the United States Military Academy as a cadet July 1, 1837; was graduated therefrom and appointed second lieutenant Fourth Artillery July 1, 1841; first lieutenant, June 18, 1846; brevet captain and assistant adjutant general, November 9, 1855; brevet major and assistant adjutant general, May 14, 1861; major and assistant adjutant general, August 3, 1861; lieutenant colonel and assistant adjutant general, July 16, 1862; and was killed at the battle of Stone River, Tenn., December 31, 1862.

III. In the settlement of said decedent's accounts by the accounting officers of the Treasury he was paid on account of longevity periods as follows: First period, from July 1, 1856; fourth period, from July 1, 1851; third period, from July 1, 1856; fourth period, from July 1, 1851; third period, from July 1, 1856; fourth period, from July 1, 1851; third period, from July 1, 1850; and accounting officers under their then existing ruling, refused to count the service of said decedent at the Military Academy in computing his longevity pay and allowances after he became a commissioned officer.

IV. Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80), said decedent's longevity periods should begin on the following dates: First period, July 1, 1852; fourth period, July 1, 1852; fifth period, July 1, 1862; and the difference between the amounts paid him and the amounts to which he was entitled under said decision for said periods is as follows:

First longevity ration, July 1, 1847; third period, 1851 - - \$292, 20

First longevity ration, July 1, 1842, to June 30, 1846	\$292. 20
Second longevity ration, July 1, 1847, to June 30, 1851	292. 20
Third longevity ration, July 1, 1852, to June 30, 1856	292, 20
Fourth longevity ration, July 1, 1857, to June 30, 1861	438. 30
Fifth longevity ration, July 1, 1862, to Dec. 31, 1862.	55. 20

Making a total of From which the following should be deducted:	1, 370. 10
Revenue tax \$1.10 Other debits of pay and allowances 2.89	
	3. 99

Leaving a balance of ______ 1, 366. 11 BY THE COURT.

Filed May 13, 1912. A true copy. Test this 29th day of May, 1912. [SEAL.]

JOHN RANDOLPH, Assistant Clerk Court of Claims.

Mr. OLIVER. I offer three amendments, accompanied by the findings in each case.

The PRESIDING OFFICER. The amendments will be stated. The Secretary. On page 266, after line 19, insert:

To Joseph Fornance, executor of the estate of James Fornance, deceased, of Norristown, \$1,186.74.

Mr. CRAWFORD. I will say the same in reference to these claims. I will not detain the Senate by asking to have the find-I will ask that the findings in each case be printed, and I will accept the amendments on behalf of the committee with the understanding that after the findings are printed, if, on looking them over, I find any error, I reserve the privilege of calling up the matter.

Mr. OLIVER. That is entirely satisfactory.
The PRESIDING OFFICER. The findings of fact will be printed in the RECORD.

The findings of fact are as follows:

FINDINGS OF FACT.

I. Claimant's decedent, James Fornance, was during his lifetime an officer in the United States Army, having entered the United States Military Academy as a cadet September 1, 1867. He graduated therefrom and was appointed second lieutenant, Thirteenth United States Infantry, June 12, 1871; promoted to be first lieutenant June 29, 1872, and captain December 16, 1889.

II. In the settlement of said decedent's accounts the accounting officers of the Treasury refused to allow for the time he served as a cadet at the Military Academy in computing his longevity pay and allowances.

III. Under the decision of the Supreme Court of the United States in the case of United States v. Watson (130 U. S., 80) there would be due in addition to the amount already paid to said decedent the sum of \$1,186.74, as reported by the Auditor for the War Department.

Filed May 6, 1912.

Filed May 6, 1912.

True copy. Attest this 8th day of May, 1912. [SEAL.]

JOHN RANDOLPH, Assistant Clerk Court of Claims.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Pennsylvania. The amendment was agreed to.

The PRESIDING OFFICER. The next amendment proposed by the Senator from Pennsylvania will be stated.

The Secretary. On page 266, after line 19, insert:
To the Union Trust Co., of the District of Columbia, administrator of the estate of William Hemphill Bell, deceased, \$2,717.60.

The amendment was agreed to. The findings of fact are as follows:

FINDINGS OF FACT.

I. The Union Trust Co., of the District of Columbia, claimant herein, is the administrator of the estate of William Hemphill Bell, deceased, who during his lifetime was an officer in the United States Army, having entered the Military Academy as a cadet July 1, 1853. He graduated therefrom and was appointed brevet second lieutenant, Third Infantry, July 1, 1858; was promoted to be first lieutenant, May 14, 1861; captain, June 17, 1862; major and commissary, August 14, 1883; lieutenant colonel and assistant commissary general, December 27, 1892; colonel and assistant commissary general, June 10, 1896; brigadier general and commissary general, November 15, 1897; and retired January 28, 1898. He died October 17, 1906.

II. Said decedent was paid his first longevity ration from July 1, 1863, and one additional ration for each five years subsequent thereto. Under the decision of the Supreme Court in the case of United States v. Watson (130 U. S., 80) said decedent would be entitled to additional longevity allowances, as reported by the Auditor for the War Department, amounting to the sum of \$2,717.60.

By The Court.

BY THE COURT.

Filed June 17, 1912.

A true copy. Test this 18th day of June, A. D. 1912.

ARCHIBALD HOPKINS, Chief Clerk Court of Claims.

The PRESIDING OFFICER. The next amendment proposed by the Senator from Pennsylvania will be stated.

The Secretary. On page 266, after the amendment already adopted, insert:

To Benjamin D. Critchlow, of New Brighton, \$331.65.

The amendment was agreed to. The findings of fact are as follows:

FINDINGS OF FACT.

I. The claimant herein, Benjamin Dwight Critchlow, is a citizen of the United States, residing in the State of Colorado, and was at the times hereinafter stated an officer in the United States Army, having entered the United States Military Academy as a cadet July 1, 1861. He graduated therefrom and was appointed first licutenant, Thirteenth Infantry, June 23, 1865, and resigned as such January 21, 1869. II. In the settlement of claimant's account the accounting officers of the Treasury refused to count his service as a cadet in computing his longevity pay and allowances for services prior to February 24, 1881.

1881.

III. Under the decision of the United States Supreme Court in the case of United States v. Watson (130 U. S., 80) there would be due claimant, as reported by the Auditor for the War Department, the sum of \$331.65.

BY THE COURT.

Filed May 6, 1912.

True copy.
Attest this 8th day of May, 1912.
[SEAL.]

JOHN RANDOLPH, Assistant Clerk Court of Claims.

Mr. CURTIS. I offer an amendment to be inserted on page 233, under the heading "Kansas." The SECRETARY. On page 233, after line 17, it is proposed to

KANSAS.

To regents of the University of Kansas, \$20,000.

Mr. CURTIS. I have sent for the findings of fact in that case, and I hope the chairman will permit the amendment to go in.

Mr. CRAWFORD. If the committee should accept these amendments which have not been before the committee, on all divers and sundry claims, we never would get through. My recollection is, although I am not sure about it, that this claim has been before the committee, and the action of the committee was adverse. What is the title?

Mr. CURTIS. It is for the relief of the State University of Kansas on account of the destruction of the Free State Hotel

in the city of Lawrence.

Mr. CRAWFORD. Yes.

Mr. CURTIS. It was reported by the committee four years ago, and the chairman is right; it has been before this com-

mittee, but I think no action was taken.

Mr. CRAWFORD. No; the action of this committee was against putting it in the bill.

Mr. SMOOT. It was an adverse report.

Mr. CRAWFORD. It was an adverse report.

Mr. CURTIS. I desire leave to print the findings in the

Mr. CURTIS. I desire leave to print the findings in the RECORD. I have sent for them; and if there is no objection, I should like to have them printed.

The PRESIDING OFFICER. Does the Senator from Kansas withdraw the amendment for the present?

Mr. CURTIS. No, sir; I do not. I ask for a vote on it.

Mr. CRAWFORD. If I can find it, I think there is a report against the proposed amendment. Unless the Senator from Kansas desires to delete it.—I know it has been considered by Kansas desires to debate it-I know it has been considered by the committee and the decision of the committee was adverse I will ask the Senate to sustain the committee in rejecting it.

If the Senator desires to debate it, I will get the records and discuss it

Mr. CURTIS. I do not think it is necessary to debate it. want to print the findings in the RECORD. I am perfectly willing to submit the question on a viva voce vote. Whatever the Senate wants to do about it it may do. We discussed the bill five years ago very thoroughly, and of course if the committee

has acted unfavorably on the measure—
Mr. CRAWFORD. It has,
Mr. CURTIS. It is likely that the Senate would sustain the committee. I do not think they are right in it. I think they ought to pay this claim.

Mr. CRAWFORD. I call for a vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to
the amendment proposed by the Senator from Kansas.

The amendment was rejected.

Mr. CURTIS. Let the findings of fact be printed in the

The findings of fact are as follows:

FINDINGS OF FACT.

I. The claimant, the regents of the University of Kansas, is a corporation created under the laws of the State of Kansas, and was such corporation on the 17th day of February, 1897, and is a State institution for the higher education of young men and women of the State of Kansas who are sufficiently prepared for university work. It has no commercial features and is supported in the main by appropriation made by the Legislature of Kansas. It has also a small income from an endowment fund, receives the proceeds of sale of certain public lands, and has some income from small fees paid by the students of the university.

commercial reatures and is supported in the main by appropriation made by the Legislature of Kansas. It has also a small income from an endowment fund, receives the proceeds of sale of certain public lands, and has some income from small fees paid by the students of the university.

II. On the 21st day of May, 1856, the New England Emigrant Ald Co. was a corporation duly organized and existing by virtue of an act of the Legislature of the State of Massachusetts and was the owner in fee simple of lots 21 and 23 on Massachusetts Street, city of Lawrence, Territory of Kansas, on which it had theretofore receted and then owned a certain hotel structure with necessary outbuildings, known as the Free State Hotel, or Eldridge House, which building, exclusive of its furniture and exclusive of the land upon which it stood, was reasonably worth the sum of \$20,000.

III. On the 5th day of May, 1856, Judge Lecompte convened the United States district court at the town of Lecompton, State of Kansas, and delivered a charge to the grand jury of that court, a portion of which was as follows:

"This Territory was organized by an act of Congress, and so far its authority is from the United States. It has a legislature elected in pursuance of that organic act. This legislature, being an instrument of Congress, by which it governs the capital territory, has passed laws. These laws, therefore, are of the United States authority and making, and all that resist these laws resist the power and authority of thines of the states, and are therefore guilty of high treason. Now, gentlemen, if you find that any persons have resisted these laws, then you must, under your oaths, find bills against such persons for high treason."

After having been charged by the judge as aforesaid, the grand jury made the following presentment on the said 5th day of May, 1856:

"The grand jury, sitting for the adjourned term of the first district court in and for the county of Douglas, in the Territory of Kansas, beg leave to report to the honorable court tha

"OMER C. STEWART, Foreman."

A search of the records of the said district court, as they have been preserved, was made by one of the witnesses during the year 1906, but said search failed to disclose that any warrant or process of any kind was issued against the said Free State Hotel by reason of said presentment or indictment so found by the grand jury.

IV. On the 11th day of May, 1856, United States Marshal J. B. Donelson issued the following proclamation:

PROCLAMATION.

PROCLAMATION.

To the people of Kansas Territory:
Whereas certain judicial writs of arrest have been directed to me by first district court of United States, etc., to be executed within the county of Douglas; and
Whereas an attempt to execute them by the United States deputy marshal was violently resisted by a large number of citizens of Lawrence; and as there is every reason to believe that any attempt to execute these writs will be resisted by a large body of armed men:

execute these writs will be resisted by a large body of armed men:

Now, therefore, the law-abiding citizens of the Territory are commanded to be and appear at Lecompton as soon as practicable and in numbers sufficient for the proper execution of the law.

Given under my hand this 11th day of May, 1856.

J. B. Donelson,

United States Marshal for Kansas Territory.

On said 11th day of May, 1856, a committee of the citizens of the town of Lawrence, Kans., presented the following letter to the governor of the Territory of Kansas:

Lawrence City, May, 11, 1856. LAWRENCE CITY, May 11, 1856.

DEAR SIR: The undersigned are charged with the duty of commu-nicating to your excellency the following preamble and resolutions

adopted at a public meeting of the citizens of this place at 7 o'clock last evening, viz:

Whereas we have the most reliable information from various parts of the Territory and the adjoining State of Missouri of the organization of guerrilla bands, who threaten the destruction of our town and its citizens: Therefore

Resolved, That Messrs. Topliff, Hutchinson, and Roberts constitute a committee to inform His Excellency Gov. Shannon of these facts and to call upon him in the name of the people of Lawrence for protection against such bands by the United States troops at his disposal.

All of which is respectfully submitted.

Very truly, etc.,

C. W. Topliff.

W. Y. Roberts.

C. W. TOPLIFF. W. Y. ROBERTS. JOHN HUTCHINS.

Gov. Shannon replied to said letter on May 12, 1856, as follows:

Gov. Shannon replied to said letter on May 12, 1856, as follows:

EXECUTIVE OFFICE,

Lecompton, Kans. T., May 12, 1856.

GENTLEMEN: Your note of the 11th instant is received, and in reply I have to state that there is no force around or approaching Lawrence, except the legally constituted posse of the United States marshal and sheriff of Douglas County, each of whom, I am informed, have a number of writs in their hands for execution against persons now in Lawrence. I shall in no way interfere with either of these officers in the discharge of their official duties.

If the citizens of Lawrence submit themselves to the Territorial laws and aid and assist the marshal and sheriff in the execution of process in their hands, as all good citizens are bound to do when called on, they or all such will entitle themselves to the protection of the laws. But as long as they keep up a military or armed organization to resist the Territorial laws and the officers charged with their execution I shall not interpose to save them from the legitimate consequence of their illegal acts.

I have the honor to be, yours, with great respect,

WILSON SHANNON.

On May 14, 1856, the following letter was presented by the said com-

On May 14, 1856, the following letter was presented by the said committee to said United States marshal:

LAWRENCE, Man 14, 1856.

LAWRENCE, May 14, 1856.

Dear Sir: We have seen a proclamation issued by yourself, dated 11th day of May, and also have reliable information this morning that large bodies of armed men, in pursuance of your proclamation, have assembled in the vicinity of Lawrence.

That there may be no misunderstanding, we beg leave to ask respectfully that we may be reliably informed what are the demands against us. We desire to state most truthfully and earnestly that no opposition whatever will now or at any future time be offered to the execution of any legal process by yourself or any person acting for you. We also pledge ourselves to assist you, if called upon, in the execution of any legal process.

We declare ourselves to be order-loving and law-abiding citizens, and only await an opportunity to testify our fidelity to the laws of the country, the Constitution, and the Union.

We are informed also that those men collecting about Lawrence openly declare that their intention is to destroy the town and drive off the citizens. Of course we do not believe that you give any countenance to such threats; but in view of the exciting state of the public mind we ask protection of the constituted authorities of the Government, declaring ourselves in readiness to cooperate with them for the maintenance of the peace, order, and quiet of the community in which we live.

Very respectfully.

Robert Morrow. we live.

Very respectfully,

ROBERT MORROW, LYMAN ALLEN, JOHN HUTCHINSON,

J. B. Donelson.

United States Marshal for Kansas Territory.

To said letter last above, dated May 14, 1856, said United States marshal replied by letter, in which, after making certain charges against the citizens of Lawrence, he used the following language:

"But I must take the liberty of executing all processes in my hands as the United States marshal in my own time and manner, and shall only use such power as is authorized by law."

On the 17th day of May, 1856, the following letter was sent by a committee of the citizens of Lawrence to the United States marshal:

I R DONELSON.

J. B. Donelson, United States Marshal, Kansas Territory.

United States Marshal, Kansas Territory.

Dear Sir: We desire to call your attention, as citizens of Kansas, that a large force of armed men have collected in the vicinity of Lawrence and are engaged in committing depredations upon our citizens, stopping wagons, arresting, threatening, and robbing unoffending travelers upon the highway, breaking open boxes of merchandise and appropriating their contents, have slaughtered cattle, and terrified many of the women and children.

We have also learned from Gov. Shannon that there are no armed forces in the vicinity of this place but the regularly constituted militia of the Territory. This is to ask you if you recognize them as your posse and feel responsible for their acts. If you do not, we hope and trust you will prevent a repetition of such acts and give peace to the settlers.

On behalf of the citizens.

C. W. BABCOCK. LYMAN ALLEN. J. A. PERRY.

To this letter there was no reply by the marshal.

On said 17th day of May, 1856, a letter as follows was presented to by. Shannon by the proprietors of the aforesaid Free State Hotel:

LAWRENCE, KANS. T., May 17, 1856.

Gentlemen: Having learned that your reason for assembling so large a force in the vicinity of our town to act as posse in the enforcement of the laws rests on the supposition that we are armed against the laws and the officers in the exercise of their duties, we would say that we hold our arms only for our own individual defense against violence and not against the laws or the officers in the execution of the same. Therefore, having no further use for them than our protection is otherwise secured, we propose to deliver our arms to Col. Sumner so soon as he shall quarter in our town a body of troops sufficient for our protection, to be retained by him so long as such force shall remain among us.

Very truly, etc.,

Many Citizens.

Very truly, etc.,

His Excellency Wilson Shannon, Governor, and
J. B. Donelson, Esq., United States Marshal for Kansas Territory.

V. That on the 21st day of May, 1856, said United States marshal,
J. B. Donelson, having in his hands a writ for the arrest of certain

persons then residing in said city of Lawrence, organized a posse of several hundred armed men under the pretense of needing the same for making said arrests, and proceeded to said city of Lawrence and camped with said posse near said city; and on the forenoon of said day, leaving said writ. That on the afternoon of said day, while the marshal was present, a man went through said posse and dismissed it with the statement that the marshal had no further use for its services, thanking the men and telling them to make out the number of days they had served and that they would be paid. This same man immediately summoned the same men as the posse of Sheriff Jones, the sheriff of Douglas County. That on the afternoon of said day said posse, under the command of the said sheriff, proceeded in a body into said city and destroyed the Free State Hotel by fire, said marshal appearing to give countenance to the same by his presence at the time, and said sheriff announcing immediately prior to the burning of the hotel, while the United States marshal was present, that he was a deputy United States marshal and that he was acting under an order of the United States marshal and that he was acting under an order of the United States marshal and that he was acting under an order of the United States for does not appear that the said sheriff had any official connection with the United States.

VI. On the 22d day of May, 1856, the said posse was again enrolled as a son appear that the said sheriff had any official connection with the United States.

VI. On the 22d day of May, 1856, a committee of said town of Lawrence, Territory of Kansas, set forth all of the foregoing facts concerning the conduct of said governor, marshal, deputy marshal, and posse in a memorial addressed to His Excellency Franklin Pilerce, President.

VII. During the said period of time from May 5, 1856, to and including May 21, 1856, there was no armed force in said town of Lawrence making resistance to the laws of the United States, and there was no concerted

Filed January 28, 1907. A true copy.
Test this 31st day of January, 1907.
[SEAL.] JOHN RANDOLPH, Assistant Clerk Court of Claims.

Mr. OVERMAN. I offer an amendment on behalf of the Senator from West Virginia [Mr. WATSON]. I will say that this is a case which does not fall within the rule adopted by the committee. I do not suppose the Senate, in view of the course adopted, will agree to the amendment. I hope at another time we will get this and similar amendments adopted, because they have merit in them. But just at this time the committee have ruled out all cases of this kind. I want to be frank with the Senate and say that. But on behalf of the Senator from West Virginia, who is not here, I offer the amendment.

The Secretary. The Senator from North Carolina [Mr. Over-MAN], on behalf of the Senator from West Virginia [Mr. WATson], offers an amendment, on page 216, after line 18, to insert:

To the trustees of the Methodist Episcopal Church South, Ravenswood, W. Va., \$300.

To the county court of Randolph County, \$2,000.

Mr. CRAWFORD. Mr. President, to accept those two amendments would simply mean that we would change the entire character of the report and admit a whole class of claims that the committee declined to insert in the bill, and the Senate has already sustained the committee in that respect. On that account the committee can not accept these amendments, and I shall feel obliged to oppose them.

Mr. BANKHEAD. I should like to ask the chairman of the committee if he is willing to state to the Senate why, on what ground, for what reason, the committee rejected all these claims—these church claims—the justice of which everybody concedes. They ought to be paid. I should like to have the chairman state

Mr. CRAWFORD. Mr. President, if the Senator from Alabama will do the committee the honor to read their report, in which they have very fully reviewed these claims, he will find exactly what is the position of the committee.

Mr. BANKHEAD. Mr. President— Mr. CRAWFORD. I will simply say this, if the Senator will permit me to conclude my statementMr. BANKHEAD. Certainly; I will be glad to have the

Senator do that.

Mr. CRAWFORD. The Committee on Claims decided that they would follow the rule which has been followed since the first report was made, by Senator Hoar, in regard to educa-tional institutions destroyed during the war, and allow the claims, according to the findings, for all educational institutions, eleemosynary institutions, and churches that were destroyed by the armies of the United States or the military authorities during the war, where the destruction was not the result of war necessity, in battle; and all claims of that character are reported favorably in this bill.

Mr. President, there are a great many claims in the bill as it passed the House that are not for churches destroyedclaims which are not within the rule laid down by Senator Hoar in the case concerning the William and Mary College-but are cold-blooded claims for rent. There is nothing in the rule pertaining to the conduct of war in this country or in any other country, under the rule laid down by Senator Hoar, or in the rules that have been declared since his great report in regard to the college of William and Mary was made, that furnishes any basis whatever for distinguishing a mere commercial claim for the rent of a church from a claim for the rent of a warehouse or the rent of a store.

Now, here is a large class of claims for the rent of churches, and, Mr. President, in the large majority of these cases the findings do not show even when the churches were occupied. The findings do not show whether a church was occupied 24 hours or 4 years. The findings do not show that it was damaged one dollar in the occupation. The findings do not show what kind of church building it was, whether it was 75 years old or 1 year old, whether it cost \$20,000 or \$500. The findings are absolutely silent with reference to any of these details or any information of that kind and character.

And, Mr. President, that is not all. Oftentimes the men who claim to represent church organizations and are asking for appropriations here are representing church organizations that have been out of existence for years. Some man has himself appointed a trustee 45 or 50 years after the war, and presents an old claim for the rent of a church, and does not even state the year in which it was occupied, does not even state the length of time it was occupied, does not even undertake to specify what kind of building it was; but, claiming to be an elder or trustee of a defunct organization, he brings in a coldblooded commercial claim here for dollars and cents.

Now, that opens a big question here. The House passed such claims, and we have rejected them. They will have to be considered in conference. The conference committee will have to thrash out these differences and decide which of them they

will allow and which they will not allow.

I will say this to the Senator from Alabama: There are some of those claims that personally I would not be adverse to allowing, not because they relate to churches, but because the parties have given us evidence which we ought to have and which we ought to require from them just as we require it from the owner of a store or a warehouse. They have described the building. They have said it was a substantial church building, erected just before the war, 40 feet long, so many feet wide, with a gallery inside, and have described how it was furnished. They have shown that it was occupied, it may be, by the troops of Gen. Sherman as a hospital from the 1st of January of such a year down to the 1st of January of such a year; that the building was worth so much money, that its use and occupation was reasonably worth so much. There we have some facts.

But to throw a lump collection upon Congress, saying that during the war the military forces of the United States occupied a church building at Culpeper or Washington Court House, or in some county somewhere, without saying what kind of a building it was, and not even showing that the organization is now in existence, and appropriate for such claims, is a reckless way to dispose of money out of the United States Treasury.

That is the class of cases and claims that are in dispute, and if we open the door to discuss them here-and there are hundreds of them-this bill will never pass the Senate. If the Senator sustains the committee, and lets the conference between the two Houses take up these cases and thrash them out, sifting each case, and the conferees can come to a conclusion that in this case the Senate amendment ought not to be sustained and in that case it ought to be sustained, we can bring some conclusion back to the Senate and perhaps pass this bill. So I ask the Senator to assist others in sustaining the policy that

is followed by this committee.

Mr. BANKHEAD. Mr. President—
The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Alabama?

Mr. CRAWFORD. I do. Mr. BANKHEAD. The Senator, the chairman of the committee, has been discussing a question that is not in this proposed amendment at all. It is simply a proposition to pay the Presbyterian Church of Huntsville, not for use and occupation of the church during the war, or anything like that, but for destruction of the church. This church had just been completed, at the beginning of the war, at a cost of \$30,000. The Army came into Huntsville and did not occurr this church but delib. came into Huntsville and did not occupy this church, but delib-erately tore it down and used the brick and material in building chimneys, bake ovens, and other necessary matters around the camp. That is this case.

Mr. CRAWFORD. Will the Senator call my attention to the

particular case that he is now mentioning?

Mr. BANKHEAD. It is the Presbyterian Church at Huntsville. I have sent for the papers and the findings of the court. Mr. CRAWFORD. Was it in the bill as it passed the House? Mr. BANKHEAD. No. I want to put it in the bill in the Senate.

Mr. CRAWFORD. That is a different thing. Was it ever submitted to the committee?

Mr. BANKHEAD. No. Mr. CRAWFORD. That is an altogether different thing. If a church at Huntsville, Ala., was destroyed for the purpose of using the material to build a bridge

Mr. BANKHEAD. It was not to build a bridge.
Mr. CRAWFORD. Or for the construction of winter quarters or for any purpose of that kind, we have allowed claims of that character; but I do not think we should be asked here, after the bill is made up and our report has been presented, to consider such claims which were not submitted to us and which are presented after the bill was made up. There is another time for claims of that character, without bringing such claims in at this time when there is no opportunity on the part of the committee to examine them.

Mr. BANKHEAD. I recognize the force of the suggestion of the chairman of the committee. This claim is 4 or 6 years old-I am not quite sure which-and doubtless it would have been presented to the House but for the fact that the Member representing that district was in very poor health and was unable to attend the sessions of the House when the bill was made up. It never came to my knowledge until within the last few days. I know I ought not to insist on making an exception in this case, but it is a meritorious one if there are merits in any of these

Mr. CRAWFORD. I would not pass judgment upon a report of that kind, but I will simply say to the Senator that we must have a point at which to stop in deciding on the items which shall go in one of these bills. At a later date important matters can be taken up which we have had no opportunity whatever to examine.

Mr. BANKHEAD. I thought from the nature of the Senator's argument the committee, especially the chairman of the committee, had made up their minds that none of these church claims were of much merit and perhaps it was the policy of the committee to reject them at all times. I thought if that was the case we had as well settle it in the Senate now as at any other time. But it appears that I misconstrued the attitude of the chairman of the committee, and in view of the suggestion he has made and in view of the further fact that there will he has made and in view of the further fact that there will be another Congress in session after this one, I will not ask

the Senate to vote on the amendment.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from North Carolina [Mr. Over-

MANT.

Mr. BURTON. Mr. President—
Mr. CRAWFORD. The amendment offered by the Senator from North Carolina was an item for West Virginia. He was offering it for the Senator from West Virginia.

The PRESIDING OFFICER. It was offered by the Senator

from North Carolina.

Mr. CRAWFORD. The committee can not accept that amend-ment, and it was obliged to oppose it because of the rule we have followed in making up this bill.

The PRESIDING OFFICER. Does the Senator from Ohio

desire to speak to the amendment?

Mr. BURTON. No; I was not aware that any amendment was pending, the Senator from Alabama having, as I under-stood him, withdrawn his amendment.

The PRESIDING OFFICER. The pending amendment had been previously offered by the Senator from North Carolina, and it has not been acted upon. The question is on agreeing to the amendment offered by the Senator from North Carolina. The question is on agreeing The amendment was rejected.

Mr. BURTON. I desire to offer an amendment which I think will not cause any discussion.

Mr. CRAWFORD. What is it? Mr. BURTON. It is a claim for longevity pay. The PRESIDING OFFICER. The amendment will be stated. The SECRETARY. On page 266, after line 6, insert:

To J. Nelson Caldwell, administrator of the estate of James N. Caldwell, deceased, of Cincinnati, \$2,096.82.

Mr. CRAWFORD. The committee can accept that amendment. I have here the finding of the court sustaining it, and it is exactly the same as the other. I will ask that the finding be printed in the RECORD in connection with it.

The PRESIDING OFFICER. The finding will be printed in the RECORD, without objection, and the amendment adopted.

The matter referred to is as follows:

In the Court of Claims. Congressional, No. 15512. J. Nelson Caldwell, administrator de bonis non of the estate of James N. Caldwell, v. The United States.]

STATEMENT OF THE CASE.

well, administrator de bonis non of the estate of James N. Caldwell, v. The United States.]

STATEMENT OF THE CASE.

The claim in the above-entitled cause for arrears of increase of pay due on account of the services of James N. Caldwell in the United States Army was transmitted to the court by the Committee on War Claims of the House of Representatives on the 3d day of Angust, 1911.

The case was brought to a hearing on its merits on the 8th day of May, 1912.

Lyon & Lyon appeared for the claimant and the Attorney General, by George M. Anderson, his assistant, under his direction, appeared for the defense and protection of the United States.

The claimant in his petition makes the following allegations:

That he is a citizen of the United States and a resident of the city of Cheinnati in the county of Hamilton, in the State of Ohio, and is the administrator de bonis non of the estate of James N. Caldwell, who died while serving in the United States Army on the 12th day of March, 1886.

That the aforesaid James N. Caldwell, deceased, entered the military service of the United States as a cadet at the Military Academy on the 1st day of July, 1836; brevetted second lieutenant, Second Infantry, July 1, 1840; second lieutenant, First Infantry, Angust 5, 1840; first lieutenant, March 31, 1847; captain, October 25, 1860; major, Eighteenth Infantry, February 27, 1862; retired December 29, 1863, which grade he held until his death on the aforesaid date, and by reason of such service is entitled to longevity pay, computing the time he served at the Military Academy as a cadet, in accordance with the decision of the Supreme Court of the United States as laid down in the case of The United States v. Watson (130 U. S. Rep., p. 80), which has never been paid to the deceased officer or his heirs.

That application for longevity increase pay was made to the accounting officers of the Treasury Department, but said claim was disallowed on the 11th day of November, 1890, on the 4round "service as a cadet, application was again d

2, 135. 90 Less pay and allowances overpaid______ Less internal-revenue tax_____

Leaving balance due officer 2, 096, 82 That the court, upon the evidence and after considering the briefs and arguments of counsel upon both sides, makes the following

FINDINGS OF FACT.

I. The claimant, James Nelson Caldwell, is a citizen of the United States, residing in Cincinnati, State of Ohio, and is the administrator de Ionis non of the estate of James N. Caldwell, deceased, who during his lifetime was an officer in the United States Army, having entered the United States Military Academy as a cadet July 1, 1836. He was graduated therefrom and appointed brevet second lieutenant, Second Infantry, July 1, 1840; promoted to be second lieutenant, First Infantry, August 5, 1840; first lieutenant, March 31, 1841; captain, October 26, 1850; major, Eighteenth Infantry, February 27, 1862; and was retired December 29, 1863. He died March 12, 1886. He was on active duty from December 29, 1863, to January 18, 1866; from May 25, 1867, to December 31, 1867; and from August 19, 1868, to February 28, 1869.

II. Suid decedent was paid his first longevity ration from July 1, 1845, and one additional ration for each five years subsequent thereto, and the accounting officers of the Treasury refused to count his service at the Military Academy in computing his longevity pay and allowances. III. Under the decision of the Supreme Court in the case of United States e, Watson (130 U. S., 80), there would be due said decedent additional longevity allowances, as reported by the Auditor for the War Department, amounting to \$2,096.82.

By The Court.

BY THE COURT. Filed May 13, 1912.

True copy.
Attest this 14th day of May, 1912.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. SMITH of Arizona. I offer an amendment, which I ask may be read.

The PRESIDING OFFICER. The amendment will be read. The Secretary. On page 8, after line 7, insert:

ARIZONA.

To John T. Brickwood, \$14,950; Edward Gaynor, \$29,000; Theodore Gebler, \$10,600; Lee W. Mix, \$5,100; Arthur L. Peck, \$5,560; Thomas D. Casanega, \$900; Joseph de Lusignan, \$6,125; and Joseph H. Berger, \$4,000, out of any money in the Treasury of the United States not otherwise appropriated, in full compensation for the losses incurred by the destruction in 1899 of their buildings and other property and their removal by the United States authorities from the premises severally owned and occupied by them on what is commonly called the International Strip, in the town of Nogales, Ariz.

Mr. SMITH of Arizona. Mr. President, from the date mentioned in the amendment up until now these men have been struggling to recover the property that they lost by the act of the Government in removing from the international boundary line in the town of Nogales 60 feet of property then owned, controlled, and occupied by the residents of the city whose names appear in the amendment. This property in the town of Nogales had been on what was known or believed to be a Mexican land grant. These owners had purchased from the Mexican authorities and after it was decided that this particular part was not within the grant, the city applied for a town-site patent. Every resident in that city obtained a patent to his land except those on this international boundary on the 60 feet from which their houses were taken and their property utterly destroyed, and the land dedicated to public use. They were the only men in the city who lost by it. In fact, those abutting on them gained by it. The town site went to patent, and these men have been left from that day to this without any relief whatever.

A hearing was had as to the value of this property and it was submitted to the Court of Claims. The Court of Claims, in its findings, said they had no title to the land, which was true enough, and that they had no title whatever to any recovery, but suggested what improvements were on the land and intimated that it would not be altogether wrong to pay for those.

I did not have time to have this placed as a charter amendment in the bill. I made application to go before the committee on my advent to this body in order to present these claims to that committee. This is a question which is going to involve the findings of the court, and at this time, in the present condition of the Senate, I do not wish to delay the proceedings nor to retard the consideration of the pending bill, because it would take me at least an hour to show the Senate that these men are entitled to every cent they claim. I have no doubt that the chairman will inform me whether or not he expects within a reasonable time to bring before the Senate another of these claims bills.

Mr. CRAWFORD. Mr. President, of course I can not answer upon that point, because there will undoubtedly be a new chairman of the Committee on Claims after the 4th of March and the personnel of the committee will change. The Senator from Arizona was very courteous and very considerate about these claims. He came to the chairman of the committee about it last year after he came here. I appreciate his situation in relation to it. The committee has investigated it, however. For instance, in the Brickwood case, here is the finding of the court :

VI. Claimant never had any title to the real estate upon which said buildings and improvements were situated.

And their conclusion is:

Upon the foregoing findings of fact the court concludes that the claim herein is neither a legal nor an equitable one against the United States, and payment rests in the bounty of Congress.

That is practically the situation with reference to the other claims. It would take some time if the Senator from Arizona and myself were to undertake to review each of these cases. I simply desire to say that there was before the committee this report from the Court of Claims, to which the claims had been referred, and the committee investigated the findings in each case, and came to the conclusion that the claims should not go into this bill. Of course I feel obliged to adhere to that conclusion of the committee and to resist the adoption of an amendment which would incorporate the claims in the bill at

Mr. SMITH of Arizona. But, Mr. President, I can not permit the case to leave the present consideration of the Senate without some explanation of the findings of this court. In the Potomac Flats case of this town, reported in One hundred and seventyfinits case of this town, reported in one infinited and seventy-fourth United States, under exactly the same conditions, the Supreme Court of the United States held that while they did not have a legal title to the land they held it under a color of title and made improvements in good faith on it and were entitled to recover the value of their improvements, and they did recover in the Potomac Flats case in this city under exactly similar conditions.

The finding of the Court of Claims that these people had no title is technical and unjust, because the record proof in the case

shows that most of those people for 25 years had been residents in good faith of that property, one of them receiving a rental of from five to seven hundred dollars a month on his property, and they allow him \$2,300 for that. The proof in this record shows that the holdings were worth \$20,000, and it is proved by every neighbor he had and every real estate expert there in that part of the country. Though he did not have a valid title from the United States he had lived on this ground under its grace, with the right to claim title ultimately when it gave patents, as it did to every one of his neighbors except him, and they dedicated this to public use.

The Court of Claims say that these people had no legal or

equitable title to that ground, in the face of the fact that they gave to every other man in the city a direct Government title to his land and withheld it from these claimants. The Court of Claims come in to tell Congress that the claimants here have no legal or equitable title to anything and that it is a matter merely for the grace of Congress to give them some compensa-

tion for this injury done them.

I shall attempt, I think, a shorter cut. At the very first opportunity I shall introduce a bill to relieve these men directly and avoid any questions that can be raised on the Court of Claims finding, for I appreciate the attitude the chairman is in and the difficulties his bill is already giving, not only to himself, but to the Senate and to the House.

So I will for the present withdraw the amendment.

The PRESIDING OFFICER. The amendment offered by the Senator from Arizona is withdrawn.

Mr. MARTINE of New Jersey. Mr. President, yesterday I presented an amendment, which has been printed. It is for longevity pay, and I have here the court findings.

The PRESIDING OFFICER. The Senator from New Jersey offers an amendment, which will be read.

Mr. MARTINE of New Jersey. It is the one I offered yester-

Mr. MARTING of New Selecy. It is the one I offered yesterday and which has been printed.

Mr. CRAWFORD. It is a claim for longevity pay growing out of the service of an Army officer.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. On page 265, after line 9, insert:

To Jane W. Laidley, widow, and Jane A. Oberly, daughter and only child, of Theodore T. S. Laidley, deceased, late of the United States Army, \$2,057.95, to be proportioned as follows:

To Jane W. Laidley, of Elizabeth, N. J., \$685.98.

To Jane A. Oberly, of Elizabeth, N. J., \$1,371.97.

Mr. MARTINE of New Jersey. The court findings I have sent to the desk

Mr. CRAWFORD. Let the Secretary read the conclusion of the findings.

The Secretary read as follows:

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein not having been filed for prosecution before any court within six years from the time it accrued is barred.

The claim is an equitable one against the United States in so far as they received the benefit of the service of said decedent while a cadet at the Military Academy, which service the Supreme Court in the case of United States v. Watson (130 U. S., 80) decided was service in the Army.

BY THE COURT.

Filed June 17, 1912.

A true copy. Test this 18th day of June, A. D. 1912.

ARCHIBALD HOPKINS, Chief Clerk Court of Claims. Mr. CRAWFORD. The committee accepts the amendment. The PRESIDING OFFICER. Without objection, the amend-

ment is agreed to. Mr. SMITH of Maryland. I offer the following amendment, and I also send to the desk the findings of the Court of Claims. The PRESIDING OFFICER. The amendment will be read.

The Secretary. On page 50, after line 9, insert: To the rector of St. Augustine's Roman Catholic Church, of Williamsport, Md., \$425.

Mr. CRAWFORD. This amendment was proposed by the Senator from Maryland, as I recall it, at the last session. claim was considered in the committee, and the findings of the Court of Claims were considered by the committee, and the amendment was not adopted by the committee. It is a case in a class. If it is allowed, a great many others of the same char-

acter and kind ought to be allowed.

It was the decision of the committee that the facts as reported with reference to the use and occupation of the church did not bring it within the rule laid down by the late Senator from Massachusetts in the Williams and Mary College case for the destruction of educational buildings or buildings used for religious purposes, but it is a purely commercial claim for rent. Without a finding as to the period during which it was occupied, showing how long it was occupied, with no specification as to the damages, not discriminating at all, I will say to the

Senator, against his State or his claim, it is a part of a class which the committee decided adversely upon.

Mr. SMITH of Maryland. Do I understand the Senator from South Dakota to say that claims shall be rejected, regardless of the recommendation of the Court of Claims? It will be seen by the finding of the Court of Claims that this amount has been recommended as due. I take it for granted that the court investigated the matter and found that it was due by the Government, for they have so stated.

It certainly seems to me that the Court of Claims is of very little use, when after a proper investigation they recommend a claim as a just claim and one that should be paid by the Government, if their recommendation is to be ignored. It does seem to me that their finding ought to be recognized by the Senate. The claim is recognized by the Court of Claims as a proper one, and recommendation is made for its payment.

Mr. CRAWFORD. I will say to the Senator from Maryland that that is hardly a fair statement as to what the Court of Claims has done. The Court of Claims renders no judgment in these cases. The Court of Claims simply reports the facts which they find, and those facts are sent here for the enlightenment of Congress in determining whether or not it will appro-

priate money.

In many, many of the reports from the Court of Claims they make no recommendation. They find no judgment; they simply report certain facts; and oftentimes they do not report facts which are sufficient to give to Congress the information that is necessary and which ought to be reported before the money is

paid out of the United States Treasury.

For instance, with reference to the rent, I think if the Senator as a successful business man were asked to make a payment in the absence of any lease, in the absence of any specific contract to pay for the use and occupation of some building somewhere in his vast business, which he may have had no personal knowledge of but which is reported to him by one of his employees, before he would consent to pay a specific sum of money for the use and occupation of the building he would at least require the claimant to show him how long he had occupied the building. He would simply require the claimant to show him what sort of a building it was, and if the claim was made that his men were occupying it and had done damage to it he would certainly require some specifications as to what the

I am not discussing this particular case so much as I am cases that come within the class we have acted upon, where, for instance, a claimant puts in a blanket claim for the rent of a church. Claimants do not tell us the year when it was occupied; they just use the general language "during the war"; and they do not tell us what kind of a building it was. I presume you could sell some of these negro churches for \$25, and yet they bring in claims here for use and occupation of their build-Whether they were 100 years old or new and substantial buildings, there is absolutely nothing in the findings to show.

I have absolutely no prejudice about this matter. I was only 2 years old when the war began, and there is none of the old feeling about it, so far as I am concerned; but I do insist that when we are paying money out of the Treasury of the United States on these claims, the claimants or their attorneys ought at least to present us the essential facts that are necessary, and would be required between business men when they are asked to pay an obligation. I think the trouble is due to the incompetency and the recklessness of attorneys, who themselves have practically no faith in these claims, but who are just taking a snapshot at them, thinking "we may get something and we If they were trained lawyers they certainly ought to have known how to draw up findings that would cover the necessary facts in a case upon which they were asking an appropriation of money. Over and over again what purport to be findings coming here from the court do not furnish the facts which should be required as the basis for appropriating money out of the United States Treasury.

Mr. SMITH of Maryland. Mr. President, I would say to the Senator from South Dakota that I have no idea that he has any prejudice whatever in this matter. I am quite sure that he is inclined to do his duty as he sees it; but in regard to his suggestion that in many instances no special church was specified. will say that in this instance the church was specified; the name of it was given and the location was given.

Mr. CRAWFORD. If the Senator will permit me, he is right about that point. I wish to say to him that there are only a few such cases; but there are some claims for church rent where they did describe the building, give its size, and give us some information. I regard those as rather in a class by themselves.

Mr. SMITH of Maryland. I will say to the Senator that this claim is one of that class. This church has been specified— Mr. CRAWFORD. And we treated them all alike, if the

Senator please.

Mr. SMITH of Maryland. And the Court of Claims has decided that this is an equitable claim and that the money is due for rent. Inasmuch as the Government has appointed a Court of Claims to investigate these matters, I assume they have investigated this case; I assume that they found that this church was occupied; I assume that they found that the damage to the church was equal to the amount asked for; and they have made a report here stating that this amount of money is due to this church. It does seem to me that the Court of Claims amounts to nothing if, after they have investigated and reported upon a case, their report should be turned aside.

I would not for a moment question the Senator's feelings in regard to the matter; I am sure he wants to do what is right; I know he does; but it is a matter of judgment as to what is right. I feel that this is a proper claim; I feel that it has been properly adjudicated; that it has been properly examined and reported upon by the Court of Claims; and they say in their report that it is an equitable claim and should be paid.

Mr. CRAWFORD. Mr. President, this is one of the very late findings; I think it was made in January, 1912. There are some claims of a similar character in the bill which have been

rejected and will have to be determined in conference.

I hope the Senator from Maryland will be satisfied to allow this claim to remain out of the bill and have these cases which belong to a similar class determined between the two Houses. If they should then decide to allow them, it would give the Senator from Maryland a precedent for his claim; if they should decide against them, the Senator would then know what to expect with reference to his claim. The findings are very recent— January, 1912, as I recall. That is 50 years after 1862. These findings come here in relation to the rent of a church 50 years after the war began. I think the Senator ought to allow this claim to rest in the class with the others.

Mr. SMITH of Maryland. I have no disposition to do anything that would cause confusion, but at the same time I feel that this is a just claim and that it should be allowed. I have no disposition whatever to interfere with the working of the committee; but this is certainly a claim which should be allowed, and so I feel that it is my duty to press it to the

furthest extent.

Mr. CRAWFORD. Mr. President, I ask that the amendment be rejected.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Maryland.

The amendment was rejected.

Mr. LODGE. Mr. President, I have an amendment here which I desire to offer in regard to a Philippine claim. I send the amendment to the desk. I will say to the Senator from South Dakota that it will take some little time, as I wish to say something about it, and I do not think we have the opportunity to consider the amendment now.

The PRESIDING OFFICER. The amendment will be read.

The Secretary. It is proposed to insert:

D. M. Carman, representing the estate of Luis R. Yangko, for rent and repairs of 10 cascos used by the Quartermaster's Department of the United States Army in Manila Bay, \$2,876.42.

Mr. LODGE. The amendment has not been adopted by the committee, but the committee, I notice, does not say anything

in the report in condemnation of it.

Mr. CRAWFORD. The trouble is that it was not submitted to us until after our main report was made up. I should not want to accept the amendment in behalf of the committee, because the committee never acted upon it. If the Senator from Massachusetts will permit me, the facts reported here are the facts which I reported as a little addendum to the report authorized by the committee, simply for the information of the

Mr. LODGE. Mr. President, there is no time to go on with the consideration of the amendment now, but I know about this claim because it came before the Philippine Committee, of which I was chairman for many years. We investigated it carefully and reported it favorably, I think, at least once. I be-lieve it is a thoroughly good claim and that it ought to be paid. It has been held equitable by the Court of Claims; it has been approved by the Quartermaster General and by the Secretary of War, and I should like the opportunity to lay it before the Senate because I think it will be adopted by the Senate. Committee on Claims has not acted upon it. It has simply come in too late for them to embody it in their report. I ask that the amendment may go over now, as it is within a minute of half past 1 o'clock.

Mr. SANDERS. On behalf of the Senator from Kentucky [Mr. Bradley], I offer the amendment which I send to the desk. The PRESIDING OFFICER. The amendment will be stated. The Secretary. It is proposed to insert, under the heading

"Kentucky," the following:

To the wardens of Christ Protestant Episcopal Church, Bowling Green, \$300.

Mr. CRAWFORD. I will ask that that amendment be printed

and lie on the table.

Mr. LODGE. I did not intend to withdraw my amendment. I thought the bill was going over, and I wanted it to go over with my amendment pending, as it is an amendment which I wish to take a few moments to explain, and we have no time

The PRESIDING OFFICER. It was understood that the amendment offered by the Senator from Massachusetts was to

go over temporarily.

Mr. LODGE. To go over with the bill and be the pending amendment.

The PRESIDING OFFICER. With the bill, exactly.

Mr. CRAWFORD. That is entirely satisfactory. I ask that the amendment submitted by the Senator from Tennessee [Mr. Sanders] on behalf of the Senator from Kentucky [Mr. Brad-LEY | be printed and lie on the table so that I may have an opportunity to examine it.

The PRESIDING OFFICER. It will be so ordered.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. Bacon) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

Mr. GALLINGER. I make the point of no quorum, Mr. President

dent.

The PRESIDENT pro tempore. The Senator from New Hampshire makes the point of no quorum, and the Secretary will call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst Bacon Bailey Borah Brandegee Culberson Curtis Davis Dixon Gallinger Gardner Bristow Gronna Hitchcock Johnson, Me. Johnston, Ala. Brown Bryan Burnham Clapp Clark, Wyo. Clarke, Ark. Kenyon La Follette

Lea Lodge

McLean Martin, Va. Martine, N. J. Massey Myers Oliver Overman Owen Page Perkins Perky Richardson Root Sanders

Smith, Ariz. Smith, Ga. Smith, S. C. Smoot Stephenson Stone

Sutherland

Swanson Thornton Tillman

Townsend Warren Wetmore Works Mr. PAGE. I again announce that owing to continued illness my colleague, the senior Senator from Vermont [Mr. Dilling-HAM], is unable to be present.

Mr. WORKS. The senior Senator from Washington [Mr.

Jones] is necessarily absent on business of the Senate.

Mr. LODGE. I desire to announce that the Senator from New Mexico [Mr. Catron] is absent from the Senate owing to public business, being on the committee investigating the soldiers' home. I make that announcement for the day.

Mr. CULBERSON. In that connection, I will say that the Senator from Oregon [Mr. Chamberlain] is also absent on the

same business of the Senate.

Mr. JOHNSON of Maine. I desire to announce that the junior Senator from New York [Mr. O'GORMAN] is absent on important business of the Senate. I make this announcement for the day

Mr. MARTINE of New Jersey. I desire to announce that my colleague [Mr. Briccs] is absent from the Senate owing to

serious illness.

Crane Crawford

Mr. TOWNSEND. I beg to announce that the senior Senator from Michigan [Mr. SMITH] is absent on business of the

The PRESIDENT pro tempore. On the call of the roll of the Senate 56 Senators have answered to their names. quorum of the Senate is present. The Sergeant at Arms will make proclamation.

The Assistant Sergeant at Arms (Mr. Cornelius) made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last sitting of the Court of Impeachment.

The Journal of yesterday's proceedings of the Senate sitting as a Court of Impeachment was read.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it stands confirmed. The managers on the part of the House will proceed. Do they desire the last witness recalled?

Mr. Manager DAVIS. Call Mr. Conn.

TESTIMONY OF CHARLES F. CONN-CONTINUED.

Charles F. Conn, having been previously sworn, was further

examined, and testified as follows:

Q. (By Mr. Manager DAVIS.) Mr. Conn, when the Senate adjourned last evening we were discussing the draft of the agreement submitted to you by Judge Archbald and produced by Mr. Worthington. You stated that you had made a request of Judge Archbald that you might be permitted to reinspect that paper. When did you make that request?

The WITNESS. Did I make that statement?

Mr. Manager DAVIS. I think I quoted you in substance. Shall I refresh your memory from the RECORD?

Mr. WORTHINGTON. What page? I have the RECORD

here.

Mr. Manager DAVIS. I will read from the Congressional Record of this morning. The question was asked you:

Had you made a request that you might see it?

And you answered:

I had. Q. Of whom had you made that request?—A. I think I asked Judge Archbald if I might see it.

Now, the question is, When did you make that request of Judge Archbald, and where?-A. A short time after I testified in the proceedings here I met Judge Archbald on the street in Scranton, and he stated to me that "You were in error in saying that you had not seen the draft of contract"; and he stated that it was in his possession and that I might see it.

Q. Do you remember approximately the date of that inter-

view?-A. I do not.

Q. Have you stated before the Committee on the Judiciary that no draft of such an agreement had ever been submitted to you?-A. I so stated.

Q. You were in error, were you not, in making that state-

ment?

ent?—A. I was in error. Q. How long after that tender on the part of Judge Archbald was it before the paper was exhibited to you?—A. I saw the paper Tuesday morning of this week.

Q. In the city of Washington ?- A. Yes, sir.

Q. Why did you wait that length of time before asking for the paper or going to see it?-A. I do not know that I can give any reason.

Q. At the time Judge Archbald told you of his possession of the paper, did he tell you when and how it had come into his possession?-A. I think not.

Q. Did you ask him how it came to be in his possession?-A.

I do not think I did. I think I did not.

Q. Was there nothing said which would refresh your recollection as to the manner in which that paper had got out of your custody and again into his?-A. I think not.

Q. You say you think not, Mr. Conn. Can you not be sure

as to whether there was or was not any information of that sort communicated to you?—A. No; I can not be sure.

Q. Have you no recollection whatever touching that matter?—A. My recollection is that nothing was said at that time, but I am not positive.

Q. Have you any better recollection than you had yesterday as to the manner in which that paper, having been submitted to you by Judge Archbald, was by you redelivered to him or some representative of his?—A. Not of my own knowledge.

Q. Has anyone refreshed your recollection about it?-A. Not

since yesterday.

Q. Well, has anyone refreshed your recollection about it at any time?-A. After Judge Archbald made this statement to me that I was in error in my testimony I went to Wells & Torrey's office, attorneys for the railroad company, and asked Mr. Wells about this contract. My recollection is that he stated that the contract had been given to Judge Archbald's attorneys by him or by the firm.

Who were Judge Archbald's attorneys?-A. Mr. Martin

and Mr. Price.

Q. And when had it been given to them by him?-A. That I do not know.

Q. Had it been given to them by him before or after your testimony before the Committee on the Judiciary of the House?— A. I do not know.

Q. Do you know whether it had been given to them by your attorney, Mr. Wells, before or after this inquiry began?-A. I do not.

Q. Do you know when Messrs. Martin and Price first became the attorneys of Judge Archbald?-A. I do not.

Q. They were his attorneys, were they not, and present at the time of the examination had before the Committee on the Judiciary?-A. They were.

Q. And was it not after the beginning of that inquiry that your counsel, Mr. Wells, delivered this paper to them?-A. I do

Q. Does that not refresh your recollection about it? I will withdraw that question and put it in another form. Were Messrs. Martin and Price counsel for Judge Archbald at any time in connection with your purchase of this culm bank and your negotiations with him about it?—A. Not to my knowledge.
Q. In all that transaction Judge Archbald, of course, ap

peared as his own representative?—A. He did.

Q. Was there any matter, so far as you know, in which they were Judge Archbald's attorneys other than this proceeding?— . Not so far as I know.

Q. In this contract itself, Mr. Conn, I observe that your company is described as the Erie & Wyoming Valley Railroad Co. Is that a correct designation?-A. No, sir.

Q. What is the corporate name of your concern?-A. The

Lackawanna & Wyoming Valley Railroad Co.

Q. It does, however, have a physical connection with the tracks of the Erie Railroad Co., does it?-A. Yes, sir.

Q. And a traffic arrangement with that railroad company?A. Yes, sir.

Q. You were to pay for this coal, according to the proposition you made, 27½ cents per ton royalty? That is correct, I believe?—A. Yes, sir.

Q. What was your estimate of the cost of the coal to you after that royalty had been paid and the coal had been won from this bank?-A. About 65 cents.

Q. You were at the time purchasing coal from the Erie Rail-

road Co. and its subsidiaries?-A. Yes, sir.

Q. What were you paying to them per ton at that time?-

A. \$1. Q. Did you have any knowledge of the price which had been fixed by the Eric Railroad Co. upon its holdings in the option given to Archbald and Williams?-A. I had.

Q. Before the negotiations were concluded?—A. Yes, sir.

Q. At the time the negotiations were begun had you that knowledge?—A. Not at the beginning of the negotiations; no, sir.

Q. When did you acquire that knowledge?—A. Soon after I received the first letter introducing Mr. Williams I went to Capt. May's office to get information concerning the culm bank and there learned the price of the Hillside interest.

Q. Did Capt. May at that time tell you anything about Judge Archbald's connection with the transaction?-A. I think not.

Q. Will you fix for us again, if possible, the exact date when your attorneys advised you that they would not recommend the title to this property?—A. I can not state that date positively.

Q. You had a conversation with Judge Archbald on the 29th

day of November, 1911, in which you and he agreed as to price and terms. How long after that date was it, approximately, when your attorneys gave you this advice?—A. Within a week.

Q. How long was it after they gave you this advice before you communicated it to Judge Archbald?—A. I think that was also

within a week.

Q. And after that you heard nothing further from Judge Archbald until you had received the letter from Williams on the 13th of March, 1912, and he came to your office within a few days thereafter. Is that correct?-A. I think I had heard from him during that period, either in conversation, meeting him on the street, or by telephone.

Q. With reference to this transaction?-A. That he was attempting to negotiate for an option from the Everhart heirs.

Q. When did he make the statement to you?-A. I have no way of fixing the time.

Q. How often during that interval did he communicate with

you on the subject?-A. Perhaps two or three times.

Q. When was your attention called to the fact that you had made an error in your testimony before the committee with reference to the existence of this paper?-A. I can not fix the

Q. Was it before or after you left the city of Washington?

A. It was in Scranton, after I had left Washington.
Q. After you had left Washington. Was Judge Archbald present at your examination before the committee in the city of Washington?

Mr. WOR'THINGTON. It is admitted that he was.
Mr. Manager DAVIS. Let me refresh the witness's recollec-

The Witness. At the examination of this contract? Q. (By Mr. Manager DAVIS.) Yes. Was Judge Archbald present at your examination before the Committee on the Judiciary in Washington?-A. He was; yes, sir.

Q. Were Messrs. Martin and Price, his counsel, present at the same time and place?—A. They were.

Mr. Manager DAVIS. You may inquire, gentlemen.

Cross-examination ·

Q. (By Mr. WORTHINGTON.) Mr. Conn, when this former contract, which is Exhibit No. 22, was read yesterday, the interlineations were not read. We all understood they were not to be read. I wish you would now read them and state in what lines they occur and what they are, so that the record will show the contract and the interlineations.

And I would like to suggest, Mr. President, that this contract be reprinted in the record of this trial to-day with the interlineations, showing where they occur. Otherwise there will be no means by which the Members of the Senate can tell about

these interlineations without going to a great deal of trouble.

Mr. Manager CLAYTON. There is no objection to that, Mr.

We want all the facts as they are to appear. The PRESIDENT pro tempore. Without objection, it will

be so ordered. The matter referred to is as follows:

[U. S. S. Exhibit 22.]

[Words in brackets stricken through and words inserted in lieu thereof in italics.]

[Words in brackets stricken through and words inserted in lieu thereof in fiallics.]

This agreement, made this — day of December, A. D. 1911, by and between Edward J. Williams and R. W. Archbald, of Scranton, Pennsylvania, of the one part.

And the [Erie and Wyoming Valley Railroad Company] Lackawanan & Wyoming Valley Power Co., a corporation of the State of Pennsylvania, of the other part, witnesseth:

Whereas the said parties of the first part are the owners of a certain culm dump or bank of waste coal and refuse, produced in the mining operations of the late firm of Robertson and Law, at the so-called Katydid mines and colliery, which dump or bank is located in the vicinity of Moosic, Pennsylvania, and known and called the "Katy-did" culm dump; and whereas the party of the second part is desirous of purchasing the same:

Now, this agreement witnesseth, that for and in consideration of the terms and conditions hereinafter mentioned the parties of the first part do hereby grant, bargain, sell, and convey unto the party of the second part, its successors and assigns, all of the said culm dump, with the right to take, remove, and dispose of the same, subject always as follows; that is to say:

1. It is the purpose of the said party of the second part, and it hereby undertakes and agrees, at some convenient place along the line of [its] the L. & W. V. railroad to erect and construct a so-called washery or building, with suitable screens, rolls, chutes, and other appliances for the handling, screening, sorting, cleaning, and preparing for use the coal and material obtained from the said culm dump, with or without the use of water; land the same to equip with proper scales to the end that an accurate record may be kept of the weight and quantity of the said coal derived from the material taken from the said dump or bank; and a half for according to the gross ton of material removed from the said dump.

2. For each ton of coal of two thousand two hundred and paid for according to the gross ton of material removed f

each of the said first parties, which the said parties of the first part shall severally receipt for by signing and returning proper vouchers therefor.

4. The said party of the second part agrees to pay at the rate per ton aforesaid for at least twenty thousand (20,000) tons per annum, in equal monthly installments, whether that quantity shall have been removed and obtained from said dump or bank and washed and prepared or not, until all the said material, other than rock, composing the said dump shall have been removed and disposed of, or all the coal to be derived therefrom shall have been paid for. When royalties have been paid in advance and, in the opinion of the party of the second part, payment has been made at the rate aforesaid for all of the coal capable of being obtained from said dump, if there is any dispute between the parties hereto with regard to the same, the matter shall be submitted to three arbitrators, one of whom shall be chosen by the parties of the first part, one by the party of the second part, and the two arbitrators so chosen shall agree on the third arbitrator, and the decision of any two of them shall be binding and conclusive. In case of the neglect or refusal of either party to appoint an arbitrator, the appointment may be made at the instance of the other party by the court of common pleas of Lackawanna County.

5. Where, in the screening, sorting, cleaning, and preparing the said material, any coal above the size of pea coal is obtained, the party of the second part, in addition to the royalty of twenty-seven and a half cents (27½e) per ton to be paid to the parties of the first part, shall pay to the Hillside Coal and Iron Company, on account of the owners of lot No. "46," from which the said coal was originally mined, the sum of five cents (5¢) per gross ton, in accordance with the terms on which the

said culm dump is sold to the parties of the first part by the said Hillside Coal and Iron Company.

G. The party of the second part shall pay to the parties of the first
part, on the execution and delivery of this agreement, the sum of
ten thousand dollars (\$10,000) as advance royalties, for which the party
of the second part, without further payment, shall be entitled to such
number of tons of coal, at the rate of twenty-sevon and a half cents
(27 st) a ton, as shall be the equivalent thereof.

7. In case of the failure of the party of the second part for thirty days
after the same are due to make the payments herein provided for, or
to otherwise, for a like period, comply with any of the terms of this
agreement, the parties of the first part may forfeit this agreement on
thirty days' notice, in writing, of their intention so to do.

8. This agreement shall take effect as of December 1, 1911, from
which date the minimum herein provided for shall begin to run.

9. When this agreement shall have been fully complied with by the
party of the second part, the parties of the first part, at its request,
shall execute an acknowledgment releasing and discharging the said
party of the second part from any further obligation thereon.

10. The terms and conditions of this agreement shall be binding upon
and operate in favor of the executors, administrators, and assigns of
the party of the second part, as though in each instance severally and
expressly mentioned.

In witness whereof the parties of the first part have hereunto set
their hands and seals, and the party of the second part has hereunto
affixed its corporate seal, attested by the signature of its president and
secretary, on the day and year first above written.

The Witness. The words "Eric and Wyoming Valley Railroad Company" are crossed out and the words "Lackawanna & Wyoming Valley Power Co." are substituted. That is on the first page, second paragraph.

In section 1 the word "its" is stricken out and "the L. &

W. V." substituted.

In the margin of the second page "scales of R. R. Co. at Scranton" are inserted.

Mr. Manager CLAYTON. After what word is that insertion? Mr. WORTHINGTON. It is not after any word. It is in the margin.

The WITNESS. It is in the margin of the page, intended to take the place of these words:

And the same to equip with proper scales to the end that an accurate record may be kept of the weight and quantity of the said coal derived from the material taken from the said dump or bank.

Mr. Manager CLAYTON. That gives me the information that I desire.

The WITNESS. In section 7 the words "after the same are due" are inserted after these words:

7. In case of the failure of the party of the second part for 30 days.

Q. (By Mr. WORTHINGTON.) Are those all?-A. All except two interrogation marks which are in the margin of the paper.

Q. Are all those interlineations which you have just read in

lead pencil?-A. Yes, sir.

Q. And the body of the paper is in typewriting, I believe? A. Yes, sir.

Q. And are all those interlineations in your handwriting?-A. They are.

Q. And how about the interrogation marks? Are you able

to identify them?-A. I think they are mine.

Q. Since you have seen that paper and recognized your handwriting, do you now recall having had the paper in your possession and suggesting those changes in the contract in that way?-A. I know, of course, that the paper was in my possession, but I have no recollection of it.

Q. You do not recognize making those changes?—A. I do not. Q. Or having the paper at all?—A. No, sir.

Q. About how the paper got out of your possession, if I can refresh your recollection, do you not recall that when you saw Judge Archbald in Scranton immediately after the 13th of March last, when you showed him that letter of March 13—that is, since you refused to go on with the contract or consider it any further-he asked you to return that paper to him and you then did so?-A. I have been told I did so. I have no recollection of it.

Q. You have no recollection of it?-A. I have no recollection

of returning that paper.

Q. As to the paper being sent around Scranton and sent to your office—you said it was sent to your office while you were away, and by your attorneys, I think you said—Messrs. Wells & Torrey?—A. One of the junior partners of Wells & Torrey brought the paper to my office.

Q. Did you not learn at the same time that the object of that was to find out in whose handwriting these pencil memoranda

are?—A. No, sir. Q. You did not know what the purpose was?—A. No, sir.

Q. When you saw that paper last Tuesday, in whose hands was it?—A. Mr. Archbald, jr.

Q. You said Wells & Torrey were the attorneys for the railroad company. What company did you mean?-A. The Lackawanna & Wyoming Valley Railroad Co.
Q. Mr. Martin and Mr. Price, I believe, are members of the

bar of Scranton? That is their residence?-A. They are.

Q. You know them very well, and I presume that they know

Judge Archbald?—A. Yes, sir. Q. When you saw Judge Archbald just after the 13th of March last and showed him the letter of that date from E. J. Williams, did the judge say whether or not that was the first he knew of that letter being sent?-A. Not in those words.

Q. What is your recollection now as to what he did say about it when you exhibited that letter to him?-A. That he had no

knowledge of the letter.

Q. If that letter of yours of September 30, 1911, to Judge Archbald, which is in evidence, was photographed at some time, do you have any knowledge as to how it came to be photographed?-A. None whatever.

Q. Was it out of your possession or custody from the time you received it until it was given to the Judiciary Committee?—

A. Not to my knowledge.

Q. Did Judge Archbald ever ask you to return any of his letters to you relating to this matter?—A. I think not. He did

Q. And, as a matter of fact, you had them in your possession until they were turned over to the Judiciary Committee?-A. Yes, sir.

Q. When Mr. Williams came to your office on or about the 30th of September, 1911, with the letter of that date from Judge Archbald, did you know that he was accompanied by another man, who sat just outside the door where you and Williams were, and was listening to your conversation?-A. I do not think I noticed that there was anyone with him.

Q. Do you know Mr. Pryor, who was examined as a witness

here yesterday?-A. I do.

Q. Do you know whether or not he came with Mr. Williams and sat just outside the door while you were talking with Pryor?-A. I could not say.

Q. And listening to your conversation?—A. I do not know. Q. Had Mr. William P. Boland had any conversation with you about this culm bank before you had any conversation with Judge Archbald about it?-A. He had spoken to me of a culm bank a short time before these negotiations began, but I am

not sure whether he identified this particular property or not. Q. When you say "shortly before these negotiations began" what do you refer to?-A. The receipt of the letter introducing

Mr. Williams.

Q. What was your conversation with Mr. Boland about a culm bank, whether he mentioned the particular bank or not?— A. He asked if we would be interested in the purchase of a culm bank which could be reached from our own tracks, and I answered that we would be.

Q. Did you have any knowledge at the time of this transaction that the letter of Judge Archbald to you was the result of a suggestion that Mr. William P. Boland made to Williams, after his talk with you?—A. None whatever.

Q. You did not know it?—A. No, sir.

Q. If I understand about the price you were paying or were to pay if you had taken this Katydid bank, you were to pay 275 cents per ton of coal?-A. Of coal.

Q. It was not for material in the bank, but only for the coal,

was it?-A. Coal shipped.

Q. Was the price you were to pay the estimate you had made of the quantity of it? Did you make any computation as to how you would come out as compared with how you would stand when buying the same quantity of coal from the Eric Railroad or its subsidiaries?—A. I figured that we would save 30 or 35 cents a ton.

Mr. WORTHINGTON. Mr. Secretary, will you show the witness the letter of March 13, 1912? I have not the number of

the exhibit

Mr. SIMPSON. Exhibit No. 4.

Q. (By Mr. WORTHINGTON [exhibiting paper].) you to designate that the top of the paper on which that letter was written appears to have been cut off. I wish to ask you whether or not that was done while the paper was in your possession?-A. It was not.

Q. It is in the same condition now as when you received it?-

A. Precisely.

Q. Was any suggestion made to you at any time by Judge Archbald that his connection with this matter was to be kept quiet and covered up in any way?—A. No, sir.

Q. Was any such suggestion made to you by anybody?—A.

No, sir.

Q. Was there, in fact, any concealment of his connection with the matter, on your part or on the part of anybody, so far as you

know ?-A. There was not.

Q. As a matter of fact, did you not tell Mr. Rittenhouse when you engaged him to look at the bank and tell you what the quantity of coal was, or estimate it for you, you sent him to Judge Archbald to get information about the title or something else connected with the bank?-A. I do not recall doing

Q. You do not remember that?-A. No, sir.

Q. You were asked yesterday by one of the Senators as to whether Judge Archbald told you he had a personal interest in this matter. You recollect that in his letter of September 30 he said that he and Mr. Williams were the parties interested?-A. Yes, sir.

Q. Did he at any time limit or alter the statement he had made to you in that way in the letter which opened the nego-

tiations?-A. No. sir.

Q. In this connection, do you recollect whether or not in the contract as it was submitted to you and as prepared by him, coming from him, it said:

This agreement made this — day of December, A. D. 1911, by and between Edward J. Williams and R. W. Archbald, of Scranton, Pa., of the one part—

And so on?

Mr. Manager DAVIS. The agreement itself is the best evidence of the contract.

Mr. WORTHINGTON. Perhaps that is true; but I want to have that appear in this connection.

Mr. Manager CLAYTON. Do it when the argument comes to

Mr. WORTHINGTON. That is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager DAVIS.) Mr. Conn, you say you were informed by some person unnamed that you had redelivered this tentative draft to Judge Archbald at the time of his interview with you in March, 1912. By whom were you so informed?—A. I think Mr. Archbald, jr., made that statement when I saw the paper on Tuesday.

Q. On Tuesday last in the city of Washington?—A. Yes, sir. Q. That is, Mr. Archbald, who is one of the counsel at the table?—A. Yes, sir.

table?—A. Yes, sir.
Q. Was that statement confirmed to you by any other per-

Mr. Manager CLAYTON. Mr. President, this witness may be discharged.

Mr. WORTHINGTON. We agree.

The PRESIDENT pro tempore. The witness is discharged.

DEPOSITION OF E. J. WILLIAMS BEFORE WRISLEY BROWN.

Mr. Manager STERLING. Mr. President, we now propose to read such portions of the deposition of E. J. Williams taken at Scranton by Mr. Brown as we think contradict his statement on the examination here. I will ask the Clerk to read the part we have marked.

Mr. WORTHINGTON. Let me say, Mr. President, that we have gone over this with the manager and we agree that the passages which he has marked and which are about to be read come within the ruling which you made yesterday and they may be read for the purpose indicated, not, of course, withdrawing our contention that they are not competent. We also, of course, reserve the right, if after reading the whole deposition, we think that something else which is in it should go in in connection with it, to then offer it ourselves to make it complete.

Mr. Manager STERLING. There is no objection, I think, to

reading from the printed copy.

Mr. WORTHINGTON. Not at all. I should like to have the

original, if it is here, to follow the reading with.

The PRESIDENT pro tempore. The Secretary will proceed

The Secretary. Reading from the printed copy of hearings before the Judiciary Committee of the House of Representatives, page 218:

SCRANTON, PA., March 16-17, 1912.

SCRANTON, PA., March 16-17, 1912.

Mr. Brown. Will you please state to me the circumstances under which a promissory note for \$500, signed by Judge Archbald, was presented to Mr. W. P. Boland for discount while Mr. Boland was involved in litigation then pending before this judge?

Mr. WILLIAMS. We had an option on 1,000,000 acres of land, and I went to see Judge Archbald about it, and talked to him about it, and he says to me, "Could I see the option?" I said, "Yes, sir"; and brought the papers there, and he looked them up. I said to him. "What do you think of them?" "They are all right, first class."

"Would you like to pay some money in this, Judge?" "Yes, sir; I will tell you what I will do, I will give you a note to discount for \$500." I says to him then, "I will take this note to the Bolands." "All right," he says.

Mr. Brown. Did this suggestion to take the note to the Bolands come from Judge Archbald?

Mr. WILLIAMS. No; I suggested that to him.

Mr. Brown. What was his reply?

Mr. WILLIAMS. He said, "Yes; you can take it to them."

Mr. Brown. Up to the time you suggested taking the note to the Bolands for discount Judge Archbald had made no suggestions relative to the party by whom the note should be discounted?

Mr. WILLIAMS. No; he did not.

Mr. Brown. So that the idea of having the Bolands discount the note was your own?

Mr. WILLIAMS. I suggested it, as I told William to-day about that.

Mr. Brown. The judge approved of it?

Mr. WILLIAMS. Yes, sir; he approved of it.

Mr. Brown. To whom was the note made payable?

Mr. WILLIAMS. To John Henry Jones.

Mr. Brown. Was Jones a partner in the Venezuelan transaction?

Mr. Brown. Each of us owned one-third.

Mr. Brown. Each of you invested \$500?

Mr. WILLIAMS. Each of you invested \$500?

Mr. WILLIAMS. He and the judge invested the money,

Mr. Brown. What part has Jones in the deal?

Mr. Brown. He contributed his services?

Mr. Brown. You and Judge Archbald contributed the money?

Mr. WILLIAMS. Yes, sir.

Mr. Brown. Did you know at the time you presented the note to Boland that he was a party defendant in a case pending before Judge Archbald?

Mr. WILLIAMS. Yes, sir.

Mr. Brown. Mr. Williams, will you please state to me, in detail, the

Mr. Brown. Did you know at the time you presented the note to Boland that he was a party defendant in a case pending before Judge Archbald?

Mr. Williams. Yes, sir.

M. Brown. Mr. Williams, will you please state to me, in detail, the circumstances which led up to the Katyrdid culm-bank transaction? I calm bank, but at the time he did not know it was in two parts. He calm bank, but at the time he did not know it was in two parts. He knew that I knew that Robertson owned one part.

Mr. Brown. What do you mean by one part? You mean one-half interest in the whole bank?

Mr. Brown. System of the word one-half interest in the whole bank, I got a verbal option from Robertson, and then we went to the judge, and Robertson asked him, "Who is your partner in this?" I said.

"Mr. Brown. Just a moment. State what occurred when you went-to the judge the first time.

Mr. Brown. Just a moment. State what occurred when you went-to the judge the first time.

Mr. WILLIAMS. I went over to the judge; I said to him: "Now, I can get one-half from Capt. May." He says: "I will give you a good recommendation to get it." I went to see Capt, May, and he did not give it to me on the first time, but the second time he did.

Mr. Brown. Jou said you went to Capt. May with the letter from Judge; I will say the substance of that letter? Mr. WILLIAMS. He recommended me as a man that could handle it all right.

Mr. Brown. At this time had you agreed with the judge that he should have a part interest in this deal?

Mr. Brown. At this time had you agreed with the judge that he should have a part interest in this deal?

Mr. Brown. He didn't tell you to tell Capt. May that he was interested?

Mr. Brown. He didn't tell you to tell Capt. May that he was interested in the transaction?

Mr. Brown. He didn't tell you to tell Capt. May refused to grant the option?

Mr. WILLIAMS. Yes: at first.

Mr. Brown. He didn't tell you to tell Capt. May that he was interested in the transaction?

Mr. Brown. He didn't have a didn't want to sell at any price?

Mr. Brown

final?

Mr. WILLIAMS. Yes; I went to the judge right away.

Mr. Brown. What did the judge say?

Mr. WILLIAMS. The judge says, "I know their lawyer, Mr. Brownell, I will see him about it. You go back to him again and see him about it to-morrow." I went back to him, and in the meantime, as I remember, the judge met him and spoke to him about it.

Mr. Brown. What did the judge say to you? Give me a complete statement of just what occurred when you went back to the judge after having seen May.

Mr. WILLIAMS. I don't remember exactly. The judge got excited, and he says, "Well, I will go and see Brownell; I am well acquainted with him, and I might hurt him for his refusal to give such a small thing."

and he says, "Well, I will go and see Brownell; I am well acquainted with him, and I might hurt him for his refusal to give such a small thing."

Mr. Brown. Is that all he said?

Mr. Williams. That is all. He told me, "I got some cases here now for them that I have just decided."

Mr. Brown. Cases for whom?

Mr. Williams. The Erie Co.

Mr. Brown. What else did he say?

Mr. Williams. I took ahold of the brief and looked at it.

Mr. Brown. Of what brief?

Mr. Williams. Of the lighter brief. Some overcharges that they had made on the lighters. I asked him what is a lighter. "It carries the railroad cars over the river," he says.

Mr. Brown. You say the judge was preparing a brief at the time for the Erie Co.; you saw the brief?

Mr. Williams. The brief was there.

Mr. Brown. In what form; printed or typewritten?

Mr. Williams. Printed.

Mr. Brown. It did not appear that the judge had written the brief?

Mr. Williams. It was there.

Mr. Brown. Did he tell you that he had prepared it?

Mr. Williams. No; he had some cases there then, and he said, "Here is one brief," and I took ahold of it.

Mr. Brown. When he told you that he had some cases there then, what was your understanding of his statement? I want to know whether he was preparing or completing a brief for the Erie, or had he before him a case for adjudication in which the Erie was a party?

Mr. Williams. He was passing on the case and the brief had been prepared and filed by the lawyers for the Erie Co. Is that your understanding?

Mr. Williams. It was a printed matter.

Mr. Brown. He was passing on the case and the brief had been prepared and filed by the lawyers for the Erie Co. Is that your understanding?

Mr. Williams. It was a printed matter.

Mr. Brown. Your understanding was he was passing on a case in which the Erie Co. was a party, and this brief was a brief filed by the attorney for the Erie Railroad in that case?

Mr. Williams. Yes, sir.

Mr. Brown. Did the judge allude to this brief or refer to it in any way?

Mr. Williams. I asked him what did that mean.

Mr. WILLIAMS. I asked him what did that mean.

Mr. Brown. He defined what the term "lighterage" meant?

Mr. WILLIAMS. He said he had passed upon a couple of cases for them before. He said there are more cases.

Mr. Brown. You refer to the lighterage case? What did he say about it? Did he connect the lighterage case with the culm-bank transaction? It is not necessary that you should give me the exact words of the judge, but I want the purport of his remarks to you at that time.

Mr. WILLIAMS. I said that he passed on two cases for them before. He did not tell me how he decided them.

Mr. Brown. What did he say about the lighterage case pending before him then?

He did not tell me how he decided them.

Mr. Brown. What did he say about the lighterage case pending before him thea?

Mr. WILLIAMS. Here is some cases yet. That is all he said.

Mr. Brown. What inference did you draw from this remark?

Mr. WILLIAMS. Well, I have no right to draw any inference; you can draw your own inference.

Mr. Brown. I want to know what is your understanding of his remarks regarding this lighterage case. What did he mean to imply when he said he had a case pending before him, according to your understanding?

Mr. WILLIAMS. Well, I suppose he meant he had a chance to do something for them or against them.

Mr. Brown. Were his remarks susceptible of any other construction?

Mr. WILLIAMS. No, sir.

Mr. Brown. What did he say about Brownell?

Mr. WILLIAMS. He said he was well acquainted with their lawyer. I did not know him. I never heard the name before.

Mr. Brown. Did he say he would see Brownell about the option?

Mr. WILLIAMS. Yes, sir.

Mr. Brown. Try to remember whether he saw him or not?

Mr. WILLIAMS. I don't remember.

Mr. Brown. Try to remember whether he saw Brownell or not.

Mr. Brown. Can you remember whether he saw Brownell or not.

Mr. Brown. Can you remember whether he said he was going to New York to see him?

Mr. WILLIAMS. Yes, sir.

Mr. Brown. What happened the second time you went?

Mr. Brown. Can you remember whether he said he was going to New York to see him?

Mr. WILLIAMS. Yes, sir.

Mr. Brown. What happened the second time you went?

Mr. WILLIAMS. He gave it to me—the option.

Mr. Brown. His attitude seemed to have changed completely? You say only one day intervened between your first and second conference? Had the judge done anything other than speak to May personally?

Mr. WILLIAMS. No, sir; because he didn't have time.

Mr. RROWN. State what happened next.

Mr. WILLIAMS. I got the option. I could not say how many days after that I went to see Capt. May again, but I know the judge had met him and talked with him. I don't remember if he saw Brownell. He told me to go and see May again.

Mr. Brown. You went to see May. Do you remember how many days had elapsed?

Mr. WILLIAMS. I could not say.

Mr. Brown. The next time you went to see Capt. May his attitude was entirely changed?

Mr. WILLIAMS. Yes, sir.

Mr. Brown. What took place at the second conference?

Mr. WILLIAMS. He gave me the option.

Mr. Brown. Did May give you any explanation for changing his decision?

Mr. WILLIAMS. No: not a word.

Mr. WILLIAMS. Yes, sir.

Mr. Brown. Did May give you any explanation for changing his decision?

Mr. WILLIAMS. No; not a word.

Mr. Brown. You did not ask for any explanation?

Mr. WILLIAMS. No, sir; the judge told me before I went that I could get anything from him.

Mr. Brown. How was the purchase price that you paid for the Erie equity in the culm bank fixed?

Mr. WILLIAMS. \$4,500.

Mr. Brown. How did you arrive at that amount? Did you discuss it with May?

Mr. WILLIAMS. Yes, sir.

Mr. Brown. What was the purport of your conversation regarding the price to be paid for this option?

Mr. Williams. I talked to him about the amount and the quantity of coal with their own engineers. I told him that I got the other half for \$3,500. He brought it down. He had it up to \$6,000; then he brought it down to \$4,500.

Mr. Brown. At the time did you think that \$4,500 was a reasonable price for the Eric interest in the culm bank?

Mr. Williams. If the other was reasonable, it must be more than reasonable.

price for the Erie interest in the culm bank?

Mr. WILLIAMS. If the other was reasonable, it must be more than reasonable.

Mr. Brown. Did you think at that time it was a reasonable price to pay for the Erie interest?

Mr. WILLIAMS. I thought I had some advantage.

Mr. Brown. How great an advantage? What did you honestly believe was the value of the Erie interest in the culm bank at that time?

Mr. WILLIAMS. It was worth \$10,000.

Mr. Brown. Yet you have practically completed negotiations for selling the property for between \$30,000 and \$40,000? How do you account for the large discrepancy in your estimate?

Mr. WILLIAMS. I suppose it was through his influence that done a good deal of it.

Intermission.

Mr. Brown. Mr. Williams, I would like to resume your examination relative to the fixing of the purchase price to be paid to the Erie for their equity in the culm bank. You stated that you saw Capt. May, the first time he refused absolutely to negotiate with you relative to this deal; you went back to Judge Archbald and told him what happened, and the judge, as I understand it, indicated displeasure at the actions of May, and intimated to you that he would go over May's head and force him to talk business with you, and at that time he was passing on a case involving lighterage charges.

Mr. WILLIAMS. Something about lighterage, I don't remember what it was.

Mr. Brown. In which the Erie was a party in interest?

Mr. WILLIAMS. I did not understand what lighterage was.

it was.

Mr. Brown. In which the Erie was a party in interest?

Mr. WILLIAMS. I did not understand what lighterage was.

Mr. Brown. You do remember the Erie was a party in this case pending before him at that time?

Mr. WILLIAMS. Yes; I seen it, I had the paper book in my hand.

Mr. Brown. Judge Archbald, according to your theory, saw or communicated with somebody higher up than May in this corporation, and then he told you to go and see May again, and the second time May's attitude had entirely changed, and he was willing to talk business with you.

Will you give me, to the best of your recollection, just the substance of the conversation with May, on the second visit, with especial reference to the method whereby the price to be paid for the culm bank was arrived at.

ence to the method whereby the price to be paid for the culm dain was arrived at.

Mr. Williams. He figured it up at 12 cents a ton, then he figured it at 6 cents. I told him, why should you ask any more than Robertsen; he only asked \$3,500. I think your price is high.

Mr. Brown. What did he say

Mr. Williams. Well, he figured it down to \$4,500.

Mr. Brown. At what rate per ton?

Mr. Brown. At what rate per ton?

Mr. Brown. Isn't that a very low price for culm, in place?

Mr. Williams. Yes; we could get from the Laurel line 27½ cents.

Mr. Brown. Has the price materially increased since you put through the deal with May?

Mr. Williams. It has increased some.

Mr. Brown. To what extent?

Mr. Williams. I could not tell you.

Mr. Brown. Well, give me an estimate Has it increased, say, 25 per cent in value or 50 per cent, or is the increase comparatively small?

Mr. Williams. It has increased, maybe, from 5 cents to 6 cents a ton.

Mr. Brown. So that you estimate that at the time you purchased the

Mr. Williams. It has increased, maybe, from 5 cents to 6 cents a ton.

Mr. Brown. So that you estimate that at the time you purchased the Erie interest in this culm bank the culm was probably worth about 20 cents a ton?

Mr. Brown. I want to get your estimate of the value, per ton, of that culm at the time you got this option from May, as contradistinguished from the present value of the culm.

Mr. Williams. He estimated we could get nearly \$40,000 to lease it by the ton.

Mr. Brown. You understand, Mr. Williams, I am trying to get at the reasonable value of that culm per ton in place at the time that you put through this eption with May?

Mr. Williams. Well, I have leased 1,000,000 tons at 10 cents per ton.

Mr. Brown. You mean you have purchased culm at that rate?

Mr. Williams. I leased it. I leased all he owned from Forest City to Moosic.

to Moosic.

Mr. Williams. I leased it. I reased air ne owned from Forest City to Moosfe.

Mr. Brown. It is not material what you leased culm for. I want to know what it was worth in the market, according to your best judgment, at the time the option was granted. A moment age you stated that the value of culm has increased from 5 cents to 6 cents a ton since this transaction occurred. The Laurel line was willing to pay 27½ cents per ton for this culm. Now, the logical inference is, according to your best judgment, at the time you secured this option this culm was worth about 20 cents per ton.

Mr. Williams. I suppose.

Mr. Brown. I want a little more definite answer than that. What is your best judgment?

Mr. Williams. Conn told me he was paying 70 cents per ton for culm at that time. Yes; he told me that.

Mr. Brown. That evidently was higher than the prevailing market price?

Mr. Williams. Yes, sir. He was paying the Eric 70 cents.

Mr. Brown. For the same quality of coal?

Mr. Williams. It was fresh culm from the breaker.

Mr. Brown. What difference in the value of culm would that make?

Mr. Williams. I don't know. There might be more carbon in it.

Mr. Brown, You have had a great deal of experience in coal trans-

Mr. Brown, for have had a great deal of experience in coal transactions?

Mr. Williams. Yes, sir.

Mr. Brown. Do you think it is probable that Mr. May could have, in a deal involving as much money, made an honest mistake in the appraisal of the value of this bank that he was about to sell for the corporation he represented?

Mr. Williams. I don't know. I believe he said the estimate was of their engineers. Robertson said that the estimate of their engineers was 140,000 tons.

Mr. Brown. Whose engineers?
Mr. WILLIAMS. The Erie's engineers.
Mr. Brown. Then you think Capt. May knew at the time that this culm was worth more than he was charging you for it? He knew that the Erie interest in the bank was worth a good deal more to the Hillside Coal & Iron Co. than he was charging for the option?
Mr. WILLIAMS. I couldn't say. I don't think he was ignorant; he handled so much of it.
Mr. Brown. He was an old, experienced coal man, and was a good judge of coal values?
Mr. WILLIAMS. Yes, sir.
Mr. Brown. Who told you that the Erie engineers had estimated there was 140,000 tons in the bank?
Mr. WILLIAMS. Mr. Robertson.
Mr. Brown. Where did he get it?
Mr. WILLIAMS. From their engineers.
Mr. Brown. Who were their engineers.
Mr. Brown. Who were their engineers?
Mr. WILLIAMS. I don't know. May told me that day that they estimated it, but I think he told me at first that it was 140,000.
Mr. Brown. What made him change the amount?
Mr. WILLIAMS. I don't know; I think he told me the same as Robertson told me.
Mr. Brown. Told you when?

Mr. Williams. I don't know; I think he told me the same as konertson told me.

Mr. Brown. Told you when?

Mr. Williams. In the office.

Mr. Brown. At what time?

Mr. Williams. When I was there the second time.

Mr. Brown. That at the time he granted the option there was 140,000 tons? I understood you to say a moment ago that he admitted the amount of coal to be only about—

Mr. Williams. There is a difference in the amount of coal and culm, altogether.

Mr. Brown. I mean the amount of culm, we are referring to culm. His estimate was based on the amount of coal, and the estimate of the engineers was based on the amount of culm?

Mr. WILLIAMS. Yes, sir.

Mr. Brown. What is the usual basis of valuation on a culm bank, the amount of coal or culm?

Mr. WILLIAMS. The amount of coal.

the amount of coal or culm?

Mr. WILLIAMS. The amount of coal.

Mr. BROWN. Then what was the purpose of the estimate of the engineers that there was 140,000 tons of culm?

Mr. WILLIAMS. We know pretty near how much the percentage of coal is. We knew by the estimate of culm the percentage of coal, after we get the estimate of culm.

Mr. BROWN. Let us get a common basis of computation. You say May's estimate was based on the amount of coal, the engineers' estimate was based on the amount of culm. How does the engineers' estimate of the amount of culm tally with May's estimate of the amount of coal?

Mr. WILLIAMS. The estimate of coal would not run less than 75 per

Mr. Brown. Seventy-five per cent of the 140,000 tons of coal? You think that is a fair estimate?

Mr. WILLIAMS. Yes, sir.

Mr. Brown. May must have known that at the time the option was made?

made?

Mr. Williams. He ought to know; he had so many washeries themselves that would give more percentage than that.

Mr. Brown. What I want to get at is just this, whether or not there was a reasonable possibility of May having made an honest mistake in calculating the amount of coal or culm in this bank at the time he granted the option to you?

Mr. Williams. I can not see how he could make a mistake—a man of his experience. With his experience and the report of the engineers of his company to inform him, I can't see how he could make a mistake.

Mr. Brown. Your theory is that he deliberately miscalculated the amount of coal or culm in the bank?

Mr. Williams. It looks that way to me.

Mr. Brown. Has any other action been taken with respect to this Hillside property? You are waiting the consummation of the deal with respect to the Katydid bank before taking this other property under consideration; so that in view of these conditions you believe that the price that you have put on this culm, of 27½ cents per ton, in the prospective contract with Conn, is less than you ought to be able to get for the property.

Mr. WILLIAMS. I think we ought to get 40 cents.

Mr. Brown. You think 40 cents is a conservative estimate of its value to the Laurel line?

Mr. WILLIAMS. Yes, sir.

Mr. Brown. In other words, you think that the Eric Railroad Co., or rather the Hillside C. & I Co., could have sold their interests in this bank direct to the Laurel line, if they had wished to do so, at a rate of at least 27½ cents.

Mr. WILLIAMS. Yes, sir.

Mr. Brown. I am speaking of their equity in the property. They could have disposed of that to the Laurel line on that basis of valuation?

Mr. WILLIAMS. Yes; very likely.

Mr. BOLAND. The Eric controlled the bank on account of owning the land and the tracks, and Mr. Robertson had no right in the culm at all. He had a switch and scales, for his good will, and what he had was the personal property and improvements, so that he was claiming \$3.500.

Mr. WILLIAMS. At first Capt. May doubted his equity in the bank to me, but I would not make any dispute about it. After that the judge said he did not think Robertson had any equity; then May came to the conclusion that he did, and so did the judge.

Mr. Brown. At the time you got your option from the Hillside C. & I. Co., Mr. May did not believe there was any interest vested in Robertson?

Mr. Williams. No, sir. He did not know whether he had an interest or not, but after he came to the conclusion that he had.

Mr. Brown. Just explain your idea of Robertson's interest, just what its limitations were, its nature and extent.

Mr. Williams. One-half interest.

Mr. Brown. As I understand it, it had certain qualifications to it?

Mr. Williams. Robertson owned one-half of the culm, outside of chestnut. They did not own any chestnut in one-half of it.

The most of the coal he mined came from other property. Even the Erie had not control of that property.

TESTIMONY OF RICHARD BRADLEY.

The PRESIDENT pro tempore. The managers will proceed with their next witness.

Mr. Manager CLAYTON. I would call Mr. Richard Bradley as the next witness.

Richard Bradley entered the Chamber.

The PRESIDENT pro tempore. Give your name and address to the stenographer.

Mr. Bradley. Richard Bradley, Peckville, Pa. Richard Bradley, having been duly sworn, was examined, and testified as follows:

Q. (By Mr. Manager CLAYTON.) Mr. Bradley, I believe you stated that your name is Richard Bradley?—A. Yes, sir.

Q. And that your residence is at Peckville, Pa.?-A. Yes, sir. Q. What business are you engaged in ?-A. I am in the coal business at present.

Q. How long have you been engaged in the coal business?-

A. It will be seven years the 19th of this month.

Q. And in that coal business have you had anything to do with the operation of culm dumps or culm banks?-A. Yes, sir. The only way that I have operated coal was through culm banks.

Q. How many culm banks have you owned or operated within the time that you have named in nearly the last seven years?-A. I have been interested in two.

Q. Are you familiar with the Katydid culm dump at Moosic, Pa.?-A. Yes, sir. I have been there and looked the bank over.

Q. How many times have you been there and looked the bank over?-A. I think I make the third trip there.

Q. Did you make a careful inspection of the Katydid culm

dump?—A. I can not say that I inspected it very close.
Q. You inspected it close enough to form what you think a pretty accurate idea of its size and its probable contents?-A. Yes, sir.

Q. What was your estimate of its worth to the Eric Railroad Co., or to its subsidiary, the Hillside Coal & Iron Co., or its market worth?

Mr. WORTHINGTON. I object to that question, Mr. President. I do not know how Judge Archbald is to be affected by the opinion that this witness may have had as to what this culm bank was worth to somebody else. Of course, Judge Archbald is to be judged by the knowledge that he had when he entered into this transaction; and how it can be affected by what the witness's judgment was as to the value of the dump to the Erie Railroad Co. I can not conceive.

The PRESIDENT pro tempore. Please propound the question again, or let the stenographer read it, which perhaps would

be better.

The Reporter read as follows:

Q. What was your estimate of its worth to the Eric Railroad Co., or to its subsidiary, the Hillside Coal & Iron Co., or its market worth?

Mr. WORTHINGTON. If the question is confined to its

market worth I have no objection.

Mr. Manager CLAYTON. Very well, Mr. President; I thought counsel's objection to the question was broader than that. I have no objection to putting it in that way.

Q. (By Mr. Manager CLAYTON.) What was the market

value

Mr. WORTHINGTON. I should like to say here, Mr. President, that we do not concede that the opinion of anybody as to what the value of this dump was or is is competent testimony unless it is shown to have been communicated to Judge Archbald. But we are not making that objection, because that is a matter that can be considered when we come to the argument.

Mr. Manager CLAYTON. I will not stop to tell the President

or the Senate why I am seeking to elicit this information; that will appear in the argument; and I think it will then be shown to be perfectly competent testimony. It harmonizes with other testimony in the case which has already been adduced.

Q. (By Mr. Manager CLAYTON.) What is your answer to this question: What was the market value or worth of the Katydid culm dump?—A. How do you mean, Judge? Do you mean to get that coal out and load it on cars, or do you mean right where it lies?

Q. I want to know what it was worth there.-A. You mean on a royalty basis that this coal was worth for a man who-

Q. You can use your own way in answering it. I want your estimate, in other words, of that culm dump.—A. Well, in that culm dump is different sizes of coal and every size carries a different price.

Q. How much did you offer for that culm dump? That will, perhaps, enable you to answer the question better.—A. I offered

Mr. Williams the first time I walked over the dump—
Mr. CIARK of Wyoming. We can not hear the witness.
The PRESIDENT pro tempore (to the witness). Speak louder.

A. The first time I walked over the dump with Mr. Williams I offered him \$16,000 for it.

Q. Then, afterwards, did you offer him another amount?-A. Yes, sir.

Q. How much was the other amount which you offered -A. \$20,000. him?-

Q. When was it you offered him \$20,000 for the Katydid culm dump?--A. It was on the same day.

Q. What was the worth of that Katydid culm dump at the time you offered Mr. Williams \$20,000 for it?-A. Well, a man could have paid \$20,000 for that, Judge, and yet could have made a little money on it. That was my idea.

Q. How much in addition to the \$20,000 could he have

made on it?-A. I thought he ought to make about ten.

Q. After having paid all operating expenses?—A. Yes, sir. Q. Mr. Bradley, did you meet Mr. Williams in Scranton at any time in 1912 and have a conversation with him about this Katydid culm bank; and, if so, what did he say to you?-I met him there in Scranton, and he said to me that he had the dump for sale.

Q. What all did he say and what all did you say?—A. I do not know as I could repeat it all.

Mr. Manager CLAYTON. May I refresh the witness by referring to his previous testimony, Mr. President?

The PRESIDENT pro tempore. The Chair thinks the witness had better state as much of it as he can recollect, and then if he fails

Mr. Manager CLAYTON. I am trying to get him to do so. The WITNESS. I should like to go along the line as much as I can of the last evidence.

Mr. Manager CLAYTON. I did not hear your answer, Mr. Bradley. Please repeat it.

The WITNESS. I say I would like to go along the line as nearly as I can with the last evidence I gave before.

Mr. Manager CLAYTON. Certainly. Well, state in your own way the transaction you had with E. J. Williams with reference to the purchase of the Katydid culm dump, beginning with the beginning and stating it all in your own way.—A. Well, I went with him to the dump, and from the dump we came back to Scranton. On my way down at the dump I offered \$16,000, and after I got back to Scranton we talked it over at Mr. Boland's office and I offered him \$20,000. I can not remember that there was a great deal said more than making the proposition and going to see Mr. May to have the contract drawn up for the dump.

Q. Mr. Bradley, prior to your offer of \$16,000 for the Katydid culm dump, did Mr. Williams say anything about another offer that he had made to him for the purchase of that

dump?—A. Yes, sir.
Q. What did he say in respect to that offer?—A. There was a party-Tom Starr Jones, I think, he spoke of as the name of

the party-that had offered twenty-five thousand. Q. Twenty-five thousand what?-A. Twenty-five thousand

dollars. Q. For what?-A. For the Katydid culm dump. I think that

is somewhere near the line.

Q. Did you and he leave each other without having come to any conclusion after you had offered him the \$16,000?-A. No, sir; we did not. When I left him, you know, I had offered him the twenty thousand.

Q. Where was it that you offered him the twenty thou-

sand?-A. In Mr. Boland's office.

Q. In Scranton?-A. Yes, sir.

Q. Now, why did you offer him the \$20,000 for the culm dump? Was it because you expected to make money on it by

its operation?-A. Yes, sir.

Q. What was said in reference to Mr. May by Williams or by you in the conversation with Williams touching the sale and purchase of the Katydid culm dump?—A. Well, there was not anything said very particular about that, I do not think, until we reached Mr. May's office next morning.

Q. How did you find out that May was a necessary party to consult in the transaction?—A. Mr. Williams told me that he

got the option from Mr. May.

Q. Did you and the witness go together to see Capt. May?—A. Yes, sir.

Q. When was that?-A. I do not know as I can tell you the day and date for that.

Q. Was it in March or April, 1912?—A. I think it was in May.
Q. Do you remember, if I may refresh your recollection, that
you were down here testifying in May, and therefore this transaction was before you testified here in Washington?—A. Yes,
sir. It might have been the latter part of April. I can not say just when.

Q. What happened when you and Mr. Williams went to see Capt. May? What did Williams say, what did you say, and what did Capt. May say?—A. Mr. Williams introduced me to Capt. May and said to him that I was the man who was going to buy the dump from him, if Capt. May was satisfied to let me have it-somewhere in those lines.

Q. What else was said, if anything?-A. I never had met Capt. May before; we were strangers, and he wanted me to give him some reference. He wanted to find out whether I was responsible enough to take hold of such a thing or pay for it,

or something like that.

Q. After you saw Mr. May, or when you saw Mr. May, was there anything said or considered as to the matter of the title

to the Katydid culm dump?-A. No, sir.

Q. Did you consider the title to the dump satisfactory to you?—A. I could not tell until I got the contract from Mr. May, and then I was going to take it to my lawyer and let him look up that point for me—the title.

Q. Do you not remember that before the Judiciary Committee

this question was asked you:

After you saw Mr. May the matter of title was satisfactory to you, was it?

And you answered:

Well, Mr. May—yes. Mr. May explained it—how much of the bank they owned and how much Mr. Robertson and Mr. Law owned.

The Chairman, Will you please state in your own way, as nearly as you can, what Mr. May said and what you said?

Mr. Bradley. Well, there was not but very little said—very little. Of course, me and Mr. May were strangers to each other there, and he wanted to know of me who would I get—that is, for reference of whether I was responsible, you know, of taking the obligation; and I referred him to a gentleman in Scranton there, and he was satisfied, and we made an agreement that he would go with me down to the bank at 1.20 in the afternoon.

* * So we went down together, Mr. May, Mr. Williams, and myself.

Mr. WORTHINGTON. From what page of the record is that?
Mr. Manager CLAYTON. Page 859.
Q. (By Mr. Manager CLAYTON.) Do you remember, Mr.
Bradley, having testified before the Committee on the Judiciary in the House of Representatives last spring in the manner and in the substance to that which I have just read?—A. Yes, sir; that is right.

Q. Is that a correct statement?—A. Yes, sir.

That is the truth?—A. Yes, sir.

Q. That is the truth now?-A. Yes, sir.

And it was the truth then?—A. Yes, sir; that is right. Mr. Manager CLAYTON. I wish you would give me, Mr. Secretary, the letter from W. A. May, vice president and general manager of this concern, addressed to Mr. Richard Bradley.

The Secretary handed a letter to Mr. Manager CLAYTON. Q. (By Mr. Manager CLAYTON.) What happened, Mr. Bradley, between you and May and Williams after you three went down to the culm bank?-A. Mr. May and I went over the culm bank and he showed me what banks were there that he meant would be sold under this option. There was one bank there; it was a coarse bank, and he claimed that that bank did not go in with the rest.

Q. You did not understand that you were buying the one that May pointed out as not going in with the rest when you offered the \$20,000 for the Katydid culm dump?-A. No, sir.

Q. Mr. Bradley, what else; were there any further negotiations that day by you and Williams in respect to the purchase of the Katydid culm dump? Have you stated all that occurred at the time of the visit of yourself and Williams and May to the Katydid culm dump?-A. I can not say; I do not know that I have left out anything.

Q. After your visit, to which I have just referred, did you get a copy of the letter or contract, one or both, from Capt. May, the vice president and general manager?—A. Yes, sir; I got the contract. The letter I never could remember. But it seems the letter came to me, but I never could recall what it is.

Q. Have you a copy of the original of that letter which you

say came to you?—A. No, sir.
Q. Have you looked for it?—A. No, sir.

Q. Do you know where it is?—A. No, sir. Q. I show to the witness, now, the exhibit U. S. S. Exhibit 8, which is a copy of a letter dated April 13, 1912, addressed to Mr. Bradley, written by Capt. May.-A. Capt. May spoke of the letter before. It seems when I gave him the contract back this letter was somewhere in with the contract, and I had never seen it.

Q. What was it that you remarked? We did not hear it .-A. It seems that that letter was in with the contract.

Q. You received this letter and the contract in the same envelope through the mails?-A. Yes, sir.

Q. Is that what you mean?—A. It seems that way to me. Mr. May had the letter, and claimed it was in the contract after I sent it back.

Q. That is the reason why you think you have not the original

letter?-A. I have not got any.

Q. Now, Mr. Bradley, I wish you would pay attention to the reading of this letter. It is already in evidence, but I desire, in order to correctly interrogate the witness, to have it reproduced in the record at this juncture.

The Secretary read as follows:

[U. S. S. Exhibit 8.]

APRIL 13, 1912.

Mr. RICHARD BRADLEY, Peckville, Pa.

DEAR SIR: Further in the matter of the interest of the Hillside Coal
& Iron Co. in the Katydid dump, referred to in mine of the 11th instant

Because of the complications brought to your attention yesterday at the Laurel Line station our attorneys believe that it will be best for you not to do anything whatever in connection with the matter until you hear further from me.

Yours, very truly,

W. A. MAY,

Vice President and General Manager.

Yours, very truly,

Vice President and General Manager.

(Copy to Mr. E. J. Williams, 626 South Blakely Street, Dunmore, Pa.) Mr. Manager CLAYTON. Will the Secretary please find the

contract which is referred to in that letter?

The Secretary handed Mr. Manager CLAYTON a paper. Q. (By Mr. Manager CLAYTON.) You have just heard the letter read. Do you think you would recognize the contract which accompanied that letter if you were to see it? Look at this [exhibiting paper] and state whether or not you think that is the paper which was inclosed with the letter. I am now referring to United States Senate Exhibit 5.

The Witness (after examining paper). Yes, sir; I think

that is it.

Mr. Manager CLAYTON. I will not ask to reproduce this in the evidence, but merely repeat what I said just now, that it is marked "United States Senate Exhibit 5," so that in the argument of the case we can very readily find it. It is a tentative deed from the Hillside Coal & Iron Co., a corporation of the State of Pennsylvania, party of the first part, and E. J. Williams of the horough of Dominion Property of the learning of the horough of Pennsylvania. liams, of the borough of Dunmore, Pa., party of the second part.

Now the letter which you examined a few moments ago and which has been read from the Clerk's desk you say you re-ceived, and this contract which you have looked upon, through

the mail?

A. Yes, sir; but it seems the letter was with the contract.

It does not seem that the letter came by itself.

Q. When you say "it seems," you mean to say that that is your best recollection?—A. Yes, sir.

Q. And what became of that letter and that contract?—A. 1

gave it to Capt. May.
Q. When did you hand that letter and contract to Capt.

-A. I think it was either on the 12th or 13th.

Q. Of what month and of what year?-A. April, I think.

Q. What year?-A. 1912.

- Q. Did I correctly understand you to say that the 12th or 13th day of April, 1912, is your recollection of the time when you delivered that letter and that form of a contract back to Capt. May?-A. Yes, sir; I think so. I think it is somewhere around
- Q. Is it your best recollection that it was either on the 12th or 13th day of April, 1912, that you delivered those papers back to Capt. May?-A. I think so; yes, sir.

Q. Where was the delivery had, Mr. Bradley?-A. To the

Laurel line station in Scranton.

Q. The Laurel line station is what sort of a building? What is it? Is it a railroad station?-A. Yes, sir.

Q. What railroad?-A. The Laurel line, going from Scranton into Wilkes-Barre.

Q. That is an electric railroad, is it?—A. Yes, sir.
Q. How did you happen to meet Capt. May there at the Laurel line railroad station at the time of the delivery of this letter and contract back to him?—A. Well, I wanted to go down to the dump again to look the dump over. There were some to the dump again to look the dump over. There were points there I wanted to see before I signed the contract.

Q. And you happened to see Capt. May at the station. Did he know before that that you were going down again to the

- culm bank?—A. No, sir. I do not think he knew it.

 Q. Do you know how it happened that he went to the railroad station at the particular time that you met him on this day that we have talked about?-A. He is there quite frequently each day. I think that is the way he goes to his office in
- Q. Did you approach him first on the day that this letter and form of a contract were surrendered by you back to Capt. May or did he first approach you?—A. He first approached me,

Q. Please narrate as nearly as you can exactly what he said and what you said.—A. There were but very few words passed between the two of us about the subject. He said to me, "I sent you a contract," I think he said, "yesterday." I said to him, "Yes, sir; I received it." He said, "I wish you would mail me that contract back again." I did not ask him any questions in the said, "I wish you would mail me that contract back again." I did not ask him any questions in the said. tions why he wanted me to do that. I said, "Well, I do not have to mail it, Mr. May, I have it in my pocket," and I gave it to him. I said, "I was on my way going down to the dump, and I suppose it isn't any use," or some such remark, "of my going down." "Oh," he said, "you can go if you like." That was about all that was said between him and me at the station.

Q. When Capt. May said that he had sent you a contract, did he tell you how he had sent it-did he say that he had sent

it throught the mails?—A. Yes, sir.
Q. Did or did not Mr. May at that time say anything about the reason why he wished the contract back?-A. I think he made some remarks there that his company thought it would be best not to go any further with it until a future time. Q. Did he say why?—A. No; he did not.

Q. Had you heard anything at that time about a rumor or anything in the shape of a rumor of an investigation into the conduct of Judge Archbald by an officer or an agent of the Department of Justice from Washington?—A. No, sir; I had

Q. Nothing was said by you or Mr. May at that time about

that?—A. No, sir.

Q. You did not ask him to give any reason why he wanted the contract back, did you?—A. No, sir; I did not.

Q. And he volunteered none?—A. No, sir; he did not.

Q. You merely handed him back the contract; and you think the letter was in with the contract; was that all?—A. That is about all I knew about that.

Q. Did he not assign any reason whatever, Mr. Bradley?-A.

No, sir; he did not.

Q. You received a letter dated April 11, 1912, from Mr. May, did you not? I will show you a copy of it. I am referring now to U. S. S. Exhibit No. 6, it being a letter addressed to Mr. Richard Bradley at Peckville, Pa., dated April 11, 1912. and signed by W. A. May, vice president and general manager. I think this letter-Exhibit No. 6-has been read into the record. We have the two letters, and that is the one, I think, which was read awhile ago.

Mr. SIMPSON. The one you read awhile ago was the letter

of the 13th.

Mr. Manager CLAYTON. I meant to have read the letter of April 11. That is the one I thought the Secretary was reading. The letter of the 11th, of course, is the one that inclosed the contract. Now, this letter of April 13 which has been read into the record is one that was written when Capt. May had decided not to make the contract, and I should have had that read first, before this one dated April 13.

The PRESIDENT pro tempore. Does the manager desire

that they shall be transposed in the record?

Mr. Manager CLAYTON. Yes, Mr. President.

The PRESIDENT pro tempore. Very well.
Mr. Manager CLAYTON. So the letter of the 11th, which transmitted the contract, shall appear first. Now I ask that the letter of April 11 be read.

The PRESIDENT pro tempore. The Secretary will read it.

The Secretary read as follows:

[U. S. S. Exhibit 6.]

Mr. Richard Bradley, Peckville, Pa.

Dear Sir: Herewith please find proposed form of agreement conveying the interest of the Hillside Coal & Iron Co. in the culm piles on the surface of lot 46, situate partly in Lackawanna and partly in Luzerne Counties, Pa.

Will you please confer with Mr. E. J. Williams, to whom I have sent a copy of this letter, in regard to the form herewith and advise whether or not same meets with your approval? If the agreement is satisfactory to you, it will be submitted to the executive officers of the H. C. & I. Co. for their consideration and approval.

Yours, very truly,

W. A. May,

W. A. MAY,

Vice President and General Manager.

(Inclosure: Copy to Mr. E. J. Williams, 626 South Blakely Street, Dunmore, Pa.)

Q. (By Mr. Manager CLAYTON.) That is the letter, Mr. Bradley, that I questioned you about and which you said accompanied this contract?—A. Yes, sir; that is right.

Q. That is the letter you say you surrendered back with the contract we have heretofore referred to?-A. Yes, sir.

Mr. Manager CLAYTON. I want the other one, dated the 13th. The SECRETARY. That is No. 8.

Mr. Manager CLAYTON. I know that letter was read to him awhile ago. So I was right and somebody else was in error, Mr. President. That letter was read awhile ago. I

interrogated the witness about it. I did not think I made a mistake. Now, I desire to have read the letter of April 13.

The Secretary read as follows:

[U. S. S. Exhibit 8.]

APRIL 13, 1912.

Mr. RICHARD BRADLEY, Peckville, Pa.

DEAR SIR: Further in the matter of the interest of the Hillside Coal & Iron Co. in the Katydid dump, referred to in mine of the 11th instant to you:

Because of the complications brought to your attention yesterday at the Laurel line station our attorneys believe that it will be best for you not to do anything whatever in connection with the matter until you hear further from me.

Yours, very truly,

Yiee President and General Manager.

W. A. May, Vice President and General Manager.

(Copy to Mr. E. J. Williams, 626 South Blakely Street, Dunmore, Pa.)

Q. (By Mr. Manager CLAYTON.) Mr. Bradley, you have heard that letter read. It is already in evidence. Did you receive a letter of which a copy has just been read from the clerk's desk?-A. Yes, sir; I received that letter.

Q. When did you receive that letter?—A. I can not say just

the day and date for that.

Q. Did you not receive it after you had surrendered the contract back to May?-A. Yes, sir.

Q. You saw May before the letter reached you and you gave him back the contract?—A. Yes, sir.
Q. And his former letter?—A. Yes, sir.

Q. After this letter was transmitted to you in the mail?-A. Yes, sir.

Q. You will observe that in the letter which has just been read Capt. May uses this language:

Because of the complications brought to your attention yesterday at the Laurel line station our attorneys believe that it will be best for you not to do anything whatever in connection with the matter until you hear further from me.

Now, does not that refresh your memory so that you can now tell the Senate that May did tell you something about what the complications were? And if it does so refresh your memory, tell us what he said.—A. No, sir; I would tell you. If he had and anything to me I would tell you, but he did not.

Q. You say that Capt. May did not call any complications to your attention at the station?—A. No, sir.

Q. He gave you no reason that because of any complication or for any other cause he desired not to execute the contract?-A. No, sir; he did not make any reference to anything whatsoever.

Q. Now, Mr. Bradley, for the purpose of refreshing your memory I desire to call your attention to a part of the testi-mony taken before the Committee on the Judiciary of the House of Representatives last spring here in Washington.

Mr. WORTHINGTON. On what page? Mr. Manager CLAYTON. On page 859:

Is it not a fact that when Mr. May asked you to turn back that contract on account of the complications that had arisen you understood, without his telling you, that it was on account of these reports concerning Judge Archbald's connection with the transaction—

Mr. WORTHINGTON. Mr. President, I think I will object It is a question which was asked this witness before the Judiciary Committee, in which he stated or undertook to state what he thought was in his mind at the time Mr. May asked him to return this contract. There is nothing that he communicated even to Mr. May much less to Judge Archbald, and we are asked to be affected now by what this witness said before the Judiciary Committee as to what he thought Capt. May thought at the time the contract was returned.

The PRESIDENT pro tempore. The Chair understands that the manager is only reading it for the purpose of refreshing the

memory of the witness. Is the Chair correct?

Mr. Manager CLAYTON. That is my object.

Mr. WORTHINGTON. Of course; but he wants to refresh his memory about a matter which I think is incompetent.

Mr. Manager CLAYTON. May I conclude the reading and

The PRESIDENT pro tempore. The Chair understood the counsel for the respondent to make an objection and-

Mr. Manager CLAYTON. I had not finished reading the

The PRESIDENT pro tempore. The manager will be given an opportunity to finish the question,

Mr. Manager CLAYTON. I will await the pleasure of the

Chair.

The PRESIDENT pro tempore. The Chair suggested that

the manager finish the question.

Mr. Manager CLAYTON. I did not so understand the Chair.

Mr. WORTHINGTON. In view of what followed in the statement before the Judiciary Committee I think I will withdraw the objection.

Q. (By Mr. Manager CLAYTON.) Then, Mr. Bradley, I will read the question over again. At the time and before the com-

mittee, which I have named to you, Mr. FLOYD asked you this question:

Is it not a fact that when Mr. May asked you to turn back that contract on account of the complications that had arisen you understood, without his telling you, that it was on account of these reports concerning Judge Archbald's connection with the transaction, and that you readily returned? Is not that the truth about it? Did you not understand what the complications were, and was it not the fact that rumor and report had connected Judge Archbald with the transaction in such a way that when Mr. May called for the contract back you understood without his telling you what those complications were and willingly surrendered back a contract which would have been to your advantage if executed? Is not that the truth about it?

And then you answered:

Mr. BRADLEY. I have an idea that had something to do with it.

Now, does not that refresh your mind and enable you to answer the question that I asked a while ago?—A. Yes, sir; I remember saying that. I remember answering the question in that way. But I wish to say this: That the day I gave Capt. May back that contract I had never heard nor seen nothing in

the paper about Judge Archbald.
Q. You had not seen it in the papers?—A. Oh, afterwards it came out in the paper; I could not say just how many days after I gave the contract back; and there is where I had taken the idea that that was the reason Capt. May wanted the con-

tract back.

Q. Let us see if you will stand by that answer when I further refresh your memory by reading from your testimony given before the Committee on the Judiciary at the time I have heretofore indicated. On page 871, near the bottom:

Mr. Worthington-

The same gentleman who sits here now, you remember. You remember having seen him in the committee?-A. Yes, sir.

Q. (By Mr. Manager CLAYTON.) Mr. Worthington asked you this question:

What is your recollection as to whether anything had appeared in the newspapers about these charges against Judge Archbald, or this proposed investigation, when you had that talk with Mr. May at the Laurel Station on or about the 12th of April?

Mr. BRADLEY. I will tell you; I hardly ever read the paper.
Mr. WORTHINGTON. You do not know whether anything had appeared in the newspapers at that time or not, do you?

Mr. BRADLEY. All I could hear, once in a while somebody would speak about it.

speak about it.

Now, your memory being refreshed, is not that the way the matter happened?—A. Yes, sir.
Q. And is not that the truth?—A. Yes, sir; that is right.

Q. That you did hear once in a while somebody speak of the matter before you surrendered this contract back to Mr. May?-A. Well, that is a kind of a puzzle to me, that contract. When giving the contract back to Mr. May it runs in my mind—I can not say it thoroughly to be a fact, but it runs in my mind that I had never heard anything of the subject of Judge Archbald before I gave the contract back, you understand, but after I gave it back it was in the paper about Judge Archbald.

Q. Is it not a fact that you understood the complication to be this rumored investigation of Judge Archbald's conduct to be the reason why you gave the contract back without making any

inquiry?—A. No, sir; that is not it; no, sir.

Q. Why did you give up a profitable contract so readily without making any inquiry?—A. Well, Capt. May wanted it.

Q. And you did it simply because he wanted it?—A. Yes, sir. You see it was not any use to me. The contract would not be any use to me with none of his name. There was nobody's

name signed to it at all. Q. And you did not care to ask him about what reason operated upon him?—A. Yes, sir; that is right.

Q. You readily, without any question at all, surrendered it

Q. Did Mr. E. J. Williams tell you at the beginning of your negotiations that he had a half interest and Judge Archbald had a half interest in this Katydid culm dump?—A. Yes, sir.

Q. Did he tell you what they had to pay and that they had options from other people? State what he did say about that, if he said anything, as to how they acquired the Katydid culm dump.—A. That is in the sale you mean with somebody else that was after buying the dump?

Q. Yes .- A. Yes; he told me about these parties. Mr. Jones was after buying the dump.

Q. What did he say?—A. That he had offered them \$25,000. Q. And you were buying the Katydid culm dump from Wil-

liams and Judge Archbald, were you?—A. Yes, sir.
Q. But you had to ask Capt. May's consent to the transaction?—A. Yes, sir.
Q. Capt. May was president of what concern?—A. Of the—

Q. Hillside Coal & Iron Co.?—A. Yes, sir.
Q. From whom Judge Archbald and Mr. Williams had acquired the property. Is that true?—A. You see Judge Archbald—I never met the judge. I had no talk with him whatso-

ever, more than taking old man Williams's word, and he said he had the selling of the dump, and he said himself and the judge owned the dump. Of course, I did not see the judge and had no talk with him about the matter.

Q. After this contract or paper was surrendered back to Capt. May by you did you have any conversation with Judge Archbald relative to the sale and purchase of the Katydid culm dump?-A. No, sir.

Q. Did you not to go Judge Archbald and talk to him about it and make him some proposition?-A. No, sir.

Q. You did not approach him on the subject at all after

that?—A. No, sir.
Mr. Manager CLAYTON. Mr. President, the counsel for the respondent can examine the witness.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Did anybody explain to you why it was that if Mr. Jones was going to buy this dump for \$25,000 the owners were selling it to you for \$20,000?-A. Well, Jim Dainty kind of made the suggestions on those points, that if I did not want the dump for \$20,000 those fellows would buy it and pay twenty-five, and then we would split the difference; he would take two thousand and I would get three thousand.
Q. Did anybody besides Dainty and Williams talk to you

about it or suggest your getting this bargain for \$20,000 ?- A. Mr. Boland.

Q. Which Mr. Boland?-A. W. P. Boland.

Q. Did Mr. Boland tell you why he was mixing in it?-A. No, sir; he did not.

Q. Did he tell you he had an interest in it?-A. He told me he did have an interest in it, but he did not have any at that time.

Q. He told you he had had an interest in it, but that he had none then?-A. Yes, sir.

Q. And all these interviews, I think, occurred in Mr. Boland's

office, did they not?—A. Yes, sir.

Q. And in Mr. Boland's presence?—A. Yes, sir.

Q. How did you first get informed that there was a chance to buy this dump? Who first spoke to you about it, and where?— Mr. Boland put me on in the first start out.

Q. Mr. William P. Boland?—A. Yes, sir. Q. Where was that?—A. In his office.

Q. Go on and state what he had to do with it after that .-Well, he got after me to go and buy the dump, that he thought it was a very good deal for the money.

Q. Did he say anything to you about this \$5,000 profit that

might be made by reselling it to Jones?—A. No, sir. Q. Was that said in his presence?—A. No, sir.

Q. You appear to have gone along pretty fast with this transaction. How soon after that first statement to you about it was it that you went to the dump and looked it over?-A. Oh, I think it was two or three days from the time we talked it over first I went down.

Q. How long after you went down to the dump and looked it over was it before you went with Williams to see Capt. May for the purpose of closing up the transaction?-A. I went down in the afternoon to look the dump over and then went to see Capt. May the next morning

Q. Where did you meet Williams the next morning?-A. In

Mr. Boland's office.

In reference to the title to this dump or your idea about the title, whether you were satisfied with the title, I should like to read a little more than Mr. Manager CLAYTON read to you, and ask if this is what you said on that subject, and all you said on that subject, before the Judiciary Committee when you testified there? Reading from page 859 first, I begin a little farther back than the manager did.

The CHAIRMAN. You were satisfied with the title that Williams could

The CHAIRMAN. You were satisfied with the title that Williams could give you to it?

Mr. Bradley. Well, to get the main points and facts and figures of this thing, I had to go and see Mr. May. I had never met Mr. May before to be really acquainted with him until on that morning.

The CHAIRMAN. After you saw Mr. May, the matter of the title was satisfactory to you, was it?

Mr. Bradley. Well, Mr. May—yes. Mr. May explained it—how much of the bank they owned and how much Mr. Robertson and Mr. Law owned.

The CHAIRMAN. Will you please state in your own way, as nearly as you can, what Mr. May said and what you said?

Mr. Bradley. Well, there was not but very little said—very little. Of course me and Mr. May were strangers to each other there, and he wanted to know of me who would I get—that is, for reference of whether I was responsible, you know, of taking the obligation.

That is all about the title.

That is all about the title.

Now, I turn next to page 873, and will read something and ask you whether you said that on the subject at a later stage of your examination.

I find I have an erroneous reference. I pass that for the

present and will come back to it.

Q. You said when Mr. May showed you the bank that there was one dump or one part of the dump not included. I did

not understand just what you said about that. What was it?-A. There was a dump there with lots of coarse coal and rock mixed together.

Q. What was the shape of that particular dump or part of dump?—A. It was just like a dump. The railroad run out

there and dumped it out there with cars.

Q. Was that a large proportion of the whole Katydid dump or only a small proportion?-A. It was quite a chunk that laid there

Q. Quite a chunk?-A. Yes; that is, I mean quite a quantity

of stuff in that dump.

Q. You said that when you happened to meet Capt. May, when he asked you to return the contract, you were on the way to the dump again about certain points, or some points. What was that? What were you going there the second time to look at the dump for?—A. Well, the day that Mr. May was there with me the dump was very close to the Erie people's line, and there was not any room for a man to build a plant there on that piece of land, and at the end of the dump on the Erie line the D. & H. had some land leading from that; and I went there to look it over and to see the location and the lay of the land, and then go to the D. & H. and see if I could get that piece of land from them to build the plant. That was my object for that day.

Q. Did you have a plant then that you expected to remove to this place, or were you going to build a new plant to run the dump if you had gotten it?-A. I had not decided on that. I had a plant that I would be through with in the course of two years, but I had not decided on that-whether I could move it and move that dump in time enough to fulfill the

contract.

Q. Now, where did you first learn of the investigation or anything about Judge Archbald-about his conduct?-A. About his conduct?

Q. Yes; these charges against him that resulted in this proceeding? How was it that the matter was first brought to your attention that such a thing was coming on ?-A. Now, lawyer, I do not know whether I can answer that.

Q. Let me ask you if you did not first see it in a Scranton newspaper?—A. Yes, sir; that is right,
Q. What was that newspaper?—A. I think it was the Scran-

ton Times.

Q. Now, up to the time that you had seen the publication in the Scranton Times had you heard any rumors or talk about the matter at all, or were the rumors and talk that you speak of after you had seen the publication in the Scranton Times?-A. No. sir.

Q. Do you mean that you had heard these rumors before or that you had not?-A. I had never heard anything about Judge

Archbald until I seen it in the paper.

Q. Then when you find that paper and find the date of that publication we will know when you first had any idea there was such a thing coming on, will we?—A. Yes, sir.

Q. Mr. Boland rather urged you to buy this dump, did he

not, Mr. Bradley?-A. Yes, sir.

Q. Did he not tell you that you could make money out of it?-Well, he thought it was a good deal. Q. And when you offered \$16,000, did he not tell you it was

worth more?-A. He did.

Q. Are you not mistaken in saying Mr. Boland did not talk to you about the Jones's \$25,000 option?—A. No, sir; I do not think Mr. Boland said anything to me about that. I think it was old man Williams talked with me about that.

Q. That was in Mr. Boland's office ?- A. No, sir; it was on the

street-the sidewalk.

Q. On the sidewalk?—A. Yes, sir.

Q. You do not remember whether there was any talk about Jones's option in Mr. Boland's presence?—A. No, sir; I do not remember that.

Q. You say Mr. Williams told you that Judge Archbald had a one-half interest in that matter with him?-A. He did; yes,

Q. Did he make any suggestion about keeping that fact quiet?-A. Did he?

Q. Did he?-A. He did not say anything about it.

Q. Did anybody suggest it was a secret that Judge Archbald was connected with the matter?—A. Did anybody outside of Mr. Williams, you mean?

Q. Did Mr. Williams suggest it was a matter to be kept secret?-A. No, sir.

Q. Well, I ask, Did anybody ?- A. No, sir; not to me, they did not.

Q. Mr. Bradley, from your examination of this dump did you come to the conclusion about how many thousand tons of coal you could get out of it before you offered to pay \$16,000 or \$20,000 for it?—A. Yes, sir; I investigated kind of like.
Q. Well, how many tons of coal did you think you could

get out of it when you offered first \$16,000 and then \$20,000 for it?—A. I thought it was anywhere from eighty to one hundred thousand tons of coal could be gotten out of it.

Q. It is upon that you based your conclusion that you could pay \$20,000 for it and still make money?-A. Yes, sir.

Q. Did you intend to execute that contract if it had not been returned without submitting it to your lawyer?-A. Oh, no. sir: oh. no.

Q. If you had found you did not get a good title from the Hillside Coal & Iron Co. and Mr. Robertson, would you have gone on with the deal?—A. No, sir; I had that privilege from Mr. May. He would send me the contract, and then I would hunt up the title-a copy of the contract-that is what I got. If the title was right, then we would do business together.

Q. When you said that with eighty or ninety thousand tons of coal there you could afford to pay \$20,000 and expected to make \$10,000, did you include anything for your own services and time in managing the operation?-A. Well, at all times I do not figure that in, but I figure out what it will cost me to build my plant; then figure out what my expenses will be, and is left I call it mine.

Q. Well, you did not deduct anything for your own time and

services?-A. No, sir.

Q. How long would it have taken you, in the ordinary course of the operation as you expected to work it, to have finished the plant, the washing, and the delivery of the coal for sale?—A. That is, you mean how long would it take me to build the plant and wash the dump away?
Q. Yes, sir; to finish the job up?—A. Oh, I could do it in two

years or two and one-half.

Q. Could you tell us what it would cost in that region to get a man who is competent to manage such a job—to run it?—A. I have got a very good man—a foreman—down at the southside plant at Scranton. I pay him \$110 a month.
Q. Well, I mean a man to take your place for the work you

were going to do?—A. I don't know as I could answer that question. There is an old saying, if you ever heard it, "Of all your mother's children, you love yourself the best."

Mr. WORTHINGTON. I think that is all, Mr. President.

The PRESIDENT pro tempore. Is there any other question

to be asked on the part of the managers?

Mr. Manager CLAYTON. This witness may be discharged, Mr. President.

The PRESIDENT pro tempore. The witness will be finally

discharged.

Mr. OVERMAN. Mr. President, it is now after 4 o'clock; this is Saturday evening; few of the Senators are here; and, that being the case, I suggest to the managers that by unanimous consent we have an adjournment. If that is agreeable, I move that the Senate sitting as a Court of Impeachment do now adjourn.

Mr. WORTHINGTON. If I may be permitted, I should like to have action on that motion suspended for just a moment until I speak to the managers about a matter concerning which I have already communicated with them. There is a witness who is detained here whom I wish to call and ask a single question, and the managers have kindly consented that it may

The PRESIDENT pro tempore. Does the Senator from North Carolina withhold his motion for that purpose?

Mr. OVERMAN. I withhold my motion for that purpose. Mr. WORTHINGTON. It is simply an accommodation to the

The PRESIDENT pro tempore. The witness will be called. Will counsel please indicate the name of the witness?

Mr. WORTHINGTON, He is Mr. Pryor.

TESTIMONY OF W. L. PRYOR-RECALLED.

W. L. Pryor, having been previously sworn, was recalled, and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Pryor, I want to ask you whether you heard in Mr. Boland's office, when you were there in the spring of 1911, any conversations between Mr. William P. Boland and Mr. Edward J. Williams in reference to Judge Archbald going to any New York office?—A. There were conversations going on continually in my presence and while I was absent. Mr. Williams was a constant visitor at the office; in fact, every few hours or so.

Q. Well, I ask you specifically whether you heard any conversation between William P. Boland and Williams in reference to Williams getting Judge Archbald to go to the New York office of the Erie Co.?-A. I believe Mr. Boland requested Mr.

Williams to see Mr. Archbald and get a letter of introduction

from him, I believe, to Capt. May. Q. After that date did you hear Mr. Williams report that he had not got the option from Capt. May?-A. I think he did; yes, sir. On a subsequent time he came back and acknowledged having had it.

Mr. Manager NORRIS. Mr. President, as I understood, the Senate wanted to adjourn. Counsel is asking the witness questions that are not proper cross-examination. I have no objections tion, if I will be permitted to cross-examine him. Counsel is really making the witness his own witness now.

Mr. WORTHINGTON. I understand that perfectly.
Mr. Manager NORRIS. He is really offering the witness as his own at this time.

Mr. WORTHINGTON. With reference to this particular matter.

Mr. Manager NORRIS. With that understanding, I have no objection, but it may delay the adjournment for some time.
Mr. Manager CLAYTON. Mr. President, I want respectfully

to submit another suggestion, and that is that this witness is now the witness for the respondent, and the counsel for the respondent is asking him leading questions. For instance, he so frames the question that the witness can answer categorically. I submit that the proper way for him to proceed, until the witness has shown an unwillingness, is to ask what was said by the parties and not to state what he wants the witness to give an affirmative answer to or a negative answer to, as the case may be.

Mr. WORTHINGTON. I think, Mr. President, it is perfectly apparent that we can not dispose of this matter in so short a time as I had hoped; so we had better not detain the Senate, if there is a desire to adjourn now.

Mr. OVERMAN. I renew my motion, Mr. President, that the Senate sitting as a Court of Impeachment do now adjourn.

The PRESIDENT pro tempore. The Senator from North Carolina moves that the Senate sitting as a Court of Impeachment do now adjourn.

The motion was agreed to.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to; and (at 4 o'clock and 8 minutes p. m.) the Senate adjourned until Monday, December 9, 1912, at 12 o'clock m.

HOUSE OF REPRESENTATIVES.

Saturday, December 7, 1912.

The House met at 12 o'clock noon, The Chaplain, Rev. Henry N. Couden, D. D., offered the fol-

lowing prayer:

Father Almighty, boundless the resources, infinite the mercies, plenteous the gifts poured out upon us. Help us as rational beings gifted with the power of choice to lay hold upon these things, make them ours, that we may wisely use them to the uplift of our souls and the furtherance of Thy kingdom, that peace and good will may reign supreme. In the spirit of the Lord Christ. Amen.

The Journal of the proceedings of yesterday was read and

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of House bill 26680, the legislative, executive, and judicial appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. GARNER in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the purpose of considering the bill, of which the Clerk will read the title.

The Clerk read as follows:

A bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

The CHAIRMAN. When the committee arose yesterday there was an amendment pending offered by the gentleman from Missouri [Mr. Borland), and if there is no objection, the amendment will again be reported.

The Clerk read as follows:

Amend, page 54, line 6, by striking out the word "photostat" and inserting in lieu thereof "photographic reproduction machines."

The CHAIRMAN. The gentleman from South Carolina [Mr. Johnson] is recognized.

Mr. JOHNSON of South Carolina. Mr. Chairman, I desire that the gentleman from Missouri shall be first recognized.

Mr. BORLAND. Mr. Chairman, I desire to withdraw the amendment that I offered yesterday in order that the chairman of the committee may introduce an amendment covering the same ground.

The CHAIRMAN. The gentleman from Missouri withdraws his amendment, and the gentleman from South Carolina offers the following amendment, which the Clerk will report.

The Clerk read as follows:

On page 54, in lines 5 and 6, strike out the words "and the purchase of supplies for photostat."

Mr. JOHNSON of South Carolina. Mr. Chairman, I think under the appropriation for miscellaneous expenses and stationery they can supply these articles, and I move to strike out

all reference to any particular machine.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to ask the gentleman from South Carolina whether he removes the objection that was made by the gentleman from Missouri,

that the photostat is a patented article.

Mr. JOHNSON of South Carolina. The gentleman from Missouri did not want Congress to single out any particular machine for reproductive purposes. There are other machines by other names that do the same work.

Mr. MOORE of Pennsylvania. That seemed to me to be a proper amendment. I do not think Congress ought to legislate in favor of certain patented articles requiring that they should

be purchased.

Mr. JOHNSON of South Carolina. The Committee on Appropriations has no knowledge of the merits of any particular machine, and therefore we are quite willing that the language

shall not designate any particular machine.

Mr. MOORE of Pennsylvania. The difference between the amendment offered by the gentleman from Missouri and the one suggested by the gentleman from South Carolina is instead of specifying the photostat we shall specify the materials used in the operation of the photostat, so that the photostat as a patented article still remains.

Mr. JOHNSON of South Carolina. We do not specify any machine; they buy the materials for use on all the machines

out of the appropriation for stationery.

Mr. MOORE of Pennsylvania. Does the gentleman think that his amendment will allow any competition? Will any competitor under this bill be able to supply the department with his particular machine or is not the supply still limited to the photostat?

Mr. JOHNSON of South Carolina. No; we do not limit it to any particular article because we do not mention any particular machine. My amendment strikes out the word "photostat."

Mr. MOORE of Pennsylvania. If I understood the amendment of the gentleman correctly, it provides that instead of striking out the word "photostat" and using the term "photographic machines," as suggested by the gentleman from Missouri, the amendment of the gentleman from South Carolina

sourly, the amendment of the gentleman from sourl' carolina simply proposes that we shall buy the materials for use.

Mr. JOHNSON of South Carolina. The language of my amendment is, "on page 54, line 6, strike out the words 'the purchase of supplies for photostat.'"

Mr. MOORE of Pennsylvania. I think that prevents com-

Mr. BORLAND. They have already the labor-saving ma-chines under the general language of the clause which permits them to buy them. It does not specify any particular make of machines nor designate it by patented name. It is a general clause appropriating \$8,000 for the purpose of purchasing laborsaving machinery. Under that they have the photostat and other machines for the same purpose. Recently the Auditor of the Treasury ruled there was some doubt about buying supplies for this machinery under this clause. He thought that they should put in additional wording permitting them to buy supplies for these machines. It appears, however, they could have bought the supplies under the stationery clause and ought to buy them under that clause. The amendment now suggested by the gentleman from South Carolina [Mr. Johnson] strikes the word "photostat" from the law entirely and makes no provision here for the purchase of supplies for that particular machine. That relegates the purchase of supplies to the stationery

Mr. MOORE of Pennsylvania. The gentleman from Missouri made the statement yesterday that the photostat was a patented machine.

Mr. BORLAND. And now I repeat that. The photostat is not a generic term, but is a particular patented machine for the purpose of photographing reproductions. This is the only place in the law where the name "photostat" appears. It is the only

clause in this law where it appears, and we now strike it out entirely.

Mr. MOORE of Pennsylvania. Under the amendment proposed by the gentleman from South Carolina could the manufacturer of another machine now compete for these supplies?

Mr. BORLAND. That is my understanding, and I agreed to the amendment on that understanding.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Office of assistant treasurer at Chicago: Assistant treasurer, \$5,000; cashier, \$3,000; vault clerk, \$2,250; paying teller, \$2,500; assorting teller, \$2,000; receiving teller, \$2,000; beckleepers—1 at \$1,800, 2 at \$1,500 each; clerks—1 \$1,750, 2 at \$1,600 each, 9 at \$1,500 each, 22 at \$1,200 each, 1 \$900; hall man, \$1,100; messenger, \$840; 3 watchmen, at \$720 each, 1 anitor, \$720; 8 money counters and handlers for money laundry machines, at \$900 each; in all, \$83,320.

Mr. MANN. Mr. Chairman, I move to strike out the last word. May I ask the gentleman from South Carolina whether in the estimates made for the office of the assistant treasurer at Chicago there was any recommendation of an increase in the number of positions, and particularly for an assistant

Mr. JOHNSON of South Carolina. There was, I am sure, although I have not the estimates before me at this moment.

Mr. MANN. I am sure they are very much in need of an assistant cashier.

Mr. JOHNSON of South Carolina. They asked that the re-ceiving teller be increased from \$2,000 to \$2,250. They asked that an additional man be employed under the name of assistant cashier, at \$2,000, and then they dropped one clerk. They also asked that the watchman be increased from \$720 to \$840.

Mr. MANN. I was not speaking of the increases so much as the matter of authorizing an assistant cashier there, which my information leads me to believe is a place very much needed.

Did the committee consider that?

Mr. JOHNSON of South Carolina. The committee had before it absolutely no evidence upon that question at the last sitting. In the making up of the bill during the last Congress we did have extensive hearings. The Secretary of the Treasury at-tempted to reorganize the force and to classify and standardize the work. I believe that in the bill as it finally passed we left the items for the subtreasuries just as the Secretary of the Treasury had asked us, with the exception of one or two men who had been reduced at Boston.

Mr. MANN. I think the committee last year in its recommendations did very good work in reference to the affairs in the office of the assistant treasurer. Of course that was in a way somewhat tentative, although practically complete. gentleman knows there is a very large amount of business transacted at the Chicago office, much larger than at any other place in the country outside of New York City, and while the business is not so great by any means as it is in New York City, where they have an assistant cashier, information led me to believe they are very much in need of an assistant cashier, by that title, in the Chicago office.

Mr. JOHNSON of South Carolina. The gentleman will understand that the man who is designated in the estimates as assistant cashier is now carried as a clerk. They simply propose to increase the salary and give him a different designation. It does not increase the number of people in the subtreasury

Mr. MANN. I understand that, but it increases the effectiveness of the force by authorizing an assistant cashier who can do certain work that a clerk can not do. However, if the committee has not carefully considered it, we may bring it to the

attention of the committee later.

Mr. JOHNSON of South Carolina. I would say to the gentleman from Illinois that inasmuch as we adjusted all of these salaries in the last Congress according to the recommendation of the Secretary of the Treasury, we did not consider it at this time, and we had no evidence whatever respecting it before the committee.

Mr. MANN. The gentleman would not see his way clear at the present time, or would be, to accepting an amendment pro-

viding for an assistant cashier there?

Mr. JOHNSON of South Carolina. We can not do that. The CHAIRMAN. The time of the gentleman from Illinois

has expired.

Mr. FOSTER. Mr. Chairman, I observe in these appropriations for the different subtreasuries that there are provisions for money counters and handlers for laundry machines. is that the money that is laundered in the Bureau of Printing and Engraving Office here or are the laundry machines located in the subtreasuries?

Mr. JOHNSON of South Carolina. There is to be installed in each subtreasury, except that at San Francisco where they use no paper money, a money-washing machine.

Mr. FOSTER. So that the work will be done in the sub-

treasuries instead of here?

Mr. JOHNSON of South Carolina. Oh, yes; there will be a money-washing machine in each subtreasury except the one at San Francisco. There is now one in the Treasury Department-

Mr. FOSTER. One here in Washington. Mr. JOHNSON of South Carolina. Yes.

Mr. FOSTER. But none in the subtreasuries at this time?

Mr. JOHNSON of South Carolina. No; but the machines have been purchased and will be installed by January.

Mr. COX of Indiana. I desire to ask the chairman how much economy will that result in?

Mr. JOHNSON of South Carolina. At least \$300,000 a year.

The Clerk read as follows:

Office of assistant treasurer at Cincinnati: Assistant treasurer, \$4,500; cashier, \$2,250; paying teller, \$2,000; receiving teller, \$1,800; vault clerk, \$1,800; bookkeeper, \$1,800; clerks—two at \$1,300 each, five at \$1,200 each, two at \$1,000 each; clerk and stenographer, \$1,000; chief watchman, \$840; two watchmen, at \$600 each; four money counters and handlers for money laundry machines, at \$900 each; in all, \$31,390.

Mr. FOWLER. Mr. Chairman, I reserve the point of order

The CHAIRMAN. Against what paragraph?

Mr. FOWLER. Against the paragraph just read. I desire to ask the chairman of the committee why the assistant treasurer at Boston and at Chicago receive a salary of \$5,000 and at Cincinnati he only receives a salary of \$4,500. Is that provided for by law?

Mr. JOHNSON of South Carolina. I do not recollect there is any law fixing the salary of assistant treasurers in the United States. The salaries as fixed in this bill have been fixed by the Secretary of the Treasury. They were fixed, in his judgment, according to the responsibility of the position. The responsibilities in Chicago and Boston, where large sums are handled, are greater than the responsibilities in Cincinnati.

Mr. FOWLER. Are the sums the same as have been carried

in the bills heretofore?

Mr. JOHNSON of South Carolina. We have made no change whatsoever in any one of the subtreasuries of the United States

unless it was a reduction.

Mr. FOWLER, I observe that the cashier at Chicago receives \$3,000, whereas the salary paid the same position at Boston and at Cincinnati is \$2,250 in one case and \$2,500 in the other. Why should there be a difference made in these different offices in these subtreasury positions?

Mr. JOHNSON of South Carolina. I will say to the gentle-

man from Illinois that Secretary MacVeagh has undertaken to reclassify and standardize the work and the salaries of all the employees in all the subtreasuries, and at the last session of Congress the appropriation bill carried the amounts recommended by the Secretary, and that was done not hastily but after investigation and inquiry.

Mr. FOWLER. I discover that you make an increase of clerks from four to five at the salary of \$1,200. What is the

use for the extra clerk at Cincinnati?

Mr. JOHNSON of South Carolina. There is no change in this bill.

Mr. FOWLER. Last year the bill carried a provision for four; this bill carries a provision for five.

Mr. JOHNSON of South Carolina. Has the gentleman the law before him?

Mr. FOWLER.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

LONGWORTH. Mr. Chairman, I desire to offer an

There is a point of order pending. Mr. FOSTER.

The CHAIRMAN. Does the gentleman from Illinois [Mr. FOWLER] reserve the point of order?

Mr. FOWLER. I did reserve the point of order, Mr. Chairman, and was trying to get the reasons for the increase of salary in certain positions.

Mr. JOHNSON of South Carolina. Mr. Chairman, as I

stated to the gentleman a moment ago, there is no increase. If he will examine the appropriation bill for the current year, he will find in one place four clerks at \$1,200 each. Then follows two clerks at \$1,300 each; vault clerk, \$1,800; bookkeeper, \$1,800; clerk, \$1,200. This year, instead of carrying the five clerks in two separate parts of the bill, we consolidated and say five clerks at \$1,200.

Mr. FOWLER. That may be true—
Mr. JOHNSON of South Carolina. It is true.

Mr. FOWLER (continuing). That they have been combined, but I do not so discover on an examination of the bill. However, Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The gentleman from Ohio [Mr. Long-

WORTH] offers an amendment, which the Clerk will report.

Mr. LONGWORTH. In line 12, page 59, strike out the figures 600" and insert in lieu thereof the figures "720."

The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

Amend, page 59, line 12, by striking out the figures " 600" and inserting in lieu thereof the figures "720."

Mr. LONGWORTH. Mr. Chairman, I merely desire to make this very brief statement, and I trust that the chairman of the committee will offer no objection. It will be observed that the committee will offer no objection. It will be observed that the watchmen in every subtreasury, except that in Cincinnati, receive a salary of \$720 a year, while in Boston they receive \$850 a year. In Cincinnati their salary is only \$600 a year—\$50 a month. It seems to me that the mere statement of this fact carries its own argument. It is utterly absurd that these men in Cincinnati should be paid \$120 a year less than they are paid in New Orleans for doing precisely the same work. If my amondment shall course them every watchmen in every subtrees. amendment shall carry, then every watchman in every subtreasury will receive at least \$60 a month. The increase is almost negligible. It will amount to only \$240 a year, and yet it will pay these watchmen what I regard as a fair living wage. I trust that the gentlemen will not interpose an objection.

Mr. ALLEN. Mr. Chairman-

The CHAIRMAN. Does the gentleman from Ohlo [Mr. Long-WORTH] yield to his colleague?
Mr. LONGWORTH. Certainly.

Mr. ALLEN. Has the gentleman concluded his statement? Mr. LONGWORTH. Yes, if the gentleman desires to make a statement.

Mr. ALLEN. I simply wanted to say that I hope the committee will see its way clear to accept that amendment, not only for the reasons stated, namely, that the watchmen in the subtreasuries in other cities receive \$720 a year, but, as I recall, in the Post Office appropriation bill last year janitors were increased on motion, I think, of the gentleman from Kansas [Mr. Murdock], from \$600 to \$720 a year, it being recognized that in this day of the high cost of living \$600 was entirely inadequate for a man to take care of his family and to meet the require-ments of the present time. I want to add my word in their behalf, and I hope the committee will accept that amendment, which is a small amount, so far as this bill is concerned.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. Longworth], which the Clerk

will again report.

The amendment was again read.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to. The Clerk read as follows:

Office of assistant treasurer at St. Louis: Assistant treasurer, \$4,500; cashier, \$2,500; paying teller, \$2,000; receiving teller, \$1,800; assorting teller, \$1,800; change teller, \$1,600; coin teller, \$1,200; book-keeper, \$1,500; clerks—3 at \$1,500 each, 7 at \$1,200 each, 2 at \$1,100 each, 3 at \$1,000 each, 3 at \$1,000 each, 3 at \$1,000 each; 2 watchmen, at \$720 each; 2 janitors, at \$600 each; guard, \$720; 4 money counters and handlers for money laundry machines, at \$900 each; in all, \$44,660.

Mr. DYER. Mr. Chairman, I move to strike out the last word. I desire to offer an amendment on line 23. I move to strike out the figures "600" and substitute the figures "720." The CHAIRMAN. The gentleman from Missouri offers an

amendment, which the Clerk will report.

The Clerk read as follows:

Page 61, line 23, strike out the figures "600" and insert "720."

Mr. DYER, Mr. Chairman, on looking over the pay for janitors and watchmen in the different subtreasuries of the country I find that, with the exception of those in the subtreasury in St. Louis, the pay is \$720 in each and every in-These janitors at the subtreasury in St. Louis are on stance. the same footing as watchmen. They have to do that work in the subtreasury offices, and I feel, Mr. Chairman, that in view of the policy shown by the House at the last session of Congress the increase of pay of these men to a living wage, namely, to \$720, which was the minimum of the increase of the last Congress-and, in fact, they were increased up to as much as \$840-I think it is only fair and proper that this change should be made. It is impossible for men to live on \$600 a year—\$50 a month—and properly rear a family.

Mr. MANN. Will the gentleman yield for a que

Will the gentleman yield for a question?

Yes. Mr. DYER.

Mr. MANN. Why is it necessary to have two janitors at the St. Louis subtreasury? The bill already carries two watchmen and two janitors. At New Orleans there are two watchmen

but no janitor, and at Cincinnati, where we just increased the appropriation for the watchmen, they have two watchmen and no janitor. What is the necessity for having two watchmen and two janitors at St. Louis?

Mr. DYER. St. Louis is a larger city.

Mr. MANN. What is the necessity of having two watchmen and two janitors at St. Louis more than at any other office? Chlcago, which is reputed to be a somewhat dirty city, so far as the air is concerned, has but one janitor, and yet requires three or four times as much work as is done in St. Louis. Is more cleaning required at St. Louis than anywhere else?

Mr. DYER. I will state, in answer to the question of the gentleman from Illinois, that St. Louis is a much larger city than any he has named except Chicago, which is provided with a messenger, which is not provided for at St. Louis.

Mr. MANN. The messenger does not do janitor's work.
Mr. DYER. These janitors do substantially the same work as the watchmen in the Chicago office. There is a messenger at the Chicago office at \$840, and three watchmen at \$720 each, and one janitor at \$720. These janitors at St. Louis do practically the same work as the watchmen. The language is used interchangeably, and there is no difference, substantially, in the work which they do.

Mr. MANN. The amount of work done at the St. Louis office is only a trifle larger than the amount transacted at New Orleans and at Cincinnati, where they get along without those four men. What is the necessity of having four men at St. Louis to do the work done by two men at Cincinnati or at New Orleans or most of the other places? They have one janitor at

Chicago and two janitors at St. Louis.

Mr. DYER. Well, I explained, or tried to explain that to the gentleman, that in some places "watchmen" are carried instead of "janitors." We have only one watchman at St. Louis, and these janitors have ofttimes to do the work of a watchman, because if he goes away for one purpose or other the janitors have to do his work. These janitors are employed all the time and give all their time to this work, and they are needed. I

ask for a vote, Mr. Chairman.

Mr. MANN. There is no real necessity for them at all.

Mr. JOHNSON of South Carolina. Mr. Chairman, did I understand the gentleman's amendment to provide that these people should be called watchmen instead of janitors?

DYER. No; my amendment did not provide that.

JOHNSON of South Carolina. But the gentleman's

amendment proposes to increase the pay only?

Mr. DYER. Yes; to make it the same as janitors are paid

at other subtreasuries in the country in every instance.

Mr. JOHNSON of South Carolina. Mr. Chairman, I have only this to say: That the Secretary of the Treasury has requested no increase in the compensation of these people. There is not a word of testimony before the committee that would justify the committee in making the increase. There are 450,000 people in the employment of the Government, and we can not raise salaries on the floor of the House indiscriminately without any evidence whatever. In fact, I think the best thing to do would be to strike out those two positions. They are hardly

Mr. DYER. Will the gentleman yield for a question?

Mr. JOHNSON of South Carolina. Yes.

Mr. DYER. When we had the Post Office appropriation bill up there were 1,400 messengers and janitors and watchmen whose salaries were increased and there had been no recommendation from the Postmaster General or anybody asking for it, and in the case of those whom we just increased a while ago, for instance, in the case at Cincinnati, there is no word from there on the subject. It is not because they are not needed.

Mr. JOHNSON of South Carolina. The Secretary of the
Treasury recommended the increase at Cincinnati.

Mr. DYER. Well, I will say that I have talked with the officials at the office at St. Louis and they tell me that \$600 is not sufficient to pay these men to do the work and expect from them good service.

Mr. JOHNSON of South Carolina. That is all.
The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Missouri [Mr. DYER], which the Clerk will again report.

The amendment was again read.

The CHAIRMAN. The question is on agreeing to the amend-

The question was taken, and the Chairman announced that the "noes" appeared to have it.

Mr. DYER.

Mr. DYER. I ask for a division, Mr. Chairman. The committee divided; and there were—ayes 16, noes 20. Mr. DYER. I ask for the yeas and nays, Mr. Chairman.

The CHAIRMAN. The yeas and nays can not be had in committee.

Mr. DYER. I ask for tellers.

The CHAIRMAN. The gentleman from Missouri demands tellers. As many as favor taking this vote by tellers will rise and remain standing until counted. [After counting.] Only 12 gentlemen have arisen. It takes 20. Tellers are refused. The Clerk will read.

The Clerk read as follows:

Mint at Denver, Colo.: Superintendent, \$4,500; assayer, \$3,000; superintendent melting and refining department, \$3,000; superintendent coining department, \$2,500; chief clerk, and cashier, at \$2,500 each; deposit welgh clerk, and bookkeeper, at \$2,000 each; assistant assayer, \$2,200; assayer's assistant, \$2,000; assistant cashier, \$1,800; clerks—two at \$2,000 each, two at \$1,800 each, four at \$1,600 each, two at \$1,400 each, one \$1,200; private secretary, \$1,200; in all, \$47,200.

Mr. FRENCH. Mr. Chairman, I offer the amendment which send to the Clerk's desk.

The CHAIRMAN. The gentleman from Idaho offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 62, by striking out all of lines 15 to 23, inclusive, and inserting in lieu thereof the following:

" MINTS AND ASSAY OFFICES.

Amend, page 62, by striking out all of lines 15 to 23, inclusive, and inserting in lieu thereof the following:

"MINTS AND ASSAY OFFICES.

"Mint at Carson, Nev.: Assayer in charge, who shall also perform the duties of melter, \$2,250; assistant assayer, \$1,500; chief clerk, \$1,600; clerk, \$1,000; in all, \$6,350.

"For wages of workmen and other employees, \$6,200.

"For incidental and contingent expenses, \$3,000.

"Mint at New Orleans, La.: Assayer, who shall have general charge of the institution as under section 3560, Revised Statutes, and who shall be a practical assayer, \$2,500; assistant assayer, \$1,500; at clerk, who shall perform the duties of cashier, \$1,500; 3 clerks, \$1,200 each; not each; assayer's assistant, \$1,200; in all, \$10,200.

"For wages of workmen and other employees, \$7,500.

"For wages of workmen and other employees, \$7,500.

"For wages of workmen and other employees, \$7,500.

"For incidental and contingent expenses, \$3,500.

"Mint at San Francisco, Cal.: Superintendent, \$4,500; assayer, superintendent melting and refining department, and superintendent coining department, at \$2,000 each; sasistant melter and refiner, and assistant coiner, at \$2,000 each; assistant eashier, \$1,800; assayer's assistant eashier, \$1,800; assistant bookkeeper, \$1,800; assayer's assistant, \$2,000; deach; posit weigh clerk, \$2,000; 1 clerk, \$2,000; 1 clerk, \$1,800; 3 clerks, at \$1,400 each; private secretary, \$1,400; 2 clerks, at \$1,400 each; 2 clerks, at \$1,200 each; in all, \$5,4300.

"For incidental and contingent expenses, including new machinery and repairs, exclusive of that required for the refinery, melter and refiners' wastage, and loss on sale of sweeps, arising from the manufacture of ingoits for coinage, and for wastage and loss on sale of coiners' sweeps, \$40,000.

"Assay office at Bolse, Idaho: Assayer in charge, who shall also perform the duties of melter, \$2,250; assistant assayer, \$1,500; assistant assayer's assistant, \$1,500; 1 clerk, \$1,200; in all, \$6,200.

"For wages of workmen and other employ

"For wages of workmen and other employees, \$22,000.

"For incidental and contingent expenses, including rent of building, \$6,500.

"Assay office at Salt Lake City, Utah: Assayer in charge, who shall also perform the duties of melter, \$2,500; assistant assayer, \$1,600; Chief clerk, who shall also perform the duties of cashier, \$1,600: Provided, That the chief clerk shall perform the duties of assayer in charge in his absence; clerk, \$1,400; in all, \$7,100.

"For wages of workmen and other employees, \$4,500.

"For incidental and contingent expenses, \$3,500.

"The position of coiner, which has heretofore existed in each of the coinage mints, and the position of melter and refiner, which has heretofore existed in each of the coinage mints and in the United States assay office at New York, are hereby abolished, to take effect on and after July 1, 1912, and on and after that date the duties and responsibilities heretofore imposed by law on the officers holding said positions in each of said mints and the assay office shall devolve upon the superintendents of said institutions; and all assistants and employees of the mints and assay offices of the United States shall, from and after July 1, 1912, be appointed by the Secretary of the Treasury.

"Mint at Denver, Colo.: Superintendent, \$4,500: assayer, \$3,000; superintendent melting and refining department, \$3,000; superintendent coining department, \$2,000 each; assayer's assistant assayer, \$2,200; 2 clerks, at \$2,000 each; assayer's assistant, \$2,000; assistant casher, \$1,800; 2 clerks, at \$1,800 each; 4 clerks, at \$1,600 cach; 2 clerks, at \$1,400 each; 1 clerk, \$1,200; private secretary, \$1,200; in all, \$47,200.

"For incidental and contingent expenses, including new machinery and repairs, wastage in melting and refining departments and coining

departments, and loss on sale of sweeps arising from the treatment of bullion and the manufacture of coin, \$35,000.

"Mint at Philadelphia: Superintendent, \$4,500; engraver, \$4,000; assayer, \$3,000; superintendent melting and refining department, \$3,000; superintendent coining department, \$2,500; chief clerk, \$2,500; assistant assayer, \$2,200; assistant superintendent of melting and refining department, \$2,500 each; assistant assayer, \$2,200; assistant superintendent of melting and refining department, \$2,000; cashier and bookkeeper, at \$2,500 each; 1 clerk, and deposit weigh clerk, at \$2,000 each; assistant cashier, and curator, at \$1,800 each; 2 clerks, at \$1,700 each; 8 clerks, at \$1,600 each; 1 clerk, \$1,300; 3 clerks, at \$1,200 each (including one formerly paid from 'parting and refining'); 5 clerks, at \$1,000 each; 1 clerk, \$900; in all, \$73,200.

"For wages of workmen and other employees, \$305,000.

"For incidental and contingent expenses, including new machinery and repairs, wastage in melting and refining and in coining departments, and loss on sale of sweeps arising from the treatment of bullion and the manufacture of coins, \$70,000.

"Assay office at New York: Superintendent, \$5,000; assayer, \$3,000; superintendent of melting and refining department, \$3,000; chief clerk, cashier, deposit weigh clerk, and assistant assayer, at \$2,500 each; 2 clerks, and assayer's assistant, at \$2,000 each; bookkeeper, \$2,350; assistant cashier, and 4 clerks, at \$1,800 each; 1 clerk (formerly paid from 'parting and refining'), \$1,600; 1 clerk, \$1,500; private secretary, \$1,400; 1 clerk, \$1,250; 7 clerks, at \$1,000 each; in all, \$51,100.

"For wages of workingmen and other employees, \$80,000.

"For incidental and contingent expenses, including new machinery and repairs, wastage in the melting department, and loss on sale of sweeps arising from the treatment of bullion, \$60,000."

Mr. JOHNSON of South Carolina. Mr. Chairman, I make

Mr. JOHNSON of South Carolina. Mr. Chairman, I make the point of order that the paragraph to which the amendment is offered provides simply for the mint at Denver, Colo., while the amendment undertakes to provide for assay offices throughout the country

The CHAIRMAN. As the Chair understands the gentleman's

point of order, it is that the amendment is not germane.

Mr. JOHNSON of South Carolina. I think it also provides for striking out parts of the bill that have not been reached.

Mr. FRENCH. Will the gentleman withhold his point of order for a few minutes?

Mr. JOHNSON of South Carolina. I will, if the gentleman

Mr. FRENCH. Mr. Chairman, I think the gentleman's point of order is not well taken, but I shall not argue that question just at this time. I want to call the attention of the gentleman and of the Members of the House to that which is provided in the amendment which I have sent to the Clerk's desk. All that is provided is existing law. The language that has just been read is the language of the present law, and the bill as it has been reported by the committee proposes to abolish six of the assay offices of the United States, including the ones in North Carolina, Louisiana, Utah, Nevada, Montana, and Idaho.

The argument that was repeatedly advanced a year ago for the abolition of these assay offices, and the one that is pressed to-day, is the argument that it is necessary on account of economy and the economical administration of this branch of the Government. If there were merit to that argument, the position that the committee has taken falls short, because a year ago the committee went further and provided for the abolition of different assay offices which are not abolished in the present bill. More than that, if the argument of economy is to be regarded as the controlling factor in the consideration of this particular feature of the bill, the committee does not go far enough, because it should even abolish our mints and all the assay offices, with possibly one or two exceptions, because with possibly one or two exceptions they do not pay the expenses of their operation.

The fact of the business is that mints and assay offices are not maintained as revenue producers by our Government; and if we were to go further than that, the fact is that probably very few of the functions of the Government are exercised or maintained for the purpose of making a profit to the Government while performing a public service for the people. If you will go to the various departments, the head offices of which are here in Washington, you will find that that statement is amply borne out by that which we are doing in every session, in making appropriations for the maintaining of these various departments. Your Agricultural Department costs you every year millions and millions of dollars, and yet it is not urged that there is a profit coming to the Government from the maintenance of that department, other than the profit that comes to the people generally throughout the country through the information and development and experience that can be obtained, which are to the interest of farming and agricultural communities.

Until within the past year the Post Office Department has not been maintained at a profit, and has not even borne the expense of its own maintenance. You would not abolish that department. So it is with other departments. The people of the country do not expect that our governmental institutions shall bear the expense of their operation as a reason for their existence, providing they give service.

Here is an institution that is operated for the convenience of the people. I refer merely to the one in my own State, which

may be taken as an illustration of the character of service performed by similar institutions in the other sections of the country

We have an assay office at Boise that performs the work of assaying gold and silver to the amount of nearly \$1,000,000 per year for people of a large section of the country. The service that is performed is not performed for a few people only, it is not performed for a few large mining companies, but if you will turn to the record you will find that of the 500 and more who have sent bullion to the assay office at Boise almost all has been sent by persons who have sent less than \$1,000 each.

Mr. BURLESON. Will the gentleman yield?

Mr. FRENCH. Certainly.

Mr. BURLESON. I would like to ask the gentleman if he is aware of the fact that during the last fiscal year the earnings of the assay office at Boise were \$6,017.46 and the expenditure \$14,541,14?

Mr. FRENCH. That statement is practically correct.

Mr. BURLESON. Does the gentleman think that it is a good proposition to maintain at Government expense an assay office with a net loss of \$8,000 a year?

Mr. FRENCH. Postal routes are maintained at a net loss to the Government, and you would not ask to abolish them in all sections of the country on account of the expense.

Mr. BURLESON. Does the gentleman contend that there is

any analogy between the two cases?

Mr. FRENCH. I contend that they are analogous. Of the 500 persons who sent gold and silver bullion to the assay office at Boise, nearly 500 sent in amounts of less than \$1,000 each, and only 26 sent in an amount of more than \$2,000 per individual. That represents accommodation to the people in handling nearly \$1,000,000 of bullion that is assayed every year at that office. I have no doubt the same illustration could be made at every other assay office as to proportion and average. It is a great convenience to the people in the section where the assay offices are located.

Mr. BYRNS of Tennessee. Will the gentleman yield?

Mr. FRENCH. I will. Mr. BYRNS of Tennessee. The gentleman has referred to the Agricultural Department and the Post Office Department. We know that they are run in the interest of the people throughout the country. In whose particular interest are the assay offices maintained?

Mr. FRENCH. In the interest of the people throughout the country, because just as the development of agriculture and just as the development and dissemination of information through the Post Office Department are for the benefit of the country at large, so these assay offices are for the development of the mining resources. Our mining resources have developed in the last quarter of a century along these lines, so that to-day the output of gold and silver is nearly \$100,000,000 every year, and yet the industry has received scarcely any encouragement.

The CHAIRMAN. The time of the gentleman from Idaho has expired.

Mr. FRENCH. Mr. Chairman, I ask that my time be ex-

tended five minutes. The CHAIRMAN. The gentleman from Idaho asks that his

time be extended five minutes. Is there objection? There was no objection.

Mr. BYRNS of Tennessee. Will the gentleman yield?

I will yield to the gentleman. Mr. FRENCH.

Mr. BYRNS of Tennessee. The gentleman surely does not mean to contend that these assay offices are maintained for any other purpose than the convenience of those who produce the gold bullion. Now I want to ask if it is not a fact that these people who now send their bullion to the assay office located in the gentleman's State could not send it other assay offices, say at Denver or Deadwood, S. Dak., which it is proposed to retain, and have the same services performed there that are performed now in the State of Idaho and save this expense to the people?

Mr. FRENCH. That is true in part, but there would be a delay in the time it would take to get a return on the bullion, and also an extra expense in the express charges that our producers would have to pay in carrying the bullion the greater distance. In the gold that is produced in Idaho to-day, 80 or 90 per cent is sent to Boise, and of the silver more than 96 per

cent is sent to boise, and of the sover more than 30 per cent is sent to the assay office in Boise instead of the assay offices or mints in other parts of the country.

Mr. BYRNS of Tennessee. The only difference that would result would be that those who produce gold bullion now would have to pay a little more money to send their gold and silver to the assay offices located in other places than they do, in order to send it to the assay office in the gentleman's State.

Mr. EDENCH. That serve appropriate could be applied to the

That same principle could be applied to the Mr. FRENCH. Agricultural Department, and could be applied to the Post Office Department, and every other department that we main-

The people could bear the expense individually which tain. the Government now bears.

The position of the gentleman is Mr. BYRNS of Tennessee. that 93,000,000 people should be forced to pay the extra expense of something like \$8,000 for the benefit of 400 or 500 people in Idaho who produce gold bullion and send it to the assay office in his State, rather than to the mint and assay office at Denver.

Mr. FRENCH. Oh, not at all; and the convenience and advantage that just a few would receive is merely suggestive of the convenience and advantage it would be to a large section of the country to have the institution there, where people may have the opportunity of sending the bullion they produce in those States to a convenient assay office, for the encouragement of the industry, for the encouragement of building up the gold and silver mining in the particular sections of the country that are tributary to these assay offices. I think the people generally, the 93,000,000 to whom the gentleman refers, will be glad to have this expense borne by the Government as an encouragement to the mining industry of the United States.

Mr. BYRNS of Tennessee. Can the gentleman then tell why

it is that the Secretary of the Treasury has, without exception, year after year, recommended that the assay office in the gentleman's State and all the other assay offices except at Denver and Philadelphia be abolished in the interest of the public

service and of the people?

Mr. FRENCH. The Secretary takes that position honestly, but why has not the committee followed that course they followed a year ago? If their position a year ago was correct, wherein they sought to abolish the assay office at Seattle, the mint at San Francisco, and other assay offices in the country, why do they reverse their policy and now try to abolish only a few?

Mr. BYRNS of Tennessee. If the gentleman asks me the question, I will say that the committee was in earnest a year ago when it endeavored to abolish all the assay offices, but the trouble was that when we came in here on the floor of the House we found a combination against the committee which prevented the abolishment of any of these offices. The committee now seeks by this bill to abolish only those assay offices which are a losing proposition to the Government.

Mr. FRENCH. Yes; and they are in States that are represented by but a one-Member delegation—States like Idaho, Utah, Montana, Nevada. Of course North Carolina and Louisiana must be included, but four of the six the committee is abolishing are located in States that have only one Repre-

senative on this floor. Mr. BYRNS of Tennessee. That is because these assay offices happen to be located in those States, but I will say to the gentleman that every assay office in the South has been abolished in this bill.

Mr. FRENCH. Only two of them.

Mr. BYRNS of Tennessee. There are only two there.
Mr. FRENCH. Yes; and you have abolished four from States that have only one Member each representing them in this body, and I think it is more a question of being able, as the gentleman suggests, to prevent some such combination that the committee has prepared the bill in the way it has. If the committee were in earnest a year ago, why not fight it out along the same lines now?

Will the gentleman join us in an Mr. BYRNS of Tennessee.

effort to abolish all of them?

Mr. FRENCH. No, I will not; because I believe they should be retained, not only the ones that are retained in the bill but the ones I ask to have retained in the amendment which I now

Mr. JOHNSON of South Carolina. Mr. Chairman, has the Chair yet ruled on the point of order?

The CHAIRMAN. The Chair thinks the point of order well taken. If the gentleman from Idaho cares to be heard upon the question, the Chair will hear him. The gentleman said he did not care to discuss the point of order.

Mr. FRENCH. Mr. Chairman, I do not think there can be any particular question on the point of order. I think the point of order is not well taken, because the amendment simply reinstates existing law. It proposes nothing new, it refers to that which is already existing law, and I think that now is a very proper time to have it considered, in lieu of the paragraph for which it is a substitute.

The CHAIRMAN. It is a well-established rule of the House, as the Chair understands it, that if any portion of an amendment is obnoxious, it makes the entire amendment obnoxious. It appears from the reading of this amendment that it includes matters other than is contemplated in the provision from line 15 to 23, on page 62. If the gentleman's amendment should

come after that as a different and separate section, it might be in order; but this provision provides solely for a mint at Denver, whereas the amendment offered by the gentleman from Idaho creates a number of assay offices throughout the country. If he should offer his amendment as a separate section following the mint at Denver, it seems to the Chair that it would be in order.

Mr. FRENCH. Then, to save time, because I would simply follow the program the Chair has outlined, I ask unanimous consent that the amendment I have proposed be offered as a separate section immediately following the disposition of this section that is now pending, and also in the same sentence I will ask that we do not read it, because we are all familiar with its terms, and then it can be voted up or down as the House sees fit.

Mr. JOHNSON of South Carolina. I object, Mr. Chairman.

The CHAIRMAN. The gentleman from South Carolina objects. The point of order is sustained, and the Clerk will read.

Mr. FRENCH. Then, Mr. Chairman, I would offer this same amendment as a separate section at this time.

The CHAIRMAN. The gentleman from Idaho offers the following amendment as a separate section.

Mr. FRENCH. If the Clerk will omit the part pertaining to Denver-I want to omit that because that is taken care of-I would ask that the reading be dispensed with, because the House is familiar with it,

The CHAIRMAN. The gentleman from Idaho asks unanimous consent that the reading of the amendment be dispensed with. Is there objection? [After a pause.] The Chair hears none. The question is on the adoption of the amendment offered by the gentleman from Idaho.

Mr. BURLESON. Mr. Chairman, I demand a division of the

amendment.

The CHAIRMAN. The gentleman from Texas demands a division of the amendment. The Clerk will report the first subdivision of the amendment.

The Clerk read as follows:

Page 62, after line 23, insert the following:

" MINTS AND ASSAY OFFICES.

"Mint at Carson, Nev.: Assayer in charge, who shall also perform the duties of melter, \$2,250; assistant assayer, \$1,500; chief clerk, \$1,600; clerk, \$1,000; in all, \$6,350.
"For wages of workmen and other employees, \$6,200.
"For incidental and contingent expenses, \$3,000."

Mr. BURLESON. Mr. Chairman, I simply desire to direct the attention of the committee to the fact that last year the earnings at the Carson Mint were \$3,717.93 and the expenses were \$15,284.69. The aggregate expenses of the assay offices we seek in this bill to abolish are \$144,673.69. The aggregate earnings are \$42,180.18. The net annual loss to the Government is more than \$100,000, and, in addition to this loss, for each year there is a cost for transportation necessarily incurred by the shipment of ore that is purchased which is sent to the mint for coinage purposes, aggregating thousands of dollars. The abolishment of these assay offices has been recommended by the present Secretary of the Treasury. Every Secretary of the Treasury for years with unvarying regularity, Democratic Secretaries of the Treasury alike with Republican Secretaries of the Treasury, have recommended their abolishment, declaring that they render no substantial service. It is in the interest of economy, and, Mr. Chairman, no reason can be stated why they should be continued, and they would not have been continued in last year's bill except for a combination upon the part of certain Representatives who have a selfish interest in the continuance of these particular assay offices, and I now ask that the Committee of the Whole sustain the Committee on Appropriations in its effort to strike down this wasteful extravagance. But for the combination last year these useless offices would have been abolished. I think now it no longer exists and that at last we can succeed in eliminating these indefensible items from

Mr. GILLETT. Mr. Chairman, I had occasion the other day to criticize the committee and the majority of this House for introducing in this bill what I thought was the first indica-tion of a seizure of the spoils of office. I want to be fair about the matter, and so I think I ought now to say that this proposition which they are making here shows quite an opposite spirit. I am surprised at it. I am afraid it is a spirit that will not be demonstrated very often in the progress of time, but certainly in this instance the majority of the committee is showing great self-denial and restraint of appetite in the effort to abolish these offices, which in the future would give them patronage. I think they are doing it wisely as well as un-selfishly. I think it is a righteous economy which deserves the selfishly. I think it is a righteous economic commendation and support of the House.

The CHAIRMAN. The question is on the subdivision amendment offered by the gentleman from Idaho.

The question was taken, and the amendment was rejected. The CHAIRMAN. Does the committee desire the balance of the amendment voted on together?

Mr. BURLESON. We are willing to vote on it.
The CHAIRMAN. The question is on the balance of the amendment offered by the gentleman from Idaho.

The question was taken, and the Chairman announced the noes seemed to have it.

Upon a division (demanded by Mr. French) there wereayes 11, noes 49.

So the amendment was rejected.

The Clerk read as follows:

Assay office at Deadwood, S. Dak.: Assayer in charge, who shall also perform the duties of melter, \$2.000; clerk, \$1.200; assistant assayer, \$1,600; assayer's assistant, \$1,400; in all, \$6,200.

For wages of workmen and other employees, \$3,000.

For incidental and contingent expenses, new machinery, etc., \$1,500.

Mr. COX of Indiana. Mr. Chairman, a parliamentary in-

The CHAIRMAN. The gentleman will state it.

Mr. COX of Indiana. I would like to know where the Clerk was reading

The CHAIRMAN. Page 65, line 7.
Mr. COX of Indiana. Mr. Chairman, I do not know whether I am too late or not, but I want to move to strike out all on page 65, lines 1, 2, 3, 4, 5, 6, and 7; in other words, from line 1 The CHAIRMAN. The gentleman from Indiana offers an

amendment, which the Clerk will report.
The Clerk read as follows:

Page 65, strike out all of lines 1 to 7, inclusive.

Mr. JOHNSON of South Carolina. I am quite willing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Assay office at Seattle, Wash.: Assayer in charge, who shall also perform the duties of melter, \$2.750; assistant assayer, \$2.000; chief clerk, who shall also perform the duties of cashier, \$2.000; cherk—one \$1,700, two at \$1,600 each, one \$1,400; in all, \$13,050.

Mr. DYER. Mr. Chairman, I move to strike out the last word. I want to ask the chairman of the committee a question. Is there any more need for the office at Seattle than for the one at Deadwood, in his opinion?

Mr. JOHNSON of South Carolina. Yes; there is a great deal more need for an assay office at Seattle than there is at any other point on the Pacific coast. The amount of bullion which

comes down to Seattle from Alaska is very great.

While I am on my feet I would like to ask the Mr. DYER. chairman of the subcommittee a question which I wanted to ask him when we had up the matter of the subtreasury. I would like to know if the Committee on Appropriations has made any recent inquiry into whether or not some of the subtreasuries could not be abolished without injuring the public business

Mr. JOHNSON of South Carolina. They ought all to be abolished, but this committee was not in a position to do it. They were organized under a very different condition of things than that which now obtains. We are not prepared to abolish them.

Mr. DYER. I understand the gentleman to say, then, that these different subtreasuries could practically be abolished with-

out any injury to the public business?

Mr. JOHNSON of South Carolina. I think they could. Of

course we have not had any inquiries on that subject.

Mr. DYER. Can the chairman state to us whether or not it is the intention, so far as he knows now, of the Committee on Appropriations to take up this inquiry for the purpose of trying to abolish them?

Mr. JOHNSON of South Carolina. I do not know who will be on the Committee on Appropriations after the 4th of March. This committee will do well to get through with the appropriation bills for the next fiscal year,

The Clerk read as follows:

GOVERNMENT IN THE TERRITORIES.

District of Alaska: Governor, \$7,000; 4 judges, at \$7,500 each; 4 attorneys, at \$5,000 each; 4 marshais, at \$4,000 each; 4 clerks, at \$3,500 each; in all, \$87,000.

Mr. Chairman, I move to strike out the last Mr. MANN. word. I would like to inquire from the gentleman in charge of the bill, in regard to the District of Alaska, whether they need as large a force there now since Alaska was created into a Territory as they have had heretofore? Is there a large share of this legal work there to be done hereafter?

Mr. JOHNSON of South Carolina. The Committee on Appropriations has no information on that subject. When we were making up the bill last year we thought that the force

was too large in the Territories, and we made an inquiry of the Attorney General, and after investigation he notified the committee that the force could not be reduced.

The Clerk read as follows:

For judges of circuit courts, at \$4,000 each, so much as may be necessary, for the fiscal year ending June 30, 1914.

[Mr. FARR addressed the committee. See Appendix.]

Mr. MANN. Mr. Chairman, I move to strike out the last word, for the purpose of inquiring of the gentleman from South Carolina [Mr. Johnson], in charge of the bill, whether any request or estimate was made in reference to the expenses of the Territorial Legislature for the Territory of Alaska, or whether they would properly come in this bill or in the sundry civil bill?

Mr. JOHNSON of South Carolina. They would properly come in this bill, Mr. Chairman, but no estimate was sent to us. We do provide in this bill for the Legislature of Hawaii, but as it only meets biennially it was not necessary to have any estimate

n this bill. No estimates came in regard to the other.

Mr. MANN. And the matter was not called to the attention

of the committee by the Delegate from Alaska?

Mr. JOHNSON of South Carolina. No. There is no estimate before the committee as to the amount needed.

The Clerk read as follows:

WAR DEPARTMENT.

Office of the Secretary: Secretary of War. \$12,000; Assistant Secretary, \$5,000; assistant and chief clerk, \$4,000; private secretary to the Secretary, \$2,500; clerk to the Secretary, \$2,500; clerk to the Secretary, \$2,000; stenographer to the Secretary, \$2,000; clerk to the Assistant Secretary, \$2,400; assistant chief clerk, \$2,400; disbursing clerk, \$2,750; appointment clerk, \$2,250; 4 chiefs of division, at \$2,000 cach; superintendent of buildings outside of State, War, and Navy Department Building, in addition to compensation as chief of division, \$500; chief telegrapher, \$1,800; clerks—4 of class 4, 5 of class 3, 15 of class 2, 19 of class 1, 6 at \$1,000 cach, 1 at \$900; foreman, \$1,200; carpenter, \$1,200; chief messenger, \$1,000; carpenter, \$1,080; 6 messengers; 7 assistant messengers, at \$600 cach; telephone switchboard operator; assistant telephone switchboard operator; assistant telephone switchboard operator; assistant telephone switchboard operator; assistant telephone switchboard operator; engineer, \$720; fireman: 4 watchmen; 5 watchmen, at \$600 cach; 8 laborers; hostlers—1 at \$600, 1 at \$540; elevator conductors—1 at \$600; 4 charwomen; in all, \$148,160.

Mr. FOWLER. Mr. Chairman, I reserve a point of order on

Mr. FOWLER. Mr. Chairman, I reserve a point of order on this paragraph. I desire to ask the gentleman why the chief clerk's salary is increased from \$2,500 to \$4,000.

Mr. JOHNSON of South Carolina. We have not done any-The salary is the same now as it has been. thing of the kind.

Mr. FOWLER. The last bill provides that the chief clerk of the Secretary of War shall have a salary of \$2,500. In this bill it provides for a salary of \$4,000.

Mr. JOHNSON of South Carolina. We have made no change

Mr. FOWLER. I have the statute before me.

Mr. JOHNSON of South Carolina. The gentleman may have the statute before him, but we are following current law.

Mr. FOWLER. Well, as a matter of fact, does the gentleman

think that there ought to be an increase in the salary simply by current law, when there is no general law for it?

Mr. JOHNSON of South Carolina. He is not merely a chief clerk in the ordinary acceptation of that term, but he is also an

Assistant Secretary of War.

Mr. FOWLER. Mr. Chairman, there is no provision in the statute for an assistant secretary and chief clerk of war, but there is a provision for a chief clerk at a salary of \$2,500. It is sought by this bill to increase his salary from \$2,500 to \$4,000 by marrying him to an assistant for which there is no provision I therefore make a point of order against this provision in line 3 for \$4,000 for the chief clerk.

Mr. JOHNSON of South Carolina. Mr. Chairman, the chief clerk when the War Department was created by the act of 1789 was provided for at \$600 a year. From time to time it was increased; notably in 1871 the salary was increased to \$2,500. At some time previous to this present fiscal year the salary was increased in an appropriation bill to \$4,000, and this committee has not increased the salary over the amount carried in the current law. There would be just as much sense in going back and fixing this officer's salary at \$600, which was the amount fixed in the original statute in 1789, as there would be in going back to the year 1871 and fixing the salary at \$2,500.

Mr. FOWLER. Does the gentleman contend that there has been an amendment to the statute fixing the salary of the chief

clerk to the Secretary of War to \$2,500?

Mr. JOHNSON of South Carolina. I endeavored to state distinctly that it has been increased on appropriation bills, and we are simply following the current law as made in an appropriation bill.

Mr. FOWLER. The gentleman is well aware of the fact that merely because a salary may have been increased by an appropriation bill it is not binding at all upon any future Congress or session thereof in making an appropriation for that purpose.

Mr. JOHNSON of South Carolina. Mr. Chairman, I am ready

to have the Chair rule.

Mr. FOWLER. I will say to the Chair that I have before me the statute governing the question of salaries for the Department of War, and it provides for one chief clerk of the department at a salary of \$2,500 a year.

The CHAIRMAN. It is the Chair's understanding of the prec-

edents that where a statute fixes the salary of an officer a point of order against the increase of the salary is good, and that where the statute fixes no salary, then the current law is to govern in a case of that character; and for that reason it

seems to the Chair that-

Mr. FITZGERALD. Mr. Chairman, in this instance, however, there is one other point to which the attention of the Chair must be called. The statute cited by the gentleman from Illinois [Mr. Fowler] fixes the compensation of the office of chief clerk, but that is not this office. This is a different office. It is the office of assistant and chief clerk—a different title, with somewhat different duties-and it is upon that ground that the gentleman from South Carolina [Mr. Johnson] has based his contention. There was a consolidation of offices and a change in the compensation, and the particular position that the gentleman from Illinois [Mr. Fowlers] now mentions does not exist.

Mr. FOWLER. Mr. Chairman, does the gentleman from

New York yield?

The CHAIRMAN. Does the gentleman from New York yield

to the gentleman from Illinois?

Mr. FITZGERALD. Certainly.

Mr. FOWLER. I desire to ask if there is such a position as Assistant Secretary of War, as contemplated by this provision of this bill?

Mr. JOHNSON of South Carolina. There is an Assistant Secretary of War at \$5,000 a year, and he has an assistant and

chief clerk at \$4,000 a year.

The CHAIRMAN. The Chair would like to ask the gentleman from New York [Mr. FITZGERALD] how the word "assistant is going to help to make it in order unless that office is authorized by law?

Mr. JOHNSON of South Carolina. It is authorized by appropriation acts, which justify us in carrying it in the next

appropriation bill.

The CHAIRMAN. But if it is an office not authorized by law, and the point of order is made against it, under the rules

of the committee a point of order would lie,

Mr. FITZGERALD. There is no separate statute, as I recall, creating the office of assistant and chief clerk. If the gentleman from Illinois [Mr. Fowler] has made his point of order on that ground that is one thing. But the only compensation fixed for the office of assistant and chief clerk is the compensation fixed in the appropriation bill.

The CHAIRMAN. The Chair is inclined to think the point

of order is well taken.

Mr. FITZGERALD. Against the entire clause?

The CHAIRMAN. No; against this provision of "assistant and chief clerk at \$4,000." Has the gentleman from South Carolina any amendment?

Mr. JOHNSON of South Carolina. No; we have no amend-

The CHAIRMAN. The Clerk will read,

The Clerk read as follows:

Office of the Judge Advocate General: Chief clerk and solicitor, \$2,500; law clerks—1 at \$2,400, 1 at \$2,000; clerks—1 of class 4, 2 of class 3, 3 of class 2, 6 of class 1; copyist; 2 messengers; assistant messenger; in all, \$26,600.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the paragraph. I desire to ask the gentleman in charge of the bill why the chief clerk, in this paragraph, has a salary of \$2,500, whereas it ought to be \$2,000?

Mr. JOHNSON of South Carolina. There is no law creating such an office. It is just simply carried in an appropriation We have carried it there because the previous appropria-

tion bills provided for it.

Mr. FOWLER. There is a chief clerk of this office? Mr. JOHNSON of South Carolina. He is something more than a chief clerk.

Mr. FOWLER. Can you consolidate a statutory office with another office by an appropriation bill?

Mr. JOHNSON of South Carolina. A chief clerk is author-

ized by law at \$2,000. Mr. FOWLER. A chief clerk is authorized by law at the salary of \$2,000?

Mr. JOHNSON of South Carolina. Yes.

Mr. FOWLER. I make the point of order against this por-

tion of the paragraph, Mr. Chairman.
Mr. JOHNSON of South Carolina. If it is subject to a point of order, I would rather let it go.

The CHAIRMAN. The Chair understands that the gentleman from Illinois says he has the statute before him, and the statute authorizes a salary of \$2,000.

Mr. FOWLER. I understand the law so fixes it.
Mr. JOHNSON of South Carolina. The words "and solicitor" are subject to a point of order.
The CHAIRMAN. What is the understanding of the gentleman in charge of the bill as to what the statutory law is?
Mr. JOHNSON of South Carolina. There is authority for a chief clark at \$2,000. There is no provision for "chief clark".

chief clerk at \$2,000. There is no provision for "chief clerk and solicitor," but there is a law for the chief clerk.

The CHAIRMAN. Let the Chair understand just what the

gentleman from Illinois made the point of order against. Will

the gentleman state it again?

Mr. FOWLER. The point of order is directed against the salary of the chief clerk and solicitor provided in the bill at There is no such office as "chief clerk and solicitor created by the statute. There is a statutory office of chief clerk, and I make a point of order against that provision of the bill.

The CHAIRMAN. The point of order, in so far as the words "and solicitor" are concerned, is doubtless well taken. Chair is not certain whether that takes out of the bill the entire provision "chief clerk and solicitor."

Mr. FITZGERALD. Mr. Chairman, the provision "chief clerk and solicitor, \$2,500," goes out.

The CHAIRMAN. The Chair sustains the point of order.

Mr. FITZGERALD. Mr. Chairman, I move to strike out the last word. There are carried in the legislative bill a very large

number of offices which have been carried for a great many years at compensations and under titles different from the compensation and titles fixed in the organic act. series of years Congress, in providing for the needs of the public service, has from time to time provided additional compensation and changed titles in order to obtain the services required to carry on the public service adequately. It is a notorious fact that this bill can be taken by any studious or industrious Member of the House and completely emasculated. That is known to the entire House. We have established a governmental service in all the various departments essential for the proper conduct of the public business. The Chair will probably recall that a few years since, as a result of a some-what partisan controversy that arose in the House, two Members of the House undertook to eliminate from the legislative bill all of the items that were not strictly in order under the rules, and they carried their work to such an extent that at the completion of the bill the House, by a practically unanimous vote, adopted a rule reinserting all the items taken out, because it would have been ludicrous to pass through the House a bill purporting to provide for the departmental service which everybody knew in effect did not do so. The gentleman from Illinois [Mr. Fowler] can follow that practice if he chooses to do so. If he were bringing to the attention of the Committee of the Whole items in this bill that the Committee on Appropriations were at this time attempting to do in the way of increasing forces or increasing compensation, which were not in strict conformity with the rules, that would be one matter, and I do not know that I have ever criticized anyone for exercising his rights under the rules in that respect; but to sit here and take out all these various items of appropriation which are absolutely essential for the conduct of the public service can not, it seems to me, be justified upon any theory whatever. It may be that the gentleman will carry his work to such an extent that in order to preserve the self-respect of the House, at the conclusion of the bill, the committee may be compelled to ask the adoption of a rule restoring all of the items eliminated in

this way Mr. FOWLER. Mr. Chairman, I desire to offer an amendment to take the place of the \$2,500, which has been stricken out, and make it \$2,000, so that it will read "chief clerk and solicitor, \$2,000.

Mr. JOHNSON of South Carolina. I make the point of order against that amendment that it is not provided by law.

The CHAIRMAN. The point of order is sustained.

Mr. FITZGERALD. I ask the gentleman from South Carolina to withdraw the point of order.

Mr. JOHNSON of South Carolina. I will withdraw the point

Let the amendment be reported. of order. The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 68, line 16, strike out \$2,500 and insert \$2,000.

Mr. MANN. Mr. Chairman, I submit that that is not the amendment that was offered. Let the Clerk report the amendment that was offered.

The CHAIRMAN. The Clerk will report the amendment as offered by the gentleman from Illinois [Mr. Fowler].

Mr. FOWLER. Mr. Chairman, I desire to amend my amend-

Mr. FITZGERALD. Mr. Chairman, I demand that the amendment be reported.

The CHAIRMAN. If the gentleman from Illinois [Mr. Fow-LER] will wait a moment, the Clerk will report his original amendment.

The Clerk read as follows:

Page 68, lines 15 and 16, insert "chief clerk and solicitor, \$2,000."

Mr. FOWLER. Mr. Chairman, I desire to amend the amendment by striking out the words "and solicitor."

The CHAIRMAN. The Clerk will report the amendment to the amendment.

The Clerk read as follows:

Amend the amendment by striking out the words "and solicitor."

Mr. MANN. I would like to ask the reason for striking out the words "and solicitor." This man is conceded to be a

Mr. FOWLER. I do not understand that there is any such statutory office as solicitor provided for in this department.

Mr. MANN. That is true; but this department itself is a lawyer's department. It is the office of the Judge Advocate General. While he is an Army officer he is also a lawyer and has to be; his office is the legal department, and like any other legal department of the Government it requires a solicitor. Where there is a chief clerk he needs to be a lawyer or else have a lawyer besides. It is run as a legal office and does the legal work for the Army, and occasionally has furnished information to the House and the committees of the House of an important character in legal work.

Mr. FOWLER. Mr. Chairman, I do not desire to hinder or delay legislation in this body in any way whatever. I feel as sensible as any other Member of this House of my weakness and newness in this body. Under no consideration would I hold up this House, in any sense of the word, in any department of the Government which would handicap it or lessen its ability to carry out the great needs of the Government of this country

to the fullest extent.

I resent, Mr. Chairman, any statement made here on the floor of this House which may impute to me a disposition of that kind. I do say, Mr. Chairman, that there is a regular and lawful way to proceed in all of the business in this House. We have a code of rules which are employed for the purpose of guiding Members in the conduct of bills in this House, and we have ample laws, fixed and definite, as to what is to be done and should be done in appropriations for furnishing the Government in its various departments ample revenue for the purpose of bringing to the country its greatest welfare. I therefore offer this amendment so that the gentleman from New York [Mr. Fitzgerald] may be advised as to my position in the premises-that is, that where a statutory office is created that it shall remain distinct and apart from all other positions, and that it can not be married to Tom, Dick, and Harry without the consent of the Congress of the United States.

Mr. FITZGERALD. The gentleman from Illinois does not imagine that this marriage to which he refers was placed in this law without the consent of the Congress of the United States. It was done in the House and agreed to by the Senate. That is how it is here. I ask for a vote on the amendment to

the amendment.

The CHAIRMAN. The question is on the amendment to the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment to the amend-

Mr. FITZGERALD. Mr. Chairman, I move to strike out the words "two thousand" in the amendment and insert "twentyfive hundred."

Mr. FOWLER. I make a point of order, Mr. Chairman, to that amendment to the amendment.

The CHAIRMAN. On what ground?

Mr. FOWLER. Because it seeks to regulate the salary of a statutory office which is fixed by law.

Mr. FITZGERALD. I call the attention of the Chair to the fact that the gentleman's amendment provides for an office that is not provided for by statute; that is legislation, and under the rules of the House any germane legislation is in order. The CHAIRMAN. The Chair understands that it is the un-

broken rule that where an amendment is offered out of order and permitted to be acted on by the committee, it can be perfected in any way the committee may think best. So the point of order is not well taken. The question is on the amendment to the amendment offered by the gentleman from New York.

The question was taken, and the amendment to the amendment was agreed to.

The CHAIRMAN. The question now is on the amendment as amended.

The question was taken, and the amendment as amended was agreed to.

The Clerk read as follows:

The Clerk read as follows:

Office, Chief, Quartermaster Corps: Assistant and chief clerk, \$2,750; 5 principal clerks, at \$2,250 each; clerks—15 of class 4, 25 of class 3, 44 of class 2, 85 of class 1, 50 at \$1,000 each, 10 at \$900 each; advisory architect, \$4,000; experienced builder and mechanic, \$2,500; inspector of supplies, \$2,500; draftsmen—3 at \$1,800 each, 7 at \$1,000 each, 5 at \$1,400 each; supervising engineer, \$2,750; 2 civil engineers at \$1,800 each; electrical engineer at \$2,000; electrical and mechanical engineer, \$2,000; sanitary and heating engineer, \$1,500; blue-print operator, \$900; 6 messengers; 14 assistant messengers; 12 laborers; 1 laborer, \$480; in all, \$378,670.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against that paragraph. I desire to ask the chairman of the

against that paragraph. I desire to ask the chairman of the committee why the chief clerk's salary is increased from \$2,000 to \$2,750. That is on page 69, at the bottom of the page.

Mr. JOHNSON of South Carolina. Mr. Chairman, the section of the bill now under consideration is the consolidated bureau resulting from the legislation in the last military appropriation bill that required three bureaus of the War Department to be consolidated

Mr. FOWLER. Did it create any office of assistant and chief

clerk, and thereby fix the salary?

Mr. JOHNSON of South Carolina. It certainly provided, Mr. Chairman, that these three bureaus in the War Department should be consolidated into one bureau. The statute itself does not fix the number of employees, and therefore under the general law we have the right to appropriate for such force as is necessary to carry on the work of that bureau. And I want to say, further, if the gentleman will permit me to give him the information-

Mr. FOWLER. That is sufficient.

Mr. JOHNSON of South Carolina. That these three consolidated bureaus for the present year are costing \$425,700. By the consolidation we are able to carry on this service for \$378,670, making, in round figures, a saving of \$50,000. I am surprised that the gentleman should object to such economy as that.

Mr. FOWLER. There is not such a saving as \$50,000. It is

much less than \$50,000.

Mr. JOHNSON of South Carolina. How much less?

Mr. FOWLER. I have not the exact figures, but it does not

reach \$50,000 by any means.

Mr. JOHNSON of South Carolina. The service is costing \$425,700 now. Under the proposed bill it will cost \$378,670. There are 43 people less provided for, and the net saving is \$47,030—in round numbers \$50,000.

Mr. FOWLER. I desire to ask if the statute does not fix the

chief clerk's salary for this department at \$2,000?

Mr. JOHNSON of South Carolina. There is no statute fixing the chief clerk's salary in that bureau at any price.

Mr. FOWLER. I desire to call the attention of the chairman to the fact that the Quartermaster General's Corps provides for a chief clerk at a salary of \$2,000.

Mr. JOHNSON of South Carolina. Yes; but that is the old law. The military appropriation bill provided that these three bureaus should be consolidated. It abolishes all of the others.

Mr. FOWLER. Yes; but it does not make any change in the question of the chief clerk of the Quartermaster General's office.

Mr. JOHNSON of South Carolina. There is no such thing, It wiped all of them out of existence, and this section of the bill is prepared in accordance with the new law.

Mr. KAHN. Mr. Chairman, will the gentleman yield? Mr. JOHNSON of South Carolina. Certainly.

Mr. KAHN. Under the last Army appropriation bill the Quartermaster's Department, the Subsistence Department, and the Pay Department were consolidated under the name of the Quartermaster Corps. The \$2,000 that the gentleman speaks of refers to a chief clerk of the Quartermaster's Department. That department has been abolished. This provides for the Quartermaster Corps, an entirely new department, and the legislation that was enacted in the last Congress did not pro-

Mr. FOWLER. Was there any provision in that bill repealing the law creating the Quartermaster General's office and that department?

Mr. KAHN. By inference there was, because the Quarter-master's Department was consolidated with the Pay Department and the Subsistence Department in the Quartermaster

Mr. FOWLER. Is it not a fact that this is the Quartermaster General's Department, just the same as it has been always, and if not, what has become of the Quartermaster General and his clerks?

Mr. KAHN. The Quartermaster General does no longer exist. He is now called the Chief of the Quartermaster Corps. The office of Quartermaster General has been abolished. The office of Paymaster General has been abolished and the office of Commissary General has been abolished. They are all consolidated in the new Quartermaster Corps.

Mr. FOWLER. Mr. Chairman, I desire to make a point of order against that part of this paragraph, page 69, lines 24

order against that part of this paragraph, page 69, lines 24 and 25, wherein it is sought to create an assistant and chief clerk with a salary of \$2,750.

The CHAIRMAN (Mr. FOSTER). The Chair is of the opinion that the military appropriation bill of last year, in bringing about a consolidation of these offices, changed the office of Quartermaster General and Paymaster General and Commissary General, and created this new office called the Quartermaster. General, and created this new office called the Quartermaster Corps, and it is under the provisions of that legislation that the committee has appropriated for this new department. In the opinion of the Chair the point of order is not well taken, and the point of order is overruled.

The Clerk read as follows:

Office of the Surgeon General: Chief clerk, \$2,250; law clerk, \$2,000; clerks—13 of class 4, 11 of class 3, 26 of class 2, 32 of class 1, 10 at \$1,000 cach, 3 at \$900 each; anatomist, \$1,600; engineer, \$1,400; 3 firemen; skilled mechanic, \$1,000; 2 messengers; 10 assistant messengers; 3 watchmen; superintendent of building (Army Medical Museum and Library), \$250; 6 laborers; chemist, \$2,088; assistant chemist, \$1,500; principal assistant librarian, \$2,250; pathologist, \$1,800; microscopist, \$1,800; assistant librarian, \$1,800; 4 charwomen; in all, \$166,358.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the paragraph. I desire to make the point of order against the salary of the chief clerk at \$2,250, because it is a statutory office wherein the salary is fixed by law at \$2,000.

Mr. JOHNSON of South Carolina. Mr. Chairman, it is subject to the point of order, and I do not care to waste time

over it.

The CHAIRMAN. The Chair sustains the point of order.

Mr. FOWLER. I desire to amend the bill by

Mr. JOHNSON of South Carolina. Mr. Chairman, I move, in line 14, after the words "chief clerk," to insert the words "two thousand dollars."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend page 70, line 14, by inserting at the beginning of the line "\$2,000.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Office of the Chief of Engineers; Chief clerk, \$2,250; 2 chiefs of division, at \$2,000 each; clerks—8 of class 4, 11 of class 3, 13 of class 2, 16 of class 1, 10 at \$1,000 each; 11 at \$900 each; 6 messengers; 3 assistant messengers; 2 laborers; in all, \$104,070.

Mr. FOWLER. Mr. Chairman, I make the point of order against this paragraph confined to the salary of the chief clerk, which is denominated in this bill at \$2,250, whereas the statute fixes the salary at \$2,000.

Mr. JOHNSON of South Carolina. Mr. Chairman, it is sub-

ject to the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. FOWLER. Mr. Chairman, I desire to amend by insert-

ing \$2,000 instead of \$2,250.

The CHAIRMAN. The Chair will state to the gentleman from Illinois that the gentleman in charge of the bill has the preferential right to recognition.

Mr. JOHNSON of South Carolina. Mr. Chairman, I move to

insert "\$2,000" after the words "chief clerk."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 71, line 22, by inserting at the beginning of the line "\$2,000."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Office of the Bureau of Insular Affairs: Law officer, \$4,500; chief clerk, \$2.250; clerks—10 of class 4, 3 of class 3, 10 of class 2, 19 of class 1, 15 at \$1,000 each; 3 messengers; 2 assistant messengers; 4 laborers; 2 charwomen; in all, \$88,430.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against the paragraph. I desire to ask the chairman of the committee why the chief clerk's salary is fixed at \$2,250 instead of \$2,000?

Mr. JOHNSON of South Carolina. Because we thought he

was worth the money and ought to have it.

Mr. FOWLER. Why make a distinction here, and in other places in this same department of the Government you fix the chief clerk's salary at \$2,000, such as in the Engineer's Department?

Mr. JOHNSON of South Carolina. We fixed it at \$2,250 in order to equalize him with these and other chief clerks, and the gentleman made a point of order against it.

Mr. FOWLER. Mr. Chairman, I make a point of order against the chief clerk's salary at \$2,250.

Mr. JOHNSON of South Carolina. The point of order is not well taken, because there is no law fixing the salary at \$2,000.

Mr. FOWLER. I submit, Mr. Chairman, that if there is a law fixing the exact salary I have not been able to lay my hands to it; but I believe it was fixed along with the other departments. I withdraw the point of order, not being definite enough to give the proper information.

Mr. MANN. The gentleman can withdraw the point of order,

but it is subject to the point of order.

The Clerk read as follows:

The Clerk read as follows:

Contingent expenses of branch offices at Boston, New York, Philadelphia, Baltimore, Norfolk, Savannah, New Orleans, San Francisco, Portland (Oreg.), Portland (Me.), Chicago, Cleveland, Buffalo, Duluth, Sault Ste. Marie, Panama, and Galveston, including furniture, fuel, lights, works and periodicals relating to hydrography, marine meteorology, navigation, surveying, oceanography, and terrestrial magnetism, stationery, miscellaneous articles, rent and care of offices, care of time balls, car fare and ferriage in visiting merchant vessels, freight and express charges, telegrams, and other necessary expenses incurred in collecting the latest information for the Pilot Charts, and for other purposes for which the offices were established, \$11,000.

Mr. JOHNSON of South Carolina. Mr. Chairman, on page 82, line 23, before the word "Panama," insert the word "Seattle."

The CHAIRMAN (Mr. GARNER). The Clerk will report the

amendment.

The Clerk read as follows:

Amend, page 82, line 23, by inserting at the beginning of the line, before the word "Panama," the word "Seattle."

Mr. JOHNSON of South Carolina. Now, Mr. Chairman, in that connection I desire permission to insert in the Record certain correspondence.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent to insert in the RECORD certain correspondence pertaining to the amendment just offered. Is there objection? [After a pause.] The Chair hears none.

The correspondence is as follows:

DECEMBER 5, 1912,

Mr. G. F. Cooper,

Hydrographic Office, Navy Department, City.

My Dear Mr. Cooper: It seems that the Committee on Appropriations drew the conclusion from your statement made to the committee with reference to the removal of the hydrographic office at Port Townsend, Wash. that there was no necessity for a hydrographic office on Puget Sound. I know, of course, that you did not intend that any such construction should be placed upon your statement. Will you please tell me what necessity there is for the continuance of such office on Puget Sound? I will be under obligations for an immediate reply.

Sincerely, yours,

W. E. Humphrey.

In number of ships, and perhaps also in tonnage, Puget Sound is the second port of the United States. Tonnage of Puget Sound in 1911, 2,857,818 tons. Of this amount 2,162,814 tons came from Seattle and was of the value of \$109,407,114.

Hydrographic Office, Washington, D. C., December 6, 1912.

Washington, D. C., December 6, 1912.

Hon. W. E. Humphrey, M. C.,

House of Representatives, Washington, D. C.

My Dear Mr. Humphrey: In reply to your letter of December 5, 1912, please permit me to express my great regret that the Committee on Appropriations should have placed the construction upon my testimony that they seem to have done. I had no intention whatever of conveying any impression that there was no necessity for a branch hydrographic office on Puget Sound. On the contrary, my testimony will show that the estimates requested the establishment of two offices on that Sound instead of one. The question was simply a relocation of the office now situated at Port Townsend and, if possible, the establishment of an additional office on Puget Sound. The office at Port Townsend, as I said to the committee (see p. 128, hearings on the legislative, executive, and judicial appropriation bill for 1914), is not advantage-ously situated with regard to the shipping interests centering on Puget Sound. Port Townsend is a small place, and most of the shipping that centers on Puget Sound simply uses Port Townsend as a port of entry and quarantine station. The ships do not remain sufficiently long at that port for their masters to properly avail themselves of the advantages of the branch office now situated there. They are compelled to receive their information and publications by mail, and if they wish a personal interview with the officer in charge of the office it is generally necessary for them to go up to Port Townsend, leaving their vessels.

If the office is moved to Seattle, the situation would be very much

ally necessary for them to go up to Port Townsend, leaving their vessels.

If the office is moved to Seattle, the situation would be very much more advantageous to the shipping interests. There is great necessity for a branch hydrographic office on Puget Sound. This office maintains a time ball which is dropped every day at noon. It supplies mariners with the latest information concerning dangers to navigation in all parts of the world. It has on file for their information all the charts and sailing directions of the world corrected to date. With this office taken from Puget Sound, the shipping interests centering on that Sound would be deprived of this time service and information service, which is of great use to them. Our one desire in suggesting that the office be moved from one point on the Sound to another is that it might be still more useful to the shipping interests.

I had supposed that the Committee on Appropriations would understand from my hearing that the office at Port Townsend was not as advantageously situated as it would be at Seattle. In addition to the hearing, I left with the clerk of the committee a copy of my letter to the Secretary of the Navy transmitting the estimates, which letter specifically mentioned the removal of the office from Port Townsend to Seattle.

Very respectfully,

George F. Cooper,

Commander, United States Navy, Hydrographer.

Mr. MANN. In the current law I notice Port Townsend is included as one of the hydrographic offices. Is this intended to take the place of Port Townsend and provide the office at Seattle?

Mr. JOHNSON of South Carolina. Yes.

Mr. MANN. Is that satisfactory to the gentleman from Washington [Mr. HUMPHREY]?

Mr. JOHNSON of South Carolina. I understand it is desired by the official heads. I have not had anything to do with the correspondence.

Mr. MANN. Is that satisfactory to the gentleman from Washington [Mr. HUMPHREY]?

Mr. JOHNSON of South Carolina. Yes; the gentleman from Washington requested me to make this amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Naval Observatory: Assistant astronomers—1 at \$2,400, 2 at \$1,800 each; assistant in department of nautical instruments, \$1,600; clerks—1 of class 4, 1 of class 2; instrument maker, \$1,500; electrician, \$1,500; librarian, \$1,800; assistants—3 at \$1,600 each, 3 at \$1,400 each, 2 at \$1,000 each; stenographer and typewriter, \$900; foreman and captain of the watch, \$1,000; carpenter, and engineer, at \$1,000 each; 3 firemen; 6 watchmen; elevator conductor, \$720; 9 laborers; in all, \$43,640.

Mr. SMALL. Mr. Chairman, I ask unanimous consent to return to page 72, lines 14, 15, and 16, and pending that, to make this statement as the basis for a motion to strike out those lines.

Mr. JOHNSON of South Carolina. Mr. Chairman, reserving the right to object, I am perfectly willing that the gentleman shall make his statement as to the reason for returning to page 72.

The CHAIRMAN. Is there objection?

Mr. SMALL. Also a motion, unless there is objection. Mr. CARLIN. Reserving the right to object, Mr. Chairman, does the unanimous consent carry with it the right to make the motion?

Mr. SMALL. Yes; providing there is no objection to it. Mr. CARLIN. What is the motion to be? Mr. SMALL. To strike out the section.

Mr. Chairman, the chairman of the Committee on Rivers and Harbors [Mr. Sparkman] was expecting to be present when that paragraph, on page 72, lines 14 to 16, was read, but he was unexpectedly and urgently called away from the Chamber, and has requested me to ask for this consent. This section sought to be repealed was included in the river and harbor act approved July 25, 1912. As a matter of fact, it was inserted as an amendment to the river and harbor bill while it was pending in the Senate, but it was inserted at the request of the Chief of Engineers, Gen. W. H. Bixby, upon the statement that it was necessary as an urgency measure. Section 10 of the river and harbor act sought to be repealed provides that the Chief of Engineers may, in preparing estimates in the carrying out of directions in the river and harbor act, employ such additional clerical help as may be necessary. The chairman of the committee desired, if he had been here, to move to strike out the paragraph repealing this section, and that is my purpose upon which I ask unanimous consent to return to it.

The CHAIRMAN. The gentleman from North Carolina [Mr. SMALL] asks unanimous consent to return to page 72 for the purpose of making the motion to strike out lines 14, 15, and 16. Is there objection?

Mr. JOHNSON of South Carolina. Mr. Chairman, it is the purpose in the legislative, executive, and judicial appropriation bill to provide all the clerical services for the Government within the District of Columbia. It is impossible for the Committee on Appropriations to know the number of people employed and the compensation paid if, in addition to what we provide in this bill, lump sums are given by the Indian Affairs Committee and the Post Office Committee, the Rivers and Harbors Committee, and the various committees of this House which Committee, and the various committees of this House which appropriate money. The rivers and harbors act, passed in July, 1912, in section 10, authorizes an expenditure for clerical services in the preparation of plans, and so forth. We carry in this bill \$42,000 for that purpose. When Maj. Ladue, representing the office of the Chief of Engineers, was before the committee I asked him if he desired any larger appropriation than they have for the current year. He replied that they did than they have for the current year. He replied that they did not. I asked him the further question as to how many clerks had been employed under the authorization in section 10 of the rivers and harbors act, and he stated that none had been employed. So, Mr. Chairman, while section 10 of the rivers and harbors act authorized the employment of clerical service, the Chief of Engineers had not found it necessary to employ anybody, and as it is our purpose in this bill to give to this bureau, and every other bureau, the clerical force necessary I shall have to object.

Mr. SMALL. I ask the gentleman to reserve his objection for just a moment.

Mr. JOHNSON of South Carolina. And I desire to insert in the Record the testimony before the committee when this bill was being made up.

Mr. SMALL. May I ask the gentleman whether in the hearing there was any statement made by Maj. Ladue, or anyone representing the War Department or office of the Chief of Engineers, that section 10 was not desired?

Mr. JOHNSON of South Carolina. I asked Maj. Ladue this

You are familiar with section 10 of the rivers and harbors act?
Maj. LADUE. For 1912?
Mr. JOHNSON of South Carolina. Yes, sir.
Maj. LADUE. Yes, sir; I am.
Mr. JOHNSON of South Carolina. Where did that originate?
Maj. LADUE. I am unable to say positively where it originated. It was put in by the Senate committee when the rivers and harbors bill was under consideration. I was not present at the hearings on that bill, and I have not read them. I really do not know who is responsible for the provision, but I know that is where it was put in.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent to insert certain matters in his remarks. Is there objection?

There was no objection.

Following is the statement referred to:

STATEMENT OF MAJ. WILLIAM B. LADUE, FROM THE OFFICE OF CHIEF OF ENGINEERS.

ENGINEERS.

Mr. Johnson. Major, your item is on page 154 of the bill. We will be glad to have you make any statement that you desire to make, if the notes are not as full as you would like them to be, in regard to these increases on page 154.

Maj. Ladde. The notes express briefly the reasons for the proposed increases. They are, first, a recommendation that the salary of the chief clerk be raised from \$2,000 to \$2,500, and, second, a recommendation for an increase of three in the clerical force.

Mr. Johnson. Is there anything else?

Maj. Ladde. As to the chief clerk, I would simply add to the notes that our present chief clerk has been in our office for 45 years. He has devoted his life to the service, and his present pay has been unchanged for about 25 years. He is a man of tact and courtesy and is an efficient and able man, thoroughly devoted to the interests of the service. He has a good deal of responsibility placed upon him. He is in charge of the general office administration.

Mr. Johnson. Do you mean to say that he has been a clerk there for 25 years without having any increase in pay?

Maj. Ladue. He has not been chief clerk all of that time, but he had the same salary before he was promoted to the position of chief clerk.

Mr. Johnson. But you mean to say that he has had no increase in 25 years?

Maj. Ladue. It is a condition that is not uncommon in our service.

Maj. Ladue. He has not been chief cierk all of that time, but he had the same salary before he was promoted to the position of chief cierk. Mr. Johnson. But you mean to say that he has had no increase in 25 years?

Maj. Ladue. It is a condition that is not uncommon in our service. Note.—Upon examining the office records it is found that the above statement with regard to the salary of the present chief cierk is not correct, his salary having been unchanged for 12½ years instead of 25 years as stated. An increase of \$200 per annum made 12½ years ago (July 1, 1900) was, however, the only increase in his salary since July 1, 1874, a period of 38½ years. The salary of the position of chief cierk has been unchanged since July 1, 1871, a period of over 41 years, during which time there have been two incumbents of the position, the first serving from July 1, 1871, until his death on July 10, 1901, and the present incumbent serving from July 15, 1901, to the present date.

Mr. Johnson. The purpose is to promote somebody in increasing these clerks of class 3?

Maj. Ladue. We need an additional force to carry on our work. Our work has increased right along. An analysis of the figures showing the papers that go through the office, the increase in the number of the appropriations, as well as in the amounts of the appropriations, and in the expenditures, with the annual river and harbor bill and the general increase in all public work handled by our office, shows that this increase has been continuous, and it shows no signs of decreasing. It rather shows signs of increasing steadily. This means, of course, more work in our office in the handling of projects, plans, and estimates, looking after the execution of work, replying to inquiries, recording papers, taking care of the accounts, the examination of papers, and the preparation of financial statements, and so on. So that we have been really requiring an additional clerical force for some time. We need more men. We have recommended increases in the hower grades.

Mr. John

CLERKS UNDER AUTHORIZATION OF RIVER AND HARBOR BILL.

Mr. Johnson. How many clerks have you under the authorization of the river and harbor bill in addition to those provided for in the legislative bill?

Maj. LADUE. Last year we carried 1 chief of division and 10 clerks under that authority.

Mr. Johnson. You have reference, I think, to the section that authorizes the expenditure of not exceeding \$42,000. I mean what clerical services you have employed under the rivers and harbors act of 1912? Maj. Ladde. None. We have not done anything under that. Mr. Johnson. I am glad to hear that, because we may not always give you what you ask, but we do try to provide for all clerical services in the District of Columbia in this bill so that we can keep a record of it.

Maj. LADUE. Yes, sir.

Mr. JOHNSON. Now, do you desire any change in the section authorizing the employment of skilled draftsmen, civil engineers, etc., the expenditure not to exceed \$42,000?

Maj. LADUE. No, sir: we are asking for no change in that. We would like that to be the same.

CLERKS PAID FROM LUMP-SUM APPROPRIATIONS.

Mr. JOHNSON. In the last legislative bill there is a provision to the effect that people who are paid out of lump-sum appropriations shall not be paid a greater sum than the amounts paid for similar services during the preceding year. Has that embarrassed you any in your expenditures for this year?

Maj. LADUE. Well, it has not embarrassed us so far.

Mr. JOHNSON. Under what conditions would it embarrass you?

Maj. LADUE. The question, of course, turns entirely upon the interpretation of the words "similar services." If these words are narrowly interpreted to mean the same service that the individual man performed last year, it would, of course, as you see, absolutely bar any further promotion. We have not interpreted it that way and neither has the comptroller. It has been interpreted to permit promotions in the grades, when there are grades established, for the purpose of recognizing efficiency or increased value to the service. The place where it is most likely to worry us is in our field service. Of course the provision in the legislative act does not affect the field service, but the provision in the efficiency act, which is similar to the language in the legislative act, does affect our field service. But under our present interpretation it has not worried us, because we have interpreted it to mean that if anywhere in our field service we are paying draftsmen \$1,800 a year, then anywhere else in the field service draftsmen at \$1,200 can be promoted. It hink that is the intent of the provision, and therefore it has not worried us. The effect of it is to put a limit on the top.

Mr. JOHNSON, Have you had a construction of it from the Comptroller of the Treasury? Have you asked for his interpretation of the law?

law? Maj. law?
Maj. Ladue. We have not for our own departments, but I have seen several interpretations that he has rendered for other departments. You see it puts a limit on the top. All up through the grades we can work very well, but at the top you will find the man who will feel the pinch. If the services of the man at the top entitled him to an increase that we would be glad to give him, he would be barred by this provision.

SECTION 10, RIVERS AND HARBORS ACT.

[See also p. 88.]

Mr. Johnson. You are familiar with section 10 of the rivers and

Mr. Johnson. You are familiar with section 10 of the rivers and harbors act?

Maj. Ladue. For 1912?
Mr. Johnson. Yes, sir.
Maj. Ladue. Yes, sir; I am.
Mr. Johnson. Where did that originate?
Maj. Ladue. I am unable to say positively where it originated. It was put in by the Senate committee when the rivers and harbors bill was under consideration. I was not present at the hearings on that bill, and I have not read them. I really do not know who is responsible for the provision, but I know that is where it was put in.

Mr. Manny. Mr. Chairman will the gentleman yield?

Mr. MANN. Mr. Chairman, will the gentleman yield? The CHAIRMAN. Does the gentleman from South Carolina yield to the gentleman from Illinois?

Mr. JOHNSON of South Carolina. Certainly.

Mr. MANN. In the bill itself is contained that item, I think, that the gentleman refers to, of \$42,000 from which may be paid the services of skilled draftsmen, civil engineers, and so forth; to carry into effect the various appropriations for rivers and harbors and surveys, to be paid from appropriations for this purpose, not to exceed in the total \$42,000.

Now, the river and harbor section, section 10, covers the preparation for and consideration of river and harbor estimates and bills, for which there is no special emergency appropriation anywhere. Would it not be perfectly fair, with the repeal of sec-tion, to insert in this item that language so that within the limit of the \$42,000 they could employ some one for the emergency work in the preparation of the estimates in bill? It will leave the control of the matter with the Committee on Appropriations, and will require them to estimate for it and give

reasons for it, and it will not increase the amount.

Mr. SMALL. Mr. Chairman, if the gentleman from Illinois will pardon me, I think his suggestion ought to be accepted, because while I can not reconcile the statement of Maj. Ladue with that of the Chief of Engineers, I do know-because I heard Gen. Bixby make a statement to that effect—that in his opinion an emergency does exist every year for additional help in making up estimates.

Mr. MANN. Probably the amount would be trifling, and it would not increase the appropriations any to insert that lan-

guage.

Mr. JOHNSON of South Carolina. I have no objection to the language of the gentleman from Illinois because it is not our

purpose to cripple any bureau of the Government.

We all understand that. If the gentleman will insert in the bill on page 72, line 7, after the word "surveys," the language, "and the preparation for and the consideration of river and harbor estimates and bills," I think it would be well, although I do not know whether that would cover it exactly or not. Probably it would need something additional. I think you had better return to that, if you want to do it.

Mr. JOHNSON of South Carolina. I suggest, Mr. Chairman, that we return to this item after the gentleman from Illinois

has had time to prepare the amendment.

Mr. SMALL. In answer to the gentleman from South Caro lina [Mr. Johnson], I do not understand, Mr. Chairman, that he consents to return to the item for the purpose of accepting a motion to repeal lines 14, 15, and 16, but to insert an amendment to the provision.

The CHAIRMAN. The gentleman from North Carolina [Mr. SMALL] does not object to returning to that item for the purpose Without objection, that will be of making an amendment, done. The Clerk will read.

The Clerk read as follows:

Bureau of Yards and Docks: Chief clerk, \$2,250; draftsman and clerk, 1,800; clerks—1 of class 3, 1 of class 2, 2 of class 1, 1 at \$1,100; 0; \$1,000 each; assistant messenger; 3 messenger boys, at \$600 each; laborers; in all, \$20,390.

Mr. MANN. Mr. Chairman, I reserve a point of order on the paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN]

reserves a point of order on the paragraph.

Mr. MANN. I notice, Mr. Chairman, that there are a number of increases of salary of a number of chief clerks of the Navy Department. While my attention was engaged otherwise I see they were passed over. I supposed that my colleague [Mr. Fowler] was going to take care of them. What is the reason

for making these increases?

Mr. JOHNSON of South Carolina. I will say to the gentleman from Illinois that all the chief clerks in the Navy Department were increased from \$2,000 to \$2,250. The recommenda-tion was to increase them to \$2,500. The committee was fairly satisfied that the work required of a man in the position of a chief clerk in any of the bureaus of the Navy Department is such as could well justify the salary of \$2,250. We believed that the salaries of the chief clerks in the Navy Department were very much less than the salaries of men doing corresponding work in other departments, and we increased all of them because we believed they merited the increase.

Mr. MANN. Well, is the office of Chief of Ordnance in the Navy Department so much more important than the office of

Chief of Ordnance in the War Department?

Mr. JOHNSON of South Carolina. There was not anything before us on the matter from the War Department, concerning which the gentleman has just asked, upon which we could operate. In both the War and Navy Departments wherever the estimates called for an increase for the chief clerks we allowed

\$250 instead of \$500.

Mr. MANN. This is one of those cases, then, where virtue is not its own reward, and modesty does not pay. The Chief of Ordnance of the War Department, thinking it was not the policy of Congress to make increases of salaries, refrained from requesting an increase for his chief clerk. The chief clerk himself probably did not desire to be turned down, but wanted to comply with the spirit that he believed would be likely to actuate Congress, and therefore he did not ask for an increase for himself. He does not get an increase, although he is just as important to the Government and to the department as any-body. All those who asked for increases got them. I go on body. All those who asked for increases got them. I go on the theory, usually, that when you find a man who is doing good work and is modest enough not to be "hollering" about getting something more, you can afford to do something for him, rather than for the one who is always complaining and insisting that he ought to be better provided for.

Mr. JOHNSON of South Carolina. Well, the gentleman from Illinois understands that where we are providing for 16,000 employees in this bill it is impossible for us to inquire into the merits of every employee unless they are brought to our

attention.

Mr. MANN. I have no intention of complaining about the Committee on Appropriations, which does very efficient work, and I am always willing to compliment the gentleman from South Carolina [Mr. Johnson] on his work. And yet when the gentlemen are proposing to increase the salaries of chief clerks throughout certain branches of the governmental service, it seems to me I would not leave out one who evidently ought to have his salary increased if others are increased, because he has been modest enough not to kick about what he is getting.

The CHAIRMAN. The Clerk will read.

What became of my point of order? Mr. MANN.

The CHAIRMAN. The Chair understood the gentleman to withdraw his point of order.

Mr. MANN. I did not; but I will.

The CHAIRMAN. The gorder. The Clerk will read. The gentleman withdraws his point of

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR.

Office of the Secretary: Secretary of the Interior. \$12,000: First Assistant Secretary, \$5,000; Assistant Secretary, \$4,500; chief clerk, including \$500 as superintendent of buildings, who shall be chief executive officer of the department and who may be designated by the Secretary of the Interior to sign official papers and documents during the temporary absence of the Secretary and the Assistant Secretaries of the department, \$4,000; assistant to the Secretary, \$2,750; assistant attorneys—1 at \$2,500; 2 special inspectors, whose employment shall be limited to the inspection of offices and the work in the several offices under the control of the Department of the Interior, at \$2,500 each;

6 inspectors, at \$2,500 each; chief disbursing clerk, \$2,250; clerk in charge of supplies, \$2,250; clerk in charge of mails, files, and archives, \$2,250; clerk in charge of publications, \$2,250; private secretary to the Secretary, \$2,500; clerks—4 at \$2,000 each; 13 of class 4, 18 of class 3, 21 of class 2, 24 of class 1, 3 at \$1,000 each; returns office clerk, \$1,600; female clerk, to be designated by the President, to sign land patents, \$1,200; 8 copyists; multigraph operator, \$900; assistant multigraph operator, \$720; typewriter repairer, \$900; 2 telephone switch-board operators; 9 messengers; 7 assistant messengers; 21 laborers; skilled mechanics—1 at \$900, 1 at \$720; 2 carpenters, at \$900 each; plumber, \$900; electrician, \$1,000; laborer, \$600; 6 laborers, at \$480 each; packer, \$660; 2 conductors of elevators, at \$720 each; 8 charwomen; captain of the watch, \$1,200; 40 watchmen; additional to 2 watchmen acting as lieutenants of watchmen, at \$120 each; engineer, \$1,200; assistant engineer, \$1,000; 7 firemen; clerk to sign, under the direction of the Secretary, in his name and for him, his approval of all tribal deeds to allottees and deeds for town lots made and executed according to law for any of the Five Civilized Tribes of Indians in the Indian Territory, \$1,200; in all, \$275,570.

Mr. FOSTER. Mr. Chairman, I reserve a point of order on

Mr. FOSTER. Mr. Chairman, I reserve a point of order on this paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. Foster] reserves a point of order on the paragraph.

Mr. FOSTER. As I understand, this provides, on page 91, lines 4 and 5, for an additional attorney for the Interior Department. Is that correct?

Mr. JOHNSON of South Carolina. No; there is no increase. There is a transfer.

Mr. FOSTER. Last year's bill, I think, provided for but one, as I understand it.

Mr. JOHNSON of South Carolina. There is no change in it. There is no increase whatever.

Mr. FOSTER. Last year the bill provided for an assistant attorney at \$2,500. I do not find this additional attorney in last year's law. This seems to provide for two attorneys, but last year's bill appropriated for but one.

Mr. MANN. There is only one attorney provided for here.

Mr. FOSTER. In the bill I have it says:

Assistant attorneys-one, \$2,500.

Mr. MANN. Assistant attorney—one, at \$2,500. Mr. FOSTER. My bill says "assistant attorney

My bill says "assistant attorneys."

Mr. MANN. That is a heading.

What I was getting at was whether there was Mr. FOSTER. a provision in the law for one and this provided for an additional one.

Mr. MANN. That is a heading which is supposed to cover what comes after.

Mr. FOSTER. My colleague may be right about that.

Mr. JOHNSON of South Carolina. If the gentleman [Mr. Foster] will look at the punctuation he will see that there is only one provided for at \$2,500. Then we provide for other forces under that heading. There is no change whatever in the paragraph.

Mr. FOSTER. This provides for only one assistant attorney?

Mr. JOHNSON of South Carolina.

Mr. SMALL. Mr. Chairman, on behalf of the chairman of the Committee on Rivers and Harbors, the gentleman from Florida [Mr. Sparkman], I desire to offer an amendment on page 72. The CHAIRMAN. We have passed page 72.

Mr. SMALL. It was agreed that we should return to page 72

for this purpose.

The CHAIRMAN. The gentleman from North Carolina requests unanimous consent to return to page 72 for the purpose of offering a certain amendment. Is there objection?

Mr. JOHNSON of South Carolina. Let the clerk report the

amendment.

Mr. FOSTER. Reserving the right to object, let us hear the amendment reported.

The Clerk read as follows:

On page 72, in line 7, after the word "survey," insert the following: "Preparation for and the consideration of river and harbor estimates and bills.

The CHAIRMAN. The gentleman from North Carolina [Mr. SMALL] asks unanimous consent to return to page 72 for the purpose of offering the amendment which has just been reported.

Mr. JOHNSON of South Carolina. I have no doubt this amendment is all right.

Mr. FOSTER. I should like to reserve the right to object until I hear the gentleman's statement.

Mr. MANN. This is what we discussed a while ago.

Mr. SMALL. Mr. Chairman, by a paragraph of the bill on page 72 it is proposed to repeal section 10 of the river and harbor act of 1912 because of the indefiniteness of it, and because there was no limit upon the amount which might be expended. This amendment which I have offered gives to the Chief of Engineers the right to employ clerical help in the emergencies referred to in the original section of the river and harbor act sought to be repealed and removes the objectionable features, and is a satisfactory provision.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina [Mr. SMALL]?

There was no objection.

The CHAIRMAN. The Clerk will now report the amend-

The Clerk read as follows:

On page 72, in line 7, after the word "survey," insert "preparation for and reconsideration of river and harbor estimates and bills."

The word "and" should be inserted before the Mr. MANN. word "preparation."

Mr. SMALL. I ask unanimous consent to insert the word "and," before the word "preparation," in the amendment.

The CHAIRMAN. Is there objection?

There was no objection.

The amendment was agreed to.

The Clerk read as follows:

For per diem in lieu of subsistence of two special inspectors, Department of the Interior, while traveling on duty, at a rate to be fixed by the Secretary of the Interior, not exceeding \$4 per day, and for actual necessary expenses of transportation (including temporary employment of stenographers, typewriters, and other assistance outside of the District of Columbia, and for incidental expenditures necessary to the efficient conduct of examinations), to be expended under the direction of the Secretary of the Interior, \$4,500.

Mr. COX of Indiana. Mr. Chairman, I move to strike out the last word. I would like to inquire of the gentleman in charge of the bill about this item of inspectors at \$4 a day. In one place in the bill I notice that the per diem is \$3 a day and in another place \$4 a day. I would like to inquire as to the reason for this difference.

Mr. JOHNSON of South Carolina. There are some Government employees who are allowed \$3 a day and others allowed \$4 a day. Those that are allowed \$3 are the inspectors who are out in the country, where their expenses are less than in the

cities at expensive hotels.

Mr. COX of Indiana. As I understand, in the bill under consideration some are allowed \$3 a day and others \$4 a day.

Mr. JOHNSON of South Carolina. Yes; and for that reason.

Mr. COX of Indiana. I would like to inquire further whether or not it is not the custom of the department in the Assistant Attorney General's Department to allow the full \$4 a day?

Mr. JOHNSON of South Carolina. I think they do allow the

full amount.

Mr. COX of Indiana. Does not the gentleman feel that it would be just and proper to put all the per diem employees on the same basis?

Mr. JOHNSON of South Carolina. No; as I stated a moment ago, the distinction is brought about by reason of the difference in the circumstances. If a man is required to go on Government business to large cities where hotels are expensive, he is put to more expense than when he is traveling in the country, where the people are hospitable and the expenses are smaller.

Mr. COX of Indiana. I want to state to the gentleman that a few years ago the post-office inspectors were allowed \$4 per day, and they used the same argument, but finally the House came to the conclusion that \$4 a day was too much, and they reduced it to \$3 per day. I do not remember the exact amount of the saving that it brought to the Government, but it was something like \$40,000 or \$50,000 a year. I am disposed to believe that \$3 a day is a plenty, and I believe they all ought to be treated alike. I can not see the justice of allowing one set of men \$3 a day and another set \$4 a day, because I recognize that they can conjure up some sort of argument to justify the \$4 a day rate.

Mr. JOHNSON of South Carolina. I have stated to the gentleman the reason why some get \$4 a day and some \$3 a day. It was thought that those in the country had less expense than those who have their work in the cities.

Mr. COX of Indiana. Where do these men travel, as a rule, who are provided for in the Assistant Attorney General's office? What are their duties?

Mr. JOHNSON of South Carolina. There is nothing of that sort in that office. The people the gentleman speaks of are under the Secretary of the Interior himself.

Mr. COX of Indiana. That is right; I was looking at the wrong paragraph. Where do the inspectors in the Interior Department usually travel?

Mr. JOHNSON of South Carolina. They travel in all publicland States.

Mr. COX of Indiana. That is altogether in the western part

of the country?
Mr. JOHNSON of South Carolina. Yes; the land offices

where they are required to go are located in the cities.

Mr. COX of Indiana. I understand that, but all the land offices are not located in large cities.

Mr. JOHNSON of South Carolina. No: but they are all

Mr. COX of Indiana. Mr. Chairman, I ask unanimous con-

sent to withdraw my pro forma amendment.

The CHAIRMAN. The gentleman from Indiana withdraws

his pro forma amendment.

Mr. COX of Indiana. Now, Mr. Chairman, I move to strike out, in line 23, page 92, the figure "4" and insert in lieu thereof the figure "3," so that it will read "\$3 per day." the figure "3," so that it will read "\$3 per day."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In line 23, page 92, strike out the figure "3" and insert the figure "4," so that it will read "\$3 per day."

Mr. COX of Indiana. Mr. Chairman, I do not wish to be parsimonious, but I think \$3 a day for these men is plenty. realize that an argument can be made to justify it on different grounds, but at the same time I do not believe it is needed. I believe the economy which will be brought about as a result would be just, wise, and equitable to the people of this country, and I think that the amendment I have offered ought to obtain.

Mr. JOHNSON of South Carolina. Mr. Chairman, these inspectors are in the land offices in public-land States. Their business takes them to Seattle, Portland, San Francisco, and a large part of their time they are obliged to travel from one city to another, living in Pullman cars, and it has not been very long since that item was increased from \$3 to \$4 a day because it was impossible for them to subsist on \$3 a day.

·The CHAIRMAN. The question is on the amendment offered

by the gentleman from Indiana.

The question was taken, and the amendment was lost.

The Clerk read as follows:

Hereafter the right of review by the Secretary of the Interior of the action of the Commissioner of Pensions in relation to claims for Army and Navy pensions, or in relation to the payment of Army and Navy pensions, shall be limited and confined to questions of law.

Mr. FOSTER. Mr. Chairman, I reserve a point of order on the paragraph. I observe this limits the appeal to the Assistant Secretary of the Interior to matters of law and prevents him from going any further in settling an appeal in a pension claim.

Mr. JOHNSON of South Carolina. Mr. Chairman, the Commissioner of Pensions states that only 2 per cent of all the cases appealed are reversed on questions either of law or fact. He believes that the force in the Pension Office is better qualified to pass upon the facts in an application for pension than probably any other force that could be gotten together. There is no reason why there should be appeals upon questions of fact. The Commissioner of Pensions is deeply interested in this subject, is familiar with all the work in the Pension Office, having risen from a subordinate position to the head of the bureau, and he thinks no appeals should be allowed on questions of fact.

Mr. FOSTER. Mr. Chairman, I have very high regard for the honesty and integrity and ability of Mr. Davenport, the Commissioner of Pensions, and believe that his duties are discharged in a satisfactory way so far as he is able to oversee that work, but it has occurred to me that since they have in the department a law division as well as a medical division there is no reason why questions of law should be considered on appeal any more than medical questions, as well as questions of fact. For instance, a local medical board examines a pensioner, and that board gives him a certain rating, which is provided for in the law as a part of their duty. That finding goes to the medical board in the Pension Office. That board passes upon the case of the pensioner, and in doing so may determine the case of the pensioner and in doing so may determine from the report of the local board that examined the pensioner that he is not entitled to the amount that is recommended by the board at home, in the community where the pensioner resides. I may be wrong, but it occurs to me that on an appeal on a question of that kind the pensioner ought to have the right to have his case reviewed so far as those facts are concerned as well as on the questions of law.

Mr. JOHNSON of South Carolina. The gentleman from Illinois understands that the men in the Pension Office have had years of experience and training in passing upon questions of fact of that nature, and he will understand that when an appeal is taken to the Secretary of the Interior the men who constitute the appellate court, so to speak, are lawyers, and, while quite familiar with the law, have no special fitness for passing on

facts in a pension case.

Mr. FOSTER. I would suggest that if that appeal board is composed entirely of lawyers, then the board ought to be changed. There ought to be others on the board who would be able to judge more particularly of medical facts as well as matters of law.

Mr. JOHNSON of South Carolina. I am told they have a medical expert as well,

Mr. COX of Indiana. Does the Secretary of the Interior recommend this legislation also?

Mr. JOHNSON of South Carolina. I do not know what his views on that question are. I have stated the views of the Commissioner of Pensions.

Mr. FOSTER. It has occurred to me that the pensioner should have a right to have his case on appeal reviewed as to matters of fact. If you are going to say that the men in the Pension Bureau are more able to judge of a pension case, then why have any appeal at all? Or if he has a right to have an appeal, why not let that appeal consider all the surroundings of that particular case?

Mr. JOHNSON of South Carolina. The gentleman will understand that these questions have been settled so often that there are very few appeals necessary now. Under recent legislation the difficulty of the Pension Office is a mere matter of calculating how long a soldier has served. It depends upon how long he was in the service as well as upon the question of

disability

Mr. FOSTER. I do not agree with the gentleman on that point at all, because under the pension law lately passed in one clause there is a provision for \$30 a month when the pensioner is able to show by medical evidence that the disease or wounds contracted in the service are such as to prevent him from performing manual labor, regardless of age or time he served. In that case, if he is 65 years of age and served nine months or a year, then the question is whether he is entitled to \$30 a month under the provisions of that law, and it seems to me if he is dissatisfied with the action of the Pension Commissioner that he should have a right to appeal his case to the Assistant Secretary of the Interior, if we are going to have any appeal

Mr. JOHNSON of South Carolina. I will say, Mr. Chairman, that this is legislation and is subject to a point of order.

Mr. FOSTER. I have read the hearings and know what Mr.

Davenport said.

Mr. JOHNSON of South Carolina. I have great confidence in the Commissioner of Pensions, and I think his judgment is of great value, and I would as soon follow him as anybody I

Mr. FOSTER. I will say to the gentleman from South Carolina I believe I have as much confidence in the Commissioner of Pensions as he has, and I have a very high regard for his honesty, integrity, and his judgment, and yet I submit I might have an opinion of my own in reference to this matter which would vary with the Commissioner of Pensions without doubting his ability, his honesty, or his integrity.

The CHAIRMAN. Does the gentleman from Illinois with-

draw the point of order?

Mr. FOSTER. No; I insist on the point of order.

The CHAIRMAN. The point of order is sustained, and the Clerk will read.

The Clerk read as follows:

For per diem, when absent from home and traveling on duty outside the District of Columbia, for special examiners or other persons employed in the Bureau of Pensions detailed for the purpose of making special investigations pertaining to said bureau, in lieu of expenses for subsistence, not exceeding \$3 per day, and for actual and other necessary expenses, including telegrams, \$215,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word. May I ask the gentleman from South Carolina [Mr. Johnson], in reference to the disbursing clerk's office which pays pensions, how the cost of that compares with the present cost of paying pensions? Also as to what is to become of the clerks in the various pension agencies? Then I would also like to know, if I may, whether this provision about filling vacan-cles only to the extent of 25 per cent will not injuriously affect the disbursing clerk's office.

Mr. JOHNSON of South Carolina. Mr. Chairman, in reply to the several questions of the gentleman from Illinois I will say that the disbursing clerk provided for here is provided for in the law that abolished the pension agencies throughout the

Yes; I am familiar with that. What is the cost proposed for paying pensions under the consolidated office here and the present cost of paying pensions through the various pension agencies?

Mr. JOHNSON of South Carolina. The difference is \$131,100.

Mr. MANN. More?

Mr. JOHNSON of South Carolina. It will be that much less under the new arrangement.

Mr. MANN. That is, it is that much more now than under

the new arrangement?

Mr. JOHNSON of South Carolina. Yes. Now, in answer to the question as to what becomes of the clerks who were in the various pension agencies throughout the country, it is provided that they shall be transferred to the office at Washington. There are 300 of them. Some of them do not care to come to We have provided for the number that the Com-Washington. missioner of Pensions believes that he will need and all that he believes will come to Washington.

Mr. MANN. Well, can they be transferred to Washington? Mr. JOHNSON of South Carolina. Yes; the law specifically

provides for that, as I understand.

Mr. MANN. The law we passed last session does the gentle-

Mr. JOHNSON of South Carolina. They are in the classified service, and they will be transferred under the rules for transferring employees from one place to another. The reason for putting in the clause that only 25 per cent of the vacancies shall be filled is this: There has been for many years in the appropriation bill language to the effect that none of the vacancies in the Pension Office shall be filled, because the work was growing rapidly less. Under the recent legislation increasing pensions it was necessary to increase the force. The commissioner thought, therefore, it would be better not to allow all vacancies to remain, but to allow him to fill 25 per cent in order that there may be no difficulty in having sufficient force.

Of course there will not be any less work prob-Mr. MANN. ably on the disbursing clerk's office. Is it contemplated, then, that the places of clerks dropped out of the disbursing clerk's office shall be filled by transferring them from the general Pension Office?

Mr. JOHNSON of South Carolina. I beg the gentleman's

pardon.

Mr. MANN. The work of the disbursing clerk's office is not likely to decrease very rapidly or for some time. templated that as clerks drop out their places will be filled by transferring from other portions of the Pension Office?

Mr. JOHNSON of South Carolina. The gentleman understands there are 250 people who will be brought here from the agencies throughout the country, and that those gentlemen primarily will work in the disbursing clerk's office, but it was thought that probably the disbursing would not require the full time of all of these people, and we inserted a provision in the bill that when not engaged in that work they might be employed upon the general work of the office. It is not thought that the provision that only 25 per cent of the vacancies shall be filled during the next fiscal year will embarrass the Pension Office in any way whatever. I would call to the gentleman's attention page 197 of the hearings, where the following occurred:

Mr. Johnson of South Carolina. Is it proposed, Mr. Davenport, to bring from the pension agencies to Washington clerks who are now employed in those agencies if they desire to come?

Mr. Davenport. All that desire to come and are efficient. There are some very old clerks we would not think of bringing here.

Mr. Johnson of South Carolina. What proportion of the clerks in the agencies do you anticipate will come to Washington, or have you any data that would enable you to state it?

Mr. Davenport. More will come than are appropriated for.

I thought he said 250.

The CHAIRMAN. Does the gentleman from Illinois [Mr. MANN] reserve a point of order?

Mr. MANN. No.; I do not. I was trying to eliminate the word "dollars" from the bill. I am not quite through yet, unless my time has expired. May I ask the gentleman from South Carolina [Mr. Johnson] what information he has?

Mr. JOHNSON of South Carolina. If there is any danger of

the force in the disbursing office being impaired by reason of that clause of the bill, I am willing to transpose lines 13 to 21, so as to precede the disbursing clerk's section, and let it apply

to the other portion of the force only.
Mr. MANN. And insert the word "above."

Mr. JOHNSON of South Carolina. Mr. Chairman, I ask unanimous consent at the end of line 3, page 97, to insert the language beginning on line 13, page 97, and ending on line 21, page 97, as an amendment.

Mr. MANN. And insert after the word "herein," at the end of line 15, the word "above."

Mr. JOHNSON of South Carolina. And insert after the word "herein," at the end of line 15, the word "above."

The CHAIRMAN. The gentleman from South Carolina [Mr. Johnson] asks unanimous consent to return to page 97 and offer an amendment, which the Clerk will report.

The Clerk read as follows:

Page 97, after line 13, insert the following:

"During the fiscal year 1914 not more than 25 per cent of the vacancies occurring in the classified service of the Bureau of Pensions herein above provided for shall be filled except by promotion or demotion from among those in the classified service in said bureau. And the salaries

or compensation of all places which may not be filled as herein 4 bove provided for shall not be available for expenditure, but shall lapse and shall be covered into the Treasury."

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none. The question now is on the amendment offered by the gentleman from South Carolina [Mr. Johnson].

The amendment was agreed to.

Mr. JOHNSON of South Carolina. Now, on page 97, beginning with line 13, I move to strike out down to and including line 91

The CHAIRMAN. The gentleman from South Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 97, strike out all of lines 13 to 21, inclusive.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to. The Clerk read as follows:

For necessary traveling expenses of the commissioner in studying educational systems, visiting educational institutions, and attending meetings of educational associations, societies, and other organizations for the purpose of collecting and disseminating information respecting educational conditions, \$1,500.

Mr. MANN. Mr. Chairman-

Mr. FOSTER. Mr. Chairman, I reserve a point of order on this paragraph. I would like some information. I refer to the

top of the first paragraph on page 101.

Mr. JOHNSON of South Carolina. The Commissioner of Education desired the committee to give him \$20,000 for the purpose of paying the traveling expenses of himself and his experts throughout the country. It is necessary that the Commissioner of Education and those representing him should do some traveling, and we allowed \$1,500 for that purpose. There is legislation pending in both branches of Congress which would probably largely increase the activities of that bureau, and we did not feel disposed to anticipate the action of Congress

Mr. FOSTER. The gentleman's committee was very kind in

giving him one-twentieth of what he asked.

Mr. JOHNSON of South Carolina. Fifteen hundred dollars

is more than one-twentieth of what he asked.

Mr. FOSTER. Well, it seems to me if we start on this sort of work there will be no end to the amount of traveling the Commissioner of Education will do over the United States

Mr. BYRNS of Tennessee. This limits him.

Mr. FOSTER. But it limits him and those under him to the extent of \$1,500. He does not have any agricultural colleges to visit. I believe I shall insist on the point of order.

Mr. JOHNSON of South Carolina. It is subject to a point of

order

The CHAIRMAN. The gentleman from Illinois [Mr. Foster] makes a point of order, page 101, lines 1 to 6, inclusive. The point of order is sustained. The Clerk will proceed with the reading of the bill.

The Clerk read as follows:

Postal Savings System: For the following, now authorized and being paid from a general appropriation: Director, \$5,000; assistant director, \$3,000; 2 chiefs of division, at \$2,500 each; 2 assistant chiefs of division, at \$2,000 each; clerks—10 of class 4, 15 of class 3, 25 of class 2, 50 of class 1, 50 at \$1,000 each, 20 at \$900 each; 2 messengers; 4 assistant messengers; 3 laborers; 3 pages at \$480 each; in all, \$229,980.

Mr. MANN. Mr. Chairman, I raise a point of order on that paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN]

raises a point of order on that paragraph.

Mr. MANN. I notice, Mr. Chairman, as to the postal-savings banks, that there is provided a specific salary for the director at \$5,000, which may or may not be too much. It may be too little, for all I know. But it is the only \$5,000 position in the Post Office Department, I believe, where the incumbent is not an assistant to the Postmaster General. I suppose this office is under one of the Assistant Postmasters General.

Wherever they create an office and pay its employees out of a lump sum they usually pay much higher salaries than anywhere else in the department. In this case the office was payable out of a lump-sum appropriation, and the salary of the director was fixed at \$5,000. A \$5,000 salary for this office is not at all on a plane with the other salaries in the Post Office Department, either of those superior to this office or on an equality with this office or inferior to this office. chasing agent of the Post Office Department is fully as portant as the director of the postal-savings banks. T are many other places in the Post Office Department that are equally important. I suppose the committee did not care to assume the responsibility of changing the salary and so took it the way it was,

Mr. JOHNSON of South Carolina. The gentleman from Illinois has already stated that when the postal-savings law was passed a lump-sum appropriation was made to carry on the Under that lump-sum appropriation this division was

created by the Postmaster General, who fixed the salaries.

The salary of the director was placed at \$5,000. In order that this committee might know the number of people employed and the salaries paid, we directed that they should furnish us with a list of the employees and of the salaries, and that they should be carried hereafter on the statutory roll. In accordance with that law they made their estimates this year. We took the force they had, and we did not feel justified in changing this salary, because while it looks as though \$5,000 is a large sum for the head of a division, we realize that the deposits now amount to \$28,000,000, I believe, and they will

grow from year to year.

Mr. MANN. Well, that is probably true. A big man ought to be at the head of every division. In the property of Money Orders the superintendent gets a salary of \$3,500 a year. I believe the money orders amount to several hundred million dollars a year-close to a billion dollars a year. I do not know whether this salary is too small or whether the duties are much more onerous with reference to the director of the postal savings banks. I do not say that the salary of \$5,000 is too much, but it is too much in proportion to the other salaries that are paid

in the Post Office Department.

Mr. JOHNSON of South Carolina. If it is, it simply demonstrates what some of us have all along believed, that lump-sum appropriations ought not to be made, but that the employees ought to be provided for specifically, as we try to do in this bill.

Mr. MANN. Yes; but it is inevitable to make lump-sum appropriations under certain circumstances, like those surrounding the postal savings-bank establishment. Then the question is, when the matter comes to be fixed by Congress, what Congress will do, because Congress is not bound by what the department does in regard to it.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEPARTMENT OF JUSTICE.

DEPARTMENT OF JUSTICE.

Office of the Attorney General; Attorney General, \$12,000; Solicitor General, \$10,000; assistant to the Attorney General, \$7,000; 7 Assistant Attorneys General, at \$5,000 each; Assistant Attorney General of the Post Office Department, \$5,000; Solicitor of Internal Revenue, \$5,000; Solicitor for the Department of State, \$5,000; 4 attorneys, at \$5,000 each, one of whom shall have charge of all condemnation proceedings in the District of Columbia and supervise the examination of titles and matters arising from such condemnation proceedings in the District of columbia and supervise the examination of titles and matters arising from such condemnation proceedings in which the United States shall be a party or have an interest, and no special attorney or counsel, or services of persons other than of those provided for herein, shall be employed for such purposes; attorneys—1 \$3,750, 3 at \$3,500 each, 1 \$3,250, 12 at \$3,000 each, 2 at \$2,750 each, 5 at 2,500 each, 1 \$3,500, 2 at \$3,000 each, 2 at \$2,750 each, 5 at 2,500 each, 1 \$2,400, 2 at \$2,000 each, 2 at \$2,750 each, 5 at 2,500 each, 1 \$4,400, 2 at \$2,000 each, 2 assistant examiner of titles, \$2,000; chief clerk and ex officio superintendent of the buildings, \$3,000; superintendent of buildings, \$5,00; private secretary and assistant to the Attorney General, \$3,600; clerk to the Attorney General, \$1,600; stenographer to the Solicitor General, \$1,600; law clerks—3 at \$2,000 each, 2 of class 4; clerk in office of the Solicitor of Internal Revenue, \$1,800; attorney in charge of pardons, \$3,000; superintendent of prisons, \$4,000; disbursing clerk, \$2,750; appointment clerk, \$2,000; chief of division of Investigation, \$3,500; examiners—2 at \$2,500 each, 4 at \$2,250 each, 2 at \$2,000 each; 3 at \$1,800 each; 1 of class 1, 14 at \$1,000 each, 21 at \$9,00 each; chief messengers, 7 laborers; 7 watchmen; engineer, \$1,200; 2 assistant engineers, at \$900 each; 4 firemen; 2 conductors of the elevator, at \$7,000; packer, \$9,000; messenger, \$0,000; 5 messenge

gation have been reduced. That is the division, I believe, that

does the secret-service work.

Mr. JOHNSON of South Carolina. It is simply a transposi-tion. There is no change. The Department of Justice made no request for any increases or decreases. They simply have current law, and wherever it appears that any change is made it is due to the fact that somebody has been transferred.

Mr. MANN. Where has this item been transferred to?

Mr. JOHNSON of South Carolina. We put them in the Division of Accounts, because the last legislative bill provided that in the Division of Accounts an administrative audit should take place.

Mr. MANN. You have transferred an examiner at \$2,500 to

the Division of Accounts, with three clerks? Mr. JOHNSON of South Carolina. Yes.

Mr. MANN. I would not desire to have the Division of Investigation unduly interfered with, because I noted the other day, with considerable interest and some pride, that under the so-called Mann white-slave act there had already been 335 convictions.

If there is anybody on earth who deserves to receive a penitentiary sentence it is some designing chap who has monkeyed with the buzz saw and violated that white-slave law.

The CHAIRMAN. The clerk will read.

The Clerk read as follows:

To enable the Secretary of Commerce and Labor to provide and pay for the medical examination of employees of the United States receiving compensation for injuries under the provisions of the act of May 30, 1908, as directed by section 5 of said act, and for clerical assistance in its administration, and for subsistence, transportation, and traveling expenses of officers and employees of the Bureau of Labor while traveling on duty away from their homes and outside of the District of Columbia while engaged in the investigation of claims arising under the provisions of said act, \$3,000.

Mr. COX of Indiana. Mr. Chairman, I desire to inquire of the gentleman in charge of the bill whether or not there is any schedule of fees fixed by the department for the payment of these doctors?

Mr. JOHNSON of South Carolina. No. sir: I do not think so; but it was thought that under certain circumstances it was best that a medical examination should be made promptly, and we allowed the small sum of \$3,000 for that purpose.

Mr. COX of Indiana. Was this item carried in last year's

bill?

Mr. JOHNSON of South Carolina. Yes. Mr. COX of Indiana. What I wish to know is if there is any schedule of fees regularly fixed for the payment of physicians when they make these examinations?

Mr. JOHNSON of South Carolina. No; not so far as I know. Mr. COX of Indiana. Can the gentleman tell how they are

paid, how the amount is arrived at? Mr. JOHNSON of South Carolina. The doctors make the examination and make their charges.

Mr. COX of Indiana. How much was appropriated last year? Mr. JOHNSON of South Carolina. Three thousand dollars. Mr. COX of Indiana. Was the entire sum used last year? Mr. JOHNSON of South Carolina. I do not know whether

there was any of it turned back into the Treasury or not. Last year we asked for all of these items, but this year we have not received them. I will say to the gentleman that we had to make up this bill before many of the reports required by law to come to Congress had been printed.

Mr. COX of Indiana. I am not criticizing the gentleman's

Mr. COX of Indians. I am not criticizing the gentleman's bill. On the contrary, I am commending it.

Mr. JOHNSON of South Carolina. When we made up this bill last year we knew in every case whether all of an appropriation had been used or any of it had been turned back into

the Treasury, but we do not know this year.

Mr. COX of Indiana. Does the gentleman know how much of the appropriation for this fiscal year has been used up to

this time?

Mr. JOHNSON of South Carolina. Only between \$200 and \$300 of the \$3,000 has been used up to this time, and they have paid out under that law approximately a million of dollars for injuries.

Mr. COX of Indiana. I withdraw the pro forma amendment. Mr. FOWLER. Mr. Chairman, I move to strike out the last word for the purpose of making an inquiry. I desire to ask the gentleman in charge of the bill whether it is the object of these medical examiners to get information concerning these injuries for the purpose of relieving the injured, or is it for the purpose of aiding the Government?
Mr. JOHNSON of South Carolina. The purpose is to ascer-

tain the facts, so as to determine whether or not the Govern-

ment is liable under the law.

Mr. FOWLER. Without any reference to relief for the injured?

Mr. JOHNSON of South Carolina. We have provided by law for relief to the injured, and this medical examination is to determine our liability and the extent of it.

Mr. FOWLER. But not for the immediate or temporary

relief of the injured.

Mr. JOHNSON of South Carolina. No; because we have no doctor right on the spot.

Mr. FOWLER. I desire to say to the gentleman that I am asking for information. I desire to know if the medical examiner, in going to visit the injured person, does so for the purpose of examining him so as to give him medical relief?

Mr. JOHNSON of South Carolina. Oh, no. There are only two men employed under this appropriation. Where the department, for reasons satisfactory to itself, wants some additional information besides what it has, and believes there ought to be some investigation made, one of these doctors is sent to investigate the particular case, and this \$3,000 is appropriated for that purpose. A very small part of it has been used so far during the present fiscal year, but it may be needed.

Mr. FOWLER. Do these examiners go to every injured person or only in special instances where they are directed by the department to go?

Mr. JOHNSON of South Carolina. I think they go only

where they are directed by the department.

Mr. FOWLER. I thank the gentleman for the information. Mr. MANN. Mr. Chairman, I move to strike out the last word. I fear the gentleman in charge of the bill, the gentleman from South Carolina, has not kept track of the calendar. would like to suggest to him that this is the seventh day of the week, and that we have been in session quite continuously all of these days, working hard. I think for the first time in my recollection we really began to work on the second day of the session and kept it up until nearly 6 o'clock at night. In other words, this is Saturday evening, and there is no quorum here.

Mr. JOHNSON of South Carolina. Well, Mr. Chairman, I

am at the mercy of the gentleman.

Mr. MANN. I do not think we can get through with this bill to-night. I think in justice to the Members of the House that the gentleman in charge of the bill who always wants to get through ought to be willing to waive his personal convenience in the interest of the rest of the Members. Last night we worked until after 5 o'clock, although it was understood that we would quit at 5. We can not finish the bill to-night anyway.

Mr. JOHNSON of South Carolina. Mr. Chairman, of course it is perfectly obvious that no quorum is present, and while I was anxious to complete this bill this afternoon, it seems impossible, under the circumstances, to do it, and I now move that

the committee rise.

The motion was agreed to; accordingly the committee rose, and the Speaker having resumed the chair, Mr. Garner, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, and had come to no resolution thereon.

MEMORIAL TO THOMAS JEFFERSON.

The SPEAKER. The Chair has received a letter of great interest to the House, and does not know what to do with it, except to have it read and referred to a committee. Without objection, the Clerk will read the communication.

The Clerk read as follows:

DECEMBER 5, 1912,

The Speaker of the House of Representatives.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: With the approval of Congress conferred by the sundry civil act of March 4, 1909, the Louisiana Purchase Exposition Co. has erected upon the World's Fair site at a cost of \$450,000 a memorial to Thomas Jefferson in commemoration of the acquisition of the Louisiana Territory. The statue of Jefferson will be unveiled and the memorial structure will be dedicated on the one hundred and tenth anniversary of the signing of the Louisiana purchase treaty, the 30th of April, 1913. The trustees respectfully request the presence and participation of a committee of the House of Representatives.

Respectfully,

David R. Francis. President

DAVID R. FRANCIS, President.

The letter was referred to the Committee on Industrial Arts and Expositions.

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas, chairman of the Committee on Indian Affairs, by direction of that committee, reported the bill (H. R. 26874) making appropriation for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914, which, with accompanying papers, was ordered printed and referred to the Committee of the Whole House on the state of the Union. (H. Rept. 1265.)

Mr. MANN reserved all points of order on the bill.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to give notice that I will call up this bill immediately after the disposition of the legislative, executive, and judicial appropriation

Mr. MANN. Will the gentleman from Texas state whether any arrangement has been made with reference to calling up the contested-election case next Tuesday? The gentleman from Ohio gave notice that he would call up a contested-election case on that day.

Mr. STEPHENS of Texas. I was not aware of that. The SPEAKER. The Chair will inquire if any arrangement has been made about debate?

Mr. STEPHENS of Texas. None whatever.

ADJOURNMENT.

Mr. JOHNSON of South Carolina. Mr. Speaker, I now

move that the House adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 33 minutes p. m.) the House adjourned until Monday, December 9, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications

were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of St. Francis River from its mouth to the mouth of L'Anguille River, and L'Anguille River from its mouth to the city of Marianna, Ark. (H. Doc. No. 1009); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a

letter from the Chief of Engineers, report of examination and survey of French Broad River, N. C. (H. Doc. No. 1071); to the Committee on Rivers and Harbors and ordered to be printed.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of the Delaware River at Morrisville, Pa. (H. Doc. No. 1072); to the Committee on Rivers and Harbors and ordered to be printed.

4. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Fort Pond Bay, Suffolk County, N. Y. (H. Doc. No. 1073); to the Committee on Rivers and Harbors and ordered

to be printed.

5. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of the Mississippi River between Calhoun Point and Mason Island, Ill. (H. Doc. No. 1074); to the Committee on Rivers and Harbors and ordered to be printed.

6. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Little Manatee River, Fla. (H. Doc. No. 1075); to the Committee on Rivers and Harbors and ordered to be printed.

7. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Oregon Slough, branch of Columbia River opposite Vancouver, Wash. (H. Doc. No. 1070); to the Committee on Rivers and Harbors and ordered to be printed.

8. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Tangipahoa River, La. (H. Doc. No. 1068); to the Committee on Rivers and Harbors and ordered to be printed.

9. A letter from the Secretary of War, transmitting papers in claim of Edward Judson for damages to launch caused by collision with U. S. towboats Ellen and Henry Boss, near Natchway Dam on the Mississippi River, July 31, 1912, said claim having been adjudicated by the department as authorized by law (H. Doc. No. 1084); to the Committee on

Appropriations and ordered to be printed.

10. A letter from the Secretary of War, transmitting claims of Dravo Contracting Co., of Pittsburgh, Pa., for repairs to mixer boat on account of collision with the U. S. S. T. P. Roberts on May 15, 1912, at Pittsburgh, Pa., which has been adjusted by the Chief of Engineers; also calling attention to claims of Arnott Dock and Freeman R. Garrett, submitted to Sixty-second Congress, second session (H. Doc. No. 1083); to the Committee on Appropriations and ordered to be printed.

11. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of the examination and survey of ship canal, with depths of 30 and 35 feet, extending from a point in the city of Newark below the junction of the Pennsylvania and Lehigh Valley Railroads through the of the Pennsylvania and Lenigh Valley Railroads through the Newark meadows and Newark Bay to the deep water of the Kill Van Kull, N. J. (H. Doc. No. 1076); to the Committee on Rivers and Harbors and ordered to be printed.

letter from the Chief of Engineers, report of examination and survey of Sag Harbor, N. Y., with view to securing increased anchorage area and protecting the channel between said harbor and Gardiners Bay from the erosion of Cedar Point (H. Doc. No. 1077); to the Committee on Rivers and Harbors and ordered to be printed.

13. A letter from the Secretary of War, transmitting, with favorable recommendations, letter from the Acting Chief Quartermaster Corps requesting the estimate for appropriation for Cavalry post in Hawaiian Islands be included in the urgent deficiency appropriation bill (H. Doc. No. 1082); to the Committee on Appropriations and ordered to be printed.

14. A letter from the Secretary of War, transmitting twenty-second report of the Board of Ordnance and Fortifications for the fiscal year 1912 (H. Doc. No. 945); to the Committee on

Appropriations and ordered to be printed.

15. A letter from the Secretary of War, transmitting letter from the Acting Chief of Engineers calling attention to certain claims in connection with Engineer Department referred to House Document No. 613, Sixty-second Congress, and request-ing favorable consideration by the Committee on Claims, etc. (H. Doc. No. 1079); to the Committee on Claims and ordered

16. A letter from the Secretary of the Treasury calling attention to the appropriation in the sundry civil act approved August 24, 1912, for the construction and installation of vaults for the Bureau of Engraving and Printing Building in Washington and recommending that an amendment thereto be included in the urgent deficiency bill (H. Doc. No. 1080); to the Committee on Appropriations and ordered to be printed.

17. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of St. Marys River with a view to the removal of shoals and reefs near Detour, Mich. (H. Doc. No. 1078); to the Committee on Rivers and Harbors and ordered to be printed.

18. A letter from the Attorney General of the United States, transmitting statement of expenditures by United States Commerce Court for the fiscal year 1912, as furnished by the pre-siding judge of said court (H. Doc. No. 1081); to the Committee on Appropriations and ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials

were introduced and severally referred as follows:

By Mr. UNDERWOOD: A bill (H. R. 26866) for the purchase of a site and the erection of a public building at Marion, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. KINKEAD of New Jersey: A bill (H. R. 26867) to amend an act entitled "An act to create a uniform system of bankruptcy in the United States and Territories," approved July 1, 1898; to the Committee on the Judiciary.

By Mr. LOBECK: A bill (H. R. 26868) fixing the maximum price of electric current to consumers in the District of Columbia, and for other purposes; to the Committee on the Dis-

trict of Columbia. By Mr. JOHNSON of Kentucky: A bill (H. R. 26869) to accept a deed of gift or conveyance from the Lincoln Farm Association, a corporation, to the United States of America, of land near the town of Hodgenville, county of Larue, State of Kentucky, embracing the homestead of Abraham Lincoln and the

log cabin in which he was born, together with the memorial hall inclosing the same; and, further, to accept an assignment or transfer of an endowment fund of \$50,000 in relation thereto;

to the Committee on the Library.

By Mr. TAYLOR of Colorado: A bill (H. R. 26870) granting to the city of Black Hawk, Colo., the right to purchase certain lands for the protection of water supply; to the Committee on the Public Lands.

By Mr. HAWLEY: A bill (H. R. 26871) to amend an act granting to the Siletz Power & Manufacturing Co. a right of way for a water ditch or canal through the Siletz Indian Reservation in Oregon; to the Committee on the Public Lands.

By Mr. REILLY: A bill (H. R. 26872) to grant compensation to letter carriers and post-office clerks injured in the performance of their duties; to the Committee on the Post Office and

Post Roads.

By Mr. CRAGO: A bill (H. R. 26873) to provide for the purchase of a site and the erection of a public building at Waynesburg, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. STEPHENS of Texas: A bill (H. R. 20874) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914; to the Committee of the Whole House on the state of the Union.

By Mr. BURLESON: A bill (H. R. 26875) to provide for the erection of a public building at Brenham, Tex.; to the Com-

mittee on Public Buildings and Grounds.

Also, a bill (H. R. 26876) to provide for the erection of a public building at Taylor, Tex.; to the Committee on Public

Buildings and Grounds.

Also, a bill (H. R. 26877) to provide for the erection of a public building at Georgetown, Tex.; to the Committee on Public Buildings and Grounds.

By Mr. RAKER: A bill (H. R. 26878) making an appropriation for the protection and improvement of the Yosemite National Park, Cal., and the construction and repair of bridges, fences, trails, and improvement of roads other than toll roads,

and for other purposes; to the Committee on Appropriations.

By Mr. DAVENPORT: A bill (H. R. 26879) to authorize diverting and use of the waters of the Arkansas River, in the State of Oklahoma, and the construction, maintenance, and operation of machinery, works, appliances, and structures in connection therewith, for the purpose of creating and developing

water power; to the Committee on Interstate and Foreign Com-

By Mr. LOBECK: Resolution (H. Res. 735) authorizing an investigation into the affairs of the Washington Gas Light Co.; to the Committee on Rules.

By Mr. BURNETT: Resolution (H. Res. 736) providing for the consideration of S. 3175; to the Committee on Rules.

By Mr. HAMLIN: Resolution (H. Res. 737) to pay a certain sum of money to Anna Fink, widow of James Fink, late a messenger in the House; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 26880) granting an increase

of pension to James H. Kinkead; to the Committee on Invalid Pensions.

By Mr. ALLEN: A bill (H. R. 26881) for the relief of Jacob Burkhardt; to the Committee on Military Affairs.

By Mr. ASHBROOK: A bill (H. R. 26882) authorizing the Secretary of War to confer upon James B. Ross the congressional medal of honor; to the Committee on Military Affairs.
By Mr. BOOHER: A bill (H. R. 26883) granting an increase

of pension to William H. Watson; to the Committee on Pen-

By Mr. BRADLEY: A bill (H. R. 26884) granting an increase of pension to Helen Archibald; to the Committee on Invalid

By Mr. BROWN: A bill (H. R. 26885) granting a pension to Mary C. Kines; to the Committee on Invalid Pensions

By Mr. BURKE of South Dakota: A bill (H. R. 26886) for ayment to the Chicago, Milwaukee & St. Paul Railway Co. the \$4,583.67 improperly collected under the act of August 5, 1909; to the Committee on Claims.

By Mr. CAMPBELL: A bill (H. R. 26887) granting a pension to Susan Staneart; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26888) granting an increase of pension to

Albert Passwater; to the Committee on Pensions.

By Mr. CLAYPOOL: A bill (H. R. 26889) granting an increase of pension to Herbert W. Brooks; to the Committee on Pensions.

By Mr. CURRIER: A bill (H. R. 26890) granting an increase of pension to Henry G. Bickford; to the Committee on Invalid Pensions

Also, a bill (H. R. 26891) granting an increase of pension to James B. Kellogg; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26892) granting an increase of pension to H. W. Stone; to the Committee on Pensions.

By Mr. FOCHT: A bill (H. R. 26893) granting an increase of pension to Mary Murphy; to the Committee on Invalid Pensions.

By Mr. GILL: A bill (H. R. 26894) for the relief of John N.

Neal; to the Committee on Military Affairs.

Also, a bill (H. R. 26895) for the relief of Charles A. Coul-

son; to the Committee on Military Affairs.

Also, a bill (H. R. 26896) for the relief of Edward Dodsworth; to the Committee on Military Affairs,

Also, a bill (H. R. 26897) for the relief of Reuben W. Pavey; to the Committee on War Claims.

Also, a bill (H. R. 26898) granting a pension to Mary Julka; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26899) granting a pension to Charles Kline; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26900) granting a pension to Lucy A. Wharton; to the Committee on Invalid Pensions. Also, a bill (H. R. 26901) granting a pension to Margaret

Tayes, née Ellis; to the Committee on Pensions.

Also, a bill (H. R. 26902) granting a pension to Christina B. Offer; to the Committee on Pensions.

Also, a bill (H. R. 26903) granting a pension to Mary Mc-Kelvey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26904) granting a pension to Paul Heineman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26905) granting a pension to Herman J. Wacker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26906) granting an increase of pension to Albert White; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26907) granting an increase of pension to John J. Driscoll; to the Committee on Invalid Pensions.
Also, a bill (H. R. 26908) granting an increase of pension to

John J. Driscoll; to the Committee on Pensions.

Also, a bill (H. R. 26909) granting an increase of pension to William Barfield; to the Committee on Invalid Pensions. Also, a bill (H. R. 26910) granting an increase of pension to Benjamin F. Allen; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26911) to correct the military record of John J. Barlow; to the Committee on Military Affairs.

Also, a bill (H. R. 26912) to correct the military record of Horace McMellon; to the Committee on Military Affairs.

Also, a bill (H. R. 26913) to remove the charge of desertion standing against Servello J. Dematos; to the Committee on Military Affairs.

By Mr. HAMILTON of West Virginia: A bill (H. R. 26914) granting an increase of pension to Samuel L. Somerville; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 26915) to reimburse the postmaster at Seaside, Oreg., for the loss by fire of postal savings cards and stamps; to the Committee on Claims.

By Mr. JOHNSON of Kentucky: A bill (H. R. 26916) grant-

ing a pension to William Curtsinger; to the Committee on Pensions.

By Mr. KINKEAD of New Jersey: A bill (H. R. 26917) granting an increase of pension to George Van Orden; to the Committee on Invalid Pensions.

By Mr. KONOP: A bill (H. R. 26918) granting a pension to

James H. Kampo; to the Committee on Pensions. By Mr. MANN: A bill (H. R. 26919) granting a pension to

Mary B. F. Trainor; to the Committee on Invalid Pensions. By Mr. MOON of Tennessee: A bill (H. R. 20020) granting a pension to Sarah A. Bland; to the Committee on Invalid Pen-

By Mr. OLDFIELD: A bill (H. R. 26921) for the relief of the heirs of Samuel Corruthers, deceased; to the Committee on War Claims

By Mr. O'SHAUNESSY: A bill (H. R. 26922) granting an increase of pension to Alphonzo O. Drake; to the Committee on Invalid Pensions.

By Mr. ROBINSON: A bill (H. R. 26923) granting an increase of pension to B. E. Benton; to the Committee on Pen-

By Mr. RUSSELL: A bill (H. R. 26924) granting an increase of pension to Mary Kessinger; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26925) granting an increase of pension to

Duncan Campbell; to the Committee on Invalid Pensions. By Mr. SHERWOOD; A bill (H. R. 26926) granting an increase of pension to Joanna Swander; to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 26927) granting a pen-

sion to Sarah Whidden; to the Committee on Pensions. By Mr. STEENERSON: A bill (H. R. 26928) granting an increase of pension to Jeremiah Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26929) granting an increase of pension to

Christian C. Ellingson; to the Committee on Invalid Pensions. By Mr. STONE: A bill (H. R. 26930) granting a pension to

Missouri Parker; to the Committee on Pensions.

Also, a bill (H. R. 26931) granting an increase of pension to

Alonzo F. Murden; to the Committee on Invalid Pensions. By Mr. TAGGART: A bill (H. R. 26932) granting an increase of pension to Gen. James K. Proudfit; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Colorado: A bill (H. R. 26933) granting pension to Henry C. Doll; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26934) granting an increase of pension to Alvacinda Tyler; to the Committee on Invalid Pensions.

By Mr. UNDERHILL: A bill (H. R. 26935) granting an increase of pension to Robert Shay; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of Thomas Nelson Woolfolk, jr., Norfolk, Va., relative to impeachment for treason; to the Committee on the Judiciary.

By Mr. ALLEN: Petition of Bethlehem Council, No. 45,

Daughters of America, Cincinnati, Ohio, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of Cincinnati (Ohio) Lodge, No. 5, Benevolent and Patriotic Order of Elks, favoring the enactment of legislation purchasing Mount Vernon, the former home of President Washington; to the Committee on Public Buildings and Grounds.

By Mr. ASHBROOK: Petition of the National Wholesale Liquor Dealers' Association of America, Cincinnati, Ohio, protesting against the passage of House bill 4040, the Kenyon interstate-commerce liquor bill; to the Committee on the Judiciary.

By Mr. BUCHANAN: Petition of Chicago Division, No. 1. Order of Railway Conductors, protesting against the passage of the workmen's compensation and liability act (S. 5382); to the Committee on the Judiciary.

By Mr. CLINE: Petition of the Lake Michigan Sanitary Association favoring appropriation for investigation of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. DYER: Petition of Lynch & Co., St. Louis; German-American citizens of California, Mo.; and the National Wholesale Liquor Dealers' Association of America, protesting against the passage of the Kenyon liquor bill (S. 4043); to the Com-

mittee on the Judiciary.

Also, petition of the State Council of Pennsylvania, Order of Independent Americans, Philadelphia, Pa., favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Lake Michigan Sanitary Association favoring appropriation for investigation of the pollution of the

waters of the Great Lakes; to the Committee on Appropriations.

Also, petition of the Building Trades Council of St. Louis,
Mo., and the Missouri State Dairy Association, protesting against the passage of House bill 20281, removing the tax on oleomargarine; to the Committee on Agriculture.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring reduction of letter postage to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of the Supreme Council of the Order of United Commercial Travelers of America, favoring passage of a bill changing the national election day to Monday; to the Committee on Election of President, Vice President, and Representatives in

By Mr. FULLER: Petition of the New York Board of Trade and Transportation, favoring the passage of the Sulzer bill creating a final court of patent appeals; to the Committee on the

By Mr. HOWELL: Petition of citizens of Ephraim, Manti, and Mount Peasant, all in the State of Utah, favoring regulation of the express companies by the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. KINDRED: Petition of the Lake Michigan Sanitary Association, favoring appropriation for investigating the extent of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

Also, petition of the American Embassy Association, favoring the passage of House bill 22580, appropriating \$500,000 for embassy, legation, and consular buildings; to the Committee on Appropriations.

Also, petition of the Chamber of Commerce of the State of New York, protesting against placing the Board of General Appraisers under control of the Treasury Department; to the Committee on Expenditures in the Treasury Department.

By Mr. LINDSAY: Petition of the State Council of Pennsyl-

vania, Order of Independent Americans, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. McCOY: Petition of R. Sanford Ross (Inc.), Jersey City, N. J., favoring legislation for the establishment of a United States court of appeals; to the Committee on the Judi-

By Mr. MOON of Tennessee: Papers to accompany bill for relief of Sarah A. Bland; to the Committee on Invalid Pensions.

By Mr. MOORE of Pennsylvania: Petition of Pennsylvania State Camp, Patriotic Order Sons of America, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. MOTT: Petition of the National Society for Promotion of Industrial Education, favoring the passage of the Page-Wilson bill for vocational education; to the Committee on Agriculture.

Also, petition of the State Council of Pennsylvania, Order of Independent Americans, and the Farmers' Educational and Cooperative Union of America, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Lake Michigan Sanitary Association, favoring investigation of the pollution of the waters of the

Great Lakes; to the Committee on Appropriations.

By Mr. PICKETT: Papers to accompany the bill granting pension to Lizzie S. Williams; to the Committee on Invalid Pensions.

Also, papers to accompany bill granting pension to August A. Buntgen; to the Committee on Invalid Pensions.

By Mr. REYBURN: Petition of the State Council of Pennsylvania, Order of Independent Americans, Philadelphia, Pa., and Pennsylvania State Camp, Patriotic Order Sons of America, Philadelphia, Pa., favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. TILSON: Petition of the Board of Harbor Commissioners of New Haven Harbor, relative to improving the

New Haven Harbor; to the Committee on Appropriations.

By Mr. WEEKS: Petition of citizens of Franklin and South Framingham, Mass., favoring the enactment of legislation to give the Interstate Commerce Commission further power toward regulating the express rates; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Framingham, Mass., favoring enactment of legislation giving the Interstate Commerce Commission further control toward regulating the express rates; to the Committee on Interstate and Foreign Commerce.

SENATE.

Monday, December 9, 1912.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D. WILLIAM E. CHILTON, a Senator from the State of West Virginia, and James A. Reed, a Senator from the State of Missouri,

appeared in their seats to-day.

The Secretary proceeded to read the Journal of the proceedings of Saturday last when, on request of Mr. Smoot and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MARKING OF CONFEDERATE GRAVES (H. DOC. NO. 1105).

The PRESIDENT pro tempore (Mr. Bacon) laid before the Senate a communication from the Secretary of War, transmitting, pursuant to law, the final report of the commissioner appointed to continue the work of locating and marking the graves of the Confederate dead, which, with the accompanying paper, was referred to the Committee on Military Affairs and ordered to be printed.

MEMORIAL TO THOMAS JEFFERSON.

The PRESIDENT pro tempore laid before the Senate a communication from the president of the Louisiana Purchase Exposition Co., which was read and referred to the Committee on Industrial Expositions, as follows:

OFFICE OF THE PRESIDENT December 5, 1912.

THE PRESIDENT PRO TEMPORE UNITED STATES SENATE.

SIE: With the approval of Congress, conferred by the sundry civil act of March 4, 1909, the Louisiana Purchase Exposition Co. has erected upon the world's fair site at a cost of \$450,000 a memorial to Thomas Jefferson, in commemoration of the acquisition of the Louisiana Territory. The statue of Jefferson will be unveiled and the memorial will be dedicated on the one hundred and tenth anniversary of the signing of the Louisiana purchase treaty, the 30th of April, 1913. The trustees respectfully request the presence and participation of a committee of the United States Senate.

[SEAL.]

DAVID R. FRANCIS

[SEAL.]

DAVID R. FRANCIS.

President Louisiana Purchase Exposition Co.

PAPAGO INDIAN RESERVATION, ARIZ. (S. DOC. NO. 973).

The PRESIDENT pro tempore laid before the Senate a com-The PRESIDEAT pro tempore and before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of an investigation with a view to determining the possibility of enlarging the irrigation system on the Papago Indian Reservation, Ariz., together with surveys, plans, and estimated limit of cost of such project, which, with the accompanying papers and illustrations, was referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed.

ENROLLED BILL SIGNED.

. A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. 20287) to amend section 5 of the act entitled "An act to incorporate the American Red Cross," approved January 5, 1905; and it was thereupon signed by the President pro tempore.

PETITIONS.

Mr. GRONNA. I present a petition of the Young People's Branch of the Woman's Christian Temperance Union of the University of North Dakota. I ask that the petition may lie on the table and be printed in the Record.

There being no objection, the petition was ordered to lie on the table and to be printed in the Record, as follows:

UNIVERSITY, N. DAK., November 23, 1912.

Hon. A. J. GRONNA, United States Senator:

Believing that it is our inherent constitutional right under the police power to regulate the liquor traffic in this State, and that the future destiny of our Commonwealth depends upon the correct solution of this great problem, we, the members of the Young People's Branch of the Woman's Christian Temperance Union of the University of North Dakota, respectfully petition you to put forth your best efforts for the passage of the Kenyon bill.

THEODORE ROY, President. ETHEL E. HALCROW, Secretary.

Mr. GRONNA presented petitions of sundry citizens of Walsh County, Hatton, and Reach, all in the State of North Dakota, praying for the enactment of the Kenyon interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. MASSEY:

A bill (S. 7656) to grant to the State of Nevada lands for educational purposes; to the Committee on Public Lands.

By Mr. MARTIN of Virginia:

A bill (S. 7657) for the erection of a statue to John Marshall (with accompanying paper); to the Committee on the Library. By Mr. CHILTON (for Mr. WATSON);

A bill (S. 7658) granting an increase of pension to John F. Bennett; to the Committee on Pensions.

By Mr. MARTINE of New Jersey:

A bill (S. 7659) to establish a bureau for the study of the criminal, pauper, and defective classes; to the Committee on Education and Labor.

By Mr. McCUMBER:

A bill (S. 7660) granting a pension to August T. Lillich; A bill (S. 7661) granting an increase of pension to Sidney P. Jones

A bill (S. 7662) granting an increase of pension to William B.

Scace (with accompanying papers); _____ A bill (S. 7663) granting an increase of pension to Charles F.

Miller (with accompanying papers); and
A bill (S. 7664) granting an increase of pension to Ann T. Smith (with accompanying papers); to the Committee on Pen-

By Mr. DU PONT: A bill (S. 7665) for the relief of Charles Hellyer; to the Committee on Claims.

By Mr. PENROSE:

A bill (S. 7666) to provide for the purchase of a site and the erection of a public building thereon in the city of Warren, State of Pennsylvania; to the Committee on Public Buildings and Grounds.

A bill (S. 7667) granting an increase of pension to Catherine

M. Peck; and

A bill (S. 7668) for the better payment of pensioners; to the Committee on Pensions.

By Mr. SMITH of Arizona:

A bill (S. 7669) for the relief of John T. Brickwood, Edward Gaynor, Theodore Gebler, Lee W. Mix, Arthur L. Peck, Thomas D. Casanega, Joseph de Lusignan, and Joseph H. Berger; to the Committee on Claims.

By Mr. GUGGENHEIM:
A bill (8, 7670) granting an increase of pension to Mary A. Buchanan (with accompanying papers);
A bill (S. 7671) granting a pension to Martha Sample (with

accompanying papers);
A bill (S. 7672) granting an increase of pension to Florence
M. Saunders (with accompanying papers); and
A bill (S. 7673) granting an increase of pension to Elmer H. Pond (with accompanying papers); to the Committee on Pensions

A bill (S. 7674) for the relief of William J. Brooker, alias William Hicks (with accompanying paper); to the Committee on Military Affairs.

OMNIBUS CLAIMS BILL.

Mr. WARREN submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to lie on the table and be printed.

INAUGURATION OF THE PRESIDENT ELECT.

Mr. OVERMAN submitted the following concurrent resolution (S. Con. Res. 31), which was read, considered by unanimous consent, and agreed to:

Resolved by the Senate (the House of Representatives concurring), That a joint committee, consisting of three Senators and three Repre-

sentatives, to be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President elect of the United States on the 4th day of March next.

COURTS OF EQUITY (S. DOC. NO. 972).

Mr. OVERMAN. I have a copy of the Rules and Practice for the Courts of Equity of the United States, which I ask may be printed as a Senate document. I also ask that 5,000 additional copies be printed for the use of the Senate document

There being no objection, the order was agreed to, and it was reduced to writing, as follows:

Ordered, That 5,000 additional copies of Rules and Practice for the Courts of Equity of the United States be printed for the use of the Senate document room.

LIST OF COMMERCIAL AND AGRICULTURAL ASSOCIATIONS.

Mr. NELSON submitted the following resolution (S. Res. 404). which was read, considered by unanimous consent, and agreed

Resolved. That the Interstate Commerce Commission is hereby directed to furnish to the Senate a list of National, State, and local commercial organizations, also, National, State, and local agricultural associations, to be made to the Senate not later than February 15, 1913, and that 1,500 copies be printed for the use of the Senate.

LAND AT HELENA, ARK.

Mr. CLARKE of Arkansas. I ask the Chair to lay before the Senate the amendment of the House of Representatives to Senate bill 3436.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 3436) granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse, which was, on page 1, line 13, after the word "dollars," to insert:

Provided, That upon the discontinuance of the use of this property for public purposes it shall revert to the United States.

Mr. CLARKE of Arkansas. I move to reconsider the vote by which the amendment of the House was concurred in.

The motion to reconsider was agreed to.

Mr. CLARKE of Arkansas. I move that the Senate disagree to the amendment of the House of Representatives and ask for a conference on the disagreeing votes of the two Houses, and

that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the President pro tempore appointed Mr. Smoot, Mr. Nelson, and Mr. Smith of Arizona conferees on the part of the Senate.

PATENT OFFICE INVESTIGATION.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, referred to the Committee on Patents, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a report relating to an investigation of the United States Patent Office made by the Commission on Economy and Efficiency pursuant to the joint resolution approved August 21, 1912.

WM. H. TAFT.

THE WHITE HOUSE, December 9, 1912.

[Note.—Report accompanied similar message to the House of Representatives.]

CALLING OF THE ROLL.

The PRESIDENT pro tempore. The morning business is closed.

Mr. SMOOT. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum, and the Secretary will proceed to call the roll.

The Secretary called the roll, and the following Senators answered to their names:

McCumber McLean Martin, Va. Martine, N. J. Massey O'Gorman Overman Page Penrose Perkins Perky Pomerene Reed Richardson cur hames:
Culberson
Cullom
Curtis
Fall
Foster
Gallinger
Gronna
Guggenheim
Hitchcock
Johnson, Me.
Kenyon
La Follette
Lea Sanders Smith, Ariz. Smith, Ga. Smith, Mich. Smith, S. C. Smoot Stephenson Sutherland Swanson Ashurst Bacon Bankhead Borah Brandegee Bristow Brown Bryan Swanson Thornton Warren Wetmore Works Burnham Burton Clark, Wyo. Clarke, Ark. Lea Lodge Crane Crawford

Mr. KENYON. I desire to announce that the Senator from Iowa [Mr. Cummins] is detailed in Des Moines by the serious illness of his father.

Mr. PAGE. I wish to announce that because of continued illness of my colleague [Mr. DILLINGHAM] he is not able to be present in the Senate.

Mr. MARTINE of New Jersey. I beg to announce that my colleague [Mr. Briggs] is detained from the Senate on account of serious illness. I make this announcement for the day.

Mr. BRYAN. I desire to announce that my colleague [Mr.

FLETCHER] is detained from the Senate on public business.

Mr. WORKS. I wish to announce that the senior Senator from Washington [Mr. Jones] is necessarily absent on business of the Senate.

The PRESIDENT pro tempore. On the call of the roll 55 Senators have responded to their names, and a quorum is present.

THE PRESIDENTIAL TERM.

Mr. WORKS. Mr. President, I ask that Senate joint resolution No. 78, which is the unfinished business, be laid before the

The PRESIDENT pro tempore. The joint resolution referred to will be read by the Secretary.

The Secretary read the joint resolution (S. J. Res. 78) proposing an amendmnet to the Constitution of the United States, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following be proposed as an amendment to the first paragraph of section 1 of Article II of the Constitution of the United States, which will be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the States, namely: Amend said paragraph to read as follows:

lows:

"The Executive power shall be vested in a President of the United States of America. He shall hold his office during the term of six years and shall be ineligible to a second term, and, together with the Vice President, who shall hold for a like term, and shall also be ineligible to a second term, be elected as follows."

Mr. WORKS. Mr. President, this proposed amendment to the Constitution is a matter of grave importance and should be considered with the utmost care. Every proposal to amend the fundamental law that has stood the test of time for more than a century should be regarded as most important. By this resolution we are proposing to submit to the people, represented by their respective legislatures, the question of the limitation of the term of service of the President of the United States and a provision that will make it impossible for any citizen to be a candidate for the office for a second time. On the one hand it is claimed, as I am about to maintain, that such a limitation of the term of service by any one man as President of the United States is in the interest of the people and necessary for the public welfare. I go further and contend that it is better for the incumbent, once elected, that he should be made ineligible for a second term. On the other hand, it is strenuously insisted by some Members of this body that such an amendment if adopted will be an unjust limitation of the right of the people to elect whom they please as their President and to reelect him as often as they please. These latter views, conscientiously entertained by Senators, are entitled to frank and fair consideration and should be given their full weight in determining this question. I approach the discussion of the subject in that spirit.

I am not one of those who believe that amendments of the Constitution of the United States should be made easy. I would not, as I view the situation and the conditions that prevail, add anything to the facilities now afforded for amending that great instrument, framed by our forefathers in their wisdom for the preservation and perpetuation of the rights and liberties of the people. But this affords no reason for a failure to make necessary amendments in the manner and under the safeguards of the Constitution itself.

I have no sympathy for the sentiment abroad in the country that the Constitution should be treated as subservent to the present will or sentiment of the majoritant to-day that may be the minority of to-morrow. Nor do I subscribe to the doctrine, openly declared, that there should be no constitutional limitation upon the will of the people as that will is supposed to exist at any given time. We are living in a time of supreme unrest, discontent, and dissatisfaction with things as they are. There is strong reason for this condition of public sentiment. rest, discontent, and dissatisfaction with things as they are. There is strong reason for this condition of public sentiment. Things have gone wrong in this country. We all recognize that fact. There is no concealing it from any thoughtful and observant man. Conditions need to be changed. Who is to change them, and how? Obviously, the people. And just as obviously, it seems to me, this change must be brought about by peaceful, legal, and legitimate means under the limitations and restraints of the Constitution. Any effort to remedy evil conditions affecting the rights of the people in any other way

would lead to anarchy and ultimately to the overthrow of the Government. The very fact that this spirit of revolt against existing conditions prevails renders these restraints upon unlicensed power more than ever necessary. The demand that the Government should be returned to the people is just and right. The people have not ruled their own country or controlled its affairs in the recent past. But the vastly more important question is, How are the people to rule? Shall it be by the unlimited and unrestrained will of the majority without regard to the reasonable regulations and restraints of the fundamental law, under which this Nation has grown and prospered all these years, or shall it be according to the law of the land that is intended to protect the rights and liberties of the people?

POPULAR GOVERNMENT.

We hear much these days of popular government, of democracy, and the rule of the people. What do these advocates of popular government, so called, mean by that term? What do they mean when they cry out for a democracy? Do they really mean that they favor the establishment of a government controlled directly by the body of the people without the intervention of representatives chosen by them and without constitutional restraints; in other words, as democracy is defined, "the political system in which government is directly exercised by the people collectively"? They must mean this, or their cry for a popular government or a democracy means nothing more than the cry of the demagogue for votes. Unless they mean just this, their demand is not sincere. We now have a democracy defined as "a commonwealth in which the people as a whole legislate through elected representatives," known and recognized as a "democratic Republic."

What we need are just laws, strictly observed, guarded, and enforced, that will secure to the voter the free and independent use of the ballot unmolested and unafraid. This assumes, of course, that the voter will use the franchise intelligently, independently, and honestly. If he does not, he is unworthy to be a voter or an American citizen. If he uses the power given him corruptly or otherwise improperly, he should be deprived of the franchise altogether. Any corrupt use of it or corrupt or forcible interference with it should be severely and certainly punished. The direct primary and general elections under the Australian secret ballot system are the best means yet devised for the protection of the voters and elections. Such reasonable and just laws will insure to the people everything necessary to the full protection of their rights. To this should be added the initiative, referendum, and recall, limited and guarded in such way as to prevent, as far as possible, any abuse or misuse of them. If the people exercise their right of choosing their representatives intelligently and wisely, the other remedies will be unnecessary. If they nominate and elect competent and honest men to represent them, there will be no call for direct action by resort to the initiative or referendum. These remedies should only be used when legislative representatives fall or refuse to act when necessary for the public good or act corruptly or against the public interests. The recall can be justly resorted to only for similar reasons and should never be applied to judicial officers.

All of these remedies are beneficial and necessary to the full control of affairs by the people, but are subject to gross abuses that may make them worse than useless. They should be used only to protect the rights of the people to fair and honest representation and to preserve the Government as a democratic Republic. In most of the States we have all these remedies now. I am afraid that they are not sufficiently guarded to confine them to legitimate uses. This is needful, and I hope will come in time. We can not go beyond this with safety.

Does any Senator on this floor maintain that this Government should be converted into a pure democracy, where the people legislate and perform all other governmental functions as a Does anyone sincerely believe that a nation composed of a hundred millions of people could be governed in any such way? I can not believe it. The attempt would be ruinous and suicidal. To advocate such a change in government is revolu-

tionary and dangerous.

Sir, the troubles that are besetting us as a Nation are not the result of our form of government. Our form of government is ample for the protection of the people. The constitutional guaranties are sufficient to protect the life, liberty, and property of the citizen. The fault does not lie there. It lies in the fact that our form of government is perverted and disregarded; that the Constitution is trampled under foot, often by constituted authority, and constantly and systematically by privilege-seeking and organized wealth. The poor man is denied his rights, not because the form of government is defective or in-

adequate, but because of the powerful, unrestrained, and corrupt encroachments of combined wealth on the one hand, and the indifference of the masses of the people to their civic duties and corruption and crime in politics by both rich and poor on the other, by which the right of the franchise is prostituted to base ends. The great corporation corrupts the ballot box for gain and the voter sells his vote for the same purpose. A change in the form of government will not make men, whether rich or poor, more houest or less greedy. The man who sells his own vote or buys the vote of another is as much a traitor to his country as the man who takes up arms against it. If we are going to maintain a free Republic that will preserve the liberties of the people, we must maintain an honest Government. To maintain an honest Government we must maintain the honesty of our people. All power emanates from them, and if the source of power is corrupt the Government will be corrupt.

Sir, when I think of the extent to which the franchise in the hands of the voters of this country has been corrupted and bartered away I tremble for the future of my country. What are we to expect when the voters of some communities of the great and enlightened State of Ohio have sold their votes and been disfranchised therefor to such an extent that there are hardly qualified electors enough to hold the elections, and when the neighboring State of Illinois and the proud and ancient State of Virginia have furnished similar cases of wholesale delinquencies? We have every reason to suppose that this mode of corrupting the ballot is prevalent in greater or less degree all over the country. Such practices have lowered the standard of citizenship, debauched the electors, and done much to destroy the sense of obligation to duty in public office.

ELECTION TO SECOND TERM CAUSE OF CORRUPTION.

Mr. President, I am persuaded that the amendment now proposed will, if adopted, do much to remedy these evil and threatening conditions. The effort to elect a President to a second term is a prolific source of political corruption, neglect of official duty, and betrayal of trust on the part of public servants. It is degrading to the President himself, and brings his great office into disrespect, often contempt. The President has come to be regarded as the head of his party, not as a candidate only, but as President, and not as the head of the Nation. It is a most pernicious doctrine. He has the power of appointment of thousands of Federal officers in every part of the country. Practically, in making these appointments he acts as the head of his party and not as President. If he is reelected the appointees may reasonably expect to retain their offices. A large part of his time that should be devoted to the public service is given over to politics and the effort to secure his reelection. He is regarded by his appointees as their political chief, to whom they owe allegiance because he ap-pointed them. They are tempted to serve him rather than the country. He expects every man he appoints to support his political aspirations. To fail is to be treacherous and ungrateful. They so regard it, and so does he. The White House is turned into the headquarters of a political party, where a press bureau is maintained in the interest of the political chief and leader of his party who is for the time being the President of the United States. The members of his Cabinet become his political advisers. In this they are not serving their country, but the seeker after a second term. The appointees in the immediate service of the President become his political aids and devote much of their time, paid for by the Government, to his service as political leader and candidate for reelection. It is a vicious system, that can not be denounced too strongly or too often. The people of a free Republic should not submit to it for a day. Every lover of his country should speak out against it and support any measure intended and reasonably calculated to put an end to it. If a President were limited to one term, and rendered ineligible to a second election, there would be no incentive or temptation to appoint men to office with a view to their support of him as a candidate for a second term. He would need no political army. As a political leader he would be useless. He would have no motive or desire other than to do his duty as President and make for himself an honorable record as a public official. We have had some highly honorable men in the White House, men who would have condemned the use of patronage by another for his political advancement, but there is not one of them who has been a candidate for reelection who has not willingly profited by such conditions. Not one of them, I believe, but would have regarded it as an act of treachery on the part of one of his appointees to oppose or even fail to support his candidacy for reelection. Every man holding an office by the appointment of the President has come, by common consent on the part of politicians, to be one of his political supporters owing him personal allegiance. This condition alone should assure the passage of this resolution by Congress and its ratification by the States.

But, sir, there are other considerations favorable to this proposed amendment that appeal to me with equal if not greater force. The President is more powerful than any king of modern times. Of later years he has assumed and exercised powers that do not justly belong to him. He has made himself an active and, not infrequently, a controlling part of the law-making power. He has not been content to recommend the enactment of laws; he has demanded their passage, and brought to bear all the power and influence of his great office to compel their enactment. This is a plain and dangerous usurpation of power and a violation of the spirit of the Constitution. The longer one man remains President the greater is his inclination to usurp this power.

The authority rightly vested in the President, to see that the laws are executed, is equally subject to abuse. Congress may enact a law. The President may nullify it or destroy its effect, either entirely or as affecting individuals, by a mere word. He may direct the Department of Justice to enforce a law or withhold its enforcement, and the Attorney General will obey. The Sherman antitrust law is an example in point. It defines what shall constitute a trust and makes the maintenance of a trust a crime. In any State in the Union it would be the duty of any prosecuting officer to whose attention a violation of the statute is directed to prosecute the offender. It is as much his duty to enforce the law as it is for the delinquent to obey it. So it should be in the case of the Attorney General of the United States, but it is not so regarded. If the President does not direct him to prosecute, that is looked upon as sufficient excuse for not doing so. If the President directs him not to enforce the law, or not to enforce it against a given corporation, that is conclusive. This very thing has been done, evidently in the interest of one great corporation or another. It has been made the subject of adverse comment in the late political campaign.

FAVORS CRANTED TO TRUSTS.

Now, sir, what is the natural result of favorable or unfavorable action affecting a corporation when the incumbent of the presidential office becomes a candidate for reelection? Would you expect such a corporation, thus favored and protected from prosecution by order of the President, to oppose his renomination and election? We are not without evidence of the effect of such action on succeeding elections. The great Harvester Trust, one of the worst and most oppressive of its kind, was signally favored by Mr. Roosevelt, when President, in this respect. It was not prosecuted for violation of the Sherman antitrust law, because Roosevelt ordered otherwise. What was the natural result? When Roosevelt again became a candidate W. Perkins became his ardent supporter and chief financial backer. Perkins was largely interested in the Harvester Trust. What else could one expect? Perkins knew, by actual demonstration, that his company would be safe against just prosecution if Roosevelt were elected, unless he should change his mind. And he would be much less likely to change his views if the Harvester Trust or its stockholders should lend him their support. The same comment might be made as to the

Mr. President, I am not saying that Mr. Roosevelt acted out of improper motives in dealing with the Harvester Trust or the Steel Trust. He may have been perfectly satisfied that the course taken by him was the proper and just course. It is not my purpose to judge or condemn him personally. I call attention to these instances of presidential favor and what followed them as illustrating the power that exists in the hands of a President, in his first term, to secure his election to a second Whether rightly or wrongly exercised, the power is It is practically unrestrained. The temptation to use it in such way as to secure a reelection is manifestly great. That the action of the President in dealing with the question of the prosecution of corporations alleged to be trusts may and almost certainly will affect his prospects most profoundly as a candidate for reelection can not be justly denied. The power that these great aggregations of wealth have exercised in controlling elections in the past is beyond question. As political campaigns are conducted, money is regarded as one of the most powerful factors in the struggle. That millions of money have powerful factors in the struggle. That millions of money have been supplied by these trusts and their millionaire stockholders has been clearly demonstrated by actual proof before the committee of the Senate to investigate campaign expenditures. No one familiar with conditions can reasonably doubt that the money contributed by such men and such interests has been the

means of buying thousands of votes and in other ways corrupting the electorate and the ballot.

CAMPAIGN CONTRIBUTIONS.

This brings me logically to the consideration of campaign contributions as affecting the candidacy of the President for a second term. As I have pointed out, the question whether corporations alleged to be or suspected of being trusts in violation of law shall be prosecuted or not rests absolutely with the President. The temptation to prosecute or not to prosecute, as affecting him, I have already pointed out. The inducement to support or oppose a candidate for reelection as a result of his previous treatment of a corporation in this respect is too obvious to need comment. Privilege-seeking corporations support the public official who will grant them privileges. That is what they are in politics for. This being so, how natural it is for a corporation that has been thus favored to make contributions to the campaign fund of their official friend. They are not only paying for past favors, but buying new ones, as they very naturally believe. They expect to accomplish results by the use of money in politics as they do in business. It is the only way of doing politics that they know.

The investigation of campaign contributions lately had has exposed some of the darkest pages of the political history of the country. It has revealed the unpleasant fact that the used for campaign purposes, by both Republicans and Democrats, in past years, was supplied almost wholly by men interested in the large corporations that were amenable to punishment under the antitrust law. The new Progressive Party was tainted in the very beginning by putting itself in the hands of the same interests. It was managed and financed by promoters, corruptionists, and trust magnates. In all these cases the money was contributed to secure the election of the man who, if elected, would be intrusted with the power of determining conclusively whether they should be prosecuted or not. No matter whether it was so understood or not, it was nothing more or less than buying immunity from such prosecution. They very naturally reasoned that the man who accepted their money to secure his election would not use the power their money had given him to punish them for making that money unlawfully. To prosecute such as these for the crime of making the money violating a law that his sworn duty required him to enforce would convict him of accepting tainted money to secure his election. The hypocritical pretense that such contributions were in the public interest and not in the personal interest of the

men who made them excites contempt.

But, sir, to me there is an even more serious and reprehensible side to this question of political contributions than this. Such contributions can not justly be called voluntary. The giver makes them under compulsion and for his own protection, especially in case of the candidacy for reelection. The President has some months of his first term to serve after the contributions must be made. If he is willing to accept such con-tributions he may well be suspected of a disposition to resent it if they are not forthcoming. He has it in his power to enforce the law against the noncontributors and he has ample time to do it even if he is defeated for reelection. When he makes known the fact personally or through his committee that he wants or is willing to accept such a contribution, the official or stockholder of such a corporation may well fear that it is a demand for money that must be furnished under penalty of prosecu-tion or other unfavorable treatment in case of refusal. Such a demand or request from the candidate, or his political managers, is essentially a holdup. That it has been so considered by some of the contributors is perfectly well understood. Let me again refer to the work of the investigating committee. E. H. Harriman was the president of the Southern Pacific Co., a Kentucky corporation, and other transportation companies operating a system of railroads in the western portion of the country, with headquarters in New York. He and his corporations were subject to prosecution for violation of the Sherman antitrust law. He was shown to have raised a fund of \$250,000 for the Republican campaign fund of 1904, fifty thousand of which he contributed himself. Other generously disposed gentlemen, connected with other corporations, including the Standard Oil Co., also contributed large sums

Mr. Roosevelt was then the Republican candidate for reelection to the office of President. He denied that he had requested any of these contributions, and testified that he did not know that most of them were made, and that upon learning that the Standard Oil Co. had made a contribution he directed the chairman of the national committee to return it, which, however, seems not to have been done. He should be given the full benefit of this denial. But Mr. Harriman in his lifetime declared that he made his contribution and raised the additional

amount at the request of Roosevelt. Judge Lovett, then and now connected with the same companies in an official capacity, testified that Harriman said to him that Roosevelt had called upon him to raise the money, and that he had to do it. On the other hand, Roosevelt testified that instead of his asking Harriman to raise money Harriman had appealed to him to use his influence to have the national committee furnish additional funds for the State campaign in New York. Lovett further tes tified that Harriman did raise the money and turn the full amount over to him in checks of other large corporation men, and some money, with directions to deliver it to the treasurer of the national committee, who would come for it, which he did. Senator Scott, of West Virginia, late a Member of this body, testified that he was a member of the national committee that year; that he was called on the telephone from the White House, he then being in the committee headquarters in New York; that he talked with Roosevelt, who asked him about a report that the campaign funds were running low, and told him that he would see Harriman and have him raise additional This is in substance the testimony of these several witnesses bearing on the question. I am not going to enter upon a discussion of the weight or accuracy of the conflicting testimony of these several witnesses. It is not very material which was right and which was wrong. The material facts are that Roosevelt was a candidate for election to a second term. Harriman was the head of a system of railroads owned nominally by several different corporations but operated together under one management; that he raised the \$250,000, and it was accepted by the national committee. It was further shown that Roosevelt and Harriman were at that time close and rather intimate friends, but had a falling out after the election. And, Mr. President, Harriman received his reward whether the money was raised for that purpose or not. Suits by the Government were at that very time pending against some of his companies, and after this contribution they were dis-His roads were otherwise favored by the President that his money helped to elect, as shown by the following statement in La Follette's Magazine of November 2, 1912:

THE SUIT AGAINST HARRIMAN'S ROADS.

ment in La Follette's Magazine of November 2, 1912:

The Suit against Harriman's roads.

In this connection I remembered that two important suits brought by the Government against the Central Pacific Railroad Co. et al. and the Southern Pacific Railroad Co. et al., and pending when Harriman made his \$250,000 contribution, were thereafter dismissed in the early part of the year 1903 following Roosevelt's election. Joseph H. Call, of California, was the special counsel employed to prosecute these cases. Mr. Roosevelt's Attorney General ordered them dismissed—not through Mr. Call, the special counsel, or upon his advice. Roosevelt's Attorney General did not appoint Call as special counsel to commence the suit to dissolve the so-called Harriman merger of these two and other lines. This suit was based upon an investigation and report of the Interstate Commerce Commission, No. 943, entitled "In the Matter of Consolidations and Combinations of Carriers," etc. In this report the commission states that these two lines, the Central Pacific Railroad and Southern Pacific Railroad, were competing parallel lines across the continent and had been consolidated together and operated through a holding company called the Southern Pacific Co. This suit was decided against the Government by the judges of the United States Circuit Court, Eighth Circuit, June 25, 1911. An inspection of this reported case will show that for some mysterious reason the Government did not join as defendants these two wrongdoers, the Southern Pacific Railroad Co. and the Central Pacific Railroad Co. And moreover, strange as it may seem, its bill did not charge or allege that a combination to monopolize competing lines; but, on the contrary, the bill admitted that these two lines had been combined in the Southern Pacific Co., the holding corporation, and started out with that fact. The result was not complained of, and because the parties were not before the court a judgment was entered against the Government. That case is now pending upon appeal in the Un

Mr. President, this episode in the political history of the country should teach us a valuable lesson and serve as a warning to the American people. Why did Harriman raise this large sum for campaign purposes? He did it, as he said himself, because he had to. He knew perfectly well that his corporations were violating the antitrust law and were subject to prose-cution. Roosevelt was his personal friend, was the President of the United States, and very much wanted to be reelected. No one knew better than Harriman what Roosevelt's resentment might mean to him and his corporations. To refuse the contribution would certainly arouse that resentment. There was nothing to do, in the estimation of a trust magnate, but to put

up the money. What is said of the candidacy for the presidency is just as true in the case of candidates for Congress who are seeking reelection. The congressional political committees call for contributions. The corporations are at the mercy of such candidates for months, even if they are defeated. Therefore, whether willingly or unwillingly, they contribute in self-defense, as they naturally regard it. This enforcement of campaign con-

tributions is nothing better than blackmail.

Mr. President, why should we have these large contributions from interested, privilege-seeking corporations or their stock-The making of them is a subtle and dangerous species of bribery. They make such contributions to gain favor at the hands of public officials whom their money elects. are buying privileges, to be asked for, or immunity from punishment for crimes committed, or both. Why should an election to the great office of President of the United States be made to depend on such contributions? Why, sir, the mere offer of them should be taken as an insult, and would be by a man possessed of a proper appreciation of the office and its dignity and responsibilities. I ask, Why should we have such contributions? I go further and ask, in the name of the people of this country, Why should we have any contributions at all? Such as these are not the only ones that are made in the interest of the donor. It is a significant fact that, as a rule, the men who are appointed to high offices under the Government are liberal campaign contributors. It is interesting to note that ambassadors to foreign countries have usually donated large sums to the campaign of the President who appointed them. Did they make their contributions in the hope of reward by appointment to office? Let us hope not. Were they appointed because they made them? Maybe not. But the fact that they made them and that they were appointed makes one feel uncomfortable. Some people may contribute to these funds for purely disinterested reasons—love of country, for example. But afraid such as these are few in number. The who The whole tem of campaign contributions, let the donations come from whatever source, is an evil. It is a corrupting and degrading influence in politics that should not be allowed. No contributions, from any source, other than the State or Nation. should be permitted. To make them should be made a criminal offense. Large campaign funds, however raised, are a dangerous menace to the free institutions of the country. worse than useless and unnecessary. They are an obstruction to the free exercise of the franchise and a degrading influence that corrupts the purity of elections. Such information as may be necessary to inform the voters of the issues and the candidates should be furnished at public expense. Nothing should be furnished at private expense. Until campaign contributions and campaign funds are abolished we need not expect purity or honesty in elections. No greater or more wholesome reform could be adopted than that of providing for the carrying on of all political campaigns at public expense and the abolition of the present pernicious system of private contributions.

CANDIDATES FOR PRESIDENT ON THE STUMP.

Mr. President, I refer with regret to another phase of the evil consequences, resulting mainly from the attempt of the President to be reelected. I have had occasion to mention it before. It is the advocacy by the incumbent of his own election. In the late campaign it led to the most shameful campaign of crimination and recrimination between the President and ex-President, one seeking a second and the other a third term, that has ever been witnessed. I hope it may never occur again. On the 1st of July last I offered a resolution in this body calling for an investigation of campaign expenses and other matters. On the same day, in some remarks made by me in support of the resolution, I had this to say:

We have just passed through a campaign in both of the great parties for the nomination of candidates for President of the United States. No American citizen can look back upon it without the blush of shame. Candidates for that great office have gone on the stump and canvassed for their own election. That was shame enough. But one of them was President of the United States and another an ex-President pitted against each other. Their campaign was undignified, malicious, and disgraceful. It was not a discussion of principles or an effort to inform or instruct the people, but consisted of personal attacks and counter attacks, criminations and recriminations. If half the things they said of each other were true, neither of them was fit to be nominated. The whole country was shocked at this unexampled spectacle. The people were humiliated and indignant.

Since then the general election has been held and both of these candidates were overwhelmingly defeated. It was just and right that this should be so. They both deserved defeat for this reason if for no other. The contest between these two men was unfortunate in the extreme, not only to them but to the whole country. They had been warm personal and political friends. As the result of this disgraceful campaign they became bitter enemies. The conduct of Roosevelt was peculiarly reprehensible. His vicious assaults on the President made it imperative, in his estimation and that of his friends, for the latter to meet on the stump the charges made against him. It was a fatal mistake. It lost him the respect and good will of many good people. He put himself on a level with his detractor, and thus lowered his own dignity and that of his office, to no purpose. How much better it would have been for these men, how much better it would have been for the country, if both of them had been ineligible to reelection.

Mr. President, I do not believe in a candidate for President, whether it be for a first, second, or any other term, going on the stump. It is undignified and beneath the office of any man fit to be President. In the late campaign two of the candidates traveled the country over making speeches, good, bad, and indifferent, most anywhere they could find standing room and to anybody that would stop and listen. They traveled in their private cars, at immense cost, paid out of contributions for campaign purposes. One of them gave time enough from his eager and unseemly quest for office to visit the tomb of Abraham Lincoln and lay a wreath, also paid for out of campaign contributions, on his grave. What a touching and sincere tribute this was to the greatest President this country ever had. Could anyone conceive of Abraham Lincoln, as a candidate for President, traveling the highways and byways extolling his own virtues and appealing for votes for himself or his party? There is no stronger evidence that politics and public estimation of the great office of President have degenerated than such a campaign as this acquiesced in by the people of the country.

PATRONAGE IN THE SOUTH.

Mr. President, turning back for a moment to the unwarranted use of patronage, let us consider briefly what it means in the Republican Party in the South. We all know that in many of the Southern States the officeholders constitute the active workers in the party. They dominate the local conventions. They are made delegates to the national convention, and sometimes hold the balance of power. These men support their chief. It is not a question of fitness with them. They support him for two reasons—because their own continuance in office depends on his reelection, and, besides, they owe him fealty and support. This is so, only in less degree, in every State in the Union. It is literally true beyond doubt that a President may be, and even has been, renominated by his appointees to office. Precisely the same condition will prevail in the Progressive Party if it becomes a political force. It has made no impression on the solid South, and probably will not. If it should ever come into power, it will be represented in most of the Southern States by a handful of officeholders, just as the Republican Party is now.

ALLEGED LIMITATION OF THE RIGHTS OF THE PEOPLE.

This brings me to a consideration of the chief objection urged against this proposed amendment. Several Senators have centered upon it as insurmountable. It is the claim that the amendment will amount to a limitation of the right of the people to choose their President and to determine at the time of his election whether he should be elected to a second or third It is worthy of remark that most of the Senators who seized upon this objection were then supporters of a man running for a third term. It would at least be embarrassing to his candidacy for the Senate of the United States to determine that he should be ineligible for even a second term. standing this, I am sure Senators urged this objection in perfect good faith and sincerity. It may well be, however, that, unconsciously to them, their judgment was more or less affected by existing conditions. At all events, Mr. President, they have overlooked the very object and purpose of this amendment. Rightly understood and considered the objection has no weight whatever. It assumes that, as things now are, there are no limitations upon the right or obstruction of the exercise of the right of the people to choose their President. If I believed this I would never have offered this resolution and would not now be urging its adoption. I offered the resolution for the very reason that, under the present provisions of the Constitution, the people do not freely choose their Presidents, but are prevented from doing so in great part by the conditions that enable a candidate for a second term to manipulate caucuses and conventions and command the influence and money of great corporations to subvert the will of the people and elect a candidate that the people do not want in spite of them. It is to remove the conditions that enable the interests, machine politicians, and Federal officeholders to thwart the will of the people and at the same time corrupt elections that this amendment is proposed. Do Senators really think it is an unreasonable limitation upon the rights of the people to attempt to rescue their elections from the money changers and corruptionists and place them in their own hands? What chance have the people against the millions of the great corporations, the corrupt political machine operated by them, and the army of Federal officeholders in the effort to select a President who has favored and protected the trusts and appointed the officeholders in his first term? What hope have they against a candidate with an army of Federal officeholders appointed by him supporting his candidacy, with contributions by interested parties of millions of dollars to be used in his election?

It is worse than idle to talk about limiting the rights of the people under such conditions. It is not a limitation of the exercise of their right to elect the man of their choice, but the removal of one of the greatest obstacles to the exercise of that right. That is the one thing that I am standing for in my support of this measure. I do not say that there are not other causes and other forces at work to hinder and prevent the free and independent exercise of the franchise by the voters and to rule politics by money in the hands of the interested and privilege-seeking few. But I do say that the power given a President to dominate the affairs of the party, and, with the help of the selfish and interested few against the will of the disinterested many, to force his nomination and election to a second term is one of the most potent causes for this condition in the politics of the country. It is within the power and jurisdiction of Congress to submit to the people of the country the question whether this change should be made or not. It is for them to say, in a proper case, whether the Constitution shall be amended or not. We, as their representatives, can do no more than to submit it to them for their consideration and action, I do not believe we are under obligation to do so unless there is reasonable ground for its submission to the people. I agree with the Senator from Idaho [Mr. Borah], who, I regret to say, is opposing the submission of the question, that a Senator is not bound, as a matter of course, to vote in favor of it. He has a right, and it is his duty, to exercise his own judgment as to whether there is any necessity for the amendment. On the other hand, if there is a real and reasonable call for its submission, based upon substantial grounds, and there is a division of opinion as to the necessity for the amendment, I believe it is the duty of a Senator to support it. He does not thereby adopt the amendment but only the resolution submitting it to the people. one of the voters he could consistently vote against it at the polls notwithstanding the fact that, as a member of this body, he had voted in favor of submitting the question to a vote of the

Now, sir, is there reasonable grounds for the submission of this question to a vote of the people? I have tried to point out the evils that result from the candidacy of a President for a second term. They are serious evils that should be overcome. The only way this can be done is by amending the Constitution as proposed. I know, from information received before and since I offered the resolution, that there is a widespread and earnest desire that the amendment should be made. Moved by this wise and forceful public sentiment the now dominant party in the country has declared unqualifiedly in favor of such an amendment. The 1912 platform of the Democratic Party has this plank:

TERM OF PRESIDENT.

We favor a single presidential term, and to that end urge the adoption of an amendment to the Constitution making the President of the United States ineligible for reelection, and we pledge the candidate of this convention to this principle.

This platform has since been indorsed by the vote of the people, and a Democrat, running on that platform and indorsing that plank of it, has been elected President of the United States by the largest electoral vote ever given a candidate of his party. Neither the Republican nor the Progressive Party spoke for or against it, although it was then before the Congress and the country for consideration.

Sir, I submit that no Senator can now justly say that there is no general demand for this amendment. Neither can he, with just reason, stand upon the claim made here that there is no necessity for it. The Senator who endeavors to impress upon the minds of the people of the country that their rights are being encroached upon by such an amendment is, in my judgment, making a grievous mistake. From the point of view of the opponents of the measure it is a debatable question. If it is, then it should be submitted to the people for their determination. The electors of the country have the right to pass upon this question, and that right should not be denied them.

ADVANTAGE OF EXPERIENCE.

Another objection urged to the amendment is that one who has served one term as President is better fitted for a second term than a new man, and that to render him ineligible to a reelection is to deprive the country of his experience and superior ability resulting from his previous service. This is a plausible objection, but it has no support in the lives and experiences of men who have served a second term as President. Can Senators who make this objection point to a single case in the history of the country where the second term of an incumbent of the office was better or more satisfactory, either to him or the country, than the first? The Senator from Idaho [Mr. Borahl says in support of this contention:

What mistakes were made in the election of Jefferson, Madison, Monroe, Lincoln, Grant, McKinley, and Cleveland to a second term?

But, Mr. President, that is not the question. The question is, Would it have been a mistake to have elected some one else? Does the Senator think that at the time any one of these men was elected another one might not have been chosen with entire 'safety and without detriment to the interests of the people of the country? I hope the time will never come when there is only one man in our 90,000,000 of people competent to be their Chief Magistrate. There has never been a time when a competent, reliable, and trusted man was not found to succeed the incumbent of a first term. If he who has served a first term is better fitted by experience to further hold the office, he must be still better fitted, for a stronger reason, for a third and a fourth term, and so on indefinitely. It is an argument that will justify a life tenure just as much as a second

But, Mr. President, let us look into this phase of the question a little more closely. For the information of the Senate, I submit a list of the Presidents of the United States and their terms of service.

PRESIDENTS AND THEIR TERMS OF OFFICE.

PRESIDENTS AND THEIR TERMS OF OFFICE.

George Washington. April 30, 1789, to March 4, 1797.
John Adams, March 4, 1797, to March 4, 1809.
James Madison, March 4, 1801, to March 4, 1809.
James Madison, March 4, 1817, to March 4, 1825.
John Quincy Adams, March 4, 1825, to March 4, 1827.
John Quincy Adams, March 4, 1825, to March 4, 1827.
Martin Van Buren, March 4, 1829, to March 4, 1837.
Martin Van Buren, March 4, 1837, to March 4, 1841.
William Henry Harrison, March 4, 1841, to April 4, 1841,
John Tyler, April 6, 1841, to March 4, 1845.
James K. Polk, March 4, 1845, to March 4, 1853.
Franklin Pierce, March 4, 1849, to July 9, 1850.
Millard Fillmore, July 10, 1850, to March 4, 1853.
Franklin Pierce, March 4, 1853, to March 4, 1863.
James Buchanan, March 4, 1857, to March 4, 1861.
Abraham Lincoln, March 4, 1861, to April 15, 1865.
Andrew Johnson, April 15, 1865, to March 4, 1869.
Ulysses S. Grant, March 4, 1869, to March 4, 1881.
James A. Garfield, March 4, 1881, to September 19, 1881.
Chester A. Arthur, September 20, 1881, to March 4, 1885.
Grover Cleveland, March 4, 1885, to March 4, 1889.
Benjamin Harrison, March 4, 1889, to March 4, 1889.
Benjamin Harrison, March 4, 1889, to March 4, 1889.
William McKinley, March 4, 1897, to September 14, 1901.
Theodore Roosevelt, September 14, 1901, to March 4, 1909.
William H. Taft, March 4, 1909, to March 4, 1913.

PRESIDENTS WHO SERVED TWO FULL TERMS.

George Washington, Thomas Jefferson, James Madison, James Monroe, Andrew Jackson, Ulysses S. Grant, and Grover Cleveland.

Theodore Roosevelt served out the second term of William McKinley and was elected to and served another full term.

The following Presidents were elected a second time but did not live out the term: Abraham Lincoln, William McKinley.

VICE PRESIDENTS SUCCEEDING TO THE OFFICE

John Tyler, Millard Fillmore, Andrew Johnson, Chester A. Arthur, and Theodore Roosevelt became President by succession to the office as Vice President on the death of the President, and of this number Theodore Roosevelt was elected to a second term.

Thus it will be seen that we have had 26 Presidents. Of this number only 10 were elected the second time, and 2 of this number lost their lives early in the second term. Therefore there are but 8 Presidents whose second terms of service can be compared with the first for efficiency. Can the Senator from Idaho put his finger on a single one of these who can justly be said to have rendered better service to his country in his second term than in the first? There may have been some particular act done or service rendered during a second term that might be especially commended, but doubtless the same service would have been rendered in the first term if opportunity had offered, or by his successor in his first term if one had been chosen.

Mr. BORAH. Mr. President-The PRESIDING OFFICER (Mr. OLIVER in the chair) Does the Senator from California yield to the Senator from Idaho?

Mr. WORKS. I do. Mr. BORAH. I have no doubt in the world that, under the peculiar circumstances, the second term of Washington was of far more importance to the country, and of far more benefit, than would have been the first term of any other man who could have been elected at that time.

Mr. WORKS. I am coming to that in a moment. There is not the slightest ground, I am persuaded, for the claim that any advantage ever accrued to the country by the election of any man to a second term. An exception may possibly be made in the case of Washington, not for the reason urged by Senators of greater efficiency by reason of previous service, but because the people believed that he was the one man to lead the Nation in its infancy. Perhaps this was only a fancy. There were then many competent men, of lofty character, su-perior ability, and exalted patriotism to take his place; men under whose guidance the Government would have gone on as well as under Washington and as it did when, in his wisdom and patriotism, he declined to serve further in that capacity. This objection is more imaginary than real. It has no tangible facts to support it. And if it were true that the experience of one term would better enable the incumbent to perform the duties of the second, the evils resulting from a second election, some of which I have endeavored to bring to the attention of the Senate, so far outweigh the advantages claimed for a second term of service that the objection becomes insignificant in compartson.

Mr. President, it will be impossible for me to conclude my remarks within the time limited. I ask to suspend at this point, and give notice that on to-morrow, immediately after the

routine morning business, I shall continue my address.

The PRESIDING OFFICER (Mr. OLIVER in the chair). The Senator from South Dakota [Mr. CRAWFORD] has given notice

Mr. TOWNSEND. Mr. President, I ask that the omnibus claims bill be now taken up. I do not know whether it is necessary to make that motion.

Mr. GALLINGER. Mr. President, pending that, I make the point of order that there is no quorum of the Senate present.

The PRESIDING OFFICER. The Senator from New Hampshire suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Richardson Smith, Mich. Smoot Stephenson Sutherland Ashuest Clarke, Ark Martine, N. J. Bacon Bankhead Borah Brandegee Davis Fletcher Gallinger Massey Myers Oliver Gronna Overman Brandegee Brown Burnham Chilton Clapp Clark, Wyo. Kenyon Lea Lodge McLean Martin, Va Page Perkins Perky Poindexter Thornton Townsend Warren Works Reed

The PRESIDING OFFICER. Thirty-nine Senators have answered to their names. A quorum of the Senate is not present.

Mr. SMOOT. I ask that the names of the absentees be called. The PRESIDING OFFICER. The Senator from Utah asks that the names of the absent Senators be called. The names of the absentees will be called.

The Secretary called the names of the absent Senators, and Mr. Bristow, Mr. Bryan, Mr. Crawford, Mr. Curtis, Mr. Hitch-cock, Mr. McCumber, Mr. O'Gorman, Mr. Pomerene, Mr. Sim-MONS, Mr. SMITH of Arizona. Mr. SMITH of Georgia, and Mr. SWANSON answered to their names.

Mr. KENYON. I desire to announce that my colleague [Mr. CUMMINS] is detained at his home by the serious illness of his father. I make the announcement to stand for the day.

The PRESIDENT pro tempore. Upon the call of the roll of the Senate 51 Senators have responded to their names. A quorum of the Senate is present.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. Bacon) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Assistant Sergeant at Arms (Mr. Cornelius) made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will call the name of any Senator who has not yet taken the oath.

The Secretary called the name of Mr. Chilton, who advanced to the desk, and the oath was administered to him by the President pro tempore.

The PRESIDENT pro tempore. The Secretary will read the Journal of the proceedings of the last sitting of the Court of Impeachment.

The Secretary read the Journal of Saturday's proceedings of

The Secretary read the Journal of Saturday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved.

Mr. Manager CLAYTON. Mr. President, I should like for the witness, John Henry Jones, to be called at this time.

The PRESIDENT pro tempore. The witness will be called.

The Assistant Sergrant at Arms. John Henry Jones! John Henry Jones! John Henry Jones! Appear and answer summons.

Mr. Manager CLAYTON. Mr. President, I ask for present consideration of the order which I send to the desk. I ask that the order be read, and then I will make a statement to the

The PRESIDENT pro tempore. The Secretary will read the order as requested.

The Secretary read as follows:

Ordered, That an attachment do issue, in accordance with the rules of the Senate of the United States, for one John Henry Jones, a witness heretofore duly subpœnaed in this proceeding, on behalf of the managers of the House of Representatives.

Mr. Manager CLAYTON. Mr. President, I desire to show by the Sergeant at Arms that that witness has been duly sub-poenaed; that he is not present; and that he has not been pres-

ent to answer, as the subpœna requires.

The PRESIDENT pro tempore. The Sergeant at Arms will produce the officer who made the service.

James K. Julian, having been previously sworn, appeared and testified as follows:

The PRESIDENT pro tempore. What is your name?
Mr. JULIAN. J. K. Julian.
The PRESIDENT pro tempore. What office have you been

performing? What is your position?

Mr. Julian. I am clerk in the office of the Sergeant at Arms of the Senate.

The PRESIDENT pro tempore. And you were deputized-

Deputized. Mr. JULIAN.

The PRESIDENT pro tempore (continuing). To serve certain subpœnas?

Mr. Julian. Yes, sir.

The PRESIDENT pro tempore. State whether or not you served the witness, John Henry Jones?

Mr. JULIAN. I did.

The PRESIDENT pro tempore. When?

Mr. Julian. November 30, at 11.20 in the morning, in the courthouse at Scranton, Pa.

The PRESIDENT pro tempore. Personally?

Mr. Julian. Personally.

The PRESIDENT pro tempore. The Sergeant at Arms will state whether or not the witness has appeared.

Mr. E. Livingstone Cornelius appeared

The PRESIDENT pro tempore. Mr. Cornelius, has this witness appeared?

Mr. Cornelius. He has not.

The PRESIDENT pro tempore. He has not been here at all?

Mr. Cornelius. He has not reported to us.

Mr. Manager CLAYTON. I respectfully submit the order for
the consideration of the Senate sitting as a Court of Impeach-

The PRESIDENT pro tempore. Possibly it might be well to show from the subpæna at what date the witness was required to be present.

Mr. Manager CLAYTON. I can state it, but I think the suggestion of the Chair is better.

The PRESIDENT pro tempore. When was Mr. Jones subpenaed to appear?

Mr. Cornelius. He was subpænaed to appear on the 3d day of December.

The PRESIDENT pro tempore. Have you the return of the subpœna?

Mr. Cornelius. I have.

The PRESIDENT pro tempore. Does the copy of the sub-poena which you hold in your hand show on what date he was summoned to appear?

Mr. Cornelius. December 3.

The PRESIDENT pro tempore. He was ordered to appear on the 3d day of December?

Mr. Cornelius. Yes, sir.
The PRESIDENT pro tempore. Now, Mr. Manager Clayton. Mr. Manager CLAYTON. I ask the adoption of the order which was read from the desk.

The PRESIDENT pro tempore. The Chair will inquire whether it is necessary to insert in the order the fact that the witness Jones has not appeared. The order does not state that fact.

Mr. Manager CLAYTON. Following action in like cases-The PRESIDENT pro tempore. It is unnecessary?

Mr. Manager CLAYTON. I think it is unnecessary.

The PRESIDENT pro tempore. The question is on the adoption of the order submitted by the manager on the part of the House of Representatives. [Putting the question.] The "ayes" have it, and the order is adopted. The Secretary will see that the proper attachment is prepared and delivered into the hands of the Sergeant at Arms for this purpose. The managers will proceed.

Mr. Manager STERLING. Will you have Mr. Snyder called? TESTIMONY OF G. F. SNYDER.

G. F. Snyder, being duly sworn, was examined and testified as follows

Q. (By Mr. Manager STERLING.) What is your name, and where do you live?—A. G. F. Snyder; 1735 New Hampshire Avenue, Washington, D. C.

Q. What official position have you here?-A. I am clerk of the Commerce Court.

Q. How long have you been clerk of that court?-A. Almost two years; since its organization.

Q. And you have been clerk continuously since you were ap-

pointed, two years ago?-A. I have

Q. Have you the briefs and petitions filed in cases of the Baltimore & Ohio Railroad Co. against The Interstate Commerce Commission, Nos. 38 and 39?—A. I have; except that the case was brought against the United States and not against the commission.

Q. What case do you refer to as against the United States?-A. Both of them.

Q. What was the popular title of the case which is marked No. 38, the Baltimore & Ohio Railroad Co. and others against The Interstate Commerce Commission?-A. It was known as the Sugar Lighterage case.

Q. And generally called the Lighterage case?-A. By most

people; yes.

Q. Look at the eight briefs which I hand you, and state if they are the printed briefs which were filed by the several parties in that case?—A. (After examination.) They are.

Q. Are those briefs the briefs of the petitioners or of the defendants?-A. (After examination). The briefs for both sides.

Q. Are those all of the printed briefs that were filed in the Commerce Court?-A. They are,

Q. I will ask you if the title of the case on the back of each of those briefs is the same?-A. Practically. In some cases it is abbreviated.

Q. I wish you would read the title of the different ones. Those that have the same titles you need not repeat, but read the different forms of the title of the case as they appear on those several briefs.—A. The title on the brief for the petitioners on the motion for temporary injunction reads "In the United States Commerce Court, the Baltimore & Ohio Railroad Co., the Central Railroad Co. of New Jersey, the Delaware, Lackawanna & Western Railroad Co., the Erie Railroad Co., the New York, Ontario & Western Railroad Co., the Pennsylvania Railroad Co., petitioners, against the United States of America, respondents."
Q. Whose brief is that?—A. The brief of the petitioners on

the motion for temporary injunction.

Q. Read the title on the back of the brief in the other cases. except where it is the same as that you have read.—A. On the brief which is entitled "Points submitted on behalf of the defendant, the Federal Sugar Refining Co.." the title is "In the Commerce Court of the United States. Baltimore & Ohio Railroad Co. et al., petitioners, against United States, respondent. Federal Sugar Refining Co., intervening party, defendant."

In the brief of the United States the title is "In the United States Commerce Court. Baltimore & Ohio Railroad Co. et al., petitioners, against The United States, respondent."

In the brief for the Jay Street Terminal and Arbuckle Bros., interveners, the title is "In the Commerce Court of the United States. Baltimore & Ohio Railroad Co. and others, petitioners; Jay Street Terminal and Arbuckle Bros., interveners, against The United States, respondent. Federal Sugar Refining Co. and Interstate Commerce Commission, interveners."

On the brief for the Brooklyn Eastern District Terminal the title is "In the Commerce Court of the United States. Baltimore & Ohio Railroad Co. et al., petitioners, against The United States, respondent." Brief for the Jay Street Terminal and Arbuckle Bros., interveners—I may say that from now on these briefs have been filed within the last month or two in the Commerce Court.

Q. Have you read all the briefs that were filed prior to August 29, 1911?—A. I have.

Q. Those that were filed subsequent to that date, then, you Have you read the title to the cases on the need not read. back of all the briefs that were filed prior to August 29, 1911?-A. I have.

Q. I will ask you if in the title of that case, in any of those briefs, the case is designated as the Lighterage case.—A. It is not. Q. Does the word "lighterage" appear on the back of any of

the briefs in that case?-A. It does not.

O. Look at this volume, marked "38," and state what that is. A. That is the original petition for injunction filed in the Commerce Court April 12, 1911.

Q. What was the date it was filed?-A. April 12, 1911.

Q. That is the date on which that case came into the Commerce Court?-A. It is.

Q. Does the word "lighterage" appear in the title of the case on the back of that petition?-A. It does not.

Q. Is it designated as the lighterage case anywhere on the

back of the petition?-A. It is not.

Q. What is this volume, marked "Exhibit 24" [indicating]?-A. It is the printed record as transmitted to the Supreme Court by the clerk of the Commerce Court, printed by the clerk of the Supreme Court.

Q. And when was that printed?-A. I do not know. It must have been printed subsequent to the date on which it was filed, which, it is stated, was July 14, 1911.

Q. That is the transcript of the record from the Commerce Court in No. 38, known as the Lighterage case?-A. It is.

Q. Does the word "lighterage" appear on the back of that transcript anywhere?—A. It does not.

Q. Is the case designated as the Lighterage case anywhere

on the back of the transcript?—A. It is not. Q. Look at this volume, marked "Exhibit 26." Let me state for the benefit of the record, Mr. President, that the numbers which I have given are the numbers of the exhibits as they were presented to the Judiciary Committee. I will say that the clerk desires to take those, as there are files in the court, and that is the reason I am proving what is contained on the cover, so that he can take them now. What is volume 26?—A. This is a printed record of the transcript as sent by the clerk of the Commerce Court to the Supreme Court.
Q. Of 38?—A. No; of the Commerce Court, No. 39.

That is not the Lighterage case?-A. It is not.

What was 39?-A. 39 was a case popularly known as the O. Fuel Coal case.

Q. Just read the title to that case, giving the names of all the parties in interest .- A. As it appears on this printed transcript the title is, "Interstate Commerce Commission and the United States, appellants, against the Baltimore & Ohio Railroad Co., the Pennsylvania Railroad Co., et.al.'

Q. Does it not name the Erie Railroad Co. in the title?-A.

Not on this transcript.

Q. Who are the et al.?-A. I should have to look at the

original petition in order to state that.

Q. This volume is marked "39," and this one also is marked "39." Please state what the first volume is.—A. The first volume is the original petition filed in the Commerce Court on April 27, 1911, in the Fuel Coal case. The second volume is the brief for the Baltimore & Ohio Railroad and others, petitioners.

Q. The first one is the original petition?—A. It is,

Q. Filed April 27?—A. Yes, sir.
Q. Ascertain from that, if you can, the names of all the parties interested in that suit.—A. I will read them, if you wish.

Mr. Manager STERLING. Yes, sir.

A. The petitioners were the Baltimore & Ohio Railroad Co.; the Pennsylvania Railroad Co.; the Pennsylvania Co.; Buffalo, Rochester & Pittsburgh Railway Co.; the Pittsburgh, Cincinnati, Chicago & St. Louis Railway Co.; the Wheeling & Lake Erie Railroad Co., and B. A. Worthington, receiver thereof; the Lake Shore & Michigan Southern Railway Co.; the Pittsburgh & Lake Erie Railroad Co.; Buffalo & Susquehanua Railway Co., Harry I. Miller, receiver; Buffalo & Susquehanna Railway Co.; and here inserted in pen and ink is the Erie Railroad Co.; next the Western Maryland Railway Co.; the Pittsburgh, Shawmut & Northern Railroad Co., and Frank Sullivan Smith, receiver thereof.

Q. You say the Eric Railroad Co. is written in in ink in the title?-A. It is.

Q. I wish you would look at the body of the petition and see if it is designated as a party there.—A. This is in the Fuel case, you understand.

Q. It is No. 39?-A. Yes, sir. [The witness examined the

Q. Well, the Erie Railroad Co. was a party to that suit, was it not?

Mr. Manager WEBB. I think the respondent admits it in the

Mr. WORTHINGTON. I was going to say that so far as all

this is concerned, it is admitted in the answer.

The Witness. I do not see the name of the Eric Railroad Co. in the petition. I can only say from the documents before

Q. By Mr. Manager STERLING.) It is written in the title?-

Yes, sir; it is. Mr. Manager CLAYTON. And reference is made to the

parties, Judge.
Mr. Manager STERLING. Yes. [To the witness:] Look

at this document.

The witness proceeded to examine the document.

Mr. Manager STERLING (to the Secretary). I wish you would mark that.

The pamphlet was marked "Exhibit No. 23."

Q. (By Mr. Manager STERLING.) Have you the brief in case 39?—A. I have the brief of the petitioners.

Q. I wish you would read the title on the back of that brief.—A. In the Commerce Court of the United States, in equity, the Baltimore & Ohio Railroad Co. et al., petitioners,

against The United States, respondent.
Q. Look at this, Exhibit 23, which I hand you, and state what it is.—A. This is the docket of the United States Commerce

Court for the April session of 1912.

Q. Are cases 38 and 39 in that docket?-A. They are.

Mr. WORTHINGTON. 1911.

Mr. Manager STERLING. 1911. The Witness. This is 1912 which you handed to me.

Q. (By Mr. Manager STERLING.) What was the last docket printed by the court prior to the October session, 1911?which showed the calendar to be called March 24, 1911.

Q. Is it the docket of 1911 or 1912 that is before you?-A. 1912, sir.

Q. Have you the docket for the April session of 1911?-A. After the April session of 1911 the next session for which we had printed the docket was the October session, 1911.

Q. Then the first docket which your court had printed after cases 38 and 39 came into the Commerce Court was the October session, 1911?-A. 1911.

Q. Are those the cases in that docket?-A. They are.

Q. When was that docket printed?-A. It was printed about two weeks before October 2, 1911.

Q. About the middle of September, 1911?-A. About then is the time we have our dockets printed.

Q. Look at the title to case 38 and see if the case in that docket is designated as the Lighterage case.-A. It is not in

the title. Q. Just read the title as designated in that docket .-- A. No. 38

is designated as the Baltimore & Ohio Railroad Co. et al., petitioners, Brooklyn Eastern District Terminal, John Arbuckle, and William A. Jamison, intervening petitioners, against The United States, respondent, Interstate Commerce Commission, Federal Sugar Refining Co., intervening respondents. I might say under "Remarks" on this docket, opposite "Case," it is said it will be in order "to set aside an order of the Interstate Commerce Commission affecting lighterage charges on sugar in and near New York Harbor."

Q. Is that the first time in any brief or docket or calendar or petition in printed form the word "lighterage" appears in or in connection with the title to case 38?—A. It is, in printed form,

Q. And that was not printed until after the 29th of August, 1911?-A. That is correct.

Q. What page is that on?-A. Page 12 of the docket for the October session, 1911.

Mr. Manager STERLING. We offer Exhibit 23, so far as it relates to cases 38 and 39. I will offer it a little later. (To the witness.) No. 38 came into the Commerce Court on the 12th day of April, 1911?

A. April 12, 1911. Q. No. 39 came into that court the 27th of April?—A. 1911.

Q. When were the cases argued orally in the Commerce Court ?- A. The Sugar Lighterage case was first argued on petition for preliminary injunction May 17, 1911.

Q. And the other case?—A. The Fuel and Coal case first came up on motion of the Interstate Commerce Commission to strike

out, and was heard on that motion on May 19, 1911. Q. When were those cases taken by the court for consideration after those arguments?—A. The Sugar Lighterage case was taken under consideration by the court May 18.

Q. That is No. 38?—A. No. 38. Thirty-nine, the Fuel and Coal

case, the court did not take under consideration, but announced from the bench that the motion of the Interstate Commerce Commission to strike out would be sustained.

Q. Those cases have been pending on the Commerce Court docket from the time they were filed until the present time?-They were both appealed from the preliminary A. In a way, order of the Commerce Court, and being in the Supreme Court on appeal, of course nothing could be done in the Commerce

Q. But that is not my question. Did the titles appear on the docket of that court from that time until the present time?-A. They did.

Q. Do you know what case in the Commerce Court is generally known as the Meeker case?-A. I do.

Q. Have you the title of that case there?-A. I have not. was the title?-A. As I remember it, it was the O. What Lehigh Valley Railroad Co. against The United States.

The Lehigh Valley Railroad Co. was a party to that suit, was it?-A. It was.

Q. And Mr. Meeker was an intervener?-A. Yes.

Q. When was that case filed?—A. I have not the original petition here, and I can not say.

Q. Could you tell from memory about when it was filed?-A. No; I can not. Of course it was subsequent to this case, being a later number, but it might have been-

Q. Does it appear in any of these dockets?-A. No; these are my rough notes I am reading, taken in the court room.

- Q. Look at this docket here [presenting paper] and see if it appears in any of these dockets.—A. (Examining.) The docket of the February session, 1912, states that the Lehigh Valley Railroad case, known as the Meeker case, was filed September 29, 1911.
- Q. How long did it pend in the court?-A. I am afraid I can not tell that.

Q. Is it on the docket of the Commerce Court now ?-A. No: it was dismissed at the request of the petitioner.

Q. When was it dismissed?—A. It was dismissed some time between the April session of 1912 and the June session of 1912.

Q. On motion of the petitioner, the Lehigh Valley Railroad Co.?-A. As I remember it.

Q. When was it argued in the court?-A. This case, known in the Commerce Court as No. 49, was heard on petition for preliminary injunction on October 10, 1911.

Mr. Manager STERLING (to Mr. Worthington). Take the

Mr. WORTHINGTON. Mr. President, it seems to me it would be very much to the advantage and convenience of all Senators and counsel and managers if we should have this witness furnish a copy of the docket entries in each of these cases to be put into the record instead of having to go through his testimony to find out certain of these dates.

The PRESIDENT pro tempore. That is a matter of agreement between the counsel and the managers.

Mr. WORTHINGTON. I ask to have it furnished and put in the record.

Mr. Manager STERLING. We have no objection to it at all. Mr. Worthington can have it done as well as we. I will ask the witness to furnish it and send it to Mr. Manager Clayton.

Will it be sufficient if he will send it to Mr. Manager CLAYTON?
Mr. WORTHINGTON. That is, in each of these three cases; a certified copy of the docket entry in those cases.

The WITNESS. And filing?

Mr. WORTHINGTON. Certainly. [To the witness:] I want to ask you one or two questions.

Q. (By Mr. WORTHINGTON.) Mr. Snyder, do the briefs show the dates they were filed in your court?-A. They do.

O. That will appear from these docket entries?—A. It will Q. If I understand what you have testified to in regard to the Lighterage cases it means this-I wish you would correct me if I am wrong-that there were no documents filed in what is called the Lighterage case in which the word "lighterage" appeared until September. What was the date?—A. The document upon which the word "lighterage" appeared was not a paper that was filed. It was a docket printed by the court,

Q. That was printed just before the beginning of the October term, was it?—A. Yes; 1911.

Q. The court had a recess from May 29 to October 2 or 3,

1911?—A. Yes; as I remember it.
Q. Do I understand you correctly as saying that the docket was printed two weeks or so before the court met in October?-A. It was

Q. And were not copies of those dockets sent to the judges?-A. Immediately upon being received from the printer.

Q. So, in the ordinary course of things Judge Archbald would have received a copy of this docket or a list of cases with the word "lighterage" appearing along about the middle of September, 1911?—A. He would.

Q. Will you look at this paper [presenting paper] and tell me whether that is a copy of the opinion of the Supreme Court of the United States in the Lighterage case as it came to your court after the Supreme Court had acted upon it?-A. (After

Mr. WORTHINGTON. I should like to have that marked. Mr. President, for identification.

The PRESIDENT pro tempore.

It will be marked in order.

Mr. WORTHINGTON. It will be marked "H."
The Secretary. United States Senate Exhibit H.

Q. (By Mr. WORTHINGTON.) I should like for you to look at this paper [presenting paper] and tell me if that is a copy showing the final action taken in the Lighterage case by the Commerce Court.—A. (Examining.) To date.

Q. The final action of the Commerce Court after the case came back from the Supreme Court?-A. It is.

Mr. WORTHINGTON. I should like to have that marked, Mr. WORTHINGTON. I should like to have that marked, Mr. President, for identification.

The PRESIDENT pro tempore. It will be marked. The Secretary. United States Senate Exhibit I.

Mr. Manager STERLING. I should like to see them, Mr.

Manager. Mr. WORTHINGTON. Certainly. I am not offering them

in evidence now. Mr. Manager STERLING. I may want to cross-examine the witness

Mr. WORTHINGTON. Certainly. I should like to see the petition in which the word "Erie," or the description of the Erie, was inserted in handwriting, as I understood you. Do you recognize the handwriting in which the words "Erie Rail-

road Co." stand in this caption? A. I do not.

Q. Have you examined the paper itself to be sure that the Erie Railroad is not a party otherwise than its name is written in the caption?-A. No; I have not. I did not have time to read carefully the body of it.

Mr. WORTHINGTON. I may say, Mr. President, that on examination I find that the Erie Railroad Co. is a party in the petition.

Mr. Manager STERLING. We know it is in the body of the paper.

Mr. WORTHINGTON. The witness was in error about it in stating it was not there. Perhaps the witness had better correct that new. [To the witness:] State if from closer examination you find the Erie is a party in the body of the paper.

A. (Examining.) I state upon closer examination of case No. 39 the Eric Railroad Co. is a party printed in the body of the petition.

Mr. WORTHINGTON. That is all, Mr. President.

The PRESIDENT pro tempore. Are there any other questions to be asked the witness?

Mr. Manager STERLING. Mr. President, I desire to offer in evidence the docket of the October session, 1911, which the witness read, in which the word "lighterage" appears in connection with the order made in that case. I ask to have it marked Exhibit 24.

Mr. Manager CLAYTON. The October docket.

Q. (By Mr. Manager STERLING.) This Exhibit 24 is the docket from which you read the order in which the word "lighterage" was used in connection with case 38, is it not?— A. It is.

Q. And that is the docket of the United States Commerce

Court, October session, 1911?—A. It is.
Mr. WORTHINGTON. Let me look at that. [The paper was handed. I

Q. (By Mr. Manager STERLING.) Exhibit H you say is the opinion of the court in case 38, known as the lighterage case?—A. (After examining.) The opinion of the Supreme Court.

Q. What is the date of that?-A. June 10, 1912.

Q. On what question was the decision of the Supreme Court with reference to those cases?

Mr. WORTHINGTON. I should think that would appear

from the decision.

Q. (By Mr. Manager STERLING.) Did it go to the Supreme

Court on its merits?—A. It did not.

Q. Then during all that time, while it was in the Supreme Court on this one question, it was still pending on its merits in the Commerce Court, was it not?—A. It was.

Q. (Presenting paper.) State what that is.—A. (Examining.)

Exhibit I, the final order of the United States Commerce Court in the Sugar Lighterage cases.

Q. What is the date of that?—A. November 15, 1912. Mr. Manager STERLING. I believe that is all to be asked this witness

Mr. WORTHINGTON. That is all. Let me have those two

papers.

The PRESIDENT pro tempore. The witness may retire. Mr. Manager STERLING. Leave Nos. 24 and 23, Mr. Snyder. The WITNESS. Very well.

TESTIMONY OF A. F. GALLAGHER.

Mr. Manager STERLING. Let Mr. Gallagher be called.

A. F. Gallagher appeared.

The PRESIDENT pro tempore. State your name and residence.

Mr. Gallagher. A. F. Gallagher: 131 A Street NE., this city.

Having been duly sworn, A. F. Gallagher was examined, and testified as follows:

(By Mr. Manager STERLING.) What is your business, Mr. Gallagher?-A. Shorthand reporter.

Q. In what court do you report?-A. In various courts; in the district court and the Interstate Commerce Commission.

Q. Do you report in the Commerce Court?-A. I have not reported in the Commerce Court this session, but I did for two

Q. Did you report in the Commerce Court October 2, 1911?-

A. Yes, sir.

Q. I wish you would look at this paper [presenting paper] and state if it is a transcript of notes which you took upon that date with reference to a case in the Commerce Court .-(Examining.) Yes, sir; I recognize it.

Q. Did you make that transcript?—A. Yes, sir.

Q. Is it correct?-A. Yes, sir.

Q. It is a correct transcript of the stenographic notes which you took?-A. Yes, sir.

Mr. Manager STERLING. I think that is all I desire to ask

of this witness.

Mr. WORTHINGTON. We have nothing to ask him. Mr. Manager STERLING. We offer this transcript. Mr. WORTHINGTON. There is no objection to that,

Mr. Manager STERLING. We ask the clerk to read it, beginning at this point [indicating].

Mr. Manager CLAYTON. Mr. President, the witness may be

Mr. WORTHINGTON. Perhaps if the transcript is to be read, he might as well stay. Some questions might be suggested by the contents of the paper.

The PRESIDENT pro tempore. Take your lagher. The Secretary will read the transcript. Take your seat, Mr. Gal-

The Secretary read as follows:

The Secretary read as follows:

Judge Knapp. No. 38, Baltimore & Ohio Railroad Co. et al. v. United States, the Interstate Commerce Commission, and others.

Mr. Swifft. That case, I understand, is ready. The preliminary injunction has been granted in that case, and the motion of the defendant to dismiss has been denied. The Government has filed an answer, as has also the sugar company, but the Interstate Commerce Commission has not filed any. It is the desire of the petitioners to bring that case on for final hearing and take such action as may be necessary and such testimony as the court may think proper in the case. An appeal has been taken from the order granting the preliminary injunction in the case to the Supreme Court; but it does not seem to us that that should interfere with the case coming up for argument in this court.

Judge Ancibald. When was the answer filed?

Mr. Swiff. I can not give you the date when it was filed; but it was some time ago, your honor.

Judge Ancibald. Has anything been done on that toward taking testimony?

Mr. Swiff. It is ready; and we ask for the privilege of taking testimony in the case.

Judge Knapp. The petitioner, then, desires to take testimony?

Mr. Swiff. It is ready; and we ask for the privilege of taking testimony in the case.

Judge Knapp. The petitioner, then, desires to take testimony?

Mr. Swiff. Yes.

Mr. Esterline. If your honor pleases, the case has gone to the Supreme Court of the United States on the old record; the appeal of the Supreme Court of the United States on the old record; the appeal of the Supreme Court of the United States on the old record; the appeal of the Supreme Court of the United States on the old record; the appeal of the Supreme Court of the United States on the old record; the appeal of the Supreme Court of the United States on the old record; the appeal of the Supreme Court of the United States on the old record; the appeal of the Supreme Court of the United States on the old record; the appeal of the Supreme Court of the United State

merce Commission, and the intervention of the Federal Sugar Refining Co. Their pleadings are full and complete in all respects. The injunction having been issued on the face of that record, that whole record, which has gone to the Supreme Court, and not a word of which is disputed as it stands before the Supreme Court, and the appeal having been taken from the preliminary injunction, it is the idea of the Government that the whole case made by the petitioners and the interveners stands squarely before the court undisputed and undenied, and the Supreme Court's decision on that preliminary injunction will dispose of that case. If that injunction is affirmed, I do not know what could be done in the nature of taking testimony. If it is reversed, I do not know what could be done in the nature of taking testimony. If it is started in to take testimony now, or to hear the case, the Supreme Court may decide it on the question of law, and the time and labor would simply be in the air. The Government expects to present that case squarely on the record made by their pleadings, which are not denied, and all the testimony that they could take for the rest of the winter would not make that any stronger for the purpose of the injunction. It is the contention of the Government that there is no testimony to be taken, and the decision of the Supreme Court will be final.

Indee Arcuman Does the other side coincide with you on that?

Injunction. It is the contention of the Government that there is no testimony to be taken, and the decision of the Supreme Court will be final.

Judge Archeald. Does the other side coincide with you on that?

Mr. Swift. No; they do not. There is an assignment of certain errors made, which does not go to the merits of the case at all. A reversal which would prevent the preliminary injunction by the Supreme Court on a technical ground would leave us without an injunction, and they would compel us to obey its order pending the final determination of the case.

Mr. Estelline. If your honors please, if there were reversals on any such ground as that this court could either issue another injunction with the findings of facts, on a day's notice, or take such action as it chose in issuing the injunction.

Judge Archeald. If the Supreme Court should say it would not interfere with the exercise of the discretion of the court—

Mr. Estelline. Very well, then, I think it is up to us. If they hold that this court to determine what its opinion was, and in that case they are not in any way prejudiced.

Mr. Dykman. Is there not another course by which the Government might withdraw the technical assignments of error to which Mr. Swift has referred? There are more than one; there are three or four assignments by the commission and at least three assignments by the Attorney General. We are here answering because there has been an answer interposed, and on this calendar we are here to dispose of the issues joined by the answer.

Judge Archald. Your application now is for some opportunity for a hearing?

Mr. Dykman. Yes; we want to come to a decision as to the merits, which will be final. If the decision of the Supreme Court would be final and would bring an end to the litigation, we will be better satisfied.

which will be high. If the decision of the supreme court would be final and would bring an end to the litigation, we will be better satisfied.

Judge Knapp. It is understood that you desire to take some further testimony?

Mr. Swift. Yes, sir.

Judge Knapp. Can you indicate the nature of the testimony and the length of time which will be required to take it?

Mr. Swift. I think that depends altogether on whether our opponents would enter into a stipulation for the testimony taken before the commission. That would take only a short time.

Mr. Estering. I do not want to state now what we would or would not stipulate. Our position is to follow the practice of proceedings in the circuit court of appeals. It would be a hardship for us to take a lot of testimony in this case while preparing for argument on other cases before the Supreme Court. It would seem to be the better practice to see what the Supreme Court is going to decide, because I can not possibly see how it would prejudice the petitioners. If the court affirms that injunction, they are not hurt. If it is reversed because your honors did not make a finding of fact, it would not take long to make one.

affirms that injunction, they are not nurt. It is reversed because your honors did not make a finding of fact, it would not take long to make one.

Judge Archbald. If they want to hear all the case, how can you deny it?

Mr. Dykman. Mr. Esterline said he was not prepared to answer now whether he would stipulate that evidence; but I am not prepared to say that I would not, for expedition, stipulate that record to saye time.

Mr. Esterkine. The most you could do is to prove the allegations of your bill. You could not go beyond that. Now, they stand undisputed before the Supreme Court.

Judge Knapp. Has there been an answer filed in this case?

Mr. Esterkine. Not before it went to the Supreme Court.

Judge Knapp. It appears to me that if the petitioners are desirous of taking this course in this case they are entitled to do so, and therefore the application to take further testimony will be granted. We suggest that you confer with each other, and if that results in an agreement to stipulate the present record of the testimony taken before the Interstate Commerce Commission, it may obviate the necessity of taking further testimony, or at least the oral examination of witnesses, and you may appear in court to-morrow morning and we will hear what you have agreed upon and then decide whether the testimony will be taken, if any is to be taken, by a member of the court or by an examiner, and will perhaps fix the time and place for taking that testimony. Would you be willing to take it here in Washington?

Mr. Dykman. Would it be possible to have a longer time than to-morrow morning, in order that I may be able to consult Mr. Brownell? I should like to submit any result that we would reach to him. Judge Knapp. We will only say to you that the application for the taking of testimony will be granted, and at the opening of court to-morrow morning we will make some announcement as to whether that testimony will be taken by an examiner or a member of this court.

Q. (By Mr. Manager STERLING). Mr. Gallagher, who is Mr. Swift?—A. Mr. Swift was the representative of the Baltimore & Ohio Railroad Co.

Q. He was one of the attorneys for the petitioners in case 38?—A. Yes, sir.

Mr. Manager STERLING. That is all.

Cross-examination:

(By Mr. WORTHINGTON.) Who was Mr. Esterline?-. Mr. Esterline represented the United States. Mr. WORTHINGTON. That is all.

The PRESIDENT pro tempore. If there are no further questions, the witness may retire.

The witness thereupon retired.

Mr. Manager STERLING. Mr. President, we offer the evidence of G. A. Richardson, taken before the Judiciary Commit-tee of the House, and ask to have it read because Mr. Richard-

son is sick and unable to attend.

Mr. WORTHINGTON. Mr. President, I should like at this point to repeat what I think I said the other day, and that is that we have agreed that this may be read, but we do not waive any objection to any part of it for materiality or competency, nor do we agree that the managers have any right to read here testimony taken before the Judiciary Committee. They do it now by our consent, but, of course, the question of whether they may read without it—
The PRESIDENT pro tempore. It is done with your con-

Mr. WORTHINGTON. It is done with our consent. The question of whether they have a right to read testimony given there without our consent is not to be prejudiced by our consenting in this instance.

Mr. Manager CLAYTON. Therefore we do not ask consideration of a moot question, Mr. President.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read as follows:

TESTIMONY OF MR. G. A. RICHARDSON.

The witness was duly sworn by the chairman.

The Chairman. Mr. Richardson, will you please give your full name, your address, and your occupation to the reporter?

Mr. RICHARDSON. G. A. Richardson, 50 Church Street, New York; vice president of the Hillside Coal & Iron Co.

The CHAIRMAN. Have you any connection, Mr. Richardson, with the Eric Railroad Co.?

Mr. RICHARDSON. I am a director of the Eric Railroad and vice president of the Eric Railroad.

The CHAIRMAN. And you are president of the Hillside Coal & Iron Co.?

President of the Eric Railroad.

The CHAIRMAN. And you are president of the Hillside Coal & Iron Co.?

Mr. RICHARDSON. Vice president.

The CHAIRMAN. And are you also a director in the coal company?

Mr. RICHARDSON. I am a director and vice president of about all of the subsidiary companies of the Eric Railroad.

The CHAIRMAN. And this Hillside Coal & Iron Co. is one of the subsidiary companies of the Eric Railroad?

Mr. RICHARDSON. The Eric Railroad owns the capital stock of the Hillside Coal & Iron Co.

The CHAIRMAN. Did Mr. George F. Brownell, the vice president and general counsel of the Eric Railroad Co., introduce Judge Archbald to you in your office in New York City some time during last summer—the summer of 1911?

Mr. RICHARDSON. He did.

The CHAIRMAN. Can you give the committee the time at which that occurred?

Mr. RICHARDSON. I can not.

The CHAIRMAN. Can you give the during the summer, in July or August, I should say, but I have no definite way of locating the time.

The CHAIRMAN. Of 1911?

Mr. RICHARDSON. Yes, sir.

The CHAIRMAN. Please state, Mr. Richardson, in your own way, what took place between yourself and Judge Archbald while Mr. Brownell was present in your office at the meeting to which you refer.

Mr. RICHARDSON. Nothing occurred that I can recall, except passing the time of day and speaking about things in general. Mr. Brownell left quite promptly afterwards. I believe he had an appointment to keep. The judge opened the matter of business on which he called by stating that he was either interested for himself or other parties in the Katydid culm bank. I told him I had had some conversation with Capt. May in regard to it several months prior to that time; that just what it was I could not recall, but that the next time Mr. May was in New York, or I was in Scranton, I would make it a point to ask him what the esituation was, and to see if some determination could not be arrived at. Subsequently, I suppose it might have been a few weeks or several months laier, Capt. May was in New York, and

viously known—
The Chairman. When you say "he," that was Judge Archbald?
Mr. Richardson. That was Capt. May, on his succeeding visit to New

Mr. Richardson. That was Capt. May, on his succeeding visit to New York.

The Chairman. Yes. I want to know now what happened. I do not want to interrupt your story, but I want to get back, and I want to know what took place between you and Judge Archbald after Mr. Brownell left your office.

Mr. Richardson. He mentioned the purpose of his visit, and I told him I knew something of the case, but nothing of the particulars.

The Chairman. What did the judge say to you at that time, if you can recal?

Mr. Richardson. I can not recall his words, but it was to the point that he was interested in that property.

The Chairman. What was it?

Mr. Richardson. That he was interested in that property. That was the effect of his words. What they were in detail I do not know.

The Chairman. What property did he refer to?

Mr. Richardson. The Katydid culm bank.

The Chairman. Did he indicate what he wanted, or what he wanted you to do?

Mr. Richardson. I have no doubt that he did, but my recollection is that he either said he was interested or interested for people in it, and had made some application for it, and wanted to know the result.

The Chairman. That he was interested with some other people, you think, and he wanted to know what was the result of his application for the purchase of it?

Mr. Richardson. Well, that might be it or it might not be it. He might have said he was interested, or he might have said he was interested for other people. I do not recollect. It did not impress me one way or the other.

The Chairman. He told you he had come to your office for the purpose of ascertaining whether the deal for the Katydid culm bank would be consummated, did he not?

Mr. Richardson. He called on Mr. Brownell to find out what officer of the company he should see in regard to it.

The Chairman. Yes; and it was referred to you?

Mr. Richardson. Yes. He was brought over by Mr. Brownell and introduced personally, which is the custom on his part.

The Chairman. Mr. Brownell brought the judge into your office and introduced him, did he?

Mr. Richardson. He did; and it is customary on his part.

The Chairman. You had never known Judge Archbald before that time?

Mr. RICHARDSON. He did; and it is customary on his part.
The CHAIRMAN. You had never known Judge Archbald before that time?
Mr. RICHARDSON. I had never met him before.
The CHAIRMAN. And he came in to talk, and his business with you was looking to the purchase of the Katydid culm bank?
Mr. RICHARDSON. Particularly.
The CHAIRMAN. And you are not positive whether he said he was interested for other people who wanted to buy it, including himself, or that he and his associates wanted to buy it. You do not know what the language was that he used?
Mr. RICHARDSON. I am not positive. I do not know what language he used.
The CHAIRMAN. As nearly as you can, Mr. Richardson, please state what your recollection is of what he did say when he brought up the matter of the Katydid culm bank.
Mr. RICHARDSON. My recollection is that it made no particular impression upon me at the time, but I thought he was interested with other people who had made application for that bank.
The CHAIRMAN. You did not think he was interested merely as a friendly matter to other people, but you thought he was financially interested?
Mr. RICHARDSON. I had no way of knowing that. I made no inquiries

pression upon me at the time, but I thought he was interested with other people who had made application for that bank.

The CHAIRMAN. You did not think he was interested merely as a friendly matter to other people, but you thought he was financially in the complex of the people, but you thought he was financially in the complex of th

Mr. RICHARDSON. Doubtless he told me, but I have no recollection of it.
Mr. FLOYD. You were not impressed with that?
Mr. RICHARDSON. Not at all.

Mr. Floyd. Please describe Capt. May's duties as superintendent of e Hillside Coal & Iron Co. Mr. RICHARDSON. He has practically complete charge of its op-

eration.

eration.

Mr. Floyd. What was Capt. May's attitude regarding this proposition prior to your conference with Judge Archbald?

Mr. Richardson. It might have been favorable or it might have been unfavorable. But I am inclined to think it was just half way. He had not completed his investigation. He was just showing it to me as matter of precaution.

a matter of precaution.

Mr. FLOYD. Is it not a fact that you would ordinarily act in accordance with the recommendation of Capt. May in a matter of this kind?

Mr. RICHARDSON, Unless I had some very good reason to the con-

MR. FLOYD. Is it not a fact that you would ordinarily act in accordance with the recommendation of Capt. May in a matter of this kind?

Mr. RICHARDSON, Unless I had some very good reason to the contrary.

Mr. FLOYD. Had you discussed with Capt. May the price which the Hillside Coal & Iron Co. should receive for its interest in the Katydid culm bank in the event of a sale?

Mr. RICHARDSON, No; I have no recollection of discussing anything in regard to price with him.

Mr. FLOYD. Why did you not refer Judge Archbald to Capt. May when he disclosed the nature of his mission to you?

Mr. RICHARDSON, I practicallly did.

Mr. FLOYD. But later you brought it to the attention of Capt. May yourself again, did you not?

Mr. RICHARDSON. Oh, no; I brought Capt. May's attention to it the first time I saw him afterwards.

Mr. FLOYD. About how long after?

Mr. RICHARDSON. That was some time subsequent to Judge Archbald's visit.

Mr. FLOYD. About how long after?

Mr. RICHARDSON. I would be unable to say. It might have been a week or it might have been a month. Probably it was not more than a month.

Mr. FLOYD. What moved you to take action in the matter after your conference with Judge Archbald, under the attending circumstances?

Mr. RICHARDSON. Oh, I took action about the same as I do in I, probably, out of every S or 10 cases that come up. Some one comes in and asks me something about it, and I tell him that I have discussed it more or less with Capt. May, and will refer it to him and see what his final decision is.

Mr. FLOYD. What action did you take in the matter after you had this conference with Judge Archbald?

Mr. RICHARDSON. None at all.

Mr. FLOYD. Did you state that at the next visit of Capt. May to New York you brought it to his attention?

Mr. RICHARDSON. I said I would call Capt. May's attention to it the next time I saw him. I did not know whether I would see him in Scranton or in New York. My recollection is that I saw him in New York the next time.

Mr. FLOYD. Did not Judge Archbald request you to see Capt. M

about II?

Mr. RICHARDSON, I do not know whether he requested me or not, but I said I would. Either he asked me or I volunteered the informa-

Mr. RICHARDSON. I do not know whether he requested me or not, but I said I would. Either he asked me or I volunteered the information.

Mr. FLOYD. Did you not understand that the reason for his visit to see you in regard to the matter was that he could not get satisfactory arrangements through Capt. May directly?

Mr. RICHARDSON. No; I did not understand it exactly in that way. He was there, and I suppose he took the opportunity of seeing me.

Mr. FLOYD. If Capt. May practically had the absolute control over those matters, what would be the necessity of Judge Archbald calling on you in reference to it unless there was some difference between you and Capt. May in regard to the transaction?

Mr. RICHARDSON. None, probably. Capt. May probably told him that the question was not ready for settlement, and that he could not reach any decision; and he might have said that he would refer the subject to New York or have a talk with me about it; and the next time Judge Archbald was in New York he asked me to see whoever had the matter in charge.

Mr. FLOYD. Capt. May had not, in fact, referred it to you by letter or otherwise?

Mr. RICHARDSON. He called it to my attention when I was there. He said that questions were likely to arise in the future, and he wanted me to know of it when they did.

Mr. DAYIS. Did you indicate to Judge Archbald whether your recommendation to Capt. May would be favorable or unfavorable?

Mr. RICHARDSON. In no way.

Mr. FLOYD. Is it not against the general policy of the Hillside Coal & Iron Co. to dispose of its coal property interests?

Mr. RICHARDSON. It all depends upon the circumstances. Sometimes we do, but generally we do not, because we think we can operate—

Mr. FLOYD. I was asking you about the general policy.

Mr. RICHARDSON. It all depends upon the circumstances. Sometimes we do, but generally we do not, because we think we can operate the coal property to success where a great many other people would make a failure of it.

Mr. RICHARDSON. I did not depart from it. I simply told Capt.

received any report.

Mr. Webb. You say that the first time you heard anything about this Katydid proposition was in Scranton some time last summer, when Mr. May called your attention to it?

Mr. RICHARDSON. Yes.

Mr. Webb. I believe the evidence shows that Judge Archbald wrote Mr. May a letter some time in the spring of 1911 asking him to place a price on this culm bank, or asking him if he would fix a price.

Mr. RICHARDSON. I understand so, generally, but I have never seen any correspondence on the subject.

Mr. Webb. I imagine that it was in consequence of that letter that later Mr. May did ask you something about it?

Mr. Richardson. That and some future developments no doubt caused him to bring it to my attention.

Mr. Webb. And at that time in the summer you told him that under the circumstances he might let the matter rest?

Mr. Richardson. The matter was so complicated that I thought the matter might rest until some of the points were cleared up, anyway.

Mr. Webb. Exactly. And in something like a month or two after that Mr. Brownell introduced the judge to you?

Mr. Richardson. It might have been a month or six months; but my recollection has been called to it since, and it was probably about three months, in fact.

Mr. Webb. Can you tell just the conversation that the judge had with you, and what you said to him?

Mr. Richardson. Oh, no; I can not.

Mr. Webb. But you inferred from his conversation that he was interested alone, or interested with others in this Katydid culm bank?

Mr. Richardson. I did.

Mr. Webb. He wanted to buy or lease it, and you told him you would see if a determination of the matter could not be arrived at.

Mr. Richardson. I told him that Capt. May had spoken to me about it and showed it to me, and that the next time I saw him I would call his attention to it and see if we could not get rid of the difficulty, so that we could bring about a trade somewhere.

Mr. Webb. I understood you to say that you told the judge at that time that you would see if a determination could not be arrived at.

Mr. RICHARDSON. Yes, sir; that is it.

Mr. Webb. Then, what did you communicate to Capt. May in consequence of that agreement with the judge, that you would look after the matter? What did you tell Mr. May?

Mr. RICHARDSON. I suppose I had an accumulation of just about twenty things. I can only go on the order of my business. I have no notes whatever.

Mr. Webb. The probability is that you communicated with him pretty son?

twenty things. I can only go on the order of my business. I have no notes whatever.

Mr. Webb. The probability is that you communicated with him pretty

Mr. Webb. The probability is that you communicated with him pretty soon?

Mr. Richardson. I assume that I asked him to come to see me, as I had numerous things to discuss with him.

Mr. Webb. Do you remember discussing this with him?

Mr. Richardson. I remember discussing it with him?

Mr. Webb. Did you tell him to go ahead with the matter?

Mr. Richardson. I told him to go ahead and to complete his investigation of it as soon as he could.

Mr. Webb. It is in evidence here that very soon after the judge called on you in New York Mr. May notified Mr. Williams, who had made application for this lease, to come around to his place of business and he would give him that option, and that in consequence of that understanding Mr. Williams did go around and got a letter which they called an option on this culm bank. Looking at it from your standpoint, now, would you take it that Mr. May agreed to this option in consequence of what you told him, and in consequence of the judge's visit to New York to see you, coming so soon after the judge's return from New York?

Mr. Richardson. No: I do not really see how Capt. May could give anyone an option on it, because his interest in it was so small.

Mr. Webb. Sir?

Mr. Richardson. I say I can not see how Capt. May could give anyone an option on it, because his interest in it was so small.

Mr. Webb. Sir?

Mr. Richardson. I could not be held responsible for that, because I would try to have him act on his own initiative in a great many matters.

Mr. Webb. Exactly; but the point I am making is that a few days, it

Mr. Richardson. I could not be held responsible for that, because I would try to have him act on his own initiative in a great many matters.

Mr. Webb. Exactly; but the point I am making is that a few days, it may be immediately after the judge's return from his visit to New York to see you, we find a letter ceming from Capt. May to Mr. Williams saying that if he would come around he would give him the option, or recommend the option; and that he did so. His letter is in evidence here. Would you say that that letter, coming so soon after the judge's return from New York, was written in consequence of your instruction to May, or the judge's call upon you, or what would you attribute that to?

Mr. Richardson. I should attribute it, if Capt. May wrote that letter, that it was based upon some instruction or authority that I gave him.

Mr. Webb. The truth of it is, and I believe Capt. May so testified, that you changed your attitude in regard to this matter from what it was in the summer to what it became later on?

Mr. Richardson. I think he was entirely wrong if he so testified.

Mr. Webb. Judge Moon calls my attention to the fact that the evidence of Capt. May is that when you first discussed it with him you were opposed to it, but that later on you changed your attitude in regard to the matter.

Mr. Richardson. I recall his first testimony, because I think I heard it. I think that he said I did not approve of it, which was an indication that he probably recommended it; but I do not so recall it. I think he was blased—

Mr. Webb. But if Mr. May did write this letter saying that he was ready to give the option, or would give it, naturally it was in conse-

Indication that he proposity recommended it; but I do not so recall it. I think he was biased—

Mr. Weer. But if Mr. May did write this letter saying that he was ready to give the option, or would give it, naturally it was in consequence of something that you had said to him later on?

Mr. Richardson. That might have been, but I do not think it could have been. I do not think I gave him any such authority.

Mr. Weer. The testimony so far shows, Mr. Richardson, that Mr. May would not consider the proposition to lease this culm dump, and that later on in the summer the judge went to New York to see you, and did see you, and within a few days—I do not know whether it was the next day, but almost immediately—after the judge returned from New York to Scranton Mr. Williams went around and got a letter from Capt. May, saying that he would now recommend the lease. Would you not, looking at the matter as the business man that you are, judge that that recommendation on the part of Mr. May was brought about by something that you had directed him to do or told him or advised him?

Mr. RICHARDSON. I might have seen Capt. May a week or 10 days later than I saw Judge Archbald. I have no way of fixing it; but I will let it go by saying that when I did see Capt. May I instructed him what to do, and that was to clear up the title as much as possible and rid ourselves of a property that was bringing us no return and might not in the future.

Mr. Weer. But when the letter was written immediately after the lates.

Mr. Webb. But when the letter was written immediately after the judge's return from New York, written by Capt. May saying that he would recommend the lease, the title had not been cleared up, so Capt. May said.

Mr. RICHARDSON. And it has not to this day, so far as I know.

Mr. Webb. Exactly: Then how can you account for Capt. May writing this letter to Mr. Williams telling him he would make this lease to him, so soon after the judge's return from New York to see you?

Mr. RICHARDSON. I assume that he did it anticipating the approval of his superior officer. If it would come to me not cleared up, I would not have approved it.

Mr. Webb. You had already said to May to let it lie on account of the condition of the title. You had already directed May to let it run because the title was not clear. A day or two after the judge calls on you in New York, and then Capt. May writes a letter in which he says "I am now ready to grant the option."

Mr. RICHARDSON. My instructions were to go ahead and clear up the whole situation.

"I am now ready to grant the option."

Mr. RICHARDSON. My instructions were to go ahead and clear up the whole situation.

Mr. Webb. But he wrote this letter before the whole situation was cleared up, according to the testimony.

Mr. RICHARDSON. Then he probably overestimated his authority, I do not know any other way to explain it.

Mr. Webb. You said awhile ago that if he wrote the letter probably it was on authority that you had given him.

Mr. RICHARDSON. My general authority to him is to act on his own initiative as far as possible; and if he knew he had cleared the title to the property, he could act accordingly.

Mr. Webb. Do you think in view of what you told him personally in Scranton, to let the matter lie, that inside of a month after that he would have written this letter saying that he was now ready to give the option, unless he had gotten some authority from you to do so?

Mr. RICHARDSON. Not knowingly, he might have undertaken to dispose of the rights that he had, in the letter, for a certain price—not the rights of the whole property.

Mr. Webb. Here is a letter, Mr. Richardson, that Mr. May wrote on August 30, 1911, after the judge had been to New York and had seen you, and after you had told Mr. May to let the matter rest. It reads:

Mr. E. J. Williams,

Mr. E. J. WILLIAMS, 626 South Blakely Street, Dunmore, Pa.

DEAR SIR: As stated to you to-day, verbally, I shall recommend the sale of whatever interest the Hillside Coal & Iron Co. has in what is known as the Katydid culm dump, made by Messrs. Robertson & Law in the operation of the Katydid breaker, for \$4,500.

In order that it may not be lost sight of, I will mention that any coal above the size of pea coal will be subject to a royalty to the owners of lot 46, upon the surface of which the bank is located.

It is also understood that the bank will not be conveyed to anyone else without the consent of the H. C. & I. Co., and that if the offer is accepted articles of agreement will be drawn to cover the transaction. Yours, very truly,

W. A. May, General Manager.

W. A. MAY, General Manager.

Yours, very truly,

W. A. May, General Manager.

Can you give the committee any idea as to what made Capt. May change his attitude so soon after you had told him to let the matter lie? The title had not been changed, the title had not been cleared up. In other words, do you not know, Mr. Richardson, that it was in consequence of the judge's visit to you in New York? Is not that the fact, now? Naturally, would it not be so?

Mr. Richardson. I think you are in error in regard to the instruction I gave him. I did not instruct him to clear it up, but to go ahead and clear the incumbrances, if he could, which he had brought to my attention before. He probably on his second visit to New York told me all he had told me on his first visit, reminding me of all the complications. Now he gets through and leaves New York with instructions to clear the proposition up to the best of his ability. He makes a proposition to somebody that he would sell the Hilliside Coal & Iron Co.'s interest in it. It might be more or less—

Mr. Weeb. But that was under your instruction, was it not?

Mr. RICHARDSON. Yes; that is part of his authority.

Mr. Weeb. That was all the judge wanted, was it not—your interest in it? He did not expect to get the interest of anybody else?

Mr. RICHARDSON. But he did not buy it, and the offer is still open. That is, simply the Hilliside Coal & Iron Co.'s interest.

Mr. Weeb. I understand that the offer is still open; but an agreement was made that they would lease it—that your company would lease it?

Mr. RICHARDSON. In the proposition you have read me Capt. May says he will sell the Hillside's interest for \$4,500; and he is prepared to take that now, but he can not find a taker.

Mr. Weeb. But he was not willing to do that 30 days before he wrote his letter?

Mr. RICHARDSON. The matter had not progressed far enough to act, sir.

Mr. Werb. There had been no change in the title or in the conditions,

Mr. RICHARDSON. The matter had not progressed the total sir.

Mr. Webb. There had been no change in the title or in the conditions, except that the judge had seen you in New York?

Mr. RICHARDSON. It was the consequence of subsequent negotiations. Mr. Webb. But the negotiations had not been changed. The same negotiations were on foot between the judge and Williams and May. You had told May to let the matter rest; and in less than 30 days we find May writes a letter, and that he changes his entire attitude and says, "I will sell now."

Mr. RICHARDSON. That might be his way of clearing up the situation. It might be that he found certain things that he could not clear up, and consequently he would sell the interest.

Mr. Webb. Then he knew that he had authority to clear it up to this extent?

Mr. Webb. Then he knew that he had authority to clear it up to this extent?

Mr. Richardson. He had authority to clear it up in any way he saw fit.

Mr. Webb. You gave him that authority, and told him—
Mr. Richardson. I do not think he needed any authority. He had it in the first place.

Mr. Webb. Did you not promise the judge that you would see that there was some determination made of the matter?

Mr. Richardson. I promised the judge nothing whatever, sir.

Mr. Webb. You told him you would see—

Mr. Richardson. I told him I would see the general manager in regard to it, as I tell everyone.

Mr. Webb. And the general manager in less than 30 days after you saw him wrote—

Mr. Richardson. I do not know. The record shows everything he did.

did.

Mr. Webb. I think the record shows that in less than 30 days he saw him on the street and told him to come around and that he would

saw him on the street and told him to constitution.

Mr. RICHARDSON. And he gave him an offer that he did not accept, and has not accepted yet.

Mr. Webb. Later he did make a lease, did he not, or draw a lease at the suggestion of Mr. Williams, leasing the culm bank property to one Bradley, or selling the property to Bradley?

Mr. RICHARDSON. I have understood it so in a general way. I would consider the letter that you read as a perfect lease.

Mr. Webb. You would?

Mr. RICHARDSON. I would consider the letter from Capt. May, that

Mr. RICHARDSON. I have understood it so in a general way. I would consider the letter that you read as a perfect lease.

Mr. Webb. You would?

Mr. RICHARDSON. I would consider the letter from Capt. May, that you read, as practically a perfect lease.

Mr. RICHARDSON. If it was properly signed, I think it would give sufficient authority to anyone to operate it.

Mr. RICHARDSON. If it was properly signed, I think it would give sufficient authority to anyone to operate it.

Mr. Webb. And this letter, which you say is a perfect lease, was written within 30 days after you told him to let the matter lie. Is it not fair to draw the conclusion that the lease which you say is perfect now would not have been made except by reason of the judge's visit to you in New York?

Mr. RICHARDSON. I have already said you could assume it. I instructed Capt. May to find out about it and clear it up as soon as he possibly could, whether that was one week after the judge's visit or three months later; but here you see he had not cleared the title. He says he will sell all of the interest of the Hillside Coal & Iron Co. in it, whatever it may be. There is no attempt to clear up the title in this letter.

Mr. Webb. The date will show for itself. That is all I want.

Mr. McCov. What was it that the Hillside Coal & Iron Co. was proposing to part with?

Mr. RICHARDSON. Their interest in the Katydid culm bank.

Mr. McCov. The proposition was, then, to give a quitclaim deed of whatever they had there?

Mr. RICHARDSON. I have would give whatever they had in the bank. I do not know—

Mr. McCov. That would be the customary way of parting with right, title, and interest, would it not?

Mr. RICHARDSON. I do not know what legal document might be required to give our interest in it.

Mr. McCov. As I recollect your testimony, it was to the effect that when you went to Scranton at one time you did talk with Capt. May about this property, and he described the situation to you, and your testimony was that it was so complicated that you told him to drop i

did come before me.

Mr. McCov. What was it that it was expected would be called to your attention later? Was it the valuation of the property or the condition of the title?

Mr. RICHARDSON, Oh, he might have come to New York at some subsequent date, and he might have talked to me on that subject, or on two or three other subjects.

Mr. McCoy. But I say, at the time you were in Scranton and had this first talk with Capt. May about the property, what was it that you then expected he would later call to your attention and clear up? Was it the question of what the property was worth or the title to the property.

property?

Mr. RICHARDSON. Oh, I have not the least idea—not the least in the world—whether it was the question of money or of the title to the

Mr. RICHARDSON. Oh, I have not the least idea—not the least in the world—whether it was the question of money or of the title to the property.

Mr. McCoy. What did he state to you at the time in Scranton were the difficulties involved in the matter?

Mr. McCoy. What did he state to you at the time in Scranton were the difficulties involved in the matter?

Mr. RICHARDSON. My recollection is, assuming that the difficulties were difficulties affecting the title, what difference did it make what those difficulties were, when all that the Hillside Coal & Iron Co. was to transfer was its right, title, and interest in the property?

Mr. RICHARDSON. Practically none, I should say.

Mr. McCoy. Then it made no difference how complicated the title was, or what anybody was claiming, because the Hillside Coal & Iron Co. was to convey only its interest. That is all there was to it. Is not that the fact?

Mr. RICHARDSON. But you must recall that this was a personal conversation. He might have told me or he might not. If he had been writing me on the subject he would probably give the price, the names, the title, and everything that he could think about; and if there was anything that I could think about that was not covered, I would probably call his intention to it, and ask about it; because when I finally determine a subject, I ascertain and know everything about it.

Mr. McCoy. Did he ever communicate to you in writing subsequently about it?

Mr. RICHARDSON. No; I communicated with him first, the second time.

Mr. RICHARDSON. After Judge Archbald came to see me.

Mr. RICHARDSON. I did not communicate with him by letter. I communicated with him verbally. I probably had from a dozen to 15 or 20 subjects to discuss with him. I have them currently. I have them every day.

Mr. McCoy. I am not referring to any matter except to this particular matter.

Mr. RICHARDSON. I probably had a dozen or twenty others with that,

them every day.

Mr. McCox. I am not referring to any matter except to this particular matter.

Mr. Richardson. I probably had a dozen or twenty others with that, I will say.

Mr. McCox. That does not interest us. What other communication did you have with him, either verbally or in writing, in regard to the interest of the Hillside Coal & Iron Co. in this culm bank?

Mr. Richardson, I had none in writing. Whatever communication I had with him was verbal.

Mr. McCox. What communication did you have with him in regard to this after you saw him in Scranton?

Mr. Richardson. He came to New York, or I went to Scranton. I have said that presumably he went to New York. There were several subjects to be discussed and one was this culm bank.

Mr. McCox. Was the title to the property discussed at that time?

Mr. Richardson, I have not any recollection of what I might have discussed with him. I think I discussed every phase of it with him. That had been my custom.

Mr. McCox. Your testimony, then, is that you now have not any recollection of even the substance of your conversation with Capt. May when you saw him the second time there in New York or in Scranton?

Mr. Richardson. I have a very close recollection of the whole transaction when I saw him in Scranton, and I think I have already testified as to that.

Mr. McCov. I am talking about the subsequent interview.

Mr. Richardson. In the subsequent interview in New York I assume that I sent for him and that, amongst other subjects about which I spoke to him, I mentioned Judge Archbald's desire to secure this bank either for himself or his associates, or both combined, and told him to go ahead and see if he could not close it up in some manner. That would have been done for anyone else.

Mr. McCov. I understood you to say a few minutes ago that you might on that occasion have discussed in detail this question of the culm bank. Is not that what you said—that you might have done so? Mr. Richardson. My ordinary practice would be—and that is all I can give you, because this is no exception to the general rule—Mr. McCov. My question is this: Have you now any personal recollection of your conversation at the second interview with Capt. May?

Mr. Richardson. None whatever.

Mr. McCov. In regard to the culm bank?

Mr. Richardson. None whatever.

Mr. McCov. You do not now recollect?

Mr. Richardson. None whatever.

Mr. Richardson. None whatever.

Mr. Richardson. That is what I wanted to get. Now, did you say there was no established policy of the Eric Railroad or any of its subsidiary companies in regard to the sale of its coal properties?

Mr. Richardson. I make whatever policy they have, as an officer of the coal company. I would know the general basis. If anyone can operate the property to advantage, the Hillside Coal & Iron Co. can. I should look very closely into some one else's proposition to buy coal property from the Hillside Coal & Iron Co. is adverse, prima facie, to the sale of any of its cal properties?

Mr. Richardson. I do not think I go that far. If anyone comes to me I refer him to Capt. May to get a full report of the details and his recommendation. I think I would reserve my own judgment until I had received

or I think it is desirable. You may make my answer to that I do, if you like.

Mr. McCoy. Let me ask you another question. Has the Erie Co., or any of its subsidiary companies, in the last five years, parted with their or either of their interests in any coal property?

Mr. RICHARDSON. Yes.

Mr. MCCOY. What property?

Mr. RICHARDSON, Well, I can not mention all of them now. I know there are certain outlying coal properties that we could not work to advantage, and if we would receive what I thought was a proper price for them we would sell them without any question.

Mr. McCoy. You are talking about what you would do. I am asking for a matter of fact.

Mr. RICHARDSON, I can give you specific cases if you will give me time to refer to the records. I can not do it offhand.

Mr. McCoy. That, of course, is a fair suggestion, to give you time, but can you not—

Mr. RICHARDSON. I could not tell you.

Mr. MCCOY. Without tying you down to any specific number, have there been numerous instances in the last five years in which the Erie or any of its subsidiary companies, or affiliated companies, companies in which it owns a controlling part of the stock, have sold their properties? Have there been numerous instances?

Mr. RICHARDSON. The cases have not been numerous. The applications have been more or less numerous, but when looked into they are found faulty in some respect, either as to the price or the prospects.

tions have been more or less numerous, but when looked into they are found faulty in some respect, either as to the price or the prospects.

Mr. McCox. Will you furnish to the committee when you get back to New York, as soon as you can, a statement of the number of instances in which any of these companies which I have referred to have absolutely parted with their interest in any coal properties—not leasing them?

Mr. Richardson. I can give you one, I think, within the last year.

Mr. McCox. Mr. Richardson, I have asked you to give me all, and you say you can not do it. I prefer to give you the opportunity you want of getting the information back in New York and sending it, so that we could have it accurately.

Mr. Richardson. I am perfectly agreeable.

Mr. Norris. I would suggest that you confine it to properties that are on the railroad. I think you had better confine it to those.

Mr. Webb. Because this one is on the railroad.

Mr. McCox. All the properties which any of these companies have absolutely sold their title to; and their location in a general way. I do not care for the metes and bounds.

Mr. RICHARDSON. Will you specify the period of time?

Mr. McCox. I say in the last five years.

Mr. RICHARDSON. That does not mean leases, but sales?

Mr. RICHARDSON. That does not mean leases, but sales?

Mr. RICHARDSON. I can say now that I think it has never sold. It would be a question of lease.

Mr. McCox. You say now that they have never sold?

Mr. RICHARDSON. The does not mean leases, but sales?

Mr. RICHARDSON. The account of the sale of the right. title, and interest?

Mr. McCox. But the question in the Katydid culm bank was a question of the sale of the right. title, and interest?

Mr. McCox. You do not need to get me the list, because you have answered my question. I just wanted a list of the properties which any of these companies associated with, controlled by, or affiliated with the Erie Co. had absolutely sold, or their interest in which they have absolutely parted with—not by lease, but by a quitcl

Mr. Richardson. Oh. I have no doubt I knew it, but it made no impression on me, to think of it particularly.

Mr. Werb. No; but you did know it?

Mr. Richardson. I would say that, as a fairly well informed man, I probably knew it.

Mr. Werb. Did you know that your railroad company, of which you were the vice president, was the defendant in a suit that was then pending before his court?

Mr. Richardson. No; I did not. I saw the general solicitor almost daily and we talked of different things. He might have told me about one thing one day, and I might have forgotten it. I have no recollection about it in any way or shape now.

Mr. Werd. You do not know, now, whether your company has a suit in the Commerce Court or not?

Mr. Richardson. I do not know whether any Erle suits are lodged there now or not.

Mr. Werd. No you know whether they ever had a suit in the Commerce Court.

Mr. Richardson. I am not sure that I ever heard of any one that was ever before that court.

Mr. Richardson. I am not sure that I know of any that were ever taken to the Commerce Court.

Mr. Werd. Do you know that your railroad ever had a suit before the Commerce Commission?

Mr. Richardson. The Interstate Commerce Commission?

Mr. Richardson. The Interstate Commerce Commission?

Mr. Richardson. The Interstate Commerce Commission?

Mr. Werd. You never knew that this lighterage case in which the Eric Railroad Co. was defendant was appealed from the Interstate Commerce Commission to the Commerce Court—and you were vice president of the railroad?

Mr. Richardson. I erlally know nothing about it myself.

Mr. Richardson. I do not know as much about it as you do.

Mr. Richardson. I really know nothing about it myself.

Mr. Richardson. I was thinking about it myself.

Mr. Richardson. I do not throw as much about it myself.

Mr. Richardson. I do not the was a suit before the Commerce Court?

Mr. Richardson. I do not think anything about it myself.

Mr. Richardson. I do not suppose you knew, then, that it was possible for your railroad to even have a

had in his mind?

Mr. RICHARDSON. I have never known Mr. Brownell, in this or in any other case, to use any unfair or improper methods.

Mr. Webb. Do you think that is an answer to my question?

Mr. RICHARDSON. I think so; yes.

Mr. Webb. I will repeat it. Do you believe that Mr. Brownell would have brought Judge Archbald into your office and introduced him in the way and manner he did to you if he had not then known the purpose the judge had in mind?

Mr. RICHARDSON. I do not believe I can answer that yes or no. I might say.

Mr. Richardson, I do not believe I can answer that yes or no. I might say—
Mr. Webb. Read the question.
The reporter read as follows:
"Mr. Webb. I will repeat it. Do you believe that Mr. Brownell would have brought Judge Archbald into your office and introduced him in the way and manner he did to you if he had not then known the purpose the judge had in mind?"

Mr. Richardson, Yes; I do. I think he would have brought anyone in that came to him for information.
Mr. Webb. Did he ever bring anybody else to you in the last 10 years who wanted to buy an interest in a culm bank or a colliery belonging to your railroad or coal company?
Mr. Richardson, I have no idea. He has brought numerous people in on numerous subjects.
Mr. Webb. Do you know of one that he has brought in there who wanted to buy the company's interest in coal property? Because you have not sold any and you were not trying to sell any?
Mr. Richardson. We might have leased our interest in some prop-

Mr. RICHARDSON. We might have leased our interest in some prop-

Mr. Webb. I understand; but this is not a leasing proposition, but a proposition to part with the entire title in the Katydid culm bank—something that you had never done in five years.

Mr. RICHARDSON, I think Mr. Brownell brought him in simply because he came to him. He did not express himself in any particular way about it.

Mr. FLOYD. Mr. Richardson, Mr. Brownell has been before this committee, and he testified as follows in answer to questions by the chair-

"The CHAIRMAN. Please state in your own way, Mr. Brownell, just what took place at that conference or that meeting between you and Judge Archbald in your office in New York City.

"Mr. Brownell. Judge Archbald called at my office something before 12 o'clock on that day.

12 o'clock on that day.

"The CHAIRMAN. On what day?

"Mr. Brownell. On Friday, the 4th of August. I fix the time, because I had an engagement between the hours of 12 and 1, and therefore in writing him had indicated a desire for an early appointment rather than an afternoon appointment. I was also preparing to leave on vacation in the afternoon.

"The CHAIRMAN. Yes.

"Mr. Brownell. Judge Archbald stated, in substance, that he was interested in an endeavor to clear up the title to certain coal property in the vicinity of Scranton belonging to third parties—I mean by that otherwise than the Hillside Coal & Iron Co.—in which the Hillside Coal & Iron Co. had, or claimed to have, some disputed title of a fractional character."

Did not Judge Archbald and you discuss this question of the title, and

Did not Judge Archbald and you discuss this question of the title, and did not Judge Archbald explain to you the situation about the title to that property?

Mr. Richardson. He may have explained to me about what Mr. Brownell expressed on the witness stand. He made some explanation of it. All I can recall is that he called my attention to the property and that some proposition had been made. Whether he had made it, or his clients, or what it was, I do not remember.

Mr. Floyd. Mr. Brownell states that Judge Archbald told him that his purpose was or that he was interested in an endeavor to clear up the title to this coal property at Scranton.

Mr. Richardson. Yes.

Mr. Floyd. Did Judge Archbald tell you any such thing was his purpose?

Mr. Richardson. He probably did. He probably told me the very thing he told Mr. Brownell.

Mr. Floyd. Did he not, in that interview that he had with you, show that he was familiar with the title, and give you information about the title, and explain to you that it was not necessary to delay the sale or transfer of that property on account of the title; that you could simply transfer your company's interest and that they would look after the other interests in the title, and if that does not change your attitude?

Mr. Richardson. I have no recollection at all about what he might have said to me, or what he offered, or what he might have said about the title.

Mr. FLOYD. I understood you to say in response to a question that was asked by Mr. McCoy in regard to your conversation with Capt. May that you had no present recollection of what you did say to Capt. May that property on the middle standards of the interview at Scranton?

Mr. FLOYD. No; the second interview—not at Scranton.

Mr. RICHARDSON. At New York?

Mr. FLOYD. I understood you to say that you did have an accurate recollection of what occurred at the interview at Scranton.

Mr. RICHARDSON. At New York?

Mr. FLOYD. I understood you to say that you did have an accurate recollection of what occurred at the interview at Scranton.

Mr. RICHARDSON. At New York?

Mr. FLOYD. I understond you to say that you did have an accurate recollection of what occurred at the interview at Scranto

ment of what occurred there on your habitual custom as a business man?

Mr. Richardson. No; what I told Judge Archbald and what I told Capt. May would be two vastly different things on the same subject.

Mr. Floyd. I understand. But what is your present recollection—not from your habits of business, or what you would be likely to do? What is your present recollection of what did occur between you and Judge Archbald?

Mr. Richardson. I can base my recollection on what occurred yesterday afternoon. A man comes in to see me about some coal-property case that he has up. I say that I know something about it. I do not assume to know the details. I may know more than I confess to him, but all I can say is that I will submit it to my next subordinate officer the next time I see him, and I base my action on what he tells me at that time.

Mr. Floyd. That is no answer to my question. My question is for you to state now what is your present recollection of your interview with Judge Archbald, when Mr. Brownell introduced him to you on that occasion, the first time you had ever met him.

Mr. Richardson. I think I gave it early in my testimony; but it was to the effect that he was interested, or interested with others, in the Katydid culm bank; and I said yes. I knew something about it, because Capt. May had taken me there and showed it to me and explained it to me, and that the next time I saw him I should take it up with him and ascertain what was holding it up.

Mr. Floyd. You understood that he was interested individually, or with others, or for others, in the purchase of that property, did you not?

Mr. Richardson. Yes.

up with him and ascertain what was holding it up.

Mr. Floyd. You understood that he was interested individually, or with others, or for others, in the purchase of that property, did you not?

Mr. RICHARDSON. Yes.
Mr. FLOYD. You got that idea?
Mr. RICHARDSON. Yes. he wanted to acquire the bank and wash it, as I understood it. What he was trying to do with it I did not know. Mr. FLOYD. That is all.

The CHAIRMAN. Are there any other questions, gentlemen? Mr. Worthington, do you wish to ask Mr. Richardson any questions?
Mr. WORTHINGTON. Yes; do you know of a dump owned by the Hillside Co. called the Florence dump?

Mr. RICHARDSON. I have heard of it, and knew it at one time.
Mr. WORTHINGTON. Do you remember whether that is one dump that your company sold within recent years—sold its interest in?

Mr. RICHARDSON. My recollection is that they sold it to some one.
Mr. WORTHINGTON. Now, about this very dump, the Katydid dump. Do you remember that within recent years you offered to sell that very dump, or your interest in it, to the Dupont Powder Co. for \$2,000?

Mr. RICHARDSON. Well, that is subsequent recollection. I might have known at one time in regard to it and dismissed it from my mind.
Mr. WORTHINGTON. Let me ask you whether in anything you did in this matter you took any action or did anything or suggested anything on account of Judge Archbald's supposed power or influence as a member of the Commerce Court?

Mr. RICHARDSON. None whatever.
Mr. RICHARDSON. None whatever.
Mr. RICHARDSON. I can lot fix the date at all. It was probably two or three months after my interview at Scranton.
Mr. WORTHINGTON. Lot und not say that.
Mr. RICHARDSON. I could not say that.
Mr. RICHARDSON. I could not say that.
Mr. WORTHINGTON. On page 106 of Serial 3 it appears that Mr. Brownell's introduction of Mr. Archbald to you was a few days before the 30th of August?
Mr. RICHARDSON. I can not fix the date at all. It was probably two or three months after my interview at Scranton.
Mr. WORTHINGTON. On page 106 of Serial 3 it appears tha

Mr. Worthington. Is this Katydid dump on the line of the Erie Railroad or the Hillside?

Mr. Richardson. My recollection is that it is on the New York, Susquehanna & Western Railroad, near the Hillside junction.

Mr. Worthington. The Hillside Co. is not a railroad?

Mr. Richardson. No, sir; the Hillside Coal & Iron Co. is a coal company.

Mr. RICHARDSON. No, sir; the Hillside Coal & Iron Co. Is a company.

Mr. Worthington. How far is it from your line? How far is the Katydid coal dump from the Erie line—the nearest point?

Mr. RICHARDSON. I should think it was—well, not over 5 miles nor less than half a mile. It is close to the Hillside junction. I do not know just the distance.

Mr. McCor. Would the coal from the Katydid dump be shipped over the Erie or over the Susquehanna?

Mr. RICHARDSON. I think it could be shipped over both roads, but it would probably go over the Susquehanna. I think it could be shipped over both roads from the Hillside junction.

Mr. McCor. Do not these coal-carrying companies have arrangements with each other by which in a situation of that kind they charge the shipping railroad what they would charge themselves, so to speak, for shipping the coal?

Mr. RICHARDSON. Well, they have some arrangement, but that is all made by the traffic department. I do not have anything to do with that.

Mr. McCov. In other words, if the Erie Co. owned a coal mine on the line of the Susquehanna, it would not cost it any more to ship the coal than it would to ship coal from a mine on the Erie line itself. Is not that a fact?

Mf. McCoy. In other words, if the Erie Co. owned a coal mine on the line of the Susquehanna, it would not cost it any more to ship the coal than it would to ship coal from a mine on the Erie line itself. Is not that a fact?

Mf. Richardson. I am not sure about that. I am inclined to think that the Susquehanna road would ship its own coal through from the operations on its line.

Mf. McCoy. That may be, but my point is this: Here is an Eric coal property on the line of the Susquehanna Railroad or more accessible to the Susquehanna than to the Erie.

Mf. Richardson. Yes.

Mf. McCoy. The Susquehanna would ship the coal to Hoboken, for instance, or wherever you ship if—to Jersey City—mined by the Erie Co. Just as cheaply as it would ship the coal which one of its own properties produce; or, in other words, it would charge the Erie for shipping the coal what it charges against its own company when it ships its own coal. Is not that the fact?

Mf. Richardson. I can not give you that directly. I can only say that I assume that they have some reciprocal arrangements whereby they balance those things up.

Mf. Norris. Did I understand you to say, in answer to Mr. Worthington's question, that the Katydid dump was not on the line of your railed that it is not the New York, Susquehanna & Western line, near the Hilliside junctin.

Mf. NORRIS. There are probably several roads that run so near to it that it might be said to be on all of them. What I want to know is its it or not on your line—that is, on the Erie line?

Mf. Richardson. I think not. If you will let me give the best of my recollection, it is on the New York, Susquehanna & Western. I do not think it can be on the line of any other company.

Mf. Norris. Joi to not never offer to sell this before?

Mf. Richardson. I have no way of knowing that. I do not know. Mf. Norris. You did not know anything about it, did you?

Mf. Richardson. I have known of the operation, but I do not recollect that transaction ever coming up before.

Mf. Norris. You did not know anything abo

Mr. Norris. Do you know anything about the Du Pont Powder Co. proposition?

Mr. RICHARDSON, I may have known about it at the time, but I do not recall it now.

not recall it now.

Mr. Norris. You do not remember it now?

Mr. Richardson. I remember it now, because I have heard subsequent conversation about it, just as I have about the Florence culm bank, when the gentleman here inquired of me if we had disposed of our interest in it.

Mr. Norris. Did you offer to sell your interest in the Katydid culm bank to the Du Pont Powder Co. for \$2,000?

Mr. Richardson. It might have been carried out subject to my approval, and brought to me. I do not think it was.

Mr. Norris. Can you tell us now whether you would have been inclined to recommend the sale of the interest for \$2,000?

Mr. Richardson. It would depend upon the presentation of the case to me.

Mr. Norris. What do you mean by that?

Mr. Norris. What do you mean by that?

Mr. RICHARDSON. If Capt, May had made a very full and complete argument in regard to the ownership, title, and value of the property, and possibly had come down to explain to me, I nlight have approved it.

Mr. Norris. Assuming that Capt. May would tell you the truth, and

Mr. Norris. Assuming that Capt. May would tell you the truth, and would tell you the same in one case that he would in another, would you have been inclined to sell to the Du Pont Powder Co. for \$2,000

what you were selling to Judge Archbald or Mr. Williams, whichever it might be, for \$4,500?

Mr. Richardson. I would assume always that Capt. May was telling me the truth, and whatever recommendation he made, even if I saw nothing was to be made on it, I would approve it.

Mr. Norris. But you say it would depend upon what Capt. May said as to whether you would accept \$2,000. Assuming that Capt. May would say the same thing when the Du Pont people came to him that he would say when Judge Archbald came to him—assuming that, would you have been likely to have taken that for your interest? Would you have accepted \$2,000?

Mr. Richardson. If it is possible to assume those things, I would accept it and approve it.

Mr. Norris. You would have accepted \$2,000?

Mr. Richardson. Without question, if the whole matter was clear and straightforward. It might be good policy. I can tell better after it works out.

Mr. Norris. Do you mean by that that you probably did instruct May to sell it for \$2,000?

Mr. Richardson. I have not any recollection on the subject, either good or bad. I do not believe he ever took it up with me.

Mr. Norris. This price of \$4,500 was fixed on his recommendation, was it?

Mr. Richardson. I have never seen that recommendation. It has not come to me.

Mr. Norris. This price of \$4,000 was fixed on his recommendation. Was it?

Mr. Richardson. I have never seen that recommendation. It has not come to me.

Mr. Norris. How did that price come to be fixed?

Mr. Richardson. I just heard it here, when the letter was read offering it at that price.

Mr. Norris. You did not know anything about that?

Mr. Richardson. Yes; because I have seen copies of the letter since bare here here.

Mr. RICHARDSON. Yes; because I have seen copies of the letter since I have been here.

Mr. Norris. Who originated the price?

Mr. RICHARDSON.-I have no doubt that Capt. May originated it. I think it is within his power to do so.

Mr. Norris. What I mean is, if you were going to sell the property, who would fix the price? Would Capt. May offer to sell it for \$4,500 without first getting your consent to that?

Mr. RICHARDSON. I think the price would really be fixed between him and me.

Mr. Norris. You have not anything to do with fixing the price?

Mr. RICHARDSON. I have not fixed it.

Mr. Norris. There was an offer to sell it for \$4,500 after the judge consulted you about it?

Mr. RICHARDSON. Yes; and I may have approved it and may not.

Mr. Norris. But he had made that offer as manager of the company to sell it for \$4,500, and he had never consulted with you about the price?

Mr. RICHARDSON. I do not recall his consulting me at all about the

or sell it for \$4,500, and he had never consulted with you about the price?

Mr. Richardson. I do not recall his consulting me at all about the \$4,500 price.

Mr. Norris. You know that he offered it for \$4,500?

Mr. Richardson. I saw that by the letter that was just read.

Mr. Norris. You do not know what fixed in his mind that he should get that amount of \$4,500?

Mr. Richardson. Oh, I am inclined to think that he thought it was probably a couple of thousand dollars more than I thought he might be able to get for it, and consequently it would be such a good price that I would not fall to approve it. And for that amount of money I certainly would approve it.

Mr. Norris. You would approve anything that he recommended?

Mr. Richardson. Anything that he would recommend for \$4,500, if it was worth twice that much, to keep his recommendation good.

Mr. Norris. I am trying to get at the proposition whether he had authority to fix a price. You first said—

Mr. Richardson. Let it go that he had authority. Let it go that way.

AIR. NORRIS. I do not want it to go at that, unless it is the truth, you know.

MR. RICHARDSON. I said it would lie between us. I said that anything I disapproved would be rejected.

MR. NORRIS. If you said you would sell for \$4,500 he would have to sell it?

Mr. Norris. If you said you would sell for \$4,500 he would have to sell it?

Mr. RICHARDSON. Yes. I would have that authority as an executive officer of the company.

Mr. Norris. Did you not have authority to fix the price?

Mr. RICHARDSON. Yes; as an executive officer.

Mr. RICHARDSON. Yes; as an executive officer.

Mr. RUCHER. I want to read Capt. May's testimony in this connection:

"Mr. RUCHER. While it is true that you had given some consideration to the sale of this cuim pile before your trip to New York, at the time you conferred with your superior officer. Mr. Richardson, you had never fixed a price on it until after that, had you?

"Mr. MAY. No; I had not."

So it seems that he had never fixed a price on that cuim bank until he had seen you. [Reading further:]

"Mr. FLOYD. Capt. May, you stated that when you first mentioned this matter to your superior officer, Mr. Richardson, he protested or objected on account of title, and that afterwards he acquiesced?

"Mr. MAY. Yes.

"Mr. FLOYD. After you had this interview in New York, or at that time, was when he acquiesced in your recommendations, was it not?

"Mr. MAY. When I had the—

"Mr. FLOYD. When he told you in New York to go on with the deal, you understood that to be an acquiescence in your former recommendations to sell it?

"Mr. May. Yes, sir; I did—to further consider it.

"Mr. FLOYD. To further consider it.

in theerstood that to be an acquiescence in your former recommendations to sell it?

"Mr. May. Yes, sir; I did—to further consider it.

"Mr. Floyd. To further consider it?

"Mr. Floyd. I understand that; but you understood that all his objections to the transaction were withdrawn, and you were to proceed with the negotiations?

"Mr. May. That we could further take it up; yes."

I wanted to state that the 4th of August. 1911, was when Judge Archbald called on you in your office; on the 25th day of August, in obedience to a request from you, Capt. May went to New York'to see you, and on the 30th day of August Capt. May writes a letter giving to Mr. Williams a price on the Katydid culm bank. Would you not judge from Capt. May's testimony that that procedure was produced because the Judge had called on you on the 4th day of August; and that that is the reason for your change of attitude in this matter?

Mr. RICHARDSON. I do not like to give my judgment on Capt. May's testimony. It struck me that by your questions right there you were trying to get him to say something that he did not want to

say; but he was finally compelled to say that I instructed him to take up the case and carry it to a conclusion.

Mr. Weer. One more question. You know Mr. Brownell well?

Mr. RICHARDSON. Quile well.

Mr. Weer. He has an office in your building?

Mr. RICHARDSON. Yes.

Mr. Weer. Joy ou not know that Mr. Brownell appeared for your railroad in the lighterage case in the Commerce Court?

Mr. RICHARDSON. I did not know of the lighterage case specially, but I knew that all of the legal cases of the Eric Railroad he was very much interested in.

Mr. Weer. In the restricted-rate cases—did you not know Mr. Brownell, who has an office right across the hall from you, appeared on behalf of the railroad before the Commerce Court in the restricted-rate cases—and in the lighterage cases?

Mr. RICHARDSON. I know he appears for the Eric in every legal case they have, no matter what it might be. I have no recollection of any particular case. My duties are so much more than I can properly perform now that it takes all of my time, and I am not interesting myself in Mr. Brownell's duties with the railroad?

Mr. RICHARDSON. Certainly I am. I am interested in the Eric, first, last, and always.

Mr. Weer. Do you want to tell us that you never knew the Eric Railroad Co. had a suit before the Commerce Court?

Mr. RICHARDSON. I might know those things from day to day, but—are and the weak a suit pending?

Mr. RICHARDSON. I might know those things from day to day, but—are the vice president of the company. Did you not know there was a suit pending?

Mr. RICHARDSON. I might know those things from day to day, but—are the vice president of the company. Did you not know there was a suit pending?

Mr. RICHARDSON. I might know those things from day to day, but—are the vice president of the company. Did you not know there was a suit pending?

Mr. RICHARDSON. I might know those things from day to day but—are the vice president of the company. Did you not know there was a suit pending?

Mr. RICHARDSON. I might know those things from day to day but

Mr. RICHARDSON. I should say that a greater part of them are. It is economy, sir.

Mr. Norris. They have practically the same officers?

Mr. RICHARDSON. Pretty much so, I should say.

Mr. RICHARDSON. The majority of the stock of the New York, Susquehanna & Western Railroad Co. is in the Erie Railroad Co.

Mr. Norris. Is not the Katydid culm bank on your railroad? You said in answer to a question by the attorney for Judge Archbald that this property was not on your railroad, or words to that effect, as I understood

Mr. RICHARDSON. I did not mean it to be understood in that way. I meant that it was accessible for shipment by the Hillside Coal & Iron Co.

Mr. Richardson.

I meant that it was accessible for shipment by the Iron Co.

Mr. Norris. There is no difference, so far as that is concerned, is there, between your railway and the Susquehanna? It is all one system, is it not?

Mr. Richardson. No; I would differentiate them.

Mr. Norris. Are you an officer in the New York, Susquehanna & Wastern?

tem, is it not?

Mr. Richardson. No; I would differentiate them.
Mr. Norris. Are you an officer in the New York, Susquehanna & Western?

Mr. Richardson. Yes, sir; vice president.
Mr. Norris. And what position do you hold in the other?
Mr. Richardson. I am vice president of that, too.
Mr. Norris. You are vice president of that, too.
Mr. Richardson. Yes, sir.
Mr. Norris. You are vice president of the coal company?
Mr. Richardson. Yes, sir.
Mr. Norris. You do not want the committee to understand that these two railroads are independent of this coal company, do you?
Mr. Richardson. They are so particularly anxious that we have everyone believe that, that they keep all their accounts separate.
Mr. Norris. Who is particularly anxious?
Mr. Richardson. Everyone, all concerned—the legislatures and everyone interested in politics, and—
Mr. Norris. Who is particularly anxious?
Mr. Richardson. Everyone, all concerned—the legislatures and everyone interested in politics, and—
Mr. Norris. I want to know if that is what you want us to understand. That was the impression you left with me.
Mr. Richardson. That is the impression that I want to give.
Mr. Richardson. They are independent concerns?
Mr. Richardson. They are independent concerns, and I am attempting at unnecessary expense to keep them so.
Mr. Norris. As the vice president of one railroad you get into bitter competition with yourself as the vice president of the coal company you fight both of the railroads, do you not?
Mr. Richardson. If provocation came I would have to produce it myself, but I am not very likely to produce complications for myself.
Mr. Richardson as the vice president of the Susquehanna road?
Mr. Richardson. That is not quite liable to happen, of course.
Mr. Richardson. Step vice president of the Susquehanna road?
Mr. Richardson. No; it would not be.
Mr. Richardson. No; it would not be.
Mr. Richardson. I did not think it was.
Mr. Ri

Mr. Norris. The point is this: If it is on your line of railway you would have shipping advantages that other roads would not have. It came out from the question of Mr. McCoy, who wanted you to give him a list of the properties that you had offered to sell, and I wanted him to limit that list to properties that were not on your railroad-property located like the Katyldid, on the Susquehanna line. That is owned by the Erie?

Mr. RICHARDSON. No: it is owned by the Hillside Coal & Iron Co. Mr. RICHARDSON. You mean the Susquehanna road is owned by the Erie?

Mr. NORRIS. I mean the railroad.

Mr. RICHARDSON. You mean the Susquehanna road is owned by the Erie.

Mr. NORRIS. Yes.

Mr. RICHARDSON. Part of it is.

Mr. NORRIS. The coal company does not own the railroad?

Mr. RICHARDSON. The Erie Railroad owns part of the stock of the New York, Susquehanna & Western Railroad.

Mr. RICHARDSON. The Erie Railroad owns part of the stock of the New York, Susquehanna & Western Railroad.

Mr. RICHARDSON. The Erie Railroad owns part of the stock of the New York, Susquehanna & Western Railroad.

Mr. RICHARDSON. They could control them.

Mr. NORRIS. They are all controlled by the same men?

Mr. RICHARDSON. They do to some extent and to some extent they do not. by reason of the law.

Mr. NORRIS. They do as much as they dare under the law?

Mr. NORRIS. I wanted to have the evidence show whether this particular coal dump was on your railroad.

Mr. RICHARDSON. May I say in answer to that it is on the New York, Susquehanna & Western Railroad?

Mr. RICHARDSON. It is owned and controlled by the Erie Railroad Co. Mr. NORRIS. That makes it perfectly plain. I wanted to have that yo into the record, because as you left it it was not on your railroad. And therefore it was not desirable property for you, because you would have to get the cousent of some other railroad to ship if.

Mr. RICHARDSON. It is owned and controlled by the Erie Railroad Co. Mr. NORRIS. The Hilliside Coal & Iron Co. owned the perfect which the record because a you left it

Mr. Richardson. I assume it was accessible to the New York, Susquehanna & Western Railroad, because I knew Robertson & Law operated and shipped coal that way; and if we secured the operation of it we would send our shipments out that way.

Mr. Martin. That is all. I thought there was another railroad.

The Chairman. Mr. Richardson, you may be discharged from further attendance upon the committee.

Mr. Richardson. Thank you very much. I should like to say to the chairman and to the committee that if my testimony is needed further and a telegram is sent to me at New York, I shall be very glad to respond to it. I expect to be back there by the first of the weeks

TESTIMONY OF THOMAS H. JONES.

Mr. Manager WEBB. Mr. President, we would like to have now the witness, Thomas Howell Jones, called.

Thomas H. Jones appeared.

The PRESIDENT pro tempore. State your name and residence.

Mr. Jones. Thomas H. Jones, 1144 Academy Street, Scranton, Pa.

Thomas H. Jones, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager WEBB.) Mr. Jones, are you called Thomas Howell Jones?-A. Yes, sir.

Q. That is your real name?-A. Yes, sir.

Q. Do they call you Thomas Hart Jones?-A. No. sir.

Q. Do they call you Thomas Starr Jones?-A. Sometimes they do; yes, sir.

Q. Did you ever secure an option from E. J. Williams on the Katydid culm bank?-A. Yes, sir.

Q. When was it?—A. April. Q. What time in April?—A. April 6.

Q. This year or in 1911? This year, was it not?-A. This year.

Q. Do you mean last April?—A. Yes, sir.

Q. How did you happen to trade with Williams?-A. He told me he had this dump for sale.

Q. Well, go on and tell the court.—A. I went to look at the dump and took two gentlemen down with me to see as to the tonnage—how the tonnage was—about \$22,000.

Q. Right there, when he first mentioned to you the dump, did he agree to tell you where it was?—A. Not the first time; no, sir.

Q. When he mentioned the dump to you the first time, did you ask him the contents of it; that is, how much it contained?—A. Yes, sir.

Q. What did he tell you?—A. I think, 150,000 tons.
Q. What did you tell him?—A. I told him I did not believe he had such a dump; I did not know such a dump as that near Scranton.

Q. Was that the end of the conversation with him the first day?—A. Yes, sir.

Q. How long after that was it that he brought it to you again?—A. I think I went down to examine the dump before I saw him the second time.

Q. But he would not tell you where it was the first day?-A. No. Well, it was afterwards that he told me where it was.

I think he did.

Q. How long afterwards?—A. That I do not remember.
Q. Two or three days?—A. Thereabouts. It could not be long. Q. Now, tell us what he said to you and what you said to him the second time you had a meeting. May I refresh your memory? Did he ask you if you would like to buy the dump, and you finally told him yes and asked him if he had papers on it, and he told you yes?-A. Yes, sir; he told me he had an option

Q. Did you meet him again and ask him if he really had title

to it?—A. I did.
Q. What did he say to you, then?—A. He said he had title.
I told him I did not believe he had title.

Q. What did he say to you about title?—A. Then he told me, "If you will come up with me to Judge Archbald's office I will prove to you I have title."

Q. Did you go to Judge Archbald's office with him?-A. I did. Q. Immediately?—A. I do not remember whether that day or

the next day.

Q. When you went to Judge Archbald's office was that in the Federal building in Scranton?—A. Yes.

Q. Was the judge there?—A. I do not remember that the judge was there. I think he was.

Q. Well, now—A. Yes; he was.

Q. What did you say and what did he say to the judge? A. Mr. Williams told the judge he was trying to sell me that dump, and I did not believe he had title to it, and the judge gave me to understand that he did not have no title to it—that he couldn't deliver if.

Q. That who did not have?—A. Mr. Williams.

Q. Was that in the presence of Mr. Williams and in your presence?—A. Yes, sir.

Q. He gave you to understand, if I interpret your language, that Mr. Williams had no title to it and could not deliver it?— A. Yes, sir.

Q. Now, what did you do after he had told Williams in your presence that Williams had no title to it? Did you leave the office?—A. Yes, sir.

Q. When was the next time that you saw Williams?-A. I generally saw him every day on the street.

Q. After that particular transaction?-A. I could not tell

exactly; probably a week; I do not know Q. Was it the next day?—A. I do not know.

Q. Anyway he did come to you again, and he insisted on your buying it?—A. Yes, sir.

Q. And told you if you came up to the judge's office you would get the option?—A. Yes, sir. I told him I would not go down again unless he had an option.

Q. Did you go again to Judge Archbald's office?-Q. Was the option drawn while you were waiting there?-A. Yes, sir.

Q. Who drew it?-A. I do not know.

Q. Was it drawn in Judge Archbald's office?-A. Yes, sir.

Q. Was it drawn in typewriting?—A. Yes, sir.
Q. How long was that option to run?—A. Ten days.
Q. What was the price fixed in the option?—A. \$25,000.

Q. Where were you when the option was drawn?—A. I did not see the option drawn at all. Mr. Williams gave me the papers in Judge Archbald's office, right on the desk, and signed it there.

Q. Explain when the option was drawn where you were and where it was drawn, if you did not see it drawn.-A. I was in Judge Archbald's office, but I did not see anybody drawing that paper.

Q. It was drawn in some mysterious manner, then?-A. I did not see it.

Q. Did you remain in Judge Archbald's office all the time

after you went up there until you got the option?—A. I did not. Q. What did you do?—A. I went out. I stopped in the corridor; there was something going on in Judge Williams's court; and when I got back Williams had the paper and signed it.

You went out of the office and remained out long enough for that option to be drawn in typewriting, and then you went back and found the option on the table?-A. Yes, sir.

Q. Was there a clerk there who drew it?-A. No, sir.

Q. Who signed it?—A. Edward J. Williams.

Q. Was it delivered to you there in Judge Archbald's office?-A. Yes, sir.

Q. Did he say Williams had no title to it?-A. No, sir; nothing was said.

Q. At what time was that option drawn?—A. April 6. Q. When you were down here before the Judiciary Committee the 25th of last May you did not have this option?—A. No; I did not have it. I could not find it.

Q. It was lost at that time?—A. It was among the papers on my desk. I found it.

Q. (Presenting paper.) Is this the option?-A. (Examining.) Yes sir.

Mr. Manager WEBB. Mr. President, we would like to have read and marked the proper number. (To the witness.) This is the first time you have ever produced that paper so far as the managers know anything about it?-A. Yes, sir.

The PRESIDENT pro tempore. The Secretary will read the paper.

The Secretary read as follows:

[U. S. S. Exhibit 26.]

SCRANTON, PA., April 6, 1912.

THOMAS H. JONES, Esq.

Dear Sir: I will sell you the interest which I have in the Katydid culm dump, produced under the operation of Robertson & Law, in the neighborhood of Moosic, Pa., for the price or sum of \$25,000. It is understood that for this price I only undertake to sell the interest which I have by virtue of the writing or option which I have from the Hillside Coal & Iron Co. of August 30, 1911, and the option of September 4, 1911, from John M. Robertson. I will undertake to pay out of the money received from you the amount which I am to pay to the Hillside Coal & Iron Co. and to Mr. Robertson. It is understood that if any coal is found in washing or disposing of said dump above the size known as pea coal a royalty of 20 cents is to be paid to the parties entitled thereto. This option to you is only to hold good for 10 days. Yours, very truly,

E. J. WILLIAMS.

Q. (By Mr. Manager WEBB.) Did anybody witness this op-A. No, sir.

Q. Was anything said in the presence of Judge Archbald during your conversation in securing this option which indicated that the judge had a half interest in this proposition or deal?-A. No, sir; not to me; no.

Q. All that you can remember is the judge having said that

Williams had no title to it?-A. Yes, sir.

Q. And could not deliver it?-A. Yes, sir.

Q. I want to ask you if, after he told you that, you did not know that Judge Archbald drew this option?—A. I do not.

Q. And he did not let you see him do it?-A. I did not see him doing it.

Q. Who else was in the office?—A. Mr. Williams. Q. Was a stenographer there?—A. No, sir.

Q. You know Mr. Williams did not draw it, do you not?-A. I should say so.

Q. You should say he did?-A. He did not draw it.

Q. You went down and estimated the amount of culm in the bank, and concluded you would not take it, and paid no more attention to it. I will ask you if at this time, April 6, you did not know that agents had been to Scranton, Pa., investigating the conduct of Judge Archbald, and that is the reason why the judge did not have anything to do with this proposi-

tion?—A. No, sir; I did not know about it.

Q. Had it not been talk and common rumor?—A. No, sir; it had not. I had never heard it.

Q. You never heard it?—A. No, sir; not at that time.

Q. What time did you hear it?—A. I do not remember; I could not tell the exact date.

Q. Did you not know that E. J. Williams was examined before Wrisley Brown, in Scranton, on the 14th and 16th of March?—A. No, sir; I did not.
Q. You never heard it?—A. No, sir.
Q. Did you ever have any other transaction with Judge Archbald about a culm dump?—A. Yes, sir.

Q. Well, when was that?-A. I can not give you exactly the date.

Q. You remember that now because of what occurred before the Judiciary Committee when you were down here, do you not?-A. Yes, sir.

Q. At that time you did not remember of ever having any other transaction with Judge Archbald?-A. No; I did not

testify that; no, sir.

Q. Did you not testify that you never made an application with him or with other parties for a culm bank?—A. I told you that I could not recall signing that paper—the application for the lease. After refreshing my memory I think I did recall the application for the lease.

Q. Explain to us what other transaction you had with Judge Archbald with reference to a culm bank or culm dump, its operation or purchase or lease .- A. Why, a gentleman by the name of John Henry Jones came to me and offered me a wash-

ery for sale

Q. John Henry Jones. Is that the man we have ordered attached here to-day?—A. Yes, sir. He told me that he had a washery, and I think he told me the tonnage was about 250,000 or 300,000 tons, or something like that; but he did not tell me he would not give me the location of that washery for some time.

Q. What was that last expression?—A. That he did not give me, the first time he offered me the proposition, the location of

that washery.
Q. Proceed.—A. Then, I think it was some time later on he

told me where it was.

Q. Where was it?-A. In the Shenandoah Valley. Then I

went down to examine the dump.

Q. Did he tell you that the judge had anything to do with it?-A. He did not; no, not exactly; but I remember he told

The PRESIDENT pro tempore. Mr. Witness, the Chair is informed by Senators that they can not hear you. Speak out louder.

The Witness. I think that Mr. Jones told me that there was a couple of fellows in the Shenandoah Valley operating a washery that did not operate it to an advantage and that it was for sale; they would like to sell it; that he got that information from Judge Archbald, Mr. Jones did.

Q. (By Mr. Manager WEBB.) Is that the proposition that

Jones wanted to interest you in?—A. Yes, sir.
Q. Did you join him in the proposition of the Oxford washery?-A. I offered that operation for sale, but it was turned down as no good.

Q. Then that was the last you heard of the Oxford proposition?-A. No, sir.

Q. Well, proceed and tell us all about it, Mr. Jones. You understand what I am asking you, do you not?—A. Yes, sir. I offered this proposition for sale, but it was turned down. I told you I got it from Mr. Jones and that it was no good. Then I went down to examine the property

Q. You went down to examine the Oxford dump?-A. Yes,

Q. Go ahead, sir .- A. I found it was no good; the dump had been almost washed; it was very rocky; and the superintendent of the Oxford washery told me if we could secure a dump across the way that a fair operation could be made out of it by bringing that coal into this washery.

Q. What did you ask for it?—A. For the washery?
Q. Yes; when you went down to examine it?—A. I think the price was \$75,000 or \$80,000; I do not remember.
Q. Did you ever have any other association with Judge Archbald besides the Oxford proposition?-A. No, sir. I am telling you that the superintendent of the Oxford washery showed me a dump across about a quarter of a mile from that, and said that if I could secure a lease on that dump a fair operation could be made, combining it with the Oxford.

Q. Did you ever sign with Judge Archbald a request to lease a certain bank, known as Packer No. 3, from the Girard

estate?—A. Yes, sir. This was Packer No. 3. Q. It was?—A. Yes, sir.

Q. I thought you had turned it down?—A. Not Packer No. 3—the Oxford, sir.

Q. You turned down the Oxford?—A. Yes. Q. Do you remember having made a different proposition to the Girard estate, asking for a lease of Packer No. 3 dump with Judge Archbald?—A. Yes, sir. When I came back after examining the property I told Judge Archbald and Mr. Jones that there was a dump not far from there called Packer No. 3, and if there was a dump not lat from the transfer that could be secured, it would make a fair operation.

Q. That is something that you remember since you testified

before the Judiciary Committee, is it not?-A. No, sir.

Q. You did not remember before the Judiciary Committee that you ever signed any proposition with Judge Archbald at all?—A. I had forgotten it.

Q. You had forgotten it at that time?-A. Yes, sir. I was not quite sure about that before.

Q. You had forgotten that you ever signed your name with Judge Archbald applying for a lease from the Girard estate?— A. Yes. sir.

Q. You had forgotten that in that application the coal company was to be called the Jones Coal Co., have you not?—A. I told you at that time that the name was undecided upon; that we thought of several names.

Q. But afterwards the application which you signed was read, and in that application a statement was made that they proposed to form the Jones Coal Co.—A. It slipped my memory

about signing that paper.
Q. I say on the 29th of last May you had forgotten that you had made application, you had forgotten the name of the company, and had forgotten who was to put up the money?—A. No; I did not say that.

Q. Have you talked to anybody about this matter since you were down here last May?-A. No, sir.

Q. Have you been in Judge Archbald's office?-A. I was in

Judge Archbald's office once.

- Q. What time? When?-A. I do not know. I was up in the revenue office one day, was walking around the corridor, and the judge was sitting in his office, and passed the time of That is all.
 - Q. You just passed the time of day with him?—A. Yes, sir.
 Q. Did you go into his office?—A. Standing right in the door.
 Q. Did you stop and pass the time of day?—A. Yes, sir.
 Q. You did not sit down?—A. No, sir.

 - Q. You have not been examined by counsel?—A. No, sir.

Q. By any lawyer?—A. No, sir.

- Q. You have not had any conversation with any counsel?-A. No, sir,
- Q. But you do remember now that you were the man who suggested that they might get Packer No. 3 from the Girard estate?—A. Mr. John Henry Jones told me that they thought that they could get something else down there. Then I told Mr. Jones of this Packer No. 3.
- Q. Let me ask you now if this [showing paper to witness] is the application that you made? I want to read you the first part of it.

Mr. Manager WEBB. I will introduce this paper, Mr. President. It is a copy, I will say to Col. Worthington, but I presume there will be no question about it. [Showing the paper to Mr. Worthington.]

Mr. President, at this point we will introduce a copy of the application, because the original is in the files of the Girard estate in Philadelphia and will be produced here at the proper time. Counsel for respondent admit that this is a copy. I now ask that the Secretary read it.

The Secretary read as follows:

[U. S. S. Exhibit 27.]

(Copy.)

SCRANTON, PA., December 19, 1911.

Col. James Archeald,

Engineer of Stephen Girard Estate.

Dear Sir: We hereby make application for a lease of the culm bank near Shenandoah known as Packer No. 3, the same to cover also the upper part of the adjoining Packer No. 4 dump. We propose to incorporate as the Jones Coal Co., with a capital of \$25,000, and to put up a washery which will handle some 400 or 500 tons of coal a day. We understand that these dumps are now subject to a lease to the Lehigh Valley Coal Co. which expires December 31, 1913, and which possibly will be renewed. But we have the assurance of that company that on certain terms and conditions, which have practically been agreed upon between us, it will be satisfactory to them to have us lease from you to the extent suggested. We shall expect to pay the current royalties, but we suggest that owing to the character of the dump, which is not the best, the royalties should not be the highest. We shall be prepared, if the lease is made, to put up the washery with reasonable promptness.

Very truly, yours,

R. W. Archeald.

R. W. ARCHBALD, JAMES F. BELL, V. L. PETERSEN, T. H. JONES,

Q. (By Mr. Manager WEBB.) Mr. Jones, is your name T. Howell Jones?—A. Yes, sir.
Q. Who drew this application?—A. I think Judge Archbald

Q. What?-A. I should say Judge Archbald did. I did not see him doing it.

Q. Where did you sign it?-A. In Judge Archbald's office. Q. At whose suggestion and instance?—A. Well, now, I do not recall that. I went in there and signed that paper,

Q. Did you not swear before the committee that John Henry Jones got you to go in ?-A. I do not think I did.

Q. At whose instance?—A. I do not remember; no, sir. I

went in there to sign that paper.

Q. Do you remember at whose instance? Did you go in at the judge's or John Henry Jones's instance?—A. I can not recall that. I am sure I went there.

Q. You do not know, then, under what circumstances you went into the judge's office and signed that application for a lease, stating that you were going to form the Jones Coal Co. and incorporate for \$25,000? You do not know why you went in to sign it?-A. No; I can not recall.

Q. Did the judge send for you?-A. I do not remember that

he did; no, sir.

Q. When you went into his office, what did he say to you?-A. Well, if I remember right now, he told me that was the paper; that that was the application for the lease; and I

Q. Had you talked about it before?—A. About what, sir?

Q. About forming the Jones Coal Co .- A. Yes, sir.

- Q. Had you talked with Judge Archbald about it?-A. Yes, sir.
- Q. How long before December 19?-A. Now, that I could not recall
- Q. What was the agreement between you, Judge Archbald, Bell, and Petersen?-A. We had no agreement, sir.

Q. What was the corporation to be called?-A. Well, the Jones Coal Co.

Q. You had no agreement before you signed this paper that it was to be called the Jones Coal Co., had you?-A. No, sir.

Q. In fact, when you were down here before the committee you did not know that it had been called the Jones Coal Co., did you?-A. I told you then we talked of several names.

Q. But the name had not been agreed upon?-A. No, sir; I do not remember that it had. I suppose that whoever prepared that paper called it the Jones Co.

- Q. Exactly. So really when you signed that paper you did not know that it was going to be named in your honor?—A. No, sir. If I did I had forgotten that name had been put upon it.
- Q. You had forgotten that when you testified here in May?-A. Yes, sir.
- Q. Who was going to put up the money to finance this Jones Coal Co.?—A. Mr. Thomas Farrell, from New York.
 Q. Did you not swear that you were to find the money?—A. I
- was to find the money.
- Q. You were to find the money?-A. Yes, sir; I was to find the money.
- Q. Do you now mean that you were to find the man who was to find the money?—A. It is all the same, is it not? to finance that deal; I said "I will find the money."
- Q. You agreed to find Farrell and Farrell was to furnish the money?-A. Yes, sir.
- Q. And Farrell was not even an incorporator, was he?-A. No, sir.
- Q. His name is not attached to this proposition?—A. No, sir. Q. What was Judge Archbald to do and what interest was he to have in this corporation?—A. We did not define that interest; we had not gone so far as that.

Q. You did not define that interest?-A. No, sir.

Q. You knew when you made this application to the Girard estate that the consent of the Girard estate would be worthless unless you at the same time got the consent of the Lehigh Valley Railroad Co. or the Lehigh Valley Coal Co. to operate this Packer No. 3, because the Lehigh Valley Railroad Co. or the Lehigh Coal Co. had a lease from the Girard estate for it. Is not that so?-A. I did not know that.

Q. Did you not know that your lease from the Girard estate would be no good or worthless unless you got a further lease from the Lehigh Valley Coal Co.?-A. No; I did not.

Q. Did you know anything about the situation at all when you came and signed these papers?-A. The superintendent of the Oxford washery told me that it was dump or mine of the Lehigh Valley or of the Girard estate, I think he said.

Q. You say that you did not know when you signed this application with the judge to the Girard estate that you had also to get the consent of the Lehigh Valley Coal Co. before you could operate this dump?—A. No, sir; I do not recall that.

Q. Did you know that the Lehigh Valley people had a lease on it?—A. That I did not know.

Q. In fact, you do not know anything about this proposition except what you find on this paper, do you?—A. Yes, sir; I have told you all that I know about it.

Q. Do you know what became of the Jones Coal Co.?-A. Why, it was never incorporated.

Q. Never incorporated?—A. No, sir.

Q. Do you know why?-A. Because we did not get the lease,

Q. You are guessing now.—A. That is what the judge—Q. After December 19, 1911, did you ever go to Judge Archbald and ask him what had become of the Jones Coal Co.?—A. I do not know that I did.
Q. You swore before the Judiciary Committee that you never

did ask him, did you not?-A. I do not remember what I did

ask him.

- Q. Then you signed this application in December, and up to last May you had never asked the judge what had become of that coal company?-A. No; I do not think I did. The judge has been away from home a good deal, and I seldom see him.
- Q. You know him well; you are friends?-A. Yes, sir. Q. You see him when he is in Scranton, do you not?—A. No, sir: not always.

Q. Do you live in Scranton?—A. Yes, sir.

Q. You do not do anything there now, do you?—A. Well, yes. I have some interests to attend to.

Q. But you are not actively engaged?—A. Yes, sir.

- Q. Well, you do see the judge when he goes to Scranton, do you not?-A. Sometimes I see him on the street; yes, sir.
- Q. But you have never asked him what became of the Jones Coal Co. up to this hour?—A. No, sir; I have not. Q. And you do not know?—A. No, sir; I do not.

Q. Did he ever tell you that he had secured from S. D. Warriner, the vice president and general manager of the Lehigh Valley Co., permission to lease, or re-lease, from the Lehigh Valley people this culm dump, provided the Girard estate was willing to do it?—A. I do not recall that I ever told you that.

Q. What did you mean when signed your name to this state-

We understand that these dumps are now subject to a lease to the Lehigh Valley Coal Co., which expires December 31, 1913, and which possibly will be renewed. But we have the assurance of that company that on certain terms and conditions, which have practically been agreed upon between us, it will be satisfactory to them to have us lease from you to the extent suggested.

You did understand what you were signing?—A. I did not

word that paper.

Q. Do you mean to say, then, that you did not understand what you were signing?—A. Not exactly; no. I know what I am signing, as a rule, but I have forgotten the contents of that paper.

Q. Then, you must have known that it was necessary to get the consent of the Lehigh Valley Coal Co., because you so state

in that application ?- A. I can not recall that now.

Q. You do not remember?—A. I do not. Q. And you do not remember whether the judge told you that he had secured that consent from S. D. Warriner?-A. I do not

remember that he did.

Q. Did he ever tell you from December 19, or on that date, to the present time that he had secured the consent of the Lehigh Valley Coal Co. to lease to you this dump provided the Girard estate did not object?-A. I do not remember; I am not sure that he ever told me.

Q. And you signed this paper, knowing very little about it?—

A. No; I knew a good deal about it.

Q. You do not seem to know the two main features.—A. I see your point. I did not prepare that paper.

Q. But you understood it, did you not?—A. At that time, sir.

Q. Was it read over to you?—A. Yes, sir; I think so. Q. Who read it to you?—A. Now, I am not sure whether Mr.

Bell was there with me or not. Q. Was Bell with you?—A. I am not positive now whether he was there or not. I do not remember.

Q. You are not sure, then, whether you read it or whether it was ever read to you?—A. It was read to me. I would not have signed it without it being read to me.

Q. You are the last signer on here, I notice?—A. Yes, sir. Q. Did you ever talk with Mr. Warriner about this proposition?—A. No, sir; I do not know the gentleman.

- Q. What was the judge to do, in connection with the forma-tion of the Jones Coal Co., to entitle him to a share in it or to be a stockholder?-A. No more than he made that application for the lease, I guess.
- Q. Was he not to go there and get the permission of the Lehigh Valley Railroad Co. to the lease?-A. That I do not
- Q. Do you mean to say you do not know whether that is so?-A. No, sir; I do not.

Q. You stated in this application that it was necessary to get the consent of the Lehigh Valley Railroad Co.?—A. Yes, sir; understand that.

Q. Did you understand that the judge had already gotten it, then?—A. No; I did not understand that he had it.
Q. You stated in this paper that you had assurances that you would get it. Who gave you those assurances?—A. I do not remember. I did not prepare that paper.

Q. That is not an answer. Did the judge tell you that he had gotten permission of the Lehigh Valley Railroad Co. to

lease this dump?-A. I do not remember that he did; no, sir.

Q. You say he did not?—A. I do not remember that he did. Q. Why did you not ask him, if you read this paper, "How did you get this consent from the Lehigh Valley Railroad Co."?—A. Well, I did not want to ask him such a question.

Q. You did not want to ask him such a question?—A. No, sir. Q. Do you not know, Mr. Jones, that your connection with this proposition was merely nominal; that you were simply to find a man who could furnish the money; and that Judge Archbald's connection with it was only for the purpose of securing from the Lehigh Valley Railroad Co. its consent to do something that it had not done in 35 years, to wit, re-lease one of their culm dumps to you? Is not that the reason why he was connected with this proposition?—A. Well, the first way he became connected was through the Oxford, I guess; I do not know.

Q. Do you think that is an answer to my question?-A. What

did you want me to answer?

Q. I want to ask you whether Judge Archbald's only connection with this proposition was not for the purpose of securing a lease from the Lehigh Coal Co. to your coal company?-A. I should say so; yes, sir.

Q. You should say so?-A. Yes, sir.

- Q. Where were you born?—A. In Wales. Q. How long have you been in the United States?-A. Thirtyfive years.
- Q. What has been your business?—A. I have been in the drug business.

Q. In connection with the Star Drug Store?—A. Yes, sir. Q. That is why they call you Thomas "Star" Jones, at

- times?-A. Yes, sir.
- Q. How long were you in the drug business?—A. I do not know.
- Q. And how long have you been a coal operator—that is what I am trying to get at?-A. I have been in the coal business a good many years.

 Q. About how many years?—A. Eleven or twelve years.

 Q. So that the judge was to put nothing in this proposition,

no money?—A. No, sir. Mr. Manager WEBB. That is all, Mr. President, that we

care to ask the witness.

Cross-examination:

Q. (By Mr. SIMPSON.) Mr. Jones, where did you first meet Mr. Williams in relation to the Katydid culm dump?—A. I met him in front of the Republican Building, sir; in Scranton.

Q. Did he tell you at that time where the dump was?-A.

No, sir.

Q. How long was it after that that you first learned where the dump was?—A. Well, I can not tell you exactly how long, but it was not very long until he told me where it was.

Q. Did you go to see the dump before or after the option was given to you?-A. I went the first time before the option was given to me.

Q. Did you take anybody down with you?-A. Yes, sir.

Q. Who was it you took with you?-A. I took Mr. Alonzo Davis. He is an engineer.

Q. For what purpose?-A. Why, there were three besides

Q. Who were the other two?—A. They were the prospective buyers of the dump.

Q. Were they engineers?—A. No, sir; I do not think they were engineers; I did not know them.

Q. What purpose did you have in going down to the dump?-To ascertain the size of the dump-what tonnage it was

Q. Did you have an estimate then made as to what the ton-nage of the dump was?—A. Yes, sir.

Q. What was the estimate?—A. 22,000 tons.

Q. In the beginning of your examination in chief you spoke of \$22,000. That was a mistake, was it not? You meant tous?— A. 22,000 tons.

Q. After you got the estimate as to there being 22,000 tons in it, what did you do?—A. I dropped it; I did not do anything further with it for awhile; but I was not satisfied that those engineers were right. I thought there was more in the dump than 22,000 tons; so I told Mr. Williams if he would give me an option, I would go down again and see; and I went down again and took a competent engineer.

Q. Not so fast, please. This is all now relating to the Katy-did culm dump?—A. Yes.
Q. And you told him that if he would give you an option you

would go down and make another examination?-A. Yes, sir. Q. Then the option which has been produced here was

given?-A. Yes, sir.

Q. Did you pay anything for the option?-A. No, sir.

Q. Then you went down again and examined the dump?-A.

Q. Who went with you that time?—A. A mining engineer by the name of Carl Motiska.

Q. Did he make any estimate as to the tonnage of the dump?-A. Yes, sir.

Q. What was his estimate?—A. Sixty-eight thousand tons, I

think, if I remember right.

Q. Was that the whole tonnage or the coal in the dump?—A. The whole tonnage.

Q. The whole tonnage of the dump?—A. Yes, sir.

Q. Then, of these two estimates that you had, the first estimate was 22,000 tons and the second estamate 68,000 tons in a dump which Mr. Williams had told you contained 150,000 tons?--A. Yes, sir.

Q. That is correct, is it?—A. Yes, sir.
Q. Was the first estimate of 22,000 tons the estimate of the quantity of coal in it or of the whole tonnage of the dump?—A. The whole tonnage of the dump.

Q. Then, after you got this second estimate of 68,000 tons while the option was running, what did you do—in regard to the option, I mean?-A. I examined the dump.

Q. You have told us that, and found 68,000 tons in it?-A. I

did not do anything more with it.

Q. Why did you not do anything more with it?-A. Because

I did not think it was worth the money-no good.

Q. It was no good. Do you mean that you were satisfied that it was no good because of the experience you had had in such matters?-A. No, sir.

Q. You mean that you did not think it was any good because

of that?-A. That is it.

- Q. The next matter, as I understand, was the Oxford washery matter?-A. Yes, sir.
- Q. Will you tell us, please, whether that was an old dump or a new one?—A. That was a very old dump.

Q. A very old dump?—A. A very old dump. Q. You made an examination of it?—A. Yes, sir.

- Q. And your conclusion about that was what?-A. That it was no good.
- Q. No good either? But out of that, I think you said awhile ago, there grew the question of the leasing of Packer No. 3?-A. Yes, sir.
- Q. Who suggested the leasing of Packer No. 3?-A. I did. told Mr. Jones and the judge of this dump in the immediate neighborhood, called Packer No. 3.
- Q. That is in the immediate neighborhood of the Oxford washery?—A. Yes, sir.

Q. You mean John Henry Jones?-A. Yes, sir.

- Q. The question was asked you whether you did not say before the Judiciary Committee that you did not sign an application for Packer No. 3. I am reading, gentlemen, from page 1466:
- Mr. Webb. Did you ever sign an application for a lease of a culm dump, together with Judge Archbald, Peterson, and others, directed to James Archbald, chief engineer of the Girard estate, asking for a lease of any culm dump?

 Mr. JONES. Yes, sir; I believe I did.
 Mr. Webb. You did?
 Mr. JoNES. Yes.

Q. Do you remember testifying so?—A. Yes, sir. Q. That was true, was it not?—A. Yes, sir.

Q. Then there was read to you the application which has been read already this afternoon, and these questions were asked on page 1468:

Mr. Webb. Did you ever sign it? Did you or did you not sign such a statement as that, addressed to James Archbald? Did you ever sign such a statement, or such a letter, to Col. James Archbald, engineer of the Girard estate?

Mr. Jones. I think I did. I signed one paper, I know.
Mr. Webb. Do you know who signed it?
Mr. Jones. I am not positive; I believe I did.
Did you testify to that?—A. Yes.

Q. And that is true also, is it not?—A. Yes, sir. Q. You saw, when you signed that application for Packer No. 3, that the judge's name was already signed to it?-A. Yes, sir.

Q. Mr. Webb asked you a little while ago whether or not it was not true that Judge Archbald was to do nothing but obtain, if he could, the dump from the Lehigh Valley Coal Co. knew that his application was made also to the Girard estate. did you not, and that that was the application which was read while ago?-A. Yes, sir.

Q. Was there anybody put any money in it other than the money which was to be obtained through your financing of the

proposition from Mr. Farrell?-A. That is right.

Q. Nobody was to put any money in it?-A. No, sir. Q. Nobody was to put any money in it?—A. No, sir.
Q. You testified that when you first went down to look at the Oxford washery you reported to Judge Archbald the result of your investigation. Why did you do that?—A. I reported to Judge Archbald or Mr. Jones. I do not remember whether I reported to Judge Archbald or Mr. Jones.
Q. You knew that both of them were interested in it before you were interested in it?—A. Yes, sir.
Q. And they were interested in it, then, when you went to look at it?—A. Yes, sir.
Q. And your report was made either to the judge or John

Q. And your report was made either to the judge or John Henry Jones?—A. Yes, sir.
Q. Because of the fact of their being interested in it and

getting you to go and look at it?—A. Yes, sir.

Q. After this application was made to the Girard estate there was nothing further ever done with the matter, was there?—A. No, sir.

Q. And it has remained in that position from that day to

this?-A. Yes, sir.

- Q. It was suggested in the course of the examination a while ago that there was something mysterious about the way in which the option for the Katydid culm dump was drawn. there anything mysterious about it that you know of?-A. No. sir.
- Q. You knew, did you not, that the room of the stenographer whom Judge Archbald had was adjoining the judge's; that she was not in the same room where you and the judge and Mr. Williams had your conversation?—A. I know there was no stenographer in the judge's office when I was there.

Q. But did you know that there was a stenographer in the

adjoining room?—A. Yes; I knew that.
Mr. SIMPSON. That is all, Mr. President.

Redirect examination:

- Q. (By Mr. Manager WEBB.) At the time that 10-day option for \$25,000 was drawn and presented to you did you think Judge Archbald drew it?—A. I do not know who else could do it.
- Q. Answer my question. Did you think he drew it?-A. I did.
- Q. Then I ask you what was the impression that was made on your mind when you determined that Judge Archbald had drawn that option from Williams to you inasmuch as two or three days before that time he had told you that Mr. Williams had no title to it? What impression did you get from that?— A. Well, Mr. Williams insisted that he had an option. He said his title was good.

Q. But the judge said he did not have it?-A. Yes. The first time he gave me to understand that he had no title to it.

Q. And in a few days afterwards the judge did draw this option from Williams to you?—A. Yes, sir; at the judge's office.
Q. Out of your sight?—A. Yes.

Q. He did not even witness it?-A. No, sir.

And drew it while you had gone into Judge Witmer's court?-A. Yes. I was not there in the judge's office when that paper was prepared.

Q. Let me ask you this question: You told Mr. Simpson that nothing further had been done with this Girard estate application since the application was made. Do you not know that the judge had much correspondence with Mr. Warriner, the vice president of the Lehigh Valley Coal Co., about getting a lease from him, and that he went to Philadelphia to see the manager of the Girard estate in an effort to get them to agree to make the lease; do you not know that?—A. No, sir; I do not.

Q. Then why did you tell Mr. Simpson that nothing else had been done about it?-A. I do not know whether it was before

or since—Q. Then you do not know anything more than that you signed this application on December 19, 1911?—A. I know more? I told you all I know about the proposition.

Q. You told us a while ago that you have not heard of it since?—A. Yes, sir.

Co.?-A. No, sir.

Q. Is that true-that you have not heard of it since?-A. Yes, Q. And you do not know what became of the Jones Coal

Q. Then you could not meant what you said when you told Mr. Simpson that nothing more had been done with the matter. Your answer should have been that you did not know what else had been done. Is not that true? When you estimated the amount of coal in the Katydid dump you found 80,000 or 90,000 tons?-A. 68,000 tons, I think.

Q. Of coal or culm? Mr. SIMPSON. Culm.

Q. (By Mr. Manager WEBB.) Sixty-eight thousand tons. Do you mean by that the entire contents of the bank or the coalthe pea and chestnut and prepared sizes of coal and buckwheat to be found in the bank?-A. The entire contents of the bank.

Q. That included dirt and all the rest?-A. Yes, sir.

Q. Who was that engineer?—A. Carl Motiska.
Q. Did you know how much coal—pea, buckwheat, chestnut, and prepared sizes-there was in this Packer No. 3, for which you applied to the Girard estate?

WITNESS. What was the tonnage, do you mean? Q. How much coal—pea coal, chestnut coal, barley, and pre-pared sizes—was contained in Packer No. 3, for which you

girned an application?—A. No, sir.

Q. I will ask you if you have learned since that there were 472,000 tons in it?—A. I was under the impression that there was more.

Q. Where did you get the impression?—A. From myself; I

judged myself that there was more than that.

Q. You mean by that the entire contents of the bank? I am asking now about the entire amount of coal to be taken from the dump. Did you ever know that there were 472,000 tons in this Packer No. 3 dump?—A. I figured it more than that. I had an engineer to figure it, and I think it was more.

Q. You had an engineer to figure Packer No. 3?—A. Yes, sir. Q. How much did he figure it?-A. I think it was 700,000 tons.

You made it a million and something tons, did you not?-A. That was the whole dump.

Q. He made 700,000 tons in Packer No. 3?-A. Something

Q. And did you know that when you signed this application for the lease or was it done afterwards?-A. I think I knew it

Mr. Manager WEBB. That is all.

The PRESIDENT pro tempore. The witness may retire.

Mr. Manager WEBB. And so far as we are concerned this

witness may be discharged.

Mr. SIMPSON. We do not want him. He may go so far as we are concerned.

The PRESIDENT pro tempore. The witness is finally discharged.

Mr. Manager FLOYD. The next witness we desire called is Mr. James H. Rittenhouse.

TESTIMONY OF JAMES H. RITTENHOUSE,

James H. Rittenhouse, being duly sworn, was examined, and testified as follows:

Q. (By Mr. Manager FLOYD.) Please state your name and place of residence.—A. J. H. Rittenhouse, Scranton, Pa.

Q. What is your business or occupation?-A. Civil and mining engineer.

Q. What experience have you had as a civil and mining engineer in the anthracite coal region of Pennsylvania and elsewhere?—A. Forty years in all kinds of work—railroad work, mining work, metal mining, masonry, dams, including general mining engineering.

Q. So you have a thorough knowledge of general engineering in all the various branches you have mentioned, including engineering?-A. I think I have a pretty good knowledge of it.

Q. Have you ever at any time been employed by the Marian Coal Co. or by W. P. Boland or C. G. Boland?-A. Never.

Q. I will ask you if you are acquainted with a culm dump known as the Katydid culm dump, near Moosic, Pa.?-A. I am.

Q. Were you ever employed by anyone to make a survey of that culm dump and to estimate the amount of material and the various kinds and sizes of coal contained therein; and if so, state by who and when.—A. I was; by Mr. Wrisley Brown, in the month of March, I think.

Q. Who is Mr. Wrisley Brown, or in what capacity was he acting when he employed you?—A. I did not know Mr. Wrisley Brown. He simply gave me a card with his name on it, and I did not know where he was from or whom he represented till afterwards.

I want to say this: He came into my office. I took him to be a well-to-do man-he was dressed accordingly-and after making some preliminary inquiries as to what he wanted and

as to the responsibility of the parties whom he represented, he told me that for certain reasons he did not wish to have his identity known. He had been over to the adjoining office, to one of my business associates, although we are not a copartnership at all, and he had talked with him, and Mr. Stevenson brought him over and introduced him to me. After arranging the preliminaries in regard to about what it cost to make such a survey, he held up a telegram and said: "I have telegraphed my people as to the cost and it is satisfactory." But he covered up the address and signature of the telegram, so that I simply could not tell from whom or where it came.

Q. Let me ask you if you afterwards learned that he was at that time representing the Department of Justice?-A. Not until I had made my reports, sent my papers on, and then finally sent my last communication and turned it over to the stenographer, and when she brought it into me I saw that it was addressed to Wrisley Brown, Department of Justice, Washington, D. C. That was the first intimation I had of what I was called upon to do. If I had pursued my usual policy of asking whom he represented and whether there was a lawsuit at the end of it, I would undoubtedly have turned the proposition down.

Q. Under the circumstances, you accepted the employment without knowing the purpose of the survey?—A. I did; yes.

Q. And made it without knowing whom you were representing-that is, except Wrisley Brown, and you did not know what interest he represented?—A. I did not. He gave me to understand there were certain reasons why he desired to keep the matter quiet, and I supposed it was in reference possibly to the Everhart title. They wanted an unbiased, disinterested opinion, so I supposed he could use it in that way.

Q. State whether or not under this employment by Mr. Brown you made a survey of this culm bank and made a report

thereon.-A. I did.

Q. Please state the amount and percentage of the various kinds of coal according to your estimate as incorporated in your report.—A. I have given to Mr. Brown all these papers and the maps in the case when it was tried by the House.

Q. For the purpose of refreshing your memory I will let you take that. Is that your original report, Mr. Rittenhouse, which you made to Mr. Brown [handing witness report]?—A. (After examination.) It is.

Q. And the supplemental report is attached to that, is it not?-A. Yes, sir.

Q. Now you may answer my question.-A. What was the

The Reporter repeated the question, as follows:

Please state the amount and percentage of the various kinds of coal according to your estimate as incorporated in your report.

A. The number of cubic feet in the bank, as outlined by the Erie, is 3,133,632; additional dump, making 3 in all, 681,229; total, 3,824,861 cubic feet. Weight per cubic foot, 52.9 pounds; 42.3 cubic feet equals 1 ton of 2,240 pounds; 3,133,632 cubic feet divided by 42.3 cubic feet equals 74,081 tons; 681,229 cubic feet divided by 42.3 cubic feet equals 16,105 tons; total, 90,186 tons.

Q. Is that the gross amount of material that you estimate?-That is the gross amount of the material; yes, sir.

Q. Does that include waste as well as coal?—A. It does. Q. You can go ahead with your statement .-- A. A test of the component parts of the various sizes in the dump I find as follows:

	Coal.	Waste.	Total.
Sizes above chestnut	6.086 1.041 12.419 9.893 22.454	Per cent. 2.765 .261 45.080 3.026	
Total	51.893	48.106	99,999

This, worked out on the basis of values received from the various sizes, according to their percentages, would make the dump figure up in gross receipts \$47,533.

Shall I give the percentage of values as to the different sizes?

Mr. Manager FLOYD. Yes, sir; give the percentage of values as to the different sizes.—A. Assuming that the bank contains

90,000 tons, we then have the various sizes, as below:
Chestnut and above, 5,477 tons. At a value of \$3.25 a ton, it makes \$17,800.25; pea coal, 937 tons, at \$1.78 per ton, making

\$1,667.86; No. 1 buck, 11,177 tons, at \$1.41 per ton, \$15,759.57; No. 2 buck, 8,904 tons, at 70 cents a ton, equals \$6,232.80; No. 3 buck, 20,200 tons, at 30 cents a ton, makes \$6,062.70; total of tons, 46,704 tons; total dollars, \$47,533.18.

If line prices were obtained instead of the 65 per cent basis, then the amount would be increased to some extent.

Q. Now at that point please explain what you mean by the 65 per cent basis and by the term "line prices."—A. Sixty-five per cent basis is the railroad contract for transporting the coal, giving the operator 65 per cent of what it brings at tidewater, the railroad company taking the balance of 35 per cent for

Q. Now what is meant by "line prices"?—A. Line prices is when you get the same kind of a contract as to freight that you sell along the line and is not based on tidewater. Tidewater prices are usually less than line prices. For instance, 10 miles outside of Scranton in any direction coal sells for more than it does in New York. Consequently line prices are preferable.

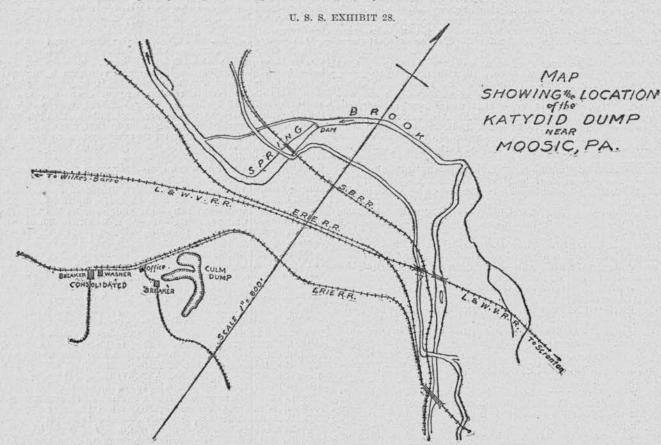
Q. Do they apply this 65 per cent basis on line prices as a rule?-A. That I am not prepared to say. I think the regular freight rates rule.

Q. Now you can proceed with your statement .- A. If what passes through a three thirty-seconds inch mesh and over onesixteenth mesh is saved, it would be equal to 12,678 tons, and this at 30 cents per ton would be an increment of \$3,803.40; and this should be added to the above, making the total \$51,336.58. But I might say that that size of mesh is used in only a few places; not generally.

Q. Permit me to ask you if it is possible by the use of that sized mesh to gain this increment of which you speak?—A. It is.

Q. You can proceed.—A. A flat price of 30 cents a ton for the entire dump, or 90,000 tons, at 30 cents per ton, would be \$27,000.

Q. Now, Mr. Rittenhouse, please describe the location of this culm dump with reference to the different railroad lines in that vicinity.—A. This property lies on lots 46 and 47, if I remember rightly.



Q. To refresh your memory, I will ask you to state if that [exhibiting] is a map of the location of the Katydid culm dump? We will first establish the location of the dump.—A. (After examining.) It is. yes, sir; made by us.

Mr. Manager FLOYD. Now, Mr. President, we desire to make this an exhibit at this point.

Mr. WORTHINGTON. Let me see what you are offering. Mr. Manager FLOYD. Excuse me, Mr. Worthington.

Mr. WORTHINGTON. It is from the other record? It is the same thing?

Mr. Manager FLOYD. Yes, sir; the same thing. witness.] Now, do you desire this, Mr. Rittenhouse?

A. This lies to the southeast of the borough of Moosic and is on the southerly side of the Lackawanna Valley; lying to the south there is a large brook called Spring Brook. The Erie & Wyoming Valley Railroad, which was located on the line of the old gravity track of the Pennsylvania Coal Co., light track, after the gravity road was abandoned, is now the main line of this valley branch of the Eric. That breaker, called the consolidated breaker, was connected with this old gravity road, which was built in the fifties. Subsequently the Lackawanna & Wyoming Valley Railroad, an electric railroad, was built in 1901 or 1902, during those years, and it runs parallel about

4 or 5 rods from the Erie for a distance of a quarter of a mile. Then it swings off to a point nearer the Katydid dump than the branch of the Erie. There is a lateral branch from this main line of the Erie that goes into this consolidated breaker and along the tail track connected with the Katydid culm pile. The culm pile is situated right on the tail tracks of the Erie and about 600 feet from the nearest point of the Lackawanna & Wyoming Valley Road.

Q. (By Mr. Manager FLOYD.) Mr. Rittenhouse, one of the maps that has been submitted shows the location? evidence two or three maps .- A. This is the map [exhibiting].

Q. It shows the facts with reference to the location?-A.

The map was marked "U. S. S. Exhibit 28" and offered in

Q. Did you make this map [presenting map] which was Exhibit 31 before the hearing, showing in detail the situation of the Katydid culm dump?—A. (Examining.) Yes, sir.

Q. That map was prepared by you?—A. Yes, sir.

Mr. Manager FLOYD. Mr. President, we want to offer this exhibit in evidence at this point.

Mr. WORTHINGTON. May I see it first?

Mr. Manager FLOYD. Certainly; excuse me.

Mr. WORTHINGTON (after examining). This is all right.

The paper was marked "U. S. S. Exhibit 29" and offered in

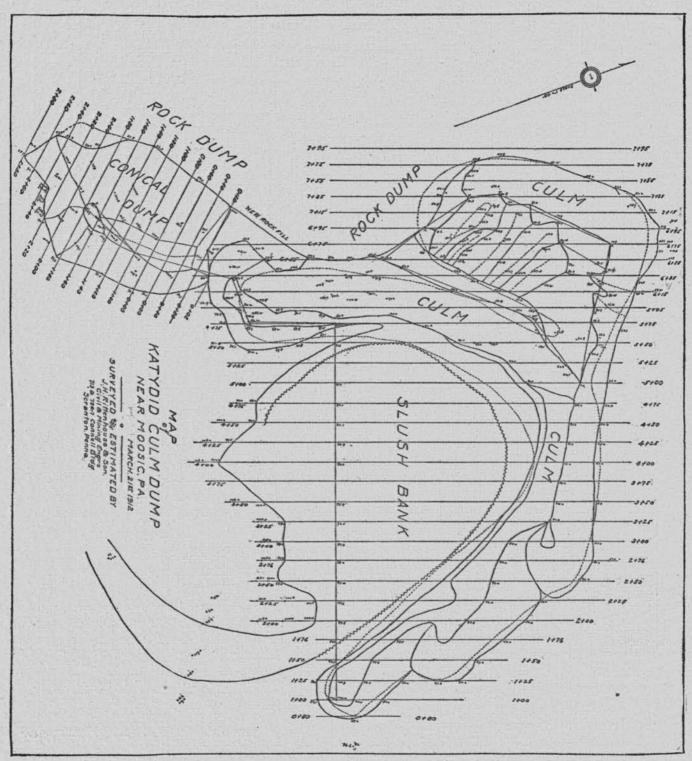
evidence. (See accompanying illustration.)
Mr. Manager FLOYD. What is the scale indicated on the map or blue print submitted?

A. I have not got it.

Mr. Manager FLOYD. The Clerk has it at the desk.

The WITNESS (examining map). Scale 1 inch equal to 40 feet.

U. S. S. EXHIBIT 29.



Q. (By Mr. Manager FLOYD.) Here is a further map. [Pre- | the area of the different sections; the two sections are put senting map.] Please identify that, Mr. Rittenhouse, and state whether or not you prepared that map in connection with this investigation, and what it is ?- A. (Examining map.) This is a map on cross-section paper on a scale of 1 inch equal to 40 feet, and in connection with it I will say that these cross sections or these tracings are 20 feet apart, and then those sections are represented by the red lines. Those sections are then put on this cross-section paper and used for calculating panying illustration.)

together, and the distance between them gives the cubical con-

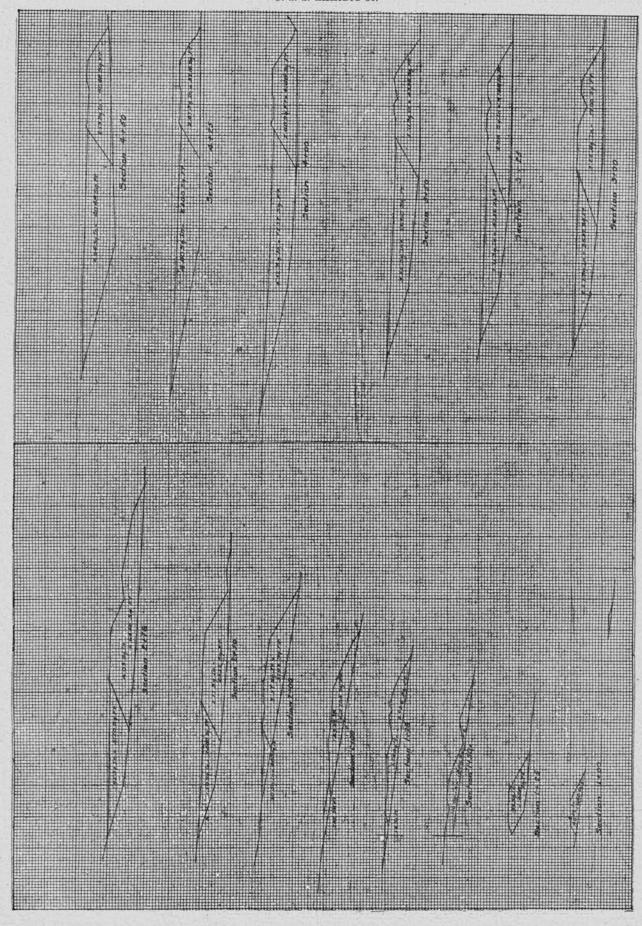
Q. (By Mr. Manager FLOYD.) Mr. President, we desire to make this an exhibit and offer it in evidence at this point.

The PRESIDENT pro tempore. It will be identified by num-

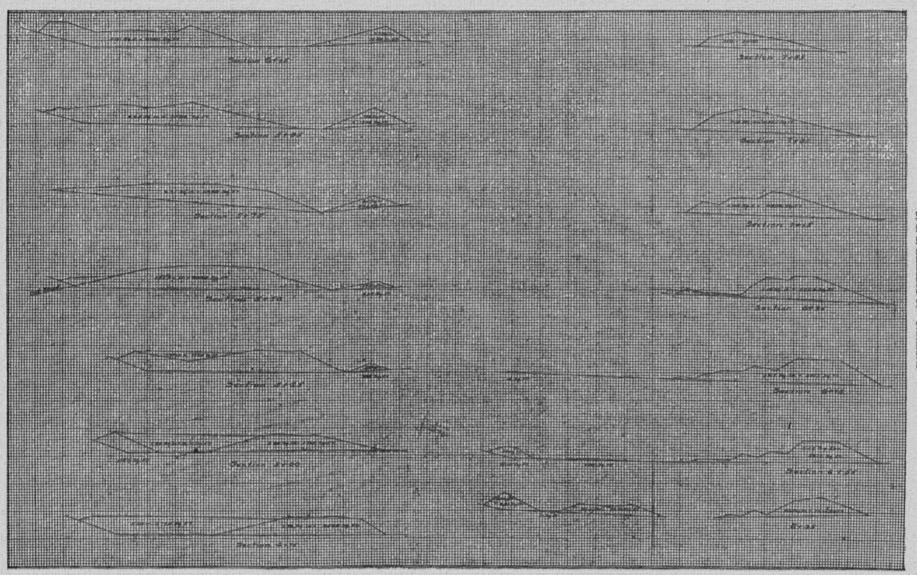
ber.

The exhibit was marked "U. S. S. Exhibit 30." (See accom-

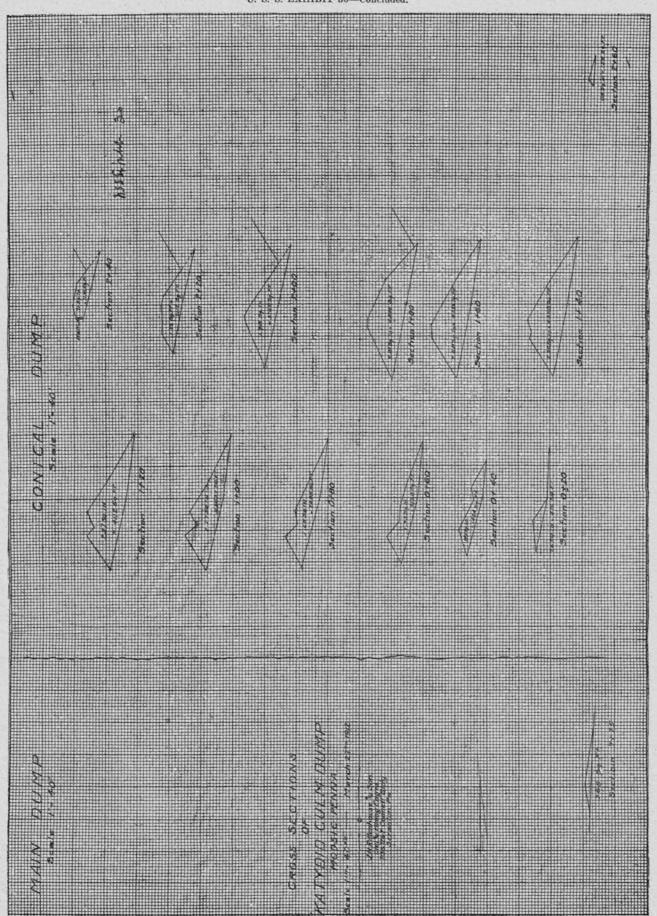
U. S. S. EXHIBIT 30.



U. S. S. EXHIBIT 30-Continued.



U. S. S. EXHIBIT 30-Concluded.



Q. (By Mr. Manager FLOYD.) Mr. Rittenhouse, what do you mean in your report by the slush pile?—A. I mean the waste that goes through the finest mesh that they use. It is

called tailings; it is called slush.

Q. State the origin and meaning of the word "culm" of the term "culm dump."-A. Culm meant and means anything that is waste. Back in the early days it was called culm when they put chestnut in the pile; it was all the waste rock and the material that was thrown out in the breaker; rough coal and slate were thrown indiscriminately on this pile, and it was called culm pile. As the years went by and they used chestnut coal, when that was taken up the coal before it went to the culm dump. It was the same way with pea coal; following that, buckwheat No. 1; then again No. 2, and again No. 3; so that now what represents culm or culm pile, as it goes by, is the finest sand or silt as it goes through three thirty-seconds or the eighth of an inch or the sixteenth of an inch mesh, whatever they happen to use. Sometimes that is separated, and when it is separated and the slate in larger pieces is not mixed with it it is a slush.

Q. In the common acceptation of the term a culm dump is the material in the dump made from coal mines, including

particles of coal and other waste, is it?—A. Yes, sir.

Q. State the relative value of a culm dump with reference to its age. Those made in an earlier period, according to your explanation, would be of more value than those made in a later period, would they not?-A. For the reason I have just stated, the older the pile is the larger the sizes in it. Consequently, at the present time the refuse from a coal breaker is of little value unless some means is found for utilizing that fine stuff for fuel. They are at the present time using in some places fuel that will go through a three thirty-seconds and over, a three sixty-fourths, and that is the finest I know of.

Q. State, if you know, how long this Katydid dump was in forming.-A. I think from 1886 or 1887 until 1908 or 1909, at which time, I think, the breaker that was washing it was burned. It had been made previous to that. It was the product

of mining from these two different lots, 46 and 47.
Q. Are you acquainted with the operations of the Erie Railroad Co. and its subsidiary corporation engaged in coal business?—A. To a certain extent, along different lines. I am

acquainted with their various products.
Q. Was this culm dump so located with reference to the Erie Railroad that it could have been worked to advantage by the Erie Railroad Co. or by the Hillside Coal & Iron Co., which is a subsidiary corporation thereof?—A. I consider it an Erie proposition pure and simple, because

Mr. WORTHINGTON. Mr. President, we are now going into

Mr. Manager FLOYD. The witness has just answered my question.

Mr. WORTHINGTON. I want to object to proceeding on this line.

Mr. Manager FLOYD. What is your objection?

Mr. WORTHINGTON. I object to going into expert testimony as to the profitable or unprofitable connection of the Erie Railroad with the operations of this dump, if they ever operated If we are to go now into testimony of an expert as to how much it would have cost them to take the coal to tidewater or wherever it could be disposed of and how much profit they would make on it, it would involve necessarily an inquiry into the cost of operation, the cost of the freight, and the details of the operation, and we could be kept here two weeks on that question alone on one side or the other.

It is perfectly manifest, I submit, that Judge Archbald can not be supposed to have known anything about that. If the managers want to prove that he had any information on the subject when he went into this operation or when trying to sell this dump, it would be competent evidence, whether it was the truth or not about the matter. If he was told that the Erie Railroad Co. could make \$100,000 and had given it to him, of course that would be competent and might affect the matter. It is not so much the question as what the witness was going on

to say.

Mr. Manager FLOYD. I will be satisfied if the witness will simply answer my question, and I will ask that the stenographer will read the question.

The PRESIDENT pro tempore. Does the counsel object to

the question?

Mr. WORTHINGTON. As I remember the question it is not objectionable from our standpoint. Let it be read and it can be determined.

The PRESIDENT pro tempore. The stenographer will read the question.

The Reporter read as follows:

Q. Was this culm dump so located with reference to the Eric Railroad that it could have been worked to advantage by the Eric Railroad Co. or by the Hillside Coa! & Iron Co., which is a subsidiary corporation thereof?—A. I consider it an Eric proposition pure and simple,

The PRESIDENT pro tempore. The Chair understands that the witness was simply proposing to give a reason why it would be profitable

Mr. WORTHINGTON. He was about to go into the details showing why he thinks the Erie would have made a profit if it had the dump and operated it, and as to that I object for the reason I have stated. It opens up a very wide field, and if gone into at length if will take a great deal of time on one It is impossibleside and the other. It is impossible—
Mr. Manager FLOYD. I submit that the witness has an-

swered my question when he says it was so located that the

Erie could work it to advantage.

Mr. WORTHINGTON. Very well.
Mr. Manager FLOYD. I did not go any further than that in

Mr. WORTHINGTON. The witness was going further, because he started-

The PRESIDENT pro tempore. The counsel being satisfied, the witness will refrain from further replies to the question unless it is brought up by the subsequent examination.

Q. (By Mr. Manager FLOYD.) You have your original report, Mr. Rittenhouse?-A. Yes, sir.

(The paper was handed to Mr. Manager Floyd by the wit-

Mr. WORTHINGTON. The manager offers the report?
Mr. Manager FLOYD. I ask leave to offer this as a report made by Mr. Rittenhouse, the full report, in evidence at this point.

Mr. WORTHINGTON. How a report that he made to some third party could be evidence against Judge Archbald I do not comprehend. If there is anything in the report that is competent evidence it can be stated now and we will have a chance to cross-examine him about it. It contains, I may say, the very matter to which I objected just now, and which I understood the manager to say he did not care about.

Mr. Manager FLOYD. We think that the report is entirely competent. The question is as to the contents and value of The Erie Railroad Co. owned an interest that culm dump. in the culm dump, and the report relates to the situation of the culm dump with reference to various railroads, and the report made by Mr. Rittenhouse under those circumstances contains full detailed facts. It is true it has no reference to Judge Archbald and we do not think it is necessary that it should It is a question of fact that we are dealing with, and we think is a very material question in this case as to what is the real and actual value of that culm dump.

I know of no better way to establish that fact than by the testimony of competent witnesses who have made a survey of that dump. This witness has already disclosed the fact that he at the time did not know in whose interest he was making his report. He knew the man's name, but did not know in what capacity he acted; he did not know whom he was representing. It seems to me that this report was made under circumstances in which he must of necessity be entirely unbiased in the

matter.

The testimony is material to show the contents of that culm dump, because we charge that Judge Archbald, while a United States circuit judge and judge of the Commerce Court, undertook, in connection with one Williams, to purchase from the Erie Railroad Co. or the Hillside Coal & Iron Co., a subsidiary corporation of the Erie Railroad Co., this culm dump, with a view and for the purpose of selling it to other parties in order to make a profit for themselves.

So we think that this evidence is material, and that a report

made under those circumstances is entitled to be submitted in evidence to show the fact as to the contents of the culm dump, the material in it, the location with reference to the railroad, and the other facts stated therein.

The PRESIDENT pro tempore. As to the question of the admission of the report itself, the Chair does not desire to hear further on the right to prove the contents of the same; but if counsel wish to be heard the Chair will hear them.

Mr. WORTHINGTON. When a question is asked to bring out anything in the report, we can be heard, I suppose?

The PRESIDENT pro tempore. The Chair is of opinion that it is material under the features presented by this case to prove the value of the coal in that dump.

Mr. WORTHINGTON. Of that we have so far made no question, not because we think it is competent, for we think

that the matter might just as well be left until we get through the evidence. Our contention is and will be that it does not make any difference what the value of this culm dump is or was; the real question is what did Judge Archbald have reason to believe that it was worth. If it shall be shown that at the time he undertook the negotiations for the purchase of it with Mr. Williams, his information was it was worth \$100,000, and he was proceeding on that basis to get it for \$4,500 or \$8,000, it would be to no purpose, I submit, to have some expert examine it and bring him here to testify that it was not worth 10 cents, because that is wholly immaterial. But we do not care to go on with a discussion of that question now; it is only when we come to go into the proposition of showing what the details of the operation of the Erie Railroad would have been if it had operated it.

The PRESIDENT pro tempore. The Chair is of opinion that it is competent for the managers to prove the value of this dump, and the Chair would also be of opinion that it is perfectly competent for the witness to use that paper to refresh his memory that he may give the necessary testimony; but the Chair does not think that the report as a report would be admissible in evidence. The facts contained can, so far as they are governed by the suggestion that has already been made, be proven

by the witness

Q. (By Mr. Manager FLOYD.) Mr. Rittenhouse, I will ask you to state what, in your opinion, is this Katydid culm dump worth? First, what is its value according to the estimate you have made? I think you have already stated it. You can state it again. What is the value of the coal in that dump, according to your estimate?—A. That depends upon who works it.

Q. Then, what would it be worth to the Erie Railroad? Mr. WORTHINGTON. I object to that question, Mr. Presi-That is a very simple question to ask; but you see at once it involves an inquiry not only as to the cost of building a washery there or transporting the coal to some other washery every question about where it can probably be sold or be likely to be sold, what would be the details of the expense there, what would be the probable market price, and all that-simply the opinion of an expert. If we are to go into that, we want to warn the Chair and the Senate that it is a very wide and large field.

The PRESIDENT pro tempore. The Chair would inquire of counsel if similar questions could not be propounded as to the estimate of its value to any one?

Mr. WORTHINGTON. No; it would have to be—
The PRESIDENT pro tempore. As to its general value?
Mr. WORTHINGTON. It would have to be its market value, I should say, Mr. President, what it would be worth. Certainly, it would have to be shown that it would be reasonable to suppose Judge Archbald would know what it was worth. He might know what it was worth in the market. We have a right to assume that he might know that, though there is no evidence that he did. The only thing that appears, the only evidence that I know of—it is hardly evidence—is a letter that was in-troduced by the managers, written by him to Mr. Conn on the 30th of September, 1911, in which he said he had never seen the dump

The PRESIDENT pro tempore. As the Chair understands the attitude of the managers, one of their propositions is that the dump was sold by the Eric Railroad Co. for less than it was worth. If so, it would be competent to show what it was worth

Mr. WORTHINGTON. If the Chair thinks that, of course that involves going into all these details. We are—
The PRESIDENT pro tempore. The Chair would say to the

managers and to counsel that it is not competent for the Chair to exclude legitimate evidence on the ground that it may involve too wide a discussion or inquiry.

Mr. Manager FLOYD. Mr. President, I will say that the

managers charge that this property was sold by the Erie Rail-road Co. through the influence of Judge Archbald, and our contention is that it was sold for less than its value to the company. We think this is material, and I believe the Chair has so indicated.

The PRESIDENT pro tempore. The Chair thinks it would be perfectly competent for the respondent to show what it would be worth to him or what he had reason to believe it would be worth to him.

Q. (By Mr. Manager FLOYD.) Please answer my question, Mr. Witness.

The Witness. What is the question, please?

The PRESIDENT pro tempore. The stenographer will read the question.

The Reporter read as follows:

Q. (By Mr. Manager FLOYD.) Mr. Rittenhouse, I will ask you to state what, in your opinion, is this Katydid culm dump worth? First,

what is its value according to the estimate you have made. I think you have already stated it. You can state it again. What is the value of the coal in that dump according to your estimate?—A. That depends upon who works it.

Q. Then what would it be worth to the Eric Railroad?

The WITNESS. The actual value of the coal in the dump that can be gained by treatment figures up, as I gave it, reading my estimate, \$47,533.18, if I remember correctly. That is what that stuff will bring at the breaker. It depends on how you get that and how you freight it as to what it is worth—who does it. There is the possibility of the Erie working it; there is the possibility of the Laurel line working it; and also the possibility of some individual working it—any one of these three

will get different results by working it.

Q. (By Mr. Manager FLOYD.) What I desire to know is what would be the value to the Erie Railroad Co., if it

worked it?

Mr. WORTHINGTON. Mr. President, if that includes going into the question of transportation, then I want to renew my objection. I do not understand the Chair has passed upon that.

The PRESIDENT pro tempore. The Chair will ask that that question be read by the stenographer.

The Reporter read as follows:

Q. (By Mr. Manager Flovo.) What I desire to know is what would be the value to the Eric Railroad Co., if it worked it?

The PRESIDENT pro tempore. The Chair is of the opinion, under the statement of the managers as to their contention in the matter, that the railroad company had sold this dump for less than it was worth, that it would be competent evidence. The Chair repeats that it would still be open for the respondent to show what was his view in regard to the matter of what it would be worth to him.

Q. (By Mr. Manager FLOYD.) Now, please answer the question, Mr. Rittenhouse.

A. As I have stated before, the value of \$47,533.18 is the value of the coal in that dump; and inasmuch as it lies contiguous to the present washery of the Erie, with their tail tracks and all that, it is worth more to them than to anyone else. They would require less expense to get it and ship it than anyone else. Therefore I fix the value of about \$35,000 as the value of the coal, leaving out the question of freight to the Erie.

Q. You say, leaving out the question of freight, you think it would be worth \$35,000 to the Eric Railroad if they worked it?-A. I do; leaving out the freight. The freight would be

Q. Now, suppose they carried it to tidewater over their own lines and sold it at tidewater, what would be the additional

value by reason of freights?

Mr. WORTHINGTON. One moment. Mr. President, it seems to me that the witness must qualify as an expert in freight rates and railroad operations before he can answer that question. He has qualified as an expert in mining and coal, but I have not yet heard him say anything to the effect that he is qualified to give us information-

Mr. Manager FLOYD. Let me modify my question, then. Q. (By Mr. Manager FLOYD.) What would it be worth on the 65 per cent basis that you have already explained?—A. They would charge varying prices for that coal. Chestnut would give them a rate of \$1.82 and a fraction ordinarily; grate, egg, and stove would be \$1.74 and a fraction; pea coal would be \$1.40; No. 1 buck would be \$1.30; and No. 2 and No. 3 buck would be a little less than that. I do not know that I can recall the figures; but it would be around \$1.15 or \$1.20 for No. 2 and No. 3 buck. Those are their charges.

Q. Well, can you tell us the total amount they would get as

freight rates out of hauling that much coal to tidewater over their own line?—A. I never figured that out; no, sir. I would have to strike an average freight rate and figure up the different tons in order to find out what that would run into. It is

a calculation that can be made, if you desire it.

Q. Have you got anything in your report on that question? [Handing the report to the witness.]

The PRESIDENT pro tempore. The witness may use the report to refresh his memory, and not for the purpose of reading it.
Mr. Manager FLOYD. To refresh his memory.

The WITNESS. I have nothing in the report as to that. I have taken it in bulk.

Mr. Manager FLOXD. That is all, Mr. President. Mr. JOHNSTON of Alabama. Mr. President, I desire to ask a question.

The PRESIDENT pro tempore. The Senator from Alabama desires that the witness shall be asked a question, which will be read to him by the Secretary.

The Secretary read as follows:

What, in your opinion, would be the profit if worked intelligently and economically?

The WITNESS. Do I understand that has reference to the

Mr. JOHNSTON of Alabama. The value of the dump, the coal in the dump.

The PRESIDENT pro tempore. The Senator can modify his question if he desires to do so.

Mr. WORTHINGTON (to Mr. Johnston of Alabama), I will ask the question as a part of my cross-examination.

Mr. JOHNSTON of Alabama.

Very well.

i) Without any reference to Q. (By Mr. WORTHINGTON.) the transportation of the coal, but taking its value after—
Mr. Manager FLOYD. Mr. President—
Mr. WORTHINGTON (to Mr. Manager FLOYD). Are you not

Mr. Manager FLOYD. I insist that the question which was asked by the Senator from Alabama ought to be answered.

The PRESIDENT pro tempore. The question must be an-vered as asked by the Senator. The Chair simply suggested, swered as asked by the Senator. in view of the verbal comment of the Senator, that, if he desired, he could modify the question in writing.

Mr. WORTHINGTON. I was going on because I understood the Senator had withdrawn the question, with the idea that I

would bring out the information he desired.

The PRESIDENT pro tempore. Does the Senator withdraw the question?

Mr. JOHNSTON of Alabama. Yes; I withdraw it.

Mr. Manager FLOYD. I did not so understand, Mr. President. The PRESIDENT pro tempore. The Chair did not understand the Senator had withdrawn the question. The Chair inquires if the managers have finished with the witness?

Mr. Manager FLOYD. We have on the part of the managers; but I did not understand the Senator had withdrawn his

question.

The PRESIDENT pro tempore. Very well. Counsel for the respondent has an opportunity to ask the question if he desires to do so.

Mr. Manager FLOYD. Will you permit me one more question, Mr. President?

The PRESIDENT pro tempore. Very well. Q. (By Mr. Manager FLOYD.) What we What would be the profit to the Eric Railroad Co. if they intelligently and economically worked that culm dump?—A. Leaving out the freight?

Q. Leaving out the freight.—A. Just as I said before, \$35,000

profit to them.

Mr. Manager FLOYD. That is all.

Cross-examination:

Q. (By Mr. WORTHINGTON.) What would the coal be worth at the washery after it was ready for sale if the operation were conducted intelligently and economically?—A. Just as I said, the value of the coal was \$47,533, and allowing them a fair price for working it, they should realize that much from it, in my judgment.

Q. Now, aside from the Erie, you have told us that there are three bases, as I understood you, for the calculation; that is, what would be the result for the individual operator, what would it be for the Laurel line, and what would it be for the Take the individual operator, suppose he works it?-A.

I think he would lose money by it.

Q. He would lose money by it?—A. Yes, sir. Q. Why?—A. For this reason: He has got to buy the pile, in the first place. That is an outlay of \$20,000 to \$25,000. He has got to put up his plant, which will cost in the neighborhood of \$10,000. That would make an aggregate of from \$30,000 to \$35,000, and he has got to operate it. Assuming that he operated it as cheaply as the Erie would operate it—that is, at a cost of as much as 25 to 30 cents a ton-it would eat up the balance of the value of the pile.

Q. I wish you would tell us-I could do it perhaps if I had your figures, but I will be obliged if you will do it-suppose a sale had been made of the merchantable coal in the dump and 271 cents a ton was to be paid for the coal won from the dump, what would be the price that would be paid for it?-A. Then he would likely make something out of it, just as Mr. Bradley testified to, because, inasmuch as about 50 per cent of the pile is coal, instead of paying a flat price for it you would cut that \$25,000 or \$30,000 or \$20,000 pile down to about \$14,000, and in that way he would make anywhere from \$5,000 to \$10,000the individual operator.

Q. I think you misunderstood my question or else I did not ask it very intelligently. I simply desired to ask if you take the quantity of coal that you found in the dump, what would it amount to at 27½ cents a ton?—A. I said, in my judgment, it would be somewhere around fourteen thousand dollars and something, for a guess.

Q. Of course, I need not ask you, but you have assumed in fixing the value of this dump to the Erie that the Erie own the whole dump?-A. I have. They would not have to buy it, or their part of it, at any rate.

Q. On that subject, were you not told that there was some entanglement about the title?—A. I have understood that there was some entanglement about the title. I know there is.

Q. I believe, Mr. Rittenhouse, you have not said anything about that, but were you not first employed in regard to this dump by Mr. Conn, the manager of the Laurel line?-A. Mr. Conn and I went down there and looked the pile over, and he wanted me to give him a rough estimate of about what I thought was in the pile.

Q. Did you do that?—A. I did.

Q. What did you tell him, then, when you simply gave a rough estimate?-A. If I remember rightly, I made him a written statement covering about three or four lines, saying that taking the outline of the blue print by the Erie and a little data that I had gotten together as to elevation, I estimated about 87,000 cubic feet in the dump. My accurate survey subsequently, I think, put it a little over 90,000.

Q. You do not mean 87,000 cubic feet only?—A. I should

have said 87,000 tons; I beg your pardon.

Q. Do you remember when you were talking to Mr. Conn about this matter that he told you that Judge Archbald was interested in it and you went to see Judge Archbald about it?-A. I did go to see Judge Archbald; yes.

Q. Was it not because Mr. Conn told you that Judge Archbald was interested in it?—A. No. That had developed at the time when we went down over the pile to look it over.

I am interested to know how it developed that Judge Archbald was in it. How did you find out?-A. Through Mr. Conn.

Q. I say Mr. Conn had told you?-A. Yes.

Q. Then you went to see Judge Archbald about it, did you not?-A. I did after I had been employed. This matter with Mr. Conn was last fall and we anticipated getting to work promptly, on it, but we were called off very suddenly when the breaker and constructors and I had arranged to go down there and look the plant over to see what could be done with it. Nothing more was done about it, and I had not thought any more about it until Mr. Wrisley Brown came and asked me to make a survey of the pile, as I stated.

Q. When was it you went to see Judge Archbald about it?-A. I think it was either in the latter part of March or the

first part of April.

Q. This spring some time?—A. This spring; yes.

Q. It was then that Mr. Conn told you that Judge Archbald was interested in it, was it?-A. I had nothing whatever to say to Mr. Conn at that time at all.

Q. Well, did you not just say that Mr. Conn told you that Judge Archbald was interested?-A. Well, that was last fall.

Q. He told you that last fall?-A. Yes.

Q. Then you did not go to Judge Archbald until this spring?-No, sir. I heard rumors about it. I thought maybe he could clear the matter up.

Q. When Mr. Conn told you that Judge Archbald was interested did he accompany that with any suggestion that you were to keep that fact quiet?—A. No, sir.

Q. There was not any suggestion of concealment, was there?-A. No, sir; nothing that I-remember.

Q. Do you know, as a matter of fact, whether you talked to other people as to whether Judge Archbald was interested?-A. I do not know that I mentioned it to anybody.

Q. If you did not it was merely accidental that you did not;

it was not intentional?-A. That is right.

Mr. WORTHINGTON, I would like to see that Exhibit No. 29, that map.

Q. (By Mr. WORTHINGTON.) Referring to this map, which is Exhibit No. 29, I see it is a map of the Katydid dump, and a portion of it is labeled "conical dump." In your estimate have you included that conical dump as a part of the Katydid dump?-A. I have.

Q. Just what tests were made of this dump for the purpose of determining the proportions of the different kinds of coal in it, and who made them?-A. We dug holes all over the culm pile at stated distances at the top and the bottom, and then put that into bags and carried it to a big flat rock and spread it out into conical piles by tossing it over so as to get an average mix-Then we quartered it and took the opposite quarters and sized it down in that way until we got something over a hundred pounds to test for the various sizes. That is the usual way of testing the dumps.

Q. What were the dimensions of these holes that you made?-We took a shovel full, half a bag, at a time from a hole, going down a couple of feet, and in the top of the pile and the bottom of the pile and on the slopes and over the top.

Q. You did not in that way reach the interior of the pile at

all, did you?-A. We did not; no, sir.

Q. Was the chestnut coal which was in that pile-that is the largest size you have in your estimate?-A. Yes, sir.

Q. Was that in chestnut size or was it in large lumps and

had to be broken up?—A. It was in various sizes.
Q. Various sizes?—A. Yes; "chestnut" and above, I think

I have it

Q. Would the larger sizes have to be broken up?—A. They would have to be broken up. It would hardly be worth while to put the screens on for the small quantity of the larger sizes. As a general thing, all of that larger stuff is ground up.

Q. You have included in your estimate about \$17,000 for that chestnut after it was ground.—A. There is quite a difference between \$3.25 for some and 30 cents for others, and the 30-cent

coal is the largest quantity of the bunch in itself.

Q. The chestnut coal, which I understand you to say it would not be worth while to run through as chestnut, you have concluded was worth \$17,000 as chestnut, have you not?-A. I

Q. That reminds me, Mr. Rittenhouse, I think you have not got part of your report in here. [To Mr. Manager Floyd.] If you will let me have that report, I should like to show it to the witness and ask him to read a table from it which bears on this question of amounts.

Mr. Manager FLOYD. We are perfectly willing to let the

whole report go in.

Mr. WORTHINGTON. Yes; I have found that out. Q. (By Mr. WORTHINGTON.) I ask you to look at the part of this record which I indicate, to refresh your memory, and tell me what was your estimate, assuming that the bank contained 90,000 tons, giving the quantities and the values which you have fixed to them of each kind .-- A. That is worked out from the percentages that are in the pile.

Q. I would like to have it worked out and have it in the record just as it is in the report, if that is correct.-A. I gave

all this in detail when I read it.

Mr. SIMPSON. No; you only gave the percentages. Q. (By Mr. WORTHINGTON.) I think you did not give the whole of it, and I would like to have it in order to have it complete?-A. I will go over it again, but I am positive that I

Assuming that the bank contains 90,000 tons, we then have the various sizes as below:

Chestnut and above, 5,477 tons, at \$3,25	\$17, 800, 25
Pea, 937 cons, at \$1.78	1, 667. 86
No. 1 buck, 11,177 tons, at \$1.41	15, 759, 57
No. 2 buck, 8.904 tons, at \$0.70	6, 232, 80 6, 062, 70
No. 3 buck, 20,209 tons, at \$0.30	0, 002. 10

Total (46,704 tons) ____

Q. What is the name of the washery that you have referred to that is near the Katydid?-A. It joins the Erie Consolidated breaker, probably about 50 feet from it.

Q. The Eric Consolidated?—A. Yes, sir.

- Q. What do you know about that washery?-A. I simply know it is a good-sized washery, treating a large amount of culm, and is within 500 or 600 feet of the Katydid dump.
- Q. Have you examined its machinery or apparatus to know the details of it?-A. I have not.
- Q. Or what they do there?-A. No; only what I have seen go in there.

Q. Only as to the result?-A. Yes, sir.

Q. Is your estimate of 30 cents based upon the proposition that it is 30 cents flat; that is, for everything in the pile?-A. \$30,000 is what I was figuring on in the first place. cents flat would give \$27,000.

Q. Thirty cents flat, that is for culm and all?-A. Yes, sir.

- Q. And the whole contents of the pile would amount to how such?-A. Twenty-seven thousand dollars at 30 cents. course that would be doubled when you get only half of the
- Q. Double it?-A. Practically so. There is only about 50 per cent coal in the pile.
- Q. Where did you get that 30 cents?-A. When it was talked of in the first place it was talked of for \$30,000. I did not know any other price or anything further in regard to it until Mr. Brown came and said something about 271 cents. I did not know anything about these arrangements with Mr. Connas to what he proposed to pay for it or whether instead of pay-

ing a flat rate for it he was going to pay a royalty basis for it. I knew nothing about it until it developed in this case.

Mr. WORTHINGTON. That is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager FLOYD.) Did I correctly understand you to say that Mr. Conn told you that Judge Archbald was interested in this transaction, or what did you say about that? A. I do not know that Mr. Conn said that he was interested in it anything more than that Judge Archbald and Mr. Williams had an option on it.

Q. When was that?-A. That was last fall; that is, a year

ago. Q. Was that when you were making an estimate for Mr. Conn at his request?—A. It was.

Q. Did you make a statement about seeing Judge Archbald at some other time?-A. I did.

Q. And talking to him about it?-A. I did.

Q. When was that?-A. The latter part of March or the first part of April of this year.

Q. Of this year?-A. Yes, sir.

Q. Will you state what was said?-A. Mr. Brown asked me not to go into the title particularly, but to find out in a general way as to the ownership, and so forth. That is all I did in regard to it.

Q. And you went to Judge Archbald for that purpose, did you?—A. I thought Judge Archbald would probably know more about the title end of it, and I asked a few questions in regard to that. I want to say that, inadvertently, when I was asked that question before by Col. Worthington—whether any other subject was discussed-I said no. I said that on the spur of the moment, and what I meant by "no" was nothing further referring to the Katydid.

Q. That was during the negotiations with Mr. Conn that you went to Judge Archbald and asked him some questions about

the title?-A. No, sir; it was last fall.

Q. Last fall?—A. Last fall. I went to Judge Archbald when I tried to get this data that Mr. Brown asked for.

Q. This spring, you mean?—A. This spring.
Q. When Mr. Brown was making his investigation?—A. Yes, sir

Q. That was the time you went to Judge Archbald?-A. Yes, sir

Mr. Manager FLOYD. That is all.

Recross-examination

Q. (By Mr. WORTHINGTON.) What did Judge Archbald say to you about the title when you went to him in the spring? A. He could not give me much light on the subject, only he thought the matter could be straightened out in a short time.

Q. Did he not tell you in substance that there was some trouble about the title but he thought it would soon be fixed up and be all right?-A. That is my understanding about it.

Mr. WORTHINGTON. That is all.

The PRESIDENT pro tempore. Is it desired that this witness be finally discharged?

Mr. Manager CLAYTON. Yes; the witness may be finally discharged.

Mr. WORTHINGTON. Mr. President, we agree.

The PRESIDENT pro tempore. The witness is finally dis-

JUDGE ARCHBALD'S COMMISSIONS AND OATHS OF OFFICE.

Mr. Manager CLAYTON. Mr. President, I desire to introduce in evidence and have printed in the RECORD copies of the several commissions issued to Judge Archbald, and his several oaths of office.

Mr. SIMPSON. There is no objection, sir.

The PRESIDENT pro tempore. The managers do not desire to have them read?

Mr. Manager CLAYTON. No. sir; merely printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The papers referred to are as follows:

[U. S. S. Exhibit 31.]

UNITED STATES OF AMERICA. DEPARTMENT OF JUSTICE, Washington, D. C., June 17, 1912.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original commission of Robert Wodrow Archbald as United States district judge for the middle district of Pennsylvania (under his recess appointment of March 29, 1901), a copy of which is on file in this department.

In witness whereof I have hereunto set my hand and caused the seal of the Department of Justice to be affixed on the day and year first above written.

For the Atternov Canaral

For the Attorney General. [SEAL.] J. A. FOWLER.
Assistant to the Attorney General. (William McKinley, President of the United States of America.)

To all scho shall see these presents, greeting:

To all who shall see these presents, greeting:

Know ye that, reposing special trust and confidence in the wisdom, uprightness, and learning of Robert Wodrow Archbald, of Pennsylvania, I do appoint him United States district judge for the middle district of Pennsylvania, as provided for by act approved March 2, 1901, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining unto him, the said Robert Wodrow Archbald, until the end of the next session of the Senate of the United States, and no longer, subject to the conditions and provisions prescribed by law.

In testimony whereof I have caused these letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Given under my hand at the city of Washington the 29th day of March, in the year of our Lord 1901, and of the Independence of the United States of America the one hundred and twenty-fifth.

[SEAL.]

WILLIAM MCKINLEY.

By the President:

[SEAL.]
By the President:
JOHN W. GRIGGS,
Attorney General.

United States of America,

Department of Justice,
Washington, D. C., June 17, 1912.

Pursuant to section 882 of the Revised Statutes, I hereby certify
that the annexed paper is a true copy of the original commission of
Robert W. Archbald as United States district judge for the middle district of Pennsylvania (under his confirmation appointment of December
17, 1901), a copy of which is on file in this department.
In witness whereof I have hereunto set my hand and caused the seal
of the Department of Justice to be affixed on the day and year first
above written.

For the Attorney General:
[SEAL.]

J. A. Fowler,
Assistant to the Attorney General.

(Theodore Roosevelt, President of the United States of America.) To all who shall see these presents, greeting:

Know ye that, reposing special trust and confidence in the wisdom, prightness, and learning of Robert W. Archbald, of Pennsylvania, I have nominated and, by and with the advice and consent of the Senate, do appoint him United States district judge for the middle district of Pennsylvania, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining unto him, the said Robert W. Archbald, during his good behavior.

In testimony whereof I have caused these letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Given under my hand at the city of Washington the 17th day of December in the year of our Lord one thousand nine hundred and one and of the independence of the United States of America the one hundred and twenty-sixth.

[SEAL.]

By the President:

By the President:
P. C. KNOX,
Attorney General.

United States of America,
Department of Justice,
Washington, D. C., June 17, 1912.

Pursuant to section 882 of the Revised Statutes, I hereby certify
that the annexed paper is a true copy of the original commission of
Robert Wodrow Archbald as additional circuit judge of the United
States from the third judicial circuit, a copy of which is on file in
this department.

In witness whereof I have hereunto set my hand and caused the seal
of the Department of Justice to be affixed on the day and year first
above written.

For the Attorney General:
[SEAL.]

J. A. FOWLER, Assistant to the Attorney General.

(William H. Taft, President of the United States of America.) To all who shall see these presents, greeting:

To all who shall see these presents, greeting:

Know ye that, reposing special trust and confidence in the wisdom, uprightness, and learning of Robert Wodrow Archbald, of Pennsylvania, I have nominated and, by and with the advice and consent of the Senate, do appoint him additional circuit judge of the United States from the third judicial circuit, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining unto him, the said Robert Wodrow Archbald, during his good behavior. Appointed pursuant to the act of June 18, 1910 (36 Stats., 540), and hereby designated to serve for four years in the Commerce Court.

In testimony whereof I have caused these letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Given under my hand, at the city of Washington, the 31st day of January, A. D. 1911, and of the Independence of the United States of America the one hundred and thirty-fifth.

[SEAL.]

By the President:

George W. Wickersham,

Attorney General.

Wodrow Archbald as district judge for the middle district of Pennsylvania, dated April 1, 1901, which is on file in this department.

In witness whereof I have hereunto set my hand and caused the scal of the Department of Justice to be affixed on the day and year first above written.

For the Attorney General.

[SEAL.]

J. A. FOWLER,

J. A. FOWLER, Assistant to the Attorney General.

Assistant to the Attorney General.

I, Robert Wodrow Archbald, do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as district judge of the middle district of Pennsylvania, according to the best of my ability and understanding, agreeably to the Constitution and laws of the United States, so help me God.

R. W. ARCHBALD.

Sworn and subscribed before me this 1st day of April, A. D. 1901.
H. M. Edwards,

President Judge of the Forty-fifth

Judicial District of Pennsylvania.

United States of America,
Department of Justice,
Washington, D. C., June 19, 1912.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original oath of Robert Wodrow Archbald as United States district judge for the middle district of Pennsylvania, dated April 5, 1901, which is on file in this department. In witness whereof I have hereunto set my hand and caused the seal of the Department of Justice to be affixed on the day and year first above written.

For the Attorney General. [SEAL.]

J. A. FOWLER,
Assistant to the Attorney General.

I, Robert Wodrow Archbald, do solemnly swear that I will superior and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

R. W. Archbald.

Sworn and subscribed before me this 5th day of April, A. D. 1901.
[SEAL.]

W. M. CURRY,
Notary Public.

United States of America,
Department of Justice,
Washington, D. C., June 19, 1912.

Pursuant to section 882 of the Revised Statutes, I bereby certify that the annexed paper is a true copy of the original oath of Robert Wodrow Archbald as a district judge for the middle district of Pennsylvania, dated December 21, 1901, a certified copy of which is on file in this department.

In witness whereof I have hereunto set my hand and caused the seal of the Department of Justice to be affixed on the day and year first above written.

For the Attorney General.
[SEAL.]

J. A. FOWLER, Assistant to the Attorney General.

STATE OF PENNSYLVANIA, County of Lackacanna, ss:

I. Robert Wodrow Archbald, do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as district judge to the middle district of Pennsylvania according to the best of my ability and understanding, agreeably to the Constitution and laws of the United States. So help me God.

R. W. ARCHBALD.

Sworn and subscribed before me this 21st day of December, A. D.

1901. [SEAL.]

George D. Taylor, United States Commissioner for the Middle District of Pennsylvania,

United States of America,
Department of Justice,
Washington, D. C., June 19, 1912.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original oath of Robert Wodrow Archbald as additional circuit judge of the United States from the third judicial circuit, which is on file in this department.

In witness whereof I have hereunto set my hand and caused the seal of the Department of Justice to be affixed, on the day and year first above written.

For the Attorney General.

[SEAL.]

J. A. FOWLER,
Assistant to the Attorney General.

OATH OF OFFICE FOR UNITED STATES JUDGES.

Given under my hand, at the city of Washington, the 31st day of annary, A. D. 1911, and of the Independence of the United States of merica the one hundred and thirty-fifth.

[SEAL.]

By the President:

GEORGE W. WICKERSHAM,

Attorney General.

UNITED STATES OF AMERICA,

DEPARTMENT OF JUSTICE,

Washington, D. C., June 19, 1912.

Pursuant to section 882 of the Revised Statutes, I hereby certify that he annexed paper is a true copy of the original oath of Robert

OATH OF OFFICE FOR UNITED STATES STATES JUDGES.

(Secs. 712 and 1757, Rev. Stat.)

I, Robert Wodrow Archbald, do solemnly swear that I will administer justice without respect to persons and do equal right to the poor and the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as additional circuit, appointed pursuant to four years in the Commerce Court, according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States; and that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that

I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

R. W. ARCHBALD.

Subscribed and sworn to before me this 1st day of February, 1911.

[SEAL.]

E. R. W. SEARLE,

Clerk District Court.

[Note.—The act of May 1, 1876 (1 Supp., R. S., 100), provides that the oaths of Territorial officers shall be administered in the Territory in which the office is held.]

Mr. LODGE. Mr. President, as it is now only three or four minutes of 6 o'clock, and I understand this is the last witness on this article, I move that the Senate sitting as a Court of Impeachment do now adjourn.

The motion was agreed to.

Thereupon the managers on the part of the House, the respondent, and his counsel retired.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were reopened, and (at 6 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, December 10, 1912, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate December 9, 1912.

Appointments in the Public Health Service.

Mather H. Neill to be assistant surgeon in the Public Health Service, United States, in place of Passed Asst. Surg. Thomas B. McClintic, deceased.

Alvin R. Sweeney to be assistant surgeon in the Public Health Service, United States. New position created by the sundry civil bill approved August 24, 1912. John Sundwall to be assistant surgeon in the Public Health

John Sundwall to be assistant surgeon in the Public Health Service of the United States, to rank as such from December 2, 1912. Mr. Sundwall is now serving under a temporary commission issued during the recess of the Senate.

PROMOTIONS IN THE REVENUE-CUTTER SERVICE.

First Lieut. Frederick Chamberlayne Billard to be captain in the Revenue-Cutter Service of the United States, to rank as such from September 12, 1912, in place of Capt. Howard Miles Broadbent, promoted. Mr. Billard is now serving under a temporary commission issued during the recess of the Senate.

porary commission issued during the recess of the Senate.

Second Lieut. George Ellender Wilcox to be first lieutenant in the Revenue-Cutter Service of the United States, to rank as such from August 27, 1912, in place of First Lieut. Albert Henry Bunner, retired. Mr. Wilcox is now serving under a temporary commission issued during the recess of the Senate.

Third Lieut. Clarence Henry Dench to be second lieutenant in the Revenue-Cutter Service of the United States, to rank as such from August 27, 1912, in place of Second Lieut. George Elleuder Wilcox, promoted. Mr. Dench is now serving under a temporary commission issued during the recess of the Senate.

APPOINTMENTS IN THE ARMY.

GENERAL OFFICERS.

Brig. Gen. William Wallace Wotherspoon to be major general from May 12, 1912, vice Maj. Gen. Frederick D. Grant, who died April 11, 1912.

Col. Edward J. McClernand, First Cavalry, to be brigadier general from August 27, 1912, vice Brig. Gen. William Wallace Wotherspoon, appointed major general.

CHAPLAINS.

Rev. Wallace Hubbard Watts, of New York, to be chaplain with the rank of first lieutenant from September 23, 1912, vice Chaplain John E. Dallam, Twenty-third Infantry, who died in March, 1912.

Rev. Joseph Matthew Kangley, of Illinois, to be chaplain with the rank of first lieutenant from November 4, 1912, vice Chaplain Joseph H. Sutherland, Twelfth Infantry, retired from active service March 21, 1912.

COAST ARTILLERY CORPS.

Stiles Morrow Decker, of Texas, late midshipman, United States Navy, to be second lieutenant in the Coast Artillery Corps, with rank from August 12, 1912.

To be second lieutenants with rank from November 25, 1912.

Archie Stanton Buyers, of New York. Ernest Leslie Osborne, of Connecticut, William Ayres Borden, of New York. Francis Tuttle Armstrong, of New York, Edwin Bright Spiller, of Virginia. Cecil George Young, of Connecticut. Carl Andrew Waldman, of Oregon.
Paul Wesley Evans, of Ohio.
Henry Armstrong Wingate, of the District of Columbia.
William Claude Washington, of Texas.
Alfred Bixby Quinton, jr., of Kansas.

CAVALRY ARM.

To be second licutenants with rank from November 30, 1912.

John Keith Boles, of New York.
Terry de la Mesa Allen, of Florida.

John Chilton McDonnell, of Maryland.

Jerome Willard Howe, of Pennsylvania.

Otto Wagner, of Pennsylvania.

William Trigg Pigott, jr., of Montana.

Clyde Vincent Simpson, of Wyoming.

Joseph Frank Richmond, of Tennessee.

Roy Stuart Brown, of Minnesota.

Louis Alexander Falligant, of Georgia.

Herbert Merton Ostroski, of Washington.

Paul Root Davison, of Illinois.

John Bernard Brooks, of Massachusetts.

John Breitling Coulter, of Texas.

William Anderson Raborg, jr., of Maryland.

Welton Mathew Modisette, of New York.

John Parsons Wheeler, of Maryland.

FIELD ARTILLERY ARM.

To be second lieutenants with rank from November 30, 1912.

Bertram Frankenberger, of West Virginia.

Raymond Brooks Austin, of Ohio.

Joseph Olden Daly, of Massachusetts.

Edwin Pearson Parker, jr., of the District of Columbia.

John Macaulay Eager, of Maine.

INFANTRY ARM.

To be second lieutenants with rank from November 30, 1912. Hamilton Templeton, of the District of Columbia. Hamilton Templeton, of the District of Columbia.

Edward Fuller Witsell, of South Carolina.

Alfred Loveday Rockwood, of California.

George Weeks Polhemus, of the District of Columbia.

Floyd Charles Hecox, of Illinois.

Carl Adolphus Hardigg, of Indiana.

Carl Lewis Cohen, of Georgia.

William Rudolph Gruber, of Ohio.

Russell Brown Patterson, of New Hampshire.

Francia Patrick Rogan of Wisconsin Francis Patrick Regan, of Wisconsin. Herbert Joseph Lawes, of Minnesota. Robert Crayton Williams, of Tennessee. Paul Xavier English, of Virginia. Estil Virgil Smith, of Illinois. Troy Houston Middleton, of Mississippi. Roland Francis Walsh, of South Carolina. Paul Murray, of Massachusetts. Robert George Calder, of New Jersey. William Daniel Faulkner, of Oklahoma. Edgar Adair Stadden, of Illinois. Roy Messick Jones, of Maryland. Arthur Read Christie, of New Jersey. Percy Edgar Van Nostrand, of Iowa. Frederic Vinton Hemenway, of Maine. Clarence Monroe Dodson, of Oregon. Virgil Vincent Enyart, of Ohio James Merriam Moore, of Michigan.
Frank Hudson Moody, of New York.
Percie Cobbs Rentfro, of Illinois.
George Alexander Speer, jr., of Georgia.
Sidney Burkhalter Colquitt, of Texas.
Carl Jay Ballinger, of Kansas.
Bichard Taillefor Taylor, of New York Richard Taillefer Taylor, of New York. John Robinson Baxter, of Ohio.

MEDICAL RESERVE CORPS.

To be first lieutenants.

Alvin Willis Schoenleber, of Illinois, from September 23, 1912. Harry Louis Dale, of Oregon, from September 23, 1912. Charles Clark Hillman, of Arkansas, from September 23, 1912. George Russell Callender, of Massachusetts, from September 23, 1912.

Oscar Dowling, of Louisiana, from September 27, 1912. Thomas Davies Coleman, of Georgia, from September 27, 1912. Charles Franklin Strosnider, of North Carolina, from Octo-

ber 3, 1912.

John Murdoch Pratt, of New York, from October 5, 1912.

Paul H. Ellis, of Nebraska, from October 5, 1912.

Donald Guthrie, of Penusylvania, from October 5, 1912.

Antonio Mayoral, jr., of Porto Rico, from October 5, 1912.

Eugene Edmund Murphey, of Georgia, from October 5, 1912. Frederick George Novy, of Michigan, from October 5, 1912. John Earle Pulver, of Nebraska, from October 5, 1912. Mazyck Porcher Ravenel, of Wisconsin, from October 5, 1912. Erik Martin Paulus Sward, of Iowa, from October 5, 1912. William Otis Bailey, of Massachusetts, from October 11, 1912. Herbert Atkins, of Kansas, from November 13, 1912.

Algernon Thomas Bristow, of New York, from November 13,

Howard Milford Brundage, of Ohio, from November 13, 1912. Edmund Russell Brush, of Ohio, from November 13, 1912. Burton Chance, of Pennsylvania, from November 13, 1912. Francis Miles Chisolm, of the District of Columbia, from November 13, 1912.

Warren Coleman, of New York, from November 13, 1912. George Sumner Crampton, of Pennsylvania, from November 1,

Ernest Charles Dalton, of Alaska, from November 13, 1912. Verne Adams Dodd, of Ohio, from November 13, 1912. Harry Quigg Fletcher, of Tennessee, from November 13, 1912. Howard Engler Harman, of Ohio, from November 13, 1912. Eugene Richards Lewis, of Iowa, from November 13, 1912. Edward Charles Ludwig of Ohio, from November 13, 1912. Francis Randolph Packard, of Pennsylvania, from November 13, 1912.

Herbert Lee Quickel, of Pennsylvania, from November 13, 1912

George Christian Schaeffer, of Ohio, from November 13, 1912. Fred Barrington Sutherland, of New York, from November 13, 1912.

Gustav Grant Fischlowitz, of New York, from November 13,

William James Mayo, of Minnesota, from November 21, 1912.

APPOINTMENTS, BY TRANSFER, IN THE ARMY.

CAVALRY ARM.

Second Lieut. Carl Peterson Dick, Twenty-second Infantry, to be second lieutenant of Cavalry, with rank from July 23, 1912. FIELD ARTILLERY ARM.

First Lieut. George M. Morrow, jr., Coast Artillery Corps, to be first lieutenant of Field Artillery, with rank from January 25, 1907.

COAST ARTILLERY CORPS.

First Lieut. Charles G. Mettler, Field Artillery (detailed captain in the Ordnance Department), to be first lieutenant in the Coast Artillery Corps, with rank from January 25, 1907.

PROMOTIONS IN THE ARMY.

CAVALRY ARM.

Lieut. Col. Edwin P. Brewer, Fourteenth Cavalry, to be colonel from August 28, 1912, under the provisions of an act of Congress approved March 3, 1911. The officer herein is named for advancement in grade in accordance with the rank he would have been entitled to hold had promotion been lineal throughout his arm since the date of his entry into the arm to which he permanently belongs.

Lieut. Col. James Lockett, Cavalry, unassigned, to be colonel from August 28, 1912, vice Col. Edward J. McClernand, First Cavalry, who accepted an appointment as brigadier general on

that date.

Maj. Henry T. Allen, Cavalry, unassigned, to be lieutenant colonel from August 28, 1912, vice Lieut. Col. August C. Macomb, unassigned, detached from his proper command.

Maj. John W. Heard, Sixth Cavalry, to be lieutenant colonel from September 15, 1912, vice Lieut. Col. Percy E. Trippe, unassigned, retired from active service September 14, 1912.

Maj. Stephen L'H. Slocum, Fifteenth Cavalry (since retired from active service), to be lieutenant colonel from September 17, 1912, vice Lieut. Col. Henry L. Ripley, Second Cavalry, retired from active service September 16, 1912.

Maj. William W. Forsyth, First Cavalry, to be lieutenant colonel from October 3, 1912, vice Lieut. Col. Stephen L'H. Slocum, unassigned, retired from active service October 2, 1912.

Capt. George T. Langhorne, Twelfth Cavalry, to be major from August 27, 1912, vice Maj. Charles C. Walcutt, jr., Fifth Cavalry, detailed as assistant to the Chief of the Bureau of Insular Affairs on that date.

Capt. Charles Young, Cavalry, unassigned, to be major from August 28, 1912, vice Maj. Farrand Sayre, Ninth Cavalry, de-

tached from his proper command.

Capt. Francis C. Marshall, Cavalry, unassigned, to be major from September 3, 1912, vice Maj. John T. Nance, Second Cavalry, retired from active service September 2, 1912,

Capt. James A. Ryan, Cavalry, unassigned, to be major from September 15, 1912, vice Maj. John W. Heard, Sixth Cavalry, promoted.

Capt. Frank M. Caldwell, Cavalry, unassigned, to be major from September 17, 1912, vice Maj. Stephen L'H. Slocum, Fif-

teenth Cavalry, promoted.
Capt. James J. Hornbrook, Cavalry, unassigned, to be major from October 3, 1912, vice Maj. William W. Forsyth, First Cavalry, promoted.

Capt. William F. Clark, Fourth Cavalry, to be major from October 31, 1912, vice Maj. Matthew F. Steele, Second Cavalry, retired from active service October 30, 1912.

First Lieut. George P. Tyner, Second Cavalry, to be captain from August 27, 1912, vice Capt. George T. Langhorne, Twelfth Cavalry, promoted.

First Lieut. Walter F. Martin, Second Cavalry, to be captain from August 28, 1912, vice Capt. Charles C. Farmer, jr., Fourth Cavalry, detached from his proper command.

First Lieut. Henry J. McKenney, Thirteenth Cavalry, to be captain from September 3, 1912, vice Capt. James C. Rhea, Seventh Cavalry, detached from his proper command.

First Lieut. Oscar A. McGee, Second Cavalry, to be captain from October 3, 1912, vice Capt. James J. Hornbrook, unassigned, promoted.

First Lieut. John S. E. Young, Thirteenth Cavalry, to be captain from October 31, 1912, vice Capt. William F. Clark,

Fourth Cavalry, promoted.

First Lieut. Oliver P. M. Hazzard, Second Cavalry, to be captain from November 13, 1912, vice Capt. Fred W. Hershler, Ninth Cavalry, retired from active service November 12, 1912.

Second Lieut. Frederick T. Dickman, Eleventh Cavalry, to be first lieutenant from August 27, 1912, vice First Lieut. George

P. Tyner, Second Cavalry, promoted.
Second Lieut. Adna R. Chaffee, jr., Fifteenth Cavalry, to be first lieutenant from August 28, 1912, vice First Lieut. Walter

F. Martin, Second Cavalry, promoted.
Second Lieut. George W. De Armond, Twelfth Cavalry, to be first lieutenant from October 3, 1912, vice First Lieut. Oscar A.

McGee, Second Cavalry, promoted.

Second Lieut. John G. Quekemeyer, Fifth Cavalry, to be first lieutenant from October 31, 1912, vice First Lieut. John S. E.

Young, Thirteenth Cavalry, promoted. Second Lieut. Frank M. Andrews, Eighth Cavalry, to be first lieutenant from November 13, 1912, vice First Lieut, Oliver P. M. Hazzard, Second Cavalry, promoted.

FIELD ARTILLERY ARM.

Maj. William L. Kenly, Fifth Field Artillery, to be lieutenant colonel from August 26, 1912, vice Lieut. Col. Peyton C. March,

Sixth Field Artillery, detailed as Adjutant General on that date. Capt. Harry G. Bishop, Third Field Artillery, to be major from August 26, 1912, vice Maj. William L. Kenly, Fifth Field

Artillery, promoted.

First Lieut. Charles J. Ferris, Fourth Field Artillery, to be captain from August 26, 1912, vice Capt. Harry G. Bishop,

Third Field Artillery, promoted.
Second Lieut. Samuel R. Hopkins, Third Field Artillery, to be first lieutenant from August 26, 1912, vice First Lieut. Charles

J. Ferris, Fourth Field Artillery, promoted.
Second Lieut. Charles P. Hollingsworth, First Field Artillery, to be first lieutenant from September 6, 1912, vice First Lieut. Otho V. Kean, unassigned, resigned September 5, 1912.

COAST ARTILLERY CORPS.

Second Lieut, William N. Porter, Coast Artillery Corps, to be first lieutenant from September 1, 1912, vice First Lieut, Henry W. T. Eglin, detached from his proper command.

Second Lieut. Maurice B. Willett, Coast Artillery Corps, to be first lieutenant from October 20, 1912, vice First Lieut. West C. Jacobs, detached from his proper command.

PAY DEPARTMENT.

Maj. Beecher B. Ray, paymaster, to be Deputy Paymaster General, with the rank of lieutenant colonel from February 16, 1912, vice Lieut. Col. Hamilton S. Wallace, promoted.

CORPS OF ENGINEERS.

Maj. E. Eveleth Winslow, Corps of Engineers, to be lieutenant colonel from October 12, 1912, vice Lieut. Col. Graham D. Fitch, retired from active service October 11, 1912.

Capt. George B. Pillsbury, Corps of Engineers, to be major from October 12, 1912, vice Maj. E. Eveleth Winslow, promoted. First Lieut. Francis B. Wilby, Corps of Engineers, to be cap-tain from September 29, 1912, vice Capt. Charles T. Leeds, retired from active service September 28, 1912.

First Lieut. Clarence S. Ridley, Corps of Engineers, to be captain from October 12, 1912, vice Capt. George B. Pillsbury,

Second Lieut. Lindsay C. Herkness, Corps of Engineers, to be first lieutenant from September 29, 1912, vice First Lieut.

Francis B. Wilby, promoted.

Second Lieut. Albert K. B. Lyman, Corps of Engineers, to be first lieutenant from October 12, 1912, vice First Lieut. Clarence S. Ridley, promoted.

INFANTRY ARM.

Lieut. Col. Samuel W. Miller, Infantry, unassigned, to be colonel from November 12, 1912, vice Col. Francis W. Mansfield, Second Infantry, retired from active service November 11, 1912

Maj. Clarence E. Dentler, Fifteenth Infantry, to be lieutenant colonel from September 8, 1912, vice Lieut. Col. Wendell L. Simpson, unassigned, retired from active service September 7,

Maj. Henry D. Styer, Twenty-ninth Infantry, to be lieutenant colonel from November 12, 1912, vice Lieut. Col. Harry C. Hale, Seventeenth Infantry, detached from his proper command.

Capt. John J. Bradley, Fourteenth Infantry, to be major from May 30, 1912, vice Maj. Joseph P. O'Neil, Thirtieth Infantry, promoted.

Capt. Douglas Settle, Fifth Infantry, to be major from August 16, 1912, vice Maj. Wendell L. Simpson, Fifteenth Infantry, promoted.

Capt. John S. Switzer, Fourth Infantry, to be major from September 8, 1912, vice Maj. Clarence E. Dentler, Fifteenth Infantry, promoted.

Capt. Herbert O. Williams, detailed in the Quartermaster Corps, to be major of Infantry from October 13, 1912, vice Maj. John H. Wholley, Second Infantry, who died October 12, 1912.

Capt. George D. Guyer, Sixteenth Infantry, to be major from November 12, 1912, vice Maj. Henry D. Styer, Twenty-ninth

Infantry, promoted.

First Lieut. Benjamin H. Pope, Ninth Infantry, to be captain from May 30, 1912, vice Capt. John J. Bradley, Fourteenth

Infantry, promoted.

First Lieut. Julian L. Dodge, Sixth Infantry, to be captain from August 16, 1912, vice Capt. Douglas Settle, Fifth Infantry, promoted.

First Lieut. Herman Glade, Sixth Infantry, to be captain from August 22, 1912, vice Capt. William E. Hunt, Twenty-second Infantry, detailed as quartermaster on that date.

First Lieut. Frank S. Bowen, Twentieth Infantry, to be captain from October 20, 1912, vice Capt. Graham L. Johnson,

Eighth Infantry, resigned October 19, 1912.

QUARTERMASTER CORPS.

Brig, Gen. James B. Aleshire, Quartermaster General, to be Chief of the Quartermaster Corps, with the rank of major general, for the period of four years beginning August 24, 1912, with rank from that date, to fill an original vacancy.

Capt. Frederic H. Pomroy, Quartermaster Corps, to be major (subject to examination required by law), with rank from November 1, 1912.

ORDNANCE DEPARTMENT.

Lieut. Col. William W. Gibson, Ordnance Department, to be colonel from September 2, 1912, vice Col. Stanhope E. Blunt, retired from active service September 1, 1912.

Maj. Tracy C. Dickson, Ordnance Department, to be lieutenant colonel from September 2, 1912, vice Lieut. Col. William W. Gibson, promoted.

CHAPLAIN.

Chaplain (Capt.) Ivory H. B. Headley, Coast Artillery Corps, to be chaplain, with the rank of major, from September 22, 1912, vice Chaplain Henry Swift, Fourteenth Cavalry, retired from active service September 21, 1912

PROMOTIONS IN THE NAVY.

The following-named lieutenants to be lieutenants in the Navy from the dates set opposite their names, to correct the dates from which they take rank as previously confirmed:

William C. Barker, ir., March 4, 1911; George S. Bryan, March 8, 1911; August C. Wilhelm, March 24, 1911; Roy L. Lowman, May 19, 1911; Robert L. Ghormley, June 14, 1911; Isaac C. Bogart, July 1, 1911; Isaac C. Shute, July 3, 1911; Pierre L. Wilson, July 13, 1911; Owen Bartlett, August 3, 1911; Walter F. Jacobs, August 4, 1911; Leo F. Welch, August 15, 1911; Carroll S. Graves, September 14, 1911;

Harry L. Pence, September 24, 1911; Ferdinand L. Reichmuth, October 11, 1911; Harvey Delano, October 17, 1911;
Wolcott E. Hall, October 20, 1911;
Isaac C. Kidd, October 26, 1911;
Fred M. Perkins, December 14, 1911;
Robert A. White, December 22, 1911;
Frank H. Roberts, January 25, 1912;
Lewis D. Causey, February 10, 1912;
Henry G. Fuller, February 16, 1912;
Andrew S. Hickov, March 2, 1912. Henry G. Fuller, February 16, 1912; Andrew S. Hickey, March 2, 1912; Edward S. Moses, April 27, 1912; Stuart W. Cake, May 3, 1912; Stephen Doherty, May 10, 1912; Charles A. Woodruff, June 7, 1912; Ronan C. Grady, July 1, 1912; and Reuben L. Walker, July 2, 1912.

Lieut. (Junior Grade) Joe R. Morrison to be a lieutenant in the Navy from the 28th day of July, 1912, to fill a vacancy.

Medical Inspector Francis S. Nash, an additional number in grade, to be a medical director in the Navy from the 2d day of September, 1912, with the officer next below him.

Medical Inspector Oliver D. Norton to be a medical director in the Navy from the 2d day of September, 1912, to fill a vacancy.

Surg. George A. Lung to be a medical inspector in the Navy from the 2d day of September, 1912, to fill a vacancy.

Surg. John L. Neilson to be a surgeon in the Navy from the 20th day of July, 1912, to correct the date from which he takes rank as previously confirmed.

Surg. Frederick W. S. Dean to be a surgeon in the Navy from the 29th day of July, 1912, to correct the date from which he takes rank as previously confirmed.

Passed Asst. Surg. Clarence F. Ely to be a surgeon in the Navy from the 7th day of August, 1912, to fill a vacancy. The following-named citizens to be assistant surgeons in

the Navy from the 23d day of September, 1912, to fill vacancies: Dana C. Post, a citizen of Michigan, and

William E. Findeisen, a citizen of New York. Norman R. Sullivan, a citizen of Illinois, to be an assistant surgeon in the Navy from the 1st day of November, 1912, to fill a vacancy

The following-named passed assistant paymasters to be paymasters in the Navy from the 22d day of August, 1912, to fill vacancies created by an act of Congress approved that date:

David G. McRitchie, Philip J. Willett, Ben D. McGee, Neal B. Farwell, Reginald Spear, Elijah H. Cope, Brainerd M. Dobson, William W. Lamar, and William L. F. Simonpietri.

The following-named assistant paymasters to be passed assistant paymasters in the Navy from the 22d day of August, 1912, to fill vacancies:

John F. O'Mara, James P. Helm, Byron D. Rogers, Edward C. Little, Frank Baldwin, Manning H. Philbrick, and Henry L. Beach.

The following-named assistant paymasters to be passed assistant paymasters in the Navy from the 23d day of August, 1912, to fill vacancies:

John H. Knapp, Fred E. McMillen, Maurice H. Karker, William R. Van Buren,

Whitam R. Van Butch, Raymond E. Corcoran, Elwood A. Cobey, and Robert S. Chew, jr. The following-named citizens to be assistant paymasters in The following-named citizens to be assistant paymasters in the Navy from the 20th day of September, 1912, to fill vacancies; Herman G. Bowerfind, a citizen of Ohio; Richard E. Lambert, a citizen of Oregon; Charles C. Copp, a citizen of Iowa; John J. Gaffney, a citizen of South Carolina; Lawrence A. Odlin, a citizen of New Hampshire; and

James H. Colhoun, a citizen of Maryland.

John A. Byrne, a citizen of Missouri, to be an assistant paymaster in the Navy from the 27th day of September, 1912, to fill a vacancy.

Richard S. Robertson, a citizen of Texas, to be an assistant paymaster in the Navy from the 12th day of November, 1912, to fill a vacancy.

The following-named citizens to be assistant paymasters in the Navy from the 3d day of December, 1912, to fill vacancies; Charles V. McCarty, a citizen of Texas;

Eaton C. Edwards, a citizen of the District of Columbia;

David T. Chalmers, a citizen of Virginia; John A. Harman, a citizen of Virginia; and John B. Ewald, a citizen of Virginia.

The following-named pharmacists to be chief pharmacists in the Navy from the 22d day of August, 1912, in accordance with the provisions of an act of Congress approved on that date:

Charles E. Reynolds, John W. Wood, Alrik Hammar, John D. Milligan, Joseph F. Pearson, Hubert Henry,

Edward R. Noyes,
Frederick W. Breck, and
Laurence O. Schetky.
First Lieut. Fred D. Kilgore to be a captain in the Marine Corps from the 22d day of August, 1912, to fill a vacancy.
First Lieut. William E. Parker to be a captain in the Marine

Corps from the 22d day of August, 1912, to fill a vacancy. First Lieut, William M. Small to be a captain in the Marine

Corps from the 16th day of September, 1912, to fill a vacancy. The following-named second lieutenants to be first lieutenants in the Marine Corps from the 22d day of August, 1912, to fill vacancies:

Clarence C. Riner, Leon W. Hoyt, Julian C. Smith, Charles J. Miller, Otto Becker, jr., Leander A. Clapp, and William S. Harrison.

Second Lieut. Thomas S. Clarke, to be first lieutenant in the Marine Corps from the 16th day of September, 1912, to fill a

The following-named citizens to be second lieutenants in the Marine Crops from the 7th day of November, 1912, to fill vacan-

Philip T. Case, United States Marine Corps;

Paul C. Marmion, a citizen of District of Columbia; Lowry B. Stephenson, a citizen of District of Columbia; John L. Mayer, a citizen of Pennsylvania;

Benjamin A. Moeller, United States Marine Corps;

Clyde II. Metcalf, a citizen of Arkansas; and Harold C. Pierce, a citizen of Massachusetts.

The following-named midshipmen to be ensigns in the Navy from the 8th day of June, 1912, in accordance with the provisions of an act of Congress approved March 7, 1912:

Allen H. Guthrie and Joseph Y. Dreisonstok.

Asst. Civil Engineer Albert A. Baker to be a civil engineer in the Navy from the 16th day of October, 1912, to fill a vacancy.

GOVERNOR OF HAWAII.

Walter F. Frear, of Honolulu, to be governor of Hawaii, his term having expired December 18, 1911. (Reappointment.)

SECRETARY OF HAWAII.

Ernest A. Mott-Smith, of Honolulu, to be secretary of Hawaii, his term having expired December 18, 1911. (Reappointment.) UNITED STATES MARSHAL.

Phil E. Baer, of Texas, to be United States marshal, eastern district of Texas, vice Dupont B. Lyon, removed.

COLLECTOR OF CUSTOMS.

John F. O'Brien, of New York, to be collector of customs for the district of Champlain, in the State of New York. (Reappointment.)

POSTMASTERS.

ALABAMA.

James W. Pilgreen to be postmaster at Calera, Ala., in place of James W. Pilgreen. Incumbent's commission expires December 16, 1912.

Newton L. Wilson to be postmaster at Blocton, Ala., in place of Newton L. Wilson. Incumbent's commission expires December 16, 1912.

CALIFORNIA.

Walter M. Avis to be postmaster at Pomona, Cal., in place of Walter M. Avis. Incumbent's commission expired December 12, 1911.

Nelson Bowerman to be postmaster at Soldiers Home, Cal., in place of H. C. Hollenbeck, resigned.

John L. Butler to be postmaster at Colfax, Cal., in place of John L. Butler. Incumbent's commission expires January 28, 1913.

George F. Hirsch to be postmaster at Long Beach (late Longbeach), Cal., in place of George F. Hirsch, to change name of

James L. Matthews to be postmaster at Covina, Cal., in place of James L. Matthews. Incumbent's commission expired February 4, 1912.

Frederick B. Nichols to be postmaster at McCloud, Cal., in place of Frederick B. Nichols. Incumbent's commission expires December 14, 1912.

Charles A. Stilson to be postmaster at Oceanpark, Cal., in place of Charles A. Stilson. Incumbent's commission expired January 20, 1912.

John W. Wood to be postmaster at Pasadena, Cal., in place of John W. Wood. Incumbent's commission expired February

COLORADO.

Minnie L. Bunker to be postmaster at Paonia, Colo., in place

of John A. Bunker, deceased.

David E. Gray to be postmaster at Greeley, Colo., in place of David E. Gray. Incumbent's commission expires January 11,

Ira L. Herron to be postmaster at Longmont, Colo., in place of Ira L. Herron. Incumbent's commission expires January 22, 1913,

Susan K. Herrington to be postmaster at Montrose, Colo., in place of George A. Herrington, resigned.

Henry W. Lance to be postmaster at Rocky Ford, Colo., in place of Henry W. Lance. December 16, 1912. Incumbent's commission expires

Griffith L. Lewis to be postmaster at Cripple Creek, Colo., in place of Griffith L. Lewis. Incumbent's commission expires December 16, 1912.

Robert S. Lewis to be postmaster at Canon City, Colo., in place of Robert S. Lewis. Incumbent's commission expires December 16, 1912.

Mårshall Moore to be postmaster at Fort Collins, Colo., in Incumbent's commission expires place of Marshall Moore. February 9, 1913.

William C. Sloan to be postmaster at Creede, Colo., in place of William C. Sloan. Incumbent's commission expires February 9, 1913.

L. W. Terrell to be postmaster at Englewood, Colo., in place

of Mary E. Williams, resigned.
Nimrod S. Walpole to be postmaster at Pueblo, Colo., in place of Nimrod S. Walpole. Incumbent's commission expires January 20, 1913.

CONNECTICUT.

Nelson Ritch Jessup to be postmaster at Stamford, Conn., in place of Nelson Ritch Jessup. Incumbent's commission expires December 14, 1912.

FLORIDA.

Charles E. Kettle to be postmaster at Hastings, Fla., in place of R. C. Harris, resigned.

GEORGIA.

Warren Edwards to be postmaster at Milledgeville, Ga., in place of James L. Sibley, removed.

Oscar Hyde to be postmaster at Cumming, Ga., in place of

John E. Puett. Incumbent's commission expired May 22, 1912. L. Q. Stubbs to be postmaster at Dublin, Ga., in place of

George B. Grier. Incumbent's commission expires February 1, 1913.

ILLINOIS.

Edward Cosart to be postmaster at Cowden, Ill., in place of Edward Cosart. Incumbent's commission expires January 11,

John Holliday to be postmaster at Kirkwood, Ill., in place of John Holliday. Incumbent's commission expires December 14, 1912.

Charles H. Hurt to be postmaster at Barry, Ill., in place of Charles H. Hurt. Incumbent's commission expires January 26, 1913.

Robert L. Lutton to be postmaster at Clifton, Ill., in place of Robert L. Lutton. Incumbent's commission expires December 14, 1912.

Belle McCann to be postmaster at Seneca, Ill., in place of

Joel W. Ellis. Incumbent's commission expires December 14,

Robert J. Morray to be postmaster at Creal Springs, Ill., in place of Robert J. Morray. Incumbent's commission expires December 14, 1912.

William L. Spear to be postmaster at Rankin, Ill., in place of William L. Spear. Incumbent's commission expires December 14, 1912.

Joseph F. Thompson to be postmaster at Bement, Ill., in place of George M. Thompson. Incumbent's commission expires January 14, 1913.

TOWA.

W. T. Davidson to be postmaster at Hamburg, Iowa, in place of W. R. Harris, resigned.

John C. Meredith to be postmaster at Allerton, Iowa, in place of John C. Meredith. Incumbent's commission expires December 14, 1912.

John H. Scholsser to be postmaster at Dallas Center, Iowa, in place of George H. Loring, resigned.

KANSAS.

June B. Smith to be postmaster at Cottonwood Falls, Kans., in place of June B. Smith. Incumbent's commission expired March 31, 1912.

MAINE.

Edward B. Buck to be postmaster at Foxcroft, Me., in place of Edward B. Buck. Incumbent's commission expires December 14, 1912.

Freeman D. Dearth to be postmaster at Dexter, Me., in place of Freeman D. Dearth. Incumbent's commission expires December 14, 1912.

Frank W. Mallett to be postmaster at Fort Kent, Me., in place of Frank W. Mallett. Incumbent's commission expires

December 14, 1912.

Charles F. Plumly to be postmaster at Lincoln, Me., in place of Charles F. Plumly. Incumbent's commission expires December 14, 1912.

MICHIGAN.

Thomas H. Berryman to be postmaster at Mohawk, Mich., in place of Thomas H. Berryman. Incumbent's commission expires December 14, 1912.

Theron D. Childs to be postmaster at Three Oaks, Mich., in place of Theron D. Childs. Incumbent's commission expires December 14, 1912.

MINNESOTA.

George P. Tawney to be postmaster at Winona, Minn., in place of George P. Tawney. Incumbent's commission expired December 9, 1911.

Charles E. Ward to be postmaster at Ada, Minn., in place of Charles E. Ward. Incumbent's commission expired March 28, 1910.

MISSOURI.

Solomon R. McKay to be postmaster at Troy, Mo., in place of Solomon R. McKay. Incumbent's commission expires December

George Stoolfer to be postmaster at Skidmore, Mo., in place of George Stoolfer. Incumbent's commission expires December 14, 1912.

MONTANA.

Caspar L. Gayle to be postmaster at Manhattan, Mont., in place of Caspar L. Gayle. Incumbent's commission expires January 14, 1913.

E. B. Thayer to be postmaster at Columbus, Mont., in place of E. B. Thayer. Incumbent's commissions. 26, 1913.

NEBRASKA.

Charles W. Meeker to be postmaster at Imperial, Nebr., in place of Charles W. Meeker. Incumbent's commision expires

December 17, 1912.

Maroni H. Tyson to be postmaster at Elmwood, Nebr., in place of William K. Sargent, resigned.

NEW HAMPSHIRE.

John H. Brown to be postmaster at Concord, N. H., in place of John H. Brown. Incumbent's commission expired December 9, 1912.

E. Bertram Pike to be postmaster at Pike, N. H., in place of Bertram Pike. Incumbent's commission expires December 14, 1912.

NEW YORK.

N. Austin Baker to be postmaster at Salem, N. Y., in place of N. Austin Baker. Incumbent's commission expires December

William H. Clark to be postmaster at Nichols, N. Y., in place of William H. Clark. Incumbent's commission expires December 16, 1912.

Charles W. Fletcher to be postmaster at Montour Falls, N. Y. in place of Charles W. Fletcher. Incumbent's commission expires December 16, 1912.

Frank A. Frost to be postmaster at Watkins, N. Y., in place of Frank A. Frost. Incumbent's commission expires January

Frederick B. Powell to be postmaster at Amityville, N. Y., in place of Frederick B. Powell. Incumbent's commission expires December 16, 1912.

NORTH CAROLINA.

Ella A. Atkins to be postmaster at Lillington, N. C. Office became presidential January 1, 1912.

Edward C. Beaman to be postmaster at Farmville, N. C.

Office became presidential October 1, 1911.

John W. Brown to be postmaster at Oxford, N. C., in place of John W. Brown. Incumbent's commission expired February 27, 1912.

Eugene Brownlee to be postmaster at Tryon, N. C., in place of Eugene Brownlee. Incumbent's commission expired January 28, 1912,

William H. Cox to be postmaster at Laurinburg, N. C., in place of William H. Cox. Incumbent's commission expired December 17, 1911.

Samuel M. Hamrick to be postmaster at Hickory, N. C., in place of Samuel M. Hamrick. Incumbent's commission expired December 17, 1911.

John R. Joyce to be postmaster at Reidsville, N. C., in place of John R. Joyce. Incumbent's commission expired January 28,

William A. Mace to be postmaster at Beaufort, N. C., in place of William A. Mace. Incumbent's commission expired December 19, 1910.

Luren D. Mendenhall to be postmaster at Randleman, N. C., in place of Luren D. Mendenhall. Incumbent's commission expired January 28, 1912.

George W. Robbins to be postmaster at Rocky Mount, N. C., in place of George W. Robbins. Incumbent's commission expired May 20, 1912.

Frank Roberts to be postmaster at Marshall, N. C., in place of Frank Roberts. Incumbent's commission expired December 17, 1911.

Charles F. Smathers to be postmaster at Canton, N. C., in place of Charles F. Smathers. Incumbent's commission expired January 28, 1912.

George W. Stepp to be postmaster at Black Mountain, N. C. Office became presidential July 1, 1912.

Henry J. Whitt to be postmaster at Roxboro, N. C., in place of Henry J. Whitt. Incumbent's commission expired December 17, 1911.

OHIO.

Henry H. Dibble to be postmaster at Canal Winchester, Ohio, in place of Henry H. Dibble. Incumbent's commission expires January 21, 1913.

William W. Dowdell to be postmaster at Quaker City, Ohio, in place of William W. Dowdell. Incumbent's commission expired May 16, 1912.

Frank Holmes to be postmaster at Nevada, Ohio, in place of William P. Gillam. Incumbent's commisson expired May 16,

William W. Reed to be postmaster at Kent, Ohio, in place of William W. Reed. Incumbent's commission expires January 21, 1913.

PENNSYLVANIA.

Lewis E. Davis to be postmaster at Centralia, Pa., in place of Ralph M. Lashelle, sr., resigned.

Alfred R. Houck to be postmaster at Lebanon, Pa., in place of Alfred R. Houck. Incumbent's commission expires January, 26, 1913.

Frank Eugene Merts to be postmaster at Uniontown, Pa., in place of William W. Greene. Incumbent's commission expired. April 6, 1912.

Louise M. Reynolds to be postmaster at Reedsville, Pa., in place of Daniel W. Reynolds, deceased.

George C. Wagenseller to be postmaster at Selinsgrove, Pa. in place of George C. Wagenseller. Incumbent's commission expired January 29, 1911.

SOUTH DAKOTA.

Clark L. Kemis to be postmaster at Beresford, S. Dak., in

place of Charles A. Ramsdell, deceased.

Thomas T. Smith to be postmaster at Canton, S. Dak., in place of Thomas T. Smith. Incumbent's commission expires December 17, 1912.

TENNESSEE.

Terry Abernathy to be postmaster at Selmer, Tenn. Office became presidential October 1, 1912.

William M. Bray to be postmaster at Henderson, Tenn., in place of William M. Bray. Incumbent's commission expired January 31, 1912.

James H. Christian to be postmaster at Smithville, Tenn., in place of James H. Christian. Incumbent's commission expires

March 3 1913

Elbert T. Reavis to be postmaster at Dresden, Tenn., in place of John P. Gibbs. Incumbent's commission expired May 15,

TEXAS.

Henry A. Cady to be postmaster at Ballinger, Tex., in place of Henry A. Cady. Incumbent's commission expired February

Jonathan S. Page, jr., to be postmaster at Payson, Utah, in place of Jonathan S. Page, jr. Incumbent's commission expires December 17, 1912

VERMONT.

Lyman P. Bailey to be postmaster at Putney, Vt., in place of Lyman P. Bailey. Incumbent's commission expires December

WEST VIRGINIA.

J. W. Edwards to be postmaster at Welch, W. Va., in place of J. W. Edwards. Incumbent's commission expires December 14, 1912.

WISCONSIN.

Julian Villier to be postmaster at Port Washington, Wis., in place of Eugene S. Turner. Incumbent's commission expired April 24, 1912.

George E. King to be postmaster at Winneconne, Wis., in place of George E. King. Incumbent's commission expires December 14, 1912.

WYOMING.

Frederick E. Davis to be postmaster at Wheatland, Wyo., in place of Frederick E. Davis. Incumbent's commission expires December 17, 1912.

CONFIRMATION.

Executive nomination confirmed by the Senate December 9, 1912. TREASURER OF THE UNITED STATES.

Carmi A. Thompson to be Treasurer of the United States.

HOUSE OF REPRESENTATIVES.

Monday, December 9, 1912.

The House met at 12 o'clock noon,

The Chaplain, Rev. Henry N. Couden, D. D., offered the fol-

lowing prayer:

Our Father in heaven, on earth, and in the hearts of men, we approach Thee with profound gratitude for life, liberty, and all that makes life dear. Help us to realize that as "eternal vigilance is the price of liberty," so it is the price of all that makes for righteousness in the soul. Make us, therefore, zealous in all good works, that we may all come unto the measure of the stature of the fullness of Christ, and unto Thee we will give all praise. Amen.

The Journal of the proceedings of Saturday, December 7,

1912, was read and approved.

DISTRICT DAY.

The SPEAKER. The Chair will state that this is the day set apart for the consideration of District of Columbia business.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

The SPEAKER. Of course the motion made by the gentle-

man from South Carolina is a privileged motion, but before putting the question the Chair will again state that this is the day set apart for the consideration of business relating to the District of Columbia. If no one desires to call up any District business, the Chair will put this motion. [After a South Carolina that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the legislative, executive, and judicial appropriation bill.

The motion was agreed to; accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. the legislative, executive, and judicial appropriation bill, with Mr. GARNER in the chair.
The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Enforcement of navigation laws: To enable the Secretary of Commerce and Labor to provide and operate such motor boats and employ thereon such persons as may be necessary for the enforcement, under his direction by customs officers, of the laws relating to the navigation and inspection of vessels, boarding of vessels, and counting of passengers on excursion boats, \$15,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. Will the gentleman from South Carolina please say whether this is a new item or has it been regularly provided for heretofore? I refer to the appropriation of \$15,000 for the enforcement of the navigation laws.

Mr. JOHNSON of South Carolina. It is the current law.

There is no change whatever.

Mr. MOORE of Pennsylvania. There is nothing new in the paragraph?

Mr. JOHNSON of South Carolina. Nothing new.

The Clerk read as follows:

The Clerk read as follows:

Enforcement of wireless communication laws: To enable the Secretary of Commerce and Labor to enforce the acts of Congress "to require apparatus and operators for radio communication on certain ocean steamers" and "to regulate radio communication" and carry out the International Radio Telegraphic Convention, and to employ such persons and means as may be necessary, this employment to include salaries of employes in Washington not exceeding \$5,800, traveling and subsistence expenses, printing, purchase and exchange of instruments, technical books, rent, and all other miscellaneous items and necessary expenses not included in the foregoing, \$37,880.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. This item for the enforcement of miscales communication laws is new is it not?

wireless communication laws is new, is it not?

Mr. JOHNSON of South Carolina. Mr. Chairman, I will state that there is no change whatever in the amount appropriated. The difference is in this, that in the last legislative bill we carried \$10,000, while the deficiency bill carried \$27,000. In order that we might keep it together we bring it forward in one item in this bill.

Mr. MOORE of Pennsylvania. New legislation was passed

last year regulating radiotelegraphy.

Mr. JOHNSON of South Carolina. Yes. The gentleman will understand that at the time the legislative bill passed we incorporated \$10,000 for that purpose. After the legislative bill had passed the House there was legislation upon the subject. Then the deficiency bill made an appropriation of \$27,000 in addition to what we had appropriated in order to carry out that law. We now bring both of the amounts forward in this bill.

Mr. MOORE of Pennsylvania. Ten thousand dollars was in anticipation of what would be needed under the new law?

Mr. JOHNSON of South Carolina. Yes. We were doing

then by departmental regulation what we are now doing by

Mr. MOORE of Pennsylvania. And the department will now be in a position to go ahead and regulate these private enterprises?

Mr. JOHNSON of South Carolina. Yes.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and the Speaker having resumed the chair, a message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

For Division of Information established under section 40 of the act approved February 20, 1907, entitled "An act to regulate the immigrations of allens into the United States," namely: Chief of division, \$3,500; assistant chief of division, \$2,500; clerks—2 of class 4, 1 of class 3, 2 of class 2, 3 of class 1, 1 at \$900; messenger; in all, \$19,240.

Mr. RODDENBERY, Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk and ask to have

The Clerk read as follows:

Amend, page 129, line 22, by striking out all of line 22 after the word "one" and insert the following:

"Provided, That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States the following persons shall also be excluded from admission thereto, to wit: All aliens over 16 years of age, physically capable of reading, who can not read the English language, or the language or dialect of some other country, including Hebrew or Yiddish: Provided, That any admissible alien or any alien heretofore or hereafter legally admitted or any citizen of the United States may bring in or send for his father or grandfather over 55 years of age,

his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to land.

"Sec. 2. That for the purpose of ascertaining whether aliens can read or not the immigrant inspectors shall be furnished with copies of uniform slips, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plain type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip.

"Sec. 3. That the following classes or persons shall be exempt from the operation of this act, to wit: (a) All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; (b) all aliens in transit through the United States; (c) all aliens who have been lawfully admitted to the United States; (c) all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory.

"Sec. 4. That an alien refused admission to the United States under the provisions of this act shall be sent back to the country whence he came in the manner provided by section 19 of 'An act to regulate the immigration of aliens into the United States,' approved February 20, 1907."

During the reading of the foregoing.

During the reading of the foregoing,

Mr. BURLESON (interrupting the reading). Mr. Chairman, it is patent from what has been already read that this is subject to a point of order, and I make the point of order that it is new legislation.

The CHAIRMAN. As the Chair understands it, the amend-

ment must be reported.

Mr. BURLESON. It is not necessary that it should be reported in full, if it is patent that it is subject to a point of

Mr. RODDENBERY. Mr. Chairman, before there is any ruling on the point of order at any stage I should like to be heard

The CHAIRMAN. The Chair will permit the amendment to be read.

The Clerk then concluded the reading of the proposed amend-

The CHAIRMAN. The gentleman from Texas [Mr. Bur-LESON] makes the point of order against the amendment that it is new legislation. Does the gentleman from Georgia desire to be heard?

Mr. RODDENBERY. Mr. Chairman, I desire to submit that under the rules of the House the motion reduces the number of offices and reduces the expenditures provided for in the bill, and offers an amendment to a statute, the subject of immigration, with which subject the paragraph to which it is offered deals and which statute is specifically mentioned in the paragraph.

The paragraph reads as follows:

For division of information established under section 40 of the act approved February 20, 1907, entitled "An act to regulate the immigration of aliens into the United States," namely—

Then it recites the officers for the administration of that law. The amendment offered provides in terms that an additional class of persons other than those mentioned particularly in the act recited in the bill shall be excluded from admission to the United States, providing in its terms that this exclusion shall in no way limit or restrict the present prohibited classes as mentioned in the particular paragraph of the pending appropriation bill to which the amendment is offered. It goes further and provides and regulates the condition and manner upon which they may be admitted and the condition and manner in which nonadmissible aliens may be deported from the United States, and section 4 of my amendment specifically provides that an alien refused admission to the United States under the provisions of this act shall be sent back to the country whence he came in the manner provided by section 19 of an act to regulate the immigration of aliens into the United States, approved February 20, 1907, and the act of February 20, 1907, is the same act to which the paragraph and the section of the measure to which this amendment is offered relates. Even if it is new legislation it is germane to the bill as it is legislation which retrenches expenditures and reduces the number of offices in the Federal Government. It is so clearly a proper amendment to be offered to this bill, Mr. Chairman, under more than one rule of the House that I do not see how the gentleman in charge of the bill can insist that this amendment is not perti-

nent as well as in order.

Mr. MANN. Will the Chairman have the first part of the amendment reported?

The Clerk read as follows:

Provided, That after-

Mr. RODDENBERY. Mr. Chairman, I raise the point of order. The first part of the amendment I offered is to strike out the words "one, \$900; messenger; in all, \$13,340"; that is

the first part of my amendment, and to substitute therefor the amendment.

The Clerk read as follows:

Amend, page 129, line 22, by striking out all of line 22, after the first word, "one," and insert the following: "Provided, That after four months from the approval of this act, in addition to the allens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit."

Mr. BURLESON. Mr. Chairman, the point of order is that it is a change of existing law and new legislation upon an appropriation bill.

The CHAIRMAN. The Chair is ready to rule. The Chair has examined the amendment and it is clearly subject to the point of order and the Chair sustains the point of order. The Clerk will read.

Mr. JOHNSON of South Carolina. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

Amend, page 129, in lines 19 and 20, by striking out the word "immigrations" and insert in lieu thereof the word "immigration."

Mr. JOHNSON of South Carolina. The only purpose is to correct a typographical error.

The question was taken, and the amendment was agreed to. The Clerk read as follows:

The Clerk read as follows:

Bureau of Standards: Director, \$6,000; physicists—chief, \$4,800, 1 qualified in optics, \$3,600, 2 at \$3,600 each, 1 \$3,000; associate physicists—3 at \$2,700 each, 4 at \$2,500 each, 5 at \$2,000 each; assistant physicists—9 at \$1,800 each, 11 at \$1,600 each, 5 at \$2,000 each; assistant physicists—9 at \$1,800 each, 11 at \$1,600 each, 14 at \$1,400 each; chief chemist, \$4,800; chemist, \$3,500; associate chemists—1 \$2,700, 2 at \$2,500 each, 1 \$2,200, 1 \$2,000; assistant chemists—1 \$2,700, 2 at \$2,500 each, 1 \$2,200, 1 \$2,000; assistant sorry assistants—16 at \$1,200 each, 13 at \$1,000 each, 13 at \$1,000 each, 13 at \$900 each; laboratory helpers—1 \$840, 3 at \$720 each; aids—10 at \$720 each, 7 at \$600 each; laboratory apprentices—6 at \$540 each, 6 at \$480 each; storekeeper, \$1,000; librarlan, \$1,600; secretary, \$2,200; clerks—1 of class 4, 1 of class 3, 2 of class 2, 4 of class 1, 4 at \$1,000 each, 4 at \$900 each, 2 at \$720 each; telephone operator, \$720; office apprentices—2 at \$540 each, 2 at \$480 each; 3 at \$360 each; elevator boy, \$360; chief mechanician, \$1,800; mechanicians—1 \$1,600, 1 \$1,500, 1 \$1,400, 3 at \$1,200 each, 4 at \$1,000 each, 1 \$900; shop apprentices—1 \$540, 2 at \$480 each; 4 watchmen; skilled woodworkers—1 \$1,000, 1 \$840; 5 skilled laborers, at \$720 each; draftsman, \$1,200; packer and shipper, \$840; messenger; superintendent of mechanical plant, \$2,500; assistant engineers—1 \$1,500, 2 at \$1,200 each, 1 \$1,000, 1 \$900; pipe fitter, \$1,000; 4 firemen; 2 glass blowers, at \$1,400 each; electricians—1 \$1,000; 4 firemen; 2 glass blowers, at \$1,400 each; electricians—1 \$1,000; 1 \$900; pipe fitter, \$1,000; 4 firemen; 2 glass blowers, at \$1,400 each; electricians—1 \$1,200, 1 \$900; electricians—1 \$1,200, 1 \$900; electricians—2 \$1,200, 1 \$900; electricians—2 \$1,200, 1 \$900; electricians—2 \$1,200, 1 \$900; electricians—2 \$1,200, 1 \$900; electricians—3 \$1,200; at \$1,200 each, 1 \$1,000, 1 \$1,200; electricians—4 \$1,200, 1 \$1,200; electricians—2 \$1,200, 1 \$1,200; electricians—3 \$1,200; ele

Mr. FOWLER. Mr. Chairman, I reserve a point of order on the paragraph. I desire to ask, on page 130, line 1, why the necessity for the new physicist at \$3,000?

Mr. CANNON. Is he a clairvoyant?

Mr. FOWLER. I do not know; he may be a morganatic fellow; I do not know just what kind of a fellow he is.

Mr. CANNON. If the gentleman will yield? Is there a copy of the latest dictionary, Century, or otherwise, here?

Mr. JOHNSON of South Carolina. Mr. Chairman, in answer to the gentleman, in respect to that one particular man, I may as well answer as to all. In 1903 Congress authorized the establishment of the Bureau of Standards. The work was begun upon a small scale, and from year to year the work has increased. The appropriations have correspondingly grown. That bureau is engaged in very important work along many scientific lines. We have recently, within the last two or three years, authorized the construction of a new laboratory, and that laboratory will be completed in January. It is necessary that it should be equipped with machinery and apparatus and with men. We have given not all that was asked for, but what we thought was needed to carry on the work. I hope that will satisfy my friend, not only as to that one man, but as to all the others in the paragraph. We have increased the appropriation about \$50,000.

Mr. FOWLER. A little more than \$50,000.

Mr. JOHNSON of South Carolina. I said about \$50,000 in that one item.

Mr. FOWLER. You also increased the salaries of many of these men in this employment. Why should the salaries be increased? You have also increased a number of them. For instance, in line

Mr. JOHNSON of South Carolina. There is no increase in salaries, I will say to the gentleman from Illinois. It may be that some of the scientific men who are employed in the bureau will be promoted and given an advance in salary in the next fiscal year, but we have not specifically increased anybody's salary, but we give the Director of the Bureau of Standards a vary largely increased force, because the circumstances not only justified it but demanded it.

Mr. FOWLER. I call the attention of the chairman to the associate chemist, who received in the last appropriation bill

\$2,500. According to this bill he will receive \$2,700.

Mr. JOHNSON of South Carolina. That is not the same man that was appropriated for before, I will say to the gentleman from Illinois

Mr. FOWLER. That must be a new place, then, entirely.

Mr. JOHNSON of South Carolina. It is a new place, and the

old man is appropriated for at the old salary.

Mr. FOWLER. Well, you have not only increased the salary, as I take it, but you have increased the number. You have two assistants at \$2,500, whereas, as I understand, there was only one.

Mr. JOHNSON of South Carolina. That is right.

Mr. FOWLER. One assistant chemist at \$2,500. Now, you have one at \$2,700 and two at \$2,500.

Mr. JOHNSON of South Carolina. That is correct. Mr. FOWLER. That makes an increase of two?

Mr. JOHNSON of South Carolina. Yes.

Mr. FOSTER. I think last year one was at \$2,500 and one at \$2,200. So there is certainly an increase of salary in those

Mr. JOHNSON of South Carolina. No; we still appropriate for the man at \$2,500 and we still appropriate for the man at \$2,200, but what we do is to give the director two additional men-one at \$2,700 and one at \$2,500.

Mr. FOWLER. And then you give him another assistant at That is new also.

Mr. JOHNSON of South Carolina. Yes, sir.

Mr. FOWLER. Now, there are three new men-one at \$2,700, one at \$2,500, and one at \$2,000. Is it necessary to the carrying out of the provisions of this department that these three

new positions should be created?

Mr. JOHNSON of South Carolina. I would say to the gentleman from Illinois that we are just completing a \$250,000 building for these scientific purposes, and it would be utterly useless to construct that great building unless we were going to put scientific men there after constructing it in order to carry on the work.

Mr. FOWLER. Well, you will increase that work in the associate physicists from one to three at \$2,700, making two, and then you have increased the other assistants from three to four, and then the other assistants from three to four, making in all

four new places.

Mr. JOHNSON of South Carolina. I tried to explain to the gentleman in the beginning that the Bureau of Standards was organized and started out on a very small scale. This building has been authorized and will be completed in January. intending, if we can, to install it with all the necessary machinery and apparatus and with the men to operate it.

Mr. CANNON. Will the gentleman allow me? Mr. JOHNSON of South Carolina. Certainly.

Mr. CANNON. I think if my colleague [Mr. Fowler] would make an investigation-if he has not done so-touching this work that is being done by the Bureau of Standards, he will find that if this bill sins at all it sins in not being sufficient rather than oversufficient. I am satisfied, if my colleague would familiarize himself with the work of this bureau, that he would agree with me that possibly both of us had better get a dictionary and see that a physicist is not a man who practices

morganatic marriage. [Laughter.]
Mr. JOHNSON of South Carolina. I am much obliged to the

gentleman from Illinois for his statement.

The CHAIRMAN. The time of the gentleman has expired. Mr. JOHNSON of South Carolina. If it is true that we made any mistake with respect to the Bureau of Standards, the mis-

take was in giving too little and not too much.

Mr. FOWLER. Mr. Chairman, I desire to state, in reply to the distinguished gentleman from Illinois, my colleague [Mr. CANNON], that I am well aware of the fact that it is difficult to understand all of the machinery of any department of this Government, and I am more than anxious to equip each and every one of them with the proper assistance that is necessary to accomplish the great good of this country. But I must say that here is an increase in the physicists from four to six, and if these are necessary now the force heretofore must have been wholly inadequate, and I am sure, Mr. Chairman, that it can not be explained on any other ground. I therefore make a point of order against the new position created on page 130, line 1, of a physicist, at \$3,000. But, before I yield, I desire to reserve a point of order against the remainder of the paragraph until this question is settled.

Mr. JOHNSON of South Carolina. Mr. Chairman, the point of order is not well taken. On page 1449, chapter 875, of the laws of the United States, 1901, the Chair will find that the Bureau of Standards was established by law. It was provided that this bureau should be established for the purpose of doing testing and standardizing work and such other scientific

work as might be useful to the country. I send the statute to the Chair. There is no force specifically provided. The language of the statute is broad, and it is within the purview of Congress to authorize such force as, in its judgment, is necessary to carry forward the work.

The CHAIRMAN. Does the gentleman from Illinois [Mr.

FOWLER | desire to be heard further?

Mr. FOWLER. Mr. Chairman, I desire to say that if it is left to the committees of this House to create new positions and increase the salaries of the positions already in operation, then the House and the country are in a deplorable condition, and are solely at the mercy of the committees. It has been evidenced that legislation in this body is largely carried on by recommendations of departments, without law and without any legal authority. If these new positions can be created indiscriminately, then, Mr. Chairman, the country is at the mercy of departments and committees of each branch of this legisla-

I take it, Mr. Chairman, that if this new position can be created, a million such positions can be created by the same authority, and without any authority of law, and these positions to the number of a million may have affixed to them salaries at a million dollars each; and the rules of this House are too short, according to the contention of the gentleman from South Carolina [Mr. Johnson], to be reached by a point of I take it, Mr. Chairman, that the rules of the House, especially rule 21, govern this case, and it is new legislation

which increases the expenses of this department.

Now, Mr. Chairman, I do not desire to take up the time of this House, because I am anxious to finish this bill, as much so as any member of the committee. But I do say, Mr. Chairman, that this is an entirely new position created by this bill, and the salary is fixed by the committee indiscriminately within its own purview. If it could create one position, it could create a thousand. If it could fix the salary at \$3,000, it could fix the salary at 300 times \$3,000, and, according to the contention of the gentleman from South Carolina, this bill would be in order and not subject to a point of order.

The CHAIRMAN. The Chair is ready to rule. Does the gentleman from Illinois [Mr. MANN] desire to be heard?

Mr. MANN. Mr. Chairman, I take it that the Chair has before him the organic act. I remember very distinctly when we passed the law creating the Bureau of Standards, and the language of the law was so framed at that time as to meet this very point of order now being made, because it was recognized in Congress that the Bureau of Standards was one of those bureaus which would necessarily increase its work and grow from time to time. It was not possible in the creation of the bureau to specifically authorize the employment of officials which would be sufficient as time went on and as the work of the bureau increased.

Now, we have just inaugurated or provided a large new laboratory there, carrying out the original idea of the law in creating the bureau, and the language of the organic act, taken in connection with the language of the law creating the clerks, and so forth, in the executive departments, specifically authorizes Congress, over a point of order under the rules of the House, to make provision for such scientists and other employees in the bureau as it desires to provide for.

The CHAIRMAN. The Chair is ready to rule. There are two well-defined policies of Congress in reference to this mat-One is, in the creation of bureaus under the statute, to define what the offices may be. The other is to pass a statute broad enough to permit Congress to create such offices as are necessary for the conduct of the business required by the statute. This is one of the cases where the statute is broad enough to permit the Congress to create a sufficient number of offices. at such salaries as the Congress may deem proper, to conduct the business of the bureau.

The Chair is inclined to agree with the gentleman from Illinois [Mr. Fowler] that if the Congress should see proper it might create this office at a salary of three hundred times \$3,000; but it is not to be supposed that Congress in its wisdom will create an office with that salary.

The Chair is thoroughly of the opinion that this statute is broad enough to permit the Congress to create such offices as are necessary to carry out the provisions of the law, and that their number and salaries are entirely a question for the committee and the House. The Chair overrules the point of order.

Mr. FOWLER. Mr. Chairman, I make the same point of order to the two associate physicists created in line 1, page 130, of this bill, at \$2,700 each. I presume the same ruling will be made by the Chair as to that.

The CHAIRMAN. Yes.

Mr. FOWLER. In line 2 there is a new associate physicist at \$2,500 and one at \$2,200. I make the point of order as to both those two items

The CHAIRMAN. The Chair overrules the point for the same reasons.

Mr. FOWLER. In line 3 there is an increase of the number of assistant physicists from seven to nine, at \$1,800 each, making two new ones. I make the point of order as to that

The CHAIRMAN. Does the Chair understand the gentleman from Illinois to state that this point of order is as to the increase of a salary or as to the increase of a number?

Mr. FOWLER. It is an increase in the number. The CHAIRMAN. The same ruling would apply.

Mr. FOWLER. In line 5 there is a new chemist created, at \$3,500. The chief chemist, \$4,800, is the same as it was in the last bill, but a new place, known as chemist, is created, at \$3,500. I make the point of order, because it is new legislation and against Rule XXI.

The CHAIRMAN. The same ruling.

Mr. FOWLER. There is an increase in the salary of the associate chemist, in line 5, from \$2,500 to \$2,700. I make the point of order to that because it is an increase in a salary heretofore carried by current legislation.

Mr. JOHNSON of South Carolina. The gentleman is mistaken. The current law provides for an associate chemist, at \$2,500. We provide for one at \$2,700 and two at \$2,500. We have not increased the salary, but we have created two new positions

Mr. FOWLER. Mr. Chairman, that is tweedle dee, tweedle dum. I say there are two new positions created at \$2,500 and an increase of the associate chemist from \$2,500 to \$2,700.

The CHAIRMAN. The chairman of the committee in charge of the bill, Mr. Johnson of South Carolina, states to the Chair that the \$2,700 position is a new position and that one of the \$2,500 positions is the one carried in the last bill.

Mr. FOWLER. There was only one in the last bill, and that

was an associate chemist, at \$2,500.

The CHAIRMAN. And the chairman of the committee in charge of the bill states to the Chair that that one is one of the \$2,500 positions provided in this bill.

Mr. FOWLER. In line 6 there is another new place created at \$2,000. I make the point of order as to that, because it is new legislation and not in harmony with Rule XXI of this

The CHAIRMAN. The same ruling applies.

Mr. FOWLER. There is an increase in the laboratory service from 15 to 16. I presume that the same ruling will be made as to that increase in number?

The CHAIRMAN. May the Chair suggest to the gentleman from Illinois that he might include certain other new places created? The Chair understands the gentleman in charge of the bill to say that there are no increases of salary, but that there have been certain new places created. The gentleman from Illinois might include in his point of order all the new places created in this paragraph.

Mr. FOWLER. In line 12 the salary of the librarian is increased from \$1,400 to \$1,600. There is no tweedledum and no tweedledee here. The salary prior to this bill was \$1,400, and this increases it to \$1,600. I make the point of order against the increase, because it is not in harmony with Rule XXI of this House.

Mr. JOHNSON of South Carolina. Mr. Chairman, the salary of the librarian is increased \$200, and is subject to the point

of order if the gentleman seeks to make it.

The CHAIRMAN. Does the gentleman from Illinois insist

on his point of order?

Mr. FOWLER. Yes; I insist upon it.

The CHAIRMAN. The point of order is sustained. Mr. FOWLER. Mr. Chairman, I desire to offer an amendment to line 3, page 131, where two female laborers are provided for at \$360 each. I desire to strike out the figures "360" and insert in lieu thereof the figures "600," so that it will read:

Two female laborers, at \$600 each.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 131, line 3, strike out the figures " $360\,\mathrm{"}$ and insert in lieu thereof the figures " $600.\mathrm{"}$

Mr. MANN. Mr. Chairman, I reserve a point of order on the amendment.

Mr. FOWLER. Mr. Chairman, if this committee has the authority to provide liberally for the carrying out of the provisions of this department, I think it would be very generous for us to provide a larger salary than \$360 a year for the services of women. If we can create new positions here at \$3,000 each, and if we can increase the salary of these large officeholders, then I say it is fit that we go down the line where the people by manual labor perform the work of this department.

I believe, Mr. Chairman, to carry in this bill three laborers, who shall be females, at a salary of \$360 is not only a recreant discharge of duty, but it is a crime against the better half of mankind. I insist, Mr. Chairman, that the gentleman from Illinois withdraw his point of order and permit the House to vote

upon the proposition.

Mr. MANN. Mr. Chairman, the item is "two female laborers, at \$360 each." These two laborers are charwomen, carried under the head of "female laborers" in order that they may receive \$10 a month more salary than the ordinary charwomen do in the District. These women work probably a little longer time than the ordinary charwomen, but do not work a full day. Charwomen get \$240 a year, or \$20 a month, while these two receive \$360 a year, at a rate of \$30 a month, which is quite sufficient, and I make the point of order.

Mr. FOWLER. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. FOWLER. I desire to ask my colleague if he thinks that \$360 a year is enough for any laborer in this country.

Mr. MANN. It depends upon how long a time they work.

These people do not work a full day, as my colleague will understand.

Mr. FOWLER. Do you believe that the charwomen in the various departments of the Government are receiving a sufficient salary at the present time?

Mr. MANN. I will express my views upon that subject in some way when we reach the item in the bill and my colleague moves to increase the amount from \$240 to a larger sum, which amendment would be in order.

The CHAIRMAN. The point of order is sustained.

Mr. JOHNSON of South Carolina. Mr. Chairman, in line 12, page 130, I move to insert the figures "1,400" after the dollar mark, which went out on a point of order, so that it will read "librarian, \$1,400."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 130, line 12, insert the words "librarian, \$1,400."

The amendment was agreed to.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. Fitzgerald having taken the chair, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had disagreed to the amendment of the House of Representatives to the bill (S. 3436) granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. Smoot, Mr. Nelson, and Mr. SMITH of Arizona as the conferees on the part of the Senate.

The message also announced that the Senate had passed the following resolution, in which the concurrence of the House of

Representatives was requested: Senate concurrent resolution 31.

Resolved by the Senate (the House of Representatives concurring), That a joint committee, consisting of three Senators and three Representatives, to be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President elect of the United States on the 4th day of March next.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

For the investigation of fire-resisting properties of building materials and the conditions under which they may be most efficiently used, including personal services, in the District of Columbia and in the field, \$25,000.

Mr. COX of Ohio. Mr. Chairman, I offer an amendment to insert a new paragraph after line 2, on page 132.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 132, after line 2, insert as a new paragraph the following:

"To investigate the dangers to life and property due to the transmission of electric currents at high potentials, and the precautions to be taken and the best methods of construction, installation, and operation to be followed in the distribution and return of such current in order to reduce to a minimum such dangers; also to investigate the best means of protecting life and property from lightning, including personal services, in the District of Columbia and in the field, \$15,000."

Mr. COX of Ohio. Mr. Chairman, I want to say, in the first instance, that I hesitate to introduce this amendment because I am a member of the Committee on Appropriations, but I believe that consideration for the lives of individuals should transcend any notion of propriety with reference to submitting the matter which I shall discuss. The members of the subcommittee who will oppose this amendment can offer no justification for the elimination of this item, except upon the ground that two or three other provisions have been made in

behalf of the Bureau of Standards.

The provision here is that the Bureau of Standards shall now make practical use of certain laboratory apparatus which was purchased under an authority granted during the session of the last Congress. Let me remind Members of this House that every State in the Union which is keeping step with the progress of the age has created a so-called public-utilities commission, and it is the purpose of this subdivision of State governments not only to regulate the rates which are assessed against individuals, but to protect in the largest measure possible human life. Living in the North, as many of us are, I think we have a measurably full appreciation of the tremendous dangers which now join to the great industrial activities of this age. In our neighboring State of Indiana the most important question now is the passage of a workman's compensation act, in order that there may be taken from the courts every piece of litigation which joins to personal-injury cases. The President of the United States, in submitting his message here the other day, dilated upon the importance, the propriety, and the justice of We want to go deeper. We want to touch this legislation. a more important fundamental of this subject by preventing this harvest of deaths. The public-utilities commissions in the States desire to install certain safety devices which will be fair to corporations and which will be fair also to the people. They want to know what the best safety devices are, and then they can standardize them.

Civilization now calls upon this Republic, through Representatives here assembled, to give to the highest authority in this land, the Bureau of Standards, the task of determining the safety devices which ought to be installed in order that publicutilities commissions in the States can then have them standardized and applied. The cost is only \$15,000 per year. The apparatus for experimentation has been purchased. I want to remind gentlemen that I have in my hand now press clippings from the newspapers of the day covering but a short time, and yet they tell the story of countless human tragedies. I do not want to appeal in any improper way to the sentiment nor the impulse of this House, but there is not a provision in this bill which is half so important to the country as the amendment

which has just been introduced.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. COX of Ohio. Certainly.
Mr. HOBSON. The question I desire to ask the gentleman bears chiefly upon making his purpose effective. Would not the gentleman actually need more money and need the whole question to be taken up in a more thorough method than his amendment provides?

Mr. COX of Ohio. I will state for the information of my distinguished colleague from Alabama that it is the judgment of the Bureau of Standards, than which there is no more efficient subdivision of this Government, that \$15,000 is abundant. They have the apparatus. They simply want money to employ two or three experts and give to them the means to meet their

traveling expenses to test these different devices.

Mr. Chairman, the trouble in this country is that all of the so-called unrest arises from the fact that we legislate here along lines entirely too impersonal. Your subcommittee has left in this bill the provision with respect to the testing of fire materials. We have legislated in behalf of property. I ask you to legislate now in behalf of the human unit. That is the trouble in this country, and when we begin to recognize the propriety of legislating along more personal lines we will have less of the so-called unrest than we now have.

Mr. FITZGERALD. Mr. Chairman, will the gentleman wield?

Mr. COX of Ohio. Certainly.

Mr. FITZGERALD. The gentleman is trying to place the committee in the attitude of having selected an item beneficial to property interests as against one that is beneficial to the safety of human life. Is the gentleman not aware that both items were placed upon the same ground, namely, that the fireresisting materials were just as essential to the protection of human life as this investigation, and is it not a fact that the Chief of the Bureau of Standards was asked to state the relative importance of these

Mr. COX of Ohio. Mr. Chairman, I will ask the gentleman

to state one question at a time.

Mr. FITZGERALD. I would state the two together in order to save time.

Mr. COX of Ohio. No; the gentleman will pardon me. entleman has stated his first question. Let me reply to that. What the gentleman says is true. That has to do also with the safety of human life, but let me remind him now that there are building codes in every great city and State in this country.

Under their terms it is necessary to construct buildings along certain lines

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. COX of Ohio. Mr. Chairman, I ask unanimous consent for five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio? [After a pause.] The Chair hears

Mr. COX of Ohio. We have the protection of municipal enactment and we have building codes in the States. Now, I want to ask the gentleman from New York whether he knows this to be a fact or not that within the last month certain gentlemen interested-and I want to preface what I have to say with respect to this by the assurance that I mean nothing unkind whatsoever with reference to my colleagues on this committee in fireproofing material and other things of that sort have been in Washington asking for this legislation?

Mr. FITZGERALD. I know that certain public officials, the most prominent of whom were from the State of Ohio, called publicly at the Committee on Appropriations and made inquiry about it as they had a perfect right to do, as had any other

American citizen,

Mr. COX of Ohio. The gentleman gives point again to the fact that Ohio is always more clearly alive to the interest of our people than public officials of New York State.

Mr. FITZGERALD. Well, he happened to be accompanied by the most competent man in that particular line from the State of New York.

Mr. COX of Ohio. Yes; but this is the thing that is in my There is no one here to represent the people in whose behalf I am offering this amendment, except the Members here

Mr. FITZGERALD. If the gentleman will permit, there was no lobby in behalf of either of these amendments. I started to ask the gentleman from Ohio a second question when he headed it off, and that was: Was not it a fact that the Chief of the Bureau of Standards, in response to an inquiry, placed the items that the committee reported as of more importance than the one in which the gentleman from Ohio happens to be particularly interested, and the committee based their action upon the report of the man who is supposed to be most competent to inform the committee?

Mr. COX of Ohio. I replied to the gentleman's first question and now I shall make response to his second question. the statement of the chairman of the subcommittee [Mr. Johnson of South Carolina] on that phase of the matter, and that is sufficient so far as I am concerned. He made the statement to the subcommittee and the whole committee that the bureau had indicated the importance of these projects in the order named, and they placed two or three before the project which is contemplated in my amendment; but let me remind the gentleman from New York and my colleagues here on this floor that the head of the Bureau of Standards is not as able to understand the influence, the effect, and the result of these experimentations as the people in the States are.

Mr. FITZGERALD. Well, I know the gentleman is mistaken. and that the best-equipped man to pass on this question is Dr. Stratton, universally recognized as one of the most efficient men in his line in the entire world.

Mr. COX of Ohio. Let me say for the information of the gentleman that the statement has been made in the last few days, since the unsuccessful fight in the Committee on Appropriations in behalf of this amendment, that it would probably be better if not a word were spoken in the House on this because the Senate will amend it anyhow, but I am bringing this no here in order that the House of Representativs can do its duty and not await the pleasure or action of the great body at the other end of this Capitol. I conceive it to be our duty, in making provision for new projects in the Bureau of Standards, to take care of that department which contemplates the protection of humanity, and I trust the amendment will prevail.

Mr. FOSTER. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Does the gentleman from Ohio yield to his colleague?

Mr. COX of Ohio. I do.

Mr. FOSTER. May I ask the gentleman from Ohio if his State, concerning which he has been somewhat profuse as to what the State and the people are doing in reference to matters of this kind, has taken any action looking to an investiga-tion along the line suggested by his amendment, or is he trying to get the Federal Government to make this investigation for the State of Ohio?

Mr. COX of Ohio. Mr. Chairman, I am very glad the gentleman asked the question. It is the wish of the public-utilities commission in our State to have standardized safety devices. This matter was not brought to my attention by anyone in the Bureau of Standards, but it was presented to me first by the State electrician in the great city of Cleveland, the most ideal municipality in this country so far as government is concerned, and I have taken it up since with the board of public utilities of Ohio and they say that something must be done, but they are groping about in the dark.

They want these devices made standard, first, because they want to be fair to capital, and, second, they recognize the absolute importance of protecting human lives. Electricity is being transmitted through what we call larger potentials now, and it is essential that something be done.

Mr. BUCHANAN. Will the gentleman yield?

Mr. COX of Ohio. With pleasure.

Mr. BUCHANAN. I understand the board you speak of thinks it more essential to protect capital than it is to protect human lives. They put human lives of working people second to capital and profit. That has been the trouble. That has been the reason why we have not had these investigations and laws throughout the States and throughout the United States to protect the lives of the workingmen of the country. That is the reason that a better system has not been provided.

Mr. COX of Ohio. Mr. Chairman, I have no objection to the gentleman asking me a question, but I do object to his making

an argument.

Mr. BUCHANAN. The consideration of profit has always

stood in the way.

Mr. COX of Ohio. I suggest the gentleman read my speech in the morning's Record. I tried to dilate in this body concerning the very thing the gentleman is now urging.

Mr. BUCHANAN. I am not criticizing the gentleman. The

gentleman mentioned capital first-

Mr. COX of Ohio. I will observe with interest as to whether the gentleman gives support by his vote to the thing concerning which he is talking.

The CHAIRMAN. The time of the gentleman from Ohio has

expired

Mr. JOHNSON of South Carolina. Mr. Chairman, if there was any one item in the biil concerning which I felt the House might call upon us for an explanation as to why we have so largely increased the appropriation, it was this item. The appropriation for the Bureau of Standards is very much larger in this bill that it has ever been. I realize that the Bureau of Standards is doing a great and an important work, but I wish to call the attention of the committee to the fact that many projects are under investigation. If we increase the number of projects which they must investigate it will postpone the final solution of the problems. In addition to all the work now in progress in the Bureau of Standards, they ask for appropriations for four new projects. We have given them in this bill money for the two projects which we understood in the mind of the chief of the bureau to be of the greatest importance. I want to say for the benefit of the gentleman from Ohio [Mr. Cox] and the other members of the committee, that no lobbyist approached the subcommittee or the chairman of the subcommittee with respect to any of these projects

Mr. COX of Ohio. Will the gentleman yield for just a

moment?

Mr. JOHNSON of South Carolina. Yes, sir.

Mr. COX of Ohio. I know that full well. That was farthest from my thought. But people were here in behalf of this legislation, and properly so. The point I am making is that the provision you left in was right, and the people were here in behalf of it. The class of humanity I am seeking here now to benefit has no representative here except their chosen representatives. I was trying to work out a mere distinction, that was all. I would despise myself if I made the slightest unkind reference to any gentleman on the committee.

Mr. JOHNSON of South Carolina. All the information I have with respect to this item or any other items came from Dr.

Stratton, the head of the bureau.

Now, Mr. Chairman, in addition to the work hitherto undertaken at the Bureau of Standards, we have given three new items. One is for the investigation of railroad, elevator, and other scales. The next is for the investigation of fire-resisting properties of building materials. I believe that as many human lives are lost through great fires in the cities as have ever been lost through electrical devices. I am as much interested in humanity as any Member upon this floor. I do not question the wisdom of making this investigation, but I say that we can not appropriate all the money in one bill to do all the things that people come and ask Congress to do. I hope the committee will vote down the amendment.

Mr. HOBSON. Mr. Chairman— Mr. CANNON. Mr. Chairman—

The CHAIRMAN. The gentleman from Alabama [Mr. Honson] is recognized.

Mr. HOBSON. I will defer to the gentleman from Illinois

[Mr. CANNON]

Mr. CANNON. Mr. Chairman, I move to strike out the last word. I am a member of the Committee on Appropriations, and I am glad to cooperate with that committee. Ordinarily, after the committee considers estimates, there is not much of division between the two sides of the aisle touching the same. This bill I think is a good one. I feel like complimenting the gentleman in charge of the bill and the subcommittee that prepared it. In supporting this amendment I do not wish to criticize the gentleman from South Carolina or the committee. The committee was divided.

Now, what are the merits, after all? If the House should adopt the amendment, then the committee is not harmed. I think the gentleman from South Carolina will concede that this is an important estimate, and that the investigation ought to be made, but contends the \$15,000 to pursue this investigation for the coming fiscal year can wait. I do not agree with him in that position. Of course it can wait and must wait unless the appropriation is made. But an item of \$15,000 in the presence of total expenditures that run pretty well up to one thousand million dollars is of but slight importance in view of the fact that an investigation ought to be made. I believe this work ought to be undertaken, and undertaken now. The Bureau of Standards is a splendid bureau, and it is doing a great work. It has justified its creation. I quite agree that these three items which the committee has reported for the year are very important, and I believe that the appropriation ought to be made.

Now, then, we all understand that we enact legislation for the District of Columbia; we appropriate for our insular possessions; we appropriate for Alaska. Otherwise in the United States proper, I believe, there is no Territory that is not organized. I believe we organized Alaska at the last session, or provided for its organization, with a Territorial form of

government.

It is simply marvelous to contemplate the electrical development throughout the country, and yet that development is in its infancy. From the standpoint of human life it is important. I cooperated as one Member of the House, and cooperated cheerfully, in the creation and strengthening of the Bureau of Mines. One mining disaster attracts great attention. The States have plenary power in the premises, but notwithstanding they have plenary power Congress has wisely created a Bureau of Mines and Mining, and the expenditures for that bureau will constantly grow. It will do a great work from every standpoint; primarily from the standpoint of the protection of human life, and secondarily for the protection of property. They go hand in hand. Yet I think I can safely say, although I am not informed by statistics, that more men are wounded, disabled, and killed who are engaged in the various electrical industries of the United States than there are of wounded or killed or injured in the mining industries. From that standpoint I believe that the United States Government, for the reasons assigned by the gentleman from the State of Ohio [Mr. Cox], to which I shall not refer further, would do well to cooperate with the States in these investigations in the greatest bureau for the making of scientific investigations in the United States. I think it is our duty to make these investigations for the information of the respective States, which are performing their duties, each State upon its own initiative.

Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from Illinois asks for five minutes more. Is there objection to the gentleman's request?

There was no objection.

Mr. CANNON. So much from that standpoint. Now, let us consider it from the property standpoint, and that is important but not of primary importance. I feel quite sure that my honorable colleague from one of the Chicago districts [Mr. Buchanan], if he had been in the Chamber at the beginning of the discussion, would not have asked the gentleman from Ohio [Mr. Cox] the question that he did ask. I do not go hotfoot in any legislation that I undertake to say that because property and material interests and capital are interested human life should not also be protected, because there comes a benefit also to capital and to property from the protection of human life.

It is a very cheap kind of politics. It is a well-known fact—and I do not speak now as a scientific expert—that the electric current is not yet fully understood; that in our great cities, with the gas mains and the water mains, the injuries from elec-

trolysis are very serious indeed. Therefore, as labor conquers all and creates all, I do not perceive that it is criminal to make an investigation that will tend to protect human life and at the same time tend also to protect property created by labor. I do

not advocate legislation from that standpoint.

Considering the capital that is already invested in the Bureau of Standards and considering the fact that these investigations are proceeding for the benefit of the public service, for one I believe that this bagatelle of \$15,000 for making investigations touching electricity, coming, as it does, in its operation in contact with substantially every one of the 90,000,000 people in the United States, should be appropriated, and this investiga-tion ought to commence, in my judgment. Therefore I shall vote for the amendment of the gentleman from Ohio [Mr.

Mr. HOBSON. Mr. Chairman, I shall support this amendment. In doing so I wish to say to the chairman of the sub-committee that framed the bill [Mr. Johnson of South Carolina] that I have a fellow feeling for him in his desire to have his bill go through as drawn; but I think it is simply in keeping with the spirit of legislation that the House in Committee of the Whole should from time to time make amendments to bills as submitted by the various committees. formed in the years since I have been here, is that it might be to the public interest to have more amendments adopted than are usual in this House when offered by members of the Committee of the Whole.

It ought to be fully understood that the Chief of the Bureau of Standards does not oppose this amendment, but, on the contrary, that he fully recognizes its importance.

Mr. JOHNSON of South Carolina. Will the gentleman allow

me to interrupt him?

Mr. HOBSON. Certainly.

Mr. JOHNSON of South Carolina. The item is in the estimates.

Mr. HOBSON. Yes. Mr. JOHNSON of South Carolina. The Chief of the Bureau of Standards made an argument in favor of it?

Mr. HOBSON. Yes.
Mr. JOHNSON of South Carolina. But the gentleman understands that the departments usually ask for more than they

Mr. HOBSON. I am fully aware of that. Our naval appro-

priation bill requires very large reductions from the estimates.

Mr. JOHNSON of South Carolina. We asked the Chief of the Bureau of Standards to furnish us the items in the order of their importance, in his mind, for our guidance, if we could not give him all he wanted, and we have inserted in the bill the items in the order of their importance, according to his judgment and not ours.

Mr. HOBSON. I thoroughly understand that position, and I want simply to remind my colleagues that this amendment does not seek to have inserted in the bill something that is opposed by the chief of the bureau, nor even opposed on its merits by the members of the subcommittee, but an item whose utility and

usefulness are recognized by all.

The next point is this: This amendment does not undertake to purchase or install any life-saving apparatus. It is purely a question of investigation. As a general proposition money spent in getting information for standardization is the best money that can be spent in any line of expenditure. And further, Mr. Chairman, as a general proposition, this House and other legislative bodies, in my judgment, give more attention to questions of what might be called business, questions of property, the departments of human activity in which men find their employment, and tend naturally and inevitably to neglect those departments of human activity that relate to what may be called the humanities of life and the conditions of living. which seem, in the process of human evolution, to have fallen to the lot of woman. My investigations in recent years have convinced me that the great need of the world at large is the need of more attention to life, health, and the conditions of living, in framing legislation and public policies; and, to make an honest confession, those investigations have led me to believe that woman suffrage would be a good proposition for the Nation. [Applause.] I have become a smiragist as the result of my investigations.

Mr. MANN. The problem has been solved by one man.
Mr. HOBSON. And to come down to this specific application, I should like to remind my friends who represent districts in the neighborhood of the Appalachian system, particularly the southern Appalachian system, in the great States of North Carolina, South Carolina, Georgia, Alabama, Tennessee, Kentucky, and other States whose Members I see here among my colleagues, that the question of the development of water power

is one of the great questions of the day. Take my own State. I expect before I make my exit to see the State of Alabama ramified with electrical transmission of power from the Tennessee, the Coosa, and other great rivers.

It is a fact, as stated by the gentleman from Illinois [Mr. Cannon] and others, that the question of human life is very fundamentally involved in the electrical transmission of power for long distances. The voltages are now something undreamed of a few years ago, and in a very few years more they will be very much larger than they are to-day; because you know the waste, the heat, varies as the square of the current and only the first power of the resistance. That means that it will be advantageous to have smaller wire, with large voltage and a small current, for the transmission of a given amount of power a given distance, and particularly for long distances. Therefore we will be dealing constantly with networks of potentials that would destroy life when turned upon the human body; and it is the simplest form of leadership that the Federal Government should assume, not to take the parts of individual States, but to proceed to standardize and to take the leadership in such measures as this, that protect human life.

The CHAIRMAN. All debate on this amendment is ex-

hausted.

Mr. FITZGERALD. Mr. Chairman, I move to strike out the last two words. Mr. Chairman, the remarks of the gentleman from Ohio in advocating this amendment were grossly unjust to the Committee on Appropriations. They did not quite state the facts, and they were so framed as to give a very unfair color to the attitude of the members of the committee. The gentleman intimated that the committee were more interested in legislation and appropriations designed to protect material interests than to those to conserve human life. Subsequently he inti-mated that the activities of a lobby—expressed with that peculiar tone sometimes used in making use of the term—was instrumental in determining the question by the committee. Neither one of the insinuations is based upon anything which justifies such an accusation against the committee.

Mr. COX of Ohio. Will the gentleman yield?
Mr. FITZGERALD. Certainly.
Mr. COX of Ohio. The gentleman from New York will remember that I disavowed in plain words any intent to cast any reflection on the committee. The gentleman from New York does me an injustice when he suggests that such a thing would enter my mind.

Mr. FITZGERALD. The gentleman did not intend, he says, to reflect on the committee, but it was intended to influence Members of the House to vote on the proposition, and the remarks directed to me were intended to convince Members that a lobby had been present in Washington in the interest of the item to investigate the fire-resisting qualities of building material, but none in behalf of the other item.

Now I shall, if the gentleman will permit me, lay before this committee all of the information that I have about this socalled lobby, together with all the correspondence that has come to me as chairman of the Committee on Appropriations. Then Members will be better able to determine just whether this lobby was such a movement as might have influenced Members in their judgment, and whether it should not properly have influenced Members in their judgment.

The Director of the Bureau of Standards, in his statement before the committee, in discussing the item for an appropriation for the investigation of fire-resisting qualities of building materials, stated that "the loss of life and property due to fire He urged this appropriation so that in building operations buildings might be so constructed as to prevent the destruction of life and property.

Mr. COX of Ohio. Did he not urge the other also?

Mr. FITZGERALD. I am coming to that. In his statement about the investigation in regard to establishing standards to be utilized in the transmission of electric currents of high potentiality he said, "The loss of life and property due to each cause is very great." But these two statements hardly justify the gentleman from Ohio in intimating that because the committee recommended the item for the investigation of the fireresisting properties of building material and not the one for the standardization of the methods of carrying electric currents of high potentiality that thereby they were recommending legislation designed to be beneficial to the material interests and to capital invested and to be indifferent to those matters which may be instrumental in conserving or protecting human life. They were both put on the same plane by the Director of the Bureau of Standards, and I will put his judgment against all the others that may be marshaled on such a proposition, because I believe he is not only the best informed, but the most competent man to express an opinion. In his judgment, the idvestigation of fire-resisting qualities of building materials was of more importance than the matter in which the gentleman from Ohio is so much interested.

Mr. COX of Ohio. Do the hearings show that? I wish the gentleman would read it.

Mr. FITZGERALD. It is not in the hearings.
Mr. COX of Ohio. Then it ought to be in the hearings.
Mr. FITZGERALD. The gentleman can think what he pleases as to what ought to be in the hearings. I am making statements and giving authority for them. The gentleman from South Carolina [Mr. Johnson] stated that he asked the Director of the Bureau of Standards to state the relative importance of these estimates so that the committee, if it did not feel that it could recommend all the appropriations, in determining to give some would give the ones most important from his point The gentleman from South Carolina stated that the item for the investigation of fire-resisting qualities of building materials was placed by the Director of the Bureau of Standards above the item for the standardization for the methods of transmitting electricity of high potentiality. Mr. Chairman, I am not disposed, nor would I for a moment suggest that it is hecessary to have that statement in print in order to rely upon the statement of the gentleman from South Carolina.

Mr. COX of Ohio. What is the use of having hearings published if they do not contain all of the statements?

Mr. FITZGERALD. I do not wish to discuss that now. Mr. COX of Ohio. The gentleman makes a statement as being

intrinsic, but it does not appear in the hearings.

Mr. FITZGERALD. We have more important matters to discuss than that; whether it is in the hearings or not, the statement was in the possession of the gentleman from Ohio, because

he heard the gentleman from South Carolina make it.

Mr. JOHNSON of South Carolina. At the conclusion of Dr. Stratton's testimony before the subcommittee I said to Dr. Stratton, who was asking an increase of \$50,000 in one item and of \$100,000 and upward in others, that it was possible that the committee might not feel able to give him all that he de-I further stated that we were not familiar with these scientific subjects, and asked him to indicate to the committee the order in which he thought these matters most important, so that if we could not give all that he wished we could provide for them in the order of their importance, in his judgment. I have here a little typewritten statement on which is marked the order of importance, 1, 2, and 3. It came to us after Dr. Stratton's testimony had been concluded.

Mr. FITZGERALD. No. 1 is test car, etc.; No. 2 fire-resisting

properties; and No. 3, high potentials.

The CHAIRMAN. The time of the gentleman from New

York has expired.

Mr. FITZGERALD. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BURKE of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. FITZGERALD. I yield.

Mr. BURKE of Pennsylvania. I would like to ascertain to just what extent the committee, which I regard as possessing

rare discrimination, yielded to Dr. Stratton's desires and buried their own views on this question.

Mr. FITZGERALD. That is not a fact. The committee did not bury its own views. Their views coincided with those of Dr. Stratton as to which of these items is more important. That is why they recommended them in the bill. The gentleman from Ohio [Mr. Cox] dissented from Dr. Stratton and a majority of the committee, and in that he happens to be unfortunate.

Mr. COX of Ohio. The gentleman from Ohio was for life second and property third, and the position of the gentleman from New York was directly the reverse, and I would not swap positions with him on the subject.

Mr. FITZGERALD. The gentleman still has not realized the value of certain investigations that the Bureau of Standards

Mr. BURKE of Pennsylvania. If the doctor's recommenda-

Mr. FITZGERALD. Dr. Stratton stated that the loss of life and property due to fire was appalling, and that is why he wanted to make these investigations.

Mr. BURKE of Pennsylvania. If the doctor had reversed his recommendation, what would then have been the attitude of the committee? If the gentleman is in a position to state that, I would like to have him do so. I desire to follow the committee, if I can, and I would like to know the judgment of the com-

Mr. FITZGERALD. Mr. Chairman, I shall not at this time answer that question, if the gentleman will permit me to state some things that I wish to say.

Congress convened on the 2d day of December, which was Monday, and I arrived in the city of Washington on the evening previous, the 1st of December. Among mail accumulated and coming, because of my absence in Panama, I found the following:

OHIO STATE BUILDING CODE COMMISSION, Columbus, Ohio, November 30, 1912.

John J. Fitzgerald, Chairman Appropriation Committee, Washington, D. C. Chairman Appropriation Committee, Washington, D. C.

DEAR SIR: I am informed that a request has been made by the Bureau of Standards for an appropriation to enable the said department to make fire tests and tests of various materials used for fire prevention and fire protection.

As consulting architect for the Building Code Commission of Ohio, I fully realize and appreciate the value of the knowledge to be gained by such investigations, and believe that such a department should be operated and maintained by the Government.

Government tests and reports would be free from the criticisms of and objections to private tests, as is the present condition.

Government tests would provide a uniform standard throughout the country and would raise the standard of building operations along these lines.

lines.

I further believe that the work of the Bureau of Standards should be so expanded as to include all materials and devices used in building construction and equipment.

The above are my personal views, and in these I believe I voice the sentiments of the code commission; however, I have been unable to secure a statement from the commission owing to the lateness of the hour and the fact that this is Saturday and a holiday for the officials.

It will be a pleasure to know that the request of the Bureau of Standards has been granted and that Ohio and all other States may secure the benefit of Government regulations and tests.

Sincerely,

Ohio State Bullings Cone Commission

OHIO STATE BUILDING CODE COMMISSION,. Per FRED W. ELLIOTT, Consulting Architect,

I also received the following communication:

THE BUREAU OF BUILDINGS FOR THE BOROUGH OF MANHATTAN, New York City, December 5, 1912.

Congressman John J. Fitzgerald, House of Representatives, Washington, D. C.

Dear Sir: I understand that an appropriation of \$25,000 has been requested by the Bureau of Standards for testing and determining the fire-resisting qualities of building materials. I believe this item is included in the legislative bill recently reported by the Appropriations Committee.

Included in the legislative bill recently reported by the Appropriations Committee.

Under normal conditions there is a steady increase in building construction throughout the country. The tendency is toward the construction of larger and higher buildings. Increasing congestion in cities is practically unavoidable. All this increases the fire hazard. Not only is property affected, but the lives of the occupants are at stake. Fire-resisting construction, therefore, becomes more and more important. To secure satisfactory fireproof construction, a thorough knowledge of fire-resisting qualities of building materials is essential. No agency seems to me better qualified or equipped for an impartial and careful investigation of this subject than the Bureau of Standards. Municipal governments and building officials need this information, which at the present time is secured in a scattered way and not systematically by various methods in different parts of the country, and then only with a view of some one device or construction and not with any purpose of establishing the general and underlying principles.

Our Government has spent for some years past millions of dollars in investigations in the interests of agriculture. It seems reasonable, therefore, that some appropriation be made for the investigation of the materials used in so large an industry as building construction. Some work along this line was done by the Federal Government under the direction of the Geological Survey a few years ago. I hope that the work may now be continued by the Bureau of Standards, and that you will lend your support to the passage of this item in case it should be questioned on the floor of the House.

Rudolph P. Miller, Superintendent of Buildings.

RUDOLPH P. MILLER, Superintendent of Buildings.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. FITZGERALD. Mr. Chairman, I ask for five minutes

Mr. BUCHANAN. Mr. Chairman, reserving the right to object, I want to know if the gentleman desires to read some more communications of the same kind. If that is the purpose of extending his time, I object.

Mr. FITZGERALD. I have two more letters.
Mr. BUCHANAN. They can be inserted in the RECORD without taking up time to read them here.

Mr. FITZGERALD. I have two letters that I desire to read. Mr. BUCHANAN. I object, Mr. Chairman, to a further extension of time.

The CHAIRMAN. The gentleman from Illinois objects. Mr. BUCHANAN. Mr. Chairman, I move to strike out the last three words.

The CHAIRMAN. That amendment is now pending; the gentleman can be recognized to speak in opposition.

Mr. BUCHANAN. The amendment was to strike out the last two words.

The CHAIRMAN. That amendment is now pending. The gentleman from Illinois is recognized on the pro forma amendment offered by the gentleman from New York.

Mr. BUCHANAN. Mr. Chairman, I do not care to take up much of the time of the House, but it seems the question I asked the gentleman from Ohio [Mr. Cox] was misunderstood. I only was calling his attention to the way he was putting the matter in regard to the protection of capital and labor. question of safety devices for the working people of the country has been one to which I have given much study and thought, for I believe we have drifted into a condition, as I have said before, where we are making cripples and paupers, due to the fact that the people themselves have probably been indifferent to this great question and the public officials certainly have lost sight of the importance of securing the passage of laws and enforcing them that will give better protection to the working masses of the country. There are 22 foreign nations that have passed protective measures for the working people of their respective countries, but we seem to follow the path of greed and avarice, and we have drifted into a condition that ought to bring the blush of shame to the faces of people of public spirit. I have been probably in a position through my experience in life, working at one of the most hazardous trades, where this has been brought close home to me, and it has impressed itself upon me strongly, for I have seen the tears often of those whose relatives have been killed by accidents that could have been avoided if reasonable care had been exercised.

I have seen the poor widows condemned to the washtub and their children to destitution and poverty. In answering the question of whether or not I would support any amendment that would tend to provide safety devices of any sort to the working people of the country, if the gentleman understood me to say I would not, he certainly does not understand me. Nor in doing this do I believe that I am putting any obstruction in the way of the proper success of legitimate and honest business and capital. I do believe, though, if the proper safeguards were given the working people of the country they would probably be unable to pay the large dividends which have been paid in the past on fictitious capital and watered stock that has been floated on the industries of this country, which has made it a burden and made it almost impossible to provide the necessary safeguards and protection and give the necessary wages for working people of the country to exist as they should. These questions are something that ought to be and will be considered when men realize their importance and it begins to awaken their sympathy, as I believe the gentleman from Ohio does, and when that sympathy gets stronger for the human side of the question, then the influence that is brought to bear for the sake of profit-a profit, too, on this fictitious capital, counterfeit capital that has been created by a few financial pirates and industrial highbinders of this country, men who now are parading as eminent business men and business benefactors of the country to the discredit and disgrace of honest legitimate

Mr. TOWNSEND. Will the gentleman yield for a question? Mr. BUCHANAN. Yes; but I have not much time. Mr. TOWNSEND. I want to ask the gentleman if he does

not think that the fire in New York known as the Triangle fire, where within the space of five minutes 375 shop girls were killed, was not the result of the absence of fire-resisting building materials in that building?

Not only that, but I understand it was Mr. BUCHANAN. also on account of their not having proper fire escapes, due to the neglect of which I am speaking. I am not complaining of this committee putting into the appropriation bill money for I do complain that there ought to be money appropriated, if necessary, for the other purpose of standardizing safety devices, and so forth, and for that reason I am in favor of the amendment offered by the gentleman from Ohio, and if my question has been misconstrued or misunderstood I wanted to correct that, otherwise I would not have taken the committee's time to have again arisen.

It is not my purpose to criticize the committee for what they have done, but this amendment should pass.

The CHAIRMAN. All debate on this amendment has been exhausted.

Mr. BERGER. Mr. Chairman— Mr. JOHNSON of South Carolina. Mr. Chairman, I move that all debate on this amendment close in five minutes.

The CHAIRMAN. The gentleman from South Carolina [Mr. JOHNSON] moves that all debate on this amendment close in five minutes.

Mr. BERGER. Mr. Chairman, I asked for time half an hour ago.

Mr. MANN. There are three gentlemen who are seeking the

Mr. JOHNSON of South Carolina. I will ask for 10 minutes,

The CHAIRMAN. The gentleman from South Carolina [Mr. Johnson] moves that all debate on this amendment close in 10 minutes.

Mr. MANN. I understood the gentleman from Wisconsin [Mr. Berger] and the gentleman from Pennsylvania [Mr. FARR] were to have the time.

The question is on the motion of the The CHAIRMAN. gentleman from South Carolina [Mr. Johnson].

The question was taken, and the motion was agreed to.

The CHAIRMAN. The gentleman from Wisconsin [Mr. Ber-

GER] is recognized for five minutes.

Mr. BERGER. Mr. Chairman, I am glad to know that the social conscience is making some headway in the House here. I am glad to notice that the gentleman from Illinois [Mr. CANNON], the gentleman from Alabama [Mr. Hobson], and the gentleman from Ohio [Mr. Cox] unite on the necessity for protection to human life of the workers. We all understand that labor nowadays performs a social service even when labor is still privately employed.

Therefore labor is entitled to social protection; to all the protection scientific investigation may provide, and the Nation

ought to provide the investigation.

Now, I do not like to find fault with the report of a committee that reports on routine matters or appropriations, for the simple reason that the committee has the opportunity and the necessary time to consider these things in detail, and the average Member has neither the time nor the opportunity. On the other hand, it is not said that when such committee makes a report the House must simply accept every proposition as submitted, otherwise there would be no sense in reporting bills to the House. I do not believe the chairman of the committee or any member of the committee should consider any committee report a personal question and any criticism a personal criticism.

As I understand it, Dr. Stratton, of the Bureau of Standards, was in favor of the proposition of the gentleman from Ohio [Mr. Cox] to have the bureau investigate the nature, qualities, uses, and dangers of electricity.

Electricity is rapidly becoming one of the main forces of production and transportation—one of the principal sources of heat and light. And yet we know little or nothing about the nature and origin of electricity—scientists even disagree whether it is a fluid or caused by vibration.

Human life is in constant danger by the necessity of constant handling of a wonderful power about which we know so little. Thousands of human beings lose their lives every year. Fifteen thousand dollars is simply a pittance when we consider this question from that point of view.

But there is also the economic waste. Carlyle said somewhere that a human being ought to be worth as much as a hundred horses. A good horse is worth about \$500 nowadays. A human life should therefore be worth at least \$50,000, according to Carlyle's estimate in 1830. I have no statistics at hand, but I know it is safe to estimate that 10,000 human beings lose their lives every year through accidents caused by electricity. I believe the number of such accidents will grow from year to year, because electricity is rapidly supplanting gas, steam, and other forces, and is bound to grow immeasurably with the development of our water powers. The economic waste is therefore also tremendous.

I believe \$15,000 to study this question is a very small sum, indeed, from any point of view-from the humanitarian or the economic. We ought not to make any objection to so small a sum when we consider that we spend over a billion of dollars every year for other purposes. I hope the Committee of the Whole will see its way clear to vote for the amendment and for the appropriation of the \$15,000. There is not a dollar in this

bill that is spent more wisely.

Mr. FARR. Mr. Chairman, I welcome an opportunity to vote for an appropriation that ought to result in so much good as There is no controversy as regards the wisdom of testing the resisting power of fire brick, and there should be none on the question of safeguarding life after viewing the batch of clippings presented by the gentleman from Ohio [Mr. Cox] showing the horrible accidents and the great number of deaths resulting to those engaged in electrical work. come also the opportunity to vote for this appropriation, with the hope that the House will pass it, because it puts in the hands of a Federal bureau the work of research. The work, after all—the work that will prevent accidents along these lines-will be done here in Washington and not by the different States.

Mr. COX of Ohio. Will the gentleman yield? Mr. FARR. I will.

Mr. COX of Ohio. Has the gentleman observed that of the three projects carried in this bill two of them are in behalf of the property unit and one in behalf of the human unit? The latter is that in respect to refrigeration. That calls for \$15,000. The sum total of the other two property units is \$105,000, or about seven times the amount. Now, we ask that we put beside the projects for the property units a small, modest provision for another human unit of \$15,000.

Mr. FITZGERALD. Does the gentleman from Ohio [Mr. Cox] understand that the method of refrigeration for transportation of freight is what is called a human element?

Mr. COX of Ohio. It is a supply; yes, sir.

Mr. FARR. I have no controversy with the gentleman with regard to those provisions, but I sincerely hope this House will

favor the appropriation of \$15,000 to safeguard human life.

The amendment speaks for itself. It carries its own conviction. It is to investigate dangers to life and property due to the transmission of electric current at high potentialities and the precautions to be taken and the best methods of con-structing installation and operation to be followed in the distribution and return of such currents in order to reduce to a minimum such dangers; also to investigate the best means of protecting life and property from lightning.

The distinguished former Speaker, Mr. Cannon, referred to

the work of the Bureau of Mines.

The national Bureau of Mines, I believe, is doing more than all the bureaus in the respective States combined to find out the causes of accidents and to do things to prevent accidents. Many lives will be saved as a result of its research and experimental work.

The States are doing a supervisory work in that line. believe more and more of the responsibilities of government are going to shift to this great and wonderful center of Washington, and it will be for the good of humanity and the advance-ment of our Nation. And I sincerely trust that inasmuch as \$1,500 worth of our time has been taken up in debating this simple provision of appropriating \$15,000 to save the heads of many families and to prevent shocking accidents, such as have been referred to, we will not spend another \$1,500 in debating it further, but that we shall vote for it, and vote for it heartily

The CHAIRMAN. All debate on this amendment has been exhausted. The question is on agreeing to the amendment offered by the gentleman from Ohio [Mr. Cox].

The question was taken; and the Chairman announced that

the ayes seemed to have it.

Mr. JOHNSON of South Carolina. A division, Mr. Chairman. The committee divided; and there were—ayes 63, noes 19. Mr. JOHNSON of South Carolina. Let us have tellers, Mr.

The CHAIRMAN. Those in favor of taking this vote by tellers will rise and remain standing until counted. [After [After counting.] Only eight gentlemen have arisen. Tellers are refused. The ayes have it, and the amendment is agreed to. Tellers are The Clerk will read.

The Clerk read as follows:

The Clerk will read as follows:

Contingent expenses, Department of Commerce and Labor: For contingent and miscellaneous expenses of the offices and bureaus of the department, for which appropriations for contingent and miscellaneous expenses are not specifically made, including the purchase of professional and scientific books, law books, books of reference, periodicals, blank books, pamphlets, maps, newspapers (not exceeding \$2,500), stationery, furniture and repairs to the same, carpets, matting, ollcloth, file cases, towels, ice, brooms, soap, sponges, fuel, lighting and heating; for the purchase, exchange, and care of horses and vehicles, to be used only for official purposes; freight and express charges, postage to foreign countries, telegraph and telephone service, typewriters and adding machines, including their exchange; repairs to the building occupied by the offices of the Secretary of Commerce and Labor; storage of documents belonging to the Bureau of Lighthouses, not to exceed \$750; street car tickets, not exceeding \$300; and all other miscellaneous items and necessary expenses not included in the foregoing, \$60,000, and in addition thereto sums amounting to \$72,000 shall be deducted from other appropriations made for the fiscal year 1914 and added to the appropriation "Contingent expenses, Department of Commerce and Labor," in order to facilitate the purchase through the central purchasing office as provided in the act of June 17, 1910 (Stat L., 36, 531), of certain supplies for bureaus and offices for which contingent and miscellaneous appropriations are specifically made as follows: General expenses, Lighthouse Service, \$8,000; stationery, Bureau of the Census, \$1,000; miscellaneous expenses, Bureau of the Census, \$1,000; contingent expenses, Steamboat-Inspection Service, \$8,000; stationery, supplies and the central purchasing office of Fisheries, \$8,500; and the service, \$1,000; contingent expenses, Bureau of Fisheries, \$8,500; and the said total sum of \$132,000 shall be and constitute the appr

poses of the several appropriations mentioned under the title "Contingent expenses, Department of Commerce and Labor." in this act.
For rent of buildings and parts of buildings in the District of Columbia for the use of the Department of Commerce and Labor, \$50,000.

Mr. JOHNSON of South Carolina. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from South Carolina of-

fers the following amendment, which the Clerk will report.

Mr. JOHNSON of South Carolina. The amendment is to the paragraph on page 134.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 134, in line 20, strike out the sum "\$20,000" and insert in lieu thereof the sum "\$15,000."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina.

The amendment was agreed to.

Mr. JOHNSON of South Carolina. I offer another amendment to page 134, line 21, to strike out the sum "\$1,000" and insert in lieu thereof the sum "\$500."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 134, line 21, strike out the sum "\$1,000" and insert in lieu thereof the sum "\$500."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

JUDICIAL.

Supreme Court: Chief Justice of the Supreme Court of the United States, \$15,000; 8 associate justices, at \$14,500 each; marshal, \$4,500; 9 stenographic clerks, 1 for the Chief Justice and 1 for each associate justice, at not exceeding \$2,000 each; in all, \$153,500.

Mr. FOWLER. Mr. Chairman, I raise a point of order on this paragraph.

The CHAIRMAN. The gentleman from Illinois FOWLER] makes a point of order against this paragraph.

Mr. FOWLER. I desire to ask the gentleman in charge of this bill if the salary of the Chief Justice is fixed at \$15,000 by current law or by statutory law?

Mr. JOHNSON of South Carolina. By statute law. Mr. FOWLER. When was that change made?

Mr. JOHNSON of South Carolina. Two years ago. Mr. FOWLER. Is not the salary \$14,000 for the Chief Justice and \$13,500 for the Associate Justices? Is not that the statutory salary?

Mr. JOHNSON of South Carolina. We followed the law as it is-\$15,000 for the Chief Justice and \$14,500 each for the Associate Justices.

Associate Justices.

Mr. CULLOP. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield?

Mr. FOWLER. Yes.

Mr. CULLOP. I desire to ask the gentleman from South
Carolina if the salary of the Chief Justice is not \$13,500 and
the salary of the other Justices \$13,000? I understand that this

is an increase of \$1,500.

Mr. JOHNSON of South Carolina. The salary of the Chief Justice is fixed by law at \$15,000 and that of the Associate Justices at \$14,500, and the committee has simply appropriated

the amount required by law.

Mr. CULLOP. My understanding, I will say, was different from that of the gentleman. Two years ago, when the statute was amended, the salary was \$13,500 for the Chief Justice and \$13,000 for each of the Associate Justices.

The CHAIRMAN. Does the gentleman from Illinois IMr.

FOWLER] insist upon his point of order?

Mr. FOWLER. I am satisfied, Mr. Chairman, that there is no statute authorizing the salary of \$15,000 for the Chief Justice and \$14,500 for the Associate Justices, respectively.

Mr. JOHNSON of South Carolina. But, Mr. Chairman, there

is a statute, and it went into effect on the 1st day of January, 1912.

The CHAIRMAN. The gentleman from South Carolina [Mr. JOHNSON] assures the Chair that there is a statute fixing the salary of the Chief Justice at \$15,000 and that of the Associate Justices at \$14,500 each. If the gentleman from Illinois will state to the Chair that he is positive there is no such statute, then the Chair will investigate in order to determine which of these two gentlemen is correct.

Mr. FOWLER. The rule of parliamentary procedure in this House, Mr. Chairman, is that if there is a contention by a committee that there is a statute fixing a salary at a certain amount, the burden is on the committee to produce the statute.

The CHAIRMAN. The Chair believes that would be a good rule if these contentions were made only where there was some indication that there was no statute authorizing the salary.

Mr. MANN. Mr. Chairman, I will produce the statute. The CHAIRMAN. But if some gentleman in his place questions the chairman of the committee as to the law, and the chairman of the committee in charge of the bill asserts of his positive knowledge that there is a statute, the Chair will take that statement, unless some gentleman says, I have the statute before me and the chairman of the committee in charge of the

bill is in error.

Mr. FOWLER. Mr. Chairman, at the last session of this Congress, on an amendment to increase the salaries of the clerks to the Members of Congress, I had occasion to investigate the salaries of public officers, and among them was the salary of the Chief Justice and Associate Justices. I solicited the assistance of the librarian for that purpose, and with him went through an investigation of the matter, and my recollection assures me that the salaries in this paragraph are too

The CHAIRMAN. Will the gentleman from Illinois yield now to his colleague [Mr. MANN], who says he has the statute before him?

Mr. FOWLER. Yes.

Mr. MANN. Mr. Chairman, by the act of March 3, 1911, revising the laws relating to the judiciary title, which carries the salaries of the Supreme Court Justices and other salaries, it is provided that the salary of the Chief Justice shall be \$15,000 and the salary of the Associate Justices \$14,500.

The CHAIRMAN. The Chair now has the statute before

him-United States Statutes at Large, acts of 1909-1911.

Was that current law or permanent law? Mr. FOWLER. The CHAIRMAN. It is permanent law, and it has not been repealed so far as the Chair knows.

Mr. JOHNSON of South Carolina. Section 218 of the code: The Chief Justice of the Supreme Court of the United States shall receive the sum of \$15,000 a year, and the Justices thereof shall receive the sum of \$14,500 a year each, to be paid monthly.

Mr. MANN. He will find it at page 1152 of the Statutes at Large, Sixty-first Congress.

Mr. FOWLER. In what connection was that statute passed? The CHAIRMAN. The Chair is not familiar with the law, only that it is an existing statute on the books now.

Mr. MANN. It is the revision of the judiciary title, so called, and that provision was inserted in the bill in the House on my motion.

The CHAIRMAN. The Chair is ready to rule.

Mr. FOWLER. Mr. Chairman, it is characteristic of the gentleman from Illinois [Mr. MANN] to make motions to increase the salaries of big men and to object to motions to increase the salaries of charwomen. Therefore, Mr. Chairman, I withdraw the point of order.

Mr. MANN. I never made a motion to decrease the salary of

my colleague.

Mr. CANNON. Mr. Chairman, I move to strike out the last I, too, am a Representative, from now until March 4, from the State of Illinois. I am not in sympathy with the great desire of my colleague [Mr. Fowler] to protest against the salaries of the Chief Justice and the Associate Justices of the Supreme Court of the United States. I should not have felt it necessary or even desirable to make this remark had it not been that my colleague [Mr. Fowles] is also from the State of Illinois, and I am glad that the salary of the Chief Justice is \$15,000, and that the salaries of the Associate Justices are \$14,500.

Mr. FOWLER. Mr. Chairman, in opposition to the amendment offered by the gentleman from Illinois [Mr. CANNON] I desire to say that I am not objecting to this paragraph because of the salaries, but I was making an honest inquiry as to whether there was any permanent law which authorized those salaries. I was sincere in believing that the statute fixing the salaries of the Chief Justice and Associate Justices of the United States did not authorize these amounts. I was acting in good faith. I stand for the courts of our country, and I defy the ex-Speaker of this House to have greater reverence for them than I have, because I regard myself as a member of those courts as an attorney practicing therein.

Mr. CANNON. The gentleman then agrees with me that he is glad that the Chief Justice receives a salary of \$15,000 a year? The gentleman then agrees with me that he

Mr. FOWLER. I would be very glad, Mr. Chairman, could have my colleague Mr. CANNON say that he joins me in asking that the wages of the labor of this country be placed upon a better level with the salaries of the great offices which he has sought in the past so many times to increase; but I am sorry to say that he and his kind have ever had their seals set

against the labor of this country and regard it as a matter of course to serve those who feed upon the products of its toil.

Mr. CANNON. Mr. Chairman, I move to strike out the last two words. Does the gentleman desire that the charwomen and messengers, occupying positions sought for in the District of Columbia for which we are constantly besieged for recommendations, should be compensated for at the rate of \$15,000 a year? Mr. Chairman, labor pays it all,

Mr. FOWLER. And produces it all.

Mr. CANNON. Labor that is distributed throughout the country of 100,000,000 people, substantially, produces all, pays all the taxes, for the preferential labor at better pay and more certain pay; labor throughout the country is taxed to contribute to it.

know that the gentleman represents a district in the southern part of the State of Illinois, standing in season and out of season to play up to his constituents that mine the coal, fooling the people with the idea that he is serving them when he seeks to tax them for the purpose of employing other labor at preferential prices. Yet it is true that by the verdict of the people that sent him here he has succeeded in fooling them; how long he can fool them God only knows. [Laughter.] I want to say one other thing, as long as my colleague has made the statement that I lie awake nights and in my service have discriminated against the men who live in the sweat of their faces. I apprehend that during my service I have assisted in legislation more for the benefit of the hundred millions of people that toil than he would or can even if he lived to be as old as Methuselah and occupied a seat in this House for that time. [Laughter.]
Mr. FOWLER. Mr. Chairman, I desire to speak in opposi-

tion to the amendment now pending.

The CHAIRMAN. The gentleman from Illinois, Mr. CAN-NON, moved to strike out the last two words, and now the geutleman from Illinois, Mr. Fowler, is entitled to speak in opposition.

Mr. FOWLER. Mr. Chairman, I did not know that it was a crime in any legislative body to look after legislative appropriation bills to the extent of seeing whether they conform to the law of the land, but my distinguished colleague from Illinois [Mr. Cannon] has revealed such as being the fact from his standpoint. I do not complain of paying a salary to an individual who is worthy of the salary. I am not complaining of a salary that is commensurate with the services rendered. Neither am I complaining at the salary of the Supreme Court of the land, but the gentleman from Illinois rose in his seat and eulogized the salary which was paid to these great officials of this country. In the same connection he sought to belittle the effort to increase the salary which is paid to such people as messengers and charwomen. From his seat, since I have been here, he has repeatedly sought to keep such labor on a low salary, below that which is necessary to give an economi-With such as him the country has complained; it cal living. has complained of his policy as Speaker of this House, and the people at large have complained and repudiated him and his policies. He has been fooling a majority of the people of his district for a long time. If I should live as long as he suggested, I would not fool the people, or as many of them as he has, because he has fooled a majority of the people of this country, and I have not even fooled a majority of one congressional district. My constituents sent me here because I stand against such policies as the gentleman has labored for 30 years to inaugurate in this House and to fasten upon this country. I say to him that I never will stand for his policies. The people have repudiated them once and for all time to come, as I verily

The CHAIRMAN. All debate on this amendment is exhausted, and the Clerk will read.

The Clerk read as follows:

District courts: Ninety-three district judges, at \$6,000 each, \$558,000. Mr. BURKE of Pennsylvania. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

Page 135, line 25, strike out "\$6,000" and insert "\$7,000," and in line 25, page 135, strike out "\$558,000" and insert "\$651,000."

Mr. JOHNSON of South Carolina. Mr. Chairman, I make the point of order that that is new legislation.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

Retired judges: To pay the salaries of judges retired under section 714 of the Revised Statutes, so much as may be necessary for the fiscal year ending June 30, 1914, is hereby appropriated.

Mr. CULLOP. Mr. Chairman, I move to strike out the last

word for the purpose of asking the chairman of the committee

a question. How many judges are there now upon the retired

Mr. JOHNSON of South Carolina. The amount for retired judges for the year 1912 is \$132,651.11.

Mr. CULLOP. In number how many are there? Mr. JOHNSON of South Carolina. I do not I do not know. number varies from time to time.

Mr. CULLOP. Does the gentleman know what States and Territories they are in? Each State has not a retired judge?

Mr. JOHNSON of South Carolina. I will say to the gentle-man that there are Supreme Court judges, circuit court judges, and district court judges on the retired list, and they draw different salaries.

Mr. CULLOP. Are there any Supreme Court Justices on the retired list?

Mr. JOHNSON of South Carolina. Yes.

Mr. GARRETT. Judges Shiras, Brown, and Moody are on the retired list.

Mr. CULLOP. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

Court of Appeals, District of Columbia: Chief justice, \$7.500; 2 associate justices, at \$7.000 each; clerk, \$3.250, and \$250 additional as custodian of the Court of Appeals Building; assistant or deputy clerk, \$2.250; reporter, \$1,500: Provided, That the reports issued by him shall not be sold for more than \$5 per volume; crier, who shall also act as steaographer and typewriter in the clerk's office when not engaged in court room, \$1.260; 3 messengers, at \$720 each; necessary expenditures in the conduct of the clerk's office, \$1,000; 3 stenographers, 1 for the chief justice and 1 for each associate justice, at \$1,200 each; in all, \$36,710, one-half of which shall be paid from the revenues of the District of Columbia.

Mr. FOWLER. Mr. Chairman, I reserve the point of order on ne paragraph. I desire to ask the chairman what was the the paragraph. necessity for raising the salary of the crier from \$1,000 to

Mr. JOHNSON of South Carolina. Mr. Chairman, the crier of the court is required to be a stenographer and typewriter and to act as such. He has been receiving a salary of \$1,000 a year. The committee was urgently requested to increase the salary to \$1,600 a year, and we allowed an increase of \$200.

Mr. FOWLER. Has he been doing the stenographic work

heretofore?

Mr. JOHNSON of South Carolina. I do not know how long he has been doing that work. That is what he is doing now.

I desire to ask if these volumes of reports Mr. FOWLER. can not be produced for less than \$5 each? They ought not to be sold above cost, should they?

Mr. JOHNSON of South Carolina. The gentleman stands that there is no great demand for these reports. The gentleman underare from the Court of Appeals of the District of Columbia. There is a very limited number of volumes sold.

Mr. FOWLER. I did not know whether the gentleman's

committee had gone into the question.

Mr. JOHNSON of South Carolina. We did not. I am just

giving the gentleman my judgment.

Mr. FOWLER. Does the gentleman think that they could be produced for \$3 a volume?

Mr. JOHNSON of South Carolina. The gentleman knows that in producing books the cost depends on the number of copies that can be disposed of, and the number here is small.

Mr. FOWLER. If the gentleman thought so, I would like

to offer an amendment to make it \$3 instead of \$5.

Mr. JOHNSON of South Carolina. I think we had better let it alone.

Mr. FOWLER.

Mr. JOHNSON of South Carolina. Yes. The lawyers who buy the books are not complaining.

Mr. FOWLER. Very well. I withdraw the point of order.

The Clerk read as follows:

Commissioner, Yellowstone Park: Commissioner in Yellowstone National Park, \$1,500. And the provisions of section 21 of the legislative, executive, and judicial appropriation act approved May 28, 1896, shall not be construed as impairing the right of said commissioner to receive said salary as herein provided.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word. I would ask the chairman why this provision is worded as it is in regard to the act of 1896, providing that it shall not be so construed as impairing the right of said commissioner Was there anything to receive such salary as herein provided. in that act which provided for the payment of a salary to this commissioner?

Mr. JOHNSON of South Carolina. The United States commissioners are paid fees. It is necessary for the Government to have one commissioner in the Yellowstone Park, but the fees received are insignificant, so that it is necessary for Congress to provide, and it has so provided for many years, for a small

Mr. CULLOP. Would it not be advisable, then, to add a provision to this that the fees he may receive should be covered into the Treasury of the United States to be used for park funds?

Mr. JOHNSON of South Carolina. The gentleman understands that \$1,500 is a small salary for anyone to receive who resides in the Yellowstone Park, and if we were to require him to turn the little fees he receives into the Treasury it would probably be necessary to increase the salary by an equal amount.

Mr. CULLOP. About what is the amount annually that he

receives?

Mr. JOHNSON of South Carolina. I do not know, but it is small; inconsequential, the Clerk tells me.
Mr. CULLOP. Mr. Chairman, I withdraw the pro forma

amendment.

The Clerk read as follows:

For rent of necessary quarters in Washington, D. C., and elsewhere, \$7,000; for necessary traveling expenses of members of the court and clerk, \$150; for books, periodicals, and stationery, supplies, freight, telephne and telegraph, heat, light, and power service, drugs, chemicals, and cleansers, furniture, and printing; for pay of bailiffs and all other necessary employees not otherwise specifically provided for; and for such other miscellaneous expenses as may be approved by the presiding judge, \$7,500; in all, \$14,650.

Mr. GILLETT. Mr. Chairman, I offer as a separate section the amendment which I send to the Clerk's desk.

The CHAIRMAN (Mr. ROBINSON). The Clerk will report the

amendment.

The Clerk read as follows:

On page 138, after line 6, insert as a separate paragraph the fol-

On page 138, after line 6, insert as a separate paragraph of the lowing:

"Commerce Court: Expenses allowance for judges at rate of \$1,500 per annum each, \$7,500; clerk, \$4,000; deputy clerk, \$2,500; marshal; \$3,000; deputy marshal, \$2,500; for rent of necessary quarters in Washington, D. C., and elsewhere, and furnishing same for the United States Commerce Court; for books, periodicals, stationary, printing, and binding; for pay of balliffs and all ther necessary employees at the seat of government and elsewhere, not otherwise specifically provided for, and for such other miscellaneous expenses as may be approved by the presiding judge, \$35,000; in all, \$54,500."

Mr. GILLETT. Mr. Chairman, I do not wish to take the time of the committee in debating this, because the majority of the House have already fully indicated their opinion upon it. It was debated at length in the last session of the Congress, and I do not suppose that any argument would alter their minds. In fact, the leaving out of this provision shows their purpose; but I simply wish that there shall be a vote upon it, so that the responsibility may rest where it belongs and it shall not appear that the whole House acquiesced in omitting this appropriation.

Mr. JOHNSON of South Carolina. Mr. Chairman we are perfectly willing that the responsibility should appear to rest upon us for not putting this item in the bill. Let us have a vote on the amendment. The House has passed upon it and the country has passed upon it.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

For reporting the decisions of the court and superintending the print-lng of the forty-seventh volume of the reports of the Court of Claims, \$1,000, to be paid on the order of the court, notwithstanding section 1765 of the Revised Statutes or section 3 of the act of June 20, 1874.

Mr. JOHNSON of South Carolina. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 138, in line 22, strike out the words "forty-seven" and insert in lieu thereof the words "forty-eight." The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Sec. 2. That the pay of telephone-switchboard operators, assistant messengers, firemen, watchmen, laborers, and charwomen provided for in this act, except those employed in mints and assay offices, unless otherwise specially stated, shall be as follows: For telephone-switchboard operators, assistant messengers, firemen, and watchmen, at the rate of \$720 per annum each; for laborers, at the rate of \$660 per annum each; assistant telephone-switchboard operators, at the rate of \$600 each; and for charwomen, at the rate of \$240 per annum each.

Mr. FOWLER. Mr. Chairman, I offer an amendment to line 16 by striking out the figures \$240 and inserting in lieu thereof \$360.

The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

Amend, page 139, line 16, by striking out "\$240" and inserting in lieu thereof "\$360."

Mr. JOHNSON of South Carolina. Mr. Chairman, I make the

point of order that this is new legislation.

The CHAIRMAN. Does the gentleman from Illinois desire to

be heard? Mr. FOWLER. Mr. Chairman, it is not subject to the point of order. There is no statute fixing the salary of charwomen or the wages to be paid to charwomen, neither is there any precedent for fixing wages of charwomen. I think that \$240

is much less than has been paid to any charwomen in any department carried in this bill. As I recall, none of them has been paid less than \$360. The only thing I desire is to make the salary equal to that in other departments. I do not think it is subject to the point of order at all.

The CHAIRMAN. May the Chair ask the gentleman from South Carolina whether \$240 is the amount carried in the ap-

propriation bill of last year?

Mr. JOHNSON of South Carolina. The law fixes it at \$240, or rather the appropriation bill fixes it at \$240. That is all the law on the subject.

The CHAIRMAN. That is what the Chair asked the gentle-

The point of order is sustained.

The Clerk read as follows:

Sec. 4. That section 7 of the general deficiency appropriation act approved August 26, 1912, is amended to read as follows:

"Sec. 7. That no part of any money contained herein or hereafter appropriated in lump sum shall be available for the payment of personal services at a rate of compensation in excess of that paid for the same or similar services during the preceding fiscal year; nor shall any person employed at a specific salary be hereafter transferred and hereafter paid from a lump-sum appropriation at a rate of compensation greater than such specific salary, and the heads of departments shall cause this provision to be enforced: Provided, That this section shall not apply to mechanics, artisans, their helpers and assistants, laborers, or any other employees whose duties are of similar character and required in carrying on the various manufacturing or constructing operations of the Government."

Mr. MANN. Mr. Chairman, I reserve a point of order on the section. I would like to know just what change this makes from the provision now in force.

Mr. JOHNSON of South Carolina. Does the gentleman make

inquiry of me?

Mr. MANN. I made inquiry of the gentleman.
Mr. JOHNSON of South Carolina. The last Congress provided that persons transferred from the statutory roll to the lump-sum appropriation should not receive a greater sum than they had received on the statutory roll. Some of the governmental departments employ people—artisans and mechanics—in the navy yards and arsenals, and it is the rule at those places to fix the rate of compensation for mechanics and artisans every six months by a board. This board figures as to the rate of compensation paid for like services in surrounding manufacturing establishments, and upon that basis they fix the rate of pay, and this provision would of course forever limit them to the rate of pay received the year before this law was enacted unless it was modified.

Mr. MANN. Well, this statute was just enacted. is hardly dry upon it. Was it ill considered at the time it was

brought into the House and passed?

Mr. JOHNSON of South Carolina. No; it was not ill considered. It was good legislation, because we found that people who were on the statutory roll at \$1,600 or \$1,800 a year would be transferred to a lump-sum appropriation at an increase of \$900 or \$1,000, and it was to stop that that this legislation was enacted. Then it was brought to the attention of the committee that these artisans and mechanics were employed in the way that I have indicated, and we are trying to keep all the good effects of the law without doing anything wrong.

Mr. MANN. I may say it may not have been ill-considered legislation, but evidently not fully considered legislation, because here is a proposition to amend it in two very important particulars, only one of which has been suggested by the gen-

theman from South Carolina [Mr. Johnson].

Mr. JOHNSON of South Carolina. Oh, well, I do not say that the legislation was perfect, but it was in the right direc-

Mr. MANN. It seems to me that when matters of this sort are brought in, involving every branch of the service, they ought to be pretty fully considered by the committee before they are presented.

Mr. GILLETT. Last year it was not intended that it should apply to the artisans and mechanics, but it was overlooked that

it would affect them.

Mr. MANN. Whoever drafted the amendment must have intended that to apply.

Mr. GILLETT. Not at the time, I think. I do not think they thought of it at all.

Mr. MANN. Then it was not considered at all, because the bulk of the employees of the Government probably are artisans and mechanics. Here was a provision framed affecting them, and you say the committee never thought of them in connection

Mr. GILLETT. That is what I have understood. Mr. JOHNSON of South Carolina. This came over from the

Senate as an amendment.

Mr. MANN. I had forgotten that. Now, as I understand, this provision, having ascertained that the law as it now stands

would prevent the raising of the salaries of artisans and mechanics at all, would keep them from year to year what they were the preceding year, and you propose to do the same thing by this amendment as to everybody else in the Government serv-You have herein proposed to have amended the law so that the rate of compensation shall not be in excess of that paid for same or similar services during the preceding fiscal year. Well, take this year, and here is the rate of compensation fixed now according to the preceding fiscal year. It could not be raised next year; it can not be raised the year after that; it can not be raised the year after that; and if this remains in, it can not be raised in any year, because it will be fixed according to the preceding year; and in 50 years it will be the same as this year.

Mr. JOHNSON of South Carolina. Unless Congress changes

the pay.

Mr. MANN. That is what it is-

Mr. JOHNSON of South Carolina. Unless Congress changes the rate of compensation here in the department, the rate now

obtaining will continue to be the rate.

Mr. MANN. Under the existing provision in the deficiency act the rate of compensation must not exceed that paid for the

same or similar service during that current year. Mr. GILLETT. Yes; but not out of a lump sum. For instance, we do change every year the compensation of different officers who are not paid out of a lump sum.

Mr. MANN. I am not talking about what this applies to. is a lump-sum appropriation. But there are various officials of the Government who are paid out of lump-sum appropriations. I agree with the committee that the fewer the better, but under this bill it would not be possible to change the amount paid any individual out of a lump-sum appropriation under any circumstances hereafter if this remains in the

Mr. GILLETT. The gentleman, I think, is mistaken there, because the gentleman goes on the theory that this means that whatever is paid out of a lump sum shall not be greater than that which was paid the previous year out of a lump sum. Now, that paid the previous year out of a lump sum, of course, could not be increased, and that was not the intention of this clause, I understand. This clause means that what is paid out of a lump sum shall not be greater than was paid to the same man who did similar work, who was paid not necessarily from the lump sum, but by regular, specific appropriation. Now, those cases can be raised from year to year. I think that was the intention.

I know, but if you have cases where a man is Mr. MANN. being paid out of a lump sum-that is, under this provisionthe best test of it is what sum was paid for similar services last year. What he is paid is the best test, and no other test could be applied. You could not change the compensation by increasing it.

Mr. MONDELL. Mr. Chairman, it seems to me that the gentleman from Illinois [Mr. Mann] places a peculiar construction on this language. The intent of the section is to prevent the increase of the salary or emolument of certain classes of officers or employees out of a lump-sum appropriation over and above the amount they received in the previous year out of regular appropriations.

Mr. MANN. I beg the gentleman's pardon; to that portion of the bill I have not referred, or to that portion of the law.

Mr. MONDELL. That is all there is in the law.

Mr. MANN. I beg the gentleman's pardon. There is a specific paragraph on that subject, which is not changed by the addition of a word or the dotting of an "i" or the crossing of a " from existing law.

Mr. MONDELL. Well, referring now to the part of the section contained in the first five lines, the intent is as I have stated, and the intent is very clearly stated, I think, in the language used; and I think the language can not be properly criticized. Then the provision goes on and provides:

Nor shall any persons employed at a specific salary be hereafter transferred and hereafter paid from a lump-sum appropriation at rate of compensation greater than such specific salary.

There can be no objection to that, it seems to me.

That is the current law. Mr. MANN.

Mr. MONDELL. Then the gentleman's objection is to the first part of the section, which I have just read; it seems to me that it very clearly meets the evil that it is intended to cure, providing that no payment out of a lump-sum appropria-tion shall be in excess of the payment to the same officer for the same kind of service out of regular appropriations.

Now, the committee, in adopting the language last year, through inadvertence, used the words "during the fiscal year 1912." It is very clear that that was adopted by reason of the fact that when the provision was first considered it was con-

sidered as an amendment to that particular bill, and not as continuing legislation. When it came to be considered and changed into continuing legislation, those words were not modified. We modify it now, in order that it may be continuing legislation, under which payments out of lump sums may not be in excess of what the same officer or employee received from a regular appropriation for the same service in the preceding fiscal year.

MANN. Mr. Chairman, my distinguished friend from Wyoming, whom I was glad to designate to go on the Committee on Appropriations, has given a great deal of attention to the subject of appropriation bills, but I believe not quite so much attention as I have given, and very naturally he should have fallen into the error he has fallen into about this item. This item is not continuing legislation, and will not be continuing legislation unless it is inserted from year to year in the bill.

The item in the deficiency bill relates only to the year 1912, and therein it is provided that salaries paid out of lump-sum appropriations shall not be greater than those paid for the same or similar services during the fiscal year 1912. That is perfectly proper. That does mean that lump-sum salaries shall not be greater than specific salaries. But now, as it is proposed to be changed, while it is not continuing legislation, if the same item is to be put in every appropriation bill, it will fix the salary this year or last year for all lump-sum salaries for all time to come. It was purposely made in the deficiency bill so that it should only put lump-sum salaries on the same basis as specific salaries are during that same time. Now it is proposed, how-ever much specific salaries may be increased hereafter, that lump-sum salaries shall remain inviolate.

Mr. MONDELL. I know that the gentleman wants to be

accurate, and he generally is-

Mr. MANN. I am on this occasion. I have studied this ap-

propriation, and I am sure the gentleman has not.

Mr. MONDELL. The gentleman says this provision contained in the late deficiency bill had no reference to any appropriation except that appropriation. The gentleman must be mistaken; otherwise the words "hereafter appropriated" would have no force or effect. I think the gentleman will concede that this language in the deficiency bill is continuing legislation, in that it affects appropriations in the future. The amendment also affects or will affect, if it remains in the bill, appropriations in the future, and it was to avoid the very fault that the gentleman criticizes—that of continuing the salaries of 1012 as the basic for the future, that the salaries of 1912 as the basis for the future—that the amendment was

Mr. MANN. Mr. Chairman, be that as it may, I called attention to this section because here was a provision inserted in the deficiency bill which became a law on August 26 last, fully considered by the gentleman now in charge of this measure. It is proposed to amend it in two very important particulars. I call attention to that because I propose to make a point of order against the next section. I do so for the purpose of showing how easy it is for our great Committee on Appropriations, when they start to legislate instead of appropriate, to make bad mistakes and bring in, not possibly ill advised, but certainly not fully considered, legislative propositions. I withdraw the point of order on this section.

The CHAIRMAN. The gentleman withdraws the point of

order.

Mr. JOHNSON of South Carolina. Mr. Chairman, before the Clerk reads I desire to ask unanimous consent that the clerk of the committee be authorized to correct all totals in the bill.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent that the clerk be authorized to correct all totals in this bill.

The Clerk read as follows:

The Clerk read as follows:

Sec. 5. That hereafter no person who is or has been employed, within the classified service, in any executive department or other branch of the public service of the United States shall be employed, within the classified service, in another executive department or other branch of the public service of the United States unless a period of at least 11 months shall have elapsed since such previous employment of the person shall have ceased, except in specific cases where the heads of executive departments or other branches of the public service immediately concerned shall be agreed on a transfer or an employment not withstanding the period of not less than 11 months herein contemplated shall not have elapsed, and in every such exceptional case the written approval of the President shall be obtained in advance of the employment, and except also in cases where termination of service shall have occurred because of reduction of force in any branch of the public service.

Mr. MANN. Mr. Chairman, I make a point of order against that section.

Mr. JOHNSON of South Carolina. Mr. Chairman-

Mr. MANN. I will reserve the point of order if the gentleman from South Carolina desires to be heard upon it.

Mr. JOHNSON of South Carolina. I have no desire to encumber the Record. We believe this is wise legislation, but it

is subject to a point of order, and if my friend is going to make

it I have nothing further to say.

Mr. MANN. I shall make the point of order in the end. Mr. JOHNSON of South Carolina. Then the gentleman had better make it now.

Mr. MANN. I make the point of order. The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

SEC. 6. That all laws or parts of laws inconsistent with this act are repealed.

Mr. MARTIN of South Dakota. Mr. Chairman, I move to strike out the last word. I have asked this recognition in order to make reference to another item in the bill at the top of page 65, containing the appropriation for the maintenance of the assay office at Deadwood, S. Dak.

The Committee on Appropriations after deliberation dropped six assay offices. They made an appropriation in the bill for the Deadwood assay office and for the assay office at Seattle.

Upon Saturday afternoon, when there were but very few in the Chamber, a motion was made by the gentleman from Indiana [Mr. Cox], when this paragraph was read, to strike it That motion was not resisted by the committee or otherwise, and the amendment prevailed.

I was necessarily absent at the time, and other gentlemen interested in the item were relying upon the assumption that it having been reported by the committee, it would not be dropped out, at least without resistance and debate. Consequently, a demand will be made for a separate vote in the House upon the amendment striking out this item.

I want, in my time, to explain the situation regarding the Deadwood assay office. Of the eight remaining assay offices outside of the city of New York, the office at Deadwood produces more bullion in the course of the year than any of the eight. Indeed, almost one-half of the entire purchase of bullion, in the neighborhood of \$8,000,000, is made at that office. The earnings of the office are considerably more than those of any of the assay offices in this entire list, and the expenses of operating it are less than any, with the sole exception of the small office at Charlotte, N. C., which has really been only nominally maintained for many years.

The policy has been to drop out assay offices upon the theory that they were unnecessary and were not maintaining themselves out of their earnings. The Deadwood office is one the dropping of which can not be sustained upon any such theory of economy.

It is the only office, practically, paying the entire expenses from the earnings. The receipts or earnings of the Deadwood office during the last fiscal year were \$10,917.95. As reported in the tables of the Secretary of the Treasury, it would appear that the expenditures were \$14,096.40; but, as a matter of fact, the expenses of that office were only \$10,122.65 for the fiscal year. This other item is an-item which has been charged from the general Department of the Treasury apportioning the dis-bursements for express charges on bullion from the various offices amounting to three thousand nine hundred and someodd dollars. Taking that out of the alleged expenses of the Deadwood office, the office has earned an actual profit and has been doing so for some years.

As a matter of fact, that express charge ought not to be carried against this office. The assay office charges and collects for charges of stamping and assaying bullion purchased at the office \$1.25 per thousand. If it was sent to the nearest mint, the Government would collect no such charge for assaying and stamping, and the result would be that the cost to the Govern-

ment would be more than the express item.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MARTIN of South Dakota. Mr. Chairman, I ask unani-

mous consent for one minute more.

The CHAIRMAN. The gentleman asks unanimous consent that his time be extended one minute. Is there objection?

There was no objection.

Mr. MARTIN of South Dakota. This is an item that I am familiar with, because it is in my own city. The office has been managed constantly with the idea in view that it ought to be managed and maintained within the earnings of the office. has practically done so, and the committee were right in retaining the item in the bill. It was inadvertently stricken out without consideration when few were present, and I hope that the views of the committee in keeping it in the bill will be supported when it is offered in the House.

Mr. JOHNSON of South Carolina. Mr. Chairman, I move that the committee do now rise and report the bill with amend-ments to the House, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARNER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 26680, the legislative, executive, and judicial appropriation bill, and had directed him to report it back with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move the previous question on the bill and amendments to its final pas-

The motion was agreed to.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. MONDELL. Mr. Speaker, I ask a separate vote on the amendment striking out lines 1 to 7, inclusive, on page 65.

The SPEAKER. The Clerk will report the amendment,

The Clerk read as follows:

Amend, page 65, by striking out lines 1 to 7, inclusive, which read as

Amend, page 65, by striking out lines 1 to 7, inclusive, which read as follows:

"Assay office at Deadwood, S. Dak.: Assayer in charge, who shall also perform the duties of melter, \$2,000; clerk, \$1,200; assistant assayer, \$1,600; assayer's assistant, \$1,400; in all, \$6,200.

"For wages of workmen and other employees, \$3,000.

"For incidental and contingent expenses, new machinery, etc., \$1,500."

The question was taken; and on a division (demanded by Mr. MONDELL) there were 63 ayes and 26 noes,

So the amendment was agreed to.

The remaining amendments were agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. GILLETT. Mr. Speaker, I move to recommit the bill with instructions to report it back with the following amend-

The SPEAKER. Is the gentleman from Massachusetts opposed to the bill?

Mr. GILLETT. I am as much opposed to the bill as anybody could be.

The SPEAKER. That is not the question. The question is

whether the gentleman is opposed to the bill. Mr. GILLETT. I am in favor of the bill with this amend-

The SPEAKER. The rule provides that in making motions to recommit preference shall be given to some Member opposed to the bill. There is nobody on earth who knows whether the gentleman from Massachusetts is opposed to the bill except himself. If he says he is, the Chair will recognize him.

Mr. GILLETT. I will not say more than that I prefer it

with this amendment. I do not know how anyone can say more. Mr. MANN. No honest man can say more, and the gentleman

from Massachusetts is to be commended for it.

The SPEAKER. If the gentleman from Massachusetts will say that he is opposed to the bill, the Chair will recognize him.

Mr. GILLETT. I will not say any more, Mr. Speaker, than

I have stated.

Mr. CANNON. Mr. Speaker, it seems to me that the gentleman from Massachusetts can be recognized to move to recommit the bill for a specific object, to add an amendment or a provision to it, provided always that there is no one who demands recognition because he is opposed to the bill in its entirety. I apprehend there is no such one, and therefore I submit the gentleman would be entitled to be recognized under the rule.

The SPEAKER. There is no question in the world about what the rule is. If the gentleman from Tennessee [Mr. Gar-RETT], who is clamoring for recognition, says he is opposed to this bill, with the answer of the gentleman from Massachusetts [Mr. Gillett] standing as it is, the Chair will recognize the gentleman from Tennessee, but if he makes the same answer, and all the rest who are asking recognition, then the Chair will recognize the gentleman from Massachusetts.

Mr. GARRETT. Mr. Speaker, I wish to submit an observa-tion upon that, if I may be so permitted.

The SPEAKER. The previous question has been ordered. Mr. GARRETT. Is there not tentatively a point of order

pending, the point having been made by the Speaker? The SPEAKER. There is no point of order pending. The Chair has already settled it.

Mr. GARRETT. I can not, Mr. Speaker, of course, go further than the gentleman from Massachusetts goes. No man can on an appropriation bill.

Mr. MANN. No honest man can. Mr. COX of Indiana. Mr. Speaker, I desire to offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. COX of Indiana. I am opposed to that portion of the bill to which my motion applies.

The SPEAKER. The gentleman's motion must apply to the legislative, executive, and judicial appropriation bill.

Mr. COX of Indiana. My preferential motion applies to a part of that bill.

The SPEAKER. So does the preferential motion of the gentleman from Massachusetts, and he is recognized.

Mr. GILLETT. Mr. Speaker, I move to recommit with the following instructions, which I send to the desk and ask to have read.

The Clerk read as follows:

On page 138, after line 6, insert as a separate paragraph the follow-

On page 138, after line 6, insert as a separate paragraph the following:

"Commerce Court: Expense allowance for judges at rate of \$1.500 per annum each, \$7,500; clerk, \$4,000; deputy clerk, \$2,500; marshal, \$3,000; deputy marshal, \$2,500; for rent of necessary quarters in Washington, D. C., and elsewhere, and furnishing same for the United States Commerce Court; for books, periodicals, stationery, printing, and binding; for pay of bailiffs and all other necessary employees at the seat of government and elsewhere, not otherwise specifically provided for, and for such other miscellaneous expenses as may be approved by the presiding judge, \$35,000; in all, \$54,500."

Mr. JOHNSON of South Carolina. Mr. Speaker, on the motion to recommit Leavenum the previous question.

motion to recommit I demand the previous question.

The previous question was ordered.

Mr. COX of Indiana. Mr. Speaker, a parliamentary inquiry. The SPEAKER. The gentleman will state it.

Mr. COX of Indiana. Is a motion to recommit amendable? The SPEAKER. Not after the previous question is ordered. The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. GILLETT) there were—ayes 33, noes 83.

So the motion to recommit was rejected.

The SPEAKER. The question now is on the passage of the

The question was taken, and the bill was passed.

On motion of Mr. Johnson of South Carolina, a motion to reconsider the vote by which the bill was passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted-To Mr. Brown, for four days, on account of serious illness.

To Mr. TURNBULL, indefinitely, on account of sickness.

To Mr. Harr, for two weeks, on account of illness. The SPEAKER. The Chair lays before the House the following communication, which the Clerk will report.

The Clerk read as follows:

The Clerk read as follows:

Mr. Speaker: The managers on the part of the House of Representatives in the matter of the impeachment of Judge Robert W. Archbald, the trial of which cause is now pending and in progress before the Senate sitting as a Court of Impeachment, beg to say:

1. That said cause is called for trial daily in the Senate sitting as a Court of Impeachment, beginning at the hour of 1.30 p. m. and generally continuing until the hour of 6 p. m.

2. The managers find that it is necessary for the proper trial of such case for them to have the permission of the House from 12 m. for consultation and arrangement of the presentation of the case, and that their presence is required in the Senate daily from 1.30 p. m. until, as a rule, the hour of 6 p. m.

We respectfully ask that we be excused from attendance upon the sessions of the House until such impeachment trial shall have been completed.

Henry D. Clayton.

HENRY D. CLAYTON. EDWIN Y. WEBB, JOHN C. FLOYD, JOHN W. DAVIS. JOHN A. STERLING, PAUL HOWLAND. GEORGE W. NORRIS.

The SPEAKER. Without objection, the managers on the part of the House will be excused from further attendance on the sessions of the House.

There was no objection.

MONTICELLO.

Mr. HENRY of Texas. Mr. Speaker, I offer the following privileged resolution from the Committee on Rules, which I send to the desk and ask to have read.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to call up for consideration at this time the Indian appropriation bill, which I gave notice that I would do immediately upon the conclusion of the legislative bill. I therefore move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Indian appropriation bill.

The SPEAKER. These two motions are of equal dignity. The Chair has promised to recognize the gentleman from Texas, Mr. Henry. The Chair will recognize the gentleman from Texas, Mr. Stephens, as soon as the resolution of his colleague is out of the way. The Clerk will report the resolution of the gentleman from Texas [Mr. Henry]. The Clerk read as follows:

House resolution 740 (H. Rept. 1266).

Resolved, That immediately upon the adoption of this resolution the House shall preceed to consider Senate concurrent resolution 24, providing for an inquiry as to the purchase of the home of Thomas Jefferson at Monticello, Va., and that at the end of one hour's debate the previous question shall be considered as ordered on said Senate concurrent resolution and the House shall vote upon the same without any intervening motion, except the motion to recommit under the general rules of the House intervening motion, rules of the House.

Mr. HENRY of Texas. Mr. Speaker, I move the previous question on the resolution which I send to the Clerk's desk.

Mr. MOORE of Pennsylvania. Mr. Speaker—
The SPEAKER pro tempore (Mr. Robinson). For what purpose does the gentleman rise?

Mr. MOORE of Pennsylvania. For a parliamentary inquiry. The SPEAKER pro tempore. The gentleman will state it. Mr. MOORE of Pennsylvania. I think I addressed the Chair

The SPEAKER pro tempore. The gentleman has been recog-

Mr. MOORE of Pennsylvania. I want to know if the passage of this motion precludes the opportunity to offer an amendment to the resolution?

The SPEAKER pro tempore. The question is on moving the previous question-

Mr. MOORE of Pennsylvania. I desire to offer an amendment to this resolution, and I want to know whether under this

The SPEAKER pro tempore. The Chair can not put that question now; the Chair will pass upon the parliamentary inquiry when it is in order. The question is on the ordering of the previous question.

The question was taken, and the previous question was or-

dered.

Mr. MOORE of Pennsylvania. Mr. Speaker, a parliamentary inquiry

The SPEAKER pro tempore. The gentleman will state it.

Mr. MOORE of Pennsylvania. I asked the Chair a moment ago a parliamentary question, and I did not understand that the question was answered. I do not know whether it is in order now to make a parliamentary inquiry.

The SPEAKER pro tempore. It is in order to make a parliamentary inquiry, and the Chair will answer the question when the inquiry is in order.

Mr. MOORE of Pennsylvania. Under the status of the resolution now will there be an opportunity to offer an amendment-

The SPEAKER pro tempore. The Chair will answer that question when it is in order to answer it; it is not in order now. Mr. MANN. Mr. Speaker, in order that such a question may

be cleared up, I ask that the rule may be again reported.

The SPEAKER pro tempore. The Clerk will again report the resolution.

The resolution was again reported.

The SPEAKER pro tempore. Now, the gentleman from Pennsylvania [Mr. Moore] will state his parliamentary inquiry

Mr. MOORE of Pennsylvania. I want to know if I will have an opportunity now or at the conclusion of the debate to offer an amendment.

Mr. HENRY of Texas. If the gentleman will allow me just a moment, I will state this is for the consideration of the rule; the concurrent resolution, No. 24, has not been read, and I will ask unanimous consent that it be now read.

Mr. MANN. If the gentleman will pardon me, the resolution which was read clearly states that at the end of an hour's debate on the concurrent resolution the previous question shall be considered as ordered, so if the resolution is adopted that ends any chance to amend the concurrent resolution.

Mr. MOORE of Pennsylvania. That is my understanding, and for that reason I made inquiry. The gentleman from Texas has helped a little bit; but it would seem, even with his explanation, there would be no opportunity to amend this resolution at any time.

Mr. MANN. There is none, unless it is voted down.

Mr. MOORE of Pennsylvania. Then it will be necessary to vote down this resolution to get an opportunity to amend the concurrent resolution.

Mr. CULLOP. May I make an inquiry of the gentleman?
Mr. HENRY of Texas. Mr. Speaker, I desire to answer these
questions without it being taken out of my time, as I understand it is a parliamentary inquiry that is being addressed to the Chair. I will be glad to answer, if the Chair will not take

it out of my time.

Wr CULLOP. The inquiry I wanted to make was this: As of an hour the previous question shall be ordered.

Mr. HENRY of Texas. Yes.

Mr. CULLOP. But by a motion to recommit the resolution itself or rule it could be amended if that motion should carry? Mr. HENRY of Texas. Of course that will be a matter for the Chair to pass on.

Mr. CULLOP. Well, it provides for a motion to recommit. Mr. HENRY of Texas. I think it would be in order; yes.

Mr. CULLOP. Then the gentleman from Pennsylvania, if he desires to amend it, would have an opportunity to offer his amendment in the nature of a motion to recommit with instructions

Mr. HENRY of Texas. Mr. Speaker, we might as well have read, for the information of the House, Senate concurrent resolution to be considered at the expiration of the 40 minutes' debate which is now to be had, provided the special rule be adopted by the House. This resolution was unanimously passed by the Senate of the United States on July 17, 1912:

Senate concurrent resolution 24. Senate concurrent resolution 24.

Resolved by the Senate (the House of Representatives concurring),
That the President of the Senate be, and is hereby, authorized to
appoint a committee of five members of the Senate, to act in cooperation with a similar committee to be appointed by the Speaker of the
House of Representatives, to inquire into the wisdom and ascertain the
cost of acquiring Monticello, the home of Thomas Jefferson, as the
property of the United States, that it may be preserved for all time in
its entirety for the American people.

Mr. Speaker, the Senate of the United States last summer unanimously adopted the concurrent resolution. The one sent to the Clerk's desk, and which has just been read, is a resolu-tion providing for the consideration of the concurrent resolution now held by me.

Mr. Speaker, at the end of the hour's debate provision is made that a motion to recommit Senate concurrent resolution No. 24 may be made, in order that the House may amend it if it sees proper.

roper. So far as I am personally concerned—
Mr. SHERLEY. Will the gentleman yield for a question? It would only be possible to amend it by one motion to recommit with instructions. It would not be possible to consider it for

amendment in the ordinary course.

Mr. HENRY of Texas. No; it would not; but a motion to recommit with instructions can be made, and I apprehend any gentleman can express his views in a motion to recommit. Mr. Speaker, this resolution only provides for appointing a joint committee of the Senate and House of Representatives for the purpose of inquiring into the wisdom of acquiring the home of Thomas Jefferson. I can not see how any gentleman on this side of the House or the other side of this body can object to a resolution unanimously passed by the Senate, which simply seeks to ascertain whether it is wise or not for this Government to acquire the home of Thomas Jefferson. Let this House vote upon the resolution and express its choice. I shall gladly cast my vote in favor of the Senate concurrent resolution in order that a proper inquiry may be made into the proposition. [Applause.]

It has been said that we are now endeavoring to take Monticello from the distinguished gentleman from New York [Mr. LEVY], who now holds the legal title to those premises. I deny that there is anything in the special rule or in the concurrent resolution looking to that end. The gentleman from New York should gracefully bow to the will of the American people and let this House pass a resolution that has passed the Senate of the United States, looking into the wisdom of such a simple [Applause.] I have great respect for the proposition as this. gentleman as my colleague, and would do no violence to his rights on the floor of this House, nor to the rights of any colleague of mine, but it seems to me that the name and fame of Thomas Jefferson are far above any personal consideration in this day and generation, and we may well inaugurate a plan looking to the acquisition of his grave and the premises that were owned by him. Therefore, I have interested myself as an individual and in an unofficial way to bring this matter before the American Congress, and hope the House of Representatives will adopt this rule and let us have a vote on the other resolution-No. 24-and see whether or not the representatives of the people are in favor of the proposition.

Mr. DALZELL. Mr. Speaker-

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. Dalzell], a member of the Committee on Rules, is recognized.

Mr. DALZELL. Mr. Speaker, the Committee on Rules has twice passed on this proposition, first, as an original legisla-tive proposition, which was favorably reported to the House and went on the calendar. Since that time the Committee on Rules has adopted this resolution making the consideration of the original proposition privileged. I was not able to be present at either of those meetings. Had I been present I would have voted against both resolutions—both the resolution to report.

the concurrent resolution and the resolution now before the House to make that resolution privileged. And I shall vote against this proposition now and shall vote against the original

proposition when the time comes.

The original proposition provides for the appointment of a committee to do two things, first, to inquire into the wisdom of purchasing the home of Thomas Jefferson; and, secondly, to ascertain the cost of acquiring that home. Now, as to the first proposition, there is absolutely no necessity for this resolution. The question of the wisdom of purchasing the home of Thomas Jefferson is a question for the individual judgment of each Member of this House, and it is a question that every Member of this House will determine without any regard to the report of any committee on the subject. The question as to how much the home of Thomas Jefferson may be purchased for is a question the answer to which does not require the appointment of any committee. The home of Thomas Jefferson is to-day in the legal ownership of a Member of this body. That gentleman has declared publicly, is ready to declare now, that the home of Thomas Jefferson is not for sale at any price. This resolution, therefore, is unnecessary and inopportune, unless it have an ulterior purpose.

That it has such ulterior purpose has been authoritatively declared both privately in conversation and publicly in the press, and that ulterior purpose is to compel a private citizen against his will to part with his property by means of legislation. In other words, it is to declare that the doctrine of Federal eminent domain shall be sufficient to carry the compulsory sale of the property of an individual who is unwilling to part with it. I do not believe-I can not believe-that the House of Representatives is willing to make such an assault upon the

fundamental right of private property.

The question as to whether or not the Government should own the home of Thomas Jefferson is a question about which there might be differences of opinion. But without respect to differences of opinion at all, it is apparent that that home can not be owned by the United States in the present condition of things unless by the passage of legislation which, in my judgment, would be a disgrace to any civilized body, and especially disgrace to the House of Representatives of the United States. [Applause.]

reserve the balance of my time.

Mr. HENRY of Texas. Mr. Speaker, I yield to the gentleman from Virginia [Mr. SAUNDERS].

Mr. SAUNDERS. I wish to oppose the resolution. I have risen for that purpose.

Mr. HENRY of Texas. I did not understand that. Mr. DALZELL. Does the gentleman from Virginia want

Mr. SAUNDERS. Yes. I desire a few minutes. Mr. DALZELL. How much time does the gentleman desire? Mr. SAUNDERS. I do not know how much is available.

Mr. DALZELL. I yield five minutes to the gentleman. The SPEAKER pro tempore. The gentleman from Virginia

[Mr. SAUNDERS] is recognized for five minutes.

Mr. SAUNDERS. Mr. Speaker, as a Representative from Virginia, the State that claims Jefferson as a son, and cherishes his memory, I wish to say that I am opposed to this resolution. The name and the fame of the dead are being used to oppress the living. I am opposed to any movement that looks to the acquisition of this property by means of the power of eminent domain. The Federal Government possesses this power to the extent to which it is expressly, or by necessary implication given by the Constitution, but it has never been settled that the right of condemnation may be applied to the acquisition of private homes within the States to be used as parks, or as shrines of No rhetorical references, however fervid to the memory and the greatness of Thomas Jefferson, for in this regard are all agreed, should avail to blind us to the fact that fundamentally the power to which appeal must be made, to render this movement effectual, and deprive the present owner of his property in Monticello is, to say the least of it, one of doubtful existence.

It is bootless for the advocates of this resolution to insist that the pending proposition is merely an inquiry to ascertain whether Monticello is for sale, and the propriety of its purchase. If such be the sole and only purpose of the resolution, then this House is doing a vain and futile thing to create a committee to ascertain a fact already within our knowledge. owner of this property has already declared in the hearings, and repeated his declaration in terms of the most emphatic emphasis upon this floor, that Monticello is not for sale on any terms, or under any circumstances. Is the committee willing to accept an amendment to the effect that the committee created by this resolution, shall be limited in its investigation to the

mere inquiry whether the property is for sale, and if so the price at which it may be acquired? The terms of the resolution are of much more extended import, and will empower a more extended inquiry than the amendment I suggest, though this amendment is in harmony with what is asserted on the floor to be the scope and intent of this movement. It is very clear to one who has followed the course of this resolution through the committee hearings, and read the matter submitted in support of the same, that in the ultimate the power of condemnation is intended to be invoked to secure this property, should the owner decline to sell, and the action of to-day is merely the initial step in that direction.

If we look to the terms of the resolution, as it passed the Senate, it will be manifest from the wording of the same, that the committee for which it provides, was not intended to be limited to the mere inquiry whether the home of Jefferson could be obtained by simple purchase. But if it is now contended that such is the limit of the inquiry, then why waste the time of the House with this debate, or create a committee to obtain information which this body can secure first-hand? The owner of Monticello is now on this floor, and with all the fervor of which he is capable, declares that Monticello is not for sale. Surely this should be sufficient?

Confronted, therefore, with so emphatic a statement, of so authoritative a character; in possession of the very information that this resolution supposedly will secure, why should we

do so vain a thing as appoint a committee to ascertain a fact of which we are all apprised?

Mr. HENRY of Texas. Mr. Speaker, will the gentleman yield? Mr. SAUNDERS. Certainly.

Mr. HENRY of Texas. Why did the Senate pass the resolution, then?

Mr. SAUNDERS. I do not know why the Senate passed the resolution. I am dealing with the proposition that confronts us, but will say that this is neither the first resolution, nor the first bill that has passed the Senate to find defeat in this body. I do not know what motive animated the Senate in passing this resolution, but I do know that to-day we are in possession of information with respect to the merits of this proposition that was not before the Senate. I know that some of the descendants of Jefferson in no remote degree, have given formal expression to their attitude of opposition to this movement to invoke the power of eminent domain to strip the present owner of Monticello of a property which for many reasons is dear to his heart, and which he maintains in a manner at once honorable to himself, and creditable to the memory of Jefferson. The name and authority of this great man should not be invoked to sustain a movement to call into exercise the power of the Federal Government to take over private property for a use which in the contemplation of the Constitution has not been clearly ascertained to be a public one. [Applause.]

The SPEAKER pro tempore. The time of the gentleman

Mr. HENRY of Texas. Mr. Speaker, I yield five minutes to the gentleman from Kentucky [Mr. James]. [Applause.]

[Mr. JAMES addressed the House. See Appendix.]

Mr. DALZELL. I yield to the gentleman from Pennsylvania

[Mr. Moore] five minutes.

Mr. MOORE of Pennsylvania. Mr. Speaker, the distinguished gentleman from Kentucky [Mr. James], who has just taken his seat, seems to misunderstand the language of this resolution. It is not a resolution to remove the remains of Thomas Jefferson to the city of Washington in order that a monument may be erected over them, but it is a resolution to take over the property belonging to a private citizen. If this resolution passes it will destroy every precedent that this House has followed in matters of this kind for half a century. There are a number of historic spots of ground all over this land that will have claims upon the Congress of the United States if this resolution shall be enacted into law. Bills have been brought in here to take over the Hermitage, the home of Andrew Jackson. Long arguments and strong fights were made upon this floor to secure that property by similar means, but the House has set its face against taking over these properties as Government charges, because they carry with them not only the patriotic questions involved, and those of gallantry, too, if you please, but they take over the practical, cold question of maintenance, which is a very serious one to the Government. All over the eastern coast we have sites hallowed by the lives of distinguished men, which would at once command the attention of Congress, and every one of them would have an equal claim upon this body. It would mean additions to the pay rolls of thousands of caretakers at salaries that would have to be provided by the people of the United States. If we are to take

over Monticello, the home of Thomas Jefferson, and take it away from its private owner, then why not take the Betsy Ross flag house in which was made the first flag of the United States, woven by the deft fingers of Betsy Ross back in 1774? We had a bill here for that purpose, but it was not favorably considered.

Why not take over the battle field of Appomattox, upon which was sealed the fate of this Nation, now the property of a private individual? Why not take over Mount Vernon, the home of George Washington, now in the hands of patriotic women of this country, who contributed therefor from their own means, maintaining it as a shrine? Independence Hall is not the property of the Government, but the Government has an interest there; it is maintained by the city of Philadelphia. The old statehouse in Boston, the scene of some of the most heroic passages in history, is not the property of the Government of the United States. The Daughters of the American Revolution, patriotic women all of them, are organized for the very purpose of taking over these historic spots and making them shrines for the people.

What will be the cost incident to taking over Monticello? The Government in appropriation bills must annually provide for a certain number of caretakers to maintain the upkeep, and then will follow an almost unlimited demand for the recognition of patriotic institutions, until the pay rolls are burdened by thousands of new places-holders that our friends on the other side, if they pass this bill, will have to provide for in the very near future. [Applause.]

Mr. HENRY of Texas. Mr. Speaker, I yield five minutes to the gentleman from Tennessee [Mr. Garrett].

Mr. GARRETT. Mr. Speaker, it seems to me that gentlemen who are opposing this resolution are opposing it not because of what is in it, but because of things that are not in it. not prepared, Mr. Speaker-and I say it very candidly-to commit myself to the doctrine that the Government has the right or the power to exercise eminent domain in regard to this estate for the purpose stated in the Senate resolution. that question I have yet to reach a conclusion. But this resolution does not in any respect whatsoever provide for that, nor does it by any fair implication look to that.

So far as the policy of the Government owning estates of great men of the past is in question, there may be difference of opinion, but so far as I am concerned, Mr. Speaker, if the Government can acquire this property in a legitimate manner I do not think it would hurt my country. I do not think any man would ever think less of this country because it owned and cared for the home and the grave of the author of the Declara-

tion of Independence. [Applause.]

I do not shrink from the policy that may be involved in its purchase or in its care and ownership, but as I have said, I do not commit myself and am not prepared to commit myself to the doctrine that the Government would have the legal right to condemn and take it. But that is not involved in this resolution. For reasons that are sound, in my opinion, it is wise at this time to have a committee composed of Members of this House and of Members of the other body make an elaborate investigation of the legal question that is involved here, and let it be determined in a formal, official way once and for all what the power of the Government may be in this regard. [Applause.

Mr. DALZELL. Mr. Speaker, how much time have I re-

maining?

The SPEAKER pro tempore. The gentleman has five min-

utes.

Mr. DALZELL. I yield two minutes to the gentleman from

Kentucky [Mr. Johnson].
Mr. JOHNSON of Kentucky. Mr. Speaker, no American worships at the shrine of Thomas Jefferson more than do I. One of his most earnest requests was that he be taken care of when he was dead. I believe if he could speak now that he would be the first to raise his voice in opposition to that which is about to be undertaken here, to-day. In my honest judgment the best way to take care of him when he is dead is to refuse to do that which he would not do, either for himself or for another, if he were living. It has been referred to by my distinguished colleague when he said that it might become possible to ask the consent of the present owner of that property to go to the shrine of Thomas Jefferson that he might there worship. Is he not now compelled to pay even to get within the gates of Mount Vernon, where lie the remains of George Washington? [Applause.] I predict for the owner of the estate of Thomas Jefferson that he will never demand a fee of admission there. He admits now-and I have no doubt he and his successors in ownership of that property will continue to do as a patriotic society does in Kentucky which owns the home of and my abhorrence of the unjust fight Mrs. Littleton is waging to

Abraham Lincoln-every man, woman, and child of this land, and every other nation, to go there and worship at the shrine, if you choose to call it that, of the greatest perhaps of all Americans.

[Applause.]

This patriotic society that owns the home of Abraham Lincoln We will make the American people a present of it. We will put with that an endowment for them of \$50,000 to take care of it," and no man I believe should ask that that property should be taken away from these people if they wish to retain it, and I for one would stand in the way of it to the fullest extent [Applause.]

Mr. HENRY of Texas. Mr. Speaker, I yield two minutes to

the gentleman from Alabama [Mr. CLAYTON].

Mr. CLAYTON. Mr. Speaker, I can not hope to say very much in the limited time I have. There is no occasion, Mr. Speaker, for anyone to be alarmed, and there is less occasion for excitement over the consideration and the adoption of this resolution. It is simply a resolution of inquiry. It is not a condemnation proceeding. It is merely to furnish information to the Congress of the United States, to the American people, as to the wisdom and as to the cost of acquiring this property. That, Mr. Speaker, will be considered by the committee, and of course, as a corollary of the main question, the legal rights of the distinguished gentleman from New York [Mr. Levy] will also be ascertained and dealt with by the joint committee. have no doubt, Mr. Speaker, that every phase of this question, the wisdom of acquiring and the cost, as well as the rights of the gentleman from New York, will be fully considered and reported to the Congress by the committee. [Applause.]

Mr. Speaker, if Congress has not the power to acquire this property, I hope that patriotic impulses will yet spring in the heart of the gentleman from New York, who claims ownership of this property, and let the American people have free access, and not some sort of permissive access, to the shrine of the greatest statesman that ever graced American history. [Applause.]

Mr. LEVY. They do have free access to it now.

The SPEAKER pro tempore. The time of the gentleman from Alabama has expired. Each side has three minutes re-

Mr. DALZELL. Mr. Speaker, I yield three minutes to the

gentleman from Virginia [Mr. SAUNDERS].

Mr. SAUNDERS. Mr. Speaker, I desire to bring to the attention of the House one or two matters which of necessity I was unable to discuss in the few minutes accorded to me from the brief time prescribed for this debate. First, I challenge the statement that this resolution does not directly or by any fair construction contemplate the acquisition of this property by condemnation proceedings. In answer to this contention I will read the language of the resolution itself:

The committee shall ascertain the cost of acquiring Monticello.

Mr. JAMES. Oh, read the first part of it.

Mr. SAUNDERS. That portion of the resolution is not relevant, or helpful in this connection.

Mr. JAMES. The resolution says the wisdom of doing it. Mr. SAUNDERS. I am discussing the authority given to the committee, and assert that when the resolution uses the words: Shall ascertain the cost of acquiring Monticello," such language is broad enough to cover not only peaceful purchase, but

the harsh procedure of condemnation. In this conclusion I think every lawyer in the House will concur.

In addition I wish to say that since this movement was inaugurated a great change has taken place in the public attitude, growing out of increasing knowledge on the part of the public of the real purpose of this agitation. That great editor from the State of Kentucky, Henry Watterson, was willing to be associated with this propaganda so long as it was limited to the acquisition of Monticello by private purchase, but when its real aims were disclosed, he withdrew his support, and within the last few days has announced in the most emphatic terms that he is opposed to proceedings in condemnation. On its inception many persons favored this movement under the mis-conception that an association was to be formed for the purchase of Jefferson's home. To the formation of such an association, and to the development of an organization so limited, there can be no valid objection. Certainly I offer none. In order that I may fairly put before the House the attitude of one who is certainly entitled to speak with a measure of authority, as a descendant of Thomas Jefferson, I wish to read a portion of a letter from Frank M. Randolph, to Mr. Jefferson Levy. We have heard much of the "one wish," of a distinguished advocate of this resolution. The concluding "wish" of the writer of this letter may be fairly opposed to this "one wish." Mr. Randolph writes:

seize your home. I am sure that all my family, to whom you have always been so courteous and kind in offering the hospitality of Monticello, feel the same way. We all feel that it is a travesty on justice, a direct infringement on American liberty, and directly opposed to the principles and sentiments of the great builder of Monticello.

The care and preservation you have bestowed on this dear old place shows your faithful and sentimental appreciation of your charge.

You have evinced always a desire and interest to care for Jefferson's tomb.

May you win your just cause in this fight, is the hope and the one wish of your friend and neighbor,

FRANK M. RANDOLPH.

I can not put before the House my own attitude more forcibly than by reading this letter.
Mr. STEPHENS of Texas. How is Mr. Randolph related to

Mr. Jefferson?

Mr. SAUNDERS. He is a great-great-grandson. Like this descendant of Jefferson I hold that this proceeding is directly opposed to the principles and sentiments of the great builder of Monticello. It is difficult to relate the authority for the condemnation of Monticello for use as a shrine, or park to any one of the powers afforded by the Constitution. While such authority might be deduced from that instrument by appeal to the principles of liberal interpretation, such a deduction would be opposed to the historic attitude of Jefferson. No greater wrong could be done to the memory of this great man, than to secure this property by a perversion of the plain meaning of the Constitution, and resort to the principles of a school of constitutional interpretation to which he was flatly opposed.

Mr. FERRIS. Mr. Speaker, if the concurrent resolution providing for the acquirement of Monticello, now under consideration, involved our affection for Thomas Jefferson, we would all stand on the same side of the question together, but such is not

If the defeat of this resolution would dim one glory to his long line of achievements, we would all oppose it together, but such is not the case.

If the resolution provided for a task that was within the power of Congress, we would then have but the problem of advisability to solve, but to be asked to undertake to do a thing which no friend of this resolution, either in speech or print, has asserted they can do is too much.

To pass a resolution of inquiry when the facts are patent to all of us is certainly asking Congress to do a useless and idle thing. It is well known by all of us here this day that the property is owned by one of our colleagues who does not at this time wish to sell it. It is scarcely less than a senseless thing to ask Congress to do a thing which not even its friends will assert

can be done; that of taking it by force.

If this proceeding was a resolution to ascertain what we could in an orderly way secure the property for, it would then be questionable as to whether we should purchase Monticello before we purchase Mount Vernon, the home of the Father of our Country, we at least are not more derelict in one case than

the other.

This proposed investigation can and will never result in anything but headlines and should go no further. Congress should not be asked to do on the ground of sentiment, emotion, and commotion a thing which can not be done within our powers.

This resolution comes to us under whip and spur. Few of us can even be heard at all upon it by reason of the gag rule; none of us may amend the resolution even partially, therefore the whole matter should wait until it is known that Monticello can be acquired in an orderly way for a reasonable price and without any coercion or other strong-arm methods. Congress can ill afford to do things from the standpoint of might and totally abandon right. Congress sometimes ovesteps their powers unwittingly; surely we should not overstep our powers when there is no disagreement among us as to our powers.

Some well-meaning persons, wrought up with emotion and commotion, will be disappointed at this action this day, but surely this Congress in its entirety can ill afford to be driven by emotion or forced into undertakings of doubtful authority by commotion.

This rule should first be defeated, so that when this matter does come on for consideration it will be subject to amendments and other painstaking considerations which a gag rule will not permit of.

Mr. DALZELL. Mr. Speaker, before the gentlemen on the other side proceed I ask unanimous consent that the time be extended for five minutes on each side.

The SPEAKER pro tempore. The gentleman from Pennsylvania asks unanimous consent that the time be extended for five minutes on either side. Is there objection?

Mr. JAMES. Mr. Speaker, I object.

Mr. HENRY of Texas. Mr. Speaker, I yield three minutes to the gentleman from Kentucky [Mr. STANLEY].

Mr. STANLEY. Mr. Speaker, great deference is due one of the lineal descendants of Thomas Jefferson, but we remember that the spiritual descendants of Thomas Jefferson number many millions [applause], and those who worship at that shrine, those who have learned the great lessons of civil liberty from that immortal teacher, have a right to be heard and a right to be considered. It is not for the sake of the dead, but for the sake of the living, that we desire to make this home a sacred shrine to all who seek or who love liberty anywhere in the world, without let, without hindrance, without cost. You would think, sir, from what has been said here that this Congress was preparing without further ado to seize Monticello. Nothing is further from the truth, nothing is more remote from the facts in the case. If this place can not be secured legally, does anyone believe, does this House believe, that the without one dissenting voice, would do this unconstitutional thing? Why, it is easier for a camel to go through the eye of a needle than for a constitutional question to get through the Senate. If there were any such trouble as that which seems to stalk like a hobgoblin through this House, it would never have passed the Senate. Mr. Speaker, they are objecting not to the taking of this place by condemnation proceedings—I would not approve of that—but here is a new idea of the sacredness of property. I have the greatest deference for my colleague, the gentleman from New York [Mr. LEVY], but I do not believe that he holds this property by such a peculiar and unique title that it is against the law to ask him what it is worth and if he will not sell it, and yet that is all that this resolution contemplates

Mr. MANN. Do it now; ask him.

Mr. STANLEY. Mr. Speaker, I can not be interrupted in the

three minutes time I have. [Laughter.]

The SPEAKER. The time of the gentleman has expired; all time has expired, and the question is on agreeing to this resolution from the Committee on Rules.

The question was taken, and the Speaker announced the noes seemed to have it.

Mr. HENRY of Texas. Division, Mr. Speaker.

The House proceeded to divide.

Mr. HENRY of Texas. Mr. Speaker, to save time I demand the yeas and nays.

The SPEAKER. The gentleman from Texas demands the yeas and nays; evidently a sufficient number and the yeas and nays are ordered.

The question was taken; and there were-yeas 101, nays 141, answered "present" 10, not voting 138, as follows:

YEAS-101.

Alexander Allen Ashbrook Austin Barchfeld Barnhart Beall, Tex. Berger Blackmon Booher Brantley Bulkley Bulkley Burgess Burke, Wis. Burnett Byrnes, S. C. Byrns, Tenn. Candler Cantrill Collier Conley Copley Cox, Ind. Cox, Ohio Cullop Davenport

Denver Dickinson Dickinson
Dixon, Ind.
Dodds
Dodds
Dupré
Edwards
Faison
Fergusson
Fields
Francis
French
Garratt Garrett Gill Godwin, N. C. Gocke Hamilton, W. Va. Hamilton, W Hardwick Hayden Heflin Henry, Tex. Hensley Houston Hull Pickett Humphreys, Miss. Porter James Raker James

Dies Difenderfer

Doughton Driscoil, D. A.

Donohoe

Doremus

Dyer Ellerbe

Farr Ferris Finley

Estopinal

Fitzgerald Flood, Va.

Foss Gallagher

Good Goodwin, Ark. Green, Iowa Greene, Mass. Greene, Vt.

George Gillett

Kendall Kent Kitchin Konop Kopp Lafferty Lee, Ga. Linthicum Littlepage Lobeck Loud McKellar McLaughlin Maguire, Nebr. Maher Mays Miller Nelson Nye Oldfield Palmer Pepper Peters

Sisson Slemp Small Smith, J. M. C. Smith, Tex. Stanley Stedman Steenerson Stephens, No Taylor, Ala. Thomas Towner White Wilder Wilson, Ill. Young, Tex.

Reilly Rothermel

Rubey Russell Scott Sheppard

Rouse

NAYS-141.

Ainey Akin, N. Y. Anderson Bartholdt Bates Bathrick Boehne Bowman Buchanan Burke, Pa. Burke, S. Dak. Burleson Callaway Carter Clark, Fla. Carter Clark, Fla. Claypool Cline Cooper Curley Dalzell Danforth Davis, Minn. De Forest

Griest Gudger Guernsey Hamilton, Mich. Hamlin Hammond Hardy Harrison, Miss. Hawley Hay Hayes Heald Helgesen Helm Hinds Holland Howeil Johnson, Ky. Johnson, S. C. Jones Kahn Kinkaid, Nebr. Korbly

La Follette Lawrence Lee, Pa. Lenroot Lenroot
Lever
Lever
Levy
Lindbergh
Lloyd
McCoy
McCreary
McCreary
McCermott
McKenzie
McKinley
McKinney
Madden
Mondell
Moon, Tenn.
Moore, Pa.
Morgan, La.
Morgan, Okla.
Morse, Wis.
Moss, Ind.

Mr. McGillicupdy with Mr. Martin of South Dakota.

Mr. Rucker of Colorado with Mr. Roberts of Nevada. Mr. Sabath with Mr. Roberts of Massachusetts. Mr. Talcott of New York with Mr. Sells. Mr. Taylor of Colorado with Mr. Samuel W. Smith.

Mr. Moore of Texas with Mr. Matthews. Mr. O'SHAUNESSY with Mr. Moon of Pennsylvania. Mr. Patten of New York with Mr. Needham, Mr. Post with Mr. Pray, Mr. Pou with Mr. Prince. Mr. RANDELL of Texas with Mr. REYBURN.

350		CONGRESSIONAL R		
Mott Neeley Padgett	Rees Robinson Roddenbery	Speer Stephens, Cal.	Underhill Vare Volstead	I
Page		Stephens, Miss. Stephens, Tex.	Watkins	
Patton, Pa. Payne	Rodenberg Rucker, Mo. Saunders	Stone Sulzer	Wedemeyer Willis	1
Plumley	Shackleford	Sweet	Wilson, Pa.	
Powers Prouty	Sharp Sherley	Switzer	Witherspoon Wood, N. J.	
Rainey	Sherwood	Taggart Thistlewood	Young, Kans.	
Ransdell, La. Rauch	Simmons Slayden	Tilson		
Redfield	Sloan	Townsend Tribble		
	ANSWERED "	PRESENT "-10		
Browning Butler	Foster Fowler	Hobson McMorran	Murray	1
Cannon	Garner	Mann		1
	NOT VO	TING—138.		
Adamson	Floyd, Ark.	Konig	Richardson	
Aiken, S. C. Ames	Fordney	Lafean Lamb	Riordan Roberts, Mass.	
Andrus	Fornes	Langham	Roberts, Nev. Rucker, Colo.	1
Ansberry Anthony	Fuller Gardner, Mass.	Langley Legare	Rucker, Colo. Sabath	
Ayres	Gardner, N. J.	Lewis	Scully	1
Bartlett	Glass Goldfogle	Lindsay Littleton	Sells Sims	1
Bell, Ga. Borland	Gould	Longworth	Smith, Saml. W.	1
Bradley	Graham	McCall	Smith, Cal. Smith, N. Y.	1
Broussard Brown	Gray Gregg, Pa.	McGillicuddy McGuire, Okla.	Sparkman	
Calder	Gregg, Tex. Hamill	McHenry	Stack	
Campbell Carlin	Hamili Hanna	Martin, Colo. Martin, S. Dak.	Sterling Stevens, Minn.	
Cary	Harris	Matthews	Sulloway	
Clayton	Harrison, N. Y.	Merritt Moon, Pa.	Talbott, Md. Talcott, N. Y. Taylor, Colo.	w
Covington	Hartman	Moore, Tex.	Taylor, Colo.	VC
Crago	Haugen	Morrison	Taylor, Ohio	1
Cravens Crumpacker	Henry, Conn. Higgins	Murdock Needham	Thayer Turnbull	111
Currier	Hill	Norris	Tuttle	1
Curry Daugherty	Howard Howland	Olmsted O'Shaunessy	Underwood Vreeland	th
Davidson	Hughes, Ga. Hughes, W.Va.	Parran	Warburton	st
Davis, W. Va. Dickson, Miss.	Hughes, W.Va. Humphrey, Wash	Patten, N. Y.	Webb Weeks	1
Draper	Jackson	Pou	Whitacre :	1
Driscoll, M. E. Dwight	Jacoway Kennedy	Pray Prince	Wilson, N. Y. Woods, Iowa	1
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Mr. HAMILL with Mr. FORDNEY.

Mr. GOLDFOGLE with Mr. HARTMAN.

Mr. GRAHAM with Mr. HAUGEN.

Mr. LEGARE with Mr. LONGWORTH.

Mr. GLASS with Mr. HANNA.

Mr. Floyd of Arkansas with Mr. Fuller.

Mr. GRAY with Mr. HENRY of Connecticut. Mr. Gregg of Pennsylvania with Mr. Hill.

Mr. KINDRED with Mr. Jackson.
Mr. KINKEAD of New Jersey with Mr. KENNEDY.
Mr. KONIG with Mr. LAFEAN.
Mr. LAMB with Mr. LANGHAM.

Mr. Taylor of Colorado with Mr. Samuel W. Smith.
Mr. Thayer with Mr. Smith of California.
Mr. Turnbull with Mr. Sulloway.
Mr. Whitacre with Mr. Vreeland.
Mr. Harrison of New York with Mr. Weeks.
Mr. Lindsay with Mr. Woods of Iowa.
Mr. Martin of Colorado with Mr. Young of Michigan.
Mr. Smith of New York with Mr. Harris. For the session: Mr. Scully with Mr. Browning. Mr. Adamson with Mr. Stevens of Minnesota, Mr. LITTLETON with Mr. DWIGHT. Mr. FORNES with Mr. BRADLEY. Mr. Hobson with Mr. FAIRCHILD. Mr. Talbott of Maryland with Mr. Parran. Mr. RIORDAN with Mr. ANDRUS. Mr. BARTLETT with Mr. BUTLER. Mr. BROWNING. Mr. Speaker, I voted "nay." I am paired with my colleague, Mr. Scully, and I wish to withdraw my ote and vote "present."

The SPEAKER. The Clerk will call the gentleman's name. The name of Mr. Browning was called, and he voted present." Mr. MANN. Mr. Speaker, I voted "nay." I am paired with he gentleman from Alabama, Mr. Underwood, who I undertand did not vote. The SPEAKER. Call the gentleman's name. The name of Mr. Mann was called, and he voted "present." Mr. MURRAY. Mr. Speaker, may I inquire whether or not Mr. MURRAY. Mr. Speaker, may I inquire whether or not he gentleman from Massachusetts, Mr. McCall, has voted? The SPEAKER. He has not voted. Mr. MURRAY. I have a pair with the gentleman. Therefore desire to change my vote from "nay" to "present." The SPEAKER. The Clerk will call the gentleman's name. The name of Mr. MURRAY was called, and he voted "present." The result of the vote was announced as above recorded. On motion of Mr. Dalzell, a motion to reconsider the vote y which the resolution was rejected was laid on the table. PRINTING OF MANUAL AND DIGEST. Mr. HENRY of Texas. Mr. Speaker, I offer the following esolution and ask for its consideration. The SPEAKER. The gentleman from Texas [Mr. Henry] ffers a privileged resolution, which the Clerk will report. Mr. STEPHENS of Texas. Mr. Speaker—
The SPEAKER. The Chair will recognize the gentleman om Texas [Mr. Stephens] in a minute. Mr. HENRY of Texas. Does the Chair recognize me? The SPEAKER. Yes. Mr. HENRY of Texas. Mr. Speaker, I ask for the reading the resolution. The SPEAKER. The Clerk will report the resolution. The Clerk read as follows: House resolution 739. Resolved, That there be printed 2,000 copies of the Digest and fanual of the Rules of the House of Representatives for the third ession of the Sixty-second Congress, the same to be bound and disributed under the direction of the Clerk and Doorkeeper of the House. The SPEAKER. Is there objection to the present consideration of this resolution? There was no objection. The resolution was agreed to. RESIGNATION FROM COMMITTEE. The SPEAKER laid before the House the following communication: WASHINGTON, D. C., December 9, 1912. Washington, D. C., December 8, 1818.

Hon. Champ Clark,
Speaker of the House of Representatives,
Washington, D. C.

Sir: I hereby respectfully tender my resignation as a member of Elections Committee No. 3 of the House of Representatives, the same to take effect immediately.

Yours, truly,

Henry Allen Cooper, Mr. GREGG of Texas with Mr. Hughes of West Virginia. Mr. Hughes of Georgia with Mr. Humphrey of Washington. The SPEAKER. Without objection, the resignation is accepted. There was no objection.

SITE FOR COURTHOUSE, HELENA, ARK.

Mr. ROBINSON. Mr. Speaker, I beg to take from the Speaker's table the bill S. 3436, and move to agree to the conference asked for by the Senate.

Mr. MANN. I hope the gentleman will let it go over until

we see what the Senate does about it in the RECORD.

Mr. ROBINSON. The Senate has done nothing about it, but asks for a conference.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

A bill (S. 8436) granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse.

The SPEAKER. The gentleman from Arkansas moves to take the bill from the Speaker's table and agree to the conference asked for by the Senate.

The motion was agreed to.

The SPEAKER announced the following conferees: Mr. Rob-INSON, Mr. GRAHAM, and Mr. VOLSTEAD.

INVESTIGATION OF THE PATENT OFFICE.

The SPEAKER laid before the House the following message from the President of the United States, which was read, and, with the accompanying documents and illustrations, referred to the Committee on Patents and ordered to be printed: To the Senate and House of Representatives:

I transmit herewith a report relating to an investigation of the United States Patent Office made by the Commission on Economy and Efficiency pursuant to the joint resolution approved August 21, 1912.

WM. H. TAFT.

THE WHITE HOUSE, December 9, 1912.

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to call up the bill (H. R. 26874) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes for the fiscal year ending June 30, 1914, and ask that the House resolve itself into Committee of the Whole House on the state of the Union for its consideration.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 26874, the Indian appropriation bill, with Mr. ROBINSON in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the Indian appropriation bill, which the Clerk will report by title.

The Clerk read as follows:

A bill (H. R. 26874) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes for the fiscal year ending June 30, 1914.

Mr. STEPHENS of Texas. Mr. Chairman, I move to dispense

with the first reading of the bill.

The CHAIRMAN. The gentleman from Texas [Mr. Steph-ENS] moves that the first reading of the bill be dispensed with.

Mr. MANN. Reserving the right to object, Mr. Chairman, may I inquire of the gentleman from Texas whether, if the first reading of the bill be now dispensed with, it is his intention to at once move that the committee rise?

Mr. STEPHENS of Texas. It is. To-morrow the bill will be

read under the five-minute rule for amendment.

Mr. MANN. May I inquire further, whether it is the intention of the gentlemen in charge of the House to go ahead with the Indian appropriation bill to-morrow, or to go ahead with the election contest case, according to the notice given by the gentleman from Ohio [Mr. ANSBERRY] the other day?
Mr. STEPHENS of Texas. I will state that we desire to

finish this bill as speedily as possible and to regard it as unfinished business. We desire to proceed with the bill.

Mr. MANN. That is not what I am asking. I am asking whether the gentlemen in charge of the House have agreed as to which measure shall come up. I think it is but fair to this side of the House that we should know. May I ask the gentleman from Ohio [Mr. ANSBERRY] whether it is his intention to proceed to-morrow with the election case?

Mr. ANSBERRY. It is.

Mr. MANN. I do not object to dispensing with the first reading of the bill.

The CHAIRMAN. Is there objection to dispensing with the first reading of the bill?

There was no objection.

Mr. STEPHENS of Texas. Then, Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. Robinson, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 26874, the Indian appropriation bill, and had come to no resolution thereon.

COMMITTEE ON ARRANGEMENTS, INAUGURAL CEREMONIES.

Mr. GARRETT. Mr. Speaker, I call from the Speaker's table Senate concurrent resolution No. 31, and ask unanimous consent for its present consideration.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

Senate concurrent resolution 31.

Resolved by the Senate (the House of Representatives concurring), That a joint committee, consisting of three Senators and three Representatives, to be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President elect of the United States on the 4th day of March next.

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman if he has examined the resolution to ascertain if this is the usual form of resolution for this purpose?

Mr. GARRETT. Mr. Speaker, it is in the precise language

used four years ago and eight years ago.

The SPEAKER. The gentleman from Tennessee [Mr. Gar-RETT] asks unanimous consent to take this Senate resolution from the Speaker's table and consider it now. Is there objection?

There was no objection.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

The SPEAKER. The Chair appoints Mr. Rucker of Missouri, Mr. Garrett, and Mr. McKinley as members of the joint committee on the part of the House.

EXTENSION OF REMARKS.

Mr. HENRY of Texas. Mr. Speaker, I ask unanimous consent that those Members who have addressed the House on the resolution reported from the Committee on Rules concerning Monticello be allowed to extend their remarks in the RECORD.

The SPEAKER. The gentleman from Texas [Mr. HENRY] asks unanimous consent that those who have addressed the House on the Monticello resolution be allowed the privilege of extending their remarks in the RECORD-for how long?

Mr. HENRY of Texas. For five days.

Mr. MANN. Reserving the right to object, I wish to say that the gentleman from Pennsylvania [Mr. Dalzell] in charge of the time in opposition to the resolution had agreed to give me a few moments of time. It passed out of his mind, and he gave out all the time. Subsequently he conferred with the gentleman from Texas [Mr. Henry] in reference to extending the time for five minutes in order that I might have the opportunity of addressing the House, and at the request of the gentleman from Kentucky [Mr. James] or the suggestion of the gentleman from Tennessee [Mr. Garrett] the gentleman from Texas [Mr. HENRY] and the gentleman from Kentucky objected.

Mr. HENRY of Texas. Is the gentleman sure that I made If he is not, he ought not to make the statethat objection? ment, because the statement is not correct.

Mr. MANN. If the gentleman says that he did not make the

suggestion, I withdraw the statement.

The SPEAKER. Is the gentleman from Illinois objecting to this request?

Mr. HENRY of Texas. Furthermore, I will say that I had

no objection.

Mr. MANN. But the gentleman from Kentucky [Mr. James], who had addressed the House, having five minutes of time him-self—one-quarter of the time on that side of the House objected to letting anybody else address the House.

Mr. HENRY of Texas. It was not at my instigation. The gentleman must not make that kind of statement.

The SPEAKER. Does the gentleman from Illinois [Mr. Mann] object to the request of the gentleman from Texas for unanimous consent that all gentleman who have made speeches on the Monticello resolution may extend their remarks in the RECORD at any time within five days?

Mr. MANN. I shall not object, lest people might think it was on account of what I said; but I desire to give notice now that there will not be as many extensions of remarks at this session as there were at the last session. It has been run into the ground.

Mr. FITZGERALD. I shall be glad to have the gentleman's

aid in the attempt to economize.

Mr. GARRETT. Reserving the right to object, I wish to ask the gentleman from Illinois if in referring to "the gentle-

man from Tennessee" he referred to this gentleman from

Mr. MANN. I did not refer to the gentleman from Tennessee. Mr. GARRETT. The gentleman used the expression "the gentleman from Tennessee.'

Mr. MANN. But I immediately changed it.

The SPEAKER. Is there objection?

There was no objection.

Mr. LEVY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD. Is there

There was no objection.

Mr. RAINEY. I ask unanimous consent to extend my remarks in the RECORD.

Mr. FERRIS. I make a similar request.

Mr. MANN. I shall object to any further requests. If we must have drastic rules brought in here, and the time limited to 20 minutes, I do not propose to let anybody else get into the

The SPEAKER. Is there objection to the requests of the gentleman from Illinois and the gentleman from Oklahoma?

Mr. MANN. No; I am not objecting to these requests that are already made. I stated that I would object to any further When gentlemen are not courteous enough to give other gentlemen the opportunity, I shall object.

The SPEAKER. Three gentlemen were in that first proposition. the gentleman from New York [Mr. Levy], the gentleman from Illinois [Mr. Rainey], and the gentleman from Oklahoma [Mr. FERRIS]. Is there objection to those three?

There was no objection.

Mr. CARTER. I make a similar request.

The SPEAKER. The gentleman from Oklahoma [Mr. CARTER] has made a similar request, but did not come in the first proposition.

Mr. MANN. I object to any further requests.

The SPEAKER. The gentleman from Illinois objects.

ADJOURNMENT.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 19 minutes p. m.) the House adjourned until Tuesday, December 10, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of the Lake of the Woods at or near Arnesen, Minn. (H. Doc. No. 1099); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Core Creek, N. C. (H. Doc. No. 1097); to the Committee on Rivers and Harbors and ordered to be printed.

3. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination and survey of South River, N. C. (a tributary of Pamlico River), (H. Doc. No. 1095); to the Committee on Rivers and Harbors and ordered to be printed.

4. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Sandusky River, Ohio (H. Doc. No. 1086); to the Committee on Rivers and Harbors and ordered to be printed.

5. A letter from the Secretary of War, transmitting, with a

5. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Bayou Lafourche, La. (H. Doc. No. 1102); to the Committee on Rivers and Harbors and ordered to be printed. 6. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Great Sodus Bay, N. Y. (H. Doc. No. 1089); to the Committee on Rivers and Harbors and ordered to be printed. 7. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Nebalem River, Oreg. (H. Doc. No. 1104): to

examination of Nehalem River, Oreg. (H. Doc. No. 1104); to the Committee on Rivers and Harbors and ordered to be printed.

8. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, reports on preliminary examination and survey of Edenton Bay, N. C. (H. Doc. No. 1096); to the Committee on Rivers and Harbors and ordered to be printed.

9. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Pineland Channel, Fla. (H. Doc. No. 1092): to the Committee on Rivers and Harbors and ordered to be printed.

10. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary; examination of Darien Harbor and Doboy Bar, Ga. (H. Doc. No. 1091); to the Committee on Rivers and Harbors and ordered to be printed.

11. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of the harbor of Belhaven, N. C., and entrance thereto (H. Doc. No. 1098); to the Committee on Rivers and Harbors and ordered to be printed.

12. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Camden Harbor, Me. (H. Doc. No. 1093); to the Committee on Rivers and Harbors and ordered to be printed.

13. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Two Rivers, Wis.; also relative to terminal facilities at this locality (H. Doc. No. 1090); to the Committee on Rivers and Harbors and ordered to be printed.

14. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination and plan and estimate of cost of improvement of Chincoteague Inlet, Va. (H. Doc. No. 1094); to the Committee on Rivers and Harbors and ordered to be printed.

15. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Frederica River at or near Fort Frederica. Ga. (H. Doc. No. 1088); to the Committee on Rivers and Harbors and ordered to be printed.

16. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Lemon Creek, N. Y. (H. Doc. No. 1103); to the Committee on Rivers and Harbors and ordered to be printed.

17. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of the Hudson River at Albany and Rensselaer, N. Y. (H. Doc. No. 1087); to the Committee on Rivers and Harbors and ordered to be printed.

18. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary, examination of North Fork of Kentucky River, Ky. (H. Doc. No. 1101); to the Committee on Rivers and Harbors and ordered to be printed.

19. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary, examination of Cape Charles City Harbor, Va. (H. Doc. No. 1085); to the Committee on Rivers and Harbors and ordered to be printed.

20. A letter from the Postmaster General, transmitting a report of the finances of the department for the preceding year and a report of the amount expended in the department Doc. 1108); to the Committee on Expenditures in the Post Office Department and ordered to be printed.

21. A letter from the Secretary of the Navy, submitting detailed statement of expenditures under the contingent appropriations for the Navy Department for the fiscal year ended June 30, 1912 (H. Doc. No. 1107); to the Committee on Expenditures in the Navy Department and ordered to be printed.

22. A letter from the Secretary of War, transmitting report of expenditures on account of appropriation for contingencies of the Army, 1912 (H. Doc. No. 1106); to the Committee on Ex-

penditures in the War Department and ordered to be printed.

23. A letter from the Secretary of War, transmitting final report of the commission appointed to continue the work of locating and marking the graves of Confederate dead (H. Doc. No. 1105); to the Committee on Military Affairs and ordered to be printed.

24. A letter from the Secretary of War, transmitting 1,847 reports of inspections of disbursements and transfers by officers of the Army, received in the office of the Inspector General during the past fiscal year (H. Doc. No. 975); to the Committee on Expenditures in the War Department.

25. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Edmonds Harbor, Wash. (H. Doc. No. 1100); to the Committee on Rivers and Harbors and ordered to be printed.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 26406) granting an increase of pension to Samuel A. Pearce, and the same was referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials

were introduced and severally referred as follows:
By Mr. HARDWICK: A bill (H. R. 26936) authorizing the Secretary of War to donate to the city of Augusta, Ga., certain

bronze cannon and cannon balls; to the Committee on Military

By Mr. RAKER: A bill (H. R. 26937) granting a pension of \$25 per month to certain widows of soldiers and sailors who served in the Civil War for a period of six months or more and who were honorably discharged therefrom or who died or were killed while so serving; to the Committee on Invalid Pensions. By Mr. CALLAWAY: A bill (H. R. 26938) to provide for a

public building at Comanche, Tex.; to the Committee on Public

Buildings and Grounds.

By Mr. BARTHOLDT: A bill (H. R. 26939) to provide for the erection of a statue at the Panama Canal to be symbolic of universal peace, and to appropriate money the efor; to the

Committee on the Library.

By Mr. JOHNSON of Kentucky (by request of the Commissioners of the District of Columbia: A bill (H. R. 26940) to authorize the extension of Twenty-fifth Street SE, and of White

Place: to the Committee on the District of Columbia.

By Mr. MARTIN of South Dakota: A bill (H. R. 26941) providing for the disposal of certain lands containing coal and other minerals within portions of Indian reservations heretofore opened to settlement and entry in the State of South Dakota; to the Committee on the Public Lands.

Also, a bill (H. R. 26942) providing for the disposal of certain lands containing coal and other minerals within portions of Indian reservations heretofore opened to settlement and

entry; to the Committee on the Public Lands.

By Mr. RAKER: A bill (H. R. 26943) to exempt from cancellation certain desert-land entries in the Chuckawalla Valley and Palo Verde Mesa, Riverside County, Cal.; to the Committee on the Public Lands.

By Mr. UNDERWOOD: A bill (H. R. 26944) for the purchase of a site and the erection thereon of a public building at Birming-

ham, Ala.; to the Committee on Public Buildings and Grounds. By Mr. KENT: A bill (H. R. 26945) for the purchase of a site and the erection thereon of a public building at Willows, Cal.; to the Committee on Public Buildings and Grounds.

By Mr. CARLIN: A bill (H. R. 26946) to create a national university at the seat of the Federal Government; to the Committee on Education.

By Mr. J. M. C. SMITH: A bill (H. R. 26947) to enlarge, extend, remodel, etc., post-office building at Battle Creek, Mich.; to the Committee on Public Buildings and Grounds.

By Mr. DONOHOE: A bill (H. R. 26948) to authorize certain

enlisted men of the United States Army to count their service

continuous; to the Committee on Military Affairs.

By Mr. RUCKER of Missouri: A bill (H. R. 26949) to increase the limit of cost of the United States post-office building at Chillicothe, Mo., heretofore authorized by Congress; to the Committee on Public Buildings and Grounds.

By Mr. FRENCH: A bill (H. R. 26950) to protect the rights of women citizens of the United States to register and vote for the Members of the House of Representatives; to the Committee on Election of President, Vice President, and Representatives in

By Mr. ALLEN: Resolution (H. Res. 738) authorizing the appointment of a committee to investigate as to whether or not in certain factories and districts food products are canned under dirty and insanitary conditions, whether hours of employment are unreasonable, and whether the pure-food laws of the United States are being violated; to the Committee on Rules.

By Mr. BURKE of Pennsylvania: Joint resolution (H. J. Res. 366) authorizing the Secretary of War to transfer to the city of Pittsburgh, Pa., or to the board of public education of the city of Pittsburgh, a part of the arsenal grounds at Pittsburgh in exchange for other grounds to be transferred to the United

States; to the Committee on Mines and Mining.

By Mr. LINDBERGH: Joint resolution (H. J. Res. 367) requiring Members of the Senate and the House of Representatives to file a statement showing their own interests or the interests of members of their families in corporations or other concerns doing a banking, loaning, or brokerage business; to

the Committee on Election of President, Vice President, and Representatives in Congress.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 26951) granting an increase of pension to Victoria Hill; to the Committee on Invalid Pensions. Also, a bill (H. R. 26952) granting an increase of pension to Samuel H. Bitler; to the Committee on Invalid Pensions. By Mr. ALLEN: A bill (H. R. 26953) granting an increase of

pension to Catharine Hospes; to the Committee on Invalid Pen-

Also, a bill (H. R. 26954) granting a pension to Eliza M. Drummond; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26955) granting an increase of pension to

Anna M. Henshaw; to the Committee on Invalid Pensions.

By Mr. ALEXANDER: A bill (H. R. 26956) granting an increase of pension to Richard P. Wardell; to the Committee on Pensions.

By Mr. ANSBERRY: A bill (H. R. 26957) granting a pension to Clara Sill; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 26958) granting a pension to Mary C. Kaisan, to the Committee. to Mary C. Kaiser; to the Committee on Invalid Pensions.

By Mr. AUSTIN: A bill (H. R. 26959) granting an increase

of pension to Richard P. Chandler; to the Committee on Invalid Pensions.

By Mr. BARTHOLDT: A bill (H. R. 26960) for the relief of the Buffalo River Zinc Mining Co.; to the Committee on Claims. By Mr. CRAGO: A bill (H. R. 26961) granting a pension to

Ida V. Moore; to the Committee on Invalid Pensions.

By Mr. CRAVENS: A bill (H. R. 26962) for the relief of the

estate of Thomas Daly; to the Committee on War Claims.

By Mr. CULLOP: A bill (H. R. 26963) granting an increase of pension to James Williams; to the Committee on Invalid

Also, a bill (H. R. 26964) granting an increase of pension to Joel H. Morgan; to the Committee on Invalid Pensions.

By Mr. DYER: A bill (H. R. 26965) granting a pension to

John J. Ledford; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26966) granting a pension to Martha Pen-

dergras; to the Committee on Invalid Pensions.

By Mr. FOCHT: A bill (H. R. 26967) granting a pension to Anna N. Carson; to the Committee on Invalid Pensions.

By Mr. FRANCIS: A bill (H. R. 26968) to appoint Brig. Gen. William P. Rogers, United States Army, a major general on the retired list of the United States Army; to the Committee on Military Affairs.

By Mr. GOOD: A bill (H. R. 26969) granting a pension to Mary J. Mitchell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26970) granting an increase of pension to Richard Woodland; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26971) granting an increase of pension to Michael Sullivan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26972) granting an increase of pension to Henry G. Gibbs; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26973) granting an increase of pension to Elisha D. Ely; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26974) granting an increase of pension to William Bales; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 26975) granting an increase of pension to James Lawdon; to the Committee on Pensions.

By Mr. HOLLAND: A bill (H. R. 26976) for the relief of William R. Cherry; to the Committee on War Claims.

By Mr. KONOP: A bill (H. R. 26977) granting a pension to Robert H. Burden; to the Committee on Pensions.

Also, a bill (H. R. 26978) granting a pension to Genovefa Gronnert; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26979) granting a pension to Adam Reuland; to the Committee on Pensions.

By Mr. McGILLICUDDY: A bill (H. R. 26980) granting a pension to Eugene Belanger; to the Committee on Pensions.

Also, a bill (H. R. 26981) granting an increase of pension to Alvin D. Lane; to the Committee on Invalid Pensions.

By Mr. MADDEN: A bill (H. R. 26982) to remove the charge of desertion from the record of John M. Green; to the Committee on Military Affairs.

By Mr. POST: A bill (H. R. 26983) granting a pension to

Lida J. Paul; to the Committee on Invalid Pensions.

By Mr. PRINCE: A bill (H. R. 26984) granting a pension to
Leo C. Zindel; to the Committee on Pensions.

By Mr. REILLY: A bill (H. R. 26985) granting a pension to

Patrick Lallay; to the Committee on Pensions.

Also, a bill (H. R. 26986) granting an increase of pension to Ann Stanford; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26987) granting an increase of pension to Honora Higgins; to the Committee on Invalid Pensions.

By Mr. REYBURN: A bill (H. R. 26988) granting an increase of pension to Cinderella B. McClure; to the Committee on Invalid Pensions.

By Mr. ROBINSON: A bill (H. R. 26989) for the relief of the heirs of James Thompson, deceased; to the Committee on

By Mr. SHACKLEFORD: A bill (H. R. 26990) granting a pension to Fritz Meyer; to the Committee on Invalid Pensions. Also, a bill (H. R. 26991) granting a pension to Jennie Smith; to the Committee on Invalid Pensions.

By Mr. SLEMP: A bill (H. R. 26992) granting an increase of pension to Joseph L. Bostwick; to the Committee on Invalid Pensions

By Mr. J. M. C. SMITH: A bill (H. R. 26993) granting an increase of pension to George A. Gary; to the Committee on

Invalid Pensions. Also, a bill (H. R. 26994) granting an increase of pension to Sylvester Rumsey; to the Committee on Invalid Pensions.

By Mr. TALCOTT of New York: A bill (H. R. 26995) grant-

ing an increase of pension to William Dyas; to the Committee on Invalid Pensions.

By Mr. VARE: A bill (H. R. 26996) granting an increase of pension to Dennis P. Parker; to the Committee on Invalid

By Mr. WILLIS: A bill (H. R. 26997) granting an increase of pension to Lemuel H. Mahan; to the Committee on Invalid

Also, a bill (H. R. 26998) granting an increase of pension to

Bateman Zoll; to the Committee on Invalid Pensions. By Mr. REILLY: A bill (H. R. 26999) granting an increase of pension to Walter Mason; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid

· on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of the Baltimore Clothing Co. and 20 other merchants of Uhrichsville, Ohio, favoring passage of legislation giving the Interstate Commerce Commission further power toward controlling express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. AYRES: Petition of the Pennsylvania State Council of the Order of Independent Americans, Philadelphia, Pa., favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. BARTHOLDT: Papers to accompany bill for the relief of the Buffalo River Zinc Mining Co.; to the Committee on Claims.

By Mr. BURKE of South Dakota: Petition of citizens of South Dakota, favoring passage of legislation giving the Interstate Commerce Commission further power toward controlling the express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. BUTLER: Petition of citizens of Pennsylvania, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. CAMPBELL: Petition of citizens of the third district of Kansas, protesting against further enlargement of the parcelpost system; to the Committee on the Post Office and Post

By Mr. CRAVENS: Papers to accompany the bill for the relief of Thomas Daly; to the Committee on War Claims.

By Mr. DAVIS of Minnesota: Petition of merchants of the third district of Minnesota, protesting against further enlargement of the parcel-post act; to the Committee on the Post Office and Post Roads.

By Mr. DYER: Petition of the National Wholesale Liquor Dealers' Association of America, Cincinnati, Ohio, protesting against the passage of the Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

Also, petition of M. Henry Bollman, St. Louis, Mo., favoring passage of bill for Federal protection of migratory birds; to the Committee on Agriculture.

Also, papers to accompany bill granting a pension to Martha Lendergras; to the Committee on Invalid Pensions.

Also, papers to accompany bill (H. R. 26254) granting pension to Lincoln Mothersbaugh; to the Committee on Invalid Pensions.

Also, petition of Elizabeth Jamieson, St. Louis, Mo., favoring passage of bill giving Federal protection to migratory birds; to the Committee on Agriculture.

By Mr. FORNES: Petition of the State Council of Pennsylvania, Order of Independent Americans, Philadelphia, Pa., favoring the passage of Senate bill No. 3175 for restriction of immigration; to the Committee on Immigration and Naturaliza-

Also, petition of Flanders & Co., New York, N. Y., and citizens of New York and Brooklyn, favoring the passage of House bill 26277, creating a United States court of patent appeals; to the Committee on the Judiciary.

Also, petition of the Chamber of Commerce of the State of New York, protesting against placing the Board of General Appraisers under control of the Treasury Department; to the

Committee on Expenditures in the Treasury Department.
Also, petition of the American Embassy Association, New York, favoring the passage of House bill 22589, making an appropriation for the building of United States diplomatic

buildings; to the Committee on Foreign Affairs.

Also, petition of the Lake Michigan Sanitary Association, Chicago, Ill., favoring appropriation for the investigation of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. FULLER: Petition of Ralph G. Crisman, president Portland (III.) Commercial Association, favoring the passage of House bill 22589, making an appropriation for diplomatic building; to the Committee on Foreign Affairs.

By Mr. HARTMAN: Petition of the Pennsylvania State Camp, Patriotic Order Sons of America; State Council of Pennsylvania, Order of Independent Americans, Philadelphia, Pa.; and State Camp of New York, Patriotic Order Sons of America, Binghamton, N. Y., favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. HOWELL: Petition of citizens of Utah, favoring the regulation of express rates by the Interstate Commerce Commission: to the Committee on Interstate and Foreign Commerce.

By Mr. MARTIN of South Dakota: Petition of citizens of Hot Springs, Belle Fourche, and Hermosa, S. Dak., protesting against any legislation enlarging the present parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. McKELLAR: Petition of citizens of the tenth district of Tennessee, favoring passage of legislation giving the Interstate Commerce Commission further power toward regulating the express rates and classifications; to the Committee on the Post Office and Post Roads.

By Mr. MOORE of Pennsylvania: Petition of the State Council of Pennsylvania, Order of Independent Americans, favoring passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. MOTT: Petition of the Manila Welfare Association, favoring the reclaiming and making sanitary the lowlands around Manila; to the Committee on Appropriations.

Also, petition of the State Camp of New York, Patriotic Order Sons of America, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. REILLY: Petition of the Automatic Transportation Co., New York, N. Y., favoring an appropriation for meeting extra expenses that might occur by the parcel-post act going into effect; to the Committee on the Post Office and Post Roads.

SENATE.

Tuesday, December 10, 1912.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D. The Journal of yesterday's proceedings was read and approved. TRANS-MISSISSIPPI COMMERCIAL CONGRESS.

The PRESIDENT pro tempore (Mr. Bacon). The Chair lays before the Senate a communication from the Secretary of the Trans-Mississippi Commercial Congress, which met in the city, of Salt Lake, Utah, August 27 to 30, 1912, transmitting copy. of resolutions adopted by that body as to various subjects matter of legislation. The resolutions cover so many different subjects of legislation that it is not practicable to refer the communication to any one committee. The Chair will therefore direct that it be noted and lie on the table, subject to the inspection of Senators.

PARCEL-POST INVESTIGATION.

The PRESIDENT pro tempore laid before the Senate the following letter, which was read and ordered to lie on the table: TRENTON, N. J., December 9, 1912.

Hon. A. O. Bacon,
President pro tempore United States Senate,
Washington, D. C.

My Dear Sir: On account of ill health, which may prevent my attended the meetings during the present session, I tender my resignation as

a member of the joint committee to make further inquiry into the subject of parcel post.

Yours, very sincerely,

FRANK O. BRIGGS.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a telegram in the nature of a petition from the Federal Council of the Churches of Christ in America, in session in Chicago, Ill., praying for the passage of the Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. BRANDEGEE presented a memorial of members of the German-American Alliance of Connecticut, remonstrating against the passage of the so-called Kenyon interstate liquor bill, which

was ordered to lie on the table.

Mr. OLIVER presented a resolution adopted by the Board of Trade of Chester, Pa., favoring the establishment of a United States Court of Patent Appeals, which was referred to the Com-

mittee on Patents.

He also presented memorials of Local Unions No. 22 and No. 144, of Pittsburgh, and of Local Union No. 206, of Lancaster, United Brewery Workers, and of the Western Branch of the Wholesale Liquor Dealers' Association of Pennsylvania, all in the State of Pennsylvania, remonstrating against the ment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

He also presented a petition of sundry citizens of Shirleyburg, Pa., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers,

which was ordered to lie on the table.

Mr. PERKINS presented resolutions adopted by the board of directors of the Modesto irrigation district, at Modesto, Cal., remonstrating against the proposed change in the boundary of Yosemite National Park, which were referred to the Committee on Public Lands.

Mr. CURTIS presented petitions of sundry citizens of Ellin-wood, Selden, Norton, Burdett, and Ness City, all in the State of Kansas, praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside

dealers, which were ordered to lie on the table.

Mr. McLEAN presented a memorial of members of the German-American Alliance of Connecticut, remonstrating against the passage of the Kenyon interstate liquor bill, which was

ordered to lie on the table.

Mr. PENROSE presented memorials of Local Union No. 363, Brewery Workers' Union, of Charleroi; of Local Union No. 264, United Brewery Workmen, of Allentown; of the German-American Alliance of Pennsylvania; and of sundry citizens of Wilkes-Barre, all in the State of Pennsylvania, remonstrating against the passage of the Kenyon interstate liquor bill, which were ordered to lie on the table.

Mr. DU PONT presented resolutions adopted by the Delaware Christian Endeavor Union at Laurel, Del., favoring the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie

on the table.

SUBSTITUTION OF COTTON FOR JUTE.

Mr. DAVIS. Mr. President, I present a petition and ask that it be read and referred to the Committee on Finance.

There being no objection, the petition was read and referred to the Committee on Finance, as follows:

Paris, Tex., November 11, 1912.

PARIS, TEX., November 11, 1912.

On. CHARLES A. CULBERSON, United States Senator, Dallas, Tex.; Hon. J. W. Balley, United States Senator, Gainesville, Tex.; Hon. Moris Sheffard, M. C., Texarkana, Tex.; Hon. Robert L. Owen, United States Senator, Muskogee, Okla.; Hon. Thomas P. Gore, United States Senator, Lawton, Okla.; Hon. Robert Broussard, New Iberia, La.; Hon. James P. Clarke, United States Senator, Little Rock, Ark.; Hon. Murphy J. Foster, United States Senator, Little Rock, Ark.; Hon. Murphy J. Foster, United States Senator, Little Rock, Ark.; Hon. John R. Thornton, United States Senator, Alexandria, La.; and Hon. Joseph E. Ransdell, M. C., Lake Providence, La.

Alexandria, La.; and Hon. Joseph E. Ransbell, M. C., Lake Providence, La.

Gentlemen: We, the undersigned, have been appointed a committee by the National Farmers' Union for the purpose of assisting in the work of a "greater consumption of cotton," and from our interview with the Secretary of the United States Navy, the United States Secretary of War, and the Postmaster General, we are of the opinion that while these departments are perfectly willing to have cotton-made materials used instead of those made in jute, they have not authority to do so, as our existing laws demand of them that they use the cheapest materials in ordering supplies.

We took the matter up with the American Sugar Refining Co., which firm, after investigating, reported to our committee that while cotton sacks would cost them a little more money than jute sacks, at the same time they recognized the fact that American citizens should use cotton-made articles and that they would absorb the difference in price and would agree to sell their sugar in double cotton bags, instead of jute bags, at the same price they charge for sugar in jute sacks.

The Navy and War Departments of our Government use supplies which annually consume thousands of sacks and thousands of tons of wrapping twine and rope made of jute, and the Post Office Department uses hundreds of tons of wrapping twine and rope made of jute, and the Post Office Department uses hundreds of tons of wrapping twine and rope made of jute, and the Post Office Department uses hundreds of tons of wrapping twine annually made in jute.

Cotton is no longer a sectional question. It is an interstate proposition. In fact it's importance can not be overestimated to the welfare of the United States Government, as to-day it is the one farm product which turns the world's balance of trade in favor of the United States of America and brings from foreign shores to the United States of America annually more cash than any one farm product.

The raisers and manufacturers of cotton are citizens of the United States and spend all their money here and contribute to the support of our National Government.

All of the money spent for cotton made articles remains in the United States. Ninety-five cents of every dollar spent by American citizens for jute and jute made articles is consumed abroad and never returns to the United States of America.

Many years ago the English Government passed a law specifying that all goods made from wool and used by any part of the English Government should be made only from English grown wool.

For the above and many other reasons we ask you gentlemen to at once take steps when Congress convenes in December to have the law so amended that all departments of the United States Government specify "cotton bags" when ordering supplies that come packed in sacks, and that "wrapped in cotton cloth" be added for such supplies as come wrapped in cloth, and cotton wrapping twine and cotton rope be substituted for rope and wrapping twine made from jute.

The importance of this will certainly appeal to every sober-thinking American citizen, and we request your earnest, careful, and constant attention until cotton made articles entirely take the place of those made in jute in goods ordered in the use of the United States Government.

We further ask that you take this matter up with other Members of

made in jute in goods ordered in the use of the United States Government.

We further ask that you take this matter up with other Members of the House of Representatives from your respective States and enlist the cooperation of all the Senators and Representatives from other States, and we request that you write your views to each of us, and also mail copies of any letters you may write to different parties on the subject to the chairman of our committee at Paris, Tex.

The American Sugar Refining Co. stated that they will request their customers to specify "in cotton bags" when ordering sugar, but the charge will be the same for sugar packed in cotton bags as it is for sugar packed in jute bags.

We further request that you have this letter read before the Senate and House of Representatives and entered in the Journals of each branch of Congress, and kindly send several copies of the Journals containing it to each member of our committee, and also to Mr. Charles S. Barrett, Union City, Ga., and Mr. A. C. Davis, secretary National Farmers' Union, Rogers, Ark.

Awaiting your advices, we remain, yours, respectfully,

R. D. Bowen, Chairman, Paris, Tex.

Jas. W. BIARD, Secretary, Paris, Tex.
J. N. McCollister, Many, La.
W. F. Belder, Maramec, Okla.
W. T. Tate, Camden, Ark.

BILLS INTRODUCED.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CRAWFORD:

A bill (S. 7676) granting an increase of pension to George W. Barrett (with accompanying paper); to the Committee on Pensions.

By Mr. SMOOT:

A bill (S. 7677) granting a pension to Ellen E. Clark (with accompanying paper); to the Committee on Pensions.

By Mr. MASSEY:

A bill (S. 7678) relating to the recording of notice and certificate of location of mining claims in certain cases; to the Committee on Mines and Mining.

By Mr. SANDERS:

A bill (S. 7679) to authorize the President of the United States to appoint by selection an additional major general of the United States Army; to the Committee on Military Affairs.

By Mr. CLAPP

A bill (S. 7680) to prohibit unfair discrimination between different sections, communities, or localities, unfair competition, and providing penalties therefor; to the Committee on Interstate Commerce.

By Mr. ASHURST:

A bill (S. 7681) granting a pension to Harriet A. Davison; to the Committee on Pensions.

By Mr. MARTINE of New Jersey:

A bill (S. 7682) granting an increase of pension to John Snyder (with accompanying papers); to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (8, 7683) granting a pension to William H. Ryley; A bill (8, 7684) granting an increase of pension to Catherine T. Williams; and

A bill (S. 7685) granting an increase of pension to Almantha Cunningham; to the Committee on Pensions.

By Mr. CURTIS:

A bill (S. 7686) to vacate the town site of Voltaire, Sherman County, Kans.; to the Committee on Public Lands.

A bill (S. 7687) for the relief of Claus H. Otten (with ac-

companying papers); to the Committee on Claims.

A bill (S. 7688) for the relief of James L. Wallace, his heirs

or assigns (with accompanying papers); to the Committee on Indian Depredations.

A bill (S. 7689) granting an increase of pension to John C. Swaney;

A bill (S. 7690) granting an increase of pension to Ira C. Sage:

A bill (S. 7691) granting an increase of pension to Franklin Stilson;

A bill (S. 7692) granting an increase of pension to William H. Ruckle:

A bill (S. 7693) granting an increase of pension to John F. Spence (with accompanying papers);

A bill (S. 7694) granting an increase of pension to Allen

Brown (with accompanying paper);
A bill (S. 7695) granting an increase of pension to Eliza G.

McKinstry (with accompanying paper);
A bill (S, 7696) granting an increase of pension to David M. Ferguson (with accompanying papers);

A bill (S. 7697) granting an increase of pension to James M. Dumeniel (with accompanying papers);

A bill (S. 7698) granting an increase of pension to Tillman H. Snyder (with accompanying papers);

A bill (S. 7699) granting an increase of pension to Simon K.

Mann (with accompanying papers); and

A bill (S. 7700) granting a pension to Catharine Sershon (with accompanying papers); to the Committee on Pensions.

A bill (S. 7701) granting an increase of pension to Sarah B. Paden:

A bill (S. 7702) granting an increase of pension to Levin A. Harvey; and

A bill (S. 7703) granting a pension to Jennie E. Howell; to the Committee on Pensions.

By Mr. PENROSE:

A bill (S. 7704) authorizing the Department of State to deliver to Capt. P. H. Uberroth, United States Revenue-Cutter Service, and Gunner Carl Johannson, United States Revenue-Cutter Service, watches tendered to them by the Canadian Government (with accompanying paper); to the Committee on Foreign Relations.

A bill (S. 7705) granting a pension to Jessie Byerly; and A bill (S. 7706) granting an increase of pension to George W. Cross; to the Committee on Pensions. By Mr. CLAPP:

A bill (S. 7707) for the relief of John W. Cupp; to the Committee on Claims.

RELIEF OF PERSONS ERRONEOUSLY CONVICTED (S. DOC. NO. 974).

Mr. SUTHERLAND. I introduce a bill for reference to the Committee on the Judiciary, and in connection with the bill I ask to have printed as a Senate document certain matter which pertains to the merits of the bill and some information in respect to it. I ask that it may be printed as a Senate docu-

ment for the use of the Judiciary Committee.

The PRESIDENT pro tempore. Will the Senator from Utah indicate the nature of the paper which he wishes to have

printed as a document?

Mr. SUTHERLAND. It is an editorial and other matter. Mr. CULBERSON. Before the request is put, let the bill be

The bill (S. 7675) to grant relief to persons erroneously convicted in courts of the United States was read the first time by its title.

Mr. SUTHERLAND. The papers which I send to the desk are an analysis of the bill, which will be of use to the Judiciary Committee in the consideration of it, together with some editorial comments, a short article by Prof. Wigmore, and some other matter. I ask that these be printed as a Senate document for the use of the Judiciary Committee.

Mr. CULBERSON. Is the bill a long one?

The PRESIDENT pro tempore. It is a short bill, Mr. CULBERSON. I ask that it be read.

The bill was read the second time at length, as follows:

The bill was read the second time at length, as follows:

Be it enacted, etc., That any person who, having been convicted of any crime or offense against the United States, shall hereafter, on appeal from the judgment of conviction or on the retrial or rehearing of his case, be found to have been innocent of the crime with which he was charged and not gullty of any other offense against the United States, or who, after inquiry by the Executive, has received a pardon on the ground of innocence, may, under the conditions hereinafter mentioned, apply by petition for indemnification for the pecuniary injury he has sustained through his erroneous conviction and imprisonment.

SEC. 2. That the claimant may, within six months after he has been finally acquirted or pardoned on the ground of innocence, petition the Court of Claims for the relief granted in this act.

SEC. 3. That the court is hereby authorized to make all needful rules and regulations consistent with the law for executing the provisions hereof.

SEC. 4. That the claimant shall have the burden of proving his in-

SEC. 4. That the claimant shall have the burden of proving his in-nocence, in that he must show that the act with which he was charged was not committed at all or, if committed, was not committed by the

SEC. 5. That the claimant must show that he has not, by his acts or failure to act, either intentionally or by willful misconduct or negligence, contributed to bring about his arrest or conviction.

SEC. 6. That the Court of Claims shall examine the validity and amount of all claims included within the description of this act; they shall receive all suitable testimony on oath or affirmation and all other proper evidence; and they shall report all such conclusions of fact and law as in their judgment may affect the right to relief.

SEC. 7. That upon proof satisfactory to the Court of Claims that the claimant is unable to advance the cost of court and of process, the cost of obtaining and printing the record of the original proceedings and of securing the attendance of such witnesses as the chief justice or the presiding judge of the Court of Claims shall certify to be necessary, and the service of all notices required by this act, shall be paid out of any general appropriation made by law for the payment and satisfaction of private claims, on presentation to the Secretary of the Trensury of a duly authenticated order, certified by the clerk of the Court of Claims and signed by the chief justice or, in his absence, by the presiding judge of said court.

SEC. 8. That the court shall cause notice of all petitions presented under this act to be served on the Attorney General of the United States, who shall be authorized, by himself or his assistant, to examine witnesses, to cause testimony to be taken, to have access to all testimony taken under this act, and to be heard by the court. He shall resist all claims presented under this act by all proper legal defenses.

SEC. 9. That the Court of Claims in granting or refusing the relief demanded shall take into consideration all the circumstances of the case which may defeat or in any other way affect the right to and the amount of the relief herein provided for, but in no case shall the relief granted exceed \$5,000.

SEC. 10. That in all cases of final judgments by the Court of Claims, on presentation to the Secretary of the Treasury of a copy of said judgment, certified by the clerk of the Court of Claims, and signed by the chief justice or, in his absence, by t

Mr. CULBERSON. Mr. President, while I think that is an extraordinary bill, I do not feel like objecting to the publication of the papers sent by the Senator from Utah to the desk.

Mr. SUTHERLAND. The proposed law is, of course, new in this country. It is a law which is in operation in half the countries of Europe, however. I understand the Senator from Texas does not object to the printing of the matter which I have sent to the desk.

Mr. CLARKE of Arkansas. Did I understand the Senator from Utah to ask for the printing of a sufficient number of the document to supply the Senate, or simply to have a sufficient

number printed to supply the Judiciary Committee?

Mr. SUTHERLAND. I understand when an order is made for the printing of a document a sufficient number are printed

for the use of the Senate

Mr. CLARKE of Arkansas. The Senator's request was that it might be printed for the use of the committee, and I thought probably he had not clearly indicated that it should be printed as a Senate document, when the usual number are printed. With the understanding that that will be done, I have no objection.

Mr. SUTHERLAND. That was my desire.
The PRESIDENT pro tempore. The Senator from Utah asks that the papers sent to the desk shall be printed as a Senate document. Is there objection? The Chair hears none, and it is so ordered. The bill will be referred to the Committee on the Judiciary.

AMENDMENTS TO LEGISLATIVE APPROPRIATION BILL

Mr. BORAH submitted an amendment proposing to appropriate \$8,050 for the maintenance of an assay office at Boise, Idaho, etc., intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. SMOOT submitted an amendment proposing to appropriate \$7,100 for the maintenance of an assay office at Salt Lake City. Utah, intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on

Appropriations and ordered to be printed.

Mr. CURTIS submitted an amendment proposing to appropriate \$400 to pay Etta A. Griffin, assistant librarian in charge of the blind, her salary for the months of July, August, September, and October, 1912, etc., intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. LODGE submitted an amendment proposing to appropriate \$500 to enable the assistant doorkeeper of the Senate to compile a history of the desks of the Senate Chamber, etc., intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

WITHDRAWAL OF COURT OF CLAIMS PAPERS.

Mr. CRAWFORD. The Court of Claims has requested that certain papers and exhibits that were offered with a Senate bill in the Fifty-seventh Congress and which are with the file clerk of the Senate and which are Court of Claims papers that are needed for examination there in connection with certain other matters be returned to the Court of Claims. I offer the following order and ask for its immediate consideration.

The order was read and agreed to, as follows:

Ordered, That the papers accompanying the bill (S. 132) for the relief of Elisha Nelson, Fifty-seventh Congress, first session, which were taken from the files of the Court of Claims in the Fifty-fifth Congress, be returned to the said court.

SERGEANT AT ARMS OF THE SENATE.

Mr. GALLINGER submitted the following resolution (S. Res. 405), which was read, considered by unanimous consent, and agreed to:

Resolved, That E. Livingstone Cornelius, Assistant Sergeant at Arms, be, and he hereby is, chosen Sergeant at Arms of the Senate, vice Daniel M. Ransdell, deceased.

THE PRESIDENTIAL TERM.

Mr. WORKS. Mr. President-The PRESIDENT pro tempore. The morning business is closed. The Senator from California. AS IT AFFECTS THE INCUMBENT.

Mr. President, I have considered this question of Mr. WORKS. the advantages of a second term as it affects the public interests. I would like the further attention of the Senate while I consider it as it affects the incumbent of the office. Is it better for the man? Of course if it is true that he can render his country better service by reason of the experience his first term has given him, that is a satisfaction to him as well as an advantage to the Nation. Besides, the fact urged by Senators, weak as it seems to me, as an objection to this proposed amendment that a man is entitled to the reward of public approval, evidenced by a reelection for duty well done, should be taken into I am impressed with the belief that the alleged public account. approval by a reelection that is obtained by personal endeavor and the influence of the millions of the ill-gotten gains of the corporations, the machinations and manipulations of the corrupt political machine, and the help of the officeholders whose support is the result of patronage and the sense of loyalty to a political chief is a species of approval that to a right-minded man would not amount to very much. An exhibition of popular approval, obtained in that way, costs too much, not only of actual money, but what is of vastly more importance, of self-respect. It may be conceded, for the purposes of the argument—indeed, I think it is true—that some of our Presidents were peculiarly fitted to serve their country at the time of their election, and under the existing conditions. And where those conditions and the prob-lems to be met continued, there might be strong reasons for continuing them in office for a second term. I think this may fairly be said of Washington and Lincoln. Madison, Monroe, and Jefferson were trained statesmen when they entered upon their first terms. They were just as competent to perform the services required of them as President the first day of their service as they were the last. Their second terms were no better than their first and added nothing to their fame nor to the esteem in which they were held.

ANDREW JACKSON FAVORED ONE TERM.

Jackson was a soldier and not a statesman, and was always at war. Hostilities did not cease when he was transferred from the Army to the Executive Department. One of the things for which he will be long remembered is that he was the father of the doctrine that to the victor belongs the spoils, which will soon be put into operation again by his followers. It is a practice that has been the plague of public men and discreditable to the Nation. It is one of the things that has made the amendment now proposed necessary for the public welfare. But even in those earlier days public sentiment, it seems, was against the use that was then being made of the power to appoint to office. Jackson himself recognized and made note of it in his first inaugural address, in which he said:

The recent demonstration of public sentiment inscribes on the list of Executive duties, in characters too legible to be overlooked, the task of reform, which will require particularly the correction of those abuses that have brought the patronage of the Federal Government into conflict with the freedom of elections and the counteraction of those causes which have disturbed the rightful course of appointment and have placed or continued power in unfaithful or incompetent hands.

Jackson was a great man, a sincere patriot, and a good President, albeit a little hot-headed and contentious. He favored both the direct election of President by the people without the intervention of electors and an election for a single term of either four or six years. He took this ground at the beginning of his service as President and reiterated his views on other and later occasions. In his first annual message to Congress he said:

In this as in all other matters of public concern policy requires that as few impediments as possible should exist to the free operation of the public will. Let us, then, endeavor so to amend our system that the office of Chief Magistrate may not be conferred upon any citizen but in pursuance of a fair expression of the will of the majority.

I would therefore recommend such an amendment of the Constitution as may remove all intermediate agency in the election of the President and Vice President. The mode may be so regulated as to preserve to each State its present relative weight in the election, and a failure

in the first attempt may be provided for by confining the second to a choice between the two highest candidates. In connection with such an amendment it would seem advisable to limit the service of the Chief Magistrate to a single term of either four or six years.

There are, perhaps, few men who can for any great length of time enjoy office and power without being more or less under the influence of feelings unfavorable to the faithful discharge of their public duties. Their integrity may be proof against improper considerations immediately addressed to themselves, but they are apt to acquire a habit of looking with indifference upon the public interests and of tolerating conduct from which an unpracticed man would revolt. Office is considered as a species of property, and government rather as a means of promoting individual interests than as an instrument created solely for the service of the people. Corruption in some and in others a perversion of correct feelings and principles divert government from its legitimate ends and make it an engine for the support of the few at the expense of the many. The duties of all public officers are, or at least admit of being made, so plain and simple that men of intelligence may readily qualify themselves for their performance; and I can not but believe that more is lost by the long continuance of men in office than is generally to be gained by their experience. I submit, therefore, to your consideration whether the efficiency of the Government would not be promoted and official industry and integrity better secured by a general extension of the law which limits appointments to four years.

In his second annual message, of December 6, 1830, he has

In his second annual message, of December 6, 1830, he has this further to say on this important subject:

this further to say on this important subject:

It was a leading object with the framers of the Constitution to keep as separate as possible the action of the legislative and executive branches of the Government. To secure this object nothing is more essential than to preserve the former from all temptations of private interest, and therefore so to direct the patronage of the latter as not to permit such temptations to be offered. Experience abundantly demonstrates that every precaution in this respect is a valuable safeguard of liberty, and one which my reflections upon the tendencles of our system incline me to think should be made still stronger. It was for this reason that, in connection with an amendment of the Constitution removing all intermediate agency in the choice of the President, I recommended some restrictions upon the reeligibility of that officer and upon the tenure of offices generally. The reason still exists, and I renew the recommendation with an increased confidence that its adoption will strengthen those checks by which the Constitution designed to secure the independence of each department of the Government and promote the healthful and equitable administration of all the trusts which it has created. The agent most likely to contravene this design of the Constitution is the Chief Magistrate. In order, particularly, that his appointment may, as far as possible, be placed beyond the reach of any improper influences; in order that he may approach the solemn responsibilities of the highest office in the fift of a free people uncommitted to any other course than the strict line of constitutional duty, and that the securities for this independence may be rendered as strong as the nature of power and the weakness of its possessor will admit. I can not too earnestly invite your attention to the propriety of promoting such an amendment of the Constitution as will render him ineligible after one term of service.

He said, on the same subject, in his fourth annual message of December 4, 1832:

I beg leave to call the attention of Congress to the views heretofore expressed in relation to the mode of choosing the President and Vice President of the United States and to those respecting the tenure of office generally. Still impressed with the justness of those views and with the belief that the modifications suggested on those subjects if adopted will contribute to the prosperity and harmony of the country, I earnestly recommend them to your consideration at this time.

He renewed the subject in his fifth and sixth messages in similar language. In the latter he says, after urging the change suggested by him in the mode of electing the President and Vice President:

Could this be attained and the terms of those officers be limited to a single period of either four or six years, I think our liberties would possess an additional safeguard.

It was much to the credit of Jackson that he urged this amendment at the very beginning of his first term, when he might be, and actually was, called by his countrymen to serve a second term as their Chief Magistrate. It would have been equally to the credit of Congress if it had listened to and acted favorably on this wise and patriotic recommendation.

ULYSSES S. GRANT.

Grant was another President whose place in the hearts of his countrymen comes from his service as a soldier in the Army and not from anything accomplished by him as President. soldier he had few equals and no superiors. His administration as President was commonplace, partly because the times were such as necessarily to render it so. There was nothing in his second term, so far as I know, that was superior to his first. The reward of a second term he did not need. He had made the best of his record at that time. His place in public estimation was secure. There was nothing in his career as President to support the objection to this resolution that I am now considering.

ABRAHAM LINCOLY.

Abraham Lincoln was a great man; one of the greatest of the great men, not only of his own country, but of the world. There were two sides to his nature that seemed to be inconsistent and at war with each other. On the one side he was patient, forbearing, sympathetic, and humane. On the other he was a man of stern resolve, uncompromising in his convictions and firm in maintaining them. He was a man of profound

sympathies on the one side and of determination and decision on the other.

Each of these sides of his nature and its characteristics was a check and balance on the other. His decisions, however strongly and unswervingly he maintained them, were tempered with justice and mercy. On the other hand, the sympathetic side of his nature that often resulted in acts of mercy was guarded from weakness and overindulgence of that disposition by his high sense of right and justice. He tempered justice with mercy and mercy with a right sense of justice. Grover Cleveland, in speaking of the objections of the military authorities to his sympathetic attitude toward individual delinquents and his frequent pardons, had this to say of him: "Notwithstanding all that might be objectionable in these, what was he doing? He was fortifying his own heart. And that was his strength, his own heart; that is a man's strength." In the great trials that he passed through, when thousands of his countrymen were being slain in a fratricidal war, his heart, that was as tender as the heart of a woman, was wrung with anguish that brought him much sorrow. But through it all he never faltered in the performance of his duties. He insisted upon the vigorous prosecution of the war, however much it grieved him to witness all the suffering, sorrow, and sacrifice of human lives it entailed. Nothing could move him from his fixed determination to save the Union, no matter how much it might cost in life and treasure. His warm sympathies, his humane disposition, his ever-active human affection and heartfelt desire to avoid and ameliorate human suffering did not swerve him from this lofty and patriotic purpose. the one side his life was pathetic, on the other it was sublime. His tender sympathies, his kindliness of heart, his great and abounding love for his fellowmen, his rugged honesty, his austere and uncompromising principles of right and justice, his inflexible determination, his undying patience under unjust criticism by his friends and foes alike, made up a combination of great and honorable qualities that made him one of the greatest men of all history. The more tender and sympathetic characteristics of the man brought him the tender and lasting affection of the American people. His lofty patriotism, his rugged honesty, and his consecration to duty created for him in the minds of his countrymen the most profound trust, respect, and admiration. career was cut short by the hand of an assassin. He was then at the height of his power, the zenith of his fame.

Do Senators believe that Abraham Lincoln could have added to the luster of his fame or added to the love, respect, and admiration entertained for him by the American people by a second term as President? Is there one here who will say that he would have made a better President during the second term than he had proved himself to be during the first?

No, Mr. President; his place in the hearts of his own people and of the civilized world was made secure by the service he rendered the Nation in his first term.

I have often wondered, sir, what would have been Lincoln's place in history and in the estimation of the people if he had been called upon to meet the great problems growing out of the reconstruction of the Government and the bringing back into the Union of the seceded States. Andrew Johnson was not a weak man, but he failed utterly to meet and solve those problems. He left the office in disgrace because of his conflict with the Congress of the United States growing out of those questions. He was disposed to be merciful and liberal in dealing with the people of the South. We have a right to believe that Lincoln would have been influenced by like feelings of sym-On the other hand, there were men in the Congress who were vindictive and revengeful-men who insisted upon impos ing upon the people of the South the most humiliating conditions as a preliminary to their readmission into the Union. This sentiment was backed by the most powerful influences and encouraged by the natural feelings of the people of the North whose homes had been made desolate by the ravages of the war. The reconstruction period is one of the darkest pages of the history of the country. The spirit of hatred and revenge that ruled in the Congress of the Nation made it possible. At this day it would be impossible. Could Lincoln, with all his determination, with the trust and confidence of the people behind him, have withstood this tide of hatred and malice that, with him in his grave, swept everything before it? It may well be doubted.

GROVER CLEVELAND.

Grover Cleveland was another of our great Presidents. served a second term. He consented to be a candidate for the third time with great reluctance. He felt that his first term had been a success and that he had rendered his country valuable service. He was a conscientious public servant and gov-

erned by high ideals. He was solicitous about entering upon a second term. Concerning his reelection he said:

Second term. Concerning his reelection he said:
Why should I have any desire or purpose of returning to the Presidency? It involves a responsibility almost beyond human strength for a man who brings conscience to the discharge of his duties. Besides, I feel somehow that I made a creditable showing during my first term, all things considered, and I might lose whatever of character and reputation are already gained in it. I do not want the office, and, above all, I do not feel that I can take the risk involved in a second term after the intervention of one by another man and an opposing party. It would be necessary for me to start new again, and I do not feel equal to it.

His fears and his hesitation to take upon himself the cares and responsibilities of the Presidency were fully justified by subsequent events. His second term, through no fault of his, was not a success, and brought disaster to his party. It was a disappointment to him and his political associates. He performed the duties of the office during the second term with the same fidelity, courage, and consecration to duty that characterized his first term. But some of his most cherished policies were disapproved by his party and the opposition and bitterness that grew out of these differences of opinion caused him to feel that his efforts had failed and that his second administration of the great office of President was a failure. In December. 1894, he said in a letter to his friend Richard Watson Gilder:

I am so depressed during these days that the thought of my lack of deserving any thought of my friends is strangely mixed with the gratification caused by the evidence that you have thought of me.

I am sure I never was more completely in the right path of duty than I am now, and more sure that I never did better public service than now; but it is depressing enough to have no encouragement from any quarter.

than now; but it is depressing enough to have no encouragement from any quarter.

I believe I shall hold out, but I doubt if I shall advise anyone to lose the support of party in the hope of finding support among those who beyond partisanship profess a patriotic desire for good govern-

Again, in March, 1895, he says:

Again, in March, 1899, he says:

As day after day passes, full of trouble and annoyances with such small surface results, I find myself again and again saying, "How flat, stale, and unprofitable."

If occasional words of encouragement did not reach me like a breath of fresh air in this dreadful atmosphere I would be in danger of sinking into a condition of mere anxiety for my release from the things that surround me here.

But two years more will quickly pass.

When he came to surrender the office to his successor, he said to Mr. McKinley that he hoped that his administration would be successful and that he would not have so many reasons as he (Cleveland) had to feel glad when he came to go out.

On another occasion he wrote to Mr. Gilder:

Of all men in the world, you know best that I do honestly try to "keep the compass true," and I am convinced that you appreciate better than others how misleading the fogs sometimes are. I frequently think what a glorious boon omniscience would be to one charged with the Chief Magistracy of our Nation.

Cleveland thought that he had reason to feel disappointed at the lack of understanding and appreciation of his public services. It troubled him, and he often spoke of it. But the masses of the people understood him better than did the politicians, and therefore appreciated him and his public services the better. But I think it may be fairly said that his second term added nothing to his fame, and it is certain that it added nothing to his peace of mind. I am glad to bear witness to my very high regard for Mr. Cleveland and appreciation of the great service he rendered to his country. His great moral courage and his determination to stand by his convictions, founded on principle, have always appealed to me very strongly. But, Mr. President, there is nothing in his experiences that gives the slightest weight to the argument of Senators that a second term is beneficial to the public interest.

PUBLIC APPROVAL BY SECOND ELECTION.

But it is said that a President who has rendered acceptable service in his first term is entitled to a second as an evidence of public approval, and the hope of such a reward is an incentive to better service. I have already remarked, incidentally, that the strenuous and sometimes objectionable methods resorted to to secure a second term render it wholly valueless as an evidence of approval of past services, and I must confess to some surprise that it could be supposed that any man worthy, of being President of this Republic would be influenced to render better service by the hope of thereby securing the office for a second term. This is certainly placing a very low estimate on the standard of official duty and obligation that may well be supposed to govern the incumbent of that great office. strikes me as being not only a very weak argument, but a reflection on the honorable men who have held the office. Any man who thus seeks public favor with a second term in view and makes that hope or prospect an incentive to better public service is unfit for a first term and certainly should never be elected to a second.

Mr. President, this position taken by Members of this body confirms my conviction that there should be no second term for any man. His service should be wholly independent, disinterested, and without hope or thought of reward. If he is weak enough to vary his conduct for better or for worse because of any desire or expectation of an election to a second term he is unworthy of the high honor that has been bestowed upon him. For that reason he should be relieved of any temptation to do so by making him ineligible to a second term. The first elec-tion to so high an office and the consciousness of duty well done should be reward enough for any man. Besides, he need not wait for a second election to know whether his service has been understood and appreciated or not. Mr. Cleveland knew, or believed he knew, that he was neither understood nor appreciated, but he never swerved from what his own conscience told him was right, and he was in the end honored the more for it. I am sorry that such an argument as this has been advanced on the floor of the United States Senate, however sincerely it has been urged.

We have in this country an organization known as the Anti-Third Term League. There has never been any particular necessity for any such lengue. The people of this country have never yet chosen a man as Chief Magistrate for a third term, and probably never will. But this league now proposes to so amend the Constitution as to prevent the election of a President for a third term in lieu of the amendment here proposed. This would be absurd. We need no such amendment as that, for the reasons I have stated. The people will take care of that question without any change in the Constitution. sides, to my mind, the objection to the holding of a second term is just as strong as to that of a third term, with the single exception that it arouses the fear that the third-term election may some time lead to a life tenure. All the evil effects of allowing a reelection of the incumbent, some of which I have brought to the attention of the Senate, apply with just as much force to a second as to a third election.

CONSTITUTIONAL CONVENTION OF 1787.

The Senator from Idaho [Mr. Boran] has contended that the Contitutional Convention of 1787 had under consideration the length of the presidential term and that of the ineligibility of the incumbent to a second term, and determined against the limitation now sought to be imposed. On the 24th day of May, 1912, I had printed in the RECORD the proceedings before that convention relating to those subjects, together with a letter from James Madison to Thomas Jefferson, explaining the views of members of that body that finally led to the adoption of the present provision of the Constitution. I now submit the proceedings and that portion of the letter relating to the subject now in hand for the information of the Senate:

[Extracts from Farrand's Records of Federal Convention of 1787.]

RANDOLPH'S PLAN.

RANDOLPH'S PLAN.

Resolution.

May 29, 1787: 7. Resolved. That a National Executive be instituted, to be chosen by the National Legislature for the term of — years; to receive punctually at stated times a fixed compensation for the services rendered, in which no increase or diminution shall be made so as to affect the magistracy existing at the time of increase or diminution, and to be ineligible a second time.

June 1: It was moved and seconded to proceed to the consideration of the seventh resolution, submitted by Mr. Randolph, namely:

"Resolved. That a National Executive be instituted, to be chosen by the National Legislature for the term of — years; to receive punctually at stated times a fixed compensation for the services rendered, in which no increase or diminution shall be made so as to affect the magistracy existing at the time of such increase or diminution, and to be ineligible a second time; and that, besides a general authority to execute the national laws, it ought to enjoy the executive rights vested in Congress by the Confederation."

On motion by Mr. Wilson, seconded by Mr. C. Pinckney, to amend the first clause of the resolution by adding after the word "instituted" the words "to consist of a single person," so as to read:

"Resolved, That a National Executive, to consist of a single person, be instituted."

It was moved and seconded to postpone a consideration of the amendment; and on the question to postpone it passed in the affirmative.

It was then moved and seconded to agree to the first clause of the resolution, namely: "Resolved, That a National Executive be instituted;" and on the question to agree to the said clause it passed in the affirmative, as may from time to differ the word: "Instituted." to add the words: "With power to carry into execution the national laws, to appoint to offices in cases not otherwise provided for, and to execute such other powers, not legislative or judiciary in their nature, as may from time to time be delegated by the National Legislature," it passed in

It was then moved and seconded to postpone the consideration of the following words, namely, "to be chosen by the National Legislature," and on the question to postpone it passed in the affirmative.

The seventh resolve, "That a National Executive be instituted," agreed to. "To continue in office for seven years," agreed to. "A general authority to execute the laws," agreed to. "To appoint all officers not otherwise provided for," agreed to. "To appoint all officers not otherwise provided for," agreed to. "To appoint all officers not otherwise provided for," agreed to. "To appoint all officers not otherwise provided for," agreed to. "To appoint all officers not otherwise provided for," agreed to. "To appoint all officers not otherwise provided for," agreed to. "To appoint all officers not otherwise provided for," agreed to. "To appoint all officers not otherwise provided for," agreed to. "To appoint all officers not otherwise provided for, and the committee took into consideration the duration of the office of the Executive.

Wilson—For three years and no exclusion or rotation.

Madison—Seven years and an exclusion afterwards. Thereby he is made independent of the legislature who are proposed as his

being discussed, the committee took into consideration the duration of the office of the Executive.

Wilson—For three years and no exclusion or rotation.

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Madison—Seven years and an exclusion afterwards. Thereby the is made independent of the legislature who are proposed as bis electors. If he is capable of reelection by the legislature the Executive will be complaisant and reelect. The Executive will be subservient and court a reelection.

On the question of all the blank for seven years: Massachusetts divided the proposed of the proposed of the proposed as his electors. If he is capable of reelection is the proposed as his electors. If he proposed is a proposed as his electors is a proposed as his electors. On the control of the proposed as his electors. If he is capable of reelection.

On the question of all the blank for seven years: Massachusetts divided in the proposed of the proposed as a proposed as his electors. If he proposed as a proposed as his electors, and the proposed as a second time," It passed in the affirmative—ayes 7, noes 2, divided 1.

The Honse by the off the Executive be instituted, to consist of the Honse by the off the Executive be instituted, to consist of the Honse by the off the Executive be instituted, to consist of a single person, to be chosen by the National Legislature for the term of seven years, with power to carry into execution the national laws; to appoint to meet in cases not otherwise provide the proposition of malpractices or neglect of duty; to receive a fixed stipend, by which he may be compensated for the devotion of his time to public service, to be paid out of the National Treasury.

June 13: Report of the Committee of the Whole on Mr. Randolph's propositions.

"On Resolved, That a National Executive be instituted, to consist of a single person, to be chosen by the National Legislature for the term of seven years, with power to carry into execution the national laws; to apply the proposed by the clause as it stood

Virginia, aye; North Carolina, aye, South Carolina, aye; Georgia, aye—ayes 9, noes 1.

July 25: Mr. Pinkney moved that the election by the legislature be qualified with a proviso that no person be eligible for more than 6 years in any 12 years. He thought this would have all the advantage and at the same time avoid in some degree the inconveniency of an absolute ineligibility a second time.

Col. Mason approved the idea. It has the sanction of experience in the instance of Congresses and some of the executives of the States. It readered the Executive as effectually independent as an ineligibility after his first election and opened the way at the same time for the advantage of his future services.

On Mr. Pinkney's motion that no person shall serve in the executive office more than 6 years in 12 years it passed in the negative: New Hampshire, aye; Massachusetts, aye; Connecticut, no; New Jersey, no; Pennsylvania, no; Delaware, no; Maryland, no; Virginia, no; North Carolina, aye; South Carolina, aye; Georgia, aye—ayes 5, noes 6.

July 26 it was moved and seconded to amend the third clause of the resolution respecting the National Executive so as to read as follows, namely: "For the term of seven years, to be ineligible a second time," which passed in the affirmative—ayes 7, noes 3.

Col. Mason: In every stage of the question relative to the Executive, the difficulty of the subject and the diversity of the opinions concerning it have appeared.

* * * He conceived at the same time that a sec-

ond election ought to be absolutely prohibited, having for his primary object, for the pole star for his political conduct, the preservation of the rights of the people, he held it as an essential point, as a very palladium of civil liberty, that the great officers of State, and particularly the Executive, should at fixed periods return to that mass from which they were at first taken, in order that they may feel and respect those rights and interests which are again to be personally valuable to them. He concluded in moving that the constitution of the Executive, as reported by the Committee of the Whole, be reinstated, viz, "That the Executive be appointed for seven years and be ineligible a second time."

Question on Col. Mason's, as above, which passed in the affirmative: New Hampshire, aye; Massachusetts, not on the floor: Connecticut, no: New Jersey, aye; Pennsylvania, no; Delaware, no; Maryland, aye; Virginla, aye; North Carolina, aye; South Carolina, aye; Georgia, aye—ayes 7, noes 3, absent 1.

On the question on the whole resolution as amended in the words following: "That a National Executive be instituted to consist of a single person to be chosen by the National Legislature for a term of seven years; to be ineligible a second time: with power to carry into execution the national laws; to appoint to offices in cases not otherwise provided for; to be removable on impeachment and conviction of malpractice or neglect of duty; to receive a fixed compensation for the devotion of his time to the public service; to be paid out of the National Treasury; "it passed in the affirmative: New Hampshire, aye; Massachusetts, not on the floor; Connecticut, aye; New Jersey, aye; Pennsylvania, no; Delaware, no; Maryland, no; Virginia, divided—Mr. R. (Blair) and Col. M. (Mason), aye; Gen. W. (Washington) and Mr. M. (Madison), no; Mr. Randolph happened to be out of the House—North Carolina, aye; Georgia, aye—ayes 6, noes 3, divided 1, absent 1.

COMMITTEE OF DETAIL.

There was connected with the work of the convention what was known as a committee of detail. Documents preserved and set out in Ferrand's Records of the Convention show the following relating to this question, and mostly in the form of resolution submitted to and acted upon by the convention, covering the time from July 14 to 26, 1787:

Resolved, That a National Executive be instituted to consist of a single person, to be chosen for the term of six years, with power to carry into execution the national laws; to appoint to offices in cases not otherwise provided for; to be removable on impeachment and conviction of malpractice or neglect of duty; to receive a fixed compensation for the devotion of his time to public service; to be paid out of the Public Treasury.

Resolved, That a National Executive be instituted to consist of a single person to be chosen by the National Legislature for a term of seven years; to be incligible for a second time; with power to carry into execution the national laws; to appoint to offices in cases not otherwise provided for; to be removable on impeachment and conviction of malpractice or neglect of duty; to receive a fixed compensation for the devotion of his time to public service, to be paid out of the Public Treasury.

4 The Executive (governor of the United People and States of

4. The Executive (governor of the United People and States of America):

4. The Executive (governor of the United People and Shares America):

1. Shall consist of a single person;
2. Who shall (hold) be elected by the legislature (by joint ballot (of which) each House have a negative on the other);
3. And shall hold his office for the term of (six) seven years;
4. And shall be ineligible thereafter.

The executive power of the United States shall be vested in a single person. His style shall be "the President of the United States of America" and his title shall be "His Excellency." He shall be elected by ballot by the legislature. He shall hold his office during the term of seven years, but shall not be elected a second time.

September 4, 1787, Mr. Brearley, from the committee of eleven, made a further partial report, as follows: "The committee of eleven, to whom sundry resolutions, etc., were referred on the 31st of August, report that, in their opinion, the following additions and alterations should be made to the report before the convention, viz:

"4. After the word 'Excellency,' in section 1, Article X, to be inserted: 'He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected in the following mauner,' viz:

"COMMITTEE ON STYLE.

"COMMITTEE ON STYLE.

"PROCEEDINGS OF CONVENTION REFERRED TO THE COMMITTEE OF STYLE AND ARRANGEMENT.

"We, the people of the States of New Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, do ordain, declare, and establish the following Constitution for the government of ourselves and our posterity:
"Section 1. The executive power of the United States shall be vested in a single person. His style shall be 'His Excellency.' He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected in the following manner:

" REPORT OF THE COMMITTEE ON STYLE.

"We, the people of the United States, in order to form a more perfect union, to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

"Section 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected in the following manner:

"The Constitution of the United States in its Completed Form

AS REPORTED BY COMMITTEE AND ADOPTED.

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America;

"ARTICLE II.

"Section 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected as follows:

LETTER FROM MADISON TO JEFFERSON.

NEW YORK, October 24, 1787.

You will herewith receive the result of the convention, which continued its session till the 17th of September. I take the liberty of making some observations on the subject, which will help to make up a letter if they should answer no other purpose.

As to the duration in office, a few would have preferred a tenure during good behavior; a considerable number would have done so in case an easy and effectual-removal by impeachment could be settled. It was much agitated whether a long term—seven years, for example, with a subsequent and perpetual ineligibility—or a short term, with a capacity to be reelected, should be fixed. In favor of the first opinion were urged the danger of a gradual degeneracy of reelections from time to time, into first a life and then a hereditary tenure, and the favorable effect of an incapacity to be reappointed on the independent exercise of the Executive authority. On the other side it was contended that the prospect of necessary degradation would discourage the most dignified characters from aspiring to the office, would take away the principal motive to the faithful discharge of its duties—the hope of being rewarded with a reappointment would stimulate ambition to violent efforts for holding over the constitutional term—and instead of producing an independent administration and a firmer defense of the constitutional rights of the department would render the officer more indifferent to the importance of a place which he would soon be obliged to quit forever, and more ready to yield to the encroachments of the legislature of which he might again be a member.

Mr. President, it will be seen that there was a very strong

Mr. President, it will be seen that there was a very strong sentiment in favor of but one term. At one time this sentiment was so strong that a majority of the States represented in the convention voted in favor of one term of seven years with a clause rendering the President ineligible to a second term

VIEWS OF LUTHER MARTIN.

Luther Martin, another member of the convention, and afterwards attorney general of the State of Maryland, had this to say on the subject in an address delivered by him before the Legislature of Maryland:

Legislature of Maryland:

On these subjects (mode of electing the Executive, his powers, and his tenure of office) there was a great diversity of sentiment; many of the members were desirous that the President should be elected for seven years, and not to be eligible a second time; others proposed that he should not be absolutely ineligible, but that he should not be capable of being chosen a second time until the expiration of a certain number of years. The supporters of the above propositions went upon the idea that the best security for liberty was a limited duration and a rotation of office in the chief executive department.

There was a party who attempted to have the President appointed during good behavior, without any limitation as to time, and not being able to succeed in that attempt, they then endeavored to have him reeligible without any restraint.

It was objected that the choice of a President to continue in office during good behavior, would be at once rendering our system an elective monarchy; and, that if the President was to be reeligible without any interval of disqualification, it would amount nearly to the same thing, since with the powers that the President is to enjoy, and the interest and influence with which they will be attended, he will be almost absolutely certain of being reelected from time to time as long as he lives.

as he lives.

As the propositions were reported by the Committee of the Whole House the President was to be chosen for seven years and not to be eligible at any time after. In the same manner the proposition was agreed to in convention, and it was so reported by the committee of detail, although a variety of attempts were made to alter that part of the system by those who were of a contrary opinion, in which they repeatedly failed; but, sir, by never losing sight of their object and choosing a proper time for their purpose, they succeeded at length in obtaining the alteration, which was not made until within the last 12 days before the convention adjourned.

It is norfactly evident sir that the present provision in the

It is perfectly evident, sir, that the present provision in the Constitution was a compromise of strongly conflicting views of strong men, and, like most all compromises, it has proved unsatisfactory; and being a compromise, it affords but little, if any, support to the objections made to the proposed amendment. The letter of Mr. Madison, giving the conflicting views of members and their reasons therefor, is peculiarly interesting in this connection.

PRESIDENT TAFT FAVORS ONE TERM.

The present Chief Magistrate has declared against a second term in emphatic terms. He was quite willing to accept that honor for himself, as who would not have been under the same circumstances? Indeed, he labored strenuously, altogether too strenuously as I think, to obtain it. Having himself made the attempt, he is better able than most men to understand and appreciate the evils growing out of the temptation to run a second time and the campaign made in furtherance of that ambition. I have no doubt of the entire sincerity of his views. I commend them to the consideration of the Senate. At a meeting of the Lotus Club, of New York, held since the last presidential election, he has this to say on the subject:

I venture the suggestion that it would aid the efficiency of the Executive and center his energy and attention and that of his subordinates in the latter part of his administration upon what is a purely disintenested public service if he were made ineligible after serving one term of six years either to a succeeding or a nonconsecutive term.

I am a little specific in this matter, because it seems necessary to be so in order to be understood. I do not care how unambitious or modest a President is, I do not care how determined he is that he himself will not secure his renomination (and there are very few, indeed, who go to that extent), still his subordinates, equally interested with him in

his reclection, will, whenever they have the opportunity, exert their influence and divide their time between the public service and the effort to secure their chief's renomination and reelection.

It is difficult to prevent the whole administration from losing a part of its effectiveness for the public good by this diversion to political effort for at least a year of the four of each administration. Were this made impossible by law, I can see no reason why the energy of the President and that of all his subordinates might not be directed rather to making a great record of efficiency in the first and only term than in seeking a second term for the purpose.

Four years is rather a short time in which to work out great governmental policies. Six years is better.

I do not desire to consume the time of the Senate unnecessarily or to trespass unduly on the patience of Senators, but there is another idea advanced here that needs at least a little attention. The Senator from South Dakota [Mr. Crawford], for whose judgment and sincerity I have great respect, tells us that if we are going to render a President ineligible for reelection because of the opportunity he has to use patronage for that purpose, the same disqualification should be made to attach to Senators. It is not because a President has appointed men to office as a means of securing their support, or upon the theory that any incumbent of that great office would himself appoint men with that object in view, that I think he should be rendered ineligible to a second term. It is because this pernicious system has grown up, a system that in a political sense makes it the duty of every appointee to support his chief who gave him his office. The President himself has little, if any, control over it. It has become the fixed, unwritten law of politics. It is a detriment to the President as well as to the country. He can not free himself from this obnoxious condition if he would, and there is every temptation to let things take their course and say nothing. I do not remember of a single case where a candidate for a second term has protested against it. The system is not only detrimental and discreditable to the office of President, but it is demoralizing to the whole public service.

Mr. President, I agree with the Senator from South Dakota, that if any Member of this body is recommending men to office with a view of securing their support in his candidacy for a reelection or is otherwise using his office and conducting himself in such way as to secure a reelection, without regard to his duty as a Senator, the doctrine of ineligibility should apply to him with full force. Not only that, but he should be expelled from his present seat in this body. But that has nothing to do with this question. It is begging the question to say that if you make a President ineligible you should do the same as to Sena-We are not dealing with Senators now. If the Senator thinks the rule should extend to Senators he can offer an amendment to that effect. The issue can not be clouded in that way. That the rule should be applied to the presidential office I have no doubt, and that is the only question before the Senate.

The Senator from Idaho has discussed the question of business tranquillity and insists that the effect of the amendment on business in one way or another should receive no consideration whatever. I agree with the Senator entirely. This is too important a question to be influenced by any consideration of dollars and cents. I had not supposed that any Senator would advance any such reason for making the proposed change in the Certainly that never occurred to me as a reason for introducing the resolution, and I do not press it now. The same may be said, without commenting upon it, with reference to the cost of elections. I place no weight upon that as a ground for making this proposed amendment.

The objection mentioned that the extended term might continue an objectionable man longer is too fanciful in the light of past experience to call for refutation.

LENGTH OF TERM.

There remains to be considered the question of the length of the term to be fixed in case of ineligibility. I said on another occasion that I was not greatly concerned as to the time fixed. I would not object to four years. I would much rather have one term of eight years than two terms of four years each, as we may have it now. But six years seems to me to be a reasonable term. To give that length of time will meet the claim of the value of experience, if any weight is given to that contention. It also meets the objection, entertained by some, to too frequent elections, although, as I have said, I believe that is hardly worthy of consideration. Weighing all these things, it seems to me that a six-year term is better and more reasonable.

Mr. President, my one desire is to so amend the Constitution as to insure the best and most satisfactory service to the country. This is not a question of men or of politics, but of principle. I am sure every Member of this body so considers it. I hope this resolution will be passed by Congress and ratified by the States, because I believe the amendment proposed is for the good of the country.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move that the Senate resume the consideration of House bill 19115, known as the omnibus claims

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CRAWFORD. I suggest the absence of a quorum, because there are several Senators who have amendments, I know,

that they want to offer who are not in the Chamber. The PRESIDING OFFICER (Mr. CLARK of Wyoming in the chair). The Senator from South Dakota suggests the absence

of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Curtis Davis Fletcher Gallinger Gardner Gronna Johnson, Me. Martine, N. J. Massey Nelson Newlands O'Gorman Oliver Ashurst Sanders Borah Brandegee Bristow Simmons Smith, Ariz. Smith, Mich. Smith, S. C. Brown Bryan Burnham Smoot Onver Overman Page Penrose Perkins Perky Pomerene Stephenson Sutherland Thornton Johnston, Ala. Burton Kenyon La Follette Lea Lodge Chilton lapp lark, Wyo. larke, Ark. Townsend Works McLean Martin, Va. Crane Richardson Crawford

Mr. PAGE. I wish to announce the continued illness of my colleague [Mr. Dillingham]. He is necessarily absent from

Mr. WORKS. I desire to announce that the senior Senator from Washington [Mr. Jones] is necessarily absent on business of the Senate.

The PRESIDING OFFICER. Fifty-three Senators have answered to their names. A quorum is present.

Mr. CRAWFORD. The Senator from Massachusetts [Mr. Lodge] had an amendment pending the other evening.

Mr. LODGE. I offered an amendment to pay to D. M. Carman the sum of \$2,876.42. My interest in that claim, as I stated the other day, arose simply from the fact that it came before the Committee on the Philippines when I was chairman. had then occasion to look into it very fully.

Carman provided the Government with certain cascos for carrying freight from the steamships to the shore. They were compelled to go in all sorts of weather. These boats were of very light build, and were seriously damaged on one occasion by being forced to go in a storm and lie alongside the steamer, when they were driven against the sides of the steamer by the waves and were crushed in. Therefore a large proportion of them had to be repaired. They were taken to the yard and repaired.

Carman made claim not only for the injuries done but for the loss of rental during the time that these boats were laid up. The local officer declined to recognize the claim on the ground that the Government was not liable for rental, but the superior officer stated that while he thought the claim was unfounded for rental he did think there was an equitable claim for damages.

It was brought to the department on the report of Capt. Knight, sent to the Quartermaster General, and the Quartermaster General made an allowance of this amount on the claim. It was reported to the Secretary of War, and by the Secretary of War it was reported to the President and was sent to the Senate December 21, 1906. An appropriation was made in the military appropriations act of March 2, 1907, for the payment of 256 approved claims for damages to a list of private property in the United States, Cuba, Porto Rico, and the Philippines, in which provision was made for the payment of five claims for damages to cascos at Manila, two of which grew out of the same contract as the one involved in this claim. At that time the claimant would not accept the reduced allowance made by the Quartermaster General, or did not accept it until on or about February 27, 1907, he cabled to his attorney, but it was too late, and it did not get into the bill.

The matter then went into the Court of Claims, and they

sustained the claim for the amount of \$2,876, and that it was an equitable one.

Mr. President, claims of a precisely similar nature were paid many years ago by the Government. This claim has been recommended by every executive officer to whom it has been submitted. It has been recommended by the Court of Claims; was approved by the Philippine Committee of the Senate, and, I think, by the Committee on Military Affairs. It simply did not get into the bill with the others owing merely to the delay in the acceptance of the claimant.

seems to me if any claim can be a fair and honest one it is this claim, and I think it ought to be included. I notice in reading the report of the committee that they do not state that

they have taken adverse action upon it.

Mr. CRAWFORD. Mr. President, I will say this about the claim: Two of these boats of exactly the same character involved under the same facts have been paid for. This claimant was not satisfied with the amount which the Quartermaster General was willing to allow to him, which was the only reason why it was not paid. He afterwards wired to the department his consent that he would accept this lower amount, but it was not received here until the closing days of that session of Congress, and on account of that fact it was not acted upon.

Now, those are the facts in the case. As representing the committee I can not accept the amendment. We did not have it at the time we passed on all the items of the bill in the regular way and settled upon our report. Afterwards, when the amendment was submitted, I made this report upon it so that the committee could put the Senate in possession of the facts. I am perfectly willing to abide by whatever decision the Senate may make of the matter upon this report. The PRESIDING OFFICER. The question is on agreeing

to the amendment submitted by the Senator from Massachusetts.

Mr. CRAWFORD. I do not want to have it accepted as a precedent here for a general opening of the bill for amendment, because if we do that we will be involved in such a wilderness of amendments that we might as well abandon the attempt to pass the bill.

Mr. LODGE. Mr. President, I understand the chairman's feeling about opening up the bill, but this is a claim that I think is admitted to be a good claim by all who have examined it, and the only thing is that it came in too late. It occupies a different ground certainly from many of the other claims that were adversely reported on by the committee. In fact, it has

not been acted upon by the committee.

Mr. SMOOT. Mr. President, the reason why I objected to the inclusion of the claim was because the agreement made between the Government and the claimant was that any damages done without the fault of the owner were to be repaired at the expense of the United States, the action of the elements excepted.

These boats were damaged by the action of the elements, and that is the reason why I objected to the amendment at the time and thought that the claim should not be included in the bill.

Mr. LODGE. Mr. President, that agreement did not mean that this man was to have no claim. If they took his boats and sunk them, it would be destruction by the action of the ele-ments, by water. He was compelled to go out by the orders of the Government in weather when it was entirely unsafe for him to go, and it was owing to that that the boats were crushed. Of course, the means by which it was done were the waves. If he had been let alone, the elements would not have destroyed the boats.

Mr. SMOOT. He was only fulfilling the requirements of his contract when he undertook to go out the 5 miles he did go. It does seem to me that, strictly speaking, under his contract with the Government of the United States the damage came about by the action of the elements, and that was excepted in the contract.

Mr. LODGE. The elements drove the boats against the side of the vessel. The Government vessel was not an element of nature. It was an element of destruction on that coast.

Mr. SMOOT. It was the typhoon that was raging at the time.
Mr. LODGE. All the officers there admitted—

The PRESIDING OFFICER. The Chair will suggest that the debate is degenerating into a conversation. The Senator from Utah has the floor.

Mr. LODGE. I have no desire to have it degenerate into a conversation, no matter how interesting.

The PRESIDING OFFICER. The Senator from Utah can only be interrupted by his consent.

Mr. SMOOT. I have read the report very carefully—every word of it—as far as that is concerned. I see it is stated that under the circumstances they think this claim ought to be paid, and I shall not say anything more about it. But I wanted simply to say that it was not strictly in accordance with the agreement between the claimants and the Government of the United States.

Mr. CRAWFORD. Mr. President, my chief concern is that we shall not open the door here. I would not consent to this, or I do not consent to it, but I would oppose it if it were not for the fact that these people came to an agreement. The Quartermaster General allowed this man the amount of money that he

is asking for here. He was not willing to accept it at that time, but later on he did accept it by telegraph. His claim did not get into the bill because it was in the closing hours of Con-There seems to be nothing further to adjust between them. On that account I am not opposing it, but I am not consenting to it, because I want to warn the Senate against the opening of the door here to claims outside of this bill.

The PRESIDING OFFICER. The question is on agreeing to

the amendment offered by the Senator from Massachusetts [Mr.

LODGET.

The amendment was agreed to.
Mr. CURTIS. Mr. President, in connection with the amendment of the Senate committee striking out the House provision in regard to the claim of Jacob Samuel Weaver, I ask to have printed in the RECORD the findings of the Court of Claims in that case. I shall not ask to have it read, but merely ask to have it printed in the RECORD.

The PRESIDING OFFICER. Without objection, the order

to do so will be made

The document referred to is as follows:

JACOB SAMUEL WEAVER.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS, TRANS-MITTING A COPY OF THE FINDINGS FILED BY THE COURT IN THE CASE OF JACOB SAMUEL WEAVER AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE. Washington, December 9, 1905.

Hon. Joseph G. Cannon,

Speaker of the House of Representatives.

Sir: Pursuant to the order of the court, I transmit herewith a certified copy of the findings filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims of the House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours,

John Randolph,

Assistant Clerk Court of Claims.

[Court of Claims. Congressional, No. 10826. Jacob Samuel Weaver v. The United States.]

STATEMENT OF CASE.

The claim in the above-entitled case was transmitted to the court by the Committee on War Claims of the House of Representatives on the 14th day of May, 1992. The case was brought to a hearing on its merits on the 6th day of November, 1905.

Messrs. Pennebaker and Jones appeared for the claimant, and the Attorney General, by James A. Tanner, Esq., his assistant and under his direction, appeared for the defense and the protection of the interests of the United States.

The claimant in his petition makes substantially the following allegations:

The claimant in his petition makes substantially the following allegations:

1. That he is a citizen of the United States and resident in the county of Bourbon, in the State of Kansas.

2. That he, being the first sergeant of Company M, Eleventh Regiment Pennsylvania Volunteer Cavalry, was duly appointed or commissioned by the governor of the State of Pennsylvania as second lieutenant thereof, to take rank from October 1, 1864; and that from and after said date he assumed and performed all the duties of his said grade until November 5, 1864, when he was mustered in as second lieutenant. Said regiment was continuously below the minimum number prescribed by law and regulation, and for this reason and no other he was refused muster and recognition in the grade of second lieutenant during said period.

3. That during said period he was allowed and paid only the pay and allowances of a first sergeant, although he was in the continuous per formance of the duties of second lieutenant.

Upon the reports furnished by the War and Treasury Departments and upon other evidence and upon briefs and arguments of counsel the court makes the following

FINDINGS OF FACT.

1. Jacob Samuel Weaver, the claimant in this case, is a citizen of the United States and resident in the county of Bourbon, in the State of

Kansas.

2. On October 1, 1864, the said Jacob Samuel Weaver was first lieutenant of Company M, Eleventh Regiment Pennsylvania Volunteer Cavairy. On that date and until he was mustered into the service, to wit, on November 6, 1864, the same was and continued to be below the minimum number prescribed by General Orders, No. 182, of the War Department, of June 20, 1863, carrying into effect section 20 of the act of Congress approved March 3, 1863 (12 Stat. L., p. 734).

The second lieutenant of said Company M, Eleventh Regiment Pennsylvania Volunteer Cavalry, being then and thereafter out of service in said grade, the duties of second lieutenant devolved upon this claimant, who then and thereafter assumed and performed all the duties of second lieutenant of said Company M, Eleventh Regiment Pennsylvania Volunteer Cavalry, until November 6, 1864, when he was mustered as such.

1864, would amount to \$82.26, without any deduction for income tax, as reported by the Auditor for the War Department.

7. Income tax would amount to \$2.80, and if to be deducted would leave \$79.46.

Filed November 1, 1905.

A true copy of the findings of fact as filed by the court.

Test this 6th day of December, 1905.

[SEAL]

JOHN RANDOLPH,

JOHN RANDOLPH, Assistant Clerk Court of Claims.

Mr. CRAWFORD. Mr. President, the Senator from Massachusetts [Mr. Lodge] has an amendment proposing to insert the French spoliations claims.

Mr. LODGE. I have two or three amendments here which I was going to offer, but I understood the Senator from Alabama [Mr. Johnston] was going to offer an amendment. I am perfectly willing, however, to go on with my amendments now. I send to the desk an amendment which I now offer.

The PRESIDING OFFICER. The amendment proposed by

the Senator from Massachusetts will be stated.

The Secretary. As an item from Massachusetts it is proposed to insert on page 264 the following:

To Thomas B. Flower, of Greenville, Mass., \$5,538.

Mr. LODGE. I ask to have the report of the Court of Claims

in that case read.

Mr. CRAWFORD. Is that a longevity claim?

Mr. LODGE. No.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

FREDERICK L. GREENE, ADMINISTRATOR.

COURT OF CLAIMS FINDINGS FILED BY THE COURT IN THE CASE OF FRED-LRICK L. GREENE, ADMINISTRATOR OF THOMAS B. FLOWER, DECEASED, AGAINST THE UNITED STATES.

COURT OF CLAIMS, CLERK'S OFFICE, Washington, February 14, 1902.

Hon. WILLIAM P. FRYE,
President of the Senate pro tempore.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings filed by the court in the aforesaid cause, which case was referred to this court by the resolution of the Senate of the United States under the act of March 3, 1887.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH, Assistant Clerk Court of Claims.

[Court of Claims. Congressional case No. 10161. Frederick L. Greene, administrator of the estate of Thomas B. Flower, deceased, v. The United States.]

STATEMENT OF THE CASE.

186 acres of timber, at \$20	\$3, 720 1, 995 300
1 dwelling house, 20 by 35 feet. 3 kitchens, two 16 by 25 and one 10 by 12 feet	1, 200 600 75 30
Total	7, 920

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant's decedent. Thomas B. Flower, the person alleged to have furnished such supplies or stores, or from who the same are alleged to have been taken, was loyal to the Government of the United States throughout said war.

II. There was taken from the claimant's decedent, in Dinwiddle County, State of Virginia, during the War of the Rebellion by the military forces of the United States for the use of the Army property of the kind and character above described, which was then and there reasonably worth the sum of \$5,538, for which no payment appears to have been made.

III. The claim was not presented to the Southern Claims Commission, and no evidence has been offered by the claimant under the act of March 3, 1887, "bearing upon the question whether there has been any delay or laches in presenting such claim or applying for such grant, gift, or bounty, and facts bearing upon the question whether the bar of any statute of limitation should be removed or which shall be claimed to excuse the claimant for not having resorted to any established legal remedy."

BY THE COURT.

BY THE COURT.

Filed February 3, 1902.

A true copy. Test this 14th day of February, 1902.

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. LODGE. Mr. President, in this case, as to the court findings, there was no question of the loyalty of the claimant, or the deceased in whose name the claim is made. I observe the committee say that there was no statement of authority. The court found that the property was taken by the United States troops by proper authority, and there was no question raised as to the actual taking of the property. The court put the valuation on it which I have placed in the amendment. point against it is that the claim was not made until 1900, and that it did not come before the Southern Claims Commission; and that the day of the month is not stated, although the year is stated. It seems to me that this claim is as good as any of the other claims of that character can be, and that it is a hardship to reject it simply because it was not filed before the Southern Claims Commission and was not brought to the attention of the Government until the year 1900.

Mr. CRAWFORD. Mr. President, the adoption of this amend-

ment will mean that this whole question of laches, long delay, failure to present the claim at a time when witnesses were alive, and the general uncertainty of dealing with claims for property in a generation later than the one in which the original acts grose will involve the discussion of the whole subject.

I want to be perfectly frank in saying, after going over these claims personally, taking the findings of the Court of Claims personally and inspecting them in relation to every one of these cases rejected, my convictions have become so firmly fixed with reference to the allowance of a large class of these claims that if they were put into this bill I could not, even as chairman of the committee, record my vote in its favor.

I merely want to call attention to this situation: This claim was not referred to the Court of Claims until the year 1900. When was the property claimed to have been taken? In

1864-65.

Mr. President, I see the hour has arrived for the impeachment proceedings, and as I shall make remarks at a little length upon this subject I ask that the amendment may go over to-day and come up for discussion to-morrow in connection with the

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. Bacon) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives

appeared in the seats provided for them.

The Sergeant at Arms (Mr. E. Livingstone Cornelius) made the usual proclamation.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum. The Secretary will call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crane	Lea	Pomerene
Bacon	Crawford	Lodge	Richardson
Borah	Cullom	McCumber	Sanders
Brandegee	Curtis	McLean	Smith, Ariz.
Bristow	Fletcher	Martine, N. J.	Smith, S. C.
Brown	Foster	Myers	Smoot
Bryan	Gallinger	- O'Gorman	Stephenson
Burnham	Gronna	Oliver	Sutherland
Chilton	Johnson, Me.	Page	Thornton
Clapp	Johnston, Ala.	Perkins	Tillman
Clark, Wyo.	Kenyon	Perky	Townsend
Clarke, Ark.	La Follette	Poindexter	Wetmore

Mr. KENYON. I desire to state that the senior Senator from Iowa [Mr. Cummins] is detained at home by the serious illness of his father.

Mr. JOHNSON of Maine. I desire to state that my colleague [Mr. GARDNER] has been called from the Chamber on business of the Senate.

Mr. MARTINE of New Jersey. I desire to announce that my colleague [Mr. Briggs] is detained from the Senate by illness.

The PRESIDENT pro tempore. On the call of the roll of the Senate 48 Senators have answered to their names. A quorum of the Senate is present. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeachment.

The Secretary read the Journal of Monday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal of the Senate sitting as a Court of Impeachment? If not, it will stand approved.

Mr. Manager WEBB. We should like to recall Thomas

Howell Jones for one question. The PRESIDENT pro tempore. The witness will be recalled. TESTIMONY OF THOMAS HOWELL JONES-RECALLED.

Mr. Thomas Howell Jones, having heretofore been duly

sworn, was examined and testified as follows:

Q. (By Mr. Manager WEBB.) Mr. Jones, after you had secured the 10-day option on the Katydid culm dump for \$25,000 on the 6th day of April, 1912, did you see Mr. Williams again?-A. Yes, sir.

What did he say to you, if anything, relative to this matter and Judge Archbald?-A. He told me not to go to the judge's office again; that the judge had nothing at all to do with it;

that he had the papers.
Mr. Manager WEBB. That is all, Mr. President.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Who was present?-A. Sir? Q. Was there anybody else present when that was said?-

- A. No, sir.

 Redirect examination:
 Q. (By Mr. Manager WEBB.) Can you state when it was;
 how long after the 6th of April?—A. I could not state.
 Q. Was it one, or two, or three days?—A. I could not tell; maybe it was two, three, or four days. I do not remember the date.
- Q. That was before you came down here to testify before the Judiciary Committee?—A. Yes, sir.
 Mr. Manager WEBB. That is all, Mr. President.
 Mr. Manager FLOYD. Mr. President, the next witness we

desire to have called is Mr. H. C. Reynolds.

TESTIMONY OF HARRY C. REYNOLDS.

Harry C. Reynolds, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Please state your name and place of residence.-A. H. C. Reynolds; Scranton, Pa.

Q. What is your business or profession?-A. I am an attornev at law.

Q. Are you acquainted with the Marian Coal Co.?-A. I am, sir.

Q. I will ask you to state if you have ever represented them

in the capacity of attorney in any suits?—A. I have, sir.

Q. Were you their attorney in a suit pending before the

Interstate Commerce Commission?-A. Two actions.

Q. In one or more suits pending before the Interstate Commerce Commission ?- A. I filed on their behalf two complaints one against the Delaware, Lackawanna & Western Railroad Co. individually and another against the Delaware, Lackawanna & Western Railroad Co. and certain delivering carriers.

Q. State as briefly as you can the nature of those suits—what was claimed.—A. We sought in the first case which I have mentioned to obtain a reduction in the rates charged for the hauling of anthracite coal on all points on the line of the Delaware, Lackawanna & Western Railroad Co. covered by its tariff then known as No. 6095. We also endeavored to point out certain discrimination which we alleged we had suffered at the hands of the Delaware, Lackawanna & Western Railroad Co. and certain acts upon their part which we alleged were in oppression of my client's rights to ship his coal to points on the line of that railroad.

In the second action we sought to obtain a reduction in the joint through rates charged at some points where there were a few joint through rates in effect, and to obtain generally joint through rates to all points on the lines of the various delivering carriers defendants in the complaint.

Q. When were these petitions or suits filed?-A. I forwarded the first petition against the Delaware, Lackawanna & Western Railroad August 12, 1910. The letter was received a few days later in Washington. The second complaint I forwarded, I think, August 15, 1910. They were returned to me by the secretary of the commission with a statement that I should attach detailed statements of claims for reparation, among other things, and they were returned; and I caused my client to prepare the detailed statement, showing the car number, the weight, the date of shipment, the car initial, and thus showing the amount of damages claimed. I might say

Q. Right at that point, Mr. Reynolds, what was the total amount of damages claimed?-A. We only claimed damages in reparation in the complaint against the Delaware, Lackawanna

& Western, and that claim was for upward of \$53,000.

Q. State when that suit was finally disposed of by the Interstate Commerce Commission.-A. There was an opinion filed on the 8th day of June, 1912, reducing the rates on prepared coal 25 cents per ton, on pea coal 19 cents per ton, and on buck-wheat, I think, 15 cents per ton. The commission, I thought, overlooked the fixing of rates on rice and barley coal, and I filed a brief on the 23d of August pointing out the fact that our complaint had complained particularly of those rates, and

pointing out on numerous pages of the testimony where it was shown, as we thought, that they were unjust and unreasonable.

And later, early in the month of November——

Q. What year?—A. 1912; they reduced the rates on rice and barley coal; so that we obtained a reduction on all the rates

complained of.

In the second case, the joint through-rate case

Q. Just a moment, Mr. Reynolds. Then, if I understand you, from the time you filed your petition before the Interstate Commerce Commission up to the 12th of November, that matter was pending in some form before the Interstate Commerce Commis-

sion for determination?-A. Yes, sir.

Q. Now, you can state about the other case, briefly .- A. In the joint through-rate case, after we had had a few hearings, the railroad companies proposed, voluntarily-at least some of them did-to absorb the 30-cent switching charge for a service from the breaker or property of the Marian Coal Co. to the connecting carrier, and we agreed upon what I termed an armistice, that we would permit the joint through-rate case to stand undisposed of until the disposition of the case against the Delaware, Lackawanna & Western Railroad Co., upon the understanding that they would during such interval absorb the 30cent-a-ton switching charge that we had been subjected to theretofore. So in both cases-in one case by a voluntary concession—we obtained the absorption of the switching charge.

Q. Kindly state what you mean when you say that they absorbed the 30-cent switching rate. Do you mean the carriers agreed to become responsible for it instead of the shipper?—A. I mean that the carrier, the originating carrier, made some arrangement, no doubt with the originating carrier, whereby it agreed to transport the coal from the washer to the junction point, paying out of the total freight rate to the originating

carrier for that service.

Q. The effect of that arrangement, then, as I understand you, was to relieve the shipper of that 30 cents switching charge?-A. Yes, sir.

Q. Mr. Reynolds, I will ask you to state if you were attorney of record and in control of these cases before the Interstate Commerce Commission throughout the entire pendency of those proceedings?-A. Yes, sir.

Q. Did you have an associate with you?-A. No, sir.

Q. You were the sole attorney?-A. Yes, sir.

I will ask you to state if you have any knowledge or information about an effort being made on the part of the Bolands to have this matter compromised by a Mr. Watson, an attorney of Scranton?-A. Well, I only know from information that Mr. W. P. Boland gave me with reference to that,

Q. I am not asking you what the information was. You did have information that such negotiations were being carried

on?-A. Yes, sir.

Q. Who were the owners and principal stockholders of the Marian Coal Co.?—A. I never saw their stock books, but I understood and understand now that C. G. Boland and James N. Boland and W. P. Boland were the principal stockholders. Q. In representing the Marian Coal Co. they were the indi-

vidual members of the corporation that you dealt with?—A. That I dealt with directly, although I talked with other stock-

holders of the company.

Q. Now, I will ask you to state whether or not you had anything to do with the negotiations on the part of a Mr. Watson to bring about a settlement of the differences between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co.?—A. No, sir; not at any time.

Q. Were you at any time consulted by Mr. Watson for information, or for any other reason, concerning the transac-

tion ?-A. No, sir.

Mr. Manager FLOYD. That is all.

Cross-examination:

Q. (By Mr. SIMPSON.) You spoke, Mr. Reynolds, of a 30cent switching charge. That was 30 cents per car?-A. Thirty cents per ton.

Q. Thirty cents per ton, was it?-A. Yes, sir.

- Q. In what way was your claim of \$53,000 or thereabouts made up? I do not mean to ask you to go into the detail, but in a general way how was it made up?-A. On the complaint as originally filed we alleged that the rate on prepared coal ought not justly to exceed \$1 per ton. My recollection is that we averred the rate on pea coal should not exceed 90 cents, and that the rate on buckwheat-I had better speak from the record-
- Q. I do not care about the details.—A. Well, 85 or 87 cents, or something like that. And the rate on rice and barley something less, perhaps 75 or 76 cents. Taking that difference between the established rate of \$1.58, \$1.43, and \$1.28 and \$1.13 as the difference, we claimed our damages for that difference

upon the number of tons we had shipped for a period two years prior to the 18th of October, 1910, which aggregated—the exact figures I can give you—something like \$53,000.

Q. That is near enough for our purposes here.-A. Yes, sir. Q. Is it not true in point of fact that you were asked to go with Mr. Watson to meet Mr. Truesdale in relation to this matter?-A. Yes, sir.

Q. The Mr. Truesdale to whom I have referred is president of the Delaware, Lackawanna & Western Railroad Co.?-A.

Yes, sir.

Mr. SIMPSON. That is all, Mr. President.

Redirect examination

Q. (By Mr. Manager FLOYD.) I desire to ask the witness a

question. You say you were asked to go to this conference with Truesdale?—A. Yes, sir.

Q. And Mr. Watson?—A. Yes, sir.

Q. Who asked you?—A. Mr. W. P. Boland called at my office and stated that Mr. Watson had asked him to ask me to go with Mr. Watson and Judge Archbald to present the case to Mr. Truesdale.

Q. Why did you not go?-A. I told him I would not go because I did not believe that Judge Archbald ought to be interested in that case in the light of what he told me that day as

to the matter.

Q. What had he told you that day?

Mr. SIMPSON. I object. The objection, as you may see, sir, is that it is what Mr. Boland said that Mr. Watson had said, so that it might be carried to this witness. That is the question really, and the objection is it is double hearsay.

Mr. Manager FLOYD. Mr. President-

The PRESIDENT pro tempore. The Chair will request the manager to name the parties.

Q. (By Mr. Manager FLOYD.) What did Mr. Boland say?—A. Mr. W. P. Boland——

Mr. SIMPSON. Wait, please.

The PRESIDENT pro tempore. Wait.

Mr. SIMPSON. I object to what Mr. Boland said in the absence of Judge Archbald or something to connect Judge Archbald with it.

Mr. Manager FLOYD. I should like to be heard in this connection.

In the examination in chief this witness was asked whether or not he had participated in an attempted settlement, and then on cross-examination respondent's counsel asked if he were not requested to attend that conference before Mr. Truesdale, and accompanying Mr. Watson at that conference, in an effort to settle these matters; and I was simply inquiring into that transaction, which was brought out by the respondent's attorney. I think, in view of the manner in which this matter has come out in the testimony, it is entirely proper that he should state the conversation referred to. It is a part of the reason why he did not go. I think it is competent as showing why this witness refused to go to that conference. That is our position.

Mr. SIMPSON. You will perceive, sir, the question which is now asked has no relevancy. He had been asked in chief whether or not he had taken any part in the conference, said "No." He was then asked on cross-examination who said "No." He was then asked on cross-examination whether he had not been asked to go, and he said he had. He was then asked what was said in relation to asking him to go, and as to that no objection was made. But he is now asked to give his reasons for not going. He may have ten or fifteen or a hundred reasons, or only one, and they may all be valuable to him and may not be valuable to anybody else. Judge Archbald can not be in the slightest degree affected by the reasons which operated upon this man's mind in determining that he would not go. He was only asked about the fact and he has answered the fact, and certainly he can not go beyond it to give reasons which could not have affected the parties in interest in this proceeding.

Mr. Manager FLOYD. I shall not insist upon the question at

The PRESIDENT pro tempore. Are there any further questions to be asked the witness?

Mr. Manager FLOYD. No further questions.
Mr. Manager CLAYTON. The witness may be discharged.

Mr. Manager CLATION. The withess may be discharged.
The PRESIDENT pro tempore. Under his subpœna?
Mr. Manager CLAYTON. Yes, sir.
Mr. WORTHINGTON. We do not desire to have this witness discharged. It is very likely that when we come to take evidence, if that time ever arrives, we shall want to cross-examine

The PRESIDENT pro tempore. Mr. Reynolds, have you been subpænaed by the respondent?

Mr. REYNOLDS. No, sir.

Mr. WORTHINGTON. In that case we would have to issue a subpœna and make some arrangement.

The PRESIDENT pro tempore. So far as the subpœna with which he has been served is concerned, the witness is discharged.

Mr. WORTHINGTON. Mr. Reynolds, you are not likely to go where you can not be reached?

Mr. REYNOLDS. Oh, no; I can come when reached by telegraph any time. I may go now?

The PRESIDENT pro tempore. Yes. Mr. Manager CLAYTON. Mr. President, before the examination of the next witness is proceeded with I desire to say on behalf of the managers that we have consented that Miss Blackmore, a witness subpensed on behalf of the managers, may be finally discharged. We think we will not need her as a witness in this case. I desire to make this statement, so that the counsel for the other side may have her subpænaed if they desire her presence and testimony.

Mr. WORTHINGTON. We have no objection to her being discharged.

The PRESIDENT pro tempore. On that suggestion Miss Blackmore will be discharged.

TESTIMONY OF CHRISTOPHER G. BOLAND.

Mr. Manager FLOYD. The next witness we desire to call on the part of the managers is Mr. C. G. Boland.

The PRESIDENT pro tempore. The witness will be summoned to appear.

Mr. C. G. Boland entered the Chamber and was conducted to the witness stand.

The PRESIDENT pro tempore. Give your name and address to the stenographer.

Mr. Boland, Christopher G. Boland, Scranton, Pa.

C. G. Boland, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Mr. Boland, please state your name and address.—A. Christopher G. Boland, Scranton, Pa.

Q. What is your occupation or business, Mr. Boland?-A. Insurance and real estate.

Q. Are you in any way interested in the banking business?-A. And banking; yes.

Q. At what point or location?—A. At Lackawanna, N. Y.

Q. I will ask you to state whether or not you are interested in the Marian Coal Co.—A. Yes, sir.
Q. Is the Marian Coal Co. a corporation?—A. Yes, sir.
Q. In what business is it engaged?—A. In the business of

winnowing coal from a culm dump or pile at Taylor, near Scranton, Pa.

Q. And who are some of the other stockholders in the Marian Coal Co.?—A. I do not know whether I can recite all their names to you.

Q. I do not care about all. You are one?-A. William P. Boland is the principal stockholder.

Q. Have you another brother also a stockholder?—A. James

M. Boland, of Wilkes-Barre.

Q. There are also other stockholders?-A. Other stockholders. Q. Who is president of the Marian Coal Co.?—A. At this time William P. Boland is president.

Q. Were you at any time during the existence of the corporation the president of the company?—A. From its organization, in 1904, until May, 1910, I was president.
Q. Since that time William P. Boland has been president of

that coal company?—A. Yes, sir.
Q. Now, Mr. Boland, I will ask you to state briefly whether or not a suit was brought against the Marian Coal Co. by one John W. Peale, and if so, state about when that suit was brought.—A. A suit was brought by John W. Peale against the Marian Coal Co. I could not tell you now the exact date without refreshing my recollection.
Q. About when?—A. It was about 1909, I think; in the early

part of 1909 and the latter part of 1908.

Q. Where was that suit brought—that is, in what court?—A. It was brought in the Federal court for the middle district of Pennsylvania at Scranton.
Q. Who was the judge of the court at the time the suit was brought?—A. Hon. R. W. Archbald.
Q. The respondent in this case?—A. Yes, sir.

Q. I will ask you to state what you know about a certain promissory note for \$500 that was presented to you some time in 1909 for discount and bore Judge Archbald's name upon it. Tell it in your own way.—A. The note you mention was brought into my office in the Republican Building, at Scranton, Pa., some time, I believe, in the fall of 1909, by Edward J. Williams, who asked me to take the note and advance the cash upon it.

Q. Please describe the note, Mr. Boland.—A. As I remember the note, it was made by John Henry Jones and indorsed by Judge Archbald. I am not quite clear as to whether or not it was also indorsed by Mr. Williams.

Q. To whom was the note made payable, if you remember? A. I am not quite clear on that; possibly to Judge Archbald. I am not quite clear. It was made by John Henry Jones, I am

Q. It was indorsed by Judge Archbald?—A. It was indorsed

by Judge Archbald.

Q. What was the amount of that note?—A. \$500.

Q. Did you discount it?—A. No, sir.
Q. Was this suit of John W. Peale against the Marian Coal
Co. pending at that time?—A. Yes, sir.
Q. Before the court——A. Yes, sir.
Q. Of which Judge Archbald was judge?—A. Yes, sir.
Q. Why did you dealing to discount the note. Mr. Boland?

Q. Why did you decline to discount the note, Mr. Boland?

Mr. SIMPSON. I object, sir. The reasons which actuated the witness are a matter of no moment in this controversy.

The PRESIDENT pro tempore. The manager will please state the purpose of the question.

Mr. Manager FLOYD. I will put the question in a different form. [To the witness:] What did Mr. Williams say about that note when he presented it to you for discount?

A. Mr. Williams, as I remember now, told me that he was joined with Mr. John Henry Jones and Judge Archbald in the acquirement of a large tract of land in Venezuela and they wanted this amount in order to enable Mr. Jones to go either to Venezuela or to London to complete the acquirement of the property, and he wanted me to advance the cash on the note.

Q. What did you say to Williams?—A. I remember very well telling him that under other circumstances I might advance the amount, but I felt it would be very improper under the circumstances existing at that time; that I was an officer of the Marian Coal Co. and had a suit before Judge Archbald, and I did not feel on that account that I could consider the matter

Q. Now, Mr. Boland, I desire to ask you about another transaction. I will ask you to state whether or not you employed one Mr. Watson, an attorney, G. F. Watson——A. George M.

Watson, I think it is.

Q. An attorney of Scranton to attempt to negotiate a settlement between the Marian Coal Co. and the Delaware, Lackament between the Marian Coal Co. and the Delaware of the Interest of Company of the Interest of the Interest of Company of the Interest of the Inte wanna & Western Railroad Co. pending in the Interstate Com-merce Commission, and also all differences between the railroad company and the Marian Coal Co., and, further, a transfer of the stock of the Marian Coal Co. to the railroad company? Yes; I made an arrangement with him to act for parties holding two-thirds of the stock of the Marian Coal Co. at the time.

Q. I will ask you to state in your own way that transaction, the circumstances leading up to it, and all about it.-A. Well,

the circumstances leading up to it-

Q. I do not mean in any lengthy detail, but just the immediate circumstances?-A. It covered several years of difficulty in which the Marian Coal Co. or the majority stockholders were

involved.

Q. Mr. Boland, will you pardon me? I do not want to go into a history of your affairs for years previously, but the circumstances leading immediately up to that transaction, and in a general way you might state about your litigation previously.—
A. At the time of employing Mr. Watson there was pending in the Federal court the case of John W. Peale against the Marian Coal Co., and there was also pending before the Interstate Commerce Commission here in Washington the case of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co. and a number of other railroads for discrimination in freight rates against the company. I might say that previous to employing Mr. Watson we feared an adverse decision against the Marian Coal Co. by the court from information obtained by my brother, William P. Boland. So Mr. Edward J. Williams called at my office one day and suggested that we could be gotten out of our difficulty and dispose of our interest if I saw Mr. Watson. He believed that Mr. Watson could dispose of our interest to an advantage and urged me to see him. I talked with William P. Boland, who, together with his own stock, had control or options on a majority of the stock of the Marian Coal Co., to see if he would be agreeable to my doing so. At first he was opposed to it, but after talking with his attorney, Mr. H. C. Reynolds, who just preceded me on the witness stand, he said I might go and see him and see what he would propose

Q. That is, to see whom?—A. See Mr. Watson. I accordingly called on Mr. Watson, who talked with me about the matter and several other matters in connection with the troubles we had. He told me he believed he could dispose of our interest. He wanted to know what we wanted for our interest, and I told

him I would have to discuss that further with my brother, William P. Boland. So I went away, and later called on him again after talking with William P. Boland, who agreed that we ought to obtain \$100,000 for our two-thirds interest in the Marian Coal Co. My brother wanted to know what Mr. Watson would charge us for his services, and I told him I would ascertain. I again talked with Mr. Watson. I told him the price which I felt we ought to have for our stock; that is, two-thirds of the stock, which amounted to \$50,000; the entire stock at that time being \$75,000, one-third of it being held by John W. Peale, of New York and Pennsylvania, who had this suit pending in the Federal court against the company. After talking with Mr. Watson he agreed to accept \$5,000 for his fee, giving us \$95,000 in the event of his selling the property. I remember a day or two after that, I think the day after that, being called over to Judge Archbald's office.

Q. Proceed.—A. Where I met Mr. Watson and Judge Arch-

bald. After some discussion of the matter there the judge informed me that he was going to assist Mr. Watson in an effort to dispose of the property and to release us from the difficulty in which we were involved at the time, referring particularly to this Peale case, which was in his court-I think he was judge at that time-saying he would give it a good deal of consideration and saying it was a good case to settle out of

Q. You say "judge." What judge do you mean?-A. Judge Archbald. It was Judge Archbald's office in the Federal building to which I was called.

Q. How came you to go to Judge Archbald's office on that occasion?-A. Some one there called me on the telephone.

Q. Who was in the room when you got there?-A. Mr. Watson

and Judge Archbald.

Q. When was that, as near as you can fix the time?-A. It was within a short time after I had arranged with Mr. Watson as to the price he could sell our interest for in the Marian Coal Co. and the fee he was to obtain.

Q. Now, fix the time as near as you can when it was that you arranged with Mr. Watson to make an effort to settle this mat-

ter for you .- A. You mean the month and year? Q. The month and year; yes .- A. It was in August, I believe,

Q. That is, you mean to state that Judge Archbald was judge

of the middle district?-A. I mean 1911.

Q. I am asking you now what is your recollection about whether Judge Archbald was judge of the district court at that whether Judge Archadt was Judge of the district court at that time?—A. No; I am thinking of the time when this note was presented to me. He was judge of the court at that time, but this other transaction was in August, 1911, when, I believe, Judge Witmer was judge of the Federal court.

Q. What position did Judge Archbald hold?-A. Judge Arch-

bald was judge of the Commerce Court.

Q. Just state all that occurred and was said in that conversation at Judge Archbald's office when he was present, between yourself, Judge Archbald, and Mr. Watson about the judge going to assist Mr. Watson in this settlement.—A. My recollection is that Mr. Watson recited the fact that he had spoken to the judge about the matter and that the judge had agreed to assist him. The judge stated to me that he would do what he could in the matter. But during the course of the talk a suggestion was made to me that there ought to be some paper furnished to Mr. Watson guaranteeing him, in the event of his disposing of the two-thirds interest or stock, that he would be paid this \$5,000.

Q. Who made that suggestion to you?—A. I am not quite positive on that, but we all joined in the discussion, Judge Archbald, Mr. Watson, and myself. I informed both of them that as my brother controlled a majority interest of the stock to be disposed of, I had consulted him and he had agreed that this payment should be made, but if they thought a paper ought to be made reciting the agreement I would endeavor to obtain it, and it was agreed that I should do so. I went to my brother from the judge's office and told him what I had been asked to do, and he gave me a paper reciting that in the event of George M. Watson selling our two-thirds interest, or the two-thirds of the stock of the Marian Coal Co., the Marian Coal Co. would pay him, or the stockholders would pay him, \$5,000.

Q. You procured that from your brother and delivered it to Mr. Watson?—A. I did.

Q. Now, did you retain a copy of that agreement or writing?—A. I have no copy with me. I believe it was presented to the Judiciary Committee.

Q. I will ask you to examine that paper, Mr. Boland [presenting paper]. The original of that was signed by whom?—A. (Examining.) By William P. Boland.

Q. The copy was not signed?-A. I do not think any copy

Mr. Manager FLOYD. This we offer as a copy, Mr. President, and we want it marked as an exhibit, and then ask to

The PRESIDENT pro tempore. It has not been identified? Mr. SIMPSON. That is the copy. We have no question

about it. Mr. Manager FLOYD. There will be no question about its identification.

The paper was handed to the Secretary, and marked "Exhibit

No. 32.

Q. (By Mr. Manager FLOYD.) I will ask you to examine this paper marked "Exhibit 32" and state whether or not that is a copy of the writing that was given to Mr. Watson?—A. (Ex-

amining paper.) Yes, sir.
Mr. Manager FLOYD. Mr. President, we desire to offer this

paper in evidence at this point and have it read.

The PRESIDENT pro tempore. The Secretary will read it. The Secretary read as follows:

[U. S. S. Exhibit 32.]

SCRANTON, PA., August 23, 1911.

C. G. BOLAND, Esq., Scranton, Pa. C. G. BOLAND, Esq., Scranton, Pa.

DEAR SIR: In reference to the matter of G. M. Watson being taken into the case of the Marian Coal Co. against the Delaware, Lackawanna & Western, would say in confirmation of what I told you heretofore, that if through the efforts of Mr. Watson a satisfactory settlement is brought about the Marian Coal Co. agrees to pay him \$5,000 for such settlement.

Of course Mr. H. C. Reynolds has been in this case from the beginning and will be attorney in it until its final settlement.

Very truly, yours,

Marian Coal Co.

MARIAN COAL Co., President.

A. That was signed by William P. Boland as president, I believe.

Q. (By Mr. Manager FLOYD.) It has been introduced as evidence, and you testify it to be a true copy of it according to

your best recollection?-A. Yes, sir.

Q. Now, I will ask you to state whether or not anything else was done or said by Judge Archbald at this interview, which you have described, when Mr. Watson and yourself were present in Judge Archbald's office.—A. I do not remember that. I do not know whether it was at that or a subsequent call at Judge Archbald's office the judge called on the telephone to the Scranton office of Mr. E. E. Loomis, who was the vice president of the Delaware, Lackawanna & Western Railroad Co., to arrange an interview with him in reference to this matter.

Q. Now, to refresh your memory, was it the conference you have been detailing or was it a subsequent conference?—A. I

am not positive as to that. Q. Anyhow, you testify that he did, either on that occasion or on some subsequent occasion, call for Mr. Loomis?—A. Yes, sir.

Q. Or called up his office on the telephone with a view of ar-

ranging an interview?-A. Yes, sir.

Q. Was Mr. Watson also present at the time when the judge called up Loomis?—A. I believe so. I am inclined to believe it was that time when I was called from my office over to the judge's office. Some one suggested that Mr. Loomis was in Scranton on that day, and it was considered advisable to reach him and arrange a conference with him.

Q. What was your understanding as to whether he did reach Mr. Loomis and call him on the phone?—A. He did not reach him. They reported, as I understood and as I remember now,

the judge said he was not at his office at the time.

Q. You state, Mr. Boland, that in that conversation Mr. Watson informed you that Judge Archbald had agreed to assist him in the settlement, and that Judge Archbald stated that he had agreed to assist him and do all he could to assist him in the matter?-A. Yes, sir.

Q. You had agreed to pay Watson \$5,000 in the event he secured that settlement, had you?—A. Yes, sir.

Q. Now, was there anything said in that conversation, either by Mr. Watson or Judge Archbald, as to what interest Judge Archbald had in making that settlement or the reason he was taking part in making that settlement, or in an effort to make that settlement?—A. No, sir; not to my recollection.

Q. You knew that you agreed to pay Watson a money con-

sideration of \$5,000?—A. Yes, sir.
Q. And Judge Archbald agreed to assist him in the negotia-

tion of that settlement in your presence?—A. Yes, sir.
Q. And no explanation was made about why he was doing it, the motive that prompted him, or the consideration that moved him?-A. Not at that time.

Was there at any other time?-A. Yes; by-

Mr. SIMPSON. One moment, please.

Mr. Manager FLOYD (to the witness). Well, when Judge

Archbald was present?—A. No, sir.

Q. Now, I want to ask you to state whether or not, in pursuance of that agreement, any efforts were made on the part of Mr. Watson or Judge Archbald or both of them to negotiate a settlement with the people of the Delaware, Lackawanna & Western Railroad Co.?—A. Yes, sir.

Q. About what length of time did those negotiations continue?-A. From this time in August, the date of which I fixed by that letter, up until some time in October, I think, when this interview or conference occurred between Mr. Watson and the officials of the Delaware, Lackawanna & Western Railroad Co.

Q. And that was about what date?-A. I think that was in October; I am not positive; but I remember on the day of the conference Mr. Watson sent a telegram to Judge Archbald here at Washington. If I had that record, I could state about what

Q. I will refresh your memory.—A. I think it was in October.
Q. Just wait a moment, Mr. Boland, and I will refresh your memory. [Handing paper to witness.] Examine that telegram, Mr. Boland, and see whether that is the telegram referred to.

The Witness (after examining). Yes, sir.

In whose handwriting is that telegram?—A. In Mr. George Watson's handwriting.

Q. Were you present when he wrote it?-A. I was.

Mr. Manager FLOYD. Mr. President, we desire to have that paper marked as an exhibit and read in evidence at this point. The WITNESS. It is dated October 6. So that was about the time the negotiations ended.

The Secretary read the paper, which was marked "Exhibit 33," as follows:

[U. S. S. Exhibit 33.]

THE WESTERN UNION TELEGRAPH Co., October 6, 1911.

To Hon. R. W. Archbalb, Judge Court of Commerce, Washington, D. C.: Wire me East Stroudsburg what time to-morrow I can meet you in G. M. WATSON.

Q. (By Mr. Manager FLOYD.) That telegram, you say, was sent on the day or about the time of the conference with Truesdale, Loomis, and others?-A. Yes, sir.

And that was sent by Mr. Watson to Judge Archbald?-

Yes, sir.

Q. I will ask you to state, if you know of your own knowledge, of any part that Judge Archbald took to bring about or to further those negotiations other than what you have testified to up to this point in your testimony?-A. I have only the information-

Q. I am asking you of your own knowledge.-A. I do not recall any information of my own knowledge; but we consulted after that interview with Mr. Watson, my brother probably holding more interviews with him than myself.

Q. Well, did you understand that the judge was assisting Mr. Watson in these negotiations, from any information you had?—A. I did.

Q. Did you see any letters that he had written in connection with the matter in any way?—A. I do not remember now

having seen any letters to Mr. Watson.

Q. Did you have any conference with the railroad company; that is, with any of the officers or agents of the Delaware, Lackawanna, and Western Railroad Co., during the pendency of these negotiations—that is, from the time in August when they were instituted up to the 5th or 6th of October?-A. Yes,

Mr. SIMPSON. One moment, please. I object, if the court please.

Mr. Manager FLOYD. I am just asking the witness whether

Mr. SIMPSON. Yes; but he went on. That is the reason I interrupted him. The question was quite proper. The PRESIDENT pro tempore. The witness will answer the

question, but should not proceed further.

Q. (By Mr. Manager FLOYD.) During the time you had the conferences with him?-A. Yes, sir.

Q. Now, I will ask you to state if, in any of these conferences with the railroad people, you were shown any letters that had been written by Judge Archbald concerning this negotiation?-A. No, sir; not to my recollection.

Q. Did you understand that this negotiation was attempted to be brought about by Mr. Watson assisted by Judge Archbald? Mr. SIMPSON. I object, unless it is shown that Judge Archbald was a party in some way to that understanding. One can

not tell from whom this gentleman gets his understanding.

Mr. Manager FLOYD. Mr. President-

Mr. SIMPSON. If you will excuse me, Mr. Manager Floyd, if you will state that the witness got his understanding from

anything that was said by Judge Archbald, or in his presence, of course the question will be wholly unobjectionable.

Mr. Manager FLOYD. Mr. President, we can not agree with counsel for the respondent on that proposition. We have shown by the testimony of this witness that he employed, for a consideration of \$5,000, Mr. Watson to bring about a settlement of the disputes, or certain disputes, between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co. He has further testified that within a very short time thereafter a day or two—he was called to the office of Judge Archbald; that he there met Mr. Watson and Judge Archbald; and that Mr. Watson, the man whom he had employed to negotiate this settlement, or to attempt to negotiate this settlement, stated to him that Judge Archbald had agreed to assist him in bringing about the settlement in the presence of Judge Archbald; and that Judge Archbald agreed to assist him, and stated that he would do all he could to assist him.

The witness has further testified that either on that occasion, or on some subsequent occasion, Judge Archbald called up the office of Mr. Loomis, the vice president of the Delaware, Lackawanna & Western Railroad Co., in an effort to get in touch with him to confer with him about this particular matter. therefore, it is perfectly competent, having laid that basis, to ask this witness whether or not he understood that Judge Archbald was continuing his efforts to bring about this negotiation or whether he dropped out of the transaction altogether, and what was his understanding about it. It seems to me that it is entirely competent.

The PRESIDENT pro tempore. The Chair thinks that counsel has proved the fact of the statement being made in the presence of Judge Archbald, and the presumption of law would continue unless proof were offered to the contrary. The Chair does not see what counsel would have to gain by making further proof of the fact.

Mr. Manager FLOYD. Very well, Mr. President, we shall not insist upon the question upon that ruling of the Chair. I desire to say that I fully agree with the law as indicated by the Chair, and do not wish to press that particular question further.

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversations with Mr. Watson relative to Judge Archbald's interest or participation in this settlement, and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement?

Mr. SIMPSON. We object, unless it is intended to prove either that the conversations referred to took place in the presence of Judge Archbald or that they were in some way

indicated to him and not dissented from by him.

Mr. Manager FLOYD. Upon that proposition, Mr. President, we desire to be heard. I will state that we regard that question as a very material one in this case. We shall therefore ask the indulgence of the Senate to present our views of the

law quite fully upon that proposition at this time.

The PRESIDENT pro tempore. Before the argument proceeds, the Chair will ask that the stenographer be permitted to read the question so that it will be clearly presented.

The Reporter read as follows:

Q. (By Mr. Manager Floyd.) Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversations with Mr. Watson relative to Judge Archbald's interest or participation in this settlement and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement?

Mr. Manager FLOYD. Mr. President, we think that we are entitled to prove, under the circumstances, conversations of and declarations made by Mr. Watson. If that question had been answered, it would have been followed by another question, "What were those conversations?" or "What was said in those But this raises the question, and I suppose that counsel for the respondent will not be technical about that. What we are insisting upon is the right to prove conversations and declarations made by Mr. Watson during the course of these negotiations concerning Judge Archbald's relation to that trans-

In support of that proposition we submit that there are three principles of law under which, according to our view of the law, that character of testimony is admissible in this case. In the first place, under article 2 Judge Archbald is charged with an unlawful act in assisting one George M. Watson to make a settlement for a consideration. If Judge Archbald's act is unlawful, then the act of the man who assisted him in the per-

formance of that act is unlawful; and on the ground of criminal conspiracy we think declarations made by Watson concerning the transaction would be admissible.

We insist, further, that under the simple rules of contract, whether there is any conspiracy or not, this evidence is admissible, for the question of inquiry is as to certain negotiations had in an attempt to make a settlement of the affairs of the Marian Coal Co. with the Delaware, Lackawanna & Western Railroad Co. It is in proof here that Judge Archbald agreed to assist the attorney to do all he could to aid him in making that settlement and associated himself with him. I know of no different rule for a contract to do one particular thing than contract to engage in business or a contract to do various When two or more persons enter into an agreement to carry into effect a common design, the same rules and principles of law apply, as I understand, whether it is to carry on a business or to do some particular thing. In this instance the agreement was to do, or to undertake to do, a particular thing, namely, to bring about an adjustment or a settlement between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co.—a settlement of their differences over certain lawsuits and over certain property.

The third principle upon which we think this character of evidence is admissible is that it is a part of the res gestæ, a part of the transaction itself. In inquiring into this settlement and into the various steps that were taken by those concerned in an effort to bring it about we contend that it is perfectly competent to prove what the participants in that settlement did and said when we have once established the fact that Judge Archbald entered into an agreement to assist Mr. Watson or to participate in that settlement; it becomes entirely immaterial, under our view of the law, whether Judge Archbald was present or whether Judge Archbald was not present when these declarations were made by Watson, his associate and partner.

Under the testimony already established, it is shown that Judge Archbald was present at a conference at which Mr. C. G. Boland, the witness on the stand, and one Mr. Watson were present, and that he undertook or agreed or stated that he had agreed to assist Mr. Watson in this settlement; and we will show by incontrovertible testimony that will be introduced later in this case that Judge Archbald did attempt to assist Mr. Watson in negotiating that settlement; that he continued his activity throughout the entire period of these negotiations almost up to the day of the final conference. We will show by letters and by witnesses who were officers of the railroad company that Judge Archbald sought and obtained personal interviews with railroad officials and wrote them various letters concerning the proposed settlement.

I say that, in addition to what we have already shown, we will produce witnesses to prove those facts, which will be a further basis for the admissibility of this evidence.

As to the law, I read from Greenleaf on Evidence:

As to the law, I read from Greenleaf on Evidence:

Declarations of conspirators: The same principles apply to the acts and declarations of one of a company of conspirators in regard to the common design as affecting his fellows. Here a foundation must first be laid by proof sufficient in the opinion of the judge to establish prima facie the fact of conspiracy between the parties, or proper to be laid before the jury as tending to establish such fact. The connection of the individuals in the unlawful enterprise being thus shown, every act and declaration of each member of the confederacy, in purusance of the original concerted plan and with reference to the common object, is, in contemplation of law, the act and declaration of them all, and is therefore original evidence against each of them. (Greenleaf on Evidence, 14th Ed., Vol. I, pp. 149, 150.)

Now, in regard to declarations of congrinors. I read from the

Now, in regard to declarations of copartners, I read from the same work as follows:

Declarations of partners: This doctrine extends to all cases of partnership. Wherever any number of persons associate themselves in the joint prosecution of a common enterprise or design, conferring on the collective body the attribute of individuality by mutual compact, as commercial partnerships and similar cases, the act or declaration of each member, in furtherance of the common object of the association, is the act of all. (Greenleaf on Evidence, 14th Ed., Vol. I, p. 151.)

In Roscoe's Criminal Evidence, volume 1, sections 429-430,

the same doctrine is enunciated.

The PRESIDENT pro tempore. The Chair would like for the manager to read from the authority just cited.

Mr. Manager FLOYD. Very well, I will read. In volume 1,

Roscoe's Criminal Evidence, page 570, eighteenth edition, we find the following:

Proof of the existence of conspiracy in general: It is a question of some difficulty how far it is competent for the prosecutor to show, in the first instance, the existence of a conspiracy amongst other persons than the defendants without showing at the same time the knowledge or concurrence of the defendants, but leaving that part of the case to be subsequently proved. The rule laid down by Mr. East is as follows: "The conspiracy or agreement among several to act in concert for a particular end must be established by proof before any evidence can be given of the acts of any person not in the presence of the prisoner; and this must, generally speaking, be done by evidence of the party's own act and can not be collected from the acts of others independent of his

own, as by express evidence of the fact of a previous conspiracy together or of a concurrent knowledge and approbation of each other's acts." (1 East, P. C., 96.) But it is observed by Mr. Starkle that in some peculiar instances, in which it would be difficult to establish the defendant's privity without first proving the existence of a conspiracy, a deviation has been made from the general rule, and evidence of the acts and conduct of others has been admitted to prove the existence of a conspiracy previous to the proof of the defendant's privity.

The PRESIDENT pro tempore. If the manager will pardon the Chair, the point upon which the argument is desired would be as to the right to prove the sayings of one party connected

with the transaction as against the other. Mr. Manager FLOYD, Yes, sir.

The PRESIDENT pro tempore. And the Chair would say that, so far as the present view of the Chair is concerned, the circumstances here would hardly justify its being brought within the rule of conspiracy. Whether or not it is within the rule of partnership is another question.

Mr. Manager FLOYD. I will submit authorities upon that

point a little later.

In the case of Wiborg and others v. The United States (163 U. S., p. 632) we find a decision which we think in point upon

this question. I will state the case briefly.

On an indictment for violating the neutrality laws v. the captain and mates of the steamer Horsa. Held that declarations of the men taken on board as members of a filibustering expedition that they were going to Cuba to fight Spaniards, though made in the absence of defendants, are admissible.

The PRESIDENT pro tempore. If the manager will pardon the Chair, the Chair will state that if the manager can establish the fact that there was a pecuniary interest of Judge Archbald in this matter, then, in the opinion of the Chair, the testimony would be admissible—if the manager can point to evidence which shows that Judge Archbald had a pecuniary inter-

est in this fee.

Mr. Manager FLOYD. That is one of the purposes of this very evidence, namely, to show that fact in connection with other facts and circumstances. The managers will have no difficulty whatever in establishing the fact of Judge Archbald's connection and participation and activity in an effort to bring about this settlement from the beginning of the contract he had with Mr. Watson up to the final conclusion, when the proposition was turned down by Mr. Truesdale, the president of the Delaware, Lackawanna & Western Railroad Co.; and we have proven, as we understand, that he entered into an agreement with Mr. Watson, and Mr. Watson, according to the undisputed evidence, was to receive a pecuniary consideration for his services

The PRESIDENT pro tempore. If the manager will point to the testimony where a pecuniary or valuable interest is shown, it will then be competent by this testimony to show the extent

of that interest.

Mr. Manager FLOYD. Perhaps, Mr. President, the Chair misunderstood my statement. My statement was to the effect that it was in proof that if Mr. Watson undertook to secure this settlement on a basis of \$100,000, and if he succeeded then Mr. Watson was to receive a pecuniary consideration of \$5,000 for his services.

It is further in proof that immediately following that agreement on the part of the Bolands with Mr. Watson, Mr. C. G. Boland is called to Judge Archbald's office and there, in the presence of the judge, Mr. Watson states to Mr. Boland, his client, for the specific purpose, that Judge Archbald has agreed to assist him in bringing about the negotiation of a settlement of the matters in dispute between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co.; and it is in proof that Judge Archbald stated to Mr. Boland that he had agreed with Mr. Watson to assist him and that he would do all he could to bring about the settlement.

It is further in proof that on the suggestion of some one of those three men the question of a written contract was discussed as to whether or not Mr. Watson ought not to have some writing to guarantee the payment of this \$5,000 in the event he should be successful in bringing about the negotiation.

It is further in proof that, in keeping with that suggestion, whether it was made by Mr. Watson or Judge Archbald, it was made in Judge Archbald's presence, a written agreement or guaranty was prepared and signed by W. P. Boland, president of the Marian Coal Co., and delivered to Mr. Watson.

Now, Judge Archbald did not explain in that conference, according to the testimony, what his interest was. He had made an agreement to assist an attorney who was undertaking to bring about a negotiation for a fee. Now, we insist, under those circumstances, that we ought to be permitted to prove the celarations of Mr. Watson—to show what interest Judge Archfald had in the contract and whether or not he was to share in the fee.

We have some authorities here bearing on the question of the admissibility of such declarations. Mr. President, in the case of Nudd and others v. Burrows (91 U. S., 438), this principle is discussed. I am reading from page 438, Ninety-first United States, Otto:

States, Otto:

In general, the rules of evidence are the same in civil and criminal cases. (U. S. v. Gooding, 12 Wheat., 469.)

Where two or more persons are associated for the same illegal purpose, any act or declaration of one of the parties in reference to the common object and forming a part of the res gestæ, may be given in evidence. (American Fur Co. v. United States, 2 Pet., 365.)

The bill of exceptions does not purport to give all the evidence. What proof had been given of the alleged concert and conspiracy on the part of the defendants when the declarations of Emmons were offered to be proved does not appear.

It is to be presumed it was sufficient to lay the proper foundation as to them for the introduction of the evidence. The declarations were competent to prove the whole case as against Emmons.

In that case it was contended by counsel that these declarations were not admissible unless the defendants were present, and as I understand the contention on the part of the attorneys for the respondent it is that these declarations are not admis-

sible because the respondent was not present. To each and all of the questions asked with this view the counsel for the defendants objected "on the ground that they called for the declarations of Emmons not made in the presence of either of the defendants or brought to their knowledge."

Was this ground of objection well taken?

And the court holds that it was not in that case.

As a further authority we desire to submit the case of Clune v. the United States (159 U. S., p. 590). This was an indictment against Clune and others for conspiracy to obstruct the passage of the mail. Held, that telegrams from third parties and declarations of certain parties not parties to the record in carrying on or attempting to carry into effect the conspiracy were admissible against the defendants.

Beginning at page 592, near the bottom, are quoted the telegrams from other parties entirely disconnected with defendants,

and then the court says:

Although all the evidence does not appear to have been preserved in this bill of exceptions, enough is disclosed to show that the Government was seeking to establish a conspiracy by circumstantial testimony, and telegrams of this character, if identified and brought home to the defendants, were obviously circumstances tending to show such conspiracy. It is familiar law that where a case rests upon that character of evidence much discretion is left to the trial court, and its ruling will be sustained if the testimony which is admitted tends even remotely to establish the ultimate fact.

Another series of objections is to the admission of the declarations and acts of parties other than the defendants, to wit, Gallagher and Buchanan, on the ground that they were not parties to the record. The indictment charged the defendants with conspiring and combining together and with other persons. Now, if Gallagher and Buchanan were conspirators with defendants, evidence of their acts and declarations in carrying or attempting to carry into effect the conspiracy was competent, and we must assume, in the silence of the record, that it was shown that they were engaged in the conspiracy and that their acts and declarations were in execution thereof.

In the case of the Connecticut Mutual Life Insurance Co. v. Hillmon (188 U. S. Repts., p. 208) we have the same principle discussed in a life insurance case. In that case the policy was a policy upon the life of Hillmon. Suit to recover was instituted by his wife and beneficiary, who was not alleged or shown to have been a party to the conspiracy to defraud the company. The defense by the insurance company was conspiracy to defraud by pretense of death and substitution of body between Hillmon and the insured.

Baldwin, Brown, and others made declarations. held that the declarations of Baldwin, Brown, and these other witnesses that testified to declarations concerning transactions with Hillmon were admissible, although it was not charged that Mrs. Hillmon, the party to the suit, was present or that such declarations were ever brought to her attention or knowledge.

The court says, at page 215:

The court says, at page 215:

Several assignments are based upon the exclusion of the testimony of the witnesses Phillips, Blythe, Crew, and Carr as to acts performed and declarations made by the alleged coconspirators John W. Hillmon John H. Brown, and Levi Baldwin after evidence had been introduced establishing such conspiracy. That considerable evidence of a conspiracy between these three parties had been introduced, and at a very considerable length is not denied, and the main objection to the introduction of the acts and declarations of the above witnesses was based upon the ground that the plaintiff, the wife of Hillmon, was not alleged to have been a party to such conspiracy.

The proposed testimony of Phillips, who was a physician, and had been called professionally by Baldwin to his house in the summer or fall of 1878, related to certain inquiries made by Baldwin as to the effect of death upon bodies. In this connection defendant offered to prove that Baldwin asked the witness if he had any insurance upon his life, and said he had been thinking about taking out some himself, and in the same conversation asked Phillips how long a dead body would decompose after it was buried. He further asked if it "would not be a good scheme to get a good insurance on your life and go down South and get the body of some Greaser and pawn it off as your body and get the money."

Now, the testimony regarding the declarations of other witnesses was along a similar line. The plaintiff, the wife of Hillmon, was not charged to be connected with this conspiracy in any way; but this testimony was admitted in evidence as a part of the transactions and declarations of conspirators to show that Hillmon and these parties were in the fraud.

Now, one more authority, Mr. President-

The PRESIDENT pro tempore. The Chair will state to the manager that there is no question at all about the correctness of the rule for which he is reading authorities, as to cases where there is a conspiracy shown or where there is a partnership shown. The only question in the mind of the Chair is whether or not the foundation has been laid by this evidence as to whether or not Judge Archbald had a material interest in the fee. So the manager will please confine his argument to

that. There is no question about the rule of law.

Mr. Manager FLOYD. Mr. President, at the present stage of the evidence, in so far as the question of the conspiracy is concerned, I believe I have said about all I wish to say on that I have recited the facts and circumstances in detail. But in regard to the common agreement, I contend that where two men undertake a common purpose, whether it be to go into a mercantile business or a mining business or to settle a law-suit, when we have established that they have undertaken to work together for a common purpose, to bring about a common design, a common result, that then these rules apply and the evidence of one is admissible against the other throughout the entire transaction; that by an agreement to undertake a common design they become partners. And I can see no distinction between being partners in compromising a lawsuit and partners in bringing about any other particular purpose.

So we think the testimony offered is clearly admissible upon that principle, and we believe we have established sufficiently the basis for its introduction when we have shown that Judge Archbald agreed to assist Mr. Watson and that they did undertake to bring about this settlement, and that they worked together in an effort to bring about such settlement, to admit the testimony on that ground; and if the Chair does not think we

The PRESIDENT pro tempore. The Chair has not said

Mr. Manager FLOYD. It is in regard to the other point I am speaking; if the Chair does not think that a sufficient basis has been laid to admit this testimony upon the ground of conspiracy, and if the Chair should so hold, we wish to serve notice now that at a latter stage, when we have gotten all our testimony in, we will ask to repeat the question to the witness.

But upon the other proposition, and on the ground that it is a part of the res gestae, the settlement in question, we think the testimony offered is clearly admissible, entirely regardless of the fact whether there is any criminal act on the part of Judge Archbald or anyone connected with it; and these authorities which we have submitted, in our judgment, bear out that contention.

Mr. SIMPSON. Mr. President, you were quite accurate in saying there can not be any controversy on the law either of conspiracy or of partnership, but that the acts or doings of one conspirator or one partner are binding on all of them, or at least may be offered in evidence against all of them. But there is at the root of that the primary thing that you must first establish, either the conspiracy in the one case or the partner-

ship in the other.

The basis upon which the allegation is made here that there is either a conspiracy or a partnership is simply that at an interview at which Mr. Boland was present in Judge Archbald's office, Judge Archbald said, or somebody else said and Judge Archbald assented to it, that he would assist Mr. Watson in obtaining a settlement, for the benefit of the Bolands, of the litigation which they then had pending. That litigation, you will remember, sir, was not, either branch of it, in any court with which Judge Archbald was in any way connected, and I know of no principle of law, nor have the managers called attention to any principle of law, that would prohibit Judge Archbald or judge anybody else, any more than it would prevent you or me, from saying "We will agree," if you choose, or "We will assist in bringing about a much-desired settlement of pending litigation." There is nothing unlawful in such There is nothing unlawful in such a thing. There is in it nothing that can be said to be detrimental to any man's character.

The PRESIDENT pro tempore. Counsel will pardon the That would be a Chair, but that is not now the question. question for argument to the Senate-as to the effect of it.

Mr. SIMPSON. Of course, but there has to be brought out something to show a partnership, if you choose, or a conspiracy, if you choose, in relation to the thing in regard to which the question is asked.

You will remember, sir, that the question here is not whether Judge Archbald did in fact assist in bringing about the settlement; whether he saw Smith, Jones, Brown, or Robinson in regard to it; whether he spoke to Smith, Brown, Jones, or Robinson or wrote them in regard to it, but the question here is whether Mr. Watson said to this witness, in the presence of Judge Archbald, that Judge Archbald was to receive a portion of the consideration for bringing this settlement to pass. That is the very question which is here asked and which is objected to.

Now, if that question were to be followed up by some evidence that would tend to show that to Judge Archbald's attention this matter was called, quite another question would arise: but there is no attempt to show that here and no pretense of it.

It is said by Mr. Manager Floyd that they may ask this question in the future, after they have introduced some other proof. I think it is quite sufficient for our purposes to say that we need worry over that if the time arises. But unless there can be found here in the evidence already in something from which there can be found fairly as a conclusion of fact that Judge Archbald was to receive some portion of this consideration this question can not be asked. Otherwise you are in precisely the situation as if you asked this witness to state whether or not Watson did not say he was to receive some part of the consideration for the purpose of showing that he was, in fact, to receive it and not as a concomitant thing growing, in fact, out of that which precedes; and you are in precisely the situation which Mr. Manager Floyd might have read from section 111 of Greenleaf if he had read a little further in regard to it, where this is said. I will have to read two sentences in order to get the matter squarely before the court:

Sometimes, for the sake of convenience, the acts or declarations of one are admitted in evidence before sufficient proof is given of the conspiracy, the prosecutor undertaking to furnish such proof in a subsequent stage of the cause. But this rests in the discretion of the judge and is not permitted, except under particular and urgent circumstances, lest the jury should be misled to infer the fact itself of the conspiracy from the declarations of strangers.

That is exactly what this question undertakes to do. undertakes to prove to the Senate that Judge Archbald was to get a portion of this \$5,000 because Watson said he was to get

a portion of it, and thereby prove that there was a conspiracy and the fact both, and that, I submit, sir, he can not do.

The PRESIDENT pro tempore. The question is not free from doubt, but the Chair is of the opinion that proof that Judge Archbald was assisting counsel is not proof that he had an interest in what was to be the reward for that service. Whenever that proof is made, then the evidence undoubtedly would be admissible; but until it is so made, in the opinion of the Chair, it is not admissible.

Mr. Manager STERLING. If I may, I want to make just

one brief suggestion with reference to that.

While we believe and the proof already in and the proof to come in will satisfy the Senate that Judge Archbald was to share in the fee, yet I do not understand that it is necessary, that Judge Archbald should share in the fee in order to be guilty of the offense charged to this count. If it was an offense on the part of Judge Archbald to engage in this class of undertaking, to sell this property, and to make this settle-ment with a view of himself getting some consideration for it, it was just as much an offense for him to engage in it with a view of helping a friend to get some compensation for it.

Our position is this: That a judge on the bench has no more right to do improper things or to engage in improper transactions for the assistance of a friend or of a partner than he has for the assistance of himself; and if he did this with a view of assisting his friend Watson, or if you desire to call him a partner, his partner Watson, with a view of helping him to get a consideration for his work, he has committed the offense charged in this article.

The PRESIDENT pro tempore. That does not relate to the question of the admissibility of the evidence here. That would be a question for argument, which is legitimate argument, the Chair recognizes.

Mr. WORTHINGTON. It is hardly necessary for us to say, since the manager on the part of the House has undertaken to anticipate what will come at the end of the evidence, that

we do not agree with his proposition of law.

The PRESIDENT pro tempore. The Chair hopes counsel and the managers will postpone argument on this question until the time comes to present it in argument. The managers will produce their next witness.
Q. (By Mr. Manager FLOYD.) Just a moment, please. Mr.

Boland, will you state any other fact in regard to this proposed

settlement that you know? You are not allowed to answer the question that I asked you some time ago about the conversation, but were you present at the final conference of Mr. Watson with the officers of the Delaware, Lackawanna & Western Railroad Co.?-A. No, sir.

Q. You were not present?—A. No, sir.
Q. Did you know what was the proposition submitted at that time, of your own knowledge?—A. Of my own knowledge, no; only as Mr. Watson informed me and as I was subsequently informed by officials of the Delaware, Lackawanna & Western Railroad Co.

Q. You were not present at that conference, and of your own knowledge you do not know just what the proposition was that he submitted to them-I mean the amount?-A. I was not present at the conference. He told me the amount he submitted as

the consideration.

Q. Did you receive at any time during this negotiation or after the negotiations were closed from Judge Archbald any letter in regard to this settlement?-A. At the former hearing I had forgotten about that circumstance, but I have reason to believe that I did receive a letter from Judge Archbald, a copy of which was presented to me in the hearing before the Judiciary Committee.

Q. I will ask you to examine that copy [presenting paper], Mr. Boland?-A. (Examining.) That is a copy of the letter

undoubtedly.

Mr. Manager FLOYD. Mr. President, we desire to have this marked as an exhibit at this point and read in evidence.

The PRESIDENT pro tempore. It will be marked and read. The Secretary read as follows:

[U. S. S. Exhibit 34.]

SCRANTON, Pa., November 13, 1912. C. G. BOLAND, Esq., Scranton, Pa.

C. G. BOLAND, Esq., Scranton, Pa.

My DEAR CHRISTY: I had an interview with our friend this afternoon, and I regret to say that I did not succeed in doing anything. I tried to get him to make a counter proposition to the one which had been submitted upon your side. But he seemed to feel that the amount which he would be willing to offer was so inconsiderable that it was hardly worth the while. I regret to report this as the final outcome of the efforts at settlement which have been made, but I see nothing to be attained any further here.

I return herewith the papers which you let me have.

Yours, very truly,

Q. (By Mr. Manager FLOYD.) You state that you had forgotten that letter, but that afterwards your memory was refreshed?-A. Yes, sir.

Q. I will ask you to state whether or not that letter was produced at the hearings before the Judiciary Committee by Judge

Archbald or his counsel?-A. It was.

Q. And after it was produced and you examined it, then you remembered about receiving such a letter from Judge Archbald?-A. Yes, sir.

Q. Have you the original letter?-A. I have not.

Q. The letter that has been read in evidence is a copy that was shown you?-A. A copy that was shown me, I believe, before the Judiciary Committee.

Q. And you remember now that you did receive such a let-

Q. What is the date of that letter?—A. It is dated November 13, 1911. That is the correct date, is it not?

Mr. WORTHINGTON. That is right.

Q. (By Mr. Manager FLOYD.) What settlement does he refer to or did you understand him to be referring to in that letter when he regretted that the adjustment or settlement could not be brought about?

Mr. WORTHINGTON. There is no question but that he referred to the investigation Mr. Watson was engaged in.

Q. (By Mr. Manager FLOYD.) Do you have any knowledge about what the judge meant by this language:

I had an interview with our friend this afternoon, and I regret to say that I did not succeed in doing anything. I tried to get him to make a counter proposition to the one which had been submitted upon your side.

Did you have any knowledge or do you have any knowledge now or understanding of what that referred to?-A. My understanding is that it referred to the negotiations started by Mr. Watson for the sale of our stock in the Marian Coal Co.

Q. He says further down:

I regret to report this as the final outcome of the efforts at settlement which have been made, but I see nothing to be attained any further here.

Did you understand that that language also referred to these Watson negotiations?-A. Yes, sir.

Q. Now, I will ask you to state, Mr. Boland, whether or not you had any other negotiations with Judge Archbald about settling any other matter that that could have referred to?-A. No. sir.

Q. There was no other matter it could have referred to?-A. No, sir.

Q. I will ask you to state whether, after the failure of Watson to secure a settlement by his negotiations with the Delaware, Lackawanna & Western Railroad Co., you did in person undertake to effect a settlement with the railroad people?-A. Yes, sir.

Q. When?-A. Following closely the failure of Mr. Watson to make a settlement.
Q. About what time, if you can remember?—A. In October

or November, 1911. Q. Then, immediately following the termination of the negotiations on the part of Mr. Watson, you took the matter up?— A. Yes, sir.

Q. With whom?—A. I took the matter up with Mr. Reese A. Phillips, the superintendent of the coal-mining department of the Delaware, Lackawanna & Western Railroad Co.

Mr. SIMPSON. Do not state what was said, please.

answer the question.

Mr. Manager FLOYD. I am not asking him as to what was

The Witness. Also with Mr. E. E. Loomis, the vice president of the Delaware, Lackawanna & Western Railroad Co., and at that time president of the Delaware, Lackawanna & Western Coal Co.

Q. (By Mr. Manager FLOYD.) I will ask you to state if you made any proposition to them and if they made any counter proposition to you. Just state what your proposition was and what theirs was.

Mr. SIMPSON. Mr. President, that is objected to, unless it is proposed to show that Judge Archbald was present at the time or it was subsequently brought to Judge Archbald's attention or shown that he authorized it in some way.

The PRESIDENT pro tempore. The Chair will ask that the question be read so that the matter may be brought out clearly.

The Reporter read as follows:

Q. (By Mr. Manager FLOYD.) I will ask you to state if you made any proposition to them and if they made any counter proposition to you. Just state what your proposition was and what theirs was.

The PRESIDENT pro tempore. Will the managers specify the parties? The question should be changed to that extent by

inserting the names.
Q. (By Mr. Manager FLOYD.) Did you, in conferring with the officers of the Delaware, Lackawanna & Western Railroad Co., namely, Mr. Phillips and Mr. Loomis, make a proposition of settlement to either of them and did they make a counter proposition to you? If so, state what the propositions were.

The PRESIDENT pro tempore. The Chair will inquire of the managers whether they propose to connect Judge Archbald

with that?

Mr. Manager FLOYD. Mr. President, I will explain the purpose in asking this question. We expect to show that after Mr. Boland entered into an agreement with Mr. Watson to settle the disputes and differences between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co. for \$100,000, for which he was to receive a fee of \$5,000 if he succeeded, when he had arranged a conference with the officers of the Delaware, Lackawanna & Western Railroad Co. he submitted a proposition of settlement for \$161,000.

Mr. WORTHINGTON. Watson?
Mr. Manager FLOYD. Watson submitted a different proposition of settlement for \$161,000, an entirely different amount, \$61,000 in excess of the amount that the Bolands, representing the Marian Coal Co., had agreed to take; and afterwards Mr. Boland made a proposition of settlement and the railroad company made a counter proposition. We simply wanted to show what those propositions were. We think, when the evidence is all in, that this evidence is necessary to a proper understanding of this whole transaction. The Senate sitting as a Court of Impeachment must determine from all the facts and circumstances in regard to the transaction whether or not there is any criminality in the acts of Judge Archbald. We insist that, under our view of the case, we expect to establish the connection of Judge Archbald with this first negotiation, the one that was carried on by Watson, by incontrovertible evidence, by his own letters written to railroad officials, and it is proper for us to ask the witness this question.

The PRESIDENT pro tempore. Do the managers expect to

onnect Judge Archbald with this particular matter in any way?
Mr. Manager FLOYD. With this particular proposition that
was made, we do not. This was a proposition made by Mr.
Boland on his own responsibility after the negotiations in which Judge Archbald had participated had entirely failed.

The PRESIDENT pro tempore. It is not the purpose, then, to hold Judge Archbald responsible?

Mr. Manager FLOYD. Not to have way for this particular transaction.

When the particular transaction is the control of the Chair, and the chair and the chair, and the chair and the chair

The PRESIDENT pro tempore. The testimony on the part of the managers might be admitted, in the opinion of the Chair, to complete their witness.

Mr. SIMPSON. But, sir, how can Judge Archbald be affected by a complete narration of any kind or character after admittedly his connection with the transaction has ended except by something the witness says was said in his presence?

The PRESIDENT pro tempore. The Chair may be wrong,

but he has ruled to admit it.

Mr. SIMPSON. If the Chair has ruled, of course, I can not

argue the question further.

The PRESIDENT pro tempore. The decision of the Chair is always subject to the decision of the Senate. The Reporter will read the question.

The Reporter read as follows:

Did you, in conferring with the officers of the Delaware, Lackawanna & Western Railroad Co., namely, Mr. Phillips and Mr. Loomis, make a proposition of settlement to either of them, and did they make a counter proposition to you? If so, state what the propositions were.

The WITNESS. I might say yes; but I should like to be permitted to explain this, please, Mr. President. May I explain it? Q. (By Mr. Manager FLOYD.) Just explain what the propo-

sitions were.-A. Yes.

Q. That is a part of the question.—A. Very well; but leading

up to that-

Mr. WORTHINGTON. Mr. President, I object. We object to leading up to it, since it has been stated that this evidence is not to be used against Judge Archbald at all, and the time of the Senate should not be taken up with what offers and counteroffers were made. It seems to me that it is doubly a waste of time to find out what led up to it.

The PRESIDENT pro tempore. The witness will simply

answer the question asked.

Q. (By Mr. Manager FLOYD.) Just answer the question asked as to what proposition you made and what counterproposition they made. You need not explain what led up to it.—A. It was not wholly to make them a proposition as to the sale of the property I called on either or both of them. It is a part

of my reason, and I would like to state it all.

Q. Mr. Boland, I have asked you what the proposition was that you made to these officials named, if you made any, and what counterproposition they made to you. Can you not answer those simple questions? That is all I am asking.—A In reference to Col. Phillips and my interview with him, I called upon him. His office is at Scranton, Pa. The office of Mr. Loomis is at New York, but he visits Scranton frequently. I first called on Col. Phillips and expressed my regret at the negotiations having fallen through.

Mr. SIMPSON. Mr. President, I object.

The PRESIDENT pro tempore. If the witness can answer briefly, the Chair will admit it simply as a part of the general narrative, in order that it might be connected up; but if he is proposing to go into a prolonged, detailed narrative, the Chair would feel compelled to hold that it is not admissible.

Q. (By Mr. Manager FLOYD.) We are not insisting upon the witness going into any detailed narrative. I will again ask the witness, Can you not state what the proposition was that you made to the railroad company and what was the counterproposition that they made to you without going into any details. about it? Was the proposition reduced to an amount?-A. remember stating to Col. Phillips, after discussing with him the previous negotiations had with Watson, that I believed—
The PRESIDENT pro tempore. The witness is not answer-

ing the question. Answer the question which the manager

propounded to you.

The WITNESS. I then might say I made no proposition of the sale of the property to Col. Phillips, but suggested that I believed I could have my brother agree to it.

The PRESIDENT pro tempore. That is out of the line of the

question.

Q. (By Mr. Manager FLOYD.) Then you did not make any proposition to Mr. Phillips?—A. I told him what I believed it

could be had for by his company.

Q. Did you make any proposition to Mr. Loomis?-A. I asked Mr. Loomis what was the maximum amount they would be willing to give, and he said that it was so inconsiderable he did not care to mention it. That is as far as any negotiations for the sale went to me.

The PRESIDENT pro tempore. This is not on the line of the

question which was submitted.
Mr. Manager FLOYD. I realize that.

The PRESIDENT pro tempore. The Chair rules all that out. The Witness. Then I have to answer I was not authorized when I called on those two gentlemen to make any proposition.

The PRESIDENT pro tempore. The witness must stop. He was not asked that question.

Mr. Manager FLOYD. That is all to be asked this witness

on the part of the managers now.

Mr. BRYAN. Mr. President, I send a question to the desk to be asked the witness.

The PRESIDENT pro tempore. The Senator from Florida asks that the following question be submitted to the witness, and it will be propounded by the Secretary.

The Secretary read as follows:

Did the Marian Coal Co. collect any damages in its suit against the Delaware, Lackawanna & Western Railway Co.; and if so, how much?

The Wirness. They did not up to this time.

Mr. Manager FLOYD. The counsel for the respondent willtake the witness.

Cross-examination:

(By Mr. SIMPSON.) I understand, Mr. Boland, that you did not see Judge Archbald at all in relation to the \$500-note transaction?—A. I did not.

Q. And you never told him what Mr. Williams had said to you in regard to it?—A. I did not.

Q. You never referred to the matter at all in any way in Judge Archbald's presence?—A. No, sir.

Q. And never heard anybody else ever refer to it in any way in Judge Archbald's presence?—A. No, sir.

Q. What was it you say Mr. Watson was employed to settle with the Delaware, Lackawanna & Western Railroad Co.?— A. All of the differences that the Marian Coal Co. had with the Delaware, Lackawanna & Western Railroad Co. and with Mr. -John W. Peale, of New York.

Q. That is to say, he was to undertake to settle the case of Peale against the Marian Coal Co. and the case of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad

Co.?-A. Yes, sir.

Q. Anything else?—A. Well, that was enough. That was all.

Was there anything else?-A. There was nothing else. Q. Was there not included in that settlement the question of the sale of the washery of the Marian Coal Co. and the culm bank connected with that washery?—A. The question was as to the sale of the stock held, the two-thirds of the stock of the Marian Coal Co. That was what he was to do, to release those who held the majority interest of the Marian Coal Co. from any further connection with it.

Q. But you see you do not answer my question. Was it not in fact to effect a sale of the washery of the Marian Coal Co. Was it not and the culm bank which was being used in connection with

that washery?-A. In effect, yes.

Q. How was that settlement to be carried into effect, so far as the Marian Coal Co. was concerned?—A. It was intended that the case of John W. Peale against the Marian Coal Co. would be adjusted in some way, and that by the sale of two-thirds of the stock of the Marian Coal Co. by Mr. Watson the case of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co. for excessive freight charges, which was pending before the Interstate Commerce Commission, should also be settled, and that it would carry with it in the settlement with Peale, who held one-third of the stock of the Marian Coal Co., the sale of the company, which carried with it the sale of the washery and the coal connected with the washery and the culm dump.

Q. Then it was not in fact a settlement of anything, but simply a purchase of stock; is that the idea?-A. That was the idea, but the purchase of stock necessarily would carry with it

the purchase of the company and all that it owned.

Q. But how do you make that out? You were only to sell, you say, two-thirds of the stock. That left the remaining onethird of the stock standing in outside hands, did it not?-A. In the hands of John W. Peale.

Q. And, of course, Mr. Peale would have the same right to whatever recovery was had in the suit against the Delaware, Lackawanna & Western Rallroad Co. pending before the Inter-state Commerce Commission that he had before the sale was made, would he not?-A. If no settlement were made with him; yes.

Q. Was there any writing whatsoever showing what Mr. Watson was to do except this paper which you have produced to-day?-A. I do not know of any.

Q. Will you let me have that paper, please? [The paper was handed.] I notice that this paper of August 23, 1911, which you said was prepared by or for you, says:

In reference to the matter of G. M. Watson being taken into the case of the Marian Coal Co. against the Delaware, Lackawanna & Western, would say, in confirmation of what I told you heretofore, that if through the efforts of Mr. Watson a satisfactory settlement is brought about the Marian Coal Co. agrees to pay him \$5,000 for such settlement,

You will observe there is nothing whatever said in this letter about these other matters. Have you any explanation as to how, when you dictated that letter, you omitted these other matters?—A. I might say that the whole matter was understood by the gentlemen who signed and made that paper. I do not think I dictated it. I think it was dictated and signed by William P. Boland.

Q. What was done with it after William P. Boland dictated and signed it?-A. The original was placed in the hands of Mr.

George M. Watson. Q. It must have gone through somebody to Mr. Watson,

How did it get to Mr. Watson?-A. I gave it to Mr. Watson, Q. This paper, I see, is directed to you?-A. Yes, sir.

Q. Was it dictated in your presence?—A. I believe so.

Then you knew its contents?-A. Yes, sir.

Q. Then can you explain why these other matters to which you have adverted were left out of it?-A. It was fully understood by Mr. Watson.

Q. I am not asking you what Mr. Watson understood .- A. The paper was drawn on his suggestion, as I have already

explained.

Q. But what I want to know is if you have any explanation why these other matters were left out of it?-A. Only this: That the paper was designed to secure Mr. Watson and his \$5,000 fee, and it was deemed unnecessary to go into any long explanation on that account. He did not require it. He said that the paper was entirely satisfactory, and it was the paper that was handed me by William P. Boland to be given him to show in writing that he was to receive that fee.

Q. Do you not know that he testified he never got that

-A. I do not.

- Q. Did you not hear him so testify?-A. No, sir; I was not here when he testified.
- Q. When was it, you say, that he said the paper was entirely satisfactory to him?—A. When it was presented to him by me. Q. When was that, relative to this date of August 23, 1911?

I presume it was on that date.

- Q. And where was it presented?—A. At Scranton, in his office at the Connell Building.
- Q. Who else were present, if anybody?-A. I do not recall that there was anyone present.

Q. Did you not testify before the Judiciary Committee-

Mr. Manager FLOYD. The page, please.

- Mr. SIMPSON. You will find it in two or three placespages 991, 992, and 1001.
- Mr. Manager FLOYD. When you read, just give the page. Mr. SIMPSON. The exact page I read from is page 901. I will read only one of them. There are three of them, all alike, substantially.

Mr. LODGE. Mr. President, I should like to ask the witness a question.

The PRESIDENT pro tempore. The Senator from Massachusetts asks that the following question be propounded to the witness, and the Secretary will propound it.

The Secretary read as follows:

Did not the sale or disposition of the stock cover all the property of the Marian Coal Co. and everything connected with it?

The Witness. Yes. Mr. SIMPSON. As far as I can see, sir, that is a question

The WITNESS. Well, that is my understanding. I am not a lawyer, but I understand that the ownership of the stock of a corporation carries with it the ownership of all that the corporation owns.

- Q. (By Mr. SIMPSON.) So we all understand, but you were only selling two-thirds of the stock, were you not?—A. Twothirds; but it was understood by Mr. Watson he should also with Mr. Peale, who had a case pending against the Marian Coal Co., and held one-third of this stock.
- Q. I will not enter into any controversy with you about that, especially after the Chair's suggestion. I am going to read from page 1001. I am reading about one-fourth of the way
- Mr. WEBB. Can you fix the month it was that you and Watson and the judge had this conference with reference to the sale of the property? Mr. BOLAND. Either July or August, 1911.

That is the interview you spoke about, is it not, when you went to the judge's office?—A. The interview; yes. I have since fixed in my mind that it was in August, not in July.

O. No matter when it was, what I read to you is what was talked about at that interview, was it not?-A. I did not pay attention to what you read.

Q. I thought you would do so as a witness. Let me read it again :

Mr. Webb. Can you fix the month it was that you and Watson and the judge had this conference with reference to the sale of the property? Mr. Boland. Either July or August, 1911.

A. The sale of the-

Q. The sale of the property. That is what was talked about, was it not?—A. The sale of the stock is what I meant.

Q. Not the property?-A. That meant, of course, also the sale of the property, divesting us of our property rights in the company.

Q. I read the second question and answer immediately below that:

Mr. Webb. In that conference you spoke of selling this property through the influence of the judge and Mr. Watson and others to the Lackawanna Railroad Co.?
Mr. BOLAND. Yes, sir.

Q. Do you say the same thing as to that—when you said selling the property" you meant selling the stock?—A. I did; certainly.

Q. That is what you meant, was it? Did you not testify before the Judiciary Committee that Judge Archbald took hold

of this matter to effect a settlement as a friend of yours?

Mr. Manager WEBB. On what page is that?

Mr. WORTHINGTON. On page 247.

Mr. SIMPSON. Not before the Judiciary Committee, but before Mr. Wrisley Brown. [To witness:] Is not that so?

The Witness. When I was called into his office on that day

in August that was my belief.

Q. That the judge took hold of that matter as a friend of yours?-

ours?—A. Yes, sir. Mr. Manager FLOYD. Mr. President, we have no objection to counsel repeating the question from the book and submitting it to the witness to to whether he testified to it or not; but we submit that it is hardly proper for the counsel to state what it was. If he is going to refer to the book and to previous testimony of the witness, I think, in fairness to us and to the witness also, he ought to read from the book.

Mr. SIMPSON. I think, sir, I might put it either way in cross-examining a witness.

The PRESIDENT pro tempore. The Chair thinks the proper course is, if counsel is going to ask the witness as to his testimony, to call his attention specifically to it.

Mr. SIMPSON. But in order that Mr. Manager Floyd may have it upon the record if he wishes it there in the language of the witness

Mr. Manager FLOYD. From what page is counsel reading?

Mr. SIMPSON. At the bottom of page 247.
The PRESIDENT pro tempore. The Chair would think that the proper course is the one now going to be pursued by counsel; that if he is going to ask the witness as to his testimony, he should call his attention specifically to it and be as exact as

practicable. Q. (By Mr. SIMPSON.) The question is, did he so swear; but as Mr. Manager Floyd wants the exact words, I have no

objection at all to giving them:

Mr. Brown. Well, in your judgment did Judge Archbald have any legitimate incentive or reason to intervene in this matter?

C. G. Boland. Well. in my talk with him he told me that he would intervene in it as a friend of Mr. Watson and of my own.

Do you remember so stating?-A. I think that was not before the Judiciary Committee, but it was before Mr. Brown when he was at Scranton.

Q. The question is, do you remember so stating?-A. I suppose I did. Mr. Brown, as I understand it, has had some notes printed in this testimony which I was not wholly conversant with until I saw them printed in the book. I made, as I understand it, a signed statement to Mr. Brown. I do not know whether it is in the book or not. I have not read that book.

Q. But this statement that is in this book was in fact pre-

pared by you, was it not?—A. No, sir. The notes were taken by a stenographer, and I signed a statement.

Mr. Manager WEBB. His name is not signed to this state-

ment. Mr. SIMPSON. No; it is not signed to it. [To the witness:] Did you not testify to this before the Judiciary Committee:

Mr. WORTHINGTON. Did you make a statement to Mr. Wrisley Brown in Mr. BOLAND. I did.
Mr. WORTHINGTON. That was written out and signed?
Mr. BOLAND. He asked me to have it reduced to writing and I did,

A. Yes; it was taken by a stenographer who was there at the time that he was examining myself, and my recollection is that I signed the statement.

Q. But the question is, is it frue what you testified there, that Mr. Brown asked you to have it reduced to writing, and that

you did it at his request?-A. That may be so. I am not positive now.

Q. You are not positive after this lapse of time? Do you remember appearing before the Judiciary Committee in this matter?-A. I do.

Q. Do you remember testifying as follows?—I am reading from page 143-

I have nothing to say that would impugn Judge Archbald's integrity in any way, excepting what has already been said about Mr. Williams presenting Judge Archbald's note to me to be discounted.

A. Yes, sir.

Q. Do you remember also testifying as follows as found on page 1007:

Mr. Graham. If you have any reason to give other than you have given why you did not mention these things to the judge himself or make him aware of what Williams was saying, you might give it now. Mr. Bolam. I have no explanation to make of it, only that I felt probably Mr. Williams might have approached me without the authority or knowledge of Judge Archbald, notwithstanding his statement that he was authorized to do so, and I felt rejuctant to mention the matter to the judge. he was autho

Do you remember testifying to that before the Judiciary Committee?-A. I do.

Q. Do you remember also testifying thus before the Committee on the Judiciary, on page 977:

As stated before the Attorney General, I said that I might under other circumstances or conditions consider the proposition that he presented to me, but that I dld not feel warranted in doing so at that time, and so I refused to discount the note. Now, I do not think it is fair that I should recite the conversation between myself and Mr. Williams, because, in the light of recent events, I do not feel that it would be fair to reflect on any man by anything Mr. Williams might say at that time or any other time.

Do you remember so testifying before the Judiciary Committee?-A. I do.

Mr. Manager STERLING. Mr. President, I think we ought to object to pursuing this any further. This is not in contradiction of anything that this witness has said to the present time. He has not said anything that disptues the proposition which the counsel has read from the last four or five pages,

and if it is to be pursued further we want to object.

Mr. SIMPSON. I think that would not apply, Mr. President, except, perhaps, to the last question which I read, and if the gentleman had objected it might have been ruled on or argued in due course.

Mr. Manager STERLING. None of them are contradicting the witness

The PRESIDENT pro tempore. Under the rule, as the Chair understands, counsel will confine himself in cross-examination

to matters as testified to by the witness on direct examination.

Mr. Manager CLAYTON. Mr. President, I want to state another reason why we think it is improper to pursue that as the counsel is now doing. We have undertaken to shorten the examination of these witnesses. Now, if the counsel is going into all the testimony that the witness has given before, necessarily it will protract the examination of the witness. We have

undertaken to examine the witness only on matters that we think are admissible and material to the case.

Q. (By Mr. SIMPSON.) Mr. Boland, you testified that you were president of a bank in Lackawanna, N. Y., at the time these transactions were going on?-A. I did.

Q. Will you tell us whether Mr. Williams, at the time he brought the note to you, knew that you were president of that bank?—A. I do not know; I presume he did. Q. Did you not testify before the Judiciary Committee-I am

now reading from page 977:

Mr. McCoy. The bank was not mentioned? Mr. Boland, No. Mr. Williams knew that I was president of the

A. If it be there, I testified to that fact or to my belief.
Q. Who was counsel for the Marian Coal Co. in the Peale case?—A. Do you mean on both sides? Well, the Marian Coal Co.'s counsel-

Q. Counsel for the Marian Coal Co.?-A. Their counsel was Frank E. Donnelly.

Q. Had Mr. Reynolds or Mr. Watson any connection with that case?-A. No.

Q. Who was counsel for the Marian Coal Co. in the suit before the Interstate Commerce Commission against the Delaware,

Lackawanna & Western Railroad Co.?-A. H. C. Reynolds. Q. Had Mr. Watson or Mr. Donnelly any connection with

that case?-A. No. Q. Mr. Boland, do you know Clarence L. Woodruff?—A. It might be Clara L. Woodruff.

Q. No; Clarence L. Woodruff, attorney at law in Scranton?— A. Oh, C. L. Woodruff; yes, I am acquainted with Mr. Woodruff; he is my neighbor.

Q. He is your next-door neighbor on the same floor in the office building in Scranton, is he not?-A. Yes.

Q. Do you remember having a conversation with him about the 1st of November of this year in relation to this pending proceeding?—A. The 1st of November of this year?
Q. About that time.—A. Well, I had numerous conversations with him. Our offices adjoin.

Q. I am speaking about the 1st of November of this year and in relation to this particular proceeding .- A. Here before the Senate, you mean?

Q. Yes, sir; in relation to the proceeding pending before the Senate.—A. I do not recollect that we had any talk with particular reference to this proceeding or the contemplated

Q. Let me see if I can refresh your memory in any way in regard to it. Do you remember on or about the 1st of November of this year going to Mr. Woodruff and asking him to see Judge Archbald, and to state to Judge Archbald for you that if the suit of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co. was settled you would withdraw from the impeachment proceedings against Judge Archbald, and asking him to see Judge Archbald about it?-A. Well-

Q. That is easily answered-yes or no.-A. I say no; but that would appear ridiculous, would it not?

Q. You say you did not have such a conversation?-A. Not in those words, certainly.

Q. Well, in substance those words?—A. No; not in substance. Q. And did not he report to you after you had returned from a visit to New York what the result of his interview was?—A. I remember having some talk with Mr. Woodruff, but not in the way you put it.

Q. Nor in substance the way I put it?—A. Nor in substance

the way you put it; no, sir.

Q. Do you remember at or about the same time asking Mr. Woodruff to see Maj. Warren and to say the same thing to him?-A. No. sir.

Q. Neither in words nor substance?—A. Neither in words nor substance. I might say, on the contrary, he wanted me to go and meet Maj. Warren in connection with the Marian Coal Co. troubles, and I refused to go. Q. You say "he." Whom

Whom do you mean by "he"?-A. Mr.

Woodruff-Attorney Woodruff.

Q. You testified a while ago to a telegram which was sent by Mr. Watson to Judge Archbald in Washington on, I think, October 6, 1911. The paper which was shown to you was the

original telegram, was it not?—A. I so understand it; yes. Q. And that original telegram, which is Exhibit No. 33, is in the handwriting of Mr. Watson, is it not?—A. Yes, sir.

Q. How did you get that original telegram?—A. It was handed to me by Mr. Watson as I was leaving his office, with the instruction that I should forward it to Judge Archbald.

Q. Well, you did not forward that original telegram, did you?-A. No; I did not, certainly.

Q. Why did you keep that original telegram?-A. I did not

Q. What did you do with it?-A. I informed my brother when I went over to the office

Q. When you say your brother, you mean William P. Boland? A. William P. Boland—in reference to it. I might say that he was opposed to Mr. Watson proceeding any further in the matter of attempting to settle the matter of the Marian Coal Co. differences or the sale of its stock or property, and he suggested that he would take the telegram and send it; and I

handed it to him, as I recollect.

Q. How did you get it back?—A. I did not get it back.

Q. You did not get this back from him?-A. I do not recall having seen it before until you presented it, unless I saw it at the Judiciary Committee hearings.

Q. Did you know that a photograph was made of this telegram?-A. I saw the photograph presented before the Judiciary Committee; yes, sir.

Q. Did you make any copy of the telegram?-A. No, sir; not that I remember; no, sir.

Q. Did you know that William P. Boland was going to make copy of the telegram and retain the original?—A. No, sir. Mr. SIMPSON. That is all, Mr. President.

The PRESIDENT pro tempore. Are there any further questions for the witness

Mr. Manager FLOYD. We desire to ask him a few questions.

Redirect examination:

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, the attorney for the respondent, as I understand, has questioned you concerning certain statements made before the Attorney General. Mr. Simpson read a statement that you made before the Attorney General. I will read the question and answer. read a portion of it; I want to read it all, and ask you about it. It is on page 143 of volume 1 of the proceedings before the Attorney General:

Attorney General:

The Attorney General. Mr. Boland (Mr. C. G. Boland), have you anything to add to this?

Mr. C. G. Bolant. Mr. Attorney General, the matter came on me as a great surprise yesterday when I was told in the afternoon that these papers were to be presented to the Attorney General's office. My instinctive feeling was that it was not the proper thing to do or the proper time. I want to add to what my brother said, that the most friendly relations exist between myself and Judge Archbald. I have nothing to say that would impugn Judge Archbald's integrity in any way, excepting what has already been said about Mr. Williams presenting Judge Archbald's note to me to be discounted; and, of course, in this case in which the Marian Coal Co. was involved, in which it has been known that my brothers and myself were interested as stockholders, it made me feel that it would be a most grievous indiscretion on my part to discount the note for the judge in whose court our case was pending. Under the circumstances."

Mr. WORTHINGTON. "Under other circumstances." Mr. Manager FLOYD. It is "under the circumstances."

The WITNESS. I had that corrected before the Judiciary

It was a mistake of the stenographer.

Mr. Manager FLOYD. As corrected it would read "under other circumstances," but I am reading it as it is. Correcting it, it would read "under other circumstances"—

Under other circumstances if the judge had asked for \$500 from me he could have had it; but I refused to discount the note. Then the statement that Judge Archbald called me up to his office, where I found Mr. Watson, whom we talked about, and whom Mr. Williams told me could take this case away from the courts where it had been so long. The judge called me up, and I met Mr. Watson there, and I was asked if I had authority from my brother to agree to pay Mr. Watson \$5,000 in the event of his settling the case for \$100,000, and I told him I would have to speak to my brother, who was a majority stockholder. stockholder.

Was not that your full statement to the Attorney General?

A. Yes, sir; so far as it goes there, as I remember it.

Q. So you said in that statement that you had nothing to say that would impugn Judge Archbald's integrity in any way, excepting the things that were stated following ?- A. That is correct

Q. That is your statement before the Λttorney General?—Λ.

Yes, sir.

Q. And is that correct?-A. That is correct.

Q. You have already explained that you corrected the statement before the Judiciary Committee by inserting the words "under other circumstances" in reference to that \$500 note?—A. Yes, sir. The stenographer got it "under the" when it should be "under other circumstances."

Q. So that I understand that you refused to discount the \$500 note because you had a case pending in Judge Archbald's court, namely, the case of John W. Peale against the Marian Coal Co.?—A. That is correct.

Q. And that under other circumstances, on account of the friendly relations between yourself and Judge Archbald, you would have gladly discounted the note, or would have discounted it; is that your statement?—A. Yes, sir.

Mr. CULBERSON. Mr. President, I desire to propound a

question to the witness.

The PRESIDENT pro tempore. The Senator from Texas submits a question, which will be read by the Secretary.

The Secretary read as follows:

Q. State fully any conversation you may have had with Mr. Woodruff about which counsel for the respondent have asked you.

The WITNESS, My recollection of the conversation with Mr. Woodruff, who is an attorney at law and was a classmate of President Taft, and whose office adjoins my own—or that of my brother, W. P. Boland, whose office adjoins mine—was in reference to an attempt made by a gentleman named Morgan Davis, jr., who during the past summer or fall took up the sale of the Marian Coal Co. stock or property with parties in New York, and who reported some time about the 1st of November or in October that he had failed in his negotiations. Mr. Woodruff was aware of the fact that he was negotiating for the disposition of the property, and in a conversation we had I informed him that Mr. Davis reported to me that the negotiations had fallen through. I might say Mr. Davis first stated that he represented a syndicate in New York, but afterwards he revealed to me the fact that he was dealing with Mr. Loomis, of the Delaware, Lackawanna & Western Railroad Co. He did not want my brother, William P. Boland, to know that. I expressed my regret to Mr. Woodruff, and he also appeared regretful, and suggested to me that if I would go with him to Maj. Everett Warren, of Scranton, who was counsel for the Delaware, Lackawanna & Western Railroad Co., it might be possible to take it up with him; but I refused to go. He said he would go and talk to Mr. Warren, to which I offered no objection at all. I think, before I saw him again, I made a trip to New York, and on my return he told me that he had talked

with Maj. Warren about the matter, but that Maj. Warren did not believe that he could take up the matter himself. In our talk Mr. Woodruff always understood-and I think he referred to it-that the troubles and difficulties and injustices that he believed practiced on him by the companies in his effort to work the Marian Coal Co. affected him very much, and Mr. Woodruff suggested that possibly he might talk to Judge Archbald about it again. I felt that was treading on very dangerous ground, and I told him that, so far as I was concerned, I would not have any connection with that whatever. That, I think, embodies all the conversation Mr. Woodruff and myself had with reference to this matter that the counsel has asked me about.

Q. (By Mr. Manager FLOYD.) Was there anything said-Mr. CULBERSON. Mr. President, I offer another inquiry

in the same connection.

The PRESIDENT pro tempore. The Senator from Texas submits a question, which will be read to the witness by the Secre-

The Secretary read as follows:

I refer generally to the question of counsel for the respondent to the effect that you had offered in a certain contingency to withdraw from this prosecution.

The WITNESS. In the first place, I hope the Senate will realize that I am not the prosecutor; that I am merely a witness; and, in the next place, I never made that statement to Mr. Woodruff or anyone else, because I was in the hands of the Congress, who were investigating into this matter and carrying on this proceeding, and it would, as I said before, be ridiculous for me to make such a proposition, because it would be impossible for me to carry it out.

Q. (By Mr. Manager FLOYD.) Mr. Boland, did you in that Woodruff conversation say anything that could be construed to be a proposition on your part to withdraw from this case?

Mr. SIMPSON. I object, I have no objection whatever to the witness stating all that occurred, and if the manager will state that he has not stated it all, I have no objection to his leading him in order to bring out the balance; but the question is objectionable in the form in which it was put.

Mr. Manager FLOYD. I am willing for the President to pass

on the question.

The PRESIDENT pro tempore. The Chair understood the witness to have replied, in answer to a question from the respondent's counsel, that he had not stated anything substantially to the effect that he had asked him if he had stated. Now, I understand the question of the manager to be substantially along the same line; and if one is admissible the other is. The witness will answer the question.

The WITNESS. I made no statement that would justify the

question asked me by the respondent's counsel.

Mr. Manager FLOYD. That is all.

Recross-examination:

Q. (By Mr. SIMPSON.) Did you not give Mr. Watson \$50 to come down to Washington at the time of the sending of the telegram that has been offered in evidence?-A. Not to come down to Washington. I remember giving him \$50.

Q. For what purpose?—A. Because Mr. Watson, when the negotiations fell through, told me of his desire to go to Washington, but said he had incurred expense in the matter, and, while I was not under any legal obligation to him at all, he felt he ought to have \$50 to help defray the expenses he had incurred up to that time in our service.

Mr. SIMPSON. That is all.

Mr. Manager FLOYD. Mr. President, that is all for this witness, and he may be excused.

The PRESIDENT pro tempore. Do you wish this witness to be retained?

Mr. Manager FLOYD. Yes, sir; we wish him retained, but he may be excused from the witness stand at this time.

The PRESIDENT pro tempore. He will be excused, subject to recall at the order of the Senate.

Mr. Manager FLOYD. We will next call Mr. W. P. Boland as a witness.

TESTIMONY OF WILLIAM P. BOLAND.

William P. Boland, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Please state your name and place of residence.-A. My name is William P. Boland; Scranton, Pa.

Q. State your business and occupation.-A. My business for

the last 14 years has been coal operations.

Q. State whether or not you are one of the stockholders of the Marian Coal Co.; and if so, state your connection with it.—A. I have been connected with the Marian Coal Co. since its inception, and president since April, 1907, up to date.

Q. Who are the principal stockholders of the Marian Coal Co.?-A. C. G. Boland, James M. Boland-two brothers of mine-and myself.

Q. How much of the stock of the Marian Coal Co. do you and your brothers own?—A. I think we own \$45,000 of the \$75,000—between \$45,000 and \$47,000; I am not exact on the figures.

Q. The Marian Coal Co. is a corporation, is it?—A. Yes, sir; a Delaware corporation.

When was this corporation organized?—A. I think it was in 1904.

Q. I will ask you to state if John W. Peale, as plaintiff, instituted a suit against the Marian Coal Co., and, if so, when was that suit instituted and in what court, and so forth?

Mr. WORTHINGTON. Mr. President, I was going to suggest sometime ago to my friends the managers that there is in the record of this case before the Judiciary Committee a certified copy of the docket entries in that suit. Witnesses have been asked about the dates of the suit, and the whole thing could be put in from the House record, so far as we are concerned. That would be much more convenient.

Mr. Manager FLOYD. Does that cover the whole thing? Mr. WORTHINGTON. It is on page 206.

Mr. Manager FLOYD. You have no objection?
Mr. WORTHINGTON. It is the same thing. It is all right.
Mr. Manager FLOYD. I will be very glad to put that right h here.

Mr. President, at this time we desire to offer different entries is shown by the court records as to the successive steps in the case referred to, the case of John W. Peale versus the Marian

Coal Co., about which I asked the witness a question.

The PRESIDENT pro tempore. Does the manager desire to have it read or simply to have it incorporated in the proceed-

ings?

Mr. Manager FLOYD. Simply incorporated in the proceedings and as a part of the record.

Mr. WORTHINGTON. I think it ought to be read. The dates are quite important here.

Mr. Manager CLAYTON. It is not very long, Mr. President. Mr. Manager FLOYD. I ask that it be read as evidence in

The Secretary read as follows:

[U. S. S. Exhibit 35.]

In the District Court of the United States for the Middle District of Pennsylvania. John W. Peale v. The Marian Coal Co. No. 55. May term, 1909.
O'Brian & Kelly for complainant, Robert Snodgrass, Frank E. Donnelly for defendant.

1900.

March 4. Bill of complaint and copies.
March 4. Subpœna in equity issued returnable first Monday in May and certified copy of bill.
March 9. Subpœna returned served.
May 3. Demurrer.
September 17. Motion to amend bill and order and amendment.
September 25. Opinion on demurrer to bill overruling demurrer and allowing defendants 20 days to answer.
October 25. Defendant's answer.

1910.

November 17. Order appointing examiner and notice. November 17. Replication.

1911.

January 28. Order continuing hearing before the special examiner to February 27, 1911.

June 30. Motion of Frank E. Donnelly, attorney for Marian Coal Co., asking leave to file amendment and order of court thereon allowing motion.

asking leave to file amendment and order of court thereon allowing motion.

June 30. Amendment.

July 18. Plaintiff's evidence, volumes 1, 2, 3, and 4.

July 18. Pefendant's evidence, volumes 1, 2, 3, and 4.

July 18. Plaintiff's evidence, volumes 5.

July 18. Rebuttal evidence, volumes 1, 2, and 3.

Surrebuttal evidence, volumes 1 and 2.

July 18. Volumes containing statements submitted, respectively, by plaintiff and defendant for the assistance of the court.

July 18. Exhibit statement prepared by E. C. Spaulding.

August 24. Opinion and order.

August 29. Certified copy of order returned by marshal served on defendant Marian Coal Co. and F. E. Donnelly, Esq., attorney.

1912.

January 30. Report of J. Fred Shaffer, special examiner and master, January 30. Testimony before special examiner. February 3. Order fixing fee of J. Fred Shaffer, special master, in the sum of \$000, to be taxed as costs in case.

I, G. S. Scheuer, clerk of the above-named court, do hereby certify that the foregoing is a true and correct copy of the docket entries in the above-entitled case.

G. C. SCHEUER, Clerk United States District Court.

Q. (By Mr. Manager FLOYD.) Mr. Boland, I will ask you to state who was the judge of the court at the time that suit was brought in the district court?-A. Judge Robert W. Archbald. sitting here at present.

Q. The respondent?-A. Yes, sir.

Q. He was judge of the court at that time?—A. Yes, sir.

Q. Did he remain judge of that court until he was appointed circuit court judge and assigned to the Commerce Court?-A.

As I understand, he was.

Q. I will ask you to state what you know about a \$500-note transaction—a note brought to you by E. J. Williams,—A. During the trial of this case before Judge Archbald, Mr. Williams called at my office one day with a note for \$500. The maker, I think, was John Henry Jones, and the note was indorsed by Judge Archbald. He asked me to discount the note, and I refused to discount the note; I told him I was not a money lender, and I was in Judge Archbald's court at the time and would not think of doing it.

Q. About when was that?—A. I can not give the exact date. It was somewhere before Judge Archbald, to the best of my recollection, decided the demurrer. That has been my recollec-

tion always.

Q. What was your statement about the demurrer?-A. I say, I think it was some time before Judge Archbald decided against us on the demurrer that Mr. Donnelly filed. That has been my impression. I may be wrong on the date, but that has been my impression.

Q. Who was the payee in that note, do you remember?—A. I do not remember that. I only remember what impressed me in connection with the note was Judge Archbald's name connected with the note; and I believe the note was written in Judge Archbald's handwriting.

Q. He was an indorser on the note?—A. Yes. Q. The note was presented to you by Mr. Williams?—A. Yes. Q. For discount?—A. Yes, sir.

Q. And you refused to discount it?—A. I refused to discount it.

Q. Whether you are mistaken about the time during the proceeding at which it was presented, whether before or after the judge had passed on the demurrer, was it while that case was still pending in the judge's court?—A. It was.

Q. And while he was still judge of that court?—A. Yes, sir;

it was.

Q. You are positive of that, are you?-A. Yes; during that time.

Q. Mr. Boland, I will ask you to state if you know anything about a contract that was executed by E. J. Williams to you in reference to the sale of an interest in the Katydid culm dump to yourself or to your company?-A. Yes, sir; I do.

Q. I will ask you to state if that exhibit is the contract referred to [indicating]?—A. That is the paper which Mr. Williams gave to me, giving me a one-third interest in the profits of whatever might accrue from the sale of the Katydid culm bank that was acquired through the influence of Judge

Q. Just a moment.—A. I beg your pardon.
Mr. Manager FLOYD. This paper is already in evidence;
but in order that it may come in at this point I ask that it may be read, as I desire to cross-examine the witness in

reference to it. The PRESIDENT pro tempore. The Secretary will read it.

The Secretary read as follows:

[U. S. S. Exhibit 7.]

Assignment made this 5th day of September, A. D. 1911, by Edward J. Williams, of the borough of Dunmore, county of Lackawanna, and State of Pennsylvania, party of the first part, to William P. Boland and a silent party, both of the city of Scranton, county and State above mentioned, parties of the second part. For services rendered or to be rendered in the future by William P. Boland and silent party, whose name for the present is only known to Edward J. Williams, W. P. Boland. John M. Robertson, and Capt. W. A. May, superintendent of the Hillside Coal & Iron Co., it is agreed by said Edward J. Williams, who is the owner of two options covering a culm bank known as the "Katydid," situate in the vicinity of Moosic, Pa., that he hereby assigns two-thirds of any profits arising from the sale of the above-mentioned property over and above the amounts to be paid John M. Robertson and the Hillside Coal & Iron Co., \$3,500 and \$4,500, respectively, to be divided equally between William P. Boland and silent party mentioned above, their heirs, successors, or assigns, and this shall be their voucher for same. E. J. WILLIAMS. [SEAL.]

W. L. PRYOR.

Q. (By Mr. Manager FLOYD.) Mr. Boland, will you, in your own way, explain that contract, how it came to be made, and who was referred to as the silent party?-A. Why, I got that contract-

Q. (Continuing.) And what was said about it by Mr. Williams at the time of its execution?—A. The silent party mentioned there was Judge Archbald. His identity in that paper was there was Judge Archbald. His identity in that paper was only known to Capt. May, John M. Robertson, Mr. Williams, and myself. The paper was made at the suggestion of Mr. Williams, that I should have an interest, as I was partly responsible for finding the bank. sible for finding the bank.

Q. You state that the silent party or the person referred to as the silent party in that contract was only known to the persons named in the contract. Now, how do you know that?-A.

Well, as far as I knew, those were all who were supposed to know who the silent party was.

Q. Do you know that the parties mentioned—Capt. May and the other parties named—A. Mr. Robertson and Mr. Williams. Q. Mr. Robertson and Mr. Williams. Do you know that they

knew it?-A. I only know that from the papers that Mr. Williams secured. I know that Mr. Williams got John M. Robertson to go over to Judge Archbald's office, and in Judge Archbald's office Mr. Robertson gave

Mr. WORTHINGTON. One moment. Were you there?
A. (Continuing.) Well, I saw them coming out of the office.
Mr. WORTHINGTON. I object to the witness testifying to

what went on in the office when he was not there.

Mr. Manager FLOYD. He has not testified to what went on

in the office when he was not there. He is explaining what he knew about it.

The Witness (continuing). I got the papers that were received through Mr. Williams and Mr. Williams's statement of how he obtained the papers. It was through Judge Archbald's influence

Mr. WORTHINGTON. One moment. If the witness is going to state what Mr. Williams told him about what Judge Archbald had told him (Williams) we object.

The WITNESS. I never met Judge Archbald in my life.

Q. (By Mr. Manager FLOYD.) I am asking you about that paper, that contract. Who wrote that contract which was brought out of Judge Archbald's office by Mr. Robertson?— A. It was in Judge Archbald's handwriting.

Q. Who witnessed it?-A. Judge Archbald, I had a photo-

graph made of it.

Q. Go on with your statement.—A. Mr. Williams had secured an agreement to sell the interest of the Hillside Coal & Iron Co. in the Katydid property to Williams for \$4,500, and Mr. John M. Robertson had agreed to sell his interest for \$3,500, and whatever profit there was to be derived from the sale was to be divided by three in the beginning; but I saw the managers of the Pennsylvania Central Brewing Co. and offered this property for sale, and when they went to investigate and inquire of the Pennsylvania Coal Co., I believe they saw Capt. May—Mr. Kelly said he saw some of the officials—

Mr. WORTHINGTON. I object to the witness stating what

Mr. Kelly said.

Mr. Manager FLOYD. You need not tell that. The PRESIDENT pro tempore. Do not state that,

Δ. (Continuing.) Well, the bank immediately shrank up; there was only 35,000 tons, according to Capt. May's report.

Mr. WORTHINGTON. I object to that. I understand he is undertaking to tell what Capt. May did or said.

The PRESIDENT pro tempore. Just answer the question.

The WITNESS. Very well.

The Witness. Very well.

Q. (By Mr. Manager FLOYD.) I ask you to state about this silent-party contract. When you made that silent-party contract you were to have one-third?—A. I am only stating what a party to this contract stated to me. I had no knowledge of ever meeting Judge Archbald or Capt. May. I never met either one of them. I was dealing with Mr. Williams, and he was dealing through those two men.

Q. I ask you to state what occurred at the time of the execution of this silent-party contract. Were you to receive under that contract one-third of the profit under the option?

Mr. WORTHINGTON. I submit that is shown by the con-act. The witness can not tell the legal effect of the contract. Mr. Manager FLOYD. I want to ask this as preliminary to another question.

The Witness. I can only answer that Mr. Williams repre-

senting

Mr. WORTHINGTON. I object to the witness stating anything that Mr. Williams said about Judge Archbald.

Mr. Manager FLOYD. Mr. President, testimony in explanation of a contract is certainly admissible. It is not in contra-

diction of it

Mr. WORTHINGTON. I submit it is not admissible if it is to the detriment of Judge Archbald. Mr. Williams has been here and told us himself what he knew, whether detrimental or to the advantage of Judge Archbald. We have had an opportunity to cross-examine him and to hear his testimony under oath. I submit that this is not competent.

Mr. Manager FLOYD. I submit I have so far asked him no question in relation to Judge Archbald.

The PRESIDENT pro tempore. The Chair understands the manager to be asking the witness what was his interest under the contract.

Mr. Manager FLOYD. Under the contract of Mr. Williams what was his interest?

Mr. WORTHINGTON. I submit that that is shown by the contract. Under the contract, reduced to writing, he is to get one-third. He wants to prove that—

The PRESIDENT pro tempore. Does the contract specify the interest, that he is to have a one-third interest, the Chair

would inquire of the manager?

Mr. Manager FLOYD. I will have to examine the contract. The PRESIDENT pro tempore. The Senator from Texas is

temporarily using it.

Mr. CULBERSON. Here it is.

The PRESIDENT pro tempore. So far as the contract specifies the interest, it of course is the best evidence.

Q. (By Mr. Manager FLOYD.) This contract was executed Mr. E. J. Williams to you?—A. Yes, sir.

Q. And you undertook to negotiate a sale under it?—A. I did;

Q. To the Central Brewing Co.?—A. The Pennsylvania Central Brewing Co., of Scranton, Pa.

Q. And failed?-A. Yes, sir.

Q. Then did you afterwards claim any interest under that contract?-A. When I found-

Mr. WORTHINGTON. One moment. I object to that, Mr. President. If it comes down to what this witness really knows of this transaction, it will take but a very few minutes to find it out. I submit the question calls for something by which we can not be affected.

The PRESIDENT pro tempore. As the Chair understands, the question asked the witness was whether he claimed any

interest under the contract.

Mr. WORTHINGTON. I submit that that is of no interest to us. Here is a contract that purports to give him one-third interest. That has not been brought to the attention of Judge Archbald, and even if it had been it would not be competent to affect him.

Mr. Manager FLOYD. I think this evidence is entirely ad-

missible. It is in proof that afterwards Mr. Williams—
The PRESIDENT pro tempore. What is the question?
Mr. Manager FLOYD. I will ask the Reporter to read it.
Mr. WORTHINGTON. It was whether he claimed any in-

terest under the contract.

The PRESIDENT pro tempore. Let the Reporter read the question.

The Reporter read as follows:

Q. Then did you afterwards claim any interest under that contract?

The PRESIDENT pro tempore. The Chair will hear what

the respondent's counsel has to say.

Mr. WORTHINGTON. I ask how it can possibly affect Judge Archbald in this case whether the witness claimed interest under the contract or not. If it was proposed to follow that by showing that Judge Archbald knew what he was claiming, we would sit down at once.

Mr. Manager FLOYD. I think the whole transaction should come out. Even if it does not affect him, the Senate ought to have the full transaction in order that it may be understood.

The PRESIDENT pro tempore. If the Chair understands the purport of the question, it is legitimate.

Mr. Manager FLOYD. I might explain-

The PRESIDENT pro tempore. It is not necessary. The Chair has ruled with the manager.

Q. (By Mr. Manager FLOYD:) Answer the question.—A. I afterwards withdrew or released Mr. Williams from any interest that I might have in the sale of that property.

Q. Do you know whether or not that contract was made in

duplicate or triplicate; whether there was more than one copy made?—A. There were three copies.

Q. Do you know what was done with the copies?-A. Mr.

Williams took the other two copies.

Q. And do you know whether the other copies were signed or not?-A. I do not remember. Mr. Williams agreed to deliver one to Judge Archbald and keep the other himself. Q. You do not know of your own knowledge what he did with

-A. No, sir; I do not. them?-

Q. What was the date of this contract?-A. I would have to refer to the paper to get it. The PRESIDENT pro tempore. Does the contract show the

Mr. Manager FLOYD. Yes, sir. The PRESIDENT pro tempore. Then it is not necessary to ask it of the witness.

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, I will ask you if you know anything about a letter written by Mr. Williams to Mr. Conn some time in April, 1912,

Mr. WORTHINGTON. March 13, 1912.

Q. (By Mr. Manager FLOYD.) March 13, 1912. Let me have that exhibit, Mr. Clerk. [The paper was handed.] Examine this letter of March 13, 1912.—A. (Examining.) I have heard this letter discussed here and I do know something about it.

Mr. Manager FLOYD. At this point I desire to have it read.

It is already in evidence.

The PRESIDENT pro tempore. The Secretary will read it. The Secretary read as follows:

[U. S. S. Exhibit 4.]

SCRANTON, PA., March 13, 1912. CHARLES F. CONN, Esq., Scranton, Pa.

CHARLES F. CONN, Esq., Scranton, Pa.

DEAR SIR: Regarding the culm bank located at Moosic, Pa., which you have been negotiating for, would say this matter has been hanging fire for some time, and the party who has been dealing with you is desirous of your having the bank. He believes that the title to this property is not a complicated one.

You as a business man understand the conditions under which the Hillside Coal & Iron Co. are operating under this lease. For any coal which they, their successors or assigns, take from this bank larger than pea coal they are to pay to the Everhart heirs a royalty of 20 cents per ton. Now, I think you do not intend preparing any of the larger sizes of coal; and if not, the Everhart heirs at al. would have no interest in the bank.

The Hillside Coal & Iron Co. and Mr. John M. Robertson, the only recognized owners of this bank, have agreed to sell me their interest, and I would be glad to have you let me know at your earliest convenience what you intend doing in the matter, as other parties are anxious to negotiate for it. I may say that should you have any doubts you could deposit one-half or two-thirds of the royalty in the bank or retain it for a reasonable time as a guaranty against any claims. I am making this at the suggestion of the party who has been dealing with you to assure you of our desire that you should sustain no loss.

Very truly, yours.

E. J. WILLIAMS.

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, state what you know about the preparation of that letter and what, if anything, you had to do with it?—A. Well, I had something to do with the formation of that letter to Mr. Conn. Mr. James R. Dainty, Mr. Williams, and myself, and my niece, my stenographer, were in the office. I had been down here to Washington on the case of the Marian Coal Co. against the Delaware, Lackawanna & Western February 20, and was called over to the Attorney General's office February 21 and was interrogated about certain charges that I made to the Interstate Commerce When I came back this deal was hanging fire with the Laurel Line, with Judge Archbald negotiating, as I understood from Mr. Williams, and I said to Mr. Williams that I was anxious to see him get a profit out of this deal, and unless he closed the deal quickly there was liable to be trouble, the Erie Railroad Co. withdrawing their offer to sell this property. Accordingly, I suggested to Mr. Williams that he get a definite answer from the Laurel Line so he might be released and deal with other parties. Along those lines I assisted him in writing that letter to Mr. Conn.

Q. Now, Mr. Boland, I desire to ask you about the suit or proceeding instituted by your company, the Marian Coal Co., against the Delaware, Lackawanna & Western Railroad Co. before the Interstate Commerce Commission?-A. Yes, sir; we

had a suit against them.

Q. Just explain briefly what you were seeking in that suit.— A. We were seeking an existence from the Lackawanna and other coal-carrying railroads. We were embarrassed from shipping our coal. Our coal was followed to tide by the Lackawanna.

Mr. WORTHINGTON. Are we to go into the details of the origin of that suit?

The PRESIDENT pro tempore. The Chair thinks it is not

necessary. Mr. Manager FLOYD. It is not necessary.

The PRESIDENT pro tempore. If it is not necessary, time ought not to be consumed.

Mr. Manager FLOYD. I was not asking the witness to state the details.

The PRESIDENT pro tempore. The managers will please stop the witness when going beyond the direct question.

Mr. WORTHINGTON. The Chair, of course, will remember that that suit was never in the Commerce Court, and never in any court that Judge Archbald was connected with.

Mr. Manager FLOYD. I simply desire, as preliminary to another question, to ask the witness to briefly describe the suit he had before the Interstate Commerce Commission.

The PRESIDENT pro tempore. The witness will state it as concisely as possible.

Mr. Manager FLOYD. As concisely as he can.

The PRESIDENT pro tempore. Answer the question.

The WITNESS. Oh, the cause of this whole suit was the Lacka-

wanna's attitude toward this company.
Q. (By Mr. Manager FLOYD.) Did you bring a suit or action before the Interstate Commerce Commission against the Delaware, Lackawanna & Western Railroad in regard to rates and also in regard to damages?-A. Yes, sir; after five years' solicitation to get them to give us a hearing.

The PRESIDENT pro tempore. That it is not necessary to state.

Mr. Manager FLOYD. That is sufficient on that point. [To the witness:] I will ask you to state about when those suits were instituted

Mr. WORTHINGTON. As I suggested a moment ago, we have that in the record.

The PRESIDENT pro tempore. It is a matter of record.

Mr. WORTHINGTON. We have the record with the statement of docket entries, full copies.

Mr. Manager FLOYD. I withdraw the question. Mr. Worthington need not argue it. [To the witness:] I ask you to state, then, if at any time after those suits were instituted you undertook to secure a settlement by the intervention or assistance of Mr. Watson, an attorney in Scranton?-A. Mr. Edward Williams

Q. Answer my question. Did you?-A. Yes, sir. I never did-

Q. State what you know.—A. I never did myself; I never gave my consent to it; but other members of our company, other stockholders felt that they would like to get out of the difficulties, and accordingly I went with them, not of my own accord.

Q. (By Mr. Manager FLOYD.) You finally assented to it?—

A. I did. I assented to anything to get out of the trouble we

were in.

Q. State what you know about that settlement or that attempted settlement.—A. Somewhere along in 1911 Mr. Williams came to me one day and told me he knew a lawyer that could settle these Marian Coal Co. differences with the Lackawanna and that he knew he could deliver the goods. I asked him who the lawyer was, and he said it was George M. Watson. I said I do not understand what influence Mr. Watson has-

Mr. WORTHINGTON. I object.

The Witness, I refused to have anything to do with Mr.

Watson at the time.

Q. (By Mr. Manager FLOYD.) I will ask you if afterwards you consented that your brother and the other members of the company

The PRESIDENT pro tempore. The witness has already

said he had.

The WITNESS. Yes, sir.

Q. (By Mr. Manager FLOYD.) Do you know anything more about that settlement of your own knowledge, not what people told you?—A. Yes, sir. I was requested by my brother to give a paper assuring Mr. Watson a fee of \$5,000; if he was able to turn over two-thirds of the stock at a maximum of \$100,000, he would receive \$5,000 as compensation.

Q. You did sign that paper?—A. Yes, sir; I did.

Q. It has already been placed in evidence?—A. Yes; and I met Mr. Watson afterwards several times.

Q. Do you know anything more of your own knowledge about all those negotiations?—A. I do, through Mr. Watson. Mr.

Watson informed me that-Mr. Manager FLOYD. You need not state what Mr. Watson said. We have already raised that question once and it has been ruled to be not competent. That is all, Mr. President, for the present.

The PRESIDENT pro tempore. The counsel for the respondent will take the witness.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Mr. Boland, you said this \$500 note was presented to you during the trial of the Peale You did not mean the trial in the court, but during the case. continuance of the case, did you not?-A. Oh, no; it was in the inception of the Peale case that the note was presented.

Q. Mr. Williams came to you with a note which was signed, as you remember, by John Henry Jones and indorsed by Judge Archbald?-A. The only impression I got of the note was Judge Archbald's name on the note. That was the only thing that

impressed me about the note.

Q. Have you no recollection that John Henry Jones had anything to do with the note?-A. His name did not impress me as much as Judge Archbald's name did.

Q. Is it your recollection that John Henry Jones's name was on the note?-A. I think so, but I would not be so sure.

Q. Do you know whether or not at the same time there was some conversation between Williams and your brother, Christopher G. Boland, about that note?-A. I think it was after he had seen me.

Q. Was there more than one time when they were speaking to you about discounting a \$500 note with Judge Archbald's name on it?-A, Only once.

Q. When we get the date of that transaction we will know whether it was on or after the demurrer was overruled in the Peale case.—A. That would not decide it, because I think they peddled the note a long time before they got it cashed.

Q. You think the date would not show anything about it?-A. I do not think that the note would show anything about it. Mr. REED. Mr. President, I ask that the following question

be propounded to the witness.

The PRESIDENT pro tempore. The Senator from Missouri presents a question which will be propounded to the witness by the Secretary.

The Secretary read as follows:

What paper did you state was written by Judge Archbald in his own hand and witnessed by him?

The WITNESS. The option from John M. Robertson to Edward J. Williams.

Mr. Manager CLAYTON. For what?

The WITNESS. For his interest in the Katydid culm bank. Mr. Manager CLAYTON. That paper is in evidence, Mr.

President.

Mr. WORTHINGTON. Yes. I think it should be stated for the information of Senators, since that has been spoken of, that the paper by which Robertson agreed to sell his interest in the Katydid dump to Mr. Williams for \$3,500 was prepared in the handwriting of Judge Archbald and is witnessed by him. Senators will remember the evidence. It was testified that the witness had it recorded of his own motion. [To the witness:] What do you mean by saying that the note was peddled for a long time before it was brought to you?-A. Well, I know at the time they were trying to get that money it was hard for them to get it. That is, they were refused in one or two banks, Mr. Williams told me afterwards.

Q. Were you at any bank when Williams presented the note?-

A. I was not.

Q. And discount was refused?—A. I was not.

Q. Do you know anything about it except what you heard from Williams?-A. I only know what the party to the note

Q. Mr. Williams you mean?—A. Yes, sir. Q. What did he tell you about having peddled it before he came to you?-A. He told me he was a little surprised that Judge Archbald's credit was not better in the banks than it

Q. I want to know if he told you he had peddled it before it came to you?-A. He said it took some time to get the money.

I can not give you a plainer answer.

Q. I want to know if Williams said he had peddled it about and taken it to banks before he came to you?-A. That is what I gathered from his statement, that it was hard for him to get a note for \$500 cashed in any of the Scranton banks.

Q. Did he say that before he presented it to you and asked to have it discounted?—A. No, sir; he said it to me afterwards.

Mr. POMERENE. Mr. President, I should like to propound

the following question.

The PRESIDENT pro tempore. The Senator from Ohio presents a question, which will be propounded to the witness by the Secretary.

The Secretary read as follows:

Can you give approximately the date of the Archbald note, or the date when it was presented to you for discount?

The Witness. I can not give you the exact date. I can only come so close to it-that it was shortly after or during the time

of this Peale case in Judge Archbald's court.

Mr. WORTHINGTON. I may say, Mr. President, it will undoubtedly be shown what bank discounted it, the exact date

of the note, and all about it.

The WITNESS. That would not prove that that was the note. Q. (By Mr. WORTHINGTON.) You say it would not prove that that was the note. You make that argument, do you?—A. No, sir; I say I do not know that that is the note. I am not swearing to that note.

Q. I want to know whether there was more than one \$500 note with Judge Archbald's name on it offered to you by Williams for discount?—A. No, sir; there was only one.

Williams for discount?—A. No, sir; there was only one.

Q. Now, about this silent-party paper, as we have called it, that was prepared in your office. Let me have that paper, Mr. Secretary, that we may have no misunderstanding. [Presenting paper.] This paper is dated the 5th of September, 1911, and is Exhibit 7 in this case?—A. I see it; yes; I recognize it.

Q. It is the same paper Mr. Manager Floyd showed you a

few moments ago?-A. Yes, sir.

Q. You say that there were two copies of that paper made besides this?—A. That is the best of my recollection, that it was made in triplicate.

Q. And Williams took both of them?-A. I think he did.

You said one was to be for him and one he was to take to Judge Archbald?—A. That is what he informed me.

Q. Have you been informed by anybody that during this trial Mr. Williams produced two copies of this paper here?-A. I saw it from the gallery the other day.

Q. You were in the gallery when you saw it?-A. Yes, sir; I

saw him present those papers

Q. When you were testifying in the Judiciary Committee hearings, did you not say that Mr. Williams took only one copy?—A. Well, I would not say I did not say that. I might have been mistaken in the number of copies Mr. Williams took.

Q. Who were present when that paper was prepared?-A.

That paper?

Q. Yes.—A. The silent party. There was Edward Williams and W. L. Pryor, Miss Mary Boland, and myself.
Q. What is Miss Boland's full name?—A. Mary Boland.

Q. Your niece and stenographer?—A. Yes, sir.

Q. I wish you would tell us just who put in the language that is in that paper. Who dictated it to the stenographer?—A. Well, I will answer you that Mr. Williams was very particular and tried to keep Judge Archbald's name out of any papers.

Q. Do you think that is an answer?—A. He was the one who suggested that. Mr. Worthington, I am trying to answer as

best I know how.

Q. My question is, Who dictated that paper to the stenographer, and nothing else.—A. That part of it you asked me about—the silent party—was Mr. Williams. Other parts of it, I believe, I was responsible for—the formation of that paper.

Q. You dictated it all until you came down to the words—

A. No; I did not. Mr. Williams named the amount and how it was to be divided. He was the owner of the property, and he divided the property as he saw fit. He was satisfied to divide it in that way.

Q. Who dictated it to the stenographer? That is what I want to know.—A. I did a part of it, Mr. Williams did a part, and I think Mr. Pryor made some suggestions.

Q. You all participated?—A. Oh, yes; in fact we were not

lawyers, but we did the best we knew how.

Q. I think you have stated that you never have met Judge Archbald. Is that correct?—A. I have known Judge Archbald for years, and respected him; but since I found out about his

transactions here I never met him. I refused to meet him.

Q. Did you ever speak to Judge Archbald, or were you present when any other person spoke to him about this \$500 note being presented to you for discount?—A. I never did. I

never called his attention to it.

Q. You were never present when anybody else spoke to him about it?—A. No, sir; until in the House Judiciary Committee it was never in my mind.

Q. I mean before these proceedings began, of course?-A.

No. sir.

Q. About this so-called silent-party paper did you ever speak to Judge Archbald?-A. I never did.

Q. Did you ever hear anybody else speak to him about it?-A. Only as Mr. Williams, Mr. Pryor, and my niece, who had knowledge of it.

Q. I ask you whether you ever heard anybody speak to Judge Archbald about that silent-party paper?-A. I never was in Judge Archbald's company or heard any discussion or anything talked about it in over two years.

Q. Now, about the letter here of March 13 that was read a

little while ago?-A. I do not remember the paper.

Q. To Mr. Conn?-A. Yes. I was a party to the formation of that paper.
Q. You said before that paper was prepared in your office you

had been down to Washington to the Attorney General's office?-A. I was called-

Q. Now, that is it? You had been to the Attorney General's office about this matter?-A. I was not called to Washington to

go to the Attorney General. I-

Q. You had been at the Attorney General's office about this business before that letter was prepared?-A. I was called to Washington by the Interstate Commerce Commission in finishing up our trial before the Lackawanna, and I was notified in the Interstate Commerce Commission office that the Attorney General wanted to see me. That is how I came before the Attorney General.

Q. You had been before the Interstate Commerce Commission and told them a great deal about Judge Archbald, had you not?-A. I did not. I went to the Interstate Commerce Commission-now, will I be allowed to explain this?

Q. I am not very much inclined to try to keep the witness from answering questions, because of the impossibility of it.

The PRESIDENT pro tempore. The witness will answer questions as briefly as he can.

The Witness. I will say that—
Mr. Manager STERLING. Mr. President, we object to the remark made by counsel for the respondent. I do not think it is the duty of the counsel to lecture this witness or make such remarks concerning him while he is on the witness stand.

The PRESIDENT pro tempore. Counsel will confine their questions to the testimony which they desire to elicit.

The WITNESS. What is the question?

Mr. WORTHINGTON. The question I ask now-

The PRESIDENT pro tempore. The witness will answer as directly as possible.

Q. (By Mr. WORTHINGTON.) Before you were at the Attorney General's office in February had you not been down to talk with Commissioner Meyer, of the Interstate Commerce

Commission?—A. Never. Q. And his clerk, Mr. Cockrell?—A. No, sir.

Q. About Judge Archbald?—A. No, sir; I never went to any of the commission to talk to them about Judge Archbald.

- Q. Did you not go to them in January, 1912, and tell Mr. Commissioner Meyer and Mr. Cockrell, who is an assistant or a clerk there, that Judge Archbald had overruled your demurrer in the Peale case after you had refused to discount his note? A. I could not answer your question that way, because it is not true; it is not the fact. I went down to answer a letter that was written by John L. Seager, Interstate Commerce attorney for the Delaware, Lackawanna & Western, who claimed to have advance knowledge of a decision that had not been handed down until the 30th of January. I went down to show the commission that it was absolutely necessary for a speedy trial of the interstate-commerce case against the Delaware, Lackawanna & Western, because the railroad was using a Federal court to put us out of business, and I showed them prima facie evidence that the railroads were using his court for the purpose of putting us out of business. I had no idea of coming down here to start an investigation; it was self-preservation with me. I did not want to do Judge Archbald any harm; but I was wiped out through the influence of the railroads with him. That is why I came down.
- Q. Without regard to why you came down, did you tell Commissioner Meyer, of the Interstate Commerce Commission, in January last, that Judge Archbald had overruled the demurrer in the Peale case because you had refused to discount his note?-A. Yes; when he was about to throw me out of his office. I made a statement, and when I made the statement he was about to throw me out of his office for trying to come in there to influence the commission by making my statements against a Federal judge. I said, "Just wait a moment and I will prove it to you." I pulled the paper out of my pocket to show that Judge Archbald himself had admitted that he was dealing with the railroads. Then there was the fact that Judge Witmer laughed me out of his court. That was the reason why I came down, and that is the reason I am here. I did not have anything against Judge Archbald. He never done a thing to me in his life until the railroads began to use him.

Q. Did you tell the Interstate Commerce Commission or Commissioner Meyer in January last that Judge Archbald had overruled the demurrer in the Peale case because you had refused to discount his note?—A. I told him a whole lot—Commissioner Meyer and his secretary, Mr. Cockrell, a man I never

met before.

Q. Did you tell Commissioner Meyer and Mr. Cockrell that Judge Archbald had overruled your demurrer in the Peale case because you had refused to discount his note?-A. I told the commission that Judge Archbald was being used by the railroads to crush us out of existence and to prevent us from getting a decision before the Interstate Commerce Commission; that is what I told the commission; and immediately they tried to get the Lackawanna to produce the evidence that they refused up to that time.

Q. Did you tell the Interstate Commerce Commission or Com-

missioner Meyer-

issioner Meyer——A. I did.
Q. In January last——A. On January the 6th——
Q. One moment. That Judge Archbald had overruled your demurrer in the Peale case because you had refused to discount his \$500 note?—A. I told them that. I said other things; that I thought he was the cause of our being held up for \$34,000 by a fictitious judgment that could only be decided against us on technicalities with a dishonest lawyer acting with a corrupt

Q. Who is the dishonest lawyer?—A. Mr. Donnelly.

Q. He was your lawyer?-A. He was my lawyer, and if he playing fair-if he was the same kind of a lawyer that Mr. Reynolds was-neither Judge Archbald nor I would be here

to-day.

Q. Mr. Donnelly was your lawyer in the Peale case?—A. Yes,

sir: he apparently was.

Q. And he continued to represent you and ---- A. To misrepresent us.

Q. To represent you in court until what time?—A. There was one day given us to take an appeal. That was on the 19th and the judgment went into effect on the 20th.

Q. He was your attorney in that case until after you were be-

fore the Judiciary Committee was he not?—A. He was like a live wire that you could not let go of. I could not let go of I did not know anything about the case. He had me right in his power.

Q. What did you say about the 19th?-A. The 19th day of the month. The judgment went into effect on the 20th, or the

time expired on the 20th.

Q. The 19th of what month?-A. The 19th of August of this year.

Q. The 19th of August of this year?-A. Yes; that is why I

am here. Q. It was up to that time that Mr. Donnelly represented

you?-A. I have been losing money. I could not afford to come down here

Q. I understand you to say that Mr. Donnelly was betraying you in that case?-A. That is my belief, because the Lackawanna Railroad Co. went out and reached out with their bribing methods. They gave his brother-in-law a great big chunk of coal.

Q. You said something about Mr. Donnelly and a corrupt judge just now. Whom did you mean?-A. I meant Judge

Archbald. He was unfit for that position.

Q. You mean that your counsel and Judge Archbald were in -A. I believe that Judge Archbaldcorrupt collusion-

Q. Let me finish the question. Let me have just a word.-A. All right, I will do that.

- Q. Do you believe that Mr. Donnelly and Judge Archbald were in collusion together to defeat you in that suit?—A. I told Mr. Donnelly, "If Judge Archbald has made an honest mistake, go to him and tell him all we want is a square deal; tell Judge Archbald that I do not want to do him or his family any injury; but go and tell him." He said, "He will commit you for contempt." I said, "I am not afraid of contempt when I am right."
- Q. Well, when you came down here last January you told the Interstate Commerce Commission about Judge Archbald and your corrupt attorney?—A. I did not say anything about my attorney to the commission. I told what I thought concerned-

Q. About your attorney and a corrupt judge-A. Yes, sir; I did.

- Q. In handling your Peale suit?-A. In fact, I was sold out. Q. At that time Judge Witmer was the judge of the court— the court where the Peale suit was pending?—A. He is not much of an improvement on Judge Archbald. I will say that
- Q. You told them at the same time that Judge Witmer had been commanded to enter up an order or a decree in the Peale

case by Judge Archbald?—A. Yes, sir; I told them that.
Q. And that he had done that under the dictation of Mr. Loomis?-A. That was my information.

Q. That is what you told them?-A. Yes, sir.

Q. When you went before the Attorney General you repeated all these statements, did you not? Did you not tell the Attorney General-A. I was chuck full of them; I have been chuck

full of them for eight years.
Q. Did you not tell the Attorney General when you were there in February that Judge Archbald had overruled your demurrer in the Peale case because you had refused to discount his note?-A. I think I charged Judge Archbald with responsibility for all these embarrassments of the company. think I made it general that I held Judge Archbald accountable for all these things, all these troubles.

Q. All your troubles in the Peale case?—A. Yes, sir

O. You have not answered my question yet, Mr. Boland. You did tell the Attorney General that Judge Archbald had overruled the demurrer in the Peale case because you had refused to sign his note?-A. I told the Attorney General, Mr. Worthington, things that perhaps if I had had a little time-I was called to the commission's office without any preparation or without any expectation of being called before that high tribunal to make a statement against a Federal judge, and I might have made statements there that, if I had time to correct, I might have put in different form.

O. Can you tell us now whether, as a matter of fact, you did or did not tell the Attorney General that Judge Archbald had overruled the demurrer in the Peale case?—A. I think I did. Anything that the Attorney General says that I said, I will assume responsibility for.

Q. But the Attorney General is not here, and I want your recollection .- A. I have not got the notes, but if he says that I

said it to him, I presume I did.

Q. Have you any recollection of what you did charge against Judge Archbald when you went before the Attorney General?—A. I charged him with ruining this company and everything that went with it; in aiding the railroads to wipe us out of business.

Q. And you told the Attorney General that Judge Archbald was controlling Judge Witmer and requiring him to decide the Peale case against you?-A. I told them that I thought the same influences controlled Judge Witmer that controlled Judge

Archbald; and I say that to you now.

Q. Now, having learned what you told the Interstate Commerce Commission and what you told the Attorney General, I want you to tell the Senate one thing that you know that Judge Archbald has ever done in the Peale case that was not right and proper?-A. The first time that Judge Archbald convinced me that he was wrong was when he ordered me to New York to take testimony, 145 miles away from home, and I had no way of knowing who the parties were that had secured 70,000 tons of our coal, and I said in the presence of the judge to my lawyer: "Mr. Donnelly, will you please suggest to the judge that there is no need of a law suit if this agent of ours gives us an accounting. If he tells us where he has made those allowances, if they are honest allowances, we want to allow them; but if they are steals, or if he stands in with the railroad and has got a favored rate, as some of the men whom I know have, I want to know it." I asked my lawyer to state that so that Judge Archbald could have heard me, but he paid no attention to me. He said, "the judge has made the order and you have got to comply." I looked at Judge Archbald—I just looked at him, and I said then to myself, "You will wish you never saw me, for from your conduct I know now you are serving the rail-Then I went out to prove what I believed myself to

be true; and I think I have fairly proved it.

Q. Well, now that is one thing. You have told me that he required you to go to New York to take testimony?—A. Yes,

Q. What else did he do that was wrong or improper?-A. I could not tell you the proceedings, but I was rushed along. The case lay there from the time the contract was broken on the 13th day of October, and until we began proceedings in the Interstate Commerce Commission there was scarcely a move in this proceeding. Mr. Peale did not take any active part for several months after, but just as soon as we started proceedings against the railroad Mr. Peale, who was the agent of the railroad, as well as for the Marian Coal Co., began this proceeding to put us out of business.

Q. How many months do you say the case lay idle?-A. From

the 13th of October to about December, 1910.

Q. When?-A. From October, 1908, until about December,

There was scarcely anything done with it.

The suit was not brought until March, 1909, was it?-A. He supposed the contract was broken, and he decided that he had redress in the local courts, but he saw fit to go over into the other court.

Q. You hold Judge Archbald responsible for the delay before the suit was brought in his court?-A. I hold Judge Archbald responsible for taking away our trial by jury. He had no right to do so. This man had said how he wanted his redress, but by the usual method of the railroads, an injunction, he denied

the man his rights of trial by jury. He did that to a nicety.

Q. Did Judge Archbald grant an injunction against you?—A. He did, I believe. It was a preliminary injunction until Judge

Witmer made it permanent.

Q. Where did you get your information that Judge Archbald had enjoined you?—A. Well, Judge Archbald was the man who let the case come into his court. That is where he got it.

Q. You think that if he had done his duty the case would not have got into his court at all, do you?-A. That is what I was informed by reputable lawyers, but I did not know; I am not a lawyer. It might have been right, but able men have differed with Judge Archbald on that.

Q. You have always thought that Judge Archbald issued a preliminary injunction in that Peale case?-A. No, sir; I did not, because we were not prevented from working until August

24, 1911.

Q. That was long after Judge Archbald was out of that

court, was it not?-A. Yes, sir.

Q. I want to find out what you know or what you charge that Judge Archbald did that was not right in the Peale case that caused you to come down here and make these awful charges against him before the Interstate Commerce Commis-

sion and the Attorney General. I will tell you very frankly, Mr. Boland, I want to know whether it was something in fact or whether you have a delusion in your brain about this .- A. .

I do not think it is a delusion.

Q. Wait a moment—a delusion about things that never had any real existence?—A. Well, I will tell you as well as I can. I might have been intoxicated from the attitude of the railroads to a certain extent, but I never had any reason to suspect Judge Archbald-he was a man I had a great deal of respect for-until this case came into his court, and then his right-hand bower, Mr. Williams, who I have seen in his office at all times of the day, would tell me what was going to happen and the influence that was back of Judge Archbald; and when Mr. Williams made so many statements to me I wanted to find out, before I dared breathe it against a Federal judge, that some of the statements were true, and I began to check up; I began to get information from the judge himself. I would not come in here and make a statement from anybody else against the integrity of Judge Archbald, but only from himself; and I was fully convinced from what he was doing and what he was ready to do and what he was willing to do. I did not pick out Judge Archbald's associates; I had nothing to do with the introduction of those. I had to check the information that they gave me. That was the kind of material that he picked out: it was not my selection, because I would not have gone along with him on that kind of a proposition. I got the information from his men, his associates, of what he was doing and what he was willing to do for the railroads; and, along with the things that had happened to the Marian Coal Co., I was fully convinced that Judge Archbald was not playing fair with that little com-

Q. Did Mr. Williams tell you that Judge Archbald had overruled your demurrer because you had not discounted the note, and that if you had discounted the note, he would have decided otherwise?-A. Mr. Williams told me that I made a mistake in not discounting that note; that if I had I would not have had

any lawsuit.

Q. That is one of the things that you have --- A. Yes, sir:

and he told of several things.

Q. Did he tell you that Judge Archbald would have sustained your demurrer in the Peale case if you had discounted the note?-A. He told me that I would have saved all trouble; that there would not have been a lawsuit.

Q. When did he tell you that?—A. Some time in 1910. He told me a lot of things, and he told it to me so often that I had

him reduce it to writing.

Q. In 1910? In 1911, was it not?—A. No; I think it was 1910. I think he made the statement in 1910 or 1911, I am not sure which; but I had him reduce it to handwriting. The paper will speak for itself.

Q. Then you came down to the Interstate Commerce Commission and to the Attorney General and told them that Judge Archbald had overruled your demurrer in the Peale case because you had not discounted his note, because Williams told you that it would have been better for you if you had discounted the note?—A. I do not think that would have interested the commission at all, if it was not for the fact that I stated to the commission that I knew that Judge Archbald was dealing with was the statement I made to the commission.

Q. I should like to have the question read, Mr. President, and

the witness instructed to answer it.

The PRESIDENT pro tempore. The witness will answer the

Q. (By Mr. WORTHINGTON.) I will repeat the question. Did you tell the Interstate Commerce Commission and the Attorney General that Judge Archbald had overruled your demurrer in the Peale case because you had not discounted his note on the strength merely of the statement that Williams had made to you that it would have been better for you if you had discounted the note?-A. Mr. Worthington, in order to answer you that I would have to have the statement I made before the Attorney General. If I said that in that statement, then I do not deny that I did say it; but on account of the absence of the statement here or the notes that were taken that day, I can not say what I did say. I did charge Judge Archbald with being responsible for the destruction of this company in a great many ways.

Q. How did you tell them Judge Archbald was responsible for the destruction of the company?-A. I felt that Judge

Archbald-

Q. Just a moment. Is it not a fact that Judge Archbald retired from that court while that case was pending-while the testimony was being taken-and no decision had ever been arrived at as to the merits of the case?-A. I felt that Judge Archbald injected himself in to prevent a decision being handed down by the Interstate Commerce Commission.

Q. Tell me what you mean by that and what your source of information is, Mr. Boland.—A. Well, from his participation with the railroads, from his willingness to go along with the railroads.

Q. You say you felt he had injected himself into your case before the Interstate Commerce Commission?-A. He and Wat-That is why I kept Watson's telegram. I kept everything

I could which I did not consider larceny. Q. That brings me to another subject.

You suggested to Mr. Williams to go and get Judge Archbald interested in the Katydid culm dump, did you not?-A. No; Mr. Williams told me that if I knew of any property along the lines of the anthracite coal carrying roads Judge Archbald could get them for him; that he had influence with the railroads.

Q. Did you not tell Mr. Williams about the Katydid culm

dump and suggest to him-A. Oh, I had-

Q. One moment—and suggest to him to get Judge Archbald to give him a letter to Capt. May?—A. I believe I did, Mr. Worthington, because I wanted to check up Judge Archbald and wanted to get from himself an admission that he was that kind of a man.

Q. Then, you knew that a letter had been given by Judge Archbald to Capt. May pursuant to your suggestion?—A. I think Capt. May suggested it to Mr. Williams also. Mr. Williams claimed that Capt. May had suggested that if he could get a letter from Judge Archbald it might help him.
Q. Well, you knew that Judge Archbald had given the letter

pursuant to the suggestion and that Capt. May had not given the option or had not agreed to sell the property?—A. Yes, sir;

I did.

Q. Did you not then suggest to Mr. Williams in your office shortly after that to go to Judge Archbald and get him to go to the office of the Erie Co. in New York about the matter over Capt. May's head?—A. No, sir; I did not; but I will explain to you how that came about. When Mr. Williams came back from Capt. May he went up to Judge Archbald's office and told the judge, and the judge picked up some papers that were in the case—letters, typewritten papers—and he said, "Well, I will show that fellow. See the work I am doing for them. Here is a brief I am preparing for them"; and Mr. Williams came out and told me. That's all. I asked Mr. Williams, "Are you not mistaken, Mr. Williams, about a brief?" He said, "No; it is a Lighterage case." I said, "Mr. Williams, would you go out to Judge Archbald's office and show me the paper?" I wanted to get it and get a photograph of it; but I was afraid that Judge Archbald might come and find it gone and perhaps lock me up for it. But he showed me the paper from a window in Judge Archbald's office. I did not dare take that; I did not dare take the chances of taking that paper. I took other chances, though, in order to prove that he was just what he is.

Q. That is interesting, but the question I asked you was whether or not, after you learned that Capt. May had not given the option or had not agreed to sell the Katydid property when Mr. Williams first went to him-whether you did not then suggest to Mr. Williams to go back to Judge Archbald and have him use his influence with the New York office?-A. I would not say I did not, but I will say this to you, Mr. Worthington: That Mr. Williams would have lost his right arm before he would have done anything for me that would have been injurious He did not know that he was doing it. to Judge Archbald. There never was any of those fellows who gave me information

that knew what I was using them for.

Q. I would like to know whether or not you made that suggestion?—A. I think I did. I will not deny that.

Q. So you suggested to Mr. Williams to go to Judge Archbald and get a letter to Capt. May, and then later suggested to him to get the judge to go to the New York office?-A. I do not think I had to make many of those suggestions

Q. Answer my question .- A. I will not deny that I did. I

think I may have done so.

Q. Very well. Now, when the option was obtained from Capt. May in August following, did you not then busy yourself to find a purchaser to whom the property could be sold, so as to have Judge Archbald complete the transaction; did you not go to Mr. Conn?-A. I was not so much interested in Judge Archbald as in old man Williams,

Q. Did you not go to Mr. Conn?-A. I was selling coal to Mr.

Conn at the time.

Q. You went to Mr. Conn and suggested that the Katydid might be a good purchase for him?-A. I suggested that it was a bargain.

Q. And when you found he was interested, then you suggested to Mr. Williams to go to Judge Archbald and get a letter to Mr. Conn?—A. They had been dealing together before that.

Q. Did you not, after you had this conversation with Mr. Conn, and finding that he would consider the purchase of the Katydid, go to Mr. Williams and say, "Go to Judge Archbald and get a letter"?—A. I think I did. I wanted to button up Judge Archbald sure.

Q. And when Mr. Williams got that letter from Judge Archbald he brought it to your office instead of taking it to Mr. Conn, did he not?—A. Yes.

Q. And you took it and had a photograph made of it?-A. I

had a photograph made of it; yes.

Q. How did he happen to bring that letter to you and show it to you?-A. I do not know. He came in and showed me the letter. He was proud to go around and show the privileges he had with a Federal judge. He thought that was a great thing to do.

Q. Was not that letter under seal?-A. No, sir.

Q. And did not you or Mr. Williams break the seal?-A. No, sir; I never did that in my life.

Q. You say that letter was not sealed?-A. I say so now and swear to it, that it was not sealed when it came to me.

Q. And you photographed it, and Mr. Williams passed it along to Mr. Conn?-A. I had three plates made of it and put them in a safe-deposit vault, so that I could not lose it.

Q. And then you told Mr. Pryor, who was in your employ at that time, to go along with Williams and listen to what was said?—A. I do not know that I told him to listen. I wanted to know that that letter was delivered to Mr. Conn.

Q. Do you think that is an answer to my question?—A. I asked Mr. Williams if he knew Mr. Conn, and I asked Mr. Pryor if he knew Mr. Conn, and he said he did, and I then said, or suggested, to Mr. Pryor that he go down with Mr. Williams to Mr. Conn's office. I did that.

Q. And did you not tell him to listen to what was said and report to you?-A. I do not remember that I told him to listen,

but I told him to introduce Mr. Williams to Mr. Conn.
Q. Now, about the letter of March 13, who dictated that?
That was the second letter to Mr. Conn.—A. I told you that I had a part in it. Mr. Dainty told me that Judge Archbald had sent him down to Philadelphia to the Everhart heirs, to find

Mr. WORTHINGTON. I must object to this. I can stand for almost anything, but now we are going too far.

The PRESIDENT pro tempore. Just answer the question. The WITNESS. Yes; I had something to do with that.

The PRESIDENT pro tempore. You will very much abridge matters if you will answer the questions; and then, if you desire, you may make any explanation.

Q. (By Mr. WORTHINGTON.) That letter of March 13 was dictated in your office to Miss Mary Boland, was it?-A. That is a letter to Mr. Conn, asking him to release the bank or the sale of the bank.

Mr. WORTHINGTON. Let us have the letter and then we will not have any question of what we are talking about.

(The letter was handed to Mr. Worthington by the Secretary, the same being Exhibit No. 4.)

Yes; I helped to dictate that letter. The WITNESS.

Q. (By Mr. WORTHINGTON.) You had been down to the Interstate Commerce Commission and to the Attorney General's office before that letter was written?—A. I was; yes, sir.
Q. Did you tell Mr. Williams that there was going to be a

storm coming about that matter?-A. Mr. Williams knew it himself.

Q. Did you not tell him that, and to hurry up this letter to Conn?-A. I do not think I did.

Q. What was that?-A. I do not think I did. I told Mr. Bradley that.

Q. You did not tell Mr. Williams to hurry up this letter of March 13 to Mr. Conn?—A. I urged on him the necessity of disposing of the property in order to get his profit; yes, sir.

Q. Was not your real object to try and force the transaction through to a sale before the storm came?-A. Not necessa-

rily; no. Q. Was not that one of the things you had in mind?-A. Not

necessarily. Q. Was not that one of the things you had in mind?-A.

No; no. Q. How is that?-A. I wanted to see Mr. Williams get \$6,000.

Q. And you wanted to see Judge Archbald implicated by having a completed sale?-A. I had him implicated before that.

Q. Did you not want him implicated by having a completed sale made before the storm broke?-A. No; I could have done it afterwards if I wanted to follow him up.

Q. I will ask you whether on the 1st of February, 1912, after you had been before the Interstate Commerce Commission, you wrote to Mr. Cockrell this letter:

MARIAN COAL CO., Scranton, Pa., February 1, 1912.

ALLEN V. COCKRELL, Esq., Washington, D. C.

DEAR SIR: I have secured additional information along the lines that I spoke to you and the other parties about and will be ready on the date you mention.

A. Yes, sir.

Q. You were then looking up information?-A. I was; yes.

Q. And had arranged with Mr. Cockrell, of the Interstate Commerce Commission, that you would get information-

Mr. Manager FLOYD. What page do you read from?

Mr. SIMPSON. Page 146.

Mr. Manager FLOYD. Volume 1?

Mr. SIMPSON. Yes. The Witness. I knew it took a whole lot to disturb a Federal judge, and I had to fortify myself before I would dare

Q. (By Mr. WORTHINGTON.) You had arranged with the Interstate Commerce Commission, through Mr. Cockrell——A.

No arrangement

Q. One moment—that you would get more evidence for them implicating Judge Archbald?—A. I had made no arrangements with the Interstate Commerce Commission. I was informing

the Interstate Commerce Commission-

Q. What did you mean by saying "I have secured additional information along the lines that I spoke to you and the other parties about, and will be ready on the date you mention"?— A. I told him I had other information and other lines out. knew the bait he was after, and if it was not checked up so soon I would have had it; so he would never have come before the Senate; he would have resigned if I had had a chance to button up all the things I had on him.

Q. What was the additional information you had obtained between the 5th of January--A. It is not in evidence now,

and I have not any corroboration.

Q. Oh! Why was the sale of the Katydid to the Pennsylvania Brewing Co. not carried out?—A. The bank shrank up,

because my identity with it was known.

Q. What do you mean by "the bank shrank up"?—A. Capt. May reported that there were only 35,000 tons in the bank when

they inquired about the tonnage there was in the bank.
Q. Was that report of Capt. May verbal or in writing? I do not know whether it was verbal or in writing. That is what I was told.

Q. That is what you were told? Who told you?—A. Some members of the Pennsylvania Central Brewing Co., and I imme-

diately dropped any further— Q. Who were they?—A. Well, I think that Mr. P. J. Casey, Mr. William Kelly, and they had a man who looked after the purchasing of their coal—I think he was the man; I do not know his name-who told me that the bank was not of sufficient size to warrant them going in on it.

Q. Oh, that was it?-A. Yes, sir.

Q. When was it you released Mr. Williams from your claim to a one-third interest in the Katydid bank?-A. Immediately after that report came that the bank was growing smaller.

Q. Did Mr. Williams tell you anything about Mr. Robertson objecting to your having anything to do in the matter?—A. No; he did not. Although Mr. Robertson knew that I would not be allowed, because I had talked with Mr. Robertson before, and he knew, on account of my asking the railroad for a reduc-

tion in the rates, that I could not get anything the railroads had.
Q. Did Mr. Williams tell you that Mr. Robertson had said that the sale would not be made if you had anything to do with it?—A. I do not know that he did, Mr. Worthington; I do

not think that he did.

Q. In this March 13 letter it is said that the title to the Katydid coal dump is not a complicated one. Where was that

information obtained?—A. It was not a complicated one, either.
Q. What was that?—A. It was not a complicated one.

Q. Are you a lawyer?-A. No; but I understand the contract slightly

Q. What was the title-who owned it?-A. The title to the bank, the possession of the bank—the Erie Railroad Co. had possession, and they were only accountable to the Everhart heirs for chestnut coal and all above. All the smaller sizes belonged to the one in possession; that was the Hillside Coal & Iron Co. And Mr. Robertson, according to the search, did not

have anything to show, other than scales and a track, of his equity in the property.

Q. Your conclusion was, and is, that Mr. Robertson has not any interest in the dump?-A. He has some, not in the dump, but in the improvements that were there.

Q. Not in this coal that was the subject of this trade?—A. No; there was not anything he could show that would warrant

him in claiming an interest in the dump.

Q. Was it upon that information of yours that was put into

this letter to Mr. Conn that the title was not complicated—
A. No; I think that was Mr. Dainty's report from Philadelphia.
Q. Did you not know that Mr. Conn had consulted Messrs.
Wells & Torrey about the title and that they had advised him not to purchase it because the title was bad?—A. I think those lawyers were more afraid of Judge Archbald than approving it. They did not want Mr. Conn to take that property, on account of Judge Archbald's connection. That is what Mr. Williams told me—they were more afraid of offending Judge Archbald. That is the pretense they put up-that the title was not good.

Q. That is another idea of yours?-A. No; that is no idea of mine; that is Mr. Williams's statement to me. That is what

was told me.

Q. You believe that, do you?—A. Yes. Q. Do you believe that Messrs. Wells & Torrey, attorneys to Mr. Conn, told him the title was not good because they were afraid if he bought the property from Judge Archbald that he would have trouble?—A. Well, there were a lot of people in Judge Archbald's court that had a whole lot of fear of him. They respected him out of fear, not because they thought he was any better than anybody else, but because they feared him.

Q. But you are under the impression now and really believe that Wells & Torrey's advice against that title was just a pretense?—A. I do not know. I never met Wells & Torrey, I was told that, and I am telling you what I was told.

Q. Did you know that Judge Archbald had prepared a contract with Mr. Conn?-A. I heard of it.

Q. A form of contract with Mr. Conn and submitted it to Wells & Torrey?-A. Yes; I heard of it.

Q. Did you see it?—A. No; I never saw it.
Mr. WORTHINGTON. Mr. President, I have quite a number of questions that I desire to ask this witness and it will take me quite a little time to look through my notes in order to segregate what I want to ask. Therefore, I would be glad to take an adjournment at this time, instead of at 6 o'clock, if there is no objection.

Mr. Manager FLOYD. We have no objection to suspending the examination of this witness, but we have another little matter we wish to bring to the attention of the Senate before

adjournment.

The PRESIDENT pro tempore. The witness will be excused until to-morrow at half past 1.

JOHN HENRY JONES.

Mr. Manager CLAYTON. I would like the Sergeant at Arms to bring in the defaulting witness, John Henry Jones, and then desire to make a suggestion.

John Henry Jones appeared in the Chamber.

Mr. Manager CLAYTON. Mr. President, I suppose the Senate will want to know why this witness was not here and may desire to give him a reprimand or other punishment for not having obeyed the process of the court.

The PRESIDENT pro tempore (addressing Mr. Jones).

Why were you not here to obey the summons?

Mr. Jones. It was on account of the serious illness of the wife.

Mr. Manager CLAYTON. Your wife?

Yes, sir. I have brought a letter from the doctor Mr. JONES. to that effect.

Mr. Manager CLAYTON. Let me see it.

(Mr. Jones produced the letter, which was examined by Mr. Manager CLAYTON.

Mr. Manager CLAYTON. Was your presence necessary?

Mr. Jones. Yes, sir.

Mr. Manager CLAYTON. This is an unsworn certificate from a physician, who I suppose is a reputable physician. I suppose it would have been sworn to, if required. I ask, therefore, at this time, inasmuch as this physician says that Mr. Jones's presence is necessary for attendance upon his sick wife, that the witness be not kept in custody longer, but that he be given admonition to be here to-morrow and from day to day until discharged.

The PRESIDENT pro tempore. Mr. Jones, you will be careful to be present at all times when you may be needed to testify

in this case.

Mr. Jones. I will, sir.

Mr. Jones thereupon withdrew.

The PRESIDENT pro tempore. Unless there are other proceedings to be had, the hour of adjournment for the Senate sitting as a Court of Impeachment having practically arrived, the Chair will declare the sitting of the Senate as a Court of Impeachment ended.

Thereupon the managers on the part of the House, the re-

spondent, and his counsel retired.

Mr. SMOOT. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 59 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, December 11, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

Tuesday, December 10, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the fol-

lowing prayer:

Infinite Spirit, God over all, in whose sacred presence we continually dwell, take away all hindrances from our minds and hearts and draw us by that influence which is ever emanating from Thy heart nearer to Thee that we may be able to fulfill in the daily walks of life that requirement which is to do justly, love mercy, and walk humbly before Thee our God. In the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and

approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The SPEAKER laid before the House the following letters, which were referred to the Committee on the Election of Presi-

dent, Vice President, and Representatives in Congress: Letter from the Secretary of State transmitting, pursuant to law, authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Georgia at the election held therein on November 5, 1912, as furnished by the governor of said State.

Letter from the Secretary of State transmitting, pursuant to law, authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Maryland at the election held therein on November

5, 1912. Letter from the Secretary of State transmitting, pursuant to law, authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Vermont at the election held therein on November 5,

Letter from the Secretary of State transmitting, pursuant to law, authentic copy of the ascertainment of electors for President and Vice President appointed in the State of Oklahoma at the election held therein on November 5, 1912, as furnished by the governor of said State.

Letter from the Secretary of State transmitting, pursuant to law, authentic copy of the final ascertainment of electors for President and Vice President appointed in the State of Virginia at the election held therein on November 5, 1912, as furnished

by the governor of said State.

Letter from the Secretary of State transmitting, pursuant to law, authentic copy of the final ascertainment of electors for President and Vice President appointed in the State of Delaware at the election held therein on November 5, 1912, as furnished by the governor of said State.

Letter from the Secretary of State transmitting, pursuant to law, authentic copy of the final ascertainment of electors for President and Vice President appointed in the State of New Hampshire at the election held therein on November 5, 1912, as furnished by the governor of said State.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bill:

H. R. 20287. An act to amend section 5 of the act entitled "An act to incorporate the American Red Cross," approved January 5, 1905.

ORDER OF BUSINESS.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to inquire whether it be in order to proceed with the Indian appropriation bill at this time or whether the contested-election case has the

The SPEAKER. The right of a Member to his seat in the House is of the highest privilege. It takes precedence of other

business. The swearing in of a Member takes precedence of everything else. It can interrupt the reading of the Journal.

CONTESTED-ELECTION CASE-M'LEAN AGAINST BOWMAN.

Mr. ANSBERRY. Mr. Speaker, I desire to call up House resolution 687, declaring that Representative Charles C. Bowman is not entitled to a seat in the Sixty-second Congress.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Resolved, That Charles C. Bowman was not elected a Representative to the Sixty-second Congress from the eleventh district of Pennsylvania and is not entitled to a seat therein.

Mr. MANN. Mr. Speaker, I raise the question of considera-

The SPEAKER. The gentleman from Illinois raises the question of consideration. The question is, Will the House now consider this resolution?

The question being taken,

Mr. ANSBERRY. Mr. Speaker, I make the point of no quorum.

The SPEAKER. The gentleman from Ohio makes the point of no quorum. The Chair will count. [After counting.] One hundred and fifteen Members present, not a quorum. The Doorkeeper will close the doors; the Sergeant at Arms will notify the absentees. All those in favor of taking up the contested-election case will, when their names are called, answer "aye," those opposed will answer "no," and the Clerk will call the roll.

The question was taken; and there were—yeas 166, nays 113, answered "present" 10, not voting 101, as follows:

YEAS-166.

Hull Rauch Humphreys, Miss. Redfield James Reilly Johnson, Ky. Robinson Donohoe Adair Adair Alexander Allen Ansberry Ashbrook Barnhart Bartlett Doremus Doughton Driscoll, D. A. James Johnson, Ky. Johnson, S. C. Dupré Roddenbery Rothermel Edwards Ellerbe Jones Rothermel Rouse Rubey Rucker, Colo. Rucker, Mo. Russell Shackleford Kitchin Bathrick Beall, Tex. Blackmon Estopinal Evans Faison Konig Konop Korbly Korbly
Lamb
Lee, Ga.
Lee, Pa.
Lee, Pa.
Lever
Levy
Lewis
Lloyd
Lobeck
McCoy
McDermott
McGillicuddy
McKellar
Macon
Maguire, Nebr.
Mays
Moon, Tenn.
Moore, Tex.
Morgan, La.
Murray
Oldfield
Padgett Fergusson Ferris Fitzgerald Flood, Va. Floyd, Ark. Boehne Russell
Shackleford
Sharp
Sheppard
Sherley
Sherwood
Slayden
Smith, N. Y.
Smith, Tex.
Sparkman
Stanley
Stedman
Stephens, Miss.
Stephens, Nebr.
Stone
Sweet
Taggart
Talcott, N. Y.
Thomas
Townsend Borland Brantley Buchanan Bulkley Burgess Burke, Wis. Foster Fowler Francis Gallagher Garrett Glass Burleson Burnett Byrnes, S. C. Byrns, Tenn. Callaway Candler Cantrill Godwin, N. C. Goeke Goodwin, Ark. Graham Carlin Carter Claypool Cline Gudger Hamilton, W. Va. Hamiin Hammond Cline
Collier
Cox, Ind.
Cox, Ohio
Cullop
Curley
Davenport
Davis, W. Va,
Dent Hardwick Thomas Townsend Tribble Tuttle Underhill Watkins Whitacre White Wilson, Pa Hardy Harrison, Miss. Padgett Page Palmer Harrison, Mi Hay Hayden Hefin Helm Henry, Tex. Hensley Patten, N. Y. Pepper Peters Post Dent Wilson, Pa. Hobson Holland Houston Witherspoon Young, Tex. Dickinson Pou Rainey Dies Difenderfer Raker Randell, Tex. Hughes, Ga. Dixon, Ind.

NAYS-113.

Ainey Akin, N. Y. Ames Anderson Anthony Austin Barchfeld Bartholdt Good Green, Iowa Greene, Mass. Greene, Vt. Greene, v Griest Guernsey Hanna Hartman Hartman Haugen Hawley Hayes Heald Helgesen Hill Hinds Howell Bates Berger Burke, Pa. Burke, S. Dak. Butler Calder Cooper Copley Crumpacker Dalzell Danforth Davidson Davis, Minn. Dodds Howland Hughes, V Kahn Kendall W. Va. Kennedy Kinkaid, Nebr, Kopp La Follette Langham Lawrence Foss French Fuller Lenroot Lindbergh Gardner, Mass.

McCreary
McGulre, Okla,
McKenzie
McKinley
McKinney
McLaughlin
Madden
Merritt
Miller
Mondell
Moon, Pa.
Moore, Pa.
Morgan, Okla.
Morse, Wis.
Mott Mott Murdock Needham Nelson Nye Patton, Pa. Payne Pickett Plumley Porter Powers Pray Prince

Prouty

Roberts, Mass. Rodenberg Scott Sells Simmons Sloan Smith, J. M. C. Smith, Saml, W. Speer Steenerson Stephens, Cal. Sterling Sulzer Switzer Switzer Thistlewood Tilson Towner Vare Vare Volstead Wedemeyer Wilder Willis Wilson, III. Wood, N. J. Young, Kans. Young, Mich.

Fairchild Talbott, Md. Bowman Mann Bradley Browning Stephens, Tex. Stevens, Minn. Garner NOT VOTING-101. Lafean Lafferty Langley Legare Lindsay Linthicum Littlepage Littleton Riordan Roberts, Nev. Sabath Focht Adamson Fordney Fornes Gardner, N. J. George Gill Goldfogle Alken, S. C. Andrus Saunders
Scully
Sims
Sims
Sisson
Slemp
Smith, Cal.
Stack
Sulloway
Taylor, Ala.
Taylor, Colo.
Taylor, Ohio
Thayer
Turnbull
Underwood Sannders Ayres Bell, Ga. eorge ill
oldfogle Littleton
ray Loud
regg, Pa. McCall
deegg, Tex. McHenry
Hamilion, Mich.
Harrison, N. Y. Martin, Colo.
Harrison, N. Y. Martin, S. Dak.
Hart Matthews
Henry, Conn. Morrison
Higgins Neeley
Howard Norris
Humphrey, Wash. Olmsted
Jackson O'Shaunessy
Jacoway Parran
Kent Pujo
Kindred Ransdell, La.
Reyburn
Richardson Broussard Brown Campbell Cannon Cary Clark, Fla. Clayton Conry Covington Crago Cravens Underwood Vreeland Warburton Webb Weeks Currier Curry Daugherty De Forest Dickson, Miss. Wilson, N. Y. Woods, Iowa Draper Driscoll, M. E. Kent Kindred Kinkead, N. J. Knowland Dwight Esch Reyburn Richardson Finley

ANSWERED "PRESENT"-10.

So the House determined to consider the resolution.

The Clerk announced the following pairs:

Mr. Morrison (in favor of consideration) with Mr. Hum-PHREY of Washington (against).

Mr. Brown (in favor of consideration) with Mr. Draper

(against)

Until further notice:

Mr. Ayres with Mr. Campbell.

Mr. Broussard with Mr. Cannon. Mr. Clark of Florida with Mr. Crago.

Mr. Conry with Mr. Focht. Mr. Covington with Mr. Fordney.

Mr. Forder with Mr. Currier.
Mr. Fornes with Mr. Bradley.
Mr. Goldfogle with Mr. Michael E. Driscoll.
Mr. Gregg of Texas with Mr. Harris.

Mr. HAMILL with Mr. HENRY of Connecticut.

Mr. HARRISON of New York with Mr. HIGGINS.

Mr. HART with Mr. JACKSON. Mr. HOWARD with Mr. KNOWLAND.

Mr. JACOWAY with Mr. McCALL.

Mr. KINDRED with Mr. MARTIN of South Dakota.

Mr. Kinkead of New Jersey with Mr. Olmsted.

Mr. LEGARE with Mr. LOUD.

Mr. LINTHICUM with Mr. REYBURN.

Mr. Maher with Mr. Roberts of Nevada.

Mr. NEELEY with Mr. SMITH of California.

Mr. O'SHAUNESSY with Mr. SULLOWAY.

Mr. Sabath with Mr. Taylor of Ohio. Mr. Sims with Mr. Vreeland. Mr. Taylor of Alabama with Mr. Weeks. Mr. TURNBULL with Mr. Woods of Iowa. Mr. Wilson of New York with Mr. Calder.

Mr. Garner with Mr. Hamilton of Michigan. Mr. Sisson with Mr. Matthews.

Mr. Saunders with Mr. Lafean. Mr. Dickson of Mississippi with Mr. Slemp.

Mr. AIKEN of South Carolina with Mr. AMES.

Mr. Pujo with Mr. McMorran.

Mr. RICHARDSON with Mr. ESCH. Mr. FIELDS with Mr. LANGLEY.

Mr. UNDERWOOD with Mr. MANN.

Mr. LINDSAY with Mr. MERRITT.

For the session:

Mr. Scully with Mr. Browning.
Mr. Littleton with Mr. Dwight.
Mr. Adamson with Mr. Stevens of Minnesota.
Mr. Talbott of Maryland with Mr. Pabran.

Mr. RIOBDAN with Mr. Andrus. Mr. MANN. Mr. Speaker, I voted "no," but I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to change my vote from "no" to "present."

The name of Mr. Mann was called, and he answered "Present."
Mr. FIELDS. Mr. Speaker, I voted "aye," but I am paired
with the gentleman from Kentucky, Mr. Langley. I desire
to withdraw my vote of "aye" and answer "present."
The name of Mr. Fields was called, and he answered "Pres-

A quorum being present, the doors were opened.

Mr. ANSBERRY. Mr. Speaker, it has been agreed by the majority and minority, or rather between the gentleman from Iowa [Mr. Prouty] and myself, that we divide the time and that five hours be agreed upon to debate this resolution and the time be divided, two and a half hours on each side, and that the gentleman from Iowa have control of two and a half hours and I have control of two and a half hours. That is our understanding. Having stated the agreement, I would ask that unanimous consent be given that this resolution be taken up and debated for two and a half hours on each side; that at the end of that time a substitute may be offered by the minority, and that the previous question be then considered as ordered

and that the previous question be then considered as ordered and vote had on the resolution.

Mr. AUSTIN. When do you expect to get a vote on this proposition? It will take until 7 o'clock.

The SPEAKER. The gentleman from Ohio asks unanimous consent, and states that it is by agreement with the parties, that debate shall continue for five hours, one half of which time to be controlled by himself and the other half by the gentleman from Iowa [Mr. Prouty]; that at the expiration of that time anybody can offer a substitute, and of course the Chair will recognize the gentleman from Iowa to offer it, and the previous question shall then be considered as ordered.

Mr. PALMER. Mr. Speaker, reserving the right to object, I want to say I propose to offer a privileged resolution seating George R. McLean, the contestant, and I shall have no objection to this arrangement if it may include a vote upon that resolution immediately after the substitute offered by the minority and the resolution of the committee shall have been voted upon.

Mr. ANSBERRY. I have no objection to that and I hope that no one else will, so that we may get through with it.

The SPEAKER. The principal resolution, the Chair will

state to the House for its information, is-

Resolved, That Charles C. Bowman was not elected a Representa-tive in the Sixty-second Congress from the eleventh district of Penn-sylvania and is not entitled to a seat therein.

And it does not provide anybody shall be seated. Of course, the Chair takes it that the gentleman from Iowa will offer a substitute declaring the contestee is entitled to his seat. does the gentleman from Pennsylvania desire?

Mr. PALMER. I offer a privileged resolution and ask that it

be included in the agreement for unanimous consent.

Mr. MANN. The gentleman has not been recognized for that yet. Mr. Speaker, I suggest, under the circumstances, that the gentleman from Iowa be permitted to now offer his substitute and that the gentleman from Pennsylvania be permitted to offer his.

Mr. PALMER. That is my proposition exactly. The SPEAKER. Has the gentleman from Iowa his resolu-

tion ready?

Mr. PROUTY. Mr. Speaker, I desire to offer and have pending a resolution as a substitute for the one that has been reported by the committee.
The SPEAKER. The ge

The gentleman will send it to the Clerk's

desk to be read.

The Clerk read as follows:

Resolved, That the case of George R. McLean against Charles C. Bowman, from the eleventh congressional district of Pennsylvania, be dismissed for want of jurisdiction, because said alleged contestant gave no notice of contest within the time or in the manner prescribed by law, and because he has not asked or secured the consent of this House or the committee for proceeding in any other manner than that prescribed by law, and has not shown any equitable excuse for his failure to give the notice prescribed by section 105 of the Revised Statutes.

The SPEAKER. That is a substitute for the resolution of the committee. Now, the gentleman from Pennsylvania offers a resolution in the nature of an amendment to this substitute.

Mr. PALMER. Mr. Speaker, my resolution is a separate privileged resolution, and I shall ask unanimous consent that all three of them be considered.

The SPEAKER. The gentleman will send his resolution to the desk.

The Clerk read as follows:

House resolution 743.

Resolved, That George R. McLean, the contestant, was elected a Representative in the Sixty-second Congress from the eleventh district of Pennsylvania and is entitled to a seat therein.

Mr. MANN. As I understand, the gentleman from Ohio [Mr. ANSBERRY] asks that the time for debate be limited to five hours and at the end of that time the previous question be ordered on all the pending propositions?

Mr. ANSBERRY. Yes.
The SPEAKER. Yes; and the order of voting will be on the

Ansberry resolution.

Mr. MANN. Mr. Speaker, on the substitute first.

The SPEAKER. On the substitute first.

Mr. MANN. And then on the committee resolution.

The SPEAKER. Then where would the Palmer resolution

Mr. MANN. The motion could not be considered until the

other resolution was agreed to.

Mr. BARTLETT. I would like to know whether the resolution of the gentleman from Ohio [Mr. ANSEERRY] would not be a preferential resolution to all these motions? It is of the highest privilege and ought to be the first one to be voted upon. It is a resolution declaring a person entitled to a seat in this

The SPEAKER. All of them are privileged.
Mr. PALMER. Mr. Speaker, I would suggest that the resolution which I have offered is in the nature of an amendment to the committee resolution, and therefore the vote should first be on the substitute, and after that on the amendment to the committee resolution, and then upon the committee resolution as amended

Mr. MANN. Mr. Speaker, it is perfectly simple. The first vote would be on the substitute offered by the gentleman from Iowa [Mr. Prouty] dismissing the contest. If that is not agreed to, then the vote comes as to whether the sitting Member is entitled to his seat. If he is thrown out, then the question would come on seating a new Member. You could not seat a new Member while another Member was in his seat.

Mr. PALMER. That is true. You must adopt both resolu-

tions at the same time.

Mr. BARTLETT. Mr. Speaker, it seems to me the resolu-tion of the committee declares that the sitting Member is not entitled to his seat. There would follow, if the gentleman from Pennsylvania [Mr. Palmer] would offer his as an amendment to the resolution of the committee, the other resolution.

Mr. PALMER. I can see no objection to the plan I sug-

gested.

Mr. BARTLETT. I have no objection.

Mr. PALMER. My resolution is in the nature of an amendment to the committee resolution. If the substitute is voted down, then the original resolution comes up, but the amendment must first be considered.

Mr. MANN. The gentleman must see that before you seat a new Member you must declare whether the present sitting Member is entitled to his seat. It always has been voted that way, I will say to the gentleman.

Mr. PALMER. I have no objection to its being voted that

way, so far as I am concerned.

Mr. BURKE of Pennsylvania. If the Prouty resolution has the effect of dismissing the contest, does not that end the entire

The SPEAKER. The Chair does not understand the gentle-

Mr. BURKE of Pennsylvania. If the resolution of the gentleman from Iowa [Mr. Proury] is in effect to dismiss this contest, does not that vacate the entire proceeding, and would the resolution either of the gentleman from Ohio [Mr. Ans-BERRY] or the gentleman from Pennsylvania [Mr. PALMER] be either in order or necessary?

Mr. KENDALL. Suppose the Prouty resolution fails?

The SPEAKER. These matters are all pending now by unanimous consent unless somebody objects, and then the three matters are pending here at once and the House has to vote on them in some way. The first thing to do is to vote on the Prouty substitute, and then the Chair will determine whether the vote shall be on the Palmer amendment or the other. The Chair will examine them in the meantime. It seems to be a difference between tweedledum and tweedledee. Is there objection? [After a pause.] The Chair hears none.

The gentleman from Ohio [Mr. ANSBERRY] is recognized for

two hours and a half.

Mr. ANSBERRY. Mr. Speaker and gentlemen of the House, some time in August, in accordance with notice previously given by me, the contested-election case of McLean against Bowman, under resolution No. 687, was called up in the House, and the gentleman from Pennsylvania, Mr. Bowman, the contestee in this case, asked that the matter be passed until this session. At that time, under unanimous consent, I was given 20 minutes to make a statement with reference to this case. Most of you gen-tlemen heard that statement, and at this time I am not going to go into it as extensively as I did then. I expect to close the de-bate on this resolution, and then I shall present to the House evidence in support of the majority report of the committee. But at this time I shall make a brief statement with reference to the case and the evidence which sustains the allegations of fraud, corruption, coercion, and intimidation, so that any gentleman who was not present in August can follow the debates with full knowledge of the issue.

The contest arises over the election of a Member from the eleventh district of Pennsylvania. This district lies wholly within the county of Luzerne. This county is one of the hardcoal mining counties of Pennsylvania, and there are more than 60,000 miners residing in the district. Its population is something over 300,000.

The notice of contest was filed by Mr. McLean on the 11th day of January, 1911, and charged the contestee with procuring his election by fraud, corruption, coercion, and intimidation of voters, and also claimed that the votes cast for the contestee on the Prohibition ficket should not be counted for him because of the illegal way in which the contestee procured the substitution of his name on that ticket in place of the regularly nominated candidate of that party for the office of Representative in Congress. This notice of contest was some 30 days late, as under the rules adopted by the House for the guidance of persons who intend to contest the election of a Member of this House this notice must be served within 30 days after the determination of the result of the election. However, the contestee answered this notice on the 9th day of February, 1911, by a written notice objecting to the notice of contestant, for the reason that it was not served within 30 days, and alleged that there was no valid reason in law or equity why contestant should not have filed notice within the time specified in the rules of Congress governing such contests. He further answered and joined issue by stating that the notice was indefinite, vague, and uncertain, and denied any coercion, intimidation, or corruption on his part or on the part of his manager in said election, and specifically denied instances of coercion, fraud, and illegal acts on the part of the contestee, as set forth in the notice of said contestant, and claimed that the substitution of his name in place of the name of the regularly nominated candidate of the Prohibition Party, Mr. Robert R. Robinson, was strictly in accordance with law and the rules of said party under the laws of Pennsylvania. Certain statements were contained in the answer charging conspiracy and the corruption of voters on behalf of the contestant. Thereafter the testimony of contestant was taken under the rules of the House before two commissioners in Luzerne County, Pa., at which counsel for both sides were present, who examined and cross-examined witnesses with reference to this contest.

In passing I might refer to the fact that the record is silent as to any objection which the contestee may have had to the taking of depositions by the contestant at the time they were The testimony came to the committee in the form of some seven or eight hundred pages of closely printed matter, and in due time the matter was presented to the committee and fully argued by counsel. Thereafter the committee made its report, in which it was stated that because of the failure of the contestant to file his notice within 30 days the committee had not considered the testimony with a view of seating the contestant, but the committee was of the opinion that section 105, against which rule contestant had offended by not filing his notice within 30 days, was merely directory and not mandatory, and for that reason they went into the merits of the case and reported a resolution unseating the contestee, and gave as their reason many instances of violations of the law in both letter and spirit by said contestee and his manager in the procuring of the election of the said contestee to a seat in this House. The minority members of the committee filed a report largely devoted to a discussion of section 105, and stating that in their opinion contestee should not be removed for the reason that notice of contest was not filed in time. This law question will be fully discussed, and I think thereafter the House will be of the opinion that this technical objection to the unseating of the contestee is absolutely the only ground upon which they have to stand, as no one seriously questions the facts with reference to corruption and violations of the law employed by the contestee and his manager in this election.

The position of the majority, with reference to section 105 is, as I have stated before, merely directory and not mandatory, and there is not a precedent in this House for the position taken by the minority. Many times has this question been raised, and I assert that the House has never refused to consider a case where there were any facts which would warrant the conclusions to which this committee has arrived. In other words, the House has never taken the technical view and has always permitted a hearing on the facts, merely insisting that both sides be given the regular notice and that full op-portunity be had to get their testimony and to cross-examine witnesses. In this case the notice was served on the part of both contestee and contestant, the testimony was taken in the regular way, and the contestee was not injured one iota by reason of the failure of the contestee to serve his notice within the 30 days. Such being the case, the committee relies upon

the House to take the common sense and not the technical view

of this question.

The principal vehicle for fraud and corruption in this case was the employment of special watchers, the manager for the contestee having employed a large number of men and paid out a large sum of money for the employment of men which the committee thinks, under the evidence, was used for the corruption of voters and not for the employment of men to work

Contestee's manager made a statement of his expenditures under the laws of Pennsylvania and filed the same with the prothonotary of Luzerne County, and this statement and the cross-examination with reference to it disclosed the fact that Mr. Davis, the manager for the contestee, expended \$2,300 for "special watchers," and he defines "special watchers" to be, "Possibly buying Democratic votes," and in connection with this cross-examination he made the further statement that, "Here is one that I bought and which went wrong," and gave the name of the person as Mr. Fred Shoemaker, of Parsons, and said that

he gave Shoemaker \$25.

In my closing statement I propose to show this House that these are not isolated instances. I said that upward of 60,000 miners live in this district. It becomes apparent that whoever could procure the services of those in authority over these men would have a big advantage in procuring the support of the miners, and a large part of this fund for "special watchers" was traced through these channels. These bosses manifested more than the ordinary amount of interest in this campaign. These bosses manifested In addition to the coercion and corruption, the election laws were violated, and this fact was one of the basic reasons for this resolution. In one election precinct the testimony of two men, both of whom I think were of the contestee's political faith-one an official in a bank, a cashier, I believe, and the other a doctor, who lived in the precinct in question-gave testimony of a character to convince any reasonable man or set of men that the election returns in this district were altered in the interest of the contestee. One of the election officials likewise impeaches these returns. Many other violations of the election laws will be read from the record by me in closing the argument in this case; and, in passing, I will say that I referred to them, or most of them, in my statement in August, and contestee will have an opportunity to reply to them, for they are set out in the committee's report and will be gone into more fully on behalf of the majority by the gentleman from Virginia [Mr. HOLLAND].

There were other violations of the election laws by officials in charge. They have in Pennsylvania the Australian ballot, and if a man has a physical disability he may ask that some one go in the booth with him for the purpose of helping him to mark his ballot. The election laws and the decisions on this question are

as follows:

If any voter declares to the judge of election that by reason of any disability he desires assistance in the preparation of his ballot, he shall be permitted by the judge of election to select a qualified voter of the election district to aid him in the preparation of his ballot, such preparation being made in the voting compartment. (Act of assembly, approved 10th of June, 1893, P. L., 431. sec. 26.)

Mere ignorance of how to mark the ballot, however, is not a sufficient disability. (Fadden's contested election, 3 Lack, L. N., Pa., 74.)

If, after being allowed assistance, a voter prepares his ballot himself in the presence of his assistant, his vote should be rejected. (Fadden's contested election, supra.)

Showing his ballot disenfranchises a voter. (Fadden's contested election, supra.)

In a number of precincts men having the contestee's money in their pockets, and mine bosses, entered the booths at the request of men who asked for assistance—in one precinct 35 or 40—contrary to law, and marked these ballots. Briefly stated, this is the position of the committee.

Mr. HILL. Will the gentleman pardon me a moment just

on that point?
Mr. ANSBERRY. Yes.

Mr. HILL. Does the gentleman mean to construe the law that a person can not go into a booth to assist a man who is disabled. either by blindness or paralysis, or anything of that kind, and mark the ballot in his presence in the booth with him? If that is the law, it is contrary to the law of one State certainly that I know of, and establishes a very bad precedent for future elections in the United States.

Mr. ANSBERRY. I make no such contention. Perhaps my statement was not as clear as it should have been.

Mr. HILL. As I understood the gentleman, he said the committee did not consider that a man could go into the booth with voter?

Mr. ANSBERRY. I meant to say that only in the case of physical disability could that be done. I think that is what the

framers of the law had in mind-that only in the case of physical disability could any person be permitted to stay in the booth and watch and receive information as to how a man votes.

Mr. HILL. But the gentleman does not question the fact that

man can do that.

Mr. ANSBERRY. Only in case of physical disability. man might have some disability other than that, but if his disability is educational or otherwise than physical, it is the contention of the committee, which I think is sustained by the law of Pennsylvania, as I think will be shown before the resolution is voted on, that no one can be present while the voter is marking his ballot.

Briefly, that is the committee's case. The law question which is raised in the resolution of the gentleman from Iowa [Mr. PROUTY], should perhaps, in the regular order of events, be disposed of first, as the presentation of the facts should come up later on. For that reason I wish to yield to the gentleman from Iowa [Mr. Prouty] at this time, as I understand he wishes to present his side of that controversy,

Mr. BURKE of Pennsylvania. Before the gentleman from

Ohio takes his seat, will be yield for a question?

Mr. SIMS. Mr. Speaker, I wish to make an inquiry

Mr. ANSPERRY I wish to make an inquiry

Mr. ANSBERRY. I yield to the gentleman from Tennessee. Mr. SIMS. Is it the gentleman's contention that all the watchers who were employed by the contestee were thereby corrupted and voted otherwise than they would have voted had it not been for their employment?

Mr. ANSBERRY. It is the contention of the committee that the entire sum of money that was used for special watchers was a corruption fund. I can not say how those men would have voted under ordinary circumstances, but many of them were

described as Democrats.

Mr. SIMS. Many of the watchers were Democrats?

Mr. ANSBERRY. Many of the watchers who were employed

y this money were Democrats.

Mr. SIMS. I believe on the face of the returns the contestee

was elected by something more than 500 votes.

Mr. ANSBERRY. He was elected by five hundred and some odd votes. The contestee was on two tickets—the Republican ticket and the Prohibition ticket-and the committee in passing call attention to the fact that he would have been defeated had it not been for the vote he got on the Prohibition ticket. Mr. McLean received some 200 more votes on the Democratic ticket than Mr. Bowman received on the Republican ticket. Bowman received some 700 votes on the Prohibition ticket.

Mr. SIMS. Under the laws of Pennsylvania was it not valid

for him to be on two tickets?

Mr. ANSBERRY. Under the laws of Pennsylvania that was valid. The only question was the question of his procurement of the nomination. That is only referred to because of the fact that it helps to present the general scheme of fraud and corruption by which he obtained the support he received.

Mr. SIMS. Then the Prohibition votes are not challenged

simply because they were Prohibition votes?

Mr. ANSBERRY. Oh, no. They were counted.

Mr. SIMS. The gentleman is going to leave the floor, and I wanted to get a fair idea of the matter.

Mr. ANSBERRY. I shall take the floor again with reference to the facts. I am only yielding now for the purpose of allow-

ing the presentation of the question of law.

Mr. SIMS. I have been here 16 years, and when I first came here I used to see the Republican side unseating men on the Democratic side and electing the contestant in his place. saw so many Members unseated in the South that I got tired of seeing that thing go on, and now before I vote for anything of that sort I would like to see a clear case.

Mr. ANSBERRY. I shall not ask anybody to vote for this resolution because it is the committee's action.

Mr. SIMS. I suppose that my teeth are on edge because I have had a contest myself.

Mr. BURKE of Pennsylvania. Will the gentleman yield?

Mr. ANSBERRY. Certainly.
Mr. BURKE of Pennsylvania. I am anxious to ascertain what the attitude of the committee is upon this proposition. It is divided into three chapters: A resolution offered by the gentleman from Ohio, one by the gentleman from Iowa, and one by the gentleman from Pennsylvania. When the resolution was offered by the gentleman from Ohio and by the gentleman from Iowa an agreement was made that the debate should continue for five hours, involving the unseating of Mr. Bowman. Subsequent to the announcement of that understanding a resolution offered by the gentleman from Pennsylvania [Mr. Palmer] was read for the seating of Mr. McLean. The previous question was to be ordered at the termination of the five hours' debate.

Do I understand that the seating of McLean is to be effected if the votes can be had without any discussion on the subject?

Mr. ANSBERRY. I will say to the gentleman that the two propositions are so interlocked that it would be impossible to discuss one without touching the other.

Mr. BURKE of Pennsylvania. Will the gentleman inform me whether the committee has taken any formal action with ref-

erence to McLean's right to a seat? Mr. ANSBERRY. The committee has necessarily taken that up because it is interlocked with the other, and you could not consider one without considering the other.

Mr. BURKE of Pennsylvania. I understand; but has the

committee formally made any recommendation?

Mr. ANSBERRY. The gentleman knows very well that the committee has not formally made any recommendation. It is not in the resolution, and that is the only way that the committee could act. I would be glad to give my views as a Member of Congress and not as the chairman of the committee.

Mr. BURKE of Pennsylvania. Whether or not the proposi-tion to make a negative or an affirmative recommendation, as

far as McLean is concerned, was presented to the committee and acted upon by the committee?

Mr. ANSBERRY. The gentleman will understand that that question is wholly improper. The gentleman from Pennsylvania can ask his question of the gentleman from Iowa, and, as far as I am concerned, he can answer it if he desires, but it is improper to state on the floor what took place in the committee. The committee speaks through its report.

Mr. BERGER. Will the gentleman yield? Mr. ANSBERRY. I will.

Mr. BERGER. The gentleman stated that the candidate for governor on the Prohibition ticket received 700 votes.

Mr. ANSBERRY. No; the candidate for governor received less than 300 votes—240.

Mr. BERGER. And the candidate for Congress received? Mr. ANSBERRY. Over 700.

Mr. BERGER. Does the gentleman mean to convey the idea or the impression that the 400 Prohibition votes were gotten by illegal means?

Mr. ANSBERRY. I do not mean to convey the impression, but my impression is it was used as a cloak for fraud.

Mr. BERGER. I am not a Prohibitionist, as everybody knows,

nor do I come from a city where prohibition is very strong, but

I believe as a rule, Mr. Speaker, that the Prohibitionists are honest and are actuated by principle and are hard to be bought.

Mr. ANSBERRY. But that is beside the question. The point I make is that the Prohibitionists being honest would vote for the candidate for governor, as they did, to the number of 242, but men could vote the Prohibition ticket for a candidate for Congress who were not Prohibitionists.

Mr. MOORE of Pennsylvania. Will the gentleman yield? Mr. ANSBERRY. I must decline to yield further, Mr.

Speaker.

Mr. MOORE of Pennsylvania. I want to help the gentleman as to his attitude and that of the committee.

Mr. ANSBERRY. I appreciate that, but my time is very short. I will yield later to the gentleman.

Mr. PROUTY. Mr. Speaker, this case on its face is a simple contest between Mr. McLean and Mr. Bowman for a seat in this Congress from the eleventh district of Pennsylvania. There are two phases of this controversy, one a question of law or procedure and the other a question of fact. By common consent it has been allotted to me to discuss the parliamentary or legal

questions. I would say for the benefit of the House generally that there is nothing in this case that appeals especially to either the prejudice or passions of men. I have no doubt but that there prejudice or passions of men. were technical violations, perhaps, of the statutes of Pennsylvania in the conduct of this campaign, but the amount of money spent and the quality of the expenditure on the part of both the contestant and contestee was so nearly alike that the majority members of this committee-and that showed their sincerity and consistency-while recommending the unseating of the Republican did not recommend the seating of the I make this statement in view of the somewhat preliminary discussion that has taken place already. The question I intend to confine myself to is the question of the jurisdiction of this committee. I raised the same question in committee, and I now desire to raise it on the floor of this House, and that is that there is no contest pending either before the committee or before this House.

I first wish to call the attention of the House to the law. Section 105 of the Revised Statutes provides:

Whenever any person intends to contest an election of any Member of the House of Representatives of the United States, he shall, within 30 days after the result of such election shall have been determined

by the officer or board of canvassers authorized by law to determine the same, give notice in writing to the Member whose seat he designs to contest, of his intention to contest the same, and in such notice shall specify particularly the grounds upon which he relies in the contest.

Mr. Speaker, there is no claim on the part of the contestant that he complied or attempted to comply with that provision of the law. The final result of the election was declared by the canvassers on the 12th day of November, 1910, and the notice in this case, and the only notice or only pretense of a notice, was served on the 14th day of January, 1911, 32 days after the time provided by the statute. I am not unaware of the rulings of this House upon the question involved. realize that under the Federal Constitution the House is the sole judge of the qualifications, elections, and returns of its Members, and that that could not be taken away even by a statute enacted by the House and Senate and signed by the President of the United States, because it is a constitutional right. But the proposition that I wish to call to the attention of the House is this, that until the House does modify that rule, until the House grants some other manner in which a contest can be brought before it, until this new rule is not only adopted but complied with by the Member wishing to press his contest, there is absolutely no contest pending; and I make the broad statement now, so that any gentleman can go to work upon it, that there is not a record of a case in the American Congress where a man has been allowed to present his case and oust the other man unless he has given this notice, or unless he has come into the House and asked for a new method of procedure and has been granted that privilege.

The real fight that I am making now, the real appeal that I am making to this House at this time, is not so much for Mr. Bowman, although I like him, but for the future of the proceedings in this Assembly. If you adopt the rule that the majority here would force you to adopt, it allows any man at any time to start a contest in this House without having given any notice. All the testimony may be taken. It may then be presented to the House, even two years after the man's election or claimed election, and if some committee should then report that this man ought to have a seat, if you establish this precedent that is asked here to-day, it will be the duty of the House to con-

Mr. SHERLEY. Mr. Speaker, will the gentleman yield? Mr. PROUTY. Certainly. Mr. SHERLEY. What does the gentleman say of the effect of the vote of the House just taken to consider the contest? Mr. PROUTY. That does not prescribe the rules under which

it should be taken.

Mr. SHERLEY. But the point the gentleman makes is this: He admits the power of the House to deal with the matter without regard to the statute, but contends that inasmuch as the statute was not complied with and the House had made no other rule, therefore it should not be considered. I now call to his attention the fact that the question of consideration was based on whether a contest between the two gentlemen should or should not be considered, and on that question the House has just had a roll call and has determined to consider the contest. Does the gentleman consider that act a mere nullity?

Mr. PROUTY. What I claim is this: That question was not discussed in this House. It was not before the Members of this House, and the House had no real opportunity of deciding the question I am now presenting and urging. I had not presented my resolution; I had not offered the suggestion to the House. So that the gentleman and I have an understanding at the start. I concede the power of this House to do anything with its Members that it sees fit. It is limitless. There is no court in the world to which any man can take his case. That does not bar him, however, from making an appeal to the Members of this House to decide these questions along the lines of certain precedents. I assume and shall assume in my discussion that the gentlemen on that side of the House are just as ready and willing to follow the rules and regulations and precedents of this House as they are upon this side. If I can convince them, or if I can convince the gentleman, that there has never been a case like this ever heard in this House, I suspect that I will get their votes, notwithstanding they did vote a little while ago to take up the consideration of this matter.

Mr. SHERLEY, Mr. Speaker, the point I desired to bring to the gentleman's attention was simply this: Whether the question of consideration that he is now pressing should not have been presented prior to the other vote, and whether he is not now in effect asking a reconsideration on the part of the

House.

Mr. PROUTY. I think not. What I am going to argue and prove by the precedents before I get through is that there is

not a case where they have not prescribed that a notice shall be given, and the time and manner in which it shall be given. I do not believe I care to discuss with the gentleman the technical points that he raises, because it does not appeal to me, and I apprehend it does not appeal to the calm judgment of this House, that simply because you have voted to take up this resolution thereby you establish a new rule of contest in the

Now, I repeat what I said before. First, the statute fixes the manner in which this contest will be taken up. I grant that the House has the power to fix another and different rule, but it can not make that rule until the party desiring it shall appeal to the House or at least to the committee for the right to proceed in a different manner from that authorized by the statute, and by the rules and precedents of this House. The very furthest that is hinted at is in a case where an agreement was made between counsel outside fixing a different rule that it ought to have been presented at the first opportunity to the House for its ratification. The most that could possibly be done now under any rule established by the precedents would be for some one to offer a resolution here to ratify what these people have done and bring the matter up in that way. I repeat, that I defy the gentleman on that side to produce a precedent, in the long history of this legislative body, in which Congress has gone any further than that. They have never gone that far, but hinted that that was at least necessary.

Mr. SHERLEY. If the gentleman will permit, the gentle-

man does not mean to insist the power of Congress is limited

to the initiative of a contestant?

Mr. PROUTY. I say to the gentleman Congress is limited

by nothing except conscience.

Mr. SHERLEY. The gentleman said that, and immediately afterwards the gentleman said you could not go ahead until the contestant had by some motion undertaken to get Congress to establish a rule.

Mr. PROUTY. Of course I am assuming all the time that side of the House and this side of the House desired to move along the lines of law, order, and precedents. If these things

arong the lines of law, order, and precedents. It these things appeal not to you, I say to you now your power is limitless.

Mr. BARTLETT. May I ask the gentleman a question?

Mr. PROUTY. With pleasure.

Mr. BARTLETT. When was the suggestion first made that this notice was not filed in time; when the testimony was first taken or begun?

Mr. PROUTY.

Mr. PROUTY. Its.
Mr. BARTLETT. Or since Congress—
Mr. PROUTY. It was made at every stage of the proceedings; the record is perfectly full of it.

Mr. BARTLETT. Protesting against the proceedings to take testimony

Mr. PROUTY. All the way through; yes.

Mr. BARTLETT. So the contestee, then, has made the point from the beginning?

Mr. PROUTY. Certainly he has. Mr. DAVIS of Minnesota. And no waiver?

Mr. PROUTY. And no waiver.
Mr. MOORE of Pennsylvania. Is not that point entirely conceded by the majority of the committee in its report, on page 3? Mr. PROUTY. The facts are.

Mr. BARTLETT. May I ask the gentleman another question?

With pleasure.

Mr. BARTLETT. Taking for granted that the gentleman's position is correct—and I do not grant it except for the question—that this contest is irregular and not in accordance with the statutes and is not before us in the way Congress may have heretofore or may hereafter have the power to inaugurate a proceeding of its own, has not the House got before it in a legal way what it could have had before it if it had instituted a contest by a memorial or application of the contestant to inaugurate and obtain this testimony; that is, we get all we could get about this case?

Mr. PROUTY. So far as that is concerned, I am not able to answer that question, that because a man does not serve notice upon me and gets into court is not any proof that if he had served the proper notice I could have gotten more proof. The question is upon the precedents of this House. Does this House now want to establish a precedent that would to-day allow some fellow to file a contest for your seat, and take evidence, you protesting at every stage, and then, because there was such a large majority on one side of the House as to make it possible, have you unseated? That is the problem you are up against. If you are not going to have orderly procedure,

what kind are you going to have?
Mr. ALEXANDER. Will the gentleman yield?

Mr. PROUTY. With pleasure. Mr. ALEXANDER. What right of the contestee has been prejudiced by the procedure adopted by a majority of the committee?

Mr. PROUTY. In reply to that I will say the majority of the committee has adopted no procedure. He has not asked the committee for any course of procedure; he has not asked to be permitted to do it in some other way. He went ahead after giving this notice and took his testimony, dumped it into the hands of the committee, and against the protest of some of the committee it was considered by the good members of the committee. The point I am raising now is that there was nothing there legally for them to consider any more than to dump a wastebasket into the committee room to-morrow from the seventh district of Iowa.

Mr. ALEXANDER. Assuming that is true and the action of the committee was irregular from beginning to end, yet what right of the contestee has been denied him or what privilege

by their method of procedure?

Mr. PROUTY. I announced frankly to this House in my opening statement that I was here more for the purpose of fighting for a correct principle and to give a precedent in this House affecting all future time, than perhaps for this particular case. The gentleman from Pennsylvania [Mr. Bowman] has only a couple of months to serve at the best, and it is not so vital to him except as a question of real right. But I say, and I repeat, if you adopt the principle and vote down the resolution I have offered, you have established a precedent that will harass many good men for many years yet to come.

Now, the provision of the Constitution to which reference is always had in this class of cases, and to which reference will be had often in the discussion, is section 5 of Article I:

Each House shall be the judge of the elections, returns, and qualifications of its own Members.

Now, as I have said before, I concede that the House has unlimited power. Under that you will find this footnote:

The statutes of the United States provide specific methods for the institution of a contest as to the title to a seat in the House-

Citing Hinds' Precedents, 678, 697, and 706-

But the House regards this law as not of absolute binding force, but rather a wholesome rule not to be departed from except for cause—

And then it cites cases, all of which I will call to your atten-

And it sometimes by resolution modifies the procedure prescribed by the law. (I, 449 and 600.)

With the amount of time I have and with the questions that are being asked of me, I can not cite all these authorities that I would like to cite.

Mr. POWERS. Will the gentleman yield to me for a question?

Mr. PROUTY. I prefer not to do so at this time.
I first call attention to the case of Williams against Sickles, Hinds' Precedents, first volume, section 597. This was in the Thirty-sixth Congress, and I believe the first time that this question was raised after the passing of the statute of 1851. This case was in 1858. The party had not given the notice, and it was a question as to when the time would begin to run. It was a case of the board of canvassers not having made the ordinary returns. Therefore there was a question as to when it began. There was not a real chance for a man to give a notice within 30 days, and so application was made to the House for a new time in which to give a notice. After full consideration, which I can not have time to read-or at least all of it-I will quote what they said:

There obviously can arise cases not within the provision of that act in which the parties must apply to the House itself for authority to take any other than voluntary testimony.

And the House adopted the following resolution:

And the House adopted the following resolution:

Resolved, That A. J. Williamson, contesting the right of Hon. D. E.
Sickles to a seat in this House as a Representative from the third district of the State of New York, be, and he is hereby, required to serve upon the said Sickles within 10 days after the passage of this resolution a particular statement of the grounds of said contest, and that the said Sickles be, and he is hereby, required to serve upon the said Williamson his answer thereto in 20 days thereafter; and that both parties be allowed 60 days next after the service of said answer to take testimony in support of their several allegations and denials before some justice of the supreme court of the State of New York, residing in the city of New York, but in all other respects in the manner prescribed in the act of February 19, 1851.

The next time the matter was considered was in the Thirtyninth Congress. In all of these cases that I have read, and I think I have read or examined every one in which this question has been up, no one has claimed that a contest could be had without some kind of notice. There was a strong contention when this matter was first up that even the House had not power to change those rules. On the other hand, there were a certain number of gentlemen who claimed that the Constitution

gave the right to the House to proceed at any time and under any circumstances. I think that last provision is practically conceded by every man who has carefully considered this proposition. But in all of these cases the House has said that to maintain its orderly procedure it must insist either upon the party complying with the statute or asking and receiving new instructions and complying with them. As I have said before, I challenge any man on that side of the House, or on this side, for that matter, to show a precedent that has gone further than I have named. This matter came up again in the Thirty-ninth Congress, and the point was raised that as there was not given any notice there could not be any contest. But the committee that had the matter in charge reported:

The committee were therefore of the opinion that this case could not be heard by them in its present position and that it must be dismissed unless the House should authorize the parties to make up an issue and submit the same, with such evidence as each may be able to produce in relation to the same, to the committee of the House.

It was thereupon claimed by the contestant that he had been led into noncompliance, and so forth, by reason of the stipula-tion that was entered into. But the following resolution was

passed:

Resolved, That Dorsey P. Thomas, contesting the right of the Hon. Samuel M. Arnell to a seat in this House of Representatives from the sixth congressional district of Tennessee, be, and he is hereby, required to serve upon the said Arnell, within 8 days after the passage of this resolution, a particular statement of the grounds of said contest, and that said Arnell be, and he is hereby, required to serve upon said Thomas his answer thereto in 8 days thereafter, and that both parties be allowed 18 days after the service of said answer to take testimony in support of their several allegations and denials in all other respects in conformity to the requirements of the act of February 19, 1851, except that not more than 4 days' notice shall be required for the taking of any deposition under this resolution.

Now, I do not know that it would either interest or convince any Member of this House if I should go ahead and read all the other precedents, but I repeat the challenge that there is not a precedent in the American Congress that will sustain the course pursued by the majority of the committee in this case.

Mr. NYE. Mr. Speaker, will the gentleman permit me a question?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. PROUTY. Yes; I yield.

Mr. NYE. There was an issue made up, as in ordinary cases, by an answer to the notice, was there?

Mr. PROUTY. Yes.

Mr. NYE. And did the answer raise the objection that the notice was unauthorized by reason of being too late?

Mr. PROUTY. Yes; I think that in every pleading that was filed, and in every answer that was made, and in every appearance that was had, that objection was raised. You know I would not be able to speak with real accuracy as to all of them. But it appears throughout all the records.

Now, it must be apparent that there is some wisdom in this rule of the House, either that a man must give the notice prescribed, or appeal to the House for the authority, because, under the rules of this House, the House practically pledges \$4,000 expenditure of money for every contest, and therefore every man, before he goes ahead and incurs that expense, before he requires his opponent to incur that expense, ought to appeal to the House and see whether they were going to allow him to present his case—whether they thought there was enough merit in it to justify it.

But as I say, no record was had for that, not a syllable of testimony was taken within the time or in the manner pre-scribed by statute. Not merely the notice, but everything else, went away beyond the time. But, so far as this case is concerned. I am confining my argument to the notice, because that is the jurisdictional question.

Now, I come to what may be considered as the second phase of this controversy.

Mr. PALMER. Mr. Speaker, will the gentleman yield to me for a moment?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. PROUTY. With pleasure.

Mr. PALMER. I want to understand the gentleman's contention on that. As a matter of fact is it not true that the statute provides that the testimony shall be taken within a certain number of days after the answer of the contestee has been served?

Mr. PALMER. Wa Was not all the evidence in this case so taken?

Mr. PROUTY. Yes; if you will take the 14th day of January as the date for serving notice, I will concede that all was regular from that on.

Mr. PALMER. The statute prescribes the time of notifying as to the contest.

Mr. PROUTY. The gentleman is begging the question. Mr. PALMER. I think the gentleman from Iowa is begging the question.

Mr. PROUTY. If you take January 14 as the starting point, then it is regular. But it started 32 days too late, and, according to my theory, it never caught up.

But now I come to the second question. Even if now the contestant were in this body you would not grant to him the right to enter a contest if you decided the question on its merits. In other words, he does not make an equitable showing as to why he did not file the contest in time. He does not bring himself within any equitable rule. As I called to the attention of the House a few moments ago, this election was held on the 8th of November. The results were declared on the 12th of November. The notice in this case was served on the 11th day of January, 1910.

The paper excuse that the gentleman gives for not filing his notice sooner was poor health. The sworn answer, as I will show by his testimony, is that neither he nor his attorney knew when the notice should be served, and I assume that we are all familiar with the proposition that ignorance of the law does not excuse anyone, and certainly not even Democratic candidates for Congress.

But Mr. McLean was not so disqualified that he was unable fairly to consider this matter of contest and to have given sufficient orders to start it. The evidence introduced in this case shows, if you will examine page 7, that Mr. McLean was taken with some intestinal trouble on the 31st day of October, eight days before the election. It further shows that on the 5th day of November, three days before the election, he had so far recovered that two of his political friends, Messrs. McKenna and Kehoe, visited him, and they had a conversation in regard to the campaign. You will find that stated on page 624 of the evidence.

On the same day, or the following day, the editor of the Times-Leader, a newspaper published in that town, had a conversation with him, and during the time that they were in consultation they were discussing a letter to be written, and which was written, in reply to certain things appearing in the This you will find stated on page 183 of the newspapers. evidence.

The day before the election, on the 7th of November, Mr. McLean read, examined, and approved an article that was to appear in the paper.

On the day of the election he rode out to the polls and voted. On the next day after the election, the 9th, he personally wrote and signed a check (p. 567)

On November 12 he examined bills and wrote and signed several checks, some of them for political bills (p. 716). On that day he learned the official results of the election (pp. 682-683).

Evidently the contestant was taken some worse after that, as is shown by the testimony on page 716, but during that time he signed at least one political check.

The contestant, however, improved rapidly, as is shown by the testimony. On the 28th day of November he had so far recovered that he began checking over his political bills and making checks for the same. On that day he personally drew and signed 30 political checks.

On November 29, 17 days after he knew the result of the election and 13 days before his time was up for serving his notice of contest, he personally, in his own handwriting, made out his expense account, as required and provided by the statutes of the State of Pennsylvania. This paper contained 43 items. On the 30th of November the contestant gave five political

checks, all of which were written in his own handwriting and signed by him, as you will find stated on page 716 of the testimony.

On December 1 he drew one check, and had so far recovered that his doctor consented that he might go South. Before going he drew two checks, the morning that he left. He went South, and during the time he was down there he wrote numerous letters home, and yet never took any action in regard to this matter until either the 7th or 9th of January.

In addition to that here was his brother, a good lawyer, who was the manager of his campaign, who had had personal charge of the financial part of the campaign and, I guess, had had charge of all parts of it. His father was a good lawyer and they were members of the same firm. A mere word from him was all that would have been necessary: "Prepare a notice of contest in this case."

But you will find, by reading the testimony, that the real cause of this delay was admitted by the contestant on page 720, and that was that he did not know that the law required that the notice should be given within 30 days. If you will examine page 683 you will find that it is admitted that contestant's brother-manager did not know until in January that the 30

days' notice was required.

Not one of these facts is disputed. Does the House wish to go on record as saying that because a man does not know the law, and for 60 days allowed himself to become unacquainted with the law, when he is himself a good lawyer, shall excuse

him from giving the notice that the law requires?

That is the proposition of law in a nutshell. I have not re lied upon my opinion as to this proposition, for I have a dozen authorities that I can call to the attention of the House. I have sent to the desk a resolution which I want the House to pass upon. I want you to pass upon it as lawyers. I want you to pass upon it as men. I do not wish any of you to pass upon it because it is Mr. Bowman, because it is Mr. McLean, or because it is a Republican, or because it is a Democrat. I want you to pass upon it because you are here now making a record that will bind this House for many years to come. It is as follows:

Resolved, That the case of George B. McLean against Charles C. Bowman, from the eleventh congressional district of Pennsylvania, be dismissed for want of jurisdiction because said alleged contestant gave no notice of contest within the time or in the manner prescribed by law, and because he has not asked or secured the consent of this House or of the committee for proceeding in any other manner than that prescribed by law and has not shown any equitable excuse for his failure to give the notice prescribed by section 105 of the Revised Statutes.

[Applause.]

Mr. LONGWORTH. Before the gentleman takes his seat I want to ask him a question. I observe that the majority of the committee lay a great deal of stress on the fact that the contestee made no protest to the House, although the gentleman says that he made protest to the committee. In any of the other cases which the gentleman has cited was a protest made by the contestee to the House?

Mr. PROUTY. Nobody seems to have thought of the question. I did not think of it and I did not suppose anyone would think of making a protest to the House against some one not bringing him here. My contention is that he has never been brought to the bar of this House or to the committee.

Mr. WILLIS. Will the gentleman yield?
Mr. PROUTY. Certainly.
Mr. WILLIS. I had thought of that question and I looked over the casis carefully, but there is not a single one where that action was taken. Consequently it ought not to be expected to be done in this case.

Mr. ANSBERRY. Mr. Speaker, I yield 45 minutes to the

gentleman from Pennsylvania [Mr. PALMER].

Mr. PALMER. Mr. Speaker, the majority of the committee report a resolution declaring that Charles C. Bowman was not elected a Representative in the Sixty-second Congress from the eleventh district of Pennsylvania and is not entitled to a seat therein, and fail to report any resolution bearing upon the right of the contestant, George R. McLean, to the seat which he claims as the duly elected Representative of that district. The reason for this rather unusual report on the part of the committee, as stated by the majority, is that the committee is

not satisfied that the reasons alleged by the contestant are sufficient entirely to excuse him from serving upon the contestee his notice of contest within 30 days from the 12th day of November, 1910, and not believing that he should be a beneficiary of his own negligence, under the findings of the committee, they have not considered the case from the viewpoint of reporting a resolution to seat the contestant.

The contestant served no notice of the contest until 63 days after the result of the election had been determined by the board authorized by law for that purpose, and therefore failed to bring himself within the letter of the statute which provides that any person intending to contest an election of a Member of the House of Representatives shall give notice in writing within 30 days after the result of the election shall have been determined by the board of canvassers. The committee is undoubtedly right in its interpretation of this statute as merely directory and intended to promote the prompt institution of contests and to establish a wholesome rule not to be departed from except for cause. This interpretation is amply supported by the decisions of the House extending over many years, and must necessarily be correct in view of the constitutional provi-sion making the House the judge of the qualification and elec-tion of its own Members. The statute is in the nature of a rule intended for the guidance of a contestant, the protection of a contestee, and the convenience of the House itself.

Each of these purposes can be served in this case without Mr. PALMER. I would like to get started, but I will yield

to the gentleman.

I want to ask the gentleman if, even though the rules of the House are subject to be changed by the House itself, until they are changed are they not binding on the House?

Mr. PALMER. Yes; but the House, being the sole judge of the qualifications of its own Members, has decided time after time, as the gentleman perfectly well knows, that it may and will waive this particular rule in order to get at the merits of the case and carry out its right and power as defined in the Constitution.

Mr. PROUTY. I would like to have the gentleman cite the

case in which they made that waiver.

Mr. PALMER. In every case which the gentleman has cited

Mr. PROUTY. Not waive, but modify.
Mr. PALMER. In every case which the gentleman has cited the House has either expressly waived the rule by adoption of a new rule at the time or has impliedly waived the rule by a decision upon the merits of the contest, and I will get to those cases in a moment.

Mr. PROUTY. Is not the distinction this, that instead of

waiving it they make a new rule?

Mr. PALMER. That is a waiver of the rule.

Mr. PROUTY. I think not. Mr. PALMER. If a man has failed to file his contest within 30 days and he comes into the House, or upon the report of the committee the House permits him to file the notice within 8 or 10 days after the passage of the resolution or the presentation of the report, while that is a new rule for him to operate under, of the report, while that is a new rate for him to operate under, it constitutes a waiver of the statute of 1851.

Mr. DALZELL. Mr. Speaker, will the gentleman yield?

Mr. PALMER. Certainly.

Mr. DALZELL. In this particular case did the House take

any action?

Mr. PALMER. No.
Mr. DALZELL. It did not?
Mr. ANSBERRY. Yes; the House referred it to a committee.
Mr. PALMER. Except, of course, that the contest was referred to a committee, but I imagine my colleague desires to inquire whether the House took any action permitting the contestant to have more than 30 days in which to file his contest.

Mr. DALZELL. That was my question. Mr. PALMER. The House up to this time has taken no such action, unless, as I think it entirely proper to argue, the House has now by the vote to consider these resolutions waived the strict compliance with the statute. As I understand the argument of the gentleman from Iowa [Mr. Prouty], he admits that the House has the right to do this thing.

Mr. PROUTY. That the House has the power to do it.
Mr. PALMER. He admits that the House has done it time after time, but he contends that the way in which it ought to be done by the House is on the application of the contestant himself sometime before the report of the committee comes into the House. It seems to me that is an argument which can only be characterized as absurd. In this case Mr. McLean could only go for consent to file the notice after the 30 days to the House to which he claimed to have been elected and of which he claimed to be a Member. 'The Sixty-first Congress, which was then in session, had nothing in the world to do with the thing. Each House is the judge of the qualifications of its own Members, and the first time that this House was open to him when he or somebody on his behalf might ask permission to extend the time in which to file the notice was on the 4th of April, 1911, after his notice had actually been served, after it had been answered upon the merits, after the testimony in chief had all been taken. So that he would have been asking a perfectly futile thing to have come then and asked to be permitted to have 30 days more in which to file his notice of contest.

Mr. PROUTY. Will the gentleman submit to a question just there? Might he not have appeared and had a ratification of what he had done?

Mr. PALMER. That is exactly what we are proposing now. If the gentleman's argument is correct, that the House might under the precedents-ought to, perhaps, where there is a meritorious case and where reasonable excuse has been offered by the contestant-in advance give this permission, certainly the House can and under the same circumstances has ratified the failure of the contestant to comply with the law; and we are now here asking the House to do precisely that thing, declaring to you two things—that upon the merits of the case Mr. McLean is entitled to the verdict of the House and upon the excuses which he offered he is entitled to equitable relief at the hands of the House, or, at least, he has made such a case as calls upon the House to ratify failure on his part to comply with the strict letter of the statute.

Mr. PROUTY. This House has been in session most of the time for 18 months and he has made no application, and yet, as a matter of fact, does not the gentleman know it to be a fact that much of this testimony was taken after this House convened?

Mr. PALMER. No; all of contestant's testimony in chief was taken before the first session of the Sixty-second Congress.

Mr. PROUTY. And much of it afterwards.
Mr. PALMER. The testimony in rebuttal was taken after the House met on the 4th of April, 1911.

Mr. PROUTY. If the House had had a chance to pass upon that question then, it might not have been necessary to have taken any testimony.

It seems to me this is the fairer way to do Mr. PALMER. the thing. The House has the right to know when an application comes to it to waive one of the strict requirements of its rules what are the merits of the contestant's case. It goes right

to the root of the thing.

If he has no case the House ought not to waive the rule; if he has an absolutely good case or where it appears to the majority of the House that he has, or if it appears that he has a reasonable excuse for his failure to comply with the statute it constitutes good grounds for the House to waive the rule, because, after all, as one of the cases cited by the gentleman himself declares, the question which the House is interested in is not how these men file their pleadings, but who was legally elected to this House in the district. And that question can certainly be better considered by the House after the record is made up and the evidence all submitted than at the beginning of the proceedings. Now, I say from the standpoint of the rights of the sitting Member there can be no possible objection to the House considering this case upon its merits. The constitutional right of a Member to a seat in this House, whether he be a returned Member or one who knocks at its doors, because he claims to be the legal representative of his people, is a matter of too great importance to be decided upon the mere technicalities of pleading. It would develop a case of manifest injustice both to the Member and to the constituency which might thus be disfranchised in the House if the mere failure of a party to file a pleading within the period fixed by the rule should deprive a Member of his seat to which otherwise his title may be perfectly clear. There are many cases in the books where the House has taken this view of the statute, and especially where a reasonable and proper excuse is offered for the

Now let me recur for a moment to the cases cited by the gentleman from Iowa. In each of these cases, as I said a minute ago, there is in the committee report a statement to the effect that the House should follow this rule, yet in each one of these cases the House did what we are asking it now to do-waive the requirements of the rule, either impliedly or expressly.

For instance, take the first case cited in the gentleman's minority report and to which I think he referred in his oral argument. In the case of Bradley against Hynes, section 901, volume 2, Hinds' Precedents, the gentleman quotes the syl-

The notice of contest being served after expiration of the legal time and the testimony taken without regard to the statutes, the committee did not examine the case.

Well, I have long since gotten by the time in my life when I believed everything a syllabus writer declared was the law, or was so laid down as the law in the opinion of the court in the case which the syllabus covers. In that particular case they say:

There was no evidence to show that contestant had been elected, but, on the contrary, there was evidence that the sitting Member was entitled to a larger majority than the returns gave him.

Now, that is the finding, so that instead of it being true that the committee did not examine the case, the committee found upon the merits of the case and brought their report upon that finding before the House. Again, the gentleman cites Williamson against Sickles in 1 Hinds', 597. There was another case where the House expressly waived this rule, so that instead of being authority for the gentleman's position it comes back to the support of what I have said, that where a proper excuse is offered or the merits of the case are good the House will always waive the rule. In that case the committee reports:

The committee do not consider the law of 1851 as of absolute binding force upon this House, for by the Constitution "each House shall be the judge of the elections, returns, and qualifications of its own Members," and no previous House and Senate can judge for them. The committee, however, consider that act as a wholesome rule, not to be departed from except for cause. * * There obviously can arise cases not within the provisions of that act, in which the parties must apply to the House itself for authority to take any other than voluntary testimony.

And, therefore, the committee reported a resolution permitting the contestant to serve notice within 10 days and con-testee to answer in 20 days, and the House agreed to the resolution.

In other words, the House refused to hold the party to the strict letter of the statute.

And the gentleman cites Thomas against Arnell, in volume 1, Hinds' Precedents, 680, which is the same kind of a case, except in that case neither notice nor answer had actually been served. Well, I can understand why the House might hesitate if a contestant failed to file any notice of contest or the contestee failed to file any answer, for, as said, in some of the cases the House will not permit the parties to agree to waive this law and make rules for themselves for the guidance of the House. And yet even in that case, despite the fact that there had been no notice and no answer, the committee recommended a resolution that the contestant be allowed 8 days in which to serve his notice of contest, and that the contestee be required to serve his answer within 8 days thereafter, and that both parties be allowed 18 days next after the service of said answer to take testimony in support of their several allegations and denials, according to the resolution. Now, I do not care whether it was before the testimony was taken or after the testimony was taken. The fact remains that again the House waived the strict requirement of its rule.

Mr. PROUTY. Will the gentleman yield to a question? Mr. PALMER. Yes; I will yield to the gentleman.

Mr. PROUTY. Have you found any case where there was no notice given within the time that the House considered it, unless they prescribed another kind of notice, and that was given?

Mr. PALMER. Well, here is the proper way to put an inquiry about these cases.

Mr. PROUTY. I put the inquiry.
Mr. PALMER. Has the gentleman ever found a case where man was refused a seat in this House because he did not file notice of contest in time?

Mr. PROUTY. Plenty of them. Mr. PALMER. I beg the gentleman's pardon, but I would like to have him produce them.

Mr. PROUTY. I will. There is McDonald against Jones,

and Pearce against Bell, in Hinds' Precedents, volume 2, section 1073

Mr. PALMER. Are those the gentleman's cases? Mr. PROUTY. That is one of them.

Mr. PALMER. Neither of them sustains the gentleman's proposition.

Mr. PROUTY. That may be true, but now I would like to have a definite answer to my question.

Mr. PALMER. Wait a minute until I finish this matter. Take Pearce against Bell, which the gentleman has cited. That was a case where no notice was given. The report says:

In this case the contestant gave no notice of contest, as required by law, and has taken no evidence to sustain the allegations of fraud and intimidation claimed by him to have been committed.

The official returns show that the contestee received 47,703 votes; that Thomas M. Bowen received 42,369 votes; that W. A. Rice received 2,032 votes; and the contestant received 157 votes.

On the merits of the case they refused to seat the contestant, and they so declared in their report in exactly the same way as McDonald against Jones, but they also say that the rule was not complied with. But you can not find a case where the refusal to seat a man who otherwise had a good case upon the merits was based upon the ground that he had failed in his pleading in the case

Mr. PROUTY. Now, will you be so kind as to answer another question?

Mr. PALMER. I will not go into that any further. the gentleman can cite any other case in his time which shows the contrary, I shall be glad to have him do it.

Mr. PROUTY. Does the gentleman refuse to yield? Mr. PALMER. I have read these cases with just as much

care as the gentleman has read them, I have no doubt, and I assert, and the reading of the report in these cases will show that in all of them, where these remarks by the committee in reference to complying with this notice have been contained, the contestant has been refused a seat upon the merits of the case.

Mr. PROUTY. Will the gentleman yield for a question?

Mr. PALMER. Yes; for one question.

Mr. PROUTY. Have you found a case reported in the books where no notice was given, where the contest was entertained by the House without prescribing another notice and compliance? Mr. PALMER. No; bu No; but that was not this case at all.

Mr. PROUTY. Within time?

Mr. PALMER. Well, there was a notice given in this case. The gentleman may or may not be familiar with the case of Moore against Funston, cited in Hinds, volume 2, section 1052, where the contestee failed to file his answer in the time required by the statute, and the House refused to disregard his case because he had not complied with the statutory requirements as to his pleading. Nor did the House, by formal resolution,

waive the requirements of the statute. It was a waiver as is here asked, by action on the merits, despite the defective pleading.

In that case the committee said:

In that case the committee said:

The law requires that the notice of contest shall be served within 30 days after the determination of the result of the election, * * * and shall state specifically the grounds upon which contestant relies in the contest. It is also required by the law that a copy of the answer of contestee shall be served upon contestant within 30 days after service of the notice of contest.

If service by copy * * is to be regarded as a service contemplated by the statute, then the notice of contest was served on December 26, 1892, and the answer and countercharge 32 days after, on the 27th day of the following January. Or if personal service be required, it is found that such service of the notice of contest was made on December 28, 1892, and such service of the answer and countercharge 31 days later, on the 28th day of January, 1893. So in either case the answer was out of time.

If, then, we should closely apply to the notice of contest the rule of pleading upon which contestee insists and should apply to the answer, and would have to ascertain whether, upon the grounds of contest undoubtedly specified in the notice, contestant has made good his contention that he and not contestee was really elected in Congress from the second district of Kansas. If we should take this view of the matter, our labors would be greatly lessened, a considerable portion of the huge record in the case would be eliminated, and the finding would necessarily be in favor of contestant. We believe, however, that the real question to be determined is not so much whether this or that bit of evidence offered by contestant as a ground upon which he relies, nor yet whether contestee's answer and countercharge were made in due time, but rather which of the two claimants according to the record was really elected and is really entitled to a seat in the House of Representatives.

There the rule was waived where the contestee had failed to comply with the statute. Here it is the contestant who is dilatory. What is sauce for the goose is sauce for the gander

in this proposition.

Now, the gentleman cites the case of O'Hara against Kitchin, and I think with my reference to that I have referred to all the cases he has cited, either in his verbal or in his written argument. That case is reported in 1 Hinds, 730. That was a case where the contestant had not served his notice, and there was alleged to have been an agreement to waive, which the committee did not consider. But the point is that the committee says-and its report was adopted by the House-that the "committee might, indeed, in a case where testimony had been taken out of time, but with full opportunity to the other party to cross-examine the witnesses and submit evidence in reply, and where it was evident that this had been fully done, recommend to the House, if they find sufficient reason therefor, that the testimony be considered as if taken in time"; and the committee, upon the facts of the case, say that even if considered the testimony is insufficient to establish contestant's case.

You will find in all the reported cases that where the committees add to their findings the additional protection of this rule they always say they have considered the merits of the case sufficiently to declare to the House that no harm is done the contestant, because upon the merits he would not be seated,

even if the preliminary formalities were all proper.

Now, this seems to be the committee's view; but the committee failed to consider the contestant's right to a seat upon the merits because of its belief that the excuses offered by the contestant were insufficient. I can think of no better excuse for the failure of a contestant to begin his proceedings in time than his physical incapacity to do the necessary work in connection therewith. A reading of the testimony makes it plain that McLean, before the election and for a period of nearly 60 days after the election, was a very sick man. Taken, in the middle of the night, a few days before election day, with a malady which, according to the physicians, made it not only imprudent but practically impossible for him to do any work, he continued under the care of his physicians, and under their orders to abstain from any effort, until after the time for filing the contest had expired. All that he was able to do—and this was against his physicians' orders-was to sign his name to a number of checks and state a simple account of his election expenses, copied from a check book. The performance of these slight tasks, which made no call upon his strength and subjected him to no mental effort, is not sufficient to rebut his own and his physicians' statement that the reason for his failure to bring the contest within the statutory period was that he was too ill to do so.

The bringing of a contest required a considerable examination of facts which must have developed and come to light only after the election; called for a decision upon a matter of large moment, which might involve the contestant in months of labor and great expense; and required an examination of the law and the decisions of the House of Representatives with respect to the reasons which might be alleged as grounds for the contest all of which were entirely beyond the mental and physical

strength of a man so sorely beset with a serious illness as was

Mr. McLean at the time.

Immediately upon his return from Florida, where his physician had ordered him and where he continued to be under doctors' care, he undertook a consideration of all the facts in connection with the proposed contest and prepared and served The contestee was in no wise injured by the delay the notice. and does not claim that he was. No evidence which he otherwise might have secured to free him from the charges made had been in the meantime destroyed or its effect in any wise diminished. He has had all the opportunities for presenting his case upon its merits that he would have had if the notice had been served within the 30 days, and he has accepted those opportunities to present his case, which has been thoroughly argued upon the merits both in the committee and on the floor of the House.

In my judgment the record presents a case which so clearly convicts the contestee of many of the charges made against him that it would amount to an outrage upon the people of the eleventh congressional district of Pennsylvania if this simple technicality of the failure of the contestant to serve the sitting Member with notice within the statutory period should continue in this House as a Representative of the district one whose election was plainly secured by fraud and corruption; and it would be as great an outrage if the House, having purged itself of one whose election was thus secured, failed for a like reason to seat him who was duly and honestly elected by his people

to serve them here.

I have studied with considerable care the voluminous record in this case, and I am satisfied that the most casual reading of the testimony would convince any Member that the committee is fully justified in its finding that the contestee was not honestly elected and is not entitled to the seat. While I do not wish to present myself as a witness in the case, my judgment is confirmed by my knowledge of conditions long existing in that district, gained from personal observation over many years. I am a native of Luzerne County, which is the eleventh congressional district, and I now live in an adjoining county. I have been interested in the observation of its political conditions ever since I have known anything about politics, and have reached the conclusion, which is shared by all observant citizens of the State, that nowhere in Pennsylvania have fraud and corruption and crime so thoroughly permeated the elections and so consistently thwarted the will of the people as in Luzerne Whether George R. McLean shall find himself a County. Member of Congress or not, he may have the satisfaction of knowing that he has performed a greater service for his people than many of those who have represented the district in the past in bringing this contest and exposing to the State and the country the deplorable conditions which there exist, for we can only hope for improvement when the people are forewarned by exposure and forearmed with publicity.

The three principal methods which have been employed for

years in that county to control elections have been-

First. The intimidation of voters by mine bosses and foremen, of whom there are about 900 in the county.

Second. The use of the Prohibition Party column upon the ballot as a makeweight in a close contest between the two leading parties.

Third. The excessive use of money in the employment of men who, by bribery or otherwise, could control the votes of the more ignorant of the mine workers.

The county is the very center of the anthracite coal regions of Pennsylvania. Mining is its principal industry, and mine of Pennsylvania. Milling is its principal industry, and mine workers make up the bulk of its voting population over an extensive part of the county. The mines are owned almost entirely by corporations which have believed that their interests could best be protected in Congress by Republican Members, and it is significant of the value of the process of intimidation by mine bosses and foremen as a factor in the result of the elections that in 20 years the Democratic candidate for Congress has only twice been elected, although the county is admittedly Democratic, and every successful Republican candidate has been either a coal operator or official, or an admitted representative of the coal-mining corporations.

All of the methods which I have mentioned were employed to secure the election of Mr. Bowman, and each of them, without question, changed a sufficient number of votes to control the

Mr. FARR. Mr. Chairman, how many of the mine foremen does the evidence show were interested in this contest?

Mr. PALMER. The testimony of Davis was that there was only one mine foreman whom he went after that he did not get, and according to the testimony he went after a big lot of them. Mr. FARR. Will the gentleman state the number of them?

Mr. PALMER. I can not give the number of them. I take it from Davis's own statement that he was entirely successful in his efforts to line up the mine bosses of Luzerne County.

Mr. FARR. Will the gentleman permit me to say that there were only 52 who were interested in this contest, and that there were 900 mine foremen in Luzerne County.

Mr. PALMER. I have stated that there were 900 foremen in

Luzerne County.

Mr. FARR. And according to the evidence only 52 were interested in the contest.

Mr. PALMER. Oh, the gentleman is mistaken about that.

Mr. FARR. I am not mistaken.

Mr. PALMER. There is, in fact, no Prohibition Party in the county. Its organization has long since fallen into decay, but in practically every contest its name has been captured by the Republican Party in order to give to the election officers in the notoriously crooked districts a handy instrument to change the result of the contest where more votes have been returned for the Democratic candidate than for the Republican candidate. The method of using it is simple, reasonably safe from detection, and absolutely certain in its results. It is the custom when the ballots have been counted for the election officers to send in to headquarters at the county seat the number of votes cast for the candidates in the columns of the two chief parties. If these returns from the entire county indicate that the election is close, the election officers then return votes cast for the Republican candidate in the Prohibition column, and the present case is not the only instance in the county where a sufficient number of votes has been returned for a Republican candidate in the Prohibition column to give him a majority on the face of the full returns. McLean, as the Democratic candidate, received 13,834 votes; Bowman, as the Republican candidate, received 13,661—173 less. McLean's lead, however, was overcome by the 722 votes received by Bowman in the Prohibition column on the ballot. In my judgment the facts and circumstances surrounding this Prohibition vote returned for Bowman constitute such a fraud as would amply justify the House in throwing out the entire Prohibition vote. The original candidate of the Prohibition Party for Representative in Congress was one Robert P. Robinson, and the name of Bowman was substituted on or about the 21st day of October, 1910. This substitution was, without question, illegal, contrary to the rules of the Prohibition Party, and should be held void. The courts of Pennsylvania have uniformly recognized the right of a political party to make rules for its guidance and have received such rules in evidence as a guide to the courts in determining the validity of contested nominations. The rule of the Prohibition Party in Luzerne County prohibited the substitution for one of its regularly nominated candidates of a candidate of another party. The substitution in this case was, therefore, another party. The substitution in this case was, therefore, flatly against the party's rule, and, besides, was made by de facto officers of the party organization, who were totally un-authorized to make it, acting as individuals and not as the executive committee of which they were members—a method which is directly contrary to the decisions of our State courts. The certificate of substitution was not framed in accordance with the statute permitting the substitution to be made, and according to the evidence was not verified by affidavit, as required by the same statute. No reported case in Pennsylvania can be found which would have supported Bowman in his contention that he was the legal nominee of the Prohibition Party and entitled to a place upon the ballot in the Prohibition Party column if it had been attacked in the courts of the State.

I admit the force of the argument that this question should have been settled in the State courts in advance of the election, and that McLean, having taken the chance of a verdict at the polls, is estopped from now questioning the validity of Bowman's nomination upon the Prohibition ticket; but it must be remembered that these substitutions are a sort of "star chamber" proceeding. They are filed in the office of the secretary of the Commonwealth at Harrisburg, and unless a careful guard is maintained constantly over that office the public is kept in ignorance of the name of the substituted candidate until the official ballots appear on election day. As a matter of fact, McLean learned of this substitution before election day, but not until after the expiration of the time, fixed by the statute, for the filing of exceptions to substitutions. He, therefore, never had his day in court upon this proposition, and the Prohibition nomination, which otherwise would have gone down under the dead weight of the unanimous decisions of the Pennsylvania courts, became the instrument for accomplishing Bowman's election, when it became clear that the voters who agreed with his political convictions, as Republicans, were in the minority in the county. Bowman was not a Prohibitionist and there was nothing in his record which would urge Prohibitionists to support him. On the contrary, there was much in his methods of conducting the campaign and in his frank catering to the liquor interests of the district which would have alienated the support of real Prohibitionists, if, indeed, there were any such in the county.

Mr. FARR. Will the gentleman yield?
Mr. PALMER. I am quoting from the evidence.

Mr. FARR. Does the gentleman not know that Mr. Bowman was president of the Antisaloon League in the State of Pennsylvania?

Mr. PALMER. Yes; but I also know that according to the evidence his conduct in the campaign could not have secured for him the support of the antisaloon people in the district, as the gentleman knows.

It needs only a glance at the returns to show that the Pro-hibitionists in fact did not vote for him. While Bowman re-ceived 722 votes on the Prohibition ticket, the Prohibition candidate for governor, M. F. Larkin, whose name was at the head of the ticket, received but 242 votes. Yet Mr. Larkin lived in a neighboring county, was and is one of the best known and most consistent Prohibitionists in the country, and was and is admittedly held in high esteem by all of the men of that faith, who have uniformly supported him, when a candidate for effice, to the limit of their strength.

In one district, the third ward of the borough of Plymouth, Bowman received 28 votes on the Prohibition ticket, although no vote was cast for any other Prohibition candidate in the district, and only 1 vote had ever been cast for a Prohibition candidate at any previous election. In another, the sixth west district of the township of Plymouth, Bowman received 6 votes on the Prohibition ticket, while no other Prohibition candidate received any vote, and no Prohibition candidate at any election had ever received a vote in the district. These are simply two instances, showing a condition which obtained in many other districts. In some of them Prohibition votes had been returned in previous elections, because resort was made to the same trick as was here prepetrated, although the districts are not of a kind where men would vote the Prohibition ticket, for the voters are in many cases made up entirely of foreign-born mine workers whose views upon the temperance question are well

known in the community.

The illegal substitution of Bowman's name as the Prohibition candidate is of itself probably insufficient to justify the throwing out of the Prohibition vote, but taken in connection with his conduct during the campaign in catering particularly to the nonprohibition vote, and with the well-known reluctance of the Prohibitionist to refuse to vote for one who openly espeuses the cause of the liquor traffic, and with the well-known habit of the Prohibitionist to vote his straight party ticket, it is inconceivable that Bowman should have received in the Prohibition column three times as many votes as were cast for the head of the ticket.

The fact admits of no better proof than that which was adduced in this case. It is circumstantial, but it is convincing; and the conclusion is simply irresistible that the Prohibition column was used to pad the total vote to be returned for Bowman, in order to accomplish his election upon the face of the returns. Taken in connection with the illegal substitution of Bowman's name for the regular Prohibition candidate, which was the entering wedge of the fraud intended to be practiced, it constitutes as complete and perfect a fraud as ever changed the real result of a popular election.

Mr. FITZGERALD. Will the gentleman briefly describe the

Mr. FITZGERALD. Pennsylvania ballot?

Mr. PALMER. The Pennsylvania ballot, which the gentleman asks me to describe, really beggars description. It is a blanket ballot with the name of the candidates for the various offices segregated into what are called groups around the name of the office for which the parties are candidates. In most elections it is upon a sheet of paper a yard long and sometimes a yard wide, and they have been very much larger than that.

The SPEAKER pro tempore (Mr. RANDELL of Texas). The time of the gentleman from Pennsylvania has expired.

Mr. ANSBERRY. Mr. Speaker, I yield to the gentleman 15 minutes more.

Mr. PALMER. On the first column appears the names of all the parties with what is called the party square immediately after the name. In each of the other columns appear the names of the separate candidates for office in the different parties. A vote in the party square will vote all the candidates for office, wherever found, upon the ballot who are there as candidates of the party beside whose name the cross is made. So that in this instance the man who desired to vote the straight Prohibition ticket would, of course, vote opposite the word "Prohibition," in the first column of the ticket. If he desired to cut his ballot and vote the Republican ticket for all except Congressman, we will say, he was obliged to mark all the candidates for whom he desired to vote upon the ballot.

But even if the House should determine that McLean lost his right to complain of the illegal substitution of Bowman as the Prohibition candidate by his failure to contest that question in the State courts, or if the House should be of the opinion that the fraud in connection with the vote returned for Bowman on the Prohibition ticket is not sufficiently proven, still there can be no question that the same evidence which justifies the unseating of the contestee makes it follow logically that McLean was duly and honestly elected and is entitled to his seat.

In other words, the corruption evidenced by the liberal use of money by Bowman and his campaign manager for the hiring of "special watchers" and workers largely in excess of the number allowed for each district by the corrupt practices act of Pennsylvania, the fraud perpetrated in the filling of vacancies on election boards, the violations of law found in the absence of ballots from the official ballot boxes before the polls were opened, and in the conduct of watchers who entered the polls to see that they voted the way the watchers desired," and in the failure to seal the ballot boxes after counting all ballots for the evident purpose of making it easy to change the returnsall were present in districts which gave to Bowman in the aggregate a larger majority than he was given on the face of the full returns in the entire district. These evidences of fraud, of crime, and of corruption in particular instances in these various districts are such as under all the decisions of Pennsylvania and most of the precedents of the House not only justify but compel the rejection of the entire poll of the districts affected.

Mr. MOORE of Pennsylvania. Will the gentleman yield? Mr. PALMER. Yes; although I have but little time.

Mr. MOORE of Pennsylvania. Would the gentleman apply that same argument with the same eloquence and force to the case of a Democratic nominee who secured a place on a Republican ballot? Would it apply to a case of that kind?

Mr. PALMER. I do not propose to be led off into a discussion of the gentleman's Philadelphia political troubles. It is notorious, it is common knowledge all over Pennsylvania, that in Luzerne County the Prohibition Party column has been used for the purpose I here state.

Mr. MOORE of Pennsylvania. The gentleman would not

throw out the whole 700 Prohibition votes?

Mr. PALMER. I would, for fraud.

Mr. MOORE of Pennsylvania. If a Democrat was nominated

on the Republican ticket-

Mr. PALMER. It would make no difference if he was a Democrat or a Republican. I am not discussing politics. If the Democratic Party in any part of Pennsylvania had been in the habit of resorting to this trick to thwart the will of the people, either of Luzerne County or of Philadelphia, I would be as strongly opposed to it as I am when Mr. Bowman, a Republican, had used the trick.

Mr. MOORE of Pennsylvania. I wanted the gentleman to be fair with regard to the 700 voters; he surely would not deprive

the voters of their right of franchise.

Mr. PALMER. They do not represent voters; there are no Prohibition votes in the districts where these votes were re-turned in the Prohibition column. They were returned in the column for the purpose of changing the effect or the result.

Mr. AINEY. Will the gentleman yield right there? Mr. PALMER. I am sorry, but I have not the time.

I have read all of the testimony which bears upon the fraud and corruption in the various districts of the county, and have picked out those districts where the evidence of fraud, crime, and corruption is so complete that no reader of the testimony could doubt the result was largely influenced, if not entirely controlled, thereby. These districts are

The ninth ward of the Borough of Nanticoke. The second ward of the Borough of Duryea, Hazle Township, twelfth district.
Nanticoke, eleventh ward.
Foster Township, northwest district.
Foster Township, Hazlebrook district.
Plymouth Township, sixth west district.
Hazle Township, third district.
Duryea, fourth ward.
Foster Township, Griffton district.
Wilkes-Barre, sixth ward, second district.

In these districts, upon the face of the returns, Bowman received 1,114 votes while McLean received 383, a majority for Bowman of 731. If it be true, therefore, that in each of these districts there was present such an excessive use of money as to indicate that it was a purchase of influence or votes and therefore "unlawful" in the language of the Pennsylvania courts,

or such irregularities in the composition of election boards, accompanied by the liberal use of money, or the employment of watchers who, according to the evidence, went into the ballot booths to see that the electors voted the way the watchers desired, or such other improprieties as are sufficient under the decisions to reject the poll, a sufficient number of votes would necessarily be lost to Bowman to change the result of the election and compel the conclusion that McLean was elected by a majority of the honest and uncorrupted vote of the district.

Mr. MURRAY. May I ask the gentleman to give us such information as he can as to the Pennsylvania decisions in cases

of this sort?

Mr. PALMER. I have quoted the Pennsylvania decision in my résumé of the irregularities here presented to show fraud and corruption.

Mr. MURRAY. "And it is customary to throw out the votes

in the district so affected?

Mr. PALMER. Yes. For the irregularities I have stated as being present in this case, following the language of the courts of Pennsylvania.

Mr. FARR. Mr. Speaker, will the gentleman yield at that

Mr. PALMER. I can not yield. I want to finish what I have to say.

Mr. FARR. This is just a simple question.

Mr. PALMER. Of course, it is a simple question; but it is

going to take time.

Without going into detail or reading the testimony bearing upon the frauds in these various districts, it may be well to cite some instances which are simply typical of the conditions which existed in all of the districts which I have named. For instance, in the ninth ward of the borough of Nanticoke, though the law of Pennsylvania expressly restricts the number of watchers for a party at each polling place to 3, the evidence shows that 15 men were paid to work for the contestee, 1 of them being a mine boss; that another man was paid as much as \$150 to employ watchers in the district which embraces this voting place, and despite the plain mandate of the Pennsylvania statute, which requires bystanders to fill vacancies on the board existing at the time the polls were opened, a Republican was appointed minority inspector by a Republican judge and majority inspector, leaving the Democratic Party without representation on the board.

In the second ward of the borough of Duryea the contestee and his campaign manager paid the president of a Polish club \$25 to "treat the boys," and gave to the chief of police of the town \$150 to secure special watchers in excess of the number allowed by law, while other men received altogether as much as \$745 for use in the district. Here again were fraudulent and illegal proceedings with relation to the formation of the board and the absence of the ballots from the ballot books

before the polls were opened.

Mr. FARR. Will the gentleman yield there?

Mr. PALMER. No. In Hazle Township, twelfth district, there were at least nine special watchers employed, and a considerable sum of money paid by an officer of a mining company, who instructed the men employed as watchers in a way that leaves no doubt of the purpose for which the money was paid.

In addition to the special watchers mentioned one person, a local superintendent of schools, was given \$150 to pay either the teachers or for watchers, it does not plainly appear which.

In the borough of Nanticoke, in one ward, there were 8 extra watchers, in another 11, in another 4, while as much as \$550 was paid to one man for the purpose of employing special watchers.

In Foster Township, Hazlebrook district, the superintendent of mines received \$110, a district where only 73 votes were cast ship, northwest district, there were five Republican watchers at the polls who marked ballots, according to the evidence, entering the booths "to see that they voted the way the watchers desired." In this district no other evidence of frank need here presented when it is stated that 118 votes were returned as cast, while the entire registration in the district is 118, an outpouring of the citizenship in this district which is phenomenal.

In the township of Plymouth, sixth west district, it cost Bowman \$550 to pay the special watchers unauthorized by the law to receive a mere 74 votes in the return to McLean's 17.

In Hazle township, third district, there were at least five special watchers who entered the voting booths and marked the ballots of the voters, notwithstanding the protests of the Democratic watcher, and against the provisions of the law of Pennsylvania, which provides that no man can receive assistance in the booth unless he asks for it and declares his physical inability to mark his ballot. In this district there was the evidence of at least one case of open and flagrant bribery with the way for fraud made easy by a board composed of Republicans only.

In the fourth ward of the borough of Duryea at least \$55 was paid for special watchers, the usual price being \$5 each, enough to take care of one out of every five of those who voted for Bowman. In addition at least \$50 seems to have been used in this particular district, and perhaps a part of the \$150 given to the chief of police of Duryea, so that from \$105 to \$255 was used in this small district to produce the 63 votes for Bowman, while McLean received 33.

In Foster township, Drifton district, a coal company foreman was given \$50 by Bowman's manager, with instructions to "go out and get Democratic votes." Apparently six men were employed and paid for acting as special watchers in the district, and the mine foreman went out and got the votes to the extent

of Bowman 40, McLean 15.

In the second district of the sixth ward of Wilkes-Barre the Democratic election officers were apparently persuaded to absent themselves from the polls, while the sum of at least \$142 was furnished to various persons to pay special watchers in this and one or two adjoining districts. Some of this money went to one of the election officers, who, though a former Republican county chairman, was appointed a clerk by a member of the board who was supposed to be representing the Democratic Party.

The corrupt practices act of Pennsylvania is that in name only, and it has come to be a joke throughout every part of the Commonwealth. It permits the expenditure of moneys for such highly elastic purposes as the "dissemination of information," the "employment of watchers to the number allowed by law," and the "transportation of voters" to and from the polls. employment of watchers to the number allowed by Under the protection of these broad terms, much outright bribery has been perpetrated in some districts of Pennsylvania. The law has been entirely inadequate to prevent, if, indeed, it was intended to prevent, the kind of corruption which has been common in districts like certain portions of Luzerne County. But where a candidate or his political manager boldly goes beyond the broad bonds of our corrupt practices act and finds even its liberal terms insufficient to cover all the ramifications of his improper practices, the conclusion of fraud and corruption sufficient to vitiate an election must be certain.

In all of the districts which I have named, though the law permits but three watchers for a political party, the contestee, or his political manager, hired and paid, in some instances, as many as 15 watchers for a single district, who served no purpose covered by the law of Pennsylvania which permits their payment, but who were paid as a convenient, well-appearing method of not only bribing the individual who received the money, but controlling the ignorant vote of those whose ballots

the watchers would succeed in marking,

All of the irregularities which I have here mentioned appear in the testimony of the witnesses in this case absolutely uncontradicted. They must be accepted as the facts, and they show in the aggregate in the districts mentioned such willful and open violations of the law as lead certainly to the conclusion that the result announced was not the honest vote of an uncorrupted electorate but a return purchased with money and

made possible by crime.

I want to say in conclusion, my colleagues in this House, that if after a careful study of this case I were not entirely convinced that it is only a simple act of justice that Mr. Bowman should be deprived of this seat and Mr. McLean put there to represent his people I would not argue for Mr. McLean. I am not influenced by the fact that he will sit upon this side of the House. The political phase of it has nothing to do with bringing my mind to a conclusion upon the study of the testimony in this case and my knowledge of what has happened in Luzerne County. Mr. McLean has done a service not only to his own people but to the people of Pennsylvania in exposing the corruption, the fraud, and crime which have been rampant in Luzerne County for years; and I ask you, not in the name of any Democratic Party in Pennsylvania but in the name of the decent citizenship of our State, to put your stamp of disapproval on this sort of conduct, so long prevalent in that county, and seat here a man who was honestly and fairly elected to the place. [Applause on the Democratic side.]

Mr. PROUTY. Mr. Speaker, I yield 15 minutes to the gentleman from Iowa [Mr. Towner].

Mr. TOWNER. Mr. Speaker, section 105 of the Revised

Statutes provides-

Whenever any person intends to contest an election of any Member of the House of Representatives of the United States he shall, within 30 days after the result of such election shall have been determined by the officer or board of canvassers authorized by law to determine the same, give notice in writing to the Member whose seat he designs to contest, of his intention to contest the same, and in such notice shall specify particularly the grounds upon which he relies in the contest.

I desire to call attention, in the first place, to the fact that this is not a rule of the House alone. This is a law of the United States that was passed by the House of Representatives with the concurrence of the Senate and the approval of the President. It stands as the law of the land until it shall be abrogated or repealed. I know that the House of Representatives may disregard and violate this law. I know that the Constitution gives to the House of Representatives the power to be exclusively the judge of the qualifications of its membership, but certainly all rules of right and of justice and of a due regard for proper and lawful procedure ought to call upon the House of Representatives to regard the law.

Commenting upon this provision of the statutes a majority of the committee make a few observations that I desire to call to the attention of the House. First, they say that under a strict construction of this section of the statute the committee would have dismissed the case, but the statute is, in fact, merely directory. I decline to follow that statement of the committee as the law. There is no rule that I know of directly in point as a precedent; neither is there a precedent in other similar portions of law where notices of this kind are required.

I believe the notice that is required to be served in this case is analogous to the notice that is required, for instance, by municipalities, that no claim shall be prosecuted against them unless it shall have been presented within a certain length of Such statutes exist all over the United States, and it has been time and time again contended that such a provision of the law was merely directory, but the courts have universally, so far as I know, held that such a provision of the law was not directory, but that it was absolutely jurisdictional; that it was important to save to the municipalities the right to know when claims should be presented, in order that it might preserve its evidence if need be, and the same rule and the same reason exist in the case that we have here. It is not a directory provision. It is a jurisdictional provision, upon which the right to hear and determine a contest exists, and unless it shall be complied with, then the law has not been complied with. The committee go on further to say that it was intended-

to establish a wholesome rule, not to be departed from except for cause.

There is no provision of law that says the departure shall be made for cause. There have been departures made for cause, but, as has been well shown in this debate, the departures have been such as do not constitute a precedent for this case. But under the law there is no provision for an exception of the case, and it is only because this House of Representatives is both the judicial tribunal that hears the cause and the legislative body that makes the law that it can at one and the same time make a law and hear the cause about which the law is made. Under ordinary circumstances a judicial proceeding proceeds from the law-making power, which is a distinct body separate and apart from it.

In the case here we have the right-not the right; but the power, being both the lawmaking power and the judicial body that shall determine the question under the law, to determine what shall be the rights of the parties to it. Now, if we turn to the precedents of the House of Representatives, we shall find that the law has been departed from in certain cases. Those cases have all been cases where for some reason or other the notices were not served at all or not served in time, as has been shown in this case. Then the parties have come before the House of Representatives and asked them to make a new law, or rather a new rule, that would allow them the opportunity of serving legally the notice within the contemplation of the law, and in all such cases there has been a rule of the House fixing the time for notice, so that there shall be in such case, first, an opportunity for the House to determine whether it ought to grant the hearing, and second, the right of fixing a time that shall be under the particular facts in that case a reasonable and proper time. This House, in this case, ought to have the right, first, to determine whether or not it would be fair to the defendant and proper under the circumstances to bring him before the bar of the House to answer to the charge. If, under the circumstances shown, the House of Representatives should have been satisfied that it would be unfair to him to allow notice to be served and to bring him before the bar of the House for trial, then I judge that the House would not have gone further with the proceedings. But nothing of the kind has been attempted, and we are now asked to take this further and certainly unwise and unjustifiable step that has never before been taken by the House of Representatives, and say that it is not necessary in any case to serve notice; that at any time during the service of a Member of the House of Representatives a contest may be instituted, long after the witnesses may have been spirited away by the contestant, and the contestee would have no opportunity to prove his right to his seat,

This is now the precedent that is sought to be established by the House of Representatives.

Mr. BARTLETT. May I ask the gentleman a question?

Mr. TOWNER. Certainly.
Mr. BARTLETT. I understood from the inquiry I made of the gentleman from Iowa [Mr. Proury] that the contestee in the beginning and all the way through had protested against this contest by reason of a noncompliance of the statute in filing a contest. That is true, I suppose?

Mr. TOWNER. Yes; I understand so. Mr. BARTLETT. Now, is there any statement in the record-I have not had my attention called to it in the report-in which the contestee undertakes to say that he is at a disadvantage by reason of the lateness of the filing of the contest or that his witnesses would not be accessible and evidence obtainable as they would have been had the contest been filed in the time prescribed by law? Does he say that he is put at a disadvantage by reason of that fact? I am inquiring of the gentleman for information.

Mr. TOWNER. I do not know of anything of that kind in the record, I will say to the gentleman, but the gentleman is too good a lawyer to contest the proposition that the law never

requires that.

Mr. BARTLETT. I know this to be the fact. When I first came to this House I served upon the Committee on Elections for six years and we had quite a number of cases to consider and quite a variety of questions. One of the first cases which came before that committee was a case from Virginia, in which the contest had not been filed for quite a long time. the case of Jones against some one from Virginia.

Mr. TOWNER. I think that is the case of MacDonald against

Jones to which the gentleman refers.

Mr. BARTLETT: It was a case from one of the Virginia

districts.

Mr. TOWNER. In that case he served notice of contest, but it had not been served within the time required by the statute, and the committee concluded that with reasonable diligence the notice might have been served within the prescribed time, and therefore the application in that case was denied. In other cases it has been granted, but this is the proposition: There has never been an opportunity for this contestant to appear before the House and show whether or not this was or was not unreasonable. There never has been an opportunity for him to consider and defend himself against the proposition until now that this case should be heard upon a contest that was filed. I judge that every man here who is a Representative would say that in any case where there might be a contest 30 days after the period had elapsed which the statute prescribes he would have the right to say, "There is no longer any necessity for me to preserve my evidence or to make my defense, because the time has gone by when notice of a contest can be served under the provisions of the law."

The law of the United States is express upon the proposition that these notices must be served within 30 days. And there is no longer any reason to preserve his testimony, or his defense, or to make ready for a contest and trial. That certainly

is the law, and it is only fairness and justice as well. Mr. BARTLETT. May I ask the gentleman another ques-

tion? I do not desire to take up his time.

Mr. TOWNER. I yield.

Mr. BARTLETT. I understand the committee itself concluded that the contest was not filed in time?

Mr. TOWNER. I understand so. I am going to comment on

Mr. BARTLETT. I will not anticipate the gentleman's argu-

Mr. TOWNER. Thirty-two days later than the law-

Mr. BARTLETT. Then, having the testimony before the committee, obtained in this way, which is said to be the way prescribed by law, the committee goes on and inquires into the right of the contestee to his seat, and they report that he is not entitled to it, according to the testimony obtained. Is that the case?

Mr. TOWNER. Yes.

The SPEAKER pro tempore. The time of the gentleman from Iowa [Mr. Towner] has expired.

Mr. PROUTY. I yield five minutes more to the gentleman from Iowa

Mr. TOWNER. Mr. Speaker, it is not necessary for us to consider the equitable circumstances that are alleged and urged now by gentlemen on the floor of this House. The committee considered that, and they found that insufficient. Here is the language of the committee itself:

The committee is not, however, satisfied that the reasons alleged by the contestant are sufficient entirely to excuse him from serving upon

the contestee his notice of contest within 30 days from the 12th day of November, 1910, and not believing that he should be a beneficiary of his own negligence under the findings of the committee they have not considered the case from the viewpoint of reporting a resolution to seat the contestant.

In other words, they act upon the grounds and go just as far with regard to the rights of the contestee as if the notice had been properly served. They do not give him any benefit from it. But they punish the contestant for his negligence and say that he shall not have his seat because he has not legally served a notice. I submit the committee is unfair to the contestant. If the notice is sufficient to deprive the contestee of his seat, it ought to be sufficient to sustain the contestant's right. And if it is insufficient to sustain the contestant's right, it ought to be considered insufficient to deprive the contestee of his right. The committee found the contestant guilty of negligence in not serving the notice as required by law, and his equitable excuses valueless, and punish him therefor by depriving him of his seat. But they find the notice good and sufficient to deprive the contestee of his seat, notwithstanding the negligence and want of equitable grounds excusing it. But these facts, if utterly illogical and indefensible, are significant in showing that the majority of the committee knew that the contestant was guilty of negligence in not filing his notice of contest in time.

Mr. COOPER. Will the gentleman permit?
Mr. TOWNER. Certainly.
Mr. COOPER. I think that which the gentleman has just read is the most significant thing in their report. The majority says, does it not, that it not only knows, but expressly finds, that this contestant was guilty of contributory negligence? The report says:

And not believing he should be a beneficiary of his own negligence under the findings of the committee.

Is not that an express finding of this committee?

Mr. TOWNER. It certainly is. Not only is that true— Mr. MOORE of Pennsylvania. Will the gentleman yield? Mr. TOWNER. If you will allow me to finish this sentence.

Not only is that true, but it shows that the committee had carefully considered the equitable reasons that have been urged by the contestant in support of the proposition that he was urging, that he ought to have the right to be heard, notwith-standing his own negligence. They say they admit his own negligence. They say that the reasons he urges excusing it are not good, which disposes of the equitable feature of the case, and punish him for his negligence and his want of equitable features by saying he shall not have a place in the House of Representatives himself.

I will now yield to the gentleman from Pennsylvania [Mr.

MOORE].

Mr. MOORE of Pennsylvania. And the majority of the committee having conceded that the contestant had no right in the premises, would not the effect of the passage of the amendment offered by the gentleman from Pennsylvania [Mr. Palmer] to seat the contestant, Mr. McLean, be to pay out of the Treasury of the United States substantially two years' salary to a man who had not qualified as a contestant in this House? And would it not, in addition to that, mean that there would be paid to him also a premium of \$2,000, which is offered by the Congress of the United States to every contestant who undertakes to harass a sitting Member?

Mr. TOWNER. It certainly would have that effect.

The SPEAKER pro tempore. The time of the gentleman from Iowa [Mr. Towner] has again expired.

Mr. ANSBERRY. Mr. Speaker, I yield 30 minutes to the gentleman from Virginia [Mr. HOLLAND].

The SPEAKER pro tempore. The gentleman from Virginia

[Mr. Holland] is recognized for 30 minutes.

Mr. HOLLAND. Mr. Speaker, I have reached a conclusion in this case after a very careful consideration of all the evidence and arguments of counsel, and I feel that it is my duty as a member of the Committee on Elections No. 1 to give the reasons for that conclusion. I shall endeavor, however, to discuss this case upon its merits only, and shall not consider the technical questions that have been raised by my friends on the other side.

The contestee in this case made a motion to dismiss this contest and suppress the testimony upon the ground that the contestant had not filed his notice of contest within the time prescribed by statute. The contestant alleged that he was prevented by serious illness from serving his notice of contest at an earlier date. This may or may not be under the circumstances of this case a sufficient excuse, but the motion, in my opinion,

should be denied for the following reasons:

First. It is conceded that the evidence was fairly and regularly taken and completed. While it was being taken the contestee was at all times represented by able and astute counsel. There is not a particle of evidence to show that the contestee was in any way prejudiced by the delay. It follows, therefore, that this record of the testimony presents contestee's case as fully and as completely as if it had been made under the direction and supervision of a committee appointed by this House. Under such circumstances I am unwilling to allow a mere technical objection to prevent its consideration for any legal purpose

The House has an undoubted right at any time to examine into the facts and circumstances upon which the credentials of one of its Members may rest. And if upon such examination the facts disclose that a sitting Member has secured his seat by corrupt and fraudulent practices, the House should have, and I believe has, an undoubted right to unseat him. And it has this right whether a valid contest is pending or not. The question of the sitting Member's title to his seat is the only question involved, and not the right of another thereto.

I believe, therefore, that this evidence, thus fairly taken and completed, should be examined for the purpose of determining the contestee's right to a seat in this body. Any other conclusion would establish a precedent which would permit a mere technical objection to conceal the grossest frauds and most glaring political irregularities.

Second. The corrupt practices act of Pennsylvania provides that if upon certain proceedings it shall be ascertained that a randidate has incurred illegal election expenses or has consented to the incurring of illegal election expenses, then his tlection shall be declared void and his seat vacant. The great State of Pennsylvania has determined that such a law is necessary to secure the purity of its elections. This law ought to be rigidly enforced. The practice of expending large sums of money in all congressional elections in this district has become a custom. Upon such a practice this House should place its seal of disapproval. If, therefore, the evidence submitted shows that the sitting Member has incurred illegal election expenses or has consented to the incurring of such illegal expenses, then he should suffer the penalty prescribed by the statute of his State. This should be done in the interest of pure elections and for the purpose of securing to every candidate for Congress the protection of the laws of his own State. Otherwise, in the absence of Federal statute, a man might retain his seat in this body although he had not been fairly and honestly elected.

For these reasons I believe that this evidence should be examined and upon such evidence the right of the sitting Member to his seat determined. An examination of the evidence shows the following facts:

First. A candidate for Congress willing to spend any amount of money necessary to secure his nomination and election.

The contestee knew that candidates for office in Luzerne County were expected to make large expenditures of money for election purposes and expressed a willingness to follow the When he sought the indorsement of his candidacy by the Prohibition committee he told Ricketts, "That anything that was necessary he would furnish" (p. 14); but Ricketts declined for the reason that "the Prohibition Party was not in for graft in any manner or form" (p. 14). When he sought the indorsement of the Keystone Party he told Long that "He was in this thing to win, and that he was going to win"; and he told Hendershot, "I am as good a fighter as you are. I will spend \$30,000" (p. 297). When he approached Jonathan R. Davis and requested him to act as his campaign manager and Davis told him it would be an expensive campaign, the contestee replied, "When C. C. Bowman takes a bath he don't stop at washing his feet" (p. 217). [Laughter.]

These facts show a commendable ambition to go to Congress, but they likewise show a willingness to have that ambition gratified by the illegal purchase of a seat in Congress, and this should be severely condemned.

Second. The selection of one Jonathan R. Davis, a corrupt

and unscrupulous politician, to place his money.

This same Jonathan R. Davis had been the chairman of the Republican Party of Luzerne County for years and had conducted many campaigns in which large sums of money were used. In 1906 this same man Davis was chairman of the Republican Party and conducted the campaign in that county for the elec-tion of the Republican ticket. After the election "there was a storm of indignation over the alleged falsification of the returns and the corrupt use of money" (p. 764). Certain election officials were indicted and convicted, and the expense accounts of this same man Davis were excepted to. The contestee in this case contributed to the fund for the prosecution of these officials and must have known that the campaign conducted under the leadership of Davis was very generally condemned by the good people of Luzerne County (pp. 764-765).

In the contestee's own primary election it was found that

Davis had expended large sums of money in the conduct thereof

and that certain election officials at Warrior Run, presumably selected by him, had been guilty of such glaring frauds that they were indicted and convicted therefor (p. 489).

In the regular election it is shown by his own evidence that Davis acted the part of a corrupt politician. His illegal expenditures of money, his falsification of his expense accounts (p. 90), his efforts to secure Democratic influence and votes by the questionable use of money, and his contradictory and evasive answers to proper questions relative to his political acts in the conduct of the election tend strongly to prove his guilt. And yet the contestee continued this man as his political manager and allowed him, in the conduct of his election, to expend larger sums of money than could have been necessary for legitimate purposes.

Third. A corrupt electorate in Luzerne County willing to take the money.

The contestee, when told by Hendershot that if he expected to go to Congress with the Heffernan tag on him he would be fooled, replied, "I am opposed to this gang the same as you are, and it don't make no difference whether I am elected or not. I am in politics, and I am willing to spend \$5,000 a year to clean up the corruption in Luzerne County."

Mr. DALZELL. Mr. Speaker, will the gentleman yield at

that point?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. HOLLAND. No; I can not yield.

This statement is an admission that the contestee knew that

there was a "corrupt gang" in Luzerne County.

Before the primaries Davis, the contestee's political manager,

handed Chester Kerbaugh a check for \$25, and when Kerbaugh wished to know what it was for replied "You ought not to ask me that. That is all right. You take this" (p. 467). And afterwards, when Kerbaugh told him he did not want it Davis replied, "You should not hesitate to take it; everybody else is taking it. I don't know what you mean. If that is not enough, I will double it" (p. 467).

This statement shows, if Davis can be believed, that "every-body" was willing to take money for election purposes, and that Davis was anxious to secure the political services of certain parties in Luzerne County by the corrupt use of money. The fact that they have a corrupt electorate in Luzerne County is further shown by the number of people who were willing to accept from Davis money for election purposes. The high sheriff and his deputies, the register of deeds and his deputies, the jury commissioner, the State constabulary, county constables and detectives, superintendents of schools, inspectors of elections, and apparently every other officer of Luzerne County who had public duties to perform accepted money from Davis, became his employees or hired partisans, and aided in the distribution of his corruption fund (pp. 91, 92, 95, 98, 105, 111, 112, 154, 230, 291, 358, 359, 478, 479).

Mine inspectors, mine superintendents, mine foremen, fire bosses, and other mine officials accepted money and checks from Davis and used them for their own and for corrupt political purposes. Hundreds of voters, Democrats and Republicans alike, were employed at the same prices to go out and get Democratic votes (p. 399). In fact, "everybody," as Davis stated, seemed to be willing to take money and to use it as Davis directed. Only a corrupt and purchasable electorate could have made it a custom for years to spend large sums of money in the conduct of elections in Luzerne County."

But it may be said that these facts alone do not show that money was corruptly used or in violation of law. That makes it necessary to further examine the evidence and ascertain for what purposes it was used. The evidence shows the following facts:

First. Under the laws of Pennsylvania a candidate is allowed three special watchers at each polling place.

These watchers allowed by law were employed, and employed especially for Bowman (p. 69). But in direct violation of the law the sum of \$2,393 was illegally expended for additional watchers. This amount, according to the evidence, was sufficient to employ nearly 500 additional watchers. These additional watchers. tional watchers were not only employed in violation of law but were employed for the purpose of purchasing influence and votes. When Davis was asked, "What do you mean by special watchers; do you mean money to go out and buy Democratic votes?" he replied, "It is possible" (p. 63). It is true that he subsequently withdrew this statement, but the evidence conclusively shows that the statement was true.

On page 432 of the record one Walter Richards, one of Davis's hired partisans, testified as follows:

Q. You were to go out and get Democrats?—A. Yes. Q. And he gave you \$50 with which to get Democrats?—A. Certainly. Q. And you went out and got Democrats?—A. I certainly did.

Q. Tell us how you went about it.—A. I hired some Democratic watchers.
Q. Tell us the Democrats you hired.—A. Now, that is a pretty hard proposition. You have been in the game long enough.
Q. And it is a game?—A. It is a game.
Q. And it is a pretty crooked game sometimes?—A. Sometimes it is.
They were not employed "to disseminate Republican information," but as special watchers. A special watcher's duties were not specified; he was given money and not required to render service. For what purpose, then, were Democrats hired as watchers? Can it be said that they were thus indirectly hired to vote for contestee? They had all the Republican watchers allowed by law; they needed Democratic votes.

When Davis was testifying about the employment of special watchers we find that he made the following statement (p. 263):

watchers we find that he made the following statement (p. 200):

Q. State what the purpose was, Sheriff.—A. For the employment of extra workers, extra voters for the Republican ticket.

Q. And the extra vote and the extra work were directed to the men whom you had reason to thing were of Democratic affiliation?—A. Yes, sir.

Q. And it was in this instance that you sought these men because you thought they were Democrats?—A. Yes, sir.

Q. And it was in this instance that you dealt with these men, because you thought they were Democrats?—A. Yes, sir.

Here is an admission by Davis that he had certain dealings with Democrats for the purpose of securing not only extra work from them, but extra votes as well. Here is also an admission that he employed them to do certain work with the expectation that he would secure their influence and their votes. He testified that he could have employed Republicans at the same price. Why didn't he employ Republicans?

Davis testified relative to one Shumaker (p. 65), "Here is

one I bought and which went wrong." It is true that he sub-sequently withdrew this statement, but that he did try to secure Democratic votes, and was willing to pay for them if neces-

sary, is sustained by the following admission:

Q. Is it not a fact, Mr. Davis, in conducting this campaign, that you went to every Democrat of supposed influence that you thought you might be able to induce to support Mr. Bowman?—A. No, sir; I did

ot. Q. Could you give me any idea of what you mean by a few?—A. I as out to see two or three prominent Democrats.
Q. Only two or three in the county?—A. That is all I can recall.
Q. You were willing to pay them money, too?—A. Yes (pp. 399, 400). For what purpose was he willing to pay them money except for the purpose of thereby inducing them to support the contestee? And that his hired partisans were willing to purchase Democratic votes is shown by the uncontradicted statement of Nathan Charles, who, on page 435, testified as follows:

I received \$2 for my vote. It was paid to me by Daniel Conlin, who asked me to vote for Brehem and Bowman particularly.

And this same witness, when asked if he saw anybody else getting money that day, replied: "I didn't see them, but I seen them going around the corner."

Second. The law of Pennsylvania allows the use of money for the "dissemination of political information." It does not allow its corrupt use for that purpose. Any person with any experience in everyday practical politics will have no trouble in reaching a conclusion as to the fraud and corruption that may be perpetrated under the guise of disseminating political information. Such a provision in any law is a mere cover for buying influence and votes, and that a large sum of money was used by Davis for that purpose and to great advantage is shown by his own evidence.

On page 93 of the record Davis was asked the following ques-

Q. Disseminating good Republican information in this State means purchasing Democratic votes?—A. I don't know.

Was he afraid to deny the purpose for which this money was being used and unwilling to say that it was being used for

legitimate purposes?

On the same page he was asked why he gave some men more money than others for the dissemination of political information, and he replied: "There are some men worth more money than others in every respect with reference to any position. Men were paid, therefore, by Davis according to the supposed influence of each and not for the service which each one might perform. The fact is that the evidence fails to show, and possibly for some good purpose, what services were to be formed by many of the parties to whom money was paid (p. 93). I might mention numerous instances in which this was the case, but I think it sufficient to refer to only one. The record shows that a check for \$150 was sent by Davis to one Cosgrove, a Democrat. Neither Davis nor contestee testified for what purpose this money was to be used. In answer to the question, "Did you talk with him?" Davis replied, "I said 'How do you do' to him" (p. 69); and when contestee was asked the question, "Did not Jonathan Davis give it to him at your request?" he replied, "No; he did not, except in the sense that when I told him about Cosgrove, to whom he gave the money, that I said he should probably, or should not, give it to him as county

chairman" (p. 169). Neither one seems to recall for what purpose the money was given to Cosgrove, and Cosgrove was not

asked to tell.

From Frank E. Williams a receipt for \$150 was taken, but instructions were given to take the money to one J. C. Lewis, a saloonkeeper, with directions to use it wherever his judgment might dictate (p. 75). To one Crooks the sum of \$75 was given, although Crooks stated that he knew nothing about politics, and with instructions to do the best he could with it (p. 423). To the sheriff and his deputies, to the deputy recorder and his deputies, to constables, detectives, and other officers money was paid for the alleged dissemination of political information paid for the alleged dissemination of political information (pp. 91, 92, 94, 95). But what these officers did with the money the evidence fails to disclose. It seems that some were paid money to "sing Bowman's praises" (p. 88); some to "write newspaper articles" (p. 89); some to "work among saloon-keepers"; some to work among the Jewish population" (p. 92); some to "work among the Polish population"; some to "work among the secret societies" (p. 94); some "with instructions to use the money for the Republican ticket" (pp. instructions to use the money for the Republican ticket" (pp. 99-196); and some without instructions as to what to do with it (pp. 87-96). Surely no court would place on this provision of corrupt-practices act a construction which would be so liberal as to legalize expenditures of this character. It would certainly require satisfactory evidence that such money had been expended for legal purposes.

The contestee and his political manager not only failed to disclose but actually concealed the purposes for which much of this money was expended. The conclusive presumption, there-

fore, is that the money was not properly expended.

Third. Money was corruptly used among a large number

of men employed in the mines.

Davis admits that "he landed," with one exception, all the mine bosses of the district (p. 396), and the evidence shows that it cost him a little more than \$2,000 to do it. What did he mean by "landing the bosses"? Is the answer found in the amount of money expended for that purpose? Corruption can rarely be proved by direct evidence. It must generally be done by proof of independent circumstances. Fortunately, in this case, two of contestee's supporters, one a district superintendent of mines, and one a mine boss, frankly stated the purposes for which they used the money furnished to them. On page 221 James Wallace, a district superintendent of mines, testified in part as follows:

Q. And all this money, with the exception of \$5, was paid by you to men who worked for you?—A. Yes.
Q. And many of them were Democrats?—A. That is what I was

Q. And many of them were Democrats?—A. I wanted to give them
Q. You were looking for Democrats?—A. I wanted to give them

For what purpose did he wish to give them money? The only legitimate inference is that he wished to do so in order to secure their votes for contestee.

Q. You gave him this money to use in Avondale?—A. It was immaterial to me. I told him to do what he could for Bowman. It made of the could for Bowman. It made Q. You know, as a mine boss, that he know what On page 192 John C. Lewis, a mine boss, testified as follows:

or difference.

Q. You know, as a mine boss, that he knew what to do with it?—A. I suppose that he did.

Q. And you did not care especially in what respect he used it if he used it to get votes for Bowman?—A. That was the idea exactly.

Q. Who was the next one?—A. G. C. Lewis.

Q. What is his business?—A. He is a miner.

Q. You did not give the miner as much as the mine boss?—A. No; he could not deliver the goods.

Q. You knew that when a mine boss bought a fellow he stayed bought?—A. That is up to him.

Q. Then, why did you give the mine boss more than the miner?—A. I thought he knew more that could turn out the goods.

Q. You mean that he could hold them better?—A. That is up to him. I did the best I could to deliver the goods.

Could evidence be stronger to show that money was corruptly used among the miners? More than 60,000 men are employed in the mines in this district. How many of them were bought and "delivered" to the contestee the evidence fails to show, but that many were so "delivered" I have not the slightest doubt.

Fourth. But it may be contended that contestee did not know

that his money was being used for corrupt purposes

Davis testified that he gave one F. H. McConna \$100 to purchase services of special watchers for contestee, and that contestee knew it (pp. 67-68)

Davis testified that he mailed to one Cosgrove, chief of police of Duryea and a Democrat, a check for \$150, to be used, presumably, for the purchase of the services of special watchers or the dissemination of political information, and that this was

done by direction of contestee (p. 69). In the presence of contestee Davis, after asking certain representatives of a Polish club to support contestee, gave one of them a check for \$25 with instructions to spend it "treating the boys" (p. 482). Subsequently contestee visited the club with Davis and some one again "treated the boys" (p. 107). And for the money so used in "treating the boys" a receipt for special watchers was taken.

And one T. J. O'Brien was put on the contestee's pay roll at the beginning of his campaign at a salary of \$60 per month, and his salary and expenses for political activities were charged to "house" accounts (pp. 267-276).

The fact is that contestee was indifferent as to the uses to which Davis put his money. He was anxious to win and to win by such methods as Davis might be disposed to use.

On page 294 Matthew Long testified as follows:

Then Mr. Trembath or Chairman Smith—I am not positive as to which of them it was—called Mr. Bowman's attention to statements that had been made to his actions in the primary election, and the spending of some seven or eight thousand dollars for the primary election expenses, a portion of which had been to help the machine candidates, and Mr. Bowman said he had put that matter in the hands of Mr. Davis, Jonathan R. Davis, the chairman, and that it was not his affair how Davis had disposed of that money, or some words to that effect. It might not have been his exact words, but words to that effect.

In the regular election this same man Davis was continued as manager. On page 168 of the record contestee testified as

I said that I had nothing to do with the handling of money in connection with the campaign; that it was all handled by the county chairman, Jonathan R. Davis.

The contestee knew that there was a corrupt electorate in Luzerne County, and he also knew, because he furnished it, that Davis, as his political manager, was spending large sums of money in the county, more than was necessary for legitimate

Mr. FARR. Mr. Speaker, will the gentleman yield there? The SPEAKER pro tempore. Does the gentleman yield?

Mr. HOLLAND. No; I have not the time.

And yet there is no evidence to show that he ever made a single inquiry as to the purposes for which his money was being Under such circumstances he ought now to be estopped from claiming that he did not know how his money was being

used. It was his duty to know.

But I will not further discuss the evidence. Suffice it to say

that it conclusively shows that the election laws of Pennsylvania were grossly violated by contestee, his campaign manager and political partisans; that political influence and votes were corruptly purchased under the guise of "disseminating political information"; and that many ignorant miners were improperly influenced and corruptly induced for a money consideration to give their support to the contestee. A candidate willing to furnish the money, a corrupt politician willing to place it, and a corrupt electorate willing to take it are the only necessary requisites for a corrupt election.

The temptation to commit fraud under such conditions is so great that some voters can not resist it, and it is no surprise that we have in this case evidence that frauds were actually committed. No such sum of money as was used in the conduct of this election was necessary to protect the interests of the contestee and disseminate essential political information. The only legitimate conclusion from the evidence is that it was used

to corrupt the voters and control the election.

The ballots cast for the contestee do not, in many instances, represent the honest judgment and the honest conviction of the voters. The election in many respects was not honestly conducted, and many of the votes for contestee can not in all fairness be counted for him.

For these reasons I have reached the conclusion that the contestee has not a good title to his seat in this body, and I shall vote to unseat him. [Applause on the Democratic side.]
Mr. ANSBERRY. Mr. Speaker, I will ask the gentleman

from Iowa [Mr. Prouty] to utilize the balance of his time.

Mr. PROUTY. I yield 20 minutes to the gentleman from Pennsylvania [Mr. Bowman].

The SPEAKER pro tempore. The gentleman from Pennsyl-

vania [Mr. Bowman] is recognized for 20 minutes.

Mr. BOWMAN. Mr. Speaker and Members of the House of Representatives, I have written a connected narrative relating my connection with this campaign. I did not expect to answer any of the statements made by the gentlemen speaking upon the other side, but the gentleman from Virginia [Mr. HOLLAND] has made such a definite statement regarding a conversation, alleged to be in the evidence, which I held with a man by the name of Hendershot that it is necessary for me to call attention to that, and also to the other statements which he made relating to my connection with the Keystone committee and with O'Brien, an employee of mine.

Let me read the testimony just as it is regarding Hendershot.

It occurs on page 297:

Mr. Bowman, if you will say this to me—that you are against the gang—it doesn't make no difference whether the Keystone people indorse you or not, I will be for you.

Mr. KENDALL. Against whom was that? Mr. BOWMAN. "Against the gang."

Mr. MOORE of Pennsylvania. Is that a question of what on said?

Mr. BOWMAN. No. That is what Hendershot said to me: Mr. Bowman, if you will say this to me—that you are against the gang—it doesn't make no difference whether the Keystone people indorse you or not, I will be for you.

Here is my response in his language:

I am as good a fighter as you. I will spend \$30,000. I am opposed to this gang, the same as you are, and it don't make no difference whether I am elected or not. I am in politics, and I am willing to spend \$5,000 a year to clean up the corruption in Luzerne County.

Mr. MOORE of Pennsylvania. That is quoted as having been said by you. Did you make any such ungrammatical and foolish statement as that?

Mr. BOWMAN. No, sir; I did not. That is Hendershot's version of my answer.

Mr. HOLLAND. I should like to interrupt the gentleman. Mr. BOWMAN. I have not the time. The gentleman would

not yield to me.

The next reference was to the meeting before the Keystone committee. The statement was that I said I was willing to spend any amount of money to get a nomination, and in that connection was prepared to do anything; that when I prepared to take a bath I did not go in to wash my feet. I will state that conversation exactly as it occurred before that committee. I may say that I did not solicit the nomination of the Keystone Party from that committee. I did not want to go before them, but at the solicitation of the county chairman I did. The question arose as to how I had become a candidate. I stated I was solicited by a committee of citizens to be the candidate of the Republican Party for Congress and yielded to their wishes. I called Jonathan R. Davis on the telephone, whom I knew to be an honest Christian gentleman; he had conducted the campaign for the Hon. H. M. Palmer, who preceded me in this office. Many of you know him well. He conducted the Swayne im-peachment before the Senate. When I asked Mr. Davis to take charge of the campaign he said, "There are others who are looking for the place." I told him a citizens' committee had asked me to be a candidate; that I had agreed to do so; and that I would not back up, and in that connection I made the statement that when I got ready to take a bath I did not go in to wash my feet.

Mr. FARR. Will the gentleman yield for a question? Mr. BOWMAN. Yes.

Mr. FARR. You had no thought, then, of spending money for corrupt purposes?

Mr. BOWMAN. Not a word had been said about money in any way, shape, or manner, and I had no thought of any such thing.

Now, with regard to O'Brien. O'Brien was a man who was working upon my place at a monthly salary, taking care of the lawn and doing other work about the place. Like all men of that name, he had always been interested in politics. I could not keep him on the place. He was posting cards and he wanted to get out and talk politics. He had been with me for a long time before, and is still in my employ. The amount of money paid him did not vary one cent whether he went out and talked politics or whether he was working about the place and taking care of the horses. That is the long and the short of any corrupt influence or any money corruptly spent by O'Brien or through O'Brien. He was questioned by persons in the interest of the contestant. Why was he not called as a witness?

When this election contest was commenced, started as it was

over a month after the statutory time within which it should have been instituted, and only after the contestant had been here at Washington for some days, it was not considered seriously by those who knew the facts, among the inhabitants of the district generally. No one thought it would ever reach this House, and I say to you, gentlemen, that except for the insinuations of examining counsel for the contestant, his speeches before the committee, attacking the integrity of the entire judi-ciary of the county, blackening the character of its people and insulting their intelligence, and except for the unfair, unjust, and untruthful brief of the contestant, upon which it is apparent the gentleman from Ohio has based his remarks, and when considered in the light of the real and credible evidence judicially weighed, this whole matter is farcical. Read the testimony in the case, and save for a few instances where counsel and witnesses have joked about matters which should have been above such treatment, but which in every instance were fully explained, you will find nothing which supports the statements or conclusions of contestant's brief or of the majority report based thereon. Lacking time to read the evidence of almost 800 pages, read carefully the briefs of both parties and by verifica-

tion in the record ascertain which brief is truthful and worthy of belief and which conclusions you would indorse were your character and that of your friends and your constituency in question.

The contestee upon principle has refused to take any but de-

fensive action in this case.

His character for probity is established in his district, with those who know him in this House, and wherever he is known. The purpose of these remarks is to correct any false impression gained by the gentleman from Ohio or made by him upon the minds of others.

Democratic as well as Republican Members of this House, who have examined the law relating to this contest, agree with Judge Prouty, the ranking Republican member of the Elections

Committee, in his report,

Those who have read the testimony know that I have done nothing wrongful or illegal; others who know the source of this contest and who have read the majority report know what force to give to its statements and conclusions. I have already been vindicated by my constituents by receiving a larger vote for renomination at the primary election in April than I received at the primary preceding the election in question, while the contestant was defeated for renomination and repudiated by the people of the district—Republicans and Democrats alike—as he sought renomination upon both tickets.

It is safe to say that the trouble and expense which this contest has put me to have been largely because my right to this seat has been used as a pawn in the political factional game that has been in progress for the control of the Democratic

Party in my State.

Those desiring to investigate the legal proposition are referred to the citation of contestee's brief, pages 30 to 33. The majority report does not give any citations to the contrary. In this connection it may be worthy of note that the majority report is not signed; it is a matter of great persuasion to me, since I infer that it means that the members of the committee who did not sign the majority view did not have the time to corroborate the statements in contestant's brief or the argument of his counsel before them, and thus they assumed the statements to be accurate, but do not vouch for them. Had they been able to give this case careful perusal I feel assured that they would never have permitted such a report to be written.

The entire membership of the committee were satisfied that the contestant did not comply with the law relating to the time for commencing his contest, a fact which is plainly shown by the contestee's brief, pages 2 to 30, and also briefly set forth in

the minority view.

This unanimous agreement upon this jurisdictional fact legally and equitably causes this contest to fall, as it is condemned on principle and authority. I refer you to the cases cited at pages 32 and 33 of contestee's brief.

When the question of deferring consideration on this case was to be discussed it caused surprise and regret that the gentleman from Ohio should make that an occasion to go into the merits of the case and display an apparent bitter feeling which he has acquired in the matter rather than being marked by judicial poise such as might naturally be expected of one who before the committee acted as a judge in the case.

It is stated that the minority report "is the weakest report which has ever been written in answer to such an indictment as the majority has made in this case." I am willing to let the minority report speak for itself, with this statement, however: That it was forced to be prepared in such haste that it was found impossible to take up the consideration of each and every instance cited in the majority report, and this because of the delay in presenting the majority report and the absence of the ranking member of the minority committee and the short time allowed for the minority presentation. They will be taken up by members of the minority, however, in later discussion, and hence I will confine my remarks to the matters mentioned by the gentleman from Ohio.

It is stated that the money expended by Chairman Davis, of the Republican county committee, for "special watchers" contestee was "in violation of the laws of the State," and that "that money was expended for corrupt purposes." I am legally advised that the employment of such men is legal. There is no question but that it has been done from time immemorial in this district. Even contestant and his brother-manager, both of whom are lawyers, employed such watchers and accounted for expenditures as made. (See filed expenses of the "Treasurer for George R. McLean," Record, p. 707.) It was unquestioned when my predecessor in this seat was elected, as the filed expense account of the Republican treasurer shows disbursements for this very purpose. (Record, p. 704.) Even the present Democratic District Attorney Bigelow used money to procure

watchers, and he distinguishes between "the best watchers and the best poll men." (Top p. 586, Record.) It would be worth your while to read this gentleman's testimony, as it gives a good insight into the methods and ways of this district. Yet, notwithstanding these facts, the contestant calls such expenses illegal, and the report following the brief says it is illegal and corrupt. I defy anyone to point out in the testimony proof that a single dollar of the money expended for such watchers was used to buy votes, which I assume is what is meant by "corrupt purposes." In many instances each hand through which money went was shown in the testimony until ultimately some actual worker was shown to have received \$5 for his work in getting out the vote on election day.

I am not a lawyer, but I am advised that under the Pennsylvania statute money may be spent by a candidate and by a party committee; both must file accounts of expenditure under the corrupt-practice act, but only for the money expended by them. There is an attempt to confuse the expenditures made by the Republican Party through Chairman Davis for which contestee had no duty under the law to account with expenditures made by contestee personally, for which it was his duty to

file and for which he filed an accurate account.

Under the Pennsylvania law the failure to include an item of expense does not work a forfeiture of the office; if the expense is legal the account would be re-formed. What, then, would become of contestant's claim as to the \$700 auto payment or the \$50 Giering payment? Both were legitimate, even if made

for political purposes.

Money given one F. J. McCanna, a Democrat of Pittston, for special watchers, is cited as a corrupt use, and the statement made that "the record is silent as to the 'special watchers' that this man McCanna hired at Mr. Bowman's request." has been stated in the testimony, especially by Mr. Bigelow, party lines were broken in this election and the district was swept by the Keystone Party. The Democratic vote for State officers was only 3,444 for governor, 4,827 for lieutenant governor, and only 3,842 for secretary of internal affairs. With party lines so broken, with McCanna, a resident of my own town, associated with me as a member of Pittston council for years, helping me as he did in the primaries, is it strange that he should continue his support for the election? The contestant could have found out where the money he received went had he been called as a witness. As the testimony states, there is nothing which would support the statement of the gentleman from Ohio, except his own suspicions.

Money sent one Lawrence Cosgrove is mentioned. The circumstances were that I saw the burgess of the village—a personal friend but political opponent—where Cosgrove was chief of police and at the election this fall a candidate for the legislature. He told me if we wanted to have some one employ watchers and correct certain stories that were being circulated about me, Mr. Cosgrove was the best one to act. I reported my conversation to Chairman Davis and a check for \$150 was sent. The burgess himself worked for the contestant. (Record, p. Why did not the contestant call Cosgrove as a witness and find out what he did with the money? One of contestant's witnesses seems to show that the gentleman was working for contestant on election day. (Record, p. 503.) Upon this proof the buying of votes is based. If one were suspicious, it would be more reasonable to suspect from the testimony money was used to further contestant's interests rather than contestee's.

The next subject taken up is the matter of an incorrect expense account having been filed by contestee. It is insisted that an item of \$700 was left out. Why should it not be left out if it had nothing to do with political matters? If I purchase an auto from the Republican county chairman after election, what has that to do with my political expenditures? Other statements regarding this auto are incorrect. I knew the car, having ridden in it when the property of Mr. Shepherd, of my city. Before purchasing it Mr. Davis told me he paid \$600 for the car, and that he had spent nearly \$200 in improvements, new tires, and so forth, and that it was in good running order. He bought it to help a poor fellow support himself and family. I was glad to help Mr. Davis out by buying the car, as he managed my primary campaign and acted as chairman of the county committee without the promise of reward of any kind or character. The gentleman from Ohio [Mr. ANSBERRY] stated in his address to the House that there was an erasure on the stub of He was mistaken; no erasure has been made upon the stub of that check. The check book and check are here open for inspection. Jonathan R. Davis is incapable of a dishonorable act. He is a business man of means, a bank director, active in church work. During the last year he was appointed by the nonpartisan court as president of the board of assessment and revision of taxes for the whole county, called the richest natura! area in the world. In acquired wealth it is only exceeded in the State of Pennsylvania by the cities of Philadelphia and Pittsburgh.

Another charge is that I wrongfully gave \$50 to E. T. Giering, January 4, 1911, after election. Mr. Giering wrote editorials in the Wilkes-Barre Record of his own free will and accord, with no suggestion on my part, favoring my candidacy. I intended to present to him a watch at Christmas time, but forgot to do so. My attention was called to it after New Year's Day; told my

bookeeper I wanted to make him a gift of \$50. For many years I have kept a ledger account headed "Duty," under which gifts of this character are charged. The gentleman from Ohio [Mr. Ansberry], in his address to the House, stated: "The check was altered from 'political' to 'duty,' and Giering's name was erased." He was mistaken. See the testimony of the bookkeeper, page 49:

Q. When did you write "for duty"?-A. The first time that I wrote

Q. He didn't tell you it was a gift until after you had drawn the check up, did he? What I want to get at is this: You put on here a recognition of indebtedness and at the same time another entry indicating that it was simply a mere philanthropic bequest.—A. I understood from the first it was that,

The check was first drawn to the order of E. T. Giering. it was signed the bookkeeper wrote above his name, "C. C. Bowman for," so that I could get gold for it, as I desired to make the gift in that form.

In justice to Mr. Giering, who is one of the most conscientious, Christian gentlemen it has ever been my pleasure to know, I would state when I handed the gold to him he asked: "What is this for?" I answered: "In appreciation of the many favors you conferred upon me during the campaign in your editorials." He answered: "I can not take it; I have only done my duty." It old him he would offend me if he did not accept. He stated that he would in any event be obliged to consult Mr. Moore, the business manager of his paper. I waited in his office until he went downstairs to see him. Upon his return he reported that Mr. Moore did not object to his accepting the gift. This innocent transaction, occurring two months after election and nearly a month after this contest could legally be brought, has caused me more regret than anything else in connection with this whole contest. Mr. Giering is a very sensitive man; his grief over the misstatements regarding this gift seriously affected his health. At one time it appeared as though it would end his days.

In reference to the Prohibition nomination, the testimony does not support the serious statements of the gentleman from Ohio. The chairman of the Prohibition Party testified:

Q. You were willing that Mr. Bowman appear, as he did appear, as the Prohibition candidate for Congress of Luzerne County?—A. Yes, sir; of Luzerne County (p. 17).

The secretary of the party testified:

Q. When you came to signing up the paper you signed some kind of a paper for Mr. Bowman, you three officers did; that is, you signed the same kind of a paper that you signed for Mr. Palmer when he became the candidate in Mr. Ricketts's place?—A. I couldn't tell you what I signed for Mr. Bowman, but the paper looked all right.

Q. It was understood that he was legally and regularly put on your ticket?—A. Yes, sir (p. 21).

Comparison of the substitution papers for this election (p. 669) with those made in past years by the same men will show their similarity (pp. 712-715). It is surprising to find this matter taken up when the majority report treats of this matter as

With regard to the legality of the substituted nomination of the contestee by the Prohibition Party the committee has felt—

And so forth (p. 3 to the end of the paragraph).

There is no proof that either the contestee or the Republican county chairman, Davis, had anything to do with the Nanticoke newspaper article referred to by the gentleman from Ohio. Personally I can say that I never saw the article until this testimony was taken, and it was not paid for except from Republican funds in the hands of the Republican Party county treasurer. And right here I again protest, as I and my counsel have throughout this contest, to the statements made "regarding Bowman's manager and Bowman's money," when the testimony and facts are that they should say the "Republican county chairman or treasurer and Republican money. were other contributors to the Republican campaign that year than myself, and no differentiation was made as to the spending of said fund or keeping one contributor's money separate from the others

The testimony does not sustain the statement made by the gentleman from Ohio that the contestee would provide anything necessary to procure the nomination. The statement which I made at that time and which is not fully given in the testimony was that anything that was necessary to carry on the campaign for the Prohibition Party I would furnish, knowing, as

I did, that these expenses would be small or nothing at all, as was the case.

Again referring to the newspaper article, which is assumed as emanating from myself or Chairman Davis, the testimony of the chairman of the Prohibition Party will show the injustice of the gentleman from Ohio's conclusion:

gentieman from Omo's conclusion:

Q. If you had become acquainted with this declaration coming from one of Mr. Bowman's organs, whether or not you would have joined in his indorsement on the Prohibition ticket?—A. I would have inquired of Mr. Bowman whether he knew anything of that, and if he said he did, I would not have joined. I understood at the time that the liquor men were in favor of Mr. McLean and that Mr. Bowman was on the temperance side (p. 17).

Q. If somebody had sent you copies of these papers or had written you, or had come to you and said to you what Mr. Lenahan has said to you, what you would have done is to ask Mr. Bowman whether he stood for that?—A. Certainly.

Q. And if Mr. Bowman told you, "No; I don't stand for that sort of thing," you would have done just what you did do?—A. Very probably.

Q. In other words, what you did do or what you would have done or should have done would be determined not by newspaper talk or rumor but upon direct inquiry?—A. Yes; I understood Mr. Bowman to be a Christian and an upright man, and I would have taken his word (p. 18).

The chairman of the Prohibition Party also stated that Mr. Bowman's reputation around this region for years and years

was that of a thorough temperance man (p. 19)

The statement of the gentleman from Ohio that he had in his hand a list of mine officials, numbering about 50 names, leads me to believe that he had pages 29 to 32 of contestant's brief before him. The further statement made that these were men "who received all the way from \$20 to \$140" is not accurate. Of the 54 names on that list there were 12 whom the testimony shows received no money at all; 9 received but \$5, and that from Republican funds. The money was not kept personally, but was expended for either Republican poll men or special watchers, and 3 of them were Republican Party officials whose duty it was to get poll men and pay their party subofficials or even the poll men themselves. It was pointed out in contestee's brief that, considering only 1 of each kind of mine official listed for every mine in the county, there are over 900 of such officials. What were the other 846 doing this election?

The further statement that two friends' names were kept out of the report means nothing. If he intended to say that the payments to them were kept secret, he is mistaken, as the money paid them was accounted for and their receipts filed with the county clerk. (Record, p. 78.)

It is gratifying to me that we can trace some of this money.

It is gratifying to me that we can trace some of this money which is stated to have been used to coerce men and buy votes. Mr. Hollister gave \$15 of the \$50 to one P. H. O'Brien, who was also a witness. O'Brien testified that he gave the money to three men, McKeown, Mullin, and Clifford. McKeown and Mullin were brought in as witnesses by the contestant and stated that they received the \$5 each, and that they worked for the same. All of these men were personal friends of mine, and I ask that you read the testimony and assure yourselves of the mistake that has been made in this unsupported accusa-tion. The other friend, Mr. Jennings, is a neighbor of mine who spent \$26 of his own, gave one Patrick Kelly, over whom he had no control, and who was not employed by him, \$15 to work for Mr. Bowman, and one John Brown \$11 for watchers in Port Griffith. Neither of these men were called to show that they had spent the money for any other purpose than that for which they received it. Nor is there any proof that they voted any differently for receiving said money. After election I paid Mr. Jennings for his disbursements. I believe when gentlemen of the character and standing in the community such as Mr. Hollister and Mr. Jennings enjoy are so infamously ac-cused of coercion and buying of votes, that it is time when all honest men of all parties should forget their prejudices and give such men the vindication which they deserve and expect. I feel that the gentleman from Ohio has not read the testimony regarding this matter, otherwise he would not have made such statements. His characterization must have been received from some source outside the evidence and from a source as base as the accusation itself.

It is with great regret that I have taken up these various statements of the gentleman from Ohio; but I have done so as briefly, carefully, and patiently as possible. If any of the gentlemen of the House are interested to know the real reason why the contestant in this case was defeated, he has only to read the testimony of the contestant's friend, Ernest G. Smith, chairman of the Keystone Party at this election, and editor of the Wilkes Barne Leeder the leading Democratic nearer in the disc Wilkes-Barre Leader, the leading Democratic paper in the district (pp. 325-329, 640-643).

In concluding I call attention to data which should be the best proof of the impossibility of the suspicions which have caused the conclusions of the majority. The Republican vete at this election was, governor, 12,389; lieutenant governor, 11,166; secretary of internal affairs, 11,181; Bowman, 13,661; while the Democratic vote was as follows: Governor, 3,444; lieutenant governor, 4,827; secretary of internal affairs, 3,843; McLean, 13,834. A perusal of the results for the various districts will show that the contestee ran about the same as the other Republican candidates, save in those parts of the district where he was well known or a resident; while on the other hand, there are many districts ordinarily Republican, which had a large vote for the State officers and the same vote for the contestant, showing, according to contestant's own counsel, returns which were prima facie fraudulent. (Contestee's brief, pp. 91–92.) In concluding I call your attention to other data well set forth in the minority report, proving conclusively that the election in 1910 was not only "quiet" (p. 81) but "clean" (p. 641), and that this House should confirm the result as given by the people voting and by the judges of the court of common pleas, which judgment has been still later affirmed by the results of the late primaries and by all parties. This election contest involves the county of Lazerne being

This election contest involves the county of Luzerne, being the eleventh Pennsylvania congressional district. It contains two State senatorial districts and seven State legislative districts, with a total of 311 polling places or voting precincts. At the time of the 1910 election its population was 343,186, and the number of voters registered for voting under the registration requirements was 59,352. There was to be chosen at this time a governor and other State officers, Congressman, State senator, and eight State representatives. This election saw the rise of an independent party known as the Keystone Party, a movement stated to be "without money and without patronage" (p. 641). Their candidates swept the county. They had no congressional candidate; that fight was waged between the contestant, C. F. Quinn, Socialist, and the present holder of the seat.

In common with other elections that fall, the vote was very light, only a total of 33,652 votes being cast, less than 57 per cent of the voters registered, and less than 10 per cent of the population. The congressional vote was especially light, that of the Congressman and contestant being but 28,218, less than 48 per cent of the registered vote, and less than 8 per cent of the population. It is also noteworthy that while the total vote for governor was 32,684, the total congressional vote was but 29,766, or less than 88 per cent of the actual vote cast. It may be interesting to compare these figures with the 1908 congressional vote of 40,565, or with the 1909 vote of 29,589 cast for one judge running on both Republican and Democratic tickets. Outside of contestant's vote the highest Democratic vote was for lieutenant governor, being 4,827.

While the Keystone Party broke the regular party lines, yet in the first senatorial district, comprising about one-half the county, there was another fight, in which, as stated by the Democratic chairman, "it was impossible to make a straight-out party fight on account of the local conditions" (p. 583).

The election has been summed in the testimony, in two terse expressions by disinterested people, as "one of the quietest elections" and also one of the "cleanest elections." These general considerations alone seem to refute and answer every claim and contention of the contestant, without requiring one to open the evidence and there finding the corroboration for these conclusive and indisputable facts and figures.

Elections in this district have always been expensive. An average of two or three poll men, or "watchers," usually have been employed at each polling place. One of the local Democratic chairmen in this election testified that he paid \$10 per day apiece for 40 men. It will be noted that wages are relatively high throughout this entire district. Allowing three men to each district at only \$5 per day, the usual rate, would amount to about \$5,000 for that purpose alone. Deduct this from the amount spent by the Republican county chairman in this election, and there would only be left \$4,000 for hall rent, bands, newspaper advertising, and other lawful expenditures, which amount would not be excessive for a district like this, containing more inhabitants than six of the entire States. At the county election following this, with no State candidates, the Republican county chairman filed expenses upward of \$16,000 and the Democratic county chairman upward of \$19,000.

That is surely a small sum with a district like this, with a population exceeding that of six of the States, where the highest wages in the world are paid for labor of similar character. My subscription to the election fund was \$5,000. In this connection, directly after I made my subscription, a week or two before the election, a meeting was called of the county chairmen all through the whole district, with the candidates, and I told them that I had made a subscription of \$5,000, and that every penny of it must be spent honestly; that if any man spent a penny

for a bad purpose I would send him to State's prison just as quickly if he were a Republican as I would if he were a Democrat.

As stated, my subscription to the county election fund was \$5,000, the county chairman having said that this amount would, with other subscriptions, be all the funds needed to carry on the campaign. However, he came to me a day or two before election and said that strong influences were working against me; that a number of his poll men and watchers had been hired away, and that he needed \$1,500 to fill their places and for the employment of extra men in precincts where they had been placed by the other side. I made this additional subscription by check to him, as I did the original subscription of \$5,000. At his request I also gave a check for \$50 to W. H. Hollister to employ extra watchers at Avoca, Pa., a town near Pittston, and a check to W. P. Jennings of \$26, refund of money he had expended for a like purpose.

Every dollar which I subscribed or paid in connection with

Every dollar which I subscribed or paid in connection with this election went through my checkbook or petty cashbook, and all the books in my office, business and personal, were open to the inspection of the contestant and his attorneys. I had nothing to do with keeping the accounts, as they were entirely in charge of my bookkkeeper, an experienced person, who has been with me for years; who had, before the time of the election, a general power of attorney, and still has that authority. It is true I did, unintentionally and unknowingly, file an elec-

tion account of expenses which was not technically accurate, the circumstances being that my account was prepared by the bookkeeper, who neglected a few items. Certain items paid by me personally were, as stated, given to the Republican county chairman and were accounted for by him in his filed account as his expenses. Certain items were only known or paid after the account was prepared by the bookkeeper, to be sworn to by me. I had no personal knowledge of the amounts, but trusted this matter entirely to my bookkeeper, who had entire control of the accounts and decided upon which one was to be charged any given item. It will be noted that contestant's account filed is also inaccurate in the same manner, although the expenditures and account were both made by him personally. My accounts were well and carefully kept, as any Member may see by personally examining the pages of the ledger containing the political expense account or the checkbook in question, which are here to-day and will show that alterations and erasures consisted in corrections made in the due course of business. No changes were made but which were discernible and which were explained in the testimony. No concealment or intent to conceal was shown.

A broad and comprehensive view of the testimony shows that my money and the money of the contestant were used for much the same general purposes, with one exception—contestant (pp. 567, 627, 629), his managers, and supporters distributed cigars and dispensed alcoholic liquors freely, election day being no exception. This is contrary to the corrupt-practice act of Pennsylvania. Practically all my money went into the hands of and was expended by the Republican county chairman. Contestant or his brother spent all but \$700 of contestants money. The total expenditures which might properly be considered for my sole and personal benefit amounted to \$2,761.50. Contestant showed expenditures of that character amounting to \$4,209.15. I spent personally, through my office, \$368.50—less than \$25 of that amount myself. Contestant filed personal expenditures of \$1,386.20. I had no outside and separate interests spending money in my behalf. Contestant was the recipient of the benefit of thousands of dollars spent by others.

The expenditures of Jonathan R. Davis, Republican county chairman, in this election were many thousands of dollars less than the ordinary, usual, or customary expenses therefor, and much less also that the amount expended by contestee George W. Shonk, Fifty-second Congress, which expenditures were approved by the Committee on Elections and by Congress.

The laws of the State of Pennsylvania gave opportunity to the contestant to test my right to this office. His attorneys were present at the canvass of the vote before the judges of the court of common pleas, where they had every opportunity to prosecute a contest, but abandoned it. Two members of the State constabulary were stationed by the Keystone Party at the polls in the fourth district of Pittston Township. They testified only 34 men entered the booth, besides the members of the board. One hundred and twenty-two votes were returned as cast for Repgesentative in Congress—3 for Quinn, 5 for Bowman, 114 for McLean, the contestant. (See evidence, pp. 735–744.) The laws of Pennsylvania are complete in covering fraud and corruption, and nothing is now known or proven that could not have been presented by contestant and his counsel when the judges of the court sat to receive the votes and hear all objec-

tions. The fact was that objections were made, withdrawn, and then a politically divided court unanimously decided there was a free and untrammeled choice by the voters. Even assuming everything that the majority report claims to be true, there is no such evidence as requires the seat to be declared vacant.

The evidence discloses that I contributed in 1906 to a fund to investigate alleged election frauds. I have always done everything that I could to protect the sanctity of the ballot. I could not think of any change in the conduct of the 1910 campaign that would have made it upon my part any cleaner or more honest. The stenographers' bill for the hearings in my county was about \$1,500. Detectives were going about the district for months looking for evidence. My business associates were quizzed as to their relations with me. The contestant visited my office and questioned my employees during my absence. I would not wish to see you or even my worst enemy exposed to the persecution I have undergone. I am sure you would not approve of such action if taken against yourself, nor can you when taken against me. Considering the size of the district, it is not surprising that slight irregularities should have arisen, but none of them were of sufficient importance to affect the result.

The majority of this House do, not wish to establish such a precedent now, just as you are about to assume the Government of this great country. Under the procedure followed in this case, any one of you might be served with a notice of contest which you would be forced to defend, whatever length of time you may have held your seat, whereby you might be put to thousands of dollars' expense and untold anguish entailed upon yourself and family. Good men have been through this bitter ordeal, but I am advised never contrary to express statute, as in this case. I have always believed "the first thing a man owes his country is the integrity of his own life." ing has been proven against me or any person over whom I had any control. My hands have never been soiled with a dollar that would cause my fellow man to offend against the laws of my county or my God.

Since the 1910 election I have gone through two more cam-

paigns—the primary election in April last, wherein I was chosen as a candidate of the Republican Party; the second, the election last November, in which my vote was double that of the head of the ticket and exceeded the vote given upon that ticket to the State senator who was elected in one portion of the district, and also exceeded the total vote cast for the eight candidates for the State legislature. These two elections were conducted in exactly the same way as the campaign in 1910, which is in question. Knowing my innocency, I did not attend the hearings in this contest, which extended for about four months, excepting as I was obliged under subpena as a witness for the contestant. Personally I took nothing but defensive action against him.

Many of the Members of this House are judges and lawyers, fully capable of separating the wheat from the chaff in this case. I depend upon your decision that there is no basis in law or equity for the bringing of this action. [Applause on the Republican side.]

Mr. PROUTY. Mr. Chairman, I yield 15 minutes to the gentleman from Pennsylvania [Mr. AINEY].

Mr. AINEY. Mr. Speaker, I think it very fitting when a man finds himself in contempt by the criticism he heaps on others. It is with some astonishment, in view of the report of the majority members of the committee declining to recommend the seating of Mr. McLean, that I heard my distinguished colleague [Mr. Palmer] offer a resolution to accomplish that which the committee, after a careful investigation of all the evidence in the cause, refused. I am not able to solve the inconsistency of the position which proposes to unseat Mr. Bowman because it is claimed he employed special watchers in defiance of the laws of Pennsylvania and because he failed to prepare and file a complete and accurate account of his expenditures under the law of that Commonwealth, when the records in the cause clearly establish similar conduct on the part of Mr. McLean.

The Pennsylvania statute recognizes candidates and political committees. Both are required to file sworn statements of their expenditures to primary or regular elections. The candidate must itemize expenditures made by himself or through his agents. If his expenditures are not made personally or through his agents, but through a political or party committee, his sworn statement may be for the gross sum, because under such circumstances the party committee are in duty bound by law to make an itemized and sworn statement.

In that respect the political committees are the agents of the candidate. There is no authority in law for an agent to make a sworn statement for his principal.

I hold in my hand a certified copy of an account of expenditures, signed "William McLean, treasurer for George R. McLean," covering the contested election, made and filed in direct violation of the provisions of the Pennsylvania law. It violates that law in two respects: First, that an agent had no authority under the law to make this affidavit, because the statute provides that an oath to the accuracy of it on the part of the candidate is a condition precedent to his induction into office, and he may not avoid the pain of prosecution for perjury by shifting the responsibility upon his agent; second, the paper shows large sums of money expended by William McLean for poll workers and special watchmen, items not itemized or explained. If these constitute a violation of the law when done by Mr. Bowman, how can they be justified by this House when expended for these purposes on behalf of Mr. McLean? If the employment of special watchers is illegal, if there is no justification under the statute for the payment of poll workers, how stands Mr. McLean under his own showing? I quote from the certified copy of the election account of William S. McLean, jr., treasurer for George R. McLean, and ask your indulgent attention to the following unitemized and large expenditures for poll men and special watchers:

poll men and special watchers:
John Bigelow, Esq., poll man in first district.
John Bigelow, Esq., special watchers, first district.
Rodger Devers, Esq., special watchers, first district.
Rodger Devers, Esq., special watchers, first district.
William S. McLean, jr., poll man, second district.
George F. Buss, poll man, third district.
George F. Buss, registration, Pittston City.
Hon. M. J. Healey, special watchers, third district.
R. B. Sheridan, Esq., poll man, fourth district.
R. B. Sheridan, Esq., poll man, fourth district.
B. W. Davis, Esq., poll man, sixth district.
C. M. Honeywell, poll man, sixth district.
T. P. Mackin, poll man, sixth district.
T. J. Murray, poll man, sixth district.
J. J. Murray, poll man, sixth district.
Joseph Freeman, poll man, sixth district.
Joseph Freeman, poll man, sixth district.
W. J. Butler, Esq., poll man, seventh district.
W. J. Butler, Esq., poll man, seventh district.
W. J. Butler, Esq., poll man, seventh district.
Mose Solomon, for special watchers.

[Applause on the Republican side.] 30 150 100

[Applause on the Republican side.]

It is true that Mr. McLean, the contestee, did make a sworn statement, in which he said he paid over a lump sum of \$3,500 to William S. McLean, jr., "contributed to his brother as his chairman" as a part of the \$4,860.95 expended in that election, but he may not avoid moral responsibility in that respect, for it was contestant's duty under the corrupt practice act to make oath to these items.

The right to make such expenditures is confined by the act to two classes, "namely, candidates and treasurers of political committees." Such was the utterance of the Pennsylvania courts in Bechtels election-expense case 39, Superior Court Report 292.

Surely it will not be argued that a treasurer of a candidate is a political committee.

In Umbel's election case, a recent deliverance of the Supreme Court, it was held that where Judge Umbel had paid five different persons sums aggregating \$3,670 and filed their gross receipts, it was not a compliance with the law. He might pay out this money through agents, but he was duty bound to account for the items of expenditure in his own account.

In the Bechtel case Judge Bechtel paid Nichter \$700, taking his receipt therefor and filing same as a gross item of expenditure in his account. Nichter was not a member of a political committee. This is exactly what McLean did in paying his brother, William McLean, \$3,500.

The court held that this \$700 must be itemized in Judge Bechtel's own account. The opinion so elucidated certain features of the law appreciable to this case that I ask your in-

tures of the law appreciable to this case that I ask your indulgence to quote from the opinion:

Bechtels case 39, super 292, opinion of the court:

In my opinion it is lawful to employ and pay a voter to electioneer for a party or candidate either on or before election day, and that a candidate or party may lawfully employ poll workers, so that it be done honestly and in good faith. But it is a crime to buy or attempt to buy a citizen's vote or political influence.

The act of April 18, 1874, P. L., 64, is exactly similar, word for word, to the act of March 5, 1996, P. L., 78, so far as clause second above quoted, is concerned, to wit: "For dissemination of information to the public." And the supreme court, in Williams v. Com., 91 Pa., 493, holds that thereunder a candidate may employ and pay an elector to take interest for him before his election; in other words, to work for his election. In that case, Williams, while a sheriff of Armstrong County, had employed and paid voters to electioneer for him, and the county court beld such to ease and said it was not a violation of the law unless done corruptly.

The evidence in the case at har does not warrant the conclusion that said poll workers were corruptly employed, and this branch of the case is ruled in favor of the accountant on the authority above cited.

And where parties have been employed ostensibly as watchers or to disseminate information, the fact that they fail to do anything does not necessarily render the employment illegal.

Where a candidate contributes money to the treasurer of a political party or committee, his account should set out the name of the treasurer and the party or committee of which he is treasurer, but it is not necessary for the candidate's account to set out the specific purpose for which the money is used. But the treasurer's account should set forth not only each person to whom money is paid and the amount, but also should set out specifically for what purpose or purposes it was naid

Turning, then, to the statute we find that it recognizes as lawful the expenditure of money for "election expenses," provided such expenditure is confined to the purposes and objects specifically set forth in the act. But the persons who may make even such lawful expenditures are confined to two classes, to wit, candidates and treasurers of political committees. The individual citizen may still lawfully give his money to aid the success of the political party or the advancement of the political cause he deems most desirable. But he may not do this by undertaking himself the expenditure of even his own money for "election expenses." He must contribute it directly to a candidate or to a political committee, because only through one of these two channels can it lawfully be expended for even the purposes designated in the act. "No person who is not a candidate, or the treasurer of a political committee, shall pay, give, or lend, or agree to pay, give, or lend any money or other valuable thing, whether contributed by himself or by any other person, for any election expenses whatever, except to a candidate or to a political committee," is the comprehensive language of the statute. of the statute.

To conclude this branch of the case, there were two methods open to Mr. McLean under the law: To personally or through agents make his campaign expenditures, in which event he must personally account for the items, or contribute to a political committee, in which event he need only account for the gross amount, for the law deals directly with political committees, requiring them to itemize their expenditures.

He complied with neither alternative.

I regret exceedingly that our limited time will prevent full explanation of the political conditions which confronted not only Luzerne County but the entire State of Pennsylvania at the election in 1910.

Both the old political parties were torn asunder. The Republican Party, which usually carried the State of Pennsylvania by a majority of nearly half a million, elected a governor by a small plurality of about 15,000, while the Democratic Party did not have enough gubernatorial votes to make a mess

The Keystone Party, with Berry heading its ticket, almost swept the State—invading and depleting the ranks of Republican, Democratic, and Prohibition-so that when Larkin had but little over 200 votes in Luzerne County against Bowman's 700 it was in keeping with the political condition of the State.

The imagination of men-which had so largely taken the place of evidence in this case—seeks to find corruption in the difference between the Larkin and the Bowman vote. It must not be overlooked that under the law the election officers are required to write the names of each voter in a panel, and with these panels there is no difficulty in determining the name of every man who was reported to have voted. Such opportunity was opened to contestants.

If his contention was true, it could have been thus established—it would have substituted fact for inference, and the burden surely rested upon him to make out his case.

There was a three-cornered fight for governor and a two-cornered fight for Congress, with party lines broken and hardly discernible—it was not at all strange that former Democrats were occasionally found working for Mr. Bowman.

My time is too limited to discuss the evidence, but so much has been said about watchers and special watchers that I am inclined to think you may find some information in the consideration of the law relating to them.

I take issue squarely with the gentlemen on the other side of its controversy. Special watchers performing the duties dethis controversy. Special watchers performing the duties described in the evidence are to be distinguished from the watchers mentioned in the act of 1906, and may be lawfully employed and compensated either by a candidate or by a political party.

Section A of the corrupt-practice act defining legitimate election expenditures enumerates, under paragraph 6, "the employment of watchers to the number allowed by law."

Unfortunately, our legislature a number of years ago selected a term which had been theretofore used in long-established custom among the people of our State describing workers performing election duties. The term "watcher," as commonly used, included canvassers, poll-book men, vote solicitors, and persons employed in getting voters to the polls. It was usually limited in application to election-day workers, and an-

swered to the term "vigilance men," used in certain localities.

The General Assembly of Pennsylvania selected the same term, "watcher," to define a position having entirely different duties and prescribing the method of his selection and the scope of his authority. Each political party had the right to select three watchers for each polling place; their authority came by virtue of certificates of appointment issued to them by the county commissioners. They had no right to electioneer in behalf of anyone while performing their duties (18 Pa. Co. |

Court, 520; act of 1893, sec. 23). Their special privilege under their certificate was the authority, one at a time, to be in the voting room outside the inclosed space where they were permitted to keep poll books (sec. 24) and challenge lists, and to be present during the counting of the votes (sec. 28).

If further authority is needed on this proposition, it may be

found in the utterance of the Supreme Court of Pennsylvania in Parish petition, 214 State, 67. Bearing in mind, then, that the watchers defined by the corrupt-practice act and the prior act of 1893 are entirely distinct from the political workers now commonly designated special watchers to distinguish them from the statutory kind, the only question which can arise is whether it is lawful under the corrupt-practice act to employ men as canvassers, poll workers, or vote solicitors.

The evidence in the Bowman contest clearly establishes that the special watchers employed by the chairman of the Republican county committee performed the duty of canvassers, poll workers, and vote solicitors. Are such expenditures lawful un-

der the Pennsylvania law?

Merely for the purpose of a starting point in this branch of the discussion, I desire to call attention to a decision of the Pennsylvania courts interpretative of the corrupt-practice act of This case is of some special interest because of the fact that the gentleman from Pennsylvania [Mr. Palmer] appeared in court in advocacy of the position adopted in the case.

The court said concerning the act of 1906:

The court said concerning the act of 1906:

It may also be remarked that the general opinion of the public that the act of March 5, 1906, limits and circumscribes the lawful election expenses of a candidate, and that he can not now do what he would have been privileged to do before its enactment, is a mistaken one. The act, in a sense, codifies the law and provides a method to discover and establish the violations and punish the offenders, but substantially no more. If anything, it provides for expenditures about which there might have been some question before its passage. The act of April 18, 1874 (P. L., 64), denoted the privileged necessary expenses, how they might be incurred, and prescribed the oath of office to be taken and punishment for the violation of the law. What is now a violation of the election laws in any of these respects was a violation before the act of March 5, 1906.

The only apparent advantage of the act of March 5, 1906, is the power to inquire into alleged abuses.

I desire now to call your attention to several cases decided.

I desire now to call your attention to several cases decided in the Pennsylvania courts, wherein the term "watcher" is used to define the duties performed by special watchers in the Bowman case, or where these duties were performed by paid men under other designations:

In re Howard v. Jacoby (3 Pa. Co. C., 438).

The statute is not to be so construed as to prevent a candidate from employing a friend to canvass an election district for him, and by representations in regard to his qualifications, his claims for party support, or by legitimate arguments operate upon the minds of the voters and thus procure the return of delegates who will support him in the nominating convention. Such services are not illegal and are a sufficient consideration to support a promise to pay for them, including necessary traveling expenses.

In re Williams v. Commonwealth (91 Pennsylvania, 493).

This is the leading case in Pennsylvania, interpretive of certain features of the act of 1874. The opinion was rendered by a distinguished jurist of the State, Justice Trunkey, who, in speaking of the decision of the lower court in that case, said, reversing the lower court:

case, said, reversing the lower court:

But, not resting there, it was also held by the lower court that if he so paid or promised to electioneer for him, that was a violation of the statute; and the word "electioneer" was defined "to make interest for a candidate at an election; to use arts for securing the election of a candidate." Article 7 of the constitution requires an officer, before entering on the duties of his office, to take an oath containing, inter alia, "I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this Commonwealth, or procured it to be done by others in my behalf." Section 9 of article 8 imposes severe disabilities on "any person who shall, while a candidate for office, be guilty of bribery, fraud, or willful violation of any election law." The act of 1874, section 36, Pamphlet L., 64, authorizes a candidate to pay or contribute as follows:

(Act of 1874.)

(Act of 1874.)

"1. For printing and traveling expenses. 2. For dissemination of information to the public. 3. For political meetings, demonstrations, and conventions"; and section 37 declares that "nothing contained in this act shall be so construed as to authorize the payment of money or other valuable things for the vote or influence of any elector, either directly or indirectly, at primary, township, general, or special elections, nominating conventions, or for any corrupt purposes whatever, incident to an election." Both the organic law and the statute strike at bribery, fraud, and every corrupt act incident to an election, but leave the candidate free to use all honest means for the success of his party and promotion of his own election. He may disseminate information to the public respecting the affairs of state, the principles, the purity, and the corruptions of the several political parties, and the merits and demerits of candidates; and in so doing he may use every horable act of persuasion, eloquence, and reasoning. These are lawful, are within the very life of free government, and are not forbidden to a candidate, though they make interest for him at an election. The statute carries its own interpretation. In comprehensive terms it expressly authorizes the payments and contributions by candidates for printing, traveling expenses, dissemination of information to the public, political meetings, demonstration at conventions, and excepts out every direct and indirect

purchase of the vote or influence of an elector, and every act for any corrupt purpose whatever incident to an election. What is clearly embraced within those terms and not excepted therefrom is lawful. Interest may be made for a candidate without taint of corruption. Art may be used in securing his election with pure motive and patriotic purpose. The statute forbids the perversion of art, not its use. We are, therefore, of opinion that it was error to unqualifiedly charge that if the defendant paid or contributed or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to an elector "for the purpose that such elector should make interest for the defendant when he was a candidate before his election," * * " " or for the purpose that the elector should use arts for securing the election of the defendant as a candidate for sheriff." * * "

(In re Liebel's expense account No. 2, 16 District Reports, 938, Mayoralty contest—city of Erie.)

The opinion of the court recites the following facts:

The opinion of the court recites the following facts:

From the evidence taken, including the testimony of many witnesses, we find that accountant's expenses at said election, as shown by his account, were \$3,253.35, of which \$950 was paid to the treasurer of the Democratic city committee and \$1,115 thereof was paid to James B. Yard, treasurer of a committee of Republicans, Mr. Liebel being on the Republican and Democratic tickets; that his account does not show for what purposes the money was paid to the sald treasurers, but Mr. Yard was the treasurer of certain Republicans organized in the interests of Mr. Liebel's candidacy and the Democratic treasurer, Mr. Bennott, was the regular treasurer of the Democratic city committee. The treasurers expended said money largely in the employment of watchers and also in the employment of parties to electioneer for Mr. Liebel at the polls and elswhere. Some were employed simply as poll workers. No one party was paid more than \$10 for his services. Mr. Liebel was in close touch with the campaign and participated in the said employment of watchers and poll workers, etc. It does not appear that any of said money was used in the purchase of votes or political influence.

that any of said money was used in the purchase of votes or political influence.

Mr. Yard paid H. Ott \$10 to electioneer for Mr. Liebel, and on election day Mr. Ott served as clerk on the election board to fill a vacancy. It does not appear that he was an election officer when employed by Mr. Yard. Mr. Bennett paid A. Calabrese \$10 out of said fund, and, so far as appears, Calabrese performed no services. He testified that he was employed by Mr. Joe McCormick (I believe a member of the Democratic committee) as a watcher, but received no watcher's certificate; and that on election morning he accepted the position as clerk on the election board to fill a vacancy, and served there. He was not an election officer when engaged as a watcher.

Mr. Yard paid B. F. Russell, a constable, \$10. Mr. Russell testifies that he was employed by Mr. William Illig to work for the Republican ticket, and that he did so prior to election day. He says he electioneered among his Republican friends and urged them to attend the election, etc., but that on election day he was at the election booth and did nothing but attend to his official duties.

(Umbel's election, 231, Pa. St. 96.)

This was a proceeding under the act of 1906 investigating the account of Robert E. Umbel, candidate for Democratic nomina-tion to the office of judge. The case having been appealed to the superior court, it was there decided in opinion by Judge Rice (43 Su. Ct., 598), and on appeal Judge Rice's opinion was sustained per curiam.

It should be noted in this case that the account was for expenses incident to the nomination, and the distinction remembered that as to nominations, expenditures are not authorized to be made through the medium of a political committee acting other than as the agent of the accountant. Hence, all the expenses must be itemized and appear in accountant's statement.

It should be further borne in mind that the watchers prescribed by the act of 1903 relate only to elections and not to primary elections, no watchers being authorized by law to

serve at primary elections.

The opinion of Judge Rice is therefore of special interest. for it shows that inadvertently, or following the custom, he used the word "watchers" not in the sense in which it is used in the statute, but in the sense in which it had been used by much of the public for many years and to cover an entirely different

Preliminary to a discussion of the questions raised by the assignments of errors to rulings upon offers of evidence, it is important to determine whether the account filed by the respondent conformed to the requirement of the act of March 5, 1906, P. L. 78. The account embraced two classes of items, (1) expenditures made by the respondent personally, (2) payments made by him to certain individuals of certain sums of money "For expenditure in my behalf under the first, second, sixth, seventh, and eighth parts of section 4, act of March 5, 1906." There are 12 items of the latter class, showing payments to five different persons aggregating \$3,670, and these give no further intimation as to the purposes for which the money was actually expended than is indicated by the words and the figures above quoted. The receipt given by the persons to whom the respondent paid the money are equally indefinite. The plain import of the account is that these sums of money were paid to these five persons, not as compensation for their services in disseminating information to the public or in acting as watchers or the like, but to be expended by them in the respondent's behalf for some or all of the purposes mentioned in these paragraphs of the act, or to reimburse them for payments made by them to others in his behalf for these purposes.

The distinguishing features of this case is that Judge Umbel

The distinguishing features of this case is that Judge Umbel paid five different persons a sum aggregating \$3,670 and filed the lump receipts, not giving items of disbursement which they made. These men, not being a political committee or party, and no political party being authorized under the statute to disburse money for a candidate for nomination, it was held in this case that while it would be legitimate for Judge Umbel to pay in order to satisfy the desires of those who may seek to

act through these agents he must include in his account the items severally expended by these individuals. Had it been an election and Judge Umbel a candidate for election and these sums paid to the political committee, his lumping receipts in his account and their itemized account as a committee would have been proper and sufficient.

It will be seen from the cases which I have quoted that there is a plain distinction between the certificated watchers authorized to be within the voting place, and limited in number, and the personal workers of candidates or parties soliciting votes or aiding the candidacy of anyone, and which, both by Mr. Mc-Lean and by Mr. Bowman, were designated "special watchers." As has been well pointed out, the Pennsylvania law is opposed to corruption-bribery of the voters-but it has never set its seal of disapproval upon the widest publicity or system of canvass in order to make interest in behalf of political parties or individual candidates.

I have given some care to a consideration of this case, and unhesitatingly venture an opinion, based upon the examination of all the authority, that the employment by a candidate of special watchers to aid in creating interest in his behalf, in addition to the watchers authorized by certificate, to remain in the voting room, is a legitimate expenditure. [Applause.]

It may be of interest to quote more extensively from the act defining the duties of watchers:

WATCHERS.

WATCHERS.

(Act of 1903, Apr. 16, P. L. 213, sec. 1.)

Each party which has by its primary meeting board, caucus convention, sent to the proper officers a certificate of nomination, and each group of citizens which has sent to the proper office a nominating paper as provided in sections 2 and 3 of this act shall be allowed to appoint three qualified watchers, who must be three elective residents of the division, etc., in each voting place, without expense to the county, one of whom shall be allowed to remain in the room outside the inclosed space. Each watcher shall be provided with a certificate from the county commissioners, stating his name, the names of the persons who appointed him, and the party or policy he represents, and no party or policy shall be represented by more than one watcher in the same voting room at the same time. Watchers shall be required to show their certificates when required to do so.

Until the polls are closed no person shall be allowed in the room outside the inclosed space except the watcher, voters not exceeding 10 at any one time who are awaiting their turn to prepare their ballots, and peace officers when necessary for the preservation of the peace. (This section amends section 23, act of 1893, June 5.)

The watchers appointed by this act have different duties from overseers required to be appointed under act of 1874. (214 Pa., 63, Parrish petition.)

It appears to me that much confusion has arisen in this case owing to the fact that there has been a misconception as to the relationship of a political or party committee to a candidate. The political committee or party has a legal standing as such quite distinct from the candidate, and in no sense can the political committee be considered the agent of the candidate. At primary elections, however, the political committee has no standing, its duties and right to expend money as such begins only when nominations are made. Jonathan D. Davis, according to the testimony in the case, was the manager for Mr. Bowman at the primaries. After Mr. Bowman's nomination he was selected under the party rule to be the chairman of the party of the congressional district, and as such he was not either under the law or under the facts in this case the agent of Mr. Bowman. Mr. Bowman's account of his expenditures was duly filed, and Chairman Davis received contributions from a number of persons in addition to Mr. Bowman, and under the law filed his account. It is only by seeking to place Mr. Davis in the position of agent of Mr. Bowman that the semblance of a case is presented.

The need for special watchers to get out the vote was apparent. The special difficulty which confronted candidates was in getting the voters to vote. The election in 1910, at which thousands of voters failed to vote, establishes this.

The careless but fully explained remarks of witnesses for which Mr. Bowman was not responsible and concerning which he had no knowledge are made the basis of serious attack. It is unsafe to seek to establish conclusions from single sentences torn from their associations. Less money was expended in this

campaign than in many which preceded it.

The battling forces of mighty error have ever wrested texts from Holy Writ and sought thereby to prove that right was wrong and wrong was right and to enthrone themselves upon

the pedestal of their own unrighteousness

The unseating of Mr. Bowman will disfranchise the voters of the Luzerne district, a majority of whom desire him for their Congressman. But the seating of George R. McLean will be a violent and anarchistic error, the chief purpose of which will be apparent to everyone, and the Treasury of the United States despoiled of fifteen or twenty thousand dollars which George R. McLean will be permitted to draw for his expenses and back

override the facts in order to place him in a position to which he was not elected. [Applause.]

The SPEAKER pro tempore. The time from Pennsylvania [Mr. AINEY] has expired. The time of the gentleman

Mr. AINEY. Mr. Speaker, I desire to ask unanimous con-

sent to extend my remarks in the RECORD.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. AINEY] asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. ANSBERRY. Mr. Speaker, I desire to give notice that we will call this resolution up on Thursday afternoon, after the reading of the Journal, for the finishing of the debate, which will run for about an hour and ten minutes more, and for a vote.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. Littlepage, for three days, on account of illness.

To Mr. LINTHICUM, for three days, on account of important business.

To Mr. SAUNDERS, for two days, on account of illness. ADJOURNMENT.

Mr. ANSBERRY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 52 minutes p. m.) the House adjourned until Wednesday, December 11, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were

taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of Commerce and Labor, inviting attention to certain items of proposed legislation relating to the Lighthouse Service for the fiscal year 1914, contained in the Book of Estimates of Appropriations (H. Doc. No. 1111); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting supplemental and revised estimates of appropriations required by the War Department for the service of the Army for the fiscal year ending June 30, 1914 (H. Doc. No. 1119); to the

Committee on Military Affairs and ordered to be printed.

3. A letter from the Secretary of War, transmitting, with a 3. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Green River, Ky. (H. Doc. No. 1118); to the Committee on Rivers and Harbors and ordered to be printed.

4. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Ponchatoula River, La. (H. Doc. No. 1117); to the Committee on Rivers and Harbors and ordered to be printed.

5. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of waterways from Louisville to Savannah, Ga. (H. Doc. No. 1116); to the Committee on Rivers and Harbors and ordered to be printed.

6. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Alabama River, Ala. (H. Doc. No. 1115); to the

Committee on Rivers and Harbors and ordered to be printed.
7. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Chowan River, N. C. (H. Doc. No. 1114); to the Committee on Rivers and Harbors and ordered to be printed.

8. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination and survey of Satilla River, Ga., above Burnt Fort (H. Doc. No. 1113); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

9. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Cove Harbor, Conn. (H. Doc. No. 1122); to the Committee on Rivers and Harbors and ordered to be printed.

10. A letter from the Secretary of the Interior, transmitting special report of superintendents of irrigation on irrigation and flood protection, Papago Indian Reservation (S. Doc. No. 973); to the Committee on Indian Affairs and ordered to be printed with illustrations.

11. A letter from the Secretary of the Treasury, transmitting communication from the Acting Secretary of Commerce and Labor submitting a statement of expense incurred from appropriations for expenses of regulating immigration for the fiscal year ended June 30, 1912 (H. Doc. No. 1120); to the Committee on Expenditures in the Department of Commerce and

Labor and ordered to be printed.

12. A letter from the Secretary of War, recommending that there be inserted in the sundry civil appropriation bill for the fiscal year 1914, after the appropriation "Repairing roads to national cemeteries," an amendment conveying to city of Spring-field, Mo., part of the roadway approach to national cemetery near that city and inclosing copy of letter from the mayor of Springfield, together with blue print of national cemetery (H. Doc. No. 1121); to the Committee on Appropriations and or-

dered to be printed with illustrations.

13. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report of examination and survey of Chesapeake Bay at Cape Charles City, Va. (H. Doc. No. 1112); to the Committee on Rivers and Har-

bors and ordered to be printed with illustrations.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows: By Mr. CALDER: A bill (H. R. 27000) authorizing 15 days'

leave of absence with pay to per diem employees of the Light-house Service of the Department of Commerce and Labor; to the Committee on Interstate and Foreign Commerce. By Mr. LOBECK: A bill (H. R. 27001) authorizing the Sho-

shone Tribe of Indians residing on the Wind River Reservation, in Wyoming, to submit claims to the Court of Claims; to the

Committee on Indian Affairs.

By Mr. BARNHART: A bill (H. R. 27002) to provide for the purchase of a site for a public-building at Plymouth, Ind.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27003) to provide for the purchase of a site for a public building at Warsaw, Ind.; to the Committee on Public Buildings and Grounds.

By Mr. MOSS of Indiana: A bill (H. R. 27004) providing for the purchase of a site and the erection of a public building thereon in the city of Clinton, Ind.; to the Committee on Public Buildings and Grounds.

By Mr. SIMMONS: A bill (H. R. 27005) to amend an act approved June 30, 1906, entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes"; to the Committee on Interstate and Foreign Com-

By Mr. RUBEY: A bill (H. R. 27006) for the purchase of a site and the erection of a public building in the town of Salem, Mo.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27007) for the purchase of a site and the erection of a public building in the town of Marshfield, Mo.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27008) for the purchase of a site and the erection of a public building in the town of Mountain Grove, Mo.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27009) for the purchase of a site and the erection of a public building in the town of Lebanon, Mo.; to

the Committee on Public Buildings and Grounds.

By Mr. SHARP: A bill (H. R. 27010) to increase the limit of cost for the Federal building site heretofore authorized at Ashland, Ohio; to the Committee on Public Buildings and Grounds

By Mr. HANNA: A bill (H. R. 27011) placing all postmasters of fourth-class post offices on a salary; to the Committee on the Post Office and Post Roads.

By Mr. MONDELL: A bill (H. R. 27012) providing for the expenditure of 25 per cent of the receipts from national forests

for road and trail construction; to the Committee on Agriculture.

By Mr. CANDLER: A bill (H. R. 27013) to increase the limit of cost for the public building at Corinth, Miss.; to the Committee on Public Buildings and Grounds.

By Mr. FRANCIS: A bill (H. R. 27014) to amend section 4747 of the Revised Statutes, relating to pensions; to the Com-

mittee on Invalid Pensions.

By Mr. BATES: A bill (H. R. 27015) increasing the limit of cost of public building at Corry, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. RAKER: A bill (H. R. 27016) to require common carriers engaged in interstate commerce by railroad to equip all locomotive engines used in interstate traffic in transportation of trains with headlights of not less than 1,500 candlepower, and to provide a penalty for the violation of the same, and for other purposes; to the Committee on Interstate and Foreign Com-

By Mr. HUMPHREY of Washington: A bill (H. R. 27017) to extend the time for the completion of the Alaska-Northern Railway, and for other purposes; to the Committee on the Territories.

By Mr. CULLOP: Resolution (H. Res. 741) requesting the Interstate Commerce Commission to investigate costs in repair shops of railroads, car shortages, and storages, and report to the House; to the Committee on Interstate and Foreign Com-

By Mr. UNDERWOOD: Resolution (H. Res. 742) relating to messages of the President of the United States communicated to the two Houses of Congress on December 3 and 6, 1912; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions

were introduced and severally referred, as follows:

By Mr. AMES: A bill (H. R. 27018) granting a pension to
Maria M, Emery; to the Committee on Invalid Pensions.

By Mr. BORLAND: A bill (H. R. 27019) granting an increase of pension to Addison D. Madeira; to the Committee on Invalid Pensions.

By Mr. CALDER (by request): A bill (H. R. 27020) for the relief of Lamont-Corliss & Co.; to the Committee on Claims.
By Mr. CANNON: A bill (H. R. 27021) granting a pension

to Mary Knight; to the Committee on Invalid Pensions

Also, a bill (H. R. 27022) granting a pension to Christopher E. Hyland; to the Committee on Pensions.

Also, a bill (H. R. 27023) granting an increase of pension to Robert M. Leef: to the Committee on Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 27024) for the relief of R. O. Hatfield; to the Committee on War Claims.

By Mr. CRUMPACKER: A bill (H. R. 27025) granting a pension to Lydia W. Wolgamot; to the Committee on Invalid

By Mr. DAVENPORT: A bill (H. R. 27026) granting an increase of pension to William H. Barton; to the Committee on Invalid Pensions.

By Mr. DODDS: A bill (H. R. 27027) to correct the military record of John E. Sprick, alias Henry Smith; to the Committee

on Military Affairs.

By Mr. FIELDS: A bill (H. R. 27028) for the relief of the heirs of William D. Jones, deceased; to the Committee on War

By Mr. FOSTER: A bill (H. R. 27029) granting an increase of pension to Thomas L. Goddard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27030) to remove the charge of desertion from the record of Andrew J. Askew; to the Committee on Military Affairs.

By Mr. HANNA: A bill (H. R. 27031) granting a pension to Lucinda H. Knox; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27032) granting an increase of pension to Allen H. De Groff; to the Committee on Invalid Pensions.

By Mr. HELM: A bill (H. R. 27033) for the relief of the estate of John Wesley Eubanks, deceased; to the Committee on Way Claims. War Claims.

By Mr. HOUSTON: A bill (H. R. 27034) granting a pension to Mary E. Ferrell; to the Committee on Pensions.

By Mr. LAFFERTY: A bill (H. R. 27035) granting an in-

crease of pension to William D. Ewing; to the Committee on Pensions.

Also, a bill (H. R. 27036) granting a pension to Nancy E. Tate; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27037) to correct the military record of Fred W. Godfrey; to the Committee on Military Affairs.

By Mr. MORRISON: A bill (H. R. 27038) granting an increase of pension to George S. West; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27039) granting an increase of pension to John L. Gibson; to the Committee on Invalid Pensions.

By Mr. NEEDHAM: A bill (H. R. 27040) granting a pension

to Maud Fickert; to the Committee on Pensions, By Mr. PATTON of Pennsylvania: A bill (H. R. 27041) granting an increase of pension to John Anderson; to the Committee on Invalid Pensions.

By Mr. PROUTY: A bill (H. R. 27042) granting an increase of pension to Fred Babcock; to the Committee on Invalid Pen-

Also, a bill (H. R. 27043) granting an increase of pension to Henry L. Armstrong; to the Committee on Invalid Pensions.

By Mr. RAUCH: A bill (H. R. 27044) granting an increase of pension to John M. Schaler; to the Committee on Invalid PenAlso, a bill (H. R. 27045) granting a pension to Hannah

Brewer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27046) granting an increase of pension to

Lewis M. Osborne; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27047) granting an increase of pension to

Daniel O. C. Marine; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27048) granting an increase of pension to

Henry Bolner; to the Committee on Invalid Pensions.

By Mr. RODENBERG: A bill (H. R. 27049) granting an in-

crease of pension to Charles Kaiser; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 27050) granting an increase of pension to Malinda McKinley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27051) granting an increase of pension to Calvin Hedgpeth; to the Committee on Invalid Pensions.

By Mr. SCULLY: A bill (H. R. 27052) granting a pension to

Mary Jones; to the Committee on Pensions. By Mr. SHACKLEFORD: A bill (H. R. 27053) granting an increase of pension to James E. Crane; to the Committee on

Invalid Pensions. By Mr. SLOAN: A bill (H. R. 27054) for the relief of Martin

Hagarity; to the Committee on Military Affairs

Also, a bill (H. R. 27055) granting a pension to Lucy B. Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27056) granting a pension to Catherine Leach; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27057) granting an increase of pension to Thomas C. Allen; to the Committee on Invalid Pensions. By Mr. J. M. C. SMITH: A bill (H. R. 27058) granting a pen-

sion to Eliza C. Speams; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Colorado: A bill (H. R. 27059) for the relief of Francis A. Land; to the Committee on Military Affairs. Also, a bill (H. R. 27060) granting an increase of pension to Marshall V. Vaden; to the Committee on Pensions.

By Mr. TILSON: A bill (H. R. 27061) granting an increase of pension to Kate D. Linsley; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of Branch No. 898, Letter Carriers' Association, Canal Dover, Ohio, favoring the passage of the Hamill civil-service pension bill; to the Committee on Pensions

Also, petition of Ross & Hill and 10 other merchants of Denison, Ohio, asking that the Interstate Commerce Commission be given further power toward regulating the express

rates; to the Committee on Interstate and Foreign Commerce.

By Mr. CALDER: Petition of Flandrau & Co., New York,
N. Y., favoring the passage of House bill 26277, to establish a
United States court of patent appeals; to the Committee on the Judiciary

Also, petition of the Lake Michigan Sanitary Association, Chicago, Ill., favoring enactment of legislation making appropria-tions for the investigation of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

Also, petition of National Society for the Promotion of Indus-

trial Education, favoring passage of bill giving Federal aid to vocational education; to the Committee on Agriculture.

By Mr. DIFENDERFER: Petition of the Perkins Glue Co. and others, of Lansdale, Pa., favoring the passage of the Sulzer bill (H. R. 26277) to establish a United States court of patent appeals; to the Committee on the Judiciary.

Also, petition of the State Council of Pennsylvania, Order of

Independent Americans, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FOCHT: Papers to accompany bill (H. R. 26893) for the relief of Mary Murphy; to the Committee on Invalid Pen-

Also, papers to accompany bill (H. R. 26967) for the relief of Anna N. Carson; to the Committee on Invalid Pensions.

By Mr. FULLER: Petition of the congressional committee, United States Military Telegraph Corps, favoring the passage of House bill 2920, granting pensions to members of the Mili-tary Corps in the United States Army during the Civil War; the Committee on Invalid Pensions.

Also, petition of the Rockford (Ill.) Manufacturing & Shippers Association, favoring the passage of the Newlands river regulation bill creating a board of river regulation; to the Committee on Rivers and Harbors.

By Mr. HANNA: Petition of citizens of North Dakota, favoring the passage of the amended Kenyon bill (S. 4043); to the Committee on the Judiciary.

By Mr. LANGHAM: Petition of the Lake Michigan Sanitary Association, Chicago, Ill., favoring appropriation for the investigation of the pollution of the waters of the Great Lakes; to

the Committee on Appropriations.

Also, petition of Pennsylvania State Camp, Patriotic Order Sons of America, Philadelphia, Pa., favoring the passage of Senate bill 3175, for restriction of immigration; to the Com-

mittee on Immigration and Naturalization.

By Mr. LEVY: Petition of the New York Produce Exchange, New York, N. Y., favoring the passage of the Pomerene substitute bill (S. 957); to the Committee on Interstate and Foreign Commerce.

Also, petition of the Lake Michigan Sanitary Association, hicago, Ill., favoring an appropriation for the investigation of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

By Mr. McKellar: Petition of citizens of Memphis, Tenn., favoring the passage of the Kenyon-Sheppard liquor bill; to the Committee on the Judiciary.

By Mr. Mondell: Petition of citizens of Powell, Cody, and Basin, Wyo, favoring passage of bill giving the Interstate Commerce Commission further power toward regulation of express. merce Commission further power toward regulation of express rates; to the Committee on Interstate and Foreign Commerce. By Mr. NEEDHAM: Petition of dairymen of California, pro-

testing against the passage of any legislation removing the tax from oleomargarine; to the Committee on Agriculture.

Also, petition of State Council of Pennsylvania, Order of In-dependent Americans, Philadelphia, Pa., favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the board of directors of the Modesto irrigation district, protesting against the passage of any legislation changing the boundary line of the Yosemite National Park; to the Committee on the Public Lands.

By Mr. PARRAN: Papers in support of bill (H. R. 26847) granting an honorable discharge from the military service;

to the Committee on Military Affairs.

By Mr. ROBINSON; Papers to accompany bill (H. R. 26989) for relief of heirs of James Thompson; to the Committee on War Claims.

By Mr. SULZER: Petition of citizens of New York, favoring passage of House bill 26277, to establish a United States court of patent appeals; to the Committee on the Judiciary.

By Mr. UNDERHILL: Petition of the State Camp of New York, Patriotic Order Sons of America, Binghamton, N. Y., favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturaliza-

By Mr. WILLIS: Papers to accompany bill (H. R. 26997) granting an increase of pension to Lemuel H. Mahan; to the Committee on Invalid Pensions.

SENATE.

Wednesday, December 11, 1912.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D. The Secretary read the Journal of yesterday's proceedings. Mr. CULLOM. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore (Mr. Bacon). The Senator from Illinois suggests the absence of a quorum. The Secretary will proceed to call the roll of the Senate.

The Secretary called the roll, and the following Senators

answered to their names:

Foster Gallinger Gardner Gronna Hitchcock Johnson, Me. Johnston, Ala. La Follette Lea Lodge McCumber McLean Martin, Va. Martine, N. J. Massey Myers Newlands O'Gorman Oliver Bacon Sanders Bankhead Smith, Ga. Smith, S. C. Smoot Brandegee Bristow Brown Stephenson Sutherland Swauson Thornton Oliver Overman Owen Page Penrose Perkins Perky Pomerene Richardson Bryan Burnham Clapp Clark, Wyo. Clarke, Ark. Townsend Warren Works Crane Crawford Cullom Davis Root

Mr. PAGE. I wish to announce the continued absence of my colleague [Mr. DILLINGHAM], and that he is not able to be in attendance.

Senate is present. The Journal having been read, if there is no inaccuracy it will be considered as confirmed.

NATIONAL FOREST RESERVATION COMMISSION (H. DOC. NO. 1158).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of War, transmitting, pursuant to law, a report of the National Forest Reservation Commission for the fiscal year ended June 30, 1912, which, with the accompanying paper, was referred to the Committee on Forest Reservations and the Protection of Game and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South. its Chief Clerk, announced that the House had passed Senate concurrent resolution No. 31, providing for the appointment of a joint committee to make necessary arrangements for the inauguration of the President elect of the United States on the 4th day of March next, and in compliance therewith the House had appointed Mr. Rucker of Missouri, Mr. Garrett, and Mr. McKinley the committee on the part of the House.

The message also announced that the House insists upon its amendment to the bill (S. 3436) granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. Robertson, Mr. Gra-HAM, and Mr. Volstead managers at the conference on the part

of the House.

The message further announced that the House had passed a bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

Mr. OLIVER presented a petition of the Ministerial Association of Beaver Falls, Pa., and a petition of 300 citizens of Masontown, Pa., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

He also presented a memorial of Local Union No. 163, International Union of the United Brewery Workmen of America, of Wilkes-Barre, Pa., remonstrating against the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

Mr. BRYAN. I present a petition of the Board of Trade of the city of Eustis, Fla., praying for the passage of the so-called Kenyon-Sheppard liquor bill. I ask that the petition lie on the table and be printed in the Record.

There being no objection, the petition was ordered to lie on the table and to be printed in the RECORD, as follows:

EUSTIS BOARD OF TRADE. Eustis, Fla., December 6, 1912.

Dear Senator: At a meeting of the board of trade of the city of Eustis held this evening it was unanimously resolved to request you to vote for and work for the passage of the Kenyon-Sheppard bill now before Congress. When the subject was introduced it was discussed, and upon motion the resolution was adopted without a dissenting voice. We feel that you could not confer a greater honor upon yourself than by heeding this petition.

Respectfully,

President Board of Trade, President Lake County
Publishing Co., President E. L. Ferran & Co., Merchants.
D. J. Caldwell.
Vice President Board of Trade,
Proprietor D. J. Caldwell Hardware Co.
H. C. Hannah,
Secretary Board of Trade,
Secretary Lake County Manufacturing Co.
W. F. Manney,
Treasurer Board of Trade,
Proprietor Mantey Bros., Stationers,

Attest:

Henry W. Bishop, Secretary Pro Tempore Board of Trade, ex-President Board of Trade, ex-Mayor City of Eustis, Attorney at Law.

Mr. SANDERS presented a petition of members of the faculty of Maryville College, Maryville, Tenn., and a petition of sundry citizens of Blount County, Tenn., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

Mr. McCUMBER presented petitions of sundry citizens of Drayton, Cheyenne, Buxton, Casselton, Hatton, Beach, and Wyndmere, all in the State of North Dakota, praying for the passage of the so-called Kenyon interstate liquor bill, which were ordered to lie on the table.

Mr. McLEAN presented a memorial of Local Union No. 126, The PRESIDENT pro tempore. On the call of the roll 53 International Union of the United Brewery Workmen, of Water-Senators have responded to their names. A quorum of the bury, Conn., remonstrating against the passage of the so-called Kenyon interstate liquor bill, which was ordered to lie on the

Mr. LEA presented memorials of sundry citizens of Tennessee, remonstrating against the installation of the so-called Taylor system of shop management in Government navy yards,

etc., which were ordered to lie on the table.

He also presented petitions of sundry citizens of Nashville, Memphis, Knoxville, McKenzie, Sumner County, Fayette County, White County, Madison County, Polk County, Davidson County, Robertson County, Morgan County, Franklin County, Crockett County, Henry County, Dickson County, Chester County, McNairy County, Overton County, McMinn County, Putnam County, Gibson County, Hardin County, Decatur County, Dekalb County, Franklin County, C County, Knox County, Carroll County, Hamilton County, Lawrence County, Fentress County, Dyer County, all in the State of Tennessee, and of the Woman's Missionary Society of the First United Presbyterian Church, of Washington, D. C., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

Mr. BROWN presented sundry affidavits in support of the bill (S. 7595) granting an increase of pension to Nelson Taylor, which were referred to the Committee on Pensions.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. TOWNSEND: A bill (S. 7708) granting an increase of pension to Olive Stull (with accompanying paper); to the Committee on Pensions.

By Mr. THORNTON:

A bill (S. 7709) for the relief of the estate of Philip Felix Herwig, deceased; to the Committee on Claims.

By Mr. McCUMBER:

A bill (S. 7710) granting an increase of pension to Mary M. Croft; and

bill' (S. 7711) granting an increase of pension to John Enright (with accompanying paper); to the Committee on

By Mr. CRAWFORD:

A bill (S. 7712) granting an increase of pension to Riley Hawley (with accompanying paper); to the Committee on Pensions.

By Mr. PENROSE:

A bill (S. 7713) establishing compensation of certain customs officials; to the Committee on Finance. By Mr. CRAWFORD (for Mr. GAMBLE):

A bill (S. 7718) granting an increase of pension to John W. Culver (with accompanying papers); and A bill (S. 7715) granting a pension to Catherine E. Brown (with accompanying papers); to the Committee on Pensions. By Mr. STEPHENSON:

A bill (S. 7718) granting of the Committee on Pensions.

A bill (S. 7716) granting an increase of pension to James Mitchell (with accompanying papers); to the Committee on Pensions.

By Mr. FLETCHER:

A bill (S. 7717) granting an increase of pension to Edmund

P. Banning; and A bill (S. 7718) granting a pension to Austin Mooney; to the Committee on Pensions.

AMENDMENT TO LEGISLATIVE APPROPRIATION BILL.

Mr. MYERS submitted an amendment proposing to appropriate \$10,400 for the maintenance of an assay office at Helena, Mont., etc., intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

HOUSE BILL REFERRED.

H. R. 26680. An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

OMNIBUS CLAIMS BILL.

The PRESIDENT pro tempore. The morning business is closed.

Mr. CRAWFORD. I ask that the consideration of House bill 19115, known as the omnibus claims bill, be resumed.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CRAWFORD. There is an amendment pending.

The PRESIDENT pro tempore. The pending amendment, the Chair is informed, is an amendment submitted by the Senator from Massachusetts [Mr. Lodge]. It will be read.

The Secretary. On page 264, after line 17, in the Massachusetts items, insert:

To Thomas B. Flower, of Greenville, Mass, \$5,538.

The PRESIDENT pro tempore. The question is on the adoption of the amendment.

Mr. CRAWFORD. Mr. President, when the Senator from Massachusetts offered this amendment yesterday he had the findings of the Court of Claims printed in the RECORD, and they are in the Record of yesterday's proceedings. This item was not in the bill as it passed the House. The Senate committee, after examining the items in the bill as it passed the House, proposed an amendment striking out a very large number of claims of the same character and having the same standing as this claim which the Senator from Massachusetts proposes shall be paid. This amendment, which he proposed some time ago, was referred to the committee and received very careful consideration by that committee, and the committee decided against incorporating it in the bill.

Mr. President, I wish to call attention to claims of this class. In the first place, it is for what may be called stores and supplies, although two items in it are for woodland, 163 acres of timber and 133 acres of timber, apparently standing timber, as estimated by the agent. Among the items is a claim for a henhouse and a corncrib and divers items of that kind, which it is claimed were taken by the military forces of the United States

for the use of the Army in 1864.

This claim was sent to the Court of Claims under what is known as the Tucker Act. That act required that the court make a finding, giving any excuse which the claimant might have for long delay in presenting his claim. The court, in its findings, say that-

The claim was not presented to the Southern Claims Commission, and no evidence has been offered by the claimant under the act of March 3, 1887, "bearing upon the question whether there has been any delay or laches in presenting such claim or applying for such grant, gift, or bounty, and facts bearing upon the question whether the bar of any statute of limitation should be removed or which shall be claimed to excuse the claimant for not having resorted to any established legal remedy."

It was sent to the Court of Claims under an act which required the court to find what the facts were that might be considered in excusing the claimant for his delay and laches, and the court finds no evidence whatever upon the question why during all these years this claim had not been presented to any department of the Government. It was not presented to the Southern Claims Commission; it was not sent to the Court of Claims under the Bowman Act; but apparently it was allowed to slumber from 1864 until the year 1900, when for the first time it was sent to the Court of Claims under the Now, that is a period or more than a generation. For a period of about 36 years this claim lay dormant and was not presented to any department of the Government. Sir, during that time the claimant died. The court finds in the year 1902 that this claimant was loyal. Mr. President, it can be seen at a glance how difficult it would be, after the expiration of 36 years, the original claimant himself being in his grave, for the Government to get testimony with reference to whether or not he was not loyal.

But it is a notorious fact, which appears all through the omnibus claims bill, that after an ancestor, who during his lifetime was too conscientious and had too much regard for his sense of propriety to come forward and assert a claim, is dead and gone, his children come forward and urge the claim, saying that he was loyal, and this, too, when all the witnesses who lived at the time the claim arose are dead and in their graves and there is no opportunity for the Government to make an issue with reference to the matter. Some of these children come in here and ask damages for corn cribs or for spoliation of timber lands by the hundreds of acres more than a generation ago, and say that the ancestor was loyal. Loyalty is a very general term; it is largely a state of mind; and, as the court has said over and over again, the most competent witness upon the question of loyalty, if he will tell the truth, is the claimant himself who originally had the right to assert the When he is dead, when his lips are forever closed, and when no issue can be made with reference to him, after all the parties are gone and the transaction is a stale one, the children come in and say the ancestor was loyal. That puts the Government of the United States at a very great disadvantage, indeed. Then, when the claimant goes into court under a law which requires the Court of Claims to find what explanation there is for his delay, and under that statute the court takes jurisdiction of the claim and reports it back here without a single

explanation, without any facts whatever to explain the long years that have gone by since the facts arose upon which the claim is based, it seems to me we are opening the door in a very reckless and very dangerous way to go into the appropria-tion of money to satisfy claims of such a character.

In war all the residents of the country with which we are at war are enemies-public enemies-they are so regarded: and to bring a claim on account of soldiers going through forests and in the conduct of war laying waste to trees, so that they are estimated by the acre-133 acres of timber-is bringing a claim against the Government which arose during the war of such a character that it seems to me it would be a very dangerous precedent, indeed, to appropriate money to satisfy it.

As I have said over and over again, if this particular claim is allowed upon this state of facts, and we are to load this bill down with such claims, I will say frankly to the Senate that after the bill is so loaded it will not have my support.

I have investigated these claims personally. I have not taken the word of clerks; I have taken the findings, and I have carefully and conscientiously gone through each one of them and reported to the full committee the facts which I found. That committee, after seriously considering them, decided to reject this claim and others of this class. It is for the Senate to say whether they will sustain the committee in that policy or throw the bars down here and go into a discussion of all the multitudinous details and facts in relation to stale claims of this character.

I submit to the Senate that the amendment ought not to be

accepted.

Mr. LODGE. Mr. President, I have no desire to protract the discussion of this particular amendment. I am unable to say why there was delay in the presentation of the claim, but I do wish to say a single word in regard to one statement made by the Senator from South Dakota as to the children of the man in whose name the claim is made coming forward and making a statement about his loyalty which he would have been unwilling to make. I happen to know the son of this man who, I think, is the one who has brought the claim. He is a young man of a great deal of talent and ability and of the highest character. He is utterly incapable of making any statement for the purpose of getting money from the Government which he did not thoroughly believe to be true. I think it is only just to him to say that I am sure that he is thoroughly convinced that this is an honest and proper claim and that he never would have alleged the loyalty of his father unless he had been perfectly certain of it. I know this case comes under a class of claims very much disputed, but I felt when I introduced it that it was an honest claim and a good claim, and for that reason I presented it. I do not wish to delay the Senate any further.

Mr. CRAWFORD. Just one word further, Mr. President. I do not wish to start in here on one item with a lengthy discussion, but the Tucker Act, under which this claim was sent to the Court of Claims, provides that that court shall also report whether there are any equitable grounds upon which the claim might be allowed. There is absolutely no report under the Tucker Act that there are equitable grounds upon which this

claim should be considered.

Another thing. It is said that this property was taken by the military forces for the use of the Army, but it is not said, as is customary in such cases, that it was taken by authority of the Government. It is simply said that it was taken by the military forces for the use of the Army.

Mr. LODGE. The court says specifically that it was taken

by proper authority.

Mr. CRAWFORD. That is in the statement of facts, taken from the petition, but not in the findings. The findings are that there was taken from the claimant's decedent in Dinwiddie County

Mr. LODGE. Yes; that is the statement of fact.

Mr. CRAWFORD. Certainly. That is merely the allegation.

Mr. LODGE. Yes; that is true.

Mr. CRAWFORD. But in the statement of facts it does not say that it was by authority of the Government.

That is not all. Under the laws relating to these claims there should have been a receipt issued by the quartermaster, or whoever represented the Government at the time this property was received, if it was taken in that way and for the use of the Government by authority of the Government. There is nothing of that kind here. The most that can be claimed for these facts is that this property was taken by the United States forces and was used for the Army, but there is nothing in the findings to show that it was taken by the authority of the com-

manding officer or that it was receipted for, so there is not any evidence of that class and character which, under several of the acts, it is contemplated should be produced before the claim would have any standing before an auditor of the War Department.

ask that the amendment be rejected, Mr. President.

The PRESIDING OFFICER (Mr. SMITH of Georgia in the chair). The question is on the amendment offered by the Senator from Massachusetts [Mr. Lodge]. [Putting the ques-The ayes seem to have it.

Mr. CRAWFORD. I call for a division, Mr. President. The PRESIDING OFFICER. A division is called for.

Mr. CRAWFORD. I call for yeas and nays. We might as well go on record on this claim. Some Senators evidently did

not understand the question on which the vote was being taken.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Massachusetts, which the Secretary will state.

The Secretary. On page 264, after line 13, it is proposed to insert the following:

To Thomas B. Flower, of Greenville, Mass., \$5,538.

Mr. CLARKE of Arkansas. May I ask the Senator from Massachusetts what the claim is based on?

Mr. LODGE. That is stated in the findings of the court. is a claim for property taken and used during the war. Thomas B. Flower is dead, and the claim is brought by his heirs

Mr. CLARKE of Arkansas. Mr. President, my understanding is that this bill is being made up upon the theory that all private claims should be omitted, except such as relate to overtime charges in favor of those who served in the postal department and various other branches of the public service.

The private claims referred to as being eliminated I supposed were private claims growing out of property taken during the war. I understood all those claims would be left over for future consideration and that the bill was to go to conference as amended on the part of the Senate, sufficient being done at this time to take care of school, church, and other undisputed

I am opposed to the amendment going in the bill unless all the other private claims of the same character are also in-serted. There is no reason why there should be an exception made of that one simply because the beneficiary of it happens to reside in Massachusetts.

Mr. CRAWFORD. Mr. President, the Senate has sustained the committee in practically all of the amendments reported by the committee, striking out of the bill just such claims as this. Now, the Senate will have to reverse itself with reference to two or three hundred claims or else discriminate against two or three hundred claims if it allows this one claim presented by the Senator from Massachusetts. I do not think it would be fair to the committee or wise to do anything of the kind.

Mr. THORNTON. Mr. President, I should like to ask the Senator from Massachusetts whether the claim which he now offers was embodied in the House bill?

Mr. LODGE. I have not examined the House bill to see whether it was included or not, but I think it was not.

Mr. CRAWFORD. It was not.
Mr. THORNTON. It was not in the House bill?

Mr. LODGE. No.

Mr. MARTIN of Virginia. Mr. President, I ask the Senator from Massachusetts if it has ever been to the Court of Claims. and if there is a finding from the Court of Claims?

Mr. LODGE. Yes; the findings of the Court of Claims have been rendered.

Mr. MARTIN of Virginia. Have they been read? Mr. LODGE. They have been read. I will ask that they be read again, if the Senator so desires.

Mr. CRAWFORD. The Senator from Virginia may not have been in the Chamber at the time, but we have just discussed the issue with reference to the report of the Court of Claims. The claim was sent there under that clause of the Tucker Act which required the court to find what the facts were and to ascertain what explanation the claimant gave for his delay. Under that clause the Court of Claims found no excuse whatever for the delay. In addition to that, I have just called attention to the fact that the court findings, while they say the property was taken by the military forces, do not go to the extent of saying that the property was taken by the authority of the Government. There was no voucher, or anything of that kind produced. So that in many respects it is not as strong as cases which the Senate has sustained the committee in striking from the bill as it passed the House. This claim is not in the bill as it passed the House.

Mr. LODGE. The findings of fact read yesterday are as follows:

FINDINGS OF FACT.

I. The claimant's decedent, Thomas B. Flower, the person alleged to have furnished such supplies or stores, or from who the same are alleged to have been taken, was loyal to the Government of the United States throughout said war.

II. There was taken from the claimant's decedent, in Dinwiddie County, State of Virginia, during the War of the Rebellion by the military forces of the United States for the use of the Army property of the kind and character above described, which was then and there reasonably worth the sum of \$5,538, for which no payment appears to have been made. have been made

have been made.

III. The claim was not presented to the Southern Claims Commission, and no evidence has been offered by the claimant under the act of March 3, 1887, "bearing upon the question whether there has been any delay or laches in presenting such claim or applying for such grant, gift, or bounty, and facts bearing upon the question whether the bar of any statute of limitation should be removed or which shall be claimed to excuse the claimant for not having resorted to any established legal remedy."

Mr. CRAWFORD. The claim was not sent to the Court of Claims until 1900, 36 years after this property was alleged to have been taken, and the finding that the original claimant was loyal was made in 1902, 38 years afterwards, when the claimant was dead and in his grave. There is not anything in the record to show that up to 1900 relief was asked from any department of the Government or even a bill presented to the Congress of the United States for relief. The Court of Claims, under the Tucker Act which required an explanation of the delay and laches, finds no explanation.

Mr. President, I withdraw my request for the yeas and nays on the amendment, but ask that the question again be put on it.

Mr. LODGE. I ask the Chair to put the question again. The PRESIDING OFFICER. 'The Chair will again put the question. The question is on agreeing to the amendment offered by the Senator from Massachusetts [Mr. Lodge].

The amendment was rejected.

Mr. ROOT. Mr. President, I wish to offer an amendment covering a longevity claim. I think it is of the same character as others which have been passed upon favorably.

Mr. CRAWFORD. We have been over so many of them that I will not ask to delay the Senate by having the findings read, and I will accept the amendment with this reservation, that I wish to examine the case, and if I find in any way that it differs from the cases that we have allowed, then I am sure the Senator will concede to me that I can ask to have the action reconsidered.

Mr. ROOT. That is entirely satisfactory to me. Mr. CRAWFORD. With that understanding on the part of the committee, I am willing to accept the amendment.

The PRESIDING OFFICER. The amendment will be stated.
The Secretary. On page 263, after line 2, in the District of Columbia items, it is proposed to insert:

To Spencer Gordon, administrator of the estate of Charles Harris ester, deceased, of Washington, \$1,545.58.

Mr. CRAWFORD. Is that an overtime navy-yard claim?

Mr. ROOT. That is a longevity claim.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROOT. I offer another amendment. It does not come under the same head.

The PRESIDING OFFICER. The amendment will be stated. The Secretary. On page 268, after line 9, it is proposed to

Elizabeth B. Eddy, widow of Charles G. Eddy, deceased, \$602.92.

Mr. ROQT. There are findings of the Court of Claims in that case. I ask to have the findings read.

The PRESIDING OFFICER. The Secretary will read as re-

quested.

The Secretary read as follows:

FINDINGS OF FACT.

I. Claimant's decedent, Charles G. Eddy, upon whose service this claim is based, was loyal to the United States, he having served in the military service of the United States from July 26, 1862, until the close of the War of the Rebellion.

II. Said decedent was enrolled in the military service of the United States for three years on the 26th day of July, 1862, at Milwaukee, Wis., and was mustered into said service as sergeant, Company A, Twenty-fourth Wisconsin Infantry, on August 15, 1862. On December 22, 1862, he was detailed as telegraph operator at the headquarters of Gen. A. D. McCook, and served under said detail from December 23, 1862, until June 14, 1863, when the following order was issued:

[Special Field Orders, No. 192.]

[Special Field Orders, No. 192.] HEADQUARTERS DEPARTMENT OF THE CUMBERLAND, Tullahoma, Tenn., June 14, 1863.

[Extract.] 4. Sergt. Charles G. Eddy, Company A, Twenty-fourth Wisconsin Volunteers, is detailed for duty in telegraph office and will report with-

out delay to Capt. J. C. Van Duzer, assistant superintendent military telegraph.

By command of Maj. Gen. Rosecrans:

Captain and Assistant Adjutant General. While serving under said last-mentioned detail the following order was issued:

[Special Orders, No. 93.]

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE, Washington, February 26, 1865.

[Extract.]

35. The following enlisted men will be furloughed without pay or emoluments until further orders, to enable them to enter the service of the United States Military Telegraph Corps. They will be borne on their company rolls as on furlough. Sergt. Charles G. Eddy, Company A, Twenty-fourth Wisconsin Volunteers.

By order of the Secretary of War.

By order of the Secretary of War.

W. A. Nichols,

Assistant Adjutant General.

III. Said Charles G. Eddy was carried on the pay rolls of the Quartermaster Generals Department of civilian employees of the United States Military Telegraph Service for the months of January, February, and March, 1864, at \$70 per month, for the months of April, May, and June at \$80 per month, and from July, 1864, to May 31, 1865, at \$100 per month, a total of \$1,550, and he receipted to various assistant quartermasters for the payments to him of said amounts.

It does not appear that said Charles G. Eddy received any pay for services as a telegraph operator for any time prior to January 1, 1864.

IV. No general or special orders were issued by the War Department during the Civil War relative to the granting of furloughs to enlisted men to enable them to be employed in the United States Military Telegraph Service on the civilian rolls prior to October 30, 1863.

V. Said Charles G. Eddy was reduced to private September 1, 1864, and was mustered out with his company June 22, 1865. Including a net overpayment of \$5.93, he has been paid by Army paymasters the pay and clothing pay of a sergeant from July 26, 1862, to August 31, 1864, and of a private from September 1, 1864, to June 22, 1865, and \$200 bounty under the acts of July 22, 1861, and July 28, 1866.

VI. The salaries paid to civilian employees of the United States Military Telegraph Service in the Department of the Cumberland during, the months of January of the years 1862, 1863, and 1864 varied from \$15 per month to \$100 per month, as follows: \$15, \$20, \$27, \$30, \$33, \$35, \$37, \$38, \$40, \$47, \$50, \$55, \$38.20 (\$1.94 per day), \$60, \$65, \$70, \$75, \$76, \$80, and \$100 per month, as follows: \$15, \$20, \$27, \$30, \$30, \$75, \$76, \$80, and \$100 per month, as follows: \$15, \$20, \$27, \$30, \$30, \$75, \$76, \$80, and \$100 per month, as follows: \$15, \$20, \$27, \$30, \$30, \$35, \$37, \$38, \$40, \$47, \$50, \$55, \$38.20 (\$1.94 per day), \$60, \$65, \$70, \$75, \$76, \$80, and \$100 per month, as follows: \$15, \$

Filed the 2d day of December, 1907.

Filed the 2d day of December, A. D. 1907.

Test this 5th day of December, A. D. 1907.

JOHN RANDOLPH,

Assistant Clerk Court of Claims. Mr. ROOT. Mr. President, this little claim has heretofore passed the Senate, and I know of no reason why it should not be put into this bill, unless it be the general consideration relating to the kinds of claims to go into the bill.

Mr. CRAWFORD. May I ask the Senator when the bill passed the Senate?

Mr. ROOT. I think it was in the last session of the last Congress—the Sixty-first Congress.

Mr. CRAWFORD. It was not reported by the committee.

Mr. ROOT. It reached the House too late to be acted upon. I want to appeal to the chairman of the committee and to the Senate not to apply that rule to this claim, for this reason: This man was a veteran of the Civil War. He was mustered into the service of the United States in April, 1862, with a Wisconsin regiment, and shortly after, the officers ascertaining that he was a skilled telegrapher, he was ordered to duty as a telegrapher at headquarters and was kept there. He had become a sergeant. He was deprived of the opportunity for promotion, deprived of the opportunity for distinction in the military service, which as a young man he was seeking, and was obliged to stay at a desk and do the work of a telegrapher, side by side with civil telegraphers who were paid the salaries that were mentioned in the findings of the Court of Claims, while he was receiving the pay only of a private in the Army.

He brought to me an autograph letter of Gen. Sherman to him containing the highest encomiums upon his fidelity and value of his service. If this just claim is deferred, it never will be of any use to the claimant. As the Senate has once passed upon the case and as the Court of Claims has passed

upon it, I hope the Senate will put it in this bill.

Mr. CRAWFORD. Mr. President, I remember quite distinctly talking with the Senator from New York about this claim and reading the letter from Gen. Sherman, which, of course, appeals to anyone who reads it; but I have no recollection of this claim having been reported by the Committee on Claims. I remember we had it before us and there was objection to it, and, as I recall it, the committee did not make a report upon it. It may have come through some other committee, but I doubt very much if that bill was reported favorably by the Committee on Claims.

I do not know. I have a memorandum that it passed the Senate in the Sixty-first Congress, but too late to

Mr. CRAWFORD. If the Senator will permit me, I wish to call attention to some facts disclosed in the findings of the to can attention to some tacts disclosed in the findings of the Court of Claims with reference to Mr. Eddy's compensation. He received pay and clothing pay of a sergeant from July 26, 1862, to August 31, 1864, and of a private from September 1, 1864, to June 22, 1865, and \$200 bounty, under the acts of July 2, 1861, and July 22, 1866. There was \$200 bounty. Then in January, February, and March, 1864, Mr. Eddy received \$70 a month as a theoryth operator, while during the same time. a month as a telegraph operator, while during the same time he drew pay as a sergeant. That is, he got pay as a sergeant as well as pay as a telegraph operator.

Mr. ROOT. I think that is all charged against him in the

findings of the Court of Claims, and this \$600 is the difference between all he received and what he would have received if he had been paid what the men working side by side with him

were receiving.

Mr. CRAWFORD. I want to get that clearly before the Senate. He drew for April and May and June \$80 a month as an operator; at the same time he drew pay as a sergeant. My sympathy is naturally with the claimant, particularly because of the letter of Gen. Sherman, but I discovered that he drew pay as an operator, and they did not cut him off from that, and at the same time he drew pay as a sergeant. From July, 1864, to September, 1864, he drew a hundred dollars a month as an operator; and then from July, 1864, to August, 1864, covering the same period, he drew pay as a sergeant. He got a hundred dollars a month and at the same time got a sergeant's pay; and from August, 1864, to May 31, 1865, he drew a hundred dollars a month as an operator, and from September, 1864, to June 22, 1865, he drew pay as a private; and then \$200 additional as bounty. So that, after all, there is not as strong a case made out in his favor on the ground that he was unjustly treated by being confined to the duties of an operator while others were drawing salaries in other capacities, because he drew pay as an operator and also pay as a sergeant and got this bounty besides.

Mr. ROOT. But there was a period from 1862, when he was ordered to this telegraph office, until 1864, when there was a general order providing for the pay to men under those circumstances as civilians during which he was receiving only his pay as a sergeant. It was not covered by that general order

because it was not retroactive.

Mr. CRAWFORD. Mr. President, I wish the Senator would allow the matter to lie over until I can ascertain whether, as a matter of fact, the Committee on Claims reported this bill favorably. I have no recollection of their doing it. If the committee committed itself to this bill by a favorable report, that would put the committee in a different attitude from what I think it is in. I think the committee is in the position of having rejected this claim; and, if so, I should not feel that I could do otherwise than oppose it. But I should like to have an opportunity to do that.

Mr. ROOT. It will be quite satisfactory to me to have this amendment lie on the table until the chairman of the committee

can make the inquiries he wishes.

The PRESIDING OFFICER. Without objection, it will lie on the table.

Mr. MASSEY. Mr. President, I desire to offer the following

amendment to the pending bill.

The PRESIDING OFFICER. The amendment will be stated. The Secretary. On page 64, following line 8, insert:

NEVADA

To John Allman, formerly of Virginia City, now a resident of the State of California, \$2,358.

To John M. Forsyth, formerly of Carson City, now a resident of the State of California, \$2,728.

To Frank J. McWorthy, formerly of the State of Nevada, now a resident of the State of California, \$450.

To Thomas Rodgers, formerly of Virginia City, now a resident of the State of California, \$440.

To the legal representatives of James M. Thompson, deceased, late of Carson City, \$3,736.

Mr. MASSEY. Mr. President, the items covered by the amendment just read were in the bill at the time it passed the House and have been stricken out by the Committee on Claims in the bill as reported to the Senate.

The items grew out of a Piute Indian depredations in 1859 and 1860. It is true that no action was taken toward the presentation of these bills against the Government until many years after, and it is also true that there was no tribunal in

the way of a court having power to adjudicate matters of this kind as between claimants and the Government until many years after these claims arose.

It is also true, Mr. President, that these claims were referred to the Court of Claims, and that the court has in each instance made findings of fact concerning the merits of the claims themselves; and as illustrating the facts out of which all of the claims have grown I call the attention of the Senate to and will read from the report sent to the Senate on the 16th day of December, 1904, under the certification of the clerk of the court.

I refer to the claim of John M. Forsyth, covered by the

amendment which I have read.

The claimant in his petition-

Reading from the report-

Reading from the report—

The claimant in his petition makes the following allegations:

1. That he is a citizen of the United States and a resident of the State of California. That in the spring of 1860 he was a resident of the Territory of Nevada and volunteered to serve under Maj. William Ormsby in a volunteer organization raised to repel the attacks of the Piute Indians who were at the time raiding in the Territory of Nevada. That this volunteer organization was raised by the citizens in order to defend the Territory from the attacks of said Indians, there being at the time no United States troops in the Territory or any authorized militia of the Territory.

2. That he furnished for the use of said organization various supplies, as hereinafter set forth, and in a battle with said Indians in the spring of 1860 the Indians repulsed the volunteer organization forces and captured the horses, supplies, saddles, and other equipments furnished by this claimant. That he claims pay from the United States for the following property.

Then follows in the report a list of the property more which

Then follows in the report a list of the property upon which he bases his rights against the Government of the United States, which I shall not read.

3. That a claim for said property, with evidence therein, was on the 24th day of October, 1890, presented to the State board of examiners of Nevada, the items of said claim being as hereinbefore recited and being for sum of \$6,850, under the act of the legislature of said State as follows, to wit, an act entitled "An act relative to the proving of Indian war claims," approved February 27, 1885, and February 13, 1889, respectively. (State Statutes of Nevada for 1885, p. 47, and for 1889, pp. 32, 33.)

pp. 32, 33.)

That final action was not taken upon this claim by the State board of examiners of Nevada, but the same was reported to the governor of Nevada, being one of a list of cases marked "Action deferred." (Rep. Secretary of State, 1889-90.)

The court, upon the evidence and after considering the briefs and arguments of counsel of both sides, make the following

FINDINGS OF FACT.

I. In 1859 and early in 1860 the Indians of the Piute Tribe inaugurated a series of raids and massacres of settlers on the Curson River, Nevada Territory, and in April, 1860, they drove off a large amount of stock and killed several people and threatened the whites with extermina-

I. In 1859 and early in 1860 the Indians of the Pinte Tribe inaugurated a series of raids and massacres of settlers on the Carson River, Nevada Territory, and in April, 1860, they drove off a large amount of stock and killed several people and threatened the whites with extermination.

II. It became necessary, for the protection of the life and property of the settlers in and about Carson City, Virginia City, and the country intervening, to organize a company of volunteers to proceed against the Indians, and a company was organized composed of recruits from Carson City, Virginia City, and other smaller settlements, aggregating 125 or 130 men, under the command of Maj. William Ormsby. This company proceeded against the Indians, numbering several hundred; met them in a fight at Pyramid Lake. Nev., where the volunteer company was defeated with great loss. Whatever property, provisions, and supplies the company took into this campaign were used by the volunteers or abandoned or destroyed at or near Pyramid Lake, the survivors returning to their homes.

Immediately after these events home guards were formed and a regular force of volunteers was formed, recruited from residents of Carson and Virginia City, and other neighboring places, and requests for aid were sent to California, and in response several companies of volunteers and one of the regular United States soldiers were sent across the mountains and the whole force was placed under the command of Col. John C. Hays. This force, composed of several hundred men, moved against the Indians, who speedily retreated and after some small fights surrendered and sued for peace, which was granted.

III. These forces under Maj. William Ormsby and Col. Hays were provisioned and equipped by contributions from citizens of both Nevada and California. It was necessary to the success of the expeditions that the soldiers should be furnished with horses and feed, arms, ammunition, clothing, and provisions, all of which were either contributed by citizens upon request or impressed

I read from the findings of the court, Mr. President, that the Senate may know what the facts are as to each of the particular items covered by the amendment which I have proposed. These Indians were the wards of the Government. The Government had invited people to settle in the valleys in the neighborhood of these Indians. It was the duty of the Government to protect the settlers there both in their lives and property. When the trouble arose they were without that protection, and they took upon themselves, necessarily and in response, of course, to the inherent law of nature, to do that which the Government should have provided for-that is, the protection of their own lives and their own homes and their own property-and they gave this aid to the country for that purpose, although at a subsequent date, as shown, a portion of the Regular Army was sent across the mountains from California to assist in suppressing the uprising of these Indians.

Mr. President, in addition to that these items were covered in the bill as it passed the House. In addition to that fact these same items have passed the Senate in other bills covering the same items for the same purposes. They have been passed by the Senate twice, if I have read the RECORD correctly, in January, 1909, as shown by Senate bill 7971 of the Sixty-first Congress, second session, and on the 20th of December, 1910.

Not only that, Mr. President, but the Senate of the United States and the Congress of the United States, in fact, have recognized a number of claims of similar and like character, some of which, if my recollection serves me correctly, grew out of the same transaction, and have passed bills reimbursing citizens of the State of Nevada on account of the same losses or losses growing out of Indian depredations of the same character.

There were 39 of these claims, many of which have been paid, and when the House evidently deemed the claims of sufficient importance to embody it in the bill as carrying with it that equity which appealed to the conscience of the House in the passage of the bill as it came to the Senate, I think the Senate can not afford to reject at this time these claims.

There was a moral obligation upon the part of the Government as well as a legal obligation, especially under the conditions existing in the Territory of Nevada in 1859 and 1860 to afford that protection of life and property from these marauding tribes to which the settlers were entitled. The Senate well remembers as a part of the history of this country that in those days the trails of that western country across those deserts were crowded with emigrants who were seeking the gold fields of California and settling wherever land could be found at that time upon which to settle in the western country, to build the nation that we have in the western country.

As a matter of fact, the Government did not give to these people that protection which they should have had. They were compelled to make this sacrifice for the protection the Government should have given.

While these claims may be stale the mere question of their being stale ought not to be determinative of these rights where the facts are clear and undisputed. There is no doubt in my mind but that the Senate, in order to act justly regarding these claims, should adopt the amendment and give to the people making the claims what is due under the conditions and facts I have stated.

Mr. CRAWFORD. Mr. President, the claims of certain citizens of Nevada are claims which arose among the people who were taking voluntary steps in their own way to protect their settlements. That has been done in every pioneer community in every State in the United States at some time or another. The Maj. Ormsby who is mentioned was not an officer of the Regular Army of the United States. In fact, he was not connected with the Federal military establishment in any manner, shape, They were going out from Carson City and Virginia or form. City to engage in a contest with these Piute Indians, and the citizens contributed toward the fund with which they purchased the provisions and procured the horses and the equipment which these volunteers used. It seems that a fight occurred in which the settlers were defeated, and they lost a number of their horses and the provisions were consumed or

If this had ever had any standing whatever as a claim against the Government, it would be a claim to be presented to the Committee on Indian Depredations, and it would have to proceed under the statutes that have provided for the settlement of claims of that character. Now, that attempt was made. This claim was presented as an Indian depredation claim and it was rejected. That is the entire history of this It dates away back in 1859. It never came here for reference to the Court of Claims until in the year 1900.

It seems to me that the Territory of Nevada and the State of Nevada that was evolved from it might with more propriety than the Federal Government take care of a claim no larger than this. It is less than \$20,000. If their own citizens or the decedents of their own citizens there, away back the fifties, in a voluntary movement in no way connected with any action of the Federal Government, sustained some loss, they are better prepared to know what the merits are than we at long range for a claim of this kind. Coming to the Capital of the Federal Government as late as 1900, when the transaction was in no way associated with the Federal

authorities, and coming here in an omnibus claims bill in 1912, it seems to me opens a door of too great laxity in appropriating money out of the Federal Treasury to satisfy claims. I think there ought to be some responsibility fastened upon the Federal Government to justify taking money out of the Treasury and handing it over to citizens of the United States. I see no connecting link in this case whatever, and I ask that the action of the committee be sustained.

Of course, the court finds no conclusion of law. The Court of Claims finds nothing except the facts which I have recited.

I wish to say to the Senator from Nevada, in all kindness, that if the Senate rejects this amendment there will be a conference in which the views of the two Houses may be presented. The theory upon which the House puts this item in and the theory under which the Senate leaves it out will be therefore adjusted. I think it is fairer to the country, it is more in keeping with the responsibility that rests upon us in connection with the payment of money and the satisfaction of claims of this character, that we take that course rather than sustain the action of the House by placing this item in the bill.

I ask that the amendment be rejected.

Mr. MASSEY. Mr. President, just one or two words more, if I may, in response to the suggestions of the chairman of the Committee on Claims.

In the first place, Mr. President, the settlers on the Carson River in 1859 and 1860 did not voluntarily give up this property which they are now asking compensation for. As to the necessity of the donation, if the chairman wants to term it such, it was compelled by the action of the Piute Indian Tribe, were wards of the Government, under conditions where the Government was bound to protect those citizens from their raids. There was nothing voluntarily done so far as any citizen made any contribution at that time.

The further proposition that the claims are old, I grant; but that does not militate to any extent against the justice of the claim as based upon the facts found by the Court of Claims in each of these particular cases.

It is true, as the chairman has stated, that there is no conclusion of the court as to whether these claims ought or ought not to be paid upon the facts stated in the findings. very frankly to state to the Senate that when I know what the facts are—and there seems to be no dispute as to the facts in either of the cases presented to the Senate-I do not ask any court or any other person to form my conclusion as to the justice or the injustice of the claim, believing that I am capable of drawing my own conclusion as well as the court would be capable of drawing its conclusion, if conclusions were necessary under the facts stated.

Not only that, Mr. President, but I desire to repeat that the Senate in the Sixty-first Congress and in a session prior thereto passed a bill upon these facts compensating these people for these losses. Not only that, Mr. President, but a large amount of money was paid under a prior appropriation act, an act of Congress of the United States, to various claimants for claims of an exactly similar kind and character, and where the facts were no clearer than they are now.

Not only that, but I desire to call the attention of the Senate to the further fact that the House-I am simply repeating because I want to emphasize the fact-following the precedent established by the Senate heretofore, deemed these claims of sufficient character and justice to include them in the bill as it passed the House, and sent the bill here for the action of the Senate upon the same line and under the same direction.

Simply because the claims are old does not militate against a just claim of any kind, and it is only a question in my mind as to whether or not these claims are just. It is not a question whether or not the transaction out of which they arose occurred in 1859 or 1899. The question is whether the Government under the undisputed facts ought to compensate them. as to whether or not these claims are just. It is not a question people for this property that they contributed in protecting their lives and their property under the conditions named. The PRESIDING OFFICER. The question is on the adop-

tion of the amendment offered by the Senator from Nevada [Mr. MASSEY].

The amendment was rejected.

Mr. LODGE. Mr. President, I desire to offer a single amendment covering two claims, and I will ask to have the findings of fact read in each case, as that will put the cases most briefly before the Senate.

Mr. CRAWFORD. Have the amendments ever been referred

Mr. CRAWFORD. Have the amendments ever been referred to the committee, I will ask the Senator from Massachusetts?
Mr. LODGE. The Selfridge Board has dealt with them.
The PRESIDING OFFICER. The amendment proposed by the Senator from Massachusetts will be stated.

The SECRETARY. It is proposed to insert:

Velma C. Williams, administrator of the estate of Paul Curtis, \$4,128.39.

The Secretary read the findings of fact in the case, as follows: TINDINGS OF FACT.

The Secretary read the findings of fact in the case, as follows:

Indicate the collimant, Nelson Curtis, is the executor of the estate of Paul Curtis, who died about the year 1872. Edwin Wright, who was the coexecutor under the will, died in the year 1899. Paul Curtis, deceased, was loyal to the Government of the United States throughout the war for the suppression of the rebellion.

It. Said Paul Curtis entered into a contract with the Navy Department September 9, 1862, to build and equip the hull of a paddle-wheel gurboat, known as a wooden double-ender and subsequently called the Chicopee, for \$75,500. He completed the vessel, and the defendants by their proper officers paid him the contract price of \$75,500, together with \$3,304.20 for extra work resulting from changes and alterations during the process of the work, making a total payment to him of \$78,804.20. By the contract the vessel was to be launched January 18. 1863, 126 days from the date of the contract, but was not launched until March 4, 1863. The contract lowed 50 days more for completing the vessel, but instead of being completed March 4, 1863, as was not finished until April 1, 1864, the principal cause of this delay being the delay of the machinery contractor in completing and installing the machinery of the vessel.

III. Changes in the plans and specifications and alterations of work were ordered by the Government and performed by the contractor throughout the progress of the work, many changes being made after the delivery of the vessel in New York City, some 200 miles distant from the contractor's place of business, which made such work more expensive to the contractor than it would otherwise have been. The vessel remained in New York over a year awaiting completion and installation of the steam machinery before the contractor could finally complete the work on the hull, during which time the prices of labor and materials very greatly increased, thus adding to the cost of the work performed during the period of delay.

IV. In consequence of

1866.

V. No evidence has been adduced to either impeach or confirm the allowance made by the Selfridge Board as aforesaid.

VI. The facts bearing upon the question whether there has been delay or laches in the presentation and prosecution of this claim appear to be that the contractor presented his claim to Congress March 16, 1864; to the Selfridge Board August 3, 1865, and to the Marchand Board in 1867. The claim was also presented to Congress in January, 1901, and later referred to the court by the United States Senate June 17, 1902, as hereinbefore mentioned.

By The Court.

BY THE COURT.

Filed May 15, 1907. A true copy. Test this 3d day of March, A. D. 1908. JOHN RANDOLPH, Assistant Clerk Court of Claims.

Mr. LODGE. I will state, Mr. President, that Velma C. Williams has been substituted as administrator for Nelson Curtis, owing to the death of the latter. I now ask that the findings be read in the other case—the Sampson case. The two cases stand on the same ground.

Mr. CRAWFORD. Does the Senator insist on the findings being read? They cover exactly the same conditions as to facts.

Mr. LODGE. I have made the request only to get the facts

Mr. CRAWFORD. They can be printed.
Mr. LODGE. I will, then, ask to have them printed, as the time for the meeting of the Court of Impeachment arrives in a few moments

The PRESIDING OFFICER. The next amendment proposed

by the Senator from Massachusetts will be stated.

The Secretary. It is also proposed to insert the following

To George T. Sampson, survivor of the firm of George T. & Augustus Sampson, \$4,015.38. Mr. LODGE. I ask that the findings of fact in that case be

printed in the RECORD.

The PRESIDING OFFICER. Without objection, they will be printed in the RECORD.

The matter referred to is as follows:

FINDINGS OF FACT.

I. George T. Sampson and his brother Augustus Sampson resided in oston, Mass., and were associated in business from the year 1862 to 75. They gave no aid or comfort to the rebellion, but were loyal to

the Government of the United States throughout the war—from 1861 to 1865. Augustus Sampson died about the year 1894, and neither his estate nor his heirs are represented in this suit as parties claimant.

II. The said George T. Sampson and Augustus Sampson entered into a contract with the Navy Department, dated September 9, 1862, to build, launch, deliver to the engine contractor in New York City, and thereafter complete, the hull of the wooden double-ender gunboat Mattabessett, for the sum of \$75,590. Under the contract the vessel was to be launched within 126 days from the date of the contract, or by January 18, 1863, and promptly thereafter delivered at the premises of the contractor for the steam machinery; but the vessel was not launched until April 3, 1863, 206 days after the date of the contract, and was not delivered to the machinery contractor until May 2, 1863 (reply of Navy Department, filed July 19, 1905, pp. 13, 84, 1383. The contract called for the completion of the vessel within 50 days after its delivery to the machinery contractor in New York, May 2, 1863; but it was not completed until eight months thereafter, the principal cause of this delay being the delay on the part of the machinery contractor in completing the installation of the engines and machinery of the wessel.

tractor in completing the installation of the engines and machinery of the vessel.

III. During the construction and equipment of the hull of said vessel by the contractors there were numerous alterations and additions ordered by the Navy Department and made by the contractors, for which the contractors, upon the completion of the vessel, presented a claim to the Navy Department, upon which claim they were allowed and paid the sum of \$3,723.70, this being the full amount of the claim, with the exception of an item of \$487 for cost of awnings for hurricane deck and an item of \$1,325 for additional compensation for delivery of vessel at New York. This allowance and payment of \$3,723.70 was in addition to the contract prices of \$75,000 for the construction of the vessel and \$500 for its delivery to the machinery contractor in New York, thus making a total payment to the contractors and builders of Government vessels during the war having asked additional compensation for the construction of such vessels on the ground that they had cost the contractors more than they had received for them, the Senate of the United States on March 9, 1865, passed the following resolution:

"Resolved, That the Secretary of the Navy be requested to organize a board of not less than three competent persons whose duty it shall be to inquire into and determine how much the vessels of war and steam machinery contracted for by the department in the years 1862 and 1863 cost the contractors over and above the contract price, and the allowance for extra work, and report the same to the Senate at its next session, none but those who have given satisfaction to the department to be considered."

The Navy Department thereupon appointed a board consisting of Commodore Thomas O. Selfridge, Chief Engineer Henderson, and Paymaster Eldridge, commonly known as the Selfridge Board; and the contractors in this case presented to said board a sworn statement of claim alleging the entire cost to them of the said vessel, Mattabessett, to have been \$83,239.8, the vessel.

III. During the construction and equipment of the hull of said vessel

representations and additions or-

Mr. LODGE. Mr. President, these cases relate to certain claims of contractors for building vessels during the Civil War. There is no pretense that there was laches at the time. They both presented their claims immediately. They took their claims before the board known as the Selfridge Board, which was established by the Government for the purpose of dealing with such claims, and that board made awards in both cases. Like so many of the claims against the Government, the boards or commissions established by the Government make the award and then Congress does not pay the debt. The matters have dragged along until finally they were referred to the Court of Claims, and the findings of the Court of Claims have been It seems to me that nothing could be stronger, according to mere justice, than these claims. They made their claims at once. The Government said, "All these claims shall be submitted to a board," admitting the liability. The board thereupon was convened, heard the claims, made the awards, and ever since Congress has refused to pay the awards. It seems to me that if any claim is a just one it is a claim of that character.

Mr. CRAWFORD. Let this amendment be considered the pending amendment, and I will ask to-morrow, after the routine morning business, to resume consideration of the bill.

Mr. JOHNSTON of Alabama. I want to put into the RECORD an amendment that I shall offer to this bill and the explanation of facts upon which I propose to offer it. It is very brief, and I merely desire it printed in the RECORD.

The PRESIDING OFFICER. Without objection, the request of the Senator from Alabama will be granted.

The matter referred to is as follows:

On page 267, at the end of line 16, after the words "this act," insert the words "and section 3480 of the Revised Statutes, so far as applicable to these claims, is hereby repealed."

STATEMENT IN REFERENCE TO AMENDMENT BY SENATOR JOHNSTON OF ALABAMA TO H. R. 19115, ON PAGE 267.

The provision now in the bill, lines 3 to 16, page 267, removes the restriction placed upon accounting efficers by decisions of the comptroller in cases where the claim has once been presented and denied.

At one time the Comptroller of the Treasury decided adversely to longevity claims. Later this decision was reversed. Since that time numbers of officers who had never previously had their longevity claims passed upon presented their claims, and these claims the comptroller has allowed, but upon the principle of res adjudicata has refused to reopen and allow similar claims that his predecessors had disallowed.

There are certain other claims barred from consideration by the accounting officers by section 3480, Revised Statutes. These are all claims for services in the Army previous to April 13, 1861; that is, claims that had accrued or existed prior to the commencement of the war. In 1807, just after the war, section 3480 was enacted restricting pay officers from allowing claims or demands existing prior to April 13, 1861, in favor of any person who was not known to be opposed to and distinctly in favor of the suppression of the rebellion.

At the close of our Civil War this recognized principle of international law would have applied except for the direct prohibition upon the allowance of such claims by section 3480, enacted in 1867, before the bitterness and passion of the war had passed and as a punitive statute. The repeal of that section now in no way affects existing limitations upon the payment of claims which arose out of the war, as the section affects only debts due before the war commenced.

THE SECTION HAS BEEN REPEALED IN PART SEVERAL TIMES.

THE SECTION HAS BEEN REPEALED IN PART SEVERAL TIMES.

1. By an act of March 3, 1873 (17 Stat, L., 528), claims of the census takers of 1860 were exempt from the operations of this section.

2. By an act of March 3, 1877, provision was made for payment of claims of mail carriers for services performed prior to the outbreak of the Civil War, and provision made that this section should not be applicable to the payments therein authorized.

3. By "An act to repeal, in part, and to limit section 3480, Revised Statutes of the United States," approved March 11, 1898 (30 Stat, L., 274), proof of loyalty was dispensed with "in any application for bounty land where the proof otherwise shows that the claimant is entitled thereto."

STATUS OF SECTION 3480 NOW.

As above stated, the bill has already been repealed in part three times. Besides this, a bill to totally repeal the section has been twice favorably reported to the Senate by the Judiciary Committee, once by the late Senator Pettus, of Alabama, in the Fifty-ninth Congress, and in that Congress the bill passed the Senate. The second time on a report by Senator Dillingham, of Vermont, in the Sixtieth Congress. A bill to repeal the section in whole is now pending in this Congress. If claims which are now barred from consideration because they have been disallowed by the accounting officers are now going to be opened for consideration, these claims also should be so opened which have been barred from consideration by this statute.

The purpose of this amendment is to open to audit these claims of officers of the Regular Army serving in the Confederate Army. No appropriation is asked, and that question would arise after the audit.

Mr. SMOOT. I suggest the lack of a quorum, Mr. President.

Mr. SMOOT. I suggest the lack of a quorum, Mr. President. The PRESIDING OFFICER. The Secretary will call the

The Secretary called the roll, and the following Senators answered to their names:

Smith, Ga. Smith, S. C. Smoot Stephenson Sutherland Swanson Curtis Davis McLean Martine, N. J. Ashurst Borah Myers Nelson O'Gorman Oliver Brandegee Bristow Brown Bryan du Pont Foster Gallinger Gronna Page Penrose Perkins Perky Richardson Johnson, Me. Johnston, Ala. Thornton Tillman Townsend Warren Burnham Chilton Clapp Kenyon La Follette Crane Works Crawford Lodge McCumber Culberson Root

Cullom Sanders Mr. TOWNSEND. I desire to state that the senior Senator from Michigan [Mr. SMITH] is absent from the Chamber on business of the Senate.

The PRESIDENT pro tempore. On the call of the roll of the Senate 50 Senators have responded to their names. quorum of the Senate is present.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. Bacon) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives

appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeach-

The Secretary read the Journal of Tuesday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. Are there any inaccuracies

in the Journal? If not, it will stand approved.

Mr. Manager FLOYD. Mr. President, we will ask to have Mr. W. P. Boland recalled, as his cross-examination has not been concluded

The PRESIDENT pro tempore. The witness will be recalled.

TESTIMONY OF W. P. BOLAND-RESUMED.

Cross-examination, continued:

Q. (By Mr. WORTHINGTON.) Have you talked with anybody about the case or your evidence since you were on the stand yesterday?—A. Only my brother and Miss Boland and Miss Blackmore, when I went back to the hotel.

The PRESIDENT pro tempore. Speak louder; we can not hear you.

The Witness. I say only to my brother and my niece, Miss Boland, and Miss Blackmore, who is with her here as a witness. Q. (By Mr. WORTHINGTON.) You said yesterday that

Judge—A. (Interrupting.) I might say that I spoke to Mr. Webb. I said, "How do you do?" out here in the corridor.

Q. In the corridor?—A. Yes, sir.

Q. You said yesterday that Judge Witmer laughed you out of his court?-A. I did; yes, sir.

Q. I wish you would tell us a little about that, so we will know to what you refer.

Mr. Manager FLOYD. Mr. President, I object to that on the ground that it is wholly immaterial. Counsel for the respondent brought it out on cross-examination, and we care nothing about testimony of that character. It is not cross-examination, and it has nothing to do with the case. We think that in order to shorten the trial and to get through with the testimony matters that are wholly irrelevant and immaterial and not properly the subject of cross-examination ought to be omitted from this

Mr. WORTHINGTON. We make no quarrel with the honorable managers about the rule that should be applied; but this witness has testified that Judge Archbald and Judge Witmer and his own attorney and others had formed a conspiracy to ruin the Marian Coal Co.

Mr. Manager CLAYTON. Mr. President, I think that statement is hardly justified. I do not think the witness said that. Mr. WORTHINGTON. Well, Mr. President, if the Chair Well, Mr. President, if the Chair does not recall that, we will have to stop a moment to see what the witness did say.

The PRESIDENT pro tempore. The Chair does not consider the question whether or not that particular language was used material to the decision of this question. So we will not pause for the purpose of examining the notes as to that.

Mr. WORTHINGTON. Shall I ask the question?

The PRESIDENT pro tempore. No, sir. The Chair would

like to hear from counsel.

cross-examination

Mr. WORTHINGTON. I say the witness has testified, and said with great emphasis yesterday, that Judge Archbald and Judge Witmer together, Judge Witmer at the dictation of Judge Archbald, entered a decree in the case of Peale versus the Marian Coal Co., and otherwise took action in the case which ruined that company.

Now, I submit we ought to have the right to find out what is the foundation for such charges; or, as we contend, to determine that there is no foundation for them and that the witness is laboring under hallucinations in his talk about Judge Archbald

and Judge Witmer and his own counsel.

The PRESIDENT pro tempore. So far as the Chair remembers, in the articles of impeachment there is no charge of conspiracy between Judge Archbald and Judge Witmer. There. fore the testimony would be utterly irrelevant, and the Chair would not consider it admissible.

Mr. WORTHINGTON. But, if you will permit me, Mr. President, the articles of impeachment charge Judge Archbald with being engaged in improper practices, and especially with reference to this particular suit, and the witness who was called to substantiate the charge says the conspiracy was one to which Judge Witmer was a party.

The PRESIDENT pro tempore. If that testimony had been brought out by the managers, the Chair would recognize the right of counsel to cross-examine the witness upon it; but that was testimony brought out by the respondent, and the Chair thinks

it is entirely irrelevant.

Mr. WORTHINGTON.

Mr. WORTHINGTON. Very well. Q. (By Mr. WORTHINGTON.) I wish you would repeat— I do not recall now just what you said—about the case of Peale against The Marian Coal Co. remaining idle for a great many months. You said from the 13th of October, 1908, if I remember right, to some date.—A. On the 13th of October the Marian Coal Co. suspended further shipments of coal to Mr. Peale, and somewhere along in 1909 there was a suit started in the Federal courts; but there was not much of a movement to that suit until after or about the time we started proceedings against the railroads before the Interstate Commerce Commis-That is what I meant. sion.

Q. And what was the time you started proceedings before the Interstate Commerce Commission?-A. I think that was

about August 12, 1910.

Q. Are you aware of the fact that the Peale suit was not begun until March, 1909?-A. I only know from what I have seen of the records of that case.

Q. You do not doubt that the record is correct about that?-A. I have no reason to doubt that; no.

Q. Did you not, before the Attorney General in February,

1912, assent to this statement made by Mr. Cockrell?

Mr. Manager FLOYD. Mr. President, we object to that unless it is for the purpose of contradicting something that the witness has said in his examination in chief. We did not go into that matter at all. We recognize the right of counsel to refer to it to contradict anything we may have brought out on examination in chief in which the witness has sworn contrary to statements there, but not otherwise.

The PRESIDENT pro tempore. Does counsel desire to say

anything on that?

Mr. WORTHINGTON. I was looking for what the witness stated yesterday on that subject, Mr. President. The honorable manager says he did not bring that out. [Addressing witness.] You testified yesterday, did you not?-

Q. How many months do you say the case lay idle?—A. From the 13th of October to about December, 1910.
Q. When?—A. From October, 1908, until about December, 1910, there was scarcely anything done with it.

Now, surely, Mr. President, when the main point of this witness's testimony has been the conduct of Judge Archbald with reference to the case of Peale against The Marian Coal Co., we ought not to be restricted in our cross-examination of him as to just what is charged against Judge Archbald or just what are the facts in reference to the charges so far as we can get them from this witness.

The PRESIDENT pro tempore. The Chair will ask that the

question be repeated.

The Reporter read as follows:

Q. Did you not, before the Attorney General in February, 1912, assent to this statement made by Mr. Cockrell?

Mr. WORTHINGTON. That the demurrer was overruled and the case lay idle for about 26 months?

The PRESIDENT pro tempore. The question is as to the witness having assented-

Mr. WORTHINGTON. Yes, sir.

The PRESIDENT pro tempore. To a statement made by another?

Mr. WORTHINGTON. Yes, sir. That would be supposed to be the same thing as if he had said it himself.

Mr. President, what I want to bring out is that this witness, whose statements brought on these proceedings, and who is now brought here as a witness to support them, told the Attorney General and told the Interstate Commerce Commission just what has been said here, that the suit referred to lay idle for 26 months, it being the suit of Peale against the Marian Coal Co.; that nothing was done about it until the Marian Coal Co. ventured to bring a suit before the Interstate Commerce Commission against the Delaware, Lackawanna & Western Railroad Co. in the fall of 1910; and that then immediately, as the witness has said, the machinery of the courts was set to work. He has stated here distinctly that he charges that Judge Archbald and Judge Witmer together then undertook to start the Peale case and ran it to a decree against him for the purpose of interfering with the prosecution before the Interstate Commerce Commission of his suit against the railroad company.

Now, I want to bring out what the facts are to show that indeed, the suit was brought in March, 1909, and that it went along regularly about the way an equity suit in a Federal court usually goes along, and that there was no hurrying up of the case, and that it is not true that there were no steps taken until about the time the case before the Interstate Commerce Commission was begun, and that his whole story about that made to the Interstate Commerce Commission and made to the Attorney General and made here is in fact a delusion; that there is not the slightest foundation for it in fact.

The PRESIDENT pro tempore. The question of the admissibility of that evidence, if offered, would be a distinct question. The question which the Chair understands counsel to propound is as to the witness having agreed and tacitly consented to what he heard another witness testify. Is that the question?

Mr. WORTHINGTON. No; not another witness; Mr. Cock-

rell was not a witness.

The PRESIDENT pro tempore. The Chair will not say a

Mr. WORTHINGTON. Mr. Cockrell, if I may say so to you, Mr. President, is an officer in the commission-I think he is private secretary to Commissioner Meyer, of the Interstate Commerce Commission—and he was present when Mr. Boland was examined by the Attorney General-in what capacity I do not know-but not as a witness.

Mr. Manager FLOYD. Now. Mr. President, our objection to this testimony is that counsel has no right to ask the question

unless it is for the purpose of contradicting-

The PRESIDENT pro tempore. If the manager will permit the Chair, in order that we may proceed promptly the Chair

will for the present exclude this testimony, and if afterwards counsel offer to prove that, which can be done by the record, the question will come up again. But it will possibly be an economy of time to give it that direction at this time without finally concluding the right of counsel to prove those facts.

Q. (By Mr. WORTHINGTON.) Then I will ask you, Mr.

Boland, whether before the Judiciary Committee, when you were examined there, this did not happen in your examina-

Mr. Manager FLOYD. Mr. President, we object, unless it is for the purpose of contradicting testimony that the witness has given here, because we did not ask him a single question about

what he said before the Judiciary Committee, as I remember it.

The PRESIDENT pro tempore. If the statement counsel now proposes to read relates to matter that the witness testified to on direction examination, of course that would bring it within

Mr. WORTHINGTON. Mr. President, is there not another ground on which I may ask the witness this question? Is it not competent to show the bias of any person who is brought into court as a witness? Is it not always proper for the op-posing counsel to show, if they can do so, that a witness is biased against the person against whom his testimony is di-

The PRESIDENT pro tempore. The Chair thinks so.

Mr. WORTHINGTON. I propose to show that this witness is not only biased against Judge Archbald in the ordinary way, but that he is responsible practically for this whole prose-cution or proceedings, and that he did it by making statements

which are absolutely false and groundless.

The PRESIDENT pro tempore. Counsel will recognize the correctness of the rule that on cross-examination a witness can be examined only on matters brought out on direct examination.

Mr. WORTHINGTON. And also the rule as to a witness's bias. Mr. President, if I had witnesses who had heard this witness say yesterday that he was going to come in here and tell a whole lot of things that would hurt Judge Archbald, whether they were true or not, could I not prove that, although he did not testify to it on direct examination? Anything that would tend to show his bitterness and feeling toward Judge Archbald, or anything that he may have stated falsely about Judge Archbald, would be competent as showing bias.

The PRESIDENT pro tempore. Undoubtedly, but the Chair

does not know what the particular evidence is.

Mr. WORTHINGTON. I am proposing to bring out clearly that before the Interstate Commerce Commission, before the Attorney General, and before the Judiciary Committee this witness said distinctly that his case lay idle for 26 months—that was the case of Peale against the Marian Coal Co.—that it lay idle until he ventured to bring suit before the Interstate Commerce Commission against the Delaware, Lackawanna & Western Railroad Co., and that then Judge Archbald, who had not been in the court for several months, got Judge Witmer to take up the case and push it along and make a decree, which he says ruined him. Is not that competent on the question of bias?

The PRESIDENT pro tempore. Does counsel propose to examine the witness about testimony which he gave before the Judiciary Committee, and which testimony has not been brought out in the examination here?

Mr. WORTHINGTON. Certainly; for the purpose of show-

ing his bias.

The PRESIDENT pro tempore. The Chair thinks counsel is entitled to show bias, but not in that way. It would open the door widely to the examination of this witness upon every subject connected with this case, whether it be a matter that has been brought out by the managers or not. There would be no limitation whatever under the rule as suggested by counsel for the respondent. The door would be absolutely thrown wide open without any restrictions or limitations as to the whole subject matter of the case if that rule is correct.

The Chair does not wish to be understood as ruling against the right of counsel to show those facts, but not in this way.

Mr. WORTHINGTON. Very well. Q. (By Mr. WORTHINGTON.) Now, I understood you to testify on your direct examination that when this silent-party paper was prepared, which gave you a one-third interest, you did expect to have an interest in this Katydid purchase and sale, and that afterwards you notified Williams that you released him. Is that right?—A. I did; yes, sir.

Q. When was it you released him?-A. I do not remember

the exact date.

Q. Was it before you came down before the Interstate Commerce Commission and the Attorney General?-A. It was.

Q. It was?—A. Yes, sir.

Q. Now I will ask you whether this took place before the Attorney General, when Mr. Cockrell was there, on or about

the 12th of February?

Mr. Manager FLOYD. I object to anything that took place before the Attorney General, because I did not ask the witness any questions about that, unless counsel will say that he means to contradict some statement that the witness did make.

Mr. WORTHINGTON. I do mean to show that he then

stated that he still had the one-third interest.

Mr. Manager FLOYD. I object, on the statement of counsel, because he is asking this witness certain questions and is then trying to contradict statements which he himself has brought out, not that we brought out.

Mr. WORTHINGTON. That was brought out by the mana-ers. That is my recollection and that of my associates here.

The PRESIDENT pro tempore. The Chair will have to have information on that point-by whom it was elicited. If it was elicited by the managers, counsel undoubtedly have the right to cross-examine the witness on it.

Mr. Manager FLOYD. I desire to state further that what counsel proposes to show is wholly immaterial. Counsel can only contradict the witness upon material matters, and so far as the purposes of this case are concerned, we regard that proposed testimony as wholly immaterial. What happened before the Attorney General or the statements that counsel proposes to quote that he expects to prove the witness then said, we regard as absolutely immaterial to the issues in this case.

Mr. WORTHINGTON. Let me read from the proceedings in this case, page 429. He was asked by Mr. Manager Floyd:

Then did you afterwards claim any interest under that contract? The PRESIDENT pro tempore. Who asked the question?

Mr. WORTHINGTON. This is a question put to him by the manager who is now objecting to my going on.

Mr. Manager FLOYD. From what page are you reading, Mr. Worthington?

Mr. WORTHINGTON. Page 429, just a little above the middle of the page:

Q. Then did you afterwards claim any interest under that contract?—A. When I found—

Then there was an objection, and a discussion followed which I will not read. Then Mr. Manager Flord said:

I think the whole transaction should come out. Even if it does not affect him, the Senate ought to have the full transaction in order that it may be understood.

The PRESIDENT pro tempore. If the Chair understands the purport of the question, it is legitimate.

Mr. Manager Floyd. I might explain—
The PRESIDENT pro tempore. It is not necessary. The Chair has ruled with the manager.

Q. (By Mr. Manager Floyd.) Answer the question.—A. I afterwards withdrew or released Mr. Williams from any interest that I might have in the sale of that property.

The PRESIDENT pro tempore. The Chair thinks the question can be asked

Q. (By Mr. WORTHINGTON.) I will ask you whether or not, before the Attorney General, on or about the 12th of Feb-

ruary last, this did not occur— Mr. Manager FLOYD. Mr. President, we do not question the right of counsel to cross-examine the witness upon that proposition, but we do question his right, unless the witness has

made some contrary statement here, to read that book.

Mr. WORTHINGTON. I have just brought out that upon the question asked him by Mr. Manager Floyd, the witness said he told Williams he had released him. He told him that was before he came down here. I want to prove that when he came down here he then made the statement that he still had the one-third interest.

The PRESIDENT pro tempore. The counsel will ask the

question.

Q. (By Mr. WORTHINGTON.) Reading from the bottom of page 138 of volume 1 of the proceedings before the Judiciary Committee of the House:

The ATTORNEY GENERAL. What was the sum placed on the other option?

Mr. Boland. \$4,500. Now, I put myself in this proposition because I wanted to know where I stood—

The PRESIDENT pro tempore. The Chair thinks that counsel ought to confine himself to the particular point ruled by the Chair, that he has a right to show it by cross-questioning upon the particular evidence elicited by the managers.

Mr. WORTHINGTON. I thought it was only fair to the witness and to the Senate that I should read the immediate question which led to it. It is the next question which is

based on this.

The PRESIDENT pro tempore.

Mr. WORTHINGTON. Mr. Boland says:

Now, I put myself in this proposition because I wanted to know where I stood, so that I could talk and wouldn't be talking from hear-say, as I knew how utterly helpless I was with the influence I was up against.

Mr. COCKEELL. In other words, you and Mr. Williams and Judge Archbald were three partners in the sale of this culm bank?

Mr. BOLAND. Yes.

(To the witness:) Did you so testify?-A. I did.

Mr. Manager FLOYD. Mr. President, I do not understand that that contradicts anything this witness has said here in any particular.

The PRESIDENT pro tempore. Does the counsel claim that that contradicts the former statement of the witness?

Mr. WORTHINGTON. I do.
The PRESIDENT pro tempore. If the counsel claims that

it does, it is proper evidence.

Q. (By Mr. WORTHINGTON.) How was it that Judge Archbald took away your trial by jury?—A. By taking into his court the case which should be brought in the local courts, which he

Mr. Manager FLOYD. Mr. President, we object. The PRESIDENT pro tempore. The Chair's attention was diverted for the moment. What was the question?

Mr. Manager FLOYD. The counsel asked the witness how it

was that Judge Archbald took away his trial by jury.

The PRESIDENT pro tempore. The stenographer will read the question.

The Reporter read as follows:

Q. How was it that Judge Archbald took away your trial by jury? Mr. WORTHINGTON. I base that upon this, which happened yesterday

The PRESIDENT pro tempore. The counsel will ask the question. The question is legitimate. The Chair understands,

of course, that it was elicited by the managers. Was it not?

Mr. Manager FLOYD. It was not elicited by the managers.

Mr. WORTHINGTON. I was about to call the attention of the President to what did happen on cross-examination. read from page 377 of the Congressional Record.

Q. You hold Judge Archbald responsible for the delay before the suit was brought in his court?

That was my question. Then he said:

I hold Judge Archbald responsible for taking away our trial by jury. He had no right to do so.

That was volunteered by the witness.

The PRESIDENT pro tempore. That is not material at all to this case. It is not stated in the articles of impeachment that

he had deprived anybody of the right of trial by jury.

Mr. WORTHINGTON. It is on page 377 of the Record. should like to have the paper on page 489; the "To whom it

may concern" paper.

Mr. Manager CLAYTON. What page is it in the record? Mr. WORTHINGTON. Page 489 of the hearings before the

House Judiciary Committee.

(Mr. Manager Floyd handed the paper to Mr. Worthington.) Mr. WORTHINGTON. This is a photographic copy. It is just as good. [To the witness:] Will you look at this paper, which is dated July 31, 1911?

Mr. Manager FLOYD. Mr. President, we object.

The PRESIDENT pro tempore. What is the objection of the manager?

Mr. Manager FLOYD. My objection is that the paper was not in evidence and was not mentioned by the managers in any way in the examination in chief, and the counsel himself brought out whatever reference has been made in the testimony upon the cross-examination. We do not desire to offer that testimony in evidence. We consider it immaterial and irrelevent. I do not think the counsel has a right to cross-examine upon it.

Mr. WORTHINGTON. It is a paper that has not yet been

referred to, I submit.

Mr. Manager FLOYD. Then we object because the counsel is

not confining himself to a proper cross-examination.

Mr. WORTHINGTON. I offer this evidence for the purpose of showing, in connection with the other matters in the case, that this witness is biased against Judge Archbald, and to show that he was concocting papers in his office to his detriment. I do not see how the President of the Senate can judge about the competency of it without having it read. I recollect that when there was a paper offered by the managers early in these proceedings we objected to its going into the record, but it was decided that it must be read so that the question could be passed upon.

The PRESIDENT pro tempore. The paper may be read if desired. The Senate has the same right to hear it as the Presiding Officer. It is now being read simply for the information of the

Senate.

Mr. WORTHINGTON. Certainly; I understand that. The Secretary read as follows: SCRANTON, PA., July 31, 1911.

To whom it may concern:

This is to certify that I, Edward Williams, called on W. P. Boland about December 15, 1910, with a note of R. W. Archbald, judge of the Interstate Commerce Court, for \$500, to have said note discounted. I

did not tell Boland at the time that the judge knew that I was going to call on him to discount the above-mentioned note. I only informed him about July 25, 1911, that he made a mistake in not discounting said Archbald note, as he was interested in the case of John W. Peale v. Marian Coal Co., which was then before the United States court, and he would have saved all of the costs had he discounted the note.

A. M. BLACKMODE.

A. M. BLACKMORE.

The PRESIDENT pro tempore. What is the question that the counsel asked with reference to this paper?

Mr. WORTHINGTON. The question is whether that paper was concocted in his office under his direction.

Mr. Manager FLOYD. I do not think it is fair to the witness to use that language, that it was concocted in his office. I think the counsel ought to use some other language.

Mr. Manager CLAYTON. You ought to treat the witness with respect.

Mr. Manager FLOYD. Certainly.
Mr. WORTHINGTON. I will substitute the word "prepared" for "concocted" if that pleases my honorable friend and if that will be more consistent with my duty to the witness, who does not seem to be worrying himself.

The PRESIDENT pro tempore. If the Chair remembers correctly, the managers brought out the fact as to the presentation of this note for discount and the refusal of the witness to discount it, and the reason he gave for so refusing. Am I correct in that?

Mr. Manager FLOYD. Yes, sir; that is correct.

The PRESIDENT pro tempore. Under those circumstances it seems to the Chair that the counsel is entitled to go fully into that question to show all the motives of the party and throw light

Q. (By Mr. WORTHINGTON, handing paper.) Do you recognize the signature of Mr. Williams to that paper?—A. (Exam-

ining.) I do; yes, sir.
Q. And of Miss Blackmore, the witness?—A. I do.

Q. Do you know anything about the creation of that paper?-A. I do.

Q. What?—A. Mr. Williams was making several statements to me regarding his influence on Judge Archbald, what he could do and have the judge to do, and where I made a mistake in not going along with the request of the judge to discount this note. I knew it was dangerous for me to say anything about Judge Archbald when I had to prove it by a friend of his unless I got it reduced to writing. I consequently told Mr. Williams that if he was telling me the truth the only way he could prove it to me was to put it in writing; if he was making those charges against his friend, Judge Archbald, that he had to substantiate me with a written statement so that I might be fortified if I did say something detrimental to Judge Archbald. That is why I asked Mr. Williams for this paper.

Q. You dictated it to a stenographer?-A. Mr. Williams told me in his way where I made the mistake, and he recited that to the stenographer, and she put it in the shape that was satisfactory to him and as he wanted to convey that to me. That is

how it was concocted, Mr. Worthington.

Q. Who was the stenographer?-A. I think Miss Mary Boland.

Q. Do you not know?-A. No; it was Miss Blackmore there

who wrote this paper.

Q. Were you there?--A. I was in that neighborhood; I was around there; but could not exactly say, because so many things have been on my mind. I can not right off tell you just

what occurred two years ago or a year ago.

Q. If you are not sure you were there, how can you tell how it was prepared?—A. I was there, because the paper was delivered to me.

Q. Were you in the room when it was typewritten?would not deny it. If I could answer that clearly I would not deny that. I do not know whether I was or not. There is deny that. I do not know whether I was or not. nothing about this paper I want to deny of its origination or its possession.

Q. You kept it until when?-A. I kept it until I came to

Washington.

Q. And you had a photographic copy made of it, did you not?-A. Yes; I wanted to be sure I would not lose it-if I lost the original that I would have a photographic copy.

Q. Look at this paper [handing paper] and state whether that is the photographic copy; or were two of them made?-A. (Examining.) I had photographic copies made. Whether this is one or not, I know I had. I think this is one.

Q. When did you have that done?—A. Immediately after I

got this letter. I think I did.

Mr. WORTHINGTON. This photographic copy had better be marked in evidence. It is not necessary to read it. It is the same as the original, of course.

(The original was marked "Exhibit K," and the photographic

copy was marked "Exhibit L.")

Q. (By Mr. WORTHINGTON.) In the letter to Mr. Cockrell, of the Interstate Commerce Commission, which was read yester-day, you referred to "the date you mention." It is on page 379 of the RECORD. Let me remind you of the letter, Mr. Boland, dated February 1, 1912, at Scranton, under the heading of the Marian Coal Co., addressed to Mr. Allen V. Cockrell, Esq., Washington, D. C. It is as follows:

MARIAN COAL Co., Scranton, Pa., February 1, 1912.

ALLEN V. COCKBELL, Esq., D. C. Washington, D. C.

DEAR SIR: I have secured additional information along the lines that I spoke to you and the other parties about and will be ready on the date you mention.

Did Mr. Cockrell mention the date to you by letter, telephone, conversation, or how?—A. I am not clear on what that date meant. I do know that I told Mr. Cockrell, and I told the Attorney General and I told Commissioner Meyer and I told Commissioner Clements that I had a lot of information that I had not time to close up. I had a lot of information that would involve others with the judge, and I felt I might be misunderstood at that particular time as using it for political purposes, and consequently there was a lot of things that were kept out for that purpose. I did not want to injure any man, because I was not in politics only so far as to vote for a good candidate.

Mr. Manager FLOYD. We object to that. Mr. WORTHINGTON. It has not the slightest reference to the question asked the witness.

The PRESIDENT pro tempore. The Chair will rule it out

and request the witness to answer.

Q. (By Mr. WORTHINGTON.) You say you can not tell what you refer to in that letter when you said "Will be ready on the date you mention"?—A. I can not give it to you now. I am not clear on that.

Q. Do you know whether or not, after Mr. Watson had ceased his efforts in the matter about which you have testified. he returned any papers to you or to your brother?—A. I do not remember getting any paper back from Mr. Watson. I gave him none.

Q. Do you know what paper was referred to in the letter of Judge Archbald to your brother dated November 13, in which he said he returned the paper?-A. I do not think I

ever gave Mr. Watson any paper.

Q. Mr. Boland, you do not understand my question entirely. There is already in evidence a letter from Judge Archbald to your brother beginning "My dear Christy," dated November 13, 1911, and at the end of it he said, I return you papers or certain papers. I am asking you what those were or where they are?

they are?—A. I can not answer that question. I do not know. Q. You will correct me if I am wrong, but I think in your testimony before the Judiciary Committee, in referring to this conspiracy which you told us about yesterday, in which Judge Archbald and the railroads were a party, you referred to it as

the Black Hand and the Mafia.

Mr. Manager FLOYD. We object, Mr. President. We did not bring out any testimony of that kind.

Mr. WORTHINGTON. On page 1734, I will ask you whether you said-

The PRESIDENT pro tempore. Wait a moment.

Mr. Manager FLOYD. We object to the question put in that way.

Mr. WORTHINGTON. May I read it?

The PRESIDENT pro tempore. The Chair will ask the counsel if it relates to matters brought out on direct examination?

Mr. WORTHINGTON. I confess, Mr. President, that after the cross-examination of this witness had proceeded as far as it did yesterday without any objection being made by the man-agers or by anybody else, I had supposed we would be per-mitted to go on and proceed on those lines to-day. So I did not examine his direct examination to see as to which of those lines he had testified on his direct, but he certainly did give testimony which the managers claim tends to show that Judge Archbald was engaged in a conspiracy with Mr. Williams and with Mr. Watson afterwards. I cross-examined him yesterday for the purpose of showing, or trying to show, as I thought, that his views on this subject of Judge Archbald and a conspiracy generally were absolutely unfounded and originated in a disordered brain.

Now, I want to pursue that for the purpose of showing that he has got into his head that they are black-hand people of the same order as the Italian organization which is called the Mafia and which I understand to be a collection of cutthroats; and I was about to read from his testimony before the Judiciary

Committee, where he used that very language in reference to

The PRESIDENT pro tempore. The Chair does not think, unless it is in rebuttal of testimony elicited by the managers, that it is, under the rule in Federal courts, admissible to pursue a cross-examination which has no connection with anything brought out by the direct examination. The Chair will state that yesterday a good many things were asked by counsel on cross-examination which, if they had been objected to, the Chair would have ruled out; but the fact that they were not objected to does not warrant the examination of the witness Mr. WORTHINGTON. Very well.

Very well.

The PRESIDENT pro tempore. The Chair will be disposed to recognize the right of examination to the utmost as to anything which was elicited by the managers in the direct examination.

Mr. WORTHINGTON. I leave that subject, Mr. President. understand now the Chair to rule that this is a repetition of his ruling, and where I wish to cross-examine this witness to show his bias against Judge Archbald I can not ask about that unless there is some reference to it in the direct examination; but I may bring it out in another way at a later stage in the case.

The PRESIDENT pro tempore. The Chair does not think it would be competent to lay down the rule suggested by the counsel. For the reason previously given it would absolutely destroy the rule which prohibits the examination of witnesses upon matters not brought out in direct examination, and there would be no limitation thereafter, and counsel, upon cross-examination, could go to the utmost extent in the examination of a

Mr. WORTHINGTON. I do not wish to be persistent about it, but certainly I have a right at some time or other to show that this witness has a deadly bias and prejudice, an unreason-

able bias, as I think, against Judge Archbald.

The PRESIDENT pro tempore. There is no question about

the counsel's right in the matter.

Mr. WORTHINGTON. The President holds that I can not do it on cross-examination, and the question is how it may come up

The PRESIDENT pro tempore. The Chair does not rule on that, but the Chair rules that the counsel can not do it by the infraction of another rule. The counsel can cross-examine the witness in any way that may disclose that fact without going into subjects matter relating to this case which were not brought out in the direct examination. Counsel are not concluded by that. There are two ways in which counsel can reach all that is wanted. One is by proving the same by other parties, and the other by introducing the witness as his own.

Mr. WORTHINGTON. I think we will reserve these ques-

tions, then, until we come to introduce our own witnesses, when we will offer his declarations and statements as independent evidence on our own part. [To the witness:] Who was it gave you the information about the Pennsylvania Central Brewing to the information about the Felmsylvania Central Brewing Co.'s estimate of the value of the Katydid dump?—A. I think it was the man in charge of the coal department. I do not know his name, but I think I got that information from him, that the bank was not large enough to consider; that they were not prepared at that time to take the thing over.

O. Was he the man who told you that the value of the dump or the quantity of coal in it had shrunk after it was found you had something to do with it?—A. No, sir; he did not tell me

anything of that kind.

Q. Where did you get that information?-A. I got that information from the statement he made to me and the statement Mr. Robertson made to me and the personal knowledge I had of the bank myself. I was on it. I found, in talking with Mr. John M. Robertson at one time, that he claimed there was about 100,000 tons of coal there, and when this man told me that the Pennsylvania people or the Hillside Coal & Iron people had only estimated 35,000 tons I felt that that was not right, and I told Mr. Williams then that I believed the reason of the shrinkage was on account of my connection with it.

Q. Did you know that the contract Judge Archbald had prepared to be executed in the matter of the sale to Mr. Conn was

in Judge Archbald's name?—A. I did.
Q. How did you know that?—A. Mr. Williams told it to me. Q. That is all you know about it?-A. That was all I knew

about it; yes. Q. Did Mr. Williams tell you that Judge Archbald was going to have it in his own name and not have Williams's name in it?—A. Yes, sir; he did.
Q. And that Williams objected to it?—A. Yes, sir.

Q. And then it was prepared with Judge Archbald's name and Williams's name both in it?-A. Yes, sir; he told me those

Q. You said yesterday something about Williams showing you a paper from the window of Judge Archbald's office, and you said that was something in connection with this lighterage matter, as I understood you. I wish you would explain that for my benefit .-- A. He told me about how Judge Archbald felt when Capt. May refused to give him this bank.

Q. Mr. Boland, I am only asking you about Williams exhibiting that paper at the window. What window was it, and where?-A. He showed that paper at the window. I want to

tell you how he came to show it to me.

Q. I do not care about that. What I want to know is where the window was .- A. The post-office building and the Republican Building are side by side. There is a space of about 30 feet between them. The office of Judge Archbald was on the second floor and my office was on the second floor in the Republican Building, directly opposite Judge Archbald's office, and we could see people coming in and see each other at all times of the day.

Q. Was the window of Judge Archbald's office directly opposite your office, or was it-A. It was just about like that door

there [indicating] on the south side.

Q. The Federal building, in which the judge's office was, fronts on what street?—A. It fronts on Washington Avenue and Linden Street. It is on a corner. There are entrances on both streets.

Q. On what side of that building is Washington Avenue-

north, south, east, or west?—A. On the east side.
Q. 'The window of the judge's office you speak of is on what

side?-A. On the south side.

Q. How far from the east end of the building is the window on the south side where this paper was exhibited to you?—A. I should say it was about 40 feet.

Q. About 40 feet from the front of the building?-A. No; from Judge Archbald's office window to my office window.

Q. I am asking you how far it was from the window where this paper was exhibited to you to the east line of the Federal building?-A. I could not say that. I could not say which one of the two windows he showed it to me from.

Q. How far was the nearest window from that street?-A.

From the street?

Q. Yes; from the east front of the building on that street you mentioned .- A. I could not say whether it was 10 or 12 feet or less than that.

Q. It was very close to the street, was it?-A. Yes, sir.

Q. Could you give us any description of the paper that Mr. Williams exhibited to you from the window?-A. It seemed to be a paper—if I am permitted to handle this paper—it seemed to be in the form of loose leaflets that was not prepared—that is, what was in typewriting form—the paper he showed me. I was not near enough to recognize the contents of the paper, but he held the paper up in that shape before the window.

Q. And you arranged that with him in advance?-A. No; he told me what the judge was doing, and then I wanted to see in what shape it was in—if it was in book form.

Q. He had told you before this that it was something about

the lighterage case, I understood you to say?-A. Yes: I knew that it was not unusual for Judge Archbald to have a brief, but I thought it was unusual for Judge Archbald to prepare a brief.

Q. Do you remember that at the time of this conversation that you had with Williams in reference to this lighterage case your niece and stenographer, Mary Boland, was making notes of the conversation and what Williams said about it.—A. I told Mary Boland to be careful and take note of everything said, because I knew it was a case of life and death-

Q. You are not answering the question.-A. Yes, sir.

Q. Did she make a memorandum of that conversation had with Edward J. Williams about the lighterage case in the judge's office?-A. I did not quite understand that question.

Q. Did Mary Boland make a memorandum and in this way note all the conversation you had with Williams in reference to what was going on in the judge's office about the lighterage case?

Mr. Manager FLOYD. We object, Mr. President.

The PRESIDENT pro tempore. On what grounds?
Mr. Manager FLOYD. Because it is immaterial. We brought out nothing about anything of that kind, and it is not a crossexamination. The counsel is asking this witness about something that would be within the knowledge of another witness, even if it is material.

The PRESIDENT pro tempore. The Chair thinks that counsel is entitled to sift the witness as to the truth of the statement which he has made. That is along the line that counsel asked that question. The question is admissible.

The WITNESS. I can only say that she can answer that best

herself, but my instructions to her were to take

Q. I do not care about your instructions to her. I want to ask if you know whether she did or did not?-A. I do not know; I could not swear to that, Mr. Worthington, I am only telling you that I told her to do it.

Q. Did this conversation with Mr. Williams about the lighterage case in the judge's office occur after you had told her to keep memoranda of theses things?-A. I would say I think it did

Mr. WORTHINGTON. Very well. That is all, Mr. President, I can now ask this witness under the rulings of the Chair, but would ask that he be not discharged after his examination is finished to-day.

The PRESIDENT pro tempore. The witness will retire, subject to recall. Is there further question for this witness?

Mr. Manager FLOYD. One moment.

The PRESIDENT pro tempore. The witness will remain for the present.

Q. (By Mr. Manager FLOYD.) Mr. Boland, you said that Mr. Williams showed you certain papers. Could you tell now about what those papers were from the distance you were when you saw them when he held them in the window?

The PRESIDENT pro tempore. The Chair will suggest to the manager that the witness has already expressly answered

that question.

Mr. Manager FLOYD. That is all.

The PRESIDENT pro tempore. The witness may retire. Call the next witness

Mr. Manager FLOYD. Our next witness is Mr. Loomis.

Mr. Manager CLAYTON. Mr. President, while the next witness is coming, I desire to offer a certified transcript of all the proceedings in the case of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co., docket No. 3592, and reports and orders filed by the commission in said case on June 8, 1912, and October 19, 1912, the originals of which are now on the files and records in the office of the Interstate Commerce Commission. This is one of the cases in the Interstate Commerce Commission.

I also introduce in evidence a certified copy of the record and all the papers, including all the orders, in the case of Henry E. Meeker and Caroline H. Meeker, copartners, trading as Meeker & Co., against the Lehigh Valley Railroad Co., docket No. 1180; the complaint and answer in the case of Henry E. Meeker against the Lehigh Valley Railroad Co., docket No. 3235; and also the report and order of the commission, dated June 8, 1911, in said docket, No. 1180, and joint report and orders dated May 7, 1912, in said cases, the originals of which are now on file and in the records in the office of the Interstate Commerce Commission. I do not desire that they be read, Mr. President, but that they be printed in the record.

The PRESIDENT pro tempore. If there be no objection on

the part of counsel-

Mr. WORTHINGTON. I should like to have an opportunity to look at those papers before they go in to see whether they are complete. I make that suggestion because, looking at the first one, it does not appear to be complete.

Mr. Manager CLAYTON. I thought they were complete.

They purport to be complete, Mr. President.

Mr. WORTHINGTON. Yes; the certificate is all right. The PRESIDENT pro tempore. They will be withheld for that examination.

Mr. Manager CLAYTON. If they are not complete, the deficiency can be supplied, and I am quite willing that counsel may have a reasonable opportunity to examine them. Then, if he agrees that they are complete, they should be printed in the record as having been introduced at this time.

The PRESIDENT pro tempore. That direction will be given, if it is agreeable to counsel.

The papers were subsequently ordered printed in the record.

[U. S. S. Exhibit 47.]

INTERSTATE COMMERCE COMMISSION, WASHINGTON.

WASHINGTON.

I, John H. Marble, secretary of the Interstate Commerce Commission, do hereby certify that the papers hereto attached are true copies of the complaint and answer in the case of Henry E. Meeker and Caroline H. Meeker, copartners, trading as Meeker & Company, against the Lehigh Valley Railroad Company, Docket No. 1180, and complaint and answer in the case of Henry E. Meeker against the Lehigh Valley Railroad Company, Docket No. 3235. Also report and order of the commission dated June 8, 1911, in the said Docket No. 1180 and joint report and orders

dated May 7, 1912, in said cases, the originals of which are now on file and of record in the office of this commission.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the commission this 9th day of December, 1912.

[SEAL.]

JOHN H. MARBLE,

(Before the Interstate Commerce Commission. Henry E. Meeker and Caroline H. Meeker, complainants, v. Lehigh Valley Railroad Company, defendants.)

To the Interstate Commerce Commission:

Before the Interstate Commerce Commission. Henry E. Meeker and Caroline H. Meeker, complainants, v. Lehigh Valley Railroad Company, defendants.)

The petition of the above-named complainants respectfully shows, on I. At all the times hereinafter mentioned the complainants were and still are copartners, engaged in the business of buying, slipping, and selling antiractic coal, under the firm name of "Meeker & Co." and still are copartners, engaged in the business of buying, slipping, and selling antiractic coal, under the firm name of "Meeker & Co." and still gantiractic coal, under the firm name of "Meeker & Co." and still gantiractic coal, under the history of the complainants were and still gantiractic coal over the lines operated by the defendant from mines and collieries situated in what is known as the "Wyoming" coal region. In Pennsylvania, to tidewater, at Perth Amboy, New Jersey, and thence the laws of the State of Pennsylvania, and a common carrier engaged in the interstate railroad transportation, and a common carrier engaged in the interstate railroad transportation, and a common carrier engaged in the interstate railroad transportation, and a common carrier engaged in the interstate coal as well as over other lines owned, leased, controlled, or operated by it. About 50 per cent of the defendant's entre business is the transportation of anthractic coal. III. In addition to the complainants there have been a number of other shippers engaged in shipping anthractic coal as interstate commenced by the coal company", a corporation and engaged in the basiness of mining and buying anthractic coal and engaged in the basiness of mining and buying anthractic coal and engaged in the basiness of mining and buying anthractic coal and engaged in the basiness of mining and buying anthractic coal and engaged in the basiness of mining and buying anthractic coal and engaged in the basiness of mining and buying anthractic coal and engaged in the basiness of mining and buying anthractic coal and engaged in the basiness o

operators, which determined the price paid for coal at the breakers in the said Wyoming coal region, shipped subsequent to November 1, 1900, whereby it was provided that the breaker price should be 65 per cent of the tidewater price for prepared sizes, 50 per cent thereof for pea coal, and 40 per cent thereof for buckwheat coal; and thereupon the coal company accordingly paid the said additional percentages, respectively, for each ton of coal purchased by it at the breakers from said owner, and peators in the said part of the coal company accordingly paid the said additional percentages, respectively, for each ton of coal purchased by it at the breakers from said owner, and the defendant and the independent shippers of anthractic coal, including the complainants, as to the rate to be paid for carrying their coal, as hereinbefore stated; but it was well understood between the complainants and the defendant that the usual allowances should be additional price paid at the breakers for coal shipped during the said period; and for a part of the said period between November 1, 1900, and April 1, 1901, before the said prices had been definitely determined and when the difference between the tidewater price and the price at the breakers represented a sum in excess of the amount paid on the said so the complainants, showing such difference, some of which the complainants paid.

XI. Before November 1, 1900, and August 1, 1901, the complainants is hipped about eighty-eight thousand three hundred and thirty-six (88,336) tons of coal over the defendant is line between the Wyoming such difference and sixty-five (165) miles, and paid it, for such service, an average of about 9 40/100 mills per ton per mile for prepared sizes of coal and about 7,5740 mills per ton per mile for prepared sizes of coal and about 7,5740 mills per ton per mile for prepared sizes of coal and about 7,5740 mills per ton per mile for maler and the respective prices for the same coal prevailing at the breakers, was only one hundred and twenty-nine thous

culm size of such coal, all of such prices being greatly in excess of one dollar per ton, the reasonable charge therefor, and constituting a total overcharge of about \$210,351.00.

XV. The complainants were unable to continue their shipments of anthracite coal except by complying with the demands of the defendant as to rates; and all their said payments were made under dures, and the complainants, in each and every case, made the said payments under protest, asserting that the rates charged were unreasonable and excessive, and notified the defendant that they reserved the right to recover back from it the amount of excess over the reasonable rate.

XVI. Since August 1, 1901, the Coal Company has been and still is selling anthracite coal at Perth Amboy at such prices that, after deducting therefrom the price at which the coal was purchased at the breakers in the Wyoming coal regions, and a reasonable and proper allowance for shipping and selling expenses, there remains, as revenue or receipts to be paid to the railroad company for the transportation of the coal, a less sum than that charged by the railroad company for the transportation of the said coal between the said Wyoming coal region and Perth Amboy.

XVII. The fact that the Coal Company, in nominally paying the tariff rates prescribed by the railroad company, has paid an excessive amount for the transportation of its coal and has done so only at a loss, is evident from the annual reports of the said companies. The Coal Company would have been unable to transact its business in the manner above mentioned and to pay the railroad company the said charges for the transportation of anthracite coal from the Wyoming coal region to Perth Amboy, except for the fact that the railroad company has furnished to it the capital and means to make good the losses which have necessarily resulted in the payment to the railroad company by the Coal Company of the said transportation charges.

Wherefore the complainants respectfully request the commission to make an order fix

spective payments made by the complainants in excess of a reasonable rate, from the dates of such payments, respectively, and to award to the complainants such other relief as they may show themselves entitled to receive.

receive.

Meeker & Co., Complainants.

Shearman & Sterling.

44 Wall Street, New York City, and

William A. Glasgow, Jr.,

412-417 Real Estate Trust Building, Philadelphia, Pa.,

Attorneys for Complainants.

STATE OF NEW YORK, County of New York:

Henry E. Meeker, being duly sworn, says that he is a member of the firm of Meeker & Co. and one of the complainants herein, and that the matters therein set forth are true, as he verily believes.

Sworn to before me July 11, 1907. [SEAL.]

O. R. HOUSTON, Notary Public, New York County.

Sworn to before me July 11, 1907.

[SEAL.]

Notary Public, New York County.

[Henry E. Mesker & Caroline H. Meeker, complainants, v. Lehigh Valler Railboad Company, defendant. Answer. Docket No. 1180. Filed July 19, 1908.

The above-named defendant, saving and reserving its objections hereinafter stated to the jurisdiction and power of this commission to grant the relief prayed for in the petition, answers the petition in the state of the purisdiction and power of this commission to ropower to make an order fixing the rate for transportation of anthractic cosl, as prayed in the petition, and defendant alleges that section a power to make an order fixing the rate for transportation of anthractic cosl, as prayed in the petition, and defendant alleges that section amended by section cytic commerce, approved betwarry 4, 1887, as amended by section cytic commerce, approved betwarry 4, 1887, as after such jurisdiction and power upon this commission is unconstitutional and void. admits the allegations contained in Paragraph I of the complainants, concerning which allegation the defendant has not sufficient knowledge to answer.

Hit. Defendant admits the allegations contained in Paragraphs II, 1911.

When the defendant admits the allegation of the defendant has not sufficient knowledge to answer.

Hit. Defendant admits the allegation of the defendant has not sufficient knowledge to answer.

Hit. Defendant admits the allegation contained in Paragraphs II, 1911.

When the defendant admits that the only means of transporting coal from the antiractic region to New York Harbor is in the way and manner averred in Paragraph V of the petition. Defendant has not sufficient knowledge of the petition of the commonwealth of Pennsylvania, the State in which defendant or the end of the commonwealth of the petition of the Commonwealth of Pennsylvania, the State in which defendant contained in a defendant admits the ownership of shares of capital stock of the Lehigh Valley Coal Company, a coproration of the Commonwealth of Pennsylvani

XII. Defendant denies the allegations contained in Paragraph XIII

XII. Defendant denies the allegations contained in Paragraph XIV of the petition as to the amount of the shipments of coal by the complainants over the lines of the defendant between August 1, 1901, and June 30, 1907, and the prices paid therefor are correct. Defendant denies that the prices paid for transportation as alleged in said paragraph were unreasonable, or constituted an overcharge of the amount averred in said paragraph or constituted an overcharge to any amount. XIV. Defendant denies the allegations contained in Paragraph XV of the petition, except that it admits that complainants have notified the defendant that as to payments made subsequent to the first day of August, 1901, they reserved the right to recover such amounts as they might be entitled to.

XV. Defendant denies the averment contained in Paragraph XVI of the petition.

the petition.

XVI. Defendant denies the allegations contained in Paragraph XVII

XVI. Defendant denies the allegations contained in Paragraph of the petition.

XVII. Defendant further alleges that as to all payments made by the complainants on account of the transportation of anthracite coal over lines of the defendant as alleged in the petition prior to the 17th day of July, 1905, the petition herein not having been filed with this commission within two years after the cause of action accrued, or within one year after the passage of the act of June 29th, 1906, all claims for the recovery of any damages based upon said payments are barred by virtue of the provisions of section 5 of the act of June 29th, 1906, amending section 16 of the act to regulate commerce.

Wherefore defendant prays that the petition be dismissed.

LEHIGH VALLEY RAILEOAD COMPANY, By E. B. THOMAS, President.

FRANK H. PLATT, Counsel, 2 Rector Street, New York City.

(Before the Interstate Commerce Commission, Henry E. Meeker, complainant, v. Lehigh Valley Railroad Company, defendant. Complaint No. 2.)

To the Interstate Commerce Commission:

The petition of the above-named complainant respectfully shows, on information and belief:

I. The plaintiff is engaged in the business of buying, selling, and shipping anthractic coal, under the trade name of Meeker & Co., having duly succeeded to the business which for many years was carried on by himself and Caroline II. Meeker, under the same name. The said business involves the shipping of large quantities of anthracite coals over the lines operated by the defendant from mines and collieries situated in what is known as the "Wyoming" coal region, in Pennsylvania, to tidewater at Perth Amboy, New Jersey, and thence to the New York market.

market.

II. At all the times herein mentioned the defendant was and still is a railroad corporation, organized and existing under the laws of the State of Pennsylvania, and a common carrier engaged in the interstate railroad transportation of passengers and property between points in the States of Pennsylvania, New Jersey, and New York, over its own lines of road, as well as over other lines owned, leased, controlled, or operated by it. About 80% of the defendant's entire business is the transportation of anthracite coal and other merchandise, and about one-half of such percentage of its business is the transportation of anthracite coal.

of road, as well as over other lines owned, leased, controlled, or operated by it. About 80% of the detendant's entire business is the transportation of anthracite coal and other merchandise, and about one-half of such percentage of its business is the transportation of anthracite coal.

III. In addition to the complainant there have been a number of other shippers engaged in shipping authracite coal, as interstate commerce, over the said lines operated by the defendant from mines and collieries situated in the said Wyoming coal region to tidewater at Perth Amboy, one of whom was and still is the Lehigh Valley Coal Company (hereinafter called the "Coal Company"), a corporation organized and existing under the laws of the State of Pennsylvania and engaged in the business of mining and buying anthracite coal, at mines and collieries in the said Wyoming coal region, and shipping the same as interstate commerce over the lines of the defendant to tidewater at Perth Amboy. New Jersey, and there selling it. Since the incorporation of the Coal Company the defendant has owned or controlled, and still owns and controls, its entire capital stock, and the two companies have had, and still have, virtually the same officers, and at least 75% of the anthracite coal transported by the defendant since 1850 was owned by the Coal Company.

IV. Substantially all the unmined anthracite coal in the United States is contained in a small area, consisting of about 496 square miles, in the northeastern part of Pennsylvania, in three localities known as the "Wyoming," the "Lehigh," and the "Schuylkill." Only a small portion of such coal is consumed in the immediate neighborhood of the mines. The greater portion of it is consumed in the Enstern and Middle States, and more than twenty per cent of it is shipped to the harbor of New York City and there marketed.

V. The only means of transporting coal from the anthracite region to New York Harbor is over the line of the defendant and of the following other railroad Company, the Philadelphia

VII. For several years prior to August 1, 1901, there was in operation between the defendant and the various shippers of anthracite coal, including the complainant and his said copartner, an arrangement by which it was provided that the rate which should be paid for transporting their coal to tidewater should be the difference between the market price at tidewater and the price prevailing at the breakers, the latter being definite percentages of the former; and although the defendant published nominal tariff rates and drew sight drafts each week upon its shippers for transportation at such tariff rates, which the shippers paid, yet the charges actually made to the shippers prior transporting their coal were, in all cases, approximately, the difference between the market price at tidewater and the price prevailing at the breakers, and the accounts between the defendant and the various shippers were adjusted accordingly a few days after the expiration of each month; and, in case the defendant had been overpaid upon the said sight drafts, it immediately returned the amount of such overpayment to the shippers, respectively.

VIII. From August 1, 1901, the Anthracite Companies, including the

it immediately returned the amount of such overpayment to the shippers, respectively.

VIII. From Angust 1, 1901, the Anthracite Companies, including the defendant, which, prior to 1901, as hereinbefore alleged, had not charged for transporting coal more than the difference between the market price of the coal at the breakers and the price at tidewater, although they had been publishing nominal tariff rates, began to exact from all independent shippers a fixed charge per ton for carrying coal to tidewater, in excess of such difference in prices, amounting to \$1.55 per ton for prepared coal, \$1.40 per ton for pea coal, \$1.25 per ton for buckwheat coal, and \$1.10 for coal smaller than buckwheat coal; and the said charges have ever since been continued, except that the rate for buckwheat coal was reduced from \$1.25 to \$1.20 per ton on January 10, 1905. The said charges were and are unjust, unreasonable, and discriminatory and are forbidden by the act to regulate commerce and particularly by sections one and three thereof. During the said period any charge in excess of one dollar per ton made by the defendant for transporting anthracite coal between the said points constituted an unreasonable and excessive charge; and the said charges to the complainant were not only far in excess of the difference between the amounts realized for the coal at New York tidewater, after deducting expenses of selling, and the prices paid for it at the mines, and constituted an excessive, unreasonable, unlawful, and discriminatory charge for the said services.

IX. As a result of the said excessive and unreasonable charges, the independent dealers and shippers, including the complainant has been obliged to pay excessive rates upon all coal shipped by him to tidewater over the lines of the defendant.

X. In July, 1907, the complainant's said firm submitted a petition to the Interstate Commerce Commission, requesting it to make an order

has been obliged to pay excessive rates upon all coal shipped by him to tidewater over the lines of the defendant.

X. In July, 1907, the complainant's said firm submitted a petition to the Interstate Commerce Commission, requesting it to make an order fixing the rate for the transportation of anthracite coal by the defendant between the Wyoming coal region in Pennsylvania, and Perth Amboy, New Jersey, at not more than one dollar per ton, and ordering and directing the defendant to make reparation to said complainant for charges exacted by the defendant from the said complainant in excess of the said rate of one dollar per ton prior to July 1, 1907. The said proceeding has been diligently prosecuted, but is still pending and undetermined before the said commission.

XI. From July 1, 1907, to April 1, 1910, the complainant shipped 126,673 tons of anthracite coal over the lines of the defendant from the breakers at the mines and collieries in the Wyoming region to tidewater at Perth Amboy, New Jersey, and paid to the defendant for such services, but under protest, \$1.55 per ton for 68,405.02 tons of the prepared sizes of such coal, \$1.20 per ton for 24,428.06 tons of the buckwheat size of such coal, \$1.10 per ton for 2,512.09 tons of the rice and barley sizes of such coal, all of such prices being a great deal in excess of \$1 per ton, the reasonable charge therefor, and constituting a total overcharge of about \$55,290.73.

XII. The complainant was unable to continue his shipments of anthracite coal except by complying with the demands of the defendant as to rates, and all his said payments were made under duress; and the complainant, in each and every case, made the said payments under protest, asserting that the rates charged were unreasonable and excessive, and notified the defendant that he reserved the right to recover back from it the amount of excess over the reasonable rate.

XII. Since August 1, 1901, the Coal Company has been, and still is selling anthracite coal at Perth Amboy at such prices that, after

NIII. Since August 1, 1901, the Coal Company has been, and still is, selling authracite coal at Perth Amboy at such prices that, after deducting therefrom the price at which the coal was purchased at the breakers in the Wyoming coal region, and a reasonable and proper allowance for shipping and selling expenses, there remains, as revenue or receipts to be paid to the railroad company for the transportation of the coal, a less sum than that charged by the railroad company for the transportation of the said coal between the said Wyoming coal region and Perth Amboy.

XIV. The fact that the Coal Company in nominally paying the teal.

region and Perth Amboy.

XIV. The fact that the Coal Company, in nominally paying the tariff rates prescribed by the railroad company, has paid an excessive amount for the transportation of its coal, and has done so only at a loss, is evident from the annual reports of the said companies. The Coal Company would have been unable to transact its business in the manner above mentioned and to pay to the railroad company the said charges for the transportation of anthractic coal from the Wyoming coal region to Perth Amboy except for the fact that the railroad company has furnished to it the capital and means to make good the losses which have necessarily resulted in the payment to the railroad company by the Coal Company of the said transportation charges.

Wherefore the complainant respectfully requests the commission to

Wherefore the complainant respectfully requests the commission to make an order requiring the defendant to answer the charges herein; that after due investigation an order may be made commanding said defendant to case and desist from the aforesaid violations of the said act to regulate commerce, and that an order may be made fixing the rate for the transportation of anthracite coal by the defendant between the Wyoming coal region, Pennsylvania, and Perth Amboy, New Jersey, at not more than \$1 per ton; and ordering and directing the defendant to make reparation to the complainant in the sum of \$55,290.73, with interest, on the respective payments made by the complainant in excess of a reasonable rate from the date of such payments, respectively; and to award to the complainant such other relief as he may show himself entitled to receive.

HENEY E. MEEKER, Complainant.

HENRY E. MEKKER, Complainant,
SHEARMAN & STERLING,
55 Wall Street, New York City,
WILLIAM A. GLASGOW, Jr.,
447 Real Estate Trust Building, Philadelphia, Pa.,
Attorneys for Complainant,

STATE OF NEW YORK, County of New York:

Henry E. Meeker, being duly sworn, says that he is the plaintiff herein, and that the foregoing complaint is true to his own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

HENRY E. MEEKER.

Sworn to before me April 11, 1910.

ore me April 11, 1910.

HENRY J. DORGELOH,

Notary Public, No. 35, Kings County.

Certificate filed New York Co.

Commission expires March 30, 1912. Customs Notary.

(Before the Interstate Commerce Commission. Henry E. Meeker, complainant, v. Lehigh Valley Railroad Company, defendant. Complaint No. 2. Docket No. 3235. Answer.)

The above-named defendant, saving and reserving its objections hereinafter stated to the jurisdiction and power of this commission to grant the relief prayed for in the petition, answers the petition in the above-entitled proceeding as follows:

I. Defendant alleges that this commission possesses no jurisdiction or power to make an order fixing the rate for transportation of anthracite coal, as prayed in the petition, and defendant alleges that section 15 of the act to regulate commerce, approved February 4, 1887, as amended by section 4 of the act of June 29, 1996, attempting to confer such jurisdiction and power upon this commission, is unconstitutional and void.

of the act to regulate commerce, approved February \$4\$, 1887, as amended by section 4 of the act of June 29, 1906, attempting to confer such invisidiction and power upon this commission, is unconstitutional and void.

H. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraphs II, III. and IV of the petition.

H. Defendant admits the allegations contained in Paragraphs II, III. and IV of the petition. IV. The defendant admits that the only means of transporting coal from the anthractic region to New York Harbor is in the way and manner averred in Paragraph V of the petition. Defendant has not sufficient knowledge to answer as to whether the railroad companies named in the petition, other than this defendant, have owned and controlled, or do now own and control, large tracts of coal lands, or are and have been engaged in mining and dealing in anthractic coal. Defendant denies that it has owned or controlled, or now owns or controls large tracts of coal lands, and also denies that it has engaged, or is now engaged, directly or indirectly, in mining and dealing in anthractic coal. Defendant admits the ownership of shares of capital stock of the Lehigh Valley Coal Company, a corporation of the Commonwealth of Pennsylvania, and avers that such ownership is in accordance with the laws of the Commonwealth of Pennsylvania, the State in which defendant is incorporated. Defendant denies that it controls the eastern market for a very large proportion of the anthractic coal annually mined, and, so far as it has knowledge, the railroad companies mentioned in Paragraph V of the petition do not control said eastern market for a very large proportion of said anthractic coal.

V. Defendant denies the allegation contained in Paragraph VII of the petition that for several years prior to August 1, 1901, there was in operation between the defendant and the various shippers of anthractic coal, including the complainant, an arrangement by which it was provided that the rate t

of the other allegations contained in Paragraph VIII of the petition.

VIII. Defendant denies the allegations contained in Paragraph IX of the petition.

IX. Defendant admits and states that on or about July 17, 1907, a complaint was filed with the Interstate Commerce Commission in a proceeding entitled "Henry E. Meeker and Caroline H. Meeker, complainants, against Lehigh Valley Railroad Company, defendant," which proceeding is designated by the commission as Docket No. 1180. Defendant further admits that the petition in said action, Docket No. 1180. contains the following prayer:

"Wherefore the complainants respectfully request the commission to make an order fixing the rate for the transportation of anthracite coal by the defendant between the Wyoming coal region, in Pennsylvania, and Perth Amboy, New Jersey, at not more than one dollar per ton, and ordering and directing the defendant to make reparation to the complainants for the sum of eleven thousand one hundred twenty-one dollars and ninety-seven cents (\$11,121,97), with interest thereon from August 1, 1901, and for the sum of two hundred and ten thousand three hundred fifty-one dollars (\$210,351), with interest on the respective payments made by the complainants in excess of a reasonable rate from the dates of such payments, respectively, and to award to the complainants such other relief as they may show themselves entitled to receive."

Defendant further admits that said proceeding is still pending and undetermined before the Interstate Commerce Commission. Defendant denies knowledge or information sufficient to form a belief as to any of the allegations contained in Paragraph XI of the petition, except that it denies that one dollar per ton would be a reasonable or compensatory charge, and further denies that there has been or is any overcharge.

XI. Defendant denies the allegations contained in Paragraph XII of

is any overcharge, XI. Defendant denies the allegations contained in Paragraph XII of e petition, except that it admits that complainant has notified the

defendant that as to payments made subsequent to July 1, 1907, he reserved the right to recover such amounts as he might be entitled to. XII. Defendant denies each and every allegation contained in Paragraph XIII of the petition.

XIII. Defendant denies each and every allegation contained in Paragraph XIV of the petition.

XIV. Defendant alleges that as to all payments made by the complainant on account of the transportation of anthracite coal over lines of the defendant as alleged in the petition prior to the 20th day of April. 1908, the petition herein not having been filed with this commission within two years after the cause of action accrued, or within one year after the passage of the act of June 29, 1906, all claims for recovery of any damages based upon said payments are barred by virtue of the provisions of section 5 of the act of June 29, 1906, amending section 16 of the act to regulate commerce.

XV. Defendant further alleges that the act to regulate commerce, approved February 4, 1887, as amended by the act of June 29, 1906, does not confer jurisdiction or power upon this commission to make or determine upon any reparation whatsoever to the complainant; and further alleges that any interpretation of said act, as amended, or any part thereof, purporting to give such jurisdiction or power to the commission would render said act, as amended, in so far as it relates to claims for reparation, unconstitutional and void.

Wherefore defendant prays that the petition be dismissed.

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Lehich Valley Rallegod.

Frank H. Platt, Counsel, 2 Rector Street, New York City.

NEW YORK, N. Y., May 10, 1910.

(Opinion No. 1880, before the Interstate Commerce Commission. No. 1180, Henry E. Meeker and Caroline II. Meeker, copartners, trading as Meeker & Company, v. Lehigh Valley Rallroad Company. No. 3235, Henry E. Meeker v. Lehigh Valley Rallroad Company. Submitted February 27, 1912. Decided May 7, 1912.)

Reparation awarded on account of unreasonable and discriminatory rates charged for the transportation of anthracite coal from the Wyoming region in Pennsylvania to Perth Amboy, N. J., in accordance with the conclusions announced in Meeker v. L. V. R. R. Co., 21 I. C. C.,

William A. Glasgow, jr., for complainants.
William A. Glasgow, jr., for complainants.
Frank H. Platt, George W. Field, and E. H. Boles for defendant.
SUPPLEMENTAL REPORT OF THE COMMISSION.

MCCHORD, Commissioner:

The original report in No. 1180, 21 I. C. C., 129, disposed of all the questions at issue except the claim for reparation, and the case was held open for the purpose of securing further information regarding that feature. A further hearing has been held, and complainant has presented exhibits showing the total number of tons of each variety of coal shipped and the amount of reparation due on such shipments. These exhibits have been examined by defendant and admitted to be correct.

of coal shipped and the amount of reparation due on such shipments. These exhibits have been examined by defendant and admitted to be correct.

In our original report we found that the rates charged complainant for the transportation of anthractic coal from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., during the period from November 1, 1900, to August 1, 1901, were unjustly discriminatory in violation of section 2 of the act to the extent that they exceeded the rates contemporaneously charged the Lehigh Valley Coal Company under the contract then in effect between that company and defendant; and we further found that the rates in effect from August 1, 1901, to July 17, 1907, were unreasonable to the extent that they exceeded rates of \$1.40 per gross ton on prepared sizes, \$1.30 on pea, and \$1.15 on buckwheat.

On basis of our conclusions in the former report, and upon consideration of the evidence adduced at the hearing upon the question of reparation, we now find that during the period from November 1, 1900, to August 1, 1901, complainant shipped from the Wyoming coal region of Pennsylvania to Perth Amboy, N. J., 55.257.75 tons of coal of prepared sizes, 57.75 ms of pea coal, 11.445.93 tons of buckwheat coals, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907, 1907,

filing of the complaint. The present proceeding, however, was instituted more than one year subsequent to the passage of that law, and is therefore subject to the two-year limitation of the statute. Complainant's prayer for reparation on shipments moving more than two years prior to the filing of the complaint in this case must be denied.

On basis of our decision in No. 1180, and upon consideration of the evidence submitted at the hearing of the present case regarding the amount of reparation due complainant, we now find that the rates exacted by defendant for the transportation of anthractic coal from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., during the period from April 13, 1908, to April 13, 1910, were unreasonable to the extent that they exceeded rates of \$1.40 per gross ton on prepared sizes, \$1.30 on pea, and \$1.15 on buckwheat; that complainant shipped from said point of origin to said destination during the period above set forth, 46,772.02 tons of coal of prepared sizes, 26,972.06 tons of pea coal, and 22,004.00 tons of buckwheat coal; that complainant paid charges thereon amounting to \$136.663.41 at the rates herein found to have been unreasonable, and was damaged to the extent of the difference between the amount which he did pay and \$125.849.81, the amount which he would have paid at the rates above found reasonable; and that he is therefore entitled to an award of reparation in the sum of \$10,813.60, with interest, amounting to \$1,526.53, upon the individual charges comprising said sum from the dates of payment thereof to September 1, 1911, together with interest on said sum of \$10,813.60 from the 1st day of September, 1911.

The exhibits showing details respecting the shipments upon which reparation is asked are too extensive to be set forth in this report. But inasmuch as the accuracy of the figures in said exhibits respecting the shipments made, freight charges paid, and reparation due is conceded of record by defendant, we deen it unnecessary to make detailed findings resp

orders will be issued in accordance with the transformation of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 7th day of May, A. D. 1912.

No. 1180. Henry E. Meeker and Caroline H. Meeker, copartners, trading as Meeker & Company, v. Lehigh Valley Railroad Company.

This case being at issue upon complaint and answers on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the commission having, on the date hereof, made and filed a supplemental report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

It is ordered, That defendant Lehigh Valley Railroad Company be, and it is hereby, authorized and required to pay unto complainant, Henry E. Meeker, on or before the 15th day of July, 1912, the sum of \$11,090.33, with interest thereon at the rate of 6 per cent per annum from the 1st day of August, 1901, as reparation for unjustly discriminatory rates charged for the transportation of anthracite coal from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., which rates so charged have been found by this commission to have been unjustly discriminatory, as more fully and at large appears in and by said report of the commission.

It is further ordered, That defendant Lehigh Valley Railroad Company be, and it is hereby, authorized and required to pay unto complain-nnt, Henry E. Meeker, on or before the 15th day of July, 1912, the sum of \$58,236.45, with interest thereon at the rate of 6 per cent per annum, amounting to \$27,750.64, upon the various individual charges comprising said sum, from the dates of payment thereof to September 1, 1911, as itemized in complainant's Exhibit 2, together with interest at the rate of 6 per cent per annum on said sum of \$58,236.45 from September 1, 1911, as reparation for unreasonable rates charged for the transportation of various shipments of anthracite coal from the Wyoming coal re

No. 3235. Henry E. Meeker v. Lehigh Valley Railroad Company.

No. 3235. Henry E. Meeker v. Lehigh Valley Railroad Company.

This case being at issue upon complaint and answers on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the commission having on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

It is ordered, That defendant Lehigh Valley Railroad Company be, and it is hereby, authorized and required to pay unto complainant. Henry E. Meeker, on or before the 15th day of July, 1912, the sum of \$10,813,60, with interest at the rate of 6 per cent per annum, amounting to \$1,526,53, upon the various individual charges comprising said sum, from the dates of payment thereof to September 1, 1911, as itemized in complainant's Exhibit 1, together with interest at the rate of 6 per cent per annum on said sum of \$10,813,60 from September 1, 1911, as reparation for unreasonable rates charged for the transportation of various shipments of anthractic coal from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., which rates so charged have been found by this commission to have been unreasonable, as more fully and at large appears in and by said report of the commission.

Secretary

Secretary.

(Opinion No. 1585, before the Interstate Commerce Commission. No. 1180. Henry E. Meeker and Caroline H. Meeker, copartners, trading as Meeker & Company, v. Lehigh Valley Railroad Company. Submitted May 15, 1911. Decided June 8, 1911.)

1. Upon shipments of anthracite coal made by complainants from the Wyoming region in Pennsylvania to Perth Amboy, N. J., during the period from November 1, 1900, to August 1, 1901, the rates collected by defendant were unjustly discriminatory and resulted in damage to complainant for which reparation will be awarded.

2. Defendant's present rates for the transportation of anthracite coal in carloads from the Wyoming region in Pennsylvania to Perth Amboy, N. J., of \$1.55 per gross ton on prepared sizes, \$1.40 on pea coal, and \$1.20 on buckwheat coal, found unreasonable to the extent that they exceed \$1.40 on prepared sizes, \$1.30 on pea coal, and \$1.15 on buckwheat coal, which latter rates are established as maxima for the future, reparation to be awarded on basis of the latter rates as to shipments made by complainants since August 1, 1901.

William A. Glasgow, Jr., and John A. Garver for complainants.

J. F. Schaperkotter, Frank H. Platt, and George W. Field for defendant.

REPORT OF THE COMMISSION.

McChord, Commissioner:

Henry E. Meeker and Caroline H. Meeker, copartners, trading as Meeker & Company, complainants in this proceeding, were, when the complaint was filed, engaged in the business of buying, shipping, and selling anthracite coal over the lines of the Lehigh Valley Railroad Company from mines and collieries situated in the Wyoming coal region of Pennsylvania to tidewater at Perth Amboy, N. J., and thence to the New York market.

During the pendency of the proceeding Caroline H. Meeker died, and it has been continued to be prosecuted in the name of the surviving partner, Henry E. Meeker.

Complainants were not mine operators, but merely dealers on the New York market. The coal shipped by them to Perth Amboy was purchased from the Stevens colliery, which is situated near the city of Wilkes Barre, Pa., on the West Pittston branch of defendant's Wyoming division, I.5 miles from Coxton and 165 miles from Perth Amboy.

Practically all the anthracite coal deposits in the United States are in nine counties in the eastern portion of Pennsylvania in an area comprising about 496 square miles. The different coal fields are as follows: The northern, commonly called the Wyoming, from which the shipments involved in this proceeding were made; the eastern middle and western middle, which together are known as the Lehigh regions; and the southern, which also bears the name of Schuykill. All three regions are reached by the Lehigh Valley Railroad. The northern field is some 55 miles in length, has a maximum width of about 5 miles, and lies northwesterly of the Pocono Mountains in the valley of the Lackawanna and Susquehanna Rivers. From this valley the carriers find comparatively easy outlets to points north and west, along the rivers mentioned, but coal shipped to the east over defendant's line has to be carried over the mountains at a maximum elevation of 1,750 feet. The lowest portions of the valley are about 500 feet above the level of the sea.

The coal mines are usually located at points separated from car

and is marketed for use either in thradees or foccondries, but the following:

Broken or grate, which goes through a mesh 4 inches square and over a mesh 2½ inches square.

Egg, which goes through a mesh 2¾ inches square and over a mesh 2 inches square.

Stove, which goes through a mesh 2½ inches square and over a mesh 1¾ inches square.

Chestnut, which goes through a mesh 1¾ inches square and over a mesh finches square.

Pea, which goes through a mesh three-fourths inch square and over a mesh one-half inch square.

Buckwheat No. 1, which goes through a mesh one-half inch square and over a mesh one-fourth inch square.

Buckwheat No. 2, or rice, which goes through a mesh one-fourth inch square and over a mesh one-fourth inch square and over a mesh one-eighth square.

Smaller sizes are known as buckwheat No. 3 and culm.

The sizes above pea are known as prepared sizes and are used principally for domestic purposes. The smaller sizes are used almost entirely for steam purposes.

The sizes above pea are known as prepared sizes and are used principally for steam purposes. The smaller sizes are used almost entirely for steam purposes.

Formerly the smaller sizes had no commercial value and were allowed to accumulate as waste product in banks at the mines. But changes made in the grates of furnaces have facilitated their use for steam purposes, and such use has been increasing rapidly during recent years. By means of "washeries" large quantities of the smaller sizes have been recovered from these waste or culm banks and sent to market to satisfy this increased demand. However, only comparatively small prices can be obtained for these smaller sizes.

The cars are loaded directly from the breakers by means of chutes. The loaded cars are then hauled to a convenient place of concentration along the main track designated a gathering or assembly point, where they are drilled into trains according to destination and with some reference to the sizes. The coal destined to tidewater points is hauled in trains to yards adjacent to the docks, where a more particular separation takes place; that is to say, coal of particular qualities and sizes is placed on separate tracks and afterwards transferred to the boats or storage bins in accordance with the requirements of different purchasers.

is placed on separate tracks and afterwards transferred to the boats or storage bins in accordance with the requirements of different purchasers.

For the year ended June 30, 1908, the Lehigh Valley Railroad Co. carried altogether 11,206,774 gross tons of anthracite coal, upon which its gross revenue was \$14,908,923,08, showing an average revenue of \$1,2411 per gross ton, or \$0.00737 per net ton per mile. During the same period the Lehigh Valley's entire freight revenue amounted to 23,643,001 gross tons, its gross revenue to \$30,186,581,72, its average rate per gross ton to \$1,277, and its average rate per net ton per mile on all traffic, including anthracite coal, to \$0.00630. It will thus be seen that during 1908 anthracite coal constituted approximately 47 per cent of the defendant's freight tonnage and produced approximately 49 per cent of its freight revenue. Complainants shipped between August 1, 1901, and June 30, 1907, 499,901.47 gross tons of anthracite coal, upon which they paid total freight charges of \$709,637.67, resulting in an average rate per net ton per mile (based on the average mileage from the Wyoming region to Perth Amboy of 170 miles) of \$0.00745.

It appears that prior to 1900 various anthracite coal carrying railroads in Pennsylvania, in their endeavor to control the output and sale of anthracite coal, had formed other and distinct corporate organizations, usually known as "coal companies," but which through stock ownership were owned, officered, and controlled by the railroads which brought them into existence. Such was the relation that existed between the Lehigh Valley Railroad Company and the Lehigh Valley Coal Company. The function of the Lehigh Valley Coal Company was to acquire, hold, and operate vast tracts of anthracite coal lands and to make contracts with independent operators for their entire output. In connection with the purchase of coal from independent operators, there came into existence what are known as "percentage contracts." The Lehigh Valley Coal Company agreed to p

percentages of the average market prices of the various grades of anthracite coal at tidewater. An accurate check was kept on the tidewater market prices, and monthly settlements were made. Under the contract which was in effect during the greater part of the year 1900 the agreement by the Lehigh Valley Coal Company was to pay the coal operator 60 per cent of the tidewater price on the highest grade of anthracite coal and lesser percentages on the lower grades. This contract was therefore called the "60-per-cent contract," due to the fact that that percentage figure applied on the highest grade of coal.

Although the Lehigh Valley Railroad Company was not nominally a party to any of the percentage contracts entered into by the Lehigh Valley Coal Company, yet it made a practice of settling for the freight charges on coal purchased and shipped by the Lehigh Valley Coal Company at the differences between the amounts paid to the coal operators and the average market prices at tidewater. The result, therefore, was, taking the highest grade of coal as an illustration, that if the Lehigh Valley Coal Company paid the independent operator 60 per cent of the tidewater price the Lehigh Valley Railroad Company transported the coal for 40 per cent of said tidewater price. It will thus be seen that although the matter of freight rates was not mentioned in the contracts made by the Lehigh Valley Coal Company with the independent operators, yet the freight rates were directly dependent upon said contracts. It appears that if an independent coal operator lacked established business connections or capital, it was to his interest to enter into the percentage contract with the Lehigh Valley Coal Company. Meeker & Company, however, had been in business as sales agents for coal since 1880, and their facilities for selling were adequate. They therefore made a contract with the Stevens Coal Company for practically their entire output of coal. There were also a number of other shippers of anthracite coal over the lines of the Lehigh Va

pany they were accorded the same rates as were accorded to that company.

It was the custom of all shippers, including the Lehigh Valley Coal Company, to pay the tariff rates on the various grades of anthracite to tidewater, and then by means of monthly settlements be given the benefit of the rates upon the percentage basis, which rates were known as "adjusted rates," and were usually considerably lower than the tariff rates; but which at certain periods, owing to advancing prices of anthracite coal, were higher than the tariff rates. The general purpose of the adjusted rates was, however, to give the shippers the benefit of rates lower than the tariff rates, and upon the whole they accomplished this result, and the evidence shows that they were impartially applied on all shipments during the greater part of the time that they were in effect.

of the adjusted rates was, however, to give the shippers the benefit of rates lower than the tariff rates, and upon the whole they accomplished this result, and the evidence shows that they were impartially applied on all shipments during the greater part of the time that they were in all properties of the time that they were in all properties of the time that they were in all properties of the time that they were in all properties of the time that the subject was not of easy solution, and that the negotiations dragged along for nine months, until August 1, 1901, at which time an agreement was reached whereby the price of the highest grade of coal at the breakers was to be 65 per cent of the tidewater market prices, instead of 60 per cent as formerly in the time an agreement was reached whereby the price of the highest grade of coal at the breakers was to be 65 per cent of the tidewater market prices, instead of 60 per cent as formerly in the same agoliations it seems to have been the understanding of all parties that whatever arrangement was finally reached would be made retroactive until November 1, 1900, the date of the beginning of the negotiations, and that the Lehigh Valley Raliroad Company would readjust its freight charges retroactively in conformity with the new scale of prices not only upon shipments made by the Lehigh Valley Coal Company took the position that the train rates had some particular to the price of the time of the scale counsel for the Lehigh Valley Raliroad Company took the position that the train rates had some particular to the price of the coal on this basis was paid by the Lehigh Valley Coal Company to the coal operators. Hence it was argued that the Lehigh Valley Raliroad Company, having charged its full tariff rates to all, and the coal company having paid the increased price, there had been no discrimination against Meeker & Company during said nine months. As the evidence in support of this argument was meager and unsatisfactory, a supplemental learning was had at values of the

Coal Company, such amounts as may have been paid during the period November 1, 1900, to August 1, 1901, in excess of the tariff rates. There was not, however, at that time any attempt made to collect back from shippers refunds which may have been made to them from month to month when the "adjusted rates" were lower than the tariff rates. It thus appears that the attempted readjustment to basis of tarlif rates which the Lehigh Valley Railroad Company sought to make upon the adoption of the 65 per cent contract was only partial. Meeker & Company were offered refunds of the excess over tariff rates which had been paid in November and December, 1900, but refused to accept the same, stating in a letter of refusal that they would insist upon settlement of freight rates upon the basis of the newly adopted 65 per cent contract. This brings us to the contention of complainants that the payment of the increased retroactive prices to the coal producers by the Lehigh Valley Coal Company was in fact a payment by the Lehigh Valley Coal Company as in fact a payment by the Lehigh Valley Coal Company as in fact a payment by the Lehigh Valley Coal Company as in fact a payment by the Lehigh Valley Coal Company during the period from November 1, 1900, to August 1, 1901.

Investigation of the books of the Lehigh Valley Coal Company during the period from November 1, 1900, to August 1, 1901.

Investigation of the books of the Lehigh Valley Railroad Company, and one of the purposes of the supplemental hearing was to ascertain whether said cash advances included the sum which the Lehigh Valley Coal Company paid to the coal operators under the 65 per cent contract which was made retroactive for the nine months from November 1, 1900, to August 1, 1901.

On that hearing it developed that at the end of the year November 30, 1898, the Lehigh Valley Coal Company so wed the Lehigh Valley Railroad Company is 1, 1901, the excession of the coal company to the coal company on November 30, 1899, to November 30, 1890, the accounts receivable due f

"The suspension of mining during the period of the strike last year and the sale of the greater portion of coal in stock enabled the coal company to repay to the railroad company a large proportion of the amount advanced by the latter company for this purpose."

And counsel for the complainant was permitted to read into the record the following additional extract from the same report, viz:

"The uninterrupted continuance of operations during the fiscal year just closed (i. e., the year ending November 30, 1901) restored normal conditions, necessitating advances by the railroad company of a million dollars, which amount is more than represented by the increased tonnage and value of the coal in stock as compared with November 1st last."

nage and value of the coal in stock as compared with November 1st last."

The general auditor of the Lehigh Valley Railroad Company testified that the amount which the Lehigh Valley Coal Company had to pay the coal operators under the 65 per cent contract, which on August 1, 1901, became effective retroactively to November 1, 1900, was \$231,090.19. He further testified that the deficit of \$491,576.05 shown in the operations of the Lehigh Valley Coal Company for the year ended November 30, 1901, would have been less by \$231,090.19 had it not been for the payment by the coal company to the operators of the increased prices under the retroactive 65 per cent contract.

In view of the admissions upon the supplemental hearing the conclusion seems inevitable that the financial condition of the Lehigh Valley Coal Company was not such as to have enabled it to pay the \$231,090.19 to the coal operators out of its own treasury, and that not only this amount but much larger sums were advanced by the railroad company to the coal company during the year 1901 for the purpose of enabling the latter to carry on its operations.

It is alleged in the petition that between November 1, 1900, and August 1, 1901, complainants, Meeker & Company, shipped 88,336 tons of coal from the Wyoming region to tidewater at Perth Amboy, N. J., a distance of about 165 miles, on which they paid a sum total as freight charges amounting to \$120,989.18, whereas upon the 35 per cent basis which complainants contend was the necessary result of the 65 per cent contract entered into by the Lehigh Valley Coal Company on August 1, 1901, the freight charges should have been only \$11,121.07.

From the facts disclosed it is apparent that the payment of the \$231,090.19, which was ostensibly made by the Lehigh Valley Coal

\$11,121.97.

From the facts disclosed it is apparent that the payment of the \$231,090.19, which was ostensibly made by the Lehigh Valley Coal Company to the coal operators from which it had purchased coal during the period from November 1, 1900, to August 1, 1901, was in fact made from funds advanced as cash by the Lehigh Valley Raliroad Company to the Lehigh Valley Coal Company, and was therefore the equivalent of a readjustment of the freight rates upon the basis of the 65 per cent contract on such coal as was purchased by the Lehigh Valley Coal Company and shipped to tidewater during the period from November 1, 1900, to August 1, 1901. We are of the opinion, and so hold, that complainants have sustained the allegation of unjust discrimination under the second section of the act. Reparation, with interest from August 1, 1901, will be awarded on this account.

Since August 1, 1901, complainants and other shippers have paid full tariff rates on coal from the Wyoming region to Perth Amboy, which rates are as follows:

Let gre	so for.
Prepared sizes	\$1.55
Pea coal Buckwheat coal	1.40
Aug. 7, 1904, to Jan. 10, 1905	1. 25
All sizes below buckwheat	1. 10

It is alleged in the complaint that any charge in excess of \$1 on all grades subsequent to August 1, 1901, is unreasonable, and reparation is asked by complainants upon the basis of the suggested rate of \$1 upon all shipments made by them over the Lehigh Valley Rallroad during the period August 1, 1901, to July 1, 1907, the aggregate amount of reparation sought during said period being \$210,351.

In a later complaint, filed April 13, 1910, No. 3235, styled Henry E. Meeker v. Lehigh Valley Railroad Company, complainant seeks reparation on the basis of a rate of \$1 on all grades of coal shipped during the period July 1, 1997, to April 1, 1910, alleging a total overcharge during said period of \$55,290.73.

As the subject matter of the two complaints is the same, in so far as the reasonableness of the rates is concerned, the disposition of the later case will perhaps be determined by the conclusions reached in this case.

as the reasonableness of the rates is concerned, the disposition of the later case will perhaps be determined by the conclusions reached in this case.

When complainants filed their complaint in July, 1907, they elected, as to the period from November 1, 1900, to August 1, 1901, to rely entirely upon a violation of the second section of the act, and therefore claimed reparation only to the extent of \$11,121.97, on the ground of discrimination during said period in favor of the Lehigh Valley Coal Company, claiming that the effect of the retroactive 65 per cent contract of August 1, 1901, was to readjust upon a lower basis the freight rates which had been paid by the Lehigh Valley Coal Company during said period.

When the case came on for hearing in March, 1909, complainants counsel announced orally before the commission, and not by way of amendment of their petition, that they desired to claim additional reparation in the sum of \$41.644.82—the excess paid over \$1 per ton during the period from November 1, 1900, to August 1, 1901.

Complainants' counsel stated in his brief filed with the commission but not by way of amendment to his petition, that by reason of the fact that the commission may not be convinced that \$1 per ton is a reasonable rate on all grades of coal to tidewater he desired to put his claim for reparation in an alternative form, viz, that in event the commission should not approve the suggested rate of \$1 per ton on all grades of coal, complainants are entitled to reparation in the amount of \$156.144.92, the amount by which the freight charges which they have paid exceed what said charges would have been upon the basis of the average rate per ton per mile on all freight transported by the Lehigh Valley Railroad Company. In support of this claim for reparation he sets forth an exhibit in his brief which covers the calendar years 1902 to 1907, inclusive. This claim therefore does not extend back to November 1, 1900, as do his other claims; but it includes the latter half of 1907, and therefore ext

sears 1902 to 1907, inclusive. This claim therefore does not extend back to November 1, 1900, as do his other claims; but it includes the latter half of 1907, and therefore extends six months beyond the period evered by his larger claim for reparation on the basis of the proposed. Complainants insist that the average rate per ton per mile upon coal ought not to exceed the average rate per ton per mile upon all freight traffic and base their claim for reparation in large part upon the assumption that the higher rate per ton-mile on coal is proof of the unreasonableness of the rates in question. Defendant answers this contention by asserting that the initial service in connection with the tremator of the rates in question. Defendant answers this contention by asserting that the initial service in connection with the tremator of the rates in question. Defendant answers this contention by asserting operating expenses, as well as the permanent investment of a large amount of capital, which are not incurred in the transportation of other classes of freight. The transportation of coal from the mining regions of freight and the deal in the record and may be summarized as follows:

Coal from the Wyoning region around Wilkes-Burge, after being considered to the work of the property of the coal from the work of the coal from the work of the coal from the coal from the coal from the Lehigh region is collected from the various branches in the neighborhood of Halzelton, Lumber Yard, New Boston, and Mount Caruel, and carroid to Per the Wyoning coal. Coal from the Schuylkill region reaches the main line at Lizard Creek Junction from the recharging tregion reaches the main line at Lizard Creek Junction from the recharging tregion reaches the main line at Wyoning and New Jersey & Lehigh divisions. The Wyoning division extends from Sayre to Mauch Chunk and includes the territory known as the Wyoning coal region, or the Schuylkill region reaches the main line at Pern Haven Junction.

Coal is brought from the collectes to assembly

ley, such as supplying additional motive power to push trains over grades, furnishing coal to Delaware, Susquehanna & Schuylkill locomotives, repairing cars at Perth Amboy, and similar incidentals.

The contract of January, 1894, remained in force until April, 1994, when it was replaced by another contract, substantially similar in all material respects and providing for the same compensation to the Lehigh Valley and which was to have remained in effect for a period of 15 years. It remained in effect, however, only until 1905, when the Coxe properties were purchased by the Lehigh Valley Railroad.

During the period prior to the absorption of the Delaware, Susquehanna & Schuylkill Railroad by the Lehigh Valley Railroad Company, L. C. Smith, manager of the Delaware, Susquehanna & Schuylkill Railroad Company, and J. H. Pennington, superintendent of motive power of said railroad, and J. Brinton White, vice president and treasurer of Coxe Brothers & Company, made certain calculations as to the cost to the Delaware, Susquehanna & Schuylkill Railroad of transporting anthracite coal to Perth Amboy, based on various elements of operating expense, including the aforementioned trackage charge of the Lehigh Valley Railroad.

J. C. Smith, manager of the Delaware, Susquehanna & Schuylkill Railroad and J. Brinton White, vice president and treasurer of said railroad, and J. Brinton White, vice president and treasurer of said railroad, and J. Brinton White, vice president and treasurer of the Delaware, Susquehanna & Schuylkill Railroad of transporting anthractic coal to Perth Amboy, based on various elements of operating coal from the Cheligh Valley Railroad Company for the Lehigh region and the coal for compainants has introduced the testimony of these three men relative to the cost of transporting coal from the Lehigh valley Railroad Company to make the same rates from the Wyoming region to Perth Amboy as from the Lehigh region and the Lehigh valley Railroad Company to make the same rates from the Wyoming region to Perth Amboy as from the Lehigh region and the Lehigh valley Railroad Company to make the same rates from the Wyoming region both in the Wooming region has the advances over the Lehigh region both in the Wooming region has the advances over the Lehigh valley Railroad Company, the Shipping charges of that company at Perth Railroad Company, the Shipping charges of that company at Perth Railroad Company, the Shipping charges of that company at Perth Lollain region while the Railroad Company, and frequent calculations as total as Schuylkill Railroad Company, made frequent calculations as total school of the Railroad Company, made frequent calculations as total school of the Railroad Company, made frequent calculations as total school of the Railroad Company, made frequent calculations as total school of the Railroad Company, made frequent calculations as total school of the Railroad Company, made frequent calculations as total school of the Railroad Company, and frequent calculations as total school of the Railroad Company, and frequent calculations as total school of the Railroad Company, and frequent calculations as total school of the Railroad Company, and the return of the Charley Railroad Company of the Railroad Company of

about 12 miles to Roan Junction, and shipping it at Port Johnston, leaving for the Reading Company only 80 cents per ton for hauling the coal 168 miles to Bound Brook Junction, that they notified Coxe Brothers & Company that after August 15, 1893, they would no longer transport their coal under that contract, offering, however, to continue to carry the coal upon terms similar to those which are ordinarily accorded to other railroad companies for the exchange of similar business. This offer was, however, not found satisfactory by Coxe Brothers & Company, and the transportation of their coal has therefore been almost entirely lost to the Reading Company."

The following extract from the annual report of the Lehigh Valley Railroad Company to its stockholders for 1894 was also read into the record:

Railroad Company to its stockholders for 1894 was also read into the record:

"On January 31, 1894, a contract was entered into with the Delaware, Susquehanna & Schuylkill Railroad Company whereby that company was granted the privilege of running its own trains coal laden to the tidewaters of New York, thus assuring to this company for a term of 15 years from July 1, 1894, an important traffic, that of the Cross Creek Coal Company, formerly Coxe Brothers & Company, for which several outlets existed, and which had been in contention for some time previously. It also removed an incentive for the construction of new lines into the territory tributary to the Lehigh Valley system. Local coal received from the line of that company continues to be hauled in our trains as it was previously."

It appears that when the contract with the Lehigh Valley Railroad Company was entered into the Philadelphia & Reading Railroad Company tore up its 10-mile extension, which it had built to connect with the Delaware. Susquehanna & Schuylkill, because there was no longer any use for it.

For the purpose of showing the effect of the trackage contract of January, 1894, upon the movement of anthractic coal over the Lehigh Valley Railroad counsel for that company at the supplemental hearing put in evidence the following exhibit, viz:

Statement of anthractic coal received from the Delaware, Susquehanna

Statement of anthracite coal received from the Delaware, Susquehanna & Schuylkill Railroad during the fiscal years ended November 30.

Year.	Gross tons.	Year.	Gross tons.
1891	233,081 199,310 350,295	1894 1895 1896	976,415 1,053,965 1,115,077
Total	782,636	Total	3,145,457

It was also shown that the Central Railroad of New Jersey had a track into Drifton, a point located on the Delaware, Susquehanna & Schuylkiil Railroad, and that the Delaware, Susquehanna & Schuylkiil Railroad also had a connection with the Pennsylvania at Tomhicken. Defendant has endeavored to show the actual cost of transporting coal from the Wyoming district to the barges at Perth Amboy. Three civil engineers, William J. Wilgus, J. F. Stevens, and John F. Wallace, were engaged by defendant to investigate the transportation of coal from the anthracite region to tidewater for the purpose of ascertaining the cost thereof. They were assisted in their investigation by officers and employees of the road and by engineers in Mr. Wilgus's office. Mr. Wilgus prepared an estimate of the cost of carrying coal based upon theories and formulæ which were approved by the other engineers. His estimate is set forth in a voluminous exhibit known as "Defendant's Exhibit F.-3." The exhibit contains all the details from which the final estimate of cost is deduced. The recapitulation of Exhibit F.-3 is as follows:

Cost of transporting anthracite coal on the Lehigh Valley Railroad from the Wyoming district to Perth Amboy.

Items.	Perth Amboy terminal.	Mainline, Perth Amboy to Coxton,	Wyoming collection district.	Total.
Operating expenses, including taxes	\$0.1189	\$0,6915	\$0.0866	\$0.8970
Interest: Roadbed, tracks, and structures Equipment General facilities	.0700 .0096 .0012	.1470 .0437 .0045	.0412 .0283 ,0010	.2582 .0816 .0067
Depreciation: Roadbed, tracks, and structures Equipment General facilities	.0808 .0071 .0080 .0004	.0034 .0646 .0015	.0705 .0009 .0176 .0008	.0114 .0902 .0022
	.0155	.0695	.0188	.1038
Total Additions and bettermentsRisks and deficits	,2152	.9562		1.3473 .0400 .1070
Grand total				1.4943

There are many circumstances, however, connected with the preparation of this exhibit, which seriously impair its value as evidence on the question of cost.

Mr. Wilgus testified that the figures which he used in preparing said exhibit as to the value of the roadbed, track, and structures and value of equipment were based on an examination of the road and an examination of the equipment, and that he had attempted to estimate the cost of reproduction. This work he states was done by himself and assistants in his employ. The assistant in his employ, who undertook to make an examination of the road with a view to determining the cost of reproduction, was T. A. Lang, and Mr. Wilgus testified that his calculations are absolutely dependent upon the information furnished him by Lang.

The story of Mr. Lang's investigation as to cost of reproduction, as told by Lang himself, was as follows:

He left Perth Amboy at 1.20 p. m. on a passenger train for Easton, arriving there about 3.20 or 3.30 p. m. In going to Easton he stood

on the rear platform of the train. After arriving at Easton he did nothing more that day, as it was Sunday. The following morning at 9 a. m. he left Easton on a pony engine, which had a coach on top of the boiler. On this engine he traveled at the rate of 15 or 20 miles an hour, stopping at various points. About 5.30 p. m. of the same day he arrived at Wilkes-Barre and stayed there all night, all the next day, and the next night. While there he made computations in the railroad company's office. On the following day he left Wilkes-Barre at 8.30 a. m. on a passenger train and arrived at Easton about 11 or 12 o'clock. He remained in Easton until that afternoon and then took a train for New York. While at Easton he devoted a "few minutes" to an examination of the Delaware bridge and the Easton steel viaduct. Based upon this examination, he furnished Mr. Wilgus the data which he required as to estimated cost of reproduction of the Lehigh Valley Railroad.

This examination by Lang was made in the latter part of April,

he required as to estimated cost of reproduction of the Lehigh Valley Railroad.

This examination by Lang was made in the latter part of April, 1909. Mr. Wilgus accepted his estimates and gave his testimony on April 29, 1909. Mr. Lang, however, was not called as a witness until May 25, 1909. Evidently feeling that his first superficial examination of the road would become the subject of attack, he undertook early in May to make a more thorough examination of the road. On this second trip he consumed eight and one-half days going over the road on a hand car, and the results of his work on the second trip he terms his "check estimate." The cross-examination of Mr. Lang developed that his check estimate was also a very superficial piece of work. He testified that he "could see" the thickness of the ballast "very easily," and that he measured it "at one place" only; that it was from 18 to 20 inches in thickness. He also testified that he started out to count the number of switches and frogs, but did not carry it all the way through. He further says that there never had been any examination of the ties and ballast or going over the road in a hand car at the time that Mr. Wilgus made his estimate.

Based upon information thus furnished. Mr. Wilgus undertook to determine the cost of carrying a ton of coal from the Wyoming district to Perth Amboy, and Messrs. Wallace and Stevens were called as witnesses to confirm the reliability of his figures.

Mr. Wilgus testified that on the trip which he made over the Lehigh Valley Railroad he started from New York at 6 p. m. in an observation car with Messrs. Wallace and Stevens were carried as of the Lehigh Valley Railroad and some of its branches. It appears never to have been the intention that Messrs. Wilgus, Wallace, or Stevens should personally do any of the detail work incidental to the determination of the cost of carrying coal to Perth Amboy. All of that was to be done for them by subordinates, and they were then to testify whether they believed the work of these subordi

mate of the cost.

Mr. Stevens testified in substance that he believed it possible for a competent engineer to get a correct approximate idea of the value of a railroad by riding over it, and that he has done considerable work in estimating values by traveling over railroads. He stated that he was not prepared to dispute Mr. Wilgus's figures, and that he would not guarantee them; and "that it would be worse than foolish for him to say that he had time to undertake to make a mile-by-mile estimate of the cost of reproducing the Lehigh Valley Railroad." The most that he had to say concerning Mr. Wilgus's estimate was that it was "probably conservative."

Mr. Wallace frankly admitted that his testimony given in corrobora-

he had to say concerning Mr. Wilgus's estimate was that it was "probably conservative."

Mr. Wallace frankly admitted that his testimony given in corroboration of Mr. Wilgus's figures was a matter of purely personal judgment, based on his experience and observation. He testified that men in his line of business were continually drawing comparisons and making "estimated judgments," and that sometimes they were correct and sometimes wrong. He further stated that it was his custom to value railroad property very much as a farmer would value a horse.

The estimate of cost made by Mr. Wilgus is based on the fundamental assumption that the cost of carrying coal is equal to the average cost of carrying all traffic. If this proposition be sound, it follows that by far the greater part of tariffs covering the transportation of coal are improperly constructed, for the rates upon coal are generally much below the average rates.

Again, as a basis of apportioning expenses for which no actual division could be obtained, the engineers used the relation of passenger-train ton-mileage to freight-train ton-mileage, finding that of the total the former was 7.8 per cent and the latter 92.2 per cent. This arbitrary basis of apportionment seems to be unwarranted when we take into consideration the relation which exists between freight revenue and passenger-train revenue on the Lehigh Valley Railroad. Those revenues were as follows for the years shown:

	1901	1905	1908	1910
Total freight revenue	\$19,829,363	\$25,962,920	\$30,186,582	\$30,579,597
Passenger-train revenue	3,400,528	4,116,847	4,842,652	5,097,118

It thus appears that upon the basis of relative earnings at least 14 per cent of the value of the road could properly have been assigned to passenger traffic, whereas in the estimate made by Mr. Wilgus but 7.8 per cent has been so assigned.

Moreover, it will be noted that the estimate of cost shows that the average cost of carrying anthracite coal from the Wyoming region to Perth Amboy is \$1.49. An exhibit filed by the Lehigh Valley shows that its average receipts per gross ton of anthracite coal to Perth Amboy for the 10 years ending June 30, 1908, were \$1.46. It would therefore follow that all anthracite coal which has been hauled by the Lehigh Valley to tidewater has been carried at a loss of about 3 cents per ton. But it is shown by reports on file with the commission that the operations of the Lehigh Valley Raiiroad Company for a number of years past have been exceedingly profitable, and as anthracite coal has constituted almost half of its tonnage, it is fair to assume that it has made a profit upon the handling of that commodity.

There are other matters contained in the record which go to show that the cost of transporting coal as estimated by Mr. Wilgus is excessive.

cessive.

Henry B. Ely, who was formerly general eastern agent for Coxe Brothers & Company, testified that after the decision in the case of Coxe Brothers & Co. v. Lehigh Valley Railroad Company 4 I. C. C. Rep., 535. in 1891, and up to the 31st of January, 1894, the rates paid by Coxe Brothers & Company were the tariff rates of the Lehigh Valley, less a discount of 35 per cent. The tariff rates which were in effect during this period are contained in an exhibit filed by the Lehigh Valley,

and deducting said discount therefrom, it appears that the rates actually charged Coxe Brothers & Company were as follows:

or prepared sizes__ For pea coal_______
For buckwheat and smaller sizes_____

Defendant has also filed in evidence an exhibit, which shows the adjusted rates to Perth Amboy on the various grades of anthracite coal, by months, during the period from January, 1895, to October, 1990, inclusive, a period of five years and nine months, immediately preceding the discontinuance of adjustments upon the percentage basis. An average of the rates contained in said exhibit shows the following:

Rate per ton. \$1.4164 - 1.1712 - 1.1566 Prepared sizes _____ Buckwheat

per ton per mile:

Statement showing origin, destination, transporting railroad, miles hauled, rate charged, and rate per ton per mile on bituminous-coal shipments to tidewater.

[2,240 pounds per ton. Rates include dumpage from piers to vessels.]

Region or district.	Transporting railroad.	Destination.	Miles hauled,	Rate charged.	Rate in cents per ton per mile.
Myersdale	Baltimore & Ohio.	Baltimore	215.0	\$1.18	0.549
Do	do	Philadelphia	310.8	1,25	.402
	do	St. George	390.6	1.55	.396
	Norfolk & Western.	Norfolk (Lamberts Point).	377.0	1.40	.371
Thurmond.		Newport News via Lynchburg.	418.0	1.40	.335
	do	Newport News via Gordonsville.	381.0	1.40	.367
Handley	do	Newport News via Lynchburg.	457.0	1.50	.328
	do	Newport News via Gordonsville.	420.0	1.50	.357
Marrow- bone.	do	Newport News via Lynchburg.	673,0	1.70	.253
Part of the last	do	Newport News via Gordonsville.	636.0	1.70	.267
Beech Creek_	tral and Philadelphia & Reading.	Port Reading	0,808	1.55	.503
	do	Philadelphia (Port Richmond).	229.0	1.25	.546
Clearfield	Pennsylvania R. R.	Baltimore(Canton Pier)	242.2	1.18	.487
	do		322.5	1.55	.481
	do	Philadelphia (Green- wich Piers).	202.2	1.25	,477
Do	do	Philadelphia via Lock Haven and Sunbury.	317.0	1.25	.394

Defendant answers that the tidewater rate of the Pennsylvania Rall-road, cited by the complainants, is entirely inconsistent with the other anthracite rates charged by the Pennsylvania, whereas the Lehigh Valley tidewater rate is in line and consistent with its other anthracite rates. An exhibit in this connection shows that the Pennsylvania Rallroad Company's rate on prepared sizes to Harrisburg, a distance of 110 miles, is \$1.50; to Philadelphia, a distance of 164 miles, \$1.80; to Reading, a distance of 111 miles, \$1.80; to Perth Amboy, a distance of 226 miles, \$1.80; to South Amboy, when not for transshipment, \$1.80. The Pennsylvania Railroad Company is a bituminous rather than an anthracite road.

The defendant also introduced evidence tending to show that the market for anthracite coal on the lines of the Pennsylvania Raliroad exhausts the supply originating on the road, and for this reason a 15-cent lateral was allowed on coal assembled on other roads and turned over to the Pennsylvania. On such shipments the Pennsylvania was relieved of the gathering cost; and in view of the high line rates on anthracite coal over the Pennsylvania, the arrangement was favorable to the raliroad. As has been noted, the Pennsylvania has since withdrawn the lateral allowance

the sathering cost; and in view of the high line rates on anthracite colar the Fennsylvania, the arrangement was ravorable to the railroad as the Fennsylvania, the arrangement was ravorable to the railroad as the fennsylvania, the arrangement was ravorable to the railroad as the fennsylvania, the arrangement was ravorable to the railroad as the fennsylvania, the property of the colar and the tent of the defendant calls attention to the fact that bituminous rates are generally less than anthracite rates, due in the distinction of the colar with the carriage and shipment of bituminous and anthracite col which render the transportation of anthracite coll more expensive. About 95 per cent of the coal shipped from the bituminous regions is run of mine, and no such elaborate classification is necessary in the assembling regions as in the anthracite regions. Bituminous coal is not stored at tidewater, and the carriers are therefore relieved of the expense of building storage bins and of placing the coal in the bins and removing it therefrom. It is also claimed that the carriage of bituminous coal involves less empty car mileage, but upon that point the record is rather indefinite. At any rate, the conditions relating to the transportation of anthracite and bituminous coal have not been shown to be similar to such a degree that the existence of a lower rate on bituminous would warrant a conclusion that a higher rate on anthracite on a different road is unreasonable.

It is carnestly contended that any such comparison disregards the fact that the Lehigh Valley Railroad was built and is maintained primarily as a coal-carrying road, that as such it has the right to receive a return upon the coal transported sufficient to enable it to operate profitably, and coal carrying road, that as such it has the right to receive a return upon the coal transported sufficient to enable it to operate profitably, and that a successful search of a substring and carrying coal for a comparison improper and misleading.

In connection with it

As to the limited life of the anthracite railroads, counsel for defend-

return."

As to the limited life of the anthracite railroads, counsel for defendant say in their brief:

"The evidence establishes the fact that when the railroad shall be deprived of the tonnage from the collieries along its lines and the incidental tonnage involved in and dependent upon the production of coal the traffic on the Mahanoy and Hazleton Division and the Blackwood Branch will for all intents and purposes be nil.

"As to the Wyoming Division, the investment in everything but the main line will have been destroyed and the continued existence of the road will depend upon whether or not the through traffic is sufficient to pay the operating expenses and the interest charges.

"There are many instances where, on account of closing up breakers for one reason or another, portions of the Lehigh Valley Railroad have already become useless."

They then cite the following instances of abandoned tracks in the Wyoming region, viz:

"Crescent breaker, 1 mile long, abandoned 1900.

"Babylon breaker, 1 miles.

"Lawrence track, partially abandoned, length not given.

"Phoenix track, 1 mile long.

"Heidelberg breaker, No. 2, tracks abandoned; length not given.

"Henry breaker, tracks 1\(\frac{1}{2}\) miles long; will soon be abandoned.

"Wyoming breaker, \(\frac{1}{2}\) mile long.

"Midvale track, \(\frac{1}{2}\) miles long:

"Mosier mine, track 1\(\frac{1}{2}\) miles long.

"Mosier mine, track 1\(\frac{1}{2}\) miles in miles, abandoned.

"Butler colliery, tracks taken up; length not given."

In addition, it is stated that many collieries have been abandoned which have not involved the taking up of tracks, the tracks remaining in partial use in connection with other breakers.

It will be noted that while the list of abandoned tracks in the Wyoming district has the appearance of being quite large, yet the sum total of such of the mileages as are specified shows that a fraction more than 8 miles has been abandoned.

Counsel also in their brief give quite a list of names of breakers which have been abandoned on the Mahanoy and Hazleton Division, but it is found that the total of abandoned mileage on this division is only 9.5 miles.

15 found that the total of abandoned mileage on this division is only 9.5 miles.

As to the kindred subject, namely, the exhaustion of anthracite coal supply, counsel in their brief thus state the result of the testimony of W. F. Dodge, an expert mining engineer, introduced as a witness on behalf of the defendant:

The total future shipments from the Wyoming Division, starting with the year 1999, will amount to 91,230,000 tons. The lives of the various collieries will vary from 5 to 50 years. The annual output is estimated for the first five years to be 19,395,000 tons, and will diminish gradually until, from the twenty-fifth to the thirtieth year, the annual output is estimated at only 7,055,000 tons, dwindling down in the period between the forty-fifth and fiftieth years to 500,000 tons per annum. At the end of 25 years, according to the testimony of Mr. Dodge, the output of the Wyoming region will be less than half what it is now, and at the end of 50 years will cease altogether.

On the other hand, the following more optimistic view of the situation appears from the Report of the Anthracite Coal Strike Commission, rendered to the President of the United States March 18, 1903, viz:

tion appears from the Report of the Anthracite Coal Strike Commission, rendered to the President of the United States March 18, 1903, viz:

"What is of some importance, however, in connection with the discussion of the past production is a consideration of what is to be expected in the future in the way of production and the probable duration of the anthracite coal supply. The original deposits of the anthracite coal field have been ascertained with a reasonable degree of accuracy.

"According to the estimates of the Pennsylvania geological survey, the amount of workable anthracite coal originally in the ground was 19,500,000,000 tons. The production to the close of 1901, as previously stated, amounted to 1,350,000,000 long tons, which would indicate that there remained still available a total of 18,150,000,000 tons. Unfortunately, however, for every ton of coal mined and marketed one and one-half tons, approximately, are either wasted or left in the ground as pillars for the protection of the workings, so that the actual yield of the beds is only about 40 per cent of the contents. Upon this basis the exhaustion to date has amounted to 3,375,000,000 tons. Deducting this from the original deposits, the amount of anthracite remaining in the ground at the close of 1901 is found to be, approximately, 16,125,000,000. Upon the basis of 40 per cent recovery, this would yield 6,450,000,000 long tons. The total production in 1901 was 60,242,560 long tons. If this rate of production were to continue steadily, the fields would become exhausted in just about one hundred years.

"Mr. William Griffith, in a series of articles contributed to the Bond."

years.

"Mr. William Griffith, in a series of articles contributed to the Bond Record in 1896, considers that the estimates upon which the foregoing computations have been made were too liberal. His estimate of the amount of minable coal remaining at the close of 1895 was 5,073,786,750

computations have been made were too liberal. His estimate of the amount of minable coal remaining at the close of 1895 was 5,073,786,750 tons.

"In the six years from 1896 to 1901, inclusive, the production has been, approximately, 308,570,000 tons, which would leave still available for mining 4,765,216,750 tons. This supply, at the rate of production in 1901, would last a little less than 80 years. But as indicating how susceptible to error are human predictions, it is well to state that in his carefully prepared statement, published in 1896, Mr. (riffith assumes the limit of annual production would be reached in 1996 and would amount in that year to 60,000,000 tons.

"This amount of production was reached in 1901, in just half the time predicted by Mr. Griffith, and the production of January, 1903, as recently reported, shows that the anthracite mines are capable of producing at a rate of 72,000,000 tons annually in their present state of development. It is not to be supposed, however, that the annual rate of anthracite production will continue practically uniform until the mines are exhausted and then suddenly cease. Portions of the fields have already been worked out, others are rapidly approaching total exhaustion, while others at the present rate of production will, it is calculated, last from 700 to 800 years. If we can assume the annual production will have reached its maximum limit at between 60,000,000 and 75,000,000 tons, and that the production will then fall off gradually as it increased, we may expect anthracite mining to continue for a period of from 200 to 250 years." (Report of Anthracite Coal Strike Commission, pp. 21, 22.)

Defendant claims the right to earn enough out of its coal rates to provide for a return of the principal of the investment in that part of the railroad company devoted to the carriage of coal, when and as this principal becomes reduced and extinguished by exhaustion of the coal. We have noted the estimate of defendant's witnesses to the effect that shipments of anthracite

ject by the Anthracite Coal Strike Commission to the effect that production may last for 250 years. Probably the truth lies somewhere between the two extremes. During the years 1903 to 1910, the Lehigh Valley Railroad Company under the rates in controversy succeeded in accumulating an unappropriated surplus of \$27,210,780. If the company could accumulate this sum for every eight-year period during the next 30 or 40 years, it would have a surplus in the neighborhood of \$125,090,000. It seems, therefore, that the present rates are more than sufficient to meet defendant's idea of an annual income sufficient to the carriage of anthracite coal loses its earning capacity through the exhaustion of that commodity. This matter, however, is too speculative to be of much value in determining the reasonableness of present rates. By the time anthracite coal is exhausted other traffic may have become so dense that the present value of the road will not be impaired. It requires no extended argument to sustain the proposition that the maintenance of an unreasonably high rate operates to the advantage of the Lehigh Valley Railroad Company as a dealer in coal. The record shows that the only line of demarcation between the Lehigh Valley Railroad Company and the Lehigh Valley Coal Company is one of bookkeeping. Assuming for purposes of illustration that the cost of mining anthracite coal is \$2 per ton and the cost of coal at tidewater would be \$3 per ton; and if the published rate were \$1 the independent operator and the railroad coal company would be on a fair competitive basis so far as the cost of mining and transportation are concerned. But as between the railroad company and its coal company it matters not whether the profit comes from mining or transporting the coal. So, therefore, if, instead of the \$1 rate above mentioned, the railroad company were to establish a rate of \$1.50 per ton, the railroad and its coal company. It is obvious that such an advantage would enable the railroad company and its each of the salled compan

shipments to Perth Amboy decreased from 147,811 tons for 1901 to 40,562 tons for 1908.

Coming now to the question of the reasonableness of the rates, counsel for defendants asserts that the rates on coal must be sufficient to produce four results, viz: (1) An income sufficient to make up for past deficiencies in current return on investment. (2) A reasonable current annual return upon the investment in the railroad and transportation adjuncts. (3) An amount sufficient to provide reasonably for keeping the property up to constantly modern standards—i. e., such improvements as are necessary for public convenience and safety and to enable the railroad to get business in competition with other roads. (4) An amount sufficient to provide for a return of the principal of the investment, when and as this principal becomes reduced and extinguished by the exhaustion of coal freight.

Under the first proposition defendant argues that the present rates should be sufficiently high to enable it now to earn the amount by which it has fallen short of paying a 6 per cent annual dividend in the past, or at least as far back as 1894. It shows that a dividend rate of 6 per cent applied to its common stock of \$40,441,100 for the period from November 30, 1894, to June 30, 1908, would amount to \$35,091, 276; that during this period the dividends paid amounted to \$7,260,264; and argues that upon a 6 per cent basis the common-stock shareholders suffered a deficiency in dividends during this 14½-year period of \$27,860,264; and argues that upon a 6 per cent basis the common-stock shareholders suffered a deficiency in dividends during this 14½-year period of \$27,881,112. In the Wilgus estimate above mentioned 10 cents per ton is added to the assumed cost of carrying coal to Perth Amboy for the purpose of "making good the deficit of over \$20,000,000 in dividends" for past years.

Assuming, without conceding, that the present producers and consumers of anthracite coal must bear the burden of the misfortunes of

for past years.

Assuming, without conceding, that the present producers and consumers of anthracite coal must bear the burden of the misfortunes or mismanagement of a previous generation, it is worth while to inquire whether this claim does not amount for the most part to a declaration, not that the shareholder is entitled to a fair dividend, but rather to an assertion that he may invest his dividends in improvement of the property and have it in cash also.

Certain aspects of the financial condition of the Lebigh Valley for the years 1901 to 1910, inclusive, are set forth in the following table:

Lehigh Valley Railroad Company.

	Year ending June 30→					
Item.	1901	1902	1903	1904	1905	
§ A. MILEAGE: 1. Owned—single track, miles 2. Owned—all tracks, miles 3. Operated—single track, miles 4. Operated—all tracks, miles § B. Cost of Road and Equipment Per mile owned—single track Per mile owned—single track Per mile owned—all tracks § C. TOTAL CAPITALIZATION Per mile owned—all tracks. Capital stock Per mile owned—all tracks. Capital stock Funded debt. Funded debt. Per mile operated—single track Per mile operated—all tracks. Total operating expenses. Per mile operated—single track Per mile operated—single track Per mile operated—single track Ratio to total operating revenues. Per mile operated—all tracks. Ratio to total operating revenues. Ratio to total operating revenues.	317.67 797.17 1, 387.38 2, 905.48 \$37, 657, 712 118, 543 47, 239 87, 416, 100 275, 179 109, 658 40, 441, 100 46, 975, 000 23, 654, 215 17, 049 8, 141 18, 676, 927 13, 462 6, 428 78, 96	317.09 799.69 1, 387.24 2, 923.31 \$37,657,712 118,760 47,990 57,900,100 277,208 109,918 40,441,100 47,459,000 23,668,672 17,062 8,097 19,103,254 6,535 80,71	316. 98 797. 84 1, 362. 15 2, 953. 68 \$46, 435, 550 146, 493 58, 203 97, 555, 100 289, 072 122, 274 40, 441, 100 25, 692, 270 18, 455 8, 698 13, 377, 922 71, 153	311. 63 799. 69 1, 392. 67 2, 971. 87 \$46, 425, 604 149, 009 58, 067 97, 267, 100 233, 897 121, 631 40, 441, 100 56, 826, 000 28, 672, 362 20, 588 9, 648 15, 235, 917 1, 31, 109 6, 143 63, 67	308. 12 802. 09 1, 393. 87 3, 003. 30 \$48, 410, 162 157, 115 60, 355 98, 884, 100 221, 232 123, 405 40, 441, 100 58, 543, 245 21, 602 21, 602 10, 667 15, 445, 230 16, 142 61, 101	

Lehigh Valley Railroad Company-Continued.

		Year ending June-30—				
Item.						
	1901	1902	1903	1904	1905	
§ D. Total Operating Revenues—Continued. Analysis of operating expenses under official classification: Maintenance of way and structures. Per mile operated—single track Per mile operated—all tracks. Ratio to total operating revenues. Per mile operated—single track Per mile operated—single track Per mile operated—single track Per mile operated—all tracks. Ratio to total operating revenues. per cent Trafic and transportation expenses. Per mile operated—single track Per mile operated—all tracks. Ratio to total operating revenues. per cent General expenses. per cent General expenses.	1,531 18,81 9,251,820 6,669 3,184 39,11	\$4,632,997 3,340 1,585 19,58 5,149,924 3,712 21,76 8,581,666 6,186 2,935 36,25 738,667 533,667	\$4,099,166 2,944 1,388 15.96 4,694,398 3,377 1.586 18.22 8,964,822 6,446 3,033 34.86 619,533 445	2, 196 1, 029 1, 10, 67 1, 4, 744, 232 2, 3, 407 1, 1, 596 16, 54 5, 9, 857, 586 7, 078 3, 317 34, 38 595, 895	\$3,269,383 2,346 1,089 10,82 4,894,269 3,511 1,630 16,19 9,694,567 6,955 2,228 32,06 587,011 421	
General expenses Per mile operated—single track Per mile operated—all tracks. Ratio to total operating revenues	253 3.11	253 3.12	210 2,41	201	195 1.94	
Per mile operated—single track. Per mile operated—all tracks. Ratio to total operating revenues per cent. Compensation paid general officers. Per mile operated—single track Per mile operated—single track Ratio to total operating revenues per cent. Material, fuel, and all other items Per mile operated—single track. Per mile operated—single track. Per mile operated—single track. Per mile operated—single track. Ratio to total operating revenues per cent.	6,631 3,166 38,89 129,352 100 48 5,59 9,338,003 6,731 3,214 39,48 312,182	9,995,715 7,205 3,419 42,23 128,320 93 44 8,979,219 6,473 3,072 37,94 285,781	10,550,678 7,578 3,572 41.07 145,835 105 49 6,7,681,408 7,681,408 22,90 289,996	7,882 3,694 38.29 116,746 84 39 -40 7,161,877 5,143 2,410 24.98 471,262	10,920,360 7,834 3,636 36,12 103,188 74 34 7,421,682 5,325 2,472 24,55 538,933	
Per mile owned—single track Per mile owned—all tracks Per mile operated—single track Per mile operated—single track Ratio to total operating revenues. Per mile operated—single track Per mile operated—single track Per mile operated—single track Ratio to total operating revenues. § E. INCOME ACCOUNT: Operating income from railroad operation	3,362 1,606 19.73	901 358 206 98 1.21 4,279,637 3,085 1,464 18.08 4,279,637	91.1 364 208 98 1.1.1 7,024,352 27.34 7,024,352	589 338 1.65 1.65 9,945,183 7,141 3,346 34.68	1,749 672 387 179 1,78 11,251,182 8,072 3,746 37,21 11,251,182	
Additions to income (total of items 1 and 2 following)	1,286,836	1,367,808	1,660,528	1,682,763	1,493,508	
Rents received from other roads for the use of road, equipment, and facilities of the operating property. Interest on bonds and dividends on stocks in separately operated rallroads and income from other miscellaneous property.	718,098 568,738	621,011 746,797	962, 233 698, 295		1,040,498	
Deductions from income (total of items 1, 2, and 3 following)	7,091,757	6,980,222	6,307,633		5, 940, 251	
Rents paid for lease of roads which form a part of the operating property Rents paid to other roads for the partial use of road, equipment, and facilities needed in operating the property. Interest accrued on funded and floating debt.	2,724,019 706,919 3,660,819	2,743,965 526,293 3,709,964	2, 727, 328 562, 258 3, 018, 047	574, 384	2,410,967 444,471 3,084,813	
Corporate income for the year	Def. 1, 139, 815 2, 82	Def. 1, 332, 777	2,377,247	5,720,851	6, 804, 439	
§ F. Profit and Loss Account: Accumulated surplus brought forward from preceding year. Corporate income for the year. Discounts on securities bought and sold and other profit and loss allocations. Total surplus available for distribution. Per cent on capital stock outstanding § C. Dividends declared.	77,014 Def. 1,139,815 —299.195 Def.,1,361,996 3.37	Def. 3,372,147 8.34		1,620,681 5,720,851 +38,554 7,380,086 18.25	16.82 5,914,796 6,804,439 -1,424,371 11,294,864 27,93 1,225,989	
Additions, betterments, and permanent improvement appropriations	Cr. 183, 738		1,266,182	1,465,290	1,411,550	
Total surplus appropriated. Per cent on capital stock outstanding § C. Unappropriated surplus carried over to the following year.	Cr. 183, 738 . 45 Def. 1, 178, 258	Def. 3, 372, 147	1, 266, 182 3, 13 1, 620, 681	3.62	2,637,539 6,52 8,657,325	
		Year	r ending June 30	-		
Item.	1906	1907	1908	1909	1910	
§ A. Mileage: 1. Owned—single track, miles. 2. Owned—all tracks, miles. 3. Operated—single track, miles. 4. Operated—all tracks, miles. 5. B. Cost of Road and Equipment Per mile owned—single track. Per mile owned—all tracks Per mile owned—all tracks Per mile owned—single track Per mile owned—all tracks Capital stock. Per mile owned—all tracks Capital stock Finded debt. 5. D. Total Operating Revenues. Per mile operated—single track Per mile operated—single track Per mile operated—single track Per mile operated—single track Road operating expenses. Per mile operated—single track Per mile operated—single track Ratio to total operating revenues. Per cent.	815. 42 1, 429, 16 3, 133. 48 \$48, 410, 162 59, 369 120, 982, 100 394, 464 148, 368 40, 441, 100 80, 541, 000 32, 050, 187 22, 426 10, 228 19, 682, 035	302.30 824.66 1,443.24 3,163.30 \$54,365,714 65,925 129,644,100 428,859 167,209 40,441,100 89,203,000 35,287,381 24,450 11,155 21,700,358 15,036 6,860 61.50	302. 39 833. 60 1, 447. 63 3, 228. 49 \$58, 782, 995 194, 395 70, 517 132, 338, 981 437, 643 158, 756 40, 441, 100 91, 897, 881 37, 426, 745 24, 527, 584 11, 593 24, 012, 038 16, 587 7, 438 64, 16	303. 09 832. 99 1, 445. 67 3, 241. 48 \$58, 639, 362 70, 396 129, 507, 047 427, 289 155, 473 441, 100 89, 065, 947 34, 949, 933 24, 176 10, 782 22, 541, 145 15, 592 6, 954 64, 50	302, 61 840, 85 1, 440, 25 3, 261, 43 \$61, 443, 213 73, 073 127, 017, 047 419, 738 151, 058 40, 441, 100 86, 575, 947 38, 151, 174 38, 151, 174 11, 998 23, 814, 256 7, 302 62, 42	

Lehigh Valley Railroad Company-Continued.

	Year ending June 30—				
Item.	1906	1907	1908	1909	1910
D. Total Operating Revenues—Continued.					
Analysis of operating expenses under official classification: Maintenance of way and structures. Per mile operated—single track Ratio to total operating revenues. Maintenance of equipment. Per mile operated—all tracks. Per mile operated—all tracks. Ratio to total operating revenues. Per mile operated—all tracks. Ratio to total operating revenues. Per mile operated—single track Per mile operated—single track Per mile operated—single track Per mile operated—all tracks Ratio to total operating revenues per cent. General expenses. Per mile operated—single track Per mile operated—single track Per mile operated—single track		THE THE RES	The state of the s	Control Section	
Maintenance of way and structures.	\$3, 153, 245	\$3, 196, 854	\$3,398,642	\$3, 273, 339	\$3,462,90
Per mile operated—single track	2,206	2, 215 1, 011	2,348	2,264	2,10
I'er mile operated—all tracks.	1,006	1,011	1,053	1,010	1,00
Maintenance of equipment	9.83 5.485,794	6, 186, 642	9. 08 6, 153, 874	9. 37 5, 832, 430	9. (5, 995, 81
Per mile operated—single track	3,838	4, 287	4, 251	4,034	4,10
Per mile operated—all tracks.	1.751	1,956	1,906	1,799	1.8
Ratio to total operating revenuesper cent	17.12	17.54	16.44	76.68	15.
Traine and transportation expenses	10, 421, 778	11, 686, 787	12, 121, 580	10,760,203	11,512,2
Par mile operated—single track	7, 292 3, 326	8,098 3,694	8, 373 3, 755	7, 443 3, 320	7,9
Ratio to total operating revenues per cent	32.52	33.12	32, 39	30.79	3, 5 30.
General expenses	621, 218	630, 075	637,940	709,704	713.1
Per mile operated—single track.	436	436	441	491	4
Per mile operated—all tracks Ratio to total operating revenues	198	199	198	219	- 2
katio to total operating revenuesper cent.	1.94	1.78	1.71	2.03	1.
Analysis of operating expenses between labor and other expenses:	12,013,753	14, 282, 297	12,891,828	12, 113, 151	10 700 0
Per mile operated—single track	8,406	9,896	8, 905	8, 379	13,703,0
Per mile operated—all tracks.	3,834	4.515	3,993	3,737	4.2
Ratio to total operating revenuesper cent	37.49	40.48	34.44	34.66	35.
Compensation paid direct to labor. Per mile operated—single track Per mile operated—all tracks. Ratio to total operating revenues per cent. Compensation paid general officers. Per mile operated—single track Per mile operated—single track Per mile operated—single track Per mile operated—single track Per mile operated—all tracks. Ratio to total operating revenues. Per cent.	101,576	129,718	178,063	184,768	160.8
Per mile operated—single track.	73	90	123	128	1
Patia to total aparating revenues	33	41	56 .49	57	
Material, fuel, and all other items	7, 563, 706	7, 288, 343	10,942,147	10, 243, 226	9, 950, 4
Material, fuel, and all other items Per mile operated—single track.	5, 293	5,050	7,559	7,085	6,9
Per mile operated—all tracks. Ratio to total operating revenues	2,414	2,304	3.389	3, 160	3.0
Ratio to total operating revenuesper cent.	23, 60	20, 65	29. 23	29.31	26.
Taxes. Per mile owned—single track	468, 849 1, 529	660, 501	850, 361	780, 494	794,9
Per mile owned—snigte tracks	575	2, 185	2,812 1,020	2,575 937	2,6
Per mile owned—all tracks Per mile operated—single track Per mile operated—all tracks Per mile operated—all tracks Ratio to total operating revenues per cent	328	458	588	540	5
Per mile operated—all tracks.	150	209	263	241	2
Ratio to total operating revenuesper cent.	1.47	1.87	2.27	2.23	2.1
Operating income.	11, 899, 303	12,926,522	12, 564, 346	11,628,314	13, 541, 9
Per mile operated—all tracks	8,326 3,797	8,956 4,686	8,679 3,892	8,044 3,587	9,4
Operating income. Per mile operated—single track. Per mile operated—all tracks. Ratio to total operating revenues. per cent	37.12	36.63	33. 57	33.27	35.
E. INCOME ACCOUNT:	The second second	Constitution of the Consti		Commence of	
Operating income from railroad operation.	11,899,303	12,926,522	12,564,346	11,628,314	13, 541. 9
Additions to income (total of items 1 and 2 following)	1, 548, 521	1,726,188	1,474,833	1,057,273	1,463,3
 Rents received from other roads for the use of road, equipment, and facilities of the operating property. 	739, 670	8, 781, 050	509,581 108,331	292,630	409,0
Interest on bonds and dividends on stocks in separately operated railroads and		The state of the s	(100, 551)		
income from other miscellaneous property	808, 851	945, 138	856, 921	764, 643	1,054,3
Deductions from income (total of items 1, 2, and 3 following)	6, 426, 014	6,559,167	6,606,532	6,841,783	6,867,86
 Rents paid for lease of roads which form a part of the operating property Rents paid to other roads for the partial use of road, equipment, and facilities 	2,455,286	2,347,253	2,520,523	2,748,308	2,763,8
needed in operating the property 3. Interest accrued on funded and floating debt.	430, 176 3, 540, 552	373,895 3,838,019	185,833 3,900,176	150,806 3,942,669	173, 2 3, 930, 7
	7,021,810	8,093,543	7,432,647	5,843,804	8, 137, 4
Corporate income for the year. Per cent on capital stock outstanding § C. PROFIT AND LOSS ACCOUNT:	17.36	20.01	18,38	14.45	20.
Accumulated surplus brought forward from preceding year	8,657,325	11,380,915	14,009,283	16,516,904	19,212,2
Corporate income for the year. Discounts on securities bought and sold and other profit and loss allocations	8,657,325 7,021,810	8,093,543	7,432,647	5,843,804	8, 137, 4
Discounts on securities bought and sold and other profit and loss allocations	-1,103,971	-1,252,541	-719,059	-135,110	-391,6
Total surplus available for distribution. Per cent on capital stock outstanding § C.	14, 575, 164 36, 04	18, 221, 917 45, 06	20,722,871	22, 225, 598 54, 96	26,958.0
Dividends declared	1,624,022	2,144,044	2,430,703	2, 430, 703	66. 2,430,7
	190400000000000000000000000000000000000		51 G 54 C 15 P 154 C 1	The second secon	843.8
Additions, betterments, and permanent improvement appropriations	1,570,227	2,068,590	1,363,834	- 580, 206	Cr. 3, 440, 7
Sinking and special reserve funds	************	*************	411, 430	2,437	Cr. 95, 5
Total surplus appropriated. Per cent on capital stock outstanding § C. Unappropriated surplus carried over to the following year.	3, 194, 249	4, 212, 634	4, 205, 967	3,013,346	261,7
ref cent on capital stock outstanding a Control of the control of the capital stock outstanding a Control of the capital stock outstand	7.90	14,009,283	16, 516, 904	7. 45 19, 212, 252	27,219,7
Unannranriated surplus carried over to the following year					

The figures for years prior to 1901 are not given above, because we have not had them revised to conform to the present system of accounting, but from 1895 onward they tell practically the same story—that is, the charges to maintenance of way from 1895 to 1904 were abnormal as compared with the years 1905 to 1910. During this 10-year period the density of tonnage per mile of line has increased about 30 per cent. Three of the large items of operating expenses, namely, maintenance of equipment, compensation to labor and material, fuel, and supplies, show an increase somewhat proportionate to the increase in density of tonnage, while the fourth large item of operating expense—maintenance of way and structures—has decreased from \$3,057 per mile in 1901 and \$3,340 in 1902 to \$2,404 in 1910. The only inference which can be drawn from these figures is that in the period from 1895 to 1902 the shareholders elected to devote surplus earnings to rebuilding and improving their road instead of distributing the earnings to themselves in the form of dividends. The excess of the maintenance of way item alone for several years prior to 1903 over that for 1910 was sufficent to pay a 2 per cent dividend on the stock. The devotion of earnings to permanent improvements and betterments was no doubt a wise policy on the part of those in control of the road. But the indications are that the shareholders have already received the benefit of that policy, even though it has not come in the form of cash dividends covering the period in question. From 1894 to 1903 the average market value of Lehigh Valley Railroad stock was in the neighborhood of \$75 per share. At this writing the same stock is quoted at \$178. Thus a person who had invested in Lehigh Valley at par prior to 1904 has benefited by an appreciation in value of his stock to the amount of 5 per cent per annum since 1894 and has received dividends gradually increased from

2 per cent to 5 per cent since 1905. The earnings in 1910 were sufficient to pay a dividend of 20.12 per cent, but the company elected to increase its unappropriated surplus from \$19,212,252 in 1909 to \$27,-219,890 in 1910. Moreover, the Lehigh Valley Railroad Company has been carrying amongst its assets certificates of indebtedness of the Lehigh Valley Coal Company amounting to \$10,537,000, upon which no interest is collected. Interest on this indebtedness would be sufficient to pay a 1 per cent dividend on the stock.

We should hesitate to assent to defendant's first proposition, that present shippers must bear the burden of earlier misfortunes of the road, but it is unnecessary to decide that point in this case, because it has been sufficiently demonstrated that the shareholders have received a fair return on their investment, taking into consideration the money actually received in dividends, the increased value of their shares, the increased value of the property, and the large unappropriated surplus. It follows, therefore, that the allowance in the Wilgus estimate of 10 cents per ton to make up for this alleged deficit should be eliminated from the calculation.

Defendant's second and third contentions that the rates should be sufficient to guarantee a fair annual return on the investment and to provide reasonably for keeping the property up to improved modern methods are sound, but have little bearing on this case, in view of the summary of the road's finances above set forth. It will be noted by referring to that tabulation that defendant's corporate income was sufficient to pay a dividend on the capital stock of 16 per cent in 1905, 17 per cent in 1906, 20 per cent in 1907. Instead of paying such dividends it has paid 5 per cent on its capital stock, appropriated to additions, bet-

terments and improvements sums ranging from \$5,0,000 to \$2,005,500 per sansing, and has becreased its unproprieted surplus from nothing in 1902 to \$27,213,780 in 1910. Certainly if must be conceded that the proper maintenance of the property.

The present rates provide liberally for a fair annual return on the investment and the proper maintenance of the property.

Sacris \$10,37,000 nonlinerest bearing certificates of indebtedness of the Lehigh Valley Coal Company. At 5 per cent per annum the interest on these certificates would be \$22,850. The latter sum is in all substantion of the total tomange from the anthractic field shipped by the Lehigh Valley Coal Company does not appear, but it is of record that it ships about 95 per cent of the coal to tidewater. If its proportion of the total tomange from the anthractic field shipped by the Lehigh and the state of \$2,000,000 tons; and the net result of the transportation as between it and its competitors was the same as if it had add its coal transported for 5 cents per ton less than the independent dealers. Referring to the same matter in Coxe Brothers Co. c. L. V.

"The rallroad company advances to the coal company nearly \$7,000,000 with which to transported for 5 cents per ton less than the independent dealers. Referring to the same matter in Coxe Brothers Co. c. L. V.

"The rallroad company advances to the coal company, rearly \$7,000,000 with which to transact its business, and for the use of which the rallroad company receives a realized of the coal company. The value of the annual use of such advances at 5 per cent interest amounts of the disadvances to company perference given to said coal company, to the disadvances of any other competitors of company and other shippers who receive no advances. The advantage of like advances if made to company and the same perference and unjust discrimination. The fact that the road was interested in the coal company, as the owner of its capital stock, does not make lawful what would be unlawful without such interest."

The

ORDER

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 8th day of June, A. D. 1911. Present: Judson C. Clements, Charles A. Prouty, Franklin K. Lane, Edgar E. Clark, James S. Harlan, Charles C. McChord, Balthasar H. Meyer, Commissioners.

No. 1180. Henry E. Meeker and Caroline H. Meeker, copartners, trading as Meeker & Company, v. Lehigh Valley Railroad Company.

This case being at issue upon complaint and answer on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

It is ordered, That defendant Lehigh Valley Railroad Company be, and it is hereby, notified and required to cease and desist, on or before the 15th day of August, 1911, and for a period of two years thereafter to abstain, from charging, demanding, collecting, or receiving its present rates for the transportation of anthractic coal in carloads from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., as follows, to wit: Upon prepared sizes, \$1.55 per gross ton; on pea coal, \$1.40 per gross ton; and on buckwheat coal, \$1.20 per gross ton; which said rates have been found by the commission in its said report to be unreasonable.

sonable.

It is further ordered. That said defendant be, and it is hereby, notified and required to establish, on or before the 15th day of August, 1911, and for a period of two years thereafter to maintain, and apply to the transportation of anthracite coal in carloads from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., rates not in excess of the following, to wit: \$1.40 per gross ton on prepared sizes of said coal; \$1.30 per gross ton on pea coal; and \$1.15 per gross ton on buckwheat coal; which said rates have been found by the commission in its said report to be reasonable.

[U. S. S. Exhibit 48.]

INTERSTATE COMMERCE COMMISSION,

I. John H. Marble, secretary of the Interstate Commerce Commission, do hereby certify that the papers hereto attached are true copies of the complaint and answer filed in the case of Marian Coal Company against the Delaware, Lackawanna & Western Railroad Company, docket No. 3592, and reports and orders filed by the commission in said case on June S. 1912, and October 19, 1912, the originals of which are now on file and of record in the office of this commission.

In testimony whereof I have hereanto subscribed my name and affixed the seal of the commission this 9th day of December, 1912.

JOHN H. MARBLE, Secretary,

(Before the Interstate Commerce Commission of the United States, Marian Coal Company v. The Delaware, Lackawanna & Western Railroad Company. Docket No. —.)

Complaint.

The petition of the above-named complainant respectfully shows:

The Marian Coal Company is a corporation organized under the laws of the State of Delaware, with its principal office in the city of Wilmington in the State of Delaware.

The said complainant is engaged in the business of cleaning, preparing, shipping, and selling that character of anthracite coal known in the trade as washery coal, reclaiming from the refuse discarded in the early history of anthracite mining the small pieces of coal which, at such early period were not marketable, but which are now valuable, particularly for steaming purposes. Its washery is located in the borough of Taylor, Lackawanna County, Pennsylvania, distant 2,500 feet from the Bloomsburg Division of the defendant carrier and is situate upon a switch serving three collieries supposed to belong to the defendant or to the D., L. & W. Coal Company, an organization affiliated with the defendant carrier. Large quantities of fresh-mined coal, as well as other washery coal, is transported over this switch for shipment intra and inter state.

The defendant railway is a common carrier organized under the laws of the State of Pennsylvania, engaged in the transportation of passengers and property by railroad, or by rail-and-water transportation, by continuous carriage or shipment between the plant of the complainant located in the State of Pennsylvania aforesaid to points designated hereinafter situate in the States of Pennsylvania, New York, and New Jersey, over its own road, and it operates, leases, owns, and controls certain railways which are part of its system and are made subject to this complaint, issuing tariff sheets over such line as part of its system, and is subject to the provisions of the act of Congress to regulate interstate commerce of the 14th February, 1887, and acts amendatory thereof and supplementary thereto. More than half of its business is the transportation of anthracite coal, and of the anthracite coal transported more than uniety per cent (90%) is produced by the D., L. & W. Coal Co., the capital stock of which defendant owns, or is coal purchased by said coal company from individual operators under contracts covering all coal produced or to be produced by them.

The defendant carrier has established rates for the transportation of the product of the complainant from its plant in the borough of Taylor aforesaid to the destinations hereinafter specified, which severally constitute an unjust and unreasonable charge for the service rendered to the complainant, and are in violation of the first section of the act of Congress to regulate interstate commerce of the 14th February, 1887, and the acts supplementary thereto or amendatory thereof. These several destinations are specified as follows, to wit:

All stations between the borough of Taylor and the several terminals of the defendant railway in the city of Hoboken and Jersey City, in the State of New York, and to points between the plant of the complainant and the city of Buffalo, and the city of Oswego, New York, and in the vicinity of said cities in the State of New York.

A

of New York.

All points alluded to will be found in I. C. C. Tariff No. 6095.

The complainant avers, that from April 6, 1907, to August 1, 1909, the defendant railway violated section four (4) of the act to regulate commerce, in that it charged and received a greater compensation for the transportation of property for a shorter than for a longer distance, over the same line or route and in the same directions, the shorter being included within the longer distances. By its Tariff I. C. C. No. 6995, the defendant railway, after this complainant had complained to the defendant of the unjust rates, reduced slightly certain of its rates, but is still violating the spirit and intent of the section of the act mentioned, by charging and receiving as great a compensation for a shorter as for a longer distance. The complainant makes specific reference to Tariffs I. C. C. No. 4222-No. 4223 and to joint freight Tariff No. C 3449, D., L. & W. R. R. in connection with Bangor and Portland, the two first mentioned having been cancelled by I. C. C. No. 6095, hereinabove mentioned.

The rates charged to all points on the line of the defendant railway are unjust and unreasonable, particularly so at intermediate points, both intra and interstate, as shown by the tariff mentioned. The rates charged for the transportation of rice and barley coal are also particularly unjust and unreasonable, as shown by Tariff I. C. C. No. 6095,

and are burdensome to the complainant, 75 per cent of whose product is rice and barley coal. The defendant railway has recognized that on account of the slight value of rice and barley coal, at origin, it should bear a less rate of freight than coal of a greater value. The freight rate charged upon barley coal being, for example, from origin to Hoboken, one dollar and thirty-five cents (\$1.35) per gross ton, while the price of said coal f. o. b. at Hoboken is one dollar and fifty cents (\$1.50). The actual cost of preparing barley coal is about thirty cents (\$30 cents) per ton, cost of selling ten cents (10 cents) additional. This size is selling locally at from forty to forty-five cents (40 to 45 cents) per ton, cost of selling ten cents (10 cents) additional. This size is selling locally at from forty to forty-five cents (40 to 45 cents) per ton. The freight rate charged upon rice coal, which is a size larger than barley coal, for example, is from origin to Hoboken one dollar and thirty-five cents (\$1.35), while the selling price of coal f. o. b. at Hoboken, is two dollars (\$2.00) per ton. The actual cost of preparing rice coal being about forty cents (40 cents) per ton, plus ten cents (10 cents) additional for selling expense. The price locally being from ninety cents (90 cents) to one dollar (\$1.00) per ton.

It thus appears that taking the actual cost of barley coal, which amounts to about sixty per cent (60 per cent) of complainant's output, at tidewater, freight added, is one dollar and seventy-five cents (\$1.75); it sells at Hoboken at one dollar and fifty cents (\$1.50), at a lose of twenty-five cents (25 cents).

The rice coal costs the complainant forty cents (40 cents) per ton to prepare, ten cents (10 cents) per ton for selling expense, and the freight, one dollar and thirty-five cents (\$1.35), showing a net cost of one dollar and eighty-five cents (\$1.85). It sells at Hoboken, the intrinsic value of which is from ninety cents (90 cents) to one dollar (\$1.00) per ton at origin.

The defendant also ha

(\$1.43); buckwheat coal, one dollar and twenty-eight cents (\$1.26), and for rice and barley, one dollar and thriteen cents (\$1.13), and such charge for transportation includes the service of transfer from car to vessel.

The coal company affiliated with the railroad company charges for barley coal at its mines at Taylor one dollar (\$1.00) per gross ton; for rice coal, one dollar and fifty cents (\$1.50) per gross ton; and for buckwheat, two dollars (\$2.00) per gross ton.

By reason of the injustice complained of the complainant is unable to ship his product to points on the line of the D., L. & W. R. R. at a profit except as to pea coal and sizes larger.

The defendant carrier owns the capital stock of the Delaware, Lackawanna & Western Coal Company, which also mines and ships from the Lackawanna and Wyoming coal regions of Pennsylvania via the defendant road coals of the various sizes shipped by this complainant, and by reason of the conditions imposed upon complainant by the defendant subjects the latter to unjust conditions of competition.

The defendant has charged the complainant a switching charge in addition to the charges for hauls on the main line to some of the destinations lying between the points hereinabove designated to which it has not subjected other shippers of the like product shipping the same under similar circumstances and like conditions, the said switching charges having been absorbed in the haul to such destinations.

In some instances the defendant carrier has imposed a switching charge upon some shippers much less than the switching charge imposed upon complainant's product for much more expensive service. The complainant avers that the defendant has no right to impose any charge whatever upon its product for much more expensive service. The complainant avers that the defendant has no right to impose any charge whatever upon its product for much more expensive service. The complainant avers that the defendant has no right to impose any charge whatever upon its product as a switching cha

The complainant has been and now is compelled to ship its product over the defendant's road by reason of the refusal of the defendant and other carriers to establish reasonable and just through joint rates, which should absorb the switching or transfer charges to connecting carriers, and complainant avers that the defendant carrier or its coal company has enjoyed a transfer charge as low as three cents (3 cents) per ton for similar service to interstate destinations, rates to which were requested by this complainant to be put into effect, and has performed service more expensive for competitors affiliated with other railroads constituting the Anthracite Coal Trust at much less than has been exacted of this complainant. In some instances, as complainant believes, the switching or transfer charges have been absorbed in the through joint rate. By these unjust and discriminatory acts the complainant has been unable to secure equality of conditions with competitors constituting the Anthracite Coal Trust, and has been and is at a great disadvantage as a result thereof.

The complainant avers that the defendant carrier has willfully violated the sixth section of the act of Congress, in that it has not printed and kept open to public inspection the schedules required under this section of the said act of Congress, nor has it observed the modified requirements of the commission, which requires common carriers to permit shippers to have access to such schedules in the hands of the freight representatives of carriers subject to the act, and has not filed and published in conformance with the provisions of the act mentioned the rates, fares, and charges imposed upon the product of the complainant as required by said section. The complainant made application at the proper freight offices at Taylor, Pa., and Scranton, Pa., three miles from Taylor, and to the freight office in the city of New York for the rates of freight applicable to his product, and further requested the defendant carrier to exhibit to him certain agreements for switching services performed in interstate traffic, for competitors of the complainant, such competitors being coal companies affiliated with various railroads transporting anthractic coal and other products as common carriers over their lines, under like circumstances and similar conditions, specifically stating to the freight agents of such company the particular agreements or freight traffic contracts in force, either written or in parol, existing between such companies and the coal companies specified. The railway freight agents denied the existence of such agreements. The complainant then requested Mr. E. E. Loomis, vice

president of said railroad company, in charge of the coal department, to whom the complainant's letter was referred for a reply, to furnish him the information requested of the freight agents.

The defendant railway freight officials instead of giving to the complainant the information which would enable him to ascertain the rates of freight charged to various destinations, referred him to the officials of the coal department, which fixes the rates upon anthracite coal, and is a competitor of your complainant.

VI

VI.

The rate of freight as shown in the tariff cited hereinabove is not a rate imposed upon all shippers alike. The rate obtained from the D., L. & W. Coal Company and from individual operators who sell all their coal to the said company, is based upon a monopoly, maintained through the device of the Temple Iron Company, the directors of which are presidents of the railroad company constituting the Anthracite Coal Trust, and it in effect fixes the price of coal, the freight rate upon such coal is fixed by a percentage of the average price of coal as reported by a bureau maintained by the Coal Trust, to have been received by the various companies constituting the Coal Trust for coal sold at tidewater. The railroads formerly and now the coal companies affiliated therewith sell the coal, making no charge therefor to such operators as enjoy the benefit of the contracts, while complainant must sell its own product and suffer its own losses for bad accounts. The effect of this illegal system of rate making is to enable the Coal Trust to maintain a rate to one class of shippers different from that imposed upon another class, and the rate changes many times each year to one class without notice of change to the other class. In April it decreases, and then the price of coal advancing each month, each month the freight rate advances, thus constituting an illegal device and subjecting the complainant to conditions prohibited by the act to regulate interstate commerce. The rates on complainant's coal have been fixed by the coal company's representatives.

VII.

VII.

In deliveries locally the defendant coal company sells delivered at Scranton at the same price it charges at the breaker, which is located within a few hundred feet of complainant's washery, the complainant being subject to a delivery charge of thirty cents (30 cents) per ton. The defendant, the D., L. & W. Coal Company, sells coal delivered along the line, intra and interstate, at a price much less than the freight with the price charged for the coal at its said breaker added, which prices are: For buckwheat, two dollars per ton (\$2.00); rice, one dollar and fifty cents (\$1.50) per ton; and barley, one dollar (\$1.00) per ton; thus preventing the complainant from competing at line points. The unjust amount charged for freight is sufficient to prevent competition by complainants, or other independent shippers, and ultimately must drive the few remaining operators out of the field. When complainant has attempted to ship on the line of the defendant railroad, the defendant's officials have protested to complainant's agents, claiming the line trade as its own.

VIII.

The complainant believes and therefore avers, that the defendant carrier has charged it a compensation greater for services rendered it in the transportation of its commodity, than it has charged, collected, or received from other persons, firms, or corporations for contemporaneous services in the transportation of like traffic under substantially the same circumstances and conditions in violation of the second section of the act of Congress hereinabove recited.

IX.

The several acts in violation of the act of Congress, your complainant believes, together with other acts upon the part of the defendant company, were done for the deliberate purpose of driving the complainant out of business as a producer of coal in competition with the coal company affiliated with the defendant carrier. The acts, in detail, are as follows:

ant out of business as a producer of coal in competition with the coal company affiliated with the defendant carrier. The acts, in detail, are as follows:

A. The defendant attempted to compel the complainant to sell its coal to it upon an agreement which would require the complainant to restrict its output to such an extent as to make it impossible for the complainant to exist, at the same time compelling the complainant to rate its capacity at much less than its actual capacity.

B. It refused to quote the complainant rates, local or intrastate, and stated that they did not have the tariffs required under the law to be posted at its freight stations, which complainant did not then understand, so that complainant could use the same. During the entire period that this continued the complainant was obliged to sell its product to the defendant railroad. Upon the size of coal which could be produced at a profit at the price received by the defendant it wrongfully procured the condemnation of 95 per cent thereof, although said coal was of as good quality as the defendant was producing at its washeries, prepared with machinery equally as good, if not better, than the machinery used in the washeries of said defendant company. Instead of inspecting the coal by ascertaining the average character thereof in the manner in force with other producing shippers, the defendant's inspector persistently took the coal for test from under the lip screens, where of necessity the percentage of foreign matter would be large, and condemned complainant's buckwheat coal, as hereinabove stated. Upon the sizes of coal which are by-products of a washery, to wit, sizes smaller than buckwheat coal, upon which there would be no possible profit at the prices received from the railroad company, it took freely. For example, for the size of coal known as buckwheat, which it sold 2,500 feet distant from complainant's plant for two dollars (\$2,00), it paid complainant one dollar and ten cents (\$1.10) per ton; and for coal sold at said point of the

the names of which the representative of the complainant had given in confidence, that should they purchase the property they would buy a lawsuit, and then immediately theresfere notified the complainant that it is not not all the purchase. The complainant endeavored to sell its coal to wholesale purchasers, who were requested by the coal department of said railroad not to purchase its product under the pain of the displeasure of the defendant carrier.

D. The defendant attempted to compel the complainant to size a defendant carrier.

D. The defendant attempted to compel the complainant to size a product under the pain of the displeasure of the world permit a continuance of the acts mentioned in the second paragraph of this article. The plaintiff suggested that it ought to have the right, in case the defendant campany should condemn its coal, to sell the coal so condemned in the open market, which the defendant is said contract refused to insert a clause governing the methods of inspection, such as the defendant had agreed to do with other individual operators of which it purchased coal, whereby the coal taken for the purpose of test of quality should be taken from various points upon the carried of the product of under the ly screens, when defendant and declined to entering the complex of the complex of the complex of the said of the coal under the conditions exacted by the defendant.

E. After the defendant relivary, without any duty upon its part to open market the defendant part of the said of the coal under the conditions exacted by the defendant.

E. After the defendant relivary, without any duty upon its part to open market the defendant part of the said of the coal under the conditions exacted by the defendant.

E. After the defendant relivary, without any duty upon its part to open market the defendant part of the said of the coal under the conditions exacted by the coal taken the part of the said of the coal under the coal data that the part of the said of the coal under the coal that the part of the

Complainant has repeatedly protested against the several unjust and illegal acts complained of and sought to secure a fair adjustment of the several complaints, and has asked the defendant to create an equality of the conditions of competition with defendant's coal company and others, but has been unable to secure the same.

By reason of the refusal upon the part of the defendant company to absorb the switching charge in its through rate to interstate points, and by reason of its discrimination in the switching charge for interstate and intrastate shipments, and on account of the acts herein complained of, the complainant has been prevented from marketing its product in such quantity as would enable it to continue its business except at an enormous loss. Its competitors were enjoying switching rates tabulated as follows: as follows

Five cents (5 cents) per gross ton for a distance of about nine miles. One dollar and fifty cents (\$1.50) per car for a distance of about

One dollar and fifty cents (\$1.50) per car.

One dollar and fifty cents (\$1.50) per car.

Inine miles.

Twelve cents (12 cents) per gross ton through a crowded and expensive yard, distant about two and one-half miles.

Two dollars (\$2.00) per car for varying distances from three to five miles. And at numerous other points as your complainant is informed and believes rates are equally as discriminatory against the defendant as the rates hereinabove quoted.

This petition is presented upon behalf of the complainant and such other persons, firms, or corporations as may hereafter by proper petition become parties in interest to this sult. And the complainant hereby claims damages to the amount of fifty-five thousand two hundred and thirty-eight and twenty-seven one-hundredths dollars (\$55,238.27) with interest, and demands reparation, and attaches hereto a statement which is made a part hereof, detailing the origin of

the freight, destination, date of shipment, car number, car initial, size of coal, weight, rate charged.

Wherefore your petitioner prays:

First. That the defendant carrier may be required to answer the charges herein set out, and that after due hearing and investigation and ascertainment of lawful rates, and of the violations of law herein complained of, an order be made requiring the defendant to cease and desist from the several violations of the act to regulate commerce herein specified.

Second. That the defendant be furtherwork required to any into offset.

Excess	charges	on	2,014.17 o 26,629.09 49,156.02	of	buckwheat	9, 1	068, 63 169, 21 379, 39
							321.04

Total claim for reparation ... to which complainant asks interest be added on the respective payments made by complainant in excess of a reasonable rate, from the dates of the several payments, respectively, as made.

The total charge for coal transported is as follows.

Pea. Buck. Rice. Barley. 60, 265, 06
Rate. \$1, 43 \$1, 28 \$1, 28 \$1, 13 \$2, 881, 28 \$3, 134, 41 \$55, 546, 39 \$78, 269, 70

Just charges based upon a reasonable rate is stated as

Pea. Buck. Rice. Barley. \$1, 812. 60 \$23, 965. 20 \$36, 867.00 \$51, 948. 75

124, 593, 55

Amount claimed as in excess of a just and reasonable rate 55, 238, 27

Third. And that you make such further orders and decrees as the commission might deem necessary in the premises for the furtherance of justice.

MARIAN COAL COMPANY, By W. P. BOLAND, President.

OCTOBER 11, 1910.

STATE OF PENNSYLVANIA.

County of Lackaranna, ss:

W. P. Boland, president and general manager of the Marian Coal Company, being duly sworn according to law, doth depose and say, that as to the facts set forth in the complaint hereto attached, with which he is familiar, they are true and correct, and as to the facts which he states from information and belief, he believes the same to be true, and further earth not further saith not.

W. P. BOLAND.

Sworn to and subscribed before me this 11th day of October, 1910. CLARA L. WOODRUFF, Notary Public. [SEAL.]

My commission expires 5th of January, 1913.

Detailed statement of claim for excessive freight rates or overcharges made by Delaware, Lackawanna & Western Railroad for anthracite coal shipped by the Marian Coal Co., via D., L. & W. R. R., from Taylor, Pa., to J. W. Peale, Hoboken, N. J., scho was the coal sales agent of the Marian Coal Co., the latter paying freight.

[Rate: Pea, \$1.43; Buck., \$1.28; rice, \$1.13; barley, \$1.13.]

Date of		Car		We	eight.	
ship- ment.	Car initial.	number.	Pea.	Buck.	Rice.	Barley.
1908				-		
July 8	D., L. & W	75836			38	
	do	74742				38
	do	78572	100000		37.15	Lauren
	do	73923				38
9	do	72879			38.05	
	do	70588			00100	37.0
	do	45321			970000000000	28
100	do	44276	1000000		1200000000	21.1
Texas	do	74855	*******			87
	do	72272		100000000000000000000000000000000000000	37.15	-01
	do	72817			01.10	on a
	do	74584		********	*******	37.4
						37
	do	75808	******	********	38	
200	do	75562			********	36.1
10	do	74000			38.05	
	do	72953	*******			39
	do	70494	*******		35	
	do	46123	28.03			
	do	75324				37.1
	do	18371	26.17			
	do	74000			88.05	
	do	72953				39
	do	70494	No. of Lot	35	L. L. Control	

ate of		Cor		We	ight.		Date of		0	A.S.	We	ight.	
ship- pent.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.	ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.
1908		40100	00.00				1908						
ly 10	D., L. & W	46123 75324	28.03			37.15	July 24	D., L. & Wdo	45655 75769	*******			38.1
11	do	18371 70173	26.17		87.07		25	do	73097 18657				38.1
11	do	70625				37 37.09	- KO-	do	40683			27	29
	do	72808 74663			39.03			do	18103 40278				28.
	do	70058 17756			21	37	to the tra	do	46140			28	28.
	do	44637			21.05		27	do	15828 45245			**********	27. 27
	do	78577 78221		37.04		38	-	do	45480 43167		21.05	27	
	do	75738 72452			38,10	89		do	44702		21.00		21.
	do	70517				38.06		do	75265 72255		*******	39	36.
	do	19171 75215			27.11	38	28	do	73823				37
13	do	42158			18.13 38.10			do	74955 18825			37.12	27.
	do	75038 72216				38.14	The St	do	45325 75948		. 29		
	do	73879 72009			37	37.03	Daniel Co	do	70084			37.05	36.
	do	73212				37.15	EN LIE VE	do	73881 74062			38.07	36.
	do	18439 39530	+	22.13	28.02			do	74455				37.
	do	46225			97 09	27.18	29	do	72905 75893			37,10	37,
	do	18449			27.02			do	75608				36.
		Ten en	109	94.17	635.18	870.06	BU HEAVY	do	39725 42220	******	23	27	
	do	45769	*******			28.05	31 (18) (10)	do	46267 73704			90	27
	do	18102 45268	27.05	27.04			2 3	do	39523	*******		38	21
	do	46340			07.10	27	30	do	75969 72562			38	38.
14	do	19210 18485			27.12	28		do	75660				37
2.1	do	7874 19115			23	27.05		do	41207 39035		18.05	29	
	do	72378			39			do	45438 73618			90 05	27.
	do	19093 69958				29 42		do	72675			38.05	37
	do	78587			37,15		31	do	40525 - 45908				27.
	do	44915 45944			27.04	27.10		do	61177	*******			31
	do	75996 74951				37.18 37.16		do	74173 41713				38
	do	75606			38		Sept. 5	do	43439				22
	do	70330 73360			38	37.04		do	74618 70647			36.05	37
15	do	74909				38.05	8	do	69975 72975				37.
	do	70822 18258		26.17	37	********	11	do	73883				38
	do	75308				38.15 36.15		do	74309 70599	*******		35.05	28.
	do	75130 74942			38.05		E NICONO	do	74449				38
	do	74482 73907			37.05	38	Car Talanta	do	75954 75003	*******		37.05	37
16	do	73610				36.18		do	72364			38	
	do	73759 75907			37.04	37.13	15	do	72142 70623				36
	do	75404			38.05	87	***	do	70419 75680			36.10	87
	do	73194 73432			38			do	70159				36
	do	70067 70483		36.05		36.15		do	73946 72909			27.10	97
17	do	74001				39		do	75747			56.18	
	do	72269 70975			38.15	87.15		do	72257 39975				38
	do	74500			39.06	37.02	16	do	72268 74653				27
	do	74936 78209			*******	38		do	72538			37	38
	do	70382 70239			37.05	38.04	17	do	74871 75964	*******		37.10	37
18	do	70213			777707	37		do	19172			27.05	
	do	70751 72263			37.08	38.07		do	73465 70743				36
	do	73529			38	37.12		do	70460			36.05	37
	do	74348 74339		38.16			18	do	73356 74247				87
20	do	74202 74973			87.02	37		do	70914 72314			36	37
	do	72195				38	19	do	72788				87
	dodo	73454 72487			38.13	38.05		do	69983 72331			39	37
	cb	73528 75755		37.15	37.16		21	do	72250		36.15		
	do	69931	20000		51.10	40		do	75498 74546			38 37.15	
21	do	72399 72786	********		39.05	39.06		do	73242 70819				37 36
	cb	39807		27.15				do	70038			25.15	
	cb	18801 75951			26.18	38.10		do	74061 72177				87 37
	do	75258			38.12		22	do	18692				26
	do	75700 12829				37 24		do	19257 45818		27.02	26.10	
22	do	73322 74789			39	87.17	23	do	73647				37
	do	18237		28.15			1	do	74848 70791			36	37
	do	18094 72823			39.06	28	24	do	72223				37
	do	72789		90		39		do	72976 70969			36.10	
	do	75557 70816		39		37.05		do	72806 74264		38		37

Date of				Wei	ght.		Date of		Car		Wei	ght.	
ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.	ship- ment.	Car initial.	number.	Pea.	Buck.	Rice.	Barley,
1908	D. Y. S.W.	70428				35	1908 Oct. 31		75079		37.05		
lept. 24	do	75383			36.15	23			76089				37.0
25	do	15076 46244			27.16			Total			577.13	496.00	1,145.1
	do	70591 75816				35.18 26.10	Nov. 1		17906	28.05			
	do	40532			26,15 26,15		The same in		75958 73606		38	37.15	
20	dodo.	45698 74100			20,10	37.05			75774				87.1
	do	70709			36.18	36	3		74514 73685			88 37	
	do	76000			26.10	38.18			75744 73784		87		38
- 25		18388 70723				36.15	0		73583				38.
	do	70327			38	36.14			76062 74339		37.10	37.05	
	do	18503 46229		26.16		26.05	5		45460 75819				27. 37.
30	do	18284		20.10	26.12	00.00			74898		37.15		
	do	70555				36.03			73732 39826	27.18		38	
Det. 1		73797	******		38	36			43617 45104				27. 28.
3		75576 72601				37,13	100		43540			19	
	dodo	75492 39783		37	27				72130 43924				38 27.
	do	73524				38,10			17803	07	27		
	do	74669 74652		38		36,15			44986	27	22.05	*********	
	dodo	7374			23 39				12815 75472			23.10	38.
	do	72724		37.15			1		76255				37.
	do	45925				27.05 27	6		70221 18055			36.10 27	
	8do	72631			38.10	37.08			45213		07.15		. 28
	do	19008 75036				33.15		***************************************	18419 75576		27.15		38
	dodo	12861 45947			23.15	28			45450 18559		26.15	28.10	
	do	72025		07.15	38.05			***************************************	72819		20110		37.
1	do	70068 74327	2	37.15 38.07					44830 19218		27	27.15	
	do	74383 72628		. 38		36.05			43256 43220		.,,,,,,,,,,,		21. 21.
		45577		27.17					45396		26.15		
		75933			36	- 37			44832 72317			26.17	89
		73440			39	. 37			18240		90.10		. 28
		74778 73084				38,10			70491 74195		36.10	38.05	1
1	4	72043 72021		38.08		37			18004 78085		38.08		. 28.
		18939			27	36.16			74955			00.00	. 38
		74886 74164			38	30.10	9		74086			38.02	38
2	0	73288		38.12		38,16	- Land		73833 74215		37.16	39.06	
		74382			\$8.15				73349				. 39
		70382		36		37.15			72171		38	39.05	
		72287 74482		38		38.11	12		17798			27.05	
		73782			38.07	37		***************************************	7456			20,12	37
2	2	72605				38			70192 69993		37.10		.03
		73558 43947		37.05		22.05			74534		07.15	39	
2	3	43978		21.12		21			- 17851 42227	1	27.15		28
		43945				. 22.05			70991		-	36.02	. 37
		73596 74786		37.05		36,16	10		73743			00.11	. 38
2	2	74804	******			\$8.03			74047	1		38.11	
2	4	70702			36.16	35.05			- 45522 75288		37.03		. 28
		70318 75741		. 35	37.08			***************************************	74385				. 37
		75866				36.18			- 42602 78787		. 19		37
2	6	72822 45371			27	37.15			75523			39.06	
		73129 69956		39.16		- 37.05	1		75249 46293		27.06	80.00	
		45201		- 50.10		27.11			45801 39773			28.12	- 28
9	7	45456 73158			27 38.05				48951		. 21 22		
	6	75106		90		37.15	13		12470 75116		- 22		37
5	7	72289 72015		39		39			75315 15837		37.04	28	
		69949 72432		39.06		41.05		***************************************	17627			28.05	
	9	74259			37.17	90 10			45225 39783		27.17	27	*******
2	8	74903		37.05		36.10			17983			27.05	
22		72426		37,10		38.15			- 18521 - 72220		27		. 37
. 5	9	78947 72191		07,10		- 38			17850 45860			27,10	28
		72907				38	TEL IS		19161		28		
City.	0	74800		37.12	95 10		19		70786 19203			37.06 27.08	
	0	70645			35.16	39	1		70691				27

Date of		Car		We	ight.		Date of		0		We	eight.	
ship- ment.	Car initial.	number.	Pea.	Buck.	Rice.	Barley.	ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.
1908							1908						
Nov. 12		74873 72584		. 38.10		37.18	Dec. 4		72747 75557		38.03	**********	38.
		42037 45060		27.11	27.10				74486			39.06	001
		43293			********	22			70419 75649			37.08	38
13		72366 73042			38	37.15	- 5		74098 74967		37.15 37		
		70164		36.18	90.07				73381	*******			36.
		45596 45286			29.05	27.02	1.		73497 74775			38.15 39	
16		44397 15388		19		21.10			70165 73425		********	38.05	
		70100			38.05				75611		37.11		37.
		75107 73644			38.15	37,05			75211 74660			37.15	37.
17 19		7499			97.10	23.10	The state of		75259		37.18		
10		70233 75975		36,05	37.10				76078 73794			39.06	38
21		73654 70883			38.05 38.10				72939			38 38	
23		74716		37.02	35.10		7		73886 75375			38.10	
24		75930 73698		37.14	38.17		- 1		70926 75705		36,06		97
		70779			*********	37.10			76181			39	37
		70656 12865		37.08	24				74375 75300		37.06	28.09	
		74984			\$8.15				75125				37
		43695 70449		*********	37.15	22	5		70851 75422	*******	*********	37.10 38.17	1000000
		46005 72035		36.15	28.05	••••••			70226 45950		36,10	35	
		45572		********		27.18			44721	*******	*********	00	20.
		70003 72657		35.08	39.05				75045 73161			37.10	35.
		74122				37	8		18134				23.
		74364 73571		37.08	38.05				73384 74658			38	37
		70215				35.16	7		70522 73999		36 37.15		
		17849 18311		27.14		37.12	10		70405				37
		47428 45022		27.08		27.15	100		15444 75859		21.10	39.05	*****
		39814			28		9		70370		37.05		
		70011 73032		36 36.05					72537 74189	*******		39.06	38
		76202				36.15	12 10		75830 45184				37.1
		75080 74286			39 39.05				74256			37,05	29
		72214				37,12	11		75927 70032		37	38.18	
		70319 73931		37.05	37				74896				38.
		76085 76011		*********	39	37			45689 76118			28.15 39	
		17995		27.05					70578				39
		72522			39.01	36			75590 74617		36,15	38	
25		75766		*******	38.08	37			75043 74663		37.10	38.10	
		73870		*********	38.15	01			75480				38.6
		73162 75841		37.08		37			74471 76178		36.10	39	
		75020			37.10			***************************************	72770			59	
		76196 74426		36,04	38.10		12		75606 18275			29	59.6
26		18729				28	14		75468 73071			38.05	39.0
4 5		72807 75508			39	38			17402		28.09	00,00	
27		73795			38.15	37			70629 40575			28.05	37,
28		73991 45166		26.18					45447		28		
30		12816		23	38.15		100		70934 73570			37.15	36
50		10001					11		44243		21.11	90 10	
	Total	**********	83.03	1,541.05	2,062.13	1,930.06	15		74110 75138		37.08	38.10	
Dec. 1		70633				37	10		40513 72517			37	29.6
		70188		37.04	38.17				46203		28.10		
		75180				37.18	11.		70191 74543		37.05		38,0
		79971		38.06	41.10	*********			74747				38.1
		75214 73187		38	37.10				73356 72784			39	38.
2		39808			28.15		17		70907				37.
		75085 70526		38,10		37.15			72466 72236		38.05		38.
		72458			38		2		45820				28
3		72708 72691		37.15		37.05			42632 74731		21		38.
		70957			37.10		10		70383		36		38.
		73325 75541			39.04	37.05	19 21		73316 74198		37		38.
		74229		38	90 05				74282 70629			38	
	*******************	74066			38.05	37	14		72014			39	37.
		41731		97.15	21				73860 70707	******		38	38.
		76230 12852		37.15	25				72305		38.05		
		72436 72513			39	38.05			72923 74697			39	37.
		70936		38.04		35.05			39695		22.10		
		72304	1030555		39.06	28			70831 74626	******	36		38

Date of		Con	1	We	ight.		Date of		Con	1 200	We	eight.	
ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.	ship- ment.	Car initial,	Car number.	Pea.	Buck,	Rice.	Barley.
1908			22				1909			- V			
Dec. 14		73176 75745		35.15	38.17		Jan. 4		76031 74053			37.10	37.1
		15826			00 15	29.05			73059		35.18		
		18655 74641		36.10	28,15				75291 72722				36.1
		74556 72063				36.08 38.15	6		72061 40569			37.19 28.05	
		70086				37.08			74351			20.00	38.
22		73961 76243		37 37.10					70197 46019		37		29.
		72057 72644				37 37.15	7 3		12421			90	23.
29		75925		37			10 5		45659 74682			29	38
		75837 72957			39.06	38	7.75		75635 74866			37.10	38
		18554		28		37.15	150		46006		27.15		
		70538 69941			38	07.10			72796 73772			37.15	38,
		75958 72662		37.10		38			72471 72771		38		87.
		72072		37.15					74862		37		
28		18370 12445			28.10	28.05			75072 74088			39	37
		70689 17876		28.03		37			70586				36 28
		70391				36.10	1 1 1		18419 70465	*******		37.10	20
		45679 70918		29	38.05				75102 74498		36.10		37.
		73223 72612				38 38.04		***************************************	76255				37.
		18880				28	The state of		75511 73664			38.10	38
30		75568 73522		37.05		38			74037 73081		37.10	37.15	
		75562			39	87.15			74561				37
		72952 73840			38.10		8		17553 75208			29	35.
		74167 74388		38		37.08			18873	******	27,10		28
		76064		38 36.10					45449 8130		23		20
29		73740 18761			27.05 39	37			75380 73348		36.15	37.10	
31		73969 73468			39	37			75508				36.
		45232		28					73054 70739		35,15	37	******
		72885 73141			39	38			75827			00 15	36
		18957		97 09		38			41270 18371			28.15	27,
		76219 75275		37.03		38.15	122		44948 40283		26		21.
		75570			39		-A-1016		74600			37	
	Total			1,813.12	2,278.10	2,422.13			72501 75342		36,10		37.
1909									70013			36.15	35.
Dec. 31		70100 74407				38.12 37.05			73815 75571			30.10	37.
an. 1		72406		87			11		73404 70332			37	38
		72096 69959			38.10	38.15			70368				37.
		76135		35.16	39.06		100 YES		55005 73230	2	29		38.
		72670 70352				38.12			74617			39	37.
		74294 74752			39.05	37.10			75197 72323				39.
Dec. 30		44218			38.08		12		75908 43324			39.03	23.
31		45619 18861		28.15		27	11		72902				39.
an. I		74897 39904		27.15		37.05	12		72481 40662		39	28.15	
		72859			39				39654		29		24
		74713 75862				37.05 37.15			19176 70743				38.
		73963		36	90		The state of		17944 39955			29	29.
		73641 73841			38	35.15	100		74901			39.06	37
ec. 30 29		71002 15092		23.06		85	13		70613 72046		38.02		
an. 2	,	74380		36					72383 73163			38	87,
		70416 73891		36.05		35.15			70672		37		38.
		74141 44004			37	23	14		75463 44119			21,15	38.
		46433		26.12					18127				29. 37.
		73870 70725				37.15 38.15	1000		74888 19230		29.09		
		70070		36,10					46308 73039				29 37.
		72775 73873			33	38.16	25-1115		61145		32		36.
4		72017 73052			37.15	37			73487 74192				36.
		74525				87.15	15		40873		27.10		28
		70815 70621		36,10		36.10	S. FIRE		45977 72510		38		
		72244			37.15	37.08			76031 70586		38.17		37.
		78405 18517		27.03	01.10		100		69931				28.
		74941 72635				37.15 37.10			75053 69941		37.05	38	
		75347		36,15			16		72749				37 29
		76283 18825			27.15	37.15	15 16		17988 18060			28	85.
		74856	N. STREET		105000000000000000000000000000000000000	36.15			75715			A CONTRACTOR	35

Date of		Con		We	eight.		Date of		Con		We	eight.	
ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.	ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.
1909		0000			500		1909						
an. 16		70835 74275			35.15	37.15	Jan. 28		70540 75144		35.05		28
10		75909		36		28	27		73515		36		37
. 15		11588 46028		27		20			75296 70497		30	36.07	
19		75604 73435		36.15	37.17	*********			73431 75199		35.15		. 38
		18573				29			75750				38
		40434 44100		29.14		23			74337 76275			37.05	33.0
		46437				23 28.10 37	28		73245 70466		87		
		73418 45398		28.15			20		75935		36		35.
		74798 75714			35.10	24.03			76141 70442			38	36.
	•••••	39925				27.10			74080		36		***************************************
		74954 73522			31.15	34			72198 73503			37	38
	•••••	73873 74541		32.15		34.05			70364 40576			28	36.
	***************	73017		36.05					72789				37.6
		72499 72733	10000000	36	37.13		180		18069 40766			28.10	30
- 20		55009				27 36.04			12866		25 .	28	
20		73889 17927		27.04	*********				74496 39743			25	28
22		39816 17926		27.10		28.04	30		70454 72197		37.10		37
23		73355			37				7373	*******	24		
		15862 74486		35		27.18			70587 18080			28	26.1
		70760			34.10				18775			29.17	
		70616 706S3			36.15	37			7923 73840		37		25
		74787		36.02		28.06			39887 72425			37.17	. 30
		18587 75758		35.10		23.00			74711			01.11	37
21		17857 73196	******		28	35.15			76143 74643		36,15	38.10	
		74516			36.07			metal.			0.000 10		
		76108 18994		26.10		36.05		Total			2,607.12	2,625.15	4,817.1
		40664				25.14	Feb. 1		74869 44421	20.13			37.1
22		46174 72366			39.02	27,19			74412	20.10	37		
200		70063				35.16	4		75675 75475				37.0 36
		18160 73989				28.05 38.04	5		72224				37.1
25		74254 72119		35.06		38.03			18323 70378		27		36
		39376		18.15					45656 40688		29		29
		45350 72639			37.15	29.10			70274			38	
		72228		37					70239 70406		36.10	34.10	
		74203 75999			37.10	37.15			17150				29.1
		76183		36		35,15			74313 70784			38.05	87
23		70872 75833			36.10				70974 70694	******	36	37	
		75396 17106			20.15	37.04	-		75843				36
		17907		27			6		73246 18841			27	36.0
		19488 46186			28.15	28			73138				36.1
		17994		28		97 10			72365 73394	36.05			36,1
		18398 46246		28.10		27.10	5		72378 55007		36	29.02	
25		71003 72512			40.10	38.10			74320	*******			35
20		72873		36					74048 72229		37	37	
		70360 39850			28.13	37	-		72279		********	38.15	37.0
		18717				27.10	8		70892 74158		37		
26		18212 72463			27 37				72012 75999				37.0
		74460		35.15		36,15			76029		35.16		
		75699 74114		30.10		38.10			73655 70375				38 36
		73774 40992			38	28.15	9		75192 69963			37	36.1
		40301				28	8		45885		28.10	01	
27		43454 70914		36	38.10		*		72137 75546		26		37.0
		74674				37			73018			37.03	
26		42155 46023		27.05	30		9		76046 70026			37.08	37.1
		45920 18614		28.10		28.15			45074		26 01		29
		18001				27			74270 74004		36.04 36.07		
		18722 73210		27	29		18		74285 46404	28			36.1
		70476				38			69958			38.03	
27		73829 75836		35.15	38,06				72230 41061		25.06		37.0
21		75475				37 37.15	11		74037			37	
		75486 - 45140			29				70217 72210		34.12		37.0
		70753 75708			37.10	38			70830				35.1 24.0
		70069		87.06			M. S. H.		80558 44982		26.01		
		74819 73639				36 36.02	STATE OF		75270 73470			26,13	

Date of	71			We	ight.		Date of		0	198	We	eight.	
ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.	ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley,
1909		70377				90.10	1909 Feb. 19		45874		27.02		
řeb. 11 9		72431		********		36.19 37.59	100. 10		72342		36		
10		74759 70809		36.12		36.03	E - 1 B		18701 75010			27.05	35.1
		41172		00.00	28		90		39713 44851		20.10		27
		75601 17874		36.02		28.02	20		18484		25.14	**********	
		45921 72090		26.04	36.18				45413 45070			28	26.0
		74143		36.01	50.10		-	***************************************	17744		26.02	27.00	
12		76068 70643			36.02	37			44936 45026		27	27.08	
10		18601		27.10					73700 45449			26	35.1
		69936 74438			37.04	38		***************************************	18576			25	
		75008 70394		36.03		37.01			70642 75413		34.06		36
		75325		30,03		36			75563			36.01	
**		72261 74035		*********		37.19 36.19	O. S. W. S.		72383 46352			27	36
11		19184				27.18	10		17980				26.0
		18636 15833		••••••	25.14 28		19		17489 42022			27.10	27.
13		44833		*********	26.07				72394		35.06	07	
		73769 73650		35.19		36.05		***************************************	46116 45925			27 26	
		75795			37.12		22		15783 45393				26.0
		75984 73926			36.01	37.01			75371		33	27.02	
		80528			22				40278 74519			28	34.1
		74223 70850				35.02 37.04	45		70763		35.10		
		74059		36.14			1		45172 72375			27.10 37.01	*******
		72442 73804				37.15 36.03			70192				34.
		90538		36.19	07.01				45781 45266		28.02	27.10	
		17824 72281			27.04	37.02			74100		05.30		35
		39752		29.03			100		74621 52209		35.16	28,03	
15		75185 75811				37.10 37.08			46164			26	27
		46438 72744	27.10		96 10				75634 75355		34.12		
		74506		*********	36.18	36,12			70924 70211			37	36
		73136 72247		36		38	23		73753		36.04		
		73550		35.16					44857 45185			25.18	26.
		73547 17946	35,10		27.02				45310		27.15	20.10	
		45112			21.02	27.01			44926 17800			26.10	28.1
		18440 74560		35.10		28.01	22	*******************	74838			36.10	****
		75943	22222			37			19188 75673		27		35
		73543 45577			37	30.03			72568			36.15	
		45812		29.05			23		75103 41947		18	35.15	
		72055 18098			27.01	38			73163			35	
		76044		36.12					73446 74250		35.10	36.15	
		75857 75941		28.10		37.00	the same		75429 72899		35.18		35
		45005			07.00	28.10	15 TOG		70661		00.10	37	
		18354 72328		37.06	27.08				43974 45834		26.15	20	
		73765				37.05	24		18647		20.10		27
16		72058 74997	200100			37.03 37.05			19250 42435		26.04	28.03	
		75798			36.10	36.10			70848				84
		75091 73416			37	30.10	1 7		69918 74666		36.02		36.
17		72976 72430			38.03	37.02	100		75754			99.00	35
		72868		36					70925 73739		33.19	36.01	
		74969 75264		36.08		36.18	1 3 5 E		75854				35. 34
		75014			37.03		A DAY		76258 73224			31.54	02
		73706 73986				37 35.10			72886 74993		34.02		35.
		75408		35	37		7		75301				\$5.
		73737 74479		36			26		74343 73659			35.06 35	
		18343 74588			36.10	28.04	27		70312		35.12		
		72244			37.03				46236 45997				28, 26,
		73977 72809		36.02		36			73361		35.03		35.
		46442			27.08		12/19/1		73376 74107		85.03		35.
18		72946 18588		36		26.05	BYE S		40869				26
		73917			37.18				73617 70464				35 35
		46254 75253		85.16		28	3		18492		26,04		26
19		74056				36.02			39892 45511		28		26
		74990 45223			27.10	35.03	W. T. C.		76235				25.
		18702				27	188		73519 18535		34 24.18		
		39618 45041		27	21		1000		39885		26.10		34
		18831				26	1 7 34		72386 74347	22222			35
	***************************************	75868 73264			37	36.01			72335		34.10		
18	***************************************	18173 73880		********	37.02	36.07		Total		174.02	2,404.16	2,459.08	3,785.
		45651		27		00.01	T. C.	Total all sizes			ACCEPTATION.	A DESCRIPTION OF THE PARTY OF T	8,823

Date of		Car		We	eight.		Date of		Car		We	ight.	
ship- ment.	Car initial.	number.	Pea.	Buck.	Rice.	Barley.	ship- ment.	Car initial.	number.	Pea.	Buck.	Rice.	Barley.
1909		20000		00.10			1909		Pager				60 1
Mar. 1		70930 73314		33,10		35	Mar. 9		72951 73911			36.15	28.1
2		52229 19205	*******			19.15 26,15			74777 72558			36.13	\$4.10
3	***************************************	70501				35.15			75271			35.10	000000000
		72710 73094		36.12		34.05			74451				36.10 36.0
		74388				34.17	13		76013				35
4.		73437 70081		36		36	11 13		73990 45407	25.10			36
		75648		35.15					44882				28
		75541 17821				34.15 26.10	3 (8)		18454 18462		26.10		28
		76234 74640		35.06			10		76051 76092			36.10	88.1
		70270		36.08		34,15	12		19216		27.05		
		17378 44912		28		27.15			15834 45369			28.15 28.02	CONTRACT.
		42069		27.15					74421			35.08	
		75608 46183				25			73396 72920			36.15	87
5		74379	*******	26.10		33.10			74308			38,05	
		39174 75405		20.03 34.16			15		76135 75384		35		35.0
		75106				35	15		72248				
		76027 73032		34.18		34.16	13		18858 72526			28	86.1
		72226		35.02		04.10			74412			37.0t	
		45084 70285		26	36,01		1000		75744 75219		35.06	36.04	
		73465			30,01	35.01	1		75000				34
6		45805			27.01	34	15		74792 45652	26.17		37.09	
		74256 74376			35	01			79979	20,11			37.1
		75623		26.02		34			75178 75923		34	37.02	
	***************************************	18305 17651		20.02	26.02		FILL 8		76195				36.0
		75832 72584		94 75		33.15			12480 42346			23.04 21	
		74809		34.15		24.15			18954				28.0
		39848		25	01.00				70301 70521			39	25.0
		18023 70635			24.08	23			18976			27	
		39934			25 36		10		18230 74894			37.15	27
		72709 74468			30	34.10	16		18234		26.05		********
		73389		34	95 15		15		72208 46334			36	26.1
		76082 45851			35.15 26				76022		34.02		
		45119		207.10		26.10	13333		45230	26			34
. 8		17019 41494	1877	26,10	26				75060 76236		35.07		
		18338				25	16		70146				35.0 35.1
		18149 45216		25.15	36		No.		73585 70808		35.07		30,1
		70636				34.05	Les		73968 72633			37	35
		75244 44932		25.35	33.15				73878				35.1
		18833			26				39916 39981	25.08		27.10	
		46118 40500			26.05	25.01			70568	20.00			36
		39755		26		00	17		61203		19.06		28
. 9		74428 70443		35,14		33			42883 72998		13.00		36.1
		74483			36		0.000		41979 74161		34.10	29	
8		72555 80661		35,10		23	16		75999		04.10	33	
		74389		36.10					17262 17840		26		26,1
		74908 40502		26,10		33.10	The same		74323				34.1
		19132			27.05		17		70865 60246			34.15 26.15	
		75255 70143		34.01		26.10	17		61229				27.0
9		73053			37	36	The service		61391 61598	******	27.06	27.15	
		76020 73236		35.16					61303				27.1
	***************************************	75838			36.08	34.10			45075 80241	*******		23.05	27.1
		18498 43633		25,05			25 11		45861				27.0
		39138			20 25.10				17302 19023		26.01	27	
		72203 18372		36			1 7-3		45677				27.1
		45503			27	28	18		70845 14590		. 35	36.10	
		40259 45568		27					74172				36.0
		46233			27.15	26.15			13503 13575			-36.03	34.0
		19131 72941			21.10	26,12	1 75	***************************************	70036		35.15		
		43229		36,15		20.14	1000		72033 75566	******		36.02	36.0
		45988 73035				26.14			75068				35
		70708			36.10	25	1		69907 74387	******		37.01	35.0
		75950 72256			87		12 14 1		73259		34.10		
		70343				36 34			72775 72932				36.1 36
	*********	73782 74002		34.10			100		74046				35
		72784			36.02	35	1		72194 75165			35.18	36.0
		43775 41891 18284			19.15		15 312		75410				35
		18284	17			27,10			72604			36.15	HOUSE SERVICE

Date of	Constatut.	Car		We	ight.		Date of	Car initial.	Car		We	eight.	
ship- ment.	Car initial.	number.	Pea.	Buck,	Rice.	Barley.	ment.	Car initial.	number.	Pea.	Buck.	Rice.	Barley
1909		-		01.10			1900 Mar. 27		moate	1			100
ar. 19		73117 75532		34.16		35.02	Mar. 21		70254 75713		35,10		34.
		18547 76240		20	26.04	********			18558 45592	25		07 17	
		40787		36		25			75378			27.17	34.
		19208 41992	17.10		26.10	********	12 15 15		43941 72720			21.16	******
		76102	17.10		85.05				44917	*******	26	36.07	
		70179 74059				25 34,18			75390 72488			96.00	34.
		39865				26.10			45950	*******		36.09	27.
20		19235 70497			34.10	27.10	19 28		75929 74125				36. 34.
20		72884			36.05				74968			35,18	
		76249 76088			36	36.05			18763 75238		26.16		34
		72089				35			75391			34,10	
		70500 76038		35.10		35,10			75313 69888		33.17		35.
		15820		200 40	26.05				70204			36	
		18314 73000	111111111	27,19	12701111111	35.10	27		73185 74388			36	34
	***************************************	45058	34.08				100		72752				35
		19102 78552			34	27,19			72737 45875	1177777	32.05	27.07	
		46138				27			42546				27.
		70826 74467		33 34,10					75942 45803	26.08		36.04	
		75497			36				18933		*********		28.
		72214 15063			36.04	20.07	7		70706 76043			36,12	36.
19		72291			36.15				45765	25.15			
18		44009 72604			21.05	35	29		78945 76276			36	35
100	***************************************	44309		20.10					75890				36
		17116 18949			26.05 28.00				75748 72212			35	34.
		61387				27			73321	******	34		
		18008 43589		27.04		26.15			75343 70648			37.07	34.
		40555	17.00			27.10			72913				35
22		42251 18858	17.03			29	30		46411 73321		27.06 35		
\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\		69992				36.10	29		18497			27.10	
		41260 75687	1000000	33.11		26.09	4.0		72148 75858			35	35
		74033				36			45237				27.
23		75219 45716				36.13 27			44584 72948		36.10	22	
		19267			26.04				75282		33.09		
		75022 70528			34	34.05			73581 70936			35,10	38
	·	75590			34.03				75446		********	36	
		75661 75382			33	35			75161 74857				25. 25.
		75994				33	1.5		74124			36	
		44982 70974	0	26 35			30		72778 74540				35 34.
		75444				35			76759		34		
24		70164 17936	10011000			36.04 27			76054 19127		24,18	36,15	
		74266			36				18651				26
		44468 73067		20.03	********	34	31		72685 74726		33		35
		72369			36.08		01		72733			35.07	*******
		76035 70446		34.16		35.03			69906 73738		35 33.15		
150 1		46362			28.05	05.10			73141		**********	34.17	
		70808 74161			35.10	35,12		Total	83.21	310.18	2,475.16	3,991.17	5,159.
		76022		34				Total all sizes					11,938.
25		15801 73984			27	35.08	Apr. 1		73119	1000			33
		76069	00.00		36.05		Lipit.		18400	25.12			
		45507 72577	26,06			35.03			72677 44861		34	25.05	
24		46172				26	3		73926			33,15	
		73370 73119			36.03	35.02	MILITAN S		70654 73794		34.02		35.
		74345		34.14					75867				33
		70384 75025			36 .	35			70671 39833				35, 26.
		69995 70214		34	38.03				44431			20.08	
26		70952			36				75619 75549				34 34
		72274 76280			34.18	35.02	1 2 2 2		45587			26,10	
		75104		34.16	04.10		4		73688 75266				33 34
		74149 70714			35	36,10			27224		33	01 17	
		18717				24.09			76140 40729	25.07		34.17	
		73397			35,14				72436				35.
		72632 45410			36.15	27.15			73634 75338			35.05	35
		69952		95.00	37.08				74861				34
		72739 49967		35.02		27	5		75887 72798		33		35.
		72241	+		37.02		TRI I		75842			85.02	
27		73901 17680		25.16	34				75068 76038			34	35
		46336				27	4		18354			26	
		70589 73626	*******		35.15	34	1		74833 72768			35.12	34.

Date of		Car		We	ight.		Date of		Car		Wei	ght.	
ship- ment.	Car initial.	Car number.	Pea.	Buek.	Rice.	Barley.	ship- ment.	Car initial.	number.	Pea.	Buck.	Rica.	Barley.
1909		n.170*				04.45	1909		77014		24.10		
Apr. 4 5		74805 75769				34.17 34	Apr. 13		17914 42182		24.10	26.15	
		72693		33	94 19				15823 44817			26	27.10
4		73347 43211			34.18	21		***************************************	70083			34.02	
		46421				27.15 26	1 0 0 0 M		45578 73444			28 34	
5		18700 72908			34.15		12		73798				35.10
	***************************************	19040				26 33.05			73701 75042			34.02	33,17
		72387 18357		25.12		30.00	(2)		74974				\$4.05
		73497			35.10	34			18442 18569			26.15 26	
		74225 74977		33.11		94	14		75787				32.10
		76037			9/ 01	24.07			17976 72814			26,15 34,05	
		74019 74054			34.04 34.17	*********			70948				36.08
		75822				34.10	13		45839 18329		26	24	
6		74100 72867				34 34	15 4 17		45125		20		27.10
		75992		34.02					44862			90 00	12.02
		70758 76022			36 33.05		14		18750 73898			26.02 33.10	
		76054				32.10			72618 73814		- 33.05		. 33
		69945 73160				34.15 34			42947		- 00.00	18.10	
		74565		34					18249 75543			27	34
		76074 74876			85.15	34	\$ N		76115		33.06		
7		74046				34	1, 2, 101		70651 73562			34	36.11
6 7		18599 46171	25			26	1 1		70866			01	34.15
		70711				35.03			8648 74378		21.05		34
	***************************************	72009 28006		22		34.10	15.		76397				32.10
		18977				27.05	1 7 52		8288 74817		20.10	34	
6		18419 40873			26.07	26.10			39922			01	27
		74968				33.17			18454			25 33	
		73945 70648		34.05		33	(1)		72895 76319			32.06	
5		17910	24.14						76365		90		33
7		45106 76073	24.13			33.08			73920 19207		32		28
		72070		34			3 11 111		18650				28 26.06
		75748 46378			34.16	25.10	7 13		70048 17246			36,10	27
6		74431			34.05				76958				32.10
8		39842 75101			26.15	33	1 3 KH		76360 74907			33.05	33.17
		75879				33.10			75074			34.02	
		72239 18209		26.04		34.05	101		75285 74693			34	33
		72364		20.01		34.16			70222				34
		45973 76380				23.05			41584 75737		16.12		33
		73782				33.08			75064			33.55	
		4112	16.10				16		72023 73856			*********	34.05 32.05
		74107 39144		83.04		27	10		70691		34		
		45162			26.10				73990 70901			34	. 32
		76024 73675		34.18		35,01	15		45408	24			
		. 18546				26.03	17		73087 74854				34.10
9		73828 72952		32,10		23.10			75206			33.10	
8		18554			. 25				75790 74995			34 34	
		75059 74075				34 33.15			72434				32.15
		. 18310				26.10			70581 73507	10000000	. 33	35.10	
		73792		21.17		33.14	- ,		75559				33.19
-		43299				19.13			75956 75789		32.18	33.15	
10		39654 44013			20.03	. 20		***************	74636			34	
		73679				32.10			46015 18762				25.10 27
		73618 17874		26.05		35.05	16		73553			33	
		70440				35.04			12827 75762			21.06 33	
		70551 76286			37.15	34	17		44951			26	
		18904				28	22 21		45434 70168			31	37.08
		75751 76047			33	27	21		74574		36		39
		75725			00	35	2		73256 73061			40.15	39
		18142 73506		24.10		33			18579				29
		45148	25.07						74645 43077			40.17	23
		70635 73845			37.13	33.15	100		45726		28.15		
12		15152			23	00.10	00		74685 73709			40.04	39.14
1		19087 75672		25,15		99	23		18829			28.14	
		74781			34.17	. 33	1.49		74120 70192			40.09	37.00
		76353				33.09	27		39853	29			01.00
		39741		25.17	34.14				76366		39.12	40.18	
		45863			26.14				75055 73105		00.12	41.12	
		44866			27	35.05			74676			28.15	39
13		45706			27	27			46429 73442			28.10	38.12
	THE REPORT OF THE PARTY OF THE	45764	Income.		21	28	1		72163	E. (600 to 100 t	39.13		

Date of		Car		We	light.		Date of		Con		We	ight.	
ship- ment.	Car initial.	number.	Pea.	Buek.	Rice.	Barley.	ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.
1909							1909						
Apr. 27		73771 78668			40.14	39	June 8		73888 76215				37.1 37
26		75633 45560		38,13	28.19		9		70443 73504		35.10	87.06	
		18343		29.04		97.15			17295			27.06	98.1
		75359 43787			23	37.15	to Vision		15869 45106			28.01	26.1
24		46333			29,17	37.14			40345 17192			25.12	26.00
		76170 72144			38.07	38,15	10		18332 70848		********		27.0 34.1
26		74662			39.11		11		74860				37.1
		74815		37.10		37.13			73137 75455			38.12 37.18	
		75284 70260			38	37.16			75312 74768			38.03	37.1
		75131			39	90 10			73835 70110			38.12	37.0
		78089 74622			40	38,16	1 3 - 8		78727			38.15	04.00
		75009		38.18		38.16	12		72385 46426			39.03	28.0
23		70421			40.14	36			75094 70645			30.03	87.0
		76518 70957				36.11			70700			84.16	
		76477		37.14	59.06		SERT AUT		72473 72600			38.03	38,0
		61354				31.04 38.14	a de la composição de l		73659 73790			38.05 39.03	
		75917			40.07				19190 72944	35.14			07.1
		73495 41061	27.04	37					75153			39	37.18
		18830			28.02 40				75595 70227			39.13	25.00
	***************************************	74305 74671				37	S. High St.		72605 73052			39	
		75005 72408		37	39.19		- 11		75527			36.18	83.19
		17956	27.04		41		14		70933 76536		35.02	39	
		73822 72611				40.04			74871 46180				38.13
		74000 72929		40.05	42		TE PARE		69938			29.01	89.10
28		75839				39.06 38			18184 72267			27.09 38.13	
		75509 72219				40.04			46418 74803				28.06
		75001			41.08 41.16				73367		********	38,16	87.06
		76509	20 10			38.10	14		72875 72186		38.08	\$8.05	
30		45193 74799	26.12			38.02	15		70832 79991				35.19
22		74010				38.13 39.15			72947			39.03	36.0
*	m-4-1		900 09	1,346.04	0 049 11	4,413.02			73170 72055				37.18
	Total all sizes		300.03	1,540.04	3,248.14	9,309.03			72269 70088		39.03		35.0
June 1		72845				39.08			73114			38.14	30.0
guno 1		74996				39.05 39.10			75397 75914			38.15	\$6,10
3		72755 73240			38		16		72784 72900			38.02	38.10
		74445			38,12	37	330		75310			38.04	
2		70308 45699		30.04		35.09			72805 75855			38.05	37.11
		74879			38		15		15846 75927		27	39.02	
		72107			40	38.12	Contraction of		73412 72508				\$8.13
3		87000 70374			36	21,00	16		71782		*********	38.04 38.18	
		70357			37.09	34.12	A PROPERTY.		40814 46289		20.11		27.10
4		75505 70337				35.00	17		39948 70786			27.16 36,03	
		70071			35,11	33			45410	27.13			
		76023 75104			37.09	35			46347 73214			37.16	27.07
5		72555			39.16		16 15		46407 17925			26,14	28.02
		75611 43229			21.01	37.10	16		45846		26.08		
		45079 75343		36.13		26.16	The state of		45623 74391			27.05	36.01
		75809			37.12				70500 78112			35.04 39.09	
		70946 75448			38.13	35	17		17923 75116		27		00.35
7		70822 73479			37.06	34.13	1,		45616				36.17 26.17
		73831 45324			27.05	26.10			44875 70707			36.09 36.09	
		18971			27.10				78554 70309	44		38.06	36
	***************************************	45423 70699		85.07		28.06			74085		37.01		
8		18879 17858			26.15 27.08		18		43072 18397		27.07	28.05	
8		39911		29.02					75403 74874			37.11	37.03
		39809 15635	21.08		27.06				46399			28.11	
		73301			38	90.00	1185		72283 45379		27.13	39.01	
		75714 41266		27.07		38,02	THE REAL		73057 72946			38.04	
		45243 46220			27.02	28			19240		*********	25,12	37.17
		1 12000	1-0-000	Company of the last	02 10		The second second		72825	ALCOHOLD CO.	C. CS POY 26 CS CS C	- 1 - Carlot	38.01
		45222 18321			27.13	26.15			46235		27.06		

Date of		Cor	1	We	ight.		Date of		Cor		We	ight.	
ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.	ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.
1900						07.10	1909			I-IV-		TA A	
une 18		70301 75215			38,19	85.18	July 1		70014 73881			37.02	31.0
19		75152 18737				38.03 36.11	11		78881 78475 74275		36.16		37.1
19		45257			28,01				75301		30.10	36.06	
		17794 73931	26.07			38.17			74549 70407		36.01		33,0
		75411			38.04				76111			87.08	
		75315 75250			37.02	36.18			75068 39840	27.06			87.
		75243 18015			36.17	26.14	2		40902 45790	25	27.14		
		39795		27.10					75937		36.04		
		45914 70781			27.10	36.05			17812 72002		27.03 39.09		
		72007 39870			39.11	28,02			18329			25,18	
		45536			28.02	20.02	1		70037 73802			34.17 37.11	
		70200 70206		34.01	84.17		2		72298			36.16	
21		69979				39.03			73877 76430			37.06	36.
		45815 73852				27.03 34.04			73545 73736				36.
		40513			28.02 37.15				73436				37.
		75549 70891				34.18	1		73986 72080				37. 38.
		74765 74761			35,14 28,13				75968				36.
		74778				37.13	3		75540 74201			36.07	
22		75580 76491			38.10	38.16			76057				36.
		76349			87.11	37.08			69943 70143			39.01	84.
		75039 72623			\$8.01		100		72046 78228		37	87.10	
		74192 70651			35.07	36.04			74074				38.
		72744				37.03	6		70793 72514			34.17	37.0
19		72720 70592		35.14	36.17				74679		37.19		
		70154			38.08	25.10			72753 74419			37.13	37.
		74466 75352			38.18		7		70218 72202			37.04	36.
		45311 73479	27.14			37.03			70927		36.04	01.01	
		70435		34.09					72741 17123			27.17	37.0
22		78249 70272			36.11	35.01			39618				22.
		18765		26.01	90 19				72035 44194		22.10	29	
		76290 76557			38,13	37.02			73387				38.1
		78220 45798			36.11	27.04			18816 43303		27.04		21,1
	***************************************	45237		27.07					45208 41497		28.05		27.0
		19212 72159			39.09	25.13	6		18637		25.00		28
00		46032	27						70040 74865			35,19	37.0
23		46144 78166	25.09		37.01				75517	39			
		74484 70841			33.10	35.14	9		72787 74345			39	37.
		74508				36.09			39953 75544		28.05		35.1
21		70713 18798		34.14	27				73702			37.15	
		72320				37.03			69961 45860			28	38.
		75478 72940			37.13 38.12		-		39742				28.0
		45513 75239	26.11			36.02	100		19051 18009		26.18		28.0
		19113				27.05			73704 70709			38.15	\$3.0
25	•••••	45187 70603		26.04	27.06				73177				38.6
	***************************************	73882		*********	85.07				17184 45094			26.04	28.1
		73116 75487			38.05	36.17	100		18518	27.10		20.01	
		75367 74306			38.05	36.15	10		44307 18398		21.10	*********	26.1
		76103			37.16				46090			27.03	
		44956 76326			38.15	27.14	101 201		78376 74848			39.05	37,1
28		76438				37	12		74065 40579				37.0 37.0
		76173 76198		36.19		36,03	1.0		74731				37.1
		72174		37.16					74593 74460		•	38 38.05	
29		74173 72834			38.04	86.16			17916	07 10	27.17		
		75821 76192	39		89.15				18196 75107	27.10		38.17	
		72149				37.09			73631 75044			37.16	38.
		76060 72872			37.02 37.16				75760				39.
		75055				35.13	30 1835		69914 73198			40.17	36.0
		73707 70686			87	27.03			70461	01		35.02	
		72525		38.03			1 1 1 1		44020 72968	21	39.15		
	***************************************	72957 74779		38.03		36.11	1 1		18225 19092			26.11	26,0
		75929	90.09			36.16	13		18638				26.0
		75751 74129	29.03		38.04		STREET,		76076 45039			36.14	27
		74610 72479			37.02	37.06			75199 75501			38	38.1
													7992 7

ate of				We	ight.	at attack	Date of		Will Ed		We	ight.	
ship- nent.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.	ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.
1909					100	E ALITY E	1909						TAB
ly 13		74032 74038		38.04	39.05		July 21		45685 70582		26.18		85.
		73556	05 14			38.08			18176			26.16	
14		74560 73016	35.14			37.11			61667 45593			28.12	31.0
		76516 18353			27.05	37.03	100		75309 74995			39.15	38,
		72414				36.14	17 18 18		76591			39.14	
		72518 72516		18		36.14	SIB S		70108 44252		28.05		36,1
		72131 75106			36.01 37				61301 45357			30.08	
		74307	*******			36.16			18442	*******		29.10	28,
		75297 17788		36,09	27.09		22		44893 44525	2222222		28.14	28.
		18658			25	38.18			19230		28.04		
15		72238 78122			38.14		23		46278 73177			40.04	28.0
		74288 44886	27.16			36.19	22		43000 7569	19		22.11	
	***************************************	75200			36.18		6.1.76		18480				26.0
		75303 39929		26.18		38.06			74666 45388		27.03	35.09	
		73360 76389			28.02	37.09			45852	27		00.15	
		72363			37.15				75119 74183	*******		38.15	26.
		43118 19281			28	20,14			73885 70546			85	36.
		17947		26.12					76406			**********	33.0
		75171 18469			36.16	27.14			73760 18925			25.12	28
16		17793 45564	25.09		28.04	*********			18454				25.1
		18128			26.02				76516 18638			39.01	26.0
		72758 73958			28,15	39,18			73556 18994			36.10 25.15	
		74511			38.15	07.10			75745			20.10	3S.(
		72499 70889		34.14		37.13	24		75706 73896		37.12		87.0
		45797		28.02		37.01	***		74187			38.15	
		75078 70526			36.14				18949 78276	26		38	
-		70771			37.10	37			73531			89.05	
17		72880 18454				26.14			74800 70653			38.05	33.0
		61685 8826		28	22.12		26		70199 72890	*******		36.15	39.0
		7955	*******		22.03		24		45455				27
		12336 8459			21.07	21.06	26		73400 18870	26.15	36.04		
		12451		00.07		22,03	20		74071			39	
		15410 45963		22.05	27.07	*********			73516 72947			40.09	38
		46133			26.11 39.15				73516		38.08	40.07	
		75793 46275				26.16			75024 73282		00,00		27
		72275 17827	25		38.05				73638 74585		37.16		37.6
		18925				24.07			73668				37.1
		44776 45304		22.02	27,17				76198 70565			87.01	36,1
***		18575				27.12 35.14			70864		36.05		
19		76003 45745			26.05				70122 72117			37.09	37.1
		71006 75239			37.01	33.10	28		75175 45866			38.10 28	
20		74392			37.03		20		75246				87
		7757 19093	25.13		22.05			*	45241 74085		26.08	37.15	1000000
	••••	74407			38.11				74483				37.0
		75359 73525			37.17 35.10		29		75306 76093			39.06	37.1
		75705 72036		37.08		37.14			75161 75256		87.14		39.0
	***************************************	73051			38.03			***************************************	78977				39.0
		76078 70399			37	38.12			17780 46141			29.16	29.
		75948			41	90 11			72429			40.04	39.
		73602 76152		87,11		38.11			72505 73250			38.05	
		78788			39.03	39.14			70431 42715		27.10		36.
		75877 73093			41.03		30		18465			27.12	
		75886 73501			49.08	38,05			45607 45644	28.03			27.
		74924	11111111	38,01			18		72452			39.05	37
		72635 70302			36.06	38.03			75636 70385			35.18	
21		43725			23	39	No. of the last		75513				37.0 38.0
		72542 40355	3000000		28,17	30			72769 70584			35	
		70098 17833			38.07 26.11		4		74532 75093				37. 36
		18179	26,12		20.11		- VI 0		7847				23.
		74932 75058		28		38.03	31		19056 73580			28.10	26.
		73598			38.10		1000		75867		28.07		
22		46281 72853			39.13	29,03	with t		73337 39786		26.13		36.1
21		75654 70605				35.14	1 1		17877 18080		28.02	28.05	
41		41107			36.15 27.18	38.03	TOOK.		45386		20,02		30.0

Date of				We	ight.		Date of				We	ight.	
ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.	ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley
1900					-		1909		The state of				
aly 31	***************************************	74175 73913			39	36.05	July 17		46275 72861	27.10			36.
		19137	28.15		00 01		- 400		45986		27.11		
8 =		73969 46377			38.01	27.18	0.12.5		46148 39772		*********	26,10	29
		39233				28		***************************************	45292				28,
	Total		487.03	1,488.05	4,289.01	4,320.07	100.00		15823 76169		27.03		35.
-50	Total all sizes					10,584.16	21		69934				28.
ug. 2		46099				27.05	1000		69904		*********	40.04	38.
		73835			38		10000		40533			27.13	
		78119 75569		36.03		37.05	200		76215 17059				37. 28
286		17690			21.15	37.11	20		39778		90		28
		76494 75760				37.02	21		75309 74310		36	36.16	
		72145 19028		25.18	38.10				76057 76189				37
	***************************************	73734		20.18		36.12	20		75299				36,
		73785 73656				36.14 37.11	21		70597 70031				36
3	***************************************	75725			38.01	07.11	24		45823			36.11	34
		74277			37.09	39.18			55003 40820				25 27
		76527 45536				28.14			72355			39.05	
17 15 15		75155			38,03	28	1		74835				37
STATE		39839 76534			37.12	28			75840 76469			40	39
		18608		00 07	25.14		22 23		46170				25
		72204 19098		38.07		37	20		75458 75778			38	36
1		44555				21.06	100		39746			25.16	
AL AS		17314 73585	17.12			38.05	4		45438 78126		27.15	87	
4		40517				27	2 400		72998		37.04		
5		45824 44243		*******	28.14	21.03	100		70620 44989			26.14	33
6		39820			25.12				39985				28
		39819 45337		27		26	25		17030 74101		**********		28 39
		45178				26			74212				37
		12347 76596		21		35,04	1 3 1		75580 74905		36.12	87.14	
. 3		75684				37.15	26		76143			37.08	
9		39529 44599				20.05			75110				37 39
	***************************************	72459				20.15 36.13			72627			39.15	
10		43981				30.17	25		76050 19186			27.03	38
9		18209 7417		23.06		27	2000		74602			37.10	
		45861	27.06				7.74		74246				38
10		45211 19028				26 25.08	21		73858 18811			38.17	28
1353		73360			36.02		1-30		76397				39
1 0		46355 75325				25.11 34			76847 70303	31.06		39.08	
10		46301		27.19			24		19279			26.07	*******
13		75168 74803				35 36.18			72808 74644			40.03	39
- 11		74461		35,05			25	••••••	17469 45900				28
11	***************************************	72063 46055		27.13		35	20		41225			28.16 28	
		44485			20.05		(F + E)		70388				33
		18756 46112				25.13 26 19			70792 73832			35.08	37
12		74597			35,03		07		73076			37.01	
13		73066 73808				35.14 36.12	27 28		75555 75545			38.04	37
		46102	28.05	07.00			27		75403				38
-		45006 72358		27.02		36.04			76423 18332			26.18	37
The Ta		43651			20.02		-		75100				39
7.1.	***************************************	17991 44113				27.01 21.01	T SATE		75232 46126			37.15	28
		17826				26.07	28		74417			29.05	
		39751 75631			27 35.19		31		73784 76027			39.05	39
14		45912				26.03	30		73603				39
13		40306 78900			25 86.17				75575			39.17	37
		75794				38.03	4 20		70167			36.10	
14		17824 46302				25.04 25.16	5 0		70942 75040		39.05	37.12	
		45965		26.08				makel.	1	100000000000000000000000000000000000000		+ 051 00	
	***************************************	74195 74963			37	37.15	200	Total all sizes	********	131.19	628.16	1,851.09	3,115 5,727
16		46173		26.18			01				-		_
		74857 45793		27.05		37.07	Sept. 1		75697 73980		38.09		- 36
		73097			********	36		*****************	96201			38.18	
-531		44194 44554			22.01	21.02			70468 18418			34	28
- 5 1		42804				21	1	***************************************	76580				39
13.5		44508 73986			20.11	36.02			70278 72636				35
		45191			26.02	00.02	2		72872		39.03		39
Ser of		39897 73923		27.02		37.02			73038				38 36
17		75459				35,13	3 8	***************************************	75791				37
- CONTRACTOR (1971)		75373			37.08				72520			100000000000000000000000000000000000000	39

		0	ES 135.3		ight.		Date of		0	100		ight.	
Date of ship- ment.	Car initial.	Car number.	Pea.	Buek.	Rice.	Barley.	ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.
1909		bassa				00.10	1909						
ept. 2		73932 72718			40.16	39.18	Sept. 20		75031 78426			26.13	37.1
		76111 76894			40.09	37.01			75012 78364				36.0 \$5.1
		75045 74510			40	37.05			17331		27.02	97 01	
10.50		72428			37	01.00	22		73826 74467			37.01	37.1
		72487 78901			38.17	37.15			73423 74499	35.08			36.0
7		72364 46058			40.05	28.02			76144 74198		33.17		87.
		74195			59				75941				36,
-		45167 46113		29,03		29.05			78671 76054			38.10	37
1000		18892 45567			28.19	26	STEE		78475 44892				38.
195919		41058 74045			21.05 38.05		23		76181			38.07	
		70902				36	20		75911 76305			36.15	36.
		75354 73004		39.10	39		24		70977 75810				35 37.
8		73432 75511			38.15	37.12			76230				37.
0		73218				37.05	1 3 1		70309 18191		26.02		34,
		18317 72338			28	36,18			45357 17399				28. 27.
10		73988 73455				39 34.15			39929 75560				28.
		70948		97.00		32.08	25		39789				37. 27.
		19002 75000		27.08	38.07		T-881		74042 75710			36.14	37.
		72736 73538			38.19	38.12	10 34 TM		45795 73584				27. 37.
		75889 73904		26.08		36.15	-530	Total	18001				
		70135		35.18		00.10		Total all sizes		35.08	536.16	1,699.16	3,018.6
		70569 70083			35.15 34.10		Oct. 1		74643				27.0
250		76092 73039			38	87	400		17030				26.
- 1010		70534				38.12			19262 17785			27	27
1113		73842 72297			38.06	38.04		***************************************	72163 74952				36. 36.
		74169 73094			37.09	37.10	1000000		75548				. 36.
		18951			96. 07	27.07			74470 74301			39	36.
11		72555 75732			89.05	38.03			45773 42277				27. 26.
		73145 72982		38.08		38.17			69952			39.05	39.
13		17994			90 10	28.08			69913 72937				38
		75563 74595			38,10	38.03			74804 76560			37.06	36.
		74986 78456	333333	37.16		37.04	3		69943 55011			99 10	40.
		72845 74522			. 38,15	37.16	· ·		55062			28.12	26.
		76011				37.15	3 E.S.		19021 76503		27.17		34.
		74814			37.16	35.05			70931 70676			33 37	
		76242 73557		38		37.03	1000		79620				27.
		76527			38.18	********			41497 73471		28.13		39.
		75170 72764			39.15	37,12			74369 72665			38	87.
300		73957 75710				38.11 37.10	4		75594			07.10	26.
		75702			38.04	*********			40679 18622			27.10	26
		72899 74207		38.10		37.12			18105 45785			26.16	25.
15		70703 45103			35.09	28.15			17173				26,
		45464				. 28	5		70175 69040			34.10	36.
		17747 74281			********	27.10 38.04	TRY S		74406 72992				36 25,
12.3		73448 75954			38.03	36.04	6		76370			36.13	
70		74339		36.11		********			76017 74006			37.10	26.
16		19001			27.65	38.05			74084 72523			36.13	35.
17		74706 17297				38.03 27.07			72368 74413			36.00	36.
		46187 18815			28.10	27.10			44428				25
		43280			20.10	29.09	7		18312 70310		26,06		36.
350 300		44279 45678			27.17	22			73543 70468			38.03	33.
		18219				27 38.05	9		73921			36.12	
SILE		74440 46255				27.05	(DE		72039 72265	*******		36.10	87.
19		44067 75082		21.11	38.03		Englis		70087 75752			35	33.
= 7		75856 70482				38.13	13		44255			21.16	
20		15268			22.05	36.02	100		74863 70293			83.12	36
-		76068 74942			38	36.12			75542 70138			26.19	31
		75631	100000000	Control of the Control	en a ser	36	12		72833	15300000000	NAME OF THE OWNER.	The state of the s	31. 36,
		43079			97 11		1					20 10	
		43072 70072 73075			27.11	34.07 34.18			70584 46160 46045		25.18	30.10 25.08	

Date of		Con		We	ight.		Date of		Con	1	We	ight.	
ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.	ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.
1909		1		-			1909			i est			
Oct. 11		76448 72294			37.16	34.14	Oct. 27		70657 44843		34.17 26.18		
		75445			36.15				45483			25.08	
		70751 12857			23.05	32			45923 74120				27.00 25.00
		70419 69949			33	36.04	N 843		73998 45849		36.01	27.10	
-10		45178				25.14			45008				24.1
		45851 76323		26	\$6.03				70261 76180			34.18	36.1
		72497				37			72431		35.12		
		76465 41805	********		£7.11 20.10				69982 45493			26.11	37.10
11 14		73433 73181		37.02	37.08		100		76322 73789		37.05	36.10	
	***************************************	75404				85.07	-		74230				37
15		73642 70520			35,14	33	50		79146 74327		35.06		34.10
		39743			26.18 24.05		29		18725 76452		36.08		25.18
12		46150 72742				37.01	30		72190		36.09		
		72988 39642		21	36		28		72952	*******			33.00
		42715				26.17		Total					6,643.00
		74824 40569			37.01	28.05	1.2	Total all sizes			823.05	2,526.03	2,893.18
		76447			35.05		Nov. 6		46010		,		27.15
15		73045 74469			35.03	33	Fall C		70044 73148			35.19	33.1
		72114		97		35.10	- X		72063		36	36	
		73500 73991		37		32.05			75350 73331		35.12		
16		18116 74890			26.07	35,16	13000		76533 17932			28.02	35
		17884		26.11					73281			37.10	
17		72730 73918		36.10	37.17		8		74140 74833		34.11	35.12	
-		76376			07.07	36,08			72912			*********	34
		70303 18029			35.07 25.09				72815 75369		36		36.08
		75627			34.10	36.18	9		70384 39853		26.16		34.10
		70383 72452				38	The same of		17823				25.06
18		72951 18973			37.01 26.16				72312 73401		37.04		33.16
10		39960			26.14				39764			27.09	********
		40416		26,12	25.09		10		45412 72080		35.10		26.00
		45828				26.03	6 6 18		70039 72040				32,05
16		76335 40530			37.12 25.01		11		18304		27.05		35.10
		45232			36.10	25.14			45748 75558		35		26.00
20		75818 69966				38.10	10		70517			33.02	
		70010 73554			35.14	36.09	11		70781 70244	35.15	36.15		
		46290			27				18330				26
22		72523 73981			86.10	35,01	10		75457 70741		35.16		33.00
		72685			97.00	35.12	12		73305 72253		36.10		34.0
21		40250 70810			27.02	25,12			72730			37.18	
		76923 ,41630			35.16	26.07	13		72332 69986			***********	36 39
		75140			38.17				73247			38.08	
20		73332 74703			38.02	37			18322 78982			27.12	36.0
23		74912			37.16				19186 45230		26	25.12	
		41905 70313			27.10	37.03	3.7		. 75117				37.05
		72124 74308		35.16	38.08		15		73009 72410		36.04		36
		39780	*******		*********	26,11			39787			26	
		76305 18490			38.03	26.05			46304 45123			27	28.00
23		18882			28		16		76363 74616		35.18		36.1
		45345		28.03		37	100		75009			37.12	
		40083			25.10		V		70807 70518				35.04 33,12
		45066		26,06		26.12	1 2		70544			36.19	35.00
		73809 75307			22	33.10	17		76208 78792		36.04		35.00
25		74328			34.01		1000		75409 72574				35
		75155 44821			24.09	33.08	18		17140		27.10		37.08
		74468		35		97.07	100		70729 70832		34.14	36.05	
		75430- 78732		200000000000000000000000000000000000000	36.12	34.07	13 3		70061		36		
		72745 72099				24.12 33.07	P. Carrie		75107 70283				36.18 35.18
		73050				36.14	20		72044 78379		90 15		36.18
		73643 72362			35.07	25.12			46117		36,15		27.04
		73213 70511		36	*******	35	2 4		70052 70333		34.05	********	36
26		36666			25.12		19		18116				25.10
		75421 75616		35.16	36.04	*********	P		46554 45887		36.02		26,15
97 26		70415 50833				35.02 34.15	22		45081 45303		23.17		36.15
27		4.423	*******		27.10	02,10			70152		20,14		83.05

Date of	Con Intelat	Car		We	ight.		Date of	0	m initial	Car		We	eight.	
ship- ment.	Car initial.	number.	Pea.	Buck.	Rice.	Barley.	ship- ment.	Ca	r initial.	Car number.	Pea.	Buck.	Rice.	Barley.
1909							1909							
Nov. 22		45164 73463		26.02 38.01			Dec. 24		•••••	76213 18133			38.10 26.08	
	***************************************	45882				27.05	E 1 (= 1 = 1			18795				26 65
24		73196 74043			38.15 38.15		27			45515 74115	25.12			35,67
		76405				37				73358				36.13
23		70123 73132		34.04 36.18			24			70866 73124		34.07	38.10	
20		39734		27.16			27			75422			00.10	\$5.04
		74297			39.10		13000			39969 72145		26.15		36.05
		74502 72380			36.05	36.07				74812			25	36.03
		75925		36.04						73550			34.05	
		75834 73961		36		88.05	29			76262 72813			36.03 38.05	
		19004		26.07					· · · · · · · · · · · · · · · · · · ·	70856		37.04		
24		18739 19102			28	25,03	28			60950 76421			\$6.12	37.12
26		19193		26						76308			38.01	
		75999 42108				36.10 27.10	29			70841 75688				35 34.18
	***************************************	18780		25.15		21.10	30			74618				36.03
		45475			28.15	90	31			74800 69916			37	37
		45089		***********		28	91			75352				\$6.05
	Total		35.15	1,444.00	1,075.09	2,235.18 4,791.02	- 3	m	otal		25,12	406.15	651.08	
Dec. 1	Total all sizes	honor				35.09	31 18 7		otal all sizes		20.12	100.13	001.00	2,093.03 3,176.18
Dec. 1		70784 75646		36		********	1910 Top 9	D T	e w	41058		S TELL	21.15	
		72184 76062		************		36.18 38.05	Jan. 3	do.	& W	41058 73386			21.10	36.12
2		45093				27 27.18		do.		44404				21.10
		41344 46229				27.18		do.		42478 45795		********	20	28.03
3		70964		34.14			z di luc	do.		73000			87	
1		76113 17856				37.05 25.18	S AND	do.		74757 44932		25.07		26.07
8		75015				36.04	4	do.		70527				34.17
10		74575				36,05 37.13	5	do.		73435 45179				\$7.14 26,18
10		72782 76332				35.00	4	do.		75298				34,12
		70711				35.05	5	do.		74508				34.10
		70499 74225		32.10		36	6	do.		74048 76577		********		37.12 37.12
11		74657				35.14	7	do.		75378				33.16
10		18380 18968				25.18 26.15	8	do.		72453 73897				36.05 34.06
8		74030				37.02		do.		75199				26.08
13		73319 74061		35.18		37	11	do.		74636 42802				37 18.05
		73357		00.10		36.13		do.		74085				32
		72888				37.11 26.01	10			74795				35.06
14		75718 76591				35.01		do.		73402 75285		*********		37.12 36.08
		76073				35.15	12	do.		76171				37.18
		76331 73322		36.04		36.13	San Carlo	do-		70083 75644				34.18 37.12
15		74027				37.08	13	do.		18511				26.18
16		18808 8060		26.04		22.08	14	do.		72689 45915				38,01 27,18
15		18430				27.05		do.		46293				27.14
16		70036 45262				32.07 26.14		do.		72634 75794				36.10 36.09
		45150				26.12		do.		18330				25.18
17		76191				35,19 32	18	do.		45914	}			27.01
16		70551 72406				37.08		do.		(or 45984 74862	,			36.01
17		18570		37.02		26,10	24	do.		72968				37.05
17	***************************************	73362 45197		31.02		25.04	22	do.		46304 72310				26.07 37.15
18		39820				27.13 34.10	25	do.		8052				24
20		70265 18932				27	24 26	do.		72109 46172				36.03 26.14
7		39850				27		do.		17482				26.15
		8135 40305		21.15		26.05	27	do.		72256 73069				35.13 35.17
		73292				34.08	26	do.		70404				85
		17924 74310		26.18		36.15	1000	do.		70776 75223			35.15 36	
17		70063			***********	30	27	do.		72747				36.15
22		75134 73613			26.12	36.04	100	do.		70647				34.15
23		74603				36.18	28	do.		41681 19175			27.05	26.03
22		44498 44010			20.12	•••••	29	do_		45700				26.18
		43929				21		do.		45308 44533			27.06	20.13
		44375		21.01	91.05		28	do.		70196				33
		41717 44546			21.07	20.09	29	do.		74239 75578			34.15	38.01
23		42759			20.07		HALL S	1		10016			1	
22 23		44354 72120			19.17 38.18		10		otal			25.07	239.16	1,662.03
20		72932				37.12		170	otal all sizes					1,021.00
		70277 17938			36.05	27.18	Feb. 1		& W	73067				35.10
		72738			38.05		-			73397 74310		33	34.04	
		18673 72180				27.04	- 2	do.		76452				34.12
24		43704			21	36.17	Latin St			75771 76369			. 35	34
		18927			27.11	36.12	44	ldo.		76237		35.01		**********

Detailed statement of claim for excessive freight rates, etc .- Continued. Detailed statement of claim for excessive freight rates, etc .- Continued. Weight. Weight. Car Car initial. Car initial. . ship-ment. ship-ment. number number Rice. Barley. Pea Buck. Pea. Buck. Rice. Barley. 1910 Feb. 1910 Feb. 35:04 26.04 D., L. & W..... 34 73264 19 70417 35.15 73899 45299 18557 27.14 26.11 72661 35.10 25.16 33.12 75313 ___do____ 34.15 75008 18 26.10 33 25.16 73501 45894 70681 46377 75789 33.01 25 05 _do____ 7284719 _do.... 76301 35,04 45537 72573 44856 _do.... 73607 73753 26 ___do____ 33.15 25.05 35.02do..... 73612 34.18 do... 74158 18643 26.05 34.05 76519 34.07 74122 70980 86.12 26.15 75317 33 37 _do____ 74403 _do_ 70894 34.07 31.05 70100 D., L. & W..... 35.07 85.10 26.68 21 _do____ do. 70548 35.06 .do..... 76305 35.14 72912 35.03 36.04 26.17 ...do..... 40272 do-----72947 25 25,18 76414 45686 84.12 22 26.13do..... 17962 36 76062 75961 34.03 36.15 73040 26.05 29 ...do____ 46176 84 05 75087 74840 74940 34.13 _do 5 33 34.18 75168 75442 72743 34.11 34 70320 36.18 do 75669 34.09 35.10 .do..... 35 do 76389 34.10 70299 36.06 36 20.06 __do____ 43699 70408 75418 25 45158 25.17 35.05 _do____ 35.07 do 24 34.04 36.12 74287 26.08 _do____ 17140 37.12 26 75541 35.12 31.10 27 45068 37.14 69996 34.15 ...do..... 74046 37.18 36, 10 76563 37.08 _do____ 36.08 .do..... 75474 36.12 35.04 Total. 1,833,16 2,461.19 5,371.14 1.075.19 Total all sizes. 27.12 do..... 35.10 Mar. D., L. & W..... 75046 35,15 27.05 18413 46180 76223 _do____ 27.10 73056 .do..... 32.18 70436 ...do..... 76022 37.08 36.05 36.03 74545 33.14 25,13 87.11 74969 35.18 -----37 76099 ...do..... 76308 45908 70633 30.05 32.12 do 76019 35.69 75852 72371 35.01 75489 75261 36.03 34.18 33.15 70635 26 04 35.08 72483 18502 33.15 74801 74140 70046 35 36.15 20,01 10 43517 73006 35.09 76008 74011 35.02 35 70800 35.05 70464 36.05 34.02 _do____ 74803 37.08 34.12 75434 do 74450 26.13 32 26.15 18284 36 .do..... 73009 36.09 .do.... 72947 26.01 37.12 70417 36.03 36.10 34.07 74902 33.04 76192 do 74816 36.04 70125 33.01 26.08 35.00 17947 26 34.02 45580 24.14 74718 44863 18367 35.14 19276 38.05 25 24.07 26.13 34,10 25.12 74460 35.13 73371 76495 27.03 36.04 70970 27.18 43072 do..... 76254 38 46129 75747 72618 _do..... 73353 26 4do.....

72152

ate of shipment.	Car initial. D., L. & W	Car number. 18428 18459 43485 70023 46278 72285 73184 76106 74289 72375 75116 72489 72570 42045 18056 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70290 70200 70200	Pea.	Buck.	25 25 25 25 28.12 28.12 27 37.14 39 37.14 38.06 26.18	83.05 37.10 36 36.14 36.01	1910 Mar. 16 17	D., L. & W	Car number. 70737 75806 75810 70839 24855 44929 18438 74990 70563 46191 75851 72984 45169	Pen.	26.08 27.18	83 28 27 37	34.0 36 37.0 26.0
r. 4	do d	18459 43485 70023 46278 7023 46278 72295 18036 74239 75315 75115 75116 72459 75270 42045 18403 18066 70220 73235 72891 75387 18389		27.03	25 25 28.12 25.12 37 37.14 39 37.14 38.06 26.18	37.10 36 36,14	Mar. 16	do	- 75806 - 75810 - 70339 - 24955 - 44929 - 18438 - 74990 - 70563 - 46191 - 75851 - 72984 - 45169			28	36 37.0 36.0
r. 4	do d	18459 43485 70023 46278 7023 46278 72295 18036 74239 75315 75115 75116 72459 75270 42045 18403 18066 70220 73235 72891 75387 18389		27.03	25 25 28.12 25.12 37 37.14 39 37.14 38.06 26.18	37.10 36 36,14	17	do	- 75806 - 75810 - 70339 - 24955 - 44929 - 18438 - 74990 - 70563 - 46191 - 75851 - 72984 - 45169			28	36 37.0 36.0
•	do	43485 70023 46278 72285 73184 76106 74289 72375 73115 75116 72459 75270 42045 18056 70220 73235 73897 75387		27.03	25 28.12 25.12 37.37.14 39 37.14 38.06 26.18	37.10 36 36,14		do d	- 75810 70339 - 24955 - 44929 - 18438 - 74990 - 70563 - 46191 - 75851 - 72984 - 45169				36 37.0 36.0
•	do d	46278 72285 72285 18038 73184 76106 74239 72375 73115 75116 72459 722459 742045 18403 18056 70620 73235 72891 75387 18989 76640		27.03	25,12 87 37,14 39 37,14 38,06 26,18	37.10 36 36,14	18	do do dodo	- 24955 - 44929 - 18438 - 74990 - 70563 - 46191 - 75851 - 72984 - 45169				34.0
•	do d	72285 73184 76106 74239 72375 73115 75116 72459 75270 42045 18403 18056 70020 73235 72891 75387		27.03	25,12 87 37,14 39 37,14 38,06 26,18	36	18	do	- 44929 - 18438 - 74990 - 70563 - 46191 - 75851 - 72984 - 45169				34.0
•	do d	73184 76106 74239 72375 73115 75116 72459 75270 42045 18403 18056 70620 73235 72891 75387 18989 70640		27.03	37 37.14 39 37.14 38.06 26.18	36.14	18	do	- 74990 - 70563 - 46191 - 75851 - 72984 - 45169		27.18		34.0 34
•	do d	76106 74289 72375 73115 75116 72459 75270 42045 18403 18056 70620 78235 72891 75387 18989 70640		27.08	37.14 39 37.14 38.06 26.18	36.14		do	70563 46191 75851 72984 45169		27.18	87	34
•	do d	72375 73115 75116 72459 75270 42045 18403 18056 70620 70820 73235 72891 75387 18989 70640		27.08	37.14 38.06 26.18	36.14		do	- 75851 - 72984 - 45169		27.18	37	
•	do d	73115 75116 72459 75270 42045 18403 18056 70620 73235 72891 75387 18989 70640		27.08	37.14 38.06 26.18			do	- 72984 - 45169			01	CONTRACTOR OF
•	do	72459 75270 42045 18403 18056 70620 78235 72891 75387 18989 70640		27.03	38.06 26.18			do			Charles and the		35.1
9	do do do dodo	75270 42045 18403 18056 70620 78235 72891 75387 18989 70640		27.08	26.18				45796		90 14	26.18	
9	do d	42045 18403 18056 70620 78235 72891 75387 18989 70640		27.03	26.18			do	84253		26.14		28
9	do	18056 70620 78235 72891 75387 18989 70640						do	41000			27.06	
9	do d	70620 73235 72891 75387 18989 70640				27.08		do	- 74510 - 45529		26		34.0
9	d0	72891 75387 18989 70640			34.04			do	78522			36.10	
9	do	75387 18989 70640			38.02	37.10		do	- 74405 - 72267			37.07	87.1
9	do	70640	400000000000000000000000000000000000000			36		do	- 75219			86.15	
9	do dododo	45463			28.01	35.06		do	- 70533 - 75682		84.14		84
9	do do do				27		19	do	19046			27	
	do	46071 72349		,	28.00	38	1	do	72457 45925			87.10	28.1
	do	74443			36.17		21	do	73565				38
805	do	46003		27.16	28.09		E 2 5 1 3	do	- 74888 70389		35.12		
	do	46170 70704			20.00	35.12		do	19193		25,08		32.
11	do	76120			38.15	95 15		do	76041			36.15	
2791	do	76358 44574		21.12		85.15		do	- 75643 - 72605			28	34.6
	do	75923			38.02		22	do	45681		26		
	do	75247 75784			37.05	36.06		do	73432 76349			87.14	37
Zan B	do	75576			36.01		1-321	do	73814			07.12	85,
Sali	do	74104 46037		36		27.15	23	do	73175			37 37.14	
10	do	70568			38			do	75801			01.14	36
	do	44951 75531			38.08	29	100	do	72828 73266		36.15		
	do	75065			30.00	37.16		do	40523		26.12		36
100	do	18785		27.10	26			do	75114			38	
18-	do	15827 18420			27.10			do	72077		36.06	35.15	
7 0/	do	46230				26.13	1 Sin 1 S	do	84115			26	
	do	15811 72515			25.10 37.02		22	do	- 76000 72232			36.15	33.
	do	74429				38.11		do	72844			36.04	
	do	74332 70427			35	33.09		do	- 75002 - 72377				35.
-13/3	do	69943			39.03		24	do	18070		26.19	38.02	
	do	73269 45957			39 28		STORES OF	do	74074				35
	do	73969				37.14	A Committee	do	- 46069 - 73871		28.05	37.04	
11	do	45567 74463			28.05	87.04		do	40377				25
	do	70318			37.05			do	75582 70221			38,03	36.
14	do	73787		98.05		36.05		do	19098			27	
	do	75001 73435		36.05	*********	35		do	19087 72502			29	26
	do	18240				26.10 25.10		do	76583		35.11		
	do	44853 73171				35.08	25	do	75925 75310			37.15	
	do	18914				27	nice - D	do	- 44015			21	*******
11	do	73743 76377			36.17	36.15		do	- 45748 - 45959				27 23.
	do	70175			33.18		1 2 5	do	72779			36.05	20.
11 33	do	73959 45962			27,14	36.15	185	do	- 76224 - 18717			36	24.
F 9 1	do	76332			58		26	do	46140			27.03	21.
12	do	76456 72862				37 37.11		do	70003 18313			34.18 25	
11	do	73398			38 57	01.11		do	75294			35	
	do	74166			87		25	do	45692				27.
12	do	70777 41291			28.04	38	1	do	- 72938 - 46108		30	38,15	
	do	18005				28	28	do	73316				34.
	do	42050 73553		*********	28	38.05		do	72107			36.11	35
	do	45123		27				do	70783			85.07	
75	do	18817 72909				27.16 87.03	*30	do	74141			25.18	34.
15	do	82405		27.10		57.00		do	74108				34.
	do	70086			35.08	94.09	90	do	70495 70973			35.17	
	do	78148 46000				34.08 27	29	do	70804			36.09	33.
100	do	44189		21.06			30	do	73711			36.18	
13.0	do	74614			\$7.10	36		do	73560 74126			36.18	34
-	do	74088 72260	*******		\$5.02		1 18	do	72120		35.06		
16	do	75023				86.12	31	do	73036 75415			34.09 35.08	
17.0	do	73533 72389			36.12	36	10		10113				
	do	45596				27.12		Total Total all sizes.	·		922.18	3,769.15	8,429. 8,121.
200	do	76581 39279			38.03 27.13				1				0,121.
32.5	do	75040			21,13	36	Apr. 1	D., L. & W	76348			35.04	
200	do	40345 17408		27.16		27.10		do	45013 18829		28.07	26.08	

Date of		0		We	eight.		Date of				We	ight.	
ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.	ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.
1910							1910						
Apr. 1	D., L. & W	72380 76107			35.15	34.15	Apr. 14	D., L. & W	19122		26.08	37.11	
	do	73973		36				do	73134 76072			36.18	
	do	45853			26.05	27.18		do	75061		35		01.7
	do	46103 73283			36.03	21.15		do	70050 70340			34.12	34.13
2	do	74985			36	25.15	16	do	18546				25.0
	do	19034 17881			26.07	20.10		do	18013 44522	*******		25.14	20.0
	do	73114		35		26.13	100 130	do	46264				26.15
	do	17959 69985			37.10			do	45660 15965		27		26.1
	do	43459		00.01		34.17	83 B/E	do	73612			37	
1	do	74290 76233		36.01	84			do	45240 75980				25.1 35
	do	46403		28.05		85.08		do	45633			27.18	
	do	76567 74248			86.02	50.00		do	74866 70481			97	34.08
4	do	74497			34.07			do	72527			37	37
	do	84096 42155	*******	26.07 28.12				do	69934				36.00
	do	75336				34.04		do	19215 74855		26.15		36.0
	do	45500 18994		28.05	27	•		do	74503				- 36
	do	73649				85.07		do	74605 46005		36.07		98
	do	75168			. 38	36.12	19	do	45181				28 29
2	do	72137 45901				26	1000	do	70646 45067		26.05		85.1
	dq	17889		25		95	18	do	18573		29.05		
		75751 76520			85.18	35	-	do	45158 70591				25.10 35.1
		84320				27	19	do	70066			35	80,10
5		75060 74809	*******		36,11	37		do	70905		33		
		76537			00,11	36.01		do	45778 70580	*******			28 35.0
4		75983			07 10	34		do	70416			35	
		73053 72213			35.12	37.11	- 00	do	70904 70924			35	84.15
5		75542		02.04	36,02		20	do	46207		26.04		
		75249 76155		36.04 34.12			Y= 14 8	do	15852 74883				27.0 36
		42314		27.06				do	75840			86.07	- 00
		73668 70372				35,15 35	944	do	17781		28.18		01.05
		70801			. 33			do	74251 41938		27.06		34,05
6		78775			94 00	34.15		do	73754			36.10	
		70299 74056			84.08	85		do	75735 72506	******			36 37
Ser.		73354		33.11		83.07	21	do	74852			37.05	01
7		72441 45243		28.04	88.04			do	70045		85.05		\$5.1
		72127				35	22	do	75527 74458				88.1
		70994 74453		33	36,17		-	do	72320			60 00	37
		75557				34.10		do	74184 76268			88.06 87.03	
		44559 74587		28		34.03		do	72433		00.10		36.0
8		75713				36		do	69916 44164		38.13		22
		42861				19.04		do	76205		36.10		
		76110		27		35		do	73305 74398			37.16	36
11		70693		33.15	*********	25.10		do	76108				35.1
		70123			35.08	25.13	23	do	73133 72325				36.0 37.1
		75553				36.10	The East	do	74247				35.1
		74927 55004		29.15		35.07	22	do	73276			90	35.1 36.1
12		18815		28.07				do	74359 18906		29.12	39	
		39828 73366		35.09		25,15	= /= == 1	do	17901		29.12 26		
		75324		30.03	36.07		23	do	72557 70738				35.10 36.0
-		18067		96 15		26.05		do	74909			36.10	36.0
11		18661 76367		26,15		35	25	do	69964 74685				36.0
12		72470				38		do	73524		35		
		18669 70385		26.05	85			do	70297 73509				35 36.1
		74029				35.18		do	75948				34.1
		18761 74697			25.18	37		do	75251 73952			34.16	34.1
13	***************************************	70065				36	26	do	75777		85.08		36.0
12		72088 18966			36.12	26.15	25	do	78356 74970		********		36.0 35
		41818		28.17		20.10	26	do	74780	200000			35.0
		46377 78391			26.18 35.18			do	75226 74381		37	25 04	
13		73582				35.02	27	do	72059			35.04	35.0
		72878		97	38.07			do	74766		35.09 29		
		75574 75519		37		36.01		do	18310 75973		28		36,1 37
The U		73615			89.07		E 1	do	75739		00.35		37
14	D., L. & Wdo	73986 70424			84.04	34.18	28	do	72930 75951		36.15	38	
13	do	70891			32			do	75617			38 37.18	
1 1	do	72563 19248		25.13		38.02	1000	do	75076 45714			27.09	34.0
14	do	19186		28.13				do	72931				35,1
	do	46156			95	26.10	11	do	73759			36	34.1
	do	78074 70628			35	36.18		do	73827 70203			33.15	01.1
	do	74594				35	29	do	69933 74332		38.12		36.1
	do	75802 74165		35.03		35.18	to the	do	74332			85.17	30,1
	******************	12700				04120	1					124507.0403.44	· CONTRACTOR CONTRACTOR

Date of		-	1 . 3	We	ight.		Date of		-	1	We	eight.	
ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.	ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.
1910		1/4	O. I.				1910						
Apr. 29	D., L. & Wdo	74197 18302		26.06		37	May 17	D., L. & Wdo	69985 70410			38.16	34
	do	44798 73810		24		07.70		do	72885 41856			35.12	
80	do	18832			25.09	37.10		do	17937		24		23,1
	do	18482 75993		26,05		36	19	do	70349 75723		37		25.0
	do	17821 19018		27.10	25.15			do	72578 70905				35.1 33.0
	do	42488		21.20		27.15		do	73124				34.1
	do	84216 72133		87	26.18		20	do	75941 45140		35.07		26.1
	Total			1,731.06	2,123.18	3,529		do	45449 74981			26.12	35.0
	Total all sizes.					7,384.04		do	45504 75987		28		35.0
May 1	D., L. & W	72609				87.06	-	do	19115		27.11		
	do	70017 70696		33.10	85		21	do	45223 75582		37.08		27
3	do	72714 19185		27		\$6.17		do	46386 78771		28.03		35.1
	do	19230 72412		27 27.15		90.05	19	do	75779			38.07	
	do	76754		38.01		36.05	21	do	72071 74526			34.17	35
	do	74635 74028		36.19		35	23	do	76380 76836		38.10		36.0
	do	76612 40699		27.06		35		do	72617 46140		26.10		35.1
	do	75405			36		AVA ET	do	72264		20.10		36
6	do	76544 39879				32 26.10	24	do	74015 73460			34.10	85
	do	18494 70977		34.10		26.14	21	do	45220 75412		36.19		23
5	do	73513 75624		36	36.09		23	do	75761			35.01	
6	do	72127		37.12		*********	25	do	70975 18652		35 26		
	do	72918 76422				35.18 33.07		do	46183 45285			26.16	25
	do	76488 75580		37	34.18		24	do	19282 46183		26.15		25
	do	75885				32.17		do	76969		20.10		34
	do	69935 72742		38.07 37.10				do	72987 76160				35.0 37.0
7	do	74928 76632			36.12	36		do	70876 76677		32.05		35.0
	do	72728		97.05	36.06		0.0	do	74761				34
	do	73344 74394		87.05		34.12	26	do	15851 75266		87.03		26
	do	18187 18479		27.06	25			do	70884 46157			26.11	34.0
	do	18933 75133			27.15	36.07		do	18584 73837		26.13		34.1
9	do	73904		37.02		30.07	-	do	72156				36
	do	74294 72923			37.12	35.14	27	do	18403 18290		27.15		28
	do	18419 75759		27.07	36 *		28 27	do	74714 70280				33.0 36.1
	do	73219 70344			34.11	33.18		do	70766 69900		85.18		37.1
	do	15197		23.05	02.11		28	do	72086				35
11	do	18938 74269		27		35	31	do	74572 73630		36.96		35.1
	do	19145 72525 73977		27.03	36.16			do	72806 76215		37.08	35.10	
	do	73977			30.10	36.07		do	70268				33.1
12	do	73173 75776		37.15		36.03		Total			1,633	1,059.01	2,365.0
11	do	70563 44236		22.02	33.17			Total all sizes			********		5,057.0
	do	72584 75170			36	36,07	June 1	D., L. & W	70085 76338		34,13	36	
31	do	76240		37.12				do	72084				34
12	do	70293 74653	******		85	35.05	and the	do	74981 71987			34.14	23.1
	do	18385 73592			26.10	36		do	72414 78472			85.15	75.0
	do	73067		37.04			2	do	75397 70783			36.07	34.0
13	do	76505 76783				34.16 35.1	1	do	78771		37.07	02.01	
	do	75787 73952		35.18	85.17			do	72225 74176			36.04	34.0
	do	45719 18930				26.18 25	2	do	72256 76138			34.09	34.1
14	do	18746				24.08		do	78351 72709		87.10		35.1
	do	45789 76491		27.15		35	3	do	41188	1111111	26.17		00.1
	do	72563 72297		87.07		35.09		do	70698 76955			33.05	83.0
	do	76786		26			2	do	70655 18610			24.16	32.1
	do	74877 72716				36 36	4	do	72406			36.16	35.0
18	do	75378 75079			36.07			do	76884 42161			26.10	
	do	73047		37.19		36.04	3	do	7552 76013		33.18		34.0
	do	45346 45948		27.03	*******	27.12		do	72458			36	34.1
	do	76604 72354			36	34	4	do	73124 78400				35,1
	do	46275				27.13		do	19019 45567		27.08	24.00	
	do	74319 73510		35.07	37.10		6	do	18309 70859			25.00	\$4.1 34.0
	do	73426			36.18	35.16	100	do	75658				21

Date of	EST STATE			We	ight.		Date of				We	ight.	
ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.	ship- ment.	Car initial.	Car number.	Pea.	Buck.	Rice.	Barley.
1910					4 5		1910						200
June 6	D., L. & Wdo	72915 75596		36		33.04	July 18	D., L. & Wdo	70687 76151				32.17 35.00
7	do	78713				33.15 34.04		do	76461 70839				33.18
8	do	75111 45379				26	20	do	78315		32		33.0
15	do	75319 70770			33.19	34.06	23	do	73312 76422				35.6 36.1
15	do	70909				33	-	do	73346			86.08	
14	do	70954 75269		33.10	33.10			do	76421 74051			36.02	35.0
	do	76862 74448				33 34.11	25	do	72693 73027				35.1
15 17	do	18134		26.08			23	do	73119		35.12		33.18
	do	70305 70553			36	34.02	15	do	76462 73016		35.10		35.16
	do	72712			36,16		14	do	70221			34	
16	do	46186 74121		36.04		26	15	do	76123 74758				36 34.08
10	do	75167				34 35	0	do	74811				34
	do	76405 73688				34.14	16	do	75715 70736			33	35
18	do	72128 45865				33.16 26.06	18 16	do	72747 78951		34.16		35.11
15	do	19008				26		do	78273		04.10		37.0
17	do	45608 45509				27 26.17	11 25	do	76083 45782				35 26.0
18	do	84208				27	-	do	76178			36	
17	do	45830 17295			26.07	27.05		do	72660 75949		36.16		34.1
	do	77056		36.06			27	do	76638			85	
15 21	do	72573 45391			83	25.15		do	78977 78754		35.24		84.18
	do	76119 70153			33.02	35.09	28	do	76751 75885				36 34.1
	do	77080				34	27	do	78410			34	
	do	76282 74223			35.10	85	28	do	72719 75376		36.04		35.15
24	do	75302			36.04			do	75534			07.00	34.1
	do	74386 76440				34.17 35.05		do	74827 75838	2015222		35.02	34.18
	do	43798 74403				21.02 36.06		Total			457.15	533	1,777.00
	do	78711				35.10		Total all sizes			401.10	000	2,768
	do	45639 76418		27		85.15	Aug. 1	D., L. & W	73673				35.17
-	do	74251				34.15		do	74998		36.15		
25	do	72226 75125			36.14	36.10		do	75634 73466				35.14 36.15
24	do	45308		26.11	34.10			do	72882				30 26.1
25	do	74343 42088		26.02	JE.10			do	45724 70148			35	
	do	19095 74337				26.10 36.18	2	do	72839 76215			36.17	36.1
	do	70523			07.10	31.12	ı	do	72584				34.1
27	do	74949 70245			35.16	32.14	2	do	75308 74327				34.13
24	do	15569				20.11		do	70838		33.15		35.00
	Total			445.09	831.19	1,684.19	3	do	78917 45086		26.18		
	Total all sizes.					2,962.07		do	44921 46266				26.18 27.09
July 1	D., L. & W	72982				36		do	76216				34.0
102 100	do	40509 40519				27.17 26.07	5	do	18824 76726			26.15 37.10	
	do	46149		27.09				do	76733				35.18
	do	84199 76001				28 35.03	4	do	78180 76059			37.05	35,13
	do	76847 75423			36	35.02		do	18105 78326		23.18		36.0
	do	74404				35.16	6	do	75372			87.04	
	do	72642 19229		27.04	36.08	********	5	do	76798 69985			37	36.18
	do	40524		27				do	74672				35.17
	do	75116 74368			35.03	34		do	70622 76474			32	35.16
	do	19050		25.05		25.18		do	74522		97 (19	36.16	
2	do	84282 73080		20.00		33.12		do	45710 74796		27.02		34
	do	73082 75923			37	34		do	72778 74401			37	36.04
	do	73636				35.05	6	do	43006				26.15
8	do	74261 73974			35.10	35.06		do	18872 45913			27	27.05
	do	74902 75246				35 35.09		do	70627			34	32.04
9		76002				34	8 6	do	70170 45189		26.15		
	do	76323 72453				34.15 33.10	35.0,2	do	41718 84169		27.03		27.02
391	do	72619				35,04	9	do	74450		37.05		
11 12		74598 76662			36.16	34.12	185	do	76252 70389				35.11 33
	do	78465		35.08				do	70378			95	34
13	do	74015 70685		33.17		34.15	10	do	75877 45368			35	23
			17370 SS (1940)	1		85.13		do	78271			36.17	
14		70150				25	11	do			99		
	do	73911 74076			36.11	35	11 10	do	15829 75044		28		38.15
14	do	73911 74076 72538			36.11	35.06		do	15829 75044 83154		28	28.07	
	do	73911 74076		35	36.11	35		do	15829 75044		28		38.15

Detailed statement	of claim	for	crcessive	freight	rates,	ctc.—Continued.	L
-		-				-	

Date of ship-	Car initial.	Car		We	ight.	
ment.		number.	Pea.	Buek.	Rice.	Barley.
1910						
lug. 13	D., L. & Wdo	74644 74260			35.12	34.10
	do	45272			26	
	do	74706 75202				33
16	do	74751				35 31
10	do	73834			36.11	01
11	do	73993			36.11 36.04	
12	do	75634 73466	*******		35.10 35.05	
- 11	do	72584 74595			37.04	
	do	74595			37.04 35.18	
	do	76619				37.02
13	do	75824 73673			36	36.05
	do	73449			00	35.14
12	do	70792			34.11	
	do	74612 76256	*******			35.18
	do	74089		36.06	36.09	
	do	73026				34
16	do	74937			36.15	
	do	76557 75853		35.14		36
13	do	73641		00.14		35
17	do	19058			26	
	do	75367			37	*********
	do	76030 72359		********	*********	34.02 35.14
	do	76070			85.16	
16	do	76049				34
	do	45463 75999			28.02 86.14	
18	do	75482			36.07	
FS)	do	76009				35.14
	do	74465 45180		28.10	36.04	
	do	75586		28.10		35
- 17	do	18568 74754 76024	2			27.03
	do	74754			37.11	
18	do	78915		1000000000	36.15	33.15
17	do	74800			36	
18	do	70059			35	
	do	70022			00 17	34.05
19	do	74099 74670	*********		35.15	35.06
10	do	73750			36.09	00.00
	do	76684				36
	do	72621 75652		36.18	25.16	
	do	72934		30.16	37	
	do	74831				35
20	do	39969			28.07	90.05
	do	18210 69920			38.04	26.05
	do	75017				38.05
	do	75348		37.06		
22	do	75849 76746				35.14 35.11
20	do	70972		36		33.11
	do	72103			37.02	
25 24	do	45938				26.14 35.16
24	do	76636 76642			35.07	33.10
	do	70727			35.07 26.15 34.10	
00	do				34.10	07.42
23	do	78319				35.12 36.07
22	do	74249 73312 73311 73831 72210 75770		38		
	do	73831				35.11
24	do	72210			36.15	36.10
23	do	77095			36.08	
	do	75236				35,15
	do	72310				35.09
	do	73042 72523	*******	87.06	36.17	*******
	do	72042		01.00	38.08	
25	do	73922			37.05	
28 27	do	76046		27.10		36
41	do	70092		21.10	37.03	
25	do	74486			Law Blue	35
26	do	76046 19284 70092 74486 73140 18720 72829 19251			37.12 28.03 37.05	
	do	72829			37.05	*******
27	do	19251				27.10
	do	15841 84287			27.04	
29	do	84287			26.09	36.07
	do	73701 72429				36.07
	do	45046				27.05
	do	45479			28	
	do	45479 19108 18043			27.04	
	do	75163			37.03	27.11
			10/1/2000000	ASSOCIATION 1	~	
	Total		-	556.07	2,202.13	2,503.10 5,262.10

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Messrs. Low Bros., Lime Ridge, Pa. [Rate: Pea, \$0.80; buck., \$0.80; rice, \$0.80; barley, \$0.80.]

Date			Car		We	ight.	
ship		Car initial.	number.	Pea.	Buck.	Rice.	Barley.
1908						1917	
July	15	D., L. & W	45888	27.15			arte de
3000	18	do	45905	27.10			
	22	do	18364	27.05			
	28	do	45341	27.17			
	30	do	46419	28,00			
	31	do	43165	21.10			
Sept.	15	do	43047	21.00	20000150201		1000000000
section.	23	do	39974	27.12			
	25	do	17780	26.17	950000000000000000000000000000000000000		
Oet.	26	do	45103	26.05		********	
Nov.	10	do	44415	21.10			*******
Mor.	13		39939	28.00			
	20					********	
	28		45382	28.05			
Dec.		do	41069	27.00			*******
Dec.	3	do	15819	27.15			*******
	4	do	75514	37.18	********		
	7	do	45112	27.05	********	******	
	17	do	76111	36.05			
	28	do	18578	27.15			
	29	do	44830	27.10	*******		
1909					EVELLE		
Jan.	1	do	18087	27.15			
	2	do	43196	21.11			
	7	do	45488	26.00	-		
	11	do	18077	28.00			
	19	*do	12367	20.15			
	16	do	45735	28.00	1		
	22	do	39839	27.00			
	23	do	39797	26.05			
	26	do	44001	20.08			10111111111
	27	do	18272	28,00			
	29	do	39738	26.04	********		
Feb.	18		41965	27.00			
	20				********		
200.		do	15846 40505	25.04			
100.				25.17			
	24	do					
	24 27	do	40538	26.01			
Mar.	24 27 3	do	40538 45293	26,01 25.08			
	24 27 3 5	dododo	40538 45293 45744	26,01 25,08 26,02			
	24 27 3 5 8	do	40538 45293 45744 17776	26,01 25,08 26,02 25,18			
	24 27 3 5 8	do	40538 45293 45744 17776 45228	26,01 25,08 26,02 25,18 24,00			
	24 27 3 5 8	do	40538 45293 45744 17776	26,01 25,08 26,02 25,18			

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to American Car & Foundry Co., Berwick, Pa.

[Rate: Pea, \$0.75; buck., \$0.75; rice, \$0.75; barley, \$0.75.]

Date of	Car initial.	Car	Weight.					
ment.		number.	Pea.	Buck.	Rice.	Barley.		
1908.		*****				W. C.		
Dec. 15	D., L. & W	74149	******		88.05	********		
1909.		8.30	100	1000		100		
Jan. 9	do	74170	37.00					
Nov. 30	do	73630	******		36.12			
Nov. 1	do	75834			37.09			
1	do	75809			35.15			
1	do	72309			34.00			
2	do	75557			36.11			
2	do	75302			36.02			
9	do				36.01			
10	do	74089			35.03			
11	do	76008			37.07			
17	do	76571			38.02			
17	do	76365			37.15			
18	do	74540			87.03			
18	do	76268			37.12	A CONTRACTOR OF THE PARTY OF TH		
19	do	75600			38.18			
20	do	74116			37.16			
20	do	74385			38.10			
20	do				38.01			
22	do				37.10			
99	do				40.00			
23	do	75994			39.00			
23	do				37.15			
24	do	76379			37.09			
26	do	75928	7.507.5-555.55		39.10			
30	do				38.14			
Dec. 10	do		PRINCIPAL		37.00			
13	do				37.03			
14	do	72672			37.12			
14	do				36.00			
16					37.18			
10	do					*******		
17	do				37.07			
17	do				38.02			
	do				35.15			
	do				38.15			
18	do				34.18			
20	do	73744			35,15	********		
21				********				
21	do				37.18 37.00			

Line	shinments	made	Tree	the	Marian.	Cont	Co	ete	Continued	

sh	e of	Car initial.	Car		***	eight.	
mei			number.	Pea.	Buck.	Rice.	Barley
191	0.						
an.	4	do	73535			36.15	
	10	do	73328 74941		34.18	35.00	
	10	do	73132		02.10	37.18	
lan.	12	D., L. & W	75249			33.14	
	10	do	73675			36.04	
	13	do	76380 74543			37.16 36.02	
		do	74446			36.10	
	15	do	73189			87.02	
	10	do	69944			88.04	
	18	do	15358 75857			37.12 38.18	
	-	do	72292			36.02	
	24	do	76213			37.00	
	0"	do	72741			87.15 85.00	
	25	do	70409 76346			88.14	
	26	do	70296			87.02	
		do	73313			86.00	
		do	75254			87.00	
	27	do	74679 74725		36.10	36.15	
	28	do	75706		35.17	30.10	
		do	72330		37.05 36.08		
	29	do	72446		36.08	90.1	
	31	do	76126 72311		35.00	36.14	
	OI	do	69981		00,00	38.11	
far.	14	do	75545			87.00	
	14	do	75433			36.05	
	14	do	76248 72595	*******		38,11 37,00 36,05 37,00 37,08 35,15	
	14	do	73909	700000		85.15	
	14	do	72674			00.00	
	15	do	73244			36.18	
	16 17	do	74917 74210			36.15	
	18	do	72007			37.12 36.00	*******
	21	do	70651			35.00	
	22	do	72506			38.00	
	23 23	do	72226 73983			38.00	
	28	do	70986			38.10 35.00	
	28	do	76028			85.07	
	29	do	75970			35.15	
	29	do	73606 73491			37.00	
pr.	5	do	70833		Tarana and a	36.10 34.15	***************************************
	88	do	72711			35.12	
	8	do	70797			36.00	
	11	do	73044 75458			36.17 36.15	
	11	do	74886			36.00	
	18	do	74124			37.17	
	18	do	76443			38.05	
	18 19	do	76334 75884			85.04 85.07	
	23	do	74752			37.11	
	23 23 25	do	70897			25.00	
	25	do	72329			38.03	
	25 26	do	78472 76119			35.17 36.17	
	26	do	72900			26 14	
	27	do	74650			28.14	
	27	do	72005			01.10	
	29	do	75957 74311			35.15 35.16	
ay	3	do	70583			34.18	
	-8	do	76423			87.05	
	3	do	76485			36.05	
	8	do	72558 73349			87.16 87.06	
	6	do	78909			36.11	
	12	do	76073			25,18	
	14	do	74663			35.17	
	14	do	75141 73492			33.00 34.18	
	19	do	70252			34.17	
	19	do	78390			37.00	
	20	do	74185			37.16	
	20 21	do	76128 69948			\$3.02 36.12	********
	21	do	75983			36.06	
	23	do	74312			26.00	
	23	do	70942			25.15	
	24	do	75783 73580			34.07 35,13	
	25	do	70938			35.00	
	25	do	74102			35.07	
	26	do	76868			36,06	
	26 27	do	75237 73026			36,08	
	28	do				38.00 37.09	
me	2	do	73226			36.00	
	7	do	73163			34.00 25.09	
	8	do	76334			25.09	
	8 15	do	75136 70082			36.16	
	16	do	60956			34.06 37.16 36.12	
	17	do	70349			26.12	

Line shipments made by the Marian Coal Co., etc .- Continued.

Date of	Car initial.	Car	Weight.					
ment.	Car initial.	number.	Pea.	Buek.	Rice.	Barley.		
1910					Yan ee			
June 18	D., L. & W	72908			36.19			
22	do	74443		393000000000000000000000000000000000000	37.02			
22	do	77010			26.12			
23	do	75573	1000000000		36.19			
23	do	74726			35,10	1		
28	do	72460			36.13			
29	do	72917	S0000000		28.07	30755		
29	do	76184			37.02			
30	do	73283			36.10			
July 9	do	73580			36,00			
9	do	73867	and a contract of		36.05	*******		
12	do	75887			34.18			
12	do	73017			35.00			
13	do	72667			36.13			
13	do	72008			37.15			
14	do	76656			25.12			
14	do	73039			34.10			
18	do	74428			36.06			
19	do	73775	7.10 (100)		36.07			
20	do	72587	90000000		36.15			
20	do	72388	-		85.00			
28	do	76646		- CAR CHARLES	37.00			
30	do	73432			37.16			

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Atlas Portland Cement Co., Northampton, Pa.

Date of		Car	Weight.					
ment.	Car initial.	number.	Pea.	Buck.	Rice.	Barley.		
1909.								
Feb. 26	D., L. & W	74343			85.06			
26		73659	10000000		85.00			
26		44674		19.00	00.00			
26		12854		20,00	22.10			
27		45057			26.12			
27		72249			36.05			
27		70496	202000		87.02			
27		45885	1		27.05			
26		43506			20.10			
Mar. 1		74045	1000000		35.10			
1	do	44243			21.05			
î		74000			84.08			
1		45958			27.00			
Mar. 1		2846						
mar. 1		76058	*******		19.00			
3				********	20.10			
		12837			21.16			
3		73835			35.00	********		
3		75437			84.04			
3		74898			35.07			
3		73176			85.00			
3		70397			37.02			
3		73349			36.01			
4	do	72750			36.16			
4		72338			36.16			
4	do	18575			27.08			
5		74344			85.10			
- 5		45272			27.06			
Apr. 7	do	70648			35.15			
8	do	74465			35.00			
8	do	73095			34.00			
8	do	74987			84.10			
9	do	44833			25.07			
9	do	75364			33.15			
9	do	73064			84.02			
10	do	74256	NAME OF TAXABLE PARTY.		35.00			
10	do	73735			35.00			
21	do	73144		20041000000	40.05	100 120 120 120 120 120 120 120 120 120		
44.1		10772			30.00	*******		

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Danville Structural Tubing Co., Danville, Pa.

[Pea, \$0.90; buck., \$0.80; rice, \$0.80; barley, \$0.80.]

Date of ship-ment.	Car initial.	Car number.	Weight.					
			Pea.	Buck.	Rice.	Barley.		
1909. Mar. 3 10 11 11 12 12 12 10	D., L. & W	73835 73479 45757 18826 70977 19216 73452 73064		35.00 35.03 26.10 37.04 35.00 25.07 34.04 34.05	85.00			

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Messrs. Hawley & Slate, Bloomsburg, Pa.

Date of ship- ment.	Car initial.	Car number.	Weight.					
			Pea.	Buck.	Rice.	Barley.		
1909. Jan. 22 Feb. 6 Mar. 3	D., L. & Wdodo	76263 69900 73835		36.10 37.15 33.12				

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Silver Spring Quarry, Alemedia, Pa.

[Rate: Pea, \$1.43; buck., \$1.28; rice, \$1.13; barley, \$1.13.]

Date of		ial. Car number.	Weight.				
ship- ment.	Car initial.		Pea.	Buck.	Rice.	Barley.	
1909. Aug. 21 Sept. 20 Oct. 18 Nov. 26 Dec. 10	D., L. & Wdododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododododo	19188 15087 55021 17345 46002	26.08 22.06 27.09 27.07 27.05				

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Clark Thread Works, Newark, N. J.

[Rate: Pea, \$1.43; buck., \$1.28; rice, \$1.13; barley, \$1.13.]

Date of ship- ment.	Car initial.	Car number.	Weight.				
			Pea.	Buck.	Rice.	Barley.	
1910. Jan. 11	D., L. & W	73401			34.08		

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Ballbach Sugar & Refining Co., Newark, N. J.

Date of ship- ment.	Car initial.	Car number.	Weight.				
			Pea.	Buck.	Rice.	Barley.	
1910. Feb. 11	D., L. & Wdo.	70685 69949				35.14 37.09	

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Pennsylvania Brakebeam Co., Danville, Pa.

[Rate: Pea, \$0.80; buck., \$0.80; rice, \$0.80; barley, \$0.80.]

Date of ship-ment.	Car initial	Car number.	Weight.				
			Pea.	Buck.	Rice.	Barley.	
1909. Nov. 14	D., L. & W	75208		35.14			

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to W. N. Stell, Bloomfield, N. J.

[Rate: Pea, \$1.45; buck., \$1.35; rice, \$1.35, barley, \$1.35.]

Date of Control		Car	Weight,				
ship- ment. Car initial.	number.	Pea.	Buck.	Rice.	Barley.		
1908. July 25	D., L. & W	18031	24.09				
1909. Oct. 5	do	17957	24,17				

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines to Nevins Church Press, Bloomfield, N. J.

[Rate: Pea, \$1.45; buck., \$1.35; rice, \$1.25; barley, \$1.35.]

Date of	Contestal	Car Weight.		We		
ment.	Car initial.	number.	Pea.	Buck.	Rice.	Barley.
1909. Jan. 27 29 Feb. 13 Mar. 2 8 15 23	D., L. & W	46180 17224 72686 45346 76058 76299 70853 70819		28.00 37.06 27.05 35.13 34.05 35.10 34.00	28.00	

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines to American Clay Product Co., Forty Fort, Pa.

[Rate: Rice, \$0.60.]

Date of		Car	Weight.			
ship- ment. Car initial.	number.	Pea.	Buck.	Rice.	Barley.	
1908. July 24 Sept. 5 Nov. 28 Dec. 15 1909. Jan. 16	D., I. & Wdodododododo	72283 70647 70984 74149			29.06 36.05 36.18 38.05	

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines to O. W. Drake, Bloomsburg, Pa.

[Pea, \$0.80; buck., \$0.80; rice, \$0.80; barley, \$0.80.]

Date of Ship- Car initial.		Car	Weight.				
ship- ment.	Car initial.	number.	Pea.	Buck.	Rice.	Barley.	
1908. Sept. 19 Oct. 14	D., L. & W	69983 45133	26.18 27.15				
1909. Mar. 23 Aug. 16 Sept. 7 Oct. 12 Nov. 24 Dec. 24	do	18500 3706 46271 44734 18153 15867	25.09 18.05 28.12 27.18 26.00 26.06				

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Milton Flory, Esq., Bangor, Pa.

[Rate: Nut, \$1.60; pea, \$1.45; buck., \$1.35; rice, \$1.35; barley, \$1.35.]

Date of Car initial		Car		We	ight.	
ship- ment. Car initial.	Car initial.	number.	Pea.	Buck.	Rice.	Barley.
1909. Nov. 28			27.14			

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Messrs. Garfield & Proctor Co., Paterson, N. J.

[Rate: Pea, \$1.70; buck., \$1.50; rice, \$1.50; barley, \$1.50.]

Date of Car initial		Car		We	ight.	
ship- ment. Car initial.	number.	Pea.	Buck.	Rice.	Barley.	
1909, Nov. 28	D., L. & Wdo	18968 18483	27.05 27.12			

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. & Co. and connecting lines, to Standard Oil Cloth Co., Athenia, N. Y.

Date of ship- Car initial.		Car		We	ight.	en. 10
ment.	Car initial.	number.	Pea.	Buck.	Rice.	Barley.
1909. Jan. 7	D., L. & Wdo		26.11 26.00			

Line shipments made by the Marian Coal Co., Taylor, Pa., via D., L. & W. R. R. Co. and connecting lines, to Columbia Baking & Manufacturing Co., Columbia, Pa.

Date of Ship- Car initial.		Car		Wei	ight.	
ship- ment.	Car initial.	number.	Pea.	Buck.	Rice.	Barley.
1908. Nov. 8	D., L. & W	45118	26.16			

(Before the Interstate Commerce Commission, Marian Coal Company, against the Delaware, Lackawanna & Western Railroad Company, Docket No. 3592.)

The defendant answers the complaint of the complainant herein, as

Docket No. 3592.)

The defendant answers the complaint of the complainant herein, as follows:

First. It admits the allegations contained in the paragraph of said complaint marked "I," except that it is not advised as to the exact distance of complainant's washery from the Bloomsburg division of the defendant's railroad, and except that it denies that the Delaware, Lack awamna and Western Coal Company is an organization affiliated with the defendant.

Second. It admits that the defendant is a common carrier, organized under the laws of the State of Pennsylvania, engaged in the transportation of passengers and property by railroad by continuous carriage or shipment between the plant of the complainant to points in the States of Pennsylvania, New York, and New Jersey over its own road, and that it operates, leases, owns, and controls certain railways which are part of its system, issuing tariff sheets over such lines as part of its system, and that as to the interstate part or portion of transportation over such roads it is subject to the provisions of the act of Congress to regulate interstate commerce of the 14th of February, 1887, and acts amendatory thereof and supplementary thereto, in so far as said acts are constitutional and enforceable.

It admits that a large amount of its business is the transportation of anthracite coal. It denies that 90 per cent or any of the coal so transported is produced by the Delaware, Lackawanna and Western Coal Company or that the capital stock of said company or any part thereof is owned by the defendant.

It admits that defendant has established rates for the transportation of the producet of complainant from its plant as set forth in D., L. & W. Tariff, I. C. C. No. 6005.

It denies that any of the rates so established constitute an unjust or unreasonable charge for the services rendered or that they are in violation of the first section of the act of Congress to regulate interstate commerce, or any other law. It denies that any of the rates therein set forth or rice and b

prejudice or disadvantage or discrimination.

Third. It denies each and every allegation contained in paragraph IV of said complaint.

Fourth. As to the allegations contained in paragraph marked "V" of said complaint, defendant denies each and every allegation thereof.

Fifth. It denies each and every allegation in paragraph marked "VI" of said complaint contained, except that it admits that this defendant formerly sold such coal as it purchased from independent operators at the mine, making no charge therefor to such independent operators, and that since August, 1909, the Delaware, Lackawanna and Western Coal Company likewise has sold coal so purchased by contract without making charge therefor to such independent operators.

Sixth. Answering the allegations contained in the paragraph marked "VII" of said complaint, this defendant says that it has no knowledge or information sufficient to enable it to answer the allegations of said paragraph, except that it denies that it has any coal company, that any unjust amounts are charged complainant for freight, or that such charges are sufficient to prevent competition by complainant has attempted to ship on the line of the defendant's railroad, or that the defendant's officials have claimed the line trade as its own. Defendant alleges that it is not now and has not been since August 2nd, 1909, in the business of selling coal at any point on its line or elsewhere, except in the State of Pennsylvania.

Seventh. It denies each and every allegation contained in paragraph marked "VII" of the allegations in paragraph marked from the complainant, the defendant admits that it purchased from the complainant,

from time to time during the period referred to in the complaint, various sizes of coal at a fair price for such coal, and that it resold said coal at the best price obtainable. Whether the purchase price or selling price of such coal was as alleged in the complaint this defendant is at this time unable to answer, except to say that such prices are immaterial. It admits that considerable water is required in preparing coal at washeries and that complainant had been using water of a stream passing through or near its property. It further admits that its connecting carriers, or some of them, have refused to put in effect a joint through rate which would absorb any switching charge imposed by the defendant upon complainant's traffic. Defendant has no knowledge as to the reason given by the connecting lines for not joining in a through rate, except that such connecting lines for not joining in a through rate, except that such connecting lines for not line refused to absorb any switching charge of the defendant unless such switching charge was added to the charges applicable generally throughout the anthracite region to the transportation of coal therefrom. That it admits that in the latter part of the year 1906 a culm bank on the land of this defendant became ignited, and that there was on or about said time a fire in the culm bank of complainant which consumed considerable material and which was extinguished or cut off by complainant at considerable expense. It further admits that the defendant charged the complainant about 30¢ per ton for hauling its coal from the washery to the connection with the Central Railroad of New Jersey.

It denies each and every other allegation in said paragraph marked "IX."

Ninth. Defendant against mandat and motor of the complainant has reserved and every other allegation of the complainant has reserved.

"IX."

Ninth. Defendant admits that an officer of the complainant has repeatedly and continuously complained and protested against the defendant's alleged ill-treatment of complainant, including some of the alleged illegal acts herein complained of, and has demanded adjustments in respect to such last mentioned complaints without success.

It denies, as it has heretofore denied, any illegal acts or injustice in its relations with complainant.

in its relations with complainant.

Tenth. As to the allegations of paragraph "XI" of said complaint, defendant says that there is no switching charge at point of origin, in addition to any through rate which it has made, applicable to complainant's coal; that it has not unlawfully discriminated against complainant in any switching charge established. It admits that it has established switching charges at 5¢ and 12¢ per gross ton and of \$1.50 and \$2.00 per car, but it alleges that the circumstances and conditions surrounding the transportation and traffic covered by such charges are substantially dissimilar to those surrounding the traffic of complainant.

Eleventh, As to the paragraph marked "XII" of said complaint it.

complainant.

Eleventh. As to the paragraph marked "XII" of said complaint, it alleges that it has not completed its check of the detailed statement attached to said complaint and is unable to admit or deny the accuracy thereof, and demands due proof thereof.

THE DELAWARE LACKAWANNA & WESTERN RAILROAD COMPANY,

By J. L. SEAGEB, Its Attorney Thereunto Duly Authorized.

(Opinion No. 1925—Interstate Commerce Commission. No. 3592. Marian Coal Company v. Delaware, Lackawanna & Western Railroad Company. Submitted May 16, 1912. Decided June 8, 1912.)

Upon complaint attacking defendant's rates on anthracite coal from the Lackawanna (Wyoming) coal region of Pennsylvania to tidewater, Held:

Heid:

1. That the rates of defendant per long ton on anthracite coal in carloads from Taylor, Pa., to Hoboken, N. J., or New York Lighterage Station, N. J. (f. o. b. vessel), of \$1.58 on prepared sizes, \$1.43 on pea, and \$1.28 on buckwheat, are excessive and unreasonable in and to the extent that they exceed \$1.33 on prepared sizes, \$1.24 on pea, and \$1.09 on buckwheat, and that for the future the latter rates must not be exceeded for such movement.

2. That the complainant is entitled to reparation upon basis of the rates herein found reasonable as applied to such of the shipments embraced in its claim as were delivered within the statutory period of two years prior to the date of filing complaint. No conclusion as to the amount of the award will be given at this time, and this question will be held in abeyance for determination in a supplemental report.

H. C. Reynolds for complainant.

W. S. Jenney and J. L. Seager for defendant.

REPORT OF THE COMMISSION.

MEYER, Commissioner:

Meyer, Commissioner:

The complaint in this proceeding, filed on October 18, 1910, puts in issue the reasonableness of defendant's rates, local and proportional, on anthractic coal from Taylor, Pa., to all points on that line, and specifically seeks the establishment by the commission of rates from the Lackawanna (Wyoming) coal region of Pennsylvania to Hoboken, N. J., f. o. b. vessel there, of not more than 95 cents per gross ton on sizes larger than pea, 90 cents on sizes known as pea and buckwheat, and 75 cents on sizes known as rice and barley. Reparation in the sum of \$55,238.27 is asked for the imposition of alleged excessive rates on numerous carload shipments.

On March 13, 1911, the complainant filed another petition, No. 3931, in which it asks that the commission require the defendant herein and other carriers to establish through routes and joint rates from Taylor to specified points without the State of Pennsylvania. This complaint and No. 3592 were heard together, but before the hearing had been concluded it was announced that certain of the defendants would establish through routes and joint rates in connection with the Delaware, Lackawanna & Western Railroad. This intention led to an agreement with the complainant to discontinue further proceedings in No. 3931 unless the routes and rates were not made effective as proposed. It appears that only two of the defendants, the Central Railroad of New Jersey and the Pennsylvania Railroad, have published joint rates to points on their lines. Under the circumstances we can not in justice to the complainant dismiss this case. If an adjustment of the matter, as outlined at the hearing, is not made by all the defendants, as it has been made by the above-named two, the proceeding will be resumed with the view of making an appropriate order. The reasonableness per se of the rates established or proposed is not in issue, and the agreement in question does not prejudice the right of the complainant to test the reasonableness of such rates by the filing of a new

which at such early period were not marketable, but which are now valuable, especially for steaming purposes, owing to improved methods until reference of the market is located in the borough of Taylor, Lackawanna County, Pa., about 2,500 feet from the Bloomsburg division of defendant's line. It is served by a spur track connecting with such division mear Taylor, a point about 3 miles were contained in the property of the prop

Statement compiled from the annual reports filed with the Interstate Commerce Commission in behalf of the Delaware, Lackawanna & Western Railroad Co. for the years ending June 30, 1909, to June 30, 1911.

ALL REVENUE-EARNING FREIGHT TRAFFIC.

Item.	1909	1919	1911
Total tonnage. Total revenue. Ton-mileage. Ton-per-mile revenue. mills.	19,053,696 \$24,832,586.66 3,363,062,727 7.38	21,608,849 \$26,789,316.44 3,675,364,577 7.29	21,563,915 \$26,967,755.87 3,642,161,113 7.16
ANT	THRACITE COAL		
Total tonnagegross tons Revenue Ton-mileage	19,083,827 \$14,500,081 1,870,431,785	10,298,870 \$14,544,751 1,929,304,584	9,644,864 \$13,637,892 1,828,065,293
Ton-per-mile revenue: Mills per ton of 2,240 pounds.	7.75	7.54	7.46

ALL REVENUE-EARNING FREIGHT TRAFFIC OTHER THAN ANTHRACITE COAL.

Item.	1909	1910	1911
Total tonnage	9,019,800	11,804,979	11,919,051
	\$10,332,555.66	\$12,244,565.44	\$12,429,863.87
	1,403,630,942	1,746,060,043	1,814,095,820
	6.91	7.01	6,85

That the traffic handled by the defendant has been very remunerative is revealed by the following financial statement and condensed balance sheet compiled from the annual reports of that carrier to the commission for the last four years:

The Delaware, Lackawanna & Western Railroad Co. financial statement for years 1908-1911. [Compiled from annual reports to the Interstate Commerce Commission.]

	1911	1910	1909	1908
INCOME ACCOUNT.				
Operating revenuesOperating expenses	\$35,947,066 21,627,942	\$36,005,987 19,292,769	\$33,553,436 18,477,713	\$33,810,254 19,622,043
Net operating revenue	14,319,124	16,713,218	15,075,723	14,188,211
Net revenue from outside op- erations	295,524	280,673	304,036	245,165
Total net revenue	14,614,648 1,640,664	16,993,891 1,516,000	15,379,758 1,094,400	14,433,376 1,290,300
Operating incomeOther income	12,973,984 1,039,552	15,477,891 1,048,960	14,285,358 1,422,827	13,143,076 1,382,884
Gross corporate income Rents and miscellaneous de-	14,013,536	16,526,851	15,708,185	14,525,960
ductions	5,476,000	5,531,728	5,500,646	5,500,860
Interest on funded debt Dividends from income 1	6,486	6,486	5,240,000	35,531 5,240,000
Appropriations for betterments.	2,554,875	2,471,020	1,676,875	3,540,120
Balance to profit and loss	1 52,125	2 2,488,831	23,291,164	2 209,449
PROFIT AND LOSS.				
Balance at beginning of year	32,072,279	39,819,591	31,922,627	28,274,900
Other properties-profit	3,228,958	4,079,877	4,634,635	3,614,063
Dividends from surplus 3		17,030,000		***********
Credit balance to balance sheet	a and an a	5.00	ALL DATE	
after other adjustments are	n= 000 00=	99 079 070	90 010 501	91 000 000
made	35,362,685	32,072,279	29,819,591	31,922,627
BALANCE SHEET.				
Assets: Road and equipment, less reserves for accrued de- preciation	42,301,394	28,848,710		
Securities	17,323,041	13,666,707 2,817,450	1	
Other investments Working assets	2,957,897 19,856,547	19,846,994		
Deferred debit items	5,241,117	6,319,261		
Total	87,179,996	81,499,131		
Liabilities:				eet form not ble with 1910
Stock	30,347,720	30,347,720	and 1911.	
Mortgage bonds	320,000	320,000	1	
Working liabilities	6,567,776	6,941,021		
Accrued liabilities not due Deferred credit items	3,047,304 179,023	2,797,343 309,656		
Appropriated surplus	11,355,488	8,801,112	1	
Balance	35,362,685	\$2,072,279		
	87,179,996	81,499,131	1 100000	

1 Debit

Debit.

Credit.

Rate of dividends from both income and surplus, 1911, 20 per cent; 1910, 85 per cent; 1909, 20 per cent; 1908, 20 per cent.

Note.—The capitalization covers both railroad and coal properties.

In former reports an assignment of \$10,000,000 was made to other properties, purporting to represent the capital cost of coal properties, etc. The division was purely arbitrary and had no basis. The two interests are inseparable and we do not care to guess how much is applicable to either." (Annual Report, 1908, p. 28.)

This financial statement shows a high degree of prosperity. With practically no bonded indebtedness, the dividends actually paid in four years are nearly one and a half times the par value of the stock. At the same time there have been expended, since June 30, 1907, out of income for improvements over eleven million dollars, leaving a surplus in 1911 of over thirty-five million dollars. It is true that these returns in part come out of the profits of coal mining, but the capitalization covers both the railroad and coal properties. It should be noted, however, that the capitalization of the Delaware, Lackawanna & Western per mile of all tracks is low as compared with roads in this territory, including the other anthractic roads.

In the case of Meeker & Co. v. L. V. R. R. Co., 21 I. C. C., 120, the commission reached the conclusion that the rates for the transportation of coal from the Wyoming region of Pennsylvania to Perth Amboy, N. J. (tidewater), of \$1.55 per ton on prepared sizes, \$1.40 on pen, and \$1.20 on buckwheat, were unreasonable so far as they exceeded \$1.40 on prepared sizes, \$1.30 on pen, and \$1.15 on buckwheat. These reductions of 15, 10, and 5 cents, respectively, were on rates which applied for an average distance of 165 miles. The maximum rates established by the commission afford the carrier ton-mile earnings of 8.48, 7.87, and 6.96 mills, respectively. Upon this basis the

rates to tidewater of the defendant herein would be approximately \$1.31 on prepared sizes, \$1.22 on pea, and \$1.08 on buckwheat.

Following is a comparison for the past 10 years of the anthracite coal rates per gross ton maintained by the Lackawanna and Lehigh Valley Railroads and the Central Railroad of New Jersey from the Wyoming region of Pennsylvania to tidewater:

From-	То—	Period.	Pre- pared sizes.	Pea.	Buck- wheat and culm.
Mines on Central R. R. of New Jersey.	Elizabethport, N. J., and Port John-	Jan. 1, 1902, to Jan. 15, 1905, inclusive.	\$1,55	31.40	\$1.20 Buckwheat No. 1.
sersey.	t ston, N. J.	Jan. 16, 1905, to date.	1.55	1.40	1.20
		Jan. 1, 1902, to	1.55	1.40	1.25
Mines on Lehigh		Nov. 15, 1908, inclusive.			Buckwheat.
Valley R. R. (Le- high, Schuylkill, and Wyoming	Perth Amboy, N. J., f. o. b. vessels.	Nov. 16, 1903, to Jan. 9, 1905, inclusive.	1.55	1.40	1.25
regions).		Jan. 19, 1905, to Oct. 14, 1911, inclusive.	1.55	1.40	1.20
Lehigh and Schuylkill re- gions.	do	Oct. 15, 1911, to date.	1.55	1.40	- 1.20
Wyoming region	do	do	1.40	1.30	1.15
Mines on Dela-	Hoboken, N. J., f. o. b. vessels.	June 1, 1903, to Feb. 25, 1912, inclusive.	1,58	1.43	1.28
ware, Lacka- wanna & West- ern R. R.	New York Lighterage Station, N. J., f. o. b. vessels.	Feb. 26, 1912, to date.	1.58	1,43	1.28

It will be seen from this table that the tidewater rates on prepared sizes, pea, and buckwheat over these lines have remained unchanged for 10 years past except over the Lehigh Valley, which reduced its rate on buckwheat 5 cents per ton on January 10, 1905, and on October 15, 1911, established the lower rates on the three sizes in accordance with the commission's order in the Meeker case, supra. In this connection it is worthy of note that this carrier confined the latter reduction to the rates from the Wyoming region alone, although it had always, prior to that time, maintained the same rates from the Lehigh, Schuyikill, and Wyoming regions.

The defendant and the Lehigh Valley Railroad also transport anthractic coal from the Wyoming region to the Lake Eric port of Buffalo for shipment beyond. A comparison of the present rates per gross ton for this movement is as follows:

	Prepared sizes.	Pea.	Buck- wheat.	Rice and barley.
Mines on Delaware, Lackawanna & Western R. R. to Buffalo, N. Y	\$2.00	\$1.75	\$1.75	\$1.75
llines on Lehigh Valley R. R. to Buffalo, N. Y., f. o. b. vessel	2.25	2.00	2.00	2.00
Mines on Lehigh Valley R. R. to Buffalo, N. Y., for reshipment via rail	2.00	1.75	1.75	1.75

The distance to Buffalo via the line of the defendant from Wyoming, Pa., which may be taken as a representative point of origin, is 277.6 miles, and the rate per ton per mile on prepared sizes is 7.2 mills, or 3.4 mills less than the rate under attack, from Taylor, Pa., to tidewater, a distance of 147.8 miles. Via the Lehigh Valley from Wyoming, Pa., to Buffalo the distance is 273 miles, and the rate per ton per mile on prepared sizes, for reshipment by rail, is 7.3 mills, and f. o. b. vessel 8.2 mills. The Lehigh Valley rate on prepared sizes from the Wyoming region to tidewater, a distance of 165 miles, was, until reduced by the commission, 9.4 mills. This table shows that on coal to the Lakes no difference is made in the rates on pea, buckwheat, rice, and barley.

A study of the anthracite-coal movement of the principal coal-carrying roads shows that the bulk of the tidewater coal goes to the New York terminals, and that this tonnage is greatly in excess of the 2ggregate tonnage to all Lake Erie and Lake Ontario ports, including Buffalo, for domestic as well as Canadian destinations. The following is a statement of the total anthracite movement of eight originating carriers for the last two calendar years:

Anthracite coal movement.

Shipments by railroads, via— 1910		1911
Philadelphia & Reading Lehigh Valley Central Railroad of New Jersey Delaware, Lackawanna & Western Delaware & Hudson Permsylvania Erie. New York, Ontario & Western	Long tons. 12,445,733 11,195,763 8,519,135 9,589,076 6,578,356 6,250,976 7,554,198 2,772,547	Long tons. 13,265,758 12,603,000 9,218,802 9,869,620 7,206,731 6,494,733 8,800,179 2,495,476
Total	64,905,786	69,954,299

The tidewater coal handled at the principal ports was as follows:

То—	1910	1911	
DOMESTIC SHIPMENTS, New York. Philadelphia Baltimore.	Long tons. 13,991,426 1,980,830 271,122	Long tons. 14,651,401 2,197,750 257,025	
Total domestic shipments	16,243,378	17,106,176	
EXPORTS.			
Baltimore New York Newark, N. J Perth Amboy, N. J Philadelphia	3,248 65,807 23,385 42,591 74,733	4,525 87,747 36,064 33,547 52,984	
Total	209,764	214,867	
Total shipments	16,458,142	17,321,043	

These figures show the quantities of anthracite coal handled over tidewater docks at New York, Philadelphia, and Baltimore; also exports from these three ports as well as from Newark and Perth Amboy, N. J. Some of these exports, especially at New York, may be contained in the totals of tidewater coal reported by the carriers, but as the exports are relatively small the error resulting from either adding or disregarding the export figures would not be very serious.

The lake shipments of anthracite coal during the same calendar years were as follows:

Lake shipments of anthracite coal,

	1910	1911
TO DOMESTIC DESTINATIONS. From Lake Eric ports	Short tons. 3,927,106 226,366	Short tons. 4,074,383 254,419
Total domestic	4,153,472	4,328,802
Equivalent in long tons	3,708,904	3,865,002
EXPORTS BY LAKE. From Buffalo customs district From Oswego¹ customs district	Long tons, 320,677 456,627	Long tons. 462,588 778,437
Total, long tons	4,486,208	5,103,027

¹ Figures represent probably exports by lake as well as rail; exports by lake only are not given. The customs district of Oswego includes Sodus Point and Fair Haven.

Sodus Point and Fair Haven.

The foregoing tables have been compiled from data in the possession of the commission.

No definite calculation of initial and terminal expenses was submitted by defendant although it endeavored to show that they are "extremely expensive." It is clear, however, that any possible allowance on account of such extra cost would not bring the total operating expenses to a point where rates of \$1.33 on prepared sizes, \$1.24 on pea, and \$1.09 on buckwheat would not be highly remunerative for the average haul of 155 miles from the mines to tidewater. These rates are based on a consideration of the ton-mile rates established by the commission in the Meeker case, supra, making due allowance for the fact that for a shorter distance the ton-mile rate should be slightly higher.

are based on a consideration of the ton-mile rates established by the commission in the Meeker case, supra, making due allowance for the fact that for a shorter distance the ton-mile rate should be slightly higher.

Considering all the facts of record, we are of the opinion that the defendant's rates per long ton on anthracite coal in carloads from Taylor, Pa., to Hoboken, N. J., or New York Lighterage Station, N. J. (f. o. b. vessel), of \$1.58 on prepared sizes, \$1.43 on pen, and \$1.28 on buckwheat are excessive and unreasonable in and to the extent that they exceed \$1.33 on prepared sizes, \$1.24 on pen, and \$1.09 on buckwheat, and that for the future the latter rates must not be exceeded for such movement.

We are further of the opinion that the complainant is entitled to reparation upon basis of the rates herein found reasonable as applied to such of the shipments embraced in its claim as were delivered within the statutory period of two years prior to the date of filing complaint. No conclusion as to the amount of the award will be given at this time, and this question will be held in abeyance for determination in a supplemental report.

The complaint contains numerous allegations not connected with the rate. All of them relate to the manner of conduct of the carrier's business in certain respects. The commission is charged with the duty of keeping itself informed with respect to the manner in which this business is conducted, and therefore this report might well devote attention to such matters. However, the petitioner is primarily interested in the rates in question, and we are disposing of that feature of its complaint at this time to avoid the delay which a fair consideration of the collateral issues might necessitate. The extent to which, if any, such collateral issues might necessitate. The extent to which, if any, such collateral issues will be dealt with in a formal report is a matter for future determination.

An order will be issued in accordance with the conclusions herein expressed.

ORDER.

(At a general session of the Interactic Commerce Commission, held at its office in Washington, D. C., on the 8th day of June, A. D. 1912. No. 3592. Marian Coal Company v. the Delaware, Lackawanna & Western Railroad Company.)

1. This case being at issue upon complaint and answer on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the

commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof, and having found that the above-named defendant's present rates for the transportation of anthracite coal in carloads from Taylor, Pa., to Hoboken, N. J., or New York Lighterage Station, N. J. (f. o. b. vessel), are, to the extent that said rates exceed those named in paragraph 3 hereof, unreasonable and unjust:

unjust:

2. It is ordered, That said defendant be, and it is hereby, notified and required to cease and desist, on or before the 15th day of August, 1912, and for a period of not less than two years thereafter abstain, from exacting their present rates for the transportation of anthractic coal in carloads from the point of origin named in paragraph 1 hereof to the points of destination mentioned in said paragraph.

3. It is further ordered. That said defendant be, and it is hereby, notified and required to establish, on or before the 15th day of August, 1912, and maintain in force thereafter during a period of not less than two years, rates for the transportation of anthractic coal in carloads from Taylor, Pa., to Hoboken, N. J., or New York Lighterage Station, N. J. (f. o. b. yessel), which shall not exceed the following periong fon: \$1.33 on prepared sizes, \$1.24 on pea, and \$1.09 on buckwheat.

By the commission:

Sceretary.

(Opinion No. 2012—Interstate Commerce Commission. No. 3592, Marian Ceal Company v. Delaware, Lackawanna & Western Railroad Company. Decided October 19 1912.)

Defendant's rate per long ton on anthracite coal in carloads from Taylor, Pa., to Hoboken, N. J., or New York Lighterage Station, N. J., f. o. b. vessel, of \$1.13 on rice and smaller sizes found excessive and unreasonable to the extent that it exceeds 98 cents per long ton.

H. C. Reynolds for complainant.

W. S. Jenney and J. L. Seager for defendant.

SUPPLEMENTAL REPORT OF THE COMMISSION.

MEYER, Commissioner:

Meyer, Commissioner:

The original report in this case (24 I. C. C., 140) found that the rates of defendant per long ton on anthracite coal in carloads from Taylor, Pa., to Hoboken, N. J., or New York Lighterage Station, N. J., f. o. b. vessel, of \$1.58 on prepared sizes, \$1.43 on pea, and \$1.28 on buckwheat were excessive and unreasonable in and to the extent that they exceeded \$1.33 on prepared sizes, \$1.24 on pea, and \$1.09 on buckwheat, and that for the future the latter rates must not be exceeded for such movement. No finding was made as to the rate on the smaller sizes, barley and rice, although the complaint also put such sizes in issue.

The complainant has applied for a modification of our order, requesting that we reduce defendant's rate of \$1.13 per long ton on rice and smaller from Taylor, Pa., to tidewater, f. o. b. vessel, Hoboken, N. J., to a degree proportionate to the reduction on the larger sizes. We are asked to establish rates on rice, barley, and culm. The original petition does not involve culm, and no testimony covering it was submitted; therefore we can not in this proceeding consider the matter of a specific rate on that grade of coal.

It appears, however, from further investigation that our original findings should be supplemented so as to include a rate on rice and barley. The record shows that the complainant sought the establishment of a rate on these sizes and introduced evidence in support thereof. Our former report embraced a consideration of defendant's rate of \$1.13 on rice and smaller (which would apply on rice and barley) and showed that such rate per ton-mile for the distance of 147.8 miles from Taylor to Hoboken amounts to 7.6 mills; also that on basis of the rate sought by complainant the ton-mile evenue would be 5 mills. We further pointed out that the ton-mile earnings on the rate of \$1.13 approximate 7.2 mills when we accept defendant's claim of 155 miles as the average distance to tidewater from all the collieries and washeries reached by its line.

A large part of th

distance to tidewater from all the collieries and washeries reached by its line.

A large part of the shipments involved in the original claim for reparation consisted of rice and barley, and the complainant asserts that it still has a considerable tonnage of these sizes to ship. In our former report we found that the rate on buckwheat should not exceed \$1.09, and it is apparent that our failure to fix a rate on rice and barley, which are in size and value less than buckwheat, would leave in force the rate of \$1.13 on such smaller sizes, or a rate 4 cents greater than the rate fixed by us on the next larger size.

We based our conclusions with respect to the rates on prepared sizes, pea and buckwheat, upon the evidence of record and the facts adduced from our examination and analysis of the annual reports filed by defendant in their relation to the rates on coal. We think such evidence and facts apply with equal force to the rate on rice and smaller, and in consideration thereof it is our judgment and determination that defendant's rate per long ton on anthracite coal in carloads from Taylor, Pa., to Hoboken, N. J., or New York Lighterage Station, N. J., fo. b, vessel, of \$1.13 on rice and smaller is excessive and unreasonable to the extent that it exceeds 98 cents per long ton and that for the future the latter rate must not be exceeded for such movement. An order will be issued in accordance with these conclusions.

We further find that the application of defendant's rate of \$1.13 per long ton upon such of complainant's shipments of rice and smaller sizes embraced in its claim as were delivered within the statutory period of two years prior to the date of filing the complaint damaged complainant to the extent of the difference between the amount which it did pay on such shipments and the amount which it would have paid at the rate of 98 cents per long ton herein found reasonable, and that it is entitled to reparation in the sum of such difference. An order awarding reparation will be issued following the rece

(At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 19th day of October, A. D. 1912. No. 3592. Marian Coal Company v. The Delaware, Lackawanna & Western Railroad Company.)

1. Upon further consideration of the record in the above-entitled case, the cammission having found that the above-named defendant's present rate for the transportation in carloads of anthractic coal, rice and smaller sizes, from Taylor, Pa., to Hoboken or New York lighterage station. N. J., f. o. b. vessel, is, to the extent that said rate exceeds the rate named in paragraph 3 hereof, excessive and unreasonable.

2. It is ordered, That said defendant be, and it is hereby, notified and required to cease and desist, on or before the 1st day of January, 1913, and for a period of not less than two years thereafter, abstain from exacting its present rate for the transportation in carloads of anthracite coal, rice and smaller sizes, from Taylor, Pa., to Hoboken or New York lighterage station, N. J., f. o. b. vessel.

3. It is further ordered, That said defendant be, and it is hereby, notified and required to establish, on or before the 1st day of January, 1913, upon notice to the Interstate Commerce Commission and the general public by not less than five days, filing and posting in the manner prescribed in section 6 of the act to regulate commerce and for a period of two years after said 1st day of January, 1913, to maintain and apply a rate for the transportation in carloads of anthracite coal, rice and smaller sizes, from Taylor, Pa., to Hoboken or New York lighterage station, N. J., f. o. b. vessel, which shall not exceed 98 cents per long ton. long ton.
By the commission:

Secretary.

Mr. Manager STERLING. Mr. President, I will offer now all printed documents in the cases Nos. 38 and 39, and in what is known as the Meeker case, about which the witness Snyder, the clerk of Commerce Court, testified on Saturday last. We do not want them printed, and we shall not ask to have them of not want them printed, and we shall not ask to have them printed in the record and read, but they are here for inspection.

Mr. WORTHINGTON. They should be marked in some way.

for identification.

The PRESIDENT pro tempore. If it is agreeable to counse! that they shall be simply here for the convenience of counsel without being incorporated into the record-

Mr. WORTHINGTON. It is entirely so if they are marked so that they can not get mixed up. They should be marked as exhibits in their regular order.

The PRESIDENT pro tempore. They will be identified in the way suggested by counsel. Will the managers name the the way suggested by counsel. witness next desired.

Mr. Manager CLAYTON. We next desire to examine Mr.

TESTIMONY OF EDWARD E. LOOMIS.

Edward E. Loomis entered the Chamber.

The PRESIDENT pro tempore. Mr. Loomis, state your name and address.

The WITNESS. Edward E. Loomis; house address, 160 West Fifty-ninth Street, New York; office address, 90 West Street, New York.

Edward E. Loomis, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Mr. Loomis, please state your name and address.—A. Edward E. Loomis; residence, 160 West Fifty-ninth Street, New York.
Q. State whether or not you are connected with the Delaware, Lackawanna & Western Railroad Co., and if so, in what position?—A. I am vice president of the Delaware, Lackawanna & Western Railroad Co. Western Railroad Co.

Q. I will ask you to state, Mr. Loomis, whether or not you had at any time a conversation with Judge Archbald, or he with you, concerning a proposed settlement of disputes between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co., through an attorney, Mr. Watson?—A. We did. Q. Now, state fully the circumstances of that conversation;

tell all about it in your own way .- A. I think it was in the latter part of August, 1911, on one of my inspection trips in Scranton, I met Judge Archbald either on the street or in the club, I do not recollect which, and in the course of conversation the question of settling up the pending difficulties with the Bolands was raised.

Q. By "the Bolands," you mean the Marian Coal Co.?-A.

Yes; the Bolands-the Marian Coal Co.

Q. Their corporation was called the Marian Coal Co.?-A. Yes, sir. I replied to him that it was the policy of our company to settle all cases out of court if we could do so on a fair basis. The judge stated that he thought possibly the case could be settled on a fair basis now, and suggested that I have some one call on Attorney Watson. I agreed to do that, and on my return to the company's office in Scranton our superintendent of the mining department, who would have been the proper party to call on Mr. Watson, as he was more familiar with the case, being away, in his absence I requested our superintendent, or our assistant general superintendent at that time, to call on Mr. Watson and listen to what he had to say.

Q. Please state the name of this official.—A. Mr. Rine was the assistant general superintendent of the railroad. He is the general superintendent now, and I think he was the superintendent at that time. He reported that he had a very short interview with Mr. Watson, but that Mr. Watson wanted to see him again and would let him know when. Mr. Watson did call on him or he telephoned him later. Col. Phillips, the superintendent of our mining department, had returned from his vacationQ. Now, Mr. Loomis, at that point permit to ask you whether Mr. Rine reported to you verbally or in writing?—A. Verbally, as I recollect.

Q. Go on with your statement.—A. Mr. Phillips called on Attorney Watson, discussed the case with him, and reported to me in writing. That letter, I think, is in evidence here; I think it is in the record, and I can read it if you wish.

Q. I am trying to find it. [Handing paper to witness.] Examine that letter and see if that is Mr. Phillips's letter to you.-

Q. Now, examine the note attached to it and explain to us what that is .- A. This letter from Col. Phillips reports-do you wish me to read this letter or to state in substance what it contains?

Q. I want you to identify it and explain what the note attached to it meant, and there seems to be another paper attached to it.—A. There is. On receipt of this letter I turned it over to our legal department with a view of ascertaining there were two claims involved in this settlement; one was the claim

Q. Just wait a moment. I want to get those documents identified. One of those letters is a letter which you received from Mr. Phillips and the other is the note?—A. The indorsement over to our legal department; yes.

Mr. Manager FLOYD (to Mr. Worthington). Do you wish to examine the letter?

Mr. WORTHINGTON. Oh, no; we have seen the letter. Mr. Manager FLOYD. Mr. President, we ask that the letter be marked as an exhibit and read in evidence, with the note attached to it.

The PRESIDENT pro tempore. The letter will be marked and read as requested. Is it the manager's desire that the paper be handed back to the witness?

Mr. Manager FLOYD. Yes; he can have it if he desires to refresh his memory. We desire to have it read in evidence at this point. I ask the Secretary to read first the letter and then

The PRESIDENT pro tempore. The Secretary will read as

The Secretary read the paper marked "U.S. S. Exhibit 39," as follows:

[U. S. S. Exhibit 39.1

DELAWARE, LACKAWANNA & WESTERN RAILROAD CO., COAL MINING DEPARTMENT, Scranton, Pa., September 1, 1911.

Mr. E. E. LOOMIS, Vice President, New York, N. Y.

Nr. E. L. 100MIS,

Vice President, New York, N. Y.

Dear Sir: I have had two conferences with George Watson, attorney, relative to settlement of Boland's claim against our company. He came in this morning and stated that he had a long conference with the Marian Coal Co. people, and after going over all the claims they have against us. particularly the claims for excessive freight rates, he stated that Mr. Boland says there were 376,000 tons of coal shipped by the Marian washery, for which he had paid an excess freight averaging 43 cents a ton. The total amount of this claim alone is \$161,680, and Mr. Boland would agree to sell us his washery, turn over his lease, satisfy all claims, etc., now pending against our company if we would pay him this \$161,680. Mr. Watson intimated to me that possibly this could be shaded somewhat, and that he would be pleased to go over the matter with you at your earliest convenience. Mr. Watson strongly recommends that this matter be adjusted, for the reason that the Boland people have considerable data that would not be well to disclose before the Interstate Commerce Commission.

I promised to let Mr. Watson know the early part of next week as to whether he can confer with you further relative to this matter. If there is anything further I can do in this matter, please advise.

Yours, truly,

R. A. Philllips.

R. A. PHILLIPS.

The Secretary. There is a notation on the outside on a paper attached, with the initials "W. S. J." at the top, which reads:

W. S. J. :

How much, if anything, can we afford to offer?

E. E. L.

There is another letter attached to this. The SECRETARY. Mr. Manager FLOYD. Let me examine that. I did not know the other letter was attached. [Examining paper.] I find that one is simply a copy of the other.

The PRESIDENT pro tempore. Are they both to be filed or only the original copy

Mr. Manager FLOYD. Detach the copy; it is not necessary to have them both.

Q. (By Mr. Manager FLOYD.) Now, Mr. Loomis, if you desire to make any further statements about that letter you

The Witness. You notice in that letter he refers to two claims which the Bolands had. One was in connection with the freight rate and pending litigation and the other was in connection with the sale of his washery. Upon receipt of that letter I indorsed it over to our legal department to ascertain what, if any, value there was to the claim in the way of

excessive freight rates, in their opinion. They conferred with our traffic people, and replied to me that they thought the claim would amount to approximately \$3,700. I then, in order to ascertain the value of the washery which he was trying to sell. wrote another letter to Col. Phillips, or, rather, requested Col. Phillips to make a report as to the value of the washery and the Marian Coal Co.'s plant, which he did, and he reported to me that its value would approximate \$11,853. That made the total value of Mr. Boland's claim, first, for the freight claims as estimated by our traffic people at that time, about \$4,000, and the claims on account of the washery at approximately between \$11,000 and \$12,000; so that the total claims, you will note, amounted to only about \$15,000, as compared with the claim that they were presenting to settle of \$161,000.

Q. Mr. Loomis, did Mr. Phillips report to you verbally or in writing a did har that they were presenting to settle of \$100.

writing?-A. In writing; and that letter was put in evidence.

It is under date of September 25, 1911.

Will you examine that letter for the purpose of identification, Mr. Loomis?-A. (After examining paper.) That is cor-

Mr. Manager FLOYD. Mr. President, we ask that the letter be read in evidence at this point and marked an exhibit.

The PRESIDENT pro tempore. The letter will be marked

and read by the Secretary.

The Secretary read the paper marked "U. S. S. Exhibit 40," as follows:

[U. S. S. Exhibit 40.]

(Form C. M. D. 92-A. 10-09. Lackawanna Railroad. R. A. Phillips, superintendent; C. E. Tubey, assistant superintendent.)

THE DELAWARE, LACKAWANNA & WESTERN RAILROAD CO.,
COAL MINING DEPARTMENT,
Scranton, Pa., September 25, 1911.

Mr. E. E. Loomis, Vice President, New York, N. Y.

Vice President, New York, N. Y.

Dear Sir: Referring to the additional information relative to the value of the Marian Coal Co. property.

Would call your attention to copy of letter of Master Carpenter Robinson to Superintendent Samson, in which you will note that he places no value on the washery building. Mr. Thornton has made a careful appraisement of the machinery, which, you will note by the statement attached, is \$11,853.29.

As to the value of the dump. I call your attention to letter from Chief Engineer La Monte in which you will note there is about from 20,000 to 30,000 tons of coal yet remaining that could be prepared, but the value of it is nothing more than the royalty value, which should not be considered as any value to us as a purchaser.

Therefore the value of the Marian Coal Co. plant to us as it stands would be appraised value of machinery, as made by Mr. Thornton, viz, \$11,853.29.

Mr. George Watson has called upon me two or three times, asking for an answer to his proposition. Also if he can arrange to confer with you on the matter of settlement. Please advise me what answer I shall make him.

Yours, truly,

R. A. Philllips.

Yours, truly,

Q. (By Mr. Manager FLOYD.) Mr. Loomis, I will ask you to state what action you took when Mr. Phillips made this report

on September 25, I believe it was?—A. I wrote Judge Archbald in connection therewith under date of September 27.

Q. Will you examine the paper, which I hand you, and state whether or not that is a copy of the letter, which you sent to Judge. Archbald? Judge Archbald?-A. (After examining paper.) That is cor-

Mr. Manager FLOYD. Mr. President, we ask that it be read in evidence at this point and marked an exhibit.

The PRESIDENT pro tempore. It will be marked and read. The Secretary read the paper marked "U. S. S. Exhibit 41," as follows:

[U. S. S. Exhibit 41.]

SEPTEMBER 27, 1911.

Judge R. W. ARCHBALD, Scranton, Pa.

My Dear Judge: As per our recent interview, I instructed our people to call on Attorney Watson in connection with the Boland case, and I find there is little, if any, prospect of our reaching any settlement of this case, owing to the very great difference of opinion as to the merits of Mr. Boland's claims and the value of his properties.

Thanking you, however, for your good efforts in this direction, I am, Very truly, yours,

Q. (By Mr. Manager FLOYD.) This letter is dated September 27, 1911. Did you also write a letter to Mr. Phillips at that time?-A. I did.

Q. Before we get to that, did you reply to Judge Archbald's letter?-A. That is the reply you just read.

Q. Yes; did he reply to your letter-that is what I meandid he make any reply by letter?-A. He did; yes, sir; the next day, I think it was, on September 28.

Q. I will ask you to examine the paper which I hand you and state whether or not that is Judge Archbald's letter to you in reply to your letter of September 27 .- A. (After examining paper.) It is.

Mr. Manager FLOYD. Mr. President, we ask that it be marked an exhibit and read in evidence at this point.

The PRESIDENT pro tempore. It will be marked and read by the Secretary.

The Secretary read the paper marked "U. S. S. Exhibit 42,"

as follows:

[U. S. S. Exhibit 42.1

(R. Archbald, judge, United States Commerce Court, Washington.) SCRANTON, PA., September 28, 1911.

My Dear Mr. Loomis: I am very sorry to have your letter stating that you have not been able to effect a settlement with Mr. Boland. I trust, however, that the matter is still not beyond remedy. And if I thought that it would help to secure an adjustment I would offer my direct services. I have no interest except to try and do away with an unpleasant situation for both parties, and I hope that this still may be possible. possible. Yours, very truly,

R. W. ARCHBALD.

Q. (By Mr. Manager FLOYD.) Mr. Loomis, I ask you to examine this paper and state if that is the paper that you sent to Mr. Phillips on the same date that you wrote Judge Archbald, September 27.—A. (After examining paper.) September 27; yes, sir.

Mr. Manager FLOYD. Mr. President, I will ask that the letter be marked as an exhibit and read in evidence at this

The PRESIDENT pro tempore. The letter will be marked

and read by the Secretary.

The Secretary read the paper marked "U. S. S. Exhibit 43," as follows:

[U. S. S. Exhibit 43.]

(E. E. Loomis, vice president. Exhibit 131.)

THE DELAWARE, LACKAWANNA & WESTERN RAILROAD CO., 90 WEST STREET, New York, September 27, 1911.

The Delaware, Lackawanna & Western Ralibood Co.,

New York, September 27, 1911.

Mr. R. A. Phillips,
Superintendent Coal Mining Department, Scranton, Pa.

Dear Sir: I send you herewith copy of a letter I have this day written Judge Archbald in connection with the settlement of the Boland case. As you must know, the figures Mr. Watson suggested in settlement are simply ridiculous.

In the first place, you are too familiar with the merits of his claims as to our having set fire to the Holden dump, or diverting water from his washery, or as to our preventing him from selling the washery at an advantageous figure for me to enter into any discussion of them. In other words, I think you will agree with me, he would have a pretty hard time to go into court and make out a case in any of these claims.

Assuming we were obliged to adopt the freight rates which have recently been established by the commission in the Meeker case. In this award the commission reduced the freight rate on buckwheat coal to tidewater to \$1.15 per ton. They did not, however, reduce the rates on rice and barley. In other words, they O. K.'d the present rates on these two smaller sizes, and it is fair to assume, after doing so, they will not grant a lower rate to Mr. Boland. Assuming that Mr. Boland is entitled to reparation on the buckwheat shipments he has made over our line since he has been operating his washery, based on the findings in the Meeker case, our freight department state he could not recover but \$3,774.64.

As to the purchase of his washery, I think you will agree we are not particularly keen to purchase old washery machinery. We have plenty of that on hand ourselves, and the building and bank seem to be of little or no value.

Taking all the matters into consideration, as enumerated in Mr. Seager's letter, copy of which is attached hereto, I doubt if we care to make any offer to Mr. Watson. I can see no objection, however, to your meeting him and explaining to him our position.

From the above you will note we would not be warran

The Secretary. In the first paragraph of the letter, after the word "figures," there is written in pencil "Mr. Watson," the word "he" being stricken out; and after the words "buckwheat coal to tidewater," in the third paragraph, there is written in pencii "to \$1.15."

Q. (By Mr. Manager FLOYD.) Mr. Loomis, please state if,

shortly after that letter, you received a letter from Mr. Watson concerning this settlement.—A. Yes; I did.

Q. Will you examine the paper I send you and state whether that is the letter?-A. (After examination.) It is.

Q. Please state the date of the letter.—A. October 2, 1911. Mr. Manager FLOYD. Mr. President, we ask that this be marked as an exhibit and be read in evidence at this point. The Secretary read as follows:

[U. S. S. Exhibit 44.]

(George M. Watson, attorney at law., Scranton, Pa. In re claim of Marian Coal Co.)

OCTOBER 2, 1911. Mr. E. E. Loomis,
Vice President Delaware, Lackawanna &
Western Railroad Co., 90 West Street, New York City.

DEAR SIR: In relation to a matter existing between the Marian Coal Co. and your road and coal department, and also a claim against the traffic department of your road which I have had under consideration here and with which I presume you are more or less familiar, I decided after a conference with your Mr. Phillips, of the coal department, to ask for a meeting with you and the president of your road, Mr. Truesdale, if convenient, at the earliest time you could find your way clear

to meet me either in New York or Scranton. If you will kindly advise me either by wire or letter, I will hold myself in readiness to meet you on a few hours' notice.

I am, very truly, yours,

G. M. WATSON.

Q. (By Mr. Manager FLOYD.) I will ask you to state if about the same time you received a letter from Judge Archbald pertaining to the same subject matter; and, if so, examine the paper I send to you and see whether that is the letter.—A. (After examination.) It is. October 3, 1911.

Mr. Manager FLOYD. Mr. President, I will ask that it be

marked as an exhibit and be read in evidence at this point.

The Secretary read as follows:

[U. S. S. Exhibit 45.]

UNITED STATES COMMERCE COURT, Washington, October 3, 1911.

E. E. LOOMIS, Esq., Vice President Delaware, Lackawanna & Western, 90 West Street, New York City.

My Dear Mr. Loomis: I understand that there has been a suggestion that Mr. Watson meet you and possibly also Mr. Truesdale, and that Mr. Watson has written asking for an appointment. It seems to me, if I may be permitted to say so, that this is a very good idea. It will give you an opportunity to discuss the Boland claim with Mr. Watson upon a somewhat different basis than Col. Phillips could representing the coal department.

I have little doubt but that it will appear so to you, and it may be altogether unnecessary for me to write about it. But I am sure you will not take it amiss to have me do so, and I shall hope that a settlement may yet be reached in that way. There is nothing like a personal interview to bring about such a result.

Yours, very truly,

R. W. Archealle,

O. (By Mr. Managar FLOVD.) Mr. Loomis I will ask you to

Q. (By Mr. Manager FLOYD.) Mr. Loomis, I will ask you to examine this paper and see if that is the letter you received from Mr. Phillips relating to the same transaction.—A. (After examination.) It is; dated September 28, 1911.

Mr. Manager FLOYD. We ask that it be marked as an ex-

hibit and read at this point.

The Secretary read as follows:

[U. S. S. Exhibit 46.]

(Form C. M. D. 92-A. 12-10. Lackawanna Railroad. R. A. Phillips, superintendent; C. E. Tobey, assistant superintendent.)

THE DELAWARE, LACKAWANNA & WESTERN RAILROAD CO.,
COAL MINING DEPARTMENT,
Scranton, Pa., September 28, 1911.

Mr. E. E. Loomis, Vice President, New York, N. Y.

DEAR SIR: I have your letter of the 27th instant relative to conference that I have had with Attorney Watson in connection with Marian Coal Co. matters, and would say that I agree with you in this matter and will arrange to handle it as outlined in your letter.

Yours, truly,

Q. (By Mr. Manager FLOYD.) Mr. Loomis, to refresh your memory, I will ask you to examine this paper and state if it is a letter from Mr. Rine reporting his action in the matter.—A. (After examination.) It may be; I can not say positively. I assume that it is. It is not on his letterhead, but I assume that it is. I do not recall it.

Mr. Manager FLOYD. We will not offer it at this point,

then.

Mr. WORTHINGTON. Will you let me look at it? Mr. Manager FLOYD. Yes, sir. I say we are not offering it at this point.

Mr. WORTHINGTON. I understand. Q. (By Mr. Manager FLOYD.) I will ask you to state whether or not you had any other conference or conversation with Judge Archbald in regard to this proposed negotiation or settlement except the one you testified to in the beginning of your testimony; and if so, when and where .- A. One short interview in my office in New York.

Q. As nearly as you can, please state the date when it was. A. That was between September 1 and October 5. That is as near as I can come to it. It was during the time that I was investigating the actual value of the Boland claim, when I was awaiting my reports from the traffic department and from the

coal-mining department. Q. Then, if I understand you, it was between the 1st of Sep-

tember and the 5th of October?—A. Yes, sir.
Q. What did Judge Archbald say to you in that conference?— A. It was nothing but a friendly conference. We did not enter into the merits or discuss it in any way.

Q. But as nearly as you can remember, how did it come about and what did he say?—A. He simply wanted to know, not having heard from me in any way, what progress was being made, and I told him I would call for these reports, and just as soon as I heard from these people I would let him know.

Q. What progress was being made about what?—A. What progress was being made toward finding out the value of this property. In other words, mind you, Mr. Watson up to that time had received no reply from us. I could make no reply until I received the report of the mining department and the traffic department, and there was some time elapsing, mind you,

and it was during that time that the judge wanted to know what progress was being made. I explained to him that I had called upon these people for the reports, and that as soon as I got the reports I would let him know the conclusions.

Q. What I want to bring out clearly is whether or not his onversation related to the attempted settlement through Mr. Watson and himself.—A. I do not remember whether the judge brought up the point or I brought it up. I simply told him that I had received his letter and we would let Mr. Watson know what our conclusions were,

Q. Well, the conversation related to this Watson settlement?—A. Yes; we referred to it in our conversation.

Q. Or the attempted settlement through Mr. Watson?-A.

We referred to it in our conversation; yes.

Q. It related to that; that was the matter you were investigating?-A. Yes, sir. I might add that the judge probably was not in my office 10 minutes, all told.

Q. Do you know what he was doing in New York at that

time?-A. I do not.

Q. Did he mention any other business?-A. He did not

Q. Now, Mr. Loomis, state whether or not the conference with Mr. Truesdale and yourself requested in the letter from Mr. Watson was granted; and if so, state when and where it

took place.—A. It was. It occurred in Scranton on October 5. Q. Who was present?—A. Mr. Watson; Mr. Truesdale; Mr. Phillips, superintendent of the coal-mining department; Mr. Tobey, assistant superintendent; and Mr. Reese, attorney; and myself.

Q. And that was held on the 5th of October?-A. The 5th of October, in Scranton.

Q. Did Mr. Watson appear there and submit a proposition to the officials of your company—to Mr. Truesdale?—A. He did. Q. What was that proposition?—A. A settlement for \$161,000,

approximately.

Q. How long did that conference last?-A. I do not know that I remember exactly. It was long drawn out. We got nowhere with it, though.

Q. The proposition was turned down by your company, was

it ?-A. It was.

O. Just tell as nearly as you can what took place at the conference, what was said, and what was discussed .-- A. He presented the case from their standpoint. He tried to impress us with the importance of settling it, which we failed to see and declined to consider. That is practically all that occurred.

Q. What was it that he was trying to settle-all the disputes

between the two companies?—A. Yes, sir.
Q. I will ask you to state whether Mr. Watson at that conference presented any data or facts or referred to what is known as the Meeker case as a reason why you should settle?-A. I think he did make some reference to the Meeker case, but I do not remember what it was.

Mr. REED. Mr. President, I desire to send up a question

which I should like to have propounded to the witness

The PRESIDENT pro tempore. The Senator from Missouri sends up a question which he desires propounded to the witness. It will be read.

The Secretary read the question, as follows:

Q. You state that Judge Archbald was in your office only about 10 minutes. Did he have any other business there except to discuss the matters you have referred to?

The WITNESS. I think that was all that was discussed. He passed the time of day, and we may have had some social exchange of courtesies, and that is all. He raised this point, and I told him as soon as I heard from these people I would let him know.

Q. (By Mr. Manager FLOYD.) I will ask you to state if your company at the time these negotiations were being carried on had a suit pending in the Commerce Court or were interested in any litigation before the Commerce Court?

Mr. WORTHINGTON. I think that is to be shown by the

record.

Mr. Manager WEBB. That is admitted in the pleadings, Mr. President.

Mr. WORTHINGTON. Then why prove it?

Mr. Manager FLOYD. I think-

The Witness, I know only from hearsay. I do not follow that. That is not in my department, and I have nothing at all

Q. (By Mr. Manager FLOYD.) Well, you did know it, as a matter of fact?-A. In a general way, yes. But I never at-

tended any of the meetings.

Q. What was the principal reason that Mr. Watson gave in this conference as to why the settlement should be made?-A. I beg your pardon.

he thought you ought to settle on a basis of \$161,000?-A. He tried to convince us that it was a bargain; that is, that it was worth that. He had an exaggerated idea of the value of the washery.

Q. Did he say anything about the necessity of settling this litigation on account of the ruling of the Interstate Commerce Commission in the Meeker case?-A. I think he did say it was

Q. He urged that as a reason also?-A. I am not clear on that, but I think he did.

Q. In one of these letters, if I remember correctly reading it, you referred to the proposition as ridiculous to settle on the basis proposed by Mr. Watson. Do you so regard it?

Mr. WORTHINGTON. One moment, please. I object to

what he thinks now about it.

Mr. Manager FLOYD. He said in his letter—
Mr. WORTHINGTON. He said in his letter that he thought
the claim was absurd. If you want to ask him if he believed what he wrote, there is no objection to it, but I object to your asking him what he thinks about it now.

The PRESIDENT pro tempore. The Chair understands the question to be whether the witness is of the same opinion as

to the value at this time.

Mr. Manager FLOYD. That is the question exactly; whether he regards that as an excessive demand to settle the suits-

so excessive as to be ridiculous.

Q. (By Mr. Manager FLOYD.) Do you still so regard it?-A. Certainly; his claim as to the value of the washery is ridiculous. As you probably know, the findings in the case of the Lackawanna before the Interstate Commerce Commission were not based on the findings in the Meeker case, so our estimate of the value of the claim from the rate standpoint at that time naturally was not accurate when we got our findings in the Interstate Commerce Commission later. Just what that amounts to I am not prepared to say.

Q. I ask you now if you at this time consider a demand for \$161,000 ridiculous or preposterous?-A. I could not answer that without getting a report from our traffic department and see how the findings in the Marian Coal Co. case would work

out-the same as I did before.

Q. Then since that letter was written, the case of the Marian Coal Co. has been decided by the Interstate Commerce Comsion adverse to your company, has it not?—A. It has.
Q. And you could not tell exactly about that until you had

ascertained the effect of those findings; is that what you mean ?-A. That is correct.

Q. You say the rates in this case, which was decided against your company, were not based upon the Meeker rates?—A. They were different.

Q. If the Meeker rates were applied in your case, would you regard the proposition submitted by Mr. Watson as ridicu-

lous or excessive?—A. Yes, sir.
Q. I will ask you to state, Mr. Loomis, if the conference on the 5th of October was the end of these negotiations through Mr. Watson, about which Judge Archbald spoke to you?-A. So

far as I am concerned; yes, sir. Q. Did either of the Bolands ever afterwards confer with you

Q. To refresh your memory, did C. G. Boland ever call on you afterwards?—A. He called at my office, but we did not go into the details of the settlement of this case, as I testified before.

Mr. Manager FLOYD. That is all.

Cross-examination:

Q. (By Mr. WORTHINGTON.) How long have you known Judge Archbald?—A. I should say for seven or eight years.

Q. Did you formerly live in Scranton —A. Yes, sir.
Q. Did you know him well there?—A. I knew him as a citizen; yes, sir.

Q. Was Judge Archbald present at any time at any talk you had with Mr. Watson?-A. No, sir.

Q. What do you mean by the expression in one of theses letters read in evidence about setting fire to something?-A. That is one of the claims that Mr. Boland made.

Q. In order that all may know what I am asking about I will read this, which I find in one of these letters.

Mr. Manager FLOYD. On what page is that? Mr. WORTHINGTON. At top of page 1610. This is your letter of September 27, 1911, to Mr. R. A. Phillips, your superintendent, saving:

In the first place you are too familiar with the merits of his claims-

That is, Boland's claims, I take it-

Q. What was the principal reason or argument that Mr. Watson presented to the officials of the railroad company why

What does that mean?-A. It means what is says. It is a long story. He had filed a lot of claims against us or, rather, he made a lot of claims against us from time to time in connection with all those matters, to which we attached no importance.
Q. You were asked whether this negotiation with Mr. Watson

was to settle all the transactions between the two companies. That is what Mr. Watson wanted you to settle. Did you have any transactions between the Marian Coal Co. and the Lackawanna Co. then except the suit in the Interstate Commerce Commission ?- A. Yes, sir. The claims he wanted to settle were for selling the Marian washery as well.

Q. But you did not have any litigation with him about the

Marian washery?-A. No, sir.

Q. Was his proposition to you to sell the washery or to sell part of the stock of the Marian Coal Co.?-A. To sell the

Q. Did you ever hear anything about any proposition to you or to your company to have the company purchase two-thirds of the stock of the Marian Coal Co.?—A. No, sir.

Q. In reference to the amount of the claim, did you have any inquiry made as to whether Watson's figures were right when you stated in your letter of September 1 that Mr. Boland said there were 376,000 tons of coal shipped by the washery? Did you have any investigation made to see whether that was true?-A. I did not.

Q. When you say the claim was excessive did you mean to express any opinion as to whether or not there were that many thousands of tons that had been shipped by the Marian Coal Co. over your road?—A. That was our traffic department. I called upon them for the value of the claim, and they based it

on the Meeker case, which covered only the buckwheat coal.

Q. You were basing your opinion that it was ridiculous upon
the report of the traffic department and did not know yourself?—A. No, sir; I never figured it out. I depended upon them
for the value of the freight claims.

Mr. WORTHINGTON. That is all. Mr. Manager FLOYD. That is all.

The PRESIDENT pro tempore. The witness may retire. Do the managers or the counsel desire this witness retained?

Mr. WORTHINGTON. I may say it is almost a certainty that we shall be required to recall him, instead of now asking him questions, under the rulings which have been made.

The PRESIDENT pro tempore. Under the present summons? Mr. WORTHINGTON. We are perfectly willing that he shall go back to his duties and come here on telegraphic order, if that is satisfactory to him.

The WITNESS. It is satisfactory to me.

Mr. Manager FLOYD. So far as the managers are concerned, we are willing to discharge him under our summons.

The PRESIDENT pro tempore. Does counsel desire his recall for cross-examination or examination in chief?

Mr. WORTHINGTON. I think under the rulings which have

been made we will have to call him as our witness.

The PRESIDENT pro tempore. Very well. The witness is then discharged under the present summons, and as the Chair

understands it, counsel desires a subpœna for him as a witness.

Mr. WORTHINGTON. I hope we will not be put to that
trouble. The witness is perfectly willing to return on telegraphic order.

The PRESIDENT pro tempore. Unless the witness will re-

spond to such a call.

Mr. WORTHINGTON. Very well. Mr. Manager FLOYD. Call Mr. Rine.

TESTIMONY OF EDWIN M. RINE.

Edwin M. Rine, being duly sworn, was examined and testified

Q. (By Mr. Manager FLOYD.) Please state your name and place of residence?-A. Edwin M. Rine, Scranton, Pa.

- Q. Are you connected in any way with the Delaware, Lackawanna & Western Railroad Co.?—A. Yes, sir; general superintendent.
- Q. Were you connected with that railroad company in August, 1911?—A. Yes, sir.
- Q. In the same capacity?-A. Assistant general superintendent at that time.
- Q. I will ask you to state if some time in August, 1911, or about that time, Mr. Loomis gave you directions to confer with one Mr. Watson, an attorney of Scranton?-A. Yes, sir; he did.

Q. What did he tell you?—A. He asked me if I knew Mr. Watson, an attorney.

Q. What Watson was that?—A. George M., I believe, are his initials. I replied that I did know him. He asked me to see him and see what he had to propose in the way of a settlement of the differences between the Delaware, Lackawanna & Western and the company Mr. Watson represented, which he represented to be the Marian Coal Co.

I called Mr. Watson to my office, and he advised me he had not had time to go over the papers in connection with the case, but that as soon as he had time he would call me up and confer with me. In perhaps 10 days, or perhaps less, he called me up and said he was ready to discuss the matter. I told him Mr. Phillips, the general manager of the coal department, had returned to Scranton, and that he could call him up and confer with him.

Q. Have you repeated all that occurred between Mr. Loomis and yourself when he gave you the instructions?-A. Yes, sir;

to the best of my recollection.

Q. Did he give you any information as to why or upon whose recommendation he wanted you to see Mr. Watson?—A. I do not recollect that he did. I would not have asked him. When he asked me to go down and see Mr. Watson I complied with his request.

Q. Did he tell you anything to the effect that he had received information that a settlement could be had through Watson?—A. I do not recollect that he did; no, sir. He asked me to find

out what Mr. Watson had to propose.

Q. I will ask you if you did not, when you were before the Judiciary Committee of the House, state in substance that Mr. Loomis told you that it had been intimated to him that a settlement of the case might be made through Mr. Watson and asked you to go to Mr. Watson's office?—A. Whatever I testified to before the Judiciary Committee is correct.

Q. I will ask you to state now, since your attention has been called to it, if you do not remember that Mr. Loomis did tell you that he had some kind of an intimation or suggestion that Mr. Watson was in a position to make a settlement?-A. He

may have said so. I can not recollect it at this time. Q. At page 1653 of the hearings before the Judiciary Committee I will read the question and then read the answer. Lis-

ten to it, Mr. Rine:

The Chairman. State in your own way, Mr. Rine, all that you know regarding the negotiations for the sale of the stock or properties of the Marian Coal Co. to the Lackawanna Railroad, or for the settlement of the case between that coal company and the railroad company before the Interstate Commerce Commission.

Mr. Rine. Mr. Chairman, I know very little about the matter, except that one day Mr. Loomis stated to me that it had been intimated to him that there was a possibility of a settlement of the case, and he requested me to call on Attorney George Watson in reference to the matter.

Did you not so swear before the Judiciary Committee of the House?—A. If it is down there, yes, sir; I swore that. I swore to whatever they took down that day I was here.

Q. It is down here.—A. Then I swore to it. Q. Is not that a fact?—A. To the best of my recollection.

Q. Is not that a fact?—A. To the best of my reconcerton.

Q. Now, I will ask you to examine this paper. [Handling paper.] Is it a copy of a letter that you sent to Mr. Loomis in regard to this?—A. (Examining.) I believe it is.

Mr. WORTHINGTON. May I look at it?

Mr. Manager FLOYD. It is Exhibit 136. [Handling paper to

the witness.] You say you think that is your letter to Mr. Loomis?—A. (Examining.) I believe it is; yes, sir.
Q. Are you satisfied it is?—A. I could not swear to it unless

I had the original.

Q. To the best of your recollection, this is a copy of the letter you sent to Mr. Loomis?—A. To the best of my recollection, I made a report similar to that to Mr. Loomis as a result of my conference with Mr. George M. Watson.

Q. Did you not put this exhibit in evidence before the Judiclary Committee?-A. I do not know whether I put in that

or whether it was one similar to it.

Q. Similar to that?—A. Yes; something similar to that.

Q. You put in only one letter?-A. That is all I put in; yes, sir.

Mr. Manager FLOYD. Mr. President, we will ask that it be read, with the notation on it.

The PRESIDENT pro tempore. It will be read, without objection.

Mr. WORTHINGTON. I have not seen the notation. Mr. Manager FLOYD. It is just the exhibit.

Mr. WORTHINGTON. Very well.

The Secretary read as follows:

[U. S. S. Exhibit 49.]

AUGUST 25, 1911.

Mr. E. E. LOOMIS:

In accordance with your request I met Attorney Watson my office this afternoon; conferred with him re subject we discussed. He has agreed to see Mr. Boland and report results shortly.

Respectfully,

Q. (By Mr. Manager FLOYD.) Mr. Rine, Mr. Phillips, then, as I understand it, took charge of the matter?-A. I assume he did. I never heard anything more about it.

Q. You did not know more about it yourself?-A. No, sir; I

Q. I will ask you to state whether Mr. Loomis informed you as to who had intimated that a settlement could be brought about through Mr. Watson .- A. He did not.

Q. Did you know?-A. No. sir; I had no means of knowing

how Mr. Loomis brought this about,

Q. He did not inform you, then, who had intimated to him that a settlement could be made?—A. No, sir; he did not.

Q. And you went and did what he instructed you to do and made your report?-A. Yes, sir.

Q. Is that all you know about the case?—A. All, I think. There is another little item here. I do not want to be called back, and you might as well have it all.

Q. You have in your mind what it is?-A. Yes. Before I called Mr. Watson up I called Mr. Boland on the telephone and asked him if Mr. Watson had been delegated by him to represent him, and he said he had.

Q. Tell us which one of the Bolands.—A. William P. Boland. Q. After you received your instructions from Mr. Loomis you

called him up over the phone?-A. Yes, sir.

Q. And asked him whether or not Mr. Watson was authorized to represent him, and he told you he was?-A. Yes, sir; he told

Q. Why did you do that, Mr. Rine?-A. I can not say why I

did it, any more than-

Q. Did Mr. Loomis instruct you to do that?-A. He did not. I know Mr. Boland quite well. I wanted to be sure of my ground before I did it. I had seen from the newspapers that Mr. Reynolds had been handling the case and I wanted to be sure there was no mistake.

Q. You knew or had seen in the newspapers that Mr. Reynolds was handling the case?—A. Yes, sir.

Q. Mr. Reynolds did continue to handle the case, did he not?—A. I do not know anything about that.

Q. You wanted to be sure that Mr. Watson had authority?-Yes, sir.

Mr. Manager FLOYD. That is all.

Cross-examination:

Q. (By Mr. SIMPSON.) Mr. Rine, did you have any conversation, either verbal or written, with Judge Archbald in relation to the matter at any time?—A. Not to my knowledge. Mr. SIMPSON. That is all.

Mr. Manager FLOYD. So far as we are concerned, this witness may be discharged.

Mr. WORTHINGTON. That is satisfactory to us, Mr. President.

The PRESIDENT pro tempore. The witness is finally dis-

TESTIMONY OF REESE A. PHILLIPS.

Reese A. Phillips, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Mr. Phillips, please state your name and place of residence.—A. Reese A. Phillips, Scranton, Pa.

Q. State if you are in any way connected with the Delaware, Lackawanna & Western Railroad Co., and if so, please state your connection with it .-- A. I am general manager of the coalmining department.

Q. Were you occupying the same position with the company in August, 1911?—A. I am not quite sure whether I was general manager then or general superintendent of the coal-mining

department, either one of the two.

Q. Either one or the other?—A. Yes, sir.

Q. Now, Mr. Phillips, I will ask you to state whether or not, about August 11, you received any instructions from Mr. Loomis in regard to a settlement of the affairs of the Marian Coal Co. and the railroad company, and if so, just state the facts in regard to it.—A. I had no instructions from Mr. Loomis. Mr. Rine, the superintendent of the railroad department, advised me that Mr. Loomis was in town during my absence and stated that when I returned home I was to get in touch with Mr. George Watson, an attorney at law in Scranton, in relation to receiving a proposition from Mr. Watson toward the settlement of some disputes the Marian Coal Co. had against the Lackawanna Railroad.

Q. Under instructions from Mr. Rine you took that matter up with Mr. Watson?-A. Yes, sir.

Q. Immediately?—A. Inmediately; yes, sir.

Q. Just state what occurred, what Mr. Watson proposed.-A. I called Mr. Watson on the telephone a day or two after Mr. Rine notified me, and I think Mr. Watson came to my office and stated he was not prepared at that time to give me a proposition, for the reason that the officials of the Marian Coal Co. were preparing a statement showing the amount of money or the total amount of the various claims that they had against our company. A few days later Mr. Watson called me on the

telephone and said he was prepared to meet me, and he came over to the office with a large bundle of papers. He started out by saying that he had an itemized list in his possession of the various claims, and called off a number of claims, that is, the amount of the claims-among them was three hundred and some odd thousand tons of coal at forty and some odd cents per ton that Mr. Boland claimed he had been overcharged in transportation-that amounted to over \$161,000. Watson said that they would strike off or reduce that amount somewhat, but he said he would make his claim \$161,000; that is, make his proposition \$161,000 flat.

Q. Now, state if after he made that proposition you had any investigation made in regard to the property looking to a settlement?-A. I told Mr. Watson at that time that from my knowledge of the Marian Coal Co.'s property his proposition was preposterous, and that I would submit it to Mr. Loomis,

our vice president, which I did in a letter.

Q. Mr. Phillips, I will ask you to examine Exhibit 43 [handing paper] and state whether or not that is a copy of the letter .- A. (Examining.) This is not the letter I sent to Mr. Loomis.

Q. I asked you if that was a copy of the letter .- A. No. sir; it is not.

Mr. Manager FLOYD. It is the letter from Mr. Phillips to Mr. Loomis that I wanted.

The PRESIDENT pro tempore. All those letters have been identified, have they not?

Mr. Manager FLOYD. Yes, sir. [To the witness:] Have you a copy of that letter?—A. With me?

Q. Yes, sir.—A. No, sir. Mr. Manager FLOYD. It is the letter from Phillips to Loomis making a report.

(Exhibit 39 was handed to the manager.)

Q. (By Mr. Manager FLOYD.) Do you remember the date of your report?—A. Some time in September. I do not recall the date.

Q. I will ask you to examine that letter [handing paper] and see whether or not it is the letter you wrote to Mr. Loomis.—A. (Examining.) That is my letter to Mr. Loomis; yes, sir; under date of September 1, 1911.

Q. And in that letter you reported to Mr. Loomis your views

about it?-A. Yes, sir.

Mr. Manager FLOYD. The letter is already in evidence, and I do not desire to advert to it further than to identify it.

The Witness. That is not the letter I reported my views That is the letter the result of the conference I had with

Q. (By Mr. Manager FLOYD.) Is there still another letter? Have you a copy of the letter in which you reported your views?—A. I have no copy of any correspondence with me.

The PRESIDENT pro tempore. That letter has been already identified and read in evidence, and it is not disputed.

The WITNESS. I have heard it read.

Mr. Manager FLOYD. It has been read in evidence.

The PRESIDENT pro tempore. It has, and is not disputed. Mr. Manager FLOYD. Very well; that is sufficient. [To the witness:] Mr. Phillips I will ask you to state any further steps that were taken in regard to this negotiation with Watson in which you were concerned in any way. First, I will ask you to state if you ever had any interview or conversation or conference with Judge Archbald about it in any way whatever.-A. I had a conference or a conversation with Judge Archbald; yes, sir.

Q. Just state when that occurred, how it came about, and what was said.—A. It was some time in September; I think the latter part of September. I recall it was on a Friday even-I received a telephone message from Judge Archbald, in which he asked me if I would call and see him the next morning at his office. I told him I did not know he had an office in Scranton, and asked where its location was. He stated in the Government building. I told him I would be very happy to call on him the next morning. The next morning when I got to my office I had some other important matters to attend to and I forgot about the appointment I had with Judge Archbald. Saturday noon, while home at lunch, Judge Archbald called me and said, "You forgot to keep your appointment with me this morning." I said, "Yes; I had forgotten about it, and I will morning." call on you in the afternoon." He said he usually went out to the country and to the woods for a walk on Saturday afternoon. I told him I would call and see him Monday morning.

Q. This conversation was over the telephone?-A. This conversation was over the telephone.

Q. Go ahead.—A. He told me he was going to Washington Sunday and would like to know if I would not come over to

his house that evening, which I did about 7 o'clock Saturday evening.

Q. I will ask you to state what occurred. What was said? A. When I got to Judge Archbald's house he greeted me and took me into his parlor. Mrs. Archbald was sitting in the next The doors were open between one room and the other. After talking a few minutes of olden times, old acquaintanceship we had, he finally asked me what was the value of the Holden washery or their plant down at the Holden colliery. I told him I did not think the value of that plant was very much, that if I was going in the coal business I did not know that I would take it for a gift. He finally said, "Boland has a number of claims against you," and I says, "He has stated that he has a number of claims." Says I, "What do you refer to, Judge Archbald, these rate matters, or alleged claims in connection with the burning of the culm bank and diverting water?" He says, "That is what I mean, about the washery; I do not mean anything about the rate question.'

I went on then and explained in detail to Judge Archbald all the alleged claims that Mr. Boland had in connection with the operating of the Marian coal washery. When I got through Judge Archbald said, "If that is the case the settlement between the Bolands and your company is very far apart, because, as I understand it from," I think he said, Mr. Christy Boland, "they place the value of the washery at over \$60,000," or something to that effect. I told Judge Archbald that I did not care what value the Bolands placed on it, as to my value I had already told him. That was all the conversation I had.

Q. Now, Mr. Phillips, to refresh your memory, did he not state that was the value put on it by Boland and Watson?—A. No; he never said no such thing.

Q. Mr. Phillips, you testified before the Judiciary Committee

of the House, did you not?—A. Yes, sir.

Mr. Manager FLOYD. It is on page 1307, Mr. Worthington.

Mr. WORTHINGTON. I have it.

Q. (By Mr. Manager FLOYD.) I will ask you to state if, in response to the following question by the chairman, you did not testify as follows:

The CHAIRMAN. I do not know that it has anything to do with the case, but what position has his son now?

Mr. PHILLIPS. His son now is assistant mine foreman. The next step will be this special engineer.

I went over to his house, went in and shook hands with the judge and passed the time of evening, and he says, "Colonel, what do you know about the claim of Will Boland against your company?"

I says

Did you make that statement?-A. Sure. If it is there; yes, sir. That is just about what I said a little while ago, I think.

Q. I am continuing your answer-

I says, "You mean in connection with his washery or the transportation of coal?" "Oh," he says, "about the washery." He says, "What do you value that washery and culm bank at?" I told him, roughly, what I thought it was worth. Then I recited to Judge Archbald the entire history of the various conversations that I had had with Mr. Boland in that connection from the day he got the lease of the bank up until he filed his suit with the Interstate Commerce Commission. Judge Archbald said, "Well, if that is the case, Colonel, his proposition of settlement, from what I can understand from George Watson and what you tell me, is away off." I said, "Yes, indeed."

Q. Did you not swear to that?—A. I may have said it, but I do not recall ever mentioning Watson's name. I may have done it. If it is in my testimony the chances are that I did say it, because my memory was more fresh then about this transaction than it is now.

Q. I ask you if you did not make that statement before the Judiciary Committee of the House?—A. Sure. If it is there in print there is no question about it. I do not dispute that you have read it correctly, Mr. Floyd.

Q. If you said it then, your memory would be more reliable than it is now?—A. Oh, yes; there is no question about it.
Q. Owing to the lapse of time?—A. Yes, sir.

Q. So he said that to you in that conversation?-A. Yes, sir. Q. Did you have any other or further conversation with him

about it?-A. With Judge Archbald? Q. Yes, sir .- A. I never had any more conversation with Judge Archbald at all with reference to the matter or any other

Q. You knew or understood that George Watson was attempting to bring about a settlement of this difficulty?-A. Sure; had had a conference with George Watson prior to my conference with Judge Archbald, if I recall it correctly.

Q. I will ask you to state whether you had had a conference with George Watson just a short time before this conference with Judge Archbald?-A. I think it was a few days before

Q. Did you understand from Loomis that Judge Archbald had anything to do in bringing in this settlement or had anything to say?-A. I do not recall that Mr. Loomis ever mentioned Judge

Archbald's name to me until after I had this conference at Judge Archbald's residence.

Q. He did after that?-A. He did after that; yes, sir.

Q. Now, I will ask you to state, Mr. Phillips, if after you had made your report there was to your knowledge any further effort made to get a settlement by a further conference?—A. I do not know of any effort that has been made to settle this transaction on the part of our company at all.

Q. That is not the question. I am asking, if through Mr. Watson or Judge Archbald there was a further conference held with Mr. Loomis and Mr. Truesdale?-A. Oh, yes. That was after the conference held with Judge Archbald, you mean?

Q. Yes, sir.—A. Yes, sir.

Q. State what you know about that .- A. In my letter that I wrote to Mr. Loomis-I think it was in that letter, or else I conferred with Mr. Loomis over the telephone, I am not sure which-I told him that George Watson would like to make an appointment to meet Mr. Loomis and Mr. Truesdale in order to take the matter up with them, and that I had told George Watson that I would try and arrange for such a conference. He said, "Well, maybe I had better write to Mr. Loomis myself." I said, "I think maybe you had better do that, George." Mr. Loomis advised me that he and Mr. Truesdale were coming west on an inspection trip and would be in Scranton a certain evening and would meet Mr. Watson in my office the next morning at 10 o'clock. I called up Mr. Watson on the telephone and told him that our people would be here and meet him in my office at that time, 10 o'clock.

Q. Were you present at that conference?-A. I was; yes, sir. Q. When Mr. Loomis and Mr. Truesdale were there?-A. Yes,

sir; it was held in my office, and I was present.

Q. Just state who were there.-A. Mr. Truesdale, our president; the vice president, Mr. Loomis; our counsel, Daniel R. Reese; Mr. Tobey, the assistant superintendent; George Watson, and myself.

Q. Now, state, Mr. Phillips, your recollection of what occurred at that conference, what Mr. Watson submitted, and what reasons he gave for making the proposition .- A. He gave practically the same reason that he gave to me in the conference I had with him.

Q. First state what his proposition was.—A. His proposition was that for \$161,000 the Marian Coal Co. would turn over their washery and their bank and withdraw all suits and to put an end to all controversy that was existing at that time between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co. That was Mr. Watson's proposition.

Q. What reason or what argument did he make as to why the railroad company should accept such a proposition?-A. I do not know. He read from this statement he had a number of items, but seemed to base his argument entirely upon the coal rates, and as that subject was entirely foreign to me, I paid

very little attention to it.

Q. Did he refer in any way in his argument to what is known as the Meeker case?—A. I think he did. Either he or one of the party referred to the Meeker case as an illustration. I think it was one of our officials referred to the Meeker case as an illustration that the Bolands could not expect to recover any more reparation than the rates allowed in the Meeker case, and that was a part of the basis on which our company calculated the amount of money they would be willing to pay in settlement of the entire matter.

Q. The effect of the Meeker case as applied in the case of the Bolands was discussed, among other things, in that conference?—A. Yes, sir; as I recall it now.

Q. What did Mr. Truesdale say, Mr. Phillips?-A. Mr. Truesdale said that the proposition was ridiculous and he would not consider it. In fact, Mr. Watson did most of the talking.

Q. The proposition was turned down?-A. Oh, yes.

Q. Rejected?—A. Yes, sir.

Q. I will ask you to refresh your memory—if Mr. Truesdale did not say it was a holdup?—A. Positively he did not.
Q. He did not?—A. At least, if he did, I did not hear it, and

I was sitting within 4 feet of him.

Q. I was going to ask you if you remember anything that was said?-A. No; I can not remember everything; I am not infallible.

Q. You say now, then, that if he did say that you did not hear him or do not remember it?-A. I did not hear him or I do not recall it.

Q. I will ask you to state if, when you had your conference with Judge Archbald, you told him about your conferences Watson just a few days before?-A. I do not recall whether I did or not. I may have said that I had had a conference with George Watson with regard to the settlement, and I may not, because all that Mr. Archbald asked me about was the value of the Marian washery and the claims of the Bolands against our company in connection with the operating of that washery. I may have mentioned Watson's name; I do not know. My evidence before your committee ought to dis-

close it if I did. My memory was fresher then than it is now.

Q. You said, if I understood you, that you went over in detail the proposition?—A. Not the details, bear in mind, of the proposition, but the details of the claims or the alleged claims that Mr. Boland had against our company in connection with the operating of the Marian washery, such as setting the culm bank afire, of which we owned ourselves 27 per cent, and the drying up of the creek or diverting some water from it, and a number of other claims that I do not recall just at present.

Q. From whom did you get the information about their con-

tentions—from Mr. Watson?—A. What contentions?

Q. About them claiming this.—A. I got that from Mr. Boland Mr. Boland was operating a little washery that they had down there, and when they were operating it, if he had any grievance, he would always bring it up with me. He imagined that we were trying to stop the wheels of his washery at work. I would go down there and help him and try to do what I could to assist him with his washery.

Q. I am not asking you about that. You said you discussed that matter fully with Judge Archbald and never mentioned Watson's connection with it?—A. I can not say that I mentioned Mr. Watson's connection with the case at all. I may have mentioned his name; I do not recall. If it is in my tes-timony before the Judiciary Committee, I did; if it is not,

I did not.

Q. I am asking you about your present recollection.-A. My present recollection is, as I have told you three or four times, that I do not recall ever mentioning George Watson's name in the conference that I had with Judge Archbald.

Q. In the testimony quoted some reference was made to adge Archbald's son. He was in the employ of the railroad at Judge Archbald's son.

that time?-A. Yes, sir.

Q. Mr. Phillips, when you were at the final conference did you understand that Judge Archbald had had anything to do with these Watson negotiations?

Mr. WORTHINGTON. I object to a question about what the witness understood, Mr. President.

Q. (By Mr. Manager FLOYD.) Did you know through the officers of your company that had been investigating this matter that Judge Archbald had any connection with this proposed negotiation or had anything to do with it?-A. I do not think I had any knowledge of it at that time. Later on—it may be a day after that conference or a week or two later—Mr. Loomis inquired of me if I knew why—
Mr. WORTHINGTON. We object to subsequent conversa-

tions between Mr. Loomis and the witness.

The PRESIDENT pro tempore. The witness can answer the question whether or not he knew it.

Mr. Manager FLOYD. That is all I am asking.
Mr. WORTHINGTON. What I am bringing out is that this is something which occurred after these negotiations were all

Mr. Manager FLOYD. I asked him, "at the conferences before they were over"

Mr. WORTHINGTON. At the conferences?
Mr. Manager FLOYD. At the final conference.

The WITNESS. No; I do not think so.

Q. (By Mr. Manager FLOYD.) He did not know anything about it?—A. No, sir.

Q. Now, I will ask you to state if, immediately after that conference, you did receive information of Judge Archbald's connection with it?

Mr. WORTHINGTON. I will object to that.

Q. (By Mr. Manager FLOYD.) Or the next day?
Mr. WORTHINGTON. It has already appeared that that
terminated Mr. Watson's connection with it. The managers
have proved by Mr. Christy Boland that Mr. Watson's connection with this matter terminated immediately after that conference. If this was anything that took place in the way of carrying on the negotiations for that settlement, of course I would not object to it. We have not very much objected to that, but, as I understand, any recital of conversation between persons who had been parties to the conference after it was all over-something that occurred after the negotiations were all over-which had reference to a past transaction, of course can not affect Judge Archbald.

The PRESIDENT pro tempore. The Chair presumes the purpose of the testimony is to show what influences were brought to bear upon representatives of the railroad at that time, and if he did not know it at that time, of course it is not pertinent that he did know it afterwards.

Mr. Manager FLOYD. Mr. President, we have some evidence to show that after that conference Mr. Watson wired Judge Archbald and came to Washington for some purpose. pect to connect that up.

The PRESIDENT pro tempore. If counsel will state that

they propose to do that, then they are at liberty—
Mr. WORTHINGTON. Of course, if they propose to show that he had anything to do with that telegram or with Mr. Watson's coming here, we would not rise for a moment to object. But I should like to interpose here and ask a question of the witness, as I have a right to do, I think, to find out when this conversation occurred, so that we may know whether it is anything that is competent or not. If, for instance, Mr. Loomis and Col. Phillips

Mr. Manager FLOYD. We object to counsel making a state-

ment. He can ask a question.

The PRESIDENT pro tempore. Counsel can ask the ques-

Mr. WORTHINGTON (to the witness). I want to ask you whether or not you did not testify before the Judiciary Committee in this way:

But several days, or a month, rather, after the conference, Mr. Loomis inquired of me-

To which you referred. Is not that right?-A. That is what I was about to say. It was a week or two afterwards.

Q. It was after the negotiations were all over?-A. After the

negotiations were all over; after this conference was over.

Mr. WORTHINGTON. I was going to say, Mr. President, it would be just the same, it seems to me, as if Mr. Loomis and Col. Phillips should have a conversation out in the corridor now about this matter, and then the managers should offer to prove what it was. If it was after the negotiations were all over, it would not make any difference how long it was.

The PRESIDENT pro tempore. The Chair thinks that testi-

mony as to general knowledge upon the part of the officials of the company of Judge Archbald's connection with the matter ought to be received, especially under the statement of the manager that he expects to prove that this matter did continue after that time. The Chair has ruled that the question can be asked.

Mr. Manager FLOYD. Answer the question, Mr. Phillips.

The WITNESS. What question?

Q. I will ask that the question may be read.

The PRESIDENT pro tempore. The Reporter will read the

The Reporter read as follows:

Q. (By Mr. Manager FLOYD.) Now, I will ask you to state if immediately after that conference you did receive information of Judge Archbald's connection with it?

The Witness. No, sir; not immediately after.

Q. How soon?—A. Two or three weeks.

Q. I will ask you to state what information you received touching that matter?-A. I think it was two or three weeks after that that Mr. Loomis was again in Scranton. Mr. Boland had made a statement to me on the street in regard to Mr. Loomis, and I reported the result of that statement or the result of the conference that I had had with Mr. Boland to Mr. Loomis. Mr. Loomis said that he could not understand why Boland was so prejudiced or imagined that he was trying to do him harm; and that he had never had any occasion or cause to do Mr. Boland any harm. I told him that I could not account for it except that Boland was a highly excitable sort of man. Then Mr. Loomis asked me, "How is it that Mr. Archbald is interesting himself in this case in behalf of the Bolands?

Q. Did you understand him to refer to Judge Archbald?-A. Oh, yes; Judge Archbald. I think he mentioned "Judge" Archbald, and not "Mr."

Q. Mr. Loomis inquired of you what?—A. If I knew why.
Q. Did you?—A. I did not, only what I told him what I assumed as the reasons why Judge Archbald was interesting himself in the case in behalf of the Bolands.

Q. You did not know why?—A. No; only my own presumption. Q. We do not care anything about your presumption if you

had no knowledge on the subject.

Mr. Manager FLOYD. That is all.

Cross-examination: Q. (By Mr. WORTHINGTON.) We do care. What was your answer to the question that Mr. Loomis put to you about Judge Archbald ?- A. I told Mr. Loomis that I thought Judge Archbald was interesting himself in this case from the fact that he and the Boland family had lived in the city of Scranton for at least 30 or 40 years; that, to my knowledge, Mr. Christy Boland and Judge Archbald were always looked upon as being pretty close friends, and that Mr. Boland, being in this litigation, I thought he would naturally, meeting Judge Archbald, tell him of

it, or ask him what he thought he had better do under the circumstances, and that Judge Archbald told him, "Well, Christy, I think you had better try to settle this case. I know some of the officials of the D., L. & W. Co.; you know some of them; and if I can be of any service in introducing you or bringing them to you I will do so." That was my explanation to Mr. Loomis. I have no reason to think that was true other than it is customary in towns of the size of the city of Scranton for the smaller people who have lived there for a long time, if they have friends who are influential men, either lawyers, judges, or otherwise, they would naturally go to their friends when in trouble. That was my sole deduction about the matter.

Q. Did Mr. Christopher Boland have any talk with you during these negotiations with reference to them?-A. Mr. Christopher Boland called upon me, I think, after the conference in my office, at which time Mr. Truesdale and other officials were there

with Mr. Watson.

Q. After the Truesdale conference in your office?—A. Yes, sir. Q. Well, did he tell you anything then about the condition of

his brother in reference to this claim?

Mr. Manager FLOYD. We object.

Mr. WORTHINGTON. Why can we not have all the negotiations, Mr. President?

The PRESIDENT pro tempore. There must be some limitation, and the Chair thinks that is one of them.
Q. (By Mr. WORTHINGTON.) The son of Judge Archbald to whom you refer is not the son who has been present during these proceedings?—A. No. sir.
Q. His son Hugh?—A. Hugh Archbald, mining engineer.

Q. He is not in the employ of the company now, I believe? A. No, sir; he resigned his position a few months ago. I think he is editor of Mines and Minerals, published in connection with the International Correspondence School.

Q. Now, with reference to the questions that were asked you and read from the record to refresh your recollection, do you now recall that Mr. Watson's name was mentioned at the time? That was referred to in the question that was read to you from

the Record?-A. Judge Archbald-Q. You have stated that your recollection was better then than it is now, and that you undoubtedly gave that testimony; but, as a matter of fact, is your memory refreshed so that you now remember it?-A. I really can not say that I remember it.

Q. I will ask you if during your testimony there you did not refer to it in the same way you did here—that is, in this

Mr. Manager FLOYD. I ask from what page counsel is about to read?

Mr. WORTHINGTON. Page 1311, at the bottom of the page: Mr. Phillips. The judge told me after I had stated, as I have repeated twice already here—he says: "If that is the case, the value of that washery and bank, that I understand Boland is claiming it is worth, is far in excess of what you say it is worth."

A. In fact, I am almost positive that Watson's name was not mentioned; and I think you will find in my testimony there that I there say that I did not mention Watson's name, and that my conference with Archbald was between the conference that we had in my office with George Watson our officials, or something of that kind. I do not recall Watson's name ever being mentioned at Judge Archbald's house

Mr. WORTHINGTON. That is all, Mr. President.

Redirect examination:

Manager FLOYD. One moment, Mr. Phillips. Worthington has asked you about your conversation with Christy Boland. Did you have any conversation with W. P. Boland?-A. Oh, I have had several conversations with W. P. Boland.

Q. I will ask you to state if W. P. Boland did not tell you that Judge Archbald was not in this case by his request or consent?-A. I think he did.

Q. Did you not so swear before the Judiciary Committee? A. I think he did tell me at the time. He told me that Mr. Loomis came up and went to Judge Witmer and made him hand down the opinion in the Peale case. That was at the same period, and I told him-

Q. You told about a conversation at Judge Archbald's house? Was that the first time you were ever at Judge Archbald's house?-A. The first time I have ever been in Judge Arch-

bald's house in my life.
Q. Before or since?—A. Yes.
Mr. Manager FLOYD. That is all.

Recross-examination:

Q. (By Mr. WORTHINGTON.) Well, what was it William P. Boland said that you have been asked about? Well, what was it that us hear all about it .- A. I was coming up from Wilkes-Barre

same car. Nearly every time that Will Boland would meet me we would discuss some features or part of these alleged claims that he has against our company in operating the Marian washery. He was very excitable on this day, and said that Mr. Loomis, our vice president, came from New York, and had Judge Witmer hand down an opinion against the Marian washery in the Peale case.

Mr. Manager FLOYD. We object.

The PRESIDENT pro tempore. The Chair must hold there must be a limitation to the examination, and that certainly has nothing to do with the case.

Mr. WORTHINGTON. I was only asking for the remainder of the conversation.

The PRESIDENT pro tempore. The Chair only interposes in the interest of time

Mr, WORTHINGTON. I was only asking him a question to finish the conversation of which the managers brought out a part

The PRESIDENT pro tempore. The conversation evidently has nothing to do with the merits of this case. Is there any other question of the witness?

Mr. Manager FLOYD. We have no further questions. Mr. Manager CLAYTON. Mr. President, this witness may be discharged.

Mr. WORTHINGTON. We agree.

The PRESIDENT pro tempore. The witness is finally discharged.

TESTIMONY OF JOHN L. SEAGER.

John L. Seager, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Mr. Seager, please state your name and place of residence.—A. John L. Seager; busi-ness address, 90 West Street; residence, 256 Prospect Street, South Orange, N. J.

Q. If you are in anyway connected with the Delaware, Lackawanna & Western Railroad Co., please state the position you hold.—A. I am an attorney in the legal department of that railroad.

Q. I will ask you to state, Mr. Seager, if you know anything about the negotiations or attempted negotiations to make a settlement of certain matters between the Marian Coal Co. and your railroad company through one George M. Watson, of Scranton, Pa.?-A. I knew nothing about it until I received a letter from Col. R. A. Phillips, which was sent me by Mr. Loomis.

Q. You first received your information, then, through corre-

spondence?-A. Yes, sir.

Q. With other officials of the company?—A. Yes, sir, Q. You are acquainted with Mr. Reese?—A. Yes, sir.

Q. Was he at that time representing your company in some capacity?-A. He was, sir.

Q. Please state his position with the railroad.-A. He was known as the general attorney for the State of Pennsylvania for the Delaware, Lackawanna & Western Railroad Co.

Q. Did you have any communication with Mr. Reese in regard to this matter?—A. I did; several.

Q. I will ask you to examine the paper which I hand you, Mr. Seager, and state if that is a letter you received from Mr. Reese in regard to this matter.—A. (After examining.) It is.

Mr. Manager FLOYD. Mr. President, I ask that the letter be marked as an exhibit and be read in evidence at this point.

The PRESIDENT pro tempore. Is there any objection to reading the paper? If not, it will be marked and read.

Mr. WORTHINGTON. Wait a moment until we see what

is the date.

The Secretary. Scranton, Pa., July 31, 1911. Mr. WORTHINGTON. I have no objection. The Secretary read the letter marked "U. S. S. Exhibit 50," as follows:

[U. S. S. Exhibit 50.]

(Daniel R. Reese, attorney.)

Delaware, Lackawanna & Western Railroad Co., Legal Department, Scranton, Pa., July 31, 1911. J. L. SEAGER.

Commerce Counsel, New York City.

Dear Sir: For your information I inclose herewith copy of my letter to R. A. Phillips, superintendent coal mining department, in relation to a suggestion made by W. P. Boland in a conference between us for the purpose of trying to arrange amicably the differences between him and this company.

Mr. Phillips has agreed that I should proceed to make the arrangements, and will have a conference some day this week, the result of which will be made known to you.

Yours, truly,

D. R. Reese.

Q. (By Mr. Manager FLOYD.) Please examine the paper I on the Laurel line, and W. P. Boland was coming up on the hand you and state whether or not that is a letter pertaining to this matter, and give the date of the letter.—A. A letter dated August 11—a letter which I received from Mr. Reese.

Q. Examine the paper accompanying that. Was that an inclosure with that letter?—A. (After examining.) It was.
Mr. Manager FLOYD. Mr. President, we ask that the letter

be marked as an exhibit and read in evidence at this point, together with the inclosure.

The PRESIDENT pro tempore. Without objection, it will

The Secretary read the paper marked "U. S. S. Exhibit 51," as follows:

[U. S. S. Exhibit 51.]

(Daniel R. Reese, general attorney.) DELAWARE, LACKAWANNA & WESTERN RAILBOAD CO., LEGAL DEPARTMENT, Scranton, Pa., August 11, 1911.

J. L. SEAGER, Esq., Commerce Counsel, New York City, N. Y.

Commerce Counsel, New York City, N. Y.

Dear Sir: As I wrote to you some time ago, we had a conference with Mr. Boland with reference to adjusting the differences between Mr. Boland and this company. Such a conference was held in Col. Phillips's office, between Mr. Phillips, Mr. Boland, and myself, but nothing of importance developed.

Inasmuch as the adjustment, if it is going to be made, is to be based largely upon matters involved in his action against us before the Interstate Commerce Commission, and consequently as you are familiar with those matters, you are the only one that I know of that can confer with Mr. Boland in relation thereto. Therefore, I am writing to you to ask you to take up these matters with Mr. Boland, either at Scranton or at your office, and I will arrange to have Mr. Boland present, and I understand that he wants his counsel with him. Please advise your wishes in the matter, as Mr. Boland seems to be very anxious to arrange matters amicably, if possible, and has called me on the telephone several times inquiring as to whether I have yet arranged a conference. He advises me that Mr. Reynolds, his attorney, is going away on his vacation soon, and he would like to arrange a conference at once. at once. Yours, truly,

D. R. REESE.

(Inclosure.)

JULY 29, 1911.

Mr. R. A. Phillips,

Superintendent Coal Mining Department.

Dear Sir: While conferring with Mr. W. P. Boland yesterday, concerning another matter, he intimated very strongly that he would like to fix up his differences with the Lackawanna Co. and discontinue further hostilities. He intimated that this could be accomplished by a conference with you and me. I believe Mr. Boland has had a wrong impression as to the attitude of this company, having gotten the idea that we are pursuing him directly and indirectly, but I think he is getting straightened out as to that now and has sent out his flag of truce in order to try and arrange matters amicably.

I believe it is worth while attempting this, and respectfully submit the matter to you for such action as you deem it advisable under all the circumstances to take.

Yours, truly,

R/D.

Q. (By Mr. Manager FLOYD.) Did you make reply to that letter, Mr. Seager?—A. If I recollect aright, I did, sir, some time later.

Mr. SIMPSON. What is the date?

Q. (By Mr. Manager FLOYD.) September 7?-A. I can not remember. I would have to see the letter. [After examination.] I answered the letter just read by one dated September 7, 1911, addressed to Mr. D. R. Reese.

Mr. PRESIDENT pro tempore. Does the manager wish this

letter read?

Mr. Manager FLOYD. I ask that it be marked as an exhibit and read in evidence at this point.

The Secretary read as follows:

[U. S. S. Exhibit 52.]

SEPTEMBER 7, 1911.

Mr. D. R. Reese, General Attorney, Scranton, Pa.

General Attorney, Scranton, Pa.

Dear Sir: In order that there may be some proper ending to your file headed by your letter of July 31, 1911, relative to proposed conference between W. P. Boland and a representative of this company, I would advise that apparently Mr. E. E. Loomis, vice president, through Col. Phillips, has taken up the matter of Mr. Boland's difficulties with George Watson, attorney, with a view of arriving at some settlement thereof. I say apparently because I was handed a letter from Col. Phillips this morning by Mr. Jenney. dated September 1, 1911, containing a report of a conference with Mr. Watson and a tentative proposition by Watson for a settlement with the Marian Coal Co. people and Boland. I might further say that in a conversation which I had with Mr. Loomis some two weeks ago relative to the advisability of conferring with Boland's representative, with a view of coming to some settlement, it was tentatively agreed between us that he should see what Boland was willing to do. Mr. Jenney has now directed me to give Mr. Loomis my views as to the proposition made by Mr. Watson. Yours, truly,

Q. (By Mr. Manager FLOYD.) This is a letter from Mr. Reese to Mr. Seager dated September 8. Mr. Seager, will you examine this letter and state whether or not it is a letter you received from Mr. Reese concerning this matter?—A. (After examination.) It is a letter I received from Mr. Reese.

Mr. Manager FLOYD. Mr. President, I ask that it be marked as an exhibit and read in evidence at this point.

The Secretary read as follows:

[U. S. S. Exhibit 53.]

(Daniel R. Reese, attorney.)

THE DELAWARE, LACKAWANNA & WESTERN RAILROAD CO.,
LEGAL DEPARTMENT,
Scranton, Pa., September 8, 1911.

Mr. JOHN L. SEAGER, Commerce Counsel, New York City.

Commerce Counsel, New York City.

Dear Sir: I have your kind favor of the 7th instant relative to the proposed conference between W. P. Boland and a representative of this company and am obliged to you for the information contained therein. Since I have started this matter I have attended one conference, but knew nothing of a Mr. Watson being interested nor of subsequent meetings. However, I have claims against Mr. Boland for \$313.32, and I have written him stating that I will institute suit to collect the amount if it is not paid at once. The time limit in which he was to pay this bill has elapsed, and I would like to know whether there is anything in the negotiations referred to in your letter that would interfere with my proceeding to institute suit to collect this amount which he has refused to pay. I would be obliged if you would advise me upon this point.

R/D Yours, truly,

D. R. REESE.

Q. (By Mr. Manager FLOYD.) Now, Mr. Seager, I will ask you to state if later, January 12, 1912, you received a further letter from Mr. Reese bearing upon that settlement between you and the Bolands?-A. I can not recollect the date, sir.

Q. Examine this letter which I hand you and state.—A. (After examination.) I did, sir.

Mr. Manager FLOYD. Mr. President, we ask that it be marked as an exhibit and that it be read in evidence at this point, with the paper attached, whatever it is.

The Secretary read as follows:

[U. S. S. Exhibit 54.]

(William S. Jenney, vice president and general counsel; Daniel R. Reese, general attorney.)

DELAWARE, LACKAWANNA & WESTERN RAILROAD CO., LEGAL DEPARTMENT, Scranton, Pa., January 12, 1912.

Mr. John L. Seager,

Commerce Counsel, New York City.

My Dear Seager: During a conference which I had with Mr. Boland on Tuesday last in relation to the water proposition that he had in mind, I incidentally mentioned the Marian Coal Co. matters, and intimated to him that if the Marian Coal Co. matter was disposed of it would be easier for me to get the water proposition through, in which latter proposition Boland is very much interested and is anxious to dispose of the land to this company. After a long chat he decided to submit a proposition as to what he would take in settlement of all his claims, both as to freight claims and whatnot and, consequently, he called at my office this afternoon and submitted a letter, of which the inclosed is the first paragraph, the balance of the letter having reference to the water proposition. He declined to give me the letter he had drawn, which was addressed to me, but permitted me to copy the part referring to the Marian Coal Co. matter.

I told him I was going to submit this to our people to see what action they would take in relation thereto, and so I am submitting it to you for such action as you deem advisable, and I would be obliged if you would arrange to advise me whether our people will agree to this proposition or submit a counter proposition.

I hope to be in New York next week and will go over this matter with you, if you desire any further information.

Pours, truly,

D. R. Reese.

Confirming the suggestion you made that an adjustment might be made between the Delaware, Lackawanna & Western Railroad Co. and the Marian Coal Co. of the differences between them, it is my opinion that the matter might be settled in manner following: For \$50,000 of the capital stock of the Marian Coal Co. I believe the persons owning it would be willing to accept \$75,000. This would place you in possession of two-thirds of the capital stock of the Marian Coal Co., which would enable you to make such disposition of the Marian Coal Co., which would enable you to make such disposition of the Marian Coal Co. which would enable you to make such disposition of the Marian Coal Co. which would enable you to fine \$50,000 of stock all the just obligations of the Marian Coal Co. will be paid. We have always denied the justice of the claim of John W. Peale. This would, of course, be arranged by the Marian Coal Co. after the transfer of the stock, and would be ultimately paid by you if the claim should be finally established in court. With the payment of this we shall have nothing to do with the claim. I need not say that we would regard an offer of this sort as much less than the stock is really worth; but we are desirous, if possible, of ending a complicated and serious litigation which has been waging between the two corporations.

Q. (By Mr. Manager FLOYD.) Mr. Seager, did you take any action, either yourself or by direction of your superior officers,

in regard to that; did you make any proposition?—A. I did.
Q. What was it and on whose authority?—A. I was authorized by Vice President and General Counsel Jenney to make a counter proposition of \$25,000, I think it was. I made that proposition, or I telephoned Mr. Reese telling him that that was the counter proposition.

Q. Did anything come of that proposition?—A. No. Q. Matters remained unsettled. Now I want to ask you if you have any knowledge of your own about Judge Archbald being concerned or associated in any way with Mr. Watson in this negotiation that Mr. Watson undertook to bring about between your company and the Marian Coal Co.?—A. I never knew anything about it until the 27th day of May last.

Q. You never knew anything about it until the 27th of this May, when these hearings—A. After I had been subpænaed to attend the Judiciary Committee investigation.

Q. State how you got your information about it then, and from whom.—A. Of course, I had seen—

Mr. WORTHINGTON. Mr. President, if we are going to have the information this witness acquired about Judge Archbald long after all negotiations were over-

Mr. Manager FLOYD. I am asking him to give his informa-tion as a railroad official, if he got information from any of his associates in the company about it.

The WITNESS, I did. Q. (By Mr. Manager FLOYD.) State it.

Mr. WORTHINGTON. I object to that. I do not see how the information that this witness acquired long after all the negotiations were over can possibly affect Judge Archbald. Nobody pretends that any negotiations were going on after the last letter that was written, which was in December prior to May, when the witness obtained it. This investigation was then going on. That would certainly be hearsay evidence. It was nothing that was done in the course of this negotiation.

We have not objected to any testimony as to anything done in pursuance of the negotiation, because Mr. Christopher Boland has testified to a certain conversation that occurred in Judge Archbald's office as to a settlement being proposed, and so we have not objected to any evidence as to what was done in carrying on the negotiation. But the time referred to now is months and months after the negotiation was over and while this in-

quiry was on foot.

The PRESIDENT pro tempore. Testimony is already in from Mr. Loomis as to his knowledge. I suppose this is along that line.

Mr. Manager FLOYD. I asked him just what knowledge he had in regard to it. However, I am not particular about press-

ing the question.

O. (By Mr. Manager FLOYD.) Did you, during the time this correspondence was going on, have or not have any knowledge that Judge Archbald was or was not connected with the transaction?-A. I had no knowledge at that time.

Q. None whatever?-A. No, sir.

Q. And yet you were connected with the legal department of your company?-A. I was, sir.

Mr. Manager FLOYD. That is all we wish to ask the witness. We have no questions, Mr. President.

The PRESIDENT pro tempore. The witness may retire. Mr. Manager FLOYD. This witness may be discharged, I

The PRESIDENT pro tempore. The witness is finally discharged.

Mr. Manager FLOYD. Mr. President, Mr. Manager CLAYTON informs me that he desires at this point to have Mr. Loomis recalled, for the purpose of asking him two questions.

The PRESIDENT pro tempore. Recall Mr. Loomis.

TESTIMONY OF EDWARD E. LOOMIS-RECALLED.

Q. (By Mr. Manager CLAYTON.) Mr. Loomis, did Judge Archbald ever call at your office in New York about any other matter or on any other mission except the one time he called about the Marian Coal Co. matter?-A. No, sir.

Q. When Judge Archbald called on you at the time you mentioned did he disclose to you his interest in the matter or why

he was interested?—A. No, sir.

Mr. Manager CLAYTON. That is all. The witness may be

Mr. WORTHINGTON. There is another matter to which my attention has been called, about which I would like to ask

him a question.
Q. (By Mr. WORTHINGTON.) What was it about Mr.
Morgan Davis coming to you to buy the Marian washery?—A.

To buy it? You mean to sell it?

Q. Yes: to sell it, I mean .- A. Morgan Davis called at my office two or three times and asked me if we did not want to change our mind and buy the Marian washery. I told him no, sir; that we did not want to buy it.

Mr. Manager CLAYTON. My recollection is that this is not cross-examination; that we did not go into the matter at all; and hence I feel constrained to object to the question.

Mr. WORTHINGTON. I thought it might save bringing the witness back.

The PRESIDENT pro tempore. It is not in regard to anything elicited on direct examination, and is not now admissible.

Mr. WORTHINGTON. Very well. The witness may have to be recalled, then.

The PRESIDENT pro tempore. The witness is excused subject to recall under the previous arrangement.

The witness withdrew.

TESTIMONY OF WILLIAM S. JENNEY.

William S. Jenney, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Please state your name and place of residence.-A. My name is William S. Jenney; my residence is 638 West End Avenue, New York City; my place of business is 90 West Street, New York City.

Q. Are you connected in any way with the Delaware, Lackawanna & Western Railroad Co.? And if so, state in what way or in what capacity.-A. I am vice president and general counsel.

Q. I will ask you to state what you know about any negotiations looking to the settlement of differences between the Marian Coal Co. and your railroad company in which George M. Watson, of Scranton, participated.—A. Nothing except by hearsay.

Q. Do you know anything through Mr. Loomis, an officer of

your company?-A. Yes, sir.

Q. Just state what you learned about it through Mr. Loomis. A. The only thing I know about the negotiations to which you refer is that a memorandum was sent to me by Mr. Loomis during the summer-some time during the later part of the summer, as I recollect—which has been introduced in evidence. My initials are W. S. J., and that was sent to me. In it Mr. Loomis inquired of our department what, in our opinion, the Marian Coal Co. was likely to get in its proceeding before the commission by way of reparation. I referred it to the commerce counsel of the company, Mr. Seager, and asked him to reply direct to Mr. Loomis on that subject after taking it up with the traffic department. That is the only thing I know personally in connection with any adjustment of that case that was had through Mr. Watson. Everything else I know about it I learned by hearsay either from Mr. Loomis or Mr. Tobey or some other official of the company.

Q. I will ask you what you learned about it through Mr. Loomis, especially whether you heard from Mr. Loomis that Judge Archbald had any connection with that settlement?-A.

Q. State what you learned and what Mr. Loomis said to you on the subject .- A. Nothing further than the fact that Judge Archbald had taken the matter up with him, suggested that we had better take it up, or suggested that our company might obtain an adjustment of the case, and it would be a good thing if we did obtain an adjustment of the case, or something of the kind; I have forgotten just what words Mr. Loomis used. He told me Judge Archbald had taken the matter up.

Q. Mr. Loomis did tell you that Judge Archbald suggested to him to take the matter up with Mr. Watson?-A. I am not sure about that. Mr. Loomis told me that Judge Archbald had spoken to him about the case with a view of having it adjusted. That is about as far as I can say. I can not repeat his language

or tell you anything further than that.

Q. I will ask you to state whether or not you, in your capacity as a representative of the legal department, made any inquiries as to what interest Judge Archbald could have in that matter; and if so, state the circumstances.-A. All I can say about that is this, that, as I testified before your committee heretofore, on one occasion, when one of my local counsel in Scranton, Maj. Warren, of the firm of Warren, Knapp & O'Malley, was in my office, as I recollect it, during the fall of last year, and some time after I had heard from Mr. Loomis that Judge Archbald had spoken to him about the case, I inquired of Maj. Warren what possible interest Judge Archbald could have in this case, and Maj. Warren gave me his opinion upon That is the only time I ever asked anybody about it.

Q. And that is all you know about it?-A. All I know about it is what Maj. Warren told me. He did not know anything about it; he simply gave me his opinion as to the reason why Judge Archbald had interested himself in the case.

Q: He just gave you an opinion right then and there on the

spot?—A. Yes, sir.

Mr. Manager FLOYD. We do not care anything about that.
Mr. WORTHINGTON. I think if it is important to know that an opinion was given it is important to bring out what the opinion was; and I will ask the witness what it was, following his answer to the manager's question.

Mr. Manager FLOYD. I object. Mr. WORTHINGTON. Then I move to strike out the witness's testimony about that. The manager asked the question.

The PRESIDENT pro tempore. The Chair understood the manager to inquire whether the witness made any inquiries as to the reason for Judge Archbald's interest in the case.

Mr. Manager FLOYD. That is all.

Mr. WORTHINGTON. No; he further brought out the fact that an opinion was obtained.

The PRESIDENT pro tempore. If the opinion is evidence at all, of course it should properly be given in evidence by the man who entertained it. It might be given as a reason for the action of counsel, if any action was afterwards based on that opinion, but other than that the Chair thinks it is wholly inadmissible.

Mr. WORTHINGTON. Then I move to strike out the statement that he gave an opinion. How can it be competent to state that an opinion was given and not state what the opinion

Was?

The PRESIDENT pro tempore. Counsel asks that the answer

be stricken out. The Chair will grant the motion.
Mr. Manager CLAYTON. There is no objection. We did not ask for the testimony.

Mr. Manager FLOYD. That is all.

The PRESIDENT pro tempore. Do you desire that this witness be retained?

Mr. Manager FLOYD. If there is no question on the part of counsel for respondent, we ask that this witness be finally discharged.

Mr. WORTHINGTON. We have no questions to ask, and he may be discharged so far as we are concerned.

The PRESIDENT pro tempore. The witness is finally dis-

charged.

TESTIMONY OF WILLIAM H. TRUESDALE.

William H. Truesdale, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Please state your name and place of residence.-A. William H. Truesdale. My residence is in Greenwich, Conn.

Q. State your connection with the Delaware, Lackawanna & Western Railroad Co.-A. I am president of that company.

Q. Mr. Truesdale, I will ask you to state whether you know anything about an attempted settlement or negotiation carried on by one George M. Watson to settle certain disputes and differences between the Marian Coal Co. and your railroad company .- A. I have known about it; I think perhaps everything of material importance connected with those negotiations. had very little direct personal dealing with the matter, however, being confined to the-

Q. Well, I will ask you to state it in your own way fully. You got your information or knowledge through the various officers of the company to a certain point?-A. Yes, sir.

Q. Tell all you know about it.—A. All I know personally is confined to the interview with Attorney Watson in the office of the superintendent of our coal-mining department, Mr. Phillips, in Scranton, October 5, 1911, in which Mr. Loomis, Mr. Phillips, Mr. Reese, and myself were present and about which Mr. Loomis has already testified to-day.

Q. I will ask you to state how you got your knowledge of this conference before the conference took place that it was

to take place.—A. Through Mr. Loomis.

Q. What did Mr. Loomis tell you?—A. He told me that he had a request first from Mr. Watson for such a conference, and that had been supplemented by a request from Judge Archbald that we appoint a conference with Mr. Watson at Scranton.

Q. He told you that he had first a request from Mr. Watson, and that that was afterwards supplemented by a request from Judge Archbald that you have a conference at Scranton?-A. Yes; that is right.

Q. Now, I will ask you to state, Mr. Truesdale, when that conference at Scranton was held .- A. On the 5th of October,

1911.

Q. Now, you can state what occurred. You were present at that conference?-A. I was,

Q. What occurred and what proposition, if any, was submitted by Mr. Watson? Tell all you know about it .- A. There was a discussion, opened, I think, by Mr. Watson, lasting perhaps an hour or a little more, in which in detail we went over the various points that were covered by the correspondence that has been introduced in evidence here to-day. That was elaborated upon, the merits of it discussed pro and con, and, so far as we were concerned, we again stated what had been previously stated in the letters, that we could not see any chance of a settlement being arrived at.

Q. What was the proposition that Mr. Watson submitted there?—A. It was not very definite. In a general way he had submitted what he thought was a just claim, I presume, amounting to somewhere in the neighborhood of \$160,000.

Q. In the neighborhood of \$160,000?—A. Yes, sir.

Q. How long did that conference last, Mr. Truesdale?—A. An

hour or an hour and a quarter, I should say, or something like that.

Q. And the proposition was turned down on your part, was it?-A. Yes, sir.

Q. Did you make any statement in that conference as to the maximum you would offer for a settlement?—A. I do not think we made any offer at all; in fact, I am sure we did not. We stated that we could not figure-

Q. Did you make any statement as to what would be the maximum in case you should make any offer?-A. I think we stated very plainly that we could not see where there was any claim they had that we could consider for more than \$15,000 or \$17,000, as has been previously explained by Mr. Loomis.

Q. Did you have any knowledge or information concerning Judge Archbald's connection with this negotiation until Mr. Loomis a few days before that conference, told you that Mr. Watson's request had been supplemented by Judge Archbald?— A. I knew of some previous letters that Judge Archbald had written.

Q. You knew of the previous letters that Judge Archbald had written?-A. Yes; I think I saw them. I think Mr. Loomis

showed them to me.

Q. I will ask you to state if that conference was not arranged by reason of Judge Archbald's request?-A. Well, I presume so, although Watson also requested it. I can not say but that we might have held it even if we had not received this special request from Judge Archbald to do so.

Q. Would you have granted that conference but for Judge Archbald's request?-A. I do not know that I can say. quently respond to requests like that from people, even when I

do not think anything can come of them.

Q. On page 1591, in the hearings before the Judiciary Committee of the House, I will ask you, Mr. Truesdale, if you did not make this response in answer to a question by Mr. Webb:

Mr. Webb. You knew, of course, that the judge was responsible for

Mr. Webb. You knew, of course, that the judge was responsible for this conference?

Mr. Truesdale. I knew that he had requested it. I never heard that any responsibility lay upon him for holding it.

Mr. Webb. I will put it in this way: You had the conference because of the judge's request?

Mr. Truesdale. Yes, sir.

Did you so answer before the Judiciary Committee of the

House?—A. I presume that was taken down correctly.

Q. Now, is that true?—A. I think it is. I think I made it because of his request, but we might have had it anyhow. I might have attended a conference even at Mr. Watson's request. I think I explained at that time that I was taking a trip upon the road with Mr. Loomis and other officials, and that made it convenient to have a conference in connection with it.

Q. Mr. Truesdale, you understood, through Mr. Loomis and through the correspondence, that the beginning of these negotiations was at the instance of Judge Archbald, did you not, through a request made to Mr. Loomis?-A. At the beginning

with Mr. Watson.

Q. With Mr. Watson. It was through Judge Archbald's re-

quest?-A. Growing out of that; yes, sir.

Q. You also knew and understood that this final conference was brought about by Judge Archbald?-A. I knew he had requested it; yes, sir.

Q. I will ask you to state what was said at this conference on the 5th of October about the nature of the claim that was presented to you on that occasion. Did you refer to it as a holdup in that conference?-A. I do not think I did, sir.

Q. Did you regard it as excessive?-A. I did. Q. Did you so say?-A. I think I did; yes, sir.

Q. Was Judge Archbald's connection with the transaction mentioned in that conference?—A. I do not think it was. Q. You do not think it was?—A. I do not.

Q. You knew about his connection with it?-A. I knew he had asked us to have this conference; yes, sir.

Q. What did you understand Judge Archbald's interest in this matter was and what do you understand now it was?

Mr. SIMPSON. I object, unless it is by reason of something said or done directly or indirectly connecting Judge Archbald with it. The PRESIDENT pro tempore. The Chair will sustain the

objection. The counsel will limit it to specific facts. Mr. Manager FLOYD. The Chair overrules the question.

The PRESIDENT pro tempore. The manager can address his inquiry as to any particular fact at the conference.

Q. (By Mr. Manager FLOYD.) Do you know what his connection was?-A. I do not.

Q. I will ask you to state what you thought about it. Mr. SIMPSON. I object for the reason already given, sir. If anything was said or done, I do not object to it, but to ask the witness what he thought about it is certainly irrelevant to this inquiry.

Q. (By Mr. Manager FLOYD.) I will ask you, Mr. Truesdale, if you know of Judge Archbald being connected with any other. transaction in your company or trying to effect any other settlement between litigants in your company?—A. No, sir; I never knew of that.

Q. Has it by letter or correspondence ever been brought to your attention that he has been connected with any such matter before?-A. It has not.

Q. This is the first and only instance that you know of?-A.

Q. Did your company have litigation pending in the Commerce Court at the time?-A. I really do not know whether it

Q. You do not know whether it had or not?-A. No, sir.

Q. Your company frequently has litigation before the Commerce Court, or is likely to have litigation before the Commerce Court, has it not?—A. We have not had very many, I

Q. It is a court that has jurisdiction over matters in which

your railroad is sometimes concerned?

Mr. SIMPSON. Do you think that is a question to ask of the witness?

Mr. Manager FLOYD. That is all.

Cross-examination:

Q. (By Mr. SIMPSON.) Mr. Truesdale, at this conference was not Mr. Watson's claim first that the Bolands had in fact a claim against your company of three or four hundred thousand dellars. sand dollars?-A. I have no recollection of mentioning any such amount as that.

Q. Let me ask you whether this question and answer were not given at the hearing before the Judiciary Committee upon

this one point, page 1601:

Mr. Worthington. You do not remember that his claims amounted to three or four hundred thousand dollars?

Mr. Truesdale. I do not. I have an impression that they did amount to something like that, but I have nothing very distinct in my mind on that subject.

Do you remember that?-A. Yes; I do. I remember giving

some evidence upon that point.

Q. What was the conference about? Was it to settle differences between your company and the Bolands and the Marian Coal Co., or was it to purchase two-thirds of the stock of the Marian Coal Co.?-A. To settle the claims.

Q. It had no relevancy to stock at all?—A. I never heard of any attempt being made to sell us any amount of their stock.

It was not considered at all.

Q. And, as I understand you, the conference itself, so far as the details of it were concerned, was taken up mostly in discussing the rate matter. Is that right?—A. That is my recollection; yes, sir.

Q. But the washery and so on was incidentally spoken of?-A.

It was, sir.

Mr. SIMPSON. That is all, Mr. President. Mr. Manager FLOYD. That is all. This witness may be discharged.

The PRESIDENT pro tempore. The witness will be finally discharged.

TESTIMONY OF DANIEL R. REESE.

Daniel R. Reese appeared, and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager FLOYD.) Mr. Reese, state your name and place of residence.—A. Daniel R. Reese, Scranton, Pa.

Q. I will ask you to state, Mr. Reese, whether you are connected in any way with the Delaware, Lackawanna & Western Railroad Co.—A. I am.
Q. In what capacity?—A. I am an attorney for that railroad.

Q. I will ask you to state if you had certain correspondence concerning an attempted settlement of some differences between

the Marian Coal Co. and your railroad company.—A. I had. Q. Examine this letter of July 31, 1911 [handing paper],

and state whether or not you wrote that letter.—A. (Examining.) It is my signature. I wrote the letter.

What is the Senate exhibit mark?-A. Exhibit 50.

Mr. Manager FLOYD. Mr. President, the letter has already been read in evidence. We do not desire to have it read at this time. (To the witness:) I will ask you to examine the paper which I hand you [handing paper] marked "U. S. S. Exhibit 51," and state whether or not you wrote that letter .- A. (Examining.) I did.

Q. (By Mr. Manager FLOYD.) That letter also is already in [Handing paper to witness.] This is Senate Exhibit 53. Examine that letter and state whether or not you sent it.

(Examining.) I did.

The PRESIDENT pro tempore. Is this for the identification

of the letters?

Mr. WORTHINGTON. They have already been identified and read in evidence, and we do not object to them.

The PRESIDENT pro tempore. They have already been read in evidence and not objected to.

Q. (By Mr. Manager FLOYD.) You wrote the letters?—A. I did.

Q. Did you have any knowledge of these negotiations that were going on with Mr. Watson?—A. I did not. Q. You did not?—A. No, sir.

Q. You lived in Scranton?—A. I live in Scranton. Q. You wrote these letters?—A. Yes, sir.

Q. Mr. Reese, were you present at the conference on the 5th of October?—A. I was.

Q. I will ask you to state, if you know, what the proposition was which was submitted there by Mr. Watson.—A. Mr. Watson. son submitted a proposition to settle all matters for \$161,000.

Q. \$161,000?—A. Yes, sir.

Q. Did you not know at that time that the Bolands were willing to settle it for \$100,000 or a less amount?-A. I did not.

Q. You did not?—A. No, sir.
Q. You never heard of that?—A. I did not.
Mr. Manager FLOYD. That is all.
Mr. WORTHINGTON. That is all.
Mr. Manager CLAYTON. The witness may be discharged.

The PRESIDENT pro tempore. The witness will be finally discharged.

TESTIMONY OF HELM BRUCE,

Helm Bruce appeared and, having been duly sworn, was examined, and testified as follows:

Mr. Manager CLAYTON. Mr. Norris will conduct the examination of this witness, Mr. President.
Mr. Manager NORRIS. Mr. President, this witness's testimony pertains and applies to article 4. We have taken him and the following witness out of order because we want to give them an opportunity to get away. [To the witness:] Mr. Bruce, state your name.—A. My name is Helm Bruce.

Q. (By Mr. Manager NORRIS.) Where do you reside, Mr.

Bruce?-A. Louisville, Ky.

Q. What is your business, occupation, or profession now ?-A. I am a lawyer.

Q. How old are you, Mr. Bruce?-A. I am 52.

Q. How long have you been a lawyer?-A. 30 years,

Q. Did you in your professional capacity have anything to do with the case before the Commerce Court entitled "The Interstate Commerce Commission and the United States against the Louisville & Nashville Railroad Co."?—A. It was entitled just the other way. It was the Louisville & Nashville Railroad Co. against the Interstate Commerce Commission.

Q. I gave you the title as it appeared in the Supreme Court. Whom did you represent in that litigation?—A. The Louisville

Nashville Railroad Co.

Q. Are you at the present time an attorney for the Louisville & Nashville Railroad?—A. One of its attorneys.

Q. I did not expect you to be more than one.—A. I mean by

that that I am not its general counsel.

Q. How long have you been one of the attorneys for this railroad company?—A. I have represented it in different kinds of litigation for something like 20 years.

Q. Mr. Bruce, were you the managing attorney on the part of the railroad company in this particular case to which I have called your attention at the time it was argued and submitted in the Commerce Court?-A. I was.

Q. How long had you been in control of that case on the part of the railroad company?—A. Since the spring of 1910, my recollection is. The case was argued on the 3d and 4th of

April, 1911, and submitted on the 4th of April. Q. What year?—A. 1911.

Q. When did this case get into the Commerce Court with relation to the time of the organization of the Commerce Court?-As soon as the Commerce Court was organized.

Q. It was one of the cases that under the law was sent into that court as soon as it was organized?—A. It was transferred by operation of law.

When was that case argued, did you say?-A. On the 3d and 4th days of April, 1911.

Q. Was it submitted on the 4th day of April, 1911, to the

court?-A. It was. Q. When was the judgment of the court rendered?-A. I do not remember the date, but it was, I think, in the early part of March, 1912, this year.

Q. So that between its submission and the time it was de-

cided it was nearly a year?—A. About 11 months.
Q. Did you argue the case orally before the court?-After it was argued and submitted and before it was de-

cided, while it was pending in the court, did you have any correspondence with Judge Archbald in relation to it?-A. I did. Mr. Manager NORRIS. I will ask that this letter be marked

The Secretary marked the paper "U. S. S. Exhibit 55."

Q. (By Mr. Manager NORRIS.) Mr. Bruce, I hand to you Senate Exhibit 55 and ask you to examine it and state what it is .- A. (Examining.) It is a letter from Judge Archbald to

Q. Is that the first letter that you received from him?-A. Let me see the date of that. [Examining.] Yes, sir.
Mr. Manager NORRIS. We offer this letter in evidence and

ask that it be read.

Mr. Manager SIMPSON. What is the date of the letter? Mr. Manager NORRIS. August 22, 1911. The PRESIDENT pro tempore. Without objection, the letter will be read.

The Secretary read as follows:

[U. S. S. Exhibit 55.1

(United States Commerce Court, Washington.)

SCRANTON, PA., August 22, 1911.

HELM BRUCE, Esq.

DEAR SIR: In the New Orleans-Montgomery rate case, referring to Mr. Compton's testimony on page 397 of the stenographer's minutes of the hearing before the commission, will you please confer with Mr. Compton and advise me whether in answer to the first question by Commissioner Clements upon that page Mr. Compton intended to say that they "did" or "did not" apply the combination of locals to protect a through shipment in the case of Mobile and Montgomery? As the record stands Mr. Compton is made to say "We did apply it there." It is rather indefinite what "it" refers to; whether to the word "exception," in the question of Commissioner Clements, or to the word "combination," with which the word "apply" seems to connect it. I would like to have you clear this up if possible.

Yours, very truly,

R. W. Archbald,

R. W. ARCHBALD.

Q. (By Mr. Manager NORRIS.) Mr. Bruce, did you answer that letter?-A. I did.

Q. Did you keep a copy of your answer?-A. I did.

Q. Do you have that copy, Mr. Bruce?-A. No; you had it.

Q. I do not seem to have it here.

Mr. WORTHINGTON. You may read it from the record. Mr. SIMPSON. It is found on page 1540, and there is no

objection to reading it.

Mr. Manager NORRIS. I will ask you, Mr. Bruce, to examine this letter as printed in the record of the proceedings before the House Judiciary Committee and to say whether that is a copy of it?

Mr. SIMPSON. We will admit that it is, Mr. Manager

Norris, to save time.

Mr. Manager NORRIS. Very well; then we will have it read. It is admitted that the letter on page 1540 is a copy of the answer of the witness.

The PRESIDENT pro tempore. The Secretary will read as

requested.

The Secretary read the paper marked "U. S. S. Exhibit 56," as follows:

IU. S. S. Exhibit 56.1

Judge R. W. ARCHBALD, Scranton, Pa.

Judge R. W. Archbald, Scranton, Pa.

Dear Sir: I have yours of the 22d instant concerning the New Orleans-Montgomery Rate case and have just seen Mr. Compton concerning his testimony before the commission to which you refer, being the testimony on page 397. When I called this to his attention he immediately and unhesitatingly said that what he meant was that the company did not apply the combination of locals to protect a through shipment in the case of Mobile and Montgomery. He called attention to the fact that the remainder of his answer shows that such was his meaning, because he immediately proceeds to state that the company has tried, as far as possible, at all times to maintain the relative adjustment in the southeastern territory, which relative adjustment applies to rates between competitive points which are fixed with relation to each other, whereas rates to and from or between mere local points are not involved in the relative adjustment of rates.

You will find this matter very clearly explained by Mr. Compton in his testimony before the special examiner appointed by the circuit court in the present case in answer to question No. 19, beginning on page 173 of the transcript of the testimony before the special examiner. You will see that Mr. Compton there not only states the facts fully, but explains the reasons for them. And this testimony is wholly uncontradicted.

tradicted.
Yours, very truly,

Mr. Manager NORRIS. Mr. President, we should like to have that letter marked as an exhibit so that it may appear in the record in regular order.

The PRESIDENT pro tempore. It will be so ordered.

Q. (By Mr. Manager NORRIS.) Mr. Bruce, did you have any further correspondence with Judge Archbald about this case while it was pending?—A. I did.

Q. What was the next letter from him to you or from you

to him?-A. A letter from him to me.

Q. What is the date of the letter? It is the one written in longhand.—A. It is dated January 10, 1912.

Mr. SIMPSON. There is an intervening letter, Judge Norris.
Mr. Manager NORRIS. I want the next letter, Mr. Bruce. Mr. SIMPSON. It is found on page 1541 of the record, and I presume you want it in the record.

Mr. Manager CLAYTON. The letter of August 26, 1911, is next.

Mr. Manager NORRIS (to the witness). Does that appear among the letters I gave you, Mr. Bruce?
The WITNESS. What is the date?
Mr. SIMPSON. August 26.

The Witness (after examination). There is no such letter here.

Mr. Manager NORRIS. I think there is.
Mr. WORTHINGTON. You may read it from the record;
we do not care anything about it.
Mr. Manager NORRIS. Very well; mark it as an exhibit,
and we will read it from the printed record.

The WITNESS. Shall I answer the question? You asked me to read the next letter, and I started to read the letter of January 10, 1912. I had overlooked the fact that there was a letter of August 26, 1911, including

Mr. Manager NORRIS. August 26, 1911, be read. We will ask that the letter of

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read the letter, which was marked "U. S. S. Exhibit 57," as follows:

[U. S. S. Exhibit 57.]

(United States Commerce Court, Washington.)

SCRANTON, PA., August 26, 1911.

My Dear Mr. Bruce: I thank you for your letter of August 26, 1911.

My Dear Mr. Bruce: I thank you for your letter of August 24, with reference to Mr. Compton's testimony, about which I wrote you. I was quite sure from the context that the word "not" ought to be in the answer of Mr. Compton, on page 397, to which I referred. I think, however, that the intention to give a negative answer to the idea advanced in the question put is sufficiently evident from the context; and, as you have pointed out, this is fully explained by Mr. Compton in his answer to question 19, found in the testimony taken before the examiner. examiner.
Yours, very truly,

R. W. ARCHBALD. Q. (By Mr. Manager NORRIS.) Mr. Bruce, what was the next step in this correspondence?—A. The next letter was the one I started to read a moment ago, of January 10, 1912, from Judge Archbald to me.

Mr. Manager NORRIS. Mr. President, I ask that that letter be marked and read.

The letter was marked "U. S. S. Exhibit 58" and 'read, as follows:

[U. S. S. Exhibit 58.]

(United States Commerce Court, Washington.)

(United States Commerce Court, Washington.)

ON BOARD HOUSE BOAT "FIRSOLE."

Indian River, Fla., January 10, 1312.

My Dear Mr. Bruch: The inscription above will betray where I am and the pleasures I am about, while the New Orleans-Mobile-Montgomery rate case remains undecided. But I am where I am by irresistible invitation, and as tender to Mrs. Archbald, who could not go without me, which affords a partial extenuation.

And that I am not altogether oblivious of duty, permit me to make another inquiry about the rate case referred to. On page 69 of your brief you refer to the assertion by the commission in its report that "the building of new railroads and other causes have forced many departures from the adjustment of rates made by the Cooley arbitration." As to which you state that according to the record this is shown to be clearly mistaken. An examination of the tariffs in evidence by one of the members of our court has disclosed, however, a very large number of changes in commodity rates from time to time, which is claimed to refute your argument and sustain the commission, and it is with regard to this that I am writing you.

Assuming that these tariffs have been correctly interpreted by us, would you sustain it? That is to say, if there have been these departners from time to time in commodity rates from the adjustment of rates under the Cooley arbitration, would not that of itself be sufficient in the face of the cool of Association which you way is used to whether they have been correctly interpreted by us, and whether they show the numerous changes which have proposed to give us your views as to whether they have been correctly interpreted by us, and whether they show the numerous changes which have proposed to give us your views as to whether they have been correctly interpreted by us, and whether they show the numerous changes which have proposed to give us your views as to whether they have been correctly interpreted by us, and whether they show the numerous changes which have proposed to did not d

Q. Mr. Bruce, did you comply with the request contained in that letter?-A. I did.

And answered the letter?-A. I did.

Q. What was the date of your reply?—A. January 24, 1912.
Mr. Manager NORRIS. Mr. President, we ask that the letter be marked as an exhibit and read in evidence.

The Secretary read the letter, marked "U. S. S. Exhibit 59,"

as follows:

[U. S. S. Exhibit 59.]

JANUARY 24, 1912.

My Dear Judge: Yours of the 10th instant concerning the New Orleans-Mobile-Montgomery case reached me, I think, some days after it was written. I, however, deferred making any attempt to answer until I could have a chance to talk with Mr. Compton about some of the matters to which your inquiries are directed. And, as Mr. Compton was off on one of his testifying expeditions and did not return to his office for several days, the answer to your letter has been delayed much longer than I expected. Otherwise I would have made a brief acknowledgment of it immediately, with promise of an additional answer later.

As your letter was written without the aid of a stenographer, so that you have no copy of it, I will, pursuant to your suggestion, state the substance of your inquiries, so that my answer may be clearly understood.

you have no copy of it, I will, pursuant to your suggestion, state the substance of your inquiries, so that my answer may be clearly understood.

You refer to the following facts, (1) that the commission in its report stated that the building of new railroads and other causes have forced many departures from the adjustments of rates made by the Cooley arbitration; (2) that in my brief, on page 69, I refer to this assertion by the commission and say it is not according to the record; and (3) that an examination of the tariffs in evidence seems to disclose a large number of changes in commodity rates from time to time, which seem to refute my statement. Having made this reference to the record and the brief, you then ask:

"Assuming that these tariffs have been correctly interpreted by us, would you still affirm the position taken in your brief, and upon what theory would you sustain ft? That is to say, if there have been these departures from time to time in commodity rates from the adjustment of rates under the Cooley arbitration, would not that of itself be sufficient to warrant the assertion made by the commission, which you say is in the face of the record? Also, have you made such an examination of the tariffs in evidence that you are prepared to give us your views as to whether they have been correctly interpreted by us, and whether they have been correctly interpreted by us, and whether they have been correctly interpreted by us, and whether they show the numerous changes which I have referred to? Again, is there anything to indicate that the commission did or did not rely on these tariffs for the statement that they make with regard to the alleged departure from the Cooley arbitration? And if there are such departures in commodity rates, whether they make with regard to the alleged departure from the Cooley arbitration? And if there are such departures in commodity rates, whether the commission moted them or not, could it be said that the statement in their report was not sustained by the evidence?

"I o

modity rates. But the commission, for reasons expressed by it in its report, never passed upon the complaint as to commodity rates, the concluding clause of the commission's report being in the following language:

"In regard to the commodity rates attacked in these proceedings certain adjustments and changes have been made therein by the defendant since the institution thereof, with the view of correcting inequalities or excessive charges found to exist, which adjustments and changes are admitted to have removed the cause of complaint to some extent. It is impracticable in the present state of the record to determine satisfactorily what other changes, if any, respecting commodity rates should be made. These cases will be retained, therefore, for such further investigation and consideration of commodity rates involved as the facts and circumstances may seem to require." (Complainant's exhibit book, p. 89.)

I was not in the case before the commission at all. And I did not come into the case in the circuit court until after the bill was filed and the commission had filed its answer. I did, however, have charge of the taking of proof and the preparation of the case from the time the issues were made. Finding that the commission had decided nothing on the subject of commodity rates, but had expressly reserved that subject for further consideration, and that the equity suit filed by the railroad company attacking the commission's order was therefore necessarily confined to the subject of class rates, to which the commission's order was confined. I never attempted to make any investigation of the subject of commodity rates, or to make any investigation of the subject of commodity rates, or to make any investigation of the subject of commodity rates is a matter that would require investigation, followed by explanation, but that investigation had possible to the reasons which seem to me to sufficiently appear from what I have said.

I do not see how it can be possible that the commission, in making the statement it di

to me that the commission's statement that the Cooley adjustment had been departed from, must be considered as relating to that subject matter upon which it was passing indigment, or expressing a conclusion and which, as we have seen, was confined to the subject of class rates, expressly excluding commodity rates, and therefore in any proper sense it is true that the commission's statement is not sustained by the evidence.

When I at last succeeded in getting hold of Mr. Compton, and asked him about the fact as to whether or not the Cooley adjustment had been departed from in fixing commodity rates, a subject to which I had never before given any attention. In the subject would require a very great deal of very painstaking investigation. He called my attention to the fact that in the tariffs there are a great many pages devoted to commodity rates; that it would be necessary to check over all of these individual rates for the purpose of seeing whether or not any rates on any commodity departed from the Cooley adjustment, and then to ascertain, if possible, the reason why the departure was made in As to the particular tariffs that were filed before the commission, I was not able to call them specially to his attention, because my file is very incomplete as to copies of the tariffs introduced in evidence, and it would of course be an enormous work to read through the entire testimony before the commission for the purpose of picking out here and there where some tariff of this kind may have been referred to. He said, therefore, that while it was a possible thing to check over it would involve a work of tremendous labor. And I told him that it did not befieve you meant to call for them at this time, especially in view of the situation of this case, as I have heretofore explained. Speaking generally upon the subject, without investigation, he said that there might be some cases where a commodity moved in substantial quantities from one point, such as New Orleans, which did not nove in substantial quantities from the

Hon. R. W. Archbald, Judge United States Commerce Court, Washington, D. C.

Q. (By Mr. Manager NORRIS.) That letter, Mr. Bruce, was signed by you?-A. Oh, yes.

Q. The Secretary has read from a carbon copy. Did you hear from the judge again before this case was finally determined?-A. No.

Q. When did you next hear from him in regard to this case?—A. After the case was decided I wrote the judge a letter and he answered that.

Q. Have you a copy of the letter that you wrote to the judge?—A. Yes, sir.

Mr. Manager NORRIS. I ask that it be marked as an exhibit and that it be read in evidence.

The Secretary read as follows:

[U. S. S. Exhibit 60.]

Hon. R. W. ARCHBALD, Scranton, Pa.

MARCH 4, 1912.

My Dear Judge: Of course, a lawyer is always gratified at winning a case, but I hope that I offend against no rule of propriety when I express my gratification, not simply at the ultimate result, to wit, the annulling of the order of the commission in the case of Louisville & Nashville Railroad Co. v. Interstate Commerce Commission (which we know as the New Orleans Board of Trade case), but over the opinion. This seems to me to show a familiarity on your part of the intricate details of this case that is really extraordinary; and your statement of the principles by which the court was guided in acting upon the case is so clear as to leave no doubt in the mind of one who is looking for a guiding rule in such cases.

Yours, truly,

HB-B.

Q. (By Mr. Manager NORRIS.) Mr. Bruce, that letter bore your signature as it was sent?—A. Yes.
Q. Did you get an answer to that?—A. I did.
Mr. Manager NORRIS. We ask that it be marked as an

exhibit and read in evidence.

The Secretary read as follows:

[U. S. S. Exhibit 61.]

(R. W. Archbald, judge, United States Commerce Court, Washington.) SCRANTON, PA., March 8, 1912.

MY DEAR MR. BRUCE: I thank you for your letter and its kind appreciation of the opinion of the court in the New Orleans Board of Trade case; but you fail to take credit for the very important part which you played in the result. Frankly, the case was won on your argument and brief. Your oral argument was one of the best that we have heard, and your brief was an absolute demonstration of the errors committed by the commission, and complete at every point. You can not fail to note how closely the opinion follows and reflects what is there said. As for myself, I am only entitled at the most to a part of the opinion as filed. A considerable portion of it, if not indeed the best, is from the hand of another member of the court, and it is probably there that you find the enunciation of principles which you particularly commend. I regret exceedingly the delay which has occurred in this case; but some time, when I have the pleasure of seeing you again, I will endeavor to explain how it came about.

Very truly, yours,

R. W. Archbald.

I hope we shall have the pleasure of hearing you soon in argument again.

Q. (By Mr. Manager NORRIS.) Mr. Bruce, the judge in that last letter speaks of a conference. Did you have that conerence?-A. No; I never saw-I never spoke to Judge Archbald in my life, except twice, once

Q. You never saw him after the receipt of that letter except since you have appeared as a witness here or before the committee?-A. I have never seen him until I saw him before the Judiciary Committee.

Q. Did you give to the other attorneys in the case any notice of this letter or argument that you sent to the judge?-A. I

Q. Do you know whether any of the other attorneys in the case knew anything about the correspondence that was going on while the case was pending?-A. I do not know, but I have no reason to think they did.

Q. In that litigation who represented the United States Government?-A. Do you mean the Government or the commission? Q. I mean the Interstate Commerce Commission,-A. Mr.

William E. Lamb, now of Chicago, then of Washington. O. Who instituted this suit originally?-A. The Louisville &

Nashville Railroad Co.

Q. There was a complaint made coming from the New Orleans Board of Trade, was there not?—A. Yes; that was the hearing before the Interstate Commerce Commission.

Q. Yes .- A. That was a complaint, or, rather, there were three complaints by the New Orleans Board of Trade against the Louisville & Nashville Railroad Co. before the Interstate Commerce Commission.

Q. Who represented the New Orleans Board of Trade in this litigation, if anybody?-A. In this judicial case?

Q. Yes.-A. Nobody.

They were not represented?-A. No, sir.

Q. Were they represented before the Interstate Commerce Commission, do you know?-A. I know that from having seen a brief filed before the commission by Mr. Smith.
Q. Mr. Smith?—A. He represented the board of trade before

the commission.

Q. Do you know his full name?—A. I think it is John Smith. Q. He lives in New Orleans?—A. Yes. I am not sure of his name.

Q. I will ask explicitly did you notify Mr. Smith or this other gentleman, whose name you have given—
Mr. SIMPSON. Mr. Lamb.
Q. (Continuing). Mr. Lamb, of what was going on in this

correspondence?-A. I did not.

Cross-examination:

Q. (By Mr. SIMPSON.) Mr. Bruce, you have been a practicing attorney how long?—A. Thirty years.

Q. In active practice during the whole of that time?-A. Yes, sir.

Q. In what courts has your practice been principally?-A.

Well, all of the courts in my part of the country.
Q. And the Supreme Court of the United States?—A. Yes, sir; and the circuit court, Court of Appeals of Kentucky, the circuit and district courts of the United States, the circuit court of appeals, and the Supreme Court.

Mr. SIMPSON. Mr. President, there are a couple of matters

as to which there is no dispute, about which we want to examine the witness. Mr. Bruce is an exceedingly active man. I do not know whether the managers would object to our examining him in regard to these matters at this time or not. It will not be cross-examination.

Mr. Manager NORRIS. I did not hear the statement of counsel.

Mr. SIMPSON. I say there are a couple of matters about which there is no dispute as to which we would like to examine Mr. Bruce at this time. He has been subpoenaed by us. I do not think there will be any dispute about it, but of course we

will have to wait until our case comes on if the managers

I will state, if you desire, what the points are. In the first place to prove by Mr. Bruce that the first letter which was received by Judge Archbald from him was, in fact, attached to the record in the case

Mr. Manager NORRIS. There is no dispute about that,

We will admit that.

Mr. SIMPSON. And is printed in the record in the Supreme Court. If that is admitted I do not want to ask him about it.

Mr. Manager NORRIS. That is the first letter? Mr. SIMPSON. Yes; from Mr. Bruce to Judge Archbald. Mr. Manager NORRIS. Yes; from Mr. Bruce to Judge

Archbald.

Mr. SIMPSON. And the second thing is that he received a letter from Judge Mack and wrote a reply, which he has been asked to produce. I would simply like to have the letters identified and copies left here.

Mr. Manager NORRIS. There will be no objection to his doing that. We will not object to Judge Mack's letter, except the objection that may be made on the ground of its immateriality.

Mr. SIMPSON. That is all right.

Mr. Manager NORRIS. We will not require you to identify You need not keep him here for that purpose. I do not think it is material.

Mr. SIMPSON. I do not think there is any use of Bruce remaining here.

The WITNESS. Do I correctly understand that you want me to produce the letter?

Mr. SIMPSON. A copy of Judge Mack's letter to you and your reply to him. With that we will let you go.

Mr. WORTHINGTON. He might produce the originals. Mr. SIMPSON. He would, of course, I suppose prefer to keep the originals.

Mr. Manager CLAYTON. You will let us see those? Mr. SIMPSON. I have not seen them myself yet, Judge,

but I will be very glad to show them to you.
The WITNESS. There are three letters. You asked for only

Mr. SIMPSON. I did not know there were three. [To the witness.] Can you leave these letters or send us copies? It does not make any difference which you do.

The WITNESS. I will leave the originals here, and you can

return them to me when you get ready.

Mr. SIMPSON. Thank you.
Q. (By Mr. Manager NORRIS.) Referring to this case of the Louisville & Nashville Railroad Co. against the Interstate Commerce Commission, after it was decided by the Commerce Court it went to the Supreme Court, did it not?—A. It did.

Q. And is there pending?—A. Under submission. Q. Had the case originally been passed upon by the Interstate

Commerce Commission ?- A. Oh, yes; that is the foundation. Q. And your client, the Louisville & Nashville Railroad Co., commenced the case by injunction against the Interstate Commerce Commission from enforcing its order; that was the origin of it?-A. That is it.

Q. Mr. Bruce, since your testimony have you talked with the attorneys for the respondent?-A. I have not; except-Q. Have you had any correspondence with them?-A. (Con-

tinuing.) Let me answer the question completely.

Q. All right .- A. When I got to the city, having been subpænaed by both sides, I notified the managers that I was here and ready to testify; and I also notified Mr. Worthington, counsel for Judge Archbald, that I was here and ready to testify.

Q. Did you communicate to them the fact that you had had some correspondence with Judge Mack?-A. I testified to that before the Judiciary Committee.

Q. I believe you did make reference to that.

Mr. SIMPSON. That is the reason we subpænaed him to produce them.

The Witness. I was served with a subpœna duces tecum to produce those letters.

Q. (By Mr. SIMPSON.) Did you write a letter to Mr. Worthington after your testimony before the Judiciary Committees-A. I did.

Mr. SIMPSON. I think, gentlemen, you have that letter. Mr. WORTHINGTON. We should like to have that letter to Mr. SIMPSON. identify it. It is not in evidence.

Mr. Manager CLAYTON. There will be no trouble about the identification. We will find it or a copy of it.

Mr. SIMPSON. All right. Mr. WORTHINGTON. The record of the Judiciary Committee will show that this witness did write a letter to me, which I produced at the hearing before the Judiciary Committee. It was turned over to the committee and has been in their possession since

Mr. Manager CLAYTON. I apprehend we will have no con-troversy about that unless it be about the admissibility of it in evidence: but about the identification of it or the fact that such a letter was written, there will be no controversy.

The WITNESS. I did not understand you to ask me, Judge, if I had written to Mr. Worthington. Was that the purport of

your question?

Mr. Manager NORRIS. I asked you if you had had any

correspondence with him.

The WITNESS, I did not understand that. Of course I did write to Mr. Worthington shortly after my appearance before the Judiciary Committee, but I knew the managers knew of that letter, and when you asked me if I had had any correspondence I thought you meant some late correspondence,

Mr. Manager NORRIS. That is all with this witness, Mr. Manager CLAYTON. The witness may be discharged. The WITNESS. I should like to ask if my letter which I wrote to Mr. Worthington is in the record.

Mr. WORTHINGTON. No; it is not.
The Witness. I think the facts I stated in that letter are material, if I may be permitted to say so, to this matter you have under consideration, because it states the attitude of the parties upon the question on which Judge Archbald wrote to me.

Mr. Manager CLAYTON. This is not in response to anything we have asked; and while it is very interesting, I think we can deal with that matter later. There will, no doubt, be an agreement about the identity of the letter, but any argument predicated on that letter I do not think we care to have at this time.

The PRESIDENT pro tempore. The witness may be finally

discharged?

Mr. SIMPSON. Yes.
The Witness. Discharged by both sides.
Mr. Manager NORRIS. I have a witness, whose testimony will be very brief, whom we might call at this time.

The PRESIDENT pro tempore. If it is the desire of the Senate, the time can be prolonged. If not, the order of the Senate will require the Senate sitting as a Court of Impeachment to adjourn at 6 o'clock. On the suggestion of the manager that the testimony of his next witness will be short

Mr. Manager NORRIS. It may be the witness has gone. think he has gone. We will not ask that he be called at this

time

Mr. LODGE. I move that the Senate sitting as a Court of Impeachment adjourn.

The motion was agreed to.

Thereupon the managers on the part of the House, the respondent, and his counsel retired.

Mr. SMITH of Georgia. I move that the Senate adjourn.

The motion was agreed to, and (at 5 o'clock and 59 minutes p. m.) the Senate adjourned until to-morrow, Thursday, December 12, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

Wednesday, December 11, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the follow-

ing prayer:

We bless Thee, Almighty God, our heavenly Father, for the deep and abiding faith which Thou hast implanted in the hearts of Thy children, the inspiration of men to noble and heroic lives, to whom we are indebted for the civilization of our day. most fervently pray that this faith may grow until it becomes universal, crowding out hate and revenge, doubt and uncertainty, bringing in brotherly love, until all men can say,

I know not where His islands lift Their fronded palms in air; I only know I can not drift Beyond His love and care.

This we ask in the name of Christ the Lord. Amen. The Journal of the proceedings of yesterday was read and approved.

LEAVE TO PRINT.

Mr. CANTRILL. Mr. Speaker, I ask unanimous consent to print in the RECORD the argument of the Hon. James M. Beck in the Supreme Court of the United States as to the invalidity of a Federal censorship of the press under the operation of House bill 21279.

The SPEAKER. Is there objection?

There was no objection.

The following is the argument referred to:

(Supreme Court of the United States. The Lewis Publishing Co., a body corporate in law, complainant-appellant, against Edward M. Morgan, postmaster in and for the city of New York, defendant-appellee.)

BRIEF FOR THE APPELLANT.

STATEMENT OF FACTS.

The newspaper law (reprinted in full as an appendix, post, p. 51), whose constitutionality is in this suit called into question, is neither in form nor substance a law to regulate the carriage of the mails, but to regulate journalism.

In this respect is has the merit of sincerity. It does not pretend to be in aid of the Post Office Department. That department did not seek its enactment, but protested against it. (When the bill was under consideration before the Senate Committee on Post Offices and Post Roads the Postmaster General addressed a formal letter to Senator Bourne, the chairman of the committee, in which, after discussing other details of the general appropriation bill, he made this specific protest against the passage of the newspaper section: "I also call your attention to that portion of the bill beginning on page 33, line 19, which requires the insertion in newspapers and periodicals of the name of the owner or owners and the managing editor or managing editors, and also that matter for the insertion of which a charge is made by the publishers should be marked as an advertisement or private name of the writer signed thereto. In my judgment this provision is not only needless, but will be positively hammul, as it will require the continuous use of valuable space in the publication and at the same time be resented as a consorship of the press. One of the greatest difficulties now encountered in the enforcement of the laws relating to second-class mail privileges is the fact that the Post Office Department is under its duty compelled to make inquiry into many aspects of the private business of publishers. This gives rise to the complaint, though ill-founded, that the Government carries on a needless interference with the privileges of the press. The only possible service to be rendered by such a provision would be the identification of the owners and writers of newspapers and periodicals in order to hold them for contractual obligations or for libelous printed matter, both of which would be matter u

Even this remote connection is wanting in the latter section of the law, which requires paid reading matter to be formally branded as an advertisement. Its enforcement is left to a criminal action for a penalty.

penalty.

The law has two plainly avowed objects.

The first is to compel a disclosure to the Government, under oath, of the names and addresses of the editors, publishers, business managera and owners, stockholders, security creditors, and the daily circulation of such newspapers for the preceding six months.

This will be hereafter referred to as the inquisitorial provision.

The second object is to compel a disclosure to the public through newspaper publication of these facts and also whether any editorial or reading matter in such publication has been inserted for a valuable consideration.

This will be hereafter referred to as the publicity provision.

The publicity provision can not be referred to any proper function of the Post Office Department. Its function is to carry the mails and in such carriage it can not matter whether the public are advised as to the ownership, editorial direction, and circulation of a newspaper or not, or whether the matter which it publishes is published for a consideration.

The requirement that the publishers shall file a sworn statement on

such carriage it can not matter whether the public are advised as to the ownership, editorial direction, and circulation of a newspaper or not, or whether the matter which it publishes is published for a consideration.

The requirement that the publishers shall file a sworn statement on these matters with the Post Office Department was not intended as a means of determining whether a newspaper was in fact entitled to the privileges of second-class rates, for as the Attorney General, in the opinion which he has given to the Postmaster General with reference to this law, plainly points out, the Post Office Department already has all of the inquisitorial power that it needs for this purpose. (The Attorney General says: "Independently of this amending act, in order that the Postmaster General may determine whether or not a publication applying to be admitted to the second class has a legitimate list of subscribers, and is not designed primarily for advertising purposes, or free circulation, or for circulation at nominal rates, the Postmaster General is entitled to require full and complete statements showing the character of the business of the publication, and by section 436 of regulations (edition of 1902) he has required postmasters to secure satisfactory evidence that publications so offered for entry have 'a legitimate list of subscribers approximating 50 per cent of the numbers of copies regularly issued and circulated, by mail or otherwise, made up, not of persons whose names are furnished by advertisers or by others interested in the circulation of the publication, but of those who voluntarily seek it and pay for it with their own money, although this rule is not intended to interfere with any genuine case where one person subscribes for a definite period of several issues for a limited number of copies for another.' And by section 438 the postmasters are directed to require the proprietor or duly authorized representative, on applying for second-class mail privilege, to furnish detail information of a char

man of the Committee on Post Offices and Post Roads, said: "I assume the desire is to furnish the public information as to the possible bias of the paper incident to ownership or incident to obligations of the paper or its owners to individuals." Another advocate of the legislation, Senator Reed, of Missouri, said that "the purpose of the proposed law was that the people who read the newspapers should be advised of the control back of the newspapers." When the proposed legislation was originally suggested in the House of Representatives, Congressman Henry of Texas, chairman of the Committee on Rules, stated that its purpose was "that the American people may see the men who stand behind the guns trained against public officials." When the addition with reference to the printing of daid matter was added, its proponent, Congressman Barnhart, of New York, stated as its purpose that this provision "will not cost the people anything, but will conserve honesty and public confidence in one of the greatest educational factors in the world." Congressman Victora Berger, of Wisconsin, said: "It seems to me that the politicians are trying to get even with the newspapers, which are continually prying into the private affairs of the politicians. The politicians want to know everybody connected with the papers and thus get the best of them. You can never do it, gentlemen, because in the end the newspapers will have the last word every time, no matter what you do. If you get the ill will of your own party papers, you might just as well quit the political game. Moreover, there is a grave danger lurking behind the proposition. The freedom of the press is involved.")

The face of the statute shows its true purpose. Religious, fraternal,

might just as well quit the political game. Moreover, there is a grave danger lurking behind the proposition. The freedom of the press is involved.")

The face of the statute shows its true purpose. Religious, fraternal, temperance, scientific, or other similar publications are exempted from its provisions, and the requirement as to disclosure of circulation is further limited to daily newspapers.

If it be desirable that the Postmaster General, before admitting a periodical to second-class rates or to the privileges of the mail at all, shall require a statement of its average circulation, such requirement, so far as the Post Office Department is concerned, must be quite as important in the case of a religious or scientific journal as an ordinary newspaper, and certainly there can be no reasonable distinction as to such publicity between a weekly and daily newspaper. This discrimination shows that the law attempts to regulate the instrumentalities of public opinion, the newspaper press, and that the carriage of the mails or the right to second-class matter was not the object of Congress. It attempts to ascertain who are responsible for daily newspapers, and the extent of their influence as measured by circulation.

Congress sought to censor the press by compelling disclosure and publicity of facts vital to its influence under the penalty of exclusion from the mails, a penalty sufficiently drastic, for such exclusion would wreck any publication. The penalty is not merely exclusion from the privilege of second-class rates or a denial of the carriage of the newspaper through the mails. The owners and publishers who refuse to comply with the law are denied the privilege of the mails for any purpose. As to paid matter, they are subject to indictment and a fine.

With the policy of this law this court has no concern. It can only inquire whether it is a valid law ninder the Constitution.

My argument against its validity will be divided into three propositions—

My argument against its validity will be divided into three propositions—

1. The Constitution has not, either under the post-roads clause or elsewhere, delegated to the Federal Government the power (1) to compel these disclosures and (2) to direct their publication or (3) to compel paid reading matter to be marked as an advertisement.

2. The Constitution not only failed to give such power, but it expressly forbade it by the first amendment prohibiting any law "abridging the freedom of the press."

3. The requirement that a certain class of newspapers shall disclose to the public by publication the most intimate details of their business and use their own capital, labor facilities, and valuable space for such disclosure is a taking of "liberty" and "property" without due process of law and a like taking of valuable property rights for an assumed public use without just compensation.

Argument of the Law.

ARGUMENT OF THE LAW.

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I.

The Constitution has not, either under the post-roads clause or elsewhere, delegated to the Federal Government the power (1) to compel these disclosures and (2) to direct their publication or (3) to compel paid matter to be marked as an advertisement.

While no express power for such a law will be claimed, the Government will seek to sustain it as an implied power necessary to the express power "to establish post offices and post roads" (Art. I., sec. 8). It has been well said:

"No other constitutional grant seems to be clothed in words which so poorly express its object or so feebly indicate the particular measures which may be adopted to carry out its design. To establish post offices and post roads is the form of the grant; to create and regulate the entire postal system of the Government is the evident intent." (Pomeroy on Constitutional Law, sec. 411.)

It was originally thought—indeed, as late as the administration of President Monroe—that the only purpose of the grant was to designate the routes over which the mails should be carried and the post offices where it should be received and distributed. At the time the Constitution was framed the carriage of the mails was a private enterprise, although the establishment of post offices was a governmental function. This was the view of President Monroe when he vetoed the Cumberland Road bill on May 4, 1822. The carriage of the mails is therefore in itself an implied power.

These earlier and narrow views of an important governmental power are, however, academic, for I freely concede that, however unhappily expressed, the Constitution meant to give to the Federal Government full power to make a monopoly of the carriage and distribution of the mails, and that all "necessary and proper" means are to be regarded as fairly embraced in the power.

The present law as an alleged implied power must therefore be subjected to the acid test of Chief Justice Marshall:

"Let the end be legitimate, let it be within the scope of the Constitution, an

be "abridged"?
When governmental powers—only caumerated in the Constitution
in the broadest and most general way—pass to the stage of necessary

definition through judicial decisions, restrictions are imperatively necessary, unless the Constitution itself is to fall into cureless ruin.

The commanding genius of Marshall and his associates quickly recognized the absolute necessity of the judiciary confining both the National and State Governments within their respective spheres by so defining the enumerated powers as to create a harmonious though dual system. system

defining the enumerated powers as to create a harmonious though dual system.

In the case of McCulloch v. Maryland (4 Wheat. 423) the Chief Justice laid down for all time this great and absolutely necessary rule of interpretation, as follows:

"Should Congress, under the pretext of executing its powers, pass laws for the accomplishment of objects not intrusted to the Government, it would become the painful duty of this tribunal, should a case requiring such a decision come before it, to say that such an act was not the law of the land." (Hamilton, in the Federalist, No. 33, said:

"The priority of a law in a constitutional light must always be determined by the nature of the powers upon which it is founded. Suppose, by some forced construction of its authority (which, indeed, can not be easily imagined) the Federal Legislature should attempt to vary the law of descent in any State, would it not be evident that in making such an attempt it had exceeded its jurisdiction and infringed upon that of the State? Suppose, again, that upon the pretense of an interference with its revenues it should undertake to abrogate a land tax imposed by the authority of the State, would it not be equally evident that this was an invasion of that concurrent jurisdiction in respect to these species of tax which the Constitution plainly supposes to exist in the State governments?" The fatal effect upon constitutional government of any other course was pointed out by Senator Hayne in his great debate with Webster, when he said that if Congress "may use a power granted for one surpose for the accomplishment of another and very different purpose, it is easy to show that a Constitution on parchment is worth nothing.")

The Government may contend that the later decisions of this court modify, if not altogether abrogate, this primary and vital principle of constitutional construction. The line of cases, of which Veazle v. Fenno, 8 Wall, 533, is the leading case, will probably be cited, in which the doctrine is laid down in various forms but

8 Wall., 533, is the leading case, will probably be cited, in which the doctrine is laid down in various forms but substantially to the following effect:

"The judiciary can not prescribe to the legislative departments of the Government limitations upon the exercise of its acknowledged powers. The power to tax may be exercised oppressively upon persons, but the responsibility of the legislature is not to the courts, but to the people by whom its members are elected."

It was clearly shown in subsequent decisions that the decision in Veazle v. Fenno was amply justified in the exclusive power of the Federal Government to establish an exclusive currency, with the incidental power to "restrain by suitable enactments the circulation money the notes not issued under its own authority." The statement in that case, therefore, that "the judiciary can not prescribe the legislative department of the Government limitations upon the exercise of its acknowledged powers" was mere obiter. This decision means nothing more than that the "acknowledged," 4. e., conceded powers, can not be restricted by the judiciary to prevent some supposed injustice. If, therefore, the Constitution had given the Federal Government power to regulate journalism and provide the conditions under which a newspaper could be published, the judiciary could not limit the power because a particular method of enforcing it seemed unwise or unjust. Much less could it invalidate such method because the judiciary believed that the methods of Congress were improper and inconsistent with the spirit of the Constitution. stitution.

It must also be remembered that in Veazie v. Fenne, Chief Justice Chase also said:

It must also be remembered that in Veazie v. Fenno, Chief Justice Chase also said:

"There are indeed certain virtual limitations arising from the principles of the Constitution itself. It would undoubtedly be an abuse of the power if so exercised as to impair the separate existence and independent self-government of the States or if exercised for ends inconsistent with the limited grants of power in the Constitution."

Reading these excerpts from this leading case together, it must be obvious that in considering the constitutionality of any statute we "beg the question" if we first assume the power and then simply deny the right of the judiciary to place limitations upon its exercise. In Veazie v. Fenno this court did not hold that the motive and object of Congress might not be very pertinent in determining this primary question of power. On the contrary, this court ruled that if the legislation were clearly within the Constitution the motives of Congress were beyond judicial inquiry. This court has never conceded—and I venture to predict never will concede—that Congress may use a power given only for one purpose for an entirely different and unconstitutional purpose. In this class of cases reasoning in a circle must be carefully avoided.

A later and more striking case is McCray v. United States (195 U. S., 27), in which this court, having under consideration the constitutionality of the designedly prohibitive tax upon oleomargarine, held that the judiciary could not inquire into the "motive or purpose" of Congress in adopting a statute levying an excise tax within its constitutional power.

There is no necessary inconsistency between these two lines of decisions.

The latter line of cases are generally, if not invariably, instances of

decisions.

The latter line of cases are generally, if not invariably, instances of cxpress powers, like that of taxation or the regulation of commerce, and as to these this court has said that they, being what Marshall called "acknowledged powers," the judiciary cx necessitate rei can neither limit them further than they are expressly limited in the Constitution nor impeach the power by questioning the uncertain motives of Congress.

of Congress.

A very different question arises and must arise where the exercise of an implied power is under consideration. There the law finds no warrant in the letter of the Federal Constitution. The power has not been expressly granted. It is confronted with the tenth amendment, expressly reserving all undelegated powers to the States.

Indeed, implied powers are derived from the section of the Constitution which gives "power to make all laws necessary and proper for carrying into execution the powers expressly granted to Congress or vested by the Constitution in the Government or in any of its departments or officers." While no narrow, literal, and impracticable meaning can now be given to the words "necessary and proper," yet, as Mr. Justice Story said in his great commentary on the Constitution, these words "are at once admonitory and directory," and they require that the means used in the execution of an express power "should be bona fide appropriate to the end." (Hepburn v. Griswold, 8 Wall., 60%, 614.)

"Every valid act of Congress must find in the Constitution some warrant for its passage." (United States v. Harris, 106 U. S., 636.)

An alleged implied power, as in the case at bar, must justify itself, by shoring that it is "necessary and proper" and "plainy adapted to powers are mere complements of each other, and to both can be applied the words of this court in Mugler e, Kansa (123 U. S. 623): "It soem not at all follow that every statute enacted ostens by close of the police powers of the State. There are of necessity limits beyond which legislation can not rightfully go. While every possible present the property of the police powers of the State. There are of necessity limits beyond which legislation can not rightfully go. While every possible present the property of the

Trust-made commodities were to be forbidden access to the channels of interstate and foreign trade. Putting together the two remedies, it must be admitted that they would be sufficiently drastic, for if a large corporation can neither sue in the Federal court, transport its freight on interstate railroad lines, import its raw material in foreign commerce, telegraph a message, mail a letter, or enjoy the usual national-banking facilities, its outlawry would be complete.)

The present case affords a striking illustration of this new gospel of subverting the Constitution by a perversion of Federal powers, at which the framers of the Constitution would have stood aghast. Following the scheme of unconstitutional dures, the law simply provides that the owners of a newspaper must file with the Postmaster General, and later publish in their newspapers, the names and addresses of the editors, owners, creditors, etc., and the amount of the circulation, and shall brand paid reading matter as an advertisement, and, conscious of its inability to enforce such requirements under any express grant of the Constitution, Congress attempts to compel the owners of newspapers to submit to these unlawful demands by penalizing them with exclusion from the mails and liability to a fine.

Is such duress within any true definition of Federal powers?

Is it a due regulation of the mails for the Federal Government to say to a citizen, "Unless you do certain things, which we have not otherwise the power to compel you to do, we will deny you the facilities of the mail"?

If such a right exists, then it must be obvious that our Government is not one of effective restrictions. Congress, exercising a group of the near the constitution on the mails not one of effective restrictions.

of the mail."?

If such a right exists, then it must be obvious that our Government is not one of effective restrictions. Congress, exercising a group of powers which are absolutely vital to the well being of every citizen, can coerce him into doing anything that Congress requires, under penalty of a denial of the ordinary privileges of a citizen.

Independent of the bill of rights there must be ex necessitate ret some restriction of the power to use the mails as a club to secure ends not within the scope of the Federal Government.

Could Congress provide that no physician should use the mails unless he has filed a statement giving his name, address, property holdings, liabilities, the number, names, and ailments of his patients and a declaration that he would only practice as an allopath? If the power over the mails be plenary and absolute, what clause in the Bill of Rights expressly forbids it?

It is not a question of the motives of Congress or the policy of the law. It is a question of power, and it is inconceivable that the framers of the Constitution, jealous as they were of the powers of the Government which they had created, would ever have given the Federal Government such power over the private affairs of the American people.

THE AUTHORITIES.

ment which they had created, would ever have given the Federal Government such power over the private affairs of the American people.

THE AUTHORITIES.

The decisions of this court, from its earliest history, leave no doubt that in a proper case the Supreme Court will not permit such nullification by indirection as results from the perversion of Federal powers to accomplish indirectly unconstitutional ends.

It can not be doubted that if Congress had passed the law now under consideration as a special statute and not as a part of a post-office appropriation bill, and had omitted any reference to the malls, this court would hold that the Constitution not only did not grant such a supervisory power over the press, but by the first amendment had expressly prohibited it.

Can it be possible that what Congress could not do directly it may nevertheless accomplish indirectly by the pretense that such supervision is necessary in order that the Post Office Department may suitably carry on its important function?

As Mr. Justice Brewer, in Fairbank v. United States (181 U. S., 283, 294), speaking of the previous decision of Woodruff v. Parham (8 Wall., 123), said:

"In other words, that decision affirms the great principle that what can not be done directly because of constitutional restriction can not be accomplished indirectly by legislation which accomplishes the same result. * * The form in which the burden is imposed can not vary the substance. * * * Constitutional provisions, whether operating by way of grant or limitation, are to be enforced according to their letter and can not be evaded by any legislation which, though not in terms trespassing upon the letter and spirit, yet in substance and effect destroys the grant or limitation, are to be enforced according to their letter and can not be evaded by any legislation which, though not in terms trespassing upon the letter and spirit, yet in substance and effect destroys the grant or limitation, are to be enforced according to their letter and can not be evaded by

may be invalid if its enforcement involves a direct interference with intrastate commerce.

In the Trade-Mark cases (100 U. S., 82) Mr. Justice Miller said:

"When therefore Congress undertakes to enact a law which can only be valid as a regulation of commerce it is reasonable to expect to find on the face of the law, or from its essential nature, that it is a regulation of commerce with foreign nations or among the several States or with the Indian tribes. If not so limited, it is in excess of the power of Congress. If its main purpose be to establish a regulation applicable to all trade, to commerce at all points, especially if it be apparent that it is designed to govern the commerce wholly between citizens of the same State, it is obviously the exercise of a power not confided to Congress."

Applying the doctrine of these decisions to the case in hand, I submit that this court should hold either—

1. That the law in question is not in substance and effect a regulation of the mails but a regulation of journalism; or

2. That even if the law is to be regarded as an attempt to regulate the mails, the means employed are, to apply the test of McCulloch v. Maryland, not "within the scope of the Constitution," not "appropriate," "not plainly adapted to that end," and not consistent "with the letter and spirit of the Constitution," and not consistent "with the letter and spirit of the Constitution," and not "limited" to a fair exercise of Federal power.

I recognize that the power under the post office roads clause has been defined by this court in Public Clearing House v. Coyne (194 U. S., 497) as "the regulation of the entire postal system of the country."

But what is the postal system of the country? Is it more than the collection, carriage, and distribution of letters, documents, or other merchandise sent by one citizen to another? It can not be questioned that this power embraces the right to exclude from the mails any matter that is unlawful or immoral. In other words, the Government is not required to be an accessory in distributing immoral literature.

As stated in Public Clearing House v. Coyne (supra), such regulation includes the power to exclude from the mails any matter that would be "dangerous to its employees or injurious to other mail matter carried in the same packages." But in the opinion in that case, especially in the first clause of the syllabus, it is intimated that the power is not arbitrary, for "Concress would have no right to extend to apply the property of the syllabus, it is intimated that the power is not arbitrary.

ried in the same packages." But in the opinion in that case, especially in the first clause of the syllabus, it is intimated that the power is not arbitrary, for "Congress would have no right to extend to one the benefit of its postal service and deny it to another person in the same class and standing in the same relation to the Government."

I concede that in Exparte Jackson, 96 U. S., 727; In re Rapier, 143 U. S., 110; Horner v. United States, id., 207; Public Clearing House v. Coyne, 194 U. S., 497, this court has recognized a sweeping power in the Federal Government to determine what it shall and what it shall not carry in the mails. But in all these cases the law simply provided that matter that was either immoral or fraudulent should not be carried in the mails. It did not pretend to prohibit the publication or circulation in any other way of the matter deemed to be immoral or fraudulent, nor did it attempt otherwise to exercise any police power with reference thereto. It simply declined to give the immoral or fraudulent enterprise the assistance of mail facilities. Those who were engaged in the nefarious trafic could, so far as the postal law was concerned, pursue their way undisturbed, provided they did not attempt to use the mails to further their unlawful ends. All pr

ful ends.

All previous laws have always observed this distinction between regulating an exercise of the Federal power such as the carriage of mails and punishing generally a given evil. Congress has excluded from the mails any newspaper which contained a lottery advertisement, but it has not legislated with reference to lotteries. The line of demarcation has always been drawn and admits of no dispute.

In the case at bar, however, the exclusion from the mails is but an incident to the law and is merely introduced into the act as a method of compelling obedience to the other provisions. It seeks to compel newspapers to disclose the secrets of their business, not only to the Post Office Department but to the public, and it requires them to notify the public when any reading matter has been inserted for a consideration.

Post times Department but to the public, and it requires them to notify the public when any reading matter has been inserted for a consideration.

Are these requirements "appropriate" to the carriage of the mails? Are they "plainly adapted" to that end? In the collection, carriage, and distribution of newspapers how can it matter to the Federal Government who the editors are, who the mortgage creditors, and what is its circulation?

In the Lottery case (188 L. S. 321) I argued for the Government

Are they "plainly adapted" to that end? In the collection, carriage, and distribution of newspepers how can it matter to the Federal Government who the editors are, who the mortgage creditors, and what is its circulation?

In the Lottery case (188 U. S., 321) I argued for the Government that the power to regulate interstate commerce was plenary and absolute, but I disclaimed any suggestion that it could be used for any purpose, however arbitrary or remote from the great purposes of the Federal Government. My opponents attempted a reductio ed absurdum by arguing that if the power were exclusive and plenary and included a right to prohibit as a regulation, then Congress could "arbitrarily exclude from commerce among the States any article, commodity, or thing of whatever kind or nature or however useful or available which it may choose, no matter with what motive, to declare shall not be carried from one State to another."

This court disclaimed any such conclusion and significantly added:

"We may, however, repeat in this connection what the court has heretofore said, that the power of Congress to regulate commerce among the States, although plenary, can not be deemed arbitrary since it is subject to such limitations or restrictions as are prescribed by the Constitution. This power, therefore, may not be exercised so as to infringe rights secured or protected by that instrument. It would not be difficult to imagine legislation that would be justly liable to such an objection as that stated and be hostile to the objects for the accomplishment of which Congress was invested with the general power to regulate commerce among the several States. * * If what is done by Congress is manifestly in excess of the powers granted to it, then upon the courts will rest the duty of adjudging that its action is neither legal nor binding upon the people."

The artitude of this court, however, can not be doubted since the case of Adair v. United States (208 U. S., 161, 178, decided 1998).

Congress had attempted to regulate inters

sense a regulation of interstate commerce. We need scarcely repoat what this court has more than once said, that the power to regulate what this court has more than once said, that the power to regulate interstate commerce, great and permannel, that the power to regulate interstate commerce, great and permannel, that the power to regulate interstate commerce, great and permannel, that the power to regulate interstate commerce, great and permannel, the secured by other provisions of the Constitution. (Gibbons e. Ogden, 9 Wheat, 1, 196; Lottery case, 188 U. S., 231, 253.) It results, on the whole case, that the provisions of the statuic under which the defendant was convicted must be how the status of the sta

The Constitution not only failed to give such power but it expressly forbade it by the first amendment, prohibiting any enactment "abridging the freedom of the press."

Assuming, for the sake of argument, that in the absence of the first amendment such a censorship of the press would be an implied power incident to the regulation of the mails, yet such power was expressly withheld by the first amendment, which forbade any law "abridging the freedom of speech or of the press."

All provisions of the Constitution must be read together, and thus read together the Constitution virtually provides that Congress shall have the power "to establish post offices and post roads," and for this power "to make all laws which shall be necessary and proper:"

Provided, however, That it shall make no law "abridging the freedom of the press."

Provided, however, That it shall make no law "abridging the Irecom of the press."

What is the freedom of the press? To determine this question we must resort to the history of the times when the Constitution was framed, for the expressions used in the 10 amendments must be given the meaning attached to them at the time the Constitution was adopted. (Boyd v United States, 116 U. S., 616.)

Thus interpreted, it can not be questioned that the liberty of the press means the liberty of free discussion in print, without any restraint save that which was imposed by the law of libel and by certain axiomatic principles of morality, such as the prohibition either of fraud or obscentiv.

axiomatic principles of morality, such as the prohibition either of traud or obscenity.

With these exceptions, the liberty of the press was the right to print one's opinions whether they were wise or foolish, whether they were consistent with or contravened accepted ideas or ideals, and to do this without any restraint by the Government save that which was clearly and necessarily demanded to prevent either immorality or fraud.

The necessity of this freedom need not be enlarged upon. Our Government rests upon public opinion, and its perpetuity must depend upon the education of that opinion.

It is therefore the policy of our Constitution that no burden shall be imposed upon the press, no restriction upon its rights, no impairment

of its influence, excepting only in matters of axiomatic morality and a control of the press has taken two forms, and the struggle over each has marked a different stage in the long battle for the freedom of the press. He can shall be a struggle over each has marked a different stage in the long battle for the freedom of the press. He can shall be a struggle over each has marked a different stage in the long battle for the freedom of the press. He can shall be a struggle of the press was a part of the royal prerogative, and it at first attempted to problich and its essence was a previous restraint of printed thought and not its subsequent punishment. (Recognizing the emormous power of press was a part of the royal prerogative, and it at first attempted to problic the printing of anything which was not elecéd by the Government of the press was a part of the royal prerogative, and it at first attempted to problem the printing of anything which was not elecéd by the Government of the press of the press in marked and the printing of anything which was not elecéd by the Government of the press in marked and the printing of anything which was not elected by the Government of the press of the press in unrivaled spiendor of rhetoric partial ment, which in 1648 drew from John Milton his Areopagitica, in which the defended the liberty of the press in unrivaled spiendor of rhetoric martin of well and the pressure of the press of the press of the press in unrivaled spiendor of rhetoric martin of well and the pressure of the press of the p

was unlawful. (In the debate that followed, Henry Clay said: "When I saw that the exercise of a most extraordinary and dangerous power had been announced by the head of the Post Office and that it had been sustained by the President's message, I turned my attention to the subject and inquired whether it was necessary that the Postmaster General should under any circumstances exercise such a power and whether they possessed it. After much reflection I have come to the conclusion that they could not pass any law interfering with the subject in any shape or form whatever. The evil complained of was the circulation of papers having a certain tendency. These papers, unless circulated and while in the post office, could do no harm. It is the circulation solely—the taking out of the mall and the use to be made of them—that constitutes the evil. Then it is perfectly competent for the State authorities to apply the remedy." To the question of Senator Buchanan, of Pennsylvania, as to whether the post-office power had not given to Congress the right to determine what should be carried in the mails. Clay replied in the negative, adding: "If such a doctrine prevailed, the Government may designate the persons or parties or classes who shall have the benefit of the malls, excluding all others." Senator Davis said: "It would be claiming on the part of the Government a monopoly and exclusive right either to send such papers as it pleased or to deny the privilege of sending them through the mail. Once establish the precedent, and where will it lead to? The Government may take it into its head to prohibit the transmission of political, religious, or cremoral philosophical publications, in which it might fancy there was something offensive, and under this reserved right, contended for in this report, it would be the duty of the Government to carry it into effect." He also denied "the right of the Government to exercise a power indirectly which it could not exercise directly, and if there was no direct power in the Constitution, he

law.

Without amplifying all of the destructive possibilities of the law, it will suffice to discuss three which are apparent on its face—

1. The law provides that a newspaper must disclose its circulation not only to the Government but to the public. Such disclosures would in many instances go far to destroy the influence of the paper in the minds of the masses, and that without justice or reason. A newspaper having a circulation of 30,000 may have more real influence than a newspaper having a circulation of 30,000. The first newspaper may find its readers among the educated, thoughtful, and influential class, whose views profoundly affect their fellow men. The other newspaper may be read largely for its sporting page or its divorce reports. At present the influence of both papers is measured largely by the comparative character of their editorial utterances, but if it were published to the world that one reached but 30,000 readers and the other 300,000, the influence of the first paper would be substantially impaired. paired.

paired.

Such impairment might result in destruction, for it is well known that a newspaper pays its way by advertisements and not by the copies which it sells. The latter, apart from advertisements, are sold at a loss, and anything that destroys the advertising business strikes the newspaper a fatal wound. It is safe to say that there is not a newspaper in the United States that could be continued at a profit, if its advertisements are withdrawn. Manifestly a disclosure of circulation to the public would lessen the business of the paper of small circulation and increase that of the paper with a large circulation, and this notwithstanding the fact that the paper of 30,000 readers might be a far more valuable advertising medium than the one with 300,000.

A great objection to this legislation is therefore that it weakens and tends to destroy the class of papers which most needs freedom from undue interference. The disclosure to the public of the intimate details of business management would in many cases tend to drive the weak newspaper to the wall, for, armed with this knowledge, the strong and wealthy newspaper could readily impair the influence of its weaker rival, secure its business, and drive it to the wall. There is possibly in no industry keener competition than exists between newspapers, and therefore in none is there greater need on the part of the weaker competitors of privacy as to their business details.

There may be no absolute right of privacy, and yet the owner of a business is entitled to safeguard the secrets of his business unless there is some reasonable and just occasion for a compulsory disclosure to the public of his private affairs.

As was said by Mr. Justice Field in In re Pacific Railway Commission

public of his private affairs.

As was said by Mr. Justice Field in In re Pacific Railway Commission (32 Fed. Rep., 241, 250):

"Of all the rights of the citizen few are of greater importance or more essential to his peace and happiness than the right of personal security, and that involves not merely protection of his person from assault but exemption of his private affairs, books, and papers from the inspection and scrutiny of others. Without the enjoyment of this right, all others vould lose half their value."

This right of privacy and the sanctity of one's books and papers were never better emphasized than in the case of Boyd v. United States (116 U. S., 618), where Mr. Justice Bradley, in one of the ablest defenses of personal liberty to which this court ever gave utterance, defended the right of privacy against oppressive Federal regulations, even though they were enacted in execution of the most drastic of all governmental powers—the power of taxation,

There was far more justification, from the standpoint of the public interests, for the legislation which this court condemned in that case than can be urged in behalf of the newspaper statute, whose obvious effect would be to impair the credit of the weaker newspapers, alarm their creditors and advertisers, impair their just influence with their renders, without in any manner assisting the Government in the effective and economical carriage of the mails.

I describe and economical carriage of the mails.

I freely recognize the prejudice which to-day ordinarily and generally justiy prevails against anonymity. But even anonymous arguments have played a useful part in past struggles for liberty and progress. To this day we do not know who wrote the letters of "Junius," and yet struggle for English freedom.

When the Constitution was submitted to the people for adoption, the most valuable arguments in its support were those submitted anonymously by Madison, Hamilton, Jay, Sullivan, Winthrop, Gerry, Elisworth, Roger Sherman, Pinchney, and many others. These were published under such som de planne as Publins, Cassius, Agrippa, Cato. It is altogether probable that the Federal Constitution would never have been adopted by a sufficient number of States had it not been for "Publins," which we now know as the Federalist Papers. While Hamilton's industry was more familiar to the framers of the Constitution than this method of impersonal pamphleteering.

When the burning issue of neutrality arose in the administration of Washington, Hamilton assalled the Secretary of State in pamphlets written outer the some deplayed with the public press.

When the burning issue of neutrality arose in the administration of Washington, Hamilton assalled the Secretary of State in pamphlets written the burning issue of neutrality arose in the administration of Washington, Hamilton assalled the Secretary of State in pamphlets written the burning issue of neutrality arose in the administration of Washington, Hamilton assalled the Secretary of S

The matter referred to may have no reference to merchandise or to anything commercial. In no sense can its insertion be regarded as a commercial advertisement. The opinions which he expresses are reading matter. If marked as an advertisement the influence is largely impaired.

Take, for example, the campaign committee of a political party. It wishes to get before the people of the country certain facts with reference to operations of the tariff. If inserted in the newspaper as an advertisement few will read it, and those few will not give to the paid advertisement the serious attention which the article may deserve. The newspaper publishes it as reading matter and requires the committee to pay the reasonable cost of the service. Does not the requirement that it be printed as an advertisement, with the destructive effect upon its influence as reading matter which such a hranding necessarily entails, involve an abridgment of the freedom of the press? Is that freedom as complete and unimpaired after such a law is passed as before?

III.

The requirement that a certain class of newspapers shall disclose the most intimate details of their business and use their own capital, labor facilities, and valuable space for such disclosure, is a taking of "liberty" and "property" without due process of law and a like taking of valuable property rights for an assumed public use without just compensation.

The post office power must also be regarded as subject to the fifth amendment.

I do not contend that the more compulsors disclosured in the contend that the more compulsors disclosured to the fifth amendment.

amendment.

I do not contend that the mere compulsory disclosure of ownership, editorial management, and other business details to the Postmaster General is a taking of property without due process of law.

The act goes further. It compels the newspaper proprietor twice a year to use the valuable space of his paper and his capital and labor facilities to print the statement. To set up the matter, print it, and distribute it all require expenditure of capital. It is an enforced appropriation of valuable space for the assumed benefit of the public. It is as much a taking of property as if it compelled the owner to hire a hall and announce the facts to the public.

Even though this compulsory appropriation of the citizen's property and labor were not strictly a physical taking of his property, nevertheless it is a "taking" within the meaning of the Constitution. It was

well said by the Court of Appeals of New York, in Forster v. Sectt (136 N. Y., 584):

well said by the Court of Appeals of New York, in Forster v. Scott (136 N. Y., 584):

"Whenever a law deprives the owner of the beneficial use and free enjoyment of his property, or imposes restraints upon such use and enjoyment of his property, or imposes restraints upon such use and enjoyment that materially affect its value, without legal process or compensation, it deprives him of his property within the meaning of the Constitution. All that is beneficial in property arises from its use and the truits of that use, and whatever deprives a person of them deprives him of all that is desirable or valuable in the title and possession. It is not necessary, in order to render a statute obnoxious to the restraints of the Constitution, that it must in terms or in effect authorize an actual physical taking of the property or the thing itself, so long as it affects its free use and enjoyment or the power of disposition at the will of the sweer."

This interpretation of the Constitution only followed the undoubted doctrine of this court, for this court said, in Lawton v. Steele (152 U. S. 137):

"The legislature may not, under the guise of protecting the public

This interpretation of the Constitution only followed the undoubted doctrine of this court, for this court said, in Lawton v. Steele (152 U. S., 137):

"The legislature may not, under the guise of protecting the public interests, arbitrarily interfere with private business or impose unusual and unnecessary restrictions upon lawful occupations. In other words, its determination as to what is a proper exercise of its police powers is not final or conclusive, but is subject to the supervision of the courts. Thus an act requiring the master of a vessel arriving from a foreign port to raport the name, birthplace, and occupation of every passenger, and the owner of such vessel to give a bond for every passenger so reported, conditioned to indemnify the State against any expense for the support of the persons named for four years thereafter, was held by this court to be indefensible as an exercise of the police power and to be void as interfering with the right of Congress to regulate commerce with foreign nations. (Henderson v. New York, 92 U. S., 259.)"

As was said by Mr. Justice Field in Munn v. Illinois (94 U. S., 141):

"All that is beneficial in property arises from its use and the fruits of that use, and whatever deprives a person of them deprives him of all that is desirable or valuable in the title or possession. If the constitutional guaranty extends no further than to prevent a deprivation of title and possession and allows a deprivation of use and the fruits of that use, it does not merit the encomiums it has received."

This contention is strengthened when it is remembered that no other citizen desiring the use of the malls is subjected to any such requirement. Scientific, religions, and temperance publications are relieved of any such expense, and as to circulation, all but daily newspapers are similarly exempted. The law therefore puts upon dally newspapers are similarly exempted. The law therefore puts upon dally newspapers are similarly exempted. The law therefore puts upon dally newspapers are simil

tection of the laws, and that phrase is synonymous with due places law.

To amplify this argument would require a restatement of all that has been herein said as to the unreasonable character of this regulation. It is enough to say that not only does the act seek to appropriate the space of newspapers without compensation for an assumed public use, but it interferes with the liberty of contract, la that a newspaper owner may not contract with one desiring to use his columns for the insertion of reading matter, except under burdensome conditions.

The law as a whole singles out the owners of newspapers and attempts to aim at them an oppressive postal regulation, which clearly offends the intimation given by this court in Public Clearing House v. Coyne (supra), that—

"Congress would have no right to extend to one the benefit of its postal service and deny it to another person in the same class and standing in the same relation to the Government."

I need not emphasize the importance of this case. As already stated, the form of censorship now sought to be imposed upon the press of the country may seem mild by comparison with that of other countries in former times. The concession to Congress of the power to utilize the mails for the purpose of disciplining the free press of the country would mean hereafter a stricter and more dangerous censorship, for in the matter of arbitrary power "the appetite grows by what it feeds on."

The warning words of Mr. Justice Bradley in Boyd v. United States (116 U. S., 616) should never be forgotten:

"Hlegitimate and unconstitutional practices get their first footing in that way, namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitution: I provisions for the security of person and property should be liberally construed. * * It is the duty of courts to be watchful for the constitutional rights of the citizen and against any stealthy encroachments thereon. Their motto should be obstaprincipils."

Respectfully submitted.

JAMES M. BECK.

NEW YORK, November 20, 1912

APPENDIX.

THE NEWSPAPER LAW.

An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes.

Be it enacted, etc., That the following sums be, and they are hereby, appropriated for the service of the Post Office Department, in conformity with the act of July 2, 1836, as follows:

**Sec. 2. * * * That it shall be the duty of the editor, publisher, business manager, or owner of every newspaper, magazine, periodical, or other publication to file with the Postmaster General and the postmaster at the office at which said publication is entered, not later than the 1st day of April and the 1st day of October of each year, on blanks furnished by the Post Office Department, a sworm statement setting forth the names and post-office addresses of the editor and managing editor, publisher, business managers, and owners, and, in addition, the stockholders, if the publication be owned by a corporation; and also the names of known bondholders, mortgagees, or other security holders; and also, in the case of daily newspapers, there shall be included in such statement the average of the number of copies of each issue of such publication sold or distributed to paid subscribers during the preceding six months: Provided, That the provisions of this paragraph shall not apply to religious, fraternal, temperance, and scientific, or other similar publications: Provided further, That it shall not be necessary to include in such statement the names of persons owning less than 1 per cent of the total amount of stock, bonds, mortgages, or other securities. A copy of such sworn statement shall be published in

the second issue of such newspaper, magazine, or other publication printed next after the filing of such statement. Any such publication shall be denied the privileges of the mail if it shall fail to comply with the provisions of this paragraph within 10 days after notice by registered letter of such fallure.

That all editorial or other reading matter published in any such newspaper, magazine, or periodical, for the publication of which money or other valuable consideration is paid, accepted, or promised, shall be plainly marked "advertisement." Any editor or publisher printing editorial or other reading matter for which compensation is paid, accepted, or promised, without so marking the same, shall upon conviction in any court having jurisdiction be fined not less than \$50 nor more than \$500.

PROTECTING THE COAST LINE.

Mr. MOORE of Pennsylvania. Mr. Speaker, at New London, Conn., in September last, the Fifth Annual Convention of the Atlantic Deeper Waterways Association, which stands for a continuous inland waterway along the Atlantic coast, adopted the following preamble and resolutions:

ATLANTIC INTRACOASTAL WATERWAY.

"We, the members and delegates of the Atlantic Deeper Waterways Association, representing all the States of the Atlantic coast region, from Maine to Florida, inclusive, in fifth annual convention assembled in New London, Conn., do hereby reaffirm to the American people, to the States and municipalities within our territory, and especially to the Congress of the United States, our recognition of the need and our demand for the completion of improved connecting protected waterways, owned and operated by the Nation, along the entire Atlantic coast.

"Within the Atlantic coastal region, comprising all the original American colonies, are now located more than one-third of the total population of the United States, and an even greater proportion of its commerce, industry, and wealth,

POPULATION AND COMMERCE.

"Within these coastal States are situated the most densely populated industrial communities of the country and the most rapidly increasing centers of population. Congestion of population, industry, and commerce require as their first remedy larger, better, and cheaper facilities of transportation. It is now time that such shall be provided within the Atlantic coastal

"The existing lines of railways, splendid as their equipment unquestionably is, and rapidly as it is being expanded, are now, and have been for years past, unable during certain periods to handle the amount of traffic offering with assurance of quick transit, safe delivery, and minimum cost.

Under these conditions it becomes imperative to seek additional means of transportation, and these are provided by our coastal bays and sounds if connected through the short spaces of intervening lowlands by modern sea-level canals, freely operated as public highways.

THE SACRIFICE TO THE SEA.

"It has been suggested that the ocean is sufficient for the coastal traffic. In reply, it may be stated that our Atlantic seaboard is a lee shore; that it is lined with dangerous shoals; that these shoals are blackened with the wrecks of thousands of ships and bear the bodies of many thousands of American mariners; that the average annual loss is more than 200 human lives and \$4,000,000 in property; that this loss in two decades equals the cost of our proposed waterway chain; that, meantime, coastwise shipping is disappearing from the seas, coastwise insurance steadily rising, and coastwise commerce declin-The ocean does not provide the needed facilities of cheap coastwise transportation.

RESOLUTIONS SHOWING PROGRESS MADE.

"With this statement of facts it is hereby

"1. Resolved, That we congratulate the Atlantic States upon the favorable report and survey of the Army Engineers now reported to Congress at the insistence of this association, prov-

ing the feasibility of its project.

"2. Resolved, That we demand the adoption and construction of the Atlantic intracoastal waterway as a national project, and the continuous appropriation by Congress of funds sufficient

for its early completion.

"3. Resolved, That we commend the initial step taken by Congress in the river and harbor act passed at the recent session, which contained a provision adopting that link in the proposed intracoastal waterway extending from Norfolk, Va., to Beaufort Inlet, N. C., and carrying an appropriation immedi-ately available of \$500,000 for the purchase of the Chesapeake & Albemarle Canal, and an additional \$100,000 for the improvement and maintenance.

NEXT STEPS TO BE UNDERTAKEN.

"4. Resolved, That we demand of Congress at its next session an act acquiring the Chesapeake & Delaware Canal, one of the most essential links in the whole intracoastal chain, one

of the most feasible to improve for modern requirements, and the next in logical order of progress northward, all of which is fully shown by the recent report of the United States Army Engineers. And, in event of failure to negotiate a satisfactory contract for the purchase of the canal, we favor the immediate condemnation thereof by the Government or the construction of a canal over an alternative route.

"5. Resolved, That we demand of the next Congress the adoption of the New Jersey sea-level canal project, thus connecting southern waters with those of New England and New York.

"6. Resolved, That we urge steady progress northward and southward at every session of Congress until the entire route shall be opened to traffic.

THE HEDSON AND HELL CATE.

"7. Resolved, That to provide safe passage through the Hudson River for vessels from the Lakes, through the Erie Canal, and to establish a feasible connection with the Intracoastal Waterway, we advocate early completion of the improvement of the upper Hudson as the approach to the Erie Canal, and also of the East River and lower Hudson and Harlem Rivers and the opening of Bronx Kills and Little Hell Gate.

"S. Resolved, That we advocate the authorization by Congress of a survey for the extension of the Intracoastal Water-way northwardly from Boston to such point on the coast of

Maine as may be deemed desirable and feasible.

NATIONAL WATERWAYS POLICY NEEDED.

"9. Resolved, That we demand the adoption of a national policy of waterway improvement which shall gauge the amount of the appropriation according to the commerce, existing and prospective, that will be served by such improvement.

"10. Resolved, That the Atlantic Intracoastal Waterway, exceeding as it does in its commercial importance all other projects of waterway improvement, deserves and should receive the means for its completion in a ratio at least equal to that accorded to projects in other sections of the United States.

PROBLEM OF WATER TERMINALS

"Resolved, That we emphatically approve those provisions in the Panama Canal act, approved August 24, 1912, which forbid ownership or control by railroad corporations of competing water carriers, and which provide for joint rates and through bills of lading and a system of prorating between railroads and water carriers, and which forbids railroads to discriminate in favor of and extend special privileges to favored shipping lines at ports, and which confer upon the Interstate Commerce Commission the power to enforce these and other wise provisions

of law.

"To the end that the above provisions may be given full effect, and that water commerce may be established as an integral part of our system of transportation, we earnestly urge upon all States and municipalities located upon the intracoastal waterway and other waterways that ample water frontage be acquired and adequate public terminals constructed, owned, and controlled by and for the benefit of the public."

MORE ABOUT THE CHESAPEAKE AND DELAWARE,

In view of their brevity and clearness, Mr. Speaker, I am glad of the opportunity of submitting those resolutions to the House. They will now be laid before the Rivers and Harbors Committee with the hope and expectation that the recommendation of the association for immediate recognition of the Chesapeake & Delaware Canal project will be granted in the next appropriation bill. For five years the Atlantic Association has been laying stress upon the advisability of action in the opening up of this much-needed avenue of communication between the North and the South, and there is now ample reason why the Government engineers should be authorized to open negotiations for the purchase of the existing canal or to construct a new one. At some later period of the session I shall undertake to advise the House more fully of the manner in which commerce between points north and south of the Chesapeake and Delaware Canal is discouraged by high transportation rates and inadequate facilities. I shall also hope to enlighten the House as to the loss of life and the destruction of property along the seaboard.

CALENDAR WEDNESDAY,

The SPEAKER. This is Calendar Wednesday. The unfinished business is the bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911. The House resolves itself automatically into Committee of the Whole House on the state of the Union, and the gentleman from Colorado [Mr. Rucker] will take the chair,

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. RUCKER of Colorado in the chair.

ALLEGATION AND PROOF OF LOYALTY IN CERTAIN CASES.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911. By unanimous consent the debate was limited to two hours, the gentleman from Louisiana [Mr. Watkins] to control one hour and the gentleman from Illinois [Mr. MANN] to control the other hour.

Mr. WATKINS. Mr. Chairman, will the gentleman from Illinois consume part of his time? We have four gentlemen

on this side who want to be heard on the question.

Mr. MANN. Mr. Chairman, the pending bill is the bill to amend section 162 of the judiciary title act, which was passed two years ago. In that act there was inserted in the House a provision conferring on the Court of Claims jurisdiction relating to money in the Treasury under the captured and abandoned property act.

When that bill was before the House the gentleman from Georgia [Mr. BARTLETT] offered as an amendment to the bill to insert section 6, now section 162 of the act. That amendment was agreed to in the House. The gentleman from Pennsylvania [Mr. Moon] had charge of that bill, which was a bill reported from the Committee on the Revision of the Laws. It was a long bill, codifying the statutes. It was on my advice, I believe, that the gentleman from Pennsylvania [Mr. Moon] finally at the time agreed not to oppose the amendment, and it was agreed to.

Now, this proposition is one to amend the law so as not to provide that there shall be proof of loyalty of the claimants. The original proposition was of somewhat doubtful propriety. For many years there has been no right to file a claim in the Court of Claims under the captured and abandoned property act, but it was thought desirable by the House at the time, on the suggestion of the gentleman from Georgia [Mr. Bart-LETT], to provide that claims might be filed which, under the language proposed by him, would require the claimants to make

proof of loyalty.

There has been considerable discussion as to how these claims arise, and it may be proper to call to the attention of the House the circumstances as to how the claims do arise. By the act of March 12, 1863, known as the captured and abandoned property act, and acts amendatory thereof, the Secretary of the Treas mry was authorized to appoint special agents to collect captured and abandoned property in the States then in insurrection, the proceeds thereof to be paid into the Treasury of the United States.

The act provided that the property to be collected under it "shall not include any kind or description which has been used, or which has been intended to be used, for waging or carrying on war against the Unted States, such as arms, ordnance, ships, steamboats, or other water craft, and the furniture, forage, military supplies, or munitions of war.

As a matter of fact, the property which was collected was in the main, if not entirely, cotton. Nine districts were established under this law and an agent appointed in each district.

A large amount of property in the States in insurrection was seized and the proceeds, amounting to over \$30,000,000, reported to the Secretary of the Treasury. The money was treated as a trust fund under the control of the Secretary. Under joint resolution approved March 30, 1868, it was provided that all moneys derived from the sale of captured and abandoned property "which have not already been actually covered into the Treasury shall immediately be paid into the Treasury of the United States.

As I understand it, the balance covered into the Treasury under this resolution was nearly \$21,000,000.

The third section of the original act of 1863 provided as

Any person claiming to have been the owner of any such abandoned or captured property may, at any time within two years after the suppression of the rebellion, prefer his claim to the proceeds thereof in the Court of Claims; and on proof to the satisfaction of said court of his ownership of said property, of his right to the proceeds thereof, and that he has never given any aid or comfort to the present rebellion, to receive the residue of such proceeds, after the deduction of any purchase money which may have been paid, together with the expense of transportation and sale of such property, and any other lawful expenses attending the disposition thereof.

Under this provision of the statute a large number of claims were referred to the Court of Claims and judgments recovered. In a statement which has been made by one of the committees of the House it was stated that the following was believed to be a substantially correct statement of the payments which have

been made from the amounts covered into the Treasury under the resolution of March 30, 1868:

On judgments under act of Mar. 12, 1863	89, 852, 956, 95
On judgments against Treasury agents	65, 276, 79
Disbursed for expenses under joint resolution of Mar.	242, 140, 34
Paid on special acts of relief Paid by Secretary of Treasury under act of May 18,	451, 125, 38
1872	195, 896, 21
On judgment Court of Claims, Duffy, Report C. C., 24275	15, 270, 00
Under private act, 25 Stat., p. 1310 Under private act to Briggs, paid Mar. 24, 1894	32, 669, 20 88, 104, 21

Which would leave in the Treasury undisposed of \$10,028,-

351.88.

Mr. WATKINS. Will the gentleman yield for a question? Mr. MANN. I will in a moment. How much of that amount would be affected by the pending resolution I do not believe any

one actually knows. I yield to the gentleman from Louisiana.

Mr. WATKINS. That statement covers the point I wanted to ask the gentleman about, whether the amount covered by this bill would be over half that amount, and whether the statement referred to by the gentleman does not include all that was covered into the Treasury?

Mr. MANN. My statement shows that that amount included all that was covered into the Treasury. Just how much this resolution will cover no one will ever be able to find out unless this bill becomes a law and the Court of Claims finds the

amount.

Now, Mr. Chairman, this bill would only provide for the payment of claims for property taken subsequent to June 1, 1865, while the amount in the Treasury is included from the date of the captured and abandoned property act, which was passed in 1863

This is one of a series of propositions, however. This bill proposes simply to abandon the present law requiring proof of loyalty as to the claims subsequent to June 1, 1865. As to the claims subsequent to the date June 1, 1865, there is another bill on the calendar reported from another committee, a bill (H. R. 16820) which goes a little further than the pending bill. I do not know whether it is intended to offer the provisions of that bill in the House as a substitute for the provisions of the pending bill. I was told that that was likely to be done, but the distinguished gentleman from Tennessee, chairman of the Committee on War Claims, which reported the bill 16820, stated on the floor the other day, as I understood him, that if the pending bill was passed the bill reported from his committee would be abandoned.

Among the provisions of the bill reported from the Committee on War Claims, a new proposition, is the one that all judgments rendered on these claims and all payments thereon shall be free from claims of assignees in bankruptcy or insolvency of

the original owner of said claim.

There are other bills pending before Congress on the subject, one introduced by the gentleman representing the Tombigbee district, Mr. CANDLER, which introduces a new proposition. stated by the gentleman from Ohio the other day, the Confederate States purchased large quantities of this cotton, paid for the cotton in the current coin of the realm at that time in the Southern States, but did not take control of the cotton because they did not have the storage facilities, as was stated. There is no question, probably, in reference to the passage of the title of the property. The property was purchased and paid for, but possession remained in the hands of the seller of the property. The Candler bill provides, in addition to dispensing with the proof of loyalty, further, that judgment rendered hereunder shall not be denied by reason of any bill or other conveyance of such property to the Federal Government, in consideration of securities of said Government, unless accompanied and followed by actual delivery of such property.

There are also pending before the House a number of resolutions asking for information from the Treasury Department. There can be no doubt that when the Bartlett amendment to the judiciary title bill became a law that the claim agents got very busy and active. It is invariably the rule that when you excite the claim agents or claim attorneys to the possibility of obtaining the payment of claims in which they become interested, and draw the line arbitrarily at any particular point, the claim agents want to move the line over a little further from time to time so as to provide for the payment of additional claims. The claim agents found under the Bartlett proposition that it was necessary to make proof of loyalty before claims could be allowed. They desired in addition to change the law upon that subject, to obtain all the information of the Treasury Department in reference to the evidence in the possession of that de-

partment.

House resolution No. 333, which is only one of a series of resolutions introduced into the House, and a similar series introduced in the Senate, provides:

That the Secretary of the Treasury be, and he is hereby, directed to prepare from records in his possession, either those of the United States Government or those of the late Confederate States, and to transmit to the Speaker of the House of Representatives, as soon as practicable, a list of persons shown to have sold cotton to the Confederate States Government, or to have entered into any agreement to sell cotton to said Government; such list to indicate whether there is shown to have been a completed sale, or only an agreement to sell, and the date of the transaction; to show, when possible, the residence of the person making such sale, or agreement to sell, by county or parish, and State; the amount of cotton covered by such sale or agreement, the price to be paid, and whether or not the payment of the agreed price is shown by such records.

I do not know that these resolutions were prepared by claim agents. I am quite sure they were not introduced by Members of the House at the request of claim agents, but that they were prepared by claim agents and transmitted to claimants, who transmitted them to Members of the House, is quite likely.

I called the attention of the Treasury Department to this series of resolutions endeavoring to obtain information from the Treasury purely for the benefit of claimants and claim agents, and asked them to make investigation of the subject. On January 6 the Secretary of the Treasury transmitted to the Speaker of the House a letter upon this subject, in which he stated among other things:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY, Washington, January 6, 1912.

The Speaker of the House of Representatives.

Washington, January 6, 1912.

The Speaker of the House of Representatives.

Sir: My attention has been called to House resolution 333, introduced by Mr. Jacoway December 9, 1911, and referred to the Committee on War Claims, directing the Secretary of the Treasury to prepare from records in his possession, either those of the United States Government or those of the late Confederate States, a list of persons shown to have sold cotton to the Confederate States Government, or to have entered into any agreement to sell cotton to said Government, and also to House resolution 349, introduced by Mr. Candler December 19, 1911, and referred to the Committee on Expenditures in the Treasury Department, which calls for the preparation and transmission of all the information specified in House resolution 333, and in addition requires information whether the cotton sold to the Confederate Government was subsequently taken possession of by officers of the United States Government; and if so, the disposition of the cotton, the gross and net proceeds realized from any sales thereof, and whether or not the proceeds now remain in the United States Treasury, and also to show the cotton for which claims have been filed in the Treasury Department, and the names of persons by whom such claims were filed.

The resolutions have a direct bearing upon the cotton claims which, under section 162 of the judicial code approved March 3, 1911 (36 Stat., 1139-1140), were referred to the Court of Claims for adjudication, and as this department is now actively employed in the work of collecting and arranging information for the use of the court in the trial of pending cases, it would seem that neither the interests of the claims for of the Government would be subserved by diverting the limited available force of the department from the completion of the information desired by the court, to engage in the preparation of the claims for such cotton heretofore filed, would necessitate a further and separate examination of all Civil War records of the

The Secretary of the Treasury goes on to say that it would be a very expensive proposition for the Government to do this. It would require a vast amount of clerical work to ascertain this information, much of which it is assumed by gentlemen who have argued in favor of this bill they already know, and besides that it would furnish to the claimants all the defensive evidence which the Government may possess.

So it is perfectly apparent that having, under the original act of 1863 and the resolution of 1868, covered into the Treasury a certain amount of money, which was then placed by the Secretary of the Treasury as being held in trust by the Government, the men who now are active in extracting money from the Treasury upon every possible excuse are very busily engaged in endeavoring to obtain legislation which will open the doors of the Treasury as to all of this sum of money. It is said by some that the present bill would not cover more than \$5,000,000.

It is said by gentlemen in charge of the bill that it would not cover over \$1,000,000. I venture to say from the information which I have received that no one knows how much it will cover, though it is quite certain that it would not be over \$1,000,000. That is the amount that is in the Treasury. The original act That is the amount that is in the Treasury. The original act providing for the collection and disposition of this property con-tained a provision that the claimant for the fund in each case must show that he has never given any aid or comfort to the "present rebellion."

Mr. COX of Indiana. Mr. Chairman, will the gentleman yield for a question? I want information, Mr. MANN. Certainly.

I have obtained the idea or opinion from Mr. COX of Indiana. statements made on the floor here that the amount of money that is now actually in the Treasury does not exceed \$5,000,000. What information has the gentleman on that proposition?

Mr. MANN. The gentleman from Ohio [Mr. WILLIS] presented a report from the Secretary of the Treasury covering certain phases of this proposition, which indicated that there were

\$5,000,000 in the Treasury

Mr. COX of Indiana. Right in that connection, if the gentleman will further yield, are all of the claims adjudicated so far as the money now in the Treasury Department is concerned, or if this amendment be adopted by the House will it open up another series of claims to go before the Court of Claims?

Mr. MANN. The original money in the Treasury was turned in by the special agents of the Government in the various districts where the property was seized and sold and the money collected. These claims have been in the main, I think, presented to the Court of Claims. The Court of Claims, as to a large portion of them at least, decided they could not be paid because the claimant had given aid or comfort to the rebellion.

Mr. COX of Indiana. Then the only real question in controversy that will be considered in the future, in the event this amendment finally carries, will be to get possession of the money that is now actually in the Treasury Department. Is that cor-

rect?

Mr. MANN. I think that is correct, that there could not be any claim for more than that money, because there could be no possible claim, I think, for property seized and sold where the money was not in fact covered into the Treasury, although we have some claims on the Private Calendar-and whether they will ever get any further I do not know-insisting on the payment of claims upon the ground that property was not properly conserved and sold.

Mr. COX of Indiana. The gentleman answered a moment ago that the gentleman from Ohio made the statement the other day

to the effect that this may reach about \$10,000,000.

Mr. MANN. No, the gentleman from Ohio said it would be about \$5,000,000.

Mr. COX of Indiana. Has the gentleman from Illinois investigated that with a view to determining whether it is accurate or not? I ask for information because I know the gentleman investigates these questions.

Mr. MANN. I have no doubt that is accurate, so far as this bill is concerned. Probably the amount would not exceed \$5,000,000. The amount that is in the Treasury is in the neighborhood of \$10,000,000, I am informed.

Where does the extra \$5,000,000 Mr. COX of Indiana.

come in?

Mr. MANN. I do not have sufficient information to differentiate between the two. Whether the \$5,000,000 is supposed to cover everything in the Treasury I do not undertake to say. The gentleman from Ohio presented the other day a statement from the Treasury Department upon that subject. On the other hand, I have presented another statement made by the Treasury Department saying that the amount in the Treasury \$10,000,000.

Mr. COX of Indiana. I just came in on the floor and did not

hear the gentleman's statement.

Mr. MANN. Just what the differentiation is I am not able

Mr. WATKINS. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. WATKINS. Has the gentleman examined Senate Document No. 3, second session, Forty-third Congress?

Mr. MANN. I have.

Mr. WATKINS. Will not that show actually all those claims which are in the Treasury on which property was seized after June 1, 1865?

Mr. MANN. I think that is a disputed proposition, Mr. Chairman.

Mr. WATKINS. If that does show that, then can not we tell exactly the number of dollars in the Treasury after June 1,

Mr. MANN. Well, the Treasury proposition upon that is not final. Just how much money there is for property seized after a certain date is not ascertainable until the Court of Claims has passed upon the proposition.

Mr. WATKINS. But the question is this: Does not that report show that amount was paid into the Treasury on the property which was taken after June, 1865?

Mr. MANN. I think likely that is true, but that is not binding upon the Court of Claims or upon the claimants.

Mr. WATKINS. Under this bill can the Court of Claims

order paid out any money except that?

Mr. MANN. I have stated half a dozen times, and I do not think it is necessary to repeat, although I will, that this bill only refers to property which was taken subsequent to June 1, 1865, but a statement from the Treasury Department as to when the property was taken, if they have made such a statement, is at the best a guess and is not binding, because the law, if this becomes the law, gives the claimant the right to make proof as to when that property was taken. My opinion is a very large amount of this property was in fact seized after that date. However that may be, the original act provided that no claim should be paid without proof of loyalty.

It was afterwards held by the Supreme Court of the United States that the pardon and amnesty act of President Johnson in effect removed the disability in reference to giving aid or comfort to the rebellion. That was purely a technical ruling by the Supreme Court, was not in conformity with the spirit of the original act, and so far as they were technically entitled to the benefit of the ruling they have obtained it already. It is now proposed to have Congress itself by act provide that the proof of loyalty should not be required in these cases, although the act under which this property was seized and sold provided that every claimant obtaining the money must prove that he has never given any aid or comfort to the rebellion.

Mr. SIMS. May I ask the gentleman a question? Mr. MANN. Certainly.

Mr. SIMS. Was not that decision on the substance of the act and not a mere technicality as to practice, or something of How does the gentleman hold it was a technicality if he holds that a certain act does not apply to it or a certain

provision does not apply?

Mr. MANN. I hold decidedly that it is quite a technicality when Congress provides that no person shall be given his claim unless he proves loyalty or unless he proves that he has not given air or comfort to the rebellion when the Supreme Court says that a subsequent proclamation of amnesty removes the necessity of making that proof.

Mr. SIMS. Is the proclamation to be treated as a mere

technicality and not substantive law?

Mr. MANN. Certainly not. You got the benefit so far as it was provided by law that is passed. The claimants have already seized the advantage of that as far as they could under the original act. Although President Johnson issued his proclamation of amnesty and the court held that if the claimants filed under that act they were not required to give proof of loyalty, you now want to change that law and apply it to those who were not covered by the Supreme Court opinion. They accepted the Supreme Court opinion in these cases to which it would apply or to which it would be applied, but the purpose of the original act was that those who were engaged in rebellion should not be paid their claims, and there is no differentiation in principle between paying these claims and paying all other claims in the Southern States. I do not undertake to argue one way or the other on the question as to whether for all of these various claimants loyalty should be required. because outside of this special class of cases neither the gentleman from Tennessee nor anybody else on that side of the House dares say he is in favor of paying all claims from the South without proof of loyalty.

Mr. SIMS. But the original act provided for claims arising while war was in actual existence. After the 1st of June, 1865, there was no war, and therefore the question of loyalty should cut no figure as to claims arising after that date.

Mr. MANN. The gentleman takes the opinion of the Supreme Court on one phase, but refuses to take it on the other. The Supreme Court said that the rebellion was not over at this time.

Mr. SIMS. That is a technical question, sure enough.

Mr. MANN. Both technical. There is no reason why the case now should open up the door to the payment of all the southern claims of those who were disloyal to the Union.

Mr. SIMS. Arising after the war; not during the war. Mr. MANN. I do not propose to fight over the war. I do not propose to fight over the war. be very glad if it all could be returned to them. The South went into rebellion, or war, whatever you please to call it, and in the main are willing to abide by the consequences of the war. One of those consequences is that property taken and destroyed is not to be repaid by the country which succeeds to the country which is defeated, or to those who aided the country which was defeated. You propose to reverse that rule, which is practically universal throughout the world, on what you please to call a technicality on the one side, but which I call a technicality on the other side. It was never the intention of Congress to provide that these claims should be paid to those who were disloyal to the Union. The original act expressly provides for it. | gentleman from Texas [Mr. Young].

You wish to remove that provision, and when you remove it in this case you will find that you will be called upon to remove it in all other cases. Whether you will do so or not no one can There are millions and millions of claims which have been presented to the Court of Claims, and millions upon millions of claims which were not presented to the Court of Claims, the allowance of which depends upon the proof of loyalty. You propose in the interest of some claimants to remove the necessity of that proof and open the door so that you will be called upon to remove it in all other cases. I do not believe that the Government of the United States is under any obligation to pay money for property seized during the war to those who were in rebellion against the Government.

Mr. COX of Indiana. What does the gentleman think of the proposition, if he will pardon me, as to the duty of the Government to pay actual bona fide claims arising after the war

actually ceased?

Mr. MANN. There is no controversy about that.

Mr. COX of Indiana. I understand that is the controversy

here. However, I may be wrong about it.

Mr. SIMS. There is a difference as to when it ceased. We contend it ceased at the time this bill applies, and the gentleman from Illinois [Mr. Mann] claims it did not cease until August, 1866. May I ask the gentleman, inasmuch as he is so kind to permit interruptions-

Mr. MANN. I am always willing to yield.

Mr. SIMS (continuing). After Gen. Lee had accepted the terms of surrender, which was in April, 1865, suppose in June, 1865, private property had been taken from him—that is, prior to August 20, 1866-does the gentleman hold that we ought to require proof of loyalty as to Gen. Lee for years prior to the time of taking that property, in order to pay him for the property taken from him after his surrender and after he had done all that a loyal man could do?

Mr. MANN. I hold distinctly that where the Government seized the property under the provisions of this act of 1863, it was a war measure. They seized the property and converted it and sold it, and took the money under the provisions. claimant must prove loyalty before he should obtain it, and that should remain the law. This was still a war measure, as the gentleman perfectly well knows.

Mr. SIMS. Although taken after the war had, in fact,

Mr. MANN. The Confederate Government was still buying this property.

Mr. SIMS. In 1865? Mr. MANN. After June 1, 1865. Mr. SIMS. The Confederate Government was buying this property after June 1, 1866?

Mr. MANN. It was. Part of its property was bought by the Confederate Government after 1865.

Mr. SIMS. And also June 1, 1865? Mr. MANN. June 1, 1865.

Mr. MANN. June 1, 1865. Mr. NELSON. Is this the first time the bill has been up in Congress, or have other attempts been made to get this money by removing the bar of loyalty?

Mr. MANN. There have been many attempts made to get money by removing the bar of loyalty or various other ways. But when the House years ago put this provision in the bill it was the distinct understanding of those who understood the matter that it still required proof of loyalty before these claims were to be allowed.

Having obtained that much, professing at the time to be perfectly satisfied with that provision, as soon as the claim agents find that many of the claimants are unable to make proof of loyalty they seek to have that proof no longer required, while at the same time other gentlemen in the House are urging that other defenses of the Government be waived and set aside.

You can not differentiate between these various classes of cases, so far as principle is concerned, and if the Government sets aside the principle of loyalty, it can only be upon the basis that the Government that seized the property sold and holds the money ought to give it to the men who owned the If that be the case, this bill does not go far enough. If that is the principle upon which you act, then you ought to allow all of these claimants to enter the Court of Claims, that all of this money should be returned to the claimants.

Unless we adopted this as a war measure we are not justified in keeping 1 cent of the proceeds of the sale of this property. If it was a war measure, as I contend, then the claimants have no rights under it until they prove loyalty. [Applause.]

Mr. Chairman, I reserve the balance of my time.

Mr. WATKINS. Mr. Chairman, I yield 10 minutes to the

The CHAIRMAN. The gentleman from Texas [Mr. Young]

is recognized for 10 minutes.

Mr. YOUNG of Texas. Mr. Chairman, with respect to this bill, I think the House ought to be in possession of the real facts upon which it is based and upon which it is asked that it be passed. The gentleman who has just made an argument in opposition to the bill bases his whole argument upon the fact that a war measure is a measure under which he seeks to justify the United States Government in retaining the proceeds of property sold but taken subsequent to June 1, 1865. The book is a sealed book up to the time of the surrender. This measure does not seek to open up any claims, war measures or otherwise, as to property taken during that struggle. But the war is over. The surrender had come. Consternation, it is true, prevailed from one end of the country to the other. The surrender had come. Consternation, Yet, acting presumably under this war-measure proclamation, this property is taken after the surrender and after the war has closed. The Government agent officially proceeds to go has closed. The Government agent officially proceeds to go about over the country, taking the cotton of the Southern States, selling that cotton, reserving his expense account for it, and then converting into the Treasury the remainder. The That is private property taken from the war has now ceased. people who produced it on the farms. That is property belonging to the people who grew this cotton. The war being over, how can you justify the extension of the war measure when the war drum throbs no longer and the battleflags are furled? [Applause.]

That is the proposition pending before Congress. erty was taken from private citizens. The surrender is had. Their property is taken. Now, what is the sole reason why these private rights can not be exercised as to the money that has been converted into the United States Treasury? They throw themselves back of the technical proposition that loyalty must be proved. Loyalty when? The war is over. Battles have ceased. The property was taken after the surrender. Yet that was private property and not property of the Government. It is the fund of the private individuals who grew the crops.

It was taken from them after the war had ceased.

Now, shall the United States Congress say to the people who have lost this property that, although you accepted the results of the war, although the surrender has been had, that property does not belong to you? Yet you come after the ceasing of the conflict and take the property of those people and convert it into the Treasury of the United States and say to them, "You must prove loyalty."

This property was on hand after the war closed. It was grown on the farms and sold after the war was over, and yet this money is in the Federal Treasury. I base myself on the proposition of abstract right and wrong. The Southern people who lost this property feel that they have a right to the pro-

ceeds that have been put into the Treasury.

We are not asking to take something out of the Treasury that is not ours. We are asking to take out of the Treasury that fund that was placed there after the war ceased, proceeds of sale of our private property, and the vote of this Congress is to determine that fact. We are not opening up what happened during the period of the strife. We are simply opening up the claims for property taken after that strife had ceased. I say, as a matter of right, that the people should have the privilege to go into the Court of Claims and assert their rights to such of these trust funds as they may show themselves entitled.

Mr. HARDY. Will the gentleman yield for a question?

Mr. YOUNG of Texas. Yes.

Mr. HARDY. I wish to ask if it does not appear by the very action of the United States Government itself that it does not claim any title in the money thus covered into the Treasury?

Mr. YOUNG of Texas. It is a trust fund placed in the Treasury, and the United States Government makes no abstract claim of right to it.

Mr. HARDY. Then the secondary question is, if the title

is not in the Government it is in somebody, somewhere.

Mr. YOUNG of Texas. That is true. It is a trust fund placed there, and the question is, who has title to it? It is a matter to be determined in the Court of Claims. Let them present their proof.

Mr. BURKE of Pennsylvania. Will the gentleman yield for

question?

Mr. YOUNG of Texas Yes.

Mr. BURKE of Pennsylvania. Regardless of other questions, has the gentleman any objection to inserting in this bill a provision that the claimant shall assert and prove his loyalty on the date of the so-called confiscation?

Mr. YOUNG of Texas. That amnesty proposition which has

not claim it, and this is simply to remove the bar of a technical provision that the claimant may come into court and not be cut off by demurrer raising the question of loyalty. [Applause.]

Mr. WATKINS. I yield to the gentleman from Texas [Mr.

SLAYDEN | five minutes.

Mr. SLAYDEN. Mr. Chairman, I agree perfectly with all that my colleague [Mr. Young] has said with reference to the justice of this claim against the Government and the righteousness of the demand that the proceeds of property that was captured and sold and covered into the Treasury be returned to the rightful owners, but in my judgment this measure does not go far enough to do full justice to cases that will appeal to the sympathy of every Member of this House. I believe that if Members will take the time to investigate them they will find that this bill applies to a class of cases that will appeal not merely to the sympathy, but to the active, earnest legislative sympathy of the Members of the House. I have special reference to one case. In order that I may make myself perfectly clear, I will illustrate my meaning by telling of a concrete case.

In November and December, 1865, and January and February, 1866, the armies of the Union came into Texas and camped during that winter on land belonging to a man by the name of Hatch, who lived near Victoria, in southern Texas. It is a prairie country. Timber of any sort is very scarce. Occasionally there would be what we call a "mott" of standing timber down there. This man had an unusually large and valuable This Army was encamped on his land, and during that winter they consumed all of his standing timber for firewood. At that time, as we have been able to prove by abundant evidence, wood sold readily in the neighboring market of Victoria at \$6 a cord. It was estimated at the time that more than 2,000 cords had been taken from him. Mr. Hatch during his entire lifetime endeavored to recover from the Government for that property which had been taken and used for the benefit of its troops. He failed to do so. I tried for several years to get an appropriation out of the Treasury to settle this claim, the facts in reference to which are undisputed. I failed. It was sent to the Court of Claims and they rendered an opinion agreeing to the facts that were alleged, admitting the truthfulness of our claim with reference to the facts, but they denied payment because of a lack of loyalty on the part of Hatch during the war. That is probably true. Nearly every respectable man in my part of the country was what would be called disloyal at that particular period. But Mr. Hatch has been dead for a number of years. His widow, who is approximately 80 years of age, still lives, in the direct poverty. The Court of Claims says that the Government owes her certainly as much as \$3,000, putting a very small estimate on the value of the wood taken at the time, but it denies payment of it because of the disloyalty of Mr. Hatch during the war. Now, it is well to remember that this property was taken more than six months after the surrender of Gen. Lee at Appomattox. There was no state of rebellion existing in Texas at that time and there was no open disloyalty to the Government.

The CHAIRMAN. The time of the gentleman from Texas

has expired.

Mr. SLAYDEN. Then, Mr. Chairman, I shall only say that shall endeavor to have the law amended so as to provide for this widow. [Applause.] Mr. WATKINS. Mr. Chairman, I yield five minutes to the

gentleman from Indiana [Mr. Cullor].

Mr. CULLOP. Mr. Chairman, the purpose of this legislation is twofold: First, to require a speedy presentation of all the claims coming under the provisions of this act. One of the requirements is that the claims shall be filed prior to January, 1915; if not filed by that time they are barred. This is a trust fund, as I understand it, in the Treasury. It applies to cotton which was abandoned, taken, and sold by the Government after June 1, 1865, after peace had been restored and after the war was over. It is not one of the classes of property that come within the category of what is usually taken in the case of war and where the ownership vests in the Government from its capture as a result of hostilities.

Mr. WILLIS. Will the gentleman yield?

Mr. CULLOP. I will yield to the gentleman from Ohio.

Mr. WILLIS. I should like to have the gentleman state the theory upon which he holds this to be a trust fund, in view of the fact that the Supreme Court of the United States, in Young against the United States, distinctly says that it is not a trust fund. How does the gentleman argue that it is in the face of that decision?

Mr. CULLOP. The statute under which the fund was created makes it a trust fund. Upon the question I am presenting now been so much discussed has already been promulgated. The war is over, and the decree has gone forth. This is a special list of claims. It is a trust fund there. The Government does law. By direction of the statute the Government was to take charge of abandoned property, sell it, and deposit the fund in the Treasury Department to be kept for the lawful owners. That is this fund; that is what this legislation applies to and solely to this. That fund is not a public fund to be used in expenditure in the current business of the Government, but is held in trust by the United States Government for the rightful owners of it. The statute authorizing the taking of it so provided.

I desire to call attention to the report of the committee which reported this bill, which clearly and specifically defines its object and the scope of its purpose.

It was evidently the intention of Congress to allow this money to be paid to the claimants from whom the property was taken after June 1, 1865 (after the cessation of hostilities), without the proof of loyalty; but as section 159 of the act approved March 3, 1911, requires such allegation and proof, a conflict of opinion has arisen as to the interpretation of the law upon this point, and it is to settle this question that this bill is presented.

This explains the sole purpose of this bill and expresses the only object of it.

Now, the Supreme Court has stated the different classes of property which were taken during the war and held. They are divided into four classes—

First, that which belonged to the hostile organizations or was employed in actual hostilities on land.

Second, that which at sea became the lawful subject of capture.

Third, that which became subject to confiscation.

This property belonged to neither of those classes.

Fourth, a further description, known only in the recent law, called "captured and abandoned property."

To this latter class of property alone this legislation applies. Now, by virtue of the statute passed in 1863, wherever such property had been found during the continuance of the war it was to be taken and sold, the expenses deducted, and the residue deposited in the Treasury to be held for the lawful owner.

This legislation applies to that class of property which was taken after June 1, 1865, and to no other class of property, and after the war was over, after the proclamation of the President declaring peace had been made. Certainly it is only fair and right that the money now carried in the Public Treasury derived from the sale of such property—the net proceeds of it—ought to be returned to those who have the proper claim to it. The records of the Treasury Department disclose who are the rightful owners and the amount belonging to each claimant.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. WATKINS. Mr. Chairman, I yield to the gentleman from Indiana five minutes more.

Mr. CULLOP. Now, the condition is that all of these claims must be presented before January 1, 1915, and then adjudicated. Claims not presented by that time are barred by this statute, and ought to be barred, and whatever amount there is in the fund be paid pro rata among the owners of the fund as found by the Court of Claims in passing upon the cases presented to it for adjudication.

Why should this fund be continued in the Public Treasury? It is not used for public purposes. It is held there inviolate because it is kept for a specific purpose, and that purpose is to pay back to the owners of this property the residue remaining after deducting the expenses incurred in disposing of the property, the net proceeds remaining in the Treasury from the sale of the same—that is, this fund. It is not a general fund, but a specific fund created by statute, held for a sole and specific purpose, and certainly it ought to be distributed to its rightful owners as a matter of common justice and a magnanimous act of a great Government prompted by the patriotic purpose of a generous people. All this talk about opening the door to the war claims has nothing to do with the case. We are not disturbing in any respect the law by which those claims are adjudicated. That law stands intact as it has stood from the time of its passage, and will, I trust, continue to stand that way; but here is a trust fund that the Government can not use, which has been carried on the books of the Treasury Department for a long time—since some time in 1865—and has continued to be carried there. It is time that the rightful owners of that property under the purpose for which it is carried be determined, and the fund itself be distributed, and that is the purpose of this bill. It will not open the door to wholesale war claims at all. It does not in any way affect the law now on the statute books in regard to southern war claims, but it is simply construing by legislation the statute that has been on the books since 1863 concerning this particular fund. It has no other object and can not be employed for any other purpose.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. WATKINS. Mr. Chairman, in the absence of another gentleman who is to speak, if it is agreeable for him to speak at this time, I will yield to the gentleman from Pennsylvania [Mr. Butler] five minutes.

Mr. BUTLER. Mr. Chairman, I understand that Gen. Grant said, when the surrender at Macon, Ga., took place, on the 21st of April, 1865, that all fighting between the North and South then ceased. There was a surrender, I think, of Forrest at Macon, Ga., and, as I recall, it was on the 21st of May, 1865, I may not recollect history correctly. I understand that Gen. Grant has said in his memoirs that after that day there was no fighting between the North and the South; that so far as actual hostilities were concerned the war was then over. I appreciate that it has been held by the Supreme Court of the United States that the rebellion did not cease, as a rebellion, until some time in August, 1866. I would not vote to remove the disability of anyone who gave aid or comfort to the Confederacy prior to April 21, 1865.

To make myself more definite and to endeavor to explain myself more fully, I would not vote to remove the disability of anyone who actually participated in the rebellion while hostilities were carried on or in any way aided or encouraged it. If I am correct, there were no hostilities subsequent to May 21, 1865. I do not permit anyone to charge me with disloyalty to my country or its best interests or halting in the endeavor to take care of its rights as I think they should be taken care of, but I do not think it was right to selze the property of anyone for war reasons after the war was over. Technically it may not have been over prior to August, 1866; yet the great tumult was done. I can understand the feeling, which must have been ill and ugly, among the people of the South after Lee had surrendered at Appomattox, as well as after Forrest and Johnston and other Confederates had surrendered and their men had gone home, after they had put their arms upon the ground and had taken their horses and retired from the fields of conflict to do for themselves. I can appreciate the emotions and the passions of Confederates, inflamed by long fighting and embittered by defeat. They would have been the same within me had I been a Confederate soldier or had lived in the South with my views in accordance with those who had participated in the rebellion. I am disposed to forgive them if their feelings toward the Union were not as they now are. I do not feel, in our advancing years, that we ought to fail to recognize the fact that the southern people suffered a great loss-and they should have so suffered, because they were not loyal to their country—but at the same time we should be slow to criticize them beyond the proper measure or take from them rights which they otherwise would have had were it not for their expression of their views touching their duties toward their Government immediately after actual hostilities were done. They lost their kin in this war, their property was gone, and they had started to work for themselves. It was then, the gentleman has informed us, and then only, that the property in question was selzed because of an act of Congress that authorized its seizure. Gentlemen ought to know, and it is stated by them, that this property was seized when there was really no justification for its seizure.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. BUTLER. Mr. Chairman, I did not intend to say anything, but the gentleman from Louisiana offered me the time, and I will now ask him to yield me five minutes more.

Mr. WATKINS. Mr. Chairman, I yield the gentleman five minutes more.

Mr. BUTLER. Mr. Chairman, an old soldier of Lee's armies who had surrendered at Appomattox and who had stacked his gun forever and instead took hold of the rein of the horse which Grant gave him and started for the South no doubt in his heart held hatred toward us, as we held hatred toward him, long after he had surrendered. He may have spoken perhaps as he should not have spoken and as he would not speak to-day. He may have done those things perhaps which he should not have done after he returned to the South, but his fighting days were done. He had handed in his weapon. He was submitting as patiently and quietly as he could, adjusting himself to distasteful conditions, and if he planted his cotton and it was afterwards seized pursuant to war measures, I do not think the act was right, and I am willing to pay him for it. It must not be understood by reason of what I have said that I would vote to remove the disability from any man who bore arms against the Government prior to the cessation of hostitities. The question seems to be, When was the war over?

think it was when the fighting was done. Others seem to think

not until the day of proclamation.

Many of us have always understood-it may be the Supreme Court has ruled otherwise, and I concede it has-that the great conflict was done when Lee surrendered. I do not propose to consider in this dispute any other time, and therefore it is my purpose to vote for this measure. [Applause.] I did not say what I said for the purpose of moving the gentlemen to any kind of demonstration; I said it because I meant it. This money is in the Treasury. It does not belong to the United money is in the Treasury. States Government, but it belongs to somebody, and, as I understand, arises from the proceeds of property taken from the people who now ask to have it returned. I understand by this bill that no one can receive any part of this fund except he who lost his property subsequent to June 1, 1865, and feeling, as 1 have already said, that hostilities having ceased, property seized after that time was improperly seized, I think the money now in the Treasury, the product of the sale of improper seizures, ought to be returned to the people whose property was seized. That is all I have to say. [Applause.]
The CHAIRMAN. Does the gentleman yield back the balance

of his time?

Mr. BUTLER. I yield back the balance of my time.

WATKINS. Mr. Chairman, I yield to the gentleman

from West Virginia.

Mr. HAMILTON of West Virginia. Mr. Chairman, I am heartily in favor of the passage of this bill. It is but an act of justice and equity to a large class of our people living, I presume, principally in the Southern States and to the descendants

of those of that class who have passed away.

The rule which prevails throughout the world that one country or one people can, with its armies, take the property of another country or people in time of war between them without being liable for compensation therefor is founded upon necessity and not upon the abstract principles of equity and justice. But in this case even that harsh rule is in nowise applicable. On the 1st day of June, 1865, the war between the States, some-times known in history as the War of the Rebellion, but, more truly speaking, now denominated as the Civil War between the American States, was ended. Nearly two months before that date the commanding general of the Southern forces had surrendered, and the war was at an end forever.

The pending bill only bears upon property which was taken subsequent to June 1, 1865, by the Federal forces under an act approved March 12, 1863, which provided for the taking of abandoned property, to be disposed of by the Government and the proceeds held for the benefit of the former owners thereof. The bill under consideration only changes existing law in the respect that it provides that the Court of Claims may consider the rights of such former owners to participate in the trust fund arising from the sale of such property, without such claimant having first to prove his loyalty during the rebellion.

Whatever may be said as to property taken under the laws of war during actual hostilities, it seems to me that no greater injustice could be done than by stretching this harsh rule so as to allow the conqueror to take property without compensation

after hostilities had ceased.

The proceeds of the property taken under the act of 1863 does not belong to the Treasury of the United States, but it is a trust fund to be disposed of and paid out to the former owners upon the findings of the Court of Claims, and to bar a brave man, who fought on the losing side of that great conflict under the belief and conviction that he was doing his duty to the sovereign State in which he lived and perhaps was born, from the participation in the proceeds of his own property taken not in time of war but after all hostilities had ceased, and when he had returned to his home, laid down his arms, and become a peaceful citizen of the Nation, can not be upheld upon any theory either of necessity or justice, and is abhorrent to the principles upon which this great Republic is founded.

During my short career in this body I think that I can say that I have been liberal upon the question of pensions to the Union soldier, notwithstanding the fact that all my people during the late war were in sympathy with the Southern cause; and if I had been of sufficient age I would have probably been on that side of the conflict. I thought that the Nation owed to those who fought for it a recognition of their services and a substantial remuneration therefor, and have acted accordingly, even at the sacrifice of the political friendship of some people

of my district.

Now, it is quite apparent that all pension legislation for soldiers of the Civil War is almost wholly beneficial to residents of so-called Northern States, and I am glad at this time upon this pending bill to do something, however feeble it may be, in

justice to the men and their descendants who fought for and were in sympathy with the principles which were finally settled against them by the arbitrament of arms in the great conflict to which I have referred. It is eminently right, in my judgment, that this bill become a law, and I shall vote for it with the greatest of pleasure.

Mr. WATKINS. Mr. Chairman, I yield three minutes to the

gentleman from Indiana [Mr. Cox].

Mr. COX of Indiana. Mr. Chairman, it seems to me that the crux of the situation, so far as this bill is concerned, is not so much when did the war cease as it is of giving certain people the right to go in and get their rights from the Treasury Department. It strikes me, Mr. Chairman, as being preposterous for us to undertake to hold that hostilities did not cease until August, 1866. The history of our country tells us that it ceased long before that time. The gentleman from Pennsylvania [Mr. Butler] brought to my mind a remark which I remember distinctly of reading in Gen. Grant's memoirs when he declared that after Forrest surrendered some time in May, 1865, that marked a complete cessation of hostilities between the North and the South. But even were it not for the declaration of Gen. Grant the history of our country, our common-school history, records the fact that hostilities ceased between the North and the South at the time when Lee surrendered at Appomattox and Joseph E. Johnston surrendered to Gen. Sherman, so it is not a question now as to when the war actually ceased. I think we are all agreed practically upon the proposition that there is a fund in the Treasury which belongs to some one, and that fund does not belong to the Treasury of the United States. I think we are all agreed, or substantially so, upon the proposition that the fund in the Treasury Department is not a general fund, but belongs to certain persons in the South who have a claim to it because of property taken from them after the war ceased. It strikes me, Mr. Chairman, that that is the only question in dispute here: Shall we permit by an amendment to the law as it now stands opportunity to the claimants to go in and prove their rights to this fund, whatever it may be called. I do not care a whit whether it is a trust fund or not, it is a fund that does not belong to the people of the country generally; it belongs to somebody, and, in my judgment, it is the duty of Congress to let that money be paid out to the proper persons after their claims have been adjudicated by the Court of Claims and it has determined who the owners are and the respective amounts due to each. It is our duty, Mr. Chairman, as I view it, to let the Treasury of the United States pay it. [Applause.] As the Treasury con-cedes the fund now held by it as belonging to certain claimants of the South, what objection is there to paying it out to the claimants. Let them have it.

Mr. WATKINS. Mr. Chairman, I yield such time as he may want to the gentleman from Pennsylvania [Mr. Moon], the ranking minority member of the committee, and I will be glad if the gentleman will inform me what time he desires to use, for the reason there are others who expect to speak.

Mr. MOON of Pennsylvania. Mr. Chairman, as a matter

of fact I did not want any time.

Mr. WATKINS. I yield such time as the gentleman may wish.

Mr. MOON of Pennsylvania. Mr. Chairman, I want to say have not asked for any time in this discussion. I just came upon the floor of the House, and I do not think I have anything of importance to say to this House upon the subject. I was chairman of the Committee on Revision of the Laws upon which, and upon a bill of that committee, section 162 was ingrafted. I was opposed to it, and those who were present will remember I spoke against it on two or three different occasions.

It was adopted, however, by the House by a very substantial majority, and I afterwards stood for it in conference, and acting in obedience to the spirit manifested in this House, I felt it was the intention of the country that the section should be enacted, and it was enacted, into law. I knew nothing whatever of the history of these claims at the time the amendment was offered. It came in the midst of a debate. gentleman from Georgia [Mr. BARTLETT] offered the resolution. My recollection is that he offered it of an afternoon on a Calendar Wednesday, and that it originally included the elimination of the necessity of the proof of loyalty. We discussed it during that afternoon and no vote was reached. On the following Calendar Wednesday the gentleman withdrew that amendment and submitted another, which was carefully prepared by him and which afterwards became section 162 of the bill. I can only say that in obedience to the spirit manifested in this House I voted for it in conference, and when it came before the revision committee that reports this bill, in view of

that fact I voted for it there, and I propose to vote for it here on the floor of the House to-day. I have no definite, accurate information respecting the history of these claims to give to the House. I had none at the time; I have not had the opportunity since to prepare myself upon them, and I therefore feel that there is nothing more for me to say on this subject.

Mr. WATKINS. Mr. Chairman, I yield to the gentleman

from Alabama [Mr. Hosson].

Mr. HOBSON. Mr. Chairman, I do not desire to go into the details of this question. My purpose is to call attention at this time to the broader aspects which this question involves, namely, the justice that the Federal Government has a chance to render to the people of the South. It is not necessary to remind the Members here that a tax was placed upon cotton during the Civil War, afterwards declared to be unconstitutional, and that the money collected from that tax, amounting to some sixty to seventy millions of dollars, was not refunded to the people from whom it had been unlawfully collected, as the money collected from the income tax recently passed was refunded. That money never has been refunded, and the failure to refund it has worked a harsh injustice upon the southern people. In this present case, Mr. Chairman, the proof of loyalty, it seems to me, might be completely waived if we practiced the same spirit toward our own people that we have practiced toward foreigners. We returned an indemnity of \$750,000 to the Japanese Government, part of our share of an indemnity paid in the late sixties, when we made a demonstration in conjunction with Great Britain, France, and the Netherlands in the Straits of Shimonosiki. We never used a dollar of our share. In due time every dollar was returned to the Japanese Government. As a result of the Boxer disturbances, some twelve-odd millions of dollars were likewise paid to the United States for war damages. We did not use that money. I never cast a vote more gladly than the vote to return that money to the Chinese Government.

In the case of Spain we had a perfect right not only to take what territory we had occupied, but, following the precedents of civilized warfare, to demand a war indemnity. Instead we found that Spain was impoverished. Our peace commission practically volunteered and the Nation confirmed that we pay \$20,000,000 to a vanquished foe; and we also voluntarily trans-

ported all the Spanish soldiers back home to Spain.

And so it has been in all the wars of our country. fight we fight with all our might, but when the war is over we do not harbor animosity or hatred, but proceed in a spirit of generosity to reestablish good fellowship with the former foe. Members here realize that since the Civil War pensions have been a large part of the expenditures of this Government, amounting to hundreds and hundreds and hundreds of millions of dollars. The total has gone into the billions. South pays its pro rata share, which amounts to tens of millions of dollars every year, very little of which ever goes back to the South. It would really be in keeping with the uniform practice of returning war indemnities if this Government could find some way in which the South might be partially recouped for this stupendous permanent burden due to the war. the South has never asked that. All we say here at this juncture is that a little meed of justice, plain and simple, be done the southern people, the same that every individual would recegnize as just and right in his own business relations with his fellows. All we ask is that this Congress now, even at this late date, should do that little amount of justice to the southern

Mr. Chairman, I know the Members will not take it amiss If I selze upon this opportunity to point out hardships borne by the South at the hands of the Federal Government. We are a rural section. For decades the general system of taxation, the indirect system of the high tariff, has caused hundreds of millions of dollars of taxes to be collected from the rural sections for the benefit of the great cities. While the Government collects \$300,000,000 at the customhouses a year the great special interests, whose activities are located chiefly in the great cities of other sections, collect \$1,900,000,000.

Again, the fiscal policies of the Nation as bearing upon banking and currency provide large means for the financing of the business of the banker, the merchant, the manufacturer in the large cities, but there is no means provided for financing the business of the farmer. On the contrary, the national banking law forbids a national bank to loan money on a farm, the best security on earth.

Again, take the question of transportation. The railroads transport goods straight through the small farm to the big city beyond cheaper than they deliver the goods at the little town. other words, the general taxing policies, the general fiscal policies, the general transportation policies of the Nation have combined to place hardships upon the South.

I will not now raise the specter of the reconstruction and carpetbag days that followed the war, but all Members will remember how those days carried forward for many years the poverty and devastation produced by the war and made more difficult the steep ascent to prosperity of the southern people. Again, Mr. Chairman, I call attention to the attitude of the Federal Government toward the great world staple of cotton, upon which southern prosperity so largely depends. The Brazilian Government cooperates with its coffee growers to raise the world's price of coffee. The German Government cooperates with its potash producers to raise the world's price of potash. Our Government not only has not raised a finger to help the cotton grower to raise the price of cotton, but has, on the contrary, used the power of the Attorney General's office to prosecute the cotton bulls who tried to produce this result, while it allowed the cotton bears to go scot free when they conspired to put the price of cotton down.

Mr. Chairman, the time has now come for the Nation to do justice to the southern people when they have legitimate claims upon the Government and to extend a cordial godspeed to them as they move out upon a new period of prosperity and empire

building.

The CHAIRMAN (Mr. TAYLOR of Alabama). The time of the gentleman has expired.

Mr. HOBSON. Mr. Chairman, I ask unanimous consent to

extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. WATKINS. Mr. Chairman, I ask at this time unanimous consent that all gentlemen who speak on the subject of this bill may be permitted to extend their remarks in the RECORD.

Mr. MANN. I am not willing that that be done, Mr. Chairman.

The CHAIRMAN. This is in Committee of the Whole, and that permission can not be granted in committee. The House can do that later on.

Mr. WATKINS. I will make my request later, when we go

back into the House.

Now, Mr. Chairman, I yield three minutes to the gentleman from Texas [Mr. Hardy].

The CHAIRMAN. The gentleman from Texas [Mr. HARDY] is recognized for three minutes.

Mr. HARDY. Mr. Chairman, I want to avail myself of the opportunity afforded by these three minutes chiefly to say that I admire the magnanimous spirit of the gentleman from Pennsylvania [Mr. Butler] who addressed this House a few moments ago. If we had more of that kind of men, more of that kind of sentiment, which is the sentiment of brave manhood, there would be less of prejudice between the sections than there is to-day, and, thank God, that prejudice is fast passing away. [Applause.]

Mr. BUTLER. Mr. Chairman, will the gentleman permit me right there?

Mr. HARDY. Certainly.

Mr. BUTLER. I do not want any praise for doing what I think is right.

Mr. HARDY. I wish to say to the gentleman that I am not praising him individually, but the sentiment and the manner and the magnanimity of his remarks. I know he was not seeking praise, and that makes his action all the more praiseworthy. Every really generous act or utterance is without desire or care for applause.

I wish to say a word further that is a little bit personal. 1865 I was a boy 9 years old. One day in June or July of that year I saw my father walk out on his front gallery, send word down to the quarters not far away, and call up the negroes; and when they were all assembled I heard him tell them that, under the proclamation that had been issued by the Government, they were free. He added that it was theirs to go back on the plantation or not, as they saw proper; that if they went back and finished making and gathering the crop, he would do the best he could to compensate them for their labor and to see that they were properly fed and clothed while working.

Now, I could not go into his innermost heart and undertake to rove loyalty or the precise sentiments or feelings that moved him from that time on, but at that time that was his action, and then he went back into the house. His whole fortune was gone, his spirit was broken, and for six months afterwards he scarcely moved from the inner portions of the house, and my mother was the mainstay and the thoroughgoing head of the family. The next year he bought a place on credit, and many of his old slaves went with him, and they planted the

crops of 1866 and 1867.

Now, suppose that after that incident the crops that were being grown under those circumstances were taken. Would it have been right? Was it any more right to take the property of any citizen of the South after he had laid down his arms and thought no more of resistance or war, except as it bore on his desolation or woe?

And now, Mr. Chairman, where property was taken under similar circumstances, and the proceeds of it turned into the Treasury, to give it back to the rightful owner is a simple act of justice, as has been so well spoken by the gentleman from Alabama

[Mr. Hobson.]

This property does not belong to the United States. It was taken without any justification under any principle, of right or just law, among men or between nations, except the idea of taking it to preserve it for the rightful owner. You may call it a trust or what you will. The Government recognizes that it does not belong to it. It belongs to somebody, and it ought to be given in justice to that somebody. Oh, we have been generous—and I am proud of it—with other nationalities and other peoples. To the Japanese we were generous; to the Spanish we were generous; to the Chinese in the Boxer difficulties we were generous, and I glory in the generosity of a great country and a great people. We ought to be able now to be just to each other. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.
Mr. WATKINS. Mr. Chairman, will the gentleman from
Illinois [Mr. Mann] consume some part of his time now?

Mr. MANN. I yield to the gentleman from Pennsylvania Mr. Bowman.

Mr. BOWMAN. Mr. Chairman, I rise for the purpose of ask-

ing permission to extend my remarks in the Record.

The CHAIRMAN. Unless objection is made, the request of

the gentleman will be granted.

There was no objection.

Mr. MANN. Mr. Chairman, I notice that usually these outbursts of friendly feeling between the sections of the country, exhibited by friends from the South, come in connection with an effort to extract some money from the Treasury. They are supposed to be very magnanimous. They are supposed to want to be very magnanimous while they are getting the money. I do not blame them for that, or for complimenting my friend from Pennsylvania [Mr. Butler], who stated, without any warrant of authority whatever for it, that this property was improperly seized by the Government agents. I doubt whether he knows the facts in connection with it. I doubt whether he is informed as to whether the property was improperly seized or not, or as to the circumstances surrounding the seizure of the property. My information is that no portion of this property was seized in any part of the South where hostilities had in fact ceased.

Only where the war was in fact still in existence, shortly after the surrender of Lee, was the property in fact seized by the Government, seized from men who were disloyal to the Government at the time, and who were at the time lending aid and comfort to the rebellion; men who had not accepted the surrender of Lee by any means as the ending of the rebellion. The Government agents did not take property from men who were willing to consider that the war was ended, men who had laid down their arms, men who had accepted the surrender of Lee as the final result. Their property was not disturbed. But my friend from Pennsylvania [Mr. BUTLER] says the Government agents improperly seized the property. That is a mere guess on

his part.

Mr. BUTLER. It is a mere guess on the gentleman's part, for I used no such language. I refer to the notes of the Official Reporters to verify my statement. I said it was claimed by gentlemen on the other side.

Mr. MANN, I am glad the gentleman disavows the lan-

guage.

Mr. BUTLER. I leave it to the notes of the Official Reporters

to settle it.

Mr. MANN. There is nothing between us to settle. If the gentleman did not make the statement, then I withdraw what I have said. That is the whole assumption, however, of gentlemen who favor this bill. That is the only excuse that can be given for it—that the property was improperly seized by the Government agents, taken from men who were willing to admit that the rebellion no longer existed. The assumption is that this property was seized from men who were in peaceable possession of it, not as an act of war but as an act of confiscation. But no such thing happened, and there is no justification for the claim. No property was taken from those people who were willing to consider the rebellion at an end, but in those cases where property was seized it was seized from men who were then disloyal to the Government, and the gentlemen on the

other side of the aisle have refused to agree to an amendment which will amend this bill so as to provide that it shall apply only to those who were not disloyal after the date fixed in the bill,

This is only the beginning of doing away with the proof of byalty. It has nothing to do with the question of peace belovalty. tween the people of the different portions of the country. the honor to introduce in this House the first bill which passed providing that the General Government of the United States should care for a Confederate cemetery, that is now being cared for by the Government, where only Confederate dead are buried. So far as feeling is concerned, the war ought long since to have been buried, and, so far as I am concerned, was long since buried; but when gentlemen come into the House under the pretense of trying to have peace and magnanimity between different portions of the country for the purpose of extracting money from the Treasury that they know ought not to be paid out, I repudiate the claim that it is necessary in order to be magnanimous to pay money to which they are not eutitled. [Applause on the Republican side.]

The Government of the United States seized this property. Aye, it seized millions of dollars' worth of property in the South during the War of the Rebellion. The gentleman from Alabama says that proof of loyalty in these cases ought to be dispensed with. What is the distinction between this case and those cases? Are we to say now, 50 years after the war, in order to prove our magnanimity in the North, that we propose to pay the owners of property in the South for all the property taken from disloyal citizens by the armies of the North? It would take billions of dollars, perhaps. No one knows how much it would take. When you propose to dispense with the proof of loyalty in one case you open the door wide, so you can not refuse to do the same deed of justice in other cases.

I believe that when war is entered into, people ought to abide by the results of the war. And one of the results of war recognized throughout the world is that the country which succeeds does not pay the citizens of the country which loses for the property taken as a result of the war. And that is all this case is. Remove the proof of loyalty, establish now the proposition that no longer is proof of loyalty necessary in order to obtain from the Treasury of the United States payment for property seized by the Government of the United States or its armies in the South from disloyal citizens, and no one can tell how serious and far-reaching will be the result.

It is assumed here that this money is in the Treasury. It is in the Treasury only theoretically. It is carried on the books of the Treasury, but every dollar which is to be paid out on this and other claims must first be taken from the citizenship of the country. The money is not in fact in the Treasury. If its payment is provided, it must be raised by taxation. Those who put down the rebellion must again be called upon to pay the money to the Treasury in order to pay it out to those who sought to destroy the Union. I am not willing to do that in order to curry the favor of my distinguished friends of the South and be called magnanimous. [Applause on the Republican side.]

Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has 11 minutes remaining. Mr. MANN. I yield five minutes to the gentleman from Pennsylvania [Mr. Burke].

Mr. BURKE of Pennsylvania. Mr. Chairman, throughout the discussion last Wednesday and to-day there has developed, to a certain extent, an obstinacy on the part of the proponents of this bill with reference to suggested amendments which I can not reconcile with the eloquent expressions made on the floor of this House within the last 30 minutes. The amendment suggested last week was not prompted for the purpose of giving voice to any hatred or animosity. No one on this side of the aisle is more willing to throw over the act of every man, woman, and child in the South the mantle of forgiveness for acts committed during the period of the war prior to June 1, 1865, and no one would do more to cement beyond its ever being severed again the Union to which these people who seek to-day to be loyal.

Mr. HARDY. Will the gentleman yield? Mr. BURKE of Pennsylvania. Certainly.

Mr. HARDY. Does the gentleman consider it extracting money from the Treasury if the Government should turn over this money to its rightful owner; should give it back to the people who owned it?

Mr. BURKE of Pennsylvania. The question of ownership depends on the manner in which this property was taken and the attitude of the party toward the Government at the time of the confiscation. If the individual who makes this claim to-day was

disloyal to the Government at the hour of the confiscation of his property, it is my contention that he is not entitled to recover

in 1912 any more than he was on June 15, 1865.

Mr. HARDY. Does the gentleman conceive that it was necessary for a descendant of the owner—take the illustration I made as to my own father-one, who by his action then showed that the surrender was complete, that resistance was ended, does he contend that some one now should come in and swear that at that time he was thoroughly devoted to the Union?

Mr. BURKE of Pennsylvania. The gentleman from Texas must admit, that in order to recover in these claims, the claimant, whether he be sensitive or not regarding his own personal feelings, must make a charge against the Government of the United States. He must charge the Government with having committed a wrong, and if he is not sensitive about charging the Government with committing a wrong, why should he be sensi-tive about alleging his own loyalty to the Government at the time?

Mr. HARDY. The claimant makes no claim that the Govern-

ment does not admit.

Mr. BURKE of Pennsylvania. The Government admits taking the property, but the Government claims that it took it under the color of right.

Mr. HARDY. It took the property under the authority of law, but it admits by its present holding of the property for its owner that it belongs to another.

Mr. BURKE of Pennsylvania. The taking of the property was not in violation of any individual right, and if it was not, then no one has a claim against the money in the Treasury.

Mr. HARDY. What amount of proof would the gentleman want as to the loyalty of the claimant? Would he want some one to swear that he run up the Union flag, or something of that

Mr. BURKE of Pennsylvania. No; I would hesitate to pay the claim from the funds in the Treasury to a man who would be unwilling to admit that he was a loyal citizen of this Republic at the time.

Mr. HARDY. The whole country was at peace, was it not? The CHAIRMAN. The time of the gentleman from Pennsyl-

vania has expired. Mr. MANN. I yield to the gentleman from Pennsylvania five

Mr. BURKE of Pennsylvania. That is a question in contro-ersy. As the gentleman from Illinois stated, arms had been laid down, hostilities had ceased in certain sections, but in other sections there is a question whether the hostilities of certain individuals had not been prolonged beyond this period. The purpose of this amendment is to guard against paying money out of the Treasury to those who are not willing to admit or declare that they followed the generous and brave action of the men of the South, who laid down their arms and became ardent and loyal supporters of a rejuvenated Republic, but prolonged it beyond that period, and as an incident to, and during whose disloyalty, the Government took this property.

Mr. HARDY. The gentleman wishes a statement that the

party claiming was not still in rebellion?

Mr. BURKE of Pennsylvania. I will read to the gentle-

I know what the gentleman's amendment is, but I want the effect of it. The gentleman knows that everybody was at peace, the old soldiers had gone home, they were plowing in the country and trying to build up the waste places and were paying no attention to public affairs.

Mr. BURKE of Pennsylvania. Those are very broad declarations that I believe are hardly justified.

Mr. SLAYDEN. Mr. Chairman, will the gentleman yield? Mr. BURKE of Pennsylvania. Certainly.

Mr. SLAYDEN. The gentleman from Pennsylvania has made a remarkable statement or proposition about some people in the South continuing in rebellion after the surrender of Lee and Johnston, and I would like to know when and where it was done, for I have heard nothing about it.

Mr. MANN. The records of the War Department will show it. Mr. BURKE of Pennsylvania. Mr. Chairman, without submitting any evidence on the subject, is it not an inevitable conclusion to which we are driven, when these very claimants refuse to admit that at that time they had laid down their arms and were loyal to the Government?

Mr. SLAYDEN. At what time?

Mr. BURKE of Pennsylvania. Subsequent to June 1, 1865, during the period in which the gentleman claims they are entitled to recover, because they were presumably loyal.

Mr. SLAYDEN. I do not know anything about what any individual may have said, but I do know as a matter of fact that we not only were in complete submission, but that there

was no armed insurrection against the Government of the United States. We were in neither the physical nor mental attitude that made such a thing possible. We were not only peaceful, but we were subdued. We were quiet; we were terrified in a way.

Mr. BURKE of Pennsylvania. Taking the gentleman's statement to be an accurate description of the fact, then what harm can come from an admission in the pleadings—the gentleman is

a lawyer I take it. Mr. SLAYDEN.

Mr. SLAYDEN. No; I am not.

Mr. BURKE of Pennsylvania. Can any wrong result from a declaration in these pleadings that the people seeking to extract the money from the Treasury or recover it from the -whatever language you wish to use-were loyal at Treasurythe time their property was taken?

Mr. SLAYDEN. Mr. Chairman, I am not so much interested

in the gentleman's argument as in this strange new history which he is relating. As a student of history I am interested in knowing when and where and by whom that rebellion, subse-

quent to June, 1865, was carried on.

Mr. BURKE of Pennsylvania. Aside from the records of the War Department the fact is as I say that the proponents of this bill emphatically refuse to put in any provision whatsoever that would safeguard the interests of those who were loyal.

Mr. HARDY. Does the gentleman make that demand of any

claimant against the Government except these?

Mr. BURKE of Pennsylvania. The gentleman knows that these claims stand in a class by themselves. They were born in a period, if not of open hostility, then, at least, in a period of doubt.

Mr. MANN. Does the gentleman know of any other claim against the Government growing out of the war where the proof of loyalty is not required.

Mr. BURKE of Pennsylvania. That is a fair question.
Mr. HARDY. The gentleman does not know of any other
claims against the Government growing out of the war on
account of the seizure of property after the war was ended.

Mr. MANN. Oh, there are lots of claims growing out of the war prior to the time when the war ceased.

Mr. HARDY. What I say is that these claims come from acts after the war had ceased.

Mr. MANN. No; they do not at all.
Mr. HARDY. Unless the gentleman's colleague is fearfully

wrong, and unless my reading of history is wrong, they do.
Mr. BURKE of Pennsylvania. That is a controversy history, as is illustrated by the statements of the two gentlemen on the floor, both of whose opinions I respect, but which I can not reconcile with each other.

The CHAIRMAN. The time of the gentleman from Penn-

sylvania has expired.

Mr. MANN. Mr. Chairman, I yield the remainder of my time to the gentleman from Ohio [Mr. WILLIS].

Mr. WILLIS. Mr. Chairman, in the one minute that remains I want to call attention to the fact, first, that the Supreme Court of the United States has repeatedly decided and it is now the law of the land that this is not a trust fund, but is the absolute property of the United States. I want to call attention, second, to the undoubted fact, as has been pointed out by the gentleman from Illinois [Mr. Mann], and as I tried to point out one week ago, that this is simply the beginning of a series of bills, some of which have been reported and are now on the calendar, the purpose of which is to absolutely reverse the policy that has obtained heretofore in the handling I want to call the attention especially of my of these claims. distinguished friend from Indiana [Mr. CULLOF], who is the guardian of the Treasury and who undoubtedly by his elo-quence has saved the people of this country hundreds of millions of dollars-I want to call his attention especially to the fact that he is now supporting a proposition which if enacted into law neither he nor any other Member of this House can see the termination of. The immediate effect will be that at least \$5,000,000 will be open to almost anybody who wants to back his wagon up to the Treasury Department and scoop in the money.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. WATKINS. Mr. Chairman, I yield five minutes to the gentleman from Alabama [Mr. HEFLIN].

Mr. HEFLIN. Mr. Chairman, the gentleman from Illinois [Mr. Mann] has announced that he could not afford to vote for a measure of this kind in order to curry favor with his friends of the South.

Mr. Chairman, his friends of the South are only asking that simple justice be done. This measure does not appropriate one cent. It gives the Court of Claims jurisdiction of claims

that may be filed prior to January 1, 1915. It requires that the people whose property was taken by the Federal forces after the 1st of June, 1865, be paid for their property out of money now in the Treasury for that purpose. Does the gentleman want to deny the South the justice sought in this measure? His own colleagues on the committee voted unanimously in favor of this bill, and those of them who have spoken in this House to day have championed the measure. The gentleman from Pennsylvania [Mr. Burke] speaks of throwing the mantle of forgiveness over the South for the part it took in the war between the States. The Federal soldier himself would not speak in that fashion now. He realizes that both sides fought for the right as God gave them the power to see it. [Applause.] An English officer has stated in his history of Stonewall Jackson that if Grant had been reared and educated in Virginia and Stonewall Jackson reared and educated in New England, Grant would have been a Confederate general and Stone wall Jackson a Federal general, saying that it was the viewpoint that each had of the situation. [Applause.] Each fought for the right, according to the lights before him. Dr. Ellis in his history of our country, recently written, and Dr. Ellis is a northern man, says that the question of secession was never settled in the United States until the war settled it. Brave men fought on opposing sides in settling that question, and now, thank God, we have a reunited country. [Applause.] I want to say to these gentlemen on the other side that many northern people do not share in the sentiments that you have uttered to-day. [Applause.] I canvassed eight Northern States in the recent campaign and I found the feeling with most people there strong to bury everything that looks to sectional differences, and the best people in the North and in the South are striving to unite these sections together in the ties of love, loyalty, and the clinging of section to section. [Applause.] Mr. Chairman, let the Members of all sections do simple justice to-day. When the bugle was singing truce at Appomattox Robert E. Lee was not only plighting his faith, but plighting the faith of every Confederate soldier, and plighting the faith of the son of every Confederate soldier to lay down their arms forever. [Applause.] Surely Members of this House can do simple justice to those whose property was taken by the Federal forces. All we ask is that these people have a chance to go into court and ask that court to say whether or not their property was really taken and order pay therefor. June 1, 1865, there were no hostilities anywhere; none after the 1st of May; then why require these people to prove loyalty to the Union. Mr. Chairman, the soldier in blue and the soldier in gray were fighting for what they thought was right; and it is said that when Lee surrendered at Appomattox Lincoln, with tears in his eyes, at the White House said, "Have the band play [Applause.] He was hoping that hostilities were over; he was hoping that war was at an end; he was glad that we would have a reunited country; and now, gentlemen, we have that glorious reunited country, and I appeal to gentlemen here to rise to the full measure of your duty toward this meritorious

The South pleads for simple justice to those whose property was taken after Lee's surrender at Appomatox. The South will follow faithfully wherever Old Glory bares her beauty to the breeze; one heart, one hope, and one country—America, the grandest Government on the globe. [Loud applause.]

The CHAIRMAN. The gentleman from Louisiana has six

minutes remaining.

Mr. WATKINS. Mr. Chairman, in that length of time I can hardly be able to discuss satisfactorily the legal propositions involved in this case. I have several volumes here before me. If the gentleman from Illinois [Mr. Mann] will not object when we go into the House, I will simply ask to extend my remarks in the Record, but if he is going to object I will try in the few minutes I have to cover the question as far as I can.

Mr. MANN. The gentleman can ask leave to extend his remarks now.

Mr. WATKINS. I do ask that permission.

The CHAIRMAN. If there be no objection, leave will be granted. [After a pause.] The Chair hears no objection.

Mr. WATKINS. With that understanding, Mr. Chairman,

Mr. MANN. There is no understanding; the gentleman has leave to extend his remarks now.

Mr. WATKINS. If I have leave, then, all right.

It has already been granted to the gentleman.

Mr. WATKINS. Mr. Chairman, understanding I have leave to extend my remarks in the Record, as the time is so short and the proposition so extensive, I will now ask that general debate be closed and the bill be read for amendment.

The CHAIRMAN. General debate is now closed, and the Clerk will read the bill.

The Clerk read as follows:

The Clerk read as follows:

Be it enacted, etc., That section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, be amended and reenacted so as to read as follows:

"Sec. 162. The Court of Claims shall have jurisdiction to hear and determine the claims of those whose property was taken subsequent to June 1, 1865. under the provisions of the act of Congress approved March 12, 1863, entitled 'An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States,' and acts amendatory thereof, where the property so taken was sold and the net proceeds thereof were placed in the Treasury of the United States; and the Secretary of the Treasury shall return said net proceeds to the owners thereof, on the judgment of said court, and full jurisdiction is given to said court to adjudge said claims, any statutes of limitations to the contrary notwithstanding: Provided, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims."

Also, the following committee amendment was read:

Line 8, page 1, strike out the words "to hear and determine the claims" and insert in lieu thereof "of any claim therefor filed prior to January 1, 1915."

The CHAIRMAN [Mr. RUCKER of Colorado]. The question is on agreeing to the committee amendment.

The question was taken, and the amendment was agreed to. Mr. MANN. Mr. Chairman, I move to amend, on page 1, line 6, by striking out the words "and reenacted."

The CHAIRMAN. The gentleman from Illinois offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 1, line 6, strike out the words "and reenacted."

Mr. MANN. Mr. Chairman, I hope that is satisfactory to the gentleman. It does not affect the bill at all except the form of it. We have invariably struck out those words where they came in a bill. The enacting clause is sufficient when it says "The section shall be amended to read as follows."

Mr. WATKINS. Mr. Chairman, we are really reenacting the bill, and I see no objections to so stating by vote of the committee.

Mr. MANN. Mr. Chairman, I do not care anything about it in this bill. Somebody conceived the idea a year or two ago of putting this sort of an item in the bill. Every time it Mr. MANN. has been before the committee it has been stricken out, up to the present time, because it is not necessary to have but one enacting clause to the bill. When you say that "a section is amended to read as follows," that makes it read "as follows" when it is enacted.

Mr. WATKINS. Mr. Chairman, with the statement of the gentleman that this is the custom, I will not oppose the

The CHAIRMAN. The Clerk will again report the amend-

The amendment was again read.

The CHAIRMAN. The question is on agreeing to the amend-

The question was taken, and the amendment was agreed to. Mr. MANN. Mr. Chairman, I move to strike out, on page 2, lines 8, 9, and 10, the following language:

And the Secretary of the Treasury shall return said net proceeds to the owners thereof on the judgment of said court.

The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

Amend, page 2, lines 8, 9, and 10, by striking out the words "and the Secretary of the Treasury shall return said net proceeds to the owners thereof on the judgment of said court."

Mr. MANN. Mr. Chairman, I had intended to call this to the attention of the gentleman from Louisiana [Mr. WATKINS] privately, because I think if I had he would have agreed to it. That language is in the existing law, and was in the original law, I believe. Since that time Congress has repeatedly provided, and that is now the law, that the Secretary of the Treasury can not pay out money from the Treasury until it is appropriated. This purports to give the Secretary of the Treasury authority to return this money without an appropriation. It will simply mislead people, because he will not return it without an appropriation, for the law prohibits paying any money out of the Treasury unless it is appropriated. And the custom will be, whether it is in or out of the law, when claims are allowed by the Court of Claims, they will be certified to the House and will be included by the Committee on Appropriations in the general deficiency bill. There is no other way of paying claims out of the Treasury. This is not an appropriation.

Will the gentleman yield to a question? Mr. FITZGERALD.

Mr. MANN. Certainly.
Mr. FITZGERALD. I have not looked into the matter. Would one of these judgments be such a judgment as would come in as a certified claim?

Mr. MANN. It would be the same as any other judgment against the United States.

Mr. FITZGERALD. If it is a final judgment, then it would be carried as all such judgments are, in the deficiency bill. The practice is to appropriate in the deficiency bills the amount of money required to pay judgments against the United States.

Mr. MANN. As I understand, the practice is to certify the judgment to Congress, and the Committee on Appropriations includes in the deficiency bill these specific items for the payment of these judgments. I do not know that this will do any harm, except it will make people believe they can obtain the money without an appropriation for it.

Mr. CULLOP. Mr. Chairman, if the gentleman's amendment should prevail it would do just what he has been opposing being done all through the debate on this bill. This is a specific fund, raised from a specific object, and for a specific purpose.

The fund is in the Treasury. It is there for a certain and

specific purpose, and covers money derived from a specific source. It is there to be paid back to the persons who may be legally entitled to the same, and is not as other funds that are in the Public Treasury, as a general fund. So that if the gentleman's amendment should prevail it would open the door to the very object that he has been opposing all through the consideration This fund was raised from the sale of the cotton which had been abandoned by the legal owners. It was sold under a statute which directed that it should be sold and what should be done with the net proceeds arising from the sale, and that was to pay it into the Treasury to be held for the legal owners of it, less the cost and expense of the sale and handling of the property. Now, the purpose of this act is for the Court of Claims to ascertain the amount, the legal ownership of the money of the trust fund in the Treasury, and prorate it among the lawful owners or those who shall assert their right to it by the 1st day of January, 1915. If the gentleman's amend-ment prevails, it will destroy the entire purpose of the act and leave it subject to wholesale litigation concerning the ownership of that fund, which ought not to occur in the disposition of this particular fund at all. The Treasury Department has the name of each and every owner, the amount derived from each and every sale, when and to whom made, the cost of handling the property, and the net proceeds. If this amendment is adopted, it emasculates the entire object of the measure and will produce confusion in the settlement of this matter. Therefore, instead of clarifying the situation, it will have the opposite effect. So that if his amendment prevails, the condition then would be worse than it is now for the distribution of this fund and the disposition of the matter. I hope, therefore, that the amendment will not prevail.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. Heflin having taken the chair as Speaker pro tempore, a message in writing from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries.

ALLEGATION AND PROOF OF LOYALTY IN CERTAIN CASES.

The committee resumed its session.

Mr. BARTLETT. Mr. Chairman, I move to strike out the

The CHAIRMAN. The gentleman from Georgia [Mr. Bart-LETT] moves to strike out the last word.

Mr. BARTLETT. I oppose the amendment offered by the gentleman from Illinois [Mr. MANN]. Mr. Chairman, this section, which it is proposed to amend,

was adopted by the last Congress on the codification law bill. This fund, which is now in the Treasury, or which should be there, is not like other assets of the United States in the Treasury of the United States. Under the act of 1863, known as the captured and abandoned property act, proceeds of the property that was taken, after it had been sold and the expense deducted, were to be held as a trust fund for the true owner thereof. Under that law after the close of the war this

owner thereof. property was taken and sold and the proceeds turned into the Treasury. I do not mean after the legal close of the war, because with a view of regulating certain matters in the Armydischarges, and so on-it has been decided that the war legally closed on the 21st day of August, 1866. But the war had actually closed on the 9th day of April, 1865, with the cessation

Now, I drew this amendment to the codification bill and presented it to the House, and after a spirited debate and discussion for quite a while the House adopted it. The Senate made some amendments to it and then it went to conference,

and the conferees agreed to this proposition as it now appears in section 162 of the Civil Code.

Now, I am not going to detain the House with any details of the history of this matter, but I want to say that both Houses of

Congress recognized the justice of the claim that after the war was actually over and while the United States Army was simply in possession of the territory of the States of the Southern Confederacy after June 1, 1865, the officers of the United States took this cotton from the farms of the planters and from the warehouses where it was stored and sold it, and that the owners ought to be paid the money on proof of the identity of the persons to whom it belonged. As to the date—June 1, 1865—I fixed that myself, after conference with the chairman of the Committee on the Revision of the Laws, Mr. Moon of Pennsylvania, and some other gentlemen who on that side were actively engaged in that codification work.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. With pleasure.
Mr. BUTLER. If these claimants had availed themselves of the provisions of the act of Congress of 1872, could they not have proven their claims and recovered this property without first having offered proof of loyalty?

Mr. BARTLETT. I think they could.

Mr. BUTLER. Was not the question of loyalty waived by the act of 1872?

Mr. BARTLETT. It was not only waived, but by the decision of the Supreme Court, in Thirteenth Wallace, in the case of Klein, it was held that under the general amnesty of President Johnson, issued with reference to them, they could have recovered without proof of loyalty. But they did not do it, and if my friend from Pennsylvania were familiar with the condition of affairs in the South at that time, where men had lost their all and where people had their property taken from them, he would know that they did not have the means of prosecuting claims before the Court of Claims at Washington in order to recover what belonged to them.

This simply provides, as the act of 1863 provided, that the Secretary of the Treasury shall make payment to the owners upon the judgment of the Court of Claims certifying that they were entitled to it. I do not believe that the Secretary of the Treasury will pay it without an appropriation, but to put this amendment on the bill will simply place those people one step farther away from what it is admitted they should receive payment for property of which they had for long years been deprived unjustly and without law. [Applause.]

Mr. WATKINS. Mr. Chairman, I object to this amendment. I will state that it would not only destroy the bill as it is now presented, but it would also destroy section 162 of the codifica-tion of the laws which we are seeking to amend. It would be acting in the utmost bad faith on the part of the other side of the House to insist on the incorporation of this amendment. A majority of this House voted for the passage of section 162 of the codification, under the head of the judiciary, providing for the payment of these claims. These claims now fall under that section, and the payment of the claims is provided for.

The distinctive feature of this bill is simply and purely that it establishes the principle whether the parties shall be required to prove loyalty at the time the property was taken, after June 1, 1865, and the effort now made is not only to destroy the amendment, but also to destroy the original enactment.

When that enactment was passed, as I stated on a former occasion, when that section passed the House and went over to the Senate, the features in this bill were allowed to remain the same as they were as they came from the House, with a Republican majority in the Senate. Not only that, but on four oc-casions in the Senate bills of this kind have been reported from Senate committees. This section and the entire codification went into conference, and when it went into conference it was agreed between the conferees that this section should be not only operative, but it should be effective for all intents and purposes; and it was on account of that agreement-and the gentleman from Pennsylvania [Mr. Moon], one of the conferees, and the gentleman from Kentucky [Mr. Sherley], another of the conferees, will bear me out in the statement—that the conference report was adopted. If it had not been for the understanding that this section 162 would be carried out in good faith to all intents and purposes practically, that conference report could not have been adopted. Even the conferees themselves would not have agreed to that codification. It would be acting in bad faith to destroy that section 162 by the enactment of this amendment which is now offered. I ask that it be voted down.

Mr. MANN. Mr. Chairman, just a word. The amendment which I have offered does not go in any way whatever to the merits of the bill. It only goes to the form of laws passed by Congress. It was simply an effort on my part to have the House obey the provisions of the Constitution of the United States and conform to them. Possibly the gentleman from Indiana [Mr. Cullor] is not familiar with that provision of

the Constitution, and for his benefit I will read the language in paragraph 7 of Article IX of the Constitution:

No money shall be drawn from the Treasury but in consequence of appropriations made by law.

It is admitted that this money is in the Treasury, and the bill itself so recites. This language is not an appropriation of money, and no one pretends that it is. Everyone at all familiar with legislative proceedings certainly knows that you can not draw the money, even where a judgment has been entered, until the money has been appropriated. There is no reason for the gentleman attempting to fool claimants in this case by making them believe that they can get the money out of the Treasury before an appropriation is made, because they can not. The Treasury Department will continue to follow the provision of the Constitution and will pay no money out of the Treasury until it has been appropriated. If gentlemen desire to have the money paid on a judgment without further appropriation, then the bill itself should carry an item appropriating the

necessary money for that purpose.

The CHAIRMAN. The question is upon agreeing to the amendment of the gentleman from Illinois [Mr. Mann].

The question being taken, the amendment was rejected.

Mr. BURKE of Pennsylvania. Mr. Chairman, I offer the amendment which I send to the Clerk's desk to be read.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend by striking out the proviso in lines 12, 13, and 14 on page 2 and insert the following:
"Provided, That allegation and proof of loyalty on the date of the taking of the property in question shall be required in the presentation and adjudication of such claims."

Mr. BURKE of Pennsylvania. Mr. Chairman, I do not desire to take the time of the committee. This has been thoroughly thrashed out, but it is submitted in connection with the arguments already offered.

Mr. WATKINS. Mr. Chairman, it is proposed by this amendment to destroy the entire bill. It goes to the very substance of the bill itself.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question being taken, the amendment was rejected. Mr. MANN. Mr. Chairman, I move to strike out the proviso

on page 2, lines 12, 13, and 14, which reads as follows:

Provided, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. MANN].

The question being taken, the amendment was rejected. Mr. WATKINS. Mr. Chairman, I move that the committee do

now rise and report the bill to the House with the amendments, and with the recommendation that the bill as amended do pass. The motion was agreed to.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. Rucker of Colorado, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 2, 1911, and had directed him to report the same to the House 3, 1911, and had directed him to report the same to the House with amendments, and with the recommendation that the bill as amended do pass.

Mr. WATKINS. Mr. Speaker, I move the previous question on the bill and amendments to the final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them in gross.

There was no demand for a separate vote.
The amendments were agreed to.
The SPEAKER. The question is on the engrossment and third reading of the amended bill.

The bill was ordered to be engrossed and read a third time, and was accordingly read the third time.

Mr. MANN. Mr. Speaker, I move that the bill be recommitted to the Committee on Revision of the Laws, with directions to that committee to report the bill back forthwith with an amendment to strike out the following language at the end of the bill:

Provided, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims.

The SPEAKER. The Clerk will report the motion to recommit with instructions.

The Clerk read as follows:

Mr. Mann moves to recommit the bill to the Committee on Revision of the Laws, with instructions to strike out, on page 2, the proviso in lines 12, 13, and 14, as follows:
"Provided, That no allegation or proof of loyalty shall be required in the presentation or adjudication of such claims."

Mr. WATKINS. Mr. Speaker, I move the previous question on the motion to recommit with instructions.

The previous question was ordered.

The SPEAKER. The question is on the motion of the gentleman from Illinois to recommit.

Mr. MANN. Mr. Speaker, I make the point of order that no

quorum is present.

The SPEAKER. The gentleman from Illinois makes the point of no quorum, and the Chair will count.

Mr. UNDERWOOD. Mr. Speaker, before the announcement is made I ask unanimous consent to make a report and pass a recess adjournment resolution.

Mr. MANN. I have no objection to that.

The SPEAKER. That can be done by unanimous consent.
Is there objection to the request of the gentleman from Alabama?

There was no objection.

DISTRIBUTION OF MESSAGES OF THE PRESIDENT.

Mr. UNDERWOOD. Mr. Speaker, I desire to make a privileged report from the Committee on Ways and Means distributing the President's messages.

The SPEAKER. The Clerk will report.

The Clerk read as follows:

House resolution 742 (H. Rept. 1270), relating to the messages of the President of the United States communicated to the two Houses of Congress December 3 and December 6, 1912.

The SPEAKER. The report will be referred to the Union Calendar.

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent to consider the resolution which I send to the desk.

ADJOURNMENT FOR THE HOLIDAYS.

The Clerk read as follows:

House concurrent resolution 66.

Resolved, That when the two Houses adjourn December 19, 1912, they stand adjourned until 12 o'clock meridian on Thursday, January 2, 1913.

The SPEAKER. Is there objection to the present consideration of this resolution?

There was no objection.

The resolution was considered and agreed to.

ALLEGATION AND PROOF OF LOYALTY IN CERTAIN CASES.

The SPEAKER. The gentleman from Illinois makes the point that no quorum is present. The Chair has counted, and there are 177 Members present, not a quorum. Under the rule a call of the House is ordered. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 94, nays 174, answered "present" 7, not voting 115, as follows:

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Adair Alexander Allen Ashbrook Austin Ayres Barnhart Dies Difenderfer Butler Byrnes, S. C. Byrns, Tenn. Callaway Candler Cantrill Carter Direnderfer Dixon, Ind. Doremus Doughton Driscoll, D. A. Dupré Bartlett Bathrick Beall, Tex. Dyer Edwards Ellerbe Estopinal Carter Cary Clark, Fla. Claypool Cline Collier Cox, Ind. Cox, Ohio Cullop Curley Dent Denver Beall, Tex.
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Нау	Lee, Pa.	Ransdell, La.	Stedman	
Hayden Heflin	Lever	Redfield	Stephens, Miss.	
Helm	Levy Lloyd	Reilly Robinson	Stephens, Nebr Stephens, Tex.	
Henry, Tex.	Lobeck	Roddenbery	Stone Stone	
Hensley	McCoy	Rothermel	Sulzer	
Hobson Holland	McDermott McKellar	Rouse Rubey	Sweet	
Houston	Macon	Rucker, Colo.	Taggart Taylor, Ala.	
Hull	Maguire, Nebr.	Rucker, Mo.	Thayer	
Humphreys, Miss.	Mays	Russell	Thomas	
James Johnson, Ky.	Moon, Tenn. Moore, Tex.	Saunders Scully	Townsend Tribble	
Johnson, S. C.	Morgan, La.	Sells	Tuttle	
Jones	Murray	Shackleford	Underhill	
Kent Kinkead, N. J.	Oldfield Padgett	Sharp Sheppard	Underwood Watkins	
Kitchin	Page	Sherwood	Whitacre	
Konig	Palmer	Sims	White	
Konop	Pepper Peters	Slayden Small	Wilson, Pa. Witherspoon	
Kopp Lafferty	Post	Smith, N. Y.	Young, Tex.	
Lamb	Rainey	Smith, Tex.		
Lee, Ga.	Raker	Sparkman		
		PRESENT "-7.	Mallantt MA	
Anderson Bradley	Donohoe Esch	Fields Stevens, Minn.	Talbott, Md.	
	NOT VO	TING-115.		
Adamson	Fordney	Kinkaid, Nebr.	Pou	
Aiken, S. C.	Fornes	Knowland	Prouty	
Ames	Gardner, N. J.	Korbly	Pujo	
Andrus Ansberry	Gillett Good	Langley Legare	Randell, Tex. Rauch	
Bell, Ga.	Gould	Lewis	Reyburn	
Borland	Gray	Lindsay	Richardson	
Broussard	Greene, Vt. Gregg, Pa. Gregg, Tex.	Linthicum	Riordan Roberts, Nev.	
Brown Campbell	Gregg, Tex.	Littlepage Littleton	Sabath	
Carlin	Guernsey	Longworth	Sherley	
Clayton	Hamill	McCall	Sisson	
Conry	Hanna Harris	McCreary McGillicuddy	Slemp Smith, Cal.	
Copley Covington	Harrison, N. Y.	McGuire, Okla.	Stack Stack	
Crago	Hart	McHenry	Stanley	
Cravens	Hartman	McLaughlin	Sterling	
Currier Curry	Haugen Hawley	McMorran Maher	Sulloway Talcott N. Y.	
	Hayes	Martin, Colo.	Talcott, N. Y. Taylor, Colo.	
Davenport	Heald	Matthews	Turnoun	
Davidson	Henry, Conn. Higgins	Miller Moon, Pa.	Vreeland Warburton	
Davis, W. Va. Dickson, Miss.	Howard	Morrison	Webb	
Draper	Howland	Moss, Ind.	Weeks	
Driscoll, M. E.	Hughes, Ga.	Norris	Wilson, N. Y.	
Dwight	Jackson Jacoway	O'Shaunessy Parran	Woods Lows	
Fairchild Floyd, Ark.	Kindred	Patten, N. Y.	Woods, Iowa	
	to recommit w	vas rejected.		
	nounced the fol	lowing pairs:		
Until further				
Mr. Morrison	with Mr. FAIR	CHILD.		
Mr. Linthice	M with Mr. RE	YBURN.		
Mr. JACOWAY	with Mr. McCa	TAND		
	with Mr. Know ith Mr. DRAPER			
Mr. Street W	ith Mr. HANNA			
Mr. Covingro	N with Mr. For	DNEY.		
Mr. Gregg of	Texas with Mr	. HARRIS.		
Mr. HAMILL V	with Mr. HENRY	of Connecticut.		
		with Mr. HIGGIN	S	
	ith Mr. LANGLE			
	son with Mr. Es			
Mr. Pujo wit	h Mr. McMorra	IN.		
Mr. Dickson	of Mississippi v	with Mr. SLEMP.	201 " []	
Mr. TURNBULL	L with Mr. Woo	os of Iowa.		
Mr. O'SHAUN	essy with Mr.	SULLOWAY.		
Mr. MAHER W	ith Mr. ROBERT	s of Nevada.		
Mr. WILSON	of New York wi	th Mr. Wood of	New Jersey.	
Mr. AIKEN of	South Carolina	with Mr. AMES.		
Mr. ANSBERRY	with Mr. Can	IPBELL.		
	Georgia with M			
	with Mr. CRAGO			
	D with Mr. Cui			
Mr. CARLIN W	vith Mr. DAVIDS	ON.		
Mr. Conry w	ith Mr. MICHAE	L E. DRISCOLL		
Mr. DAVENPOI	RT with Mr. GAR	EDNER of New Jer	sev.	
	h Mr. GILLETT.			
	of Georgia with			
	with Mr. GREEN			
	vith Mr. GUERN			
	with Mn Harron	N. A.		

Mr. HAYES.
Mr. McGillicuddy with Mr. Heald.
Mr. Martin of Colorado with Mr. Kinkaid of Nebraska.
Mr. Moss of Indiana with Mr. McCreary.
Mr. Patten of New York with Mr. McGuire of Oklahoma.

Mr. Pou with Mr. McLaughlin.

Mr. LEGARE with Mr. HAUGEN. Mr. Lewis with Mr. Hawley. Mr. Littlepage with Mr. Hayes.

Mr. RANDELL of Texas with Mr. MATTHEWS. Mr. RAUCH with Mr. MILLER. Mr. Sabath with Mr. Moon of Pennsylvania.

Mr. Sherley with Mr. Longworth. Mr. Stanley with Mr. Vreeland.

Mr. TALCOTT of New York with Mr. SMITH of California.

Mr. TAYLOR of Colorado with Mr. WEEKS.

For the session

Mr. Talbott of Maryland with Mr. Parran.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. LITTLETON with Mr. DWIGHT. Mr. RIORDAN with Mr. ANDRUS. Mr. Fornes with Mr. Bradley.

The result of the vote was announced as above recorded.

A quorum being present, the doors were opened.

The SPEAKER. The question now is on the passage of the bill.

The question was taken, and the bill was passed.

On motion of Mr. WATKINS, a motion to reconsider the vote by which the bill was passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. Sisson, for two days, on account of illness.

To Mr. CAMPBELL, on account of illness.

To Mr. Slemp, for one week, on account of important business.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted to Mr. Hull to withdraw from the files of the House, without leaving copies, the papers in the case of Martin L. Holt, Sixty-second Congress, no adverse report having been made thereon.

RESIGNATIONS FROM COMMITTEES.

The SPEAKER laid before the House the following resignations from committees:

Hon. Champ Clark, Speaker of the House of Representatives.

DEAR MR. SPEAKER: I herewith tender my resignation as a member of the House Committee on Mines and Mining. Very respectfully,

DECEMBER 10, 1912.

Hon. Champ Clark, Speaker of the House of Representatives, Washington, D. C.

SIR: I hereby respectfully tender my resignation as a member of the Committee on Merchant Marine and Fisheries, the same to take effect immediately.

Yours, truly,

JAMES YOUNG.

The SPEAKER. Without objection, the resignations will be accepted.

There was no objection.

APPROPRIATIONS AND BALANCES UNDER CONTROL OF STATE DEPART-MENT (H. DOC. NO. 1123).

The SPEAKER laid before the House the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Expenditures in the State Department:

To the House of Representatives:

I transmit herewith a statement by the Secretary of State, with accompanying papers, of appropriations, expenditures, and balances of appropriations under the Department of State for the fiscal year ended June 30, 1912, as required by law. WM. H. TAFT.

THE WHITE House, December 10, 1912.

ORDER OF BUSINESS.

The SPEAKER. The Committee on Revision of the Laws having occupied two Wednesdays, the Clerk will proceed with the call of committees.

The Clerk proceeded with the call of committees.

PATENT TO DESERT-LAND ENTRIES.

Mr. SMITH of Texas (when the Committee on Irrigation of Arid Lands was called.) Mr. Speaker, I desire to call up the bill H. R. 26338.

The SPEAKER. The Clerk will report the bill by title. .

The Clerk read as follows:

A bill (H. R. 26338) providing for patent to desert-land entries on reclamation projects, and for other purposes.

The SPEAKER. This bill is on the Union Calendar.
Mr. SMITH of Texas. Mr. Speaker, just a moment. This bill was attached to one of the appropriation bills at the last session of Congress and passed, and I would ask that this bill be stricken from the calendar.

The SPEAKER. The gentleman from Texas asks unanimous

consent that the bill lie on the table.

Mr. Speaker, a parliamentary inquiry. Mr. GOLDFOGLE. The SPEAKER. The gentleman will state it.

Mr. GOLDFOGLE. Did the Chair state whether unanimous consent was asked for striking the bill from the calendar?

The SPEAKER. No; the Chair took the liberty of stating the question according to the rule—that is, instead of striking the bill from the calendar that the bill lie on the table. there objection. [After a pause.] The Chair hears none.
Mr. MANN. There will be no objection to that.

The SPEAKER. Has the gentleman from Texas any more business from that committee?

Mr. SMITH of Texas. Yes, sir; Senate bill 3947-

Was consent given to lay this bill on the table? Mr. MANN. The SPEAKER. Yes.

BRIDGE ACROSS SNAKE RIVER, IN JACKSON HOLE, WYO.

Mr. SMITH of Texas. Mr. Speaker, I desire to call up Senate bill 3947.

The SPEAKER. The Clerk will report the bill by title.

The Clerk read as follows:

S. 3947. An act to provide for a bridge across Snake River, in Jackson Hole, Wyo.

The SPEAKER. This bill is on the Union Calendar, and the House will automatically resolve itself into the Committee of the Whole House on the state of the Union, and the gentleman from Ohio [Mr. Cox] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 3947, with Mr. Cox of Ohio in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill S. 3947, which the Clerk will report.
The Clerk read as follows:

The Clerk read as follows:

Whereas in the administration of the act of June 17, 1902, "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," the United States Reclamation Service has constructed at the outlet of Jackson Lake, Wyo., and the source of the Snake River a retaining storage dam; and Whereas the use of this dam to store the flood waters of Jackson Lake and the Snake River watershed, and the release of the surplus waters thus stored into the channel of the Snake River for utilization in irrigating lands upon lower levels, maintains high water in the Snake River at all periods of the year; and Whereas through the maintenance of high water the Snake River, previously fordable for parts of each year, in its course through the Jackson Hole region is now rendered unfordable at all times, and the residents of that region, upward of 1,000 in number, are cut off from railroad and other communication for freight and travel: Therefore

Be it enacted, etc., That the sum of \$25,000 is hereby appropriated.

Therefore

Be it enacted, etc., That the sum of \$25,000 is hereby appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, to be expended under the direction of the Secretary of War, through the engineer officer in charge of road and bridge construction and maintenance in the Yellowstone National Park, for the construction of a bridge across Snake River, at a point in township 41 or 42 north, range 116 or 117 west, Wyoming, to be determined with a view of best serving the public travel through Jackson Hole and adjacent territory in Wyoming and Idaho: Provided, That the local authorities shall cause the approaches to the proposed bridge to be constructed without expense to the United States: And provided further, That the local authorities shall provide for the maintenance and repair of the proposed bridge after it is constructed.

The appendment in the nature of a substitute was read as

The amendment in the nature of a substitute was read, as

follows:

Strike out all except the enacting clause and insert:

"That the Secretary of the Interior is hereby authorized to use such portion of the reclamation fund, not to exceed \$18,000, and in no event more than one-half the sum that may be necessary for the construction of a bridge across Snake River, at a point in township 41 or 42 north, range 116 or 117 west, Wyoming, to be determined by the Reclamation Service, with the view of best serving the people of Jackson Hole and adjacent territory in Wyoming: Provided, That no part of the funds herein authorized to be used, except such as may be necessary for the making of examinations and estimates, shall be expended until the Secretary of the Interior shall have obtained, from the proper local authorities, satisfactory guaranties of the payment by the said local authorities assume full responsibility for and will at all times maintain and repair the said bridge and approaches thereto."

Mr. SMITH of Texas, Mr. Chairman, this is a bill to au-

Mr. SMITH of Texas. Mr. Chairman, this is a bill to authorize the Secretary of the Interior, through the Reclamation Service, to construct a bridge across Snake River, in the State service, to construct a bridge across shake liver, in the state of Wyoming, one-half of the cost of the bridge to be borne by the Reclamation Service and the balance by the local authorities in that vicinity. This bill does not authorize, in my judgment, the Secretary of the Interior to do more than the law perhaps already authorizes him to do. The necessity for the construction of this bridge arises from the construction of an irrigation project on Spake River. As I understand it in the irrigation project on Snake River. As I understand it, in the State of Wyoming there is a lake called Jackson Lake, and the Government has constructed a dam at the mouth of that lake, and Jackson River running through that lake is used as a canal for carrying the water to irrigation lands below in the State of Idaho, I believe it is, and it is across this Snake River between the lake and the irrigated lands that this bridge

is proposed to be constructed. In the natural state the testimony before the committee showed very clearly that for only a short period during the year this river could be forded by the people in that vicinity, but the storage of the water in the lake and utilization of it through this river channel for the purposes of irrigation below makes the river unfordable and difficult to cross for a much greater period during the year. the Reclamation Service has always exercised the authority under the law of constructing bridges that have been made necessary by the construction of irrigation work, but on account of the peculiar circumstances of this case, where the river was not fordable a part of the year in its natural state, the Reclamation Service thought that perhaps it would not be proper for them to go to the whole expense of building this bridge, and it was concluded by the department that under all of the circumstances it would be proper for the Government to pay half of the expenses, provided the local authorities would pay the other half and provide for the maintenance and repairs of the bridge thereafter.

The Committee on Irrigation of Arid Lands gave the matter very thorough consideration, and finally came to agree with the Reclamation Service that that would be the fair and equitable thing to do. That, I believe, Mr. Chairman, makes a full state-

ment of this matter. I reserve the balance of my time.

Mr. STEPHENS of Texas. I would like to ask the gen-

tleman a question.

The CHAIRMAN. Does the gentleman yield to his colleague?
Mr. SMITH of Texas. I do.
Mr. STEPHENS of Texas. Would the building of this bridge across this stream commit the Government to the policy of building roads where they have been submerged by the irrigation caused by building dams on streams? It might be a case where the roads would have to be removed from the streams. In that western country the roads follow the streams, and if they should be submerged by waters from the dams, would that compel the United States Government to go higher up the mountain sides and commit itself to the purpose of building roads that might cost a good deal of money?

Mr. SMITH of Texas. I will say to the gentleman that that

is a question of law which he can determine as well as I can, but I understand the Reclamation Service heretofore has provided roads where in constructing an irrigation project it de-

stroyed the roads in existence.

Mr. STEPHENS of Texas. They have already adopted that

policy '

Mr. SMITH of Texas. That is my understanding; yes, sir. Mr. STEPHENS of Texas. I do not believe that should be done. I believe the city or the community or the county where these irrigation plants are located will be sufficiently benefited so that they can build these roads and bridges themselves.

Mr. SMITH of Texas. I call the attention of the gentleman to the fact that all these irrigation improvements are to be paid for by the people themselves, who get the benefit of them, and the Reclamation Service has adopted the policy of restoring the conveniences of the people in those localities where they construct these works wherever they are impaired or destroyed.

Mr. STEPHENS of Texas. Would that be added to the annual amount that has to be paid for the land used by these

Mr. SMITH of Texas. Charged up to the project and paid

back by the people.

Mr. STEPHENS of Texas. The same as building ditches and dams, and so forth?

Mr. SMITH of Texas. Yes, sir.
Mr. STEPHENS of Texas. I did not understand what the policy would be.

Mr. SMITH of Texas. That is my understanding of the policy.

Mr. Chairman, I reserve the balance of my time.

Mr. MANN. Mr. Chairman, I think this bill ought to be understood by the House before it passes. I am not opposed to the provisions of the bill, although I desire at the proper time to offer an amendment to it. But because it is practically a new proposition it seems to me it ought to be discussed to some extent on the floor of the House. The Senate bill as it passed the Senate and has come to the House provided for a direct appropriation out of the Treasury of \$25,000 for the construction of this bridge across Snake River. The only limitation upon that was that the local authorities should provide the approaches to the bridge and after its construction provide for the maintenance and repair of the bridge. Probably \$25,000 is not a sufficient amount with which to construct the bridge. At least the committee of the House proposes what seems to me a very equitable and fair proposition, that there shall be paid out of the reclamation fund, not to exceed \$18,000, for one-half the

cost of the construction of the bridge—that is, the amount shall not exceed \$18,000 and shall not in any event exceed one-half the cost. The amendment which I propose to offer at the proper time is to insert at the end of the bill:

Provided further, That the amount of the reciamation funds so used shall be charged as a part of the cost of the reclamation project or projects, the construction and development of which caused the necessity for such bridge.

Mr. SMITH of Texas. Mr. Chairman, if the gentleman will permit, I will state that I have no objection myself to that amendment.

Mr. MANN. I think the gentleman has not, and I think the gentleman from Wyoming [Mr. MONDELL] does not object to it I think myself that the bill presented here is a fair proposition. What will become of it when it goes to conference I do not know, but I hope that the Senate will be willing to agree to the House amendment. However, it seems to me that this matter is of such importance in the principles involved in it that the RECORD ought to contain a full statement of the reasons for the passage of the bill. I therefore ask the Clerk to read the report of the committee in my time.

The CHAIRMAN. Without objection, the report will be read. The Clerk read as follows:

Mr. SMITH of Texas, from the Committee on Irrigation of Arid Lands, submitted the following report, to accompany S. 3947:

The Committee on Irrigation of Arid Lands, having had under consideration Senate bill 3947, to provide for a bridge across Snake River in Jackson Hole, Wyo., report the same back with the following recommendation: Strike out all after the enacting clause and insert the following.

sideration Senate bill 3947, to provide for a bridge across Same laber. In Jackson Hole, Wyo., report the same back with the following recommendation: Strike out all after the enacting clause and insert the following:

"That the Secretary of the Interior is hereby authorized to use such portion of the reclamation fund, not to exceed \$18,000, and in no event more than one-half the sum that may be necessary for the construction of a bridge across. Snake River, at a point in township 41 or 42 north, range 116 or 117 west, Wyomling, to be determined by the Reclamation Service, with the view of best serving the people of Jackson Hole and adjacent territory in Wyoming: Provided, That no part of the funds herein authorized to be used, except such as may be necessary for the making of examinations and estimates, shall be expended until the Secretary of the Interior shall have obtained, from the proper local authorities, satisfactory guaranties of the payment, byt the said local authorities, of one-half of the cost of said bridge; and that the said local authorities assume full responsibility for and will at all times maintain and repair the said bridge and approaches thereto."

Strike out the preamble.

As thus amended it is recommended that the bill do pass.

The bill as it is recommended to be amended is identical with H. R. 21171, a bill authorizing the use of the reclamation fund in construction of a bridge across Snake River, in Wyoming; and there is appended hereto and made a part of this report the report made on the said bill by Mr. Taxlor of Colorado.

The building of the bridge provided for in this bill is rendered necessary by the construction by the Reclamation Service under the reclamation law of a dam at the outlet of Jackson Lake, near the Yellowstone National Park, in acorthwestern Wyoming; and there have a part of the south. The Jackson Hole region, through which the Snake River, through which the impounded by the waters of the Snake River flowing from the north, and the water is discharged through Sna

of the Gros-Ventre Range and flowing through a deep canyon west into Idaho.

Owing to the topography of the country, the Snake River is not available for irrigation to any considerable extent as it flows through Jackson Hole, but a considerable acreage in the eastern part of the region is irrigated from the waters of the Gros-Ventre River, Flat Creek, and other streams. The region supports a permanent population of about 2,000 people and a very much larger population during the tourist and hunting season.

The Reclamation Service is at present prepared to impound nearly half a million feet of water in Jackson Lake, but have in contemplation works which will ultimately impound a million and a half acrefect. The reservoir is therefore the largest in capacity of any used by the Reclamation Service. The waters thus impounded are all used in the State of Idaho on the Minidoka project of the Reclamation Service and, by arrangement with the Reclamation Service, by two private enterprises, the North Side Twin Falls Land & Water Co. and the American Falls Canal & Power Co.

Prior to the building of the dam at the outlet of Jackson Lake the Snake River was fordable in its course through Jackson Hole most of the year, except a limited period of high water in the spring. Most of the year, except a limited period of high water in the spring. Most of the road from the Teton Pass to the lower end of the Jackson Hole region.

The use of Snake River as a channel for the carrying of the im-

The use of Snake River as a channel for the carrying of the impounded waters from Jackson Lake into Idaho converts Snake River into a stream too deep to ford during any portion of the summer; and, in addition to that, in regulating the water in Jackson Lake it occasionally becomes necessary for the Reclamation Service to open the gates and discharge large quantities of water in the very early spring. This was done twice this last spring, with the result that the flood, carrying with it accumulated ice, washed out the ferry anchorages and left the people of Jackson Hole without any communication with the outside world for a considerable length of time.

It is very clear that the building of the dam at the outlet of Jackson Lake necessitates the building of a bridge across Snake River, and that but for such construction the people of the region could have forded and ferried the river as heretofore, and that there is at least a moral if not a legal obligation on the part of the Reclamation Service to contribute toward remedying the condition they have created. region.

This is recognized by the Secretary of the Interior, as shown by letters made part of this report. The Reclamation Service is, of course, obliged to build bridges across the canals they construct where public roads cross the same. The service also restores all roads submerged by flooding or interfered with by its construction, but, while acknowledging the obligation on the part of the Government in this case, the service seems to be of the opinion that their obligation is not so clear and direct in the case as to warrant the building of the bridge by the service without the sanction of Congress.

The equities in the case are enhanced by the fact that the small community whose only means of communication with the outside world is rendered difficult, and at times impossible, is in no way even remotely benefited by the new condition from which they suffer, and it seems but just that those who benefit from the waters impounded should pay at least a part of the cost of remedying conditions thus created. The Secretary of the Interior expresses the view that the local community should pay half of the cost of the bridge and agree to maintain and repair it.

tain and repair it.

In these views the committee concur and have amended the bill accordingly.

Letters of the Secretary of the Interior are appended hereto.

DEPARTMENT OF THE INTERIOR, Washington, March 16, 1912.

Hon. W. R. SMITH,

Chairman Committee on Irrigation of Arid Lands,

House of Representatives.

Sin: The department is in receipt of your letter of Mauch 8, transmitting copy of H. R. 21171, with a request for the views of the department and any suggestions that may be deemed proper.

This bill is entitled as follows: "A bill authorizing the use of the reclamation fund in construction of a bridge across Snake River in Wyoming."

This bill is entitled as follows: "A bill authorizing the use of the reclamation fund in construction of a bridge across Snake River in Wyoming."

It provides that such portion of the reclamation fund as may be necessary, in the indigment of the Secretary, may be used for the construction of a bridge across Snake River at a point in T. 41 or 42 N., R. 116 or 117 W., Wyoming, to be determined by the Reclamation Service, with a view of best serving the people of Jackson Hole and adjacent territory in Wyoming.

This bill is substantially the same as S. 3947, except that the latter appropriates the Sum of \$10,000 for the purpose.

The department on January 4, 1912, reported to Hon. George S. Nixon, chairman of the Senate Committee on Irrigation and Reclamation of Arid Lands, upon the said bill S. 3947, copy herewith.

In this report the conditions are reviewed, and it is shown that the operations of the Reclamation Service have contributed to a change in the conditions such that it seemed reasonable that the United States should bear one-half the expense of construction. As its operation had a material effect upon the conditions of the river during only two months in the year, it seems proper that the county should contribute at least one-half of the expense of construction and assume responsibility for its maintenance.

It is believed, therefore, that the bill should provide that the bridge may be constructed by the Reclamation Service as soon as arrangements have been made with the county by which the latter would deposit one-half the estimated cost and agree to maintain the bridge.

Very respectfully,

Samuel Adams,

Acting Secretary.

Acting Secretary.

DEPARTMENT OF THE INTERIOR, Washington, January 4, 1912.

Hon. George S. Nixon,

Chairman Committee on Irrigation and

Reclamation of Arid Lands, United States Senate.

Sir: By reference of December 20 I am in receipt of bill S. 3947, with request for an expression regarding the advisability of this legislation.

lation.

This bill is to provide a bridge across Snake River, Wyo., at a cost of \$10,000, to be paid out of the reclamation fund. The demand for such a bridge arises from the fact that the Snake River in its course through Jackson Lake has but few practicable fords. The settlers in this area obtain their supplies by team from towns to the west in the State of Idaho by crossing the Teton Mountains. The pass is traversed with great difficulty by heavy teams excepting for two months in the year, namely, August and September. During these months the settlers, as a rule, drive their stock to market and bring back their year's supplies. plies

year, namery, August and September. During these months the settlers, as a rule, drive their stock to market and bring back their year's supplies.

A dam has recently been built under the terms of the reclamation act of June 17, 1902 (32 Stat., 388), for controlling the water in Jackson Lake. Before the lake was thus regulated the river was at a low stage during August and September, but with the storage of floods and turning these down the river during the latter part of the crop season the river is maintained at a height above the normal and many of the fords are impassable, so that it is necessary to make wide detours to reach a ferry.

A reconnoissance has been made of the country and the conclusion reached that a steel bridge can be built at a cost of between \$25,000 and \$35,000. It is hardly practicable to attempt to construct anything much cheaper, as a bridge which is not well built can hardly be expected to remain long enough to justify the outlay.

It is not wise to attempt the construction of such a bridge until the contemplated railroad has been completed to the town of Driggs, Idaho, from which point material can be freighted in at less expense than from the present railroad stations. It is understood that the railroad will be in operation to Driggs by the end of 1912.

Assuming that there is a moral obligation on the part of the Government to provide a bridge in order to meet the changed conditions in August and September, due to the construction of the Jackson Lake Dam, it is believed that Uinta County, Wyo., in which the bridge is to be located, should not only bear one-half the expense of this construction, but should also be required to assume responsibility for its maintenance. The county should also be required to put in good condition an adequate wagon road and approaches to the bridge.

The payment of half the cost by the county should be required, because the bridge would be available during the entire year, whereas the operations of the Government do not deleteriously affect the river in

Mr. MANN. Now, Mr. Chairman, while I shall hope at the proper time to hear the gentleman from Wyoming [Mr. Mon-DELL], who introduced the bill, explain a little more in detail the reasons for its passage, personally it rather appealed to me, although I did think that the objections at the last session of Congress made to the bill by the distinguished gentleman from Oklahoma had a good deal of force in them.

Mr. Chairman, this is Calendar Wednesday, sometimes designated in a ribald spirit as "Holy Wednesday." It is the day upon which the committees have an opportunity to bring up measures in the House. There are various ways of getting a matter before the House. If you put a bill on the Unanimous Consent Calendar and unanimous consent is given, the bill is taken up for consideration. You can get a promise from the Speaker to be recognized to move to suspend the rules, although there has been no such opportunity. I believe, for a year or so,

and make use of it. Or you can wait for Calendar Wednesday.

At the last session of Congress the distinguished gentleman from Tennessee [Mr. Hull] introduced a bill entitled "A bill to promote efficiency in the Government service." It provided:

That no officer, agent, clerk, or other employee of the United States Government who holds his or her position by virtue of appointment shall, during the term of such appointment or employment, be or become an accredited delegate of any political party to any national convention held or to be held by such political party for the purpose of nominating a candidate or candidates for the offices of President and Vice President of the United States;

With an amendment to section 1:

or become a delegate to any State or district convention at which such national delegates are elected.

Section 2 provided:

SEC. 2. That no officer, agent, clerk, or other employee of the United States Government who holds his or her position by virtue of appointment shall, during the term of such appointment or employment, hold or occupy any official position in any national branch of any political organization organized or constituted for the purpose of influencing, or attempting to influence, in two or more States the nomination or selection of such candidates or candidate.

Section 3 of the bill provided:

Sec. 3. That every such officer, agent, clerk, or employee offending against either of the provisions of the two foregoing sections shall be deemed guilty of a misdemennor, and shall be fined not exceeding \$500, and also shall be summarily discharged from the service of the United

That bill was referred to the Committee on Reform in the Civil Service, and was favorably reported by the committee to the House with the recommendation that it pass. It was placed on the Unanimous Cousent Calendar and was called up on August 19 last. I reserved the right to object. The right to object was also reserved by other Members of the House. The gentleman from Tennessee [Mr. Hull], after some little discussion, made this appeal to me:

Mr. Speaker, before the gentleman finally expresses himself upon the matter, I wish to say, in view of the lateness of the session and of the importance of this bill—I held it up until after the conventions were held so that I would not be in the attitude of seeming to appear to take any interest in the candidacy of any gentleman—I wish to appeal to the wisdom and the statesmanship and the patriotism and, if necessary, to the generosity of the gentleman from Illinois to withhold his objection and allow us to have the present consideration of the bill, and these amendments can be offered in their order.

I will not say that such an appeal as that will not affect me. When a gentleman appeals to my wisdom and statesmanship and generosity it might have an effect. However, another gentleman objected to the then consideration of the bill.

Lo and behold, at that time it was considered extremely important by the Democratic side of the House to introduce, report, and consider this bill to prevent Federal employees from interfering with national conventions. Since that time we have had an election and the Democratic Party has been successful, and we are to have a Democratic President who will sit in wisdom over the Federal officials.

A few moments ago, on the call of committees, the distinguished Committee on Reform in the Civil Service, which reported this bill and tried to pass it under a unanimous-consent agreement, was called by the Clerk, with the privilege of calling this bill up for consideration, and failed to respond. There is a great difference between before and after. Before they had elected their President they wanted to provide that Federal employees should in no case interfere in national conventions. Now, on that side of the House, they hope that the Federal employees will be their employees, and they do not want to prevent their interfering in national or State conventions. When they thought the Federal officials would be Republican officials they were extremely holy in their attitude. They could see the necessity, the wisdom, the patriotism, and the statesmanship of taking up this bill and passing it for the restraint of Republican officials, but when they have been successful, now that they have the right under the rules to call up the bill, they

have changed their holy attitude and are not now thinking of

the holy side of it, but they are thinking of getting the jobs.

Here in the District of Columbia, where we are sitting, they are having a great squabble over the question who shall be the chairman of the local committee to have charge of the grandstand matters relating to the inauguration. This man and that man are being urged. The chairman of the Democratic national committee is called to Washington for the purpose of deciding the question. After consideration for days he has been unable to determine who shall hold the high and mighty office of pre-siding over the circus part of the inaugural. Gentlemen are so worked up over getting jobs and patronage that they fail any longer to appeal to my statesmanship, my wisdom, my generosity, and my other things that they may think of to aid in calling up a bill which they did when the gentleman knew there was no time to consider it; but now, when there is time, they fail to rise to the occasion. [Applause on the Republican

The CHAIRMAN (Mr. SAUNDERS). The time of the gentle-

man has expired.

Mr. MONDELL. Mr. Chairman, the gentleman from Texas [Mr. SMITH], chairman of the committee in charge of this bill, has so clearly stated the many good reasons for the passage of the pending legislation, and the gentleman from Illinois [Mr. MANN], particularly in the latter part of his remarks, has so illuminated the matter and elucidated all of the problems connected with it, that I shall not take the time of the House at any considerable length in the discussion of the measure.

The Reclamation Service, in carrying out certain projects under the law, used Jacksons Lake, in Wyoming, as an impounding reservoir, and the necessary discharge of the waters of that reservoir through Snake River so changed the character of that stream-which ordinarily could be forded most of the year-as to necessitate the building and maintenance of an expensive

bridge.

The country there is very sparsely settled. Most of it is within a forest reserve. The few people there ought not to be called upon to go to the heavy expense necessary for the construction of this bridge, which would not be needed except for the change in the character of the river through the impounding and discharge of the waters from Jacksons Lake. use of the river in connection with this project a little more direct, the Reclamation Service would be entirely justified in building the bridge without calling upon Congress, but under the circumstances they feel as though Congress should pass upon the question. As I understand it, the Reclamation Service is of the opinion that the people who are to be benefited by these projects might very properly be charged with the entire cost of the bridge; but the committee in its wisdom believed that there should be a division of the burden, and that part of the cost should be laid upon the people and the community and a part borne by the people under the project. The bill under consideration, therefore, provides that one-half the cost of the bridge, or not to exceed \$18,000, shall be paid out of the reclamation fund, chargeable under the amendment of the gentleman from Illinois [Mr. MANN] to the projects using the water, the balance to be paid by the people locally.

Mr. FERRIS. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. FERRIS. What was the statement of the gentleman

with reference to the amendment of the gentleman from Illinois? Have those in charge of the bill agreed to an amendment to let that portion of it be charged to the project?

Mr. MONDELL. I think there is no objection on the part of anyone. As a matter of fact, I think the committee understood-at least, I understood-that the bill without an amendment would be interpreted by the Reclamation Service as authorizing them to charge the cost against the project; but in order that there may be no question with regard to that and to make the matter clear and definite, the gentleman from Illinois [Mr. Mann] has proposed the amendment, which has been reported, and to which I think there is certainly no objection.

Mr. FERRIS. If that be the case, I have no objection to the bill, but the gentleman will recall that I was seriously opposed

Mr. MONDELL. I understand.

Mr. FERRIS. The same opposition that I felt then is even more magnified now, if that money is to be taken out of the reclamation fund and never returned to it.

Mr. MONDELL. I think it has not been intended at any time to have the bridge paid for, or any part of it paid for, out of the reclamation fund not reimbursable.

Mr. FERRIS. In the absence of an amendment?
Mr. MONDELL. My opinion is—and I think it is the opinion of the committee—that the language of the bill would justify

the Reclamation Service in charging the sum up to the projects in Idaho that use the water, but under the amendment to be offered by the gentleman from Illinois there can be no question in regard to it.

Mr. FERRIS I would like to inquire if the gentleman knows how that amendment will fare in conference at the other end

of the Capitol?

Mr. MONDELL. I do not think there would be any objection to the amendment anywhere; at least, I hope there would not.

Mr. FERRIS. Was it not seriously fought last year? Mr. MANN. Last year when the matter came up on the Unanimous Consent Calendar I talked with the gentleman from Wyoming, and he was willing to accept this amendment. haps that was not known to the gentleman from Oklahoma, because I think it did not come up on the floor of the House.

Mr. FERRIS. I feel sure that it was not known to me. thought the contention was that inasmuch as the settlers had already contributed as much as they could, the general reclama-tion fund ought to contribute this. I do not agree to that, because if that were continued, the reclamation fund would

soon be dissipated.

Mr. SMITH of Texas. That was never the contention of anybody before the committee. The view of the committee was that under the bill as it now stands, without an amendment, this amount furnished by the reclamation fund would be paid back by the water users under that project. If there is any doubt about it, we are anxious to insert this amendment in the

Mr. MANN. I thought last summer that the gentleman from Oklahoma objected under a misapprehension of what was going

Mr. FERRIS. I think this is about the only bill I ever objected to, and I want to be as cautious as I can about making any captious objection. If the proposition was to take the money from the reclamation fund and spend it so that it would not be returned, I would object to it and demand a quorum and do everything I could to defeat it, because I think that is a bad proposition.

Mr. MANN. I would follow the gentleman on that myself.

Mr. MONDELL. Mr. Chairman, having briefly thus explained the provisions of the bill, and I think among us cleared up the misapprehensions in regard to it, I shall not take up any further time of the committee unless there is some objection, and I reserve the balance of my time.

Mr. FERRIS. Mr. Chairman, if I may in my time, I would like to have the amendment of the gentleman from Illinois

reported.

Mr. MANN. The amendment has not yet been offered. I read it myself, and I will read it again. It is:

Add at the end of the bill the following:
"Provided further, That the amount of the reclamation fund so used shall be charged as a part of the cost of the reclamation project or projects, the construction and development of which have caused the necessity of such project."

Mr. FERRIS. And that is acceptable to the managers of the

Mr. MANN. It is acceptable, as I understand, to the gentleman from Texas and the gentleman from Wyoming.

Mr. RODDENBERY. Mr. Chairman, a parliamentary in-

The CHAIRMAN. The gentleman will state it.
Mr. RODDENBERY. I do not understand the exact status in regard to the amendment. Is the bill being read for amend-

Mr. MANN. The bill has not been read for amendment.

The CHAIRMAN. The Chair will state that we have not finished the general debate on the bill as yet.

Mr. RODDENBERY. Mr. Chairman, is it in order for me to be recognized on the bill?

The CHAIRMAN. Yes; the gentleman from Georgia is recog-

Mr. RODDENBERY. Mr. Chairman, on this very important bill providing for a bridge across the Snake River in Jackson Hole, Wyo., the gentleman has very properly discussed an entirely germane matter, treating of the views of distinguished gentlemen as expressed in pending bills with reference to the civil service employees. The remarks of the gentleman were entertaining and very instructive.

In connection with the same subject, if I may in general debate be permitted to do so, and it will not weight down too much a very important piece of legislation that is now proposed by the gentleman from Wyoming in the pending bill, I think there should be added to it a House joint resolution, by unanimous consent, dealing with another question of equal importance to the State of Wyoming and to the country in general.

The resolution to which I make reference is one already introduced by me, providing for an amendment to the Constitution

of the United States, with the usual resolving clause, and the article is as follows:

That intermarriage between negroes or persons of color and Caucasians or any other character of persons within the United States or any territory under their jurisdiction, is forever prohibited; and the term "negro or person of color," as here employed, shall be heid to mean any and all persons of African descent or having any trace of African or negro blood.

Nothing will contribute more to the popular development and wise administration of a republican government than for the people in their legislatures to have an opportunity, by the adoption of this resolution, to provide that forever hereafter it shall be contrary to the fundamental law of the Republic for a negro or a part negro or an African or a part African to intermarry with a white person, a Caucasian, or any person of like description. The object of this resolution is to submit to the States a constitutional amendment for this purpose.

We have heard a great deal in late days about the white-slave traffic and its enormity in New York, its appalling extent in many of the great cities, particularly in Chicago, wherein it is shown that aliens from France and the more enlightened countries of Europe go to the south of Europe among the more ignorant and impoverished classes and there, under pretense of bringing these helpless girls to the United States, where they have great opportunity for employment and honest labor, transporting them, like cattle, in the holds of vessels, have them landed at Ellis Island and there buried into the slums of these cities. Thus, the innocent, ignorant, homeless, and friendless girls of other lands are brought to fair America by villainous aliens, only to find themselves in the shackles of poverty, in the toils of the libertine and most helpless depravity. It is appalling and unspeakably repulsive that such a thing under our immigration laws or other statutes can be possible in this great country. But, Mr. Chairman, as terrific and revolting as it is, it is not yet so revolting as that occurrence lately in one of the cities of our country—the city of Chicago. Not only is the white-slave traffic carried on, but a white girl of this country is made the slave of an African brute, sanctioned by the laws of the State, and that slavery solemnized by the form of a marriage The newspapers, glaring in their headlines, announce that Jack Johnson again marries a white woman. Thank God such an outrage is impossible anywhere in the Southland.

Yet we say that this is a great country, with its morals, its traditions, its virtues, and its examples, deserving to be emulated and envied by other countries of the earth. Behold, if you will, an African prizefighter-saloonkeeper, in defiance of the laws of the State of Illinois-nay, in accordance with the laws of the State of Illinois, in accordance with the municipal regulations—entering the office of a probate magistrate, calling on him to issue—"To me, Jack Johnson!"—a marriage license to wed a young American white woman, a woman of our own blood, of our own race, of our own color. When a clerk says, "But, sir, except under given rules you can not get it," forthwith the African turns to a superior and demands it, and the clerk is directed by his superior to issue to the flendish brute a legal certificate permitting a white woman in Chicago, U. S. A., to be

bound in the wedlock of black slavery. To-day, Mr. Chairman, during another discussion, we have already heard something from our northern colleagues touching the slavery of the negroes of the South. No brutality, no infamy, no degredation in all the years of southern slavery possessed such villainous character and such atrocious qualities as the provision of the laws of Illinois, New York, Massachusetts, and other States which allow the marriage of the negro Jack Johnson to a woman of the Caucasian strain. [Applause.] Gentlemen, I offer this resolution that the proper committee may consider it and that the States of the Union may have an opportunity to ratify it. This is no amendment peculiarly favorable to one portion of our great land. In that section far to the south of us such is the relation between the two races that no African within all of Dixie land carries in his heart the hope or cherishes in his mind the aspiration that he can ever lead there to the altar of matrimony a woman of Caucasian blood. With all the impositions we are alleged to have placed upon this inferior race, such is our harmony, such is the fellowship between the blacks and the whites of the South, such is the black's respect for the superiority of his former master, that they would commit self-destruction before they would entertain the thought of matrimony with a white girl beneath southern skies.

*You have some negro problems up North yourselves. The negro question stands out in the example of Johnson's marriage in Chicago as presenting to you as grave a negro question as ever confronted your brethren in the South; and I say to you, in no bitterness, but in the depths of good fellowship, that we in that far-off land will be glad, in the spirit of love and fraternity, to aid you in its proper and its wise and its permanent solution. The case we cite is not an isolated one. The records of Boston, of Chicago, and of other cities show that negroes less prominent, of less notoriety, are from time to time binding themselves in matrimony with weak and unfortunate women of the white race. Gentlemen, that does not happen in the South. God spare you, our brethren of the North, of its recurrence. It does transpire in the North; it does occur in the West; and I say to you that we are ready now, without the arbitrament of war, without an appeal to arms, without a terrific four years' deluge of fratricidal blood, to join with you in peace, in harmony, and in amity in solving this great negro problem that now confronts you in the North and in the West. • Every confronts you son of the South will offer his life to lift the pall of its infamy from your homes and perish if need be to free your white girls from the accursed thralldom. We will support you in the adoption of an amendment of this character to our fundamental law. There is no place in all our southern country where a negro can not go and find employment and peaceful habitation. There are sections in the northern country and in the State of my friend from Indiana, who sits before me, where they allow no negro to stop. When one comes along seeking a place of residence or a place of abode he is advised peacefully and properly that it is not healthy there for gentlemen of his color. If this presents to you any serious problem, we will be glad to come and in peace and fraternity undertake to aid you in its solution.

My colleagues, it is a source of gratification for a Member from Dixie to observe with what better conception, with what fairer vision, with what greater intelligence you now view and appreciate the difficulties and struggles our southern people went through when we came from the crucible of war to meet and solve the negro question in the ashes of poverty. We are glad to observe your generous spirit, your conciliatory attitude, and happy we are to announce to you that in all these former belligerent States a condition of peace exists between the African and the Caucasian. The negro goes on in his accus-tomed employment, not only undisturbed, but encouraged. There is no avenue of honorable labor and honorable employment in which he has not an opportunity to go. He is unintimidated, protected by law, aided and helped in every laudable ambition, but he has known through all the generations that wedbetween him and a woman of the South was impossible, yea, more impossible than any other human undertaking to which he could aspire. He knew not only that, but he knew and realized that government and the administration of law properly belong to the white people of those States and he has acquiesced. He largely obeys the law; he is protected; he is secure and he has the fairest opportunity to-day to go forward in industrial progress and moral development that he has ever had and his opportunities for this growth and this progress in the South are superior to that of any other section of this great land. This being true, gentlemen, there comes into our hearts a yearning desire to aid you in the herculean difficulties you encounter in the northern sections of our country with respect to the negro, his relations to society, and your protection against the damning blight of his blood in the veins of your descendants. Do you propose that in all the future years the negro man who can seize upon some weak-minded woman of our race, who can infatuate her, who can over-persuade her and contract her in wedlock, do you propose that these things shall go sanctioned by laws of your States?

If the power, political or otherwise, of the African in those States is so potential, where the division between political parties may be close, that you can not solve it by State constitutional amendments or State legislation, we are ready, from the southern country, with, I apprehend, not a dissenting voice, to join you in adopting a resolution in the Congress submitting to the people of all the States a constitutional amendment that will make it impossible forever hereafter for a brutal African prizefighter to join to his name that of even a fallen American woman. [Applause.] We invite you to this grave question and its fair, nonsectional, but just consideration. Gentlemen, is it possible that in some far day in the distance—three generations, or five generations, or ten generations-is it possible that in those future years, under a legal permission of marriage between the white and the black races, that when your great-great-grandson goes to take unto himself a companion for life he will wonder and not know whether the bride for his young manhood is a pure American girl or corrupted by a strain of kinky-headed Let this condition go on if you will. It will grow; it will spread. At some day, perhaps remote, it will be a question always whether or not the solemnizing of matrimony in the North is between two descendants of our Anglo-Saxon fathers and mothers or whether it be of a mixed blood descended from the orang-utan trodden shores of far-off Africa.

Bestir yourselves for the adoption of the amendment to our Constitution which I am now discussing and which is your

haven of safety and for the glory and purity of our whole country

Moreover, it is detrimental to the highest welfare of both races for such a condition to exist. I put the plain question to you, that if here in this northern city and yonder in that western city and over there in this city bordering on the Mason and Dixon line, with from time to time the journals of the country carrying news of the accomplishment of the relation of husband and wife between white and black, do you apprehend, as thoughtful men, that it will not make an impress upon the vicious element of the negro race? The permission of such a thing by a sovereign State or a republican Government is damning and a danger signal heralding an ill omen for which we can offer no excuse. We can do no greater violence, we can offer no more ill-fated injustice, to the negro in this land than to let our statutes permit him to entertain the hope that at some future time he or his offspring, or she or her offspring, may be married to a woman or a man of the white race. It will bring conflicts in the coming years-black, dark, gruesome, and bloody. Whenever, gentlemen, this condition prevails at the North to such an extent that these ideas and notions begin to creep into the heads of negroes south of the Mason and Dixon line, and whenever we have a foreign tide into the Southland of the white race unacquainted with our customs and traditions, and when they begin to bargain and contemplate matrimony between the whites and the blacks there, know you now that the result will be fraught with disaster, the consequences of which will bring annihilation to that race whom we have protected in our land for all these years. And your States that permit the intermarriage of races will bear their just share of responsibility and odium for such a condition. Are we ready for the broad practice, I ask you again, are we ready for the broad and general practice to exist in this country of intermarriage between whites and blacks? Are you prepared for it? If you are, then well and good. The South is not and never will be. If you are not, I give you warning now when these occurrences are comparatively rare-I give you warning to-day, when just now and then these horrible matrimonial contracts are made-that this is a time for the American Congress to intervene and decree that forever the dominant race in this country shall preserve its veins from even the taint of African blood.

Mr. HEFLIN. Will my friend permit an interruption?

Mr. RODDENBERY. I will.

Mr. HEFLIN. Does the gentleman recall that in the debate between Douglas and Lincoln at Charleston, Ill., in 1858, Mr. Lincoln said:

I have not, am not, and never have been in favor of permitting marriage between the white and black races?

Mr. RODDENBERY. Substantially that language is correct, and it is historic. The same sentiment might be quoted from other of the leading patriots of the retreating past without regard to politics and without regard to their geographical origin or residence. Intermarriage between whites and blacks is repulsive and averse to every sentiment of pure American spirit. It is abhorrent and repugnant to the very principles of a pure Saxon government. It is subversive of social peace. It is destructive of moral supremacy, and ultimately this slavery of white women to black beasts will bring this Nation to a conflict as fatal and as bloody as ever reddened the soil Virginia or crimsoned the mountain paths of Pennsyl-It may now be but a small cloud on the western horizon, hanging over the borders of the Great Lakes around that wonderful city; it may be but the vapors apparently rising from the Atlantic above the towering smokestacks around the suburbs of the great city of New York; it may be but an hallucination around the historic and puritanic city of Boston, but if this policy is long indulged by these States and countenanced by our Federal Government permitting by law the sombre-hued, black-skinned, thick-lipped, bull-necked, brutalhearted African to walk into the office of a magistrate and demand an edict of the courts of his State, guaranteeing him legal wedlock to a white woman, if this proceed henceforth and onward, I challenge any man of wisdom and insight into the future to assert that my language portends a more calamitous culmination than a far-seeing statesman would prophesy. Let us uproot and exterminate now this debasing, ultrade-meralizing, un-American, and inhuman leprosy.

Gentlemen, you may Africanize this great country by continuing in Northern and Western States to sacrifice white women on the altar of the negroes' lustful fires, but, thank God, there are yet 13 States beneath cerulean skies that turn with yearning heart and willing hands to help you strike it down ere it curse you, and in cursing you curse us all forever [applause], and, in cursing you, lest it destroy you and destroy us altogether. No blacker incubus ever fixed its slimy claws upon

the social body of this Republic than the embryonic cancer of negro marriage to white women in certain portions of our country. It even now begins to fester. No more voracious parasite ever sucked at the heart of pure society, innocent girlhood, or Caucasian motherhood than the one which welcomes and recognizes the sacred ties of wedlock between Africa and America. [Applause.]

There is no racial antipathy in this. There is no sectional arraignment here. I am glad to chronicle the fact that many States in these vast prairies to the westward and a number of these States in the hills northeastward and reaching out to New England will not permit Jack Johnson to marry the daughter of their brother. God speed the day when Illinois and her sisters may rise and put their constitutional inhibition or legal prohibition upon it! Lest that day be far off, lest the results be disastrous ere we reach it, I address an appeal to your judgment, to your Americanism, your patriotism, and your wisdom to support a constitutional amendment uprooting totally an evil of the present, thus warding off the disasters of the future. May it please honorable Members to communicate with the Committee on the Judiciary and implead the committee that they report in favor of this resolution, to be speedily acted upon in the House, that we may submit to the sovereign States an opportunity for the people's representatives there to declare that forever hereafter marriage between white man and negro or white woman and negro is prohibited by the fundamental law

of this Republic. [Applause.]

And again I say to you, my brethren from all sections of the country, when we of the South are asking no appropriation for the goods that were taken years ago; when we are asking you for no access to the Treasury; when we are submitting to you a problem of the intermarriage between the races, which is unknown in our Southland—again I say to you that there is not a flag or a coat of arms south of Mason and Dixon's line that is not ready now, in peace and in unbroken phalanx, to join the Members from New England, to join the Members from the Mississippi Basin and the valleys below, to join the gentlemen from the Great Lakes and the prairies far to the westward in fixing in the Constitution of our country a provision that shall forever give us undefiled homes, a pure manhood, an uncorrupted womanhood. Do this and, secure in the bonds of brotherhood, we will go forward and onward, living, loving, marrying, and multiplying under the protection of a Government worthy of the sacrifices that Washington and his Colonial armies made to give it existence and establish it, and worthy of the wisdom and the patriotism that Jefferson, Madison, Jackson, Lincoln, and the patriotism that Jenerson, Mathson, Jackson, Lincoln, and the others bestowed that it might be preserved to us and our posterity in perpetuity forever. [Applause.]

I had not intended to discuss this question just now, but it being apparent from the proceedings that Calendar Wednesday

would be consumed entirely with the discussion of a little bill dealing with \$18,000 for a bridge across Snake River, around Jacksons Hole, in Wyoming, and regarding the question of supremacy of American manhood, of the unsullied purity of the blood of American womanhood as at least of equal dignity with Snake River, or Johnsons Hole, in Wyoming, we have ventured to make these few brief and impromptu observations. [Ap-

Why, gentlemen, while you are dealing with Snake River the black vulture is gnawing at the vitals of the integrity, and love, and purity of American homes. While you are attempting the appropriation of \$18,000 to construct a bridge over Jacksons Hole, in the ruts and hills of Wyoming, the brutal hand of Africa's son is laid about the throat of woman's hope in free America. [Applause.] Therefore I thank the committee for its indulgence while we make these remarks touching what we regard a most serious problem. If strength permitted, with your close attention and with that extreme courtesy that you have shown, we would extend our remarks at a greater length on this important subject. At some future time we trust again, in conjunction with other Members, to undertake to impress the vitality and momentousness of this proposition upon the House of Representatives.

Mr. SMITH of Texas. Mr. Chairman, if no other gentleman desires to address the committee on the bill, I will ask that the bill be read for amendment.

Mr. GOLDFOGLE. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from New York [Mr. Gold-FOGLE] makes the point of no quorum. The Chair will count.

Mr. MANN. I do not suppose the gentleman means to intimate that the last speech drove the Members out of the Hall

so that there are not even 100 members of the committee present.

The CHAIRMAN. The Chair ascertains by counting that
there are 70 Members present, not a quorum. The Clerk will call the roll.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Adamson	Fairchild	Jacoway	Powers
Aiken, S. C.	Fitzgerald	Kendall	Pujo
Ames	Floyd, Ark.	Kindred	Rainey
Andrus	Fordney	Kitchin	Randell, Tex.
Ansberry	Fornes	Knowland	Ransdell, La.
Anthony	Foss	Konig	Rees
Bates	Fuller	Kopp	Reyburn
Bell, Ga.	Gardner, Mass.	Lafferty	Richardson
Berger	Gardner, N. J.	La Follette	Riordan
Borland	Garrett	Langham	Roberts, Mass.
Bradley	George	Langley	Roberts, Nev.
Brantley	GIII	Lawrence	Rodenberg
Brown	Gillett	Legare	Sabath
Burke, Wis.	Good	Lenroot	Scully
Byrnes, S. C.	Gould	Levy	Sells
Campbell	Gray	Lewis	Sherley
Candler	Green, Iowa	Lindsay	Sisson
Carter	Gregg, Pa.	Linthicum	Slayden
Clark, Fla.	Gregg, Tex.	Littlepage	Slemp
Clayton	Gudger	Littleton	Small
Collier	Cuernaen		
Conry	Guernsey Hamill	Longworth McCreary	Smith, Cal.
Copley	Hanna	McGillicuddy	Sparkman Stack
Cox, Ohio	Hardwick		
	Harris	McGuire, Okla.	Sterling
Crago		McHenry	Sulloway
Cravens	Harrison, N. Y.	McKenzie	Talbott, Md.
Crumpacker	Hart	Maher	Taylor, Colo.
Currier	Hartman	Martin, Colo.	Taylor, Ohio
Curry	Haugen	Matthews	Townsend
Daugherty	Hawley	Miller	Turnbull
Davidson	Henry, Conn.	Moon, Pa.	Vreeland
Davis, W. Va.	Henry, Tex.	Morrison	Warburton
De Forest	Higgins	Murray	Webb
Denver	Hill	Norris	Weeks
Dickson, Miss.	Hinds	Olmsted	Whitacre
Difenderfer	Hobson	O'Shaunessy	Wilson, N. Y.
Draper	Howard	Padgett	Wood, N. J.
Driscoll, D. A.	Howland	Parran	Woods, Iowa
Driscoll, M. E.	Hughes, Ga.	Patten, N. Y.	Young, Mich.
Dwight	Humphreys, Miss.	Peters	
Estopinal	Jackson	Pou	

The SPEAKER. The Clerk will call my name. The Clerk called the name of Mr. Clark of Missouri, and he answered "Present."

The committee rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee finding itself without a quorum, he had caused the roll to be called, when 228 Members, a quorum, had responded to their names, and that he reported the names of the absentees to the House.

The SPEAKER. A quorum being present, the committee will resume its session.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 3947) to provide for a bridge across Snake River, in Jackson Hole, Wyo., with Mr. Saunders in the chair.

Mr. SMITH of Texas. Mr. Chairman, I ask that the bill be read for amendment.

The CHAIRMAN. The Clerk will report the bill.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent
that the amendment in the form of a substitute be read in lieu of the bill.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent that the amendment in the form of a substitute be read instead of the original bill.

Mr. MANN. Mr. Chairman, the bill is very short. Let it be read.

The CHAIRMAN. The gentleman from Illinois objects. The Clerk will report the bill.

The Clerk read the bill, as follows:

Whereas in the administration of the act of June 17, 1902, "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," the United States Reclamation Service has constructed at the outlet of Jackson Lake, Wyo., and the source of the Snake River a retaining storage dam; and Whereas the use of this dam to store the flood waters of Jackson Lake and the Snake River watershed and the release of the surplus waters thus stored into the channel of the Snake River for utilization in irrigating lands upon lower levels maintains high water in the Snake River at all periods of the year; and Whereas through the maintenance of high water the Snake River, previously fordable for parts of each year, in its course through the Jackson Hole region is now rendered unfordable at all times, and the residents of that region, upward of 1,000 in number, are cut off from railroad and other communication for freight and travel: Therefore:

fore:

Be it enacted, etc., That the sum of \$25,000 is hereby appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, to be expended under the direction of the Secretary of War, through the engineer officer in charge of road and bridge construction and maintenance in the Yellowstone National Park, for the construction of a bridge across Snake River, at a point in township 41 or 42 north, range 116 or 117 west, Wyoming, to be determined with a view of best serving the public travel through Jackson Hole and adjacent territory in Wyoming and Idaho: Provided, That the local authorities shall cause the approaches to the proposed bridge to be constructed

without expense to the United States: And provided further, That the local authorities shall provide for the maintenance and repair of the proposed bridge after it is constructed.

The Clerk read the following amendment, recommended by the committee:

Strike out all after the enacting clause and insert the following:

"That the Secretary of the Interior is hereby authorized to use such portion of the reclamation fund, not to exceed \$18,000, and in no event more than one-half the sum that may be necessary for the construction of a bridge across Snake River at a point in township 41 or 42 north, range 116 or 117 west, Wyoming, to be determined by the Reclamation Service, with the view of best serving the people of Jackson Hole and adjacent territory in Wyoming: Provided, That no part of the funds herein authorized to be used, except such as may be necessary for the making of examinations and estimates, shall be expended until the Secretary of the Interior shall have obtained, from the proper local authorities, satisfactory guaranties of the payment by the said local authorities of one-half of the cost of said bridge; and that the said local authorities assume full responsibility for and will at all times maintain and repair the said bridge and approaches thereto."

Strike out the preamble.

Mr. MANN. Mr. Chairman, I move to amend the amendment

Mr. MANN. Mr. Chairman, I move to amend the amendment by adding thereto the following:

The Clerk read as follows:

Add to the amendment the following: "Provided further, That the amount of the reclamation fund so used shall be charged as a part of the fost of the reclamation project or projects the construction and development of which have caused the necessity of such project."

The CHAIRMAN. The question is on the amendment to the amendment.

The question was taken, and the amendment to the amendment was agreed to.

The CHAIRMAN. The question now is on the amendment as amended.

The question was taken, and the amendment as amended was agreed to.

Mr. SMITH of Texas. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the recommendation that the amendment be agreed to and the bill as amended do pass.

The motion was agreed to.

Accordingly the committee determined to rise; and the Speaker having resumed the chair, Mr. Saunders, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 3947) to provide for a bridge across Snake River in Jackson Hole, Wyo., and had directed him to report the same back with an amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

The SPEAKER. The question is on the amendment. The question was taken, and the amendment was agreed to.

The SPEAKER. The question now is on the third reading of the amended Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

The preamble was stricken out.

On motion of Mr. SMITH of Texas, a motion to reconsider the vote whereby the bill was passed was laid on the table.
On motion of Mr. Smith of Texas, the bill H. R. 21171, a

similar House bill, was laid on the table.

ADJOURNMENT.

The SPEAKER. Has the gentleman from Texas any further business from his committee?

Mr. SMITH of Texas. Yes, Mr. Speaker, we have one more bill, which we design to take up next Calendar Wednesday. move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 10 minutes p. m.) the House adjourned until to-morrow, Thursday, December 12, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows

1. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on preliminary examination of Pagan River with a view to securing a depth of 12 feet and a turning basin at Smithfield, Va. (H. Doc. No. 1126); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of the Ireasury, transmitting copy of a communication from the Secretary of the Interior submitting estimate of appropriation to pay the occupants under patents from the State of Michigan for their improvements and possessory rights to lands within the L'Anse and Vieux de Sert Indian Reservation, Mich. (H. Doc. No. 1151); to the Committee on Indian Affairs and ordered to be printed.

3. A letter from the Secretary of War, recommending legislation on the Army representation below the secretary of the Ireasury.

on the Army appropriation bill authorizing an increase of pay to certain clerks and messengers, citizens of the United States, em-

ployed in the Philippine Islands, and requesting authority for the department to employ natives of the Philippine Islands as clerks and messengers of lower grades at reduced compensation (H. Doc. No. 1156); to the Committee on Military Affairs and ordered to be printed.

4. A letter from the Secretary of the Treasury, submitting supplemental estimate of appropriation for equipping the new building for the Bureau of Printing and Engraving, now under construction (H. Doc. No. 1150); to the Committee on Appro-

priations and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Acting Secretary of Commerce and Labor submitting estimate of deficiencies in appropriations for said department for the fiscal year ending June 30, 1913 (H. Doc. No. 1152); to the Committee on Appropriations and ordered to be printed.

6. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and fact in the French spoliation cases relating to the vessel schooner Betsey, George Vincent, master (H. Doc. No. 1147); to the Committee

on Claims and ordered to be printed.

7. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel schooner Commerce, Samuel Freeman, master (H. Doc. No. 1143); to the Committee on Claims and ordered to be printed.

8. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel schooner Two Brothers, Isaac Lockwood, master (H. Doc. No. 1141); to the

Committee on Claims and ordered to be printed.

9. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel brig George, Richard Quick, master (H. Doc. No. 1136); to the Committee on Claims and ordered to be printed.

10. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel schooner *Dolphin*, N. H. Downe, master (H. Doc. No. 1148); to the Committee on

Claims and ordered to be printed.

11. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel brig *Peggy*, Nathaniel Small, master (H. Doc. No. 1139); to the Committee on Claims and ordered to be printed.

12. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel ship Asia, Edward Yard, master (H. Doc. No. 1135); to the Committee on

Claims and ordered to be printed.

13. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel brig Philanthropist, Forrest Richardson, master (H. Doc. No. 1140); to the Committee on Claims and ordered to be printed.

14. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel brig Mars, Thomas Buntin, master (H. Doc. No. 1137); to the Committee on Claims

and ordered to be printed.

15. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel ship Hunter, William Whitlock, master (H. Doc. No. 1134); to the Committee

on Claims and ordered to be printed.

16. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel schooner *Lucy*, Eliakin Benham, master (H. Doc. No. 1142); to the Committee

on Claims and ordered to be printed.

17. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel brig Abby, Harding Williams, master (H. Doc. No. 1138); to the Committee on Claims and ordered to be printed.

18. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel sloop Orpha, John Annable, master (H. Doc. No. 1132); to the Committee on Claims and ordered to be printed.

19. A letter from the assistant clerk of the Court of Claims. transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel schooner *Ris-*ing States, Daniel Bradford, master (H. Doc. No. 1145); to the Committee on Claims and ordered to be printed.

20. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel Dogger Neptune, F. M. Bargum, master (H. Doc. No. 1131); to the Committee on Claims and ordered to be printed.

21. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel ship Louisa, John Clarke, jr., master (H. Doc. No. 1133); to the Committee on Claims and ordered to be printed.

22. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel schooner Lion, Peter Frazier, master (H. Doc. No. 1146); to the Committee on Claims and ordered to be printed.

23. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel schooner Beli-William Bartlett, master (H. Doc. No. 1149); to the

Committee on Claims and ordered to be printed.

24. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the conclusions of law and of fact in the French spoliation cases relating to the vessel schooner Kitty, Ezra Finney, master (H. Doc. No. 1144); to the Committee on

Claims and ordered to be printed.

25. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on examination and survey of the New York Harbor with a view of securing increased width and depth of water from a point at or near southwest spit northwest of Sandy Hook (H. Doc. No. 1124); to the Committee on Rivers and Harbors and ordered to be printed.

26. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on examina-tion of Potomac River at Colonial Beach, Va., with a view to a proper approach to the landing place (H. Doc. No. 1127); to the Committee on Rivers and Harbors and ordered to be printed.

27. A letter from the Secretary of War, transmitting report of National Forest Reserve Commission for the fiscal year ending June 30, 1912 (H. Doc. No. 1158); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

28. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on examination and survey of Archers Hope River, Va., with a view to securing increased depth from its mouth to Williamsburg (H. Doc. No. 1130); to the Committee on Rivers and Harbors and ordered to be printed.

29. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on examination and survey of Bass Harbor Bar and Deer Island Thoroughfare, Me. (H. Doc. No. 1128); to the Committee on Rivers

and Harbors and ordered to be printed.

30. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on examination and survey of Brule Harbor, Wis. (H. Doc. No. 1129); to the Committee on Rivers and Harbors and ordered to be printed.

31. A letter from the Secretary of War, transmitting report of Lieut. Gen. S. B. M. Young, United States Army, retired, president of the Board of Commissioners of the United States Soldiers' Home, upon the financial and other affairs of the military prison at Fort Leavenworth, Kans., together with copies of reports from commanding officer of that prison and the commanding officer of the Pacific branch United States military prison, all for the fiscal year ended June 30, 1912 (H. Doc. No. 1157); to the Committee on Expenditures in the War Department and ordered to be printed.

32. A letter from the Secretary of the Treasury, transmitting the report of the Surgeon General of the Public Health Service for the fiscal year 1912 (H. Doc. No. 971); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

33. A letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of the Interior, requesting appropriation for the continuation of the investigation of the mineral resources of Alaska (H. Doc. No. 1153); to the Committee on Appropriations and ordered to be printed.

34. A letter from the Secretary of the Treasury, recommending that the urgent deficiency bill provide that the expenses of the annual assay commission for the fiscal year 1913 may be paid from the appropriation, "Contingent expenses, mint at Philadelphia, 1913" (H. Doc. No. 1154); to the Committee on Appropriations and ordered to be printed.

35. A letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of State recommending that an appropriation be made in the sundry civil bill for the expenses of the International Joint Commission, United States |

and Great Britain, instead of being made in the consular and diplomatic bill (H. Doc. No. 1155); to the Committee on Appropriations and ordered to be printed.

36. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Port Aransas, Tex. (H. Doc. No. 1125); to the Commit-

tee on Rivers and Harbors and ordered to be printed.

37. A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of the certificate of the final ascer-tainment of electors appointed in the State of Indiana for President and Vice President at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII.

Mr. REILLY, from the Committee on the Post Office and Post Roads, to which was referred the bill (H. R. 26819) to regulate the pay of substitute letter carriers in the City Delivery Service and provide for their status when appointed to permanent positions as regular carriers, reported the same without amendment, accompanied by a report (No. 1269), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII.

Mr. ADAIR, from the Committee on Invalid Pensions, which was referred sundry bills, reported in lieu thereof the bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, accompanied by a report (No. 1267), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. JOHNSON of Kentucky: A bill (H. R. 27063) authorizing the purchase of a site for a post-office building at Hodgenville, Ky.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27064) authorizing the purchase of a postoffice site at Elizabethtown, Ky.; to the Committee on Public

Buildings and Grounds.

By Mr. KINKAID of Nebraska: A bill (H. R. 27065) providing for the purchase of a site and the erection of a public building in the city of O'Neill, State of Nebraska; to the Com-mittee on Public Buildings and Grounds.

By Mr. CALDER: A bill (H. R. 27066) to amend section 4756 of the Revised Statutes; to the Committee on Naval

Affairs.

By Mr. HAMLIN: A bill (H. R. 27067) for the purchase of a site and the erection of a public building in the town of Fayette, Mo.; to the Committee on Public Buildings and Grounds.

By Mr. SMITH of Texas: A bill (H. R. 27068) making appropriation for the construction of additional barracks at Fort Bliss, the Army post at El Paso, Tex.; to the Committee on Military Affairs.

By Mr. MADDEN: A bill (H. R. 27069) to amend the interstate-commerce law; to the Committee on Interstate and For-

eign Commerce.

By Mr. ANTHONY: A bill (H. R. 27070) to purchase the Kansas and Missouri bridge at Fort Leavenworth for military,

purposes; to the Committee on Military Affairs.

By Mr. ADAMSON: A bill (H. R. 27071) to amend the act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. AUSTIN: A bill (H. R. 27072) to authorize the President of the United States to appoint, by selection, an additional major general of the United States Army; to the Committee on

Military Affairs. By Mr. MORGAN of Louisiana: A bill (H. R. 27073) for the erection of a Federal building at Hammond, La.; to the Com-

mittee on Public Buildings and Grounds.

By Mr. COLLIER: A bill (H. R. 27074) authorizing a survey of Big Black River, Miss.; to the Committee on Rivers and Harbors.

By Mr. HUGHES of West Virginia: A bill (H. R. 27075) to promote the safety of employees and passengers upon railroads engaged in interstate traffic; to the Committee on Interstate and Foreign Commerce.

By Mr. CLAYTON: A bill (H. R. 27076) to amend section 36 of "An act to codify, revise, and amend the penal laws of the United States," approved March 4, 1909; to the Committee on the Judiciary

By Mr. SPARKMAN: A bill (H. R. 27077) making it unlawful for any society, order, or association to send or receive through the United States mails, or to deposit in the United States mails, any written or printed matter representing such society, fraternal order, or association to be named or designated or entitled by any name hereafter adopted, any word or part of which title shall be the name of any bird or animal the name of which bird or animal is already being used as a part of its title or name by any other society, fraternal order, or association; to the Committee on the Post Office and Post Roads.

By Mr. HAYES: A bill (H. R. 27078) to exempt from cancellation certain desert-land entries in the Chuckawalla Valley and Palo Verde Mesa, Riverside County, Cal.; to the Committee on the Public Lands.

By Mr. CARTER: A bill (H. R. 27079) making it unlawful for any society, order, or association to send or receive through the United States mails, or to deposit in the United States mails, any written or printed matter representing such society, fraternal order, or associaion to be named or designated or entitled by any name hereafter adopted, any word or part of which title shall be the name of any bird or animal the name of which bird or animal is already being used as a part of its title or name by any other society, fraternal order, or association; to the Committee on the Post Office and Post Roads.

By Mr. CARLIN: Resolution (H. Res. 744) to pay to Lillie M. Reesch \$600 for certain services; to the Committee on

By Mr. DUPRÉ: Resolution (H. Res. 745) to provide for printing additional copies of Senate Document No. 972, Rules of Practice for the Courts of Equity; to the Committee on

By Mr. RODDENBERY: Joint resolution (H. J. Res. 368) proposing an amendment to the Constitution of the United States prohibiting intermarriage between negroes or persons of color and Caucasian or any other character of persons; to the Committee on the Judiciary.

By Mr. GARDNER of Massachusetts: Joint resolution (H. J. Res. 369) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.; to the Committee on the Library.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; to the Committee of the Whole House.

By Mr. ANTHONY: A bill (H. R. 27080) granting an increase of pension to Judson N. Pollard; to the Committee on

Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 27081) granting an increase of pension to David H. Scott; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 27082) for the relief of the heirs of Elias W. Phares, deceased; to the Committee on War

Also, a bill (H. R. 27083) for the relief of the heirs of Jesse Phares, deceased; to the Committee on War Claims.

By Mr. BULKLEY: A bill (H. R. 27084) to remove the charge of desertion from the military record of Lora E. Reed; to the Committee on Military Affairs.

By Mr. CARTER: A bill (H. R. 27085) to remove the charge

of desertion standing against George W. Smith; to the Com-

mittee on Military Affairs.

By Mr. CLARK of Missouri: A bill (H. R. 27086) for the relief of Henry L. Heckmann; to the Committee on War Claims,
By Mr. CLAYPOOL: A bill (H. R. 27087) granting an in-

crease of pension to Barnett A. Hook; to the Committee on Invalid Pensions.

By Mr. DODDS: A bill (H. R. 27088) granting an increase of pension to Charles H. Crandall; to the Committee on Invalid

By Mr. DYER: A bill (H. R. 27089) granting a pension to Josephine C. Nixon; to the Committee on Invalid Pensions.

By Mr. FARR: A bill* (H. R. 27000) for the relief of Cora Evans; to the Committee on Claims.

By Mr. GARRETT: A bill (H. R. 27091) for the relief of the estates of Nathan Dungan and Rebecca Dungan, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27092) for the relief of William Grant; to the Committee on War Claims.

By Mr. GOEKE: A bill (H. R. 27093) to remove the charge of desertion from the record of William E. Cummings; to the

Committee on Military Affairs By Mr. GOLDFOGLE: A bill (H. R. 27094) for the relief of Nelson D. Dillon, executor of Harriet A. Dillon, deceased, widow of Robert Dillon, deceased; to the Committee on War Claims. By Mr. GUDGER: A bill (H. R. 27095) for the relief of

Stanley Mitchell; to the Committee on Naval Affairs. By Mr. HAMLIN: A bill (H. R. 27096) granting a pension to Mary U. Isenberg; to the Committee on Invalid Pensions.

By Mr. HAYES: A bill (H. R. 27097) granting an increase of pension to Jasper Pitts; to the Committee on Invalid Pen-

Also, a bill (H. R. 27098) granting an increase of pension to Bridget Scanlon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27099) for the relief of Patrick G. Dollard;

Also, a bill (H. R. 27100) for the relief of Villiam Richard Hogg; to the Committee on Military Affairs.

Also, a bill (H. R. 27101) for the relief of William Richard Hogg; to the Committee on Military Affairs.

Also, a bill (H. R. 27101) for the relief of David Walker; to the Committee on Military Affairs.

Also, a bill (H. R. 27102) for the relief of Albert C. Waltenspiel; to the Committee on Military Affairs.

Also, a bill (H. R. 27103) for the relief of Jasper J. Henry;

to the Committee on Military Affairs.

Also, a bill (H. R. 27104) for the relief of John Vreeland; to the Committee on Military Affairs.

By Mr. HENSLEY: A bill (H. R. 27105) for the relief of Henry J. Tucker; to the Committee on Military Affairs. By Mr. HOWELL: A bill (H. R. 27106) granting an increase

of pension to Brigham Lamb; to the Committee on Pensions. By Mr. JOHNSON of Kentucky: A bill (H. R. 27107) for the relief of the trustees of Bloomfield Lodge, No. 57, Ancient Free and Accepted Masons, of Bloomfield, Ky., the trustees of the town of Bloomfield, Ky., and the trustees of the Bloomfield graded common schools at Bloomfield, Ky.; to the Committee on

War Claims. By Mr. KAHN: A bill (H. R. 27108) granting a pension to William Deable; to the Committee on Pensions.

Also, a bill (H. R. 27109) granting an increase of pension to Belle McP. McCrackin; to the Committee on Pensions.

Also, a bill (H. R. 27110) for the relief of Charles Hellyer; to the Committee on Military Affairs.

By Mr. LEE of Georgia: A bill (H. R. 27111) granting a pension to Stacy Ann Wacker; to the Committee on Invalid Pensions

By Mr. LITTLEPAGE: A bill (H. R. 27112) granting an increase of pension to Allen T. Landers; to the Committee on Invalid Pensions.

By Mr. MERRITT: A bill (H. R. 27113) granting an increase of pension to Orlando Burt; to the Committee on Invalid Pen-

Also, a bill (H. R. 27114) granting a pension to Esther Neddo;

to the Committee on Pensions.

Also, a bill (H. R. 27115) granting a pension to John Bresett; to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: A bill (H. R. 27116) granting an increase of pension to James H. Pack; to the Committee on Invalid Pensions.

By Mr. MOORE of Texas: A bill (H. R. 27117) for the relief of Mrs. E. J. Amacker; to the Committee on War Claims, By Mr. NYE: A bill (H. R. 27118) granting a pension to

Caroline Fust; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27119) granting an increase of pension to

Anna Rebecca Overman; to the Committee on Invalid Pensions, By Mr. OLDFIELD: A bill (H. R. 27120) to correct the mili-

tary record of John N. Thompson; to the Committee on Military Affairs.

By Mr. PICKETT: A bill (H. R. 27121) granting a pension to August A. Bemtgen; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27122) granting a pension to Lizzle S. Williams; to the Committee on Invalid Pensions.

By Mr. POST: A bill (H. R. 27123) granting an increase of

pension to James A. Dicus; to the Committee on Invalid Pen-

Also, a bill (H. R. 27124) granting a pension to Martha Moore; to the Committee on Pensions.

Also, a bill (H. R. 27125) to grant an honorable discharge to John R. Stockstill; to the Committee on Military Affairs.

By Mr. ROUSE: A bill (H. R. 27126) granting an increase of pension to Jennie Reed; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 27127) for the relief of the estate of Adam B. Fullen, deceased; to the Committee on War Claims

By Mr. SLOAN: A bill (H. R. 27128) granting a pension to Carrie Willett Yates; to the Committee on Invalid Pensions.

By Mr. J. M. C. SMITH: A bill (H. R. 27129) granting an

increase of pension to Archie E. Booth; to the Committee on Pensions.

By Mr. STEENERSON: A bill (H. R. 27130) granting an increase of pension to James B. Whaley; to the Committee on Pensions.

Also, a bill (H. R. 27131) granting an increase of pension to Daniel W. Brown; to the Committee on Invalid Pensions.

By Mr. STEPHENS of California: A bill (H. R. 27132) granting an increase of pension to Cyrena M. Hatfield; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Ohio: A bill (H. R. 27133) granting an increase of pension to William Collins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27134) granting an increase of pension to Thomas J. Reynolds; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27135) granting an increase of pension to Robert A. Powelson; to the Committee on Invalid Pensions.

By Mr. THISTLEWOOD: A bill (H. R. 27136) granting an increase of pension to Mary Neace; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27137) granting an increase of pension to Laura J. Ingram; to the Committee on Invalid Pensions.

By Mr. UNDERHILL: A bill (H. R. 27138) granting a pension to Ellen A. Chappell; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid

on the Clerk's desk and referred as follows:

By Mr. BULKLEY: Resolution adopted by the Lake Michigan Sanitary Association, urging the appropriation of \$300,000 for the investigation of the extent of the pollution of the waters of the Great Lakes and of the injury to health resulting therefrom; to the Committee on Interstate and Foreign Commerce.

By Mr. DALZELL: Petition of sundry citizens of Allegheny County, Pa., in favor of the passage of the Dillingham immi-gration bill; to the Committee on Immigration and Naturaliza-

By Mr. DAVIS of Minnesota: Petitions of merchants of various cities in Minnesota, protesting against further extension of parcel-post zone act; to the Committee on the Post Office and Post Roads.

Post Roads.

By Mr. DYER: Petition of C. F. Blanke, St. Louis, Mo., favoring House bill 22589, appropriating \$500,000 to carry out the recommendations of the State Department that the first expenditure under the Lowden Act for the acquisition of embassy, legation, and consular buildings be made at Mexico City, \$150,000; Tokyo, \$150,000; Berne, \$140,000; Hankow, \$60,000; to the Committee on Foreign Affairs.

Also memorial of George W Burley a member of the Pure

Also, memorial of George W. Burley, a member of the Pure Fabric League, St. Louis, Mo., favoring House bill 25685, for the labeling and tagging of all fabrics and articles of clothing intended for sale which enter into interstate commerce, and providing penalties for misbranding; to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH: Petition of citizens of Wisconsin, favoring the enactment of legislation giving the Interstate Commerce Commission further power toward controlling the express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Memorial of the State Council of Pennsylvania, Order of Independent Americans, favoring the Dillingham immigration bill (S. 3175); to the Committee on Immigration and Naturalization.

By Mr. GARRETT: Petition of sundry citizens of Brownsville and other places in the ninth congressional district of Tennessee, favoring the enactment of legislation to give the Interstate Commerce Commission further power toward regulating express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. HAYES: Memorial of H. F. Copeland, of San Francisco; Arthur Rosenblatt Co., of San Francisco; and Grace Edwards, of San Jose, Cal., against the Kenyon bill (S. 4043); to the Committee on the Judiciary.

By Mr. HOWELL: Petition of citizens of Richfield, Utah, in favor of regulation of express rates by Interstate Commerce Commission; to the Committee on Interstate and Foreign Com-

By Mr. LINDSAY: Memorial of the Patriotic Order Sons of America, State Camp of New York, favoring passage of the Senate bill on immigration; to the Committee on Immigration and Naturalization.

By Mr. MOTT: Memorial of the Millers' National Federation, favoring the passage of Senate bill 957; to the Committee on Interstate and Foreign Commerce.

By Mr. NELSON: Petition of citizens of Lodi, Wis., favoring the enactment of legislation to give the Interstate Commerce Commission further power toward regulating express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. POST: Petition of Mason Bros. and others, of Circleville, Troy, and Plainville, Ohio, against the extension of the parcel post; to the Committee on the Post Office and Post Roads.

By Mr. SLOAN: Petition of numerous persons protesting against parcel-post regulation, the same being residents of the following municipalities in the fourth congressional district of Nebraska: Crete, Clatonia, Waco, Hayes, Utica, Gresham, David Clty, Alexandria, Milford, Wilber, Ohiowa, Strang, Davenport, Carleton, Bradshaw, Tobias, Giltner, Aurora, Benedict, Sheckley, York, Henderson, Surprise, Stockham, Belvedere, Diller, Brenning, Gilead, Harbin, Chester, Filley, Beatrice, and Goshen; to the Committee on the Post Office and Post Roads.

By Mr. WILSON of New York: Memorial of the Lake Michigan Sanitary Association, favoring investigation by authority of Congress of the extent of the pollution of the waters of the Great Lakes by sewage and asking that Congress appropriate \$300,000 for such investigation, of which \$25,000 shall be for investigation of Lake Michigan; to the Committee on Interstate and Foreign Commerce.

Also, memorial of the State Camp of New York, Patriotic Order Sons of America, favoring the passage by the House of Representatives of the bill now pending in the House restricting immigration; to the Committee on Immigration and Naturalization.

SENATE.

THURSDAY, December 12, 1912.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D. The Journal of yesterday's proceedings was read and approved. FINDINGS OF THE COURT OF CLAIMS.

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting certified copies of the findings of fact and conclusion filed by the court in the following causes:

Katharine B. Thomson, administratrix de bonis non cum testamento annexo of the estate of Francis Beach, deceased, v.

United States (S. Doc. No. 975);
Phil Mitchell, administrator de bonis non cum testamento annexo of the estate of William Hoffman, deceased, v. United States (S. Doc. No. 977);

George F. McGinniss v. United States (S. Doc. No. 976); and Harry Troll, administrator of the estate of Justus McKinstry, deceased, v. United States (S. Doc. No. 978).

The foregoing findings were, with the accompanying papers, referred to the Committee on Claims and ordered to be printed.

DISTRICT REFORM SCHOOL (S. DOC. NO. 979).

The PRESIDENT pro tempore laid before the Senate a communication from the Commissioners of the District of Columbia, transmitting a copy of a memorandum prepared by the Board of Charities of the District of Columbia, in which they concur as their response to a provision in the appropriation act approved June 26, 1912, relative to the necessity for the construction and operation within the District of Columbia of a reform school for white girls, etc., which, with the accompanying paper, was referred to the Committee on the District of Columbia and ordered to be printed.

CITIZENSHIP FOR PORTO RICO.

The PRESIDENT pro tempore laid before the Senate the following communication, which was read and ordered to lie on the table:

WAR DEPARTMENT, BUREAU OF INSULAR AFFAIRS, Washington, December 5, 1912.

The honorable the President pro tempore of the Senate, United States Senate. Sir: Referring to letter from this office of the 3d instant quoting a cablegram received from Porto Rico with reference to the bill now pend-

ing in the Senate to grant American citizenship to the people of Porto Rico, I beg to advise you that the following cablegram has now been received from the governor of Porto Rico:

"Referring to telegram from this office * * * by Santiago Iglesias, George R. Coiton, governor of Porto Rico, appears erroneously as a signer thereof. Cablegram was merely sent through this office as a matter of courtesy."

CHAS. C. WALCUTT, Jr.,

Colonel, United States Army, Acting Chief of Bureau.

PETITIONS AND MEMORIALS.

Mr. NELSON presented resolutions adopted by the Minnesota Board of Forestry, favoring an appropriation for the protection of forested watersheds at the headwaters of navigable streams, which were referred to the Committee on Agriculture and

He also presented a petition of sundry citizens of Hawley, Minn., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the

Mr. CULLOM presented a memorial of Beer Bottlers' Local Union No. 248, of Chicago, Ill., and a memorial of Local Union No. 18, International Union of the United Brewery Workmen, of Chicago, Ill., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of the Woman's Christian Temperance Unions of Sandoval, Cairo, Robinson, of Edgar County, of Morgan County, and of Edwardsville, and of 159 citizens of Robinson, 55 citizens of Morris City, and 117 citizens of Lawrenceville, all in the State of Illinois, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. JOHNSON of Maine presented petitions of sundry citizens of Vassalboro, Kittery, and West Newfield, all in the State of Maine, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. McLEAN presented a memorial of Local Union No. 37, International Union of United Brewery Workmen, of New Haven, Conn., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to

Mr. CURTIS presented petitions of sundry citizens of Osage City and Morland and of the congregation of the Lincoln Street Presbyterian Church, of Wichita, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. NELSON:

A bill (S. 7719) granting an increase of pension to Winchester

E. Moore (with accompanying paper); and

A bill (S. 7720) granting an increase of pension to Gustaf Swanson (with accompanying papers); to the Committee on

By Mr. SWANSON:

A bill (S. 7721) to appoint Jere Maupin a passed assistant paymaster on the retired list of the Navy; to the Committee on Naval Affairs.

A bill (S. 7722) to promote the efficiency of the Public Health Service; to the Committee on Public Health and National Quarantine.

By Mr. LA FOLLETTE:

A bill (S. 7723) to regulate the hours of employment and safeguard the health of females employed in the District of Columbia in any mill, factory, manufacturing or mechanical establishment, or workshop, laundry, bakery, printing, clothing, dressmaking, or millinery establishment, mercantile establishment, store, hotel, restaurant, office, or where any goods are sold or distributed, or by any express or transportation company, or in the transmission or distribution of telegraph or telephone messages or merchandise; to the Committee on the District of Columbia.

By Mr. PENROSE:

A bill (S. 7724) for the better payment of pensioners; and A bill (S. 7725) granting a pension to Sarah E. Geiser; to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 7726) granting an increase of pension to Sarah McMunigale (with accompanying papers); to the Committee on

By Mr. TOWNSEND:

A bill (S. 7727) granting a pension to John Reithmaeir; to the Committee on Pensions.

By Mr. SMITH of Arizona:

bill (S. 7728) granting a pension to Mary Ann Golding; to the Committee on Pensions.

By Mr. OWEN:
A bill (S. 7729) granting a pension to Neal England, alias
Joseph England (with accompanying papers); to the Committee on Pensions.

By Mr. SMITH of Michigan:

A bill (S. 7730) granting an increase of pension to Mary P. Pierce (with accompanying papers); to the Committee on

By Mr. O'GORMAN:

A bill (S. 7731) for the relief of the Morris & Cumings Dredging Co.; to the Committee on Claims.

By Mr. CRAWFORD (for Mr. GAMBLE):

A bill (S. 7732) providing for the disposal of certain lands containing coal and other minerals within portions of Indian reservations heretofore opened to settlement and entry in the State of South Dakota; and

A bill (S. 7733) providing for the disposal of certain lands containing coal and other minerals within portions of Indian reservations heretofore opened to settlement and entry; to the

Committee on Public Lands.

By Mr. CURTIS: A bill (S. 7734) granting an increase of pension to Manerva McWilliams (with accompanying papers);

A bill (S. 7735) granting an increase of pension to Frank

West; and

A bill (S. 7736) granting an increase of pension to Allen Meskimen (with accompanying papers); to the Committee on Pensions.

A bill (S. 7737) for the relief of Dr. W. M. Stephens (with accompanying papers); to the Committee on Military Affairs.

By Mr. GUGGENHEIM (by request):

A bill (S. 7738) for the relief of the White River Utes, the Southern Utes, the Uncompanier Utes, the Tabeguache, Muache, Capote, Weeminuche, Yampa, Grand River, and Uinta Rands of Ute Indiana known also as the Captalanted Panda Bands of Ute Indians, known also as the Confederated Bands of Ute Indians of Colorado, and to settle and adjust their rights under existing treaties and laws; to the Committee on Indian Affairs.

By Mr. CRANE:

A bill (S. 7739) granting a pension to William Cornell; and A bill (S. 7740) granting a pension to Charles Franklin White; to the Committee on Pensions.

By Mr. WETMORE:

A bill (S. 7741) granting an increase of pension to Sophronia Dixon (with accompanying papers); to the Committee on Pensions.

By Mr. PAGE:

A bill (S. 7742) granting a pension to John D. Orcutt; to the Committee on Pensions.

FRENCH SPOLIATION CLAIMS.

Mr. CRAWFORD. Mr. President, I desire to present an amendment which I at the proper time expect to propose to the amendment offered by the Senator from Massachusetts [Mr. Lodge], incorporating what are known as the French spoliation claims into the omnibus claims bill. The amendment which I propose strikes from the amendment of the Senator from Massachusetts the claims so far as they ask for the reimbursement of insurance premiums and also freight earnings. Necessarily it is a long amendment. I desire to offer it now so that it may be printed and lie on the fable, to be presented in connection with the amendment offered by the Senator from Massachusetts.

The PRESIDENT pro tempore. Without objection, the amendment will be received and ordered printed, as requested

by the Senator from South Dakota.

STATUE OF THOMAS JEFFERSON.

Mr. SWANSON. Mr. President, I desire to introduce a resolution to appoint a committee of eight to participate in St. Louis on April 30, 1913, in the unveiling of a statue which has been erected there to Thomas Jefferson. The statue is to be unveiled there upon the one hundred and tenth anniversary of the signing of the treaty for the purchase of Louisiana, with

the vast expanse of territory included in it.

The St. Louis Exposition had some funds left, which were contributed by the Federal Government toward aiding in the erection of this statue. By private subscription a fund has been raised amounting to \$450,000 for the erection of an appropriate statue of Thomas Jefferson. The Louisiana Purchase Exposition Co. thinks that the Government should be represented upon this interesting occasion. A joint resolution has been introduced in the House of Representatives, at the request of the president of the exposition company and the trustees who have had this fund and the erection of the statue in charge, appointing a committee of eight by the House of Representatives. It seems to me that a committee of eight should be appointed by the Senate also to be present upon that occasion and to

show the interest of the Senate in this splendid tribute to this great American statesman.

In pursuance of that view, which is concurred in by the president of the exposition company and by the trustees who have had the erection of the monument in charge, I introduce a resolution which provides for eight Members as a committee of the Senate to be present at these interesting ceremonies. I have thought it proper that the two Presidents pro tempore of the Senate who have been heretofore exercising this office should be named—the present President pro tempore, the Senator from Georgia [Mr. Bacon], and the Senator from New Hampshire [Mr. Gallinger]. I have thought it proper that the Senator from New York [Mr. Root], who is chairman of the Committee on Industrial Expositions, to which the resolution should be referred, should be a member. I have thought it proper that there should be another from the old 13 States, and that the State of Virginia, the birthplace of Thomas Jefferson, should also be represented, and I have named as a member of the committee the Senator from Virginia [Mr. Martin]. It is thought that four from the territory that was acquired should be named, and I have named the Senator from Iowa [Mr. CUMMINS], the Senator from Minnesota [Mr. Nelson], and it is thought that it is but proper that the two Senators from Missouri should be there as representing a part of the territory to extend proper courtesy to visiting committees, and so Senators REED and STONE have been named as members of the committee.

These suggestions were made by the president of the exposition company and the trustees in conference with Members of the House and the Senate. I introduce the resolution and ask to have it referred to the Committee on Industrial Expositions. The PRESIDENT pro tempore. The resolution will be read

and then referred.

The resolution (S. Res. 407) was read, as follows:

The resolution (S. Res. 407) was read, as follows:

Whereas the president of the Louisiana Purchase Exposition Co. has informed the Senate that with the approval of Congress, as expressed by an act of March 4, 1909, the Louisiana Purchase Exposition has erected upon the site of the world's fair in the city of St. Louis a memorial to Thomas Jefferson, at a cost of \$450,000, in commemoration of the acquisition of the Louisiana Territory; and Whereas this statue of Mr. Jefferson is to be unveiled and dedicated on the one hundred and tenth anniversary of the signing of the Louisiana purchase treaty, the 30th of April, 1913; and Whereas the trustees in charge of this great memorial have, through the president of the exposition company, requested the presence of a committee of the United States Senate to participate in the dedicatory services on the day named: Therefore be it

*Resolved**. That a committee of Senators, to be composed of Mr.

Resolved, That a committee of Senators, to be composed of Mr. Root of New York, chairman of the Committee on Industrial Expositions; Mr. Bacon of Georgia and Mr. Gallinger of New Hampshire, the Presidents pro tempore of the Senate; Mr. Martin of Virginia, Mr. Cummins of Iowa, Mr. Reed of Missouri, Mr. Nelson of Minnesota, and Mr. Stone of Missouri, be appointed to attend and represent the Senate in the unveiling and dedication of said memorial.

Mr. CULLOM. I suggest to the Senator that we had as well

pass the resolution now.

Mr. SWANSON. Mr. President, if there is no objection I ask unanimous consent for the present consideration of the resolution

Mr. BRISTOW. Let me inquire if it calls for an expenditure of money?

Mr. SWANSON. I presume it will involve an expenditure. Mr. BRISTOW. Then, it ought to go to the committee.

Mr. LODGE. It must, under the law.

Mr. BRISTOW. It must go there.
Mr. CLARKE of Arkansas. Then, it must go to the Committee on Contingent Expenses.

The PRESIDENT pro tempore. There is no provision about money in the resolution.

Mr. PENROSE. There is no provision about money in it. Mr. CULLOM. Then we might as well pass it. Mr. SWANSON. If the Senator from Kansas objects, it must necessarily go to the committee.

Mr. CULBERSON. I understand the resolution does not

make an appropriation.

The PRESIDENT pro tempore. It does not.
Mr. CULBERSON. It is not necessary to refer it, then.
Mr. LODGE. Does it make a charge on the contingent fund? The PRESIDENT pro tempore. It does not.

Mr. STONE. I think the resolution had better be referred. The PRESIDENT pro tempore. The resolution will be re-

ferred to the committee.

Mr. CLARKE of Arkansas. Did the Chair indicate to what committee it should be referred? I did not catch that part

The PRESIDENT pro tempore. The Senator from Missouri suggests that it should be referred. Of course, one objection would necessitate a reference.

to the Committee to Audit and Control the Contingent Expenses of the Senate. If the policy of passing it at all is to be considered, I presume the Committee on Industrial Expositions would be the committee to which it should be referred.

The PRESIDENT pro tempore. There is no provision in the

resolution for an expenditure. Mr. CULLOM. None at all. What.

Mr. CLARKE of Arkansas. Then it should go to that committee.

The PRESIDENT pro tempore. The resolution will be referred to the Committee on Industrial Expositions.

COMMERCIAL ORGANIZATIONS AND AGRICULTURAL ASSOCIATIONS.

Mr. NELSON. I submit a resolution, and ask for its present consideration.

The resolution (S. Res. 406) was read, as follows:

Resolved, That the Secretary of Commerce and Labor is hereby directed to furnish to the Senate not later than February 15, 1913, a list of National, State, and local commercial organizations, also National, State, and local agricultural associations, and that 1,500 copies be printed for the use of the Senate.

Mr. NELSON. Mr. President, I wish to make a word of ex-

planation in reference to the resolution.

In 1906 Senator Frye secured the passage of a resolution of this kind calling upon the Interstate Commerce Commission to furnish the information, which the Interstate Commerce Commission did furnish. The other day I introduced a resolution similar to that of Senator Frye, calling upon the Interstate Commerce Commission to furnish similar information to that which it did in 1907. I have ascertained that the Interstate Commerce Commission has not kept up the data since that time, but that all the data is now in the possession of the Department of Commerce and Labor, who can readily furnish it without any trouble, while the Interstate Commerce Commission is not in the shape it was then.

I therefore ask for the adoption of the resolution.

The PRESIDENT pro tempore. The Senator from Minnesota asks for the present consideration of the resolution. Is there objection?

There being no objection, the resolution was considered by unanimous consent, and agreed to.

OMNIBUS CLAIMS BILL.

The PRESIDENT pro tempore. The morning business is closed.

Mr. CRAWFORD. I move that the Senate resume the consideration of House bill 19115, known as the omnibus claims bill

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3,

1887, and commonly known as the Bowman and the Tucker Acts.

The PRESIDENT pro tempore. The pending amendment is one offered by the Senator from Massachusetts [Mr. Lodge], which will be read.

The Secretary. It is proposed to add, at the end of section 1, the following items:

Velma C. Williams, administrator of the estate of Paul Curtis, \$4,128.39. George T. Sampson, survivor of the firm of George T. and Augustus Sampson, \$4,015.38.

Mr. LODGE. Mr. President, I stated yesterday the general character of these claims, based on awards of the Selfridge Board, and I do not know that it is necessary for me to say anything further in regard to them.

Mr. CRAWFORD. Mr. President, the amendment offered by the Senator from Massachusetts and one or two other amendments of the same character growing out of the same condi-tions were proposed and printed and referred to the Committee on Claims during the last session of Congress. These amend-ments or claims which they describe were carefully examined and the committee declined to accept them or incorporate them into the bill.

The Senator from Massachusetts in his remarks yesterday and in what he has said this morning refers to the findings of what is known as the Selfridge Board as an award. I do not understand that they can be called an award. These claims grew out of contracts between certain companies and individuals and the Government that were in execution during the Civil War. They were, I think all of them, connected with contracts for building paddle-wheel and side-wheel boats to act as auxiliary boats in connection with the Navy.

There is no pretense whatever that there was any violation Mr. CLARKE of Arkansas. As to the character of the reference, if it calls for an expense to be paid out of the contingent fund of the Senate it must, under the statute, be referred but in addition to that they allowed considerable sums of money to contractors for extras for things that were shown to have been done or furnished that were not required under the contract, and the Government paid for those.

It appeared after the war was over that these contractors had lost money. Well, many a contractor with the Government, I presume, has made money, and many a contractor who erred in his judgment about the conditions and costs has lost money. One of the claims made by these people was that after they entered into these contracts, and in the execution of the work under them the cost of the labor and the cost of the materials increased, and as an incident to that increase in cost they had to pay more for labor and materials than they contem-

plated originally, and that, consequently, they lost money.

All that was done upon which it is claimed an award was made was that in 1865, about the close of the war, a board was created, of which Admiral Selfridge was the chairman, called the Selfridge Board. All in the world this board undertook to do was to inquire into the question of whether or not these contractors did lose money, and if the board found that they had lost money or claimed to have lost money, they reported to Congress the amount of their loss. That is all this inquiry was for, that was the scope fixed by the act for the inquiry to ascertain whether or not the contractors lost money, and if so, how much—nothing more. There was no authority to make an award which would be in the nature of a legal liability against the Government of the United States; there was absolutely nothing of that sort.

The Selfridge Board investigated these several claims and found that these contractors lost such and such sums of money, not that the Government had violated in any degree its contract with them, not that the Government had failed in a single iota to pay its legal obligation to them not only for the work done under the original contract but in the way of recompensing them for the extras furnished. That was found to have been the fact; but the board found that the contractors had lost money. If we appropriate money to pay for the misfortunes of contractors who lost money in executing contracts, our obligation will extend to more people than those included within the findings of the Selfridge Board. Here in recent years, down as late as 1902, and some later than 1902, these claims were sent over to the Court of Claims by resolution of Congress in con-nection with bills. What did the Court of Claims do with them? The Court of Claims did nothing more than simply to recite the original creation of the board, the execution of the contract, and incorporate the findings of the Selfridge Board; The Court of Claims has, in other words, added that is all. nothing to what we knew before the claim was sent there, because they have simply recited the proceedings of the Selfridge Board.

I want to call attention, now, to another thing. It is incidental, and it in no way reflects upon the claims offered by the I want to call attention, now, to another thing. It is inclental, and it in no way reflects upon the claims offered by the Senator from Massachusetts [Mr. Loose], but it shows how advantage is taken of the Government whenever there is any opportunity to do it. In one of these claims, that of the Portland company, of Portland, Me., they got in some way an appropriation them into one of the general appropriation bills and got it through Congress, appropriating some \$80,000 to pay that company, and Congress put an express provision into the bill or into the appropriation that it should only be paid upon the execution of a release of the claim in full. How they got the appropriation through I do not know; but they did. It had however, as I have stated, the condition attached to it that it should only be paid upon the execution of a release by the calmants of the claim in full. They drew the money and executed a release, and now here is an amendment pending where these people are asking that we give them the other 20 per cent. It is another evidence of the wonderful energy and the lack of anything like modesty on the part either of the claimants or the attorneys who have pushed the matter of trying to get another? 20 per cent in the face of an absolute release of the claim. The attorneys who have pushed the matter of trying to get another? 20 per cent in the face of an absolute release of the claim. The attorneys who have pushed the matter of trying to get another? 20 per cent in the face of an absolute release of the claim. The attorneys who have pushed the matter of trying to get another? 20 per cent in the face of an absolute release of the claim. The attorneys who have pushed the matter of trying to get another? 20 per cent in the face of an absolute release of the claim. The attorneys who have pushed the matter of trying to get another? 20 per cent in the face of an absolute release of the claim. The attorneys who have pushed the matter of trying to get another? 20 per cent after executing that release. I say t

\$602.92, to a man named Eddy who, while a sergeant in the Union Army, was detailed to perform the duties of a telegraph operator and thereby shut off from promotion. from New York made the statement that the bill in reference to that claimant had already passed the Senate. I knew it had at one time been pending before the Committee on Claims, but I had the impression that it had not been reported or that if acted on at all the action had been adverse. I must say, however, that when I went to my committee room and had the matter looked up I found that there had been a favorable report at the last session of Congress made on that bill by the Senator from Kentucky [Mr. Bradley], and that it had passed this body. I only state that to put myself right before the Senate. I do not know that I was wrong. I simply did not remember the bill having been acted upon; but so that the Senate may know the actual facts in relation to it—that is, that it was reported favorably from the Committee on Claims and passed the Senate last spring-I now make the statement. The Senator from New York is not here. If that amendment proposed by him may await his return, I think we may then submit it to the Senate.

Mr. GALLINGER. I have a small longevity claim, which I submit as an amendment to the bill.

The PRESIDING OFFICER. The Secretary will state the amendment.

The Secretary. It is proposed, on page 232, after line 9, to insert:

To John M. Wilson, of Washington, \$3,493.25.

Mr. GALLINGER. Mr. President, the findings of the Court of Claims in this case are unqualified, showing that this money, is due Gen. Wilson. I ask that the findings may be inserted in the RECORD if the amendment is agreed to.

Mr. CRAWFORD. Is that for the period of his cadetship?

Mr. GALLINGER. It is.

Mr. CRAWFORD. Then it is absolutely within the class of the other claims.

Mr. GALLINGER. Yes; it is. Mr. CRAWFORD. And it may go in the bill. I ask that the findings in the case may be printed.

Mr. GALLINGER. I have asked that they be printed. The PRESIDING OFFICER. It will be so ordered, in the

absence of objection. The matter referred to is as follows:

[Court of Claims. Congressional, No. 15513. John M. Wilson v. The United States.]

STATEMENT OF CASE.

The following bill was referred to the court by the Committee on War Claims of the House of Representatives on the 3d day of August, 1911, under the act of March 3, 1883, known as the Bowman Act:

"[H. R. 13057, Sixty-second Congress, first session.]

"A bill for the relief of John M. Wilson, United States Army, retired.

"* * the actual time of service in the Army and Navy, or both, shall be allowed all officers in computing their pay." (Act of Feb. 24, 1881; 21 Stat. L., p. 346.)

In the settlement of claimant's accounts, the acounting officers of the Treasury did not count his service at the Military Academy from July 1, 1855, to July 1, 1860, in computing his longevity pay and allowances for services prior to February 24, 1881.

That upon the construction of the act of July 5, 1838, by the Supreme Court of the United States, in the case of United States against Watson (130 U. S., 80), application was made to the proper accounting officers of the Treasury for a settlement of the longevity pay and allowances due the claimant in accordance with said decision, and, under the rulings then in force, said claim was disallowed December 22, 1890.

That upon the revocation of the ruling of the comptroller that service as a cadet could not be counted in computing longevity pay and allowances for service prior to February 24, 1881, May 18, 1908, claimant made application to the accounting officers of the Treasury for settlement of the longevity pay and allowances due under the act of July 5, 1838, but, October 20, 1909, the Auditor for the War Department refused to reconsider the settlement of 1890.

That by this action of the accounting officers there has been withheld from the claimant the sum of \$3,500, which is justly due.

That this claim has not been paid, assigned, or transferred, in whole or in part, and that claimant has all his life been loyal to the Government of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

_ 4, 066. 06

572. 81 Leaving a balance of _____ _ 3, 493, 25 BY THE COURT.

Filed May 6, 1912. A true copy. Test this 9th day of May, 1912.

JOHN RANDOLPH, Assistant Clerk Court of Claims.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from New Hampshire [Mr. Gal-LINGER].

The amendment was agreed to.

Mr. LODGE. I desire to offer as an amendment to the bill an amendment covering what are known as the French spollation claims. The Senator from South Dakota [Mr. Crawford], I understand, has this morning presented certain amendments to my amendment, and asked that they be printed. Of course, I do not know that I have any objection to those amendments, and very likely I shall accept them.

Mr. CRAWFORD. I want to state to the Senator from Massachusetts that in doing so I was not acting as the repre-

sentative of the committee.

Mr. LODGE. I understand that.

Mr. CRAWFORD. I simply offered, as a Member of the Senate, an amendment intended to be proposed to the amend-

ment of the Senator from Massachusetts.

Mr. LODGE. Until those amendments are printed and before the Senate it is impossible to deal with this amendment comprehensively or intelligently. I should like to say, Mr. President, that I have no desire to delay the Senate by a protracted discussion of this question, which is a large one and which has been discussed many times. Of course, if it is to be debated, I shall try to make the best case I can for it, and I think it is a very strong one, but I should like to have the amendment read. It could be read to-day and then go over until the morning, by which time the amendment of the Senator from South Dakota will be printed. I send the amendment to the desk to be read.

The PRESIDING OFFICER. The Secretary will read the proposed amendment.

The Secretary. It is proposed to add at the end of section the following:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to claimants named in this act the several sums appropriated herein, the same being in full for and the receipt of the same to be taken and accepted in each case as a full and final release and discharge of their respective claims, namely:

FRENCH SPOLIATION CLAIMS.

To pay the findings of the Court of Claims on the following claims for indemnity for spoliations by the French prior to July 31, 1801, under the act entitled "An act to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the 31st day of July, 1801," approved January 20, 1885; Provided, That in all cases where the original sufferers were adjudicated bankrupts the awards shall be made on behalf of the next of kin instead of to assignees in bankruptcy, and that awards in the cases of individual claimants shall not be paid until the Court of Claims shall certify to the Secretary of the Treasury that the personal representatives on whose behalf the awards are made represent the next of kin, and the courts which granted the administrations, respectively, shall have certified that the legal representatives have given adequate security for the legal disbursements of the awards, namely:

On the vessel schooner Hetty, William Manson, master, namely:
Payton S. Coles and David Stewart, administrators of John Stricker, 31,905.

curity for the legal disbursements of the awards, namely:
On the vessel schooner Hetty, William Manson, master, namely:
Payton S. Coles and David Stewart, administrators of John Stricker,
\$1,905.
On the vessel ship Washington, Aaron Foster, master, namely:
Lucy Franklin Read McDonnell, executrix, etc., of George Pollock,
surviving partner of Hugh Pollock & Co., \$980.
On the vessel shop of Two Friends, Peter Pond, master, namely:
George G. Sill, administrator of Peter Pond, \$925.25.
Charles F. Adams, administrator of Orevell Hatch, \$1,000.
Seth P. Snow, administrator of Crowell Hatch, \$1,000.
George G. Sill, administrator of William Leavenworth, \$1,199.25.
On the vessel ship Sally Butler, Alexander Chisolm, master, namely:
Archibald Smith, administrator de bonis non of the estate of James
Seagrove, deceased, \$6,311.41.
On the vessel brig Neptune, Hezekiah Flint, master, namely:
David Pingree, administrator of Thomas Perkins, deceased, \$409.34.
Francis M. Boutwell, administrator of John McLean, deceased, \$500.
Arthur D. Hill, administrator of Benjamin Homer, deceased, \$1,000.
On the vessel ketch John, Henry Tibbetts, master, namely:
Hasket Derby, administrator of Ellas Hasket Derby, \$12,962.02.
On the vessel ship Ceres, Roswell Routh, master, namely:
Donald G. Perkins, administrator of Johne S Dunham, \$22,822.
Donald G. Perkins, administrator of Johnes D Dunham, \$20,03.44.
Examely Willed, administrator of Johnes D Dunham, \$20,03.44.
Examely Willed, administrator of Johnes D Dunham, \$20,03.44.
Examely Willed, administrator of Johnes D Dunham, \$30,03.44.
Examely Willed, administrator of Thomas Perkins, \$300.
On the vessel brig Eliza, Thomas Woodbury, ir, master, namely:
Arthur L. Huntington, administrator of William Orne, \$29,792.46.
Bayard Tuckerman, administrator of Thomas Amory, \$1,000.
Archibald M. Howe, administrator of William Orne, \$29,792.46.
Bayard Tuckerman, administrator of John B. Bowne, \$250.
Sarah L. Farnum, administrator of John B. Bowne, \$250.
Sarah L. Farnum, administrator of John B. Bowne, \$250.
O

ner of the firm of David Stewart & Sons, \$6,766.50.

Ellzabeth Campbell Murdock, administratrix of Archibald Campbell, \$6,766.50.

Elizabeth H. Penn, administratrix of Thomas Higinbotham. \$3,800. Nicholas L. Dashiell, administrator of Henry Dashiell, \$1.570. On the vessel sloop Geneva, Glles Savage, master, namely: Charles F. Adams, administrator, etc., of Peter C. Brooks, \$1,300. George G. King administrator, etc., of Crowell Hatch, \$800. Thomas N. Perkins, administrator, etc., of John C. Jones, \$700. Francis M. Boutwell, administrator, etc., of John C. Jones, \$700. Margaret R. Riley, administrator, etc., of Luther Savage, surviving partner of the firm of Riley, Savage & Co., \$4,850.

On the vessel ship Aurora, Stephen Butman, master, namely: Charles Francis Adams, administrator of Peter C. Brooks, \$2,500. Frank Dabney, administrator of John Duballet, \$1,000. George G. King, administrator of John Duballet, \$1,000. George G. King, administrator of Crowell Hatch, \$600. William S. Perry, administrator of Nicholas Gilman, \$1,000. John W. Apthorp, administrator of Caleb Hopkins, \$1,500. Edward I. Browne, administrator of Moses Brown, \$400. Walter Hunnewell, administrator of Arnold Welles, jr., \$300. Nathan Matthews, administrator of Nathaniel Fellowes, \$500. Daniel D. Slade, administrator of Daniel D. Rogers, \$500. Walter Hunnewell, administrator of John Welles, \$300. William S. Carter, administrator of John Welles, \$300. William S. Carter, administrator of John Brazer, \$400.

A. H. Loring, administrator of William Boardman, \$105. Lawrence Bond, administrator of Nathan Bond, \$400. On the vessel ship Jame, James Barron, master, namely: James L. Hubard, administrator of the estate of William Pennock, On the vessel ship Jane, James Barron, master, namely;
James L. Hubard, administrator of the estate of William Pennock,
\$4,601.67.
On the vessel schooner Amelia, Timothy Hall, master, namely;
Julius C. Cable, administrator of William Walter, \$1,160.
On the vessel brig Isabella and Ann, William Duer, master, namely;
Alexander Proudift, administrator of Robert Ralston, \$2,716.50.
On the vessel schooner Zlipha, Samuel Briard, master, namely;
Sarath N. Burleigh, administrator, etc., estate of Samuel Briard,
\$5,236.24.
Joseph H. Thacher, administrator estate of John Wardrobe, \$5,236.24.
On the vessel sloop Abigail, Silas Jones, master, namely;
Brooks Adams, administrator of Peter C. Brooks, \$700.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, \$800.
On the vessel schooner Active, Patrick Drummond, master, namely;
William D. Hill, administrator of Mark L. Hill, \$1,640.02.
On the vessel ship Bristol. Edward Smith, master, namely;
Caroline A. Woodard and Frank Woodard, administrators of Thomas
Smith, \$6,590.
On the vessel schooner Brothers, James Vinson, master, namely;
David Stewart, administrator of James Jaffray, \$6,488.
Mary Jane Thurston, administrative of John Hollins, \$490.
Edward C. Noyes and David Stewart, administrators of James Clarke,
\$490.
Cumberland Dugan, administrator of Cumberland Dugan, \$490.
David Stowart administrator of William Wood in, \$735. On the vessel schooner Brothers, James Ynmen, maser, namely:
David Stewart, administrator of James Jaffray, \$6,488.
Mary Jane Thurston, administrativ of John Hollins, \$490.
See and David Stewart, administrator of James Clarke, \$400.
Cumberland Dugan, administrator of Cumberland Dugan, \$490.
David Stewart, administrator of William Wood, ir., \$735.
Charles J. Bonaparte, administrator of Benjamin Williams, \$490.
J. Savage Williams, administrator of Benjamin Williams, \$490.
J. Savage Williams, administrator of Samuel Williams, \$490.
On the vessel ship Chace, Thomas Johnston, master, namely:
George G. King, administrator of James Tisdale, \$18,947.
On the vessel ship Chace, Thomas Johnston, master, namely:
George G. King, administrator of James Tisdale, \$18,947.
On the vessel ship belaware, James Dunphy, master, namely:
C. D. Vasse, administrator of Ambrose Vasse, \$814.62.
William D. Squires, administrator of Henry Pratt, surviving partner of Pratt & Kinizing, \$191.65.
J. Bayard Henry, administrator of Andrew Pettit, surviving partner of Pettit & Bayard, \$182.10.
George W. Guthle, administrator of Alexander Murray, surviving partner of Samara, administrator of John Miller, fr., \$182.10.
J. Albert Smyth, administrator of John Miller, fr., \$182.10.
J. Albert Smyth, administrator of Joseph Summerl, surviving partner of Summerl & Brown, \$153.44.
Charles Prager, administrator of Mark Prager, jr., surviving partner of Prager & Co., \$191.64.
William Brooke Waln, administrator of John Savage, \$141.86.
Francis R. Pemberton, administrator of Seephen Girard, \$28.65.
On the vessel brig Eleanor, George Price, m David Stewart and Isabella Rutter, administrators of Thomas Rutter, \$980.

Nathaniel Morton, administrator of Nathaniel Morton, for and on behalf of the firm of Bedford & Morton, \$980.

Katharine S. Montell, administratrix of Robert McKim, \$980.

David Stewart, administrator of William Lorman, \$980.

Louisa T. Carroll, administratrix of William Van Wyck, \$320.

On the vessel sloop Flora, Francis Bourn, master, namely:
George F. Chace, administrator of James Chace, \$662.04.

On the vessel schooner Huldah, Robert Strong, master, namely:
Edmond D. Codman, administrator, etc., of William Gray, jr., \$2,000.

Brooks Adams, administrator, etc., of Peter C. Brooks, \$700.

A. Lawrence Lowell, administrator, etc., of Nathaniel Fellowes, \$800.

On the vessel brig Jane, Robert Knox, master, namely:
Crawford D. Hening, administrator of James Crawford, surviving partner of James Crawford & Co., \$3,868.

On the vessel brig Jason. Edward Smith, master, namely:
James Emerton, administrator of Benjamin West, \$2,374.89.
Ferdnand C. Latrobe, receiver of Aquila Brown, John Sherlock, and George Grundy, representing all the partners underwriting in the Marine Insurance Office, \$5.850.

On the vessel brig Jason, James Scott, jr., master, namely:
James F. Adams, administrator of Seth Adams, \$11,439.12.

James F. Adams, administrator of Seth Adams, assignee of Thomas Dickason. jr., William C. Martin, James Scott, William Boardman, Arnold Welles, Arnold Welles, jr., and John Brazer, \$10,275.83, the

same not being an assigned claim within the meaning of this act, but an asset transferred by the assignors hereinbefore named to Seth Adams prior to the ratification of the treaty of September 30, 1800.

Brooks Adams, administrator of Peter C. Brooks, \$1,500.
On the vessel ship Liberty, William Caldwell, master, namely:
Crawford Dawes Henning, administrator of James Crawford, \$8,900.
On the vessel brig Little John Butler, James Smith, jr., master, namely: Crawford Dawes Henning, administrator of James Crawford, \$8,390. On the vessel brig Little John Butler, James Smith, jr., master, namely:

Sarah E. Conover, administratrix of John Reed, surviving partner of Reed & Forde, \$8,139,34.

Samuel A. Custer, administrator of Joseph Ball, \$588.

Sarah Leaming, administrator of Joseph Ball, \$588.

Sarah Leaming, administrator of Thomas Murgatroyd, for and on behalf of the firm of Thomas Murgatroyd & Sons, \$980.

Henry Petitl, administrator of Andrew Petitl, surviving partner of Petitl & Payard, \$588.

William D. Squires, administrator of Henry Pratt, surviving partner of Pratt & Kintzing, \$588.

Francis Brooke Rawle, administrator of Josse Waln, \$980.

James Crawford Dawes, administrator of Abijah Dawes, \$400.

Cyrus T. Smith, administrator of William Jones, surviving partner of Jones & Clarke, \$588.

Augustus J. Pleasanton, administrator of Joseph Dugan, surviving parner of Savage & Dugan, \$490.

Francis A. Lewis, administrator of Peter Blight, \$980.

Benjamin M. Hartshorne and Charles N. Black, executors of Richard Hartshorne, surviving partner of Khinelander, Hartshorne & Co., \$2,450.

John A. Foley, administrator of John Shaw, \$980.

George W. Guthrie, administrator of Alexander Murray, surviving George W. Guthrie, administrator of Alexander Murray, surviving Hartshorne, surviving partner of Rhinelander, Harthshorne & Co., \$2,450.

John A. Foley, administrator of John Shaw, \$980.
George W. Guthrie, administrator of Alexander Murray, surviving partner of Miller & Murray, \$588.

Thomas W. Ludlow, administrator of Thomas Ludlow, \$490.
Walter S. Church, administrator of John B. Church, \$1,960.
John L. Rutgers, surviving executor of Nicholas G. Rutgers, surviving partner of Benjamin Seaman & Co., \$490.
Frances R. Shaw, administrator of Nicholas G. Rutgers, surviving partner of George Knox & John C. Shaw, for and on behalf of the firm of George Knox & John C. Shaw, \$490.
Henry E. Young, administrator of William Craig, surviving partner of Henry Sadler & Co., \$490.
Elijah K. Hubrard, administrator of Jacob Sebor, \$490.
Walter Bowne, administrator of Walter Bowne, \$245.
Louisa A. Starkweather, administrativ of Richard S. Hallett, \$245.
Julia Battersby, administrator of George Scriba, for and on behalf of the firm of George Scriba & William Henderson, \$490.
On the vessel schooner Lovely Lass, William Moore, master, namely: George H. Barrett, administrator of John Foster, deceased, \$4,630.
C. Whittle Sams, administrator of Francis Whittle, deceased, \$300.
R. Manson Smith, administrator of Francis Smith, deceased, \$300.
James L. Hubard, administrator of William Pannock, deceased, \$300.
Bassett A. Marsden, administrator of Benjamin Pollard, deceased, \$200.
On the vessel ship Madison, Samuel Hancock, master, namely: R. Manson Smith, administrator of William Pannock, deceased, \$300. Barsett A. Marsden, administrator of William Pannock, deceased, \$200. Bassett A. Marsden, administrator of Benjamin Pollard, deceased, 000. On the vessel ship Madison, Samuel Hancock, master, namely: Hichard S. Whitney, administrator of John Skinner, ir., \$9,274. On the vessel brig Paneda, Samuel Colby, master, namely: Hichard S. Whitney, administrator of John Skinner, ir., \$9,274. On the vessel brig Paneda, Samuel Colby, master, namely: Hard V. R. Virgin, administrator of Josiah Cox, \$1,483.48. Henry B. Cleaves, administrator of William Chadwick, \$1,883.48. Bassett A. Marsden, administrator of Benjamin Pollard, \$495.42. Joseph S. Webster, administrator of Thomas Webster, \$200. Sarah H. Southwick, administrator of Senduel F. Hussey, surviving partner of the firm of Hussey, Tabor & Co., \$600. Harry R. Virgin, administrator of Jonathan Stevens and Thomas Hovey, composing the firm of Stevens & Hovey, \$200. Harry R. Virgin, administrator of Jonathan Stevens and Thomas Hovey, composing the firm of Stevens & Hovey, \$200. Harry R. Virgin, administrator of Woodbury Storer, \$400. Harry R. Virgin, administrator of Woodbury Storer, \$400. Harry R. Virgin, administrator of Woodbury Storer, \$400. Harry R. Virgin, administrator of William Gray, \$500. On the vessel brig Polly, Joseph Clements, master, namely: Harry R. Virgin, administrator of William Gray, \$300. On the vessel brig Polly, Joseph Clements, master, namely: Harry R. Virgin, administrator of Grobery Hannaford, \$3,347. On the R. Virgin, administrator of Grobery Hannaford, \$3,347. On the William Bowne, \$12,880.

William Bowne, \$12,880. Decea, John B. Thurston, master, namely: Arthur P. Cushing, administrator of James Seott, \$1,064.20. Prodete Dodge, administrator of Thomas H. Perkins, structure of James Seott, \$1,064.20. Prodete Dodge, administrator of Thomas H. Perkins, structure of James Seott, \$1,064.20. Prancis M. Boutwell, administrator of Thomas Anory, \$1,704.70. Charles G. Davis, administrator

On the vessel schooner Union, Micziah Lunt, master, namely:
Status of the vessel schooner Union, Micziah Lunt, master, namely:
Status of the vessel schooner Union, Micziah Lunt, master, namely:
Status of the vessel schooner union of the vessel cook, \$250.
Amos Noyes, administrator of William Cook, \$10.
Amos Noyes, administrator of William Cook, \$10.
Frankin A. Wilson, administrator of William Gray, Jr. \$1,000.
Edmand D. Codman, administrator of William Gray, Jr. \$1,000.
Frankin A. Wilson, administrator of William Gray, Jr. \$1,000.
On the vessel schooner Whim, John Boyd, master, namely:
Fritz II. Jordan, administrator of John Vells, \$3,000.
On the vessel bright William, David Smith, master, namely:
Fritz III. Jordan, administrator of Leonard Smith, \$3,343.66.
Joseph A. Titcomb, administrator of John Vells, \$10.
William A. Hayes, 2d, administrator of John Vells, \$10.
William A. Hayes, 2d, administrator of John Vells, \$10.
Frankin A. Wilson, administrator of John Vells, \$10.
Frankin A. Wilson, administrator of William Cook, \$45.
Adme S. Gerrish, administrator of Jeremiah Nelson, \$45.
Helen A. Pike, administrator of William Cook, \$45.
Adme S. Gerrish, administrator of William Cook, \$45.
Adme S. Gerrish, administrator of William Bartlet, \$1,000.
Augusta H. Chapman, administrator of William Bartlet, \$1,000.
Augusta H. Chapman, administrator of Mellos Bhaper, \$200.
Henry B. Reed, administrator of Andrew Frothingham, \$50.
Henry B. Reed, administrator of Homas Cropper, \$375.
On the vessel slop Anna Corbin, Thomas Justice, master, namely:
William H. Sise, administrator of Thomas Cropper, \$375.
On the vessel slop Anna Corbin, Thomas Justice, master, namely:
Henry G. White, administrator of Homas Cropper, \$375.
On the vessel slop Anna Corbin, Thomas Justice, master, namely:
On the Vessel slop Anna Corbin, Thomas Auguster, namely:
On the Vessel slope Anna Corbin, Thomas Cropper, \$375.
On the Vessel slope Anna Corbin, Thomas Cropper, \$375.
On the Vessel slope Anna Corbin, Thomas Cropper, \$375.
On the Vessel slope Anna Corbin

Edmund D. Codman, administrator of William Gray, \$2,000. Thomas N. Perkins, administrator of John C. Jones, \$500. Frank Dabney, administrator of Samuel W. Pomeroy, \$500. William Ropes Trask, administrator of Thomas Amory, \$250. William G. Perry, administrator of Nicholas Gilman, \$250. On the vessel brig Dove, William McN. Watts, master, namely: George G. King, administrator of Crowell Hatch, \$1,000. Brooks Adams, administrator of Peter C. Brooks, \$3,000. A. Lawrence Lowell, administrator of Nathaniel Fellowes, \$1,000. William R. Trask, administrator of Thomas Amory, \$500. William R. Perry, administrator of Nicholas Gilman, \$500. On the vessel brig Eliza, Christopher O'Conner, master, namely: Samuel Bell, administrator, etc., of John Godfrey Wachsmuth, On the vessel brig Fanny, John Gorld, master, namely:

Samuel Bell, administrator, etc., of John Godfrey Wachsmuth, 2,793.

On the vessel brig Fanny, John Gould, master, namely:
Mary Wise Moody, administratrix of Daniel Wise, \$788.18.
Albert M. Welch, administrator of Thomas Perkins, 3d, \$1,845.
Edmund D. Codman, administrator of William Gray, \$1,883.33.
On the vessel sloop Farmer, John Grow, master, namely:
Francis M. Boutwell, administrator of William Marshall, fr., \$2,418.32,
Francis M. Boutwell, administrator of Benjamin Cobb, \$465.
William G. Perry, administrator of Nicholas Gliman, \$930.
Nathan Matthews, jr., administrator of Daniel Sargent, \$465.
Thomas N. Perkins, administrator of John C. Jones, \$465.
Frank Dabney, administrator of Samuel W. Pomeroy, \$465.
James C. Davis, administrator of Samuel W. Pomeroy, \$465.
Arthur D. Hill, administrator of Benjamin Homer, \$465.
William R. Trask, administrator of Benjamin Homer, \$465.
William R. Trask, administrator of James Scott, \$465.
Charles K. Cobb, administrator of Stephen Codman, \$465.
On the vessel schooner Fortune, William Hubbard, master, namely:
Mary W. Moody, administrator of Daniel Wise, \$108.
Edmund D. Codman, administrator of William Gray, \$600.
On the vessel sloop Fox, Nathaniel Dennis, master, namely:
Edmund D. Codman, administrator of William Gray, jr., \$600.
Brooks Adams, administrator of Peter C. Brooks, \$1,000.
George G. King, administrator of Crowell Hatch, \$400.
On the vessel schooner Friendship, William Blanchard, master, amely:
Charles E. Adams, administrator of Peter C. Brooks, \$2,100.

Brooks Adams, administrator of Peter C. Brooks, \$1,000.
George G. King, administrator of Crowell Hatch, \$400.
On the vessel schooner Friendship, William Blanchard, master, namely:
Charles F. Adams, administrator of Jacob Sheafe, \$500.
Thomas N. Perkins, administrator of Jacob Sheafe, \$500.
Thomas N. Perkins, administrator of Jacob Sheafe, \$500.
Thomas N. Perkins, administrator of John C. Jones, \$700, James C. Davis, administrator of Cornelius Durant, \$500.
Frank Dabney, administrator of Samuel W. Pomercy, \$500.
George G. King, administrator of James Scott, \$500.
William G. Perry, administrator of Incholas Gliman, \$500.
On the vessel brig George, Jacob Greenleaf, master, namely: Helen N. Pike, administratirs of John Pettingel, \$5,153.03.
Joseph W. Thompson, administrator of David Coffin, \$100.
Joseph L. Wheelwright, administrator of Moses Savory, \$200.
James S. Gerrish, administrator of Joseph Marquand, \$100.
George Otis, administrator of Joseph Marquand, \$100.
Amos Noyes, administrator of Joseph Marquand, \$100.
Amos Noyes, administrator of Villiam Cook, \$100.
Eben F. Stone, administrator of William Boardman, \$100.
Henry B. Reed, administrator of William Boardman, \$100.
Lither I. Moore, administrator of Joseph Thopas, \$100.
Frankin A. Wilson, administrator of Joseph Thopas, \$100.
Frankin A. Wilson, administrator of Joseph Thopas, \$100.
Frankin A. Wilson, administrator of John Pearson, ir. \$300.
Jeremiah Nelson, administrator of John Pearson, ir. \$300.
Frankin A. Wilson, administrator of John Pearson, ir. \$300.
Jeremiah Nelson, administrator of John Pearson,

\$2,000.

On the vessel schooner Honor, William Kimball, master, namely: Charles F. Adams, administrator of Peter C. Brooks, \$2,000.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, \$475.
George G. King, administrator of James Tisdale, \$380.
Francis M. Boutwell, administrator of Joseph Cordis, \$380.
George G. King, administrator of Crowell Hatch, \$475.
On the vessel brig Hope, Joseph Bright, master, namely:
E. Francis Riggs, administrator of James Lawrason, deceased, surviving partner of Shreve & Lawrason, \$749.50.
Lawrence Stabler, administrator of William Hartshorne, deceased, remaining partner of William Hartshorne & Sons, \$3,345.

D. Fitzburth Savage, administrator of John Savage, \$490.

Prancis A. Lowis, administrator of Peter Bilkh, \$490.

Charles McCafferty, administrator of Peter Bilkh, \$490.

Sarah Leming, administrator of Thomas Murgarroyd, \$490.

J. Bayard Henry, administrator of John Learny, \$490.

Francis R. Pemberton, administrator of John Clifford, surviving part of Lowns and John Clifford, Wachsmuth, \$490.

Crawford D. Hening, administrator of John Clifford, surviving partner of James Crawford & Co., \$490.

Crawford D. Hening, administrator of James Crawford, surviving partner of James Crawford & Co., \$490.

Crawford D. Hening, administrator of James Crawford, surviving partner of James Crawford & Co., \$490.

Crawford D. Hening, administrator of John Clifford, surviving partner of James Crawford & Co., \$490.

Crawford D. Hening, administrator of John C. Jones, \$1,000.

Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey & Russell, \$1,000.

Thomas N. Perkins, administrator of John C. Jones, \$1,000.

On the King, administrator of Crowell Hate, \$1,000.

On the Matthews, administrator of John C. Jones, \$1,000.

On the Matthews, administrator of John C. Jones, \$1,000.

William G. Perry, administrator of John C. Jones, \$1,000.

William G. Perry, administrator of Nicholas Gliman, \$600.

Edward I. Browne, administrator of Supraministrator, \$1,000.

A Lawrence Lowell, administrator of William H. Boardman, \$400.

David G. Haskins, administrator of William H. Boardman, \$400.

David G. Haskins, administrator of William H. Boardman, \$400.

David G. Haskins, administrator of William H. Boardman, \$400.

A Lawrence Lowell, administrator of William Browne, administrator of William H. Boardman, \$400.

On the vessel sloop James, Robert Palmer, master, namely: George Meade, administrator of William H. Boardman, \$400.

On the vessel shooner Jonny, George Walker, master, namely: George G. King, administrator of William Stephens, \$851.50.

William S. Comstock, administrator of John Stephens, \$851.50.

On the vessel schoo deceased, \$3,960.
William I. Monroe, administrator of the estate of John Brazer, deceased, \$115 William I. Monroe, administrator of the estate of John Brazer, deeased, \$115
On the vessel schooner Neptune, Comfort Bird, master, namely;
Brooks Adams, administrator of Peter C. Brooks, \$2,129,08.
George G. King, administrator of Crowell Hatch, \$851,63.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, \$425.82.
Thomas N. Perkins, administrator of John C. Jones, \$600.
Frank Dabney, administrator of Samuel W. Pomeroy, \$600.
William S. Carter, administrator of William Smith, \$532.
John Lowell, administrator of William Smith, \$532.
Francis M Boutwell, administrator of John McLean, \$266.
Samuel Abbott Fowle, administrator of George Makepeace, \$489.86.
On the vessel brig Peggy, John Hourston, master, namely:
Charles F. Mayer, administrator of Henry Konig, \$3,797.87.
On the vessel schooner Rebecca, Mildmay Smith, master, namely:
Lewis Christian Mayer, administrator of Christian Mayer, \$8,779.77.
Unithe vessel schooner Sally, Timothy Davis, master, namely:
Charles F. Trask, administrator of Samuel Babson, \$2,600.
On the vessel ship Sarah, Joseph Breck, master, namely:
Brooks Adams, administrator of Peter C. Brooks, \$1,174.60.
Thomas N. Perkins, administrator of Benjamin Cobb, \$167.80.
Francis M. Boutwell, administrator of Homas English, \$83.90.
Arthur P. Cushing, administrator of John Walter, \$83.90.
Morton Prince, administrator of James Prince, \$83.90.
Morton Prince, administrator of Daniel Sargent, \$116.20.

Daniel W. Waldron, administrator of Jacob Sheafe, \$83.
Charles K. Cobb, administrator of Stephen Codman, \$83.
George G. King, administrator of James Scott, \$83.
Edward I. Browne, administrator of James Scott, \$83.
Edward I. Browne, administrator of James Scott, \$83.
Arthur D. Hill, administrator of John May, \$83.
John O. Shaw, administrator of John May, \$83.
Henry W. Edes, administrator of John May, \$83.
John O. Shaw, administrator of John May, \$83.
William Ropes Trask, administrator of Thomas Amory, \$166.
H. Burr Crandall, administrator of Thomas Cushing, \$66.40.
Jonathan I. Bowditch, administrator of Benjamin Pickman, \$83.
Arthur T. Lyman, administrator of Theodore Lyman, \$83.
Charles K. Cobb, administrator of John Codman, \$166.
Elisha Whitney, administrator of Nicholas Gilman, \$166.
Elisha Whitney, administrator of Thomas Stephens, for and on behalf of the firm of John and Thomas Stephens, \$99.60.
John Lowell, administrator of Tuthill Hubbart, \$83.
Frank Dabney, administrator of Samuel W. Pomeroy, \$166.
W. Rodman Peabody, administrator of Daniel D. Rogers, \$132.80.
On the vessel shoop Scrub, John Russell, master, namely:
Newton Dexter, administrator of the estate of Joseph Martin, decased, \$300.
William P. Dexter, administrator of John C. Jones, \$400.
Morton Prince, administrator of John C. Jones, \$400.
Worthon Prince, administrator of John C. Jones, \$400.
On the vessel schooner Sylvanus, Edward D. Baker, master, namely:
Nathan Matthews, jr., administrator of John C. Jones, \$1,700.
Charles K. Cobb, administrator of Stephen Codman, \$700.
William G. Perry, administrator of Nicholas Gilman, \$700.
William G. Perry, administrator of John Lovett, \$300.
John Lowell, jr., administrator of John Lovett, \$300.
On the vessel schooner Syren, Jared Arnold, master, namely:
Charles J. Bonaparte, administrator of Benjamin Williams, \$3,064.58.
David Stewart, administ William O. McCobb, administrator of the estate of Joseph Campbell, \$1,111.11. \$1,11.11.
Jennie E. McFarland, administratrix of the estate of Ephraim McFarland, \$483.96.
Francis M. Boutwell, administrator of the estate of Benjamin Cobb, jr., \$500.
Archibald M. Howe, administrator of the estate of Francis Green, \$500.
William Ropes Trask, administrator of the estate of Thomas Amory, \$500. William Ropes Trask, administrator of the estate of John C. Jones, \$500.

Thomas N. Perkins, administrator of the estate of John C. Jones, \$500.

On the vessel schooner Two Cousins, Elijah Devall, master, namely: Horace E. Hayden, administrator of David H. Conyngham, surviving partner of Conyngham, Nesbit & Co.. \$8,012.13.

On the vessel schooner Unity, J. W. Latouche, master, namely: David Stewart, administrator of Henry Messonnier, \$4,467.08.
On the vessel schooner Venus, Benjamin Hooper, master, namely: Brooks Adams, administrator of Peter C. Brooks, \$2,000.
James S. English, administrator of Thomas English, \$500.
George G. King, administrator of Thomas English, \$500.
Daniel W. Waldron, administrator of Jacob Sheafe, \$500.
Francis M. Boutwell, administrator of John McLean, \$1,000.
Francis M. Boutwell, administrator of John McLean, \$1,000.
Francis M. Boutwell, administrator of John McLean, \$1,000.
W. Rodman Peabody, administrator of Samuel W. Pomeroy, \$1,000.
William G. Perry, administrator of Samuel W. Pomeroy, \$1,000.
William G. Perry, administrator of Thomas Stevens, for and on behalf of the firm of John & Thomas Stevens, \$600.
William R. Trask, administrator of Thomas Stevens, \$600.
Charles K. Cobb, administrator of Thomas Stevens, \$600.
Charles K. Cobb, administrator of Stephen Codman, \$400.
Thomas N. Perkins, administrator of John C. Jones, \$1,900.
A. Lawrence Lowell, administrator of John K. Hill, master, namely: William D. Lee, Thomas D. Lee, Henry A. Lee, Joseph A. Lee, and Virginia Waters, administrators of William Duncan, \$628.71.
On the vessel schooner William Lovel, John K. Hill, master, namely: Francis B. Field, administrator of Francis Bulkley, \$6,843.70.
Robert Ogden Glover, administrator of John Morgan, \$2,268.11.
Benjamin M. Hartshone and Charles N. Black, executors of Richard Hartshorne, surviving partner of William Duncan, \$4200.
Thomas W. Ludlow, administrator of Grancis Bulkley, master, namely: Frederick H. Allen, administrator of Grancis Bulkley, \$6,843.70.
On the vessel schooner Sally, \$500 Thomas N. Perkins, administrator of the estate of John C. Jones, \$500. On the vessel brig Two Brothers, Alexander Forrester namely: Brooks Adams, administrator of Peter C. Brooks, \$2,768.49.

Nathaniel P. Hamlin, administrator of Thomas Perkins, \$369.14.
Walter Hunnewell, administrator of John Welles, \$369.14.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, \$1,107.40.
George G. King, administrator of Nicholas Gliman, \$214.
William G. Perry, administrator of Nicholas Gliman, \$214.
Frank Dabney, administrator of Samuel W. Pomeroy, \$214.
On the vessel schooner Willing Maid, Comfort Bird, master, namely:
George G. King, administrator of Crowell Hatch, \$806.82.
Thomas N. Perkins, administrator of John C. Jones, \$403.41.
Frank Dabney, administrator of Samuel W. Pomeroy, \$403.41.
William S. Carter, administrator of William Smith, \$806.82.
Henry B. Cabot, administrator of Daniel D. Rogers, \$403.41.
A. Lawrence Lowell, administrator of Nathaniel Fellowes, \$1,706.82.
John Lowell, administrator of Tuthill Hubbart, \$403.41.
Charles A. Welch, administrator of William Stackpole, \$403.41.
Charles K. Cobb, administrator of Stephen Codman, \$242.05.
On the vessel schooner Friendship, Patrick Drummond, master, amely:
William D. Hill, administrator of Mark L. HW. \$445.70. John Lowell, administrator of Tuthill Hubbart, \$403.41.
Charles A. Welch, administrator of Stephen Codman, \$242.05.
On the vessel schooner Friendship, Patrick Drummond, master, namely:
William D. Hill, administrator of Mark L. Hill, \$416.70.
Francis Adams, administrator of Josiah Batchelder, \$416.70.
Charles K. Cobb, administrator of John Codman, \$416.70.
James W. Crawford, administrator of John Codman, \$296.70.
Francis Adams, administrator of John Mareen, \$296.70.
Francis Adams, administrator of John Mareen, \$296.70.
Francis Adams, administrator of John McLean, \$900.
On the vessel sloop George, John Grant, master, namely:
Joseph Titcomb, administrator of Michael Wise, surviving partner of Wise & Grant, \$7.221.77.
John C. Soley, administrator of John Soley, \$500.
Augustus P. Loring, administrator of William Boardman, \$300.
Francis M. Boutwell, administrator of Villiam Boardman, \$300.
Francis M. Boutwell, administrator of Joseph Cordis, \$300.
On the vessel ship Minerva, Solomon Hopkins, master, namely:
George S. Boutwell, administrator of Thomas Cutts, \$986.05.
On the vessel schooner Nancy, Henry H. Kennedy, master, namely:
Charles D. Vasse, administrator of Thomas Cutts, \$2986.05.
On the vessel schooner Nancy, Henry H. Kennedy, master, namely:
Charles D. Vasse, administrator of Ebenezer Large, \$490.
Crawford D. Henning, administrator of Abljah Dawes, \$490.
Crawford D. Henning, administrator of Alexander Murray, surviving partner of Miller & Murray, \$686.
J. Bayard Henry, administrator of John Leamy, \$784.
Henry Pettit, administrator of John Leamy, \$784.
Henry Pettit, administrator of John Leamy, \$784.
Henry Pettit, administrator of John Senger, surviving partner of William Read & Co., \$490.

Crawford D. Henning, administrator of Sephen Grary, surviving partner of Summerl & Brown, \$490.

John Cadwalader, fr., administrator of Fohnes Company, surviving partner of Pettit & Bayard, \$588.

William Read & Co., \$490.

John Cadwalader, fr., administrator of Joseph Summerl, surviving partner of Vanuxem & Clark, \$490.

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George McCall, administrator of William McMurtrie, \$490.
On the vessel brig Anna, Benjamin Chase, master, namely:
Mary E. Carter, administratrix of Thomas Carter, \$300.
On the vessel schooner Betsey Holland, Samuel Cassan, master, namely:
J. Bayard Henry, administrator of Charles Ross and John Simson, composing the firm of Ross & Simson, \$121.62.
George W. Guthrie, administrator of Alexander Murray, for and on behalf of the firm of Miller & Murray, \$121.62.
Samuely Bell, administrator of John G. Wachsmuth, \$121.62.
Francis R. Pemberton, administrator of John Clifford, for and on behalf of the firm of Thomas & John Clifford, \$121.62.
G. Albert Smyth, administrator of Jacob Baker, for and on behalf of the firm of Thomas & John Clifford, \$121.62.
The Pennsylvania Co. for Insurance on Lives, etc., administrator of Thomas M. Willing for and on behalf of the firm of Willings & Francis, \$243.24.
George Willing, administrator of George Willing, \$121.62.
Thomas F. Bayard, administrator of Thomas W. Francis, \$121.62.
Lorin Blodget, administrator of Samuel Blodget, \$194.60.
On the vessel sloop Hiram, Sylvester Baldwin, master, namely:
Sarah R. Shaw, administrator of Pelatiah Fitch, \$2,925.
On the vessel sloop New York and Philadelphia Packet, Caspar Faulk, master, namely:
George A. Faulk, administrator of Thomas M. Willing, surviving partner of Willings & Francis, \$302.
William Brooke Rawle, administrator of John Leamy, \$490.
John Cadwalader, jr., administrator of Johnse M. Francis, \$294.
On the vessel schooner Hannah, Gerald Byrne, master, namely:
Charles D. Vasse, administrator of Ambrose Vasse, \$784.
Charles D. Vasse, administrator of Henry Pratit, surviving partner of the firm of Frager & Co., \$490.

George Harrison Fisher, administrator of Jacob Ridgway, surviving partner of the firm of Smith & Ridgway, \$474.32.
William D. Squires, administrator of Henry Pratit, surviving partner of the firm of Robert Smith & Co., \$784.
On the vessel schooner Hannah, Gerald Byrne, master, namely:
George W. Smith, administrator of Ale

A. Louis Eakin, administrator of Chandler Price, surviving partner of Morgan & Price, \$171.43.

Charles D. Vasse, administrator of Ambrose Vasse, \$285.71.

Francis A. Lewis, administrator of Peter Blight, \$285.72.

William D. Squires, administrator of Henry Pratt, surviving partner of Pratt & Kintzing, \$285.72.

Atwood Smith, administrator of Daniel Smith, surviving partner of Gurney & Smith, \$285.71.

William Brooke Rawle, administrator of John Miller, jr., \$285.72.

Francis A. Lewis, administrator of John Miller, jr., \$285.71.

J. Bayard Henry, administrator of Charles Ross, \$142.85.

J. Bayard Henry, administrator of John Simson, \$142.86.

Charlotte F. Smith, administrativ of William Jones, surviving partner of Jones & Clarke, \$285.71.

Sara Leaming, administrativ of Thomas Murgatroyd, surviving partner of Thomas Murgatroyd & Sons, \$285.71.

Frederick W. Meeker, administrator of Samuel Meeker, \$285.72.

On the vessel brig Kitty, William Waters, master, namely:

The city of Philadelphia, administrator of Stephen Girard, \$14,328.

On the vessel brig William, James Gilmore, master, namely:

J. Bayard Henry, administrator of Charles Ross, \$750.

J. Bayard Henry, administrator of John Simson, \$750.

J. Bayard Henry, administrator of John Simson, \$750.

J. Bayard Henry, administrator of John Gardiner, jr., \$7,798.

On the vessel schooner Apollo, Richard H. Richards, master, namely:

The Fidelity Trust Co., administrator of John Gardiner, jr., \$7,798.

On the vessel schooner Apollo, Richard H. Richards, master, namely:

Francis R. Pemberton, administrator of Abljah Dawes, \$490.

Charles Prager, administrator of John Miller, jr., \$490.

Charles Prager, administrator of Ambrose Vasse, \$784.

William D. Squires, administrator of Henry Pratt, surviving partner of Pragers & Co., \$490.

Francis A. Lewis, administrator of Henry Pratt, surviving partner of Pragers & Co. \$490.

Francis A. Lewis, administrator of Henry Pratt, surviving partner of Pragers & Co. \$490.

Charles D. Vasse, administrator of Henry Pratt, surviving

Crousillat, \$1,962.67.
On the vessel ship Goddess of Plenty, Thomas Chirnside, master, namely:
John A. Dougherty and Catharine McCourt, administrators of Louis Crousillat, \$2,059.27.
On the vessel schooner Kitty and Maria, John Logan, master, namely: Charles P. Keith and Thomas Stokes, administrators of Jacob G. Koch, \$640.
On the vessel schooner Nantasket, Asa Higgins, master, namely: Sally I. S. Wright, administrator of David Spear, otherwise called Davis S. Spear, jr., \$299.20.
Charles F. Adams, administrator of Peter C. Brooks, \$1,173.90.
Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey & Russell, \$195.65.
Thomas N. Perkins, administrator of John C. Jones, \$195.65.
On the vessel brig Hope, John Gould, master, namely:
Mary W. Moody, administrativ of Daniel Wise, \$2,683.50.
On the vessel ship Sally, Seth Webber, master, namely: Arthur P. Teele, administrator of Thomas Page, \$1,078.
William L. Candler, administrator of Seth Webber, \$1,078.
On the vessel schooner Paragon, Nathaniel Wattles, master, namely: Montgomery Fletcher, administrator of John Walter Fletcher, for and on behalf of the firm of Fletcher & Otway, \$1,910.34.
On the vessel schooner Phoenix, John D. Farley, master, namely: Lemuel Coffin, administrator of Daniel Farley, \$1,879.47.
Abby C. Farley, administrator of Daniel Farley, \$1,879.47.
Abby C. Farley, administrator of Daniel Sarley, \$2,232.67.
James M. Stewart, administrator of David Greene, \$1,006.39.
Edward I. Browne, administrator of David Greene, \$1,006.39.
Edward I. Browne, administrator of Thomas Amory, \$754.79.
William Ropes Trask, administrator of Thomas Amory, \$754.79.
William Smith Carter, administrator of William Stackpole, \$402.56.
Edward I. Browne, administrator of William Stackpole, \$402.56.
Edward I. Browne, administrator of William Stackpole, \$402.56.
Edward I. Browne, administrator of Richard Hartshorne, surviving partner of Rhinelander, Hartshorne & Co., \$2,450.
On the vessel schooner Mermaid, Church C. Trouant, master, namely: Thomas N. Perkins

\$2,450.

On the vessel schooner Mermaid, Church C. Trouant, master, namely; Thomas N. Perkins, administrator of John C. Jones, \$164.03, Arthur L. Huntington, administrator of James Dunlap, \$82.01.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, \$164.03. Henry B. Cabot, administrator of Daniel D. Rogers, \$164.03. George G. King, administrator of Daniel D. Rogers, \$164.03. George G. King, administrator of James Scott, \$82.02.

On the vessel brig Sophia, Ambrose Shirley, master, namely; James L. Hubard, administrator of William Pennock, \$473.11. Bassett A. Marsden, administrator of Benjamin Pollard, \$294. John Neely, administrator of John Cowper, surviving partner of John Cowper & Co., \$490.

R. Manson Smith, administrator of Francis Smith, \$196.

Cowper & Co., \$490.

R. Manson Smith, administrator of Francis Smith, \$196.
On the vessel brig Franklin, Joshua Walker, master, namely;
Brooks Adams, administrator of Peter C. Brooks, \$320.
Thomas N. Perkins, administrator of John C. Jones, \$80.
Chandler Robbins, administrator of Joseph Russell, for and on behalf of the firm of Jeffrey & Russell, \$80.
Morton Prince, administrator of James Prince, \$80.
Gordon Dexter, administrator of Samuel Dexter, \$80.
George G. King, administrator of Crowell Hatch, \$160.
On the vessel brig Peyton Randolph, Benjamin Cozzens and William Cozzens, masters, namely;
Bayard Tuckerman, administrator of Walter Channing, surviving

Cozzens, masters, manery.

Bayard Tuckerman, administrator of Walter Channing, surviving partner of Gibbs & Channing, \$2,194.

Frederic A. de Peyster and Edward de P. Livingston, administrators of Frederic de Peyster, surviving partner of the firm of Frederic de Peyster & Co., \$500.

Kortright Cruger, administrator of Benjamin Seaman, for and on behalf of the firm of Benjamin Seaman & Co., \$500.

Henry E. Young, administrator of William Craig, surviving partner of Henry Sadler & Co., \$500.

On the vessel brig William and Mary, Moses Springer, master, namely:

behalf of the firm of Benjamin Seaman & Co., \$500.
Henry E. Young, administrator of William Craig, surviving partner of Henry Sadier & Co., \$500.
On the vessel brig William and Mary, Moses Springer, master, namely:
Collins, administrator of William Springer, \$2,430.
Jason Gollins, administrator of William Springer, \$2,430.
Chandler Robbins, administrator of Villiam Springer, \$2,430.
Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey & Russell, \$607.50.
William S. Carter, administrator of Joseph Russell, surviving partner of Jeffrey & Russell, \$607.50.
William S. Carter, administrator of William Smith, \$348.75.
H. Burr Crandall, administrator of James Prince, \$209.25.
Morton Prince, administrator of James Prince, \$279.
John Lowell, administrator of James Prince, \$279.
John Lowell, administrator of Perez Morton, \$209.25.
Nathan Matthews, i., administrator of Perez Morton, \$209.25.
Nathan Matthews, i., administrator of Benjamin Homer, \$348.75.
Arthur D. Hill, administrator of Benjamin Homer, \$348.75.
Arthur D. Hill, administrator of Benjamin Homer, \$348.75.
William Ropes Trask, administrator of Thomas Amory, \$697.50.
William G. Perry, administrator of Vicholas Gilman, \$500.
John O. Shaw, administrator of Vicholas Gilman, \$500.
John O. Shaw, administrator of Josel Morton, \$300.
John O. Shaw, administrator of Josel Morton, \$100.
John O. Shaw, administrator of Josel Thomas, \$500.
John M. John A. Gold, administrator of John McLean, \$550.
Francis M. Boutwell, administrator of John McLean, \$558.
George G. King, administrator of John Walter Fletcher, for and on behalf of the firm of Fletcher & Otway, \$478.94.
John Newport Green, administrator of John Walter, \$735.
John Newport Green, administrator of John Schen, \$500.
A. Lawrence Lowell, administrator of John Schen, \$500.
Barton Myers, administrator of John Schen, \$190.00.
Barton Myers, ad

Mr. President, as the amendment to the amendment, proposed by the Senator from South Dakota [Mr. CRAWhas gone over and is to be printed, I ask that the amendment which has been read may go over until to-morrow. understand there are one or two other amendments to be offered, and there will be opportunity to offer them now.

The PRESIDING OFFICER (Mr. KENYON in the chair).

The amendment will go over.

Mr. O'GORMAN. Mr. President, I gave notice some days since that I would seek to amend the bill under consideration by inserting, under the heading "New York," the following:

To Dean Sage, executor of the estate of Charles Backman, deceased, the sum of \$5,335.71.

The facts upon which this claim is based are substantially these: Some time previous to the 30th of March, 1869, the decedent, one Backman, was the owner of 1,904 barrels of distilled spirits, then in bond in the thirty-second district of New On the 30th day of March and the 7th day of April that year he made formal application for the immediate withdrawal of the same for consumption, but, owing to the fact that the collector of internal revenue for that district was unable to furnish the internal-revenue stamps necessary to be affixed upon the payment of the tax, none of the spirits was inspected or withdrawn until subsequent to April 14 of that year. The amount of the tax paid was \$45,000.

At the time that Backman withdrew the spirits he tendered to the collector of internal revenue the aggregate sum of \$40,000, the amount which he conceded to be due after making the usual allowance for leakage. This claim grows out of a

dispute as to whether he should be allowed the \$5,000 which he paid under protest, which he claimed was the amount exacted from him because of the failure to allow him for leakage. Previous to the date that I speak of-April 14, 1869-it had always been the custom to make an allowance for leakage, but on that day, by order, the custom was changed.

From time to time since then an effort has been made to have this \$5,000 refunded. A bill for that purpose has been before the House at different times and was favorably reported almost 20 years ago, in the session of 1892. I have a letter here, under date of August 10 of this year, over the signature of the Acting Secretary of the Treasury, in which he states:

I am aware of no reason why this bill should not pass, and am of opinion that it should be enacted.

It is also stated that from time to time bills have passed the Senate on precisely similar facts. If that record be correct, there would seem to be no just reason for withholding the

relief asked for in this case.

Mr. CRAWFORD. Mr. President, this amendment was offered during the last session and referred to the Committee on Claims. An investigation of it was made, and the decision of the committee was adverse to incorporating it into the bill. It was not in the bill as it passed the other House. The House committee, having gone through all of these Court of Claims reports and gathered together such as they thought were entitled to recognition, passed their bill and omitted this claim. The Senate Committee on Claims, after investigating this claim, decided against putting it in the bill in the form of an amendment. Now, I understand from the papers which have been presented to me since the Senate committee made its report that it is claimed that there are precedents for allowing this appropriation, in that similar claims have been provided for by appropriation.

Mr. President, the only claims of this character which have been allowed by Congress are the claims which were included in an appropriation act approved July 26, 1886, passed for the relief of Richard T. Ridgway and others. That legislation was successful as legislation in behalf of claims is sometimes successful apparently because it went through under the prestige of a claim that it had been sustained by a decision of the Court of Claims. In the correspondence handed to me by the Senator from New York [Mr. O'GORMAN], coming from the attorney who now presents this claim, the Ridgway case is cited as a reason why this amendment should be allowed, and a citation is made of the decision of the Court of Claims, found in volume 18, on page 707, to sustain that position. When I turned to the decision in volume 18, Court of Claims Reports, of the case of Richard C. Ridgway against the United States, I find that the decision was against Mr. Ridgway. I will only call attention to the closing paragraph, found on page 715:

In the present case the claimant has no such credit on the records of the Internal Revenue Bureau, since the allowance first certified to had been reconsidered when this action was commenced, and his claim has been rejected.

He has therefore no cause of action, and his petition must be dismissed, and judgment will be so entered. Mr. O'GORMAN. Mr. President

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from New York?

Mr. CRAWFORD. I do.

Mr. O'GORMAN. Will the Senator allow an inquiry as to

why provision was notwithstanding made in an appropriation act after the Court of Claims had rejected the claim?

Mr. CRAWFORD. I can only make answer to that in this way: That Congress was probably deceived by just such statements as occur in the letter that was referred to me, where the Ridgway case is pointed to as a precedent for allowing this amendment, where counsel refers as authority for the allowance in this case to the Ridgway decision in the Court of Claims, leaving the impression that the decision of that court was favorable when it was adverse. That is the way Congress gets entrapped into allowing such claims as this.

Now, let me call attention to this statute. The statute which was under construction was approved July 20, 1868, and it was a new provision in relation to the internal tax upon spirits in warehouses. It fixed the tax at 50 cents-on each and every proof gallon, to be paid by the distiller or owner or person having possession before he should remove it from the distillery warehouse. The act provided:

And the tax on such spirits shall be collected on the whole number of gauge or wine gallons when below proof, and shall be increased in proportion for any greater strength than the strength of proof spirit as defined in this act.

Before that act was passed there had been a practice in the customhouse offices of making an estimate when liquors were being withdrawn from warehouse as to how much had been lost through leakage or evaporation; and there was a rule

fixed, which had been followed, of making a certain reduction in the amount of tax collected based upon the estimate of this evaporation and leakage. That ran on until April 14, after this law was passed, when this new law had been referred to the Attorney General of the United States and he gave an opinion that there was no right or authority to allow this reduction. So the department issued an order that after April 14 the tax should be collected on all of the spirits withdrawn according to cask measurement, and that such a reduction should not be allowed.

This claimant, Mr. Backman, made a tender of the amount which he would have paid under the old rule, and the internalrevenue collector refused to accept it; he would not permit him to withdraw these spirits unless he paid the full amount of the tax, because it was after the order went into effect on the 14th of April. Because there had been a rule which allowed this discount for evaporation and leakage before that time under this act before it had been construed, he made the claim that they should refund to him this five thousand and odd dollars which he was required to pay. He presented his claim to the Auditor for the Treasury Department and it was rejected. That was away back in 1869. Nothing was done from that time on down to the Fifty-second Congress, when the first bill was introduced.

I ask that the amendment be allowed to remain as a pending amendment, and that we resume consideration of the bill to-morrow after the close of the routine morning business.

Mr. LODGE. Mr. President, I make the point that there is no quorum present.

The PRESIDING OFFICER. The Secretary will call the roll. The Secretary called the roll, and the following Senators

answered to their names:

Curtis Davis du Pont Fletcher Foster Gallinger Gardner Simmons Smith, Ariz. Smith, Ga. Smith, Md. Smoot Stephenson Sutherland Thornton Ashurst Bacon Bailey Bankhead McLean Martine, N. J. Massey Myers Nelson O'Gorman Oliver Overman Page Penrose Perkins Perky Poindexter Read Massey Brandegee Bristow-Brown Gronna Hitchcock Johnston, Ala. Kenyon La Follette Bryan Burnham Chilton Thornton Tillman Townsend Warren Wetmore Clapp Clark, Wyo. Crane Crawford Cullom Works Lodge McCumber Reed Sanders

Mr. PAGE. I wish to announce that owing to the continued illness of my colleague [Mr. Dillingham], he is unable to be

present in the Senate.

Mr. POINDEXTER. I desire to announce that the senior Senator from Washington [Mr. Jones] is engaged in public business upon the committee investigating the Soldiers' Home in California, and has been so engaged since the beginning of this session of Congress.

Mr. BAILEY. I have answered to my name, but I desire at this point to incorporate in the RECORD the statement that I have been absent for several days on account of sickness.

Mr. GARDNER. I desire to state that my colleague [Mr. Johnson of Maine] is detained necessarily from the Chamber for a short time.

Mr. TOWNSEND. The senior Senator from Michigan [Mr. SMITH] is absent on committee work for the Senate.

The PRESIDENT pro tempore. On the call of the roll of the Senate 58 Senators have answered to their names. A quorum of the Senate is present.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the bill (S. 3047) to provide for a bridge across Snake River, in Jackson Hole, Wyo., with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a bill (H. R. 16314) to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, in which it requested the concurrence of the Senate.

The message further announced that the House had passed a oncurrent resolution providing that when the two Houses adjourn on Thursday, December 19, 1912, they stand adjourned until 12 o'clock m. on Thursday, January 2, 1913, in which it requested the concurrence of the Senate.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. Bacon) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeach-

The Secretary read the Journal of Wednesday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. Are there any inaccuracies

in the Journal? If not, it will stand approved.

Mr. Manager NORRIS. Mr. President, I would like William E. Lamb called as the next witness.

TESTIMONY OF WILLIAM E. LAMB.

William E. Lamb, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager NORRIS.) Give your full name to the Reporter.—A. William E. Lamb.

Q. Where do you reside?—A. Chicago. Q. How old are you?—A. Forty-two years old.

Q. What business, occupation, or profession have you?—A. I am engaged in the practice of the law.

Q. How long have you been a practicing attorney?-A. A little over 18 years.

Q. Have you been connected with the Government of the United States in your professional capacity?—A. From October 19, 1907, until January 1, 1911, I was an attorney for the Interstate Commerce Commission.

Q. As such attorney, Mr. Lamb, did you take part in the trial of the case of the Louisville & Nashville Railroad Co. against the Interstate Commerce Commission?—A. I did.

Q. Were you in that case from its beginning?—A. I assume that you mean the case of the Louisville & Nashville Railroad Co., which was transferred from the Circuit Court of the Western District of Kentucky to the Commerce Court?

Q. Yes, sir.—A. I was.

Q. You participated in the taking of evidence?—A. Yes, sir. Q. And you were attorney of record before the Interstate Commerce Commission?—A. No, sir; I was not. I simply represented the commission after the commission's order was entered and the Louisville & Nashville brought suit in the western district of Kentucky to enjoin the commission's order.

Q. Briefly, that case was originated by a complaint made before the Interstate Commerce Commission?—A. It involved three complaints filed by the New Orleans Board of Trade, of New Orleans, against the Louisville & Nashville Railroad Co.

Q. Before the Interstate Commerce Commission?—A. Yes, sir. Q. Who represented the New Orleans Board of Trade in that proceeding?—A. Before the commission?

Q. Yes .- A. I think John A. Smith, the traffic director of the board of trade.

Q. After the commission had made its order the Louisville Nashville Railroad commenced an action in the circuit court?-A. It commenced an action in the circuit court of the western district of Kentucky, asking for a temporary injunction to restrain the order of the commission.

Q. When the Commerce Court was provided for by law, by the operation of the law that case was transferred to the Commerce Court?-A. Yes, sir. The case had not been finally submitted in the circuit court, and therefore under the law it was transferred.

Q. Before the circuit court and also before the Commerce Court you were the attorney for the Interstate Commerce Commission?—A. Yes, sir. I may add that in the circuit court, as the law then existed, I appeared as special assistant to the Attorney General, as the Department of Justice then had control of those cases.

Q. In the Commerce Court, where the case was determined, you were the only attorney of record representing the Government or the Interstate Commerce Commission?—A. I was the sole attorney representing the Interstate Commerce Commission, and my recollection is not clear at this time, but since thinking it over it is my impression that Blackburn Esterline and James A. Fowler filed a brief for the Government, for the United States.

Q. In that case?—A. Yes, sir. Q. Mr. Lamb, do you remember when that case was finally submitted to the Commerce Court?-A. Yes, sir.

Q. Do you know when it was finally determined-judgment rendered?-A. It is my recollection that the opinion in the case was announced at the April, 1912, session of the court, and the

opinion, as filed that day, I think, bore date February 28, 1912. Q. When was it submitted?—A. It was submitted at the April, 1911, term of the court.

Q. About 11 months elapsed after it had been submitted before it was determined?—A. Approximately 12 months had

elapsed from its submission until the time that the opinion of the court was finally filed.

I am not trying to get the definite time, but approximately?-A. I should say about 12 months after its submission,

before the opinion of the court was filed.

Q. From the time it was submitted in the Commerce Court up to the time it was decided, did you know of any correspondence that was going on between Helm Bruce, the attorney representing the Louisville & Nashville Railroad Co., and Judge Archbald, one of the members of the Commerce Court?—A. I had no knowledge of any such correspondence.

Q. When did you first learn that such correspondence had taken place?-A. From the newspaper reports of the proceed-

ings before the House Judiciary Committee.

Q. It was not until after this investigation had commenced?-

A. I never heard of it until that time.

Q. I will call your attention particularly to United States Senate Exhibit No. 58 and United States Senate Exhibit No. 59, Exhibit No. 58 being a letter written by Judge Archbald on board a houseboat on the Indian River, Fla., dated January 10, 1912, it being addressed to Helm Bruce, and Exhibit No. 59 being the reply made by Helm Bruce, dated January 24, 1912. A. I have not had occasion to examine any of those exhibits and never have had an opportunity to examine them, but I can only say that I never knew of any correspondence between Mr. Bruce and Judge Archbald relative to this case,

Q. You had no notice from any source that after the case had been submitted, and before it was determined, an argument had been made in writing by Mr. Bruce, at the request of Judge Archbald?-A. I knew nothing of that and never had heard of such a thing until I saw in the newspapers the account as testified before the Judiciary Committee of the House.

Mr. Manager NORRIS. That is all.

Cross-examination:

Q. (By Mr. SIMPSON.) You were about to say that there were three matters really in issue in that case. Will you tell us what they were?—A. I said there were three complaints filed before the Interstate Commerce Commission by the New Orleans Board of Trade. One complaint assailed the reasonableness of the class rates and some commodity rates from New Orleans to Mobile; another complaint, the reasonablness of class rates and certain commodity rates from New Orleans to Pensacola; and the third concerned the reasonableness of the class rates and commodity rates from New Orleans to Montgomery, Ala.

Q. In point of fact, when the Interstate Commerce Commission decided it, they only decided the question of class rates

A. That is all,

Q. And left the question of commodity rates open ?- A. Yes.

Q. And it was in that shape when the petition was filed in the Commerce Court by the Louisville & Nashville Railroad Co.?-A. The commission's order involved only class rates and the application to enjoin and set aside the order was based solely on those class rates.

In point of fact, also, before the Commerce Court, the contention that was made by you in behalf of the United States and by the Interstate Commerce Commission was that the Commerce Court had no power whatsoever to review the findings of fact of the Interstate Commerce Commission?-A. I believe that was one of the contentions. I will qualify that by saying that I never did contend that they did not have a right to see whether or not there was any substantial proof before the commission. I simply said that, based on the facts as shown before the Commission, they had no right to determine the credibility and weight to be given to the testimony and to review and set aside the findings of fact.

Q. The distinction which I understand you to make is that if there was any disputable evidence from which the fact could be found, the Commerce Court's hands were powerless to consider the matter further?-A. Yes; that is my contention.

Mr. SIMPSON. That is all. Thank you.

Mr. Manager NORRIS. I would like to call John A. Smith as a witness. As far as we are concerned Mr. Lamb may be discharged.

Mr. Manager CLAYTON. No; Mr. Worthington informed me yesterday that he desired to interrogate this witness in regard to a letter addressed by Mr. Helm Bruce to the chairman of the Committee on the Judiciary of the House of Representatives and requested me to have that letter in the Senate this morning. I have not been able to find it as yet, but I hope to produce it in a little while, and will produce it if I can find it; and then, Mr. Worthington informed me, he desires to ask this witness some question. We do not know whether that letter is admissible or not, but that question will be raised, if we see proper to raise it, when the letter is offered.

Mr. Manager NORRIS. I would like to suggest to Brother Worthington that this particular count was taken up a little out of its order in order to accommodate Mr. Lamb as much as anything else, because he has very important business in Philadelphia and it is quite necessary that he get away if possible.

Mr. WORTHINGTON. I want to say that the letter to which reference has been made is not, as Mr. CLAYTON recollects, a letter addressed to him, but a letter addressed to me when the hearings before the Judiciary Committee were going on, and I

turned it over to the committee.

Mr. Manager CLAYTON. I stand corrected, Mr. President. Mr. WORTHINGTON. And also, that I did not mean to say that we proposed to cross-examine Mr. Lamb in reference to what was in that letter; but that I wanted to see that letter before we determine whether we want to further cross-examine I am informed that the letter will be here in a few moments, and then we will let Mr. Lamb know whether we want to ask him any questions. It is highly improbable that we will want to do so.

Mr. Manager NORRIS. Call John A. Smith.

TESTIMONY OF JOHN A. SMITH.

John A. Smith, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager NORRIS.) Where do you reside?-A. New Orleans.

Q. What is your business?-A. Freight commissioner of the New Orleans Board of Trade.

Are you acquainted with the case of the Louisville & Nashville Railroad Co. against the Interstate Commerce Commission, which was pending in the circuit court and transferred to the Commerce Court at the time of the passage of the law creating the Commerce Court?-A. I am.

Q. Representing the New Orleans Board of Trade, as I under-

stand, you originated that case originally?-A. I did.

Q. Did you appear before the Interstate Commerce Commission when that case was argued and tried there?-A. I represented the New Orleans Board of Trade in the trial of that case at New Orleans and at Montgomery, Ala. The trial of the case was not completed at New Orleans and the commission adjourned to Montgomery, Ala., having cases there; and after the completion of those cases they again took up the case of the New Orleans Board of Trade versus the Louisville & Nashville Co. and completed that case.

Q. You filed a brief in the case before the Interstate Com-

merce Commission ?- A. I did.

Q. After the case was finally submitted in the Commerce Court, and before it was decided, did you have any notice from anyone of any correspondence between Judge Archbald, a member of that court, and Helm Bruce, the attorney who represented the Louisville & Nashville Railroad Co.?-A. I did not.

Q. You had no notice of any argument that was made by Mr. Bruce, at the request of Judge Archbald, during that time?-A.

Mr. Manager NORRIS. You can take the witness, gentlemen. Cross-examination:

(By Mr. SIMPSON.) Are you an attorney?-A. I am not. Q. Did the New Orleans Board of Trade appear at all as either parties or intervenors in the proceedings in the Commerce Court?-A. They did not. We did not do so because the law requires that the Interstate Commerce Commission shall prosecute its own cases.

Q. In point of fact, the Interstate Commerce Commission appeared by their counsel and did defend the case?-A. They

did, and so did the Department of Justice.

Q. But you never represented either the Interstate Commerce Commission or the Department of Justice?—A. No, sir. Mr. SIMPSON. That is all. Thank you.

The PRESIDENT pro tempore. The witness may retire.

Do you wish the witness retained?

Mr. Manager NORRIS. We do not, Mr. President.

Mr. WORTHINGTON. Nor do we.

The PRESIDENT pro tempore. The witness is finally discharged.

Mr. Manager NORRIS. Mr. President, I did not expect to produce any other witnesses on this, but the evidence of Mr. Lamb was that there was another firm engaged, and we may want to call them later. They are not in waiting, however, and have not been subpensed, but are in the city. We may want to call them.

Mr. WORTHINGTON. I might, in this connection, call attention to a sentence in the answer relating to this article:

He admits that, in so far as he was aware, the fact that either of said letters was so written was not made known to the Interstate Commerce Commission or its attorneys at the time it was so written.

Mr. Manager NORRIS. I suppose it can be admitted that this firm of attorneys mentioned by Mr. Lamb had no notice

WORTHINGTON. It is admitted. We supposed we

admitted that in the answer.

Mr. Manager NORRIS. We understood that it was admitted in the answer, but we felt it our duty to bring this witness in order that Senators might avail themselves of the opportunity to submit any questions; and unless the Senate desires to do that, we will not have these other witnesses called. the Senate desires them called, however, they are in the city, and we can call them.

The PRESIDENT pro tempore. It will not be necessary, unless some Senator indicates a wish for it.

Mr. Manager FLOYD. We desire to offer a telegram which I will ask to have marked as an exhibit and read in evidence at this point.

Mr. WORTHINGTON. I will state that we admit it.

The PRESIDENT pro tempore. The telegram will be read. The Secretary read as follows:

[U. S. S. Exhibit 62.]

WASHINGTON, D. C., October 6, 1911.

George M. Watson, Esq., East Stroudsburg, Pa.:

Almost any time you wish.

R. W. ARCHBALD.

8.52 p. m.

Mr. Manager FLOYD. Also the following.

The Secretary read as follows:

[U. S. S. Exhibit 63.]

PHILADELPHIA, PA., October 7, 1911.

Hon. R. W. Archbald, Court of Commerce, Washington, D. C.: . Will be at Hotel Raleigh at 1.30. Leave instructions.

G. M. WATSON.

10.25 a. m.

Mr. Manager FLOYD. We desire to recall Mr. C. G. Boland

at this point The PRESIDENT pro tempore. The witness will be pro-

duced.

CHRISTOPHER G. BOLAND-RECALLED.

Christopher G. Boland, having been previously sworn, appeared.

Mr. Manager FLOYD. Mr. President. I am instructed by the managers on the part of the House to repeat to Mr. Boland the question that I propounded to him the other day and to further insist upon its admissibility.

Mr. WORTHINGTON. At what page? Mr. Manager FLOYD. Page 364. Mr. SIMPSON. We renew our objection, Mr. President. The PRESIDENT pro tempore. The question will first be

propounded. Mr. Manager FLOYD. Shall I proceed?

Mr. WORTHINGTON. Wait until I find it. Mr. Manager FLOYD. It is on page 364, near the bottom of

the page.

Mr. WORTHINGTON. All right.

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversations with Mr. Watson relative to Judge Archbald's interest or participation in this settlement, and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement?

Mr. SIMPSON. We renew the objection which was made, sir. Mr. Manager FLOYD. Mr. President, I desire to state

briefly

The PRESIDENT pro tempore. Will the manager allow the stenographer to write the question out and hand it to the Chair?

Mr. Manager FLOYD. I desire to state briefly and as nearly as I can the position of the managers in regard to this testi-

The PRESIDENT pro tempore. The Chair will ask the indulgence of the manager for a moment. Is it in words identi-

cally the same question which was propounded before?

Mr. Manager FLOYD. Yes, sir; I read it from the record.

The PRESIDENT pro tempore. Very well. Proceed.

The PRESIDENT pro tempore. Very well. Proceed.
Mr. Manager FLOYD. Mr. President, Judge Archbald is charged in these articles of impeachment with misbehavior in office, and it is our contention that any facts or circumstances pertaining to his conduct that are calculated to bring his office into disrepute or to scandalize that office are admissible, provided we have connected him in any way with such a transaction.

Now, we have shown by the testimony of Mr. Boland, the witness on the stand, that he entered into negotiations with one George

Watson to settle the disputes between his company, the Marian Coal Co., and the Delaware, Lackawanna & Western Railway on a basis of \$100,000, and if he could settle the controversy for that amount he, the said Watson, was to receive \$5,000 as a fee for his services.

We have shown that within a short time thereafter Mr. Boland was called to the office of Judge Archbald in the Federal building in Scranton and Mr. Watson was present, and it was stated by Mr. Watson, in the judge's presence, that Judge Archbald had agreed to assist him in bringing about these negotiations. It was stated by Judge Archbald, in Mr. Boland's presence, that he had agreed to assist Mr. Watson, and that he would do everything in his power to assist him in the matter, and that at that time, or on a subsequent occasion very shortly thereafter, Judge Archbald had called up Mr. Loomis's office over the telephone with a view of getting in touch with Mr. Loomis, the vice president of the railroad company.

This evidence was before the Senate when we submitted the question before, but since this evidence was submitted we have produced other and further testimony connecting Judge Archbald with this transaction. We have shown by the testimony of Mr. Loomis that the first man who ever approached the railroad people in regard to this transaction was Judge Archbald himself; that he met Mr. Loomis upon the streets of Scranton and brought up a conversation about the difficulties and the controversy between the Marian Coal Co. and the railroad company, and suggested that they ought to have a settlement outside of court. Loomis replied that they would gladly settle their disputes outside of court whenever they could on a fair basis.

Then it is in testimony by Mr. Loomis that Judge Archbald told him that if he would see Attorney Watson, Mr. Watson was in a position to settle that controversy on a fair basis. Loomis immediately took up that matter and investigated it, submitting it first to Mr. Rine, then to Mr. Phillips, both officials of the railroad, and they reported adversely to it. Mr. Loomis

reported adversely to it.

Then we find that Mr. Watson, the associate and partner of the judge, makes an appeal to Mr. Loomis to have an interview and a conference with the president of the railroad company. That letter was written on the 2d of October. We find that on the day following Judge Archbald writes a letter calling attention to the fact that he understands that the proposition has been made to take the matter up further with Mr. Loomis and possibly with Mr. Truesdale, and that he thinks it is a good idea and that he hopes that a settlement may be effected; that there is nothing like a personal interview in effecting a settlement.

Then immediately following that, on October 5, is the conference in which it is shown that Mr. Watson appeared and submitted a proposition, not of \$100,000, the amount that the Bolands had agreed to take on settlement, but a proposition of \$161,000, and that was turned down by Mr. Truesdale, the president of the railroad company.

Then we show that immediately, on the 6th, Mr. Watson telegraphed to Judge Archbald that he will meet him in Washington the next day. Judge Archbald replies on the 7th that he can meet him almost any time he wants to. further telegraphs that he will be at the Raleigh Hotel at 1.30

o'clock on that day.

Now, Mr. President, we submit that we have so connected Judge Archbald with this transaction that he is shown to be an associate or partner in the common purpose of bringing about this settlement, and when we have done that we contend that under the plain rules of law we are entitled to prove anything that either of those parties did during the course of those negotiations and anything that either of them said with reference to that transaction.

Upon that ground we insist that this testimony is admissible. Now, Mr. President, I desire that my associate manager, Mr. STERLING, may be heard briefly.

Mr. WORTHINGTON. Mr. President, if I may interpose just a moment, we had supposed this matter was con-

cluded-

Mr. Manager FLOYD. Mr. President— Mr. WORTHINGTON. It is not to reply to anyone, but to ask that the matter may go over for the present.

Mr. Manager FLOYD. I beg pardon.

Mr. WORTHINGTON. We had supposed the matter was at an end, and we are called upon to reply to authorities which were produced here the other day, to show under what circumstances the declaration by one of several alleged conspirators could be introduced in evidence against another, and what is the rule limiting the extent of those declarations. Since the manager has considered this a matter of so much importance, and especially in view of the fact that Mr. Watson

is so ill he can not come here, we should like the argument or debate to go over until to-morrow morning, when we will be prepared to discuss it upon the authorities.

The PRESIDENT pro tempore. Is that suggestion agree-

able to the managers'

Mr. WORTHINGTON. I say to-morrow morning; I mean until the meeting of the court to-morrow.

Mr. Manager FLOYD. If the Chair is satisfied with that

suggestion, the managers raise no objection to it.

The PRESIDENT pro tempore. The Chair has no objection to it unless the managers have.

Mr. Manager FLOYD. The managers have none.

The PRESIDENT pro tempore. With that understanding, then, the argument will be pretermitted. Is the presence of this witness desired further?

Mr. Manager WEBB. No. sir; he may be excused for the

present.

The PRESIDENT pro tempore. The witness will retire for the present.

The witness, Christopher G. Boland, withdrew.

Mr. Manager WEBB. I would like to have S. D. Warriner called as the next witness.

TESTIMONY OF S. D. WARRINER.

S. D. Warriner, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager WEBB.) Mr. Warriner, what is your connection with the Lehigh Valley Rafiroad Co.?-A. I have no connection whatever at all at the present time. At the time of

the hearing before the Judiciary Committee I was vice president and general manager of the Lehigh Valley Coal Co.

Q. What connection has the Lehigh Valley Coal Co. with the Lehigh Valley Railroad Co.?—A. The Lehigh Valley Coal Co. is a coal-mining company, the stock of which is owned by the Lebigh Valley Railroad Co.

Q. Then, in effect, the Lehigh Valley Railroad Co. owns the Lehigh Valley Coal Co., of which you were the vice president and general manager?—A. It owns all the stock.

Do you know Judge R. W. Archbald?-A. Yes, sir.

Q. How long have you known him?-A. I have known him for a good many years.

Q. State some definite number .- A. I could not say-three or

four years.

Q. How far do you live from him when his home is in Scranton?-A. I am now living in Philadelphia. At that time I was living in Wilkes-Barre.

Q. How far from Scranton?-A. Wilkes-Barre is about 18

miles from Scranton.

Q. State whether or not Judge Archbald ever had any negotiations with you with reference to the purchase by your company of the outstanding interest, belonging to the Everharts, in a tract of coal land containing about 800 acres .-- A. Yes, sir; he told me one day at an interview on another subject that

Q. Before that, let me ask you if your company owns a majority interest in such a tract of land.—A. Yes, sir.

Q. How much of the interest is outstanding and has not been purchased by you or your company? About one-fifth, I believe, is it?-A. It was somewhere in the neighborhood of from onefifth to a tenth-between a fifth and a tenth.

Q. Your company has been anxious for several years to purchase that outstanding interest, has it not?-A. They did purchase several years ago about two-fifths of the outstanding onehalf interest, leaving about one-fifth that was not owned by the

company, but was held under a lease by the company.

Q. Since that time you have been anxious to purchase the remaining interest which you do not now own and did not own a year ago?-A. Well, I would not say that they were anxious. I would say they had made an offer for it and it had been under negotiation, but that these two small interests had not accepted the terms offered and agreed upon by the other undivided interests in that tract of land.

Q. Have you tried to buy from the Everhart heirs this out-

standing interest?—A. We have negotiated, or did negotiate.

Q. You know what I mean. Have you tried to buy that outstanding interest?—A. No; not especially.

Q. Let me ask you if you did not answer this question before

the Judiciary Committee last May

Mr. WORTHINGTON. On what page? Mr. Manager WEBB. Page 1183.

Mr. WEBB. Did you try to buy the other interests and fail? Mr. WARRINER. Yes. We have been negotiating with the Everhart estate for a great many years, on account of the complications arising out of the coal leases, and following out a general policy we have been endeavoring to clear up the legal tangle by the purchase of the fee.

A. I would say that we never had any direct negotiation with this especial interest, but we did with the representatives of the other interests who were acting with them, in a sense, and we

were perfectly willing and desired to buy, of course, although we had never dealt with them directly.

Q. (By Mr. Manager WEBB.) Indirectly, did you not make them a proposition?—A. Yes; there was a general proposition agreed upon under which all of them were to receive a certain pro rata share in accordance with their interest.

Q. But these particular heirs I am now speaking of, who had not sold, declined to accept your proposition. Is that true?—A. No; they had never declined nor had they every agreed to accept.

Q. They had not accepted?—A. No; they had never accepted. Q. The truth is you still want to buy that interest, and did want to buy it a year ago?—A. I assume the company would still buy it at that price.

Q. Is it not true that you wanted to buy it a year ago?—A. But it was a matter of very small importance to the company one way or the other whether they did buy it. It was not a vital matter to the company, because it owned the lease for the

life of the coal.

Q. It was a matter of \$60,000, and not so small after all. I will ask you again if a year ago your company did not desire to buy and undertook to purchase the remaining outstanding interest which you did not own in this tract of land?-A. No; we had made no offer to these people, Mr. WEBB.

Q. You had made to their representatives, had you not?-A. We had to the representatives. There were five interests, and these negotiations grew out of a lawsuit.

Q. Let me ask you if you did not answer this question before the Judiciary Committee?

Mr. WORTHINGTON. On what page?
Mr. Manager WEBB. On page 1184:
Mr. Webb, Have you tried to buy this one-fifth interest?
Mr. Warriner. Oh, yes. We made the same offer to these people that we made to the other heirs at the time we bought them out.

A. We did make the same offer.

Q. (By Mr. Manager WEBB.) I will ask you further-The PRESIDENT pro tempore (to the witness). Answer the question as direct as you can, please. It will save a great deal of time.

The WITNESS. I am trying to do so.

Q. (By Mr. Manager WEBB.) They have not accepted your offer, then?-A. No; they have never accepted the offer.

Q. Do you know James R. Dainty, of Scranton, Pa.?-A. No, sir; I do not.

Q. Have you ever heard of him?-A. I have heard of him. I

never saw him. Q. I will ask you if Mr. James R. Dainty was anxious to secure a mining lease to a certain tract of coal land, consisting of about 325 acres, which is owned by your company and which lease was discussed between you and Judge Archbald at the time he called on you with reference to the sale of the Ever-hart interest in the 800-aere tract?—A. I do not know whether it was at that time, but at or about that time Judge Archbald told me that Mr. Dainty had spoken to him, and desired to either lease or purchase a tract of land held by the Lehigh Valley Coal Co. known as the Morris and Essex land.

Q. How many acres did that tract contain?-A. I should

imagine about 300 acres.

Q. Now, when the judge called on you first did he call you over the phone or did he come to see you with reference to the purchase of the remaining interest of the Everhart heirs in this 800-acre tract?—A. I do not recall whether the appointment was made by telephone or not. I rather assume that it was. I think so. I think it was made by telephone, and we met at my office.

Q. Where did he telephone from? Where was he when he

sent for you; do you know?-A. Oh, I do not know.

Q. Where did he see you in person with reference to the purchase of the Everhart interest?-A. At my office, at that time in Wilkes-Barre.

Q. When was that personal interview-what month?-A. I think it was the latter part of last year-November or December; I do not recall, exactly.

Q. About a year ago?-A. Of last year; yes, sir.

Q. Now, tell us what the judge told you when he called on you with reference to the purchase of the Everhart interest in the 800-acre tract .- A. He told me that he wanted to know if we still cared to purchase the outstanding Everhart interest. and I said yes. He said that through his connections in Scranton-whether or not somebody had spoken to him in regard to it I do not recall, but anyway he thought that through his connections in Scranton they could be brought together, and that the negotiations could be carried through successfully. He wished to know at what price we were willing to purchase this land, and I told him that we would buy it at the same price that we had paid the other heirs-on the same pro rata basis.

Q. Now, tell as near as you can everything that was said about Dainty's proposition for a 325-acre lease and the sale or purchase of the Everhart interest .- A. After I had told the judge that, he wanted to know what interest the various heirs held in this outstanding account. I called our engineer in and we figured out together the various interests. It was rather a complicated amount of figuring. We finally arrived at the proportion of these Everharts, with whom we wished to dealtheir proportion of the entire property they owned. Then he wanted to know how much money that amounted to, and I told him that I would have Mr. Jessup, our engineer, figure it up, which he did, and which, in accordance with my instructions, he telephoned, I believe, to Scranton and told the judge what that amounted to.

Q. In that conversation did he speak of Dainty?—A. I think he did. It is my recollection that he spoke something in regard

to Mr. Dainty; yes.
Q. What did he say about him?—A. Nothing as I recall except that he had been talking with Mr. Dainty, and I rather gathered from what he said that through Mr. Dainty or in connection with Mr. Dainty, whom I had known at that time as having been in various business communications with the Everharts, he was going to see these various people and ascertain whether or not they would sell at that figure.

I will ask you this question: Then, through the judge's association with Dainty, Dainty and the judge were to get the consent of the Everhart heirs to sell you the remaining outstanding interest?—A. That is the way I understood it; yes.

- Q. Now, what did Dainty and the judge have to do with the 325-acre tract that it was proposed you should lease to Dainty?-A. Nothing whatever. That was a property that was owned in fee by the Lehigh Valley Coal Co. That came up in this way: When the judge was going out at one of these visits, he told me that Mr. Dainty had spoken to him and would like to get a lease or a sale of this 325-acre tract. I told him that it was not the policy of the company to either sell or lease its coal lands, as we expected to eventually mine this, and that, in any event, it was not a very good piece of land for any individual to mine as it was. The coal-mining conditions there, from an engineering standpoint, were not especially attractive, and I did not think that Mr. Dainty would care to have it very much if he looked into it any further. I promised, however, at that time to consider that further, and later, I think, I told him we would not lease it. I am not sure whether I did or not.
- Q. I will ask you did either this man Dainty or Judge Archbald, or both of them, agree with you or suggest to you that they would bring about the sale of this outstanding interest at a sum satisfactory to your company, provided you would lease to them certain coal properties on this land, or on any other land belonging to your company?-A. No, sir.

Q. I ask you if you did not reply to that very question in this

language before the Judiciary Committee, page 1187:

language before the Judiciary Committee, page 1187:

Mr. Warriner. I have an indistinct recollection that afterwards the judge said something to me about Mr. Dainty's wanting to lease what is known as our Morris & Essex tract. I did not recall that before, but that was subsequent to this time, and had, as I understand it, no connection with that. I simply told him I would consider it, and nothing more has ever been done in regard to it.

Mr. Weers. Do you recall that some such proposition as that was made to you?

Mr. Warriner. I think it was, afterwards; yes. I believe there was something said, but not in the form of a consideration for this purchase.

A. Yes; there was no connection whatever to my mind. nor has there been the slightest thought that the lease of the 325 acres was to be in any form a consideration for the judge's services or Mr. Dainty's services in purchasing the outstanding Everhart interest.

Q. Why were both propositions discussed in the same conversation if they were not twin propositions and were to be carried along together?—A. One was discussed in one room, and the other was discussed just as the judge was leaving, and was in my outside office, in regard to this Everhart land. He spoke of it just as he was leaving the office. It did not at that time, nor has it since-

He told you Dainty-

Mr. WORTHINGTON. One moment, Mr. President. I submit that the witness should be allowed to finish his answer.

Mr. Manager WEBB. Certainly; I thought he had finished it. A. It did not at that time nor has it since appeared to me to be a consideration in fact. In explanation of that I would say that the purchase of the outstanding Everhart interest was a matter of comparatively small importance to the company, and the consideration of our giving a lease or a sale of another tract of land did not appeal to me as being a thing of any consideration whatever. It was spoken of as two separate and distinct transactions.

Q. (By Mr. Manager WEBB.) Can you understand why those separate and distinct transactions were always united in every conversation the judge had with you about either one?

Mr. WORTHINGTON. Mr. President, we object to that question. The Chair was not listening, I think, to it.

The PRESIDENT pro tempore. The Chair did listen to it. Mr. WORTHINGTON. It is an assumption of what the witness has clearly and distinctly denied. He has said that one conversation was over in his office and as the judge was leaving he just made a remark about Dainty wanting to get this other tract of land. The manager has said that in every conversation these things were linked together as twins. I think the manager has no right to make an assumption as to things that are so absolutely inconsistent with the testimony.

Mr. Manager WEBB. The witness can take care of that.

The PRESIDENT pro tempore. The attention of witness being called to it he can guard himself in that. Otherwise the Chair would ask the manager to propound the question in a different form. The Chair thinks the witness can guard himself. The question will be read.

The Reporter read the question, as follows:

Q. (By Manager Webb.) Can you understand why those separate and distinct transactions were always united in every conversation the judge had with you about either one?

A. I do not think they were, Mr. WEBB-not to the best of my recollection. The proposition relative to the 325-acre tract was made, as I said, when the judge was leaving the office at the termination of his interview relative to the Everhart lands. That is the only time that it was brought up then, and it was only brought up then for just that minute, and it made no impression whatever upon me. It was not in connection with the other subject, and I never considered that it was a consideration or any form of a consideration.

Q. (By Mr. Manager WEBB.) Do you know what Judge Archbald and Dainty had to do with the sale of the Everhart interest to you?-A. No: I do not. The judge came to me. known the judge as a man of responsibility in that district and acquainted with Mr. Dainty and with the Everhart people who lived in Scranton. He asked me if we desired still to purchase those lands. I told him yes. Whether he was doing that for friendship to them or for any other consideration, I do not

know.

Q. Were you to pay the judge anything for his interesting himself in your behalf with the Everhart heirs' estate?-A. No. sir.

Q. I ask you again if the judge did not talk to you more than once about the sale of the Everhart interest, and at each conversation he always connected the Dainty lease of 325 acres?-A. No, sir; I do not think so.

Q. Answer the question .- A. I said, No, sir; I do not think so. Q. In the hearing before the House Judiciary Committee I

asked you this question:

Did you not hear the judge mention his [Dainty's] name frequently? To which you replied:

Mr. WARRINER. I do not know that it was so very frequently-

Mr. WORTHINGTON. From what page is the manager reading?

Mr. Manager WEBB. From page 1189.

He did speak of him as you speak casually of anybody, but not fre-

quently.

Mr. Webb. You did not understand that he was to lease any part of your coal land?

Mr. Warrier. As I said before, he spoke about desiring to lease this coal land, but not in consideration of making this purchase, because such a transaction as that, from a business standpoint, would be foolish.

O. Now, I ask you again how many times did the judge speak to you about this proposition of the sale of the Everhart interest?-A. About the sale of the Everhart interest?

Q. Yes, sir.-A. I think, in regard to the main proposition, only once at the office; in regard to details relative to their interests, the proportion of their interests, two or three times possibly-sometimes on the phone, and he may have been to see me once. I do not recall the exact details of it, but the main matter was settled at one interview.

Q. But he called on you more than once?-A. Well, I rather

think he did; yes. I am not sure.

Q. Then I ask you if at each time he called upon you he did also suggest Dainty's desire to lease the 325-acre Essex tract?—A. No, sir; I do not think he mentioned that except that once; that is the only time. I finally gave him a definite answer on the matter, that the company would not care to make this lease, and not in connection with the Everhart purchase

Q. You told him the company would not care to make the lease, because it was contrary to the policy of your company to make a lease of any of your coal lands. Was that the truth?- A. I do not recall the reason that I gave him. I told him that we did not care to make the lease.

Q. That was the reason really, was it not?-A. That was

probably the main reason.

Q. That it was contrary to the policy of your company to lease your coal lands?—A. The general policy; yes, sir.
Q. Did you ever have any other application from Judge Arch-

bald to lease culm banks belonging to your railroad company or to your coal company?—A. Yes, sir; we had an application from him a year ago last summer to lease some culm banks in Schuylkill County, known as the Packer colliery banks.

Q. Now, before going into that proposition, let me ask you if you made this statement before the Judiciary Committee

Mr. WORTHINGTON. From what page is the manager going to read?

Mr. Manager WEBB. From page 1194. [To the witness:] Did you make this statement before the Judiciary Committee:

Mr. Warriner. Well, I don't know what passed through the judge's mind at that time. He simply mentioned to me that Mr. Dainty had spoken to him and that he would like to have that lease; and at that time it is my recollection that I told the judge many people had been after that lease and, personally, I did not think it was a very good mining proposition, but that I would consider it. We never had made efforts to lease it to anybody—it is against our policy to lease any property—but I told him I would consider it.

Is that correct?—A. Yes, sir; I think so.

Q. Now, Mr. Warriner, when was it he made application to you for other property?-A. I think it came up to me in July or August of 1911.

Q. Let me ask you, now, when you were at the Judiciary Committee hearing last May you could not remember anything about the correspondence you had with Judge Archbald about Packer No. 3, could you? You did not remember?—A. The correspondence was presented at the Judiciary Committee hearing-the second Judiciary Committee hearing.

- Q. I understand. It was presented, though, after you had gone away from the stand and after evidence had been produced from the Girard estate containing some of your letters. I ask you if you did not tell the Judiciary Committee that you had no correspondence of importance about this matter, and that whatever connection Judge Archbald had with the transaction with yourself was by phone and personal calls?-A. I said there were some letters, but I did not think they were of any importance, and that I had not read them or seen them since the time it had happened. That was my recollection, but I went back and secured the letters. When I was subpensed to bring them later on I found what was in the files.
- Q. When was the first conversation you had with Judge Archbald about Packers No. 3 and No. 4, belonging to the Girard estate and leased to you?—A. I think it was in July or August, 1911.
- Q. What was the purport of that conversation?-A. It came up first in the form of a letter addressed to Mr. W. A. Lathrop. Q. Was that letter dated August 1?-A. I do not recall the

Q. Is this [handing a paper to the witness] the letter?-A.

(After examining.) Yes, sir; that is the letter.
Q. Is that Judge Archbald's handwriting?

whole letter in the handwriting of Judge Archbald?-A. I think so; yes, sir.

Mr. Manager WEBB. Mr. President, we would like to have the letter read. I believe the letter is admitted.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary proceeded to read the letter.

Mr. WORTHINGTON. I will say that this correspondence which is about to be offered is all in the previous record, and we have no objection to its being read from the record.

Mr. Manager WEBB. Neither have I any objection. Mr. WORTHINGTON. It is all admitted. There is no question about it.

Mr. Manager WEBB. Then, I ask the Secretary to take this record [handing volume to the Secretary] and to read

The Secretary resumed and concluded the reading of the paper, which was marked "U. S. S. Exhibit 64," as follows:

[U. S. S. Exhibit 64.]

(United States Commerce Court, Washington.)

SCRANTON, August 1.

W. A. LATHEOP,

Superintendent Lehigh Valley Coal Co.

DEAR SIR: Would it be possible to lease any of the culm dumps which you control in the neighborhood of the Oxford washery at shaft near Shenandoah? I have an option on this washery, and the culm dump which goes with it is not quite what it ought to be and ought to be strengthened with another. From a talk which I had this morn-

ing with my nephew. Col. James Archbald, of Pottsville, I think the concurrence of the Girard estate, etc., could be secured in any fair arrangement. Yours, very truly, R. W. ARCHBALD.

Q. (By Mr. Manager WEBB.) Mr. Warriner, before you answered this letter, did you receive one from Mr. Lathrop, or before you answered Judge Archbald's inquiry?—A. That letter was referred to me by Mr. Lathrop-it was sent to me by Mr. Lathrop.

Q. And is this the letter [handing paper to witness] from

Mr. Lathrop to you?

Mr. SIMPSON. While that paper is being identified by the witness, with the consent of Mr. Manager Webb, may we be permitted to say that, on reading the correspondence, we do not think that Mr. Lamb will be of any further use, and he may be discharged, so far as we are concerned.

The PRESIDENT pro tempore. Mr. Lamb will be so notified.

The Secretary will read as requested.

The Secretary read the letter, which was marked "U.S.S. Exhibit No. 65," as follows:

[U. S. S. Exhibit 65.]

437 CHESTNUT STREET, Philadelphia, August 7, 1911.

Mr. S. D. Warriner,
Vice President and General Manager
Lehigh Valley Coal Co., Wilkes-Barre, Pa.

DEAR WARRINER: Inclosed I hand you letter I took to Montrose with me on Friday with the intention of handing it to you, but I did not

me of Friday with the see you.

It is evidently addressed to me under the impression that I am still connected with the Lebigh Valley Coal Co.

I have replied to the effect that the letter has been forwarded to you.

Yours, very truly,

W. A. LATHROP.

(L. P.: Inclosure.)

Q. (By Mr. Manager WEBB.) What was the next communication you had from Judge Archbald, if any, with reference to this matter?—A. I think I got a letter from him next—

Q. Look at that [handing a paper to the witness] and see if

that is the letter?

The Witness (after examining). Yes; that is the letter. Mr. Manager WEBB. I ask the Secretary to read exhibit marked "144" before the Judiciary Committee.

The Secretary read the letter referred to, and it was marked "U.S. S. Exhibit 66," as follows:

[U. S. S. Exhibit 66.]

(United States Commerce Court, Washington.)

SCRANTON, PA., August 11, 1911.

S. D. WARRINER, Esq.

S. D. Warriner, Esq.

Dear Sir: Your company, I am advised, is interested in some culm dumps at shaft near Shenandoah, Pa., in the vicinity of the Oxford washery, these dumps being made in connection with your operations on the Girard estate property. In negotiating with regard to that washery I find that it needs an additional dump, or will in the near future, and I am therefore writing to inquire whether any arrangement could be made with your company for one or more of the dumps which I have referred to. It, of course, would have to be subject, as I understand it, to the approval of the Girard estate, from whom you lease, but I think that this possibly could be secured if the terms were favorable. By mistake I wrote on this subject to Mr. W. A. Lathrop, not being aware of his change over to the Lebigh Coal & Navigation Co., and a letter from him advises me that he has forwarded my letter to you.

Yours, very truly, R. W. ARCHBALD.

Q. (By Mr. Manager WEBB.) Did you reply to that letter, Mr. Warriner?—A. I think so; yes.
Q. See if that [handing a paper to the witness] is a copy of

the letter you wrote Judge Archbald?-A. (After examining paper.) Yes, sir.

Mr. Manager WEBB. I ask the Secretary to read Exhibit.

142 before the Judiciary Committee of the House.

The Secretary read the letter which was marked "U. S. S. Exhibit 67," as follows:

[U. S. S. Exhibit 67.]

Hon. R. W. ARCHBALD, Scranton, Pa.

AUGUST 14, 1911.

DEAR SIR: Replying to your letter of the 11th instant, just received, I beg to say that I will look into the matter soon as possible.

Our superintendent is away for a few days, but as soon as he returns I will have an investigation made and advise you.

Yours, very truly,

Vice President and General Manager.

Q. (By Mr. Manager WEBB.) Did you get another letter from Judge Archbald in answer to that ?- A. Yes; I think I did. Yes; there were several letters along that time.

Q. I presume it was not in answer to that letter, because the letter which I am going to offer for identification was dated September 12, and that letter was not written-yes; September 12. Can you state whether it is an answer or not?-A. (After exam-

ining paper.) Yes; I received this letter.
Mr. Manager WEBB. I ask that the Secretary read it.

The letter was read and marked "U.S.S. Exhibit 68," as follows:

[U. S. S. Exhibit 68.]

[R. W. Archbald, judge, United States Commerce Court, Washington.] SCRANTON, Pa., September 12, 1911. S. D. WARRINER, Esq.

Dear Sir: I do not suppose you have had time as yet to look into the matter of leasing me one or more of the culm dumps of your company on the Girard estate at shaft near Shenandoah, or I should have heard from you. I do not wish to unduly hurry the matter, but there are one or two things which are dependent upon it, which make me anxious to get a response as soon as possible, and, of course, I hope it will be favorable

Yours, very truly,

R. W. Archbald.

Q. (By Mr. Manager WEBB.) Did you answer that letter, Mr. Warriner?—A. I think I did; yes.

Q. See if that [handing a paper to witness] is a copy of the answer you sent him.—A. (After examining paper). Yes.

Mr. Manager WEBB. I ask the Secretary to please read

The letter was read and marked "U. S. S. Exhibit 69," as

[U. S. S. Exhibit 69.]

Hon. R. W. ARCHBALD, Scranton, Pa.

SEPTEMBER 13, 1911.

Dear Sir: Replying to yours of the 12th, I am sorry that our super-intendent has been away on vacation and has delayed my answer to your letter. He has now returned, and I will stir him up and get an early reply for you.

Yours, very truly,

Vice President and General Manager.

Q. (By Mr. Manager WEBB.) Did you write him another letter before hearing from him in answer to that one?-A. I

may have; I do not recall.

Q. See if the letter I hand you is a copy of the letter you sent

the judge.—A. (After examining paper.) Yes.

Mr. Manager WEBB. Mr. Secretary, will you please read it?

The Secretary read the letter, marked "U. S. S. Exhibit 70," as follows:

[U. S. S. Exhibit 70.]

SEPTEMBER 27, 1911.

Hon. R. W. ARCHBALD, Scranton, Pa.

Scranton, Pa.

Dear Sie: Replying further to your several letters regarding culm banks at Packer No. 4 colliery, I now have a report from our superintendent on the situation, and I think it will be possible for us to accede to your wishes. It is our desire to accommodate your wishes so far as it is possible, but I think an interview will be necessary, at which time I can arrange to have our superintendent present and go over the matter in detail. My reason for this is that there are a number of banks there and we hardly know just what it is you refer to.

If you will kindly set a date on which you can arrange to be at my office, I will be glad to meet you with our superintendent.

Yours, very truly,

Vice President and General Manager.

Q. (By Mr. Manager WEBB.) That was the 27th of September, Mr. Warriner. Did you receive the letter which I hand you, dated September 28, from Judge Archbald in reply to the letter which has just been read?—A. [After examining letter.] Yes, sir.

Mr. Manager WEBB. Mr. Secretary, will you please read it? The Secretary read the letter, marked "U. S. S. Exhibit 71,"

as follows:

[U. S. S. Exhibit 71.]

(R. W. Archbald, judge, United States Commerce Court, Washington.) SCRANTON, PA., September 28, 1911.

S. G. WARRINER, ESQ.

Dear Sir: I thank you very much for your letter of September 27, stating the possibility of your letting me have a lease on one of the cuim banks at Packer No. 4 colliery near Shenandoah, and suggesting that I fix a time when your superintendent may be present to go over the matter. I certainly shall avail myself of the first opportunity for doing so, but just at present I am called to Washington to attend a session of the Commerce Court which opens there on Monday, and shall be detained there a couple of weeks. I will let you know as soon as possible the time of my return, and trust that you will keep this matter open meanwhile.

Yours, very truly,

R. W. ARCHEALD.

Q. (By Mr. Manager WEBB.) After receiving that letter, did you have a phone conversation with the judge with reference to making a date when he could meet you?-A. I think so;

Q. Do you remember the substance of the conversation?-A. I recall nothing except asking for a day at which to meet our

superintendent.

Q. Was the judge in Washington when he phoned you?—A. No; I do not think he was. I think he was in Scranton.
Q. He said in that letter he would be away for a couple of

weeks?-A. Yes.

Q. Do you know when it was he phoned you?-A. No, sir; I do not.

Q. With reference to the date?—A. I do not.
Q. Here is a copy of a letter sent by you December 22, 1911.
See if you wrote that to the judge, and perhaps that will

refresh your memory as to when the phone conversation was .-A. (After examining letter.) It was probably a day or two prior to December 22, which is the date of this letter.

Mr. Manager WEBB. Mr. Secretary, will you read the letter? The Secretary read the letter, marked "U. S. S. Exhibit 72,"

as follows:

[U. S. S. Exhibit 72.]

DECEMBER 22, 1911.

Judge R. W. ARCHBALD, Scranton, Pa.

DEAR SIR: Referring to our appointment for Tuesday, the 26th instant, I have an appointment here from 10 to 11, but will be very glad to see you at 11 o'clock or any hour thereafter which suits your convenience. venience. Yours, very truly,

Vice President and General Manager.

Q. (By Mr. Manager WEBB.) Mr. Warriner, that letter is dated December 22, referring to an appointment when you would meet the judge. Had you had no personal conversation with him before that time and discussed the terms and conditions under which you would lease him the culm banks, Packers Nos. 3 and 4?-A. No; I do not think so. I do not recall just when the interview was in my office, but I assume that letter was before that time.

Q. Is it your recollection, then, that up to December 22, 1911, you and the judge had not come to any agreement as to your

leasing culm banks Nos. 3 and 4?

The WITNESS. May I ask what the date of the last letter was?

Mr. Manager WEBB. December 22, 1911.

The WITNESS. But the letter previous to that?
Mr. Manager WEBB. September 28, 1911.
A. I do not recall just when the date was.

Q. Well, this letter of December 22 speaks of a subsequent time when you would have a conference with him. I ask you if you did not have a personal conference with him before December 22 and agree that he should have culm banks, Packer Nos. 3 and 4?—A. I do not recall whether it was before December 22 or not. I had one or two interviews with him on that matter. Our first interview may have been prior to that time. I think I had probably two interviews with him on the matter, and the preliminary conversation with our superintendent may have been prior to December 22; I do not recall.

Q. I call your attention to the fact that there has been put in evidence here-you have probably seen the application-an application to the Girard estate, dated December 19, 1911, in which the judge and his associates said to the Girard estate that they had seen you and that you had agreed to lease them Packer Nos. 3 and 4.-A. If that was dated on December 19, then the interview that I had preliminary, the first interview I

Q. Was prior to that time?-A. I should think so; I do not recall the date.

Q. Well, now, what was the object of this interview you speak of in your letter of December 22?-A. That I can not say-whether it was in regard to the first proposition-that is, the lease of the Packer bank or to the sale of the Everhart property. I can not recall when those dates were.

Q. The Everhart transaction, the Dainty transaction, and the Packer No. 3 transaction were all being carried on during the months of September, October, November, and December, were they?-A. Yes; I think the Everhart transaction was carried on in December or about that time. The others dragged along from July until December.

Q. I ask you, Mr. Warriner, if you received the letter which I hand you, from Col. James Archbald, engineer of the Girard estate?-A. (After examining letter.) Yes, sir.

Mr. Manager WEBB. Mr. Secretary, will you please read the letter?

The Secretary read the letter, marked "U.S. S. Exhibit 73," as follows:

[U. S. S. Exhibit 73.]

GIRARD ESTATE, Pottsville, Pa., December 26, 1911.

S. D. Warriner, Esq., Vice President and General Manager Lehigh Valley Coal Co., Wilkes-Barre, Pa.

Lehigh Valley Coal Co., Wilkes-Barre, Pa.

Dear Sir: I have received an application from R. W. Archbald, James F. Bell, V. F. Petersen, and T. H. Jones, who propose to incorporate as the Jones Coal Co. for a lease of the Packer No. 3 and eastern No. 4 culm banks, in which they state they have the "assurance of your company that on certain terms and conditions, which have practically been agreed upon, it is satisfactory to you to have this lease made." Please advise me if this is correct, and give me a memorandum of what the terms and conditions referred to are, as our board of directors will want to know before making a lease of these banks. As the proposed lessees are anxious to have the matter presented to the committee on the Girard estate without the city at its next meeting on Thursday, January 4, an early reply will be appreciated.

Very truly, yours,

James Archbald, Jr.

Engineer Girard Estate. JAMES ARCHBALD, Jr. Engineer Girard Estate.

Q. (By Mr. Manager WEBB.) Did you answer that letter, Mr.

Warriner?—A. I did; yes. Q. Please state if what I send to the desk is a copy of the letter you wrote Mr. Archbald .- A. (After examining letter.) Yes, sir.

Mr. Manager WEBB. Mr. Secretary, will you please read it? The Secretary read the letter, marked "U. S. S. Exhibit 74," as follows:

[U. S. S. Exhibit 74.]

DECEMBER 28, 1911.

Mr. James Archbald, Jr., Engineer Girard estate, Pottsville, Pa.

Engineer Girard estate, Pottsville, Pa.

Dear Sir: I have your letter of the 26th instant at hand. Judge Archbald called to see me recently and said that he would like to rework some of the culm banks at Packer No. 3 colliery. I advised him that if it was the pleasure of the Girard estate to extend to him a lease of this bank we would not interpose any objection, provided he agreed to certain arrangements which we informally discussed.

I did not agree to let him have the No. 4 bank, as we are already putting some of this through the No. 4 breaker.

Yours, very truly,

Vice President and General Manager.

Vice President and General Manager.

Q. (By Mr. Manager WEBB.) Mr. Warriner, is that all the correspondence you had with Judge Archbald in reference to this matter?—A. If that is all that I have presented to the Judiciary Committee, it is all that I had. I do not recall whether there were other letters or not.

Q. That is, the correspondence that you told the Judiciary Committee on your first examination before them that was of

no moment?

Mr. WORTHINGTON. Mr. President, I submit that, instead of making a statement of what the witness testified to before the Judiciary Committee, it would be fairer to him, and more intelligible to the Senate, to have that read to him and see if that is what he testified to. The words which my friend has used will not be found there.

Mr. Manager WEBB. I will be delighted to read it, Mr.

President.

Mr. WORTHINGTON. From what page? Mr. Manager WEBB. I read from page 1191:

Mr. Webs. You do not know whether he ever extended his operations or not?

Speaking of Judge Archbald with reference to the application to you for the bank-

Mr. Warriers. I think he did take it up. I assume he did, because they asked me and I told them—they asked me whether we desired to sublease this, and I told them no; we did not especially desire it, but were perfectly willing in case the board of directors of the City Trust desired to do this—that we would not stand in the way of the transaction. I never heard anything more about it. I assume it fell through.

Mr. Werb. You do not know whether they did extend any work over the line or not?

Mr. Werb. You do not know whether they did extend any work over the line or not?

Mr. Warriner. I know they did not, because they could not do it during the lifetime of our lease.

Mr. Werb. But you did agree, so far as the coal company's interest was concerned, to let him do it?

Mr. Warriner. I agreed to, within certain lines.

Mr. Werb. Well, that is agreeing to this request.

Mr. Warriner. Yes, sir.

Mr. Werb. Did he ever make any application to you in reference to culm banks?

Mr. Warriner. No. sir: not that I recall.

culm banks?

Mr. Warrier. No, sir; not that I recall.

Mr. Werb. Or coal properties?

Mr. Warrier. No, sir.

Mr. Werb. Or coal properties?

Mr. Warrier. No, sir.

Mr. Werb. Have you any correspondence with him in reference to any leases of culm dumps?

Mr. Warrier. No, sir.

Mr. Werb. You have no correspondence with reference to any of these matters that you now speak of?

Mr. Warrier. No, sir; I have no correspondence, except notes relative to making an appointment or something of that kind—but nothing of any moment at all. In fact, I have not seen any correspondence since it happened. I have not looked it over and know nothing about it. It was done by word of mouth and over the telephone.

You stated that before the committee, Mr. Warriner?-A. Yes; and in explanation of it I simply wish to say-I suppose that I am entitled to explain it.

Mr. Manager WEBB. Yes, indeed, sir.

The Witness. In explanation of it I will say that at the time I gave that testimony I had no recollection whatever—it was honest testimony—and I gave no special thought to the matter because the matter never came to a head and never was finished; that most of this correspondence was relative to making interviews and tentative agreements, but nothing relative to the terms of any agreement which was to be made, and to my mind was of no importance in connection with the deal or the negotiations which were being carried on, as the terms had never been reduced to writing.

Mr. Manager WEBB. Exactly. In your previous testimony,

when you were asked whether you desired to sublease these you told them "no."

Mr. WORTHINGTON. On what page is that?
Mr. Manager WEBB. Page 1191. When you were first asked to sublease this culm bank to Judge Archbald did you tell them "no, that you did not want to?"

A. I told them just what I said in that letter; that if it was their pleasure to lease these banks we would interpose no ob-

Q. You swore before the Judiciary Committee, as I under-

stand-

Mr. WORTHINGTON. May I ask what is the object of this? Is it to show that the witness is not to be believed on oath or

to refresh his memory?

Mr. Manager WEBB. Just to refresh his memory-that is one object-and it is to show that when he was first approached about the matter, he told them that they did not want to lease it, but that afterwards he did lease it; that when the Girard estate asked him, representing the coal company or the railroad company, if they desired to sublease this proposition, this culm bank No. 3, he replied "no," but later did agree to it.

The PRESIDENT pro tempore. Has he not already testified

Mr. Manager WEBB. Well; no, sir; I think not. He did say that he swore to this, but I want to examine him on that particular point.

The PRESIDENT pro tempore. Ask him the question direct

whether or not he did.

Mr. Manager WEBB (to the witness). I will ask you this question that, if before the Judiciary Committee—

The PRESIDENT pro tempore. No, ask him the question for the purpose of eliciting the evidence. If he does not answer

correctly, the manager can then refresh his memory. Q. (By Mr. Manager WEBB.) I ask when this proposition was first put up to you with reference to leasing culm bank No. 3, if you did not tell the Girard estate that you did not want to lease it?—A. I told them that we had not, and I think—

The PRESIDENT pro tempore (to the witness). Answer as directly as you can and then make any explanation you wish

afterwards.

A. I told them that if it was their pleasure to lease these banks to Judge Archbald we would not interpose any objection, provided the negotiations were carried on in accordance with certain terms and conditions which I had verbally discussed with Judge Archbald.

Mr. Manager WEBB. Now may I ask him that question,

Mr. President?

The PRESIDENT pro tempore. I wish you would repeat that question again, and I will again caution the witness to answer the question as asked him, and then make any explanation he

wishes after repeating the question to him.

Q. (By Mr. Manager WEBB.) I ask you if when the Girard estate first asked you if you desired to lease the culm bank or Packer No. 3 and No. 4 if you did not reply to them "No," but that if it was agreeable to them you would agree to it?— A. I replied nothing more to them except what was in my letter which has just been read. That was the reply I made to them. I do not think I ever had any other talk with them in regard to it.

Q. Now, then, I ask you if you did not swear this before the Judiciary Committee when they examined you on the first examination? This is at page 1191:

Mr. WARRINER. I think he did take it up. Evidently referring to Judge Archbald-

I assume he did because they-

I imagined that you referred to the Girard estate-

asked me and I told them; they asked me whether we desired to sub-lease this, and I told them, no; we did not especially desire it, but were perfectly willing in case the board of directors of the City Trust desired to do this.

A. You might say that the word "no" is a strong interpreta-tion of my letter. I simply said that if the board of the City Trust desired to make the lease we would interpose no objection. The letter has just been read. It is a question of memory.

Q. What were the terms and conditions on which you agreed to lease to Judge Archbald?—A. First, that the limit of the culm to be leased to him should be confined within a certain area and include only such culm as we had no intention of preparing ourselves.

Q. That is not an answer to my question, Mr. Warriner. I asked you the conditions upon which you agreed to lease to Judge Archbald?—A. I am trying to tell you, as near as I can explain to you the terms. First, that there was to be only a certain area of culm leased.

certain area of culm leased.

Q. That was Packer No. 3 and Packer No. 4——A. And part of No. 4, and Packer No. 3; yes. Secondly, there should be, I think, 2 or 3 cents a ton royalty to us for the consideration over and above the royalties to be paid by us to the Girard estate; thirdly, that there should be proper provision for the maintenance of the creek flowing in the property, and that the culm is the state of the creek should be been out of the creek; and fourth I and washings should be kept out of the creek; and fourth, I think, that the transportation of this coal should be via the Lehigh Valley Railroad. Those were the terms, as near as I recollect them.

Q. Had you agreed on those conditions before December 22, 1911?—A. I should imagine I had; yes. I think the judge took it up with the Girard estate after we had discussed those terms

and conditions.

Q. Did you discuss this matter or report this matter to Mr. Thomas, your president?—A. I spoke to him. I made no formal report of it, because it had not reached a stage where I was sure that it would be carried through, as the consent of the Girard estate was necessary to it. I had told him that there had been this application for the culm bank and told him the steps I had taken, and he interposed no objection.

Q. But, so far as you were concerned, the agreements were thoroughly understood between you and the judge?-A. Yes, yes.

Q. And that you were willing to recommend this proposition to Mr. Thomas?—A. Yes.

Q. And your recommendation, in a small matter of that sort,

goes with the president, does it not?—A. Yes, sir.
Mr. Manager WEBB. I believe that is all we wish to ask this witness.

Cross-examination:

Q. (By Mr. WORTHINGTON.) I want to ask you whether in your testimony before the Judiciary Committee on this question as to at first refusing to consider leasing the culm bank to Judge Archbald this occurred? I read from page 1190 of the

He-

The judge-

wished to extend his operations over our lines and to take from us a part of these culm banks which were on this property. I explained to the judge that we were operating that property under a lease which expired in two years, and that we had no right to sublease the property without the consent of the owners of the property; that so far as our own rights were concerned we had no objection in case the owners of the property asked us to vary the line and allow him to take some of those banks—such banks as we did not need or would not put through during the life of cur own lease. I suggested to him that he had better take the matter up with the Girard estate afterwards, and that on request from them we would be very glad to consider the matter. matter.

Q. Is that your recollection of what you testified to?-A. Yes.

Q. And of what the fact was?-A. Yes, sir.

Q. In that connection I would ask you whether or not Judge Archbald at any time in these negotiations said to you, or suggested to you, or hinted to you, in any way that there was any secrecy about his connection with this business?-A. No. sir; none whatever.

Q. In his letter to you of September 12, 1911, which has been

read in evidence, he says:

I do not suppose you have had time as yet to look into the matter of leasing me one or more of the culm dumps of your company.

Did the negotiations from that time on proceed on the understanding that it-between you and him-that the matter was going on and that he was to lease the dump?-A. I understood that the judge was to lease the dump on behalf of himself and associates who had owned or controlled the Oxford washery

Q. And in his first letter which was written to Mr. Lathrop and forwarded to you-his letter of August 1-he says:

I have an option on this washery-

That is, the Oxford washery-

and the culm dump which goes with it is not quite what it ought to be and ought to be strengthened with another.

Did you understand from that that he was the person who was dealing with you in the first instance and that he was interested and proposed to lease the dump?-A. Yes, sir.

Q. And I understood you to say that he never at any time intimated or suggested it was a matter which was a secret?-

A. No, sir; none whatever.

Q. And was it, as a matter of fact, known to other people in your office that the negotiations were going on?—A. It was known to a great many. A great many other callers came in while the judge was there.

Q. Have you mentioned the name of Mr. Humphrey?-A. I do not think I mentioned his name. I mentioned him as the

superintendent.

Q. What is his full name?—A. John M. Humphrey.

Q. What was his position in your company at the time of this correspondence with Judge Archbald?—A. He was a division superintendent.

Q. Do you remember whether or not he was present at any of the interviews you had with the judge on the subject of leasing the Packer dumps?-A. Yes; he was present with the maps at one of the interviews.

Q. Do you remember whether or not at one of those conversations he recommended to you, in Judge Archbald's presence, that I the time I severed my connection with the company.

it would be better to let the Packer No. 3 go, as your company could not work it satisfactorily or profitably?

Mr. Manager WEBB. Will you repeat that question?

The PRESIDENT pro tempore. The Reporter will repeat the question.

The Reporter read as follows:

Q. Do you remember whether or not at one of those conversations he recommended to you, in Judge Archbald's presence, that it would be better to let the Packer No. 3 go, as your company could not work it satisfactorily or profitably?

A. I would not say that he positively recommended that. I will say, however, that in connection with him we agreed upon a line of the proposed lease which would not interfere with our operation and would include only such coal as we had no intention of mining ourselves and did not consider it profitable to mine during the life of the lease, and that both Mr. Humphrey and myself were agreed upon that.

Q. Is Mr. Lathrop living?—A. No; Mr. Lathrop is dead.

Q. How long has he been dead?—A. He has been dead since

last April.

Q. Up to what time was he connected with your company—the Lehigh Valley Coal Co.?—A. He closed his connection with the Lehigh Valley Coal Co. in 1901.

Q. So that he really had not been connected with your company for about 10 years before Judge Archbald wrote this letter under the impression that he was still there?—A. Yes, sir.

Q. Do you remember that as to this Packer No. 3 dump, which is the subject of investigation here, your company had at one time worked it a little while and then stopped?—A. Part of the dump we had worked and stopped. We had worked it from chutes from inside the mine.

Q. Why did you stop?-A. We did not consider it very good

coal to mix in with the other coal.

Q. With reference to this earlier transaction, or other transaction, with Judge Archbald, about the claim of the Everhart heirs, you said that that was rather a small or inconsiderable matter, and Mr. Webb said-I do not know whether you observed his language when he asked you the question-it was a matter of \$50,000 or \$60,000 and not so small after all. the outstanding claims of the Everharts involve fifty or sixty thousand dollars?-A. It was a small matter to the company, because these outstanding interests were held under a coal lease for the life of the property.

Q. And were you paying royalties to the Everharts?—A. We were paying royalties to the Everharts for the coal mined.

Q. And so it was a question whether you would pay the royalties or purchase it and be out the interest on the money. That was the difference to you?—A. That was all that the matter amounted to.

Q. And that did not strike you as being a matter of any great consequence to the company?-A. The only advantage to the company in the purchase of this was to eliminate chances of future lawsuits due to misconceptions of the terms of the lease,

which was an old lease.

Q. Do you recall whether, when Judge Archbald saw you about the Everhart interests in your property, he told you that he was interested in getting into communication with the Everharts or getting settlements with them, because they had interests in another culm bank on which he had an option in connection with others or with another—the Katydid, I mean?—A. No, sir; I do not recall that.

Q. If he mentioned that to you--A. If he mentioned it, I

have forgotten it. I do not recall it.

Q. I believe it has not been brought out in the testimony here, but James Archbald, to whom you have referred as the engineer of the Girard estate, is a nephew of Judge Archbald?—A. Yes, sir. Q. A son of his brother?—A. Yes, sir.

Q. In reference to what has been asked you here as to whether you did not testify before the Judiciary Committee that your company was quite anxious to get in the Everhart interest, I will ask you whether this occurred in your examination before the Judiciary Committee on that subject. This is at page 1187:

Mr. Webb. Your company had been very anxious to secure this outstanding interest for quite a while, had it not?

Mr. Warriner. Not especially; no.

Do you remember giving that testimony?-A. Yes, sir; I think I said that.

Q. And also, reading on the same subject, at page 1189:

Mr. Webb. That is, you were not able to buy from the Everharts at

Mr. Weels. That is, you want this price?

Mr. Warriner. We made no special effort to buy or sell. It is up to them. It is not a thing of any particular advantage to the Lehigh Valley Coal Co. one way or the other.

The Witness. That represents the facts as they existed at

Q. In the conversations you had with Judge Archbald on the subject was there any suggestion that you could be induced to pay the Everharts more for their interest than you had been willing to pay all along?-A. Not that I recall. My recollection is that I told the judge at the start what we had paid the others, and that we had agreed that all interests would be paid alike; and we calculated what that amount was, and Mr. Jessup, our engineer, telephoned to Scranton and told the judge what it amounted to.

Q. Do you remember about how many different interests there were originally in this claim that we call the Everhart claim?—A. The claims were divisible, I remember, by 103. There were so many claims that they were divisible by 103;

it was a very complicated question.

Q. And before you had talked to Judge Archbald about it had you got in a majority of those interests?—A. Yes, sir. Q. You had fixed a certain value for the whole interest?-A.

Yes, sir.

Q. And then paid each his fractional part on that basis?—A. Yes. sir.

Q. And your only dealings with Judge Archbald were on the same basis, as I understand you, and no other?—A. Yes.
Q. And they could take that price or take the royalty, as they pleased?—A. Yes, sir.

Mr. WORTHINGTON. That is all, Mr. President.

Mr. Manager WEBB. One or two questions in redirect examination, if you please.

Redirect examination:

Q. (By Mr. Manager WEBB.) You wanted, of course, to get the interests rather than to pay the royalty, and that is why you had bought the other interests?—A. Well, there was not the same advantage, Mr. WEBB, in all frankness, because the small remaining interests in the property were of such comparatively little moment that the danger of any large suit over the interpretation of the original lease was greatly minimized, and we were not so anxious to get those interests as we were the previous interests which we had got prior to that time. But at the same time, I will say, in all frankness, that we were desirous of closing up the entire transaction and getting the fee

of the entire property.

Q. That is what I thought; and that is why you went to the trouble of having your engineer make the survey and ascertain the interest which each individual had?—A. Yes; it was a matter that we were not pushing, but would be glad to have

closed up.

Q. I ask you, in regard to the outstanding interests, if in any of those conversations Judge Archbald did not tell you or make known to you that this man Dainty had some relations with the Everharts which would enable him to induce them to sell to you? Is not that what the judge told you, and is not that the only reason he mentioned Dainty?—A. Either he told me or I knew that Mr. Dainty had had some dealings with the Everharts in regard to culm banks. I had known of that; it was common gossip.

Q. Did you say you worked part of Packer No. 3?-A. We worked a part of that bank by a chute driven up from the mines inside, and at times had taken a part of this bank through a

hole driven up to daylight.

Q. How long ago was that?—A. It was now and then during that time. I do not recall—

Q. During what time?-A. Prior to that time-when we had that hole there.

Q. Are you not mistaken in mixing bank No. 3 with bank No. 4? You did work some of bank No. 4, and is not that the bank you speak of now?—A. Well, it is a small bank there. It is the upper part. If you have a map I can show you.

Q. Yes, I have a map. Let me get the location of this, please. There is a creek that ran between your railroad and the Philadelphia & Reading, was there not?—A. Yes, sir.

Q. On one side of the creek, the south side, the Oxford Coal Co. was located?-A. Yes.

Q. And the Oxford washery?—A. Yes, sir.
Q. On the north side there was Packer No. 3, and closely adjoining it, being almost a part of Packer No. 3, was Packer No. 4, a small dump?—A. Yes.

Q. About 48,000 tons?—A. Yes.

Q. And, then, still further south and below your present breaker there was another dump called Packer No. 4, which you did work some and took some of the coal and mixed it with the fresh coal from your colliery?—A. Yes; that is right.

Q. It was Packer No. 4, which you declined to lease to Judge Archbald, that you were working and not Packer No. 3, was it not?—A. Yes; but it is a small bank. As I recall it now, it was the small-

Q. Just look over that drawing, please; was it—this [indicating] is Oxford and this [indicating] Erie Packer No. 4, and there [indicating] is Packer Nos. 4 and 3?—A. There is where we had the hole, up here [indicating on map].

Q. You say you worked a part of the little bank adjoining Packer No. 3?—A. Yes.

Q. What is that bank known as?

Mr. WORTHINGTON. Will you let me look at the map you have shown to the witness?

Mr. Manager WEBB. Yes, sir. Mr. WORTHINGTON. I think that ought to be marked for identification.

Mr. Manager WEBB. That is my own drawing. Mr. WORTHINGTON. I do not care who drew it. It has been made a part of the evidence, and the witness has answered questions about it, and nobody can understand his testimony without reference to the map. I submit it ought to be marked and become a part of the record, Mr. President.

Mr. Manager WEBB. I shall be glad to have it done, Mr.

President.

Q. (By Mr. Manager WEBB.) On one side of this little creek the Oxford people had a washery and on the other side, opposite, rather, the Lehigh Coal Co. had a breaker?-A. Yes.

Q. Did you work what is known as Packer No. 4 in connection

with your fresh colliery coal?—A. Yes, sir.
Q. Did you also work what is known as a part of Packer No. 3 and known by your engineers as another No. 4 bank?-A.

Q. Did you work two banks down there at your breaker?-A. Well, we drove a hole up into that small upper bank and did take some coal from it.

Q. How much?—A. Oh, very little. Q. Give us an idea. That "very little" is indefinite.—A. I have no idea.

Q. Did you take a few tons?-A. A few tons; yes. It was

not a very good bank and we took very little of it.

Q. Do you know whether it is good bank or not-Packer Nos. 3 and 4? Do you not know that the average of prepared coal in Packer Nos. 3 and 4 is 15 per cent above chestnut—that is, prepared sizes?—A. I know that so far as concerns the culm banks the Lehigh Valley Coal Co. has operated wherever the coal was in larger sizes it had to be crushed into smaller sizes, because it was not marketable in the larger sizes.

Q. I ask you if there were not 143,000 tons of prepared coal in this Packer No. 3?-A. I do not know that.

Q. You never knew that?—A. I never did.

Q. If there are 143,000 tons of prepared coal or an average of 15 per cent prepared coal it was a good bank, was it not; an average bank?—A. Well, our——
The PRESIDENT pro tempore. Answer the question; was it

or was it not.

A. It would depend entirely on how much slate was mixed

with the coal.

Q. (By Mr. Manager WEBB.) I ask you whether, if you find a bank with a proportion of 15 per cent of prepared coal in it, 4 per cent of pea coal, 14 per cent of buckwheat, and 12 per cent of rice, it is not a good average culm bank?-A. That is a good percentage of sizes, it is true; but it depends entirely on the condition of that bank for market purposes. It depends on the amount of rock and refuse with the coal.

Q. I understand that; but you never went into Packer No. 3?-A. We always considered that Packer No. 3 had so much refuse with the coal that at the royalties paid the Girard estate there was not any profit in working it, and so we have never

worked it during the life of the lease.

Q. How far was your property from Packer No. 3 and 4 that you speak of; only 800 feet, was it not?—A. I should say that bank was perhaps a little farther.

Q. Well, make it a thousand feet. I ask you if you did not have your breaker within a thousand feet of this Packer No. 3 and No. 4?-A. Somewhere in that neighborhood; yes, sir.

Q. And you were using some of the lower Packer No. 4 in

connection with your fresh coal?—A. Yes.
Q. And you could use Packer No. 3 in the same way?—A. No; Packer No. 4 was a much better bank. It was an older bank and contained a very much larger percentage of good coal-marketable coal.

Q. What is the percentage of Packer No. 4?-A. I do not recall those figures.

Q. Well, how do you know it was larger than 15 per cent?-A. With deference to you, I do not think that you understand. I take it from your question you are asking me for the percentage of those marketable sizes.

Q. Yes.—A. Suppose you get a hundred thousand tons of coal mixed in a million tons of refuse, you have to move the whole

quantity in order to get out the marketable coal.

Q. I understand that.—A. And that was the trouble with Packer No. 3 as we considered. There was so much refuse in it that we could not afford to move the entire quantity in order to get the marketable coal out of it for shipment.

Q. Do you know the cubical contents of Packer No. 3?-A.

No. sir.

Q. If I were to tell you that it was 46,000,000 cubic feet, and that in those 46,000,000 cubic feet there was 472,000 tons of coal to be won and saved, I ask you if it would not be a splendid average culm bank?-A. It certainly would, if there was not

too much refuse with it to handle.

Q. Say there are 46,000,000 cubic feet of bank, and in those 46,000,000 cubic feet there are 472,000 tons of coal to be won and marketed, is not that a good average culm bank?—A. I would have to figure that out. I am hardly engaged in the business of calculating that offhand. I simply say to you that as in general charge of that property, the reports of my subordinates had been that that bank was not a desirable bank for the company to operate.

Q. Have you ever read Maj. Archbald's report on banks Nos.

3 and 4?-A. No, sir; I have not.

Q. You would not know anything about it, then, if I were

to ask you questions connected with it?-A. No, sir.

Q. Did you ever have any application from anybody else to lease Packer No. 3 or No. 4 or any of those banks lying along on that side of the creek in the neighborhood of your present washery?—A. Yes. We had an application some time prior to that from Madeira, Hill & Co. They wanted to lease the entire bank. They wanted to lease Packer Nos. 4, 3, and Packer No. 2 bank, at which point we intended to put up a washery, and that is the bank they especially desired to get. And the Packer No. 4 we were putting through the breaker, and we declined that proposition.

Q. I ask you if you did not have an application for all those banks, including Packer 2, 3, and 4, and the rest of them?—A. Yes; I think they wanted the whole thing.
Q. You declined to let them have it?—A. Yes.

Q. Either 2, 3, 4, or—
The Wirness (interrupting). We declined to let them have

the whole bunch of banks.

Q. So, although they offered you 10 cents a ton royalty additional to what you were paying the Girard estate—is not that so? I ask you if Mr. Hill, representing the Oxford washery, did not propose that on all sizes above rice taken from your banks-these four banks-they would pay 10 cents per ton on all domestic sizes, and 5 cents a ton on pea and buckwheat in excess of the royalties due by you on these grades to the Girard estate?-A. Is that a copy of the letter?

Q. I suppose so. I was asking the question first.-A. I do not recall. He did make an offer. It may or may not have been 10 cents and 5 cents a ton. He wanted to get all of the

banks on that side of the creek.

Q. I ask you if you do not remember that he proposed to give you 10 cents royalty per ton on all domestic sizes, and 5 cents a ton on pea and buckwheat, additional to what you paid the Girard estate if you would agree to let him have these banks, some of which you now say were not good?-A. No; I do not recall the figure. I recall he offered some excess. Have you a copy of the letter?

Q. I will ask you, then, if you received that letter from him [indicating]?—A. (Examining.) Yes, sir; I think that is the letter I received—10 cents a ton on domestic sizes, prepared sizes; 5 cents a ton on pea and buckwheat; no additional royalty on

- Q. Then, Mr. Warriner, I will ask you—
 Mr. WORTHINGTON. May I see that letter?
 Mr. Manager WEBB. Yes. It has been put in evidence.
 (The letter was handed to counsel for the respondent.)
 Q. (By Mr. Manager WEBB.) That was about a year or a year and a half before Judge Archbald applied to you?—A. Yes, sir.
- Q. And you declined to accept from the Oxford people 10 cents a ton royalty on prepared sizes and 5 cents on smaller sizes a year or a year and a half ago, and agreed to let Judge Archbald have it for 2 or 3 cents a ton extra, and in the meantime culm has gone up in price and value?—A. No, sir; I do not think that is a fair statement of it, Mr. Webb.

Q. Explain it, then, Mr. Warriner.
The PRESIDENT pro tempore. Let the witness answer. [To the witness:] What do you say in response to the first part of the question?

The Witness. I say I do not think Mr. Webb's statement of the question is correct.

Mr. Manager WEBB. I want to be perfectly fair.

The PRESIDENT pro tempore. Answer as to the first part

of the question. Let one question be put at a time.

Q. (By Mr. Manager WEBB.) I asked you if about a year or a year and a half before Judge Archbald applied to you for this Packer No. 3 and No. 4 Mr. Hill did not apply to you for these same banks for the Oxford washery and offer you 10 cents a ton in excess of what you were paying the Girard estate on prepared sizes and 5 cents a ton in excess of what you paid the Girard estate on buckwheat, and that you declined it? A. I declined the proposition made by Madeira, Hill & Co. because it embraced all of the banks on the Girard estate property in that vicinity, and especially the bank which they were very anxious to get hold of, namely, Packer No. 2. At that time we had contemplated the erection of a washery at that bank, Packer No. 2 being used in connection with Packer No. 4, they being the best banks, in our judgment, to be reworked. They were the banks which Madeira, Hill & Co. were tables. auxious to get and were not embraced in the negotiations we had with Judge Archbald. It is true that Judge Archbald also wished-these banks, but we declined to give him those banks, agreeing only to give him Packer 3 and the upper part of Packer 4, which were of small value.

Q. At 2 and 3 eents a ton extra royalty?—A. Yes, sir. Q. Now, did you not want to work all these banks yourselves? Did not your company want to work them all, not only 4 and 2, but did you not want your company and expect your company to work all these banks on the north side of that creek?-A. We did not, because we had never put up a washery on that We had contemplated at several times doing it, but we had been in hopes that we might secure a concession in royalty from the Girard estate and had delayed from time to time in putting up a washery at Packer No. 2

Q. You answered this letter from Mr. Hill to you?-A. I suppose I did. I do not know.

Mr. Manager WEBB. May we put that in evidence and have

The PRESIDENT pro tempore. The letter will be read. The Secretary read as follows:

[U. S. S. Exhibit 75.]

OXFORD COAL Co., March 26, 1910.

Mr. S. D. WARRINER,
Vice President and General Manager
Lehigh Valley Coal Co., Wilkes-Barre, Pa.

the recent conversation between us

Dear Sir: Referring to the recent conversation between us in regard to the preparation for market of the coal from your Packer No. 4 culm bank through our Oxford washery—

We will operate this bank for you, pass through the washery and deliver the rice and barley sizes obtained therefrom to cars furnished by you at our plant (of course, assuming that this would not be considered an unfriendly move on our part or be objected to by the Philadelphia & Reading Co.) at prices on the basis of the 65 per cent contract.

delphia & Reading Co.) at prices on the basis of the 65 per cent contract.

We would reenforce this supply with the same sizes of coal from our Oxford bank up to the capacity of our washery. We will find disposition via the Philadelphia & Reading Rallway Co, of the sizes of coal above rice taken from your Packer No. 4 bank.

We would pay you on the sizes above rice coal taken from your bank 10 cents per ton on all domestic sizes and 5 cents per ton on pea and buckwheat in excess of the royalties due by you on these grades to the Cliench extern

Girard estate.

The life of the proposed arrangement to be that of the life of your present lease with the Girard estate, unless the bank should be exhausted sooner.

hausted sooner.

Of course, any arrangement made would have to be subject to strike, accident, and water-supply conditions. If the above meets with your approval we will take pleasure in closing the matter with you, and in such case will be very glad to take up with you the consideration of our operating for you the Packer No. 2 bank.

Awaiting the favor of an early reply, I am,
Yours, very truly,

Mr. WORTHINGTON. Does it appear by whom the letter was signed?

- Q. (By Mr. Manager WEBB.) Who wrote that letter?-I think either Mr. Madeira or Mr. Hill, of the firm of Madeira, Hill & Co. I assume that letter is correct.
- Q. What are Mr. Hill's initials?-A. Frank, I believe, is his name.
- Q. You say he wanted all the banks on the north side of the creek. I ask you if you did not tell them or write to them that you thought it was the best proposition for your company to operate these two banks yourselves?—A. I do not recall what I told them. I declined the proposition.
- Q. (Presenting letter.) Mr. Warriner, did you write that letter?—A. (Examining.) Yes; I wrote that.
 (The letter was handed to counsel for the respondent.)

Mr. Manager WEBB. I ask that the Secretary read the letter.

The PRESIDENT pro tempore. The letter will be read. The Secretary read as follows:

[U. S. S. Exhibit 76.]

MAY 3, 1910.

(The Lehigh Valley Coal Co., Coxe Bros. & Co. (Inc.), Wilkes-Barre, Pa., S. D. Warriner, vice president and general manager.)

Pa., S. D. Warriner, vice president and general manager.)

Mr. Frank A. Hill,
Care of Madeira, Hill & Co., Pottsville, Pa.

Dear Sir: Replying to your communication of March 6, I beg to say that I have had our division people go over the matter of leasing the culm banks at packer No. 2 and No. 4 and dividing the coal up as suggested by you, very carefully. As a result of their report, I am luclined to believe that our best proposition is to operate these banks ourselves. There are a number of complications which I do not see that we can get around by leasing them to you, and on this account would prefer to take the matter up on our own account.

Yours, very truly,

S. D. Warriner,

S. D. WARRINER, Vice President and General Manager.

Q. (By Mr. Manager WEBB.) Now, Mr. Warriuer, you took this matter up with Mr. Thomas, did you not?—A. That matter?

Q. The Oxford washery proposition.—A. I do not recall.

think I probably did.

Q. He turned it down?-A. I think so; yes. I suppose that was it.

Q. Do you not know, Mr. Warriner, that the reason why you leased or agreed to lease this Packer No. 3 to Judge Archbald at a rate of royalty or excess of royalty of 2 and 3 cents was because he was the judge of the United States Commerce Court in Washington and had a suit then pending between your railroad company and the Interstate Commerce Commission?-A. I knew nothing about that suit, Mr. WEBB.

Q. Did you know that he was judge of the United States Commerce Court?-A. I knew he was judge of the Commerce Court; yes, sir.

Q. You did not-—A. I considered the proposition on its own merits as a good business proposition for the Lehigh Valley Coal Co.

Q. That is the first time you ever leased one of the culm banks to any man in 35 years?—A. No, sir; we leased a culm bank in the city of Wilkes-Barre about the same time.

Q. Owned by the Girard estate?-A. No, sir; not by the Girard estate.

Q. That is the first time in 35 years that a culm bank was leased by you from the Girard estate, is it not?—A. I do not recall, so far as the Girard estate is concerned, that we ever leased any culm bank; but we had leased other culm banks.

Q. I am speaking about the Girard estate, from which you held these leases.—A. I do not recall. I have not been connected with the affairs of the company that long; but I do not

recall any other.

Q. In all your official connection with the company, did you ever know the company to agree to sublease any of the land leased by your company from the Girard estate except in this one instance to Judge Archbald?—A. No; I do not recall any.

Q. Did you and President Thomas speak about Judge Archbald's connection with this proposition and discuss whether you should grant him his request or not?-A. I simply told him at that time that this application had been made. I do not think he gave me any instructions whatever in regard to it. At the time I spoke to him it had not reached a head where it was such a matter as I could definitely take up with him as a finished proposition for his approval or otherwise. I simply discussed it with him in an informal way as simply giving him a piece of information, not with the object of reporting to him

a piece of information, not with the object of reporting to min or securing instructions from him.

Q. I believe you said he would agree to your recommendations about such matters?—A. Oh, yes.

Mr. Manager WEBB. That is all, Mr. President.

The PRESIDENT pro tempore. The Chair desires to say that hereafter the managers and counsel must confine themselves within the rules of practice ordinarily applied to direct examination. On cross-examination counsel are permitted to reexamine on the matters upon which the witness has been examined; but the Chair will not permit a redirect examination except upon such matters or upon a matter which the managers or counsel state they inadvertently omitted. would be no termination of an examination. Otherwise there

Mr. Manager WEBB. I thought I confined my redirect to

the counsel's cross-examination.

Recross-examination:

When you are talking about No. 4 Packer dump, will you explain what you mean? Is there no designation of one from the other ?- A. There were two culm banks, separated by a slate pile, or something of that kind, and locally known as No. 4. The main Packer No. 4, being the larger one, was the dump we were working. The small one we had worked at one time. nearer Packer No. 3, but it is locally known as a part of Packer No. 4 dump.
Q. What is the direction of that smaller Packer No. 4 from

the larger Packer No. 4?-A. East.

Q. I will speak of it as eastern No. 4 as distinguished from western No. 4. How far is eastern No. 4 from Packer No. 3?-A. It is adjacent to it.

Q. It is close to it?-A. Yes, sir.

Q. This hole that you spoke of, into which you put a part of this material and had worked or used, is between those two, between eastern No. 4 and No. 3?-A. Yes; as I recollect.

Q. Can you tell me whether the Oxford dump is nearer the western No. 4, the main No. 4 dump, than it is to No. 3? Which is the nearer to the Oxford dump, Packer No. 3 or main Packer No. 4 or western No. 4, if you can tell us?—A. I would not want to say.

Q. You say that about the same time that these negotiations were going on your company leased another culm bank?-A.

Q. I wish you would tell us what bank that was, very briefly, so that it can be identified.—A. We leased a culm bank in the city of Wilkes-Barre to Siebold Dougherty, of Wilkes-Barre. It is a small bank. That was not adjacent to our mining operations.

Q. You also used the expression "We have leased other culm Have you leased others besides that one?-A. We have leased some others, or agreed to. I do not know whether the transaction is finally completed yet or not. There were a number of transactions in process of completion at the time I left the service of the company, and I am not sure whether they have been definitely signed or not. They were banks in the neighborhood of Wilkes-Barre.

Q. I notice in the proposition that was made by Madeira, Hill & Co., which has been read here, there is nothing said about coal being transported over your road. Was there any agreement or understanding of that kind outside of the letter?— A. Not outside of the letter from Madeira, Hill & Co. One of the complications in connection with leasing was whether an arrangement could be made for transporting from the Reading to the Lehigh Valley tracks. There was a complication we did not feel like bringing up at that time.

Q. You have said that Madeira, Hill & Co. offered to lease

all your dumps?—A. Yes.

Q. All the packer dumps?—A. Yes; they were very anxious to get them.

Q. I find that in the letter which has been read here there is a proposition to lease only No. 2 and No. 4.-A. 2 and 4; Those are the desirable banks on the property. business standpoint packers No. 2 and No. 4 were desirable. They are certainly the best banks.

Q. Packer No. 3 was right across the creek from them, was it not?-A. It was on the north side of the creek. I do not

recall how near.

Q. Packer No. 3 was right across the creek from the Oxford dump?-A. They were all close together.

Q. They made you their proposition for No. 4 and No. 2, leaving out No. 3? They did not ask for that?—A. I do not recall how

that was. Q. The letter speaks for itself. Do you know whether or not, as a matter of fact, Madeira, Hill & Co. shipped their products from the Oxford dump over the Reading road?—A. Yes, sir; they shipped on the Reading.

Mr. WORTHINGTON. That is all. Q. (By Mr. Manager WEBB.) We would like to ask one further question. Did not he, in this proposition submitted to you, agree to take a part of the Oxford output over your road, together with a certain size of coal taken from Packer No. 4 and No. 2?-A. As I understand the letter, it was to be delivered to us; but the Reading were to get a part of the haul.

Q. Exactly .- A. It was not to be mined and shipped on our

Q. Exclusively, no.—A. But shipped from the Reading and delivered to us for purchase if we desired it.

Q. With reference to Packer No. 4, mentioned in this letter, the washery of the Oxford people was below this Packer No. 4; Q. (By Mr. WORTHINGTON.) Mr. Warriner, two No. 4s have been spoken about here, and I am a little confused and I fear others may be in knowing what you are talking about.

Q. But Packer 4 and 2 were nearer the Oxford washery than 3, were they not?—A. I can not tell you. I never looked at it with that object in view, and would not be able to tell you.

Mr. Manager WEBB. That is all, Mr. President.

The PRESIDENT pro tempore. The witness may retire,

TESTIMONY OF GEORGE E. KIRKPATRICK.

George E. Kirkpatrick, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager WEBB.) Mr. Kirkpatrick, what is your position with reference to the Girard estate?—A. I am the superintendent in charge of the Girard estate.

Q. Briefly, what is that?—A. Stephen Girard died in 1831 and left a large, extent to the circ of Philodolphia in trust. What

eft a large estate to the city of Philadelphia in trust. That estate is cared for under an act of the Assembly of the State of Pennsylvania by a board of trustees, 12 of the board appointed by the courts, the other 3 ex officio members of the Philadelphia city government; and I am the officer chosen by that board to

manage the property.

Q. Does the estate consist in coal fields or coal property in Schuylkill County, Pa.?-A. It consists of a large amount of real estate in Philadelphia, and a large quantity of coal land in Schuylkill and Columbia Counties, Pa., and a certain amount

of personal property.

. Q. Have you leased your coal lands, or a part of them, to the Lehigh Valley Railroad Co.?—A. A considerable portion of the coal land in Schuylkill County is leased to the Lehigh Valley Coal Co.

Q. That is owned by the Lehigh Valley Railroad Co.?-A. So

I have been given to understand.

Q. Is Packer No. 3 covered by one of those leases?-A. Packer No. 3 is one of those leases.

Q. When does that lease expire?—A. December 31, 1913.

Q. State whether or not you know that the value of culm or culm banks has increased within the last 8 or 10 years .- A. Very decidedly.

Q. Have you with you the original records or letters containing the correspondence between yourself and Maj. Archbald and S. D. Warriner?—A. I have the Archbald letters in the Sergeant at Arms' office and the copies I have with me here.

Mr. Manager WEBB. Please bring them in.

Mr. WORTHINGTON. You may use the copies, as far as

we are concerned.

Mr. Manager WEBB. We shall use the copies. To the witness:] I will ask you, first, if you know what the general policy of coal-owning railroads is with reference to leasing or subleasing or selling their coal property?

Mr. WORTHINGTON. I submit the witness should not be

called on to testify as an expert in regard to railroads generally.

The PRESIDENT pro tempore. The question will be read.

Mr. Manager WEBB. I will withdraw it if any objection is made.

Mr. WORTHINGTON. I do object to it.
The PRESIDENT pro tempore. The question is withdrawn.
Q. (By Mr. Manager WEBB.) Mr. Kirkpatrick, go along in your own way and as briefly as possible state your connection and association with Judge Archbald or Maj. James Archbald, your engineer, and give the correspondence between your estate with reference to Packer No. 3. Give the first communication, A. In the latter part of December, 1911, Judge Archbald made an obligation for a lease or license to work what we call Packer 3 and 4 culm banks. Those culm banks are at present under lease to the Lehigh Valley Coal Co. Judge Archbald said that he had made arrangements with the Lehigh Valley Coal Co. by which we would be permitted to make this lease to him, notwithstanding the fact that—

Mr. WORTHINGTON. The witness, I think, is stating

correspondence which is here.

Q. (By Mr. Manager WEBB.) I want you to hand over the correspondence and have it read.—A. I have it seriatim here [producing papers].

The PRESIDENT pro tempore. If it is all in the correspondence, the Chair submits, the facts can be proven in that way and

no other.

Mr. Manager WEBB. I think the Chair is entirely right,

and that is what I asked the witness to give.

The PRESIDENT pro tempore. Let the letters be identified and read in evidence. The witness ought not to be asked to Mr. Manager WEBB. I did not ask that.
Mr. SIMPSON. Let them be identified and read.
Mr. WORTHINGTON. There is no question about the letters.

Q. (By Mr. Manager WEBB.) Is this all the correspondence that you have in reference to this matter?—A. It is.

Mr. Manager WEBB. I ask the Secretary to read it.

The Secretary read as follows:

[U. S. S. Exhibit 77.]

(Girard estate in Schuylkill and Columbia Counties. James Archbald, fr., engineer and agent. Office of the engineers, rooms 404, 405, and 406 Thompson Building.)

George E. Kirkpatrick, Esq., Superintendent Girard Estate, Philadelphia.

George E. Kierpatrick, Esq.

Superintendent Givard Estate, Philadelphia.

Dear Sir: I inclose an application which I have received from R. W. Archbald, James F. Bell, V. L. Petersen, and T. H. Jones for the lease of the Packer No. 3 and the upper or eastern Packer No. 4 culm banks, shown on blue print which I inclose. R. W. Archbald is my uncle and one of the judges of the United States Commerce Court. I have written him asking him for information regarding his associates in the application, with special reference to their financial responsibility and experience in the coal business. I have also asked him the terms and conditions upon which the Lehigh Valley Coal Co. will agree to release these banks, which it now holds under its leases of Packers No. 2-4 and No. 3 collieries. I have also written General Manager Warriner, of the Lehigh Valley Coal Co., for this same information. I will forward their replies to you.

These banks are considered among the poorest banks on the Girard estate, though probably better than what is left of the Oxford bank. The Lehigh Valley Coal Co. reclaimed some of the upper No. 4 bank, but gave it up because of the ashes in the bank. I think these are only on top and could be easily removed before the culm is taken. I have had surveys made of these banks, and since I received this application have asked Mine Inspector Weller to make tests, which he will begin to-morrow. From these I can determine with reasonable accuracy the amount of coal in the bank.

Some time ago I suggested to Mr. Frank A. Hill, manager of the Oxford Coal Co., that as these banks were not first rate the Lehigh Valley Coal Co. might be willing to release them, and suggested that the Oxford Coal Co. when an application for them, which, after examining them with Mr. Weller and myself, he intimated that it would do. On receiving the inclosed application, I informed him of it and told him the Oxford Coal Co. should have made an application. He told me it had done so through its Philadelphia representative, Madetra, H

JAMES ARCHBALD, Jr., Engineer Girard Estate.

SCEANTON, Pa., December 19, 1911.

Col. James Archbald,

Engineer of Stephen Girard Estate.

Dear Sir: We hereby make application for a lease of the culm bank near Shenandoah, known as Packer No. 3, the same to cover also the upper part of the adjoining Packer No. 4 dump. We propose to incorporate as "The Jones Coal Co.," with a capital of \$25,600, and to put up a washery which will handle some four or five hundred tons of coal a day. We understand that these dumps are now subject to a lease to the Lehigh Valley Coal Co., which expires December 31, 1913, and which possibly will be renewed. But we have the assurance of that company that on certain terms and conditions, which have practically been agreed upon between us, it will be satisfactory to them to have us lease from you to the extent suggested. We shall expect to pay the current royalties, but we suggest that owing to the character of the dump, which is not the best, the royalties should not be the highest. We shall be prepared, if the lease is made, to put up the washery with reasonable promptness.

Very truly, yours,

R. W. Archbald.

James F. Bell.

R. W. ARCHBALD.
JAMES F. BELL.
V. L. PETERSEN.
T. H. JONES.

DECEMBER 27, 1911.

Mr. James Archbald, Jr.,

Engineer Girard Estate.

Dear Sir: Your favor of the 26th instant, inclosing statement of rent charges falling due at Girardville January 1, 1912, is duly received, as is also your inclosure of an application of Messrs. Archbald, Bell, Petersen, and Jones for a lease of certain portions of the Packer 3 and 4 culm banks. Messrs. Madeira, Hill & Co. (the Oxford Coal Co.) have repeatedly made verbal application for a lease of these banks, but we have declined to consider their application pending the negotiation of the new leases, which, as now considered, cover these banks.

George Kirkpatrick.

[Extract from report of engineer, Dec. 30, 1911.]

PACKER NO. 3 AND PACKER NO. 4 EAST CULM BANKS, APPLICATION FOR LEASE.

On December 26 I forwarded to you an application from Robert W. Archbald, James P. Bell, V. L. Petersen, and T. H. Jones for a lease of the Packers No. 3 and upper or eastern No. 4 culm banks, in which it was stated that the Lehigh Valley Coal Co., which now holds these banks under its colliery leases, would, under certain conditions, consent to release them.

I now inclose letters from Judga Arabbald, Acta D. Company of the consent of t

sent to release them.

I now inclose letters from Judge Archbald, dated December 27, 1911, and General Manager Warriner, of the Lehigh Valley Coal Co., dated December 28, 1911, with reference to these conditions. Mr. Warriner's statement with reference to the No. 4 bank refers to the western No. 4 bank, which is much better than the eastern. Judge Archbald is a member of the United States Court of Commerce. He is my uncle. With reference to his associates, I inclose letter from him dated December 26, 1911.

Air. Frank A. Hill. representing the Oxford Coal Co., has spoken to me several times with reference to securing these banks for that com-

pany, and I believe that Mr. P. C. Madeira has also made a verbal application to you to the same effect. As the Oxford Coal Co. has handled the very poor bank which it now has so thoroughly and to the advantage of the Girard estate, all possible consideration should be given it on our part, but it is not probable that the Lehigh Valley Coal Co. will consent to release these banks except for preparation through a washery shipping over the Lehigh Valley Railroad, which the Oxford Coal Co. can hardly do from its present plant.

In view of the fact that the banks in question are at present covered by the mining licenses of Packers Nos. 3 and 4 collieries, and will be covered until December 31, 1915, by the proposed new mining licenses of these collieries, and also thereafter, if the new lessees desire to work them, it would seem best to postpone consideration of any other disposition of them until the new mining licenses are made. It is, of course, to the advantage of the Girard estate that these banks be worked as soon as possible at a fair royalty. I have had a survey made of these banks, and Mine Inspector Weller is now making tests of them. From these I will make an estimate of the coal to be won from them, which I will have in your hands by January 3, 1912.

[R. W. Archbald, judge, United States Commerce Court, Washington.] SCRANTON, PA., December 26, 1911.

Col. JAMES ARCHBALD.

Col. James Archbald.

Dear Sir: In response to your inquiry of December 23 with regard to the experience and financial standing of those who are associated with me in the application for a lease of the culm banks near Shenandoah, permit me to say that Mr. Petersen, who will have charge of the proposed washery, is a man of exceptional ability in coal matters. He was for a long time with the Hillside Coal & Iron Co., and at present has charge of the operations of the Humbert Coal Co., having mines at Jessup, in this county, and others also in Schuylkill, I do not know just where. Mr. Bell is a lawyer and is very conversant with coal matters, and is interested with Mr. Petersen in the Humbert Coal Co. I am advised that their interests in that company ought to make them worth about \$25,000 each. Mr. Jones is worth anywhere from \$50,000 to \$75,000. He has a general acquaintance with coal matters, and is also interested in slate quarries at Slatington, Pa. In addition to these, there are other parties whose names do not appear. One of them, Mr. Howell Harris, is a well-known coal man here in Scranton, and Mr. Hulbet, of New York, is associated with the coal men there who are going to take the product. Mr. T. F. Farrell, a retail coal dealer of New York City, is going to put up the money. Care has been exercised in these selections so as to make a combination that will insure success. Trusting that this will be satisfactory,

R. W. Archbald.

SCRANTON, PA., December 27, 1911.

Col. JAMES ARCHBALD.

Col. James Archbald.

Dear Sir: Replying to your inquiry of December 26, permit me to say that the conditions upon which the Lehigh Valley Coal Co. consent to our having culm dump Packer No. 3 and the eastern part of Packer No. 4 arc simply these: First, that the coal shall be shipped over the Lehigh Valley Railroad; second, that in addition to the royalties paid to the Girard estate there shall be 2 or 3 cents a ton extra paid to the Lehigh Valley Coal Co.; third, that no slush shall be allowed to get into the stream; fourth, where the creek has to be cleared there shall be a proportionate sharing in the expense; and, fifth, that reasonable diligence shall be exercised in the prosecution of the work.

Yours, very truly, Yours, very truly,

R. W. ARCHBALD.

THE LEHIGH VALLEY COAL CO., COXE BROS. & CO. (INC.), Wilkes-Barre, Pa., December 28, 1911.

Mr. JAMES ARCHBALD, Jr., Engineer Girard Estate,

Engineer Girard Estate.

Dear Sir: I have your letter of the 26th instant at hand. Judge Archbald called to see me recently and said that he would like to rework some of the culm banks at Packer No. 3 colliery. I advised him that if it was the pleasure of the Girard estate to extend to him a lease of this bank we would not interpose any objection, provided he agreed to certain arrangements which we informally discussed.

I did not agree to let him have the No. 4 bank as we are already putting some of this through the No. 4 breaker.

Yours, very truly,

S. D. Warriner,

Vice President and General Manager.

[Extract from report of superintendent, Jan. 4, 1912.]

Messrs. R. W. Archbald, James F. Bell, V. L. Petersen, and T. H. Jones (who propose to incorporate as the Jones Coal Co.) have made application for a lease of a portion of the Packer No. 3 and No. 4 culm banks.

application for a lease of a portion of the Packer No. 3 and No. 4 culm banks.

They propose to erect a washery capable of shipping four or five hundred tons per day and to pay "current royalties."

These banks are now included in the Packer leases and are also included in our offer to renew, which is now under consideration by the Lehigh Valley Coal Co. The applicants for this lease state that they have arranged with the Lehigh Valley Coal Co. the terms on which that company will assent to this use of the culm banks.

Mr. Percy C. Madeira, for the Oxford Coal Co., has also made application (verbal, but oft repeated) for these banks, proposing to work them through the Oxford washery, already erected and in operation. The answer given to him has been that the banks at present are in the control of the Lehigh Valley Coal Co., which company also has the option of renewal upon the terms approved by the board of directors of city trusts at its meeting of November 8, 1911, and that so long as this option is outstanding the separate leasing of these culm banks can not be taken into consideration.

The fact that the Lehigh Valley Coal Co. has arranged to consent to the working of these banks by Messrs. Archbald et al. somewhat changes the situation, but I believe should not change our attitude, and recommend that action upon this application be postponed until the negotiation for the renewal of the Packer leases has at least made more definite progress.

Geraed Estate, Office of the Engineer.

GIRARD ESTATE, OFFICE OF THE ENGINEER, January 3, 1912.

GEORGE E. KIRKPATRICK, Esq., Superintendent Girard Estate,

DEAR SIE: I inclose estimates referred to on page 9 of my report of December 30, 1911, of the amount of coal contained in and to be

shipped from the Packer No. 3 and Packer No. 4 eastern banks. These together make 521,383 tons to be shipped. The royalty value at the present Oxford washery rates would be \$122,925, or at the rates proposed under the new mining licenses for the Packer collieries, \$179,580. Very respectfully, yours,

JAMES ARCHBALD, Jr., Engineer Girard Estate.

PACKER NO. 4 COLLIERY, EASTERN CULM BANK. Estimate of coal Dec. 30, 1911.

Sizes.	Total co	ntent.	Wast	e.	Boiler fuel, 6 per cent.	To be shipped.	
	Per cent.	Tons.	Per cent.	Tons.	Tons.	Tons.	
No. 1. Prepared	15. 7 4. 0 7. 8 8. 7 (¹)	24,890 6,341 12,365 13,792 (1)	20 15 10 5 (1)	4,978 951 1,237 690 (1)	2 827	19,912 5,390 11,128 12,275	
Total	36.2	57,388		7,856	827	48,705	

¹ Not tested for.

Note.—Fourteen tests made by Henry J. Weller, mine inspector, Girard estate. Cubic content, 2,255,260 cubic feet; weight of 1 cubic foot, 57 pounds.

PACKER NO. 3 COLLIERY.

Estimate of coal in culm banks December 30, 1911.

	Total content.							W.		III I
Sizes.	Northern section, 26,006,000 cubic feet.		Southern section, 22,594,000 cubic feet.		Both sec- tions.	Waste.		Boiler fuel.		To be won.
	Per cent.	Tons.	Per cent.	Tons.	Tons.	Per cent.	Tons.	Per cent.	Tons.	Tons.
No. 1. Prepared No. 2. Pea No. 3. Buck- wheat No. 4. Rice No. 5. Barley	4.4	29, 116 96, 617	10	80, 490 23, 000 57, 493 80, 490	52,116 154,110	15	7,817		9,832	143, 835 44, 299 138, 699 145, 845
Total	46.7	309,043	42	241,473	550, 516		67,506		10,332	472,678

1 Not tested for.

Note.—Twenty-eight tests made by Henry J. Weller, mine inspector Girard ate. Weight of 1 cubic foot, 57 pounds.

[Extracts from the minutes of the committee on Girard estate without the city.] JANUARY 4, 1912.

Superintendent reported:

Submitting request of Messrs. R. W. Archald. J. F. Bell, V. L. Peterson, and T. H. Jones for a lease of portions of Packer Nos. 3 and 4 culm banks, and stating that Mr. Percy C. Madeira, representing the Oxford Coal Co., has also made application for a lease of these banks, but has been held off on the ground that the offer to renew the Packer leases to the Lehigh Valley Coal Co. prevents an immediate consideration of his request. Therefore, recommending that action on the application be postponed.

Engineer reported:
That an application from R. W. Archbald and others has been received and forwarded for a lease of portions of Packer Nos. 3 and 4 culm banks, for which banks also the Oxford Coal Co. has made verbal application.

[Extract of letter of George E. Kirkpatrick, superintendent, to James Archbald, jr., engineer, regarding action of committee on Girard estate without the city. Taken on Thursday, Jan. 4, 1912. Letter dated Jan. 9, 1912.]

Consideration of the application of Messrs. R. W. Archbald and others for a lease of the Packer No. 3 and No. 4 culm banks was postponed, pending the conclusion of the negotiations with the Lehigh Valley Coal Co. relative to the renewal of the colliery leases in which these culm banks are now included.

(R. W. Archbald, judge, United States Commerce Court, Washington.) SCRANTON, PA., January 29, 1912.

GEORGE E. KIRKPATRICK, Esq.

DEAR SIR: I expect to be in Philadelphia next Monday afternoon, February 5. on my way to Washington, and I write to inquire whether I could call and see you briefly with regard to the application recently made by myself and others for a lease from the Girard estate of Packer No. 3 and No. 4 culm dumps at Shenandoah. It would accommodate me if you could fix an hour as soon after 1.30 as possible.

Yours, very truly,

R. W. ARCHBALD.

GIRARD ESTATE, January 30, 1912.

Hon. R. W. ARCHBALD, Scranton, Pa.

Dear Sir: I am in receipt of your favor of the 29th, suggesting that I fix an hour on Monday next, February 5, at which I can arrange to meet you at the office of the Girard estate in Philadelphia. At this time I believe that I can, without difficulty, see you at 1.30 p. m. on that day and will do my best to be at your service at that hour. Should anything transpire to prevent my meeting you, I will endeavor to advise you, so that a later hour may be arranged.

Yours, truly,

Geo. E. Kirkpatrick.

GEO. E. KIRKPATRICK, Superintendent Girard Estate.

[Extract from report of George E. Kirkpatrick superintendent to the committee on Girard estate without the city, dated Feb. 8, 1912.] Judge R. W. Archbald, of Scranton, applicant for a lease of Packer Nos. 3 and 4 culm banks, has called at the Philadelphia office of the Girard estate to urge a consideration of his application, and I repeated to him the conclusion of your committee—that the leasing of culm banks would not be considered until after the closing of the negotiations for the renewal of the colliery agreements, which conclusion had already been sent to him in writing through the Pottsville office.

[Extract from the minutes of the committee on Girard estate without the city, Feb. 8, 1912.]

Superintendent reported:

[Packer Nos. 3 and 4 culm banks. Lease of.]

That Judge R. W. Archbald, of Scranton, applicant for a lease of Packer No. 3 and Packer No. 4 culm banks, has called at the Philadelphia office to urge consideration of his application and that the conclusion of the committee has been repeated to him to the effect that the leasing of culm banks would not be considered until after the closing of the negotiations for the renewal of the colliery agreements.

During the reading of the exhibit,

Mr. Manager WEBB. Mr. President, it is agreed between the managers and counsel for the respondent that the table might be printed instead of being read; it can be better understood after having been printed.

The PRESIDENT pro tempore. That will be done without

objection.

Q. (By Mr. Manager WEBB.) Mr. Kirkpatrick, I understand from this correspondence in the record that after the application had been made to the Girard estate, setting forth that the consent of the Lehigh Valley Coal Co. had been obtained to the sublease, or re-lease as we would call it, your estate declined to agree to it?-A. That is right.

Q. And after your estate had declined to agree to it, you sent notice of that declination to Judge Archbald at the Pottsville

office?-A. Through the Pottsville office.

Q. And that after that time the judge wrote you a letter asking for a date or an hour when he could see you, and did see you, and that you used the language in your report, that he urged you or urged the estate to agree to re-lease to him this Packer No. 3. What language did he use or what did he say?-A. I can not recall the exact language, but the general effect was calling attention to the fact that the quicker a culm bank is worked the better for a landowner, which, of course, we both knew. That is my recollection of the urging, calling attention to the advantage to the Girard estate of making a quick lease of this property.

Q. When the present lease of the Lehigh Valley Coal Co. expires in 1913, I believe, is it?—A. On December 31.
Q. Will you thenceforward get larger royalties?

Mr. WORTHINGTON. I submit this witness is a witness

and not a prophet. Mr. Manager WEBB. I will ask the witness, Mr. President,

if he expects to demand larger royalties, if the counsel desires it put in that way.

The Witness. If I expect to demand higher royalties?

Mr. Manager WEBB. Yes, sir.

I have already done so. The WITNESS.

Q. (By Mr. Manager WEBB,) Mr. Kirkpatrick, how long have you been associated with the Girard estate?-A. For 34

Q. How long has the Lehigh Valley Coal Co., or the Lehigh Valley Railroad Co., been leasing from your estate?was leasing through its subordinate corporation, the Philadelphia Coal Co., when I went into the employment of the Girard estate in 1878. I can not offhand say how long before that time.

Q. Did the Lehigh Valley Coal Co. ever before during your experience as manager of the Girard estate consent to a re-lease or sublease of any of the land that you had leased to it?-

A. No.

Mr. Manager WEBB. That is all, Mr. President.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Mr. Kirkpatrick, the question was put to you just now by Mr. Manager Webs that the Girard estate declined to make the lease that was asked for by Judge Archbald and his associates. Now, as a matter of fact, I understand what you did say was to tell him and to tell few moments and present it to the Senate.

the Madeira Co. that their applications would not be considered until the question of renewing the lease of the Lehigh Valley Coal Co. was settled .- A. That is a statement of it more exactly.

Q. It was simply postponed?—A. Postponed.

Q. And not declined?—A. Not declined in the offhand manner that the word "declined" would imply.

Mr. Manager WEBB. Temporarily declined.
Q. (By Mr. WORTHINGTON.) I observe in the proposition that was made about leasing this bank, signed by R. W. Archbald, James F. Bell, V. L. Petersen, and T. H. Jones, that Judge Archbald thereby makes known that "we hereby make application for a lease," and so forth; that he is a party to it. It appears that you had with Judge. to it. In any of the communications that you had with Judge Archbald on the subject written or-you put in all the writing, I believe?—A. All the writing was put in; yes, sir.

Q. In all the talk that you had with him-did you talk with

him more than once?—A. Only this one time.

Q. That is, when he stopped at Philadelphia on his way down

to Washington to the Commerce Court?-A. Yes.

Q. Did he at that time make any suggestion or intimation that the fact that he was one of the parties was to be concealed from the whole world or from anybody?-A. No; not a word.

Q. Did anybody during these negotiations make any suggestion to you that it was not to be known that Judge Archbald was dealing in the matter?—A. No such thought was advanced.

Q. There is an expression here in one of these papers that has been read which I will read. I do not understand it, and perhaps you will explain it. It is an extract from the report of your engineer on December 30, 1911. It reads:

In view of the fact that the banks in question are at present covered by the mining licenses of Packer Nos. 3 and 4 collleries and will be covered until December 31, 1915.

Is that a misprint or a mistake?-A. It is correct; but it

requires possibly a little explanation.

Q. That is what I wanted.—A. In that letter the engineer assumes that the Lehigh Valley Coal Co. will renew its lease. One of the terms in the lease which the Girard estate proposed to the Lehigh Valley Co. was that it should have two years at the beginning of its new lease in which it could work these culm banks; but at the end of those two years if it had not started to work the culm banks they would be taken from them and we would be free to deal with any applicant who chose to appear.

Mr. WORTHINGTON. That is all, Mr. President.

The PRESIDENT pro tempore. Is it desired that the witness shall be retained further?

Mr. Manager WEBB. No, sir; the witness may be excused,

so far as the managers are concerned.

The PRESIDENT pro tempore. The witness is finally ex-

Mr. Manager WEBB. Mr. President, we would like to call Mr. V. L. Petersen and Mr. James F. Bell, signers of this application, but we are informed that they are not here, although they have been served.

The PRESIDENT pro tempore. Do you desire to have them called?

Mr. Manager WEBB. Yes, sir.

The PRESIDENT pro tempore. The Sergeant at Arms will call the witnesses.

Mr. WORTHINGTON. Mr. President, I think it is due to the witnesses whose names have been called, or to Mr. Petersen at any rate, to state that we subpænned him, and we have, as to our witnesses, communicated with them about the time we want them here. I think it is possible that the reason he is not here may be owing to the fact that he thinks he is not to come until we want him.

Mr. Manager WEBB. Under that explanation I will not ask that an attachment be issued at this time.

The PRESIDENT pro tempore. Does that relate to both witnesses

Mr. WORTHINGTON. No; Mr. Bell is not on our list. Mr. Manager WEBB. I should like to have Mr. Bell called,

then, Mr. President.
The PRESIDENT pro tempore. The Sergeant at Arms will call the witness.

The Sergeant at Arms. James F. Bell! James F. Bell! Appear and answer summons. James F. Bell!

The PRESIDENT pro tempore. The Chair is informed that the witness has not reported in obedience to the subpæna.

Mr. Manager WEBB. Therefore, Mr. President, I ask for an attachment for this witness. We will prepare the order in a

Mr. WORTHINGTON. Let me make another explanation about Mr. Petersen. I am just told by my associate that his name appears on the list as V. L. Patterson. Probably that is the trouble about his being served on the managers' list.

Mr. Manager WEBB. I will say that he has been personally served, we are informed.

I should like to call Mr. Edward B. Smith as the next witness.

TESTIMONY OF EDWARD B. SMITH.

Edward B. Smith, having been duly affirmed, was examined and testified as follows:

Q. (By Mr. Manager WEBB.) Mr. Smith, are you a director in the Lehigh Valley Railroad Co.?-A. I am.

Q. Are you a director in the Girard estate outside of the city?—A. I am a member of the board of city trusts, which has charge of the Girard estate and other charities.

Q. Do you know Mr. Eben B. Thomas, president of the Lehigh

Valley Railroad Co.?-A. I do.

Q. State if he ever said anything to you about a proposition of Judge Archbald to lease Packer No. 3, and, if so, what it as.—A. I spoke to him about it. Q. You spoke to him about it. What was said?

Mr. WORTHINGTON. Mr. President, I do not see exactly

Mr. Manager WEBB (to Mr. Worthington). You may object to that, if you wish, and I will withdraw it; but I want to ask him for the purpose of showing what conversation took place between Mr. Thomas, president of the Lehigh Valley Railroad Co., and Mr. Smith, director of the Girard estate, with reference to that dump.

Mr. WORTHINGTON. I do object to that unless it is proposed in some way to connect Judge Archbald with it or to show

that he had knowledge about it.

Mr. Manager WEBB. We propose to connect this application of Judge Archbald with this conversation, Mr. President; to show that that application at the time of this conversation was pending before the Girard estate, of which this witness was a director; and that the president of the railroad company, who was vice president and general manager of the coal company, who had formally agreed to lease this culm bank, subject to the action of the Girard estate, was then talking to this witness with reference to the very matter that was pending before the Girard estate.

Mr. WORTHINGTON. Of course, you perceive we make no objection to what was done in the way of action, either by the Girard people or by the Lehigh Valley people, on Judge Arch-bald's application, but when it comes to any talk that was had between persons connected as associates that did not involve action upon it, I do not see how it would be competent to affect us. Suppose we should say that this gentleman had had a conversation with another officer of the Lehigh Valley, or somebody connected with the Girard trust, and that one said, "I think it is proper that the application ought to be granted," we could not offer that.

The PRESIDENT pro tempore. The Chair thinks it would be necessary to connect the respondent with the conversation in some way. The fact that there was an application pend-

Mr. Manager WEBB. I want to show that as a result of this conversation between the witness and the president of the railroad company this witness let the application die or took no more interest in it.

The PRESIDENT pro tempore. He can testify as to the fact that he did do something in consequence

Mr. Manager WEBB. I am going to ask him that question next.

The PRESIDENT pro tempore. What the conversation was is an entirely different matter.

Mr. WORTHINGTON. I object to that, because it has already been shown what action was taken at a formal meeting of the board of city trusts, which had this matter in charge. All this correspondence and the reports of engineers were submitted to them, and the minutes show that they decided they would postpone the matter until after it was determined whether the Lehigh Valley would get another lease, a continuing lease of the property, and Judge Archbald and his associates were so notified.

The PRESIDENT pro tempore. The objection, then, is to the repetition of testimony; is that it?

Mr. WORTHINGTON. If he expects to repeat it, it is unnecessary; and if he expects to contradict it, it is incompetent.

The PRESIDENT pro tempore. The Chair understands the question to be this: The manager desires to prove that certain action was taken, and then desires to prove what was the cause of that action. The Chair does not understand by that that

it goes to the extent of proving what the conversation was. For instance, to take an illustration from the books, a witness can say that he went around a certain corner of a street and that he did so because of something that had been said to him—not to be permitted to state what the particular thing said was, but to give it as a cause for his action. The Chair understands that to be the limit of the manager's question, that the action was taken in consequence of certain transactions.

Q. (By Mr. Manager WEBB.) In consequence of your conversation with Mr. Thomas, president of the Lehigh Valley Railroad Co., what action did you take with reference to this application for Packer No. 3 before the Girard estate?—A. At the next meeting of the committee, of which I was one, the committee on property throughout the city, I remarked-

The PRESIDENT pro tempore (to the witness). Answer the

question. The statement you made is not necessary.

The WITNESS. There was nothing done.

Mr. Manager WEBB (to Mr. Worthington). Examine the

Mr. WORTHINGTON. I do not care to do so.

The PRESIDENT pro tempore. The witness may retire. Mr. Manager WEBB. The witness may be excused, so far as we are concerned.

The PRESIDENT pro tempore. The witness will be excused.

Mr. Manager WEBB. The next witness we would like to have is Mr. Eben B. Thomas, president of the Lehigh Valley Railroad

The PRESIDENT pro tempore. Mr. Eben B. Thomas will be called into the Chamber.

Mr. Manager WEBB. I am informed that Mr. Thomas is not present. Therefore I will call Maj. James Archbald as a

TESTIMONY OF JAMES ARCHBALD.

James Archbald, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager WEBB.) Mr. Archbald, what position do you hold with reference to the Girard estate, please, sir?-A. Engineer.

Q. Did you ever have any negotiations with Judge Robert W. Archbald with reference to securing from the Girard estate what is known as Packer Nos. 3 and 4?-A. Packer 3 and eastern No. 4 bank; yes, sir-culm banks, not collieries.

Have you any correspondence between yourself and Judge Archbald with reference to the matter?-A. I have; yes, sir.

Q. Have you copies of it?—A. I have.

Mr. WORTHINGTON. We are willing that the Secretary may read them.

The WITNESS. I will say, Mr. Webb, that I culled out, while hearing Mr. Kirkpatrick, all the letters which he read. I have a full set now. I have picked out only the letters which have not heretofore been read in the case; but if you want all of

Mr. Manager WEBB. I shall only call for those. The Witness. There may be one here that Mr. Kirkpatrick read; I am not quite clear as to that. I will say also that two or three of these are personal letters. As you know, they appeared in the record before; but they are really personal letters,
Mr. WORTHINGTON. They may all be read by the Secre-

tary, so far as we are concerned, without proving them further. The PRESIDENT pro tempore. The letters will be read.

The Secretary read the letters, marked "U. S. S. Exhibit 78," as follows:

[U. S. S. Exhibit 78.]

(United States Commerce Court, Washington.)

SCRANTON, PA., August 14, 1911.

SCRANTON, PA., August 14, 1911.

MY DEAR JIM: In the negotiations passing with regard to the Oxford washery at Shaft, the question comes up as to whether the lease with the Girard estate contains any provision for a renewal. I understand that the lease runs out in about two years or so and that the dump would not be exhausted by that time. If this is the case and there is no privilege of renewal, would it be possible to secure an assurance from the Girard estate that the lease would be extended to cover the life of the dump? I am addressing you both at Pottsville and at Marthas Vineyard, not knowing just where you are.

I have written to the Lehigh Valley people to see whether I could get any arrangement with them about one or other of the adjoining dumps, but have not heard from them.

Yours, very truly,

R. W. Aechbald,

A true copy.

(Copy.)

AUGUST 16, 1911.

JAMES ARCHBALD, Jr.

Hon. R. W. ARCHBALD, Scranton, Pa.

Dear Sir: Replying to your letter of August 14, relative to the Oxford washery lease, this lease, which expires on December 31, 1913, contains no provision for renewal. It is probable that the bank will be nearly, if not completely, exhausted by that time; but I think the Girard estate will assure the lessee that the lease will be renewed for a period suffi-

JANUARY 13, 1912.

cient to allow its complete exhaustion. This can be ascertained upon an application from the lessee for such an assurance, which I would submit to our board of directors. With my present view of the conditions upon this lease, I would approve such an application.

Very truly, yours,

James Archbald, Jr., Engineer Girard Estate.

A true copy.

JAMES ARCHBALD, JR.

(Unifed States Commerce Court, Washington.)

SCRANTON, PA., November 17, 1911.

My Dear Jim: You will remember that I wrote you two or three months ago about trying to make an arrangement with regard to getting one of the dumps of the Lehigh Valley Coal Co. on the Girard estate near Shenandoah. I communicated with Mr. Warriner to that end, and have recently had an interview with him, with the result that if I can get from the Girard estate a lease of the particular dump which I have in mind, which is at Packer No. 3, on favorable—that is to say, current—terms and conditions, the Lehigh Valley will approve of it provided they get transportation and certain other things they ask for. I am not quite in shape as yet to see you definitely, but I thought I ought at the earliest practicable moment to communicate in this way, letting you know what had been done and preparing you for it. For the purpose of having a definite understanding in the matter I shall, of course, expect to come to Pottsville and talk it over with you. And when I am in a position for this I probably will call you up by long-distance telephone and make an appointment. This letter is therefore simply by way of anticipation.

When I see you I will have quite a little to tell you of Commerce Court experiences. I go down to Washington for a day's consultation the middle of next week, but after that I do not expect to be called there until along in January. Perhaps not then, if some of the hotheads carry out their threats to put the court out of business.

Very truly, yours,

A true copy.

A true copy.

JAMES ARCHBALD, Jr.

[Exhibit 123.]

(R. W. Archbald, judge, United States Commerce Court, Washington.) SCRANTON, Pa., November 22, 1911.

Scranton, Pa., November 22, 1911.

My Dear Jamie: The bank that is recommended to me is Packer No. 3. And this, as pointed out to me by Mr. Warriner on his map, was the one farthest up the creek and on the opposite side from the Oxford washery. As I understand it, it is the largest one there on the Lehigh leases. As described to me, it is a sort of double dump. I think probably that I will ask for a separate lease and not tie up with the Oxford people, and, of course, will have to pay the colliery rate which you mention, the same as others. As soon as I am positive that I can carry the matter through with the parties with whom I am negotiating I will call you up and come down and see you, so as to make a definite arrangement.

Yours, very truly.

R. W. Archeald.

If Mr. Hill is after this dump, please do not let him get ahead of me.

If Mr. Hill is after this dump, please do not let him get ahead of me.

JAMES ARCHBALD, Jr.

DECEMBER 23, 1911.

Hon. R. W. ARCHBALD, Scranton, Pa.

Hon. R. W. Archbald, Scranton, Pa.

Dear Sir: I have received the application of December 19, of yourself, James F. Bell. B. L. Petersen, and T. H. Jones for a lease to the Jones Coal Co. of Packer No. 3 and Northern No. 4 culm banks. I expect to present this application to the committee on Girard estate without the city at its next meeting, which will be held on January 4, 1912. Please give me, at your earliest convenience, such information as you think I will need with reference to the financial standing of your associates and their experience in the coal business.

Very truly, yours,

James Archbald, Jr.

JAMES ARCHBALD, Jr., Engineer Girard Estate.

A true copy.

A true copy.

JAMES ARCHBALD, Jr.

(Girard estate, Geo. E. Kirkpatrick, superintendent, Stephen Girard Bullding, 21 South Twelfth Street, Philadelphia.)

JANUARY 9, 1912.

Mr. JAMES ARCHBALD, Jr., Engineer Girard Estate.

Engineer Girard Estate.

DEAR SIR: At the stated meeting of the committee on Girard estate without the city, held on Thursday, the 4th instant, the following action was taken:

"Consideration of the application of Messrs. R. W. Archbald and others for a lease of the Packer No. 3 and No. 4 culm banks was postponed pending the conclusion of the negotiations with the Lehigh Valley Coal Co. relative to the renewal of the colliery leases in which these culm banks are now included."

Yours, truly,

GEO. E. KIRKPATRICK.
Superintendent Girard Estate.

(James F. Bell, attorney at law, Scranton, Pa.)

JANUARY 12, 1912.

Col. JAMES ARCHBALD, Pottsville, Pa.

Col. James Archbald, Pottsville, Pa.

Dear Sir: Judge Archbald, under date of January 2, 1912, wrote me from Florida in regard to the matter he was speaking to you about and for which an application had been made to the Girard estate. In his letter he stated that he had written you and you would advise me of the result of the application, which I should expect shortly after the close of this month. Since the receipt of the judge's letter the other gentlemen interested have been to see me several times regarding it and to see what information I had. I wish you would let me know, if convenient, what disposition was made of the application.

Yours, very truly,

James F. Bell.

A true copy.

JAMES F. BELL.

JAMES ARCHBALD, Jr.

Hon. R. W. ARCHBALD, Scranton, Pa.

DEAR SIR: At the meeting of the committee on Girard estate without the city, held on Thursday, January 4, 1912, the following action was

taken:

"Consideration of the application of Messrs. R. W. Archbald and others for a lease of the Packer No. 3 and No. 4 culm banks was postponed pending the conclusion of the negotiations with the Lehigh Valley Coal Co. relative to the renewal of the colliery leases in which these culm banks are now included."

Supt. Kirkpatrick and I had a meeting with General Manager Warriner, of the Lehigh Valley Coal Co., yesterday with reference to the renewal of the colliery leases, and it is probable that these will be definitely settled within the next two months.

Very respectfully, yours,

James Archbald, Jr.,

JAMES ARCHBALD, Jr., Engineer Girard Estate.

A true copy.

Q. (By Mr. Manager WEBB.) Mr. Archbald, your report shows that Packer No. 4 contained 48,705 tons to be shipped or

to be won. Is that correct?—A. Yes, sir.
Q. That is Packer eastern No. 4?—A. Eastern No. 4; yes, sir.
Q. Your report shows that in Packer No. 3 there are 472,678 tons to be won; that is, coal to be taken out and shipped?-A.

Q. A total of something over 520,000 tons in those two dumps?—A. Yes, sir.

Q. Were these Packers about the average Packer dumps?—A. consider them below the average.

Q. How much below the average?—A. That would be merely a matter of opinion. I would say not very much below. At the time this matter came up, Packer No. 3 dump, which was the larger one, was marked on our maps "slate bank," and we had an idea that it was very much poorer than any bank we had, as you will notice from my statements in the letters; and after making those tests we found that it was practically, as far as concerns where there was coal, an average bank. There are, however, large deposits of rock and slate that are more or less separate banks, but intermixed with the coal banks, so that it is undoubtedly below the average. And No. 4 eastern bank is very much below the average. That is really a slate bank and not a coal bank.

Q. That is the smaller bank?-A. Yes.

Q. The 48,000-ton bank?-A. Yes.

This bank showed 15 per cent prepared sizes, did it not?-

A. Yes, sir.

cerned.

Q. And it showed 14 per cent buckwheat and 12 per cent rice. Is not that a little above the average bank?—A. I think you are wrong about those percentages. They would be bigger than you quote. Those are the percentages of the whole content. The percentages of coal—well, yes; if you do not care to go into detail, it does show better. But, as I explained to you in the committee, the hand tests always show a much larger proportion of prepared coal than we are able to get out of the bank under any conditions. At that time you asked me what the average was and I said between 5 and 10 per cent, and I find on examination last year our banks averaged 8 per cent.

Q. This bank, on hand tests, averaged 15 per cent?—A. Yes, sir; but if I were making that estimate for a buyer or operator. I would cut that down 50 per cent, at least, and say we would get only one-half of that so far as actual shipments are con-

Q. That would be about 7½ per cent?-A. Yes; that would be about our average—8 per cent is our average.
Q. Then this is about an average bank, is it not?—A. No, sir.

Q. Within one-half of 1 per cent of an average bank?-A. No, sir.

Q. The difference between 7½ and 8 per cent?—A. No. It contains too much rock to be an average bank.

Q. And yet your hand tests showed 15 per cent prepared sizes?—A. Yes; where there is coal. But a large part of the bank is rock, and it is undoubtedly, in my mind, not an average bank. But not very much below the average. I would say this bank and the Oxford bank are about on a par. I consider the Oxford below the average.

Q. As to whether it is an average bank or not depends on your judgment as to how much refuse is there besides real

coal?-A. Yes.

Q. Suppose this bank contains 46,000,000 cubic feet and 472,000 Yes; but we would not win that much, quite.

Q. That is what your report shows.—A. Very true.

Q. 472,000 tons in Packer No. 3 bank to be won.—A. Very

true.

Q. And 48,000 tons in Packer No. 4 to be won?—A. Yes.

Q. And if that much coal can be won out of 46,000,000 feet cubic contents, that is a good content, is it not?-A. Well, I would say it was, off hand, in that respect. It is, however, not an average bank; it is not up to the average.

Mr. Manager WEBB. That is all. The witness is with the respondent.

Cross-examination .

Q. (By Mr. WORTHINGTON.) Had any part of Packer No. 3 culm bank been taken away at any time from the way it was

originally made?—A. No; not Packer No. 3.
Q. Not Packer No. 3?—A. Yes; by the Lehigh Valley Railroad It had taken some under a track which they expected to but in that ran through the bank. They took some of that away-the Lehigh Valley Railroad Co .- and delivered it to the Lehigh Valley Coal Co.

Q. Did they use the part that they removed to put their road in there?-A. What the road was built on, of course, they did not remove; but the bank that was rendered unavailable by reason of preparation by the road was removed by them and taken to Packer No. 4 breaker-that is, No. 3.

Q. Mr. Witness, will you look at this letter dated November 20, 1911, purporting to have your signature and to be addressed to Judge Archbald, and tell me whether that is one you have read? I was out of the Chamber part of the time while the letters were being read by the Secretary.

The WITNESS. A letter of Judge Archbald? Let me see it. Mr. WORTHINGTON. No; a letter from you to Judge Arch-

bald. Let me show it to you. The Witness. No, sir; that was not included; I must have omitted it. I think I have it here. It should have been in-

Q. I would like to have that read, then .- A. I must have taken it out by mistake.

Q. It may be read from the record, Mr. Webb, I presume, without explaining it?

Mr. Manager WEBB. Oh, yes.

The WITNESS. I overlooked it. I have not got it.

Mr. WORTHINGTON. It is on page 1577.

The Secretary read as follows:

[U. S. S. Exhibit 79.]

NOVEMBER 20, 1911.

Hon. R. W. ARCHBALD, Scranton, Pa. Hon. R. W. Archello, Scranton, Pa.

My Dear Uncle Wodrow: I received your letter of November 17.

I am not sure whether the bank about which you spoke to Mr. Warriner is the Packer No. 3 bank or the upper; that is, eastern No. 4 bank. Neither of these banks is very good, and would hardly warrant a separate operation. It would pay the Oxford Coal Co., however, to take them, which is probably your idea. Mr. Hill, managing director of the Oxford Coal Co., some time ago asked me for the eastern Packer No. 4 bank, and I promised to take the matter up with Mr. Warriner for him as soon as I could make a survey to show the exact location of the bank. This has not yet been done.

The Oxford royalty rates are as follows:

Cents.

		ents.
	prepared	
Size No.	buckwheat	. 30
Size No.		74
Size No.	ery rates which are also paid on all culm-bank coal	. 3

pared by collieries, are at present:

		CC CC	No. of Section
Size		1	40
Size	No.		36 23
Size	No.	4	10
Size	No.	5	5

As these two banks are not first class, the Board of Directors of City Trusts may be willing to have them worked under the Oxford royalty rates if taken by the Oxford Coal Co. Otherwise they will probably want the full colliery rates, and that will be increased on size No. 1 when the present leases expire on December 31, 1913.

I shall be glad to see you with reference to this matter whenever you come down. I hope you can arrange to stay overnight with us.

Very sincerely, yours,

JAMES ARCHBALD, Jr.

Q. (By Mr. WORTHINGTON.) Now, Col. Archbald, you spoke on your examination by Mr. Webb about conclusions reached after making tests. When were those tests made?—A. Very late in December.

Q. Last December?—A. Of 1911.

Q. They were made, then, after this letter of November 20, 1911, was written?—A. Yes, sir. I had to make my report very promptly, and I had no time to go over it personally. The calculations were made in my office and checked up in my office. I did not pass any judgment on what there was.

Q. In this letter you say that neither Packer No. 3 bank nor

the eastern No. 4 bank is very good. What was the information you were going on when you wrote that letter?—A. Just my opinion, having looked them over. I had no information at all. As I say, they were marked "slate banks" on my map, and I wanted to warn Judge Archbald that they were not good banks.

Q. When were the Oxford royalty rates, referred to in this letter just read, put in force?—A. I will have to refresh my memory. [After referring to paper.] On July 1, 1904.

Q. Why were those rates adopted for the Oxford instead of

taking the rates paid by the Lehigh?-A. They were on the

plea of the North American Coal Co., at that time a lessee, that the bank was a poor bank, which we admitted, for the Girard estate, and reduced the rate.

Q. Your judgment now, if I understand you, is that Packer No. 3 and the Oxford bank are about on a par?—A. Yes, sir.

Q. They are about the same?-A. Yes, sir.

Q. Can you tell us anything about any deposit of rock having been made on eastern No. 4 bank?-A. No; not specially. There is a rock all through the bank, and there are ridges of rock running through it. Rock was dumped in one place, coal in another, and so on, and they were not separated very

Q. Is there not what you call a rock pile adjacent to eastern

4?-A. You asked me about No. 3. Mr. WORTHINGTON. Oh, yes

A. In our eastern No. 4 bank there is a rock dump right close to it; adjacent to it.

Q. How did that rock get there?-A. It was deposited there by the Lehigh Valley Coal Co.

Q. Do you remember that you stopped them-Q. When they were piling that rock on the dump?-A. I have had occasion to do so within the past 10 days, again.

Q. You did that on behalf of the Girard estate, the lessor?-

A. Yes, sir. Q. You say the Lehigh Valley has been putting rock over that dump lately?—A. Not over it, but adjacent to it, so as to practically cut it off. The danger would be that they would cut it off so that nobody could take it but themselves.

Q. Yes; and you stopped that again?-A. Yes, sir.

Q. Col. Archbald, it appears in the correspondence that you have read that the name of your uncle, Judge Archbald, was used all through the correspondence. I want to ask you whether at any time there was any suggestion from him or from anybody else that the fact that he was interested in this proposed leasing of Packer No. 3 should be concealed from anybody?—A. No, sir. I said to him, "Of course, you understand that your name will appear," and he said, "Of course, I understand that any desire it." that, and desire it.

Mr. WORTHINGTON. That is all.
Mr. Manager WEBB. That is all, Mr. President. This witness may be excused, so far as the managers on the part of the House are concerned.

Mr. WORTHINGTON. Just one moment. Q. (By Mr. WORTHINGTON.) Did you have a map made, or did you prepare a map, showing the relative situation of the Oxford dump and the Packer dumps?—A. I did.

Q. Is this the map [exhibiting blue print]?—A. It is. Q. Is it correct?—A. Yes, sir.

Mr. WORTHINGTON. I should like to have this map marked now simply for identification. We will have to use it when we come to our testimony.

The PRESIDENT pro tempore. It will be so marked.

(The map referred to was marked for identification "U. S. S. Exhibit M."

Mr. WORTHINGTON (to Mr. WEBB). Do you want to see it?

Mr. Manager WEBB. No, sir.
Mr. WORTHINGTON. It is not put in evidence. It is simply marked for identification. Mr. President, this witness may be discharged.

The PRESIDENT pro tempore. The witness is finally dis-

" JAMES F. BELL.

Mr. Manager WEBB. Mr. President, after you have satisfied yourself that James F. Bell has been subpensed to attend this Mr. President, after you have satisfied trial, and as he has either failed or refused to do so, we ask for the following order:

The Secretary read as follows:

Ordered, That an attachment do issue in accordance with the rules of the Senate of the United States for one James F. Bell, a witness heretofore duly subpænaed in this proceeding on behalf of the managers on the part of the House of Representatives.

The PRESIDENT pro tempore. Is there objection to the order just read? If not, it will be considered as agreed to by the Senate, and the attachment will be prepared and will be

SAMUEL D. WARRINER.

Mr. Manager CLAYTON. Mr. President, I believe the witness, Mr. Warriner, who has been examined, was not formally discharged. I will ask now that he may be formally dis-

Mr. WORTHINGTON. We have no objection.

The PRESIDENT pro tempore. Without objection, it is so ordered. The witness Mr. Warriner is finally discharged.

ORDER AS TO EVIDENCE.

Mr. Manager CLAYTON. Mr. President, I desire to say that we had expected to have several other witnesses right at this

juncture to conclude the testimony under the particular articles now under consideration, but we have just ascertained that several of these witnesses are not present this afternoon. So I have requested—and I hope it meets the approval of the Chair—the Sergeant at Arms to notify all absent witnesses on the part of the managers of the House of Representatives who have not heretofore testified to be in attendance upon the session of the Senate sitting as a Court of Impeachment to-morrow, as we expect to get through with all the testimony which the managers shall offer to-morrow, or certainly by Saturday. We hope and expect to get through with the examination of all of our witnesses by Saturday at the furthest.

In the meantime, Mr. President, we will now examine witnesses touching other counts in the articles of impeachment other than those that have been under immediate consideration

this afternoon.

Mr. WORTHINGTON. Mr. President, I should like to have an understanding, if it be agreeable to the Senate and to the managers, that we shall not be expected to begin introducing evidence on behalf of Judge Archbald until Monday morning. It is likely that the testimony on the part of the managers will last until some time on Saturday, and it is very embarrassing to ask witnesses to be here, all of whom of course are very anxious not to come, or to get away as soon as possible. We do not want to have to get them here and keep them over Sunday if it can be avoided.

It would also give us an opportunity to go over the testimony that has been taken and arrange the order of our defense. would be a great accommodation to us. Perhaps we could eliminate a good deal, because we think the managers have proved a good many things which we expected we would have to

prove ourselves.

The PRESIDENT pro tempore. That will be for the determination of the Senate. Could not the respondent have here some one witness whose testimony he knew would be quite

Mr. WORTHINGTON. No; we could not do that.

The PRESIDENT pro tempore. And have him in attendance and begin on Saturday? Counsel will realize the fact that expedition is of the utmost importance to the Senate at this time.

Mr. WORTHINGTON. We certainly understand that.

Mr. POMERENE. May I ask counsel how long he anticipates their testimony will take? Mr. WORTHINGTON. That is an exceedingly difficult ques-

tion to answer, but I should think we would be able to close it next week

The PRESIDENT pro tempore. The Chair would not undertake the responsibility of saying that the session would be suspended on Saturday before the expiration of the regular hour. That would be for the Senate to determine.

Mr. WORTHINGTON. Well, I hope that we may have some friend in the Senate who will make that motion. I understand

we can not make it.

The PRESIDENT pro tempore. What is the pleasure of the Senate in regard to it?

Mr. Manager CLAYTON. I desire to make one observation. The PRESIDENT pro tempore. The manager will pardon the Chair for a moment?

Certainly. Mr. Manager CLAYTON.

The PRESIDENT pro tempore. If perchance the managers should conclude to-morrow, it would be a very serious matter to the Senate at this stage to lose a whole day. It might necessitate the loss of the entire time that is usually dedicated to

Mr. Manager CLAYTON. May I be permitted to say that I do not think we can conclude the examination to-morrow of the witnesses on behalf of the managers on the part of the House. But I expressed the belief and the hope that we would be able to do so at least by Saturday. Since I have conferred with some of my associates, we think it unlikely that we can conclude the examination of our witnesses to-morrow, but we are still of the opinion that we can do so on Saturday.

Of course, the managers will be ready to do whatever the Senate may determine, just as they have heretofore expressed their willingness to always await the pleasure of the Senate in the conduct of this proceeding. If we should conclude Saturday and the Senate should think it wise and proper, or for any other reason sufficient to the Senate, that the examination should be postponed until Monday, the managers would not offer any objection. They simply hold themselves in readiness at all times to meet the wishes of the Senate.

The PRESIDENT pro tempore. Would it be sufficiently early, the Chair would inquire of the counsel for the respondent, to have that matter determined to-morrow?

Mr. WORTHINGTON. Yes, Mr. President.

The PRESIDENT pro tempore. The Chair would suggest that it be postponed until then and an opportunity be given for conference

Mr. WORTHINGTON. Very well; but the difficulty about that is that most of the witnesses come from Scranton, and in order to get here one day they have to leave there about noon the day before.

Mr. ROOT. Mr. President, I offer the following order.

The PRESIDENT pro tempore. The proposed order will be

The Secretary read as follows:

Ordered, That the evidence of the managers upon their case in chief be concluded Saturday, December 14, and the evidence of the defense be commenced Monday, December 16, at 1.30 o'clock p. m.

The PRESIDENT pro tempore. Is there objection to the order just presented?

Mr. Manager CLAYTON. Mr. President, may I be heard, hriefly?

The PRESIDENT pro tempore. Mr. Manager.
Mr. Manager CLAYTON. Mr. President, I understand that
if that order were adopted now the Senate could, and I apprehend would, for good reasons, modify it to whatever extent might meet the judgment of the Senate.

We are of the opinion that we can conclude the examination of our witnesses in chief in the presentation of this case by the end of Saturday's session. Of course, Mr. President, whether we will be able to do that is dependent upon two things. First, we may not be able to get all our witnesses here by Saturday. We are doing our best. I directed the attention of the Chair this afternoon to the absence of some of them, and mentioned the efforts that we were making further to have those witnesses here.

Assuming that those witnesses are all here, so that we may have the opportunity to examine them, the matter then will be conditioned somewhat upon the length of time occupied in the cross-examination, but we apprehend that the cross-examination will not be very long.

So far as the lights which are now before us can enter into the solution of the question, we think we can agree to get through with the testimony in chief by Saturday.

But I desire to say, Mr. President, that should any good reason appear we may be called upon to ask the Senate at the proper time, should the occasion arise, for a modification of the

The PRESIDENT pro tempore. It will always be within the power of the Senate, of course, to modify the order. Is there objection to the order which has just been read? If not, it will be considered as adopted by the Senate. The managers will proceed with the other witnesses.

Mr. Manager CLAYTON. We will call the witness James

R. Dainty.

TESTIMONY OF JAMES R. DAINTY

James R. Dainty appeared, and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager WEBB.) Mr. Dainty, where do you

live?-A. Scranton, Pa.

Q. Where were you last May when the House of Representatives sent a subpæna for you to appear before the Judiciary Committee?—A: Fishing.

Q. Where were you fishing?—A. In the Pocono. Q. Where is that?—A. It is in Monroe County.

Q. Monroe County, Pa.?-A. Pennsylvania, yes; about 40 miles from Scranton.

Q. How long did you fish?—A. I fished most of the season.

- Q. You were fishing all the time the Sergeant at Arms was trying to find you, that you might come here and testify in this case?-A. I was fishing most of the time, when I was not automobiling.
- Q. You were automobiling and fishing, and you knew the House of Representatives wanted you here to testify in this case?—A. Not of my knowledge.

Q. You had heard of it?-A. Indirectly.

Q. You left your family in Scranton when you went fishing?-

A. Some of my family.
Q. They notified you that the Sergeant at Arms had been there hunting for you and looking for you, the papers were full of it, and you kept on fishing and automobiling?—A. They did not.

Mr. WORTHINGTON. Mr. President, I do not quite understand what this has to do with the case, unless it is proposed to show that Judge Archbald was concealing the witness.

Mr. Manager WEBB. I want to show the character of the

witness before we examine him.

Mr. WORTHINGTON. If you want to show he is an adverse witness before you ask him questions about the case—

Mr. Manager WEBB. I think I have a perfect right to ask this witness why he did not appear last May when he was subpænaed by the House of Representatives.

Mr. WORTHINGTON. It seems to me we are not engaged in trying the witness, but Judge Archbald, and if the counsel will show that they propose

Mr. Manager WEBB. Mr. Worthington tried a witness the other day in this respect very much like it.

The PRESIDENT pro tempore. In view of the facts already brought out, the manager will proceed.

Q. (By Mr. Manager WEBB.) Do you know Judge Archbald?—A. I do.

Q. Have you ever been to his office in Scranton?—A. Yes, sir.

Q. How often?—A. A number of times. Q. How many?—A. Probably a dozen times or more. Within what time?-A. Within the past two years. Q. What did you call on him about? What was your busi-

-A. Sometimes I would go in while passing by and say, "How do you do?" to him, and go on.

Q. Well, at other times what did you discuss with him in the way of business?—A. Well, I was requested to call there.

Q. By whom?-A. Mr. Williams. J. Williams?-A. Yes, sir.

Did you call?-A. Two or three days after that I did.

You did call, you say?-A. Two or three days afterwards.

You did call, then?-A. Yes, sir.

What did Williams tell you to call there for?-A. He said

the judge requested to see me. He did not say what for. Q. In consequence of what Williams told you, did you go to see the judge, and, if so, what did the judge tell you and what did you tell the judge?-A. I went there to see the judge.

Proceed.—A. He wanted to see me to obtain the address of the Everharts. He was desirous of closing up some matter pertaining to the little Katydid culm bank with the heirs of the Everharts. I said, "Do you expect to write to them and get in communication that way?" He thought so; he said, "Yes." I said he would have a very hard time in getting any satisfaction in correspondence with those people, because most of them were ladies and, to my knowledge, knew absolutely nothing about this particular property in question; that the best thing to do was to see them and explain it to them.

Q. You are referring to the Katydid property now?-A. That

is the property that he called me in to talk about.

Q. The Katydid culm bank?-A. Yes, sir.

Q. All right. Go ahead .- A. However, I said maybe I would be going to Philadelphia myself shortly, and if I did I would bring it to their attention and explain it to them. Some two months or so after that I was in Philadelphia and talked the matter over with them, and explained to them their equity as near as I could, assuming that they owned the culm that was on the surface—the one half, of course, the other half belonging That family, composed of five people, owned to the Hillside. one hundred and twenty-fifth part each, and they wanted to know what it was worth. Of course, I knew something of the transaction, of the selling price, and of the purchase price, and said it was probable that if they got two or three hundred dollars each-

Q. As far as we are concerned, you need not tell your conversation with the Everhart heirs. After you had spoken to the Everhart heirs did you go back and see the judge-after you had gone to Philadelphia to see them?-A. I do not think that I saw the judge after that for a long time. It may have

been a month or more. Q. You went up there for the judge? -A. Went where for

the judge?

Q. To Philadelphia to see the Everhart heirs.-A. No, sir.

Q. How did you happen to be interested, then, in the Katydid culm bank after talking with Judge Archbald?—A. I was not interested in the Katydid culm bank after talking with Judge Archbald at all, because I frequently visited the Everharts.

O. You did go to see the Everharts almost immediately after your conversation with Judge Archbald about the Everhart interest in the Katydid?-A. I said probably two months afterwards.

Q. When was your conversation with the judge?-A. Two

months prior to that time.

Q. What month was that?-A. I do not remember the exact date. It was some time during the negotiations of the Laurel That probably could fix the date. I do not remember it

Q. That is, the sale of property to the Laurel line?-A. Yes;

somewhere along that time.

Archbald?-A. By Williams or Archbald or Q. By Judge whoever was selling it.

Q. That continued from December, 1911; really from November, 1911, until April 13, 1912. Now, can you not tell us a little more definitely when that first conversation of yours was with him?-A. I do not remember when the first conversation was, because it was immaterial and I did not charge my memory with it. I did not think anything of it because I was not interested one way or the other.

Q. Had you before talked with the Everhart heirs about their interest in this Katydid culm bank?—A. No; because no

one ever thought they had any interest.

Q. Then was it in consequence of your conversation with Judge Archbald that you went to Philadelphia to talk with them?-A. No; not necessarily so. I was going to Philadelphia. I did not make any special trip to Philadelphia to speak to them in regard to this culm bank.

Q. That is, you did speak to them after you had arrived in Philadelphia because of your conversation with Judge Archbald. Is that it?-A. No; not directly, because I was talking to them about a great deal of other matters that they were familiar

with in the land that they owned.

Did you mention their interest in the Katydid culm

bank?-A. I certainly did.

Q. Did you not do it because Judge Archbald had spoken to you about it?-A. I had promised the judge that if I went to Philadelphia I would call their attention to it and see what they thought about it.

Q. If you had told that a moment ago-A. I did tell you

that before.

Q. After you came back from Philadelphia did you ever have any other deal with Judge Archbald with reference to an 800-acre tract of land owned by the Lehigh Valley Coal Co.?— A. Not 800.

Q. Well, 500 or 300 or whatever number it was?-A. I had no dealings with him in regard to that because that did not

belong to Judge Archbald.

Q. No; I understand it did not.—A. The judge in the first interview in talking about things said to me, "Dainty, what became of your Derringer property"? I said I had disposed

Q. Does he call you "Dainty"?-A. Sometimes. had disposed of that property. He said, "Was that not ad-joining to the Derringer property"? I said, "Yes, it was—the adjoining tract—some 1,600 acres adjoining the Derringer prop-I was very familiar with the Derringer property, being neighbors there for four or five years, and I knew that the Derringers had not transferred over their leases to the Valley. During the conversation he said, "Don't you think you could get the Derringer leases for the Valley? You know the property." I said "Yes, I know the property; I know the people; and, as I understand it, the difference is the price, whether the Valley wants to pay enough money; they could get it."

Q. I want to see if we understand each other. Is the Derringer property the 800 acres in which these Everhart heirs own about one-fifth?—A. Absolutely nothing. The Everhart heirs own absolutely nothing of the Derringer property.
Q. Who do own it?—A. The Derringer heirs; 72 of them.

Q. I do not want to talk about the Derringers.-A. I am get-

ting to it.

Q. All right; go ahead, then.—A. I said it is possible to get that, and at my suggestion I said that the Lehigh Valley has not acquired one of the Everhart heirs in their lease. He said, "I understand not from something I read in the papers," or something of that kind. He said, "Do you know the trouble, why she did not transfer?" I said, "Because they did not make the she did not transfer? I said, Because they did not having sold price large enough, the other brothers and sisters having sold for \$100,000 each for the two leases." He said, "You are well acquainted with Mrs. Llewellyn?" I said, "Yes." So he suggested the suggestion of the suggesti acquainted with Mrs. Llewellyn?" I said, "Yes." So he suggested that I go and see Mr. Warriner and talk the matter over with him. I said, "Well, I do not know Mr. Warriner very well.
Of course, I know him to see him, but I did not know him well enough to approach him on this matter. However," I said, "if you come in contact with Mr. Warriner at any time, I would thank you if you would mention it, and I will go down later and probably go over the matter with him." He said something "Well," I said, about what would be considered for my services. "I did not know that I wanted any money, but they had a piece of coal at Moosic that was detached from any of their own property, separate and away from their own railroads, which they could not mine under any conditions unless they shipped it over some other road, and not a very choice piece of property, a piece that they have held for a number of years.'

Q. That who has held?-A. The Lehigh Valley, with the expectation of making some exchange with one of the other companies for some coal somewhere else more convenient for them to get. I said if they could see their way clear, I would consider a lease on that property for my services. Of course I realized that there were at least a year or two years' work to accomplish what was set out for.

Q. Well, is that all?-A. That is all.

Q. Did you ever know what became of your request to lease 325 acres? That is the Morris & Essex tract, is it not?-A. It is the Morris & Essex warrant

Q. Was Judge Archbald to help you get the lease from the

Lehigh Valley?-A. He was not.

Q. For the 325 acres?—A. He was not.
Q. Why did you mention it to him that you wanted to get it of the Lehigh Valley for services you were going to render the judge?—A. No, no; for services that I was about to render

to the Lehigh Valley.

- Q. Then, why should the judge be interested in a proposi-tion in which nobody else seemed to be interested but the Lehigh Valley, yourself, and the Everhart heirs?—A. The only reason I could see that the judge would be interested would be more through friendship. There came one thing after another that developed through our conversation, as I have related.
- Q. Friendship for whom?-Probably friendship for myself. Q. Although he sent for you first?-A. That is true, and I

gave him the information he asked.

Q. I ask you if this was not the agreement, that you were to help him clear up whatever little lack of title or cloud of title there was on any land he was interested in, and in turn he was going to help you secure from Warriner this 325-acre lease?-A.

No, sir; no, sir.

Q. Why should you have told Judge Archbald what you wanted to get from the railroad in the way of compensation for your services?—A. I have explained that. The judge said, "What would your services be worth for obtaining those leases?" and I said it did not need any money; that I would be satisfied if the Lehigh Valley could see their way clear to make a lease to me of the Morris and Essex property.

Q. And that was your consideration for getting the Everharts to sell to the Lehigh?-A. That was my consideration for getting the Derringers and Everharts and another property that

was adjoining on the opposite side of the creek.

Q. And the judge was to help you accomplish those desires,

was he not?-A. He was not.

Q. Then tell us why you were telling the judge what you wanted done .- A. I was not telling the judge what I wanted

done. I was answering the judge's question.

Q. Why, then, can you tell us, should he have wanted to know what you would request in return for the favors you did the railroad, and you told him that you would like to have the 325-acre tract?—A. I am not a mind reader.

Q. I ask you if Mr. E. J. Williams did not tell you that the judge wanted to see you, and that the judge could help you

make that deal?-A. I say no.

O. Is that all you know about this transaction?-A. That is

as far as the transaction went.

Q. You never got the 325 acres?-A. No; never. I did not

acquire the lease.

Q. No; that was because, was it not, that about that time it came out in the newspapers that Judge Archbald's conduct was being examined down here in Washington, and this whole thing stopped?-A. Not exactly that.

Q. How near it?-A. If you will give me a chance to explain

it, I will tell you.

Q. Yes, sir; proceed .- A. The reason, mostly, was that I had not had an opportunity to get the attention of Mr. Warriner to finally decide and define the interests and what I should get.

Q. Mr. Warriner swore that his engineer did make a report to him, and that he reported to Judge Archbald just what those interests were. Did the judge never tell you what they were?-A. He did not, sir.
Q. You say Mr. Warriner did not swear to that?—A. Not in

that respect; no, sir.

Q. I understood Mr. Warriner to say that he had his engineer, Mr. Jessup, or some engineer, calculate the various interests that these heirs owned, and that Mr. Jessup communicated with the judge, or that he communicated with the judge?—A. I know what the Everharts own myself; it was not necessary for the judge to tell me or for Mr. Warriner to tell me. I was not referring to that. My statement was that I had not seen Mr. Warriner to go into the matter to define what interest or how the agreement should be made, providing that I accomplished the work that I set out for—what conditions, what terms, what minimums, what royalties should be placed on this There were large and difficult conditions there to property. contend with.

Q. The reason why you did not pursue it was because this matter came out in the paper that Judge Archbald's conduct was

being examined?-A. I have said-

You said a while ago when I asked you that question "Not altogether." Is not that one of the reasons why you did not prosecute your request with Warriner and why the judge did not persist and help you further in it?-A. No: I did not need the assistance of the judge to help me further. If Mr. Warriner was satisfied to do that, to give me that lease in consideration of my obtaining those leases, it was up to Warriner; and if Mr. Warriner said he could not see his way clear to give me that lease, then, of course, I had nothing to do.

Q. In that connection, you can not explain to us what Judge Archbald was to do toward helping you to get the lease, or whether he was to do anything or not?-A. Judge Archbald was to do nothing. What was there to do? I had the work

to do.

Q. The thing he wanted done was to get a lease of 324 acres

of coal land?-A. The thing that he wanted to do-

Q. Just a moment. You knew that as the policy of the Lehigh Coal Co. was not to lease its lands, you would have to have more influence to get it than your own. Is not that true? A. If the Lehigh Valley wanted those leases sufficiently bad enough, if it was to their interest to get those leases, it would be naturally to their interest to give me coal in compensation.

Q. Well, you could not have done all that without the judge's

intercession?-A. It simply came up in conversation.

Q. Did you know that the judge went to see Warriner about the matter?—A. I did not know that he had been to see War-

riner. How should I know?

- Q. He never told you that he had been to see Warriner; that he had inquired what the Warriner interest was and whether they were willing to buy them out, and suggested in that connection that you would like to have a lease of 324 acres of the Morris & Essex plant?—A. You get two questions in one. Q. No, sir; that is one question.—A. It is two questions,
- Q. Did the judge ever tell you that he had been to see Warriner about the sale of the Everhart interest in this tract of land to the Lehigh Valley Co.?-A. No.

Q. Did he ever tell you that he had seen Warriner and had told Warriner that you wanted the 324-acre lease?-A. He had

not, as I understand, seen Mr. Warriner.

Q. Did he ever tell you that?—A. No; he did not tell me that he had seen Mr. Warriner. Did he tell you that he would see him in your behalf?-

No; not in that way. Q. In what way?—A. In the way that I have suggested. was my suggestion that he see Mr. Warriner, and ask Mr. Warriner if he would see me when I came down after our talk.

Q. Anyway, he never told you that he had seen Warriner?

A. No.
Q. I ask if you do not know that the reason why these negotiations were cut short was because this whole matter came out in the newspapers and that stopped them? Did you see it in the newspapers about the time you were negotiating :- A. Certainly I had.

Q. And about the time you were carrying on these negotiations?-A. No; the negotiations were prior to the hearing, but they had not matured.

O. Yes; and the newspapers had it published prior to the

hearing, too?-A. Well, not very long.

Q. Not very long; but I ask you this direct question, if that is not the reason why these negotiations were stopped-because Judge Archbald's conduct was being investigated?-A. I will say, then, to you that I knew of these proceedings long, long before any paper ever saw it or printed it.

Q. Who told you?-A. I knew all about it.

Q. Who told you?-A. We were all associated together.

Who-you and the judge?-A. No; Mr. Boland and myself and Mr. Williams; and all of us knew of these proceedings long before they matured.

Q. Did Mr. Williams tell you that he had been down here to testify?-A. I knew the proceedings were coming before Mr. Williams ever came to Washington.

Q. I ask you now, again, whether you will answer it-if that is not what stopped the negotiations with the Lehigh Valley Coal Co.?-A. It is not.

Why have you not negotiated since you made your proposition?—A. Because I have not seen or had an opportunity to see Mr. Warriner to go into the matter. Q. Where have you been since last February or March?-A.

I have been in a great many places.

Q. You have not been able to see Mr. Warriner?-A. I have not seen Mr. Warriner; no. Mr. Warriner, you remember, a

short time ago changed his position and went with the Lehigh at Wilkes-Barre.

Q. But you often go to Philadelphia?-A. That is true; but

at the present time Mr. Warriner would not be the man to see.

Q. Why did you not pursue your proposition to lease the
Morris and Essex tract of land?—A. Because, if you want to know, I was feeling my way to see what I could do on the other hand with the lessors.

Q. Had you any peculiar influence with the lessors—the Everhart heirs?—A. I know what coal property is, and I tried to tell them the value thereof; and it was through my efforts, probably, that the other lease was not sold during those negotiations. There is only one lease to be sold, not two.

Q. Are you any relation to the Everhart heirs?-A.

Q. Are you kin to Mrs. Llewellyn?-A. No, sir.

Q. And the only reason why you say you interceded with the Everhart heirs is because you are a coal man and know the coal business?-A. I know the Everhart heirs very closely and visit them very frequently, and I know of all the property that

Q. Well, one more question. The first time you ever had anything to do with this proposition, or that you knew the Lehigh people wanted the Everhart remainder, was when Judge Archbald sent for you to come to his office. Is that right?—A. Yes; but not for that purpose.

Mr. Manager WEBB. That is all the questions we desire to

ask the witness

Mr. WORTHINGTON. We have no questions to ask, Mr. President.

The PRESIDENT pro tempore. The witness may retire.

Mr. Manager WEBB. We shall not excuse this witness, Mr. We should like to have him remain.

The PRESIDENT pro tempore. The witness will not be finally excused.

Mr. Manager STERLING. We now desire to call John Henry Jones as our next witness.

TESTIMONY OF JOHN HENRY JONES.

John Henry Jones, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager STERLING.) Where do you live, Mr. Jones?—A. Scranton, Pa.

Q. What is your business?-A. Clerk and bookkeeper.

Q. Clerk of what?-A. I am assessment clerk.

Q. Is that an official position of the county or city?-A. An appointive position.

Q. In the county or city?—A. In the county.
Q. How long have you held that position?—A. Since the 1st of January

Q. Of what year?-A. 1912.

Q. What was your business before that?-A. Well, doing various jobs, bookkeeping and clerical work, and promoting.

Q. What did you promote?—A. I promoted—one was a culm dump, which is in question, and I am still working on another promotion.

Q. Are there any other projects you had in charge?-A. I can not very well recollect.

Q. Do you know Judge Archbald?—A. I do.

Q. How long have you known him?-A. I have known the judge for a number of years.

Q. Do you know E. J. Williams?—A. I do.

Q. How long have you known him?-A. Well, probably 13, 14, or 15 years

Q. Did you have a land project in Venezuela in 1909?—A.

Q. Did you talk with Judge Archbald about that matter?-

A. I did. Q. I will ask you if he took any interest in that deal?-A.

He did not. Q. On one occasion when you talked with him about it, did you make a note to Judge Archbald or did he make a note to you?—A. The first time when I took the matter up with Judge Archbald—it was a different time—Judge Archbald did not take any interest in the matter.

Q. That is not what I asked you. During the time of these negotiations, was there a note made by you to him or by him to you?—A. Yes, sir.

Q. About when was that?-A. It would be about the 3d of December, 1909.

Q. A little before that?—A. No, sir. Q. What was the note?—A. It was a bank not for \$500.

Q. Just tell how it was made .- A. It was signed by me, payable to Judge Archbald, and indorsed over to me.

By whom?—A. By Judge Archbald. Who wrote the note?—A. Judge Archbald. Was it delivered to you?-A. It was.

Q. What did you do with it?—A. I put it in my pocket until got to the office where I was working.
Q. Well, what did you do with it then?—A. I presented it

at the bank to be discounted.
Q. What bank?—A. The Westside Bank.
Q. Did they discount it?—A. No.

Q. What did you do with it then?—A. An offer came through Edward Williams-

Q. Just tell me what you did with it. To whom did you give it, after the bank refused to discount it?-A. I was just going to recite, Mr. Manager, that an offer came from the Bolands, through Edward J. Williams-

To whom did you give Q. I did not ask about any offer.

it?—A. To the man who came with that offer. Q. Who was it?—A. E. J. Williams.

Q. Do you know what he did with it?—A. All I know is what he said, that he took it over to the Bolands's office, and it was kept there.

Q. To be discounted?—A. Until I requested it back.

Q. Did he take it there to be discounted?—A. Yes; at their request: so he said.

Q. Did he bring you the note back, or money for it?—A. I requested it to be brought back.

Q. The note?—A. Yes. Q. Do you know whether he took it elsewhere besides the Bolands to get it discounted ?- A. No, sir; I do not

Q. After you got it back what did you do with it?-A. I

took it to Mr. Von Storch. Q. Who is Mr. Von Storch?-A. He is president of the Providence Bank.

Q. And a lawyer?-A. Yes.

Q. At whose suggestion did you take it to Mr. Von Storch?—A. At the suggestion of T. Ellsworth Davies. I did not remember at the time when I testified before the Judiciary Committee, but I have recollected since.

Q. Who is Mr. Davis?—A. A mining engineer of Lackawanna

County

Q. Where did you see Von Storch?-A. In his office.

Q. At his law office?—A. Yes, sir. Q. He is also president of a bank?—A. Yes, sir.

Q. When you presented the note for discount to Von Storch, what did he say or do?-A. So far as I recollect, he said, Have you tried it in your own bank where you do business? and I said, "Yes."

Q. That is the bank which refused to discount it?-A. Well,

they refused for reasons.

Q. I am not caring about the reasons now. What did Von Storch say?—A. He said, "Does Judge Archbald wish the note discounted?" I said, "I think Judge Archbald would appreciate it if you would discount it for me." I recited to him what the purpose of it was, and he said, "All right; there will be a bank meeting, and I will let you know after the bank meeting what will be done."

Q. While you were there did Von Storch call up Judge Arch-

bald and talk with him over the phone?-A. No, sir.

Q. Do you know whether he did afterwards or not?-A. I only know from hearsay.

Q. Well, Von Storch discounted it?-A. Yes, sir.

Q. Has the note been paid?—A. Not yet. Q. Any part of it?—A. Yes, sir,

How long was the note for?-A. I believe it was for four months; I am not sure.

Q. And has it been renewed from time to time until the present time?—A. Yes, sir.

Q. And it is still outstanding, is it, in that form?-A. Part of

it; yes. Q. I will ask you if any part of it has been paid?-A. Yes, sir.

Q. How much?—A. \$45. Q. When was that paid?—A. Well, there were \$25 paid before the Judiciary Committee investigation, and there have been \$20 paid since.

Q. And the present note is for how much?—A. \$455. O. Who indorsed the note besides Judge Archbald?-A. An

indorsement, an unnecessary indorsement, came on it.

Q. I am not asking you about that. Who indorsed it after-

wards?-A. E. J. Williams.

Q. When Williams returned the note to you it bore his indorsement, did it?-A. When he returned it, but not when he received it.

Q. After it became due it was renewed from time to time until the present time in the same form ?-A. Yes, sir.

Q. With Judge Archbald and E. J. Williams as indorsers?-A. No; I do not think E. J. Williams's indorsement is on it now.
Q. Has it not been on it at least every time until the last renewal?—A. It was never necessary; it was superfluous.

Q. I am not asking you about that now. Answer my question. Was it on every renewal up until the last one?-A. No; up to the last two renewals.

Q. Were you present when Von Storch testified before the

Judiciary Committee?—A. Yes, sir.

Q. Did you not see the note that was running at that time?-A. I did.

Q. You saw Archbald's name and Williams's name both on it, then, last August or July?-A. It was on then.

Q. Who has paid the interest on this note?—A. I have.
Q. And who made the two payments of \$25 and \$20?—A. I paid them.

Q. I ask you if the bank demanded payment?-A. No, sir; they are satisfied.

Q. Did not the bank demand payment at one time?-A. They demanded a reduction, and they got the reduction.
Q. And it was reduced \$25?—A. Yes, sir.

Mr. Manager STERLING (to counsel for the respondent). Take the witness.

Cross-examination:

Q. (By Mr. SIMPSON.) The refusal to discount this note by the bank with which you usually dealt had no relevancy to Judge Archbald at all?—A. None, whatever; I can explain that.

Q. Well, it is not necessary to go into the details of the transaction. Did Judge Archbald get any benefit out of that note at all?—A. Not a cent.
Q. What was the money realized used for?—A. I needed it

in order to finance myself to go back to England.
Q. In connection with this Venezuela matter?—A. Yes, sir.

Q. And, as I understand you, Judge Archbald had no interest whatsoever in it at any time?—A. No, sir.

Q. Did Judge Archbald have any knowledge of that note being

taken to the Bolands?-A. Positively not.

Q. How did it come to be taken there?-A. It came in this manner: E. J. Williams came to me and said that the Bolands were anxious to discount that note-he evidently had mentioned it to them-and that they were anxious to discount that note as a favor to Judge Archbald. Naturally, I allowed him to take the note, and through some ruse or other they got him to indorse that note.

Q. We do not care about that--A. That is not necessary-Q. He held it how long?-A. He held it for three days, promising that there would be a check for the proceeds coming as

soon as it could come back from Buffalo.

Q. At the expiration of the three days is the time when you demanded that it be returned to you and it was returned?-

Q. Was that the first time you had any knowledge of Mr. Williams's indorsement on it?—A. That was the first; when it was returned.

Q. You said Mr. Davies suggested you taking it to Van

Storch?-A. Yes, sir.

Q. Had the judge anything to do with that?-A. The judge did not know I was going to take it until-I do not know whether he knew anything until Mr. Van Storch called him up.

Q. As far as you know, he had no knowledge of it prior to the time it was taken and left by you with Mr. Van Storch?— A. No; no knowledge whatever.

Mr. SIMPSON. I think that is all.

Redirect examination:

Q. (By Mr. Manager STERLING.) Who is Mr. Davies?-He is a mining engineer.

Mr. Manager STERLING. That is all.

The PRESIDENT pro tempore. Does the counsel for the respondent desire to ask anything further?

Mr. SIMPSON. No, not to ask a question, but that there

may be no difficulty about it, to state that the witness is under

subpoena from us and we do not wish him to be discharged.

Mr. Manager CLAYTON. The witness may stand aside now.

The PRESIDENT pro tempore. The witness may stand

The witness thereupon retired.

JAMES F. BELL.

Mr. Manager CLAYTON. Mr. President, I ask that the order which was adopted a while ago for an attachment to be issued against Mr. Bell be vacated. I am told that Mr. Bell is away on account of some understanding, and that he has held himself in readiness to come at any time, and that he will be here tomorrow.

The PRESIDENT pro tempore. Without objection, that order will be vacated.

Mr. Manager CLAYTON. Mr. President, the witnesses we had hoped to go on with this afternoon are not here. In fact, I believe we have examined all the witnesses who are in the city. The other witnesses whom we expected to be here are not here this afternoon. They will be here to-morrow, I am informed. Therefore, it being a quarter to 6 o'clock, I suggest to the Chair that we will not be ready to proceed with other witnesses until to-morrow, because they are not here at this time.

There are two witnesses here, Mr. Madeira and Mr. Hill. The testimony taken has so far developed the facts that we will not need those witnesses, and I ask that they be discharged.

Mr. WORTHINGTON. One of those witnesses is under subpæna by us, and he will have to be held, because we want him.

The PRESIDENT pro tempore. He will be discharged, as far as the managers are concerned, but not discharged from his obligations under the summons issued at the request of counsel for the respondent.

Mr. WORTHINGTON. We have no objection to his going back if he will hold himself in readiness to come back when

needed here.

The PRESIDENT pro tempore. The witness will be discharged from his obligations to respond under the subpæna issued at the instance of the managers.

Mr. ROOT. I move that the Senate sitting as a Court of Impeachment adjourn.

The motion was agreed to.

Thereupon the managers on the part of the House, the respondent, and his counsel retired.

HOUSE BILL REFERRED.

H. R. 16314. An act to amend section 162 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911, was read twice by its title and referred to the Committee on the Judiciary.

LINCOLN MEMORIAL.

Mr. ROOT. I am directed by the Committee on the Library, to which was referred the message from the President of the United States transmitting a report of the Lincoln Memorial Commission and its recommendations upon the location, plan, and design for a memorial in the city of Washington to the memory of Abraham Lincoln, in accordance with the act ap-proved February 9, 1911, to report a concurrent resolution (S. Con. Res. 32), and I submit a report (No. 1071) thereon. I ask that it lie on the table. The papers accompanying the report are already a public document, and it will not be necessary to print them again.

The PRESIDENT pro tempore. The concurrent resolution will be received and take the course indicated by the Senator

from New York.

SNAKE RIVER BRIDGE, WYOMING.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 3947) to provide for a bridge across Snake River, in Jackson

Hole, Wyo.

Mr. WARREN. The bill refers to a local matter, and I ask that it be not disposed of to-night, because I wish to consult with the parties interested on the other side.

The PRESIDENT pro tempore. It will lie on the table, sub-

ject to the call of the Senator from Wyoming.

PROPOSED HOLIDAY RECESS.

The PRESIDENT pro tempore laid before the Senate the following concurrent resolution of the House of Representatives, which was read and referred to the Committee on Appropriations:

House concurrent resolution 66.

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Thursday, December 19, 1912, they stand adjourned until 12 o'clock m. on Thursday, January 2, 1913.

Mr. WARREN subsequently said: From the Committee on Appropriations I report favorably the concurrent resolution of the House of Representatives relative to the holiday recess, and I ask for its present consideration.

Mr. LA FOLLETTE. You do not mean to pass it to-night?

There is a very slim attendance here.

Mr. WARREN. I can report it from the committee anyway. Mr. LA FOLLETTE. I move that the Senate adjourn.

Mr. WARREN. If there is objection to the immediate consideration of the concurrent resolution, I ask that it lie on the table, giving notice that I will call it up in the morning. It has been reported in the regular way from the Committee on Appropriations, and the usual course is to ask for its present consideration.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Wisconsin that the Senate

adjourn.

The motion was agreed to; and (at 5 o'clock and 50 minutes p. m.) the Senate adjourned until to-morrow, Friday, December 13, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 12, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the fol-

lowing prayer:

Eternal God, our heavenly Father, fill us with the holy spirit of truth, that Thy thoughts may be our thoughts, Thy ways our ways, Thy work our work, Thy life our life in intent and purthat we may further Thy plans and fulfill our destiny, for it is written all things work together for good to them that love God. For Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and

approved.

CONTESTED-ELECTION CASE-M'LEAN AGAINST BOWMAN.

The SPEAKER. The unfinshed business is the contestedelection case of McLean against Bowman. The gentleman from Ohio [Mr. ANSBERRY] has 36 minutes remaining and the gentleman from Iowa [Mr. PROUTY] 34 minutes.

Mr. PROUTY. Mr. Speaker, I yield five minutes to the gen-

tleman from Pennsylvania [Mr. Moore].

Mr. OLMSTED. Mr. Speaker, I think a matter of this importance ought to be considered by more than a mere handful of Members. I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Pennsylvania makes the point of order that there is no quorum present. Evidently

there is not a quorum present.

Mr. ANSBERRY. Mr. Speaker, I move a call of the House.

The motion was agreed to.
The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adamson Aiken, S. C. Allen Reyburn Riordan Roberts, Nev. Fairchild Knowland Finley Floyd, Ark. Focht Konig Langley Sabath Ames Legare
Levy
Lewis
Lindbergh
Lindsay
Littleton
McHenry
McMorran
Mañer
Martin, Colo.
Martin, S. Dak,
Matthews
Mondell Legare Focht Fordney Fornes Gardner, N. J. Goldfogle Gray Greene, Vt. Gregg, Tex. Guernsey Hamill Bates Bell, Ga. Booher Borland Saunders Shackleford sharp Sherwood Brantley Sisson Broussard Brown Slayden Slemp Small Campbell Clark, Fla. Smith, Cal. Clayton Conry Cox, Ohio Hanna Stack
Stevens, Minn.
Sulloway
Taylor, Colo.
Turnbull
Vreeland
Warburton
Webb
Weeks
Wilson, N. Y.
Woods, Jowe Stack Harris Harrison, N. Y. Hart Heald Matthews Mondell Morgan, La. Morrison Norris O'Shaunessy Parran Patten, N. Y. Pou Puio Cravens Currier Daugherty Davis, W. Va. Dickson, Miss. Higgins Hobson Howard Howland Draper Dupré Dwight Ellerbe Jackson Jacoway Kindred Pujo Ransdell, La. Woods, Iowa Young, Mich.

The SPEAKER. On this roll call 290 Members are present, a quorum.

Mr. ANSBERRY. Mr. Speaker, I move to dispense with further proceedings under the call.

The SPEAKER. The gentleman from Ohio moves to dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted-To Mr. Woods of Iowa, indefinitely, on account of illness. To Mr. Sherwood, for 10 days, on account of important business.

RESIGNATION FROM A COMMITTEE.

The SPEAKER laid before the House the following resignation of a member from a committee:

WASHINGTON, D. C., December 9, 1912.

. CHAMP CLARK, Speaker, House of Representatives.

SIR: I herewith tender my resignation as a member of the Committee on Reform in the Civil Service.

Yours, very respectfully,

S. F. PROUTY.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

CONTESTED-ELECTION CASE-M'LEAN AGAINST BOWMAN.

The SPEAKER. In this debate the gentleman from Pennsylvania [Mr. Moore] is recognized for five minutes.

Mr. MOORE of Pennsylvania. Mr. Speaker, there is scant reason for the unseating of Mr. Bowman as a Member of this House, and far less reason for the seating of his competitor, the contestant in this case, Mr. McLean. There is little that has been adduced in the testimony or in any addresses made upon this floor to warrant the harsh proceedings that are proposed against the seated Member. Surely the gentleman from Pennsylvania [Mr. Palmer], in his eloquent statement of the laws of Pennsylvania and in his personal expressions with regard to general election conditions in that State, has not presented sufficient to warrant the unseating of the gentleman whose seat is contested. He has spoken generally of political conditions which prevail in Luzerne, and admits having been a native of that county from which he removed, perhaps, before he knew of the conditions of which he complains. He is anxious for the improvement of the ballot of the State. I would like to know what Member upon this side of the House is not anxious for a simplification of the ballot of Pennsylvania, or the ballots of other States that have confused the voters in recent campaigns.

Any simplification of the ballot is welcome which gives to the honest voter a chance to fairly express his will at the polls, but the difficulty has been not only with regard to some of the laws of Pennsylvania, but with regard to those of other States, that the man who is a trickster or who is not loyal to his party on one side or the other seems to be the one to take advantage of the very laws of which the gentleman from

Pennsylvania complains.

With one fell swoop he would take away from Mr. Bowman 700 votes which were given to him under the heading of the Prohibition Party. By what right are those votes to be taken away, not only from the gentleman who occupies a seat in this House but from those who prefer in their wisdom or according to their preference to vote the Prohibition ticket? If that rule were to be adhered to, or is by your vote to be included in the precedents of the House, then a number of Pennsylvania Representatives would be immediate candidates for unseating, because their names were upon more than one party ticket. It is a matter of regret to many of us who wish ballot reform that this opportunity for tricking at the polls is permitted by law in Pennsylvania or in any other State. But apart from the generalities that have been indulged in by gentlemen upon the other side, particularly those advanced by my friend from Virginia [Mr. Holland], who seems to have based much of his argument upon alleged utterances of Mr. Bowman to agents or third parties, it would seem there is a serious side to this question for the Members of this House.

The contest system as it is encouraged in the House of Representatives is a disgrace to the intelligence of the House and a disgrace to this Nation. [Applause.] It is a positive in-ducement to crooked men in politics to unseat one who has obtained a majority of the votes of his constituents. First of all, we permit any man who has the desire in his heart or in his political make-up to contest the seat, for instance, of my distinguished friend from Pennsylvania [Mr. PALMER] or my distinguished friend from Illinois [Mr. CANNON], to say, "I will make trouble for him or I will force him to terms with me, and I will do it with the reward that is to terms with me, and I will do it with the reward that is offered to me by the House of Representatives for annoying and harassing him in his position." It is within the power of any defeated candidate, black or white, who has had the temerity to run against a sitting Member in the South or elsewhere to institute proceedings and to come here with the right to a seat upon this floor. The inducement is \$2,000 lawyer's fees for counsel who may have helped to stir up the trouble.

The SPEAKER pro tempore (Mr. RANDELL of Texas). The time of the gentleman has expired.

Mr. MOORE of Pennsylvania. May I have two minutes more? Mr. Speaker, then I ask the privilege of extending my May I have two minutes remarks in the RECORD.

The SPEAKER pro tempore. The gentleman from Pennsylvania asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. PROUTY. Will the gentleman from Ohio [Mr. Ans-DERRY] now use some of his time?

Mr. ANSBERRY. I think the gentleman from Iowa had better proceed to use 20 minutes, and then the gentleman from Maryland [Mr. Covington] will have 20 minutes.

Mr. PROUTY. I yield one minute further to the gentleman from Pennsylvania [Mr. Moore].

Mr. MOORE of Pennsylvania. Mr. Speaker, in that one minute, getting down to concrete facts in this particular case, I want to say that if you unseat Mr. Bowman and allow \$2,000 counsel fees to the attorneys of Mr. McLean you will, in addi-

tion to that, if you seat Mr. McLean, vote to him, for no services performed to this House, \$13,125, which he can stick in his own pocket for nothing done whatever except to harass Mr. Bowman. You are going to offer him not only the \$2,000 counsel fees, but you are going to give him a premium of \$13,125, plus three months' actual service in this House.

Now, if you seat Mr. McLean, and later some majority comes into this House different in political complexion from that which now controls it, the precedent that you set to-day may plague every man who happens to be in the minority. You had better stick to your 30 days' law and tell Mr. McLean and every other contestant that he will have to comply with the law, and that you do not intend to extend the limit in which he may give notice to the seated Member. But you are not going to do it for yourselves or the future if you seat Mr. McLean and unseat

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. ANSBERRY. I will ask the gentleman from Iowa [Mr. PROUTY] to use a little more time.

Mr. PROUTY. Mr. Speaker, I yield 10 minutes to the gentleman from Ohio [Mr. Willis]. [Applause.]
Mr. WILLIS. Mr. Speaker, it is not possible to do justice

to the merits of the controversy involved in this case in 10 minutes. I shall therefore not undertake to discuss the legal phase of the proposition; this has already been done in the discussions heretofore had in this House. I simply refer to the fact that according to a provision of the Revised Statutes, section 105, which reads as follows:

Whenever any person intends to contest an election of any Member of the House of Representatives of the United States he shall, within 30 days after the result of such election shall have been determined by the officer or board of canvassers authorized by law to determine the same, give notice in writing to the Member whose seat he designs to contest, of his intention to contest the same, and in such notice shall specify particularly the grounds upon which he relies in the contest—

and which has been quoted several times, and according to the absolutely unbroken line of precedents, that there is no case pending in this House. The cases upon which the minority of your committee rely are as follows:

your committee rely are as follows:
[McDonald against Jones, Fifty-fourth Congress; 1 Hinds' Precedents, p. 426.]

The legal time for serving a notice of contest in an election case is extended by the House only for good reason and where there seems to be reasonable grounds for a contest.

On February 28, 1896 (first session Fifty-fourth Congress, H. Rept, 568; Journal, p. 254; Record, p. 2281), the Committee on Elections No. 1 reported on the case of McDonald against Jones, from Virginia. In this case the contestant applied for leave to serve notice of contest, which he had not served within the time required by the statutes. The committee concluded that with reasonable diligence the notice might have been served within the prescribed time.

The House, without debate or division, agreed to the resolution of the committee denying the application of the contestant.

[Thomas against Arnell, Thirty-ninth Congress; 1 Hinds' Precedents, p. 875.]

For exceptional reasons the House may authorize an election case to be made up as to notice and answer after the time prescribed by law.

[O'Hara against Kitchin, Forty-sixth Congress, 1 Hinds' Precedents, p. 941.]

Testimony of contestant being taken after the légal time and against contestee's protest, the committee reported that it should not be considered, and that sitting Member's title should be confirmed.

A condemnation by the Elections Committee of oral arrangements between parties to an election case for taking testimony out of time.

[Bradley against Hynes, Forty-third Congress, 2 Hinds' Precedents, p. 123.]

The notice of contest being served after expiration of the legal time and the testimony taken without regard to the statute, the committee did not examine the case.

[Pearce against Bell, Fifty-fourth Congress, 2 Hinds' Precedents, p. 597.] A contestant giving no notice of contest as required by law and taking no testimony, the House, without further examination, confirmed returned Member's title.

In this case the contestant gave no notice of contest, as required by law, and has taken no evidence to sustain the allegations of fraud and intimidation claimed by him to have been committed.

The 30 days' rule is a rule that has to be set aside only upon reasonable grounds, and I assert and shall undertake to prove that there is no reasonable ground for setting aside the rule in this case. In the first place, the objections of the contestee were made at every stage of the proceedings, as will be found on the first page of the record and at page 749 of the record and in the hearings before the committee. The contestee insisted all the time that, in order to preserve his rights, there was no case pending, because the plain provisions of the statutes had been violated. But it is asserted that the contestant in this case was not able to begin the contest or give | testant.

notice of contest because he was sick. On this point the minority report says, at page 3:

notice of contest because he was sick. On this point the minority report says, at page 3:

We insist that this record does not show that Mr. McLean, the contestant, used reasonable diligence. It is true that he was sick, but not so sick but that he transacted other business requiring more energy and concentration than the preparation or the direction for the preparation of a notice of contest. The evidence shows that the contestant was attacked with some intestinal trouble about the 31st of October, 1910. (Evidence, p. 7.)

It shows, however, that on the 5th day of November, 1910, he had so far recovered that two of his political friends, Messrs, McKenna and Kehoe, visited him (p. 624), and that the editor of the Times-Leader had a conversation with him either the 5th or the 6th, and during that time contestant claims to have written a political letter to the editor of the Wilkes-Barre Record (p. 183). The day before election he read, or had read to him, articles from the Record, and personally dictated a political letter for the Times-Leader, and had conferences with his brother manager and others. This was the day before election, which was held on the 8th. On that day he rode out and went to the polls and voted. He was up and around the 9th, the day after the election (p. 9). He personally wrote and signed a check for \$25 on the 11th (p. 567). On the 12th he examined bilis and wrote and signed several checks, some of them for political bilis (p. 716). On that day he learned the official results of the election (pp. 682-683). The contestant was then evidently taken worse, and went to bed on the advice of his doctor (p. 716). During that time he drew at least one political check. Contestant improved rapidly in the few weeks that he was in bed.

By the 28th of November he had so far recovered that he began checking over his political bilis and making checks for the same. On the 28th of November he personally drew and signed 30 political checks, and personally made out his political expense account for filing, a

I refer to the undisputed fact, as shown by the evidence and the reliable, carefully prepared brief of the contestee, that on November 11, shortly after the election, the contestant was able to write and sign a political check; that on November 12 he looked over bills and wrote and signed five checks. It appears, then, that he was ill for four or five days. A little bit later, on November 18, the contestant prepared other political checks, went over his expense account, and prepared it for filing-all of this in his own handwriting. I assert, Mr. Speaker, that the contestant was able to do these things, and subsequently was able to make a trip to Florida, stopping a few days in Philadelphia for political conference or otherwise. He was able to say to his manager the three words necessary to start the con-

test. Those three words were simply "Start a contest."

But the contestant did not do that. He sinned away his day of grace. He was guilty of laches. He slept upon his rights, and it was not until he came back from Florida, early in January, and had conferred with somebody in Philadelphia or Washington, that he received assurances that he could still begin a contest; that the law, the precedents, and the rules of this House would be overturned; and that he would be given an

opportunity to obtain a seat herein.

I assert, Mr. Speaker, that it is highly important that the rules of law and the rules of this House should be adhered to in this particular case. The minority say, at page 2 of their report:

report:

There are very many cases cited in Hinds' Precedents confirming the doctrine that where the rule established by the law of 1851 was not applicable or grossly inequitable the House had the power to prescribe different rules and regulations for the penalty. There are several cases where the parties have failed to give notice within the time prescribed by the statutes where the House, for equitable reasons, has fixed another time or mode in which notice might be given, but we believe that there is not a case cited in the precedents where a committee had reported the unseating of the Member where the notice was not given within the time provided by the statutes. We can see that if the contestant had been for any good reason prevented from giving notice in this case, he might have applied to the House for permission to give notice, and that the House had the power to grant additional or different time, but no such request as that has been made of the House. The contestant filed his notice 32 days too late and took his testimony out of order, all under protest by the contester, and we insist that under the precedents the committee had no power or authority to consider the case. The laws of Congress are certainly binding upon Congress until set aside by Congress itself, but the minority contends that even though the contestant was now presenting to the House the question as to whether or not he was entitled to further and additional time in which to give notice his showing does not entitle him to the application of the equitable rule. There is no showing in this record that would excuse the contestant from giving the notice within the time prescribed by the statutes. Certainly the House would not wish to establish a precedent that would warrant anyone in coming in any time he pleased and filing a contest. This would be unfair. No one would know when his seat was secure. Fallure to file a notice might lult the sitting Member into such indifference as would allow the testimony by which he could defend his case

And then I call attention to another interesting fact, Mr. Speaker, and that is this, that the majority of this committee, a majority made up of distinguished and able gentlemen on that side of the House, after a most careful consideration of this case have declined to bring in a report in favor of scating the con-

They give certain reasons in their report, but some other reasons occur to me that are not given in this report. We have heard a great deal in the discussion of this case about the contestee and his acts, and since the contestant has been dragged into the case by the gentleman from Pennsylvania [Mr. Palmer] I propose to say something about what the record shows concerning him. I say that another reason why this House should not decide in favor of seating Mr. McLean is because this record is groaning with evidence of the actual doing by the contestant in this case of the very things which it is merely alleged the contestee did.

Why, take the matters referred to by the gentleman from Pennsylvania [Mr. Ainex]. It is said here that the employment of special watchers by Mr. Bowman is a heinous crime, and yet when they are employed by Mr. McLean and his agents it is altogether good and holy and proper. I ask you to look at page 398 of the Congressional Record of December 10. There you will find the items of expenditure for poll men and

special watchers:

John Bigelow, Esq., poll man in first district	\$490
Table Digitory Essay, post and the first district	
John Bigelow, Esq., special watchers, first district	
Rodger Devers, Esq., special watchers, first district	100
William S. McLean, jr., poll man, second district	
George F. Buss, poll man, third district	
George F. Buss, registration, Pittston City	100
Hon, M. J. Healey, special poll man, Avoca	30
James J. Judge, special watchers, third district	150
To D. Charles The and an electrical	
R. B. Sheridan, Esq., poll man, fourth district	
J. J. Moore, poll man, fifth district	31
J. J. Moore, poll man, fifth district B. W. Davis, Esq., poll man, sixth district	40
C. M. Honeywell, poll man, sixth district	90
W B 35 att and and all the state of the stat	
T. P. Mackin, poll man, sixth district	
J. J. Murray, poll man, sixth district	20
Thomas Walsh, poll man, sixth district	
Joseph Freeman, poll man, sixth district	
W. J. Butler, Esq., poll man, seventh district	
W. J. Butler, Esq., registration, city of Wilkes-Barre	250
Mose Solomon, for special watchers	
MANUE DOLLARMS AND ADVANCE HANDMAND COMMENCE OF THE COMMENT OF THE COMMEN	The second

There is an item, "John Bigelow, Esq., special watchers, first district, \$60." That is good so long as it is done by the contestant, but when the same thing is done in behalf of the con-

In the next item we see, "Roger Devers, Esq., special watchers, first district, \$100," and, following that, "William S. McLean, jr., poll man, second district, \$270." William S. McLean, jr., the chairman of the contestant in this case, credits to himself \$270 for the employment of poll men. I am quoting here

from the official statement filed under the laws of Pennsylvania. Here is another one: "Hon. M. J. Healey, special poll man, Avoca, \$30." These same men, whose employment the gentleman from Pennsylvania [Mr. Palmer] and others have alleged to be unlawful when employed by Mr. Bowman, are hired and paid by Mr. McLean or his representatives, and when it is done by them the employment is claimed to be perfectly proper.

Mr. PALMER. Mr. Speaker, will the gentleman yield? The SPEAKER pro tempore. Will the gentleman yield?

Mr. WILLIS. I yield. Mr. PALMER. The gentleman knows that the law of Pennsylvania permits three watchers at a polling place, and the gentleman knows also that these items were explained in the testimony. Now, was there any polling place in all Luzerne County where Mr. McLean had more than three watchers, the number allowed by law? And is it not a fact that in district after district Mr. Bowman had in some cases as many as 15 of these

Mr. WILLIS. Now, Mr. Speaker, some of that is true and some of it is not true; and I am going to tell the gentleman some of it is not true, and I am going to tell the gentleman some things that he may not know about his special watchers here. I will refer to the last item on this list, "Mose Solomon, for special watchers, \$160." Now, let us investigate about Moses and find out concerning him. You will find this at page 573. Let us see about this:

Q. Are you a Republican in politics?—A. I have been. Q. You have been. You are not now, are you?—A. I am.

Note first that this \$160 is paid by a Democrat to a Republican for his political services. If there is not on the face of that the semblance of bribery, then I do not know what it is. But listen:

Q. I believe you received a sum of money from McLean prior to the election, from George McLean's brother, to use for Mr. McLean's behalf?—A. I did.
Q. How much?—A. \$160.
Q. How did you get it—by check?—A. By check.
Q. When did you get it?—A. Either on Thursday or Friday preceding

- Q. When did you get it:—A. Educ.

 c election.

 Q. What were you to do with that money?—A. Hire poll men,
 Q. Where?—A. Up in the city wherever I am acquainted,
 Q. In the city of Wilkes-Barre?—A. Yes.
 Q. Did you hire the poll men?—A. Yes.
 Q. You hired what is known as extra watchers, did you?—A. Yes.
 Q. You hired what is known as extra watchers,

Q. About how many did you hire?—A. I have my receipts here. [Witness produces papers.]
Q. I wish you would give me each man's name.—A. I will, and his residence and occupation.
Q. Just the name, to whom you paid it, where they live, and where they work.—A. William H. Eddy, first district, third ward, \$10. He is employed as an electrician and lives on North Welles Street. John A. Miller: his place is on North Welles Street. John A. Miller: his place is on North Welles Street, \$10; first district, Q. Why did you pay them \$10?—A. I always paid my man according to his ability. If I know he is a good worker I give him \$10.
Q. Then where you gave a man \$10 it was always for himself?—A. Yes.

Yes. Q. Who is next?—A. Val Apple. He is an axle worker also in the

same district.
Q. How much did you give him?—A. \$10.

Further, on page 574, talking about a man by the name of

Bausch:

Q. What was he to do with that \$5?—A. Bausch was for McLean, talking for McLean, and taking an interest on election day, and I had that paid him.

Q. Then he worked at the polls?—A. Yes; exactly.

Q. He is a Republican?—A. Well, there are lots of Republicans last fall that did that—hundreds of them.

Q. He is a Republican?—A. I don't know.

Q. Don't you know that he was deputy prothonotary; don't you know he was?—A. For Walser, a Democrat.

Q. He was a deputy prothonotary?—A. I know that.

Q. Under a Republican official?—A. Also under a Democratic official.

Q. How long have you known John Bausch?—A. For the last 15 years or more.

Q. And he is known as a Republican, isn't he?—A. I can't tell what he is.

Q. Now, you say you hired these men, and you have accounted for \$95. What did you do with the other \$65?—A. I considered my own services was worth something. I was working for McLean for nearly Q. Now, you say you hired these men, and you have accounted for \$95. What did you do with the other \$65?—A. I considered my own services was worth something. I was working for McLean for nearly five months up to this time, and I hadn't received a penny.

From this it appears that Moses was a thrifty person.

So that, under the guise of decent citizenship and high and holy polities, the contestant in this case pays \$160 for a Republican to hire him to work for the contestant, and this man says in his testimony that he went out and hired other Repub-That is in the name of decent citizenship and good licans. ean politics. [Applause on the Republican side.]
Mr. PALMER. Will the gentleman allow me clean politics.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mr. WILLIS. I should like a little more time. Mr. PROUTY. I yield two minutes more to the

Mr. PROUTY. I yield two minutes more to the gentleman. Mr. WILLIS. Now, Mr. Speaker, in the few minutes remaining I have not time to go in detail into various cases. I simply want to refer to them, and I challenge a denial of what I say by anybody on either side of this House. I say the record shows at page 542 that Mr. Buss, the direct personal representative of Mr. McLean, received \$250, and by his own testimony went out and bought men. You will find it on page 542. And yet the gentleman from Pennsylvania [Mr. Palmer] says that we must seat this contestant in the name of decency, in the name of pure politics. I do not understand his notion of pure politics, if receiving \$250 to buy men is his conception of it. I want to say to gentlemen on both sides of the House that if you propose to seat Mr. McLean, you are proposing to seat him on the absolute proof of his having done or procured to be done the very things that are simply charged against Mr. Bowman. IADplause on the Republican side.]

But that is not all. At page 542 there is incontrovertible testimony as to buying watchers in the interest of McLean. Somebody look it up and deny it if he can. Mr. Butler, at page 529, says that he had \$1,000, a large portion of which came

directly or indirectly from Mr. McLean.

At page 654 Mr. Wiegand, of the Stegmaier Brewing Co., says that he spent \$750 in Mr. McLean's behalf. At page 591 Mr. Price said he did not hire any watchers, but he visited 140 saloens, spending some \$80 or \$90. That, I suppose, was in the interest of the pure politics represented by the contestant in this case. At page 582 it is shown that John Bigelow became active in distributing \$550 to the faithful.

Mr. Clauss testifies, at page 647, that he had \$150.

The SPEAKER pro tempore. The time of the gentleman has

again expired.

Mr. WHAIS. I will ask the gentleman from Iowa to give me a minute more.

Mr. PROUTY. I yield to the gentleman two minutes more.
Mr. WILLIS. At page 646 I call attention to the testimony
of one William Kelly. It is highly interesting and instructive.
He says, pretty well down the page:

Q. What did McLean say to you?

That was the contestant's brother, his manager, his agent. The testimony in full is as follows:

What is your occupation?—A. Driver for the Bartels Brewing Co. Did you receive any money last summer on behalf of McLean?—A. lous to the election I received \$10 from Walsh; he said it came from McLean.

What were you to do with that?—A. I was to keep it.

And you did?—A. I certainly did.

What were you to do for it?—A. Work in the interest of McLean.

At the election?—A. Yes.

Do you remember coming to McLean's office with Philip Straub?—

Tes.

A. Yes.

Q. How did you come to go there?—A. Why, Assistant Chief of Police Kennedy came to my house, and he told me that Phil Straub wanted to see me, so I went down there, I think, on a Tuesday morning, and he and I went to McLean's office.

Q. What did Straub say when you got to his place?—A. He said McLean wanted to see me, and I went over there and met Will McLean, jr., and we talked in regard to the election, and I was under the impression that I was to hire the watchers in Edwardsville.

Q. In all the wards in Edwardsville?—A. Yes.

Q. What did McLean say to you?—A. He asked me about how much it would cost, and I told a rough estimate would be about \$225, and there was nothing doing.

He got the price too high for Mr. McLean.

Q. What else was said to you?—A. There was John Moore and Ed. oore there that day, the first one.
Q. You say the 2d of November you went the first time?—A. I think

Q. You say the 2d of November you went the first was.
Q. Then you were told to come back on the Friday before election?—
A. Yes.
Q. And you and Straub came back?—A. He wasn't with me when we went back.
Q. What happened the second time?—A. I told him the price was reduced to \$100, that was for the first, third, and seventh, and he said that wouldn't do.
Q. How much did he say he would pay you?—A. He didn't set any price at all.
Q. What did McLean say he sent for you for?—A. As far as I understood, him and Straub were talking over it and he wanted to place men in the borough of Edwardsville, and Straub suggested me, so I went over and we couldn't come to any agreement.
Q. So you didn't meet Straub at McLean's office, as he testified to?—A. No.

Q. Did you want \$225 for the second was borough.
Q. Did you want \$225 for the second was.
Q. McLean was willing to pay \$75, wasn't he?—A. Yes; \$75.
Q. And the \$75 which he was willing to pay was for the vote of the second ward alone?—A. No; he didn't say that.
Q. What did he say he was willing to pay the \$75 for?—A. To place

second ward alone?—A. No; ne didn't say that.

Q. What did he say he was willing to pay the \$75 for?—A. To place watchers.

Q. Isn't it a fact that when you discussed with question, the only question you discussed was getting the vote of the second ward?—A. No; we talked over the whole borough.

Q. And he said he was willing to pay \$75?—A. I am not positive whether he said that or not.

Q. You said a minute ago that he did?—A. I am not positive.

Q. Didn't you hear it all?—A. I am not positive whether he did or not.

not.
Q. You said a minute ago that he was willing to pay \$75?—A. That is the rumor; I am not positive whether he set that price.
Q. Did you work for McLean at the polls?—A. Yes.
Q. Did you receive any money for it?—A. No.
Q. Except the \$10 that Walsh gave you?—A. That was all.

That is in the name of the lofty politics, the lily-white politics represented by the gentleman from Pennsylvania and the contestant in this case. [Applause on the Republican side.]

Mr. PALMER. Will the gentleman yield?

Mr. WILLIS. If I had the time I would be glad to yield to

him, but I have not. The gentleman knows I do not want to be discourteous to him.

Mr. PALMER. I did not want the gentleman from Ohio to

misquote the evidence.

Mr. WILLIS. I am quoting from the printed record. Now, here is a representative of the Susquehanna Brewing Co., who says he spent \$300 in 150 saloons in the interest of the contestant. That is more of the lofty politics and decent citizenship invoked by the gentleman from Pennsylvania. [Applause on the Republican side.]

The SPEAKER. The time of the gentleman from Ohio has

again expired.

Mr. WILLIS. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Ohio asks unanimous consent to extend his remarks in the RECORD. Is there objection? There was no objection.

Mr. PROUTY. Mr. Speaker, how much time have I left? The SPEAKER. The gentleman has 14 minutes remaining. Mr. ANSBERRY. Mr. Speaker, I yield 20 minutes to the gentleman from Maryland [Mr. Covington].

[Mr. COVINGTON addressed the House, See Appendix.]

Mr. ANSBERRY. Mr. Speaker, I am going to use the balance of my time in which to close. Will the gentleman from Iowa [Mr. Prouty] proceed?

Mr. PROUTY. Mr. Speaker, I yield seven minutes to the gentleman from Pennsylvania [Mr. FARR].

Mr. FARR. Mr. Speaker, I never knew a kinder, more un-

selfish, more open, frank, straightforward, honest man, in the broadest, deepest sense of these words, than the contestee, Mr. Bowman. [Applause on the Republican side.] I know him

better than I know myself. Every waking minute of that gentleman is given to earnest thought and effort for the good of mankind. I believe that he thinks his bounden duty is more to do something for some one else than for himself. You gentlemen have seen that gentleman in his close attendance on the business of this House, even if there were only 20 men here. Before and after the adjournment of the House he has been at his office in strict attendance on public business. Every vote, every thought that the gentleman has given expression to here is an indication of the splendid, good, practical Christian life that he lives every minute of the day. It amazes me to see this brazen, brutal attempt to blacken the character of so good a man as the gentleman from Pennsylvania, Mr. Bowman.

Mr. GUDGER. Mr. Speaker, will the gentleman yield for a question?

The SPEAKER pro tempore. Does the gentleman yield? Mr. FARR. I regret I can not yield. I have only seven minutes

Mr. GUDGER. I wish the gentleman would explain why the contestee returned on his oath that he had expended \$7,194.40, and then on his oath in the testimony he admitted that he had expended \$9,272.70?

Mr. FARR. This discrepancy is a mistake. I can explain

that. The contestee filed just what his bookkeeper gave him as properly chargeable to this election—\$7,194.40.

As regards the temperance attitude of this gentleman, the contestee, I desire to say that he is as frank and open in that as in any other feature of his life. He has been president of the Antisaloon League of his county this year and last year, and since 1909, and he is a man who lives in truth and action, an honest believer in the cause of temperance.

My friends, that man is not capable of doing a dishonorable thing, and this charging up to him all the money spent by the chairman of the county committee, calling him his manager, is wrong. Mr. Jonathan R. Davis was chairman of the Republican county committee, with 14 or 15 different candidates on that ticket. Mr. Davis is an honest and good man. I know him, and I know him intimately. He represented the 14 or 15 candidates on that ticket, and not Mr. Bowman alone. think, as chairman of the Republican Party, he was entitled to nearly twice the number of watchers recorded here. Mr. Bowman, as the candidate of the Republican Party, was entitled to three watchers in each district. There are 311 districts in Luzerne County. That would make 933 watchers, and with three regular watchers, not special watchers, for the Prohibi-tion ticket, there would be 933 more, or altogether 1,866 watchers to which they were legally entitled. And then they were entitled to an overseer for each district. That would make 311 more.

Luzerne County has a population of 350,000 people, with 60,000 miners; somebody says slightingly—ignorant foreigners, and ignorant Poles and Hungarians, sail the gentleman from Maryland [Mr. Covington]. I want to tell the Members of the House that the literacy among the foreign-born population of Luzerne County, and in my district, compares favorably with the native-born population of the State of Maryland. [Applause on the Republican side.]

And I want to tell the gentleman from Pennsylvania [Mr. PALMER] that it does not come with good grace from him to talk about the coercive methods upon employees used by a corporation. As I understand, he is the local attorney of the Delaware, Lackawanna & Western Railroad, the greatest anthracite coal producing company of my community, taking in a large part of Luzerne County, and running its great and splendid lines out through the district of the gentleman from Pennsylvania [Mr. PALMER]. The gentleman from Pennsylvania [Mr. PALMER] must not forget the efforts that that corporation, through its officials, made for him at his solicitation.

Mr. PALMER. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman yield to his colleague?

Mr. FARR. I refuse to yield, Mr. Speaker.

Mr. PALMER. But the gentleman will yield. Mr. FARR. I do not want to see and hear evidences of demagogism and misrepresentation on that side to blacken the character of a man on this side.

Mr. PALMER. Mr. Speaker, does the gentleman say he charges me with having the corporation coerce men to vote for me?

Mr. FARR. I say it comes with bad grace from the gentleman from Pennsylvania to talk about the coercive methods of railroad corporations on their employees.

The SPEAKER pro tempore. The gentleman from Pennsylvania will come to order, and the gentleman from Pennsylvania will cease making personal remarks.

Mr. FARR. Mr. Speaker, I say to the gentleman from Penn-

sylvania [Mr. PALMER] that

The SPEAKER pro tempore. The gentleman will be in order. Mr. FARR. Mr. Speaker, I have my rights on the floor of this House. I said nothing personal about the gentleman from Pennsylvania [Mr. PALMER]. I said that it came with poor grace from the gentleman from Pennsylvania to charge the officials of the Delaware, Lackawanna & Western and other coal corporations with coercive methods in the election of this gentleman, inasmuch as officials of that company worked with might and main for the election of the gentleman from Pennsylvania [Mr. Palmer] himself. [Applause on the Republican

Mr. PALMER. Mr. Speaker, will the gentleman yield?
The SPEAKER pro tempore. Does the gentleman from Pennsylvania yield to his colleague?

Mr. FARR. I refuse to yield. I have made my statement,

and I am in order.

Now, \$9,000 was the total amount expended in this last campaign in the interest of Mr. Bowman and a dozen or more other candidates. Mr. Bowman was generous. He was assessed \$5,000 and he contributed it. There were a lot of poor men on that ticket, men running for the legislature, getting about \$1,500 for an office lasting two years, and they could not afford to pay this money; and Mr. Bowman was generous and paid in all about \$7,000 to the county chairman of the Republican Party toward the election of the Republican State and county tickets in a county of 350,000 people, containing 311 districts.

Where is the chance for corruption? Where is the chance for excessive expenditure? And yet you gentlemen want, some of you, to seat the contestant. Let me tell you something about

the contestant

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FARR. I must have a little more time. It is very

Mr. PROUTY. I yield to the gentleman seven minutes, the rest of my time.

Mr. FARR. How many saloons did the contestant—Mr. George R. McLean, the contestant in this case—visit? Here is the evidence:

the evidence:

Q. How many saloons did you visit in Avoca with George Buss and Roscoe Conkling Keating?—A. Really I could not tell you.

Q. About how many?—A. I don't know where Avoca begins and Pittston Township ends, or where Duryea begins.

Q. That day you were out in the automobile how many saloons did you visit?—A. I presume we visited 10 saloons, possibly more.

Q. You spent money in these saloons?—A. I spent money in practically every saloon we went into.

Q. You bought drinks?—A. If a man wanted a drink.

Q. And you spent the money in furtherance of your candidacy?—A. If I hadn't been in the position of a candidate I possibly would not have been in Pittston Township or Avoca or that part of the county at that time.

have been in Pittston Township or Avoca or that part of the county at that time.

Q. And the money you spent in there and the other places you visited in the buying of drinks was spent in the furtherance of your candidacy?—A. Mr. Jones, if I should happen to go into a saloon and there would be people around there I knew, I would naturally say, "Will you have a drink with me?"

Q. Didn't you buy drinks in these saloons for men you didn't know?—A. Certainly, there was men I didn't know in there.

Q. And the money spent in that way was in furtherance of your campaign; that is what you were doing it for that day?—A. I was out campaigning.

Q. And this money was so spent in furtherance of your campaigning.

A. I presume it was, as a general proposition.

I vield back the remainder of my time to the gentleman from

I yield back the remainder of my time to the gentleman from Iowa.

The SPEAKER. The gentleman from Iowa has six minutes remaining

Mr. PROUTY. Mr. Speaker and gentlemen of the House, I wish to use the six minutes left to me in making just as vivid as I possibly can the parliamentary questions presented to you by the record in this case.

I told you in my opening statement that this notice had not been served until 63 days after the result of the election had been officially declared. This is conceded by the committee in its report, as appears on page 3. I further told you that there was not a precedent in the history of the American Congress where the House had taken jurisdiction of a contest when the notice of contest had been served after 30 days unless the party appeared before the House and asked permission for the setting aside of the statute and the rules of this House, and the House, after hearing the situation, extended the time or provided some other method by which the contest might be taken up.

If you will turn to pages 386 and 387 of the Congressional RECORD of last Tuesday, when the gentleman from Pennsylvania [Mr. Palmer], the only man who discussed this question, was on the floor, you will find that I asked him this question:

Mr. PROUTY. Have you found any case where there was no notice given within the time that the House considered it, unless they prescribed another kind of notice, and that was given?

And after a good deal of firing back and forth I repeated the question again:

Mr. PROUTY, Have you found a case reported in the books where no notice was given where the contest was entertained by the House without prescribing another notice and compliance?

Mr. PALMER. No.

In all the precedents of the House where there has been an extension of time or a different rule prescribed it has never been done except upon equitable grounds, where the giving of the notice was made impossible or impracticable by reason of the peculiar circumstances. There is not the record of a single case where any man has been excused from giving this notice by reason of his own negligence, carelessness, or ignorance,

either of himself or his attorney.

The third proposition is this: Even if this man was appearing before the House and asking for time, it has been solemnly found by both the majority and minority of this committee that this man had no such equitable ground or reason for not giving his notice as would justify either the committee or the House in granting the extension.

I call attention to page 3 of the report of the majority, in

which it says:

The committee is not, however, satisfied that the reasons alleged by the contestant are sufficient to entirely excuse him from serving upon the contestee his notice of contest within 30 days from the 12th day of November, 1910, and, not believing that he should be the beneficiary of his own negligence, under the findings of the committee, they have not considered the case from the viewpoint of reporting a resolution to seat the contestant.

Had that record been presented to the House they would have found the same-that he had not given that diligence and care to the preparation of his case that the law requires, and if you had followed your committee there would have been no contest in this case.

Now, what have we got? What does the record show? That here is a man who has come in absolute violation of the rules adopted by this House and by this committee, without showing, in the judgment of your own committee, that he has done the things the statute requires, or given an excuse for not doing it, and you say, "We will nevertheless hear his case."

Now, gentlemen, there was an election held on the 5th of

November. More than 30 days have now elapsed since that time. I apprehend that most of you feel secure in your seats; but I want to say to you gentlemen that if you vote down the resolution that I have offered here and vote for both of the other resolutions that have been offered from that side no man's seat is free from contest in this House, because a man can come in any time and present his contest, and he need only to cite the record in the case of McLean against Bowman, in the third session of the Sixty-second Congress, as a precedent and justification and possibly an invitation. [Applause.]

The SPEAKER. The gentleman from Ohio [Mr. ANSBERRY]

is recognized.

Mr. ANSBERRY. Mr. Speaker, I desire to call the attention of the House to this remarkable situation. The gentlemen who represent the minority on the committee, three in number, have not during the course of this debate disputed a single proposition with reference to the facts in this case as they affect the seat of the sitting Member. Serious charges were made in the majority report. Serious charges were made on the floor of this House, and evidence quoted-not from the brief of counsel for contestant, but from the record-in support of the charges, by the chairman of the committee in your presence in August last, when this matter was being considered. The gentleman from Iowa, a distinguished lawyer, who for years ornamented the bench of his great State before he came into this House, occupied nearly an hour in this debate and never said a single word either in criticism or in answer to the charges made against the contestee, Mr. Bowman. He contented himself with presenting a technical question, which, reduced to the last analysis, means simply that even though corruption and wholesale violations of election laws were resorted to, as was done in this case by contestee—corruption running riot and all law disregarded, he would invoke a technical rule and apply the procedure which obtains in criminal courts of narrow jurisdiction, so that contestee may escape the consequences of his unlawful acts. This House has the undoubted right to act on this resolution, and no technical plea should intervene between contestee and his deserts. This House, with a broad jurisdiction, has the right to take up this question of high privilege at any time, and it should not invoke the strict rule holding a man to 30 days' notice of a contest in the face of proven fraud and corruption. The purpose of this and all rules of this House should be to procure and not prevent substantial justice. The gentleman from Iowa knows that the precedents established by this House are not favorable to his contention; that this House has been memorialized in the middle of a session, after months have expired, for the purpose of calling attention of the House to some person occupying a seat not entitled to occupy it by reason of fraud and corruption.

The House has taken notice of it. Why? Because the 30day rule is only to provide an orderly procedure to protect the rights of all parties, not to defeat them, and to procure substantial justice; and in every case where this rule was invoked the usual procedure was, if the House was in session, to procure the consent of the House to begin a contest, and the House, good cause having been shown, gave permission and always directed the time notice should be given and answer filed, and also provided the time in which the contestant should take his depositions and the time that the contestee should answer them. invoke the common-sense rule that a technicality should not prevent substantial justice, and in these days when courts are freeing themselves of absurdities caused by following senseless rules technically applied this House should refuse to entertain the proposition that corruption and violation of election laws should be waved aside simply to preserve from exception a rule of procedure; but I have no doubt the House will turn a deaf ear to such a plea.

The right of the contestee to a seat in this House has not been prejudiced one iota by the failure of the contestant to file his notice within 30 days. So I say the gentleman from Iowa, a lawyer of long experience, defended not his own report on the facts, not the report I referred to as being the weakest reply ever written to an indictment of this character, but he contented himself with raising this technical question. I congratulate the gentleman. I do not see how the gentleman, knowing every word and line of that record of infamy, could come in here and dispute the proposition laid down in the majority report.

And then we have the other member of the committee, my colleague from Ohio [Mr. Willis], a man educated in the law, although he never practiced it; a man who taught the law to young men who aspired to that honorable profession in a great university in our State. He likewise was familiar with this testimony. He sat with the committee day after day and heard the testimony discussed and heard the arguments. He has read the record and he knows every line of it, and yet he never raised his voice in defense of his own report on the facts in this case. He never has said one single word in this House, and never will, to controvert the facts set forth in the majority report relative to the corruption practiced by the contestee in this case. third member of the committee [Mr. MATTHEWS] was incapacitated by sickness and knows nothing of the record, and I suppose signed the minority report as a matter of form. never said a word in this House, and he never will say it out-side if he reads the record; to antradict the majority report with reference to the facts, with reference to the corruption, with reference to the fraud, with reference to the violation of law practiced by the contestee in this case. And so the reply to this indictment was left to whom? To two or three personal friends whose districts are up in the hard-coal regions of Pennsylvania, with the possible exception of one or two men, among whom is the gentleman from Pennsylvania [Mr. Moore]. His defense was left to these men who know nothing of the record, and their very statements disclose, beyond peradventure, that they are not familiar with the facts in this case. What was that defense? It consisted principally of a high tribute paid to the contestee's character by the gentleman from Pennsylvania representing the Scranton district [Mr. Fare], who, I am sorry to say, has left the Chamber for a moment. He paid contestee a high tribute, but, if I recall correctly, his opinion of this man is discounted by the position which he took in the famous Archbald impeachment case, for he was the only Member of this House who defended by his vote the charges against Judge Archbald.

Mr. FARR. And the judge will be acquitted in accordance

with my prophesy.
Mr. ANSBERRY. If he is, it will be the result of the application of a technicality.

The SPEAKER. The gentleman from Pennsylvania will be

in order. Mr. ANSBERRY. And, now, while I am at it, for the purpose of showing the weight which should be given to my friend from Pennsylvania [Mr. FARR] and who defended the contestee and paid him such a high tribute and who knows nothing of the facts, I desire to refer him to contestee's record with reference to his attitude on the temperance question. The gentleman from Pennsylvania [Mr. Fare] said that contestee is a temperance man; that he was president of the antisaloon league; that he is incapable of a dishonorable action, and that he could not be guilty of the facts contained in the record, because it was not

testimony taken under oath-and not the statement of a personal friend reflect his position. In the record, page 214, is to be found an article which appeared in the Nanticoke News, printed in his district, on the 14th day of October, 1910, under the heading, "Bowman visits Nanticoke":

BOWMAN VISITS NANTICOKE.

Hon. C. C. Bowman, of Pittston, the Republican candidate for Congress, spent a couple of hours in town on Wednesday. He made a very favorable impression on all whom he had the pleasure of meeting. There is but little doubt Mr. Bowman will carry Nanticoke by a handsome majority. The people in this part of Luzerne County are learning more about Mr. Bowman every day, and the more they learn the more they admire him. The attempt made by some political tricksters to array the saloon men and the liquor interests against Mr. Bowman has proved futile. The question of local option will never be heard of in the House of Congress. Should such a measure be introduced, the reputable, law-abiding liquor dealers can trust Mr. Bowman. We know his neighbors in Pittston can trust him. If you doubt this assertion we refer you to Brewer Dick Hughes and Liquor Dealer John Kehoe.

The gentleman from Pennsylvania [Mr. FARR] asserts with great vehemence that his colleague is not responsible for the acts of Jonathan R. Davis, because Davis was the chairman of the Republican county committee. If the gentleman from Pennsylvania [Mr. Fare] will acquaint himself with the record in this case he will find that contestee sought out Davis and employed him as his manager and that on several occasions he had personal knowledge of the acts of his agent which are now being discussed, and that contestee himself asked Davis to pay money, notably to Lawrence Cosgrove, page 69, for special watchers.

His manager testified that \$68.75 was paid to the Nanticoke

News for advertising of a political nature. The liquor dealer. John Kehoe, met him on the street afterwards and remonstrated with him and said:

I am holding an office as a Democrat, and you should not have put that in there, Mr. Bowman, because when you did you discounted me with my party, or words to that effect.

Mr. BOWMAN. Mr. Speaker, will the gentleman yield? Mr. ANSBERRY. I yield; yes. What has the gentleman to

Mr. BOWMAN. I would not ask the gentleman to do it if he did not-

Mr. ANSBERRY. Oh, I refuse to yield for a speech. The SPEAKER. The gentleman declines to yield. Mr. BOWMAN. I had nothing to do with it at all.
The SPEAKER. The gentleman from Pennsylvania must

obey the rules of the House.

Mr. ANSBERRY. I am sorry that the gentleman did not tell Liquor Dealer Kehoe that he had nothing to do with the publishing of the article when he asked him about it, and remonstrated with him. The gentleman's denial of responsibility comes rather late in the day; his attention has been directed to it and his responsibility for it has never been denied under oath.

Mr. BOWMAN. Well, I did.
Mr. ANSBERRY. No; the gentleman did not.
The SPEAKER. The gentleman from Ohio declines to yield.
Mr. ANSBERRY. And then this gentleman who said that he did not authorize that article in the newspapers-this article in which he shows the true position he holds on the temperance question-and the very language in which it is couched, the reading of it, proves beyond question that he did.

Here is another instance of the gentleman's stability on this question. I will read you his own version of it given under oath (p. 163).

Mr. Bowman being on the witness stand.

Answer. I will explain the thing fully, so there will be no misunder-standing. I came down from a meeting that was arranged by the chair-man, Jonathan R. Davis; he was anxious that I should meet the liquor dealers of Nanticoke. At his earnest solicitation I agreed to meet them.

I regret to say that he was coerced into doing it; in the midst of this campaign he attended a meeting of-what, do you think? The Anti-Saloon League? No; a meeting of the Retail Liquor Dealers of Luzerne County. He did it under coercion. Jonathan R. Davis compelled him to do it. Jonathan R. Davis, the man the contestee says is a man who is incapable of a dishonorable act, the man who contestee says is a bank director, a business man of means, and active in church work; this man coerced contestee.

So I assume, then, that the gentleman-and the record is silent as to why he consorted with these retail liquor dealers on the eve of the election, why he met with these men and made the speech which he made—I assume that he tried to win them from their wicked ways of selling rum in Luzerne County, Pa.; or did he read them the article from the Nanticoke News? And this manager paid \$10 to the secretary of that organization to go out and disseminate information with reference to this gentleman, this "holier-than-thou" sort of person, the man who says that he never offended against his God or the consistent with his character. Let the record in this case—the | State, and in passing, that he never told a lie. The following testimony appears on page 89 of the record, Mr. Bowman's campaign manager, Mr. Jonathan R. Davis, being on the witness

Q. Mr. Frank Matejewski, you gave him \$10?—A. Yes.
Q. He lives in Nanticoke?—A. Yes.
Q. What is his business?—A. Liquor dealer.
Q. He is in the liquor business, su't he?—A. Yes.
Q. What relation did he hold to the liquor organization in Nanticoke?—A. He was secretary of the Retail Liquor Dealers' Association in Nanticoke.
Q. And you gave him \$10. What for?—A. Disseminating information

The only person who has sought to refute the statement made by the chairman of this committee when this resolution was first called up in August last was the contestee himself. He stated his position in that speech, and he verifies the correctness of the judgment that the committee reached when they said that the item of \$700 for the taxicab and the \$50 given to his friend-Giering-were items that he did not put into the report for the reason that they were not political items. does he say about it in his speech?

does he say about it in his speech?

The next subject taken up is the matter of an incorrect expense account having been filed by contestee. It is insisted that an item of \$700 was left out. Why should it not be left out if it had nothing to do with political matters? If I purchase an auto from the Republican county chairman after election what has that to do with my political expenditures? Other statements regarding this auto are incorrect. I knew the car, having ridden in it when the property of Mr. Shepherd, of my city. Before purchasing it Mr. Davis told me he paid \$600 for the car, and that he had spent nearly \$200 in improvements, new tires, and so forth, and that it was in good running order. He bought it to help a poor fellow support himself and family. I was glad to help Mr. Davis out by buying the car, as he managed my primary campaign and acted as chairman of the county committee without the promise of reward of any kind or character. The gentleman from Ohlo [Mr. Ansberry] stated in his address to the House that there was an erasure on the stub of this check. He was mistaken; no erasure has been made upon the stab of that check. The check book and check are open for his inspection or that of any other person. Jonathan R. Davis is incapable of a dishonorable act. He is a business man of means, a bank director, active in church work. During the last year he was appointed by the nonpartisan court as president of the board of assessment and revision of taxes for the whole county, called the richest natural area in the world.

He says that he recognizes it as a political expenditure; and

He says that he recognizes it as a political expenditure; and that he sought to conceal these items is proven beyond all question. Contestee is ever ready to throw the cloak of religion over the shoulders of men who are implicated with him in this unfortunate case. I want him to recall the old saw, "A man who exhibits his religion in his show window has mighty little

in stock," and to ponder on it well.

Contestee tried to conceal the \$700 check by having the bookkeeper write on the stub of the book, "personal," followed by "taxicab for political purposes," all according to his own testimony and according to the testimony of the bookkeeper, all of which testimony was pulled from him and the bookkeeper by the strongest sort of cross-examination. Then the gentleman justifies what I said and the committee's report with reference to the \$50 check given Eugene Giering, an editorial or lead writer in one of the Wilkes-Barre papers, in the same way. In his sworn statement of expense contestee said it was a political expenditure and he thus justified the position of the committee.

Contestee likewise fails to satisfactorily explain his failure to account for \$50 given to his friends, Hollister and Jennings. He pays his usual high tribute to their character, the same tribute which he has paid to all men who handled his money. An examination of the record will disclose the use to which at least one of these gentlemen put this money. Some of it went to a man by the name of O'Brien, a Democrat and a mine boss, who in turn passed a part of it among the Democratic miners who worked under him, two of whom were named Meehan and Mullin, pages 358 and 359. Their activity is well described by Thomas Rowlands, a member of the board of elections at this election in the third ward of Avoca. His testimony appears on pages 358 and 359. By the way, Rowlands is assistant foreman in the Delaware & Hudson mines and also was a judge of election. He had \$10 of contestee's money in his pocket. who got a part of the contestee's money through the Hollister route, which you will recall was concealed, had a son who likewise was an official conducting this election in the third ward of Avoca, and this strong Democratic ward was carried by contestee. Many men, probably 35 or 40, were accompanied into the booths by men who helped mark their ballots or who at least witnessed the marking of their ballots, contrary to the letter and spirit of the election laws of the State of Pennsyl-

Much has been said with reference to Jonathan R. Davis. say that despite the fact that contestee asserts that Jonathan R. Davis is incapable of a dishonest act the record will show on pages 763, 764, and 765, as sworn to by William J. Trem-bath, that in 1906 a citizens' committee met and organized in the Hotel Sterling shortly after the election of that year for mittee reached in this case.

the purpose of investigating the election frauds and corruption committed at that time. Mr. Trembath said that there was a storm of indignation in Luzerne County over the alleged falsifi-cation of returns and the corrupt use of money in the campaign. The men who were active in this committee were apparently some of the most prominent and respected men of Wilkes-Barre, and the testimony shows that the campaign on behalf of the Republican ticket was conducted in that election by one Jonathan R. Davis, and among the accounts excepted to by that committee was the account of Jonathan R. Davis, as chairman of the Republican county committee which conducted that campaign, And the contestee in this case, Charles C. Bowman, subscribed \$50 to the fund raised to defray the expenses of the citizens' committee, so that it is only fair to assume that he knew something of the character and reputation of the man whom he chose as his manager when he started out to run for the office of Representative in Congress. The contestee, according to his Representative in Congress. The contestee, according to his own testimony, knew of election frauds at Warrior Run in connection with his own nomination, and contestee benefited by these frauds, and his campaign for the nomination was conducted by this same Jonathan R. Davis. Contestee can not plead, as often is done where money is used corruptly in an election, that the money was expended by his manager without his knowledge, as the record is full of admissions by contestee and statements by his manager with reference to his knowledge of these illegal expenditures

There is no question but that contestee told Fuller Hendershot, an influential member of the Keystone Party, that he-Bowman-stood ready to expend \$30,000 if necessary, and on page 166 of the record the cross-examination of the contestee should be read to fully appreciate the contestee's intentions, and the testimony of contestee, on page 167, with reference to a visit which he made to a man by the name of Morgan, an influential Democrat, and the conversation which contestee had and held with Mr. Morgan, as recited on pages 167 and 168, show beyond peradventure that it was his intention to use money in connection with Mr. Morgan's assistance for the cam-

paign.

Mr. BOWMAN. Mr. Chairman, will the gentleman yield? The SPEAKER. Does the gentleman from Ohio yield? Mr. ANSBERRY. No—

Mr. OLMSTED. Mr. Speaker—
The SPEAKER. Does the gentleman from Ohio yield to the gentleman from Pennsylvania?

Mr. OLMSTED. Mr. Speaker, I do not ask the gentleman to yield, but I want to make a point of order.

The SPEAKER. The gentleman will state it.

Mr. OLMSTED. The gentleman from Pennsylvania, my colleague, has frequently asked the gentleman from Ohio to yield, but it is evidently owing to the fact that the gentleman from Ohio addressed him by name and in the second person.

The SPEAKER. The gentleman from Ohio ought to refrain

from that.

Mr. ANSBERRY. Mr. Speaker, I am quoting Fuller Hendershot. I did not refer to the gentleman from Pennsylvania except as the "contestee," except in quoting.

The SPEAKER. The gentleman will proceed with his argu-

ment.

Mr. ANSBERRY. "Now, Brother Bowman," says Fuller Hendershot, "I would like to know your position with regard to the gang here in Luzerne County that has been corrupting the gang here in Luzerne County that has been corrupting the voters," and the contestee answered that he was going to fight; he was against them; and Fuller said, "We ought to fight like hell," or something of that kind. And he mentioned one Heffernan. Contestee is the man who was going to join hands and fight Heffernan, and is the man who six months after he first sat is this House as a Representative recommended for appointment as postmaster at Wilkes-Barre, Pa., this same Heffernan. Contestee's telephonic conversation with his manager, Davis, instructing Davis to pay \$150 to Cosgrove, and the contestee's explanation of that transaction will aid any doubting Member to arrive at a correct conclusion as to how he should vote on this resolution. The contestee's attitude and his intentions, as is demonstrated by his cross-examination on pages 21 to 43, 162 to 172, 303 to 312, 228, and 233, can be gleaned from a reading of this testimony. In this connection the testimony of his bookkeeper on pages 43 to 60 and 265 and 273 should be read, and I regret that I have not time to read from this testimony to the House and to comment upon the same. It will suffice to say that the testimony heretofore referred to in connection with the testimony of Jonathan R. Davis, the manager of contestee's campaign, on pages 61 to 78, 83 to 97, 240, 251 to 264, and 394, can not be read by any fair-minded person without reaching the same conclusion that this com-

I am going to print in connection with this argument references to testimony in the record and the pages on which they can be found, and if anyone will take the time to glance through the record it will be found that every statement made by me with reference to this case on the occasions when I have been heard upon it in the House, as well as those contained in the able argument and masterful analysis of the facts made in behalf of the committee by the gentleman from Virginia [Mr. HOLLAND], are true.

Much has been said relative to the manner in which the contestee procured his name to be printed on the ballot as the candidate of the Prohibition Party, and a reading of the testimony of Agib Ricketts, on page 774, and the exhibits printed just below his testimony, as well as the testimony of Frank August, page 776, and the testimony of Agib Ricketts, page 770, will give a correct estimate of one of the causes which contributed to contestee's election to a seat in this House.

Contestee asserts that the expenditure of large sums of money in the way himself and his manager expended it in the 1910 election has grown into a custom in Luzerne County, and perhaps thinks that this may excuse the violations of law on the part of himself and his manager, Davis. He should know that this is no defense. I think that it is high time that this sort of thing should be stopped in Luzerne County. The testimony of Jonathan R. Davis relative to special watchers, in my opinion and in the opinion of the committee, discloses the method by which perhaps the largest number of corrupt votes were procured for the contestee. On page 62 of the record, when asked with reference to the men whom he paid money, Davis himself said that there was so many of them that he does not recall them. He testified that he gave \$30 to Bernard Goodstein, a man whom he apparently did not know; that Goodstein came with a letter of introduction from somebody that he, Davis, did not recall; and that after haggling with Goodstein he gave him \$30, and he disguised this payment by saying it was for special watchers," although he admits that he did not specify to Goodstein the districts in which special watchers were to be employed.

Davis also testified, page 67, that he gave \$100 to F. J. Mc-Canna, of Pittston; that he knew McCanna was a Democrat, and it leaked out that McCanna had received \$150 for assisting the contestee in the primaries at which contestee was nominated; and that he did not know whether McCanna was a resident of Luzerne County, although he later on tried to soften the force of this admission.

On page 68 he admits that he gave \$30 to George H. Butler, a lawyer, and that he afterwards gave him \$10 more, and Davis said:

I gave it to him for the same purpose, the same purpose that I paid everybody else in the same line.

On page 60 Manager Davis said that in all these districts for which he said he paid money for special watchers there were regular watchers of the party, and the men whom he gave money to as "special watchers" were procured especially for Mr. Bowman.

On page 70 he says that he gave Cyrus Weiss \$225 for the employment of special watchers, and that C. A. Marks, a lawyer of Plymouth, was paid \$25 for special watchers. This man of Plymouth, was paid \$25 for special watchers. This man Marks received \$50 from John C. Lewis on behalf of the con-This transaction is described in the record on pages 191 and 192 by Lewis, who states that he conducts a saloon, and that Marks came into his place, and despite the fact that there were only the bartender, Marks, and himself present, that he took Marks into a back room and gave him the money secretly, and told him to do what he could for Bowman, and Lewis said that he could give no reason for doing it secretly, although I think the reason is apparent.

On page 71 John W. Crooks, a clerk for a coal-mining corporation, received \$100 for special watchers in Hazleton, and D. E. Thomas received \$42 for the employment of special watchers, but no place was specified. On page 72 J. D. Cooper received \$200 for special watchers in Plymouth Borough; and on the same page it is shown that William Wallace, a mine superintendent, received \$60 for the employment of special watchers, and that one of the reasons which made him give Wallace the \$60 was that he was superintendent of mines; and on page 72 Davis testified further that he gave Michael Martin. \$35 for the employment of special watchers, and that he did not know Martin at all, but that somebody brought Martin to him and vouched for him; but Davis could not recall who it was, and said that he would not be surprised at all if told that Martin was a Democrat.

On page 73 appears the admission of Davis that he gave George Jones \$10 and that he did not know Mr. Jones. On page | vote for contestee. (Pp. 283, 284, 287, 288.)

75 appears the testimony of Davis, admitting that he gave \$60 to John T. Williams for the employment of special watchers, and that he does not know him, but thinks that somebody whom he has forgotten vouched for him.

On page 76 it is shown that he gave John R. Williams, chief of police of Edwardsville, \$75 for the same purpose, and on page 77 he testifies that he gave Thomas Kennedy, assistant chief of police of Edwardsville, \$80 for the same purpose, and that he gave John Thompson, whom he did not know, \$50, and admitted that he did not know whether his real name was Thompson or not; and he confessed having had a transaction of the same character with Michael Gallagher, whom he did not know. I could cite similar cases all through the record.

A few districts in which most flagrant violations of the law occurred, and in which the vote returned for Bowman is 1,234 and the vote for McLean 490:

In Foster Township, Northwest district, Drifton district, and Hazlebrook district; in Hazle Township, third district and twelfth district; Duryea Borough, second and fourth wards; Nanticoke Borough, fifth, ninth, and eleventh wards; Plymouth Township, sixth west district; Plymouth Borough, third ward; Edwardsville Borough, second ward; and Wilkes-Barre city, sixth ward, second district, the following instances of illegal acts, bribery, and corruption perpetrated by men in the employ of contestee occur:

Mine boss taking 35 to 40 men into the booths and marking their ballots. (Pp. 447 to 451.)

Clerk of the chief of mines of Pennsylvania marked a large number of ballots. (P. 452.)

One man employed by a mine boss marked a large number of ballots. (P. 453.)

A man took in booth at least 10 voters.

Another with a large number. (P. 453.)

Another went into booths with voters. (P. 453.)

Watchers went into booths to see that voters voted the way

watchers desired. (P. 454.)

A general mine foreman voted a man and prevented Democratic overseer from performing his duties. (Pp. 463-465.) Permitting watchers to take men into booths over the protest

of the Democratic overseer. (P. 439.)

Mine bosses intimidating Democratic watchers and voters.

(Pp. 455, 456, and 458.) Mine foreman marking seven, eight, or nine ballots. (Pp.

467 and 468.) Brother of judge of election marking ballots. (Pp. 461-463.)

Mine foreman marking ballots all day. (Pp. 404-408.)
Five mine bosses taking men into booths and obstructing view of ballot box against protest. (P. 496.)

Marking ballots by officials of Bureau of Mines. (P. 373.)

The entire registration of a precinct voted, although the voters' list of those who voted show a less number. (Pp. 301– 311 and 751.)

Bribing of men to vote for Bowman. (P. 435.)

No Democratic representation on election boards. (Pp. 440 and 374.)

Members of election boards paid money. (Pp. 476-478 and 479.)

Names of election officer who did not serve forged to returns and oath falsely taken. (Pp. 376-377.) Ballots destroyed. (P. 376.)

Election officers swear returns changed after leaving their hands in favor of Bowman. (Pp. 123 to 129.)
Raising vote of Bowman and changing McLean's. (P. 302.)

Raising vote of Bowman and changing McLean's. (P. 302.) Money paid mine boss "because he could deliver the goods."

Ballot box left unsealed and reversal of vote of Democratic candidate for Senator and Congress, showing a difference against McLean of 148. (P. 393.)

Illegal employment of special watchers for contestee, the number in single precincts running from 6 to 16.

Illegal use of money, in one instance \$555, paid for use in a single township, in which there were but 405 voters. Ninety dollars in a single precinct. (P. 140.)

Money paid Polish Club to treat the boys. (Pp. 481, 482,

Paying Democrats \$5 to \$150. (Pp. 168, 169.)

Sending out checks with names of payees left blank. (P. 106.) Paying money to mine bosses to "go out and get Democrats." (Pp. 430, 431, 432, 433.)
In addition to these districts, we find such wrongful, illegal,

and corrupt practices as-

Contestee's partner in the coal mine, who estimates his outlay for contestee at \$500, admitting that he paid money to 10 or more men, gave boys 50 cents and a dollar to get men to At least 50 mine bosses paid money by contestee or his agents in sums of \$5 to \$575, and his manager admitted that there was only one mine superintendent that he tried to land that he could (P. 398.)

Contestee's manager gave money to a mine superintendent to use as he saw fit, who testifies that he "was looking for Demo-

crats to give the money to."

ats to give the money to." (Pp. 219-222.)
One mine official surprised by being given \$100 by Davis to do the best he could with it, when he had told Davis that he knew nothing about politics. (Pp. 417, 418.)

Checks from \$5 to \$90 given out with names of payee left blank. (Pp. 105, 496, 501, 502.)

A mine official given \$15 when he said he would work for

Bowman if he were paid for it. (P. 188.)

One hundred and fifty dollars reported in expense account as paid to a man in Nanticoke for special watchers, while testimony discloses that this man was directed by Davis to take it to a saloon keeper in another part of the county, who, in turn, was directed to expend it in a little precinct with 93 voters. (Pp. 75, 191, 193.)

Contestee said, in response to question of Hendershot, the

independent leader of the district:

If you or anybody else expects to go to Congress, or if anybody else expects to go to the legislature with a Heffernan tag on you, you will be fooled like hell, as far as I am concerned.

I am as good a fighter as you are. I will spend \$30,000. I am opposed to this gang the same as you are, and it don't make no difference whether I am elected or not, I am in politics and I am willing to spend \$5,000 a year to clean up the corruption in Luzerne. (P. 297.)

This conversation is not denied by contestee.

In conclusion I want to say that I congratulate the minority members of this committee on the fact that they chose members who were not familiar with the record in the case to criticize the majority report relative to the facts. No one having any knowledge of this record save the contestee has sought to defend the actions of the contestee and his manager for the very good reason that the contestee was compelled to and that no one else familiar with the facts would have the hardihood to do so. This resolution should prevail.

Mr. PALMER. Mr. Speaker, I rise to a question of personal

privilege

The SPEAKER. The gentleman will state it.

Mr. PALMER. During the debate upon these resolutions the gentleman from Pennsylvania [Mr. FARR] went out of his way to make an attack upon me and upon my character as a Representative, which raises a question of personal privilege.

The SPEAKER. What is the question?
Mr. PALMER. The gentleman from Pennsylvania [Mr.

FARE]

Mr. MANN. Mr. Speaker, I submit that if the gentleman from Pennsylvania [Mr. Farr] violated the rules of the House, it was in order to call him to order. The debate on the floor of the House has not raised a question of personal privilege.

The SPEAKER. Does the gentleman lay down the proposition that nothing that can be said by one Member about another Member on the floor of the House can be made a question of

personal privilege?

Mr. MANN. There might be cases where it might be, especially if done in the absence of gentlemen, but in debate an improper reference to a Member of the House is subject to a point of order-subject to have the words taken down and the House dispose of it.

The SPEAKER. There is no question in the world but that the rule provides for offensive language to be taken down.

Mr. MANN. I have no objection whatever to the gentleman from Pennsylvania [Mr. PALMER] making a brief statement which does not relate to this case. It seems to me the debate has been closed upon this case, and it is not in order now for gentleman from Pennsylvania, on the plea of personal privilege

Mr. PALMER. I do not propose to discuss this case in any I propose to discuss-and very briefly, at that-what my colleague Mr. FARR had to say about me, the first of it in my

absence from the House.

The SPEAKER. The Chair will settle the whole thing, as far as he can. It seems to the Chair it would be an outrageous decision to say that a man can stand here as a Member and say anything he happens to think of about another Member and the one who is assaulted shall not have personal privilege of replying. That is a general rule. If the gentleman [Mr. Palmer] will state what the other gentleman from Pennsylvania [Mr. FARR] said, then the Chair will rule whether it is a question of personal privilege.

Mr. CANNON. Mr. Speaker, may I be indulged for a single observation? I do it in all kindness. I did not hear the remarks to which the gentleman from Pennsylvania [Mr. Palmer] refers. Debate having been closed and the House

being about to vote, I suggest to my friend from Pennsylvania [Mr. PALMER], in all kindness, would it not be better practice to refrain until after the vote is taken and then present the question of personal privilege?

Mr. PALMER. Mr. Speaker, that would hardly be fair to the Member who is attacked upon the floor. He ought to be entitled to be heard by the same Members who were here listening to the attack, or nearly all, when he was attacked.

Mr. MANN. Mr. Speaker, I will make the further point of order that the House had ordered the previous question upon these resolutions, which requires the vote to be taken at once, and they can not be interfered with by a question of personal privilege. Now, I have no objection, if the gentleman from Pennsylvania [Mr. Palmer] thinks he has been unduly assaulted on the floor of the House, having a few moments by unanimous consent, if the other gentleman shall also have the same length of time.

The SPEAKER. Does the gentleman from Illinois [Mr. Mann] ask unanimous consent for these gentlemen to proceed? Mr. MANN. How much time does the gentleman want?

Mr. PALMER. Mr. Speaker, I am rising to a question of personal privilege, and if the Chair will permit me to state it, I think the Chair will recognize that I am entitled to be heard on it.

The SPEAKER. The only question in deciding this point of order is whether, the previous question having been ordered on this contest, it brings the transaction to such a conclusion that the gentleman will have to wait until the House gets through voting. That is the point of order last made by the gentleman from Illinois [Mr. Mann].
Mr. PALMER. As I understand, a question of personal

privilege is always in order.

Mr. MANN. Oh, not at all. A question of personal privilege can not interfere with the order of the House.

The SPEAKER. The Chair is of the opinion that if there is a question of personal privilege involved, the gentleman ought to be heard on it, notwithstanding the fact that the previous question has been ordered on the pending resolutions.

Mr. PALMER. Mr. Speaker, while the gentleman from Penn-

sylvania [Mr. FARR] was discussing the election-case resolution I was at the door of the cloakroom and, hearing my name mentioned, came down the aisle, only to hear a part of what the gentleman said about me. I asked him to yield to me, in order to make certain of his language, and he refused to do so. Since then I have secured the Reporter's notes of what the gentleman from Pennsylvania said.

Mr. FARR. Mr. Speaker, may I interrogate the gentleman? will ask the gentleman if he will yield a moment.

The SPEAKER. Will the gentleman yield to his colleague? Mr. PALMER. I shall proceed now.

The SPEAKER. The gentleman declines to yield.

Will the gentleman permit me to ask him a Mr. FARR. question?

The SPEAKER. The gentleman declines to yield.

Mr. PALMER. Mr. FARR said:

And I want to tell the gentleman from Pennsylvania [Mr. Palmer] that it does not come with good grace from him to talk about the coercive methods upon employees used by a corporation. As I understand,
he is the local attorney of the Delaware, Lackawanna & Western Railroad, the greatest anthracite coal-producing company of my community,
taking in a large part of Luzerne County and running its great and
splendid lines out through the district of the gentleman from Pennsylvania [Mr. Palmer]. The gentleman from Pennsylvania [Mr. Palmer]
must not forget the efforts that that corporation, through its officials,
made for him at his solicitation.

Now, Mr. Speaker, in that statement the gentleman charges me with soliciting a great corporation to use coercive methods in my behalf as a candidate for the office of Representative in Congress. I am the local counsel of the Delaware, Lackawanna & Western Railroad Co. I represent it in my own county of Monroe, in Pennsylvania. I have been its counsel there since the day I was admitted to the bar. For 40 years my office-my partner before me-has been local counsel for that company. It is no secret in my community nor anywhere in Pennsylvania. But I want to say that, so far as this statement goes, I have never solicited that corporation or any other to coerce its employees, or influence its employees, or influence anybody else, either to vote for me or to vote for anybody else. It is a willful, deliberate, and malicious falsehood. [Applause on the Democratic side.]

Now, Mr. Speaker, if that charge were true, I ought not to be permitted to sit in this House. If the Delaware, Lackawanna & Western Railroad Co., at my solicitation, coerced its employees to secure my election, as the gentleman plainly implies, I ought to be driven from this House. If the gentleman does not know the truth whereof he states, he ought to publicly apologize. he believes that it is true, then he ought to be man enough, for

Prouty

Scott Sells

Rees Roberts, Mass. Rodenberg

Simmons Sloan Smith, J. M. C. Smith, Saml. W.

Speer Steenerson Stephens, Cal. Sterling

Switzer Taylor, Ohio Thistlewood Tilson

Towner Vare Volstead Wedemeyer

Wilder Willis Wilson, Ill. Wood, N. J. Young, Kans. Young, Mich.

his own sake and for mine and for the sake of this House, to bring charges against me in order to have me driven from it. And I say to him that if he will memorialize the House, or start a contest, or in any other way propose to investigate this question which affects the honesty of my election, I shall not stand here and plead any 30-day rule in which the contest ought to be brought, or any other technical rule of the House. [Applause on the Democratic side.] But I shall be glad to meet any such charge on the part of the gentleman from Lackawanna County, or anybody else. If he has any evidence at all to sustain this outrageous, false, and malicious charge, he ought to present it here now, or publicly admit that he has said something which is not the fact. [Applause on the Democratic

Mr. FARR. Mr. Speaker, I ask unanimous consent to answer the gentleman from Pennsylvania.

The SPEAKER. For how long?

Mr. FARR. Five or 10 minutes; not longer than 10.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to address the House for 10 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. FARR. Mr. Speaker, when the gentleman from Pennsylvania [Mr. Palmer] asked me to yield I did yield. I saw him in this assembly, and I did not know that he had gone to the smoking room. I was not taking any advantage of his absence. I wanted him to be here, and I would not have said a word about him if he were not here. In the first place, I want to say that I do not believe they coerce employees in Luzerne County, but I did say and do say that the officials of the Delaware, Lackawanna & Western Co. helped you [Mr. Palmer] to be elected. [Applause.]

Mr. PALMER. Will the gentleman yield?

Mr. FARR. Yes.

Mr. PALMER. Did not the gentleman say that I have no right to speak of the coercive methods of corporations because the Delaware, Lackawanna & Western Co., through its officials, at my solicitation, did work for me?

Mr. FARR. I said it came with poor grace from the lips of the gentleman from Pennsylvania [Mr. Palmer] to talk about alleged coercive methods of officials of the coal companies in an other district inasmuch as he, an attorney for the Delaware, Lackawanna & Western Co., had the services of the officials along the line going through his district. That is what I said, Mr. Speaker, and that is what I stand for now. [Applause on the Republican side.] I made that statement to strike at the spirit of demagogism that was shown in the gentleman's remarks relative to this contest.

I would like to tell the House a few more things about the contest, if I had the privilege. I would like to tell you about the political conspiracy that started from a reform movement backed by the gentleman from Pennsylvania [Mr. Palmer] that went through the Democratic State convention and led up to the Baltimore convention and deprived our splendid Speaker of two delegates for the Democratic nomination for President. [Applause.]

I can earmark for you, gentlemen, every move in that conspiracy against this good man, Mr. Bowman. Talk about reform, progressiveness, and being willing to seat the contestant who, under oath, said he spent the money in saloons to further his campaign.

Mr. HARDY. Mr. Speaker, I rise to a point of order.
The SPEAKER. The gentleman will state it.
Mr. HARDY. The gentleman from Pennsylvania is not discussing the matter before the House.

The SPEAKER. The point of order raised by the gentleman from Texas is overruled. [Applause.]

Mr. HEFLIN. Mr. Speaker, I make the point of order that the gentleman from Pennsylvania asked unanimous consent to reply to the gentleman from Pennsylvania [Mr. Palmer], and his speech is not in reply.

The SPEAKER. Has the gentleman from Pennsylvania [Mr. FARR] yielded the floor?

Mr. FARR. I yielded to the other gentleman. I had finished what I had to say, and I stand for what I said originally.

The SPEAKER. The vote will first be taken on the resolu-tion of the gentleman from Iowa [Mr. Prouty], which the Clerk will report.

The Clerk reported the resolution, as follows:

Resolved, That the case of George B. McLean against Charles C. Bownian, from the eleventh congressional district of Pennsylvania, be dismissed for want of jurisdiction because said alleged contestant gave no notice of contest within the time or in the manner prescribed by law, and because he has not asked or secured the consent of this House or of the committee for proceeding in any other manner than that prescribed by law and has not shown any equitable excuse for his failure to give the notice prescribed by section 105 of the Revised Statutes.

MANN. Mr. Mr. Speaker, upon the substitute resolution offered by the gentleman from Iowa, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 125, nays 147, answered "present" 18, not voting 100, as follows:

Ainey Akin, N. Y. Anderson Andrus Anthony Farr Fergusson Focht Foss French Fuller Austin Barchfeld Bartholdt Gillett Good Green, Iowa Bartholdt Bates Berger Boehne Browning Burke, Pa. Burke, S. Dak. Greene, Mass. Greene, Vt. Griest Hamilton, Mich. Hartman Hartman Haugen Hawley Heald Helgesen Hill Butler Butler
Cannon
Cary
Cooper
Copley
Cox, Ind.
Crago
Crumpacker
Curry Howell Hughes, W. Va. Humphrey, Wash. Curry Kahn Kendall Kennedy Kent Danforth Davidson Davis, Minn. De Forest Kinkaid, Nebr. Kopp Lafean Lafferty La Follette Dodds Doughton Driscoll, M. E. Langham Edwards Adair

YEAS-125. Lawrence Lenroot Lindbergh Lindbergh Loud McCreary McGuire, Okla, McKenzie McKinley McKinney McLaughlin Madden Mann Martin S. Dok Martin, S. Dak. Merritt Miller Mondell Moon, Pa. Moore, Pa. Morgan, Okla. Morse, Wis. Mott Needham Nelson Nye Olmsted Patton, Pa. Payne Pickett Plumley Porter Powers Pray NAYS-147. Johnson, S. C. Jones Kinkead, N. J.

Rauch Redfield Reilly Roddenbery Rothermel Rouse Rubey Rubey Rucker, Colo. Rucker, Mo. Russell Scully Sheppard Smith, N. Y. Smith, Tex. Sparkman Stanley Stedman Stephens, Miss. Stephens, Nebr. Stone Sweet
Talcott, N. Y.
Taylor, Ala.
Thayer
Thomas Townsend Tribble Tuttle Underhill Underwood Watkins Watkins Whitacre White Wilson, Pa. Witherspoon Young, Tex.

Estopinal Faison Ferris Fitzgerald Flood, Va. Foster Fowler Francis Gallagher Alexander Allen Ansberry Ashbrook Barnhart Kitchin Konop Korbly Lamb Lee, Ga. Lee, Pa. Barnnart Bartlett Bathrick Beall, Tex. Bell, Ga. Bulkley Gallagher Lever Lewis Linthicum Littlepage Garner Garrett George Gill Lloyd Lloyd Lobeck McCoy McDermott McGillicuddy McKellar Burleson Glass Godwin, N. C. Goeke Goodwin, Ark. Burnett Byrnes, S. C. Byrns, Tenn. Callaway Candler Graham Gregg, Pa, Gudger Hamilton, W. Va. Cantrill Carter Claypool Cline Macon Maguire, Nebr. Mays Morgan, La. Moss, Ind. Murray Oldfield Hamlin Hamin Hardwick Hardy Harrison, Miss. Collier Covington Cullop Hayden Hayden Heffin Henry, Tex. Hensley Holland Curley Davenport Dent Padgett Page Palmer Patten, N. Y. Denver Dickinson Pepper Peters Post Rainey Dies Difenderfer Houston Hughes, Ga. Hull Dixon, Ind. Donohoe Driscoll, D. A. Dupré Raker Randell, Tex. Ransdell, La. PRESENT "—18. Humphreys, Miss. Jame ANSWERED " Evans Hammond Henry, Conn. Hinds Fields

Ayres. Bowman Bradley Buchanan Finley Gardner, Mass. Gould Esch

Adamson Fairchild Floyd, Ark. Fordney Aiken, S. C. Ames Blackmon Fornes Gardner, N. J. Goldfogle Gray Gregg, Tex. Booher Borland Brantley Broussard Brown Calder Guernsey Hamill Campbell Carlin Clark, Fla. Hanna Harris Harrison, N. Y. Hart Hayes Helm Clayton Conry Cox, Ohio Heim Higgins Hobson Howard Howland Jackson Cravens urrier Daugherty Davis, W. Va. Dickson, Miss. Jacoway Johnson, Ky. Doremus

Draper

Longworth McCall NOT VOTING-100. Konig Langley Legare Levy Lindsay Littleton McHenry McMorran Maher Maher Martin, Colo. Matthews Moon, Tenn. Moore, Tex. Moore, Tex.
Morrison
Neeley
Norris
O'Shaunessy
Parran
Pou
Pujo
Reyburn
Richardson
Riordan
Roberts, Nev.
Robinson

Sharp Sherley Sherwood Sims Sisson Slayden Slemp Small Smith, Cal. Stack Stevens, Minn. Stevens, Mini Sulloway Sulzer Taggart Taylor, Colo. Turnbull Vreeland Warburton Webb Weeks Wilson, N. Y. Woods, Iowa

Murdock

Stephens, Te Talbott, Md.

Sabath Saunders Shackleford

So the substitute resolution was rejected.

Kindred

Knowland

The Clerk announced the following pairs:

On this vote:

Mr. CALDER (for Prouty resolution) with Mr. BUCHANAN (against).

Mr. HANNA (for Prouty resolution) with Mr. Sisson (against).

Mr. BLACKMON with Mr. MURDOCK,

Mr. Sulzer with Mr. Matthews. Mr. Sherley with Mr. Longworth.

Until Jenuary 2: Mr. Sherwood with Mr. Draper.

Until further notice: Mr. Gould with Mr. Hinds.

Mr. O'SHAUNESSY with Mr. SULLOWAY. Mr. TURNBULL with Mr. Woods of Iowa.

Mr. Pujo with Mr. McMorran. Mr. Richardson with Mr. Esch.

Mr. HARRISON of New York with Mr. Higgins. Mr. HAMILL with Mr. HENRY of Connecticut.

Mr. HOWARD with Mr. KNOWLAND. Mr. SIMS with Mr. VREELAND. Mr. FINLEY with Mr. CURRIER.

Mr. FIELDS with Mr. LANGLEY. Mr. SMALL with Mr. WARBURTON. Mr. AIKEN of South Carolina with Mr. AMES.

Mr. RIORDAN with Mr. CAMPBELL,

Mr. Brown with Mr. Fordney. Mr. Booher with Mr. Gardner of New Jersey.

Mr. Carlin with Mr. Guernsey. Mr. Clark of Florida with Mr. Habris.

Mr. CLAYTON with Mr. HAYES. Mr. Webb with Mr. Howland.
Mr. Jacoway with Mr. Jackson.
Mr. Johnson of Kentucky with Mr. Reyburn.

Mr. Moon of Tennessee with Mr. WEEKS.

Mr. Morrison with Mr. Slemp. Mr. Robinson with Mr. Smith of California.

For the session:

Mr. Hobson with Mr. Fairchild,
Mr. Fornes with Mr. Bradley.
Mr. Littleton with Mr. Dwight.
Mr. Adamson with Mr. Stevens of Minnesota.

Mr. Talbott of Maryland with Mr. Parran. Mr. LONGWORTH. Mr. Speaker, I would inquire if the gen-

tleman from Kentucky, Mr. Sherley, voted? The SPEAKER. He is not recorded.

Mr. LONGWORTH. Mr. Speaker, I have a pair with the gentleman, and therefore I withdraw my vote of "aye" and answer

The Clerk called the name of Mr. LONGWORTH, and he answered "Present."

Mr. HENRY of Connecticut. Mr. Speaker, how am I re-

The SPEAKER. The gentleman is recorded in the affirmative. Mr. HENRY of Connecticut. There was a pair announced, and I desire to withdraw my vote of "aye" and answer "present."

Mr. CLAYTON. Mr. Speaker, I was detained in the Senate in the impeachment proceedings against Judge Archbald, and came into the House Chamber before the second roll call had been concluded, but my name had been passed.

The SPEAKER. The gentleman does not bring himself within

The result of the vote was announced as above recorded. The SPEAKER. The Clerk will report the committee reso-

The Clerk read as follows:

House resolution 687.

Resolved, That Charles P. Bowman was not elected a Representative in the Sixty-second Congress from the eleventh district of Pennsylvania and is not entitled to his seat therein.

Mr. BARTLETT. Mr. Speaker, a parliamentary inquiry. The SPEAKER. The gentleman will state it.

Mr. BARTLETT. I desire to know if, under the understanding, the resolution offered by the gentleman from Pennsylvania [Mr. Palmer] does not come before that, it being an

The SPEAKER. No; the resolution of the gentleman from Pennsylvania in the logical sequence comes last.

Mr. MANN. Mr. Speaker, I demand the yeas and nays. The SPEAKER. The gentleman from Illinois [Mr. MANN] demands the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 153, nays 118, answered "present" 11, not voting 108, as follows:

Doremus Driscoll, D. A. Adair Alexander Allen Ansberry Ashbrook Barnhart Bartlett Batkrick Reell Tox Redfield Reilly Roddenbery Humphreys, Miss. Dupre James Johnson, S. C. Edwards Rothermel Rouse Rubey Rucker, Colo, Rucker, Mo. Russell Kindred Kinkead, N. J. Fergusson Kitchin Fitzgerald Flood, Va. Floyd, Ark. Korop Korbly Lamb Lee, Ga. Lee, Pa. Beall, Tex. Bell, Ga. Boehne Bulkley Russell Scully Sheppard Smith, N. Y. Smith, Tex. Sparkman Stanley Stedman Burkey Burgess Burke, Wis. Burleson Burnett Byrnes, S. C. Byrns, Tenn. Callaway Candler Fowler Francis Gallagher Garner Garrett George Gill Stedman Littlepage Stephens, Miss. Stephens, Nebr. Stone Lloyd Lobeck McCoy McDermott McGillicuddy Candler Cantrill Carter Glass Godwin, N. C. Sweet Talcott, N. Y. Taylor, Ala. Thayer Thomas Goeke Goodwin, Ark. Claypool Clayton Cline Collier McKellar McKellar Macon Maguire, Nebr, Mays Moon, Tenn, Morgan, La, Moss, Ind. Murray Oldfield Dedwatt Graham Gregg, Pa. Gudger Hamilton, W. Va. Townsend Tribble Tuttle Underhill Covington Cox, Ind. Cullop Hamlin Hardwick Hardwick Hardy Harrison, Miss. Underwood Watkins Whitacre White Wilson, Pa. Curley
Davenport
Davis, W. Va,
Dent
Denver
Dickinson Harrison, M.
Hay
Hayden
Heffin
Henry, Tex.
Hensley
Holland
Houston
Hughes, Ga. Padgett Page Palmer Witherspoon Young, Tex. Pepper Post Dies Difenderfer Dixon, Ind. Rainey Raker Randell, Tex. Donohoe

NAYS-118. Aincy Akin, N. Y. Anderson Andrus Anthony Austin Lawrence Prouty Focht Focht Foss French Fuller Gardner, Mass. Lenroot Lindbergh Rees Roberts, Nev. Lindbergh
McCall
McCreary
McGuire, Okla.
McKenzle
McKinney
McLaughlin
Madden
Mann Rodenberg Scott Sells Ayres Barchfeld Bartholdt Gillett Simmons Green, Iowa Greene, Mass. Griest Hamilton, Mich. Sloan Smith, J. M. C. Smith, Saml. W. Bates Browning Smith, Samil A Speer Steenerson Stephens, Cal. Sterling Switzer Taylor, Ohio Thistlewood Tilson Towner Vare Mann Martin, S. Dak. Merritt Miller Mondell Moore, Pa. Morgan, Okla. Mott Needham Nelson Mann Hartman Hawley Heald Helgesen Burke, Pa. Burke, S. Dak, Butler Cannon Cary Cooper Copley Crago Henry, Conn. Hill Hughes, W. Va. Humphrey, Wash. Kahn Kendall Howell Crumpacker Curry Dalzell Vare Volstend Wedemeyer Wilder Nye Olmsted Patton, Pa. Danforth Davidson Davis, Minn. De Forest Kennedy Payne Pickett Willis Kinkaid, Nebr. Wilson, Ill. Wood, N. J. Young, Kans. Young, Mich. Plumley Porter Kopp Lafean Dodds Doughton Driscoll, M. E. Dyer Lafferty La Follette Langham Powers Prince

ANSWERED "PRESENT"-11.

Hinds Longworth Stephens, Tex. Hammond Buchanan NOT VOTING-108. Adamson Aiken, S. C. Legare

Fornes Gardner, N. J. Goldfogle Levy
Lindsay
Littleton
Loud
McHenry
McKinley
McMorran
Maher
Martin, Colo.
Matthews
Moon, Pa. Ames Blackmon Good Booher Borland Bradley Brantley Gould Gray Greene, Vt. Gregg, Fex. Guernsey Hamill Brantley Broussard Brown Calder Campbell Carlin Clark, Fla. Matthews Moon, Pa. Moore, Tex. Morrison Harris Harrison, N. Y. Hart Haugen Hayes Helm Conry Cox, Ohio Morse, W Murdock Cravens Currier Daugherty Dickson, Miss. Higgins Hobson Howard Norris O'Shannessy Parran Patten, N. Y. Draper Dwight Ellerbe Howland Jackson Jacoway Johnson, Ky. Knowland Peters Pou Pujo Ransdell, La. Estopinal Fairchild Konig Reyburn Richardson

Stevens, Minn. Talbott, Md.

Riordan Roberts, Mass. Robinson Sabath Saunders Shackleford Sharp Sherley Sherwood Sims Sisson Slayden Slemp Small Smith, Cal. Stack Sulloway Sulzer Taggart Taylor, Cole Turnbull Vreeland Warburton Webb Weeks Wilson, N. Y. Woods, Iowa

So the resolution was adopted.

Fordney

Langley

The Clerk announced the following additional pairs:

Until further notice: Mr. HART with Mr. SELLS.

Mr. Maher with Mr. Moon of Pennsylvania.

Mr. Stephens of Texas with Mr. Weeks.

Mr. HELM with Mr. HAUGEN.

Mr. Gregg of Texas with Mr. Greene of Vermont.

Mr. Cox of Ohio with Mr. McKinley.

Mr. Conry with Mr. Hayes.

Mr. SULZER with Mr. MATTHEWS.

Mr. Sisson (for committee report) with Mr. Hanna (against).

On the Bowman election case:

Mr. ESTOPINAL with Mr. Roberts of Massachusetts.

On this vote:

Mr. Buchanan (for committee report) with Mr. Calder (against).

The result of the vote was announced as above recorded.

The SPEAKER. The question recurs on the resolution of the gentleman from Pennsylvania [Mr. PALMER], which the Clerk will report.

The Clerk read as follows:

House resolution 743.

Resolved, That George R. McLean, the contestant, was elected a Representative in the Sixty-second Congress from the eleventh district of Pennsylvania and is entitled to a seat therein.

Mr. MANN. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 88, nays 183, answered "present" 11, not voting 107, as follows:

EAS-88.

Palmer Pepper Post

Reilly Rothermel Rouse Rucker, Colo.

Rucker, Colo. Scully Sheppard Smith, Tex. Sparkman Stephens, Miss. Taylor, Ala. Thayer Tribble Tuttle

Underwood Watkins Wilson, Pa. Witherspoon Young, Tex.

Prouty Rainey Raker Randell, Tex. Ransdell, La.

Rees Roberts, Nev.

Roddenbery

Rodenberg Rubey Rucker, Mo. Russell

Simmons Sloan Smith, J. M. C. Smith, Saml. W.

Stedman Steenerson Stephens, Cal. Stephens, Nebr. Stone Sweet Switzer Talcott, N. Y. Taylor, Ohio Thistlewood

Scott

Speer Stedman

Thomas Tilson

Towner Townsend Underhill Vare Volstead Wedemeyer Whitacre

Prince

Redfield

answeren	present 11, not
	YI
Adair	Davenport
Allen	Davis, W. Va.
Ansberry	Dent
Bartlett	Denver
Beall, Tex.	Difenderfer
Bell, Ga.	Dixon, Ind.
Burgess	Donohoe
Burke, Wis.	Driscoll, D. A.
Burleson	Dupré
Byrns, Tenn.	Fergusson
Callaway	Ferris
Candler	Flood, Va.
Cantrill	Floyd, Ark.
Carlin	Francis
Carter	Gallagher
Claypool	Garner
Clayton	George
Cline	Gill
Collier	Goeke
Covington	Goodwin, Ark.
Cullop	Gregg, Pa.
Curley	Hardwick
	a NA
Ainey	Foss
Akin, N. Y.	Foster
Alexander	Fowler
Anderson	French
Andrus	Fuller
Anthony	Gardner, Mass.
Ashbrook	Garrett
Austin	Gillett
Ayres	Glass

Ayres Barchfeld

Barnhart Bartholdt Bates Bathrick

Bathrick
Berger
Boehne
Browning
Bulkley
Burke, Pa.
Burke, S. Dak.
Butler
Byrnes, S. C.
Cannon

Cannon Cary Cooper Copley Cox, Ind.

Crago

Crumpacker Dalzell Danforth

Davidson
Davis, Minn.
De Forest
Dickinson
Dies
Dodds

Doughton Driscoll, M. E.

Dyer Edwards

Edwards Evans Faison Farr Fitzgerald Focht

Buchanan Burnett

Esch

S—88.

Hardy
Harrison, Miss.
Hayden
Hefin
Henry, Tex.
Hughes, Ga.
Hull
James
Kitchin
Korbly
Lee, Ga.
Lee, Pa.
Lewis
Littlepage
Lityd
McCoy
McDermott
McGillieuddy
McKellar
Mays
Moon, Tenn.
Murray
S—183. AYS—183. La Follette Lamb Langham Lenroot Lever Lindbergh Linthicum Lindbergh
Linthicum
Lobeck
Loud
McCall
McCreary
McGuire, Okla.
McKenzie
McKinley
McKinley
McKinney
McGuire, Nebr.
Macon
Madden
Maguire, Nebr.
Mann
Martin, S. Dak.
Merritt
Miller
Moore, Pa.
Morgan, La.
Morgan, La.
Morgan, Okla.
Morse, Wis,
Moss, Ind.
Mott
Needham
Neelay Glass Godwin, N. C. Good Green, Iowa Greene, Mass. Griest Gudger Hamilton, Mich. Hamilton, W. Va. Hamilton, W. Va.

Hamlin Hammond Haugen Hawley Hayes Hayes Heald Helgesen Henry, Conn. Hensley Holland Houston Howell Needham Neeley Nelson Norris Nye Olmsted Hughes, W. Va. Humphrey, Wash. Johnson, S. C. Jones Kahn Kendall Kennedy Kent Kindred Kindred Kinkaid, Nebr. Kinkead, N. J. Konop Kopp Lafean Lafferty

Lawrence

Patton, I Payne Pickett Plumley Porter Powers Pray ANSWERED " PRESENT "-11. Estopinal Hinds Longworth Murdock

Sims

Padgett
Page
Patten, N. Y.
Patton, Pa.

Stephens, Tex. Stevens, Minn.

White Wilder Willis Wilson, Ill. Young, Kans. Young, Mich.

NOT VOTING-107.

Adamson	Fordney
Aiken, S. C.	Fornes
Ames	Gardner, N. J.
Biackmon	Goidfogle
Booher	Gould
Borland	Graham
Bradley	Gray
Brantley	Greene, Vt.
Broussard	Gregg, Tex.
Brown	Guernsey
Campbell	Hanna
Clark, Fla.	Harris
Conry Cox, Ohio	Harrison, N. Y.
Cravens	Hartman
Currier	Helm
Curry	Higgins
Daugherty	Hobson
Dickson, Miss.	Howard
Doremus	Howland
Draper	Humphreys, Mis-
Dwight	Jackson
Ellerbe	Jacoway
Fairchild	Johnson, Ky.
Fields	Knowland
Finley	Konig
Control of the Contro	

Langley Shackleford Sharp Sherley Sherwood Sisson Slayden Legare Levy Lindsay Littleton McHenry McMorran Slayden Slemp Small Smith, Cal. Smith, N. Y. Stack Stanley Maher Martin, Colo. Martin, Cole Matthews Moon, Pa. Moore, Tex. Morrison Stanley
Sterling
Sulloway
Sulzer
Taggart
Talbott, Md.
Taylor, Colo,
Turnbull
Vrecland
Warburton
Webb
Weeks
Wilson, N. Y.
Wood, N. J.
Woods, lowa, O'Shaunessy Parran Peters Pou Pujo Rauch Reyburn Richardson Roberts, Mass. Robinson Sabath Saunders Sells Riordan

So the resolution was rejected. The Clerk announced the following additional pairs: Until further notice:

Until further house:
Mr. Peters with Mr. Wood of New Jersey.
Mr. Burnett with Mr. Hartman.
Mr. Humphreys of Mississippi with Mr. Lawrence.

Mr. SHARP with Mr. SELLS.

The result of the vote was announced as above recorded.

On motion of Mr. Mann, a motion to reconsider the votes on the various resolutions was laid on the table.

REVISION OF THE TARIFF.

Mr. UNDERWOOD. Mr. Speaker, I desire to ask unanimous consent for the consideration of the resolution which I send to

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 747.

House resolution 747.

Resolved, That the Committee on Ways and Means is authorized to employ such expert, clerical, and stenographic services, and to gather such information, through Government agents or otherwise, as to it may seem fit looking toward the preparation of a bill or bills for the revision of the present tariff law; and said committee is authorized to have such printing and binding done as it shall deem necessary, to require the attendance of the committee stenographers, and to incur such other expenses as may be deemed necessary by said committee; and all expenses of said committee shall be paid out of the contingent fund of the House on the usual vouchers approved as now provided by law; and be it further

Resolved, That after March 4, 1913, those members of the Committee on Ways and Means who are Members elect of the House to the Sixty-third Congress, or a majority of them, are authorized, until the meeting of the first session of the Sixty-third Congress, to employ such expert, clerical, and stenographic services, and to gather such information, through Government agents or otherwise, as to them may seem fit looking toward the preparation of a bill or bills for the revision of the present tariff law; and said committee is authorized to have such printing and binding done as it shall deem necessary, to require the attendance of the committee stenographers, and to incur such other expenses as may be deemed necessary by said committee; and all the expenses of said committee shall be paid out of the contingent fund of the House on the usual vouchers approved as now provided by law.

The SPEAKER. Is there objection to the present considera-

The SPEAKER. Is there objection to the present consideration of the resolution?

Mr. PAYNE. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Alabama whether it is the purpose or his intention—as I see it stated in the newspapers that he rather invites the filing of briefs before the committee—whether it is the intention to print these briefs from day to day, with the evidence before the committee?

Mr. UNDERWOOD. It is, if it is the desire of the party who files the brief to have it printed, and where the brief is

filed before the hearings close.

Mr. PAYNE. Well, is it the purpose of the gentleman to have the evidence taken before the committee and the arguments printed from day to day for the use of the committee?

Mr. UNDERWOOD. I will state to the gentleman from New York that, so far as I am concerned, and I believe it is the intention of the committee, that as to the hearings we will follow the same procedure as was followed in the committee at the time the gentleman himself conducted hearings in the Sixtieth Congress

Mr. PAYNE. That included the printing of the briefs every

Mr. UNDERWOOD. Yes.

Mr. PAYNE. I have no objection.

Mr. FITZGERALD. Mr. Speaker, I call the gentleman's attention to the fact that this House can not, by a simple resolution, authorize expenditures out of the contingent fund after the expiration of this Congress. That is regulated by statute.

It would require a joint resolution to do that. I have looked into that in connection with another resolution which it was

proposed to introduce.

Mr. UNDERWOOD. I think the gentleman from New York [Mr. Fitzgerald] is correct about that, and I will amend my resolution by making it read "Resolved by the House of Rep-

resentatives, the Senate concurring."

Mr. MANN. Mr. Speaker, let me make a suggestion to the gentleman. The first part of his resolution is strictly a House

resolution?

Mr. UNDERWOOD. Yes.
Mr. MANN. Providing for the payment of expenditures out of the contingent fund of the House. I would suggest to the gentleman to withdraw the latter part of his resolution and have the House agree to the first part, and then insert the latter part in one of the appropriation bills. There will be no objection to that.

Mr. UNDERWOOD. Mr. Speaker, I accept the suggestion of

the gentleman.

Mr. MANN. May I ask the gentleman, in connection with the printing of the evidence, whether it would be practicable, as the hearings go along or are completed, to print the evidence and the briefs submitted according to schedule, so that each schedule

would be by itself?

Mr. UNDERWOOD. Well, I will say to the gentleman that I think that would be a good thing to do, and it was done when the former hearings were held, so far as practicable. Of course, sometimes a gentleman will come in and file a brief or give testimony with relation to several different schedules. stance, he may be discussing the duty on some article where the raw material is in one schedule and the finished product in another, which very often happens. As a general rule that procedure would be followed.

Mr. MANN. What I had reference to was possibly the re printing of testimony. When witnesses are heard under the ordinary rules the testimony of that day is printed at once, When witnesses are heard under the and they are given leave to file a brief, and the brief may not be delivered for a week or 10 days. It is more convenient for Members when they go to examine it to have it all together if it

is practicable to do so.

Mr. UNDERWOOD. Well, I will say to the gentleman from Illinois that in the Sixtieth Congress the same thing occurred, and after the hearings were over for the permanent record they were assembled under the different schedules. An effort will be made to do that in this case as far as possible. An effort will

Mr. MANN. I understand. The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. UNDERWOOD. Mr. Speaker, I ask that the first part of the resolution be read as originally presented at the Clerk's desk. The second part I will ask the Committee on Appropriations to take care of.

The SPEAKER. The Clerk will report the first part of the resolution.

The Clerk read as follows:

The Clerk read as follows:

Resolved, That the Committee on Ways and Means is authorized to employ such expert, clerical, and stenographic services, and to gather such information, through Government agents or otherwise, as to it may seem fit looking toward the preparation of a bill or bills for the revision of the present tariff law; and said committee is authorized to have such printing and binding done as it shall deem necessary, to require the attendance of the committee stenographers, and to incur such other expenses as may be deemed necessary by said committee; and all the expenses of said committee shall be paid out of the contingent fund of the House on the usual vouchers approved as now provided by law.

The SPEAKER. The question is on agreeing to the resolu-

The question was taken, and the resolution was agreed to. POST OFFICE APPROPRIATION BILL.

Mr. MOON of Tennessee, chairman of the Committee on the Post Office and Post Roads, by direction of that committee, reported the bill (H. R. 27148) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes, which bill, with accompanying papers, was ordered printed and referred to the Committee of the Whole House on the state of the Union. (H. Rept. 1271.)

Mr. MANN reserved all points of order on the bill.
Mr. MOON of Tennessee. Mr. Speaker, I ask unanimous consent that the bill and report may be printed in the Record.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that the bill and report be printed in the RECORD. Is there objection?

Reserving the right to object, let me ask the gentleman what is the purpose of printing an appropriation bill in the RECORD?

Mr. MOON of Tennessee. Because there are a few sections of new law in it.

Mr. MANN. But every Member knows that it is available in the document room. I do not think many Members would read it in the Record in fine print. I can see no reason for commencing the practice of printing appropriation bills in the RECORD.

Mr. MOON of Tennessee. It is a very short bill, but if the gentleman from Illinois objects to its being printed in the Record I shall not insist upon it. The report only contains two

Mr. MANN. I have no objection to the report being printed in the RECORD, and the gentleman may have as many copies of

the bill printed as he desires, so far as I am concerned.

Mr. MOON of Tennessee. Then, Mr. Speaker, I ask unanimous consent that the report may be printed in the Record.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that the report may be printed in the Record.

mous consent that the report be printed in the Record. Is there objection?

There was no objection.

The report is as follows:

[House Report No. 1271, Sixty-second Congress, third session.] POST OFFICE APPROPRIATON BILL.

POST OFFICE APPROPRIATON BILL.

Mr. Moon of Tennessee, from the Committee on the Post Office and Post Roads, submitted the following report, to accompany H. R. 27148:

The Committee on the Post Office and Post Roads, in presenting the bill making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes, submits the following:

The estimates covering this bill may be found on pages 557 to 563, both inclusive, of the Book of Estimates, and aggregate the sum of \$281,791,508. The committee recommends \$278.489,781, a decrease in amount of the department estimates of \$3,301,727.

The increases in the estimates recommended by the department are due in part to the growth of the usual service and in part to the expenses incident to the parcel post to be installed under the provisions of existing law, and to the postal savings bank. The committee has not been able to get an estimate as to the revenues that will likely arise from the parcel post. The estimates made by the department for additional expenses on account of this service are quite large, but of necessity only speculative, as it is impossible to know at this time to what extent the service may be used. The committee has deemed it wise to reduce the estimates because of the fact of the uncertainty of their correctness, and because it is best to let the service develop in a measure before large appropriations are made to meet a service the extent of which is not yet known. Still, it has, in its opinion, been liberal enough in the appropriations.

The report of the Postmaster General shows a small surplus for the fiscal year ending June 30, 1911. The committee, however, acting on the audited accounts, was of opinion that there was a deficiency of about \$627,000 instead of a surplus of about \$219,000 for that year. The Postmaster General presents an audited postal deficit of \$1,785,522.10 for the fiscal year ending June 30, 1912. Accounts chargeable to this year and not yet audited may change this

Post Office appropriation bill, 1914.

	Appropria- tion for 1913.	Estimates for 1914.	Committee recom- mends for 1914.
POSTMASTER GENERAL.			
Rent suitable buildings	\$34,400	\$34,400	\$34, 400
Gas, electric power, etc	5,000	5,000	5,000
Traveling expenses Post-office inspectors:	1,000	1,000	1,000
Salaries	704, 450	704,450	704, 459
Per diem	261,400	361,800	261, 400
Clerks at headquarters	99,000	99,000	99,000
Traveling expenses	41,400	41,400	41, 400
Livery hire	45,000	45,000	35,000
Miscellancous expenses	7,500	7,500	7,500
Payment of rewards	15,000	15,000	7,500
Investigating labor-saving devices	\$10,000		
Printing Postal Laws and Regulations	55,000		**********
Postal Savings System:	1	(\$149,000	\$100,000
Blank books, forms, etc	400,000		2,500
Travel and miscellaneous expenses	100,000	1,000	500
Total	1,679,150	1,469,550	1, 299, 650
FIRST ASSISTANT POSTMASTER GENERAL.			
Compensation to postmasters	30,000,000	30, 250, 000	30, 250, 000
Compensation, assistant postmasters	3,000,000	3,075,000	3,000,000
Compensation to clerks and employees	39, 820, 800	40, 125, 000	40, 125, 000
Compensation, printers and mechanics	44,000	1 + 101 000	f 44,000
Compensation, watchmen, messengers, etc	1,008,000	1,164,600	1,083,000
tions	330,000	1 1 000 000	f 430,000
Do	(00,000	} 1,250,000	1 700,000
class offices.	175,000	225,000	200,000
Temporary and auxiliary clerk hire	850,000	1,000,000	1,000,000
Separating mails, third and fourth class offices.	700,000	700,000	675,000
Unusual conditions at post offices	125,000		100,000
Allowances, third-class offices	1,725,000	1,725,000	1,725,000
Allowances, third-class offices		1 50 100	Charles Sant
class offices	4,550,000	5,050,000	5,000,000

Post Office appropriation bill. 1914-Continued.

Post Office appropriation	bill, 1914—(Continued.	1
	Appropria- tion for 1913.	Estimates for 1914.	Committee recom- mends for 1914.
		7	102 1101
Miscellaneous expenses. Rental and purchase canceling machines. Purchase, repair, etc., labor-saving devices. Additional labor-saving devices. Rewards to employees for inventions. Pay of letter carriers Substitutes for letter carriers Substitutes for letter carriers Substitute and auxiliary carriers Horse-hire allowance Car-bare and bicycle allowance Street car collection service. Detroit River postal service Incidental expenses, City Delivery Service Emergency car fare, special-delivery messen-	\$350,000 - 310,000 50,000 12,000 10,000 32,752,175 1,000,000 50,000 975,000 500,000 10,000 6,500 35,000	\$400,000 300,000 56,000 10,000 34,800,000 2,285,000 75,000 1,530,000 10,000 6,500 50,000	\$375,009 300,000 50,000 10,000 2,000,000 75,000 1,375,000 450,000 10,000 6,500 50,000
gers. Fees to special-delivery messengers. Experimental village delivery. Travel expenses.	13,000 1,600,000 100,000 1,000	13,000 1,825,000 150,000 1,000	13, 600 1, 800, 000 150, 000 1, 000
Total	121, 303, 075	126, 756, 100	125, 858, 100
	-		
SECOND ASSISTANT POSTMASTER GENERAL. Transportation: Inland transportation star routes in Alaska. Steamboat. Mail-messenger service. Transmission by pneumatic tube. Screen-wagon service. Mail bags, etc. Labor, mail-bag shops. Rent, light, and fuel, Chicago. Mail locks and keys. Labor, mail-lock repair shop, Washington, D. C. Transportation by railroads. Commission on second-class mail. Preight or expressage postal supplies. Railway post-office car service. Railway Mail Service. Travel allowance, railway mail clerks. Temporary clerk hire. Substitutes for clerks on vacation. Acting clerks. Actual and necessary expenses. Rent, light, fuel, etc. division headquarters. Per diem allowance, assistant superintendents. Transportation by electric and cable cars. Transportation, foreign mails. Assistant superintendent, foreign mails. Balance due foreign countries. Delegates International Postal Union.	36,500 47,646,000 25,000 648,200 4,707,000 23,443,200 1,340,743 67,500 83,250 83,250 80,000 4,531 728,000 3,748,400 3,748,400	508, 300 909, 900 2, 167, 300 902, 200 2, 100, 600 355, 500 108, 300 2, 400 15, 000 49, 661, 000 500, 000 5, 393, 000 24, 739, 550 85, 000 85, 000 95, 509 80, 000 5, 398, 900 135, 900 85, 900 85, 900 85, 900 85, 900 87, 900 88, 900 87, 900 88, 90	108,300
Total	89, 146, 624	94,762,788	92,796,961
THIRD ASSISTANT POSIMASTER GENERAL. Manufacture postage stamps. Manufacture stamped envelopes. Pay of agents and assistants, distribute stamped envelopes. Manufacture postal cards. Ship, steamboat, and way letters. Payment limited indemnity, domestic. Payment limited indemnity, international. Travel expenses. Employment special counsel.	768,000 1,728,000 22,800 371,000 45,000 17,000 1,000	822,000 1,664,000 22,800 335,000 250 100,000 1,000	800,000 1,500,000 22,800 300,000 250 4 60,000 20,000 1,000
	-	2,955,050	2 704 050
Total	2,953,050	2,000,000	2,704,050
FOURTH ASSISTANT POSTMASTER GENERAL. Commission to investigate post roads Improvement of post roads. Stationery. Official and registry envelopes. Blanks, blank books, etc., money order. Blanks, blank books, and printed matter, registry.	\$25,000 500,000 100,000 80,000 150,000 4,000	\$105,000 85,000 165,000 6,500	\$105,000 85,000 165,000 4,500
Expenses agency for inspection manufacture of envelopes. Supplies, City Delivery Service. Postmarking, etc., stamps. Letter balances, etc. Wrapping paper. Wrapping twine and tying devices. Facing slips, etc. Purchase, exchange, typewriters, etc. Supplies, rural service. Shipment of supplies. Intaglio seals. Star-route service. Carriers, rural service. Travel expenses.	50,000 15,000 15,000 200,000 65,000 70,000 40,000 110,000	5,520 130,000 45,000 115,000 225,000 20,000 50,000 10,000 7,105,000 47,500,000 1,000	5,520 130,000 45,000 115,000 225,000 80,000 50,000 120,000 7,105,000 47,500,000 1,000
	55, 572, 700	55,848,020	55,831,020
Total			, 501, 520
Total			
Total. SUPPLEMENTAL ITEMS, Parcel-post equipment. Parcel-post commission.	759,000 25,000		

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, the Indian appropriation bill. And pending that motion, Mr. Speaker, I desire to ask the gentleman from South Dakota whether we can agree on time for general debate; and, if so, what length of time is desired on that side?

Mr. BURKE of South Dakota. I am unable, Mr. Speaker, to state just what time is desired. I prefer, if it is agreeable, to let the general debate run this evening, and perhaps in the meantime we can agree on the time when it is taken up again.

Mr. STEPHENS of Texas. Would it be satisfactory to the gentleman from South Dakota to agree that when the bill is taken up to-morrow we shall begin to read it under the five-minute rule?

minute rule?

Mr. BURKE of South Dakota. We could not get through with the general debate to-night.

Mr. STEPHENS of Texas. I would be willing to agree to one hour on a side, and then we could close to-night.

Mr. BURKE of South Dakota. I do not think there will be any difficulty in agreeing to the time for general debate. We probably will not desire more than an hour on this side, but I prefer not to make any agreement this evening.

The motion of Mr. Stephens of Texas was then agreed to. Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. HULL in the

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the bill of which the Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 26874) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914.

Mr. STEPHENS of Texas. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. Olmsted] such time as he

Mr. OLMSTED. Mr. Chairman, in pursuance of my determination, made public in December, 1911, I shall on the 4th of next March retire from service in this House. This is, therefore, the last occasion upon which I shall participate officially in the passage of the Indian appropriation bill. Aside from my interest in the general Indian question, I have for many years had a special interest in this bill because of my great interest in the United States Industrial School at Carlisle, which is in my district. At the outset I desire to express my appreciation of the courtesy which I have always received at the hands of the Committee on Indian Affairs. During my service in this House it has had three different chairmen, and they have all been greatly concerned in the welfare of the Indians, devoting their time, labor, and ability to the cause and giving fair hearings and consideration to all concerned The present chairman, the gentleman from Texas [Mr. Stephens], has served upon the committee for many years and is thoroughly familiar with the questions with which it has to wrestle. He was for a long time the ranking minority member of the committee, until his party came into control in the present Congress, when he changed places with the gentleman from South Dakota [Mr. Burke], who had served so well and ably as chairman. When I entered Congress the Committee on Indian Affairs was presided over by our dear friend, the late James S. Sherman, who continued as chairman until the people of the United States selected him to preside as Vice President over the deliberations of the United States Senate. During my 16 years of service in the House, what a large number of Members have been transplanted from this end of the Capitol to the other! It is becoming more and more universally recognized that service in the House is the best possible training for effective and valuable service in the Senate.

The people of the country, or even of a Member's own district, are not always in position to make a correct estimate of the value of a Congressman's ability or worth. Sometimes the Member is overestimated in his own district or by the country, and ofttimes he is underestimated; but nowhere on earth is a man more fairly estimated than right here in the House by his fellow Members. They know the extent and importance of his labors and counsel in committee, where, after all, a Member's best work is done. They know the sincerity and effectiveness of his utterances upon the floor, and they are able to judge him from a thousand things of which the outside public has little or no knowledge. When a Member stands the test here, when he is popular with and respected and looked up to by his fellow Members, it may be taken for granted that he is well fitted for service in the Senate or anywhere else. And, by the way, judged by that test, there is no man better fitted than the

gentleman from Massachusetts [Mr. McCall]. [Applause.] His 20 years of service in this body have been years not only of intelligent and patriotic labor, but of substantial achievement. A gentleman of high ideals, he is never carried away by illusions. If he is interested in the movement of the stars, he nevertheless keeps his feet upon the ground and breathes the air of the people. Upon every important question he has convictions, the courage to express them, and the ability to express them well. When his convictions have been formed he is never moved to an opposite course by the knowledge that it would be more popular. An eloquent and forceful speaker, he always commands the attention of the House. While his addresses are of a high intellectual order, he never permits a thought to be so obscured by the ornament of phraseology as to be lost upon his hearers, but rather he drives it home by the felicity of his expression. Twenty years of faithful and patriotic service in this House have rounded him out into the perfect statesman, and it is a pleasure to know that the glorious traditions of Massachusetts in the United States Senate are likely to be continued in one who is at once so great a scholar and so great a statesman as Samuel W. McCall. [Applause.]

My object in rising was to say a few parting words upon the

subject of the Carlisle Indian School, in which I take so great an interest. This bill carries an appropriation of \$152,000 for that school. Its history is interesting. Away back in 1777 there were erected extensive cavalry barracks at Carlisle. The labor was largely that of Hessians, who had been captured by Washington at the Battle of Trenton. In 1846 these barracks had reached such proportions that they were capable of housing 2,000 men and caring for their horses. A cavalry school was maintained there until the Civil War, when the troops at that point were drawn into active service. About the close of the Civil War these barracks were used for the housing of Indian captives in charge of Capt. R. H. Pratt. In the late seventies or the early eighties there was conceived the idea of establishing and maintaining at that point a school for the industrial training of Indian boys and girls. The Government buildings were devoted to that purpose. The progress made in that Indian Industrial School at Carlisle is remarkable. It has become and now is the largest, most celebrated, most useful, and proportionately the least expensive of all the Indian schools. persons throughout the entire country most interested, and who have given the most studious thought and care to the welfare of the Indian, have watched with increasing pride and satisfaction the growth, progress, and increasingly useful career of this institution.

Separated from their tribal relations, the Indian pupils have taken a greater interest in acquiring useful knowledge, and have gained greater proficiency. The discipline of the institution is perfect, and the training there given them is of a plain, practical character, fitting them not only to be independent and to make their own living, but to be useful to the communities in which they may ultimately find employment and make their

homes.

The location of the school is ideal. The Government owns several hundred acres of land in the beautiful, fertile, and farfamed Cumberland Valley. The buildings are on the edge and, indeed, within the corporate limits of the peaceful, orderly, and attractive borough of Carlisle, and in the heart of as fine an agricultural country as may be found in the United States. The farmers thereabouts are sober, industrious, and thrifty people, setting good examples for the young Indians, many of whom are employed by them during the summer months, earning good wages in every variety of farm work. Although in the early days of the country the Indian depredations and outrages in that vicinity were almost without number, it has come to pass that the inhabitants look with extreme kindness upon these Indian boys and girls and the sentiment toward them is of the very best.

The Government buildings are adequate for the care of 1,200 to 1,500 pupils, but the average number maintanied is about 1,000. As the total appropriation carried by this bill for that school is only \$152,000, including the care of the buildings, the salary of the superintendent, repairs, and transportation, it will be seen that the average expense is \$152 per pupil, which in-

cludes, of course, food and clothing.

I have often been asked about the health of these Indians. We hear so much about the tendency of their race to tuberculosis. It speaks well for the healthful climate of Carlisle that there is less of that disease in that school than in any other Indian school in the country—in fact, it is almost unknown. Great care is taken against overcrowding of pupils in the dormitories; and then the outing system which prevails at Carlisle is a wonderful tonic, and outdoor life is, of course, a wonderful preventive of that dread disease.

As I have said, the discipline there is perfect. They have an auditorium holding about 1,200. I wish that every Member of Congress might be present on one of their commencement occasions and see the important changes which have been wrought in those young Indians—a larger proportion of them full blooded than is found in most Indian schools. No one who witnesses one of their commencements is ever in favor of abolishing the Carlisle School. The capacity of the young Indians for learning is quite remarkable. They have a brass band of about 50 pieces, which need not be ashamed to play in the presence of the Marine Band or any other similar organization. When I heard them on a recent occasion I marveled and told the instructor that there must be a lot of "ringers" them; but he assured me upon his honor that there was not one in the band who had been in the school for more than two years. and not one who had ever blown a horn before he came to the school. The wonderful marching and drilling of the Carlisle Indian cadets would be creditable to the cadets of West Point or Annapolis.

It is something of a tribute, not only to the training and discipline of the school, but also to the health-giving qualities of the pure air and water of the Cumberland Valley, that so many famed athletes are developed there. This country has never known a better baseball pitcher than Bender, or a better catcher than Myers—both Carlisle Indian pupils. In these latter days it has come to pass that the standing of an educational institution is judged largely by the success of its football team. Measured by that test, Carlisle stands in the front rank, for its team has at one time or another defeated the teams of nearly, if not quite, all the great universities. The greatest football player of all is Thorpe—pretty much a whole team all by himself—who so recently brought honor and glory not only to Carlisle but to the whole country at Stockholm, where, winning both the decathlon and pentathlon, he was officially declared the greatest all-round athlete in the world, and probably the greatest the world has ever known. His Carlisle colleague, Tewanima, also took great honors in that international

contest.

These young Indians are trained at Carlisle in almost every useful branch of industry. They art taught to make harness, to shoe horses, to build wagons, to lay brick, to cut stone, to make tables, stands, and chairs, to become tinners, carpenters, steam fitters, pipe fitters, and the like; they are taught to be farmers, to milk cows, to plow a straight furrow, to sow wheat, to mow, to reap, to husk corn, and to perform all the other industries known to farm life. The girls are taught to bake, to do laundry work, to do housework of all kinds, and to make their own dresses. They make splendid housekeepers. They are greatly in demand for domestic service. It seems to me that the education bestowed upon them is of the very best for them and best for the country, for it makes them self-sustaining, useful, and independent citizens. The most of the Carlisle pupils do not drift back to the reservations or to the tribes, but find occupation as farmers or in the mechanical trades. Thirty-four Carlisle Indians served in the Spanish-American War.

In the summer months they are permitted to hire themselves out to farmers and others. In that way they not only get healthful occupation, but they acquire practical and valuable experience in farming and they breathe in the healthful and pure air and drink the pure water of that far-famed valley. In this school they are taught frugality. One of the hardest things to teach an Indian is to save money. The Indian is always generous; there is no such thing as a stingy Indian. Here they are taught to be saving, and many of them have done wonderfully well in that regard. They are not permitted to use either liquor or tobacco. The institution is nonsectarian, but there are at Carlisle churches of all denominations, and the ministers are quite willing to take turns in preaching to these young people, so that their moral as well as their physical welfare is carefully looked after.

There has at times since I have been in Congress been great opposition to this school. One Commissioner of Indian Affairs was in favor of abolishing it entirely; another favored reducing it by one-half, and at one time the Senate Subcommittee on Indian Affairs unanimously agreed to a proposition to cut off the appropriation entirely after a stated period. Happily those views were not permitted to prevail, and at the present time there is a disposition to strengthen rather than to weaken or impair this useful institution. My successor, therefore, is not likely to have the troubles which have sometimes beset me in securing its requisite recognition in this appropriation bill. I trust that his experience and relations with the members of the Committee on Indian Affairs, as well as of the House generally, may always be as agreeable and as pleasant as mine have been and are, and that the time may be far distant when

the Carlisle School shall suffer at the hands of any governmental agency.

Mr. STEPHENS of Texas. Will the gentleman from South

Dakota use some of his time? Mr. BURKE of South Dakota. I was hoping that the gentle-

from Texas would consume some time. I understood he had one speech that would take about an hour. I was not intending to speak to-day.

Mr. STEPHENS of Texas. Then I will yield, Mr. Speaker, to the gentleman from Mississippi [Mr. Harrison] 40 minutes.

Mr. HARRISON of Mississippi. Mr. Chairman, I desire to speak upon House bill 19213, a bill introduced by me on February the 1st, this year, the purpose of which bill is to reopen the rolls of the Choctaw and Chickasaw Tribe, and to permit certain Mississippi Choctaws to be enrolled who are, I believe, justly

entitled to be put upon the rolls.

The reason why I speak now about this bill is because I expect at the proper time in the consideration of the pending Indian appropriation bill to offer it as an amendment. In presenting this bill at this time I will say it in no way reflects upon the subcommittee of the full Committee on Indian Affairs in this House to whom it was referred, because the subcommittee has held hearings upon the bill and given much attention to its consideration, and the delay in the report is due to no fault of the subcommittee, but I think the fault has been with the Indian Affairs Office in this city. For four or five months it was impossible to get the department to make its report on the bill, and it was only through persistent personal appeals to the department that they filed their opinion on the 2d of July following. I want to say, however, that I am informed that the subcommittee will make its report within the next week, and I have great hopes and reason to believe that it will be favorable.

Prior to 1830 there was a tribe of Indians that lived east of the Mississippi River, known as the Choctaw Tribe; they dwelt mostly in south and east Mississippi. As civilization progressed, the white people desired to move these Indians west, into lands that were afterwards known as the Indian Territory and now Oklahoma. It required almost every kind of argument to persuade this tribe to move out of Mississippi. They loved their native land, their hunting grounds, and revered their burying places. They were an agricultural people, and they wanted to remain in Mississippi, but the white people, as well as the Federal Government, desired to move them, and after every kind of appeal, as well as every kind of argument they finally persuaded the tribe to enter into the treaty of 1830, that permitted those Indians to move into Indian Territory who so desired, and those who wanted to remain in Mississippi and continue to reside there to do so. And I want to say in this connection that this treaty of 1830 would never have been consummated, and I dare say no Member of this House and no member of the Indian Affairs Committee will controvert the statement that the treaty would never have been entered into or agreed to by the tribe, had it not been for the insertion of the fourteenth article of that treaty. The fourteenth article was inserted exclusively for the benefit of the Indians who desired to remain in Mississippi. That article reads as follows:

sired to remain in Mississippi. That article reads as follows:

Each Choctaw head of a family, being desirous to remain and become a citizen of the States, shall be permitted to do so by signifying his intention to the agent within six months of the ratification of this treaty, and he or she shall thereupon be entitled to a reservation of one section of 640 acres of land, to be bounded by sectional lines of survey; in like manner shall be entitled to one-half that quantity for each unmarried child which is living with him, over 10 years of age, to join the location of the parent. If they reside upon such lands intending to become citizens of the States for five years after the ratification of this treaty, in that case a grant in fee simple shall issue. Said reservation shall include the present improvement of the head of the family, or a portion of it. Persons who claim under this article shall not lose the privilege of Choctaw citizens, but if they ever remove they shall not be entitled to any portion of the Choctaw annuity.

annuity.

Emissaries of the Federal Government, as shown by the history of this tribe prior to 1830, had held frequent conferences with the chiefs of the tribe in order to get every member of the tribe to agree to go into this Indian Territory and leave Mississippi. These agents of the Government used money, whisky, and food to accomplish their purpose, but there was such a desire among certain members of this tribe to remain in Mississippi that the fourteenth article of the treaty was inserted as a compromise-allowing those who would to leave Mississippi, and those who desired to remain could stay in Mis-

sissippi. To do so they need only follow the provisions of the fourteenth article of the treaty.

And so I take it that no one will take issue with me that the fourteenth article was included in the treaty for the sole purpose of allowing those Choctaws who desired to continue to live in Mississippi and make it their home, to go to the agent of the Government within six months and signify their intention to do so, and to take up their particular allotment of land

and continue to live thereon for five years, and by so doing that they lost none of their tribal relationship, and the only condition imposed in the fourteenth article was that should they ever remove out of Mississippi after they had availed themselves of the fourteenth article by signifying their intention to remain in Mississippi, they would then lose their interest in the Choctaw annuity. The Choctaw annuity was a very small the Choctaw annuity. The Choctaw annuity was a very small amount. So, I say, that whatever rights the Mississippi Choctaw of to-day is entitled to be gets by virtue of the fourteenth article of this treaty, and I lay it down as an incontrovertible fact that no act of Congress that has ever been passed since 1830 could abridge, change, or take away from the Mississippi Choctaw the rights guaranteed to him by the fourteenth article of that treaty.

The Indian tribe has never attempted to abridge or change in any way this particular treaty, but selfish lawyers representing the Choctaw Nation in the West have tried by persuasion, deception, and lobbying-I might say corruption, as revealed by the hearings had before the Committee on Indian Affairs of this House and of the Senate—to have legislation passed through the Congress of the United States that would take away from the Mississippi Choctaws the rights that are guaranteed to them under the fourteenth article of that treaty. other words, Mr. Chairman, every act of Congress that has been passed relative to the Mississippi Choctaw has been upon the assumption that they could not be enrolled unless they left Mississippi and went into Indian Territory, thus being forced to violate the very article they had demanded and ob-There is nothing in that provision that says that the Mississippi Choctaw shall ever have to leave Mississippi in order to continue to have his rights as a member of the tribe.

And every act of Congress that has been passed that committed them to the policy of having to remove out of Mississippi into Oklahoma was contrary to the provisions of the fourteenth article of the treaty. Now, after this treaty was made the United State. Government, in 1831, sent an agent of the United States by the name of Ward into Mississippi to allow these Mississippi Choctaws to signify their intention to remain under this article and to allow them to choose their allotment of land for residence and cultivation. The hearings reveal the fact that this man Ward, the agent of the Government, went into that Territory, and the former chairman of the committee [Mr. Burke] will remember the testimony relative to the acts of Ward. He got drunk, he was incompetent, he was careless, he would not enroll these people who were entitled to be enrolled, but used, on the other hand, every means in his power to prevent these Mississippi Choctaws from being placed on the rolls.

The United States Government, hearing of this agent's actions, sent a board of commissioners to investigate, and in part

their report says:

From the great mass of proof offered to the board, there can be no doubt of the entire unfitness of the agent for the station. His conduct on many occasions was marked by a degree of hostility to the claims calculated to deter the claimants from making application to him. His manner to the Indians coming before him for registration was often arbitrary, tyrannical, and insulting, and evidently intended to drive them west of the Mississippi against their will and in violation of the letter and spirit of the treaty.

The agent of the Government, Col. Ward, unfortunately so managed this business that it is left almost entirely to oral testimony to prove the names of those who applied for registration within the six months and the signification of their intention to remain and become citizens of the States. That he kept a book, about foolscap size, containing two or three quires of paper, and which was almost filled with the names of persons registered, is proved, and it is also proved that this book was afterwards partially torn up and used as shaving paper, etc.

After making these investigations and finding that this agent

After making these investigations and finding that this agent, Ward, was so incompetent and careless, and had acted so badly with respect to the Mississippi Choctaws, Congress passed a law known as the act of 1842, that provided for giving the Mississippi Choctaws that would at that day move to Indian Territory and join their brother Choctaws there, scrip, which scrip entitled them to go into Indian Territory and take up an allotment of land there. Many of the Mississippi Choctaws under this act were induced to leave Mississippi and move to the Territories by the agents of the Government, and 4,144, believe it was, signified their intention of coming under this scrip act. Notwithstanding the fact that the white people, through acts of Congress and emissaries and agents of the Federal Government, were using and had used every inducement and persuasive method to take from these unfortunates their homes and land in Mississippi, guaranteed to them under article 14 of the treaty of 1830, 4,000 of them still remained and lived in Mississippi in 1847. Various acts of legislation were passed, but none having any bearing on the case under discussion until 1893, when the Congress of the United States passed an act looking to the dissolution of the tribe and the distribution of the funds. They sent commis-

sioners into Oklahoma and Mississippi for the purpose of investigating that matter. Since 1893 only two acts that have any particular bearing on the Mississippi Choctaws have been passed by Congress, one, the act of 1898, known as the Curtis Act, and the other, the act of 1902, that might be styled the Mc-Murray Act. The act of 1898 gave to these Mississippi Choctaws the right they claimed under the treaty of 1830. latter part of that act reads as follows:

Said commission shall have authority to determine and identify the Choctaw Indians claiming rights in the Choctaw lands under article 14 of the treaty between the United States and the Choctaw Nation, September 27, 1830, and make report to the Secretary of the Interior.

In other words, by the Curtis Act of 1898 commissioners were sent into Oklahoma and into Mississippi to identify these Mississippi Choctaws for enrollment who came under article 14 of the treaty of 1830. The commissioners thought and every one familiar with Indian affairs was under the impression that that section meant identification for final enrollment. Acting under that, 4,192 Mississippi Choctaws were identified; but mark you, although these unfortunates traveled in many instances from Mississippi to Indian Territory and proved their right to be enrolled as members of the Choctaw Tribe, one of the many remarkable things in the history of their treatment and suffering is, that when the rolls were closed in March, 1907, the roll containing the names of these 4,192 unfortunates formed no part of the final rolls. In 1902 it appeared as though Congress was really going to do something for the Mississippi Choctaws, and so the McMurray Act was passed. I want to read it. It is the most adroit instrument, it is the most deceiving piece of legislation that was ever passed by any Congress. I look with complacency upon the smile of my good friend from Oklahoma [Mr. Davenport]. This act of Congress, it is said, was conceived by one of the attorneys representing the Choctaw Nation. It is said that one McMurray, of whom you read in the papers sometime ago in connection with Senator Gore, fathered the act, this man, member of the firm of Mansfield, McMurray & Cornish, who afterwards boasted and said:

As a matter of fact, I am willing to take the responsibility of almost all the Choctaw and Chickasaw people's doings during these years on the firm of Mansfield, McMurray & Cornish. There was hardly a bill affecting the general affairs that was passed we didn't O. K., and there never was a bill suggested by us that was not passed; so whatever there is in this work, good or bad, it rests upon us.

There is the statement in brazen language of Mr. McMurray. Not satisfied with dominating the tribe and obtaining legis-lation that would necessarily rob certain members of the tribe of their just rights, he must brag and display his talents before the world.

These expressions of his can be found in the testimony he gave in the Sixty-first Congress, third session (H. Rept. 2273, vol. 2).

He conceived the act of 1902. Let me read it to you. On a casual glance it would appear as if it were going to give these poor, distressed, needy people in Mississippi some relief, but it did not. This is the language of the act with reference to the Mississippi Choctaw:

Mississippi Choctaw:

Art. 41. All persons duly identified by the Commission to the Five Civilized Tribes under the provisions of section 21 of the act of Congress approved June 28, 1898 (30 Stat., 495) as Mississippi Choctaws entitled to benefits under article 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, may at any time within six months after the date of their identification as Mississippi Choctaws by the said commission, make bona fide settlement within the Choctaw-Chickasaw country, and upon proof of such settlement to such commission within one year after the date of the said identification as Mississippi Choctaws shall be enrolled by such commission as Mississippi Choctaws shall be enrolled by such commission as Mississippi Choctaws and said enrollment shall be final when approved by the Secretary of the Interior. The application of no person for identification as a Mississippi Choctaw shall be received by said commission after six months subsequent to the date of the final ratification of this agreement, and in the disposition of such application all full-blood Mississippi Choctaw Indians, and the descendants of any Mississippi Choctaw Indians, whether of full or mixed blood, who receive a patent to land under the said fourteenth article of the treaty of 1830, who had not moved to and made bona fide settlement in the Choctaw-Chickasaw country prior to June 28, 1808, shall be deemed to be Mississippi Choctaws entitled to benefits under article 14 of the said treaty of September 27, 1830, and to identification as such by said commission, but this direction or provision shall be deemed to be only a rule of evidence and shall not be invoked by or operate to the advantage of any applicant who is not a Mississippi Choctaw of the full blood, or who is not the descendant of a Mississippi Choctaw who received a patent to land under said treaty, or who is otherwise barred from the rights of clitzenship in the Choctaw Nation. All of said Mississippi Choctaws so enr

That act of Congress said that no person should be enrolled "whose ancestor had not received a patent from the Federal Government," and, mark you, because of the acts of this man Ward, the agent of the Government in 1831, there were only 143 patents issued to the Mississippi Choctaws under Article XIV. Notwithstanding the fact that over 4,000 Missis-

sippi Choctaws were entitled to patents and only 143 actually received them, this act provides that in order to be enrolled their ancestors are required to have actually received a patent. Is that fair, just, or right? The commissioner in 1833 reported the cases of 1,372 Mississippi Choctaws who had actually signified their intention to remain in Mississippi under the fourteenth article and had complied with the provisions of that article; and the evidence in various hearings afterwards showed that 4,144 of these people received scrip, and the scrip was issued in 1842 only to those who had remained in Mississippi after 1830 and signified their intention of taking up these lands in Mississippi under that article of the treaty. McMurray Act of 1902 those who desired enrollment must prove that their ancestors actually received a patent. If they confine it to that, it could only benefit the descendants of 143 people, when it is undisputed that 7,000 of them lived in Mississippi in 1842. But that is not all. The act goes further and says that, notwithstanding the fact that the descendants of these people could prove that their ancestors actually received a patent, that they must not remain in Mississippi and acquire the rights guaranteed to them by Article XIV of the treaty of 1830, but they must move into Indian Territory. By that provision in the act they absolutely nullified every intention of the treaty of 1830. But the McMurray Act did not stop there. It created what was known as a citizenship court. I dislike It created what was known as a citizenship court. I dislike to mention the name of citizenship court in the presence of my good colleagues from Oklahoma. They have heard the name of it so often in their fair State; they have heard of its scandalous and blackened history. The citizenship court was conceived by this man McMurray, who afterwards boasted how he passed it through this body. That court was created to exclude from the rolls the more fortunate Mississippi Choctaws who had been placed there. In other words, to exclude from the rolls those who had happened by favoritism or some way to get upon the rolls; and the hearings before the various committees of this House show that over 4,000 of them were excluded by this citizenship court.

Mr. BURKE of South Dakota. Will the gentleman yield?
Mr. HARRISON of Mississippi. Yes, sir.
Mr. BURKE of South Dakota. I would like to call the gen-

tleman's attention to a peculiar circumstance in connection with the act that he is now referring to-namely, that the sections of the act creating the citizenship court went into effect upon the approval of the act, while the balance of the act did not become law until it was voted upon and approved by the members of the tribes in Oklahoma.

Mr. HARRISON of Mississippi. Well, it afterwards became a law.

Mr. BURKE of South Dakota. I will repeat. The citizenshipcourt provision went into effect as soon as the act was approved. In other words, the Indians had no opportunity of proving or disproving that portion of it, while the main part of it did not become a law until they had approved it.

Mr. HARRISON of Mississippi. I understand. I am not surprised at that. Men like Mansfield, McMurray, and Cornish, who represented that tribe, could almost have made it do anything or pass any kind of an agreement through the tribe. am not surprised that they finally ratified these various articles that afterwards became the law. But the distinguished gentleman from South Dakota [Mr. Burke], who was formerly chairman of this important committee, remembers full well, as well at the other members of the Committee on Indian Affairs, the hearings which revealed the black history of the citizenship court, and how it excluded so many poor unfortunates from those rolls who were entitled to be enrolled.

It was created to review the final judgments of the United States circuit court, which court had admitted many of these Mississippi Choctaws to the rolls, and this newly created citizenship court was anthorized by the act to set aside such judgments if it should find either-

That the chiefs of both tribes (the Choctaw and Chickasaw) had not been notified of the appeal from the commission to the United States court, or that the United States court had heard on the appeal any additional testimony other than that submitted to the commission.

Now, everyone knew that both chiefs of both tribes had not been notified (and there was no reason why they should be), and everyone knew that additional testimony had been heard in many cases on appeal so that the passage of this act in effect set aside and nullified all of these judgments, for the reversal was certain of the judgment of the United States Circuit Court.

One other remarkable feature contained in this McMurray Act of 1902. It gave rise and wonderful opportunity to Mansfield, McMurray & Cornish to sue out injunctions and prevent being done for the unfortunate Mississippi Choctaw what apparently the act gave the right to do.

Under its provisions he might make bona fide settlement within the Choctaw-Chickasaw country within six months after identification, but he could not get any land upon which to settle until after he should be enrolled. How could he settle unless lands were given? The old method of identification by the tribe had been abandoned, and if the Mississippi Choctaw went into Choctaw-Chickasaw country he was liable to be ejected as an intruder because not on the tribal rolls, even if he went to Indian Territory for the mere purpose of identification. The "identification" was held by the Attorney General several years later not to be the identification by the commission, but the final approval by the Secretary of the Interior. I repeat the identification was held to be approved once by the Secretary of the Interior, and yet after the commission had "identified" a number of people and was preparing to enroll them, Mansfield, McMurray & Cornish secured an injunction against the commission enrolling them upon the ground that the "identification" had occurred more than six months prior to that time and that the claimants had not removed to and made settlement within the Indian country within the six months after This injunction was granted, and thus the said identification. claimants were shut off from settlement in the Territory and returned to Mississippi, although more than a year afterwards the Attorney General held that the "identification" contemplated was final "identification" by the Secretary of the Interior.

The persons affected by this injunction who were compelled to abandon their claims were never thereafter notified of a final identification by the Secretary of the Interior. They never thereafter had any opportunity to make settlement.

And so, Mr. Chairman, after requiring the Mississippi Choctaw, contrary to article 14 of the treaty of 1830, to remove to Indian Territory to take up lands there, you will see from this act it was impossible for him to do it. Under this act and the actions of Mansfield, McMurray & Cornish it was a case of "Be damned if you do and be damned if you don't."

I shall not go further into that act. But I would remind this House, Mr. Chairman, that there is one circumstance that explains the activity, shrewdness, and apparent ability of this remarkable firm of attorneys who represented the Choctaw Tribe from 1899 until the last three or four years, and that is, that in addition to a very large annual salary, they were paid certain fees for every person they prevented from being en-rolled, or excluded from the rolls. It is a sad commentary, indeed, that the Indian department and the Congress of the United States should ever have allowed people's rights squandered on a commission basis or in such an unpardonable and

Mr. Chairman, I repeat that the Congress of the United States has never dealt fairly or justly with the Mississippi Choctaws. Some one may say that the Mississippi Choctaws, by not moving into Oklahoma, lost their tribal relations. Surely no man who is posted on Indian affairs will controsurely no man who is posted on Indian arrairs will controvert the proposition that under article 14 of the treaty of 1830 they might not still continue to live in Mississippi and continue to be a part of the tribe. The article expressly states it: "Persons who claim under this article shall not lose the privilege of Choctaw citizens." They had as much right in the funds of the Choctaw Tribe as any man who lived in Oklahoma, and I would cite to those gentlemen who do not believe in that statement the fact that in the year 1881 the Congress of the United States passed a resolution giving to the Choctaw Nation in the West—that part of the Choctaw Tribe that lived in Indian Territory-a right to sue the United States Government for damages done to the Choctaw Tribe in Mississippi in violating article 14 of the treaty of 1830, etc.

And so the Choctaw Tribe in the West did enter suit against the United States for damages done to the Mississippi Choc--and, mark you, for damages done to the poor unfortunates for whom in part I plead at your hands to-day. Choctaw Tribe in Indian Territory sued for \$8,000,000, mostly because of Ward's action and because of the action of the other agents of the Federal Government in not enrolling these people in Mississippi and for defrauding them out of their scrip and lands. And, do you know, after taking volumes of testimony and listening to exhaustive legal arguments, that the United States Supreme Court awarded a judgment to the Choctaw Tribe living in Indian Territory for approxi-mately \$8,000,000? This judgment was paid to the Choctaw Nation in the West by the United States Government, and the amount of the judgment, less the costs of the suit, went into the funds of the Choctaw Tribe. It is now a part of the funds of the tribe. I say, Mr. Chairman, it is not fair, nor just. nor right for the Choctaw Nation in Indian Territory to obtain a judgment and collect it from the Government amounting to \$8,000,000 and put it into its treasury for damages done to the

Mississippi Choctaws, and then deny to the Mississippi Choctaws the right to be enrolled and share in those funds.

Oh, it may be said that to reopen these rolls will create an unsettled state in Oklahoma and that it might affect the titles to lands, and so on. My bill does not do anything like that. It does not propose to disturb the title to any piece of land in Oklahoma. In this particular the bill provides that these people shall have the right to go and prove, through some one whom the Government shall send there, that their ancestors in Mississippi received a patent under the fourteenth article of the treaty, or were entitled to receive a patent, and then when they can prove that and are enrolled they shall share in the fund that is now in the hands of the tribe and to the extent that the Indians in the past have gotten by virtue of their allotment of lands. It does not ask for any lands. It only seeks recompense in money; that is all. So that it will create none of that unsettled state that is spoken of. It is a matter of justice that I plead for to this committee, to allow me to present this bill and let it be voted for at the proper time in the consideration of the pending bill, and I appeal to my colleagues from Oklahoma not to make a point of order against my amendment.

Mr. McGUIRE of Oklahoma. Mr. Chairman, will the gentleman yield to me for a question?

Mr. HARRISON of Mississippi. I will.

Mr. McGUIRE of Oklahoma. Does the gentleman's amendment propose to put on the roll any Indians other than those residing in Mississippi? That is, would the Mississippi Choctaws now in Oklahoma be put upon the roll by that amendment that the gentleman proposes to offer?

Mr. HARRISON of Mississippi. My bill provides that for six months after its passage every person who can prove that his ancestor either received a patent under the fourteenth article of the treaty of 1830, or who was entitled to receive a patent under that article, can be enrolled.

It matters not whether he lives in Oklahoma, Texas, Louisiana, Mississippi, or elsewhere. I want to say right here that I have received many letters from parties interested in this matter, not only from my district, but from other States, in reference to this bill and asking for its passage.

Mr. CARTER. Will the gentleman yield? Mr. HARRISON of Mississippi. Certainly.

Mr. CARTER. Can the gentleman guarantee under his bill that conditions of the land itself and the allotments that have

been made would not be disturbed in Oklahoma?

Mr. HARRISON of Mississippi. I can not guarantee anything. All I can say is that my bill does not say that they shall get land, but they are to get a sum of money equal to double the appraised value of the allotment that the Choctaw Indians themselves now enrolled did receive, which would be \$2,080.

Mr. CARTER. I understand, but under the gentleman's proposition there would be not less than a hundred thousand applicants for enrollment, and if they were enrolled in any considerable number, the result would be that every allotment in Oklahoma might have to be canceled and sold in order to make the appropriate division of funds among them.

Mr. HARRISON of Mississippi. I would say in answer to that, that throughout all this time there has never been over 25,000 applications filed with the department. I do not care if there were 100,000, that would apply. I say that every man who has rights under article 14 of that treaty should be permitted to prove his rights, and if he does prove them, he is entitled to be enrolled, but I do not believe there would be over 4,000 or 5,000 who would actually get on the rolls.

Mr. CARTER. I am willing to discuss the merits of the case with the gentleman any time, but what I want to know now is how the gentleman is going to warrant that there would be no disturbance of land titles and canceling of patents in Oklahoma. If 20,000 applicants were enrolled, they could not be settled with by the undivided fund that the tribes now have on hand. Consequently they might have to go into the cancellation of allotments and the sale of the land already allotted and upon which patents have been issued.

Mr. HARRISON of Mississippi. In answer to the gentleman, I will say that it is quite an easy matter to say that if 20,000 should be enrolled, it is just as easy to say 100,000; that it is merely conjecture, but I am willing, in order to get my bill passed, to have a clause inserted that it shall not disturb land titles, and that only that amount of funds now on hand and funds to be derived from sale of surface lands and coal lands and other property belonging to the tribe shall be divided.

Mr. CARTER. The gentleman must be able to see the danger

that he would get into along that line with his bill.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. HARRISON of Mississippi. Certainly.

Mr. BURKE of South Dakota. Upon what basis do I understand the geutleman would pay these people that might be enrolled under his bill? As I understand, he proposes to pay them from the Choctaw and Chickasaw fund regardless of where it comes from. On what basis?

Mr. HARRISON of Mississippi. Here is the provision of the

bill; section 6 provides:

That there shall be paid to each person who enrolls under the provisions of this act such a sum of money out of the funds of the tribe as will equalize said person with the persons now upon the rolls for all distributions of money made to citizens and members of said joint tribe since 1893: Provided. That those enrolled under the provisions of this act shall not be entitled to nor receive any part of the Choctaw annuity existing under date of September 27, 1830, aforesaid: Provided further. That this act shall not apply to persons born since March 4. 1907 vided further. March 4, 1907.

Mr. BURKE of South Dakota. If I understood the gentleman correctly, he would first pay them from funds belonging to the tribes a sum of money equal to double the value of the allotments that were made to the Indians in Oklahoma who are now on the rolls.

Mr. HARRISON of Mississippi. Which was \$1,020. Mr. BURKE of South Dakota. Then in addition you would permit them to share in the funds the same as other members?

Mr. HARRISON of Mississippi. The same as other members.

Mr. BURKE of South Dakota. I would like to say, and I have given a good deal of thought to the subject, if this bill should become a law would it not result finally in a claim being made by these people upon the Federal Government to reimburse them for what they have lost by not being enrolled?

Mr. HARRISON of Mississippi. I do not think so at all.

As the gentleman knows, my bill does not ask at the hands of Congress any amount of money out of the Federal Treasury,

only out of the funds of the tribes.

Mr. BURKE of South Dakota. Does not the gentleman think that if it was taken from the tribal founds, as the bill proposes, that the tribes would later on present a claim to the United States to be reimbursed for the amount?

Mr. HARRISON of Mississippi. I think if they did it would

be an unjust claim and founded on no right.

Mr. BURKE of South Dakota. I think there is a question about it that ought to be considered.

Mr. McGUIRE of Oklahoma. Will the gentleman yield?
Mr. HARRISON of Mississippi. Certainly.
Mr. MoGUIRE of Oklahoma. I want to say to the gentleman that I have taken the same position he has taken, that there are many people left off the roll who should have been put on. Is it not a fact that it has been estimated by one Senator, at some time in the past, that the coal mines of these people, undivided tribal property, was worth \$4,000,000,000.

Mr. HARRISON of Mississippi. I do not recall, but I have seen an estimate varying from \$20,000,000 to \$100,000,000.

I would like to ask the gentleman from Mr. CARTER. Oklahoma [Mr. McGuire], who always sympathizes with any attempt to loot the Treasury for Oklahoma, if he would be willing to give for these lands out of the Federal Treasury onetenth of the amount that he says the distinguished Senator has mentioned.

Mr. McGUIRE of Oklahoma. Mr. Chairman, I will answer the gentleman by saying that I hope they are worth four billions of dollars, and my statement was simply that it had been estimated by one distinguished Senator that they were worth four billions of dollars. He and I, however, do not quite agree, although I have never made any estimate, and would not know how to proceed to make an estimate.

Mr. BURKE of South Dakota. What difference does it

make what they are worth?

Mr. HARRISON of Mississippi. An opinion was rendered by the department relative to my bill, and in part I want to read what the department says:

The report of the Commissioner to the Five Civilized Tribes for the year ending June 30, 1907, shows, on page 12, that 24,634 persons applied to the Commission to the Five Civilized Tribes for identification as Mississippi Choctaws under the acts of June 28, 1898, and July 1, 1902; that of this number 2,534 were identified as Mississippi Choctaws, and that of the number so identified 1,072 persons failed to remove to the Indian Territory and submit proof of their removal and settlement within the time required by law.

I wish to refer, in this connection, to my letter of April 22, 1912, relating to the general subject of enrollment, wherein I pointed out under the heading of "Class III" that there were approximately 10 cases where families of Mississippl Chectaws were identified by the department within the last six months prior to March 4, 1907—some of whom were identified within the last few days prior to said date—and that they were consequently deprived of the usual period of time allowed other Mississippl Chectaws under the agreement of 1902 for removal to the Choctaw-Chickasaw country. These 10 families are in a class by themselves, notwithstanding formal adjudication of their rights, they were prevented by the abrupt closing of the enrollment

work from taking advantage of the decisions which had been rendered in their favor.

As to the 10 families referred to above, it is unnecessary for me to discuss the matter of their enrollment herein, inasmuch as I have fully reported as to them in said report of April 22, 1912. With respect to the 1,670 persons who were identified as Mississippi Choctaws, but who failed to prove the facts of removal and settlement in the Choctaw and Chickasaw country, it may be said that irrespective of their unfortunate condition of poverty and ignorance, that there is grave question whether there is any just ground, legal or equitable, for holding the Choctaw and Chickasaw Nations responsible for their failure to comply with the law.

They are convinced that these rolls have excluded from them many worthy cases; and in that connection I think my good

friend from Oklahoma [Mr. Carter] has a bill introduced to put certain individuals on the rolls. Am I not right in that?

Mr. CARTER. No; I have not. I have a bill introduced for the readjudication of certain cases which did not seem to have sufficient adjudication when they were tried, and the gentleman will always find me ready and willing to adjudicate any real rights of bona fide Indians.

Mr. HARRISON of Mississippi. Yes. I think there are a great many in the same fix. They think the roll ought to be reopened, too, and the people entitled to be enrolled properly enrolled. The department speaks of 10 families that were properly identified but kept off the rolls.

The department by that opinion based its objection to my bill on the ground that these people, 1,070 persons, should not be enrolled, because they had not moved from Mississippi into Indian Territory. They overlooked the fact that the fourteenth article of the treaty of 1830 guaranteed to the Mississippi Choctaw the right to remain in Mississippi, to continue to cultivate his land, and live close to their burial places and accustomed hunting grounds. When the department says that these 1,070 people ought to be kept off the rolls because they had not moved into Indian Territory, I assert that they deny to them the rights guaranteed to them under article 14 of the treaty of 1830.

Mr. DAVENPORT. Mr. Chairman, will the gentleman yield? Mr. HARRISON of Mississippi. Certainly.

Mr. DAVENPORT. I would like to ask the gentleman if it is not a fact that since the treaty of 1830 was made the Supreme Court of the United States in what is known as the Cherokee trust fund held squarely that if the Indians desired to get the benefits of lands and moneys of the tribe they must remove within the tribe and share the burdens as well as the benefits.

Mr. HARRISON of Mississippi. The gentleman is exactly right, but in that treaty that the Cherokees based their right upon there was no insertion of a similar article like article 14, which said that any person who would go before an agent of the Government within six months and signify his intention to remain in Mississippi could do so, and it is because of that treaty upon which that case was based, which had no such article as the one I refer to, that the decision in the Cherokee case was rendered. I will ask the gentleman if that is not true?

Mr. DAVENPORT. No. The treaty made with the Cherokees had the same reservation. A number of them did remain and take allotments under practically the same language as

the Choctaw and Chickasaw treaty.

Mr. HARRISON of Mississippi. Do I understand the gentleman to say that under the fourteenth article of the treaty of 1830 that guaranteed to these Mississippi Choctaws the right to remain in Mississippi that they thereby lost their tribal relationship with the tribe by staying in Mississippi under that guarantee?

Mr. DAVENPORT. I say that the Supreme Court of the

United States so held, that they abandoned the tribal autonomy, and that until they reassumed it they had no right to participate in land or tribal benefits.

Mr. HARRISON of Mississippi. I know the gentleman is

mistaken in that.
Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. HARRISON of Mississippi. Yes.

Mr. CARTER. On what particular language in the fourteenth article does the gentleman base his contention that Indians may stay in Mississippi and still participate in tribal benefits?

Mr. HARRISON of Mississippi. I will read it.

Each Choctaw head of a family, being desirous to remain and become a citizen of the State, shall be permitted to do so by signifying his intention to the agent within six months of the ratification of this treaty, etc.

If that is not a clear reservation, then language is not strong enough to make it plain to the gentleman.

Mr. CARTER. How about the closing part of that very article which says:

But if they have removed, shall not be entitled to any portion of the Choctaw annuity. What removal is contemplated by that language?

Mr. HARRISON of Mississippi. If they moved out of Mississippi, after signifying their intention of taking advantage of article 14 of the treaty, they then gave up their right to share in the annuity. The annuity was a certain fund which the Choctaw Nation derived from the sale of certain lands. It was very small

Mr. CARTER. But what removal was contemplated by that

language-to what country!

Mr. HARRISON of Mississippi. It meant they could not share in the Choctaw annuity if they moved into the Indian Territory; that they then lost their share in the Choctaw annuity, which was a very small amount.

Mr. CARTER. So that the very treaty on which the gentle-

man bases these rights had in contemplation the fact they must

move to Indian Territory before they acquired any rights?

Mr. HARRISON of Mississippi. There is nothing that gives that construction at all; and I want to say to the gentleman from Oklahoma that prior to the treaty of 1830—and I think the distinguished gentleman, the chairman of the subcommittee [Mr. Russell], will bear me out, as well as the other members of that subcommittee [Mr. MILLER and Mr. SMITH of New York]—that in the state papers it shows that many conferences were held prior to 1830 between emissaries of the Federal Government and the Choctaw Nation in order to get the whole tribe to move west, and the tribe would never have entered into this treaty had it not been for the insertion of this article that gave them the right to remain there. I think the gentlemen will bear me out in that. All the evidence shows that, and all the history of the tribe reveals that fact. They never would have had the treaty made had it not been for the insertion of that article; and now, when under a solemn pact of a treaty these rights were given to these Indians, Congress passes acts after-wards which say, "You have got to go to the Indian Territory if you want to continue the tribal relations." Ah! Mr. Chairman, the Choctaw Indians in the West were glad indeed to claim their brothers living in Mississippi by virtue of the fourteenth article in 1881 and 1886, when they sought from the United States Government \$8,000,000 to go into their treasury for damages done to the Mississippi Choctaws living in Mississippi. The question of tribal relationship was all right then, because they were getting something; but to-day, when these unfortunates demand their rights to share in these funds, they are told, "Get thee away; you are no part of our tribe."

The CHAIRMAN. The time of the gentleman from Missis-

sippi has expired.

Mr. HARRISON of Mississippi. I would like to have five

minutes more.

Mr. STEPHENS of Texas. I yield to the gentleman five

minutes additional.

Mr. HARRISON of Mississippi. Gentlemen, I wish I could go further into this matter. I know that these people have been grossly mistreated. They have been needlessly neglected at the hands of the Federal Congress. It is not necessary for me to state to you that the Mississippi Choctaw is a part of that great tribe of Indians that never raised a tomahawk against a white man. Always and on all occasions they were at peace with the white people. It is the tribe of Indians that sent 700 of their brave warriors to fight with the whites when the Natchez, that barbarous and warlike tribe along the Mississippi, rose up against the whites; the tribe that sent 30 of its braves to fight under "Mad" Anthony Wayne at Stony Point; that sent thousands of its brave warriors to battle under Jackson at New Orleans; that joined the whites against the Creeks and Seminoles-a tribe that at all times have been the friends of the white people; a tribe that produced that great Indian chief and warrior of whom it is said had neither father nor mother, but that on one occasion the lightning flashed and a bolt struck a tall pine, and from its splintered trunk sprang Pushmataha. And to-day, in speaking of these people of which the Mississippi Choctaw forms a part, no words of mine could better portray the good and true character of these people than the words uttered nearly a hundred years ago by this great and distinguished Indian chief when on his last visit to this Capital City he used these words in speaking to the President of the United States in behalf of his people:

Father—I have been here some time. I have not talked; have been sick. You shall hear me talk to-day. I belong to another district. You have no doubt heard of me; I am Pushmataha.

Father—When in my own country, I often looked towards this Council House, and wanted to come here. I am in trouble. I will tell my distresses. I feel like a small child, not half as high as its father, who comes up to look in his father's face, hanging in the bend of his arm, to tell him his troubles. So, Father, I hang in the bend of your arm and look in your face, and now hear me speak.

Father—When I was in my own country, I heard there were men appointed to talk to us. I would not speak there; I chose to come here and speak in this beloved House. I can boast, and say, and tell the truth that none of my fathers or grandfathers, nor any Choctaw ever drew bows against the United States.

They have always been friendly. We have held the hands of the United States so long that our nails are long, like birds' claws, and there is no danger of their slipping out. My nation has always listened to the applications of the white people. They have given of their lands until it is very small. I came here when a young man to see my father—Jefferson. He told me if ever we got in trouble we must run and tell him. I am come.

And, Mr. Chairman, shortly after he made this appeal in behalf of his people, the Mississippi Choctaws, he was taken sick. He died in this city. His last request was, "When I am gone let the big guns be fired over me." They were fired over him, and in yonder Congressional Cemetery he lies. Upon his tombstone is written these simple words:

Pushmataha, a Choctaw chief, lies here. He was a warrior of great distinction. He was wise in counsel, eloquent in an extraordinary degree, and on all occasions and under all circumstances the white

man's friend.

And to-day, even though Pushmataha has long since gone to the happy hunting ground, his spirit still lives and animates the breasts of the scattered remnant of his race in the land of his nativity, and, methinks, if he were present to-day he would appeal to his white father in yonder White House, to his brethren in Oklahoma, to his white friends in this Chamber, and say, "Give to the Mississippi Choctaws the rights guaranteed to them under the fourteenth article of the treaty of 1830." [Applause.]

Mr. STEPHENS of Texas. Does the gentleman on the other

side wish an hour at this time?

Mr. MANN. I would suggest to the gentleman that we have had a rather strenuous day, and it is now 5 o'clock. There is no one here on this side, and I hope the gentleman will move to rise.

Mr. STEPHENS of Texas. Mr. Chairman, it is evident there is no quorum present, but I would like very much to close the general debate if possible, so that we can take up the bill to-

morrow under the five-minute rule.

Mr. MANN. Well, Mr. Chairman, I think there will be no extended general debate. I desire a little time myself in general debate, and I know the gentleman from South Dakota [Mr. BURKE | does. I think there are some others on both sides, possibly, who will desire time. And the gentleman must understand that there was no general debate, or practically none, on the legislative bill.

Mr. STEPHENS of Texas. Can we agree upon some time? I would like very much to do so. When the House meets in the morning we could agree upon an hour on a side, or something

of that kind.

Mr. MANN. We may agree; but I think we will want more

than an hour on this side.

Mr. BURKE of South Dakota. Mr. Chairman, I want to be entirely fair to the gentleman in charge of the bill, and to state that what I have to say will be upon the bill, and I think there will be gentlemen on that side of the House who will probably want some time. I hope to be able to call attention to a few things that I think certain people will wish to reply to. And I doubt if it would be wise for an agreement to be made, inasmuch as 45 minutes have been consumed on that side of the House, which was debate, but which did not refer directly to

Mr. STEPHENS of Texas. Would the gentleman be willing to continue in session half an hour, so that this last speech could be replied to if there is any desire to do it?

Mr. BURKE of South Dakota. I do not object to that if they

want to use some time on that side, but I do not care to go on this evening.

Mr. STEPHENS of Texas. I will ask the gentleman from Oklahoma [Mr. Carter] whether or not he desires to reply to any remarks that have been made here this evening?

Mr. CARTER. I may want 20 or 30 minutes.

Mr. STEPHENS of Texas. I desire that the gentleman would reply at the present time. I would like to have you go ahead to-night.

Mr. MANN. Does the gentleman wish to reply to-night?

Mr. CARTER. I would like to do it to-morrow. Mr. STEPHENS of Texas. Then, Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HULL, Chairman of the Committee of the Whole House on the state of the Union, reported that the committee had had under consideration the bill H. R. 26874, the Indian appropriation bill, and had come to no resolution thereon.

ANNA FINK.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of the following privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution. The Clerk read as follows:

House resolution 737 (H. Rept. 1273)

Resolved, That there shall be paid, out of the contingent fund of the House, to Anna Fink, widow of James Fink, deceased, late messenger in the House of Representatives, an amount equal to six months of his salary as such messenger, and an additional amount, not to exceed \$250, to pay the funeral expenses of said James Fink.

Mr. LLOYD. Mr. Speaker, Mr. Fink was a messenger to the Doorkeeper. He died during the summer, and this is the usual allowance that is made for the widow of an employee.

The SPEAKER. The question is on agreeing to the resolu-

tion

The resolution was agreed to.

FOLDING OF SPEECHES.

Mr. LLOYD. Mr. Speaker, I also offer another privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 723 (H. Rept. 1272).

Resolved, That the Doorkeeper be, and he is hereby, authorized to expend the sum of \$2,000 for folding speeches, at the rate of not exceeding \$1 per thousand, to be paid out of the contingent fund of the House.

Mr. MANN. Mr Speaker, may I ask what is the occasion

Mr. LLOYD. We need this money for the folding of speeches that may be delivered hereafter. The fund is exhausted for that particular purpose.

Mr. MANN. All of the appropriation for that purpose was

used?

Mr. LLOYD. Yes, sir.
The SPEAKER. The question is on agreeing to the reso-Intion.

The resolution was agreed to.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on Interstate and Foreign Commerce was discharged from the further consideration of House Executive Document No. 1158, and the same was referred to the Committee on Agriculture.

ADJOURNMENT.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 2 minutes p. m.) the House adjourned until Friday, December 13, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on saving to be effected by rapid prosecution of work on Dalles Celilo Canal, Oreg. and Wash. (H. Doc. No. 1161); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on examination of Hudson River, N. Y., with a view to securing increased depth (H. Doc. No. 1160); to the Committee on Rivers and

Harbors and ordered to be printed, with illustrations

3. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, report on survey of Ohio River, Ohio and W. Va., with a view to the selection of sites for additional locks and dams between Lock No. 8 and Lock No. 29, including the last-named lock, and for the preparation of plans and estimates (H. Doc. No. 1159); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

4. A letter from the Secretary of the Treasury, recommending that the urgent deficiency bill provide that the incidental and contingent expenses of the refinery in the San Francisco Mint for the fiscal year 1913 may be paid from the appropriation "Contingent Expenses, San Francisco, 1913" (H. Doc. No. 1162); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting a combined statement of the receipts and disbursements of the Government for the fiscal year ended June 30, 1912 (H. Doc. No. 943); to the Committee on Appropriations and ordered to be

6. A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of the certificate of the final ascertainment of electors appointed in the State of Maine for President and Vice President at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were thereupon referred as follows:

A bill (H. R. 25919) granting a pension to Francis I. Helm, alias Francis Boyd; Committee on Invalid Pensions discharged,

and referred to the Committee on Pensions.

A bill (H. R. 26978) granting a pension to Genovefa Gronnert; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 15319) granting an increase of pension to Giles Woolsey; Committee on Invalid Pensions discharged, and

referred to the Committee on Pensions.

A bill (H. R. 25724) granting a pension to Oscar Grear; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials

were introduced and severally referred as follows:

By Mr. LEVY: A bill (H. R. 27139) to amend the national banking laws; to the Committee on Banking and Currency.

By Mr. RAKER: A bill (H. R. 27140) authorizing the War Department to station Federal troops in the national forests during certain times of each year, and for other purposes; to the Committee on Military Affairs.

Also, a bill (H. R. 27141) making an appropriation for the investigation and improvement of walnuts and walnut trees and methods of walnut production, and for other purposes; to the

Committee on Agriculture.

Also, a bill (H. R. 27142) making an appropriation for experiments and investigations and determining methods for the ferreting out and prevention of offenses committed against the property of permittees within the national forests, and for other purposes; to the Committee on Agriculture.

Also, a bill (H. R. 27143) making an appropriation for the investigation, study, and testing sage brush and grease wood, which may be used for producing rubber, and for other pur-

poses; to the Committee on Agriculture.

Also, a bill (H. R. 27144) authorizing the use of the reclamation funds in the construction of a bridge across Willow Creek, in Modoc County, Cal., and for other purposes; to the Commit-

By Mr. BROWNING: A bill (H. R. 27145) amending section 1 of the act of May 11, 1912, relating to pension of Civil War soldiers and sailors; to the Committee on Invalid Pensions.

By Mr. COX of Indiana: A bill (H. R. 27146) to pay the wives and children a part of the salary of enlisted men in the Army and Nayy etc.; to the Committee on Military Affairs.

Army and Navy, etc.; to the Committee on Military Affairs.

Also, a bill (H. R. 27147) to increase the limit of cost for the construction of the Federal building at New Albany, Ind.; to

the Committee on Public Buildings and Grounds.

By Mr. MOON of Tennessee: A bill (H. R. 27148) making appropriations for the service of the Post Office Department for the fiscal year-ending June 30, 1914, and for other purposes; to the Committee of the Whole House on the state of the Union.

By Mr. WATKINS: A bill (H. R. 27149) to carry into effect the provisions of the act of Congress forming the Public Health Service by providing penalties for the pollution of the navigable streams and waters of the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. GRAHAM: A bill (H. R. 27150) to authorize the Chicago, Peoria & St. Louis Railway to construct, maintain, and operate a bridge across the Illinois River at or near the city of Havana, Ill.; to the Committee on Interstate and Foreign Commerce

By Mr. SIMMONS: A bill (H. R. 27151) making it unlawful for any society, order, or association to send or receive through the mails certain matter, and for other purposes; to the Com-

mittee on the Post Office and Post Roads.

By Mr. DIES: A bill (H. R. 27152) to authorize the purchase of a site for a public building at Orange, Tex.; to the Committee

on Public Buildings and Grounds.

By Mr. RODENBERG: A bill (H. R. 27153) to erect an extension to the post office and Federal court building at East St. Louis, Ill., and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. MORGAN of Louisiana: A bill (H. R. 27154) authorizing a survey of a certain portion of Lake Pontchartrain, in

Louisiana; to the Committee on Rivers and Harbors

Also, a bill (H. R. 27155) authorizing a survey of Pearl River from Bogalusa, La., to Columbia, Miss.; to the Committee on Rivers and Harbors

By Mr. LAWRENCE: A bill (H. R. 27156) authorizing the Secretary of War to donate to the town of Adams, Mass., one

bronze or brass cannon or fieldpiece; to the Committee on Military Affairs

By Mr. PRINCE: A bill (H. R. 27157) granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois; to the Committee on Interstate and Foreign Commerce.

By Mr. OLDFIELD: A bill (H. R. 27158) to prevent the sale of boots and shoes as of leather construction when other material is substituted therefor in manufacture, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PETERS (by request): A bill (H. R. 27159) prohibiting officers or directors of a national bank receiving fees, brokerage, commissions, gifts, or other considerations; to the

Committee on Banking and Currency.

By Mr. RAINEY: A bill (H. R. 27160) to provide for a site and public building at Havana, Ill.; to the Committee on Public

Buildings and Grounds.

Also, a bill (H. R. 27161) to provide for a site and public building at Jerseyville, Ill.; to the Committee on Public Buildings and Grounds.

By Mr. GOEKE: Resolution (H. Res. 746) authorizing the printing of 2,000 copies of Senate Document No. 10, Sixty-second. Congress; to the Committee on Printing,

By Mr. BARTHOLDT: Joint resolution (H. J. Res. 370) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. HULL: Joint resolution (H. J. Res. 371) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows: By Mr. ALEXANDER: A bill (H. R. 27162) for the relief of

William Roney; to the Committee on War Claims. By Mr. ALLEN: A bill (H. R. 27163) granting a pension to Herbert Montgomery; to the Committee on Invalid Pensions. By Mr. CARTER: A bill (H. R. 27164) for the relief of Mrs.

E. B. Ainsworth; to the Committee on Indian Affairs.

By Mr. CRAVENS: A bill (H. R. 27165) granting a pension to Elizabeth Farley; to the Committee on Invalid Pensions.

By Mr. CULLOP: A bill (H. R. 27166) granting an increase of pension to Hannah Reeves; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27167) granting an increase of pension to John Keene; to the Committee on Invalid Pensions.

By Mr. DENVER: A bill (H. R. 27168) granting an increase of pension to Stephen G. Lindsey; to the Committee on Invalid Pensions.

By Mr. DODDS: A bill (H. R. 27169) granting a pension to Alice G. Morse; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27170) granting an increase of pension to Julia A. Moffatt; to the Committee on Invalid Pensions.

By Mr. DONOHOE: A bill (H. R. 27171) granting a pension to Anna Jones; to the Committee on Pensions.

By Mr. FOSTER: A bill (H. R. 27172) granting an increase of pension to Washington E. Carothers; to the Committee on Invalid Pensions.

By Mr. FRANCIS: A bill (H. R. 27173) granting a pension to Eloise McKee; to the Committee on Invalid Pensions.

By Mr. HAMILTON of West Virginia: A bill (H. R. 27174)

granting an increase of pension to Gideon Mason; to the Committee on Invalid Pensions.

By Mr. HAMMOND: A bill (H. R. 27175) granting an increase of pension to Delia Case; to the Committee on Invalid Pensions.

By Mr. HULL: A bill (H. R. 27176) granting an increase of pension to Harmon L. Jones; to the Committee on Pensions.

By Mr. JOHNSON of Kentucky: A bill (H. R. 27177) for

the relief of the trustees of Bloomfield Lodge, No. 57, Ancient Free and Accepted Masons, of Bloomfield, Ky.; the trustees of the town of Bloomfield, Ky.; and the trustees of the Bloomfield graded common schools of Bloomfield, Ky.; to the Committee on War Claims

By Mr. KENNEDY: A bill (H. R. 27178) granting an increase of pension to William Thornburg; to the Committee on Invalid Pensions.

By Mr. LANGHAM: A bill (H. R. 27179) granting an increase of pension to Elizabeth Stiles; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27180) granting an increase of pension to Ephraim N. Ritchey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27181) granting an increase of pension to Harvey Haugh; to the Committee on Invalid Pensions.

By Mr. MANN: A bill (H. R. 27182) granting a pension to Marie Soucie; to the Committee on Invalid Pensions.

By Mr. MARTIN of Colerado: A bill (H. R. 27183) granting a pension to Harry Biggs; to the Committee on Pensions.

By Mr. MOON of Tennessee: A bill (H. R. 27184) granting an increase of pension to Jesse M. Pirkle; to the Committee on

By Mr. MORGAN of Louisiana: A bill (H. R. 27185) granting an increase of pension to Willard W. Mitchell; to the Committee on Pensions.

By Mr. PADGETT: A bill (H. R. 27186) for the relief of S. A.

Wilson; to the Committee on War Claims.

By Mr. PALMER: A bill (H. R. 27187) granting an increase of pension to Frank B. Carey; to the Committee on Invatid Pensions:

By Mr. PORTER: A bill (H. R. 27188) granting an increase of pension to Joseph L. Evans; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27189) granting an increase of pension to Benjamin M. Clark; to the Committee on Invalid Pensions. By Mr. POST: A bill (H. R. 27190) granting an increase of

pension to Samuel C. Howell; to the Committee on Invalid Pen-

Also, a bill (H. R. 27191) granting an increase of pension to W. H. Nichols; to the Committee on Invalid Pensions.

By Mr. SIMMONS: A bill (H. R. 27192) granting an increase of pension to Otto C. Fredericks; to the Committee on Pensions.

By Mr. SIMS: A bill (H. R. 27193) for the relief of the legal representatives of William Goad, deceased; to the Committee War Claims.

By Mr. SPEER: A bill (H. R. 27194) granting an increase of pension to Lester W. Bacon; to the Committee on Invalid Pen-

Also, a bill (H, R. 27195) granting an increase of pension to Charles Dalrymple; to the Committee on Invalid Pensions. By Mr. SWEET: A bill (H. R. 27196) granting an increase

of pension to Mary P. Pierce; to the Committee on Invalid Pensions.

By Mr. TALCOTT of New York: A bill (H. R. 27197) granting an increase of pension to Charlotte E. Crowell; to the Committee on Invalid Pensions.

By Mr. TOWNSEND: A bill (H. R. 27198) granting an increase of pension to James McMahon; to the Committee on Invalid Pensions.

By Mr. UNDERWOOD: A bill (H. R. 27199) granting a pension to William T. Melton; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALEXANDER: Papers to accompany bill for relief of William Roney; to the Committee on War Claims.

By Mr. ASHBROOK: Petition of A. Cornett and 7 other merchants of Port Washington, Ohio, asking that Congress increase the power of the Interstate Commerce Commission relative to express companies; to the Committee on Interstate and Foreign

By Mr. CURLEY: Resolutions of the Boston City Council, protesting against price of coal and manner of shipment; to the Committee on Interstate and Foreign Commerce.

By Mr. DYER: Petitions of Hugh K. Wagner, Cal. M. Shoenberg, and George J. Tansey, of St. Louis, Mo., favoring the purchase of suitable buildings in which the embassies of the United States may conduct the business of this country; to the Committee on Foreign Affairs.

Also, petition of Aaron Waldheim, against the Dillingham immigration bill; to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH: Petitions of sundry citizens of Wisconsin, protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. FITZGERALD: Resolution of the State Camp of New York, Patriotic Order Sons of America, favoring immigration bill passed in Senate last April relative to illiteracy test for immigrants; to the Committee on Immigration and Naturaliza-

Also, resolution of the New York Camp of the Patriotic Order Sons of America, favoring legislation relative to immigration; to the Committee on Immigration and Naturalization.

Also, resolutions of the Lake Michigan Sanitary Association, urging an appropriation of \$300,000 for the purpose of making an investigation of the extent of the pollution of the lake waters and of the injury inflicted upon the health and the safety of the population of the lake region, \$25,000 of which amount is to be appropriated for the investigation of Lake Michigan; to the Committee on Appropriations.

By Mr. FULLER: Petition of the Farmers' Educational and Cooperative Union of America, favoring the Dillingham immi-

gration bill; to the Committee on Immigration and Naturaliza-

By Mr. GARRETT: Papers to accompany bill (H. R. 27091) for the relief of the estate of Mrs. Rebecca Dungan, deceased; to the Committee on War Claims.

Also, papers to accompany bill (H. R. 27092) for the relief

of William Grant; to the Committee on War Claims.

By Mr. GREGG of Pennsylvania: Petitions of sundry citizens of Irwin, West Newton, Jeannette, Greensburg, and Scottsdale, Pa., favoring the regulation of express rates and express classifications by the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. GRIEST: Resolutions of the State Council of Pennsylvania, Order of Independent Americans, and of the Pennsylvania Camp, Patriotic Order Sons of America, urging enactment of legislation in conformity with the provisions of the Dillingham bill (S. 3175); to the Committee on Immigration and

Naturalization.

By Mr. HAMMOND: Resolution of the Minnesota State Forestry Board, favoring Federal cooperation in forest-fire prevention; to the Committee on Appropriations.

Also, petitions from citizens of the second congressional district of Minnesota, protesting against parcel-post legislation;

to the Committee on the Post Office and Post Roads

By Mr. HOWELL: Petitions of sundry citizens of Utah, favoring the regulation of express rates by the Interstate Commerce Commission; to the Committee on Interstate and Foreign

By Mr. HANNA: Petition of E. E. Matteson and others, of Coal Harbor; of H. P. Cooper and others, of the federated churches of Casselton; of Martin Romstad and others, of Hatton; of Rev. F. W. Gress and others, of Beach; of Oluf Aune and others, of Reynolds and Buxton; and of C. E. Stinson and O. Hungness and others, all in the State of North Dakota, favoring passage of Kenyon bill (S. 4043); to the Committee on the

Judiciary.

By Mr. MOON of Tennessee: Papers to accompany bill for the relief of Jesse M. Pirkle; to the Committee on Invalid Pensions. Also, papers to accompany bill for the relief of James H.

Pack (H. R. 27116); to the Committee on Invalid Pensions. By Mr. NEELEY: Petition of citizens of Kiowa County, Kans. and of citizens of Ness County, Kans., requesting the passage of Kenyon-Sheppard bill; to the Committee on the Judiciary.

By Mr. REYBURN: Petitions of sundry citizens of Philadelphia, Pa., favoring the Dillingham immigration bill; to the

Committee on Immigration and Naturalization.

Also, petition of the Jewish Community of Philadelphia, Pa., remonstrating against further restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. SIMS: Petitions of sundry citizens of Tennessee, favoring the regulation of express rates and express classifications by the Interstate Commerce Commission; to the Com-

mittee on Interstate Commerce Commerce.

By Mr. SPARKMAN: Memorial of citizens of Hillsboro County, Fla., in favor of Kenyon bill (S. 4043); to the Commit-

tee on the Judiciary.

By Mr. VARE: Petition of Alva B. Johnson, president Baldwin Locomotive Works, and 205 other business firms and individuals of Philadelphia, Pa., in favor of the proposed 1,700-foot dry dock at the Philadelphia Navy Yard; to the Committee on Rivers and Harbors.

Also, resolutions of South Philadelphia Business Men's Association, in favor of the 1,700-foot dry dock at the Philadelphia

Navy Yard; to the Committee on Naval Affairs.

SENATE.

FRIDAY, December 13, 1912.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D. THOMAS H. PAYNTER, a Senator from the State of Kentucky, appeared in his seat to-day.

The Journal of yesterday's proceedings was read and approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate communications from the Secretary of State, transmitting, pursuant to law, authentic copies of the certificates of official ascertainment of electors for President and Vice President in the States of Delaware, Georgia, Indiana, Maine, Maryland, Minnesota, New Hampshire, Oklahoma, Oregon, Vermont, and Virginia at the elections held therein on November 5, 1912, and furnished by the governors of these States, which were ordered to be filed.

NOBEL PEACE PRIZE.

The PRESIDENT pro tempore laid before the Senate the following communication from the Secretary of State, which was read | Quincy; No. 335, of Danville, and No. 364, of Rock Island, In-

and, with the accompanying papers, referred to the Committee on the Library:

DEPARTMENT OF STATE, Washington, December 11, 1912.

The President PRO TEMPORE OF THE UNITED STATES SENATE.

SIR: At the request of the secretary of the Nobel committee of the Norwegian Parliament, I have the honor to transmit, for the information of the Senate of the United States, a copy of a circular issued by the Nobel committee, furnishing information as to the distribution of the Nobel peace prize for the year 1913. I have the honor to be, sir, Your obedient servant,

[SEAL.]

P. C. KNOX.

Inclosure as above.

FRENCH SPOLIATION CLAIMS.

The PRESIDENT pro tempore laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting findings of fact and conclusions of law and opinion filed under the act of January 20, 1885, in the French spoliation claims set out in the annexed findings by the court relating to the vessel brig *Philanthropist*, master, Forrest Richardson (H. Doc. No. 1140), and the vessel ship *Asia*, master, Edward Yard (H. Doc. No. 1135), which, with the accompanying papers, were referred to the Committee on Claims and ordered to be printed.

He also laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting the findings of fact and conclusions of law filed under the act of January 20, 1885, in the French spoliation claims set out in the annexed findings by the court relating to the following causes

Vessel schooner Lucy, master, Eliakim Benham (H. Doc. No.

1142):

Vessel brig Abby, master, Harding Williams (H. Doc. No. 1138);

Vessel sloop Orpha, master, John Annable (H. Doc. No. 1132); Vessel schooner Rising States, master, Daniel Bradford (H. Doc. No. 1145);

Vessel schooner Two Brothers, master, Isaac Lockwood (H. Doc. No. 1141);

Vessel schooner Commerce, master, Samuel Freeman (H. Doc. No. 1143)

Vessel brig George, master, Richard Quirk (H. Doc. No. 1136); Vessel schooner Betsey, master, George Vincent (H. Doc. No. 1147):

Vessel schooner Dolphin, master, Nathaniel H. Downe (H. Doc. No. 1148)

Vessel brig Peggy, master, Nathaniel Small (H. Doc. No. 1139);

Vessel schooner Belisarius, master, William Bartlett (H. Doc. No. 1149)

Vessel schooner Lion, master, Peter Frazier (H. Doc. No.

1146): Vessel schooner Kitty, master, Ezra Finney (H. Doc. No.

1144); Vessel ship Louisa, master, John Clarke, jr. (H. Doc. No.

1133); Vessel dogger Neptune, master, Frederick William Bargum (H. Doc. No. 1131)

Vessel ship Hunter, master, William Whitlock (H. Doc. No. 1134); and

Vessel brig Mars, master, Thomas Buntin (H. Doc. No. 1137). The foregoing causes were, with the accompanying papers, referred to the Committee on Claims and ordered to be printed. PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a resolution adopted by the executive committee of the Woman's Christian Temperance Union of the District of Columbia, requesting the printing of as many copies as may be printed without a concurrent resolution, of Senate Document No. 435 on "The Iowa Injunction and Abatement Law," Sixty-second Congress, second session, with the Kenyon injunction bill (S. 5861) added thereto, which was referred to the Committee on Printing.

Mr. GRONNA presented petitions of sundry citizens of Sterling, Williston, Bathgate, Neche, Steele County, Benson County, Ramsey County, Milnor, Adams. Nelson County, Finley, Ryder, Makoti, Fargo, Traill County, Edgeley, Ellendale, and Sharon, and of the Woman's Christian Temperance Unions of Fargo and Buxton, all in the State of North Dakota, praying for the passage of the so-called Kenyon interstate liquor bill, which were

ordered to lie on the table.

Mr. CULLOM presented petitions of the Woman's Christian Temperance Unions of Richland County, Clay County, Monmouth, Palmer Park, Granite City, and Washington, and of sundry citizens of Lebanon, Carrier Mills, Polo, and Monmouth, all in the State of Illinois, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were

ordered to lie on the table.

He also presented memorials of Local Unions No. 39, of

ternational Union of the United Brewery Workmen, all in the State of Illinois, remonstrating against the passage of the socalled Kenyon-Sheppard interstate liquor bill, which were

ordered to lie on the table.

Mr. CRAWFORD presented a petition of sundry citizens of Custer County, S. Dak., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to

lie on the table.

He also presented a petition of members of the Black Hills Council of the Sioux. North Cheyenne, and Arapahoe Indians of South Dakota, praying that an investigation be made relative to their rights under existing treaties, which was referred to the Committee on Indian Affairs.

Mr. BRISTOW presented petitions of sundry citizens of Athol and Gysum, in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill,

which were ordered to lie on the table.

Mr. McLEAN presented a memorial of Local Union, No. 40, International Union of United Brewery Workmen, of Bridgeport, Conn., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. BROWN presented a petition of sundry citizens of Pawnee City, Nebr., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on

Mr. SHIVELY presented petitions of Edwin L. Meek and 7 other citizens of Greensburg; C. F. Fred, Omer Stoner, R. R. Morgan, and 19 other citizens of McCordsville; and of C. W. Chadwick, R. M. Hogue, Jay Smith, and 155 other citizens of Knox County, all in the State of Indiana, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented memorials of Linton Aerie, No. 578, Fraternal Order of Eagles, of Linton, of the German Alliance Societies, embracing over 150 societies, of the State of Indiana, and of the Central Labor Union of Indianapolis, all in the State of Indiana, remonstrating against the passage of the so-called Kenyon-Sheppard liquor bill, which were ordered to lie on the table.

VOCATIONAL EDUCATION.

Mr. PAGE. Mr. President, I hold in my hand a memorial, and I ask the indulgence of the Senate for just one minute

while I explain its scope.

There was held at Philadelphia last week a very large gathering of prominent educators from different sections of the country to consider the question of industrial education. It was held under the auspices of the National Society for the Promo-tion of Industrial Education. Their gathering lasted for two or three days, and I understand the principal feature of the meeting of the national society was the discussion of Federal aid for industrial education. They adopted resolutions by unanimous consent and have sent them to me for introduction into the Senate as a memorial.

In view of the great prominence of the organization and the fact that the resolutions are very brief, I ask that they be read and referred to the Committee on Agriculture and Forestry.

The PRESIDENT pro tempore. The Secretary will read the

resolutions.

The resolutions were read, as follows:

(Resolutions passed by the National Society for the Promotion of Industrial Education at its annual banquet in the city of Philadelphia on the evening of December 5, 1912.)

Industrial Education at its annual banquet in the city of Philadelphia on the evening of December 5, 1912.)

The National Society for the Promotion of Industrial Education, in annual convention at Philadelphia, facing the great need of widespread vocational education for this country, recognizing that immediate steps must be taken in each of the States to begin this work in an effective way, and believing that Federal aid and encouragement are necessary in order to induce the States to take up the work in such a way that our national prosperity and the welfare of our workers may be continued and assured, do hereby resolve and affirm:

That this need is so pressing and the exigencies of the industrial situation are so great as to demand the passage of Senate bill No. 3, known as the Page bill, by the present Congress.

This measure is fully comprehensive. It provides for the three great elements in the development of the country—the agricultural worker, who is to make the soil yield more abundantly: the industrial worker, who is to make the soil yield more abundantly: the industrial worker, who is the marter intelligence and skill is to reduce waste and increase productive efficiency; and the home maker, who is the supreme conserver of American civilization.

The Page bill supplements the Morrill Act, which has done so much for the profession of engineering and for the higher training in agriculture by encouraging through national grants the vocational training of those who toil in the home and in the trades and industries as well as on the farm.

The Page bill extends the liberality of the Government, which has been displayed so wisely in the training of the mature farmer, to the preparation of men and women, boys and girls, to meet the varied needs of productive employments in towns and cities as well as in the rural districts.

Therefore we petition the honorable Senate of the United States to give immediate and favorable consideration to said Senate bill No. 3.

Therefore we petition the honorable Senate of the United States to give immediate and favorable consideration to said Senate bill No. 3.

The PRESIDENT pro tempore. The bill having been reported, the resolutions will lie on the table.

FUNERAL EXPENSES OF THE LATE VICE PRESIDENT.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 396, submitted by himself on the 3d instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by direction of the President pro tempore (under S. Res. No. 384, Aug. 17, 1912) in arranging for and attending the funeral of the late Vice President of the United States and President of the Senate, JAMES S. SHERMAN, at Utica, N. Y. on the 2d of November, 1912, upon vouchers to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

FUNERAL EXPENSES OF THE LATE SENATOR HEYBURN.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 394, submitted by Mr. Borah on the 3d instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed by the Vice President in arranging for and attending the funeral of the late Senator Weldon B. Heyburn from the State of Idaho, vouchers for the same to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

FUNERAL EXPENSES OF THE LATE SENATOR RAYNER.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 305, submitted by Mr. Smith of Maryland on the 3d instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed by the President pro tempore of the Senate in arranging for and attending the funeral of the late Senator Isidor RAYNER from the State of Maryland, vouchers for the same to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

AMELIA WISSMAN.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 399, submitted by Mr. Cullom on the 4th instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved. That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Amelia Wissman, mother of Franklin W. Wissman, late a skilled laborer in the Senate library, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

MARY P. PIERCE.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 397, submitted by Mr. Smith of Michigan on the 4th instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Mary P. Pierce, widow of Edwin S. Pierce, late a skilled laborer in the Senate document room, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

MAMIE ELSIE.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 398, submitted by himself on the 4th instant, reported it without amendment and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Mamie Elsie, widow of Alfred Elsie, late a laborer of the United States Senate, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows

By Mr. GALLINGER:

A bill (S. 7743) for the creation of the police and firemen's relief and retirement fund, to provide for the relief and retirement of members of the police and fire departments, to establish a method of procedure for such relief and retirement, and for other purposes (with accompanying papers); to the Committee on the District of Columbia. By Mr. STEPHENSON:

A bill (S. 7744) to authorize the establishment of additional aids to navigation at Ashland, Wis.; to the Committee on Commerce.

By Mr. WETMORE: A bill (S. 7745) to authorize the improvement of the light station at Great Salt Pond, R. I.; to the Committee on Commerce.

By Mr. WARREN; A bill (S. 7746) to provide for agricultural entry of oil lands; to the Committee on Public Lands, By Mr. LODGE:

A bill (S. 7747) for the relief of Charles Dudley Daly; to the Committee on Military Affairs.

By Mr. MARTINE of New Jersey: A bill (S. 7748) to authorize the completion of the reestab lishment of Passaic Light and Fog-Signal Station, Newark Bay, N. J.; to the Committee on Commerce. By Mr. LEA:

A bill (S. 7749) granting an increase of pension to John J. Wolfe; to the Committee on Pensions. By Mr. JOHNSON of Maine:

A bill (S. 7750) to authorize the establishment of a light at or near Dog Island, entrance to St. Croix River, Me.; to the Committee on Commerce.

By Mr. FOSTER: A bill (S. 7751) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Commerce.

By Mr. PAGE (for Mr. DILLINGHAM): A bill (S. 7752) granting a pension to Henry Gunhouse (with accompanying paper); to the Committee on Pensions.

By Mr. BURTON:

A bill (S. 7753) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Commerce.

By Mr. SMOOT:

A bill (S. 7754) for the relief of Joseph Hodges; to the Com-

mittee on Public Lands.

A bill (S. 7755) granting an increase of pension to Adolph Lochwitz (with accompanying paper); to the Committee on Pensions.

By Mr. BRISTOW:

A bill (S. 7756) granting an increase of pension to Michael Hoffman (with accompanying paper); to the Committee on Pensions.

By Mr. PERKINS:

A bill (S. 7757) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes

A bill (S. 7758) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes;

A bill (S. 7759) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; and A bill (S. 7760) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Commerce.

By Mr. SMITH of Michigan:

A bill (S. 7761) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Commerce.

By Mr. NELSON:

A bill (S. 7762) to authorize the establishment of a light station on Navassa Island, in the West Indies;

A bill (S. 7763) to authorize the construction and equipment

of a lighthouse tender for general service;

A bill (S. 7764) to authorize the purchase of necessary additional land for light stations and depots of the Lighthouse Service, and for other purposes; and

A bill (S. 7765) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Commerce.

By Mr. McLEAN:

bill (S. 7766) granting an increase of pension to Martha E. P. Blodgett (with accompanying paper); to the Committee on Pensions

By Mr. SMITH of Maryland:

A bill (S. 7767) for the relief of G. L. Taneyhill; to the Com-

mittee on Military Affairs.

A bill (S. 7768) for the relief of the trustees of the Quinn African Methodist Episcopal Church, of Frederick, Md.; to the Committee on Claims.

By Mr. FLETCHER: A bill (S. 7769) to authorize the establishment of a depot for the Sixth Lighthouse District; to the Committee on Commerce.

By Mr. GALLINGER:

A joint resolution (S. J. Res. 144) authorizing payment of December salaries to officers and employees of the Senate and House of Representatives on the day of adjournment for the holiday recess; to the Committee on Appropriations. DEATH OF THE VICE PRESIDENT.

Mr. ROOT submitted the following resolution (S. Res. 408), which was read, considered by unanimous consent, and unanimously agreed to:

Resolved, That the Senate of the United States acknowledges with grateful appreciation the sympathy of the Senate of Brazil in the loss suffered by the American Government and people in the lamented death of Vice President Sherman; and it begs the Senate of Brazil to accept the assurance of its most respectful consideration and friendship.

The Secretary is directed to transmit a copy of this resolution to the first secretary of the Senate of Brazil.

CAUSES OF THE RISE IN PRICES (S. DOC. NO. 980).

Mr. LODGE. I ask to have printed as a Senate document a short article by J. A. Hobson, taken from the Contemporary Review, on the causes of the rise in prices.

The PRESIDENT pro tempore. Without objection, it will be

so ordered.

LAND AT HELENA, ARK.

Mr. SMITH of Arizona submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3436) "granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment.

REED SMOOT, KNUTE NELSON, MARK A. SMITH, Managers on the part of the Senate. Jos. T. ROBINSON, JAMES M. GRAHAM, ANDREW J. VOLSTEAD Managers on the part of the House.

The report was agreed to.

HOLIDAY RECESS.

Mr. WARREN. I ask to take up House concurrent resolution No. 66, which came over yesterday, relative to the Christmas holiday recess

The PRESIDENT pro tempore. If there are no concurrent or other resolutions, morning business is closed. The Senator from Wyoming asks unanimous consent to take up for consideration House concurrent resolution No. 66, coming over from the other House, which the Secretary will read.

The Secretary read the concurrent resolution; and there being no objection, it was considered by unanimous consent and

agreed to as follows:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Thursday, December 19, 1912, they stand adjourned until 12 o'clock m. on Thursday, January 2, 1913.

HISTORY OF SENATE DESKS. Mr. MARTINE of New Jersey and Mr. CRAWFORD addressed the Chair.

The PRESIDENT pro tempore. The Senator from New Jersey.

Mr. MARTINE of New Jersey. I beg the attention of the Senate for a moment. I find on my desk an amendment submitted by the distinguished Senator from Massachusetts [Mr.

Lodge], which reads as follows: The Assistant Doorkeeper of the Senate is hereby authorized and directed to compile a history of the desks in the Senate Chamber, and the sum of \$500, or so much thereof as may be necessary, is hereby appropriated to meet the cost of appropriate engraved plates for each desk.

The PRESIDENT pro tempore. The Chair would ask the Senator from New Jersey if he rises to any resolution or does he desire that a resolution be laid before the Senate?

Mr. LODGE. That is a proposed amendment.

Mr. MARTINE of New Jersey. It is a proposed amendment.

I desire simply to speak to the amendment, if it is in order.

The PRESIDENT pro tempore. To what matter does the Senator desire to address himself? The Senate has not taken up any bill

Mr. LODGE. I rise to a question of order.

The PRESIDENT pro tempore. The Senator from Massachusetts will state it.

Mr. LODGE. This is not a resolution; this is an amendment to the legislative, and so forth, appropriation bill-

Mr. MARTINE of New Jersey. It is an amendment offered by the Senator from Massachusetts.

Mr. LODGE. Which has been referred to the Committee on Appropriations.

Mr. MARTINE of New Jersey. I ask the privilege, then, to speak to the amendment that is proposed.

The PRESIDENT pro tempore. The Senator from New Jersey asks the privilege of addressing the Senate upon the matter which he has indicated. Is there objection? The Chair hears

which he has indicated. Is there objection? The Chair hears none, and the Senator will proceed.

Mr. MARTINE of New Jersey. Mr. President, in speaking to the amendment that I have read, I beg to say that I have reied to picture in my mind the profound interest future generations. will take in reading the marvelous history of this great country, the bloody contest that was waged for liberty, and the sufferings and privations of our fathers. They will read of the splendid bravery of Mad Anthony Wayne; they will be able to fairly hear the clarion voice of Capt. Lawrence crying "Don't give up the ship"; they will also read with breathless interest of the bravery of Mollie Pitcher at the Battle of Monmouth; they will also read of the construction of this most beautiful Capitol and the recitals of history that the corner stone was laid by the Father of his Country, the immortal George Wash-With what thrilling emotions they will read of our internecine strife, and they also will read with great satisfaction of the reconciliation and union forever of all the sections of our beloved country.

But, Mr. President, as great as are the subjects I have above cited, how weak and paltry they will seem in comparison to the thrill that will come to the future reader of history, when he comes to the chapter, "History of the desks and cuspidors of the Senate of the United States." [Laughter.] Oh, that we might have but a tracing to-day of the desks of the ancient Greeks and Romans! What stories they would tell

of that age and time! How derelict were their historians!

If we could only know whether the mighty Demosthenes stood or sat while delivering those superb orations, whether his desk was made of olive wood, cedar, or stone, how valuable it would be! Oh, that a Lodge might have lived in that day!

[Laughter.]
But the "History of the desks in the Senate of the United States!" That chapter will tell of heel prints that will reflect the artistic genius of the bootmaker from the North, the South, the East, and the West of our great country. [Laughter.] Then, too, I am informed by the carpenter of the Capitol of a fact that I feel is quite generally unknown, a fact which will show the advance of our civilization; for in the early days of our country, I am told, the artistic genius of the occupant was made apparent through jack-knife designs carved upon his desk. This is now all changed. Their surface to-day reflects the cabinetmakers' art, the polish, the luster of the cultivated period in which we live. Truly, it is great to contemplate.

But seriously, Mr. President, with bread and butter so high in price to the toiler and the breadwinner, I must vote "No" on the amendment proposed by the distinguished and cultivated

Senator from Massachusetts.

Mr. LODGE. Mr. President, as I introduced the amendment which has awakened the delightful humor of the Senator from New Jersey [Mr. MARTINE], I think I ought to say a word in explanation.

The proposition of the amendment was to do what some Senators have done of their own accord. The desk directly in front of me has its history. The design is to put a little plate on the different desks giving a list of those who had occupied them. Many of these desks were in use in the old Senate Chamber, which is now occupied by the Supreme Court of the United It has seemed desirable to many Senators-in fact the idea did not originate with me, but with our late colleague, Senator Heyburn, of Idaho-that it would be a very interesting thing to have a plate on each desk showing who its occupants had been. That was the harmless purpose of this amendment.

It may not be of the slightest interest to future generations to know that a certain desk was occupied by me or by the Senator from New Jersey, but I think it will be of some interest to future generations if a memorial is kept of the desks that were occupied by men like Webster, Clay, and Calhoun. It is only to preserve those historical memorials, which are always worth preserving if we have a reverence for the history of our country, that this suggestion of a little plate for each desk was brought to me, and I took great pleasure in introducing the amendment upon which the Committee on Appropriations will take action at the proper time.

LINCOLN MEMORIAL.

Mr. CULLOM. I desire to call up the concurrent resolution reported on yesterday by the Senator from New York [Mr. Root] from the Committee on the Library, and to ask for its present consideration.

The PRESIDENT pro tempore. The Senator from Illinois asks for the present consideration of a concurrent resolution

which will be read by the Secretary.

The concurrent resolution (S. Con. Res. 32) was read, con-

The concurrent resolution (8. Con. Res. 52) was read, considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring). That the plan, design, and location for a Lincoln Memorial, determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled "An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln," approved February 9, 1911, be, and the same are hereby, approved.

Mr. CULLOM subsequently said: I ask unanimous consent that the report submitted by the Senator from New York [Mr. ROOT] in connection with the Lincoln Memorial be printed in the RECORD. It is very brief.

The PRESIDENT pro tempore. Without objection, it is so

ordered.

The report, submitted by Mr. Root on the 12th instant, is as follows:

The Committee on the Library, to which was referred the message of the President of December 5, 1912, transmitting a report of the Lincoln Memorial Commission, have considered and return herewith the message and report, and recommend the adoption of the following resolution:

the message and report, and recommend the adoption of the following resolution:

"Resolved by the Senate (the House of Representatives concurring). That the plan, design, and location for a Lincoln Memorial determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled 'An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln, 'approved February 9, 1911, be, and the same are hereby, approved."

The act of February 9, 1911, provided for the erection of a monument in the city of Washington in memory of Abraham Lincoln, and created a commission to determine upon a location and design, subject to the approval of Congress.

The commission now reports that it has determined upon a location on the public land of the United States on the banks of the Potomac; and upon a design, photographs of which are transmitted.

The object of the proposed resolution is to accept this decision.

The present members of the commission are: President TAFT, Senator CLLLOM of Illinois, Senator Weymore of Rhode Island, Senator Martin of Virginia, Speaker CLARK, Representative CANNON of Illinois, Representative McCall of Massachusetts.

It appears that the commission held 16 meetings and fully considered numerous suggested or possible locations and various designs, and that, as directed by the statutes, it called for and received advice of the Commission of Fine Arts, which, after exhaustive study, agrees with the conclusion now reached.

The report says:

"The commission after a careful examination and discussion of the

Commission of Fine Aris, which, after exhaustive study, agrees with the conclusion now reached.

The report says:

"The report says:

"The commission after a careful examination and discussion of the design presented by Mr. Bacon has adopted it unanimously and recommends that Congress approve the construction of the memorial upon the selected site in Potomac Park in acordance with the plans and designs of Mr. Bacon."

All the members of the commission join in the report,
Acceptance of this decision will bring performance of the long delayed and neglected duty to creek a monument to Abraham Lincoln in this city.

and neglected duty to erect a monument to Abraham Lincoln in this city.

The failure to bring to success any of the repeated attempts to secure such a monument is not altogether creditable.

On the 29th of March, 1869, Congress incorporated a "Lincoln Monument Association," of which the Treasurer of the United States was treasurer. Some money was raised, plans and designs were procured, but the enterprise languished, the chief actors passed away, and an insignificant sum remains in the Treasury of the United States.

On the 28th of June, 1902, Congress created a commission to secure plans and designs for such a monument, but that commission never agreed and never reported.

In the meantime and before the present act was passed many bills for a monument were from time to time introduced in Congress. Some of them died in committee and some were reported and never acted upon.

At last we have a definite conclusion, joined in after great consideration by eminent representatives of both Houses of Congress, by the Executive, and by the trained and experienced advisers whom they were directed by law to consult.

It has long been the policy of our Government to set up in the Capital City suitable memorials to the great men whom the Nation holds in honor.

A memorial to Grant is nearly completed. We already have statues

A memorial to Grant is nearly completed. We already have statues of Sherman, Sheridan, Logan, Thomas, McPherson, McClellan, Hancock, Rawlins, Du Pont, and Farragut of the Civil War period.

Appropriations have passed the Senate for Jefferson and Hamilton memorials. Washington, Marshall, La Fayette, Nathanael Greene, Rochambeau. Von Steuben, Kosciuszko, Pulaski, Paul Jones, Jackson, Scott, and Webster of earlier periods are commemorated.

For Lincoln alone our gratitude and devotion have seemed too weak to overcome small differences of opinion and taste. There must come an end some time to discussion and a yielding of individual preference to the general judgment if there is ever to be action. It is not tolerable that the remaining survivors of the generation that knew Lincoln should pass away and leave no memorial of their reverence and love for him in the city which was the scene of his service and sacrifice.

To reject the conclusions of this commission apparently would prevent the erection of any Lincoln monument whatever.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move that the Senate resume the consideration of House bill 19115.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the

Tucker Acts.
Mr. CRAWFORD. Mr. President, when the Senate discontinued the consideration of this bill yesterday the amendment

offered by the Senator from New York [Mr. O'GORMAN] to incorporate into the bill an item in favor of the estate of Charles Backman to refund certain taxes paid upon distilled spirits was before the Senate, and I had not concluded my remarks in relation to it. I desire to add to what was said yesterday that I have examined two or three cases cited in the brief which was supplied to the Senator from New York by the attorney as justification for the adoption of this amendment, and they have absolutely no bearing upon the question whatever. case is cited from Supreme Court of the United States Reports 153, on page 457, and is a case which involves nothing more nor less than the right to recover interest where the principal allowed was not at all in dispute. One other case cited from the United States Circuit Court for the Eastern District of Pennsylvania has absolutely nothing to do with the state of facts presented here. It was a case that involved the recovery of interest where the allowance of the principal was not at all in dispute.

As I said yesterday, after the new law was passed the offi-cers of the Government continued for a period to allow a rebate or reduction in taxes upon an estimate made as to the amount of liquors which might have leaked or evaporated while in warehouse. The question of their right to do that was submitted to the Attorney General of the United States, and in an opinion rendered by him he held that under that new law they should collect the entire tax without this reduction. It was after an order of the Treasury Department, based upon this decision of the Attorney General, had gone into effect that tender was made and this claim arose.

The Ridgway case and the group of claims for which appro-

priation was made in 1886 was after the Court of Claims had decided against Ridgway instead of deciding in his favor. That was in 1886, and no bill was introduced for the relief of this claimant until 1892, nearly a quarter of a century after the

claim arose, if it arose at all.

Appended to the papers handed me is a letter from the Acting Secretary of the Treasury, Mr. Curtis, to the Committee on Claims of the House of Representatives, dated August 10, 1912. That was after the report on this bill had been made. This letter from the Secretary of the Treasury in some respects is a rather remarkable communication. It was not called for by the Committee on Claims; it was not written because of any inquiry or doubt that existed in the minds of the members of that committee, but the attorney for this claimant goes to the clerk of the Committee on Claims and suggests to him to write a letter to the Treasury Department asking for certain infor-In response to that letter comes this letter, which undertakes to say that the question has been passed upon repeatedly, similar claims allowed, favorable reports made, and I have no personal knowledge upon the subject, but I doubt if the head of the great Treasury Department, with knowledge, wrote this letter. My own suspicion is that the letter which the attorney requested the clerk of the Committee on Claims to write, drew it out, and that some clerk in the Treasury Department probably wrote it and put it on the desk of the Assistant Secretary and secured his signature to it, because apparently no examination was made there of the real facts in this case; that there was a decision by the Attorney General of the United States that the law of 1868 prevented the rebate of these taxes; that a decision had been rendered by the Court of Claims against Ridgway instead of for him; that no bill for the relief of this claimant had been offered in Congress until practically a quarter of century after the cause of action arose; that the House neglected to put it in the bill and the Senate committee rejected it. I submit that under the statement of fact in the record the claim should be rejected.

I call for a vote on the amendment, and ask that the com-

mittee be sustained.

The PRESIDING OFFICER (Mr. LEA in the chair). The Chair is informed by the Secretary that the pending amendment is one offered by the Senator from Massachusetts [Mr. Lodge].

Mr. CRAWFORD. No; I do not so understand it. Is it not the amendment proposed by the Senator from New York [Mr. O'GORMAN] to incorporate in this bill the item in favor of the estate of Backman for the sum of \$5,000? The Senator from Massachusetts gave way, saying his amendment would have to lie over until to-day because the amendment which I proposed to it would have to be printed. On that account he asked to have it go over, and in the meantime the Senator from New York, with the knowledge of the Senator from Massachusetts, presented his amendment. I will ask the Senator from New York if that is not his recollection.

Mr. O'GORMAN. That is a correct statement of what transpired yesterday.

Mr. CRAWFORD. The Senator from New York says it is correct statement.

Mr. O'GORMAN. I may be permitted to say an additional

word in reference to this amendment.

Previous to April 14, 1869, a statute was passed preventing the internal-revenue officers from making any allowance for leakage when spirits were taken out of bond. Under the statute of 1868 that rule was to become operative on the 14th of March, 1869.

This claim went before the Court of Claims and was tried, and the court made certain findings, which must now be accepted as the fact. Among these facts it is stated that some few weeks previous to the 14th of April, 1869, the owner of the spirits applied to withdraw them from bond, but owing to the internal-revenue officers not having the necessary revenue stamps there was a delay of a few weeks, which took the actual delivery of the liquors from bond over the date in question, namely, the 14th of April.

As I say, after the 14th of April, 1869, no allowance was to be made for leakage. The entire amount paid by Backman, the owner of the liquor, was about \$44,000. Subsequently it was disclosed that if he had been allowed for the leakage he

should have had about \$5,000 returned to him.

Now, undoubtedly the law of 1868 prevented any allowance for leakage after the 14th of April, 1869, and the only equities, indeed the equity that is presented in this claim, is that the delay which brought the delivery of the liquor in question over the 14th of April, 1869, was caused by the internal-revenue officers being unable to furnish the revenue stamps when they were asked for about two weeks before the 14th of April, 1869.

Now, reference has been made to authorities, and perhaps they may be well disregarded, because this entire controversy is found in the single circumstance which I now present to the Senate—that the delay which brought the delivery of this liquor beyond the 14th of April, 1869, was caused by the internal-revenue officers' inability to furnish the necessary revenue stamps, aggregating \$45,000, when the owner of the liquor presented himself before the revenue officers and asked for the

It is true that no effort was made to secure the refund of this five thousand and odd dollars for many years; perhaps 20 or 25 years; and then from time to time afterwards bills were introduced similar to this proposed amendment. I remember myself 20, surely 18, years ago the committee in the House approved the same, and I am informed that in the last Congess the Committee on Claims approved this claim. That is offered as explanation why there was no appearance before the committee during this Congress. I assume the statement I make is accurate-it was conveyed to me by representatives of the claimant-that at the last Congress the Committee on Claims approved this bill.

But without regard to what has been done in the past, the naked and single question is, considering the fact that the claimant would not have been charged this \$5,000 if the internal-revenue officers had had the stamps available when the owner of the liquor presented himself, is it fair or just, view of those circumstances, that this claimant should have his claim judged by the new rule which became operative on the 14th of April, 1860? That is the sole question with respect to

the merits of this claim.

Now, the claimants think it a great injustice that they should be subjected to a rule which was not in force when the owner of the liquor made a demand for the necessary revenue stamps and had the money, \$44,000 or \$45,000, ready for that purpose. I therefore ask that the bill as reported by the Committee on Claims be amended by the insertion of this provision giving to the executor of the estate in question the sum of \$5,335.71.

Mr. CRAWFORD. Mr. President, replying to the Senator from New York, I frankly admit that his statement is correct as to these parties making application to the internal-revenue office for the release of these spirits before April 14, 1860, and that they were not delivered at that time because of the fact that the revenue officers did not have the revenue stamps. I admit that frankly, because, as I recollect, there is a finding from the Court of Claims to that effect. But—and I think it is entirely unintentional, of course-the Senator from New York is in error in another statement which he made, and that was that the law of 1868 did not go into effect until April 14, 1860. The law of 1868 went into effect upon its approval and was the law at the time the internal-revenue officers did not release his liquor because he did not have the revenue stamps

Mr. O'GORMAN. Mr. President.

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from New York?

Mr. CRAWFORD. I do.

Mr. O'GORMAN. There is no dispute between the Senator from South Dakota and myself with respect to the last statement. Of course the statute of 1868 went into effect immediately upon its enactment, but the procedure of the department under that statute was changed on the 14th of April, 1869; and under the statute and previous to the 14th of April, 1869, internal-revenue officers understood that they had the right to make an allowance for leakage or evaporation when liquors were taken from bond. I believe we are in accord on that proposition.

Mr. CRAWFORD. We are in absolute agreement with the statement that has been made by the Senator.

Mr. O'GORMAN. May I be permitted to make an additional statement at this time?

Mr. CRAWFORD. Certainly.
Mr. O'GORMAN. I assume, in view of the conceded fact, that Congress would not hesitate a moment to allow the relief requested under the facts in the case if there had been a prompt and diligent and early effort to secure the necessary legislation. It is a conceded fact, I believe—the Senator from South Dakota has stated it, and I believe it is accurate—that no attempt was made to secure remedial legislation regarding this claim until 23 or 25 years afterwards. I may say in passing that I have no sympathy with stale claims, and yet there may be a case now and then when a suitable or satisfactory excuse may be offered with respect to the delay.

That brings me to the suggestion that the only reason which would justify this body refusing the desired relief is that the parties slept on their rights during this long period. Of course if you think that is a sufficient reason to withhold the relief you will support the attitude of the chairman of the Claims Committee. If you do not think it a sufficient reason, then, on the merits, eliminating the suggestion as to delay, I can conceive of no good reason why the claimant should not get what he asks for when it is conceded—as it has just been conceded by the chairman of the Committee on Claims—that the circumstance which brought the delivery of this liquor up to the 14th of April, 1869, was the inability of the revenue officers to furnish the necessary revenue stamps when the demand was made upon them two or three weeks before.

Mr. CRAWFORD. Mr. President, upon the merits of the case I can not agree with the Senator from New York, and I desire to say that he has been eminently fair and just in his attitude toward the proper consideration of claims of this

character.

But a simple statement shows this: A law had been passed in July, 1868, which made it absolutely obligatory on the part of this claimant to pay the whole \$45,000 taxes instead of \$40,000 taxes; and that law went into effect in July, 1868. The Treasury Department misconstrued that law or failed up until April, 1869, to enforce it at the time it became the law binding upon internal-revenue officers.

Then the question is whether the Government did not have a right to come back upon these men who had escaped paying what they ought to have paid and compel them to pay the balance. It does not make the transaction lawful because the Treasury Department absolutely failed to enforce a law which law at the time and which required the payment of

the \$45,000 taxes.

Now, when this man went over to get his spirits out of the warehouse, he might have settled, because the officers of the Preasury Department were not enforcing the law, for \$5,000 less than he actually did; but how does the fact that, because of the mere circumstances that he could not get his revenue stamps at that time and had to come back on the 14th of Aprilthe Attorney General in the meantime having given his opinion that these men were liable for all these taxes without any reduction and the Treasury Department having in the meantime promulgated this order that after April 14, 1869, they must pay the whole amount—give him any right to ask that this money be taken out of the Treasury of the United States and paid to him when it was just as unlawful to allow for leakage before April 14, 1869, as it was after April 14, 1869? Because of the mere incident that he might have obtained it wrongfully before the 14th of April, if the officers had had the revenue stamps by which to aid him to get it wrongfully does not relieve him, because he would have been violating absolutely the law which went into effect in July, 1868, previous. Now, it seems to me that is absolutely logical.

Mr. O'GORMAN. Mr. President—
The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from New York?

Mr. CRAWFORD. I do; certainly.

Mr. O'GORMAN. Is it not the fact that allowance was made for leakage and evaporation in every barrel of liquor taken from bond between the date of the enactment of the 1868 statute and

the 14th day of April, 1869?

Mr. CRAWFORD. That I do not know, but to a certain Mr. CRAWFORD. That I do not know, but to a certain extent it was done. However, the Attorney General, when the statute was referred to him, decided that it was done unlaw-

fully and against the statute.

Mr. O'GORMAN. And from that time on there was a change

in the procedure observed by the internal-revenue officers?

Mr. CRAWFORD. Yes; that is true; and when this man—

Mr. O'GORMAN. Is it not a fact, may I be permitted to ask the Senator from South Dakota-

Mr. CRAWFORD. Certainly. Mr. O'GORMAN. Is it not a fact that if two weeks before the 14th of April, 1869, the internal-revenue officers had had the revenue stamps on hand, the tax imposed upon this claimant would have been \$5,000 less than he actually paid?

Mr. CRAWFORD. Not lawfully; but he would have succeeded under the practice that had been followed, in violation of this statute, in getting \$5,000 that did not belong to him and which belonged to the Government, and to which procedure the Attorney General put a stop by his construction of this statute and which the department enforced on and after April 14 by its order.

Now, there can not be any escape from that. These men were getting a reduction in violation of the statute before that time, a reduction to which they were not entitled; and because the officers were violating this statute and giving these reductions in clear violation of the statute before that time, and this man did not happen to have the good luck to get what did not belong to him before that time, because the officers did not have the revenue stamps, does it make it just for him to get that exemption, when the statute did not give it to him because he did not have the good fortune to find the internal-revenue officers in possession of the revenue stamps, so that they could violate the statute before April 14, 1869?

There is no escape from that, Mr. President, and I ask the

Senate to reject the amendment.

The PRESIDING OFFICER. The Secretary will restate the amendment.

The Secretary. On page 268, after line 13, insert:

To Dean Sage, executor of the estate of Charles Backman, deceased, the sum of \$5,335.71.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from New York. [Putting the question.] The ayes seem to have it.

Mr. CRAWFORD. I demand the yeas and nays. First, I

ask for a call of the Senate.

The PRESIDING OFFICER. The absence of a quorum is

suggested, and the Secretary will call the roll. The Secretary called the roll, and the following Senators answered to their names:

Ashurst Bacon Bailey Brandegce Gallinger Gronna Newlands O'Gorman Oliver Smith, S. C. Smoot Stephenson Stone Swanson Thornton Tillman Jackson Oliver
Overman
Page
Penrose
Perkins
Perky
Pomerene
Reed
Smith, Ariz,
Smith, Md.
Smith, Mich. Jackson
Johnston, Ala.
La Follette
Lea
Lodge
McLean
Martin, Va Bristow Brown Bryan Burnham Clark, Wyo. Clarke, Ark. Townsend Warren Wetmore Martin, Va. Martine, N. J. Massey Myers Crane Crawford Fletcher Nelson

Mr. PAGE. I regret to be obliged to announce the continued illness of my colleague [Mr. DILLINGHAM]. He is not able to attend the sessions of the Senate.

The PRESIDING OFFICER. Forty-nine Senators have an-

swered to their names. A quorum of the Senate is present.

Mr. CRAWFORD. I will ask the Chair to put the vote again with reference to the adoption of the amendment of the Senator from New York

The PRESIDING OFFICER. The Secretary will restate the amendment.

Mr. SMOOT. Let the amendment be read.

The Secretary. On page 268, after line 13, in the New York items, insert:

To Dean Sage, executor of the estate of Charles Backman, deceased, the sum of \$5,035.71.

The PRESIDING OFFICER. The Senator from South Dakota asks for the yeas and nays on agreeing to the amend-

Mr. CRAWFORD. I ask that the question be put again.

The PRESIDING OFFICER. The question is on agreeing to
the amendment proposed by the Senator from New York [Mr. O'GORMAN]

The amendment was rejected.

Mr. CRAWFORD. The Senator from Nevada [Mr. New-LANDS] desired to present an amendment to the bill, and if he is ready to be heard now I should like very much to have it taken up.

Mr. GALLINGER. The Senator from Nevada is not in his

Mr. CRAWFORD. He is in the Chamber.

I have a very trifling amendment which Mr. GALLINGER. I think the Senate will agree to without objection, if the Senator will permit me to offer it.

Mr. CRAWFORD. Very well.
Mr. GALLINGER. I will take the liberty of calling the Senator's attention to the subhead on page 259:

Claims of officers of the United States Army for additional pay, commonly known as "longevity claims," so as to include the period of cadet service in the United States Military Academy at West Point.

I would move to amend that by adding "and enlisted service

in the Regular Army." There are two claims—
Mr. CRAWFORD. That is true.
Mr. GALLINGER. I move that amendment on page 259, line
11, to strike out the period and insert the words "and enlisted

Service in the Regular Army."

Mr. CRAWFORD. There is no objection to that amendment. The PRESIDING OFFICER. The amendment will be stated. The Secretary. On page 259, in the subheading, after the words "West Point," in line 11, insert "and enlisted service in the Regular Army."

The PRESIDING OFFICER. Without objection, the amend-

ment is agreed to.

Mr. CRAWFORD. While we are under that head, in behalf of the committee I offer an amendment. It is a longevity claim that came to the committee afterwards and is exactly like the others. I ask that it be adopted.

The PRESIDING OFFICER. The amendment will be read.

The Secretary. On page 266, after line 5, insert the words "North Carolina" and the following:

To Charles J. Allen, of Buncombe County, \$2,353.24.

The amendment was agreed to.

Mr. LODGE. If there are no other amendments, Mr. Presidents, I ask that we return to the amendment which I offered yesterday covering the French spoliation claims, which was temporarily laid aside. It has been read. The Senator from South Dakota has offered an amendment to it, which I ask to have read.

Mr. CRAWFORD. In this connection I wish to say that I am a little disappointed in the manner in which my proposed amendment was printed. It does not show where the changes were made, so that one can not tell from an examination of the amendment where it made reductions and what they were, and where it would strike out names what they were. I will ask to have my amendment to the amendment reprinted in that way, because it will be quite necessary, whatever disposition is made now of this matter, to have the record so that it will be easily understood.

Mr. LODGE. I am very glad the Senator is going to do that. The PRESIDING OFFICER. Without objection the request of the Senator from South Dakota will be complied with and the amendment will be reprinted as suggested.

It will be reprinted as suggested by the Senator from South Dakota so as to show the precise changes made

by his amendment in the one I offered.

Mr. CRAWFORD. As introduced a line was drawn through the part stricken out and it had the amounts written out instead of giving them in figures. As presented here it is quite different in its appearance from what I supposed it would be.

Mr. LODGE. I wish to suggest one correction which I think ought to be made at the beginning. It says "strike out all after line 21, page 2." It strikes out merely the descriptive lines on page 2 of the amendment; it strikes out lines 20 and 21, which read:

On the vessel schooner Hetty, William Manson, master, namely.

Mr. CRAWFORD. Then lines 20 and 21 should not be

Mr. LODGE. They should not be stricken out. That is merely descriptive.

Mr. CRAWFORD. The amendment should begin with line 20.

Mr. LODGE. Precisely. Mr. CRAWFORD. That was an inadvertence. rect. I am glad the Senator has called my attention to it.
Mr. LODGE. If we have printed in that way my amend-

ment with the changes shown as proposed by the amendment of the Senator from South Dakota, then we shall know exactly what we are dealing with. In that case, Mr. President, I shall ask that the amendment go over until to-morrow when we can have a new print.

Mr. CRAWFORD. Mr. President, we have now, with the exception of the French spollation claims, the amendment the Senator from Alabama [Mr. Johnston] proposed, and one which the Senator from Nevada [Mr. Newlands] has submitted. With those exceptions we have disposed of all the amendments which have been presented. I understand there are a few other amendments, but I do not understand that they involve large amounts.

Mr. PENROSE. I suppose the Senator refers to the amendments I have been talking to him about. I have one or two very simple matters that I should like to submit to the Senator

before I even offer them on the floor of the Senate.

Mr. CRAWFORD. Very well, Mr. President. I called attention to that simply to get the situation before the Senate as to the bill. It seems to me that we have reached a point where we might agree upon a time to vote upon it. I am anxious that the bill shall be disposed of by the Senate before the holiday recess. If an agreement could be made as to some day when we might vote upon it before the holiday recess, I should like very much to have that done.

Mr. LODGE. I am ready to agree, as far as I am concerned, being interested in the French spoliation claims amendment. I do not desire to enter into a protracted debate on the French

spoliation claims.

Mr. CRAWFORD. I know. The Senator has made that statement to me.

Mr. LODGE. The matter has been discussed here many times, and I think the Senate understands the amendment perfectly. Of course, if the amendment is to be attacked elaborately, it will be necessary for me to make some suitable reply and bring forward the facts; but I should be very glad if we could make an arrangement by which we could escape a protracted debate on that amendment, which might lead to a great deal of debate, as the Senator well knows.

Mr. CRAWFORD. I have not any disposition to thrash all that over again. I will ask unanimous consent that we agree to vote upon the bill and all amendments at the close of the

morning business next Thursday.

The PRESIDING OFFICER. The Senator from South Dakota asks unanimous consent that an agreement be reached to vote upon the pending measure and all amendments on next Thursday at the close of the routine morning business. there objection?

Mr. SMITH of South Carolina. I should like to ask for information as to the French spoliation claims. Is that the particular feature upon which the bill is asked to go over with the amendment pending?

Mr. LODGE. That amendment is now pending, and it is going over simply to have a print made of the amendment to it offered by the Senator from South Dakota.

Mr. SMITH of South Carolina. So that all amendments pertaining to it will come up to-morrow.

Mr. LODGE. I suppose we shall dispose of the amendment before Thursday.

Mr. CRAWFORD. I hope that we shall dispose of all amendments in the meantime; that we will get them out of the way as fast as we can and not have them all dumped on us at that time. The Senator from Alabama [Mr. Johnston] has an amendment. I hope we may be able to take that up yet this morning. I ask unanimous consent that we vote upon the pending amendment, all amendments offered, and on the bill, without debate, at the close of the routine morning business next Thursday. I do not know what day of the month it is.

Mr. LODGE. The 19th.
Mr. CRAWFORD. The 19th.
Mr. PENROSE. I would suggest to the Senator whether it would not be safer to fix the time at 1 o'clock. The morning business might be prolonged.

Mr. LODGE. I suggest that the debate shall close at 1 o'clock and then the bill and all amendments be voted upon.

Mr. CRAWFORD. Very well, I will put it that way—that all debate shall close and we shall vote on the bill and all amendments at 1 o'clock on Thursday, the 19th.

Mr. BRISTOW. I shall object to that. Mr. SMITH of South Carolina. Do I understand that all amendments agreed upon to this bill by the Senate will go into conference, and whatever amendments are put into it will have to go to conference for final settlement? After all the amendments are added by the Senate it will go to conference?

Mr. CRAWFORD. There is objection, so that I abandon the

request.

The PRESIDING OFFICER. Objection is made.

Mr. CRAWFORD. I would like to have the Senator from Alabama present his amendment.

Mr. JOHNSTON of Alabama. I am not prepared to go on with my amendment this morning. I will take it up to-morrow immediately after the amendment of the Senator from Massachusetts is concluded.

Mr. CRAWFORD. Is the Senator ready to go on with his amendment proposing to incorporate the French spoliation

Mr. LODGE. I am perfectly ready to go on, but the Senator from South Dakota has offered a series of amendments to that amendment, and I should like to see these. I imagine that I shall accept them without further debate.

Mr. CRAWFORD. I have no disposition to take up the time of the Senate in presenting those amendments if it can be avoided. The Senator from Alabama is not ready with his

amendment now, I understand.

Mr. JOHNSTON of Alabama. I am not ready now.

Mr. CRAWFORD. Is the Senator from Nevada in the Chamber:

Mr. BRISTOW. Mr. President, I do not understand that the Senator from South Dakota expects to accept the amendment offered by the Senator from Massachusetts [Mr. Lodge] even if the amendments which he has offered to the amendment are

Mr. CRAWFORD. Oh, no; I simply offer the amendments to the amendment to be acted on by the Senate. Of course, my personal attitude toward the French spoliation claims, except that I object to allowing certain insurance premiums and freight earnings as they are involved, is one of favor, but I am standing with the Committee on Claims. That committee, of which I am a part, considered this whole question and decided that it was inadvisable, on account of the sharp differences there, to incorporate the French spoliation claims in this bill; and, of course, I shall be loyal to the attitude taken by the majority of the committee. That, however, is neither here nor there. I am anxious to have some action taken by the Senate for or against the French spoliation claims amendment, so that we can dispose of it. The Senate will have to determine, of course, in its own way how long we shall discuss it, but I am anxious to get it up, with the idea of having action taken one way or the

Mr. LODGE. Mr. President, of course, if the ground is to be taken that we are not to be allowed to vote on the bill if the French spoliation claims are added, we can reach no agreement to vote on the bill.

The pending amendment is that relating to the French spoliation claims, and I ask for the reading of the amendments offered to that amendment by the Senator from South Dakota [Mr.

The PRESIDING OFFICER. The Secretary will read the amendment to the amendment offered by the Senator from

South Dakota.

Mr. CRAWFORD. What was the Senator's request?

Mr. LODGE. I want to have the Senator's amendment to my amendment read.

Mr. CRAWFORD. Mr. President, just a moment, please.

Mr. LODGE. If the Senator is going to take that ground—Mr. CRAWFORD. Would it be possible to arrive at an agreement as to when we shall vote on the French spoliation claims amendment?

Mr. LODGE. Not without an agreement to vote on the bill. Mr. CRAWFORD. Well, I wanted to find out what was the

disposition of the Senator in regard to that.

The Secretary. It is proposed to strike out all after line 21. page 2, of said amendment and all of pages 3 to 82, both inclusive, and all of page 83 down to line 20, and insert in lieu thereof the following:

Payton S. Coles and David Stewart, administrators of John Stricker, \$1,230.

Payton S. Coles and David Stewart, administrators of John Stricker, \$1.230.

On the vessel ship Washington, Aaron Foster, master, namely: Lucy Franklin Read McDonnell, executrix, etc., of George Pollock, surviving partner of Hugh Pollock & Co., \$830.

On the vessel sloop Two Friends, Peter Pond, master, namely: Charles F. Adams, administrator of Peter C. Brooks, \$1,250.

Seth P. Snow, administrator of Crowell Hatch, \$700.

Seth P. Snow, administrator of William Leavenworth, \$842.

On the vessel ship Sally Butler, Alexander Chisolm, master, namely: Archibald Smith, administrator of William Leavenworth, \$42.

On the vessel brig Neptune, Hezekiah Flint, master, namely: Francis M. Boutwell, administrator of John McLean, deceased, \$440.

Arthur D. Hill, administrator of Benjamin Homer, deceased, \$880.

Thomas N. Perkins, administrator of John C. Jones, deceased, \$880.

On the vessel ketch John, Henry Tibbetts, master, namely: Hasket Derby, administrator of Elias Hasket Derby, \$12,962.92.

On the vessel ship Ceres, Roswell Roath, master, namely: Donald G. Perkins, administrator of Daniel Dunham, \$6,688.61.

Donald G. Perkins, administrator of Johnes Dunham, \$6,003.84.

Edmund D. Roath, administrator of Jedediah Willet, \$684.77.

Asahel Willet, administrator of Jedediah Willet, \$684.77.

Charles Francis Adams, administrator of Nathaniel Fellowes, \$688.

H. Burr Crandall, administrator of Thomas Diekason, \$860.

William P. Perkins, executor, etc., of Thomas Perkins, \$420.
On the vessel brig Eliza, Thomas Woodbury, jr., master, namely: Arthur Ir. Huntington, administrator of William Orne, \$26,742.46.
Bayard Tuckerman, administrator of Walter Channing, surviving partner of Gibbs & Channing, \$562.50.
Arthur L. Huntington, administrator of James Dunlap, \$375.
William Ropes Trask, administrator of James Dunlap, \$375.
William Ropes Trask, administrator of Thomas Amory, \$750.
Archibald M. Howe, administrator of Thomas Amory, \$750.
Archibald M. Howe, administrator of Jacob Sebor, \$187.50.
Sarah L. Farnum, administratrix of Leffert Lefferts, \$375.
Louisa A. Starkweather, administratrix of Richard S. Hallett, \$375.
Walter Bowne, administrator of Walter Bowne, \$750.
Robert B. Lawrence, administrator of John B. Bowne, \$93.75.
Walter S. Church and Walter S. Church, administrators of John Barker Church, \$1,500.
Thomas W. Ludlow, administrator of Thomas Ludlow, \$375.
Francis R. Shaw, administrator of Thomas Ludlow, \$375.
Francis R. Shaw, administrator of William Gray, jr., \$1,628.
George G. King, administrator of William Gray, jr., \$1,628.
George G. King, administrator of Crowell Hatch, \$875.
On the vessel ship Cincinnatus, William Martin, master, namely: Richard H. Pleasants, administrator of Aquila Brown, jr., \$1,635.
William A. Glasgow, jr., administrator of William P. Tebbs, \$2,560.20.
On the vessel brig Pilgrim, Priam Pease, master, namely:
Nathaniel H. Stone, administrator of John M. Forbes, surviving partner of the firm of J. M. & R. B. Forbes, \$17,592.20.
Russell Bradford, administrator of William P. Stewart, surviving partner of the firm of David Stewart & Sons, \$3,900.
Elizabeth Campbell Murdock, administratix of Archibald Campbell, \$2,600.

Elizabeth Campbell Murdock, administratrix of Archibald Campbell, 3,900.

Elizabeth H. Penn, administratrix of Thomas Highbotham, \$2,600. Nicholas L. Dashiell, administrator of Henry Dashiell, \$1,570. On the vessel sloop Geneva, Glies Savage, master, namely: Charles F. Adams, administrator, etc., of Peter C. Brooks, \$1,105. George G. King, administrator, etc., of Crowell Hatch, \$680. Thomas N. Perkins, administrator, etc., of John C. Jones, \$595. Francis M. Boutwell, administrator, etc., of Luther Savage, surviving varier of the firm of Riley, Savage & Co., \$3,470.

On the vessel ship Aurora, Stephen Butman, master, namely: Charles Francis Adams, administrator of Peter C. Brooks, \$1,750. Frank Dabney, administrator of Samuel W. Pomeroy, \$280. Henry Parkman, administrator of John Duballet, \$725. George G. King, administrator of Orowell Hatch, \$420. William S. Perry, administrator of Nicholas Gilman, \$750. John W. Apthorp, administrator of Moses Brown, \$300. Walter Hunnewell, administrator of Moses Brown, \$300. Walter Hunnewell, administrator of Daniel D. Rogers, \$350. Daniel D. Slade, administrator of Daniel D. Rogers, \$350. Walter Hunnewell, administrator of Moses Brown, \$350. Walter Hunnewell, administrator of Moses Brown, \$350. Walter Hunnewell, administrator of Moses, \$210. William S. Carter, administrator of Milliam Boardman, \$7350. Lawrence Lowell, administrator of Milliam Smith, \$350. Walter Hunnewell, administrator of Milliam Boardman, \$7350. Lawrence Bond, administrator of Nathan Bond, \$280. On the vessel schooner Amelia, Timothy Hall, master, namely; Julius C. Cable, administrator of Nathan Bond, \$280. On the vessel schooner Amelia, Timothy Hall, master, namely; Alexander Proudfit, administrator of Robert Ralston, \$27.37. Mr. LODGE. The hour of 1.30 having arrived, I make the

Mr. LODGE. The hour of 1.30 having arrived, I make the point of no quorum.

The PRESIDING OFFICER. The Senator from Massachusetts suggests the absence of a quorum. The Secretary will call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst Bacon Brandegee Bristow Foster Gallinger Gardner O'Gorman Overman Stephenson Stone Sutherland Swanson Thornton Tillman Hitchcock Page Paynter Penrose Perkins Bristow Brown Bryan Chilton Clapp Clark, Wyo. Jackson Johnston, Ala. La Follette Townsend Warren Wetmore Works Lea Perky Sanders Lodge McLean Martin, Va. Martine, N. J. Sanders Simmons Smith, Ariz. Smith, Ga. Smith, Md. Smith, S. C. Crane Culberson Cullom Curtis Fletcher Massey Myers

The PRESIDENT pro tempore. On the call of the roll of the Senate 53 Senators have responded to their names. A quorum of the Senate is present.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. Bacon) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives

appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeach-

The Secretary read the Journal of Thursday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved.

Mr. WORTHINGTON. Mr. President, I wish to call attention to an error in the record of yesterday's proceedings on page 505. It is quite obvious, I think, but I would like to have it corrected. It is a remark made by me.

Mr. Manager CLAYTON. On what page?

Mr. WORTHINGTON. On page 505, about one-third of the way down. It reads:

I do not object to that unless it is proposed in some way to connect Judge Archbald with it or to show that he had knowledge of it.

Of course the "not" should not be there. It should read "I do object."

The PRESIDENT pro tempore. The correction will be made. Mr. Manager CLAYTON. Mr. President, according to the understanding yesterday a legal proposition which was pre-sented yesterday to the Chair was to be argued this morning, but I have conferred with my associate managers and also with counsel for the respondent, and we desire to depart from that arrangement for a brief time in order that we may examine at this time Commissioner Meyer, of the Interstate Commerce Commission, who has some public business that requires him to leave the city, I believe, to-day or to-morrow. I there-fore at this time call Commissioner B. H. Meyer as the next

TESTIMONY OF B. H. MEYER.

B. H. Meyer, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager CLAYTON.) You are one of the members of the Interstate Commerce Commission, are you?-A. I

am; yes, sir.
Q. Was there a case pending before the Interstate Commerce Commission, of which you are a member, known as the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad in March and April, 1911?-A. There was.

Q. Will you please state, as briefly as you can, what that matter was?—A. The complaint of the Marian Coal Co. alleged unreasonable rates on the carriage of anthracite coal from a point on the Lackawanna near Scranton, known as Taylor, I believe, to tidewater; and the prayer was for a reduction of the existing rate to a figure given in the complaint. I believe it was 95 cents for the larger sizes and lower figures for the smaller sizes.

Q. Up to March and April, 1911, how far had this proceeding progressed before the commission of which you are a member? A. The greater part of the testimony had been submitted; some statistical exhibits were still to be introduced, and supple-

mentary hearings had, if necessary.

Q. Please state to the Senate if Mr. W. P. Boland called upon you while that matter was before your commission; and if so, where and when .- A. Mr. Boland had appeared as a witness during the course of the hearings, but he called upon me in my office on the morning of January 5, 1912. My confidential clerk, Mr. Cockrell, advised me on that morning that Mr. Boland was in the outer office and desired to see me. I requested Mr. Cockrell to take care of Mr. Boland, if possible, because I soon had to go to a hearing. Mr. Cockrell returned in a few moments and advised me that Mr. Boland had a matter which, according to his view, he could state only to the commissioner.

Q. I wish you would state the whole matter in narrative form. We examined you before the House Judiciary Committee and you know we called for a statement from you in regard to it. Now, I wish you would state what happened between you and Boland, and the whole transaction and what you

did after Boland had told you what he desired to tell you.

Mr. WORTHINGTON. Mr. President, I would like to know what is supposed to be the relevancy of the conversations that took place between Mr. W. P. Boland and the commissioner here. There is one object that I can see, and if that is the object, of course, we make no objection. On the cross-examination of W. P. Boland, for the purpose of establishing his bias and his hostility against Judge Archbald, I inquired of him whether he had not made certain statements which he had If it is proposed to contradict him about that, I have no objection. If it is for any other purpose, I object to it as being wholly irrelevant here.

Mr. Boland was here. There was a great deal that took place, as I understand, between W. P. Boland and the commissioner and Mr. Cockrell and the Attorney General, and so far as any such thing is proposed to be introduced to contradict or enlighten what has been brought out here by W. P. Boland, we do not object, but for any other purpose we do object.

Mr. Manager CLAYTON. I do not apprehend there will be

any serious objection, or any objection at all, to this testimony when I state the purpose.

The counsel for the respondent, in the latter part of his remarks, states one of the reasons why we think this testimony

is admissible; and that is for the purpose of showing all that W. P. Boland had to do with the inception of this matter of the inquiry into the conduct of Judge Archbald.

We want to introduce it for a further purpose, Mr. President. As you will recall, several times during the trial the counsel for the respondent has been heard to charge a conspiracy against Mr. W. P. Boland in the matter of inaugurating these proceedings against Judge Archbald. We want to tell all that Mr. Boland did in that matter. We want to show that, while Mr. Boland may have called to the attention of the commissioner contains allowed an incomplete on the part of Judge Archbald, the certain alleged misconduct on the part of Judge Archbald, the inauguration of this proceeding was actually not had by Mr. Boland. We desire to offer it to rebut the repeated statement of the counsel for the respondent that Boland had inaugurated a conspiracy against the judge, and we want to show how the transaction originated and all about it.

This is the witness to whom Boland made his first complaint. and we want to show, then, the history of it and how it got to the President and how it got to the Attorney General, and how, as the record shows, it finally came to the Judiciary Committee of the House of Representatives. We want to show, in other words, that everything that has been done in this case was done in a proper way, and we think it is due not only to Boland, but is due to the Senate, to know all about it, in view of the oftrepeated charges made by respondent's counsel that this is a

conspiracy to ruin Judge Archbald.

Mr. WORTHINGTON. Certainly the manager has not understood me to charge that there was any conspiracy on the part of Mr. Meyer, of the Interstate Commerce Commission.

Mr. Manager CLAYTON. I do not say you have made such a charge, but you charged Mr. Boland with having originated a conspiracy to do it, and we want to show what the facts are and then let the Senate judge whether it was improper and whether or not it is conspiracy, or whether it is a proper proceeding.

The PRESIDENT pro tempore. The Chair would suggest that possibly it might avoid opening the doors to a too wide inquiry if the manager would limit the testimony of the witness, for the present at least, to what the Interstate Commerce Commission, or members of it, did for the purpose of instituting this proceeding.

Mr. Manager CLAYTON. That is all I was going to elicit from this witness

The PRESIDENT pro tempore. And not testimony as to the

conversation between the witness and Boland.

Mr. Manager CLAYTON. Yes, sir. This is a very intelligent witness, as the Chair knows, and he having been examined before, I take it he will confine himself strictly to what he as a member of the commission did and what he and his associates

The PRESIDENT pro tempore. The Chair suggests that the manager for the present omit the question as to what was said to him by Mr. Boland; confining it to simply the steps the commissioners saw proper to take upon the information they re-

Mr. Manager CLAYTON. May I then ask him where he got the information?

The PRESIDENT pro tempore. He can state the information was received from such a person without going into it.

Mr. Manager CLAYTON. Very well. Q. (By Mr. Manager CLAYTON.) You received from W. P. Boland at one time some information that he alleged against Judge Archbald, did you?-A. I did; yes, sir.

Q. When was that?—A. January 5, 1912. Mr. Manager CLAYTON. Now, the Chair holds that I may not ask the witness what Boland told him?

The PRESIDENT pro tempore. It would be better to have him state what action was taken in consequence of the information received.

Q. (By Mr. Manager CLAYTON.) Then, Mr. Meyer, in your own way, please state in narrative form what you did and what the commissioners did, giving the time, place, and circumstances fully and in as much detail as you can, and at the same time as briefly as possible.—A. Having seen certain photographs which appeared to me to suggest something and to tell something extremely serious, I communicated that feeling to Judge Clements, who was chairman of the commission at that time. At my request Judge Clements met Mr. Boland in my office on the following morning. Both of us together looked at these photographs and again listened to Mr. Boland's explanation. Both of us had to attend sessions of the commission, and I again requested Mr. Cockreil to make note of what Mr. Boland was telling, and in due time he handed me a memorandum embracing those conversations. I thought about possible methods of procedure in this matter, and after some two or three weeks

I told Commissioner Clements that, in my judgment, we should take the entire commission into our confidence, especially as the time for the final hearing was approaching and it was necessary, as the presiding commissioner in that case, to reach a decision.

At the regular monthly conference on February 5, 1912, I circulated among my colleagues a memorandum prepared by Mr. I took it personally to the conference in a envelope and distributed it among them; gave them time to read it, and after they had read it I made a few remarks referring to the photographs which they, of course, could not see, since Mr. Boland was unwilling to leave them there; and I repeated my feeling that the photographs were the serious thing in this situation.

None of us could know to what extent the statements orally made might be found to be erroneous. After some conversation in conference my colleagues advised me to take up this matter directly with the President. As soon as possible after that conference I made an appointment at the White House, and, after some preliminaries, handed to the President this memorandum prepared by Mr. Cookrell. The President mile to take up this matter directly with the president of the president matter. dum prepared by Mr. Cockrell. The President, while he was looking it over, asked a few questions, and after he finished reading it asked some more questions, and then in my presence and within my hearing dictated a letter to the Attorney General, directing him to look into the matter and asking him to ascertain what foundation there was for these charges and, if found sufficient, to bring them to the attention of the Judiciary Committee.

In the same letter the President requested the Attorney General to get into touch with me and not to proceed until after he had conferred with me. The President also, in my presence and within my hearing, addressed a letter to me.

On the afternoon of February 13, which is the date on which I took the matter to the President, I had a conference with the Attorney General and related to him much of what I had related to my colleagues in conference. I advised the Attorney General that the final hearing in the Marian case was to be held on February 20, and that in view of the seriousness of this thing I thought it desirable that nothing should be brought out by Mr. Boland on that hearing, as Mr. Boland had suggested he would like to do.

Thereupon I put myself in touch with Mr. Boland's attorney, and without stating what I had in mind, I let him know that I did not desire on that hearing to bring out any of these collateral matters, and that I desired to have the hearing confined strictly to the issues relating to the rate in question. The hearing was held February 20 and was concluded about noon of that day.

I had made an appointment with the Attorney General for Mr. Boland and, if possible, his attorney. On the afternoon of February 20, in accordance with my understanding with the Attorney General, the two Bolands and Mr. Reynolds and Mr. Cockrell proceeded to the Attorney General's office and there I understand certain statements were repeated and a minute made of same.

Some time after that the Attorney General asked me to look over these minutes and to let him know what were my impressions of the statements. This I did, and the Attorney General advised me that Mr. Brown, an investigator in his department, had assumed charge of the case. That in a general way ended my connection with the case.

Mr. Manager CLAYTON. Now, Mr. President, I think that perhaps the Senate will want to know what were the photographs that Mr. Boland showed him, which seem to have attracted the attention of Commissioner Meyer.

The PRESIDENT pro tempore. The Chair does not think that that is a proper matter of investigation now. The sole purpose of the testimony, as the Chair understood, was to show that this proceeding was instituted through the governmental

departments and not by a private citizen.

Mr. Manager CLAYTON. Very well. I do not think myself it is very material, Mr. President, but the Chair understands—

The PRESIDENT pro tempore. The opinion of the witness

could not be given. Mr. Manager CLAYTON. No; I do not wish it, but I merely wished to show, and I think I have shown, Mr. President—at least I shall so argue it at the proper time-that Mr. Boland did

The PRESIDENT pro tempore. The Chair understood that to be the object of this testimony exclusively.

Mr. Manager CLAYTON. Very well. The respondent, then,

may examine the witness

Q. (By Mr. WORTHINGTON.) Mr. Commissioner, if I understand your testimony, all the information you had which led you to go to the President with that memorandum came from William P. Boland .- A. Yes, sir. Not orally.

Q. A large part of it was oral, was it not?—A. The matter which was given to me was not oral at all. It rested entirely on photographs, and I believed that the photographs, unless forged, told a very serious story.

Mr. WORTHINGTON. Then I think it is essential that the witness shall identify the photographs, or the managers will perhaps admit them.

The PRESIDENT pro tempore. It is for the counsel for the

respondent to identify them. Mr. WORTHINGTON. I

Mr. WORTHINGTON. I was going to save time merely.
Mr. Manager CLAYTON. We can agree. These photographs
have been put in evidence. I did not think it was proper for me to say before, but I can now say that they have been put in evidence. I will let the witness examine them after he leaves the chair, and with the consent of counsel we will make reference to them as a part of the witness's testimony.

Mr. WORTHINGTON. I do not see that that is necessary. We know that those are the photographs. I do not see that it is worth while taking up time about it.

Mr. Manager CLAYTON. But he did not have photographs made of all the letters. He had photographs, as I understand it, of letters to Capt. May and to Mr. Conn, and other letters from Judge Archbald.

Mr. WORTHINGTON. There is no photograph of a letter to Capt. May.

Mr. Manager CLAYTON. Whatever they were-I may be inaccurate-they are here.

Mr. WORTHINGTON. Very well.

Mr. Manager CLAYTON. That is what we had hoped to have done without objection in the beginning. I am glad to say this is a fair, a very fair witness. [To the witness, handing papers:] You will pick out, if you can, from those photographs and say to the Senate which, if any, of those were exhibited to you by Mr. Boland at the time you have referred to. Look at this one [indicating].

The WITNESS, If I might have reference to Mr. Cockrell's

memorandum, I could identify each one that was shown to me at that time.

Mr. Manager CLAYTON. Will you give me Mr. Cockrell's memorandum?

Mr. WORTHINGTON. You can read that from the record. We do not care.

Mr. Manager CLAYTON. I think this is the memorandum that you referred to. Examine that and see [handing paper to witness l.

The Witness (examining). I believe that this was among the photographs which I saw. I would not be positive that they are all the photographs that I saw.

Mr. WORTHINGTON. Give the exhibit number, please.
Mr. Manager CLAYTON. Let us take this paper, which is
Exhibit 17, before the House committee.

The Secretary. It never has been marked here.

Mr. Manager CLAYTON. This paper, the original of which was Exhibit No. 17 in the proceedings before the House Committee on the Judiciary, is a photograph of the letter from Capt. W. A. May, general manager, dated August 30, 1911, addressed to Mr. E. J. Williams, 625 South Blakely Street, Dunmore, Pa. The original of this letter has been read in evidence, and by agreement with the respondent's counsel, Mr. President, I am authorized to say that the original of this letter having been already printed in the record, we can therefore dispense with the reading of the photographic cory of that letter, but it ought to be identified so that it can be referred to in the argument.

The next is known as Exhibit 19. It was marked, I think, in the House Judiciary Committee proceedings. It is a photographic copy of the agreement in Judge Archbald's handwriting and signed by John M. Robertson and E. J. Williams and witnessed by R. W. Archbald.

Mr. WORTHINGTON. And dated? Mr. Manager CLAYTON. And dated the 4th day of September, A. D. 1911, and acknowledged before George W. Benedict, notary public, on the 12th day of September, A. D. 1911, the original of which photographic copy, it is agreed, has already been introduced in evidence and is printed in the record.

The next is marked "Exhibit 20" in the Judiciary Committee proceedings of the House of Representatives, I think. rate that appears there. It is a photographic copy of the document called an assignment, made the 5th day of September, A. D. 1911, by Edward J. Williams to William P. Boland and a silent party. It is signed by E. J. Williams and witnessed by W. L. Pryor, the original of which, as the counsel for the respondent agree, has been introduced in evidence and is printed in the record.

The other is marked "Exhibit 21" in the proceedings before the Judiciary Committee of the House of Representatives. It is a letter dated September 20, 1911, addressed to "My Dear Mr. Conn," and is signed by R. W. Archbald. It is agreed by the respondent's counsel that the original of this letter has already been introduced here in evidence, and that this is a photographic copy of that letter which has been printed in the record.

(The papers were handed to the witness.)
Q. (By Mr Manager CLAYTON.) You say that you identify those photographs as being among the photographs that Mr. Boland showed you at the time that you have referred to?-A.

Q. And upon which your action was based?—A. Yes, sir. Q. (By Mr. WORTHINGTON.) Can you say whether there were any others?-A. I can not.

Q. Have you the memorandum or a copy of the memorandum which you took to the President?—A. No, sir. I believe this is a copy

a copy.

Q. Printed in the record?—A. Marked "Exhibit 28," I think.

Mr. Manager CLAYTON. In the proceedings before the
House Judiciary Committee.

Mr. WORTHINGTON. Yes; this is it.

Mr. Manager CLAYTON. It has not been introduced here.

Mr. WORTHINGTON. I propose to have this read in evi-

dence

Mr. Manager CLAYTON. We have no objection.

Q. (By Mr. WORTHINGTON.) This is a copy of the memorandum which you took to the President?—A. (Examining.) I believe it is.

Mr. WORTHINGTON. It is printed in the record here.

Mr. Manager CLAYTON. I have no objection. On what page

is it printed?

Mr. WORTHINGTON. On page 666 of the proceedings before the House Judiciary Committee. I ask that the memorandum be read.

The PRESIDENT pro tempore. The Secretary will read the memorandum.

The Secretary read as follows:

[U. S. S. Exhibit N.]

To the best of my recollection the story related by Mr. Boland is as follows:

To the best of my recollection the story related by Mr. Boland is as follows:

Some years ago the Marian Coal Co. (owned by the Boland brothers) had in its employ, as general manager, a man named Peal. The company found that Mr. Peal was unfit to continue in its employ and terminated his services. Some time thereafter, a year or two, as I recall Mr. Boland's statement, Peal filed suit in the Federal court for breach of contract. The attorneys for the coal company filed a demurrer which, if sustained, would mean the termination of the suit.

Before action on the demurrer was had, Mr. Boland was approached by E. J. Williams, representing "A," the judge before whom the case was pending. Williams said that "A" wanted Boland to discount "A's" note for \$500. Boland wanted to know why he was asked to discount the note. Williams said that Boland had a suit pending in court, and if he would discount the note he would be saved all of the costs of the suit. Boland did not discount the note, and he understands that it was discounted by a bank at Scranton, the president of which he describes as a politician. The demurrer was not sustained, and the suit is still pending in the Federal court, the costs to Boland to date being about \$3.300. (Boland has in his possession an affidavit by Williams, stating the facts as to the note and what Boland would gain by discounting it.)

Boland was aroused at this action prompted by "A" and determined.

about \$3.300. (Boland has in his possession an affidavit by Williams, stating the facts as to the note and what Boland would gain by discounting it.)

Boland was aroused at this action prompted by "A," and determined to trap him in some transaction which would prove his unfitness to serve on the bench. He thereupon told Williams that he knew of a culm bank belonging to the Erie road, through direct ownership by the Hillside Coal Co.; that he thought "A" might secure and make a good profit by selling it to some other company. Williams took the matter up with "A," who thought well of it. "A" went to New York and saw Mr. Brownell, vice president of the Erie road, who telephoned Mr. May, superintendent of the Hillside Co., to give Williams an option on the culm bank. "A" returned to Scranton and made out in his own handwriting and signed as witness an option giving. Williams would see him, bearing a letter of introduction from "A." with reference to the sale of the culm bank for the sum of \$3,500. "A" called up Mr. Conn, vice president of the Laurel line. "A" said he was interested in the culm bank and hoped they could arrange a deal. Conn agreed to buy the culm bank for a sum which, after deducting necessary expenses and the original cost of the bank—\$3,500—will net about \$35,000. This deal will be closed within the next few days, the necessary papers now being prepared.

Under the arrangement Williams made with "A" at the time "A" secured the option on the culm bank the net profits will be divided equally between Boland, who had discovered the culm bank, Williams, who acted as a go-between, and "A," who used his influence as Federal judge to secure the option.

Boland has in his possession a photograph of the option written and witnessed by "A," a photograph of "A's" letter introducing Williams to Conn, and another culm bank, which Boland says will be secured by "A" very soon, for the purpose of making another sum of money through the use of his influence with the railroads.

Boland expects to secure very shortly

and we came back to New York prepared to make good such assurance. Very soon thereafter we were informed from a reliable source that because of the loss of the property of the Marian Coal Co., as the result of litigation with other parties than the Delaware, Lackawanna & Western, and because he was fairly well satisfied with the relief already obtained in the proceedings before the Interstate Commerce Commission against the Delaware, Lackawanna & Western, Mr. Boland did not care to proceed further therein and had dropped the cases. Under these circumstances we felt that the occasion had passed which prompted you to make the request for the information and that you would not desire us to go to the very considerable expense of preparing data, which, so far as appeared, would never be used. For this reason we suspended our preparations to gather the information requested.

Boland says the litigation referred to by Seager is the sult filed by Peal and that Seager has inside advance information of the decision of the court, which has not yet been handed down.

Mr. Manager CLAYTON. Mr. President, in view of the introduction of that in writing, I would like for these photographic copies of letters and documents which have been introduced in evidence this morning to be printed at this point in the Record. do not desire to have them read.

Mr. WORTHINGTON. There is no objection.
The PRESIDENT pro tempore. There is no objection, and it will be so done.

The matter referred to is as follows:

[U. S. S. Exhibit 80.]

(Pennsylvania Coal Co. Hillside Coal & Iron Co. New York, Susque-hanna & Western Coal Co. Northwestern Mining & Exchange Co. Blossburg Coal Co. Office of the general manager, Scranton, Pa.) AUGUST 30, 1911.

Mr. E. J. WILLIAMS, 626 South Blakely Street, Dunmore, Pa.

Dear Sir: As stated to you to-day verbally, I shall recommend the sale of whatever interest the Hillside Coal & Iron Co. has in what is known as the Katydid culm dump, made by Messrs. Robertson & Law in the operation of the Katydid breaker, for \$4,500.

In order that it may not be lost sight of, I will mention that any coal above the size of pea coal will be subject to a royalty to the owners of lot 46, upon the surface of which the bank is located.

It is also understood that the bank will not be conveyed to anyone else without the consent of the H. C. & I. Co., and that if the offer is accepted articles of agreement will be drawn to cover the transaction.

Yours, very truly,

W. A. Max. General Manager.

W. A. MAY, General Manager.

[U. S. S. Exhibit 81.]

This agreement made and concluded this 4th day of September, A. D. 1911, by and between John M. Robertson, of Moosic, Pa., of the one part, and Edward J. Williams, of Scranton, Pa., of the other part, witnesseth:

Whereas the said party of the first part is the owner of that certain culm dump in the vicinity of Moosic made in the operation by the firm of Robertson & Law of the so-called Katydid mine or colliery. And whereas the said party of the second part is desirous of purchasing the same:

whereas the said party of the second part is desirous of partials whereas the same:

Now this agreement witnesseth that for and in consideration of \$1 to him in hand paid, the receipt of which is hereby acknowledged, the said party of the first part hereby grants and conveys unto the said party of the second part, his heirs, executors, administrators, and assigns the right or option to pyrchase his interest in and to the said culm dump for the price or sum of \$3,500, which said option is to be exercised within 60 days from this date, the terms to be cash within 5 days after the exercise of said option. It is understood that this option is intended to cover and include all the interest of the said party of the first part and of the said late firm of Robertson & Law.

In witness whereof the parties hereto have hereunto set their hands and seals this day and year aforesaid.

JOHN M. ROBERTSON. [SEAL.]

F. J. WILLIAMS. [SEAL.]

JOHN M. ROBERTSON. [SEAL.] E. J. WILLIAMS. [SEAL.]

Witness: R. W. ARCHBALD.

State of Pennsylvania, county of Lackawanna, ss:

State of Pennsylvania, county of Lackawanna, ss:

On this 12th day of September, A. D. 1911, personally appeared before me, a notary public in and for said State and county, duly commissioned, residing city of Scranton, county aforesaid, the abovenamed E. J. Williams, who in due form of law acknowledged the foregoing indenture to be his act and deed and desired the same might be recorded as such.

Witness my hand and official seal the day and year aforesaid.

[SEAL.]

GEORGE W. BENEDICT, Jr.

Notary Public.

My commission expires March 10, 1913.

[U. S. S. Exhibit 82.]

Assignment, made this 5th day of September, A. D. 1911, by Edward J. Williams, of the borough of Dunmore, County of Lackawanna and State of Pennsylvania, party of the first part, to William P. Boland and a silent party, both of the city of Scranton, county and State above mentioned, parties of the second part. For services rendered or to be rendered in the future by William P. Boland and silent party, whose name for the present is only known to Edward J. Williams, W. P. Boland, John M. Robertson, and Capt. W. A. May, superintendent of the Hillside Coal & Iron Co., it is agreed by said Edward J. Williams, who is the owner of two options covering a culm bank known as the "Katydid." situate in the vicinity of Moosic, Pa., that he hereby assigns two-thirds of any profits arising from the sale of the above-mentioned property over and above the amounts to be paid John M. Robertson and the Hillside Coal & Iron Co., \$3,500 and \$4,500, respectively, to be divided equally between William P. Boland and silent party mentioned above, their heirs, successors, or assigns, and this shall be their voucher for same.

W. L. PRYOR.

E. J. WILLIAMS. [SEAL.]

[U. S. S. Exhibit 83.]

(R. W. Archbald, judge, United States Commerce Court, Washington.)

SCRANTON, PA., September 20, 1911.

Scranton, Pa., September 20, 1911.

My Dear Mr. Conn: This will introduce Mr. Edward Williams, who is interested with me in the culm dump about which I spoke to you the other day. We have options on it both from the Hillside Coal Co. and from Mr. Robertson, representing Robertson & Law, these options covering the whole interest in the dump. This dump was produced in the operation of the Katydid colliery by Robertson & Law, and extends to the whole of the dump so produced. I have not seen it myself, but, as I understand it, this dump consists of two dumps a little separate from each other, but all making up one general culm or refuse pile made at that colliery. Mr. Williams will explain further with regard to it, if there is anything which you want to know.

Yours, very truly,

R. W. Archeald.

R. W. ARCHBALD.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Now, Mr. Commissioner, I find in this memorandum it is stated:

The attorneys for the coal company filed a demurrer which, if sustained, would mean the termination of the suit. Before action on the demurrer was had Mr. Boland was approached by E. J. Williams, representing "A," the judge before whom the case was pending.

Now, did Mr. Boland make that statement to you?-A. That is my confidential clerk's recollection of what Mr. Boland said.

Q. Had you not had a talk with him?-A. Mr. Boland made various statements to me. I do not say now he did or did not

say that.

Q. Did you take to the President a memorandum saying that Judge Archbald had overruled a demurrer because the party who filed the demurrer had refused to discount his note, without knowing anything about whether it was true or not?—A. I would take to the President any statement prepared under such circumstances by my confidential clerk; yes, sir.

Q. You would?—A. Yes, sir.

- Q. Then you do not know of your own knowledge whether Mr. Boland had made this statement or not?—A. I would not
- be positive. Mr. Boland made a great many statements.
 Q. You stated a little while ago that you relied only on the photographs. Was any photograph submitted to you that tended to support that statement and show that the note was presented to the judge before his action on the demurrer?-A. I intended to say I relied chiefly on the photographs, and in response to your question I say I did not rely only upon oral statements.

Q. After setting forth about his overruling the demurrer after the note had been presented and discount refused, you say that "Boland was aroused at this action, prompted by 'A'"——
A. I beg your pardon; I did not say that. The memorandum

said that.

Q. You took to the President a memorandum which contained that statement?—A. Yes, sir.
Q. You did not know anything about it except what Mr.

Cockrell told you?-A. I have no personal knowledge of that; no, sir.

Q. It also says this-and I should like to know whether you had any information except Mr. Cockrell's report to you as to it-

"A."-

Of course "A" means Judge Archbald.

"A." went to New York and saw Mr. Brownell, vice president of the Erie Road, who telephoned Mr. May, superintendent of the Hillside Co., to give Williams an option on the culm bank.

Did you know anything in advance of that statement except what Mr. Cockrell had put in this memorandum?-A. I can not know telephone messages between Scranton and New York;

Q. You took that to the President without knowing anything about it?-A. Yes, sir,

Q. Except Mr. Cockrell said that Mr. Boland said that?-A. I know Mr. Cockrell is a reliable man.

Q. I do not think you have answered my question.-A. Will

you kindly repeat it?

Q. The question is whether you took that statement to the President without knowing anything about it except that Mr. Cockrell told you Mr. Boland said that?—A. I presume Mr. Boland told me a good many things. He had a story and I did not hear all Mr. Boland's story. I did not take time to listen to it. It took him a good while and it took more time than I had. A commissioner is a busy man.

Q. Was Mr. Boland in an excited condition about it?—A. I

- do not think he was.

 Q. Did he tell you he came down there for the purpose of having proceedings instituted against Judge Archbald?-A. No. sir.
- Q. Did he tell you he came down there for the purpose of giving this information in reference to the suit which he had pending before the commission?—A. I think he said he would like to introduce that as a part of his testimony.

Q. And he made this statement to Mr. Cockrell and to you, and Mr. Cockrell reduced the statement to writing?-A. As told twice by Mr. Boland.

Q. And the purpose, as you understood at the time, was to influence the action of the commission in reference to the suit which was pending before it?-A. I had no such understanding. Mr. Boland never said a word about it, except he expressed the wish to put that in as a part of his testimony.

Q. Was the counsel of the railroad company notified of these

proceedings?—A. Of which proceedings?

Q. Of what was going on between you and Mr. Cockrell on the one hand and Mr. Boland on the other, when he was telling you that he wanted it to go into evidence?-A. Thousands, representing petitioners, as well as railway companies, come to the office of the commission in the course of a year.
Q. The question is not answered.—A. I did not know Mr.

Boland was coming. I did not know what he wanted. How could I notify anybody, if I desired to do it? There was no

occasion to notify anybody, as I saw it.
Q. You listened to him?—A. I listened to him as to any other man who will come to my office, and every man has a right to come there.

Q. After that statement about Mr. Brownell telephoning to Mr. May to give this option, it says:

"A." returned to Scranton and made out in his own handwriting and signed as witness an option giving Williams the right to purchase the culm bank for the sum of \$3,500.

You understood that to mean that Judge Archbald wrote out the option which Mr. May was to give?—A. I believe I saw some such document as that.

Q. That is what you understood that memorandum to mean when you took it to the President, that the judge went to Brownell and Brownell telephoned to May to give the option, and the judge wrote out the option and had it signed. Was not that the idea you meant to convey to the President?—A. I meant to convey to the President nothing but what that memorandum contained and what I thought it meant.

Q. This language I will read again:

"A." returned to Scranton and made out in his own handwriting and signed as witness an option giving Williams the right to purchase the culm bank for the sum of \$3,500.

Did you think, and did you wish the president to think, that Judge Archbald had written the option which Capt. May was to give on dictation by telephone from Brownell?-A. I paid no special attention to any one special statement, relying primarily on what was in the photographs.

Q. There was nothing in the photographs about the \$500 note?-A. I can not say. I would have to examine the photo-

graph.

Q. Was there anything about the demurrer?-A. I suppose not.

Q Or anything about Mr. Brownell's telephoning to Capt. May?—A. I do not believe that is capable of photographic reproduction.

Q. Now, it says, next:

Under the arrangement Williams made with "A." at the time "A." secured the option on the culm bank the net profits will be divided equally between Boland, who discovered the culm bank, Williams, who acted as a go-between, and "A.," who used his influence as Federal judge to secure the option.

Did Boland say he was entitled to one-third of the proceeds of this transaction?-A. He must have said it, or otherwise Mr. Cockrell would not have written it.

Q. Do you remember whether, when talking to you, he said that?-A. I think he probably did.

Q. Mr. Meyer, I understand that you arranged the meeting with the Attorney General, when Mr. W. P. Boland was to be taken there?—A. Yes, sir; I did.
Q. The suit of the Marian Coal Co. against the Delaware.

Lackawanna & Western Railroad Co. was set down for a final hearing on the 20th of February?—A. The 12th.

Q. No; the 20th. You arranged with the Attorney General that after the hearing was over you would take Mr. Boland up to the Attorney General's office?—A. No; I did not arrange to take Mr. Boland to the Attorney General's office, but I arranged for a conference between the Attorney General and Mr. Boland and his attorney. Of this neither Mr. Boland nor his attorney, Mr. H. C. Reynolds, had any knowledge before the meeting.

Q. You had Mr. Cockrell go and attend the meeting?—A. Yes,

sir.

Q. At your request?-A. I wanted Mr. Cockrell to show them where the Attorney General was to be found, and he was to be

Q. In reference to the last part of this examination, which says:

Boland says the litigation referred to by Seager is the suit filed by Peale, and that Seager has inside advance information of the decision of the court, which has not yet been handed down.

You knew Judge Witmer then had charge of the case and would make the decision, if any were made?-A. I did not know any such thing; no, sir.

Q. You knew that Judge Archbald was then judge of the

Commerce Court, did you not?-A. I did.

Q. And there must be some other judge who would be sitting in the middle district of Pennsylvania?—A. I paid no attention to the character of that litigation.

Q. As a matter of fact now, Mr. Meyer, did not Mr. Boland tell you that Judge Witmer was giving information about what he was going to do in the Peale case?-A. He may have said

it; I would not be positive; I doubt it.

Q. Did you not omit from the memorandum which you took to the President any reference to Boland's charges against Judge Witmer?-A. I had nothing whatever to do with the preparation of that memorandum and neither included nor omitted anything.

Q. Did you not direct Mr. Cockrell to make the memorandum?-A. Yes, sir.

Q. For the purpose of taking it to the President?-A. Not for the purpose of taking it to the President.

Q. You did take it to the President?-A. Yes, sir. Q. And you read it?—A. The President read it.

Q. You read it before you took it to the President?-A. Most

assuredly, I read it before that, and Judge Clements before that. Q. You took a memorandum with those charges that a judge was giving advance information to one of the parties to the suit, without knowing who the judge was?-A. Yes, sir.

Q. Is it not a fact that you omitted a reference to the other judge because he was not a judge of the Commerce Court?-

A. There was no such purpose as that.

Q. With an important charge against Judge Witmer, the man who was going to give this decision, and it was charged was giving advance information, what reason was there for taking to the President only that part of the story which related to Judge Archbald?—A. Mr. Cockrell listened to Mr. Boland the morning we had the conference. He listened when Mr. Boland told the story to Judge Clements; it was listened to by myself in part and continued with Mr. Cockrell; and based on those two recitations Mr. Cockrell prepared a memorandum as to what he had said, to the best of his recollection. That is all I can say about that memorandum.

Q. Then, if Judge Witmer was intentionally omitted from the memorandum, it was Mr. Cockrell who did it, and not the com-

missioner?—A. Yes, sir. Mr. WORTHINGTON.

Mr. WORTHINGTON. That is all.
Mr. Manager CLAYTON. This witness may be discharged.
The PRESIDENT pro tempore. The witness will retire.

TESTIMONY OF CHRISTOPHER G. BOLAND-CONTINUED.

Mr. Manager FLOYD. Mr. President, we are now ready to further consider the question of the admissibility of the evidence in the testimony of C. G. Boland, and I ask that Judge Sterling be heard on the part of the managers.

Mr. Manager STERLING. Mr. President, it will be remembered that the evidence which we seek is a statement made by George M. Watson to Christopher G. Boland. George M. Watson was the attorney employed by the Bolands and the Marian Coal Co. to settle the suit which that coal company had before the Interstate Commerce Commission and to sell the stock of the Marian Coal Co.

We believe that the testimony is competent on at least two grounds. First, they are statements made by one who was a party with the respondent, Judge Archbald, to do a wrongful thing, and it relates to matters that were done or proposed in

furtherance of the doing of the wrongful thing.

A conspiracy is an agreement between two or more persons to do a wrongful thing, and anything that either party to such an agreement does or says in furtherance of the agreement is competent against the other party to the agreement. parties to this agreement were Judge Archbald and George M. Watson, and the unlawful thing which they proposed to do was to use the influence of Judge Archbald as a judge of a Federal court to compel or to induce, if you prefer, the Delaware, Lackawanna & Western Railroad Co. to buy this stock and to settle this suit.

We understand, and it is purely an elemental principle of law, that we must prove the conspiracy before we can prove acts and words on the part of one of the coconspirators against the other coconspirators; and the only question that is left is whether we have proven in this case this agreement by Arch-bald and Watson that Judge Archbald should use his influence as a judge in order to prevail upon this railroad company to engage in this settlement and in the purchase of this stock.

Now, what is the proof? In the first place, immediately after the Bolands employed Watson to represent them in the settle-ment and in the sale of this stock Watson visits Judge Arch-

bald's office, and some one, Judge Archbald or some other person, while they are there together, telephones Christy G. Boland to come to Judge Archbald's office, and he goes there.

It is stated there in the presence of those three what was to be done, and Christopher G. Boland says that Judge Archbald said that he would help-that was the language of Mr. Boland, that he would help-get this settlement out of the Delaware, Lackawanna & Western Railroad Co. and help to sell them the stock of the Marian Coal Co.

We believe that when we have gone that far we have proven that Judge Archbald is a party to the agreement to do the wrongful thing of using his influence as a judge, it being remembered that at that time the Delaware, Lackawanna & Western Railroad Co. had two lawsuits pending in the court over which Judge Archbald presided; we believe when we have gone that far and proven the express agreement of Judge Archbald to

help in that matter we have proven a conspiracy.

But that is not all the evidence in the case. If Judge Archbald had never used that language in the presence of Christopher Boland, we have proven here that immediately after that conference between those three men Judge Archbald meets Loomis, one of the high officials of this railroad company, and suggests this matter of a purchase of the stock and of the set-tlement of the Marian Coal Co.'s suit in the Commerce Court; then, a few days after that, he telephones to Mr. Phillips, another high official, superintendent of the coal properties of this railroad company, to come to his house, and he talks to him about the proposition of a settlement and a sale; then, when he was in New York he goes to the offices of this railroad company, urging that they settle this suit and purchase this stock; then he writes at least three letters to Mr. Loomis, urging all the time, using all his influence, to carry out this agreement which had been entered into between him and Watson. Even after it was supposed that the matter had fallen through, he still writes to Loomis and tells him that he understands that the settlement has failed; that he regrets it very much, and that if he thought he could do any good he would offer his personal services to carry out that end. He then suggests a personal conference between Truesdale, the president of the company. and Mr. Loomis and Mr. Phillips and Mr. Watson, and says a personal conference very often results in good. He did not only agree, and we have not only proven that he did agree, to help to do this wrongful thing, but we have proven that he carried out the agreement and did all in his power to carry it out.

So in that phase of the case we submit, Mr. President, that we have not only proven a conspiracy, but we have proven that Judge Archbald did his part of the undertaking. For that reason any statement made by his coconspirators in furtherance of this agreement is competent against Judge Archbald in this

I shall not weary the Senate with precedents, but I do want to call attention to one precedent which Mr. Manager Floyd referred to the other day, and which I think is exactly in point in this case. In the impeachment proceedings against President Johnson, one of the charges in the articles was that Andrew

did unlawfully conspire with one Lorenzo Thomas with intent unlawfully to seize, take, and possess the property of the United States in the Department of War, in the custody and charge of Edwin M. Stanton.

It was plain there that President Johnson had called Gen. Thomas to his office; had made certain statements to Gen. Thomas; that Gen. Thomas had consented to do what the President had suggested, and that that constituted a conspiracy between President Johnson and Gen. Thomas. Then Gen. Thomas went out and stated to a third person some of the things that President Johnson had said to him. That third person was called as a witness in the trial of the case before the Senate, and the Senate held that he could testify as to what Gen. Thomas told him he had heard President Johnson say. That is exactly the same kind of case as this.

Here is George M. Watson. We charge that he and Archbald made this agreement. Then Watson goes out and tells Christy G. Boland about what they had done and about what they were doing in furtherance of this proposition to get this settlement. It was right along the line of doing the very unlawful thing that we charge in this count, that it was the use of the judge's official power in order to induce litigants in his court to come to their terms. It will not be disputed by these gentlemen, I am sure, that it is a wrongful thing for a judge to use his influence to induce litigants in his court to do anything, whether it be for a consideration to himself or to a friend.

Just one further thing on that point. During the discus-

sion

The PRESIDENT pro tempore. Will the manager permit the Chair to make an inquiry? The precedent cited by him is where the article of impeachment charged a conspiracy, is it not?

Mr. Manager STERLING. Yes, sir; it charged a conspiracy in the article

During the discussion the other day it was suggested, I think, or perhaps was in the mind of the Chair, at least, that the evidence was not sufficient to prove that Judge Archbald was to receive any consideration for his part in carrying out this agree-It is true that in the article to which this evidence relates it is charged that for a consideration Judge Archbald entered into this agreement and agreed to use his influence to get this settlement.

We submit that the words "for a consideration" are not essential to the offense. Those words constitute no necessary element in the offense which we charge. It makes no difference, so far as the completion of the offense is concerned, whether or not Judge Archbald was to participate in the fees or in any moneys derived from this settlement. He knew that Watson was to get \$5,000; and if, in order to assist a friend in earning a fee, he would undertake to use his power as a judge to get litigants in his court to come to an agreement or to a settlement, he is guilty of the offense; he is guilty of the gravamen of the charge that is contained in this count. We submit that, although it is a very compelling inference—and we say that it is an unavoidable inference-from all the testimony in this case that Judge Archbald was to share in this money, it is immaterial in this question, because anything he did in the way of using his official power in aiding Watson to earn a fee was a wrongful act. If the Chair will read it again, it will be found that that is the charge in the count, and that the words "for a consideration" are not necessary or essential to the completion of the charge.

Just a word on the other proposition. We believe it is

res gestæ.

The PRESIDENT pro tempore. The manager did not understand the Chair as ruling on that ground that the evidence related in any manner to the question ultimately to be decided by the Senate as to whether or not the respondent had been guilty of improper conduct?

Mr. Manager STERLING. No.

The PRESIDENT pro tempore. The Chair did not rule on anything of that kind. The Chair ruled on the question as to the admissibility of this evidence, based, as it is, upon the allegation that Judge Archbald was Mr. Watson's partner.

Mr. Manager STERLING. The court understands that our

position has been that it is competent on the ground that I have just stated. I think Mr. Manager Floyd made that statement the other day. The reason I discussed this proposition with reference to whether or not Judge Archbald was to share in the fee or any part of the money derived from the settlement was because I inferred from what the President said the other day, if I understood him properly, that it had not been sufficiently shown that Judge Archbald was to share in the proceeds of the settlement. I may have been mistaken about that, but in any

The PRESIDENT pro tempore. The Chair will repeat his ruling, if the manager so desires. The ruling of the Chair was that there had not been sufficient evidence produced to justify the conclusion that Judge Archbald was the partner of Mr. Watson to such an extent as to permit the sayings of Mr. Watson to be introduced in evidence against him as a partner.

The Chair did not go beyond that.

Mr. Manager STERLING. I will say, then, in regard to that, that we trust that now, since the evidence is in-and I believe I have stated it correctly—the Chair will find that we have offered sufficient evidence to prove that there was a conspiracy; that Judge Archbald was a party to it; and the statements that we propose to prove are the statements of one of the coconspirators showing what was done or what was proposed to be done in furtherance of that agreement.

It certainly can not be disputed under this evidence that Watson and Archbald were partners-partners, it is true, to do an unlawful thing, which constitutes the conspiracy They said they would help each other in it; and they did help each other in the proposition. So we submit that they were partners in that respect.

Now, just another word on the question as to whether or not this evidence is res gestæ. It will be understood that Christy Boland is the man who employed George M. Watson for the Marian Coal Co., and this conversation which we are seeking to get from Christy Boland is a conversation containing statements by Watson to Boland with reference to what he had done and what he had proposed to the officers of this railroad company toward carrying out his duty to his clients, and at the same time toward carrying out the agreement which he made with Archbald to use the judge's official influence in order to arrive at a settlement.

It seems to me, Watson being the attorney of Mr. Boland. that what Watson said to Boland about what was being done with reference to the contract of hiring, with reference to the employment, and with reference to what he was doing toward performing his duty in conjunction with Judge Archbald, becomes a part of the res gestæ in this case, and that we are entitled to show now, as a part of the res gestæ, what Watson said to Boland along that line.

I think that is all I have to say, Mr. President, in the matter. It seems to me that it is very clear under the law of conspiracy, and very clear that the Senate in the case to which I have referred, where the question involved was very similar to the one now being argued, held that it was competent under the law of conspiracy; and we submit that we are entitled to have Mr. Boland testify to that conversation.

Mr. SIMPSON. Mr. President, the learned manager has only referred to one of the legal principles which are applicable to this case, though he has very fairly referred to that one. He has said to you that there must be, in the first instance, proof of an unlawful conspiracy before there can be admitted the testimony by outside parties of the admissions or declarations or statements of one of the coconspirators as against the other. The difficulty under which the learned manager labors in that statement is that he seems to assume that upon proof of a combination therefore there is proof of a conspiracy. But a conspiracy and a combination are two very distinct and different There is embodied in every conspiracy a combination, but there is not embodied in every combination a conspiracy. A conspiracy is a combination to do an unlawful thing, and the very gravamen of the charge in the Johnson impeachment case was that Gen. Thomas, knowing of President Johnson's intention to oust Stanton from his office in violation of the tenure of office act, joined with Johnson in accomplishing that purpose; and that therefore the statements which were made by Thomas were admissible as against Johnson in the impeach-Nobody would question that ruling if the ment proceedings. matter were parallel here at all, but there is not the slightest parallel. Let us see.

The manager says that there is an unlawful thing here. What constitutes the unlawful thing? That is the primary question which you and the Senate have to meet. If Judge Archbald or you or I or anybody else agreed to assist a friend, is that unlawful? Can there be anything said to be unlawful in relation to that? If such a thing as that is unlawful, sir, then the whole basis of our Christianity is unlawful, because we are commanded to assist our fellow men whenever and wherever we can. There must be back of it something more than mere assistance, and there is where the learned manager fails in his argument. He has produced here nothing whatsoeyer showing anything further than assistance pure and simple; assistance He has produced here nothing whatsoever showing which Mr. Boland, his witness, himself says was an assistance as a friend to him, Boland, and as a friend to Watson, who was

Boland's counsel.

When the managers have proven something beyond that friendly assistance, they may get to the second step in this case. but their failure to show anything beyond that leaves the case outside the rule to which the manager has adverted, namely, that there must be proof of a conspiracy in the first instance before declarations can be admitted at all.

There is a second step, if he passes that one, sir. If it were admitted or proven here that there was a conspiracy, admissions or declarations of one conspirator could not be adduced as against the other unless they were made in furtherance of the conspiracy. The manager stated that himself but has mis-

understood its application.

Let us see, sir, whether or not the question which you are considering is or can reasonably be held to be an inquiry in relation to something done in furtherance of a conspiracy. Remember, sir, as I shall read to you in a moment from the authorities, the test is not merely that the conspiracy is a thing in existence and has not entirely culminated. That is only one essential. There must not only be that, but that which is done must also be done in furtherance of the conspiracy. Now, let me read the question before I read the authorities. This is the question:

Q. (By Mr. Manager Floyd.) Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversations with Mr. Watson relative to Judge Archbald's interest or participation in this settlement and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement.

Now, as Mr. Boland has said that he had not himself any talk with Judge Archbald in regard to it, the limit to which that question can possibly go would be that Mr. Watson had said to Mr. Boland that at some time in the past there had been an agreement entered into between Watson and Archbald that Archbald was to share in the fee to be received or to obtain some "consideration for his services in attempting to make that settlement," if I may use the language of the question. That is a statement which necessarily relates to a past occurrence; and a statement of a past occurrence can not be a statement in furtherance of a conspiracy and can not be admissible, even if

there were evidence of a conspiracy, which there is not.

I read, first—the books are here, but for convenience I read from the brief which I have prepared—from a decision of the Supreme Court of the United States in Logan against the United States, One hundred and forty-fourth United States, pages 263 to 309. The exact quotation is on page 309.

Doubtless in all cases of conspiracy the action of one conspirator in the prosecution of the enterprise is considered the act of all and is evidence against all. But only those acts and declarations are admissible under this rule which are done and made while the conspiracy is pending and in furtherance of its object.

Not "or in furtherance of its object," but "and in furtherance of its object." There must coexist two things, a pending conspiracy and a statement or declaration or act in furtherance of the object of the conspiracy while it is pending.

In Brown v. The United States (150 U. S., 98), after quoting the clause which I have just read from the Logan case, and stating the facts, which I will not weary you or the Senate

with, the Supreme Court proceeds:

If a conspiracy was sought to be established affecting the plaintiff in error, it would have to be by testimony introduced in the regular way so as to give the accused the opportunity to cross-examine the witness or witnesses. It could not be established by acts or statements of others directly admitting such a conspiracy, or by any statement of theirs from which it might be inferred.

In Greenleaf on Evidence—reading from the paragraph which Mr. Manager Floyd quoted the other day when this question was raised-I read this:

Declarations of conspirators: The same principles apply to the acts and declarations of one of a company of conspirators in regard to the common design as affecting his fellows. Here a foundation must first be laid by proof sufficient in the opinion of the judge to establish prima facie the fact of conspiracy between the parties, or proper to be laid before the jury as tending to establish such fact. The connection of the individuals in the unlawful enterprise being thus shown—

That is by original proof-

every act and declaration of each member of the Confederacy, in pursuance of the original concerted plan and with reference to the common object, is, in contemplation of law, the act and declaration of them all, and is therefore original evidence against each of them. (Greenleaf on Evidence, 14th Ed., Vol. I, pp. 149, 150.)

But you will perceive, sir, it is only the things done in furtherance of the conspiracy. First, you must show the conspiracy, then you may admit the declarations made in furtherance of it, but not declarations which are made or statements of things which have preceded the time of the statement.

Now, I read from Taylor on Evidence, because in that and one other authority it is more clearly put than in any I have

yet been able to find. In section 593 he says:

Care, however, must be taken to distinguish between declarations, which are either acts in themselves purporting to advance the object of the criminal enterprise, or which accompany and explain such acts, and those statements, whether written or oral, which, although made during the continuance of the plot, are, in fact, a mere narrative of the measures that have already been taken. These last statements are, as before explained, inadmissible. The distinction here referred to may be well illustrated by the case of Hardy, who was prosecuted for high treason. There a letter written by a coconspirator to a private friend, unconnected with the plot, which gave an account of the proceedings of a society to which the writer and the defendant were proved to have belonged and which inclosed several seditions songs stated to have been composed by the writer and sung by him at a meeting of the society, was rejected on the ground that it was not a transaction in support of a conspiracy, but merely a relation of the part which the writer had taken in the plot, and, as such, only admissible against himself.

In the case of State v. Gilmore—and I am reading from 35, Lawyers' Reports, Annotated—at page 1088 this is said:

Lawyers' Reports, Annotated—at page 1088 this is said:

To render such evidence admissible two conditions are absolutely consential: (1) That the acts or declarations sought to be shown were done or made pending the conspiracy, and (2) they were in promotion of its object or design. * * *

The theory of the State seems to have been that the alleged conspiracy might be shown by declarations of the deceased alone. No authority so holding has been cited, and none can be found. Certainly nothing said in State v. Crawford warrants such a conclusion. There a letter written by the victim of abortion to her paramour, after the latter was shown to have entered into a conspiracy with the defendant therein, was held to be admissible in evidence as tending to establish her connection with the conspiracy; that is, that she was either joining in the enterprise of the other two or entering into an unlawful arrangement with the one addressed. But no one will pretend that this letter alone implicated the defendant therein. Nor is there any ground for saying that the declarations of deceased alone tended to connect this defendant with any conspiracy. As to him, these were in the nature of hearsay, until there was prima facle proof of some unlawful arrangement or agreement between them, in which event they were a part of the res gestæ.

Now, sir, I do not think it worth while to undertake to

Now, sir, I do not think it worth while to undertake to answer Mr. Manager Sterling's argument that there is some particular weight to be given to the fact that Mr. Watson was out to me the wrong decision.

attorney for Boland. I care not who he was attorney for. The question which here is raised is, whether or not they were partners or conspirators in an unlawful act, which two were the judge and Watson.

In closing the argument, sir, I only want to bring home to you an illustration which seems to me will fit exactly everything

that appears in this case.

Let us suppose that an indictment is found against a Member of Congress, charging him with misdemeanor in office, in that he has undertaken, for a consideration, to obtain the appointment of some other party to a public position, and upon the trial this proof is adduced: It is shown that the defendant, the Member of Congress, together with the applicant for the office, went to other Members of Congress and to friends of the President, and to the President himself, and urged upon the President that he should appoint this particular man to office, and in that state of the case there was a proffer of proof by a third party, that the applicant had said to him that the consideration for which the Member of Congress was using his influence in the way stated was that he, the Member of Congress, should receive a portion of the salary that the applicant would get if he were appointed to the office.

Now, does anyone suppose for a moment that that evidence would be admitted? And yet that, I submit, is an exactly parallel case to the one that is here. You have two people in each case acting together for a common purpose-to wit, in the one case to obtain an appointment to office; in the other, to settle some pending controversy. You have in the one case a proposition to prove by a third party the statement of one of the persons as to the consideration for which it is said the defendant in the particular case was acting, just exactly as the

question which is here read.

The fault in each case—the fault in the offer of proof in the supposed case, and the fault in the offer of proof in this case, entirely outside of the question to which I have adverted somewhat at length, on the subject of the fact that it was something said in the past—the fault in each case rests on the assumption that the endeavor to help a man is a wrong, whether the helping of a man is by a Member of Congress who in the future may obtain favors from the President or from the applicant, or from a judge on the bench who may obtain in the future favors from somebody else, makes no difference whatsoever. There must be shown first that there was existing that which was wrongful; not the mere intention to help, but that that intention to help was wrongful in and of itself because of something connected with it, before there can be admitted the declarations of one party against the other.

Mr. WORTHINGTON. Mr. President, I simply wish to call attention to the precedent cited by Mr. Manager Sterling and which Mr. Simpson had no opportunity to look at. Mr. Manager Sterling did not give us the page or state what the question was, but while Mr. Simpson was speaking I asked Mr. Sterling for it, and he referred to Third Hinds' Precedents, at the top of page 561, where the ruling was made on which he relies, and that is:

At the end of the debate the Chief Justice said:

"The Chief Justice is of opinion that no sufficient foundation has been laid for the introduction of this testimony. He will submit the question to the Senate with great pleasure, if any Senator desires it. The question is ruled to be inadmissible."

Mr. Jacob M. Howard, of Michigan, a Senator, asked that the question be taken by the Senate; and being put, "Shall the question proposed by Mr. Butler be put to the witness?" the yeas were 28 and the nays 22. So the question was put.

Hinds simply gives the outlines of these things, and it is impossible from what he says of it to know just what the question was. But in the official report of the Johnson trial, in which there is a full statement of everything that took place-by the official reporters, F. and J. Rives and George A. Bailey—published just after the trial, I find the exact language.

Mr. Manager STERLING. Mr. President, may I interrupt

the counsel?

Mr. WORTHINGTON. Certainly.
Mr. Manager STERLING. You will find, if you read Hinds, that the question called for statements which President Johnson had made to Thomas and which Thomas had made to this witness-statements about things which had already occurredand it answers everything that the gentleman said on that side of the case.

Mr. SIMPSON. I would sooner take the Supreme Court of the United States on the question.

Mr. Manager STERLING. The Supreme Court of the United

States has not determined differently, either.

Mr. WORTHINGTON. Either, Mr. President, Mr. Manager
STERLING is in error about what was decided or he has pointed

I am going to call attention to what was the question that was decided in the language that I have read. I presume the Members of the Senate remember at least the outlines of the case against President Johnson, so far as it relates to what was involved in this question. The President had undertaken to remove Mr. Stanton from the office of Secretary of War and to appoint Lorenzo Thomas, the Adjutant General of the Army, as his successor, in violation of what was called the tenure-ofoffice act, which made it a criminal offense for the President to do that; and the President being impeached, charged with having entered into a conspiracy with Gen. Lorenzo Thomas to violate the tenure-of-office act, Gen. Thomas is on the stand and is being questioned, and this is the question:

Shortly before this conversation about which you have testified, and after the President restored Maj. Gen. Thomas to the office of Adjutant General, if you know the fact that he was so restored, were you present in the War Department and did you hear Thomas make any statements to the officers and clerks, or either of them, belonging to the War Office as to the rules and orders of Mr. Stanton?

Mr. Manager STERLING. After reading that, does the counsel for the respondent insist that Gen. Thomas was the witness

to whom the quesiton was put? It was a third party.
Mr. WORTHINGTON. No; Mr. Burleigh, a delegate, was Yes: I made a mistake about that. the witness. as to the declarations of Gen. Thomas. Gen. Thomas was a witness, and these questions were raised on his examination, But this question was whether the witness was present and heard Gen. Thomas make these statements. What statement? Statements as to what President Johnson had said? Nothing of the kind.

Shortly before this conversation about which you have testified, and after the President restored Maj. Gen. Thomas to the office of Adjutant General, if you know the fact that he was so restored, were you present in the War Department and did you hear Thomas make any statements to the officers and clerks, or either of them, belonging to the War Office as to the rules and orders of Mr. Stanton or of the officer which he—Thomas—would revoke, relax, or rescind in favor of such officers and employees when he had control of the affairs therein? If so, state when, as near as you can, it was such conversation occurred, and state all he said as nearly as you can.

The question asked the witness there was whether he heard Gen. Thomas say what he was going to do when he got in control of the War Department and not a word as to what President Johnson had said.

In the report I have here, which I was about to read, there is given what Hinds in his work does not give. It gives not only the question and the discussion and the ruling and the overruling of the Chief Justice by the Senate but the testimony given in reply to the question, and here it is:

The general remarked to me that he had made an arrangement to have all the heads or officers in charge of the different departments of the office come in with their clerks that morning, and he wanted to address them. He stated that the rules which had been adopted for the government of the clerks by his predecessor were of a very arbitrary character, and he proposed to relax them.

And so on about that conversation, about what he was going to do when he got hold of the War Department. Not one word about what President Johnson had said to him. As a matter of fact, in that trial the turning point of the rules of evidence in that case was the great question of whether the President should be allowed to prove the conversation he had had with members of his Cabinet before he undertook to remove Mr. Stanton, and after one of the most able and lengthy discussions ever heard in a court on a question of evidence it was ruled out, and the Senate held the evidence could not be introduced.

So the only precedent that is brought here in support of the contention of Mr. Manager Sterling is one which has not anything to do with the case.

The PRESIDENT pro tempore. The Chair has ruled on this question, and the managers have asked that it be again considered. The present occupant of the Chair is but the mouthpiece of the Senate, and the matter having again been brought to the attention of the Senate for consideration, it being deemed on each side a vital one, the Chair thinks under the circumstances it should be submitted to the Senate. Having once ruled on it, the Chair does not think it would be proper under the circumstances to rule on it again.

Mr. SMOOT. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum. The Secretary will call the roll of the Senate.

The Secretary called the roll, and the following Senators

answered to t	neir mannes:			
Bacon	Crane	Gronna Hitchcock Jackson Johnston, Ala. La Follette Lea Lodge McCumber	McLean	
Brandegee	Crawford		Martin, Va.	
Bryan	Culberson		Martine, N. J.	
Burnham	Cullom		Myers	
Burton	Curtis		Nelson	
Chilton	Fletcher		O'Gorman	
Clapp	Foster		Oliver	
Clark, Wyo.	Gallinger		Overman	

Page	Reed	Smoot	Townsend
Paynter	Root	Stone	Warren
Penrose	Simmons	Sutherland	Wetmore
Perkins	Smith, Ga.	Swanson	Williams
Perky	Smith, Md.	Thornton	Works
Domonono	Claudal Art l	POLITI	110110

Mr. CULBERSON. I desire to state, for the day, that the Senator from Oregon [Mr. CHAMBERLAIN] is detained from the Chamber on business of the Senate.

Mr. BRYAN. Mr. President, I have been requested to announce that the junior Senator from South Carolina [Mr. SMITH] is absent on business of the Senate.

The PRESIDENT pro tempore. Upon the call of the roll 55

Senators have answered to their names. A quorum is present. The Chair will submit to the Senate the question which was propounded by the managers and which was objected to on the

part of the respondent. The Secretary will read the question.

The Chair will state, before the question is read, that this question was propounded by the managers and objected to by counsel in behalf of the respondent; and the question before the Senate is, Shall the testimony be admitted in evidence? The Secretary will now read the question.

The Secretary read as follows:

Q. (By Mr. Manager Floyd). Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversations with Mr. Watson relative to Judge Archald's interest or participation in this settlement, and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement?

The PRESIDENT pro tempore. Senators, as your names are called, those who favor the admissibility of the evidence will respond "yea," those who are opposed to its admissibility will, as their names are called, respond "nay."

The Secretary called the roll, which resulted as follows: VEAS-29

	7.17	A0-20.	
Ashurst Chilton Clapp Crawford Culberson Cullom Curtis Foster	Gronna Hitchcock Johnston, Ala. Kenyon La Follette Lea Martin, Va. Martine, N. J.	Myers O'Gorman Overman Perkins Perky Pomerene Reed Simmons	Smith, Ga. Stone Swanson Thornton Tillman
	NA	YS-25.	
Brandegee Bryan Burnham Burton Clark, Wyo. Crane Fletcher	Gallinger Jackson Lodge McCumber McLean Nelson Oliver	Page Penrose Root Sanders Smith, Mich. Smoot Sutherland	Townsend Warren Wetmore Works
	NOT V	OTING-40.	
Bacon Bailey Bankhead Borah Bourne Bradley Briggs Bristow Brown Catron	Chamberlain Clarke, Ark. Cummins Davis Dillingham Dixon du Pont Fall Gamble Gardner	Gore Guggenheim Johnson, Me. Jones Kern Lippitt Massey Newlands Owen Paynter	Percy Poindexter Richardson Shively Smith, Ariz. Smith, Md. Smith, S. C. Stephenson Watson Williams

Mr. CULBERSON (after having voted in the affirmative). will ask if the Senator from Delaware [Mr. DU PONT] has

The PRESIDENT pro tempore. The Chair is informed that he has not voted.

Mr. CULBERSON. As I have a general pair with the Senator from Delaware, I withdraw my vote.

Mr. LODGE. Mr. President, I do not understand that pairs

can be announced.

Mr. CULBERSON. If it is generally understood that pairs are not to prevail in a matter of this kind, I will let my vote

Mr. GALLINGER. On that point, Mr. President, I will state that I have a general pair, but I did not suppose it applied in

this case and so I voted.

Mr. O'GORMAN. Mr. President, may I state, in explanation of the absence of the junior Senator from Maine [Mr. GARD-NER] that he is necessarily absent from the Chamber on public business

The PRESIDENT pro tempore. On this question there are 29 votes in the affirmative and 25 votes in the negative. So the Senate has ordered that the question be propounded.

Mr. Manager FLOYD. Mr. President, shall I proceed?

The PRESIDENT pro tempore. The manager will propound the question passed upon by the Senate.

Mr. Manager FLOYD. We ask that Mr. C. G. Boland be

recalled.

Q. (By Mr. Manager FLOYD.) "Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversation with Mr. Watson relative to

Judge Archbald's interest or participation in this settlement, and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement?" now answer that question.—A. Yes, sir. You may

Q. State what those conversations were.—A. The conversa-tion I recall occurred in pursuance of information my brother conveyed to me that explained an increase in price which Mr. Watson proposed over what he was authorized to sell the two-

thirds interest of the Marian Coal Co. for.

Q. Do not state what your brother said, but just what Mr. Watson said to you.—A. He asked me to go and see Mr. Watson with him, which I did. Mr. Watson confirmed to me, in his presence, what he had told him regarding the distribution of the increased amount which he proposed to add to the price we had authorized him to ask when he was employed by myself to make the sale of the stock of the company held by the majority interest; that is, two-thirds of the stock in the Marian

Q. Will you not answer the question as to what Mr. Watson said touching the matters referred to in the original questionwhat Mr. Watson said to you?-A. Mr. Watson said it was necessary to make this addition in order to

Q. You mean additional increase?—A. Additional increase. Q. In the price. How much was it?-A. I am not positive

now.

Q. About how much?—A. As to what they figured out, it was fixed in my mind as between \$40,000 and \$50,000 additional.

Q. Now, go ahead and state what he said about that.—A. He said that as the judge was assisting him in the matter he felt that he ought to be compensated, and that he proposed to com-pensate him by one-fourth of the amount he was to receive in

excess of \$95,000, which was the price it was to recover a covered by the price it was to net us.

Q. Was anything further said in that conversation about it?—Not that I now remember.

Mr. Manager FLOYD (to counsel for the respondent). You can take the witness.

Cross-examination:

Q. (By Mr. SIMPSON.) When was this conversation?—A. It was some time in September, I believe, 1911.

Q. At any rate, it was some six months before the time you testified before Mr. Wrisley Brown, which was March 18, 1912?-A. Yes, sir.

Q. Let me read a portion of your testimony before Mr.

Wrisley Brown.

Mr. Manager FLOYD. What page do you read from?

Mr. SIMPSON. I am reading from page 247 of Volume I.
Mr. Brown. Did Watson give you any intimation of what was to
become of this large excess over the \$100,000?
C. G. BOLAND. No.
Mr. Browx. You did not concern yourself about it?
C. G. BOLAND. No.

Q. Do you remember that testimony?-A. I do. It was when Mr. Brown first called upon me, and had a stenographer make notes of what I said to him. May I explain further?

Q. I do not care whether you explain or no.—A. In order to avoid any discussion of that matter, which I felt was unfair to Judge Archbald, as I did not want to use any information given me by Mr. Watson to reflect upon the character of the judge, I answered as the record indicates.

Q. Were you sworn before Mr. Brown?-A. No, sir.

Q. Did not you yourself prepare that statement for Mr. Brown?—A. No, sir.

Q. Let me read your testimony before the Judiciary Committee, on page 1034, gentlemen:

Mr. Worthington. Did you make a statement to Mr. Wrisley Brown?
Mr. BOLAND, I did.
Mr. Worthington. That was written out and signed?
Mr. BOLAND. He asked me to have it reduced to writing, and I did, at his request.

A. Yes, sir; but the statement which I made and signed, I found only last night in reading the testimony, did not appear in the testimony. It was the stenographer's notes, sworn to by the stenographer, I believe, Mr. Brown used instead of the statement which I signed.

Q. And the stenographer was your niece, your own stenog-

rapher in your own office?-A. Yes, sir.

Q. And she swore on April 6, 1912, that that is what you said? -A. Yes, sir.

Q. Was anything like that ever said in Judge Archbald's

presence?—A. No, sir.
Q. Or was it ever called to his attention by you or by anybody else, as far as you know?-A. No, sir.

Q. Was it ever said on any other than the one occasion?-A.

Not that I remember. You mean, of course, by Mr. Watson? Q. Yes; by Mr. Watson.—A. I do not recall having had any other conversation with Mr. Watson in regard to it.

Q. Let me read from your testimony before the Judiciary Committee, on page 1017, gentlemen;

Mr. Worthisgton. I understood you to say on Friday, Mr. Boland, and I ask you whether it is a fact, as to Judge Archbald having any pecuniary interest in this proposed settlement, all you know is that Watson said he thought he was entitled to some compensation?

Mr. Boland. That is all.

Is that true?—A. That is my testimony, undoubtedly. Q. Is it true? That was my question.—A. Yes; to the best of my recollection that was true.

Q. That was true, and you were sworn before the Judiciary Committee and testified to that May 20, 1912, did you not?—A. Yes, sir; if it be recorded there.

Q. I read again, gentlemen, from page 1018:

Mr. Boland. No; the statement of Mr. Watson was that the judge would be very influential in bringing this sale about, and that he intended to have him compensated for it. I think that was substantially the language he used.

Mr. Worthington. That was all he said, then, that bore upon the question of of Judge Archald receiving anything out of this?

Mr. Boland. Substantially all.

Is that true?—A. That is my recollection.

Mr. Manager FLOYD. Mr. President, the only purpose for which these questions could be asked would be to contradict the which these questions could be asked would be to contradict the witness. That is exactly what I understood him to say. It is not a contradiction of his testimony, but a confirmation of it. Mr. SIMPSON. Very well; if you find confirmation you can argue accordingly. I propose to argue that it is not. Mr. Manager FLOYD. Very well.

The PRESIDENT pro tempore. The counsel has the right to proceed outputs the right to proceed the property of the process.

to cross-examine the witness Q. (By Mr. SIMPSON.) I am reading again from page 995:

Mr. Littleton. Did you ever talk to Judge Archbald, in the presence of Watson, or to Judge Archbald alone, or in the presence of any other person, about this transaction, when he intimated, or it was intimated in his presence, that he was to receive a financial consideration for the loan of his influence?

Mr. BOLAND. No, sir.

Is that true?-A. It is.

The PRESIDENT pro tempore. The Chair would suggest to counsel that it is proper to interrogate the witness, and then if he does not answer in accordance with his previous testimony to read his former answer to him.

Mr. SIMPSON. I only read it because I thought it would expedite the matter. I would just as leave take it the other

way.

The PRESIDENT pro tempore. The Chair merely suggested that the proper manner is to ask the question of the witness and then if he does not answer it according to his previous testimony to read the answer previously given.

Mr. SIMPSON. I was not going to read what he testified to in the question I was about to ask.

The PRESIDENT pro tempore. The Chair begs the counsel's pardon. He misunderstood him.

Q. (By Mr. SIMPSON.) Did Mr. Watson ever say to you that Judge Archbald demanded any consideration for his services in attempting to bring about this settlement?-A. No, sir.

Q. Did you ever testify heretofore that anybody was ever present at any conversation on this subject between you and Mr. Watson, save only you and Mr. Watson?—A. When the conversation occurred my brother was present. I went at his invitation to Mr. Watson.

Q. You are not answering my question. Did you ever testify, in all the elaborate examination which was made of you, that anyone else was ever present at any such conversation except you and Mr. Watson?—A. I do not remember having so testi-I may have. fied.

Q. Have you given the whole of the conversation that took

place on that day?-A. I could not say.

Q. Have you given even the substance of it?-A. As near as I can remember; yes.

Q. Did you not testify before that there were other people mentioned who were to get a portion of that consideration? A. I said that in so far as it referred to Judge Archbald, that

Q. Oh, I did not ask you that. I ask you whether you had given the substance of the conversation which occurred that day. I will ask it of you again. Did you?—A. There were other names mentioned that day.

Q. What other names were mentioned of persons who were to get a part of that consideration?

The WITNESS. Am I obliged to answer that, Mr. President? The PRESIDENT pro tempore. The Chair is not able to reply unless the witness objects and gives the ground of his

The WITNESS. I objected before the Judiciary Committee to answering this question that was put to me there, and to

giving those names, and I should seriously object unless I am obliged to give that information.

Mr. SIMPSON. I insist upon the question. The witness can

not give a part of the conversation.

The PRESIDENT pro tempore. The witness will have to give the testimony unless he can give good grounds upon which he claims the right to be excused.

The Witness. I have heard from the other gentlemen mentioned who were alleged to participate in this amount, and my own belief is now that the statement made regarding them was not true. Therefore I do not think it is fair that their names

Q. (By Mr. SIMPSON.) That is all the more reason why it should be given, and I insist upon your saying what other names were mentioned as people who were to share in this excess over the \$100,000?—A. The names mentioned by Mr. excess over the \$100,000?—A. The names mentioned by Mr. Watson were Mr. R. A. Phillips and another gentleman in New York whose name he said he did not want to mention, but I learned he had mentioned to my brother, Mr. E. E. Loomis

Q. Did you not testify before the Judiciary Committee that

it was Loomis who was mentioned?—A. Yes, sir.
Q. Did you not testify before the Judiciary Committee that at this particular conversation, which you said was the only conversation between you and Watson, the three names that were mentioned besides Watson himself who were to share in the excess were Loomis, Phillips, and Judge Archbald?-A. Yes, sir.

Mr. SIMPSON. That is all, sir.

Redirect examination:

Q. (By Mr. Manager FLOYD.) Now, Mr. Boland, you say that you made a statement to Mr. Wrisley Brown about this matter in which you answered "no" to some of these questions that you have answered in the affirmative to-day?-A. Yes, sir; when Mr. Brown called

Q. What is your explanation of that?—A. Mr. Brown came into my office, as I remember, and wanted to know what I knew about this matter of the attempted sale of the stock of the Marian Coal Co. to the Delaware, Lackawanna & Western

Railroad Co.

Q. Did he have a stenographer with him?-A. He had a stenographer with him. I did not want to go into the matter with him at all, because I felt reluctant to testify in the matter.

Mr. SIMPSON. I object to the thoughts unexpressed of this witness. Mr. Manager Floyd has not asked for it, but the witness undertakes to explain it.

Mr. Manager FLOYD. I asked him to explain, and that, I

think, involves what he is stating.

Mr. SIMPSON. He has a right to say what he did, but not to give the reason unexpressed to anybody.

Mr. Manager FLOYD. We insist on the right of the witness to answer the question.

The PRESIDENT pro tempore. The Chair thinks he can state what motive impelled him to do what he did.

The Witness. In relation to these two questions which I find

in the record answered "no" by me?
Q. (Mr. Manager FLOYD.) That is what I am asking you about.—A. My reason for answering Mr. Brown in that way was because I did not want to enter into a discussion of that matter with him, and I felt if I answered "yes," as I could have done, it would lead to a discussion which would probably make it necessary for me to reveal to him the information I obtained from Mr. Watson, which I did not want to use as a reflection upon the character of Judge Archbald.

Q. Now, tell us how that statement that you did give Mr. Brown was prepared, whether it was made from the stenographer's notes or whether you prepared it yourself?-A. It was

made wholly, I believe, from the stenographer's notes.

Q. Did you include in that statement all that was put down in the stenographer's notes or did you cut out a part?-A. The statement as contained in the record contains all of the stenographer's notes, together with an additional paragraph explaining a mistake of the stenographer when I testified before the Attorney General as to the circumstances under which I refused to discount the \$500 note. I find from reading the notes

Q. Just keep on this other transaction now. Have you any further explanations to make as to why you answered in the negative questions that you now answer in the affirmative?—A. No. I afterwards told Mr. Brown that I would make a statement and sign it. I only wanted to state to him those things which I knew of my own knowledge and which I could prove, and I made up such a statement; but the stenographer's notes of my first conversation with him were used by Mr. Brown and not the statement which I had signed.

Q. I will ask you to state whether or not you were asked by Mr. Brown to swear to the stenographer's notes and whether or not you refused to swear to it?-A. I did.

Q. You refused to swear?—A. Yes, sir.

Q. You refused to swear to the stenographer's notes?—A. He asked me, and I did not think it was necessary to swear to them.

Q. And you did not?-A. No.

Q. They were not made, then, under oath?-A. No, sir.

Q. State whether or not you refused to give Mr. Brown any statement at all at first.—A. I was rather inclined not to give him any statement if I could have avoided it.

Q. Well, why?-A. Because I was reluctant to enter into the

matter at all.

Q. Why were you reluctant to enter into the matter?-A. Well, as to that particular question, I was reluctant to enter into it because I would have to give him information obtained from Mr. Watson, which I did not feel ought to be used in the connection in which he was seeking information, because it was only the statement of Mr. Watson as against the judge and these other gentlemen, and I was not sure whether or not it was true.

Q. Then, if I understand you, the reason you answered those questions in that way was to protect Judge Archbald and these two other gentlemen from the statements made to you by Wat-

son. Is that it?-A. Practically; that is true.

Q. Why were you reluctant to give Mr. Brown any statement at all about the matter?—A. I do not think I was reluctant to give him any statement. I had previously made a statement before the Attorney General here in Washington.

Mr. Manager FLOYD. That is all.

Mr. Manager CLAYTON. We are willing that this witness shall be discharged.

Mr. SIMPSON. This witness is under subpæna by the respondent, I will state, that there may be no misunderstanding about it.

The PRESIDENT pro tempore. Very well; he is only discharged from the present subpæna and not from the other.

Mr. PAYNTER. Mr. President, I entered the Chamber just as the yeas and nays were being taken on the submission of this testimony to the Senate. I refrained from voting because I did not think I was sufficiently advised to pass an opinion upon the question. Since hearing the facts, I should like to be recorded upon the vote.

The PRESIDENT pro tempore. The Chair can not now re-

open the vote, but the Senator can make a statement.

Mr. PAYNTER. May I be permitted to state, then, that I would have voted "nay," and I would now vote "nay" on the question.

CHARLES W. GUNSTER.

Mr. Manager STERLING. Mr. President, it is admitted, I believe, that Charles W. Gunster was cashier of the Merchants & Mechanics Bank of Scranton in November and December, 1909, that E. J. Williams presented for discount the \$500 note testified to yesterday by John Henry Jones, and that the bank refused to discount it.

Mr. WORTHINGTON. I understood that the testimony which that witness gave before the Judiciary Committee might be read. What the manager states does not fix the date of the

Mr. Manager STERLING. It was during that time.

Mr. WORTHINGTON. Is there any objection to reading the testimony?

Mr. Manager STERLING. It would take that much time. Mr. WORTHINGTON. It is very short. Mr. Manager STERLING. We can call the witness in less time.

The managers asked if counsel would admit the material facts.

Mr. WORTHINGTON. I understood the managers to state that the deposition before the Judiciary Committee might be

Mr. Manager STERLING. I did not make any such request. We can call the witness in less time. Will the counsel admit the statement?

Mr. WORTHINGTON. I should like to have the exact date .

given by the witness. Mr. Manager STERLING. It can not be given by the witness, but it was in the month of November or December, 1909.
Mr. Manager CLAYTON. That is admitted then?

Mr. SIMPSON. Yes; we admit it.

TESTIMONY OF ROLLIN B. CARR.

Rollin B. Carr appeared, and having been duly sworn was examined and testified as follows

Q. (By Mr. Manager STERLING.) State your name .-- A. Rollin B. Carr.

Q. Where do you live?-A. Scranton, Pa.

Q. What is your business?-A. Cashier of the Providence Bank.

Q. In Scranton?—A. Yes, sir. Q. Who is the president of that bank?—A. C. H. Von Storch. Q. As cashier of that bank did you discount a note of \$500 made by John Henry Jones to Robert W. Archbald and indorsed

by Mr. Archbald and E. J. Williams?—A. Yes, sir.
Q. Have you the note with you?—A. No, sir; not the original note.

Q. When was that?-A. If I may refer to my discount ledger. [Examining.] It was December 13, 1909. Q. Who presented that note?—A. I am under the impression

that Mr. Jones did.

Q. John Henry Jones?-A. Yes, sir.

Q. Had you had any communication from the president, Mr. Von Storch, about the note before you discounted it?-A. Yes,

Q. In what way?-A. Over the telephone.

What did the president say to you?-A. He said that there would be a note of John Henry Jones, indorsed by Judge Archbald, for \$500 presented to the bank and to cash it for him.

Q. Has that note been paid?—A. No, sir.

Q. Has it been renewed from that time to this?-A. Yes, sir;

with a slight reduction on it.

Q. How many renewals have been made?—A. You would have to trace it in periods of about four months from 1909 to the present time.

Q. How often was it renewed?-A. Three months, I think, on the average

Q. Renewed in the same form?-A. Yes, sir; up to two months ago.

Q. Have you the present renewal?-A. Yes, sir.

Q. With you?—A. Yes, sir. Mr. Manager STERLING. Just give it to the Secretary.

(The paper was handed to the Secretary.)

Mr. Manager STERLING. I will offer it and ask the Secretary to read it.

The PRESIDENT pro tempore. The Secretary will read the

The Secretary. It reads as follows: [U. S. S. Exhibit 84.]

(Renewal. \$455.)

SCRANTON, PA., December 6, 1912.

One month after date I promise to pay to the order of R. W. Archbald at the West Side Bank, Scranton, Pa., \$455. without defalcation or stay of execution, for value received. J. HENRY JONES.

A little note in the left-hand lower corner:

January 6.

On the back is the indorsement, "R. W. Archbald," and a number, "11840," with the machine.

Q. (By Mr. Manager STERLING.) That is for one month?-A. Yes, sir.

Q. They were not all 30-day notes?-A. No; only the last three months. I think the last three months it was for a month.

Q. Who has paid the interest on that note?-A. I imagine Mr. Jones.

Q. And who made the partial payment?-A. Mr. Jones.

Q. Is Mr. Von Storch in other business than president of the bank?-A. He is an attorney at law.

Mr. Manager STERLING. That is all.
Mr. SIMPSON. We have no questions to ask.
Mr. Manager STERLING. I should like to ask the counsel if we may have the privilege of putting a copy of this note in the record, and the bank can take it back.

Mr. SIMPSON. Of course, just let the clerk make a copy of it, and that will be the end of it. There is no use of keeping an original paper of that kind.

Mr. Manager STERLING. Just one more question. Is E. J. Williams on that note as an indorser, Mr. Secretary

The SECRETARY. There is but one indorser on the back of the ote—"R. W. Archbald."
Q. (By Mr. Manager STERLING.) When did E. J. Williams

to indorse the note?-A. I think it was about four cease months ago.

Q. Up to that time he had indorsed its renewal?-A. Yes, sir.

Cross-examination:

Q. (By Mr. SIMPSON.) Mr. Carr, will you kindly read the entries in your discount ledger, so that we may just get the facts in regard to it as now appearing in the bank's record?—
A. Yes, sir. The note was dated December 3, 1909; the maker
was John Henry Jones; and the indorsers were R. W. Archbald and E. J. Williams; it was payable at the Merchants and Mechanics Bank at Scranton; it was for four months; and it was discounted on December 13 for \$500.

Mr. WORTHINGTON. In 1909?

The Witness. In 1909; yes, sir.

Mr. SIMPSON. That is all we want with the witness, Mr. President.

The PRESIDENT pro tempore. The witness may retire. Mr. Manager STERLING. Mr. President, there is one more witness, Mr. Von Storch, on articles 8 and 9. He will be here presently. In the meantime I want to call Mr. Lenahan, who is to testify on another article—article No. 7.

TESTIMONY OF JOHN T. LENAHAN.

John T. Lenahan, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager STERLING.) Mr. Lenahan, where is your home?—A. Wilkes-Barre, Luzerne County, Pa.

Q. How far is that from Scranton?—A. About 20 miles. Q. At the present time you are a Member of Congress?—A. Not now; I was a Member of the Sixtieth Congress.

Q. You are a lawyer?-A. I profess to be.

Q. Do you know Mr. Rissinger?-A. Very well.

Q. W. W. Rissinger?—A. Yes, sir.
Q. Where is his home—A. His home is in Scranton.

Q. You were his attorney in 1908 with reference to some litigation against the insurance companies?-A. Yes, sir.

Q. State briefly what the character of that litigation was .- A. Well, I had several suits for him, but the one bearing upon this question was a case against several insurance companies arising out of a fire on the property belonging to the Plymouth Coal Co., I think the name of it was. The Rissinger Bros. were the stockholders and the sole stockholders in the company. Suits were brought in the local courts of Luzerne County against the insurance companies. Those that could be moved into the United States court, of which I think there were two or three, were moved by the insurance companies into the United States district court at Scranton.

Q. I will ask you was there a separate suit against each in-

surance company?-A. Yes, sir; on each policy.

Q. When were those that were removable removed to the Federal court?—A. I do not know when they were removed, but they were tried, I think, in October or November, 1908. Q. Who was the presiding judge of the district court?-A.

Judge Archbald.

Q. Did you try the cases?—A. There was one case called. The plaintiff established his case as to this one suit, and a motion was made for a nonsuit, which was overruled. The defendant then called one or two witnesses in the case, and after a cross-examination of one or two witnesses the counsel for the insurance companies suggested to me that we arrive at some terms of settlement. After a good deal of fencing on one side and the other we did arrive at terms of settlement. That counsel represented all the insurance companies. There was a verdict taken under certain stipulations. As I recall it now, if the whole money on all the policies was paid within 15 days, then the amount of money as fixed in that stipulation was to be accepted by us.

Q. What was the amount?-A. I can not recall the amount.

Q. Was it \$23,000?—A. The whole thing was something over \$20,000; it was somewhere between \$20,000 and \$25,000. As I *20,000; it was somewhere between \$20,000 and \$25,000. As 1 recall the stipulation, if it was not paid in 15 days then the whole face of the policies was to be paid.

Q. What was the amount of that?—A. \$23,000, if that was the amount; somewhere between \$20,000 and \$25,000. Not only

the amount of the policy involved in that particular trial was

to be paid, but also all the other policies, as I recall it.

Q. Was W. W. Rissinger plaintiff in all of those cases?—A. He represented the Plymouth Coal Co.—I think that was the name of it—which was a corporation in which W. W. Rissinger and his brother owned almost all the stock, if not all the stock,

Q. After this case was tried did Rissinger see you with reference to a note signed by Judge Archbald?—A. Mr. Rissinger came to my office in Wilkes-Barre; I can not give dates, but I know it was some time previous to the meeting of the short session of Congress in December.

Q. Let me ask you, was it within the 15 days in which the insurance companies had to pay the judgment?—A. Talking

from memory, I believe it was.

Q. Just state what he said to you.-A. He came into my office and asked me if I could get a note of \$2,500 discounted for him in a Wilkes-Barre bank. I said to him, "What do you want this money for?" "Why," he said, "I want to raise it in order to pay something on a gold speculation that I have in Honduras."
I looked at him, and I said, "No; if I took this note over to my bank"—the bank in which I am a director and vice president— "and told them what you wanted this money for, they would laugh me out of the room, and think that I was as big an idiot

as you are and as are many other idiots that we have in this as you are and as are many other intois that we have in this county and in Lackawanna and the coal regions who put their money in Colorado gold mines and Utah gold mines, and have no return for it," I said, "except simply pure salt." "Sometimes it makes them dryer for more," I said.

Q. Did you look at the note?—A. No, sir; I did not.

Q. Who was on the note so far as you learned from Mr.

Plastinger? A. Mr. Bissinger's mother-in-law and Judge Arch-

Rissinger?-A. Mr. Rissinger's mother-in-law and Judge Archbald.

Q. How were they on the note—as makers or as indorsers?—A. I do not know. I did not ask that at all. I do not know whether as makers or indorsers.

Q. What did he say, if anything, about Judge Archbald's connection with the gold scheme in Honduras?—A. I asked him who was in the matter with him, and he said his mother-in-law

and Judge Archbald.

Q. Did you discount the note?-A. No, sir.

Q. Did you recommend the discounting of it to your bank?-A. No, sir.

Q. I ask you if, after that, you had a talk with Mr. Reynolds, the attorney for the Marian Coal Co. in the suit which has been

testified about here?—A. I think I had; yes, sir.
Mr. SIMPSON. I object to any conversation occurring between Mr. Lenahan and Mr. Reynolds in the absence of Judge Archbald, unless it was brought to Judge Archbald's attention. There is no evidence of any partnership or conspiracy between any of these gentlemen and Judge Archbald.

Q. (By Mr. Manager STERLING.) Was Judge Archbald present when you and Reynolds talked?—A. Oh, no.

Q. Did you ever tell Judge Archbald the substance?—A.

Mr. Manager STERLING (to Mr. Simpson). Take the witness.

Cross-examination:

- Q. (By Mr. SIMPSON.) Mr. Lenahan, am I correct in stating that the judgment which was agreed upon between you and your colleague on the one side and Mr. Shattuck, representing the insurance companies on the other side, was entered at once?-A. Well, I suppose it was. I was the trial lawyer, and Mr. Reynolds and Mr. Welles were concerned in the case with me. They were associated with me in it. They drew up all the formal papers. They live in Scranton, and after the verbal arrangement had been entered into I took the next train and went home.
- Q. But the whole matter was concluded to go into the form of a judgment, and the only thing that was left open was the delay in payment at the request of the insurance companies' counsel?-A. Yes, sir; that was my understanding.

Q. Now, was there any difficulty about that case?-A. Well,

there was difficulty in getting it tried.

Q. You mean the delay in getting it tried?—A. Yes. in Congress here, and I could not go up to see to it until the time I did go there.

Q. Was there any substantial merit in the defense?-A. I did not think there was; otherwise, I would not have brought suit

against the insurance companies.

Q. Did the counsel on the other side admit to you that there was no substantial merit in the defense?-A. After we got to cross-examining his chief witness, he turned around to me and said, "I guess the bottom has fallen out of our case." I think that is the language he used. Then the negotiation for a settlement was opened.

Q. Your cross-examination of the witnesses produced by the insurance companies, so far as it went, was, I believe, quite severe, was it not?—A. It was understood by me to be very

severe.

Q. And it was so severe that Judge Archbald-

Mr. Manager STERLING. We object to taking the time of the Senate now with immaterial things. It is not crossexamination.

Mr. SIMPSON. I think that all that related to that trial, about which Mr. Sterling inquired, is cross-examination. We ask as to a different part of what occurred. You asked him to state but one part of it and left the other out, and we want to have it all.

Mr. Manager STERLING. We asked him to state the character of the litigation.

Mr. SIMPSON. And what occurred at that trial also.
Mr. Manager STERLING. No; I did not.
Mr. SIMPSON. Excuse me, you did; but collequy is not in order. I beg the Chair's pardon.
Mr. Manager STERLING. We object to the testimony be-

cause it is not cross-examination.

(By Mr. SIMPSON.) At any rate, Mr. Lenahan, the presentation of the note to you was some time after the agreement for the entry of the judgment?-A. Oh, yes.

Q. And in accordance with what occurred at that trial?-A. Oh, yes.

Q. Will you please tell us whether or not at that trial there was any partiality shown by the judge toward Mr. Rissinger or his counsel?—A. I do not think so. He called me down.
Mr. Manager STERLING. We object.

Mr. SIMPSON (to the witness). Do not go into the details of it at all. The only reason, I understand, why you declined to discount the note was because of the purpose for which Mr. Rissinger stated to you that the money was to be used, and beyond that you did not care to go any further into it?-A. No,

Q. Was Judge Archbald's name mentioned at all to you when that note was being presented?—A. I asked him who was interested. My recollection is, I said, "Who is interested with you in this gold mine in Honduras," and he told me that his mother-in-law—whose name I can not recall—and Judge Archbald were interested. I said, "Are they on the note?"—that is my recollection—and he said, "Yes." I assume they were

on as indorsers and not as makers of the note.

Q. Was what has been said about the only mention made to you of Judge Archbald's name? Was that the only thing that was said?—A. Yes; that was all.

Mr. SIMPSON. I think that is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager STERLING.) He said that Judge Archbald was on this note, did he not?-A. Oh, yes. My recollection is that his mother-in-law and Judge Archbald were not only interested in this Honduras gold mine, but also that they were on the note. I assume they were on as indorsers.

Q. Did you ask Mr. Rissinger why he did not get it cashed at Scranton?—A. Well, now, it is just possible I did, but I can not

Q. Do you remember what Mr. Rissinger said on that subject?—A. No; I do not; but I think it highly probable that I did ask him why he should come to Wilkes-Barre, a strange town to him, and not get his note discounted in his own town.

Mr. Manager STERLING. There is one other subject I want to ask this witness about. [To the witness:] Do you remember the time that a contribution was taken up among the members of the bar at Scranton and in the county for Judge Archbald?—A. Yes, sir.

Q. About when was that?—A. It was when he went to Europe, I think, in 1910.

Q. Were you solicited to contribute to that fund?—A. Yes, sir.

Q. By whom?-A. My recollection is that I received a letter from the clerk of the district court, named Searle, and in response to it I sent him a check. When I testified before the Judiciary Committee I did not know that my attention was to be called to it, and I said it was either \$10 or \$25 that I sent. I now know that it was \$25 that I sent.

Q. You did contribute that \$25?-A. Yes, sir.

Q. Who was it that wrote you the letter asking you to contribute?—A. My recollection is that it was Mr. Searle, the clerk of the district court.

Q. What was the date of that?—A. Well, I can not tell. It was a short time before Judge Archbald sailed for Europe; I can not give the date.

Q. Was it while he was district judge?—A. Yes, sir.

Q. Or since he has been on the Commerce Court?—A. I think he was district judge then. Q. And Searle was the clerk of the court?-A. Yes, sir.

Q. And you were a member of the bar practicing in his court?—A. Yes, sir.

Mr. Manager STERLING. That is all.

Recross-examination:

Q. (By Mr. SIMPSON). Mr. Lenahan, there is one thing on the other branch I forgot to ask you. Could you tell us what year it was that the old Plymouth Coal Co. suit against the insurance company was brought?—A. Yes, sir; I fix that by the fact that it was a month or two before the convening of the short session of Congress. It was either in October or November, 1908.

Q. In this other matter, I understand that you got a letter from Mr. Searle, and you cheerfully complied by sending that

check to Mr. Searle?-A. Yes, sir.

Q. To be given with other money to Judge Archbald?—A. I know I contributed the money. It is my recollection that it was to Mr. Searle that I sent the money, and it is my recollection, too, that the solicitation came from Mr. Searle.

Q. Did you have any communication at all with Judge Archbald in regard to it?-A. Judge Archbald wrote me a letter

from Florence, Italy.

Q. Acknowledging its receipt?-A. Yes, sir.

Q. But I am speaking now prior to the time when the money

was presented to him?-A. Oh, no.

Q. So far as you knew or know now, Judge Archbald had no knowledge of what was going to be done until the money was, in fact, handed to him?—A. I know nothing about Judge Archbald's knowledge of it, except a letter that he wrote me from Florence-it was dated from Florence-thanking me for my contribution.

Q. That was Florence, Italy, you mean?-A. Yes; Florence,

Italy.

Q. After he had sailed?—A. I said "Italy," did I not? Q. You said "Florence." There are several Florences, but I assumed you meant Florence, Italy.—A. I meant Florence, Italy. I know it was not Florence, Ireland.

Q. I do not know that there is one there. Is there one

there?-A. No.

Mr. SIMPSON. I was not aware that there was. I believe that is all, Mr. President.

The PRESIDENT pro tempore. Are there any other questions?

Redirect examination: Mr. Manager STERLING. Just to refresh the witness's recollection I desire to ask him another question. Did you not say this before the Judiciary Committee-

Mr. WORTHINGTON. Give the page, please

Mr. Manager STERLING. Page 1517, near the top:

Mr. Lenahan. I asked Rissinger—of course, this was in Scranton, where he was from—I said. "Why don't you get that discounted in Scranton?" He said, "We have tried to, but I can not, and I thought on account of my relationship with you, you could get the money for me here."

A. Yes, sir. Q. You did say that?—A. Yes, sir. Now, since you call my attention to it, I think that was the answer I made him.

Q. The relationship between you and him at the time was that of attorney and client?-A. Yes; I had been his attorney for some time in several other matters.

Q. And you were his attorney in these cases that had been disposed of?-A. Yes, sir; and in other matters.

Mr. Manager STERLING. That is all.

Recross-examination:

Q. (By Mr. SIMPSON.) I think you testified also, did you not, Mr. Lenahan, that Judge Archbald was not worldly-wise, and that was the reason he acted as he did in some of these matters?-A. That was my judgment about it.

Mr. SIMPSON. That is all. Thank you. Mr. Manager CLAYTON. Mr. President, this witness may be discharged.

The PRESIDENT pro tempore. The witness is finally discharged.

TESTIMONY OF FREDERICK WARNKE.

Mr. Manager DAVIS. I ask that Frederick Warnke be called. The PRESIDENT pro tempore. The witness will be called. Frederick Warnke, having been duly sworn, was examined, and testified as follows:

Q. (By Mr. Manager DAVIS.) Your name is Frederick Warnke?—A. Yes, sir.

Q. Where do you live?—A. Scranton, Lackawanna County, Pa.

Q. What is your occupation?-A. Coal business.

Q. How long have you been in the coal business?-A. Twelve years.

Q. And you are still in that business?-A. To some extent; yes, sir.

Q. What branch of the coal business have you been engaged in?-A. Mining and-

Q. How were you engaged in the years 1910 and 1911?-A. Washing culm banks. Q. Were you ever the owner of a mining operation at Lor-

berry, in Pennsylvania?—A. Yes, sir.
Q. What was the character of that operation?—A. The char-

acter at the time of our operation was washing the culm banks. Q. Did it have any other feature aside from the culm-bank operations?-A. Yes, sir. The lease called for mining operations,

Q. Did you own that mine in fee or by lease?-A. By lease. Q. Who was your lessor?-A. The Philadelphia & Reading

Coal & Iron Co.

Q. Do the Philadelphia & Reading Coal & Iron Co. sustain any relation to the Philadelphia & Reading Railroad Co.?-A. I presume they do.

Q. Has it the same officers?-A. Yes, sir.

Q. Who was president of the Philadelphia & Reading Coal & Iron Co.?—A. George F. Baer.

Q. Is he also the president of the Philadelphia & Reading Railroad Co.?-A. Yes, sir; I think he is.

Q. Who was the general manager of the Philadelphia & Reading Coal & Iron Co.?-A. W. J. Richards.

Q. Where does Mr. Richards live?-A. I think his home is, or was, in Wilkes-Barre; I think he probably now lives in Pottsville.

Q. How far from the city of Scranton?-A. Pottsville? Yes, sir.-A. In the neighborhood of about 80 miles.

Q. Was he living there in the year 1911?—A. Well, his offices were at Pottsville and he is there the biggest part of his I can not say whether his residence is there or Wilkestime Barre for sure.

Q. In the course of your operation of this mine at Lorberry did you get into any difficulties with your lessor, the Philadel-

phia & Reading Coal & Iron Co.?—A. Yes, sir. Q. What were those difficulties?—A. When we got ready to open up the mining operation we inquired of the engineers for the mining maps to proceed to open up the inside operations. This operation had been opened up before, but had been closed for a great many years. They refused to give us the maps, stating that the lease had been forfeited two years previously under certain sections of the lease.

Q. Had you received any notice of forfeiture?-A. No. sir. Q. Had you been in continued possession of the property?-A. I am still in possession of the property; that is, to a certain

extent; yes, sir.

Q. Were you surprised at the information that your lease was under forfeit?—A. I was surprised; yes, sir; at the time I heard it. A two-thirds interest was purchased from a person. by the name of Baird Snyder, who at that time was assistant superintendent of the Lehigh Coal & Navigation Co. He told my attorneys at the time that the Reading would acknowledge the assignment of the lease within a few days, and, being anxious to go ahead with it, I took his word for it; but the assignment to me was never forthcoming; I never got the assignment from the Reading to me of the two-thirds interest; but only two weeks before that the Reading consented to an assignment from the widow of a man named Simon Loch, who had been a representative in the House of Representatives of Pennsylvania which passed what was known as the Loch road bill.

Q. You say "two weeks before"; do you mean two weeks before you received notice of forfeiture?-A. No; before this party, Baird Snyder, sold me the two-thirds interest they consented to an assignment of that interest. At the time I found out that they said that this lease had been forfeited, they wrote me a letter and stated that it had been forfeited two years before I even took possession of the ground, so that under these conditions they consented to an assignment from widow Loch to Baird Snyder two years after the lease had been forfeited; and in that condition-

Q. How long had you been working this property when they gave you this notice?—A. Oh, I suppose probably two years, or

around that neighborhood.

Q. After you received that notice upon your application for the mine maps, what did you do, Mr. Warnke?—A. I do not just remember what I did. I think I went to see Mr. Richards about it, but I always had an awful hard time to get any interview with him.

Q. What did he say to you at that interview, if you can remember?-A. I think he told me that he could not do anything in regard to the matter; that the lease had been forfeited long

ago; and he would not let us go ahead.

Q. What did you do then?-A. I tried to swap him the lease or give him the rights, providing he would lease me a certain culm bank, which was in the neighborhood

Q. What was the name of that culm bank?-A. Lincoln. Q. Who owned it?-A. The Philadelphia & Reading Coal & Iron Co.

Q. Did Mr. Richards agree to that proposition?-A. No, sir. Q. And, then, what did you do with it?-A. I think I went to

see Mr. Baer at Philadelphia. Q. Mr. George F. Baer?—A. Yes, sir.

Q. What interview had you with him?-A. I went over the whole matter with him, and I think he told me that I would have to take the matter up with Mr. Richards; that that was in his territory, and it was up to him to decide; yet at the time he thought-

Mr. REED. Mr. President, we can hardly hear the witness. The PRESIDENT pro tempore. The witness will speak louder, so as to be heard not simply by the manager who is conducting the examination but by the whole Chamber.

The WITNESS. I will try to do so. Mr. Baer agreed with me that if what I had said was right Mr. Richards should do something in the matter to straighten it out; but in the meantime he said,

"I will have to talk to Mr. Richards," or "You go to see him." So when I went to see him again I got the same answernothing doing.

Q. You went to see him. Did you go back to see Mr. Baer again?—A. No; I believe I sent an attorney then to him.

Q. Did he have an interview with Mr. Baer on this subject?—A. Yes, sir.

Q. With what result?-A. Not any.

Q. Did you have any difficulty in getting an interview with Mr. Richards?—A. Always did have, more or less. I could not seem to get an answer to any of my letters or even get an interview.

Q. Did you ever fail when you went to his office to get an interview at all?—A. Yes, sir; one week I waited three days to get an interview of five minutes.

Q. After your failure to get a personal interview, and after having seen President Baer, did you write to Mr. Richards on the subject?-A. I do not remember any more, really, whether I did or not.

Q. You say you do not remember whether you did or not?-A. No: I do not believe I did; I do not believe I wrote him any

Q. If you did, did you receive any reply?-A. I believe the last letter in reply I got was when he told me that the lease had been forfeited two years previous to my taking possession of the property.

Q. Do you recall that after that time you wrote him another letter to which he did not reply?-A. I do not really know.

may have written him one, but I do not recall one.

Q. You do not remember whether you so recollected when you were before the committee of the House? [A pause.] It is immaterial; I will not press you further about that,-A. I can not recollect.

Q. After you had sent your attorneys to Mr. Baer and they had failed to get any result, did you see any other person on the subject?—A. Yes, probably; but I guess a year afterwards.

Q. Who was that other person?—A. Judge Archbald.

Q. How long have you known Judge Archbald?—A. Oh, as far back as I can remember.

Q. Did you have a personal interview with him about it?-

Yes, sir.

Q. What, if anything, did you request him to do?—A. I asked him if he ever got to Wilkes-Barre, or, in the first place, I asked him if he knew Mr. W. J. Richards. He said he did, and I asked him if he ran across him or in his way, or if he happened to get to Pottsville, to intercede with W. J. Richards to reopen negotiations with me to try to settle my difficulties.

Q. Did he undertake to do it?—A. He told me that he would be in Pottsville in a few weeks, and if he had time he would

call on him.

Q. Did he call on him for you?-A. Yes, he did.

Q. With what result?—A. Oh, I think it was at least six weeks after I had the interview with him that I called him up by phone, and he told me that Mr. Richards had told him that his answer to me was final.

Q. Do you know about what time he had his interview with Mr. Richards?—A. I think it was in December, a year ago this

Q. A year ago this December-1911?-A. Yes; I think along

Q. And how long after that time was it that you called him up and received this information from him?-A. Oh, it was four weeks after he had seen him, probably.

Q. Did you at any time thereafter give to Judge Archbald a promissory note for \$500?-A. No; not I myself.

Q. Did you execute a note to be given to him?-A. The

Premier Coal Co. did; yes, sir.
Q. Who is the Premier Coal Co.?—A. Composed of myself, a

party by the name of Kizer, and Swingle and Slager.

- Q. A corporation or a partnership?—A. A corporation. Q. Did you indorse the note of the Premier Coal Co.?—A. Yes. Q. And was it delivered to Judge Archbald?-A. That I do not know.
- Q. Of your own knowledge?-A. Of my own knowledge; no,
- Q. Do you or do you not know of your own knowledge that he discounted it and received \$500 for it?—A. I believe the note was never renewed. It was a four months' note, and I never reindorsed it, so I think when it became payable it was paid. Mr. Swingle was treasurer of the company—yes, treasurer. I guess the note was met. Whether Judge Archbald got it discounted or who did, I do not know. I did not ask and do not know to-day.
- When the note was paid, it was paid not to Judge Archbald but to some assignee of his; is that correct?-A. I do not know.

Q. The note was made payable to him in person, was it?-A. The note was made payable to ourselves, I think.
Q. And indorsed over to him?—A. Payable to ourselves.

Q. What is the business of the Premier Coal Co.?-A. Washing a culm bank.

Q. Where?-A. Oh, in Lackawanna County, near the Pittston, Luzerne County, line, on the old Pennsylvania gravity railroad.

Q. How long has it been in that business?-A. Since last

spring.

Q. Did it lease or buy a bank for that purpose at that time?-A. It bought a bank under the condition virtually of a lease; the purchase money was \$7,500; \$2,000 down and the balance to be paid at 20 cents a ton until the other \$5,500 was paid. So I could not say whether you would consider that as a lease or a mere equity.

Q. From whom did you get that?-A. The Lacoe & Shiffer

Coal Co.

londer.

Q. Did you negotiate that for the Premier Coal Co.?-A. Yes,

Q. Tell us briefly how you came to be interested in that operty.—A. I went into the office of what is known as the property .-Central Pennsylvania Brewing Co., of the city of Scranton. I have a friend who is president of that company. He told me

that there had been a party in a day or so before who offered him the sale of a culm bank, and he wanted me to go down and make a test of it and report on it as an expert. I did. That

is how I came to get mixed up with it.

Q. Proceed now with what transpired after that time in regard to your acquisition of the bank.—A. I reported on the bank and told him, if I remember correctly, that it was a very good purchase, and that he had better purchase it at once, as it was a very good bargain and the coal was A1 quality, and the quicker he would purchase it the better he would be off. because I thought it was a very good purchase for him to

Q. Well, did he purchase?—Λ. He took the matter up with the directors and they declined. It kind of hung fire along for about a month, and I asked him one day what he was going to do about it. Excuse, me; in the meantime I brought some of this coal up, two loads of it, and they tested it in their boilers. But that was just as it came from the bank. But I asked the president of the Pennsylvania Brewing Co., at the expiration of about four weeks, whether he intended purchasing this property or not. He told me the rest of them did not seem to care much about it, and he was not going to bother. So I said I would try to open up negotiations and purchase it myself, which I did.

I went to John Henry Jones, who first took this property to the Pennsylvania Brewing Co. I saw him about it. I asked him for information, and he told me I could get more from Judge Archbald.

Q. You could get more?—A. Could get better information from Judge Archbald in regard to the property.

Q. Did you go to Judge Archbald about it?—A. Yes.

Q. What sort of information did you go to Judge Archbald for ?-A. In the first place, the conditions of the purchase, and also the character surrounding the title of the property.

Q. Why did you go to Judge Archbald about the title to the property?—A. Well, I knew that the judge in years gone by had

been an attorney through there—
Mr. OVERMAN. I can not hear what the witness says. The PRESIDENT pro tempore. The witness must speak

A. The reason I went to Judge Archbald was that I thought the judge would probably know the information better than I would get or could get by hiring another attorney, which was the question whether the Pennsylvania still owned the right of way through that property or not.

Q. (By Mr. Manager DAVIS.) You were referred to Judge Archbald on that question by John Henry Jones?—A. Not exactly that; but I asked John Henry Jones where I could get more data as to purchase money and the conditions of purchase

money, and he said it was not on that account-

Q. Did you not say before the Judiciary Committee that you were referred to him by John Henry Jones on the question of title, and went to him as a lawyer to consult him about it?-I do not just remember. I may have said that, but if I did, I do not remember.

Q. What conversation did you have with Judge Archbald?-A. I asked him the price and conditions, and the price of \$6,500 first, but that was cash. That was the price put up to the Central Pennsylvania Brewing Co. Then, if it was not cash, afterwards-some few days or a week or more had elapsed-and the price of \$7,500, providing \$2,000 only was to be paid in cash, and the balance, \$5,500, was to be paid at 20 cents a ton royalty.

Q. Did you have any conversation with Judge Archbald on the question of title?-A. We did talk about the matter several times, and he told me he thought there was not any question about it. So I did not even go looking into the matter of title.

Q. Is that all the conversation you had with him?-A. That

is about all.

Q. When did that conversation occur?-A. This spring some time-last spring; I believe along in February or March, or

somewhere along there.

Q. Did it not occur in the month of December, 1911?-A. Well, I do not remember when that was first brought up; I believe it was in December; yes, it was in December that the proposition was brought to the Pennsylvania Brewing Co. But I think it was in January—it was after that—it was a month after it was brought to them before I went into it. I could not state just what time it was.

Q. How long was this conversation of yours with Judge Archbald?-A. I do not know; several different times. Maybe 10,

20, or 25 minutes at a time.

Q. And all he ever said to you on the question of title was that it was all right?—A. Yes; that he thought it was all right; that he did not think it was worth while to look into the matter.

Q. Did he disclose to you at that time that he was personally interested in the sale?—A. No, sir. The only thing I knew—in the first place, John Henry Jones told me that \$500 of the \$6,500 was a commission that was to be divided between him and Judge Archbald; but I thought at the time the price was raised to \$7,500 that the commission had ceased so far as Mr. Jones and Judge Archbald were concerned.

Q. Did Judge Archbald tell you at any time in that conversation that he was interested in the transaction?-A. No; I do

not think exactly; no, sir.

Q. Why did you give Judge Archbald or have a \$500 note given to him?-A. In the first place, when John Henry Jones asked me about the \$500 commission he was to receive, I told him there was not any-the \$7,500, I thought, took the commission away from it, and I thought as long as they felt that way about it, the judge was entitled to something. Therefore, I told our people that we had better give him \$500 for services, commission, or whatever they might call it.

Q. What did you give it to him for?-A. I thought I was giving it to him for information in regard to title, but it seems

since that it was a little bit different from that.

Q. Why did you think you were giving it to him for information in regard to title?—A. Because I thought the price of \$7,500, instead of \$6,500, had taken the commission off.

Q. Did you have any conversation when you were at Judge Archbald's office with reference to compensating him for what he had done for you about the title in the course of 25 minutes?—A. I think we did. I told him that I would take care of him; that I would take care of him for the trouble I had put him to.

Q. Did he assent to that?—A. No; he did not consent to it either way; he did not say anything. I think one time he did say that he did not want anything; did not expect anything for

that.

Q. All the trouble you had put him to up to that time was an interview of about 20 or 25 minutes.-A. No, sir; I had two or three interviews with him.

Q. Did you say this to the judge at that time?

Mr. SIMPSON. What page?

Mr. Manager DAVIS. Page 1154:

Mr. Mahager DAVIS. Page 1154:

So I asked the judge about the title, and he said he could not be my attorney. I says, "I understand you know something about these right of ways that went through this property, this Lacoe & Shiffer property." He said he did. I says, "All I want is your opinion, whether you think the title is right or wrong." He told me the title as far as he knew, and he went on to explain the right of ways, and how the Pennsylvania became in possession of it, and told me then how it was dated back to Lacoe & Shiffer. I told him then that I was thinking of purchasing this property.

You were then asked what month or year, and you stated it

was sometime in December, and proceeded:

Yes. So I told the judge that his information to me, as far as the title was concerned, was just as good for me as to get an attorney, and I would compensate him for it, and he says, "No; you need not do that at all." I says, "I really consider it worth to me just as much as attorney's fees, and I would like to have you accept it from me if I purphes the property." purchase the property.

Q. Is that your statement of the interview?-A. Yes, sir.

Q. Is that correct?—A. Yes, sir.
Q. On that examination, Mr. Warnke, you testified that your reason for giving the judge this money was the information he had given you, did you not?—A. Well, I thought——

Q. You did so testify, did you not?-A. I did so testify;

Q. Do you desire to modify that statement?-A. I want to modify it this way: At that time I thought that the \$500 com- I far as the love of Richards is concerned, go ask Mike.

mission had ceased when the price had raised from \$6,500 to \$7.500, and therefore I thought he was entitled to something for his trouble

Q. You dealt with the Lacoe & Shiffer Coal Co. direct, did you?—A. I did after it got to a basis of how much money was to be paid down and the conditions of the lease, and so forth;

Q. What was your reason for calling on Judge Archbald to secure you an interview with Mr. Richards?—A. Well, that I could not exactly explain, any more than I just happened to think of the judge and probably thought that he might be able to have Mr. Richards reopen negotiations with me.

Q. Other men had tried the same thing for you and failed?-

A. Yes; an attorney, outside of myself.
Q. And you hoped that he could accomplish for you things that other men could not do?—A. No; I had very little hope. I did not really hope that he could accomplish it. That is one reason I did not call him up for weeks after he had seen him. It was four weeks after he had seen Mr. Richards before I ever saw or heard from Mr. Archbald in regard to his answer from Mr. Richards. So you can imagine it was very little hope that I had.

Q. It was your last shot, in other words?-A. It was my last

shot; yes. Q. The last desperate remedy?—A. Mr. Richards handed it to me.

Cross-examination:

(By Mr. SIMPSON.) How long had you known Judge Archbald when you went to see him and asked him to see Mr. Richards?—A. Oh, as far back as I can remember.

Q. Was he to do anything except to see if Mr. Richards would

give you another interview?-A. That was all.

Q. When testifying before the Judiciary Committee, in giving the reason which you were asked to give a moment ago by Mr. Davis, did you not say that the reason why you went to Judge Archbald was because everybody loved the man, and you thought as everybody loved him you might get a hearing and have redressed the wrong you thought had been done you?—A. Yes, sir; that was the reason. Judge Archbald was a man that was very well liked in his community, and I thought through that probably I could get some of my wrongs redressed; that Mr. Richards would probably give me another interview and probably fix things up.

How much had you in fact lost in the proceedings by which they took this lease away from you after you had been working for two years?—A. From \$65,000 to \$75,000.

Q. What connection was there, if any, between the interview you asked the judge to have with Mr. Richards and the matter of the purchase and the giving of the note in the Lacoe & Shiffer Coal Co. matter?—A. Not any whatever.

Q. Was anything promised to the judge for seeing Mr.

Richards?-A. No, sir.

Q. And this note, which was given to him, the \$500 note, had no connection whatever with his seeing Mr. Richards?— A. No, sir; none whatsoever.

Mr. WORTHINGTON. What did he say?

Mr. SIMPSON. Nothing whatever, he said. Q. (By Mr. SIMPSON.) Who was the acting agent for the Lacoe & Shiffer Coal Co. in the matter?-A. Mr. Berry really was: when it got down to negotiating the terms and conditions Mr. Berry attended to those himself.

Will you give us his full name, please?-A. I think it

is William H. Berry; I am not positive.

Q. Is it not John W.?-A. I am not positive as to the initials. Q. John W. Berry. The first negotiations, as I understand you, grew out of the proposition made by John Henry Jones to the brewing company?-A. Yes, sir.

Q. And as the brewing company turned it down, you concluded there was enough in it for you to take it up?—A. Yes.

Q. And the negotiations in relation to that matter then occurred between you on the one side and Mr. Jones and Judge Archbald on the other, until it got down to the terms and conditions?-A. Yes.

Mr. REED. Mr. President, I have a question I should like to

have propounded to the witness.

The PRESIDENT pro tempore. The Senator from Missouri presents a question to be propounded to the witness, which the Secretary will read.

The Secretary read as follows:

You state you appealed to Judge Archbald to get you an interview with Mr. Richards because everybody loved the judge. What reason do you have for believing Mr. Richards loved Judge Archbald?

The Witness. The Senator has got me. I would be willing to state that anybody within 20 miles of our community will bear me out in respect of the honorable Judge Archbald, but as

Q. (By Mr. SIMPSON.) Will you tell us whether or not Judge Archbald at any time made any demand upon you for any payment for seeing Mr. Richards?—A. No, sir. Q. Or ever suggested it to you?—A. No, sir.

Q. He never did. Now, coming back to the point we were at, where was the settlement made of the purchase of the fill from the Lacoe & Shiffer Coal Co.?-A. In the Lacoe & Shiffer office at Pittston.

Q. Who were present?—A. The four members of the firm, and Mr. Berry, and I think Mr. Lacoe or Mr. Shiffer; I do not know which.

Q. Four members of which firm?-A. Four members of the Premier Coal Co.

Q. Of which you were a member?-A. Yes, sir.

Q. Was Judge Archbald present at the time?—A. No, sir. Q. All the money that was paid was paid to whom?-A. I think a certified check was handed to Mr. Berry.
Q. That was the \$2,000 to be paid at the time of the settle-

ment?—A. Yes. sir.

Q. And the \$5,500 which was the balance for the consideration was to be paid in royalty at the rate of 20 cents per ton?-

- Q. How long was it after that settlement was made that you and your associates gave the Premier Coal Co.'s note, to your own order and indorsed by yourself, to Judge Archbald?—A. It may have been within a month or two; I could not say.
- Q. Within a month or two after that date?—A. Yes.
 Q. By the way, what connection, if any, has the Lacoe & Shiffer Coal Co. with any railroad?-A. Not any; that is, so far as I know. But I am quite positive they have not any.

Mr. SIMPSON. I think that is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager DAVIS.) Did you give us the exact date, Mr. Witness, when you completed the purchase of the Lacoe & Shiffer dump?—A. I could not. I could not even swear to the month. I believe it was in March. It was the latter end of February or March; I am not positive; I do not remember.

Q. (By Mr. SIMPSON.) That is, of the present year?-A. Of the present year; yes.
Mr. Manager DAVIS. That is all.

Mr. Manager CLAYTON. The witness may be discharged so far as we are concerned.

Mr. WORTHINGTON. No; he is under subpæna from us. Of course, he is only discharged from attendance under the Government subpæna.

The PRESIDENT pro tempore. He is discharged from the subpæna on the part of the managers, but will respond to the subpæna of respondent's counsel.

TESTIMONY OF GEORGE F. BAER.

George F. Baer appeared and, having been duly sworn, was examined and testified as follows:
Q. (By Mr. Manager DAVIS.) Where do you reside, Mr.

Baer?—A. At present in Philadelphia.

- Q. What is your occupation?—A. For the purposes of this case I am president of the Philadelphia & Reading Coal &
- Q. Are you also president of the Philadelphia & Reading

Q. Are you also president of the Finalesphia & Reading Railroad Co. or Railway Co.?—A. Yes.
Q. You are president of the Reading Co.?—A. Yes.
Q. Is the Philadelphia & Reading Railway Co. a common carrier engaged in interstate commerce?—A. Yes.
Q. What is the character of the Philadelphia & Reading Coal & Iron Co.?—A. It is simply a mining company, engaged in the mining and selling anthracite and bituminous coal.

Q. What is the character of the Reading company?—A. The Reading company is a company incorporated in 1871, and it has the same powers under a special act of the assembly that the Pennsylvania company possesses, the Pennsylvania company being the company that operates the lines of railroad, as I understand, west of Pittsburgh. It is a charter that gives power to do almost any kind of business.

Q. Does the Reading company own a majority of the capital stock of the Philadelphia & Reading Railway Co.?-A. Yes.

Q. And also a majority or all the stock of the Philadelphia & Reading Coal & Iron Co.?—A. Yes; it owns all the stock of both the railway company and the coal and iron company, except such stock as is necessary to qualify directors.

Q. So that they are practically united through that common-

stock ownership?-A. I will not say yes. I just give you what

the facts are.

That is not important. Do you know Frederic Warnke? Q. That is not important. Do you know Frederic A. Yes; I met Mr. Warnke, the gentleman who was on the

Q. Who was just on the witness stand?-A. Yes.

Q. Did you ever have any interview with him with reference to the controversy existing between his company and your own, the Philadelphia & Reading Coal & Iron Co., with reference to a lease held at Lorberry, Pa.?-A. Mr. Warnke came to me and said he had been involved in buying an interest in a washery, and it was impracticable to make that washery pay, with the small culm bank they had, and he wanted me to agree to lease him or his company-I have forgotten what the company was called-the culm bank of the Lincoln colliery. I told him we could not do that, that it was a fixed policy of the Coal & Iron Co. not to lease culm banks unless there was some special reason for it, and I explained what that might be. It might be a culm bank that was adjoining somebody else and we never could use it, and it might be possible therefore to make an exception to the general rule; but in all such cases the report of the vice president of the Coal & Iron Co., who resided at Pottsville and was in direct charge of mining operations, would have to be made, and special authority from the board. I referred him to Mr. Richards. Of course, I do not know what took place between him and Mr. Richards, except that Mr. Richards reported to me what the facts were, and I instructed him to say that under no conditions would we lease that culm bank.

Q. It was reported back to you from Mr. Richards?-A. Mr. Richards reported back to me that Mr. Warnke had been to We discussed at the regular meeting that we generally have once a week in Philadelphia of all the coal superintendents the propriety of leasing, and my instructions to him were peremptory not to entertain the proposition to lease the colliery; that it did not come within any exception.

Q. Were you afterwards approached on behalf of Mr. Warnke by any other person?-A. Several persons. A lawyer from Scranton-I do not remember his name-and a lawyer from Wilkes-Barre came down to see me and pled with me, and had a story of hard luck, and I simply declined. I said that our

decision with regard to the matter was final.

Mr. Manager DAVIS. That is all.

Cross-examination:

Q. (By Mr. SIMPSON.) Can you tell us about when it was you had that interview with Mr. Warnke?-A. Oh, I can not tell that. It must have been a couple of years ago. I have no idea, Mr. Simpson, frankly, and I would not like to fix the date. Mr. Richards probably can give you the date from his correspondence.

Q. Did you have any correspondence or conversation of any kind with Judge Archbald in regard to it?-A. None whatever.

Mr. SIMPSON. That is all; thank you.

Redirect examination: (By Mr. Manager DAVIS.) Just one further question. Did Mr. Richards report to you at any time that Judge Archbald had approached him on behalf of Mr. Warnke?-A. After this inquiry was started in Congress, something was said in the papers about this, and one day when Mr. Richards came to Philadelphia. last winter, I believe it was, I asked him about it, and then he simply told me that Judge Archbald had dropped in to see him at Pottsville and asked him whether anything could be done. I had told him that my decision was final in the matter, and that is all he reported to me and all I know about it.

Mr. Manager DAVIS. That is all.

Mr. Manager CLAYTON. The witness may be discharged.
The PRESIDENT pro tempore. The witness may be finally dismissed.

TESTIMONY OF W. J. RICHARDS.

W. J. Richards appeared, and having been duly sworn, was examined, and testified as follows:

Q. (By Mr. Manager DAVIS.) Where do you live, Mr. Rich--A. Pottsville, Pa.

Q. How far from the city of Scranton ?- A. About 80 miles. Q. What is your occupation?—A. Vice president and general manager of the Philadelphia & Reading Coal & Iron Co.

Q. Of which Mr. George F. Baer, I believe, is president?-A. Yes, sir.

Q. Do you know Frederic Warnke?-A. Yes, sir.

Q. Do you know Judge Robert W. Archbald?—A. Yes, sir. Q. Did you have any business transaction with Mr. Warnke in the year 1911 with reference to a coal operation of his at Lorberry, Pa.-A. Yes, sir. He had a lease on a certain coal bank from us and was an applicant for additional rights.

What period of time did those negotiations cover?-A. I

should say about four years, probably.

Q. What was the status of the matter in the year 1911?—A. We refused to extend the rights.
Q. What right was it he wanted?—A. He wanted an addi-

tional bank, known as the Lincoln Bank.

Q. Was there any controversy about his right to the lease under which he was operating?—A. I did not consider it so. He made some claim that certain-

Q. There was no controversy from your point of view?-A.

No, sir.

Q. You claimed his lease had expired?-A. Yes, sir.

Q. He resisted that claim, I believe?-A. I do not know that he resisted it; he contended.

O. Did he have any number of interviews with you on the subject?-A. Yes, sir; at various times.

Q. What was your response to him at those interviews?—
That we could not lease this bank.

Q. Did Judge Archbald ever come to see you on the subject?-A. Yes, sir.

Q. When and where?-A. He came to Pottsville to see me on the 27th of November.

Q. 1911?-A. Yes, sir,

Q. Was that visit preceded by any correspondence?-A. Yes, sir; he wrote me a letter.

Q. Have you that letter ?- A. Yes, sir.

Produce it.

(The letter was handed to the manager.)

Mr. Manager DAVIS. We offer that letter in evidence without further identification. The Secretary will read it.
Mr. WORTHINGTON. There is no objection.

The Secretary read as follows:

[U. S. S. Exhibit 85.]

(R. W. Archbald, judge, United States Commerce Court, Washington.)

SCRANTON, PA., November 24, 1911.

W. J. RICHARDS, Esq., Pottsville, Pa.

My Dear Mr. Richards: Permit me to inquire whether you are to be at Pottsville Monday afternoon or Tuesday morning next; and, if so, whether I could see you for a few minutes? I am coming down to Pottsville on another matter, getting there Monday afternoon, and I would like to make the one trip serve both ends if possible. I could defer my coming for a day, so as to see you Tuesday afternoon or Wednesday morning, but would prefer the other arrangement. I endeavored to call you up by long distance this morning, but it was reported that you were out of town, and it was not known just when you would be back.

Yours, very truly.

R. W. Archbald.

Q. (By Mr. Manager DAVIS.) Did you answer that letter?—Yes, sir.

Q. Have you a copy of the reply?—A. (Producing paper.) I have a carbon copy of it.

Q. We will take that in lieu of the original and ask that it

be read.

The Secretary read as follows:

[U. S. S. Exhibit 86.]

NOVEMBER 25, 1911.

Hon. R. W. ARCHBALD, Scranton, Pa.

MY DEAR MR. ARCHBALD: Yours of the 24th instant received to-day, and I have wired you this afternoon as follows:
"Letter received. Will be away Monday, but will be here Tuesday morning."

morning."

It will give me pleasure to meet you on Tuesday morning, as per your letter.

Yours, very truly,

Vice President and General Manager.

Q. (By Mr. Manager DAVIS.) Did Judge Archbald appear in

accordance with that engagement?—A. Yes, sir.
Q. What arrangement did you have with him on the subject?—A. He simply asked me as to the status of these negotiations with Warnke, and I told him that we declined to make any further leases.

Q. How long was he in your office?-A. I can not recollect, but I do not think it was more than 15 or 20 minutes.

Q. Had he any other purpose at that interview?-A. No, sir. Q. No other business, so far as you know?—A. No, sir.

Mr. Manager DAVIS. That is all.

Cross-examination:

Q. (By Mr. SIMPSON.) Did you have any other correspondence or conversation with Judge Archbald in regard to this matter?—A. No. sir.

Q. And you have given us, as far as you can now recall it, the substance of all that occurred during the time he was there?—A. Yes, sir.

Mr. SIMPSON. That is all.

Mr. Manager DAVIS. The witness may be discharged.

The PRESIDENT pro tempore. Finally?

Mr. WORTHINGTON. Yes, sir.
The PRESIDENT pro tempore. The witness may be finally discharged.

EBEN B. THOMAS.

Mr. Manager CLAYTON. Mr. President, Mr. Eben B. Thomas we will not need as a witness, and we therefore ask that he may be discharged.

Mr. WORTHINGTON. We have no objection, Mr. President. The PRESIDENT pro tempore. The order will be entered. TESTIMONY OF ALTON KIZER.

Alton Kizer appeared, and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager DAVIS.) Where do you live, Mr. Kizer?—A. In Scranton.
Q. What is your occupation?—A. Real-estate broker; prin-

cipally real estate and builder.

Q. Do you know Judge Robert W. Archbald?—A. I do. Q. Do you know Mr. Frederic Warnke?—A. I do.

Q. Are you a member or a stockholder of the concern known as the Premier Coal Co.?-A. Yes; we have organized a concern that we call by that name.

Q. Who compose that corporation or partnership, whichever it is?—A. Walter Schlager, S. H. Swingle, and Frederic Warnke,

and myself.

Q. Who is president of the corporation?—A. Mr. Warnke. Q. And who is its secretary and treasury?—A. Mr. Swingle. Q. Where are your offices, Mr. Kizer?—A. Mears Building,

8, 10, and 11, Scranton, Pa.

Q. Did your corporation, to your knowledge, ever execute a note to Judge Robert W. Archbald for \$500?—A. There was a note of \$510 executed, made payable to ourselves and given to

Q. Payable to yourselves and then indorsed by yourselves?-

A. Indorsed by ourselves; yes, sir.

Q. And delivered to Judge Archbald?-A. Yes.

When and where was that note delivered to him?-A. At the Mears Building. I do not know just the exact date: some time in April, I believe.

Q. Of this year?—A. Yes. Q. At your offices?-A. Yes.

Q. Was it delivered to him in person?—A. I think so.

Q. Did he come to your office for the purpose of getting it?-

Q. Who made the delivery to him?—A. There seems to be a little uncertainty about the delivery. Mr. Warnke thought it was me, but it was either Mr. Swingle or myself. At any rate, it was one of us, or both of us.

Q. Were you present at the time?—A. Yes.

Q. Had he any other errand to your office at that time?—A. Well, none that I know of. He might of dropped in to pass the time of day, but that was the principal errand.

Q. Had any arrangement been made in advance for his coming at that time to get the note?-A. I do not know that there

had.

Q. Did you deliver it to him of your own motion or by direction of some of your associates?—A. Well, we had agreed. That was a part of the purchase price of the coal bank, and it was simply in readiness. Instead of paying the cash we simply made it in a note and included the discount.

Mr. REED. Mr. President, we can not hear the witness in

this part of the Chamber.

The PRESIDENT pro tempore. The witness has been warned three or four times to speak louder.

The Witness. I am unable to get my voice up. I am not used to speaking in the Senate Chamber. That seems to be the trouble. I will get more used to it.

The PRESIDENT pro tempore. Preced with the witness.

The PRESIDENT pro tempore. Proceed with the witness, Q. (By Mr. Manager DAVIS.) Who wrote the note?—A. The

treasurer, Mr. Swingle, as I remember it.
Q. Who signed it on behalf of your company?—A. He would also sign it as treasurer.

Q. Has that note ever been paid?—A. I think so.

Q. To whom?-A. To the bank where it was discounted, I presume.

Q. It was discounted, was it, by Judge Archbald?-A. I think so.

Q. What bank?-A. Well, it is my memory it was the Third National Bank.

Q. Of Scranton ?- A. Yes.

Q. How many visits did Judge Archbald make to your office, do you remember, to get this note?-A. I remember one.

Q. Was there any other visit?-A. He might have come, but I remember one distinctly that I was present when he came.

Q. You mean one in addition to the visit when the note was presented?—A. No; I mean just the one.

Q. You do not know whether he made any other visits on the same errand or not?-A. He might have. I do not know that he did, and I do not know that he did not.

Mr. Manager DAVIS. That is all.

Mr. REED. Mr. President, I send a question to the desk to

be propounded to the witness.

The PRESIDENT pro tempore. The Senator from Missouri propounds the following question, which will be submitted to the witness.

The Secretary read as follows:

Q. Give the full details of the conversation or conversations between yourself and your business associates relative to the payment to Judge Archbald of the \$500.

The Witness. We were to pay \$8,000 for the bank, out of which \$500 was to be paid as commission. We paid \$2,000 down, and the balance at 20 cents per ton royalty as it is taken from

Mr. REED. I should like to have the question read again to the witness

The PRESIDENT pro tempore. Repeat the question to the witness, so that he may answer it fully.

The Secretary. The question is as follows:

Q. Give the full details of the conversation or conversations between burself and your business associates relative to the payment to Judge yourself and your bus. Archbald of the \$500.

The WITNESS. Well, I have tried to cover that. What point is it-

The PRESIDENT pro tempore. The witness will, so far as practicable, answer the question. A Senator is not allowed to propound a question orally to the witness.

Mr. REED. Mr. President—
The PRESIDENT pro tempore. Under the rule, the Senator can only propound a question in writing.
Mr. REED. I understand, Mr. President

The PRESIDENT pro tempore. The Senator can send an additional question to the desk if he so desires.

Mr. REED. I understand the rule perfectly. I wanted to

have this question-

The PRESIDENT pro tempore. The rule of the Senate does not permit the Senator to do further than to send a question to the desk in writing.

Mr. REED. The rule does not prohibit my requesting the Chair to ask the witness to answer again this question. is what I am asking for.

The PRESIDENT pro tempore (to the witness). Remember

the question, and answer it as fully as you can.

The WITNESS. I tried to carry the question, and I tried to answer it.

The PRESIDENT pro tempore. Give the question to the witness; give him the paper.

(The paper was handed to the witness.)

The WITNESS (after reading paper). Well, the full details are that we were simply to pay the \$500 as commission on the sale of this bank.

Mr. President, I desire to propound another Mr. REED.

The PRESIDENT pro tempore. The question of the Senator from Missouri will be read to the witness by the Secretary when sent to the desk.

The Secretary read as follows:

Q. What did you say to your partners and what did they say to you when you discussed the payment of the \$500? What was said about Judge Archbald's connection? Give the facts fully.

The WITNESS. Well, it was simply a commission for the sale of the bank.

Mr. President, I do not think that is an answer. Mr. REED. The PRESIDENT pro tempore. The witness will look at the question and answer the particular question as to what was said. Read the question and answer it as it is written. There are two questions. Answer the first one first, and then the second.

The WITNESS (after reading the question). Well, as I be-

fore stated, we were to pay \$8,000 for the bank-

The PRESIDENT pro tempore. Let me see that question. [After examining question.] Mr. Witness, you certainly know what that question means, and you are required to answer it. Answer what was said. Read the question again—the first question. Mr. Witness, that question must be answered by you without further delay.

The WITNESS. I am trying to answer it if I can understand it. The Secretary again read the question, as follows:

Q. What did you say to your partners and what did they say to you when you discussed the payment of the \$500?

The PRESIDENT pro tempore. That is a plain question, The Witness. Well, we said we would pay the \$500, and they drew up a note for it—made it in the form of a note.

The PRESIDENT pro tempore. The Secretary will read the second question.

The Secretary read as follows:

What was said about Judge Archbald's connection? Give the facts

The WITNESS. Well, the only connection that I know of that Judge Archbald-we had met over in Judge Archbald's office, and it was agreed among ourselves that we pay \$500 commission for the sale of this bank. Seven thousand five hundred dollars was to be paid to Mr. Berry. An arrangement was made with Mr. John W. Berry of \$2,000 down and the balance to be paid at the rate of 20 cents a ton to be sure he got his money before the bank would be exhausted.

The PRESIDENT pro tempore (to the witness). You are not heard by the Senate. Why do you not speak louder?

The Witness. Well, I am endeavoring to.
Q. (By Mr. Manager DAVIS.) You say you were at Judge Archbald's office?—A. We were at Judge Archbald's office.
Q. When?—A. Well, I can not give the date—just a little

The PRESIDENT pro tempore. Before the manager proceeds, there is another question, sent to the desk by the Senator from Missouri [Mr. Reed], which will be read by the Secre-

The Secretary read as follows:

Q. State, as nearly as you can, all that Judge Archbald said when he came to your office; and what was said by you, or in your presence, to him.

The WITNESS. Well, as I remember, Judge Archbald came in, and he was given the note for \$500. I do not know just the exact conversation that did take place, but we understood he was to receive the \$500. There was some talk as to the titlewhether the Pennsylvania Railroad Co. owned the tract or the Laurel Line or Lacoe & Shiffer. We probably went over that. We may have talked with the judge about it. We had an attorney with us who represented us. We were over in the judge's office, and from there finally we went down to—I am getting now to the time when we closed the transaction—we went down to Mr. Berry's office at Pittston, and the matter was closed up, and we made the final payment. We were represented by an attorney. That is the sum and substance of the whole trans-

Mr. Manager DAVIS. Is there any other question on the part of the Senator?

The PRESIDENT pro tempore. There is no other question

on the part of the Senator.

Q. (By Mr. Manager DAVIS.) When was it that you were at Judge Archbald's office?—A. Well, I can not give you just the date; I have not anything to recall the date, except the fact we were there. The date I could not just give you.

Q. How long before you closed the deal?—A. Well, just about

that time, because we went down within a day or two or the same day or the following day with Mr. Berry. There were some other little transactions there. There were some things that the attorneys had to look up—the records—to see whether they had full right to it. This had originally been a Pennsylvania Railroad fill, and probably had changed hands once or twice, and the ownership was a question. That is, we thought that it might be a question as to whether Lacoe & Shiffer had the legal right to the fill.

Q. Let me ask you, were you buying the fill outright or buying a lease on it?—A. Well, originally we were to buy it outright; but it finally developed, as we went along the lines, that it was to be in the form of a lease, with a certain payment of \$2,000 and the balance at-

Q. Did Lacoe & Shiffer own it outright or did they own it under a mining lease?—A. No; I think they owned it outright.
Q. You say you "think"; you certainly know.—A. They owned it outright; at any rate they signed the papers, and it satisfied our attorneys; so they must have owned it outright.

Q. Who was with you at Judge Archbald's office ?- A. Well, I think we were all there—the parties interested.

Q. Name them .- A. Mr. Swingle was there and Mr. Schlager --I am not positive whether Mr. Warnke was or not-and I was there.

Q. Anyone else?-A. Our attorney was there.

Q. Who was your attorney?-A. Mr. Houck. Q. Why did you go to Judge Archbald's office?-A. Well, it seemed that we went over there with the thought that the judge possibly had something to do with or had some interest in the

bank as to the sale of it.
Q. You say you "think" and "possibly." You know why you went to Judge Archbald's office. Why was it?-A. That would be the reason we went there-to try to complete the negotiations for this bank.

Q. Why did you think that Judge Archbald had some interest in the sale of it?—A. Well, going back, this was brought to my attention, that there was a certain bank that might be had. I do not know how it did develop, but, at any rate, it developed that we understood that Judge Archbald had something to do with the sale of this bank. Therefore we simply went over to Judge Archbald's office.

Q. Who brought it to your attention that there was a bank you might get?—A. Mr. Swingle, originally.

Q. Is that all the information you had about Judge Archbald's connection with it before you went to his office?-A. That is practically what we had about it.

Q. He did not own the bank, did he?—A. No; I do not

think so.

Q. You knew that fact?—A. I knew he did not own it.

Q. What information had you personally about his connection with the deal before you went to his office?-A. I do not know that I had any, except that he was interested in the sale of the bank

Q. In what way?-A. Well, that developed later-in the way of a commission.

Q. You did not know at that time, then, that he had a com-

mission on it? Is that true?-A: No; I did not. Q. What conversation did you have at Judge Archbald's office?-A. Well, it finally developed, as we were along the lines of the negotiation, that we were to pay him the \$500 commis-

Q. For what?-A. For the sale of the bank if we completed the negotiations.

Q. What did he have to do with your completing the nego-

tiations?—A. Well, there was considerable to do. Q. What?—A. They had to find out who was the owner. is not as easy a thing to find out who is the owner of a culm pile as it seems to be. There is this one claims to own it, and another one claims to own it, and that was the main thing to ascertain, if possible, who was the owner or who to go to.

Q. What help did he give you in ascertaining who was the owner?—A. Well, through his information we got in connection

with Mr. Berry, as I remember the exact detail.

- Q. Did you not know long before you went to Judge Archbald's office the people who were in charge of the bank were Lacoe & Shiffer and that Mr. Berry was their local representative?-A. Until we went there I had never met Mr. Berry.

Q. That is not my question.—A. No; I did not.
Q. Did you not know you were dealing for the Lacoe & Shiffer dump?—A. No; at the time we went to Judge Archbald's office I had no idea who owned the dump positively.

Q. Of course, your associates knew who you were dealing with?—A. They may have; I do not know; I did not.

Q. Did you have anything at all to do with that transaction

before that day?—A. The day we went over?
Q. Yes.—A. We had talked it over, and I had even gone down to look at the dump, but I had not the slightest idea who owned the dump.

Q. Do you mean to say it was not until you got to Judge Archbald's office that you knew with whom you were dealing as owners of that dump?—A. That was about the time that John W. Berry appeared there in person, and it developed that he and Lacoe owned the dump.

Q. John W. Berry appeared where in person?-A. Well, I do not know just where we met Mr. Berry—whether it was on the street, or just where; but about the time Berry came to Scranton, and finally, in the final conclusion, we went down to Mr. Berry's office at Pittston.

Q. You did not meet Mr. Berry at Scranton or somewhere else by any introduction of Judge Archbald, did you?—A. Oh, no.

Q. Then I ask you again what service it was that Judge Archbald was to render you with reference to the purchase of this property?—A. Well, I understood that on the sale of the dump Judge Archbald was to receive a commission on the dump-a pure and simple commission.

Q. And why was he to receive that from you?—A. Well, in buying and selling—we frequently pay a commission on a sale

of a house and often have to-

Q. Well, you do not do it unless you have some reason for it, do you?-A. Well, if we want it and have the purchase price, why, we have got to pay it.

Q. Why was Judge Archbald entitled to demand from you a

commission on the sale of this property?-A. Well, I do not know as I can say.

Q. Did you never inquire?-A. I must have inquired.

Q. What was your information?-A. I simply understood that he was to receive a commission of \$500 on the sale of that culm dump, if it was sold, and we wanted the dump.

Q. What service did he render to you and your associates that entitled him to that commission?—A. Well, first of all, he seemed to have the sale of it.

Q. How did that appear?-A. Well, it appeared that way because we went over to see the judge before it was finally purchased in the way of making terms.

Q. Did he seem to be the agent for the owners of the dump?-

A. Well, perhaps not the agent, and perhaps he may have been.
Q. What did you say to him and what did he say to you on that subject?—A. Well, as I remember, he said that Mr. Berry, of Lacoe & Shiffer, had the dump for sale, and we were trying to get together. We wanted to buy it outright for cash origi-That is the way we talked it over first, but it finally developed that it took some talking back and forth, and Mr. Berry wanted a certain amount down and a certain amount per tonnage, and the judge assisted us in getting the arrangement completed.

Q. How did he assist you?-A. Well, by talking the matter

over with us.

Q. How many interviews did you have with him at his office or elsewhere?--A. One; I am not positive-possibly two.

Q. And for talking it over with you there at his office and telling you that the Lacoe & Shiffer Co. owned the dump you agreed to pay him \$500?-A. We were glad to pay \$500 commission to get the bank, and we would have paid more for the bank if we had to. We thought it was good; it was hard to get, and we thought the commission was a fair one.

Q. Could you not have bought the dump without Judge Archbald's assistance?-A. Well, I do not know. The dump had

laid there—well, for 40 years.

Q. Could you not have bought it without going over and holding that conversation at Judge Archbald's office, which seems to have been all he did for you?

Mr. WORTHINGTON. I object to the statement of the manager that that seems to be all he did. I think it is not for the

ger that that seems to be an he did. I think it is not for the manager to testify or speak on that point.

Mr. Manager DAVIS. It seems to me that that was all. But I will qualify my statement.

Mr. WORTHINGTON. Very well, then.

Mr. Manager DAVIS. But it fairly bears that construction without any explanation. Read the question.

The Reporter read the question.

The WITNESS. I do not know whether we could or not. We

did not try any other way.
Q. (By Mr. Manager DAVIS.) Was your next interview with Judge Archbald on the subject at the time when he came to your office to get the note?-A. I do not remember.

Q. Do you remember what time of day he came to your office for that purpose?—A. Well, I do not know that I could tell the time of day.

Q. How long was he there?-A. Just a few minutes-probably 5 to 10 minutes-I could not say that.

Q. Did you engage in conversation with him?-A. Not particularly; no.

Q. Did anyone in the office engage in conversation with -A. I do not think so.

Q. Do you mean to say that he simply came in and got the note and went out without the exchange of any words?-Well, we might have talked the matter over. I do not remember whether we did, or what we said.

Q. Did he ask you for the note?-A. I do not know as to We had it ready when he came. He may have or

Q. You do not remember distinctly that that was the only purpose of his presence there?—A. I think so.

Mr. REED. I would like to have this question propounded. The PRESIDENT pro tempore. The Senator from Missouri submits a question to be propounded to the witness, which will be read by the Secretary.

The Secretary read as follows:

Do you want to be understood as testifying that when Judge Archbald came to your office you simply handed him a note for \$500 instead of cash, and that nothing was said? There must have been a conversation about the payment and about why Judge Archbald was to be paid \$500, and why a note was given instead of the cash. I want the conversation—what was said—and if you can not give the exact language then give its substance.

The WITNESS. The parties interested had already talked over as to the payment and the amount, and accordingly instead of paying cash we gave a note and included the discount, which made it cash; made the note payable to our order and indorsed it personally.

Mr. REED. I ask to have the question read to the witness and that he be instructed to answer; not to give his conclusions, but what was said.

The PRESIDENT pro tempore. The Secretary will hand the

question to the witness so he can read it.

The WITNESS (after reading the question). As to the first item, we had already made arrangements to pay the \$500, and had it ready, and I do not know that there was anything said. I do not know that I gave him the note. I do not know that Mr. Swingle did. I do not remember any conversation. As to

the note, instead of cash we considered a note made payable to our order, so there would be no difficulty in discounting.

Mr. REED. I ask that the witness be directed to answer the question.

The PRESIDENT pro tempore. The witness says he does not remember what was said.

Mr. REED. Mr. President, the last part of his answer was a mere conclusion, not the conversation or whether there was a conversation.

The PRESIDENT pro tempore. The witness has stated that he does not remember that there was any conversation.

The Witness. I do not remember what conversation was had. I do not remember what was said, if anything.

Mr. REED. Very well. I have one more question that I would like to have propounded.

The PRESIDENT pro tempore. The Secretary will read the question sent to the desk by the Senator from Missouri.

The Secretary read as follows:

Q. Did you understand that Judge Archbald was the agent of the owners of the dump; and if so, how did you get that understanding?

The PRESIDENT pro tempore (after a pause). Give the witness the question to read.

A. (After reading the question.) Well, that must have been my understanding, that Judge Archbald had to do with the sale of the dump; that he probably represented Mr. Berry. not know if it would be agent or just how, but we did understand that he was to have the \$500 payment commission on the deal. And as to how I got that in mind, I do not know just

how it did occur first. Cross-examination:

(By Mr. SIMPSON.) Mr. Kizer, do you know what became

of the note?—A. Finally.
Q. Yes. After it was paid.—A. We got the note back to the office after it was paid.

Q. Do you know who has it now?-A. I think Mr. Swingle has it here.

Q. You spoke of this as being a fill, possibly belonging to the Pennsylvania Railroad Co.?—A. Yes.

Q. You meant the Pennsylvania Coal Co., did you not?-A. Yes; I wish to correct that—the Pennsylvania Coal Co. Let us see, now. The old gravity-

Q. The old gravity fill?-A. The abandoned bed of the old railroad.

Q. Which the Pennsylvania Coal Co. had for carrying their coal to connect with the other road?—A. Yes. I did not mean to say the Pennsylvania Railroad Co. I meant the Pennsylvania Coal Co.—the old gravity system.

Q. There is no connection between the Pennsylvania Railroad Co. and the Pennsylvania Coal Co?—A. None whatever. It is

simply an old abandoned fill.

Q. You were asked as to any conversations in relation to the \$500 to be paid. When did you first learn that there was \$500 to be paid?—A. Well, I do not know just what time, but it was during the negotiations, and I remember we inquired, and we said-

Q. Just answer my questions, if you please, and we will get along very much better.—A. All right. I do not know.
Q. Who was it who said in your presence that there was \$500 to be paid?—A. Well, I do not know but that it was Mr.

Q. What did Mr. Warnke say when he said that? Just give as near as you can the substance of what he said .- A. I do not know but that Swingle told me-he or Warnke.

Q. Let us take one at a time and we will get along better. What was it he said, as near as you can remember?-A. Well, that the judge was to have \$500.

Q. What did Swingle say?-A. He spoke about it-well, he wanted to know whether there was going to be any more \$500.

Q. That is what Swingle said, was it?—A. Yes, sir.

Q. And who answered him?-A. Mr. Warnke, as I remem-

Q. What did Warnke say in answer?-A. He said, "No; that is all."

Q. "That is all." Was the \$500 spoken of afterwards?-A. Among oursevles, do you mean?

Q. Yes; I mean among yourselves.—A. Why, certainly.

Q. Yes; I mean among yourselves.—A. Why, certainly.
Q. Who spoke of it next?—A. Well, we all talked it over.
Q. Can you not tell us who spoke of it next?—A. Well,
Swingle told me about the \$500, anyway.
Q. What did he say when he told you about it?—A. He said
that it had developed that there was \$500.
Q. To be paid?—A. To be paid.
Q. Did he say to whom?—A. To Judge Archbald.
Q. To Judge Archbald; and what did you say when Swingle

said that?-A. Well, I do not know; I said-let us see. I may

have said the bank was worth it, and we were willing to pay it.

Q. You say you may have said it. Do you recall whether you did say it?—A. Yes; I did say it.

Q. You recollect you did say it?-A. Yes.

Q. Was there anything said by anybody else about it?—Well; I do not recall any special conversation.

Q. Can you recall any other conversation occurring in your presence on the part of any of the members of your company in which this \$500 note was spoken of?—A. Well, I do not just recall any.

Q. Then you think you have given us now as near as you can the language of yourself and associates what it was that was said in all the interviews in which that \$500 note was spoken of?-A. That is what I am trying to do.

Q. I am asking you now whether you have given all that was said about that \$500 note in all the interviews, as near as you can recall?—A. I think so.

Q. Did you know that Judge Archbald had an option on that gravity fill from the Lacoe & Shiffer Coal Co.?—A. Well, I do not know that I did.

Q. You do not remember hearing that spoken of?-A. I do not know but that I did.

Mr. SIMPSON. I think that is all.

Mr. Manager DAVIS. I think that is all. Mr. President, it is now five minutes of adjourning time. We may have some questions in the morning.

Mr. WORTHINGTON. We are not through.

Mr. SIMPSON. There is one other question that I want to ask the witness, which has been suggested to me by my col-

Q. (By Mr. SIMPSON.) Had the Premier Coal Co. or yourself, or, so far as you know, any of your associates except Mr. Warnke, any interest in the matter in dispute between Mr. Warnke and the Philadelphia & Reading Coal & Iron Co.?-A. Nothing whatever. We had no lawsuits pending in any court anywhere.

Q. Was there anything said at any time to the effect that this \$500 was to be given or any payment of any kind to be made to Judge Archbald for anything he would do in that other matter?-A. Nothing whatever. It was simply the payment on the sale of the bank.

The PRESIDENT pro tempore. There are two questions sent to the desk by the Senator from South Dakota [Mr. Craw-

FORD] that will be propounded, if there is time.

Mr. Manager CLAYTON. Of course I recognize that the managers have not the right to make a motion to that effect, but I respectfully suggest that the managers desire the time of the session of the Senate sitting as a Court of Impeachment extended this afternoon until we have concluded the examination of this witness, which I hope will not be very long

Mr. Manager DAVIS. I think I have but one additional

question, Mr. President.

Mr. GALLINGER. I was about to ask unanimous consent, as it is said a short additional time will be required to complete the examination of this witness, that the order of the Senate be so modified.

The PRESIDENT pro tempore. The Senator from New Hampshire suggests that the Senate sitting as a Court of Impeachment shall prolong its session beyond 6 o'clock until the examination of this witness may be concluded. Is there objection? The Chair hears none, and it is so ordered.

The Secretary will propound the first question which has

been sent to the desk by the Senator from South Dakota [Mr.

CRAWFORD1.

The Secretary read as follows:

Q. Is it customary in your locality for the buyer of property to pay a commission to the agent representing the owner who sells it?

The WITNESS. Will you read it again?

The question was again read.

The WITNESS. It is, very frequently.

The PRESIDENT pro tempore. The Secretary will read the next question propounded by the Senator from South Dakota [Mr. Crawford].

The Secretary read as follows:

Q. Do you mean to say that while Judge Archbald was agent for the seller of the dump he accepted a commission from the buyer of it?

The WITNESS. Well, I do not know that he was agent. He may have had an option, and at any rate I know we paid

The PRESIDENT pro tempore. You are not to direct your answer to the Secretary. You are speaking to the Senate now, and you should talk out louder, so that everyone can hear.

The WITNESS. Will you give me that question again? [The question was handed to the witness.] The commission may have been from the fact that he held the option on the thing.

We have frequently paid commissions. I mean to say we paid a commission on the sale of the dump-\$500.

Q. (By Mr. Manager DAVIS.) You say one of the questions you took up with Judge Archbald was the matter of the title?-A. We talked it over with Judge Archbald, notwithstanding the fact that we were represented by an attorney.

Q. And your doubt about the title arose from the claims of the Pennsylvania Coal Co. Was the title that you feared the possibility of the title of the Pennsylvania Coal Co.?—A. This portion was a fill on the old Gravity bed, and it had been abandoned. It developed that Lacoe and Shiffer, who owned land around there when the road was abandoned—if the old Gravity Railroad did not have a deed for it, it reverted back to the original owner. Therefore there was a question whether the parties owning the land adjoining it would be the legal owners or it would still remain in the possession of the old Pennsylvania Gravity Railroad, long since out of existence-probably 20 years.

Q. That Pennsylvania Gravity Railroad was the Pennsylvania Coal Co.?-A. Yes; and they used this road to take coal to

market.

Q. But you say the Pennsylvania Coal Co. had no connection with the Pennsylvania Railroad Co. I believe that was your statement?-A. No; it was that the Pennsylvania Railroad Co .what we know now as the Pennsylvania Railroad Co .- has no connection whatever.

Q. It is a fact, is it not, that the Pennsylvania Coal Co. is one of the operating companies owned by the Eric Railroad Co.?—A. They were purchased by the Eric—all the holdings.

Q. It is a fact, is it not, that Mr. W. A. May is vice president and general manager of the Pennsylvania Coal Co.?—A. I be-

lieve he is; yes.

Q. Also vice president and general manager of the Hillside Coal & Iron Co.?—A. That is his title, as I understand.

Q. One and the same man?—A. Yes.

Q. I believe that is all.

The PRESIDENT pro tempore. The Senator from Missouri [Mr. Reed] has sent a question to be propounded to the witness. It will be read.

The Secretary read as follows:

Is it customary in your country for a man to act as the agent of the owner of property in the sale thereof and at the same time to act as the attorney of the purchaser in the examination of the title?

The WITNESS. As to examining the title, we were represented by an attorney who satisfied us as to the legal points of the

The PRESIDENT pro tempore. You are not answering the question, Mr. Witness.

The Witness. I would say no.
The PRESIDENT pro tempore. Well, that is an answer to the question. The witness says "No."
Mr. Manager CLAYTON. Mr. President, this witness may be

discharged.

The PRESIDENT pro tempore. The witness may be finally discharged?

Mr. Manager CLAYTON. Yes, sir.

The PRESIDENT pro tempore. The witness may be excused finally.

SUBPŒNA AND DISCHARGE OF WITNESSES.

Mr. Manager CLAYTON. Mr. President, I desire that the following witnesses may be discharged: James F. Bell, V. L. Petersen, and W. L. Pryor. We agreed to discharge Mr. Pryor the other day, but there seems to have been some misunderstanding about it. Also John M. Robertson may be discharged.

Mr. WORTHINGTON. Petersen and Robertson are under

our subpœna, and we wish to have them kept.

The PRESIDENT pro tempore. The witnesses whose names have been read by the manager will be discharged from liability to the managers, but a summons will be issued on behalf of the respondent to the two who have been named by counsel.

Mr. WORTHINGTON. As far as Pryor and Bell are concerned, we do not care to have them retained.

C. H. VON STORCH AND W. M. RUTH.

Mr. Manager CLAYTON. C. H. Von Storch and W. M. Ruth have been duly subpænaed on behalf of the managers on the part of the House to appear here as witnesses. The process has been regularly served upon them, as shown by the return of the Sergeant at Arms of the Senate, and I wish them to be called now so that I may move for an order.

The PRESIDENT pro tempore. The Sergeant at Arms will

call the witnesses named.

The SERGEANT AT ARMS. C. H. Von Storch! C. H. Von Storch! C. H. Von Storch! Appear and answer the summons. W. M. Ruth! W. M. Ruth! W. M. Ruth! Appear and an-

swer the summons.

Mr. Manager CLAYTON. I ask for the adoption of the order

which I send to the Secretary's desk.

The PRESIDENT pro tempore. The Secretary will read the order.

The Secretary read as follows:

Ordered, That attachments do issue in accordance with the rule of the Senate of the United States for C. H. Von Storch and W. M. Ruth, witnesses heretofore duly summoned in this proceeding on behalf of the managers of the House of Representatives.

The PRESIDENT pro tempore. The order will be issued in accordance, unless there be objection on the part of the Senate.

Mr. GALLINGER. I move that the Senate sitting as a Court of Impeachment do now adjourn.

The motion was agreed to.

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock and 10 minutes p. m.) the Senate adjourned until to-morrow, Saturday, December 14, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, December 13, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the fol-

lowing prayer:

Father in heaven, draw us by Thy holy influence to that nobility of soul without which the ideal home can not be, without which the pure patriot can not be, without which the real statesman could not be, without which pure and undefiled religion could not exist; that our homes may be pure and holy, our Republic rich in citizenship, strong in statesmanship, and our faith be deep and ever abiding in Thee, O God our Father.

THE JOURNAL.

The Journal of the proceedings of yesterday was read. Mr. MANN. Mr. Speaker, I notice that the Journal shows, from the reading, that on yesterday the gentleman from Ohio [Mr. Ansberry] moved to reconsider the last three votes, as I understood, relating to the contested-election case. BERRY and myself both made motions and asked that they lie on the table. The gentleman from Ohio did not vote with the majority on the last proposition, and would have no right to make a motion to reconsider on that. I take it that if the Journal shows that he did make the motion and no point of

order was made upon it that would settle it. The SPEAKER. The Chair understood, when the gentleman from Ohio [Mr. Ansberry] made his motion, that he made it with reference to the committee resolution. Of course the point stated by the gentleman from Illinois is absolutely correct. What suggestion has the gentleman to make?

Mr. MANN. I have no desire to have the Jounal corrected in that respect if the Speaker holds that, the motion having been made and no point of order having been made as to the right of a gentleman to make it, it is too late to make the point of order after the matter is disposed of.

The SPEAKER. The Journal ought to be changed to conform to the fact, and that is that the gentleman from Ohio [Mr. ANSBERRY] made the motion to reconsider on the committee

Mr. MANN. On the substitute and on the committee resolution, and I made the motion to reconsider on the Palmer reso-

The SPEAKER. And that the gentleman from Illinois [Mr. MANN] made the motion to reconsider on the Palmer resolution. Without objection, the Journal will be corrected to show the facts as stated by the Speaker. There was no objection.

The Journal was approved.

EXPLANATION OF VOTE.

Mr. ANDERSON. Mr. Speaker, on page 498 of the Record of December 11, on the vote to recommit, I am recorded as voting "present." By arrangement with the gentleman from Mississippi [Mr. Collier] I had supposed that I was paired with another gentleman from Mississippi [Mr. Sisson], who was sick. Consequently I did vote "present." I desire to state, however, that by some misunderstanding Mr. Sisson was paired with the gentleman from North Dakota [Mr. HANNA], and that if there had been no such misunderstanding and I had been at liberty to vote, I would have voted "yea" on that motion.

Mr. COLLIER. Mr. Speaker, I would like unanimous consent for one minute and a half.

The SPEAKER. The gentleman from Mississippi [Mr. Col-LIER] asks unanimous consent for a minute and a half. Is there objection to the gentleman's request?

There was no objection.

Mr. COLLIER. Mr. Speaker, on the day the gentleman from Minnesota [Mr. Anderson] mentions, I was authorized by my colleague, Mr. Sisson, who was sick, to pair him with the gentleman from Minnesota [Mr. Anderson]. The gentleman from Minnesota left it to me to attend to the arrangement of the pair, and I thought that he had been properly paired. He stated at the time that he was opposed to the bill. I make this statement in justice to the gentleman from Minnesota [Mr. Anderson], because he left the arrangement with me, and I thought he was properly paired.

The SPEAKER. Is there anything that the gentleman from

Minnesota asks to have done about this?

Mr. ANDERSON. I do not think that there is anything that can be done, unless it be to leave the statement in the RECORD.

The SPEAKER. The Chair does not see how it could be.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment the following resolution:

House concurrent resolution 66.

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Thursday, December 19, 1912, they stand adjourned until 12 o'clock m. on Thursday January 2, 1913.

ALLEGED CRUELTIES IN PERU.

Mr. KINDRED. Mr. Speaker, I ask unanimous consent to print in the Record some press notices relative to alleged atrocities and cruelties practiced by the agents of the rubber trade in Peru upon the helpless Indians of that country, to be printed in connection with the resolution that I am going to introduce.

The SPEAKER. The gentleman from New York asks unanimous consent to print certain excerpts from publications concerning alleged cruelties in the rubber trade in South America. Is there objection?

Mr. MANN. How much of this is there?

Mr. KINDRED. It is very short, less than a third of a column.

The SPEAKER. Is there objection? There was no objection.

COURTHOUSE, HELENA, ARK.

Mr. ROBINSON. Mr. Speaker, I call up the conference report on the bill (S. 3436) to grant to Phillips County, Ark., cer-

tain lots in the city of Helena for a site for a county courthouse.

The SPEAKER. The Clerk will read the conference report.

Mr. ROBINSON. I ask unanimous consent that the statement be read in lieu of the report.

ment be read in lieu of the report.

The SPEAKER. The gentleman from Arkansas asks unanimous consent that the statement be read in lieu of the report. Is there objection?

There was no objection.

The conference report is as follows:

CONFERENCE REPORT (No. 1268).

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (8. 3436) granting to Phillips County, Ark, certain lots in the city of Helena for a site for a county courthouse, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment.

Managers on the part of the House.

REED SMOOT,
KNUTE NELSON,
MARK A. SMITH,
Managers on the part of the Ford the Schack.

The Clerk read the statement, as follows:

The Clerk read the statement, as follows:

The managers on the part of the House.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the mendandent of the House of \$24 per month.

Managers on the part of the House.

The name of Campany is altered to place on the pension roll, subject to the provisions and imitations of the pension and increase and

Phillips County, Ark., submit the following written statement, explaining the effect of the action agreed upon:

The House amendment is self-explanatory and is as follows:

Add the following proviso to the bill:

Provided, That upon the discontinuance of the use of this property for public purposes it shall revert to the United States.

The effect of the agreement at the conference is to recede from said amendment and to leave the bill as the same originally passed the Senate.

Jos. T. ROBINSON. JAMES M. GRAHAM. Managers on the part of the House.

Mr. ROBINSON. Mr. Speaker, I move that the House agree to the conference report.

The motion was agreed to.

PENSIONS.

Mr. ADAIR. Mr. Speaker, I call up the bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, which bill is on the Private Calendar.

The SPEAKER. The Clerk will report the bill.
The Clerk read the title of the bill.

Mr. ADAIR. Mr. Speaker, I move that the bill be considered in the House as in Committee of the Whole, and that the first reading of the bill be dispensed with.

Mr. MANN. As this is the first bill of this character that has been considered at this session, I suggest that the gentleman move that the House resolve itself into the Committee of the Whole. It probably will not take any longer.

Mr. ADAIR. We have been considering these

Mr. ADAIR. We have been considering these bills in the House as in Committee of the Whole. This is a very short bill. Mr. MANN. I suggest that it is proper that at least one of

these bills be considered in Committee of the Whole.

Mr. ADAIR. Does the gentleman object?

The SPEAKER. It is not a question of objection.

Mr. ADAIR. I move that the House resolve itself into the Committee of the Whole House for the consideration of pension bills.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House for the consideration of bills in order this day under the rule, with Mr. Cullor in the chair.

Mr. ADAIR. Mr. Chairman, I ask that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read the bill for amendment if no general debate is desired. The Chair hears no request for general debate.

The bill is as follows:

Company K, First Regiment West Virginia Veteran Volunteer Infantry, and pay her a pension at the rate of \$12 per month.

The name of Peter Miller, late of Company H, United States Reserve Corps (Cole County) Missouri Home Guards, and pay him a pension at the rate of \$12 per month.

The name of Christina Younkman, widow of John C. Younkman, late of Company F, Seventy-second Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of James F. Smith, late of Company G, Thirteenth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of \$36 per month in lieu of that he is now receiving.

The name of Harriet F. McGinnis, widow of Thomas McGianis, ordinary seaman U. S. S. North Carolina, Arleita, and Montgomery. United States Navy, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of John Howell, late of Company H. Second Regiment Tennessee Mounted Volunteer Infantry, and pay him a pension at the rate of \$50 per month in lieu of that he is now receiving.

The name of Amos Freese, late of Company K, One hundred and first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of \$40 per month in lieu of that he is now receiving.

The name of Daniel Bennett, late of Company A, Sixty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of \$40 per month in lieu of that he is now receiving.

The name of Wallace R. Kelley, late of Company F, Sixth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of \$40 per month in lieu of that he is now receiving.

The name of Daniel Representative of Company F, Sixth Regiment Infantry, and pay her a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Company F, Fourth Regiment United States Veteran Infantry, and pay her a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Adaline Fowle, widow of Joshua Fowle, late of Compa

The name of Rebecca A. Jones, helpless and dependent child of Christopher Jones, late of Company D, One hundred and eleventh Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of \$12 per month.

Illinois Volunteer Infantry, and pay her a pension at the rate of \$12 per month.

The name of James B. Armstrong, late of Company I, Flifty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Simon Roth, late of Company H, Flith Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Alvena Wiggins, former widow of Albert Miller, late of Company F, Twenty-sixth Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of \$12 per month.

The name of Charles Ferry, late of Company I, Twenty-eighth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of John F. Harper, late of Company L, Thirteenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Julia Schafer, widow of Henry Schafer, late of Company K, Thirty-second Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of \$12 per month.

The name of Jesse W. McMichael, late of Company I, Twenty-fourth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Anna Mary Troup, helpless and dependent child of John Troup, late of Company D, One hundred and seventy-eighth Regiment Pennsylvania Drafted Militia Infantry, and pay her a pension at the rate of \$12 per month.

rate of \$12 per month.

The name of George I. Foster, late of Company D, Seventy-sixth Regiment New York Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Ira S. Merrill, helpless and dependent child of William F. Merrill, late of Company I, Fourth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of \$12 per month.

The name of John A. Hall, late of Company A, One hundred and ninety-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of \$20 per month in lieu of that he is now receiving.

The name of Charlotte A. Brandau, widow of Gustavus A. Brandau, surgeon Eleventh Regiment Tennessee Volunteer Cavalry, and pay her a pension at the rate of \$25 per month in lieu of that she is now receiving.

The name of Sarah J. Kelley, widow of Curtis Kelley, late of Com-

a pension at the rate of \$25 per month in new of that she is now receiving.

The name of Sarah J. Kelley, widow of Curtis Kelley, late of Company C, Eleventh Regiment New Jersey Infantry, and the Fifty-seventh Company, Second Battalion Veteran Reserve Corps, and pay her a pension at the rate of \$20 per month.

The name of William C. Baxter, late of Company C, Thirty-ninth Regiment Missouri Infantry, and Company G, Fourteenth Regiment Missouri Cavalry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Reuben Lyle, late of Company I, One hundred and forty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of \$36 per month in lieu of that he is now receiving.

The name of John Sipple, late of Company H, Nineteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of \$40 per month in lieu of that he is now receiving.

The name of James H. Fountain, late of Company C, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of \$40 per month in lieu of that he is now receiving.

The name of Elizabeth LaFlesh, widow of Thomas J. LaFlesh, late of Company B, Second Regiment Wisconsin Volunteer Cavalry, and pay her a pension at the rate of \$25 per month in lieu of that she is now receiving.

The name of Thomas Edwards, late of Company G, Fifth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Frances A. Ginther, widow of Sidney Ginther, late of Company D. Eighty-eighth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of \$12 per month.

The name of Robert A. Barnes, late of Company C, One hundred and twenty-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Andre C. Chamberlain, late of Company A, Twenty-third Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Lyman Cazaley, late of Company K, One hundred and fifty-sixth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Sarah Jones, widow of Moses Jones, late of Company I, Eighty-first Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of \$12 per month.

The name of Joseph H. Parker, late of Company C. Eighteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of \$36 per month in lieu of that he is now receiving.

The name of William McQuait, late of Company G, One hundred and ninety-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Daniel H, Bee, late of Company A, Sixty-first regiment.

a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Daniel H. Bee, late of Company A, Sixty-first regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of \$50 per month in lieu of that he is now receiving.

The name of Sarah Crosby, widow of Samuel J. Crosby, late of Company K, One hundred and twenty-fifth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of \$12 per month.

The name of Phoebe Cosgriff, widow of James Cosgriff, late of Company A, Twelfth Regiment Missouri Volunteer Cavairy, and of Detachment Veteran Reserve Corps, and pay her a pension at the rate of \$12 per month.

The name of Phoebe Coscriff, widow of James Coscriff, late of Company A, Twelfth Regiment Missouri Volunteer Cavalry, and of Detachment Veteran Reserve Corps, and pay her a pension at the rate of \$12 per month.

The name of Emily Cook, widow of Albert Cook, late of Company M, Twelfth Regiment United States Colored Volunteer Heavy Artillery, and pay her a pension at the rate of \$12 per month.

The name of Conrad Oppermann, late of Company I, First Regiment Missouri Volunteer Infantry, and United States Reserve Corps, and pay him a pension at the rate of \$12 per month.

The name of Company C, Sixth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of \$12 per month.

The name of Emily S. Hewett, former widow of Cyrus P. Johnston, late of Company C, Sixth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of \$12 per month.

The name of Andrew S. Harrey, late of Company G, One hundred and sixty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of \$20 per month in lieu of that he is now receiving.

The name of John Jeffery, late of Company B, Twenty-fifth Regiment towa Volunteer Infantry, and pay him a pension at the rate of \$36 per month in lieu of that he is now receiving.

The name of Phebe Bertholf, widow of Charles Bertholf, landsman, late of the ships North Carolina, Penoiscot, and Savannah, United States Navy, and pay her a pension at the rate of \$20 per month in lieu of that he is now receiving.

The name of John H. Holm, late of Company D, Eightieth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Ferdinand Hilderbrand, late of Company B, One hundred and eleventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of William Locust, late of Company D, One hundred and twenty-third Regiment Menoper Menoper Menoper Infantry, and pay him a pension at the rate of \$40

ceiving.

The name of Henry L. Lundy, late of Company C, One hundred and fifty-second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving. The name of Elias Thompson, late of Company B, Fifty-sixth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of David W. Weston, late of Company G, Second Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of \$36 per month in lieu of that he is now receiving.

The name of Thomas B. Taylor, late of Company I, Fifteenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of \$40 per month in lieu of that he is now receiving.

The name of Susan Johnson, widow of William Johnson, late of Company F, Third Regiment Maryland Volunteer Cavalry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving. ceiving.

ceiving.

The name of Arthur Corse, late of Company E, Twelfth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Theodore Gibson, late of Company B, Forty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of George Duphorn, late of Company D, Sixty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of John F, McConnell, late of Company E, Eighty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of \$36 per month in lieu of that he is now receiving.

The name of Daniel Wesley Williams, helpless and dependent child of Calvin Williams, late of Company G, One hundred and forty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of \$12 per month.

The name of William Williams, late of Company E, Sixteenth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of \$12 per month.

The name of Isaac D. Combs, late of Company D, Sixth Regiment Missouri Militia Cavalry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of William E. McDowell, late of Company G, First Regiment Arkansas Volunteer Cavalry, and pay him a pension at the rate of \$50 per month in lieu of that he is now receiving.

The name of Lucretia J. Bean, widow of George W. Bean, alias George Howard, late a seaman of the United States ships Sabine, Eastport, and Black Hawk, United States Navy, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Charles A. Webb, late of Company B, Ninth Regiment Ohlo Volunteer Cavalry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Benjamin P. Simpson, late of Company F, One hundred and thirty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Ruthem Browne, widow of Henry C. Browne, late of Company F, Eighth Regiment United States Veteran Volunteer Infantry, and pay her a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Buthem Browne, widow of Henry C. Browne, late of Company F, Eighth Regiment United States Veteran Volunteer Infantry, and pay her a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Edward W. Sargent, late of Sixteenth Independent Battery Massachusetts Volunteer Light Artillery, and pay him a pension at the rate of \$36 per month in lieu of that he is now receiving.

The name of Margaret Je

Grampus, Neosho, and Peosta, United States Navy, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Chester C. Leach, late of Company B, Ninety-fifth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of James F. Conway, late of Company K, Thirteenth Regiment New York State Militia Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Noah Ruhl, late of Company H, One hundredth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Deedamy Findley, widow of Moses M. Findley, late of Company B. First Regiment Alabama Vidette Volunteer Cavalry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Caroline M. Botherton, widow of William H. Botherton, late of Company B, Twenty-seventh Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Elizabeth Bowles, widow of Dan Bowles, late of Company G, Seventh Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Elizabeth Bowles, widow of Dan Bowles, late of Company G, Seventh Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Docas Cuppy, former widow of William Quigg, late of Company F Eithth Regiment Pensylvania Volunteer Cavalry, and pay

a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Dorcas Cuppy, former widow of William Quigg, late of Company F, Fifth Regiment Pennsylvania Volunteer Cavalry, and pay her a pension at the rate of \$12 per month.

The name of William H. Cole, late of Company F, First Regiment Maryland Volunteer Infantry, and pay him a pension at the rate of \$40 per month in lieu of that he is now receiving.

The name of Cornelia F. Huckins, former widow of Jeremiah J. Hathaway, late of Company B, Forty-sixth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of \$12 per month.

The name of Kate R. Forrester, widow of James D. Forrester, late of Company G, One hundred and second Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of \$12 per month.

The name of George W. Murray, late of Company C, One hundred and thirty-fourth Regiment Ohio ational Guard Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

and thirty-lourin Regiment Ohio ational Guard Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of James Boyer, late of Company D, Fifth Regiment Maryland Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Ansel M. Warren, late landsman, United States Navy, and of Company A, One hundred and twenty-ninth Regiment, Ohio Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of James M. Laubach, late of Company E. One hundred and thirty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Anna Bishop, former widow of James D. Ross, late of Company I, Eighty-third Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of \$12 per month.

The name of Francis Maddox, late of Company K, Sixth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Drury Craig, late of Company H, Third Regiment North Carolina Mounted Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Charles G. Sanders, late of Company H, Twenty-second Regiment Illino's Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Ohio Volunteer Cavalry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Rosa S. Warne, widow of James S. Warne, late of Company B, Thirty-first Regiment New Jersey Volunteer Infantry, and pay, her a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Rosa S. Warne, widow of Cyrenus Faulder, late of Company B, Thirty-first Regiment New Jersey Volunteer Infantry, and pay, her a pension at the rate of \$24 per month in lieu of that

The name of Thomas H. Nolan, late of Companies A and D. Third Regiment, Massachusetts Volunteer Cavalry, and Eighty-second Regi-

ment United States Colored Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Harvey M. Munsell, late of Company C, Ninety-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Mary E. Sadier, widow of William T. Sadier, late of Company F, Seventeenth Regiment Kentucky Volunteer Cavality, and pay her a pusion at the rate of \$20 per month in lieu of that she is now receiving.

The name of John Noble, late of Company I, Ninety-sixth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of John Noble, late of Company I, Ninety-sixth Regiment Illinois Volunteer Infantry F. Mitchell, widow of Sidney R. Mitchell, late of Company B, First Regiment Rhode Island Volunteer Light Artillery, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Jareson B. Mix, late of Company I, One hundred and Forty-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of \$20 per month in lieu of that he is now receiving.

The name of Jares H. Humphrey, late of Company A, Second Regiment West Virginia Volunteer Cavality, and pay him a pension at the rate of \$20 per month in lieu of that he is now receiving.

The name of Jacob Schmidt, late of Company E, One hundred and forty-third Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Jacob Schmidt, late of Company E, Ninety-first Regiment New York Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Jacob Schmidt, late of Company C, Ninth Regiment New York Volunteer Infantry, and pay him a pension at the rate of \$20 per month in lieu of that he is now receiving.

The name of Henry Sykes, late of Company C, Seventy-ninth Regime

cefving.

The name of Galon S. Huston, late of Company B, One hundred and twenty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of \$36 per month in lieu of that he is now receiving.

The name of John T. Morgan, late of Company C, Fourteenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of \$36 per month in lieu of that he is now receiving.

The name of Philena H. Miles, widow of Charles Miles, late of Company K, Ninety-seventh Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of \$20 per month in lieu of that he is now receiving.

The name of Margaret Berg, widow of Frank J. Berg, late of Company D, Ninth Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

receiving.

receiving.

The name of Miriam Brown, widow of Samuel H. Brown, late scaman, U. S. S. Columbia, United States Navy, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Sarah E. Van Orman, widow of Richmond C. Van Orman, late of Company D, One hundred and seventy-eighth Regiment Ohio Infantry, and of Company C, Seventh Regiment Ohio Infantry, and pay her a pension at the rate of \$12 per month.

The name of Cornelius Lefever, late of Company E, Two hundred and seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Lucy A. Fay, former widow of David F. Atwood, late of Company A, Thirty-third Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of \$12 per month.

The name of Clark Barron, late of Company I, First Regiment New York Veteran Volunteer Cavalry, and pay him a pension at the rate of \$40 per month in lieu of that he is now receiving.

The name of Elizabeth Hogan, widow of Daniel Hogan, late of Company H, Sixty-ninth Regiment New York State Millita Infantry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Lucinda Tweed, widow of Neolly Tweed, late of Company D, First Regiment Tennessee Volunteer Cavalry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving. receiving.

The name of Maria C. Waste, former widow of Daniel Williams, late of Company G, One hundred and fifteenth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of \$12 per month.

The name of Caroline McPhali, widow of Duncan McPhali, late of Company C, Forty-second Regiment New York Volunteer Infantry, and

pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Rosana Thompson, widow of John Thompson, late of Copy her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Samuel B. Stuyvesant, late of Company A, Sixth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Miles Spain, late of Company C, Tweifth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of \$30 per month in lieu of that he is now receiving.

The name of Ratchel Smilti, widow of Alexander Smith, late of Company C, Twenty-fifth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Ratchel Smilti, widow of Alexander Smith, late of Company C, Twenty-fifth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Sophia Remis, widow of Jason Bemis, late of Company P, Second Regiment Ohio Volunteer Company C, Thename of Sophia Remis, widow of Jason Bemis, late of Company P, Second Regiment Ohio Volunteer Company P, Thirty-third Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Margaret Scanlon, widow of John Scanlon, late of Company H, Flirst Regiment United States Infantry, and pay her a pension at the rate of \$20 per month in lieu of that pension at he rate of \$20 per month in lieu of that pension at the rate of \$20 per month in lieu of that pension at her appears of the rate of \$20 per month in lieu of that pension at her appears of the rate of \$20 per month in lieu of that pension at the rate of \$20 per month in lieu of that pension at the rate of \$20 per month in lieu of that pension at the rate of \$20 per month.

The name of Albert Longley, late of Company G, Nineteenth Regiment Indiana Volunteer Infantry

ceiving.

The name of Harriet L. Bidwell, widow of Charles D. Bidwell, late of Company D, First Regiment United States Volunteer Sharpshooters, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Elizabeth Emery, widow of Angelo Emery, late of Company D, Sixty-eighth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Isabella Chiles widow of William D. Chiles widow of Charles D. Bidwell, late of Chiles widow of Charles D. Bidwell, late of the control of the chiles widow of Charles D. Bidwell, late of the chiles widow of Charles D. Bidwell, late of the chiles widow of Chiles D. Bidwell and the chiles of the chiles widow of Chiles D. Bidwell and the chi

Company D, Sixty-eighth Regiment Obio Volunteer Infantry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Isabelia Chiles, widow of William W. Chiles, late of Company I, Eighth Regiment Iowa Volunteer Cavalry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of David Gruber, late of Company I, Fortieth Regiment Obio Volunteer Infantry, and pay him a pension at the rate of \$40 per month in lieu of that he is now receiving.

The name of Adaline A. Stanley, widow of Charles Stanley, late of Company B, Fiftieth Regiment New York National Guard Infantry, and pay her a pension at the rate of \$12 per month.

The name of Berl P. Penny, late of Company A. Forty-sixth Regiment, and Company A, Ninth Regiment, Indiana Volunteer Infantry, and pay him a pension at the rate of \$50 per month in lieu of that he is now receiving.

The name of Margaret J. Holland, widow of John W. Holland, late of Company G, First Regiment Provisional Enrolled Missouri Militia, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Harvey D. C. Skinner, late landsman, United States Navy, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Moses McGinnis, late of Company H, Sixteenth Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of \$40 per month in lieu of that he is now receiving.

The name of Mary Brush, widow of Frederick J. Pierce, late of Company G, Second Regiment Connecticut Volunteer Heavy Artillery, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Mary Brush, widow of Charles Brush, late landsman, U. S. S. Susquehanna and Potomac, United States Navy, and Company F, Seventh Regiment New Jersey Volunteer Infantry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Manala R. King, widow of James M. Scott, late of Compa

The name of Harriet M. Deuel, widow of John C. Deuel, late of Company C, First Regiment Wisconsin Volunteer Cavalry, and pay her a pension at the rate of \$12 per month.

The name of Belle Spencer, widow of Daniel O. Spencer, late of Company H. Eighteenth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of John W. Morse, late of Company G, One hundred and ninety-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Carver S. Griffin, late of Company I, Thirty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of \$36 per month in lieu of that he is now receiving.

The name of James O. Smith, late of Company F, Fourteenth Regiment Ohio Volunteer Infantry, and Company F, Sixty-eighth Regiment Ohio Volunteer Infantry, and Company F, Fourteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of \$50 per month in lieu of that he is now receiving.

The name of Daniel H. Rankin, late of Company C, Thirteenth Regiment Tennessee Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The name of Sarah J. Cooper widow of James H. Cooper, late of Company H, First Regiment Ohio Volunteer Light Artillery, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of Sarah J. Hill, widow of Alfred R. Hill, late of Company F, One hundredth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of \$20 per month in lieu of that she is now receiving.

The name of James H. Kinkead, late of Company A, Seventy-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the

The name of James H. Kinkead, late of Company A. Seventy-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of \$24 per month in lieu of that he is now receiving.

The foregoing bill is substitute for the following House bills referred to the Committee on Invalid Pensions:

Me R. 20973. Daniel Wesley Williams.

H. R. 20973. Daniel Wesley Williams.
H. R. 21325. William Williams.
H. R. 21383. Isaac D. Combs.
H. R. 21471. Lucretia J. Bean.
H. R. 21471. Lucretia J. Bean.
H. R. 21471. Lucretia J. Bean.
H. R. 21561. Benjamin P. Simpson.
H. R. 21561. Benjamin P. Simpson.
H. R. 21574. Hiram Rusk.
H. R. 21766. Ruthem Browne.
H. R. 21940. John Wiebel.
H. R. 22405. Margaret Jeffries.
H. R. 22405. Margaret Jeffries.
H. R. 22567. James F. Conway.
H. R. 22567. James F. Conway.
H. R. 22567. James F. Conway.
H. R. 22932. Elizabeth Bowles.
H. R. 22932. Elizabeth Bowles.
H. R. 22932. Elizabeth Bowles.
H. R. 22341. Dorcas Cuppy.
H. R. 23339. Kate R. Forrester.
H. R. 23339. Kate R. Forrester.
H. R. 23369. George W. Murray.
H. R. 23366. James Boyer.
H. R. 23558. Drury Craig.
H. R. 23558. Drury Craig.
H. R. 23595. Charles G. Sanders.
H. R. 23660. Anna Bishop.
H. R. 23595. Charles G. Sanders.
H. R. 23699. Morval Jones.
H. R. 23699. Mary E. Faulder.
H. R. 23699. Mary E. Faulder.
H. R. 23699. Mary E. Sadler.
H. R. 23841. Harvey M. Munsell.
H. R. 23842. John Noble.
H. R. 24100. Parson B. Mix.
H. R. 24100. Parson B. Mix.
H. R. 24100. Parson B. Mix.
H. R. 24130. James M. Lumphrey.
H. R. 24203. Theodore Couse.
H. R. 24203. Theodore Couse.
H. R. 24203. Theodore Couse.
H. R. 24204. Henry Sykes.
H. R. 24204. Henry Sykes. H. R. 82. Frank B. Sapp,
H. R. 2374. Ellen Weller.
H. R. 2475. Jeremiah Gatton.
H. R. 3710. Charles McBee.
H. R. 4634. Narcisse Menard.
H. R. 4844. James R. Eaton.
H. R. 4898. Gustav Lenau.
H. R. 5376. Henry Dunlap.
H. R. 5576. Henry Dunlap.
H. R. 5679. Francis M. Jones.
H. R. 5719. Theodore F. Hawley.
H. R. 533. Rebecca Cordell.
H. R. 6146. Peter Miller.
H. R. 6785. Christina Younkman.
H. R. 6963. James F. Smith.
H. R. 8188. Harriet F. McGinnis.
H. R. 8434. John Howell.
H. R. 8527. Daniel Bennett.
H. R. 8527. Daniel Bennett.
H. R. 8562. Wallace R. Kelley.
H. R. 9257. Julia A. Ferber.
H. R. 11286. Adaline Fowle.
H. R. 11340. Lewis E. Ward.
H. R. 11469. Charles M. Brookover.
H. R. 11539. Rebecca A. Jones.
H. R. 12524. Alvena Wiggins.
H. R. 12524. Alvena Wiggins.
H. R. 12524. Alvena Wiggins.
H. R. 12525. John F. Harper.
H. R. 14272. Anna Mary Troup.
H. R. 14288. George I. Foster.
H. R. 14288. George I. Foster.
H. R. 14489. Ira S. Merrill.
H. R. 14479. Charlotte A. Brandau.
H. R. 14479. Charlotte A. Brandau.
H. R. 14479. Charlotte A. Brandau.
H. R. 14479. William C. Baxter.
H. R. 15665. James H. Fountain.
H. R. 15665. James H. Fountain.
H. R. 15665. James H. Fountain.
H. R. 15811. Frances A. Ginther,
H. R. 15843. Robert A. Barnes.
H. R. 15843. Robert A. Barnes.
H. R. 16500. Sarah Jones.
H. R. 16867. John Sipple.
H. R. 15841. Lyman Cazaley.
H. R. 16865. Joseph H. Parker,
H. R. 16860. Joseph H. Pa H. R. 20973. Daniel Wesley Wil-John H. Slatton.
Ferdinand Hilderbrand.
William H. Gilman.
Edmond Witherspoon.
Ella Scott.
Henry H. Welty,
Benjamin W. Sholtey.
Galon S. Huston.
John T. Morgan.
Philena H. Miles.
Margaret Berg.
Miriam Brown.
Sarab E. Van Orman.
Cornelius Lefever.
Lucy A. Fay.
Clark Barron.
Elizabeth Hogan.
Lucinda Tweed.
Maria C. Waste.
Caroline McPhail.
Rosana Thompson.
Samuel B. Stuyvesant.
Miles Spain.
Rachel Smith.
Lydia M. Jacobs.
Sophia Bemis.
Henry E. Everts.
Margaret Scanlon.
Josephine R. Goolman.
Elizabeth A. Campbell.
Albert Longley.
Lewis C. Pound. H. R. 24351. H. R. 24356. H. R. 24419. H. R. 24481. H. R. 24499. H. R. 24501. H. R. 24501. H. R. 24501. H. R. 24572. H. R. 24572. H. R. 24973. H. R. 24982. H. R. 25059. H. R. 25162. H. R. 25162. H. R. 25177. H. R. 25177. H. R. 25178. H. R. 25233. H. R. 25253. H. R. 25504. H. R. 25516. H. R. 25516. H. R. 255640. H. R. 25640. H. R. 25640. H. R. 25640. H. R. 25640. Albert Longley. Lewis C. Pound.

H. R. 25656 H. R. 25667 H. R. 25673 H. R. 25674 H. R. 25730 H. R. 25730 H. R. 25745 H. R. 25836 H. R. 25843 H. R. 25866 H. R. 25866 H. R. 25867 H. R. 26003. Moses McGinnis.
H. R. 26016. Mary C. Pierce.
H. R. 26017. Mary Brush.
H. R. 26147. Mahula R. King.
H. R. 26215. Margaret Scott.
H. R. 26259. Harriet M. Deuel,
H. R. 26524. Belle Spencer.
H. R. 26525. John W. Morse.
H. R. 26525. Carver S. Griffin.
H. R. 26692. Daniel H. Rankin,
H. R. 26692. Daniel H. Rankin,
H. R. 26717. Sarah J. Cooper.
H. R. 26718. Sarah J. Hill.
H. R. 26880. James H. Kinkead. Emma S. Kipp. Oliver Bronson H. R. 25667. Oliver Bronson.
H. R. 25673. Mary A. Depuy,
H. R. 25674. William T. Edgemon,
H. R. 25780. Irene L. B. Fitch.
H. R. 25780. Rose Martin.
H. R. 25745. Harriet L. Bidwell.
H. R. 25836. Elizabeth Emery,
H. R. 25837. Isabella Chiles.
H. R. 25843. David Gruber,
H. R. 25866. Adaline A. Stanley,
H. R. 25867. Berl P. Penny,
H. R. 25890. Margaret J. Holland.
H. R. 25916. Harvey D. C. Skinner.

Mr. ADAIR. Mr. Chairman, I move to strike out lines 19, 20, 21, and 22 on page 7.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Indiana.

The Clerk read as follows:

Amend page 7 by striking out lines 19, 20, 21, and 22.

The motion was agreed to.

Mr. ADAIR. Mr. Chairman, I move to amend by striking out lines 15, 16, 17, and 18 on page 22.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Indiana.

The Clerk read as follows:

Amend, page 22, by striking out lines 15, 16, 17, and 18.

The motion was agreed to.

Mr. TRIBBLE. Mr. Chairman, I move to strike out, on page 32, lines 7, 8, 9, and 10.

The CHAIRMAN. The gentleman from Georgia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 32, by striking out lines 7, 8, 9, and 10, which reads as

Amend, page 32, by straing out the follows:

"The name of Carver S. Griffin, late of Company I, Thirty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of \$36 per month in lieu of that he is now receiving."

Mr. TRIBBLE. Mr. Chairman, I notice by this report 228 persons provided for who can not receive the amounts provided in this bill under the general pension laws. I call on you to strike name on page 67. The party is 65 years of age; he entered the service February, 1864; he served until July, 1865, after the war; he was pensioned under the act of 1862 at \$14 a month.

Now, Mr. Chairman, this man is pensioned under the general pension laws recently enlarged by the Sherwood Act, and this man's property is estimated to be worth \$1,800. Usually a man's property is estimated at about one-third of what he is really worth. I dare say in all probability he is worth \$5,000. But, take it at the estimate here, at the last term of Congress we passed a general act applicable to all known as the Sherwood Act. This man is not taken out of the class to which that act applies, except he is worth money. Now, then, the committee comes in here and proposes to give this man a bonus because he has got property. The very first opportunity after the passage of the Sherwood Act on the first pension day of this session we have discrimination between soldiers. Members will recall the statements made in the discussion of the Sherwood bill, and the country will remember how pension leaders stood here and promised the House that if it would pass the Sherwood bill they would not bring in any more of these bills, and that special bills would almost disappear from this House; that the Sherwood bill would relieve the need of special pensions. Two hundred and twenty-eight special pensions on the first pension day after the Sherwood bill became a law! And the case I move to strike out discriminates against the old soldier, who has no property and needs help, in favor of a short-service soldier only 65 years old and has property, and I think the House should strike his name from the list.

The CHAIRMAN. The question is on the amendment offered

by the gentleman from Georgia.

The question was taken, and the amendment was lost,

Mr. ADAIR. Mr. Chairman, I move that the committee do now rise and report the bill with amendments to the House, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. Cullop, Chairman of the Committee of the Whole House on the state of the Union, reported that committee had had under consideration the bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, and had directed him to report the same back with sundry amend-ments, with the recommendation that the amendments be agreed to and that the bill as amended do pass,

The SPEAKER. Is a separate vote demanded on any amend-

There was no demand for a separate vote.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time. was read the third time, and passed.

On motion of Mr. ADAIR, a motion to reconsider the vote whereby the bill was passed was laid on the table.

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, the Indian appropriation bill; and pending that motion, I desire to inquire of the gentleman from South Dakota how much time is desired on that side for general debate?

Mr. BURKE of South Dakota. We desire on this side 1 hour

and 15 minutes

Mr. STEPHENS of Texas. Is the gentleman willing to eliminate the speech that was delivered yesterday, which was not specially on the bill?

Mr. BURKE of South Dakota. I do not see how I can. Mr. STEPHENS of Texas. That would only allow us 25 minutes on this side.

Mr. BURKE of South Dakota. I do not want to take any advantage of the gentlemen on the other side if they think they want more time. I think we can get through in an hour and 15 minutes.

Mr. STEPHENS of Texas. I hope the gentleman will reduce the time to an hour on that side and give us half an hour, for the reason that the speech yesterday, as is well known, ought not to be charged to us.

Mr. MANN. If the gentleman will pardon me, it is one of the few speeches on the subject of Indian affairs that has been

delivered in general debate on the Indian bill for some time.

Mr. STEPHENS of Texas. That is true, but I do not think we ought to be charged with it, because it was a speech on the general question involving the rights of Oklahoma Indians known as the Mississippi Choctaws. We are not repudiating the speech at all.

Mr. MANN. How much time is desired on that side?

Mr. STEPHENS of Texas. We will take 30 minutes and allow the other side an hour and 15 minutes.

Mr. MANN. We want the same time on this side that you take on that side.

Mr. STEPHENS of Texas. If we take an hour on this side, how much time will the gentleman take on that?

Mr. BURKE of South Dakota. I was going to suggest that

we have an hour and 15 minutes on this side and the gentleman from Texas take 45 minutes.

Mr. MANN. I think the time should be equally divided be-tween the two sides. You will never do away with that principle in the House with my consent.

Mr. BURKE of South Dakota. If the gentleman from Illinois is going to object, we can not make the agreement.

Mr. MANN. Divide the time equally between the two sides;

whether it will be all used on this side or not I do not know.

Mr. STEPHENS of Texas. Then we will make this agree-

ment, that on this side we have one hour, and the gentleman take enough on that side to make it even with what we had that is, an hour and 45 minutes.

Mr. BURKE of South Dakota. That is entirely satisfactory, and I shall ask for 1 hour and 45 minutes upon this side.

Mr. STEPHENS of Texas. Then, Mr. Speaker, I renew my motion that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Indian appropriation bill, and pending that ask unanimous consent that general debate be limited to 2 hours and 45 minutes, 1 hour and 45 minutes of that time to be controlled by the gentleman from South Dakota [Mr. Burke] and 1 hour by myself, this side having already used 45 minutes in general debate on yesterday.

The gentleman from Texas moves that the The SPEAKER. House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Indian appropriation bill; and pending that asks unanimous consent that general debate be limited to 2 hours and 45 minutes, he to control 1 hour of that time and the gentleman from South Dakota 1 hour and 45 minutes. Is there objection?

There was no objection.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill II. II. bill, with Mr. Robinson in the chair.
bill, with Mr. Robinson in the chair.
Mr. Chairman, I will ask the sideration of the bill H. R. 26874, the Indian appropriation

gentleman from South Dakota to consume some of his time.

Mr. BURKE of South Dakota. Mr. Chairman, I am going to discuss for a few minutes the appropriation bill which is now before the committee, and am going to call the attention of the committee to some conditions that prevail among the Indians in Oklahoma that I think will be of interest to the House, and conditions that ought to be brought to the attention not only of the House but to the attention of the country. I want to say with reference to the pending bill that there is not much in it that does not meet with my approval. The bill, so far as the appropriations are concerned, has been held down so that there can not be very much criticism of the amounts that are carried in it, as a whole. The bill is also free from claims and new legislation, and I will state further that, following precedents established in the Sixty-first Congress, it is drafted with a view, wherever it is possible under the law and without violating treaty obligations, to make appropriations from the funds of the Indians for their support rather than from the Federal Treasury. So, speaking generally, I can say this is a good bill, with one or two exceptions, and it is to the exceptions that I will direct my remarks.

The fact is, Mr. Chairman, in the State of Oklahoma there is about one-third or a little more of our Indian population, and it will be observed in this bill, as well as in other legislation that has been from time to time before the House, that invariably there are exceptions made with reference to the general rule applied to Indian legislation, when it applies to Oklahoma, and this bill departs from the rule adopted by the committee in that it contains one item of important legislation, and the only appropriation that is not estimated for by the Secretary of the Treasury. It also reduces very materially the appropriation for administrative purposes among the Indians in Oklahoma below what has been estimated, and to a point where there is practically not a dollar provided for administering the affairs of the Indians, so far as supervision is concerned. The appropriation proposed is simply to pay the expenses of the commissioner in charge of the Five Civilized Tribes, and the expenses incident to his office for the purpose of closing up their affairs and settling their estates and distributing among them the large sums of money they have to their credit. There is nothing contemplated for supervising the affairs of the individual restricted Indians.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman yield?

Mr. BURKE of South Dakota. Certainly. Mr. STEPHENS of Texas. I understand there is a justification of the item to which the gentleman refers. It was filed with the chairman of the committee after the hearings were had the other day and after the bill was reported favorably. It justifies that item.

Mr. BURKE of South Dakota. Mr. Chairman, in the last session of Congress there was an effort made to reduce the appropriation for administrative purposes in the Five Civilized Tribes so as to eliminate what are known as district agents, and if the appropriation carried in the pending bill is adopted the district agents will be discontinued at the end of this fiscal year. I called attention last year to the necessity of continuing the district agents; that it is through them the incompetent or restricted Indians of the Five Civilized Tribes are protected and their affairs are supervised under the direction of the Interior Department, and, as I have just stated, if the appropriation carried in this bill is the amount that is finally appropriated when the bill becomes a law, it will be impossible in the Five Civilized Tribes to continue in the next fiscal year the district agents, and the gentlemen from Oklahoma on the other side of the House do not hesitate on every occasion to state that they want to eliminate the district agents, that they want to drive out of Oklahoma in the Five Civilized Tribes so far as possible Federal supervision of the affairs of the Indians. There is no dispute between us on that point. They frankly acknowledge it.

Mr. MORGAN of Oklahoma. Mr. Chairman, will the gentle-

Mr. BURKE of South Dakota. And when I speak of gentlemen from Oklahoma I am referring particularly to gentlemen on that side of the House and did not have in mind my friend from Oklahoma, Mr. Morgan. I have stated that when we legislate with regard to the Indians we invariably follow a different rule in Oklahoma than we follow with regard to the Indians generally in the country.

I have in mind a general law passed by Congress with reference to administering the estates of deceased Indians. something to do with its passage. It placed the jurisdiction exclusively in the Interior Department, but when the law was being considered our friends from Oklahoma, always alert to protect what they believe to be in the interest of their State, excepted from its application the Indians in Oklahoma. An

act was passed as to Oklahoma, giving the jurisdiction in such matters to the probate courts of that State. It is the act of May 27, 1908, and it reads as follows:

That the persons and property of minor allottees of the Five Civilized Tribes shall, except as otherwise specifically provided by law, be subject to the jurisdiction of the probate courts of the State of Oklahoma.

Mr. Chairman, on former occasions I and others on this side of the House have questioned the integrity and the honesty of the probate courts of Oklahoma, and I want to say right now in the outset that, in my opinion, the probate courts in that portion of Oklahoma where the Five Civilized Tribes reside some of the judges are corrupt and dishonest and a large number of them are indifferent in the discharge of the duties of their office, so far as the affairs of Indian minors and Indians generally are concerned, and particularly in guardianship matters.

Mr. MANN. Mr. Chairman, will the gentleman yield? Mr. BURKE of South Dakota. I certainly will be glad to do so.

Mr. MANN. The statement made by the gentleman, or the charge made by the gentleman, of course, is a very serious onethat the probate courts and probate judges in such portions of Oklahoma are either indifferent to the care of the wards of the court or are dishonest and desirous, practically, of depriving the wards of their property. I hope the gentleman will not make such a statement in the House unless he has some proof to submit to the House on that matter.

Mr. BURKE of South Dakota. I will say, Mr. Chairman, if my good friend from Illinois will be patient for a few moments, I think before I conclude that the House will see that I am fully justified in making the statement that I have made.

And I will go further than that, Mr. Chairman, by making

this statement: That if a Representative from that portion of Oklahoma where the Five Civilized Tribes reside wants to perpetuate himself in office and make a record that will meet with the approval of his constituents he wants, on all occasions, to see to it that as much money is obtained from the Public Treasury as is possible to be expended in Oklahoma; that he also should see to it that legislation be secured removing from the Indians much of the protection that they have now from the Federal Government, so that there will be very little supervision over their affairs by the Government; and, furthermore, to secure legislation so that expenses for administrative purposes, money for a part of the expenses of administering the affairs of the Indians that heretofore has been paid out of their own funds in accordance with the law, so that in the future it will be paid out of the Federal Treasury. In other words, anything accomplished that will put money into Oklahoma or take away the restrictions from the Indians in that country and compel the United States to pay administrative expenses that otherwise ought to be paid, and have heretofore been paid, out of the funds of the Indians themselves makes whoever is responsible for it popular with the people in eastern Oklahoma. In the pending bill there has been eliminated a provision of the bill that was estimated for and was in last year's bill, which provides that certain expenses of administration, so far as the sale of lands, collection of rents, and so forth, shall be paid from the funds of the Indians, received from the sale of lands, rents, and other sources.

Mr. FERRIS. Will the gentleman yield? The CHAIRMAN. Does the gentleman yield?

Mr. BURKE of South Dakota. I yield to the gentleman,

Mr. FERRIS. Does the gentleman think it is entirely good form for him, the ex-chairman of the Committee on Indian Affairs and ranking member of the minority on the committee at this time, when every item in this bill was agreed to by unanimous consent, to come on the floor of this House and seek to make any portion of the bill appear bad that he did not try to make appear bad when the bill was under consideration?

Mr. BURKE of South Dakota. I think, Mr. Chairman, with-

out divulging anything that transpired in the committee, the gentleman knows I am not violating any understanding that may have been had among the members of the committee in commenting upon certain provisions of the bill.

Mr. FERRIS. It is a fact that every item in the bill was agreed to unanimously, is it not?

Mr. BURKE of South Dakota. I can not say that, Mr. Chairman. I do not care to go into what transpired, and I understand under the rules of the House it would not be proper to state what did happen in the committee.

Mr. FERRIS. Well, perhaps that is true.

Mr. BURKE of South Dakota. I will discuss that with the gentleman at another time.

Mr. Speaker, I do not wish to be understood as casting any reflections upon our good friends from Oklahoma. The con-

ditions in the communities from which they come, and particularly of the gentlemen who represent that portion of Okla-homa where the Five Civilized Tribes are located, are such that it probably would be impossible for them to be reelected if they took any other position. But I think I will make it apparent before I conclude that it should always be considered what the interest of a Representative may be when any question of importance is before the House. The House is aware of the fact that the Committee on Indian Affairs as now constituted under the new rule, which provides that committees shall be made through a committee instead of being named by the Speaker—three members of that committee are from the State of Oklahoma; in other words, one-seventh of the committee is from that State. I merely mention that in passing.
Mr. Chairman, I have on several former occasions, and other

gentlemen have called the attention of the House to the condition of affairs in Oklahoma so far as the administration of the affairs of the Indians in the Five Civilized Tribes is concerned, and particularly with reference to the manner in which the property of Indian minors has been handled through the

probate courts. We have repeatedly cited a number of concrete cases where there was gross neglect if not dishonesty on the part of some of the probate judges, and the gentlemen on the other side answered it by stating that there were a few cases where there had been dishonesty and corruption, but in those cases the judges had been removed or some one else had succeeded them in office. They told us that the State Legislature of Oklahoma had passed a law giving a certain board jurisdiction to look into these questions of administration, and that the machinery for looking after these guardianship matters was entirely adequate under the probate machinery in Oklahoma and that no Federal supervision is necessary, and therefore that there is

no need of employing district agents. It seems, Mr. Chairman, that since the act of 1908 was

passed Congress has not caused an investigation to be made in order to ascertain in what manner the affairs of Indian minors were being administered in the probate courts of Oklahoma. But it happens that a few weeks ago the Creek Nation, under some arrangement through the Department of the Interior, caused an investigation to be made of the status of the guardianship cases in the eight counties constituting the Creek Nation. Mr. Chairman, I am going to briefly refer to that report, and will state how it was made, and then I think the gentleman from Illinois [Mr. Mann] will say that I was justified in the statement which I made at the outset as to the probate courts of Oklahoma, at least in eight counties comprising the Creek Nation. This report was submitted to the Secretary of the Interior a few days ago and bears date November 27, and it was made by Mr. M. L. Mott and is signed

Mr. COOPER. Of what year?

Mr. BURKE of South Dakota. 1912. Mr. Mott happens to be the attorney for the Creek Nation. So far as I know he is a good lawyer, and I have never heard his integrity or his ability questioned. This report was made in accordance with an arrangement by which he was authorized by the Secretary of the Interior and the principal chief of the Creek Nation to expend some of the tribal moneys in going into the different counties and making an examination of the files in

guardianship cases that are there pending.

Mr. Mott comments on the policy of the law with reference to guardianship matters in Oklahoma and states his objections to it in accordance with the position that I took in advocating legislation for the States generally, where there are Indians, that the administration of such affairs should be in the Department of the Interior instead of in the local courts, and he says in his report that his objections to the law is that he does not think that the local environment is such as to afford the Indian protection. And that, Mr. Chairman, is the situation generally in the Indian country, because the white people, as a rule, are not particularly concerned about their Indian neighbors, except to get what they have, and that condition being general, the policy that prevails in these localities is generally accepted and little attention is paid to what may be done affecting the Indians or their property. This report, Mr. Chairman, was made by 15 men employed under Mr. Mott's direction. They visited the different offices of the clerks of the court in the several counties in the Creek Nation, abstracting and obtaining the following information in a given number o cases: The names of the minors whose affairs are being administered, the name of the guardian, the amount handled, the sale of lands allotted or inherited, fees allowed the attorneys for the guardian, court costs, fees allowed guardians, and the total cost of administration. Accompanying the report are several exhibits which are bound and indexed, filed in the Interior Department, containing an abstract in each case which is referred to in this report, and is accessible to any Member for reference.

This information is divided into three classes. The first class comprises the cases in which administration has been in the hands of professional guardians. By "professional guardians" is meant a class of persons who make a business of acting as guardians to a large extent, and I was informed, when in Oklahoma two years ago, that there is a profession or an occupation in the eastern portion of the State known as that of a "professional guardian." I presume he is generally a pretty good friend of the court or he would not be appointed. I understand these persons are often appointed guardians in several cases at the same time.

The second class of cases is where the administration has been in the hands of competent relatives or business men; that is, where the Indian child has a parent who is competent, or some relative, or where he is perhaps only in a small degree an Indian, and has some person in his family who is entirely capable of acting, and that person becomes the guardian.

Mr. Chairman, in addition to the reports in the cases of Indian guardianship, the report also includes white guardianships; that is, guardianships where there is no Indian question involved. This enables us to compare the cost of the adminis-

tration in the Indian cases with white cases.

I am going to call attention to the condition of affairs that prevails in Muskogee County, as shown by this report—one of the eight counties in the Creek Nation, one of the Five Civilized Tribes, and before doing so I want to state that out of 6,900 cases, as I recall, the cases, so far as the files were concerned, were complete in only about 2,300. In the other forty-odd hundred cases the papers were either not in the files or no report had been made, and it is my opinion, Mr. Chairman, that some of the files probably never will be returned, and I presume reports will not be forthcoming, and no report will ever be filed unless there is some action taken to compel them to be filed.

In Muskogee County there were 584 guardianships said to be in the hands of professional guardians. The amount handled by this class was \$1,172,000.65. The amount of attorney's fees paid in those cases in that one county was \$130,350.78. The amount of court costs was \$43,090.57, and the amount of guardians' fees was \$72,503.91. The cost of administration in that county was 20.13 per cent of the amount handled.

Now, I want the Members of the House to keep in mind the fact that in that county it cost 20.13 per cent of the amount handled to pay the expenses incident to the guardianships of Indians in cases where the guardian is a so-called professional

guardian.

Mr. MADDEN. That included the \$130,000, the \$43,000, and the \$72,000?

Mr. BURKE of South Dakota. The whole expense was \$246,000, which is 20.13 per cent of the amount handled.

Mr. MANN. Mr. Chairman, will the gentleman yield? The CHAIRMAN. Does the gentleman yield?

Mr. BURKE of South Dakota. Yes.
Mr. MANN. If I understand the gentleman correctly, his statement is that as to these guardianship cases taken together the cost of administration was 20 per cent of the total amount that went through the guardianships?

Mr. BURKE of South Dakota. Yes; of the total amount

handled.

A little over 20 per cent? Mr. MANN.

Mr. BURKE of South Dakota. Yes; a little over 20 per "

Mr. Chairman, in this county there were 112 guardianships Mr. MARTIN of South Dakota. Mr. Chairman, will the gen-

tleman yield?

The CHAIRMAN. Does the gentleman from South Dakota yield to his colleague?

Mr. BURKE of South Dakota. Yes.

Mr. MARTIN of South Dakota. That percentage and that statement applies, as I understand my colleague, to the administration of these five hundred and odd cases which the socalled professional guardians administered?

Mr. BURKE of South Dakota. This has to do with the cases handled by the 584 so-called professional guardianships.

The report also shows the number of cases in the hands of competent guardians. The number of cases is 112, and the amount handled \$225,000, and the cost of administration of those cases was 4.2 per cent of the amount handled. Mr. MANN. What does the gentleman mean by "competent

guardians"?

Mr. BURKE of South Dakota. When I referred to that I explained it by stating that it means the natural guardians where they are competent, or some relative. Some business man may be the uncle or some other relative of a child. It means anybody but a "professional" guardian.

Mr. MURDOCK. Either Indian or white?

Mr. MARTIN of South Dakota. This applies only to Indians,

Mr. BURKE of South Dakota. I am talking only about In-

dians now. In addition to these reports in Indian cases we have a report of 49 guardians of white minors in the same county, and the cost of the administration of the amount handled is only 1.7 per cent.

The report shows the cases in each of the eight counties comprising the Creek Nation tabulated in the same form that Muskogee County is tabulated, showing substantially the same in-formation; but I think the important thing is to come down to

the aggregate.

Mr. MANN. Before the gentleman does that, will be yield?

Mr. BURKE of South Dakota. Certainly.
Mr. MANN. Let us understand it. Do I understand that for the same services, so far as the court and the administration are concerned, in professional guardianship cases the cost is 20 per cent of the amount handled?

Mr. BURKE of South Dakota.

Mr. MANN. And that in the white cases the cost is less than 2 per cent?

Mr. BURKE of South Dakota. Yes. Mr. MANN. It looks very suspicious.

Mr. BURKE of South Dakota. That illustrates what I said moment ago. These probate judges are conducting their offices with a view to causing no criticism from those who elect them to office, but they apparently have little concern for the Indians up in the hills and out in the swamps.

Mr. MURDOCK. Has the gentleman any segregated figures showing what these professional guardians have made in fees

and what their pay was in Muskogee County?

Mr. BURKE of South Dakota. I am going to give some figures that will be interesting.

Mr. MURDOCK. Will the gentleman give that?
Mr. BURKE of South Dakota. I may not be able to give just what the gentleman asks for, but I think when I give the aggregate that will be very easy to figure out.

Mr. MANN. The gentleman stated what the guardians' fees

were.

Mr. BURKE of South Dakota. Would the gentleman like to know what the attorneys' fees were?

Mr. MANN. No; the guardians' fees.

Mr. MURDOCK. I wanted to know what the professional guardian got out of the transaction.

Mr. BURKE of South Dakota. Before I get through I will give the gentleman some figures on that. Summing up the aggregate of the eight counties—for I have not time to take each county-it shows that the total number of so-called professional guardianships is 2,320.

Total amount of funds handled	\$3, 896, 693, 06 346, 095, 39 138, 205, 46 279, 182, 49
Total expense of guardianship	763, 483. 34

Percentage cost of administration, as I have already stated. 19.3 per cent of the amount handled.

It also shows:

Total number of competent guardianships is 534.

Percentage cost of administration, 3.1 per cent of the amount handled.

These two classes include only guardianships of tribal minors.

This aggregate shows the total number of white guardian	aships is 203.
	\$328, 536.00
Total amount of attorneys' fees	3, 117. 94
Total court costs	2, 625. 51
Total guardian fees	2, 021. 40
Total expense of guardianship	7, 755, 85

Percentage cost of administration, 2.3 per cent of the amount handled.

These figures include all guardianship cases in the Creek Nation where the record was available, and, as I have already stated, there are 4,339 cases where the information as to cost of handling could not be obtained, and further on I will refer to how much the aggregate of expenses would be if all the cases were included.

Mr. FERRIS. Will the gentleman yield for a short question?

Mr. BURKE of South Dakota. Yes, Mr. FERRIS. I can not think that the gentleman cares to mislead the House, and I am sure the House does not want to kogee County?

be misled. Let me call the attention of the gentleman to something which will explain, at least partially, the figures he has just given.

Mr. BURKE of South Dakota. I would rather the gentleman would explain this situation in his own time.

Mr. FERRIS. It will only take a moment, and it ought to

go in here.

Mr. BURKE of South Dakota. Very well. Mr. FERRIS. The gentleman has criticized our courts, from one side of the State to the other, and I know he believes he is justified in doing it; but we, who know the facts, believe that his criticism can not be well founded.

The estates of Indian wards on which administration is had sometimes consists of 5 acres, 10 acres, 17 acres, 4 acres, or 33 acres, the property being probably 50 or 60 miles away from the The Indian has on numerous occasions given as high as 8, 10, 12, or 15 conveyances, which must be brought into court and canceled. The Indian gives a multiplicity of conveyances when he has no right to do it, and each of these conveyances puts a cloud upon his title. The administrator has to go and clear up this title, and the cost of administration on a miniature estate sometimes may cost more than 20 per cent of its value.

Mr. BURKE of South Dakota. I am very glad that the gentleman from Oklahoma has some explanation to make of this startling condition of affairs, a condition that I think is appalling, notwithstanding the gentleman's confidence that I am

not justified in taking that position.

I want to repeat that in the eight counties the number of so-called professional guardianships is 2,320, and the total amount of funds handled is \$3,896,693.06; the total amount of attorneys' fees is \$346,095.39; the court costs are \$138,205.46; the total guardian fees, \$279,182.49; making a total of \$763, 483.34.

The percentage cost of the administration of the amount

handled is 19.3 per cent.

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. BURKE of South Dakota. Yes.

Mr. MARTIN of South Dakota. I suppose this summary applies only with reference to professional guardians?

Mr. BURKE of South Dakota. That is all. The percentage

cost of administering the cases under competent guardians is 3.1 per cent, and in the white cases 2.3 per cent of the amount handled, as I stated a while ago.

Mr. Chairman, I have stated that there were 4.339 cases where no reports have been filed or the papers were not in the files. I have made a computation of about how much money in the same proportion would be paid out in professional guardian cases in the eight counties in all the cases, and I find it would be about \$1,600,000. Now, gentlemen, you can see that the law business ought to be prospering down there in that country, and you must remember that the Creek Nation is only a small part of the Five Civilized Tribes. If the other nations' conditions are similar to the Creek Nation, and I firmly believe they are, think of what an enormous amount of money is paid yearly to guardians, attorneys, and in court costs simply in

guardianship cases alone.

Mr. MANN. Will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. MANN. It is sometimes difficult to get figures straight in your head, and therefore the gentleman will pardon me if I repeat something he has said. In the summary which the gentleman makes he computes 10 per cent as the cent of the gentleman makes he computes 10 per cent as the cent of the gentleman makes he computes 10 per cent as the cent of the gentleman makes he computes 10 per cent as the cent of the gentleman makes he computes 10 per cent as the cent of the gentleman makes he computes 10 per cent as the cent of the gentleman makes he computes 10 per cent as the cent of the gentleman makes he computes 10 per cent as the cent of the gentleman makes he computes 10 per cent as the cent of the gentleman makes the gen tleman makes he computes 19 per cent as the cost of the administration of these cases where professional guardians were appointed by the court and 3.1 per cent in the Indian cases where the natural guardians were appointed, and in the white cases 2 per cent.

Mr. BURKE of South Dakota. Yes; and I call attention to the suggestion made by my friend from Oklahoma, Mr. Ferris, that in Indian cases, on account of minors having small tracts of land the expenses would be more than in white guardianships, but I submit there is nothing in his argument, because there can not be any difference as to the status of minors whose affairs are in the hands of the professional guardians and those Indian minors in the hands of the natural guardians.

Mr. MARTIN of South Dakota. I suppose that the gentleman from Oklahoma would claim that Indians under natural

guardians had not made so many conveyances.

Mr. BURKE of South Dakota. That is the inference from what the gentleman said, but I can not see how there would be any difference, as all are Indians. One would probably have as much land as the other.

Mr. DAVENPORT. Will the gentleman from South Dakota

Mr. BURKE of South Dakota. I will.

Mr. DAVENPORT. Who certifies to the statements of Mus-

Mr. BURKE of South Dakota. I will say for the information of the gentleman that there is an affidavit on file as to each case that has been referred to in this report in the Interior Department bound in book form, and there is a reference in the report where it can be found, and if the gentleman wants the details, he can go to the Interior Department and ascertain what he is asking me for.

Mr. DAVENPORT. Does the affidavit state that the clerk

of the court refused to certify to the facts?

Mr. BURKE of South Dakota. I am not going to get into any controversy as to what is in the affidavit. The affidavit is on file. If the gentleman can get anything out of it to controvert the showing I have made, I have no doubt he will do it.

Mr. DAVENPORT. Was the report presented to the Indian

Committee while it was considering the bill?

Mr. BURKE of South Dakota. The report was submitted to the chairman of the Committee on Indian Affairs in the House and the Senate yesterday or the day before, though I can not see what that has to do with it.

Mr. Chairman, this report does not contain very much that I think was not pretty well known by a good many members of the committee a long time before this bill was reported. We discussed this question in the last session of Congress within a year and called attention to what we believe, with reference to the manner in which cases of guardianship were being administered in the probate courts, and gave the facts in a number of cases that showed an intolerable condition of affairs.

Mr. NYE. Will the gentleman from South Dakota yield?

Mr. BURKE of South Dakota. I will.
Mr. NYE. What period of time does this report cover?

Mr. BURKE of South Dakota. It covers just about four years.

Mr. NYE. The act conferring jurisdiction on the probate courts was passed by Congress in 1908?

Mr. BURKE of South Dakota.

Mr. CARTER. Is there any report prior to the act of May 27, 1908? Mr. BURKE of South Dakota. I have none.

Mr. CARTER. I want to ask the gentleman one question, for I know that he wants to get the facts straight before the House. Is the gentleman aware of the fact that professional guardians were appointed long before Oklahoma was a State; that they were appointed by the Federal judges in Indian Territory?

Mr. BURKE of South Dakota. I leave it to the House to answer that question in the minds of each Member by suggesting that I do not think it makes any difference whether they existed 50 or 20 or 10 years ago. They are there at the present time, and the gentleman admits it by his last statement.

Mr. CARTER. When were they first appointed? Mr. BURKE of South Dakota. Oh, there has been grafting in eastern Oklahoma ever since the white man went in there, when it was known as the Indian Territory.

Mr. CARTER. The same as they have in South Dakota.

Mr. BURKE of South Dakota. South Dakota has never been accused of allowing its Indians to be robbed, though I have no doubt that there have been people that would not hesitate to take advantage of them if given an opportunity. I never heard of professional guardians in South Dakota, or in any other State except Oklahoma, and the gentleman's excuse for their being there is that they originated under the Federal judges in Indian Territory. He clearly admits that they exist, and I submit that is sufficient to condemn the courts.

Mr. Chairman, I would like the gentleman to point out if it

has ever been charged that there has been any grafting in

South Dakota.

Mr. CARTER. The gentleman himself admits there has been grafting. It is not necessary to point it out.

Mr. BURKE of South Dakota. There are attempts to graft

in every locality where there is an Indian population. Mr. CARTER. The thing I want to get straight is this: The

gentleman has made a general assault on the State of Oklahoma, and what I want understood is that whatever system there may be of professional guardians that he speaks of was inherited from the Federal régime before Oklahoma became a State.

Mr. BURKE of South Dakota. All right-admitted.

Mr. CANNON. But does it justify it?
Mr. BURKE of South Dakota. I leave that to the House.
Mr. MANN. Do I understand the gentleman is making an

assault upon professional guardians as a general proposition, or on the administration by these professional guardians?

Mr. BURKE of South Dakota. I should want to say both, to a certain extent, but I want to particularly say that I have never hearl of professional guardians outside of the State of Oklahoma. Here is a statement in Mr. Mott's report that re-

fers to a subclass of professional guardians that I want to read:

There might be as a subclass carved out of the class of professional guardians, one which could be properly described as an incompetent and thoroughly irresponsible class. This class is composed of adult members of the tribe who have dissipated or been swindled out of their own estates after the removal of restrictions, who have little regard for the wards in their care and who can be and are in many instances used by others connected with the administration.

This report also states, and this is seneral, because there was not time nor opportunity to verify it, viz, to ascertain how much money has been dissipated and squandered of these estates of minors under the item of maintenance, but I apprehend that if we could go into the records and find out what that is, it would be so much greater than this sum that has been expended in attorneys' fees, court costs, and guardianship fees, that this would be a mere bagatelle as compared to what that amount would be. He says:

Extravagant and totally unwarranted allowances for maintenance and personal expenses of wards have been made, all of which can be verified by the probate records, and where the allowances are aggravatingly large and unnecessary the presumption is that some one other than the ward is getting the benefit of the excessive amount.

Then he makes a statement quoting a man who at one time was a probate attorney for the district agents, that after an extensive investigation he finds there are a great number of instances in which large sums of money of minors have been loaned by guardians on totally inadequate securities, many of the loans being made to guardians themselves and members of their families, and in many instances the bondsmen of the

guardians are totally insolvent. Mr. Chairman, this report further shows in each county a number of cases where the costs are extremely excessive and extravagant, that are above the average, and I presume it will be found upon investigation that it is this class of cases that were handled by these unscrupulous guardians, which he puts in a class by themselves. I find that there are in the first county six cases, the highest cost being 73.8 per cent of the amount handled, and the lowest 39.7. In the next county the highest is 71 per cent and the lowest 22 per cent. In the next one the highest is 70 per cent and the lowest 16 per cent, and then, in the next county, the highest is 60 per cent, and so it runs on through, until we find one case in Okmulgee County, where the cost of administering the amount handled is 90.5 per cent. I might go on giving figures, but it is all on file in the department and there is an abstract of each one of the cases, giving the full details. Mr. Morr, before submitting his report, took up the matter with 30 States in the Union to ascertain the average cost of administering in guardianship cases, and he has submitted that. He has corresponded with thirty-odd States, and the correspondence is on file in the Interior Department and referred to here as an exhibit, so that it can be examined. In 30 States he finds that the average cost does not exceed 3 per cent.

So it appears, Mr. Chairman, that in Oklahoma, so far as the white population is concerned, the average cost of handling guardianship cases is a little below the average of the other States in the Union, and as to Indian guardianships, where the guardian is competent, it is just slightly above the average for the other States. So, I say again, that the county judges in Oklahoma are apparently quite particular to discharge the duty of their offices to the satisfaction of the people who elect them.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. STEPHENS of Texas. Is it not a fact that there is a vast difference between Indians and Indian estates as distinguished from whites and white estates? Is it not a fact that it is sometimes almost impossible to determine who the heirs of an Indian are? Suppose the Indian has had three or four wives? It would be very hard to determine who the heirs are and to whom the property should go.

Mr. BURKE of South Dakota. In one class of Indian cases, where they are represented by a competent guardian, the cost

is 4 per cent or less.

Mr. STEPHENS of Texas. How can a competent guardian better than anyone else determine who are the proper heirs in these Indian affairs? How can it be determined without great cost and expense?

Mr. BURKE of South Dakota. If the gentleman from Texas, in his usual neighborly spirit, big hearted and generous as he always is, desires to help out his friends in Oklahoma and wants to defend the condition of affairs which I am now exposing, I wish he would do so in his own time.

Mr. STEPHENS of Texas. I will certainly do it.
Mr. BURKE of South Dakota. Mr. Chairman, I want to
state in passing that some of these so-called professional

guardians are lawyers, so that it can not be said that they are incompetent. The expense, though, is just as great for attorney's fees and guardian's fees, as in cases where the guardian is not a lawyer.

Mr. STEPHENS of Texas. Will the gentleman yield for

just one question?

Mr. BURKE of South Dakota. I will.

Mr. STEPHENS of Texas. Can the gentleman suggest anywhere that a firm of lawyers obtained more than \$750,000 as a fee from the Federal courts which was paid in the gentleman's administration and also \$330,000 costs and expenses, and that that firm was indicted in the Federal courts for \$30,000 of those costs and expenses, and that the President of the United States. at the instance of the chairman of the executive committee of Texas had that case dismissed against them peremptorily? Can the gentleman state a case similar to that; if he can, I will put in a defense and not before?

Mr. BURKE of South Dakota. I am very sorry my good friend from Texas would add anything to my argument by bringing in that old scandal that happened in Oklahoma several

years ago.

Mr. CARTER. It happened up here; it did not happen there. Mr. CANNON. If the gentleman will permit, is it legitimate as a plea to set off larceny in one place by citing larceny in

Mr. STEPHENS of Texas. I admit it is not. larceny on the part of these attorneys who got that big fee.

Mr. BURKE of South Dakota. I have stated that there has been a consistent effort to obtain legislation to make it easier to take what the Indian has, legislation removing restrictions, legislation that makes it possible for them to sell their lands, legislation that permits them to make leases, to withhold appropriations for employment of district agents who do supervise and look after the affairs of the Indians whose restrictions have not been removed. That is popular in Oklahoma. And why? Why, do you know there are several thousand lawyers practicing in the Five Civilized Tribes? You gentlemen stop and think a minute of having the bar in each county and each town and each city in your district constantly writing to you and calling upon you to secure legislation along a certain line, and then, Mr. Chairman, this vast sum of money that goes to these lawyers and these guardians, professional and otherwise, the court costs, and so forth, that money circulates in the community where the money goes, and therefore if you went down there and called an indignation meeting to expose what this Mott report discloses, you could not get very many to take any interest in it.

Why, because the local environment is so saturated, and has been since the white man went into eastern Oklahoma, that part which was the Indian Territory, that everybody believes, as a witness said to me in our investigation when we were down there two or three years ago, in reply to a comment by me of what I thought reprehensible. He said, "Mr. Burke, in the West we do not look at this question as you people do else-I promptly suggested to him that he limit the terri-

tory to Oklahoma.

Mr. BURKE of Pennsylvania. Will the gentleman permit a

Mr. BURKE of South Dakota. Certainly.
Mr. BURKE of Pennsylvania. In one of these cases the gentleman has stated that 90 per cent of the fund was consumed in the way of commissions and expenditures by the guardian. Now, I am interested to know, as a member of the committee, how the Indian got this 10 per cent, and I would like to know what the items were which constituted the 90 per cent, if the gentleman has them.

Mr. BURKE of South Dakota. I have no information that

the 10 per cent is left. I think somebody got it.

Mr. BURKE of Pennsylvania. The gentleman is not certain

about the Indians getting it?

Mr. BURKE of South Dakota. One of the things that has been done by Congress is the enactment of legislation removing restrictions, and by reason of the law as it now exists restrictions have been removed from about 8,000 Creek Indians. by reason of which restrictions were removed from one million two hundred and sixty-odd thousand acres of land. That is the amount of lands that the Indians possessed when the restrictions were removed. This report shows, and I don't think anyone will question it, that not one out of eight to-day has an acre of land or a dollar of money, and the Indians are living presumably out of the estates of minors.

Mr. MURDOCK. In how many years?
Mr. BURKE of South Dakota. About four years, I think; three or four years. Seven-eighths of these Indians who had

their restrictions removed are to-day without any property or

any money, and they do not pay any taxes.

I have said to the gentleman from Oklahoma that if they have not any concern from a moral standpoint of right and wrong in allowing the Indians to be defrauded out of their property, they ought to have some consideration for their own State, because if this thing continues you will soon have a pauper population upon your hands, and I think I can prophesy, and it will not be disputed, that when that time comes you can not come to Congress and have them taken care of at the expense of the Federal Government. They are a rich people with a large sum of money, entirely sufficient to guarantee them against pauperism, and if they are only protected by the Government until such time as they can walk alone, they will not be paupers. But if this condition of affairs prevails, and the condition that some of our Oklahoma friends boast will prevail after March 4 next, the time of this pauperized condition will soon arrive, and I am going to comment upon it further before I conclude.

Mr. CARTER. Will the gentleman yield?

Mr. BURKE of South Dakota. I will yield to the gentleman. Mr. CARTER. I simply want to make a short observation, if the gentleman will permit. The Federal Government can certainly have no jurisdiction over any Indian except a restricted Indian. Under the present law it is as absolutely impossible to sell the allotted lands of a restricted minor Indian as it is for the gentleman from South Dakota [Mr. Burke] to. go to heaven to-day. He may go there in the future, and I

Mr. BURKE of South Dakota. I am going to tell the gentle-

man why that is so.

Mr. CARTER. Let me finish my statement. If that be true, then how on earth are these children for whom you are pleading ever going to become homeless and paupers?

Mr. BURKE of South Dakota. I think I have satisfied most

of the Members of the House, if I have not the gentleman from

Oklahoma, that it is possible.

Mr. CARTER. The gentleman refuses to answer the question.
Mr. BURKE of South Dakota. I am answering. There was
a bill passed in the last Congress because the existing law was interfering somewhat with the transfer of lands down there in Therefore a bill was introduced to change the law, Oklahoma. and I thought it was a good measure, and I still think so. The courts had passed upon the question, and I thought we could very properly correct the law so that it would do what was intended, according to the court's interpretation. Therefore the bill was passed, and in another body or in conference there was a little amendment slipped into it that resulted in the President vetoing it when it reached the White House, and, I think, very properly. In other words, somebody from Oklahoma, as usual, was on the job, and, while we had passed the bill in good faith-

Mr. CARTER. Did not the gentleman try to help pass the

Mr. BURKE of South Dakota. I have stated that I did. Mr. CARTER. But after it came back with the amendment, which he said was slipped into it, did he not help to pass the bill through the House in my absence?

Mr. BURKE of South Dakota. Upon the assurance of the gentleman from Oklahoma [Mr. DAVENPORT] and others that the amendment did not do what it in fact did do, as I learned after-

wards by examining it.

Mr. CARTER. But "the gentleman from Oklahoma" was 1,500 miles from here when that bill was passed, and did not

have anything to do with the amendment.

Mr. BURKE of South Dakota. I did not intend to refer to it at all. The bill was vetoed. In connection with that I find with the message vetoing that law that there is attached to it a letter from the department of charities and corrections in the State of Oklahoma to the Secretary of the Interior, and in it reference is made to a Miss Barnard, and it states that she has been intervening in behalf of approximately 3,000 orphans, nearly all of them Indian children, whose estates were being exploited or disposed of by incompetent and grafting guardians. She goes on to say that they have had many guardians removed, and so forth. The letter states-

We have been invited to come down in several counties by county judges who do not seem to be able to compel wholesale guardians to report, and while we have not been able to cover the ground as thoroughly as we wish to, yet the number of petitions for the sale of Indian children's properties has been reduced almost to a minimum.

Mr. CARTER. Does that apply to allotted lands? Mr. BURKE of South Dakota. He says further:

People are afraid to buy these lands, because they fear that we will intervene and spoil the deal.

So they are not selling nearly as much land, it seems, as they did on former occasions. That, I think, answers the gentleman's [Mr. CARTER] question.

Mr. CARTER. Let us not have any socialistic argument about this. Let us nail down something.

Mr. BURKE of South Dakota. I did not yield to the gentle-

Mr. CARTER. The gentleman has not answered the question. The CHAIRMAN. The gentleman from Oklahoma [Mr. Car-TER] will address the Chair when he wishes to interrupt the

Mr. BURKE of South Dakota. I might refer to the remark of the gentleman, made on the floor of the House yesterdayand I do it in good spirit-which shows the mind of the gentleman. The gentleman from Oklahoma [Mr. McGuire] had the floor, and the gentleman from Oklahoma [Mr. Carter] rose and said, "I would like to ask the gentleman from Oklahoma [Mr. McGuire], who always sympathizes with Oklahoma in looting the Treasury as much as it can, if he would be willing," and so forth. In other words, he asked his colleague a question, and in that question attempts to compliment him by suggesting or assuming that he is in sympathy with Oklahoma in looting the Treasury as much as it can.

Mr. CARTER Will the gentleman say that I made that remark seriously?

Mr. BURKE of South Dakota. I have the remark from the Reporter's notes. The gentleman can correct it or withdraw it.

Mr. CARTER. I do not care to withdraw it or to correct it. Mr. BURKE of South Dakota. Then let it stand.
Mr. CARTER. I just asked the gentleman if he contends

that I made that remark seriously.

Mr. BURKE of South Dakota. I refuse to yield further.

Mr. CARTER. Oh, the gentleman refuses to answer. Mr. BURKE of South Dakota. Mr. Chairman, I am going

to quote the gentleman in another statement, and if I misquote him I hope he will correct me. I do not want to do him any injustice. I have stated what the condition is in Oklahoma, and I have stated what the sentiment among the people is. The more legislation you secure to take away the protection that the Indian has the more legislation you enact to secure the money that belongs to the Indians and have it deposited in local banks-and there are several million dollars of their money there now deposited-and the more you do to take away the representatives of the Government who are guarding that money in the banks the higher you stand with the constituencies that sends you here.

Now, the gentleman from Oklahoma [Mr. Carter] made a speech, or several speeches, in the campaign before the election, and in a speech quoted in an Oklahoma newspaper, at length, he is alleged to have made this statement that I will If the gentleman did not make it, I have no doubt he will get up and say that he did not, and I will accept his statement, and I am sure the House will. But in this speech he is quoted as having said in substance this:

The question is not one between Democrats and Republicans, but it is a question of electing Woodrow Wilson and getting the restrictions off the Indians lands and getting the hands of the Federal minions off the affairs of the Oklahoma people.

Mr. CARTER. I will say to the gentleman unqualifiedly that I made no such statement.

Mr. BURKE of South Dakota. Then the gentleman has been misquoted by the press of his State.

Mr. MARTIN of South Dakota. I will ask the gentleman if it would be popular to make such a statement in his district?

Mr. CARTER. I will say that I do not think it would be. The CHAIRMAN. Gentlemen must first get recognition from

the Chair before interrupting a Member. Mr. BURKE of South Dakota. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has 43 minutes. Mr. BURKE of South Dakota. Mr. Chairman, I have read in the Oklahoma papers what it is proposed to do after March 4 in Oklahoma with reference to Indian matters, and it is right in line with what I have heard our good friends say as to what they would like to have done, and I will read this for the information of the House. The Muskogee Times-Democrat, of December 9, 1912, from its correspondent here in Washington, received and published what I am now going to read:

WASHINGTON, D. C.

A movement has been started here to bring about the appointment of an assistant secretary of the interior whose headquarters shall be at Muskogee, Okla. and who shall be clothed with full power to act on questions affecting the administration of the Five Civilized Tribes without the necessity of further delay in having the Secretary of Interior in person act upon all matters affecting the various Indian tribes. It is proposed to have the assistant secretary empowered to remove restrictions upon Indian allotments and to decide all questions that are now passed upon by the Secretary of Interior. Senator

Gore, of Oklahoma, who is perhaps closer to the incoming administration than any other living man, is heartily in favor of the plan and also favors the appointment of an Oklahoma man who is familiar with the perplexing problems that surround the settlement of the Indian question in eastern Oklahoma. If the scheme is adopted it will make of Muskogee a little Washington, and all persons having business in connection with Indian matters will be required to go to Muskogee instead of the National Capital, as under the present system. The Oklahoma congressional delegation look with favor upon the Gore plan, and it is quite likely that soon after March 4 an assistant secretary of the interior will be located in Muskogee with power to act in all Indian matters, such as the sale of lands, the approval of leases, the removal of restrictions upon Indian allotments, and the direction of the policy to be pursued in connection with the handling of the Indians.

Mr. Chairman, in conclusion I want to say if that is to be the

Mr. Chairman, in conclusion I want to say if that is to be the policy of the incoming administration, then God pity the poor Indians in Oklahoma.

This bill now pending proposes to take away an appropriation for the paying of expenses of certain administrative officers who are there now representing the Government in protecting the Indians. Probably very soon after March 4 our Democratic friends will cause to be removed the very efficient commissioner, J. George Wright, who has discharged the duties of his office for a number of years without a suggestion even being made that he has been in any manner corrupt, derelict, or failed in the discharge of his responsibilities, and I may say the same of the Union agent, Mr. Kelsey, who is the man who looks directly after the administration of the affairs of the individual restricted Indians. In fact, from what I have heard from Oklahoma, I believe it is the intention to displace both of these efficient officials if our Democratic friends can bring it about.

Mr. STEPHENS of Texas. Will the gentleman yield? Mr. BURKE of South Dakota. I shall be glad to yield if I have any time.

Mr. STEPHENS of Texas. I will yield to the gentleman two minutes, in order that he may tell the Committee of the Whole what Mr. J. George Wright said when he took that position in 1900.

Mr. BURKE of South Dakota. Now, the gentleman from Texas is going to tell us that we did not get through as soon as J. George Wright said we would.

Mr. STEPHENS of Texas. Did he not say in 1900 that if we would give him \$600,000 he would close up the business in Oklahoma in two years? Mr. BURKE of South Dakota.

I think the then commissioner did, but it was not J. George Wright.

Mr. STEPHENS of Texas. And that was 12 years ago.

Mr. BURKE of South Dakota. I do not think it was as long ago as that. We passed legislation after that providing that

the rolls should not be closed until March 4, 1907.

Mr. STEPHENS of Texas. How many millions of dollars has he spent there since that time, and in the name of God how much longer is he going to take?

Mr. BURKE of South Dakota. Until it can be closed up in an honest and legal manner; the gentleman from Texas knows that the delay in closing up the affairs of the Five Civilized Tribes has not been due in any manner to the failure on the part of the present commissioner to discharge his duty, but because of additional legislation by Congress, litigation and court decisions affecting the property rights of the Indians, and other things that made it impossible to do so, matters that could not be anticipated several years ago. So long as there are lands yet to be sold, allotments to be completed, and collections to be made we ought to, and I believe will, continue the organization we now have in the Five Civilized Tribes, and I sincerely hope that even after the business affairs of nations are finally settled and the money distributed, that the Government will continue to supervise and protect the unrestricted Indians until such time as they are sufficiently advanced to properly care for and manage their own affairs. [Applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. RAKER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3436) granting to Phillips County, Ark, certain lots in the city of Helena for a site for a county courthouse.

The message also announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 32.

Resolved by the Senate (the House of Representatives concurring), That the plan, design, and location for a Lincoln memorial, determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled "An act to provide a commission to

secure plans and designs for a monument or memorial of Abraham Lincoln," approved February 9, 1911, be, and the same are hereby, approved.

INDIAN APPROPRIATION BILL.

The committee resumed its session.

Mr. STEPHENS of Texas. I yield 20 minutes to the gentleman from Oklahoma [Mr. Ferris].

[Mr. FERRIS addressed the committee. See Appendix.]

Mr. STEPHENS of Texas. Mr. Chairman, I yield 10 minutes to the gentleman from Oklahoma [Mr. Davenport].

Mr. DAVENPORT. Mr. Chairman, I ask unanimous consent to extend my remarks in the Recorp, inasmuch as in 10 minutes I can not say all that I wish to say.

I can not say all that I wish to say.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to extend his remarks in the Record. Is there objection?

There was no objection.

Mr. DAVENPORT. Mr. Chairman, I have listened with a great deal of interest and with a great deal of patience to the dirge of a departing officeholder who now temporarily resides in my district, whose dirge is transmitted to this House through his proxy, the gentleman from South Dakota [Mr. Burke]. I refer to Mr. Mott, who now occupies the position of attorney for the Creek Tribe of Indians by appointment from the Secretary of the Mr. Mott knows that his days are limited, and, like the dying adder, he seeks to cast and throw his venom upon his pur-The gentleman from South Dakota [Mr. Burke] and the man who furnished him the data know that when they make charges and insinuations against Tom Leahey, who is the present county judge of Muskogee County, Okla., that the said Leahey is willfully dishonest, they make charges that are willfully false and were known to be falsehoods at the time they were made. [Applause.] You can trace the record of Mr. Leahey from Wisconsin, where he was born and reared, up to the time he came to Muskogee, and nowhere will you find any act committed by him as unworthy of a gentleman, and any insinuation made by the gentleman from South Dakota [Mr. BURKE], furnished him by Mr. Mott, is false, and basely so.

I say to the gentleman from South Dakota [Mr. Burke] that if the Interior Department, for whom he has spoken on the floor of this House, had such accusations to bring against my constituents, why did not the department bring them in the open, where they could be discussed in the committee, and where the parties against whom the accusations were brought could learn of what they were charged instead of waiting until the last hour to bring reflections and charges which cast reflections upon the entire people of the State of Oklahoma?

I want, further, to call your attention to the fact that when the Indian appropriation bills have been up for consideration in the House for the last few Congresses nothing but accusations and reflections have been brought against the good citizenship of the State of Oklahoma, and especially has it been so with reference to those that lived in that part of Oklahoma which was formerly Indian Territory. I want to say to the gentlemen who make those charges and accusations that there is nowhere to be found a nobler or more upright people than the citizenship of the third congressional district of the State of Oklahoma and the people of the entire State, and you should not seek to cast reflections upon their fair name and the name of the State of Oklahoma solely and only, as I charge here, because the employees of the Interior Department see the power of that department waning in that country and want to cast reflections and try to hold on to their jobs through infamy and falsehoods. [Applause.]

I say there is not a word of truth in the statements. There may be some men in Oklahoma, as well as all other States, who are not honest, and it was but a short time ago that three men were appointed to appraise the Choctaw and Chickasaw segregated coal and asphalt land by the Interior Department upon the recommendation of the chairman of the Republican State committee in Oklahoma, and they were recently removed or resigned because they were dishonest, but because of that fact are you willing to cast insinuation and reflection upon the en-

tire State and its population?

We read in the Good Book that when the Savior came on earth he selected 12 men whom he thought to be fair, upright, and honest, but one proved to be a traitor, yet that fact was not used or taken to cast reflection upon the others. I regret very much we can not discuss legislative bills here without the motives and acts of the good people of Oklahoma being impugned, and I have grown sick and tired of some of the Members of this House and the employees of the Interior Department in this regard.

I want to state here that the charges are untrue, and that no man has the right to come upon the floor of this House and make

such base assertions, especially when he knows that if he would take a little time and trouble to investigate his charges he would find that they were untrue, basely made, and false. asked the gentleman from South Dakota [Mr. Burke] who, if anyone, had certified to the statements from which he read with reference to the handling of probate cases in the State of Oklahoma, and especially in the county of Muskogee, and he did not answer me and say that no one had certified to it, but indirectly evaded the question by saying that if anyone would go down to the Interior Department the original was on file there and could ascertain its contents and find out who signed the statement. I then asked him if the clerk of the court in Muskogee County had certified to the statement being correct, and why it was that one of the departmental officers, Mr. Mott, who owes his job to the Secretary of the Interior and who is ready and willing to cast reflections and besmirch the fair name of Oklahoma, was taken, and to that he makes no answer, but he is willing to stand up as the mouthpiece of such employees of the Government and let it be published to the world that he asserts facts that are untrue and were known to be untrue by Mott and his crowd when he made them. I am willing to admit that it is the ardent desire of the officeholders of Interior Department exercising jurisdiction over that part of Oklahoma, formerly Indian Territory, to hold on to their jobs at any cost. It matters not to them whom they may slander or falsely represent. A condition has existed in the department that the decent, respectable, and upright people were compelled to resent, and in that way a feeling has been engendered by the employees of the department which will cause them to do anything to perpetuate their jobs.

Before I conclude on this subject I want to state to the gentleman from South Dakota [Mr. BURKE] that when he attempts to cast a reflection on me or any of the Members from Oklahoma or the good citizens of that State, and say we do not dare to stand up and resist the influence of the citizens down there because of political reasons, his statement is unwarranted and unjustified, and he had no right to make such accusations, because they are untrue. No man can charge, truthfully, that I dare not stand up when a matter of right is involved, even though I may have been stepping upon the toes of some carpetbag officeholder down there and whom I was seeking to kick out of the country. Such statements come with bad grace, and it is the poorest way on God's green earth to When you get a man to the point of where he is always charging somebody with dishonesty I am reminded of the old adage in ancient history of what some old sage said:

That the best proof he is dishonest is that he is always charging some one else with being dishonest.

I therefore ask the House to beware of those who are always trying to charge their fellow men with impure motives, even though they are the mouthpiece of an Interior Department which has had unlimited control over a certain class of citizens who were the pioneers in this great country of ours.

I now want to speak for a moment upon the question of citizenship, which has been discussed pending this bill, and to lay down the proposition that blood is not sufficient to entitle a party to be enrolled as a member of either of the Five

Civilized Tribes of Indians in Oklahoma.

When these tribes were living east of the Mississippi River various treaties were entered into between the tribes and the Government of the United States, finally resulting in a treaty being made whereby all moved west of the Mississippi River and ceded to the United States their lands owned east of the Article 14 of the treaty between the Choctaw Mississippi River. and Chickasaw Tribes of Indians and the Government of the United States, made in 1830, provides for certain citizens that may desire to remain in the States, and among other things provides upon what terms and conditions they may remain and secure their allotments. Article 12 of the treaty between the Cherokee Tribe of Indians and the Government of the United States, made at New Echota, provides in substance the same as the treaties I have mentioned, and provides for those Cherokees who desire to remain east of the Mississippi River. various treaties were entered into and the tribes had formed their governments west of the Mississippi River the question arose between the Cherokee Indians residing in the States of North Carolina, Tennessee, Mississippi, and Alabama and the Cherokees residing west of the Mississippi River as to the former's rights to participate in certain annuities which were due and should be paid to the Cherokee Tribe of Indians as a tribe west of the Mississippi River. Jurisdiction was con-ferred upon the United States Court of Claims with the right of appeal to the Supreme Court of the United States, to settle this controversy, and a decision was rendered which is found in volume 117 of the United States Supreme Court Reports at

page 288, the title of which is the "Cherokee trust funds," the parties in interest being the Eastern Band of Cherokee Indians against the United States and the Cherokee Nation, commonly known as the Cherokee Nation West. The court, after reviewing all the treaties and going into the question at length, on page 311 of that report uses the following language:

If Indians in that State, or in any other State east of the Mississippi, wish to enjoy the benefits of the common property of the Cherokee Nation, in whatever form it may exist, they must, as held by the Court of Claims, comply with the constitution and laws of the Cherokee Nation and be readmitted to citizenship as there provided. They can not live out of its territory, evade the obligations and burdens of citizenship, and at the same time enjoy the benefits of the funds and common property of the nation. Those funds and that property were dedicated by the constitution of the Cherokees and were intended by the treaties with the United States for the benefit of the united nation, and not in any respect for those who had separated from it and became aliens to their nation.

For many years before 1896 parties residing in the different States had been making application to the different tribal authorities to be readmitted to citizenship to the tribes upon the ground that they were Indians by blood or descendants of some one of the Indian families that had been a member of the eastern tribe and a great many had been admitted, but many were denied admission upon various grounds. The applications became so numerous that the tribal authorities became dilatory about passing upon the questions, and in 1896, after Congress had provided for the creation of the Commission to the Five Civilized Tribes to negotiate treaties with the Five Tribes, and on the 10th day of June, 1896, Congress passed an act enlarging the jurisdiction of that commission, and among other things they gave to that commission, commonly known as the Dawes commission, power to receive applications for citizenship in the respective tribes and to hear and determine the same, with the right of appeal to the United States district court. The provisions of that act with reference to the power conferred upon the commission are as follows:

of that act with reference to the power conferred upon the commission are as follows:

That said commission is further authorized and directed to proceed at once to hear and determine the applications of all persons who may apply to them for citizenship in any of said nations, and after said hearing they shall determine the right of said applicant to be so admitted and enrolled: Provided, however, That such application shall be made to such commissioners within three months after the passage of this act. The said commission shall decide all such applications within 90 days after the same shall be made. That in determining all such applications said commission shall respect all laws of the several nations or tribes not inconsistent with the laws of the United States and all treaties with either of said nations or tribes, and shall give due force and effect to the rolls, usages, and customs of the said nations or said tribes: And provided further, That the rolls of citizenship of the several tribes as now existing are hereby confirmed, and any person who shall claim to be entitled to be added to said rolls as a citizen of either of said tribes and whose right thereto has either been denied or not acted upon, or any citizen who may within three months from and after the passage of this act desire such citizenship, may apply to the legally constituted court or committee designated by the several tribes for such citizenship, and such court or committee shall determine such application within 30 days from the date thereof.

In the performance of such duty said commission shall have power and authority to administer oaths, to issue process for and compel the attendance of witnesses, and to send for persons and papers, and all depositions, affidavits, and other evidence in any form whatsoever heretofore taken where the witnesses giving said testimony are dead or now residing within the limits of said Territory, and to use every fair and reasonable means within their reach for the purpose of determining the rights of pe

Under this authority delegated to the Commission to the Five Civilized Tribes there were filed in the Cherokee Nation alone more than 5,400 separate cases, embracing in all, including the heads of families and children, about 70,000 persons. When the commission investigated the cases and passed upon them, including those that were enrolled by the United States court in the Indian Territory, of the 70,000 who made application about 385 were enrolled. Congress later gave them the right of appeal to the Supreme Court of the United States to test the validity of this legislation, and the Supreme Court sustained the legislation. This ended, so far as the Cherokee Nation was concerned, the question of authority to place anyone on the roll that was not readmitted.

On June 28, 1898, Congress passed an act entitled "An act for the protection of the people of the Indian Territory, and for other purposes," which provided for the making of a final roll of the members of the respective tribes in order that when allotments were made the Government would know to whom they should allot the land, and in one paragraph of section 21 of the said act the following language is used:

No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship: Provided, however, That nothing contained in this act shall be so construed

as to militate against any rights or privileges which the Mississippl Choctaws may have under the laws or the treaties with the United States.

Subsequent to the passage of this act Congress passed an act authorizing the commission to identify the Mississippi Choctaws in accordance with the provisions of the act of June 28, 1898, and fixed a definite time when the Mississippi Choctaws might come and locate in the Choctaw Nation, west of the Mississippi River.

My contention is that no Indian of either of the Five Civilized Tribes, under existing laws or treaties, is entitled to participate in the lands and funds of either of the tribes unless he complies with the laws and the treaties and returned to the tribe and identified himself with the tribe as he should do under the law or the treaty. It has been repeatedly held by the highest judicial tribunals in the States and by the Supreme Court of the United States that a treaty is nothing more than a law and may be amended and repealed the same as any other law. I am opposed to the opening of the rolls for the purpose of enrolling anyone who has not removed to and in good faith settled with his respective tribe, and who is not a bona fide member of the tribe as provided by the laws and treaties.

There are some few citizens in the Cherokee Nation who have lived all their lives in the Indian Territory and who are Indians by blood, and about which there is no dispute as to their right, and whose cases were in transit between Muskogee, Okla., and the Interior Department at Washington on March 4, 1907, when the rolls were finally closed. All such persons whose cases did not reach the department should, in my judgment, be enrolled by name; but I shall certainly oppose the opening of the rolls generally or give to any department of the Government discretionary power to hear, investigate, and adjudicate the rights of citizenship of anyone claiming citizenship in either of the said Five Civilized Tribes. There is no reason why a list of those who are entitled to be enrolled, as set out above, should not be prepared by the department and submitted to Congress so that they might be enrolled. I would favor enrolling by name those, as herein stated, that come within that class, but I should not be in favor of any general provision opening the [Applause.]

Mr. STEPHENS of Texas. Mr. Chairman the gentleman yields back the rest of his time. Will the gentleman from South Dakota use the remainder of his time? We have only one more argument on this side.

Mr. BURKE of South Dakota. Mr. Chairman, I yield 10 minutes to the gentleman from Oklahoma [Mr. McGuire]

The CHAIRMAN. The gentleman from Oklahoma [Mr. Mc-Guire] is recognized for 10 minutes.

Mr. BURKE of South Dakota. Mr. Chairman, before the gentleman uses his time, I would like to inquire how much time I have remaining?

The CHAIRMAN. The gentleman had 41 minutes remain-The gentleman now has 31 minutes remaining, deducting the time that has been allotted to the gentleman from Oklahoma.

Mr. McGUIRE of Oklahoma. Mr. Chairman and gentlemen of the committee, I simply want to discuss an amendment which will be offered by the gentleman from Mississippi [Mr. Harrison]. I do not care to go into any of the features or the merits of the appropriation bill.

There has been for a number of years in my State a matter which has challenged the attention of practically all of the citizens of the southeast portion of the State as well as the Members of Congress, both in the Senate and in the House. It is a question which means much to a great many of the citizens of Oklahoma, and one which will not be settled without many complications arising, and it will not be settled without difficulty and much attention. I refer to those who have made application to be placed upon the rolls with the two tribes in the southeast portion of the State, to wit, the Choctaws and the Chickasaws

The gentleman from Mississippi [Mr. Harrison], in his discussion yesterday, stated that he exonerated the chairman and other members of the committee, because the Interior Department had failed to make a report with respect to those applications. I have no one to exonerate, for the reason that I think that every one on the committee, regardless of his opinion, is absolutely honest and fair with respect to that opinion. I differ from some gentlemen in my own State and from some of my own colleagues from my State with respect to this matter, for the reason that I have fully and decisively concluded, so far as I am concerned, that a grave injustice has been done to hundreds and thousands of the citizens and persons of Indian blood in my State.

For instance, I hold in my hand excerpts from a report made by the Secretary of the Interior to the Committee on Indian Affairs in the Senate. They designated those people by classes.

The first class are noncompetents, so designated by the Secretary of the Interior, and from a letter of April 22, 1912, to the chairman of the House Committee on Indian Affairs, in class No. 1, known as "incompetents" or designated as incompetents by the Interior Department, they found that 800 persons were excluded from the rolls who were entitled to be placed on the rolls. That is one report from the Interior Department to which the gentleman from Mississippi failed to call the attention of the House.

What do we mean by noncompetents? I will call attention to a few of them. For instance, there were a number of orphans in the schools, supported by the tribes and the Government at that time, who were entirely overlooked, and there never has been an application made by those people, because they were noncompetents, and so they were left off the rolls. Their brothers, their slatters their slatters their slatters. brothers, their sisters, their relatives, the more capable members of the families, are on the rolls, but those who were absolutely incompetent and those who to-day must have the care of the Government and the tribes, because they were incapable of making applications, are left off the rolls. Somebody is respon-

I did all I could in the committee from time to time to have these people placed upon the rolls. The Interior Department sent one of the most able men in that department to make an investigation, and he remarked to me that he went with the intention of coinciding with the views of the Dawes Commission, to leave them off the rolls, but when he found a state of affairs there that he could not justify he recommended that those 800 incompetents, overlooked because of their incompetency, be placed upon the rolls. They are in class No. 1.

Class No. 2 are designated as delinquent cases. Who are they? There were 52 of them. They were found by the Dawes Commission to be entitled to enrollment, but there was a delay in certifying those names to the Secretary of the Interior, and the rolls closed under the law the day before they reached the Interior Department; and also the 52 cases had been adjudituded. cated; they are to-day off the rolls and receive none of the benefits of tribal lands or money.

Gentlemen, there is no excuse whatever for that, and those 52 people have made their applications persistently and incessantly from the day they were left off in 1907 to the present time, but the Government of the United States has failed to recognize them. Do not forget that these are cases which have been adjudicated, and because they did not reach the Secretary of the Interior in time were left off, and are off to-day.

There is another class of cases, the Mississippi Choctaws: I will not go into details, but they were given six months after they were notified of conditions, laws, and so forth, to reach Oklahoma. Some of them were financially unable to change their residence. Others did not receive their notification until less than six months before the time they were to reach Oklahoma. It was impossible for them to comply with the laws and the regulations, and they are omitted from the rolls.

Class 4 consists of jurisdictional and imperfectly adjudicated This relates to the cases that were disposed of by a tribal court, a court created by Congress. I will have no time to go into the details, but this relates to the Mississippi Choc-

The Department of the Interior has written a letter to the chairman of the Committee on Appropriations in the Senate, recommending that in all 2,726 of those Indians who have been left off the roll be placed upon it. So it is not the fault of the Secretary of the Interior, but the fault of the committee.

I ask leave to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Oklahoma [Mr. Mc-Guire] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. BURKE of South Dakota. I desire to ask the gentleman in charge of the bill if he expects to use the balance of his time in one speech?

Mr. STEPHENS of Texas. I do.

Mr. FERRIS. If the gentleman will pardon me just a moment, I wanted to ask if he will kindly place in the Record the names and addresses of those guardians whom he has asserted to be professional guardians?

Mr. BURKE of South Dakota. That would necessitate printing 2,000 names, and I think it would probably be better at a later time to ask to have all of these exhibits printed as a

House document. I would not object to that.

Mr. FERRIS. Let me inquire where they can be found.

Mr. BURKE of South Dakota. They are on file in the Interior Department, as the report will show. Mr. Chairman, I now yield the balance of my time to the gentleman from Illinois [Mr. Mann].

Mr. MANN. Mr. Chairman, the statement made by the gentleman from South Dakota can not be passed over with such suggestions as have been made on the floor of the House. tlemen who have replied to him so far have stated that this report was not presented to the committee until they had reported this bill. What has that got to do with it? There is nothing in the bill on the subject. This bill was reported to the House a few days after Congress convened, practically without any consideration, because the Indian bill is not made up by the Committee on Indian Affairs of the House, but is left in the main to the tender mercies of the Senate. These gentlemen have had for several days the same statement that the gentleman from South Dakota has had. The gentleman from South Dakota, with the assiduity he always uses, gave attention to the report. Gentlemen who ought to have given attention to the report apparently have paid no attention to it until now, and they now say that it ought to have been presented before.

My distinguished friend from Oklahoma [Mr. Ferris] seems to think that because the gentleman from South Dakota had not filed a minority report that therefore he ought not to say anything on the floor of the House in consideration of the Indian bill, either about an item in the bill or about something

that is not in the bill.

Yesterday we had an example in the House of the effect of the report of committees. If there be any partisan proposition which comes before the House it is a report on a contestedelection case. An Elections Committee, consisting two-thirds of Democratic members, had considered an election contest, and in making their report had declined to recommend the seating of the Democratic contestant, plainly because he had been guilty of fraud or had not secured the votes. Without a syllable from any committee, without a backing of any report of any portion of this House responsible for its work, a large share of the gentlemen on the other side of the aisle, with no knowledge of the subject whatever, voted to seat a man on the floor of the House. If I am not mistaken, the gentleman from Oklahoma [Mr. Ferris] voted with that bunch.

I congratulate certain Democratic Members of this House for

refusing, in violation of conscience and without any support of the committee, to vote to seat a man who had no right to his These gentlemen stood by the committee. I propose to read and to insert in the RECORD now a roll of honor, consisting of Democratic Members of the House who place conscience above partisanship, and who voted, not on the suggestion of some Member in or out of the House, but who voted according

to the report of the committee. They are:

ROLL OF HONOR.

ALEXANDER of Missouri, ASHEROOK of Obio, AYRES of New York, BARNHART of Indiana, BLATHRICK of Obio, BOEHNE OF Indiana, BUCKINSON OF Obio, BYENES OF SOUTH CAROLINA, CO. of Indiana, DICKINSON OF MISSOURI, DIES OF TEXAS, DOUGHTON OF NORTH CAROLINA, EDWARDS OF GEORGIA, EVANS OF Illinois, FAISON OF NORTH CAROLINA, EDWARDS OF New York, FOSTER OF Illinois, FOWLER OF Illinois, GARRETT OF TENNESSEE, GLASS OF VIrginia, GODWIN OF NORTH CAROLINA, GUIDGER OF NORTH CAROLINA, HAMILTON OF WEST VIRGINIA, HAMILTON OF MISSOURI, HAMMOND OF MINNESOUR, HAV OF VIRGINIA, HENSLEY OF MISSOURI, HOLLAND OF VIRGINIA, HOUSTON OF TENNESSEE, JOHNSON OF SOUTH CAROLINA, JONES OF VIRGINIA, KINDEED OF NEW YORK, KINKEAD OF NEW JERSEY, KONOP OF WISCONSIN, LAMB OF VIRGINIA, LEVER OF SOUTH CAROLINA, LINTHICUM OF MARYLAND, LOBECK OF Nebraska, MACON OF ARRANSSE, MAQUIRE OF NEW YORK, RAINEY OF Illinois, RAKER OF CALIFORNIA, RANDELL OF TEXAS, RANSBELL OF LOUISIANA, REPLEY OF NEW YORK, RAINEY OF Illinois, RAKER OF CALIFORNIA, RANDELL OF TEXAS, RANSBELL OF MISSOURI, RUSSELL OF MISSOURI, STEDDAN OF NORTH CAROLINA, STEDDAN OF NORTH CAROLINA, STEDDAN OF NORTH CAROLINA, STEDDAN OF NORTH CAROLINA, STEDHENS OF NEW YORK, RODDENBERY OF GEORGIA, RUBEY OF MISSOURI, RUSSELL OF MISSOURI, STEDDAN OF NORTH CAROLINA, STEDHENS OF NEW YORK, THOMAS OF KENTUCKY, TOWNSEND OF NEW JERSEY, UNDERSHILL OF NEW YORK, WHITACRE OF Obio, WHITE OF Obio.

Mr. MURRAY. Will the gentleman yield? Mr. MANN. I will, but I have only a short time. I am sorry

the gentleman is not on the roll.

Mr. MURRAY. May I inquire whether or not the gentleman from Illinois would revise his estimate if he knew that a Member or Members of the House of Representatives had been able to make personal investigation of this contested-election case by a visit to the district affected?

Mr. MANN. I can not see how a visit to the district would help in getting information. If a gentleman of this House went into the district and investigated this case instead of studying

the record himself, he was using his time most idly.

Mr. MURRAY. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Massachusetts?

Mr. MANN. For a question; not for much discussion.

Mr. MURRAY. May I make a statement?

Mr. MANN. I do not know. I can not give the gentleman much time.
Mr. MURRAY. Just a minute?
Mr. MANN. Proceed.

Mr. MURRAY. Mr. Chairman, during the campaign I was fortunate enough to be assigned by the Democratic national committee to make a speech or speeches in this very district. By reason of my presence in that district I was able to get information, not only from partisan politicians but from a man with whom I was at college and who was more familiar with the conditions than any man outside the district can possibly be, and it was entirely because of the information that I was able to get from those sources that I concluded my vote should be as it was. I simply make the statement, because I think the gentleman is sincere in his estimate of the roll of honor, and I regret that I am not on any sincere roll of honor that he may compile; but I think, as a matter of justice to me as a Representative of a district in this House, I should be permitted to make that statement.

I have not much time in which to Mr. MANN. Let us see. reply to the gentleman. Here is a case that has been heard upon testimony. Both sides have called their witnesses. side has cross-examined or had the opportunity to crossexamine the witnesses on the other side. The judges have rendered their decisions, and a gentleman of this House who is, after all, one of the final judges, goes out on the street and asks some college friend, "What ought I to do in this case?" Suppose the judge of a court, after he had heard the testimony of the witnesses and had heard the arguments of counsel, should go into a neighboring saloon and ask the saloon keeper, "How shall I decide this case?" [Laughter on the Republican side.] That is what the gentleman from Massachusetts has done. am surprised, and I regret that I gave the gentleman the opportunity to insert into the RECORD a thing that so belittles his position.

Mr. MURRAY. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly. Mr. MURRAY. I rise to say that if the gentleman insists that his comparison of cases is a fair one, I have no criticism of it at this time. I think it is such a ridiculous comparison that it ought not to come from the able leader of the minority in this House

Mr. MANN. Mr. Chairman, if that is any satisfaction to the gentleman, I am perfectly willing that he should have it. He did not follow a committee acting as judges deciding the case. He followed a gentleman who made a motion in the House purely because he wanted to seat a Democrat, not because the Democrat was elected.

I shall insert in the RECORD at this point, in connection with the roll of honor, a list of the Democratic Members of the House who voted to seat a Democrat who was refused a favorable report by the Democratic Committee on Elections:

MEMBERS WHO VOTED TO SEAT A DEMOCRAT WHO WAS REFUSED A FAVOR-ABLE REPORT BY THE DEMOCRATIC COMMITTEE ON ELECTIONS.

MEMBERS WHO VOYED TO SEAT A DEMOCRAT WHO WAS REFUSED A FAVORABLE REPORT BY THE DEMOCRATIC COMMITTEE ON ELECTIONS.

ADAIR Of Indiana, ALLEN OF ONIO, ANSEERRY OF ONIO, BARTLETT OF GEORGIA, BEALL OF TEXAS, BELL OF GEORGIA, BURGESS OF TEXAS, BURKE OF WISCONSIN, BURLESON OF TEXAS, BYERNS OF TENNESSON, CANDLER OF MISSISSIPPI, CANTRILL OF KENTUCKY, CARLIN OF VIRGINIA, CARTER OF OKIAHOMA, CLAYPOOL OF ONIO, CLAYTON OF ALABAMA, CULLOF OF INDIANA, COLLER OF MISSISSIPPI, COVINGTON OF MARYLAND, CULLOF OF INDIANA, C

Mr. Chairman, gentlemen can point to these lists, if they desire, to indicate in which one they are to be found. The gentleman from Massachusetts [Mr. MURRAY] takes pride and glory in doing what he has done. After a while he will be ashamed, and other Members of the House who voted with him will be ashamed, of where their names are found, and the roll of honor that goes into the RECORD will be many times pointed to with pride by gentlemen on that side of the House. [Applause on the Republican side.]

Mr. Chairman, the gentleman from Oklahoma [Mr. Ferris] seemed to believe that the statements made by the gentleman from South Dakota [Mr. Burke] reflected upon all the citizenship of Oklahoma. Nothing of the sort is true. The gentleman from South Dakota in making his statement undoubtedly

hoped that the gentleman from Oklahoma would disavow the dishonest and dishonorable actions of some of the Oklahoma courts, and would come and defend not the rascals but the honest men of Oklahoma.

Mr. PAGE. Mr. Chairman, will the gentleman from Illinois vield?

Mr. MANN. One moment. If it be true that the honest men are so largely in the majority-and I have no doubt they are they are the ones who need to be defended, and their defense comes by the ascertainment of the facts and the correction of the evil which has been exposed. I now yield to the gentleman from North Carolina.

Mr. PAGE. Mr. Chairman, reverting to the gentleman's statement of a few moments ago and what he termed a roll of honor upon this side of the House-and I am delighted that I am in what in the gentleman's estimation is a roll of honor, because I think he is entirely sincere in characterizing it as such—he has censured certain gentlemen upon this side for not following the report of the committee. How many gentlemen on his side of the aisle could be placed upon a roll of dishonor for not following the committee touching the other case?

Mr. MANN. Mr. Chairman, the gentlemen upon this side of the aisle did not believe the report of the committee was cor-rect as far as it went. The gentlemen upon this side of the aisle followed the report of the Republican members of the

Elections Committee.

Gentleman on that side of the aisle, notwithstanding the report of the Democratic members of the committee and a unanimous report from the committee, with no warrant in conscience or fact, voted to seat a man not because he sa elected. but because he wore the same political stripe which they do of Democracy. Now, Mr. Chairman, the statements made by the gentleman from South Dakota [Mr. Burke] can not be brushed aside lightly, and it will not do to say, as suggested by the gentleman from Oklahoma [Mr. Ferris], that there might be a case here or there where the estate was small and scattered and 15 conveyances illegally had been made. The gentleman referred to 15 conveyances two or three times. I do not know whether that is the regular number of conveyances made illegally in Oklahoma or not. The statement made by the gentleman from South Dakota was the average. There is no honest court in this land, I do not care where it is, which extended over a period of years which will put the expenses of guardianship administration up as high as 20 per cent, or even as high as 10 per cent, and when the statement is made that an investigation shows that the guardianship expenses, the expenses of administration in the probate court, have run up as high as 20 per cent, it should be investigated. We have got a lot of investigating committees going on around the House. We had better investigate this; find out whether these facts as alleged are actual facts; find out whether 20 per cent, one-fifth of the amount involved, is made out to lawyers, to clerks, and professional guardians, because it can not be paid out honestly. This is on the average

Mr. BURKE of South Dakota. I want to state, if the gentleman will permit, that the law of Oklahoma limits the fee in administration cases, but not in guardianship cases. I omitted

to do that in my remarks.

Mr. MANN. Well, whether the law limits it or does not limit it, it is not possible that on the average in thousands of cases the expenses of the administration shall be one-fifth of the total amount which is collected or in question in the estate. The gentleman from Texas [Mr. Stephens] brushes it aside by stating that at one time there was a fee paid of \$750,000. I remember when I called attention to that fee on the floor of the House and attempted to provide against it and similar fees, but I did not meet with any aid from the gentleman from Texas in regard to it.

Mr. STEPHENS of Texas. The gentleman entirely misapprehends and misstates the matter in connection with that.

I neither misstate nor misapprehend it. Mr. MANN. Mr. STEPHENS of Texas. If the gentleman will examine the Record, he will see I spoke against it and voted against it

every time I had the opportunity.

Mr. MANN. I neither misstate nor misapprehend; I remember what took place about these things. I have frequently denounced those big fees. I denounced some the gentleman from Texas proposed to put in the bill at the last session of Congress, some which did go in in conference. But it is no answer to fraud that is now being committed to say that fraud was committed by some one else. The particulars to each case are on file in the office of the Secretary of the Interior. The gentleman from Oklahoma or anybody else can go there and examine the memorandum concerning each case, can examine the files in each case, and those that have been examined presumably are in the probate court, and the records of the probate court in Oklahoma in these cases will show how much has been paid. Let the gentleman examine these facts, let a committee of this House be appointed to examine the facts; let us know whether it be the purpose of Congress or the administrative officials of the Government to remove the restrictions upon Indians and then either rob them of their property or when they die loot the estates of their children. The gentleman from Oklahoma [Mr. Ferris] stated that the man who made this report came to Oklahoma from North Carolina with a carpetbag. Pray where did the gentleman from Oklahoma come from into Oklahoma? How long has he lived in Oklahoma?

Mr. FERRIS. Does the gentleman want a reply?
Mr. MANN. Yes; how long has he lived in Oklahoma?
Mr. FERRIS. Mr. Chairman, I am glad to answer the gentleman by saying that I have lived there 12 years and never held a Federal commission, nor did I go there because I had a

Federal commission in my pocket.

Mr. MANN. Very well, the gentleman has not lived so long in Oklahoma that he can talk about anybody else coming there

with a carpetbag.

Wr. FERRIS. I have lived long enough to consult the people

as to what I got and not get it by appointment.

The gentleman has not lived long enough to consult the people, but long enough to be elected a Member of this

House, and I will say a valuable Member of this House

I have made no assault upon the gentleman from Oklahoma, but when he says, in answer to the statements made by the gentleman from South Dakota [Mr. Burke], that they ought not to be considered because they were made by a carpetbagger who came into the State, I say, for God's sake, how long have you been a resident of the State? Because, in the opinion of the old-style southerner, the gentleman from Oklahoma [Mr. Ferris] is a mere carpetbagger down there. He will have to live a great deal longer than 12 years in one of the Southern States not to be called a carpetbagger. There is no reflection upon the gentleman from Oklahoma going into the State only 12 years ago, and it is no answer for the gentleman to say that the official who made this report went into the State from South Carolina. The question is, Are the facts stated by the gentleman from South Dakota [Mr. Burke], as set forth in this report, true?

Mr. STEPHENS of Texas. Will the gentleman yield? Mr. MANN. The gentleman has time of his own and endeavors to cut me short; but I will yield to the gentleman.

Mr. STEPHENS of Texas. Well, I will not ask the question.

Mr. MANN. It is no answer to these charges to say that they are made by some man who comes from some other State. As the gentleman from South Dakota [Mr. Burke] said, it is just a little improbable that the most disinterested statement will be obtained from the average citizen of Oklahoma. How many lawyers are there in the city of Muskogee? Will any-body answer that? How many lawyers are there in that town? Mr. BURKE of South Dakota. Two hundred.

Mr. MANN. How large a town is it?
Mr. DAVENPORT. About 34,000.
Mr. MANN. Two hundred lawyers for a town with a population of 34,000.

Will my colleague yield for a short question? Mr. GRAHAM.

Mr. MANN. Certainly; I yield to the gentleman. Mr. GRAHAM. It appears from the discussion up to this time that the paper from which the gentleman from South Dakota [Mr. Burke] read did not get before the Indian Com-

mittee at all. Why did it not?

Mr. MANN. I beg the gentleman's pardon, but he is mistaken in his premises. It appears, on the contrary, that the paper from which the gentleman from South Dakota [Mr. BURKE] read was sent to the chairman of the Committee on Indian Affairs and to various Members from Oklahoma who are on that committee. As I said before, the bill has nothing to do with it. There is no line in the bill on the subject. We are discussing the general proposition, and when fraud is charged and apparently proved, the gentlemen say, "It did not come to us before the bill was reported."

Mr. STEPHENS of Texas. We have had no meetings of the committee since it came to us at all.

Mr. MANN. It is not the fault of anybody but the gentle-an himself. Why did you not call a committee meeting?

Mr. STEPHENS of Texas. We did not have an opportunity. Mr. MANN. The gentleman can call a committee meeting now for to-morrow morning at 10 o'clock. He can call it any day. Is it any answer to these charges to say that they have not considered them? Here are the facts set forth in the report, on file in the Interior Department. The gentlemen say, "We did not know about it." They have had the papers in their possession. Possibly they have not had time to examine

them, but that does not answer the charges. Let them have an investigation to see whether these charges are true or not.

Mr. STEPHENS of Texas. We will follow our own course in

our own way, without any dictation about it.

Mr. MANN. When the gentleman talks about dictation he gets lippy about it and he violates the rule of the House to be discourteous. He does not know how to be courteous. He knows just about as much about courtesy as he does about the Indian bill, and that is enough.

Mr. BURKE of South Dakota. Will the gentleman yield to me, and I will answer the inquiry of the gentleman from Illinois

[Mr. GRAHAM]

Mr. GRAHAM. I want to know in good faith why that in-

formation did not get to the Indian Committee sooner.

Mr. BURK& of South Dakota. The report seems to have been completed in Oklahoma on the 27th day of November. It was brought to Washington three or four days ago by the gentleman who made it. He immediately went to the Secretary of the Interior with the report, and just as soon as they could make the copies they transmitted one by special messenger to the chairman of the Committee on Indian Affairs in the House, another to the committee in the Senate, and also a copy to the two Senators from Oklahoma; and the gentleman from Oklahoma, Mr. Ferris and Mr. Carter, each received a copy. I incidentally heard of the report and I asked the Secretary for a copy, and got it. Mr. MANN. T

Mr. MANN. There has to be a time for everything. T report comes down to date. There is no secrecy about it. It could not have been presented last has just been made. summer; it could not have been presented last winter. information is only now ascertained. I had expected, when I heard the gentleman from South Dakota [Mr. BURKE] give the facts in his possession, that my distinguished friend from Oklahoma, Mr. Carter, and my distinguished friend from Oklahoma, Mr. Ferris, and my distinguished friend from Oklahoma, Mr. DAVENPORT, would do what I believe almost any other Member of this House would have done when the charges were made, and say that this was news to them and that we should investi-

If these charges are true, then there ought to be something done about them. If these charges are not true, we want that fact to be published; but instead of suggesting that, each one of the gentlemen is begging the question.

Mr. DAVENPORT. Mr. Chairman, does the gentleman yield?
The CHAIRMAN. Does the gentleman yield?
Mr. MANN. Not just now. The gentleman from Oklahoma
[Mr. DAVENPORT] says he has not examined the report, and

yet he denounces it as false.

Mr. DAVENPORT. I want to say that when the gentleman from South Dakota [Mr. Burke] started to read it, I then heard of it for the first time. That is the first I knew it had been made, and it referred to Indians that belong almost exclusively in the third district, the district which I have the honor to represent. I had no opportunity to investigate it. Had I known such a report had been made I beg to assure the gentleman I would have investigated the report for the reason I have joined the department when it was right and fought it when I thought it was wrong.

Mr. MANN. And the gentleman who has not seen the report takes exception to the courtesy of the department in not having sent him a copy, and brands the statement as "lies and falsehoods."

Mr. DAVENPORT. And I stand by that yet.

Mr. MANN. That is about as close as the gentleman gets to these questions. He says it is "false." Why does he not investigate, why does he not ascertain, if he wants to protect the Indians in his district from paying 20 per cent for expenses? The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I thought, Mr. Chairman, that I had five minutes I am short five minutes on the time that was given me. I had 31 minutes.

Mr. BURKE of South Dakota. Mr. Chairman, it was after

2.30 o'clock when the gentleman was recognized. The CHAIRMAN. The Chair has kept the time, and, according to the time kept by the Chair, the gentleman from Illinois had 29 minutes. He began at 27 minutes past 2.

Mr. STEPHENS of Texas. Mr. Chairman, I yield the rest

of the time on this side to the gentleman from Oklahoma [Mr.

CARTER].

Mr. CARTER. Mr. Chairman, I want to make a unanimous-consent request. The gentleman from Texas [Mr. Stephens] had an agreement with the gentleman from South Dakota [Mr. BURKE], or stated to the gentleman from South Dakota, that he would conclude in one speech. There are two gentlemen who would like to address the House for five minutes each, besides myself, and if it is agreeable and there is no objection,

I would be very glad to have them address the House in my time, the time to be taken from my time. They will discuss a different subject from that which I discussed. Those gentlemen are the gentleman from Massachusetts [Mr. MURRAY] and the gentleman from Georgia [Mr. BARTLETT].

Mr. MANN. Mr. Chairman, I shall have to object, because I have discovered on many occasions that gentlemen on that side

of the House do not pretend to keep agreements.

Mr. CARTER. The gentleman must not say that, because I

am asking unanimous consent.

Mr. MANN. The gentlemen ought not to ask unanimous consent when they have made an agreement and, after the time has been passed by, then propose to violate it.

Mr. CARTER. I had no part in the agreement.

Mr. BURKE of South Dakota, I have no objection, Mr. Chairman, to the gentleman yielding his time,
Mr. CARTER. I yield to the gentleman from Massachusetts

[Mr. MURRAY]

The CHAIRMAN. The gentleman from Massachusetts [Mr. MURRAY] is recognized for five minutes.

Mr. MURRAY. Mr. Chairman, I desire only to speak of so much of the remarks of the gentleman from Illinois [Mr. MANN] as related to my conduct and my action in regard to this contested-election case of McLean against Bowman.

The gentleman from Illinois says that the time will come when I shall be ashamed of that action. I do not believe that is so, Mr. Chairman, although I believe that I shall always regret, as I regret now, that I had to vote to unseat a man in the House of Representatives with whom I have had such pleasant relations as I have had with Mr. Bowman, the gentleman who was unseated yesterday.

Not only were my relations with Mr. Bowman himself pleasant, but he had a son who was a schoolmate of mine when I was a student at the Harvard Law School, and on account of that fact I approached the consideration of this case with the utmost care that I could give to it, and I tried to get exact information in regard to it. It was not possible for me to satisfy myself by following simply the evidence as presented before the Committee on Elections, and the gentleman well knows that it is not possible to make a judicial examination of any question of that sort which is considered by a committee of the House of Representatives.

He criticizes me for going outside of the testimony that was taken and for making an independent investigation, and he likens me to a judge who might be clothed with judicial authority who should go to a saloon for the purpose of determining a judicial dispute after the evidence had been put in. With the limited knowledge of the law that I have as compared with his superior wisdom I call his attention to the fact that there are rules of evidence that should be absolutely and accurately followed when a judicial determination is to be made, but that those-exact rules of jurisprudence and those limitations of testimony have no application, as far as I have ever been able to ascertain, to any legislative committee upon which I have ever served. I do not believe there ever was such an application, and I cite as authority from your own side the gentleman from Iowa [Mr. Prouty] to bear me out in that statement that there was no such limitation of testimony before this committee. I did go outside of the work of the committee to get what I believed to be an impartial and a fair determination of the facts in the case, not because I wanted to take the word of partisan Democrats with whom I am associated and for whom I have high regard, nor because I hesitated to join partisan Republicans, if, indeed, they might be right in their judgment of the case; but I made an independent investigation, just as I believe a man in the legislative branch of the Government ought to do with regard to the problems that are pressing here for solution; and when the gentleman from Illinois [Mr. Mann] compares my conduct to that of a judge who would go to a saloon to determine a judicial dispute, I say he said something to a young man and about a young man that he will be ashamed of long before I am ever ashamed of my conduct in this case. [Applause on the Democratic side.] Mr. MANN. I told the truth.

Mr. MURRAY. I have heard something here to-day about a roll of honor. I should like to be on any personal roll of honor that might be compiled by the gentleman from Illinois. I admire him and always have admired him since the early days of my service here. I believe that when he is able to get away from the intense partisanship which characterizes most of his conduct here he contributes greatly to the value of membership in this House of Representatives, and when partisanship is not involved I am always most happy to go to him, as I hope I will be able to go to him in the future, to get for my youthful service the benefit of his advice; but I have no ambition to serve on Republican rolls of honor. [Applause on the Democratic side.] I have no ambition to see my name written high on any list of Republican rolls of honor.

Mr. Chairman, before I came here I served in other legislative bodies in a city government and in a State government. I have seen Republican rolls of honor compiled before. I suppose I could climb to a high place on such a roll if I might be willing to scand pat on Schedule K. [Applause on the Democratic side.] I suppose if I should be willing to repudiate the verdict of the American people and refuse to revise Schedule K, that so vitally affects the interests of the people of this land, my name might be written high, but it will never be written by that kind of conduct on my part any more than it will be written by my vote to retain in this House of Representatives a man who, in my honest judgment, ought to be unseated from its membership [Applause on the Democratic side.]

Mr. CARTER. Mr. Chairman, I have only a few remarks to make, and I ask that I may be given permission to extend my

remarks in the RECORD.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. CARTER. Mr. Chairman, the gentleman from Illinois lays great stress upon the fact that the two Members of Congress from Oklahoma who addressed this committee to-day did not declare themselves opposed to dishonesty. With all fairminded men sitting in this House who can rise above partisanship to an impartial survey of men and measures no such asseveration of honesty by Members from the State of Oklahoma is necessary. The two Members from Oklahoma [Mr. DAVENPORT and Mr. Ferris], I dare say, come as near having the confidence of this House as the gentleman from Illinois himself, and that is saying a great deal.

But, on behalf of them and myself, I will say that if there is any dishonesty in Oklahoma, the Oklahoma delegation in Congress is opposed to it, and the Members of that delegation will stand shoulder to shoulder with the gentleman from Illinois [Mr. MANN], the gentleman from South Dakota [Mr. Burke], or any other Members of the House or any other body that may have jurisdiction for an investigation of any conditions that may even smack of impropriety or dishonesty in Oklahoma or

any other place.

But when this investigation is instituted we shall ask that it be not confined to the probate courts of Oklahoma alone, but that a thorough and searching investigation of the conduct of every man who has had to do with Indian affairs in Oklahoma for the past few years, both State and Federal, be made. We shall ask an investigation of the Indian office at Muskogee. should like to know what becomes of the million and odd dollars used by this office every year. We should like to know what duties are performed by the more than 500 employees on the Federal pay roll at Muskogee. We should like to know where these 500 employees were when all this robbery of Indians was taking place, which has been so ably exploited by the gentleman from South Dakota [Mr. Burke]. We would like to know why it is that all these restricted minor Indian estates are being dissipated, when it is the duty of these five hundred and odd Federal officers to see that it is not done. And we would especially like to know why it is that this great dissipation of restricted minor estates is taking place, when no title can pass to any of these lands except by the consent of the Secretary of the Interior, and he will act only upon a favorable recommendation from these Oklahoma Indian agents.

We have heard a great deal of the misconduct of Oklahoma State officers, but there is some other misconduct which has been going on for years, information about which has not been so freely given. While this misconduct comes strictly in the view of the department, strange to say, it never seems to be mentioned by any of the department officers or by gentlemen on

that side of the House.

The chief requisite for employment in the Indian service in Oklahoma in the past seems to have been indifference to duty and ignorance of Indian affairs. The people who are sent there to fill those jobs remind me very much of a young newspaper man, whom it was my good fortune to meet on a visit to this city several years ago. I was introduced to him as an Indian. He said, "Carter, are you a real Indian?" I said, "I am." He then said, "Are you one of those fellows who are on tribal rolls and get lands and money?" I again repeated, "I am." Well," said he, "I am awful glad to meet you. You know I went, said he, I am awful glad to meet you. You know I wrote two articles on the habits, traits, and characteristics of the American Indian, for which I got \$250, and you are the first confounded Indian I ever met in my life." [Laughter.]

In the light of past events, I think this gentleman would have made an excellent district Indian agent for Oklahoma.

I have had on my desk for some time charges of a most serious nature against these very district agents, but because most of them had gotten out of the service, because I did not desire to pose as a muckraker, and because I am not inclined to tear down the character of any man, either for political or other purposes. I have never referred to these men by name, but if there is to be an investigation of Indian affairs in Oklahoma past and present conditions certainly demand a turning on of the light, not only on the probate judges, but also upon the entire Federal Indian service in that State.

In view of this situation I think the time is now ripe to present some of the cases of fraud and corruption by this so-called Indian Bureau. I want to call attention first to a gentleman by the name of Charles Knapp, one of the great district agents, the name of Charles Knapp, one of the great district agents, always so valiantly defended by our friend from South Dakota, Mr. Burke. He was located at the city of Hugo, Choctaw County, and drew, I am informed, \$2,000 a year from the Federal Treasury, ostensibly for the protection of the Indian. Let us see how he protected them. This young man came to our State from New York, I understand, and, like my newspaper friend, I do not suppose he ever saw an Indian until he went to the State of Oklahoma to supervise them, but he seems to have had abundant knowledge of some other things.

If the charges brought against Mr. Knapp are true, he ought to be behind the bars of a prison cell, for it is said of him that he had a regular scale of prices for which he would give any kind of a recommendation for any kind of an approval of any kind of a matter that an applicant might desire if such applicant would only pay his price. And I am reliably informed that a great many of Mr. Knapp's recommendations were passed upon favorably by the Indian Office and by the Secretary of the

Perhaps this may account for some of the irregularities referred to by my friend from South Dakota [Mr. Burke]. However that may be, it has been, in a large measure, the practice of our probate judges to advise and counsel with these district agents with regard to probate matters of Indians. charges were preferred against Mr. Knapp, I am informed that he was permitted to resign without trial, and the grand jury of Choctaw County, I understand, has never been able to get any of the facts from the department.

Then there was another district agent at Muskogee, right under the nose of Dana H. Kelsey, who was charged for a long time with similar wrongdoing and who was permitted to resign without an investigation.

Still another district agent at Pauls Valley, I am informed, resigned from his position as district agent, and a short time after his resignation had taken effect large bodies of Indian lands sold by his direction when district agent were transferred to him by the vendee, acting as a dummy for him.

Then, again, at Chickasha a somewhat similar case is re-I do not give the names. It is immaterial, anyway, since these names can be ascertained at the department. An investigation should be made, not only as to the misconduct of these gentlemen but as to the reasons for the department withholding this information from Congress and the courts of Oklahoma.

And again, Mr. Chairman, since we are to have an investigation, let us, at least, have some light on that crowning iniquity of recent occurrence, the fraudulent appraisement of the surface of the segregated mineral lands. Let us see why it is that these three appraisers have been permitted to shove their hands into the tribal treasury to the extent of \$15 per day without accomplishing anything, it seems, except fraud and corruption. Let us see why it is that these men were permitted to resign without an investigation, and let the Secretary of the Interior tell us why it is that no mention of this disgraceful transaction has been presented to Congress.

It is passing strange that none of these shady and fraudulent transactions of Government officials are ever presented to this House by the department. They seem to have no trouble in ferreting out any alleged corruption by State officials, but are woefully short on keeping Congress informed as to the shortcomings of their own officials.

I reiterate we want to correct any evils that may exist in Oklahoma, but we call on you gentlemen to witness that Oklahoma is a new State and our officers, until five years ago, had no experience whatever. There may have been discrepancies by our officers, there may have been even wrongdoing by our officers, but in my opinion these charges are greatly exaggerated, and I certainly believe that an investigation will disclose the fact that little, if any, more fraud exists among the officers of the State of Oklahoma than in many other States.

We are eager for an investigation of these matters, but I ask you, my colleagues, not to condemn the name of a fair State

and its officers on such ex parte testimony as has been given in

this Chamber to-day.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

Mr. CARTER. Yes.

Mr. COOPER. Mr. Chairman, I was called out during a part of the discussion, during the speech especially of the gentleman from South Dakota [Mr. BURKE]. Do I understand that the man who made the investigation and the report of it, to which reference has been made, is an employee in Muskogee?

Mr. CARTER. He is.

Mr. COOPER. Is he in receipt of a salary of \$5,000 a year?

Mr. CARTER. He is.

Mr. BURKE of South Dakota. Mr. Chairman, I do not think the gentleman from Oklahoma wishes to mislead the House. The gentleman who made this report is the attorney for the Creek Nation, and is paid a salary of \$5,000 a year out of their funds, and, under an arrangement with the principal chief of that nation, he was permitted to use the moneys of the tribe to make this investigation.

Mr. COOPER. Who appointed him, I will ask the gentleman from Oklahoma?

Mr. CARTER. The Secretary of the Interior, at the suggestion of the chief.

Mr. BURKE of South Dakota. I will say, Mr. Chairman, that the only way an arrangement made between the chief and this attorney could be made effective was by approval of the Secretary of the Interior, and he approved, upon the statement having been made to him that this condition existed.

Mr. CARTER. I hope, Mr. Chairman, the gentleman will permit me to conduct my own colloquy. I know the gentleman is well posted upon these matters, but he and I do not agree on many things, and our replies will naturally differ. This man Mott was first appointed by the Secretary of the Interior. That is to say, his original contract required only the approval of the Secretary of the Interior before it was valid. tract now requires the approval of the President, but that is a difference between tweedle dee and tweedle dum, for the President always leaves these matters of approval of Indian contracts to the Secretary. It is true that the contract must be signed by the tribal chief, but the chief himself, who is a full-blood Indian, not able to speak English, is a creation of the Interior Department, and his head might come off if he did other than what the Interior Department wanted him to do, and the gentleman from South Dakota knows that.

Mr. COOPER. Does the gentleman then think that the in-

vestigator was entirely disinterested?

Mr. CARTER. With this attorney sitting in the gallery at the present time, I do not hesitate to say that I feel sure his investigation was conducted with a view, largely, to a continuation of his job and the perquisites that go therewith, as such investigations usually are conducted when they are made ex parte by an employee of the department.
Mr. COOPER. There are 500 employe

There are 500 employees in Muskogee?

Mr. CARTER.

There are more than that. More than 500—all at Muskogee? Mr. COOPER.

Yes; more than 500 on the pay roll there. Mr. CARTER.

They have supervision of these tribes? Mr. COOPER.

Mr. CARTER. Yes.

Mr. COOPER. One of the great newspapers of the country, the New York Herald, has been making an investigation of this subject for some weeks. I have seen a number of copies of the paper and extracts from the paper, and their investigator reports a dreadful condition, so far as the prevalence of trachoma and other diseases is concerned. For example, at the Kiowa Agency 65 per cent have trachoma. What has the gentleman to say of the supervision and its efficiency under which such an alarming condition of disease exists at that agency?

Mr. CARTER. The disease is prevalent among those tribes; but I want to be perfectly fair and state to the gentleman that the Kiowas and Comanches are not part of the Five Civilized Tribes, but they are Indians in Oklahoma, and the supervision which the gentleman calls attention to is quite characteristic of the supervision that is extended over the Indians in Oklahoma.

Mr. COOPER. They are under Federal supervision,

Mr. CARTER. Yes.

Mr. COOPER. I also read in the reports of this agent or investigator of the New York Herald that the deaths from tuberculosis alone approximated 35 in 1,000 among these Indians. Is that so?

Mr. CARTER. I have not those figures by me, but I assume

the gentleman is correct.

Mr. COOPER. He said that he secured that information from officials in Oklahoma and from department officials here He said that he secured that information Now, as I am informed, the death rate from all diseases in Panama, supposedly a deadly region, is only about 15 or 16 per thousand, and yet the statement is that the death rate from tuberculosis alone of Indians there under Federal supervision is 35 per thousand.

Mr. MANN. The gentleman is comparing the percentage of deaths with deaths elsewhere.

Mr. COOPER. I was referring to the percentage of all deaths.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to state briefly—just about half a minute—that last year's appropriation bill carried \$40,000 for the purpose of building a hospital for the treatment of these very diseases among the Kiowa and Comanche Indians on the Fort Sill Reservation. We met the very matter concerning which the New York Herald has had so much to say.

Mr. COOPER. I want to ask the gentleman from Oklahoma [Mr. CARTER] another question. What do these 500 officials

do; what are the so-called agents doing?
Mr. CARTER. They do the Indians. [Laughter and applause.

Mr. COOPER. Does the gentleman think this is intentional

or unintentional on their part?

Mr. CARTER. I believe they do it with malice aforethought. Mr. COOPER. Does the gentleman think that there ought to be a substitution of another kind of supervision from that which prevails there now?

Mr. CARTER. Mr. Chairman, I have very clearly in my mind what should be done with the Indians in Oklahoma, the so-called Five Civilized Tribes. It is quite complicated and would entail a lengthy discussion which I have not the time to take up right now. I wish I had. In general, it provides this: The turning loose of all the Indians whom this Congress has legislated upon as legally competent and dividing among them every dollar of money in the Treasury that belongs to them, and then placing them upon their own resources, but continue supervision of the restricted class of Indians until they become competent.

Mr. COOPER. Well, I will say to the gentleman among the articles I read in the Herald on this subject is one from Mr. Leupp and Mr. Meritt and other presumably very expert men of the Indian service, and they all agree and say that in many respects conditions are just as bad as they can be. What has the Indian Committee done to change or looking toward a change of those conditions?

Mr. BURKE of South Dakota. If the gentleman will permit me to say to the gentleman from Wisconsin, this disease of trachoma has only been brought to the attention of Congress within the last few years, and if the gentleman will examine the Indian appropriation bill he will find we have been making an appropriation annually for the purpose of an investigation and the treatment of this disease of which he has spoken.

Mr. COOPER. Will the gentleman permit an interruption? Mr. CARTER. I will have to refuse to be interrupted further because I have some other matters to which I wish to call

attention, and my time has mostly been consumed in colloquy.

The gentleman from Illinois [Mr. Mann] tells us that he opposed the big fee of \$750,000 when it was passed by this It is strange that the Record does not show something about it. The RECORD shows that the act under which this fee was approved passed this House without any such provision. It went to the Senate without any such provision. It went to the Senate Committee on Indian Affairs, and I am not sure that the matter was inserted there. But when it came back from conference the provision was there under which the \$750,000 fee was permitted, and the Record shows absolutely no objection to it by the gentleman from Illinois [Mr. Mann].
Mr. MANN. Will the gentleman permit?

Mr. CARTER. Yes, sir.

Mr. MANN. It is not my recollection that the \$750,000 fee was ever allowed by Congress.

Mr. CARTER. You are correct as to the fixing of the fee itself.

Mr. MANN. I suppose so. When it was announced that the \$750,000 fee was to be paid, I denounced it, and endeavored to secure legislation which would prevent not only the payment of that but any other similar fee.

Mr. CARTER. Ah, Mr. Chairman, that is true; but the gen-tleman voted for that provision which took the safeguard of approval out of the hands of the Secretary of the Interior and put it in the hands of an unknown court.

Mr. MANN. The gentleman has no authority for saying that

I voted for it.

Mr. CARTER. The record shows that the gentleman did not make any objection.

Mr. MANN. I did not have an opportunity to make an objection. I did not know there was such a provision.

Mr. CARTER. The gentleman at the very best, then, stands only on all fours with the gentleman from Texas [Mr. Steph-ENS], against whom he made the charge.

Mr. MANN. The gentleman from Texas was on the commit-

tee, and it was his business to know.

Mr. CARTER. But the gentleman was not on the conference committee, and this matter was inserted in conference, with no consideration whatever by the Committee on Indian Affairs.

Mr. STEPHENS of Texas. Judge Little, of Arkansas, was

on that conference. I was not.

Mr. CARTER. The gentleman from Texas [Mr. STEPHENS] had no better opportunity of getting information about it than the gentleman from Illinois had.

Mr. MANN. I was talking about subsequently.

Mr. STEPHENS of Texas. There were 12 Republicans to 6 Democrats.

Mr. CARTER. To end it all I will say that I think the gentleman from Illinois [Mr. Mann] has been opposed to the fee. But we know the one thing that the gentleman from Texas [Mr. Stephens] has continually dinged into our ears ever since that transaction has been the injustice of the big McMurray fee.

Now, Mr. Chairman, I pray the indulgence of the committee for a brief expression of my personal feelings in these premises. I am proud that the blood of the aborigines of this country course through my veins. I believe I feel as keenly my responsibility to defend the Indian and his property from the greed of the unscrupulous grafter as any man on the floor of this House. for they are flesh of my flesh, bone of my bone, and blood of my blood.

But the gentleman from South Dakota has said that political consideration influenced the Members from Oklahoma in deciding these matters between the Indians and whites. The gentleman may speak for himself, but not for me. Let me assure the gentleman that the first consideration coming into my mind, when weighing an Indian question, is not that of political exigency, but that of loyalty and fealty of blood; and if the time should ever come when my hand or my voice should be wittingly raised against the Indian and his interest, may that hand be palsied, withered, and paralyzed, and my tongue be cleft to the roof of my mouth, that I may not in the future give expression to sentiments either for or against them.

But, Mr. Chairman, never was a more thorough and farreaching effort organized and put into execution to defame and slander the fair name of one of the sister States of this Republic than that attempted by the officials of the Indian Bureau in Oklahoma against that State, and which it appears is being done in a large measure for political consideration.

During the recent campaign letters were sent out under Government frank misstating facts in attempts, as I verily believe, to discredit the candidacy of the three men from Oklahoma, Mr. DAVENPORT, Mr. FERRIS, and myself.

And since the election information has come to me through a reliable source that a large portion of the time of these Indian officials at Muskogee is being consumed in formulating plans to take part in the congressional redistricting of our State, to the disadvantage of some of the gentlemen who now have the honor to represent Oklahoma, and it will give me great pleasure to have each and every one of these leeches opposed to my interests, for I feel certain that the selfishness of their purpose will be so obvious as to work to my advantage.

Now, Mr. Chairman, these Indian Office officials are doing nobody any damage by their political activities, except the Indian himself. For if their time had been employed in honest endeavors to protect the helpless wards left to their stewardship instead of vain political attempts it might not be necessary to listen to such charges of fraud and corruption as have been presented to this House to-day. In other words, the same responsibility that rests on our courts rests on the Indian Bureau, and you can not convict our county judges without incriminating the district agents.

Let me read, if I have the time, just one little quotation from a report of one of the Indian officials to the Secretary of the Interior. He says:

And now, Mr. Oklahoma citizen, it is time to adopt the recall and ast every Member of the Oklahoma delegation in Congress, barring

Are politics being played in the handling of Indian affairs, my friends? I call upon the fair-minded Members of this body to bear witness

The CHAIRMAN. The time of the gentleman has expired. Mr. STEPHENS of Texas. Mr. Chairman, I ask for the read-

ing of the bill under the five-minute rule. The CHAIRMAN. All general debate on the bill has expired. The Clerk will read the bill for amendment under the

five-minute rule.

Mr. HARRISON of Mississippi. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

Mr. STEPHENS of Texas. Mr. Chairman, I make the same request.

Mr. FERRIS. And, Mr. Chairman, I make the same request.
Mr. CARTER. Mr. Chairman, I ask unanimous consent to
extend in the Record my remarks about the Mississippi Choc-

The CHAIRMAN. The gentleman from Mississippi [Mr. HARRISON], the gentleman from Texas [Mr. STEPHENS], the gentleman from Oklahoma [Mr. Ferris], and his colleague, the gentleman from Oklahoma [Mr. Carten], ask unanimous consent to extend their remarks in the RECORD. Is there objection?

There was no objection. The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For the survey, resurvey, classification, appraisement, and allotment of lands in severalty under the provisions of the act of February 8, 1887, entitled "An act to provide for the allotment of lands in severalty to Indians," and under any other act or acts providing for the survey and allotment of lands in severalty to Indians; and for the survey and subdivision of Indian reservations and lands to be allotted to Indians under authority of law, \$200,000, to be repaid proportionately out of any Indian moneys held in trust or otherwise by the United States and available by law for such reimbursable purpose and to remain available until expended.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I make this motion for the purpose of asking the chairman of the Committee on Indian Affairs if he can inform me where I can secure a copy of the printed hearings on the bill now before us.

Mr. STEPHENS of Texas. The stenographers' reports have not come in yet. We had extensive hearings last spring before we prepared the bill of last winter, and we also had hearings a few days since, but the stenographers' reports have not been received yet, so that we have not had opportunity to have them printed.

Mr. MONDELL. The gentleman says that the committee

had hearings on another bill.

Mr. STEPHENS of Texas. On last year's appropriation bill, with the same language.

Mr. MONDELL. I am speaking of the bill now pending be-

fore the House.

Mr. STEPHENS of Texas. The bill now before the House is the Indian appropriation bill for the coming fiscal year. Last year's bill, for the service of the current year, was the same. It was in the same language and for the same amounts, and extensive hearings were printed thereon. We have had short hearings on this bill.

Mr. MONDELL. I understand that the reason why there have been no hearings worth mentioning on this bill and no hearings printed is that the bill is identical this year with the

last year's bill.

Mr. STEPHENS of Texas. That is correct, and the circum-

stances and conditions are the same.

Mr. MONDELL. The bill is so entirely identical with the current Indian appropriation bill that there is no reason why Members and others concerned in the Indian Service should be informed about it, and therefore there were no extensive hearings. Is that the understanding?

Mr. STEPHENS of Texas. There were hearings, as I stated, but we have not had time to print them yet. But they will be

printed.

Mr. MONDELL. Were any considerable hearings had in con-

nection with the bill?

Mr. STEPHENS of Texas. When we were not satisfied with any item we had hearings upon it. We cut this item \$24,000, because there was an unexpended balance of \$24,000 under the other bill.

Mr. MONDELL. There is nothing available here in the way of printed matter whereby anybody in the House can inform himself as to the reasons for allowing or denying any of the items estimated for?

Mr. STEPHENS of Texas. There is in the office now, at the present time.

Mr. MONDELL. In what office?

Mr. STEPHENS of Texas. In my office. There are the printed hearings of last year concerning the same items in the As to this item, we reduced it \$24,000.

Mr. MONDELL. I suppose there are also in the gentleman's office the printed hearings of two years ago and of three years ago and of four years ago. But what information could I secure from those printed hearings on the bill that is now before the House? I have been seeking information in regard to this particular bill, and I have been unable to secure it.

Mr. STEPHENS of Texas. If the gentleman from Wyoming had come before the committee a few days ago, when we were

considering this item, he would have had the opportunity of

being heard upon it.

Mr. MONDELL. How long did the committee consider this item-for five minutes?

Mr. STEPHENS of Texas. Long enough to satisfy ourselves

that it was correct.

Mr. MONDELL. What evidence does the committee present in the way of hearings in this particular instance in relation to the bill?

Mr. FERRIS. If I may supplement what the chairman has said, we had quite extensive hearings even this year; not quite as extensive as we had last year.

Mr. MONDELL. What ler man call extensive hearings? What length of hearings does the gentle-

Mr. FERRIS. Just let me conclude my statement, and then the gentleman can judge for himself. We had the Commissioner of Indian Affairs, and we had the irrigation people, both Mr. Newell and the irrigation people of the Indian Office. We had three or four different officials from the Indian Office, and asked them in detail about the items.

Where is all this valuable information to be Mr. MONDELL.

had?

Mr. FERRIS. The committee stenographers took it down. Of course, the gentleman not being there and not appearing be-fore the committee, any item that he might have been inter-

ested in, this or any other, was not presented.

Mr. MONDELL. I am not a member of the committee, and I have no interest in this item any more than any other Member of the House has, but I am interested in the Indian appropriation bill, as I am in all appropriation bills, as a Member of the House. We are accustomed to inform ourselves with regard to appropriation bills by obtaining and reading the printed reports of the hearings. In this case, if there were any hearings, they must have been very brief indeed, because the bill was very promptly reported to the House. I have not been able to secure a copy of whatever hearings there may have been, either in the original notes or in the manuscript or in printed form. I should like to be informed with regard to the matters before the committee.

Mr. MARTIN of South Dakota. The gentleman might have

the committee stenographers read their notes to him.

Mr. MANN. Mr. Chairman, I rise to oppose the motion of the gentleman from Wyoming [Mr. MONDELL] to strike out any portion of this bill; but I really would like to know whether the stenographic reports of the hearings before the Indian Affairs Committee have been written out.

Mr. FERRIS. I do not know, Mr. MANN. Why should we go to the expense of having stenographers to report the hearings unless the hearings are printed?

Mr. STEPHENS of Texas. I will state to the gentleman that most of the stenographic reports of these hearings have been written out and have reached the committee, but not all

of them. As soon as they are complete they will be printed.

Mr. MANN. When did they reach the committee?

Mr. STEPHENS of Texas. As fast as the committee stenographers transcribed them.

Mr. MANN. I have had the fortune or misfortune of serving as chairman of one of the committees of the House, and other gentlemen have had similar service. I believe it has always been the invariable custom of the stenographers who take the hearings before the committees on one day to furnish their copy written out the next morning. With every other committee except the distinguished Committee on Indian Affairs it has been the custom to send the transcript of the testimony to the Printing Office and have it printed the next day.

Mr. STEPHENS of Texas. It is not the custom, however, to do that until all of the copy has come in, so that it can be

printed all together.

Mr. MANN. It is not the custom of any other committee in the House except the Committee on Indian Affairs to wait until all the testimony is in before it is printed. It is the custom to have the testimony printed as it is taken. What is the use of printing testimony now on the Indian appropriation bill, when the bill will be passed to-day? I should have supposed that the gentleman in charge of the bill would have the testimony printed for consideration in making up the bill or for the membership of the House in the discussion of the bill. However, I have no disposition to criticize the Committee on Indian I should like to ask my distinguished friend from Affairs. Texas [Mr. Stephens] whether this item is in the same amount as in the law for the current year?

Mr. STEPHENS of Texas. We reduced the amount \$50,000 because there is an unexpended balance and it was not neces-

sarv.

Mr. MANN. What is the money used for; what surveys are to be made in the Indian service next year? What authorization is there for making surveys for the allotment of land? The gentleman says there is a \$50,000 surplus. Of course, nobody knows what the surplus for the current year will be, because the current year will not end until the 30th of June

Mr. KENDALL. They anticipate that surplus.

Mr. MANN. They guess at it, and it may be a good guess. Mr. STEPHENS of Texas. This money is to go to the General Land Office to reimburse them for having made the surveys for the Indian Office.

Mr. MANN. What surveys are to be made in the next fiscal What is the use of appropriating money unless you know something about the necessity for its use?

Mr. STEPHENS of Texas. That is under the jurisdiction of

the department at the present time.

Mr. MANN. The department is not authorized to make allotments of land unless authorized by Congress. What allotments are authorized by which money could be used during the next fiscal year?

Mr. STEPHENS of Texas. We have them right here and I will give them to the gentleman.

In this connection attention is invited to the following surveys which should be made at the earliest possible date: Conditions on the various private land grants, confirmed to the Pueblo Indians of New Mexico by the Court of Private Land Claims, require that the boundaries of these grants be determined and marked with permanent monuments at the earliest practicable date. Conflicts are constantly arising between these Indians and white settlers, involving valuable timber and water rights which can only be finally settled, and avoided in the future, by determining and locating the boundaries of these various pueblos. It is estimated by the General Land Office that it will cost approximately \$20,000 to survey the boundaries of these pueblos and establish mile and half-mile monuments with iron posts, brass capped.

Then it goes on and itemizes the whole matter, which I will

The Clerk read as follows:

The Clerk read as follows:

For the construction, repair, and maintenance of ditches, reservoirs, and dams, purchase and use of irrigation tools and appliances, water rights, ditches, lands necessary for canals, pipe lines, and reservoirs for Indian reservations and allotments, and for drainage and protection of irrigable lands from damage by floods, \$325,000, to remain available until expended: Provided. That no part of this appropriation shall be expended on any irrigation system or reclamation project for which specific appropriation is made in this act or for which public funds are or may be available under any other act of Congress: Provided further, That nothing herein contained shall be construed to prohibit reasonable expenditures from this appropriation for preliminary surveys and investigations to determine the feasibility and estimated cost of new projects, for investigations and surveys for power and reservoir sites on Indian reservations in accordance with the provisions of section 13 of the act of June 25, 1910, or to prevent the Bureau of Indian Affairs from having the benefit of consultation with engineers in other branches of the public service or carrying out existing agreements with the Reclamation Service; for pay of one chief inspector of Irrigation, who shall be a skilled irrigation engineer, \$4,000; one assistant inspector firigation, who shall be a skilled irrigation of irrigation, at \$3 per diem when actually employed on duty in the field, exclusive of transportation and sleeping-care fare, in lieu of all other expenses authorized by law, and for incidental expenses of negotiation, inspection, and investigation, including telegraphing and expense of going to and from the seat of government and while remaining there under orders, \$4,200; in all, \$335,700: Provided also, That not to exceed seven superinendents of irrigation, who shall be skilled irrigation engineers, may be employed.

Mr. Chairman, I reserve a point of order to that Mr. MANN. paragraph. Will my friend from Texas give us some information about this item?

Mr. STEPHENS of Texas. It is the general irrigation work, A part of these funds are nonreimbursable; when paid out for the purpose of building ditches and dams for Indians who have no funds they are not reimbursable. But if paid out for Indians who have funds and lands to be sold hereafter, they are expected to recoup the amount of money expended by the United States Government for building the permanent irrigation works. This is an estimate for the whole United States, a great many reservations, and I think it will be unnecessary to read all of

Mr. MANN. If the Indians have no lands, what use have they for irrigation works?

Mr. STEPHENS of Texas. The Indians have lands, of course. You could not have irrigation projects unless they had lands.

Mr. MANN. If the Indians have the land, why should not the land pay the cost of irrigation? What further obligation is there on the part of the Government of the United States to build irrigation projects for Indians who are not under govern-mental supervision, perhaps whose land is allotted to them, than for anybody else out of the Federal Treasury?

Mr. STEPHENS of Texas. The United States is building for

white people all over the United States, under the reclamation act, irrigation projects and dams; spending millions of dollars for white persons, and certainly they ought to expend money in

the same way for Indians.

Mr. MANN. I think it ought to be spent in the same way as for white persons. Now, for white persons it is all chargeable to the land. All the cost of irrigation projects is charged against the land and is repaid to the Treasury. This item is simply a gratuity to some Indians whose property has been so far looted that they have not very much, or else we propose to

present them with something they ought not to have.

Mr. STEPHENS of Texas. It is within the discretion of the Secretary of the Interior to reimburse the Government or not. If the Indians have property out of which it can be reimbursed we put the word "reimbursable" in the bill, but if they can not reimburse or refund to the Government the amount of money used by it we leave the word "reimbursable" out because they are the wards of the Government, and the United States is compelled to supply them with water and therefore irrigation projects.

Mr. MANN. As I understand, this item has nothing to do with reimbursable funds.

Mr. STEPHENS of Texas. It does not. Mr. MANN. Now, upon what theory do we proceed in authorizing the Secretary of the Treasury to enter upon any new project he pleases to be paid out of the Federal Treasury and

not charged to the property that is benefited thereby?

Mr. STEPHENS of Texas. Some of it will be charged and

can be charged.

Mr. MANN. By what authority? Mr. STEPHENS of Texas. It can be done by the Secretary of the Interior under existing laws.

Mr. MANN. Under what law?
Mr. STEPHENS of Texas. There are many streams running through these reservations. By damming these streams we very often create a water power by which electricity can be supplied to adjoining towns and the adjoining country. If that can be sold, then the United States Government will reimburse itself for money already expended on these projects and, at the same time, aid the Indians by giving them water to irrigate their lands.

Mr. MANN. Do I understand the purpose of this item of \$325,000 is to dam up rivers somewhere in order to obtain

water power to sell lights to adjoining towns?

Mr. STEPHENS of Texas. It has been done. The town of Roosevelt, in Arizona, has been built and an immense water power supplied there.

Mr. MANN. That was not done under any irrigation project, constructed under the provisions of this paragraph of the bill, was it?

Mr. STEPHENS of Texas. But this bill permits that to be done.

Mr. MANN. I know, but is it the policy of the Government to pay out of the Federal Treasury for the construction of dams in order to develop hydroelectric power to sell to neighboring towns, and not even have the fund reimbursable?

Mr. STEPHENS of Texas. It might be done.

Mr. MANN. It might be done, but is that the proper policy for the Government to pursue? We might build Washington

monuments in every county, but we will not do it.

Mr. STEPHENS of Texas. It is the policy that has been pursued for some time, and that the Government proposes to pursue in the future, that if they have water running to waste, that can not be used for other purposes than irrigation or for the purpose of producing this power, it should not go to waste. This question of conservation reaches the Indian lands just as it does the public lands of the United States, and ought to be used in the same way.

Mr. MANN. Mr. Chairman, there is no comparison between That is to provide funds for the various reclamation them. projects out of the reclamation fund in the Treasury, which is all reimbursable by the purchasers of the land which is improved.

Mr. STEPHENS of Texas. Let me read to the gentleman

what the department says.

Mr. MANN. Just a moment. Here is the proposition. I know the department has been urging it. The Interior Department or the Indian Department is not concerned with principles to be adopted by Congress in disposing of the money in the Federal Treasury. They see something that ought to be done, and they want to do it, or, as the gentleman from Oklahoma says, they see the Indians and want to do them, which I think was a very unwarranted assertion. Shall the Government of the United States pursue the policy of permitting the white people, where the Indians live, to take away their most valuable properties, and then have the Government construct irrigation

projects for their benefit and charge nothing against the land, where the land is improved?

Mr. STEPHENS of Texas. They have already undertaken many of these projects. They are under way at the present time.

I know they are-too many of them, altogether. Mr. STEPHENS of Texas. This money is to carry forward in many instances projects already begun, and the money already expended would be lost unless these appropriations are

Mr. MANN. I am quite willing to assume that those projects which have been commenced can not very well be abandoned, although I think the Government ought to charge the expense against the property which is benefited. But the provisions of this bill authorize the department to proceed with the investigations and surveys in reference to new projects, and having done that they can go ahead with the new projects under the provisions of the bill. The department is not confined in the expenditure of this sum of money for projects already under construction.

Mr. RODDENBERY rose.

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Georgia?

Mr. MANN. In just a moment.

Mr. STEPHENS of Texas. Let me call attention to the fact that no new project can be begun which costs over \$30,000 without recommendation to Congress and appropriation for that specific purpose and without surveys having been made.

Mr. MANN. But you can start 10 that cost \$25,000 apiece. Mr. STEPHENS of Texas. The gentleman is not aware of the condition, I presume, in the West. You could not dam up a stream of any size by making an appropriation of \$10,000 to furnish irrigation on 20,000 or 30,000 acres of land.

Mr. MANN. As the gentleman well knows, there are a large number of irrigation projects now under construction which cost less than \$30,000 under the gentleman's supervision, yet the gentleman asks me how can it be done, and the gentleman is proposing to appropriate money for that very purpose, and that is what I am asking about.

Mr. STEPHENS of Texas. Would the gentleman refuse to

give water to the Indians who live in a small district and give it to those who live on a large reservation, where they had

large streams?

Mr. MANN. I would not refuse to give it to any of them.

Mr. STEPHENS of Texas. Would be treat all alike?

Mr. MANN. I would treat all alike.

Mr. STEPHENS of Texas. Where it is a project under \$30,000 the department has the right to proceed without investigation by Congress. If it is over \$30,000 surveys must be made and the matter fully investigated and reported to Congress and an appropriation must be made; otherwise the appropriation is made out of the lump-sum appropriation for irrigation purposes.

Mr. MANN. Now I yield to the gentleman from Georgia [Mr.

RODDENBERY]

Mr. RODDENBERY. Mr. Chairman, I was just going to ask the gentleman to what page his motion applies.

The CHAIRMAN. The gentleman has reserved the point of order.

At the bottom of page 2 and page 3.

Mr. RODDENBERY. I have not been following the consideration of the bill very closely, but would it be possible to ascertain now from the gentleman who has the floor, the chairman of the committee, if this bill will be completed this after-

Mr. STEPHENS of Texas. We are very anxious to get

through with the bill.

Mr. MANN. I see no reason why the bill should not be com-

pleted by 5 o'clock.

Mr. STEPHENS of Texas. I will state to the gentleman from Georgia that this bill has no new legislation, has nothing in it that could or should be objected to, and we have very carefully considered it. It is cut more than a million dollars, I believe, from the proposed bill, and there is not a single item here that should not be carried in this bill.

Mr. RODDENBERY. I thoroughly understand the language of the gentleman from Texas, but the countenance of the gen-

tleman from Illinois is very strongly expressive when he states that there is no reason why we should not get through this afternoon. There are about 31 pages of the bill, I believe.

Mr. STEPHENS of Texas. We can proceed with it.
Mr. RODDENBERY. Do I understand the gentleman from
Illinois to give it as his opinion that we would complete the bill to-day?

Mr. MANN. I hope so, by 5 o'clock. Mr. RODDENBERY. Mr. Chairman, I make the point of order that no quorum is present.

The CHAIRMAN. The gentleman from Georgia makes the point of order that there is no quorum present. The Chair will count. [After counting.] Sixty-three gentlemen are present, not a quorum, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed

to answer to their names:

Fairchild Finley Flood, Va. Floyd, Ark. Focht Fordney Adair Adamson Aiken, S. C. Rucker, Colo. Rucker, Mo. Sabath Saunders Langham Langley Lawrence Legare Ainey Ames Anthony Levy Lindsav Scott Barchfeld Fornes Scully Barnhart Gallagher Gardner, Mass. Gardner, N. J. Linthicum Sells Shackleford Sharp Bartholdt Bell, Ga. Littleton Longworth Sharp Sherwood Simmons Sisson Slemp Small Berger Boehne Booher Brantley Gillett McCoy McCreary McGillicuddy McHenry Goeke Gould Gray McHenry
McKinley
Maher
Martin, Colo.
Matthews
Moon, Pa.
Moore; Tex.
Morrison
Moss, Ind.
Nelson Gray Gregg, Tex. Griest Hamill Hamilton, Mich. Broussard Brown Buchanan Burgess Burke, Wis. Burleson Smith, Cal. Sparkman Speer Stack Hanna Steenerson Sterling Sulloway Harris Harrison, N. Y. Hart Hartman Campbell Hariman
Haugen
Heald
Helgeson
Henry, Conn.
Higgins
Hill
Hobson
Houston
Howard
Howell
Howland
Hughes, Ga.
Hughes, W. Va.
Humphrey, Miss.
Jackson
Jacoway Nelson Norris Olmsted O'Shaunessy Sulzer Sulzer
Talbott, Md.
Taylor, Ala.
Taylor, Colo.
Taylor, Ohio
Thistiewood
Towner
Turnbull
Inderwood Clayton Conry Copley Covington Parran Patten, N. Y. Cox, Ohio Crago Cravens Peters Pickett Plumley Crumpacker Underwood Vare Vreeland Warburton Webb Currier Post Davidson Davis, W. Va. Pou Pujo Randell, Tex. Ransdell, La. Redfield Dent Weeks
White
Wilder
Wilson, N. Y.
Wood, N. J.
Woods, Iowa
Young, Kans,
Young, Mich. Denver Dickson, Miss. Dedds Rees Reyburn Draper Driscoll, M. E. Jacoway Kennedy Kindred Knowland Richardson Dupré Dwight Edwards Riordan Roberts, Mass. Roberts, Nev. Konig Rodenberg Estopinal Rothermel

Accordingly the committee rose; and the Speaker pro tempore (Mr. Murray) having assumed the chair, Mr. Robinson, the Chairman of the Committee of the Whole House on the state of the Union, reported that that committee finding itself without a quorum, he had directed the roll to be called, when 209 Members, a quorum, answered to their names, and he herewith reported the names of the absentees to the House.

The SPEAKER pro tempore. The committee will resume its The names of the absentees will be entered on the Journal as reported by the Chairman of the Committee of the

Whole House on the state of the Union.

The committee resumed its session, Mr. FERRIS. Mr. Chairman-

The CHAIRMAN. For what purpose does the gentleman from Oklahoma [Mr. Ferris] rise?

Mr. FERRIS. For the purpose of proceeding with the bill. The CHAIRMAN. The gentleman from Illinois reserves the point of order on the paragraph.

Mr. FERRIS. I desire to refer to the pending point of order. The CHAIRMAN. The gentleman from Oklahoma is recognized.

Mr. FERRIS. The item to which the gentleman from Illinois has a pending point of order is the general appropriation item for scattering bands of Indians, without any funds, in the United States. No part of the money is to be expended in our State of Oklahoma, but it is to be expended wherever Indians can be found here and there without any funds of any kind or character in the irrigable sections, part of which is for the main-tenance, part of which is to aid in new projects, and part of which is to develop power purposes, and the other is to maintain projects already begun. The department asked for \$360,000. We had them before us, and interrogated them quite at length about it, and we thought the showing which they made did not entitle them to more than they had last year, and therefore we gave them the same amount which they had then.

Mr. MONDELL. Will the gentleman inform the committee of the location of the power plants that are being constructed

under this?

Mr. FERRIS. The chairman of the committee read that before the point of no quorum was made, and it is in the RECORD.

Mr. MONDELL. I do not recall that he said anything about the location of the power plant.

Mr. FERRIS. He read that before; but for the benefit of the gentleman I will read it again. I read on page 2 of the justification of the department, as follows:

To pay the proportionate charges for power development and administration building of the Salt River Valley Water Users' Association assessed against 3,900 acres of Indian land. In addition to the cost of the Roosevelt Dam and irrigation distributing system, the water users' association is expending about \$1,000,000 in building power plants to get the maximum income from this source at the earliest possible date. It is expected that when this power development shall have become completed the returns will reduce very substantially the cost of maintenance. This power development is borne equally by the whole acreage of the Salt River project.

It is understood that the assessments of \$2.40 per acre will cover a period of 10 years, of which two payments have been made.

That is one item. Now, in the hearings before us we had the engineers who are carrying on this irrigation matter from the Indian Office, and they told us that they thought they could truthfully say, and without any exaggeration, that the money expended for this purpose would be returned manyfold within the near future. Whether they are right about that or not the gentleman may know better than we.

Mr. MONDELL. The particular case the gentleman cites is not a case of construction of power plant at all, but it is simply a payment from this fund to the reclamation fund in order to reimburse the reclamation fund for expenditures, or proportionate part of expenditures, at the Salt River Dam for the benefit of Indian lands. Are these Camp McDowell Indians that are referred to?

Mr. FERRIS. I could give the gentleman the items of expense for this particular appropriation if he desires it. They are:

For the salary, per diem, and traveling expenses of the Chief Inspector of Irrigation, \$6,100.

For the salary, per diem, and traveling expenses of the Assistant Inspector of Irrigation, \$4,600.

That includes both salary and traveling expenses, office of the Chief Engineer, payment of educational and registered employees for special investigations on various reservations, including educational employees and incidental expenses of the field section of the Washington office, \$15,000.

Salary, per diem, and traveling and incidental expenses of H. F. Robinson, Superintendent of Irrigation, when on special investigations

Admisson, superintendent and inspection, \$5,000. C. R. Oldberg \$5,000. L. M. Holt, \$5,000. F. R. Schank, \$5,000. W. S. Hanna, \$5,000. H. W. Deitz, \$5,000.

If I may have just a moment further, I will read a further statement to the gentleman.

Mr. MONDELL. Now, the gentleman simply refers to some salaries. He has not referred to any construction whatever.

Mr. FERRIS. I will read to the gentleman the further part of this justification for using the irrigation general fund. These are the reasons given in support of this particular item:

This fund, which is nonreimbursable, is a very important one to the welfare of many needy Indians. It is applicable for work on various reservations where the Indians have no resources which can be used as a basis of credit to obtain loans from the Government. It is used for both irrigation and drainage; also for the protection of irrigable lands from damage by floods; it is also used for the payment of annual reclamation charges for Indian lands under the Truckee-Carson. Nev., and Salt River Valley, Ariz., reclamation projects. It provides for the expenses of the office of the Chief Inspector of Irrigation in connection with the exercise of general supervision over all irrigation work performed on Indian reservations, the preparation of monthly and annual cost reports, covering expenditures made from the general fund, tribal moneys, or special appropriations.

The amounts requested are given on the following pages, from which I have just read to the gentleman the items.

Now, they justify it on the ground that throughout the United States, where irrigable lands are situated, there are scattering bands of Indians that have to have help. The Government is not going to get the money back. It is not reimbursable. It is a proposition of the Government going down into its own pocket and doing for the Indians in the West, and especially in the Northwest, what they can not do for themselves. The theory of it is that it will place these Indians on a sound foundation, where they will be able to make their own living. Possibly they will and possibly they will not. But that is the appropriation that was made in former years, and we have done this year

precisely what we have done in former years.

Mr. BURKE of South Dakota. Also, Mr. Chairman, in addition to its being expended in the hope of making these Indians self-supporting, much of this money is paid out for Indian labor, and we are thereby enabling them to support themselves by their own labor.

Mr. FERRIS. Yes. The language provides that Indian labor shall be used wherever practicable.

Mr. BURKE of South Dakota. I want to say to the gentleman from Wyoming [Mr. Mondell] and other Members inter-

ested in the subject that under the provisions of the Indian appropriation act of 1910 the Secretary of the Interior is required annually, before the convening of Congress in December, to transmit to Congress a detailed itemized statement of the expenditures of the lump-sum appropriations. He will find such a document relating to the expenditure of the appropria-tions for surveys and allotments in House Document No. 1024 of the present third session of the Sixty-second Congress, and the document which gives the details as to the expenditure of the fund for the fiscal year ended June 30, 1912, the last fiscal year, is House Document No. 1034, giving the State, the project, the amount expended, the amount originally estimated, and the amount that has been expended altogether on the several projects; and he will find it very interesting, if he is honestly seeking information relative to how this fund is expended-

Mr. MONDELL. Mr. Chairman, I am surprised at the gen-

tleman's last statement-

Mr. BURKE of South Dakota. And I may say I assume he is honest in his desire for information.

Mr. MONDELL. I assume that the committee endeavored to determine where these funds were being used.

Mr. FERRIS. We did.

Mr. MONDELL. I was endeavoring to secure information as to the reservations on which the expenditures are now being made.

Mr. FERRIS All I can say to the gentleman is that the Commissioner of Indian Affairs and the department in charge of irrigation have in the past been allowed some latitude, and are allowed in this bill some latitude in regard to these expenditures. None are made in our State, because we have no irrigation projects there, but in different States that have irrigation projects there arise cases where the Indians are totally without funds, some having 5-acre allotments and some 10-acre allotments, and so on, and by the supply of this water by irrigation, through the action of the department, they can be put on their feet. I have no doubt that some of the money will be expended in the gentleman's State. He is very industrious. None of the money is to be expended in our State, where the pot usually boils. We have no part of this fund and no part of the general lump fund.

The CHAIRMAN. The time of the gentleman has expired.
Mr. MONDELL. I thought that the gentleman from Oklahoma [Mr. Ferris] had concluded.
Mr. FERRIS. I had. I yield the floor.
Mr. MONDELL. Mr. Chairman, the gentleman from Texas

[Mr. Stephens], chairman of the Committee on Indian Affairs, does not seem to have a very clear notion as to the character of this particular fund or item of appropriation. At least I got that impression from what he said.

This is clearly a gratuity. I can not understand how any of it under any circumstances would be reimbursable. I imagine it is a fact that none of it has been returned, and that the reimbursement of no part of the fund under this appropriation is contemplated. It is a gratuity, and if wisely expended is a

proper and necessary gratuity.

I suppose this is one of the items the gentleman from Texas [Mr. Stephens] had in mind when he said that the hearings were not as extensive as they have been in the past, because in many cases the appropriation was the same as last year. The department asked for a considerable increase, but the sum carried in the bill is to a dollar the amount carried in the current It strikes me as being a little curious that, without any considerable hearings on the subject, the committee should arrive at the conclusion that this work, scattered over a great many States-and, I suppose, expended on many projectsshould for the coming fiscal year receive exactly the amount to a dollar of the expenditure proposed for the current fiscal year.

STEPHENS of Texas. In the instances where the amount appropriated was the same the department failed to expend the amount appropriated last year, and it would be useless to give them more than they expended last year.

Mr. MONDELL. Can the gentleman inform us where they

are now expending this money?

Mr. STEPHENS of Texas. The gentleman from Oklahoma

has stated it fully.

Now, will the chairman of the committee to this item? answer another question in regard to this item?

Mr. STEPHENS of Texas. Certainly.

Mr. MONDELL. I notice that it contains a provision that no part of these funds shall be used on any project provided for by specific appropriation, but this item also carries the appropriation for the chief irrigation engineer and his assistants. What is the practice of the department, or of the Indian Office, in those cases where the services of the chief and his assistants are required in connection with the construction of projects specifically provided for in other items? Does this prohibition of the use of this sum on projects specifically provided for prevent the employment of irrigation engineers on those projects? Or, if not, are the services of the engineers for the portion of the time so employed charged to those specific items and returned to this fund?

Mr. STEPHENS of Texas. If the engineer in charge of a certain project belongs to the Indian service, it is paid for out

of this appropriation.

Mr. MONDELL. How can it be done under the provision here that no part of this appropriation shall be expended on any irrigation project for which specific appropriation is made in this act or for which public funds may be available?

Mr. STEPHENS of Texas. They are all for irrigation.

The CHAIRMAN. The Chair desires to direct an inquiry to
the gentleman from Illinois [Mr. Mann]. Has the gentleman
from Illinois made a point of order against this paragraph?

Mr. MANN. Not yet. Mr. MILLER. Mr. Chairman— The CHAIRMAN. Does the gentleman from Wyoming yield

to the gentleman from Minnesota?

Mr. MILLER. I do not care to have the gentleman from Wyoming yield. I simply want to inquire what we are doing. The CHAIRMAN. The gentleman from Wyoming is address-

ing the committee.

Mr. MILLER. On the point of order?
The CHAIRMAN. The gentleman from Illinois [Mr. Mann] reserved a point of order. Does the gentleman from Minnesota make the point of order that the gentleman from Wyoming is not addressing himself to the point of order of the gentleman from Illinois?

Mr. MILLER. I do not want to do that, but it seems to me

we should get on with the bill.

Mr. MONDELL. The gentleman has furnished us with such a volume of information with regard to the items of the bill that I suppose we should not take any time at all in the discussion of it; but, unfortunately, I have not been able to get a scrap of information with regard to any of the items of the bill anywhere, and I am seeking now to secure some light with regard to these important propositions, in connection with the discussion of the point of order reserved by the gentleman from Illinois [Mr. MANN].

Mr. FERRIS. Mr. Chairman, I shall not make up my mind that gentlemen are not proceeding in good faith, and it is the duty of the committee to do the best it can to explain fully, and am going to do what I can and let gentlemen take the responsi-

bility who pursue it further than good faith requires.

The CHAIRMAN. The point of order was reserved by the gentleman from Illinois. The Chair desires to inquire of the gentleman whether he makes the point of order?

Mr. MANN. If the Chair insists upon the point of order being disposed of before information is furnished to Members of the House whether the item ought to remain in the bill, I will make it. In the first place, there is no authority at law for the appropriation, and, in the second place, there is no authority for changing the existing law to provide that the superintendent of irrigation shall be a skilled irrigation engineer or to provide the number which may be employed. The item in the bill proposes to make an indefinite appropriation for the construction of irrigation projects which may or may not have already been undertaken and which would authorize the construction of irrigation projects indefinitely throughout the United States. had reserved the point of order thinking that gentlemen might give the information which would cause me to withdraw it.

The CHAIRMAN. The Chair desired to know whether the

gentleman from Illinois was going to make the point of order.

The Chair had no disposition to cut off debate.

Mr. MANN. I would like to reserve the point of order, and I would like to ask a question or two, if I may.

The CHAIRMAN. The point of order is reserved.

Mr. MANN. I would like to ask whether the gentleman is quite certain whether there is any provision in the bill which would authorize the construction of a power plant? I do not find anything in this item.

Mr. FERRIS. That is in the justification, and I think there

is language in the bill that implies that.

Mr. MANN. I do not know where it is. I supposed this was an irrigation project. It is true that growing out of irrigation projects there might be incidentally the construction of a power plant. I should not think it desirable to construct power plants primarily for furnishing power, and I hope that was not the intention of the item. What leads the gentleman to believe that it is the expectation to construct a power plant except where

the construction of the power plant is incidental to the irrigation project?

Mr. FERRIS. The language I relied upon begins on line 17,

which reads as follows:

For the construction, repair, and maintenance of ditches, reservoirs, and dams, purchase and use of irrigation tools and appliances, water rights, ditches, lands necessary for canals, pipe lines, and reservoirs for Indian reservations and allotments, and for drainage and protection of irrigable lands from damage by floods.

Then there is the explanation of the commissioner and of the irrigation engineers which appear in the justification to pay the proportionate charges for power development.

Mr. MANN. That is an irrigation project. Mr. FERRIS. I will read:

To pay the proportionate charges for power development and administration buildings of the Salt River Valley Water Users' Association assessed against 3,900 acres of Indian land. In addition to the cost of the Roosevelt Dam and irrigation distributing system, the water nsers' association is expending about \$1,000,000 in building a power plant to get the maximum income from this source at the earliest possible date. It is expected that when this power development shall have become complete the returns will reduce very substantially the cost of maintenance. The power development is borne equally by the whole acreage of the Salt River project.

Mr. MANN. That is all in connection with an irrigation project. The construction of a power plant in connection with an irrigation project is one thing. If I thought that this item authorized the Interior Department to construct a power plant without reference to irrigation projects, I should insist on the point of order.

Mr. FERRIS. Now, if the gentleman from Illinois does not care to pursue that, I want to reply to the gentleman from

Wyoming.

Mr. MANN. Mr. Chairman, so far as I am concerned, after the explanation made, but with some doubt about it, I shall withdraw the point of order.

Mr. FOSTER. Mr. Chairman, I reserve the point of order. Mr. MONDELL. Mr. Chairman, the Chair took me off my

The CHAIRMAN. The gentleman from Wyoming had already, by oversight of the Chair, spoken twice as long as he

was entitled to speak. Mr. FERRIS. Mr. Chairman, the gentleman from Wyoming asked in a former part of his remarks where this money was to be expended. In my judgment, that is a legitimate question, and I think it ought to be answered. The gentleman asked me if the McDowell Indians were to have part of it. I have the information now:

McDowell Indians: To pay annual reclamation charges on 1,000 acres of land under the Salt River project, to be signed up for allotments to Indians of the Camp McDowell Indian Reservation, \$2,500.

Then there is a note to this effect:

Their there is a note to this cheect.

This land has not been signed up, but it has been reserved for allotment purposes. It was proposed to allot Camp McDowell Indians on the Salt River Reservation, but they objected to removing. If they should elect to pay these allotments, this sum would be required to make up the first payment on account of water rights. If Camp McDowell Indians remain on the reservation, this land may be allotted to Salt River Indians, and it will be necessary to pay for water rights from the Roosevelt reclamation project.

In addition to that, there is the Gila Bend Reservation-Mr. MONDELL. Mr. Chairman, if the gentleman will allow me right there, the gentleman is aware that that allotment to the Camp McDowell Indians on the Salt River project has been under investigation by a committee of Congress, and it was the understanding of the members of that committee

Mr. RODDENBERY. Mr. Chairman, I desire to submit a point of order. I make the point of order against the paragraph on the ground that it is new legislation and not author-

ized by law.

The CHAIRMAN. But the gentleman from Wyoming has the

Mr. RODDENBERY. I understood that the Chair ruled that the gentleman from Wyoming had already consumed five minutes.

The CHAIRMAN. The gentleman was recognized for five

minutes more Mr. RODDENBERY. I make the point of order that the gentleman is not entitled to more than five minutes.

Mr. FERRIS. Mr. Chairman, I submit I have the floor, and I have already yielded to the gentleman from Wyoming.

Mr. RODDENBERY. If the gentleman from Oklahoma has

yielded, I have no objection.

Mr. MONDELL. Mr. Chairman, to conclude my statement, it was the understanding of the members of that committee that the Indian Bureau had given up all thought of moving the Indians from the Camp McDowell lands and placing them under the Salt River project.

Mr. FERRIS. I believe the gentleman will observe that it is stated in the alternative-in the event they refuse to be removed and take allotments on the Camp McDowell Reservation, they then can have the money to use to pay for water rights

from the Roosevelt reclamation project.

Mr. MONDELL. They already have refused, as I understand it, and we understood the Indian Office did not expect to fur-

ther press the matter upon them.

Mr. FERRIS. If the gentleman will allow me to proceed, I will give him the information that he asked for, which the House is entitled to know. There is the Glia Bend Reservation, and that is to have \$15,000, and the reasons for it are stated.

Mr. MONDELL. That is where they have already expended

\$500,000.

Mr. FERRIS. Then there is the Maricopa Papagoes, and they are to have \$15,000 to expend. There is to be 3,000 acres on Cahuilla Reservation, in California. Those are irrigable lands. Three thousand acres are suitable for irrigation, and 160 acres are irrigated.

The CHAIRMAN. The time of the gentleman from Oklahoma

has expired.

Mr. RODDENBERY. Mr. Chairman, I insist upon the point

The CHAIRMAN. The gentleman from Georgia makes the point of order against the paragraph that it is new legislation. The Chair will hear from the gentleman from Oklahoma, if he

desires to be heard on the point of order.

Mr. FERRIS. Mr. Chairman, the estimate of the department was for \$360,000. The committee allowed it to the amount of \$335,000. The language is the same as was carried last year, and this money—most, if not all—is for the purpose of maintenance and carrying on of irrigation projects already begun. It is for the benefit of the Indian service, regularly provided for by existing law. It is estimated for by the Indian Bureau. It is to pay the salaries and expenses of the Irrigation Division of the Indian Bureau, regularly constituted by law and in full operation, as it has been for years. The Indian bill is for the purpose of providing for the Indian Department lawfully created, and I do not think the paragraph is subject to the point of order. I would like to let the argument be concluded by the chairman of the committee, who, perhaps, has the matter better in hand.

The CHAIRMAN. The Chair desires to ask the chairman of the committee in charge of the bill whether this is providing for a continuation of work already begun and authorized?

Mr. STEPHENS of Texas. It is. I do not think there is a new project in here that I remember.

The CHAIRMAN. Does the gentleman from Georgia desire to be heard upon the point of order?

Mr. RODDENBERY. I desire to be heard, Mr. Chairman. The paragraph, the Chair observes, is on page 2 of the Indian appropriation bill, and while this item was carried in the provisions of the last appropriation bill it does not come under the head of a continuing project nor is it specifically authorized by existing statute to warrant the appropriation. And a further point, Mr. Chairman. It will be observed that this Indian appropriation and this paragraph is providing an appropriation now, in December, 1912, when an appropriation for this specific purpose is already made and will not be exhausted until July 1, 1913. This paragraph provides an appropriation from July 1, 1913, to July 1, 1914, and the bill and this paragraph is subject to the same point, because if the Chair will examine the record he will find that on April 16, 1912, and on June 7, 1912, two bills restricting immigration were reported to the House favorably from the Committee on Immigration and have never been given consideration. I do not now see the leaders of the House on the floor when a filibuster is being conducted on this bill in order to prevent the consideration of those two immigration bills, reported now nearly a year ago. It is not in order, Mr. Chairman, for the Committee on Indian Affairs to bring its bill in here and with it block and hold up for to-day and to-morrow the consideration of the immigration bill, when there is no need for this appropriation for six months. Mr. FERRIS. Will th

Will the gentleman yield?

Mr. RODDENBERY. In just a moment. And under the rules of the House it is improper for this bill to be considered between now and adjournment for Christmas, because on July 25, 1912, the chairman of the Committee on Rules of this House wrote a letter to the chairman of the Committee on Immigration, in which he said:

On behalf of the Committee on Rules I will say as chairman that early in December of the next session of Congress—

Mr. DAVENPORT. Mr. Chairman, I make the point of order that the gentleman is not speaking to the point of order.

Mr. RODDENBERY (continuing):

the bill will be brought by rule before the House of Representatives in order that it may be considered.

The chairman by name designating the Dilliugham immigration bill.

The CHAIRMAN. The gentleman from Oklahoma [Mr. Davenport] makes the point of order the gentleman from Georgia is not discussing the point of order.

Mr. RODDENBERY. Mr. Chairman, I will confine myself

to the point of order.

Mr. FERRIS. Will the gentleman yield?

Mr. RODDENBERY. In just a moment. Mr. Chairman, because the appropriation in this paragraph is jess than was recommended by the department or because it is under the estimate is no reason why it should be in order. Why, the paragraph is much more palpably subject to the point of order than the point of order made against my statement that the leaders were making no effectual effort to force the immediate consideration of the immigration bill. Early in December is now past and gone. The statement that I made that there is now before the House an immigration bill and that the Democratic leaders are submitting to its being stifled is much more in order than the paragraph in this bill seeking to appropriate money that is not needed on the face of the bill for more than six months. Where are the Democratic leaders that they are not here fighting the filibuster against this bill if they want to get to the ing the himself and immigration bill? [Applause on the Republication bill? [Applause on the Republication of the Manual Property of the M [Applause on the Republican side.]

Mr. RODDENBERY. Why do not the Democratic leaders help my friend, the chairman of the Immigration Committee, put his bill through if they are not willing to the blocking of immigration legislation, legislation which the chairman of the Committee on Rules has promised the Congress and promised the people should be considered early in December?

The CHAIRMAN. Does the gentleman from Georgia yield to

the gentleman from Oklahoma?

Mr. RODDENBERY. In just a moment. Mr. Chairman, this paragraph is out of order for the additional reason that it provides an appropriation for an object that on its face is contrary to law, and there is no authorization in the statute for such an appropriation. I do not understand why the chairman of the Committee on Indian Affairs and my distinguished friend from Oklahoma will stand for preferential consideration of a bill, when the money is not needed for over six months, instead of fighting for an immediate fulfillment of our promise to the people to pass, or at least consider, the bill restricting immigration in this country early in December. [Applause.] I can not understand, Mr. Chairman, how my distinguished friend from Oklahoma [Mr. DAVENPORT] raises the question of order on the line of my efforts, when it is six months before he will need the Indian appropriation, and yet millions of people are asking that the restrictive immigration bill, for which I am contending, be considered, and our chairman of the Committee on Rules, four months ago, has stated, in writing, that early in December it would be considered. Yet it is now the 13th of December, and neither God nor man will see the immigration bill acted on before the Christmas holidays if the pending bill does not give way to it. So you need not say I am helping Mr. Mann conduct a filibuster against this bill. I make the point of order in order to get opportunity to demonstrate to the country, and state it on the floor, that the leaders on the Democratic side are not making the necessary effort to comply with the letter of the chairman of the Committee on Rules or to pass [Applause.] It is in the power of the leaders to the bill now. cause this Indian appropriation bill to be set aside to-morrow for consideration of the immigration bill. I rise to call attention to this only way and opportunity to in any degree live up to the promise of the chairman of the Committee on Rules for early consideration of this immigration legislation.

You shall not bring in these measures and consider them as privileged bills, and thus be in position to fool the people at home and make them believe we in good faith tried to get the immigration bill and could not do it. It can be done to-morrow by yielding this Indian bill to the immigration bill.

Mr. Chairman, on the question of order that I have sub-

mitted-[Laughter.]

The CHAIRMAN. The Chair suggests to the gentleman that

he confine himself to the question of order.

Mr. RODDENBERY. I desire to say that it is not in the power of the minority leader, aided by one alleged filibustering Democrat, to prevent the great Democratic leaders of the House from adopting such means as will get a vote on the immigration bill if they want it. This is a Democratic measure, and I am here, Mr. Chairman, saying to my colleagues of the majority and to the gentlemen of the minority, that it is time, by written promise, by parliamentary precedents, and in pursuance of good faith, to take up this immigration bill and act on it now, and not wait until January or February and then pass a piece of humbug legislation that we know will never be acted on by the Senate

The CHAIRMAN. The Chair will ask the gentleman to confine himself to the point of order.

Mr. RODDENBERY. Yes, Mr. Chairman, I had digressed slightly. [Laughter.] And I insist again, Mr. Chairman, as stated, that this paragraph is not authorized by law. Nor is it warranted by any statute, whereas a consideration of the immigration bill is promised by our Rules Committee, the promise is now past due, and in good faith the Democrats should perform. I am now standing by and supporting my Democratic chairman of the Committee on Rules and shall continue to do so until this Democratic measure is passed upon.

The CHAIRMAN. The Chair desires to ask the gentleman from Texas [Mr. Stephens], the chairman of the committee,

what authority exists for this appropriation?

Mr. STEPHENS of Texas. The authority of law for the Indian Bureau. This is a bill making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1913. That carries this item referred to, as follows:

For the construction, repair, and maintenance of ditches, reservoirs, and dams, purchase and use of irrigation tools and appliances, water rights, ditches, lands necessary for canals, pipe lines, and reservoirs for Indian reservations and allotments, and for drainage and protection of irrigable lands from damage by floods, \$325,000, to remain available until expanded. until expended.

Now, these dams, ditches, reservoirs, and so forth, are in the course of construction, and if there are any in here that are not in the course of construction, they are under the amount of \$30,000, and the projects can be engaged in under existing law by the department without authorization of Congress. They have general authority of law to put in ditches, dams, reservoirs, and irrigation projects, where the amount does not exceed \$30,000, and there is nothing in this bill that does not correspond with the law—nothing above \$30,000. The dams, ditches, and so forth, above \$30,000 have already been authorized by Congress under existing law.

The CHAIRMAN. The Chair is ready to rule. The Chair overrules the point of order. The Clerk will read.

Mr. BURKE of South Dakota. Mr. Chairman, I desire to offer an amendment, after the word "expended." On line 17. page 2, insert that which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from South Dakota [Mr. Burke].

The Clerk proceeded to read the amendment.

Mr. BURKE of South Dakota. Mr. Chairman, I understand the point of order was overruled. If so, I will withdraw the amendment. I thought the point of order was sustained.

Mr. MANN. Mr. Chairman, my distinguished friend from

Georgia [Mr. Roddenbery], who apparently admits that he has been filibustering against the passage of this bill for the last hour and ten minutes, did me the honor to couple me with him in this filibustering expedition. I am perfectly willing to admit that the gentleman from Georgia has been filibustering, but I completely deny that I have been doing so. Here is an appropriation bill carrying something over \$8,000,000 presented to the House without printed hearings of the committee, without any information whatever furnished in the report from the committee to the House, embracing a large number of important items, and in some cases embracing a policy to be pursued by the Government which will involve hereafter millions, if not hundreds of millions, of dollars.

And when inquiry is made concerning these items in a legitimate manner and not at length, but very briefly, the gentleman from Georgia [Mr. RODDENBERY] considers that filibustering, and thereupon demands a quorum of the committee, and then takes the floor on the point of order and discusses something entirely apart from the point of order, again consuming time. he is correct when he says that he is filibustering. But a legitimate inquiry concerning an item in an appropriation bill, I hope, will never be considered as fillbustering by the House of Representatives. That is what we are here for, to a large extent—to furnish the supplies for the maintenance of the Government—and these items of appropriation in these appropriation bills ought to be scanned by somebody. They ought to be explained to the House when explanation is asked for, and the committee ought to be prepared to do it. No one ought to say it is filibustering to consider the items in a bill tarrying millions of dollars. I repudlate the idea that in asking questions concerning such matters I am endeavoring to filibuster or delay the consideration of the bill.

Mr. RODDENBERY. Mr. Chairman, I now move that debate on the paragraph and all pending amendments thereto be closed. Mr. FERRIS. Mr. Chairman, there is nothing before the House.

Mr. RODDENBERY. I move that debate on the paragraph be now closed.

Mr. FERRIS. The paragraph has not yet been read, Mr. Chairman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

To relieve distress among Indians and to provide for their care and for the prevention and treatment of tuberculosis, trachoma, smallpox, and other contagious and infectious diseases, including the purchase of vaccine and expense of vaccination, \$90,000.

Mr. FOSTER. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. Foster] moves to strike out the last word.

Mr. RODDENBERY. Mr. Chairman, a parliamentary in-

quiry.

The CHAIRMAN. The gentleman will state it.
Mr. RODDENBERY. What line are we on?
Mr. DAVENPORT. On line 9, page 4.
The CHAIRMAN. Line 9, page 4.
Mr. RODDENBERY. Very well; line 9, page 4.
Mr. FOSTER. Mr. Chairman, I observe that last year there was a provision in the bill providing that \$10,000 should be approprieted for the purpose of an investigation by the Public appropriated for the purpose of an investigation by the Public Health and Marine-Hospital Service of the prevalence of tuberculosis, trachoma, smallpox, and other contagious diseases among Indians, and that that report was to be made not later than February 1, 1913. I would like to know, Mr. Chairman, if that report has been made. I would like to know if the chairman of the committee can give us any information in reference to it.

Mr. STEPHENS of Texas. The report may have been made, but it has not yet been filed with the committee or reached us.

Mr. FOSTER. It must be made to Congress.

Mr. BURKE of South Dakota. If the gentleman will permit me, I will say that within a very few days I noticed in the press of my State that representatives of this department and a physician and surgeon are now in the Northwest. The physician and surgeon is there at the present time, or has been there within a very few days, at work investigating this question, but

I do not think the report has yet been received.

Mr. FOSTER. It has not been completed?

Mr. BURKE of South Dakota. I think not.
Mr. McGUIRE of Oklahoma. If the gentleman will permit, I may say that there has been a limited report made. A copy of it came to my office, I think, on Wednesday from some person designated by the Government to make the investigation in Oklahoma. The parties have been in Oklahoma, and they left there a short time ago. A preliminary report, at least, has been made, I presume, to the department of the Government which has the matter in charge. A copy was sent to me.

Mr. FOSTER. - Mr. Chairman, it has been stated a good many times, and I think with some degree of accuracy, in reference to trachoma and tuberculosis among Indians, that there was great prevalence among them of those diseases. What I was trying to get at was some information which would show whether or not the Government has made any progress in its efforts toward the eradication of these diseases, or the prevention of them; whether the Government is lessening the infection of trachoma, and whether there are fewer cases of tuberculosis or more cases now than heretofore.

I would like to know what the Government has been able to do for the Indians in reference to the treatment of these dis-I realize that it is a difficult matter to lessen diseases eases. among people who can not be taught the importance of sanitary conditions. I would like to know if the Government has been able to do anything or not in the suppression of these diseases.

Mr. McGUIRE of Oklahoma. If the gentleman will permit, can answer in part the gentleman's inquiry. Mr. FOSTER. I should be glad.

Mr. McGUIRE of Oklahoma. The report states that trachoma yields to treatment-

Mr. FOSTER. I realize that is the fact, but strict sanitary

regulations must be enforced.

Mr. McGUIRE of Oklahoma. And certain recommendations are made. One recommendation in particular is to the effect that professional men, physicians, treat these cases at the homes of the Indians, where the physicians instruct the Indians that they should use individual towels, and instruct them otherwise along the lines of cleanliness, and demonstrate to them that by so doing these cases will yield.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEPHENS of Texas. In reply to the question of the gentleman from Illinois, I desire to state that there is a full report here from the department justifying this appropriation.

Mr. FOSTER. If the gentleman from Texas will excuse me, I am not attacking the appropriation, but what I want is information as to what they are doing in eradicating or prevent-

ing these diseases.

Mr. STEPHENS of Texas. It was stated before the committee that during the fiscal year 1912 there were examined for these diseases 61,500 Indians. Of these 8,000, or 13 per cent, had tuberculosis, and 9,255, or 15 per cent, had trachoma. Now, I imagine that these examinations were made among certain tribes where these diseases are more prevalent than elsewhere. In fact, I know that to be the case. Some tribes are almost free from these infections, and the tribes where these examinations were made are in worse condition, so far as these diseases are concerned, than any other tribes in the United States, and these figures do not furnish a fair basis for all the Indians in the United States.

Mr. FOSTER. Can the gentleman inform us whether the hearings which were had in reference to this item, if any were had, show that the amount of money appropriated here is sufficient to take care of this work and whether this work ought not to be done by the Public Health Service?

Mr. STEPHENS of Texas. We gave them just the same amount that we did last year, and we are awaiting the report from the special committee appointed to investigate the question

of tuberculosis and ophthalmia.

Mr. FOSTER. It seems to me this is a little different proposition, possibly, from some other items in the bill. Here are a lot of people who are likely to die within the next 12 months, or possibly the next six months, and a lot of others who are likely to become infected with trachoma. Now, in view of these facts I should like to inquire whether or not the present appropriation has been sufficient to produce a decline of these diseases among the Indians, whether they are able to eradicate trachoma and to prevent tuberculosis and smallpox among these

Mr. STEPHENS of Texas. There is a considerable medical force now in the employ of the department, and it was stated before the Committee on Indian Affairs that the medical force as it stands at present is still inadequate to cope with the situation, and material improvements over the present conditions must come through a specific improvement in the organization, personnel, and salaries of the medical force. The Indian Service physicians are the poorest paid in the Government, and yet their work is fully as difficult and, in many instances, involves greater hardship than the other service except in time of war. There are at the present time 50 contract physicians and 95 reg-ular physicians. The contract physicians receive \$578 per annum on an average, and the regular physicians average \$1,154 per annum. The contract physicians do not have the time, nor do they receive sufficient compensation, to enable them to perform the amount of medical work necessary.

That was the statement from which they made up these esti-

Mr. FOSTER. This \$90,000 is in addition to the regular physicians and the contract physicians?

Mr. FERRIS. Yes. Mr. FOSTER. I realize that you can not get men to give sufficient medical service for \$500 a year if there are a great many to treat.

Mr. COX of Indiana. Are they required to devote their en-

tire time to that work?

Mr. FOSTER. I judge that a physician who is in active practice would not be able to render sufficient service for that amount of money.

Mr. COX of Indiana. Does the gentleman know anything about the facts in this case-whether or not they are required to give all their time to the work, or whether they are per-

mitted to practice otherwise?

The CHAIRMAN. The time of the gentleman has expired. Mr. BURKE of South Dakota. I ask unanimous consent that the time of the gentleman from Texas [Mr. STEPHENS] be ex-

tended five minutes,

The CHAIRMAN. Unanimous consent is asked by the gentleman from South Dakota that the time of the gentleman from

Texas be extended five minutes. Is there objection?

Mr. RODDENBERY. I object.

Mr. BURKE of South Dakota. Then I ask to be recognized on the amendment. I want to state in regard to the item—
Mr. RODDENBERY. I make the point of order that all

debate on this amendment is exhausted.

Mr. FOSTER. I withdraw my pro forma amendment, Mr. BURKE of South Dakota. I move to strike out the last two words. With reference to this item I want to say that the department estimated that they ought to have \$250,000 for this work in the next fiscal year. I did not favor the increase over the appropriation heretofore for this reason. I believe that the investigation that is now being made, when the report comes in, will show a condition of affairs that will perhaps be startling, and that large sums of money will have to be appropriated if we undertake to cope with it in the way of accomplishing much good. I believe the appropriation for the current fiscal year and the next fiscal year is sufficient to carry on the work of investigation, and to some extent to take care of the disease among the Indians.

The reason why I would not favor increasing the appropriation at this time is that in my own opinion if we are to engage in the expenditure of large sums of money in the care of diseased Indians, instead of creating in the Indian Bureau a health department, we ought to expend the money under the health department of the Government rather than in the Indian

I would say to the gentleman that if I could have my way about it this item of carrying on the reclamation work in the Indian Bureau, where large sums of money, going up into the million dollars, are expended, that it would not have been under the Indian Bureau, but under the Reclamation Service.

I want to get away as far as possible from these subjects that ought to be conducted under the department of the Government that is already equipped and that is possessed of the knowledge of the subject which the Indian Office does not have

unless it creates a department within a department.

I want to say that about three years ago there was submitted to the Committee on Indian Affairs a plan by the Commissioner of Indian Affairs, in which he proposed a complete department in each of the different divisions of the Indian Office-a health department, a reclamation department, a department that had charge of the timber interests of the Indians, and, I think, an agricultural department, and thus we would have had a bureau

It is because of that that I have not favored an increase of this appropriation in the use of a large sum of money in the Indian Office. But when we get the information that we will get in a short time, I think, if we have to appropriate large sums, let us do it under the proper department of the Government, and let the Committee on Appropriations make the appropriation.

Mr. FOSTER. I think the gentleman's ideas are exactly

Mr. RODDENBERY. Mr. Chairman, I move that all debate on this paragraph be closed.

Mr. MANN. I have a bona fide amendment that I wish to

The CHAIRMAN. The gentleman from Georgia moves that all debate on the paragraph be closed. The question was taken; and on a division (demanded by Mr. RODDENBERY) there were 7 ayes and 31 noes.

So the motion was lost.

Mr. Chairman, I desire to be Mr. STEPHENS of Texas. recognized with reference to this question of tuberculosis.

Mr. MANN. Will the gentleman from Texas yield for an amendment to be offered increasing the amount of the appro-

Mr. MONDELL. Mr. Chairman, I offer the following amendment:

The Clerk read as follows:

Amend, page 4, line 9, by striking out the figures " $90,000\,$ " and inserting " 125,000. "

Mr. MONDELL. Mr. Chairman, I should not offer this amendment if I felt the committee had an opportunity to fully consider matters involved in this item. The appropriation for the current year is \$90,000. The department, with the current year well passed, has concluded that it needs \$250,000 for this work for the coming fiscal year. The committee did not increase the appropriation at all, and I think that no member of the committee will justify their failure to increase the appropriation from \$90,000 to \$250,000, the amount asked for, or any other amount, on the ground that they investigated the matter and have information that justifies a refusal to increase the appropriation. We all realize how important this work is. I know how important it is on the Indian reservation in my State. I know how very important it is on the Indian reservation with which I am familiar in the adjoining State of Montana, particularly in regard to trachoma. The spread of the disease has been alarming.

Yet this appropriation is so small that on the Shoshone Reservation, for instance, with its 2,200 Indians, they pay one surgeon \$500 a year for all of the work carried on under this appropriation. That physician is a very competent man, with a splendid practice. I have talked with him about his work, and he is doing this work because he realizes the necessity for it, in spite of the fact that his compensation is so small that it does not at all pay him for the loss that he, suffers in his practice generally. I simply mention that as an illustration of the fact that the appropriation is altogether inadequate and certainly ought to be largely increased. The department asks for \$250,000. The committee, without investigating the matter at all, refuses to increase the appropriation. I simply ask for half the amount that the Secretary estimated as absolutely neces-

Mr. MILLER. Mr. Chairman, I would like to ask the gentleman a question.

The CHAIRMAN. Does the gentleman from Wyoming yield?

Mr. MONDELL. Certainly.

Mr. MILLER. Mr. Chairman, I understood the gentleman to say that a very excellent physician was unable to secure more than \$500 for the work that he does under this appropriation.

Mr. MONDELL. Yes. Mr. MILLER. I assume that the gentleman's idea is that the smallness of the appropriation was the cause of his receiving only \$500

Mr. MONDELL. I assume that he is receiving as much as other physicians receive under this appropriation for the same character of service. That gentleman has never complained to me that he is not receiving enough, but I was on the reservation last fall and I saw the condition of the Indians. I talked with him and I realized then that the appropriation was aitogether too small if conditions on other reservations were the same as on that reservation.

The CHAIRMAN. The time of the gentleman from Wyoming

has expired.

Mr. MILLER. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended five minutes.

The CHAIRMAN. Is there objection? Mr. RODDENBERY. Mr. Chairman, I object.

Mr. FERRIS. Mr. Chairman, I desire to be heard in opposi-tion to the amendment. The amendment of the gentleman involves the usual policy of the Indian Office from one end to the other of this bill. They have asked in each case throughout the bill for a much larger amount than they have received at the hands of the committee, and while the gentleman from Wyoming [Mr. Mondell] complains seriously about some physician on his reservation receiving only \$500 a year, I call attention to the fact that they had left over as an unexpended balance last year the sum of \$8,258.51 out of a total appropriation of \$90,000, the same as we are giving this year. I also wish to call attention to the fact that the following are some of the things they advanced as reasons for this appropriation. It is proposed to expend the money asked for as follows. Their schemes are most of them propaganda and untried formulas: First, to improve the medical service rendered to Indians and to increase the number and salaries of physicians and nurses, and provide some general attention to school pupils. The fact of the matter is the committee has vigilantly and carefully refrained from increasing the salaries or increasing the number of officers from one end to the other of the bill.

The bill is reduced in size, so that it is a mere pamphlet. Second, they want to improve facilities for medical work by constructing and maintaining dispensaries, hospitals, and hospital camps for the treatment of diseased Indians, and maintaining of sanitarium schools, and also to supply adequate facilities and equipment to physicians and medical workers. want to build new hospitals and new dispensaries. This is not the proper way to proceed, if they are needed. The provision should be specific. Third, they want to correct the insanitary condition existing in the homes of diseased Indians. I call attention to the fact that that is an indeterminable proposition. They want to provide light and ventilation when required. presume the committee could well appropriate \$5,000,000, which could be used on the 300,000 Indians to build houses and provide sanitary conditions for all of them. Fourth, to provide subsistence for needy, diseased Indians when under treatment. They even want to set up boarding houses and render aid to those in distress. The committee would hardly want to go that far. Fifth, to provide for the expenses incurred in maintaining quarantine, vaccination, and in the enforcement of health regulations. That, I think, is a good provision, but they have got \$90,000 this year to do this with. They can employ a few less doctors and clerks and buy more medicine. Sixth, to re-

move sources of pollution of water supply and improve methods of sewage disposal in the Indian country. I submit that as an indeterminable proposition on which you can expend \$500,000 or \$1,000,000. There is no stopping, once launched on such an undertaking. Seventh, to provide for the salaries, expenses, and employment of opthalmologists to treat trachoma and eye diseases.

Last year we provided a \$40,000 hospital to be erected, and they have not turned a wheel toward erecting it. this will cure some of them, and if it works well, it can be enlarged. Eighth, to carry on a thoroughgoing campaign of education among the Indians for the prevention of disease.

Now, if the committee wishes to enter upon eight indeterminable, unfathomable activities, why, increase this appropriation; otherwise it ought to be held down. I live in a State that has almost two-fifths of all the Indians in the United States, and we think \$90,000 will be enough to carry on this work and deal with the troubles we have. At least, we may wait for outstanding reports that are to come, more definite in character

Mr. McCALL. Mr. Chairman, it seems to me from what the gentleman from Oklahoma has said—

Mr. RODDENBERY. Mr. Chairman, I make the point of order that debate on this amendment has expired.

Mr. McCALL. Mr. Chairman, I have already been recognized and was proceeding to speak.

Mr. RODDENBERY. Mr. Chairman, I make the point of order that the gentleman is not in order.

Mr. McCALL. Mr. Chairman, I move to amend by making it

The CHAIRMAN. The gentleman from Massachusetts moves amend the amendment by inserting \$175,000 in lieu of

Mr. RODDENBERY. Mr. Chairman, I move to amend by substituting

Mr. FOSTER. Mr. Chairman, I raise the point of order that

the gentleman has no right to interfere in this way.

The CHAIRMAN. The gentleman from Massachusetts is

recognized, and he will proceed.

Mr. McCALL. Mr. Chairman, I confess what I do not know about this subject would fill, as the former Speaker of this House would say, a very large library; but I have been impressed by the reading to which I have listened by the gentleman from Oklahoma [Mr. Ferris] with the belief that the committee should have given a larger appropriation than \$90,000. The gentleman from Oklahoma read some eight specifications that the department had in view to cover when it recommended an increase of the appropriation. The gentleman from Oklahoma stated that the objects of these eight recommendations were unfathomable. One of these was the sub-sistence of sick Indians under treatment. It is recognized everywhere, I believe, that the food, "the subsistence," sick person is of more consequence than medicine. It seems to me that most of the objects that the department had in view that he read about from the report were very desirable. This is a very serious subject. It involves the spread of very deadly and loathsome diseases among the Indians. The department has recommended that the appropriation be increased to \$250,000. Some gentlemen think that the whole situation is not ideally worked out, and until that has been worked out to their satisfaction they will only make the small appropriation that has been made hitherto. It seems to me would be the wiser course, until we decide about the health bureau and until we decide the other questions that gentlemen have in mind, that we should have a care for the health of the Indian, and we should give an increased appropriation for the objects that are set out in the recommendations of the department; and I therefore think it the part of wisdom for the committee to increase the amount, and I should prefer to increase it to the amount I have named rather than the amount named by the gentleman from Wyoming [Mr. MONDELL]

Mr. STEPHENS of Texas. Does the gentleman think it would be wise, when the bureau failed to expend \$8,000 of the amount last year, to increase it above \$90,000 now? They did

not expend the \$90,000.

Mr. McCALL. Because a trivial balance was left over is no argument whatever. Eight thousand dollars is a very small They might not have the organization to carry on this work effectively, and they went on according to the old method, and therefore had a small balance left, but they recommend that the amount be increased from \$90,000 to \$250,000.

And I do not believe that this House is justified, in view of the amount of property that the Indians have, in view of the great amount of property they have had and from which they have been separated, and in view of the fact that we are their

guardians, in disregarding this proposition of the department in regard to them and not increase the appropriation at all.

Mr. MILLER. Mr. Chairman, I think there are two reasons why this amendment should not be adopted at this time. the first place, as has already been stated on the floor of the House, a very thorough investigation of this entire subject is now under process of being made by the proper bureau of the Government. The report will be forthcoming in a very few weeks, and it seems to me it is entirely inadvisable for the House to take action in a large way on a big subject until we have before us exact and proper information that will soon be

My next objection, Mr. Chairman, is even stronger and greater than that. I have taken occasion as opportunity has presented itself to investigate several bands and Indian tribes, to see what effect the Medical Corps on the part of the Government is having in respect to the diseases among those Indians. I have found a remarkable situation. I am no physician nor a particular judge of physicians, but I am somewhat of a judge of a man when he is trying to work. I have been appalled by the ignorance, the incapacity, and the slovenly way that most of the physicians now attending Indian bands are performing their work. I spent half a day talking this over with the Indian Commissioner, and I arrived at this conclusion: In certain places, like the physician suggested by the gentleman from Wyoming [Mr. MONDELL], who are of high standing in their practice, physicians are performing their work at a sacrifice. That class of men can be paid by the Indian Office, under the law as it now stands, no more than \$700 a year, although they may be performing a service worth \$7,000. That class of physicians is exceedingly in the minority. A great bulk of the work being done under this paragraph is performed by men who are selected through the civil service, most of them being paid about \$1,000 or \$1,200 a year. One of the elements that goes into the proposition is composed of young men out of college, who have had no experience, but are trying to get it. The other element in that class consists of physicians who have made a failure, and are out of a job. Neither of those elements should be trusted with a work of this kind. I think we should wait until we have a report from the Public Health and Marine-Hospital Service, and I am sure when that is before us we will take action in a large way, and we will intrust this great and important work—and its importance is fully as great as suggested by the gentleman from Massachusetts [Mr. McCall]-to trained men, capable men, who will perform the work not only from a scientific and professional standpoint, but in the interests of humanity. [Applause.]

Mr. HILL. Mr. Chairman, I would like to ask a question of the chairman of the Committee on Indian Affairs, purely for

my own information.

I have a distinct recollection of the promises that were made and the statements that were given to the country and to the House with reference to irrigation projects and how the money would return to the Treasury some time in the dim and distant future, from the purchase of rights and use of water, and so footh. I would like to know if there is any money; and if so, about how much in this bill that will be used to pay for water from those original irrigation schemes and be credited to the profit on those transactions? Are we paying for the use of water by the Indians on any of the original irrigation schemes for which we have expended one hundred or two hundred million dollars, or somewhere in that neighborhood? Is there anything in this bill that covers that?

Mr. STEPHENS of Texas. I think not. These are independ-

ent projects, so far as I know.

Mr. HILL. The small projects I refer to are independent projects, but does not the language authorize the payment under contract by the irrigation commissioners with the Indian Commissioner for the use of water from the other larger projects?

Mr. STEPHENS of Texas. In a very few cases that is true, where there is large amount.

Mr. HILL. About how much?

Mr. STEPHENS of Texas. Oh, I do not suppose there would be one-fourth of the projects that would fall under that class; very few of them.

Mr. HILL. Then, as a matter of fact, they are taking money out of one pocket and putting it into the other and showing a

profit from the irrigation schemes?

Mr. STEPHENS of Texas. I think not. We are correcting that as fast as we can. We have two different systems here—the Indian irrigation system and the white man's irrigation

Mr. HILL. I understand that; but are we appropriating anything here under this Indian bill that will look toward a profit to the white man's system?

Mr. STEPHENS of Texas. It is very hard to distinguish between them. I am in favor of putting the Indian lands under the United States irrigation service and under the United States engineers. I think that will be done.

Mr. HILL. I wanted to understand the situation. posed that it would work out that way when the irrigation projects were begun, and I wanted to know if we had reached

that condition.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Massachusetts [Mr. Mc-CALL] to the amendment offered by the gentleman from Wyoming [Mr. MONDELL].

The question was taken, and the amendment to the amend-

ment was rejected.

The question now is on agreeing to the The CHAIRMAN. amendment of the gentleman from Wyoming [Mr. Mondell].

The question was taken, and the Chairman announced that

the "noes" seemed to have it.

Mr. MONDELL. Mr. Chairman, I ask for a division. The committee divided; and there were-ayes 16, noes 50.

So the amendment was rejected. The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The Clerk read as follows:

For support of Indian day and industrial schools not otherwise provided for and for other educational and industrial purposes in connection therewith, \$1,420,000: Provided, That no part of this appropriation, or any other appropriation provided for herein, except appropriations made pursuant to treaties, shall be used to educate children of less than one-fourth Indian blood, whose parents are citizens of the United States and the State wherein they live and where there are adequate free school facilities provided and the facilities of the Indian schools are needed for pupils of more than one-fourth Indian blood.

Mr. Clerkinson, Lorky intended to

Mr. STEPHENS of Texas. Mr. Chairman, I only intended to have the paragraph read which has just been read. I desire

now to move that the committee rise.

Mr. BURKE of South Dakota. Mr. Chairman, before the gentleman makes the motion to rise, I want to ask unanimous consent to extend my remarks, for the purpose of printing in the RECORD the report of Mr. Mott, with reference to the conditions in the Creek Nation that I referred to in my remarks earlier in

The CHAIRMAN. The gentleman from South Dakota [Mr. BURKE] asks unanimous consent to extend his remarks by in-

serting the report named. Is there objection?

Mr. FERRIS. Mr. Chairman, reserving the right to object, will the gentleman from South Dakota please call up the Indian Office and have them furnish the names of those designated as "professional guardians"? I think they ought to go in as part of this report

Mr. BURKE of South Dakota. There are 2,000 of them. Mr. FERRIS. I hope the gentleman will put them in with it,

so that it will be complete.

Mr. BURKE of South Dakota. They are not in my possession, and I can not consent to do that.

Mr. RODDENBERY. Mr. Chairman, reserving the right to object, will the gentleman permit me to inquire of the chairman of the Committee on Indian Affairs if he thinks that when the committee rises this afternoon it will be possible to reach an agreement beforehand that when we come back into the House we recess until 8 o'clock to-night, to proceed to the consideration and final passage of this bill before adjournment to-night, so that we can get to the immigration bill to-morrow?

Mr. STEPHENS of Texas. I will say to the gentleman, Mr. Chairman, that we have no means of ascertaining whether that be done. I doubt if any quorum would be had. There is no quorum present now, and I have refrained from making the point in the desire to expedite the consideration of this matter.

I understand that the Committee on Rules has a rule prepared.

Mr. RODDENBERY. They are ready to follow, when they

can get recognition, on the immigration bill.

Mr. STEPHENS of Texas. I will say to the gentleman that am in sympathy with him, but I demand the regular order. Mr. RODDENBERY. Mr. Chairman, I object to the request

Mr. RODDENBERY. Mr. Chairman, I object to the request of the gentleman from South Dakota.

The CHAIRMAN. The regular order is demanded.

Mr. BURNETT. Mr. Chairman, I would like to ask if the gentleman from Texas is not willing to rise and then let us go on and take up the immigration bill? I have not heard the question of no quorum raised all day.

Mr. RODDENBERY. Mr. Chairman, I withdraw my objection to the request of the gentleman from South Dakota.

The CHAIRMAN. The gentleman from Georgia [Mr. Rop-

The CHAIRMAN. The gentleman from Georgia [Mr. Roddenser] withdraws his objection to the request of the gentleman from South Dakota [Mr. Burke] to extend his remarks in the RECORD by inserting the report which he has named. Is there objection?

There was no objection.

Following is the report referred to:

MUSKOGEE, OKLA., November 27, 1912.

The honorable the Secretary of the Interior, Washington, D. C.

Washington, D. C.

Sin: The report which I here submit relates directly to the administration of the affairs of the minor members of the Creek Tribe of Indians in the probate courts of Oklahoma under the jurisdiction over such matters conferred upon said courts by the act of Congress of May 27, 1908.

Size. The report which I here submit relates direct Tebes duffairs in the probate courts of Okiahomemor the jurisdiction over such matters conferred upon said courts by the act of Congress of May 27, 1908.

Before proceeding with the facts and details with which the report of the properties of the department in the winter of 1907 and 1908, when the subject was first dealt with after statehood. It was my opinion at that time, as freely expressed to the department and as represented to the committees served by conferring the administration of the probate affairs upon the local courts in Okiahoma. My convictions then were due to my observation and knowledge of such matters, which had led me to the conclusion when a subject of the probate affairs upon the served by conferring the administration of the probate affairs upon the local courts in Okiahoma. My convictions then were due to my observation and knowledge of such matters, which had led me to the conclusion when a subject of the probate affairs upon the ground upon which Federal jurisdiction has been maintained over the ground upon which Federal jurisdiction has been maintained over the ground upon which Federal jurisdiction has been maintained over the ground upon which Federal jurisdiction has been maintained over the probate affairs of the fact and the strength of the probate affairs of the fact and the probate affairs of the fact and the probate affairs of the Indians and which of these affairs passed by Congress 1908, was the first act pertaining to do so, or, in other words, if there were not insurmountable constitutional objections, there should be crewer not insurmountable constitutional objections, there should be crewer not insurmountable constitutional objections, there should be crewer to the probate affairs of the Indians could not be administered to their best interests

were concerned.

The information submitted is divided into three classes: First, cases in which the administration has been in the hands of professional guardians (by which is meant a class of persons who make acting as guardians a business to a large extent); second, where the administration has been in the hands of competent relatives or business men; third (for the mere purpose of comparison), the guardianships in cases where white minors only are involved.

I now call attention to the facts pertaining to guardianship of minors' estates in Muskogee County, Okla., since statehood, so far as the records of same were available, the data of which will be found in Exhibit A submitted herewith.

It will be found that in this county 584 guardianships are in the hands of the class of professional guardians.

The amount handled by this class is \$1,172,000.65 120, 350, 78 43, 090, 57 72, 503, 91 The amount of attorneys' fees paid is ______
The amount of court costs _____
The amount of guardian fees _____ e amount of attorneys' fees paid is_____ Total expense of guardianship Cost of administration, 20.13 per cent of the amount handled. It will be seen also that 112 guardianships are in the hands of competent guardians.

The amount handled by this class is _____ Attorney fees paid____ Court costs
Guardian fees

Total expense of guardianship 10, 927, 29
Cost of administration, 4.2 per cent of the amount handled.
These two classes include only guardianships of tribal minors.
It will be seen also that there are 49 guardianships reported in Exhibit A of white minors, this being all the white guardianships available from the records of this county.

The total amount handled_____ Attorney fees

Court costs

Guardian fees 1, 042, 79 1, 027, 87 1, 274, 93 Total expense of guardianship

The amount handled by this class is ___

66, 141, 51 35, 182, 71 38, 921, 73 Total expense of guardianships.....

Cost of administration, 24.5 per cent of the amount handled. In Wagoner County there are 43 guardianships in the hands of competent guardians.

The amount handled by this class is_____ Attorney fees paid 1, 350. 89
Court costs 663. 12
Guardian fees 682. 46

Total expense of guardianship.....

Cost of administration, 3.1 per cent of the amount handled. These two classes include only guardianships of tribal minors in Wagoner County.

It will be seen also that there are 20 guardianships reported in this exhibit of white minors, this being all the white guardianships available from the records of this county.

Amount handled_____ Attorney fees _____ Court costs______

Cost of administration, 3.1 per cent of the amount handled.
In Exhibit C, submitted herewith, will be found the facts pertaining to the guardianship of minors' estates in McIntosh County.
In this county there are 319 guardianships in the hands of the class of professional guardians.

Total expense of guardianship

The amount handled by this class is_____ Attorney fees paid _______ Court costs paid ______ Guardian fees paid ______

Total expense of guardianship..... Cost of administration, 18.6 per cent of the amount handled.

In this exhibit will be found also 67 guardianships in the hands of competent guardians.

The amount handled by this class is____ \$62, 432, 87

Attorney fees paid _______ Court costs______ Guardian fees_____ Total expense of guardianship....

Cost of administration, 3.5 per cent of the amount handled. These two classes include only guardianships of tribal minors.

In Exhibit C will be found 12 guardianships reported of white minors, the same being the number of such guardianships available from the records.

Amount of funds handled______ _ \$11, 297, 30

Total expense of guardianship ... 269, 70 Cost of administration, 2.3 per cent of the amount handled.

Attention is next invited to the facts shown by the from Tulsa County, which is found in Exhibit D, submin the connection it will be noted that there are 203 in charge of professional guardians. The amount handled is	
Amount paid as attorneys' feesAmount paid as court costsAmount paid as guardian fees	37, 709, 68 16, 574, 43 40, 521, 20
	94, 805. 31 handled. anships in the
Attorney fees paid	4, 768, 29 1, 615, 83 2, 079, 00
Total cost of administration— Cost of administration, 4 per cent of the amount handle classes include only guardianships of tribal minors in the There are 24 guardianships of white minors reported the same being the only available guardianships of this records of Tulsa County. Amount handled———————————————————————————————————	ed. These two is county. in this exhibit, class from the
Attorney feesCourt costsGuardian fees	897. 15 695. 74
Total expense of guardianship————————————————————————————————————	1, 692, 89 ndled. nors' estates in with. 245 guardian- \$431, 386, 05
Attorney fees paidCourt costsGuardian fees	29, 050, 30 9, 507, 23 40, 631, 47
Total expense of administration	79, 189. 00 ndled. guardians. \$579, 165. 62
Attorney fees paidCourt costsGuardian fees	
Cost of administration, 3.6 per cent of the amount has classes include only guardianships of tribal minors. In this exhibit there will be found 22 guardianships of being the number available from the records of Creek Corne amount handled.	andled. These white minors, ounty.
Attorney feesCourt costsGuardian fees	
Total expense of guardianship————————————————————————————————————	1,041.21 dled. uardianship of d, so far as the found in Exships in charge \$662,005.31
Attorney fees	49, 056, 83
Total expense of guardianship Cost of administration, 18.2 per cent of the amount h It will be seen that there are 50 guardianships in the petent guardians: The amount handled	andled. hands of com-
Attorney feesCourt costsGuardian fees	1, 105, 93
Total expense of guardianship————————————————————————————————————	andled. Guar- classes. white minors, records of this
Attorney fees paid	128.00
Court costs	02.00
Total expense of guardianship. Cost of administration, 2.4 per cent of the amount ha In Exhibit G, submitted herewith, will be found the f the guardianship of minors' estates in Okfuskee County In this county there are 148 guardianships in the hafessional guardian:	andled. acts relative to nds of the pro-
Amount of funds handled	\$136, 860. 24

-					
d i.	Attorney fees paid Court costs Guardian fees	\$11, 153, 63 5, 096, 14 8, 853, 40			
0 8 3 0	Total expense of guardianship Cost of administration, 18.3 per cent of the amount hand In this exhibit will also be found 59 guardianships in the competent guardians:				
1 ie	Amount handled by this class	1, 395, 12 459, 37			
0 0 0 0	Guardian fees				
2 t,	the hands of the class of professional guardians:	117 398 64			
9	Amount of attorney fees paidAmount of court costsAmount of guardian fees paid	9, 804, 98 3, 244, 93 8, 783, 65			
5 4 00 00	Total expense of guardianship————————————————————————————————————	21, 833, 56 ed. he hands of			
in	Amount of funds handled by this class	\$33, 683. 42			
n-	Attorney fees pald Court costs Guardian fees paid	1, 855. 98 244. 85			
5	-	1150 MONEY 1944			
17	Total expense of guardianship				
	Hughes County. Amount of funds handled by this class Attorney fees paid	\$9,695.06			
33	Court costs	172. 79 49. 50			
18 51 se s,	Total expense of guardianship Cost of administration, 3.5 per cent of the amount handle Summing up the aggregate of the eight counties in the C we find that the total number of professional guardianships Total amount of funds handled \$3,	200 200 200			
)2	Total amount of attorney fees	346, 095, 39 138, 205, 46 279, 182, 49			
15	Total expense of guardianship	int handled.			
of ne x-	Total amount of attorney fees Total court costs Total guardian fees	21, 762, 41 11, 295, 92 19, 972, 58			
ge 31	Total expense of guardianship Total cost of administration, 3.1 per cent of the amount These two classes include only guardianships of tribal mi The total number of white guardianships is 203. Total amount of funds handled	nors.			
31	Total amount of attorney fees				
m- 14 338 75 06 r- s, is	Total expense of guardianship————————————————————————————————————	7, 755. 85 nandled. ation where w much this ed had the			
15	tion.	and the state of the state of the state of			

are in many instances used by others connected with the administration.

I suggest, further, in this connection, that in a great many instances in the class of professional guardians the guardians are attorneys, licensed to practice in the courts, and that the extravagance and waste in the administration, which will also be later referred to, is not due to incompetency of guardians, because men qualified to practice law, as a rule, would not be incompetent, and in cases where they are guardians the cost of administration is as high on an average or a little higher than in other cases.

This report is not intended to include the management of the estates of the minors apart from the cost of administration as set forth above, because I have had neither time nor facilities to fully report upon the former question, but sufficient investigation has been made to warrant me in saying that in a great number of instances bad

management and great waste have been the rule. Extravagant and totally unwarranted allowances for maintenance and personal expenses of wards have been made, all of which can be verified by the probate records, and where the allowances are aggravatedly large and unnecessary the presumption is that some one other than the ward is getting the benefit of the excessive amount. Again, in addition to the above, Mr. D. H. Bynum, former chief clerk to the Commissioner to the Five Civilized Tribes and recently probate attorney for the district agents, has reported to me after extensive investigation that in a great number of instances large sums of money of minors have been loaned by the guardians on totally inadequate securities, many loans being made to guardians themselves and members of their families, etc., and that in many instances the bondsmen of the guardians are totally insolvent.

I also call attention here to the fact that in the eight counties of the Creek Nation there are 4,839 cases of guardianships in which the guardian has made no report, or the papers and court files are in the hands of attorneys or guardians and therefore inaccessible, and in all of these cases it has been impossible to make a report because of these facts; and I think it is quite probable that in many of these cases the administration of the affairs of the minor has been so extravagantly and wastefully conducted that the parties responsible therefor have a personal interest in withholding the facts from public record and in spection as long as possible.

To my mind this report in connection with the data upon which it is based reveals an appalling state of affairs with reference to the administration of the affairs of the minor members of the tribe. As pointed out above, in the administration of the estates of Indian minors amounts to Oklahoma. The facts speak for themselves and show a most unjust and destructive discrimination against the Indian minor. I have made this classification to answer in advance any suggestion or argument th

No. 497. Amount handled, \$5.385,35, at cost of \$3.329,29, or 39.7 per cent. No. 812. Amount handled, \$3,922, at cost of \$2,777.26, or 70.8 per

No. 884. Amount handled, \$3,980, at cost of \$2,172.35, or 54.5 per

cent. No. 1265. Amount handled, \$1,474.12, at cost of \$1,015.86, or 68.9 per cent.

I also call attention for the same purpose to the following cases found in Exhibit A for Muskogee County:

No. 81(a). Amount handled, \$3,404.30, at cost of \$1,481.68, or 43.5

per cent. No. 550. Amount handled, \$11,560, at cost of \$2,629.85, or 22.7 per cent. No. 626. Amount handled, \$2,085, at cost of \$1,494.93, or 71.2 per

cent.
Nos. 1411-1412. Amount handled, \$65,266.92, at cost of \$19,315.23,

or 29.4 per cent. No. 1133. Amount handled, \$3,286.94, at cost of \$1,721.52, or 52.3 per cent. No. 1556. Amount handled, \$41,502.16, at cost of \$21,953.60, or 52.8

per cent.

The following cases will be found in McIntosh County, Exhibit C:
No. 32. Amount handled, \$1,328.52, at cost of \$937.89, or 70.5 per

nt. No. 310. Amount handled, \$600, at cost of \$305.50, or 50.9 per cent. No. 359. Amount handled, \$1,960, at cost of \$695.50, or 35.4 per

cent.
No. 428. Amount handled, \$17,944.26, at cost of \$3,043.07, or 16.9 per cent.
No. 669. Amount handled, \$1,787.50, at cost of \$609.49, or 34 per

In Exhibit D, for Tulsa County, will be found the following cases: No. 7. Amount handled, \$14,944.37, at cost of \$3,267, or 21.8 per

cent. No. 110. Amount handled, \$2,004.28, at cost of \$1,274.75, or 60.8 per cent.
No. 273 (a). Amount handled, \$9,520.12, at cost of \$2,487.67, or

26.1 per cent. No. 273 (c). Amount handled, \$29,296.76, at cost of \$6,523.15, or

20.1 per cent.
No. 273 (c). Amount handled, \$29,296.76, at cost of \$0,025.10, of 22.2 per cent.
No. 1014 (b). Amount handled, \$19,534.12, at cost of \$3,644.30, or 18.6 per cent.
Exhibit E, for Creek County, contains the following cases:
No. 16. Amount handled, \$13,675.37, at cost of \$3,099.60, or 22.6 per cent. No. 36. Amount handled, \$54,968.10, at cost of \$10,650.43, or 19.9

per cent.
No. 182. Amount handled, \$64,863.42, at cost of \$11,810.59, or 18.2 per cent.
(The above three cases were under the same guardianship.)
No. 42. Amount handled, \$1.740, at cost of \$793.75, or 45.7 per cent.
No. 188. Amount handled, \$1,347.78, at cost of \$759.37, or 56.3 per

cent.

The cases below will be found in Exhibit F, for Okmulgee County:

No. 10. Amount handled, \$8,688.21, at cost of \$2,243.85, or 25.8 per

No. 280. Amount handled, \$2,855, at cost of \$1,038.82, or 36.3 per No. 152. Amount handled, \$1,321.50, at cost of \$1,196.50, or 90.5 per cent. No. 136. Amount handled, \$2,026.55, at cost of \$778.95, or 38.4 per

No. 540. Amount handled, \$2,570, at cost of \$1,684.64, or 65.5 per

In Exhibit G, for Okfuskee County, will be found the following cases: No. 271. Amount handled, \$3.270, at cost of \$911.96, or 27.8 per cent, No. 237. Amount handled, \$698.60, at cost of \$364, or 52.1 per cent, No. 179. Amount handled, \$3,208.05, at cost of \$983.10, or 30.6 per

cent. No. 98. Amount handled, \$1,674.40, at cost of \$482.57, or 28.8 per

I also call attention to the following cases found in Exhibit II, for Hughes County:
No. 223. Amount handled, \$2,372.50, at cost of \$909.58, or 38.3 per

Cent.
No. 305. Amount handled, \$4,939, at cost of \$1,147, or 23.2 per cent.
No. 480. Amount handled, \$1,950, at cost of \$717.95, or 36.8 per cent

No. 984. Amount handled, \$2,847.79, at cost of \$744.44, or 26.2 per

cent. No. 1039. Amount handled, \$806.40, at cost of \$407.64, or 50.5 per

ent.

No. 984. Amount handled, \$2,\$47.79, at cost of \$744.44, or 26.2 per cent.

No. 1030. Amount handled, \$806.40, at cost of \$407.64, or 50.5 per cent.

It will thus be seen that these methods and practices apply generally throughout the Creek Nation, and while they may exist in a greater degree in one county than another, the general situation is substantially the same. It is reasonable to presume also that in that large number of cases, as above pointed out, to wit, 4,339, where no reports of guardians have been made and where files are out, equally bad or even worse conditions prevail.

While the enormity of this extravagance and waste seems to me to be self-evident, I was not satisfied to submit the report without a showling of the comparative cost of the administration of such matters in letters to the courts exercising probate jurisdictions sed as scrience of letters to the courts exercising probate jurisdictions sed as scrience of letters to the courts exercising probate jurisdictions sed as scrience of states throughout the Union, and my responses to these inquiries furnish data upon the cost of administration in 30 different States, to wit, Arkanasa, Colorado, Connecticut, Delaware, Florida, Idaho, Indiana, Iowa, Illinois, Kanasa, Kentucky, Maryland, Minnesota, Missouri, Michigan, Nebraska, New York, North Dakota, North Carolina, Ohio, Pennsylvania, Rhode Island, South Dakota, North Carolina, Texas, Vermont, West Virginia, and Wisconsin. I have bound together in a separate volume the reports from these different States, which is marked "Exhibit I" and submitted herewith, and will say in a general way that these reports show that the average cost of administration in kindred matters in those jurisdictions does not exceed 3 per cent, and it is not improper to note in this connection that the administration in kindred matters in those jurisdictions does not exceed 3 per cent, and it is not improper to make the subject but upon the ground that a great injustice and wrong is being suffered by the minors o

other cases.

The amount allowed as fees for attorneys for guardians in the Creek Tribe since statehood in the various counties in the cases reported is in the aggregate \$367,857.80. In Muskogee County alone the allowance for this purpose amounts to \$124,638.90. There are eight counties in the Creek Nation. One properly equipped attorney could render all necessary and proper legal services for all the guardians of Indian minors in any two counties, and four such attorneys could perform such duty for all the guardians of that class of persons in the Creek Nation. This could be done on an annual expenditure, including all expenses, of \$25,000; this to include the salary of the attorney, office, traveling, and stenographic expense necessary.

With a force of this kind properly equipped and authorized and

traveling, and stenographic expense necessary.

With a force of this kind properly equipped and authorized and with full notice and publication of the fact to all courts and all guardians there would remain no excuse, much less any reason, for guardians not availing themselves of the privilege of this legal advice without expense to their wards; nor would there be any reason why the courts would refuse to cooperate, for it is to be assumed that the courts would be interested in the economical administration of the estates of wards under their jurisdiction and would recommend that they take advantage of the services of counsel thus provided without expense to their wards and would refuse to make allowances for the unnecessary payment of other attorneys. Among the duties of these attorneys would be those: To aid in the selection of proper guardians in the first instance, to bring about the removal of incompetent guardians, to prepare all legal papers on the appointment of guardians and the making of reports, etc., to see that delinquent reports are made as to past transactions, and to cause regular and proper reports to be made in all cases in the

future, and, on the whole, to perform any and all legal services that might be required by any guardian of any Indian minor in the proper administration of the matters in his charge.

I say that four competent men, working under the direction of the tribal attorney, with proper facilities can transact all this business upon the theory that to the extent that the guardians are competent and proper persons for such a position that the work required of an attorney is minimized, and that in many instances, as a matter of course, very little or no service would be required of the attorney except a formal inspection of matters.

In the case of competent guardians the chief work of the attorney would be services in cases of the sale of land and four attorneys would be serviced in cases of the sale of land and four attorneys would be serviced and would not encourage unnecessary and improvident sales of the minors' lands, of which there have been many. It will be seen from the foregoing that much of the larger part of the allowances for mattorneys' services is for such services in connection with the sale of minors' land. In the entire record there are not a half dozen instances where the fees allowed were based upon services rendered in contests over the property rights of the ward where such fees might be justified. After giving this whole subject much consideration I am thoroughly of the opinion that the plan here suggested presents the only feasible and practical solution of the present deplorable situation, and it is quite probable that the operation of such a plan for a couple of years would be sufficient to break up the present system and being about healthy conditions, after which there would be little danger of the old system being reestablished.

Now, the next question is, How should the expense of this plan be provided? Should it be paid out of the General Government or borney the tribes? I have given that matter considerable reflection, and will here submit my observations: There are approximately 7,905 adul

attorneys. Therefore the administration of these affairs in this manner is in the interest and to the benefit of practically all the members of the tribe, and that it could with much accuracy be said to be a tribal matter.

While this report is dealing particularly with the administration of minor Indian probate affairs, it is, nevertheless, apparent that it throws much light upon the Indian situation as a whole in this State, and therefore may afford some guide to the department and Congress in their dealings with Indian matters now still remaining under the control of the Government. The same persistent clamor will be heard for the removal of restrictions from the full bloods and other Indians still under restrictions which was heard in favor of the removal of restrictions from the surplus and homesteads of other members of the tribes. Whenever heretofore the question of the removal of restrictions from the surplus and homesteads of other members of the tribes. Whenever heretofore the question of the removal of restrictions has been under consideration the claim was tenaciously advanced that the Indian was competent to manage his own affairs, and that his best interest demanded that he be given an opportunity so to do; but the deplorable condition of that large number of adults from whose lands restrictions have been removed, as pointed out above, is a complete answer to that fallacy. In considering any future policy regarding these matters two questions naturally present themselves, because of the fact that there are two interests involved. To the extent that the interests of the white people will be best subserved by the removal of all restrictions from the Indian lands, and even by the sale of all Indian lands and the abandonment of the country by the Indians. As a commercial and sociological question, this is undeniable; but, on the other hand, if the Indian's interest is to be considered, that interest in this State of which the Government is the considered, that interest in this State of which the Gover

M. L. MOTT.
Attorney for Creek Nation.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. Robinson, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 26874) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations

with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914, and had come to no resolution

LEAVE TO WITHDRAW PAPERS-JENNIE M. METZ.

Mr. Hartman, by unanimous consent, obtained leave to withdraw from the files of the House, without leaving copies, the papers in the case of Jennie M. Metz (H. R. 15513), Sixty-second Congress, no adverse report having been made thereon.

ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 3436. An act granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse.

SENATE CONCURRENT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, the following resolution was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

Senate concurrent resolution 32.

Resolved by the Senate (the House of Representatives concurring). That the plan, design, and location for a Lincoln memorial, determined upon and recommended to Congress December 4, 1912, by the commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln, approved February 9, 1911, be, and the same are hereby, approved—

to the Committee on Appropriations.

ORDER OF BUSINESS.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the

House do now adjourn.
Mr. RODDENBERY. Mr. Speaker, a parliamentary inquiry.
The SPEAKER. The gentleman will state it.
Mr. RODDENBERY. Is it now in order to be recognized to

make a motion for a recess until 8 o'clock to-night for the fur-ther consideration of the Indian appropriation bill?

The SPEAKER. No; that is not privileged any more under e rules. It can not be done except by unanimous consent. the rules. Mr. RODDENBERY. Mr. Speaker, why is not that motion

in order

The SPEAKER. It used to be a privileged motion, but the

change in the rules has knocked that out.

Mr. RODDENBERY. Then I ask unanimous consent that the House take a recess until 8 o'clock to-night for the purpose of further considering and completing the consideration of the Indian appropriation bill, so that we may get to the immigration bill to-morrow, the session to-night not to last later than 11 o'clock.

The SPEAKER. The gentleman from Georgia asks unanimous consent that the House now take a recess until 8 o'clock to-night, the session to continue not later than 11 o'clock, for the further consideration of the Indian appropriation bill. Is there objection?

Mr. CURLEY. Mr. Speaker, I object.

ADJOURNMENT.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 49 minutes p. m.) the House adjourned until to-morrow, Saturday, December 14, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, submitting estimate of urgent deficiency appropriation for miscellaneous expenses, Internal-Revenue Service, for the fiscal year ending June 30, 1913 (H. Doc. No. 1163); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of War submitting estimate of appropriation for unveiling and dedicating the statue of Commodore John Barry (H. Doc. No. 1164); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of the Interior submitting estimates of deficiency appropriations required by the Bureau of Mines for continuing the investigation into mine accidents during the fiscal year 1913 (H. Doc. No. 1165); to the Committee on Appropriations and ordered to be printed.

4. A letter from the Secretary of the Treasury, transmitting copies of communications from the Secretary of War submitting estimates of deficiency appropriations for the fiscal years 1912 and 1913 for the International Waterways Commission and for the relief of sufferers from floods in the Mississippi and Ohio Valleys in 1912, and to reimburse the Medical Department

of the Army (H. Doc. No. 1166); to the Committee on Appro-

priations and ordered to be printed.

5. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on examination of Eastern Branch of Elizabeth River, Va., from Norfolk & West-ern Railway bridge to Broad Creek (H. Doc. No. 1167); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

6. A letter from the Secretary of War, transmitting, pursuant to Senate joint resolution 103, report of commission appointed by the War Department to investigate the claims of American citizens for damages suffered within American territory and growing out of the late insurrection in Mexico, etc. (H. Doc. No. 1168); to the Committee on Foreign Affairs and ordered to be

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were thereupon referred as follows:

A bill (H. R. 19907) granting a pension to Eliza P. Cook; Committee on Pensions discharged, and referred to the Com-

mittee on Invalid Pensions.

A bill (H. R. 20403) for the relief of Milton S. Cabell; Committee on Claims discharged, and referred to the Committee on War Claims.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memo-

Under clause 3 of Kule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. KINDRED: A bill (H. R. 27200) amending the national bank act; to the Committee on Banking and Currency.

By Mr. KINKAID of Nebraska: A bill (H. R. 27201) providing for the purchase of a site and the erection of a public building in the city of O'Neill, State of Nebraska; to the Committee on Public Buildings and Grounds.

By Mr. SMALL: A bill (H. R. 27202) to provide for the erec-

tion of a public building at Edenton, N. C.; to the Committee on

Public Buildings and Grounds.

By Mr. HAWLEY: A bill (H. R. 27203) for the relief of certain entrymen on the former Siletz Indian Reservation,

Oreg.; to the Committee on the Public Lands.
By Mr. WATKINS: A bill (H. R. 27204) making an appropriation for the improvement of Red River in the States of Louisiana and Arkansas from Fulton, Ark., to the mouth of the river; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 27205) authorizing a survey of Red River in Louisiana and Arkansas from Fulton, Ark., to the mouth of

the river; to the Committee on Rivers and Harbors.

By Mr. HENRY of Texas: Resolution (H. Res. 748) for the consideration of S. 3175; to the Committee on Rules.

By Mr. MACON: Resolution (H. Res. 749) authorizing the printing of 1,000 copies of the United States bankruptcy law of July 1, 1890, and amendments thereto to June 25, 1910; to the Committee on Printing.

By Mr. JOHNSON of Kentucky: Resolution (H. Res. 750) authorizing the Committee on the District of Columbia to investigate certain fire insurance companies in the District of Columbia and also the office of the superintendent of insurance of the District of Columbia, and appropriating money for the expense of such investigation; to the Committee on Printing. By Mr. KINDRED: Joint resolution (H. J. Res. 372) request-

ing the Secretary of State to furnish information relative to alleged atrocities in the rubber fields of Peru; to the Committee

on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions

were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 27206) granting a pension to Mary Binder; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27207) granting a pension to Maggie Williamson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27208) granting an increase of pension to Jane Coleman; to the Committee on Invalid Pensions.

By Mr. ANTHONY: A bill (H. R. 27209) granting an increase of peusion to Martin Jordan; to the Committee on Invalid Pensions.

By Mr. AYRES: A bill (H. R. 27210) for the relief of F. W. Theodore Schroeter; to the Committee on Claims.

By Mr. BORLAND: A bill (H. R. 27211) granting an increase of pension to Charles Sells; to the Committee on Pensions,
By Mr. COX of Ohio: A bill (H. R. 27212) granting an in-

crease of pension to Henry C. Gray; to the Committee on Invalid Pensions.

By Mr. CULLOP: A bill (H. R. 27213) granting an increase of

pension to James Light; to the Committee on Invalid Pensions. By Mr. DAUGHERTY: A bill (H. R. 27214) granting an increase of pension to David Miller; to the Committee on Invalid Pensions.

By Mr. DAVIS of Minnesota: A bill (H. R. 27215) granting pension to Mary Nachbar; to the Committee on Pensions. By Mr. DODDS: A bill (H. R. 27216) granting an increase of

pension to Marianne F. Morse; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27217) granting a pension to Marilda Howe; to the Committee on Invalid Pensions.

By Mr. DOREMUS: A bill (H. R. 27218) granting a pension to Adelaide A. Harris; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27219) granting a pension to Sarah J. Donaghy; to the Committee on Pensions.

Also, a bill (H. R. 27220) granting an increase of pension to

James H. Langley; to the Committee on Invalid Pensions. By Mr. FORDNEY: A bill (H. R. 27221) granting an increase of pension to Reuben Brink; to the Committee on Invalid Pensions.

By Mr. FOSTER: A bill (H. R. 27222) granting an increase of pension to William C. Harned; to the Committee on Invalid Pensions.

By Mr. GOULD: A bill (H. R. 27223) granting an increase of pension to William Acorn; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27224) granting an increase of pension to Simon Dyer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27225) granting an increase of pension to Gilbert H. Hodgdon; to the Committee on Invalid Pensions. By Mr. GUERNSEY: A bill (H. R. 27226) for the relief of

Lactitia M. Robbins; to the Committee on Claims.

By Mr. HART: A bill (H. R. 27227) granting an increase of pension to Eelenna B. Petty; to the Committee on Invalid Pensions.

By Mr. HAY: A bill (H. R. 27228) for the relief of Pierre C.

Stevens; to the Committee on Claims.

Also, a bill (H. R. 27229) to correct an error in date of original appointment of Maj. William R. Sample, United States Army; to the Committee on Military Affairs.

By Mr. HAYES: A bill (H. R. 27230) granting a pension to Charles A. Reed; to the Committee on Pensions.

Also, a bill (H. R. 27231) granting an increase of pension to Emma McClellan; to the Committee on Invalid Pensions.

By Mr. HENSLEY: A bill (H. R. 27232) granting an increase of pension to Elizabeth Self; to the Committee on Invalid Pension. sions.

Also, a bill (H. R. 27233) granting an increase of pension to G. P. Smiley; to the Committee on Invalid Pensions.

By Mr. HOLLAND; A bill (H. R. 27234) for the relief of

Albert Johanson; to the Committee on Claims.

By Mr. HOWLAND: A bill (H. R. 27235) granting an increase of pension to Dorothea True; to the Committee on Invalid Pensions.

By Mr. KAHN: A bill (H. R. 27236) granting a pension to

Rose Butcher; to the Committee on Pensions.

Also, a bill (H. R. 27237) granting a pension to Susan E. Cline; to the Committee on Pensions.

By Mr. LANGHAM: A bill (H. R. 27238) granting a pension to Carrie Lourenia Briney; to the Committee on Invalid Pensions. Also, a bill (H. R. 27239) granting an increase of pension to Clara S. McQuown; to the Committee on Invalid Pensions.

By Mr. LITTLEPAGE: A bill (H. R. 27240) granting an increase of pension to Annie Schott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27241) for the relief of the legal representatives of George W. Surbaugh, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27242) for the relief of the legal representatives of John W. Stricklin, deceased; to the Committee on War Claims.

By Mr. McGILLICUDDY: A bill (H. R. 27243) granting an increase of pension to Eliza M. Black; to the Committee on Invalid Pensions.

By Mr. MONDELL (by request): A bill (H. R. 27244) for the relief of Fred C. and C. Hellen Fisher; to the Committee on the Public Lands.

By Mr. MOSS of Indiana: A bill (H. R. 27245) granting a pension to Clara Ward; to the Committee on Invalid Pensions. Also, a bill (H. R. 27246) granting a pension to Nancy Walton; to the Committee on Invalid Pensions.

By Mr. MOTT: A bill (H. R. 27247) granting an increase of pension to Edward H. Crandall; to the Committee on Invalid

Also, a bill (H. R. 27248) to appoint Bradley Winslow as colonel on the retired list of the United States Army; to the Committee on Military Affairs.
By Mr. OLDFIELD: A bill (H. R. 27249) granting a pension

to Elizabeth Kirby; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 27250) granting an increase of pension to William Crom; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27251) granting an increase of pension to Charles W. Jackson; to the Committee on Invalid Pensions. By Mr. SMITH of New York; A bill (H. R. 27252) granting

an increase of pension to Horace G. Hopkins; to the Committee on Invalid Pensions.

By Mr. SPEER: A bill (H. R. 27253) granting an increase of pension to Francis M. Burch; to the Committee on Invalid Pen-

Also, a bill (H. R. 27254) for the relief of John Mills; to the Committee on Claims.

By Mr. STERLING: A bill (H. R. 27255) granting a pension to Charles C. Sterling; to the Committee on Invalid Pensions. By Mr. SULLOWAY: A bill (H. R. 27256) granting an in-

crease of pension to John P. Thurston; to the Committee on Invalid Pensions,

By Mr. TAGGART: A bill (H. R. 27257) to correct the military record of James A. Church; to the Committee on Military

Also, a bill (H. R. 27258) granting an increase of pension to

Sarah A. King; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27259) granting a pension to Sarah J.

Manspeaker; to the Committee on Invalid Pensions. Also, a bill (H. R. 27260) granting a pension to Charles B.

Marshall, alias Charles B. Andrus; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27261) granting a pension to Mary V.

Doyle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27262) granting a pension to Mary E.

Hart; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27263) granting a pension to Melissa L. Chase; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27264) granting a pension to James W. Alexander; to the Committee on Pensions.

Also, a bill (H. R. 27265) granting a pension to Thomas J. Campbell; to the Committee on Pensions.

Also, a bill (H. R. 27266) granting an increase of pension to Thomas Higgins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27267) granting an increase of pension to

John Hiet; to the Committee on Pensions. Also, a bill (H. R. 27268) granting an increase of pension to

Albert G. Ingraham; to the Committee on Invalid Pensions.
Also, a bill (H. R. 27269) granting an increase of pension to Eli C. Lowe; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27270) granting an increase of pension to John W. Swanson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27271) granting a pension to Mary Adams; to the Committee on Pensions.

By Mr. TALBOTT of Maryland: A bill (H. R. 27272) for the

relief of William Henry; to the Committee on Claims.

Also, a bill (H. R. 27273) for the relief of the heirs of Ann Gregory, deceased, widow of Charles N. Gregory, deceased, purchaser; to the Committee on War Claims.

By Mr. WILLIS: A bill (H. R. 27274) granting an increase of pension to James Bartholomew; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid

on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of citizens of Gnadenhutten. Ohio, favoring passage of legislation giving the Interstate Com-merce Commission power to control the express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. BURKE of Wisconsin: Petition of F. C. Schwalbs

and 365 other citizens of Plymouth, Wis., protesting against the passage of the amended Kenyon bill (S. 4043); to the Com-

mittee on Interstate and Foreign Commerce.

Also, papers to accompany bill (H. R. 3297) granting an increase of pension to Joseph Titus; to the Committee on Invalid

Also, papers to accompany bill (H. R. 8281) granting a pension to Catharine Beard; to the Committee on Invalid Pensions.

By Mr. DALZELL: Petition of the Order of Independent Americans, Braddock, Pa., and citizens of Pennsylvania, favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization. By Mr. DENVER: Petition of Washington Camp, No. 5, Patriotic Order Sons of America, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. DOREMUS: Petition of the Methodist Ministers' Association of Detroit, Mich., favoring passage of the amended Kenyon liquor bill (S. 4043); to the Committee on the Judi-

By Mr. ESCH: Petition of citizens of Platteville, Wis., favoring passage of the amended Kenyon bill (S. 4043); to the Committee on the Judiciary.

By Mr. FORNES: Petition of Greenwich Council, No. 24, Junior Order United American Mechanics, and the State Camp of New York, Patriotic Order Sons of America, Binghamton, N. Y., favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FRANCIS: Petition of citizens and business men of Beallsville, Ohio, favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

By Mr. FULLER: Petition of the greater Davenport committee, favoring an appropriation of \$250,000 for the enlargement of the Federal artillery plant at Rock Island; to the Committee on Military Affairs.

By Mr. HANNA: Petition of citizens of North Dakota, favoring the passage of the amended Kenyon bill (S. 4043); to the Committee on Interstate and Foreign Commerce.

By Mr. HAYES: Petition of the Woman's Christian Temperance Union of San Jose, Cal., asking that the United States recognize the Chinese Republic; to the Committee on Foreign

By Mr. HOWELL: Petition of citizens and business firms of Ogden and Layton, Utah, favoring regulation of express rates by the Interstate Commerce Commission; to the Committee on Interstate and Foreign Commerce.

By Mr. LINDSAY: Petition of the Central Federated Union of Greater New York and Vicinity, protesting against the passage of the Kenyon-Sheppard bill and other bills of similar character; to the Committee on the Judiciary.

Also, petition of the United Civic and Commercial Organizations, held at Brooklyn, N. Y., favoring the passage of bill changing the pierhead line in the Hudson River between Pier 1 and West Thirtieth Street; to the Committee on Rivers and Harbors.

By Mr. MOTT: Petition of the Central Federated Union of New York, protesting against the passage of the Kenyon bill (S. 4043); to the Committee on the Judiciary.

Also, petition of the Farmers' National Congress, protesting

against restrictions on the freedom of the press; to the Committee on the Post Office and Post Roads.

Also, papers to accompany bill for the relief of Edward H. Crandall; to the Committee on Invalid Pensions.

By Mr. SPARKMAN: Petition of citizens of Hillsboro and De Soto Counties, Fla., favoring the passage of the amended Kenyon liquor bill (8. 4043); to the Committee on the Judiciary.

By Mr. TILSON: Petition of the Connecticut Editorial Asso-

ciation, favoring the passage of legislation repealing the news-paper publicity law; to the Committee on the Post Office and Post Roads.

By Mr. WATKINS: Petition of citizens of Sabine Parish, La., favoring the passage of the Kenyon-Sheppard liquor bill; to the Committee on the Judiciary.

By Mr. WILLIS: Papers to accompany bill (H. R. 26998)

granting pension to Bateman Soule; to the Committee on Invalid Pensions.

SENATE.

Saturday, December 14, 1912.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D. The Journal of yesterday's proceedings was read and approved.

CLAIMS OF AMERICAN CITIZENS.

The PRESIDENT pro tempore (Mr. Bacon). The Chair lays before the Senate a communication from the Secretary of War, transmitting papers relative to damages to American citizens. The Chair will state that it is the package on the desk. The communication will be read.

The Secretary read as follows:

WAR DEPARTMENT, Washington, December 5, 1912.

The PRESIDENT PRO TEMPORE UNITED STATES SENATE.

Sin: In response to Senate joint resolution No. 103, directing the Secretary of War to investigate the claims of American citizens for damages suffered within American territory and growing out of the late insurrection in Mexico, etc., I have the honor to transmit herewith

reports of the commission appointed by paragraph 27. Special Order No. 205, c. s., War Department, to investigate such claims.

Similar reports have been transmitted to the Speaker of the House of Representatives.

Yery respectfully,

HENRY L. STIMSON,

HENRY L. STIMSON, Secretary of War.

(Inclosures: 4, 5, 6, 7, and 8 of 27110 W. D., and 5-27 of 1982096

The PRESIDENT pro tempore. Is it the pleasure of the Senate that this package of papers shall be printed?

Mr. GALLINGER. I think it ought to be printed. It is a very

The PRESIDENT pro tempore. The Chair will not put the question as to whether the illustrations should be printed until the Committee on Printing shall have the opportunity to examine them. So that will not be included, without special motion. Without objection the communication and accompanying papers will be printed and referred to the Committee on Military Affairs.

ASCERTAINMENT OF ELECTORS IN ARKANSAS.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of the electors for President and Vice President appointed in the State of Arkansas at the election held therein on November 5, 1912, which was ordered to be filed.

WITHDRAWAL OF PUBLIC LANDS (H. DOC. NO. 1172).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the lands withdrawn from settlement, location, sale, or entry under the provisions of the act approved June 25, 1910, which, with accompanying paper, was referred to the Committee on Public Lands and ordered to be printed.

COMMERCIAL ASSOCIATIONS IN THE UNITED STATES (H. DOC. NO. 1173).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting, pursuant to law, a report by Commercial Agent E. A. Brand, containing the results of an investigation of the promotive activities of 70 commercial associations in the United States, which, with the accompanying paper, was referred to the Committee on Commerce and ordered to be printed.

COTTON INVESTIGATIONS (H. DOC. NO. 1175)

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting, pursuant to law, a report by Commercial Agent John M. Carson, containing the results of investigations in the packing and marketing of cotton in the United States, which, with accompanying paper, was referred to the Committee on Commerce and ordered to be printed.

TRADE WITH CUBA (H. DOC. NO. 1174).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Commerce and Labor, transmitting, pursuant to law, a report by Commercial Agent A. G. Robinson, containing the results of investigations in the trade situation in Cuba, with special reference to the promotion of American commerce with that island, which, with the accompanying paper, was referred to the Committee on Commerce and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. SHIVELY presented petitions of Edwin L. Meek and 7 other citizens of Greensburg; C. F. Fred, Omer Stoner, R. R. Morgan, and 19 other citizens of McCordsville; and of C. W. Chadwick, R. M. Hogue, Jay Smith, and 155 other citizens of Knox County, all in the State of Indiana, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented memorials of Brewery Engineers and Firemen's Local Union No. 223, Beer Bottlers' Local Union No. 230, Beer Drivers and Stablemen's Local Union No. 220, Brewery Laborers and Ice House Employees' Local Union No. 220, Brewery Laborers and Ice House Employees' Local Union, No. 249, and Brewers' Local Union No. 77, of Indianapolis; of Brewery Workers' Local Union No. 78, of Logansport; of Local Union No. 283, of Anderson; and of Brewery Workers' Local Union No. 272, of South Bend, International Union of the United Brewery Workers of America; and of members of the Turnaversity of South Pend. verein, of South Bend, all in the State of Indiana, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of Rev. John O. Mosier, president, and Rev. A. G. Schafer, secretary, of the Ministerial Association, representing the Protestant churches of South Bend and for the present consideration of the joint resolution.

Mishawaka; of T. J. Giblett and 26 other citizens of Mishawaka; of John S. Burns and 12 other citizens, of M. Clyde Horst and 13 other citizens, of J. H. Evans and 19 other citizens, of W. F. Stauffer and 36 other citizens, and of William G. Garten and 21 other citizens, of South Bend; of E. R. Atkins and 110 other citizens, of Mays and vicinity, Rush County; of W. L. Parker, H. B. Sylvester, and Frank Hanlon, of Avilla; of Dr. A. A. Thompson, Rev. B. F. Richer, and 18 other citizens, of Tyner; of Rev. A. B. Arford and Rev. S. P. De Vault, and 6 other citizens; of J. E. Fisher and 16 other citizens, of New Castle; and of Rev. John O. Mosier and 15 other citizens, of South Bend, all in the State of Indiana, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. HITCHCOCK presented petitions of sundry citizens of Weeping Water and Pawnee City, in the State of Nebraska, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. GALLINGER presented petitions of the Woman's Christian Temperance Union of Franklin, and of sundry business men of Lincoln, Woodstock, and Thornton, all in the State of New Hampshire, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a petition of members of the National Society for the Promotion of Industrial Education, praying for the enactment of legislation providing for cooperation with the States in encouraging instruction in agriculture, the trades, and industries, etc., which was ordered to lie on the table.

Mr. WARREN presented memorials of sundry citizens of Cokeville, Wyo., remonstrating against the passage of the socalled Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BRISTOW presented petitions of sundry citizens of Fostoria, Harlan, Greenleaf, Meridan, Richland, Ottawa, Finney, Lovewell, Republic, Barnard, Woodston, Concordia, and Clayton, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BROWN presented petitions of sundry citizens of Pawnee City, Hastings, Mitchell, and Weeping Water, all in the State of Nebraska, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the

He also presented a telegram in the nature of a memorial from members of the German-American Alliance Societies of Nebraska, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. McLEAN presented petitions of Local Grange No. 50, of Wapping; Central Pomona Grange, No. 1, of Plainville; Local Grange No. 51, of Bridgewater; and of Shetucket Grange, No. 69, of Scotland, all of the Patrons of Husbandry, in the State of Connecticut, praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which were ordered to lie on the table.

Mr. CURTIS presented petitions of sundry citizens of Hill City, Muscotah, Wakeeney, Potwin, Hoxie, and Lebanon, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. LODGE presented a petition of members of the class in sociology, Boston University, Boston, Mass., praying for the passage of the Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. MARTIN of Virginia presented sundry papers to accompany the bill (S. 4515) for the relief of Ida Banks, which were referred to the Committee on Claims.

SUPPORT OF AGRICULTURAL COLLEGES.

Mr. SMITH of Georgia, from the Committee on Agriculture and Forestry, to which was referred the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto, reported it with an amendment and submitted a report (No. 1072) thereon.

PAY OF EMPLOYEES.

Mr. WARREN. From the Committee on Appropriations I report back favorably, without amendment, the joint resolution (S. J. Res. 144) authorizing payment of December salaries to officers and employees of the Senate and House of Representa-tives on the date of adjournment for the holiday recess. I ask

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULLOM:

A bill (S. 7770) for the erection of a public building at Highland, Ill.; to the Committee on Public Buildings and Grounds. By Mr. ROOT:

A bill (S. 7771) to authorize certain improvements at the general lighthouse depot, Tompkinsville, Staten Island, N. Y.; to the Committee on Commerce.

By Mr. GALLINGER:

A bill (S. 7772) to authorize the condemnation of land for a park at the intersection of Twenty-sixth Street, Twenty-seventh Street, and Q Street NW. and a highway from said park along the boundary of Oak Hill Cemetery and across the north part of square 1284 to Twenty-ninth and R Streets (with accompanying papers); to the Committee on Public Buildings and Grounds. By Mr. McCUMBER:

A bill (S. 7773) providing for a commission to settle certain claims between the United States Government and the Sisseton and Wahpeton Indians and the Sioux of the Medawakanton and Wahpekoota Bands; to the Committee on Indian Affairs.

By Mr. DU PONT:

A bill (S. 7774) granting a pension to Mary Bottino; to the Committee on Pensions.

By Mr. PAGE:

A bill (S. 7775) granting an increase of pension to John B. Ladeau; to the Committee on Pensions.

By Mr. O'GORMAN:

A bill (S. 7776) granting an increase of pension to William H. Wheeler (with accompanying paper); to the Committee on Pensions.

AMENDMENT TO LEGISLATIVE APPROPRIATION BILL

Mr. NEWLANDS submitted an amendment proposing to appropriate \$6,350 for the maintenance of a mint at Carson, Nev., intended to be proposed by him as an amendment to the legislative appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

WITHDRAWAL OF PAPERS-ANTON W. STUMPE.

On motion of Mr. Fletcher, it was

Ordered, That permission is hereby granted to withdraw from the files of the Senate papers in the case of Anton W. Stumpe, Senate bill 3866, Sixty-second Congress, no adverse report having been made thereon.

PANAMA CANAL TRAFFIC AND TOLLS.

Mr. BRANDEGEE. Mr. President, I have received a letter from Prof. Emory R. Johnson, the special expert on Panama Canal traffic and tolls, which I will send to the desk and would like to have the Secretary read, and then I will offer a resolution.

The PRESIDENT pro tempore. The Secretary will read the communication.

The Secretary read as follows:

(Maj. F. C. Boggs, Corps of Engineers, United States Army, chief of office.)

> ISTHMIAN CANAL COMMISSION WASHINGTON OFFICE, December 13, 1912.

Senator Frank B. Brandegee,

United States Senate, Washington, D. C.

Dean Senator Brandegee: The report which I prepared by direction of the President upon Panama Canal traffic and tolls is now complete, and the tolls have been fixed by the President upon the basis of the data contained in this report. A limited edition of the report has been issued by the Isthmian Canal Commission. It may possibly be the desire of Congress to have this report printed as a public document.

There is a very general public interest in the question of Panama tolls, and it is certain that the request for the report will exceed the supply which the Canal Commission thought justified in having printed. It will not be expensive to issue this report as a public document, because the printing office now has the electrotype plates from which the Canal Commission's edition was printed. Moreover, the lithograph plates from which the maps accompanying the report were printed can also be used in printing the maps for the report when printed as a public document.

Very truly, yours,

Emorr R. Johnson.

Mr. BRANDEGEE. I have the report of which Mr. Johnson speaks in my hand. I have looked it through. I think it is of more than temporary value; I think it will be of permanent value to many industries and commercial bodies and legislators all through the country. I have spoken to the chairman of the Committee on Printing in relation to the matter, who has had some estimate of the cost made. I offer the resolution which I send to the desk and ask that it may be referred to the Committee on Printing together with the report which I have sent to the desk.

The resolution was read, as follows:

Senate concurrent resolution 33.

Resolved by the Senate (the House of Representatives concurring), That there shall be printed and bound in cloth, with accompanying maps, 6,000 copies of the Report upon Panama Canal Traffic and Tolls prepared for the President by Emory R. Johnson, special commissioner on traffic and tolls; that the copies here ordered shall be printed from plates recently prepared for the Isthmian Canal Commission and now in the possession of the Government Printing Office; and that of the copies printed 1,000 shall be for the use of the Senate, 2,000 for the use of the House of Representatives, and 3,000 shall be delivered to the superintendent of the House document room for distribution.

The PRESIDENT pro tempore. The resolution will be referred to the Committee on Printing, together with the document presented by the Senator from Connecticut.

HOUR OF MEETING ON MONDAY.

Mr. KENYON. I desire to make a motion that the Senate shall meet at 11 o'clock on Monday. I do this because a very important bill has been made the special order for Monday, and it will take some time for consideration.

The PRESIDENT pro tempore. The Senator from Iowa moves that when the Senate adjourns to-day it adjourn to meet at 11 o'clock a. m. on Monday.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, in which it requested the concurrence of the Senate.

ENBOLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. 3436) granting to Phillips County, Ark., certain lots in the city of Helena for a site for a county courthouse, and it was thereupon signed by the President pro tempore.

ELECTION OF PRESIDENT PRO TEMPORE.

Mr. SMOOT. I offer the following order, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. SUTHERLAND in the chair). The order will be read.

The Secretary read as follows:

The Secretary read as follows:

Ordered, That Jacob H. Gallinger, a Senator from the State of New Hampshire, be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including December 16, 1912, to and including January 4, 1913; that Augustus O. Bacon, a Senator from the State of Georgia, be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including January 5, 1913, to and including January 18, 1913; that Jacob H. Gallinger be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including January 19, 1913, to and including February 1, 1913; that Augustus O. Bacon be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including February 2, 1913, to and including February 15, 1913; and that Jacob H. Gallinger be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including February 16, 1913, to and including March 3, 1913.

Mr. BRISTOW. I ask that the order go over, Mr. President.

Mr. BRISTOW. I ask that the order go over, Mr. President, Mr. SMOOT. Does the Senator desire to have the order considered Monday, or shall I withdraw it?

Mr. BRISTOW. I want to consider it somewhat. object to the order Monday, but I do want to consider it.

Mr. SMOOT. Then, I ask that the order go over and lie on

the table.

The PRESIDING OFFICER. The Senator from Utah asks that the order lie on the table. Without objection, it is so ordered.

HOUSE BILL REFERRED.

The following bill of the House of Representatives was read twice by its title and referred to the Committee on Pensions:

H. R. 27062. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move that the Senate resume consideration of House bill 19115, known as the omnibus claims bill.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and

March 3, 1887, and commonly known as the Bowman and the

Tucker Acts.

Mr. ROOT. Mr. President, I understand that the chairman of the Committee on Claims has examined the amendment which I presented a few days ago for the payment to the widow of Charles G. Eddy, and is satisfied that the Committee on Claims has passed upon it and that it is a proper amendment to be admitted. I move the adoption of the amendment.

The PRESIDENT pro tempore. The amby the Senator from New York will be read. The amendment submitted

The Secretary. On page 268, after line 9, insert:

To Elizabeth B. Eddy, widow of Charles G. Eddy, deceased, \$602.92. Mr. CRAWFORD. Mr. President, the other day after the Senator from New York brought this matter up I referred it to the clerk of my committee and found that the Senator's statement was correct, that the bill had been reported favorably from the Committee on Claims and had passed the Senate, so that the Senate committee and the Senate are committed to the bill. I have no authority from the committee to accept it except as it may be found in a statement of that kind; but I am willing that the expression of the Senate should be taken

The PRESIDENT pro tempore. The question is on agreeing

to the amendment.

The amendment was agreed to.

Mr. CRAWFORD. I understood from the Senator from Alabama [Mr. Johnston] that he was going to present his amendment this morning.

Mr. JOHNSTON of Alabama. I propose the amendment to the bill which I send to the desk, to come in on page 267, at the end of line 16, after the words "this act."

The PRESIDING OFFICER (Mr. SUTHERLAND in the chair) The amendment proposed by the Senator from Alabama will be stated.

The Secretary. On page 267, at the end of line 16, after the word "act," it is proposed to insert:

And section 3480 of the Revised Statutes, so far as applicable to these claims, is hereby repealed.

Mr. JOHNSTON of Alabama. Mr. President, that amendment comes in at the conclusion of the following proviso:

Comes in at the conclusion of the following proviso:

Provided, That in the settlement of claims for longevity pay and allowances on account of services of officers in the Regular Army arising under section 15 of an act approved July 5, 1838, entitled "An act to increase the present military establishment of the United States, and for other purposes," and subsequent acts affecting longevity pay and allowances, the accounting officers of the Treasury shall credit as service in the Army of the United States, within the meaning of said acts, all services rendered as a cadet at the United States Military Academy and as an enlisted man or commissioned officer in the Regular and Volunteer Armies, and no settlement heretofore made shall preclude a settlement under the terms of this act.

Mr. President, this proviso was offered because the accounting officers of the Treasury had refused a large number of officers this pay, amounting, as I am informed, to a million dollars. My amendment provides for the repeal of section 3480, so far as this pay for longevity allowance shall apply to officers who resigned from the Regular Army and afterwards joined the Confederate Army. The amendment is exactly in line with the amendment brought in by the committee. It applies to the same subject, and to that alone. It applies to officers who resigned from the Regular Army and afterwards joined the Confederate Some of them resigned before the commencement of the war and not for the purpose of joining the Confederate Army, but afterwards did join it. I remember one case, that of Gen. D. H. Hill, who had resigned one or two or three years before the war commenced and afterwards took service in the Confederate Army.

This amendment makes no sort of provision for the payment of these claims, but it is simply for the accounting to be allowed, notwithstanding section 3480 of the Revised Statutes. That section has been twice modified in regard to other claims.

I want to say that the amount involved in the amendment, so far as I am informed, is a little over \$100,000, to pay small sums to the children and grandchildren of the officers of the Confederate Army who were graduates of West Point or who were in the Army before the war commenced.

I think it is time that such discriminations as this should cease. I read here as amongst a few officers who would get some small stipend or whose descendants would get it Archibald Gracie, who was a brigadier general in the Confederate Army and the father of the man who came near losing his life on the *Titanic*. He would get \$60.60. The descendants of Stonewall Jackson would get \$292; the descendants of Fitzhugh Lee would get \$438; and those of Joseph Wheeler would get \$219.

It seems to me, Mr. President, that as to some of these gentlemen it is a curious time, because of their participation in the so-called rebellion, to make objection to the payment of sums that were actually due them from the United States, when

they afterwards bore arms in behalf of the United States, as was the case with Gen. Fitzhugh Lee and Gen. Joseph Wheeler.

It seems to me also that it is time that this prohibition which was raised by this statute passed immediately after the war, when the feelings of all were aroused and when the passions had not cooled down, should be finally settled and a just claim against the United States should not be denied to the descendants of these men who served their country faithfully while they were in the Regular Army of the United States. I therefore want to see this amendment prevail.

There is no appropriation provided for in the amendmentnone at all. It simply permits the accounting officers to audit these claims. The question of whether these men shall be paid or not will arise when their claims shall have been adjusted by the auditors and presented to Congress for payment. I hope, Mr. President, that there will be no objection to the amendment.

Mr. CRAWFORD. May I ask the Senator a question?
The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from South Dakota?
Mr. JOHNSTON of Alabama. Certainly.
Mr. CRAWFORD. Is the object of the amendment simply

to give these men such standing that their claims may be referred to the Court of Claims, audited there, and the amounts found due them ascertained there and returned here, so that their claims may be brought up for consideration in the future?

Mr. JOHNSTON of Alabama. It certainly is, sir. It merely puts them on the ground that no charge of disloyalty shall be held up in the face of these just claims which they have against

the United States.

Mr. CRAWFORD. It seems to me that there would be no sound objection to having them go to the Court of Claims to ascertain the amount that is due to them if they are in the class of these other officers, and let Congress take care of them in the future.

The objection I have to the amendment, as I understand it, is that it is not germane to the purposes of the pending bill—that it is outside of the scope of the bill. It is seeking not to allow and pay claims that have been established, but to repeal a statute for the purpose of having these claims investigated. While I have considerable sympathy with what the Senator from Alabama has said about discriminations against men like Fitzhugh Lee and Gen. Wheeler, my objection to the amendment is that the committee has never considered it; that it is not within the scope of the purposes of this bill; and I do not like to open the door for matters that it seems to me are, as I have said, outside of the legitimate scope of the bill.

Mr. JOHNSTON of Alabama. Mr. President, this is exactly in line with the proviso of the committee that certain officers whose claims had been adversely adjudicated by the Treasury Department should have the right to have an accounting made of their claims. It is not a question of res adjudicata; and this is a poor time, it seems to me, for the Senate of the United States to say that these men who rendered services before the war commenced, and to whom the Government of the United States was greatly indebted, shall not have an accounting and an ascertainment of their claims, and then have the question of their payment considered when that accounting comes in. I hope that there is no Senator here who will object to such a just provision as the one which I have proposed.

Mr. LODGE. Mr. President, as I understand, this amendment will have the effect of putting the claims which the Senator from Alabama [Mr. Johnston] has described on the same footing as all other claims which are covered by the proviso

offered by the committee on page 267.

Mr. JOHNSTON of Alabama. Precisely.

Mr. LODGE. That is, when proved, they shall be paid. I understood that the committee had brought in a general provision here, as I read the provise, in order to prevent these claims being brought forward one by one, as they have been, on this bill, and to make a general law which shall cover them all as they are liquidated by the accounting officers of the Treasury.

Mr. President, the amendment which the Senator from Alabama proposes repeals a statute. That statute now prevents the class of claims for longevity pay which he has described from being treated by the accounting officers of the Treasury. It seems to me that the question involved goes beyond any mere matter of claims or of the payment of money. The amount of money involved is not large, but the question of feeling involved is very large indeed. The statute which the Senator seeks to repeal is a statute which was passed in war times, or immediately after the war. I think we can all say now that at that time it was a natural statute to be passed, but it was distinctly a punitive statute; and it seems to me that now the time has come when we can remove from our statutes all that were of a punitive nature.

There have been one or two propositions offered here with a most admirable purpose, directed toward the obliteration, if they are not already obliterated, of the old feelings of Civil War I have thought sometimes that some of those propositions might have the very opposite effect; that they might tend to do the very thing that they were intended to prevent; that they might reawaken old feelings which ought to slumber and renew the remembrance of a bitterness which we all desire to forget; that they might revive the memory of the old, unhappy, far-off things and the battles of long ago, which we had rather not remember except as history.

No such objection can possibly apply in this case. This is, as I have said, a punitive statute-it is half a century now since the war-and I think we had better efface it from the statute book, not for the purpose of giving these small sums of money—that is not, to my mind, the real object to be attained—but to remove that result of the old war-time feeling from the statute

The men or the descendants of the men who will be benefited by this action—and the benefit is not large in any individual case-would appreciate, I think, the feeling that was manifested a great deal more than the triffing sum of money which they would receive.

Some of those men, as the Senator from Alabama has said, wore the uniform of the United States in the War with Spain. Fitzhugh Lee and Joseph Wheeler were generals of the United States. They were glad to put on the old uniform again, and we were glad to have them do it; and I should be glad to have the statute in question removed, so that their descendants may receive the trifling amount of money which would come to them. I think that after those men-I take those two as exampleshave worn the uniform of the United States, the time has come to wipe from the statute book any statute which reflects in any way upon their conduct in an earlier day. There are sons of some of these men, if I am not mistaken, who are now in the Army of the United States; there were others, younger men, descendants of the men who are affected by this statute, who certainly were in the Spanish War to my knowledge, in addition to the two very distinguished men whom I have mentioned.

I think under those circumstances, Mr. President, that it is

a good thing for us as a country to remove that particular clause from the statutes of the United States. I am not concerned with the money, but I am concerned with obliterating something which now, 50 years afterwards, still embodies in the cold lines of the statute a feeling which, however natural at the time, we all want to feel, and we do feel, is now dead forever.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Alabama [Mr. JOHNSTON].

The amendment was agreed to.
Mr. CRAWFORD. Now, Mr. President, with the exception of an amendment about which the Senator from Nevada spokeand he is not present to-day and was not yesterday—the French spoliation amendment is the only one pending not disposed of.

Mr. LODGE. Mr. President, the amendment proposed by the Senator from South Dakota to the French spoliation claims amendment has now been printed in proper form, and I suppose the amendment ought to be read. I ask that the amendment be read as proposed. It amounts in substance to a substitute.

Mr. CRAWFORD. Mr. President, I wish to say to the Sen-

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from South Dakota?

Mr. LODGE. Certainly.

Mr. CRAWFORD. I wish to say to the Senator that we have just now discovered that the amendment is not printed It is in worse shape than it was yesterday.

Mr. LODGE. I have not examined it.

Mr. CRAWFORD. I am amazed to find that an amendment like this can not be brought back here in a form somewhere near like the way in which it was submitted. Whole paragraphs are divided, and parts of items that belong under one ship are in a clause under another ship. I insist that we have this amendment brought back here in proper form. I did not leave it in an unintelligible condition when I handed it up. We went over it carefully to determine how it should be printed and brought back here, but it is in worse condition this morning than it was yesterday.

Mr. LODGE. If the Senator will allow me, of course when I referred to the amendment as being in proper form I had not examined it, but I assumed that it was in proper form. If, however, it is all in confusion-

Mr. CRAWFORD. It is in confusion.

Mr. LODGE. I do not see how we can possibly undertake to deal with it new.

Mr. SMOOT. I will say to the Senator from South Dakota that I will send immediately for the printing clerk and have the original copy of this amendment returned from the Printing Office, and ask the Senator to call attention to where the mistakes are. I suppose we might get the copy back-it will probably be impossible to get it back by 1.30 o'clock-but we could get it some time later this afternoon.

Mr. LODGE. I think we ought to have the amendment in

proper form if we are going to deal with it.

Mr. SMOOT. Entirely so. Mr. LODGE. Then, the amendment will have to go over for the present.

Mr. CRAWFORD. I will call the Senator's attention to an item here. Here is the vessel ship Six Sisters, Daniel Baker, master.

Mr. SMOOT. On what page is it?

Mr. CRAWFORD. Page 96. Now, there is only one ship Six Sisters, with Daniel Baker, master. That we all know. That is on page 96. On page 99 is the item, "the vessel ship Six Sisters, Daniel Baker, master," again; and when the items of loss in that vessel are given they are different items from those on page 96.

Mr. LODGE That is a repetition.

Mr. CRAWFORD. It is a repetition of the name of the vessel, but not a repetition of the items under the name.

Mr. LODGE. It is a repetition of the items without the Senator's amendment, and it ought not to be in both places.

Mr. SMOOT. It is a repetition? Mr. LODGE. It is a repetition. It is a repetition.

Mr. CRAWFORD. Page 98 is all in error. Mr. LODGE. Of course, we can not deal with the amendment in that shape.

Mr. SMOOT. It will be impossible to do so, and it will have to go over.

Mr. CRAWFORD. It does not seem to me that because of the errors in printing the amendment it is necessary to delay the discussion, unless we are going to discuss individual items. Mr. LODGE. I confess I for one would like to know the

Senator's reason in some of these cases, at all events,

Mr. CRAWFORD. I can give it now.

Mr. LODGE. I know the Senator has given a great deal of attention to the matter. In fact, I have seen his pamphlet on it. Mr. CRAWFORD. I can do that in general and in reference to the purposes of my amendment. It is not necessary to wait until it is reprinted in order to do that.

Mr. LODGE. I should be very glad to have the Senator ex-

plain some of the items.

Mr. CRAWFORD. I call attention, in the first place, to the difference in the character of some of these claims, even for I call attention to one of the cases which I property losses. think presents the strongest sort of case that is found in the whole list, the vessel schooner Betsey, which is No. 50 in the list reported by the committee, and which is included in the

Mr. TOWNSEND. On what page?
Mr. CRAWFORD. On page 70 of the separate pamphlet, and it is No. 50 in the division of the report which deals with French spoliations, page 309 of the committee report. Here was a vessel that was on a peaceful commercial voyage from Boston to Cape Français, in the West Indies. Upon her arrival at Cape Français she was confiscated by order of the French administration there. After this vessel-sailing from Boston, Mass., to Cape Francais, and carrying a cargo of pork, hogs' lard, butter, bacon, cheese, soap, candles, fish, beef, flour, and pine boards—arrived at Cape Francais, one of the West Indies Islands, she was seized by the French Government on that island, and they took the cargo and confiscated it.

They did it for the purpose of relieving the French garrison, which was without provisions and destitute. They did not do it as a hostile act. They did it as an act of necessity to prevent the garrison from actually starving for want of food. The commander of the garrison promised the captain of this vessel that the cargo would be paid for by the French Government at current prices. It was never paid for. The commander of that ship was an American citizen. That vessel was a registered American vessel sailing out of Boston, Mass. The records show that and show its value, and that apparently was agreed upon

between the parties.

The owner of the vessel was Samuel Dowse, an American citizen. The owners of the cargo were American citizens.

That claim comes down to us. It has no insurance risks involved in it. It has no question of freight earnings involved in it. It has no great sum paid as a premium upon insurance on It is a clean-cut case of these people depriving the Americans of this property, and there is no indication that it was done in time of war.

Now, I call attention to that as a type of claim which you will find in this bill. I want to call attention to another one of a good deal the same character, and that is the sloop Farmer, which is No. 60 in this report. You will find this in regard to

the sloop Farmer on page 325 of the report.

This sloop was on a peaceful commercial voyage from Boston, Mass., to Trinidad. She was seized by a French privateer and taken to Guadaloupe, and there the vessel and cargo were condemned by a French prize tribunal sitting at Bassaterre. No grounds whatever are shown. The examination by the French authorities of the master and supercargo shows that the vessel had not violated her obligations of neutrality. are matters of record, because these prize tribunal proceedings were matters of record and the records are in existence, and so there can not be any dispute in regard to it. No grounds are given for the seizure. The vessel had not violated her obligations of neutrality. Her voyage was peaceful. No part of her cargo was contraband. None of her papers were thrown The owners of both vessel and cargo overboard or concealed. were American citizens.

The report of the prize master of the privateer shows that the Farmer did not resist search or try to escape and that she carried a register, sea letter or passport, agreement with the crew, invoice of her cargo, and a certificate of clearance from

the customhouse at Boston and Charlestown.

Mr. LODGE. From what page is the Senator reading? Mr. CRAWFORD. Page 325 of the committee's report.

This was a registered American vessel, built in the State of Connecticut in 1791 and owned by American citizens. Her cargo consisted of beef, bacon, lard, flour, tobacco, rice, gin, hams, butter, salmon, biscuit, shingles, boards, wine, staves, hoops, soap, and plank, all owned by William Marshall, jr., an

American citizen.

William Marshall, jr., had a half interest, as I understand, in the vessel. They found the value of the vessel and the value of the cargo to be \$6,940.57. Now, that man got insurance on that cargo and one-half interest in the vessel amounting to \$6,500. His loss was simply the difference between \$6,940.57 and \$6,500. That was his actual property loss—\$440.57. But the court found that he had a half interest in the freight earnings of that ship. It is not clear whether value found on the cargo was the value at the place of shipment or the value at the place of seizure or at the place of destination. He owned a half interest in the vessel, and he owned this interest in the cargo, which was his property.

But now, in addition to allowing him his actual property loss, which I think is clearly established, they allow him one-half of the freight earnings of that vessel, and then they find in his favor the amount that he paid as premium on this insurance, which was a premium paid at the rate of 17 per cent. Mr. Marshall, in order to get that insurance upon his cargo, paid the underwriters 17 per cent, and the premium which he paid

amounted in the aggregate \$1,105.

I am opposed to giving back to the estate of Mr. Marshall \$1,105. If that vessel had been destroyed in a tornado and these insurers had reimbursed him under the policy, they would have paid him his property loss. They might under some rule, perhaps, have paid him freight earnings, or a certain portion of them, but they would not have paid him the \$1,105 premium which he had given to them. He paid that for his protection. He paid that for his policy under which he recovered for his property loss and freight earnings. He could not have recovered it under any other circumstances in the world; and I am opposed, even in a good, clear case, as I think this is, if we opposed, even in a good, clear case, as I think this is, if we eliminate the question upon which my friend from Kansas and I differ about there being an actual state of war, to the repayment of the premium. I insist that he has no equity and no right to claim, in addition to being absolutely restored and repaid the loss he sustained, to be repaid the amount he paid to the insurance company for protection which he received. So my amendment strikes out that item of \$1,105.

Mr. TOWNSEND. Mr. President-The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Michigan?

Mr. CRAWFORD. Yes.
Mr. TOWNSEND. Do I understand the Senator to say that

he would be willing to pay \$950 freight earnings?

Mr. CRAWFORD. No; I would strike that out. I give him the actual property loss. I think in this case the honor of the country will be vindicated and the rights of these people, which they are entitled to have recognized, will be sufficiently recognized if at this late day we pay them back their actual property That is my own view of that.

Now, I want to call attention to another case. There is some

curious and interesting reading here.

Mr. SMOOT. Will the Senator yield?

The PRESIDING OFFICER. Does the Senator from South Dakota yield?

Mr. CRAWFORD. I do not want to be interrupted too much, because if I am we will get into a discussion that will be unduly

Mr. SMOOT. This will not take very long. It is not a discussion as to these claims, but refers to the printing.

Mr. CRAWFORD. Very well.
Mr. SMOOT. I have here the amendment offered by the
Senator from South Dakota, and I notice that the Public Printer has printed the original amendment exactly as it is.

Mr. CRAWFORD. Let me see it.

Mr. SMOOT. The reason I speak of it is that I should like to ask the Senator if he has somebody whom he would like to go over this with the printed amendment.

Mr. CRAWFORD. Yes. My clerk understands it thoroughly,

and can go over it and check it up. It would have been better, perhaps, to have brought the proofs to us.

Mr. SMOOT. I have the original here.

Mr. CRAWFORD. Then the clerk will go over it.

Mr. SMOOT. The other amendment here, on page 3, I find is also correct. If the clerk of the committee will, with the printing clerk, run over them hurriedly, as to the errors, per-haps we can have them fixed without reprinting. I do not think there will be very many.

Mr. CRAWFORD. Very well; any way so that we can get

it fixed up. But it is annoying to have this confusion in the

amendment.

Mr. President, I wished to call attention to a case, but I can

not turn to it just now.

A vessel went from one of our Ameri-Here is another case. can ports to French Guinea. At Guinea the French seized the vessel, seized the cargo, and sold both of them. It did not even divide the money among the prize crew, but put it into the treasury of the Provincial Government and reported it to the French Government. A letter was received from Talleyrand himself saying that this was an act of embargo and sequestration. "There is no war existing between France and tration. "There is no war existing between France and America." That was the declaration of the French minister. tration. That money was never turned over to those owners, and so far as the record discloses is still in possession of that Government, if that Government is still in existence. It was a cold-blooded case of seizing the property.

There is no question about its being a vessel of American registry or about the shipowners being American citizens and of the owners of the cargo being American citizens. the letter from Talleyrand that there was no existing war between the two countries, and that fund, which was not even given to the prize crew, was paid into their treasury, and they

have got it yet.

That is another type of case in this bill. I call those good cases, but I want to call attention to some that I think are wholly unwarranted cases. For instance, No. 23. I think my amendment strikes out this claim entirely. Here was the Chaco going from Boston to Norfolk and arrived at Norfolk. Disposing of her cargo there, she reloaded with tobacco, which was carried to Havre de Grace, France, by way of Falmouth, England. Disposing of her tobacco at Havre de Grace, she then solicited freight carriage to and from ports in France, Spain, and England, and made trips to Bremen and Portugal; she carried cargoes of freight, but not contraband, back and forth between ports in these countries. She left Boston July 29, 1794, and started from Lisbon for Baltimore September 20, 1797. On January 17, 1798, while steering for the harbor of Bassa-terre, island of Guadaloupe, for water and provisions, she was seized by a French privateer, and a French prize tribunal at Bassaterre condemned both vessel and cargo, which became a total loss to the owners. The alleged grounds for condemnation were that she did not go to her place of destination and had altered her course, and was suspected of being in connivance with the enemies of the French Republic in France and elsewhere; also that her master did not have a sea letter. At the time of seizure her cargo was salt and mats. The names of the owners of her cargo are not given, and it does not appear whether they were American citizens or not. No claim is made in their behalf.

Now, with reference to the ownership of the vessel, there is not any satisfactory proof. It is not shown that the cargo belonged to American citizens, and when it comes to the ownership of the vessel the Court of Claims finds:

V. It is alleged that one Joseph Blake and David Greene effected insurance in the office of Peter C. Brooks in the sum of \$10,000 on said vessel and \$4,000 on her freight for the voyage from Lisbon to Baltimore, paying therefor a premium of 6 per cent, by policies underwritten by sundry persons, citizens of the United States, and were afterwards

paid by said underwriters the sum of \$14,000 as and for a total loss by reason of the premises. It does not appear that David Greene and Joseph Blake had any interest in said vessel or the freight; neither does it appear that they acted as agents for the owners of the

These men were paid insurance, and it is not shown they had any interest in the vessel or in the freight. It is not shown that the owners of the freight were American citizens. They come in here and ask to have their losses repaid to them. I think there is a total failure to prove the essential facts in that case. They prove the value of the vessel; they prove the insurance paid by these men, but they do not prove ownership either of the vessel or cargo.

Now, here is another one, No. 40. It involves one of these insurance premiums I am citing these as types. case in which the owner of the cargo and vessel was a man named Matthew Bridge. Matthew Bridge was an American citizen; the vessel was a registered American vessel; and apparently the confiscation was absolutely without any justification. The loss of the cargo and all that is proved by the records from the prize court. But Matthew Bridge, who owned this vessel and a part of the cargo, himself had insurance. It was covered by insurance. Let me read:

So that the total value of his holdings there was \$19,373.56. He had freight earnings, he claims—and it is always a doubtful question whether they enter into the value which is found or whether they do not. That is never made clear here. But he had freight earnings, he claims, of \$2,520. Now, Briggs paid as premium on insurance on the cargo \$2,880. There was a rescue of this vessel by an English vessel after she had been captured by the French, and then there was the salvage rule, which applies in that case, and the insurance companies paid the expenses in that proceeding. Here is what they paid him altegether. They paid him \$16,000 as insurance. That overaltogether. They paid him \$16,000 as insurance. That over-paid his property loss and his freight earnings both added to It overpaid both those items to the amount of \$433.27. He got that much of his insurance premium back; and he has an item in this bill to give him the rest of the insurance premium which he paid.

I can not believe that this country is obliged, or that any country would be obliged, after Mr. Briggs had received from the insurance companies the value of the vessel, the value of the cargo, of his freight earnings, and \$433 out of what he paid for premium, that they should give him about \$1,500 in addition to that to reimburse him for his premium. So my amendment here is to strike out that claim for premium.

Now, with reference to underwriters. These underwriters frequently charge as high as 60 per cent. It was a time of great risk when these vessels were being preyed upon, and in a good many instances they charged as premium 60 per cent; very often they charged 30, more often they charged 25, and as a general rule the premiums would run from 15 to 171 and 20 per cent.

Now, in a clear case where the underwriter paid these losses and it was a clear case of spoliation without justification, I for one believe they ought to be repaid their actual loss, but they ought not to be allowed, in addition to their actual loss, to keep in their pocket 60 per cent of profit. I do not believe it is either moral or legal; and we can not discuss mere technical questions of international law in dealing with a question over 100 years old; we should discuss it as a question of simply preserving the good name of our country and acting honorably toward these people. I think we ought to deal in a spirit of substantial justice, but when it comes to paying men all their actual losses and then, in addition to that, allowing them to keep the premiums, amounting to 60 per cent and 30 per cent and 25 per cent and 171 per cent and 15 per cent, I do not believe in that. So I move to strike it out.

Now, here is another instance. Here was an old slaver in 1798 that went over to the Gold Coast of Africa and got, I think, 160 negroes aboard-stole them, of course-and was bringing that cargo to Savannah, Ga., when they put in at one of the West India ports to get water, and the privateers seized the vessel and took the negroes and turned them over to the governor of the Province, and he used them on their plantations.

Now, this man's children come up here in the twentieth century, when we look back upon that period as one of horror, and they ask that he be reimbursed his freight earnings on those negroes from the West Coast of Africa and for his losses in a business of that kind. It is true that there was a statute which legalized the slave trade in that period, but I do not think we are under any obligations in preserving the good name and honor of the United States to pay the descendants of the owner of that ship for what he lost because the Frenchmen stole his negroes away from him when he had stolen those

negroes from their native land on the coast of Africa and was bringing them to this country for profit. I would strike that

Mr. LODGE. I will say to the Senator, if he will allow me to interrupt him, that I am not in favor of any claims of a slaver.

Mr. CRAWFORD. I knew the Senator would not be. I do not say this in any vaunting spirit at all, but I believe I am the first Member of the Senate who has ever sat down and taken those reports from the Court of Claims and gone through each case carefully to see actually what it contains. I am inclined to think that is true. At least I think if it had been done before items like this old slave trader's claim would not be in this bill. Now, I strike that out.

I strike out of the amendment all the claims that are for nothing but insurance premiums that the man paid for the protection which he got, and I strike out when I come to reimburse

Mr. POINDEXTER. Will the Senator allow me to ask him a question?

Mr. CRAWFORD. Certainly.

Mr. POINDEXTER. It is true, is it not, that if there had not been any seizure of the ship in such a case, the man would have paid the insurance premium?

Mr. CRAWFORD. Certainly. Mr. POINDEXTER. It made no difference whatever; the

premium must be paid.

Mr. CRAWFORD. It made none whatever. I called attention to that. I am not willing to allow the children of these underwriters to keep 60 per cent profit and restore to them what they paid in adjusting the loss. I want to deal with this matter in a broad spirit of justice to these people, and I think we do it when we repay their actual property losses. So I have proposed in my amendment to strike out insurance premiums, to strike out freight earnings, and to reimburse them in the claims. In only two or three cases have I stricken out the entire claim. That is the principle I would apply in this case.

I want to be honest with myself and honest with the Senate. I believe profoundly that those old sailors have never been justly treated as to their actual property losses; I do not believe their descendants have been justly treated; but I stood with the other members of the committee in considering the whole question as to whether or not it was wise to put this amendment on the bill. Considering the decided difference in views in regard to it, the intense hostility to it in the House of Representatives, as we wanted to dispose of many of these claims and get some provisions in the statute which seem to be demanded, I accepted the judgment of the committee that it was not advisable to put the French spoliation claims amendment on this bill, and I am going to remain loyal to the committee on that proposition. But I think before the Senate commits itself on an amendment like that offered by the Senator from Massachusetts it should adopt my amendment to it cutting out those excesses which I do not believe have any foundation in justice here. I have given these instances to show the general purpose of my amendment, and that is all I

desire to say at this time in regard to it.

Mr. I.ODGE. Mr. President, if I had the time and opportunity to go over each one of these claims and examine them with the Senator from South Dakota I have no doubt we could agree on a good many of them. I certainly would agree about the slaver. I do not know whether there is any other slaver case or not.

Mr. CRAWFORD. There is only one slaver claim.

Mr. LODGE. There is only one. It ought to be stricken out, of course. There is, however, something to be said on the general proposition. I have looked into the law of the matter somewhat. These claims are carefully examined by the Court of Claims. All the points the Senator speaks about-freight earnings, insurance premiums, and insurance—have been elaborately argued. The Government of late years, through the Department of Justice, has resisted these claims in the court. It has carried on a very strenuous opposition there, and had one case after another most elaborately argued. Those arguments have not been made before the Committee on Claims. They have no knowledge beyond the bare findings as to just the reasons of the Court of Claims for reaching their decisions on all these points.

Moreover, the Court of Claims has shut out a great many claims that were made of different kinds—for personal injuries and things of that sort. Of course, if we are going to reopen all the decisions of the Court of Claims and review them here we reopen them for the claims which they have ruled out as well as for the claims they have admitted. I do not suppose, perhaps, there is much danger of that in these cases, but this would make a precedent for other cases.

Now, I desire to call attention to what the Court of Claims have excluded and to what the Court of Claims have admitted and why they have admitted them. I am speaking now of some of those items of claims that the Senator from South Dakota has been speaking about and which he thinks ought to be

stricken from the bill.

I will take, first, some of the claims which were thrown out and which the claimants, at least, believed should have been allowed on every ground of equity and morals. Take, first, the claims for vessels and cargoes captured between September 30, 1800, and July 31, 1801. The title of the jurisdictional act of January 20, 1885, which is now the Twenty-third Statute at Large, page 283, is "An act to provide for the ascertainment of claims of American citizens for spoliation committed by the French prior to the 31st day of July, 1801." The date given in the title of the act is repeated in the first section of the act. There was a reason for fixing that date of July 31, 1801, and not some previous date. It was based upon the fact that the commission which distributed the French indemnity of 1831, which was in payment for spoliations committed by the French subsequent to the date of those which were released as against France by the treaty concluded in 1800 and ratified in 1801, excluded from consideration all claims for spoliations committed prior to the 31st day of July, 1801. This was done on the ground that France had been by the treaty of 1801 released and discharged from the payment of all claims for spoliations arising previous to that date.

Yet, in the face of this fact and in the face of the intention of Congress, shown in the jurisdictional act, to bring in all claims down to the 31st day of July, 1801, the Court of Claims decided in the case of the schooner Jane, Israel Snow, master (23 Ct. Cls., 226), that France was obligated by the treaty of 1800 and 1801 to restore or pay for all property captured after September 30, 1800, and that therefore these claims were not among those released to France by the treaty of those years. The owners of ships who had their cargoes captured between September 30, 1800, and July 31, 1801, were thus unable to obtain redress from France under the treaty of 1831, because the commission had held that France was not liable for their

They have equally been unable under the act of 1885 to obtain payment from the United States for the reason, as it is held by the Court of Claims, that France was liable under the treaty of 1800-1801, and that the United States was not liable under the act of 1885. Thus these claims, and claims which rest on substantially the same ground as the others, were left out without any possible means of redress to the claimants.

In my judgment, those people are certainly entitled, if anyone is entitled-and we have already paid \$4,000,000 to settle such claims-to claim that they were unfairly dealt with by reason of the way in which they have been shut out of the Court of Claims under the act and then shut out by the commission of 1831 under the old treaty. That is one of the decisions of the Court of Claims which has shut out a whole class of these claims; and if we are going to reopen them here and pay no attention to the decisions of the Court of Claims, except when they are adverse to the claimants, we run the risk of reopening all those claims again, and they probably will be reopened.

Now, I take another class. I am doing this, Mr. President, to show that the Court of Claims has not put these cases through without discrimination or without the sense of duty toward the Government. I am going to show that they have excluded large classes of claims; then I am going to show the grounds on which they have supported the claims for freight

earnings and premiums.

The second class of claims relates to land seizures. claims described in section 1 of the act of 1885 are those "arising out of illegal captures, detentions, seizures, con-demnations, and confiscations." These words, as the Senate will see, make no distinction between captures on land and those on sea. Neither is there a single word in the act which has any reference to the sea any more than to the land. France did not pay for seizures on land any more than she did for those at sea.

Claims for land seizures were abandoned as against France for a valuable national consideration by the treaty of 1800-1801. The claimants for seizures on land lost their redress against France just as completely as those whose property was captured on the high seas. Under the terms of the treaty they were entitled to redress just as much as for losses by sea, and under the terms of the act there was no discrimination, yet the Court of Claims, in the case of the Leghorn Seizures Clark, Wyo.

(27 Ct. Cls., 224), decided that where American property was deposited on neutral soil, to wit, in Italy, after having been safely carried across the ocean, and was then arbitrarily seized by the French Government and used by it for its own purposes, there could be no recovery under the French spoliation act of 1885. The court said:

The claimants' cases are exceedingly hard cases.

Not a reason can be given, in my judgment, why these claims for seizures on land should not receive satisfaction; but the court, for reasons of their own, shut them out; and if the Court of Claims exists for any purpose, it is that their decisions in a measure should be final certainly, and that we should follow

the decisions of the court as nearly as possible.

If claims allowed by the Court of Claims should be reopened, certainly those land claims for the seizure of our goods in neutral territory by the French ought also to be reopened.

The third class of claims which the court also excluded are claims for personal injuries. I quoted at the beginning of what I was saying the language of the statute of 1885, which conferred jurisdiction upon the Court of Claims, in order to show that it made no distinction between land and sea captures. It is also true that the terms of that act make no distinction between claims for damages to property and those for injury to persons. On no subject have nations been more jealous, or more properly so, than in regard to the personal treatment of their citizens or subjects. On the face of the treaty and under the jurisdiction conferred by the act of 1885 there was no more distinction made in regard to personal injuries under what I have read than there is a distinction drawn between seizures on land and seizures at sea.

The records of the Court of Claims are full of evidence of maltreatment of American citizens. I have had some of them copied, because I think they are not without interest. We need not indeed go further than this very report for evidence of it.

In the case of the brig Kitty, William Waters, master, No. 113, page 398, it is stated:

The master and his men were frequently insulted and badly treated by

And so forth.

In the case of the schooner Rebecca, John Hall, master, No. 85, page 359, it is found:

She was seized by a French privateer and taken to the island of St. Martin. They took away her captain and supercargo, carried them to Basseterre, and threw them into prison. On the way from St. Martin to Basseterre, the French kept the captain and supercargo in irons, fed them on bread only without water, kept them on deck exposed to the sun and to the waves rolling over the vessel.

In the case of the schooner *Juno*, William Burgess, master, No. 77, pages 346 and 347, the master of the vessel was abused so badly by the French that he died.

Yet in the face of evidence of personal injuries of the most serious character which formed one of the principal subjects of diplomatic complaint at the time, the Court of Claims has decided in the case of the briggs Fanny and Hope (46 Ct. Cls., 214) that no claim for personal injuries can be maintained under the French spoliation claims act.

I think that is rather a severe decision; but I quote it in order to show that, in addition to shutting out land seizures, the Court of Claims have also shut out the personal injuries.

Mr. President, having shown that the Court of Claims has shut out three classes—I mentioned only two, the claims between the dates of September, 1800, and July 31, 1801—a large class of land seizures and of personal injuries, showing that they have protected the Government in the case in regard to certain claims which are very large in amount and which on their face are as good claims as could possibly be made, I am going to show the reason, if I can, why they have made the allowances, to some of which the Senator from South Dakota [Mr. Craw-FORDI objects.

As there are only two minutes before the meeting of the Court of Impeachment, if the Senator has no objection, I should like to stop here before going on with the remainder of the argument.

Mr. CRAWFORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from South Dakota suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst Bacon Bailey Brandegee Bristow Bryan Burnham

Clarke, Ark. Crane Crawford Cullom Curtis du Pont Fletcher

Gallinger

Gardner Gronna Jackson Johnston, Ala. Kenyon La Foliette Lea Lodge McCumber

McLean Martin, Va. Martine, N. J. Myers Nelson O'Gorman Oliver Page Perkins

Perky Poindexter Pomerene Reed Root

Sanders Simmons Smith, Ariz, Smith, Ga. Smith, Mich. Smoot Sutherland Thornton Townsend Warren

Wetmore Works

Mr. PAGE. I am compelled to report that the continued illness of my colleague [Mr. Dillingham] prevents his presence at the sessions of the Senate.

The PRESIDENT pro tempore. On the call of the roll of the Senate 53 Senators have responded to their names. A quorum of the Senate is present.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. Bacon) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives

appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

Mr. Manager DAVIS. Mr. President, I desire to suggest a correction found in the serial of Senate impeachment proceedings on page 741 and on page 552 of the Congressional Record. The question:

Q. You are president of the Reading Coal & Iron Co.?

Should read:

You are president of the Reading Co.?

Eliminating the words "Coal & Iron."

The PRESIDENT pro tempore. The correction will be made as suggested.

Mr. Manager CLAYTON. Mr. President, I find on page 545 a verbal inaccuracy. On that page, in column 1, about the middle of the column, where the witness answered:

A. He said that as the judge was assisting him in the matter he felt that he ought to compensated.

The word "be" is omitted before the word "compensated." It is clearly an omission, and in order to make sense and to let the answer be as the witness said it, I want it corrected so that the word "be" will come in before the word "compensated" and right after the word "to."

The PRESIDENT pro tempore. The correction will be made

as suggested.

Mr. WORTHINGTON. I also suggest a correction, Mr. President. It is in reference to the testimony of Mr. Meyer, and I make it in justice to him. I find that on page 540 of the RECORD, on the left-hand column, about one-third of the way from the bottom, I asked this question:

Q. Was Mr. Boland in an excited condition about it?

The answer here is:

A. I think he was,

What he said was "I do not think he was." That is my understanding. I say that in justice to Mr. Meyer. I rather expected the answer that is here, but I am quite satisfied that

it was not the answer I got.

Mr. LA FOLLETTE. I think counsel is right about it.

Mr. WORTHINGTON. The Senator from Wisconsin The Senator from Wisconsin says that I am right about that.

Very well. I have no recollection Mr. Manager CLAYTON.

of it, but I will be quite content to take the statement.

Mr. WORTHINGTON. I would be more than content to have it stand as it is here, but I am quite sure that the answer was as I have indicated, and, in justice to Mr. Meyer, I make the correction.

The PRESIDENT pro tempore. The answer will be corrected as indicated. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeachment.

The Secretary read the Journal of Friday's proceedings of

the Senate sitting as a Court of Impeachment.

The PRESIDENT pro tempore. Are there any inaccuracies

in the Journal? If not, it will stand approved.

Mr. Manager NORRIS. We would like to call C. Larue Munson. We have called this witness at his request, so that he may get away. He has sickness in his family, I understand. His testimony will not relate to the particular articles upon which we were offering testimony, but will in due time be connected with other testimony in relation to the articles about which we have not yet offered any evidence.

TESTIMONY OF C. LARUE MUNSON.

C. Larue Munson, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager NORRIS.) Mr. Munson, where do you reside?—A. Williamsport, Pa.

Q. What is your business?-A. I am a lawyer,

Q. How long have you resided in Williamsport and how long have you been a practicing attorney?-A. I have lived there 41 I have been a lawyer 37 years. years.

Q. Are you acquainted with Judge Archbald?—A. I do know

him very well.

Q. You were a resident of Williamsport in the spring of 1910?—A. I was.

Q. And Judge Archbald at that time was United States district judge in Scranton?—A. He was.
Q. Do you know, Mr. Munson, anything about a contribution that was raised by attorneys practicing in that court about that time to give to Judge Archbald upon the occasion of his taking a trip to Europe?—A. I do not know it in just that way, but I do know this much and this much only, that some time in the month of April or May, 1910, I was called on the tele-phone and asked if I would subscribe to a purse or a fund to be presented to Judge Archbald when he went abroad, which fund was being raised without his knowledge, and I declined.

Q. Who was it called you on the telephone?-A. Mr. Searle. Q. Who is Mr. Searle?—A. Mr. Searle at that time was the clerk of the district court of the United States.

Q. The district court of the United States?-A. And also the circuit court of the United States.

Q. Did you say you declined to contribute?-A. I did.

Q. Mr. Munson, do you know whether that communication

was by telephone or by letter?—A. It was by telephone. Q. You are satisfied of that, are you?—A. When you inquired of me the same question in my examination before the Judiciary Committee of the House, I could not answer definitely. Since then I have examined my files and I find no letter either to me from him or from him to me, so I am sure it was by telephone.

Q. So you concluded it was by telephone?—A. Yes. Q. Was there any specific amount asked for by the clerk?—A. My impression is that it was \$50, but I do not think anything

was definitely suggested.

Q. Mr. Munson, I will be glad if you will tell exactly what Mr. Searle said to you in that conversation over the telephone.— A. As near as I can recollect, he stated to me he was raising, or possibly there was being raised, a fund or a purse to be presented to Judge Archbald when he sailed for Europe on a trip, and that it was being raised entirely unknown to Judge Arch-That is my recollection of the substance of what he said. bald.

Q. Now, can you tell us just what you said in reply?said I did not care to subscribe to that fund, or I declined.

Q. And that was all of it?-A. That was all, to my recollec-

Q. How far is Williamsport, where you live, from Scranton, where the judge lives?—A. By rail, I should say, about 130

miles. Q. It is in Judge Archbald's judicial district, or was then?-

A. My county? Q. Yes.—A. Yes.

Q. Were you a practitioner in the judge's court?—A. I was.

Q. And had been for some time?—A. Since its creation.

Mr. Manager NORRIS. I think you may inquire, gentlemen. Cross-examination:

Q. (By Mr. SIMPSON.) Did you have any cases pending in that court at that time?—A. I had not. Oh, I beg your pardon, I have had cases pending, at issue all the time for 10 years, but I had no cases on the then pending trial list.

Q. I find on reading your testimony given before the Judiciary Committee that you said this in answer to a question by Mr.

Norms [reading]:

Mr. Norris. Was there any amount stipulated he wanted you to pay? Mr. Munson. No, sir; no amount.

A. That is probably correct, because my recollection would be more distinct some months ago than now.

Q. Will you tell us why you declined to pay the money?—A. I had then, and I still have, a high respect and admiration for Judge Archbald, and I did not care to embarrass him to either accept or refuse it. That was my reason.

Q. You thought that no matter which course was taken he would be embarrassed in either aspect of it?-A. I thought so; that he would be very much embarrassed. I want to say, if I may be allowed to say it, as I said before, that I have tried many cases before Judge Archbald, both when he was a State judge and when he was a Federal judge. He was always absolutely impartial and fair, and I have never tried a case before a more honorable, upright judge than he. I have regarded him as my friend. I knew him when he was a lawyer. He was my correspondent in Scranton. I have tried cases before him for 25 years. He came to Williamsport twice a year to hold dis-

trict or circuit court, and in going from his hotel—
Mr. Manager NORRIS. Mr. President, I do not object to a reasonable amount of that kind of testimony, but we have not

inquired on this point, and it is not material at all in this case. There must be a limit somewhere to the witness explaining his

opinion of Judge Archbald.

Mr. SIMPSON. I shall not ask him to go any further. I understood he was explaining, sir, why from his knowledge of the judge he thought, no matter whether he refused or accepted the contribution that Mr. Searle was gathering, it would be embarrassing

The PRESIDENT pro tempore. Counsel will recognize the fact that the rules of law are very clear as to the manner in

which proof of character must be made.

Mr. SIMPSON. Yes, sir; and I did not ask the question that brought out that answer. It was the suggestion of the witness. Mr. Manager NORRIS. That is true; counsel did not ask it.

The witness volunteered it.

The WITNESS. I volunteered it.

Mr. Manager NORRIS. If it is agreeable to the respondent, this witness may be excused. Have you any further use for

Mr. SIMPSON. None at all. I am very sorry you have to go. The PRESIDENT pro tempore. The witness is finally discharged.

Mr. Manager NORRIS. Now, Mr. President, we have other witnesses, of course, on this point, but we want to revert now to where we were yesterday when we adjourned.

Mr. Manager DAVIS. We will call Mr. Swingle.

TESTIMONY OF SAMUEL H. SWINGLE.

Samuel H. Swingle, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager DAVIS.) Where do you live?—A. Scranton, Pa.

Q. What is your occupation?-A. Real estate and builder, and in the coal business on the side a little.

Q. Are you one of the stockholders of the Premier Coal Co.?-A. Yes, sir.

Q. Who are associated with you in that enterprise?—A. W. L. Schlager, Frederic Warnke, and A. F. Kizer.

Q. What official position do you hold, if any, in the corporation?-A. I am treasurer.

Q. When was the corporation organized?—A. April, 1912.

Q. What property did it take over?—A. We took over a fill known as the Big Fill, in Corey Hollow, Lackawanna County.

Q. What was the name of the former owner?—A. The Lacoe & Shiffer Coal Co.

Q. Do you know Judge Robert W. Archbald?—A. Yes, sir.

Q. Did he participate in the negotiations you had about that coal fill?—A. Yes, sir.

Q. Did your corporation, to your knowledge, ever execute to him a note for \$500 or \$510?—A. Yes, sir.

Q. Have you the note in your possession?—A. Yes, sir.

Q. Will you produce it?

(The witness produced the note referred to.)

Mr. Manager DAVIS. Will the Secretary please read it? The Secretary read as follows:

[U. S. S. Exhibit 87.]

SCRANTON, PA., April 6, 1912. Four months after date we promise to pay to the order of A. F. Kizer, S. H. Swingle, W. L. Schlager, and Fred Warnke \$510 at the Lackawanna Trust & Safe Deposit Co., without defalcation, for value received.

PREMIER COAL CO., By Fred'K. WARNKE, Pres. S. H. SWINGLE, Treasurer.

No. - Due -[Indorsed.]

A. F. Kizer, S. H. Swingle, Fred'k. Warnke, W. L. Schlager, R. W. Archbald.

Q. (By Mr. Manager DAVIS.) Has that note been paid, Mr. Swingle?-A. Yes, sir.

Q. When was it paid?—A. At maturity.

Q. And paid to whom?-A. To the Third National Bank of Scranton.

Q. Had it been discounted at that bank by the judge?-A. Yes, sir.

Q. Who delivered that note to Judge Archbald, if you know?—A. I delivered the note to Judge Archbald.

Q. Please explain where and under what circumstances you delivered the note to him.-A. He came to our office regarding his commission on the bank, and wanted the money, and I told him that we were not prepared to pay the money at that time; that we had understood that we were to give him the first earnings out of the company. He said he did not understand it that way. I said: "Well, it does not make any difference; we are going to pay you, anyway. If the other boys are satisfled to go along on a note, I am satisfied, and I will talk it over with them and let you know in a day or so." He said: "All right." I spoke to Mr. Kizer and Mr. Schlager and Mr. Warnke,

and we made the note up, and the judge, I think, came in in about two days and got the note.

Q. Did you personally make the arrangement with the judge by virtue of which he was to receive this note?-A. No; it was preliminary. It was made before I went into the company, with Mr. Warnke, I think, although I understood that the bank had to be bought through Judge Archbald, and that he would get a commission for selling it.

Q. From whom did you understand that?-A. From Mr.

Warnke, after our first audience with the judge.

Q. You say after your first audience with the judge?-A.

Yes, sir.

Q. Where and when did that audience occur?-A. February 12, 1912, at the judge's office; and after we went out the judge and Warnke had a conversation, and the latter came out-we originally thought the bank was to be \$7,500-and said: "I did not tell you that the judge has to have a commission of \$500 for selling it." I said, "I did not understand that." He says: "Yes. I did not tell you, though." I said: "Is there any other \$500 to be paid on this?" He said: "No; that is the only one." I said, "Well, I am satisfied to go along on that basis," and we accordingly went along, and there was nothing more said about the judge's fee other than I wanted it paid in that way at that time. I did not want to put any more money in cash into the proposition than I had to.

Q. Then you heard nothing more of it until the judge came to your office to collect the sum?—A. I took it up later with Kizer and Schlager. I was talking at that time for myself, but when we decided to form a corporation, and all go in, then we talked it over, and it was satisfactory to all.

Mr. Manager DAVIS. You may inquire.

Cross-examination.

Q. (By Mr. SIMPSON.) Was there any connection whatsoever between the payment of this commission by the note of \$510 and an interview that Judge Archbald had for Mr. Warnke with Mr. Baer or with Mr. Richards, of the Philadelphia & Reading Railroad Co.?—A. None whatever.
Mr. SIMPSON. That is all, sir.

Redirect examination:

Q. (By Mr. Manager DAVIS.) You say none whatever, of

your own knowledge?—A. No; none whatever.
Q. How do you know?—A. Well, of my own knowledge.
That is all I know. Was not that the way the question was put-how did I know? It was never discussed in any way, either pro or con, regarding the railroad companies. In fact, I did not know at that time that Warnke had taken up anything of that kind with the judge.

Q. You do not yourself know what the arrangement was between the judge and Mr. Warnke, made in your absence?—

Q. It was made in your absence?—A. Yes.
Mr. Manager DAVIS. That is all, I believe. This witness
may be discharged, as far as the managers are concerned.

The PRESIDENT pro tempore. The witness will be finally discharged.

TESTIMONY OF FRED W. JONES.

Fred W. Jones appeared, and having been duly sworn, was exar ined and testified as follows:

Q. (By Mr. Manager DAVIS.) Where do you live, Mr.

-A. Scranton.

Q. What is your occupation?-A. Colliery clerk for the Delaware & Hudson Coal Co.

Q. How long have you been so engaged?-A. For about a year and a half.

Q. Do you know a man named John Henry Jones ?- A. Yes,

Q. Do you know Judge Robert W. Archbald?—A. Yes, sir.

Q. Did you at any time have anything to do with a coal dump or culm dump known as the Lacoe & Shiffer fill?—A. Yes, sir.

Q. What connection had you with it?-A. I think it was in the months of February, March, and April I was working for

the county commissioners

Q. What year?-A. 1911. John Henry Jones was working there at the same time. I happened to hear him tell of dealing in lumber and different things and I drew his attention to this culm fill. I told him I would have to show him where it was. He was very anxious to know in the meantime where it was. I told him as soon as we got through I would take him down and show it to him. We got through in about a week and I took him down and told him the people who owned it and the people he had to go see about it and who were looking after this deal, Lacoe & Shiffer.

Q. Whom did you tell him he would have to see about it?—
A. Mr. Berry. I told him several parties were looking after

that and they would have a hard time to get it. He said he knew a party who had an option on it, but he did not tell me who the party was at the time. Then after an inquiry in Courthouse Square, Scranton, I met him and he said the judge had an option on it.

Q. What judge did he say had an option on it?-A. Judge

Archbald.

Q. At the time you talked with John Henry Jones was anything said about the way of getting to and from this dump?

A. Not at that time.

- Q. After he told you that Judge Archbald had an option on it, what did you do?—A. He took me over to the judge's office, just right there adjoining, in Courthouse Square. We talked it over there that I had to get some compensation for the information I gave them, and talked over what I should get, and it was agreed that we should have some papers drawn up to that effect
- Q. Who was present at that time?—A. Judge Archbald, myself, and John Henry.

Q. That was in Judge Archbald's office?—A. Yes, sir.

Q. What discussion did you have about what you were to get out of it?-A. They agreed to give me that, and I agreed to take it.

Q. Was there a written contract drawn?-A. Yes, sir.

Q. When and where?-A. In City Solicitor Davis's office, Municipal Building.

Q. Was it drawn the same day?—A. Yes, sir. Q. Who was there with you at the time it was prepared?-A. The city solicitor, Davis, and the stenographer and myself and John Henry.

Q. Had you agreed in Judge Archbald's office upon the terms of that contract?-A. Before we went up there; yes, sir.

Q. Why did John Henry Jones take you to Judge Archbald's office to discuss the amount you were to receive?-A. I suppose on account of the judge getting the option. He told me the judge was getting the option on the culm bank.

Q. Look at the paper I hand you [presenting paper], bearing date the 25th day of April, 1911, and state if that is the

contract you refer to.—A. (Examining.) It is.
Mr. Manager DAVIS. I offer that in evidence, and ask the Secretary to read it into the record.

The PRESIDENT pro tempore. It will be read.

The Secretary read as follows:

[U. S. S. Exhibit 88.]

Whereas Fred W. Jones, of Scranton, Pa., has on divers occasions rendered valuable services to me in the matter of locating and securing a culm dump, located in the borough of Moosic, Pa., between Plains Nos. 4 and 5; and Whereas in consideration of said services it was agreed that upon the sale and disposal of said dump said Fred W. Jones was to be componented.

sele and disposal of said dump said Fred W. Jones was to be compensated:

Now, therefore, I hereby agree in the event of said dump being sold by me for a sum in excess of \$12,000 to pay said Fred W. Jones 6 per cent of the amount of the price, and in the event of said dump being sold for the sum of \$12,000, or any portion thereof, I agree to pay to said Fred W. Jones 5 per cent of the price or sum so received.

In witness whereof I have hereunto set my hand and seal this 25th day of April, A. D. 1911.

J. HENRY JONES. FRED W. JONES.

Witness: R. M. SPEICH.

Q. (By Mr. Manager DAVIS.) After that agreement had been made, did you have any further dealings about it?-A. What is that question again?

Q. After that agreement had been made and delivered to you, what further connection, if any, did you have with the transaction?—A. Only I told him I knew a party who might buy this culm dump. He wanted to know who it was, and I told him Charles Stone, and he called him up several times on the telephone at his home, and they met at Judge Archbald's office and talked the matter over there.

Q. Did you have any conversation with John Henry Jones and Stone other than in Judge Archbald's office?-A. Only in

Judge Archbald's office.

Q. What conversation, if any, did you have in Judge Archbald's office on the subject?—A. Well, in regard to the price of the dump and the right of way to haul from the ground over the land to the Sauquoit, who wanted to sell the fuel-that is, in case we bought the dump.

Q. What was said about the right of way for the shipment?—A. He thought at the point it started it was the D. & H. Co., and naturally he thought the D. & H. might stop hauling

over their ground.

Q. What is the D. & H.?-A. The Delaware & Hudson Coal Co.

Q. Or the Delaware & Hudson Railway Co.?-A. The usual term is the Delaware & Hudson on the inside and the Hudson Coal Co. on the outside.

- Q. What was said about it?-A. He spoke about it to the judge, and the judge thought it was not an easy matter to settle that and draw over the right of way. He thought he could fix it.
- Q. With whom did the judge say he could fix it?-A. Well, he would have it to fix with the D. & H. Co. That is what we talked about.

Q. Who is at the head of that company?-A. C. C. Rose,

Q. Is that company controlled by the Delaware & Hudson Railroad Co.?—A. Yes, sir.

Q. Had John Henry Jones said anything to you before you went to Judge Archbald's office about this Delaware & Hudson right of way?-A. Not then; but he did after we come out of Judge Archbald's office.

Q. What did he say about it?-A. Stone looked at the prospects of buying, him and John Henry and me. I said there will be a little trouble about the right of way. Oh, he said, the judge is in a position he thought he could fix that all right.

Mr. Manager DAVIS. That is all.

Cross-examination:

Q. (By Mr. SIMPSON.) What do you mean by right of way?—A. I suppose going over another party's land.

Q. Then you do not mean by right of way what everyone else means by it; that is, the roadway of a railroad company?—A. A wagon road, if you have to come over the D. & H. Co.'s land.

Q. It is not the trackway of any railroad company that you

are talking about?—A. No, sir.
Q. Do you not know that the Delaware & Hudson Co. had no interest whatever in the surface of that land but only mining rights under it?—A. I do not.

Q. You do not know that?—A. No, sir.
Q. You do not know that there is a wagon way which was there for many years, more years than you are old, and is used by anybody who chooses to use it?—A. Not that I know.

Q. That you do not know?-A. No, sir. Mr. SIMPSON. I think that is all.

Q. (By Mr. Manager DAVIS.) One question, Mr. Jones. Did you ever receive any compensation when this property was sold?-A. No, sir.

Q. You have realized nothing under this agreement up to

this time?—A. No, sir.

Q. (By Mr. SIMPSON.) There was nothing said in the judge's presence at all about this agreement, after it was made, was there?-A. He come back and it was read over to the judge. John Henry and me come back and read it over to the judge, and it was satisfactory to him.

Q. Did you not testify precisely the reverse of that?—A. No,

Q. Let us see whether you did or not. I am reading from page 1172, gentlemen:

Mr. Jones. John Henry said that he would give me something. Mr. Webb. Was anything said in the judge's presence? Mr. Jones. Not in his presence, but to me.

Is that a mistake?—A. Please read that over again.

Q. (Reading):

Mr. JONES-

That is yourself testifying-

John Henry said that he would give me something. Mr. Webb. Was anything said in the judge's presence? Mr. Jones. Not in his presence, but to me.

That is correct?-A. That is right.

Q (By Mr. Manager DAVIS.) I object to reading only that portion of the testimony to the witness. You were asked this question following what has just been read:

Mr. WEBB. Then did the judge simply agree that you should have some pay for your part in the transaction?
Mr. JONES. Yes, sir.

Did you so answer?-A. Yes, sir.

Q. You were further asked:

Mr. Webe. Did he know you and John Henry Jones were going to Davis's office to get this contract drawn?
Mr. JONES. John Henry Jones said we were going up to see City. Solicitor Davis.
Mr. Webe. Was that in the presence of the judge?
Mr. JONES. Yes, sir.
Mr. Webe. Then the judge knew where you had gone?
Mr. JONES. Yes, sir.

Did you so answer?-A. Yes, sir. Mr. Manager DAVIS. That is all.

The PRESIDENT pro tempore. The Senator from Missouri [Mr. Reed] has asked that the witness be interrogated by the following question, which will be propounded to him by the Secretary.

The Secretary read as follows:

What price was asked for the dump by Judge Archbald?

The WITNESS. \$12,000 in the first place, and I think reduced to about nine or ten thousand. I could not say exactly.

Q. (By Mr. SIMPSON.) You had nothing to do with its

ultimate sale?—A. No, sir; nothing at all to do with it.

Mr. Manager DAVIS. We have nothing further from this witness. He may be discharged so far as the managers are

The PRESIDENT pro tempore. And also as far as counsel for the respondent are concerned?

Mr. SIMPSON. All right.

The PRESIDENT pro tempore. The witness may be finally discharged.

TESTIMONY OF CHARLES H. VON STORCH.

Charles H. Von Storch appeared, and, having been duly sworn,

was examined, and testified as follows:
Mr. Manager STERLING. I believe this witness is here under an attachment. I suppose he ought to be discharged from it before we examine him.

The PRESIDENT pro tempore. The attachment can be

vacated. Mr. Manager STERLING. I ask to have the attachment

vacated. The PRESIDENT pro tempore. The order of the attachment will be vacated at the request of those who moved it.

Q. (By Mr. Manager STERLING.) What is your name?-A.

Charles H. Von Storch. Q. Where do you live?-A. Scranton, Pa.

Q. How long have you lived there?-A. All my life.

What is your business?-A. Attorney at law and president of the Providence Bank.

Q. Where is the Providence Bank?-A. It is in a suburb of Scranton, about 2 miles out from the center of the town.

Q. How long have you been practicing law in Scranton?-Since 1886 or 1887.

Q. Are you acquainted with Judge Archbald?-A. I am.

Q. Do you know John Henry Jones?—A. Very slightly. Q. How long have you known him?—A. The first time I ever

saw him to remember was in December, 1909.

Q. Did you have some business transaction with Jones at that time?—A. Indirectly, yes.

Q. Just state the nature of the business.—A. Mr. Jones came

into my office in the early part of December, 1909-

Q. Was that at your bank or at your office?—A. At my law office; and began to talk about some Central American timber proposition. I really paid very little attention to what he did say until he produced a note with Judge Archbald's indorsement and asked if it could be discounted at the Providence I doubted a little whether the note was genuine or not, so I called up Judge Archbald to see. He said it was all right, and that he would take it as a favor if it was discounted. So I told Mr. Jones to take the note to the bank. That is about all the business I have had with Mr. Jones. I have met him occasionally on the street since or when here.

Q. Was Jones a depositor or customer at your bank at that

time?—A. No, sir.
Q. Was Judge Archbald a depositor or customer of your bank?—A. I think not.

Q. How far from your office is your bank?—A. About 2 miles. Q. Had you been practicing law in Judge Archbald's court?—

A. In the common pleas court when he was common pleas judge. Q. Had you practiced law in his court after he was district judge?-A. No, sir.

Q. Had you had any litigation in his court on your own account?-A. One case.

Q. When was that?-A. Well, that ran from about 1904, I think, when it was started, until finally decided about January,

-possibly December, 1908. Q. It was decided, then, in the same year in which this other business transaction occurred?-A. I think it was in January of

business transaction occurred?—A. I think it was in January of that year. The note was discounted in December.

Q. Did you see the note yourself?—A. Yes, sir.

Q. Can you describe it?—A. It was John Henry Jones, maker, payable to Judge Archbald, and indorsed by him.

Q. By whom?—A. By R. W. Archbald.

Q. And for what amount?—A. Five hundred.

Q. Have you got the note?—A. No, sir. Oh, the bank has it. It was here yesterday, I believe, with the cashier.

Q. Who is the cashier?—A. Rollin B. Carr.

Q. Who is the cashier?—A. Rollin B. Carr.

Q. It is in evidence then. Has that note been paid?-A. No, It has been reduced slightly.

Q. It has been renewed from time to time?-A. Yes, sir.

Q. Every 90 days?—A. Perhaps 60 or 90; I am not sure about

Q. Who has paid the interest?—A. I understand Mr. Jones.

Q. And the installments on the principal?—A. Yes, sir. Q. Have you received any appointment from Judge Archbald in recent years?-A. I was appointed receiver in bankruptcy in October, 1910.

Q. That was the October following the discounting of this note?-A. Yes, sir; following the discounting of the note.

Q. Was that appointment of the receivership an important appointment?-A. It was probably a fifteen or twenty thousand dollar business failure. It was not particularly important. I was soon after elected by the creditors, when they met, as trustee.

Q. Were you not appointed referee in bankruptcy?-A. No, sir.

Q. Just receiver?—A. Receiver. Mr. Manager STERLING. Take the witness.

Cross-examination:

(By Mr. SIMPSON.) You are president of the Providence Bank?-A. Yes, sir.

That bank was the principal creditor, was it not, in the

bankruptcy proceeding?—A. No, sir.
Q. Was it a creditor in that proceeding?—A. No, sir. Yes it was. Yes. No. Well, I will have to explain that. The bank had some notes in which the bankrupt was liable, and those notes are still being carried by the indorsers on them and reduced occasionally.

Q. The bankrupt was the maker of the notes?-A. I think so,

in some cases.

Mr. SIMPSON. That is all.

Redirect examination: Q. (By Mr. Manager STERLING.) Mr. Von Storch, in whose handwriting was the original note?-A. I think in Judge Arch-

bald's, or some parts of it.

Q. You know his handwriting?—A. Yes, sir.

Q. Have not the renewals been in his handwriting?-A. I have not seen them all, but I believe so.

Q. All you have seen were in his handwriting?-A. Yes, sir. Q. And all indorsed by him in just the same way?-A. The

indorsements were the same.

Q. Going back to the litigation which you had, what was the nature of the case you had in the judge's court?-A. It was the case of the Risden Iron Works against a cousin and myself claiming liability, as directors of a Montana corporation, on a question of filing an annual statement.

Q. It was determined in your favor?—A. Yes, sir.

Q. Why did you suspect this note when it was brought to you by John Henry Jones?-A. I did not think that a man of John Henry Jones's appearance would be carrying Judge Archbald's note around.

Q. Still you recognized the handwriting?-A. It looked like

Q. The body of the note was written by Judge Archbald?-A. Yes, sir: I think so.

Q. And it was made payable to him?—A. Yes, sir.
Q. Still you suspected it?—A. I did.
Q. Did you inquire what it was given for?—A. I did not inquire; I was told that by John Henry Jones.

Q. What did he say it was given for?—A. To pay his expenses to Europe—London, I believe—on a business expedition to finance some South American timber proposition.

Q. That was the Venezuela proposition?-A. I presume that was it.

Mr. Manager STERLING. That is all.

Recross-examination:
Recross-examination:
Mr. Von Storch, was there any approximation from Works (By Mr. SIMPSON.) peal taken from the final judgment in the Risden Iron Works case?—A. No, sir.

Mr. SIMPSON. That is all.

Mr. ROOT. Mr. President, I wish to have a question asked that I send to the Chair.

The PRESIDENT pro tempore. The Senator from New York presents a question which he desires to have propounded to the witness, and the Secretary will read it to him.

The Secretary read as follows:

Why did you not obey the summons of the Senate to appear as a witness without waiting to be attached?

The Witness. I understood that was settled by the withdrawal of the attachment. I will answer the question.

The PRESIDENT pro tempore. The witness will answer

the question.

The WITNESS. I objeyed the summons as soon as I could after getting the official notice, which was about 11.30 Thursday night. Q. (By Mr. Manager STERLING.) You had been summoned

long before that?—A. Yes, sir.
Q. You were summoned before this case commenced the 3d

of December ?- A. Yes, sir.

Q. Had you been excused?—A. It was Mr. Julian, I believe, who served the summons, and I thought I would probably get further notice when they needed me. I have a telegram or two from Gen. FARB, our Congressman, stating to come on further notification. I got your official notice, and I telegraphed Judge

CLAYTON I was coming. I do not know whether he received it

Q. That was Thursday night?—A. Yes, sir; Thursday night. Q. You did not get here until to-day?-A. Last night.

Mr. Manager CLAYTON. Mr. President, I think this witness ought not to be penalized under the circumstances. The Chair knows the difficulties under which we have labored; he knows the multitude of witnesses, and as Mr. Von Storch says, I think that his Representative in Congress had agreed to notify him when to come. He says that immediately after he received the notifical of the professional decomposition. the notice on Thursday he endeavored to come here. I think that his case does not call for any punishment, and that the order should be vacated.

The PRESIDENT pro tempore. The order has already been vacated. The Senator from Missouri [Mr. Reed] presents a question which he desires to have propounded to the witness, and the Secretary will read it to him.

The Secretary read as follows:

How much was involved in the Risden Iron Works case?

The WITNESS. About \$10,000.

Mr. President, I have a further question to ask. The PRESIDENT pro tempore. The Senator from Missouri presents a further question to be propounded to the witness, which will be read to him by the Secretary.

The Secretary read as follows:

Why have you not collected the Archbald note?

The Witness. Oh, we felt no great anxiety about it yet. Instead of collecting it, as long as Mr. Jones is paying moderately on it, we would rather see it go that way and give him an opportunity to pay if he can.

The PRESIDENT pro tempore. The Senator from Missouri [Mr. Reed] presents a further question, which will be propounded to the witness, and which the Secretary will read to him.

The Secretary read as follows:

Is Jones regarded as financially responsible?

The WITNESS. I think not.

The PRESIDENT pro tempore. The Senator from Missouri [Mr. Reed] presents a further question, which will be propounded to the witness by the Secretary.

The Secretary read as follows:

Who are you then indulging; Archbald or Jones?

The WITNESS. Archbald.

The PRESIDENT pro tempore. Are there further questions to be propounded to the witness?

Mr. Manager STERLING. We have no further questions. The PRESIDENT pro tempore. Are there any on the part of the respondent?

Mr. SIMPSON. We have none.
The PRESIDENT pro tempore. Is there further need of the witness?

Mr. Manager STERLING. No, sir.
Mr. SIMPSON. There is none.
The PRESIDENT pro tempore. The witness will be finally discharged.

TESTIMONY OF W. W. RISSINGER.

W. W. Rissinger appeared and, having been duly sworn, was examined and testified as follows:

Mr. Manager STERLING. Mr. President, the testimony of this witness and the two next witnesses relates to article No. 7. [To the witness.] Where do you live, Mr. Rissinger?-A. Scranton, Pa.

Q. How long have you lived there?-A. About 30 years.

What is your business?—A. I am in the coal business now. Q. How long have you been in the coal business?-A. Six or

eight years.
Q. What did you do before that?—A. I worked for the Lackawanna Railroad in their coal department.

Q. Are you acquainted with Judge Archbald?-A. Yes, sir. Q. How long have you known him?-A. Ever since I have been in Scranton.

Q. Are you connected now with any coal company?-A. Yes,

Q. What company?-A. Rissinger Bros. & Co. (Inc.), the Ridgewood Coal Co., and the Yost Mining Co.

Q. Do you belong to any other coal company or are you connected with any other?—A. Well, I have some stock in the Evans Mining Co.

Q. Did you at one time have connection with other coal companies?-A. I think not-oh, yes; I did with the Old Plymouth Coal Co.; yes, sir.

Q. Now, what was the Old Plymouth Coal Co.?-A. The Old Plymouth Coal Co. was a washery company, washing coal from a culm dump.

Q. What connection had you with that?—A. I was treasurer.

Q. How long were you treasurer?—A. During the whole period, I think.

Q. Did the Old Plymouth Coal Co. have a case in the Federal court at Scranton when Judge Archbald was presiding there

as district judge?—A. Yes, sir.
Q. When was that?—A. I do not remember the year.

Q. Well, about what time was it?-A. It was several years ago. Q. What was the nature of that suit?—A. It was for insur-

ance.

Q. For a fire loss?-A. Yes, sir.

Q. Against whom was that suit?-A. Well, there were about a dozen companies; I do not remember the names of them.

Q. Who was your attorney in that suit?-A. H. C. Reynolds. Q. Did you have charge of it for the Old Plymouth Coal Co.?-A. Well, I worked with Mr. Reynolds. Mr. Reynolds had other attorneys associated with him; but he was the main attorney.

Q. What connection did John T. Lenahan have with it?-A.

He was associated with Mr. Reynolds.
Q. He was one of your attorneys in that litigation?—A. Yes, sir.

Q. How many insurance companies were involved in the

suit?—A. About a dozen, I think.

Q. Was it in one suit or was it brought separately against the different companies?—A. I do not remember how that was; but they were all brought together, I think, and they were brought in Luzerne County, and then the insurance company

Q. In what court?-A. In the Luzerne County court, and the insurance company removed some of those suits to the United

States court.

Q. Do you know when those cases were removed from the

State to the Federal court?-A. No, sir; I do not.

Q. To refresh your recollection, I will ask you if it was not on October 3, 1908, or about that time?-A. I do not remember the time.

Q. Do you know when the suit was tried?-A. I do not know the exact time; no, sir.

Q. Can you tell the month or the year in which it was tried?-A. No; I can not remember the month nor the year.

Q. Well, you did try one of the cases?—A. Yes, sir. Mr. SIMPSON. Mr. President, we are quite willing that the manager may put in the docket entries as found in the printed book, if he so desires.

Mr. Manager STERLING. In that connection, I want to prove some of these facts now. [To the witness:] I will ask you if it was on October 3, 1908, that the case went from the Luzerne County court to the Federal court?

The Witness. I do not remember the date.

Q. Do you think it was about that time?-A. I do not remember the date

Q. How did it come to go to the Federal court?-A. The insurance companies had the cases removed to the Federal court.

Q. How long after the removal to the Federal court was it until it came up for trial?-A. I do not remember.

Q. About how long?-A. I do not remember.

Q. Well, was it five years?-A. I do not remember how long it was

Q. You know it was not five years, do you not?-A. I know it was not five years. I know it was within-

Q. Why do you say you do not remember when it was only four years ago the case was tried?—A. Well, if I do not remember, that is the proper thing to say, is it not?

Q. Well, you certainly know something about when it was that this case came up for trial.—A. I suppose these matters are on record. I do not remember the time.

Q. I want your recollection.—A. I do not remember. Q. Can you give the year?—A. No, sir; I can not give the year.

Q. Can you give it within two years of the time?-A. Well, I judge it was about four years ago.

Q. Judge Archbald was sitting in that court when it was tried?—A. Yes, sir.

Q. And during the trial a settlement was brought about of all the cases, was it not?-A. Yes, sir.

Q. About how long did the case pend from the time it was removed to the Federal court until the settlement came?-A. I do not remember how long it was.

Q. About how long was it?-A. A couple of months, I guesstwo or three months.

Q. During that time, while the case was pending in the Federal court, did you have some conversation with Judge Archbald about a gold-mining scheme in Honduras?—A. Why, we had some conversation; yes, sir. I do not know what talk it was, except that-

Q. Well, it was while the case was pending in his court?—A. Well, I do not know whether it was or not.

Q. Was it before that time?—A. It may have been.
Q. It might have been after that time?—A. It might have been after or it might have been before; I do not remember.

Q. Were there any writings developed from those conversa-tions?—A. All that I know is that I had a writing there, a letter from a man in New York that he was coming up.

Q. Coming up to Scranton?-A. Yes.

Q. What for?—A. Well, about this gold-mine proposition. Q. Did you introduce him to Judge Archbald?—A. Yes, sin

Q. He talked with Judge Archbald about it?-A. Well, several others; there were more than one-

Q. Well, did he talk with Judge Archbald about it?-A. Q. Did you previously talk with Judge Archbald about it?-

A. I think so; yes, sir.
Q. And you sent for the man in New York, who was the promoter of the scheme, to come up and see the judge, and he did so?—A. Yes, sir.

Q. Were you present when he talked to the judge about it?—A. Yes, sir.

Q. What was said?-A. I do not remember what was said. We just talked in a general way; that was all.

Q. Can you state anything that was said?-A. No; I can not

remember anything at all.

Q. Can you state the substance of anything that was said?-

A. No, sir.
Q. Did Judge Archbald conclude to take an interest in it at that time?—A. I do not remember whether he did or not.

Q. Well, did you go back and talk to Judge Archbald after the New York man had left?—A. I do not remember that, either.

Q. Do you remember whether Judge Archbald did finally consent to take an interest in it?—A. Well, I do not know whether he consented to take an interest in it or not.

Q. You know he did take an iterest in it, do you not?—A. I know that I had some stock transferred to Judge Archbald;

yes, sir.

- Q. How did you come to transfer stock to Judge Archbald?-A. It was on account of a note that was indorsed by Judge Archbald, a note that was given by myself and indorsed by Mrs. Sophia J. Hutchison and Judge Archbald. I think, as I recollect the matter, I wanted to do something in this promotion or help along with this stock business, of which I was to have a part, and the judge consented to indorse a note, which I was also to have indersed by Mrs. Sophia J. Hutchison.
 Q. What was the amount of that note?—A. Twenty-five hun-
- dred dollars.

- Q. It was made by you?—A. It was made by me. Q. By whom was it written?—A. I do not remember by whom it was written-it was written by myself, I suppose.
 - Q. Have you got the original note?-A. No. sir. Q. Where is it?—A. I do not know where it is.

Q. Did you pay it off?-A. Yes, sir.

Q. Did you pay the note or just renew it?—A. I paid the note.

Q. Is the note paid now?—A. Yes, sir.
Q. When was it paid?—A. It was paid within about a month.
Q. A month ago?—A. Yes, sir.

Q. You did renew it a number of times?—A. Yes, sir; I renewed it a number of times.

Q. How often?—A. Well, whenever it came due I renewed it. Q. Every three months for the last four years?—A. Yes, sir.

Q. When you renewed it the first time, what did you do with the original note?-A. I have no recollection about it. Q. Have you looked for it?-A. I do not think I had the origi-

nal note. Q. You renewed it, did you not?-A. Yes, sir.

- Q. Did you not take up the old note?—A. I think the note was held as a judgment.
- Q. Was it a judgment note?-A. I think it became a judgment note; yes, sir.
- Q. And was filed in the court there and judgment confessed on it?-A. I think so; yes, sir.
- Q. Now, the body of the note was written by Judge Archbald, was it not?—A. Well, I do not know about that, whether it was or whether I wrote it myself.
- Q. To whom was the note payable?—A. It was payable to Mrs. Sophia J. Hutchison and Judge Archbald—R. W. Archbald.

Q. Who is Sophia J. Hutchison?—A. My mother-in-law. Q. Where does she live?—A. Scranton, Pa.

Q. As I understand it, you gave a note of \$2,500 to Judge Archbald and to your mother-in-law?—A. Yes, sir.
Q. About November, 1908?—A. I do not recollect the date of it.
Q. And then Judge Archbald and Mrs. Hutchison, your mother-in-law, indorsed the note. What did you do with it then?-A. I had the note discounted.

Q. At the bank?-A. Yes, sir.

Q. And by paying the note you mean that you went to the bank and paid it off there?—A. Yes, sir.

Q. Did you give Judge Archbald any money for that note?-A. No, sir.

Q. Or did any money pass from him to you for it?-A. No, sir.

Q. How, then, did that note pass as a consideration for any interest in the gold-mining project?—A. Well, he was an indorser on the note, and that I considered some consideration afterwards.

Q. Well, he did not pay any of it?—A. No, sir.
Q. You paid it all yourself?—A. I paid it all myself.
Q. But you did give him some stock, did you not, in that

Honduras mining scheme?—A. Yes, sir.

Q. How much?—A. Well, I do not remember how much it was. The secretary of the company is here, and he can state.

Q. Have you a recollection of about how much?-A. No, sir. Q. How much did you agree to give him?-A. I do not remember anything about the agreement.

Q. Do you remember anything that was said at the time you talked with him, or at the time you and the New York man talked to him, about how much stock he was to take?-A. No, sir; I do not remember.

Q. What was the face value of the stock?-A. The face value of the stock was \$20 a share.

Q. Do you remember how many shares were given to Judge Archbald?-A. No, sir.

Q. Was there more than one kind of stock?-A. Yes, sir. Q. Preferred and common ?-A. Common and preferred stock;

yes, sir.

Q. Do you know which kind Judge Archbald took?-A. No; I do not remember.

Q. Did he take some of both kinds?-A. I do not remember that, either.

Q. Now, give us your best recollection as to the number of shares that Judge Archbald was to get in this arrangement you had with him?-A. I have not got any recollection about it

Q. How is that?-A. I have not got any recollection about how much it was at all.

Q. You testified before the Judiciary Committee, did you not?-A. Yes, sir.

Q. You testified there that there was issued to Judge Archbald about \$800 worth of stock at its face value, did you not?--A. I testified there from my memory, and it might not have been right.

Q. Did you not testify then that about 40 shares had been issued to him?—A. I do not know. Whatever I testified may not have been right.

Q. You remember you were questioned about it?-A. Yes; I know.

Q. And after you were questioned about it, did you look the matter up in the stock book?-A. I have got my own certificates, and I believe the secretary of the company is here and he can tell how much has been issued to Judge Archbald, but I do not remember.

Q. Have you looked to see how much it was?-A. No, sir.

Q. Well, you are the president of this company, are you not?-A. Yes, sir.

Q. What is the title of the company ?-A. The Scranton Honduras Mining Co.

Q. Is it incorporated?-A. Yes, sir.

Q. And you are the president?-A. Yes, sir.

Q. How many shares of this stock have you in it?-A. Here are my certificates.

Q. Well, how many shares have you?-A. There are 371 shares of the common in one certificate, 458 common in another certificate, and 33 shares of preferred in another certificate.

Q. That is all the stock you have?—A. Yes, sir. Q. Something like 500 shares?—A. Yes, sir. Q. Have you paid any money for that stock at all?—A. Yes,

Q. How much?—A. I do not remember how much it was. Mr. REED. We can not hear, Mr. President. The WITNESS. I do not remember just how much it was.

Q. (By Mr. Manager STERLING.) Have you paid any money on that stock outside of what you got on this \$2,500 note that the judge indorsed?—A. I think I did; yes, sir.

Q. Well, how much?-A. Well, I do not remember how much

that was, either.

Q. Have you got any idea?—A. No, sir.
Q. Not the remotest idea?—A. No, sir.
Q. Was it \$50,000?—A. I know it was not \$50,000.
Q. Was it \$20,000?—A. I know it was not \$20,000.

Q. Was it \$5,000?-A. No, sir.

What did you do with the \$2,500 when you discounted this note at the bank?-A. The bulk of that went to pay for the stock.

Q. The bulk of it-how much is "the bulk" of it?-A. I do not remember just how much.

Q. About how much?—A. Well, probably about \$2,000 of it. Q. Now, that went altogether on your stock?—A. It went to

pay for the stock I held at that time.

Q. Did it go to pay anything on the shares that were issued to Judge Archbald?—A. Well, I do not know how that was. I think they were issued to Judge Archbald afterwards.

Q. How is that?—A. I think what was issued to Judge Arch-

bald I issued to Judge Archbald afterwards.

Q. Yes; I think they were issued afterwards, but where did you send this money that you got on the note?-A. It went to New York

Q. To this man whom you had come to Scranton?-A. Yes, sir.

Q. What is his name?—A. Russell.

- Q. And you do not know just how much you sent? Was it as much as \$2,000?—A. Well, I would not swear to that, but I
- think it probably was; yes, sir.
 Q. Do you say none of that was to be applied on the stock that was issued to Judge Archbald?-A. Well, it was applied on the stock that I held.

Q. That you held?—A. Yes, sir. Q. Is the stock which Judge Archbald received a part of

the stock which had been issued to you?—A. Yes, sir.
Q. So, after he indorsed this note for \$2,500, you issued to him, under date of February 27, 1909, certificate No. 6, for 42 shares of preferred stock, did you not?—A. I do not remember what it was or how much, but it was issued.

Q. Would you say that was about the time?-A. Yes, sir. Q. Did Judge Archbald give you any money at the time the

stock was delivered?-A. No, sir.

Q. Then, again, on certificate No. 9, you transferred 42 shares of the common stock on February 27, 1909, the same date as the other, did you not?—A. It probably was September 27, because that is the date of my certificate.

Q. February 27, you mean?—A. February 27, and they were probably split on that day.

Q. So on that date you issued to him 84 shares of stock alto-

gether?—A. I do not remember how much it was. Q. Did you deliver it to him in person?—A. I do not remember that either.

Q. Did he pay you any money for it?-A. No, sir.

Q. Did he give you a note for it?—A. No, sir.

Q. And has he paid you any money or given you any note for it since that time?—A. No, sir.
Q. Did he tell you he would pay you for it?—A. No, sir.

Q. Do you expect him to pay you for it?—A. No, sir. Q. And this note of \$2,500 which he indorsed, you paid all of that yourself?-A. Yes, sir.

Q. He never paid any part of the principal or the interest?-No, sir.

Mr. POMERENE. Mr. President, I submit the question which I send to the desk.

Q. (By Mr. Manager STERLING.) When was this corporation formed?—A. I do not remember when it was formed.

Q. Well, was it formed about the time that you had this conversation with Judge Archbald?-A. The secretary of the company has the books, and he can tell you the time it was formed.

Q. Let me refresh your recollection. Was it not organized

November 10, 1908?—A. I do not remember.

Q. And was it not just about that time that the man from New York came up there and had the conference with you and Judge Archbald?-A. I think it was before that that the man came up.

Q. Before the corporation was organized?—A. Yes, sir.
Q. It was probably in October that he was up there?—A. In September.

Q. You think it was as early as September?—A. Yes, sir.
Q. And this note for \$2,500, which was made payable to
Judge Archbald and your mother-in-law and indorsed by them,
was dated November 28, 1908, was it not?—A. I do not remember the date.

Q. Would you think about that time?-A. I think the banker has the date of the note.

Q. Well, we will prove that by him. That note you took to the Providence Bank?—A. No, sir.
Q. What bank was it?—A. The County Savings Bank.
Q. The County Savings Bank. Did they discount it right

away?-A. I do not remember whether they did or not.

Q. Do you not remember that they inquired who Mrs. Hutchison was?-A. I do not remember.

Q. Did you not write to some real estate men down at-

where does she live?—A. She lives in Scranton.
Q. Did you write a letter to some real estate men inquiring as

to her financial standing, which you presented to the bank?-A. I think there was an inquiry; yes, sir.
Q. Well, who made the inquiry?—A. I do not know.
Mr. Manager STERLING. Mr. President, is there pending

question submitted by a Senator?

The PRESIDENT pro tempore. The Senator from Ohio [Mr. Pomerene] presented a question, which will be read to the witness by the Secretary.

The Secretary read the question, as follows:

Q. At the time of the trial of the case of the Old Plymouth Coal Co. v. The Equitable Fire & Marine Insurance Co. did the defendant, or its officers or attorneys, know that you and Judge Archbald were engaged in the gold-mining enterprise in Honduras?

The WITNESS. I do not think that any of the others concerned had anything to do with it but myself.

Q. (By Mr. Manager STERLING.) Now, I will ask you did you not yourself write a letter to Crisman & Myers, dated December 4, 1908?

Mr. POMERENE. Mr. President-

The PRESIDENT pro tempore. The witness will repeat his answer. He was not heard.

Mr. POMERENE. Mr. President, I do not think the witness

answered the question as it was asked.

The PRESIDENT pro tempore. The question will be again propounded and the witness will answer the question. Mr. Witness, if you do not understand it, read it again. Answer the question as propounded.

The Witness (after examining the question). Only myself

knew about that.

Mr. SMITH of Maryland. Mr. President, please have the question stated again.

The PRESIDENT pro tempore. The Secretary will again

read the question, and the answer of the witness will then be read by the Reporter.

The Secretary again read the question, as follows:

Q. At the time of the trial of the case of the Old Plymouth Coal Co. v. The Equitable Fire & Marine Insurance Co., did the defendant or its officers or attorneys know that you and Judge Archbald were engaged in the gold-mining enterprise in Honduras?

The PRESIDENT pro tempore. Now the Reporter will read the reply which the witness made.

The Reporter read as follows:

A. Only myself knew about that.

Q. (By Mr. Manager STERLING.) Now, Mr. Rissinger, does not the letter which I hand you refresh your recollection that the bank refused to discount the note at first until they had made inquiry about Mrs. Hutchison's financial standing?-A. I recollect about an inquiry, since you speak of it.

Q. Just look at the letter and state if it is not a copy of the letter which that real estate firm wrote you on the subject.—
A. (After examining letter.) Well, it may be a copy of the let-

ter, but I do not know whether it is or not.

Q. It is addressed to you, is it not?—A. Yes, sir, Q. Signed by Crisman & Myers?—A. Yes, sir. Q. And dated December 4, and it states that the property

which your mother-in-law owns up in that town is worth about \$18,000, does it not?—A. Yes, sir.

Mr. Manager STERLING. I will ask that the letter be read,
Mr. President. [To counsel for the respondent.] Do you wish

to see it, gentlemen? Mr. SIMPSON. No.

Mr. Manager STERLING. I will have the Secretary read the letter.

The Secretary read the letter, marked "U. S. S. Exhibit 89," as follows:

[U. S. S. Exhibit 89.] [Crisman & Myers, real estate, fire, plate-glass, and boiler insurance; collections and loans. Renting a specialty. New telephone 1533. Residence, No. 266 Chestnut Avenue; No. 313 Rutter Avenue, Kingston, Pa. Rooms 44 and 45 Wells Building.]

WILKES-BARRE, PA., December 4, 1908.

Mr. W. W. RISSINGER.

DEAR SIR: We estimate [that] the properties of Mrs. Sophia J. Hutchison, located in the boroughs of Kingston and Donanciton, Luzerne County, Pa., to be worth at least \$18,000.

Very truly, yours,

CRISMAN & MYERS.

Q. (By Mr. Manager STERLING.) You do remember getting that letter?-A. I remember of some such letter. I do not know whether that is a copy of it or not.

Q. I will ask you if this note which you took to the bank was not a plain promissory note, and they refused to accept it?—A.

I do not remember whether it was or not.

- Q. And when they refused to accept it, did they not say that if you would bring a judgment note and the report with reference to Mrs. Hutchison was satisfactory they would discount it for you?-A. I do not remember, except that they got a judgment note I know.
- Q. They gave you a judgment note and put it in judgment? A. Yes, sir.
- Q. Against whom?—A. Against myself and Mrs. Hutchison. Q. Was the judgment confessed against Judge Archbald?-A. No. sir.
- Q. Although he had indorsed the note with you and Mrs.
- Hutchison?—A. Yes, sir.
 Q. Why was not judgment taken against Judge Archbald also?—A. Well, I do not know; they did not ask for it in that
- Q. Could they have taken it against Judge Archbald on that note?-A. I do not know.
- Q. Did you have any conference with the bank about not taking the judgment against the judge?-A. Well, I do not remember that I asked them questions about it, except that I gave it the way they asked for it.

Q. How is that?-A. I do not remember that I asked any questions about it, except that I gave it to them the way they

asked for it.

Q. So you do remember now that you changed the form of the note from a plain note to a judgment note?-A. I do not know whether I changed it or whether that is the way it was.

- Q. You say John T. Lenahan was one of your attorneys in the Old Plymouth Coal Co. case in that suit pending before the judge?-A. Yes, sir.
- Q. Did you present this \$2,500 note to anybody else for discount before you took it to the savings bank?-A. I did not

present it to John T. Lenahan, but I think I asked him about it. Q. You did what?—A. I think I asked John T. Lenahan about it.

Q. What did you ask him about it?—A. I asked him if he could have his bank at Wilkes-Barre discount the note.

Q. You told him what it was?—A. I think I told him what indorsers I would get on it, or something.

Q. Were they not already on it?—A. I do not think that I had any note. I simply asked him about it.

- Q. And did you not show him the note?-A. I do not think so. Q. And tell him that Judge Archbald was an indorser?-A. I do not think so.
- Q. Did you tell him the amount?—A. I do not remember. Q. Did you tell him what the note was given for?-A. I do
- not remember that either. Q. Did he not ask you then why you did not discount the note in your town, and did you not tell him that you had tried to do so and could not?-A. I do not remember,
- Cross-examination: Q. (By Mr. SIMPSON.) Mr. Rissinger, the Scranton Hon-
- duras Mining Co. was a subcompany, was it not?—A. Yes, sir. Q. The original concession granted by the legislative authority of Honduras was to an entirely different company?-A. Yes, sir.
- Q. And you got a subconcession from this original company?—A. Yes, sir.
- Q. Did this Scranton Honduras Mining Co. hold any meetings?—A. Yes, sir.
 Q. Where did it hold its meetings?—A. It held them in the
- office of John R. Wilson.
- Q. Did it have any bank account?-A. Well, it transacted some business.
- Q. Answer my question, please. Did it have any bank account?—A. (After a pause.) Well, money went through the bank. I do not recollect about the bank account, but money went through the bank.
- Q. Money went through the bank. Whose bank account was it that it went through?-A. I think the money was paid to New York.

Q. Paid to New York?-A. Yes.

- Q. You said you do not think you paid the whole \$2,500 to New York? Did any part of that \$2,500 come back to Judge Archbald at all?—A. No, sir.
- Q. Who kept the balance of it, whatever it was?—A. I did. Q. Have there been any profits made by that company?—A. No, sir.

Q. In point of fact, is it not true that a party was sent down to investigate the matter in Honduras, and he found the title was defective?-A. I think so; yes, sir.

Q. So that, so far as concerns anything coming out of the matter, there is simply outstanding a company called the Scranton-Honduras Mining Co., that has issued a lot of stock and as to which there is nothing in it. Is not that correct?-A. It issued some stock.

Q. It issued some stock?—A. Yes. I do not know how much

was issued.

Q. The balance of the stock which you got, a part of which you gave to Judge Archbald and part of which Mr. Russell got, was kept in the company's treasury as treasury stock, was it not?—A. I do not remember as to that. Probably that is so.

Q. The proceeds of that note and the moneys of your own, whatever amount it was that was paid, was paid by you directly to this man Russell, that you speak of, was it not?—A. Yes.

Q. What connection, if any, was there between the trial of the old Plymouth Coal Co. case against those various insurance companies and the Honduras matter?-A. Nothing at all.

Mr. SIMPSON. That is all.

Redirect examination:

Q. (By Mr. Manager STERLING.) The corporation is still in existence, is it not?-A. Which corporation?

Q. This coal-mining corporation.-A. No, sir.

Q. When did it dissolve?-A. I do not believe that it has ever formally dissolved, but-

Q. They just stopped mining gold-A. Do you mean the

gold-mining company?

Q. Yes; the gold-mining company .- A. The corporation is in existence, but there has never been anything done with it. It is formally in existence, but in reality it is not.

Mr. Manager STERLING. That is all.

The PRESIDENT pro tempore. The witness is finally discharged.

TESTIMONY OF WALLACE M. RUTH.

Mr. Wallace M. Ruth appeared.

Mr. Manager STERLING. Mr. President, I think this witness also is here on an attachment. So far as we know, we have no objection to his being discharged from the attachment.

The PRESIDENT pro tempore. Upon the suggestion of the

managers the attachment will be vacated.

Wallace M. Ruth, being duly sworn, was examined and tes-

tified as follows:
Q. (By Mr. Manager STERLING.) What is your full name?—A. Wallace M. Ruth.

- Q. Where do you live?—A. Scranton, Pa.
 Q. What is your business?—A. Cashier County Savings Bank.
 Q. How long have you been cashier of that bank?—A. Since last May.
- Q. Were you connected with the bank in November and December, 1908?-A. I was.

Q. In what capacity?-A. Assistant cashier.

Q. Have you here the records of the bank during that timethe discount records?—A. I have a copy.
Q. I wish you would look and see whether or not a \$2,500

- note was discounted, the note being made by W. W. Rissinger to Judge Robert W. Archbald and Mrs. Hutchison.—A. The records of the bank show that on December 12, 1908, we discounted a \$2,500 note made by W. W. Rissinger and indersed by R. W. Archbald and Sophia Hutchison. The date of the note was November 28, 1908.
- Q. What was the date of the note?-A. November 28, 1908. Q. When the note was first presented to the bank for discount, in what form was it?—A. Just as I have read it off to vou.

Q. Was it a judgment note at that time?-A. No, sir; an ordi-

nary promissory note.

Q. What was done with reference to the form of the note after that, and why?—A. Mr. Rissinger offered—or possibly I asked him, not knowing Mrs. Hutchison very well, she being a woman-he offered, I think, her judgment note to be entered of record in Luzerne County, where her property was.

Q. Was that in addition to the plain promissory note?—

That was additional security.

Q. The note which was discounted?—A. Yes.

Was that done?-A. It was done.

Q. Was that done?—A. It was done.
Q. What was done with the judgment note?—A. It was entered on the records of Luzerne County.
Q. Against whom?—A. Against Mrs. Hutchison and W. W. Rissinger, I think. I have a copy of it here.
Q. When the note was first presented to you did you cause inquiry to be made as to the financial standing of Mrs. Hutchi-

son?-A. I believe I did. I asked Mr. Rissinger.

Q. I wish you would look at Exhibit No. 89 and state if that is a copy of the letter which you presented to the Judiciary Committee as a copy of the letter which Mr. Rissinger gave you on that subject .- A. It is. I have the letter.

Q. You have the original letter?-A. Yes, sir; I have the orig-

inal letter.

Mr. Manager STERLING. I guess there will be no dispute about this being a true copy?
Mr. SIMPSON. None at all.

Q. (Mr. Manager STERLING.) Look at Exhibit No. 90 and state if that is a copy of the original note.-A. (After examin-

ing.) No, sir; this is a copy of a renewal.

Q. What renewal?—A. A renewal dated March 1, 1912. The original note was dated back in 1908 and was renewed every

three or four months, possibly.

Q. Is that the note which was standing as a renewal when you were before the Judiciary Committee?-A. This is the note that was in force when I was here in May.

Q. Look at Exhibit No. 91 and state what that is. I think you presented it to the committee .- A. This is a copy of the transcript of judgment entered against Mrs. Hutchison and Mr. Rissinger in Luzerne County.

Q. In what court?—A. In the court of common pleas.

Q. Why was judgment not taken against Judge Archbald?-We knew the judge. We did not think it necessary. The judge's name on a note was good.

Q. Could you have taken judgment on the judgment note which was given you, or did he sign the judgment note?—A.

Who? Judge Archbald sign the judgment note?

Q. Yes .- A. No. Mrs. Hutchison and Mr. Rissinger signed the judgment note. The judge was merely an indorser on the

promissory note.

- Q. If you regarded Judge Archbald's indorsement good on the \$2,500 note, why did you go to the trouble to inquire about Mrs. Hutchison's standing and why did you require a judgment note from her?—A. Well, a bank never hesitates about strengthen-ing a paper that they take, and this was an offer, as I remember-
- Q. Then there was a little doubt in your mind about it being good ?-A. I do not think so.

Q. It was not quite strong enough? Is the note paid? Is the debt paid?—A. The note was paid the 30th of November this year.

Q. Who paid it?—A. Mr. Rissinger.

Q. Who kept the interest paid during these renewals?-A. Mr. Rissinger.

Q. Has Judge Archbald ever paid anything on the note?—A. He never has. I never saw him in connection with it.

- Q. You have never seen him?-A. I have never talked with
- Q. In whose handwriting were the original note and the renewals?-A. Mr. Rissinger's.

Q. Always?-A. I think so.

Q. But Judge Archbald was always an indorser?-A. Just as an indorser; yes, sir.

Q. Let me ask you again, as it is not clear, who was the payee on all the notes?—A. The note was drawn payable to R. W. Archbald and Sophia J. Hutchison.

Q. And signed by Mr. Rissinger?-A. Signed by Mr. Ris-

- Q. And indorsed by all three?-A. Indorsed by two-Mrs. Hutchison and Judge Archbald. I do not know whether Rissinger was an indorser on it or not.
 - Q. Was Mrs. Hutchison an inderser?—A. Yes. Q. And Judge Archbald?—A. Judge Archbald.

Q. And Rissinger?—A. And Rissinger.
Mr. SIMPSON. We have no questions.
Mr. Manager STERLING. Mr. Swingle, who presented a note in evidence, desires to withdraw it, leaving a copy with the Secretary

Mr. SIMPSON. That is entirely satisfactory to us.

The PRESIDENT pro tempore. It will be so ordered, by consent of the parties.

TESTIMONY OF JOHN R. WILSON.

John R. Wilson, being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager STERLING.) What is your full name?—A. John R. Wilson.

Q. Where do you live ?- A. Scranton, Pa. Q. What is your business?—A. Lawyer.

- Q. How long have you practiced law there?—A. Since 1898.
 Q. Were you connected in any way with the Scranton-Honduras Mining Co.?—A. I am the secretary of it.
- Q. You are still the secretary of it?—A. Yes, sir.
 Q. Have you been secretary of the corporation since it was organized?-A. Yes, sir.

Q. When was it organized?—A. November 10, 1908.

- Q. You issued the stock that was issued, did you not?-A.
- Q. What connection did Mr. Rissinger have with that company 2—A. He was the president.
 Q. Was there a vice president?—A. There was not.

- Who was treasurer?—A. Mr. Harry S. Day. Who were the directors?—A. Mr. Rissinger, Mr. Day, and
- Q. Was Mr. Russell, of New York, a director ?- A. No, sir.
- Q. I will ask you if you have your stock book with you?-A. Yes, sir.
- Q. State whether or not any stock was issued to Judge Arckbald .- A. Yes, sir; there was.

Q. How many kinds of stock are there?-A. There are two kinds-preferred and common.

Q. Was any of the preferred stock issued to the judge?-A. Yes, sir.

Q. What was the number of the certificate?-A. Certificate No. 6.

- Q. For how many shares?—A. Forty-two. Q. What was the date?—A. February 27, 1909. Q. What was the face value of the stock?—A. Twenty dellars per share.
- Q. And that would amount to \$840, would it not?-A. Yes, sir. Q. Did Judge Archbald pay that into the company?-A. I do not know.

Q. Did he ever pay it to you?—A. No, sir. Q. Was any other stock issued to him?—A. Yes, sir.

Q. How much and when?-A. Certificate No. 9, for 42 shares of the common stock, issued February 27, 1909.

Q. Did Judge Archbald pay anything for that, so far as you know?-A. No, sir.

Q. You know, as a matter of fact, he did not?-A. I do not know.

Q. As secretary of the company, you never understood that he paid any money?—A. I did not handle any money.
Q. But you understood he did not pay anything for the stock,

did you not?—A. That was my understanding at the time.

Q. For either the preferred or common stock?—A. No, sir;

he paid nothing.

Q. You understand that he did not give a note for either of those certificates, do you not?—A. I do not know; I never saw any note passed.

Q. But you understood from your connection with the company that there never was any note passed?—A. Yes, sir.

Q. And you understand that there is an agreement that he never shall pay anything for it, do you not?-A. I do not know. No agreement is on file with the company to that effect.

Q. And from your connection with the company you understand there is no obligation on his part to pay any part of it?-A. No, sir.

Mr. Manager STERLING. I think that is all.

Cross-examination: Q. (By Mr. SIMPSON.) In point of fact, these shares were a part of the shares belonging to Mr. Rissinger and were issued in Judge Archbald's name at Mr. Rissinger's request, were they not?—A. Yes, sir.

Q. Did this company ever do any business?—A. No.

Redirect examination:

- (By Mr. Manager STERLING.) Look at Exhibit No. 92.
- and state if you made that.—A. (After examination.) Yes, sir. Q. And you presented it to the Judiciary Committee when you were here last summer?-A. No, sir; I gave it to Mr. Webb the former part of this week.

Q. What is it?-A. It is a memorandum of stock outstanding of the Scranton Honduras Mining Co.

Q. You took it from your books?-A. Yes; it is a copy from the stock book.

Q. And it is correct?-A. Yes, sir.

Mr. Manager STERLING. I will offer that. I do not care to have it read.

Mr. WORTHINGTON. Let us see it, then.

The PRESIDENT pro tempore. Hand it to the counsel for the respondent.

The papers were handed to Mr. Worthington.

The paper referred to is as follows:

[U. S. S. Exhibit 92.]

(Memorandum. Stock outstanding. Scranton-Honduras Mining Co.) Preferred, \$20 per share.

Certificate No. 4.	Harry S. Day	100 shares;	issued Dec. 19, 1908.
Certificate No. 5.	John R. Wilson	50 shares:	issued Dec. 19, 1908.
Certificate No. 6.	R. W. Archbald	42 shares;	issued Feb. 27, 1909.
Certificate No. 7.	W. W. Rissinger	33 shares;	issued Feb. 27, 1909.
Certificate No. 8.	Harry S. Day	50 shares;	issued Mar. 12, 1909.
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Common, \$20 per share.

 Certificate No.
 3. W. W. Rissinger
 374 shares; issued Dec. 19, 1908.

 Certificate No.
 4. Harry S. Day
 50 shares; issued Dec. 19, 1908.

 Certificate No.
 5. John R. Wilson
 25 shares; issued Dec. 19, 1908.

 Certificate No.
 7. Harry S. Day
 500 shares; issued Feb. 27, 1909.

 Certificate No.
 8. John R. Wilson
 500 shares; issued Feb. 27, 1909.

 Certificate No.
 9. R. W. Archbald
 42 shares; issued Feb. 27, 1909.

 Certificate No. 10. W. W. Rissinger
 458 shares; issued Feb. 27, 1909.

 Certificate No. 11. Harry S. Day
 25 shares; issued Mar. 12, 1909.

The PRESIDENT pro tempore. The Senator from Ohio [Mr. POMERENE] desires that a question be propounded to the witness. It will be read.

The Secretary read as follows: Q. Why was this stock given to Judge Archbald?

The Witness. The stock was transferred or ordered to be transferred by William W. Rissinger to Judge Archbald, for what purpose I know not. I know nothing about why it was

Mr. Manager STERLING. Is that all?

I have no questions.

Mr. WORTHINGTON. I have no questions. Mr. Manager STERLING. That is all we care for from this witness

The PRESIDENT pro tempore. The witness is finally dis-

charged.

Mr. Manager STERLING. Mr. President, I desire to offer in evidence, as Exhibit No. 93, a certified copy of the orders taken in the several cases of the Old Plymouth Rock Coal Co. against the insurance companies; also in the case of the Risdon Iron & Locomotive Works against T. C. Von Storch. I do not care to have them read,

Mr. SIMPSON. Will you allow us to see them, please? Mr. Manager CLAYTON. We want them printed. Mr. Manager STERLING. I desire to have them printed

in the RECORD.

Mr. WORTHINGTON. In reference to the transcript in the case against Mr. Von Storch, with respect to which it has been stated that the judgment was rendered in his favor, it appears at the end of the transcript that there was a judgment rendered against the defendant for eight hundred and some odd dollars.

Mr. Manager STERLING. I think there are two cases.

The PRESIDENT pro tempore. Is there any objection to the introduction of the paper?

Mr. WORTHINGTON. We have no objection.

Mr. Manager STERLING. I think if counsel will examine

the papers he will find that there are quite a number of judgments.

Mr. WORTHINGTON. I looked at the last one. Mr. SIMPSON. The Risdon case.

Mr. Manager STERLING. Do you object? Mr. WORTHINGTON. We have no objection.

The PRESIDENT pro tempore. The papers referred to will be printed in the RECORD.

The papers are as follows:

[U. S. S. Exhibit 93.]

(Docket entries In the Circuit Court of the United States for the Middle District of Pennsylvania. In re Old Plymouth Coal Co. c. The Pacific Fire Insurance Co. of the City of New York. No. 163. October term, 1908.)

October term, 1908.)

H. C. Reynolds, Welles & Torrey, John T. Lenahan, for plaintiff;
C. Comegys, Frank R. Shattuck, John M. Garman, for defendant,
October 3, 1908. Exemplified record from Luzerne County to No. 624,
February term, 1908. Order directing that defendant file a plea within
five days and that case be placed on the trial list.
October 6, 1908. Plea: Non assumpsit, etc.
November 19, 1908. Jury called and sworn. (See minutes.) Jury is
discharged upon the settlement of the case by the parties.
November 23, 1908. Agreement of counsel that judgment be entered
in favor of the plaintiff in the sum of \$2.500 with interest. The judgment to be satisfied and discharged of record on the payment of
\$2,129.63 within 15 days. Judgment entered.
December 3, 1908. Plaintiff's bill of costs filed in No. 159, October
term, 1908.
December 14, 1908. Final record, 29 folios.
Certified from this record this 15th day of May, 1912.
[SEAL.]

G. C. SCHEUER, Clerk.
Per S. W. Hofford, Deputy Clerk.

(Docket entries. In the Circuit Court of the United States for the Middle District of Pennsylvania. In re Old Plymouth Coal Co. v. The Globe & Rutgers Fire Insurance Co. of New York. No. 164. October term, 1908.)

H. C. Reynolds, Welles & Torrey, and John T. Lenahan, for plaintiff. C. Comegys, Frank R. Shattuck, and John M. Garman, for defendant, October 3, 1908. Exemplified record from the common pleas of Luzerne County to No. 622, February term, 1908. Order directing that plea be filed by defendant within five days and that case be placed on trial list.

October 6, 1908. Plea filed,
November 19, 1908. Jury called and sworn. (See minutes.)

November 21, 1908. Jury is discharged upon settlement of the case by the parties.

November 21, 1908. Jury is discharged upon settlement of the case by the parties.

November 23, 1908. Agreement of counsel that judgment be entered in favor of the plaintiff in the sum of \$5,000, with interest, the judgment to be satisfied and discharged of record on the payment of \$4,259.25 and costs within 15 days. Judgment entered.

December 3, 1908. Plaintiff's bill of costs filed in No. 159, October term, 1908.

rm, 1908.

December 14, 1910. Final record, 28 folios.

Certified from the record this 15th day of May, 1912.

G. C. Scheuer, Clerk,

[SEAL.]

Per S. W. Hofford, Depaty Clerk.

(Docket entries. In the Circuit Court of the United States for the Middle District of Pennsylvania. In re Old Plymouth Coal Co. v. The Niagara Fire Insurance Co. of New York. No. 159. October term, 1908.)

Nilgara Fife Hishardee Co. of New York. No. 136. October 1810, 11008.)

H. C. Reynolds. Welles & Torrey, Scranton, Pa.; John T. Lenahan, Wilkes-Barre, Pa., for plaintiff.
C. Comegys, Scranton, Pa.; Frank R. Shattuck, Philadelphia, Pa.; John McGarman, Wilkes-Barre, Pa., for defendant.
October 3, 1908. Exemplified record from Luzerne County to No. 625, February term, 1908. Order that the defendant plead within five days and that the case be placed on the trial list.
October 6, 1908. Plea: Non assumpsit, etc.
November 19, 1908. Jury called and sworn. (See minutes.) Jury discharged, the matter having been settled between the parties.
November 23, 1908. Agreement of counsel that judgment be entered in favor of the plaintiff in the sum of \$2,500 with interest. The judgment to be satisfied and discharged of record on payment of \$2,120.63 and costs within 15 days.
November 23, 1908. Jury and witness list.
December 23, 1908. Bill of costs amounting to \$42.30.
October 21, 1910. Final record recorded in final record book No. 1, law, pages 292, continued to pages 313 to 316, inclusive, 37 folios.
Certified from the record this 15th day of May, 1912.
[SEAL.]

Per S. W. Hofford, Deputy Clerk

(Docket entries. In the circuit court of the United States for the middle district of Pennsylvania. In re Old Plymouth Coal Co. r. The Camden Fire Insurance Association of Camden, N. J. No. 161. October term, 1908.)

H. C. Reynolds, Welles & Torrey, John T. Lenahan, for plaintiff. C. Comegys, Frank R. Shattuck, John M. Garman, for defendant. October 3, 1908. Exemplified record from Luzerne County to No. 616, bruary term. 1908.

October 3, 1908. Exemplified record from Luzerne County to No. 616, February term. 1908.
October 3, 1908. Order directing defendant to plead within five days and that case be placed upon the trial list.
October 6, 1908. Plea: Non assumpsit, etc.
November 19, 1908. Jury called and sworn.
November 21, 1908. The parties having settled the case, the jury is discharged.
November 23, 1908. Agreement of counsel that judgment be entered in favor of the plaintiff in the sum of \$2,500, with interest. The judgment to be satisfied and discharged of record on the payment of \$2,129.63 and costs within 15 days. Judgment entered.
December 3, 1908. Plaintiff's bill of costs filed in No. 150, October term, 1908.
December 14, 1910; Final record, 28 folios.

rm, 1908.

December 14, 1910: Final record, 28 follos.

Certified from the record this 15th day of May, 1912.

G. C. SCHEUEE, Clerk

Fer S. W. Hofford, Deputy Clerk.

(Docket entries. In the Circuit Court of the United States for the Middle District of Pennsylvania. In re Old Plymouth Coul Co. v. Royal Exchange Assurance of London, England. No. 162. October term, 1908.)

H. C. Reynolds, Welles & Torrey, John T. Lenahan, for plaintiff.
C. Comegys, Frank R. Shattuck, John M. Garman, for defendant.
October 3, 1908. Exemplified record from Luzerne County to No. 619,
February term, 1908. Order that plea be filed by defendant within five
days and that case be placed on trial list.
October 6, 1908. Plea: Non assumpsit, etc.
November 19, 1908. Jury called and sworn. (See minutes.)
November 21, 1908. The jury is discharged, the parties having settled
the case.

November 23, 1908. Agreement of counsel that judgment be entered in favor of the plaintiff in the sum of \$2,500. The judgment to be satisfied and discharged of record on the payment of \$2,129.63 and costs within 15 days. Judgment entered.

December 3, 1908. Plaintiff's bill of costs filed in No. 159, October term 1908.

December 3, 1908. Final record. 28 folios.
December 14, 1910. Final record. 28 folios.
Certified from the record this 15th day of May, 1912.
G. C. Scheure, Clerk.
[SEAL.]
Per S. W. Hofford, Deputy Clerk.

Docket entries. In the Circuit Court of the United States for the Middle District of Pennsylvania. In re Old Plymouth Coal Co. v. The Stuyvesant Insurance Co. of New York. No. 160. October term, 1908.)

term, 1908.)

H. C. Reynolds, Welles & Torrey, Scranton, Pa.; John T. Lenahan, Wilkes-Barre, Pa., for plaintiff.

C. Comegys, Scranton, Pa.; Frank R. Shattuck, Philadelphia, Pa.; John M. Garman, Wilkes-Barre, Pa., for defendant.

October 3, 1908. Exemplified record from Luzerne County to No. 620, February term, 1908. Order that the defendant plead within five days and that the case be placed on the trial list.

October 5, 1908. Plea: Non assumpsit, etc.

November 19, 1908. Jury called and sworn. (See minutes.)

November 21, 1908. The parties having settled the case, the jury is discharged.

discharged.

November 23, 1908. Agreement of counsel that judgment be entered in favor of the plaintiff in the sum of \$2.500 with interest. The judgment to be satisfied and discharged of record on the payment of \$2.129.63 and costs within 15 days. Judgment entered.

December 3, 1908. Plaintiff's bill of costs filed in No. 159, October term, 1908.

Perm. 1908.

December 14, 1910. Final record, 28 folios.

Certified from the record this 15th day of May, 1912.

G. C. SCHEUER, Clerk.

Per S. W. HOFFORD, Deputy Clerk.

(In the Circuit Court of the United States for the Middle District of Pennsylvania. In re the Risdon Iron & Locomotive Works, a corporation organized and existing under and by virtue of the laws of the State of California and being a resident and citizen of the State of California, v. T. C. Von Storch and C. H. Von Storch, both residents and citizens of the State of Pennsylvania, No. 8, January term, 1904.)

California, v. T. C. Von Storch and C. H. Von Storch, both residents and citizens of the State of Pennsylvania. No. 8, January term, 1904.)

Welles & Torrey for plaintiff.
Willard, Warren & Knapp for defendants.
January 7, 1904. Præcipe for summons flied. Summons exit returnable the second Monday of January, 1904.

January 9, 1904. Summons returned; served on January 9, 1904.
January 11, 1904. Præcipe for appearance of Willard, Warren & Knapp, attorneys for defendant.

May 5, 1904. Plaintiff's statement.

May 31, 1904. Affidavit of defense.
January 12, 1907. Præcipe of plaintiff's attorney to place case upon the trial list for the next term of court at Scranton, Pa.
February 10, 1907. Rule and interrogatories for commission to Frank Woody, notary public of the city of Missoula, Mont., on 15 days' notice to the plaintiff or its attorney. Copy of rule, etc., returned. Service accepted by attorneys for plaintiff. Rule issued.

August 29, 1907. Rule and interrogatories for commission to M. M. Minkler, Esq. notary public at No. 4206 Fourteenth Avenne NE, Seattle, Wash., on 15 days' notice to plaintiff's attorneys. Rule issued.

September 26, 1907. Rule and interrogatories for commission to D. B. Richards, Monadock Buliding, San Francisco, Cal., on 15 days' notice to plaintiff. Rule and interrogatories for commission to D. B. Richards, Monadock Buliding, San Francisco, Cal., on 15 days' notice to plaintiff. Rule and interrogatories for commission to Henry C. Stiff, Missoula, Mont., on 15 days' notice on behalf of plaintiff, Rule and interrogatories for commission to Henry C. Stiff, Missoula, Mont., on 15 days' notice on behalf of plaintiff, issued. Amended complaint.

October 12, 1907. Now, October 9, 1907, after argument by W. J. Torrey, Esq., for the plaintiff, and H. A. Knapp, Esq., for defendants, October 19, 1907. Now, October 9, 1907, after argument by W. J. Torrey, Esq., for the plaintiff, and H. A. Knapp, Esq., for defendants, October 19, 1907. Commission and interrogatories issued to Henry C. Stiff, Depositi

soula, Mont.

September 21, 1908. Rule and commission issued.
October 5, 1908. Depositions of W. H. Smith, Esq.
January 29, 1909. Opinion and order directing judgment to be entered against the defendants in the sum of \$882.19. Now, January 2, 1909, judgment is hereby entered on the verdict in favor of the plaintiff, Risdon Iron & Locomotive Works, and against the defendants, T. C. Von Storch and C. H. Von Storch, in the sum of \$882.19.

Now, May 19, 1909, the plaintiffs acknowledge to have received satisfaction in full of the above judgment, debt, interest, and costs, and the judgment is hereby satisfied of record.

Welles & Torrey.

Attorneys for Plaintiff.

Attest:

G. C. SCHEUER, Deputy Clerk.

Certified from the record this 14th day of May, A. D. 1912.

G. C. SCHEUER, Clerk United States District Court.

EDWARD R. W. SEARLE.

Edward R. W. Searle, being duly sworn, was examined, and testified as follows:

Q. (By Mr. Manager NORRIS.) Where do you reside now?—A. In the city of Scranton, Pa.

Q. How long have you resided there?-A. About 11 years.

What is your business?-A. Attorney at law.

Q. How long have you been an attorney at law?-A. Since June, 1879.

Q. Have you been practicing law at Scranton during all that time?—A. No, sir.

Q. What portion of the time have you been in Scranton?-A. I came to Scranton in May, 1901.

Q. And have been there ever since?—A. Yes, sir.
Q. What official position did you occupy in the United States district court there?-A. Clerk.

Q. When were you appointed clerk?-A. At the organization of the court.

Q. That was at the time that Judge Archbald was appointed as judge?-A. Yes, sir.

Q. Did you occupy that position all the time he was the

district judge?-A. Yes, sir.

Q. Mr. Searle, what do you know about a present or a fund that was raised as a present on the part of the bar, which was given to Judge Archbald at the time of his trip to Europe, in the spring of 1910?-A. I was one of the contributors to that fund, sir.

Q. Did you have anything to do with the gathering together

of the fund?—A. Somewhat; yes.
Q. Tell us just what you did in connection with it.—A. As I understand it now more fully than I did in my examination before your committee in August last, after consulting with several of the contributors to that fund, a number of attorneys, personal friends of Judge Archbald, thought that they would give Judge Archbald a dinner on his going abroad. I think that was in the early spring of 1910. Subsequently a number

of the attorneys could not attend when they came to give the dinner, and it dwindled down to about nine or ten, and then they thought it would be very nice to make up a purse of practically the amount that the banquet or the dinner would cost them. The first I knew of that was that they came to me and asked me whether I thought the judge, under the circumstances that they were going to give it to him, would accept that money, and from that time on I was more or less active in completing the fund—that is, in this way: Not as a solicitor, in that light, but more in gathering it together, because they had already agreed upon what they would give; but to get it together, so that it would be given to the judge upon his sailing for Europe, and that was all I had to do with it.
Q. You spoke of "they." Whom of

Whom do you mean?-A. I mean

those who contributed to the fund.

those who contributed to the rund.

Q. Tell me who they were.—A. As well as I can remember, the firm of O'Brien & Kelley, Welles & Torry, Willard, Warren & Knapp, Watson, Diehl & Watson, Mr. Samuel Price, Mr. Rymer Mr. Martin. Merritt Dimmick, Gov. Watres, Wheaton, Darling & Woodward, and C. S. Sprout. That is all that I can recall at this moment.

Q. Have you any idea that there were others besides those

you have mentioned?-A. There might have been.

Q. You have not mentioned Mr. Lenahan?-A. No. sir. Q. Did he contribute?-A. He did through Wheaton, Darling

& Woodward.

Q. Did he do that through the firm or some member of the firm?-A. When I was here before it was my impression I had nothing to do with Mr. Lenahan in any shape or form and knew nothing about his contribution until his contribution came in at the close of the affair. I called Mr. Woodward on the telephone last Wednesday, when it was intimated that I was to come here, to see whether I was right or not in my recollection of the affair. Mr. Woodward declared to me that he did not send me Mr. Lenahan's check and had nothing to do with it. I said to Mr. Woodward, "You go and look at your check book." I told him it was either April or May when he issued that check. "Then," I said, "refer to your letter of that date and you will find you are mistaken. I will hold the phone." He did so, and he came back and said, "Ed, you are absolutely right"; that he wrote the letter to me; that he inclosed Judge Wheaton's check and his check, and also a check of \$25 for Mr.

Q. That was Mr. Woodward?-A. That was Mr. Woodward. That is all I know of Mr. Lenahan having any connection with that fund in any shape or form.

Q. Mr. Searle, who is Mr. Woodward?-A. He is an attorney of Wilkes-Barre, of the firm of Wheaton, Darling & Woodward. Q. Is that in the judicial district over which Judge Archbald

has presided?—A. Yes, sir; the middle district of Pennsylvania.
Q. What official position in that court did Mr. Woodward hold at that time?—A. He was jury commissioner from the organization of the court down until Judge Archbald left.

Q. At the time you were here before the Judiciary Commit-

tee you could not remember any of these names which you have given me to-day, could you?—A. I think you refer to my testimony.

Q. To your testimony.-A. I gave a large number that I have given to-day; but I could not remember, and told you so, that I could not call it to my mind. Since I went home I took pains to inquire and I find I left out a few names.

Q. As a matter of fact, you gave us practically no names at

that time, except Mr. Woodward and Mr. Lenahan.—A. I gave you Gov. Watres's name; I gave you Mr. Dimmick's name; I gave you Watson, Diehl & Watson's name; I gave you Mr. Price's name; I gave you Mr. Martin's name; I gave you Mr.

Rymer's name; and I gave you O'Brien & Kelley's name, Q. In fact, most of those names were asked you in the form of questions as to whther they did not contribute?-A. No, sir;

not that I recall it, sir.

Q. How much did each one of those men contribute?—A. I can not recall the amount; but no one gave over \$50, and none gave less than \$25.

Q. Give us the first attorney's name you mentioned who did

contribute?-A. Who was that?

Q. Take up any of them. I do not care about the order. Who was some one who contributed through you?-A. Mr.

Q. How much did Mr. Price contribute?—A. I could not say whether it was twenty-five or fifty.
Q. Do you know how he happened to contribute?—A. Yes, sir.

Q. Did you talk with him about it?—A. Yes, sir.
Q. He gave the money to you?—A. Yes, sir.
Q. Now, take up some other man.—A. O'Brien & Kelley.
Q. They are in Scranton?—A. Yes, sir.

- Q. Did they contribute to you?-A. I think they did.
- Q. Did they give you a check?—A. Yes, sir.
- Q. For how much?—A. \$50.
- Q. Do you know anybody in Williamsport by the name of
- Munson?-A. Yes, sir.
- Q. Did you solicit a contribution from him?-A. I have no recollection of having any conversation with Mr. Munson what-ever in relation to this fund. He and I talked the question over right out here less than two hours ago. I pointed out to him how easy it was to be mistaken. I called his attention, for instance, to Mr. Lenahan's mistake, as I read it in his testimony in the Congressional Record, and told him how easy it was to be mistaken. I am as firm in my statement that I had nothing to say to Mr. Munson as I know I had nothing to say to Mr. Lenahan.
- Q. Now, Mr. Searle, from the very nature of things, you might have forgotten your conversation over the phone, and if he had been asked to contribute and had refused he certainly, if he remembered it at all, could not be mistaken about it.—A. Whom do you have reference to?
- Q. Mr. Munson.—A. The reason I am so firm in that, Mr. C. S. Sprout, of Williamsport, looked after that entirely, as I understood it, and I paid no attention to anybody in Williamsport, neither did I pay attention to anybody in Luzerne County.
 - Q. Did Mr. Sprout contribute?-A. He did, sir.
 - Q. Did he pay to you?—A. Yes, sir. Q. How much?—A. \$25.
- Q. Now, give the amount paid by these other attorneys.-I can not give you the exact amount. It is my impression that the firms that I speak of gave \$50.
 - Q. How much did you get altogether?-A. \$500.
- Q. Just exactly \$500?—A. I am not sure about that. It was either \$500 or \$525.
- Q. Did you contribute, Mr. Searle?—A. I did.
- Q. How much did you contribute?-A. \$25.
- Q. Did you get a letter of acknowledgment afterwards from
- Judge Archbald?-A. I did.
- Q. After he had arrived in Europe?-A. Not strictly an acknowledgment of the \$25; but I was the clerk of his court, and he wrote me I should say once or twice a week while abroad, and in the first letter I received from him he mentioned what a nice thing his friends did in that matter. Do you want me to tell what else was in that letter?
- Q. I do not care for it. Have you the letter?-A. I have not the letter.
- You remember all those things now and you did not know anything about those when you testified before the Judiciary
- Committee ?- A. The question was not asked me, sir. Q. Did you testify before the Judiciary Committee as to the
- amount that these various attorneys had contributed?-A. I think I did, sir, as far as I could remember.
- Q. Mr. Searle, do you know who contributed or who paid the expenses of Judge Archbald's trip when he went abroad?-A.
- Q. Who was it?-A. Mr. Cannon, a cousin of Judge Archbald's wife.
 - Q. Henry W. Cannon?-A. Yes, sir.
- Q. Of New York City?-A. Yes, sir. I should like to say in that regard that when the first letter came to Judge Archbald, inviting him to go to Mr. Cannon's villa in Florence
 - Q. Did you see the letter?-A. I saw the letter.
 - Q. Was the letter written to you?-A. No, sir.
- Q. To whom was it written?-A. It was written to Judge Archbald.
 - Q. Do you know where it is now?-A. I do not.
- Q. When did you see it?—A. It must have been along in February prior to his going.
- Q. When did he go, as a matter of fact?-A. I can not give the month. It was either April or May, 1910.
- Q. Do you know what ship it was?-A. The Kaiser Wilhelm der Grosse, I think.
- Q. The letter came in February, inviting him to go with Mr. Cannon?-A. Yes, sir.
- Q. Written to Judge Archbald?-A. Yes, sir. He showed the letter to me and asked me what I thought of it. I said, "Judge, go by all means." He hesitated. He said he had no means of his own, and he was afraid to accept that invitation for fear that the people he owed would misconstrue it; that he ought
- Q. He did not owe anybody?-A. Yes, sir; my understanding is that Judge Archbald has been financially bad for 30 yearsthat is, he had no surplus money.
- Q. As a matter of fact, do you not know his name is good on a \$2,500 note in bank in Scranton?-A. Judge Archbald's

- name is always good in our community, sir, not only prior to this investigation but to date.
- Q. Always good?—A. Always good, sir. Q. Why was he afraid, if that was the case, that somebody would criticize him for going abroad; do you know?-A. I told you the reason for it. He was afraid some people he might owe would misconstrue it and say the money he used for a trip abroad should be applied upon his indebtedness.
- Q. He did not owe anybody he could not pay and he did not owe anybody who was crowding him for money, did he?—A. I could not say as to that.
- Q. If he did, his name was not so good on a note?-A. I say I have never seen the time yet but what his name was good.
- Q. If his name was good and nobody was complaining about his name being bad--A. I could not tell you what other people were thinking of or what other people were saying.
- Q. Very well. I am asking you, if they were complaining, then his name was not good, was it?—A. It does not necessarily destroy a man's credit if A, B, and C might complain
- Q. But I understand you there were no such instances.-A. I did not say that. I said I did not know whether there were or not.
- Q. I thought you did know that his name was absolutely
- good.—A. I do say that, sir, unhesitatingly.
 Q. You do not know, however, but what A, B, and C and a good many other fellows are complaining about his not paying his debts?—A. That might be, sir.
- Q. Notwithstanding that you do know that his name is absolutely good on a note in any of the banks of Scranton?-A. Yes, sir.
- Q. Is it true that the judge hesitated about accepting the money from Mr. Cannon to make his trip because he was afraid his creditors would complain?-A. That was what the judge talked with me in discussing whether he ought to go under the circumstances.
 - Q. Did he tell you who his creditors were?-A. No, sir.
- Q. Did you know who they were?—A. Some of them.
 Q. Just in a general way, did he owe a great deal of money?— A. Yes; I think there is a mortgage on his house for some
- thirteen-Q. That was not due, was it?—A. I could not say whether it was due or past due.
- Q. Do you know that there was any note or any claim that
- was crowding him at that time?—A. No, sir; I do not.
 Q. Do you not know, as a matter of fact, that there were no claims crowding him then?-A. I could not say that, because I had no means of knowing it.
- Q. I suppose you would if you knew about his credit being so good. How much did Mr. Cannon pay him to make this
- trip, if you know?—A. I could not tell you anything about that. Q. You do not know how much he paid?—A. I have no knowledge whatever, sir.
- Q. Do you know when Mr. Woodward was appointed jury commissioner?—A. I told you, sir, at the organization of the court.
- Q. He was appointed by Judge Archbald?—A. Yes, sir.
- Q. He was an attorney, of course?-A. Yes, sir; and his father before him.
- Q. Of what railroad company was Mr. Woodward general attorney?—A. I could not say, only what I know transpired in our court. He is attorney, as I understand, for the Lehigh Valley Coal Co., and also for the Lehigh Valley Railroad Co.

 Q. The Lehigh Valley Railroad Co. owns the Lehigh Valley
- Coal Co.?-A. It is supposed to.
- Q. It is really one and the same, is it not?-A. I can not say that, but that is the general impression of people who live in the coal country.
- Q. How long has he been attorney for this railroad company?—A. I should say Mr. Woodward is the third. His grandfather represented them in bygone days, and his father until he went on the bench. I should say all the time he has been admitted to the bar.
- Q. He was such attorney at the time he was appointed jury commissioner?-A. Yes, sir.
 - Q. He has been such attorney ever since?—A. Yes, sir.
- Q. Do you know whether he represented any other railroad company as attorney?-A. I could not say that, sir; that is, to be sure of it.
- Q. Do you know anything about it?-A. I was told after Judge Wheaton resigned from the common pleas bench and came back to this firm—before he went on the bench he was a member of the old firm of Woodward, Darling & Woodward, but after he retired from the common pleas bench he went back to this firm, and after he went into private practice again the

Pennsylvania Railroad Co. had removed, on account of ill health, Gen. Palmer, who was general counsel for a great many years, and appointed Judge Wheaton.

Q. About when was that, Mr. Searle?—A. I could not tell you. It would be only a guess. I should say three years ago, or such a matter. It was when Mr. Palmer left Congress. It was at that time his health broke down.

Q. Mr. Searle, referring again to these attorneys with whom you consulted and who contributed this money, all of the money contributed to this fund was contributed by attorneys?—A.

Absolutely, sir.
Q. They were all practitioners at the court over which Judge Archbald presided?-A. No, sir.

Q. Where they not?—A. No, sir. Q. Who were not?—A. Well, there was Mr. Dimmick.

Q. Who is Mr. Dimmick?—A. Mr. Dimmick is a member of our bar.

Q. Where?-A. Scranton.

Q. He is a practicing attorney, is he not?—A. Not for the last 12 or 15 years. He is in the banking business.

Q. He is a banker?—A. Yes, sir; he is president of the Lackawanna Trust Co., Scranton.

Q. Give us another one.—A. Gov. Watres. Q. Where does he live?—A. He lives in Scranton—ex-lieutenant governor of Pennsylvania.

Q. Has he quit the active practice?-A. Yes, sir; some 15 or 16 years.

Q. What is his business?—A. He is president of the Spring

Brook Water Co.

Q. What is the Spring Brook Water Co.?-A. It is the water company that furnishes water for Wilkes-Barre and Pittston and all the cities below Scranton-small mining towns. He is president of the Title Guarantee & Surety Co. of Scranton, and a number of other companies of that character, all of which I can not recall at this moment.

Q. He is connected with a number of corporations there?—A.

Yes, sir.
Q. What other attorney contributed to this fund?—A. I do

not recall any just now.
Q. All the balance of them were practitioners in Judge Arch-

bald's court?—A. More or less, sir.

Q. These men, you say, at first decided to have a dinner?-A. Yes, sir.

Q. Was there a meeting?—A. I could not tell you about that. Mr. Sprout, of Williamsport, could tell you more about that than I.

Q. Most of those attorneys were in Scranton, were they -A. No, sir.

Q. They had a meeting in Scranton to talk about the dinner?—A. I could not tell you.

Q. Did you attend any meeting in regard to a dinner?—A.

No, sir. I knew nothing about it.
Q. You never heard of such a meeting?—A. No, sir.

Q. As a matter of fact, while you were clerk and lived there in Scranton and were associated in an official capacity with all the attorneys who did business in the court, whether they lived in Scranton or otherwise, you never heard of any meeting of any attorneys making arrangements to give a dinner in honor of Judge Archbald instead of making a contribution of money

direct?—A. Yes, sir; I did.
Q. Where?—A. I heard the lawyers talking about it. I think

the first I heard about it-

Q. I wish you would answer my question.

Mr. WORTHINGTON. Mr. President, I submit that this witness should occasionally be allowed to complete his answer before he is interrupted.

Mr. Manager NORRIS. The witness was not answering my

Mr. WORTHINGTON. I submit that he was.
Mr. Manager NORRIS. I submit that he was not.
The PRESIDENT pro tempore. The Chair will hear the question and decide.

Mr. WORTHINGTON. All right, let the Chair pass upon it. The PRESIDENT pro tempore. The Chair thought that the particular question was answered, but the Chair would like to have the stenographer's notes read to see if he is correct.

The Reporter read the two questions and answers given above.

Mr. Manager NORRIS. I submit the witness has not attempted to answer the question.

The WITNESS. You Lopped me.

The PRESIDENT pro tempore. The witness will complete his answer now.

The Witness, As I understand your question, the first intimation I had of what they were doing at all was talk—Mr. Manager NORRIS. That is not an answer to my ques-

tion. I want an answer to my question. The question is, Where was this meeting? The witness said he knew of a meeting, and my question is, Where was it?

The PRESIDENT pro tempore. The witness will answer

the question, and then he can explain.

The Witness. I never knew where there was any meeting, but I overheard a conversation of attorneys while at Williamsport talking about a banquet for the judge, and my understanding of the talk of the attorneys was that this whole affair was originated not in Scranton but by the members of the bar who were attending the supreme court at Philadelphia, and there is where they first talked about this banquet.

Q. Where did you get that understanding, and from whom did you get it?—A. I got it from the man who started it, Mr.

Sprout, of Williamsport.

Q. Of Williamsport?-A. Yes, sir; he told me.

Q. How many men did Mr. Sprout see in getting these contributions?-A. I can not tell you.

Q. Do you know whether he saw anybody?-A. I do not know whether he saw anyone.

Q. Is it not true that Mr. Sprout's activity was entirely with regard to the dinner and had nothing to do with the collection of the cash contributions?-A. I could not say that, sir. that I recall of it is that he did send me his check for his contribution for the purse.

Q. That is all you know of his doing?-A. So far as the

money end is concerned.

Q. That is what I mean.—A. Because I do not live there and had no means of knowing.

Q. As a matter of fact there was no dinner given?-A. No, sir.

Q. You said in your testimony a while ago that these men thought they might as well contribute this money; that it would be about the same they would pay if they had a dinner.—A. That was my understanding of it.

ner.—A. That was my understanding of it.

Q. Was the judge notified as to who had made these contributions?—A. Well, now, when do you mean?

Q. At any time.—A. At any time?

Q. Yes.—A. My understanding was this money was turned over to Judge Searle and he put it in an envelope and sealed it and delivered it to Judge Archbald on board the boat in Jerson City, and in the envelope there was a letter transmitten. City, and in the envelope there was a letter, typewritten, wishing him bon voyage, with the names of the contributors, with no amount signed opposite the names at all. That is my understanding of it. And on the outside of the letter was written, "Hon. R. W. Archbald. Sailing orders: Not to be opened until two days at sea."

Q. Then the idea was that he should not know who the contributors were until he had gotten away from land?-A. Yes, sir.

Q. And then he was able to tell exactly who it was who contributed the money?-A. If he read the letter he would.

Q. Do you know Thomas Darling?-A. I do, sir.

Q. Is he a practicing lawyer?—A. Yes, sir.

Q. Where?—A. Wilkes-Barre.

Q. Was he one of the contributors to this fund?-A. I could

not say, unless he was included in the firm's check.

Q. As soon as the fellows up at Wilkes-Barre contributed to Mr. Woodward, as I understand, he sent the money down to

you?—A. Yes, sir. Q. And the man up at Williamsport sent his money down to you?-A. Yes, sir.

Q. Were there any other attorneys coming from other towns outside of Scranton who contributed to the fund?-A. All that I recall are those I have named. Q. They sent their contributions to you, did they not?-A.

Yes, sir.

Q. As a matter of fact, you had in your possession all of the contributions that were made, did you not?-A. Before it was turned over to Judge Searle, I think I did, with the exception of probably there might be one or two. I know I did not have Judge Searle's contribution.

Q. Now, Mr. Darling is in partnership with Mr. Woodward, the jury commissioner, is he not?-A. I could not tell you that.

The firm is Wheaton, Darling & Woodward.

Q. Is not Thomas Darling a member of the firm?-A. I think his name is there, but whether he is an active partner or not I can not say.

Q. I want to ask you if this man, Mr. Darling, the partner of Mr. Woodward, is not attorney for a railroad company other than the railroad company for which Mr. Woodward is an attorney?—A. I never knew Mr. Darling representing any corporation while I have been in Scranton.

Q. Is he not attorney for the Lehigh Valley Railroad Co.?-A. I could not say.

Q. You do not know whether he is or not?-A. I do not know.

Q. When did this talk first begin about getting a dinner for the judge?-A. Of course, I am unable to state when it started.

Q. I should like to get, if I can, about the length of time that elapsed from the beginning of the agitation of this subject until the judge finally sailed?-A. I can not give you that, but it was a short time before he sailed. I do not think it was over three weeks before that. I have no recollection of it.

Q. The judge did not know anything about the talk about the

dinner, either?-A. Absolutely none.

Q. He never knew anything about this work that was going on, gathering together this money to contribute to him?-A. As far as I know, never.

Q. You never told him of that?-A. Never.

Mr. FLETCHER. Mr. President, I send to the desk a

The PRESIDENT pro tempore. The Senator from Florida presents a question to be propounded to the witness, which the Secretary will read to him.

The Secretary read as follows:

What are the duties of a jury commissioner, how many are there, and for what term are they appointed to serve?

The WITNESS. The duty of a jury commissioner of the United States court is to gather a certain percentage of names from each county in the district and put them in the wheel as the venire of the court is called for. Their appointment is for no stated term. It is for life or until removed. At each term of the United States court the court issues a venire calling for a certain number of grand jurors and a certain number of petit jurors. The clerk certifies that to the jury commissioners, of which the clerk is one. They notify the marshal, and at the drawing of the jury the number of names commanded by the venire is placed into the wheel and the wheel closed and shaken up, and the number drawn out according to the mandate of the venire.

Q. (By Mr. Manager NORRIS.) As a matter of fact, there is only one jury commissioner in the judicial district?—A.

- Two, sir.

 Q. The clerk is one, is he not?—A. Yes, sir. The law provides that there shall be two jury commissioners in each Federal district, and the court shall appoint the second jury commissioner.
- Q. I mean besides the clerk.—A. There is only one besides the clerk, sir.

Q. That is what I mean. The clerk is ex officio one of those

commissioners?—A. Yes, sir.
Q. Then the law provides that the judge shall appoint some one of the opposite political faith from the clerk as another jury commissioner?—A. Yes, sir.
Q. Now, then, in this judicial district you as clerk and Mr.

Woodward as the other jury commisioner selected all the names of all the jurors in that judicial district, did you not?-A.

Mr. Manager NORRIS. I think that is all.

Cross-examination:

Q. (By Mr. SIMPSON.) That is to say, you selected the

names that were put in the wheel?-A. Certainly.

Q. And then, after a revolution, they were drawn out, and by the chances thus evolved they became jurors?—A. Yes, sir. Q. The marshal was the man who drew out the names from the wheel, was he not?—A. Yes, sir.

Q. What is your politics?—A. Republican. Q. And Mr. Woodward's?—A. Democrat.

Q. And he belongs to a Democratic family of Pennsylvania running back for generations, does he not?-A. Yes, sir.

Q. His grandfather was chief justice for many years of the

supreme court?-A. Yes, sir.

Mr. Manager CLAYTON. I submit that is exceeding anything we brought out on the direct examination. It all may be very interesting to have the family history of Mr. Woodward, but it is consuming the time of the Senate.

Mr. WORTHINGTON. I might say it has been very interesting to listen to all that was brought out by the witness, but not a word has been brought out that there has been any attempt to connect Judge Archbald with.

- Mr. Manager CLAYTON. That will be determined later. Q. (By Mr. SIMPSON.) You spoke of the firm of Watson, Diehl & Watson. Is Mr. George M. Watson a member of that firm?-A. No, sir; he has no connection with it; he is no rela-
- Q. In the beginning of your examination you were asked if the judge would accept money if it was given to him. What did you say in response to that question?—A. As near as I can recall it, I told them that I thought under the circumstances,

the fund emanating from lifelong friends, men who were pure in character, and the manner in which it was to be given, I could see no harm in his taking it and I thought he would.

Q. In point of fact the difficulty was in so getting it into his hands that he could not turn it back?-A. That is all we appre-

hended, that he would throw it back on the boat.

Q. Is that the reason why it was put in an envelope with the indorsement on it as stated, "Sailing orders, not to be opened until two days at sea"?—A. Absolutely; and Judge Searle was selected to do that. They thought that coming from a man of his character he would accept it.

Q. Judge Searle is judge of what court?-A. He is the present judge of the common pleas court of Wayne County, Pa.

Q. So far as you are aware, did Judge Archbald have any knowledge or intimation whatsoever that this money was to be given to him?—A. None, absolutely.

Mr. SIMPSON. That is all, Mr. President.

Redirect examination:

(By Mr. Manager NORRIS.) I have a question to ask. You stated, in answer to a question, that these contributions came from men who were pure in character. Did you make any investigation, when a contribution was offered, as to the purity of the character of the man who contributed it?-A. I have known them all for over 40 years personally.

Q. They were all of that kind of men, were they?-A. Every

one of them.

Q. Did anybody offer to contribute to the fund who did not get an opportunity to do it?-A. I could not say as to that, sir.

Q. You did not refuse anybody's money, did you?-A. No, I have had some lawyers complain that they did not have a chance to contribute to this fund.

Q. That is very natural; I should think they would .- A. And I will tell you the reason why I did not ask them: So far as I am concerned personally, it was because they were all young men and had not any more money than their own families needed.

Q. And even the men, then, who did not have enough, or at least not more than enough to supply their families, were anxious to contribute to this fund?—A. Yes, sir.

Q. Do you have any idea that the anxiety of any of these attorneys to contribute to the fund was moved in any degree by their desire to have the court hold a friendly opinion of

them?—A. Not in the least, sir.
Q. It seems, though, that there were men who did not get an opportunity to contribute, who were quite poor, and whom you thought could not afford to pay, who complained because they did not have an opportunity to pay?—A. Yes, sir.

Mr. Manager NORRIS. That is all.

Mr. SIMPSON. That is all, sir.

The PRESIDENT pro tempore. The witness will be finally discharged.

Mr. Manager NORRIS. I wanted to question Mr. Lenahan next, but I have just been told by the Sergeant at Arms that he was discharged. Mr. Manager CLAYTON. Mr. Lenahan was examined touch-

ing this matter.

HENRY W. CANNON.

Mr. Manager NORRIS. Under article 10 we had a witness subpœnaed—Mr. Henry W. Cannon. We are in receipt of a telegram from the United States marshal in New York City, stating that he is not able to serve Mr. Cannon; that he is informed by his secretary at his office in New York City that Mr. Cannon is now on his house-boat somewhere in Florida. The only testimony we wanted to show by Mr. Cannon was along the line of this one article 10, but we will not ask to delay the Senate by hunting further for Mr. Cannon. We will not call him.

J. B. WOODWARD, JURY COMMISSIONER.

I want now to offer in evidence, Mr. President, a certified copy of the appointment, and his oath, of Mr. J. B. Woodward as jury commissioner.

Mr. WORTHINGTON. We do not care anything about it.

Mr. SIMPSON. We do not object to that.

The PRESIDENT pro tempore (to Mr. Manager Norris). Do

you desire the paper read?

Mr. Manager NORRIS. I should like to have the appointment read. I do not care to have the certificate read.

The Secretary read the paper, which was marked "U. S. S. Exhibit No. 94," as follows:

[U. S. S. Exhibit 94.]

In re jury commissioner for the district court of the United States for the middle district of Pennsylvania.

MIDDLE DISTRICT OF PENNSYLVANIA, 88:

I hereby appoint J. B. Woodward, Esq., of Wilkes-Barre, a citizen of good standing, residing in said district and a well-known member of

the Democratic Party, to be the jury commissioner of the said middle R. W. ARCHBALD, District Judge,

APRIL 9, 1901.

Certified from the record this 12th day of December, 1912.
[SEAL.]

G. C. SCHEUER, Clerk.
Per S. W. HOFFORD, Deputy Clerk.

(In the district court of the United States for the middle district of Pennsylvania. In the matter of the appointment of John Butler Woodward, of Wilkes-Barre, Luzerne County, Pa., jury commissioner of the district court of the United States for the middle district of Pennsylvania.)

Pennsylvania.)

UNITED STATES OF AMERICA, Middle District of Pennsylvania, 88:

I. John Butler Woodward, having been appointed jury commissioner of the district court of the United States for the middle district of Pennsylvania, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

JOHN BUTLER WOODWARD.

Sworn to and subscribed before me this 9th day of May A. D. 1901.

Sworn to and subscribed before me this 9th day of May, A. D. 1901.
R. W. ARCHBALD.

Judge of the District Court of the United States
for the Middle District of Pennsylvania.

Certified from the record this 12th day of December, 1912.

[SEAL.]

G. C. SCHEUER, Clerk.

Per S. W. HOFFOED, Deputy Clerk.

Mr. Manager NORRIS. We have another witness, Mr. President, but I do not believe it is necessary to wait for him. Mr. Woodward is not here.

Mr. Manager WEBB. Mr. President, I should like to have Mr. T. F. Farrell called as a witness.

TESTIMONY OF THOMAS F. FARRELL.

Thomas F. Farrell, having been duly sworn, was examined and testified as follows:

Q. (By Mr. Manager WEBB.) What is your name, Mr. Far-rell?—A. Thomas F. Farrell. Q. Where do you live?—A. New York City.

Q. What is your city address?-A. 147 West Ninety-third

Q. It has been shown in evidence in this proceeding that application was made to the Girard estate for Packer No. 3, being a culm bank in Shenandoah, Pa. I wish you would state to the Senate what your connection with that transaction was as to the formation of this company and the securing of this culm bank, Packer No. 3?-A. I had no connection whatever with the securing of that culm bank nor with the formation of that company. I was interested in that company to the extent that I agreed to loan to the company about to be formed or thereafter to be formed enough money to build and equip a washery on

that culm bank Packer No. 3.

Q. What was your first negotiation with reference to this furnishing of money, and with whom was that negotiation—when and where?—A. In my office in New York City with Mr. Jones-Mr. T. H. Jones. He came to my office with a man from New York; he was introduced to me by a man from New York City in the coal business, he having heard that I was interested in such property, I being in the coal business. I asked I where the property was, and he told me in Shenandoah. I asked him where the property was, and he told me in Shenandoah. I asked him about how much coal, and he did not know how much coal. I asked who was in the company, or who was to be in the company, and he mentioned to me that Judge Archbald, of Scranton, was to be in the company. I said to him, "Is that the Judge Archbald before whom I sat as a grand juror in New York City here last July?" He said, "I guess it is." "Well," I said, "if that is the same Judge Archbald that I served before, and he is interested in the company, I would be willing to go along, but I would like to see the men"—I was willing to go along, but I would like to see the men"—I was a little bit skeptical about some people in Scranton. A meeting was arranged, and I went to Scranton, if my memory serves me rightly, about this time last year-just before the Christmas holidays.

Q. How far is it from New York to Scranton?-A. Oh, about 150 miles, I guess.

Q. All right, sir, proceed.—A. I called at Judge Archbald's office.

Q. With whom?—A. With my friend from New York, who was interested, Mr. Hellbut, my son, and I do not remember whether Mr. Jones was with us or whether we met him there, but he was there.

Q. Where was this meeting—in Judge Archbald's office, you say?—A. In Judge Archbald's office.
Q. Who was present when the conference began?—A. Judge

Archbald-

Q. Was V. L. Petersen there?-A. Judge Archbald, Mr. V. L. Petersen, Mr. Jones, Mr. Hellbut, my son, and myself.

Q. Now, proceed and tell us what took place at that meeting when Judge Archbald was present.—A. At that meeting I said that I thought I was in the right place, because the judge was

the man that I thought he was. I recalled to the judge my having served under him, and he remembered that he had been sitting in that court at that time. I said that I was looking for a proposition of this kind, and I was quite willing to advance the money necessary to put the plan in operation.

Q. How much was that?—A. Well, about \$20,000, possibly a little more than that; not over \$25,000—about \$20,000.

Q. The application to the Girard estate states that it was \$25,000. Would that be correct?—A. Well, it may have been \$25,000, but my memory is that it was about \$20,000, or a trifle over that-whatever money was required or would be required to build this washery. For putting in that money I was to have an interest in the profits of the company and I was to be rean interest in the profits of the company and I was to be repaid my money. We discussed there that night how I would be repaid and how much profit I should get. I asked, I think, at first about half the profit. I finally agreed—I do not remember whether it was that night or at a subsequent meeting to take 20 per cent of the profit, and to have my money repaid with interest at 20 cents per ton as the coal came out, so that at any time the company was not operating it would not be handicapped by meeting my payments. I was not to be interested in the company in any way, however. I was to take the entire stock of the company as collateral security for my loan. • Q. Was Petersen to put up any money?—A. I do not know. I think I was to put up all the money.

Q. Was Judge Archbald to put up any money?—A. I do not know. As I said before, I think that I was to furnish all the funds to build the washery.

Q. You do know what agreement was had at this particular time you are talking of, do you not?—A. I do know the agreement that was had between these people representing this company and myself.

Q. Well, was Judge Archbald expected to put up any money at the time that you had the conference with him in his office at Scranton?-A. At that time it was not stated that anybody

was to put up any money but myself.

Q. Well, tell me what Judge Archbald was to do-what was agreed or suggested or stated that Judge Archbald was to do?-A. Well, we talked in a general way. The talk was quite general. We talked over the royalties that were to be paid and over the leases that were to be made; and, as I understood it then and remember it now, we were to receive a lease from the Girard estate.

Q. Who was to get that lease?—A. I think Judge Archbald. The company was to get it.

Q. I understand that, but who was to secure it?—A. I think Judge Archbald was to secure it.

Q. Was there any other lease or consent?-A. Well, I do not know whether we had to have a consent from the Lehigh Valley Railroad or not; that is not clear to me; but Judge Archbald was to see Mr. Warriner. Just what for, whether it was to fix a royalty, or just what, I do not know.

Q. Did you know at that time that Mr. Warriner was the vice president and general manager of the Lehigh Coal Co.?— A. I did not know what Mr. Warriner's position was. I never heard his name mentioned before that time, but I gathered from our talk that night that he was an officer in that railroad.
Q. Did you know that Col. James Archbald, engineer of the

Girard estate at that time, was a nephew of Judge Archbald?—A. I incidentally heard that that night; I never knew it before.

Q. How did you come into possession of that information? Well, naturally the Girard estate was spoken about, and we did not know going to that meeting exactly where the culm dump was, and our idea was to see the dump for ourselves, which we did the following morning. We were then told—and I do not remember who in the conference said it—that it belonged to the Girard estate; but incidentally it was mentioned that Col. Archbald was the engineer for the Girard estate. I inquired who Col. Archbald was, and was informed-I do not remember whether it was by Judge Archbald or by somebody else present—that he was Judge Archbald's nephew. I had never heard of him before that night.

Q. Did you visit Packer No. 3 the next day?—A. I did.
Q. Who was with you?—A. Mr. Hellbut, my boy, and myself visited there, accompanied by or directed by this man Jones.

Q. Did the judge go with you?—A. No, sir.
Q. At that time had the name of the company been fixed upon as the Jones Coal Co.?—A. No, sir; the first I heard of the Jones Coal Co. was when I read of this case in the paper.

Mr. Manager NORRIS. That is all, Mr. President.

The PRESIDENT pro tempore. The witness is with the

respondent.

Cross-examination:

Q. (By Mr. WORTHINGTON.) Mr. Farrell, I should like to have the date of that meeting if you can give it to us—the meeting at Scranton, when Judge Archbald was present.—A.

Well, as nearly as I can remember, it was just a few days before the Christmas holidays; I could not give you the date.

Q. The question was put to you as to whether Judge Archbald was to see Mr. Warriner. As a matter of fact, were you not informed that he had already seen him?-A. Well, I do not know whether I had been informed that he would see him or that he had already seen him.

Q. Was the agreement that you arrived at at that meeting reduced to writing at all?—A. No, sir.
Q. Why not? What became of the matter?—A. Well, we

were not sure about it.

Q. Well, you learned not long after that, did you not, that the matter had to await the termination of the existing lease of the Lehigh Valley?—A. Oh, yes; I telephoned Judge Archbald at Scranton and asked him what was new. I was anxious for this coal. I had at that time other things in view if I could not reach this. What I was after was coal. I telephoned to Judge Archbald, and he told me that we would have to wait, for the reason that the Girard estate would not make a lease with us until the lease about to expire with the Lehigh Valley Railroad for the Packer mine had been renewed.

Q. Well, now, if I understand what that verbal agreement reached there was, you were to get your money back, of course, in the way you have described?—A. Yes, sir.

Q. But outside of that you were to have a one-fifth interest in the company?-A. No; I was to have no interest in the company. Q. But you were to have 20 per cent of all the profits?-A.

Q. And the other parties were to have the other four-fifths, or 80 per cent, of the profits?-A. The company itself.

Q. Yes; the company itself. Now, did you understand who all were to be in the company?—A. I did not.

Q. You understood that Judge Archbald was one?-A. What is that?

Q. You understood Judge Archbald was one?—A. Yes. Q. And Mr. Petersen one?—A. It is not clear to me whether I was told he was to be one or that he was to manage; but I was told that he was to manage the operation.

Q. You do not recollect that he was to manage it and that that was to be the consideration for the interest that he was to have in the company?-A. It may have been that way. I do not recall.

Q. Did you understand that Mr. Jones was to have an inter-

est?-A. Yes.

Q. And others, perhaps?—A. Yes.

Q. You understood perfectly well not only that Judge Archbald was not to put up any money that was to be required, but none of the others were?-A. Yes; I was to put up the entire amount of money required to build that operation.

Q. You were to put up all the money that was needed?-A. Yes, sir.

Q. You were anxious to get the contract?—A. Positively. Q. Why?—A. Because I wanted the coal. Mr. Helbutt and myself had agreed before we went there that his firm, Robinson, Haydon & Co., of New York, would have the entire output of the washery, and I in turn arranged with Robinson, Haydon & Co. that I would have my requirements, whatever they might be, of the output, and I felt that I was fairly secure, for if at any time I could not use all of the coal I could take what I wanted and turn the rest over to Robinson, Haydon & Co., they to look for a market for it.

Q. Was this the only transaction of this kind that you were engaged in where you were to put up the cash or concerned in putting it up?—A. No, sir.

Q. How many others?—A. One other.

Q. About the same time or before or since?—A. I had taken up a matter of that kind on that same basis about the 1st of November.

Mr. Manager WEBB. Mr. President, I do not see what that has to do with the question at issue.

Mr. WORTHINGTON. I imagined, Mr. President, that it was supposed to be some reflection upon Judge Archbald that he was to go into a transaction of this kind where another person was putting up the money and he was getting an interest in the company without doing anything. I have already shown that, as to this company, there were a number of others who were in the same relation, and I propose to show that it is the common and usual thing to make arrangements of that kind in dealing with coal properties in the anthracite region. If this witness can tell us of the practice and custom and state that men in New York who have the money are anxious to get a chance to do that very thing-to put up all the money that is required, take some interest in the venture, and let the rest go to the people who have brought the proposition to them, I think it is entirely competent.

The PRESIDENT pro tempore. The Chair thinks, under the circumstances, that counsel is justified in bringing out the fact that there are such other transactions, but the Chair would hardly consider it proper to go into details.

Mr. WORTHINGTON. I would not desire to do so at all. Q. (By Mr. WORTHINGTON.) There was one other transaction you say about the same time?—A. Yes, sir.

Q. And where was the coal property in that case?

Mr. Manager, WERP, Mr. Property.

Mr. Manager WEBB. Mr. President, counsel is going into details, and I object. I think he has a right to show the general custom or general reputation or general practice, but certainly not to go into details.

Q. (By Mr. WORTHINGTON.) Will you tell me, then, whether it is customary in transactions of that kind for one man to put up all the money, or find all of it, and another man to find the coal property and then divide the profits?-A. I have known of it in two cases.

Q. Besides this?—A. Yes, Q. And recently?—A. About that same time.

Mr. Manager WEBB. Mr. President, counsel is going into details again.

The PRESIDENT pro tempore. The Chair does not think

that counsel is going too far. Mr. WORTHINGTON. Under the intimation of the Chair,

and in the interest of time, I will not go—

The PRESIDENT pro tempore. The Chair thinks the counsel

is not going too far.

Mr. WORTHINGTON. Well, I will want to ask about that other transaction. [To the witness:] From what company was the other property in which you said you were immediately concerned obtained?—A. The Pennsylvania Coal Co.

Q. Who was general manager of that company?-A. Well,

now, I really do not know.

Q. Do you know Capt. May?-A. I do not; but that is the company.

Q. The Pennsylvania Coal Co.?-A. I do not know any official

in that company.

Q. Where was the property?-A. The property was on the railroad fill, the old gravity railroad that runs from Honesdale to Hawley. Our operation is at Hawley. Q. Did that transaction go through?—A. Yes; we are work-

Q. You put up the money, and you are now working at the fill?—A. Yes, sir.

Mr. WORTHINGTON. That is all, Mr. President.

Redirect examination:

Q. (By Mr. Manager WEBB.) That is one of the old gravity abandoned fills?-A. Yes, sir.

Q. Abandoned many, many years ago?-A. I heard that this

fill was made about 50 years ago.

Q. And abandoned by the gravity railroad company. Now I will ask you, Mr. Farrell, if you do not know that it was agreed that night in the judge's office-was the conference at night?-A. At night; yes.

Q. I ask you if that night in the judge's office it was not agreed that Thomas Howell Jones should have an interest in this corporation and its profits for finding you or finding the money?—A. No, sir. If that was agreed to, it was not spoken of in my presence.

Q. Mr. Jones, I believe, swore that that was what he was to

do .- A. That may be.

Q. I ask you if it was not also agreed in that conference and talk that V. L. Petersen should have an interest in it because he was to supervise it?—A. V. L. Petersen—that is very clear to me—was to supervise it, because I questioned him very thoroughly about his capability for supervising it.

Q. And that Judge Archbald should have an interest in it for securing the leases?—A. No, sir; there was no stipulation as to what any of these men were to have a part in the com-

pany for.

Q. Well, did you say awhile ago that all that you heard the judge was to do was to secure the leases, to see Warriner and his nephew, Col. Archbald?—A. The words "secure the leases" were never mentioned. It was not put quite that way.

Q. How was it put?-A. Judge Archbald was to see the

Girard estate people and also Mr. Warriner.

Q. The only reason why the judge could see Mr. Warriner or the Girard estate was for the purpose of securing the lease of this bank, was it not?—A. That is my understanding.

Mr. Manager WEBB. You may stand aside.

Recross-examination:
Q. (By Mr. WORTHINGTON.) Was there anything said there about Judge Archbald being a judge and his being a judge

of the Commerce Court have anything to do with it, or anything of that kind?-A. At that time I did not know that Judge Archbald was a judge in the Commerce Court.

Q. You did not even know that?—A. There was nothing whatever said about his being a judge of any court, except what I

myself said in my introduction to the judge.

Q. That you had been on the jury in his court?—A. Yes, sir. Mr. WORTHINGTON. That is all, Mr. President.

Q. (By Mr. Manager WEBB.) Did you tell us when you were on the jury in New York before the judge?—A. Yes; the previous July. July and August of the previous year, 1911. I served as grand juror under Judge Archbald in the criminal term of the Federal court in the post-office building in New York City.

Q. He was then acting as circuit court judge, I imagine?

A. I do not know. I thought that Judge Archbald was a Federal district court judge.

Mr. Manager WEBB. The witness may be discharged finally. The PRESIDENT pro tempore. The witness is finally dis-

CHARLES B. SQUIRE.

Mr. Manager CLAYTON. Mr. President, that completes the examination-in-chief by the managers, with one exception. We had expected at this time to examine Mr. Charles B. Squire. He was duly served with a subpoena on yesterday, to be here immediately, but he is not here. We think, however, Mr. President, that his testimony will be largely, if not altogether, in rebuttal, although we had expected to examine him in the chief examination, in order to be perfectly fair to the respondent in the case. But I do not think it is advisable that we detain the We hope to examine him in rebuttal, and we think that likely all of the questions which we desire to ask of him will be permissible in the rebuttal examination. As he is not here, in order to insure his attendance I shall, as soon as I can prepare it, submit an order to the Senate for an attachment against him.

Now, Mr. President, I ask that Mr. E. J. Williams, Mr. J. R. Dainty, Mr. John W. Berry, Mr. Thomas Darling, and Mrs.

Hutchison be finally discharged.

Mr. WORTHINGTON. We have subpænaed Mr. Berry, and desire him to be kept here, and also Mr. Darling.

The PRESIDENT pro tempore. The Chair was about to limit it to such subpænas-

Mr. WORTHINGTON. The witnesses are very apt to misunderstand.

The PRESIDENT pro tempore. The Chair was about to limit it to such subpænas as have been issued at the instance of the managers.

Mr. Manager CLAYTON. We had expected to examine Mr.

Watson, but he is sick, as we understand.

The PRESIDENT pro tempore. The Chair has not made an announcement as to those other witnesses. As the Chair understands, it is the desire of the managers that the witnesses be discharged from any further attendance under their subpæna.

Mr. Manager CLAYTON. The understanding of the Chair

is correct.

The PRESIDENT pro tempore. The witnesses named, so far as they are under summons in pursuance of subpenas issued at the instance of the managers, will now be discharged from obligation under those particular subpænas. Of course, if they are under subpæna from the respondent they are still under obligation to respond to the same. Now the manager will proceed as to the other matter.

Mr. Manager CLAYTON. Here is an order, Mr. President,

that I desire to submit.

The PRESIDENT pro tempore. The Secretary will read it. The Secretary read as follows:

Ordered, That an attachment do issue in accordance with the rules of the Senate of the United States for one Charles B. Squire, a witness heretofore duly subpœnaed in this proceeding on behalf of the managers of the House of Representatives.

The PRESIDENT pro tempore. Does the manager desire that that be immediately returnable, or returnable at such time as he can utilize the witness?

Mr. Manager CLAYTON. I can only answer upon surmise, Mr. President, and upon that surmise I think that it may not be made returnable before Tuesday next.

The PRESIDENT pro tempore. The Sergeant at Arms will take notice of the fact and act accordingly. The question is upon agreeing to the order proposed by the manager.

The order was agreed to.

Mr. President, that is all the testi-Mr. Manager CLAYTON. mony in the examination in chief the managers desire to offer at this time.

The PRESIDENT pro tempore. Under the order which has previously been adopted by the Senate the counsel for the respondent will not present their witnesses until Monday.

Mr. GALLINGER. Mr. President, I move that the Senate

sitting as a Court of Impeachment adjourn.

The motion was agreed to.

Mr. LODGE. I move that the Senate adjourn.
The motion was agreed to; and (at 4 o'clock and 34 minutes p. m.) the Senate adjourned until Monday, December 16, 1912, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

Saturday, December 14, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the fol-

lowing prayer:

Almighty God our heavenly Father, we thank Thee for the gracious privilege of coming to Thee in prayer. May it be in the spirit of Him who taught us when we pray to Father who art in heaven, hallowed be Thy name. Thy kingdom come. Thy will be done in earth, as it is in heaven. Give us this day our daily bread. And forgive us our debts, as we forgive our debtors. And lead us not into temptation, but deliver us from evil: For Thine is the kingdom, and the power, and the glory, forever. Amen.

The Journal of the proceedings of yesterday was read and

approved.

RESIGNATION OF A MEMBER.

The SPEAKER laid before the House the following communi-

Hon. Champ Clark, Speaker House of Representatives, Washington, D. C.

Sir: I have the honor to advise you that on December 12, 1912, I tendered to the governor of the State of New York my resignation as a Representative in Congress from said State, the resignation to take effect on the 31st day of December, 1912. With assurances of respect, I have the honor to be,
Yours, very truly,

WM. SULZER.

DECEMBER 12, 1912.

Hon. JOHN A. DIX, Albany, N. Y.

My Dear Governor: I hereby resign my seat in the House of Representatives from the tenth congressional district of the State of New York, to take effect the 31st day of December, 1912.

Very truly, yours,

WM. SULZER.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted-To Mr. TUTTLE, for 10 days, on account of serious illness in his family.

To Mr. Knowland, indefinitely, on account of illness.

To Mr. DAVENPORT, indefinitely, on account of important business.

IMMIGRATION.

Mr. HENRY of Texas. Mr. Speaker, I submit a privileged resolution from the Committee on Rules.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 752.

House resolution 752.

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into Committee of the Whole House on the state of the Union for the consideration of S. 3175, with the amendment reported by the House Committee on Immigration and Naturalization; that there shall be four hours' general debate to be divided equally between those favoring and those opposing the measure. At the expiration of said four hours' general debate the same shall be considered under the five-minute rule, as follows: The amendment proposed by the House committee shall be first read for amendment and perfected. After same has been so perfected the vote shall be taken upon the question of the adoption of said amendment. If same shall be adopted then the Senate bill shall not be read, but the committee shall rise and report the measure to the House. If it shall not be adopted then the Senate bill shall be considered for amendment under the five-minute rule, and when perfected the committee shall rise and report the same to the House. Immediately upon the perfected measure being reported to the House the previous question shall be considered as ordered upon the bill and all pending amendments to final passage without intervening motion, except one motion to recommit. But a separate vote may be demanded upon any amendment or amendments thereto adopted by the Committee of the Whole.

Mr. HENRY of Texas. Mr. Speaker, I would like to ask the

Mr. HENRY of Texas. Mr. Speaker, I would like to ask the gentleman from Illinois how much time they would like to have for the discussion of the rule. The Committee on Rules has unanimously reported the resolution.

Mr. MANN. There are a number of Members who have made requests to be heard upon the rule.

Mr. HENRY of Texas. How much time would the gentleman suggest?

Mr. MANN. I think it would be proper to have a reasonable amount of debate on the rule.

Mr. GARNER. Is this a unanimous report from the Com-

mittee on Rules?

Mr. HENRY of Texas. It is. I suggest to the gentleman from Illinois that 30 minutes on a side be allowed, as that is all the request we have had on this side for time.

Mr. MANN. Make it at least 45 minutes on a side. Mr. HENRY of Texas. That would be an hour and a half. Mr. GOLDFOGLE. Mr. Speaker, I would like to suggest to the gentleman from Texas that there ought to be a little more

time than that. Mr. HENRY of Texas. I thought that an hour, half an hour

on a side, would be enough.

Mr. GOLDFOGLE. I think it is fair, in view of all the circumstances attending the bill, the work that has been done by this Committee on Immigration, of which I am a member, that we should have a little more time, and I would suggest that it would do no harm if the gentleman from Texas makes it two

Mr. GARNER. You are going to get four hours general

debate.

Mr. GOLDFOGLE. But that is a short time for debate on a

bill of this importance.

Mr. MANN. I will say to the gentleman from New York [Mr. Goldfogle] that if I have control of 45 minutes of time I shall yield a part of it to him.

Mr. HENRY of Texas. I believe an hour and a half is a

sufficient time.

Mr. SABATH. Has the gentleman from Illinois taken into consideration the fact that I desire a few minutes myself?

Mr. MANN. I have. I appreciate the fact that ordinarily 45 minutes on a side on a rule is considered a liberal allowance of

Mr. HENRY of Texas. Mr. Speaker, I will submit the request for an hour and a half to be allowed, 45 minutes on each side, for the discussion of the rule.

The SPEAKER. Who is to control the time?

Mr. HENRY of Texas. I ask that 45 minutes be controlled by myself and 45 minutes be controlled by the gentleman from

Illinois [Mr. Mann].
The SPEAKER. The gentleman from Texas asks unanimous consent that debate on this rule be limited to one hour and a half, 45 minutes thereof to be controlled by himself and 45

minutes by the gentleman from Illinois [Mr. MANN].

Mr. GOLDFOGLE. Mr. Speaker, in the rule as originally proposed by the gentleman from Texas, I observed that there was a provision with regard to time for general debate, but I did not, during the reading by the Clerk, notice whether there was any such time allowed. I ask the gentleman whether or not there is a provision of that kind in the rule?

Mr. HENRY of Texas. There is no limit to time or amend-

ment under the five-minute rule.

Mr. GOLDFOGLE. In the original resolution which the gentleman has now amended, or which he proposes to amend, is it provided as to how that time shall be controlled?

Mr. HENRY of Texas. That is, the general debate?

Mr. GOLDFOGLE. Yes. I ask whether that is in the resolution as now read?
Mr. HENRY of Texas. Yes.

Mr. BARTHOLDT. Mr. Speaker, reserving the right to object, I should like to inquire whether under this rule any other amendment except that offered by the committee will be in order

Mr HENRY of Texas. Any amendment may be offered. The rule is so drawn that it leaves the bill wide open to amendment.
Mr. MANN. Mr. Speaker, that is hardly a fair statement.

No other amendment is in order if the committee amendment be agreed to, except amendments to the committee amendent.

Mr. HENRY of Texas. That was not the question the gentleman asked. If the committee amendment be agreed to, of course that settles it, and that is the stronger measure in the

The SPEAKER. Inasmuch as a number of Members have come in since the resolution was first read, the Chair will direct the Clerk to again report the resolution.

The Clerk again reported the resolution.

Mr. MOORE of Pennsylvania. Mr. Speaker, it would seem that under that rule if the House committee amendment is adopted, then there will be no opportunity to amend.

Mr. HENRY of Texas. If those who are not in favor of the committee amendment are not strong enough to adopt an amendment, of course they are too weak to carry their side of the proposition.

Mr. MOORE of Pennsylvania. There would be no opportunity, under this rule, to amend the House amendment.

Mr. GARNER. Oh, yes; there would. The SPEAKER. The Chair will state, for the benefit of all concerned, that this House amendment is in the nature of a substitute, and any Member can offer any amendment to it

that is germane. It is really a bill.

Mr. MADDEN. It is subject to any kind of amendment until it is adopted in place of the Senate amendment. After

that, of course, it is not subject to amendment.

Mr. HENRY of Texas. Mr. Speaker, I ask that the Chair put

my request.

The SPEAKER. The gentleman from Texas asks unanimous consent that debate upon this rule shall be limited to 1 hour and 30 minutes, to be controlled one-half by himself and onehalf by the gentleman from Illinois [Mr. MANN].

Mr. HENRY of Texas. And that the previous question be

ordered at that time.

The SPEAKER. And that the previous question shall be considered as ordered at the end of one hour and a half.

Mr. RODDENBERY rose.

Mr. MANN. Mr. Speaker, I hope the gentleman from Texas will give us a chance to vote on a substitute resolution.

Mr. HENRY of Texas. Mr. Speaker, I could not agree to lat. This is the usual request. This is a unanimous report from the Committee on Rules

Mr. MANN. I know; but the gentleman ought to be willing

to let the House vote on a substitute resolution.

Mr. HENRY of Texas. I am willing that we shall have an hour and a half in which to discuss the resolution, but I can not agree to that request. This is a unanimous report from the Committee on Rules.

Mr. MANN. I can not agree, as far as I am concerned, to a proposition which would prevent the House from amending the

rule if it so desired.

Mr. HENRY of Texas. Does the gentleman object? Mr. MANN. I am waiting to hear what the gentleman from Georgia [Mr. RODDENBERY] has to say.

Mr. HENRY of Texas. The gentleman from Georgia rose, and I take it that he has some question that he wishes to ask.

Mr. RODDENBERY. Mr. Speaker, I desire to reserve the right to object in order that I may make an inquiry of the chair-While this rule is longer and more liberal than any special rule for the consideration of a single bill that I have seen in the three years I have been a Member of Congress, yet does not the gentleman from Texas think that on the adoption of the rule itself the usual debate is sufficient?

Mr. HENRY of Texas. If the rule be adopted, then we will proceed to consider the bill. We go into the Committee of the

Whole to consider the bill.

Mr. RODDENBERY. Does not the gentleman think that an hour's debate upon the adoption of the rule is entirely sufficient?

Mr. HENRY of Texas. Does the gentleman mean the bill or the special rule?

Mr. RODDENBERY. I mean the rule. I understand the gentleman has preferred a request for unanimous consent that an hour and 30 minutes be agreed to for debate, pending the adoption of the rule.

Mr. HENRY of Texas. On the rule, Mr. RODDENBERY. Well, now, is an hour and 30 minutes the usual parliamentary time consumed in debate on the adoption of a rule?

Mr. HENRY of Texas. Well, 40 minutes is the usual time-20 minutes to a side.

Mr. RODDENBERY. Now, the question I propounded to the gentleman is, although the rule might be somewhat complicated, Now, the question I propounded to the Does the gentleman not think 40 minutes is entirely adequate for the consideration of this rule?

Mr. HENRY of Texas. The committee thought this was about the plainest rule that has been drawn for a good many

Mr. RODDENBERY. It is quite plain, but it is more lengthy than you will find in the Congressional Record in three years for any one bill.

Mr. HENRY of Texas. Mr. Speaker, evidently the gentle-

man has not read the rule or heard the rule read.

Mr. RODDENBERY. I make the statement again, you can not find in the RECORD in three years as long a rule for any one bill-

Mr. HENRY of Texas. Mr. Speaker, I ask that the question be put.

The SPEAKER. Is there objection?

Mr. RODDENBERY. I object.
Mr. HENRY of Texas. Mr. Speaker, I move the previous question on the adoption of the rule.

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division.

The House divided; and there were-ayes 87, noes 41.

Mr. MANN. Mr. Speaker, I make the point of order there is no quorum present.

The SPEAKER. Evidently there is not, and the Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 194, nays 82, answered "present" 5, not voting 108, as follows:

	YEA	S—194.	- 1 - 1 - 2 - 2 n
Adair	Fergusson	Kitchin	Roddenbery
Mexander	Ferris	La Follette	Rothermel
llen	Finley	Lamb	Rouse
Ansberry	Flood, Va.	Lawrence	Rubey
	Flord Aul		
Ashbrook	Floyd, Ark.	Lee, Ga.	Rucker, Colo.
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lyres	Foss	Y1C 11.10	Russell
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Bathrick	Fowler	Littlepage	Shackleford
Beall, Tex.	Francis		Sharp
Bell, Ga.	Fuller	Longworth	Sheppard
Blackmon	Gardner, Mass.	McCall	Simmons
Rorland	Garner	McKellar	Sims
Suchanan	Garrett	McKenzie	Slayden
Burgess	Gill	McKinney	Small
Burleson	Gillett	McLaughlin	Smith, J. M. C.
Burnett	Glass	Macon	Smith, Tex.
Butler	Godwin, N. C.	Maguire, Nebr.	Sparkman
Byrnes, S. C.	Goeke	Martin, S. Dak.	Stanley
	Goodwin, Ark.		Stedman
Byrns, Tenn.		Mays Moon, Tenn.	Steenerson
allaway	Greene, Vt.		
Candler	Gregg, Pa.	Moore, Tex.	Stephens, Cal.
Cantrill	Gudger	Morgan, La.	Stephens, Miss
Carlin	Guerasey	Morgan, Okla.	Stephens, Nebr
Carter	Hamlin	Moss, Ind.	Stephens, Tex.
Cary	Hammond	Mott	Sterling
llaypool	Hardwick	Murdock	Sweet
Clayton	Harrison, Miss.	Needham	Switzer
Cline	Hawley	Neeley	Taggart
Collier	Hay	Oldfield	Talbott, Md.
Covington	Hayden	Padgett	Taylor, Ohio
ox, Ind.	Hayes	Page	Thayer
Dalzell	Helm	Palmer	Thomas
Danforth	Henry, Conn.	Parran	Tribble
Daugherty	Henry, Tex.	Patton, Pa.	Underhill
Davenport	Hensley	Payne	Underwood
Davis, Minn.	Hill	Pepper	Warburton
Dent	Hinds	Plumley	Watkins
Denver	Holland	Porter	Webb
Dickinson	Houston	Post	White
Dies	Howell	Powers	Willis
Difenderfer	Hughes, Ga.	Pray	Wilson, Ill.
Dixon, Ind.	Hughes, W. Va.	Prince	Wilson, Pa.
Doremus	Hull Tabasan For	Rainey Raker	Witherspoon
Doughton	Johnson, Ky.		Wood, N. J.
Edwards	Johnson, S. C.	Ransdell, La.	Young, Kans.
Evans	Jones	Rauch	Young, Tex.
Faison	Kent	Redfield	
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Broussard Bulkley Burke, S. Dak. Burke, Wis, Cannon Cooper Copley	Graham Greene, Mass, Hamilton, Mich. Hardy Haugen Howland Humphrey, Wash.	McGuire, Okla. Madden Mann. Miller Mondell Moore, Pa.	Stone Talcott, N. Y. Thistlewood Tilson Towner Townsend Volstead
Crago Cullop Curley Davidson De Forest Driscoll M E	Kahn Kendali Kennedy Kinkead, N. J. Konop Korbly	Murray Nelson Nye Peters Pickett Prouty	Wedemeyer Whitacre Wilder Young, Mich.

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Crumpacker Currier

Curry Davis, W. Va.

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Roberts, Nev.	Smith, Cal.	Taylor, Colo.	Woods, Iowa
		vas ordered. following pairs:	

For the session:

Mr. Adamson with Mr. Stevens of Minnesota.

Mr. Fornes with Mr. Bradley. Mr. Hoeson with Mr. FAIRCHILD. Mr. LITTLETON with Mr. DWIGHT. Mr. RIORDAN with Mr. ANDRUS. For the vote:

Mr. Heflin (for previous question) with Mr. Daniel A. Dais-COLL (against).

Mr. Jacoway (for previous question) with Mr. SMITH of New

York (against). Mr. Lafean (for previous question) with Mr. Conry (against).

Mr. Kopp (for previous question) with Mr. Levy (against).

For the day: Mr. James with Mr. Olmsted.

Until further notice:

Mr. BRANTLEY with Mr. BROWNING.

Mr. Beown with Mr. Ainey.
Mr. Clark of Florida with Mr. Anthony.
Mr. Cox of Ohio with Mr. Calder.
Mr. Cravens with Mr. Burke of Pennsylvania.

Mr. Dickson of Mississippi with Mr. Currier.

Mr. DONOHOE with Mr. CAMPBELL. Mr. Dupré with Mr. Chumpacker. Mr. ELLERBE with Mr. Dodds.

Mr. GREGG of Texas with Mr. FORDNEY.

Mr. Hamill with Mr. Gardner of New Jersey.

Mr. HART with Mr. GREEN of Iowa. Mr. Howard with Mr. Griest.

Mr. Humphreys of Mississippi with Mr. Harris.

Mr. KINDRED with Mr. HARTMAN. Mr. Konig with Mr. HEALD. Mr. Legare with Mr. Helgesen.
Mr. Lindsay with Mr. Jackson.
Mr. McGillicuddy with Mr. Langham.
Mr. Martin of Colorado with Mr. Matthews.

Mr. Maher with Mr. McKinley. Mr. Morrison with Mr. Merritt. Mr. O'Shaunessy with Mr. Moon of Pennsylvania.

Mr. PATTEN of New York with Mr. ROBERTS of Nevada.

Mr. Pou with Mr. RODENBERG

Mr. RANDELL of Texas with Mr. Scott.

Mr. STACK with Mr. SLEMP.

Mr. McHENRY with Mr. SMITH of California.

Mr. TAYLOR of Alabama with Mr. Speer.

Mr. TAYLOR of Colorado with Mr. Sulloway.

Mr. Wilson of New York with Mr. Weeks. Mr. Davis of West Virginia with Mr. McCreary.

W.

Mr. Sisson with Mr. Hanna. Mr. Sulzer with Mr. Knowland. Mr. Harrison of New York with Mr. Higgins.

Mr. RICHARDSON with Mr. ESCH. Mr. Pujo with Mr. McMorran.

Mr. TURNBULL with Mr. Woods of Iowa.

Mr. AIKEN of South Carolina with Mr. AMES.

Mr. FIELDS with Mr. LANGLEY. Mr. Gould with Mr. HINDS.

The result of the vote was announced as above recorded.

A quorum being present, the doors were opened.

IMMIGRATION.

The SPEAKER. The gentleman from Texas [Mr. Henry] is recognized for 20 minutes.

Mr. HENRY of Texas. Mr. Speaker, I yield five minutes to

the gentleman from Georgia [Mr. Hardwick].
Mr. HARDWICK. Mr. Speaker, and gentlemen of the House, the question presented by this rule is in no sense a party question. The issue is in no sense a partisan issue, and the rule comes here in no partisan manner. It comes as the unanimous report of the Committee on Rules, every Republican as well as every Democrat on that committee voting to report the rule. It comes, Mr. Speaker, I believe, as one of the fairest and most liberal rules that has ever been presented to the House on this or any other question. It opens wide the questions involved in this legislation for debate and for amendment, with the utmost freedom and the utmost liberality. No man can justly cry "gag

law" or "gag rule" at any feature of this rule.

But it might be suggested in opposition to the rule that the Committee on Rules has given preference in the order of consideration to the measure reported by the committee of the House rather than to the bill proposed by the Senate. It seems to me that that is not only the custom but that it is proper; that in endeavoring to perfect this measure we should give first consideration to the measure proposed by our own committee, with only five dissenting votes out of the entire

Provision is made that when this measure, reported by the Committee on Immigration and Naturalization, is considered in the Committee of the Whole House on the state of the Union and perfected by the adoption of such amendments as any Member on either side may desire to offer and that the House will accept, a test vote shall be taken to see whether the measure proposed by the House committee can receive a majority of the votes of this Chamber. If it shall not receive that approval, then the Senate bill shall be taken up and perfected in like manner; so that, Mr. Speaker and gentlemen, it seems to me that we could present no fairer proposition, we could give to the various gentlemen on both sides of this Chamber entertaining various views on this great question no fairer opportunity to find expression on this floor and to find expression in the vote of this House. I predict now, as the result of this rule, that the will of the House, of a majority of the Members present and voting, will be absolutely ascertained and carried

It seems to me that when your Committee on Rules has discharged that function you could not ask it to do its duty in a better manner.

Mr. Speaker, there is only one other observation that I desire to submit in reference to this matter. It seems that the ques-tion back of this rule, the question of admitting aliens into our country, is a most important one. It is one of far-reaching importance, and it seems to me that we ought to have on a question of that kind neither party action nor prejudiced action, but free and untrammeled action and free and untrammeled opportunity for each and every Member of this House to express his own views and to stand in his own place, representing his own district, offering what he thinks is best for the common good of all the country. [Applause.] And your Committee on Rules, in carrying out that policy, reported this substitute resolution, which we think frees the House and frees the individual Members of the House, and makes it impossible for this House to adopt by any rule or trick or scheme anything except something that the majority of its Members on a fair test vote shall say is for the best interests of the whole country.

I believe, Mr. Speaker, that when we shall have done that we shall have discharged our duty to the House, and when it comes to the solution of the great question back of this bill the Members of the House, unshackled by this rule, will have full opportunity for both debate and amendment and will be able to give effect to the will of the American people. And surely in a Democratic House we could wish for no more. [Applause.]

The SPEAKER. The time of the gentleman from Georgia has expired. The gentleman from Texas [Mr. Henry] is recog-

Mr. HENRY of Texas. Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. GILLETT].

Mr. GILLETT. Mr. Speaker, I favor this bill for the fundamental reason that it is a check on immigration, and while it is fairly subject to criticism, yet none of the critics can point out any other check which is not still more objectionable. Therefore I accept this as the best check which can now be devised. I think the enormous immigration which is inundating us is perilous and must be lessened. I recognize how it has stimulated our growth and been the cause of our greatness. But we all know there is something more vital than size or The spirit of the people is what determines permanent y. We are a Nation of immigrants. But those who first established our Government a hundred and twenty years ago had inbred in them from the struggle of a thousand years the self-reliant and self-restraining spirit essential to successful democracy. They recognized that respect for law is essential to real liberty. They recognized that even for themselves, who were of such a character, that under any form of government they would find essential liberty. They recognized that even for themselves restraints were necessary; that their impulses must not be allowed to run unchecked, and therefore they wrote in constitutions certain clear principles which should restrain even themselves. They recognized their own weaknesses and liability to err and voluntarily fettered themselves by their Constitution against such excesses. That is what a constitution is or should be—a recognition of certain fundamental principles which no temporary gust of passion or self-interest shall be allowed to violate.

But nowadays, with a population which few would maintain was as trustworthy or as fit to follow its impulses as our forefathers, there is an attempt to abolish constitutions and let the momentary will of the people always prevail. I think our vast immigration has made that unsafe. Millions have come to us who had never experienced or inherited any training in self-government or in self-control. The ability to recognize that present individual desires must yield to future general good, that permanent law must prevail over temporary impulse is essential to a successful republic. That spirit is not in-stinctive. It must be cultivated. It is sadly lacking in many of our cities whose population consists largely of recent immigrants. It is lacking in most of the immigrants who are now flocking to us, and we need time to cultivate that spirit in our present population before we dilute it further. Therefore I believe that to check immigration is one of our most pressing duties. I would vote for any reasonable bill which would accomplish that result. I think the pending bill is the best feasible step in that direction, and it has my hearty support.

The SPEAKER. The gentleman from Illinois [Mr. MANN]

is recognized.

Mr. MANN. Mr. Speaker, how much time have I?

The SPEAKER. The gentleman will be recognized for 20

Mr. MANN. Mr. Speaker, I yield four minutes to the gentleman from New York [Mr. Goldfogle].

The SPEAKER. The gentleman from New York [Mr. Gold-

FOGLE] is recognized for four minutes.

Mr. GOLDFOGLE. Mr. Speaker, the gentleman from Georgia [Mr. HARDWICK], in asking the adoption of this rule, said, if I remember rightly, that every Member of the House would be afforded a full and fair opportunity to stand in his place and express his opinion fully and voice the sentiments of his district upon this great question. Yet a reading of the rule shows that it will not permit that full, complete, and untrammeled opportunity which the gentleman from Georgia said was to be afforded this House. The rule provides for the consideration, first, of the substitute reported by the House committee, and, if the substitute of the House committee be voted down, then a consideration of all the provisions of the Dillingham bill as it came from the Senate.

There are many provisions in the Senate bill as it came over to the House that were exceedingly obnoxious to the views of those Members of this body who favor the Burnett literacy bill, and these matters ought to receive full attention and consideration. Yet the rule provides for but four hours' general debate, each side to have one-half. Is that the full, free, and untrammeled debate which the gentleman from Georgia [Mr. HARD-WICK] said might be had under the rule in this House? Is that the opportunity which he believes was to be given to every Member—I use his own words, "To every Member of the House"-who, he says, may stand in his place and voice the sentiments of his district.

Mr. BURNETT. Will the gentleman yield?

Mr. GOLDFOGLE. I should like to, but I have only a few minutes left.

Mr. BURNETT. I will take only a moment. The SPEAKER. The gentleman declines to yield.

Mr. GOLDFOGLE. As a general rule I have always been opposed, ever since I have been a Member of this House, to these special rules, and I can see no reason why one should be adopted now. On next Wednesday, in the regular order, the Committee on Immigration will be reached, and this bill can then come up in the usual and regular way and receive fair consideration and proper time can be had to debate its provisions and the various phases that underlie the subject. Nothing has arisen which calls for urgency in this matter. There is no emergency which requires this bill to be rushed through the House.

The Committee on Immigration held many hearings on this bill and a number of men from different sections of the country, representing diverse views, came before that committee, both in favor and in opposition to the measure. come no one, so far as I am aware, from the city of New York, into which city come the largest proportion of the immigrants to this land, who have favored restriction of immigration. the contrary, the sentiments of those who came from the city and appeared before the committee were in vigorous opposition

The rule is drastic in its provisions, and under it we can not have that freedom of debate, that unlimited discussion which could be obtained if in the regular order of things the bill came before the House. Highly important legislation awaits the attention of this body, and yet with undue haste it is proposed that this bill to restrict immigration be hurried through. The rule does not afford, in many respects, the same opportunity for the consideration of the amendments as would be afforded were the bill to come up in the regular order, and—
The SPEAKER. The time of the gentleman has expired.

Mr. HENRY of Texas. Mr. Speaker, I yield five minutes to the gentleman from Tennessee [Mr. Garrett].

Mr. GARRETT. Mr. Speaker, of course there are differences of opinion with respect to immigration legislation, and I do not propose now to discuss that question, but I propose to discuss the rule which is before the House. And I wish especially to refer to some of the remarks made by the gentleman who has york [Mr. Goldforle]. He refers to this as a drastic rule; he refers to this as a rule cutting off amendments; he refers to this as a rule cutting off amendments; he refers to this as a rule cutting off debate. Mr. Speaker, there was never brought into this House from the Committee on Rules since I have been a Member of the House a rule that was simpler or more liberal in its terms than the rule which is presented here for consideration now.

The gentleman from New York [Mr. Goldfogle] is mistaken about this rule cutting off amendment. Upon the contrary, the bill is thrown wide open for amendment. The gentleman from New York is mistaken about this rule being drastic. Upon The gentleman from the contrary, the gentleman can not find, either in the special rules that have been brought in or in the general rules of the House, a more liberal policy laid down than is laid down in this

particular rule.

The rule has been explained by the gentleman from Texas. It is simple in its terms and it is liberal in its policy. In effect, it merely brings this matter before the House for consideration. It is true it limits general debate. It ought to limit general debate. If it were not limited in that way, the general debate would be limited in some other way. The rule in itself gives every opportunity to every man to offer any amendment that he may see proper that is germane to this legislation. It seems to me that there can be no objection to this rule except from those who do not desire to consider immigration legislation at all. [Applause,]

Mr. HENRY of Texas. I will ask the gentleman from Illi-

nois [Mr. Mann] to use some of his time.

Mr. MANN. I yield to the gentleman from Missouri [Mr.

BARTHOLDT] four minutes.

Mr. BARTHOLDT. Mr. Speaker, it seems to me that even those who are inclined to favor the proposed legislation could well afford to vote against this special rule. As long as I can remember it has been the practice of this House not to bring in special rules except in cases of emergency or when the legislation sought to be enacted could not be reached in any other

Neither of these excuses can be pleaded in justification of the rule now pending. There certainly is no emergency for the further restriction of immigration at a time when American labor is fully employed and when the cry comes up from all American industries for more men; when, in fact, in the very industries which usually give employment to new immigrants the complaint is loudest about the great scarcity of labor exist-ing at the present time, and when the real problem is not how

to keep out immigrants but how to get them.

Therefore, unless it is intended to throttle the American industries even more quickly and more effectually than Democratic tariff legislation will accomplish it, there is no need of this rule and no need of this legislation, for I hold that to keep out the willing hands so necessary for the future industrial growth of this country will be a most grievous wrong and an act of the greatest political folly. Will anyone contend that this bill can not be reached in regular order? What is the parliamentary situation? The Committee on Irrigation now has the floor, and, as I understand, it has but one more bill to consider. We would take that up next Wednesday and dispose of it, so that on the very first Wednesday after the holi-days the Committee on Immigration, which is the next com-mittee on the list, will be called and this bill disposed of, and this would be fully two months before the final adjournment of this Congress.

What, then, is the reason for this unseemly haste? Do not the rules as they stand permit the Democratic majority to in-flict punishment swift enough upon the naturalized citizens who, during the last campaign, dared to find fault with some of the writings of the President elect, and could not the gentlemen on the other side of the aisle decently wait at least a few weeks longer before they repudiate the apologies offered to the so-called foreign element by their candidate for the Presidency on account of what he had written on the subject of immi-

gration?

Mr. Speaker, while I have the floor I might ask further, What do our Democratic friends propose to enact into law?

The SPEAKER pro tempore (Mr. HAY). The time of the gentleman has expired.

Mr. MANN. I yield to the gentleman one more minute.

Mr. BARTHOLDT. What is it they propose to enact into law? The written opinion of Prof. Wilson on the subject of immigration or the verbal explanations of Candidate Wilson made during the campaign? If the latter, you had better keep hands off this bill, because in that event it would be more consistent for you to appoint a reception committee and send them to Ellis Island to conduct every new immigrant to the Waldorf-Astoria or some other great hotel. But I appreciate that the campaign is now over and the votes of the foreign element are no longer needed, and therefore they are again to be degraded to the level of "the coarse crew," as Mr. Wilson called them, and they are going to have swift punishment meted out to them by legislation of this kind. [Applause.]

Mr. FOCHT addressed the House. See Appendix.]

Mr. HENRY of Texas. Mr. Speaker, I yield three minutes to

the gentleman from Pennsylvania [Mr. DALZELL].

Mr. DALZELL. Mr. Speaker, the gentleman from Missouri who lately addressed himself to this proposition objected to it evidently on the ground that he objects to the legislation to which it relates. The gentleman from New York who preceded him objects to the rule on the ground that it was drastic. Both gentlemen are mistaken. This is not, as the gentleman from Missouri seemed to insinuate when he spoke of what the gentlemen on the other side of the aisle were about to do, partisan legislation in any sense. It is, as the gentleman who preceded me has said, a measure of the greatest public importance, and one in which the members of both parties, Democrat and Republican, and in which the people of this country are immensely interested at this time.

Mr. GOLDFOGLE. Will the gentleman yield?

Mr. DALZELL. I will, but I have only three minutes.

Mr. GOLDFOGLE. What is the necessity for haste in this

Mr. DALZELL. Because this is a measure of great public importance, and the session is drawing to an end. It ought to be, as it will be, enacted into law as speedily as possible. [Applause.] So far as the rule itself is concerned, I venture to say that no more liberal method of procedure was ever introduced into this House than is embodied in the provisions of this rule. If I had the time I would call attention to the rule under which, on June 25, 1906, the immigration bill now on the statute book was considered, and also the rule under which the great pure-food bill, on July 20, 1906, was considered. In both instances the consideration of the House was restricted to the measure reported by the House, excluding consideration of the measure reported by the Senate, while in this case the broadest opportunity is afforded to express the preference of the House as between the Senate bill and the House bill. General debate of four hours is liberal, but we all know that general debate means nothing, and, so far as debate under the five-minute rule is concerned, it is unlimited under the provisions of the rule, and will proceed as long as the Members in Committee of the Whole desire to offer amendments and to consider the provi-If, in the first instance, the Committee of the sions of the bill. Whole shall see fit to adopt the measure which has been reported by the House committee, then well and good; it will be reported to the House and passed upon by the House. If, on the other hand, the Committee of the Whole shall see fit to reject the proposition reported by the House committee, then the bill is wide open for discussion of amendments to be offered to the bill sent to us by the Senate.

Mr. CANNON. Mr. Speaker, will the gentleman yield for a question?

Mr. DALZELL. Certainly.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HENRY of Texas. Mr. Speaker, I yield one minute more to the gentleman from Pennsylvania.

Mr. CANNON. Is it not true that the House amendment is

one amendment?

Mr. DALZELL. Yes.

Mr. CANNON. And is it not true that at any time after 10 minutes have expired it is perfectly competent under the rules of the House to close all debate upon that and all other amendments?

Mr. DALZELL. Mr. Speaker, I would say, in reply to the gentleman, that the length of time of debate on any proposition is entirely within the control of the Committee of the Whole at any time and at all times, and unless the gentleman assumes that the Committee of the Whole is going to do an injustice there can be no objection to this rule upon that ground.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. DALZELL. Mr. Speaker, I ask unanimous consent to extend and revise my remarks in the RECORD.

The SPEAKER pro tempore. Without objection it is so ordered.

There was no objection.

Mr. MANN. Mr. Speaker, I yield three minutes to my colleague from Illinois [Mr. SABATH].

Mr. SABATH. Mr. Speaker, with very few exceptions I have at all times voted against special rules, and I see no reason why I should or why we should vote for this rule. member of the Committee on Immigration, I feel satisfied that within the next few days our committee will be reached; and should it not be reached on next Wednesday it will surely be reached immediately after the holidays, and I am positive that ample opportunity will be given our committee to consider this and all other legislation which pertains to immigration. Some of the Members of this House seem to believe that this restrictive legislation is demanded by the people of our country. To these gentlemen I desire to say that they are mistaken. There is no such demand, unless it be on the part of a few misinformed residents of districts where there are now no foreign-born citizens and to which sections immigration does not go. I feel confident that had these gentlemen the same information upon this question that I have and were they so familiar with the existing conditions as I am they would not be here to-day pleading for and demanding this special rule. The people of the country instead of being opposed to immigration are in favor of it, for they know that it is immigration that has built up our country and made it the greatest of them all. Coming as I do from the second largest city in the United States, one which has a population of nearly two and one-half millions, nearly 60 per cent of which population is of foreign birth or foreign parentage, there is no question but what were there any sentiment in favor of imposing restrictions upon immigration that I would be aware of it. Yet I have heard not a single resident of my city express himself as being opposed to the coming of these people into our city or this country, nor have I re-ceived a single communication from the inhabitants of Chicago advocating the passage of legislation tending to prohibit these immigrants from availing themselves of the opportunities offered in our country. However, on the other hand I have received hundreds of resolutions from commercial, professional, educational, and fraternal organizations protesting in the strongest possible terms against the pending restrictive measures and branding the Dillingham and Burnett bills as unfair, unjust, and un-American. Mr. Speaker, it is impossible for me to vote for this rule, for I do not feel that there is a demand for the enactment of legislation of this nature. And aside from that, I do not see the necessity of bringing this bill before the House, at this time, for, undoubtedly, it will be reached in the regular

course of business within a very short while.

The SPEAKER pro tempore. The time of the gentleman from

Illinois has expired.

Mr. MANN. Mr. Speaker, how much time remains on the

The SPEAKER pro tempore. The gentleman from Texas [Mr. Henry] has five minutes remaining and the gentleman from Illinois eight minutes.

Mr. MANN. Mr. Speaker, ordinarily I should not oppose a rule for the consideration of the immigration bill, under the rules of the House, although under the ordinary rules of the House, without a special rule, the immigration bill could be taken up on next Wednesday for consideration; but when gentlemen, like the gentleman from Georgia [Mr. HARDWICK] the gentleman from Pennsylvania [Mr. Dalzell], say that this is not a drastic rule it occurs to me that they have not very carefully examined the rule for which they voted in the com-mittee. If the previous question had not been ordered upon the rule, I should have offered for the consideration of this bill, as a substitute, a rule copied from one of those drastic rules reported by the gentleman from Pennsylvania [Mr. DALZELL] in his palmy days in the House, when the Democratic side of the House was accusing him of all sorts of tyranny. The gentleman from Texas [Mr. Henry] declined to permit that to be offered, and he insists upon this drastic gag rule that is now pending. The rule which I should have offered would be:

That for the remainder of this session, bill (title, etc., S. 3175) shall have the same privilege for consideration that is enjoyed by bills reported from committees under power to report at any time.

That would have given the House an opportunity to consider this bill upon the same plane and on the same terms as are appropriation bills or bills raising revenue, and would have given

the House full power to consider and amend the bill. What is the proposition now pending? That there shall be four hours' general debate and at the end of that time the House committee substitute shall be read for amendment Read for amendment, mind you, under the rules of the House. Under the rules of the House if an amendment be offered to this House committee amendment it must be germane to it. The House committee amendment considers only one subject in the Senate bill. The Senate bill is a bill 58 pages long, containing many provisions which have been asked for by those in favor of restricting immigration. The House amendment contains one proposition.

It is open to amendment. Amendment in what regard? Is it open to amendment on the other subjects contained in the Senate bill or are amendments confined to being germane to the House amendment upon the one subject? When an amendment is offered to the House amendment after it has been discussed for 5 minutes or 10 minutes, one man in favor and one against. the House itself in Committee of the Whole can not extend the time for debate. There will be no such thing as moving to strike out the last word and getting the floor, because that would be an amendment in the third degree and any Member of the House, like my distinguished friend from Georgia, can object to further debate upon the proposition. Talk about debate under the rules of the House! It is a gag rule to prevent debate and prevent amendment. [Applause on the Republican side.]

Mr. GARRETT. Mr Speaker, will the gentleman yield? Mr. MANN. I have not the time to yield. It was n who limited the time for debate. I asked for liberal debate. Mr. Speaker, I congratulate the gentleman from Georgia [Mr. RODDENBERY], who has proved himself the master of the House. Yesterday he applied the lash to the backs of the leaders on the Democratic side of the House, and to-day, with their wounds still open, they bow in submission before the gentleman from Georgia and bring in a rule, as the gentleman from Georgia desires, to prevent debate, to prevent amendment, and prevent consideration. The gentleman from Georgia is entitled to congratulation and the gentleman from Texas [Mr. HENRY] and the gentleman from Georgia [Mr. HARDWICK] to sympathy and condolences. [Applause on the Republican side.] What is the proposition in this? Here is a Senate bill, 58 pages long, containing many provisions not only with reference to the admissions of aliens, but in reference to the administration of the immigration laws. Under the rule, when the House has voted upon the House amendment to the bill, the bill is to go to conference. The bill, the law, is to be written in conference without any opportunity on the part of the House to vote on the propositions in the Senate bill which are not embraced in the House substitute. It is true, as will be suggested by gentlemen who defend the rule, that the House in the committee by voting down the House committee amendment can then proceed to consider the Senate bill. In other words, it is true that if the House on a vote on the House amendment votes against the thing they want then they can proceed to consider That is a false attitude in which to put Memsomething else. bers of the House. Those Members who are in favor of the one proposition embraced in the House substitute have to vote for that or vote against it against their consciences, and when they have voted for it they thereby cut themselves out from the opportunity of considering or amending the many other propositions contained in the Senate bill and turn that over to the gentleman from Alabama [Mr. BURNETT] and possibly the gentleman from Massachusetts [Mr. GARDNER] to settle in conference with the Senate amendment. I would like to call attention now to the proposition that perchance those who are opposed to the immigration bill shall have the right to be represented on the conference committee. Here is a proposition to take the Senate bill, containing many propositions upon many subjects, fixing a head tax, doing many other things which the gentlemen interested in immigration desire to be heard upon, and turning that all over to the conference committee without any opportunity on the part of the House to express its opin-ion upon the subject. Then in the expiring days of this Congress we will be asked to vote up or down the conference report without anyone here knowing anything about the jokers in it.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BURNETT. Will the gentleman permit a question\right there?

I will if you will give me the time.

Mr. BURNETT. The gentleman from Illinois [Mr. SABATH] is the second man on the committee, and will no doubt be on the conference committee, so the statement of the gentleman along that line is entirely gratuitous.

Mr. HENRY of Texas. Mr. Speaker, I yield the remainder of my time to the gentleman from Wisconsin [Mr. Lenboot].

Mr. LENROOT. Mr. Speaker, it is very clear to me that the opposition to this rule comes wholly from the fact that those who are opposed to this rule are opposed to any consideration or action upon this bill at this session of Congress.

As a matter of fact, this rule, as has been said heretofore, is one of the most liberal that has ever been proposed by the Rules Committee since I have been a Member of Congress. It conforms to the practice of the House ever since I have been a Member, namely, it gives preference and precedence to a substi-tute reported by the House committee, and nothing more, and provides that that shall be first considered, throws it wide open for amendment, throws it wide open for consideration, and then provides that that shall first be voted upon, and unless it is rejected the Senate bill shall not be considered.

Now, Mr. Speaker, why is it that the opponents of this bill desire consideration of the Senate bill? Not because they desire to see it passed. I am frank to say I would vote against Its provisions are much more drastic than are the provisions of the House bill. But, Mr. Speaker, there are 59 pages of that bill; there are 39 sections in it, and the opponents of this bill know that if they could invoke the rules of the House, using every parliamentary technicality that the rules permit, they could prolong the discussion and consideration of those 59 pages and 39 sections until such time that this House would not have an opportunity to vote upon the question at all during this session of Congress.

Now, the gentleman from Illinois [Mr. MANN] made, or attempted to make, some point that, because here was a committee amendment that would be first acted upon, that only one amendment to it could be proposed, and therefore, he inferred, or meant the House to infer, that there would be a curtailing of the right of consideration. But I call the attention of the House to the fact that the very proposition which he himself suggested, that he would simply make this bill privileged, would be subject to the same charge, so that the restriction,

whatever it might be, does not grow out of anything that you find in this rule, but in the rules of the House itself.

Now, as I said, Mr. Speaker, if this House desires to consider the substitute bill, the rule gives them an opportunity to do it, and to do it with unlimited power under the rules of the House which the gentleman from Illinois [Mr. Mann] is so solicitous about. If it desires to consider the Senate bill, the rule gives the same opportunity as it does the House bill.

Now, Mr. Speaker, I have been one who, ever since I have been a Member of Congress, has stood for liberalization of rules. Where I believed they were too strict my purpose has always been to secure consideration, deliberation, and action. And wherever, Mr. Speaker, any rule of this House, instead of expediting deliberation and action is proposed to be used by the opponents of a bill in a filibuster to prevent action, I am for curtailing such rules to the same extent as I am for liberalizing them where necessary.

The SPEAKER pro tempore. The time of the gentleman from Wisconsin has expired; all time has expired. The question is on agreeing to the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division. The House divided; and there were—ayes 101, noes 19.

So the resolution was agreed to.

The SPEAKER. Under the rule, the House will resolve itself automatically into the Committee of the Whole House on the state of the Union for the consideration of the bill which is made a special order, and the Speaker appoints the gentleman from Virginia [Mr. HAY] to preside.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 3175) entitled "An act to regulate the immigration of aliens to and the residence of aliens in the United States," with Mr. Hay in the chair.

Mr. BURNETT. Mr. Chairman, I ask that the first reading

of the substitute be dispensed with.

Mr. MANN. Mr. Chairman, reserving the right to object, I would suggest that the substitute is very short, and I doubt whether many Members of the House have examined it. Therefore I would like to have it read.

The CHAIRMAN. The Clerk will read the substitute.

The Clerk read as follows:

Strike out all after the enacting clause and insert the following:

"That after four months from the approval of this act, in addition to the allens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit: All allens over 16 years of age, physically capable of reading, who can not read the English language, or the language or dialect of some other country, including Hebrew or Yiddish: Provided,

That any admissible alien or any alien heretofore or hereafter legally admitted or any citizen of the United States may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to land.

"Sec. 2. That for the purpose of ascertaining whether aliens can read or not, the immigrant inspectors shall be furnished with copies of uniform silps, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plain type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the silp in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip.

"Sec. 3. That the following classes of persons shall be exempt from the operation of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; (b) all aliens in transit from one part of the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory.

"Sec. 4. That an alien refused admission to the United States under the provisions of this act shall be sent back to the country whence he came, in the manner provided by section 19 of "An act to regulate the immigration of aliens into the United States," approved February 20, 1907."

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to ask the gentleman from Alabama [Mr. Burnett] whether he intends to have an understanding with regard to the disposition of time, or whether that is wholly in the province of the Chair?

Mr. BURNETT. Mr. Chairman, I desire to suggest—and I was just going to ask, for the purpose of having an understanding, Can that understanding be made in Committee of the

The CHAIRMAN. It can not, under the rule. The rule does not provide how the time shall be disposed of. That will have to be controlled by the Chair, although the Chair would be very glad if gentlemen would agree in regard to it.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to inform the Chair, as well as the gentleman from Alabama [Mr. Burnett], that, being the only minority member on the Committee on Immigration and Naturalization who is opposed to the bill, I have received several requests for time, and I presume those requests ought to be complied with, if it is possible to do so.

The CHAIRMAN. The Chair thinks that the chairman of the committee [Mr. Burnett] and the gentleman from Pennsylvania [Mr. Moore] ought to control the time, and the Chair will recognize the gentleman from Alabama [Mr. BURNETT] for two hours and the gentleman from Pennsylvania [Mr. Moore] for two hours.

Mr. MANN. Mr. Chairman, the Chair has not the power to recognize a gentleman for more than two hours except by unanimous consent.

The CHAIRMAN. The Chair will designate gentlemen to control it.

Mr. BURNETT. The rule says that there shall be two hours on a side. It was my purpose and desire, Mr. Chairman, that the gentleman from Illinois [Mr. Sabath], the ranking member on the committee, should control the time on his side of the question.

The CHAIRMAN. The Chair will read the rule:

That there shall be four hours' general debate, to be divided equally between those favoring and those opposing the measure—

And the Chair will therefore control the time himself.

Mr. MADDEN. Mr. Chairman, does that mean that when a Member is recognized he will be recognized for an hour?

The CHAIRMAN. Yes; under the rule of the House. Mr. MANN. I take it, Mr. Chairman, that under the rule the gentleman from Pennsylvania [Mr. Moore], in opposition to the bill, will be entitled to an hour, and the gentleman from Illinois [Mr. Sabath] will be entitled to an hour, and divide the

Mr. SABATH. Do I understand, Mr. Chairman, that the time will be divided in this matter so that the gentleman who favors the bill, Mr. Burnett, of Alabama, the chairman of our committee, will be entitled to half of the time and be recognized for the present for one hour, and the gentleman from Pennsylvania [Mr. Moore] and myself, who are opposed to the measure,

will be entitled to the other two hours?

The CHAIRMAN. No. The gentleman from Alabama [Mr. Burnett], the chairman of the committee, is recognized for one hour.

Mr. GOLDFOGLE rose.

The CHAIRMAN. For what purpose does the gentleman from New York rise?

Mr. GOLDFOGLE. To make a parliamentary inquiry. The CHAIRMAN. The gentleman will state it.

Mr. GOLDFOGLE. Mr. Chairman, I understand that the four hours are to be thus divided-

The CHAIRMAN. That is not a parliamentary inquiry, the

Chair will say to the gentleman.

Mr. GOLDFOGLE. I am about to put the inquiry. I will put it after I make my statement. The time is to be equally divided. I understand the gentleman from Alabama [Mr. Bur. NETT] to have asked that he have two hours and that the other two hours be controlled by some one in opposition to the measure. I then understand that the gentleman from Illinois [Mr. SABATH] asked that the time be divided in the way indicated If that is so, does the Chair entertain the request of by him. the gentleman from Illinois?

The CHAIRMAN. The Chair has already stated that under the rules of the House and under this rule the Chair will recognize gentlemen for two hours on one side and for two hours on the other side; and the Chair recognizes the gentleman from Alabama [Mr. BURNETT] under the rules of the House

Mr. GOLDFOGLE. Who shall control the time in opposition? The CHAIRMAN. The gentleman controls his own hour, and he is recognized for an hour. If the gentleman sits down before the hour is up, he yields the floor. The balance of that time will be given to those who are in favor of the bill.

Mr. MOORE of Pennsylvania. Mr. Chairman, may I be indulged for just one moment? I think this matter can be very

readily cleared up.

The CHAIRMAN. The Chair thinks there is no trouble about

. It is a very plain proposition. Mr. MOORE of Pennsylvania. I think so, too, Mr. Chairman, but there have been requests for more than two hours' time on a side, and the Chair says he will assign the distribution of two hours to one gentleman and two hours to another. Gentlemen seem to be concerned about whether they can speak in opposition to the bill after the first hour.

The CHAIRMAN. Why, of course. Mr. MANN. Mr. Chairman, I ask unanimous consent that when the gentleman from Alabama [Mr. Burnett] takes the floor he be authorized to consume two hours, or to have that time under his control; that when the gentleman from Pennsylvania [Mr. Moore] takes the floor he be authorized to control two hours. That is within the power of the committee. extend the time of a Member in Committee of the Whole.

The CHAIRMAN. The committee can extend the time; yes. Mr. MANN. That is all I am asking. That arrangement is

frequently made in Committee of the Whole.

The CHAIRMAN. The gentleman from Illinois [Mr. Mann] asks unanimous consent that the time of the gentleman from Alabama [Mr. Burnett] be extended to two hours, and that the time of the gentleman from Pennsylvania [Mr. Moore] be ex-

tended to two hours. Is there objection?

Mr. BURNETT. A parliamentary inquiry, Mr. Chairman.

That would not prevent my yielding time to any Member and

reserving the remainder of the time, would it?

The CHAIRMAN. The Chair understands that it would not. The Chair will recognize any gentleman indicated by the gentleman from Alabama.

Mr. SABATH. Mr. Chairman, in what position does that

The CHAIRMAN. The gentleman from Illinois will have to secure his time by having it yielded to him by the gentleman from Alabama [Mr. Burnett] or the gentleman from Pennsylvania [Mr. Moore].

Mr. SABATH. I am the ranking member of the committee, and I am opposed to this measure.

Mr. MANN. I thought that arrangement was satisfactory to

the gentleman from Illinois [Mr. Sarath].

Mr. MOORE of Pennsylvania. I will comply with any reasonable request of the gentleman from Illinois. I will yield time to him.

Mr. GARRETT. Reserving the right to object, I wish to make this statement. I think gentlemen are unduly confused about the matter of time. I have no doubt that the Chair will recognize the gentleman from Alabama [Mr. Burnett] for one hour, the gentleman from Pennsylvania [Mr. Moore] for one hour, the gentleman from Massachusetts [Mr. Gardner] for one hour, and the gentleman from Illinois [Mr. Sabath] for one hour, and these gentleman in turn will yield such time as they choose to yield. I have no doubt that is the plan which the Chair will follow. It seems to me we are losing a great deal of time which could be devoted to the debate.

Mr. MANN. It is rather awkward to have to appeal to two gentlemen for time. That is the only trouble about it. I do not want any time myself.

Mr. BARTHOLDT. We can not go to two men to get time. The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from Alabama [Mr. Bur-

NETT] is recognized for two hours.

Mr. BURNETT. Mr. Chairman, I shall be glad if Members will give attention to this question, because I feel that no more important matter has been approached by Congress than this since 1906, when a similar proposition was sidetracked for an investigating immigration commission.

Gentlemen in discussing the rule have inveighed against it because they said that it cut off debate, and that there was

undue haste in insisting upon the passage of the bill.

Mr. Chairman, no gentleman can truthfully say that I have manifested any disposition to precipitate, improperly and unjustly, action upon this bill; but, on the other hand, it comes with poor grace for gentlemen to insist that the bill should take its regular course on call of committees, when those same gentlemen have time and time again tried to prevent its taking just that course.

Last Wednesday week and last Wednesday being Calendar Wednesdays, I sat in my place hour after hour waiting for the Committee on Immigration and Naturalization to be called. Some gentlemen who have to-day spoken so ardently about its coming on in its regular order were also present then, and upon a little bill involving, I believe, a bridge across the Snake River the gentleman from New York [Mr. Goldfold], who has been loudest and longest in speaking against this rule, made the point of no quorum and delayed the House for perhaps an hour, so as to prevent the call from reaching my committee. Yet that same gentleman to-day comes up and says that the bill ought to take its regular course on the regular call of the committees and that perhaps my committee will be called next Wednesday.

Mr. Chairman, this committee should have been called last Wednesday, and perhaps but for the action of the gentleman who is so insistent it would have been called at that time. The gentleman from Missouri [Mr. Bartholdt] undertakes to give this question a political turn by talking about what the Democratic House is seeking to do, and he says now that it proposes to impress on legislation the views of the recently elected Democratic candidate for President of the United States. remember just before adjournment of the last session of Congress the gentleman from Illinois [Mr. Rodenberg] attempted to arouse the foreign vote of the country against President Wilson by a similar attack on the floor of this House. I have no doubt but that that speech had much to do with reducing the electoral vote of the candidate of the gentleman from Missouri and the gentleman from Illinois to that of two of the least States in the Union. Who knows but that that speech also relegated the gentleman from Illinois to private life and came near sending the gentleman from Missouri [Mr. BARTHOLDT] to furnish him illustrious company?

I am sorry, Mr. Chairman, that any gentleman should undertake to inject partisan politics into this question, that to my mind is of far more importance than any issue that confronts the American people. But if the gentleman wants to impress that kind of an idea, I refer him to the result of the last election, to meditate whether the declaration of the President elect. in the book to which the gentleman from Missouri referred, did not have something to do with the tremendous majority that he received over the party that elected the gentleman from Mis-

I call attention to the further fact that a Republican Senate six months or more ago passed the bill with this same illiteracy test in it, a bill more drastic than the bill substituted by the Committee on Immigration and Naturalization, a bill which a distinguished Republican member of the Committee on Rules said was too drastic for most of the Members of the House to support. And yet, in order to hold up this Democratic House to the opposition of those affected by the legislation, the gentleman astutely forgets the fact that the Republican Senate passed that bill by a vote of 58 in favor to 9 in opposition to it. Hence the gentleman may have all the sweet consolation that he desires from the action that is being brought about by reason of the fact that the Democrats control this House. I was glad that one gentleman on the other side rebuked the argument of the gentleman. A gentleman, a Republican, who stated here that it had no political bearing, and a gentleman, a member of the Committee on Rules, on the other side, showed that the rule that was now adopted was much less drastic than the same rule adopted by the Republican House of Representatives some years ago when we wanted to get a fair consideration of a similar bill.

Now, in regard to the bill itself. I do not desire to consume more than 25 minutes, because other gentlemen have asked for time. In 1906 a bill of a similar character was before this House. Under the rules of the House at that time there was a substitute proposed and carried by which a commission was created to investigate the question of immigration and naturalization and report to the House. I opposed the commission, because I knew the purpose of that amendment was to delay legislation and perhaps defeat it. I was a member of that com-mission, and we made our investigations and reported. As a result of the investigations the commission wound up its conclusions by this terse statement:

The commission as a whole recommend restriction as demanded by economic, moral, and social considerations, furnishes in its report reasons for such restrictions, and points out methods by which Congress can attain the desired result if its judgment coincides with that of the commission.

Even the gentleman from New York, Mr. Bennet, a former Member of this House and a member of the commission, concurred in that statement, although he and he alone of the nine members, dissented from the conclusion of the commission, which is as follows:

A majority of the commission favor the reading and writing test as the most feasible single method of restricting undesirable immigration.

After citing various methods of restriction, a majority of the commission favored the reading and writing test as the most feasible single method of restricting undesirable immigration.

The gentleman, in arguing the rule a few moments ago, said there was no demand for this legislation except in localities where there were none of these foreign immigrants. I want to read you what the leader of the American Federation of Labor has said on that very point. He quotes a resolution of that great body of workingmen as follows:

[From the American Federationist.] IMMIGRATION-UP TO CONGRESS. (By Samuel Gompers.)

THE A. P. OF L. ON IMMIGRATION.

Resolution 77, passed at the annual convention held at Toronto, Ontario, November, 1909:

Whereas the illiteracy test is the most practical means for restricting the present stimulated influx of cheap labor, whose competition is so ruinous to the workers already here, whether native or foreign; and

and
"Whereas an increased head tax upon steamships is needed to provide
better facilities, to more efficiently enforce our immigration laws,
and to restrict immigration; and
"Whereas the requirement of some visible means of support would
enable immigrants to find profitable employment; and
"Whereas the effect of the Federal Bureau of Distribution is to stimulate foreign immigration: Therefore be it
"Resolved by the American Federation of Labor in twenty-ninth annual convention assembled, That we demand the enactment of the illiteracy test, the money test, an increased head tax, and the abolition of
the Distribution Bureau; and be it further
"Resolved, That we favor heavily fining the foreign steamships for
bringing debarable aliens where reasons for debarment could have been
ascertained at the time of sale of ticket."

The them says:

He then says:

He then says:

The final inning of the tug of war over immigration has now begun. In this contest tremendous forces are engaged. On the side of America are the upholders of two distinctive American sentiments—the maintenance of the American standard of living for our wageworking classes and the maintenance of American institutions as they are, unimpaired through the financial degradation of the working classes. On the proimmigration side is the powerful immigration machine, composed of the transocean combine, with all its thousands of agents and other innumerable parasites, the bankers, padrones, etc., who are coining money out of the millions of immigrants coming in the course of years into this country from Europe.

The center of this tug of war has at last shifted to Congress. No longer is the discussion indefinite, casual, or partisan, or without an immediate object, conducted through the press and other insufficient agencies of information and debate. No longer, either, is it backed up merely by individual impressions or the partial investigation question through scientific means. It set out to ascertain the undeniable facts, and after three full years of research its commission has brought forward no less than 40 volumes on the subject, covering every possible phase. Its recommendations it has brought forward in concise form in a separate pamphlet.

A reading of these recommendations confirms the facts of the case as they have been accepted by the American Federation of Labor after the serious study its members had given the question for decades. The local and then the international unions and finally the annual conventions of the American Federation of Labor after the serious study its membershe had given the question for decades. The local and then the international unions and finally the annual conventions of the American Federation of Labor itself have had immigration up for consideration as one of the principal labor topics on literally thousands of occasions. The membership as a whole, from upho

from foreign lands who are accustomed to so low a grade of living that they can underbid the wage earners established in this country and still save money. Whole communities, in fact whole regions, have witnessed a rapid deterioration in the mode of living of their working classes consequent on the incoming of the swarms of lifelong poverty-stricken allens. Entire industries have seen the percentage of newly arrived laborers rising until in certain regions few American men can at present be found among the unskilled.

By the commission's report it is shown that in many communities as high as 50 and even 70 per cent of the children in the public schools are the offspring of foreign fathers. This remarkable change in America, it must be kept in mind, is almost wholly in the wageworking class. It was recognized by our wageworkers in many parts of the country that this radical change in population was taking place, and hence delegates to the trade-union conventions began some years ago to give their testimoly as to the need of restriction of the evidently assisted or artificially promoted immigration. Opposition to those who supported these views brought about a continual sifting and searching for the truth as it affected trade-unionism and the general wage level. At work in advance of the investigators of the Immigration Commission were the representatives of labor as most deeply interested investigators in the cause of labor. Not only in a general way but most strikingly in certain occupations and in certain districts of the country what had been brought home to trade-unionists as going on through immigration was the rapid change in the membership of the unions as well as in population. In no country on the face of the globe do such rapid transitions in industry and in population take place as in ours. Therefore in time the general opinion among union men on immigration had come to be such as was expressed in the resolution passed at the Toronto convention.

The United States Immigration Commission, after its pro

The United States Immigration Commission, after its profracted studies, perfectly agrees with this opinion. The commission as a whole, in its own words, "recommends restriction as demanded by economic, moral, and social considerations, furnishes in its report reasons for such restriction, and points out methods by which Congress can attain the desired result if its judgment coincides with that of the commission."

Further:

Further:

On behalf of American labor it is to be said that the action of the trade-unions in this country on this most delicate international question involves a step that touches the heart of every man contemplating it. That step, the advocacy of exclusion, is not prompted by any assumption of superior virtue over our foreign brothers. We disavow for American organized labor the holding of any vulgar or unworthy prejudices against the foreigner. We recognize the noble possibilities in the poorest of the children of the earth who come to us from European lands. We know that their civilization is sufficiently near our own to bring their descendants in one generation up to the general level of the best American citizenship. It is not on account of their assumed inferiority, or through any pusillanimous contempt for their abject poverty that most reluctantly the lines have been drawn by America's workingmen against the indiscriminate admission of aliens to this country. It is simply a case of the self-preservation of the American working classes. working class

That would seem to refute the idea that distinguished gentlemen have that this cry originates from among those where there is none of that class of immigration. All over the country the demand comes up. From the great patriotic organizations that are perhaps more numerous in the North it comes. From the granges, the representatives of the farmers' organizations all over the North, it comes. From some 3,000,000 members of the American Federation of Labor, expressing themselves through Mr. Gompers, and by positive resolutions the declaration is made that it has come to be a question of life and death between the American workingman and the man who is imported here for the purpose of beating down the price of American wages and beating down the standard of living of his wife and children. [Applause.]

Mr. SABATH. Mr. Chairman, will the gentleman yield? Mr. BURNETT. For a question.

Mr. SABATH. Is it not a fact that to-day the wages of unskilled laboring men are higher than ever before in the history of our country? [Applause.]
Mr. BURNETT. 'That may be true, and why not? What the

wage earner has to pay for the necessaries of life is more than double what the increase of wages has been. [Applause.] Mr. SABATH. Is the immigrant responsible for the high cost

of living

Mr. BURNETT. Is the immigrant responsible? Mr. SABATH. Or the laboring man? Is not that due to

the trusts and combinations?

Mr. BURNETT. That is going into a field of politics that I would like to eschew, and I shall not follow the example of the distinguished gentleman from Missouri in undertaking to go into that. But one thing I desire to say, and that is, that no man denies that the wages of the wage earner of the country are too low; and I have no doubt, as is said by Mr. Gompers and representatives of labor, that that influx of undesirable labor from southern Europe has been to a great extent responsible for keeping those wages down. I had an experience myself lately which I desire to relate.

Mr. PALMER. Mr. Chairman, will the gentleman yield?
Mr. BURNETT. In one moment. A mine operator near Birmingham said to me not long since that he was using labor from different nationalities. I said: "What is the best?" He said: "The Welsh, the Irish, the English, the Scotch, the American, the German, and the Scandinavian." I said: "Who is your poorest laborer?" He replied: "The south Italian." I said: "Worse than the negro?" He said: "Infinitely worse." I said: "Why, then, do you employ him?" His answer was: "For the purpose of regulating the price of labor." And it is that demand for the pauper labor of Europe, Mr. Chairman, And it is that is coming up from all over this country by the great

Mr. POWERS rose.

Mr. BURNETT, First I yield to the gentleman from Penn-

sylvania [Mr. PALMER].

Mr. PALMER. Mr. Chairman, I want the gentleman to understand that I am for his bill, but I want some information. Does the Committee on Immigration find that the same situation exists now as existed at the time of the report of the Immigration Committee, namely, that there is an oversupply of

unskilled labor in this country'

Mr. BURNETT. Mr. Chairman, I will answer that in this I was at Ellis Island just last spring. The commissioner of immigration there told me that a family had come over in which some members represented themselves as being car-The question was whether they ought not to be deported because of their liability to become a public charge. He said he thought he had a right to take into consideration among other things the condition of the labor market. He went out into the city of New York and found that last spring there were 3,000 carpenters in that city who were absolutely unemployed.

Mr. GOLDFOGLE. Mr. Chairman, will the gentleman yield?

Mr. PALMER. That is not unskilled labor.
Mr. BURNETT. It is the lower class of carpenter's labor he had reference to.

Mr. CURLEY rose.

The CHAIRMAN. To whom does the gentleman yield?
Mr. BURNETT. To the gentleman from New York [Mr.

GOLDFOGLE

Mr. GOLDFOGLE. Mr. Chairman, it would enlighten the members of this committee if the gentleman from Alabama would answer the question put by the gentleman from Pennsylvania. As I recall it, as a member of that committee going there

Mr. BURNETT. Oh, I will ask the gentleman not to make

a speech.

Mr. GOLDFOGLE. There was no investigation.
Mr. BURNETT. The gentleman has his own time, and he should make his speech in his own time and not try to make a speech in my time.

Mr. GOLDFOGLE. I should like the gentleman from Alabama to answer the question of the gentleman from Pennsyl-

vania, as it will avoid another question by me.

Mr. BURNETT. I think undoubtedly there is an oversupply of unskilled labor, and I illustrate it by the fact that these men who were coming to work as carpenters were not skilled; they were underlings working in the lower strata of the carpenter's trade. That is illustrated, I believe, all over this country. I must decline to yield further, because gentlemen will have time of their own and I will not have enough time to answer all these questions that are injected into this discussion.

Mr. CURLEY. Will the gentleman yield?
Mr. BURNETT. I can not yield. Here is the further statement that Mr. Gompers made:

ment that Mr. Gompers made:

The illiteracy test advocated by the American Federation of Labor was added to the bill and passed by the Senate. The head tax for immigrants was increased from \$4\$ to \$5\$. The bill was then referred to the House Committee on Immigration where, after prolonged consideration, it was decided, on June 6, to strike out several important features. Many conflicting opinions developed in the House on the advisability of giving the amended measure consideration during the session. Many futile efforts were made to have the bill called up in the House, the general cause given being that other committees held the calendar ahead of the Immigration Committee. Efforts were made to obtain a special rule from the Rules Committee so that the bill could be then brought before the House. Hon, John L. Burnett, chairman of the Committee on Immigration and Naturalization, made vigorous endeavors to obtain action, and in response to his request before the Committee on Rules, he finally secured the positive proposition that a special rule would be reported early in December of the next session of Congress.

Earnestly I urge our organizations to bring the subject matter of this bill to the attention of their Representatives and emphasize the request for an early passage of this reasonable regulation or restriction of immigration.

Now, Mr. Chairman, I desire for just a few moments to call

Now, Mr. Chairman, I desire for just a few moments to call attention to what the propositions of the bill are. The Dillingham bill, as has been stated by gentlemen, was composed of about 58 pages, 39 sections. We had first the Burnett bill before the committee and after lengthy hearings before the Dillingham bill ever came to the committee that bill was ordered reported. The Dillingham bill came and we gave hearings of two or three days on the Dillingham bill, and after careful consideration the friends of restriction, the friends of the illiteracy test decided that all after the enacting clause of the Dillingham bill ought to be stricken out and what is known as

the Burnett bill should be substituted in its place. For the information of gentlemen who perhaps have not done us the honor of reading that bill, I want to call your attention to what it proposed. It reads:

Proposed. It reads:

That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States the following persons shall also be excluded from admission thereto, to wit: All aliens over 16 years of age, physically capable of reading, who can not read the English language, or the language or dielect of some other country, including Hebrew or Yiddish: Provided, That any admissible alien or any alien heretofore or hereafter legally admitted or any citizen of the United States may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to land.

Now I will read section 3:

Sec. 3. That the following classes of persons shall be exempt from the operation of this act, to wit: (a) All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; (b) all aliens in transit through the United States; (c) all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory.

Mr. BATHRICK. Will the gentleman yield for a very short question?

Mr. BURNETT. All right, sir. Mr. BATHRICK. In the first paragraph, referring to those who will be permitted to enter, should not the daughter not widowed or the son left on the other side be permitted to land?

Mr. BURNETT. Those under 16 years of age do not have the illiteracy test applied, whether it be a son or a daughter. The idea is that a son over 16 years old is able to take care of himself, whereas an unmarried or widowed daughter should be allowed to come in on account of the fact of their dependence. Mr. Chairman, this is a conservative bill. The records at our ports show-I will not state it accurately, but I am going to give you just about the ratio in which they will be excluded. Those who come here without their families will, as a rule—many of them—be excluded. Take, for instance, the south Italian. About 56 per cent of those over 16 years of age who come to our ports are unable to read a word of their own language; of the north Italian, however, who is a Caucasian, less than 7 per cent of them would be excluded. Of the Sicilians, whom we class with the south Italians, about the same number will be excluded. Of the Poles and the Greeks and the Syrians perhaps something like 40 per cent will be excluded. It is that class of people, Mr. Chairman, along the borders of the Mediterranean Sea, whom the illiteracy test will keep out. Now, how about those who are my ancestors and yours? Less than 1 per cent of the Irish, Scotch, English, and Welch would be kept out; less than 2 per cent of our splendid German citizenship of this country would be kept out; less than 1 per cent of the Bohemians will be kept out; less than one-half of 1 per cent of the Scandinavians, who have built up and made to blossom as a rose our great northwest territory, will be excluded under this bill. Of the Jewish people the greater number will come in, because this very paragraph says those who can read the Yiddish and Jewish may come in, and Jewish gentlemen before our committee stated that almost every Jew of over 16 years of age could read his Yiddish Bible or Hebrew Bible.

Hence, my friends, they would be let in. For fear that there might be some who would be excluded by chance that ought not to be we make provision that those who were shown to be fleeing from religious persecutions should not be subject to that test. Now, Mr. Chairman-

Mr. CURLEY. Mr. Chairman—
The CHAIRMAN. Does the gentleman from Alabama [Mr.

The CHAIRMAN. Does the gentleman from Massachusetts?

BURNETT] yield to the gentleman from Massachusetts?

Mr. BURNETT. I yield.

Mr. CURLEY. Mr. Chairman, personally I feel that the Burnett bill is simply a sugar-coated pill, and that in conference the Dillingham bill will be substituted. Is there any provision in the Dillingham bill that provides for the admission of a person who can read the Hebrew or Yiddish dialect?

Mr. BURNETT. There is no doubt of its being the desire of the framers of the Dillingham bill to permit such people to be admitted. I have not read the Dillingham bill in quite a

while, but I think so.

Mr. TOWNSEND. Will the gentleman yield for a moment?

Mr. BURNETT. For a question; yes.

Mr. TOWNSEND. In view of the fact that "illiterates" and "unskilled laborers" have been used here as interchangeable terms, I wanted to ask the gentleman if he contends that literacy is necessary in the making of a skilled, and a very efficiently skilled, laborer?

Mr. BURNETT. Not absolutely. That is not the proposition, Mr. Chairman. The gentleman overlooks the proposition that this strikes not at the particular individual on account of his illiteracy. Many of the best men of my southern country and yours, Mr. Chairman, are illiterates because of the titanic struggle, the fratricidal war from 1861 to 1865, from which we have not yet recovered. But the proposition here is that those who are the unskilled laborers, those who know nothing of our standards of morals, those who are the undesirables, those that come from that section of Europe, are, many of them, plying the black hand; and those that are not become the victims, and they will be the ones that will be excluded.

Mr. CURLEY. Mr. Chairman—
Mr. BURNETT. Mr. Chairman, I decline to yield further now, because I must yield finally in a few moments to other

gentlemen.

Another reason why this bill ought to pass is that it is certain and definite. We have propositions in our laws as they exist for turning back those who are liable to become a public The people on the other side do not know when they leave what interpretation will be put upon that. They come under the invitation of our laws, and when they come here they are turned back, and some of the most deplorable cases are those where the Commissioner of Immigration has had to execute that law and has turned back thousands of those people in one year. But, Mr. Chairman, we have here a test that is definite and fair to the immigrant and fair to the American wage earner and the American citizens, who do not desire to see the standards of living in this country broken down by those whom one great German characterized as the "spittoons spittoons of Europe that were being emptied upon this country."

Mr. GOLDFOGLE. Mr. Chairman-Mr. BURNETT. Mr. Chairman, the gentlemen on the other side know that they are going to have time, and it is unfair to undertake to consume more of my time by questions when they have two hours. No doubt the gentleman from New York [Mr. Golffogle] will have his share. I wanted to get the bill up last Wednesday in order that he might have unlimited de-

bate, but he did not want it to come that way. The man on the other side of the ocean knows whether he

can read or not. This bill does not call for the writing test, because it was a matter of record that nearly all those who can read can write. We thought this was enough to strike at the evil. Only yesterday I received a resolution from some of

the labor leaders in this city, the Knights of Labor.

In the South we have the Farmers' Union, composed of some 3,000,000 people; the Federation of Labor, also composed of some 3,000,000 people. We have them all over the country, my friends, and they are asking for the passage of this bill, and it is not only fair to them, but it is fair to the man who is coming to this country to know before he ever leaves his shores whether he can be admitted to American shores. And this will bring that about. It is definite; it is certain; it strikes down the very class that we believe to be undesirable, and at the same time it continues to open wide our ports to the splendid civilization from northwestern Europe that none of us desires to keep out.

Now, Mr. Chairman, how much time have I consumed? The CHAIRMAN. The gentleman has consumed 20 min-

Mr. BURNETT. I reserve the balance of my time.

Mr. GARDNER of Massachusetts. Mr. Chairman, before the gentleman sits down I would like to ask him a question.

The CHAIRMAN. Does the gentleman from Alabama yield? Mr. BURNETT. There is one statement, Mr. Chairman, that I forgot to make, and I am afraid it will slip me. A number of amendments may be offered to this bill. Some Members state that it does not go far enough, and some members of the committee think it does not go far enough. I wish to say before I take my seat that I hope there will be no amendments offered by a friend of this bill. Let the bill go through as it is. It is a step in the right direction, Mr. Chairman, and let us pass it and get it over to the Senate. I hope no very drastic amendment will be put upon it by the conferees; and if I am one of them, I will try to prevent the adoption of drastic amendments in conference that may endanger the passage of

There are some propositions in the Dillingham bill-propositions such as the Root amendment—that I am not in favor of. I am not in favor of loading this bill down with amendments that might endanger its passage in the House. It is results that I am after, more than anything else, and if there are amendments offered here, either by friends or foes, I hope the friends of this measure, from beginning to end, every time a vote is taken, even if it takes all summer or all winter, will

vote them down and stand here and insist on getting a measure such as the people of this country are demanding at our hands.

The Christmas holiday vacation is coming in a few days, and it looks to me as though opponents of the bill were endeavoring to lay over the consideration of this measure until next Wednesday, as was suggested by the gentleman from Missouri [Mr. Bartholdt], hoping that Members will leave the city for their holiday vacation, and in that way to defeat this bill. I hope they will be voted down, whether we feel in our hearts that such amendments ought to be accepted or not, in the interest of passing this bill and securing legislation. [Applause.]

Mr. GARDNER of Massachusetts. Mr. Chairman, will the

gentleman yield?

The CHAIRMAN. Does the gentleman from Alabama yield? Mr. BURNETT. I do.

Mr. GARDNER of Massachusetts. So far as the gentleman as chairman is able to speak of the policy of the committee, the policy of the committee will be to vote against the amendments, in the interest of getting legislation?

Mr. BURNETT. That is my desire, sir.

Mr. GARDNER of Massachusetts. And will the gentleman allow me to say, so far as I can speak of the minority membership of the committee, that our policy will be exactly the same? And speaking for myself, who believe in far greater restrictions than this bill carries, I shall vote against every amendment that is more drastic than the bill, because I do not want to see the bill defeated by being overweighted.

Mr. BURNETT. Mr. Chairman, I reserve the rest of my time. Mr. Chairman, the committee has had before it several times the question to which the gentleman from Pennsylvania has referred. There is legislation pending at the present time which will be passed, I have no doubt. A bill has passed the House and has gone over to the Senate which will no doubt be enacted into law. I think that bill will cover every imaginary trouble, and it is unnecessary to adopt this amendment at this time. I hope the amendment will be defeated.

Mr. MOORE of Pennsylvania rose.

The CHAIRMAN. The gentleman from Pennsylvania is recognized.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask to be notified at the expiration of 10 minutes.

The CHAIRMAN. The gentleman from Pennsylvania will be notified.

Mr. MOORE of Pennsylvania. Mr. Chairman, my opposition to this bill is based upon grounds of patriotism equal to those of any of the patriotic or labor associations that have advo-cated its passage, and upon the higher ground of humanity itself. I want no better authority to quote to the gentleman from Alabama [Mr. Burnerr], who has advocated this new restriction of immigration, than the great leader of the Demo-cratic Party, Thomas Jefferson, who, in that immortal docu-ment, the Declaration of Independence, drafted in my city, set out, among other grievances against the existing King George, that-

He has endeavored to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration bither; and rais-ing the conditions of new appropriations of land.

We have, all and every one, whether our blood be as blue as that of the very oldest family in the land, descended in some degree from those who came to these shores as foreigners under conditions similar to those whom you propose to forbid to-day. In this bill, substituted for the so-called Dillingham bill, the committee proposes to do what, boiled down in the crucible, is just this: To exclude from the United States, from the opportunities presented here to all of our forefathers and to us-

All aliens over 16 years of age physically capable of reading, who can not read the English language or the language or dialect of some other country, including Hebrew and Yiddish.

Do you propose to bar the anarchist? No. His case is covered by existing law. Do you propose to exclude the criminal? No. He is forbidden by existing law. Do you propose to keep out any who are morally undesirable? No. That is all covered by existing law. But in order to make good the report of the expensive commission that went to Europe to investigate this question, and in order to have something to hinge your case upon, you propose to exclude from the United States those not morally unfit, those who have committed no crime, those whose offense has been no greater than that of your ancestors, and whose only fault and misfortune, downtrodden as they are, is that they can not read or write. [Applause.]

Mr. POWERS. Will the gentleman yield?
Mr. MOORE of Pennsylvania. I have but 10 minutes, I am sorry to say, and I can not yield just now.
The CHAIRMAN. The gentleman declines to yield.

Mr. MOORE of Pennsylvania. Speak to me of patriotism, and I quote to you the Declaration of Independence, upon which most of the patriotism of this country to-day is founded. Speak to me of humanity, and I speak of that uplift which you preach, but which in this instance you do not intend to practice, since you propose to shut the door of hope and opportunity to the downtrodden.

You intend to bar all those over 16 years of age for no crime except that they can not read. My friends, you may protect your State lines; you may protect your national lines, but you can not protect your consciences against an act of barbarism, against men of the same race, who ask the same right under God to exist and prosper which you and your for-

bears have had.

And what penalty do you propose to inflict upon these unfortunates? They are asking for help, for opportunity, for life, for education, and you say, "Back, back to the land of oppres-

for education, and you say, "Back, back to the land of oppression; back to the conditions which are so deplorable. There is no hope for those who attempt to enter here."

But to the crook who is educated, to the schemer, the anarchist, and the special pleader; to the man who can write an essay; to the fellow with a college education whose character will not stand the test, you say, "You may come in, because we need you in this country. We are in need of learned men, even if they have disturbed the order and the peace of other countries." tries.

You propose to turn down the willing and the plodding laborer who will be an efficient workman in the United States and who will carry on that toilsome grind with which you will not stain your hands, while you open the door to him who will meet the test you impose and who will then start in on the work of undermining you and your Government. You are going to extend the hand of welcome to the Black Hand, for, I will say to the gentleman from Alabama [Mr. Burnett], that the business of the Black Hand is the writing of letters, and the Black Hander can read and write and meet every condition imposed by this bill. You do not stop him. You stop only the innocent poor who can not read and write, who are incapable of concocting a Black Hand letter, but who become the victims of the Black Hander the moment they undertake to live honestly and to prosper in the United States. [Applause.]
Patriotism to the winds, humanity overthrown; this is the

proposition. I am patriotic when the line is drawn against the morally undesirable, but I would rather stand with my conscience and my God with those who are asking light and help, even as they did when following the Master 2,000 years I would not bar the door of hope against the worthy or

shut the gate of opportunity on mankind. [Applause.]

Mr. Chairman, I yield 20 minutes to the gentleman from

Illinois [Mr. SABATH].

Mr. SABATH. Mr. Chairman, if I thought immigration was detrimental to our country or to any class of people in this country, I would not raise my voice against the passage of this bill. but I firmly believe that all those who have come to these shores as immigrants, from 1620 down to the present time, have aided in the development of our country. The same hue and cry in the development of our country. The same hue and cry that we hear to-day against immigration and the immigrant was raised nearly a century ago. I have here a book containing reports of commissions investigating the subject of immigration as early as 1819, nearly 100 years ago. I am not going to take up your time by reading all of the reports of the various commissions, wherein at that early period it was asserted that it was high time our doors were closed to the undesirable immigrants; but I wish to call my colleague's attention to the statement therein appearing, taken from the Second Annual Report of the Managers of the Society for the Prevention of Pauperism in New York City, 1819, and which is, in part, as follows:

in New York City, 1819, and which is, in part, as follows:

First, as to the emigrants from foreign countries, the managers are compelled to speak of them in the language of astonishment and apprehension. Through this inlet pauperism threatens us with the most overwhelming consequences * *.

This country is the resort of vast numbers of those needy and wretched beings. Thousands are continually resting their hopes on the refuge which she offers, filled with delusive visions of plenty and luxury. They seize the earliest opportunity to cross the Atlantic and land upon our shores. * * What has been the destination of this immense accession to our population, and where is it now? Many of these foreigners have found employment; some may have passed into the interior, but thousands still remain among us. They are frequently found destitute in our streets; they seek employment at our doors; they are found in our almshouses and in our hospitals; they are found at the bar of criminal tribunals, in our Bridewell, our penitentiary, and our State prison. And we lament to say that they are too often led by want, by vice, and by habit to form a phalanx of plunder and depredations, rendering our city more liable to increase of crime, and our houses of correction more crowded with convicts and felons.

And let me quote an extract from a paper quoted in these

And let me quote an extract from a paper quoted in these reports, entitled "Imminent Dangers to the Institutions of the

United States Through Foreign Immigration," and so forth, by "An American," S. F. B. Morse, 1835.

In speaking of the immigration of previous years as compared with that of the day:

Then we were few, feeble, and scattered. Now we are numerous, strong, and concentrated. Then our accessions of immigration were real accessions of strength from the ranks of the learned and the good, from enlightened mechanic and artisan and intelligent husbandman. Now immigration is the accession of weakness, from the ignorant and vicious, or the priest-ridden slaves of Ireland and Germany, or the outcast tenants of the poorhouses and prisons of Europe.

I would be more than pleased if all of you gentlemen could find time to read these reports, in order that you might compare the prophecies which they contain with the actual results of this immigration and see how uncalled for and unwarranted

were their fears.

Though it has been proven again and again that the fears of these men were not based upon any actual facts which would warrant their making these statements, and while practically the same conditions exist to-day, yet certain people, who should be informed on the subject but who apparently are not, repeatedly make the unfounded charges that immigration is detrimental to the welfare of our country. To those misguided individuals and the others who genuinely believe this to be a

fact I wish to say that their fears are groundless

A few moments ago the chairman of my committee, Mr. Bur-NETT, stated that the large influx of immigration is detrimental to our laboring people; that it keeps the wages down. I will say to him, as I have before, that all who have studied the history of our country and are not blinded by prejudice admit that notwithstanding the large numbers of immigrants who have come to our shores within the past 10 years the wage of all skilled, as well as unskilled, labor is higher in America to-day than ever before. He quotes the report of the late Immigration Commission. Mr. Chairman, that commission made its report on conditions as they existed during the years of 1907 and 1908, and their report does not represent the facts as they exist at the present time. I admit that in 1907 and in 1908 and 1909, during the panic, that there were people without employment, but to day you will not see many men idle in any of the large centers which receive the largest proportion of the immigrants entering this country. At present in practically all of the larger cities and in the industrial centers there is a great demand for labor; in fact, to-day in the city which I have the honor in part to represent we are paying from \$2 to \$2.75—yes, as high as \$3—a day for unskilled labor, and I am informed that there are hundreds of manufacturers and employers of labor that are seeking daily for additional laborers, both skilled and unskilled, and yet are not able to procure them.

Mr. Chairman, I have here the Chicago News, which contains over 1,000 advertisements appearing under the caption "Help wanted." There appeared in the New York Times of May 20 last a dispatch from Pittsburgh stating that "Pittsburgh is experiencing a labor famine so serious that many big industries are advertising far and wide to get men," and a little further

on the article said:

The employing agent of one corporation said he could give work to 7,000 laborers.

The report by the commissioner of licenses in New York City on employment agencies, made during the first part of this year, st tes that-

the difficulties of the servant problem are increasing, due to the dearth of servants. In New York City more than 100,000 servants could find work, in addition to those already employed.

Would these figures give one the impression that there is an oversupply of labor in America at the present time and that the labor markets are flooded? Most assuredly not.

What, then, would be the result were we to enact this pro-

posed legislation, which its supporters state would bar out at least 250,000 immigrants a year? Where, then, would it be possible to secure people to fill these positions?

As concerns the literacy test incorporated in this bill, let me quote here a portion of an editorial in the New York American with reference to these restrictive measures:

It is doubtful if a more deceptive and unworthy measure ever passed the American Senate than the Dillingham-Burnett immigration bill, with its Root amendment.

It is smooth and harmless upon the surface, as corrupt legislation

And its foolish educational test, which would have kept the mother of Abraham Lincoln out of the country, is designed to keep out of our country millions of honest, earnest, sincere men and women that the country needs.

And the Washington Post had the following to say in its editorial columns regarding this bill:

If the United States made any pretensions to being a country dedicated exclusively to the "upper classes," the erudite, and the fastidious, the immigration bill which has been included in the Demo-

cratic program for the present session would be an accurate reflection of such sentiments. If, however, the United States is to remain what it was intended to be—a haven for the oppressed, the lover of liberty and freedom, the toiler, and the ambitious—then the present bill is a step backward toward an exclusiveness which, if exercised 100 years ago, would have paralyzed the growth of the Nation.

The illiteracy test would have robbed the country of some of its strongest and greatest men. Some of the ablest lawyers at the bar, the noblest humanitarians, the best and most progressive business men of today are the progeny of parents who could neither read nor write when they came to the United States.

The country needs as many healthy European immigrants as will come here, and the only tests that should be applied are those of health and morality.

Again, let me quote from an editorial appearing in this same paper:

If the same test were to be applied to common laborers in the cotton States, that section would be paralyzed industrially, as the North will be to no smell extent if the Burnett bill becomes a law. However repugnant total ignorance in the foreign born may be, the second generation finds them well on the road to assimilation.

It is amusing, Mr. Chairman, to find that the great objections that are made to immigration as a rule come from gentlemen who reside in sections of our country to which no immigration goes.

As an example of this, I wish to refer to some figures which I have, showing the foreign population in the districts of three of the prominent supporters of this bill. I find that in the district of the chairman of our committee, Mr. BURNETT, there are 197,409 people, and out of that number only 1,572 foreigners, about seven-tenths of 1 per cent. Then I turn to the district of my friend from Georgia, Mr. RODDENBERY, and I find his population 297,805; while out of that entire number there are only 555 foreigners.

Next, let me refer to the district which is represented by my colleague, Mr. Dies, of Texas, and I find that his population

is 273,842, and there are only 4,981 foreigners. Will the gentleman yield?

Mr. DIES. Mr. SABATH. Yes.

Mr. DIES. How many foreign population does the gentleman

find in his own district?

Mr. SABATH. I find in my district a great many of them, and I desire to say that it was not necessary for me to secure the report as to my district, because there is no one in my district that objects to their coming there, for they recognize the fact that these people have helped to build up that section of the city, that they have helped to build up the entire city, and that the Nation as a whole has been materially benefited as a result of their coming. Yes; they have helped to build up the State from which the gentleman comes, the State which to-day has land valued at \$150 an acre; land which could have been purchased for \$1.50, \$2 and \$3 an acre before the immigrants commenced to settle and develop the State.

Mr. DIES. I thought, in view of the fact that the gentle-

man was quoting the number of immigrants in my district as an enlightenment of my views on the question, he might enlighten us as to the source of his inspiration by giving the

number of foreigners in his district.

I have stated that there are a great many Mr. SABATH. in my district and my city; and, notwithstanding that, I have not, nor has anyone else, heard a single word in favor of the Dillingham or Burnett bills coming from my city. The people that come in contact with these people do not object to their coming. They are glad they have come, for as a rule they make We know in our own city-and the people in good citizens. all large centers to which immigration comes are agreed—that these people do the hardest work; that they are the people who do the work which the American laboring man, as a rule, does not care to do, and they thus secure for the American workmen better positions. Mr. DIES. M

Mr. Chairman, will the gentleman yield?

Mr. SABATH. Yes. Mr. DIES. I believe the Burnett bill would cut out about 250,000 illiterate immigrants, about 85 per cent of whom come from southern and eastern Europe. Does the gentleman believe that those 250,000 illiterate immigrants from southern and eastern Europe are capable of self-government, and does the gentleman believe that their coming will help to hold up the

standard of American living and wages?

Mr. SABATH. Yes, I do; because they have been able to do so for many centuries. [Applause.] They come from sections of Europe where they had an excellent form of government before this country was ever discovered. As to wages, I wish to say that they do not lower wages. Statistics will prove that wages in the sections of our country which are blessed with immigration are from 50 to 100 per cent higher than in the gentleman's district.

Mr. DIES. To what country has the gentleman reference-

Italy?

Mr. SABATH. Yes; Italy, Greece, Bohemia, Germany, Ireland, Poland, and other countries.

Mr. DIES. Certainly the gentleman does not pretend that for a thousand years they have been capable of self-government as manifested in their form of government?

Mr. SABATH. If the gentleman will read up on their history,

he will satisfy himself of that.

Mr. Chairman, personally, as the chairman of my committee has said, the Burnett bill would not directly affect to any great extent the class of people in whom I am interested. I venture to say that the people whom I directly represent would suffer but very little, as I have no Italians, no Sicilians, no Greeks in my district, and the majority of the people there come from a section of the country that statistics will show has only a small percentage of illiterates. The Bohemians have only a little over 1 per cent of illiterates, and the same thing is true of the Germans and the Irish and the Swedes and the Hollanders. There may be a larger percentage among the Jewish and the Polish people, but I can not give the exact figures as to these races. It is not because of the effect the passage of this bill will have upon the classes of people who reside in my district that I oppose it, but for the reason that I believe an effort will be made to substitute the Dillingham bill for the Burnett bill. and I feel confident that there is no one here who has studied the Dillingham bill who would be willing, if he be thoroughly familiar with the provisions of it, to vote for it. The chairman of the Immigration Committee has stated, and I have always found him to be sincere, that he is in favor of and will insist upon his bill, not only in the House, but I hope also in the conference to which it will go.

Mr. Chairman, it has been stated that great demands are being made by laboring people of this country for the enactment of this legislation. I venture to say that in my city there are more labor organizations than exist in any other city in the United States, yet I have not heard a single voice raised in support of this measure, nor have I received communications from a single organization in my city which is in favor of the most property of this restrictive legislation. It is true that I have had enactment of this restrictive legislation. It is true that I have had sent me some resolutions adopted by organizations in other sections, but let us consider these for a minute and see what a small percentage of the people they represent and how little

importance should be attached to them.

I have before me now an open letter addressed to Members of Congress by Mr. John W. Hayes, general master workman, Order of Knights of Labor, Washington, D. C., in which he urges the passage of the Dillingham bill. Here is a man professing to be the leader of a labor organization, and yet this communication is printed by a nonunion firm, surely an indication that this organization does not live up to the doctrine which it preaches. And how many members has this organization, whom does it represent, and how large a percentage of our population, can anyone tell me that? Personally I do not know of a single Member of this House who has received this information from any of these organizations.

Here I find a letter signed by a Mr. H. E. Willis, stating that various railroad employees' organizations have adopted resolutions in favor of the literacy test, but every sincere friend of labor should hesitate before accepting this man's indorsement. This Mr. Willis is the same gentleman who was lobbying here last winter for the commission, or Brantley, workmen's compensation bill—a bill that has been denounced by practically every labor organization to whose members it has been explained. It is a bill which provides compensation in name only and which was not drafted in the interest of the thousands of unfortunate workmen that are killed and maimed each year, but solely in the interest of the railroads.

I might also mention two or three resolutions adopted by farmers' cooperative unions, of which I doubt if any of you have ever heard, and those adopted by the Order of Independent Americans and other organizations similar in character to this latter order, all of them composed of dissatisfied individuals who are steeped with prejudice and who will not permit themselves to look at this question in an unbiased way.

In contrast to the attitude of a few bigoted organizations let me quote from an article sent out last spring from Omaha,

which says in part:

Western and Southern States are crying out for more farm workers. We need agricultural producers in Nebraska, and should do everything possible to induce them to come and till the soil. This is true of every midwest State. In an area comprising nearly the western half of Nebraska the last census shows that there are not more than six people to the square mile.

For eight years foreigners have been coming into America at the rate of over 1,000,000 a year, and nearly half of them were tillers of the soil in the old country. The West needs these men. If we expect to develop our agricultural resources we must have more farmers. Future growth depends upon increased agriculture.

Mr. Chairman, it is not true, as stated by some of these supporting this measure, that the incoming immigrants all flock to the large cities, there to increase the present congestion. It may be true that they go first to the cities, but their residence there is only temporary. Gentlemen, I state, without fear of contradiction, that there is nothing closer to the heart of the incoming immigrant than his desire to become possessed of a piece of land which he can call his own, and he does this at his very first opportunity. Hundreds, yes thousands, of these people are leaving the cities each year and settling on farms.

Statistics will show that our native-born Americans are leaving the farms in large numbers and are now seeking the smaller towns and cities. No one will deny that one of our greatest problems to-day is that of securing men to put into cultivation the thousands upon thousands of acres which are now lying dormant. The Canadian Parliament appropriates over \$1,000,000 annually to encourage immigration to their country, and see the wonderful growth they have undergone during the past few

Let me quote from the statement made before the Committee on Immigration and Naturalization by George H. Fairchild, senator of the Territory of Hawaii, on April 25, 1912, what he has to say regarding the admission of illiterate immigrants to Hawaii:

It would be difficult to find under the American flag a more progressive, better educated, and thoroughly Americanized body of men, but one generation removed from the European stock, than are the second generation * * * the sons of the sturdy but illiterate farmers brought to Hawaii.

I have before me a copy of a message that was sent to the House of Representatives on March 2, 1897, by that great leader of Democracy, the first Democratic President since the war, Grover Cleveland, in vetoing a similar bill. Time does not permit me to read his message, but he, together with thousands upon thousands of intelligent Americans, after a careful study of this momentous question, has gone on record against this unfair legislation.

Mr. BURNETT. Mr. Chairman, will the gentleman yield for

a question?

Mr. SABATH. Yes. Mr. BURNETT. Is Is it not true that at the time Mr. Cleveland vetoed that bill the entire immigration to this country was not as much as the Italian and Greek immigration is now?

Mr. SABATH. In proportion to the population of our country, the immigration to-day is not any greater than it was then. Mr. LOBECK. Mr. Chairman, will the gentleman yield?

Mr. SABATH. Yes. Mr. LOBECK. Was it not also a fact that at that time the price of labor in this country was so low that immigration did not come and there was not the demand for labor that there is now, and that was one of the reasons why they did not come?

Mr. SABATH. I think that is true; but right here I desire to say that from all the information I have and from all the information I can secure and from all the statistics I have studied, I can not find wherein immigration has ever reduced the price of labor, but, on the contrary, you may go over the immigration figures from year to year and you will find that whenever the immigration was large wages were higher.

Mr. POWERS. Will the gentleman yield?

The CHAIRMAN. Does the gentleman yield to the gentle-

man from Kentucky?

Mr. SABATH. I will yield to the gentleman from Kentucky.
Mr. POWERS. Is not it true that the foreign wages of immigrants from foreign countries have mostly driven out the American wage earners in all of western Pennsylvania, and is it not a fact that three-fourths of the wage earners in the basic industries are foreigners? And is not it further true that they get 42 cents a day less than the American wage earners in the Middle States employed in the same occupations?

Mr. SABATH. I can not agree with the gentleman. sire to say that they have supplanted them as common laborers, but they have provided for the American laboring men higher and better employment, and the statistics again will show that, due to immigration, the American laboring man has been ad-

vanced to a higher position.

Mr. MOORE of Pennsylvania. And is it not also true that the average American boy does not want to work as a common

Mr. SABATH. Of course, that is true, and they are acting as foremen, bookkeepers, timekeepers, superintendents, and so

No one who has carefully studied the condition of our country can successfully deny that the tremendous progress and development of this Nation is largely due to the foreign-born people and their descendants. In fact, this proposition does not

admit of dispute. But, even had they not contributed so much to the country's welfare, shall we not extend welcome to humanity which seeks freedom and emancipation from governmental oppression and despotism?

Our Government guarantees, under and by virtue of the Constitution, liberty; and liberty is the goal which the alien strives to reach, and which when reached serves as an in-centive for improvement, and within a short time he becomes Americanized and is ideal material for American citizenship. It is only a short time until he becomes one of us, and no one

can question his patriotism, honesty, industry, and progress.

Mr. Chairman, in order to maintain the progress of this great Nation it is imperative that we do not further restrict desirable immigration. The industry of the country requires the labor of the foreigner, and the presumption that the immigration is a competitor of our American labor is erroneous. On the contrary, the employment of immigrant labor creates a demand for a better grade of labor, and it is productive of better wages for the American workingmen. The work performed by the immigrant is that of the hardest kind, work of a character for which it is well-nigh impossible to secure American labor, yet which nevertheless must be performed. It is variously estimated that over 550,000 workingmen are either killed or injured each year in the course of their work, and the grim law of necessity requires that these unfortunate men who are claimed by our commerce and industry must be replaced. What would be our position were we not favored with immigrant labor? It is this class of labor which makes it possible for our manufacturers to compete with the world, thereby creating new fields and new markets for our goods and products. These statements may be denied by some prejudiced restrictionists, but any unbiased man will admit that the wages of the laboring men are higher to-day than ever before and the standard of living has increased

To show how our country has been benefited by this immigration, I wish to insert here some figures compiled by the Hon. tion, I wish to insert here some naures complied by the Hon.
O. P. Austin, Chief of the Bureau of Statistics, and contained in an article entitled "Progress of American Commerce and Industries, 1870 to 1912." This article appears in full in the Congressional Record of July 17, 1912, having been printed therein at the request of my esteemed colleague, Mr. J. Hampton Moore, of Pennsylvania. These figures follow:

Statistical statement comparing conditions in 1870 with those of the latest available year.

	1870	1911
Population	38,558,371	95,410,503
Wealth, estimated (latest official figures)	\$30,068,518,000	\$130,000,000,000
Money in circulation	\$676,284,427	\$3,276,786,613
Per capita	\$17.51	\$34.26
Individual deposits in all banks	\$2,182,512,744	\$15,906,274,710
Deposits in savings banks	\$549,874,358	\$4,212,583,599
Depositors in savings banks	1,630,846	9,597,185
Imports, total	\$435,958,408	\$1,653,426,174
Orude materials for manufacturing, im-		
ported	\$55,615,202	\$511,862,140
Manufactures for use in manufacturing, im-		
ported	\$55,569,071	\$287,785,652
Manufactures ready for use, imported	\$173,614,888	\$361,422,180
Exports, total (domestic and foreign)	\$392,771,768	\$2,204,222,088
Manufactures for use in manufacturing, ex-	202 227 202	A CONTRACTOR OF THE PARTY OF TH
ported	\$13,711,708	\$309,151,980
Manufactures ready for use, exported	\$56,329,137	\$598,367,852
Manufactures, total (except foodstuffs) ex-		
ported	\$70,040,845	\$907,519,841
Farms	2,659,985	6,361,502
Farms and farm property, value of	\$8,944,857,749	\$40,991,449,090
Farm produce, value of	\$1,958,030,927	\$8,417,000,000
Manufactures produced, gross value	\$4,232,325,442	\$20,672,051,870
Wages paid in manufacturing	\$775,584,843	\$3,427,037,884
Spindles in operation in cotton mills	7,132,000	29,523,000
Coal minedgross tons	29,496,054	447,853,900
Petroleum producedgallons	220,951,290	8,801,354,016
Pig iron producedgross tons	1,665,179	23,649,547
Iron and steel manufactures, exported	\$13,483,163	\$230,725,332
Railways, mileage in operation	52,922	249,992
Imports of all countries except the United	90 000 000 000	\$16,000,009,000
Value of internal commerce of the United	\$6,000,000,000	\$10,000,000,000
States (estimated)	\$7,000,000,000	\$33,000,000,000
Deates (estimated)	\$1,000,000,000	\$00,000,000,000

I also wish to quote one of his concluding paragraphs, which is headed "Energy of the American citizen." follows:

ENERGY OF THE AMERICAN CITIZEN.

The next and final feature which I shall mention in our claim to special advantages in production and commerce is that of energy. This is a product not easily measured in figures or terms; but when it is remembered that the population of the United States is formed by a combination of selected energy from the whole world, we may lay claim to a greater average supply of that important factor than any other country. The energy and determination which prompted the early settlers of America to leave their firesides and friends in Europe and undergo the hardships and dangers of establishing homes for themselves in the New World surely mark them as above the average in the supply

of this characteristic. This is also true of a large share of the 20,000,000 of people who have come from other countries during the past century to establish themselves in the United States. Not only have they made valuable citizens and aided in the wonderful development which I have just outlined, but their intermingled blood flows in the veins of a large share of our present population, and carries with it an energy which, when vitalized by the work of our magnificent educational system, must tell for the future prosperity of the country.

It can be readily seen from these statistics and the conclusions drawn by Mr. Austin that the wonderful development which this country has undergone is due to a great extent to the large numbers of people who have come from other countries to establish themselves in the United States. Should we now enact legislation which would halt our progress as a nation?

That immigration has been and is now of great benefit no one can gainsay, and you gentlemen must admit that immigration has brought about our great wealth and prosperity, and not alone has it benefited the country at large, but all of us as individuals have profited by it. Some people say that the wealth these immigrants create is not fairly distributed and that only a small percentage of our people are gainers thereby. That, Mr. Chairman, is not their fault, but ours, and I hope in the

near future it will be remedied.

Before immigration commenced millions and millions of acres of land in the Middle West, Northwest, and West were dormant and unproductive. These lands could have been purchased then for two or three dollars an acre, while to-day the same lands, due to immigration, have increased in value a hundredfold. The thousands upon thousands of honest, thrifty, and industrious immigrants who settled amid untold hardships upon the prairies and swamps of this country have converted these lands, heretofore useless and practically of no value, into veritable gardens. rich and productive farms, and large and enterprising cities.

Mr. Chairman, the problem of immigration is one which settles itself. I believe that it is entirely unnecessary to legislate any further in this matter, for the present laws are strict enough in every respect. We now exclude all idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had two or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; persons afflicted with tuberculosis or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all government, or of all forms of law, or the assassination of public officials; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons called contract laborers who have been induced or solicited to migrate to this country by offers or promises of employment or in consequence of agreements, oral, written, or printed, expressed or implied, to perform labor in this country of any kind, skilled or unskilled; those who have been, within one year from the date of application for admission to the United States, deported as having been induced or solicited to migrate as above described; any person whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes and that said ticket or passage was not paid for by any corporation, association, society, municipality, or foreign government, either directly or indirectly; all children under 16 years of age unaccompanied by one or both of their parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe.

Instead of considering bills of a restrictive nature, we should pass H. R. 15126, a bill which I introduced during the last session of this body, and which provides for the improvement of the deplorable conditions existing in the steerage quarters of the vessels which bring these immigrants to our shores. The bill provides for many changes and improvements which would compel the steamship companies to reduce their efforts to unlawfully stimulate immigration and will suppress enforced, speculative, adventurous, and spasmodic immigration. Then let us pass my other bill, which provides for a bureau of information and distribution, and within a short space of time you will hear no complaints against immigration.

Our country has unlimited resources, which it will take centuries to develop, and we have thousands upon thousands of

acres of land lying idle now for lack of sufficient people to till them. Personally, I am of the opinion that the inducements being offered to immigrants by Canada and our neighboring Republics will soon result in a marked increase of immigration to those countries, with a resulting decrease in the numbers coming to the United States. In fact, there has been a marked decline in the immigration during the last four years, and this will undoubtedly continue in the future. To substantiate this statement, let me read from the annual report of the Secretary of Commerce and Labor for 1912, in which he says that-

of Commerce and Labor for 1912, in which he says that—
It appears from the report of the Commissioner General of Immigration that 838,172 inmigrant aliens entered the United States during the past fiscal year, compared with 878,587 in the fiscal year 1911, the decrease being 40,415. The months in which immigration was heaviest were March, April, May, and June, the figures for which range from about 91,000 to 114,000 per month. In addition to the 838,172 immigrants, 178,983 aliens of the nonimmigrant class entered, making a total of 1,017,155, compared with 1,030,300 for the previous fiscal year. During the year, however, there departed from the country 615,292 allens, of whom 333,262 were of the emigrant and 282,030 of the nonemigrant class. In the previous fiscal year 518,215 allens left the country, of whom 295,666 were of the emigrant and 222,549 of the nonemigrant class. A comparison of these figures shows that the actual increase in the alien population for the fiscal year 1912 was 401,863, as compared with 512,085 for the fiscal year 1911 and 817,619 for the fiscal year 1910.

The prejudice against the immigrant from southern and southern

The prejudice against the immigrant from southern and southeastern Europe which now asserts itself is identical with that which was prevalent in the early days of German and Irish immigration; restrictive legislation is being urged by that selfsame element which in the past leaped to conclusions without familiarizing itself with pertinent facts and data. The good qualities of these immigrants were not known at that time, but to-day who can deny that the Germans and the Irish posthe very best qualifications for American citizenship? Within the last 50 years, and since the inception of Bohemian and Polish immigration, these people have conclusively demonstrated their worthiness of American hospitality. Five years ago I succeeded in overcoming the prejudice and bias which had previously been exhibited toward Bohemian immigrants by showing that they are worthy in every respect of our consideration, and in this I am borne out by statistics which prove that they are far above the average in education, industry, and

I dare say that no one can successfully contradict the assertion that the Germans, the Irish, the Bohemians, the Poles, Swedes, and Norwegians, and the Danes are desirable immi-They have all proven beyond doubt their worthiness, and their citizenship has given us eminent satisfaction. Every student of economics knows and every historian is cognizant of the fact that Jewish immigration has greatly aided and benefited our country by opening and enlarging our commercial marts, finding new markets for our products, and in other ways has helped to make this country the first commercial country in the world. The progressiveness of the Jewish immigrant has in numerous other ways resulted advantageously to the entire country.

Then there is the Polish immigrant, ever loyal, sincere, and industrious. Long before the emigration of the Pole to America was his worth and desirability demonstrated, for in the days of the Revolution those eminent and valiant Poles, Gen. Thaddeus Kosciusko and Count Casimir Pulaski, whose statues were unveiled in this city a few months ago, together with many of their countrymen, fought by the side of the immortal Washington for our freedom from the despotism and oppression of England.

Mr. Chairman, these inhabitants of southern and southeastern Europe surely deserve our sympathy rather than our condem-It goes without saying that some of them are guilty of criminal offenses, but you will find in these races as great a proportion of law-abiding citizens as in any others. Humanity was never destined to be perfect, and we must allow for a certain percentage of weaklings in any nationality. I am not in love with the members of the Black Hand, nor members of any other criminal class, but every nation numbers among its citizens a certain proportion of criminals, while statistics will show that there is less crime in the districts where foreign-born citizens reside than in sections tenanted almost entirely by our so-called "pure" Americans. I desire to quote in this connection some pertinent statistics contained in a special report of the Census Bureau, published in 1907:

	Per		Per cer eign l	
	1890	1904	1890	1904
Continental United States	71.8	76.3	28.3	23.7

These figures are based upon investigations which were made in 1904, and conclusively demonstrate that the percentage of foreign-born inmates of our reformatory and penal institutions has been constantly decreasing, for they show that while the foreign population has increased, the percentage of offenders has decreased. On the other hand, the percentage of native prisoners has increased. And this report shows that the crimes of a grave nature committed by foreign-born prisoners is extremely small, most of the convictions being upon minor charges, usually the infraction of municipal ordinances. I have frequently heard certain gentlemen before our committee charge that the present immigration is below the standard of the immigration which we received prior to 1890; that it fills our charitable and penal institutions. These are but bare statements unsupported by facts, and are easily disproven by the data compiled by our Bureau of the Census. I wish to quote here some statistics taken from the report of the Commissioner General of Immigration for 1911, showing that the deportations for the fiscal year 1910-11 were as follows:

Armenian Bohemian and Moravian (Czech) Bulgarian, Servian, and Montenegrin Chinese Croatian and Slovenian Cuban Dalmatian, Bosnian, and Herzegovinian Dutch and Flemish East Indian English French German German Greek Hebrew Irish
Bulgarian, Servian, and Montenegrin Chinese Croatian and Slovenian Cuban Dalmatian, Bosnian, and Herzegovinian Dutch and Flemish East Indian English Finnish French German Greek Hebrew
Thinese Troatian and Slovenian Tuban Dalmatian, Bosnian, and Herzegovinian Dutch and Flemish East Indian English Finnish French German Greek Hebrew
Tuban Dalmatian, Bosnian, and Herzegovinian Dutch and Flemish Cast Indian Cast Indian Cinnish Finnish French Jerman Freek Lebrew
Cuban Dalmatian, Bosnian, and Herzegovinian Dutch and Flemish East Indian Einglish Finnish French German Greek Hebrew
Dalmatian, Bosnian, and Herzegovinian Dutch and Flemish East Indian English French Greman Greek Hebrew
Dutch and Flemish East Indian English Finnish French German Gereek Hebrew
East Indian English Finnish French Jerman Greek Hebrew
English Franish French German Greek Hebrew
Finnish French German Greek Hebrew
French German Greek Hebrew
French German Greek Hebrew
German Greek Hebrew
GreekHebrew
Hebrew
Italian (north)
Italian (south)
Japanese
Lithuanian
Magyar
Mexican
Polish
Portuguese
Roumanian
Russian
Ruthenian (Russniak)
Scandinavian (Norwegians, Danes, and Swedes)
Scotch
Slovak
Spanish
Spanish-American
Syrian
Turkish
Turkish
Furkish
FurkishWest Indian (except Cuban)

This is conclusive proof that the opposition to present-day immigration on the part of restrictionists and my Republican friends Hayes, Gardner, Focht, and Austin, and my Democratic friends Burnett, Dies, and Roddenberg, is unjust and unfair. For the percentage of deportations of those who are regarded by the restrictionists of the so-called "desirable" races, namely, the English, the French, and so forth, is far in excess of that of the—by them—so-called "undesirable" races. To be better understood I will give it in round numbers: Of 141,000 English who arrived in three years, 259 were deported, making 18.3 per 10,000 arrivals; of 203,000 Germans, 268 were deported, or 13.2 per 10,000 arrivals; of 53,000 French, 186, or 34.8 per 10,000, were deported; of 106,000 Irish, 186, or 11.9 per 10,000 were deported; of 4,000 Mexicans, 344, or 88.1 per 10,000, were deported; of 245,000 Hebrews, 232, or 9.4 per 10,000, were deported; and of 468,000 South Italians, 219, or 4.8 per 10,000, were deported. I do not deal with the North Italians, since they are considered "desirable." So that we find that the So that we find that the English, German, Irish, and Scotch, the so-called "desirable" races, had a larger number of deportations than the Hebrews and South Italians, alleged "undesirables."

It is true that a certain percentage of these people are illiterate, but that is not their fault. In their native countries they are deprived of every opportunity for mental advancement. We are sending our missionaries abroad and spending millions of dollars to educate people in uncivilized countries who are nowhere as near to us in race, color, and inherent ability as these new arrivals, and our unsolicited charity is there resented. spirit of our institutions is best subserved by helping these people who of their own volition seek to throw off the yoke of ignorance and oppression which is forced upon them in their native countries

The immigration of Slovenians, Croatians, Italians, and Lithuanians is but of recent origin. These people are helping along the progress of our Nation—they are producers. They are all thrifty and industrious, and idleness is wholly unknown to them. They are not beggars, and they do not subsist upon

charity; they work, and work hard, to support themselves and their loved ones, and no doubt within a few years they, too, will demonstrate to the country that they are unjustly classified as "undesirables." They will without question prove their They will without question prove their

Mr. Chairman, my motive for presenting the cause of these people before you arises purely from the standpoint of justice and fair play. They are good people; they are hard workers, industrious, honest, and law-abiding. They live in model homes, neat and clean and well furnished—the report of the Immigration Commission will show this. They make every effort to properly educate their children, and they are rapidly accustoming themselves to American ways and manners.

Mr. Chairman, the present demand for the restriction of immigration has not arisen as a result of unsound industrial or social conditions in the country, but is merely the prolongation of a wail that has been dinned into the ears of Congress from the day the first Congress took up its task of legislation.

The birth of the Republic and the inception of the agitation for the exclusion of immigrants were coeval. The demand has been insistent, unreasonable, and unsubsiding. Born of prejudice, this desire to shut out foreigners grew up with eyes closed to the light, blindly ignoring all knowledge that would demonstrate the folly of its reasoning. In the earlier days its advocates stubbornly refused to read with unprejudiced eyes a single page of the country's history upon which was chronicled a patriotic deed or which recited an achievement of any character that was the contribution of the class marked for their disfavor. Impelled by motives that were completely out of harmony with the fundamental principles of the Republic, this element never gave thought nor consideration to the economic effect of exclusion or restriction of immigration, but persisted with a zeal that bordered upon the fanatical in their attempts to foist upon the country views that were narrow and ill-advised. The question of fixing upon a sound policy for the treatment of immi-gration has ever been a vexatious one, not so much because it involves such difficult problems of legislation, but rather because of the peculiar and impracticable methods of solution urged by those who insist upon their especial qualifications to treat the subject. Statesmen of every decade of our national life have been confronted with it, but to their everlasting credit, those clothed with power and exercising influence in shaping legislation have turned deaf ears to the prayers and threats of the exclusionists and continued the liberal policy adopted by their forefathers, in whose immortal pronunciamento to King George the latter declared that-

all men are created equal, that they are endowed by their Creator with certain unallenable rights, that among these are life, liberty, and pursuit of happiness.

When independence was secured to them, no heed was given

to the clamor against the admission of immigrants.

Their forefathers declared on those memorable July days of 1776 that America was the asylum for the oppressed, and when it came to framing the organic law not a line was written which was not in thorough accord with that sentiment. Indeed, the framers of the Constitution sanctioned immigration and the early Congresses based their legislation upon the idea that America was intended by a merciful Providence as a haven of hope for the downtrodden who fled unhappy lands where tyranny's edicts made life unbearable. The new Nation was consecrated by the founders as a home for all, where liberty was assured and opportunity was open to all who, entering, manifested the proper spirit.

A minority in the days of the first administration of Washington insisted that the country was endangered by the coming of vast numbers of immigrants from Europe, and from that day to this the restrictionists have been abroad in the land. As we look back now to the days when it was argued by some mis-guided individuals that the German immigrants who were coming to Pennsylvania were undesirable and should be barred out, we see how ridiculous was the stand they took on this subject; and yet we have to-day men who are insisting that we must call a halt in the immigration which is now coming to our shores, and they, too, cry out that certain classes of these people are "undesirables." Gentlemen, I doubt not that the majority of us will live to see the time when these men who are to-day urging the passage of this bill will have been proven to be as much in the wrong as were those in the early days who wanted to keep out the Irish and the Germans for fear they would ruin the country.

I am satisfied that America is greatly benefited because of

this infusion into our body politic and social of the blood of the sturdy people who have come to us from the various nations

that Americans are recognized to-day to be the most able people on the globe and the most highly developed, both mentally and Learned scientists are all agreed that the introduction of new blood results in a race which embodies all of the desirable qualities of its progenitors, while the objection-

able characteristics are gradually eradicated.

It is this continuous introduction into this country of these foreign-born people that has made America what it is to-day; and yet those seeking the passage of this bill wish to bar thousands of them, not because they are unfit to become citizens of this country, not because they are weaklings whose introduction might lower the high standard of physical perfection which we now maintain, not because they are criminals and would lower our moral standards-no; not for any of these reasons, but solely because in their oppressive lands they have been deprived of an opportunity to secure an education, and on this account are classed as "undesirables."

Mr. Chairman, are the supporters of this bill under the impression that our country is becoming crowded and it is necessary to shut out some of those who seek to secure for themselves the liberty which we now enjoy and which we have no right to deny them? Let me call their attention to the figures contained in the last census report, which show that in 1910 the land area of the continental United States was 2,973,800, while the population was 91,972,266, or a population per square mile of 30.9. In the face of these figures do they dare to contend that we are in danger of overcrowding? In the European countries they support without difficulty as many as 500 people to the square mile. Think what that would mean in the United States—a population of 1,485,352,096.

Mr. Chairman, I wish to emphasize the fact that this legisla-tion is not needed and is not desired by the majority of the people. The opposition to immigration has been created by those who are prejudiced in their views and who have not the best interests of the Nation at heart. Let us consider what immigra-tion has done for this country, how without it we would have never been able to become the power that we now are. Consider the incomparable loss this country would have suffered had there been laws of this kind enacted in days gone by: think of the thousands of men who are now influential citizens who would have been denied admittance.

Mr. Chairman, I wish to quote here a portion of the speech made in opposition to this bill by my esteemed colleague, Mr.

NYE, whose judgment we all value so highly:

Mar. Nye, whose judgment we all value so highly:

We are prone to attribute the ills of our social life to anything and everything but ourselves. It is always the other fellow. But our national perlis are not from without so much as from within. The clever native-born American, who is often as unscrupulous as he is clever, may well claim our attention when we study the causes which menace our national happiness. To get rich quick or to get something for nothing is not strikingly peculiar to our foreign-born population, and especially the working classes. These have no monopoly of vice and crime. Virtue is more often the companion of industry than of idleness, and the people we seek to exclude by this bill are as a rule industrious. Jefferson believed in an aristocracy of virtue and talent rather than an aristocracy of wealth. The foreigner as a rule gives us a constant lesson of industry and economy, which many of the native born may well emulate. He lives within his means and generally saves from his earnings, even if they are small; and while we are wasteful he is frugal, while we are idle he works. He adapts his expenses to his income, and he succeeds where we fail. I do not mean this is true in all cases, but everywhere in country and city it is so common that none can fail to observe it. I would not disparage the native-born citizen, but let us not be blind to our weaknesses nor ignore our faults or the vices of our civilization which we are responsible for. The New World is the child of the Old. We are united by millions of family ties, which every law of nature forbids we should sever by narrow and arbitrary enactments of law. The hardships the foreigner must undergo in leaving his home and native land and fighting the battle of life after he gets here is in itself proof that he is good for something. We are not getting the most wealthy of Europe, but the most worthy—men of mettile, men of grit and perseverance. The sturdy sons of northern Europe the land of historic genius in painting, sculpture, while

Mr. Chairman, the illiteracy test provided in the bill will not serve to keep out the viciously inclined, the criminal, or the

otherwise really undesirable alien,

Experience has demonstrated the fact that, with the educational facilities afforded in this land, thousands of illiterates who, unhappily, were denied educational opportunities in their native lands, have learned to read and write here, have shown an eagerness to acquire knowledge and fit themselves to become good citizens. It will also be noted that the exceptions provided in the bill are not broad enough to fully guard against the separation of families, though the majority of the committee admit that on humane and moral grounds separation of

families should, as far as possible, be avoided and prevented. In my opinion, the desirable immigrant is the healthy, lawabiding worker, who comes to this country in good faith, and the undesirable immigrant is the clever and educated schemer, who lives by his wits and preys upon his countrymen, and this proposed restriction will not affect this latter class.

It is my firm belief that not only is this measure uncalled for,

but it is also unfair, unjust, and un-American, and should be decisively defeated, thus continuing America as the asylum of

all the oppressed and persecuted of other nations.

Mr. BURNETT. Mr. Chairman, I yield 25 minutes to the gentleman from Massachusetts [Mr. GARDNER] to dispose of as he desires

Mr. GARDNER of Massachusetts. With authority to dispose of the time as I may wish?

Mr. BURNETT. That is the statement I made—that the gentleman may dispose of the 25 minutes as he sees fit.

Mr. GARDNER of Massachusetts. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to extend his remarks in the RECORD.

Mr. GARDNER of Massachusetts. Mr. Chairman, I am only going to say a very few words about this bill. The gentleman from Pennsylvania is clearly right when he says that an honest, illiterate workman is a better citizen than a clever, educated scoundrel. I admit the truth of that argument, but I do not admit its force. The question is whether a million men who do not know how to read and write contain as good qualifications for citizenship as a million men who do know how to read and write. To say that a million illiterate men are equally qualified for citizenship with a million educated men is to impeach our whole common-school I doubt whether this bill, if enacted into law, is going to cut down immigration in this country as much as some people expect. I believe that immigration will be reduced in consequence by perhaps 200,000 souls at the outside. Our immigration expands and shrinks from year to year a great deal more than 200,000 souls. But whether an illiteracy test would exclude 100 men or 1,000,000 men, this bill introduces a new principle which I welcome. If we adopt this measure, the United States for the first time will recognize the principle that immigration ought to be cut down, even if in so doing we exclude many men whom we all acknowledge would make desirable citizens. In other words, for the first time we shall declare that there are too many people coming into this country, even if they are all of them the best and most desirable material for citizenship. For the first time we shall admit that good immigration as well as bad immigration must be cut down. Inasmuch as I believe that good immigration as well as bad immigration ought to be diminished, I welcome this bill as a broad entering wedge destined, I hope, to be followed by more restrictive legislation. It is my belief that the volume of immigration must be substantially reduced or else suspended for a term of years. The maintenance of the American standard of living is of transcendent importance. Beware of permitting it to be undermined by that reckless policy which permits unlimited immigration.

I yield the remainder of my time to the gentleman from California [Mr. KENT].

The CHAIRMAN. The gentleman from California [Mr. KENT] is recognized for 21 minutes.

Mr. KENT. Mr. Chairman, it must occur to anyone who has

given the question thought that the increase in our population through the introduction of foreigners is the most important matter that our Federal Government can possibly consider. We have spent entire sessions on the question of the importation of goods, and now we find ourselves facing the grave problem of importation of people, with but four hours at our disposal for its consideration on the floor of the House. One would suppose from the relative amount of time given to the questions that people were made for goods rather than goods for people.

In the few minutes granted me by the courtesy of the gentleman from Massachusetts [Mr. GARDNER] I shall keep away from statistics and shall endeavor to consider the more fundamental propositions that underlie the question. It is folly to attempt to maintain that our problems are the same or demand the same treatment at this time, when we have a hundred million people and congested populations as they were in the days when 3,000,000 of us resolved to set up in business as an independent Nation.

First of all, we are living in what we call a democracy, a system of government that is intended to give reasonable equality of opportunity to all people living under it, a scheme which must recognize the inherent needs of human nature and the scope of human life. Granted equality of opportunity,

there must follow as a correlative that people should be recognized in accordance with the services they render society and that their reward, whether it be in financial terms or in the more subtle and illusive terms of the esteem of their fellow men, should be gauged by their usefulness. In other words, that, starting equally under the law, men may rise or fall in accordance to their fitness for the social scheme.

It is because the influx of foreigners has an influence on all

questions confronting our democracy that I apparently diverge

from the bill to what lies back of it.

The wealth of any nation must consist essentially of three elements: First of all, its natural resources. Second, the intelligently directed industry of its people, supplemented in the case of a democracy by another item—the necessity of reasonable distribution of the results of resources and labor. No one can deny the inherent richness of our country in natural resources. No one can deny the intelligent industry of our people. The troubles we seek to remedy come from failure properly to provide for a rational distribution that helps to realize our democratic ideals.

We can not be called dreamers when we insist that in a country as rich as ours, blessed with an intelligent and industrious population, human needs should be adequately supplied to those who are neither victims of their own folly nor of a fate beyond human remedy. We are safe in assuming that childhood should be sheltered; that playtime and opportunity for education, upon which must rest the welfare of future generations, can and should be supplied; that old age, the inevitable concomitant of years, should be cared for by society, so that no one may look forward to assuming more than his fair share of the risks of life. We are safe in assuming that well-applied labor should lead to comfort, to reasonable hours of employment, to freedom from such suffering as is unnecessarily entailed by remediable bad conditions; that the accidents and misfortunes, that are to a certain extent unavoidable, should be shared by a society that enjoys the benefit of the productive enterprise of each of its members.

We know perfectly well that these conditions are not met in this Nation of abounding wealth. No comfort can be taken in aggregate figures of national wealth so long as those aggregate figures do not point to average well-being, or at least to an increasing ratio of average well-being, rather than the present tendency toward an increase of undue accumulation on one side of the scale and unnecessary want at the other. We are steadily fighting in the name of democracy and humanity to overcome the inequalities of life in a nation which can

abundantly supply a livelihood to all of its citizens.

It is my desire to submit to this body, in short measure, some of the means whereby the introduction of a vast number of aliens tends to prevent our progress toward real democracy.

When we consider the question of oriental immigration we find our people practically united at the present time as against the introduction of any more race problems into our country. Entirely outside of any economic argument we are convinced that those whose blood may not mingle with ours should not be admitted, for this must necessarily upset our democratic scheme. Races that can not intermingle must necessarily find themselves in strata, with the superior race superimposed on the inferior. There can be no complete democracy under such conditions, as has been amply proven in the South.

We on the Pacific coast were not slow to perceive this danger, and our protest has been heard. At the present time we have a Chinese exclusion act that is satisfactory. The Japanese Government is now acting in good faith in keeping its people at As a matter of courtesy and not in any way abrogating our rights in the premises, we are justified in providing Japanese exclusion that should be automatically exercised should Japan ever relax its stringent denial of passports to those of its people whom we would and should exclude. This question of exclusion of irreconcilable races ought never to lead to inter-national friction. Our exclusion of Japanese or Chinese or any other races should not carry with it the implication that these races are our inferiors; it simply means that we believe that, being barred by racial characteristics from mingling with us, their introduction is hostile to the democracy toward which

I have always resented the assumption that we have an inherent right to force our people, whether capitalists, missionaries, teachers, or working folk, on nations who do not desire their admission. Our American dollars are no more sacred in this respect than our American people, although the "dollar diplomacy" of the present administration would lead us to suppose that we had a right to land the American currency of our Wall Street bankers in any foreign country, and thereafter to protect it with its accrued interest by force of arms.

The Pacific States are now being deluged with an influx of Hindus for whom much less can be said, socially or economically, than for Chinese, Koreans, or Japanese. The present bill will doubtless exclude many of these undesirables, but there should be complete restriction and the bill should be amended

in that particular.

My colleague, Mr. HAYES, of California, an old and esteemed member of the Immigration Committee, has stated to me his intention of introducing an amendment to this bill which would exclude from entry all those not eligible to become citizens. This would at once, and without offense, cover the whole problem of oriental immigration. I am strongly in favor of this amendment and believe it to be the simplest method of handling this matter.

Let us consider the economic side of the question, as apart from the vastly important social questions. We have heard a great deal about protected American industries that are being protected for the benefit of American labor, the utter fallacy of which claim has been proven by the facts produced in the steel inquiry and in the investigation of the strike at Lawrence, not to mention the story of the continuing breakdown of livable conditions in the coal-mining industry of Pennsylvania and other States. The industries most highly protected have been the most prompt to avail themselves of free trade in labor and the result has been the creation of many industrial hells.

History goes to show that it was to overcome the lent" assimilation of continually lower grades of foreign labor by protected industries that the contract-labor law was passed. Mr. Carnegie and his protection compeers were rapidly getting to the bottom of the human scale, were getting workmen who would accept lower and lower standards of living, and who through illiteracy were slow to realize why and how they were abused. Just as fast as the American atmosphere caused a demand for more humane conditions, men of growing intelligence were replaced by others who lacked the enlightenment to demand of a great and prosperous country a fair share of the product of their toil. The necessity for the contract-labor law is the same necessity that confronts us in the general question of exclusion of immigration at the present moment. At a time when labor is struggling through organization and agitation to increase the welfare of the workers in the various trades, a continuing influx of people who do not understand the language nor appreciate nor demand the standard that we are trying to reach, comes in to break down the structure as fast as it is erected.

We are constantly told of the ever-increasing demand for cheap or common labor. Our industrial corporations and our railroads are continually pointing out the need of obtaining people who will work at wages that will not support an Ameri-While we are striving to can family on any rational basis. raise all the people of the country to a plane where they may live under reasonable American conditions, the work stroyed by continuing immigration. Here is a conflict that can not be reconciled. Either we must abandon democratic ideals, or else we must stop the influx of those who make the accomplishment of these ideals impossible.

We are always hearing and telling of the good old pioneer times when people attended to their own wants. Whoever heard about the dirty work of those days? The work that had to be done was done by the best people in the community and was not regarded as dirty work. We never heard of vast armies of private servants in those days, nor of butlers nor buttons, nor footmen. If every one in the community had not been profitably engaged, the result would have been hunger and suffering. Just as long as we can import footmen and butlers and buttons, men to fill occupations which no pioneer would accept, some of us insist upon so doing and would bewail the exclusion of persons willing to take up unnecessary tasks.

In passing it is well to take note of the fact that some of this work that Americans will not do is really dirty work which ought not to be done; that there is a vast amount of personal service which ought to be obviated; and that persons employed in such unnecessary labors must be supported by those productively employed.

There is no reason why the work of railway building and track laying, the work of section hands, of street laying, or sewer building should be considered dirty work or below an American standard. These tasks are certainly not harder or more disagreeable than that of the mining of precious metals, in which thousands of native Americans are engaged. If, first of all, employers insist upon an inadequate wage scale, and then the work is called dirty work and deemed socially beneath any but newly arrived immigrants, we may be sure that it is we who have created a demand for conditions that go to destroy democracy-conditions that call for continuing importations

of people willing to live below what we consider an American standard—and, with this constant influx, all our efforts to establish social and economic justice come to naught.

The protected sugar industry in the western part of our country and also in the Hawaiian Islands is a remarkable example of this insistence upon an inadequate wage scale as a prerequisite to employment. We find here that the tariff privilege works social damage as well as economic injustice.

In whose interest, from our own American standpoint, is the cry raised for ever-increasing multitudes of people that do not understand our institutions, that can not learn nor appreciate their own rights until a vast amount of unpaid labor is extorted from them?

First of all, we find the trans-Atlantic steamship companies making their rake-off from the transportation business. It has been abundantly shown how vigorous they are in their cam-paign for assisted immigration. There follow the railroads, that can hardly be brought to realize that track-laying can be done by the inhabitants already in the country if only adequate wages are paid. I have already noted the wails of the protected sugar industry for any sort of labor that will work cheaply. Those holding land for speculation have an interest in filling the country up as rapidly as possible. Those holding land for speculation have an obvious

Everywhere we cast our eyes it is the privileged that have an interest in obtaining cheap labor in forcing the increase in pop-We must ultimately define privilege as any system whereby one man may secure an unfair proportion of the product of another's toil.

The argument I have heard on the floor of this House, the argument that I have heard from my earliest recollections of the discussions of this immigration question, is that the foreigners who come in to accept the so-called menial occupations, to do the so-called dirty work, and thereby displace the Americans engaged in these pursuits, force their predecessors into higher positions of employment. This may be well upheld as an aristocratic argument but never as a democratic one. are striving to establish justice all down the scale. All of us can not be statesmen, nor capitalists, superintendents, nor even section foremen, nor mine bosses. If this proposition of pushing our own people up be analyzed clear through it will be shown that it has pushed out at the financial top the parasites known as the idle rich; that all along the line it has provided an existence for those that prey upon the unpaid toil of the immigrants, whether he be capitalist, padrone, or employment-agency shark. It is not a benefit to our people to spend their energies in distribution rather than in production. It is a great evil that so many of us refuse to work at all, and that we are dependent on newly arrived foreigners for necessary labor.

It should be our aim to make every necessary employment a fit employment for our own people, one which we would not feel that our own children were disgraced in pursuing any more than our pioneer ancestors felt disgraced by the tasks they were forced to perform in simpler times.

Taking the question from another angle, no one can doubt but that the relative welfare of our country has been due to its natural resources, that our opportunities have largely come from the possibility of our people scattering out into pioneer conditions and taking up lands in the West. The energetic have usually been able to better their condition by taking on the pioneer life. There was a time when, as a Nation with too much land for the population and weak from our smallness of numbers, we did well to invite the able and energetic to share But the situation is largely changed in this respect.

It is hard to find good public land where homesteads may be established, and if the unwholesome congestion of our cities were relieved by placing the surplus population on the land the accommodations would prove still narrower.

The time has come when under existing conditions increasing our population is simply watering the capital stock of the Nagranting to each person less and not more of the common wealth. I have no doubt but that under different social and economic conditions our country could support vastly more people in a higher average of social well-being than it does at the present time, but until we provide conditions different from those that now obtain increases of population simply lead to greater privilege on one side and greater want on the other.

Mr. GOLDFOGLE. Mr. Chairman, just for information only, would the gentleman inform me how many foreign born there are in his district, approximately?

Mr. KENT. There are a large number of foreign born in my district.

Mr. GOLDFOGLE. About what percentage of your popu-

lation is foreign born?

Mr. KENT. I can not tell you the percentage, but I imagine 30 to 50 per cent.

Mr. BARTHOLDT. Will the gentleman yield for just a moment?

Mr. KENT. Yes, sir.
Mr. BARTHOLDT. I understood him to say that a much larger number of population could be accommodated in the United States than there are at present, if the system were changed, and if justice were established. I suppose that is what he means?

Mr. KENT. Certainly.

Mr. BARTHOLDT. Belgium is supporting 650 people to the square mile and we are supporting 25. How about that?

Mr. KENT. I do not know how well to do the people in Belgium are. They may have a more advantageous, a juster system than we have. They may not live on a scale that we are justified in demanding.

Mr. GOLDFOGLE. Another question.

The CHAIRMAN. Does the gentleman from California yield

to the gentleman from New York?

Mr. KENT. I will not yield further until I have finished. It is for the reasons enumerated that I would favor almost complete exclusion of foreign immigration. If it were possible to select immigrants in the line of the most enlightened policy, I should favor selecting them from nations that are most likely to blend in with our social system and to appreciate our democratic ideals—people whose history has shown them to be in-herently capable of self-government. Personally, I should vastly prefer, as an immigrant, an illiterate from one of these nations to the best educated Hindoo or Turk—this, as a national matter and not on the ground of any personal prejudice.

But as one means of curbing the introduction of more immigrants than our national digestion can assimilate, I shall gladly vote for the literacy test. There is one argument for this test that justifies its application. It is the ignorance of our foreign immigrants that has been chiefly responsible for their exploitation. Those capable of passing a literacy test would be less likely to lie down under the conditions that have been shown to exist in some of our centers of hothouse industry.

Another point was raised here about the influence of immigrants on the cost of living. There is no question in the world but what the bad distribution of population, especially the increase in the cities, is largely responsible for the increased cost of food. There are too many people eating and too few people producing food. Inasmuch as a vast proportion of our immigration lodges in the cities, those immigrants certainly have a great influence on the cost of living as found in the prices of food.

The tremendous and ultimate importance of the food supply is shown in the history of the ancient city nations which went to pieces from the fact of their being forced to seek food supplies by war, to introduce oppression and slavery that over-

grown cities might be fed.

Mr. GOLDFOGLE. The country districts should be happy

that we are consuming their products.

Mr. KENT. I can not for a moment indorse the exemption proposed in this bill, which provides that those fleeing from proposed in this bill, which provides that the religious persecution shall not be subject to a literacy test. It is illogical and inherently contrary to good public policy. We are either legislating for foreigners or for our own country. It is fair to assume that we are true to our oaths of office and are legislating for this Nation. We are proposing a test that is supposedly for our own interest. If a person under this test is unfit for admission to this country, or if, to put it more mildly, we do not believe it good public policy to admit such a person, it is hard to understand why one who has failed to pass the literacy test should be rendered available for admission by the mere fact of having been subject to religious persecution. Either in this particular case we are not exercising our function of legislating for our own country, but rather in the interests of certain foreigners, or else religious persecution must produce civic effects of which we have as up to date remained in ignorance. It is more than probable under such an exemption as is here proposed, that thousands upon thousands of Turks would knock at our doors, claiming right to admission on the ground of religious persecution by the victorious Servians, Bulgarians, Greeks, and Montenegrins. It is also highly probable that many thousands of Turks will cross over into Asia Minor and there will proceed to commit new atrocities upon the Armenians, who will have an added reason for demanding admission to our country on the ground of being subject to religious persecution.

No amount of oratory, no amount of appeal to the early history of our country, can overcome the cold logic of this proposition. It seems to me impossible that any person can, in calm judgment, pretend that religious persecution of itself can render eligible for admission to the privileges of this Nation those

found by other tests to be unfit. [Applause.]

Now, if there are gentlemen who wish to ask me questions and I have any more time, I shall be glad to answer.

Mr. MADDEN. Mr. Chairman, I would like to ask the gentleman this question: He stated in the course of his remarks that the high cost of living was largely due to the fact that people assembled in the cities instead of in the country.

Mr. KENT. I said "the high cost of food." The high cost of

living is largely found in the cost of food. I specified food.

Mr. MADDEN. Does the gentleman think there is any means by which we can legislate the distribution of the people to the sections of the country to which they do not wish to go?

Mr. KENT. No; I doubt if there is, but we are accentuating

the trouble by bringing in people who mostly gather in the

The CHAIRMAN. The time of the gentleman from California has expired.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. Anseerry having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Senate joint resolution No. 144, authorizing payment of December salaries to officers and employees of the Senate and House of Representatives on the day of adjournment for the holiday recess.

IMMIGRATION.

The committee resumed its session.

Mr. MOORE of Pennsylvania. Mr. Chairman, I yield 10 min-

utes to the gentleman from Illinois [Mr. CANNON].

Mr. CANNON. Mr. Chairman, in 10 minutes it is almost impossible to discuss a measure such as this. I wish it could be considered after further general debate under more liberal terms than we have under the 5-minute rule, but the majority have decreed otherwise.

In the 10 minutes allotted me I can only hope, in substance, to say that, in my judgment, this bill should not be enacted. I do not agree with the gentleman from Massachusetts [Mr. GARDNER] in his opinion that the time has come to prohibit not only undesirable but desirable immigration. Gentlemen are greatly afraid that we are going to be greatly crowded in the United States. The fact is we have just scratched this country. With half of the railways in the world, we have about onefifteenth of the population of the world-100,000,000 people. When we are as thickly settled as is Europe we shall have 500,000,000 people.

I have lived pretty well through two generations, and the fear manifested by the gentleman from Alabama [Mr. Burnett], and by the gentleman from California [Mr. Kent], and by the gentleman from Massachusetts [Mr. GARDNER], and the gentleman from Georgia [Mr. RODDENBERY] is not new to me. I grew up on the Wabash. I have heard more eloquent speeches made with greater preparation, perhaps, at least more lengthy, than that made by the gentleman from California, when passion was torn to tatters, against immigration when we had less than 20,000,000 people in this country.

Now, I quite agree with and voted for legislation to exclude the Chinese. I believe the Japanese under our policy are properly excluded. But I am not afraid of the Caucasian race, our race, from wherever they come, who are willing to live in the sweat of their faces under our policies in this country, rendering an equivalent for that which they receive.

I am not in love with the Black Hand, whether American or foreign born. I am not in love with the assassin; I am not in love with the man that commits crime; I am not in love with the man who would get something for nothing. But I'do love the man who renders an equivalent in muscle, crossed on brain, for that which he receives, and I am here to tell you right now that I have no fear about the first generation that is willing to work, and I have less fear about the second generation, because the common-school system of the United States and the growing intelligence of the first generation and their desire to better their condition and that of their children will take care of their future.

In one part of my district-in the coal-mining district-there is an output of from three to four million tons annually; the labor is furnished by the Slav, by the Italian, by those who come from Hungary, in the main, and that is good labor. I went to an old settlers' meeting in that locality a year or two ago, riding out from the little railway station where the old settlers had gathered, and as we passed along the road we saw on one side a three-story schoolhouse of large dimensions, accommodating hundreds of children, and the children were playing outside. I was riding with a man who was greatly disturbed about the development that was taking place among these foreigners who were coming in to do that work, which, I will say in the main, American-born labor does not do. I

said, "My, what a drove of children! Who are the parents of those children?" He said, "I don't know. I suppose their parents are these people in the main who have come here and are doing this work." I said, "Look at them. Can you tell which are the American born of this generation? Pick me out the Italian, pick me out the Slav child, pick out the American child." We stopped, and my friend said, "I can't tell one of them from the other."

I say again, I do not agree with the gentleman from Massachusetts [Mr. Gardner] that we should shut out desirable immigration. There is room for it.

Nor am I in harmony with those who call themselves labor leaders who protest against this immigration. Many of them were born upon the other side. Some of them are the children of those who were born on the other side. They want to shut out competition. Why, gentlemen, you can not get those labor leaders and the great mass of people who federate with them to work upon the construction of the railways or in the coal mines. When we speak of common labor we mean unskilled labor. All labor is honorable that renders an equivalent for what it receives. If you curtail this unskilled labor, I suggest to you that you tend to impair the wage of the skilled laborer, because all kinds of labor must be done and some one must do this unskilled labor.

By the by, I am told that down in Texas they are so anxious to have people to pick cotton and perform other labor there that the Mexicans come over. You in Texas could not do very well without that labor probably. In New England they come over from Canada, and they come as far as St. Louis and out into Chicago, the second great manufacturing city of this country. Now, although I can not say what I desire to in the 10 minutes allotted to me, I wish to refer to one feature of this bill. There are exceptions and modifications in it, viz:

Aliens who have been lawfully admitted to the United States and who shall go in transit from one part of the United States to another through foreign continguous territory—

are not included in this bill. I suppose that would continue to allow the Mexicans to come over and cross every day back into Mexico. I suppose that would cover the case of Canadians who are not naturalized and who desire to go back to Canada and then come again, because they have been lawfully admitted heretofore.

Mr. GARDNER of Massachusetts. Is the gentleman familiar with the decisions on those questions?

The CHAIRMAN. The time of the gentleman from Illinois

has expired.

Mr. CANNON. If I may be allowed a moment, I will say perhaps there is a good deal that I do not know about this bill, and if it is necessary for me to know more than I now do in order to agree with gentlemen who favor this bill, whose ancestors are not a century old in this country, and whose de-scendants, having received the benefits of citizenship in the United States, would deny the same privileges to their kin from abroad, then I do not want to have that degree of knowledge to which the gentleman from Massachusetts refers. [Applause and laughter.].

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman from Alabama [Mr. Burnert] use some of his time?

Mr. BURNETT. Mr. Chairman, how much time has been used? The CHAIRMAN. The gentleman from Alabama [Mr. Bur-NETT] has used 59 minutes, and the gentleman from Pennsylvania [Mr. Moore] has used 39 minutes.

Mr. BURNETT. I prefer that the gentleman from Pennsylvania should use some more of his time.

Mr. MOORE of Pennsylvania. I yield 20 minutes to the gentleman from New York [Mr. Goldfogle]. [Applause.]

IMr. GOLDFOGLE addressed the committee. See Appendix.1

Mr. BURNETT. Mr. Chairman, will it be in order in the committee to ask that all gentlemen who speak be allowed to extend their remarks?

The CHAIRMAN. That request must be made in the House. Mr. BURNETT. Mr. Chairman, I yield five minutes to the

gentleman from Texas [Mr. Dies].

Mr. DIES. It seems to me, Mr. Chairman, that this question can be simplified by a very brief statement of what the bill proposes. The bill proposes to keep out those who can neither read nor write in any language, and the effect of the bill would be to keep out about 250,000 persons, largely from the south and east of Europe, who are being dumped into the congested centers of population in the United States. There are but two phases to the discussion-

Mr. SABATH. Will the gentleman yield? Mr. DIES. My time is quite limited, and I can not yield. The CHAIRMAN. The gentleman declines to yield,

Mr. DIES. There are just two phases to this discussion, Mr. Chairman. One is the labor question and another is the question of the effect upon the institutions under which we live. I am amazed at my friend from Chicago [Mr. Sabath] and my fried from New York [Mr. GOLDFOGLE], who contend that the dumping of 250,000 illiterate immigrants into the labor markets of the United States from countries where they receive less than one-fourth that they receive here would help the labor market into which the 250,000 are dumped. That, Mr. Chairman, is a new process of reasoning, a new deduction of political economy, and startlingly different to anything I have ever heard advocated before. It is just as true, sir, that the dumping of large numbers from the cheap-labor markets of Europe into our labor market would lower our scale of wages as it is that water will seek its level.

The other phase of this question relates to the effect which this mass of illiterate immigration will have upon the free institutions of the Government under which we live. I have vet to hear a gentleman contend that the 250,000 illiterate immigrants designed to be excluded by the provisions of this measure are capable of self-government. In most cases they come from countries where the people as a whole have demonstrated their inaptitude and incapability for self-government. Those to be excluded by the terms of this bill are the least capable of the peoples in the nations from which they come. Surely if all the people of one of these migrating nations are incapable of governing themselves, the ignorant ones can not take on the attributes of self-governing ability by a simple voyage across the ocean.

But the opponents of this measure, disregarding the rights of the laboring millions of this country; disregarding the jeopardy in which this influx of ignorance places our free institutions still contend that we ought to admit them, in obedience to the principle that this Nation is an asylum for the oppressed of all the nations of the earth. Mr. Chairman, my heart goes out to the downtrodden of every corner of the earth. I would to God that all the children of men over all the earth were in the possession and enjoyment and capable of maintaining free government. But, sir, our duty is first to the hundred million of human beings who constitute this Republic. They say I am not a friend to the foreign element. Mr. Chairman, in the light and wisdom of history I believe I am a better friend to the 10,000,000 foreign born who inhabit this Republic than those gentlemen who would add another 10,000,000 from the ignorant of foreign lands. This asylum for the oppressed is full to overflowing, and I warn gentlemen that it is high time we were taking measures to protect the ones we have already admitted.

My friend, the gentleman from New York [Mr. Goldfogle], says, in effect, that because I represent a district that has but a small foreign element I know nothing about the immigration question. If that is good reasoning, Mr. Chairman, the gentle-man himself would be but a poor judge of Americanism, for he comes from a district where almost the entire population is foreign born- [Applause.] For myself, I believe that this great old ship of state is already heavily loaded with the freight of ignorance. I feel that we owe a duty to those on board, whose That duty is to secure the safety chosen representatives we are. of the voyage. It may seem harsh and cruel to those who are clamoring to be put aboard, but our greater duty is to safe-guard against sinking the ship by taking on these weighty cargoes of vice and ignorance.

Mr. Chairman, however much I commiserate the downtrodden peoples of the earth, I am unwilling to put the liberties of my own country in peril by opening wide its gates to the ignorant hordes who flee from a tyranny they are helpless to oppose to a free Republic, whose institutions they are powerless to main-

You who profess that the people should have more power should remember, my progressive friends, that the people can safely have power in proportion only to their intelligence and to their patriotism, and that every time you unload a cargo of ignorant illiterates from the south and east of Europe into this Republic you make it necessary to take a part of the power away from the people who are already here.

The power of self-government is the power of intelligence and

the power of patriotism based upon intelligence. [Applause.]
The CHAIRMAN. The time of the gentleman has expired.
Mr. BURNETT. Mr. Chairman, I yield 10 minutes to the gentleman from Kentucky [Mr. Powers].

Mr. POWERS. Mr. Chairman, it has been said by one of America's most distinguished sons, ex-President Theodore Roosevelt, that next to the conservation of our natural resources immigration was our most important national problem. In the minds of many immigration is even more important than conservation, because it goes a long way in settling the kind of people who will make up the population of this country now and in the future;

and the kind of people there are in a country inevitably determines the kind of citizenship, the kind of government, and the kind of civilization the country has; and the kind of citizenship determines the liberty, the sort of happiness, and the measure of progress which prevail in it. The importance therefore of the subject of immigration can readily be appreciated by every thoughtful American. A little history of the legislation of this country on the subject of immigration may not be amiss.

The immigration to the United States is naturally divided into two periods:

First. The immigrants arriving before the year 1880, known as the old immigration; and

Second. Immigrants after that time, known as the new immigration

From the first settlement of this country down to about 1835 immigrants came here as a matter of course. Practically up to that time the only legislation enacted, and practically all that was proposed, was the law of 1819 regulating steerage passengers at sea and making provision for recording statistics relative to immigration. None were kept before this.

From 1835 to 1860 the subject of immigration to this country was much discussed, and there sprang up what was known as the "native-American" and "know-nothing" movements, largely basing their opposition to immigrants to this country who embraced the Catholic faith. These movements soon assumed the form of a political organization known in history as the American Republican Party and later the "Know-Nothing Party." As a result of these organizations, in the main, affiliating with the new political movement, the United States Senate in 1836 passed a resolution directing the Secretary of State to collect information respecting the immigration of foreign paupers and criminals to the United States.

The House of Representatives in 1838 agreed to a resolution instructing the Judiciary Committee of the House to consider the propriety of passing a law prohibiting the importation of vagabonds and paupers into this country as well as to considering the expediency of making our loose naturalization laws more stringent. This resolution was referred to a committee of seven Members, and their favorable report was the first congressional report ever made concerning any phase of the immigration question.

A bill was introduced in Congress upon the recommendation of the majority report of the committee, which bill provided that any master of a vessel who took on board an alien passenger who was an idiot, lunatic, maniac, or one afflicted with an incurable disease or one convicted of an infamous crime, with the intention of transporting such person, to the United States, should, upon conviction, be fined \$1,000 or be imprisoned from one to three years. This bill was not even considered by Congress, and for some 10 years following little attempt was made to secure immigration legislation; but the great increase in immigration to this country from Europe from 1848 to 1850 put new life and fears in the breasts of those fighting immigration; and it is recorded that in 1855 both the governors and Legislatures of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, California, and Kentucky were "Know-Nothings." The slogan of the "Know-Nothing Party" was that Americans must rule America, and their greatest strength was in the Thirty-third Congress, from 1854 to 1856, when they claimed 43 Representatives and 5 Senators. Ten years later, however, in the Thirty-eighth Congress, there was not a "Know-Nothing" Representative in the House, and the "Know-Nothing Party" disappeared without having accomplished anything against immigration. The truth is that in 1864 Congress passed a law to encourage immigration, especially the importation of contract labor. This law was repealed, however, in 1868, leaving on the statute books the act of 1819, amended slightly by the acts of 1847 and 1848, providing improved conditions in the steerage of immigration ships. The law of 1864 stands out as the only attempt on the part of the National Government to promote immigration. The States, however, have frequently made such attempts. New York, in 1824, passed a law requiring all masters of vessels arriving at the port of entry to make a written report, giving the name, age, and last residence of every person on board during the voyage, and whether any of the passengers had gone on board any other vessel with a view of proceeding to New York.

Another section of the law gave the mayor of New York City the power to require bond of every master of a vessel to indemnify the mayor and the overseer of the poor from any expense incurred for passengers brought in and not reported. This law was held to be constitutional by the Supreme Court of the United States, and in 1829 the State of New York passed another law, which provided that the master of every vessel arriving from a foreign port should pay to the health commissioner \$1.50 for every cabin passenger, \$1 for every steerage passenger, mate, sailor, or marine, and 25 cents for every person

on a coasting vessel.

In 1837 Massachusetts passed a law requiring the owner of a vessel to pay \$2 for each alien passenger brought to her ports and to give bond that certain immigrants should not become a public charge. Both the New York and the Massachusetts statutes were later held in part to be unconstitutional. California and Louisiana passed statutes looking to the limitation of immigration, which were held to be unconstitutional. In California the question of Chinese immigration was so acute that recourse was had to the Federal Government, which resulted in the Burlingame treaty, which was proclaimed on July 28, 1868, and which was the first treaty to deal with Chinese immigration to the United States.

The attitude of the United States in this treaty toward Chinese immigration was not popular in the Pacific Coast States, and they continued their agitation for further restriction of Chinese immigrants, which resulted in the Congress of the United States passing the act of March 3, 1875, aimed at immigrants from China, Japan, and other oriental countries. This law prohibited the importation of convicts, women for immoral purposes, coolie labor, and Chinese and Japanese subjects without their free and voluntary consent, and fixed heavy penalties for a violation of the provisions of the statute. Later other treaties and Chinese and Japanese exclusion acts forbade the immigration of Chinese and Japanese to this country as well as Korean laborers, skilled or unskilled. And that is the way the matter stands to-day. So the bill now before the House is not intended to exclude Chinese, Japanese, or Korean laborers, skilled or unskilled, as that is aiready provided for.

And while the National Government was experimenting with immigration in this way the various States had from time to time, as I have said, tried their hands at it. New York, Massachusetts, California, Louislana, and other States passed immigration statutes of one form and another, the constitutionality of a number of which in time reached the Supreme Court of the United States for final decision. It became apparent that the subject of immigration was too big for State control, and in a very unusual decision of the Supreme Court of the United States on March 20, 1876, that court decreed that—

We are of the opinion that this whole subject-

Of immigration-

has been confided to Congress by the Constitution; that Congress can more appropriately and with more acceptance exercise it than any other body known to our laws, State or national; that by providing a system of laws in these matters applicable to all ports and to all vessels, a serious question which has long been a matter of contest and complaint may be effectively and satisfactorily settled.

This decision virtually put the subject of immigration under Federal control, and on July 6, 1876, following the decision of the Supreme Court in March of that year, Senator Conkling and Representative Cox, of New York, introduced bills in Congress for the national regulation of immigration. No legislation, however, of this sort was put on the statute books until August 3, 1882. This law provided, among other things, that a head tax of 50 cents each be levied on all aliens entering the ports of the United States to defray expenses of regulating immigration and caring for needy immigrants after landing; that lunatics, idiots, convicts-except for political offenses-and persons likely to become public charges should not be permitted to land, and that the Secretary of the Treasury be charged with executing the provisions of the act, and that he be empowered to enter into contracts with such State offices as the governor of any State might designate to take charge of the local affairs of immigration within such State.

On February 26, 1885, the first act of Congress was approved forbidding the importation of contract labor to the United States. This law was defective in that no arrangement was made for its general execution, no inspection of the alien was provided for, nor deportation of the contract laborer, if found so to be. This act, however, was amended by an act of February 23, 1887, which gave the Secretary of the Treasury authority to deport within one year from landing any alien who had come to this country contrary to the provisions of the contract-labor

In 1889 a standing committee on immigration was established in the Senate of the United States, and a select committee on immigration and naturalization was established in the House.

In 1800 these committees were authorized to make a joint investigation of the immigration question, and especially to look into the various State laws on the subject. These committees, in making their report, suggested that while no very radical changes in the immigration laws were at that time advisable, still they found that throughout the country there existed a strong sentiment for a stricter enforcement of these laws.

The fact is that in the year 1800 one or more political parties in 23 different States demanded additional regulation of immigration. Responsive to this demand for stricter immigration laws and regulations, the Congress of the United States passed, and it was approved on March 3, 1891, an additional immigration act amendatory of previous acts. This act added to the list of aliens heretofore excluded those "suffering from a louth-some or contagious disease," "polygamists," and those "whose ticket or passage is paid for with the money of another or who is assisted by others to come," except, however, that any person living in the United States could pay the way of a relative or friend, provided, of course, that the relative or friend did not belong to some of the excluded classes. strengthened further the existing contract-labor law by prohibiting the encouragement of immigration by promises of employment through advertisements published in any foreign country, and steamship companies were forbidden under penalty to solicit or encourage immigration.

The law of 1891 also created the office of Superintendent of Immigration, and instead of some State officer, by appointment of the governor, having charge of the execution of the immigration laws in that State, as provided for in the act of 1882, the whole question of immigration for the first time was com-

pletely under Federal control.

This act also provided that the commanding officer of every vessel carrying aliens to our shores should furnish to the proper immigration officials the name, nationality, last residence, and destination of all immigrants on board; that medical examination of immigrants at United States ports should be made by surgeons of the United States Marine-Hospital Service, and within one year after arrival any immigrant might be returned who had come to this country in violation of law, and that, too, at the expense of the transportation company that brought him. For the first time inspection of immigrants on the Mexican and Canadian borders was established. this was the most stringent immigration act passed by Congress up to this time, still the subject of immigration continued to be much discussed, and a strong movement for further restriction developed, owing largely to the industrial depression from 1890 to 1896. Investigations more or less extensive were conducted by joint committees of Congress and also by the Industrial Commission.

In 1894 an act was passed raising the head tax from 50 cents to \$1, but President Cleveland vetoed another bill passed by both branches of Congress providing for a literacy test.

Based upon the report of the Industrial Commission made to Congress February 20, 1902, a bill was introduced in the House providing for a complete codification and rearrangement of all immigration acts from March 3, 1875, to the act of 1894. An amendment was offered to this bill and passed by the House by a vote of 86 to 7 providing that all persons over 15 years of age who were unable to read the English language or some other language should be excluded, making an exception in favor of wives, parents, grandparents, and children under 18 years of age. The bill so amended passed the House May 27, 1902. When it reached the Senate it eliminated the educational test, raised the head tax from \$1 to \$2, and made it unlawful for any person to assist in the entry or naturalization of alien anarchists. The House agreed to these amendments, and the bill was approved by the President March 3, 1903.

It was not until February 20, 1907, that any other immigration act of much import was passed by Congress, although by an act of February 14, 1903, the Department of Commerce and Labor was established and the Commissioner General of Immigration was placed under that department, his official position being that of a head of a bureau. On June 29, 1906, the Bureau of Immigration was changed to the Bureau of Immigration and Naturalization, a uniform rule for the naturalization of aliens was provided for, and the administration of the new naturalization law was charged to this bureau.

A little history of the immigration act of February 20, 1907, the latest now on the statute books, with a small amendment of March 26, 1910, and the one sought to be amended by the

bill we are now considering, may not be amiss:

A bill introduced by Senator Dillingham, of Vermont, was favorably reported by the Senate committee on March 29, 1906. This bill sought to amend the immigration act of 1903 by increasing the head tax from \$2 to \$5, by adding imbeciles, feebleminded persons, children under 17 years of age unaccompanied, and persons "who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of such a nature which may affect the ability of such alien to earn a living," were added to the excluded classes. The section of existing law ex-

cluding prostitutes was amended by adding "women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose."

A Division of Information was created in the Bureau of Immigration and Naturalization, and steamship companies were for the first time required to furnish to the proper immigration officials lists of outgoing passengers. In the Senate the bill was amended by the insertion of literacy tests very similar to the one this House is now considering and which I will later quote, and the Senate bill as amended by the literacy test passed the Senate May 23, 1906.

When the bill reached the House it was referred to the Committee on Immigration and Naturalization, and they amended it by substituting one of their own, in many respects similar to it, including the literacy test. In the conference between the House and the Senate conferees the head tax was made \$4, the literacy test eliminated, and a commission composed of nine members was authorized to make a complete investigation of the immigration question and report its findings to Congress. Composing this commission were to be three Members of the House, appointed by the Speaker, three Members of the Senate, appointed by the President of the Senate, and the other members of the commission to be appointed by the President of the United States. This commission, after an extensive investiga-tion, both in this country and in Europe, costing \$1,000,000 and covering a period of four years, made a voluminous report covering 42 volumes of printed matter, covering all phases of the immigration question. This commission, after a most thorough investigation of the immigration question, found certain facts to exist and made some specific recommendations to Congress

In the first place, the commission found that there were too many immigrants coming to this country; that there is now an oversupply of unskilled labor in the basic industries of the United States; that restrictive legislation ought to be passed by Congress; and that the literacy test was the best single method of accomplishing the desired end. Let me quote the exact words of the commission:

The investigations of the commission show an oversupply of unskilled labor in basic industries to an extent which indicates an oversupply of unskilled labor in industries of the country as a whole, a condition which demands legislation restricting the further admission of such unskilled labor. It is desirable in making the reduction that a sufficient number be debarred to produce a marked effect upon the present experts of unskilled labor. supply of unskilled labor.

And after enumerating more than a half dozen ways by which this reduction could be brought about, the commission added:

A majority of the commission favor the reading and writing test as the most feasible single method of restricting undesirable immigration.

And this is not a partisan political report for political pur-It is a report by men of both parties after a most careful and painstaking investigation. The fact is that the question

of immigration is not a political one.

I have briefly reviewed the legislation on this question, and before taking up and beginning to discuss the merits of the bill now pending before this House I want to adduce some proof to show that the question is nonpolitical and that restrictive legislation has been demanded in the national platforms of the two dominant political parties in this country. Away back in 1896, more than an eighth of a century ago, when the evils of immigration were not so great and not so well known as now, the Republican Party in its national platform of that year not only demanded a restriction of immigration but specifically indorsed the reading and writing test as a means to accomplish that end. The plank in the platform to which I refer is as follows:

For the protection of the quality of our American citizenship and of the wages of our workingmen against the fatal competition of low-priced labor we demand that the immigration laws be thoroughly enforced and so extended as to exclude from entrance to the United States those who can neither read nor write.

This is one of the planks in the platform upon which the beloved McKinley was elected, and in his inaugural address he specifically indorsed the immigration plank and recommended an intelligence test to alien immigrants, to the end that American citizenship be protected and American institutions preserved.

In the Republican national platform of 1900 we find this language:

In the further interests of American workmen we favor a more effective restriction of the immigration of cheap labor from foreign lands, etc.

In his first message to Congress in 1901 ex-President Roosevelt indorsed unequivocally the restriction of immigration and an educational test. He used this pointed language:

The second object of a proper immigration law ought to be to secure a careful, and not merely perfunctory, educational test; some intelligent capacity to appreciate American institutions and act sanely as American citizens.

The Republican national platform this year (1912), the latest expression of the party on the subject, reads as follows:

We pledge the Republican Party to the enactment of appropriate laws to give relief from the constantly growing evil of induced or undesirable immigration, which is inimical to the progress and welfare of the people of the United States.

That the Republican Party stands for a restriction of immigration there is no room to doubt.

The Democratic Party, too, has put itself on record in regard to this great question. In its national platform of 1896 it used this language:

We hold that the most efficient way of protecting American labor is to prevent the importation of foreign pauper labor to compete with it in the home market.

In its national platform of 1900 the Democratic Party, while containing no plank upon the general subject of immigration, indorsed the Chinese exclusion law and recommended its application to the same classes of all Asiatic races.

And the Democratic national platform of 1904 contained no plank upon the general subject of immigration, but did specifically oppose the admission of Asiatic immigrants in this language:

We are opposed to the admission of Asiatic immigrants, who can not be amalgamated with our population.

The Democratic national platform of this year (1912) indorses more stringent immigration laws.

This is the latest expression of the Democratic Party on this important subject of immigration. Not only have the two dominant political parties in this country repeatedly expressed themselves in their national platforms in favor of restricting immigration, but the Republican platform of 1896 and the Republican President elected upon the Republican platform of 1900 have in express terms favored the literacy test-such a literacy test in substance that we are now considering. And what is that literacy test and what are the terms of the bill now before us? Before the adjournment of the second session of the Sixty-second Congress the Senate of the United States passed, on April 19, 1912, an immigration bill known as the Dillingham bill, which covered many phases of the immigration question. That bill was sent over to the House on April 20, 1912, and referred to the Committee on Immigration and Naturalization. For reasons which will appear later, the House committee amended the Senate bill by striking out all of it except the enacting clause and substituted the Burnett literacy bill, which reads as follows:

except the enacting clause and substituted the Burnett literacy bill, which reads as follows:

That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States the following persons shall also be excluded from admission thereto, to wit: All aliens over 16 years of age, physically capable of reading, who can not read the English language, or the language or dialect of some other country, including Hebrew or Yiddish: Provided, That any admissible alien or any alien heretofore or hereafter legally admitted or any citizen of the United States may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to land.

Sec. 2. That for the purpose of ascertaining whether aliens can read or not the immigrant inspectors shall be furnished with copies of uniform slips, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plain type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip.

Sec. 3. That the following classes of persons shall be exempt from the operation of this act, to wit: (a) All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; (b) all aliens in transit through the United States and who later shall go in transit from one part of the United States and

The Burnett bill does not differ materially from a provision in the Dillingham bill providing for an educational test, except that the Dillingham bill provides that the immigrant should be required to read not less than 20 nor more than 25 words of the Constitution of the United States before being admitted, while the Burnett bill does not require the immigrant to read so many words of the Constitution of the United States, with the terms, meaning, and expressions with which the immigrant is unfamiliar, but only requires that the immigrant read from 30 to 40 words "in ordinary use printed in plain type" in some language or dialect, which the immigrant himself has the right

to select.

This literacy test for the purpose of preventing objectionable foreigners from coming to this country is not a new proposition, as I have already observed. Not only have political parties in their national platforms specially declared for it, but Congress

itself has unequivocally indorsed it.

The House, in the Fifty-fourth Congress, passed such a measure by the decisive vote of 195 to 20, while the Senate passed

it by a vote of 52 to 10.

That literacy-test bill would have become a law but for the

veto of President Cleveland.

In the Fifty-fifth Congress an immigration bill again passed the Senate, which carried a literacy-test provision, by a vote of 45 to 28.

In the Fifty-seventh Congress an illiteracy-test amendment to an immigration bill passed the House by the sweeping ma-

jority of 87 to 7.

The fact is that at no time in the history of the country has a literacy-test provision in any immigration bill ever been defeated by either House of Congress.

Upon the contrary, such a provision has invariably been passed by decisive majorities when the question was submitted to a vote.

And the various votes by both Houses of Congress on this subject is but a reflection of public opinion on the question.

Not all the newspapers, periodicals, and magazines of the country favor this legislation, but I think I am safe in saying that the bulk of the press do favor it.

Resolutions, petitions, memorials have poured in upon Congress, expressing their views and making known the wishes of large and representative bodies of our citizenship on this momentous and far-reaching question.

The Legislatures of the great States of Ohio, Tennessee, Vermont, and other States have memorialized Congress to pass more stringent immigration laws, and have specifically indorsed

the literacy test.

The various farmers' organizations throughout the length and breadth of the land, the great labor organizations all over the country, the patriotic societies, powerful bodies representing charity, commerce, and the like, have upon divers occasions passed resolutions memorializing Congress to enact a law embodying an educational test and more stringent immigration laws generally.

There are a greater number of the people of the United States engaged in agriculture than in any other calling. National Congress, a body representing the highest ideals in agriculture in all the States of the Union and composed of representative farmers and students of agriculture from all the States, holds a national convention each year. Delegates are selected to attend these conventions by the governors of the various States as well as by the great agricultural organizations and bodies from the most skilled and scientific agriculturists in the whole country.

At these national gatherings they discuss the various problems affecting the welfare of the farmer, and often express their views in the form of resolutions.

At the last National Farmers' Congress they passed the following resolution:

Whereas the congressional Immigration Commission's report of 40 volumes has just been published and recommend the very measures which this organization has been advocating in its resolutions for years to judiciously restrict undesirable immigration:

*Resolved**, That we enthusiastically approve the commission's legislative recommendations that the head tax be increased, the illiteracy test be enacted, the foreign steamships be fined for bringing undesirables, and that other judicious measures be adopted, which are hereby urged upon the Congress of the United States.

The Farmers' Educational and Cooperative Union has a membership of over 3,000,000.

This is possibly the most powerful in point of members and influence of any of the farmers' organizations in this country. This organization has been much interested in restrictive immigration laws and has frequently indorsed the literacy test.

At a recent meeting of this organization it expressed itself in

this fashion:

this fashion:

Whereas the Immigration Commission, after a four years' investigation at home and abroad, involving an expenditure of a million dollars, reports that "many undeniably undesirable persons are admitted every years"; that "there is a growing criminal element in this country, due to foreign immigration"; and that "substantial restriction is demanded by economic, moral, and social considerations"; and

Whereas that commission recommends increasing the head tax, excluding illiterate adults, requiring some visible means of support, fining the foreign steamships for bringing undesirables that could be rejected on the other side, and other measures, law in other new countries, and urged for years by this organization in its resolutions, before congressional committees, and otherwise; and

Whereas it is proposed to relieve the Northeast of its intolerable immigration evils and to continue the unloading of undesirables upon this country by diverting and distributing the incoming, ever-increasing influx from southern Europe, Asia, and northern Africa over the agricultural sections of the South and West.

Then it goes ahead to pass strong resolutions and asks Congress to put on the statute books the laws they desire on this subject.

The American Federation of Labor, the largest labor organization in this country, has for years at its annual gatherings been passing resolutions and petitioning Congress to pass more strict immigration laws, and it has specifically indorsed the educational test-in substance the test we are now considering.

The Grand International Brotherhood of Locomotive Engineers, the Junior Order of United American Mechanics, the Knights of Labor, and other organizations have repeatedly passed resolutions specifically indorsing the literacy test and memoralized Congress to make it a law.

And what are the reasons for this widespread interest in favor of stricter immigrations? Why has the American Congress from 1819 to 1907 been adding one restriction after another to the continued stream of immigrants flocking to our shores?

The law of 1819 was but a little makeshift, regulating steer-

age passengers at sea.

The law of February 20, 1907, the latest on the statute books and the one we now promise to amend by adding a literacy test, provides in section 2:

The law of February 20, 1907, the latest on the statute books and the one we now promise to amend by adding a literacy test, provides in section 2:

That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeclies, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had two or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; persons afflicted with tuberculosis or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamy; anarchists, or persons who admit their bellef in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all government, or of all forms of law, or the assassination of public officials; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons hereinafter called contract laborers who have been induced or solicited to migrate to this country by offers or promises of employment or in consequence of agreements, oral, written, or printed, expressed or implied, to perform labor in this country of any kind skilled or unskilled; those who have been,

This section debars many undesirables, but it needs further amendment.

Even under its provisions there reaches the shores of our country every year in the neighborhood of 1,000,000 alien immigrants, from 30 to 40 per cent of whom can neither read nor write.

In my judgment, Mr. Chairman, the gentleman from Texas [Mr. Dies] struck at the root of this proposition in his remarks a few moments ago. The question is not the excluding of immigration entirely; the question is not as to the excluding of desirable immigrants; but the question is, Shall this country be flooded each year with some 250,000 ignorant immigrants from the old country? As I have observed, the character of citizenship of any country in the world determines the character of its civilization, the character of its institutions, and the character of its government. Will the dumping of 250,000 foreign immigrants into the United States yearly who can not even read and write add to the standard of American citizen-ship? If they will do it, then this bill and all that pertains ship: It they will do le, then has but an early better to it is wrong in principle. If, upon the other hand, the bringing into this country and dumping upon our shores yearly 250,000 people who know nothing of American institutions and who are incapable of learning much about American institutions and American life will injure the character of American

labor and American ideals, then this bill ought to be supported by every man who wants to elevate the standard of American citizenship, because the purpose of it is to exclude this charac-

ter of foreign immigration.

The distinguished gentleman from New York [Mr. Goldfogle] in his remarks but a few moments ago said that this country owes much of its greatness to those who come to our shores from Europe and other countries. That is unquestionably true; but the gentleman ought to remember that away back yonder in 1869 there was less than 1 per cent of the character of immigrants which this bill proposes to exclude that came to Italians—those of them who can not read—and the south Italians—those of them who can not read—and the south Italians, and the Poles. And in the year 1869 there was less than 1 per cent of this character of immigrants coming to America, while 75 or 80 per cent of the desirable immigrants—the English the Search per cent of the desirable immigrants— America, while its or so per cent of the desirable inhingrants the English, the Scandinavians, and the others—at that time constituted the large part of the immigration coming into this country. But year by year the north Italians and the South Italians, and the Poles, and the Slavs increased in number, and from year to year the desirable immigrants decreased in number, until in 1911 about 80 per cent—I am not exactly sure as to the accuracy of the percentage—but, in the neighborhood of 80 per cent of the immigrants coming to this country were immigrants from southern and eastern Europe, composed of the north Italians, south Italians, Poles, and Slavs,

Mr. SABATH. Will the gentleman yield? Mr. POWERS. I yield to the gentleman from Illinois [Mr.

Mr. SABATH. Is it not a fact that the same objections that are made now to the present immigrants were made to the desirable immigrants which you have mentioned, who came to this country up to 1860? Were they not also called then unde-

sirable and vicious?

Mr. POWERS. In answer to the gentleman from Illinois, I want to say that in part the same objections possibly were made, but not in the whole. If the gentleman from Illinois remembers, about five years ago, on the floor of this House, men who were then opposing the literacy test, as men are opposing the literacy test now, opposed a bill similar in character to the bill now under consideration, and succeeded in having a commission appointed to investigate the whole subject of immigration. That commission was appointed, composed of three Members of the House, three Members of the Senate, and three men appointed by the President of the United States. And after four years of investigation by them in this country and in Europe the commission came to the unanimous conclusion that there was an oversupply of unskilled labor in this country, and that the foreign immigration should be largely curtailed.

Mr. SABATH. That was in the years of 1907 and 1908, dur-

ing the Republican panic.

Mr. POWERS. In further answer to the gentleman from Illinois, I desire to say that this commission was appointed at the instance of men who were then opposed to the literacy test, and that commission, appointed by men opposed to the literacy test, made a report in which they stated that the best single method possible of restricting immigration was by means of the

Mr. KAHN. Will the gentleman yield for a question?

Mr. POWERS. I yield.
Mr. KAHN. Will the gentleman inform the committee what the percentage of illiteracy is in his own State, in all persons over 10 years of age for 1910?

Mr. LOBECK. In his own district. Mr. POWERS. I have not the figures at hand, Mr. Chair-

The gentleman from California [Mr. KAHN] wants to know if it is not true that there is a large percentage of illiteracy in Kentucky-as much as 10 per cent among the whites and 30 or 40 per cent among the colored-and the gentleman from Kentucky [Mr. Cantrill] also stated that while Kentucky has as good a class of citizenship as any State in the Union, still he added that the mountain section of the State-the Republican section-was where the high percentage of illiteracy abounds.

In reply to these gentlemen and the gentleman from Nebraska [Mr. Lobeck], I desire to say that no section of this Union has brainier or better people than live and dwell in the mountains of old Kentucky. There is there this day the purest reservoir on the American Continent of pure old Anglo-Saxon blood. They may fall a little below the people of certain other sections of the Union on technical book information—they have not had the advantages of some other sections-but in education, in the true sense of the word, they are inferior to none.

They are educated in hand and educated in heart, educated in honesty and educated in industry. In homely virtues they have no peers. In strength of manhood and purity of womanhood they have no equals. I will enter no further defense of the people of the mountains of Kentucky. They need none. They are destined to control the affairs of the State politically. and financially

It comes with bad grace from the gentleman from California or any other gentleman to prate about the illiteracy of the colored people in Kentucky or elsewhere. Ground down with the chains of slavery for 250 years, denied, aye, forbidden, to read a printed page, no wonder there exists some illiteracy among

them now.

But few races in the world have made more progress than the colored people since the master's lash was taken from their bare backs and them given an opportunity to make some strides along educational and other lines.

But if it be true, as contended here by gentlemen opposing the literacy test for immigrants, that there is a high degree of illiteracy in the South, and that for that reason we ought not to insist on an educational test for immigrants, my answer is

that that is all the more reason why we should insist upon it.

If there is much illiteracy in the South, why add more to it by admitting a horde of illiterate foreigners? Should it not be our duty rather to get rid of what we already have by educating our own people? If the education test had been applied to foreign immigrants years ago, no negro slaves would have been brought from Africa. There would have been no negroes in the South. We would not have had any Civil War, and there would not to-day be 30 or 40 per cent of uneducated negroes in the South, as stated upon this floor. But I am digressing. I have, just laid the foundation for a discussion of this question of immigration, and before the Dillingham and Burnett bills finally pass this House I shall ask the indulgence of the House for a more extended discussion of this question.

Mr. MOORE of Pennsylvania. Mr. Chairman, I yield 18 min-

utes to the gentleman from Massachusetts [Mr. Curley].

The CHAIRMAN. The gentleman from Massachusetts [Mr. Curley] is recognized for 18 minutes.

Mr. CURLEY. Mr. Chairman, a very pertinent question was asked the gentleman from Kentucky [Mr. Powers] by the gentleman from California with reference to the degree of illiteracy in the State of Kentucky, and the answer furnished by the gentleman from California was that it was more than 10 per cent.

Mr. KAHN. Mr. Chairman, will the gentleman yield? The CHAIRMAN. Does the gentleman yield? Mr. CURLEY. The singular part of the illiteracy project is that the figures stand out clearly and indisputably that in the so-called dumping ground for the illiterates, namely, New York, the percentage of illiteracy among children of foreign born is but 5.9 per cent, while in Louisiana, in the South, it is nearly 30 per cent.

Mr. DYER. Mr. Chairman, will the gentleman yield? The CHAIRMAN. Does the gentleman yield?

Mr. CURLEY. Surely.
Mr. DYER. I want to ask the gentleman if it is not a fact that the statistics for 1910 show that in the State of Kentucky the illiterates numbered 87,516?

Mr. CURLEY. If the gentleman says that is so, I will accept his statement.

Mr. CANTRILL. Mr. Chairman, will the gentleman yield?
The CHAIRMAN. Does the gentleman yield?
Mr. CURLEY. I regret I can not yield. The total number of illiterate native whites of native parents was 29,188, or 9.2 per cent, in the State of New York. The total number of illiterate whites of family how payents was 18,162 in the State of the st erate whites of foreign-born parents was 18,162 in the State of New York, or only 5.7 per cent, so that the higher percentage of children of foreign-born parents who are illiterate is only a little less than one-half as great as that of the native born in New York, and that is the section of the country from which the great hue and cry arises in favor of shutting out the illiterates. Louisiana, in your southern section, has the highest percentage of illiteracy of any section in the entire Union, namely, 38.5 per cent.

I have sat here and listened to the talk about the Black Hand. Why, Mr. Chairman, I can not distinguish any differ-ence in the disregard to established law between a lynching bee in the South and the operation of the Black Hand in New York. If the Black Hand of New York is bad, its evil does not exceed the evil of the lynching bees in the South.

Mr. BURNETT. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Massachusetts

yield to the gentleman from Alabama?

Mr. CURLEY. Yes. Mr. BURNETT. The gentleman forgot to refer to an infamous lynching that occurred in Pennsylvania a short while ago. Does the gentleman forget that?

Mr. CURLEY. Mr. Chairman, there are exceptions to every good rule, and apparently lynchings are a good rule in the South.

Now, I listened to the gentleman from Texas [Mr. DES], who said that the immigration that is coming here is incapable of assimilation, and I want to say that I can not understand from what examination and upon what phase of that question he draws the deduction that he presents here, for after all, Mr. Chairman, the study of the Italian race is the most interesting study for persons who desire full and complete knowledge of all that is best in art, in literature, in science, and in

Those whom you term the representatives of a despised race and whom you claim are unassimilable stand predominant among all the races of the entire world. Is it undesirable to perpetuate the blood, the memorials, and the traditions of the greatest Empire of antiquity, which spread the light of its civilization from the Mediterranean to the North Sea and the Baltic? Do the gentlemen who cast the stigma upon Italians recall that this stock was the fountainhead of the Renaissance that dispelled the gloom of the Middle Ages? What authority proscribes the land that gave birth to Gailleo, the most forceful demonstrator of the earth's motion and orbit, or decries the achievements of Columbus and the Cabots, who brought an unknown world to light, to redress and restore the balance of the Old World?

Strange is this flood of prejudice—because, after all, it is prejudice—and every fair-minded man will admit that this propaganda was put in operation and the support of organizations of labor was enlisted, including that of the Brotherhood of Railroad Trainmen, to make successful the move of the new proscriptive organization known as the Junior Order of American Mechanics.

Is there a man here who would like to see our Government go back to the days when, because Roger Williams was a Baptist and believed in doing kindness, he was led to the outskirts of Massachusetts Bay Colony in the dead of a New England winter and, without even food or sustenance, told to find a new abode? Is there a man here who would have this Nation return to the witchcraft days of old Salem? It is the same old cry. It was raised against the Germans when they were weak. It was raised against the Irish when they were weak. It is raised to-day against the Poles and against the Italians and against the Jews because they are weak, and those who are most desirous that a literacy test be applied display their ignorance by questioning the ability of the Italian people to conduct a govern-

How strange, Mr. Chairman, is this flaunt of prejudice in the faces of Dante and Tasso and Petrarch, of Raphael and Michael Angelo and Canova, of Verdi and Rossini, Bellini and Donizetti, of Ristori and Duse and Salvini and Rossi, of Alfieri and Gicometti, of Cavour and Mazzini. [Applause.]

I should like to ask these brilliant exemplars of literature, of science, and of art, who never heard of an Italian civilization. who never heard of Italian government, who never heard of Rome, who never heard of its arts, of its literature, of its science, what freak of conceit ignores historians like Carlo Botta and Pasquale Villari, romancists like Manzoni and D'Annunzio, masters of language like Bartelli and De Amīcis, and overlooks astronomers like Schiaparelli and electricians like Ferraris and Marconi on the loftiest ranges of applied science? In the field of railway engineering there are no more extraordinary memorials than the three grand passageways of the Mount Cenis, St. Gothard, and Simplon tunnels, the enduring monuments of "southern Latin" engineers and constructors, who are said to be unassimilable. [Applause.]

What country owes more to Italy for its impulse than the socalled boasted Anglo-Saxon England? The foremost English poets and dramatists—Chaucer, Wyatt, Surrey, Spencer, Greene, Webster, Ford, and Cyril Tourneur—show distinctively the Italian molding in poetry and drama. Even the master minds of greatest force and fertility, Bacon and Shakespeare, would frankly acknowledge their debt. "Shakespeare's most romantic heroines, Juliet and Desdemona," observes Wilfred Scawen Blunt in The Speaker, "were both borrowed, as we know, and not without the loss of dignity from Bandelle's Italian original. not without the loss of dignity, from Bandello's Italian origi-

Dante, Petrarch, Boccaccio, and Aristo became English house hold words through translations and imitations. From the dawn of early English art and literature Italy has been a mecca for her artists and scholars. The lofty imagination of Milton first expanded in Italian air. Here, too, the restless and embittered heart of Byron sought solace. All that is mortal of Shelley and Keats lies under the shadow of Rome. In Florence the genius of Browning reached its zenith, and his memorial

tablet in Venice bears the lines of his poem, "Open my heart and you will see graved inside of it Italy." The influence of the leader, even in decadence, was deathless.

Mr. POWERS. Will the gentleman yield? Mr. CURLEY. If I felt that it would add to the sum of human knowledge I would gladly do so, but I regret that I do

not think it will. Therefore I refuse to yield.

And can America forget her distinctive indebtedness? New World owes to Italy the debt of the old and more. she not well remember that it was the son of a Genoese wool comber whose unflagging spirit revealed her existence to Europe; that the Florentine, Amerigo Vespucci, was her god-father, and that the voyages of the Cabots and Verrazano first traced the North American coast line and cleared the way for pioneer immigration. There must be a strange lack of memory and of recognition of service when prejudice against southern Latin origin would put up an irrational bar of entry in the face of the countrymen of Columbus. [Applause.]

The Italian by training and environment is a child of sun-shine, and is less responsible for the slum conditions obtaining in our large cities than is the owner of the property or makers of laws which allow insanitary conditions to obtain.

Wherever Italian colonies have been founded success has attended their labors, as in the case of the Asti Colony, of Sonoma, Cal., which to-day boasts the largest dry-wine vine-yard in California, where for two months each year are pressed 300 tons of grapes each day.

And this product carefully matured is now shipped to all parts of the world, even to France, where it finds a ready mar-

ket in competition with the home product.

Forty-five thousand Italians are now living in the 56 counties of California, own 2,726 farms, conduct 837 business concerns, and have an invested capital of \$20,000,000.

The Canadian Government in 1903 expended \$642,913 to promote immigration, and their success, in this country at least, is a good cause for apprehension, as we are annually losing 100,000 of our best citizens.

In the year ended June 30, 1903, of 233,546 Italians admitted, 197,267 were between the ages of 14 and 45 years, so that it is wrong to contend that we are a dumping ground for the criminal, the aged, and the infirm.

And if the economic value of an able-bodied immigrant over 20 and under 35 years is \$1,000, then Italy's contribution has

been tremendous.

We expend millions in the construction of irrigation canals to provide proper distribution of water, yet we do not expend any money for proper distribution of immigration, whereas if our water supply were choked off in the same manner that we now propose choking off immigration, our country would necessarily be less productive than it is now.

The healthy, honest, willing laborer in any field of employ-

ment is an addition to the Nation's working capital.

We embellish our public buildings with names dear to lovers of all that is grand and great in art, science, and literature, and the names occupying the most prominent places are those of Italians, today termed undesirable.

When our tourists go abroad they gaze enraptured at the sculpture, art, and architecture of Rome, preserved through rapine, savagery, and fanaticism by the undesirables, so called, and I venture to say if the gentlemen so anxious to proclaim by law their physical and mental superiority ever do visit the center of art and the birthplace of those they consider as un-desirable beings, a realizing sense of their own inferiority will cause them forever to regret the step to-day contemplated.

The heavy burden of this ill-timed and ill-advised legislation will fall heaviest upon the liberty-loving Jew, who, denied the advantages of education by the tyrannical rule of monarchial government abroad with all its unspeakable rapine and savagery, is to be denied an asylum in this land of the free by reason of a force of agencies that are wholly beyond his control.

It is the glory of these United States that since the establishment of the Republic in 1776, and even before the promulgation of the Federal Constitution, freedom of religion has absolutely prevailed in this Nation, and this insidious law would prevent the entry of a splendid type of the Jewish race, for a haven of free religious worship, and carry out the same vindictive and iniquitous policy of his barbarous conqueror across the

The disappearance of persecution, the era of tolerance, the very recrudescence of liberality—this is the message of the day and hour, and this infamous bill would turn back the pages of American history to the odium attending a policy of pro-scription which thrived during the early days of the nineteenth century, and when the outcome, politically considered, was, thank God, the complete extinction of the party organization which had fostered it and the permanent, endless discredit in the eyes of the American Nation of the political leaders who

had promoted it.

Why, almost a hundred years before the Pilgrims landed at Plymouth Rock the Jews, driven forth by relentless persecution, had made their homes in the Spanish Provinces, whence they came to the United States. And in the dedication of the little colonies to freedom there the Jewish pioneer shared the hardships and perils of the new land with his compatriots.

Such was the story of Dutch New Amsterdam, the wilds of Georgia, the ancient Providence plantations, and the Quaker

colonies of Pennsylvania.

The duty of good citizenship has been the heritage of the Jewish race in every State within this Union since the founda-

tion of the Republic.

The Jewish population of America to-day is a determining civic entity, a moral sinew, and a splendid material asset for all that is best in manhood, character, and the highest development of the American citizen.

Every great national movement that has marked the history of this Republic and which has moved forward and upward for the strengthening and the maintenance of the Government of our land has found the Jew in the forefront as an active participant.

They fought in the War of the Revolution and sacrificed their lives and gave freely of their means that there should be established a true liberty and the greatest free government that has ever marked the children of destiny.

Whenever affliction has beset the American Nation, the Jew has ever been in the forefront, giving generously of wealth for the succor of the unfortunate.

As a distinguished American economist has both well and

truly said-

The Jews have not only found liberty in America in the fullest sense, but a brotherhood among the composite population of the United States. And in return for this liberty and brotherly treatment the Jew has given this great Republic one of its highest types of citizenship. The American Hebrew statistically is proven to be the most valuable kind of a citizen. He is among our largest property holders and taxpayers; he is in the vanguard of all progressive moral and material movements; he is a large contributor to philanthropy, education, and charity. The Jew is everywhere acknowledged to be a first-class American citizen, and since the foundation of our American national life his exemplary conduct as citizen and man has earned for him the respect and fellowship of all self-respecting Americans.

And this bill would deny to hundreds of liberty-loving Jews an asylum in America, driven hence by a passion-blinded populace, and compelled-as 5,000,000 of them are abroad-to live in a district embracing but one-twenty-third of the ruling Empire. With starvation and discontent ever rife through this ill-

judged crowding of the Jewish race abroad, this bill will deny a haven for the oppressed, who are driven to either starvation or emigration by the despotic Government of the Czar.
What a shameless contrast this proscriptive bill presents when

compared with the writings of George Washington, the father of our liberties. In a letter written to the Hebrew congregations of the city of Savannah, Ga., in 1790, Washington said:

I rejoice that a spirit of liberality and philanthropy is much more prevalent than it formerly was among the enlightened nations of the earth, and that your brethren will benefit thereby in proportion as it shall become still more extensive; happily the people of the United States have in many instances exhibited examples worthy of imitation, the salutary influence of which will doubtless extend much farther if gratefully enjoying those blessings of peace which under the favor of heaven have been attained by fortitude in war, they shall conduct themselves with reverence to the Delty and charity toward their fellow creatures creatures

May the same wonder-working Deity, who long since delivered the Hebrews from their Egyptian oppressors, planted them in a promised land, whose providential agency has lately been conspicuous in establishing these United States as an independent Nation, still continue to water them with the dews of heaven, and make the inhabitants of every denomination participate in the temporal and spiritual blessings of that people whose God is Jehovah.

A little more of the magnanimity of Washington would not be out of place in this day and generation of ours

Washington later in August, 1790, writing the Hebrew congregation of Newport, R. I., said:

It is now no more that toleration is spoken of as if it were by the indulgence of one class of people that another enjoyed the exercise of their inherent natural rights, for, happily, the Government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens in giving it on all occasions their effectual support.

May the children of the stock of Abraham who dwell in this land continue to merit and enjoy the good will of the other inhabitants, while everyone shall sit in safety under his own vine and fig tree, and there shall be none to make him afraid.

Why, my friends, the towering shaft that commemorates the first battle of the Revolution at Bunker Hill in my own city was made possible by the liberal contribution of a Jew, Judah Touro, who was seriously wounded at New Orleans in the War of 1812, and of the gross sum of \$55,000 donated for the monument, he himself contributed \$10,000.

And a body of no less distinguished Americans than John Quincy Adams, Daniel Webster, Joseph Story, Edward Everett, and Franklin Dexter were appointed a committee to prepare an inscription for a tablet to be placed within the monument in behalf of the liberality of this benevolent Jew.

To the economic side of this question a word is also certainly due. It stands to reason that every immigrant becomes a customer of those already occupying the same vantage ground. And further, that as each must produce as much as he consumes, the community is in the end an inevitable gainer by his presence. And as a very large majority produce more than they consume, it is manifest that in their earnings the community gains doubly by their presence.

American history emblazons no more heroic figures than Pulaski, who, after vainly striving to lead his own countrymen against the Russian tyrant in 1768, came to America to give up his life in our great contest for liberty, and of Kosciusko, who came here to fight for the independence of our country and then returned to fight vainly for the freedom of his own

land.

While the financial contribution of Haym Salomon to the Treasury of the country during the War of the Revolution was the largest individual aid extended Washington by any resident of the thirteen States, and came at a crucial time, when the Colonial Army was disintegrating from sheer force of poverty, and history records no finer example than that of Manuel Mordecai Noah, of South Carolina, who, unsheathing his sword as a member of Gen. Washington's staff, gave his fortune of approximately \$100,000 to advance the cause of the colonists.

While there were but 3,000 Jews in the Colonies at the outbreak of the Revolutionary War, we find that no less than nine Jews were enrolled when the first nonimportation resolutions were signed as a material protest to the exactions of Great Britain—Benjamin Levy, Samson Levy, Joseph Jacobs, Hyman Levy, jr., David Franks, Mathias Bush, Michael Gratz, Barnard Gratz, and Moses Mordecai.

In the War of the Revolution we find Joseph De Leon, of South Carolina, a most distinguished officer; and when Gen. De Kalb fell mortally wounded at Camden he, with Maj. Nones and Capt. de la Motta, all Jews, carried the wounded De Kalb from the field under fire. Samuel Benjamin was an ensign of the Eighth Massachusetts, and Benjamin Aaron served in a like capacity with the Eighth Connecticut. Maj. Benjamin Nones served with marked gallantry upon both the staffs of Gens. Washington and La Fayette. Col. Solomon Bush served with great bravery in the Pennsylvania Militia.

Maj. Lewis Bush was a first lieutenant of the Sixth Pennsylvania, and, after establishing a wonderful record in the

field, fell mortally wounded at Brandywine.

Jacob Cohen served gallantly with Gens. Moultrie and Lin-coln; Philip Jacob Cohen was a distinguished Georgia colonist, and Mordecai Davis an ensign of the Second Pennsylvania Battery.

Reuben Etting enlisted at Baltimore when 19 years of age, served in the North with gallantry, was made prisoner at Charleston, was captain of the Independent Blues of Maryland, and later served as marshal of his State under appointment by President Jefferson.

Col. Isaac Franks, of Philadelphia, served as aid-de-camp to Gen. Washington, and with the title of colonel served throughout the war. His residence at Germantown was for some time occupied by President Washington as his home.

Col. David Franks was also an aid-de-camp upon Gen. Washington's staff, and served with conspicuous gallantry.

David Hays, jr., served with great ability upon Long Island with the Colonial Army, and his house and store were both burned by the British.

Moses Isaacks, of Newport, R. I., was a very active supporter of the Colonial Army and entertained Gen. Washington at his home.

Isaac Israel was first lieutenant of the Eighth Virginia and served also in the Fourth Virginia in the same capacity, while Jacob Leon was a staff officer serving with Gen. Lasky. Levy was ensign of the First New Jersey Regiment and Nathaniel Levy a member of Lafayette's command.

Israel de Lieber rose from the ranks to a position of honor and trust under Washington, Benjamin Moses served on the staff of Gen. Pulaski, while Isaac Moses gave almost his entire property of \$15,000 to the Army.

Emanuel de la Motta served both in the War of the Revolution and the War of 1812 and was promoted from the ranks for marked bravery to positions of great trust and honor, while Jacob de la Motta was a captain upon the staff of Gen. Pulaski,

Philip Moses Russell was a distinguished surgeon, and cared for the Continental Army during the terrible winter at Valley Forge-1777 and 1778.

Joseph Sampson was a lieutenant of Cotton's Massachusetts Regiment and Ezekiel Sampson a lieutenant of Baldwin's Artillery, and many other Jews served their adopted country with marked valor upon every field of battle.

It is well to bear in mind among the last words of the late ex-President Cleveland, his expression upon the position of the Jew in American life. He said:

I know that human prejudice, especially that growing out of race or religion, is cruelly inveterate and lasting. But wherever in the world prejudice against the Jews still exists, there can be no place for it among the people of the United States, unless they are heedless of good faith, recreant to the underlying principles of their free Government, and insensible to every pledge involved in our boasted equality of citizenship.

Mr. SHARP. Will the gentleman yield for a question?

Mr. CURLEY. I will yield to the gentleman from Ohio. Mr. SHARP. If the immigrants who are now coming from Italy to our shores are the worthy successors of the distinguished men whom the gentleman from Massachusetts has named, is there any particular hardship imposed by this bill in requiring them to read and write? [Applause.]

Mr. CURLEY. I will answer by saying that if the restriction that is proposed in this bill had been in operation a hundred years ago undoubtedly the gentleman from Ohio would not be here now, and certainly I would not, [Applause.] I believe that applies with equal force to 90 per cent of the men in this House. Yet the cry which goes up from one end of the country to the other is the cry for labor. The chairman of the committee says we are not getting desirable immigrants from northern Europe. It is more profitable for the immigrant to remain where he is in his own country. Denmark, Norway, Sweden, the countries that the gentleman cites as furnishing the higher type of immigration, are to-day countries of immigration and not emigration, and what is true of those countries is true of England, Scotland, Germany, France, and Ireland, and every one of the countries that possess what are termed desirable immigrants were as undesirable 50 years ago as the Italian and the Jew are to-day.

The German is not coming here, because they have harnessed the streams and Germany has developed manufactures, and it is more profitable for the German to remain at home. The Irish are not coming here because I guess nearly all of them are here

at the present time. [Laughter.]

By the way, it is a funny thing, but my friend's question recalls a peculiar thing. We talk about immigration. I find here a book on Rochambeau that was published by order of the I was amused in looking over the book to find the names of the Frenchmen who accompanied Rochambeau to this There was the regiment De Dillon.

country. The colonel was Le Comte Dillon; the second was Théobald Chevalier Dillon; the lieutenant colonel was Barthelemy Dillon; the major was Jacques O'Moran; the paymaster was Barthelemy Monearelly; and the captains were Moore, Purdon, Bancks, Nugent, Swigny, Shee, Moore, O'Neill, O'Brien, and Taaffe—all Frenchmen. [Laughter.]

Of the second captains there were Mandeville, MacGuire, O'Reilly, Kelly, MacDermot, Noolan, O'Doyer,

Lynck, and Coghlan.

Then there was another regiment—the regiment De Walsh.

Then there was another regiment—the regiment De Walsh. The colonel was Thaddeous O'Brien, the captains De Fitzmauric, De Walsh, O'Neil, De Nagle, O'Brien, and D'Orcy.

The second captains were O'Croly, O'Connor, and the lieutenants Plunkett and O'Riordan, and second lieutenants O'Gorman and MacCarthy—all patriotic Frenchmen. [Laughter.]

When these men offered their services for the cause of human

liberty, was there anybody to rise up and say, "You can not live here; you can not come here because you can not read and write"? [Applause.]

I hate to destroy all illusions, Mr. Chairman. I have no respect for the man who dispels the old story of Santa Claus or St. Nicholas. But I was amused the other day to find that the shot that was fired at Lexington that was heard around the world was fired at Fort William and Mary in 1774, under the command of a man by the name of Sullivan, and 80 Irishmen, and no man asked if they could read or write. Instead of the shot being fired at Lexington that could be heard around the world, it was fired at Portsmouth, N. H., December 13, 1774.

I have read of the Boston tea party and always supposed it emanated from an indignation meeting at the old South Church, but I have discovered that it was concocted in John Duggan's Tavern in Corn Court, Boston, afterwards known as the Han-cock Tavern; and if the men disguised as Indians who threw the tea overboard were properly characterized, it would be

"John Duggan's tea party" instead of "the Boston tea party." [Laughter and applause.]

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. BURNETT. Mr. Chairman, I now yield 15 minutes to the gentleman from California [Mr. HAYES].

Mr. HAYES. Mr. Chairman, I listened with great interest to the rehearsal by the gentleman from Massachusetts of the great names and great deeds of some Italians, and I beg mildly to suggest to the gentleman from Massachusetts and to the committee, that no one of those great Italians would have been excluded from the United States under the present bill. They would all be admissible if this bill were a law.

I intend to vote for this bill, not because I am wholly satisfied with it, for I am not. I am not fully satisfied with the methods proposed for weeding out undesirable immigrants as the best that could be devised. I am not satisfied with it, further, because I should be glad to see other provisions in this bill than are found in it, but I believe it is a step in the right

direction.

Mr. Chairman, 30 years ago the immigration to this country was made up largely, if not entirely, of young men in whose breasts the spirit of liberty was stirring, and who looked to this land of the free as a place for larger opportunity and for the better facilities it offered of acquiring a competency and the pursuit and enjoyment of happiness. While this condition existed it constituted a method of natural selection that secured for this country the very best elements of the populations of the countries from which they came; and if that condition still existed I should be opposed to this legislation or any other legislation that would prevent the coming to this country of immigrants of the character of those of that time, but that condition is entirely changed. Mr. Chairman, I desire to send to the Clerk's desk and have read in my time a paragraph from the report of the Commissioner General of Immigration of the United States for 1911, which expresses the present situation in this regard.

Mr. SABATH. Mr. Chairman, is that Mr. Keefe's report? Mr. HAYES. It is.

The Clerk read as follows:

SOURCES OF AND INDUCEMENTS TO IMMIGRATION.

Considerable space has been devoted in previous reports to this important and interesting subject. It has been shown that (1) the sources of our immigration have undergone a decided change in recent years, one which is of great significance to the country and its people, and (2) much of the immigration which we now receive is artificial, in that it is induced or stimulated and encouraged by persons and corporations whose principal interest is to increase the steerage-passenger business of their lines, to introduce into the United States an overabundant and therefore cheap supply of common labor, or to exploit the poor, ignorant immigrant to their own advantage by loaning him money at usurious rates; or, as now so frequently happens, in the organized and systematized state of the business, a combination of the three elements, so that money lenders and ticket agents abroad, the transportation companies, and the labor brokers and large employers of common labor here each receive their portion of the benefits and proceeds. Meanwhile the alien and the country suffer—the alien by being thrown into new and untried conditions, not conducive to his health or happiness, under circumstances which place him at a serious disadvantage by reason of being loaded with debt, which, unless promptly settled, multiplies with interest, and which he knows must soon destroy his own or his family's property mortgaged in security, and the country by having its standards of labor wages, and living not only temporarily lowered but permanently injured—and who can question the economic axiom that injury to its wage earners is a direct injury to a country?

Mr. HAYES. Mr. Chairman, it has been demonstrated by the hearings before the Committee on Immigration and Naturalization of this House that the statement just read is absolutely We have had evidence tending to show not only great misrepresentation on the part of the steamship companies and their agents in nearly all the countries of Europe in order to stimulate immigration, but evidence has been produced to show that in this country men having confederates on the other side do a large business in inducing immigration in order that the ignorant immigrant, when he comes here, may be subject to the exploitation of those who are in this conspiracy.

Mr. SABATH. Mr. Chairman, will the gentleman yield? Mr. HAYES. I yield. Mr. SABATH. The gentleman has stated that it has been demonstrated before the Immigration Committee that the report of the Immigration Commission is true. Will the gentleman kindly state by whom it has been demonstrated?

Mr. HAYES. Oh, I have no time, Mr. Chairman, to go into We have had large numbers of people before us. those details.

Mr. SABATH. Mention two or three.
Mr. HAYES. I do not care to stop to mention anybody.

Mr. SABATH. Mention only one; that will not take much time.

Mr. HAYES. I can not stop for such interrogatories.

The CHAIRMAN. The gentleman declines to yield.

Mr. HAYES. As I say, it has been demonstrated, to a larger extent than my colleague from Illinois will admit and to a much larger extent I have no doubt than is known to most Members on the floor of this House, that this sort of work is going on in this country, and the immigrant is brought in not for his good, not for the good of this country, but in order that he may add to the income of the steamship companies and be exploited generally by his own countrymen in this country, who make it a business to prey upon the ignorant and unprotected immigrant who comes here. I think there is no question about I am surprised that my colleague would deny that this is the fact.

Mr. SABATH. I say this, that the commission that has in-

vestigated the conditions does not say so.
Mr. HAYES. I beg the gentleman's pardon. If I can read the English language, it says so; but I can not yield further. The CHAIRMAN. The gentleman declines to yield.

Mr. HAYES, Mr. Chairman, it must be patent to everybody that it is the ignorant, those who can not read and write, and. therefore, who know nothing about the ways of the world and the wiles of the dishonest people who would make use of them for profit, who become the victims of these conspiracies and these frauds, and so, I say, this legislation will not only be beneficial to the country in weeding out at least some of those who will become undesirable citizens, but it will be a great benefit to, by preventing the coming here of, the ignorant immigrant, when by reason of his ignorance he is unable to protect himself from the dishonesty and chicanery that he finds here among his own countrymen who are engaged in the business of boatage or peonage, a thing which the immigration authorities have found it hard to prove even when they know it exists.

It has been sought to show on this floor that this legislation is championed by only one side of this House. I believe this question is too big to be a partisan question, and I beg to state that the Republican Party has gone on record for years in favor of this legislation. I read from the platform of the Republican

Party for the year 1900:

For the protection of the equality of our American citizenship and of the wages of our workingmen against the fatal competition of low-priced labor, we demand that the immigration laws be thoroughly en-forced and so extended as to exclude from entrance into the United States those who can neither read nor write.

Mr. SABATH. That is also true of the platform of the Republican Party of 1912, is it not?

Mr. HAYES. It is not; but I wish it were.

Mr. SABATH. It has been in there.

Mr. HAYES. It has been repeatedly incorporated in substance in the Republican platforms in this country. That is the Republican doctrine, as I understand it. Following that I call attention to the first annual message of President McKinley in the year 1897, in which he states:

Our naturalization and immigration laws should be further improved to the constant promotion of a safe, a better, and a higher citizenship. A grave peril to the Republic would be a citizenship too ignorant to understand or too vicious to appreciate the great value and beneficence of our institutions and laws, and against all who come here to war upon them our gates must be promptly and tightly closed. Illiteracy must be banished from the land if we shall attain that high destiny as the foremost of the enlightened nations of the world under Providence we cought to achieve. ought to achieve

I also call attention to the message of President Roosevelt in 1901, where he states in his annual message addressed to the Congress of the United States:

The second object of a proper immigration law ought to be to secure by a careful, and not merely perfunctory, educational test some intel-ligent capacity to appreciate the American institutions and act sanely as American citizens.

So, Mr. Chairman, I might continue with quotations from the leaders of the Republican Party and from its platform to demonstrate that the Republican Party stands for this kind of legislation as well as the party on the other side of the aisle. have received thousands of communications from not only my own district and State, but from all over the land asking my support of the provisions of this bill. I know that this legislation is demanded by all patriotic societies, without a single exception; also by the Farmers' Educational and Cooperative Union, by the Grange, by the American Federation of Labor, and, as I believe, by a very large majority of the population of the United States without regard to party; this legislation is being now considered here in obedience to an overwhelming popular demand.

Mr. BARTHOLDT. Will my friend yield for a question?

Mr. HAYES. I will.

Mr. BARTHOLDT. Has the gentleman from California ever studied the statistics on births in this country? If the Chinese are excluded on the western coast and Europeans are excluded on the eastern coast of this country what would be the annual increase of population in this country without immigration?

Mr. HAYES. Is the gentleman through?

Mr. BARTHOLDT. I will tell you what it would be.

Mr. HAYES. The gentleman is not a prophet; he can not tell, and neither can any man.

Mr. BARTHOLDT. I can say this, that according to scientists the increase should be 11 per cent; that the surplus of births over deaths should be 13 per cent where social conditions in the country are right; but in the United States but for immigration the increase would be only one-half of 1 per cent.

Mr. HAYES. I think the gentleman is stating it much too I have not the figures at hand, so I can not controvert

the statement he has made.

And that one-half of 1 per cent is mostly Mr. BARTHOLDT.

found among the immigrants.

Mr. HAYES. All that has nothing to do with the subject. disclaim any prejudice against any nation or against foreigners in general, but I am jealous of the interests of my country; I am anxious that the highest possible citizenship should find residence within its borders, and therefore I am anxious that those only who are capable of becoming selfrespecting, self-governing American citizens should be allowed to come here, and those who have not the intelligence or the capacity to become such should be excluded. I am glad to support this bill and any other proper measure looking in the same

The CHAIRMAN. The time of the gentleman has expired. Mr. MOORE of Pennsylvania. Mr. Chairman, I yield five minutes to the gentleman from Illinois [Mr. Madden].

Mr. MADDEN. Mr. Chairman, I come from a city which is peopled by men and women from every nation in the world. I have lived in that city long enough to see its population grow from 100,000 to 2,500,000—the second city in the Union—and its people are as law-abiding as any people throughout the world. I have seen immigrants come who were unable to read and write. I have watched their children through their childhood and into manhood and womanhood. After having been educated in the public schools of our great city, we find that no better citizens live anywhere, and that is true as to every nationality. strict the opportunity of men and women to live under the freedom enjoyed by American citizens is unjust. Many of us would not be here if our people had been required to read and write when they were admitted to this country. We boast that this is the land of opportunity. A man's moral worth is not gauged by the amount of education he has. A man who can neither read nor write may be an infinitely better citizen than the man who can read and write in every language. Let those who live where no opportunity is given them to secure an education come to our shores where they can have the benefit of our public institutions of learning, where they can learn the grandeur of American institutions. We have in the city of Chicago 200,000 children of foreign-born parents attending our public schools. They are quick to learn; they soon become filled with love for the adopted land of their parents; they grow up to be our best citizens; we are proud of them. I say, let their parents come; there is no danger in admitting them to our shores.

It has been said by the gentleman in charge of this bill that the men who are allowed to come to the United States under the present immigration laws cheapen labor. No such thing. He says they glut the labor market. Not at all. He would make no such statement if he understood the situation. wishing to employ labor everywhere throughout the United States to-day are unable to find it. The price of labor was never so high in America as it is to-day. Opportunities for employment never were so great. The standard of living never so high. We boast that this is the land of opportunity; then give those of the Caucasian race who want to come the opportunity. Let their children mingle with ours in the public schools. Give them the opportunity for the enjoyment of the liberty of which we are so proud. Teach them to proclaim this liberty to their less fortunate fellows in other lands. Make them missionaries to carry the light of liberty to every quarter of the globe. Let them become the instrumentalities through whom we may show the world that here in free America we make men as well as merchandise. We need have no fear of our inability to assimilate all who come. The industrial development of the Nation goes on apace. We need the men if we are to keep step with the onward march of progress. There is room and to spare for all who come. The price of labor is not lowered by their coming. Immigration is greatest in the years of our greatest prosperity. When labor is not in demand they do not come.

The percentage of immigration is no greater now than at any other period of the Nation's history, population considered. It is complained that immigrants congregate in the great centers of population and thereby reduce the chances of employment for

those already there. It is the demand for labor which attracts them to the centers. If that demand was in the rural districts, there they would go. The man who comes here to work becomes an asset, not a liability; he helps to create the wealth of the Nation. The question of whether the immigrant can read is not of as much importance as is the question of whether his heart is right. It is through the hearts of men that our citizenship is made great. To the hearts of those who come, then, we must appeal. We must teach them love of liberty, love of our institutions; show them that here all men are to be encouraged in the race for success; that all are to be measured at their true worth. No; immigration is not a menace. It is but one more evidence that the liberty we proclaim has reached the peoples of less favored lands and that they come here to take advantage of its privileges. Let them come. I have not the time nor the knowledge to make the careful analysis of the immigration question which its importance justifies, but I thoroughly agree with the able analysis made by Isaac A. Hourwich, Ph. D., in his work on Immigration and Labor, and I print his Summary Review, found on pages 1 to 39 of his book, as a part of my remarks. I am sure it will prove interesting and instructive and convincing.

Summary Review, found on pages 1 to 30 of his book, as a part of my remarks. I am sure it will prove interesting and instructive and convincing.

It is the purpose of this review to state briefly for the benefit of the busy reader the results of our inquiry into the various phases of the immigration question. Such a summary must necessarily be dogmatic in form. Every proposition is advanced here, however, merely as a theorem, whose demonstration is presented in its proper place in another part of the book.

It is recognized on all sides that the present movement for restriction of immigration has a purely economic object; the restriction of competition in the labor market. Organized labor demands the extension of the protectionist policy to the home market in which 'hands'—the laborer's only commodity—are offered for sale. The advocates of restriction believe that every immigrant admitted to this country takes the place of some American workingman. At the inception of the restrictionist movement, in the eighties and the carly inletties, they were avowedly opposed to immigration in general. The subsequent decline of immigration from the British Isles, Germany, and the Scandinavian countries and the increase of immigration from southern and eastern Europe lance diverted the attack from immigration in general to "the new immigration" from southern and eastern Europe and the Asiatle Provinces of Turkey. Yet while the root of all evil is now sought in the racial make-up of the new immigration, as contrasted with the old, every objection to the immigrants from southern and eastern Europe is but an echo of the complaints which were made at an earlier day against the then new immigration from Ireland, Germany, and even from England. Three-quarters of a century ago, as to-day, the only good, immigrants were the dead immigrants.

There is no real ground for the popular opinion that the immigrants of the present generation are drawn from a poorer class than their predecessors. It is a historical fact that prior to 1820 th

as the Germans who have lived in the United States the same length of time.

The only real difference between the old immigration and the new is that of numbers. To the workman who complains that he has been crowded out of his job by another it would afford little comfort to feel that the man who had taken his place was of Teuton or Celtic rather than of Latin or Slav stock. The true reason why the "old immigration" is preferred is that there is very much less of it.

As stated, the demand for restriction proceeds from the assumption that the American labor market is overstocked by immigration. Comparative statistics of industry and population in the United States show, however, that immigration merely follows opportunities for employment. In times of business expansion immigrants enter in increasing numbers; in times of business depression their numbers decline. The immigration movement is further balanced by emigration from the United States. As a rule, the causes which retard immigration also accelerate the return movement from this country. It is customary to condemn the "bird of passage," but so long as there are variations in business activity from season to season and from year to year, the American wage earner has no cause to complain of the immigration who choose to leave this country temporarily while there is no demand for their services, thereby reducing unemployment in its acutest stage.

It is broadly asserted by restriction advocates that the hundreds of thousands of Slav, Italian, Greek, Syrian, and other immigrant mine and mill workers have been "Imported" by capitalists—in other words, that they are all contract laborers. This belief offers to the student of folklore a typical example of twentieth century myth building. None of the official investigations of immigration has disclosed any evidence of importation of laborers under contract on a large scale, aithough

prior to the enactment of the law of 1885, excluding contract laborers, there was no reason to conceal the fact. It is quite conceivable that in the case of a strike a great corporation might have resorted to the importation of a large force of strike breakers regardless of cost. As a general rule, however, with hundreds of thousands of immigrants coming to this country annually, it would be a waste of money to "induce" immigration. The few actual violations of the contract labor law that clude the vigilance of the immigration authorities can not affect the labor market.

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The real agent immigrants already in the United States. It is they that advance the cost of passage of a large proportion of the new immigrants. When the outlook for employment is good, they send for their relatives or encourage their friends to come. When the demand for labor is slack, the foreign-born workman must hold his savings in reserve, to provide for possible loss of employment. At such times no wage earner will assume the burden of providing for a relative or the interest of the provide for possible loss of employment. At such times no wage earner will assume the burden of providing for a relative or the interest of the provide for possible loss of the provide for a relative or the interest of the provide for a relative or the interest of the provide for a relative or the provide for a provide for a relative or the provide for a provide for a relative or the provide for a relative or the provide for a relative or the provide for the provide for a relative or the provide for the relative provides and the provides and the relative provides

Still, an oversupply of labor may produce a latent form of unemployment which could be described as underemployment; all employees may be kept on the rolls, and yet be idle a part of every week. Again, however, we find that the average number of days of employment per wage earner increases as immigration increases and declines as immigration described acclines as immigration.

wage earner increases as immigration increases and declines as immigration declines.

The relation between immigration and unemployment may thus be summed up in the following propositions: Unemployment and immigration are the effects of economic forces working in opposite directions; those which produce business expansion reduce unemployment and attract immigration; those which produce business depression increase unemployment, restriction of immigration is not a contributory cause of unemployment. This supposition is negatived by the experience of Australia, where emigration exceeds immigration Australia is a new country with an area as great as that of the United States, while its population at the census of 1906 was half a million short of the population of New York City at the census of 1910. Yet Australia has as much unemployment as the State of New York, which is teeming with immigrants. It is evident that unemployment is produced by the modern organization of industry even in the absence of immigration. There is a widespread belief that, although on the whole the United States is in need of immigrant labor, "the new immigration" has a tendency to stagnate in the overpopulated cities, while there is a keen demand for hands in agricultural sections. A retrospective view of the history of immigration shows that this tendency is not peculiar to "the new immigration." For the past 90 years public men and social theorists have sought to relieve unemployment in the cities by directing

the current of immigration to the farm, but the immigrants have always preferred to seek employment in the cities. The popular mind which accounts for individual conduct by the "free will" of the individual applies the same criterion to social phenomena; the Italians and the Slavs concentrate in the cities because they have a "racial tendency" to concentrate in the cities. That most of the immigrants of those nationalities have grown up in agricultural communities and that many of them after working a few years in a great American city return home and go back to the soil argues against the assumption of a "racial" dislike for agriculture. The real cause of the concentration of immigrants in the cities is economic. Even the "desirable" immigrant from northern and western Europe who lands with a capital of fifty and odd dollars lacks the funds to rent a farm. At best he can obtain employment only as a farm hand. Since the early days of Irish and German immigration, however, the growing industries of the cities have offered a better market for labor than agriculture.

The industrial development of the United States has manifested itself in a relative, and in some sections an absolute, depopulation of rural territory. There is a large migration of native Americans of native stock from country to city. This movement is the result of the revolution in American farming conditions and methods, which has tended to reduce the demand for labor on the farm. The American farm of the first half of the nineteenth century was the seat of a highly diversified industry. The members of a farm household made their own tools and part of the furniture; they were spinners and weavers; they made their own clothes, and soap, and candles for their own use. With such a variety of occupations there was work for a hired man at all seasons of the year. But industrial differentiation has removed from the farm one industry after another. The time during which a hired man can be kept employed on the farm has been reduced in consequence to a fe

earn a full year's wages in a rural community was gone.

While in manufacturing the invention of labor-saving machinery has resulted in the gradual displacement of the small proprietor by the wage earner. In American agriculture, on the contrary, the machine has tended to eliminate the wage earner. As late as the middle of the nineteenth century the agricultural methods of the American farmer differed little from those of his ancestors. Grass was moved with a scythe. Grain was cut with a sickle and thrashed with a flail. Flailing and winnowing grain was the chief farm work of the winter. Corn was planted by hand, cultivated with the hoe, and shelled by scraping the ears against the handle of a frying pan. The cultivation of a farm in this primitive way sustained a demand for steady farm help in all seasons. To-day there is some implement or machine for every kind of farm work. It is estimated that the quantity of labor saved by machinery represents the services of 1,500,000 men working every week day in the year.

In consequence of limited demand, agricultural labor is the least

machinery represents the services of 1,500,000 men working every week day in the year.

In consequence of limited demand, agricultural labor is the least remunerative of all occupations. The hours of labor on the fagm are longer than even in the steel mills of Pennsylvania. Small pay, long hours, and irregular employment is what the immigrant can expect on a farm. His preference for city work which pays better can be easily explained without delving into the mysteries of race psychology. It merely confirms the rule that immigration follows the demand for labor. The effect of immigration upon labor in the United States has been a readjustment of the population on the scale of occupations. The majority of Americans of native parentage are engaged in farming, in business, in the professions, and in clerical pursuits. The majority of the immigrants, on the other hand, are industrial wage earner. Only in exceptional cases has this readjustment been attended by actual displacement of the native or Americanized wage earner. In the course of industrial evolution some trades have declined owing to the introduction of new methods of production. In such cases there was naturally a decrease of the number of native as well as of foreign born workers. As a rule, however, the supply of immigrant labor has been absorbed by the increasing demand for labor in all industries without leaving a surplus sufficient to displace the native or older immigrant passe earner. There were but few occupations which showed an actual—not a relative—decrease of native Americans of native stock. This decrease was due to the disinclination of the young generation to follow the pursuits of their fathers; the new accessions from native stock were insufficient to replace the older men as they were dying off, and the vacancies were gradually filled up by immigrants. But for every position given up by a native American there were many new openings filled by native American there were many new openings filled by native

American wage earners.

The westward movement of American and Americanized wage earners and the concentration of immigrants in a few Eastern and Central States have been interpreted as the "displacement" of the English-speaking workmen from the mills and mines of the East by the new immigration. An examination of the figures shows, however, that during the past 30 years mining and manufacturing grew much faster in the West and South than in the East and drew some of the native workers and earlier immigrants from the older manufacturing States. But the demand for labor grew in the old States as well. The places left vacant by the old employees who had gone westward had to be filled by new immigrants.

The description of mills and factories by native American girls has also

vacant by the old employees who had gone westward had to be filled by new immigrants.

The desertion of mils and factories by native American girls has also been explained as their "displacement" by immigrants. The motive assigned is not economic, but racial; it is the social prejudice against the immigrant that has forced the American girl to quit. It seems, however, that this explanation misisakes cause for effect; the social stigma attaching to working association with immigrants is not the cause but the effect of the desertion of the mills and factories by native American women. The psychological interpretation overlooks one of the greatest economic changes that has taken place in the United States since the Civil War—the admission of women to most of the pursuits which were formerly regarded as peculiarly masculine. For every native woman of American parentage who left the mill or clothing factory there were 40 women of the same nativity who found new openings. The increase of the number of native American professional women was nearly five times as great as the decrease of the number of native American factory girls. The marvelous progress of the American educational system has fitted the native American woman for other work than manual labor and has at the same time opened to her a new field in which she does not meet the competition of the immigrant.

There is absolutely no statistical proof of an oversupply of unskilled labor resulting in the displacement of native by immigrant laborers.

No decrease of the number of common laborers among the native with of native or foreign purentage appears in any of the great States which of native or foreign purentage appears in any of the great States which one of the States affected by the new immigration has there been a decrease in the number of native miners. Such States as Pennsylvania one of the States affected by the new immigration has there been a decrease in the number of native miners. Such States as Pennsylvania to the foreign and native purentage. The iron and steel milts are another industry from which the recent immigrants are popularly believed immigrants. The fact is, that in the earlier period of the industry, when immigration from southern and eastern Europe was negligible, the minigration from southern and eastern Europe was negligible, the meridod, of account of the industry, when immigration from southern and eastern Europe was negligible, the production of the industrial was coming in large numbers, the number of American Europe have been coming in large numbers, the number of a dealing place in the iron and steel industry.

Industrial wage carners has been the elevation of the English-speaking workmen to the status of an aristocracy of labor, while the immigrants workmen to the status of an aristocracy of labor, while the immigrants workmen to the status of an aristocracy of labor, while the immigrants workmen to the status of an aristocracy of labor, while the immigrants have been raised to the plane of an aristocracy of reduction of the company o These gains are in no small way due to the progress of organiza-

tion among German wage earners, which was practically prohibited prior to 1891. Since that time the membership of labor organizations has advanced by leaps and bounds, leaving behind the older British and American trade-unions. The growth of the labor movement in Germany has directly and indirectly stimulated labor legislation, which has conferred material benefits upon the German wage earner. Whereas industrial progress in modern times has generally led to the elimination of the independent artisan who has been pushed lint the ranks of wage earners, in Germany this process has been checked by the development of cooperation. The general improvement of the economic conditions of all classes of the working people necessarily affected the rate of emigration for the past 20 years.

Yet it is worthy of note that while immigration from Germany to the United States has in recent years been much below the level of the early elightles, the average annual immigration from Germany was much higher during the past decade of the nine teenth century. In other words, German immigration increased with the increase of Italian and Slav immigration we find that the number of breadwinners coming to compete in the American labor market virtually reached its maximum during the past decade. The only change is that, whereas the earlier Scandinavian immigration was mostly of a family type, among the recent Scandinavian immigration was mostly of a family type, among the recent Scandinavian immigration was mostly was a help, while the new Scandinavian immigration to the United States was in no way affected by immigration from southern and eastern Europe, come chiefly to seek industrial employment. That Scandinavian immigrants, like the new Immigration from southern and eastern Europe is evidenced by the change in the direction of the United States was in no way affected by immigration from southern and eastern Europe is evidenced by the change in the direction of the United States was in no way affected by immigration from southern and ea

rise of the peasant farmer, due chiefly to the rapid spread of cooperation in all branches of farming. The progress of agriculture has attracted immigration to Denmark.

While the wave of emigration from Great Britain and Ireland to the United States has receded from the high-water mark reached in 1880-1889, yet, eliminating that exceptional decade, we find that during the 20-year period 1890-1909, marked by the influx of immigrants from southern and eastern Europe, the United States received more immigrants from Great Britain and Ireland than during the 20-year period 1800-1879. Another fact that must not be lost sight of is the recent development of Canada, Australia, New Zealand, and South Africa, which has naturally drawn a part of the emigration from Great Britain and Ireland. The policy of restriction adopted in Australia, New Zealand, and South Africa has conferred a special privileze upon limnigrants of British nationality. On the other hand, the Governments of Canada and Australia are making systematic efforts to induce and assist immigration from the mother country. That the financial assistance offered to immigrantis from the United Kingdom has diverted a part of them from the United States is but natural.

The decline of Irish immigration began as far back as 1861. It rose again in the eighties, in the turbulent years of the Irish Land League agitation, and once more during the past decade. That the "new immigration" to the United States was not the cause of the decline of Irish immigration is clear from the fact that the emigration movement from Ireland to other countries has also declined, while, on the other hand, of those Irish who did emigrate the proportion destined to the United States was higher during the period of the great influx of minigrants from southern and eastern Europe was negligible. There have been forces at work to reduce the number of Irish univest of the eighties forced the British Parliament to enact remedial legislation, which gave to the tenant-at-will a legal title to his

salarled man with a fixed income tends to lower the family's standard of living. It is significant that the decline of the birth rate is unfigerant competition. Their standard of living is higher than that of the wage carner. Yet it is precisely the desire to preserve this higher than that of the wage carner. Yet it is precisely the desire to preserve this higher than that the absence of immigration in the past would have talsed the native wage carner's standard of living to that the sake of argument, that the absence of immigration in the past would have talsed the native wage carner's standard of living to that the sake of argument, that the absence of immigration in the past would have talsed the native wage carner's standard of living to that the sake of a standard of living to the native of the sake of the

that he will accept a wage just sufficient to provide for his own subsistence. The Italian section hand who lives on vegetables does not save money for the railroad company. The economic interests of the American wage carner are therefore not affected by the tendency of the recent immigrant to live as cheaply as possible and to save as much as possible. Whether he spends his wages for rent and dress, or saves his money to buy steamship tickets for his family; whether he invests his savings in a home in the United States or sends them to his parents for improving the home farm, his wants in one case are as urgent as in the other, and he must demand a wage which will enable him to satisfy them.

in the other, and he must demand a wage which will enable him to satisfy them.

On the other hand, though the standard of living of the native or Americanized wage earners be higher than that of the new immigrants, this difference is not necessarily indicative of a higher cate of wages; the higher standard is very often maintained with the earnings of the children, whereas the southern and eastern European immigrants are mostly young people whose children have not reached working age. The supposed difference in the standard of living can therefore have no effect upon the comparative rates of wages of English-speaking workmen and of recent immigrants.

But it is argued that the newly arrived immigrant must have work at once, and is therefore glad to accept any terms. The immigration commission, after a study of the earnings of more than half a million employees in mines and manufactures, has discovered no evidence that immigrants have been hired for less than the prevailing rates of wages.

The primary cause which has determined the movement of wages in the United States during the past 30 years has been the introduction of labor-saving machinery. The effect of the substitution of mechanical devices for human skill is the displacement of the skilled mechanical devices for human skill is the displacement of the skilled mechanical devices for human skill is the displacement of the skilled mechanical devices for human skill is the displacement of the skilled mechanical devices for human skills the displacement of the skilled mechanical devices for human skills displacement of the skilled mechanics by the expansion of industry; while the ratio of skilled mechanics to the total operating force was decreasing, the increasing scale of operations prevented an actual reduction in numbers. Of course this adjustment did not proceed without friction. While, in the long run, there has been no displacement of skilled mechanics by unskilled laborers for the industrial field as a whole, yet at certain times and places individua

labor.

To prove that immigration has virtually lowered the rates of wages would require a comparative study of wages paid for the same class of labor in various occupations before and after the great influx of immigration. This, however, has never been attempted by the advocates of restriction. In fact, the chaotic state of our wage statistics precludes any but a fragmentary comparison for different periods. In a general way, however, all available data for the period of "the old immigration" agree in that the wages of unskilled laborers, and even of some of the skilled mechanics, did not fully provide for the support of the wage earner and his family in accordance with their usual standards of living. The shortage had to be made up by the labor of the wife and children.

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If the tendency of the new immigration were to lower the rate of wages or to retard the advance of wages, it should be expected that wages would be lower in great cities where the recent immigrants are concentrated than in rural districts where the population is mostly of native birth. All wage statistics, concur, however, in the opposite conclusion. Since the United States has become a manufacturing country average earnings per worker have been higher in the cities than in the country. The same difference exists within the same trades between the large and the small cities. Country competition of native Americans often acts as a depressing factor upon the wages of recent immigrants. This fact has been demonstrated in the clothing industry, in the cotton mills, in the coal mines, etc.

often acts as a depressing factor upon the wages of recent limingrants. This fact has been demonstrated in the clothing industry, in the cotton mills, in the coal mines, etc.

Furthermore, if immigration tends to depress wages, this tendency must manifest itself in lower average earnings in States with a large immigrant population than in States with a predominant native population. No such tendency, however, is discernible from wage statistics. As a rule, annual earnings are higher in States with a higher percentage of foreign-born workers.

The conditions in some of the leading industries employing large numbers of recent immigrants point to the same conclusions. In the Pittsburgh steel mills the rates of wages of various grades of employees have varied directly with the proportion of recent immigrants. The wages of the aristocrats of labor, none of whom are southern or eastern Europeans, have been reduced in some cases as much as 40 per cent; the money wages of the skilled and semiskilled workers, two-thirds of whom are natives or old immigrants, have not advanced notwithstanding the increased cost of living, while the wages of the unskilled laborers, the bulk of whom are immigrants from southern and eastern Europe, have been going up.

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Another typical immigrant industry is the manufacture of clothing. The clothing industry has become associated in the public mind with the sweating system, and since the employees are, with few exceptions, immigrants from southern and eastern Europe, the conclusion is readily reached that the root of the sweating system is in the character of the new immigration. Yet the origin of the sweating system preceded the Jewish clothing workers by more than half a century. Throughout the second quarter of the past century native American and Irish women worked in the sweat shops of New York, Boston, and Philadelphia for only board and lodging, or even for board alone, depending upon their families for other necessities, whereas the Jewish factory girls of the present day are at least self-supporting.

In the cotton mills of New England the last quarter of the nineteenth century, when the operatives were practically all of the English-speaking races, was a period of intermittent advances and reductions in wages; on the whole, wages remained stationary. The first years of the present century, up to the crisis of 1908, were marked by the advent of the southern and eastern European, Armenian, and Syrian immigrants employed in the New England mills. As a general rule the employment of large numbers of recent immigrants has gone together with substantial ndvances in wages. This correlation between the movements of wages and immigration is not the manifestation of some mysterious racial trait, but the piain working of the law of supply and demand. The employment of a high percentage of immigrants in any section, industry, or occupation is an indication of an active demand for labor in excess of the native supply.

To be sure, the rise in wages is paralleled by a similar movement of prices. The employer of labor seeks to recoup the advance in wages by advancing the price of his product to the consumer. When the advance in the price of manufactured products becomes general, the wage earner as a consumer is forced in effect to give up a part or all of his gain in the money rate of wages. The increased cost of living then stimulates further demands for advances in wages. Since combinations of capital in all fields of industry have reduced competition among employers of labor to a minimum, the wage earners have been at a disadvantage in this continuous bargaining. In general it has been observed by economists that wages, as a rule, do not rise as fast as prices. That this rule holds true irrespective of immigration is illustrated by the movement of wages and prices during the Civil War. With the exception of the first year, the period was one of prosperity in every branch of industry. The wage earners were apparently in a favorable situation. The Army drew hundreds of thousands of workers from industrial pursuits, while immigration declined. There were at that time no immigrants from southern and eastern Europe, nor was there any oversupply of unskilled labor. Yet while the depreciation of the currency caused a rapid increase in the cost of living, money wages did not keep pace with prices. In other words, real wages decreased. It must be noted that during the war a lively labor agitation was going on; strikes were usually successful. Withal, labor was unable to win increases in wages commensurate with the increased cost of living.

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It factors tending to depress the rate of wages child labor loads approminent place. The most significant fact to be noted concluding prominent place. The most significant fact to be noted concluding prominent place. The most significant fact to be noted concluding the weather than the concluding prominent of children employed in factories in States where there is practically no immigrant population, whereas the lowest per cent is found in New York, which is overrun by immigrants. The growth of manufacturing industries in the South being restricted by the natural increase of her native population, the manufacturers, in order to extend their operations, must resort to the employment of children, as did their predecessors in New England a century ago, before immigration came to supply the needs of American industry. This situation is by no means confined to the South. Absence of foreign immigration has created a demand for the labor of rural and semirural Missouri. The principal inducement for locating new shoe factories in rural sections of a continuous conti

highly paid recent immigrant living in a large city. But the longer hours of the native American wage earner in the country admit of no such explanation.

Among the many charges against the recent immigrants not the least important one is that their ignorant acquiescence in dangerous and insanitary working conditions is a menace to the safety of the older employees. The immigration commission has accepted without criticism the employers' defense in work accidents, viz, that the majority of accidents arise from the negligence, the ignorance, and inexperience of the employees. There is, however, another side to the question. Many experts hold that most of the risks are humanly preventable, and their continuance is due to economic conditions beyond the control of the employee. Effective prevention of accidents in mines presupposes a carefully planned equipment involving considerable expense. But competition forces the mine operator to follow unsafe mining methods, which inevitably result in unnecessary sacrifice of human life. It is not the carelessness of the mine workers, but the carelessness of mine operators and their representatives that is, according to expert opinion, the cause of the high fatality rate in American mines. Similar dangerous conditions once existed in France and Belgium, but they were removed by stringent legislation and by an effective enforcement of the law. The theory which shifts the blame for accidents from the mine operator to the Slav miner tends to prevent the enactment of such legislation in the United States. the United States.

In the iron and steel mills there is the same popular disposition to shift the responsibility for accidents to "the ignorant foreigner," whereas expert opinion views the tremendous speed at which the plants are run as the real cause of danger. The greatest risk of death and personal injury is assumed by railway trainmen, who are all either Americans or natives of northern and western Europe. They have strong organizations and could not be replaced by non-English-speaking immigrants. Yet "acquiescence in dangerous and insanitary working conditions" appears to be the general attitude of organized and unorganized workers alike, irrespective of nationality. Obviously, organized labor does not feel strong enough to make demands which would involve large outlays by employers for safe equipment.

Organization of labor is nowadays generally recognized in the United States as the most effective of all existing agencies for the increase of wages and improvement of working conditions. It would therefore be a cause for grave concern if it were true, as claimed, that the recent immigrants were not organizations with disruption. The fact is, however, that the origin and growth of organized labor in the United States are contemporaneous with the period of "the new immigration," and that the immigrants from southern and eastern Europe are the backbone of some of the strongest labor unions. A notable example is the coalmining industry, where the mine workers' organization has gained strength only since the southern and eastern Europeans have become the predominant element among them. One of the most troublesome problems which the organization of these immigrants has had to face has been the competition of the unorganized Americans of native stock.

Before 1889 all labor organizations were small in membership and their effect upon economic conditions was negligible. Like everywhere, during the infancy of organized labor, a union would spring into exist-ence under the impulse of a strike, would flourish for a while, if successful

among wage earners is thus accounted for by the fact that both are stimulated by business prosperity and discouraged by business depression.

The question arises, however, whether the progress of trade-unionism would not have been greater had there been no immigration from southern and eastern Europe during the past decade of industrial expansion. An answer to this question is furnished by the comparative growth of trade-union membership in New York and in Kansas. The ratio of foreign born in Kansas has been steadily decreasing since 1880. At the same time Kansas has shared in the recent industrial expansion. Statistics show that the relative number of organized workmen is much higher in New York with its large and growing southern and eastern European population than in Kansas, where more than nine-tenths of the population are of native birth.

These comparisons prove that recent immigration has not retarded the progress of trade-unionism, except, of course, where it is the policy of the unions to exclude the recent immigrants by prohibitive initiation dues and other restrictive regulations intended to limit the number of competitors within their trades.

Language is nowadays no longer a bar to organization among immigrants. The membership of every union includes a sufficient number of men of every nationality through whom their countrymen can be reached.

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men of every nationality through whom their countrymen can be reached.

Many of the more recent immigrants from southern and eastern Europe had acquired a familiarity with the principles of organization in their home countries. In Italy organization has lately made rapid progress not only among industrial workers, but also among agricultural laborers. In Russia, previous to the revolution of 1905, labor organizations and strikes were treated as conspiracies, but the revolutionary year 1905 outmatched the labor-union record of any other country. The strikes of that year affected one-third of all the factories employing three-fifths of all factory workers. The total number of strikers, at a conservative estimate, exceeded three and a half millions. The strikers drew together wage earners of all those nationalities which make up the bulk of our immigration from Russia—Hebrews, Poles, Lithuanians, Russians, and Ruthenians (Little Russians). In this connection it is worthy of note that the organizations of clothing workers in New York City, nearly all of whom are Russian and Polish Jews and Italians, comprise a higher proportion of the total number employed in the industry than the average trade-union in the United States.

If organized labor in the United States has not succeeded in welding together a majority of the wage earners, the fault is neither with immigration in general nor with immigration from southern and eastern Europe in particular. The primary cause is the substitution of machinery for human skill, which is taking the ground from the craft union. The latter, however, as a rule, does not seek to organize the unskilled laborers. Situations have arisen where the interests of the craft union have been antagonistic to organization among the unskilled. That organization among the unskilled. Another obstacle to the progress of trade-unionism is that the prin-

strike.

Another obstacle to the progress of trade-unionism is that the principal industries to-day are controlled by combinations, which have reduced competition among employers of labor to a minimum. In a contest of endurance between a trust and a trade-union the former is able to hold out longer, since it can shift the losses to the consumers. The only successful strikes against trusts have been those in which the majority of the strikers were immigrants from southern and eastern Europe, viz, the strikes in the anthracite coal nines of Fennsylvania and in the woolen mills of Lawrence.

One of the reasons for the greater power of resistance exhibited by the southern and eastern Europeans is the predominance among them of men without families. (The proportion of married men among the

recent immigrants employed in bituminous coal mines varied from 49.4 per cent to 77.2 per cent; the proportion of married men whose families were living abroad averaged 27.9 per cent for all races, varying from 19.5 to 80.4 per cent.—Reports of the Immigration Commission, vol. 6, Tables 102 and 104.) The single European wage earner who manages to save a portion of his earnings can fall back on his savings if necessary. This relieves the pressure upon the strike fund. On the other hand, the families of recent immigrants, being inured to the most simple life in their home countries, can more easily endure the hardships of a strike than the families of native American wage earners. The southern and eastern European strikers are therefore able to hold out longer in a wage contest than the native wage earner.

The defeat of many strikes is charged against the inmigrant, who, though supposedly too tractable under normal conditions, is said to be inclined to violence when aroused. Suffice it to say that strike riots are as old as strikes in the United States.

On the other hand, however, the United Mine Workers of America, whose members are mostly immigrants from southern and eastern Europe, has put into practical operation an industrial parliament, with separate representation for employeers and employees, for the orderly regulation of the terms of employment. And lately another organization of recent immigrants, the Union of Cloak, Suit, and Skirt Makers, has created a joint executive body for the sanitary control of workshops. It can not be said, then, "as a general proposition * * that all improvement in conditions and increases in rates of pay have been secured in spite of the presence of the recent immigrant." (Reports of Immigration Commission, vol. 1, p. 541.)

The results of the preceding discussion can be summed up as follows:

(1) Recent immigration has displaced some of the native American

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The results of the preceding discussion can be summed up as following the payon of the native American wage carners or of the earlier immigratios, but has only covered the shortage of labor resulting from the excess of the demand over the domestle supply.

(2) Immigration varies inversely with unemployment; it has not increased the rate of unemployment for the recent immigrants is not lower than the tandand of Iving of the recent immigrants is not lowered the standard of Iving of Americans and older immigrants are saged in the same occupations. Recent immigration has not lowered the standard of Iving of Americans and older immigrant wage earners upward on the scale of occupations. It prevented an increase in the rates of wages; if has pushed the native and older immigrant wage earners upward on the scale of occupations. The proportionate quota to the membership of every labor organization which has not always the proportionate quota to the membership of every labor organization which has not discriminated against them, and they have firmly stood by There is a general labor problem, which comprises many special problems, such as general labor problem, which comprises many special problems, such as general labor problem, which comprises many special problems, such as general labor problem, which comprises many special problems, such as general labor problem, which comprises many special problems, such as general labor problem, which comprises many special problems, such as general labor problem, which comprises many special problems, such as general labor problem, which comprises many special problems, such as general labor problem, which comprises many special problems, such as general propertion of work accidents, etc. None of these problems being affected by immigration,

manufacturing and mining.

Scarcity of unskilled labor would hasten the general introduction of mining machinery. The labor that would thus be displaced would form one substitute for immigration.

The mines and mills of the Southern States which have failed to attract immigrants utilize the labor of farmers and their sons. The

two million tenant farmers offer great possibilities as an industrial reserve available during the winter months. The farm being their main source of subsistence, they are able and willing to offer their labor during the idle winter months more cheaply than freshly landed immigrants. The efforts of trade-union organizers among this class of English-speaking workers have met with scant success. The substitution of the cheap labor of the American farmer for the labor of the Siav or Italian immigrant would tend to weaken the unions and to keep down wages.

The discontinuance of fresh supplies of immigrant labor for the mills and factories of New England would give a new impetus to the establishment of factories in the South, where there is an abundant supply of child labor, and in the rural districts of agricultural States with an available supply of cheap labor.

The employment of all these substitutes for regular wage earners certainly has its limitations. But there is in the United States, as in all industrial countries, a steady flow of labor from rural to urban districts. In the absence of immigration of unskilled laborers the depopulation of the rural districts would be accelerated. A stimulated movement of labor from the farm to the factory would check the growth of farming; the prices of foodstuffs would rise in consequence, which would tend to offset the advantages to the wage earners from a possible rise of wages.

Still, should all the substitutes for immigration prove inadequate,

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Still, should all the substitutes for immigration prove inadequate, it does not necessarily follow that scarcity prices would rule in the American labor market. It must be borne in mind that capital is international. Parallel with the immigration and emigration of labor to and from the United States, there has been going on an immigration of European capital to the United States and an emigration of American capital abroad. It is estimated that the total amount of European capital invested in the United States is approximately \$6,500,000,000. In other words, European capital came together with European labor to assist in the development of American industry. Should there arise a scarcity of labor in the United States, new investments of European capital will seek other fields. On the other hand, billions of American capital are already invested in foreign enterprises. At present these investments can not compare with the profits of American industries annually reinvested at home. If, however, a scarcity of labor were created in the United States, more American capital would seek investment abroad.

Velopment of foreign countries with cheap labor must eventually react upon labor conditions in the United States. Certain of the most important American industries depend in part upon the export trade. A scarcity of labor in the United States would induce many American manufacturers to follow the example of their English, French, Belgian, and German competitors who have found it more profitable to establish factories in foreign countries than to export their products to those countries. Such an emigration of American capital would materially affect the export trade of the United States and eventually throw out of employment a number

Mr. BURNETT. Mr. Chairman, I yield five minutes to the gentleman from North Carolina [Mr. SMALL].

[Mr. SMALL addressed the committee. See Appendix.]

Mr. MOORE of Pennsylvania. Mr. Chairman, is the gentleman from Alabama [Mr. Burnett] ready to go on?

Mr. BURNETT. I prefer that the gentleman use some of his time now.

Mr. MOORE of Pennsylvania. Mr. Chairman, I yield 12 minutes to the gentleman from Missouri [Mr. Bartholdt].

The CHAIRMAN. The gentleman from Missouri [Mr. Bartholdt] is recognized for 12 minutes.

Mr. BARTHOLDT. Mr. Chairman, never before in the history of our country has an attempt been made to restrict immigration at a time of great prosperity and when American labor was fully employed. Thus far such efforts have been confined to periods of industrial depression, when our own labor was unemployed or when an influx of foreigners would accentuate hard times. Therefore it is inconceivable to me why the fundamental policy of this Government with respect to immigration should be changed now, when new immigrants are so largely in demand in nearly all parts of the country.

There is certainly no economic reason for further restriction, and the arguments occasionally advanced by the American

Federation of Labor in favor of such a policy, while comprehensible at other times, have really no application to present conditions, and a careful survey of the industrial field, I am sure, would convince our labor leaders of that fact.

Ponder as I may, I can find no excuse for the proposed action of the majority, except it be political expediency. It is intended perhaps to clear the deck, so to speak, and to relieve the incoming administration, which has blown hot and cold on this subject, of a vexatious problem. If the immigration bill is disposed of now, assuming that the Senate would also pass it, there will be divided responsibility, inasmuch as the House is Democratic and the Senate is Republican. This would enable our Democratic friends to wash their hands of the whole business and to avoid the necessity of assuming the burden at a time when they will have full control of all branches of the Government.

It has been argued, and with a great deal of justification, that after the people have decided on a change of parties in the Government no more important action should be taken by the old régime; and no one is more zealous in the advocacy of this view than the gentlemen on the other side of this aisle. In deference to this contention, our Democratic friends even so far as to refuse in the other House to confirm presidential appointments such as are regularly and legally made under

powers conferred upon the President by the Constitution.

Under these circumstances, I say, the question certainly arises whether the Republican minority of this House should aid the Democratic majority in what seems to be purely a political game, and whether it would not be right and proper for the Republican minority to refuse this aid when it comes to the solution of a fundamental problem and the change of a traditional policy of the Government. My own judgment is that the immigration problem should be left to the next Congress to solve, a Congress which will come fresh from the people and which will be controlled by a party that has received a popular mandate to decide such questions, not as we wish to decide them but as the newly selected Representatives see fit to solve them.

There is only one other explanation for the precipitate action of the majority in this matter, which, however, I can not quite reconcile with my conception of American public spirit. Could it be possible, Mr. Chairman, that Members have been intimidated by certain secret societies, by organizations which are proscribing people on account of their religion, and are opposing immigration on such un-American grounds? I can hardly persuade myself that the great Democratic Party, which, the same as the Republican Party, has always stood for freedom of conscience and religious liberty, should have fallen to the depth of heeding those who are daily preaching a religious war. I know this to be an issue in this country at the present time, although few have the courage to speak about it. For one, I shall not hesitate to speak out, however, for it has been my firm conviction that if the proud temple of our liberties should ever crumble to dust it will not be because of those who publicly assail it, but it will be because public men, as well as the public press, are afraid to discuss and warn the American people of the hidden dangers which are threatening our liberties.

I speak from my experience during the last campaign. About a month before the adjournment of the last session of Congress I received a circular in which certain questions were propounded; among others, whether I favored an educational test for immigrants. There was no name given. Merely a post-office box was mentioned, to which I was expected to direct my answer.

I replied courteously that I should be glad to answer all their questions, but before doing so must request them to mention at least one name, as I had made it a rule of my official as well as private life never to answer anonymous communications. I never received a reply. Not one member of that organization was man enough to step to the front and mention his name.

No sooner had the campaign begun in earnest than an anonymous circular made its appearance and was distributed in hundreds of thousands of copies all over my district in which I was blacklisted as a "pro-Romanist," with a footnote to the effect that I had "always voted for pro-Roman immigration." This, Mr. Chairman, in spite of the fact that no immigration bill has been voted on in this House for many years.

I am sure the membership of this House will agree with me when I say that if a public man is to be stabbed in the back with daggers hidden under the cloak of "Americanism" simply because he refuses, in legislating on the subject of immigration, to make religious distinctions, we are confronted with a problem much more serious than is the problem of immigration, for if acquiesced in it would signify the death at the hands of a political mafia of religious liberty; and it will also be conceded, I hope, that those who make the assault on him on such

grounds are a danger to American institutions, because they are violating the spirit and genius of true Americanism. I am a Lutheran. My father and mother were Lutherans. My wife is a Lutheran, and my child was christened in that faith. believe in a complete separation of church and state, and in this belief go so far as to assert that the daily prayers in this House, as well as all Sunday laws, are unconstitutional, because they signify a mixing of church and state. These views, although Lutheran doctrine, I hold not as a Lutheran, but American who reveres the Constitution. too, I believe in religious freedom and religious tolerance. Therefore, and I say it with utmost deliberation, when I am called upon to violate the eath which I have made 10 times in this House to uphold the Constitution, when I am asked to discriminate between citizen and citizen because of their religion and to vote to restrict immigration because part of it happens to come from Catholic countries, rather than comply with such a demand, Mr. Chairman, I would resign my seat in

this House, take pen in hand, and write editorials against such an infamous proposition. [Applause.]

Whatever may be the fate of this bill, whatever motives or reasons there may be in your minds for its passage or defeat, I sincerely trust that among the Members who favor it there is not a single one to be found who is impelled by fear of an un-American Black Hand in his district such as I have described. I say again, the men who from religious prejudice practice such intimidation on political candidates and by implied threats and dark-lantern methods exact pledges from them at election time are enemies of our institutions; and a public servant, by allowing himself to be thus coerced, would be faithless to the Constitution and to one of the most sublime American ideals.

[Applause.]

Mr. Chairman, permit me briefly to discuss the merits of this bill. It is needless to say that in dealing with immigration we are dealing with a very grave subject. It means to interfere artificially with a natural phenomenon caused by an inherent instinct of humanity—their migration. We are playing not with material interests or dollars but with souls—in fact, with human lives. One line in an immigration bill might affect the fate of thousands, and one word might change the life career of as many human beings. The question of immigration is one which, in my judgment, is more talked about and less understood than almost any other problem before the American people. As a rule people only see the surface without grasping its deeper significance. Its dark side is systematically paraded and its bright side hidden from view. When we have to deal with a sincere demand for restriction, based upon economical conditions, the problem is perhaps not so difficult to solve, but when, as is undoubtedly the case, a good part of the opposition to immigration is based upon what I believe to be innate prejudice, then the difficulties presented become insurmountable, because neither reason nor arguments will be of any avail.

I am in favor of restricting immigration to the extent it is now restricted; I want to see excluded all the classes now mentioned in the laws, but I am opposed to further radical restriction, because I think that, under present conditions, particularly at this time, it is no longer the serious problem it was even a few years ago. Before I go into facts and figures to make good that statement, I want to lay down a few fundamental propositions: In the first place, we must remember that every immigrant is really a valuable addition to the capital of this country. Europe is paying the expense of raising and educating men and women, and then when they become old enough to pay back the outlay to European society these men and women emigrate to the United States to identify themselves with our institutions, to offer us their brain and brawn for the They must purpose of aiding us in building up our country.

naturally be an asset to us.

Another suggestion I should like to make to determine the value of immigration. It is this: Whenever in cities and towns of this country the census figures show an increase in population there is general rejoicing; in other words, the people regard such an increase as an evidence of growth and progress and prosperity. And they also have a right to regard it as indicating an increase in values, because it is population which makes values. Take half of the people out of the city of New York and the property of that city would be worth but one-half of what it is worth to-day. If you would put 10,000,000 people into Texas to-day, the value of property in that State would rise from \$50 an acre to probably \$500 an acre. In other words, population determines values. The more people the higher the value of land and property.

We have not sifted the facts connected with immigration up to something like 20 years ago. Until that time people came in, and the supposition was that the vast majority came for the purpose of bettering their condition; in other words, they were people imbued with energy and a desire for aiding themselves.

As Bismarck once said, "Immigration does not consist of the poorest classes of Europe by any means." By that the great German statesman meant to say that the man who is able to raise enough money to defray the expenses of the trip to the New World for himself and family is not a pauper in the sense in which we accept that term. He must be a man of some push and energy; and these, I submit, are the very qualities which count in life and which we welcome to these shores. From my study of the subject, extending over 40 years, I believe I can truthfully say that even to-day the vast majority of the immi-grants come with the idea in their minds of bettering their economic condition.

We are all agreed, I believe, that immigration has been a great boon, if not the greatest, to this country, and that of all the factors which have contributed to its wonderful growth and development none has been more important. Even to-day immigrants or the sons of immigrants are performing half of the real hard work of the country and they assimilate so rapidly that the second generation are as good Americans as And in the whole history of the country no instance can be cited of any serious trouble caused by lack of assimilation or nonassimilation. There have been labor troubles, yes, but they were always of an economic and not a racial nature and merely proved my contention, often made on this floor, that if an immigrant finds—and he discovers this soon after his arrival—that he has to pay American prices for American goods, he will also demand American wages. It is my deliberate judgment that if you seriously restrict immigration, and this is the avowed purpose of this bill, you do not solve a problem, but you create a new one, and a problem much more serious than the one you complain of now. But I shall speak of this phase later.

One of the arguments in favor of restriction is the possibility of overcrowding the United States. Let me say a word on that subject. In the United States we now have 25 heads to the square mile, figuring the present population at 90,000,000. Germany they support 308 heads to the square mile, and Belgium supports 650 people to the square mile. If the United States should ever become as densely populated as Belgium is to-day, we could support a population of 2,342,593,500 people. The fact is, Mr. Chairman, that you can move all the people of the United States into the State of Texas, and then Texas would not be populated as densely as Belgium is to-day; and I claim that that country represents the highest type of civilization which is able decently to support the largest number of people to the square mile.

Of course if we eye immigration askance, if we regard these waves of humanity as a sort of hostile invasion, then all these arguments would have no value with us. If those who hold such views are right, then it would be better and more consistent to shut the doors of the Republic altogether. But I am one of those who still believe in immigration, because we can not do without it. There is congestion in the large cities, true; but that same congestion exists in London, Berlin, Vienna, St. Petersburg, and all other large cities of the Old World, yet there no attempt has ever been made to exclude foreigners.

Last year I was passing through a part of Germany where they were building a railroad, and I talked to one of the men, trying to find out what character of labor they were employing. Although I addressed the man in German, he could not understand me. He pointed out the foreman to me, who I found was a German, and I asked him what kind of labor he was employing. He replied they were Italians, every one of them. Says I, "Italians? Can't you find labor in such a densely populated country as Germany?" "No," he said, "Germans are doing a better class of work; they will not build railroads; we can not get them for this purpose." And he said that the Italians were sober, industrious, and reliable, and particularly competent in railroad construction work, and for these reasons they employed them. There you have a country with 308 people to the square mile, and yet not one word of protest is raised on the part of labor against the employment of these Italians, while here, in a country with but 25 people to the square mile, the cry is persistently kept up that immigration should be stopped on the ground that it is a serious competition with American labor.

If you will look at the latest bulletin, the October bulletin, issued by the Department of Commerce and Labor, you will find a very remarkable fact, Mr. Chairman, in relation to the departures. I am glad the figures are now being given in regard to the departures. At the time I was chairman of the Immigration Committee, 18 years ago, we could not get any figures on the departures of emigrants. In this bulletin you will find that in the year ended June 30, 1911, 155,000 laborers—I only give the round numbers—came to this country, and in the same year 172,000 laborers departed; in other words, 18,000 more laborers left our country than came here as immigrants. Now, is not that a very important fact? And this strange phenomenon seems permanent. Look at the figures for the fiscal year 1912. You find in the official reports that of the class of immigrants styled "laborers" there arrived during the year ended June 30, 1912, 135,726, while in the same period 209,279 departed. In other words, over 73,000 more left this country than arrived in

that period of time. These figures certainly show that immigration is no problem at this time. The total immigration last year was 878,000. Deduct from that number the 295,000 who returned to their native countries and we have 582,000 left. Deduct from that number the 246,000 women and children, who certainly should not be counted as competitors with American labor, and there is left a total of only 336,000. I do not believe there is a civilized country on earth that does not get just as many foreigners as that number represents every year. And I go further, and say there is not a country on earth which would not be glad to receive them at the present time. A few years ago at Bremen one of the captains of industry of that city told me they could find immediate employment in the city and its surrounding territory for at least 8,000 men.

We see them pass through here

He said-

but no inducements of any kind will stop them. They are bent on embarking for America, although we are offering them high premiums for staying with us.

I now come to the question whether we need this influx of laborers or whether we can get along without them. Let us see. I hold in my hand a number of newspaper clippings. A Pittsburgh dispatch to the New York Times says:

Pittsburgh is experiencing a labor famine so serious that many big industries are advertising far and wide to get men. Last week the shortage in the Connellsyille coke region necessitated the blowing out of 1,200 ovens at a time when record prices are being charged for foundry and furnace sizes. Contractors having big jobs are offering higher wages than have been paid since the boom years preceding the panic of 1907. Some concerns in the Pittsburgh district sent agents to accost men walking in the streets who appeared to be idle. The employing agent of one corporation said he could give work to 7,000 laborers.

The New York Evening Post says:

There is almost universal complaint in the iron and steel industry that it is difficult to secure a sufficient supply of labor, and this is true not only of the foundries, rolling mills, steel works, and blast furnaces, but of the coke works as well. Indeed, according to the Iron Trade Review, the scarcity of labor is particularly pronounced in the Connells-ville coke region.

In another New York paper I find the following, under the

NEW YORK NEEDS 100,000 SERVANTS.

An exhaustive report on New York employment agencies, which Commissioner of Licenses Herman Robinson has prepared, was turned in to Mayor Gaynor yesterday by the commissioner. The servant problem, which is dealt with in detail, shows that there is a great scarcity of servants. More than 100,000 of them could find employment if they were here.

The New York Herald contains, under the headline "All industries need men—Prosperity that is sweeping country causes enormous demand for labor," the following:

From every direction reports continue to come in showing that in various industries there is much more labor to be performed than there are men for the jobs, although wages paid to-day are higher and more attractive than at any other time in the history of the country.

Construction work is suffering from perhaps the greatest dearth of labor ever experienced; machinery factories, steel mills, cement works, brickyards, lumber yards, stone quarries, and innumerable other lines of trade and industry are crying for workmen. The shortage includes all lines of labor, skilled and unskilled.

Mr. Chairman, these are only a few samples of the reports.

Mr. Chairman, these are only a few samples of the reports to be found in the newspapers of all sections of the country. Therefore am I not right in saying that the real problem today is not how to keep out immigrants, but how to get them and to keep them here? And is it not pure folly to try and restrict immigration at such a time?

The advocates of restriction lay great stress on the fact that many of the new immigrants do not remain with us, but return to their home countries after they have accumulated a little money. For one, I should not like to criticize what is a natural impulse of the human heart—the longing for home, the desire of a man to visit again the scenes of his childhood. And from an economical standpoint the going and coming of certain immigrants is even desirable. They go where there is work to do, but if the opportunity for employment becomes limited these "birds of passage," as they have been called, go back home and leave the field to American labor, only to come again when times become better. In this manner immigration regulates itself. And as to the money they take to Europe, let us be just and remember that they have given an honest equivalent for every dollar they have in their pockets. Why should we criticize those poor people when we remain indifferent to the example of the wealthy nabobs who go to London and Paris to spend their American money and actually look with scorn upon

American democracy and American institutions after having once basked in the sunshine of royal splendor? For one I would find less cause for criticism in the longing for home of the poor fellow who has earned his few dollars in the sweat of his face than in the extravagances of the rich man, who, though a native American, forgets his own country in lavishing his wealth upon European society.

I want to discuss this question fully from the standpoint of the laboring man, Mr. Chairman, but before doing so let me say a word about the illiteracy test. The advocates of restriction know full well that the ability to read is no test of character. They know that to impose it would admit the anarchist, the nihilist, the crook, and the man who for some reason or other has to leave his own country, while it would bar out the unfortunate but honest poor man who comes with two strong arms and a healthy mind and a willingness to identify himself and his children with our institutions,

I regard an illiteracy test not only as a hardship on the very men we want and need, but I consider it unwise and unjust besides. In imposing it we are practically punishing a lack of opportunity. A man has been raised under conditions in Europe which have made it impossible for him to acquire the faculty of reading. That is his misfortune, of course, but when he comes to this country and we propose to punish him for his unfortunate lack of opportunity by shutting our doors in his face, is this not adding injury to his misfortune? This lack of opportunity is brought about by conditions over which he has no control. He has been raised in such poor circumstances that his parents were unable to send him to school; he had to work, perhaps, from the time he was 8 or 10 years old, and he has had no opportunity to learn to read and write. Now, this illiteracy test does not apply to Germans, because I do not think more than half of 1 per cent of Germans would be kept out of this country if the test were applied; nor would it affect the Scandinavians, Irish, English, and so on; it mainly applies to immigrants from southern and southeastern Europe. I do not believe that those who can read would make better Americans, from the standpoint which we should consider, than those who can not. We have, of course, educated classes and schooled laborers in great sufficiency in the United States, but it is a question whether the educational test would not keep out the very men we need most. It would not apply so much to skilled laborers; it would mainly affect unskilled labor, and that, I believe, is the very kind we want and need in the United States, namely, men who will perform work which your son and my son and even the son of the German and Irish immigrant will not do-the rough and the menial work of the country.

It has been well said that the newcomers are lifting upon their shoulders those who had come previously and enabling them to secure a better kind of employment. I have always been opposed to the illiteracy test for the reasons I have stated, but one time in my career I was compelled to report a bill which provided an illiteracy test. I was outvoted in my committee, but as chairman of the committee I was compelled to report that bill, and I have been sorry for it ever since. passed both Houses, but President Cleveland vetoed it, and there are many citizens of this country who give Cleveland credit, even to-day, for that message, in which he took the ground that the anarchist, the agitator, the man who makes long fingers, the man who has certain reasons for wanting to leave the Old World would be fully competent to pass this test, while the desirable emigrant, the man who comes, as I have said, to offer us his muscle and brawn, would be barred and shut out.

The New York American says of the pending bill, among other things:

And its foolish educational test, which would have kept the mother of Abraham Lincoln out of the country, is designed to keep out of our country millions of honest, earnest, sincere men and women that the country needs.

Fortunately the bill will not pass. The House retains enough of honest Americanism to stamp it out of existence by a vote, and if the House should fail, the President is compelled to retain his consistency and self-respect by stamping it out of existence by a veto.

I believe the illiteracy test to be hypocritical pretext. its advocates have in view is not education, but restriction, They want to keep out immigration, and as they can not discriminate between the different countries, as it would be a viola-tion of international comity to say, "We want no more im-migrants from Italy," they have resorted to the subterfuge of a test which, if applied early in our history, would have kept out of the country some of its very best blood, and probably many of the ancestors of those who are on this floor to-day. the Germans and Irish and Scandinavians were still coming in large numbers, some other pretext would be devised to keep them out, for what is the objection to the Italians? Is it right and just to proscribe a whole nation because of the misdeeds of a few? Who are the dynamiters, the lynchers, the White Caps,

the moonshiners? Are they Italians? Not one of them. In fact, there is not an immigrant among them. They are all Americans.

The vast majority of the immigrants from Sicily and south-

ern Italy are like the immigrants from other countries-honest, thrifty, and industrious people. Like every other element of the population they may have occasional fights, yet the police records of the large cities show them on the whole to be good, sober, law-abiding, and hard-working people; and as to their assimilation, I have seen them in the schools of St. Louis when on the Fourth of July they carried aloft the Stars and Stripes and sang American songs, and I made up my mind then and there that these future citizens of our country would be just as good Americans as I am or anybody else can possibly be.

Now, Mr. Chairman, let me say a word about the competition of immigration with American labor. You will admit that if restriction is to be resorted to because of such competition partial restriction would afford but partial protection. In that case nothing short of total prohibition would cure the evil, and as a friend of the wageworker I should be the first to advocate such radical legislation. It might be a violation of principle, of good morals, of the spirit of liberty, and of international comity, but self-preservation, being the first law of nature with nations as well as with individuals, would justify the closing of the doors of the Republic. But how easy it is to prove the fallacy and

absurdity of these arguments.

In the fifties, and more especially under Buchanan's administration, when the Know-nothing movement was at its height, this country witnessed the same outcry, even more furious than now, against the admission of foreigners, only at that time it was more justified because the country passed through a crisis, many factories being closed and labor being unemployed. Congress was asked to stop immigration, which was erroneously regarded as the source of the trouble. But the appeal was unheeded, and how fortunate for the country, for the 50 years which have since elapsed no one will deny were destined to be the most glorious, the most prosperous period in our history in -some will even assert because of—the fact that immi-

gration had practically remained unrestricted.

If the influx of foreigners tends to a reduction of wages and to an increase of the number of unemployed and is generally detrimental to the country, why is it that during the last 50 years, the period of the largest immigration, wages were higher than ever before, labor more universally employed, and the American people more prosperous than at any previous time? Answer these questions in your own mind, and you will irresistably be led to the conclusion that immigration and prosperity are corelated factors. Of course, we Republicans know that the change from hard to good times, wrought in spite of continued immigration, was mainly due to a change of our economic policy from free trade to protection; but this is not what I wish to discuss here, except in as far as it has a bearing on the pending question. Under free trade Europe, of course, manufactures to a greater extent for the American market, and then the influx of immigrants always decreases, because Europe itself furnishes better opportunities for employment, while under the protective system and the consequent better times Europe's idle laborers are naturally attracted hither. This fact, by the way, is frequently forged into a weapon against the protective system. We exclude the fabrics, they say, but let the hands that make them come in. Suppose this is so. Is it not infinitely better than if we were to admit the fabrics and leave the hands that make them in Europe to spend their money there? It must be remembered-and this most important factor is generally overlooked by the restrictionists—that every immigrant is a producer and a consumer at the same time. Every newcomer brings, as Speaker Reed once tersely expressed it, his job with He needs food, clothing, and shelter, and while he himself produces he at the same time consumes the products of The vast majority of the newcomers enter upon their life here by performing menial labor; consequently the competition with American skilled labor is ridiculously small. But if their coming should result in some competition, is not this counterbalanced by the fact that the needs and necessities of an additional half a million people are to be supplied by the American market?

There was a time when workingmen were induced to smash the machines which temporarily threw them out of employ-To-day they ridicule the idea, because they have learned, first, that hands are required to construct the machines, and, second, because all labor-saving inventions have so increased the consumption of the articles manufactured by their aid as to leave just as much work to be done as before. It is exactly the same with immigration. The increase of productive power caused by it is practically neutralized by augmented consumption. So the machine and the immigrant bring their own salvation with them. When the time comes, however-and no

doubt it will come-that labor-saving appliances will be so perfected as to bring about a continuous excess of the world's supply over the world's demand, then the only logical remedy will be a reduction of the hours of labor. But never will I believe that the voice of labor, of intelligent American labor, will in seriousness be raised against the downtrodden of the Old World who knock at our doors begging for the privilege of breathing under the sun of a free country. American labor cherishes its constitutional rights of "life, liberty, and the pursuit of happiness," and will never deny them to others. It will never kick shipwrecks, while attempting to board our well-

supplied craft, back into the roaring sea.

For these reasons, Mr. Chairman, and many others which I have not time to discuss, let us as a Nation of immigrants adhere to the great doctrine, the genuine American doctrine, that the man who comes to us with strong arms and a stout heart and a determination to better his condition by honest labor is a valuable and welcome addition to our population, and do not let us forget what we owe to immigration; how since 1840 it has changed the face of this continent; how it has turned deserts into flower gardens, forests into thriving towns; how it has removed the line of civilization from the Mississippi to the Pacific Ocean; how it has aided by hard, manual work, by the Pacific Ocean; how it has aided by hard, manual work, by energy and untiring effort, to make this Nation the greatest industrial nation of the world. "The American of a hundred years from now," said Rev. De Witt Talmage, "is to be different from the American of to-day. German brain, Irish wit, French civility, Scotch firmness, English loyalty, Italian æsthetics, packed into one man, and he an American! It is this intermarriage of nationalities that is going to make the American Nation the greatest nation of the ages.

Remember, also, that besides its brain and muscle, which represent untold amounts of capital, immigration brings millions upon millions of cash to our shores, and let no one forget that the wealth of this country in land, forest, and mountain is barely scratched; that where some now think we have room for no more will in the future be found the happy homes of mil-

lions of people.

ons of people. [Applause.]
Mr. BURNETT. Mr. Chairman, I yield five minutes to the

gentleman from Tennessee [Mr. Austin].
Mr. AUSTIN. Mr. Chairman, I am going to give this bill my support and, in the brief time allowed me, will give some of my reasons. My only regret is that it does not go far enough and include a character test as well as an educational test. The Republican Party, 16 years ago, in national convention, when it nominated William McKinley for President, declared as follows:

For the protection of the quality of American citizenship and the wages of our workingmen against the fatal competition of low-priced labor we demand that the immigration laws be thoroughly enforced and so extended as to exclude from entrance to the United States those who can neither read nor write.

Following that declaration our leader, the leader of the party to which I owe my allegiance, the good, wise, and beloved Mc-Kinley, sent this message to Congress:

Our naturalization and immigration laws should be further improved to the constant promotion of a safe, a better, and a higher citizenship. A grave peril to the Republic would be a citizenship too ignorant to understand or too vicious to appreciate the great value and beneficence of our institutions and laws, and against all who come here to war upon them our gates must be promptly and tightly closed. Illiteracy must be banished from the land if we shall attain that high destiny as the foremost of the enlightened nations of the world under Providence we ought to achieve.

President Roosevelt, in his message to Congress, said:

The second object of a proper immigration law ought to be to secure by careful and not merely perfunctory educational test some intelligent capacity to appreciate American institutions and act sanely as American citizens.

The great Republican Party, in its convention at Chicago in 1912—this good year—wrote this declaration or pledge:

We pledge the Republican Party to the enactment of appropriate laws to give relief from the constantly growing evil of induced or undesirable immigration, which is inimical to the progress and welfare of the people of the United States.

Mr. BARTHOLDT. Will the gentleman yield?

Mr. AUSTIN. I have only five minutes. Had I as much time as my genial friend from Missouri, I would gladly yield to him. This is not a political question. It is not a religious question. This is a patriotic question in which is involved the civilization, the progress, and the happiness of the American people.

Who demands this legislation? We created a commission composed of three Senators, three Members of the House of Representatives, and three leading citizens from private life, and they spent a million dollars of the money of the taxpayers in four long years carefully studying this great question here and abroad. Of that commission composed of nine men, eight of them favored the provisions of the Burnett law and recommended favorable action on the part of Congress. At the other

end of the Capitol practically a united Senate, composed of Democrats and Republicans alike, passed a bill in line with the declarations and pledges of the Republican Party.

Who else demands it? The Democratic Party is on record in its platform of 1896 in favor of legislation along these lines.

The Knights of Labor favor this measure. The American Federation of Labor, with more than 2,000 delegates—
The CHAIRMAN. The time of the gentleman from Tennes-

see has expired.

May I have two minutes more? Mr. AUSTIN.

Mr. BURNETT. I yield the gentleman two minutes more.

Mr. AUSTIN. I say the American Federation of Labor, with more than 2,000 delegates in convention, demand the educational test, a money test, an increased head tax, and the abolition of the Distribution Bureau in the Department of Commerce and Labor.

The Farmers' Union, with a membership of 3,000,000, demand it: the National Grange, the Farmers' National Congress, the Junior Order of American Mechanics, with a membership of over 400,000, demand it; and I deny the statement that this patriotic organization is anti-Catholic or antireligious.

The Brotherhood of Locomotive Engineers, the Order of Railroad Conductors, the Trainmen's Association, and the Patriotic Sons of America—practically every labor organization and every patriotic organization—both political parties, Democratic and Republican, are on record demanding this legislation.

Mr. Chairman, prior to 1883, 2.7 per cent of our foreign immigrants were illiterates. To-day 33 per cent are illiterates. Out of 1,500,000 immigrants from Italy 800,000, or 54 per cent, are illiterates. How many of them seek American citizenship under our naturalization laws? Practically none.

Mr. SABATH. Mr. Chairman, will the gentleman yield? Mr. AUSTIN. If the gentleman will yield me some time, I will be glad to do it.

Mr. SABATH. I wish I had some time to yield the genfleman.

Mr. AUSTIN. Seven-tenths of these Italians do not naturalize or attempt to secure American citizenship. [Applause.] Mr. BURNETT. Mr. Chairman, I yield three minutes to the gentleman from Kentucky [Mr. CANTRILL].

Mr. CANTRILL. Mr. Chairman, it was not my intention to engage in this debate until the distinguished gentleman from California [Mr. Kahn] saw fit to cast a slur upon the good old State of Kentucky, and so long as I am a Member upon this floor coming from that State no other Member of this House can cast aspersions upon my old Kentucky home without a word of protest from me. [Applause.] It was very unfortunate in the gentleman from California to raise the question of illiteracy in Kentucky, because if he will examine the statistics he will find that that portion of Kentucky where he says this illiteracy exists is the solid Republican portion of Kentucky, and the Democratic Party in Kentucky to-day is giving its energy to bringing about a reform in our educational matters. As our educational standing progresses, so the Democratic vote in Kentucky progresses. But, Mr. Chairman, it is a fact that the citizenship of eastern Kentucky, where this illiteracy in large extent exists, is the purest American blood in this Nation.

It is the peer of any citizenship in the Nation, and as a citizen of Kentucky I stand here to say that to-day it is a problem in our Commonwealth, to the solution of which all of our citizens, Democrats and Republicans alike, are directing their energies, and we have dedicated ourselves to educating our illiterate citizenship of our State, regardless of any political conditions and regardless of the color of that citizenship. Our people after the Civil War, with their estates swept away, did not have the opportunities that you gentlemen of the North had. You left upon our hands an ignorant, uneducated people, several hundred thousand negroes, and the Democratic Party in Kentucky to-day makes no discrimination in its rate of school taxation on account of color. We are endeavoring to educate that burden which you put upon our shoulders. I am here to make the prophecy that within the next 25 years the eastern portion of Kentucky, with its noble citizenship, the purest American blood in this Nation, when the coal mines have been developed, will stand without a peer in this whole Nation. We in Kentucky have been doubly taxed. You gentlemen have not been. We are taxed by the Federal Government to support the Union soldier; we are taxed by our State government to support the needy Confederate soldier. We cheerfully submit to both. We in Kentucky are levying heavy taxes for education, and striving hard to work out the great problem before us. It ill becomes anyone on this floor, when the patriotic citizens of Kentucky are to-day struggling along under a double taxation to put that State in the front rank of the States of the Nation, to cast a slur upon it. And we will put Kentucky in the front ranks

of the States of this Union, where she rightly belongs. [Ap-

Mr. MOORE of Pennsylvania. Mr. Chairman, I yield five minutes to the gentleman from Minnesota [Mr. NYE].

Mr. NYE. Mr. Chairman, I think it was Whittier who said:

It is the heart and not the brain, That to the highest doth attain.

The world's permanent betterment and advancement will come through the hearts of men rather than through that which we call education; and I think that one of the most practical tests of the heart of a man, his motives in life, is the fact that he intends to be a useful man to any country in which he lives, and to the world. The workingmen, whether they come from Italy or Poland or Ireland or Germany or France. the men who come here with their families or without their families, for the honest purpose of work, whether it is within an organization or out of it, may, as a rule, be counted as men of pretty good hearts and good motives in life. If these men whom you intend to exclude by this bill are fundamentally and constitutionally wrong in their hearts and motives and in their purposes to earn a living, you are liable, so far as the bill is concerned, so far as you educate them, to place a weapon in their hands for injury.

Educated villainy is more dangerous than honest ignorance; and many of our own people, I think we must admit, are using the weapon of education to wrong and oppress their fellow men. I believe that usefulness wherever a man lives is true education. The useful hand and the useful brain—and true educa-tion is that in which the hand and brain work together—are a benefit to any country. And we can not in human legislation pick out the man of genius or the man whose work is to be most effective in the advancement of civilization. Marconi was an Italian; his father an Italian, his mother an Irish peasant girl from northern Ireland. Luther, whom my friend from Missouri [Mr. Bartholdt] honors and respects in his religion, was the child of poor miner peasants in Germany. Lincoln was born in the heart of obscurity and came up out of the wilderness of poverty and pain. Genius is often born in the hovel. God takes the weak things to confound the mighty, and for us by this species of legislation to say that a man who can barely read may be admitted and that this is to be the test of his citizenship seems to me puerile. I do not believe in it. I believe that this country is destined to amalgamate and bring out of many races the glory of the future ages. Some people laugh at what we call the "melting pot." Call it what you I call it that spirit which comes from the best heart of America to unify mankind and to establish a fraternal relation by means of which we are to solve this and other perplexing problems of to-day. It is true we are a Nation of extremes. We have abnormal wealth at the top and resentment and, perhaps, bitterness at the bottom. We have wrong and injustice here and resentment there, but the human brain and that which we call education will not solve it. It must come from the hearts of men. It must be the spirit that unifies men; it must be in the spirit of good will to men. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. NYE. Mr. Chairman, I ask leave to extend my remarks in the RECORD.

The CHAIRMAN (Mr. SAUNDERS). The gentleman from Minnesota asks unanimous consent to extend his remarks in the RECORD. Is there objection. [After a pause.] The Chair hears

Mr. NYE. We are prone to attribute the ills of our social life to anything and everything but ourselves. It is always the other fellow. But our national perils are not from without so much as from within. The clever native-born American, who is often as unscrupulous as he is clever, may well claim our attention when we study the causes which menace our national hap-To get rich quick or to get something for nothing is not strikingly peculiar to our foreign-born population, and especially the working classes. These have no monopoly of vice and crime. Virtue is more often the companion of industry than of idleness, and the people we seek to exclude by this bill are as a rule industrious. Jefferson believed in an aristocracy of virtue and talent rather than an aristocracy of wealth. The foreigner as a rule gives us a constant lesson of industry and economy, which many of the native born may well emulate. He lives within his means, and generally saves from his earnings, even if they are small; and while we are wasteful, he is frugal; while we are idle, he works. He adapts his expenses to his income, and he succeeds where we fail. I do not mean this is true in all cases, but everywhere in country and city it is so common that none can fail to observe it. I would not disparage the native-born citizen, but let us not be blind to our weaknesses nor ignore our faults or the vices of our civilization

which we are responsible for. The New World is the child of the Old. We are united by millions of family ties, which every law of nature forbids we should sever by narrow and arbitrary enactments of law. The hardships the foreigner must undergo in leaving his home and native land and fighting the battle of life after he gets here is in itself proof that he is good for something. We are not getting the most wealthy of Europe, but the most worthy—men of metal, men of grit and perseverance. The sturdy sons of northern Europe give strength and character to our citizenship, while southern Europe, the land of historic genius in painting, sculpture, music, literature, and philosophy, gives her best blood to the New World to make complete the foundations of a future civilization whose possibilities are beyoud the dreams of men. May we not hope that in this land, so richly endowed by Heaven and under a diviner democracy than any yet known to the children of men, the Old World may find its renovation in the New and the New gather inspiration from the Old? Patriotic, liberty-loving America of the future, the land that holds the hope of humanity, must answer this question.

Mr. MOORE of Pennsylvania. Is the gentleman from Ala-

bama ready to go on?

Mr. BURNETT. Not now.
Mr. MOORE of Pennsylvania. I yield five minutes to the

gentleman from Illinois [Mr. GALLAGHER].

Mr. GALLAGHER. Mr. Chairman, in the majority report of the committee on this bill they say, "It will be seen that the main purpose of the bill is to exclude from the United States alien immigrants over 16 years of age who are unable to read their own language or dialect." This is hardly the fact. The real object of the bill is to stop, in part, the flow of immigrants to this country from Russia, Poland, Italy, Greece, and the other countries of the southern and eastern part of Europe.

It is certainly amusing to one who personally knows many of these people who have come from these countries to listen to some of the arguments which are made by gentlemen in

support of this bill.

I represent more of these people than any other man upon this floor. I have more Poles in my district than there are in any other congressional district in the United States. I have more Italians in the district-from the south of Italy at that. I have most of the Greeks in our city. I have the Germans and the Irish. I have as many Jews as in any other district. In fact, I have a scattering of every nationality on the face of the earth. I know very few Americans in the district. in that district just as many schools, just as good colleges, just as magnificent churches as there are in any other congressional district, attended by just as law-abiding people as in any other section of the country. We have merchants there engaged in business, with beautiful stores, great business houses. We have immense manufacturing plants, comparing favorably with those of any other district. They are owned largely by these people. They have comfortable homes of their own there, wherein there is as much contentment and happiness as is found in any other district.

So I say it is amazing and surprising to listen to these people talk of improving conditions by shutting out a few people who can not read or write. We have people there who can not read or write but who have made just as much progress and are just as comfortably situated, and many of them have just as much money and are just as patriotic as they are in any other much money and are just as patriotic as they are in any other district. They are good citizens, who understand the duties, responsibilities, and privileges of citizenship under our form of government. Besides, we have a number of banks there, where the savings accounts of these thriving and industrious people will compare favorably with the deposits in other banks. the fact that a man can not read and write is no evidence of character. Because a man can not read and write is no reason that you are going to improve conditions by shutting him out. If you are going to shut out undesirable people, shut them out. Because a man is ground down to poverty and has not had an opportunity to improve himself, is it a crime? Many immigrants come from countries where public education is unknown. Does anybody believe that poverty is a crime? Still you would be led to believe so in listening to the speeches of the gentlemen in the interest of this bill. We have in our neighborhood children in the schools who are making as much progress as they are in any of the schools in this country. I have had the honor to serve on the board of education, in Chicago, for years. Our night schools are filled by immigrants, many of them men and women, striving to learn the English language—to read and write it.

In our colleges and universities their children are preparing for a life work in all the different professions, as well as in music, in art, and in the sciences. In the public life of our city, county, and State immigrants and the sons of immigrants

can be found in offices of trust and responsibility, from the governor of our State down. Remove from this body the foreigner and his direct descendant and a quorum will not remain. Hull House and Chicago Commons, settlement houses, are great institutions that have no comparison. They are in my district, and they are doing a splendid work for the benefit of mankind. We have public playgrounds for our children in my district, with baths and athletic equipments of all kinds-none better in Do you wish to deprive them of the opportunities the world. so freely offered and so gladly enjoyed by them? We are producing a manhood that fears no race suicide.

I have seen Chicago grow from a quarter of a million to over two millions and a quarter in population. It is largely made up of people from every quarter of the globe. Does anybody believe that we have not as much progress, as much prosperity. and just as good citizenship in Chicago as they have in any other city in America? [Applause.] There is no man who visits that city, who knows its history and its possibilities, who does not feel proud of the progress that we have made. From a village on the prairie it has become a great metropolis within the memory of many now living and ranks fourth or fifth among the world's greatest cities. Many who were engaged in making my home city what it is were, no doubt, deprived of an opportunity for education in the country from which they came. still there are people here talking about undesirable citizens. One-third of the population of the United States is composed of immigrants or the sons of immigrants. The population west of the Mississippi River, take it in its entirety, would not compare with the immigration that has come here and made this country prosperous and the Nation what it is. I do not like the kind of argument made here. I do not believe there is any-thing in it. If you are going to shut out the characters that are undesirable, bring in legislation that will shut them out; but do not fool yourselves that this class of legislation is going to shut out undesirable citizens. Let me read for your benefit the views of the minority of your committee on this bill. They

The illiteracy test provided in the bill will not serve to keep out the viciously inclined, the criminal, or the otherwise really undesirable

are as follows:

viciously inclined, the criminal, or the otherwise reany undestrated allen.

Experience has demonstrated the fact that, with the educational facilities afforded in this land, thousands of illiterates who, unhappily, were denied educational opportunities in their native lands have learned to read and write here, and have shown an eagerness to acquire knowledge and fit themselves to become good citizens. It will also be noted that the exceptions provided in the bill are not broad enough to fully guard against the separation of families, though the majority of the committee admit that on humane and moral grounds separation of families should, as far as possible, be avoided and prevented. In our opinion the desirable immigrant is the healthy, law-abiding worker, who comes to this country in good faith, and the undesirable immigrant is the clever and educated schemer, who, immedately upon arrival, begins to find fault with our institutions.

You propose by this bill to prohibit the landing of immigrants who can not read or write. Let me ask, Where do you expect to obtain the help that is required to do the work that these men are now doing? With the tendency toward compulsory education and free textbooks, will our public-school system pre-pare our youth for such work? Will our graduates do it? Who will clean the streets of our cities, lay our sewers, and do such work? Will our graduates go to our mines or upon our farms? Will they build our railroads? Will they become domestic ser-Reports from the argicultural districts show that crops are rotting for want of men to gather them. Does the farmer's son stay on the farm? My observation is that he is anxious to live in our cities. When you look around for men to do the work that the immigrant now does you will find very few to do it if this bill becomes a law.

The foundation for our present Bureau of Immigration was an act approved July 4, 1864, a most fitting day, which itself suggests freedom to worthy and downtrodden human beings. It was introduced by Mr. Washburne, a Representative from my State, who served in this body for 16 years. He was a friend of Lincoln; also Secretary of State under Grant. President Lincoln, in his message to Congress, December 6, 1864, speaking in reference to this act that had for its object the encouragement

of immigration, states:

of immigration, states:

The act passed at the last session for the encouragement of immigration has, so far as was possible, been put in operation. It seems to need amendment which will enable the officers of the Government to prevent the practice of frauds against the immigrants while on their way and on their arrival in the ports, so as to secure them here a free choice of avocations and places of settlement. A liberal disposition toward this great national policy is manifested by most of the European States, and ought to be reciprocated on our part by giving the immigrants effective national protection. I regard our immigrants as one of the principal replemishing Streams which are appointed by providence to repair the bavages of internal war and its waste of national strength and health. All that is necessary is to secure the flow of that stream in its present fullness, and to that end the government must in every way make it manifest

THAT IT NEITHER NEEDS NOR DESIGNS TO IMPOSE INVOLUNTARY MILITARY SERVICE UPON THOSE WHO COME FROM OTHER LANDS TO CAST THEIR LOT IN OUR COUNTRY.—Abraham Lincoln,

It must be seen by observing people that the main purpose of this bill is not to exclude from the United States immigrants who are unable to read and write their language or dialect. It must be for some other purpose. It is said it will tend to improve labor conditions of this country. Will it be contended that the men advocating the passage of this bill on this floor are anxious to pass legislation that will benefit labor? "Beware of the Greeks bearing gifts." I have always endeavored to assist and aid labor on all occasions in securing legislation for shorter hours and for improving their conditions in general. I doubt if many of the people speaking in favor of this bill can sav as much.

Our immigrants are law-abiding citizens and just as loyal to our Government as any other people. They have taken part in our wars and have shown themselves to be as brave as the most gallant defenders of the Stars and Stripes. This is borne out by our country's history, and many of the monuments which serve to beautify our Capital City perpetuate their devotion to the

cause of liberty and freedom.

They come here among us and they ask us to give them the same greeting as accorded other unfortunates who have come. They have joined with us to make this country free and independent, and have worked for the upbuilding, advancement, and general welfare of every part of our country. Let us still welcome them to our shores and extend to them the freedom we enjoy. The immigrants were with us in the Revolutionary War, the Civil War, and the War with Spain, and in the struggle that may yet come they will be found ready and willing to answer our country's call. [Applause.]
Mr. MOORE of Pennsylvania. Mr. Chairman, I yield to the

gentleman from Connecticut [Mr. REILLY].

Mr. REILLY. Mr. Chairman, I am opposed to this bill because I am opposed to any bill that will prevent the coming to this country of honest men who may from any cause be in the so-called ignorant class, but under which educated crooks of all

kinds can come in without restriction.

Under this bill thieves, cutthroats, and blackmailers at heart who happen to thus far escape arrest or conviction, who have been lucky enough to keep out of the clutches of the law, can come in freely and without restriction of any sort, because forsooth they can read or write, but the poor honest fellow, who is good at heart and wants to come to be a law-abiding resident-and ultimately a citizen-here, as he has been in his native country, is kept out because, unfortunately, he can not stand the literacy test.

That sort of law is not American. It is not for the good of

all or any of the people of this country. It is not in keeping with the spirit of those who gave their lives to free and later

preserve the Union.

This Burnett bill excludes all aliens over 16 years of age who are unable to read English or the language or dialect of some other country, and permits an admissible alien to bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, his unmarried or widowed daughter whether able to read or not, and is therefore inconsistent.

The gentleman from Massachusetts [Mr. Gardner] favors the bill or a restriction for a period of 10 years. He wants to keep the United States for the so-called Americans. If the United States were to depend for its increase of population upon the class or classes for whom he wishes to keep it, it would not be long before this great country would be showing a decrease

in its population.

I have been waiting for the chairman of the committee and father of this bill and other advocates to say something about the effect of foreigners upon the labor situation. It is just as well they have not, in view of the fact that the worst enemy of organized labor is prison-contract competition, which has its highest exemplification in States from which some of the advocates of this bill come, and of which the ball and chain, the striped uniform, and the mounted guard are the badges.

There was a time in the history of this country, a time of dire distress, when men were needed to save it from enemies within and without. In the call to arms there was no prohibition because the volunteer could not stand a literacy test. was not asked if he could read or write. He was asked if he was loyal, if he was strong of heart and body, and if he could

There was no talk of restriction then; there should be none

This country is big enough for all who care to come and who are honest at heart. If perchance some get in who are bad at heart, who are undesirable, that is not a sufficient reason to

pass a law that would exclude all who can not stand certain tests of education, no matter how honest they may be. the bad come if they can read.

Pass this bill and in due time will come its logical successorthe raising of the test until it will necessitate the possession of a university diploma to permit landing on these sacred

What do some of the leading men of our country think of this literacy test? Here is a brief extract from the report of Secretary Nagel, of the Department of Commerce and Labor:

I believe it is intended as a piece of legislation for wholesale exclusion, and I don't believe in that kind of legislation. If you want to exclude certain nationalities, say so, and meet the issue squarely. I don't believe literacy is a fair test for the admission of an immigrant. I will say again what I said a year ago, that I care more for the sound body and the sound mind, and the straight look out of the eye, and the ability and willingness to work, as a test than any other test that can be given.

In his veto message in 1897 President Cleveland said:

A radical departure from our national policy relating to immigration is here presented. Heretofore we have welcomed all who came to us from other lands, except those whose moral or physical condition or history threatened danger to our national welfare and safety. Relying upon the jealous watchfulness of our people to prevent injury to our political and social fabric, we have encouraged those coming from foreign countries to east their lot with us and join in the development of our vast domain, securing in return a share in the blessings of American citizenship.

President-elect Wilson, writing to Dr. Adler, says:

* * I am in substantial agreement with you about the immigration policy which the country ought to observe. I think that this country can afford to use and ought to give opportunity to every man and woman of sound morals, sound mind, and sound body who comes in good faith to spend his or her energies in our life, and I should certainly be inclined, so far as I am concerned, to scrutinize very jealously any restrictions that would limit that principle in practice. * * *

Here is part of a great speech on this question by Hon. Bourke Cockran:

We who oppose the educational test believe the man who works with his hands, who is trained to efficiency in labor, is the desirable immigrant. The test that we wish to impose is one that will establish his ability and his willingness to work. * * There is not a vicious man in any community outside of the poorhouse that is not more or less educated. He can not live by his wits rather than by his hands unless those wits are trained to some extent. Any unlettered immigrant shows that he must have virtuous instincts by the very fact that he comes here, for he can have no other purpose than to support life by his toil. he comes h by his toil.

Among others who oppose this proposed legislation are Cardinal Gibbons; ex-President Eliot, of Harvard University; President Himmel, of Georgetown University; President Schurman, of Cornell University; United States Senator O'GORMAN, of New York; and United States Senator Stone, of Missouri. Many leading newspapers have pointed out the danger of this sort of restriction.

Restriction of time prevents me from further discussing this un-American bill. It is inherently wrong, because it keeps out good men and admits bad men to the benefits of our great country, that has long been considered the refuge of the wronged and oppressed of all nations, who are honest at heart and come here with high motives. It is not American; it is not demo-cratic, and should not be passed by a House that is supposed

to represent the truest Democracy.

Mr. MOORE of Pennsylvania. Mr. Chairman, in behalf of those who wish to be heard in opposition to the bill, I desire to say that there will not be sufficient time within the limit fixed by the rule for all to be recognized, but I think it is fair to announce that the gentleman from Wisconsin [Mr. Berger], the gentleman from Texas [Mr. Burleson], the gentleman from Illinois [Mr. Graham], the gentleman from Missouri [Mr. Dyer], the gentleman from Massachusetts [Mr. Murray], gentleman from Connecticut [Mr. Th.son], the gentleman from New Jersey [Mr. Scully], and the gentleman from Nebraska [Mr. Lobeck] all would have spoken in opposition to the bill.

Now, Mr. Chairman, I understand the gentleman from Ala-

bama [Mr. BURNETT] proposes to make a motion.

Mr. BURNETT. What was the statement of the gentleman about the gentlemen he has mentioned?

Mr. MOORE of Pennsylvania. I stated that they all desired to be heard in opposition to the bill, and that they would not have an opportunity in view of the time fixed by the rule.

Mr. BURNETT. Is your request to extend remarks?
Mr. MOORE of Pennsylvania. No; I made no request for them. I announced that they desired to be heard, but would not have an opportunity under the limitation of time fixed by the rule.

Mr. BURNETT. All right. Will the gentlemen proceed now? Mr. MOORE of Pennsylvania. If the gentleman wishes to All right. Will the gentlemen proceed now?

make a motion— Mr. BURNETT. How much time is there left, Mr. Chairman?

The CHAIRMAN. The gentleman from Alabama [Mr. Bur-NETT] has 20 minutes, and the gentleman from Pennsylvania [Mr. Moore] 15 minutes.

Mr. MOORE of Pennsylvania. Mr. Chairman, then I will ask the gentleman if he intends to conclude the general debate

to-night's

Mr. BURNETT. As we have to go over to another day, I think we might as well conclude now.

Mr. MOORE of Pennsylvania. A motion to rise now would

be entirely satisfactory to this side.

Mr. RODDENBERY. Mr. Chairman, I could not quite understand the colloquy.

The CHAIRMAN. The Chair will state that the time for

debate continues to run while this is going on.

Mr. BURNETT. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. Hay, the Chairman of the Committee of the Whole House on the state of the Union, reported that the committee had had under consideration the bill S. 3175, entitled "An act to regulate the immigration of aliens to and the residence of aliens in the United States," and had come to no resolution thereon.

IMMIGRATION OF ALIENS.

Mr. RAKER. Mr. Speaker, I ask unanimous consent to have printed in the Record, following this debate to-day, the bill H. R. 13500, relating to immigration. That bill will be discussed when the present bill on immigration is discussed under the five-minute rule, and I desire it should be printed in order that the matter may then be before the House.

The SPEAKER. The Clerk will read the title of the bill.

The SPEAKER.

The Clerk read the title of the bill, as follows:

A bill (H. R. 13500) to amend an act entitled "An act to regulate the immigration of aliens into the United States," approved February 20, 1907.

The SPEAKER. Is there objection? Mr. SABATH. Mr. Speaker, may I ask what the request

The SPEAKER. The request is that the bill H. R. 13500 be

printed in the RECORD.

Mr. RAKER. It is in relation to Asiatic immigration and the rules and regulations covering the admission of that kind of immigrants.

Mr. MANN. Mr. Speaker, reserving the right to object, may I ask the gentleman if it is his intention to offer the provisions of that bill as an amendment to the House substitute for the bill now under consideration?

That is my purpose, if I can get the recogni-Mr. RAKER.

tion of the Chair.

I shall not object. Mr. MANN.

Mr. GARDNER of Massachusetts. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman from Illinois [Mr. Mann] if he thinks that would be germane?

Mr. MANN. I have not examined it. It will be printed in

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Following is the bill referred to:

A bill (H. R. 13500) to amend an act entitled "An act to regulate the immigration of aliens into the United States," approved February 20, 1907.

ability. It is a section to the United States," approved February 20, 1907.

Be it enacted, etc., That section 2 of the act entitled "An act to regulate the immigration of aliens into the United States," approved February 20, 1907, is hereby amended so as to read as follows:

"SEC, 2. That the following classes of aliens shall be excluded from admission into the United States: All Asiatic laborers; all idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had two or more attacks of insanity at any time previously; paupers; persons ilkely to become a public charge; professional beggars; persons afflicted with tuberculosis or with a loathsome or dangerous disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all government, or all forms of law, or of the assassination of public officials; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereimafter called contract laborers who have been induced or solicited to migrate to this country by offers or promises of employment or in consequence of agreements, oral, written, or printed, expressed or implied, to perform labor in this country of any kind, skilled or unskilled; those who have been, within one year from the date of application for

ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes, and that said ticket or passage was not paid for by any corporation, association, society, municipality, or foreign government, either directly or indirectly; all children under 16 years of age unaccompanied by one or both parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe: Provided, That nothing in this act shall exclude, if otherwise admissible, persons convicted of an offense purely political, not involving moral turpitude: Provided further, That the provisions of the provision and turpitude: Provided further, That the provisions of open and turpitude: Provided further, That the provisions of the provision and turpitude: Provided further, That the provisions of the shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: And provided further, That skilled labor may be imported, if labor of like kind unemployed can not be found in this country: And provided further, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants."

That the act entitled "An act to regulate the immigration of aliens for the provisions of said additional sections shall be regarded as supplemental to the general provisions of the act hereby amended, which general provisions shall also be enforced against Asiatic aliens to the same extent and in the same manner as against other aliens:

"SEC. 45. That it shall be the day of all Asiatic laborers to apply to such officers of the

file, upon a portion of which photographs shall be superimposed the seal of the Department of Commerce and Labor, also a print in indelible ink of the front part of each thumb, commonly known as a 'thumb print.'

"Sec. 46. That no certificate of residence other than a duplicate of one satisfactorily proved to have been lost or destroyed shall be issued under the provisions of this act after the expiration of one year from the date of the taking effect of this act, unless it is established in accordance with the provisions of section 45 bereof that the failure to secure the certificate within the time specified was due to accident, sickness, or other unavoidable cause.

"Sec. 47. That for the purpose of this act all Asiatic allens shall be regarded as laborers, unless it is shown that they are, in their personal capacity, of the following status or occupations: Government officers, ministers of the gospel, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalist, merchants, bankers, capitalists, and travelers for curlosity or pleasure. Every Asiatic allen who is entitled by this act to enter the United States shall obtain the permission of and be identified as so entitled by the Government of which he is a subject or citizen, such permission and identification in each case to be evidenced by a certificate issued by such government, which certificate shall be in the English language, shall show that the person to whom issued is entitled to come to the United States under the terms of this act, and shall contain a photograph of and the following data regarding the person to whom issued: Family and individual name or names in full, title or official rank, if any, age, height, physical peculiarities, former and present occupation or residence. If the alien applying for the certificate is a merchant, said certificate shall, in addition, state the nature, character, and estimated value of the business carried on by him prior to and at the time of his application therefor

the statements set forth therein, and if he shall find upon examination that any statement therein contained is untrue, it shall be his duty to refuse to Indorse the certificae. The said certificate, viséed as aforesald, shall be prima facie evidence of the facts set forth therein, and shall be produced to the immigration official in charge at the port of the United States at which the alien named therein shall arrive, and shall be the sole evidence permissible on the part of such person to establish a right of entry into the United States; but said certificate may be controverted and the facts therein stated disproved by the United States authorities. The said certificate shall be taken up by the immigration official by whom the person presentiag same is admitted to the United States, and there shall be issued in lieu thereof a certificate of identity containing a complete personal description and a photograph of the admitted person, which certificate of identity shall be retained by him as evidence of his lawful entry to the country and of his right to reside therein so long as he maintains a status or occupation placing him within the excepted classes enumerated therein.

"The legal wives and natural-born children under 16 years of age of members of the excepted classes herein mentioned shall be regarded as partaking of the status of the husband and father, respectively, so long as coverture continues or they remain under the age stated and shall, if in all other respects admissible, be admitted to the United States upon satisfactorily establishing that they sustain the claimed relationship to a person of the said excepted classes residing within the United States or seeking admission thereto in company with them and that coverture continues or they are of the age hereinbefore stated at the time of application: Provided, That no such wife or child shall be admitted to the United States as of that status unless accompanied by, or coming to join, the husband or father, and, if the husband or father is lawfully

United States, or is ordered deported from the United States, under the provisions of this act or of any law or treaty now existing or hereafter made, the decision of the appropriate immigration officials, or of the states of this act or of any law or treaty now existing or hereafter made, the decision of the appropriate immigration officials, or of the states are not considered in section 47 hereof or not, who obtains a certificate of residence in accordance with the provisions of this act, and any Asiatic allen admitted to the United States as a member of the excepted classes enumerated in section 47 hereof, or who is admitted as and continues to be the wife or child of such a member of the excepted classes in accordance with section 47 hereof, or who is admitted as and continues to be the wife or child of such a member of the excepted classes in accordance with the terms of said section, shall be permitted to leave the United States at any time and through any scaport, or through any land border port designated by the Commissioner General of Immigrations a general provisions of this act. It is act and, if additions: He shall at the time of departure deposit with the immigration official in charge at the port through which he departs his certificate of residence or certificate of identity, obtaining in lieu thereof a return official in charge at the port through such port of departure and satisfactorly identify himself at the time of return as the person to whom the certificate of residence or certificate of identity, obtaining in lieu thereof a return of certificate of a character and form to be prescribed by the Commissioner General, and shall reenter through such port of departure and satisfactorly identify himself at the time of return as the person to whom the certificate of residence or certificate of identity so deposited relates. Some such as the person in the certificate of residence or certificate of identity so deposited relates. Some such as the person in the provision of the certificate of a char

not apply to the transit of Asiatic aliens from one island to another island of the same group, and any islands within the jurisdiction of any State or the Territory of Alaska shall be considered a part of the mainland of the United States.

"SEC. 52. That this act shall take effect 90 days after its passage and approval. All acts and parts of acts inconsistent with this act and the act hereby amended are hereby repealed on and after the taking effect of this act: Provided, That nothing contained in this act shall be construed to affect any prosecution, suit, action, or proceeding brought, or any act, thing, or matter, civil or criminal, done or existing at the time of the taking effect of this act; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters the laws or parts of laws repealed or amended by this act are hereby continued in force and effect.

laws repeated or amended by this 250,000 is hereby appropriated, out of effect.

"SEC. 53. That the sum of \$250,000 is hereby appropriated, out of any moneys not otherwise appropriated in the Treasury of the United States, for the enforcement of those provisions of this act relating to the exclusion of Asiatic laborers."

LEAVE TO PRINT.

Mr BURNETT. Mr. Speaker, I ask unanimous consent that all gentlemen who have spoken or who will speak on this immigration bill may have five legislative days in which to print their remarks.

The SPEAKER. The gentleman from Alabama [Mr. Bur-NETT] asks unanimous consent that all gentlemen who speak on the immigration bill shall have five legislative days after the disposition of the bill by the House in which to extend their remarks. Is there objection?

Mr. MANN. Reserving the right to object, Mr. Speaker, I think a request of that kind ought properly to come after the consideration of the bill is concluded, and for the present I shall object.

The SPEAKER. Does the gentleman object? Mr. MANN. I just stated that I did.

DECEMBER SALARIES, HOUSE AND SENATE EMPLOYEES.

Mr. FITZGERALD. I ask that the Speaker lay before the House Senate joint resolution 144, to pay the employees of the House and Senate their December salaries on the day of adjournment for the holiday recess.

The SPEAKER. The Chair lays before the House Senate joint resolution 144, which the Clerk will report.

The Clerk read as follows:

Joint resolution (S. J. Res. 144) authorizing payment of December salaries to officers and employees of the Senate and House of Representatives on the day of adjournment for the holiday recess.

Resolved, etc., That the Secretary of the Senate and the Clerk of the House of Representatives be, and they are hereby, authorized and directed to pay the officers and employees of the Senate and House of Representatives, borne on the annual and session rolls, including the Capitol police, their respective salaries for the month of December, 1912, on the day of adjournment for the holiday recess; and that the Clerk of the House of Representatives is authorized to pay on the said day Members and Delegates their allowance for clerk hire for the said month of December.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution.

The SPEAKER. The gentleman from New York asks unanimous consent for the present consideration of the resolution. Is there objection?

Mr. MANN. Reserving the right to object, Mr. Speaker, I merely wish to ask the gentleman from New York if it is customary for this resolution to emanate in the Senate?

Mr. FITZGERALD. It usually originates in the House. Mr. MANN. I thought that was one of the prerogatives of the House

Mr. FITZGERALD. This is not an appropriation.

Mr. MANN. I understand; and lots of others are not. I shall not object. Mr. FITZGERALD. I did not think it worth while to raise

that objection. Mr. MANN. If I were in the gentleman's place I would

raise it. The SPEAKER. Is there objection to the consideration of

the resolution?

There was no objection.

The SPEAKER. The question is on the third reading of the Senate joint resolution.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. Fitzgerald, a motion to reconsider the vote whereby the Senate joint resolution was passed was laid on the table.

ORDER OF BUSINESS.

Mr. GARDNER of Massachusetts. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARDNER of Massachusetts. Will this bill or the ordinary Monday business have the right of way on Monday, in the opinion of the Chair?

The SPEAKER. The Unanimous Consent Calendar, suspension of the rules, and the Discharge Calendar will have the right of way on Monday.

ADJOURNMENT.

Mr. BURNETT. Mr. Speaker, I move that the House do

now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 30 minutes p. m.) the House adjourned until Monday, December 16, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows

1. A letter from the Secretary of the Treasury, submitting an estimate of urgent deficiency in the appropriation for expenses Revenue-Cutter Service for the fiscal year ending June 30, 1913 (H. Doc. No. 1170); to the Committee on Appropriations and ordered to be printed

2. A letter from the Secretary of War, transmitting, with a letter from the Acting Chief of Engineers, submitting a partial report on the water supply for the District of Columbia, said investigation being directed by the District of Columbia appropriation bill approved June 26, 1912. A supplemental report will be furnished when the investigation is completed (H. Doc. No. 1171); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of the Interior, submitting report on lands withdrawn from settlement, location, sale, or entry under act approved June 25, 1910 (H. Doc. No. 1172); to the Committee on the Public Lands and ordered to be printed.

4. A letter from the Acting Secretary of Commerce and Labor, transmitting report of E. A. Brand, commercial agent of the Department of Commerce and Labor, on commercial organizations, etc. (H. Doc. No. 1173); to the Committee on Interstate

and Foreign Commerce and ordered to be printed. 5. A letter from the Acting Secretary of Commerce and Labor, transmitting report by A. G. Robinson, commercial agent of the

Department of Commerce and Labor, on "Cuba as a buyer and with special reference to the promotion of American commerce with the island (H. Doc. No. 1174); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

6. A letter from the Acting Secretary of Commerce and Labor, transmitting report of John M. Carson, commercial agent of the Department of Commerce and Labor, on "Packing and Marketing Cotton Within the United States" (H. Doc. No. 1175); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

7. A letter from the Secretary of the Treasury, transmitting supplemental estimates for public buildings for the period from March 4, 1914, to June 30, 1914, in amount \$3,634,000 (H. Doc. No. 1169); to the Committee on Appropriations and ordered to

be printed.

8. A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of the certificate of the final ascertainment of electors appointed in the State of Arkansas for President and Vice President at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

9. A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of the certificate of the final ascertainment of electors appointed in the State of Minnesota for President and Vice President at the election held therein on November 5, 1912; to the Committee on Election of President,

Vice President, and Representatives in Congress.

10. A letter from the Secretary of State, transmitting, pursuant to law, authentic certificate of the final ascertainment of electors appointed in the State of Oregon for President and Vice President at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows

A bill (H. R. 14517) granting an increase of pension to Daniel O'Connor; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 24610) granting a pension to Michael McDonald: Committee on Invalid Pensions discharged, and referred

to the Committee on Pensions.

A bill (H. R. 26709) granting a pension to Ezra R. Fuller; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memo-

rials were introduced and severally referred as follows:

By Mr. FLOOD of Virginia: A bill (H. R. 27275) authorizing the Secretary of War to donate to the town of Fincastle Va., two cannon or fieldpieces; to the Committee on Military Affairs.

Also, a bill (H. R. 27276) authorizing the Secretary of War to donate to the town of Cumberland, Va., two cannon or fieldpieces; to the Committee on Military Affairs.

Also, a bill (H. R. 27277) authorizing the Secretary of War to donate to the town of Buckingham, Va., two cannon or field-

pieces; to the Committee on Military Affairs.

By Mr. JOHNSON of Kentucky (by request of the Commissioners of the District of Columbia): A bill (H. R. 27278) to authorize the condemnation of land for a park at the intersection of Twenty-sixth Street, Twenty-seventh Street, and Q Street NW., and a highway from said park along the boundary of Oak Hill Cemetery and across the north part of square 1284 to Twenty-ninth and R Streets; to the Committee on the District of Columbia.

By Mr. KINKAID of Nebraska: A bill (H. R. 27279) to amend the second clause of section 4 of chapter 784 of the United States Statutes at Large, volume 32, page 195; to the Committee on Agriculture.

By Mr. MOTT: A bill (H. R. 27280) to amend section 2 of public law No. 336, approved August 24, 1912, entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other pur-; to the Committee on the Post Office and Post Roads.

By Mr. PETERS: A bill (H. R. 27281) to regulate the hours of employment and safeguard the health of females employed in the District of Columbia in any mill, factory, manufacturing or mechanical establishment, or workshop, laundry, bakery, printing, clothing, dressmaking, or millinery establishment, mercantile establishment, store, hotel, restaurant, office, or where any goods are sold or distributed, or by any express or transportation company, or in the transmission or distribution of telegraph or

pany, of in the transmission of distribution of telegraph of telephone messages or merchandise; to the Committee on Labor. By Mr. PALMER: A bill (H. R. 27282) providing for the erection of a public building at the city of Bethlehem, Pa.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27283) providing for the erection of a public building at the city of South Bethlehem, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. CARY: A bill (H. R. 27284) fixing the price for use of telephones at private residences within the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

Also, a bill (H. R. 27285) to change the name of oleomargarine to margarin; to change the rate of tax on margarin; to protect the consumers, dealers, and manufacturers of margarin against fraud; and to afford the Bureau of Internal Revenue more efficient means for the detection of fraud and the collection of revenues; to the Committee on Agriculture.

By Mr. DOUGHTON: A bill (H. R. 27286) to purchase a post-office site in Lenoir, N. C.; to the Committee on Public Buildings and Grounds.

By Mr. STANLEY: A bill (H. R. 27287) to amend an act entitled "An act to regulate commerce, approved February 4, 1887, as amended June 18, 1910"; to the Committee on Interstate and Foreign Commerce.

By Mr. LEVER: A bill (H. R. 27288) to provide for the erection of a public building in the city of Columbia, S. C.; to the Committee on Public Buildings and Grounds.

By Mr. BRANTLEY: A bill (H. R. 27289) for the survey of Cumberland Sound and the St. Marys River and Amelia River, adjacent thereto; to the Committee on Rivers and Harbors.

By Mr. BEALL of Texas: Resolution (H. Res. 751) authorizing the Committee on Expenditures in the Department of Justice, or a subcommittee thereof, to conduct certain investiga-tions outside of the District of Columbia; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANSBERRY: A bill (H. R. 27290) granting a pension

to Clara Fisher; to the Committee on Pensions.

By Mr. CRAGO: A bill (H. R. 27291) granting a pension to Jennie McMurtrie; to the Committee on Invalid Pensions.
Also, a bill (H. R. 27292) granting an increase of pension to

Elijah Watters; to the Committee on Invalid Pensions.

By Mr. CURRIER: A bill (H. R. 27293) granting an increase of pension to James B. Kellogg; to the Committee on Invalid

By Mr. DICKINSON: A bill (H. R. 27294) for the relief of William R. Coble; to the Committee on War Claims.

By Mr. FRENCH: A bill (H. R. 27295) granting a pension to John F. Keeton; to the Committee on Invalid Pensions.

By Mr. HULL: A bill (H. R. 27296) for the relief of the heirs of Samuel Kimbro, deceased; to the Committee on War Claims. Also, a bill (H. R. 27297) for the relief of the legal repre-

sentatives of A. D. Boulton; to the Committee on War Claims.
Also, a bill (H. R. 27298) for the relief of the legal representatives of William E. Nance; to the Committee on War

By Mr. LANGLEY: A bill (H. R. 27299) granting an increase of pension to Rachel Robbins; to the Committee on Invalid Pen-

Also, a bill (H. R. 27300) granting an increase of pension to

Virginia Sowards; to the Committee on Invalid Pensions. By Mr. LOUD: A bill (H. R. 27301) granting a pension to the seven minor children of Albert Ocha; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27302) granting an increase of pension to

George M. Rood; to the Committee on Invalid Pensions.

By Mr. McKINNEY: A bill (H. R. 27303) to amend the military record of Francis M. Jennings; to the Committee on Military Affairs.

By Mr. MOORE of Pennsylvania: A bill (H. R. 27304) granting an increase of pension to Jacob M. Davis; to the Committee

on Invalid Pensions. By Mr. MOTT: A bill (H. R. 27305) granting an increase of pension to Horace W. Freeman; to the Committee on Invalid

By Mr. POWERS: A bill (H. R. 27306) for the relief of the heirs of James T. Ashinhurst, deceased; to the Committee on

War Claims By Mr. PRINCE: A bill (H. R. 27307) granting an increase

of pension to Earl Klock; to the Committee on Pensions.

By Mr. RUBEY: A bill (H. R. 27308) granting a pension to W. Woolsey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27309) granting an increase of pension to

Jerry W. Tallman; to the Committee on Invalid Pensions. By Mr. RUSSELL: A bill (H. R. 27310) granting a pension to Abbey Israel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27311) granting a pension to Annie Eggers; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 27312) granting a pension to Murray Peirce; to the Committee on Pensions.

Also, a bill (H. R. 27313) granting an increase of pension to Martha Jane Collins; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 27314) granting an increase of pension to Jane L. Gettins; to the Committee on Invalid Pensions.

By Mr. J. M. C. SMITH: A bill (H. R. 27315) granting an increase of pension to Jonathan Milbourn; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27316) granting an increase of pension to Edwin Collar; to the Committee on Invalid Pensions.

By Mr. STEPHENS of Nebraska: A bill (H. R. 27317) granting an increase of pension to Edgar V. Harris; to the Committee on Invalid Pensions.

By Mr. SWEET: A bill (H. R. 27318) granting an increase of pension to John H. Scott; to the Committee on Invalid Pensions.

By Mr. THAYER: A bill (H. R. 27319) granting an increase of pension to Julia J. Kendall; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of Ross & Hill and 12 other merchants, of Deunison, Ohio, favoring legislation giving the Interstate Commerce Commission further power over express rates; to the Committee on Interstate and Foreign Commerce.

Also, papers to accompany bill (H. R. 26882) for conferring upon James B. Ross the congressional medal of honor; to the Committee on Military Affairs.

By Mr. AYRES: Petition of the Knights of Labor, of Washington, D. C., favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. BARNHART: Petition of citizens of Indiana, favoring the passage of the Kenyon liquor bill (S. 4043) preventing

shipment of liquors into dry territories; to the Committee on the Judiciary.

Also, petition of the South Bend Turn Verein, protesting against the passage of the amended Kenyon bill (S. 4043) preventing shipment of liquors into dry territories; to the Committee on the Judiciary.

By Mr. BURKE of Wisconsin: Petition of the Milwaukee Chamber of Commerce, Milwaukee, Wis., protesting against the passage of the amended Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

By Mr. BURNETT: Petition of the Pennsylvania State Camp, Patriotic Order Sons of America, and of the State Council of Pennsylvania, Order of Independent Americans, favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. CALDER: Petition of Phillips & Sons, New York,

N. Y., and the Boston Chamber of Commerce, Boston, Mass, favoring the passage of Senate bill 957, known as the bill-oflading bill; to the Committee on Interstate and Foreign Com-

Also, petition of the State Camp of New York, Patriotic Order Sons of America, Binghamton, N. Y., and the State Council of Pennsylvania, Order of Independent Americans, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. CLARK of Florida: Petition of citizens of nine counties of Florida, favoring the passage of the amended Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

By Mr. DICKINSON: Petition of W. A. Kimberlin and other

citizens of Garden City, Mo., in opposition to the pensioning of former Presidents of the United States and the chief engineers of the Panama Canal; to the Committee on Pensions.

By Mr. DYER: Petition of the National Wholesale Liquor

Dealers' Association of America, protesting against the passage of the Kenyon liquor bill (S. 4043) preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

Also, petition of More-Jones Brass & Metal Co., St. Louis, Mo., and of Hugo Muench, judge of the circuit court, St. Louis, Mo., favoring the passage of bill (H. R. 22589) making an appropriation for the building of consular and diplomatic buildings; to the Committee on Foreign Affairs.

By Mr. ESCH: Petition of the Federation of Jewish Farmers of America, New York City, favoring enactment of legislation establishing a rural credit system; to the Committee on Banking and Currency.

Also, petition of the Chamber of Commerce, Milwaukee, Wis., protesting against the passage of the amended Kenyon liquor bill (S. 4043); to the Committee on the Judiciary

Also, petition of the American Federation of Labor, favoring passage of bill giving Federal aid to vocational education; to the Committee on Agriculture.

By Mr. FOSS: Petition of Julius Rosenwald and 4 other Jews, of Chicago, Ill., protesting against the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the National Wholesale Liquor Dealers' Association of America, protesting against the passage of the amended liquor bill (S. 4043); to the Committee on the Judiciary.

By Mr. FRENCH: Petition of citizens of Pocatello, Blackfoot, Prexton, Malad, Montlelier, Boise, Caldwell, Middleton, Emmett, New Plymouth, Payette, Weiser, Council, Cambridge, Midvale, American Falls, Idaho, favoring passage of legislation giving the Interstate Commerce Commission further power toward controlling the express rates; to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Petition of J. D. Clark, Harvard, Ill., favoring the passage of the military telegraphers' pension bill; to

the Committee on Invalid Pensions.

Also, petition of Henry Hoerner, Peru, Ill., protesting against the passage of the amended Kenyon liquor bill (S. 4043); to the Committee on the Judiciary.

By Mr. GREGG of Pennsylvania: Petition of John R. Young & Son, and others, of Philadelphia, Pa., protesting against the passage of the Kenyon liquor bill preventing shipment of liquors into dry territories; to the Committee on the Judiciary.

By Mr. LINDSAY: Petition of the Order of Knights of Labor, Washington, D. C., favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. MOORE of Pennsylvania: Petition of the Pennsylvania Wholesale Liquor Dealers' League, of Philadelphia, protesting against the passage of the amended Kenyon liquor bill (S. 4043); to the Committee on the Judic'ary. By Mr. MOTT: Petition of the American Federation of Labor, favoring the passage of the vocational educational bill (S. 3);

to the Committee on Agriculture.

Also, petition of the Knights of Labor, Washington, D. C., favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturaliza-

By Mr. O'SHAUNESSY: Petition of the Federation of Jewish Farmers of America, New York, N. Y., favoring the establish-ment of farmers' credit unions; to the Committee on Banking and Currency

By Mr. REYBURN: Patition of the Pennsylvania Wholesale Liquor Dealers' League, Philadelphia, Pa., protesting against the passage of the amended Kenyon liquor bill (S. 4043); to

the Committee on the Judiciary.

By Mr. SPARKMAN: Petition of citizens of nine counties in Florida, favoring the passage of the Kenyon amended liquor bill (S. 4043); to the Committee on the Judiciary.

Also, petition of the Board of Trade of Eustis, Fla., favoring

the reducing of letter postage to 1 cent; to the Committee on the Post Office and Post Roads.

By Mr. THAYER: Petition of the Men's Brotherhood of Union Church, Worcester, Mass., favoring the passage of the Kenyon bill relative to cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. TILSON: Petition of the National Vehicle Association of the United States of America, Chicago, Ill., relative to

the reorganization of the Consular and Diplomatic Service; to the Committee on Foreign Affairs.

SENATE.

Monday, December 16, 1912.

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D. JONATHAN BOURNE, Jr., and GEORGE E. CHAMBERLAIN, Senators from the State of Oregon, and Wesley L. Jones, a Senator from the State of Washington, appeared in their seats to-day.

ELECTION OF PRESIDENT PRO TEMPORE.

Mr. LODGE called the Senate to order as Presiding Officer. Mr. SMOOT. Mr. President, I suggest the absence of a

The PRESIDING OFFICER (Mr. Lodge). The Senator from Utah suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst Bacon Bankhead Crawford Lodge McCumber Richardson Culberson Cullom Curtis Dixon Fletcher Gallinger Root Sanders Simmons Smith, Ga. Smith, Mich. Smith, S. C. Martin, Va. Martine, N. J. Massey Nelson Borah Bourne Brandegee Nelson Newlands O'Gorman Oliver Overman Owen Page Paynter Perkins Perky Poindexter Reed Bristow Brown Bryan Burnham Smoot Stephenson Stone Sutherland Gore Gronna Guggenheim Jackson Johnston, Me. Johnston, Ala. Jones Kenyen La Follette Gore Burton Chamberlain Sutheriand Swanson Thornton Tillman Townsend Wetmore Chilton Clapp Clark, Wyo. Clarke, Ark. Crane Works

Mr. PAGE. I am compelled to announce the continued illness of my colleague [Mr. DILLINGHAM] and his necessary absence from the sessions of the Senate.

The PRESIDING OFFICER. Sixty-eight Senators have answered to their names. A quorum of the Senate is present, The Chair will ask the Secretary to read an extract from the Journal of the Senate.

The Secretary read from the Journal of the Senate of Thursday, May 11, 1911, as follows:

day, May 11, 1911, as follows:

The PRESIDING OFFICER (Mr. Lodge in the chair) called the attention of the Senate to the fact that, having been called to the chair by the Vice President before the Senate had proceeded to the election of a President of the Senate pro tempore, he did not under clause 2 of Rule I of the Senate have the right to occupy the chair at this time. On motion by Mr. Balley and by unanimous consent, Ordered, That clause 2 of Rule I of the standing rules of the Senate be suspended, and that the present occupant of the chair should preside during the election of a President of the Senate pro tempore.

On motion by Mr. Shively, and by unanimous consent, Ordered. That clause 2 of Rule I of the standing rules of the Senate be suspended, and that the present occupant of the chair preside during the proceedings connected with the election of a President of the Senate pro tempore.

Whereupon.

The Presiding Officer (Mr. Lodge in the chair) directed the roll to be called. (Senate Journal, May II, 1911.)

The PRESIDING OFFICER. The entry of May 15, 1911, will be read.

The Secretary. Page 239 of the Journal. The proceedings in the Congressional Record, page 1204, are as follows:

the Congressional Record, page 1204, are as follows:

The President Officer. The Senate will proceed to the election of a President pro tempore.

The Chair desires to say, before action is taken, that on Thursday last the Senate, by unanimous consent, suspended clause 2 of Rule I, which provides that the Secretary shall take the chair pending the election of a President pro tempore, and continued in the chair its present occupant. Whether that action was intended to be continuous, covering all proceedings connected with the election of a President protempore, or was for that day only, it is not for the Chair to determine. It is for the Senate to determine that question before we proceed further.

mine. It is for the Senate to determine that question before we proceed further.

Mr. Shively, I ask unanimous consent that clause 2 of Rule I be suspended and that the senior Senator from Massachusetts [Mr. Lodge] occupy the chair during the proceedings to elect a President pro tem-

pore.

The Presiding Officer. The Senator from Indiana moves that the present occupant of the chair continue to occupy it during the proceedings—

Mr. Shively. If the Chair please, I made no motion. I asked unanimous consent.

The Presiding Officer. The Senator from Indiana asks unanimous consent that clause 2 of Rule I be suspended, and that the present occupant of the chair continue to occupy it during the proceedings connected with the election of a President pro tempore. Is there objection? The Chair hears none, and it is so ordered. (Proceedings of Senate, May 15, 1911.)

The PRESIDING OFFICER. Acting under that resolution, as the term for which the Senator from Georgia [Mr. BACON] was chosen President pro tempore has expired, the present occupant of the chair has called the Senate to order for the purpose

of choosing a President pro tempore.

Mr. SMOOT. On Saturday, December 14, I offered an order and asked for its immediate consideration—

Mr. BRISTOW. Mr. President—

The PRESIDING OFFICER. The Secretary will read the resolution submitted by the Senator from Utah.

Mr. BRISTOW. I rise to a point of order.

The PRESIDING OFFICER, The Senator from Kansas will state it.

Mr. BRISTOW. There is no business in order except to proceed by ballot to elect a President pro tempore under the rule.

Mr. SMOOT. I asked on Saturday that the order might lie on the table, and now I ask that it be presented to the Senate.

Mr. BRISTOW. I make the point of order that that is not in order until a President pro tempore has been elected, and the way to elect a President pro tempore under the rule is by ballot.

The PRESIDING OFFICER. Will the Senator read the rule?

Mr. BRISTOW. Page 84, Jefferson's Manual:

In the Senate a President pro tempore, in the absence of the Vice President, is proposed and chosen by ballot.

The PRESIDING OFFICER. The first rule of the Senate states that the Senate shall choose its Presiding Officer, which is the language of the Constitution. No method is stated either in the rule or in the Constitution as to the manner in which the Senate shall choose. In the opinion of the Chair the Senate may choose by ballot, by calling the roll, or by resolution, and the last course has been followed over and over again. Secretary will read the resolution offered by the Senator from

The Secretary read the order submitted by Mr. Smoot on the 14th instant, as follows:

14th instant, as follows:

Ordered, That Jacob H. Gallinger, a Senator from the State of New Hampshire, be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including December 16, 1912, to and including January 4, 1913; that Augustus O. Bacon, a Senator from the State of Georgia, be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including January 5, 1913, to and including January 18, 1913; that Jacob H. Gallinger be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including January 19, 1913, to and including February 1, 1913; that Augustus O. Bacon be, and he hereby is, elected President of the Senate pro tempore, to hold and exercise the office from and including February 2, 1913, to and including February 15, 1913; and that Jacob H. Gallinger be, and he hereby is, elected President of the Senate pro tempore to hold and exercise the office from and including February 16, 1913, to and including March 3, 1913.

The PRESIDING OFFICER. The question is on the ador-

The PRESIDING OFFICER. The question is on the adoption of the resolution.

Mr. BRISTOW. I ask for a roll call on the resolution.

The PRESIDING OFFICER. The Senator from Kansas asks for the yeas and nays on the adoption of the resolution.

The yeas and mays were ordered, and the Secretary proceeded to call the roll.

Mr. GALLINGER (when his name was called). I have a general pair with the Senator from Arkansas [Mr. Davis] and will withhold my vote.

Mr. LEA (when his name was called). I have a general pair with the junior Senator from Rhode Island [Mr. Lippitt] and

therefore withhold my vote.

Mr. OLIVER (when Mr. Penrose's name was called). My colleague [Mr. Penrose] is detained from the Senate to-day by important business in Pennsylvania. He is paired with the junior Senator from Mississippi [Mr. Williams].

Mr. POINDEXTER (when his name was called). I should

like to make a parliamentary inquiry, whether or not it is in order to cast a vote for some other person than one named in the resolution?

The PRESIDING OFFICER. Not on this question. The

question is on the adoption of the resolution.

Mr. POINDEXTER. A further inquiry. Does not that deprive the Senate of the privilege of voting by ballot for the presiding officer?

The PRESIDING OFFICER. The question is on the adoption of the resolution. The Chair thinks nothing else is in

Mr. POINDEXTER. I vote "nay" on the resolution.
Mr. CLARK of Wyoming (when Mr. Warren's name was called). My colleague [Mr. Warren] is unavoidably detained from the Senate.

Mr. CHILTON (when Mr. Watson's name was called). My colleague [Mr. Watson] is absent. He is paired with the senior Senator from New Jersey [Mr. Briggs].

Mr. WILLIAMS (when his name was called). I have a general pair with the Senator from Pennsylvania [Mr. Penrose], but I am informed by his colleague that if he were present he would vote " yea." I shall therefore vote. I vote "yea."

The roll call was concluded.

Mr. CULBERSON. I note the absence of the Senator from Delaware [Mr. Du Pont], with whom I have a general pair. Therefore I withhold my vote.

Mr. CHAMBERLAIN. I desire to state on behalf of the

Senator from New Mexico [Mr. CATRON] that he is absent now, and has been for two weeks, on business of the Senate.

Mr. MYERS. I wish to inquire if the Senator from Connecti-

cut [Mr. McLean] has voted.

The PRESIDING OFFICER. The Chair is informed that that Senator has not voted.

Mr. MYERS. Then I announce that I am paired with the Senator from Connecticut [Mr. McLean] and withhold my

Mr. BRYAN. I should like to inquire if the Senator from

New Mexico [Mr. Fall] has voted.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. FALL] has not voted.

Mr. BRYAN. I am paired with that Senator, but I transfer my pair to the senior Senator from Maryland [Mr. SMITH] and

vote "yea.' Mr. JOHNSON of Maine. I wish to announce that my colleague [Mr. GARDNER] is necessarily absent from the Senate and that he has a general pair with the junior Senator from

Massachusetts [Mr. Crane].

Mr. CURTIS. I wish to announce that the Senator from Kentucky [Mr. Bradley] is paired with the Senator from Indiana [Mr. Kern]; that the Senator from New Jersey [Mr. Briggs] is paired with the Senator from West Virginia [Mr. Warson]; that the Senator from New Mexico [Mr. Carbon] is paired with the Senator from Indiana [Mr. Shively]; and that the Senator from Delaware [Mr. DU PONT] is paired with the Senator from Texas [Mr. Culberson].

The result was announced-yeas 51, nays 18, as follows:

	YE	AS-51.		
Balley Bankhead Borah Bourne Brandegce Brown Bryan Burton Chamberlain Chilton Clarke, Ark. Crane	Crawford Cullom Curtis Fletcher Foster Guggenheim Hitchcock Jackson Johnson, Me. Johnston, Ala. Kenyon Lodge McCumber	Martin, Va, Massey Nelson Oliver Overman Owen Page Paynter Perkins Pomerene Richardson Root Sanders	Simmons Smith, Ga. Smith, Mich. Smoot Stephenson Stone Sutherland Swanson Thornton Tillman Wetmore Williams	
Crane		YS-18.	1	
Ashurst Bristow Clapp Clark, Wyo. Dixon	Gore Grouna Jones La Follette Martine, N. J.	Newlands O'Gorman Perky Poindexter Reed OTING—25.	Smith, S. C. Townsend Works	
Bacon Bradley Briggs Catron Culberson	Dillingham du Pont Fall Gallinger Gamble	Lea Lippitt McLean Myers Penrose	Smith, Ariz. Smith, Md. Warren Watson	

Shively

The PRESIDING OFFICER. The Senate adopts the resolution. The Senator from New Hampshire [Mr. Gallinger] will take the chair.

Mr. GALLINGER thereupon took the chair as President pro tempore.

The PRESIDENT pro tempore (Mr. Gallinger). The Secretary will read the Journal of the proceedings of Saturday

The Secretary proceeded to read the Journal of the proceed-

ings of Saturday last.

Mr. McCUMBER. I ask unanimous consent that the further reading of the Journal may be dispensed with.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from North Dakota?

Mr. REED. I object, Mr. President.

The PRESIDENT pro tempore. The Senator from Missouri chiefs. The reading will be continued.

edgects. The reading will be continued.

The Secretary resumed and concluded the reading of the Journal, which was approved.

PRESIDING OFFICER FOR IMPEACHMENT TRIAL.

The PRESIDENT pro tempore. Senators, for reasons sufficient to the Chair, the Chair begs to be relieved from the duty of presiding over the Senate while it sits as a Court of Impeachment in the trial of Robert W. Archbald, and asks that the Senate shall select a Senator to preside over such proceedings.

Mr. LODGE. Mr. President, in view of the statement just made to the Senate by the President pro tempore, I offer the resolution which I send to the desk, and ask unanimous consent for its present consideration.

There being no objection, the resolution (S. Res. 409) was read, considered by unanimous consent, and agreed to, as follows .

Resolved, That the Hon. AUGUSTUS O. BACON, a Senator from the State of Georgia, be, and he is hereby, appointed to preside during the trial of the impeachment of Robert W. Archbald, circuit judge of the United States.

ELECTION OF PRESIDENT PRO TEMPORE.

Mr. SMOOT submitted the following resolution (S. Res. 410), which was read, considered by unanimous consent, and agreed to:

agreed to:

Resolved, That the Secretary wait upon the President of the United States and inform him that the Senate has elected Jacob H. Gallinger, a Senator from the State of New Hampshire, President of the Senate pro tempore, to hold and exercise the office from and including December 16, 1912, to and including January 4, 1913; that the Senate has elected Augustus O. Bacon, a Senator from the State of Georgia, President of the Senate pro tempore, to hold and exercise the office from and including January 5, 1913, to and including January 18, 1913; that the Senate has elected Jacob H. Gallinger President of the Senate pro tempore, to hold and exercise the office from and including January 19, 1913, to and including February 1, 1913; that the Senate has elected Augustus O. Bacon President of the Senate pro tempore, to hold and exercise the office from and including February 2, 1913, to and including February 15, 1913; and that the Senate has elected Jacob H. Gallinger President of the Senate pro tempore, to hold and exercise the office from and including February 2, 1913, to and including February 16, 1913, to and exercise the office from and including February 16, 1913, to and including March 3, 1913.

Mr. SMOOT submitted the following resolution (S. Res.

Mr. SMOOT submitted the following resolution (S. Res. 411), which was read, considered by unanimous consent, and agreed to:

agreed to:

Resolved, That the Secretary notify the House of Representatives that the Senate has elected Jacob H. Gallinger, a Senator from the State of New Hampshire, President of the Senate pro tempore, to hold and exercise the office from and including December 16, 1912, to and including January 4, 1913; that the Senate has elected Argustus O. Bacon, a Senator from the State of Georgia, President of the Senate pro tempore, to hold and exercise the office from and including January 5, 1913, to and including January 18, 1913; that the Senate has elected Jacob H. Gallinger President of the Senate pro tempore, to hold and exercise the office from and including January 19, 1913, to and including February 1, 1913; that the Senate has elected Augustus O. Bacon President of the Senate pro tempore, to hold and exercise the office from and including February 2, 1913, to and including February 15, 1913; and that the Senate has elected Jacob H. Gallinger President of the Senate pro tempore, to hold and exercise the office from and including February 16, 1913, to and including March 3, 1913.

ANNUAL REPORT OF THE INTERSTATE COMMERCE COMMISSION

ANNUAL REPORT OF THE INTERSTATE COMMERCE COMMISSION (H. DOC. NO. 946).

The PRESIDENT pro tempore laid before the Senate the Twenty-sixth Annual Report of the Interstate Commerce Commission, which was referred to the Committee on Interstate Commerce and ordered to be printed.

DEMOTION OF WILLIAM HALL AND OTHERS.

The PRESIDENT pro tempore laid before the Senate a communication from the Postmaster General, stating, in response to Senate resolution of December 4, 1912, calling for the correspondence in the possession of the Post Office Department relative to the demotion of William Hall, C. H. Erwin, J. J. Negley, and C. P. Rodman, clerks in the Railway Mail Service, that the papers will be furnished at the earliest date practicable, which was referred to the Committee on Post Offices and Post Roads.

MESSAGE FROM THE HOUSE.

message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the joint resolution (S. J. Res. 144) authorizing the payment of December salaries to officers and employees of the Senate and House of Representatives on the day of adjournment for the holiday recess.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented resolutions adopted by the city council of Boston, Mass., relative to the high price of coal, which were referred to the Committee on Education

He also presented a memorial of sundry citizens of Cincinnati, Ohio, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. SMITH of Michigan. Mr. President, I send to the desk a telegram, which is one of many I have received bearing upon the same subject. I ask that it be read for the information of the Senate.

There being no objection, the telegram was read and ordered to lie on the table, as follows:

Lansing, Mich., December 14, 1912.

Hon. WM. ALDEN SMITH, United States Senator, Washington, D. C.:

At a conference of committee representing the following State organizations—Michigan State Sunday School Association, Woman's Christian Temperance Union, Anti-Saloon League, and State prohibition committee—held in Battle Creek December 9, the following action was

taken:

Resolved, We request our Senators and Representatives in Congress to vote for the passage of the Kenyon interstate liquor shipment bill.

E. K. Wareen, Chairman.
F. W. Coreat, Secretary.

Mr. SANDERS. I offer resolutions passed at a meeting of the National Woman's Christian Temperance Union on December

15, with the request that they be read and printed in the Record. There being no objection, the resolutions were read and ordered to lie on the table, as follows:

Resolutions passed at a meeting of the National Woman's Christian Temperance Union, December 15, 1912:

Whereas the shipment of alcoholic liquors into prohibition States to be sold contrary to the laws of those States is the greatest hindrance to the enforcement of the prohibitory law; and

Whereas it is manifestly wrong for out-of-State liquor makers and liquor sellers to have the protection of Federal law in sending alcoholic liquors into States to be sold contrary to law:

Resolved, That we respectfully petition the United States Congress to pass the amended Kenyon bill or some similar measure.

Mr. BRISTOW. I have a very large number of petitions in favor of the passage of the Kenyon-Sheppard bill. Several thousand citizens of Kansas petition for it. I will not ask to have them read, but that they be noted and filed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The petitions are as follows:

From sundry citizens of Monument, Arkansas City, Holton, Winona, Lebanon, Norton, Scott City, Sylvia, Ransom, Graham County, Wichita, Agra, Hoxie, Muscotah, Hill City, Potwin, Atchison, Utica, Glade, Mankato, Harvey, Sedgwick, Wellington, Ozawkie, and Osage City, all in the State of Kansas.

Mr. GRONNA. I have received a large number of petitions and resolutions signed by citizens of my State for the passage of the so-called amended Kenyon bill. I will not ask to have the petitions read, as they all bear on the same subject matter. I ask, however, that the heading of one of the petitions be embodied in the Record and that the remainder be appropriately

There being no objection, the petitions were ordered to lie on the table, and the heading of one of the petitions was ordered to be printed in the RECORD, as follows:

To the Hon. A. J. Gronna, United States Senate, Washington, D. C .:

United States Senate, Washington, D. C.:

The undersigned, citizens and residents of the State of North Dakota, realizing the evil effects of the liquor traffic and the difficulty of enforcing the prohibition law of this State under the present interstate-commerce law, earnestly request you, as our representative, to use all legitimate means within your power to secure the passage of the bill known as the amended Kenyon bill, No. 4043, which will come up in the United States Senate on December 16 next.

Mr. TOWNSEND. Mr. President, I have sent for some petitions in behalf of the Kenyon-Sheppard liquor bill, which I desire to have noted and filed as soon as I can get them.

The PRESIDENT pro tempore. Permission is granted.
Mr. CLAPP. Mr. President, as I understand the rule, either petitions or private claims bills may be filed with the Secretary at any time during the sessions of the Senate.

The PRESIDENT pro tempore. They can be filed with the Secretary under the rule.

Mr. CLAPP. And they do not have to be presented in open ssion' The PRESIDENT pro tempore. The Senator is correct.

Mr. TOWNSEND presented petitions of the Michigan State Sunday School Association, of the Woman's Christian Temperance Union, of the Antisaloon League, and of the State Prohibition committee, of Lansing; of the congregation of the First United Brethren Church of Grand Rapids; of the Christian Endeavor Union of Detroit; of the board of directors of

the Petoskey Federation of Woman's Clubs; and of sundry citizens of Detroit, Harbor Springs, Lansing, Holly, Scotts, Petoskey, Kalamazoo, Caro, Prescott, and Battle Creek, all in the State of Michigan, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to

lie on the table.

Mr. STONE presented memorials of sundry citizens of Seneca; of Local Union No. 43, Beer Drivers and Stablemen, International Union of United Brewery Workmen of America; of Local Unions Nos. 237, 246, and 279, International Union of United Brewery Workmen of America, all of St. Louis; of the Trade Assembly of Joplin, all in the State of Missouri, and of the National German-American Alliance of Missouri, strating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of sundry citizens of Westboro, West Plains, and Versailles, of the Civic League of Norborne, of the Lone Star Union, of the Woman's Christian Temperance Union of Albany, and of the congregation of the Methodist Episcopal Church South, of Elkins, all in the State of Missouri, praying for the passage of the so-called Kenyon-Sheppard inter-

state liquor bill, which were ordered to lie on the table.

Mr. JOHNSON of Maine presented petitions of sundry citizens of Turner Center, Stockholm, and Nobleboro, all in the State of Maine, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a memorial of the local branch of the German-American Alliance of Lisbon Falls, Me., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. McLEAN presented a petition of 22 citizens of Yalesville, Conn., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a petition of the Social Service League of Salisbury, Conn., and a petition of Manchester Grange, No. 31, Patrons of Husbandry, of South Manchester, Conn., praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which were ordered to lie on the table.

Mr. CULLOM presented memorials of Local Unions No. 21, of Belleville, and No. 337, No. 344, and No. 342, of Chicago, of the International Union of the United Brewery Workmen of America, of the joint executive board of Brewery and Distillery Workmen, of Peoria and Pekin, and of the United Societies for Local Self-Government, and the Personal Liberty League of Illinois, all in the State of Illinois, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of the Woman's Christian Temperance Unions of Savanna, Percy, Downers Grove, Jackson County, Naperville, Galena, Aurora, Springfield, and Gridley; of the Brotherhood of the First Methodist Episcopal Church of Champaign; of the congregation of the Central Congregational Church, of Galesburg; of the Sabbath school convention at Monmouth; of the congregation of the Methodist Episcopal Church of Keensburg; and of sundry citizens of Galesburg, Valmeyer, Middlegrove, and Harvard, all in the State of Illinois, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. CURTIS presented petitions of the congregations of the First Presbyterian Church of Olathe, the Baptist Church of Olathe, the First Baptist Church of McPherson, and the Methodist Episcopal Church of Caldwell, and of sundry citizens of McPherson, Olathe, Denison, Hillsboro, Augusta, Holton, Winona, and Norton, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. ROOT presented a petition of the New York State Canners' Association, praying for the establishment of a bureau of inspection to inquire into the sanitary condition of the canning and preserving factories in that State, which was referred to the Committee on Agriculture and Forestry.

Mr. STONE presented sundry telegrams in the nature of memorials from Strandberg, McGreevy & Co., the Southwestern National Bank of Commerce, the Densmore Hotel Co., Edward J. McMahan, the Bauer Machine Works, the Commerce Trust Co., the Niles & Moser Cigar Co., the First National Bank, the Kumpfs Insurance Agency, the H. P. Wright Investment Co., the Hodes Planing Mill, the A. J. Shirk Roofing Co., the Kupper Hotel Co., Charles Campbell, the Central Brass Works Co., Rothenberg & Schloss, the C. C. Vost Pie Co., and the Ridley Machine Works Co., all of Kansas City, in the State of Missouri, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. SMITH of Maryland presented a petition of sundry citizens of Maryland, praying for the adoption of certain amendments to the patent laws, which was referred to the Committee

on Patents

Mr. SHIVELY presented petitions of the Ministerial Association of Terre Haute; of General Canby Post, No. 2, Grand Army of the Republic, of Brazil; and of Henry E. C. Cade, William H. McCord, Rev. Owen Wright and 8 other citizens of Veedersburg, all in the State of Indiana, praying for the passage of the socalled Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. GALLINGER presented petitions of sundry citizens of New Hampton, Claremont, Keene, and East Jaffrey, all in the State of New Hampshire, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were

ordered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BRISTOW: A bill (S. 7777) granting an increase of pension to Eben S. Welch (with accompanying papers); to the Committee on Pen-

By Mr. CLAPP:

A bill (S. 7778) to authorize the Minnesota River Improvement & Power Co. to construct dams across the Minnesota River: to the Committee on Commerce.

A bill (S. 7779) granting an increase of pension to Thomas C. Aldrich (with accompanying papers); to the Committee on

Pensions.

(By request.) A bill (S. 7780) making it unlawful for any society, order, or association to send or receive through the United States mails, or to deposit in the United States mails, any written or printed matter representing such society, fraternal order, or association to be named or designated or entitled by any name hereafter adopted, any word or part of which title shall be the name of any bird or animal, the name of which bird or animal is already being used as a part of its title or name by any other society, fraternal order, or association; to the Committee on Post Offices and Post Roads.

By Mr. PAGE:

A bill (S. 7781) granting an increase of pension to Christopher P. Brown (with accompanying papers); to the Committee on Pensions.

By Mr. BURTON:

A bill (S. 7782) for reduction of postage rates on first-class mail matter; to the Committee on Post Offices and Post Roads.

By Mr. WETMORE:

A bill (S. 7783) granting an increase of pension to George W. Hale (with accompanying papers); to the Committee on Pen-

OMNIBUS CLAIMS BILL.

Mr. CHILTON (for Mr. WATSON) submitted three amendments intended to be proposed by him to the omnibus claims bill, which were ordered to lie on the table and be printed.

Mr. REED submitted 42 amendments intended to be proposed by him to the omnibus claims bill, which were ordered to lie on the table and be printed.

*AMENDMENTS TO THE LEGISLATIVE APPROPRIATION BILL.

Mr. BURTON submitted an amendment proposing to increase the salaries of certain employees in the office of the assistant treasurer at Cincinnati, Ohio, etc., intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be

JOHN W. CUPP.

Mr. CLAPP. On July 16 last the bill (S. 3159) for the relief of John W. Cupp was reported adversely from the Committee on Claims, and it was postponed indefinitely. But I understand, in talking with members of the committee, that possibly it was inadvertently done. Therefore, notwithstanding the

adverse report, I ask unanimous consent to reconsider the vote by which the bill was postponed indefinitely, and I move that the Secretary of the Senate be directed to transmit to the clerk of the Committee on Claims the papers in connection with it, and that the bill be referred to the Committee on Claims.

The PRESIDENT pro tempore. Without objection, the action of the Senate indefinitely postponing the bill will be reconsidered and the request of the Senator from Minnesota will be complied with.

AGRICULTURAL EXTENSION DEPARTMENTS.

Mr. SMITH of Georgia. Mr. President, I desire to give notice that on Wednesday, immediately after the morning business, with the consent of the Senate, I desire to address the Senate upon the bill (H. R. 22871) to establish agricultural extension departments in connection with the land-grant colleges in the several States.

MEMORIAL ADDRESSES ON THE LATE SENATOR TAYLOR.

Mr. LEA. Mr. President, I desire to give notice that on Friday, February 7, 1913, I will ask that the business of the Senate may be suspended in order that fitting tribute may be paid to the memory of my late colleague, Robert Love Taylor.

PROCEDURE IN IMPEACHMENT TRIALS.

Mr. SUTHERLAND. I offer the resolution which I send to the desk, and ask to have it read.

The PRESIDENT pro tempore. The resolution submitted by the Senator from Utah will be read.

The Secretary read the resolution (S. Res. 412) as follows:

The Secretary read the resolution (S. Res. 412) as follows:

Resolved, That the Judiciary Committee of the Senate is instructed to prepare and report to the Senate such amendments and additions to the rules for impeachment trials as are necessary and appropriate to provide that in all impeachment cases hereafter instituted, except when the President or Vice President of the United States, a member of the Cabinet, or a member of the Supreme Court of the United States is impeached, the testimony may be taken by the Judiciary Committee and together with findings of fact reported to the Senate for its consideration and judgment.

Mr. SUTHERLAND. Mr. President, the provision of the Constitution with reference to impeachment is as follows:

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the Members present.

Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.

That is the only provision of the Constitution with reference to the functions of the Senate in trying impeacherence to the functions of the Senate in trying impeachment cases. I see no reason why the Senate may not take testimony as testimony is taken by a court of equity, for example, by reference, in the case of a court of equity, to a master, and in the case of the Senate by reference to a special committee or to a standing committee. I think it is very desirable that that course should be followed in the future, extended the state of the standard of the standar cept where the high officers named in the resolution should be involved.

The Senate has been occupied in the present trial for two or three weeks. Its time has been taken away from the important business of the Senate. Many of the Senators could not be present to hear the testimony, and of necessity they are obliged to read it before they can act. The same result, it seems to me, would be obtained by referring the case in the first instance to the Judiciary Committee to take the testimony and report it to the Senate. Of course, the findings of fact which might be presented by the Judiciary Committee would only be advisory, and not binding on the Senate.

I have not been able to find any discussion on the subject

except what is very briefly said in Jefferson's Manual, at page 153 of the Senate Manual. Speaking of the practice of the British Parliament in this respect, under the head of "Wit-

nesses," it is said:

The practice is to swear the witnesses in open House, and then examine them there; or a committee may be named who shall examine them in committee, either on interrogatories agreed on in the House or such as the committee in their discretion shall demand.

I ask that the resolution be referred to the Judiciary Committee.

Mr. BAILEY. Mr. President, before the resolution is referred, I want to express the hope that it will never be adopted. In the first place, a proceeding of that kind would utterly fail to impress the country, and it would degenerate into something like a contested-election case. I indulge the hope—and I think that hope is justified by the history of the country—that impeachment trials will not become frequent enough to seriously interfere with the Senate in the discharge of its ordinary duties. But when a President or Vice President or a civil

officer of the United States is impeached by the House of Representatives, I think the inquest held by this body should be as solemn and impressive as possible, and I believe the open Senate—sitting, if you please, as a Court of Impeachment—is the place where every witness should be heard. To send the witnesses in a matter of this dignity to the privacy of a com-mittee room is to make the proceeding less impressive than it ought to be, and, in my opinion, it would give some ground, now and then, for people to allege that the proceedings were not as fair and not as open as the nature of the proceedings

I sympathize with the desire of the Senator from Utah [Mr. SUTHERLAND to save the time of the Senate; but I do not myself know how the Senate could better spend its time than in trying a case like this. It is one of the duties devolved upon us by the Constitution, and it is one of the most solemn which we can perform. I hope we will never commit the most impor-

tant part of it to any committee of this body.

Mr. BORAH. May I ask what disposition is to be made of

the resolution?

The PRESIDENT pro tempore. The Senator from Utah made the request that it be referred to the Judiciary Committee. That will be done, without objection. The resolution will go to the Committee on the Judiciary.

Mr. REED subsequently said: I ask for another reading of

the resolution offered by the Senator from Utah.

The PRESIDENT pro tempore. Without objection the resolution will again be read.

The Secretary read as follows:

Resolved, That the Judiciary Committee of the Senate is instructed to prepare and report to the Senate such amendments and additions to the rules for impeachment trials as are necessary and appropriate to provide that in all impeachment cases hereafter instituted, except when the President or Vice President of the United States, a member of the Cabinet, or a member of the Supreme Court of the United States is impeached, the testimony may be taken by the Judiciary Committee and, together with findings of fact, reported to the Senate for its consideration and judgment. sideration and judgment.

Mr. REED. Mr. President, as a matter of information, I wish to inquire whether it was the purpose of the Senator from Utah to have a rule reported making it obligatory that these proceedings should go to the Judiciary Committee, or simply to have a rule drafted which would permit such reference by

a vote of the Senate?

Mr. SUTHERLAND. Mr. President, the resolution probably would be construed as directing an obligatory rule. myself it ought to be a permissive rule, that the Senate may do it in any particular case. However, if the rule should be obligatory, the Senate, of course, could at any time suspend it and try any particular case without referring it to the Judiciary Committee.

Mr. REED. I have simply this suggestion to make: It seems to me it would be better to have that rule, if it is reported, so drawn that proceedings of this nature should not go to a committee except by an order of the Senate, leaving, at least in some form, a discretion in the Senate that could be exercised

without repealing the rule.

I think there is a great deal of wisdom in the proposition advanced by the Senator from Utah, but I think the modification I have suggested or something of that nature ought to be em-

bodied in it.

Mr. BACON. Mr. President, I would suggest to the Senator from Utah that there ought to be a change in the phraseology of one part of his resolution. I do not discuss in any manner now the question as to the propriety of the resolution, but the propriety of a change is because there is no such officer known to our law as a Cabinet officer. The designation of the officer as a Cabinet officer can not be found in the law, and could not be created as such by Congress, because Congress could not impose upon the President the selection of those whom he will choose to be his advisers. He has chosen voluntarily without any statute to have the heads of the departments as his constitutional advisers. They are constitutional only in the sense that the Constitution says he may require services at the hands of the heads of departments in the giving of information, and so These gentlemen are heads of departments, and the phraseology of the resolution, it seems to me, should be changed to conform thereto.

There is in other countries a similar body, which is in either of those countries in fact a cabinet. Such cabinets are in fact the ruling influences of the governmental affairs of the country, the executive being merely nominal. It is different with us. The Executive here is an actual Executive, and these are his advisers simply, and we call them Cabinet officers merely by courtesy. It is well recognized who they are when we speak of them as such, and there is no impropriety in speaking of them as such as a matter of courtesy; but in a legal document, espe-

cially one that seeks to prescribe the method by which impeachment proceedings should be taken against them, we should be accurate. It seems to me the only proper phraseology there would be to use the words "heads of departments" instead of Cabinet officers

Mr. SUTHERLAND. I am well aware of the correctness of what the Senator from Georgia says. The law designates the so-called Cabinet officers as heads of departments. I have chosen in the resolution, which, of course, is not a rule, but simply a direction to the Judiciary Committee to prepare a walls to use the town by which they are normally known rather. rule, to use the term by which they are popularly known rather than the name by which they are legally known, and I take it the Judiciary Committee will have no difficulty in understanding what is meant.

Mr. THORNTON. Mr. President, I ask that the resolution submitted by the Senator from Utah, referring to the future conduct of impeachment proceedings, be read again to the Senate. There are many who, like myself, do not understand what its effect would be if adopted.

Mr. KENYON. Mr. President, I rise to a question of order. The PRESIDENT pro tempore. The Senator from Iowa rises to a question of order. The Senator will state it.

Mr. KENYON. It is that this debate is not in order as a part of the unfinished business.

The PRESIDENT pro tempore. Debate can proceed only by unanimous consent, the resolution having been referred.

INTERSTATE SHIPMENT OF LIQUORS.

The PRESIDENT pro tempore. Under the special order of the Senate the consideration of the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases will be proceeded with. The bill will be read.

The Senate, as in Committee of the Whole, proceeded to con-

sider the bill, which was read, as follows:

sider the bill, which was read, as follows:

Be it enocted, etc., That the shipment or transportation in any manner or by any means whatsoever of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, including beer, ale, or wine, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise, in violation of any law of such State. Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, enacted in the exercise of the police powers of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited.

Mr. SANDERS, Mr. President, Senate bill 4043, entitled

Mr. SANDERS. Mr. President, Senate bill 4043, entitled "A bill to prohibit interstate commerce in intoxicating liquors in certain cases," stripped of its verbiage, would read:

Be it enacted. That the shipment of intoxicating liquor from one State into any other State by any person, to be received or used in violation of any law of such State, is hereby prohibited.

Sec. 2. That all intoxicating liquors transported into any State shall, upon arrival within the boundaries of such State and before delivery to the consignee, be subject to the operation of the laws of such State.

This bill relates to nothing but the shipment of intoxicating liquors from one State into another State where it is to be sold in violation of State laws concerning same.

It does not relate to the personal use of liquor. The personalliberty cry does not therefore properly come into this discussion. With only a few exceptions, none of the States have yet attempted to prohibit the drinking of liquor, and it is not the intention of the advocates of this bill to ask the Federal Government to take such action in advance of the States.

Parts of States to which State prohibition laws do not apply, commonly known as "wet territory," are not affected by this

bill.

The disposition of the States to limit or prohibit the sale of liquors is so general that the question can not be considered a sectional or local matter. Every State has more or less territory where the sale of intoxicating liquors is prohibited. This is commonly known as "dry territory."

Eight States have State-wide prohibition. Only six States have more wet than dry territory. These wet and dry States

are scattered over the entire country.

As an evidence of the demand for such legislation, it is sufficient to call attention to the fact that 71 per cent of the area of the United States is now under State prohibition laws, and by the further fact that a majority of all the people of the United States live in dry territory.

The evils attending the use of intoxicating liquors are so well known and so generally admitted that nothing need be said on

that part of the subject in the consideration of this bill.

The State I have the honor to represent is perhaps a fair example of the various States to which this bill applies is a

greater or less degree. It has a State-wide law against the sale of intoxicating liquors to persons within the State. These laws are enforced in most of the counties fairly well, but are violated in the many counties, especially those having large cities, on account of the corrupting influence of the large number of mail-order liquor houses in these cities, which are in the alleged business of selling to persons in other States. The violations of the law over the State are almost all by keepers of soft-drink stands, hotels, boarding houses, restaurants, livery stables, and bawdyhouses. To these are to be added the bootlegger class, made up of loafers and other like characters.

The centers of liquor distribution were originally the saloons. They, with their attending cvils, have been banished from the larger part of the country. But with their going there has grown up what is known as the "mail-order liquor business." This is even more insidious than the saloons. It came as an

afterthought.

Persons who were formerly in the saloon business in one capacity or another are now running mail-order houses or are engaged in the unlawful sale of liquor as described. The supply of liquor for almost all this business is traceable to the interstate shipment of liquor for sale in violation of the State law.

Persons in this business seek opportune times for getting liquor from the express offices, and secrete it in all manner of ways, then sell it clandestinely, making it exceedingly difficult for State officials to enforce the State laws. Under the present Federal laws this liquor is not subject to the State laws until it is delivered to the consignee, and there is, therefore, no opportunity for its detention while in transit after it comes into the State or while it is in the express office awaiting delivery.

In smaller towns numbers of persons order whisky by mail from outside of Tennessee and have it shipped to themselves in small quantities by express. The large mail-order whisky houses flood the State with their advertising matter for the purpose of getting this trade. The various wholesale liquor dealers who ship into Tennessee keep traveling representatives in the State, who visit the dealers and bootleggers and take orders from them for whisky. These orders are transmitted by the agent to his house, and the goods are shipped directly to the person ordering the same. The agent collects from the purchaser at such times as they may agree upon.

The quality of liquors sold in Tennessee at this time is genbelow the standard. Large quantities of high-proof spirits are shipped into the State, which are taken by the various rectifiers and reduced in proof and, in most instances, foreign substances are added, rendering the whisky inferior in quality and frequently deleterious to the consumer, physically and mentally. This is done because of the large increase in quantity secured thereby, which largely increases the profit. The States are not able to protect their people from fraud and imposition of this kind.

I suppose no one will say that intoxicating liquors should be sold to minors. The States all have laws against such sale. Minors are not allowed in saloons. The mail-order liquor houses send their advertising matter to minors, and in this way minors everywhere are led to buy liquor. On account of this children come out from under the restraint and protection of the law and practically from under parental restraint.

This mail-order business goes on all over the country. example of its volume is found in the report of the Interstate Commerce Commission, opinion No. 1596, as to the business of this kind in the Southern States, showing a total sale of more than 6,000,000 gallons annually. This would indicate that more than 6,000,000 gallons annually. This would indicate that the total of this mail-order liquor business for the whole United States is about 20,000,000 gallons per annum.

I now read from the report:

I now read from the report:

The mail-order business in packages of liquor in this country had its beginning about a quarter of a century ago. At that time it was of small proportions, very few packages being shipped, and those only to short distances. It was the spread of the prohibition movement that gave vitality to this character of traffic in liquor. Local option first drove the dealers from the localities where they had carried on a retail business to settle on the outskirts of the proscribed territory and ship liquor into it. As the prohibitive area spread the shippers were driven farther and farther back, but their business became more extended in the territory covered and larger in the volume of traffic. With Statewide prohibition came the interstate traffic in liquor. The decision of the Supreme Court that this traffic was interstate and, therefore, superior to interference by the State governments gave the industry a tremendous impetus and established the express companies as the carriers of practically the whole of this traffic.

The proportions of the business throughout the country at the present time can not be estimated with any degree of accuracy, but figures presented by the Southern Express Co. may be made the basis of a fair approximation. Jacksonville, Fla., probably the largest shipping point for liquor in the South, sends out between three and four thousand packages of 1 or 2 gallons daily, or a total of about one and one-half million gallons a year. Chattanooga ships about 786,000 gallons; Richmond, 546,720 gallons; Petersburg, 268,128 gallons; Pensacola, 267,760 gallons; New Orleans, 255,856 gallons;

Augusta, 215,150 gallons; and Norfolk, Va.; Cairo, Ill.; Emporia, Va.; Louisville, Ky.; Portsmouth, Va.; Roanoke, Va.; and Savannah, Ga., ship more than 100,000 gallons each annually.

This report also states:

This report also states:

These packages are sent express, charges paid, direct to the consumers on orders, in most cases, paid for in advance of shipment. The movement is much more active in the South than in other sections of the country, partly because of the extent of the prohibition territory in that section, partly because of the large quantities of very cheap whisky manufactured and shipped there for the consumption of the negro population. While it is not the function of this commission to be influenced in its conclusions by the moral aspect of the question, it is impossible not to recognize in this traffic one of the important factors in the race problem of the South—the evil splirit back of that problem in more ways than one. Generally speaking, the evidence presented at these hearings went to show a distinct cleavage in the industry; in the West a high grade of liquor was shipped and a better clientele appealed to; in the South both whisky and consumers were on a considerably lower grade.

The following lefter, received from the largest mail-order

The following letter, received from the largest mail-order liquor house in Chattanooga, is an acknowledgment of the fact that they know themselves to be shipping liquor into other States, to be sold in violation of the laws of such States. It also shows the extent of this pernicious business:

Allow me to write you in behalf of our business: Chattanooga is the second largest mail-order whisky center in the South, and if the Kenyon bill passes the House, which comes up before the Senate December 16, it means that our business will practically be destroyed, and I am writing to ask that you carefully consider this matter.

We certainly will appreciate anything that you can do for us, and with best wishes I remain,

Yours, very truly,

P. S.—We have 150 white employees here in our store in Chatta-nooga. This will give you some idea of the magnitude of the mall-order business out of Chattanooga.

The sale of pistols is prohibited by every State, but mail-order houses sell and ship them into every State in the same way as intoxicating liquors, and not infrequently a man orders them by the same mail, receives both by the same express, and a homicide follows.

I notice with great satisfaction that in the parcel-post regulations just issued both whisky and pistols are declared non-

mailable

This bill is not all that is wished by the temperance people of the country. It only stops the business of selling liquor within dry territory by persons outside that territory in violation of law. The evil of interstate sales to consumers yet remains. When it is remembered that the Federal Government can absolutely prohibit all interstate shipments of liquor the liquor manufacturers and dealers should be gratified that the more advanced proposition of prohibiting the interstate shipments of liquor to consumers is not in this bill.

If a mail-order man feels aggrieved he has his remedy. He

can require cash in advance for both the price of the liquor and the freight on same. Then he is in no danger of loss by reason of the intent of the consignees being of an unlawful nature.

As it is now no person in Tennessee can lawfully sell intoxicating liquor in Tennessee, but a person in Kentucky can sell in Tennessee. Should a citizen of Kentucky have more rights in Tennessee than a citizen of Tennessee? No man should have the personal liberty of violating the laws of any State.

As it is a State can protect its citizens against one another, but not against outsiders. A State can regulate the quality of liquor sold within the State, but it can not regulate the quality

of liquor sold from outside the State.

It is the moral duty of the Federal Government to protect the States in the enforcement of their laws. There is here an invasion of State rights and a helplessness of States to protect themselves. They must therefore look to the National Government for relief. That is the object of this bill.

A Senator from New York once said:

No man can overestimate the importance of maintaining each and every one of the sovereignties of the States, and no one can overestimate the importance of maintaining the sovereignty of the Nation.

Applying this statement to the matter under discussion, I wish to add, the sovereignty of the Nation is invoked to maintain the

sovereignty of the States.

Mr. McCUMBER. Mr. President, the purpose of this bill is to meet a condition. The condition is of the same character as that which necessitated and brought about the enactment of the pure food and drug law. The statutes of practically every State in the Union contained enactments designed to protect the people of such States against fraudulent, adulterated, misbranded, or deleterious foods and drugs. The purposes of each State law were broad and comprehensive, and had it not been for certain Federal interference would have been sufficient to accord proper protection to the people of such State.

The construction of the interstate-commerce clause Constitution to the effect that the jurisdiction of the Federal Government over an article entering into interstate commerce continued, not only until the article had been received by the consignee, but also until it had actually passed out of his hands and mingled with the mass of the property of the State, rendered the State law ineffective as a preventive measure. The law could punish the innocent retail merchant but could not prevent the commission of the offense, nor reach the source of the evil, the manufacturer, in another State. The greater proportion of all food and drug products were consumed in States other than that in which they were manufactured. They came from the factory often adulterated, often mislabeled,

and were quite often deleterious to health.

The retail merchant had a right to assume, when he ordered a few hundred dollars' worth of maple sirup, and when it came to him marked "Pure Vermont Maple Syrup," that he was receiving just what he ordered and not colored and flavored glucose. The State could with very little grace impose a fine upon an innocent retailer and make him suffer for an offense committed by another upon him. Nor did this vicarious punishment in any way remedy the wrong which had been perpetrated upon the consumer. It was impossible for the State authorities to watch every train at every station within its borders every day in the year to ascertain what goods were being imported into the State which were condemned by their laws. The condition demanded a remedy. The pure-food law was introduced and passed to meet the condition. It has been eminently successful.

When I drafted the bill which became the final law with almost no change, I did not draft it along the lines of this bill to prohibit interstate commerce in intoxicating liquors in certain cases. I had examined the authorities governing the question which had been decided at that time, and I believed that a proposal that the articles should become subjected to the police powers of a State the moment they crossed the line and before they reached the hands of the consumer of doubtful constitutionality. At that time the courts had gone so far as to hold in the Leisy against Hardin case, One hundred and thirty-fifth United States, that the power of Congress over interstate commerce extended not only from the time the consignor began to ship the goods to the time of their delivery, but also followed them in the original packages until they had passed by sale out of the hands of the consignee.

Nor did those who supported the pure-food act feel entirely safe at that time in being able to meet the claim that it would be a delegation of congressional power to authorize the divers State laws to lay hold upon an article of interstate commerce

the moment it crossed a State line.

There was what we considered a much safer, if not sounder, foundation for a Government law which should meet the necessities of that situation. It had been held in many cases that the power of Congress over interstate commerce was exactly of the same character and potency as the power of Congress over foreign commerce; that under the authority of Congress to regulate and control foreign commerce Congress had again and again enacted legislation which absolutely prohibited certain kinds of goods from entering into commerce. The courts had clearly established the doctrine that the right to regulate commerce carries with it in proper cases the right to prohibit commerce. The lottery case had already been decided, One hundred and eighty-eighth United States, page 321.

In this case the court say:

If lottery traffic carried on through interstate commerce is a matter of which Congress may take cognizance and over which its power may be exercised, can it be possible that it must tolerate the traffic and simply regulate the manner in which it may be carried on? Or may not Congress, for the protection of the people of all the States under the power to regulate commerce, devise such means within the scope of the Constitution and not prohibited by it as will drive that traffic out of commerce among the States?

The court decided that Congress had such power, that it could so outlaw a commodity for the protection of the people of all the States.

Justice Harlan in that case states:

What clause (in the Constitution) can be cited which in any degree countenances the suggestion that one may of right carry or cause to be carried from one State to another that which will harm the public more or less? * * Surely it will not be said to be a part of any one's liberty, as recognized by the supreme law of the land, that he shall be allowed to introduce into commerce among the States an element that will be confessedly injurious to public morals.

Again:

As a State may, for the purpose of guarding the morals of its own people, prohibit all sales of lottery tickets within its limits, so Congress, for the purpose of guarding the people of the United States against the widespread pestilence of lotteries, and to protect the commerce which concerns all the States, may prohibit the carrying of lottery tickets from one State to another.

Mr. SUTHERLAND. Mr. President—
The PRESIDENT pro tempore. Will the Senator from North Dakota yield to the Senator from Utah?

Mr. SUTHERLAND. Will it interrupt the Senator if I ask him a question?

Mr. McCUMBER. I will allow the interruption at this time, but I wish to close before half past 1, and therefore I may not be able to yield to all interruptions.

Mr. SUTHERLAND. The Senator said a moment ago, as I understood him, that the power to regulate interstate commerce is of the same potency as the power to regulate foreign commerce.

Mr. McCUMBER. That is the statement, Mr. President.

Mr. SUTHERIAND. Does not the Senator recognize that while the language of the constitutional provision with reference to interstate and foreign commerce is the same the objects to which the language is directed are different; that the Government of the United States in dealing with a foreign nation deals in its sovereign capacity; that it may absolutely prohibit the importation of any goods from foreign countries or from any particular foreign country, but that it could not, it seems to me—I ask the Senator his view of it—absolutely prohibit the transmission of all goods from one particular State to another particular State?

Mr. McCUMBER. Congress may prohibit importations or fix any condition upon any foreign importations. The power of Congress over interstate commerce, as over foreign commerce, is plenary, is full and complete; and while Congress may not, and I have not claimed it is necessary that Congress may prohibit commerce in any and all things, there are certain things in which, exercising its plenary power, it may prohibit to enter

interstate commerce.

Mr. SUTHERLAND. Congress may pass an embargo against the importation of all goods from France to this country, but does the Senator think that Congress can pass a law putting an embargo upon all goods from New York to any other State?

Mr. McCUMBER. Not by any means, as I will show before I get through; but Congress can prohibit some things from entering into interstate commerce, and intoxicating liquors is

one of the things.

We were able to apply this reasoning directly to the pure food and drug act. No citizen had a right under the Constitution to use the channels of commerce to deceive or injure others. That will apply to this case. He had no inherent right to defraud the people of another State by selling to its citizens an article, which was falsely labeled or adulterated, for the genuine article.

And so we invoked the inherent power of Congress to prohibit entirely interstate commerce in any article designed or calculated to deceive. We held that Congress had the power to prevent the citizens of one State from perpetrating a fraud upon either the pocketbook or the stomach of the citizens of another State. This wholesome law has been upheld by the courts.

Mr. President, I have read over most hurriedly the legal arguments both pro and con given before the Committee on Interstate Commerce. To understand the force of those arguments one must understand the purpose of the bill and what condition it is sought to meet. The condition is almost the same as that which presented itself as the reason for the purefood and drug act, except that in the latter case the law was designed to protect the citizens of one State against the unlawful, fraudulent act of a citizen of another State, while in the present case the design of the law is to protect the citizens of a State against the crimes and unlawful acts of its own citizens, committed in conjunction with citizens of another State. The desire of the State is not alone to punish for the offense of the illegal sale of liquor, but to prevent the illegal sale. It has been found impossible to effectively enforce the prohibition laws of a State if the State is compelled to await its action until the offense prohibited has been committed, the property sold and mingled in the mass of the property of the State. The State seeks to reach the property before it has reached the hands of the consumer—to reach it in bulk. It desires to issue its process against the property itself and to determine beforehand whether or not it is there for an unlawful purpose; and if so, to enjoin that purpose-to proceed against it by an action in rem and condemn it as a nuisance.

This bill is not a bill to prevent interstate commerce in intoxicating liquors. The State of North Dakota is a prohibition State, made so under its constitution. So long as that law remains a law of the State of North Dakota it is my duty as a Representative of that State to assist in the enforcement of that law and to assist in the enactment of any legislation by the Federal Government which is necessary for the State to enforce its police powers. I say our State is a prohibition State; but it is prohibition only in the sense that it prohibits the sale of intoxicating liquors as a beverage. It prevents no man and no family from importing any liquors and consuming

them in the home or elsewhere. It is not aimed at the right to consume liquor, but is leveled against the open saloon. This law will not affect the importation of intoxicating liquors into the State to be used as they always have been used since we became a State. Its only effect will be to assist the officials of the State in enforcing the prohibition law against blind piggism, bootlegging, and so forth.

For the same reason that the State laws were ineffective to prevent a contemplated breach of them and called for a Federal pure-food act, so the State laws are ineffective to properly pro-tect the people against the evils which the majority of the people of such State say flow from the sale of intoxicating This is so because the State is often compelled to await action until the sale has been completed and the injury has been

Assuming that the State has the right to enforce its own laws by such method as will be effective, namely, by an action in rem against the property before it reaches the consignee or the consumer, we are met directly with the question whether Congress can legally subject an article in interstate commerce to the police power of the State while it is still in transit or

before it has mingled with the mass of the property of the State.

In the consideration of this question we must admit every claim made by the opponents of the measure which have had the real sanction of the Supreme Court of the United States. We must admit that the court has held that an article is in interstate commerce until it has actually been sold in original packages, and that until it has been so sold the State laws have no control over it. To be sure, in a subsequent case the court held that Congress could authorize the State laws to attach to the property before its final sale in original packages and after its delivery to the consignee; that the sale was merely an incident to commerce and not, strictly speaking, commerce itself, and therefore the Congress could relinquish to the State authority over the article over which Congress might, if it saw fit, retain exclusive control. That is my construction of the Rahrer

The court has also held that Congress has no authority to

delegate its power over interstate commerce to a State.

I, however, base my claim of the constitutionality of this proposed law upon a legal proposition which, I think, was not discussed, or at least but barely touched upon, in the argument before the committee.

First. That Congress has power to absolutely prohibit interstate commerce in intoxicating liquors. That is my position and the fundamental basis of my argument to upheld the constitutionality of this proposed measure.

Second. Having power to prohibit interstate commerce in intoxicating liquors it has the lesser power, which must be included in the greater, of allowing interstate commerce in intoxicating liquors under certain conditions, and those conditions may be that the commodities shall be subjected to the police powers of a State the moment they cross the State line; not that the State law shall be the effective law and be approved by Congress, but Congress shall relinquish its hold upon the articles upon certain conditions when they arrive within a State.

Mr. BORAH. Mr. President—
The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Idaho? Mr. McCUMBER. I yield, Mr. President.

Mr. BORAH. The proposition which the Senator has just been stating is covered, I take it, by the first part of the bill; that is, section 2.
Mr. McCUMBER.

Mr. BORAH. That is a prohibition against shipping liquors into a State where they are intended to be used in an unlawful

It seems to me that Congress has that power, and I am in favor of exercising that power. But when you come to the second section it has occurred to me that there is a clause in that section which militates against the strength and effect of the first section and might involve a question of constitutionality. I do not see the necessity of section 2, and I do not believe it to be constitutional.

Mr. McCUMBER. I do not think the second section is at all necessary, and I think it is of doubtful constitutionality in one of its provisions; but I do not desire to argue that question at this time. If the act is made clear that we do not put into effect a State law when the commodities arrive in such State, or do not delegate our authority in any manner to a State, but simply provide a condition under which the commodity may lose its commercial character, and thereby become subject to the laws of the State, the second section may be so framed as to be held constitutional.

Mr. KENYON. Mr. President—
The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Iowa?

Mr. McCUMBER. I yield to the Senator.

Mr. KENYON. I simply want to say, Mr. President, to the Senator from North Dakota that section 2 is the committee

Mr. McCUMBER. I understand that.

Mr. KENYON. I have thought of the same suggestion that the Senator from Idaho [Mr. Borah] has made. first section prohibits the shipment of intoxicating liquors with the intention to violate the law of the State, the second section would seem to recognize the transportation of liquors and at the same time apply the police powers. There is some incongruity between the two sections.

Mr. McCUMBER. One would seem to rather transfer the congressional authority over to the State, and that construc-

tion we should avoid, if possible.

Mr. BORAH. Just a word, Mr. President.

The PRESIDENT pro tempore. Does the Senator from North Dakota yield further to the Senator from Idaho?

Mr. McCUMBER. I yield.

Mr. BORAH. As I have said, so far as the first section is concerned, it seems that the bill provides that Congress shall retain the control of the commerce; it says it shall not go into a State under certain conditions; it fixes the rate and regulation itself; but in the second section it is provided:

That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall, upon arrival within the boundaries of such State or Territory and before delivery to the con-

The prohibition which has been made in the preceding section is, in a sense, abrogated in the second, and liquor is recognized as an article of commerce. Recognizing it as an article of commerce, and one which may go into the State, then the question is, Can you stop it and turn it over to the State before it is finally delivered to the consignee? In the first section you make it contraband of commerce when it is being shipped for unlawful use. In the second you recognize it as an article of commerce, but turn it over to the State before it is delivered to consignee. I do not think this aids the law in its efficiency, and I believe it unconstitutional.

Mr. McCUMBER. The whole question is our authority to attach a condition to it in order to give it a right to enter into

interstate commerce.

Third. That, imposing the condition that the goods shall be so subjected to the laws of a State is not in any sense whatever delegating authority to the State to control by its legislation interstate commerce. It is the penalty prescribed in the condition by congressional action.

Fourth. That having a right to prohibit interstate commerce in intoxicating liquors it has the lesser right, which is included in the greater, of declaring as a condition for the allowance of the article to enter into interstate commerce that it shall be divested of its Federal protection as a commodity in interstate commerce whenever certain conditions arise, and that the condition which will so divest it may be that it is intended to be used in violation of the police powers of the State.

This bill reads:

That the shipment or transportation in any manner or by any means whatsoever of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, including beer, ale, or wine, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof into any-other State, Territory, or District of the United States, * * * which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise, in violation of any law of such State, * * is hereby prohibited.

That is the gist of the proposed law.

Mr. BORAH. Mr. President—

The PRESIDENT pro tempore. I Does the Senator from North Dakota yield further to the Senator from Idaho?

Mr. McCUMBER. I yield, Mr. President. Mr. BORAH. What is the necessity of anything further after that is done?

Mr. McCUMBER. What is the question?

Mr. BORAH. I say, what is the necessity of anything further in the bill after liquor is prohibited from being shipped into the State? What is the necessity of section 2?

Mr. McCUMBER. I had stated, if the Senator will pardon

me, when he first called my attention to it, that I doubted the constitutionality of section 2 and that I did not see the necessity of it. It was no part of the bill when it was introduced, but is a committee amendment. I think it is rather dangerous than

beneficial. It may be open to the construction that it is a delegation of congressional authority.

Mr. BORAH. I did not catch the Senator's full statement,

Mr. McCUMBER. Mr. President, I stand upon the broad proposition that all of the provisions of the bill which subject the article to the laws of the State are simply conditions imposed upon the article as conditions precedent to its right to enter the channels of interstate traffic. That is under section 1

of the bill. Under the first proposition, this question naturally arises: Have the citizens of one State any inherent right to do a business in another State, which business is specifically prohibited by the constitution or laws of the State in which it is to be carried on and is denied to every citizen of that State? I can hardly conceive that anyone will claim such a right. The majority of the people of the State of California do not like the Celestial. The Representatives of that State insist upon a national law which will prohibit the Chinese from coming into California. Now, a great many Californians want the people They want them as laborers. They want them in the fruit-picking season. But when they insist on their personal privilege to hire whomsoever they will, the majority say, "These people debase our State citizenship and we will not have them." The majority of the people of North Dakota, of Kansas, of Oklahoma, say they do not want intoxicating liquors shipped into their States for sale; that the sale of liquors injures their citizens. What moral right has California to insist that no Chinaman shall come into her territory because of his bad influence and then object to North Dakota or Oklahoma saying that California wines, and other intoxicants shall not come into their respective territories because of their bad influence?

I do not for one moment question that where the right of Congress under the interstate commerce law attaches to a commodity it will prevail over any police power of the State. But what I do claim is that in a certain class of commodities, which are more or less under the ban of public opinion and which a great proportion of the people do not recognize as property whatever, Congress has a right to prohibit such commodities from entering into interstate commerce, and the right of prohibition carries with it the lesser power to impose conditions.

Suppose that nitroglycerine is imported into any State. The State authorities have ample evidence that it is to be used for the purpose of blowing up bridges or great works under construction. Is Congress compelled to say to the State authorities, "You must not lay your hands on this article until it has reached the hands of the consignee; you must then keep watch over the consignee to see that he does not use it for the purpose intended, and if you fail, and surreptitiously he gets some of it into the hands of a McManigal and a public building is blown up and many lives lost, you must content yourselves with punishing the perpetrator"? That punishment does not bring back the lives that are lost. The punishment of the blind pigger-the illicit seller-does not rehabilitate the homes he has destroyed nor alleviate the influence for lawlessness which his action has created. I am not asking whether the State can insist on applying its law to an article before it leaves the hands of a common carrier, without permission of Congress, but can Congress relieve the State from this onerous condition? It is a question of the authority of Congress to grant, not of the State to demand.

Has Congress the right to prohibit intoxicating liquors from entering into interstate commerce? If it has no such power, then I am willing to concede that it has no power to subject that liquor to the condition sought in the bill. If intexicating liquors as a commodity have inherently all of the rights that clothing or bread could have, then we may well doubt the con-

stitutionality of this law.

I know that courts have held that intoxicating liquors are recognized and legitimate subjects of interstate commerce; that it is not competent for any State to forbid any commercial carrier to transport such articles from a consignor in one State to a consignee in another. But the courts have never held that Congress could not cease to recognize them as legitimate subjects of interstate commerce. I insist that Congress may cease to recognize liquors as proper subjects of interstate commerce. While it is held that it is not competent for a State to forbid any common carrier to transport such articles from a consignor in one State to a consignee in another State, it has not been held that Congress has not that authority.

Congress has again and again assumed a right to determine that a certain commodity should be deprived of its right to enter the channels of commerce. In 1897 and in the Payne bill of 1909 Congress prohibited the importation of any goods that were made in whole or in part by convict labor. Here the provision applies, even though there is no evil whatever inherent in the goods themselves. We do not need to go that far in this

Mr. WILLIAMS. Mr. President-

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Mississippi?

Mr. McCUMBER. I do.

Mr. WILLIAMS. If the Senator from North Dakota will pardon me, while he is on that point I desire, in furtherance of his argument, to show how far Congress has gone in the policy of cooperating with rather than obstructing the States in the execution of their police powers.

In the first decade of this century this state of affairs existed: Some people in some of the slave State were freeing their negroes and carrying them to free States, carrying them into free States which had laws against the residence of free negroes within those States. Congress passed a law forbidding the importation of free negroes into any State where they were not permitted by law to reside, and that law was signed by no less a strict constructionist than Thomas Jefferson himself.

Mr. McCUMBER. I thank the Senator for calling my atten-

tion to that fact.

Mr. President, can anyone doubt for a moment, if the power of Congress over interstate commerce is coextensive with its power over foreign commerce, and under its authority to regulate foreign commerce it prohibits the entry of any goods into the United States which were manufactured by foreign convicts, that it can not prohibit any interstate commerce in goods which make convicts?

We have laws which have been in force more than 50 years providing for a forfeiture of any vessel which shall be brought into the United States intended to be used in the slave trade.

By section 241 Congress prohibited the importation of the mongoose, the so-called flying foxes or fruit bats, the English sparrow, the starling, and other birds and animals, and provides that all such birds or animals upon arrival at any port in the United States shall be destroyed or returned at the expense of

the owner.

Section 242 prohibits a common carrier from transporting of from any State any foreign animals or birds the importation of which is prohibited, or dead bodies or parts thereof of any wild animals or birds where such animals or birds have been killed or shipped in violation of the laws of the State.

I do not know that that particular section has been passed upon by the Supreme Court, but it is a law of Congress in force

at the present time.

Mr. WORKS. Mr. President-

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from California?

Mr. McCUMBER. I yield, Mr. President.

Mr. WORKS. Apparently the Senator from North Dakota is discussing this bill upon the theory that it expressly forbids the shipment of intoxicating liquors into dry territory. Does the Senator so understand it?

Mr. McCUMBER. Oh, no. I have not discussed it on that theory, but have discussed the conditions under which liquors

would be shipped.

The weakness of the bill, Mr. President, it Mr. WORKS. seems to me, is the very fact that it does not do that very thing. The qualifying clause in the first section of the bill is quite material and takes away most of the strength and efficacy of the bill itself by the use of this language:

Which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States.

That is to say, in order to convict under this statute, if enacted as such, you must prove that the person to whom it was shipped or by whom it was possessed had the intention at the time to sell it unlawfully.

I am not satisfied, Mr. President, to limit a law of this kind to that extent unless we are compelled to do so by the Constitution. A bill so worded will have very little effect, it seems

to me, in checking or preventing the evil we are trying to reach.

Mr. McCUMBER. The Senator must admit that if Congress has power to absolutely prohibit, of course it has the power to allow with any conditions it sees fit to impose.

Mr. WORKS. Mr. President, I have no doubt of that at all.

What I question is whether Congress should stop short of absolute prohibition against the shipment of liquors into dry terri-

tory.

Mr. McCUMBER. That can be answered by the statement that probably not a single State in the Union prohibits the larges in the State. Whenever a State goes so far as

to absolutely prohibit the use of liquors in the State, then Congress may properly, under its authority, prohibit their importation into that State, but I know of no State in the Union that has gone to that extent. They do not prohibit the personal use of intoxicating liquors; they only prohibit their being sold contrary to law.

Mr. WORKS. Mr. President-

The PRESIDENT pro tempore. Does the Senator from North Dakota yield further?

Mr. McCUMBER. I yield.

Mr. WORKS. All the States make certain exceptions in the case of the sale of intoxicating liquors. To that extent the shipment of the liquors would not be in violation of the law of the State. No doubt Congress in enacting a law of this kind should make that same exception, but certainly it should go no further than that.

Mr. McCUMBER. I do not think Congress should go further than the laws of the States themselves go. This bill, if it is passed and becomes a law, will be for the benefit of the States. and therefore we should not under our general power and authority over commerce assume to say that certain goods should not go into the State, when the State law welcomes them into the State under certain conditions. All we should do is to say that if we allow them to enter into interstate commerce it should be with the understanding that they should not violate the conditions imposed by the State.

Mr. LODGE. Mr. President—
The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Massachusetts? Mr. McCUMBER. Certainly.

Mr. LODGE. In connection with the point made by the Senator from California, which seems to me to have a great deal of force, how is it to be determined what is the intention of the person to whom the liquor is shipped? That compels the shipper to know the intention of the person. It seems to me that is going to be a matter of great difficulty to determine.

Mr. McCUMBER. That is getting at the merits. We are now

discussing the authority of Congress. I suppose we will determine the intention of either party to a transaction in the courts, the same as we always determine those things. It will simply

be a matter of evidence.

Mr. BAILEY. But Congress could not make the Senator guilty of a crime for some intention which I had in my mind.

Mr. McCUMBER. Not at all.

Mr. BAILEY. That is what I understood to be the question of the Senator from Massachusetts.

Mr. LODGE. That was my precise point. They make the shipper guilty of a crime because he fails to know the intention of the person to whom he ships.

Mr. McCUMBER. Oh, no.

Mr. LODGE. It seems to me it would be very difficult to get at.

Mr. McCUMBER. I do not think the Senator has read the bill, or he would not make that assertion.

Mr. LODGE. I have read the bill through two or three

I would ask the Senator to quote any Mr. McCUMBER. portion of the bill which makes the shipper responsible for a crime on account of an intent in which he did not take part.

Mr. LODGE. The bill says that the shipment or transportation of the articles named—

Mr. McCUMBER. Is prohibited. That is not a crime— Mr. LODGE. Is prohibited. If the bill is without a penalty

clause, then it is-

Mr. McCUMBER. It is not intended to create a penalty. It is intended, Mr. President, to divest the shipment of its interstate character whenever it can be ascertained in a court proceeding in any State that it is within that it is sought to be used in violation of the laws of that State.

Mr. LODGE. Does the Senator mean that the shipper who ships in violation of this act is not subject to any penalty?

Mr. McCUMBER. If he desires to sell on credit entirely, and depends on a lien on the property in the State in which it is to be paid, he might possibly lose the property in an action

Mr. CRAWFORD. Mr. President—
The PRESIDENT pro tempore. Does the Senator yield to the Senator from South Dakota?

Mr. McCUMBER. I yield. Mr. CRAWFORD. I have been reading the bill, and I simply want to ascertain if my impression of it is correct. I do not understand that it is a criminal statute at all.

Mr. McCUMBER. Not at all. Mr. CRAWFORD. It does not undertake to provide any penalties at all.

Mr. McCUMBER. None.

But fixes the status of such liquors as Mr. CRAWFORD. come within the inhibition of the act.

Mr. WORKS. Mr. President—
The PRESIDENT pro tempore. Does the Senator yield to the Senator from California?

Mr. McCUMBER. I will yield this time, and then I desire to finish my remarks.

Mr. WORKS. The trouble is not, as suggested by the Senator from Massachusetts, that the burden is on the shipper of the liquor to prove or disprove the intention of the person to whom it is shipped, but that the burden is imposed upon the prosecution in a case of that kind, and, in order to convict, the prosecution must prove the intention of the person to whom the liquor is shipped.

Mr. KENYON. Mr. President-

Mr. McCUMBER. It does not necessarily need to be the intention of the shipper. Ordinarily, it is not very difficult to prove the intent of a blind pigger, when he receives great quantities of liquor and when it is known that he is running an establishment which we designate by that name.

Mr. BAILEY. Will the Senator from North Dakota permit

me to ask him a question now?

Mr. McCUMBER. Certainly.

Mr. BAILEY. I know very little about the criminal statutes of the United States; but I have an impression that there is some general provision providing a penalty where there is a prohibition or where any given act is made unlawful and there is no specific penalty attached to that act in the law prohibiting it, because, as I understand, a criminal statute without any penalty is mere brutum fulmen. It is nothing. To say a thing is prohibited and to give no sanction to your prohibition signifies nothing. I may not know as much about criminal law as a Senator ought to know, but still I know quite as much about it as I want to know.

Mr. McCUMBER. I think the Senator will undoubtedly

agree that there could be no penalty unless the law itself fixed the penalty. The object of this law is to fix the status of the property itself as to what time it shall lose its character as an article of interstate commerce, and the moment it loses its interstate commerce character, the moment it ceases to be a commer-cial commodity, it then of itself falls under the laws of any State

in which it is at that time situated. Mr. CURTIS. Mr. President-

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Kansas?

Mr. McCUMBER. I do.

Mr. CURTIS. It is not the intent of the proposed act to make it criminal. If the act was made criminal and declared to be a misdemeanor, without penalty, the penalty fixed by the common law must control.

Mr. CRAWFORD. I do not want to delay the Senator from

North Dakota

Mr. McCUMBER. I will say I must close my remarks before half past 1, and I therefore ask that I may proceed without further interruption.

Mr. ROOT. I wish to ask the Senator from North Dakota a

Mr. McCUMBER. I will yield this time.
The PRESIDENT pro tempore. The Chair will take the liberty of suggesting to the Senator from North Dakota that at 1 o'clock the unfinished business will be laid before the Senate. Mr. McCUMBER. I presume, Mr. President, it will be laid

aside that hour.

Mr. ROOT. I should like very much to know what are the views of the Senator from North Dakota as to the effect of this prohibition upon contracts. Would a contract of sale or a contract of shipment or the obligations involved in a contract of shipment be valid and enforceable if the transaction were the transaction such as described in this section, or would the contract be made invalid by reason of the fact that they are

contracts to violate a law of the United States?

Mr. McCUMBER. Even under the present law of any of the States which have passed prohibition laws, a contract for the sale of intoxicating liquors to be used in violation of the laws of the State would be invalid and could not be enforced. neither enlarges nor does it contract that rule. The contract of sale would hardly include anything concerning any disposition by the purchaser, and hence they would not be contracts to violate a United States law. If the contract was that they were to be shipped to sell in violation of a State law, of course, that would be a violation of this act.

Mr. President, I have just read section 242 of the Revised Statutes of the United States, which prohibits interstate com-merce in any birds or animals killed in any State against the laws of that State, and I hardly think anyone would contend that this prohibition is a delegation of authority to the State. It is simply a condition under which the shipments may or may

Sections 238, 239, and 240 of the penal code require that there shall be a bona fide consignee for intoxicating liquor shipments in interstate commerce; there shall be no collect on delivery shipments, but there shall be a plain branding, and so forth.

These are the conditions which we have already passed as conditions precedent to the shipment of intoxicating liquors, and we may go to any extent and require any condition that Congress in its wisdom may see fit.

Mr. President, Congress by the enactment of this bill will declare its legislative judgment that intoxicating liquors are articles which may seriously harm the public; the same as it did in the lottery cases. Where the subject on which the legislative power acts admits of a grave doubt as to whether it ought to be withheld from public use, the right to determine that question is a legislative right and not a judicial right.

Opium is useful; it is even necessary in many instances to preserve life. Its general use, however, its promiscuous sale, is productive of an evil that overbalances any good obtained from its use many hundred fold. Does anyone doubt the power of Congress to protect the people of all the States, to outlaw the article and declare it shall have no commercial right, to treat it as it would a pestilence; and could any court override that legislative judgment? Wherein does the power of Congress over one kind of an intoxicant differ from its power over another

kind of intoxicant?

Suppose Congress should declare that intoxicating liquors shall no longer be considered fit subjects for interstate commerce, what authority is there to override the decision of Congress in that respect? Who is to determine when an article is to be deemed unfit for interstate commerce? Is it the court or the legislature? Under anything but the most extreme cases the answer must be that the determination of this question is a function solely for the legislature to perform. This does not mean that the legislature can act in an arbitrary manner. This does not mean that the legislature can declare that wheat or corn or clothing should not be subjects of interstate commerce-things which are absolute necessities and which are injurious to no one; but it does mean that the legislature alone has the right to determine when a given kind of business, like the sale of lottery tickets, so affects public morals, so affects public welfare, that it needs the interposition of the legislative power to protect the morals or the health of the people. There was a time when lotteries were recognized both by the law and by the public as perfectly legitimate methods of raising money. Churches were supported by them. States derived their revenues from them. The Federal Government itself incorporated them and authorized them to carry on their business. While the Federal Government was so authorizing them undoubtedly a State could not interfere with lottery tickets so long as they remained wholly subject to the jurisdiction in which they were created and had not yet been subjected to the laws of a State. But Congress, responding to an awakened public conscience, responding to the known evils of the lottery system, responding to the universal condemnation of the influence of the lottery, outlawed the system by prohibiting the interstate shipment of lottery tickets.

In the lottery case Mr. Justice Harlan said:

If a State, when considering legislation for the suppression of lotterles within its own limits, may properly take into view the evils that inhere in the raising of money in that mode, why may not Congress, invested with the power to regulate commerce among the several States, provide that such commerce shall not be polluted by the carrying of lottery tickets from one State to another?

The decision in that case answered that question affirmatively. If that could be answered affirmatively, how can the court avoid answering this question in the affirmative? If a State, when considering legislation for the suppression of the traffic in intoxicating liquors within its own limits, may properly take into view the evils that result from the promiscuous sale of intoxicating liquors, the commission of crimes, the debauching of manhood, the destruction of the health of its citizens, the ravages of disease affecting the weakened condition of the excessive users of intoxicating liquors, why may not Congress, invested with the power to regulate commerce among the several States, provide that such commerce shall not be polluted by the carrying of intoxicating liquors from one State to Has not Congress the same right to recognize the injurious effects of alcoholic drinks as it had to recognize the injurious effects flowing from the sale of lottery tickets? there not practically as large a proportion of the public of the land opposed to the sale of intoxicating liquors as there were to the sale of lottery tickets? Have not the public, either through an awakened conscience or as the result of scientific

exposition of the evils of the liquor habit, arrived at a conclusion that the evils must be stamped out in the only legitimate way, that of preventing its excessive use through the medium of public or private sale? I insist that the power to absolutely prohibit interstate commercial privilege to intoxicating liquors is clearly a congressional right, and if exercised by Congress the courts would not assume to declare that Congress had overstepped its legitimate authority. And if it has the right of prohibition, it must necessarily have the lesser right of imposing conditions.

In the case of Mugler v. Kansas the court says:

And so, if in the judgment of the legislature the manufacture of intoxicating liquors for the maker's own use, as a beverage, would tend to cripple, if it did not defeat, the effort to guard the community against evils attending the use of such liquors, it is not for the courts upon their views as to what is best and safest for the community to disregard the legislative determination of that question, so far as from such a regulation having no relation to the general end sought to be attained.

In the case of Champion as Ames, the lottery case Con-

In the case of Champion v. Ames, the lottery case, Congress specifically exercised its power to regulate interstate commerce to the point of prohibition. They held that lottery tickets could be declared by Congress to be outlawed, page 7.

Crowley v. Christian (137 U. S., 89) the court said:

It is not a right of a citizen of the United States to engage in traffic in intoxicating liquors. That is not a right of a citizen of a State or a citizen of the United States.

That could not be said as to bread or as to clothing, but it can be said as to this character of property.

Again Justice Field says, in the same case:

It is urged that as the liquors are used as a beverage, and the injury following them, if taken in excess, is voluntarily inflicted and is confined to the party offending, their sales should be without restrictions, the contention being that what a man shall drink, equally with what he shall eat, is not properly matter for legislation.

There is in this position an assumption of a fact which does not exist, that when the liquors are taken in excess the injuries are confined to the party offending.

Therein it differs from the case of the sale of other articles-

Therein it differs from the case of the sale of other articles—

The injury, it is true, first falls upon him in his health, which the habit undermines; in his morals, which it weakens; and in the self-abasement which it creates. But as it leads to neglect of business and waste of property and general demoralization it affects those who are immediately connected with and dependent upon him. By the general concurrence of opinion of every civilized and Christian community there are few sources of crime and misery to society equal to the dram shop, where intoxicating liquors in small quantities, to be drunk at the time, are sold indiscriminately to all parties applying. The statistics of every State show a greater amount of crime and misery attributable to the use of ardent spirits obtained at these retail liquor saloons than to any other source. * * As it is a business attended with danger to the community it may, as already said, be entirely prohibited or be permitted under such conditions as will limit to the untost its evils. The manner and extent of regulation rest in the discretion of the governing authority.

And that I claim, Mr. President, is true with reference to the

And that I claim, Mr. President, is true with reference to the authority of Congress under the general provision relating to interstate commerce to either prohibit its shipment or to allow

it under any conditions it sees fit to enact.

Again, this bill does not attempt to prohibit interstate commerce in intoxicating liquors, provided they are not to be used for unlawful purposes. I do not think any one can doubt the right of Congress to say that any article may enter into interstate commerce for one purpose and may not enter into it if designed for another purpose. It might well say that a dead and putrid carcass of a steer or hog might be transported from one State to another for the purpose of converting it into a fertilizer or into axle grease, but it should not enter commerce for the purpose of being sold to the public for meat. If Congress can do this it has the equal power to say that an article entering into interstate commerce may be divested of its commercial protection upon certain contingencies. It may say that a barrel of pork entering into interstate commerce for the purpose of legitimate sale in another State shall lose its commercial character if it becomes putrid or unfit for use, unless there should be a guaranty that it should not be used for individual consumption. It has equally the power to say that intoxicating liquors may be recognized as legitimate subjects of interstate commerce, but that if at any time while in transit it becomes apparent that the use designed is an immoral one, an illegal one, it may provide that it shall be divested of that interstatecommerce protection. In that case it does not adopt the law of any State. It does not delegate its power to a State. recognizes its own authority over the article as an article of interstate commerce and says it is no longer a subject of commerce, and being no longer a subject of commerce it falls of, itself under the law of the State in which it is then located.

Mr. President, I can see nothing in the claim that Congress, by taxing intoxicating liquors gives them an interstate privilege that prohibits Congress itself from determining that they shall not enter particular States for illegal purposes. It may be admitted that by taxing the liquors or taxing the business of selling them is a recognition by Congress of their commercial char-

acter, so that a State could not hamper their shipment, but that does not prevent Congress from conditioning their shipment. By the enactment of this bill Congress will not be prohibiting interstate commerce in intoxicating liquors, but will simply enact that they shall not be imported into any State for the purpose of violating the laws of such State.

Mr. President, I believe that this bill, designed to assist the States in enforcing their own police powers by authorizing the importation of liquors into such States on the condition that they shall not be imported with intent to violate State laws, and that wherever such intent is established they shall be deprived of their commercial protection and be subjected to the laws of the State, will stand the test of any constitutional objection and that the bill should become a law.

Mr. SUTHERLAND. Before the Senator takes his seat I Suppose this bill is should like to ask him one question. passed and some citizen in a prohibition State concludes that a shipment of liquor has been made which it is the intent of the consignee to use or dispose of in violation of the law of the State, what steps or what proceedings would that citizen institute in order to enforce this law under the provisions of the

Mr. McCUMBER. I will give one concrete example that I find in hurriedly reading over the evidence taken before the committee. In Tennessee, I believe it was, there was shipped in the name of one person several barrels, and each barrel contained 50 pint bottles of whisky. Those we will say are found at the station. They have not yet been delivered to the consignee. The State authorities fully understand that the man who receives this special consignment of 50 pints in a barrel and several barrels can not necessarily need them all for his home consumption during his Christmas holiday, and, knowing his business to be a vender of liquors, these officials of the State may desire to seize that property before it enters into his hands-before he has had an opportunity to dispose of itand they may, by an appropriate action—an action in rem against the property itself—desire to test the question as to whether it has been shipped for legal purposes or for the purpose of sale by this blind pigger.

Mr. SUTHERLAND. Under what law is that, the State

law?

Mr. McCUMBER. Of course it would be the State law.
Mr. SUTHERIAND. Then, Mr. President—
Mr. McCUMBER. One would hardly expect that the State

authorities would proceed under a national law.

Mr. SUTHERLAND., But I understand the regulation of interstate commerce consists in prescribing a rule which governs commerce. In the case the Senator supposes would not recourse be had to the law of the State, and would not then the law of the State be the rule which regulated commerce?

Mr. McCUMBER. Oh, no. Mr. SUTHERLAND. And not a law of the United States.

Mr. McCUMBER. It would not be a rule which regulated commerce, because before or at the time that that shipment was made, if it be established that it is made for an unlawful purpose, it is not in interstate commerce, and is so declared by this very law, and therefore is not subject to the protection that it would receive ordinarily as an article of interstate commerce.

The point I tried to make clear in all this argument and as briefly as possible was that Congress has the authority to say when an article shall cease to be a subject of interstate commerce and when it would loosen its own control over that article. When the facts established that the commodity came within that prohibition whereby Congress had relieved it from its authority, it would then of itself fall under the laws of the State.

Mr. SUTHERLAND. But the effect of the law which the Senator proposes is to allow the State jurisdiction to attach an interstate shipment of liquor whenever it passes the State line, dependent upon the intention of the consignee. If the consignee intends to violate a State law, then immediately, according to the law which the Senator is favoring, the power is given to the State to seize the goods.

Mr. McCUMBER. No.

Mr. SUTHERLAND. And that seizure of his goods-

Mr. McCUMBER. No; Mr. President, therein the Senator is No power is given the State. Immediately it ceases to be an article of interstate commerce the State authorities can operate upon it. There is the distinction. Nothing is given to the State by Congress. The State authority exists independent of Congress and attaches the moment the Federal power over the shipment is terminated, and it is terminated upon a breach of the condition under which the shipment is authorized.

Mr. SUTHERLAND. Well, Mr. President, I will not pursue that further at this moment, but I wish to ask the Senator another question.

This bill applies to foreign commerce as well as interstate ommerce. We have laws which permit the importation of liquors into the United States upon paying certain duties. Suppose there is imported from France a shipment of wine. The importer has paid the duty, but it is the intention of some-body connected with it, not necessarily the importer, because the bill does not so provide

Mr. McCUMBER. No.

Mr. SUTHERLAND. It is the intention of somebody directly or indirectly connected with the transaction to violate a law of the State. Would the Senator say, in such a case as that, it would be within the power of Congress to permit that to be done?

Mr. McCUMBER. Yes; Mr. President, I say it would be within the power of Congress, undoubtedly. I can hardly conceive of such a case arising, but should a case of that kind arise I do not doubt for one moment the power of Congress to say that it has lost its protected condition as a commodity of interstate commerce.

Mr. SUTHERLAND. Is not assuming the power of Congress

likely to result in a great deal of confusion?

Mr. McCUMBER. No; I think not, because I think most of the shipments that are made from a foreign country to this country are not shipped into a particular State for a particular sale. They are shipped to be sold in this country at any point where there may be a demand for them. They are seldom ever shipped directly into some prohibition State from a foreign country. If they were, it would, of course, fall under the same rule as an interstate shipment.

Mr. SUTHERLAND. Let me ask the Senator another question, because I want to get his view of the construction of the The bill provides that this shipment or transportation shall be prohibited where the liquor "is intended by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received "——
Mr. TOWNSEND. Mr. President, that is very interesting,

no doubt, and we would like to hear it in this part of the Cham-

The PRESIDENT pro tempore. The Senator from Michigan

complains that the Senator can not be heard.

Mr. SUTHERLAND. The bill provides that the transportation of intoxicating liquors shall be prohibited wherever it is "intended by any person interested therein, directly or indirectly, or in any manner connected with the transaction, to be received, possessed, or kept, or in any manner used," and so forth, contrary to the law of the State. What is the Senator's idea as to the scope of that provision? Does it extend beyond the consignee; and if so, to what person or persons, bearing what relation to the transaction?

Mr. McCUMBER. They must bear a relation to the shipment, because that is stated in the provision itself.

Mr. SUTHERLAND. I know.

Mr. McCUMBER. There must be an interest or relation in the shipment itself, and then if any person has any relation to that shipment or has an interest in it, of course he is affected by it. That, of course, does not mean the common carrier, but either the consistent of the consist either the consignor or the consignee.

Mr. SUTHERLAND. I read the language, of course, but wanted to know if the Senator would not give me an illustration where it would extend beyond the consignee.

During the delivery of Mr. McCumber's speech, The PRESIDENT pro tempore. The Senator from North Dakota will kindly suspend. The hour of 1 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The Secretary. A joint resolution (S. J. Res. 78) proposing

an amendment to the Constitution of the United States

Mr. LODGE. I ask that the unfinished business be temporarily laid aside

The PRESIDENT pro tempore. The Senator from Massachusetts asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none. The Senator from South Dakota will proceed.

After the conclusion of Mr. McCumber's speech,

Mr. KENYON. Mr. President, I wish to answer the suggestion of the Senator from Utah. The words "or in any manner connected with the transaction," in my judgment, should be omitted from the bill, and I had proposed to move to strike them out at the proper time, leaving the intention to the person interested therein directly or indirectly, the consignor or consignee, having a direct interest in the matter. I do not think that a railroad brakeman or the man who moves the liquor from the depot to the place of destination would be such a person as intention on his part should have anything to do with destroying the interstate commerce feature of the commodity.

Mr. McCUMBER. The Senator does not think that that possibly may be the construction anyway.

Mr. KENYON. I think not, but I think those words should

be out.

Mr. SUTHERLAND. Suppose we strike out the words "or in any manner connected with the transaction," so that the bill will read "by any person interested therein, directly or indi-The consignor is evidently interested directly; the consignee is evidently interested directly. Who is interested indirectly?

Mr. KENYON. That is to cover a subterfuge, or some matter of that kind which might arise in a particular case. It would be governed by the particular circumstances that might arise

in any particular case.

Mr. SUTHERLAND. A subterfuge would not prevent the consignor or consignee from being interested directly. That is

a matter of proof.

Mr. KENYON. Of course the words are rather sweeping, but think the intent and purpose was that there may be no subterfuge in the matter, but it should apply to one who has a real

Mr. SUTHERLAND. It says an indirect interest.

Mr. KENYON. I understand it is to provide against any

question of subterfuge.

Mr. SUTHERLAND. We ought not, as it seems to me, in a statute of this character put in provisions that none of us understand the meaning and the application of. I should like to hear from some of the proponents of the bill as to just what is meant by an indirect interest in one of these shipments. If it

means nothing, then it ought to go out.

Mr. WILLIAMS. If the Senator from Utah will pardon me, I think I can give him an illustration. Suppose a man by the name of John Jones is carrying on a blind-tiger business in a prohibition State, and knowing that the State authorities are pretty well cognizant of his affairs he gets John Smith to order liquor and act as consignee. In that case John Jones is in-directly the criminal, and if it would affect nobody but the direct consignee of course the real criminal in the case would escape all punishment and the stool pigeon would be the only one punished.

Mr. SUTHERLAND. In the case the Senator supposes it seems to me that a person would be directly interested in it and

not indirectly; he would have a direct interest.

Mr. WILLIAMS. He would be indirectly interested in the shipment and directly interested in the unlawful business.

Mr. SUTHERLAND. The bill says any person interested therein directly or indirectly; that is, in the shipment or transportation of liquor, and so on.

Mr. KENYON obtained the floor.

Mr. MARTINE of New Jersey. Mr. President—
The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from New Jersey?

Mr. MARTINE of New Jersey. Will the Senator yield to me?

Mr. KENYON. How long will the Senator take?

Mr. MARTINE of New Jersey. Five minutes or thereabouts. Mr. KENYON. I had intended to consider this bill at some length. Since the hour is now approaching for the impeachment proceedings, five minutes are about all I will have in any event to-day. I am willing to give the Senator two of those five

Mr. MARTINE of New Jersey. With the Senator's permis-

sion, I should like to say a few words.

Mr. KENYON. Mr. President, I can not yield. The PRESIDENT pro tempore. The Senator from Iowa de-

clines to yield.

Mr. KENYON. I would yield for a question but not for remarks

Mr. MARTINE of New Jersey. I have no questions, but I have only a few remarks that I desire to submit.

Mr. KENYON. I decline to yield.

Mr. MARTINE of New Jersey. The Senator declines?
Mr. KENYON. I am sorry, but I decline to yield.
Mr. MARTINE of New Jersey. Very well.
The PRESIDENT pro tempore. The Senator from Iowa will

Mr. KENYON. Mr. President, I realize I can not get far in the discussion of this measure this morning, on account of the approaching hour for the impeachment trial. I think this is a much misunderstood bill among the general public, judging from the letters and documents and printed matter that we are all probably receiving. It is charged in some that the bill is to prevent personal use of liquor and prevent use in families of intoxicating liquors, and the last carefully prepared document I received was that it was in disguise a bill to dissolve the Federal Union. Of course, if these things are true it is a very bad

bill, and it ought not to receive any support. However, none of these things are true.

Now, I think no lawyer who is honest with himself and perfectly frank will deny that there are very close constitutional questions involved in this bill, and especially as to section 2. Every forward measure must run the gauntlet of constitutional objection.

The evil which this bill seeks to strike at is apparent, and the purpose, it seems to me, is commendable. In its ultimate analysis the bill is simply to permit the States to exercise their reserved police power without interference by the Federal Government; in other words, to subject interstate commerce in certain articles to the laws of the several States. This Government is one of delegated powers. It has been asserted by constitutional writers of great eminence that one of the incentive reasons for the adoption of the Constitution was to give free channels to commerce and not permit the States by various regulations to block commerce.

The power of the State in its reserved police power is one which Congress does not give and is one which Congress can not take away. It can not add one particle to or detract one iota from the police power of the States. These powers belong to the States; the right to make such laws concerning the health, life, and safety of its citizens as its legislative power in its wisdom may determine. This is just as much a right in the State as the constitutional right to regulate com-merce is in Congress. The "police power zone" of the State, if such an expression might be used, may at times lap over and intrude upon the "interstate commerce zone" of the Federal Government. If such conflict ever does arise, the Federal Government, of course, is supreme.

This bill if enacted would not be a law to bring about prohibition. It would not be a law to stop personal use of intoxicating liquors, nor to prohibit the shipment of intoxicating liquors for personal use, nor to stop the use of intoxicating liquors for sacramental purposes. Its purpose, and its only purpose, is to remove the impediment existing as to the States in the exercise of their police powers regarding the traffic or control of intoxicating liquors within their borders.

It is the spirit of our times and the genius of our institutions that each State should exercise its police power free from the impediments that might spring from a narrow construction of the interstate-commerce clause. Where a State has determined that intoxicating liquors shall not be manufactured or sold within its borders, is it not manifest that the citizens of other States should not be granted greater privileges in that State than its own citizenship enjoy?

Mr. President, I realize that the hour of half past 1 has approached, at which time the impeachment trial is to proceed, and I give notice that I shall conclude my remarks at a morn-

ing session hereafter.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I wish to give a notice. It is that at the close of the morning business to-morrow I will ask the Senate to resume the consideration of the omnibus claims bill.

Mr. President, I make the point of no quorum. The PRESIDENT pro tempore. The Senator from Massachusetts makes the point that there is no quorum present. roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Martine, N. J. Massey Myers Nelson Newlands O'Gorman Oliver Overman Smith, Ariz. Smith, Ga. Smith, Md. Smith, Mich. Smith, S. C. Ashurst Bacon Cullom Curtis Bailey Bankhead Borah Bourne Brandegee Dixon Fletcher Foster Gallinger Gore Gronna Smith, S. C. Smoot Stephenson Sutherland Swanson Thornton Tillman Townsend Wetmore Williams Works Overman Bristow Page Paynter Perkins Perky Pomerene Reed Richardson Brown Bryan Burnham Hitchcock Johnson, Me. Johnston, Ala. Burnham Burton Chamberlain Chilton Jones Kenyon La Follette Lea Lodge McCumber Martin, Va. Clapp Clark, Wyo. Root Sanders Crane Crawford Simmons

Mr. SMITH Arizona. I wish to announce the absence of the Senator from New Mexico [Mr. Fall], and to state that he is detained from the Senate on account of sickness.

The PRESIDENT pro tempore. Sixty-nine Senators have answered to their names. A quorum of the Senate is present.

Under the terms of the resolution adopted by the Senate, the senior Senator from Georgia [Mr. Bacon] will kindly take the

Mr. BACON took the chair as Presiding Officer.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDING OFFICER (Mr. Bacon) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The Secretary read the Journal of Saturday's proceedings of

the Senate sitting as a Court of Impeachment.

Mr. WORKS. Mr. President, some days ago an order was passed by the Senate requiring the managers on the part of the House and the counsel for the respondent to file with the Secretary their briefs or citations of authorities for the immediate use of Senators. I should like to inquire whether that order has been complied with.

The PRESIDING OFFICER. The Chair will make the inquiry of the managers and of counsel for the respondent.

Mr. WORKS. Well, Mr. President, if you will allow me first, I desire to say that on the part of the managers a printed copy of the citations of authorities up to a certain point has been furnished to me personally, but with the statement that the managers desired to add further authorities.

Mr. WORTHINGTON. Mr. President, I must confess that if such an order was made it escaped my observation. I know that there was a colloquy here about it, but we have been so

busily engaged in-

The PRESIDING OFFICER. The Chair will interrupt counsel to the extent of saying that as the Chair was about to submit the question as to the correctness of the Journal the Senator from California [Mr. Works] addressed the Chair, and the Chair supposed he was going to direct his remarks to that question. If counsel will permit the Chair, he will now ask whether there are any inaccuracies in the Journal? If not, it is approved.

Counsel will proceed.

Mr. WORTHINGTON. I was about to say that some of us, as the Presiding Officer and the Senate know, have been so much occupied with preparing the facts in the case that we have had very little time to devote to the preparation of the We have, of course, dealt with it before this trial began, and it will take us a very short time when we conclude the questions in relation to the facts to prepare a brief, to submit it, and to have it printed.

The PRESIDING OFFICER. The counsel will do so at

their earliest convenience.

Mr. WORTHINGTON. And as the Senate, as I understand, has determined to adjourn upon the 19th of this month to the 2d of next month we can certainly arrange so that our brief can be in the hands of all Senators very soon after the adjourn-

Mr. WORKS. Mr. President, of course I do not desire to ask anything unreasonable of the managers or of counsel, but, so far as I am individually concerned, I should be glad to have an opportunity to examine with some deliberation the authorities that are to be relied upon, and I suppose other Senators have the same feeling about it. I assumed that both the managers and the counsel for the respondent had such authorities as they expected to rely upon and that they could conveniently

furnish them at any time.

Mr. Manager CLAYTON. Mr. President, I have before me a brief prepared some time ago on behalf of the managers, and I have undertaken to furnish copies of it to the Senators who have indicated to me a desire to see that brief. I had withheld the printing of that brief in the RECORD for the purpose, as the Senator from California has well said, of making some additions to it, and the Chair is quite well aware of the conditions under which we have worked since the trial of this case has actually begun. If it is the desire of the Senate, I am quite willing that the brief, to which we desire to add

something later along, may go into the RECORD at this time.

The PRESIDING OFFICER. It is not so desired.

Mr. Manager CLAYTON. Then I will withhold it; but I may say that, in my opinion and in the opinion of my associates, not later than two days after the Christmas recess begins we shall have this brief prepared and printed and get it into the hands of the Senators. I hope that the respondent's counsel will do the same thing, to wit, have their brief in the hands of

Mr. WORTHINGTON. I can say, Mr. President, we can certainly have that done this week. May I ask now, as the Senate will not then be in session, is it proposed that these briefs shall be printed separately or be handed to the Secretary to be incorporated in the record? I would suggest that it

would be a very good thing if the Senate could make the order, if it is necessary to make an order, that these briefs shall be printed separately, so that they may be distributed to the Senators without reference to the vast bulk of the record as to the evidence.

Mr. WORKS. The order was passed some days ago, and as counsel is not familiar with it I suggest that the order may be read for his information.

The PRESIDING OFFICER. The Secretary will read the

order which was passed on that subject.

Mr. Manager CLAYTON. Mr. President, if I may be permitted to say so, I think the counsel for the respondent understands the order, and I think he agrees with me that at the latter end of this week we shall both furnish these briefs, so that they will be printed under the previous order made by the Senate. Am I correct? Mr. WORTHINGTON.

Mr. WORTHINGTON. So far as what the manager states as to what we propose to do, he is correct. So far as the order about printing these briefs separately is concerned, I have no

The PRESIDING OFFICER. The Chair will state that, unless there is objection, the order will be that the briefs be printed separately.

Mr. Manager CLAYTON. They will both be incorporated into the proceedings and the record of this proceeding.

Mr. WORKS. It will be necessary in that case, Mr. Presi-

dent, to vacate the order already made.

The PRESIDING OFFICER. The Chair submitted it for the unanimous consent of the Senate only. The Chair had no right to order it otherwise, and, with the permission of the Senator from California, as the Secretary can not now im-mediately find the order, the proceedings will be continued, and the order will be presented a little later.

Mr. WORKS. I shall not insist upon that, and I am perfectly willing that the order shall be so changed as to require the briefs to be printed separately. I have not objected. I was only suggesting the fact that an order was in existence to the

contrary.
The PRESIDING OFFICER. The present order to print the briefs separately will not conflict with the prior order, as the Chair understands. The prior order wil be carried out, and the present order, passed unanimously by the Senate itself, without objection, will be for a separate printing for the convenience of managers, counsel, and Senators.

The Chair understands that the managers have concluded their evidence, and counsel for the respondent will now present

evidence on behalf of the respondent.

Mr. SIMPSON. We desire to call a witness a little out of order because of important engagements which he has. I will ask that Mr. E. E. Loomis be called.

TESTIMONY OF E. E. LOOMIS-RECALLED.

Mr. E. E. Loomis, having been previously sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Loomis, on Friday last Mr. C. G. Boland testified that he had been informed by Mr. George M. Watson that yourself, Mr. Phillips, and Judge Archbald were to receive a portion of an excess claim which he, Watson, had presented to your company over and above the amount which his clients had told him to claim. Will you please-Mr. Manager FLOYD. Mr. President, we object—

Mr. SIMPSON. Excuse me, if you please, until I finish the question. The witness need not answer until directed to do so. [To the witness.] Will you please tell us whether or not there was any agreement or understanding, express or implied, of any kind or character that you were to get any portion of the money which was claimed from the Delaware, Lackawanna & Western Railroad?

Mr. OVERMAN. Mr. President, I will ask counsel to talk a

little louder. He can not be heard here.

Mr. SIMPSON. That is the first time that it was ever said that my voice was so low that it could not be heard, and I shall endeavor to make it the last.

Mr. THORNTON. Mr. President, the reason counsel can not be heard is the noise in the rear part of the Chamber.

The PRESIDING OFFICER. The Chair will request Senators and others who desire to converse to retire to the lobby. It is impossible for the proceedings to be conveniently had with audible conversation progressing in the Chamber.

Q. (By Mr. SIMPSON.) Will you kindly state, Mr. Loomis, whether or not there was any agreement or understanding of any kind or character, express or implied, by which you were to get any part or portion of any sum of money which was re-covered or paid to Mr. Watson on behalf of the Marian Coal Co.

Mr. Manager FLOYD. We object to the question, Mr. President.

The PRESIDING OFFICER. On what ground?

Mr. Manager FLOYD. Upon the ground that it is irrelevant and incompetent. We are not trying Mr. Loomis for anything in this matter, and it is immaterial and irrelevant whether Mr. Loomis was to get anything or not.

The PRESIDING OFFICER. If the Chair recalls the fact correctly, the evidence as to Mr. Loomis having any participation in this matter was brought out by counsel for the re-

Mr. SIMPSON. Only by asking the witness to state the whole of a conversation when he undertook to state a part of

it on the suggestion of the managers. The PRESIDING OFFICER. If the evidence had been brought out by the managers, the Chair would hold that the counsel would have a right to reply to it; but as the evidence to which it relates was brought out by the respondent and it is

irrelevant, the Chair does not think that it is now competent. Mr. SIMPSON. Will the Chair allow me a moment before finally ruling upon the question? I would concede, sir, without a doubt that if that which was brought out on behalf of the respondent was entirely separate and distinct from that which was brought out by the managers, that rule would be directly applicable; but when the managers asked for a fraction of the conversation and the other side simply asked for the whole of the conversation to be brought out, I submit, sir, that the managers being the ones who introduced the matter, the rule to which the Chair has adverted does not apply, and that we are entitled to have it known whether or not the statement which the witness undertook to make has a basis of truth or not as to

managers themselves, in the first instance, had brought out. The PRESIDING OFFICER. Counsel undoubtedly would have a right to bring out the full conversation so far as the actual conversation relates to the case; but the Chair does not think that that part of the conversation was relevant to the case; it was brought out voluntarily by the counsel for the respondent. The remedy of the respondent, if the counsel will permit the suggestion, is to move to rule out the former testimony which was received on that subject as to Mr. Loomis

everyone who was referred to in the conversation which the

which had nothing to do with the case whatever.

Mr. SIMPSON. It was a part of a full conversation, sir; but if the Chair has ruled on it, of course, I will not undertake to argue it further.

The PRESIDING OFFICER. The Chair is only the mouth-piece of the Senate; and, if the Chair has wrongly decided, the

Senate is the authority to so determine.

Mr. WORTHINGTON. Mr. President, as it does not clearly appear, perhaps, to the minds of all here as to what was brought out, it was this: Mr. Boland was asked, and under the ruling made by the Senate he was allowed to be asked, about the use by Watson of Judge Archbald's name, and he said that Watson had said that he thought Judge Archbald ought to be compensated for what he was doing in helping to bring about that settlement. Then, on cross-examination, he was asked for the full conversation, and he said what was said was that this witness and Mr. Phillips and Judge Archbald were all to be paid. That was one statement.

Now, Mr. President, it seems to me that we ought to be allowed to contradict that statement at all points where we can Otherwise it would leave us in the attitude of denytouch it. ing that it was true as to Judge Archbald, but might leave everybody to think that it was true as to Mr. Loomis and true as to Mr. Phillips, and thereby give very much color to the proposition that it was also true as to Judge Archbald.

The conversation which related to Judge Archbald was all brought out by the managers, and we brought out that which related to Mr. Loomis and to Mr. Phillips, but it was all one

word, one sentence, one breath.

The PRESIDING OFFICER. Counsel at that time had the right to object

Mr. WORTHINGTON. The Senate, as we understood, ruled by a vote that was taken when the question was submitted to the Senate by the Chair that that conversation was competent.

The PRESIDING OFFICER. No; only as to Judge Arch-The Chair has the question before him. The Chair will read the question which the Senate ruled was admissible. Chair had previously ruled that it was inadmissible; and when again offered, while still of the same opinion, the Chair submitted the question to the Senate, and the Senate ruled that it was admissible. This is the question:

Q (By Mr. Manager FLOYD.) Now, Mr. Boland, I will ask you to state whether or not during the course of these negotiations you had any conversations with Mr. Watson relative to Judge Archbald's inter-

est or participation in this settlement, and particularly as to whether he was to share in the fee or receive any money or other pecuniary consideration for his services in attempting to make that settlement?

That was all the Senate passed upon. The Chair did not feel authorized, as the counsel was bringing out the testimony on his own side, to interpose. The Chair thought at the time that it was altogether irrelevant and would have sustained the motion if it had been made at that time to exclude it from the testimony as to Mr. Loomis; and the Chair would entertain such a motion now, for that matter.

Mr. WORTHINGTON. I am unable to see how we can make a motion without moving to strike out what the Senate

formerly voted to admit.

The PRESIDING OFFICER. The Chair would not entertain that, of course; but the Chair would entertain a motion to strike out everything that has been-said about Mr. Loomis, because that is not within the limit of the question ruled in by the Senate.

Mr. WORTHINGTON. Well, I will have to consider, Mr. President, about that. We may bring the matter up at a later

The PRESIDING OFFICER. But if this were admitted the managers would have a right to take issue upon it, infroduce evidence in regard thereto, and where would the end be?

Mr. SIMPSON. We have no further questions to ask this witness, then.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF JOHN M. ROBERTSON.

Mr. WORTHINGTON. I ask that Mr. John M. Robertson be called.

John M. Robertson, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) State your full name, please, Mr. Robertson.—A. John M. Robertson, Scranton, Pa. Q. How long have you lived about Scranton ?- A. Since 1866.

Q. What is your business, and what has been your business?-A. Coal operator.

Q. Did you have anything to do with the production of the Katydid culm dump near Moosic?-A. Yes, sir.

Q. What?-A. Under an arrangement of lease with the Hillside Coal & Iron Co. I started the Katydid in 1885

Mr. WORTHINGTON. I am afraid you can not be heard. Will you please speak louder?

The PRESIDING OFFICER (to the witness). It is absolutely necessary that every Senator should hear what you say.

The Witness. Under an arrangement of lease with the Hillside Coal & Iron Co. I started the Katydid in 1885. The breaker was built in 1886, and the beginning of this dump was made

Q. What is a breaker?-A. A structure for the purpose of breaking and preparing coal.

Q. Did you mine the coal?-A. Yes, sir.

Q. You took it out of the ground?-A. Took it out of the

Q. Very well, go ahead .- A. This operation was worked under my own name until 1891, when Mr. Law came into partnership with met and we worked under the firm name of Robertson & Law until the close of the colliery. He, however, retired in 1904, and I continued the operation alone.

Q. Until what time did you continue after 1904?-A. Until

1908.

Q. What happened then?-A. The breaker was burned by a fire from a dump belonging to the Hillside Coal & Iron Co.

Q. Had you attempted before the breaker burned down to utilize the culm dump?-A. In 1905 I built a washery and commenced to prepare the dump and wash the dump.

Q. What is the distinction between a breaker and a washery?-A. The one is generally dry-the coal is prepared dry; and in the other case water is used in the preparation of smaller

Q. Well, you began in 1905, then, to wash this dump?-A. Yes.

Q. To get coal out of the dump?-A. Yes, sir.

To segregate it from the waste?-A. Yes.

Well, how long did you continue?-A. Until 1908. Q. Did the fire burn down the washery, too?-A. Yes.

Q. Well, what did you do after that?-A. I did not do anything.

Q. Why?--A. Well, I could not see that there was use in running the dump alone. 'The coal was pretty near worked out, and it would scarcely pay to build another structure.

Q. What would it have cost to build a washery?neighborhood of \$20,000, the cheapest way you could do it, I

Q. Now, I wish you would tell the Senate what you know about the value-the Katydid dump stands now as it did when you left it, does it not?—A. Yes, sir. At present, of course, there is only half of the dump; we washed one-half between

the years 1905 and 1908.
Q. Tell the Senate what you know about the quantities of different kinds of coal in that dump now, or since you stopped washing it in 1908, and about its value, if it has any.—A. The first half that was washed was naturally the best. It was laid down first and was the better part; the better sizes were in it; the larger sizes; so that what is remaining now is really very small, principally No. 3 buck and smaller.

Q. How many sizes are there of buck?—A. Four.
Q. What are the sizes of coal supposed to be in the dump, beginning at the largest size?—A. There could not be anything gotten larger than buck No. 1. We tried to make chestnut coal and also pea from the dump-from the washings of the dumpbut we found it was so poor when it was incorporated with the fresh mined coal that we could not market it.

Q. Is it possible, then, in your judgment, to get any chestnut coal out of that dump as it stands now ?- A. It is not.

Q. What would you say about getting \$17,000 worth out of -A. I do not think you could get any.

Q. Not any?-A. Not profitably.

Q. Why could you not get it profitably?—A. It would be possible, perhaps, to get a little and sell it at retail, but it would not be marketable. It would not be fit for the market.

Q. Why do you say you could not get any of the size you call

pea?-A. For the same reason.

Q. Do you know anything about a rock pile that forms a part of the dump?-A. Yes. There are two rock piles forming a part of it.

Q. Do you see the map back there?-A. Yes, sir.

Q. That is an enlargement of the map made by Mr. Rittenhouse and introduced in evidence. I wish you would go back to the map and with a pointer tell us what you are talking about. [The witness did as requested.]—A. There is a large rock dump and ash dump in the bottom of this pile [indicating on map].

Q. You say there is a large ash dump in the bottom of it?-

Yes, sir.

Q. It is not culm at all, then?-A. No, sir.

Q. I mean the bottom.—A. Yes; the bottom.

Q. What is there besides ash at the bottom?-A. Rock and ashes. The ash was formed from the boilers, coming out from here [indicating], and we afterwards-

Q. Please talk so I can hear you .- A. The rock and ash pile were dumped in here, and we afterwards had to hoist or convey the slushings, and so we put in some refuse coal-small, fine coal—and made a large conical dump of this [indicating].

Q. Take that conical dump by itself. What is it worth to anybody who tries to get some coal out of it?-A. There is only

a small quantity of No. 3 buck in it.

Q. Would it pay to get it out?-A. I do not think so.

Q. Very well. Go on with the rest of it .- A. Then we sunk a long slope coming in on it in this direction [indicating], and all the rock that was taken from that slope was dumped in here [indicating]. It would be absolutely impossible for any surveyor coming there and seeing that dump as it is to-day to make a correct estimate unless he knew the topography of that ground before the dump was laid down.

Q. Go ahead. What about the rest of it?-A. Then the rest out in this direction [indicating] contains nothing but No. 3

buck.

Q. Take that Katydid dump as a whole. I ask you agair whether, in your judgment as the man who made it and a man who has been in this business, there is enough coal there to pay for getting it out?-A. Well, I do not consider that

there was.

- Q. What is the situation there as to water? You say it is a washery and you need water. How is it situated with reference to that necessity?-A. When the washery was commenced we had been able to secure a large quantity of water by means of a barrier pillar existing between the Delaware & Hudson and the Hillside Coal & Iron Co., with which we were working. I think in 1907 the Delaware & Hudson broke through that barrier pillar and took all our water away, so that it became very difficult to run the washery.
- Q. I understand that you still hold that dump?-A. Yes, sir. Q. Claim the ownership of it, at least, subject to a royalty to the Hillside Coal & Iron Co. of 37½ cents a ton?—A. Decidedly.
- Q. Has there been anything in the last four years to keep you from working it and paying that royalty and getting the profit there was in it, if there was any?—A. No, sir; I think not.

Q. Do you know anything about an effort that was made to sell this dump to the Du Pont Powder Co.?-A. Yes, sir,

Q. When was that?-A. In 1908, after the breaker and wash-

ery were burned.

Q. What was there about that?—A. The Du Pont Powder Co. were erecting a large new powder mill close to the property we were mining on. Indeed, some of it is on that property. and Mr. Belin, who is one of the managers of the Du Pont Powder Co.

Q. I am not able to hear, Mr. Robertson.—A. (Continuing.) Mr. Belin asked me if I was willing to sell the dump. They

thought of using it for the-

Q. Well, I do not care about the details of that. What I want to get at is whether any offer was made by you and the Hillside Coal & Iron Co. to sell it to the Du Pont Powder Co.?-A. Yes, sir.

Q. What was the proposition?-A. The proposition was I offered it to them for \$10,000, including the royalty, and they

would then own the dump complete.

Q. That is, they would actually get your title and the Hill-

side Coal & Iron Co.'s title?—A. Yes, sir.
Q. How did you arrange that with the Hillside Coal & Iron What were they to get out of the \$10,000?-A. I saw Mr. May, the general manager of the Hillside Coal & Iron Co., and I told him about the offer, and he sent his engineers down, and they measured the dump and found the quantity of coal they thought it contained. By means of screening they found out the quantity of the different sizes, and, based on these reports, they figured out that their value in the dump was about \$2,000.

Q. Did the Hillside Coal & Iron Co. authorize you then to sell that dump for \$10,000-to keep \$8,000 yourself and give them

\$2,000?—A. Mr. May said he would recommend that.
Q. Mr. May said he would recommend that? That is what he

Mr. Manager STERLING. I object to the statement of the counsel for two reasons.

Mr. WORTHINGTON. I will withdraw it, then.

Mr. Manager STERLING. First, it is improper, if true, and, in the second place, he never said anything of the kind.

Mr. WORTHINGTON. I do not want to get into an argument with counsel, but there is a letter here of March 31, in which he says that he would recommend the sale of the inter-

est of his company for \$4,500.

Mr. Manager STERLING. I never saw the letter. He said on the witness stand that he did not recommend it. I have never seen any such letter. There is here, Mr. President, a

letter in which he says he would recommend the sale for \$4,500.

Mr. WORTHINGTON. I say that is what he said here about the sale to Judge Archbald and Mr. Williams.

Mr. Manager STERLING. He is now talking about the Du

Mr. WORTHINGTON. Counsel misunderstood what I meant, probably. I was only saying that Mr. May in this case had recommended the sale of the interest of the Hillside Coal & Iron

Mr. Manager STERLING. That is not what counsel said at l. He said the witness said what Mr. May said.

Mr. WORTHINGTON. Well, let us go on with the evidence,

and I will withdraw my remark.
Q. (By Mr. WORTHINGTON.) Why was not that sale made, then?—A. The Dupont Powder Co. was also trying to find out for how much they could buy their electricity direct from the Scranton Electric Co., and they found that was the cheaper way to get it, and they are getting it from them now.

Q. They determined to get their coal some other way. Did you at any time in 1911 give an option to anybody on this dump or your interest in it?—A. In nineteen hundred and—

Q. In 1911, to Mr. Williams?—A. Yes; I gave Mr. Williams an

option.

Q. Tell us how that came about .-- A. In April or May, I think it was, certainly in the early part of 1911, Mr. Williams came to my office and he asked if the dump was still for sale. I told him it was. He wanted to know if I would give him an option on it, and I said no; and he said then that he had some parties in with him.

Q. Keep your voice up; I can not hear you.—A. He said there were some parties with him that he thought I would lease to. I said, "Well, you had better tell me who they are, because I certainly can not deal with them unless I know who they are." He told me Judge Archbald wanted to get it. He told me they had some parties they thought they could sell it to.

Q. Did you agree to give him any option or privilege about

it?-A. I did.

Q. What was it?-A. I gave him an option, I think, in Sep-

Q. What did you tell him when he came there in the spring?-A. I told him that I had a good deal of difficulty at first in finding out who was with him. I asked him if Mr. Bone was connected with it, and he said no. Then he told me Judge Archbald was.

Q. Did you then make any proposition or say what you would do? I know you did not give him any w.itten option until later, but did you in the spring tell him what you would do?-A. I think I offered him the dump first for \$5,000, and then he came to me a little later and said the deal would be consummated in about two weeks. I said, "Well, if you can pull it through in two weeks, I will give you a reduction; I will make it \$3,500."

Q. Did you consider \$3,500 was a fair sum for your interest in the dump at that time?-A. I considered it was reasonable; I was willing to take it.

Q. You later gave him a written option, which is in evidence

here?-A. Yes, sir.

Q. That was in September?—A. Yes, sir.

Q. You gave him a paper which is in the handwriting of and witnessed by Judge Archbald?—A. Yes; I did.

Q. Did you ask him any compensation for giving him that

option?-A. No, sir.

Q. Why did you give him authority of that kind without getting any compensation for it?—A. Well, by this time I understood whom they were trying to sell it to, and I was willing to help the think along in any way.

Q. To whom did you understand they were trying to sell it?—A. The Erie & Wyoming Valley Railroad. I think that is

the name.

Q. The Lackawanna & Wyoming Valley, is it not?-A. Yes; the Lackawanna & Wyoming Valley.

Q. What is called the Laurel line for short?—A. Yes.

Q. A little line between Wilkes-Barre and Scranton?-A. Yes, sir.

Q. I believe you have been here throughout this trial?-A. Yes.

Q. Under subpæna by the managers?-A. Yes.

Q. Have you stated to them what you know?-A. Not on this occasion, I have not; no, sir.

Q. Oh, you did that before the Judiciary Committee?-A.

Q. You were examined there by the managers?—A. Yes, sir. Mr. Manager STERLING. I do not think the last few questions are material at all. We did not use him because we did not think anything he knew was material to the case. We ask, for that reason, to have the last few questions stricken from the record.

Mr. WORTHINGTON. I will not take up any time on that with the managers. If the managers insist upon that motion

will withdraw the question.

The PRESIDING OFFICER. The Chair understands coun-

sel to withdraw the question.

Mr. WORTHINGTON. I understood Mr. Manager Sterling to say he did not consider it material. I supposed if it was material for Mr. Rittenhouse to give his opinion as to the value of the dump, it was material to get the opinion of the man who made it as to its value.

Mr. Manager STERLING. I was objecting to the last few questions. My objection did not go to the other matter at all.

Mr. WORTHINGTON. I make no objection to the motion to strike out the question to the witness about being subpænaed by the managers on the part of the House.

The PRESIDING OFFICER. It will be so ordered. Q. (By Mr. WORTHINGTON.) Did you at any time receive Q. (By Mr. WORTHINGTON.) Did you at any time receive any notice from anybody about what is called the Everhart claim upon this dump?—A. Yes, sir; I did.
Q. Have you got this notice?—A. Yes, sir; I have.
Q. When did you receive it?—A. I think—
Q. (Interposing.) Well, you have them, have you? They will show for themselves.—A. Yes, sir; I have them.
Q. Where are they, in your pecket?—A. Yes, sir.

Q. Where are they—in your pocket?—A. Yes, sir.

(The witness produced certain papers.)
Mr. Manager STERLING (after examining the papers). We have no objection to them.

Mr. WORTHINGTON. I ask that these be marked and that the Secretary read them. There are others that come later.

The Secretary read as follows:

[U. S. S. Exhibit O.]

(Walter S. Bevan, attorney and counselor, Scranton, Pa.) APRIL 11, 1912.

Messrs. Robertson & Law, Moosic, Pa.

GENTLEMEN: Having learned that you are about to sell and dispose of the interests you represent in lot No. 46, certified Pittston Township, you are hereby notified that Mr. Charles P. Holden, who owns certain

interests in said lot, opposes said sale and hereby protests against the same, and he further notifies you that the sale will in no wise change or affect his interests in said lot and that the said sale will be made without his approval or consent.

You will therefore govern yourselves accordingly.

Very truly, yours,

WALTER S. BEVAN, Attorney for Charles P. Holden.

Mr. WORTHINGTON. In connection with the letter, I should like to have in evidence the envelope, in order to show that it was mailed on the day it bears date.

The Secretary read as follows:

[U. S. S. Exhibit O-part 2.]

(Walter S. Bevan, attorney and counselor, Scranton, Pa.) Messrs. Robertson & Law, Moosic, Pa.

Stamped on the front: "Scranton, Pa., Apr. 11, 5 p. m., 1912." Stamped on the back: "Moosic, Pa., Apr. 12, 8 a. m., 1912, rec'd."

The PRESIDING OFFICER. The Secretary will read the next exhibit.

The Secretary read as follows:

[U. S. S. Exhibit P.]

(The Everhart Brass Works, established 1857. A a specialty. Scranton, Pa.) Mine and mill supplies APRIL 11, 1912.

Robertson & Law, Moosic, Pa.

GENTLEMEN: In reference to the five twenty-fourths interest in the coal in lot 46 and the culm derived therefrom. I, as administrator for the James Everhart estate, beg to notify you that we claim ownership of the above amount and not to dispose of the same without our

consent.
Yours, very truly. JAS. E. HECKEL, Administrator. Mr. WORTHINGTON. This [indicating] is the envelope in which that letter was supposed to be inclosed.

The Secretary read as follows:

[U. S. S. Exhibit P-part 2.]

(The Everhart Brass Works, established 1857. Mine and mill supplies a specialty. Scranton, Pa.)

Messrs. Robertson & Law, Moosic, Pa.

Stamped on front: "Scranton, Pa., Apr. 11, 7.30 p. m., 1912."
Stamped on the back: "Moosic, Pa., Apr. 12, 8 a. m., 1912. Rec'd." The PRESIDING OFFICER. The next exhibit will be read. The Secretary read as follows:

[U. S. S. Exhibit Q.]

(Gaston, Snow & Saltonstall, Shawmut Bank Building, Boston.) APRIL 13, 1912.

Messrs. Robertson & Law, Connell Building, Scranton, Pa. Gentlemen: Please take notice that Nina D. E. Jones and R. M. Saltonstall, the undersigned, as guardians of the minor children of John F. Everhart, deceased, claim an interest in the culm pile on lot 46, Pittston Township, Luzerne County, Pa.

This notice is given to you at this time as we understand that you are contemplating attempting to make a sale of the culm pile and in order to protect our rights in the premises. We should be glad to hear from you in reply to this letter at your early convenience.

Very truly, yours,

R. M. Saltonstall.

R. M. SALTONSTALL, Per O.

Mr. WORTHINGTON. I offer the envelope which inclosed the letter.

The Secretary read as follows:

[U. S. S. Exhibit Q-part 2.]

(After five days return to Gaston, Snow & Saltonstall, Shawmut Bank Building, Boston, Mass.) Messrs. Robertson & Law, Connell Building, Scranton, Lackawanna County, Pa.

Registered No. 11527. 9038.

Stamped on the front: "Boston, Mass."
Stamped on the back: "Boston, Mass., Apr. 13, 1912. Registered."
"Scranton, Pa., Apr. 15, 1912. Registered."
The PRESIDING OFFICER. The next exhibit will be read.

The Secretary read as follows:

[U. S. S. Exhibit R.] (Night letter.)

NEW YORK, N. Y., April 11, 1912.

ROBERTSON & LAW, Connell Building, Scranton, Pa.:

Please take notice that I claim an interest in the culm dumps situated on lot 46, certified Pittston, Luzerne County, Pa., by virtue of an option given me by E. & G. Burke Land Co.; also on behalf on wife, Mary E. Holden.

CHAS. P. HOLDEN, 625 Commonwealth Avenue, Boston, Mass.

Q. (By Mr. WORTHINGTON.) After your washery burned down, in 1908, what, if anything, did you do in the way of exercising ownership over that bank?—A. Well, I still have a scale there.

Q. Did you take anything away from it from time to time?-A. Yes; I sold some small bunches of coal from wagons.

Q. In reference to Judge Archbald's connection with this matter, I want to know if at any time anybody suggested to you that the fact that he was interested was to be kept quiet or covered up in any way?-A. No, sir.

Q. And did you, as a mater of fact, undertake to keep it from anybody?—A. No; I made no secret of it.

Q. It appears that the option which you gave to Mr. Williams, and which is in Judge Archbald's handwriting and witnessed by him, was recorded. Did you have anything to do with the recording of it?-A. No.

Q. You did not?-A. I did not know it was recorded until I

saw it here at the previous inquiry.

Mr. WORTHINGTON. That is all, Mr. President.
The PRESIDING OFFICER. The witness is with the man-

Mr. Manager STERLING. Mr. President, I desire to move that all the testimony of this witness be stricken from the record. The reason for the motion is this: There is no charge in this count that the dump was sold to Judge Archbald and to Mr. Williams at less than it was worth or for more than it was worth, and under the charge in this count it is wholly

immaterial as to what the value of the dump was.

It is not sufficient for counsel to say that we offered testi-mony of an engineer to show the amount of coal there. If it was not material to the issue, they could have objected to it then, and it would have gone out of the record. The fact that we offered immaterial testimony does not justify them in offering immaterial testimony in answer to immaterial testimony. The charge in the count is that Judge Archbald used his official influence to induce the railroad companies to sell this property to them-to Mr. Williams and Judge Archbaldand it is wholly immaterial whether he induced them to sell it for less or for more than it was worth. The offense exists in either event, and we say this testimony is wholly immaterial. We ask a ruling of the Chair on the question.

Mr. WORTHINGTON. Mr. President—

The PRESIDING OFFICER. The Chair does not desire to

hear from counsel on this motion.

As the Chair recollects, there has been a great deal of evidence on the subject of the culm bank. The Chair denies the

Mr. WORTHINGTON. Notwithstanding the rule that one should never argue with a court that has decided in his

The PRESIDING OFFICER. It is dangerous.

Mr. WORTHINGTON. I wish not to make an argument, but

to state what happened here.

I objected to Mr. Rittenhouse's testimony on the very ground that counsel argues in favor of the motion to strike this out, and counsel resisted my objection to keep out the evidence. President sustained their contention, to the effect that it was claimed by the managers that the railroad company had agreed to sell this dump to Judge Archbald for less than it was worth, and that as that was evidence in this direction it should be admitted. Now, when they come to see where they are going to land on the proposition, they think there ought not to be any evidence on the subject in the record.

Mr. Manager STERLING. We are not concerned about where

we will land. Counsel admits it is immaterial.

Whether counsel made the objection at the time, I do not remember. But it certainly ought to go out if both sides admit

it is immaterial.

Mr. WORTHINGTON. It is a late day, Mr. President, after the Senators have heard the testimony about the great value of the dump, now to move to strike it out, when it can not be gotten out of their minds. I submitted it too late for the managers to change front-

Mr. Manager CLAYTON. It is no change of front bn the

part of the managers.

Mr. WORTHINGTON. When it appears that, instead of offering to sell it to Judge Archbald for less than it was worth,

they were giving him a gold brick.

The PRESIDING OFFICER. The Chair has overruled the motion to strike out. The Chair thinks it is admissible on both sides—that offered by the managers and that offered by the respondent.

Cross-examination:

Q. (By Mr. Manager STERLING.) Mr. Robertson, you did have negotiations with the Du Pont Powder Co. for the sale of this culm bank?-A. Yes.

Q. That was in 1908?—A. Yes. Q. And you priced it at \$10,000?—A. Yes, sir.

Q. If that sale had gone through, you were to get \$8,000 and the Hillside Coal & Iron Co. \$2,000?—A. That is correct.

Q. Have coal dumps increased in value in the last two or three years?—A. I think they have a little.

Q. And the coal dump was probably worth more in 1911, when you had your negotiations with Williams, than it was in 1908?-A. Probably a little; they are in greater demand to-day than they were then.

Q. And notwithstanding that you were to get \$8,000 for your share of the coal dump in 1908, three years later, after the value had advanced, you agreed to take \$3,500 for your share, did you not?—A. That is true.

Q. You testified before the Judiciary Committee, did you not, that the coal dump was worth more than \$10,000 in 1908, when

you were about to sell it to the Du Pont people?

Mr. WORTHINGTON. I submit that if the witness is asked

what he said there it ought to be shown to him.

Mr. Manager STERLING. I do not have to show it to him.

I can ask him and then show it to him.

The WITNESS. That would depend upon who was buying it.
Q. (By Mr. Manager STERLING.) On the market. I am not asking what it was worth. Did you not say before the Judiciary Committee that it was worth more than \$10,000 in 1908? Did you say that or not ?-A. I think I did, Mr. STERLING.

Q. That was true, too, was it not?-A. Yes. It is also

true

Q. What is that?—A. There have been larger sums than that paid for dumps.

Q. I am not asking you that. But what you said before the Judiciary Committee was true?—A. I think so.

Q. And it was worth more than \$10,000 then, and it had increased in value in 1911, had it not?-A. Yes, sir.

Q. You say you submitted to Mr. May, superintendent of the Hillside Co., a proposition that he sell his interest for \$2,000?— A. He made that offer to me.

Q. Just answer my question. Did you not say on your direct examination that you suggested to Mr. May he could sell it for that price, if he would take \$2,000 for his share? Did you say -A. That I could sell it?

Q. Yes.—A. Yes, sir.

Q. And you said that Mr. May said he would recommend the proposition?-A. He did.

Q. Do you know whether he ever did recommend it or not?-

A. No; it fell through.

Q. That does not answer my question. Do you know that he recommended it?—A. I do not know that he did.
Q. Did you ever inquire if he did?—No; I never did.
Q. How long after that was it until it fell through?—A. I

think about a month, or two months, perhaps, certainly not more than three.

Q. When Mr. May said he would recommend it he did not say whether he would approve it, did he?-A. No; he only said he would recommend it.

Q. Did he say he would recommend it or submit it?-A. Recommend it, I think.

Q. If Mr. May testified that he did not recommend it and did not approve it, do you not think that you could be mis-

Mr. WORTHINGTON. I object to trying to get one witness to testify upon what some other witness said about it.

Mr. Manager STERLING. I will withdraw the question. Perhaps it is not within the rule. [To the witness:] When Williams came to you, in 1911, to buy this dump, you would not price it to him until you found out who was interested in it?-A. No, sir.

Q. You did ask him who was interested in it?-A. I did. Q. Whom did he tell you was interested?—A. At first he re-

fused to tell me, and afterwards told me Judge Archbald.
Q. What did he say when you first asked him?—A. He said if I knew the party he thought I would be willing to sell to them.

Q. I do not understand your answer.—A. He said if I knew the party with whom he was connected he thought I would be willing to sell to him.

Q. Is that all he said then?—A. A great deal was said. I do not remember it all.

Q. Did he refuse to give the names of his partners?—A. He did at first.

Q. What reason did he give for not giving the names?—A. I think he wanted the option for himself first.

Q. Just for himself?—A. Yes.

Would you have sold it to him?-A. No, sir.

Q. Why?—A. I did not think he was responsible.

Now, what difference did it make, Mr. Robertson, whether Williams was responsible or not if you understood that you were not to get any money out of it until he had sold it to somebody else?—A. I did not care to deal with Mr. Williams. Q. Did he tell you that Boland was interested?—A. No, sir.

Q. Did he tell you that Archbald was interested?—A. He did. Q. Later?—A. Finally.

Q. How long after the first conversation was it until he told you that Archbald was interested?-A. This was all in the first conversation.

Q. It was all in the first conversation?—A. Yes, sir.

Q. He finally told you that Judge Archbald was interested?—A. Yes, sir.

Q. Then you were willing to sell it?—A. Yes.
Q. What reason did you have for refusing to sell it to some persons and being willing to sell it to others?—A. Well, I wanted to be sure that I got a party that would not make any trouble for the Hillside Coal & Iron Co.

Q. How was that?-A. I wanted to be sure I got parties interested who would not make any trouble for the Hillside

Coal & Iron Co.

Q. What difference did it make to you whether they made trouble for the Hillside Coal & Iron Co. or not?-A. The Hillside Coal & Iron Co. had leased me this property and I did not want them to get into trouble.

Q. When he suggested that Judge Archbald was one of the purchasers, you knew he would not make any trouble for the Hillside Coal & Iron Co. or the Erie Railroad Co., did you

not?-A. Yes, sir.

- Q. You were therefore willing to sell to him?-A. Yes, sir. Q. You say that there was no secrecy about the fact that Judge Archbald was interested?—A. Not any.
 - Q. You drew up the option, did you not, personally?-A. No.

Q. Who did?—A. Judge Archbald.

- Q. And you noticed that in the written option Judge Archbald's name was not there?—A. I did; yes.
 Q. So that, so far as the option itself shows, nobody was buying this option but Williams?—A. It was what the option showed: yes.
- Q. During these negotiations did you go to Judge Archbald's office?-A. I did.

Q. He sent for you, did he?-A. Yes, sir.

- Q. When was that?-A. That was very shortly after I first saw Williams.
- Q. And you talked with him fully about the transaction?—A. I did; yes.
- Q. And was it then you priced it at \$3,500?-A. No; I had priced it to Mr. Williams before that, Q. You priced it to Mr. Williams?—A. Yes,

- Q. When you had the negotiations with the du Pont people you were claiming that you and the Hillside Coal & Iron Co.
- owned all the title to this dump?—A. Yes, sir.
 Q. Except the Everharts?—A. The Everharts then did not enter into it.
- Q. Were they getting any royalty?—A. I never had any transaction with the Everharts, although I knew they were getting a royalty for the coal that was mined, some part of the coal.

Q. You knew, then, their claim, did you not?-A. Not as the fact stands to-day.

Q. You knew they had a claim of some kind then?-A. Not in the dump; no, sir.

Q. Did you put anything in the option which you gave to these parties about the Everhart interest?-A. I did not.

Q. But the Hillside Coal & Iron Co. did, did they not?-A. I

believe they did. Q. You knew they had been paying royalty to the Everhart

estate on the coal that was mined, did you not?-A. On sizes above pea.

- Q. And that they had paid that to the Everharts for years, did you not?-A. Yes.
- Q. You say that on or about April 11, 1912, you got some notices from Holden & Holden's attorney and other persons about the sale of this property?-A. I did.

Q. Did that deter you from selling the property in any way?-A. Well, I did not make any further attempt to sell it.

- Q. That did not deter you, did it? It was not the notices that deterred you, was it?—A. Well, I would have taken some advice before I sold it.
- Q. Did you notify Mr. Williams to return the option you had given him for your interest in the dump?—A. No, sir.
- Q. As Bradley did?-A. The option had expired by that time. Q. You did not make any effort to withdraw the option, but just allowed it to stand?—A. I did not consider there was any existing option at all then. It had expired some time previ-
 - Q. Did you know Holden?-A. No, sir.

Q. When you got this letter from him, it was the first you knew of him?-A. Yes.

Q. Did you learn he had been to May's office on the 11th and May had notified him that they were about to sell?-A. I think Mr. May told me he had had letters from them.

- Q. That is not the question. Did you know he had been to May's office and May notified him he was about to sell it?-A. No; I did not know he had been at his office at that time.
- Q. Do you know whether or not May suggested to Holden that he had better get in his notice about the claim and have other persons get in their notices?-A. No; I did not learn that,
- Q. When did you first learn that the investigation was going on of these transactions?—A. When it first came out in the papers. I do not remember the exact date.

Q. This notice from Bevans & Co. reached you on the 12th

or 11th?-A. About that time.

Q. Do you know which date?-A. No, I do not, Mr. Sterling. I kept all the envelopes. The date would be right on the envelopes.

Q. As to this letter from Heckel, administrator, you knew that was the interest on which the Hillside Coal & Iron Co. had been paying royalty for years, did you not?—A. Yes. I did not know anything about the heirs. I did not know who the heirs were until then. I presume these are only a small por-

tion of them. Q. You knew about the Everhart interest, did you not?—A. Oh, yes.

- Q. Had you ever heard of R. M. Saltonstall before?-A. Never Q. When you got that letter did you know he had any interest
- in it?—A. I could not tell whether he had or not.

 Q. Do you know what interest he has?—A. No; I do not.
- Q. Have you inquired since that time as to what he based his claim on?—A. No, sir.

 Q. The reason of it is because you care nothing about it to

know that he has no interest?-A. I do not say that; no.

Q. Did you not testify before the Judiciary Committee that yourself and the Hillside Coal & Iron Co. owned all the title to this property?-A. I did. I believed that then.

Q. You believe it now?-A. I do.

Q. Except the Everhart interest?-A. I do.

- Q. Therefore, these notices had not any effect at all on you with reference to your attitude toward the sale to Williams and Archbald?-A. The sale to Williams and Archbald?
- Q. Just answer my question. Did that have any effect on your mind?-A. I scarcely catch that.
- Q. Did the fact that you got these notices on the 11th or 12th have any effect on you with reference to your attitude in regard to going ahead and making this sale to Williams and Archbald?-A. Before?

Q. When you got the notices.—A. Before I received these notices I considered that Williams's option had expired.

- Q. I am not asking you about that. You were still willing to carry it out, were you not?-A. I do not think they asked me to carry it out.
- Q. You were willing to do it if they had asked you? knew that Bradley was proceeding to sell the Hillside interest, did you not?-A. I do not think I would have carried it out without consulting my lawyer.

Q. You have never conceded any interest in any of this matter

to the Everharts, have you?-A. No.

Q. And you are not conceding anything now?-A. No.

- Q. In the option which you made to Williams and Archbald you did not pretend to make any warranty, did you?-A. No, sir. Q. You were just selling that interest, were you not?-A.
- That was all. Q. And if you had gone on and made the sale, and if these persons tried to lay claim then to some title, that would not have affected you in any way, would it?—A. I had nothing to
- do, only with the mining part of the dump, the mining interest. Q. You did not pretend to be selling any of their interest

anyhow, did you?—A. No.
Q. You talked with Mr. May about the negotiations from time to time, did you not?-A. Yes, sir.

Q. You talked with him about whom you were selling it to, did you not?-A. Yes.

Q. It was understood by you and May right along that you were selling it to Judge Archbald and Williams?-A. Perfectly;

Mr. Manager STERLING. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) Have you made any effort to sell your interest in the Hillside Coal & Iron Co. to Capt. May?-A. I have.

Q. Had you before you gave Williams the option?-A. Yes.

Q. For how long?—A. Ever since the Du Pont people had given up.

Q. He would not buy it?-A. He said that they were not ready to take it; that they had no washery at that time.

Q. You said you first learned of this investigation when it came out in the papers. In what papers did you see it first?-A. I think in the Scranton papers.

Q. So if we find when it first came out in the Scranton papers we will find when you first knew of it?-A. The first I knew

- of it.
 Q. You said you would not have gone on with this negotiation without consulting counsel. Why would you not?-A. I would scarcely care to sell an interest in it until I knew just where the Everharts stood.
- Q. I need hardly ask you, but you are not a lawyer?-A. No, sir.
- Q. After getting this notice you never undertook to go on with the sale?—A. No, sir.
 Q. And you would not have done so until you consulted

counsel?-A. I do not think I would.

Q. You said May never did recommend \$2,000, so far as you know. Did he not authorize you to go on and complete arrangements with the Du Pont Powder Co. to sell for \$10,000 his whole interest?—A. Yes. He understood-Mr. Manager STERLING. We object to t

We object to the witness stating

what Capt. May understood.

The Witness. I had told Mr. May I would sell it to them if

- they were willing to take it, of course.
 Q. (By Mr. WORTHINGTON.) Had you told him you were willing to sell to the Du Pont Powder Co. for \$10,000?—A. Yes.
- Q. You arranged with May what, if you effected that sale, he would recommend?-A. Yes.

O. That is, to sell the interest of his company for \$2.000?-A. That was understood.

Q. As the counsel asked you, without reading, what you said before the Judiciary Committee, I will read your testimony from page 833:

The Chairman. Do you know what the Katydid culm bank is worth? Mr. Robertson. I have no figures to base it on, but I should say it worth just that \$10,000 that I originally offered it for, including

The Chairman. You do not know whether it is worth more or not?

Mr. Robertson. It might possibly be worth a little more. The things are gradually increasing in value.

That is what you said?—A. Yes, sir; I said that.
Mr. Manager STERLING. That is what I said, too.
Mr. WORTHINGTON. That is all, Mr. President.
The PRESIDING OFFICER. The witness may retire. Is

there any further need for this witness?

Mr. Manager WEBB. Not on our part.

Mr. WORTHINGTON. There is something further we may need him for, but not now. It may raise some question, want to wait and bring it up at another time.

The PRESIDING OFFICER. The witness will wait until

he is further called.

TESTIMONY OF WILLIAM LAW.

William Law appeared, and having been duly sworn was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Law, where do you live?—A. Chevy. Chase, Md.

Q. Have you at any time lived at Scranton?-A. Yes, sir. was born in Scranton and lived in that section until 1904.

Q. Were you at any time connected with Mr. Robertson, who has just left the stand, of the firm of Robertson & Law? A. Yes, sir; from 1891 until 1904; the Katydid colliery.

Q. You have been down here quite a while, Mr. Law?-A. I

have lived in Chevy Chase for three years,

Q. You see the map which is right opposite you on the wall? Do you recognize it as a map of the Katydid culm dump?-A. Yes; it looks like it. It has been changed some since I was there.

Q. Your connection with it ceased in 1904?-A. In 1904; that is, before they commenced to wash any of it.

Q. So you do not know much about the contents or value of the bank?-A. No.

Q. You see marked on that map, down in the southwest corner, I might call it, a "conical dump"?—A. Yes, sir.
Q. Do you know what that is made of?—A. I do not know what the cone is made of above ground, but I know what is underneath.

Q. What is it?-A. Ashes and rock.

Q. Can you give us any idea about how high up that ashes and rock come from the surface of the ground?-A. Well, there was a hollow there, you know, and the ashes from the fireroom

were hauled out and dumped there for all the years that I was

Q. How about the rock?—A. The rock was brought there from the Grover slope, what we called the Klondike slope, and the corner slope between 450 and 500 feet deep, 7 feet by 12 in That rock is all in that dump. It is not all under that conical pile, but it is all in the dump,

Q. It is somewhere in the Katydid dump?-A. Yes: in the

Katydid dump.

Q. Where it can not be seen?—A. Where it can not be seen. It was covered over with culm.

Q. You had ashes below and piled rock on that, and afterwards coal or culm was put on top of the rock? Is that it?-A. Yes, sir.

Mr. WORTHINGTON. That is all, Mr. President, that we have to ask of this witness.

Cross-examination.

Q. (By Mr. Manager STERLING.) Mr. Law, you severed your connection with Robertson in 1904?—A. Yes, sir; I think in June, 1904.

Q. Have you given any attention to this colliery since then?-

A. No, sir.

Q. Have you seen it?-A. I have seen it once or twice, but I guess it has been four years ago since I was there.

Q. The colliery was operated for four years after you left it, was it not?—A. Yes.

Q. They continued to add culm there to that dump for four years after you severed your connection with it?-A. Yes; but I might say in explanation-

Mr. Manager STERLING. You have answered the question.

That is all I want.

Q. (By Mr. WORTHINGTON.) What was it you might say? I should like to hear it.—A. I say, when I sold out my interest in the mining proposition—that is, the coal in the ground—the reason I sold my interest was that we had that nearly mined.

reason I sold my interest was that we had that nearly mined.
Q. What you did subsequently was in the way of washing the dump?—A. The tonnage had declined so Mr. Robertson built the washery in order to keep up the output of material.
Q. (By Mr. Manager STERLING.) They did operate the colliery for four years after you left?—A. Yes, sir.
Mr. Manager STERLING. That is all, Mr. President.
Mr. WORTHINGTON. That is all for this time.
The PRESIDING OFFICER. The witness may retire.

The PRESIDING OFFICER. The witness may retire. TESTIMONY OF JOHN MONIE.

John Monie appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Monie, where do you live, please?-A. Moosic, Pa.

Q. How far is that from Scranton?-A. About 6 miles.

Q. How long have you lived there?—A. For the last 40 years. Q. How old are you, by the way?-A. Between 50 and 51 years of age.

Q. Were you at any time in the employ of the firm of Robertson & Law?—A. Yes, sir.

Q. In what capacity?—A. Foreman. Q. Foreman of what?—A. Outside foreman at their colliery.

Where was that?-A. At Moosic.

Q. We want to find out something about the Katydid dump .--A. All right; I will answer the questions if I can.

Q. How ?-A. I will tell the truth.

Q. You have not yet mentioned the Katydid dump. Did you have anything to do with it?-A. Yes, sir; I was foreman for 16 years.

Q. You were foreman while that dump was being constructed?—A. Yes, sir.
Q. You see the map on the wall back there?—A. I do.

Q. I wish you would go back to it—you will find a wooden pointer there—and tell us about the material in the different parts of that dump, as far as you know.—A. (Standing at the map and indicating.) Under this conical dump there is an ash They dumped their ashes for about, it may be, 15 to 16 years before that dump was put there. This dump is composed of the slate from the breaker; and the barley is still there, but all sizes above barley were taken out.

Q. Above what?-A. Barley or buckwheat No. 3.

Q. All the chestnut has been taken out?-A. Yes, sir. Q. The pea?-A. Yes, sir; all sizes such as could be taken

Mr. Manager STERLING. I object to the form of examination by counsel, and I think he ought to observe the rule of testimony to some degree.

The PRESIDING OFFICER. What is the objection of man-

agers?

Mr. WORTHINGTON. I will ask that the questions be answered. Go ahead, Mr. Monie, and tell us.-A. There is also a part of a rock dump here. There has been a slope sunk here [indicating] called the Klondike slope. When that slope was first started we hauled the coal from down about here, up along on this side [indicating] and landed it away up about here [indicating]. We had rock cut, it may be an average of 4 feet deep and about 100 feet long, through here [indicating]. We dumped the refuse from that rock cut in here [indicating]. We had to make a fill there [indicating] to make a grade for the mine track. We took the mined rock from other mines that they had and filled in here, I will say, in the neighborhood of 100 feet. Then at the same time we were making this fill from this side we hauled the culm from the breaker. The breaker stood in around here [indicating].

O. You hauled what ?- A. The culm and slate, and dumped it in here to make this fill. Then we saw we did not have enough of track room out here to make the back branch for the mine cars. We took the rock from this slope and dumped it along. dumped culm and rock at the same time to form this back That runs out to about here, right in around here some place [indicating]. Then, after that we got a point of dumping ground for the culm, and we decided then to make a fill out through here [indicating]. We also saw that by making a fill through here, instead of hauling the coal up to the breaker in this direction, we could haul it around this way. In order to do that we had to make quite a high fill here. We took the mine rock from all the operations that they had and filled down in around here [indicating]; it may be 100 to 150 feet. would not say just the exact distance. We came from this point [indicating] and met. That made the track then come around the opposite direction. The reason we had for doing that was it saved a lot of switching. We could hitch on the locomotive and pull up to the breaker, and we would have had to do a lot of switching to go the old way. There is the Klondike slope as they call it [indicating]. That is nearly solid with rock. There is very little of the slush washed down on top if it. It might be 3 or 4 feet deep, but it is practically solid with mined rock; and along in here, from the mouth of the mine, we had to make some filling on the grade [indicating]. All through here, I am not quite sure, but more in this direction, we dumped the rock and the culm side by side to make this back branch. You can see some of the mine rock right about here, I think [indicating].

That is about all I know about it.

Q. Did you remain there until the washery burned?—A. Not until the washery burned. They stopped operations at the end of June, 1908.

Q. The washery burned when?-A. I could not say exactly when, but it was a considerable time after that,

Q. They stopped work before the washery burned?—A. Yes, ir. I was away before that. I stayed with them until July 30, 1908, a month after they stopped.

Q. Did I understand you to say that they had stopped operation before the washery burned?-A. Oh, yes.

Q. Why?-A. Because they were short of water. They only had water enough to run about two hours a day, and it did not pay to run it like that.

Q. How long were you there while they were engaged in washing coal from that bank, trying to win some coal from it?-A. All the time they run; that is, all the time they washed it. I made the changes.

Q. You were in charge of that operation?-A. Yes, sir.

Q. Tell us what you know about getting the size which is called chestnut out of that bank.—A. At the beginning we tried to make chestnut, and we failed utterly.

Q. Why?-A. Because we could not take the slate out to bring it down to the standard that the inspector called for.

Q. What did you do with it then?-A. We just stopped trying to make it and run the stuff back out in the bank.

Q. What is the best part of a culm bank? The old part or the new part, or what?-A. The old part.

Q. The old part is better? Why?-A. Because at one time they did not try to make buckwheat at all. They did make down as low as pea when I went there.

Q. Were there larger sizes on the old dump rather than on the new one?-A. Not any more than what we got out mixed in with the slate.

Q. Tell now what part of the bank was it that Mr. Robertson worked while you were there; was it the old part, the new part, or part of each?-A. That is, which they washed?

Q. Yes .- A. They washed the old part.

Q. They washed the better part?-A. Yes; they washed along in here [indicating]. They stopped their operation when their conveyor line was out here [indicating]. This was considered the best part of the bank right here [indicating].

Mr. WORTHINGTON. That is all, Mr. President.

Cross-examination:

Q. (By Mr. Manager STERLING.) Mr. Monie, point to the southwest corner of the map. You say that is a fill?—A. This was covered with ashes to the depth—

Q. No; that is not answering my question. I undestood it was a fill. Did you say that?—A. Yes, sir; there is a fill from this point here [indicating] running through there [indicating] where it runs out. It took a swing around right out to about there [indicating].

Q. Just show what part of that figure in the southwest corner is a fill; run your pointer around that part of it which is a fill .- A. In about that direction [indicating] probably to

about there [indicating].

Q. How wide was that?-A. About 8 feet on the top.

Q. About 8 feet on the top?-A. Yes, sir.

Q. And you filled that up with rock and ashes?-A. With mine rock; yes, sir,

Q. The rock which you got from the colliery?-A. Yes, sir; from the mine.

Q. How high is that conical dump there in the southwest corner?-A. On this side here [indicating] I would say in the neighborhood of 30 feet, or something like that. I do not know the exact height, you understand. I just state that from

Q. How high is it on the other side?-A. Well, it is fully 20 feet more than that-20 or 25 feet.

Q. Fifty feet, then, you would say?-A. Oh, yes; it is fully

Q. Fifty or sixty feet?-A. Yes, sir.

Q. And how far across is that part called the conical dump the narrow way?-A. Across this way [indicating]?

Q. Yes .- A. At the top or at the bottom?

Q. Well, both-how wide is it?-A. Well, at the top I should say it is around 20 feet.

Q. And how wide is it at the bottom?-A. Well, I think the natural spread would be about 11 to 1.

O. That would be about 30 feet?-A. Oh, it is more than that; a long distance. It is over a hundred feet, I think.

Q. A hundred feet wide and 20 feet high?-A. I think it must be. Q. You speak about a fill along the northeast line of the map?-A. Right here [indicating].

Q. How deep was that fill?-A. Well, a bluff runs along through here [indicating].

Q. Just run your pointer along the line of the fill.—A. The fill originally, I should say, was in around here and along there [indicating].

Q. How deep is it?-A. Well, from memory I would say it must be 50 feet there [indicating], may be more. It is all of 50 feet, I think, at the higher part.

Q. And how wide?-A. About 8 feet.

Q. And you filled that in with stone?-A. We filled this in with mine rock; yes, sir; for about 100 feet-more or less.

Q. Beginning at the northwest corner of the map where you see the word "culm."—A. Right here [indicating]?

Q. Yes, sir. That indicates that that which is included within that space is culm?-A. It is culm and slate that has been picked out at the breaker.

Q. It is what you call culm, is it not?-A. Yes, sir.

Q. And the space at the right, the figure in the northeast corner there?-A. Along here [indicating]?

Q. Yes .- A. That is culm with the exception of the part here [indicating].

Q. With the exception of the fill, I understand; and through the center, running from the northeast to the southwest?-A. Through here [indicating]?

Q. No; not the slush bank. I am not talking about that .- A. Northeast; here [indicating]?

Q. No; you see the word "culm" about the center of the map?—A. Well, yes; there [indicating].

That is the culm in there, is it not?—A. Well, partly. On that side [indicating] is culm, and on this side [indicating] is rock taken from the mine to help make the fill.

Q. Now, listen to my question. That which is inclosed within the line marked "culm" is culm, and the rock is the rest of the figure there just below the word "culm," is it not? That is the rock, is it not?-A. In around here [indicating]; yes, sir.

Q. Now, the slush bank; what does that mean?-A. That should have been rock bank instead of slush bank.

Q. Well, people do not sell rock banks nor slush banks, either, do they?-A. No, sir.

Q. That is no part of this culm, is it?-A. No, sir. That is almost solid rock.

Q. This culm bank was made in the operation of the Katydid colliery, was it not?-A. Yes, sir.

Q. And it was made just as all culm banks are made at anthracite mines?-A. With the exception of those fills.

Q. By throwing together the coal, the rock, and the slate and whatever comes from the mine?—A. Throwing out the impurities. Mr. Manager STERLING. That is all,

Redirect examination:

(By Mr. WORTHINGTON.) Mr. Monie, do you mean to say that the proportion of rock, slate, and so forth, to coal is the same in all culm banks?—A. Well, no.

Q. Some are much worse than others?-A. Oh, yes.

Q. From your knowledge of these things, is this a good one or a bad one?

Mr. Manager STERLING. We object. The witness has not stated that he knows anything about any other culm bank than this one

Mr. WORTHINGTON. One moment. [To the witness:] Do you know anything about any culm banks except this one?-Well, I have worked around anthracite collieries nearly all my life.

Q. How does this bank stand for proportion of rock, ashes, and that sort of thing in it, as compared with others?-A. Along here [indicating] it was considered a good dump; that is, rich in fine sizes; but that was all washed in before the colliery stopped. We washed in right through to this point [indicating]. Along in around here [indicating] there is a piece there that is right in the fine sizes. All through here [indicating] and all through here [indicating] there is nothing but barley. There is some rice in here [indicating], but not much. Everything was taken out with the exception of the rice and the barley in this part [indicating], and everything with the exception of the barley, or buck No. 3, as some people call it, in this part [indicating]. So that this [indicating] is of very little value. This [indicating] is a little better, but not much. Right here [indicating] there is a spot that is quite good.

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. The witness may retire,

TESTIMONY OF FRANK A. JOHNSON.

Mr. WORTHINGTON. Call Mr. Johnson, please.

Mr. Frank A. Johnson, being duly sworn, was examined and testified as follows.

Q. (By Mr. WORTHINGTON.) Mr. Johnson, give us your full name, please.—A. Frank A. Johnson.

Q. Where do you live?-A. Moosic, Pa.

Q. Near Scranton?—A. Yes, sir.

Q. How are you employed now?-A. I am the general coal inspector for the Hillside Coal & Iron Co.

Q. How long have you been general inspector of the Hill-

side Coal & Iron Co.?—A. About nine years.
Q. Did you at any time make any examination of the Katy-

did dump near Moosic?—A. Yes, sir. Q. When and why?—A. I made an examination and tested the Katydid dump on April 4, 1911.

Q. At whose request; did you say?—A. Mr. May's chief clerk instructed me to do so.

Q. On April 4, 1911?-A. I believe that was the date; yes, sir. Q. What knowledge had you before that time about this dump and where it was built or made?-A. Well, I had been on that ground daily or weekly for 17 or 18 years.

Q. Did you see the dump as it went along building from day to day?-A. Yes, sir.

Q. For that length of time?—A. Yes, sir.

Q. Now, I wish you would state when you went there, on or about the 4th of April, 1911, what did you do and what conclusion you reached?—A. Mr. May's chief clerk instructed me to meet Engineer Merriman there, and that I should sample the bank, which Mr. Merriman was going to measure.

Q. Mr. Merriman, I believe, is dead, I may ask you here?—A. Yes, sir. I met Mr. Merriman on the morning of April 4, and he, knowing that I was familiar with the surface and the contour there and conditions generally, asked me to tell him all I could about such conditions to enable him to make a good, accurate measurement of the bank, and I did. I think I spent about an hour with Mr. Merriman; walked over the bank with him and pointed out any conditions that I knew about.

Q. Do you know about what kind of material is in the different parts of the dump as it stands now? I will ask, in the

first place, if you know?-A. Yes, sir.

Q. I wish you would go back to the map which you see on the wall opposite you, Mr. Johnson. There is a pointer there which I wish you would use and let us know what your knowl-

edge on that subject.
Mr. CLAPP. Mr. President, I desire to call the attention of the managers and counsel for the respondent, if it is proper to do so, to the fact that in the examination of the last witness, outside of where the witness accompanied the physical act of using the pointer with some word upon that map, there can be I that he was going to leave it out.

nothing in the record to show what part of the map he pointed to. There are Senators who are engaged in committee work who can not be here; and it occurred to me to suggest that the description that "there is some coal here and not much there' would be absolutely useless to those who read the record. It would seem to me that wherever a witness points to some one place on the map it should be accompanied by some statement or designation by which those who read the record may know just where the witness pointed. I feel that there is no impropriety in making the suggestion.

Mr. WORTHINGTON. I am obliged for the suggestion, and I will say that counsel for the respondent appreciate the fact to which the Senator has alluded. I will suggest that the witness be given a red lead pencil and that he mark the places on

the map, which the Reporter may take down.

Q. (By Mr. WORTHINGTON.) Now, if you will go ahead, Mr. Johnson, I will tell you when you are to make a mark, or you can of your own motion make a mark. I suggest that you make letters.-A. Well, I walked all over this bank with Mr. Merriman and while, of course, I do not know what the words I used at that time were-

Mr. WORTHINGTON. I do not hear you.
The WITNESS. While I do not know what words I used or just exactly how I stated the case to Mr. Merriman at that time, I probably told him all I knew, which was that over in here [indicating] was mine rock.

Mr. WORTHINGTON. Put the letter "A" on the map right there

The WITNESS. On that over in here [indicating on the chart] the mine rock extended under the culm, and somewhere over in here [indicating on the chart], or I should say about in there somewhere [indicating]

Mr. SIMPSON. Put the letter "B" there.
The Witness. Very well. On that over in here [indicating] there was also a quantity of mine rock under the culm, and also under this high bank here [indicating]—
Mr. WORTHINGTON. That is what was called the "conical dump," is it not?

The WITNESS. Yes, sir. And that under this bank here [indicating], was a quantity of mine rock and ashes; also a portion of this bank here [indicating] had been through the operation a second time, and was what you might call waste. I do not remember of any other particular condition that I told Mr. Merriam

Q. Did you have any personal knowledge of the laying down of two banks there together, one of rock and one of culm?-A. Yes, sir; I did.

Q. That was where?-A. Where was that done?

Q. Yes, sir; in what part of the bank?-A. Under the culm, in . here [indicating] and under the culm in here [indicating], as I remember, and also under this bank here [indicating].

Q. Is the rock of which you speak that was used in building that bank or laid there visible from the surface? You spoke of rock and culm being laid down together .- A. No. sir: it is not visible now, or was not when we estimated the bank.

Q. Is there any way of telling where the ashes and rock are without digging down for them or unless a person had seen it before the culm was put on the dump?-A. No, sir; it is com-

pletely covered.

Q. I wish you would explain what the effect would be as to a person making a survey of the quantity of culm in the bank of having the rock laid where you say it was in connection with the culm, side by side.—A. Well, if the man making the measurements would include this rock, which is in three places in the bank, of course, he would very materially increase the amount of culm which he would suppose was there.

Q. Why?-A. Well, because it is not culm or material that

can be redeemed.

Q. Well, would not the appearance of the culm in one be very different from what it was in the other?-A. Oh, yes; it would drop off here [indicating], instead of sloping off.

Q. I am referring particularly to the point where you put the letter "B."—A. Right in here [indicating]. Well, that would be about the same thing, as I remember it. Those two piles were about the same thing, as I remember it.

made together, parallel rock and culm. Q. So much for the history of the bank. Now, what did you do in the way of taking samples in trying to find out what was in this bank when you went there with Mr. Merriman?-A. I took six samples from the bank—that is, this part of the bank [indicating]. I did not take any samples from that part [indicating), because Mr. Merriman told me he was not going to include it in his measurements.

Q. That he was not going to include what?—A. This part ere [indicating]; this bank here.

here

He left that bank out altogether, did he?-A. He told me

Q. You say "this part." You mean the part marked the "conical dump" on the map?—A. Yes, sir.
Q. He left that out altogether?—A. Yes, sir; I understand

he did; he told me at that time that he was going to do so.

Q. While on this subject, had you had any instructions from Capt. May or from anybody else in regard to finding out just what coal was there, so that Mr. May would know what property his company had?—A. Mr. May's chief clerk told me to go and sample the bank.

Q. Did you know what the object was or for whom it was intended?—A. No, sir; as I remember now, I did not know whether the bank was being sold or bought.

Q. Had you any object in view when you went there to make a report to Capt. May except to estimate truthfully and definitely, as nearly as you could, the amount of coal that could probably be won from that bank?—A. No, sir; I was after, as nearly as I knew how to get it, the exact condition of the material.

Q. You made the tests. Have you got a result of your test?—
A. Yes, sir; I have.
Q. I should like to have it, please.—A. I have in my pocket the figures I set down.

Q. Have you that computation?-A. I have the figures as I

put them down that day on the culm pile.

- Q. Have you had them copied?-A. I made a report to Mr. May on the next day. I do not know where that report is; but I have a copy of the report that was sent to Mr. May in my pocket.
- Q. Very well. That shows your figures, does it?-A. Yes, sir. Q. Does it agree with those you made that are in your

memorandum book?—A. It does; yes, sir. Q. Well, let us have that; it is the same thing.

Mr. WORTHINGTON. May I ask the managers if they did not get from Capt. May the original report which this witness made to him?

Mr. Manager STERLING. I do not think that we ever had

it, Mr. Worthington.

Mr. WORTHINGTON. I offer this in evidence and request

the Secretary to read it.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

[U. S. S. Exhibit S.]

DUNMORE, PA., April 5, 1912.

Mr. W. A. May, General Manager.

Mr. W. A. May, General Manager.

DEAR SIR: In accordance with instructions from your office I yesterday examined and made tests on the culm bank of the abandoned Katydid operation. The Katydid Co. worked a scraper line through the center of the largest part of this bank, and I was enabled to get samples yesterday which I believe give a very good average of the condition of the whole pile. There is no indication of present or past fire, and what coal the bank contains is of good appearance and quality.

Record of	tests fo	r 812	es.
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Sample No.—	Stove and above, over 1½-inch mesh.			Chestnut through 13- inch, over 3-inch.			Pea through 3- inch square, over 3-inch round.			
	Coal.	Bone.	Slate.	Cos	ıl.	Bone.	Slate.	Co	al.	Slate.
1	Per ct. 5 0 Per ct. 5 5 0 72 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0		Per	Per ct. 0 2 1 0 0 0 0		Per ct. Per c		ct. 2 1 1 0 0 0	2 0 1 0 1 1 0 0 0 0	
Total	16		243		3		8		4	1
Average	. 2.6		4.1	(). 5		1.3		0.7	
Sample No.—		inch round		thi in	througd sinch through the through through the through through the through through the through		ough II th		Culm rough 32- h round.	
1		Per cent, 30 10 5 7½ 10 10		1	Per cent. 14 11½ 7½ 17½ 12 14	Per cent. 20 33 32½ 35 32½ 34		P	Per cent. 24 28½ 35½ 40 37½ 42	
Total		721		76}		187		2071		
Average		THU I	12.1		12.7		31		34.6	

Yours, very truly,

F. A. Johnson, General Inspector.

During the reading of the table,

Mr. Manager STERLING. Let us have the interpretation of those initials as the reading proceeds, Mr. Worthington.
Mr. WORTHINGTON. Very well. Let the witness state

what the initials are.

The WITNESS. "R D" means round instead of square mesh,

"C., B., S." means coal, bone, and slate.
Q. (By Mr. WORTHINGTON.) Mr. Johnson, what did Mr. Merriman do in connection with this investigation? What was his branch of the inquiry you made there?-A. His work was to measure and estimate the amount of culm.

Q. Did he make measurements?—A. Yes, sir.

Q. Were his report and yours turned over to anybody?-A. My report was turned over to Mr. May.

Q. What conversation did you have with Mr. May about it?-A. I do not remember of ever having any conversation at that

time.

Q. Why did you omit the conical dump?-A. Because, as I have said, a good part of the conical dump had been worked over the second time. It had been through the operation twice, and therefore was very poor. Again, the good part of it, the best of it I might say, was composed of material entirely We talked that over at some length. I remember worthless. distinctly that we did.

Q. Did you both agree in your conclusion that it would not pay to try to get anything out of it?-A. We did; yes, sir.

Q. Did you so report to Capt. May?-A. Not at that time; no, sir.

Q. It was later?—A. Some time later; yes, sir; we did.

Q. Can you give us your opinion as to whether or not it is possible to work any of the prepared sizes of coal out of this dump; what you call chestnut or over?-A. No; I do not believe it is practicable to win the large sizes, because I have personal knowledge of the fact that the Robertson & Law Co. tried to do that and failed.

Q. Did you later have a conversation with Mr. May about

this investigation or the result of it?-A. I did.

Q. When was that?-A. Some time later; I should say about a month or six weeks; it might have been two months; I do not know. Mr. May came to my office in Dunmore, which is next to his, and he had the reports, Mr. Merriman's report and some other papers in his hand, and he referred to a note which was either on Mr. Merriman's report or map; I do not remember which; and he asked me what that note meant. I remember the note. I believe I had-

Mr. BRYAN. Mr. President, it is very difficult to hear the

witness

The PRESIDING OFFICER. The witness will speak louder.

He will speak as loud as he can.

Q. (By Mr. WORTHINGTON.) What was the note you saw on these papers that Capt. May asked you about?—A. As I remember it, the note read, "55,000 tons, not including slush and

rock heap, as per recommendations of F. A. J."
Q. "F. A. J." being yourself?—A. Yes, sir. Mr. May pointed to that notation and asked me what it meant. I told him that it meant the high pile of refuse at what I think was the south-west end of the big pile. I told him that it meant that pile of slush and rock which had been put out of late years and was very poor, and we left it out, because we did not believe it ought to be included in the regular bank. He said he wanted to be sure of that. He said that he wanted to be sure that Mr. Merriman did not mean 55,000 tons of material outside of the refuse reported in my percentages.

Mr. WORTHINGTON. That is all of this witness, Mr.

President.

Cross-examination:

Q. (By Mr. Manager STERLING.) I wish you would look at this report, Exhibit S. There you have the average per cent of the different grades of coal, have you not?—A. Yes, sir.

Q. Begin and read the average percentage of the different grades, beginning with the larger-sized coals—just the coal and nothing else.—A. Stove and above, 2.6 per cent; chestnut, fivetenths of 1 per cent; pea coal, seven-tenths of 1 per cent; buckwheat, 12.1 per cent; rice, 12.7 per cent; barley, 31 per cent; culm, 34 per cent.

Q. What is culm? Is that coal?—A. No, sir. That is what we call what we get when we wash—singh

we call what we get when we wash—slush.

Q. I am asking you about the coal only. You would not count that culm as a part of the merchantable coal?—A. No, sir.

Q. What is the total percentage of merchantable coal that you have read from that report, including all kinds?—A. I could

not state without putting the percentages together here now.

Q. Never mind it, then, for the present. What official position do you hold with the Hillside Co.?—A. I am the general coal inspector in charge of the coal inspection for the Hillside Co.

Q. Who was the engineer of that company at that time?-A. Mr. Merriman.

Q. And you went with Mr. Merriman at one time to view this Katydid dump?-A. Yes, sir.

Q. When was that?—A. April 4, 1911. Q. You talked with him for some hours there on the dump?— A. About an hour, I should think.

Q. You told him where the culm was?-A. I did not tell him where the culm was so much as where the other material was.

Q. You told him where the fill was in the southwest corner of the map that runs up into the part called the conical dump?-A. Yes, sir.

Q. You told him that was filled with rock and ashes?-A. Yes, sir; I believe I did.

You showed him the fill on the east side of the map and told him it was filled with rock?-A. Yes, sir; I believe I did.

Q. You pointed out to him all those parts of the pile that were made up of slate and stone and ashes?-A. Yes, sir; I believe I did.

Q. Then it was your duty to take samples of this and wash

it?-A. Not to wash it.

Q. What did you do with it? How did you separate the coal?—A. I took each sample and kept it by itself; dried it on pieces of canvas, and then put it through hand screens.

Q. You cleaned out the coal?-A. Yes, sir.

Q. You did that in six different places?—A. Yes, sir.

Q. And you got the result which you have just read?-A.

Yes, sir.
Q. Then what was the engineer's duty?—A. His duty was the

neasuring of the contents of the pile.

Q. To measure the number of cubic feet in the culm bank?—
A. Yes, sir.

Q. He did not measure those parts of the culm bank that you pointed out to him were stone and ashes and slate?-A. I do not know.

Q. He would not naturally do that, would he?-A. No. sir; I do not think he would.

Q. He was not expected to find out the cubic feet of any of those materials?-A. No, sir; I presume not. I do not know

Q. How many cubic feet did he find there were in the culm bank ?-A. I can not say.

Q. Did you not see his report?—A. Yes, sir; possibly I did.

Q. Did not Mr. May show his report to you and call your attention to a note on the report?—A. No, sir. As I remember, he showed me a map which said "55,000 tons." I do not know whether the map said the number of cubic feet.

Q. Fifty-five thousand tons of what?—A. Of material.

Q. Coal or culm?—A. Altogether, coal and culm.

Q. Do you know whether that meant that there were 55,000 tous in all of it, outside of the conical dump, or in certain parts of it? [A pause.] All you know about it is what you saw on the map?-A. Yes, sir; that is all.

Q. Did you make an estimate or did you get any data from this engineer's report from which you made an estimate of the amount of coal?-A. No, sir. My report was turned over to

the engineer and he made an estimate.

Q. Just take time to figure up the percentage of coal there, will you, Mr. Johnson?—A. (After a pause.) I make it 59.6 per cent.

Q. Fifty-nine and six-tenths per cent of coal?-A. Yes, sir.

Q. Did you ever see Mr. Rittenhouse's report?—A. Yes, sir; I have read it.

Q. Do you know or have you any knowledge of the number of tons in the bank—I mean gross tons now?—A. Only as I

remember that figure on the map—55,000 tons.

Q. As a matter of fact, did not your engineer's report say there were 80,000 tons of culm?—A. I do not know that it did.

Q. Did you not know that he submitted it to Robertson and

that Mr. Robertson said it was 80,000 tons?-A. No, sir; I do not know anything about that.

Q. You do not know whether the 55,000 tons meant coal or gross, do you?—A. Yes, sir; I believe I do.
Q. Do you know it from anything the map said?—A. Yes.

Q. State it from memory.—A. I believe it said "55,000 tons,

not including slush and rock heap, per F. A. J."

Q. What does "F. A. J." mean?—A. That means me. Q. Now, would it not necessarily mean that that was the amount of coal, because you had tested the amount of coal that was in this material?—A. No, sir; I do not think it would.

Q. Had you anything to do with determining the amount of gross tons or the amount of cubic feet in the dump?-A. Nothing whatever.

Q. Not a thing?—A. Not a thing. Q. Then, inasmuch as it said "per F. Λ. J.," meaning yourself, who had tested the percentage of coal, it must necessarily have meant that there were 55,000 tons of coal. Do you not think that would be the reasonable interpretation of it?-A. No. sir: I do not.

Q. Did you ever compare your report of 59 per cent with Mr. Rittenhouse's return of 51 per cent?—A. No, sir; I have not. I have never put them together until this morning.

Q. Did you ever know that you made 8 per cent more coal in that dump than Mr. Rittenhouse said?—A. No; I did not.
Q. You say that your engineer did not measure the cubical

contents of the conical dump in the southwest corner of the map at all?—A. He told me that he was not going to meas-

Q. And you told him-A. That I was not going to sample it.

Q. And you did not sample it?-A. No, sir.

Mr. Manager STERLING. That is all.

Redirect examination:

(By Mr. WORTHINGTON.) Did you know Mr. Rittenhouse had figured on a very much larger proportion of valuable coal than you had?—A. I did. Q. You knew that?—Λ. Yes, sir.

Mr. Manager STERLING. We object.
Q. (By Mr. WORTHINGTON.) What did you understand was meant by the term "F. A. J." in that memorandum?—A. I understood it to mean my recommendation on that conical pile.

Q. That was the reason it was omitted?—A. Yes, sir. Q. Do you know why it is we have not got Mr. Merriman's report?—A. No; I do not.

Q. Do you know whether or not it was brought down here by Capt. May—all those papers—before the Judiciary Committee

last spring?—A. I do not know anything about it, sir.

Mr. Manager STERLING. Do I understand counsel to claim

that that was submitted to the committee?

Mr. WORTHINGTON. That is my information, that those

Mr. Manager STERLING. I should like to know what it is.
Mr. WORTHINGTON. The next witness, I understand, has some light on that subject, and we will ask him.
Q. (By Mr. WORTHINGTON.) Can you give us an idea about the gross tons in that conical dump we have been talking about—about what the A. Just as it stands now? about-about what the whole amount of material in it was? -

The Witness. I should say 15,000 tons.

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. Is it desired that this witness shall be retained?

Mr. WORTHINGTON. No. Mr. President. The PRESIDING OFFICER. The with

The witness is finally discharged.

Mr. WORTHINGTON. Call Mr. Jennings.

TESTIMONY OF JOSEPH P. JENNINGS.

Joseph P. Jennings, being duly sworn, was examined and testified as follows

Q. (By Mr. WORTHINGTON.) Where do you live, please?-A. Moosic, Pa.

Q. May I ask your age?—A. 32 years of age. Q. How long have you lived in that neighborhood?—A. I have lived in Moosic for the past seven years.
Q. What is your business now?—A. I am general inspector

of mines for the Hillside Coal & Iron Co.

Q. How long have you held that position?-A. Since February 1 last.

Q. Before that what was your position?-A. Before that time I was superintendent of the Avoca district for the Pennsylvania Coal Co.

Q. In those positions have you become familiar with the coal business in the region, and especially that part which pertains to coal dumps?—A. Yes.

Q. Did you have anything to do with the Katydid dump, near Moosic, when it was building or making?-A. When it was making?

Q. Yes .- A. Nothing more than at that time I was working on the engineer corps and I passed there from time to time.

Q. Have you recently made any efforts for us to find out what is in that dump and what it is worth?—A. I have.
Q. What have you done?—A. In the early part of November

Mr. May handed me Mr. Merriman's notebook and a little map that Mr. Merriman had made of a survey of the Katydid dump, and he asked me to go over Mr. Merriman's work and verify it. Q. Was that last November?-A. That was in November

past; yes, sir.

Q. Mr. Merriman is dead?—A. Mr. Merriman is dead; yes. He died last September.

Q. Where did you get his figures?—A. From the original notebook.

Q. Have you them here?—A. No, sir; I have not. Q. Where are they?—A. They are at the office in Dunmore. Q. Did you make a report to Mr. May after you made the investigation?—A. I did.

Q. When did you do that?—A. A few days after that. Q. Where is that report, Mr. Jennings?—A. I have a copy of it in my pocket.

Q. I know; but where is the original now?-A. Here is the

report [producing paper].

Q. Very well. Let us have it. Do you know whether Mr. Merriman made a report from the material he had?—A. I understood he did, and I understood from Mr. May that it was left here with the rest of his papers.

Q. When !- A. When he was here before the House committee.

Mr. Manager STERLING (after examining paper). We object to it.

Mr. WORTHINGTON. May I ask on what ground? Mr. Manager STERLING. It is not Mr. Merriman's report. It is just what this gentleman said he drew from Mr. Merriman's report. It is nothing but hearsay evidence.

Mr. WORTHINGTON. We have proved that Mr. Merriman is dead, and that his investigation was made for the Hillside Coal & Iron Co., and this gentleman has taken his figures.

Mr. Manager STERLING. That does not excuse you from producing his report here. If the witness had the report there from which to make his estimate, you have the report.

Mr. WORTHINGTON. The witness says that Capt. May brought it down here and left it with the Committee on the Judiciary of the House of Representatives.

Mr. Manager STERLING. He never did.
Mr. Manager WEBB. This estimate was made in November. Mr. Manager STERLING. This was made in November, since the committee held its meetings, which were last summer.

Mr. WORTHINGTON. Mr. Merriman made his report Mr. Manager STERIANG. No; the witness said he made this estimate in November.

The WITNESS. I made that report [indicating].

Q. (By Mr. WORTHINGTON.) You made this up from Mr. Merriman's notebook, and not from his report?-A. Not his I took the notes he made on the field and worked up the information from it.

Q. That notebook was left with the company and was found, after Mr. Merriman was dead, as a part of the papers of the

company?-A. Yes, sir.

Q. It is one of the papers upon which Capt. May acted in

what he did in this matter ?—A. Yes, sir.
Mr. WORTHINGTON. I submit, inasmuch as the charge here is that Capt. May undertook to favor Judge Archbald by giving him this dump for less than it was worth, that the Senate ought to have the information Capt. May had when he made his recommendation or agreed to make it.

The PRESIDING OFFICER. The Chair understands that

this evidence is sought to be introduced because of the death of

the man who made the original paper.

Mr. WORTHINGTON. The man who made the original report is dead. His official report to Capt. May was on file, and this gentleman took that report and from it prepared this

Mr. Manager STERLING. Our objection to it is that it is purely in the nature of hearsay evidence. We do not know whether he has correctly computed it from the notes made by Mr. Merriman. We are not bound by what he says as to what those notes indicate. We are entitled to the notes, if they are competent evidence at all, which we are not admitting at present.

The PRESIDING OFFICER. The Chair is unable to see how the death of Mr. Merriman would affect it in any way. It would still be competent for some other person to make the same

Mr. WORTHINGTON. What we wish to bring out is what information Capt. May had when he made that recommendation. The PRESIDING OFFICER. That can be proved by Mr.

Mr. WORTHINGTON. And if it was that the dump was worth only \$5,000-

The PRESIDING OFFICER. If Capt. May was on the stand and the question was put to him upon what he made his esti-mate, it would be legitimate testimony, but not as an independent piece of testimony.

Mr. WORTHINGTON. He has already testified that when he received the letter of March 31 from Judge Archbald, which

is in evidence, asking if the dump was for sale, he directed this investigation to be made; and it was on this investigation and the result communicated to him that he took the action he did.

Mr. Manager STERLING. But it was not on this report that Mr. Jennings presents now, because this was not made until November last.

Mr. WORTHINGTON. Jennings is simply calculations based on Mr. Merriman's notebook. Jennings is simply presenting his

Mr. Manager STERLING. Then I presume the Senate will have to interpret it.

Mr. WORTHINGTON. Then we will have to let this witness stand aside and send for the notebook on that point.

Q. (By Mr. WORTHINGTON.) You can get that notebook

and have it sent here?—A. Yes, sir; I can get it.

The PRESIDING OFFICER. The Chair does not wish to

be understood as holding that the notebook would be competent evidence.

Mr. WORTHINGTON. No. The PRESIDING OFFICER. The Chair simply went to the extent of saying that Capt. May would, in the opinion of the Chair, be a competent witness as to the information upon which he based his action.

Mr. WORTHINGTON. I think he has already done that.

The PRESIDING OFFICER. That, I think, is as far as can be done. It is still competent for counsel for the respondent to prove the value by some other witness. That fact is equally ascertainable by some other witness. It is not in the sole

knowledge of the person who is de.d.

Q. (By Mr. WORTHINGTON.) Mr. Jennings, have you had anything to do with what is called the Consolidated Washery operation which is in the vicinity of the Katydid culm bank?—

A. I have, sir.

Q. What did you have to do with it?—A. The washery was built under my supervision. I had charge of the consolidated colliery from March 1, 1909, until February 12, 1912.

Q. Will you tell me whether that washery is equipped to handle coals of the size of chestnut and above?—A. We can handle some chestnut, but none above.

Q. As a matter of fact, have you been handling any chest-

nut?-A. We have handled some.

Q. Why do you not handle more of it?-A. Because we can

not clean it; we can not do anything with it. Q. Why?-A. Well, the amount of coal in the material is so small that we can not clean it. If you have a mixture of coal and rock, say 10 or 15 per cent of coal and the balance rock, it takes an enormous amount of machinery to get that ceal out of the rock, or the rock out of the coal.

Q. Which is the richer bank, the one the Consolidated is

working or the Katydid?

Mr. Manager STERLING. We object to that as immaterial. Mr. WORTHINGTON. I remember hearing something very early in the course of this trial about objections not being made here of the kind that are made in the ordinary courts of justice; but it seems that we have got away from that now. Mr. Rittenhouse's estimate, which Capt. May got when he took the action about this matter, has been introduced in evidence, and it shows by a computation, and it was given in testimony, that there were over \$17,000 worth of chestnut coal in the Katydid dump. We have given some evidence in regard to it, and now we want to show that another bank in this immediate vicinity. operated by the Consolidated Washery, that was referred to by Mr. Rittenhouse—a much richer bank—can not be worked so as to get the chestnut out of it to any advantage, and that it is much more impossible to do it than the Katydid dump.

Mr. Manager STERLING. We object to it as plainly immaterial, as to what another bank of any quality, any kind of

The PRESIDING OFFICER. Counsel for the respondent will recognize that if that were admitted in evidence the managers would be entitled to take issue on it, and then the whole investigation would necessarily be had as to what was the value of the coal in another bank.

Mr. WORTHINGTON. I remember when I objected to Mr. Rittenhouse's testimony. I said we would get into a long wrangle on expert evidence as to the value of the Katydid bank, and as to matters about which Judge Archbald did not know anything; that it would take a great deal of time; and I remember that the Chair reminded me that the fact that it would take a great deal of time would not justify the exclu-

sion of any relevant testimony.

The PRESIDING OFFICER. That is true, if it was relevant, but it certainly is not competent to go into the contents of every other bank with which counsel might desire to compare this bank.

Q. (By Mr. WORTHINGTON.) Let me put it this way: Tell me to what extent, if at all, it is possible to reclaim from the Katydid dump coal of chestnut size and over to be marketed. A. It is not practicable to reclaim it.

Q. Why?-A. It would cost many times-it would cost four times more to get it out than what you would get for it.

Q. Why?-A. Because there is so little coal compared with the amount of rock that the immense size of the buildings and the costly appliances you would have to buy in order to separate them to start with would cost four times as much as the coal is worth.

Q. Did you go on this dump at any time with Capt. May?-A.

I did; yes, sir. Q. When was that?—A. It was along the latter part of May, 1911.

Q. Will you tell us whether or not you communicated to him at that time the views you have expressed here about this dump?—A. I did. He told me there was a chance to sell that dump, and he took me down and went over the ground and asked me what I thought of it, and I told him that I thought he had better sell it.

Q. Did you tell him why—give him any reasons? Mr. Manager STERLING. We object to that as immaterial. Mr. WORTHINGTON. Here, Mr. President, we are getting a communication right to Capt. May by his trusted subordinate.

The PRESIDING OFFICER. What was the question?

Mr. WORTHINGTON. The whole theory about this matter on the part of the managers is that Capt. May undertook to favor Judge Archbald by selling him what he would not other-

The PRESIDING OFFICER. What was the question?

Mr. WORTHINGTON. I am asking whether he was on the dump on the 23d of May, 1911, or about there, months before Mr. May had written this letter of August 30, in which he said he would recommend this sale; that his trusted subordinate, who had examined it and knew all about it, advised him to sell it, and he did not know, I take it, any more about Judge Archbald's connection with it than I did.

The PRESIDING OFFICER. The Chair thinks it is competent, but will hear from the managers.

Mr. Manager STERLING. I can not conceive how a conversation between this witness and Capt. May is competent in any view of the case. Neither of them was a party to this proceeding. The very fact that he was the confidential adviser of Capt. May is the main reason why it is not competent in this case at all. We can not be bound by anything that he said; that one witness said to another; that one person said to another, who is not a party to this proceeding. It was purely a conversation between this man and May. It does not go to the issue at all in this case.

The PRESIDING OFFICER. The Chair thinks that the general proposition stated by the managers is correct, but that it is competent for counsel to show what was the information upon

which Mr. May acted.

Q. (By Mr. WORTHINGTON.) I do not remember how far you had gone. What did you say to Capt. May at that time on the subject of the sale of the dump?

The Witness. I told him that when Robertson & Law started again to wash that dump, all we would get would be the royalty we would pay, and it was just a question with us of waiting to get our money by actual shipment or taking the money; that is, we had a very unstable agreement upon which we operated this mining, at least a part of it, on lot 46; and if we sold it it would be off our hands and we would have the money.

Q. At that time did you know anything about Judge Archbald having any communication with Capt. May about this matter?—A. No, sir.

Q. Or having any interest at all in it?—A. No, sir.
Q. I will ask you this question, without reference to that particular dump: Do you know what the custom is in culm dumps as to trying to save chestnut and above?

Mr. STERLING. I object.
The PRESIDING OFFICER. The counsel will repeat the question.

Mr. WORTHINGTON. I am asking what is the practice in the dumps in that anthracite region as to attempting at all to save or win, as the word they use, chestnut or sizes above from these culm dumps, to show that it is the universal practice and custom there to refuse to do it because it is impossible to do it to advantage. I understand the Chair has already ruled we can not show specially this or that particular dump; but certainly I ought to be allowed to show the custom in that matter, because, as a particular item of value of this dump, the expert Rittenhouse makes it over \$17,000 for chestnut coal.

The PRESIDING OFFICER. The Chair thinks that counsel is entitled to show whether or not it was worth anything.

Q. (By Mr. WORTHINGTON.) I will put it this way. Tell us what was the market value of chestnut coal in culm dumps in the neighborhood of Scranton in 1911.—A. I know one fellow that washed a car of chestnut coal-

The PRESIDING OFFICER. The question is whether the

witness knows the value of it.

Mr. WORTHINGTON. I put it that way because the Chair ruled I could not put it the way I did. What was the market value of coal of the size of chestnut or above in the culm banks in that region in 1911?—A. Anything you could get for it.

Q. What could you get for it?—A. I do not know. We never

Q. You never sold it?—A. Only to the local trade.

Q. We have had some testimony here about the possibility of taking the coal from the Katydid dump to the consolidated washery and doing it to advantage. You are quite familiar with the washery and with that whole region, I believe?-A. Yes, sir.

Q. I would like to have your judgment as an expert and one having a full knowledge of the situation as to whether or not that would be a practicable thing .- A. It would not be practicable.

Q. Why?-A. It would cost too much to get it up there.

Q. How much would it cost, and why would it cost so much?—A. The first installation would cost well up to \$10,000 to get started.

Q. Do you say under \$10,000?-A. Well on to \$10,000, in round figures, to build what we call scraper lines from the consolidated washery down to the Katydid dump. The scraper lines are made in sections of about 500 feet, depending upon the kind of ground you have to operate on. The ground to the Katydid dump runs quite a grade, from big ledges of rock. I do not think you could get over 400 feet to a section. The shape of the Katydid dump is very irregular and the scraper lines would have to be moved in straight lines, so that it would take five or six lines to get hold of the dump. With each of these lines you would have to put in engines to drive it. You would have to put in pipe lines and pumps, in order to wash the culm. A steam line from our consolidated scraper down right through would cost about \$10,000 to get started.
Q. What would that material which cost \$10,000 be worth

when you got through and the culm was washed out?
Mr. Manager STERLING. We object, because this witness could not possibly state what it would be worth. He could not know what condition it would be in.

Q. (By Mr. WORTHINGTON.) Do you know anything about the value of scraper machinery?—A. Yes, sir.

Q. Does your experience in that business qualify you as an expert?-A. In our experience in the business, after a scraper is used in mining, what we have to use

Mr. Manager STERLING. Mr. President, we object to any such testimony as this, asking what the machinery would be worth after it had been used. How can the witness tell what it would be worth? How can any human being tell?
Q. (By Mr. WORTHINGTON.) Is it possible to tell about

what a scraper line is worth after the dump to which it has

been built is exhausted?—A. It is.

Q. I will take your word for it, as far as I am concerned, and ask you what that scraper line would be worth after the dump is exhausted?

Mr. Manager STERLING. I object.

Mr. WORTHINGTON. Our friends on the other side insisted upon putting Mr. Rittenhouse on the stand and giving expert testimony that, among other things, it was a great favor to Judge Archbald to offer to sell the interest of the Hillside Coal & Iron Co. in this dump to him for \$4,500, because it could have built a scraper line down to the consolidated washery and operated it themselves and made money. Is it not competent to show, as we have shown, that they would have had to put in an extra plant and bring the washery around at a cost of \$10,000, when we find here somebody who knows, and ask him what that scraper line would be worth when the dump to which it was built was gone?

Mr. Manager STERLING. Mr. President, how is it possible for this witness to know what condition it would be in after it had been used for this purpose? I say it is absolutely impossible for him to know, unless he knows what condition it would be in, what the market price of those things would be at that time. It might be 10 years from now. We do not know how long it would take to operate it. We should not have witnesses come on the stand and guess about such things. It is what Senators

can guess about.

In regard to this testimony, while I have the floor, Mr. President, I desire to say this. Counsel say the purpose of the testimony is to show the knowledge which Mr. May acted on when

he made this proposition. Mr. May has testified in this case, and he testified himself that, in his judgment, there were 45,200 tons of coal, and it is in the record, and I read it from his testimony. He testified to it before the Judiciary Committee and said it was true that there were 45,200 tons of coal. Are counsel trying to rebut the testimony of May himself, who says that is the knowledge he had and on which he acted when he made the proposition?

The PRESIDING OFFICER. The Chair thinks the question would be too indefinite unless counsel can indicate the degree of use, the length of use, and also fix the standard of prices by

which the matter was to be determined.

Mr. WORTHINGTON. The witness says he knows and he

can tell.

The PRESIDING OFFICER. The Chair was speaking of the frame of the question. The evidence sought to be elicited must necessarily be relieved from the charge of being too indefinite. It must specify the degree of use, after which would follow the condition of the machinery, with reference to a standard price at a future time.

Q. (By Mr. WORTHINGTON.) Would the value of that scraper line depend on the way it was used and the extent it had been used at all?-A. Yes, sir; it would. We use mine water, water that is high in sulphuric acid, and it cats the iron away in a short time. An ordinary scraper line would last about a year.

Q. How long would it take to work this Katydid dump in that way, building a scraper line and taking the culm down to the consolidated and putting it through your washery there?—A. It would take about a year; it might be a little longer. It is an awkward dump to get hold of.
Q. The scraper line would last about a year?—A. About a

Q. I have asked you about the cost of the equipment and so on. What would be the cost of operation per ton?—A. To pick up the Katydid dump in my judgment would cost 50 cents a ton.

Q. What do you mean, coal or culm?—A. Of prepared coal. Mr. WORTHINGTON. That is all, Mr. President.

Cross-examination:

Q. (By Mr. Manager STERLING.) What is your first name, Mr. Jennings?—A. Joseph.

Q. Are you connected with the Hillside Coal & Iron Co. now?—A. I am.

- Q. In what capacity?—A. I am general inspector of mining. Q. How long have you had that position?—A. Since February 1, 1912,
 - Q. You are not an engineer, are you?—A. I am.

Q. A mining engineer?—A. I am. Q. How long have you followed that business?—A. I worked on the engineering corps back in 1899, and in 1900 I went to Lafayette College, at Easton, and took an engineering course and graduated in 1904.

Q. You have not held any position as a mining engineer, have

you?—A. Not what you would mean by mining engineer.

Q. I mean just what I say. You have not had the position of mining engineer of any coal company or railroad company?—

A. No, sir; not the exact position.

Q. You know what report Mr. Johnson made of the amount of chestnut coal in this dump, did you not?—A. I saw it. I

did not pay much attention.
Q. It is one-half of 1 per cent, is it not?—A. Something like that.

Q. So the question as to whether or not the chestnut coal should be won would not affect the value of the dump very much one way or the other, would it?—A. The chestnut coal?

Q. Yes, sir; if it is only one-half of 1 per cent?—A. It would affect it just that much.

Q. You say you had a talk with Mr. May about the advisability of selling this-A. Yes, sir.

Q. And you told him that one reason for selling it was the instability of the agreement which you had?-A. Yes, sir.

Q. What did you mean by that?-A. We were operating on lot 46; we owned a one-half undivided interest, and there was There was just the letter that was given a long time no lease. ago, and we did not know when that agreement would be

Q. And the effect of it was that it affected the title to the dump. Is that your idea?-A. I do not know. I am not lawyer enough to know just how to put that, but I always understood-

Q. When you were-

Mr. WORTHINGTON. I submit that the witness be allowed to finish.

Mr. Manager STERLING. He has answered.

Mr. WORTHINGTON. He said he understood and was cut

The PRESIDING OFFICER. The witness before he finishes will be allowed to make any explanation he wishes.

Mr. WORTHINGTON. He started to make an explanation,

but was cut off, and I submit that he ought to be permitted to finish his answer.

The PRESIDING OFFICER. The witness will finish his answer and state what he understood.

The WITNESS. I always understood that our right to work

lot 46 was liable to be terminated at any time.
Q. (By Mr. Manager STERLING.) Dependent upon this agreement with the Everhart heirs? That is your idea?—A.

Q. So it did affect the title in that way?-A. I do not know what the title was.

Q. So the principal reason you gave May for selling it was

the very reason May gave here for not selling it, is it not?

Mr. WORTHINGTON. I submit this witness is not to

criticize Capt. May upon a question of argument.
Mr. Manager STERLING. I am not undertaking to criticize Capt. May. It will be remembered that Capt. May testified that when the notice came in he thought the title might be a question.

Mr. WORTHINGTON. In due time we can read Capt. May's statement and contrast his testimony with that of this witness.

Q. (By Mr. Manager STERLING.) I will put the question in this form. I am sure I can satisfy my friend here. The reason why you advised him to sell it was because you thought there were questions about the title. Is that it?—A. No; not exactly that. We knew that the arrangement we were working under could be changed and easily changed. That was the reason, it could be easily changed.

Q. You thought you wanted to get rid of it for that reason?—
A. Not only that, but it would affect a number—

Mr. Manager STERLING. I am talking about this one. Mr. WORTHINGTON. The witness was interrupted again in the midst of his sentence. I submit he has a right to finish it. Mr. Manager STERLING. If we do not confine the witness

to the questions he will be on the stand the whole afternoon.

The PRESIDING OFFICER. The manager has a right to confine the witness as nearly as he can to answer the question, and then it is fully competent for the counsel for the respondent to bring out all that the counsel thinks important to have his testimony thoroughly understood. The managers have the right to confine their examination within certain lines so far

as answers to their questions are concerned. Mr. WORTHINGTON. We make no question about that, but I contend that the witness was properly answering the question and was interrupted while in the middle of it just as

The PRESIDING OFFICER. The witness will answer the question as directly as possible. There will be every opportunity to explain everything.

Mr. Manager STERLING. Let the Reporter read the ques-

tion and answer.

The question and answer were read by the Reporter.
O. (By Mr. Manager STERLING.) Was that one of the reasons you recommended to Mr. May to sell this dump?-A. Yes, sir.

Mr. Manager STERLING. Take the witness.

Mr. WORTHINGTON. That is all, Mr. Jennings. We will have to detain you and have you send for that notebook of Mr. Merriman's.

The notebook and the little map? The WITNESS.

Mr. WORTHINGTON. Yes.
Mr. Manager STERLING. One question I forgot to ask Mr. Robertson. I ask that he may be recalled.

TESTIMONY OF JOHN M. ROBERTSON-RECALLED.

John M. Robertson recalled.

Q. (By Mr. Manager STERLING.) Mr. Robertson, you saw the report of the engineer of the Hillside Coal & Iron Co. as to the number of tons of material in this dump, did you not?-

A. I do not remember that I ever saw the report; I knew of it. Q. Well, you testified before the Judiciary Committee, did you not, that

Mr. WORTHINGTON. From what page does the manager read?

Mr. Manager STERLING. From page 830. [To the witness:] You testified as follows:

Mr. Robertson. The Hillside Coal & Iron Co. put their engineers on the dump, measured it, and found that it contained 80,000 gross tons of material—that is, culm—composed of fine dust and the various sizes running up—probably there might be a little up to pea. There might be some little chestnut.

You swore to that before the Judiciary Committee, did you not?-A. Yes, sir.

O. And that is true, is it not?-A. That'is true to the best of

my knowledge.

Q. Mr. Robertson, if there were 80,000 gross tons of material in the dump and 59 per cent of it was coal, as testified by Mr. Johnson, then it is a simple question of mathematics to determine how much coal there was in the dump, is it not?-A. Yes, sir.

Q. It would be a little over 47,000 tons of coal, would it not?—A. That is right; yes, sir.

Mr. Manager STERLING. That is all.

Mr. WORTHINGTON. That is all, Mr. Robertson.

TESTIMONY OF J. BUTLER WOODWARD.

J. Butler Woodward, being duly sworn, was examined and testified as follows

Q. (By Mr. SIMPSON.) Mr. Woodward, what is your busi-

ness?-A. I am a lawyer.

Q. You are a member of what firm?-A. Of Wheaton, Darling & Woodward.

Q. How long have you been a lawyer?-A. I have been prac-

ticing for 25 years.

Q. What is your politics?-A. I am a Democrat.

Q. Were you a jury commissioner in the middle district of Pennsylvania?-A. I was.

Q. Appointed by whom?—A. By Judge Archbald. Q. When?—A. When the middle district was first formed. I

think it was in 1901.

Q. You continued as such jury commissioner until when?-Until Judge Archbald went on the Commerce Court, until he went off the district court bench, when I handed in my resignation to his successor, Judge Witmer.

Q. Did you continue any time after that?—A. Yes, sir. He asked me to continue, and I continued some time after that.

Q. Will you tell the Senate, please, what are the duties of a jury commissioner?-A. The jury commissioner and the clerk fill the wheel, and the marshal draws the names of jurors from the wheel. When we first started in we put in 300 names, equally divided between us, as required by law. To get my share of the names, I wrote to either the judge or some lawyer, whose name I got from a lawyer's list in each of the 32 counties composing the district. From those lists the names were copied in a book. We each had a book. He was in Scranton; I was in Wilkes-Barre. In that book was the name, occupation, and address of each juror. A slip was torn off, with the number on the slip, containing the name of the juror and the number that was put in the box. Then, whenever a jury was drawn, it required 63 names, 23 for the grand jury and 40 for the petit jury. Before the marshal drew, the clerk and I would each put in half of the 63 names, or divide the 63 names between us. Sometimes I would take 31 names, and sometimes 32, and put those in the wheel before we drew out. Then an equal number were drawn out by the marshal. If the name and number appeared in my book, it was checked off of my book, and if it appeared in his book it was checked off of his book. Those appeared in his book it was checked off of his book. names I got from the judges and from the lawyers. The judges and the lawyers were unknown to me, and the names were of people whom I knew nothing about. I would give the list to the stenographer; he would enter it in the book, and when we went into Scranton to draw the jury they would be drawn in that way.

Q. Then, if I get it straight—I want in as few words as possible to fix it—there were originally 300 names put in, and then each time of the drawing 63 additional names were put in and 63 taken out, leaving always 300 names in the wheel?-A. Yes,

sir.

Q. What kind of a wheel was it? Just very briefly describe it.—A. It was a sort of tin octagonal arrangement, about that

long [indicating] Mr. Manager NORRIS. Mr. President, I think we had better

not ask this witness that question. He is only stating what the

law is in regard to the selection of a jury.

Mr. SIMPSON. No; he was going further. The allegation here, Mr. President, is that Judge Archbald is guilty of a high crime or misdemeanor in that he appointed this gentleman as a jury commission, who was counsel for a railroad company ostensibly—for we could not get any other thought out of it— because this gentleman would, in some way or other, use his influence by reason of having been counsel for a railroad company to pack that wheel for the benefit of the railroad company or companies for which he was counsel, and I propose to show

Mr. Manager NORRIS. Mr. President-

Mr. SIMPSON. Excuse me a moment, Mr. Norris. I propose to show just exactly what he did; to show that it was impossible-and following it up by later questions-for the thing, by innuendo charged here, to have occurred.

Mr. Manager NORRIS. Mr. President-

Mr. CRAWFORD. I should like to propose a question to the

The PRESIDING OFFICER. Does it relate to the question of the admissibility of this evidence?

Mr. CRAWFORD. Not to the admissibility of the evidence. but it relates to this subject.

The PRESIDING OFFICER. Until this is disposed of-Mr. SIMPSON. The question here is simply how to describe

a wheel. That is the question that is now before the Senate. Mr. Manager NORRIS. Mr. President, if the questions would

have a tendency to elicit from the witness anything that is material on this particular account there would be no objection. The argument that counsel makes in reality has nothing whatever to do any more than his question has with the point at issue in this particular article. The witness has been asked to describe a wheel. There has been no charge that that wheel or that method of selecting a jury is contrary to law or that it selected any jurors contrary to law. This testimony is only taking up the time of the Senate, as I look at it; it can hurt nobody; it can do no one any good. So far as having anything to do with the selection of the names, the witness has already told how he selected them. If there is anything wrong in the that way and not in the wheel. We have not charged that when the men's names were put in the wheel there was any manipulation of that wheel or that there was a possibilty of manipulating it.

Mr. SIMPSON. Under the disclaimer of Judge Norms I will withdraw that question, sir. Does the President desire to submit the question which the Senator from South Dakota desires propounded to the witness before I proceed?

The PRESIDING OFFICER. The Senator from South Dakota desires to propound a question, which will be read to the

witness.

The Secretary read as follows:

It would be possible, would it not, for a jury commissioner to gather names of jurymen who were biased in favor of railway companies?

The WITNESS. Not to any great extent in 32 countles. The

The WITNESS. Not to any great extent in 32 counties. The jury commissioner would have to have a rather large acquaintance to get jurymen blased in favor of railroad companies.

Q. (By Mr. SIMPSON.) Was there any gathering of names of jurors at any time you were acting as jury commissioner who were blased in favor of railroad companies?—A. Not to my knowledge.

Q. There was none by you?—A. There was none by me.

Q. Did you know any of the names of the jurors that you put in the wheel?—A. I did some that I put in from my own county.

Q. Were any of them connected with or biased in favor of railroad companies?—A. Well, I do not recall any now.
Q. Would you have put any such names in the wheel if you

had known them to be so?-A. I do not think I should. The charge is that I was appointed jury commissioner while general attorney for the Lehigh Valley Railroad Co.

Q. Yes; I was coming to that in a moment. You can go on and explain it in your own way.—A. I was not general attorney for the Lehigh Valley Railroad Co. I was local counsel for the Lehigh Valley Railroad Co. I never had a case for them in the United States court, and I would not have tried the case if they had had any there. They would have had their local counsel in Scranton or Wilkes-Barre, wherever the court sat. The court did not sit at Wilkes-Barre. I never had but two cases in the United States court—one was a jury trial, and in the other case we agreed to withdraw it from the jury and to try it before a board of engineers, because it involved technical questions.

Mr. CRAWFORD. Mr. President, I desire to submit another question.

The PRESIDING OFFICER. The Senator from South Da-kota submits a question, which will be read by the Secretary. The Secretary read the question, as follows:

Q. If he set about it with the intention to select that class of men as jurors who would be biased in favor of railway companies, it would be possible for him to do so, would it not?

The WITNESS. As I said before, it would be possible to get some names of people who were biased in favor of railroad companies, but if you get the representation from 32 counties that they were entitled to, and which they got, it would be difficult to get a large representation biased in favor of railroad companies.

Mr. CRAWFORD. Mr. President, I submit that that is not a full answer to the question. I think, if the witness will listen to the question carefully, he will see that it is capable of a more direct answer.

The PRESIDING OFFICER. The question will be submitted to the witness. He will read the question and endeavor to answer directly.

The Witness (after reading the question). Yes; I should think it would.

Q. (By Mr. SIMPSON.) You spoke of having had two cases in the United States court. That covered what period of years?—A. Well, I have been practicing 25 years, and those are the only two I ever had.

Q. Covering the whole period of 25 years?-A. Yes, sir. Mr. KENYON. Mr. President, I would like to submit a ques-

tion. The PRESIDING OFFICER. The Senator from Iowa submits a question, which will be read to the witness by the Secre-

The Secretary read as follows:

Did you get any names for jurors from any local attorneys of rail-roads in the various counties?

The WITNESS, I had no knowledge of any. They may have been attorneys for railroads. I took them from a list published in New York, called the Lawyers List. Those that I did not get from the judges of the county I got from some lawyer whose name appeared on that list. The lawyers were unknown to me and the judges were unknown to me. Whether they represented any corporation or not, I do not know. I asked them to send me names of good men for the United States jury, and whether they represented corporations or not I do not know.

Mr. CRAWFORD. I desire to present another question. The PRESIDING OFFICER. The Senator from S

Dakota submits a question, which will be read by the Secretary. The Secretary read as follows:

The railway companies had local attorneys in each of the counties in the district, did they not?

The Witness. I do not know. Q. (By Mr. SIMPSON.) There was one case you said you What became of that case?-A. There was one case tried for the Lehigh Valley Coal Co., in which I was associated in the trial, but it was withdrawn from the jury and submitted to a board of arbitrators composed of three engineers. involved mining questions.

Q. That was the end of the case, so far as the court was concerned?—A. Yes; that was the end of the case, so far as the court was concerned. The first time we tried it the counsel for the plaintiff labored for several days to make out a case and failed, and we thought we were entitled to a nonsuit. Judge Archbald allowed the jury to be withdrawn and the case continued, so that they might prepare their case in a way that it might be presentable.

Q. Do you remember the purse which was made up at the time Judge Archbald was going to Europe?-A. Yes, sir; I might say

Mr. REED. Mr. President, I desire to submit a question to the witness

The PRESIDING OFFICER. The Senator from Missouri submits a question, which will be read by the Secretary.

The Secretary read as follows:

Q. Did you think it proper to permit lawyers who might have cases to y before a jury to recommend and thus practically select the jurors?

The WITNESS. I did. The question is whether I thought it proper, is it not?

The PRESIDING OFFICER (to the witness). You may read the question. The Witness (after reading the question). Yes, sir: I thought

it was proper. Mr. JOHNSTON of Alabama. Mr. President, I desire to sub-

mit a question.

The PRESIDING OFFICER. The Senator from Alabama submits a question, which will be read by the Secretary. The Secretary read as follows:

Q. Did you apply to Democratic or Republican lawyers to furnish you names of jurors in the various counties?

The WITNESS. I knew nothing about their politics, whether they were Democratic or Republican lawyers. I had no knowledge of them, except that this was supposed to the best list of lawyers that was published, and I took the names from a book. I might say that the office of jury commissioner in all the United States courts of Pennsylvania was at that time, until I resigned, held by lawyers

Q. (By Mr. SIMPSON.) And do you happen to know whether or not the names of jurors were selected to be put in the wheel in other districts in the same way that you did?-A. I have no knowledge of how it was done in other districts.

Q. Coming, then, to the question that I started to ask you

tributed to that purse. I had nothing to do with getting it up, as charged in the twelfth—I think it is the twelfth—article. I did no soliciting for it and I had nothing to do with its presentation. I was asked over the telephone by Mr. Searle to contribute, and I said I would. He told me that Judge Wheaton and John T. Lenahan were also willing to contribute, or had said they would contribute. I spoke to Mr. Wheaton, who occupies the next office, who said that he had been spoken to by Mr. Searle. There was an interval then before I heard anything more about it. Then I got another telephone message from Mr. searle, asking me to send my check and Judge Wheaton's check and Mr. Lenahan's check. I got Judge Wheaton's check and telephoned to Mr. Lenahan to send me his check. He did so, and I forwarded it to Mr. Searle.

Q. Is that all the connection you had with the matter?—A. That is all the connection I had with it from the first.

Q. How long had you known Judge Archbald?—A. I should think for 25 years or more, or before that. I think we graduated at the same college; but he was before my time.

Q. Has the acquaintance been merely the acquaintance of lawyer and judge, or more than that?—A. I never had but those two cases before him. It has been made a social acquaintance. I have met him at college dinners and at various times.

Q. And that acquaintance of that character has been continued during the whole of this time you have mentioned-25 years or so?-A. Yes, sir. I can not tell exactly when I met him. Mr. President, I desire to submit a question.

The PRESIDING OFFICER. The Senator from Missouri submits a question, which will be read by the Secretary.

The Secretary read as follows:

Q. If you did not represent the railway company in court, what did your employment embrace?

The Witness. My employment by the railway company? I did represent them in the court of Luzerne County; tried their cases there, and did other business. I had no retainer from them and I had no salary. I transacted whatever business came to the office and sent them a bill, the same as I did to other clients.

Mr. SIMPSON. I think that is all, Mr. President.

Cross-examination:

Q. (By Mr. Manager NORRIS.) Mr. Woodward, what was the amount you contributed to this fund?-A. \$50.

Q. When Mr. Searle telephoned to you, did he name any amount?-A. I think not; I have no recollection that he did.

Q. Do you remember the amount of the other contributions that you forwarded to Mr. Searle?—A. Yes, sir.
Q. What were they?—A. Judge Wheaton \$50 and J. T. Lena-

han \$25.

Q. So you remitted \$125 to Mr. Searle?—A. Yes, sir, Q. Did you get any acknowledgment?—A. Yes, sir; I heard from Judge Archbald. I do not know where the letter was dated, but afterwards I got a letter from Judge Archbald. That was the first I knew that the names of the contributors had been disclosed to Judge Archbald. I take it there was no impropriety

Q. Have you that letter?

Mr. WORTHINGTON. Let him finish his previous answer.

A. I do not know, sir; I may have it in my office at home.

I made no search for it. I do not know whether I can find it or not.

Q. Mr. Worthington has suggested that I interrupted you in your answer. If you were not through, please finish it now.-A. I was about to say that there would have been no impropriety about the gift of the purse, or it would not have placed Judge Archbald in an embarrassing position, if the names of the contributors had not been disclosed.

Q. That, as a matter of course, those who have to pass on it will have to judge, I presume. The fact is, your name was disclosed to him?—A. I believe so; yes, sir. I did not know it until-

Q. Otherwise, you would not have been able to get an answer from him?—A. Yes, sir; I knew when I got an answer from him that the names

Q. I was asking you about that letter. Can you produce the letter that you got from Judge Archbald?—A. I said I may be able to produce it. I do not know. I will have to search through my files.

Q. Have you made any effort to get it?-A. I have not.

Q. When did Judge Archbald appoint you as jury commissioner?-A. Just after the middle district was formed.

Q. That is, when he first went on the bench?—A. Yes. He asked me if I would take the position as jury commissioner of his court. He made a rather personal matter of it, and I said that I would. He said it would not take much time, and I about, you were a contributor to the purse that was given to Judge Archbald when he went to Europe?—A. Yes, sir; I conoffice of jury commissioner an important office in the administration of justice and an office that in our counties there in Pennsylvania has been very much neglected.

Q. As a matter of fact, what was the salary connected with the office ?- A. Five dollars a day for every day employed.

Q. And about how many days in the year would you be employed to attend to the official duties?—A. I would make about fifty or sixty dollars a year.

Q. So that you did not accept it principally on account of the financial consideration?-A. No, sir.

Q. What salary did you get as railroad attorney?-A. I got

no salary at all as railroad attorney.

Q. Were you attorney for the Lehigh Valley Railroad Co. at

the time you were appointed jury commissioner?—A. I was.

The PRESIDING OFFICER. The Senator from Missouri [Mr. Reed] submits a question that will be propounded to the witness, if the manager will suspend a moment.

The Secretary read as follows:

State fully in what courts you represented the railway company.

The WITNESS. The courts of Luzerne County, Pa., and in the appellate courts of Pennsylvania, where appeals were taken from the Luzerne County courts.

The PRESIDING OFFICER. The Senator from Missouri

submits another question, as follows:

The Secretary read as follows:

Did you so represent the company during all the time you were jury commissioner?

The WITNESS. Yes, sir.

The PRESIDING OFFICER. The Senator from Iowa [Mr. KENYON] submits a question which will be propounded to the witness.

The Secretary read as follows:

Q. Did you have railroad passes while you were jury commissioner?

The Witness. Yes, sir; on the Lehigh Valley. The PRESIDING OFFICER. The manager will proceed with his examination.

Q. (By Mr. Manager NORRIS.) You had partners all the time, Mr. Woodward, did you not?—A. Yes, sir.

Q. Who were the other members of your firm?-A. At present?

Q. No; at the time of this appointment.-A. I think Judge Wheaton went on the bench in 1901 and came back to practice in 1907. While he was out of the firm I had Mr. James L. Morris and my father, Judge Woodward.

Q. Was you father connected as an attorney with any railroad company?-A. When he was in the firm of Woodward,

Darling & Woodward, he was.

Q. For what company was he attorney?-A. The Lehigh Valley Railroad Co.

Q. This same company?-A. Yes, sir.

Q. Was he their general attorney?—A. No, sir. Q. He was, like you, paid for the business that was turned over to him in accordance with the terms of employment?-When I spoke of representing the company I meant our firm represented it.

Q. Your other partner was Judge Wheaton, I believe?-A.

Q. Was he attorney for some railroad company when he was

in that firm?-A. Yes, sir.

Q. What railroad company was he attorney for?—A. The same—the Lehigh Valley Co. He was when he was a member of the firm, and he has since become the attorney for the Pennsylvania Railroad Co., since Hon. Henry W. Palmer—
Q. What other men were members of your firm?—A. Thomas

Darling.

Q. He is a member now?-A. Yes.

Q. Was he a member during the time or a portion of the time you were serving as jury commissioner?—A. Yes, sir. Q. He was a member of your firm then?—A. He was.

Q. Did he represent any railroad company?-A. Only as a member of the firm.

Q. I suppose, yes; as attorney.—A. As I said, the firm represented the Lehigh Valley Railroad Co.

Q. Did he represent any other railroad company?-A. I think

Q. In the actual trial of the cases, when you say you only had two cases, do you mean the firm only had two?—A. Yes; I think that was all the firm had.

Q. But you were not the general attorney, you say?-A. No, sir.

Q. It was your business to try any lawsuits that occurred in Luzerne County?—A. Yes, sir.

Q. And when they went up to any other court you followed them, did you?-A. In our appeal courts in the State of Pennsylvania; yes, sir.

Q. Clear through to the supreme court, if they went that far?-A. Yes, sir.

Q. If they went into the Federal court, did you follow them there?-A. I suppose I would have done so. I never knew one to go into a Federal court; that is, if they had started in Luzerne County, I suppose I would have followed them into the Federal court.

Q. This judicial district consisted of 32 counties, did it not?-

A. I believe so.

Q. This Lehigh Valley Railroad had branches and lines in practically all of those counties?—A. No, sir. Q. Well, in a large portion of them?—A. No, sir.

Q. Well, how many of them?—A. Luzerne, Bradford, Susquehanna, Carbon. Those are all I can think of.

Q. How many was that?—A. Carbon, Luzerne, Susquehanna, Bradford, and possibly some others. Those are all I can think of now.

Q. As a matter of fact, in every one of those counties the Lehigh Valley Railroad had a local attorney?-A. Yes, sir.

Q. The same as they had in Luzerne County, where you repre-

sented them, did they not?-A. Yes, sir.

Q. Tell us again what was that book from which you selected the names?-A. It was a book in which was entered from these lists the name, address, and occupation of the juror. Then there was a perforated slip on the other side containing the name and the number; the number also in this stub.

Q. Did you use that list exclusively in selecting lawyers'

names to make inquiry about the jurymen?—A. That lawyers list I spoke of, that book?

Q. Yes.—A. Yes; I think so. There may have been one or two counties where I had personal acquaintance with some

Q. I was speaking of the lawyers list .-- A. Yes, sir.

Q. That you used in selecting a lawyer to whom to write to give you a list of jurors?—A. I understand.

Q. Is it not true, Mr. Woodward, that in most of these counties you were personally acquainted with the members of the bar?-A. No. sir.

Q. Were you personally acquainted with the members of the bar in Susquehanna County, for instance?-A. No, sir. I knew a few, one or two, two or three, perhaps.

Q. And in Bradford County?-A. I know possibly three or

four in Bradford County.

Q. And in Carbon County?-A. In Carbon I know two or three.

Q. As a matter of fact, you knew the name of the railroad attorney of this company in every one of the counties where it had a railroad attorney, did you not?—A. Yes; I think I did.
The PRESIDING OFFICER. The Senator from South Da-

kota [Mr. Chawford] submits a question which will be propounded the witness.

The Secretary read as follows:

Q. During the time that you were jury commissioner did the law firm of which you were a member act as counsel for mining or railway or other corporations which had or were likely to have cases pending in the Federal court of that district?

The WITNESS. No, sir. The corporations that I represented were Pennsylvania corporations. They very seldom got into the United States court, because the suits we had to do with largely were by citizens of Pennsylvania, and there was no diversity of citizenship.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. HITCHCOCK] wishes to propound a question which the

Secretary will read. The Secretary read as follows:

How many cases involving the Lehigh Valley Co. were pending or to be tried by jury during the time you selected the jurors?

The WITNESS. As I say, there was none for the Lehigh Valley Co. that our office had anything to do with. One that concerned the Lehigh Valley Coal Co. I understand there were two or three other cases during that time in the United States court which the counsel in Scranton had charge of that I knew nothing about. I never heard of them at all.

Q. (By Mr. Manager NORRIS.) As a matter of fact, though, in those cases with which you had nothing to do as attorney, you had selected the list or one-half the list from which the jury had been picked?—A. Yes; all the jurors—
Q. You selected one-half the names?—A. I did not select the

names for the jury. I put the names in the wheel.

Q. That is what I mean, you selected one-half the names that were put in the wheel?—A. Yes, sir.

Q. For all juries that were drawn anywhere in Judge Archbald's court?—A. Yes, sir.

Q. And it would have been impossible to have had a name on the regular panel unless either you or the clerk had selected that name. Is not that true?—A. That is correct.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. Gallinger] wishes to propound a question.

The Secretary read as follows:

Q. In calling on attorneys for lists of names did you select railroad attorneys in preference to others?

The WITNESS. No, sir; I had no knowledge whether they were railroad attorneys or not. I had no acquaintance with them and did not know what kind of attorneys they were except they appeared in this list.

Q. (By Mr. Manager NORRIS.) You did know the railroad attorneys in these four counties?—A. Yes; I did.

Q. So, in selecting attorneys there you did know whether they were railroad attorneys or not?-A. I do not know that I selected attorneys that were railroad attorneys. I do not remember.

Q. You do not remember as to that?-A. No, sir. I think I

got their names also from this list.

The PRESIDING OFFICER. The Senator from Iowa [Mr. KENYON] propounds the following question.

The Secretary read as follows:

A. Was the claim agent of the Eric Railroad or of the Lehigh Valley Railroad, or any of their assistants, intimate friends of yours during the time you were jury commissioner?

The Witness. No, sir. I do not know who they were.

Q. (By Mr. Manager NORRIS.) Mr. Woodward, can you furnish us with the names of attorneys to whom you wrote in these different counties for, let us say, the last five years?-A. I think I can. I am not sure.

Q. Have you the list with you?-A. No, sir. I can furnish you a list of the names that were put in the jury wheel. turned them over to my successor. I can get them for you.

Q. That is the list of the names of the men that were put

in the wheel?-A. Yes. Q. I do not care for that. I am inquiring about the names

of the men-A. I understand.

Q. To whom you wrote to get these lists.-A. I am not sure. I think, though, that I probably have copies or that they will appear on the address book, perhaps. I am not sure about that. I would have to look it up.

Q. Can you give us the name of any lawyer in Susquehanna County to whom you wrote to get a list of names?-A. No, sir;

I can not.

Q. Can you give us the name of a lawyer in Bradford County?-A. No, sir. I think I wrote to the judge in Bradford County. I am not sure.

Q. You wrote a good many different times to that county,

did you not?-A. Yes.

Q. How many years were you performing this duty?—A. From 1901 until Judge Archbald went off the bench. I think that was in 1910.

Q. You did not get any pay even for writing these letters and getting these names?—A. That was included in the \$5 a day.

Q. Writing these letters was a part of the time and you

were working for \$5 a day?—A. Yes, sir.

Mr. Manager NORRIS. I think that is all, Mr. President.

The PRESIDING OFFICER. The Senator from Missouri
[Mr. Reed] presents the following question, which will be propounded to the witness.

The Secretary read as follows:

Q. Do you want it to be understood that you discharged your duties as jury commissioner by permitting lawyers about whom you knew nothing except that you found their names printed in a lawyers' list to make the selections for you?

The WITNESS. Yes; that is a fact.

Mr. REED. Here is one more question, Mr. President. The PRESIDING OFFICER. The Senator from Missouri presents a further question to be propounded to the witness.

The Secretary read as follows:

Q. What guarantee, then, did you have that those who made the selection were men of character or that they had selected good men for jurors?

The WITNESS. Only the guarantee of this lawyers' list, which war formerly gotten out by the firm of Potter, Hughes & Dwight, of New York, who got it out purely as a list of responsible lawyers. As I understood, they got nothing for making the list or distributing it. Afterwards Potter, Hughes & Dwight severed their connection with it, or gave it up, and it was continued as this lawyers' list, and then I think we paid \$25 a year for it. We have several lawyers' lists in the office, but that was the most reliable and the best lawyers' list, the list on which the most reputable lawyers' names appeared.

Redirect examination:
Q. (By Mr. SIMPSON.) Mr. Woodward, you were asked whether or not the salary of this office was the principal reason for your accepting it and you told us no. Tell us, please,

what was the principal reason for your accepting it .- A. Well, it was Judge Archbald asking me in a way, he put it on personal grounds. That was one of the reasons. Another reason was he said it would not take much time, and I was willing to give that much time to the service.

Q. What service do you mean?—A. The service of getting good jurors for the United States.

Q. So far as you can now recall, did you ever send to get any names of jurors from any of the local counsel for the Lehigh Valley Railroad in the other counties?—A. I may have; I do not recall now; but I think I got their names from this lawyers' list, as well as the other names, except possibly where I would get the names from the judges.

Q. Tell us, please, whether during all the time you were jury commissioner there were ever any complaints made of the

jurors thus selected .- A. I never heard of any.

Q. Did you know at the time you made the contribution to the purse that was given to Judge Archbald when he went to Europe that the names of the contributors were to be disclosed?-A. I did not.

Recross-examination.

Q. (By Mr. Manager NORRIS.) Do you know they were not going to be disclosed?—A. No, sir; I did not know.

Q. You did not have any idea on that subject?-A. No, sir. Q. You had received no information along that line?—A. No, sir.

Mr. Manager NORRIS. That is all.

Mr. SIMPSON. That is all. The witness may be discharged so far as we are concerned.

Mr. Manager CLAYTON. We do not desire him further. The PRESIDING OFFICER. The witness may be discharged

TESTIMONY OF J. B. DIMMICK.

J. B. Dimmick appeared and having been duly sworn was examined and testified as follows:

Q. (By Mr. SIMPSON.) What is your business, Mr. Dimmick?-A. I am in banking and manufacturing.

Q. Were you a member of the bar?-A. I was, and I am.

Q. How long has it been since you practiced at the bar at all?-A. It must be fully 25 years.

Q. You were in what official capacity in the city of Scranton?—A. I was mayor for three years.

Q. Elected on the reform ticket, I think?—A. Assuming that is synonymous with the Republican ticket, yes.
Q. Do you know Judge Archbald?—A. I have known him ever since I resided in Scranton.

Q. Did you and he go to the same college?—A. We did. Q. What college was it?—A. Yale University.

Q. What was your relation to him outside of that ?- A. I have been a personal friend of Judge Archbald and have known him

intimately for fully 30 or 32 years.

Q. Did you contribute to the purse which was given to him at the time he went to Europe?—A. I did, believing that the motives behind it were purely personal rather than professional, and that belief was confirmed by the fact that I was included in the list, although I was not and had not been for many years practicing at the bar.

Q. At whose request did you make the contribution?-A. I

think it was Mr. Searle.

Q. What was the amount that you contributed?—A. I am a little uncertain about that, but I think it was \$50.

Q. Did you know whether or not the names of the contributors were to be disclosed to him at the time you made your contribution?-A. I did not.

Q. Did you get an acknowledgment from him afterwards? \rightarrow A. I did.

Q. Written from where?-A. Written from the steamer.

Q. That was therefore some time after he had sailed?-A. I did not receive it for some weeks, because I was abroad my-We were not in touch, but it came to me and was forwarded to me.

Mr. SIMPSON. That is all, sir, on our part.

Cross-examination:

Curtain Co.

Q. (By Mr. Manager NORRIS.) You live in Scranton, Mr. Dimmick ?- A. I do, sir.

Q. How long did you practice law there?-A. Not over two or three years.

Q. What business are you engaged in now?-A. I am president of a trust company.

Q. It is a banking institution?-A. A banking institution. Q. And doing business in Scranton?-A. Doing business in

I am president of a manufacturing company. Q. What manufacturing company?-A. The Scranton Lace &

Q. Doing business now in Scranton?—A. Yes, sir. Q. You have been in that business and in the trust company ever since you retired from active practice?-A. Not at all. I retired from active practice owing to poor health. I lived abroad for about five years. Recovering it, when I came back I felt that I had lost too much time to compete with my competitors, so I drifted into affairs by degrees. I have been in the manufacturing business about 15 years.

Q. You have known Judge Archbald for many years?—A. Yes;

since before I came to Scranton, which was 29 years ago.
Q. How much was your contribution to this fund?—A. To the

best of my recollection it was \$50.

Q. How did you happen to subscribe to it?-A. I was asked to join in the purse on the part of Judge Archbald's intimate friends, to be given to him in lieu of other steamer gifts. If I had not, I presume I probably would have sent him some fruit; I could not have sent him cigars, but something in that nature.

Q. Who made that request of you?-A. I think it was Mr.

Q. Did anybody else make a request of that kind of you?-A.

I do not recall.

Q. Did you attend a meeting of men for the purpose of deciding what should be done?-A. I was communicated with either by letter or over the telephone personally.

Q. By Mr. Searle?—A. That is my recollection.

Q. Now, tell us what Mr. Searle said to you.—A. To the best of my recollection, he said that some of Judge Archbald's intimate friends were proposing to get up a purse to give to him upon this theory and upon this fact, that he had been asked to make a visit by a relative of his wife, Mr. Cannon, in Florence. It was known among Judge Archbald's intimate friends that he had never been abroad. I myself had frequently urged their going, even to taking the trouble of showing them how it could be done economically.

Q. I asked you about the communication from Mr. Searle, and you are telling what you said .-- A. His communication, to go back, was to the effect that his intimate friends intended to raise a purse that would help him-permit of his traveling in

addition to his visit at Florence.

Q. Now, you knew at that time that Mr. Cannon was furnishing the money for him to make this tripedid you?-A. Oh, no; I did not know.

Q. You did not know anything about it?—A. No, sir. Q. Then were you mistaken just a moment ago in your description of what Mr. Searle had told you?—A. I said he was asked to make this visit to Mr. Cannon. I did not know at the time that Mr. Cannon urged it. I do not know that he paid his way over.

Q. Did Mr. Searle tell you how much he wanted you to pay?—A. I do not recollect whether he did.

Q. Then you understood when you contributed this amount that it was to be a cash contribution and to be turned over to

the judge in cash?-A. I did.

Q. There was nothing said to you about raising this money for the purpose of getting a dinner for the judge, was there?—
A. What do you mean about getting a dinner? I do not quite understand.

Q. Paying the expense of a dinner in his honor?-A. There

is nothing I recall of that nature.

Mr. Manager NORRIS. That is all.
Mr. SIMPSON. That is all. The witness may be discharged so far as the respondent is concerned.

The PRESIDING OFFICER. The witness is discharged.

TESTIMONY OF J. BUTLER WOODWARD-BECALLED,

J. Butler Woodward, having been recalled, testified further, as follows

Q. (By Mr. Manager NORRIS.) Mr. Woodward, I wanted to ask you to tell us, if you know, what Mr. Searle said when he asked you to make this contribution to the judge?—A. I can not-

Q. Just wait a moment, please. I wish to know if he said anything as to the purpose of the contribution?-A. Yes, sir; he said that Judge Archbald was going abroad and they were making up a purse for him.

Q. Did he say anything about giving a dinner or banquet in the judge's honor?—A. No; I think not. It was short. Q. You understood that this money was to be contributed in

cash to the judge, did you?—A. Yes, sir; in the form of a purse.
Mr. Manager NORRIS. That is all.
Mr. SIMPSON. That is all.
The WITNESS. I would like to qualify the answer that I made

to the question whether it was possible to fill the wheel with jurors who were affiliated with railroads or favorable to them. I said yes; it was possible. It would be quite difficult and take a lot of time and be complicated, but I suppose it could be done. I think it was possible.

TESTIMONY OF THOMAS DARLING.

Thomas Darling appeared, and having been duly sworn was examined and testified as follows:

Q. (By Mr. SIMPSON.) What is your business or profession,

Mr. Darling?-A. Lawyer.

Q. Where do you reside?-A. Wilkes-Barre, Pa.

Q. Do you remember receiving a letter from Judge Archbald August 3, 1911, introducing Mr. Edward J. Williams to you?—
A. I believe it was at that date; yes, sir. I gave the letter to the Judiciary Committee and presume they have it.

Q. I show you, Mr. Darling, Exhibit No. 9 [presenting paper] in this proceeding. Is that the letter you received?—A. (Ex-

amining.) That is the letter; yes, sir.

Q. This letter, I notice, introduces Mr. Williams to you, who wishes to talk with you about a culm dump which you control. What culm dump was that?-A. That was the culm dump known as the Diamond dump, situated on the lands of the Hollenback Coal Co.

Q. Had any railroad company any connection whatsoever

with that dump?-A. Not that I know of.

Q. What relation had you to the Hollenback Coal Co.?-A. I was attorney for the company, and also the secretary of the company.

Q. And had been for how long?—A. About 20 years. Q. When Mr. Williams presented that letter to you, what occurred?-A. He wanted to lease that bank. It was quite a valuable bank, containing between two hundred and fifty and five hundred thousand tons of good coal. I told him that I could not do anything with him, because we had already leased the bank.

Q. How long preceding this time had you leased it?-A. I

think it was about two years.
Q. Did you have any communication with Judge Archbald in relation to any other culm banks at any time?-A. None what-

Q. Did you have any communication from Judge Archbald in relation to this matter after the one that is referred to?-A. Not that I recall.

Q. How long have you known the judge?-A. About 25 years;

perhaps more.

Q. In what way had you known him?-A. I knew him slightly at college, met him at our reunions since, and I have been entertained at his house in Scranton on one or two occasions. I think that is the extent.

Q. You mean that you were students in the same college?—A. Yes.

Q. In what college?—A. Yale.

Q. Is he older or younger than you?—A. He is a little bit older; not very much, I guess.

Q. Did you ever have any cases to try before him as judge?— A. I never had a case before him.

Q. Tell me, please, whether or not there was any lawsuit over this Hollenback culm dump in order to determine its title?—A. Yes, sir.
Q. With what person or company was it?—A. The Lehigh

Wilkes-Barre Coal Co.

Q. And that is connected with what railroad?-A. The Read-

ing and the Jersey Central.

Q. The result of that litigation was what?—A. To establish the title of the culm dump. There was some question as to whether it belonged to the lessor, Hollenback, or the lessee, the Wilkes-Barre Coal Co.

Q. The decision was what?-A. In our favor.

Q. In favor of the Hollenback Coal Co.?-A. In favor of the

Hollenback Coal Co.

Q. How long a time before you got this letter of August 3. 1911, was it that you had that litigation over the bank?-A. It must have been at least three or four years, because the date of that letter.

Mr. SIMPSON. I think that is all, sir. lease of the bank was made at least two years prior to the

The PRESIDING OFFICER. The witness is with the

Cross-examination:

(By Mr. Manager WEBB.) What railroad are you counsel for?-A. The Lehigh Valley is the only road I am counsel for.

Q. The firm is Wheaton, Darling & Woodward?-A. Yes, sir; Wheaton, Darling & Woodward.
Q. How long have you represented the railroad?—A. Twenty-

four or twenty-five years. I do not recall exactly.

Q. You were the counsel for the Hollenback estate?-A. I was counsel for the Hollenback Coal Co., not the Hollenback

Q. Was that the Diamond dump that Mr. Williams brought you a letter from the judge about?-A. I presume so; although

I can not swear to that, because I do not remember the dump he had in mind. But I presume that was the one he had in mind, as several people had been after it.

Q. Had you leased it to John W. Peale theretofore?-A. Yes.

Q. I presume that is the one. Did you ever have any correspondence with the judge later or before that time about the Hollenback estate or coal dump we speak of?-A. No correspondence or conversation.

Q. Nor conversation?-A. No, sir.

Q. Is this Exhibit 9 the only letter you ever received from

him?-A. How is that?

Q. Exhibit 9, which has just been referred to, is the only letter you ever received from the judge about a culm dump?-A. I think it is the only letter I have ever received from the judge.

Q. This is dated Scranton, August 3. Was that 1911?-A. I

do not recall. I presume so.

Mr. SIMPSON. Other evidence in the case shows it, Mr.

Q. (By Mr. Manager WEBB.) I will ask you if you did not receive this letter from the judge also [producing paper]?—

A. (Examining.) Yes.
Q. It is in the judge's handwriting?—A. Yes; I received that letter also. I was mistaken. There were two letters I received.

Q. You received two, then, about the culm dump?—A. I do not know whether that is about the culm dump or not. Let me see it again, please. This letter is asking a reference to the case which I had argued in the Supreme Court, but it has nothing to do with the culm pile whatever, any more than that.

Q. "Washington, February 27." What year was that?—A.

I do not recall.

Q. You do not know how long ago it has been since you received that letter?—A. It was after the first letter, according to my recollection.

Mr. Manager WEBB. Will you read that letter, Mr. Secre-

tary?

The PRESIDING OFFICER. The letter will be read. The Secretary read as follows:

[U. S. S. Exhibit 95.]

UNITED STATES COMMERCE COURT, Washington, February 27.

My Dear Darling: I failed to get the other day the reference to the Hollenback culm dump case which I intended. Please send me at Scranton a memorandum of where it is to be found in the reports, at your leisure. I am here for a day's court and a couple of days of consultation, and shall be back at home by the end of the week.

Very truly, yours,

R. W. ARCHBALD.

Q. (By Mr. Manager WEBB.) He speaks of a conference or a conversation with you a few days prior to the writing of that letter. Was that about a culm dump?—A. No; it was about this lawsuit I had had.

Q. Why did the judge want to know anything about this law-suit with reference to the Hollenback culm dump?—A. I really

do not know what he did want.

Q. You do not know?—A. I have not the slightest idea. My idea was that he had it in mind as bearing on some other lawsuit he probably had in his hands. That would be natural and

Q. A lawsuit before his court?—A. I do not remember whether he had been appointed to the Commerce Court at that time or

not.

Q. Exhibit 9 is dated August 3, 1911?—A. Yes.
Q. Exhibit 85 in the Senate here you say was written after August, 1911. So he is bound to have been on the Commerce Court bench at the time?-A. He probably wanted it in that connection.

Mr. WORTHINGTON. I submit that the witness ought not

to be asked to guess.

The Witness. It is the only thing I can do, to guess.

Mr. Manager WEBB. I did not want to stop him from guessing. [To the witness.] You do not know why he wanted to know about the Hollenback culm dump and the reference in the case?-A. I do not.

Mr. Manager WEBB. I think that is all we want to ask this

witness.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF GEORGE RUSSELL.

George Russell, having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Russell, you were connected with the Honduras Mining Co.?—A. I had some connection with a

Honduras mining company.
Q. And there was a subconcession which was held by Mr. Rissinger and those connected with him?-A. A sublease which was under a concession.

Q. It was testified that there was a visit made to Scranton, Pa., by you in relation to that matter. Do you remember that

visit?—A. I do.
Q. Will you tell us, please, what the date of that visit was?—A. Probably about the middle of September, 1908, or possibly

before that-

That is, during the month of September, but about the middle and possibly before?—A. Or a little before; in the month

of September, 1908.
Q. That is all we wished to ask—just simply to fix the date. How do you fix the date?-A. By receipt of a check from Mr. Rissinger on account of his investment in this mining conces-

sion which I received on September 28, 1908.

Q. Was there anything said about that time in relation to Judge Archbald taking an interest in this Honduras scheme?-A. I did not gather from the conversation that he had deter-

mined to go into the matter.

Mr. SIMPSON. That is all, sir. Cross-examination:

Q. (By Mr. Manager STERLING.) How long had you known

Mr. Rissinger?—A. Several years.

Q. And he was connected with you in this gold-mining scheme down in Honduras?—A. He was not. A friend of mine pro-cured a concession in Honduras and brought it to my office in New York. I introduced him to Mr. Rissinger, who happened about that time to call on me on some business.

Q. Well, were you connected with the enterprise?-A. I was

about to become connected with it.

Q. You went to Scranton, Pa., at the request of Rissinger, did you not?—A. I do not recall whether I went at the request of Mr. Rissinger or of Mr. Hamilton, the friend of mine who brought the business to me, and who had been negotiating with Mr. Rissinger.

Q. But you saw Rissinger there?—A. I saw him there. Q. You had never met Judge Archbald before that, had you?— A. Never.

Q. And you were in Scranton on this matter of the Honduras gold mine, were you not?—A. I think at that time that was the matter I was there on.

Q. You had no other business there at that time?-A. Not that I recall.

Q. And Mr. Rissinger took you to Judge Archbald?—A. Yes. Q. And introduced you?—A. He did. Q. You think that was in September?—A. I know it was in September.

Q. How do you fix the date?-A. By the receipt of the check from Mr. Rissinger.

Q. Did Rissinger give you a check at that time?-A. He sent me a check which I received on September 28.

Q. On September 28 of what year?—A. 1908. Q. For how much?—A. For \$2,000.

Q. Do you know where he got that money?-A. No, sir.

Q. Do you not know that he never got that money until the 12th day of December, when he cashed Archbald's note?-A. No. sir; I know nothing about it.

Q. Where is the check?-A. The check went back to him in

Q. Have you got any entries in your books in regard to the transaction?-A. I have got the check book here. Q. Have you any entries there?-A. I have, but you will have

to excuse me while I go and get the book.

Q. Did you enter the receipt of this \$2,000 in any book?-A. In my check book as a deposit.

Q. Well, does that show the date of the deposit of the check from Rissinger?—A. Yes.

Q. Let us see it.

Mr. SIMPSON (to the witness). Where is the check book?—A. It is in one of the rooms out here.

Mr. SIMPSON. I presume, Mr. President, we can excuse the witness for a moment to go and get the check book.

(The witness retired from the Chamber and returned with a check book.)

Q. (By Mr. Manager STERLING.) Now, you have there the stubs of what you were using at that time as a check book?—A. Yes, sir.
Q. How did you come to enter this receipt of the \$2,000 on

the stub of your check book?-A. I deposited it as cash through my bank account.

Q. How?-A. It was deposited by me as cash through my bank account.

Q. You mean that your book simply shows that you deposited it in your bank?—A. Yes, sir.
Q. Did you not simply deposit the check you got from Rissinger in the bank?—A. That is what I spoke of.

Q. How did that appear on the stubs of your check book?-A. Because the money passed through my hands.

Q. Did you draw a check on it?-A. I drew checks on my bank account when disbursing that money later on.

Q. So what you have got there, then, is where you paid the money out?—A. Where I received the money and subsequently

paid it out.

Q. (After examining the check book.) Mr. Russell, have you got memoranda on the back of your check stubs of any other entries where you had received money, except the Rissinger entry?-A. Nothing except that of Rissinger and that of Mr. Day, of Paterson, in this same matter.

Q. Do you say that Rissinger gave you a check for \$2,000 when you were at Scranton?-A. No; he mailed it to me to

my office at New York.

Q. How does that fix the time when you were up there, then?-A. Because it was before that about 10 days to two weeks.

Q. You are, then, fixing it by comparison?—A. Yes.

Q. You received a number of checks from Rissinger sending you money, did you not?-A. Yes.

Q. And this one that you have on that particular stub is dated September what?—A. September 28, 1908.

Q. You received another check from him in October, did you not?-A. Yes, sir.

Q. October 24, did you not?—A. On October 24; yes. Q. That was for a thousand dollars?—A. For a thousand dollars; yes.

Q. And you received another check from him in December ?-A. On October 26.

Q. That was for a thousand dollars?-A. That was for \$500. Q. When did you receive the next check from Rissinger?—A. That was the last.

Q. What is the date?—A. It was October 26, 1908.

Q. Might you not have received checks from him later than that and not have a memorandum of them?-A. No, sir.

Q. Did you not receive a check from him after the 12th of

December for \$2,000?—A. No, sir.
Q. There is no pretense, then, that this check for \$2,000 in September was the Archbald money or the money realized on the Archbald note, is there?—A. I had no idea where it came from, except it came from Mr. Rissinger.
Q. You did not know whether it came from that note or

whether it came from other stockholders?-A. I knew of no

note.

- Q. You did not know whether it came from any transaction with Judge Archbald or whether it came from money paid in by other stockholders?-A. No, sir. I only knew Mr. Rissinger in the case.
- Q. Do you say now, as a matter of memory, that you never did receive a check from Rissinger in December?-A. I have no record of it. I am not depending on my memory; I am going on my record, and I have no record of it.

Q. Now, the record you have there is simply memoranda written on the back of your check stubs, is it not?—A. Yes, sir.

- Q. Have you entered in the back of those check stubs all the receipts of money you got during the time you were using that book?-A. Yes; I have.
- Q. Can you point to a single memorandum there that indicates where the money came from except in the case of Rissinger's money?-A. Yes, sir; November, 1908, proceeds of Hutchins Panama draft, \$125.

Q. Well, that is one. Turn to some more .- A. T. M. H. loan,

\$75.

Q. That is two.-A. Frederick Neuberger and H. S. Day, \$500 each.

Q. That is four; there are two in that memorandum.-A. Fidelity Casualty Co., \$650; same, \$100; Western Union Telegraph Co. refund, 40 cents; draft on Panama, \$200-

Q. Does your memorandum show who that came from?-Which?

Q. The item you just read.—A. Yes, sir. It is Mr. Hutchins's draft on Panama. Hutchins is the man on whom I drew it.
Q. Go ahead.—A. B. B. Co. tolls—I do not recall what B. B.

Co. stands for-\$33.50

- Q. You do not know what that means?—A. No, sir. J. D. Elwell, \$100, January 5, 1909; T. M. Hamilton, Honduras settlement, \$825; deposit, \$750.
- Q. What is the date of that?-A. January 15, 1909. vanced on Honduras agreement by J. D. Elwell Co., January 19, 1909, \$500.
- Q. Run it down to the end of January.—A. February 26, 1909, W. W. Rissinger, \$42.90. That was for professional services.
 Q. That was from Rissinger?—A. For professional services.
- Q. What kind of professional services?-A. I am a public accountant.
- Q. That was paid to you for work you had done?-A. Yes, sir.
- That is far enough. Now, let us see what these other get the thing clear.

memoranda indicate. Here is \$1,200 .- A. That is the balance carried forward.

Q. Some of these figures are on the back of thir memoranda. What do they indicate-receipts of money?-A. Nc; that is the balance, and here is the total [indicating].

Q. Do any of the items on the back of these stubs where there is no name mentioned indicate the receipt of money?-

A. No, sir.
Q. Do the items that you have read show all the money that you received from September down to the last of February?-A. Yes, sir.

Q. All the money that you took in?-A. Yes, sir.

Q. And you say you did not get any from Rissinger after the 12th of December?-A. I did not.

Q. Well, do you know whether any of the money that you got

was money from Archbald?-A. No, sir.

Q. Or whether it was to pay for stock which Judge Archbald took?—A. I knew nobody but W. W. Rissinger in the matter at all.

Q. You know who the subscribers were?-A. No, sir.

- Q. None of them at all?—A. I knew nothing about them
- forming a company of their own. About that I knew nothing.

 Q. You talked with Judge Archbald about this matter when you were up there?—A. I talked with Judge Archbald once or twice in Scranton.

Q. Was Rissinger there then?—A. Yes, sir. Q. And you explained to him the purpose of this organiza--A. Of which organization?

Q. That they were getting up there to mine gold down in Honduras?—A. That Mr. Rissinger was getting up? I did not know anything about it.

Q. Where did you suppose this money was coming from?—A. I did not have an idea, but I supposed it was coming from Mr.

Rissinger. Rissinger, to my knowledge, had means.
Q. Did you know that he was organizing a corporation there?—A. I did not.

Q. He never told you about that?-A. I knew later on. I

never knew when this first payment was made.

Q. But when you were with Rissinger in Judge Archbald's office you talked about the organization of a local corporation, did you not?-A. No, sir; not when I was there. We talked about the character of the concession and passed on the validity of it. It was an old concession, and this friend of mine had made a lease under that concession, and I questioned whether it was of any value or not.

Q. Did you tell Judge Archbald you questioned whether it

was of any value?-A. We discussed it over very freely.

Q. And still you took money for the stock that was being sold?-A. We had a lease from the owners of the concession, and we considered it perfectly good after investigating it.

Q. You and Rissinger explained to the judge that this was a

placer gold-mining claim, did you not?-A. Yes, sir.

Q. And you told him and Rissinger told him that they mined gold down there just as they gleaned coal out of the coal dumps in Pennsylvania, did you not?-A. I did not; I did not know anything about it myself.

Q. Did not Mr. Rissinger tell him that they mined that gold down there just as they got the coal out of coal dumps in Penn-

sylvania?—A. Not in my hearing.
Q. He did not tell you that in your hearing?—A. No. Mr. Manager STERLING. I believe that is all.

Redirect examination:

- Q. (By Mr. SIMPSON.) Mr. Russell, in order to get it clear upon the record, on the check-stub side of your checkbook you put the checks that you have drawn, for what purpose they were drawn, the name of the payee, and the amount?-A. Yes, sir.
- Q. On the other side you put in the deposits, the date of the deposit, the person from whom received, and the amount?—A. Yes, sir.

Q. Then, before you turn over to the next page, you add up the checks and deduct them from the amount of money that is

supposed to be in the bank?-A. Exactly.

Q. Then you carry over that balance to the next page and repeat that, page after page, throughout the book?-A. Yes, sir; on each page.

Q. That is what that book shows that we have seen here?-

A. Yes, sir.

Q. As I understand your statement, you fix the interview that was had with Judge Archbald at a time before the first payment which was made by Mr. Rissinger?—A. Before I received any money.

Mr. Manager STERLING. We object. He proved all of that in the first instance.

Mr. SIMPSON. I am not going to repeat it, but I want to

Q. (By Mr. SIMPSON.) Mr. Sterling has asked you whether or not the money which was paid was paid for stock. Was there any stock which Mr. Rissinger or his friends were buying from the principal company or was it the concession which they bought?—A. No, sir; it was for a lease of a part of the property which this party who brought it to me owned.

Q. That lease was from whom to whom?—A. From the lessee

of the original concessionaire to Mr. Rissinger.

Q. And the moneys which were paid were in payment of that lease?-A. On account of that lease.

Mr. WORTHINGTON. Call Mr. Belin, please.

TESTIMONY OF FRANK L. BELIN.

Frank L. Belin, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Where do you live?-A. Scranton, Pa.

Q. What is your business?—A. I am in the explosives business. Q. With what corporation or concern?—A. The Du Pont Powder Co. of Pennsylvania.

What is your position with that company, Mr. Belin?-

Vice president.

Q. Were you connected with that company in 1908?-A. I

Q. In the same position?—A. I was the assistant to the president at that time.

Q. Can you give us any information about the attempted or projected purchase by that company of the Katydid culm dump near Moosic, Pa.?-A. Late in the fall of 1908 or early in 1909, I am not sure which, we entered into negotiations with Mr. Robertson for the purchase of thus dump, and it was offered to us for \$10,000. We were expecting to build a plant, in fact had started to build a plant, near this dump, and we thought We were expecting to build a plant, in fact we would build a power plant there and use the culm from the Katydid culm bank for fuel, and we had it examined by experts

and they did not think—

Mr. Manager STERLING. We object.

The PRESIDING OFFICER. The witness can state what action he took upon information given.

Mr. WORTHINGTON. He said an examination had been made by an expert, and the expert will be the next witness. We do not ask this witness to tell what the expert did.

The WITNESS. Partly on the recommendations of the expert we declined to purchase this Katydid dump.

Q. (By Mr. WORTHINGTON.) Who was the expert?—A. Mr. Saums, of Wilkes-Barre.

O. Wore you advised at that time that the Hillside Coal &

Q. Were you advised at that time that the Hillside Coal & Iron Co. had some interest in this bank?-A. I had a vague idea that they were somewhat interested, but to what extent I did not know.

Q. Did you understand that they were to be compensated?-

A. I believe they were to be paid for royalties.
Q. Out of the \$10,000?—A. Out of the \$10,000.

Q. Why did you not buy?-A. As I say, partly on the recommendation of Mr. Saums.

Q. On what other ground?-A. And partly because we found we could make a better proposition by buying our power from the Scranton Electric Co.

Q. Did you have any dealings direct with the Hillside Coal & Iron Co.?-A. None whatever.

Q. Only through Mr. Robertson?—A. That is all. Mr. WORTHINGTON. That is all, Mr. President.

Cross-examination:

Q. (By Mr. Manager STERLING.) Your company decided afterwards that you would not buy your own fuel, but you would just buy the power you needed?—A. Yes.

Q. Where was your factory?—A. Near Moosic.
Q. Near this dump?—A. Within about half a mile of it.
Q. So instead of buying the coal that was in this dump you bought your power from some power plant that was at Moosic?-A. No. At Scranton.

Mr. Manager STERLING. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) Was that done after you got the report of your expert?—A. Yes.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF HEZEKIAH W. SAUMS.

Hezekiah W. Saums, being duly sworn, was examined and testified as follows

Q. (By Mr. WORTHINGTON.) What is your full name?-A. Hezekiah W. Saums.

Q. Where do you live?—A. Wilkes-Barre, Pa.

Q. What is your business?-A. Coal business-the coal wash-

ery business.

Q. Do you mean by that that you operate washeries, or

Q. How long have you been engaged in the coal-washery business?—A. Between 11 and 12 years.

Q. That involves washing coal dumps, I suppose?-A. Yes, sir. Q. Did you at any time make an examination of what we call here the Katydid culm dump near Moosic, Pa.?-A. Yes, I did; about four years ago.

Q. At whose instance?-A. For Mr. Belin, for F. L. Belin, of

Scranton.

Q. Did you make a written report?-A. I did.

Q. Have you that report or a copy of it with you?-A. I have I have the estimate of the tonnage; but my letter to him, the last letter I wrote to him, I did not find.

Q. Have you a copy of it?-A. No. I have not a copy of the

letter.

Q. Did you make more than one report?—A. Yes, sir; I did. Q. Why were there two?—A. He first called me up by telephone and asked me to look over the Katydid culm dump and give an approximate idea as to the value of the coal there. I reported. Later on he called me up again and asked me if I would not have a survey made of it and test the bank out and report more accurately, which I did.

Q. How far apart were the two investigations you made?—
A. It was some time in February when I made the first examination, and the second was made on the 1st of March, 1909.
Q. They were both in 1909, were they?—A. Yes, sir.

Q. Tell us what conclusion you reached from your first visit.—A. Why, I——
Mr. Manager STERLING. Mr. President, I think we should have here the copy of the report which he submitted to these people.

Mr. WORTHINGTON. If you have anything in the way of

reports, I want it.

The WITNESS. Yes, sir; I have a copy of my first report.

Mr. Manager STERLING. We are entitled to see it. Q. (By Mr. WORTHINGTON.) Is the paper you are holding your final or second report, or a copy of it?-A. It is my first report.

Q. This is your first report?—A. Yes, sir [witness producing paper].

Mr. WORTHINGTON. The paper is dated February 12, 1909. would like to have that read in evidence, gentlemen.

Mr. Manager STERLING. Let us see the other report now. Mr. WORTHINGTON. I offer this first and ask to have it

Mr. Manager STERLING. We object.
The PRESIDING OFFICER. What is the objection?
Mr. Manager STERLING. My objection is this: In the first place, the witness has not qualified. He has not said that he is a mining engineer. In the second place, he makes that estimate not from any test, but simply from looking over the dump; and he says that he has a report which he made on a thorough examination, which I think we are entitled to see before any of this is admitted in evidence.

Mr. WORTHINGTON. It does not appear, Mr. President, that Judge Archbald ever had a measurement of this dump made and a calculation of the number of tons of the different The managers went kinds of coal and what they were worth. into this line of testimony, giving the opinion of persons who had examined that dump for the purpose of giving evidence in this case. So far as the objection of this witness not being qualified is concerned, I will examine him further as to that. I expect the second report to follow and to put them both in

Mr. Manager STERLING. If you expect to do that, why should not we see it and let them all go in together?

Mr. WORTHINGTON. The only objection I have to that is that I do not like the manager to instruct me about the manner in which I shall produce my evidence.

Mr. Manager STERLING. The managers will have to insist

on trying the case according to the rules of evidence.

The PRESIDING OFFICER. If the witness is properly qualified as an expert, he can certainly give his testimony as to the value of this bank; but the Chair does not understand that that necessarily admits as documentary evidence a paper which he wrote on the subject. The witness can use that to refresh his memory, and the counsel can cross-examine him as to each item on it.

Mr. WORTHINGTON. I was proceeding in exactly that way. I asked him if he had examined the bank and made a report, and he said he had. I then asked him to state what he found on examining that bank. Then the manager objected and called for the report, and now, when it is produced and I ask to have it read in evidence, they object. Now, I must go back to where I was when the objection was made. I would like very much to please them, but they will have to be a little more consistent before I can do it.

Mr. Manager STERLING. Let us see who is consistent. We offered the written report made by Mr. Rittenhouse; counsel for the respondent objected, and the Chair sustained the objec-

Mr. WORTHINGTON. I have a vague recollection that the report of Mr. Rittenhouse is in the record.

Mr. Manager STERLING. No. It was offered—
Mr. WORTHINGTON. Very well. Then I will go back where I was when the objection was made.
Q. (By Mr. WORTHINGTON.) I will ask you to state when you examined that bank in the first instance, what you found there, and what information you acquired as to the quantities of the different kinds of coal there and the value?—A. My first examination, which was purely estimated?

Q. Yes. I want that first, and then I will follow it up with the second. I understand that you may look at your reports or any memoranda you made at the time, for the purpose of refreshing your memory.—A. I can not remember the exact figures. I want to say, sir, that I accepted the figures as given to me by Mr. Robertson's representative—I do not recall his name—as to the tonnage, which I placed at that time at 85,000

Q. That was on the first visit?-A. That was on the first visit; yes.

Q. Do you mean \$5,000 gross tons, or coal?-A. Eighty-five

thousand gross tons.

Q. That many tons of culm?-A. Made up of 13,850 tons of slate; 20,740 tons of dirt; 1.338 tons of nut coal; 1,825 tons of pea; 6,825 tons of buck; 17,000 tons of rice; and 23,353 tons of barley, making a total—dropping several fractions—of 85,000

Q. Did you figure what that was worth?-A. I figured that at that time that the total value of the coal would be \$32,299.99.

- Q. Go on and tell about your second investigation. was the difference between the manner in which you made your examination the second time and the way you made it the first time?-A. My first examination was purely guesswork. looked the bank over and examined the culm and made this estimate which I have just read. On the second estimate, I was directed by Mr. Belin to have a survey made, and I employed Mr. Smith, of the firm of Smith & Wells, of Wilkes-Barre, to make the survey. I used his figures for the tonnage. I made the test, however, myself. In my second test, which I think is fairly accurate, I subdivided the bank into two parts. I found that one portion of the bank was much richer than the other. Therefore I drew an imaginary line across and called that bank-or rather, we surveyed it, and we called it 15 per cent of the total.
- Q. Can you see this map opposite you on the wall, the map of that bank?-A. Yes, sir.

Q. You are looking at the wrong one I think .- A. That is

the one I am looking at, over there.

Q. Could you show where that line was drawn?-A. Very

close to it; yes.

Q. I wish you would go and do it, then. Take a pencil and draw, in imagination, the line as near as you can.—A. (Witness indicating on map.) There was a channel cut out here, where indicating on map.) There was a channel cut out here, where they had a conveyer line down here. This was partly washed out on both sides, and, as I recall it now, this portion in here [indicating] up to a point, I would say along there somewhere [indicating], was what I called the old bank, and from there on up; this portion over here I call the new bank.

Q. Which do you say was the richer?-A. This was [indi-

cating].

Q. The old bank?—A. The old bank. Q. That is enough. Now please go back to the witness stand. [The witness did so.]

Q. Do you notice on the map what is called the conical dump? Can you see it from where you are? It is in the southwest corner.—A. Yes, sir.

Q. Do you include that in what you call the richer part?-A.

No, sir.

Q. Now go on, please. You say you divided it into two parts and you gave different figures on the two different parts?

The PRESIDING OFFICER. The Chair would inquire

whether it is desired to finish the examination of this witness at this sitting? If so, it will be necessary to extend the time.

Mr. WORTHINGTON. No. It will take some little time further to conclude.

Mr. Manager STERLING. I would like to ask counsel if they will not submit those reports to us in the meantime? It will save time to-morrow.

Mr. WORTHINGTON. Certainly. Mr. Manager STERLING. We will be glad to have them.

I move that the Senate sitting as a Court of

Impeachment do now adjourn.

The PRESIDING OFFICER. It is not necessary to make the motion. The Chair will declare that the hour of 6 o'clock having arrived, the Senate sitting as a Court of Impeachment stands adjourned until 1.30 o'clock to-morrow.

Thereupon the managers on the part of the House, the re-

spondent, and his counsel withdrew.

Mr. CULLOM. I move that the Senate adjourn.

The PRESIDENT pro tempore. The Senator from Illinois moves that the Senate adjourn.

The motion was agreed to, and (at 6 o'clock and 1 minute p. m.) the Senate adjourned until to-morrow, Tuesday, December 17, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

Monday, December 16, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the fol-

lowing prayer:

We invoke Thy blessing, Almighty Father, upon the people of our great Nation. Be with all who are in sorrow and distress to comfort them. Let Thy benediction be upon the President and all others in authority and upon this legislative branch of our Government. Let Thy spirit come mightily upon each individual Member, that all may be guided to the highest conceptions of right and duty, that the interests of those whom they represent may be faithfully and efficiently served; in the name and spirit of Jesus Christ our Lord. Amen.

The Journal of the proceedings of Saturday, December 14,

1912, was read and approved.

CALENDAR FOR UNANIMOUS CONSENT.

The SPEAKER. This being the day for the consideration of the Unanimous Consent Calendar, the Clerk will report the first bill on that calendar.

PUBLIC BUILDING AT DENVER, COLO.

The first business on the Calendar for Unanimous Consent was the bill (S. 3974) to increase the limit of cost of the United States public building at Denver, Colo.

The Clerk read the title of the bill.

Mr. ASHBROOK. Mr. Speaker, the gentleman from Alabama [Mr. Burnerr] who reported this bill is not in the Chamber at this moment, although he will be here soon. I therefore yield to the gentleman from Colorado [Mr. Ruckes].
Mr. MANN. Nobody has the floor yet.

The SPEAKER. That is absolutely correct.
Mr. ASHBROOK. I ask unanimous consent that this bill be

temporarily passed without prejudice.

The SPEAKER. The gentleman asks unanimous consent to pass the bill temporarily without prejudice. Is there objection?

Mr. RUCKER of Colorado. I should like to know what is meant by the parliamentary phrase "passed without prejudice." The SPEAKER. It means that as soon as anybody wants to call it up after the gentleman from Alabama [Mr. Burnert]

comes in the matter will be taken up. Is there objection to passing the bill without prejudice?

Mr. MANN. I think we had better dispose of it.

The SPEAKER. The gentleman objects to passing it without prejudice. Is there objection to the present consideration of this bill?

There was no objection.
The SPEAKER. This bill is on the Union Calendar.

Mr. RUCKER of Colorado. I ask unanimous consent to consider this bill in the House as in Committee of the Whole.

Mr. MANN. Mr. Speaker, I object to that.
The SPEAKER. The gentleman from Illinois objects. Mr. RUCKER of Colorado. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 3974) to increase the limit of cost of the United States public building at Denver, Colo., with Mr. CLARK of Florida in the chair.

The bill was read as follows:

Be it enacted, etc., That the limit of cost fixed by the act of Congress approved May 30, 1908 (35 Stat., 545), for the new public building at Denver, Colo., for the accommodation of the post office, United States courts, and other governmental offices, be, and the same is hereby, increased \$400,000.

Mr. BURNETT. Mr. Chairman, I yield to the gentleman from Colorado [Mr. Rucker], who will explain the propositions involved in this bill.

Mr. RUCKER of Colorado. Mr. Chairman, I have considerable confidence that I can get the ear of the Committee of the Whole at this time upon the theory that the third time is the successful one. This is the third time we have undertaken to get this bill considered. I have confidence also for the further reason that just before Christmas the heart expands and the fullness of all our goodness comes to the surface. And again I have hope, for the reason that you would act as promptly to the request for this appropriation as my constituents for my

About 30 years ago an appropriation was passed for a public building in Denver, costing a little over \$600,000. It was about 11 years in building. Before it was completed Denver had risen from a population of 30,000 to something over 110,000. Long before its completion the local postal service was very much impaired because of the circumscribed condition of accom-

modations there.

Not counting the present value of the building, the ground upon which it is situated is now, according to the estimates made by a committee appointed by the chamber of commerce and the real estate exchange, worth \$400,000—exactly the sum that we are asking in this bill as an increased appropriation. That is saying nothing about the material in the old buildingamounting to considerable-on one of the choicest corners next to the Tabor Grand Opera House and in the most thickly settled portion of the business center of Denver.

Mr. MANN. Will the gentleman yield?

Mr. RUCKER of Colorado. I will.
Mr. MANN. I did not quite catch the gentleman's statement. Did I understand the gentleman to say that the site of the old

building was sold for \$2,000,000?

Mr. RUCKER of Colorado. No; that it can be sold for \$400,000, the amount asked for in this bill. Then, further, Mr. Chairman, we are paying about \$50,000 a year for rentals at the present time for additional space and rooms for the different departments that usually are housed in a public building. have some 24 apartments that the Government now occupies in the different buildings throughout the city of Denver, at a cost to the Government of \$50,000, which, as it will be observed, is about 111 per cent that the Government is paying by reason of not letting go of this money in the Treasury-this \$400,000. Eleven and a half per cent is a very considerable interest for the Government to be paying.

We have also, Mr. Chairman, since the original appropriation of \$1,600,000, the authorization being \$2,000,000, encountered some difficulties concerning the building and necessity for different changes, which I will briefly state. The architect having charge of the building had sounded the ground as much as possible in order to determine the kind of soil and whether a suitable foundation could be obtained for the structure, and he was well satisfied that no difficulties would be encountered.

But after one wall had been erected it was discovered, when placing the other wall, that they had run across a running sand or gravel which not only necessitated more work but actually necessitated the increase of the area of the building, at an

extra cost of from \$100,000 to \$150,000.

Then, again, the circuit court of appeals having been established there, the judges demanded of and procured, by what means I am not going to stop to inquire and I trust it will not be criticized because the matter is ended. They required five times as much space as had been originally assigned—one large library, four chambers, and one lawyer's room. That necessitated a further increase in the size of the building which necessarily increased the cost.

There is some confusion here, if you will take up the hearings, with reference to whether the architect had changed the construction of this building from one kind of stone to that of marble. The fact is that that is not strictly true. The Chief Architect of the Treasury Department only advertised for the lowest bid in marble, and the bids came in, and it was given to a certain firm who were to give us in this building Colorado marble from the Yule Co., one of the greatest quarries of marble in the United States.

I should not say one of the greatest, but it is the greatest. It occupies the same relation to this country as does the range of mountains producing Carara marble in Italy.

It is a singular fact that we have a marble in Colorado superior to that of Italy for all purposes. The superimposed weight, apparently of former ages, has so ingrained this marble as to make it superior to anything they have in Italy. A few years ago I was in Florence and was astonished, when I went to one of the marble factories to see the works of art, to discover the fact, when I was commenting upon the fine marble found there, in being told that there was one State in the United | is entirely finished.

States that had a superior marble to their marble. Upon inquiry I found that that was my own State.

It is so superior a marble that the courthouses at Cleveland and Youngstown, Ohio, and the municipal building of 35 stories in New York, are being built of Yule marble or substantially used in their construction. It has been shipped to nearly all parts of the United States as well as to foreign countries, even as far off as Australia, its superiority having been discovered. Therefore, it was no wonder that the architect chose this Colorado parble. It is not surprising that he would not engage in the carrying of coals to Newcastle." That is about the only critimarble. cism that has been made, namely, that we confine ourselves to Colorado marble.

Now, I have here in my possession a number of photographs taken on the 12th day of November, showing how this building is incomplete, and documentary testimony showing that the Government is now losing, as the postmaster there says, \$50,000 per year by this delay, and other evidence that if this building is completed within the present appropriation, we having only \$380,000 on hand at the present time, the interior must necessarily be completed of inflammable material, such as wood, making it therefore combustible and nonfireproof. This is the uncontradicted testimony of all architects. More than that it not only will be nonfireproof, but in a few years' time, at best, business will require the Government to tear out this inferior material, and the \$380,000 will be an entire loss to the Government. Now, I hope the committee will consider this as your building. It is a Government building-it is not our own building-in which all sections should share in the pride. Here is a photograph of it, as much of it as you can see, and it gleams in the sunshine as white as snow on Diana's Temple, and architecturally is one of the if not the most beautiful Government buildings in the United States. I want to say further, in conclusion, that we are turning in to the Government as muchdetermined from last year's receipts from this office-as \$800,000 a year. Those are the net receipts from this post office, after paying all expenses incident to it. We are turning in to the Government twice as much per year as we are now asking in this bill for its completion. I would be glad to be questioned by anyone. I have a mass of information here, obtained since the hearings before the committee, the last of which was but a few days ago, when Gov. Shafroth went before the committee and made a statement.

Mr. FOSTER. Will the gentleman permit? Mr. RUCKER of Colorado. Surely.

Mr. FOSTER. This increased cost is due, I understand from the gentleman's statement, to the change of material to be put in this building?

Mr. RUCKER of Colorado. No, sir. Mr. FOSTER. That is, part of it? Mr. RUCKER of Colorado. No, sir.

Mr. FOSTER. None of it?

Mr. RUCKER of Colorado. No, sir; none of it. I want to assure the gentleman from Illinois that the original estimates and the bids asked upon it were made on this same material of white marble, and that it was not the change of material.

Mr. FOSTER. It is on account-

Mr. RUCKER of Colorado. On account of the increased size, owing to the fact that the circuit court of appeals requires so much more room, and this extra excavation I told you about on account of running across a running sand or gravel soil.

Mr. FOSTER. Well, has this court of appeals been located there since the building was authorized?

Mr. RUCKER of Colorado. No; the bill was passed before, but when it came to choosing quarters there they seemed to have not anticipated that the circuit court of appeals would require so much more room than was allowed. The exterior of the building thus far has been completed with a view of putting in the library for the circuit court of appeals and four additional rooms, as the architect says five times the space they had assumed the court of appeals would require.

Mr. FOSTER. Well, is this building under construction now? Mr. RUCKER of Colorado. It is under construction now, but upon the 31st day of this month the contract will have expired. The gentleman from Illinois doubtless is familiar with these things. They let these contracts by the piece. For instance, the exterior of the building is let and then they let the interior, or such portion of it, the electrical appliances, lighting wells, and so forth.

Mr. FOSTER. Well, this does not affect the exterior of the building at all, this increase of appropriation?

Mr. RUCKER of Colorado. No; the exterior of the building

Mr. FOSTER. I observe they speak of increased cost of materials. Does that have reference to increased cost of ma-

terials for finishing the exterior of the building?

Mr. RUCKER of Colorado. That has reference to this, I will say to the gentleman from Illinois, that within the present appropriation the building can be completed, and the architect says it can be completed, but it can not be completed in conformity with the original plans to make the interior fireproof. He says it will have to be made of wood now on account of so much more money having been spent upon the exterior by reason of the size, and so on.

Mr. FOSTER. I thought the statement of the gentleman was

the increased appropriation asked for was not on account of the exterior but on account of the interior, so I judge that they spent more than they originally thought was necessary for the

Mr. RUCKER of Colorado. It was on account of the increased size of the building.

Mr. FOSTER. Not on account of the change of material?

Mr. RUCKER of Colorado. No.
Mr. FOSTER. How about the increased cost of material;

does that enter into it?

Mr. RUCKER of Colorado. I do not understand that the increased cost of material has had anything to do with that; in other words, that price of the marble has not gone up. Now, I want to say in this connection that the original contract for construction was between 48 and 50 cents a cubic foot, and this increase in size required 800,000 cubic feet more than was originally contemplated, which at 50 cents per cubic foot would amount to this \$400,000.

Mr. FOSTER. I observe that the Assistant Secretary of the

Treasury in 1908, which is some time ago, said:

In view of the increased cost which has taken place in the cost of materials, the department is of the opinion that a building of the dimensions indicated will now cost \$2,000,000.

Mr. RUCKER of Colorado. Now, I want to say that in 1908 when we got the appropriation, you understand, for \$1,600,000, and there was, of course, an increase in the cost of material. But that was not figured upon when they came to let the contract. The contract was all fair. There is no squabble between the contractors and the Government. It is simply, in the last analysis, as the architect says, that the reason for the increased appropriation is because of the necessity for increasing the size of the building.

Mr. FOSTER. That is his later statement?

Mr. RUCKER of Colorado. Yes, sir.

Mr. FOSTER. This is the only one that is published with

the report, and so I was unable to state-

Mr. BURNETT. And not the Supervising Architect, I understand, but the architect, in the actual construction of the build-ing, made that statement before the committee. The principal increase in the cost was on account of this new court being established and having to erect a building that was larger than was contemplated when the authorization was made.

Mr. FOSTER. Is this architect a Government architect or

is he one employed on the outside?

Mr. RUCKER of Colorado. The gentleman from Alabama [Mr. Burnett] can answer that. I think he was the one employed on the outside.

Mr. BURNETT. What was the question of the gentleman? Mr. FOSTER. Is this architect who has been in charge of the building a Government architect or one employed on the

Mr. RUCKER of Colorado. A private architect; but we have the statement of the Architect of the Treasury Department as well as the architect of the building, and both of them coincide

in that that was the reason for the increased cost. Mr. FOSTER. Can the gentleman inform us how much has been paid for the plans and specifications on this building? I suppose these plans and specifications may have been made under the Tarsney Act.

Mr. RUCKER of Colorado. If the gentleman will subtract \$380,000 from \$1,600,000, he will have all that has been ex-

We have \$380,000 on hand now.

Mr. FOSTER. That does not answer my question, unless I am unable to understand. I was asking this: That it has been said many times upon the floor of the House that under the Tarsney Act these public buildings cost us a great deal of money for plans and specifications, and that much money could be saved to the Government if that act was repealed. Now, what I am asking is: Were the plans and specifications of this particular building turned over to an outside party or were they made by the architect of the Government, with the authority or consent of the Government.

Mr. RUCKER of Colorado. The architect of the Government

approved of the plans.

Mr. FOSTER. I know. Certainly I would understand that, possibly, but were they made by the architects of the Govern-

ment or were they made by outside architects?

Mr. RUCKER of Colorado Well, now, I am sure I do not know about that, but if they were made by the outside architects it must be assumed—and the gentleman from Illinois will readily accede to it-that the Government would finally have to approve all those plans of the outside architect.

Mr. FOSTER. Yes; I understand that.

Mr. RUCKER of Colorado. So that it might as well have come directly from the Government architect as the other.

Mr. FOSTER. That does not answer my question as to whether the gentleman from Colorado [Mr. Rucker] can inform us what the cost of the architect was on this particular build-

Mr. BURNETT. I do not remember the fees of the architect employed to construct the building, or supervise it.

Mr. RUCKER of Colorado. I do not think we had any testimony on that subject whatever.

Mr. BURNETT. I think not.
Mr. FOSTER. So you are unable to tell that?

Mr. RUCKER of Colorado. Under the Tarsney Act, as it existed then, and before it was repealed, they had a perfect right to employ an outside architect.

Mr. FOSTER. What I am getting at is the cost, and whether or not there was a great deal of money paid for architects' fees in this case that might create a deficiency in this public build-

Mr. RUCKER of Colorado. Now, I want to say to the gentleman from Illinois that I am wholly unable to answer his question, as I said before, but there has not been from the beginning, or anywhere along the line, any scandal, either in connection with this or any other work—any scandal whatever.

Mr. FOSTER. I did not mean a scandal. They were entitled under the law to certain fees. Now, whether or not—

Mr. COX of Indiana. Six per cent.

Mr. FOSTER. Six per cent; that would mean?

Mr. COX of Indiana. Six per cent of the total contract price. It was 5 per cent until a few years ago. Then they formed a kind of trust and increased it to 6 per cent.

Mr. FOSTER. Yes; it was 5 per cent until a few years ago; so that the amount of 6 per cent on \$1,600,000 has been paid

to the architect?

Mr. RUCKER of Colorado. I am unable to answer even that question. I assume that the architect would be one of the first fellows that would be paid, and doubtless he has received at least a certain part of what was due him. At any rate, I say we have \$380,000 on hand. If the Government is determined to have us complete this building out of all sort of proportion to its exterior finish, and have us put in wooden partitions and the cheapest kind of doors, as the architect says, we have to-day, in order to complete it in that fashion, \$380,000. But then it will become a fire trap, and anybody knows that when this marble is subjected to great heat it will disintegrate. The gentleman has only to go down here and see the Washington Monument and examine the marble put into that structure. Even on account of the rays of the sun the Government in a few years will have to reenforce the lower portion of the Washington Monument. As I say, we could build this building with this \$380,000. The architect says so. But in completing it he would put in the cheapest kind of material, and it would be a disgrace to this Government and we would face a menace always incident-fire.

Mr. FOSTER. How tall is this building? How many stories

has it?

Mr. RUCKER of Colorado. Four stories.

Mr. FOSTER. So that with the present appropriation they would be unable to complete this building without putting in inflammable material, such as wood, on the inside?

Mr. RUCKER of Colorado. That is the uncontradicted testi-

mony from all sources.

Mr. FOSTER. Are not these partitions that are put in when the building is constructed put in with brick or stone, or whatever the material may be?

Mr. RUCKER of Colorado. Part of them, undoubtedly; but

these extra rooms, of course, have not been finished.

Mr. FOSTER. Is this to put in metal window sash and copper work, and all that?

Mr. RUCKER of Colorado. Well, a list has been furnished of the materials used and of what additional material is needed. I will furnish the list to the gentleman.

Mr. FOSTER. I suggest that the gentleman just read it, so that we will understand it.

Mr. RUCKER of Colorado. Masonry, plastering, and carpentry work, \$223,000; ornamental and miscellaneous work, ironwork, \$60,000; marblework, \$40,000; mechanical equipment, \$200,000. That goes to the very question that the gentleman asked. Then an estimate is made for elevators, \$70,000; sash and glass, \$60,000; terrace and approaches, \$120,000.

Mr. FOSTER. That provides, then, for the proper equipment of such a building

of such a building, or the finish of such a building, as is in keeping with the dignity and the importance of the city of

Denver, Colo.?

Mr. RUCKER of Colorado. Yes.
Mr. FOSTER. I realize, as the gentleman from Colorado does, that that is an enterprising city—one of the most enterprising in the United States—and I will agree with the gentleman from Colorado. man that I would not like to see a building put up there that would not be in keeping with the surroundings of that great State and that great city.

Mr. RUCKER of Colorado. Well, I am quite sure that the gentleman from Illinois does not stand alone in that opinion. After a further discussion, if any other information is wanted that is within my power to furnish or the power of the com-

mittee, it will be forthcoming.

As I said in the beginning, I believed you would pass this bill, but in order that you may be fortified against any attack that may hereafter be made upon you in your long official lives, and I hope they will be commensurate with your desires, and I know they can not approach your deserts, I ask to append to my remarks certain notes to which I have been referring.

REASONS FOR THE NECESSITY OF AN INCREASED APPROPRIATION FOR UNITED STATES POST OFFICE AND COURTHOUSE AT DENVER, COLO.

UNITED STATES POST OFFICE AND COURTHOUSE AT DENVER, COLO.

The original competition drawings, as approved by the Secretary of
the Treasury, called for a building of approximately 3,100,000 cubic
feet, the rear of which was finished in the simplest manner without
columns, and the light courts were without architectural elaboration.
Subsequent to the award of the competition, which was based on the
appropriation of \$1,600,000 during and after trips to Denver by one
of our firm, certain additional accommodations were demanded which
increased the cubage of the building from 3,100,000 to 3,900,000, and
a greater elaboration of the Champa Street façade and of the interior
courts was demanded.

(a) Five times as much accommodation for the judges and officials of the court of appeals was demanded by the judiciary department over and above the amount allowed for in the competitive drawings.

(b) A law library of large size was added.

(c) Rooms for the use of lawyers engaged in the court were de-

manded.

(d) The necessity of a mailing platform below the terrace level instead of at the grade level on the Champa Street façade and the terrace itself added materially to the cubic contents.

(e) The increased size of the foundations made necessary by the poor quality of the soil was a great increase both in the cubic contents and in the cost.

(c) The increased size of the foundations made necessary by the poor quality of the soil was a great increase both in the cubic contents and in the cost.

(f) At the time of our visit to Denver there was a great deal of agitation in favor of making the Champa Street façade as important as that on Stout Street. Various meetings of the board of trade and other organizations were held, and the Treasury Department was urged very strongly to see to it that all sides of the building should be of equal importance and beauty, and, furthermore, the citizens of Denver were opposed to the mailing platform being placed on the grade level is view of those passing on Champa Street, claiming their property on Champa Street would be greatly depreciated thereby, which appeared would be the case, due to the teaming and the noise of the mail-delivery wagons. In order to meet these objections the mailing platform was placed under a terrace, entirely out of sight of anyone passing on Champa Street. This necessitated not only extra cubage, but a considerable elaboration in the way of terraces, approaches, and grading, and also made necessary various electric lifts and appliances for the handling of mail not before contemplated. Also in order that the Champa Street front should be effective architecturally as the Stout Street façade, a continuous portico of 16 columns, with the necessary elaboration in the entablature, was placed on the Champa Street façade, a continuous portico of 16 columns, with the necessary elaboration in the entablature, was placed on the Champa Street façade in place of the large openings and plain wall surface shown on the competitive drawings and as originally contemplated. It was also thought advisable to have the interior light courts echo to a certain extent the architecture of the exterior, although these light courts have been finished in limestone instead of marble.

(g) When it became time to let the contract for the exterior, strong pressure was brought by the entire State of Colorado builtable for t

\$400,000, the amount asked for.

From the above it is very clearly shown that the present available money to finish the building, \$380,000, would supply only a temporary and easily combustible interior finish, as out of this \$380,000 the steam heat, electrical, and mechanical plants must be supplied, interior doors, windows, post-office screens, and everything to make a habitable interior finish from the money left, which of necessity would be nothing more than an extremely cheap character, necessitating wood partitions and the cheapest kind of doors and windows. In other words, this interior finish would only be temporary and later on would have to be torn out, as shown by the Supervising Architect's statement before the Committee on Public Buildings and Grounds, and replaced by the finish necessary and equal to the elaborate exterior of the building, and consequently would necessitate a greater authorization and appropriation

than that now asked, \$400,000, a part of the \$380,000 being absolutely wasted, besides endangering the expensive exterior by a probable fire. The authorization for the increase of this building is now absolutely necessary for the reason that the present contracts on the building are nearly completed, or will be on or about September 1, which would leave the building open to inclement weather for the coming winter, or necessitate an unwarranted expenditure of temporarily closing it in, and require the services of a superintendent and watchman in order that the property may be taken care of and protected until such time when the work can proceed.

TRACEY, SWARTWOUT & LITCHFIELD,

TRACEY, SWARTWOUT & LITCHFIELD, By EDGERTON SWARTWOUT.

(Re expenses and receipts, post office.)

UNITED STATES POST OFFICE, Denver, Colo., December 5, 1912.

Mr. J. S. FLOWER, Denver, Colo.

DEAR SIR: In response to your inquiry of even date, permit me to advise as follows:

Balance due the Government...

Trusting this information will be of assistance to you, and if there anything further I can do for you do not hesitate to call on me,

Yours, very truly,

Jos. H. HARRISON, Postmaster.

DENVER CHAMBER OF COMMERCE, Denver, Colo., December 4, 1912.

Denver, Colo., December 4, 1912.

Hon. Atterson W. Rucker,
United States Representative, Washington, D. C.

My Dear Mr. Rucker: Replying to your telegram which has just reached the Denver Chamber of Commerce and the special committee which is working on the post-office matter, of which I have the honor to be chairman, would say that the present Denver post office was erected about the year 1893. It took nearly 10 years to complete this building, and during that period Denver's population increased from less than 50,000 to upward of 105,000, so that when the building was ready for occupancy it was even then hardly large enough for the purpose.

purpose.

The city has steadily grown in population since then until Denver's post office is now serving about 250,000 people. The business of the post office meanwhile having grown enormously, a few years ago it was found necessary to build an addition to the present post-office building, which is now occupied by the money order and registry divisions.

building, which is now occupied by the money order and registry divisions.

Postmaster Harrison informs me that he last week submitted to the Post Office Department at Washington a report upon the crowded conditions of the Denver post office, calling their attention by a diagram to the conditions under which they are working in the Denver post office and showing that he would have to rent a great deal of extra space outside beginning January 1, 1913, to enable the post office to take care of the parcel-post business, which beginning then will increase, to a very large extent, the number of fourth-class pieces now handled by the post office. He goes on to show in his letter, of which he has forwarded me a copy, how nearly as much again room is needed for the various departments than is now possible. He shows that he is not able to get good work out of his employees working under the crowded and insanitary conditions in which they are at present placed.

The receipts of the Denver post office have grown from about \$300,000 in 1893, with 70 carriers and 54 clerks, to total receipts of about \$1,300,000 for 1912, with now 181 letter carriers and 203 clerks.

Postmaster Harrison also tells me that a recent order from the Postmaster General increases the work and business of the Denver post office very largely in connection with the handling of packages from foreign countries subject to duty, involving, as the order does, the receipt at the Denver post office of all matter routed to all portions of the State; while formerly they were carried direct to the destination, the Denver post office being now required to distribute them. This, of course, adds to the necessity for more working space and will require some more employees.

It seems to the Denver Chamber of Commerce committee that with

course, adds to the necessity for more working space and will require some more employees.

It seems to the Denver Chamber of Commerce committee that with the large amount of outside office space which the various United States departments not directly connected with the post office are being obliged to rent, owing to lack of space in the post-office building, that the saving which would be effected by having the new post office finished, in which these other departments would occupy space, would be a good rate of interest on this \$400,000 appropriation for which we are now asking.

I do not know whether this covers in full the information for which you ask, but this Denver Chamber of Commerce committee, of which Postmaster Harrison is a member, will be very glad to give you all the information you require, and if we haven't it, will obtain it for you here. Whre us freely for any further details, and if anything can be gained by sending a Denver man or a committee from the Denver Chamber of Commerce down to Washington to represent the chamber of commerce in this matter, we will have such man or committee go to Washington.

Thanking you for the interest you are taking in this matter, I am, Yours, cordially,

Charles H. Howe,

Chaterea Committee on New Post Office.

Charles H. Howe, Chairman Committee on New Post Office, Denver Chamber of Commerce.

THE DENVER REAL ESTATE EXCHANGE, Denver, Colo., December 5, 1912.

Hon. A. W. Rucker,
United States Congress, Washington, D. C.

Dear Sir: In responding at a moment's notice to your telegram to the Denver Real Estate Exchange for data on the new Federal building we find it quite a task to get together the facts which you need and we desire to supply in the time at our disposal, for truly the situation is a big one, needing careful handling.

As you well know our present post office was finished about 1890 and was in the course of erection about eight years. It was started when Denver had a population of approximately 59,000 and when it seemed that our city would hardly ever exceed 100,000 souls in number.

To show that conditions change very rapidly in Denver, I shall, with other papers, inclose to you a circular covering the post-office proposi-

Prince

Scott Sells

Tilson Towner Volstead Watkins Wilder Willis

Prince Rees Reyburn Roberts, Mass. Rodenberg Rucker, Colo. Russell Saunders Scott

Sells Simmons
Sims Smith, J. M. C.
Smith, J. M. C.
Smith, Saml, W.
Stephens, Cal,
Stephens, Miss,
Stephens, Nebr.
Sterling
Stone
Sweet
Talcott, N. Y.
Thistlewood
Tilson

tion January 1, 1904. when I was president of the Denver Real Estate Exchange and our citizens were bending their energies in effort to get Congress to give them a new building. That has been nearly nine years ago, and yet, though our population has increased till we now have a quarter million population, our Federal building drags with that degree of unwillingness almost indicating a dependent and unsupporting people, when the facts are and Mr. Harrison's (our postmaster) statement, inclosed, shows that over and above all costs of running we turn over to the Government this year alone \$800,000 net cash.

It is hardly conceivable that a grand and generous Government could be so tardy and so slow and so scrutinizing in dealing with its own people who supply so bounteously the Government in cash. It must be that our Nation's governors do not know true conditions here, and you are asked to inform them. This slowness in putting up our building is a dead loss to the Government, for in the following list of a hundred or more effice rooms it is forced to rent outside of its own building, because of its having no place of its own in which to house the departments, it is plain to be seen that no less than \$50,000 a year is now being paid by the Government for rents for the departments, as follows:

United States Bureau of Mines, 502 Foster Building.

United States Army paymaster, 210 Quincy Building.

United States Army recruiting, 210 Quincy Building.

United States Quartermaster General, 220 Majestic Building.

United States Bureau of Animal Industry and Meat Inspection, 311 Stock Exchange Building.

United States Bureau of Animal Industry and Meat Inspection, 311 Stock Exchange Building.

United States General Land Office, chief of division, 712 Ernest & Cranmer Building.

United States Geological Survey statistician, 311 Chamber of Commerce.

United States Geological Survey, water-resource branch, 304 Chamber of Commerce.

United States Geological Survey, water-resource branch, 304 Chamber

United States Geological Survey, water-resource branch, 304 Chamber of Commerce.
United States Immigration Bureau, 312 Temple Court Building.
United States Indian service, 513 Kittredge Building.
United States internal-revenue agent, 402 Central Savings Bank.
United States Marine Corps, 1605 Larimer Street.
United States naturalization bureau, 448 Railroad Building.
United States Reclamation Service, cement-testing laboratory, 408
Commonwealth Building.
United States Reclamation Service, engineering, 520½ Commonwealth Building.
United States superintendent of construction, 503 Symes Building.
United States surveyor general (whole floor), eighth floor Railroad Building.

United States surveyor general (whole floor), eighth floor Railroad Building.
United States Weather Bureau, 414 Boston Building.
United States Department of Justice, 425-428 Cooper Building.
United States commissioner, 1212 (suite) Foster Building.
United States pension department.
About a dozen subpost offices.
Nearly all of the above could be housed in the new Federal building.
Some few could, perhaps, not be.
Now as to the status of the new building: As you know, it was started nearly three years ago, and as to its present condition I send you a series of photographs but recently taken, and I send a number so that the Congressmen may have an opportunity to see what is being done.

so that the Congressmen may have an opportunity to see what is being done.

You understand that up to date the only contract let is that of Hedden & Co., which takes in merely the superstructure, concrete floors, etc., and rought plumbing in the cellars. Excepting a small amount of carving on the marble and some little slate to go on the roof, the contract is about finished on their part, and I am informed that by December 31 this company will have boarded up the building and be ready to retire to New York unless the Government gives the necessary appropriation now being asked for, \$400,000.

Our city should not be charged with asking for more than originally expected, for in the report of your congressional committee—in Mr. Swartwout's testimony—it is to be seen that the size of the original building was added to by about 650,000 cubic feet, necessitated by added governmental requirements, and if we much longer delay these requirements will grow and add to till Congress will see the necessity of even another building, perhaps. Our eastern friends do not seem to understand that Denver is a fruitful city with each year a big growth. Postmaster Harrison's letter of November 23, 1912, addressed to us says: "A few days ago I submitted to the department at Washington a report upon the crowded condition of our working space, calling their attention, by a diagram which I had prepared, to the exact conditions under which we are working, with a view to their considering the necessity for renting space outside to enable us to take care of the parcel-post business which, after the 1st of January next, will increase to a very large, though uncertain, extent the number of fourth-class pieces now handled by the post office, etc."

So it will be seen that growth is added to growth and the necessity strains for relief.

The photographs will enlighten as to our new building to date. If we can afford further information, please call for it, and oblige Yours, very truly,

J. S. Flower, Chairman the Denver Real Estate Exchange's Public Improvement Committee.

Mr. BURNETT. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. Clark of Florida, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration Senate bill 3974, increasing the limit of cost of the public building at Denyer, Colo., and had come to no resolution thereon.

Mr. BURNETT. Mr. Speaker, I move that the House resolve

itself into Committee of the Whole House on the state of the Union for the purpose of further considering the bill (S. 3974) to increase the limit of cost of the United States public building

at Denver, Colo., and that in its consideration all debate be limited to 15 minutes.

The SPEAKER. The gentleman from Alabama [Mr. Bur-NETT] moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of House bill 3974, and pending that he moves that the general debate be limited to 15 minutes.

Mr. MOORE of Pennsylvania. May I ask, Mr. Speaker, what this bill is?

The SPEAKER. It is a bill to increase the limit of cost of the public building at Denver, Colo., by \$400,000.

Mr. MANN. Mr. Speaker, I move to amend the motion of the

gentleman from Alabama [Mr. Burnerr] by striking out "fifteen" and inserting "thirty."

The SPEAKER. The gentleman from Illinois moves to amend the motion of the gentleman from Alabama by increasement the Maria of the gentleman from Alabama by increasement the Maria of the gentleman from Alabama by increasement the Maria of the gentleman from Alabama by increasement the Maria of the gentleman from Alabama by increasement the Maria of the gentleman from Alabama by increasement the Maria of the gentleman from Alabama by increasement the Maria of the gentleman from Alabama by increasement the Maria of the gentleman from Alabama in the gentleman from Alabam ing the limit of general debate to 30 minutes instead of 15 minutes.

The question being taken, the Speaker announced that the noes appeared to have it.

Mr. MANN. Mr. Speaker, I make the point of order that

there is no quorum present.

The SPEAKER. Evidently there is not a quorum present.

The Doorkeeper will close the doors, the Sergeant at Arms will The Doorkeeper will close the doors, the sergeant at Arms will notify absentees. Those in favor of the amendment of the geutleman from Illinois [Mr. Mann] will vote aye, those opposed will vote no, and the Clerk will call the roll.

Mr. BURNETT. Mr. Speaker, a parliamentary inquiry. Is this vote on the amendment offered by the gentleman from

Illinois?

Ashbrook Austin Ayres Bathrick Beall, Tex. Bell, Ga. Blackmon Broussard Buchanan Bulkley

Burgess Burnett

Cantrill

Carter Clark, Fla. Claypool Clayton Cline

Collier Cox, Ind. Cullop

Byrnes, S. C. Byrns, Tenn. Candler

Ashbrook

The SPEAKER. This vote is on the amendment offered by the gentleman from Illinois, changing the limit of general debate from 15 minutes to 30 minutes.

The question was taken; and there were—yeas 132, nays 118, answered "present" 11, not voting 128, as follows:

	YEAS-132.	
Ainey	Garrett	Lenroot
Anderson	George	Lindbergh
Barchfeld	Gillett	Lobeck
Bartlett	Goldfogle	Longworth
Berger	Good	McDermott
Booher	Greene, Mass.	McGuire, Okla.
Borland	Greene, Vt.	McKenzie
Browning	Guernsey	McKinney
Burke, Pa.	Hamilton, Mich.	McLaughlin
Burke, S. Dak, Burke, Wis.	Hamilton, W. Va.	McMorran
Burke, Wis.	Hammond	Madden
Calder	Haugen	Mann
Callaway	Hawley	Martin, S. Dak.
Cannon	Hayes	Miller
Cary	Heald	Mondell
Cooper	Helgesen	Moore, Pa.
Crago	Henry, Conn.	Morgan, Okla.
Curry	Hill	Morse, Wis.
Danforth	Houston	Mott
Davidson	Howell	Needham
Davis, Minn.	Hughes, Ga.	Neeley
Davis, W. Va.	Humphrey, Wash.	Nelson
De Forest	Johnson, Ky.	Nye
Dies	Kahn	Page
Donohoe	Kendall	Palmer
Doughton	Kennedy	Patton, Pa.
Driscoll, M. E.	Kent	Payne
Dyer	Kinkaid, Nebr.	Peters
Fitzgerald	Kitchin	Pickett
Foss	Konop	Plumley
Fowler	La Follette	Post
French	Lawrence	Powers
Fuller	Lee, Pa.	Pray
	NAYS-118.	
Adair	Dent	Heflin
Alexander	Denver	Helm
Allen	Dickinson	Henry, Tex.
Ansberry	Difenderfer	Hensley
Ashbrook	Dixon Ind	Holland

Dent Denver Dickinson Difenderfer Heflin Helm Henry, Tex. Hensley Holland Dixon, Ind. Holland
Hull
Humphreys, Miss.
James
Johnson, S. C.
Kinkead, N. J.
Lafferty
Lee, Ga.
Lever
Lewis Doremus Dupré Edwards Estopinal Evans Faison Faison Fergusson Ferris Finley Floyd, Ark. Foster Francis Gallagher Garner Lewis
Linthicum
Littlepage
Lloyd
McCoy
Macon
Maguire, Nebr.
Mays
Morgan, La.
Morgan, La. Garner Glass Godwin, N. C. Goeke Goodwin, Ark. Morrison Moss, Ind. Graham Gregg, Pa. Hamlin Moss, In Murray Oldfield Padgett Pujo Rainey

Raker

Hardy Harrison, Miss.

Hay Hayden

Willis Wilson, Ill. Wilson, Pa, Witherspoon Young, Kans. Young, Mich. Randell, Tex. Ransdell, La. Rauch Rauch Redfield Reilly Roddenbery Rothermel Rouse Rubey Rucker, Mo. Sabath Scully Sharp Sheppard Sheppard Sisson Slayden Smith, Tex. Stedman Steenerson Stephens, Tex. Thayer Thomas Townsend Tribble Underwood Whitacre White Young, Tex.

Mr. Hobson with Mr. Fairchild. Mr. Talbott of Maryland with Mr. Parran. Until further notice: Mr. Harrison of New York with Mr. Higgins. Mr. Conry with Mr. Lafean.
Mr. Patten of New York with Mr. McCall.
Mr. Levy with Mr. Kopp.
Mr. Gould with Mr. Hinds.

Mr. Fields with Mr. Langley. Mr. Aiken of South Carolina with Mr. Ames. Mr. TURNBULL with Mr. Woods of Iowa. Mr. Pujo with Mr. McMorran.

Mr. SULZER with Mr. KNOWLAND. Mr. RICHARDSON with Mr. ESCH. Mr. PEPPER with Mr. PROUTY. Mr. BARNHART with Mr. WEDEMEYER. Mr. HOWARD with Mr. OLMSTED. Mr. Boehne with Mr. Anthony. Mr. Brantley with Mr. Bartholdt.

Mr. Brown with Mr. Bates. Mr. Burleson with Mr. Butler. Mr. Carlin with Mr. Copley. Mr. Cox of Ohio with Mr. Dalzell. Mr. COVINGTON with Mr. CRUMPACKER. Mr. DAVENPORT with Mr. CURRIER. Mr. DAVENFORT WITH Mr. CORRIER.
Mr. DANIEL A. DRISCOLL WITH Mr. DODDS.
Mr. ELLERBE with Mr. FARR.
Mr. FLOOD of Virginia with Mr. FOCHT.
Mr. GREGG of Texas with Mr. FORDNEY.

Mr. Gudger with Mr. Gardner of New Jersey. Mr. HAMILL with Mr. GREEN of Iowa.

Mr. HARDWICK with Mr. CAMPBELL. Mr. Hart with Mr. Griest. Mr. Jacoway with Mr. Hanna.

Mr. KINDRED with Mr. HARRIS. Mr. Konig with Mr. Hartman.

Mr. Korbly with Mr. Howland. Mr. Legare with Mr. Huches of West Virginia.

Mr. McGillicuddy with Mr. Jackson, Mr. McKellab with Mr. Langham, Mr. MAHER with Mr. LOUD.

Mr. Moon of Tennessee with Mr. McCreary.

Mr. O'SHAUNESSY with Mr. MATTHEWS. Mr. PATTEN of New York with Mr. MERRITT. Mr. Pou with Mr. Moon of Pennsylvania. Mr. Robinson with Mr. Porter.

Mr. Sherley with Mr. Roberts of Nevada. Mr. Smith of New York with Mr. Murdock.

Mr. Small with Mr. Sloan. Mr. Sparkman with Mr. Smith of California

Mr. Taggart with Mr. Slemp. Mr. Taylor of Alabama with Mr. Speer.

Mr. TAYLOR of Colorado with Mr. SULLOWAY.

Mr. TUTTLE with Mr. SWITZER.

Mr. UNDERHILL with Mr. TAYLOR of Ohio. Mr. Wilson of New York with Mr. VARE.

Mr. Dickson of Mississippi with Mr. Vreeland. Mr. Moore of Texas with Mr. Warburton. Mr. Martin of Colorado with Mr. Weeks. Mr. Lamb with Mr. Wood of New Jersey.

Ending January 2:

Ending January 2:
Mr. Sherwood with Mr. Draper.
Mr. LANGLEY. Mr. Speaker, I am paired with the gentleman from Kentucky, Mr. Fields. I withdraw my vote of "aye" and answer "present."

The result of the vote was then announced as above recorded.
The SPEAKER. The Chair will ask all Members who appear in the area before the desk after a roll call to change their votes to state how they voted in the first instance. The Chair does not care, but the clerks have to know in order to keep the tally correctly. A quorum is present. The Doorkeeper will open the doors. The question is on the amendment offered by the gentleman from Alabama, as amended by the gentleman from Illinois to close general debate in 30 minutes.

The question was taken, and the amendment as amended was

agreed to.

The SPEAKER. The question new is on the motion of the gentleman from Alabama to go into Committee of the Whole House on the state of the Union.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill (S. 3974) to increase the limit of cost of the United States public building at Denver, Colo., with Mr. Clark of Florida in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the consideration of the bill (S. 3974) to increase the limit of cost of the United States public building at Denver, Colo., and by order of the House general debate has been limited to 30 minutes.

Mr. BURNETT. Mr. Chairman, I only want a minute or two to concur in the statement of the gentleman from Colorado [Mr. Ruckers]. When the bill was first before the committee and there was an intimation that an increase in the limit of cost was to be made on account of a change in the material for the construction of the building, I was opposed to the proposition. But on further examination of witnesses who were familiar with the matter it developed that almost the entire change was made necessary on account of the fact that the court of appeals had been required to sit there and had to have larger quarters and the building had to be enlarged on that account. It was also stated by the architects that they had been assured that the soil for the foundation was good, but as a matter of fact it was not, and necessitated a change which cost \$100,000 or \$150,000. I believe that the bill ought to pass, because I think that the increased amount was necessitated by reason of this additional expense that could not have been contemplated at the time of the original authorization.

Mr. FOWLER. Mr. Chairman, I desire to ask the chairman of the committee, if he will yield—

Mr. BURNETT. I yield.

Mr. FOWLER (continuing). How it was that there was a change in the plan of the building-that is, the material out of which it was to be constructed? I understand it was originally planned to be constructed out of Indiana limestone or

Mr. BURNETT. Well, I think, Mr. Chairman, in response to the question, that the Treasury Department would have the right to change any plans of construction so long as the con-struction was within the original authorization, and the Supervising Architect stated it could be constructed within the authorization, but that it would be done in such a way that the interior would be of a very inferior quality of material, and perhaps have to be torn out later, and then come to Congress for changes after the building, possibly, had been constructed.

Mr. FOWLER. Did not the architect say that the authorization of \$1,600,000 was ample to construct it out of the material which was originally intended to be used?

Mr. BURNETT. Which architect; the Supervising Architect?

Yes. Mr. FOWLER.

Mr. BURNETT. I do not think so. He said they could construct it out of the new material, but that the interior would be of such an inferior quality that it ought not to be so

Mr. FOWLER. But the entire building could have been constructed and finished according to the original plans for the authorization of \$1,600,000. Is not that his statement?

Mr. BURNETT. Of the architect?
Mr. FOWLER. Yes.
Mr. BURNETT. Yes; with this inferior finish.

Mr. FOWLER. But finished in harmony with the material?

Mr. BURNETT. No; I do not think he stated that.
Mr. FOWLER. I think I understood that to be his statement; and, further, is not it stated by one of the gentlemen from Colorado that the change was made from limestone to

marble on account of State pride?

Mr. BURNETT. Yes. Mr. FOWLER. And that it could have been finished out of

the original material for the amount authorized?

Mr. BURNETT. Yes; that was stated by Mr. Taylor of Colorado, but if you will notice in the questions I put to him I showed my disapproval of any such increases made on account of any State pride in the use of Colorado marble; but the architect in charge of the work, whom I thought knew more about it than any of those Members of Congress did, followed with the statement that almost the entire increase was necessitated by reason of the enlargement of the building and by reason of the expense of making the excavation.

Mr. FOWLER. Now, does not the architect say that the

whole increase asked for is on account of the additional space taken in, which will necessitate about 800,000 cubic feet?

Mr. BURNETT. The Supervising Architect? Mr. FOWLER. Yes. Does not he also say that the cost per

foot is 48 cents by contract?

Mr. BURNETT. That is, the architect in charge of the con-

Mr. FOWLER. Now, according to his own statement, does not he ask for \$16,000 more than will be required to finish it up inside with the additional new material, Colorado marble?

Mr. RUCKER of Colorado. There is a very small difference between 48 cents per cubic foot and 50 cents per cubic foot, and he uses them interchangeably-

Mr. FOWLER. The difference is \$16,000, and it will amount

to a good deal.

Mr. RUCKER of Colorado. But it would not be used if they could get it at 48 cents.

Mr. FOWLER. If it is appropriated it will be used. I never saw any turned back into the Treasury yet.

Mr. RUCKER of Colorado. Well, I have not had much ex-

perience in getting it out of the Treasury.

Mr. FOWLER. Mr. Chairman, I desire to ask the gentleman if the architect did not get \$96,000 as a fee out of this appro-

Mr. BURNETT. I do not know, Mr. Chairman. I think that matter was not brought out, but that was allowed under the Tarsney Act, and my understanding is the Tarsney Act was repealed by the appropriation bill that was passed last session. I will ask the gentleman from New York [Mr. Fitzgerald] if I am correct that the Tarnsey Act no longer exists. I think it was an outrage, and the great expenditures in buildings was on account of the allowances under the Tarsney Act, but it was the law at that time and the committee had nothing to do with that. If the Committee on Appropriations had not repealed the Tarsney Act it was the purpose of our committee in an omnibus bill, which we will report, to repeal that act.

Mr. FOWLER. Now, do you think that this \$400,000 is neces-

sary to complete this two-story building?
Mr. BURNETT. Well, all I know, Mr. Chairman, is that it

was so stated by the architect in control of the work.

Mr. FOWLER. That would make \$2,000,000 for a two-story building!

Mr. BURNETT. Yes; but it covers a whole block of ground on one side, I think, and perhaps a good part of it on the other. Mr. FOWLER. Do you really think there has been the kind

of economy in the construction of this building that ought to have been carried on by good workmen?

Mr. BURNETT. I have very serious doubts about that-very. Mr. MANN. Mr. Chairman, an explanation, I think, is due to the House as to the motion which I made a few moments ago to increase the limit of time upon this bill, and I wish to make this I this fund, and no part of it, as I am informed by the chairman

statement: When the House first resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill, the gentleman from Alabama [Mr. Burnerr] was entitled to and took the floor. He yielded the time to the gentleman from Colorado [Mr. Rucker], who occupied about 40 minutes. Thereupon the gentleman from Alabama [Mr. Burnett] moved that the committee rise, and then moved to go into Committee of the Whole House on the state of the Union again and to limit debate to 15 minutes, which would have given him control of that 15 minutes and given to the minority side of the House no time at all.

Gentlemen on the other side of the aisle ought to have experience enough to know that on ordinary matters they never gain anything in the way of time by endeavoring to prevent the minority from having any time at all to discuss a bill. Fortunately on this occasion some of the more experienced gentlemen on the other side of the aisle voted in favor of the amendment which I had offered, and if they had not so voted, and the amendment had not prevailed, I dare say we would have had another roll call upon the motion of the gentleman from Alabama [Mr. Burnett] to limit debate to 15 minutes, and probably another roll call on the passage of the bill. It always pays, so far as time is concerned, to be somewhat fair to the minority. And when the gentleman in charge of the bill proposes to give himself an hour's time and no time to the other side, he makes a mistake, possibly not intentionally, but certainly a mistake.

Mr. RUCKER of Colorado. May I interrupt the gentleman from Illinois? I do not know but what I may be blamed personally for having taken up so much of the time. I am quite sure I had no understanding with the gentleman from Alabama [Mr. Burnett] that I would take an hour or any great portion of it. But the gentleman from Illinois will remember that I was kept on my feet by his colleague from Illinois [Mr. Foster] a considerable part of that time. I was ready to quit very much earlier than I did.

Mr. MANN. I think no one attaches any blame to the gentleman from Colorado, nor am I seeking to attach blame to anyone. I am simply stating the situation.

This bill proposes to increase the limit of cost of the Denver post office, a new building, from \$1,600,000 to \$2,000,000, and the bill itself is quite a commentary upon some of the administrative methods, and possibly some of the legislative procedure of Congress. In January, 1908, before the original limit of cost was fixed, the acting Secretary of the Treasury addressed a letter to the chairman of the Committee on Public Buildings and Grounds of the Senate, as follows:

TREASURY DEPARTMENT,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, January 11, 1998.

CHAIRMAN COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS, United States Senate.

United States Senate.

Sir: Referring to your request for a report in connection with S. 2299, providing for the erection of a public building at Denver, Colo., for the use of the post office and other United States offices, at a cost not to exceed the sum of \$2,500,000, I have the honor to inform you that under date of February 3, 1906, this department reported as follows:

"It is estimated that a four-story-and-basement building having 45,000 square feet ground area will be sufficient, and that such a building of fireproof construction will cost \$1,800,000."

In view of the marked increase which has since taken place in the cost of materials, the department is of the opinion that a building of the dimensions indicated will now cost \$2,900,000.

Respectfully,

J. H. Edwards, Acting Secretary

J. H. EDWARDS, Acting Sccretary.

Thereupon that item was inserted in the public buildings bill. I do not now recall whether it was inserted in the Senate or came from the committee in the House in the first place, at \$1,600,000. The committee had the recommendation, Congress had the recommendation of the department, that \$2,000,000 be appropriated for this building. Congress in its wisdom, or lack of wisdom, whichever it may be, decided to authorize this building at the limit of cost of \$1,600,000, paying no attention whatever to the law passed by Congress on this subject fixing the limit of cost, and an outside architect, employed by the Treasury Department under the so-called Tarsney Act, proceeded to prepare plans for the \$2,000,000 building.

Mr. BURNETT. Mr. Chairman, may I interrupt the gentle-

man just one moment right there?

Mr. MANN. Certainly.

Mr. BURNETT. There may have been, Mr. Chairman, a wrong impression given as to the fees of the architect coming out of this particular amount.

Mr. MANN. I said nothing about the fees of the architect. Mr. BURNETT. I know; but some remark that I made in answer to the question of the gentleman from Illinois a moment ago might be misunderstood. That \$96,000 does not come out of of the committee, who consulted the Supervising Architect. It

I do not know as to that; but I supposed the Mr. MANN. fees of the architect would come out of the sum. I made no such statement.

Mr. BURNETT. I know the gentleman did not, but it was made.

Mr. MANN. Now here is a case where the committees of the House and Senate and the House and Senate themselves, with all the information before those bodies practically which is now before them, decided in arranging for the construction of public buildings throughout the country to authorize a building at Denver to cost \$1,600,000. It is quite true that they could construct a building sufficiently large at Denver to accommodate the public business for \$1,000,000 and thus save the It is also quite true that Congress determined to allow the \$1,600,000 to construct a monumental building.

Now, gentlemen say it is not quite fine enough. They say, "We want a little better building." The same is true as to almost every building that is authorized. When Congress has acted upon these recommendations, with practically no new developments, is the action taken by Congress to be reversed because, perchance, the local architect desires to have a more ornate building or desires to pay a higher price for some local

marble, quarried in the State of Colorado?

My distinguished friend from Colorado [Mr. Rucker] says that they have a marble quarry in that State where they produce marble finer than the Carrara marble. That may be; I do not know. But I see no occasion for constructing these buildings out of Carrara marble, and I doubt the advisability, where Congress, in the first place, otherwise provided, of constructing them out of marble better than Carrara marble, if it is to cost \$400,000 more. When we act upon these public buildings—and, goodness knows, we authorize enough of them which we could do without, so far as expense is concerned—when we do act upon them, unless there has been some development after the action of Congress, the limit of cost ought not, ordinarily at least, to be increased.

I do not know how far this building has progressed. May I ask my friend from Colorado?

Mr. RUCKER of Colorado. Does the gentleman ask me now?

Mr. MANN. Yes.

Mr. RUCKER of Colorado. I will exhibit a photograph, taken on the 12th day of this month, showing that the exterior, barring the fact of the windows and doors, has been completed, and I am informed that the work is absolutely at a standstill now, awaiting the determination of the question whether this bill will pass, to allow the finish to be made in conformity with the exterior.

Mr. MANN. Of course I know the gentleman is accurate about his statements. I have no doubt that if this bill is passed at all, it ought to pass now. May I ask the gentleman from Colorado also if he knows how much of the original cost of the building has been expended?

Mr. RUCKER of Colorado. One million six hundred thousand dollars, minus \$380,000, or \$1,220,000 has been expended.

Mr. MANN. How long has the building been at the point

where it construction has stood still?

Mr. RUCKER of Colorado. It is not even so now. are at work, but the contract expires on the 31st day of this The building has been three years in course of conmonth. struction.

Mr. MANN. Mr. Chairman, this building was authorized a good while ago—nearly five years ago. It ought to have been finished long before this. It has been held up for a long while, with a deliberate purpose of attempting to coerce Congress to adopt the original plans which were submitted to Congress and

which Congress refused to agree to.

Mr. RUCKER of Colorado. Will the gentleman allow me for

a moment?

Mr. MANN. Certainly.

Mr. RUCKER of Colorado. I beg leave to call the gentleman's attention, in view of his last statement, to the fact that the bill in the Senate was introduced only on March 18, 1912, and my bill in the House was introduced on January 3, 1912, so that there has not been any "holding up," as the gentleman ex-presses it. I appreciate fully what the gentleman is saying, but we are in a condition now where you have got to determine how this building shall be completed.

Mr. MANN. This bill itself has been pending for almost a

Mr. RUCKER of Colorado. The gentleman knows that he is himself partly to blame for that. He knows that on two different occasions a point of order was made against the consideration of this bill by the gentleman from Illinois. But we have fixed. This increase has necessitated an increase of limit of

been trying all the time to get this bill passed. It has only been pending here for nine months.

Mr. MANN. Mr. Chairman, I do not quite recall what took place, but I never made a point of order against the considera-tion of this bill. The gentleman is mistaken about that. I do not now recall whether I objected to the consideration of it on the Unanimous Consent Calendar. Whether I did or not, there were a number of Members who were intending to do so at the time, not so much to prevent the consideration of the bill, but in order that when it came up there might be some discussion on the question. I think we ought to know what the policy of the House is to be. There are four bills on this Unanimous Consent Calendar, all of the same character, increasing the limit of cost of public buildings. There may be some special reasons in some of these cases, but when we act on a publicbuilding bill and provide a limit of cost that ought to remain the limit of cost unless some exceptional reason can be given for the change. If, in the first place, the department had made an error and recommended a building at \$1,600,000, and then discovered that the amount ought to be increased, I would not complain; but in this case the department originally started out to have this building cost \$2,000,000, and, flagrantly disregarding the action of Congress, the outside architect provided plans for a \$2,000,000 building. Now they say, "We have got the building held up. We are paying so much rent. It is costing you so much to provide accommodations for the Government offices there. Give us this money. We demand it of you."

I am not in favor of being held up by the outside architect or the Supervising Architect of the Treasury Department, although there are times when I am almost willing to submit to being held up by my distinguished friend from Colorado [Mr.

RUCKER 1.

Mr. RUCKER of Colorado. And this being one of the times,

I thank the gentleman.

Mr. MONDELL. Mr. Chairman, I understood the gentleman from Illinois to say that Congress should not ordinarily increase the limit of cost originally fixed for a public building unless there were reasons and conditions arising subsequent to the action of Congress which would justify such an increase.

I do not pretend to know as much about the history of this building as some of the gentlemen who have discussed it, but it seems to me that there are conditions surrounding the project which have arisen since Congress originally acted and which furnish a most excellent and convincing argument for the

granting of the increase.

I will refer, first, however, to an argument-not of the character suggested by the gentleman from Illinois [Mr. Mann]. That is the fact that the Supervising Architect originally estimated the building at \$1,800,000. Congress, for some reason or another, fixed a limit of cost of \$1,600,000. Probably that was done with a view to helping to keep the total of the publicbuilding appropriation within some total agreed upon. could have been no other very good reason for fixing the limit of cost below the amount estimated by the department.

It seems from the report that since that time the building has been enlarged, or at least it has been found necessary to provide additional accommodations in the building over and above those contemplated at the time of the estimate. been found necessary, by reason of legislation enacted since this building was authorized, to provide for the housing of the United States Court of Appeals. No provision, I assume, was made for this court at the time of the original estimate or at the time the limit was fixed.

The CHAIRMAN. The time of the gentleman has expired. Under the order of the House all time has expired. The Clerk will read the bill under the five-minute rule.

The Clerk read the bill.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. In addition to the reason I have just stated for the increase of the limit of cost of the building—that is, the necessity for the housing of the Federal court of appeals—we find that the Supervising Architect calls attention to the fact that it became necessary to further enlarge the building beyond what was originally contemplated on account of the considerable increase in the various branches of the Government business being conducted in Denver. In that connection I might call attention to the increase of accommodations required for the Forest Service, for the Reclamation Service, and for other services which have branches of considerable magnitude and require considerable space at Denver, which is the center of many Government activities in that intermountain country.

The Supervising Architect also calls attention to the fact of a very inconsiderable increase in the cost of material, an increase known to us all, since the item limiting the cost was cost in quite a number of cases, and has operated to a greater extent, perhaps, in the western country to increase the cost of

buildings than in some other parts of the country.

This is a magnificent building; it is a splendid monument as well as an exceedingly necessary and useful structure. This building is constructed of very beautiful marble now being extensively quarried in Colorado. The use of that marble did not very materially increase the cost of the building, but did add to its beauty, and the enhancement of beauty of the exterior of the building does add force to the request and suggestion of the Supervising Architect and the view of the committee that the interior of the building should be finished in keeping with

its magnificent exterior.

Mr. MADDEN. Will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. MADDEN. How much did the use of marble increase the cost of the building?

Mr. MONDELL. I have no knowledge that it increased it at all. Possibly it did. Some other gentleman here can perhaps inform the gentleman.

Mr. MADDEN. I understood the gentleman from Wyoming

to say it did not increase it at all.

Mr. MONDELL. I said it was my opinion that it did not very materially increase the cost.

Mr. MADDEN. I do not know about it, but it must have

very materially increased the cost.

Mr. MONDELL. Not necessarily, for the increase now asked for is only \$400,000, and the building is larger than originally contemplated; there are more departments of the Government cared for. An additional court room is provided, and in the meantime there has been a general increase in the cost of material throughout the country, an increase that has been greater in the mountain country than elsewhere.

In addition, Congress originally fixed the limit of cost at \$200,000 less than the estimate of the Treasury Department, based on careful plans. It is one of the most beautiful of our recent public buildings. It is a great credit to the Government, and it would be very unfortunate not to allow this increase, now that its size has been increased, its cost increased by the increase of the cost of material, and the desire to provide for the decoration of the interior in a manner entirely in harmony and in keeping with the beautiful, majestic, and imposing char-

acter of the structure as a whole.

Mr. MADDEN. Mr. Chairman, I move to strike out the last two words. I am inclined to think that when the Government constructs a building it ought to so construct it that it will be a credit to the community in which it is being erected. think it ought to set the pace for the local community so that every private structure will be such as to enhance the beauty of the locality. I understood the gentleman from Alabama [Mr. BURNETT] to say that one of the reasons why only \$400,000 is being asked now is that from a statement of the architect it appears that in testing the quality of material upon which this building is to be constructed it was ascertained that the foundation was to be laid on a kind of earth that would not carry the weight unless the foundations went deeper than it was originally intended them to go. I want to say in this connection that such a statement ought to subject the architect, or any other official connected with the construction of this building, to censure by Congress. If the architect or Treasury Department understood their business they would know in advance the kind of foundation upon which this building was to be constructed, and they would not be required, if they knew that, to come to Congress and ask \$150,000 more because of their lack of information in the first instance.

The mere statement of the architect to the effect that he overlooked this important feature of the cost of the building now being erected in Denver gives evidence of his lack of ability to construct a public building at all. No well-informed architect would attempt to lay the foundation of a great structure without first ascertaining the quality of the material upon which that structure was to be built. No architect having any respect for his reputation as an architect would come to Congress and admit that he failed to furnish himself with this

very important information.

Mr. RUCKER of Colorado. Will the gentleman yield?

Mr. MADDEN. I will.

Mr. RUCKER of Colorado. The gentleman, of course, talks intelligently about this. Now, to get some information upon that point, how would he determine as to the kind of soil on which the foundation was to be placed?

Mr. MADDEN. It is the easiest thing in the world to make

Mr. RUCKER of Colorado. How often?

Mr. MADDEN. I would make them sufficiently often on the land upon which the building was to be erected to know exactly what kind of material the foundation is to be laid upon.

The CHAIRMAN. The time of the gentleman has expired. Without objection, the pro forma amendment will be withdrawn.

There was no objection. Mr. BURNETT. Mr. Chairman, I move that the committee:

do now rise and report the bill with the recommendation that

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CLARK of Florida, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill S. 3974, and had directed him to report the same to the House with the recommendation that it do pass

The bill was ordered to be read a third time, and was read

the third time

The SPEAKER. The question now is on the passage of the bill.

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division.

The House divided; and there were-ayes 48, noes 17. So the bill was passed.

PUBLIC BUILDING, DUBLIN, GA.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 17683) to increase the limit of cost for the postoffice building heretofore authorized at Dublin, Ga.

The Clerk read as follows:

Be it enacted, etc., That the limit of cost as now fixed for the acquisition of a site and the erection of a public building for a post office at Dublin, Ga., be, and the same is hereby, increased by the sum of \$8,000.

Mr. ASHBROOK. Mr. Speaker, I ask unanimous consent that

this bill be passed without prejudice.

The SPEAKER. The gentleman from Ohio asks unanimous consent to pass this bill without prejudice.

Mr. MANN. Why not dispose of it? The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object—
Mr. ASHBROOK. I will say to the gentleman from Illinois that the gentleman from Georgia [Mr. Brantley], the author of this bill, is not present, and it is in deference to him that we ask that the bill be passed.

Mr. MANN. I think the gentleman is capable of making a

statement about the bill and the House can determine its policy

about the matter, and I do object.

Mr. ASHBROOK. Then I will say to the gentleman that I understand the building has been completed and that the money will probably not be asked for.

Mr. MANN. On that statement I will make no objection. Mr. BURNETT. The gentleman from Georgia [Mr. Brant-LEY] stated to me when objection was made before that if it was not passed then they would be too far along with the building to be of any benefit this year, but I will confer with him and see if that is the case.

Mr. MANN. I do not object to passing the bill over, then. The SPEAKER. Is there objection to passing this bill without prejudice? [After a pause.] The Chair hears none.

PUBLIC BUILDING, RICHFORD, VT.

The next business on the Calendar for Unanimous Consent was the bill (S. 6899) increasing the limit of cost for the erection and completion of a public building in the city of Richford, State of Vermont.

The Clerk read as follows:

Be it enacted, etc., That the limit of cost for a public building in the city of Richford, State of Vermont, authorized under section 4 of the act of May 30, 1908, be, and the same hereby is, increased from \$60,000 to \$74,000, and that the sum of \$14,000 to provide for such increased cost be, and the same hereby is, appropriated.

Mr. ASHBROOK. Mr. Speaker, I ask unanimous consent that this bill be considered in the House as in Committee of the Whole House on the state of the Union.

The SPEAKER. The gentleman from Ohio asks unanimous consent that this bill be considered in the House as in Committee of the Whole House on the state of the Union. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, let us have a statement about the bill. I do not think it will be necessary to go into the Committee of the Whole House.

Mr. ASHBROOK. Mr. Speaker, this bill is to increase the appropriation for the erection of a public building and customhouse at Richford, Vt. The amount appropriated for the building was \$60,000. The contract was let and the work on

the erection of the building was commenced. Shortly after the work on the excavation was begun rock was struck, which it was found would increase the cost of the erection of the building if the basement was put down to the depth provided for in the specifications, and work thereupon ceased by order of the Secretary of the Treasury until an additional appropriation could be secured. This bill was passed by the Senate and it was favorably recommended by the House Committee on Public Buildings and Grounds with a recommendation from the Treasury Department that \$14,000 more be appropriated for the purpose of bringing the building down to the proper grade of the street, and so forth. In letting the contract the amount appropriated was so small that the Treasury Department was compelled to substitute wood cornice for terra cotta and brick. The citizens of this enterprising little city are also very anxious that the building should be trimmed with limestone or grayfaced brick and not with the ordinary plain red brick the same as is used on all the mercantile houses of that city.

The total cost for limestone trimming is \$4,000. The other items of expense, which include the nonconducting covering of the plumbing and some marble finishing on the interior and reinstating other important omitted features, in the total aggregate only \$14,000. This city is one of considerable importance in that State. It is the port of entry of the Canadian Pacific Railway, with customs receipts amounting to nearly \$500,000 a year, and the amount appropriated, in the opinion of the committee, was very small in the first instance, and the committee therefore thought the additional amount asked was

most reasonable and ought to be appropriated.

Mr. MANN. Does the gentleman object to my asking the gentleman from Vermont [Mr. GREENE] a question about it? Mr. ASHBROOK, No.

Mr. MANN. I suppose the gentleman from Vermont [Mr. GREENE] is personally acquainted with the situation?

Mr. GREENE of Vermont. I am. I live within 28 miles of

Mr. MANN. I think it is desirable sometimes to have gentlemen give information, and I will be glad if the gentleman can give very briefly any reason for increasing this amount.

Mr. GREENE of Vermont. Why it should be favored?

Mr. MANN. Yes.

Mr. GREENE of Vermont. As I understand it, and as the people of Richford have explained it to me, this first appropriation was made by a compromise in the first place. It was before my legislative experience here; but I understand that by some process, by which there was a horizontal reduction in the general measure, it was included in that bill. Then it was agreed they should erect this building at \$60,000. The excavation was begun, and they got down a few feet and found rock. narily in New England anywhere, and particularly in Vermont, you might expect to dig down a little way and find rock, because Vermont is founded on a rock. But there were a few Republican things that went through this time that did not strike much trouble, and this was one of them. But they got the rock. The Treasury Department estimates that it will cost somewhere along about \$6,000, as I understand it, to go down the 2 feet which it is necessary in order to make a cellar out of this present hole in the ground.

Mr. MADDEN. Is the architect of the Treasury Department in charge of the construction of this building? Are the plans

drawn by him?

Mr. GREENE of Vermont. I understand so. I do not know enough about the previous legislative history—
Mr. MADDEN. What is the size of the building? What is the limit of cost on the building?

Mr. GREENE of Vermont. Sixty thousand dollars now. The original appropriation was for \$74,000, and the request is made now, in view of the fact-

Mr. ASHBROOK. It is \$60,000.

Mr. MADDEN. And now they want \$68,000?
Mr. ASHBROOK. They want \$14,000 more.
Mr. MADDEN. The \$14,000 additional is required because of

the fact that they found rock when excavating for the founda-

Mr. ASHBROOK. Not entirely, but there were several substitutes they were compelled to make to hold the contract within the small amount of \$60,000.

Who was the man who wrote the statement that they found rock after they began to excavate?

Mr. KENDALL. Within 2 feet. Mr. GREENE of Vermont. Not within 2 feet. It is 2 feet

Mr. MADDEN. Because they found rock it was costing more to excavate?

Mr. ASHBROOK. I can not answer the gentleman. This bill passed the Senate, and the report from the Senate committee to the Senate is practically the same as the report of the House committee to the House.

Mr. MADDEN. The purpose of my question is whether the statement was made by the Supervising Architect of the Treasury Department, and if he made such a statement, then to show he was negligent in the performance of his duty.

Mr. KENDALL. The gentleman from Vermont [Mr. Greene] says that when they had gone down "2 feet." It was a "few

Mr. GREENE of Vermont. They went down within 2 feet of

the required distance, and then found rock.
Mr. MADDEN. Why did not the Supervising Architect make preliminary boring down as far as it was necessary to go with the foundation?

Mr. GREENE of Vermont. Ordinarily you would strike rock in Vermont, but this is a river bottom and alluvial soil.

Mr. MADDEN. Well, they would not be able to build a foundation at all, on alluvial soil, for a great building.

Mr. GREENE of Vermont. It is not a great building. It is building to cost \$60,000.

Mr. MADDEN. It seems to me the architect ought to know

what kind of earth this building was to be erected upon before he began its erection.

Mr. GREENE of Vermont. Would the gentleman penalize

the city of Richford because of that?

Mr. MADDEN. No. I am simply calling attention to the negligence of the office of the Supervising Architect, and say that either because of his lack of knowledge or his failure to perform his duty the people of the United States are being taxed to pay more money for a building than they would otherwise be called upon to pay. That is what I am calling attention to. I am not saying that I am opposed to the allowance of this appropriation, but I am opposed to the methods that are pursued by the men who are supposed to understand what kind of material there is in the foundation upon which a building is to be erected.

Mr. PLUMLEY. Mr. Speaker, will the gentleman yield

to me?

The SPEAKER. Does the gentleman yield?

Mr. MADDEN. I have not the floor. Mr. PLUMLEY. I desire to ask the I desire to ask the gentleman whether, if the Supervising Architect had known this before, he would not simply have had to ask before for this additional sum? Is not that true?

Mr. MADDEN. The very fact that he did not know it before is evidence of the prior fact that he did not understand his business or that, if he did understand it, he did not attend to it.

Mr. PLUMLEY. I am not here to represent the Supervising Architect's Office and I do not hold a brief from him. I simply wanted to ask the gentleman that question.

Mr. COOPER. Mr. Speaker, will the gentleman yield? The SPEAKER. Does the gentleman yield?

Mr. MADDEN. Mr. COOPER. Yes.

I will ask the gentleman from Illinois if he does not think the negligence, if any, is attributable to the inspector in charge of the work and not to the office of the

Supervising Architect in Washington?

Mr. MADDEN. No. In making a plan for a building, the first thing to be determined is what kind of material the building is to be founded on, and borings must be made to ascertain that fact. The inspector can have no knowledge of such facts until the building is under way. He is appointed to supervise the construction of the building after construction is commenced, and not to know what kind of material the building is to be constructed upon.

Mr. COOPER. Does the gentleman know the particular instructions that were issued to the inspector or supervisor?

Mr. MADDEN. No.
Mr. COOPER. Suppose the inspector failed to carry out the

specifications. In that case no fault can be attributed up here to the office of the Supervising Architect.

Mr. MADDEN. This is the fact, as stated by the Chairman of the Committee on Public Buildings and Grounds, that when they reached a certain stage in the excavation of the founda-tion they discovered rock 2 feet below the surface. They should have discovered that before they got to digging at all.

Mr. ASHBROOK. Mr. Speaker, if the gentleman will permit, I do not think I said "2 feet" below the surface. I said "a few feet."

Mr. KENDALL. How can the supervisor in charge of the building know of the character of the soil without a previous investigation?

Mr. MADDEN. He could not.

Mr. KENDALL. Then there must have been a previous investigation.

Mr. MADDEN. If there was not, there ought to have been. Mr. ASHBROOK. I have no brief to defend the Supervising Architect or excuse this condition of affairs. But the fact is that unless this bill is passed, the building can not be constructed.

Mr. MADDEN. I do not oppose the granting of the appropriation, but I desire to call attention to the fact that somebody somewhere has neglected to perform his duty.

Mr. ASHBROOK. I quite agree with the gentleman.
The SPEAKER. Is there objection to the consideration of
this bill in the House as in Committee of the Whole?

There was no objection.
The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

An act (S. 6899) increasing the limit of cost for the erection and completion of a public building in the city of Richford, State of Vermont.

Be it enacted, etc., That the limit of cost for a public building in the city of Richford. State of Vermont, authorized under section 4 of the act of May 30, 1908, be, and the same hereby is, increased from \$60,000 to \$74,000, and that the sum of \$14,000 to provide for such increased cost be, and the same hereby is, appropriated.

The SPEAKER. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was

read the third time, and passed.
On motion of Mr. Ashbrook, a motion to reconsider the vote whereby the bill was passed was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following resolution:

nnnounced that the Senate had passed the following resolution:

Resolved, That the Secretary notify the House of Representatives that the Senate has elected Jacob H. Gallinger, a Senator from the State of New Hampshire, President of the Senate pro tempore, to hold and exercise the office from and including December 16, 1912; that the Senate has elected Augustus O. Bacon, a Senator from the State of Georgia, President of the Senate pro tempore, to hold and exercise the office from and including January 5, 1913; that the Senate has elected Jacob H. Gallinger President of the Senate pro tempore, to hold and exercise the office from and including January 19, 1913, to and including February 1, 1913; that the Senate has elected Augustus O. Bacon President of the Senate pro tempore, to hold and exercise the office from and including February 2, 1913, to and including February 1, 1913; and that the Senate has elected Jacob H. Gallinger President of the Senate pro tempore, to hold and exercise the office from and including February 16, 1913, to and including March 3, 1913.

CHANGES IN HOMESTEAD ALLOTMENTS OF CHOCTAW AND CHICKA-

CHANGES IN HOMESTEAD ALLOTMENTS OF CHOCTAW AND CHICKA-SAW INDIANS, OKLAHOMA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25507) to authorize certain changes in homestead allotments of the Choctaw and Chickasaw Indians in Oklahoma.

The title of the bill was read.

Mr. FOSTER. Mr. Speaker, the gentleman from Oklahoma [Mr. Carter] who is in charge of this bill was compelled to go away, and he asked me to request the House that the consideration of this bill be passed to-day. I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. The gentleman from Illinois [Mr. Foster] asks unanimous consent that the consideration of this bill be passed without prejudice. Is there objection?

There was no objection.
The SPEAKER. The Clerk will report the next one.

TO PROVIDE FOR AN ENLARGED HOMESTEAD.

Mr. FOSTER. Mr. Speaker; unless there is some objection, I wish to state that the gentleman from Colorado [Mr. Tax-LOB] who introduced the next bill on this calendar has written me a letter requesting that that bill go over until such time as e can be here. He is now at his home in Denver, Colo.

The SPEAKER. The gentleman from Illinois [Mr. Foster] he can be here.

asks unanimous consent to pass without prejudice the next bill on the Calendar for Unanimous Consent, which is the bill (H. R. 23351) to amend an act entitled "An act to provide for an enlarged homestead." Is there objection?

Mr. MONDELL. Reserving the right to object, I wish to say that this legislation ought to pass. I do not feel disposed to allow it to go over by unanimous consent unless such action will tend to its ultimate enactment.

Mr. FOSTER. If there is no objection to the consideration of this bill it may be considered and passed, but the gentleman from Colorado [Mr. Taylon] wrote me that letter, and I desired to state the situation to the House. He is at home, and I understand that his whole family have been in the hospital,

and he is there now.

Mr. MONDELL. Do I understand that the gentleman from Illinois [Mr. Foster], in case his request is not granted, is

disposed to interpose an objection to the consideration of the bill at this time, and therefore cause it to be stricken from the calendar?

Mr. FOSTER. I do not know that I should do that; no. would not like to strike the bill from the calendar by objecting to its consideration, but I merely make this statement in justice to the gentleman from Colorado [Mr. TAYLOR], who wrote me in reference to this matter some time ago. I consulted with a friend of his, who thought that possibly the bill ought to go over until the gentleman from Colorado [Mr. Taylor] was here. If, after hearing this statement, the gentleman from Wyoming [Mr. Mondell] thinks the bill had better be taken up for consideration at this time, I shall not object, and will withdraw my request.

Mr. MONDELL. The entire western country is interested in this legislation. I do not want to agree to any action which would prevent or delay the passage of the act. If objection is likely, and the bill is to be stricken from the calendar unless it is passed over, of course I prefer to have it passed over without prejudice.

Mr. FOSTER. I shall not object to its consideration. Mr. MONDELL. The situation, as the gentleman will see, is somewhat embarrassing.

Mr. MANN. Perhaps it would be well to have the bill reported before we decide what we will do with it.

Mr. FOSTER. I simply made my statement for the purpose of saving time.

The SPEAKER. The Clerk will report the bill.
The Clerk read the bill (H. R. 23351) to amend an act entitled "An act to provide for an enlarged homestead."
The SPEAKER. Is there objection to the request of the gentleman from Illinois [Mr. Foster] to pass this bill over without prejudice?

There was no objection.

The SPEAKER. The Clerk will report the next bill. BRIDGE ACROSS HUDSON RIVER BETWEEN NEW YORK AND NEW JERSEY.

The next business on the Calendar for Unanimous Consent was the bill (S. 5650) to supplement and amend an act entitled "An act to authorize the New York and New Jersey Bridge Cos, to construct and maintain a bridge across the Hudson River between New York City and the State of New Jersey," approved June 7, 1894.

The SPEAKER. Is there objection to the consideration of this bill?

Mr. SABATH. I reserve the right to object.

Mr. MANN. Reserving the right to object, a parliamentary

inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MANN. This appears on the Unanimous Consent Calendar twice.

Mr. MICHAEL E. DRISCOLL. I will explain that.
Mr. MANN. It appears on the Unanimous Consent Calendar
as No. 411 and also as 435. My inquiry is whether the Clerk
in making up the Unanimous Consent Calendar was authorized to place the bill upon the calendar the second time. I do not know whether it may have been done inadvertently, but I wish to ask whether as a matter of right a bill can be placed on the calendar a second time?

The SPEAKER. The Chair is informed that it came about

in this way

Mr. MANN. Evidently it may have been a mistake; but has a Member the right to put a bill on the Calendar for Unanimous Consent twice?

The SPEAKER. The Chair does not think a bill ought to be allowed to appear twice on the same calendar, and if it is disposed of at this point, then it goes off the calendar in both places.

Mr. MICHAEL E. DRISCOLL. It was placed on the calendar twice as the result of a misunderstanding, and it was an accident.

The SPEAKER. The Chair has ruled on that proposition

that you can not put the same bill on the calendar twice.

Mr. MICHAEL E. DRISCOLL. This bill and bill Calendar
No. 434 are really companion bills and ought to be considered at the same time.

Mr. MANN. It is not possible to consider two bills at the same time.

Mr. MICHAEL E. DRISCOLL. I mean one after the other. Mr. MANN. The other one will follow this. The SPEAKER. Are these bills the same? Mr. MICHAEL E. DRISCOLL. They are not the same, but

they are both bridge bills for bridges over the Hudson River. The SPEAKER. Is it the same bridge?

Mr. MICHAEL E. DRISCOLL. No; there are two bridges. The bills are Calendar Nos. 434 and 435, and I ask unanimous

consent that bill Calendar No. 411 be postponed until it is

reached as No. 435, and it be then considered.

Mr. MANN. Mr. Speaker, reserving the right to object, let me ask why is it desirable to have this bill considered after the other bill instead of having the other bill considered after this one?

Mr. MICHAEL E. DRISCOLL. I would just as lief have the other bill considered after this.

Mr. MANN. If there is any reason, I do not object.
Mr. MICHAEL E. DRISCOLL. It is immaterial to me.

Mr. GOLDFOGLE. Mr. Speaker, my colleague [Mr. Michael E. Driscoll] is right in his statement concerning the character of the bills, and I should join in the request that he makes that the bill which has now been called be passed over until No. 435 is reached, just as he has requested.

Mr. FITZGERALD. Mr. Speaker-

The SPEAKER. The Chair will recognize the gentleman from New York in a minute. What the Chair wants to find out in order to make a correct ruling, and I suppose the first he has ever made on the subject, is, are these two bills the

Mr. GOLDFOGLE. They are evidently for the same purpose, namely, to construct bridges across the North River, or rather

to extend the life of the charter.

Mr. MANN. I think the Speaker misunderstands. One bill is on the calendar and another bill similar is on the calendar in another place, but one bill is on twice.

The SPEAKER. The Chair rules without any qualification that you can not put the same bill in two places on this Unanimous Consent Calendar.

Mr. BURKE of Pennsylvania. Mr. Speaker, a parliamen-

tary inquiry

The SPEAKER. The gentleman will state it.

Mr. BURKE of Pennsylvania. If objection is made to this particular bill, and it is stricken from the calendar, would it not facilitate matters to take the other number up when it is reached in its regular order, or would objection to this bill work automatically to strike the other bill from the calendar? The SPEAKER. It would work automatically.

I understand the gentleman from New York Mr. MANN. now asks unanimous consent to strike Calendar No. 411 off the calendar and leave on the calendar No. 435.

Mr. MICHAEL E. DRISCOLL. That is the request.

The SPEAKER. For what purpose did the gentleman from

New York [Mr. FITZGERALD] rise?

Mr. FITZGERALD. I wished to ask somebody why either one of those bills should pass? - A couple of companies in New York have been fooling around this franchise for over 20 years pretending they wanted to build a bridge across the Hudson

Mr. MANN. We have not reached that yet. Mr. FITZGERALD (continuing). And I did not know but it might be pertinent, before anything else is done, to inquire why these franchises should be bucketed about; why does not some body build a bridge if they want to do so and not hold up those who want to build a bridge and not be coming here asking us to extend the time with nothing in evidence that the bridge is to be built?

Mr. MICHAEL E. DRISCOLL. That is exactly what we do not want to be done, and if they do not commence this bridge

within three years they forfeit their franchise.

Mr. FITZGERALD. They have been here every two or three years since 1894 and it is about time somebody decided whether they intend to build one of these bridges. If they do not, let their rights expire and perhaps somebody will come along who is willing to build a bridge across the Hudson River.

Mr. MICHAEL E. DRISCOLL. These extensions were 10

years at a time.

The SPEAKER. What is the request of the gentleman from

New York [Mr. MICHAEL E. DRISCOLL]?

Mr. MICHAEL E. DRISCOLL. My request is that this bill. No. 411, be stricken from the calendar and the same bill, No.

435, be left on the calendar.

The SPEAKER. The gentleman from New York asks unanimous consent to strike the bill, Calendar No. 411, from the calendar without prejudice to the bill where it appears as 435. Is there objection. [After a pause.] The Chair hears none. The Clerk will strike the bill, Calendar No. 411, from the calendar and report the next one.

MAKING LABOR DAY A LEGAL HOLIDAY.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25937) making the first Monday in September, Labor Day, a legal holiday.

The Clerk read as follows:

Be it enacted, etc., That the first Monday in September in each year, the day celebrated and known as Labor Day, be, and is hereby,

declared to be a legal holiday, and that the employees of the Navy Yard, Government Printing Office, Bureau of Engraving and Printing, and all other per dlem employees of the Government of the United States, at Washington or elsewhere in the United States, shall be allowed a holiday on the said first Monday in September in each year and shall receive for that day the same pay as for other days.

With the following committee amendment:

Strike out all after the enacting clause and insert the following: "That all per diem employees of the Government of the United States shall receive for all legal holidays, including the first Monday in Septemper, known as Labor Day, the same pay as for other days."

The SPEAKER. Is there objection to the present considera-

tion of this bill?

Mr. COX of Indiana. Mr. Speaker, reserving the right to object, I would like to ask some one in charge of the bill if he has investigated with a view of seeing how much additional cost this will entail upon the Treasury?

Mr. GILLETT. Mr. Speaker, if there is nobody here representing this bill, I will say that I know something about it, because I introduced a similar bill myself and I can explain

what the purpose of it is.

I introduced a joint resolution, which is practically the same as this bill amended by the committee, and it simply means to cure what I think was an unintentional defect in the present law. The law to-day provides that on holidays, such as Christmas, Fourth of July, and Thanksgiving Day, the employees of the Government on duty in the navy yards and arsenals, and so forth, if they are called upon to work shall be paid extra-that is, if they do not work at all they get their regular pay-but, if because of some exigency they are called upon to work on the holiday they get not only their regular pay but they get an extra day's pay. It so happens that when the law was passed making Labor Day a holiday it did not have in it-undoubtedly by oversight-the provision which allowed laborers who were called upon to work upon Labor Day their extra pay. The comptroller being called upon to rule, ruled that they could not; that if they were called upon to work on Labor Day they just got their regular Labor Day pay the same as if they had not worked at all. So this is simply to cure that defect and put Labor Day on the same par as Christmas, Thanksgiving, the Fourth of July, and Washington's Birthday.

Mr. COX of Indiana. Will the gentleman yield?

Mr. GILLETT. Certainly.
Mr. COX of Indiana. Under the law as it exists now do these employees when they do not work on Labor Day get any

pay? Mr. GILLETT. Mr. GILLETT. Certainly; they get their regular per diem. Mr. COX of Indiana. If they do work on Labor Day, they

get this extra pay?

Mr. GILLETT. They ought to get two days' pay. In other words, they get the pay for the holiday—that is, they would if this bill became a law—and also get an extra day's pay. If a man is called upon by some exigency in a navy yard, if there is a stress in getting out a ship, and he works on Labor Day, he would get two days' pay for that work. They would get the holiday pay and the pay for working. And that applies to all the holidays now except Labor Day, and this is to put Labor Day on that same footing.

Mr. COX of Indiana. Could the gentleman make any estimate

as to what it would cost?

Mr. GILLETT. You can not, Mr. Speaker, make such an estimate, of course, because it is a thing that probably will not happen very often that many men in these Government establishments will be called upon to work on Labor Day; but if there does come a sudden stress and exigency, then I think it is no more than fair that that holiday shall be treated the same as the others. There probably will not be many.

Mr. COX of Indiana. Does the gentleman know about how

many employees it might likely affect?

Mr. GILLETT. Of course, it would affect all of the employees in the Government navy yards and in all of the Government arsenals if they were called upon to work in case of war, for instance, on Labor Day. It would affect them all. Their reason for this law is that occasionally now a man does have to work-some few workmen always have on Labor Day and they feel it to be unfair to them if they are called upon to work when the rest of their fellow employees do not have to work and get just the same pay.

Mr. COX of Indiana. It is to satisfy him under those con-

Mr. GILLETT. No; it is to put them all on the same footing.

Mr. MADDEN: Will the gentleman yield?

Mr. GILLETT. Certainly. Mr. MADDEN. The Government of the United States does not recognize Labor Day and pay men who are in its service if they are not employed on that day, does it?

Mr. GILLETT. Oh, yes.

Mr. MADDEN. Now? Mr. GILLETT. Now.

Mr. MADDEN. It is not a national holiday?

Mr. GILLETT. It is a national holiday.

Mr. MADDEN. What is the reason for this bill?
Mr. GILLETT. I think the gentleman did not hear me. is because, as I explained, the bill that made this day a holiday did not provide for this holiday as on all other holidaysthat if a man did work on this holiday he should be paid double.

Mr. MADDEN. It is a State holiday. Mr. GILLETT. It is a national holiday.

Mr. COX of Indiana. Do I understand that a man gets paid on all other holidays when he works?

Mr. GILLETT. Yes.

Mr. COX of Indiana. And this is to equalize it?
Mr. GILLETT. Yes. It is to put him on exactly the same footing on this day as on other holidays.

Mr. MANN. Mr. Speaker, I ask for the regular order. Mr. GILLETT. This bill is the regular order.

The SPEAKER. The regular order is, Is there objection to the present consideration of this bill? [After a pause.] The

Chair hears none. This bill is on the Union Calendar.

Mr. MANN. Mr. Speaker, if nobody else does, I move that
the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of this bill.

The motion was agreed to.

The SPEAKER. The House resolves itself into the Committee of the Whole House on the state of the Union, and the gentleman from Florida [Mr. Clark] will take the chair.

Accordingly the House resolved itself into Committee of the

Whole House on the state of the Union for the consideration of the bill H. R. 25937, making the first Monday in September (Labor Day) a legal holiday, with Mr. CLARK of Florida in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 25937. The Clerk will report the bill.

The title of the bill was read.

Mr. FITZGERALD. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. The gentleman from New York [Mr. Fitz-GERALD] asks unanimous consent to dispense with the first reading of the bill. Is there objection?

There was no objection.

Mr. MANN. Mr. Chairman, this bill, as introduced, proposes to declare Labor Day a legal holiday. It was introduced by my friend from New York [Mr. Redfield], but I assume that that gentleman did not prepare the bill, because he undoubtedly knows that Labor Day is already a legal holiday. Whoever did prepare the bill was not fully informed on the subject. I wondered whether the committee that reported the bill—the Committee on the Judiciary, which has no jurisdiction over matters of this sort concerned in the amendment—knew what they reported when they reported this bill.

The bill provides-

That all per diem employees of the Government of the United States shall receive for all legal holidays, including the first Monday in September, known as Labor Day, the same pay as on other days.

I presume the purpose was to increase the compensation paid to per diem employees. But unless I am mistaken, the effect of the bill may be to decrease the compensation. employees of the Government who now work on holidays, most of them, get a larger compensation for their holiday work than they do on other days. I think in the Government Printing Office they probably get time and a half. This bill proposes to cut down the extra compensation they get on legal holidays when they work on legal holidays, and pay them only the same amount as they receive on other days. Is that the intention of the two distinguished gentlemen who father the bill?

Mr. SHARP. The verbiage there is "for other holidays."

Mr. MANN. No; it is "for other days." I will ask my friend

from Ohio, who is or has been a large employer of labor, whether, if that bill were passed and applied to him and a man now receiving time and a half for a holiday worked then on a holiday, he would feel compelled to pay him simply for time and not time and a half? Is that the purpose of the bill?

But I would like to know, further, whether those who are now engaged in working on piecework will be affected by the provision in reference to the compensation on holidays. included in the legislative bill that was passed a few days ago an item for piecework in the office of the Auditor for the Post Office Department, with a provision that the people so engaged should be allowed compensation on holidays equal to the average which they receive. And in that connection I may say that when that matter came up in the House the distinguished

gentleman from South Carolina [Mr. Johnson], who had charge of the legislative bill, stated that he had never heard any complaint from the people engaged in the office of the Auditor for the Post Office Department on piecework.

I questioned whether it was entirely satisfactory to require the people who operate tabulating machines in the office of the Auditor for the Post Office Department to do it by the piece? Since that time I have been called up on the telephone numerous times by people engaged in that department and have received a number of letters, the contents of which, of course, can not be divulged, all complaining that under the piecework system in force in the office of the Auditor for the Post Office Department the people who operate these machines, in order to receive the same amount of compensation which they used to receive and which is paid to other similar employees of the Government, have to go to work at 8 o'clock in the morning and, with very little time for lunch, some of them have to work until comparatively late at night; not in the afternoon, but at night, and that is a disgrace to the Government, if it be the case.

Mr. COX of Indiana. Of course, I do not inquire of the gentleman the sources of his information; but is not that objection based on the ground that while the machines work all right the mistakes made by postmasters throughout the country in regard to the money orders make it impossible to tabulate them

with the machines?

Mr. MANN. I do not know what is the ground of the com-plaint, and I have never met any of the ladies who do this I think most of it is done by ladies. The statement is made that under that piecework system the allowance of compensation is based upon the ability of those who can do the most rapid work, at the very top notch, and that the others, in order to make anything like a living wage, have to work excessively long hours.

I reserve the balance of my time.

Mr. REDFIELD. Mr. Chairman, the gentleman from Illinois [Mr. Mann] is entirely correct in his criticism of the bill in the form in which it comes from the Committee on the Judiciary. The bill was introduced because of the actual case of a man who had worked by special request upon a number of holidays, and who was paid double time for all of those holidays except for several Labor Days, for which the Comptroller of the Treasury refused to pay him more than single time, giving as his reason that the law was defective in the respect that a clause had been omitted from the act which made Labor Day a holiday, which provided the method of paying upon that day. The Comptroller of the Treasury called my attention to it, and in an interview said it ought to be corrected.- This bill in its original form was drawn by me and was approved by the Comptroller of the Treasury. It went to the Judiciary Committee, and I have never seen it since then until to-day. The effect of it as it now reads would be to undo all that was attempted to be done. wish to offer an amendment, which will restore the bill to its original purpose, I think.

The Chair will state that amendment is The CHAIRMAN. not in order now.

Mr. REDFIELD. At the proper time I will offer the amendment.

The CHAIRMAN. If there is no further general debate the Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc., That the first Monday in September in each year, the day celebrated and known as Labor Day, be, and is hereby, declared to be a legal holiday, and that the employees of the Navy Yard, Government Printing Office, Bureau of Engraving and Printing, and all other per diem employees of the Government of the United States, at Washington or elsewhere in the United States, shall be allowed a holiday on the said first Monday in September in each year and shall receive for that day the same pay as for other days.

With the following committee amendment:

Strike out all after the enacting clause and substitute the following: "That all per diem employees of the Government of the United States shall receive for all legal holidays, including the first Monday in September, known as Labor Day, the same pay as for other days."

Mr. REDFIELD. Mr. Chairman, I desire to offer an amendment to the amendment.

The Clerk read as follows:

Amend the amendment by striking out the word "days," in-line 4, and inserting in lieu thereof the word "holidays," and by striking out in line 2 "all legal holidays, including."

Mr. REDFIELD. I ask the Clerk to read it as it will read

The CLERK. The amendment as amended will read:

That all per diem employees of the Government of the United States shall receive for the first Monday in September, known as Labor Day, the same pay as for other holidays.

Mr. BUCHANAN. I suggest that the gentleman insert the word "legal" before "holidays."

Mr. GILLETT. I think it is unfortunate that the committee which reported this bill is not represented here to explain and defend it.

Mr. MANN. I will say in this connection they are over in the Senate representing this body in the impeachment pro-

ceedings.

That is correct. I did not think of that, and I was not submitting any criticism, but it is still unfortunate; and I think, Mr. Chairman, the gentleman from New York [Mr. Redfield] is wrong, and the committee is right in its amendment, because, although at first blush it appears as he suggests that this would not provide for the same pay as on other helidays, yet the amendment which the committee has inserted follows exactly the original law applying to other holidays which has been construed already by the comptroller. Here is that law. I only read the last part of it:

The 1st day of January, the 22d day of February, the 4th day of July, the 25th day of December, and such days as may be designated by the President as national days of Thanksgiving, and shall receive the same pay as on other days.

Exactly the language which is put into this bill. Now, that has been interpreted already by the Comptroller of the Treasury, and under that interpretation the men are allowed, if they work on those holidays, double pay. Therefore I think it is wise to leave the amendment as the Committee on the Judiciary, who undoubtedly had investigated the previous statutes and the decisions of the comptroller originally reported it. It is always well, if possible, to use language which has already been tested

and interpreted by a court.

Mr. MADDEN. The intention of the law, I suppose, is to provide they shall receive the same pay on these legal holidays as they did on other days when they are not at work on legal

holidays?

Mr. GILLETT. And when they do work they get double

Mr. MANN. The gentleman will recall in a great many instances it has been provided specifically where employees work on holidays they shall be paid extra time or time and a half or double time for those days.

Mr. GILLETT. That is true.

Mr. MANN. Now those employees, if they work on other holidays and Labor Day, now receive an extra day's pay.

Mr. GILLETT. They receive it under this law, which I read as to Thanksgiving and all other holidays except this.

Mr. MANN. That extra day's pay goes to everybody alike?

Mr. GILLETT. Yes. Mr. MANN. We have special provision, I think, concerning the Government Printing Office that people who work on a holiday shall receive extra compensation.

Mr. GILLETT. Very likely they do.

Mr. MANN. Under this provision, as the committee reported it, it would take that away from them.

Mr. GILLETT. No-

Mr. KENDALL. I do not think they are inconsistent. Mr. GILLETT. I do not think so, because it follows exactly the law of all other holidays which has been construed by the comptroller. I have just read it. Now, is not it wiser to follow the exact law as it is to-day than to make a law on the floor of this House without investigation?

Mr. MANN. I suggest the amendment now offered by the gentleman from New York [Mr. REDFIELD] would not change that law at all. It only provides that Labor Day shall be treated as other holidays. That is all.

Mr. GILLETT. I do not see why it does not accomplish the same result. I do not care which language is used if the result is reached.

Mr. MANN. His amendment only provides Labor Day shall be treated as other holidays. It does not change any of the other laws.

Mr. GILLETT. I will agree to that; I do not think it does.

Mr. CANNON. Is not there a law now that the man who works on Labor Day in the Government Printing Office shall not only get his pay as of the holiday but shall get his pay for the day's work double?

Mr. MANN. There is a law if he works on the Fourth of July

that shall happen to him.

Mr. CANNON. On the Fourth of July or Christmas he gets three days' pay or two days' pay?

Mr. MANN. He gets pay for the holiday and then he gets two

days' pay for working on that day.

Mr. GILLETT. No; he gets pay for the holiday and he gets one day's extra pay. In other words, if he works he gets double

Mr. MANN. He gets one day's pay because of the holiday; if he works, he may get two days' pay in addition.

Mr. GILLETT. Oh, no.

Mr. FITZGERALD. If he does not work, he is paid for the day's work; if he works, he gets paid for another day-that is, double time.

Mr. MANN. He gets holiday pay in addition. Mr. GILLETT. He does not under this law which I read. Mr. MANN. He gets paid for working extra time; that is

under special statute, but not under this statute.

Mr. KENDALL. Not under this statute. Let me suggest to the gentleman from Massachusetts that, it seems to me, the most expeditious way to meet this situation is simply to amend the gentleman's resolution by inserting, after the words "25th day of December," the words "Labor Day or the first Monday of September.'

Mr. MANN. The amendment now offered by the gentleman from New York [Mr. REDFIELD] is practically that.

Mr. GILLETT. Yes; I think they all accomplish the same

result. Mr. KENDALL. This joint resolution has been interpreted by the Comptroller of the Treasury, and no confusion could arise if that should be done.

Mr. MANN. That is practically what his amendment is, namely, that Labor Day should be treated as other days.

Mr. GILLETT. I suggest an amendment to the gentleman from New York to his amendment, and that is it should provide, as I provided originally in the resolution which I submitted, "on duty in the United States." You have it in yours mitted, "on duty in the United States." You have it in yours "elsewhere than in the United States." I do not think this is meant to apply outside of the United States. Although the committee did not have that in their amendment, I think you have it in yours.

Mr. REDFIELD. It is not in the amended bill.

Mr. GILLETT. I think it ought to read "duty in the United States," so it should not apply

Mr. REDFIELD. Should it not apply to the Government employees in Hawaii?

Mr. MANN. Hawali is a part of the United States. Mr. REDFIELD. It is a Territory of the United States. Mr. GILLETT. It should not apply to the Philippines or the

Mr. REDFIELD. I will accept that amendment.

Mr. WILDER. Is it not a fact that the workmen in Government employment at this time receive extra pay?

Mr. GILLETT. Yes; that is what I have been saying.
Mr. WILDER. If they did work on a holiday they would

receive double pay for it?

Mr. GILLETT. The gentleman has not been here to hear the discussion.

Mr. WILDER. I have heard every word of it.
Mr. GILLETT. This is to provide that they shall get double pay on Labor Day as on other holidays.

Mr. WILDER. If it is a holiday they get double pay. Mr. GILLETT. No; they do not. The comptroller has ruled

that way Mr. REDFIELD. Does the gentleman from Massachusetts wish to offer that as an amendment?

Mr. GILLETT. I suggest it to you.
Mr. REDFIELD. Then I will leave it as it stands.
The CHAIRMAN. The question is on the amendment offered

by the gentleman from New York [Mr. REDFIELD].

Mr. BUCHANAN. Mr. Chairman, I suggest to the gentleman whether it is necessary to put the word "legal" in there or not. Mr. REDFIELD. I agree to that, namely, that the word "legal" should be inserted before the word "holiday."

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from New York [Mr. Red-

FIELD].

Mr. CANNON. How will it read?
The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend the committee amendment by striking out, in line 2, the words "all legal holidays including." and in line 4 strike out the word "days," and insert the words "legal holidays."

Mr. REDFIELD. Will the Clerk please read it as amended?

Mr. SABATH. How will the bill read now?

The CHAIRMAN. The Clerk will read the bill as it will read when amended.

The Clerk read as follows:

That all per diem employees of the Government of the United States shall receive for the first Monday in September, known as Labor Day, the same pay as for other legal holidays.

Mr. GILLETT. Mr. Chairman—
The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from New York [Mr. REDFIELD].

Mr. GILLETT. Mr. Chairman, I addressed the Chair before the vote was put. I do not like to seem too critical, but I wonder if the gentleman is not making a mistake there? I understand, you are going to put "legal holidays" at the end?

Mr. REDFIELD. Yes. Mr. GILLETT. That is what this means. This means they shall get the same pay as they are getting on other days. That is, one workman may get on the holiday the same pay he is

getting every day.

Mr. FOWLER. And the effect of the bill is to place the laborer on Labor Day so that he can receive the same pay he

does on any other holiday?

Mr. GILLETT. Yes. Mr. FOWLER. And then if he should work on the heliday he receives the holiday pay in addition?

Mr. GILLETT. Well, yes; he does.

Mr. FOWLER. That is what the effect of the bill is now, without the amendment?

Mr. KENDALL. Not at all.
Mr. GILLETT. I do not think that amendment is necessary.

Mr. FOWLER. I do not think so either.

Mr. CANNON. Does that apply to the people employed in the Philippines'

Mr. REDFIELD. As it now stands it would. Mr. CANNON. And with the amendment? Mr. REDFIELD. As it now stands it would.

Mr. CANNON. Somebody said it would not, under some pro-

posed amendment.

As it now stands, I will say to the gentleman from Illinois, that it applies to all of the per diem employees of the Government of the United States.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from New York [Mr.

REDFIELD].

The amendment was agreed to.

Mr. BURKE of Pennsylvania. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. BURKE] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 2, line 3, after the word "day," by inserting the following: "And the 12th day of October each year, to be known as Columbus Day."

Mr. Chairman, I make a point of order against Mr. MANN. the amendment.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. Burke] desire to be heard on that point of order?

Mr. Burke of Pennsylvania. Well, Mr. Chairman, so far as the point of order is concerned, it seems to me the purpose of this bill, despite its title, is to fix the pay of Government employees on a certain class of days. It does not refer to any one specific day. That class, it seems to me, can be enlarged in this bill. It affects the Treasury and it affects the status of those employees on certain days of the year. The purpose of this amendment is to carry that provision one day beyond those already provided in the bill itself.

The CHAIRMAN. The Chair sustains the point of order.

The question now is on the adoption of the committee amend-

ment as amended.

The committee amendment as amended was agreed to.

Mr. REDFIELD. Mr. Chairman, I move that the committee rise and report the bill, with the recommendation that the amendment be agreed to and that the bill as amended do pass. The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. Clark of Florida, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 25937) making the first Monday in September (Labor Day) a legal holiday, and had instructed him to report back the same with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass,

The SPEAKER. The question is on agreeing to the amend-

ments.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a

third time, was read the third time, and passed.

The title was amended so as to read: "A bill providing for pay for per diem employees of the Government of the United States.'

On motion of Mr. REDFIELD, a motion to reconsider the vote whereby the bill was passed was laid on the table.

The SPEAKER. The Clerk will report the next bill.

APACHE PRISONERS OF WAR.

The next business on the Calendar for Unanimous Consent was the bill (S. 6776) for the relief of the Apache Indians held as prisoners of war on the Fort Sill Military Reservation, in Oklahoma, and for other purposes.

The Clerk read the title of the bill.

Mr. FERRIS. Mr. Speaker, the substance of that bill was provided for in last year's Indian appropriation bill, and I think it might as well be stricken from the calendar.

Mr. MANN. Why not lay it on the table? Mr. FERRIS. I ask unanimous consent, Mr. Speaker, that the bill lie on the table.

The SPEAKER. The gentleman from Oklahoma [Mr. Fer-RIS] asks unanimous consent to lay the bill on the table. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the next bill.

PUBLIC BUILDING AT OLYMPIA, WASH.

The next business on the Calendar for Unanimous Consent was the bill (S. 6283) increasing the cost of erecting a public building at Olympia, Wash.

The Clerk read the bill, as follows:

An act (S. 6283) increasing the cost of creeting a public building at Olympia, Wash.

Be it enacted, etc.. That the limit of cost heretofore fixed for the erection of a public building at Olympia, Wash., be, and the same is hereby, increased to \$150,000.

Mr. CLARK of Florida. Mr. Speaker, I ask unanimous consent that this bill may be considered in the House as in Committee of the Whole.

The SPEAKER. Leave to consider it at all has not been granted yet. Is there objection to the present consideration of this bill?

Mr. MANN. Reserving the right to object, I should like to hear a statement as to the reasons, either from the gentleman from Florida [Mr. Clark] or the gentleman from Washington [Mr. Warburton].

Mr. CLARK of Florida. Mr. Speaker, this was one of the emergency bills reported at the extra session of Congress by the Committee on Public Buildings and Grounds. The report of the committee sets forth the necessity for it, and I will call the attention of the House to it:

By this bill it is proposed to increase the limit of cost heretofore fixed for the erection of a public building at Olympia, Wash., \$30,000. Olympia is the capital of the State of Washington, and a contract for the erection of the building was awarded May 24, 1912, for the sum of \$92,700. The sum heretofore authorized does not permit the construction of a fireproof building, and the Treasury Department, in a letter of July 6, 1912, which is herewith appended and made a part of this report, states that, in order to make the building fireproof and to provide for gutters, drains, and other alternates that are named in said letter, iczislation must be enacted at this session of Congress or work must be suspended pending further legislation. As the contract has already been let, the committee is of the opinion that it would not be right to suspend the work until Congress could act at some subsequent session and therefore believes that this is an emergency case and that the bill should be passed at this session.

Now, as to what has been done since that time I should like to have the gentleman from Washington [Mr. WARBURTON]

make an explanation.

Mr. WARBURTON. By direction of the Secretary of the Treasury some four or five months ago work was stopped on the public building at Olympia, Wash., pending further action by Congress. The bill originally provided for a limit of \$130,000 for building and grounds. The architect had reported that it would require \$130,000 to construct the building, but there was only appropriated \$130,000 for the building and the site. The site cost \$30,000, leaving only \$100,000 for the building and the site. ing itself, and the department was unable to construct a fire-proof building for that amount. It will simply be a frame building, if the work proceeds under the present authorization.

A strong effort was made by the department before a bid was secured. I think it was submitted three different times. They were unable to get a bid which would permit the build-

ing of a fireproof structure.

The city of Olympia is the capital of the State of Washington. That State is building a \$3,000,000 State capitol there now, and I think it would be a great mistake to build a building that would not be fireproof, or a building that was entirely disproportionate to the other buildings. The appropriation itself is small for a post-office building in the capital of the State. The city of Olympia has about 10,000 inhabitants, and before the building is completed there will probably be double that number of people in the capital. The city is growing very The postal receipts last year, I think, amounted to \$35,000.

Mr. MANN. What is the size of Olympia?

Mr. WARBURTON. It has, I think, nearly 10,000 people. It is growing very rapidly. For a number of years it did not grow rapidly, but of late it has been growing very rapidly.

Mr. MANN. How rapidly has it grown? Mr. WARBURTON. I think it has doubled in the last 10 years.

Mr. MANN. From what did it increase, to what? Mr. WARBURTON. I think it was about 5,000 people in 1900 and about 10,000 in 1910.

Mr. MANN. Is that increase due to the number of office seekers who go to the capital of the State?

Mr. WARBURTON. Undoubtedly it is due to that in part, but it is a thriving city, growing rapidly. Manufactures are springing up there.

Mr. MANN. Is the gentleman able to say whether the limit

of cost included the site?

Mr. WARBURTON. The architect originally reported that the building would cost \$130,000, but only \$130,000 was appropriated for the building and the site. They had not selected their site, but when they did so they paid \$30,000 for it, and I think the same ground to-day would cost perhaps \$60,000.

Mr. MANN. Was that included in the \$130,000?

Mr. WARBURTON. That was included in the \$130,000. There was only \$130,000 appropriated altogether, although it was estimated at the time that the building would cost \$130,000.

Mr. MANN. The report from the department gives very little information on matters that we want to know about. It seems, however, that a contract for the building was let for \$92,000

Mr. WARBURTON. Yes.
Mr. MANN. I wondered what had become of the rest of the \$130,000; but if \$30,000 was paid for the site, of course that explains it.

Mr. KENDALL. The site cost a third as much as the build-

ing, which was altogether out of proportion.

Mr. MANN. I should think \$30,000 for a site in a city of 10,000 inhabitants was not at all unprofitable to those who sold the site.

Mr. WARBURTON. Well, I think if the Government should buy it to-day it would cost over \$45,000.

Mr. KENDALL. The man who sold it lost no money.

Mr. WARBURTON. No; but he did not make any. It is about where it ought to be in the city and covers an entire block, I think an entire block.

Mr. FOSTER. May I inquire of the gentleman whether this

building has been begun?

Mr. WARBURTON. The foundations only, I think. I saw it when it was just above ground.

Mr. FOSTER. I see they substituted certain sandstone for

granite. Is that on the building outside?

Mr. WARBURTON. I do not know about that. able to say, but the increased amount is to make it fireproof; I know that.

Mr. FOSTER. Well, I do not know that is so or not. Let us see. They substituted sandstone for a certain granite, and I do not know that either one of those is combustible.

Mr. WARBURTON. The building will be nothing more than a frame building unless the appropriation is granted. There is no question about that.

Mr. FOSTER. The gentleman from Washington does not mean to say this will be a frame building?

Mr. WARBURTON. It will be a frame and stone building; that is exactly what it will be. That is the way I under-

Mr. FOSTER. Is it the gentleman's information that this extra amount is for the purpose of making it fireproof?

Mr. WARBURTON. The sole purpose, I understand. Mr. FOSTER. That it will be a frame building, and this extra amount would make it fireproof?

Mr. WARBURTON. That is exactly what I understand; it is for the purpose of making it a fireproof building. They will have to use a good deal of wood unless they have the appropriation

Mr. FOSTER. The gentleman says a frame building. \$92,700 is seems to me would build a pretty good frame building; a pretty large one in Washington, I think, could be built

Mr. WARBURTON. No-

Mr. FOSTER. Now, the gentleman says they need this additional amount in order to make this fireproof.

Mr. WARBURTON. Oh, the outside is stone.

Mr. FOSTER. The gentleman has not said so; he said frame building.

Mr. WARBURTON. I said a frame and stone building.

Mr. FOSTER. You mean frame inside; that the floors, etc., will be frame?

Mr. WARBURTON. I think that is the correct name of it. Mr. FOSTER. Let us see a little further. Now, it seems as though some explanation was needed. There is a certain kind of material that does not seem to be changed in order to get fireproof material. Can the gentleman point out in these extras where it is now combustible and they are going to make a fireproof structure out of this building?

Mr. WARBURTON. I only know what the architect tells me. Mr. FOSTER. I am going by what the Assistant Secretary

of the Treasury states.

Mr. WARBURTON. This is the report of Mr. Bailey:

1.400

Mr. JAMES. Regular order, Mr. Speaker.

Mr. WARBURTON. The outside of the building, I will say, is granite, and they substituted sandstone because it is cheaper. Mr. FOSTER. The granite is cheaper?

Mr. WARBURTON. The sandstone is cheaper.

Mr. FOSTER. So that the-

Mr. WARBURTON. That is only a small part of the \$30,000. Mr. FOSTER. The increase of \$30,000 is to make it fireproof. Mr. WARBURTON. To make it fireproof, according to the

original plan. Mr. KENDALL. The first estimate for the building was

\$130,000, and that amount was appropriated, and \$30,000 was absorbed in the site, and now it is contemplated to increase the original appropriation \$30,000 to make up that deficiency. Is that about it?

Mr. WARBURTON. That is exactly it.

Mr. FOSTER. There is remaining \$92,700 for the buildings. and the difference between \$130,000 and \$92,700 has been paid for the site. Is that correct?

Mr. WARBURTON. That is correct.

Mr. KENDALL. You said it was, in round numbers, \$30,000? Mr. FOSTER. Thirty-six thousand dollars. Mr. WARBURTON. My letter from Senator Poindexter says \$30,000.

Mr. KENDALL. Does that include architect's fees? Of course, I concede this site is extortionate-

Mr. FOSTER. Can the gentleman inform the House whether plans for this building have been made under the Tarsney Act? Mr. WARBURTON. I do not know.

Mr. KENDALL. I do not know what these payments in this case were. I am simply speculating—

Mr. FOSTER. The gentleman is simply supposing.

Mr. KENDALL. I am simply surmising, but the gentleman from Illinois ought to consider the fact this is a State capital in a growing State, and the necessities for a creditable public building there are very apparent.

Mr. FOSTER. I have seen some growing States where the State capital did not grow very much.

Mr. JAMES. Regular order, Mr. Speaker.

Mr. KENDALL. This is growing now quite rapidly.

The SPEAKER. Is there objection to the consideration of his bill? [After a pause.] The Chair hears none.

Mr. CLARK of Florida. Mr. Speaker, I ask unanimous conthis bill?

sent that the bill will be considered in the House as in the Committee of the Whole.

Mr. MANN. I think as long as the gentlemen were engaged in the debate on the bill and shut off the regular order that

we had better have the regular order now.

Mr. CLARK of Florida. Then, Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 6283) increasing the cost of erecting a public building at Olympia, Wash.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill, with Mr. Cox of Indiana in the chair.

The CHAIRMAN. The Clerk will report the bill. The Clerk read as follows:

Be it enacted, etc., That the limit of cost heretofore fixed for the erection of a public building at Olympia, Wash., be, and the same is hereby, increased to \$150,000.

Mr. FOSTER. Mr. Chairman, I would like to ask the gentleman from Washington, so as to get this matter in my mind thoroughly, if this increased cost is entirely for the purpose of fireproof building?

Mr. WARBURTON. That is exactly what the architect tells

me

Mr. FOSTER. And not for the purpose of putting on a lot of ornaments that some architect has thought ought to be put on in order to make the building look a little better in this enterprising city?

Mr. WARBURTON. I understand that it will be difficult, even with the appropriation, to complete it, but they think they

can do so with \$30,000.

Mr. FOSTER. And now you propose to increase the appropriation \$30,000 for the building? Mr. WARBURTON. Yes. The original plan was \$130,000

for the building. This would make it \$160,000, all told.
Mr. FOSTER. If this \$30,000 goes on the building?

Mr. WARBURTON. When we passed the bill we only had

\$130,000 for the building and grounds.

Mr. KENDALL. This makes the total investment \$160,000. Mr. FOSTER. One hundred and sixty thousand dollars

Mr. WARBURTON. And the revenues last year were \$32,000. Mr. FOSTER. Is there a court at Olympia, or just a post

Mr. WARBURTON. There is no United States court there now, but undoubtedly there will be in a short time.

Mr. FOSTER. Why does the gentleman say that? Mr. WARBURTON. We have a United States district court for the southern division, and at the present time it only holds court in one place. There is quite a demand for it to be held in two other places, and it ought to be, and I think there will be such a demand that it will be held at Aberdeen and Olympia.

Mr. KENDALL. The reason why they had not held it there

was that there was no suitable room.

Mr. FOSTER. There is no provision for holding court there. Mr. WARBURTON. The Department of Justice can at any time, I think, compel it to be done.

Mr. JAMES. It is unusual for the Federal court not to be

held in the capital. It ought to be held there.

Mr. WARBURTON. It ought to be, in order to save cost to litigants. We have the one court, holding terms in one city, and it could just as well held it in two other cities.

Mr. MANN. Mr. Chairman, if the gentleman will give me a little information, I would appreciate it. I notice that in the report there is included a letter from the Assistant Secretary of the Treasury, dated July 6 last, in which he states:

The contractor expressed his intention of beginning work on the 1st instant, and if it is desired to provide for fireproofing the entire building, it will be necessary to enact appropriate legislation at this session of Congress in order not to delay work on the construction, as it is necessary to install the fireproofing during the construction of the work, and it can not be placed afterwards.

Now, the gentleman from Washington tells us that the increased amount is for the purpose of fireproofing the building, and the Secretary of the Treasury informed us that there is no use to make that appropriation unless it was made at the last session of Congress. That session has long since expired and we have a new one. Did the Secretary of the Treasury only bluff when he said that, or was that a statement of fact which has been verified by subsequent events?

Mr. WARBURTON. It was a statement of fact. As a matter

of fact, the Secretary of the Treasury, under an agreement with the contractor, stopped the work so that they could fireproof

it if this appropriation passed.

Mr. MANN. The work has not progressed?

Mr. WARBURTON. Not since some time in August.

Mr. MANN. Then it was a pure bluff.

Mr. WARBURTON. I would not want to say that about the Secretary of the Treasury.

Mr. MANN. It was said that this appropriation should be made at that session, if made at all, because it could not be used if not made then. He said to Congress:

If it is desired to provide for fireproofing the entire building, it will be necessary to enact appropriate legislation at this session of Congress.

Mr. WARBURTON. He might have already stopped the work. Mr. MANN. Of course, everybody knows it would stop the work. The appropriation might be made 10 years hence.

Mr. CLARK of Florida. Mr. Chairman, will the gentleman permit me to read for a moment? The gentleman did not read far enough.

Mr. MANN. I read the entire paragraph.

Mr. CLARK of Florida. The Assistant Secretary wrote:

It will be necessary to enact appropriate legislation at this session of Congress in order not to delay work on the construction.

Mr. MANN. I read that to the end.

Mr. CLARK of Florida. Not the last time.

Mr. MANN. But that does not change the meaning of it at all—"in order not to delay work on the construction." Now,

they did delay work on the construction.

Mr. CLARK of Florida. I understand from the gentleman from Washington [Mr. WARBURTON] that the failure to enact appropriate legislation at the last session has delayed the work of construction, because they need a fireproof building there, and it is perfect folly for this Congress to appropriate money to

build a fire trap in any State capital in the Union.

Mr. MANN. That is begging the question. Nobody expects the department to build a fire trap. It is not necessary to have \$130,000 to build a fireproof building. What are some of the items left out that they now want to put in to make it fire-They want to put bronze grills at the entrance in place of cast-iron grills. They want to substitute granite for sand-

Mr. KENDALL. What is the additional cost of those items? Mr. MANN. The latter item is \$3,300. Then they want to put in sandstone entablature instead of ornamental terra cotta. That is \$3,800.

Mr. WARBURTON. I think the gentleman from Illinois is mistaken. They have cut out granite and substituted sandstone, as I understand it.

MANN. The contract was let for \$92,700 on an alternative bid where they could make these substitutions, and under that contract they say that in order to complete the building within the original limit of cost they had to make substitution of grills of cast iron for bronze and sandstone for granite and terra cotta for sandstone in certain cases.

Mr. KENDALL. That effected a saving of those amounts. Mr. MANN. But they do not wish to save those amounts. They wish us to appropriate the money for the purpose. All that I rose and took the floor for was for the purpose of inquiring whether that "bluff" of the Secretary of the Treasury came probably from the activities of the gentleman from Washington, and whether it "went" or whether, as a matter of fact, not having secured the money they held up the building until another session of Congress.

Mr. WARBURTON. Mr. Chairman, in response to what the gentleman has just stated I will say this, that instead of doing that I advised him personally that we did not ask for the extra appropriation because we did not think we could get it through.

Mr. MANN. The gentleman will then be agreeably surprised.

Mr. WARBURTON. I hope so.

Mr. CLARK of Florida. Mr. Chairman, I move that the committee do now rise.

Mr. FOSTER. Mr. Chairman, we have not had the bill read

The CHAIRMAN (Mr. Cox of Indiana). The Clerk will report the bill.

The bill was again read, as follows:

An act (S. 6283) increasing the cost of erecting a public building at Olympia, Wash.

Be it enacted, etc., That the limit of cost heretofore fixed for the erection of a public building at Olympia, Wash., be, and the same is hereby, increased to \$150,000.

Mr. CLARK of Florida. Mr. Chairman, I move that the committee do now rise and report the bill to the House with a favorable recommendation.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. Cox of Indiana, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 6283) increasing the cost of erecting a public building at Olympia, Wash., and had instructed him to report the same back to the House without amendment, with the recommendation that it do pass.

The SPEAKER. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. CLARK of Florida, a motion to reconsider the vote whereby the bill was passed was laid on the table.

LEAVE TO WITHDRAW PAPERS-JOHN S. DRAPER.

Mr. Hull, by unanimous consent, obtained leave to withdraw from the files of the House, without leaving copies, the papers in the case of John S. Draper, Fifty-ninth Congress, no adverse report having been made thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted-To Mr. Green of Iowa, until the holiday recess, on account of important business.

To Mr. Akin of New York, indefinitely, on account of illness. To Mr. Brown, indefinitely, on account of illness.

POST-OFFICE BUILDING AT DUBLIN, GA.

ASHBROOK. Mr. Speaker, when the bill H. R. 17683, No. 348 on the Calendar for Unanimous Consent, was reached to-day, it was passed without prejudice. I now ask unanimous consent to recur to this bill and for its present consideration.

The SPEAKER. The gentleman from Ohio asks unanimous

consent for the present consideration of the bill (H. R. 17683) to increase the limit of cost for the post-office building hereto-

fore authorized at Dublin, Ga. Is there objection?

Mr. MANN. Reserving the right to object, I understood the gentleman's request was to recur to the bill. Will he let us

know something about it?

Mr. ASHBROOK. This morning, when the request was made to pass the bill without prejudice, I stated that I understood that the building was nearly completed and the money would not be needed.

I understand that. Mr. MANN.

Mr. ASHBROOK. I based that statement on a letter dated August 14, 1912, from the Supervising Architect, in which he stated that the building was then 92 per cent completed. The gentleman from Georgia [Mr. Brantley], who represents the district in which this building is located, was not present, and it was indirectly stated to me that he had said that unless the bill was passed at the last session the money could not be used. Since the bill was passed on the calendar this morning, however, the Supervising Architect has telephoned to a member of the Public Buildings Committee that, while the building was practically completed, a mere makeshift had been used, including a metal cornice, that should be stone, and that it was very urgent that the amount be appropriated in order that the building might be properly completed.

Mr. MANN. If the gentieman will pardon me, in order to save time I will state that I made this memorandum concerning the bill when it was placed on the Calendar for Unani-

mous Consent at the last session:

No report from the department on the bill at all; no statement of st or the limit of cost of the building; no information about the

I am speaking of the report-

no reason given in the report why the betterment was not covered by the contract.

This was information which ought to have been contained in

the report when submitted to the House.

Mr. ASHBROOK. It is quite likely that the report was not as complete as it should be, but it is a fact that the bid was so much in excess of the amount appropriated that numerous substitutes had to be made, which consisted principally in the sub-stituting of a metal cornice for a stone cornice. This report stituting of a metal cornice for a stone cornice. was made to the committee, which probably should have been included in our report to the House.

After the 4th of March next the district in which Dublin is situated will be represented by the gentleman from Georgia [Mr. Hughes], who has personal knowledge of the situation there, and I will therefore yield to the gentleman from Georgia.

Mr. HUGHES of Georgia. Mr. Speaker, I wish to say to the gentleman from Illinois that I have personal knowledge of the matters relating to this post-office building at Dublin, Ga.
Judge Brantley now represents that district, but after March 4 I shall have the honor of representing it.

Mr. MANN. We are all very glad to have the gentleman have the honor to represent any district.

Mr. HUGHES of Georgia. I thank the gentleman. He is very kind. I wish to say that during Judge Brantley's absence I called him up over the phone, and he reported what has already been stated. I think the \$8,000 additional appropriation ought to be granted, and to be candid, I think it should be really \$16,000.

Mr. MANN. How much of a town is Dublin? I confess that there are little towns grown up in the country that I am not

familiar with.

Mr. HUGHES of Georgia. If the gentleman from Illinois will come down to Dublin I undertake to say that I will show him one of the best towns that he ever had the pleasure of

And in the meantime, suppose the gentleman tells us something about it, for we can not know about all of these towns. The truth is, until this bill was introduced, I confess my ignorance of the fact that there was such a town as That is not to the discredit of Dublin, but I would like to hear about it from the sweet and smiling gentleman who has the floor

Mr. HUGHES of Georgia. Dublin, Ga., is located on the Oconee River. It is a town of importance, from the fact that

there are five railroads there, and it also has water facilities and is growing in every particular.

Mr. COX of Indiana. What is the population?

Mr. HUGHES of Georgia. About eight thousand. The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

Mr. ASHBROOK. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Ohio asks unanimous consent that the bill be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. Ashbrook, a motion to reconsider the vote whereby the bill was passed was laid on the table.

YUMA INDIAN RESERVATION, CAL.

The next business on the Calendar for Unanimous Consent was the bill S. 4488, an act to authorize the setting aside of a tract of land for a school site and school farm on the Yuma Indian Reservation in the State of California.

The SPEAKER pro tempore. Is there objection to the pres-

ent consideration of the bill?

Mr. RAKER. Mr. Speaker, reserving the right to object, I want to ask the chairman of the committee a question. I see on page 1, line 6, of the bill that you have changed 320 acres to 80 acres. The report of the Acting Secretary of the Interior is in favor of 320 acres. Was there any evidence in addition to this report of the Secretary about that?

Mr. STEPHENS of Texas. We had before us Mr. Abbott, and also the irrigation engineer who belongs to the Indian service. They thought as this was very valuable land it would be better to give only one-half that amount for the school and let the rest of it go to the Indians, because the amount of irrigable land would be more valuable to the Indian individual than it would be for a farm of that kind, and they thought that

80 acres would be sufficient.

Mr. RAKER. Is not one of the great drawbacks to these Indian schools, which are for the purpose of providing for Indians so that they may get some knowledge, the fact that they have not land enough and that they are all the time seeking to get additional lands for the Indian schools? Does not the gentleman think that now while it is Government land it ought to be turned over to the school, so that they will have sufficient land to run the school in proper shape and teach them to conduct a farm and let them participate in it?

Mr. STEPHENS of Texas. I think not. There is a school double the size in Phoenix, Ariz., and they have not, I think, exceeding 60 acres. I think 80 acres of as good land as that will be sufficient for them, owing to the value of the land and the facilities that they have there and the products of that

farm and that country.

Mr. RAKER. Is it not a fact that the school must be large enough to give the Indians plenty of opportunity to learn to become farmers on the school land, under the supervision of Indian teachers?

Mr. STEPHENS of Texas. From my experience in the west-ern country, 80 acres would be more than sufficient for the purpose of teaching the Indians how to properly cultivate their land. I will state that at the Salem school there are more Indians than at this school, and there they have about 300 acres and not more than 80 are in cultivation, and that school is 20 years old.

Mr. RAKER. How about the school at the Sherman Institute?

Mr. STEPHENS of Texas. The Sherman Institute school has some 60 acres.

Mr. RAKER. I was there the other day myself. Is it not one of the complaints of these schools that they have not sufficient land to give the Indians an opportunity to learn how to become farmers, and that that is what they are seeking to do? The superintendent of the Sherman Institute told me that they wanted more land in the fertile valley in order that they might teach the Indians how to become farmers.

Mr. STEPHENS of Texas. They are not now cultivating the

amount of land that they already have.

Mr. RAKER. The gentleman has no objection to letting it go through at 320 acres, has he?

Mr. STEPHENS of Texas. I stand on the committee report. This is a report offered by the committee after a full hearing

upon this matter.

Mr. RAKER. The hearings were not printed, were they?

Mr. STEPHENS of Texas. I have them right here in print.

Mr BAKER I have no objection.

The SPEAKER pro tempore. The Chair hears no objection. This bill is on the Union Calendar.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent to consider the bill in the House as in Committee of the Whole House on the state of the Union.

The SPEAKER pro tempore. Is there objection to the re-

quest of the gentleman from Texas?

Mr. MANN. Mr. Speaker, I think it ought to be considered in the Committee of the Whole House on the state of the

The SPEAKER pro tempore. The gentleman from Illinois objects.

Mr. STEPHENS of Texas. Mr. Speaker, I now move to go into the Committee of the Whole House on the state of the Union for the purpose of considering this bill.

The motion was agreed to; accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 4488, with Mr. Houston in the chair.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized to set aside for the Indian school and as a farm on the Yuma Indian Reservation, in the State of California, not exceeding 320 acres of irrigable land, in addition to the tract of land, including the buildings, situate on the hill on the north side of the Colorado River, formerly Fort Yuma, now used as an Indian school.

Sec. 2. That all acts and parts of acts in conflict herewith are hereby

repealed.

Mr. MANN. Mr. Chairman, the committee of the House recommended striking out 320 acres and inserting 80 acres. course, this is irrigable land, but the purpose of this bill is to authorize the setting aside of a certain amount for an Indian school and as a farm. I take it the purpose is to have the Indian school and farm connected with the school and have the pupils of the Indian school study practical farming. Well, you can not do very much on 80 acres, even if it be irrigable land. The department which recommended this recommended 320 acres, and the land will still remain the Indian land, and I doubt whether it can be used for any other purpose as profitably as to teach the young Indians how to farm on that land. It seems to me that the committee amendment ought not to be agreed to.

Mr. STEPHENS of Texas. Will the gentleman permit me to state this? At first there were 5 acres allotted to each Indian. We increased that two years ago to 10 acres to each Indian, and that leaves a very small amount, and there are some Indians unprovided for, and if we take 320 acres it will not leave enough to give the Indians 10 acres of good land, which the law now provides.

Mr. MANN. I do not find that information in the report of

the Secretary on this bill.

Mr. STEPHENS of Texas. The gentleman will remember two years ago we enlarged the amount to these Indians from 5 to 10 acres. That restricts the amount that can be irrigated. They have a large amount of land up on the mesa, but you can not reach it with water; but there is a certain amount of land which you can place under the ditches that will be valuable for farming purposes.

Mr. BURKE of South Dakota. If the gentleman from Illinois will permit an interruption, I will say when the bill was considered in the committee the committee was not satisfied that there should be as large a tract reserved for a farm on those two reservations as 320 acres. That is a very large amount of land as an irrigated farm, and we concluded we would make the amount 80 acres, and the bill could go to con-The conferees would have an opportunity to go into ference. the matter fully, and they could agree upon the maximum amount of acreage, or some amount between the two, that would perhaps be nearer right than either 320 or 80 acres. gentleman will observe this takes in another reservation, the Colorado Reservation, in Arizona.

Mr. MANN. The committee amendment?

Mr. BURKE of South Dakota. The committee amendment; and the feeling was unanimous, I may say, in the committee that so far as the information we had at hand goes 80 acres was sufficient. Now, I do not think that the committee is particularly insistent about its amendment, but you must recall that this is not Indian land any longer. The law provided that all unallotted land should be disposed of under the reclamation law, and if we create a farm of 320 acres we take that much acreage out of the reclamation area which is to be reclaimed at the expense of the United States, and we ought not to do it unless we need it.

Mr. MANN. Mr. Chairman, I do not know how much information the committee had before it when they reduced this amount from 320 to 80 acres, but the original bill upon this sub-

ject provided for taking 320 acres at one place. The land which is described in the bill now is land which was suggested by the Interior Department and is not the land which was included in the original Senate bill as it was introduced. department recommended that these 320 acres be set aside for the purpose in the main of a school farm.

Now, certainly, there is a very wide divergence between 320 acres for a school farm and 80 acres. It does not seem to me that it requires any very extensive knowledge of farming to know that. A very small school would do the work for an

80-acre farm.

Mr. COX of Indiana. Does the gentleman know how many Indians there are on the reservation, or does anyone else know? Mr. MANN. I do not know.

Mr. COX of Indiana. That might throw some light on the

subject as to the amount of land that is required.

Mr. HAYDEN. I can furnish the gentleman that information There are four or five hundred Indians on the approximately. Colorado River Reservation, and about 800 on the Yuma Reservation.

Mr. MANN. That means a good number of children.

Mr. COX of Indiana. Does that mean the total population?

Mr. HAYDEN. Yes.

Mr. BURKE of South Dakota. Will the gentleman from Arizona [Mr. HAYDEN] tell us what constitutes an irrigated farm in that locality as a rule?

Mr. HAYDEN. The allotment to each Indian is 10 acres. Mr. BURKE of South Dakota. Is there any other land under

irrigation?

Mr. HAYDEN. On the Yuma Reservation, near the town site of Bard and not far from the Fort Yuma Indian School, the farm unit is 10 acres, and a little farther from the town the farm unit is 20 acres of land. This land has been sold to white

Mr. BURKE of South Dakota. The reclamation project contemplates that the land shall be disposed of to settlers in 10

and 20 acre units?

Mr. HAYDEN. On the Yuma Reservation; yes, sir.

Mr. BURKE of South Dakota. That quantity of land is supposed to be sufficient for a man and his family in order to

Mr. HAYDEN. That is the theory of the Reclamation Service.

Mr. MANN. Now, as I understand, the Yuma Reservation has a larger number of Indians than the Colorado River Reservation?

Mr. HAYDEN. Yes, sir.

Mr. MANN. Yet the Secretary of the Interior only last May

Mr. MANN. Yet the Secretary of the Interior only last May recommended that on the Colorado River Reservation, which has the smallest number of Indians, there be set aside 320 acres of irrigable land for school and farm purposes. He says:

It is recommended, therefore, that the bill be amended by inserting a

"Sec. 2. That the Secretary of the Interior is hereby authorized to set aside for school, agency, and demonstration farm purposes not to exceed 320 acres of irrigable or nonirrigable land in the Colorado Indian Reservation, Ariz."

Now, we are proposing to expend millions of dollars a year in teaching practical farm demonstration to the white people of the country. While we have this Indian land under our control I can see no other purpose for which it can be so usefully utilized as teaching the Indian children how to really farm.

Mr. BURKE of South Dakota. Will the gentleman permit a

suggestion?

Mr. MANN. I will.

Mr. BURKE of South Dakota. I wish to say to the gentleman from Illinois that the Indian Office for some time was advocating a large appropriation for the purpose of establishing what are known as "demonstration farms," right in line with the policy to engage in a number of other things that are already provided for under some other bureau or department of the Government, and the policy of the Indian Committee has been to not appropriate or recommend appropriations for demonstration farms inasmuch as under the Agricultural Department we have certain experimental stations and experimental farms. This amendment which the gentleman just read includes demonstration farms, so that whoever prepared it had in mind that we are going to have a demonstration farm out there.

Mr. MANN. That is what any farm is where a school is located. It is a demonstration farm. That is the purpose of having a farm put in connection with a school. Now, I have on several occasions in this body opposed some of the appropriations for teaching the Indians farming, because I could not see at that time a very good excuse for taking out of the Federal Treasury money for teaching a certain class of people particular

information not to be given to the rest.

But here is a proposition where we have the right to reserve title to some of the lands for Indian instruction in farming. I can imagine nothing that will do them more good than keep-

ing this land for them and teaching them how to farm.

The proposition involves 220 acres. I suppose it is not very valuable land at best. If we dispose of it and do not reserve it, it will be only a little while until we are asked to buy it back out of the General Treasury. The gentleman has a bill pending now to set aside. I think, several hundred thousand dollars for a purpose like this. I believe that while we have the Indian property which can be diverted to their use without injury to them we had better divert some of it to their use without attempting to pay it all out of the General Treasury.

Mr. RAKER. Mr. Chairman, will the gentleman yield? Mr. MONDELL. Mr. Chairman, will the gentleman from Illinois yield to me for a moment for a suggestion along this

Mr. MANN. I yield the floor to the gentleman. Mr. RAKER. Mr. Chairman, in regard to this matter, it seems to me now is the opportune time to give a sufficient amount of land to make a farm for the purpose of having each Indian in the school learn how to farm. By a personal examination of the Indian schools I may say I have seen them, as stated by the chairman of the Committee on Indian Affairs, and have just left recently the Sherman Institute, in southern California; and one of their needs to-day is from 60 to 80 acres of land for the purpose of working; not only demonstrating the process of working, but to take out each Indian and give him a tract of land that he may learn as a boy how to work it and how to handle it, so that when he becomes of age and leaves the school he can go out and cultivate his own allotment.

In this particular case here is land already in the control and under the supervision of the Government. They are asking to turn over 320 acres to the Indian Department for the purpose of conducting not only an Indian school, but an Indian farm, where there are many Indians who ought to receive the benefit of the white man's knowledge as to how to conduct a farm. If it is turned over later in 10-acre tracts, he has to go to the white man and learn how to handle it. It can do him no

damage or injury.

The statement is made that there will not be enough land to go round in 10-acre tracts, or in 5-acre tracts. But here you reserve a large piece of land for school and farming purposes. I am making the statement now from a personal inspection of the Indian schools. In some places it means to have .. sufficient tract of land upon which they can raise their own grain. The Indians are instructed under the supervision of the teachers of the schools. I appreciate what it means at this time to teach young Indians how to raise hay and how to take care of their crops.

Mr. BURKE of South Dakota. As I understand, the number of Indians on this reservation is not over 600. If all the children on that reservation were in one school, how many children would there be?

Mr. RAKER. That is a mathematical question.

Mr. BURKE of South Dakota. It is a simple matter.

Mr. RAKER. I am not any more versed in figures than the gentleman is.

Mr. BURKE of South Dakota. It would be a small school, would it not?

Mr. RAKER. Yes; it would be a small school.

Mr. BURKE of South Dakota. If 10 acres is considered sufficient for a family to live on, does not the gentleman think that four times or eight times as much would be sufficient to do just the thing he is taking about—to meet the necessities so far as the school is concerned, which at best would not contain more than 60 or 80 pupils?

Mr. RAKER. I know; but this idea of 5 or 6 acres of land being sufficient to maintain a man and his family is a good deal imaginary, except the land be under the highest state of culti-

Mr. BURKE of South Dakota. I will say to the gentleman that that is the provision of law regarding those lands under which these reservations are being disposed of. The gentleman from Oklahoma tells me that it is 10 acres within a certain range and 20 acres outside of that.

Mr. RAKER. I understand that the unit is 10 acres, and sometimes 20 acres. But this is a farm to be handled by the school, not only in the demonstration work but to go out and actually farm under the supervision of the teachers of the school. It is one of the things that this country is trying to do with its citizens. It is what we are trying to do all over the land—to purchase land upon which we can educate our boys in agriculture-and it ought to be done. But there is no opportunity and no place for it in many of the cities. There is no me to give him the information he asks for?

land available for demonstrating by actual work the processes by which they may become farmers and go out in the country and become producers of this Nation.

Mr. BURKE of South Dakota. Exactly; but does not the gentleman believe 80 acres would be quite sufficient for either one of these schools to do everything that he proposes?

Mr. RAKER. No; honestly I do not.

Mr. BURKE of South Dakota. The gentleman will observe that in the amendment transmitted by the Secretary, which is section 2 of the bill, he uses the word "demonstrated," evidently showing that the department had in mind a demonstration farm, and the committee cut that out. A demonstration farm, in the mind of the party in the Indian Office who made this recommendation, would be an extensive farm, ostensibly for the general welfare of all the Indians in the country, and it would be contemplated undoubtedly to expend very large sums of money upon this demonstration, whereas I do not suppose that outside of the Indians on that reservation there

would ever be any other Indian who would see it.

Mr. STEPHENS of Texas. Is it not a fact that you have demonstration farms all over California and in this vicinity? One of these bands of Indians is on one side of the Colorado River in Arizona and the other is on the other side in California. Now, is it not a fact that you have demonstration farms in this valley, and near this place, kept up by the United States Government, so that all the Indians would have to do would be to go to the Government farm a few miles away, and possibly in the same township, in order to see what is being done by the funds of the United States? If we enter into this project will we not be duplicating? If we give them 320 acres to start an experimental farm, will we not be duplicating exactly what we are doing now for the white people? Why should we discriminate? Why should we have two farms, one for the whites and one for the Indians, with a duplication of the expense of the farmers and all the paraphernalia that goes with these experimental farms? What is the necessity for it?

Mr. RAKER. To make myself plain, so that the gentleman may understand it, it is not a question of taking one of these Indian boys out and driving him up and down the lawn, walking him over the grass and telling him, "This is what we have done; now you go and do likewise." The idea is that the boys are in the school. They are old enough to take tracts of land of 2 or 3 or 4 acres while they are at school and actually farm the land under the direction of the superintendent. Twenty or forty boys can each of them be running tracts of from 1 acre to 5 acres on that farm, and by actual personal experience attain some benefit. That is the opportunity they ought to have, in

affairs of that kind, so that they can obtain results.

Mr. MONDELL. Will the gentleman from California yield to allow me to make an inquiry of the chairman of the committee?

Mr. RAKER. I will do so with pleasure.

Mr. MONDELL. Can the gentleman from Texas tell how many children are attending this school for which this farm is to be provided?

Mr. STEPHENS of Texas. There are 200 in one place, and I suppose there would be about 10 children to each 100. I suppose there would be 12 children in the small reservations, and there would not be more than 50 or 60 in the others.

Mr. MONDELL. Do I understand that there are only from

10 to 15 Indian children attending these schools?

Mr. STEPHENS of Texas. I do not know, because they have been sent to various boarding schools. They are under the control and direction of the Secretary of the Interior, and the Indian Bureau can farm them out wherever they please.

Mr. MONDELL. But, as I understand it, this is a farm in connection with a specific school. How many children are

there?

Mr. STEPHENS of Texas. They have schools on the reservations. I do not know the extent, because I have not been on every one of them. The gentleman from Arizona [Mr. HAYDEN] has been on them.

Mr. MONDELL. The area necessary for a school farm depends entirely upon the number of children employed or attending the school, if it is intended to be used as a farm on which the Indian boys are to be taught agriculture. There are only 10 Indian boys in one of these schools. A farm of 80 acres might be large enough to afford 10 boys an opportunity to mow and reap and plant and cultivate. But if there are 100 or 200 boys, then a larger farm would be necessary to give the boys employment and an opportunity to learn the methods of agriculture

Mr. BURKE of South Dakota. Will the gentleman permit

Mr. MONDELL. I only have the floor through sufferance of the gentleman from California.

Mr. RAKER. I will yield to the gentleman from South Da-

kota to ask a question.

Mr. BURKE of South Dakota. Not to ask a question, but to answer the question that the gentleman from Wyoming asked a while ago as to the number at the two schools. attendance at Yuma for the last fiscal year was 115 and at the

Mr. MADDEN. Making 186 in all. Mr. RAKER. I want to say, Mr. Speaker, that the land is there now and in control of the Government.

Mr. MADDEN. It will be there anyway, will it not?

Mr. RAKER. Not under the same title. It will go to other individuals and the title will be conveyed. The title is now in the Government, and we can reserve that amount of land, and if it becomes necessary later to eliminate some of it it can be done. Practically all the schools in my part of the State are clamoring for more land for the purpose of giving the Indians that attend these schools some information in the line of what was the intent and purpose of the Government, to teach them how to become agriculturists.

Mr. MONDELL. Will the gentleman from California yield

to me for a suggestion?

Mr. RAKER. I will.

Mr. MONDELL. I have in my hand the hearings on the Indian appropriation bill. On page 141 of those hearings is information in regard to the Shoshone Indians in my State. That school has an attendance of 173. The area of the farm is 1,200 acres. The land is all irrigable and all irrigated and is all farming land, and produced, above the cost and above the value of the products used in the school, products to the amount

of over \$9,000 last year.

I do not pretend to be very well informed as to the area necessary in this particular case, but I will say that a 1,200acre farm is not found too large for the purposes of a school with 173 pupils. The practice is to employ these boys on the farm during the vacation, and also to give them practical in-struction on the farm during the school period. They work on the farm half a day, the forenoon of one week, and in the afternoon of the next week, and the farm is not found any too large for the purpose of instruction in agriculture on that reservation.

Mr. RAKER. Mr. Speaker, I want to say in that connection that I visited an Indian school at one place in my district. The superintendent said: "RAKER, isn't there some way, somehow, that this Government can provide a farm in connection with this school to the end that we may teach these boys how to become farmers; that we may have some cows around this institution; that we may have an orchard growing here so that we can teach them how to become horticulturists; that we may have some land where we might put in potatoes, and instead of the boys being idle in the summer time, running over the country, wasting their time, and the girls as well, they may be employed on the farm? We can not employ them now, because we have no land. There is no land attached to a number of these schools for the purpose of agriculture."

You are telling these people all the time that you are going to try to educate them and improve them, and there never was a better time than in the case of this kind, where the land is now in the hands of the Government, to equip this school, where these boys and these girls can have an education and learn how

to do all the things necessary on a farm.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to ask the gentleman a question.

Mr. RAKER. I will yield.

Mr. STEPHENS of Texas. I desire to ask the gentleman if he has any experimental farms in his State?

Mr. RAKER. Yes; the finest on earth.
Mr. STEPHENS of Texas. How many boys and girls in the nearest one to the gentleman's home?

Mr. RAKER. Well, it is quite a little ways from my home.

Mr. STEPHENS of Texas. How far?

Mr. RAKER. About 400 miles.

Mr. STEPHENS of Texas. That is not very far in California. How many acres of land does that agricultural school have?

Mr. RAKER. I do not know the number now, but I will insert it in the RECORD.

Mr. STEPHENS of Texas. The gentleman is not certain about that?

Mr. RAKER. I can not give the exact number.

Mr. STEPHENS of Texas. Well, that is 21 acres each.

Now you propose to give more to these Indians?

Mr. RAKER. It is their land, and the object is not to reservation affect the title so it can be taken from them. It is better to purposes?

hold it while you have it and dispose of it later by allotment, if it becomes necessary. These people are appealing to this Congress and will appeal before adjournment that you appro-These people are appealing to this priate money for the purpose of buying land that they might have a farm in connection with the school, and why should we now, with the right given to the Congress, with the land in our control, and when the Government says they ought to have this amount of land-why should we turn around now and cast it aside and give it up and let it be put to some other purpose when we can retain the title and make it an Indian school and an Indian farm, not only as a matter of name but in fact. And if it becomes necessary later to eliminate some of this land because it may not be necessary, why, it is easy to do it, and the title then will go to these allottees who are entitled to it. I could not with consistency permit the reduction of the acreage knowing, as I do, the conditions in the northern part of the State as well as at the Sherman Institute, with its magnificent buildings and grounds, roads, concrete sidewalks, and boulevard that is not excelled in the United States. The superintendent said to me that one of the reasons and one of the objections to the proper education of these boys and girls is that they have not sufficient ground and they ought to have another 80-acre tract, to the end that it might be conducted as a farm instead of sending these boys and girls out over the country to receive no benefits during the summer but acquiring bad habits and bad conditions. You have a large appropriation bill for the Indians. Let us go right at it in a proper way and put them on the farm; let them learn to be farmers in deed and

not in thought or on paper. [Applause.]
Mr. BURKE of South Dakota. Mr. Chairman, I will not detain the committee but to make an observation or two in regard to this bill. The condition with these two reservations is that the Indians have been or are being allotted irrigable lands so that each Indian will receive ultimately his own irrigated Now, it was proposed when that legislation was enacted for the irrigating of these Indian lands that the surplus irrigable lands could be sold for sufficient to recoup to the Treasury the cost of the work of reclamation. Now, the gentleman wants to take 640 acres of this irrigable land and set it aside ostensibly because it is necessary in connection with this Indian school, but after they have improved this land and after Congress has spent thousands and thousands of dollars perhaps in buildings up there and an experimental farm, then our friends from California and Arizona will come in here with a bill that the school is no longer needed as an Indian school and a proposition to donate it to their respective States; and I will say, Mr. Chairman, that the committee in reporting this bill took into consideration what they believed was required for the needs of the various respective schools, and the committee thought that 80 acres was sufficient, and the committee, I think, still thinks so.
Therefore I hope the amendment of the committee will prevail, and I will say to the gentleman from California [Mr. RAKER] and other gentlemen who are apprehensive perhaps that 80 acres is not sufficient that the bill after it passes the House in the form in which it is reported will go to conference, where there will be an opportunity to increase the amount from 80 acres up to some point not exceeding 320 acres. So I say, in view of all the circumstances, the amendment proposed by the committee ought to be accepted and adopted.

The CHAIRMAN. The Clerk will read the bill for amend-

ment.

The bill was read.

The following committee amendment was read:

Amend, in line 6, by striking out the words "three hundred and twenty" and inserting implies thereof "eighty."

The question was taken, and the chairman announced the ayes seemed to have it.

On a division (demanded by Mr. MANN and Mr. RAKER) there were-ayes 13, noes 8.

So the amendment was adopted.

The Clerk read the following committee amendment.

Strike out all of section 2 and insert in lieu thereof the following:

"SEC. 2. That the Secretary of the Interior is hereby authorized to set aside for school, agency, and farm purposes not to exceed 80 acres of irrigable land in the Colorado River Indian Reservation, in the State of Arizona: Provided, That the withdrawal authorized hereby may include not to exceed 5 acres each for the use of duly recognized religious organizations now engaged in mission work on said reservation."

Mr. MANN. Mr. Chairman, I reserve a point of order on the amendment. The amendment is clearly subject to the point of order.

Mr. STEPHENS of Texas. Certainly.

Mr. MANN. I would like to ask the gentleman from Arizona whether he is satisfied that 80 acres of irrigable land at this reservation will be sufficient for the school, agency, and farm Mr. HAYDEN. Personally I would like to provide for a little more land, but the committee had an idea the matter

would be taken care of in conference.

Mr. MANN. Oh, well, we do not pass bills upon the idea, when we insert something in the House, that the work is to be done somewhere else. If the gentleman does not know what he wants and expects to leave it to some other body to determine, then I shall try to get it out on a point of order.

Mr. HAYDEN. The bill is a department measure; it is not

my bill.

The gentleman is mistaken about it being a Mr. MANN. department bill. This provision is not what the department recommended. I do not think the gentleman or the Committee on Indian Affairs ought to recommend an amendment with a view of having the real question settled by another body. Have we not sense enough to have our own idea upon this subject? Is the gentleman satisfied with 80 acres of land for his reservation?

Mr. HAYDEN. I think that strictly for farm purposes it might be enough. The letter of the Secretary of the Interior mentions certain land for school and agency purposes, so that

more than 80 acres might possibly be required.

Mr. MANN. The gentleman made the report in which he recommended the adoption of an amendment to give 80 acres of irrigable land in this reservation for school and farm purposes where they ask for 320. If the gentleman is satisfied with 80 acres, I am satisfied. If he is not, then let him say what is needed.

Mr. HAYDEN. I shall be satisfied if the bill passes as

recommended by the committee.

Mr. MANN. Very well. I make the point of order against the amendment. My point of order is that this bill is to set aside a tract of land for school-site and school-farm purposes on the Yuma Indian Reservation in the State of California, a particular proposition. This is an amendment to set aside for school, agency, and farm purposes a tract of land on an entirely different reservation, with no relation to the first; and it is a familiar principle of parliamentary law, as practiced in the House of Representatives, that a bill relating to one special subject can not be amended by introducing another spe-

Mr. KENDALL. Why not amend the title of the bill?
Mr. STEPHENS of Texas. Will the gentleman yield? Why
can not we amend the title of the bill and agree with you on some amount so that we can amend the bill in conference and get it through?

Mr. MANN. But the gentleman from Arizona [Mr. Hayden] does not know what he wants.

Mr. STEPHENS of Texas. The gentleman is a member of the committee, and when he accedes to a report of the committee he will not go back on it. Would the gentleman do that him-

Mr. MANN. Oh, if I had made a report— Mr. STEPHENS of Texas (continuing). If he had joined in

report?

Mr. MANN (continuing). I think I would tell you what I thought. But I am not asking the gentleman to do anything out of the way, but quite the contrary. I have no criticism of the gentleman for standing by the report. If the committee made a report with the intention of letting the Senate fix the amount instead of taking the responsibility themselves, I do not agree to that.

Mr. STEPHENS of Texas. Will the gentleman agree to permit us to amend the title and to strike out "eighty" and put in "one hundred and sixty" acres, if agreeable to the gentleman from South Dakota [Mr. Burke]? We are being held up on

this matter. We had better take what we can get.

Mr. BURKE of South Dakota. I will state, so far as the title is concerned, that I had prepared an amendment.

Mr. MANN. That does not go to the point of order.

Mr. BURKE of South Dakota. I want to say to the gentleman that the committee's action in fixing the amount of 80 acres was on the theory that 80 acres was sufficient for a farm, and section 1 only provides for the farm. Section 2 includes language to set aside for "school, agency, and farm purposes."

There was absolutely no information that any land was required there for anything but a farm. The gentleman from Arizona [Mr. Haypen] says that he believes that 80 acres is sufficient for a farm, but if land is necessary for agency purposes perhaps more land would be required, and he thinks in view of the possibility of the land being needed for agency purposes, the acreage perhaps ought to have been 160 acres. Mr. MANN. I think the distinguished gentleman from Ari-

zona [Mr. Hayden] has handled himself very well. He has

stated what his position is in reference to this. I make the point of order.

Mr. STEPHENS of Texas. I hope the gentleman will not do nat. We would rather give the 160 acres than let the matter go over in this way, because then we will have to introduce a bill and go over the same thing again.

Mr. MANN. The gentleman can introduce a bill and get a

report from the department on the subject.

Mr. STEPHENS of Texas. I understand, and it has always been my own impression that Congress is the judge of its own actions, and we do not have to look to the executive departments of this Government to ascertain what we should do.
Otherwise we should disband Congress.
Mr. MANN. If the House of Representatives fixes an amount

with the idea of having it really fixed by the Senate afterwards,

we had better disband here, I will say to the gentleman.

Mr. STEPHENS of Texas. Does not the gentleman from
Illinois understand that every bill is made possible of enactment by agreement between the House and Senate? Is not the gentleman aware of that fact?

Mr. MANN. I suppose the gentleman is asking for informa-

tion on that subject.

Mr. STEPHENS of Texas. I am.
Mr. MANN. Very likely; and I could probably acquire a Mr. MANN. great deal of information from my distinguished friend in relation to the handling of bills.

The CHAIRMAN. Under the rules of parliamentary law, to the effect that you can not amend one distinct proposition by another, the Chair sustains the point of order.

Mr. BURKE of South Dakota. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BURKE of South Dakota. What becomes of section 2? Mr. MANN. That is a separate committee amendment that has not been acted upon.

Mr. BURKE of South Dakota. I thought that was what we were acting upon at this present moment. The amendment of the committee was to strike out section 2 and substitute in its place what has been read.

Mr. MANN. That is true; and that amendment has been ruled out on a point of order. The gentleman can move to strike out section 2 if he desires.

Mr. BURKE of South Dakota. That is the object of my parliamentary inquiry. Do I understand that section 2 is now in the bill, after the Chair has ruled that the amendment is not in order? As I understand it, Mr. Chairman, a point of order made against section 2 of the bill, providing that all acts and parts of acts in conflict are hereby repealed, has been sustained?

The CHAIRMAN. The point of order was made to the nendment offered. The amendment offered was to strike amendment offered. out those lines and insert the amendment proposed by the committee. The point of order was against that amendment to strike out, and the Chair sustains it. That leaves the section as it was before.

Mr. BURKE of South Dakota. Then I move to strike out section 2.

The CHAIRMAN. The gentleman from South Dakota [Mr. Burke] moves to strike out section 2. The question is on agreeing to that motion.

The question was taken, and the Chairman announced that the "noes" seemed to have it.

Mr. BURKE of South Dakota. A division, Mr. Chairman. The committee divided; and there were-ayes 11, noes 0.

So the motion was agreed to.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the committee do now rise and report the bill as amended, with a favorable recommendation, to the House.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. Houston, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 4488) to authorize the setting aside of a tract of land for a school site and school farm on the Yuma Indian Reservation, in the State of California, and had instructed him to report the same back with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Is a separate vote demanded on any amendment? If not the Chair will put them in gross. The question

is on agreeing to the amendments.

The question was taken, and the Speaker announced that the "noes" seemed to have it.

Mr. HAYDEN. A division, Mr. Speaker.

The House divided; and there were—ayes 21, noes 9.

So the amendments were agreed to,

The SPEAKER. The question is on the third reading of the Senate bill as amended.

The Senate bill as amended was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. Stephens of Texas, a motion to reconsider the vote whereby the bill was passed was laid on the table.

WATER IN THE DESERT PUBLIC LANDS.

The SPEAKER laid before the House a request that the Committee on Irrigation of Arid Lands be discharged from the further consideration of the bill (H. R. 12826) providing for the discovery, development, and protection of streams, springs, and water holes in the desert and arid public lands of the United States, for rendering the same more readily accessible, and for the establishment of and maintenance of signboards and monuments locating the same, and that the same be referred to the Committee on the Public Lands.

Mr. MANN. Mr. Speaker, this is an old bill. It was introduced a year and a half ago. What is the reason for the pro-

posed change of reference at this time?

The SPEAKER. This change of reference was suggested by the chairman of the committee to which the bill was referred, and by the gentleman from California [Mr. Stephens].

Mr. MANN. It may have been his bill. Mr. STEPHENS of California. It was my bill, and during the last session I tried to have a hearing upon the bill, but did not succeed, because the committee were busy with some other

Mr. MANN. I do not think that is a very good reason. Mr. STEPHENS of California. When I waited upon the committee at this session the chairman of it said he believed the bill should be referred to the Committee on the Public Lands. Therefore the request is made.

Mr. MANN. Of course, everybody knows that the Committee on Irrigation of Arid Lands have not been nearly as busy as the Committee on the Public Lands, so the reason that the gentleman has given-that the committee which has the bill is too busy and that the other committee is not-is hardly a sufficient reason.

Mr. STEPHENS of California. I did not make the request in that way

Mr. MANN. I think the matter is of sufficient importance to lie over, so that we may have a chance to look at the bill.

The SPEAKER. The gentleman from Illinois objects.

Mr. MANN. The gentleman may make his request later, when we have had a chance to look at the bill.

The SPEAKER. The Clerk will report the next bill.

EXCHANGE OF LANDS FOR SCHOOL SECTIONS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25738) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. MANN. I will reserve the right to object, or I will object at once, just as the gentleman from California [Mr. RAKER] desires. I wish to accommodate the gentleman. I will object at once, although I am willing to hear what he

Mr. RAKER. I would not prefer that the gentleman object

Mr. MANN. I am willing to hear the gentleman's statement as to how this bill is differentiated from the bill to which I did

object once or twice.

Mr. RAKER. There is considerable difference.

Mr. MANN. If the House will bear with us, I am willing to hear how this bill is differentiated from the other bills.

Mr. RAKER. I am satisfied that the Members of the House will hear us for a few moments, anyhow, because gentlemen are always courteous.

I call the attention of the gentleman to the fact that since the introduction of this bill and its favorable report by the Committee on the Public Lands, the Senate and the House have passed in the appropriation act an appropriation of \$28,000 for the purpose of inspecting these listed lands. Since this appropriation there have been about 16 high-class, competent men in the field making an examination of the lands that were thus listed by the State for the purpose of exchange, and it is practically all completed with the exception of a general going over of the same in the office of the Secretary of the Interior. expect that to be completed in a short time. When that is done,

the provisions of this bill will give the Secretary of the Interior the power to make the exchanges and to approve the selections, provided that under the examination that has been made in the field by Government experts within the last six months the land is shown to be nonmineral in character.

Mr. MADDEN. May I ask the gentleman a question?
Mr. RAKER. Yes.
Mr. MADDEN. The gentleman says the investigation is now being made, but that it is not complete?

Mr. RAKER, Yes, Mr. MADDEN, Do Does not the gentleman think it would be a good idea to let this legislation go over until the investigation is complete?

Mr. RAKER. No; and for this reason. Well, this is important legislation. Does not the gentleman think this ought to be passed under some rule by which it could be given some consideration and not by unanimous consent?

Mr. RAKER. Let me say to the gentleman that the people in California who are interested have not raised their voices,

but are in favor of it.

Mr. MADDEN. I do not make the claim that the people of California have made objections, but I think that the legislation is of such far-reaching importance that it ought not to be considered under the Unanimous Consent Calendar. It ought to be considered at a time when every phase of the legislation can be properly looked into, and I feel constrained to object to the present consideration of the bill.

Mr. MANN. If my colleague will pardon me, the gentleman from California [Mr. Knowland], I think, is interested in this bill, and he is detained at home on account of illness. I think

it would be as well to let it go over.

Mr. MADDEN. I am perfectly willing to let it go over with-

out prejudice.

The SPEAKER. Is there objection to this bill being passed over without prejudice? [After a pause.] The Chair hears

JUDICIARY.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 23186) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911.

The Clerk read the bill, as follows:

approved March 3, 1911.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 28 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, be, and the same is hereby, amended so as to read as follows:

"Sec. 28. That any sult of a civil nature, at law or in equity, arising under the Constitution or laws of the United States, or treatles made or which shall be made under their authority, of which the district courts of the United States are given original jurisdiction by this title which may now be pending or which may hereafter be brought in any State court may be removed by the defendant or defendants therein to the district court of the United States for the proper district. Any other suit of a civil nature, at law or in equity, of which the district court may be removed into the district court of the United States are given jurisdiction by this title, and which are now pending or which may hereafter be brought in any State court may be removed into the district court of the United States for the proper district by the defendant or defendants therein being non-residents of that State. And when, in any suit mentioned in this section, there shall be a controversy which is wholly between citizens of different States and which can be fully determined as between them, then either one or more of the defendants actually interested in such controversy may remove said sult into the district court of the United States for the proper district. And where a suit is now pending or may hereafter be brought in any State court in which there is a controversy between a citizen of the State in which the suit is now pending or may hereafter be brought in any State court to the United States for the proper district, at any time before the trial thereof, when it shall be made to appear to said district court of the United States for the proper district, at any time before the trial thereof, when it shall be remade to appear to said district court that, f

moved to any court of the United States: Provided further, That no suit against a corporation or joint-stock company, brought in a State court of the State in which the cause of action arose, shall be removed to any court of the United States on the ground that the parties are citizens of different States if the suit is brought in the county where the cause of action arose or within the county where the defendant is served with process and the plaintiff resides."

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask whether there is anything in this bill not in the existing law except the last proviso?

Mr. GARRETT. I was just about to say that that is all there is in the bill. All the new legislation is in the last proviso, beginning in line 9, page 4, which reads:

Provided further, That no suit against a corporation or joint-stock company, brought in a State court of the State in which the cause of action arose, shall be removed to any court of the United States on the ground that the parties are citizens of different States if the suit is brought in the county where the cause of action arose or within the county where the defendant is served with process and the plaintiff resides.

Mr. MANN. Suppose a controversy existed as to where the cause of action arose, would that be for the Federal court to

Mr. GARRETT. I should think that that was a question of fact for the Federal court to determine.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. Garrett, a motion to reconsider the vote whereby the bill was passed was laid on the table.

IMMIGRATION SERVICE

The next business on the Calendar for Unanimous Consent was the bill H. R. 21220, a bill to extend the power of the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor.

The SPEAKER. Is there objection to the present consideration of the bill just reported? [After a pause.] The Chair hears none.

Mr. SABATH. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in the Committee of the Whole House.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the bill be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

The Clerk read the bill, as follows:

Be it enacted, etc., That the power of establishing rules and regulations for protecting the United States and allens migrating thereto from fraud and loss, conferred upon the Commissioner General of Immigration, subject to the direction and with the approval of the Secretary of Commerce and Labor, by section 22 of an act entitled "An act to regulate the immigration of aliens into the United States," approved February 20, 1907, shall be, and the same is hereby, extended to the supervision of the transportation of alien immigrants to their respective places of destination in the interior of the United States, and of their safe conduct upon arrival at such places, and the Secretary of Commerce and Labor may establish stations for the purpose of such supervision within the limits of the amount that may be appropriated for that purpose and subject to the terms and conditions of the act making such appropriations.

Sec. 2. That for the establishment and maintenance of such a station in the city of Chicago for the fiscal year ending June 30, 1913, there is hereby appropriated, from moneys in the Treasury not otherwise appropriated, the sum of \$75,000, which shall be expended in such manner consistent with the purposes hereof as the Secretary of Commerce and Labor may direct.

Sec. 3. That for succeeding years estimates of the appropriations necessary for the service hereby established shall be included in the estimates for the Immigration Service annually submitted to Congress.

Mr. SLAYDEN, Mr. Speaker, reserving the right to ob-

Mr. SLAYDEN. Mr. Speaker, reserving the right to ob-

The SPEAKER. There is no chance to object; that question has been passed, and also the request to consider it in the House as in Committee of the Whole.

Mr. SABATH. Mr. Speaker, I dare say that the gentleman from Texas desires information as to the bill, and I shall be pleased to give it to him as soon as the amendments have been reported.

The Clerk reported the committee amendments, as follows:

Page 1, line 12, to the word "alien" affix the letter "s" and strike out the word "immigrants" next preceding.

Page 2, line 5, insert the following proviso after the sentence ending with the word "appropriations": "Provided, That nothing in this act shall be construed as authorizing the Commissioner General of Immigration to pay the cost of transportation of any arriving alien."

Page 2, line 9, strike out the word "appropriated" and in lieu thereof insert the word "authorized."

The committee amendments were agreed to.
The SPEAKER. The question is on the engressment and third reading of the amended bill.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. Sabath, a motion to reconsider the vote whereby the bill was passed was laid on the table.

Mr. MANN. Mr. Speaker, would it be in order now to ask my colleague the gentleman from Illinois [Mr. SABATH] to explain the bill?

The SPEAKER. That stage of the proceeding has passed. Mr. MANN. Then it seems to me it would be a good thing to quit; it is 5 o'clock. The SPEAKER.

The SPEAKER. The Clerk will report the next bill.

Mr. MANN. Unless some gentleman on that side desires to adjourn the House, I shall desire to have a quorum here.

Mr. BURKE of Pennsylvania. Does the gentleman think

Chicago is a good stopping place?

Mr. SABATH. Mr. Speaker, not wishing to detain the House, I am going to ask unanimous consent to extend my remarks in the RECORD, so that the gentleman can read what I have to say about the bill in to-morrow's RECORD.

The SPEAKER. The gentleman from Illinois [Mr. SABATH]

asks leave to extend his remarks.

Mr. MADDEN. I ask unanimous consent to extend my remarks.

Mr. BURKE of Pennsylvania. On what subject?

Mr. MADDEN. On this bill.

The SPEAKER. The gentleman from Illinois [Mr. MADDEN] makes the same request. Is there objection? [After a pause.] The Chair hears none.

Mr. MADDEN. . The House has passed much important legislation to-day, but no bill considered at this session is as far reaching in importance as the bill now under consideration, which extends the power of the Commissioner General of Immigration to the supervision of the transportation of aliens to their respective places of destination in the interior of the United States, and of their safe conduct upon arrival at such places, and authorizing the establishment of stations for the purpose of

such supervision.

The section of the bill authorizing the establishment and maintenance of such a station in Chicago, and authorizing the appropriation of \$75,000 for the fiscal year ending June 30, 1914, and for such appropriations as may in future years be recom-mended in the estimates to Congress for the Immigration Service is a step in the right direction. Chicago is the distributing point for the Central West and the Northwest and Southwest. A large percentage of the immigrants arriving in this country come to and pass through Chicago. Up to the present time they have had no adequate protection. The supervision of immigrants between the ports of entry and their final destination has been in the hands of the railroad companies. Many abuses creep into the supervision now in vogue. It can not be otherwise under the existing system. Extortion is frequently practiced against the immigrant passing through a strange land, speaking a strang tongue. Women and young girls are often taken advantage of by unscrupulous people whose business it is to traffic in their virtue. Before they become aware of what has befallen them they have been led into lives of shame from which they are freed only by death. At present and for some years past a number of patriotic citizens in Chicago have contributed of their time and means in an effort to protect aliens coming to our city, but the work of this voluntary organization has been far from adequate to meet the needs of the case. enactment of this legislation will enable the Federal authorities to perform a most important work—a work the value of which can not be measured in dollars. It will save those who come to our shores from many unpleasant experiences, give them a feeling of security in their movements from the ports of entry to the point of final destination, will enable them in many cases not now possible to locate their friends; it will, in fact, be a blessing to every alien, and with the strong arm of the Government as their friend and protector many innocent women and young girls will be spared from what is worse than a living death. The House is to be congratulated for giving considera-tion to this salutary measure, and on behalf of the good people of the country who in the past have devoted themselves to the care and protection of incoming aliens and particularly on behalf of those who have done and are doing that patriotic service in Chicago I wish to thank the Members.

Mr. RAKER. Mr. Speaker, I ask unanimous consent to have printed in the RECORD, so it can be considered to-morrow, if it is germane, two amendments to the Burnett immigration bill.

The SPEAKER. The gentleman from California RAKER] asks unanimous consent to print in the RECORD two amendments to the Burnett immigration bill.

Mr. MANN. Reserving the right to object

Mr. MANN. Reserving the right to object—Mr. RAKER. Oh, well, the Dillingham bill.

Mr. MANN (continuing). I desire to say the gentleman printed in the Record of yesterday morning a very long amendment which I dare say nobody in the House will read.

Mr. RAKER. Neither of these I now desire to put in are over about five lines apiece.

Mr. MANN. I say, the gentleman yesterday morning printed in the Record a very long amendment which I dare say nobody will read. I merely wish to inquire whether these amendments are to be a few lines or a few volumes long.

I would like to inform the gentleman from Mr. RAKER. Illinois one of these amendments is only about five lines long and the other about six lines, and I am sorry to state-I will

withdraw that.

Mr. MANN. The gentleman can state anything he pleases, but I have very little respect for the man who does much work who will read anything printed in the Record in small type.

Mr. RAKER. Well, I can not get it in in any larger type.

The SPEAKER. Is there objection to the request of the gentleman from California to print these amendments in the Record? [After a pause.] The Chair hears none.

The amendments are as follows:

Amend Senate bill 3175, "An act to regulate the immigration of aliens to and the residence of aliens in the United States," as follows:

"1. By inserting, on line 14, page 58, after the semicolon and before the word 'All,' the following: 'All aliens, native of any part of Asia, or the islands adjacent to Asia, or in Asiatic seas, and the descendants of such natives, who can not read and write in some European language, including Hebrew or Yiddish'; to be followed with a semicolon, and change the capital 'A' to a small 'a' in the word 'all,' in line 14, same page.

and change the capital 'A' to a small 'a' in the word 'all,' in line 14, same page.

"2. In section 2, line 10, page 59, add between the words 'dialect' and 'no,' the following paragraph: 'Provided, That for the purpose of ascertaining whether the aliens, native of any part of Asla, or the islands adjacent to Asla, or in Asiatic seas, and the descendants of such natives, can read and write in any European language, including Hebrew or Yiddish, the immigration inspectors shall be furnished with copies of uniform slips, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plain type, in some European language or in Hebrew or Yiddish, and each such alien shall be required to read and write the words printed on such slip.'"

INSURANCE COMPANIES.

Mr. HENRY of Texas. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The SPEAKER. The gentleman from Texas asks unanimous

consent for the consideration of a resolution which the Clerk will report.

The Clerk read as follows:

House resolution 756 (H. Rept. 1274).

House resolution 756 (H. Rept. 1274).

Authorizing the Committee on the District of Columbia to conduct an investigation of the affairs of the office of the superintendent of insurance of the District of Columbia and of certain fire insurance companies doing business in the District of Columbia.

Resolved, That the Committee on the District of Columbia of the House of Representatives, or any subcommittee thereof which the chairman of said committee may appoint, is hereby authorized and directed to investigate the conduct, management, history, records, and affairs of the Commercial Fire Insurance Co. of Washington, D. C., and of the First National Fire Insurance Co. of the United States, Washington, D. C., both doing business in the District of Columbia, and of the office of the superintendent of insurance of the District of Columbia, and of Tutile, Wightman & Dudley (Inc.), doing business in the District of Columbia, together with those of their associates, representatives, and agents, and to examine the books, papers, accounts, and affairs of the aforesaid companies and of the superintendent of insurance of the District of Columbia; to appraise the property, real and personal, belonging to said corporations, or either of them. Said committee, or such subcommittee thereof as may be selected, is authorized to sit during the sessions of the House and during any recess of Congress. Its hearings shall be open to the public, and it is authorized and empowered to employ counsel, expert accountants, appraisers, and such other clerical, stenographic, and expert assistance as it may deem necessary; also to compel witnesses to attend and testify, and to send for such persons and papers and to administer oaths to witnesses as the committee may deem best. The expense incident to the investigation herein authorized shall not exceed \$10,000, and shall be paid out of the committee and approved by the Committee on Accounts.

Mr. HENRY of Texas. Mr. Speaker, I ask for a vote on the

Mr. HENRY of Texas. Mr. Speaker, I ask for a vote on the resolution

The SPEAKER. The gentleman from Texas [Mr. HENRY] asks unanimous consent for the present consideration of the resolution.

Mr. CANNON. Mr. Speaker, I do not know anything about it or anybody connected with any of these corporations. But why not just enlarge it so as to investigate everything in the District of Columbia and pay for it from the contingent fund?

Mr. HENRY of Texas. I think I can satisfy the gentleman in just a few words as to this resolution. The resolution was prepared and introduced by the chairman of the Committee on the District of Columbia. The Committee on Rules heard the chairman of that committee and two of the members of the committee, and also heard the attorney of the insurance companies designated in the resolution. The two insurance companies are also desirous of having a speedy investigation ing subject to a mortgage of something less than a million and

just as provided for in the resolution. There is no opposition to the investigation from any source. The Committee on Rules was convinced that the best thing to do would be to bring in the resolution providing for a prompt investigation.

Mr. MANN. There are very serious charges here in reference

to the matter, and they ought to be investigated.

Mr. HENRY of Texas. And the sooner the better. Mr. BURKE of South Dakota. Reserving the right to object, will the gentleman permit an inquiry?

Mr. HENRY of Texas. I will be glad to do so. Mr. BURKE of South Dakota. In listening to the reading of the resolution I think it provides for the employment of counsel. I would like to ask the gentleman if it is customary in reporting these resolutions of investigation to authorize committees to employ counsel, and, furthermore, is there necessity for it in this case?
Mr. HENRY of Texas.

It is customary. what the intentions of the committee are in that regard, whether they wish to employ counsel or not, but we thought it better to give them that privilege. It is a very important matter, and justice to both sides demands that prompt action be taken,

I think, in these cases.

Mr. CANNON. Mr. Speaker, my understanding is that here are two corporations created by virtue of Federal law and operating under it. If there is fraud upon the stockholders or if they are wasting the funds of the institution, the courts are open. The reason I asked any question about it at all, without having any knowledge of it, was that here is a proposition to pay for an investigation from the contingent fund of the House by a resolution without further explanation. It seems to me by a resolution without further explanation. It seems to he if there is something wrong full redress could be obtained through the courts under the law. But here, on mere suggestion of somebody, not of the corporations, I presume, and also asked for by the corporations themselves—I suppose to establish lish, perchance, a credit which they think they have not-it is proposed to investigate and pay for the investigation out of the contingent fund of the House. And I doubt very much, from any knowledge that I have in the premises or any information that has been furnished to the House, the propriety or the wisdom of adopting a resolution that would set a committee of the House at work, with the privilege to employ counsel. I apprehend the committee would not abuse its privilege; at least, I hope it would not; but the employment of counsel in many of these cases, without knowledge, has raised in my mind, in some investigations that have been made by the House, a suspicion that it is a genteel way of blackmailing and giving false information.

Mr. HENRY of Texas. Now, Mr. Speaker, just a moment. I think I can help the gentleman out a little as to that.

Mr. CANNON. I will be very glad.

Mr. HENRY of Texas. This matter has been given publicity in the newspapers. Here are two financial institutions in the District of Columbia, and an institution of this sort is a very sensitive kind of plant, so to speak, when such publicity is given as has been given concerning these two insurance companies in the newspapers. They are just as anxious to have this investigation as is the Committee on the District of Columbia. The Commissioners of the District are also pressing for the investigation, and the Committee on Rules did not see proper to go into the detailed charges and allegations pro and con, but they have thought, after examining everything which was brought before them and hearing everything that has been said, that it was a better plan to authorize the District Committee to make this investigation and ascertain what the real facts are.

Mr. CANNON. Whether or not these newspaper reports are damaging to the insurance companies I do not know, as I have no familiarity with them. I have not read the newspaper arti-

cles touching this matter.

But if there is something rotten touching these companies it seems to me, on the part of the policyholders and upon the part of the stockholders, there is certainly ample room for people to employ their own counsel and to go into the courts and have a judicial hearing.

Mr. HENRY of Texas. There is a good deal more than private rights involved here.

Mr. MANN. Will the gentleman from Texas yield to me?
Mr. HENRY of Texas. Certainly.
Mr. MANN. I am informed that there is a company engaged in selling stocks. I know I have seen their advertisement within the last month, and as a part of the credit they have obtained for themselves, in order to induce the purchase of stock, they have inflated the value of the Southern Building, in the city, \$2,000,000, as against a purchase by them of the Southern Builda half dollars, making, with just one stroke of the pen, an extra credit of \$500,000, which they use as an inducement to people to purchase the stock. Now, what are the facts?

Mr. HENRY of Texas. I do not know, but I have heard a good deal more about it. What the facts are I do not under

good deal more about it. What the facts are I do not under-take to say, but it is something that can not be investigated by a court, so far as these questions are concerned, and it seems to me they ought properly to be investigated by a committee of

Mr. CANNON. We might, with great propriety, investigate at the same time all the mining ventures in the country.

Mr. HENRY of Texas. If the gentleman will permit me right there, this resolution also provides for an investigation of the insurance commissioner of the District, a public officer.

Mr. BURKE of South Dakota. As to his conduct in connec-

tion with the two institutions?

Mr. HENRY of Texas. Yes; and some public matters as ell. If there ever was a case demanding investigation, it seems to me that this one is plain.

Mr. KENDALL. Mr. Speaker, will the gentleman yield for a

Mr. HENRY of Texas. Yes.

Mr. KENDALL. These insurance companies are required to make reports at some specific time to some authority in the What is that authority? Is it not the insurance District? commissioner?

Mr. HENRY of Texas. Yes; but I do not know whether he

has required it to be done.

Mr. KENDALL. Is delinquency on the part of that officer charged?

Mr. HENRY of Texas. It has been charged.

Mr. KENDALL. He should be included in the investigation.
Mr. BURKE of Pennsylvania. I would say that the resolu-

tion provides for the investigation of his office.

Mr. MURRAY. Mr. Speaker, may I inquire of the gentleman from Texas [Mr. Henry] whether there is any likelihood of a report being made by the Committee on Rules on the New Eng-

land transportation problem?

Mr. HENRY of Texas. In answer to the gentleman's inquiry, I will say that I hardly think the committee will be able to take that matter up until after the holiday recess. Some time in January we hope to consider it.

The SPEAKER. Is there objection?

Mr. CANNON. I do not object, for the reason that the minority leader, on the one hand, and the gentleman from Pennsylvania [Mr. Burke] and the gentleman from Texas [Mr. Henry], on the other, seem to think that this investigation ought to be made. I must say that I haltingly subordinate my judgment in withholding an objection.

The SPEAKER. Is there objection. [After a pause.] The

Chair hears none.

Mr. MANN. Mr. Speaker, in this connection I would like to say a word upon another matter relating to this insurance com-I hold in my hand an advertisement of the Merchants' Fire Insurance Co. of the District here, an advertisement such as can be found, I think, any day in any of the daily newspapers in Washington. I notice by this that there is published as a director of this company Hon. George W. Atkinson, justice of the United States Court of Claims, and as a director and vice president Hon. Ashley M. Gould, justice of the Supreme Court of the District of Columbia. I simply wish to put on record my opinion, that it is wholly improper for those on the bench to be appointed or selected as directors and officers of life-insurance companies or other companies, especially those that are involved in business complications and seeking to sell stock by employing the names of honorable and eminent gentlemen as directors. [Applause.]

I know these men. I have no especial desire to criticize them. I think if they apprehend their duties they will resign from

these positions at once. [Applause,]
The SPEAKER. The question is on agreeing to the resolution. The resolution was agreed to.

ENROLLED JOINT RESOLUTION SIGNED.

The SPEAKER announced his signature to enrolled joint resolution of the following title:

S. J. Res. 144. Joint resolution authorizing payment of December salaries to officers and employees of the Senate and House of Representatives on the day of adjournment for the holiday recess.

ADJOURNMENT.

Mr. HENRY of Texas. Mr. Speaker, I move that the House

do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 14 minutes p. m.) the House adjourned until to-morrow, Tuesday, December 17, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were

taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of Commerce and Labor submitting an amended estimate of appropriation for pay, etc., of officers and men, vessels Coast and Geodetic Survey, for the fiscal year ending June 30, 1914 (H. Doc. No. 1176); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of War, transmitting copy of communication from the Chief of Ordnance recommending certain addition to appropriation "Automatic machine rifles" in Army appropriation bill for the fiscal year ending June 30, 1914 (H. Doc. No. 1177); to the Committee on Appropriations and

ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting an estimate of urgent deficiency in the appropriation for contingent expenses, District of Alaska, for the fiscal year ending June 30, 1913 (H. Doc. No. 1178); to the Committee on Appropriations and ordered to be printed.

4. A letter from the chairman of Interstate Commerce Commission, submitting twenty-sixth annual report (H. Doc. No. 946); to the Committee on Interstate and Foreign Commerce

and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting an abstract of the official emoluments of the officers of the customs service received by them during the fiscal year ended June 30, 1912 (H. Doc. No. 1179); to the Committee on Expenditures in the Treasury Department and ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials

were introduced and severally referred as follows:

By Mr. PARRAN: A bill (H. R. 27320) to authorize the widening and opening of Western Avenue; to the Committee on the District of Columbia.

By Mr. CLINE: A bill (H. R. 27321) to regulate the shipping of live stock; to the Committee on Interstate and Foreign Commerce

By Mr. STONE: A bill (H. R. 27322) to provide for the purchase of a site for a public building at Spring Valley, Ill.; to the Committee on Public Buildings and Grounds.

By Mr. McGILLICUDDY: A bill (H. R. 27323) to provide for refund or abatement under certain conditions of penalty taxes imposed by section 38 of the act of August 5, 1909, known as the special excise corporation tax law; to the Committee on Ways and Means.

By Mr. LEWIS: A bill (H. R. 27324) providing for the erection of a public building at the city of Frederick, Md.; to the Committee on Public Buildings and Grounds.

By Mr. GARDNER of Massachusetts: A bill (H. R. 27325) to provide for an addition to the post-office building at Haverhill, Mass.; to the Committee on Public Buildings and Grounds. By Mr. BERGER: Resolution (H. Res. 753) relative to the

New York, New Haven & Hartford Railroad; to the Committee

on Interstate and Foreign Commerce.

By Mr. ROTHERMEL: Resolution (H. Res. 754) authorizing the Committee on Expenditures in the Department of Commerce and Labor to pay clerk hire during the recess of Congress; to the Committee on Accounts.

By Mr. COOPER: Resolution (H. Res. 755) requesting the Committee on the District of Columbia to inform the House as to the status of the calendar of said committee; to the Com-

mittee on the District of Columbia.

By Mr. DE FOREST: Joint resolution (H. J. Res. 373) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions

were introduced and severally referred as follows:

By Mr. BATHRICK: A bill (H. R. 27326) granting an increase of pension to Edson A. Cook; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27327) to correct the military record of

Charles Sloat; to the Committee on Military Affairs.

Also, a bill (H. R. 27328) to correct the military record of W. S. Krake; to the Committee on Military Affairs.

By Mr. CALDER: A bill (H. R. 27329) for the relief of

Roscoe V. Wickes; to the Committee on Naval Affairs. By Mr. CARLIN (by request); A bill (H. R. 27330) for the relief of George A. Nowland; to the Committee on Claims.

Also, a bill (H. R. 27331) for the relief of R. T. Cook; to the Committee on Appropriations.

By Mr. COLLIER: A bill (H. R. 27332) for the relief of the heirs of John Wixon, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27333) for the relief of the estate of W. L. Johnston, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27334) for the relief of the estate of James M. Brabston and Roche H. Brabston; to the Committee on War Claims.

By Mr. CULLOP: A bill (H. R. 27335) granting an increase of pension to James E. Speake; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27336) granting an increase of pension to Josiah Asdell; to the Committee on Invalid Pensions.

By Mr. DENVER: A bill (H. R. 27337) granting an increase of pension to Charles H. Pickerell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27338) granting an increase of pension to Franz Joseph Rice; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27339) granting an increase of pension to Dana A. Smalley; to the Committee on Invalid Pensions.

By Mr. MICHAEL E. DRISCOLL: A bill (H. R. 27340) granting an increase of pension to William Welch; to the Committee on Invalid Pensions.

By Mr. FAIRCHILD: A bill (H. R. 27341) granting an increase of pension to Charles Black; to the Committee on Invalid Pensions.

By Mr. GARDNER of Massachusetts: A bill (H. R. 27342) granting a pension to Sophronia Murray; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27343) granting an increase of pension to Hannah Millett; to the Committee on Invalid Pensions.

By Mr. GLASS: A bill (H. R. 27344) to appoint Jere Maupin a passed assistant paymaster on the retired list of the Navy; to the Committee on Naval Affairs.

to the Committee on Naval Affairs.

By Mr. GOULD: A bill (H. R. 27345) granting a pension to Mary L. Palmer; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 27346) granting an increase of pension to John McArthur; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27347) granting an increase of pension to Almira M. Brayton; to the Committee on Invalid Pensions.

By Mr. HENSLEY: A bill (H. R. 27348) granting a pension to Andrew McCue; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27349) granting an increase of pension to Mary E. Hughes; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27350) granting an increase of pension to Emma Frymire; to the Committee on Invalid Pensions. Also, a bill (H. R. 27351) granting an increase of pension

to Mary A. Stitzel; to the Committee on Invalid Pensions.

By Mr. LAFEAN: A bill (H. R. 27352) granting a pension to

Susanna Olewiler; to the Committee on Invalid Pensions.
Also, a bill (H. R. 27353) for the relief of Salome Myers
Stewart; to the Committee on War Claims.

By Mr. LLOYD: A bill (H. R. 27354) granting an increase of pension to James F. Davis; to the Committee on Invalid Pensions.

By Mr. LOUD: A bill (H. R. 27355) granting a pension to Oscar E. Harper; to the Committee on Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 27356) granting an increase of pension to Lucy A. Smith; to the Committee on Invalid pensions.

Also, a bill (H. R. 27357) granting an increase of pension to Genevra E. Gray; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27358) granting an increase of pension to Rachel Ripley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27359) granting an increase of pension to Alphono L. Drake; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27360) granting an increase of pension to Jane M. Drown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27361) granting an increase of pension to Mary Hazzard; to the Committee on Invalid Pensions.

By Mr. SHACKLEFORD: A bill (H. R. 27362) for the relief of the county of Boone, State of Missouri; to the Committee on War Claims.

By Mr. STONE: A bill (H. R. 27363) granting an increase of pension to George Martin; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Joint petition of the Traffic Bureau, the Industrial Bureau, and the Board of Trade, Nashville, Tenn.,

favoring the passage of Senate bill 957, for regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also (by request), petition of the Tulsa Commercial Club, favoring passage of bill for Federal aid for the proposed development of the Arkansas River; to the Committee on Rivers and Harbors.

Also (by request), petition of the Boston City Council, favoring an investigation by Congress of the present coal monopoly; to the Committee on Rules.

By Mr. ANSBERRY: Petition of the Ohio State legislative board, Brotherhood of Locomotive Engineers, Galion, Ohio, protesting against the passage of the compulsory workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the Grain Dealers' National Association, favoring the passage of Senate bill 957, for regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, for the regulation of the telegraph and telephone service; to the Committee on Interstate and Foreign Commerce.

By Mr. ASHBROOK: Petition of the Baltimore Department Store and 13 other merchants of Newcomerstown, Ohio, asking the Congress to increase the power of the Interstate Commerce Commission toward controlling the express rates; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, regulating the telegraph and telephone service; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, papers to accompany bill (H. R. 26958) for the relief of Mary C. Kaiser; to the Committee on Invalid Pensions.

By Mr. AYRES: Petition of the National Grain Dealers' Association, favoring the passage of Senate bill 957, regulating bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Grain Dealers' Association, favoring the passage of the Cary bill regulating telegraph and telephone service; to the Committee on Interstate and Foreign Commerce.

By Mr. BURKE of Wisconsin: Papers to accompany bill (H. R. 25575) to remove the charge of desertion against Peter Gumm; to the Committee on Military Affairs.

Also, papers to accompany bill (H. R. 26763) granting an in-

Also, papers to accompany bill (H. R. 20763) granting an increase of pension to Thomas P. Wentworth; to the Committee on Invalid Pensions.

By Mr. CARLIN: Papers to accompany bill for the relief of R. T. Cook; to the Committee on Appropriations.

By Mr. COLLIER: Papers to accompany bill for the relief of the estate of James M. Brabeston; to the Committee on War Claims.

Also, papers to accompany bill for the relief of W. L. Johnston; to the Committee on War Claims.

By Mr. DYER: Petition of the St. Louis (Mo.) branch of the American Federation of Catholic Societies and of Edward V. P. Schneiderhahn, St. Louis, Mo., protesting against the passage of the Jones bill, giving the Philippine Islands their independence; to the Committee on Foreign Affairs.

Also, petition of the order of Knights of Labor, Washington, D. C., favoring passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the National German-American Alliance, protesting against the passage of the amended Kenyon bill (S. 4043) preventing shipment of liquors into dry territories; to the Committee on the Judiciary.

to the Committee on the Judiciary.

Also, petition of Elias Michael, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the

Committee on Immigration and Naturalization.

Also, petition of George Warren Brown, St. Louis, Mo., favoring the passage of the Kenyon-Sheppard bill, preventing shipment of liquors into dry territories; to the Committee on the Judiciary.

Also, petition of J. H. Hoskins, favoring the passage of House bill 22580, making appropriation for the building of legation and consular buildings: to the Committee on Foreign Affairs.

consular buildings; to the Committee on Foreign Affairs.

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, for the regulation of the telegraph and telephone service; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign

Commerce.

By Mr. ESCH: Petition of the Maritime Association of the port of New York, favoring the passage of the bill providing for the relocation of the pierhead line of the Hudson River between Pier 1 and West Thirtieth Street; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Grain Dealers' Association, favoring the passage of House bill 3010, for regulating telegraph and telephone service; to the Committee on Interstate

and Foreign Commerce.

Also, petition of the National Grain Dealers' Association, for the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Mr. FOCHT: Petition of citizens of Pennsylvania, favoring the passage of the amended Kenyon bill (H. R. 4043) preventing the shipment of liquor into dry territories; to the Committee on the Judiciary.

Also, petition of citizens of Pennsylvania, favoring the passage of Senate bill 3175, for the restriction of immigration; to

the Committee on Immigration and Naturalization.

By Mr. FULLER: Petition of the Illinois Daughters of the American Revolution, favoring passage of the Cox bill, preventing the desecration of the American flag; to the Committee on Judiciary

Also, petition of Charles W. Helmig, of Peru, Ill., in opposi-tion to the passage of the amended Kenyon liquor bill (H. R. 4043) for preventing the shipment of liquors into dry terri-

tories; to the Committee on the Judiciary.
Also, petition of 4 veterans of the Civil War, of Auburn, Me., favoring the passage of House bill 1339, to pension limbless

veterans; to the Committee on Invalid Pensions.

By Mr. HENSLEY: Petition of the German-American Alliance and citizens of Missouri, protesting against the passage of the Kenyon-Sheppard bill, preventing the shipment of liquors into dry territory; to the Committee on the Judiciary.

Also, petition of J. T. Evans and 60 other citizens, of Farmington, Mo., favoring the passage of the Kenyon-Sheppard liquer

bill; to the Committee on the Judiciary.

By Mr. HOUSTON: Petition of citizens of Rutherford County, Tenn., favoring the passage of the old-age pension bill; to the Committee on Pensions.

Also, petition of citizens of Tennessee, favoring the passage of the Kenyon-Sheppard liquor bill, preventing the shipment of liquor into dry territories; to the Committee on the Judiciary.

By Mr. LINDSAY: Petition of the Grain Dealers' National Association, favoring the passage of Senate bill 975, for regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, regulating the telegraph and telephone service; to the Committee on Interstate

and Foreign Commerce.

Also, petition of William Knappmann & Co. (Inc.), Brooklyn, Y., protesting against the proposed reduction in duty on whiting and Paris white; to the Committee on Ways and Means.

Also, petition of veterans of the Civil War, of Auburn, Me., and Troy, Ohio, favoring the passage of House bill 1339, providing a pension for the limbless veterans; to the Committee on Invalid Pensions.

By Mr. LOUD: Papers to accompany bill granting a pension to Oscar E. Harper; to the Committee on Pensions.

By Mr. PARRAN: Papers to accompany the bill (H. R. 24513) granting a pension to Herman Behn; to the Committee on

By Mr. PAYNE: Petition of the New York State Canners' Association, favoring passage of legislation for the establishment of a bureau of inspection of the canning industries; to the Committee on Agriculture.

By Mr. REYBURN: Petition of the Grain Dealers' National Association, favoring passage of Senate bill 957, for regulation of bills of lading; to the Committee on Interstate and Foreign

Also, petition of the Grain Dealers' National Association, favoring passage of House bill 2010, for regulation of telegraph and telephone service; to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of New York: Petition of the Buffalo Chamber of Commerce and citizens of Buffalo, favoring the passage of House bill 26277, creating a United States final court of patent appeals; to the Committee on the Judiciary.

Also, petition of the Buffalo Chamber of Commerce, favoring the passage of the Pomerene substitute bill (S. 957) for regu-

lating bills of lading; to the Committee on Interstate and Foreign Commerce.

By Mr. SPARKMAN: Petition of citizens of Florida, favoring the passage of the Kenyon liquor bill, preventing shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. TILSON: Petition of the Social Service League, Salisbury, Conn., favoring the passage of Senate bill 3, providing for

vocational education; to the Committee on Agriculture. By Mr. TRIBBLE; Petition of William R. Mackay others, favoring the passage of Senate bill 4043, to stop illegal shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. WILLIS: Papers to accompany bill (H. R. 20097) granting an increase of pension to Lemuel M. Mahan; to the

Committee on Invalid Pensions.

Also, papers to accompany bill granting a pension to James Bartholomew; to the Committee on Invalid Pensions.

By Mr. WILSON of New York: Petition of the Grain Dealers' National Association, Norfolk, Va., favoring the passage of Seunte bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, relative to controlling messages and communications by telegraph or telephone; to the Committee on Interstate and Foreign Commerce.

SENATE.

Tuesday, December 17, 1912.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. Cullow and by unanimous consent, the further reading was dispensed with, and the Journal was approved.

Mr. CULLOM. Mr. President, I suggest the absence of a

The PRESIDENT pro tempore (Mr. Gallinger). The Senator from Illinois suggests the absence of a quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Smith, Ariz. Smith, Ga. Smith, Mich. Smith, S. C. Smoot Stephenson Ashurst Bacon Crane McCumber Crawford Culberson Cullom McLean Martin, Va. Massey Bailer Curtis
Dixon
du Pont
Gallinger
Guggenheim
Hitchcock
Johnson, Mc.
Johnston, Ala,
Jones
Kenyon Bourne Myers Newlands Brandegee Bristow Brown O'Gorman Oliver Overman Stone Sutherland Swanson Thornton Bryan Page Perkins Perky Poindexter Richardson Burnham Burton Chamberlain Chilton Tillman Townsend Warren Wetmore Works Clapp Clark, Wyo. Clarke, Ark. Kenyon La Follette Lodge Root Sanders

Mr. PAGE. I must again announce the illness of my colleague [Mr. Dillingham] and his necessary absence from the sessions of the Senate.

Mr. BRYAN. I desire to state that my colleague [Mr. LETCHER] is absent on public business.

The PRESIDENT pro tempore. Sixty-three Senators have answered to their names. A quorum of the Senate is present.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate communications from the Secretary of State, transmitting, pursuant to law, authentic copies of certificates of final ascertainment of the electors for President and Vice President in the States of Alabama, Idaho, and Illinois at the elections held therein on November 5, 1912, and furnished by the governors of these States, which were ordered to be filed.

FINDINGS OF THE COURT OF CLAIMS (S. DOC. NO. 981).

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion filed by the court in the cause of Conrad B. Fischer, administrator of estate of John Hoey, deceased, v. United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bills:

S. 3974. An act to increase the limit of cost of the United States public building at Denver, Colo.;

S. 62S3. An act increasing the cost of erecting a public building at Olympia, Wash.; and

S. 6899. An act increasing the limit of cost for the erection and completion of a public building in the city of Richford,

State of Vermont.

The message also announced that the House had passed the bill (S. 4488) to authorize the setting aside of a tract of land for a school site and school farm on the Yuma Indian Reservation, in the State of California, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the

H. R. 17683. An act to increase the limit of cost for the post-

office building heretofore authorized at Dublin, Ga.;

H. R. 21220. An act to extend the power of the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor;

H. R. 23186. An act to amend an act entitled "An act to codify revise, and amend the laws relating to the judiciary," approved

March 3, 1911; and

H. R. 25937. An act providing pay for Labor Day for per diem employees of the Government of the United States.

ENROLLED JOINT RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (S. J. Res. 144) authorizing the payment of the December salaries to officers and employees of the Senate and the House of Representatives on the day of adjournment for the holiday recess, and it was thereon signed by the President pro tempore.

CREDENTIALS.

Mr. THORNTON presented the credentials of Joseph E. Ransbell, chosen by the Legislature of the State of Louisiana a Senator from that State for the term beginning on the 4th day of March, 1913, which were read and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. CULLOM. I present a letter signed by Daniel Braxton Turney, of Decatur, Ill., on the subject of the traffic in intoxicating liquors. I ask that the letter lie on the table and be printed in the RECORD.

There being no objection, the letter was ordered to lie on the

table and to be printed in the RECORD, as follows:

table and to be printed in the Record, as follows:

To the Members of the Senate and the House of Representatives of the United States in Congress convened.

HONORABLE GENTLEMEN: Believing, in common with a majority of the best-informed people, that the traffic in intoxicating beverages is clearly destructive of morality and the public welfare, and that it will be infamously iniquitous before God to permit liquor dealers to outrage every principle of right and justice by continuing to vend intoxicating beverages where the people have made such traffic a legal crime by deliberately sending such beverages into prohibition territory. I hereby respectfully petition your honorable body to adopt the amended Kenyon bill.

I can not believe that national lawrenters with the sending such sending such that national lawrenters.

bill.

I can not believe that national lawmakers, guided by the reverence due to God and the people and abundantly able to hinder the evil complained of, will suffer a longer overriding of State laws which are admittedly constitutional by men who defy every form of law, human and divine, and connive at every known crime for the sake of revenue.

Respectfully,

DANIEL BRAXTON TURNEY.

DECATUR, ILL

Mr. CULLOM presented sundry telegrams in the nature of memorials from citizens of Peoria, Chicago, and Pekin, all in the State of Illinois, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. SWANSON. I present a communication signed by the committee representing the delegation appointed by Gov. Mann, of Virginia, to the conference in Washington, D. C., December 16 to 18, 1912, on the subject of interstate liquor legislation in Congress. I ask that the communication lie on the table and be printed in the RECORD,

There being no objection, the communication was ordered to lie on the table and to be printed in the RECORD, as follows: To the Senators and Representatives of Virginia in Congress:

To the Senators and Representatives of Virginia in Congress:

We, the committee representing the delegation appointed by Gov. William Hodges Mann. of Virginia, to a conference in Washington, D. C., December 16 to 18, 1912, on interstate liquor legislation in Congress, and consisting of the Anti-Saloon League, the Woman's Christian Temperance Union, the Woman's Temperance League of America, the Independent Order of Good Templars, and business men, manufacturers, farmers, and educators, hereby respectfully ask you to use your influence in procuring the passage of the Kenyon-Sheppard-Webb-McCumber bill, now pending before the United States Senate and known as Senate bill No. 4043; further, that we request that this memorial be presented to Congress and be made a part of the record thereof.

D. H. Barger, Chairman.

A. H. Blanchard, Secretary.

Mrs. Georgia May Jobson.

T. H. Ellett.

H. E. McWors.

Mrs. Howard M. Hoge,

President Virginia Woman's Christian Temperance Union.

Mr. HITCHCOCK presented a petition of the Woman's Christian Temperance Union of Nehigh, Nebr., and a petition of sundry citizens of Burchard, Nebr., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. CHILTON presented a petition of the Woman's Christian Temperance Union of Weston, W. Va., and a petition of sundry citizens of Parkersburg, W. Va., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BRISTOW presented a memorial of sundry citizens of Ellinwood, Kans., remonstrating against the passage of the socalled Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a petition of the students and faculty of the University of Ottawa, Kans., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. POINDEXTER presented a petition of the Woman's Christian Temperance Union of Seltice, Wash., praying for the passage of the Kenyon-Sheppard interstate liquor bill, which

was ordered to lie on the table.

Mr. BURTON. I present a protest signed by 8,474 citizens and firms in the State of Ohio, urgently protesting against the passage and enactment into law of Senate bill No. 4043, known as the Kenyon liquor bill. I move that the memorial lie on the

The motion was agreed to.

Mr. CRAWFORD presented petitions of sundry citizens of Platte, Mitchell, Castlewood, and Vermilion, all in the State of South Dakota, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. OVERMAN. I have a telegram signed by the secretary of the Winston Salem Ministers' Union, of North Carolina, representing and speaking for the churches of that city, requesting the passage of the Kenyon-Sheppard liquor bill without amendment. I ask that the telegram lie on the table. I also have other petitions on the same subject matter which I desire to offer later

The PRESIDENT pro tempore. Without objection, the petitions will be received when presented by the Senator from

North Carolina.

Mr. OVERMAN presented a petition of sundry citizens of Charlotte, N. C., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. STEPHENSON presented a resolution adopted by the United Commercial Travelers of America at Milwaukee, Wis., favoring a change in the date of the national elections, which

was referred to the Committee on the Judiciary.

He also presented memorials of the Order of Eagles, of Mil-

waukee; of Local Union, International Union of United Brewery Workmen, of Milwaukee; and of the Chamber of Commerce of Milwaukee, all in the State of Wisconsin, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a petition of the Wisconsin Sunday School Association and a petition of the faculty of Beloit College, Beloit, Wis., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on

He also presented a resolution adopted by the Lake Michigan Sanitary Association, favoring an investigation into the extent of the pollution of the waters of the Great Lakes, etc., which was referred to the Committee on Public Health and National

Mr. BRANDEGEE presented petitions of the Men's Sunday Club of South Church, New Britain, and of sundry citizens of New Milford and Ellington, all in the State of Connecticut, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a resolution adopted by the Social Service League of Salisbury, Conn., favoring the enactment of legisla-tion providing for cooperation with the States in encouraging instruction in agriculture, etc., which was ordered to lie on the

He also presented a petition of Quinebaug Pomona Grange, No. 2, Patrons of Husbandry, of Chaplin, Conn., and a petition of Central Pomona Grange, No. 1, Patrons of Husbandry, of Plainville, Conn., praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which were ordered to lie on the table.

Mr. STONE presented a memorial of Local Union No. 6, International Union United Brewery Workmen of America, of St.

Louis, Mo., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented petitions of sundry citizens of Tarkio, Westboro, Eversonville, Sedalia, and Mound City, all in the State of Missouri, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. McLEAN presented a petition of 36 citizens of South Manchester, Conn., and a petition of 23 citizens of Ellington, Conn., praying for the passage of the so-called Kenyon-Sheppard

interstate liquor bill, which were ordered to lie on the table. He also presented a petition of Cawasa Grange, No. 34, Patrons of Husbandry, of Collinsville, Conn., praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which were ordered to lie on the table.

Mr. PERKINS presented a telegram in the nature of a petition of the Fruit Growers' Convention and of the State Commission of Horticulturists of California, praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which was ordered to lie on the table.

Mr. SHIVELY presented the petition of J. M. Staples, Merritt C. Beale, A. N. Stamm, and 28 other citizens of South Bend, Ind., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. BROWN presented petitions of sundry citizens of Alliance, Neligh, Hastings, Burchard, Ravenna, Gering, Mitchell, and Scotts Bluff, all in the State of Nebraska, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. LODGE presented the petition of H. A. Wilder and John F. Brant, of Newton, Mass., praying for the passage of the socalled Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. SMITH of South Carolina presented a petition of sundry citizens of Brunson, S. C., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. DU PONT presented a petition of the New Castle County Pomona Grange No. 1, of Delaware, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. GALLINGER presented the petition of Samuel W. Dart, of Gilsum, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

DEPOSITS OF BORAX.

Mr. MASSEY, from the Committee on Mines and Mining, to which was referred the bill (S. 4002) defining the manner in which deposits of borax, borate of lime, borate of soda, and borate material may be acquired, reported it with an amendment and submitted a report (No. 1074) thereon.

PAPAGO INDIAN RESERVATION, ARIZ.

Mr. JONES. On the 9th instant the Secretary of the Interior transmitted a special report on the irrigation and flood protection of the Papago Indian Reservation, Ariz., and it was referred to the Committee on Irrigation and Reclamation of Arid Lands. I move that the committee be discharged from the further consideration of the report and that it be referred to the Committee on Indian Affairs.

The motion was agreed to.

MONUMENT TO POCAHONTAS.

Mr. SWANSON. From the Committee on the Library I report back favorably without amendment the bill (8. 2118) to aid in the erection of a monument to Pocahoutas at Jamestown, Va., and I submit a report (No. 1073) thereon. I ask for the immediate consideration of the bill.

The PRESIDENT pro tempore. The bill will be read.

The Secretary read the bill, as follows:

The Secretary read the bill, as follows:

Be it enacted, etc., That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$5,000 to the Pocahontas Memorial Association to aid in completing and erecting at Jamestown, Va., a suitable monument to commemorate the preservation of the first permanent settlement of the English-speaking people on the Western Hemisphere at Jamestown, Va., through the intervention of the Indian princess, Pocahontas.

Sec. 2. That the Secretary of the Treasury be, and is hereby, authorized and directed to pay said sum to the treasurer of the said Pocahontas Memorial Association: Provided, That the treasurer of the said Pocahontas Memorial Association shall, before receiving the amount hereby appropriated, or any part thereof, give a bond to the United States in the sum of \$5,000, with surety or sureties to be approved by the Secretary of the Treasury, conditioned upon his faithfully disbursing the

money hereby appropriated for the purpose and in the manner herein specified and rendering an itemized account of such disbursements, with satisfactory vouchers, to the Auditor of the Treasury for the State and Other Departments, said account to be first certified and approved by the legal counsel of the said Pocahontas Memorial Association: Provided further, That the design of said monument, together with the site upon which it is to be erected, shall first be approved by the Secretary of the Treasury and the said Pocahontas Memorial Association: Provided further, That no part of the money hereby appropriated shall be so paid until the said Pocahontas Memorial Association shall have raised and paid on said monument an equal sum of \$5,000, and satisfactory vouchers therefor presented to the Secretary of the Treasury: Provided further, That no part of said money shall be paid until the site upon which said monument shall be erected shall have been donated, granted, or otherwise set apart and secured for said purpose: And provided further, That when said monument is erected, the responsibility for the care, keeping, and preservation of the same shall be and remain with the Pocahontas Memorial Association, it being expressly understood that the United States shall have no responsibility therefor.

The PRESIDENT pro tempore. Is there objection to the

The PRESIDENT pro tempore. Is there objection to the

present consideration of the bill?

Mr. BAILEY. Mr. President, I suppose it would be ungracious to object, and I will not prevent the consideration of this bill; but I am opposed to it, and as I do not intend to ask that the roll be called I will occupy time enough to say that if Congress enters upon a policy like this it will soon happen that many persons and many events of small importance will be commemorated by monuments, and they will become so common that it will be no special honor to the memory of a person or an event to have a monument.

The PRESIDENT pro tempore. Is there objection to the

present consideration of the bill?

Mr. SMOOT. I will ask the Senator from Virginia if there is any particular reason why this bill should be acted upon so

hastily

Mr. SWANSON. Mr. President, I will say that a bill similar to this passed the Senate unanimously in 1908. The Pocahontas Memorial Association is an organization that has collected \$5,000 to erect a monument to Pocahontas by a noted sculptor. They have a deed to the land upon which to erect it and the monument is now waiting in New York the payment of an additional \$5,000. The United States Government in 1907 erected a monument at Jamestown Island to John Smith, and it was thought by this patriotic association, composed of ladies and men from every part of the United States, that it would be appropriate to have at Jamestown Island a suitable memorial to Pocahontas.

She is not an ordinary personage in American colonization. The colony there would have been repeatedly destroyed but for her courage, her bravery, and her privation. She made possible the first permanent English settlement in America.

Mr. BAILEY. That is a poor compliment to your ancestors. Mr. SWANSON. The ladies of America feel that we have been very recreant to our duty not to have a suitable memorial anywhere

Mr. SMOOT. I am not objecting-

Mr. SWANSON. This association is desirous of getting this measure through at the present session of Congress. The bronze statue is now in New York, in the studio of a noted artist; the land has been deeded; the pedestal is there; and these ladies understood that if they would raise half the Federal Government would raise the other half. The Senate in 1998 unanimously passed a similar bill. The Library Committee of the House reported it unanimously, but it failed of passage on account of the lateness in the session and the pressure which usually characterizes the passage of bills near the close of a session.

I hope the Senator from Utah will not object. It would seem to me that the monument ought to be erected by the United States Government itself. These patriotic ladies have gotten up an organization and furnished half the money; they have the land and the pedestal; and all that is asked is \$5,000 to commemorate the heroic achievements of this Indian princess. It seems to me that we should certainly appropriate this small

Mr. SMOOT. Mr. President, I have no objection at all to the appropriation of the money for this purpose, but I do not see why a bill just reported to the Senate at this time, When everything is so congested, should be put on its passage. Other Senators have bills on the calendar in which they are just as much interested, and I do not see why this bill should be considered here by unanimous consent without going to the calen-

dar. That is the only reason why I mention the fact.

Mr. SWANSON. I hope the Senator will not object and that the bill may go through.

The PRESIDENT pro tempore. The Chair will ask, Is there

objection to the present consideration of the bill?

Mr. SMOOT. Under the circumstances I will not object. There being no objection, the bill was considered in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows

By Mr. POINDEXTER:

A bill (S. 7784) granting an increase of pension to Katherine M. Gray; to the Committee on Pensions.

By Mr. JONES:

A bill (S. 7785) confirming titles of Deborah A. Griffin and Mary J. Griffin, and for other purposes; to the Committee on Public Lands.

A bill (S. 7786) granting an increase of pension to Victoria

L. McHone; and A bill (S. 7787) granting a pension to Effie M. Crail; to the Committee on Pensions.

By Mr. BURTON:

A bill (S. 7788) granting an increase of pension to Joseph H. Alexander; and

A bill (S. 7789) granting an increase of pension to Emily S. Reader; to the Committee on Pensions.

By Mr. TOWNSEND:

A bill (S. 7790) granting an increase of pension to Clara A. Long (with accompanying paper); to the Committee on Pensions.

By Mr. HITCHCOCK:

A bill (S. 7791) granting an increase of pension to Allen Price; to the Committee on Pensions.

By Mr. TILLMAN:

A bill (S. 7792) authorizing James Sottile, his heirs and assigns, to construct, maintain, and operate a bridge and approaches thereto across Cooper River, Charleston County, S. C., and also a bridge and approaches thereto across Shem Creek, Charleston County, S. C.; to the Committee on Commerce.

By Mr. GUGGENHEIM:

A bill (S. 7793) granting an increase of pension to Benjamin

F. Jay (with accompanying papers); to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 7794) granting an increase of pension to Ellen M. Kilbourne:

A bill (S. 7795) granting an increase of pension to Sophia H. Burgess; and

A bill (S. 7796) granting an increase of pension to Eliza J. Quimby; to the Committee on Pensions.

By Mr. GALLINGER:

A bill (8, 7797) for the relief of Frederick J. Ernst; to the

Committee on Claims.

Joint resolution (S. J. Res. 145) to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913 (with accompanying paper); to the Committee on the District of Columbia.

OMNIBUS CLAIMS BILL.

Mr. NEWLANDS submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to lie on the table and be printed.

ADDRESS BY FRANCIS T. A. JUNKIN (S. DOC. NO. 983).

Mr. SUTHERLAND. I send to the desk a short address by Francis T. A. Junkin delivered at the one hundred and thirtyfourth commencement of Kenyon College, June 17, 1912, the subject being, Is Our Representative Government Imperiled? I ask that the address be printed as a Senate document.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE WHITE-SLAVE TRAFFIC (S. DOC. NO. 982).

Mr. CURTIS. I have a copy of an address by Hon. Stanley W. Finch, chief of the bureau of investigation of the Department of Justice, delivered before the World's Purity Congress, Louisville, Ky., May 7, 1912, on the white-slave traffic. I ask that the address be printed as a Senate document.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MEMORIAL ADDRESSES ON THE LATE SENATOR NIXON.

Mr. NEWLANDS. I desire to give notice that on Saturday, February 8, 1913, I will ask that the business of the Senate be suspended that fitting tribute may be paid to the memory of my late colleague, Hon. George S. Nixon.

SNAKE RIVER BRIDGE, WYOMING.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 3947)

to provide for a bridge across Snake River, in Jackson

Hole, Wyo.

Mr. WARREN. I move that the Senate disagree to the amendment of the House of Representatives, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the

The motion was agreed to, and the President pro tempore appointed Mr. Jones, Mr. Warren, and Mr. Newlands conferees on the part of the Senate.

HOUSE BILLS REFERRED.

H. R. 21220. An act to extend the power of the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor, was read twice by its title and referred to the Committee on Immigration.

H. R. 23186. An act to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, was read twice by its title and referred to the

Committee on the Judiciary.

H. R. 17683. An act to increase the limit of cost for the postoffice building heretofore authorized at Dublin, Ga., was read twice by its title and referred to the Committee on Public Buildings and Grounds.

H. R. 25937. An act providing pay for Labor Day for per diem employees of the Government of the United States was read twice by its title and referred to the Committee on Education and Labor.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move that the Senate proceed to the consideration of House bill 19115, known as the omnibus claims bill.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3. 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CRAWFORD. Mr. President, to get the RECORD as it should be in form, I wish to state that the Senator from Massachusetts [Mr. Lodge] offered an amendment to this bill proposing to incorporate into it what are known as the French posing to incorporate into it what are known as the richard spoliation claims. That offer has been made and is properly before the Senate. I had introduced, and there had been laid on the table, an amendment which I desired to propose to the amendment offered by the Senator from Massachusetts. desire to formally offer that amendment and move its adoption, so that the Record may be complete. Then, without in any way displacing the position of the pending bill, I shall give way to the Senator from Iowa [Mr. Kenyon], who desires to conclude the remarks he began on yesterday.

Mr. LODGE. Mr. President, I merely desire to make an

inquiry. The amendment offered by the Senator from South Dakota to my amendment has, I think, been read?

The PRESIDENT pro tempore. It has been read.

Mr. CRAWFORD. It has been read, Mr. President, and its items appear in the RECORD.

Mr. LODGE. I merely wanted to be sure that the amendment to the amendment had been read.

The PRESIDENT pro tempore. Does the Senator from South Dakota offer his amendment at the present time?

Mr. CRAWFORD. I do; and I move its adoption. I desire to be heard upon it later, but will now yield the floor to the Senator from Iowa, who, as I have stated, desires to conclude

the remarks he began on yesterday.

The PRESIDENT pro tempore. Then the amendment proposed by the Senator from South Dakota [Mr. Crawford] to the amendment of the Senator from Massachusetts [Mr. Lodge] will be the pending amendment when the bill is again taken up for consideration.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. KENYON. Mr. President, I thank the Senator from South Dakota [Mr. Crawford] for his kindness in the matter.

The PRESIDENT pro tempore. The bill to which the Senator from Iowa is about to speak will be read by title.

The Secretary. A bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases

Mr. KENYON. Mr. President, at the conclusion of the morning hour yesterday I was trying, in my feeble way, to discuss the constitutional power of the Federal Government as to local commerce where there was an apparent conflict with the police powers of the States in the regulation of their internal affairs. While it is true that one State can not by its laws have extraterritorial effect upon contracts made and executed in another State, yet is it not equally true that one State should not have extraterritorial power to break down and destroy the laws of another State under the pretense that they were protected by the interstate-commerce clause of the Constitution? The need of such an act was expressed by the distinguished senior Senator from Georgia, who has presided over the Senate with such ability and fairness, in his views submitted to Congress some years ago when Congress had under consideration a number of similar bills, and he stated it so much better than I am able to state it, that I make bold to use his language:

state it, that I make bold to use his language:

Briefly stated the conditions which demand the passage of this or some similar bill are these: Every State in which the traffic in liquors has been prohibited by law is deluged with whisky sent in by people from other States under the shelter of the interstate-commerce law. There are daily trainloads of liquors in bottles, jugs, and other packages sent into the State consigned to persons, real and fictilious, and every railway station and every express company office in the State are converted into the 1 ost extensive and active whisky shops, from which whisky is openly distributed in great quantities. Liquor dealers in other States secure the names of all persons in a community, and through the mails flood them with advertisements of whisky, with the most liberal and attractive propositions for the sale and shipment of the same. Freed from the expense of the middleman, the distiller or dealer in other States is enabled to sell to the individual in the prohibition State at a less price than the purchaser formerly paid to the domestic whisky dealer. It is evident that under such circumstances the prohibition law of a State is practically nullified, and intoxicating liquors are imposed upon its people against the will of the majority.

If further distinguished authority was needed in this era

If further distinguished authority was needed in this era of Democratic jubilation, I think no better authority could be produced than an extract from the veto message of the governor of New Jersey, who so narrowly escaped being unanimously elected to the Presidency. In New Jersey an act to enable wholesale liquor dealers to extend their trade outside of the licensing unit was vetoed by Woodrow Wilson on April 2, 1912, in the following words:

There is a very strong argument for the range proposed in this bill in the fact that the policy of the Federal Government in respect of interstate commerce permits liquor dealers outside of the State to deliver their wares at pleasure inside of the State, thus unquestionably working a hardship on their competitors within the State, but it does not seem to me a mistaken and hurtful Federal policy justifies an initation of that policy by the State itself. It seems to me imperative upon the principle of self-government to preserve the integrity and autonomy of the several licensing districts and that that autonomy is seriously impaired by this act.

I am not concerned at all with the question of whether a State in the exercise of its police power might adopt a law prohibiting the manufacture or sale of intoxicating liquors. If it does do so, it ought to be able to make that law effective. If it adopts the contrary policy, it should be permitted to make that effective. If intoxicating liquors can be freely shipped into a State which has a prohibitory law and the State government is powerless to prevent it, and the Federal Government is likewise powerless to prevent it, if this liquor is to remain in the twilight zone between Federal and State jurisdiction, then, indeed, it is time for some further amendment to our Constitution,

I call attention in this connection to a circular issued by a wholesale liquor house in the State of Utah. It is illuminated with pictures of Uncle Sam, some 10 in number, in various pleasing and satisfactory poses, and announces at the top of the The circular is as circular that "Uncle Sam is our partner." follows:

UNCLE SAM IS OUR PARTNER. THE FRED J. KIESEL CO., OGDEN, UTAH, Mail order liquor department.

Mail order liquor department.

To meet the surprisingly increasing demand from dry Idaho counties and other dry sections we have increased our bottled in bond and blended whisky stock and are ready to supply all demands from the thirsty, be they bankers, merchants, tradesmen, laborers, ministers, bootleggers, or even politicians, from the governor down to the least official. Our list includes the following well-known brands: Sunny Brook, old Crow, Old Klesci, Hermitage, Our Joe, Guckenheimer, Paul Jones, and Chicken Cock.

Pabst Blue Ribbon, "the beer of quality."
Idan-ha, the monarch of table and medicinal waters; also finest of wines and brandies from our own winery at Sacramento, Cal.

Price lists furnished on application. Address all communications to The Fred J. Klesel Co., Mail Order Department, Ogden, Utah.

I refer to this, Mr. President, because of the significant words at the top of the circular, "Uncle Sam is our partner." The partnership of the Federal Government with the bootlegger ought to be permanently dissolved. The assistance of the Government in maintaining "holes in the walls" and "speak easies" ought to cease. That is the purpose of this bill. It would seem as if the purpose would meet the approval of everyone, whether engaged in the liquor business or opposed to it. There is no purpose in this bill, and the language can not be distorted into the idea so freely circulated in the literature now being distributed by those opposed to this bill, that it destroys the right of a man to the personal use of intoxicating liquor. No State in the Union has passed an act prohibiting the personal use of liquor. It is not made a crime for one to purchase liquor, and the right to use it is only affected as it might be incidentally by the prohibition of sale. I assume that

no State ever will pass a law prohibiting the personal use of intoxicating liquor, up to the point at least where a man by so doing might become a drunkard or make a nuisance of himself. This bill goes no further than State law; it leaves the question entirely with the States; it does not attempt to say whether liquor shall be sold or used or given away. It is drawn on the theory and to carry out the purpose that the police powers of a State should not be made impossible of operation by the failure of Congress, in the interest of the general public welfare, to remove from commerce an article which might impede the carrying out of those powers in the State. It never was intended by the Constitution in conferring upon Congress an exclusive power to regulate interstate commerce, to take away from the various States the right to make reasonable laws concerning the health, life, and safety of its citizens, even though such legislation might indirectly affect foreign or interstate commerce.

In Sherlock v. Alling (93 U.S., 99) it was said:

And it may be said generally that the legislation of a State not directed against commerce or any of its regulations, but relating to the rights, duties, and liabilities of citizens, and only indirectly and remotely affecting the operations of commerce, is of obligatory force upon citizens within its territorial jurisdiction, whether on land or water, or engaged in commerce, foreign or interstate, or in any other pursuit.

With these preliminary observations, I desire to take up the legal and constitutional questions involved, and they group themselves about as follows:

First. Has Congress the power, under the commerce clause of the Constitution, to prohibit the transportation in commerce of any commodity which it may desire?

Second. If Congress has not that full power, then has it power to prohibit in commerce between the States those articles which are generally considered injurious in and of themselves to the general public?

Third. Are intoxicating liquors so recognized as articles of commerce that Congress can not include them among those subjects which are in themselves or by their use deleterious to public welfare?

Fourth. Would the prohibition of the shipment in interstate commerce of intoxicating liquors violate any of the inhibitions of the Constitution?

Fifth. Can the contract of shipment be invalidated by the undisclosed intention of one of the parties to violate the law of a State?

Sixth. Must Congress, if it attempts to prohibit in any degree the transportation of liquors intended to violate the law of a State, go further and absolutely prohibit them?

Seventh. Has it power to turn over to a State regulation the question of when such liquors shall cease to be a part of com-

Eighth. Does the bill in section 2 not delegate to the States

the power to regulate interstate commerce?

Ninth. Is it within the power of Congress to say when the interstate-commerce transaction shall cease, and can it divest an article of the interstate-commerce character while it is in actual, physical transportation?

Tenth. Does section 2 not recognize the right of transportation into the State and at the same time permit the police power to prohibit transportation?

Eleventh. Has Congress the power as to the fundamental aspect of interstate commerce, namely, the actual, physical transportation, to say that that commerce shall cease before the

commodity reaches the consignee?

These suggestions go, I think, to all the objections raised to this bill, and I have suggested those things which might be considered as against the constitutionality of the bill, as well as those which might make in its favor. I have no pride of opinion in this bill. The bill originally was drafted by a distinguished lawyer of the State of Oklahoma. Believing in the principle thereof, I introduced the bill. The committee struck out some parts of the original bill and added thereto as an amendment section 2, which was drafted by the distinguished Senator from Tennessee [Mr. Sanders]. I have no desire, nor has he, that the bill pass if the Senate is of the opinion that it is unconstitutional.

I have no patience with merely passing a bill that we may regard as unconstitutional and pass it up to the Supreme Court and let them determine the question. I do not believe any Serator should vote for any bill where he believes it is unconstitutional; but if there is a serious question in his mind with relation thereto, and it is a question of such general public interest that the Supreme Court should pass thereon, then it would seem to me the proper procedure to pass the bill and invite the judg-ment of the Supreme Court thereon in a proper case. In no other way could great constitutional questions ever be determined, because good lawyers will always differ thereon as well

as good judges, as is evidenced by the fact of the large number of dissenting opinions in practically all the cases where great

constitutional questions have been involved.

My answer to the first one or two questions, I think, answers them all as well as I can answer them. Has Congress the power to take intoxicating liquors out of the domain of interstate commerce? My proposition as to the first section of the bill is this: Congress has the absolute power to take intoxicating liquors out of interstate commerce. Now, if Congress has that power, then it makes absolutely no difference what kind of a regulation Congress may make, because the lesser regulation is included within the greater.

Section 8, Article I, of the Constitution, enumerating the powers of Congress, says:

To regulate commerce with the foreign nations and among the several States and with the Indian tribes.

There is, as was suggested by the distinguished Senator from Utah [Mr. Sutherland], some distinction between the power of Congress, acting with respect to foreign commerce and among the Indians and acting among the States, but it is a distinction without a difference. It is the theory that we act as to Indian tribes and act as to foreign nations in the capacity of a sovereign. But the decisions of our Supreme Court would seem clearly to indicate the thought of that court-that Congress practically deals as a sovereign or at least has the power of sovereignty with relation to commerce between the States.

Congress, in its power to regulate commerce with Indian tribes, may exclude any selected article from such commerce as

deleterious. See:

United States v. Holliday (3 Wall., 407). Sarlis v. United States (152 U. S., 570). United States v. Maynard (154 U. S., 552).

Congressional power over commerce among the States is analogous to the same power over foreign commerce, so held in Crutcher against Kentucky, One hundred and forty-first United States, page 57; Brown against Houston, One hundred and fourteenth United States, page 622; Gibbons against Ogden, Ninth Wheaton, page 1. Congress may regulate interstate.commerce in any manner it pleases without having its reasons questioned. (Bartemeyer v. Todd, 94 U. S., 535.)

The provision of the Constitution as above set out gives to Congress plenary power over interstate commerce, and that power knows no limitation except the restrictions of the Constitution. The question, then, is not one of discretion, but merely a question of power, and an unbroken line of decisions from almost the commencement of the Republic to the present time ought to set at rest the proposition that there is absolutely no limitation to this power except the limitations of the Constitution.

For instance, as constitutional limitations, all duties, imposts, and excises shall be uniform throughout the United States. No preference shall be given by any regulation of commerce to the ports of one State over those of another, nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another. Other constitutional inhibitions would be under the fifth amendment, providing that no person should be deprived of life, liberty, or property without due process of law; or the fourteenth amendment, providing that no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

The earliest discussion of this question was the famous case of Gibbons v. Ogden (9 Wheat.). This was a case with relation to navigation, and the discussion is under the commerce clause of the Constitution, and the court said, speaking through

its great Chief Justice:

We are now arrived at the inquiry. What is this power? It is the power to regulate; that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution. These are expressed in plain terms and do not affect the questions which arise in this case or which have been discussed at the bar. If, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States.

It is, of course, true that when the subjects of commerce are national in character and require uniformity of regulation affecting alike all the States the power of Congress is absolutely exclusive. It would seem useless to enter into a discussion of the numerous cases from Gibbon v, Ogden down through all the years where the courts have reiterated over and over again that the power of Congress over interstate commerce is Under this clause safety-appliance acts, employers'

liability acts regulating contracts between master and servant, hours-of-service acts, pure-food acts, pure-drug acts, white-slave acts, acts prohibiting transportation by railroads of coal mined by them, have been upheld and are indicative of how this great power of Congress has been used to bring about legislation for the benefit of mankind. Progressive legislation has gone forward under this clause of the Constitution. I call attention to only a few of these decisions:

In the Northern Securities case (193 U. S., 335), Justice Harlan, in the majority opinion, uses the following vigorous language (quoting in his opinion with approval some of the words

of Marshall from the Gibbons v. Ogden case):

By the express words of the Constitution Congress has power to "regulate commerce with foreign nations and among the several States and with the Indian tribes," In view of the numerous decisions of this court there ought not at this day to be any doubt as to the general scope of such power. In some circumstances regulation may properly take the form and have the effect of prohibition. In re Rahrer, 140 U. S., 545; Lottery case, 188 U. S., 321, 355; and authorities there cited. Again and again this court has reaffirmed the doctrine announced in the great judgment rendered by Chief Justice Marshall for the court in Gibbons v. Ogden (9 Wheat., 1, 196, 197), that the power of Congress to regulate commerce among the States and with foreign nations is the power "to prescribe the rule by which commerce is to be governed"; that such power "is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution"; that "if, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of the power as are found in the Constitution allows to Congress a large discretion, "with respect to the means by which the powers it confers are to be carried into execution, which enable that body to perform the high duties assigned to it in the manner most beneficial to the people"; and that if the end to be accomplished is within the scope of the Constitution "all means which are appropriate, which are planiny adapted to that end and which are not prohibited, are constitutional.

It will be noted the opinion confirms the doctrine that regu-

It will be noted the opinion confirms the doctrine that regulations in some circumstances may take the form and have the effect of prohibition. In the Commodity Clause case (213 U. S., 415) the court in construing the commodity clause of the Hep-burn Act, which provided that it should be unlawful for any railroad company to transport from any State, Territory, or the District of Columbia to another State, and so forth, any article and commodity other than timber, and the manufactured products thereof, mined or produced by it, or which it may have any interest in, directly or indirectly, except to be used in the conduct of its business, says:

we then construe the statute as prohibiting a railroad company engaged in interstate commerce from transporting in such commerce articles or commodities under the following circumstances and conditions: (a) When the article or commodity has been manufactured, mined, or produced by a carrier or under its authority, and at the time of transportation the carrier has not in good faith before the act of transportation dissociated itself from such article or commodity; (b) when the carrier owns the article or commodity to be transported in whole or in part; (c) when the carrier at the time of transportation has an interest, direct or indirect, in a legal or equitable sense in the article or commodity, not including, therefore, articles or commodities manufactured, mined, produced, or owned, etc., by a bona fide corporation in which the railroad company is a stockholder.

The question then arises whether, as thus construed, the statute was inherently within the power of Congress to enact as a regulation of commerce. That it was we think is apparent. ** ** **.

Without claborating we hold the contention that the clause under consideration is void because the exception as to timber and the manufactured products thereof is without merit. Deciding, as we do, that the clause, as construed, was a lawful exercise by Congress of the power to regulate commerce we know of no constitutional limitation requiring that such a regulation when adopted should be applied to all commodities alike. It follows that even if we gave heed to the many reasons of expedience which have been suggested in argument against the exception and the injustice and favoritism which it is asserted will be operated thereby, that fact can have no weight in passing upon the question of power. And the same reasons also dispose of the contention that the clause is void as a discrimination between carriers.

It will be noted in this opinion that the action of Congress in excepting timber, while including other commodities, under this act did not render it void; that Congress had the power to prevent transportation in commerce of such a well-recognized article as coal. It would be difficult to find a more complete exercise of plenary power by Congress than in the commodity clause case. It might well be claimed under these decisions sustained by the lottery case, to which I will refer later, that if Congress desired it could prohibit the transportation of any article in commerce between the States. I do not so claim, but it is true that a strong argument could be made, as there has been by good lawyers, sustaining this proposition. There is great force in the position.

The Constitution does not limit Congress in its regulation to those things which may be harmful in themselves, and it may well be claimed that Congress must have power over every article of commerce in order to give it power over any. Likewise the character of the article to be transported would not

have anything whatever to do with the question of power. Power is given by the Constitution, not because of the nature of any article, but simply because it was deemed necessary to have this power somewhere. The action of Congress may be called out by certain conditions, but those conditions do not give the grant of power. And it is claimed by those who take this radical view that Congress has the same power to prohibit the shipment of corn, wheat, of pure meats, of nonexplosives as well as explosives; that there is absolutely no exception and no limitation except as heretofore indicated. It is not to be presumed that Congress would ever use such power, as it is composed of intelligent individuals who would not do absurd or unreasonable things, but that is no reason for saying that or threasonable things, but that is no reason for saying that the power does not exist. For instance, Congress is given the power to declare war. If it declared war to-morrow against Turkey or China or any other power, it would be an unreason-able thing, but because this would be ridiculous is no reason for saying that the power is not there to declare war when the necessity arises; but it is not going to declare war except under such circumstances as would satisfy the conscience of the people, nor would it prohibit the shipment of corn or wheat bread unless under such circumstances as would always satisfy the conscience of an enlightened nation; so the fact that power may be wrongfully used is no argument against the existence of the power. I do not desire, however, in this argument to go to that extent. It is not necessary to sustain this bill, and I am not satisfied in my mind that an attempt on the part of Congress to prohibit the transportation of wheat, corn, bread, and those articles that are recognized as necessities to sustain human life could be sustained. It occurs to me that there would be a constitutional right in the preservation of life to contract with citizens of other States for bread or wheat or corn and have them shipped in interstate commerce and that Congress could not prevent the same or attempt so to do without an invasion of the liberty of the citizen, and hence violate the Constitution.

I prefer to pass that question with what has already been said and base the argument on the proposition that intoxicating liquors are recognized by practically, if not all, the States of the Union as differing from bread or wheat or corn. If this is not true, and if it is not so commonly recognized by mankind, then why license the sale of liquor any more than the sale of bread; why have regulations for closing hours; why prohibit the sale to minors; why prohibit sales on Sunday; why any of the hundreds of regulations that the various States and municipalities seek to adopt? Why does Congress make it an offense to introduce liquor into Indian country? Why prohibit sale to Indians? It is quite apparent and beyond successful argument that intoxicating liquors do not stand on the same plane with bread and wheat and other commodities, and all courts have recognized this fundamental distinction, and so has Con-

I desire on this subject to use not my language but the language of some of the courts of the United States, including the Supreme Court of the United States in a number of cases, with reference to this. In the case of Welsh v. State (126 Ind., 72) the court says that-

the unrestricted sale of intoxicating liquors results in much evil and is detrimental to society—

And in the latter it says that-

the license law treats the traffic as dangerous, as dangerous to public and private morals, and as dangerous to the public peace and the good order of society.

In The State v. Gerhardt (145 Ind., 439) the court says:

The unrestricted traffic in intoxicating liquors has been found by sad experience to be fraught with great evil and to result in the most demoralizing influence upon private morals and the peace and safety of

In Mugler v. Kansas (123 U. S., 623, 658-662) the Supreme Court of the United States said:

It is not necessary for the sake of justifying the State legislation now under consideration to array the appalling statistics of misery, pauperism, and crime which have their origin in the use or abuse of ardent spirits. * * * For we can not shut out of view the fact within the knowledge of all that the public health, the public morals, and the public safety may be endangered by the general use of intoxicating drinks; nor the fact established by statistics acceptable to everyone that the idleness, disorder, pauperism, and crime existing in the country are in some degree at least traceable to this evil.

Again, the Supreme Court of the United States, in Crowley v. Christensen (137 U. S., 86), says:

By the general concurrence of opinion of every civilized and Christian community there are few sources of crime and misery to society equal to the dramshop, where intoxicating liquors in small quantities, to be drunk at the time, are sold indiscriminately to all parties applying. The statistics of every State show a greater amount of crime and misery attributable to the use of ardent spirits obtained at these retail liquor saloons than to any other source.

That there is no constitutional right to sell intoxicating liquors at retail or to manufacture and sell, and that the same does not inhere in citizenship, is held in Mugler v. Kansas (123 U. S., 205). In Crowley v. Christensen (137 U. S., 86) the court said :

There is no inherent right in a citizen to thus sell intoxicating liquors by retail; it is not a privilege of a citizen of the State or of a citizen of the United States.

This was cited with approval in Cronin v. Adams (192 U. S., 108); also in Bartemeyer v. Iowa (85 U.S.)

Mr. President, it can not be questioned that the power to regulate is plenary.

THE POWER TO REGULATE EMBRACES THE POWER TO PROHIBIT,

This proposition is held in the Northern Securities case, heretofore cited; likewise in what is known as the Lottery case (188 U. S., 321). The court there recognized the changed sentiment of the Nation with respect to lotteries. changed conditions, it is interesting to note that Congress once authorized a lottery in the District of Columbia, but in later years the Supreme Court took judicial notice of the change in the sentiment of the country with relation thereto.

It is a matter of some historic curiosity that at one time Congress permitted or licensed a lottery in the District of Columbia, but in the decision in the lottery case the Supreme Court took judicial notice of the change of sentiment in this

country with relation thereto.

In the Riverside Mills Co. against the Atlantic Railroad Co. the court recognized the sentiment of the Nation with respect to the condemnation of the practice of railway companies in making contracts for shipment where liability was limited to their own line, and so with other propositions that might be suggested where the court itself keeps in touch with the changed spirit of the times and takes judicial notice thereof. In the Lottery case the court said:

Lottery case the court said:

We have said that the carrying from State to State of lottery tickets constitutes interstate commerce, and that the regulation of such commerce is within the power of Congress under the Constitution. Are we prepared to say that a provision which is, in effect, a prohibition of the carriage of such articles from State to State is not a fit or appropriate mode for the regulation of that particular kind of commerce? If lottery traffic, carried on through interstate commerce, is a matter of which Congress may take cognizance and over which its power may be exerted, can it be possible that it must tolerate the traffic and simply regulate the manner in which it may be carried on? Or may not Congress, for the protection of the people of all the States and under the power to regulate interstate commerce, devise such means within the scope of the Constitution, and not prohibited by it, as will drive that traffic out of commerce among the States?

If a State, when considering legislation for the suppression of lotteries within its own limits, may properly take into view the evils that inhere in the raising of money in that mode, why may not Congress, invested with the power to regulate commerce among the several States, provide that such commerce shall not be polluted by the carrying of lottery tickets from sone State to another? In this connection it must not be forgotten that the power of Congress to regulate commerce among the States is plenary, is complete in itself, and is subject to no limitations except such as may be found in the Constitution. What provision in that instrument can be regarded as limiting the exercise of the power granted? What clause can be cited which, in any degree, countenances the suggestion that one may, of right, carry or cause to be carried from one State to another that which will harm the public morals? We can not think of any clause of that instrument that could possibly be invoked by those who assert their right to send lottery tickets from State to State except the one providing that no person shall be deprived of his liberty without due process of law. We have said that the liberty protected by the Constitution embraces the right to be free in the enjoyment of one's faculties; "to be free to use them in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or avocation, and for that purpose to enter into all contracts that may be proper." (All-geyer V. Louisiana, 165 U. S., 578, 589.) But surely it will not be said to be a part of anyone's liberty, as recognized by the supreme law of the land, that he shall be allowed to introduce into commerce among the States an element that will be confessedly injurious to the public morals.

It is a kind of traffic which no one can be entitled to pursue as of

That regulation may sometimes appropriately assume the form of prohibition is also illustrated by the case of diseased cattle, transported from one State to another. Such cattle may have, notwithstanding their condition, a value in money for some purposes, and yet it can not be doubted that Congress, under its power to regulate commerce, may either provide for their being inspected before transportation begins or, in its discretion, may prohibit their being transported from one State to another. Indeed, by the act of May 29, 1884 (chap. 60), Congress has provided: "That no railroad company within the United States, or the owners or masters of any steam or sailing or other vessel or boat, shall receive for transportation or transport from one State or Territory to another, or from any State into the District of Columbia, or from the District into any State, any live stock affected with any contagious, infectious, or communicable disease, and especially the disease known as pleuropneumonia; nor shall any person, company, or corporation deliver for such transportation to any railroad company, or master or owner of any boad or vessel, any live stock knowing them to be affected with any contagious, infectious, or communicable disease; nor shall any person, company, or corporation deliver for such transportation to any railroad company, or master or owner of any boad or vessel, any live stock knowing them to be affected with any contagious, infectious, or communicable disease; nor shall any person, company, or corporation drive on foot or transport in private conveyance from one State or Territory to another, or from any State into the District of Columbia, or from the District into

any State, any live stock knowing them to be affected with any contagious, infectious, or communicable disease, and especially the disease known as pleuropneumonia." (Reid v. State of Colorado, 187 U. S., 137, present term.)

In Rhodes v. Iowa (170 U. S., 412, 426) that statute—all of its provisions being regarded—was held as not causing the power of the State to attach to an interstate-commerce shipment of intoxicating liquors "whilst the merchandise was in transit under such shipment, and until its arrival at the point of destination and delivery there to the consignee."

Thus under its power to regulate interstate commerce, as involved in the transportation, in original packages, of ardent spirits from one State to another, Congress, by the necessary effect of the act of 1890, made it impossible to transport such packages to places within a prohibitory State and there dispose of their contents by sale, although it had been previously held that ardent spirits were recognized articles of commerce and, until Congress otherwise provided, could be imported into a State, and sold in the original packages, despite the will of the State. If at the time of the passage of the act of 1890 all the States had enacted liquor laws prohibiting the sale of intoxicating liquors within their respective limits, then the act would necessarily have had the effect to exclude ardent spirits altogether from commerce among the States; for no one would ship, for purposes of sale, packages containing such spirits to points within any State that forbade their sale at any time or place, even in unbroken packages, and, in addition, provided for the seizure and forfeiture of such packages. So that we have in the Rahrer case a recognition of the principle that the power of Congress to regulate interstate commerce may sometimes be exerted with the effect of excluding particular articles from such commerce.

It is said however, that if in order to suppress lotteries carried on

with the effect of excluding particular articles from such commerce.

It is said, however, that if, in order to suppress lotteries carried on through interstate commerce, Congress may exclude lottery tickets from such commerce, that principle leads necessarily to the conclusion that Congress may arbitrarily exclude from commerce among the States any article, commodity, or thing, of whatever kind or nature, or however useful or valuable, which it may choose, no matter with what motive, to declare shall not be carried from one State to another. It will be time enough to consider the constitutionality of such legislation when we must do so. The present case does not require the court to declare the full extent of the power that Congress may exercise in the regulation of commerce among the States. We may, however, repeat in this connection what the court has heretofore said, "that the power of Congress to regulate commerce among the States, although plenary, can not be deemed arbitrary, since it is subject to such limitations or restrictions as are prescribed by the Constitution."

This power, therefore, may not be exercised so as to infringe rights secured or protected by that instrument. It would not be difficult to imagine legislation that would be justiyl liable to such an objection as that stated and be hostile to the objects for the accomplishment of which Congress was invested with the general power to regulate commerce among the several States. But, as often said, the possible abuse of a power is not an argument against its existence. There is probably no governmental power that may not be exerted to the injury of the public. If what is done by Congress is manifestly in excess of the powers granted to it, then upon the courts will rest the duty of adjudging that its action is neither legal nor binding upon the people. But if what Congress does is within the limits of its power, and is slmply unwise or injurious, the remedy is that suggested by Chief Justice Marshall in Gibbons v. Ogden, when he said: "The w

There is no reason why Congress can not act as to liquors exactly the same as to lottery tickets. These decisions would seem to clearly establish the proposition that the right to regulate is the right to prohibit. Were further authority needed, the numerous cases arising under the Sherman Antitrust Act would be in point. Congress, then, having the power to pro-hibit the transportation in interstate commerce of all intoxicating liquors—in other words, to remove them as articles of interstate commerce-can it be seriously questioned that it may make a lesser rule or regulation with respect thereto? The present bill does not seek to prohibit the transportation of all intoxicating liquors, but only those liquors shipped with the intent to violate the laws of a State. Having the power to absolutely prohibit, the power must exist to make any kind of a regulation.

To prohibit the transportation of all liquors that had not been kept for a certain length of time, or liquors that had not been inspected by some designated authority; in fact, any kind of a regulation that it might make would be within its power. While the intent question as involved in this bill may be difficult of proof, may make the law unwieldy, may be considered by some as ridiculous and absurd, yet that has no relationship whatever to the question of power. If the State prohibits the sale of intoxicating liquors, then where they are shipped with intent to be sold they have no protection under the interstatecommerce clause. If liquors are shipped with the intent to be used by the person for his own personal use and in no way to violate the law of a State, then they are subjects of commerce. In other words, any shipment intended by those interested therein to be used in violation of the law is not a subject of inter-state commerce. I realize the difficulties involved in the intent proposition and the force in the argument that an innocent consignor ought not be compelled to suffer in any way for the undisclosed intention of a consignee. As a matter of practice, of course, the consignor well knows, with reference to the shipment he has made, whether it is made for personal use or to

violate the law. He is amply protected by securing his charges in advance. So would a railroad company be protected by securing its freight in advance, and the railroad company has a right to extend credit to one and not to another without being guilty of any discrimination, just as a man has in any other kind of business.

A large number of statutes passed by Congress recognize, as of course they must, the intent question. The fact that intent is difficult to prove does not destroy such laws. For instance, section 245 of the Criminal Code prohibits the shipment of certain drugs intended to be used for certain purposes. Other statutes make unlawful the removing of timber from public lands with intent to export or dispose of same. Others for equipping vessels with intent to bring in slaves. Others punish those who with intent to defraud falsely make, forge, counterfeit, or alter any obligation of the United States. Others punish those who with intent to defraud pass or attempt to pass falsely made obligations; the carrying on of correspondence with foreign Governments with intent to influence measures or conduct of foreign Governments in relation to disputes with nations at peace with the United States. Others provide for the punishment of those who fit out or arm vessels with intent that such vessels be employed in the service of foreign powers to war against those with whom the United States is at peace. So that Congress recognizes the question of intent in a large number of its statutes.

The question of intent is merely a question of fact to be determined from all the circumstances and evidence in each particular case. Nor does the act violate any constitutional right. The question of the contract has been raised here. The Supreme Court of the United States has many times said that there is no liberty of contract in this country.

In the case of Louisville & Nashville R. R. Co. v. Motley (219 U. S., 467) the court goes fully into the question where the proposition is the violation of contract rights arising under a contract for a pass given by the Louisville & Nashville Railroad before the enactment of the Hepburn Act.

Time forbids entering into a discussion of it, but this was a case where the railroad company had made a contract for a life When the Hepburn Act came into force and effect the railroad company ceased to give the pass. A suit was brought, and the Supreme Court held that contracts of that nature were made subject to the possibility that even if valid when made, Congress may, by exercising its power, render them invalid. That there was no violation of the fifth amendment because contracts were invalidated which conflicted with the public policy declared in the act. In Knox v. Lee (12 Wall., 551) the court said:

As in a state of civil society, property of a citizen or subject is ownership, subject to the lawful demands of the sovereign, so contracts must be understood as made in reference to the possible exercise of the rightful authority of the Government and no obligation of a contract can extend to the defeat of legitimate Government authority.

This act would not infringe upon the constitutional liberty of the citizen to make contracts in any way. There is no liberty of contract where the contract may be contrary to the declared public policy of the Government.

In Giozza v. Tiernan (148 U. S., 661), a Texas case, the court

The privileges and immunities of citizens of the United States are privileges and immunities arising out of the nature and essential character of the National Government and granted or secured by the Constitution of the United States, and the right to sell intoxicating liquors is not one of the rights growing out of such citizenship.

Nor can it be contended that this act would be in violation of the fourteenth amendment. In Powell v. Pennsylvania (127 U. S., 678), it was said that-

the fourteenth amendment was not designed to interfere with exercises of the police power by the State for the protection of health * * * and the preservation of public morals. * * * The power which the legislature has to promote the general welfare is very great, and the discretion which that department of the Government has in the employment of means to that end is very large. * * The possibility of abuse of legislative power does not disprove its existence.

In the Atlantic Coast Line Railroad Co. v. Riverside Mills (219 U. S., 186), construing what is known as the Carmack amendment, making the carrier liable for loss or damage to merchandise received for interstate transportation beyond their own lines, notwithstanding any contract of exemption in the bill of lading, the court held it to be a valid exercise of such power and not in conflict with the due-process provision of the fifth amendment. The court there said, referring to the various decisions:

It is obvious from the many decisions of this court that there is no such thing as absolute freedom of contract. Contracts which contravene public policy can not be lawfully made at all. * * * * The power of government extends to the denial of liberty of contract to the extent of forbidding or regulating every contract which is reasonably calculated to injuriously affect the public interest.

Therefore it would seem clear as to section 1 of this act that there could not be serious doubt-as to the power of Congress to

pass the same without violating any constitutional provisions. It would meet the difficulty which has arisen in the enforcement of prohibition laws in the various States, and prevent, when liquor within the borders of the State-to be used in violating the laws of the State-is seized by the State in the exexcise of its police power, the defense thereto being made that such articles were protected by the interstate-commerce clause. The power exists to remove all intoxicating liquors from interstate commerce. The lesser power only is used. No constitutional rights are infringed. Why, then, simply because the question of intent would be difficult of ascertainment, refuse to pass such a law and give the relief demanded? It is no more uncertain than "reasonable restraint" of trade under the Sherman Act. What divinity is there that surrounds a shipment of liquors from one State intended to be used in violating the law of another State? What reason is there in common sense why a State should not deal with this troublesome proposition as it pleases, so long as it does not infringe constitutional rights? Why not have the privilege to exercise its laws free from the impediment now imposed by the interstate-commerce clause? It is not revolutionary; it may be novel, as much legislation nowadays is novel to those who can not see or understand that the only purpose of government and the only reason for its existence is to serve the people who comprise that gov-

REVIEW OF CASES RELATING TO THIS SUBJECT.

Probably no more perplexing problem has ever been presented to the courts than the question of just what a State may do in those cases which might affect interstate commerce more or less. Nearly all the States have in the exercise of their police power passed laws in the last few years for the regulation of the traffic in intoxicating liquors. Many of the States have passed laws absolutely prohibiting the carrying on of the liquor business within the State. Some of the States have adopted prohibition as a part of their constitution, and as late as the last election, the State of West Virginia, by over 90,000 majority, adopted a constitutional amendment prohibiting the manufacture and sale of intoxicating liquors. It is quite apparent that these various laws have given rise to many controversies and many decisions, and I shall attempt to review only the more important ones. As late as December 2 of this year the Supreme Court of the United States, in the case of Purity Extract & Tonic Co. v. Lynch, after citation to various authorities with reference to the police power of the Co. ties, with reference to the police power of the State, said:

That the State in the exercise of its police power may prohibit the selling of intoxicating liquors is andoubted. * * * It is also well established that when a State, exerting its recognized authority, undertakes to suppress what it is free to regard as a public evil, it may adopt such measures having reasonable relation to that end as it may deem necessary in order to make its action effective. It does not follow that because a transaction separately considered is innocuous it may not be included in a prohibition the scope of which is regarded as essential in the legislative judgment to accomplish a purpose within the admitted power of the Government.

As far back as 1847 the States of Massachusetts, Rhode Island, and New Hampshire passed laws with relation to the regulation of the liquor traffic and the licensing thereof. various laws of these States are summarized in the syllabus of Thurlow v. Massachusetts (5 How., 504):

Thurlow v. Massachusetts (5 How., 504):

Laws of Massachusetts providing that no person shall presume to be a retailer or seller of wine, brandy, rum, or other spirituous liquors, in a less quantity than 28 gallons, and that delivered and carried away all at one time unless he is first licensed as a retailer of wine and spirits, and that nothing in the law should be so construed as to require the county commissioners to grant any licenses, when in their opinion the public good does not require them to be granted. * * Of Rhode Island, forbidding the sale of rum, gin, brandy, etc., in a less quantity than 10 gallons, although in this case the brandy which was sold was duly imperted from France into the United States and purchased by the party indicted from the original importer. * * Of New Hampshire, imposing similar restrictions to the foregoing upon licenses, although in this case the article sold was a barrel of American gin, purchased in Boston and carried coastwise to the landing at Piscataqua Bridge and there sold in the same barrel. * * All adjudged to be not inconsistent with any of the provisions of the Constitution of the United States or acts of Congress under it.

For 50 years it never was questioned by the bar of this country that the States had this full police power; that the silence of Congress gave to the States this power, but when the Bowman case was decided, in One hundred and twenty-fifth United States, page 465, this policy was reversed, and

tional as being an attempted regulation of interstate commerce, and the court (Justice Matthews) said:

tional as being an attempted regulation of interstate commerce, and the court (Justice Matthews) said:

Sex: 1553; If any express company, railway company, or any agent or person in the one of the company or of any common carrier, or any person knowingly being within this State for any other person or persons or corporation, or shall knowingly transport or convey between points or from one place to another within this State for any other person or persons or corporation, any intoxicating liquors without first the constant of the seal of the county auditor lead of the county and the seal of the county auditor lead of the county and the seal of the county auditor lead of place, certifying that the consignee or person to whom said liquor is to be transported, conveyed, or delivered is authorized to sell such intoxicating liquors in such county, such company, of such company, corporated on the sum of \$100 for each offense, and pay costs of prosecution, and the costs shall include a reasonable attorney fee, to be assessed by the court, which shall be paid into the county rund, and stand committed to the county jail until such fine and costs express of the county and the costs shall include a reasonable attorney free, to be assessed by the court, which shall be paid into the county rund, and stand committed to the county jail until such fine and costs express the court of the state through or to which said intoxicating liquors are transported, or in which the same is unloaded for transportation, or in which the same is unloaded for transportation, or in which the same is unloaded for transportation, or in which the same is unloaded for transportation, or in which the same is unloaded for transportation, or in which the same is unloaded for transportation, or in which the same is unloaded for transportation, or in which the same is unloaded for transportation, or in which the same in the same part of the same part of

It is conceded, as we have already shown, that for the purposes of its policy a State has legislative control, exclusive of Congress, within its territory of all persons, things, and transactions of strictly internal concern. For the purpose of protecting its people against the evils of intemperance it has the right to prohibit the manufacture within its limits of intoxicating liquors; it may also prohibit all domestic commerce in them between its own inhabitants, whether the articles are introduced from other States or from foreign countries; it may punish those who sell them in violation of its laws; it may adopt any measures tending, even indirectly and remotely, to make the policy effective until it passes the line of power delegated to Congress under the Constitution. It can not, without the consent of Congress, express or implied, regulate commerce between its people and those of the other States of the Union in order to effect its end, however desirable such a regulation might be. regulation might be.

the Bowman case was decided, in One hundred and twentyfifth United States, page 465, this policy was reversed, and
there a statute of the State of Iowa requiring a certificate of
relation to the shipment of liquor was held to be an interference
with interstate commerce, and was therefore void.

One of the most important cases that has arisen is Bowman v.
Chicago & Northwestern Railroad Co. (125 U. S., 465), where
the Iowa statute, prohibiting transportation except upon a certificate from the auditor of the county where consignee resided
that the consignee had the right to sell, was held unconstitu-

case. * * * It is enough to say that the power to regulate or forbid the sale of a commodity after it has been brought into the State does not carry with it the right and power to prevent its introduction by transportation from another State.

That the right of importation carries with it the right to sell the article imported does not appear to me doubtful. Of course, I am speaking of an article that is in a healthy condition, for when it has become putrescent or diseased it has ceased to be an article of commerce, and it may be destroyed or its use prohibited. To assert that, under the Constitution of the United States, the importation of an article of commerce can not be prohibited by the States, and yet to hold that when imported its use and sale can be prohibited, is to declare that the right which the Constitution gives is a barren one, to be used only so far as the burden of transportation is concerned, and to be denied, so far as any benefits from such transportation are sought. The framers of the Constitution never intended that a right given should not be fully enjoyed.

Assuming, therefore, as correct doctrine that the right of importation carries the right to seil the article imported, the decision in the Kansas case may, perhaps, be reconciled with the one in this case by distinguishing the power of the State over property created within it, and its power over property imported—its power in one case extending, for the protection of the health, morals, and safety of its people, to the absolute prohibition of the sale or use of the article, and in the other extending only to such regulations as may be necessary for the safety of the community until it has been incorporated into and become a part of the general property of the State. However much this distinction may be open to criticism, it furnishes, as it seems to me, the only way in which the two decisions can be reconciled.

It will be noted that a strong dissenting opinion was filed in the Bowman case by Justice Harlan, concurred in by Associate Justice Gray, in which this language was used:

Justice Gray, in which this language was used:

This court has often declared that the most important function of government was to preserve the public health, morals, and safety; that it could not divest itself of that power, nor, by contract, limit its exercise; and that even the constitutional prohibition upon laws impairing the obligation of contracts does not restrict the power of the State to protect the health, morals, or the safety of the community, as the one or the other may be involved in the execution of such contracts. (Stone v. Mississippi, 101 U. S., 814, 816; Butchers' Union Co. v. Crescent City Co., 111 U. S., 746, 751; New Orleans Gas Co. v. Louisiana Light Co., 115 U. S., 650, 672; Mugler v. Kansas, 123 U. S., 623, 664). It is inconceivable that the well-heing of any State is at the 664.) It is inconceivable that the well-being of any State is at the mercy of the liquor manufacturers of other States.

The purpose of committing to Congress the regulation of commerce was to insure equality of commercial facilities by preventing one State from building up her own trade at the expense of sister States. But that purpose is not defeated when a State employs appropriate means to prevent the introduction into her limits of what she lawfully forbids her own people from making. It certainly was not meant to give citizens of other States greater rights in Iowa than Iowa's own people

And that was a statement from one of the greatest jurists who ever sat on that bench.

While dissenting opinions do not make good law they ofttimes express excellent common sense. While the Bowman case merely went to the question of the certificate required by the Iowa statute, being an interference with interstate commerce, the deduction was fair to be drawn therefrom that shipments in original packages could not be disturbed until after delivery to the consignee and sale by him. On page 485 of the Bowman case is this significant language:

So far as these regulations made by Congress extend, they are certainly indications of its intention that the transportation of commodities between the States shall be free, except where it is positively restricted by Congress itself or by the States in particular cases by the express permission of Congress.

Indicating the thought of the court that Congress might give permission to the States to restrict transportation of commodities between the States. Of course, this may very properly be said to be mere obiter dictum. While the Bowman case was determined upon the question of the Iowa law relating to certificates being a regulation of interstate commerce, the indication from the court's opinion was rather strong that the State could not interfere with the shipment in the original package, even after delivery to the consignee, until it was sold and became commingled with the common mass of property within a State. It was therefore natural that circumstances would arise leading to the decision in Leisy v. Hardin (135 U. S., 100). This was likewise a case arising from Iowa. The court there squarely held that the right to import liquors from a sister State and the sale in the original unbroken package was beyond the power of the State law to stop; that the protection of interstate commerce extended even to the sale. And it had been the law that the sale was as much a part of the protection of interstate commerce as the actual transportation. There was nothing startling in this decision, as all the decisions heretofore with relation to the subject of interstate commerce had held that the sale was just as much a part of the commerce as the actual physical transportation. The fact that the sale was an incident to commerce had not at that time been suggested. Under this decision the State was absolutely without power to stop the sale of intoxicating liquors transported from one State into another while they remained in the original package. The bootlegger had an

unparalleled era of prosperity. Express offices became distributing points; prohibition laws in the various States amounted to nothing, and the alleged constitutional right to break down State laws enacted for the public health, morality, and sobriety of the people reigned supreme. It was stated by a distinguished Senator from Kansas [Mr. Baistow] a few days ago on the floor of the Senate, that while the Constitution was in theory the supreme law of the land, yet the will of the people was in fact the supreme law, and nowhere has it been better exemplified than in the demand of the people for relief from the situation arising under the Leisy v. Hardin case (135 U. S., 100). If the constitutional right to transport in interstate commerce involved the right likewise to sell, as was held in the Leisy case, then there was absolutely no relief for the people from this situation.

Some of the language of the court in that case is instructive as well as interesting, although the language of the court seemed to indicate that legislation might be enacted by Congress prohibiting importation from abroad or from a sister State. The court said:

The court said:

That ardent spirits, distilled liquors, ale, and beer are subjects of exchange, barter, and traffic, like any other commodity in which a right of traffic exists, and are so recognized by the usages of the commercial world, the laws of Congress, and the decisions of courts is not denied. Being thus articles of commerce, can a State in the absence of legislation on the part of Congress prohibit their importation from abroad or from a sister State or when imported prohibit their sale by the importer? If the importation can not be prohibited without the consent of Congress, when does property imported from abroad, or from a sister State, so become part of the common mass of property within a State as to be subject to its unimpeded control?

Articles in such a condition as tend to spread disease are not merchantable, are not legitimate subjects of trade and commerce, and the self-protecting power of each State therefore may be rightfully exerted against their introduction, and such exercise of power can not be considered a regulation of commerce prohibited by the Constitution; and the observations of Mr. Justice Catron, in the License Cases (5 How., 504, 599), are quoted to the effect that what does not belong to commerce is within the jurisdiction of the police power of the State, but that which does belong to commerce is within the jurisdiction of the United States.

Quoting with approval, Mr. Justice Matthews in Rowman con-

United States.

Quoting with approval, Mr. Justice Matthews, in Bowman case, thus proceeds (p. 493): "For the purpose of protecting its people against the evils of intemperance, it has the right to prohibit the manufacture within its limits of intoxicating liquors; it may also prohibit all domestic commerce in them between its own inhabitants, whether the articles are introduced from other States or from foreign countries; it may punish those who sell them in violation of its laws; it may adopt any measures tending, even indirectly and remotely, to make the policy effective until it passes the line of power delegated to Congress, express or implied, regulate commerce between its people and those of the other States of the Union in order to effect its end, however desirable such a regulation might be."

The conclusion follows that as the grant of the power to regulate

The conclusion follows that, as the grant of the power to regulate commerce among the States, so far as one system is required, is exclusive, the States can not exercise that power without the assent of Congress, and, in the absence of legislation, it is left for the courts to determine when State action does or does not amount to such exercise; or, in other words, what is or is not a regulation of such commerce. When that is determined, controversy is at an end.

* * the responsibility is upon Congress, so far as the regulation of interstate commerce is concerned, to remove the restriction upon the State in dealing with imported articles of trade within its limits, which have not been mingled with the common mass of property therein, if in its judgment the end to be secured justifies and requires such action.

The plaintiffs in error are citizens of Illinois, are not pharmacists, and have no permit, but import into Iowa beer, which they sell in original packages, as described. Under our decision in Bowman v. Chicago, etc., Railway Co., supra, they had the right to import this beer into that State, and in the view which we have expressed they had the right to sell it, by which act alone it would become mingled in the common mass of property within the State. Up to that point of time we hold that in the absence of congressional permission to do so the State had no power to interfere by seizure, or any other action, in prohibition of importation and sale by the foreign or nonresident importer. Whatever our individual views may be as to the deleterious or dangerous qualities of particular articles, we can not hold that any articles which Congress recognizes as subject of interstate commerce are not such, or that whatever are thus recognized can be controlled by State laws amounting to regulations while they retain that character; although at the same time, if directly dangerous in themselves, the State may take appropriate measures to guard against injury before it obtains complete jurisdiction over them. To concede to a State the power to exclude, directly or indirectly, articles so situated, without congressional permission, is to concede to a majority of the people of a State, represented in the State legislature, the power to regulate commercial intercourse between the States by determining what shall be its subjects, when that power was distinctly granted to be exercised by the people of the United States, represented in Congress, and its possession by the latter was considered essential to that more perfect union which the Constitution was adopted to create. Undoubtedly there is difficulty in drawing the line between the municipal powers of the one government and the commercial powers of the other.

It must be noted that a strong dissenting opinion was filed by three of the justices in this case, Justice Gray saying, among others:

The police power extends not only to things intrinsically dangerous to the public health, such as infected rags or diseased meat, but to

things which, when used in a lawful manner, are subjects of property and of commerce, and yet may be used so as to be injurious or dangerous to the life, the health, or the morals of the people. Gunpowder, for instance, is a subject of commerce and of lawful use, yet, because of its explosive and dangerous quality, all admit that the State may regulate its keeping and sale. And there is no article the right of the State to control or to prohibit the sale or manufacture of which within its limits is better established than intoxicating liquors. (License cases, 5 How., 504; Downham v. Alexandria Council, 10 Wall., 173; Baxteneyer v. Iowa, 18 Wall., 129; Beer Co. v. Massachusetts, 97 U. S., 25; Tiernan v. Rinker, 102 U. S., 123; Foster v. Kansas, 112 U. S., 201; Mugler v. Kansas and Kansas v. Ziebold. 123 U. S., 623; Kidd v. Pearson, 128 U. S., 1; Ellenbecker v. Plymouth County Court, 134 U. S., 31.

Nor is the case affected by the fourteenth amendment of the Constitution. As was said in the unanimous opinion of this court in Barbier v. Connolly, after stating the true scope of that amendment, "But neither the amendment, broad and comprehensive as it is, nor any other amendment, was designed to interfere with the power of the State, sometimes termed its police power, to prescribe regulations to promote the health, peace, morals, education, and good order of the people, and to legislate so as to increase the industries of the State, develop its resources, and add to its wealth and prosperity." (113 U. S., 27, 31.) Upon that ground the amendment has been adjudged not to apply to a State statute prohibiting the sale or manufacture of intoxicating liquors in buildings long before constructed for the purpose or the sale of oleomargarine lawfully manufactured for the purpose of the statute. (Mugler v. Kansas, 123 U. S., 623, 663; Powell v. Pennsylvania, 127 U. S., 678, 683, 687.)

If the statutes of a State restricting or prohibiting the sale of intoxicating liquors within its territory are to be held inoperative and void as applied to liquors sent or brought from another State and sold by the importer in what are called original packages, the consequence must be that an inhabitant of any State may, under the pretext of interstate commerce, and without license or supervision of any public authority, carry or send into, and sell in, any or all of the other States of the Union intoxicating liquors of whatever description, in cases or kegs, or even in single bottles or flasks, despite any legislation of those States on the subject, and although his own State should be the only one which had not enacted similar laws. It would require positive and explicit legislation on the part of Congress to convince us that it contemplated or intended such a result.

And it is important in all this language of the court, particularly the majority opinion, to note that while they held the right to import carried with it the right to sell in the original package, yet they used such language as-

We hold that in the absence of congressional permission to do

Again-

Without congressional permission,

And, quoting the language in an opinion of Mr. Justice Mat-

It can not without the consent of Congress, express or implied, regulate commerce between its people.

So the implication can readily be drawn from this case, and it is strong, that the court thought the power rested with Congress to take an article out of interstate commerce. The outcry against the opinion in this case was so strong that Congress was moved shortly thereafter, and within five or six months to pass what is known as the Wilson Act, found on page 3177, volume 3 of the United States Statutes, and that act was as fol-

Be it enacted, etc., That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory or remaining therein for use, consumption, sale, or storage therein shall, upon arrival in such State or Territory, be subject to the operation and effect of the laws of such State and Territory enacted in the exercise of its police powers to the same extent and in the same manner as though such liquids or liquors had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

It is quite apparent that it was the intention of Congress, and it so appears from the debates, that the police power of the States in dealing with the regulation of intoxicating liquors should attach before sale or even before delivery. An action was commenced soon thereafter to test the constitutionality of the Wilson Act, and practically the same claims were made as to the harrowing and destructive effect of that act and the unconstitutionality thereof as are now made with reference to this

This case came up from the State of Kansas and was argued by eminent counsel, and is perhaps one of the most important cases ever determined by the Supreme Court with reference to the commerce clause of the Constitution. The court held the

the commerce clause of the Constitution. The court held the Wilson Act to be constitutional, using the following significant language (In re Rahrer, 140 U. S., 545):

The power of the State to impose restraints and burdens upon persons and property in conservation and promotion of the public health, good order, and prosperity is a power originally and always belonging to the States, not surrendered by them to the General Government nor directly restrained by the Constitution of the United States, and essentially exclusive.

The fourteenth amendment, in forbidding a State to make or enforce any law abridging the privileges or immunities of citizens of the United States or to deprive any person of life, liberty, or property without due process of law, or to deny to any person within its jurisdiction the equal protection of the laws, did not invest and did not attempt to invest Congress with power to legislate upon subjects which are within the domain of State legislation.

The power of Congress to regulate commerce among the several States, when the subjects of that power are national in their nature, is also exclusive. The Constitution does not provide that interstate commerce shall be free, but, by the grant of this exclusive power to regulate it, it was left free except as Congress might impose restraint. Therefore, it has been determined that the failure of Congress to exercise this exclusive power in any case is an expression of its will that the subject shall be free from restrictions or impositions upon it by the several States.

And the fact must find its support in this, whether the prohibited article belongs to and is subject to be regulated as part of foreign commerce or of commerce among the States. If from its nature it does not belong to commerce, or if its condition, from putrescence or other cause, is such when it is about to enter the State that it no longer belongs to commerce, or, in other words, is not a commercial article, then the State power may exclude its introduction. * * * And here is the limit between the sovereign power of the State and the Federal power. That is to say, that which does not belong to commerce is within the jurisdiction of the police power of the State, and that which does belong to commerce is within the jurisdiction of the United States. And to this limit must all the general views come, as I suppose, that were suggested in the reasoning of this court in the cases of Gibbons v. Ogden, Brown v. The State of Maryland, and New York v. Miin.

By the adoption of the Constitution the ability of the several States to act upon the matter solely in accordance with their own will was extinguished and the legislative will of the General Government substituted. No affirmative guaranty was thereby given to any State of the right to demand as between it and the others what it could not have obtained before; while the object was undoubtedly sought to be attained of preventing commercial regulations partial in their character or contrary to the common interests. And the magnificent growth and prosperity of the country attest the success which has attended the accomplishment of that object. But this furnishes no support to the position that Congress could not, in the exercise of the discretion reposed in it, concluding that the common interests did not require entire freedom in the traffic in ardent spirits, enact the law in question. In so doing Congress has not attempted to delegate the power to regulate commerce or to exercise any power reserved to the States or to grant a power not possessed by the States or to adopt State laws. It has taken its own course and made its own regulation, applying to these subjects of interstate commerce one commerce undersumed the subjects of interstate commerce one commerce

No reason is perceived why, if Congress chooses to provide that certain designated subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within its competency to

The framers of the Constitution never intended that the legislative power of the Nation should find itself incapable of disposing of a subject matter specifically committed to its charge. The manner of that disposition brought into determination upon this record involves no ground for adjudging the act of Congress inoperative and void.

Congress did not use terms of permission to the State to act, but simply removed an impediment to the enforcement of the State laws in respect to imported packages in their original condition, created by the absence of a specific utterance on its part. It imparted no power to the State not then possessed, but allowed imported property to fall at once upon arrival within the local jurisdiction.

This is not the case of a law enacted in the unauthorized exercise of a power exclusively confided to Congress, but of a law which it was competent for the State to pass, but which could not operate upon articles occupying a certain situation until the passage of the act of

It will be observed, in passing, that the Wilson Act, construed in the Rahrer case, is the same as the second section of the in the Kanter case, is the same as the second section of the present bill, with the exception that the words are added in this bill, "and before delivery to the consignee." Practically the same arguments were brought against that act as are now brought against this bill. The court recognized in this case that an article may be taken out of commerce by Congress; that Congress has the power to remove such article from commerce; that by such legislation Congress does not delegate the power to regulate commerce or to exercise any power reserved to the States, or to enlarge the police power of the States, or grant a power not possessed by them; that Congress has made its own regula-tion, the uniformity of which is not affected by the variations in the State laws dealing with such property, and particularly significant is the language of the court, that-

No reason is perceived why, if Congress chooses to provide that certain subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within the competency of Congress to

That suggestion of the court has never been answered by the opponents of this class of legislation. The next important case dealing with this question is that of Rhodes v. Iowa (170 U. S., 412), and the court there held that the term "upon arrival within the State" meant delivery to the consignee and separated interstate commerce for the first time into two divisions— the fundamentals of interstate commerce and the incidents thereof-holding that the sale was a mere incident of such commerce, and that the actual transportation was the fundamentality. It is difficult to understand why the protection of the commerce clause should apply to the transportation and not the sale. Transportation without sale is ineffective, and had been

so recognized for the last 50 years of decisions. In the Rhodes case the court said:

while it is true that the right to sell free from State interference interstate-commerce merchandise was held in Leisy v. Hardin to be an essential incident to interstate commerce, it was yet but an incident, as the contract of sa's within a State in its nature was usually subject to the control of the legislative authority of the State. On the other hand, the right to contract for the transportation of merchandise from one State into or across another involved interstate commerce in its fundamental aspect, and imported in its very essence a relation which necessarily must be governed by laws apart from the laws of the several States, since it embraced a contract which must come under the laws of more than one State. The purpose of Congress to submit the incidental power to sell to the dominion of State authority should not without the clearest implication be held to imply the purpose of subjecting to State laws a contract which in its very object and nature was not susceptible of such regulation, even if the constitutional right to do so existed, as to which no opinion is expressed.

And it was doubtless this construction, which caused the court to observe in the opinion in In re Rahrer (140 U. S., 545, 552) that the act of Congress "divests them (objects of interstate-commerce shipment) of that character at an earlier period of time than would otherwise be the case." We think that, interpreting the statute by the light of all its provisions, it was not intended to and did not cause the power of the State to attach to an interstate-commerce shipment while the merchandise was in transit under such shipment and until its arrival at the point of destination and delivery there to the consignee; and, of course, this conclusion renders it entirely unnecessary to consider whether, if the act of Congress had submitted the right to make interstate-commerce shipments subject to State control, it would be repugnant to the Constitution.

It will be noted that the court does not determine the question, but leaves it expressly undecided whether, if the act of Congress had submitted the right to make interstate-commerce shipments subject to State control, it would be repugnant to the Constitution; but the inference might be drawn fairly from the case that the court had such thought in mind. It is interesting, likewise, to note that a strong dissenting opinion was filed in this case by Justices Gray, Harlan, and Brown, who did not take the same view of the term "arrival in the State," but took the following view, as expressed by them:

The opinions heretofore delivered in this court upon the effect of the act of Congress of 1890, although they do not decide, clearly imply that the "arrival in such State" contemplated and intended by the act is an arrival within the territorial limits and jurisdiction of the State.

The statute under which the Rhodes case was decided is practically the same as the statute under which the Bowman case was decided. It will be noted that the court interpreted the Wilson Act as not intending to or causing the power of the State to attach to an interstate shipment whilst the merchandise was in transit under such shipment. The distinction between fundamental and incidental commerce had not before been referred to. As to the constitutional aspect of the application of a law or principle which recognized the power of a State operating through its police power to stop a shipment at the border thereof and thus entirely prevent interstate commerce, is re-tained to be discussed in relation to the second section of this

In American Express Co. v. Iowa (196 U. S., 133) the question of the operation of the Iowa law under this Wilson Act as to a C. O. D. shipment from the State of Illinois is discussed. court held that the contract was complete in Illinois, that the shipment into Iowa constituted interstate commerce, and that there was the right to sell in the original package.

The last important case dealing with this subject is Louisville & Nashville Railway Co. against Cook Brewing Co. Kentucky had a statute prohibiting common carriers from transporting intoxicating liquors from dry points in Kentucky. The court held this to be a valid enactment as to the intrastate shipment but not effective as to the interstate shipment, but as to that was an unconstitutional interference with interstate commerce. The court says:

By a long line of decisions, beginning even prior to Leisy v. Hardin, it has been indisputably a detriment.

(a) That beer and other intoxicating liquors are a recognized legitimate subject of interstate commerce.

(b) That it is not competent for any State to forbid any common carrier to transport such articles from a consignor in one State to a consignee in another.

(c) That until such transportation is concluded by the delivery to the consignee such commodities do not become subject to State regulation restricting their sale or disposition.

The court plants its decision upon the ground that the Wilson Act does not apply before actual delivery to the consignee. The language of this case would seem upon casual reading to be strongly against the purpose of the present bill, but a careful analysis thereof would indicate that it is not at all conclusive as to the bill in question. That beer and other intoxicating liquors are a recognized subject of interstate commerce is not questioned, but they would not be a recognized subject of interstate commerce if Congress in its power over that subject removed them from interstate commerce. True, of course, is division (b) that a State can not forbid a common carrier to transport from one State to another such articles, but the complete answer to this is that Congress may forbid. Division (c) is answered by the thought that the term "State regulation" is expressly used, but, as in the Rahrer case, there is no reason why Congress may not remove from interstate commerce articles which otherwise would be under the protection of that clause until delivery and sale, and the court seems to emphasize the thought that the receiving for transportation to consignees in Kentucky from consignors in other States could not be prohibited by any State law, and why? Simply because it would be an unlawful regulation of interstate commerce not authorized by Congress. No power exists to remove that impediment or to regulate that interstate commerce but Congress, and Congress by this bill establishes a uniform rule of regulating interstate commerce by removing the impediment to the exercise of the police power.

In Delamater v. South Dakota (205 U. S., 93) the question arose as to the law of South Dakota imposing an annual license charge on traveling salesmen offering for sale or soliciting orders for intoxicating liquors in quantities less than 5 gallons. It was held that this was a police regulation and not a taxing act and was constitutional and within the purview of the Wilson Act. The court said:

Wilson Act. The court said:

It is settled by a line of decisions of this court, noted in the margin, that the purpose of the Wilson Act, as a regulation by Congress of interstate commerce, was to allow the States, as to intoxicating liquors, when the subject of such commerce, to exert ampler power than could have been exercised before the enactment of the statute. In other words, that Congress, sedulous to prevent its exclusive right to regulate commerce, from interfering with the power of the States over intoxicating liquor, by the Wilson Act adopted a special rule enabling the States to extend their authority as to such liquor shipped from other States before it became commingled with the mass of other property in the State by a sale in the original package.

That act, as we have seen, manifested the conviction of Congress that control by the States over the traffic of dealing in liquor within their borders was of such importance that it was wise to adopt a special regulation of interstate commerce on the subject. When, then, for the carrying out of this purpose the regulation expressly provided that intoxicating liquors coming into a State should be as completely under the control of a State as if the liquor had been manufactured therein, it would be, we think, a disregard of the purposes of Congress to hold that the owner of intoxicating liquors in one State can, by virtue of the commerce clause, go himself or send his agent into such other State, there, in defiance of the law of the State, to carry on the business of soliciting proposals for the purchase of intoxicating liquors.

The ruling thus made is particularly pertinent to the subject of intoxicating liquors and the power of the State in respect thereto. As we have seen, the right of the States to prohibit the sale of liquor within their respective jurisdictions in and by virtue of the regulation of commerce embodies in the Wilson Act is absolutely applicable to liquor shipped from one State into another after delivery and before the sale in the original package. It follows that the authority of the States, so far as the sale of intoxicating liquors within their borders is concerned, is just as complete as is their right to regulate within their jurisdiction the making of contracts of insurance. It hence must be that the authority of the States to forbid agents of nonresident liquor dealers from coming within their borders to solicit contracts for the purchase of intoxicating liquors which otherwise the citizen of the State "would not have thought of making" must be as complete and efficacious as is such authority in relation to contracts of insurance, especially in view of the conceptions of public order and social well-being which it may be assumed lie at the foundation of regulations concerning the traffic in liquor.

In Adams Express Co. v. Commonwealth of Kentucky (214)

In Adams Express Co. v. Commonwealth of Kentucky (214 U. S., 218) the decision was based on the Wilson Act. court there followed the Rhodes case in holding that the State

law would not attach to any interstate shipment until the completion of the transit by delivery to the consignee.

I have attempted in this to review impartially all the cases of the Supreme Court dealing with this important question. They are difficult to reconcile. An interesting discussion of this matter is found in the statement of the distinguished Senator from Maryland, who has so lately been called to his reward, when this question was before the Judiciary Committee of the United States Senate some years ago. As great a lawyer as Senator Rayner-and no better, in my judgment, has ever graced this Senate—was unable to harmonize these various cases. Speaking to the committee of the fundamental and incidental right as set forth in the Rhodes case, he said, and his language will be found on page 6 of the report:

Will be found on page 6 of the report:

There is no separation between them, because a matter of sale is not an incident; a sale is a fundamental right, and if you destroy a matter of sale you destroy a right under the Constitution. * * * I do not see any difference between a package before it gets into the hands of a consignee and that package after it gets into the hands of a consignee and is opened. I think if you can stop the right to sell it you can stop it in transit. I can not get into my mind the slightest distinction between an incidental right and a fundamental right under the Constitution, because there is a line of cases which I have read in which the Supreme Court has held that the right of sale is absolutely a fundamental right and not an incident.

The following interesting conversation took place, or, rather, statements:

Senator RAYNER. The same courts have held that we could absolutely stop the sale of whisky. In the Indian Tribe cases they come right down

to the doctrine of the absolute prohibition of the sale of whisky. Now, the question I want to submit to the committee is this: Assuming that we can stop the sale of whisky—
Senator Nelson. In the Indian cases that was put upon the ground that the Indians were our wards.
Senator RAYNER. No; I have got the briefs and records, and they show that point was not argued at all. It was assumed that we could stop the sale of whisky any place we wanted to, either to the Indians or to anybody else.
Senator BACON. In the United States?
Senator BAYNER. Yes. Now, could we pass a law to-day prohibiting the sale of whisky?
Senator FULTON. You mean prohibiting its entering into interstate commerce?

Senator RAYNER, Yes. Then, if we can do the greater, why can we not do the less? If we can pass a law prohibiting the sale of whisky from State to State, why can we not pass a law removing an impediment, so far as the States are concerned, and make whisky subject to the police regulations of the State when it reaches the boundary of the State? Does not whisky stand on a different footing from an inneurous article?

That is a point that her given me trouble. Would a low second by

nocuous article?

That is a point that has given me trouble. Would a law passed by Congress to-day, stopping the sale of whisky, be a valid law? If it would be a valid law, why can we not say to the State that it can pass a law prohibiting the importation of whisky into the State or say to it that we give the State the right, when the article reaches its boundaries, to subject it to the police regulations of the State? I have not come to any conclusions, in my mind, upon that question. I have examined the question thoroughly.

I am satisfied, however, that Scnator Rayner had serious doubt as to the constitutionality of this law. This emphasizes the fact heretofore expressed by me, that honest lawyers, frank with themselves, must concede that the questions involved are exceedingly troublesome; but inasmuch as the Supreme Court has expressly left open the question, it would seem that this was a proper case to place the matter squarely before them in order that a question of such great importance might be deter-

THE QUESTION OF PERSONAL USE.

It has been claimed by opponents of this measure, in literature which they have industriously circulated, that this bill would prevent a person securing intoxicating liquor for his own personal use. It would be sufficient answer to this contention to ask a careful reading of the bill from anyone upon whom the attempt was made so to deceive. I am not here to argue either for or against the right of a person to have intoxicating liquors for his or her own use. No State has attempted to prevent the personal use of liquors except in so far as it might be said the prevention of sales might indirectly affect it. But if a State should undertake to penalize a person for the use of liquors (of course excluding questions of where he becomes drunk and a nuisance) it would, in my judgment, violate the constitutional right which inheres in citizenship, so that if a State should pass such law the present measure could not affect it, as such State law would in all probability be held unconstitu-tional. Were the State to pass such a law, and if the same should be upheld by the courts, then, of course, this bill would affect it, but it is a far-fetched conclusion. Men differ on the question as to the right to use liquor for personal use being a right protected by the Constitution. Two interesting cases on this proposition have arisen, one the case of Scott v. Donald (165 U. S., 107) and the other Vance v. Vandercook (170 U. S., 436). Both cases arose under the South Carolina statutes, and in the Vance v. Vandercook case the court said that:

The right of persons in one State to ship liquor into another State to a resident for his own use is derived from the Constitution of the United States, and does not rest on the ground of State law.

The Supreme Court had held in the Rhodes case that under the Wilson law Congress had not submitted intoxicating liquors shipped for sale to the jurisdiction of the State into which they were shipped until delivery to the consignee. In Vance against Vandercook the court was viewing the situation where the delivery of a package of liquor to the original consignee was intrefered with by the State statute. The State statute imposed conditions on such shipment, and the only importations that could be made for sale were to the officers of the State. It is quite apparent that the case did not turn upon the question of personal use, but rather upon the conditions imposed upon the shipment to an original consignee in the original package, and such legislation clearly interfered with such shipment.

In Scott against Donald the court said:

It is sufficient for the present cases to hold, as we do, that when a State recognizes the manufacture, sale, and use of intoxicating liquors as lawful, it can not discriminate against the bringing of such articles in and importing them from other States; that such legislation is void as a hindrance to interstate commerce and an unjust preference of the products of the enacting State as against similar products of the other States.

And there the law was held unconstitutional solely because it discriminated against the bringing of such articles in and importing them from other States and not because the a were intended for personal use. 'The court further said:

It is not a law purporting to forbid the importation or manufacture, sale, and use of intoxicating liquors as articles detrimental to the wel-

fare of the State and to the health of the inhabitants, and hence it is not within the scope and operation of the act of Congress of August, not w 1890.

These cases were again referred to in Pabst Brewing Co. v. Crenshaw (198 U. S., 25). There the court, in construing the Wilson law, said:

In so far, however, as the State law imposed burdens on the right to ship liquor from another State to a resident of South Carolina, intended for his own use, and not for sale within the State, the law was held to be repugnant to the Constitution, because the Wilson Act, whilst it delegated to the State plenary power to regulate the sale of liquors in South Carolina, shipped into the State from other States, did not recognize the right of a State to prevent an individual from ordering-liquors from outside of the State of his residence for his own consumption and not for sale.

In Heyman v. Southern Railway Co. (203 U. S., 270), the liquors in controversy were seized before delivery, so that the case was similar to the Rhodes case, and they quoted, with approval from Vance against Vandercook, as follows:

It follows that under the Constitution of the United States every resident of South Carolina is free to receive for his own use liquor from other States and that the inhibitions of a State statute do not operate to prevent liquors from other States from being shipped into such State for the order of a resident for his use.

And they refer to the ruling in Vance against Vandercook, as upholding the right of a citizen of one State to bring from au-other State into the State of his residence and keep therein for his personal use the merchandise referred to in the Wilson

It has been decided, as reference has heretofore been made in Mugler against Kansas, that the right to manufacture intoxicating liquors for one's personal use was not an inalienable right.

In Kidd against Pearson, it was held that there was no right in a citizen to manufacture liquors contrary to the laws of his State, notwithstanding the fact that they were intended for exportation. There is no practical trouble with the personal-use question. There is no attempt on the part of anybody to construct a law that shall prevent personal use or prevent shipment for personal use, and this bill does not do so.

Mr. President, I had very much hoped to finish my remarks to-day, and I had hurried about as fast as I could, but have not covered everything I wanted to cover. I think I can finish in 10 or 15 minutes to-morrow morning, and at that time I am going to ask the Senator from South Dakota [Mr. Crawford]

to yield to me. I will not occupy over 10 minutes.

Mr. CRAWFORD. Mr. President, I give notice that, at the conclusion of the routine morning business to-morrow morning, I shall ask the Senate to resume the consideration of the omnibus claims bill, and I shall be glad to have the Senator from Iowa [Mr. Kenyon] conclude his remarks.

Mr. LODGE. I call attention to the fact that the Senator from Georgia [Mr. SMITH] has given notice of a speech to-

morrow morning, but I understand it is to be a very brief one.

Mr. CRAWFORD. Of course I do not desire to interfere with a notice of that kind.

Mr. LODGE. I make the point of no quorum, Mr. President. The PRESIDENT pro tempore. The Senator from Massa-chusetts makes the point of no quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Lodge McLean Martin, Va O'Gorman Smith, Ariz. Smith, Ga. Smith, S. C. Ashurst Culberson Curtis Dixon du Pont Fletcher Gallinger Bacon Bailey Smith, S. C. Smoot Stephenson Sutherland Thornton Townsend Warren Wetmore Works Bourne O'Gorman Oliver Overman Page Paynter Perkins Perky Richardson Root Brandegee Bristow Gallinger Gronna Guggenheim Jackson Johnson, Me. Johnson, Ala. Bryan Chamberlain Chilton Clapp Clark, Wyo. Clarke, Ark. Jones Root Kenyon La Follette Sanders Simmons Crane

The PRESIDENT pro tempore. Fifty-three Senators have answered to their names. A quorum of the Senate is present.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDING OFFICER (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, and Mr. Robert W. Archbald, jr.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDING OFFICER. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeach-

The Secretary read the Journal of Monday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDING OFFICER. Are there any inaccuracies in the Journal? If not, it will stand approved. Counsel for the

respondent will proceed.
Mr. WORTHINGTON. Mr. President, when the Senate sitting as a Court of Impeachment adjourned yesterday Mr. Saums was under direct examination. I should be very glad if he might be allowed to stand aside for the present. We have a number of gentlemen here whose time is of great importance and we should like to examine them first.

Mr. Manager STERLING. I understand Mr. Saums is not

to be excused.

Mr. WORTHINGTON. No; he is not to be excused. My

direct examination has not been finished.

Mr. President, I wish to introduce Mr. M. J. Martin, of the Scranton bar, who is associated in the defense of Judge Archbald and who has been kept away thus far by circumstances over which he had no control.

The PRESIDING OFFICER. The name of Mr. Martin will be entered in the record as of counsel for the respondent

Mr. WORTHINGTON. I ask that Col. Phillips be called.

REESE A. PHILLIPS-RECALLED.

Reese A. Phillips, heretofore sworn, was recalled and was

further examined and testified as follows:
Q. (By Mr. WORTHINGTON.) Did you have a conversation with Christopher G. Boland after the Truesdale meeting you told us about on the 5th of October, 1911?-A. Yes, sir.

Q. How long after that?-A. Two or three weeks.

Q. I want to ask you what took place at that conversationif there was anything said on the subject of the claim of the Marian Coal Co. against the railroad company?—A. Yes, sir.
Mr. Manager FLOYD. We object. Counsel is inquiring

about a subsequent transaction and is asking about something that Mr. Boland said to the witness. We fail to see wherein that could be material or in rebuttal of anything we have brought out.

Mr. WORTHINGTON. Mr. President, the Truesdale conference, which of course the Chair will remember, when Mr. Watson presented his claim to the president of the Lackawanna road and other officials, was held on the 5th of October, and the evidence shows that shortly after that time Mr. Watson ceased to have anything to do with that matter.

There is also in evidence here a letter written by Judge Archbald, dated the 13th of November, addressed to C. G. Boland, under the name of "My Dear Christy," in which he refers to the interview he had with an official of the Lackawanna road in presenting this claim, Mr. Loomis being the person referred to, and informing Mr. Boland that his efforts were unsuccessful.

We stated in the opening here that we expected to show before we got through with this case that Christopher G. Boland, after Mr. Watson had ceased to have anything to do with this matter, came to Judge Archbald and implored him to go on and try to bring about a settlement, because the troubles with the railroad company were affecting the mind of his brother, William P. Boland. Now, we wish to show that at the same time and before this letter of November 13 was written, Christopher G. Boland came to the official of the railroad company and urged a settlement upon precisely the same grounds.

Now, since Mr. Boland has been upon the stand here to substantiate the claim of the managers that the whole effort on the part of Judge Archbald to bring about this settlement was for the purpose of using his influence with the railroad company to get them to pay something that they did not owe, I think it is very important for us and proper for us to be allowed to show that Christopher G. Boland himself went to the railroad company and was making the representations at the same time without any intervention of Judge Archbald.

I read from page 412 the ruling the Chair made at the time:

The President pro tempore. Do the managers expect to connect Judge Archbald with this particular matter in any way?

Mr. Manager Flove. With this particular proposition that was made we do not. This was a proposition made by Mr. Boland on his own responsibility after the negotiation in which Judge Archbald had participated had entirely failed.

The President pro tempore. It is not the purpose then to hold Judge Archbald responsible?

Mr. Manager Flove. Not to hold him responsible in any way for this particular transaction.

The President pro tempore. The testimony on the part of the managers might be admitted, in the opinion of the Chair, to complete

particular transaction.

The President pro tempore. The testimony on the part of the agers might be admitted, in the opinion of the Chair, to complete their witness

And then he went on to tell-

The PRESIDING OFFICER. What page is that?

Mr. WORTHINGTON. Page 412, about the top of the page.

On page 411, the middle of the page, appears the question on which this discussion arose:

Q. (By Mr. Manager FLOYD.) Did you, in conferring with the officers of the Delaware, Lackawanna & Western Railroad Co., namely, Mr. Phillips and Mr. Loomis, make a proposition of settlement to either of them and did they make a counter proposition to you? If so, state what the propositions were.

That was objected to, and was held to be competent.

Now, we want to give Mr. Phillips's account of that conversation, which is important, because Christopher G. Boland was allowed to testify to it, and more important for the reasons I have stated.

The PRESIDING OFFICER. The Chair will hear from the

manager.

Mr. Manager FLOYD. Now, Mr. President, we think it would be perfectly competent to prove by Mr. Boland—
The PRESIDING OFFICER. If the manager will permit,

the Chair will ask the Reporter to read the question.

The Reporter read the question as follows:

Q. I want to ask you what took place at that conversation; if there was anything said on the subject of the claim of the Marian Coal Co. against the railroad company.

Mr. Manager FLOYD. Now, Mr. President, we think it would be competent for them to prove by Mr. Boland what he may have said, but counsel is seeking to prove by this witness some conversation or conference between this witness and Mr. Boland. It does not seem to me that that kind of testimony is admissible, unless its purpose be to contradict something Mr. Boland said about it. If that is his purpose, then it might, and I think would, be admissible; but if it is simply to confirm something that Mr. Boland said it is in the nature of purely hearsay, and would not be admissible. That is why we object to it.

The PRESIDING OFFICER. The Chair would inquire of

counsel if it is proposed by this testimony to contradict what

Mr. Boland said?

Mr. WORTHINGTON. It is to give a very different account

of the same conversation he was asked about.

The PRESIDING OFFICER. Is it for the purpose of contradicting him?

Mr. WORTHINGTON. Yes, sir.

The PRESIDING OFFICER. The Chair does not know what the evidence is to be.

Mr. WORTHINGTON. I have stated the substance of the evidence. I have said that we offer to prove that Mr. Boland implored Mr. Phillips to bring about a settlement of the claim of the Marian Coal Co. against the railroad company, not because of anything Mr. Boland said there, but because the troubles of the Marian Coal Co. were affecting his brothers' mind; and he implored him on account of his feeling for his brother to bring about a settlement of the claim.

The Chair must remember that we expect to prove that at almost the identical time Mr. Boland was making the same sort of an appeal to Judge Archbald to induce him to go to see Mr. Loomis on this last occasion, and then comes here-

not say what he comes here for. That is apparent.

The PRESIDING OFFICER. If it is for the purpose of contradicting a witness, the counsel would have the right to proceed.

Mr. Manager FLOYD. As I understand the conversation, the matter to which counsel for the respondent refers, he himself objected, and we were permitted only to prove that there was a proposition submitted and the amount. That is my recollection of the matter and the conversation. What was said, what was discussed, was excluded, and only the mere fact that a proposition was made was admitted, and the witness was allowed to state the amount.

The PRESIDING OFFICER. The Chair finds upon reference to the page stated by the counsel that the witness was not permitted to go into the details of the conversation, but only to state the fact. The Chair thinks, however, that without going into the matter in detail, counsel should be permitted to prove any fact that would tend to contradict the testimony of a former witness.

Mr. WORTHINGTON. In that case I must lead the witness's mind to the precise point instead of asking him to state what

occurred.

The PRESIDING OFFICER. Yes. Q. (By Mr. WORTHINGTON.) State whether at that interview anything was said by Christopher G. Boland in reference to the reason why he wanted the claim settled .- A. Yes, sir.

Q. What was it?—A. He stated that his brother—
Mr. Manager FLOYD. We object.
The PRESIDING OFFICER. If counsel would call attention to the particular testimony that this is intended to contradict the Chair would be in a better position to rule upon it. simple fact of a conversation was all that was proved before.

Mr. WORTHINGTON. I understand him to say that is all he did-that he went there and made a proposition.

Mr. Manager FLOYD. It was all he was permitted to say. Mr. WORTHINGTON. It seems to me if they were allowed to prove that he went there and made a proposition he ought to be allowed to finish the sentence. If he said, "We went there and made the proposition because," I think he ought not to be cut off at the "because."

The PRESIDING OFFICER. The Chair will admit the tes-

Q. (By Mr. WORTHINGTON.) State any reason Mr. Christopher G. Boland gave you on that occasion for wishing to have the claim of the Marian Coal Co. against the railroad company settled .- A. He stated in a very affecting way, with tears rolling and coursing down his cheeks, that he was worried and fretting about his brother Will; that he was afraid he would

lose his mind.

The PRESIDING OFFICER. The Chair limits it to the distinct proposition as to what the witness proposed and the

reason he gave for it; not all the possibilities.

Mr. WORTHINGTON. I hope the Chair did not misunderstand me. I claim only that he ought to be permitted to finish the sentence. When he said he made his proposition and said he wanted it carried through "because," we ought to be allowed to follow up the word "because"; and this is following

The PRESIDING OFFICER. The Chair thinks the witness could not go further than the rule would permit. He can state what he desired and his reason without going into the detailed conversation. If it was because of the interest of his brother it would be sufficient for him to state that.

Mr. WORTHINGTON. With that ruling of the Chair, I have nothing further to ask the witness.

The PRESIDING OFFICER. It would be an interminable

matter if all possible conversations of the parties were admitted.

Mr. Manager FLOYD. We have no questions, Mr. President.

Mr. WORTHINGTON. Mr. President, I feel bound to ask this witness a question since he is here. [To the witness:] Do not answer for the present. Having tendered him as a witness I feel bound to ask him whether he was to receive any of the \$60,000 that has been referred to in the testimony.

Mr. Manager FLOYD. We object. The PRESIDING OFFICER. The Chair thinks

Mr. WORTHINGTON. I do not want it said hereafter that we brought him here and did not offer to ask him that question.

The PRESIDING OFFICER. If he should say "no," would be an issue upon which the other side would be justified in introducing evidence. There would be no termination to a proceeding of that kind.

Mr. WORTHINGTON. Very well. Then I have no further

questions to ask.

Mr. Manager FLOYD. We have no questions. Mr. WORTHINGTON. Call Maj. Warren.

TESTIMONY OF EVERETT WARREN.

Everett Warren, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Where do you reside?-A. I reside in the city of Scranton, Pa.

Q. What is your profession?-A. I am a practicing lawyer; in general practice.

Q. In Scranton?—A. In Scranton and elsewhere.

Q. How long have you been practicing there and elsewhere?-A. I have been practicing law for a little over 30 years.

Q. And mainly in Scranton?-A. I should say mainly in

Scranton; yes, sir.
Q. And to what other bailiwicks has your practice extended?—A. I have tried cases in other counties than Lackawanna County, which is the county of which Scranton is the county seat, and in several counties in the State, and in the Federal courts in Pennsylvania, and indeed in some other jurisdictions.

Q. Are you in practice by yourself or in a firm?—A. now a member of the firm of Warren, Knapp & O'Malley.

Q. Composed of whom besides yourself?-A. Composed of

myself, Judge Knapp, Mr. O'Malley, and Mr. Hill.

Q. How long have you been a member of that firm?-A. The firm was changed after the death of Judge Willard, the senior member of the firm, in 1910. The firm had been Willard, Warren & Knapp for a good many years, except while he was a member of the Superior Court of Pennsylvania.

Q. In a very general way, what is the nature of your practice?-A. We have a general practice up in the provinces; I might say we run the whole gamut of the law. We represent in Scranton the Eric Railroad as its local counsel, the Hillside Coal & Iron Co., the capital stock of which I understand is controlled by the Erie.

Mr. Manager CLAYTON. I should like to know from the respondent's counsel the purpose of interrogating the witness in detail about his business. I suppose he intends to ask him about the character of Judge Archbald, to which we have no objection, but, to go into the character of this witness, giving

an account of his business and giving the range of it and the scope of it, we do not think is proper. We think he should come at once to the character of the judge, and unless respondent's counsel can indicate the purpose of the range of this ex-

amination and the necessity for it, we shall have to object.

Mr. WORTHINGTON. As I had finished all I wished to ask the witness on that point, I will not reply to the manager's

objection.

The PRESIDING OFFICER. The Chair would suggest that that line of inquiry is certainly not elucidating any issue, and

will very largely encumber the record if it is pursued in each case, a possibility it might be well to try to avoid.

Mr. WORTHINGTON. As I have already said, Mr. President, since I have already asked all I intend to ask on that line, I will not make any argument upon it. If the question arises hereafter, I may want to be heard upon it. The learned manager assumed that I did not intend to ask this witness anything except about the character of Judge Archbald.

Mr. Manager CLAYTON. I did not indulge in any such assumption, but I thought that was what counsel was next I did not indulge in any such going into; and I made the objection, so that the court could direct the attention of counsel for the respondent to the point to which the manager has directed it, so my brother might not be guilty of that error hereafter.

Mr. WORTHINGTON. When I am convicted by the court I

will plead guilty.

Q. (By Mr. WORTHINGTON.) Are you acquainted with Judge Archbald?—A. I am very well acquainted with him.

Q. In a general way what is the nature of your acquaintance with him?-A. I have known Judge Archbald ever since I was a small boy. I have been before him in a great many As I was saying when objection was made, I am in general practice and I have been in very active practice, and, generally speaking, for the last 20 or 25 years I have been the trial lawyer of the firm; I do not mean to say exclusively, but generally, and as such I have been before Judge Archbald in many,

many cases.

Mr. Manager NORRIS. I want to renew the objection.

The PRESIDING OFFICER. The Chair thinks the personal history of the witness is not a matter that is at issue here, or his personal character or professional work.
Mr. Manager CLAYTON. Mr. President, may I say—
The PRESIDING OFFICER. The Chair sustains the ob-

jection.

Mr. Manager CLAYTON. I want to say that this witness is a lawyer, and ought not to offend against the ruling of the Chair.

Mr. WORTHINGTON. I insist that everything this witness has testified to is proper and competent from our point of view.

This witness, Mr. President, is one who contributed to that purse, and is it not important for us to show what were his relations to Judge Archbald, so that the Senate may judge whether it was intended as an honorable and proper gift or as

The PRESIDING OFFICER. Yes.

Mr. WORTHINGTON. It is on that line, among others, that am examining this witness

The PRESIDING OFFICER. If counsel will confine himself within those limitations, he will be proceeding in order. He may proceed.

Q. (By Mr. WORTHINGTON.) Tell us whether or not you did contribute to the purse that was presented to Judge Archbald in 1910 before he went to Europe?—A. I did; yes, sir.
Q. Tell us the circumstances of it.—A. I want to say that

that purse originated with some of his friends at the bar. I can not now recall just the particular person who suggested it to me, but I remember that at one time some of us were together in one of the antercoms waiting for the court to meet. I remember the occasion. We had been advised that his wife's relative-I can not remember now what the relationship wasinvited them to go to Europe at the expense of this relative of Mrs. Archbald, and I remember the suggestion was made that it would be very desirable for us to do something to make it at least enjoyable to the judge. We knew he had not been there, and we knew something of his life, something of his frugality, Various suggestions were made, and finally it was thought desirable that we should try to raise a purse. The understanding, of course, was that it was not to be known to him or from whom the purse arranged for came.

I contributed to this proposition. I remember talking with some of my brethren at the bar. I remember asking the clerk, as he had more time than we did, that he communicate with some of the gentlemen around the district whom he knew and felt would desire to be contributors, and I think he did so.

Q. Now, Maj. Warren. I want to ask you to tell us, from your long acquaintance with Judge Archbald and your observation

of him as a judge, what were his principal characteristics as a judge as to integrity, ability, and industry.

Mr. Manager NORRIS. Mr. President, I object to the question as immaterial and irrelevant. The counsel has a right to ask the witness as to reputation, but I do not believe he can go

beyond that.

Mr. WORTHINGTON. Mr. President, I would not be prepared to argue this matter except for a word or two that fell from the Chair the other day when a witness who had volunteered a statement about Judge Archbald's character was on

the stand.

While I recognize the fact that in the ordinary tribunals and in ordinary cases you are confined in asking about the reputation of a party to a formal stereotyped question as to what his reputation is in the community in which he lives, and whether It is good or bad, and you stop there, which amounts to nothing.

I contend that in this case no such rule is applicable or ought to be applied, and that Senators who are to vote upon the question of the guilt or innocence of Judge Archbald ought to know a little more about him than that, and ought to know what kind of a judge he is and what kind of a man he is.

I do not mean to go into great detail about it; I could have this witness say all that I expect to have him say in less time than I have been talking about it; but inasmuch as I expect to ask the same question of several other witnesses who are here in attendance, lifelong associates at the bench and bar and in private of Judge Archbald, I would like to take up the time of the Senate for a moment or two in stating why in this

case we think the rule should be more liberal.

I have examined the history of this matter in other impeachment cases. I have here the report of the trial of Judge Chase, who was, as you, Mr. President, well know, a member of the Supreme Court of the United States, and was tried in the Senate, charged with various offenses in his judicial character. On page 297 of this book I find what I shall read, and I should remind the Chair and the Senate that in this trial, which took place in 1805, there were in the Senate, as Members of the Senate and as counsel in the case, men who had been members of the Constitutional Convention which framed our Constitution, and who were presumed to have some idea of what was meant by the impeachment clauses of the Constitution.

I find this sort of examination by Mr. Harper, one of the

counsel for Judge Chase:

Mr. Harper. Please to inform this honorable court whether you are accustomed to practice law in the courts where Judge Chase presides?

Mr. PURVIANCE. I am, sir.
Mr. Harper. Is it not his practice frequently to interrupt counsel?
Mr. PURVIANCE. I think so, but I always attributed it to his quickness of apprehension, which induced him rather to anticipate counsel than to listen to them; this I always ascribed to his superior sagacity.

Mr. Harper. Have you seen any difference in his interruptions between counsel with whom he was supposed to be on ill terms and those with whom he was on good terms?

Mr. PURVIANCE. I never observed any difference in his conduct arising from a consideration of persons, but it always appeared to me to arise from the manner in which gentlemen treated the subject. (Trial of Samuel Chase, Vol. I, p. 303.)

I happened upon that passage in opening the book at random, and I give it as a sample of what is there.

I have here the record of the impeachment trial of Judge Peck, district judge of the United States, whose trial occurred in 1831. He was charged with having punished a lawyer for criticizing one of his opinions. I find this precise question was raised there, and this is the way it was disposed of. A lawyer, the Hon. Spencer Pettis, was under examination. I read from page 211 of the report of the trial, published at the close of it, in 1833:

A. I have practiced before him ever since he has been on the bench.

- The witness had said that he practiced law before Judge
- Q. Does not his manner usually become more carnest as he proceeds in the course of an extensive discussion?

This was objected to as a leading question, and in that form it was waived.

Q. What is the effect on Judge Peck's manner when delivering an extended answer to a protracted argument at the bar (for this argument had occupied two days). I ask; what is his usual manner in such cases as he advances?—A. His usual manner, when he says but little and does not speak at length, is very mild, smooth, and easy; but it always occurred to me as a fault in the judge that, in delivering an opinion at great length, he becomes warm and gesticulates much. I remember many cases of this kind, and this manner struck me very foreibly; his usual manner is to become much excited and to use a great deal of gesture.

Q. Have you known the judge long and well?—A. Ever since I have been in Missouri. I am intimately acquainted with him. (Report of the trial of James H. Peck, p. 211.)

There was a situation presented in that case which was exactly what we have here. Then this question was asked:

Q. Is his disposition that of an arbitrary and oppressive man?

Mr. Buchanan. We object to that question.

Mr. Wirt. Do you? Then we must take a question upon it.

(Here a discussion took place between the managers and the counsel, when the form of the question was changed.)

Q. What is the habitual disposition of the judge as to mildness and patience or arbitrary and oppressive propensities?—A. I always viewed him as one among the mildest men I ever knew in my life. He is very patient in the arguments held before him and in all that I know of him. He is a man who shows firmness, however, on all occasions. He is very firm but very mild in his disposition. In these remarks I speak of Judge Peck both in his judicial and his private character. (Report of the trial of James H. Peck, p. 211.)

Now, Mr. President, the chairman of the managers in that case was Mr. Buchanan, who at that time held the office my distinguished friend holds here now as chairman of the Judiciary Committee of the House. I need not say anything as to who the counsel was, Mr. Wirt, who with Mr. Buchanan framed that question as a proper one to be asked, nor need I remind the Senate that among the Senators learned in the law was Daniel Webster, at that time chairman of the Judiciary Committee of the Senate.

But, Mr. President, going far beyond what I have given is the decision of the Senate itself in a vote taken during the trial of Secretary Belknap. I read from page 261 of the report of that trial as published by authority of Congress. It will be remembered, of course, that Mr. Belknap was charged simply with having received bribes while he was Secretary of War from one who, it was claimed, he had appointed to office where he had large opportunities to make money, something in the nature of selling sutlers' supplies. This question arose in the examination of a witness in that case:

of a witness in that case:

Q. From all you know of the subject, and from all you know of Gen. Belknap, I ask you what has been the general character of his administration of the War Department?

Mr. Manager Jenks. Stop. The objection I make to that is that a witness must testify to character instead of to the specific acts of this man or general acts. He must know what has been said by those who are familiar with his administration in that office, instead of how has he done the business.

Mr. Black. It is character in the sense of reputation we are asking about.

Mr. Manager Jenks. It is character in the sense of reputation that you should confine yourself to.

Mr. Manager Hoar. We understand also that it should be the opposite of the particular offense charged. If a man is charged with adultery, his reputation for chastity; if he is charged with perjury, his reputation of the Secretary for official integrity?" (Congressional Record) containing the proceedings of the Senate sitting for the trial of William W. Belknap, p. 261.)

That is what these learned managers say we should be tied

That is what these learned managers say we should be tied down to in this case.

Mr. Carpenter (to the witness). Answer the question.
The Witness, I ask the question to be read.
The question was read by the Reporter.
Mr. Manager Hoar (to Mr. Carpenter). That question we understand you modify.
Mr. Carpenter, No; we do not.
Mr. Manager Jenks, It must not be the personal knowledge of the witness, but reputation.
Mr. Manager McMahon. "What do other people say of him?" is the question.

Mr. Manager McMahon. "What do other people say of him?" is the question.

Mr. Carpenter. That opens up a very large question which I am certainly in no condition even to state to-day. We shall claim when we come to sum up this case that the general management of the War Department by Gen. Belknap is a proper subject of consideration; that if they could establish this particular charge we could still prove the general management and official conduct of the department, and then appeal to the Senate upon the whole record of the administration of that office whether his whole conduct in the office is to be considered.

Mr. Manager Hoar. We do not understand that it is competent to prove by a subordinate officer in the Army as an expert the general character of the administration of a great officer of state. There is no such thing as an expert in such an administration. We object to the question unless it is limited to the reputation of the Secretary for official integrity.

Mr. Black. For integrity.

Mr. Manager Hoar. Well, you may leave out the word "official" if you prefer. We will not object.

The President pro tempore. Does the counsel modify the question?

Mr. Carpenter. No, sir.

Mr. Manager Hoar. Then we object to it.

The President pro tempore. Objection is made. The question will be read by the Reporter.

The question was read, as follows:

Q. From all you know of the subject and from all you know of Gen. Belknap, I ask you what has been the general character of his administration of the War Department?

The President pro tempore. The question is, Shall this interrogatory be admitted?

The president pro tempore of the Senate sitting for the trial of William W. Belknap, p. 261.)

It appears there was not even enough opposition to the question with the Senate site is the Senate shades and the state of the Senate sitting for the trial of William W. Belknap, p. 261.) the question. Mr. CARPE

It appears there was not even enough opposition to the question in the Senate to bring about a vote and that the Senate practically unanimously held that it was competent to go into

the general administration of the War Department by Gen. Belknan

The PRESIDING OFFICER. The Chair will inquire the

Mr. WORTHINGTON. I stated the page when I began. It is page 261.

Now, that remark of Mr. Carpenter, Mr. President, was a hint of what he proposed to go on and show if it was necessary, but it does not seem to have been necessary, because the

Senate admitted the evidence at once. I ask you to remember, Mr. President, that we are not trying this case before a jury. We are trying this case before a tribunal which is the judge of the law and the judge of the facts, and the tribunal which is to inflict the sentence as well. The question when we come to the end of this case will not be simply whether certain things are proved against Judge Archbald which he should not have done, but as to the character of the man, and upon the whole evidence and the whole case what judgment should be rendered, not only whether the respondent shall be removed from the honorable position he has held so long as a Federal judge, but whether there shall be put upon him the brand of infamy as being not fit ever to hold office of any kind under the Government of the United States.

When my distinguished friend here, the chairman of the managers, was district attorney of the United States in Alabama, prosecuting offenders in the time of the Cleveland administration, I knew that with his big heart if any man had been brought up for sentence who was the meanest man whoever crawled around his district, and had offered to show it was the first offense or something else that might affect the mind of the court in sentencing the accused it would not have been denied.

The question which the Senate is to determine at the end of this case is not the mere question whether this or that thing is proved, but whether, upon the whole, taking into considera-tion the character of the man, the good that he has done, the kind of judge that he is, what the people in and about Scranton think of him and know of him, he shall be deprived of office and be held forever incapable of showing his head as a reputable man because of the contention that has been made here that he is not fit to hold any office of any kind under the Government of the United States.

Now, one thing more, it seems to me, takes this entirely out of the considerations which are invoked in ordinary courts of justice when a similar question arises: When our forefathers framed this Constitution of ours they put into it the provision that the trial of persons accused of crime shall take place in the districts where the crime was committed. I do not know how well many of us remember the origin of that clause in the original Constitution. It was because in the time of Henry VIII a statute had been enacted which had become obsolete at the time of the Revolutionary War, or just before that, when the Parliament of England undertook to revive it and to take the early patriots of 1774 and 1775 to England for trial. The fact is that when Gen. Gates set out from Boston the 18th of April, 1775, with that detachment which marched to Lexington and Concord one object of that expedition was to arrest John Hancock and Samuel Adams, who were living in a house near Lexington, and that Paul Revere came down to them on his celebrated ride, and they got out just in time to escape capture. The purpose of that raid was, among other things, to arrest those men and take them to England for trial instead of being tried in Massachusetts, where they lived and had committed the offenses and where everybody knew what kind of men they

Because of that this clause was put in the Constitution of the United States, and when the Constitution was before the State conventions for ratification objection was made to it because it did not provide that accused persons should be tried by a jury of the vicinage.

Let me recall what was said in one of those State conventions. Everybody will recall what was in the minds of all our forefathers at the time. This was said by Mr. Tredwell in the convention held in New York for the purpose of considering the ratification of the Constitution:

Have we not neglected to secure to ourselves the weighty matters of judgment or justice by empowering the General Government to establish one Supreme and as many inferior courts as they please, whose proceedings they have a right to fix and regulate as they shall think fit, so that we are ignorant whether they shall be according to the common, civil, the Jewish, or Turkish law? What better provisions have we made for mercy when a man, for ignorantly passing a counterfeit continental note or bill of credit, is liable to be dragged to a distant county, two or three hundred miles from home, deprived of the support and assistance of friends, to be tried by a strange jury, ignorant of his character, ignorant of the character of the witnesses, unable to contradict any false

testimony brought against him by their own knowledge of facts, and with whom the prisoner, being unacquainted, he must be deprived totally of the benefit of his challenge? And, besides all that, he may be exposed to lose his life merely for want of property to carry his witnesses to such a distance." (2 Elliott's Debates, 400.)

Now, Mr. President, in this case the trial has to be here in the Senate Chamber. This defendant can not have the benefit of being tried by his neighbors, the people who know him and know the witnesses against him. In that case I think it safe to say the trial would not have lasted 24 hours.

We can not take the Senate to Scranton, but we do want to bring to this trial the atmosphere of Scranton so far as relates to Judge Archbald's reputation and as far as we can give him the benefit of that which the meanest criminal throughout the Union has-to be tried in the place where the crime was committed, and among people who know him and who know those who testify against him. We can not go there, where the witnesses generally know the man. We want Senators to know what the men who have spent their lives in and around Scranpracticing before Judge Archbald-his neighbors and friends-think of him and what his reputation is throughout the whole State of Pennsylvania.

Let me, in conclusion, remind the Senate of something that has been said in this case on the question of the rules of evidence. I refer first to what was said by Mr. Manager Webb, on page 135:

Mr. President, later on, I think, it will be developed that it will be absolutely necessary to ask the Senate to cross-examine this witness. I shall conform as far as possible to the ordinary rules in an ordinary court, but, of course, we realize that this court has no limits as to its discretion as to what evidence shall be introduced.

So, again on page 153, Mr. Manager Clayton, in arguing against some objection we had made as to the admissibility of evidence, said:

evidence, said:

It is said by some of the writers that this court renders a mixed verdict; that is, in reaching a verdict and judgment the court pronounce both upon the law and the evidence in the case.

Mr. President, that at once lifts this tribunal above the atmosphere of a mere petty courthouse trial where a \$5\$ pettifogging lawyer may undertake in the defense of a criminal to interpose all sorts of technical objections, and where the judge is to pass upon the law and the jury upon the facts. This is a different tribunal from that. It is higher than that. This tribunal wants to know all the facts.

Mr. President, I would not do myself the discredit nor would I reflect upon the intelligence nor the good intentions of this great body by suggesting that the public wish to know all the facts pertaining to the conduct of their high judicial officer. This is more than a mere petty criminal case.

I could follow with more to the same effect scattered through this record. I submit that in determining the great question in this case, as to what kind of a man this is who is on trial, the Senate ought to know, not only the mere naked fact as to whether his reputation is good or bad, but what manner of man he is, what kind of a man he is known to be to these gentlemen who have known him so well during the 28 long years he has been on the bench, and in order that the Senate may judge whether it is likely that he would have gone to see Mr. Brownell for the purpose of making Mr. Brownell think that if he granted him some sort of a favor he would decide cases in his favor before the great Commerce Court, or as to whether he would have gone to Mr. Richards on behalf of poor Warnke and ask him to give Mr. Warnke another hearing with the expectation that Mr. Richards would do that for Mr. Warnke with the understanding, implied or expressed, that he would get paid for it when some of the Reading Co. cases would come up in the Commerce Court.

On this ground, Mr. President, I submit that we ought to have more than the mere naked, formal question I have referred to. We do not ask that the witness go very far or take much time, but we want to show what the witnesses know of this man, so that the Senate may sit as nearly as possible in the same position they would be in if they were citizens of Scranton

sitting in Scranton to try this case.

Mr. Manager NORRIS. Mr. President, counsel has wandered very far afield, it seems to me, in this proposition and is at-tempting to carry the Senate away from the real issue that is to be determined here. In the first two impeachment cases that he cites, tried in the Senate, the question involved the very issue that was to be determined. The charge in each of those cases was a usurpation of power. The conduct of Judge Chase on the bench as a judge and the method of his demeanor there were in issue, and the questions asked and the answers admitted by the Senate bear directly on the issue involved.

There is no such issue involved here. There will be no objection on the part of the managers to the proper questions that are admissible in every court of justice as to the character of a defendant. Everyone must concede that the question the counsel has now propounded to the witness is not such a ques-

Moreover, one of the charges in this case, perhaps several of them, relate to the Delaware & Lackawanna Railway. The witness, as it is already in evidence, is one of the attorneys of that corporation. He is asked now a question that under any circumstances in any court of justice would not be admissible. The attorney of one of the parties named in the indictment is asked now to state whether Judge Archbald is a good or a bad

Mr. President, if we start out in this direction there will be no end to this trial. If this question is proper, then it is proper to follow this man's court decisions from the time he was a judge of the State court in Pennsylvania, years and years ago, up to the present time. It will be proper to take every case and follow it from its inception to its ending, whether in that court or in a superior court. It would be absolutely a

limitless range that would never end.

All courts, as far as I know, without any exception, have confined this kind of questions to the reputation of the man in the neighborhood where he resides pertaining to the particular

If we were allowed and if they are allowed to go into this question, more than a thousand witnesses could properly be examined on this question. As I said, it is leading the Senate away from the issue. It seems to me that counsel for the respondent, in his argument, is trying to take the Senate away from the issue that is here at stake.

Now, Mr. President, I should like to have the Reporter read the question to which objection has been made, so that it may

appear just exactly what it is.

The PRESIDING OFFICER. The question will be read by

the Reporter.

The Reporter read the question, as follows:

Q. Now, Maj. Warren, I want to ask you to tell us. from your long acquaintance with Judge Archbald and your observation of him as a judge, what were his principal characteristics as a judge, as to integrity, ability, and industry?

Mr. Manager NORRIS. Mr. President, just think of the ques-It is what is the witness's opinion as to his characteristics as a judge. There is no charge made here that on the bench he is abusive, as there were in the cases the counsel has cited us to. There is no charge made here that as a judge he is wild and abuses witnesses or attorneys, or that he takes any advantage in that respect of his judicial position. That is not Yet the witness, an attorney representing one of the corporations with whom some of the wrongdoings and misbehaviors are alleged to have been committed, is asked to state his opinion as to his integrity as a judge.

It seems to me, Mr. President, it is so plain on the face of it that it does not need argument and ought not to receive a

moment's consideration.

I would be glad to have Manager Clayton say a few words on the subject. He has given some attention to this particular

branch of the case.

Mr. Manager CLAYTON. Mr. President, it is perhaps unnecessary for me to state the general rules governing the admission of character testimony, and perhaps it is also unnecessary for me to state the questions which have generally been propounded in such matters of inquiry and recognized as proper in places where character is put in issue.

I may say, Mr. President, in the beginning, that we have not controverted the good character of Judge Archbald. Perhaps if we had controverted that a larger range would be permissible for the respondent in reply to that controversy raised by the managers. But the managers have not raised that question.

So, Mr. President, I take it that the rules of evidence are to be applied by the Senate in this case, first, for the purpose of doing justice both to the managers who represent the accusation, the House of Representatives, or the people, if you please, or the Government of the United States, if you please, and of also doing justice to this respondent. Secondarily, and perhaps just as important, these rules are for the expeditious disposition of the cause. It is not to militate against the doing of justice in this case that we raise this question. We say that justice can be done within the rules which permit ordinary questions which are asked in ordinary cases about character and the answers thereto. There is enough latitude in that to do justice to both sides in this controversy, especially to the respondent, where the managers have not assailed his character by introducing evidence for that specific purpose.

Mr. President, the next reason to which I have adverted is for the dispatch of this case. Any rule looking to the speedy termination of this case ought to be enforced unless its relaxation would favor the doing of more ample justice to all parties concerned. In this case I take it that the Senate will consider the respondent as having gotten all he is entitled to when he proves by those who know him the fact that they know him, I

the fact that they know his general reputation and that his general reputation and his character, predicated upon that general reputation, is good. We have not controverted that, and therefore it does not seem to me that there is any necessity here for the enlargement of the rule.

Mr. President, the cases referred to by the learned counsel for the respondent are not applicable here. Of course, we know that there are no two cases alike. I need not remind so good a lawyer as the one who now occupies the chair that there are rarely ever any cases exactly parallel. I have no doubt that the present occupant of the chair, as well as other good lawyers, are frequently wearied by the expression of the small-case lawyers who come into the courts and say that they have a case "on all fours" with the case pending.

That is, Mr. President, hardly ever true. The "all fours" lawyer and the "parallel" lawyer lose sight of the principles involved in the case. The question that a lawyer and a judge wants to know is, not so much what was said in Smith against Jones or Brown against Jenkins, but he wants to know the rea-There may be parity of reason, and that decision may be persuasive by reason of the parity of reasoning and logic enunciated in the particular case which is brought to the attention of the court; but after all, Mr. President, the question is the trial of the case at bar, the particular question at bar. So let us examine these cases to which the counsel has referred.

Take, first, the Belknap case. There is no parity of reasoning here, and if there were, Mr. President, I may say that that was a case decided by the Senate at one time, and counsel might as well invoke the verdict in that case as a precedent for acquittal here as to invoke any other ruling in that case for the

guidance of the Senate here.

There is no reason here for such a claim. We have not charged that while actually sitting on the bench Judge Archbald was guilty of these several misbehaviors. We have charged misbehaviors when he was not sitting on the bench. The whole case is his misbehavior, aside from the discharge of his mere official duties, while actually sitting, to wit, dickering with parties litigant, or probable parties litigant, in the matter of acquiring culm dumps to make money, and so on through the list of charges. The only case which it could be said by any sort of stretch relates to his act as judge on the bench, as I remember the articles, is the appointment of the jury commissioner. It is not even charged that he did that while on the bench; it is not charged that he did that while he was judge of the Commerce Court; but during his incumbency in the office of district judge he appointed a railroad attorney to be jury commissioner.

Mr. President, in the case of Judge Chase, his demeanor on the bench was in issue. Therefore it was perhaps proper to inquire as to his general demeanor on the bench. That comes up to the rule of evidence as laid down in the horn books, Greenleaf and others, that the question of character must be responsive to the particular charge; and that rule invoked, I think, in some of the cases cited.

In this case there is no charge that Judge Archbald demeaned himself with ill-temper or that he was drunk while on the bench or that he was guilty of profanity while on the bench, as there was in the case of Judge Pickering and in the case of Judge Peck. I do not now recall whether the counsel referred

to that as a case in point.

Mr. WORTHINGTON. I cited from the Peck case.

Mr. Manager CLAYTON. In that case the Chair knows that the accusation against Judge Peck was the imprisonment of a lawyer for contempt of court. Mr. President, I fail to see the parallel between that case and this case here. This case here is the conduct of the judge. Every one of the charges, with possibly the exception I have named, relates solely to what this judge did while not sitting as judge.

Mr. President, I do not think it necessary to detain the Sen-I insist that, inasmuch as his good character is not controverted, this range of examination sought here by the counsel is not permissible. If it be permissible, Mr. President, I respectfully suggest that it will be weil-nigh interminable. The Senate will have to end some time or other an examination

so latitudinarian in its scope.

Mr. WORTHINGTON. Mr. President, so far as showing-Mr. Manager NORRIS. Mr. President, is not the discussion on this subject ended now? Is not any further debate out of order under the rule?

Mr. WORTHINGTON. I certainly am surprised to hear that argument made from that side of this Chamber now. There has not been-

The PRESIDING OFFICER. The Chair will hear counsel. Mr. Manager NORRIS. The managers are entitled to the closing, as I understand.

The PRESIDING OFFICER. The Chair will hear the counsel

for the respondent.

Mr. WORTHINGTON. Mr. President, what has been said makes it necessary for me to remind the Senate just in a general way of what these charges are. Besides the charge that Judge Archbald entered into negotiations with railroad companies for the purpose of purchasing their coal property, or some of it, the charge is that he used his influence as a judgethat is the language of the articles-that, being a judge of the Commerce Court and having the cases of those railroad companies pending before him, he used his influence as a judge of that court to negotiate favorable arrangements with them.

As to the Boland note, you will remember that the charge there is that Judge Archbald allowed that note to be taken for discount to persons who had suits pending in his court for the purpose of having it negotiated, for the purpose of getting his

judicial action in their favor.

The charge there is that when So as to the Rissinger note. Judge Archbald sat on the trial of those insurance company cases he had negotiations with Rissinger, and that immediately after the close of the trial he indorsed the note and got something for it, the implication being that he acted in that case in favor of Rissinger and was rewarded for it in that way.

So as to the Woodward appointment, which has already been

referred to, which was clearly a judicial act.

Then remember, Mr. President, the Bruce case. There the charge is that the judge corruptly entered into negotiations with counsel who were on one side of the case after the case had been argued and while the court was considering its opinion—while he was engaged in writing the opinion.

Then, as to the raising of the purse, the charge is that he corruptly received a sum of money from a number of the members of the bar who had cases before him, meaning nothing more nor less than that he received that money with the understanding that those who gave it would benefit by his judicial

action.

If we have not enough there Mr. President, here is the very opening statement made by Mr. Manager CLAYTON, found on page 111 of the record in this proceeding:

In short, Mr. President, he has attempted by various transactions to commercialize his potentiality as judge, and has not hesitated to use his official power and influence to drive bargains with those who had or had or would probably have litigation before his court. He has degraded his high office, has destroyed the confidence of the public in his judicial integrity.

Mr. Manager CLAYTON. May I remind counsel that that was just a conclusion of the statement, not of the articles of impeachment at all, by way of argument or ornamentation to the

manager's address to the Senate?

Mr. WORTHINGTON. The learned manager forgets that is his opening statement to the Senate of what he was going to prove and claim in this trial-and not a quotation from the articles of impeachment—which he now seems to think it is his best policy to say that he has not any idea of proving or

Mr. Manager CLAYTON. I wish the learned counsel for the respondent would accept the view of the law in this case that the manager holds. There would be very little trouble about reaching a conclusion as to the facts if he would assent to my law. I am glad to be quoted with approval by him, Mr. President.

Mr. WORTHINGTON. I would find it very difficult to assent to my friend's judgment of the law, because I would not know whether to take what he said then or what he says now.

Mr. President, the managers have entirely missed the point of the previous impeachment cases from which I have read. read from them for the purpose of showing that you are not limited to evidence of reputation. In each one of those cases the lawyer who testified about the judge was permitted to tell in one case by agreement of the managers and counsel after objection had been made, and in the other by a formal vote of the Senate-his experience with the judge on the trial of cases before him. Now we want to hear from the men who have practiced before Judge Archbald during 28 years what has been their experience as to his being a partial or an impartial, a fair-minded, an honorable, and an upright judge and man.

My friend says that this witness is a member of the bar who has represented some of the railroad companies. That goes to the weight of his evidence, if the managers think that the Senate will be affected by that; but we are to follow this, Mr. President, by a number of other witnesses as to whom no such imputation as that can be made or suggested by anybody; and if the evidence is admissible at all, it is admissible as to every witness who can testify to it. As to the witness's relations with the judge or with railroad companies, that may be argued when we get through as to the weight of the evidence.

Now, I submit, Mr. President, that, in view of the conclusion that may be arrived at in this case and as to which the learned managers have not seen fit to mention anything, and for the reasons formally adjudicated to be sufficient by the Senate in the Belknap case, we ought to be allowed to go into the question of the general characteristics of Judge Archbald, so far as they relate to matters which are under investigation here.

As to the length of time that will be taken, we would have been through, Mr. President, with all that we want to ask on this subject by this time if the learned managers had not made

The PRESIDING OFFICER. The Chair is ready to rule on the question now, unless the managers desire to be heard

further.

Mr. Manager NORRIS. I do not care to be heard if the Chair is ready to rule.

The PRESIDING OFFICER. The Chair will read the question in order that it may appear in connection with the ruling:

Q. Now, Maj. Warren, I want to ask you to tell us, from your long acquaintance with Judge Archbald and your observation of him as a judge, what were his principal characteristics as a judge as to integrity, ability, and industry?

The Chair thinks there is, of course, basis for the contention that rules should be liberal in practice in certain circumstances. Nevertheless, generally the rules of law must be applied. The Chair thinks that the rule generally as to proof of character is, first, that anyone who is accused of misconduct may put in issue his general character, irrespective of what the charge is, because general character always is involved in any question of violation of law or misbehavior. Further, he may put in evidence his character as to the particular quality or characteristic which will elucidate the particular charge. With that view, the Chair thinks it is perfectly competent for the counsel to prove the general reputation of the respondent, as to whether or not he bears a good character in the broadest sense of that term, and also that he may prove his general reputation as to the particular matter involved in issue.

Now, as the Chair understands, the particular matter involved here is a question of judicial integrity. So the Chair would not, if the Senate approves the opinion of the Chair, limit the counsel to proof of reputation for general good character, but would recognize the right of the respondent also to prove his general reputation for judicial integrity. But the Chair knows of no rule of law which permits a witness to give his individual opinion of the character of an accused. If there is any such case, the Chair has failed absolutely to learn of it in such

experience as he has been fortunate enough to have.

This particular question is as to the opinion of the witness himself. If the counsel would limit his question to the witness's knowledge of the general character of the respondent for judicial integrity, the Chair would think that was competent; but this question not only asks the individual opinion of the witness, leaving aside the question of general reputation, but it goes farther and asks for the opinion of the witness, not only as to integrity, but as to ability and industry, none of which characteristics or features are involved, as the Chair understands, in any issue before the Senate at this time. The Chair is, therefore, obliged to sustain the objection to this particular question, but will recognize the right of the respondent to proceed along the lines indicated, with every disposition to be as liberal as the rule will possibly permit.

Mr. WORTHINGTON. Well, Mr. President, I will take the matter up in detail and perhaps we will not have any further

Q (By Mr. WORTHINGTON.) Maj. Warren, are you acquainted with the general reputation of Judge Archbald in that community in which he has been a judge for the last 28 years, as to integrity?—A. I am, sir.

Q. And what is it?—A. Good. I should say, if I might be permitted to amplify that—

Mr. Manager NORRIS. No; Mr. President—
Mr. WORTHINGTON. I do not want—
The PRESIDING OFFICER. The witness will suspend.
The Chair inquires what is the objection?

Mr. Manager NORRIS. Under the ruling of the Chair, as I

understand it, the witness has no right to go on and give his reasons. He has answered the question, and that is as far as he has a right to go on direct examination.

Q. (By Mr. WORTHINGTON.) You say it is good. That

Mr. Manager NORRIS. Mr. President, I object to the witness making any explanation of what the word "good" means.

The PRESIDING OFFICER. The Chair thinks, while the

witness can not make any explanation of it, he can state

whether the reputation of the respondent is moderately good

or very good.

Mr. WORTHINGTON. Or extra good.

The PRESIDING OFFICER. Or excellent.
Mr. Manager CLAYTON. We do not object to an adverb being thrown in.

Q. (By Mr. WORTHINGTON.) Now, particularly as to his judicial honor and integrity, what do you know of his reputation as to that?

Mr. Manager NORRIS. Is not that what the witness has answered?

Mr. WORTHINGTON. I asked him as to Judge Archbald's general reputation, that is, as a man. Now, I am asking the witness as to his reputation for integrity as a judge.

The PRESIDING OFFICER. The former question was as to his general reputation, and this one is as to his judicial integrity. Counsel can inquire as to each, and it makes no difference as to the order.

Q. (By Mr. WORTHINGTON.) I want to ask you particularly as to what his reputation has been during all those years, and is still for integrity as a judge?

The Witness. Do I understand that I must limit myself to one noun or a verb?

The PRESIDING OFFICER. No.

The Witness. I should like to say that it is that of a pains-

The PRESIDING OFFICER. No; stop, Mr. Witness. The witness will answer the question directly as to whether it is good or bad.

The WITNESS. Good.

The PRESIDING OFFICER. He can state how good if he

Q. (By Mr. WORTHINGTON.) I will ask you the question how good it is?-A. Of the highest kind; the best kind.

Q. Now, I ask you a question that may lead to some detail. You contributed to this purse?—A. I have already said that I

Q. That was in 1910?—A. I think in the spring of 1910; yes, sir.

Q. Did you try cases before Judge Archbald after that?—A. I tried two cases before him or was associated in a case before him when he was a member of the Commerce Court after that. I can not recall, but I think I tried a case in the district court in Scranton after that-I am quite sure I did when I come to think of it.

Q. I want to know whether, after you had made that contribution to him, you observed any evidence of partiality in his treatment of you?

Mr. Manager NORRIS. I object to that question as imma-

terial and incompetent.

Mr. WORTHINGTON. This is another proposition. The charge is that Judge Archbald corruptly received the money from these lawyers, which could only mean that he favored them in the subsequent trial of cases in which they were counsel. To dispose of such a proposition as that, after it has been brought out that the judge knew who they were and wrote them letters before he came back home, can I not find out from the gentlemen who contributed to the purse whether, as a matter of fact, he exhibited any favor or partiality to them afterwards, so that we may know whether he received that money

innocently or corruptly, as the charge is?

Mr. Manager CLAYTON. Mr. President—
The PRESIDING OFFICER. The Chair thinks, with the permission of the manager, unless there is a particular charge of the respondent having shown partiality to a particular lawyer or a particular client, that can not be put in issue. It is a general matter only. If there is any charge in the articles of impeachment that the respondent did corruptly show partiality or preference to any counsel or to any litigant, then, of course, that would be a matter to be proven by a specific denial.

Mr. WORTHINGTON. How could he receive it corruptly except on the understanding that the judge was to give favors

for it when counsel came before him in the trial of cases?

Mr. Manager NORRIS. Mr. President, one way to show that he did not grant favors, and to show that that is not true, is to show that he did not receive it. I submit to counsel that that is the best way to show it, if such is a fact. I can not understand, Mr. President, why this witness should be allowed to state that after he had made that contribution he had received any different treatment than he had before, unless there is somewhere in some article an allegation that such had been the case.

The PRESIDING OFFICER. The Chair has already ruled that it is not admissible.

Mr. Manager NORRIS. Then, I have nothing further to say.

Mr. OLIVER. Mr. President, I desire to submit a question. The PRESIDING OFFICER. The Senator from Pennsyl-

vania submits a question, which will be read to the witness by the Secretary.

The Secretary read as follows:

What was the result in the cases which you argued before Judge Archbald after your contribution to the fund?

Mr. WORTHINGTON and Mr. Manager CLAYTON addressed the Chair.

The PRESIDING OFFICER. Counsel will proceed.
Mr. WORTHINGTON. Mr. President, I object to that question being answered, unless I am allowed to pursue the inquiry which I had propounded to the witness.

The PRESIDING OFFICER. If the manager rose to object,

the Chair did not have opportunity to hear him.

Mr. Manager CLAYTON. The Chair has anticipated my

purpose. The PRESIDING OFFICER. No; the Chair did not antici-

pate the manager. Does he desire to reply to the suggestion of counsel?

Mr. Manager CLAYTON. I understood the Chair to say that the manager probably had risen to object. If I was in error and perhaps I was—I may say, Mr. President, on my own responsibility that I did rise for the purpose of interposing objection to that question. It involves the same legal proposition, the way I view it, which was involved in the question awhile ago on which the Chair ruled. I think the Chair was correct; and for the same reason, without arguing it, I think this question is objectionable.

The PRESIDING OFFICER. Does the counsel for the re-

spondent wish to be heard on the question?

Mr. WORTHINGTON. On consultation with my colleagues, withdraw my objection to the question being answered. The PRESIDING OFFICER. The Chair thinks the question

is inadmissible on the same ground that the other question was ruled out.

Mr. WORTHINGTON. Very well.
Q. (By Mr. WORTHINGTON.) Do you know Mr. Woodward, the jury commissioner who was in that position so long?—

ward, the jury commissioner who was in that position so long:—
A. I have known him for many years.
Q. Has there been any complaint, so far as you know—
Mr. Manager NORRIS. Mr. President, I would respectfully ask that counsel ask his questions so that I can hear them. I can not hear his questions. He has his hand over on this side of his face, and I can not hear what he says.
Mr. WORTHINGTON. I will keep my hand away.
Mr. Manager NORRIS. What was the question?
Mr. WORTHINGTON. I was about to ask the witness whether he observed during the time Mr. Woodward was commissioner any unfairness or complaint of unfairness as to the

missioner any unfairness or complaint of unfairness as to the juries which were drawn in that way under his administration?

Mr. Manager NORRIS. I object to that as incompetent, im-

material, and irrelevant.

The PRESIDING OFFICER. The Chair sustains the objection, unless counsel desires to be heard.

Q. (By Mr. WORTHINGTON.) What was the reputation of Judge Archbald generally as to—
Mr. Manager NORRIS. I object to that question as having

already been gone into and answered.

Mr. WORTHINGTON. Mr. President, if the manager knows what the question was, he knows more than I do, because I had not completed it.

Mr. Manager NORRIS. Under that confession, Mr. President, I think he ought to be precluded from asking any further ques-

The PRESIDING OFFICER. Counsel will proceed.

Q. (By Mr. WORTHINGTON.) I want to ask you what generally was the reputation of Judge Archbald during the time he was a Federal judge there as to the fair and impartial adminis-

tration of the duties of his office?

Mr. Manager NORRIS. Objected to, as already having been answered.

Mr. WORTHINGTON. That goes a little further, it seems to me, Mr. President, than what the witness has yet stated. That involves what all these charges relate to, the general fairness of his administration of the duties of his office. The witness has said that Judge Archbald's reputation for integrity is good, and there I had to stop. Now, a man might have a reputation for being a moral man, and yet it might be said that he did not properly or fairly administer the duties of his judicial office. The managers disclaim charging that he ever did anything in his judicial capacity that was not entirely right and proper, but at the same time all their charges relate to his judicial influence or his judicial action outside of court.

Mr. Manager NORRIS. Mr. President, I do not care to take up the time of the Chair to argue over again a question which I am under the impression has been determined by the Chair

and which the witness has answered.

The PRESIDING OFFICER. The Chair would say that the question should be limited to the matter of judicial integrity and not to the manner in which he dispatched business or attended to the business of his court.

Mr. WORTHINGTON. Very well, Mr. President, that is all

I have to ask Maj. Warren.

Cross-examination: Q. (By Mr. Manager NORRIS.) How long have you lived

in Scranton?—A. I was born there.
Q. You have known Judge Archbald all your life?—A. I have known him since I was about 10 years of age. I think perhaps I ought to say I have lived there 53 years. That is the length of my life. In other words, I am in my fifty-fourth year.
Q. You have lived there——A. I have lived there all my life;

but I did not quite answer your question. I have lived there

nearly 54 years.

Q. You are still living there?—A. I am, sir.

Q. Mr. Warren, did you hear any talk in and about Scranton among people who know Judge Archbald about his association with Edward J. Williams?-A. Well, I-

Mr. WORTHINGTON. Go on.

The WITNESS. I am glad to answer it. Yes, sir.

The PRESIDING OFFICER. The Chair thinks that counsel for the managers should be limited in the application of the rule in the same way that the rule is enforced on the re-

Mr. Manager NORRIS. Well, Mr. President, of course the

question itself perhaps does not bear directly—
The PRESIDING OFFICER. No; the question is not a The PRESIDING OFFICER. No; the question is not a legal question. The proper question is simple. The counsel is limited in the inquiry as to the opportunity of this witness to know the general character and also as to the witness's sincerity in his testimony—his opportunity and his truthfulness. That is the limitation. Those are the only two lines of questions. tions that are admissible.

Mr. Manager NORRIS. I do not know that I understand. I do not want to violate the injunction of the Chair, of course, and I will ask that the question be read, so that we may get

the idea of the Chair.

The PRESIDING OFFICER. The Chair thinks the rule of law is this: Proof of general character must depend upon the general reputation of the party. Then, the other side are limited to questions of the witness's opportunity to know the fact and his truthfulness in stating the fact.

Mr. Manager NORRIS. Does the Chair mean to hold by that I am precluded from asking the witness as to specific acts that have developed in evidence or have not developed in evidence to which I want to call his attention and ask him if

he has heard of them?

The PRESIDING OFFICER. Only in so far as it will eluci-

date the question of his general character.

Q. (By Mr. Manager NORRIS.) Mr. Warren, have you heard any talk in the neighborhood where Judge Archbald resides in regard to his association with various persons in buying coal dumps and using his influence as a judge to dispose of them or to purchase them?-A. I have never heard in my life any talk in that community of Judge Archbald using his influence as a judge—the potentiality of his office—either to buy or sell culm dumps or any other thing.

Q. Have you heard any talk in that community about Judge Archbald being associated with Mr. Rissinger in a Honduras mining scheme at the time litigation was pending in his court to which Rissinger was a party?-A. I have read of the testimony that was taken before your Judiciary Committee as to that transaction. I think it is the transaction to which you

Q. Well, please answer my question. That is not an answer to my question. That is not a question.—A. Do you mean to say, have I heard it discussed?

Q. Yes.—A. As reflecting upon the judge?

Q. Whether it is reflecting or not; have you heard it discussed?—A. I happened to know of the discount of a note—

Q. That is not an answer to my question. Please answer the question .- A. Yes; I have. As director of the County Bank, of which I have been a director for 15 years, I remember a note being presented to our board for discount. I heard, therefore, of a discounted bill, Judge; but that is the only thing I ever heard about it. If that is what you mean—I am trying to answer

you—I never heard of it in any other way than that.

Q. Have you heard any talk in Scranton as to Judge Archbald's connection with the Amity Coal Co.?—A. I have. I was counsel in the case. I imagine you have the book before you. I was counsel in the case against Judge Archbald. So, of

course, I know of that. The firm of which I was a member brought suit for the live stock company. You have the re-

Q. You are familiar with what the supreme court said in that case?—A. I argued it in the supreme court and I am familiar, yes, with the two opinions. It was reargued and there were two decisions, or two opinions filed, I should say, by our supreme court.

Q. By Mr. Justice Williams?—A. Mr. Justice Williams; yes,

sir.

Q. You are familiar with both of them?-A. Quite so. I got

them as soon as they were handed down.

Q. Now, Mr. Warren, did the facts as they developed in that case, as they are cited in these two opinions, have any effect on you or on your mind as to his reputation for general integrity and honesty in that community?—A. They did not, Judge. The supreme court, if the opinion is before you, took pains to

say that there was nothing in the case to indicate

The PRESIDING OFFICER. The Chair is compelled to interpose. The witness is not permitted, under the rules, unless the Chair is in error, to discuss particular cases. The manager is justified in asking whether or not he heard of certain things as matters of general reputation. That is proper for the purpose of testing whether he has in good faith answered a question previously propounded to him; but in a particular instance, as to the effect it had upon the mind of the witness, that is not a legitimate question, in the opinion of the Chair. That would only be admissible to show the effect upon the general opinion of the community, as to whether or not he was correct in his general unlimited statement with respect to the general reputation of Judge Archbald.

Mr. Manager NORRIS. Mr. President, I desire to ask the witness whether he heard any talk in the neighborhood about particular parts of this opinion, which I desire to read to the

The PRESIDING OFFICER. That would be legitimate. But the Chair understood the manager to ask the witness's opinion as to the effect upon his mind. The effects upon the community is a different thing.

Mr. WORTHINGTON. If the opinion is to be read, I object to reading excerpts and insist that the whole opinion should be

Mr. Manager NORRIS. In answer to that I will say we offer now, as part of the cross-examination of this witness, the two opinions rendered in that case by Mr. Justice Williams, of the Pennsylvania Supreme Court.

Mr. WORTHINGTON. We have no objection, understanding that it is as to its effect upon the general public. We understand that this is to be read, but as we understand the Chair, only for the purpose of showing its effect upon the general reputation of Judge Archbald for integrity as a man and as a

The PRESIDING OFFICER. Yes.
Mr. WORTHINGTON. Very good.
Mr. Manager NORRIS. I think it bears directly on it. will not have the opinions read now but will have them printed for the information of the Senate, unless some one desires them read now, and all Senators can read them in the RECORD.

The opinions referred to are as follows:

The opinions referred to are as follows:

Hill, Keiser & Co. v. S. N. Stetler et al. Error to the court of common pleas of Lackawanna County.

Argued February 23, 1888. Decided April 2, 1888.
Reargued February 25, 1889. Affirmed May 29, 1889.
Pennsylvania State Reports, 127, Crumrine, 12, 1889, page 145.
Opinion, Mr. Justice Williams:

The defendants are sued as partners. They claim the immunity from liability as individuals which the act of 1874 confers on persons associating themselves in a joint stock or limited partnership association, alleging that they have fully compiled with its provisions. This is the question on which the plaintiffs' right to recover depends. The court below held that the organization of the Amity Coal Co. (Ltd.) had been in full compliance with the provisions of the statute, and that the only remedy of the plaintiffs was by action against the association, and then against the stockholders severally for the amount unpaid upon their stock subscriptions. A compulsory nonsuit was accordingly entered against the plaintiffs which the court declined to take off, and this action of the court is the error assigned.

The act of 1874 provides that when persons "desire to form a partnership association for the purpose of conducting any lawful business" by subscribing and contributing capital thereto, which capital shall alone be liable for the debts of such association, they shall make and subscribe to a statement in writing, in which they shall set forth, among other things, the full names of the persons so associating themselves together; "the amount of capital stock of said association subscribed by each, the total amount of capital, and when and how to be paid." In section 2 it is provided that the members of the association until the joint property has first been exhausted, and then only to the extent to which they may be indebted upon their subscriptions to the capital stock. To the end that the subscribers may be protected and their liability kept within the prescribed limits, no executio

to be affected, and after full hearing, fixing the amount due upon his subscription and awarding the writ. In order that this question may be disposed of correctly, the act requires every such association to keep a "subscription-list book" that may be produced in court, and that shall be "open to inspection by the creditors and members of the association at all reasonable times."

The Amity Coal Co. (Ltd.) was organized by three persons, viz. Stetler, Fuller, and Archbald, who subscribed and acknowledged the statement in due form. This statement set out the following facts for the information of the public: "The amount of the capital stock of said association is \$22,600 payable in lawful money on the execution hereof." The persons subscribing to the stock and the amount set he said Robert W. Archbald subscribes for \$8,000, and the said Robert W. Archbald subscribes for \$8,000, and the said Robert W. Archbald subscribes for \$8,000, and marketing of anthractle coal, together with all matters incident finerio." This statement followed the act of assembly, and as to its form was entirely regular, but the proofs show that not one dollar was paid by either of the subscribers to the stock. It was, nevertheless, recorded, and the Amity Coal Co. (Ltd.) entered upon its business career without a farthing in its treasury or an arricle of property in the world. This was not a compliance in good faith with the critique of the subscribers to the stock. It was, nevertheless, recorded, and the Amity Coal Co. (Ltd.) entered upon its business career without a farthing in its treasury or an arricle of property in the world. This was not a compliance in good faith with the critique of the subscriber of the subscriber of property in the world. This was not a compliance in good faith with the critique of the subscriber of property in the world. This was not a compliance in good faith with the critique in the provided for a capital of \$25,000, which was made payable on the credit with a provided for a capital of \$25,000, which was ma

the create of a capital that is actually withheld. They are not entitled. In other words, the credit they obtain rests not upon a subscribed and contributed capital, but upon a fraudulent appearance of such capital in their statement.

We do not hold it necessary to a valid organization that the entire subscribed capital should be paid into the treasury before an association can begin business. The act of 1874 contemplates the possibility of unpaid balances and provides a method by which creditors may reach them; but we do hold that an association has no right to enter upon business until some part of the subscribed capital has been actually paid. The statement should show when and in what amounts the subscriptions are to be paid, and the subscription-list book should thereafter show the payment or the failure to pay the installments falling due after the recording of the statement, so that members and creditors may see at any time the exact situation of the association. These are the terms upon which the statute promises individual immunity from the debts of the concern, and they must be compiled with fairly and honestly. Where persons seek the benefits of an act of assembly they must take them upon the terms which the act prescribes or not at all. In Malony v. Bruce 194 Pa., 232) Paxson, judge, said: "If parties seek to have all the advantages of a partnership and yet limit their liability as to creditors, they must comply strictly with the act."

Under the limited-partnership act of 1836 the same rule was repeatedly held: Richardson v. Hong (38 Pa., 153), Guillou v. Peterson (89 Pa., 163). The recent case of the appeal of the Hite Natural Gas Co. (Ltd.) (118 Pa., 436) is very nearly in point. In the recorded statement Hite's subscription for \$50,000 of the capital stock was stated to be paid by the transfer to the company of the right of way for the pipellne, etc., when in fact the right of way had not been procured. This was a false statement as to the manner in shich the association had been complied with

ganized in disregard to the act of 1874, doing business without a capital and as a matter of speculative adventure. It was an empty shell, a sham, and Mr. Strong's position is the same as if he had bought into any other insolvent firm. He did not become liable for debts contracted before he became a member, but for debts contracted afterwards, he and his associates are liable as partners. Mr. Strong's honest payment for his interest can not cure the vice which infected this association from its organization or relieve him from the legal consequences of his connection with an insolvent firm.

Judgment reversed and venire facias de novo awarded.

On May 14, 1888, a reargument of the foregoing cause was ordered on motion of the defendants.

Mr. Everett Warren and Mr. J. Vaughan Darling (with them Mr. Edward N. Willard and Mr. Charles H. Welles) for the plaintiffs in error.

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Opinion, Mr. Justice William Strong; for the defendants in error.

Opinion, Mr. Justice William Strong; for the defendants in error.

Opinion, Mr. Justice Williams:

The persons composing a partnership may agree with each other to invest a certain fixed sum each in the common venture, and no more. Such an agreement may limit the interest of each in the property and profits of the firm, but it will not limit the liability of any for the firm debts. Each member will be liable individually for the entire indebtedness of the firm. The act of 1874 was passed to relieve against the risk and inconvenience attending general partnerships by providing a mode by which individuals might invest a fixed sum in a business enterprise without Hability to loss beyond the sum of the Chronoces by which this new organization is brought into business existence is plainly laid down in the statute. Three or more persons may agree to form such an association. They must put their agreement in writing, in the form not of a contract with each other, but of a certificate for the information of the public. This must be signed by every member of the association, and, as a further assurance of its truth, it must be acknowledged by them. It must set out, among other things, the names of the persons uniting in the enterprise and the amount subscribed by each member, and a has been prepared, signed, and acknowledged, and when the partnership in the certificate in the common business, but through and in the name and upon the credit of the joint-stock association. When the association is ready to be called into life by the organic act, the recording of the certificate, and acknowledged, and when the partners in the common business, but through and in the name and upon the credit of the joint-stock association. Henceforwa

argument, has not persuaded us that we were in error in the views then expressed.

Turning now to the facts of this case, they seem to leave us no alternative under the salutary rule laid down. This certificate, when prepared, put the capital stock at \$25,000. It gave the names of the subscribers and the amount of stock subscribed by each. In obedience to the statutory requirement to state when and how the subscribed stock was to be paid, it stated "to be paid on the execution hereof."

Now, the first thing to be done was to execute the certificate. After that was done, it was to be acknowledged as an assurance of its truth; then it was to be recorded as the certificate of those signing it, made to the public, that its provisions had been compiled with. The recording of the certificate was therefore a distinct affirmance that the capital to be paid on its execution had been paid and that the association was entitled to the credit which its capital should command. The fact was, however, that neither of the stockholders paid one cent on the execution of the certificate, nor at its acknowledgment, nor when it was recorded, nor yet when they began business in the name of the association.

It is useless to argue that such conduct is a compliance with the requirements of the fact as they appear upon this record. The case goes back for a new trial. If upon such trial, with attention directed to this point, a different showing is made and the facts necessary to a legal organization are made to appear, the case may be taken out from the operation of the rule; but, on the facts before us, we hold that the subscribers to the stock in this association, by reason of their disregard of the law under which they attempted to organize, acquired no rights under it, but became liable as general partners for all the dobts contracted in the name of the association. Nor do we see our way clear to relieve one who bought an interest in the concern months afterwards and honestly put his money into its business. Like one buying into an

the organization and condition of the concern in which he was about

The order heretofore made reversing the judgment of the court below remains in full force.

Mr. Chief Justice Paxson and Mr. Justice Mitchell dissent.

Q. (By Mr. Manager NORRIS.) Now, Mr. Warren, I will ask you if you heard any talk in the community in reference to this particular statement contained in Mr. Justice Williams's opinion, commencing at the bottom of page 157.

Mr. WORTHINGTON. I certainly shall object to that—reading from a particular statement in a particular case.

Mr. Manager CLAYTON. We are going to print it all, and you can read it all then.

The PRESIDING OFFICER. The Chair understands the manager to inquire of the witness whether he heard any general talk in the community about it. That, I presume, is for the purpose of testing the former testimony as to the character of this respondent.

Mr. Manager NORRIS. I think it bears directly on this witness's statement that the respondent's reputation is good.

The PRESIDING OFFICER. Whether it establishes what the witness has previously testified to or controverts it.
Mr. Manager CLAYTON. Or tends to do so.

The PRESIDING OFFICER. And for that purpose only. It is not evidence as to the truth of what is therein stated. The manager is authorized to propound that question for the purpose of ascertaining whether that was a matter of common knowledge and comment in the community.

Mr. Manager NORRIS (reading):

The Amity Coal Co. (Ltd.) was organized by three persons, viz, Stetler, Fuller, and Archbald, who subscribed and acknowledged the statement in due form. This statement set out the following facts for the information of the public: "The amount of the capital stock of said association is \$25,000, payable in lawful money on the execution hereof."

Then the justice, in commenting upon that, concludes quite a

lengthy discussion by saying:

To enter upon business with the credit which the possession of a paid-up capital of \$25,000 would give the association, when in fact nothing had been paid, either in money or property, was an evasion of the law and a fraud upon the public.

Did you hear any discussion among the people of Scranton as to that particular part of the opinion of the supreme court?—A. I heard a discussion with reference to it among some of the members of the bar. I can not recall that I ever heard it spoken of generally in the community. I heard dis-cussion, that it was thought that Judge Archbald had a mistaken conception. Those articles, you will recall, were found way back in 1881 or 1882. If the case is before you, I think you will find that it has been 25 years since the case was decided. I may be mistaken, but I think it was in 1887 or 1888.

Q. Well, it was during the time you have known him about which you have testified as to his reputation?—A. Permit me to finish saying what I heard discussed.

Q. I do not care for that .- A. Will you not be fair enough

to let me finish?

Q. I am willing you should do that, but you were not doing -A. Let me finish one sentence, please. I was trying to say that I heard it discussed. It was when Judge Archbald was a practicing lawyer that he drew those articles, and I remember discussion among some of the lawyers that he had not properly prepared the articles; that he had been mistaken in his conception of the statute of 1874, under which they were framed.

Q. You will not answer my question. I asked you whether you heard any discussion about this particular language of the opinion which I have read. I did not ask you whether you had heard discussion about the organization of the company.—A. Did I not say that I had heard discussion among some of our lawyers, but that I did not think I had in the community generally?

Mr. Manager NORRIS. If that is as far as you know, that is

where you ought to have stopped.

The Witness. I beg your pardon. I wanted to say what the discussion was.

The PRESIDING OFFICER. That is as far as the witness should go. The Chair thinks all the narration of the witness should be excluded from the record.

Q. (By Mr. Manager NORRIS.) You are a member of what

firm?—A. Warren, Knapp & O'Malley.
Q. Your firm is attorney for the Lackawanna Railroad?—A.
We are not the local attorneys for the Lackawanna Railroad,
but we represent them in most of the important cases in our county. They have their own local law office there, with Mr. Reese in charge. He has been a witness here, I think. He is their local counsel and he has a staff of assistants.

Q. You are acquainted with Mr. Jenney?—A. Very well. He

is the general counsel of the company in New York.

Q. You are aware that he testified in this proceeding that your firm were the local attorneys of this company?

Mr. WORTHINGTON. We are taking up a great deal of time in recounting the testimony of other witnesses.

The WITNESS. Not at all. I am not aware of that, although

he may have said it.

Q. What was the truth about it?-A. I just tried to say that they had their local law department there, of which D. R. Reese is in charge as general attorney for Pennsylvania, located at Scranton. He has two assistants there. A Mr. Oliver and a gentleman whose name has gone from me for the moment, associated as the legal department for the company; but in the trial of cases in our county I have appeared in most, but not all, of their important cases for the last 10 years. Prior to the organization of the local law department, say, about 10 years ago, we were the local counsel.

Mr. Manager NORRIS. That is all.

Redirect examination: Q. (By Mr. WORTHINGTON.) I think you have not stated what, if any, effect that opinion or the extracts from it which were read had upon the general reputation and standing of Judge Archbald in the community as a man of integrity and as an honest judge.

Mr. Manager NORRIS. Mincompetent and immaterial. Mr. President, I object to that as

Mr. WORTHINGTON. I understood the Chair to rule that that was the only purpose for which it was to be referred to; and it seems to me that is so-

Mr. Manager NORRIS. What effect it would have is not for

the witness to determine, it seems to me.

The PRESIDING OFFICER. General opinion is made up of the aggregate of individual opinions. It is competent for counsel to show, if he can, anything which would go to show it was not the universal opinion, but the opinion of the witness himself would not be competent.

Mr. WORTHINGTON. I am not asking for his opinion. am asking him what he observed as to the effect of that opinion upon the reputation of Judge Archbald as an honest judge and

as an honest man.

Mr. Manager NORRIS. Well, Mr. President, if that is competent, the same question could be propounded about every particular item that would go to make it up. Now, that is not for a witness to determine, as I understand-as to just how much

The PRESIDING OFFICER. The witness has testified without qualification that Judge Archbald's character was of the very best and has not qualified that statement. That is as far

as it is necessary for him to go.

Mr. Manager NORRIS. It is understood that at this point in

the proceedings

Mr. WORTHINGTON. May Mr. Warren be finally discharged?

Mr. Manager NORRIS. Just a moment. I forgot one thing I wanted to ask on cross-examination.

Recross-examination:

Q. (By Mr. Manager NORRIS.) Mr. Warren, you were a contributor to this fund?—A. Yes; I said that.

Q. How much did you contribute?—A. My recollection is \$25.

To whom did you contribute it?-A. As I remember it, I sent it to Mr. Searle, who, I believe, is now Judge Searle, but who at that time was assistant district attorney at Scranton.

Q. Did you send anybody's else contribution besides your own?-A. Come to think, I think our contribution was by a firm check. I remember now; I think it was a firm check.

Q. Have you not the Searles mixed; did you not make that contribution to the Searle who was clerk of the court?-A. You mean send it to him?

Q. Either send it or give it to him?—A. I did not send it at all. My recollection is that Mr. Knapp, or some one of our office force, was phoned to by, my recollection is, Judge Searle, not E. R. Searle, the clerk, and that some one, our messenger boy or some one, took it over. That is my best recollection.

Q. You knew, did you not, that Mr. Searle was collecting the contributions in Scranton and that he lived there?—A. I know that he had been asked by us to do the work of phoning around. I do not know the extent he did it; no.

Q. Did he turn any money over to you?-A. Not a cent; no, sir.

Q. You do not remember whether your contribution was turned over to him or to Judge Searle?-A. I will not say positively, but my best recollection is that it was sent over to the man who is now Judge Searle. In other words-

Q. Did you get an acknowledgment of it from anyone?—A. Yes, sir. That is, I got a letter from Judge Archbald. My impression is now it was written on the steamer—I am not sure about that-some time afterwards. That is the only acknowledgment I got.

Q. When you contributed the money you understood it was to be a cash purse to be given the judge?—A. Oh, quite so; yes, sir.

Q. You had no idea it was a contribution for the purpose of defraying the expenses of a dinner?—A. That was the first talk between Mr. Sprout, a lawyer, and myself. There were others, but I remember Mr. Sprout. It was thought we could not very conveniently get a very large proportion of our bar to go to New York, and then it was thought it would be a good idea to put it in the form of a purse. But it was never for a moment supposed that the names of the contributors would reach the judge. It was affirmatively said by some, "Now, we do not want him to know who are the contributors," because we had a realization of his sense of the proprieties.

Mr. Manager NORRIS. This is all.

Mr. SIMPSON. The witness may be finally discharged.

The PRESIDING OFFICER. The witness may be finally discharged.

TESTIMONY OF GEORGE GRAY.

George Gray, being duly sworn, was examined and testified as

Q. (By Mr. SIMPSON.) What is your profession?—A. My profession is that of a lawyer.

Q. You are now occupying what official position under the United States?—A. Circuit court judge of the United States for the third judicial circuit.

Q. You are the president judge of the circuit court of appeals of that circuit?-A. Yes, sir.

Q. Do you know Judge Archbald?-A. Yes.

Q. How long have you known him?—A. I have known him since—I do not know the date when he was appointed district

judge, whenever that was.

Q. That was in 1901, the evidence shows .- A. Shortly after that—I do not know how long—he was assigned, either generally or specially, to sit on the bench of the court of appeals in the absence of the circuit judge. I met him then, and I have met him at intervals since when he has been assigned to similar duty.

Q. Do you know other people who know him?-A. I do.

Q. Will you tell us, please, what is his general reputation for honesty and integrity?

Mr. Manager NORRIS. Mr. President, I think the question

ought to be limited to some locality.

Mr. Manager CLAYTON. And ought to be brought within the knowledge of the witness, too. The witness has not said that he knows the respondent's reputation.

Mr. SIMPSON. I think that the witness has already said

that he knows his general reputation.

The Witness. No.

Mr. SIMPSON. I beg your pardon. I was intending to ask him that. I will put it directly.

Q. (By Mr. SIMPSON.) Do you know his general reputation

for honesty and integrity?

Mr. Manager NORRIS. Now, Mr. President, I submit that the question ought to state where. His reputation in San Francisco might depend on an entirely different thing from his reputation in the community where he lives

Mr. SIMPSON. This is a very, very little world of ours, after

all, as Mr. Manager Norris knows.

The PRESIDING OFFICER. Frame the question as you

wish to put it.

Q. (By Mr. SIMPSON.) I will put the question this way: Do you know his general reputation for integrity and honesty in the circuit covered by the third judicial circuit?—A. I never heard it discussed. I never heard any aspersion on it.

Q. Will you please tell us what is his reputation for integrity

and partiality as a judge, if you know?

Mr. Manager NORRIS. I object to that as incompetent. The witness has already disclosed that he does not know.

Mr. SIMPSON. He has not disclosed that. I understood him

to say that he knows.

Mr. Manager NORRIS. He said he has never heard it discussed.

The PRESIDING OFFICER. The Chair thinks, however, that the question transcends the limitation. The witness is asked the question as to his impartiality. The Chair thinks it ought to be limited as to his reputation for integrity as a judge.

Mr. SIMPSON. I will withdraw that word. I thought the Chair had allowed that question—

The PRESIDING OFFICER. No.

Q. (By Mr. SIMPSON.) Will you tell us, please, what is his general reputation as a judge for integrity?

Mr. Manager NORRIS. He has not yet said he knew. Counsel has not qualified him.

The PRESIDING OFFICER. The question ought to be preceded, of course, by the question whether he knows his reputation.

Mr. SIMPSON. I do not mind so preceding it, but the witness has already testified that he sat with Judge Archbald on the

bench a number of times.

Q. (By Mr. SIMPSON.) Judge, do you know his reputation for integrity as a judge?-A. I know he has a reputation of

being a judge of integrity.
Mr. Manager CLAYTON. If the Chair please, I do not wish to transcend the rule as laid down by the Chair, but I desire, if permissible-and I rise for the purpose of inquiry before I propound a question—to ask Judge Gray several questions which, of course, relate to the conduct of Judge Archbald in certain matters. I desire to ask him if a judge were guilty of those things it would be in keeping or in consonance with judicial integrity

The PRESIDING OFFICER. The Chair would not recognize

the propriety of those inquiries.

Mr. Manager CLAYTON. Very well, Mr. President.

Cross-examination:

Q. (By Mr. Manager CLAYTON.) Judge Gray, how often have you heard Judge Archbald's character discussed by any--A. I could not tell you, Mr. Manager.

Q. Did you ever hear his character discussed at all before the inception of these impeachment proceedings?-A. I never heard his general character discussed before the commencement of these impeachment proceedings.

Q. Did you ever hear his general character for integrity as judge discussed before these impeachment proceedings?

I have heard his character as a judge discussed or spoken of. Q. Will you be kind enough to tell us by whom and where?-

A. No; I can not, Mr. Manager; I can not. Q. What was said?-A. I have heard him spoken of as a good judge.

Q. You do not recall now who you heard say that, or when

or where he said it?—A. No; I can not.
Q. Or the reason that led to that declaration?—A. I have never heard his general character discussed.

Q. At all?—A. At all.
Q. At any time?—A. At any time. I do not think an honest man generally has his character discussed.
Q. Did you ever hear, in any talk about his character, anything said about his dealings with people for the acquisition of coal dumps, and the like of that?

You was proportionally and the property of the strouble.

WORTHINGTON. You mean before this trouble Mr.

came up?

Mr. Manager CLAYTON. Yes.

The WITNESS. Never.

Q. (By Mr. Manager CLAYTON.) Of course, I assume that everybody who reads the newspapers has heard something about it since the inception of this case. Did you ever hear, when you heard his character mentioned, anything said about the case of Hill, Keizer & Co. against S. N. Stetler?

Mr. SIMPSON. Mr. President, I think that is within the ruling of the President. The witness has already said that he

never heard his character discussed at all.

Mr. Manager CLAYTON. Mr. President, I am doing it for the purpose of refreshing the witness's mind and drawing his attention to a particular matter of public notoriety, and asking

the witness if he had heard that matter mentioned.

The PRESIDING OFFICER. The manager will proceed.
Q. (By Mr. Manager CLAYTON.) This case is reported in the Pennsylvania State Reports, volume 127, the title of which I have just read you. Did you ever hear any mention of his character and a discussion of that case in regard to it?-A. I can not say, Mr. Manager, that I did. I do not know that case by name. I ought to say, perhaps, that at the time Judge Archbald was appointed to the Commerce Court I did hear some one speak of a case in which he had been animadverted on by a judge of one of the courts of Pennsylvania—the supreme court or some other court. I never saw the case, but the person who spoke of it said that it had done great injustice to Judge Archbald; that it was entirely undeserving.

Q. Who was the person you have just referred to?-A. Judge

Buffington.

Q. Who is Judge Buffington?—A. A circuit judge of the third judicial circuit.

Q. Of the State or country?-A. He is of Pennsylvania, sir. I must say that was no conversation about it. It was just an allusion to the case, and Judge Buffington expressed himself as I have just stated and seemed to be familiar with the facts of

Mr. Manager CLAYTON. Now, Mr. President, may I propound to the witness a further question and read the statement

which Mr. Manager Norris read to the other witness?

The PRESIDING OFFICER. The Chair would ask whether

it goes to the question of reputation?

Mr. Manager CLAYTON. That is the purpose. [To the witness:] This is from the opinion in the case, and I desire to direct your attention to it so that it may refresh your memory as to whether or not you heard Judge Buffington refer to this

The Amity Coal Co. (Ltd.) was organized by three persons, viz, Stetler, Fuller, and Archbald, who subscribed and acknowledged the statement in due form. This statement set out the following facts for the information of the public: "The amount of the capital stock of said association is \$25,000, payable in lawful money on the execution hereof." The persons subscribing to the stock and the amount subscribed by each was stated as follows: "The said Samuel N. Steller subscribes for \$8,000, said Edward L. Fuller subscribes for \$8,000, and the said Robert W. Archbald subscribes for \$0,000."

Then the court goes on:

Then the court goes ou:

The fair import of the language of the statement that the subscribed capital was payable "on the execution hereof" is that it was to be paid down, and the subsequent recording of the statement is an assertion that the subscribers have performed their promise and paid their subscriptions into the treasury. To enter upon business with the credit which the possession of a paid-up capital of \$25,000 would give the association, when in fact nothing had been paid, either in money or property, was an evasion of the law and a fraud upon the public.

Did Judge Buffington direct your attention to that language used by the Supreme Court of the State of Pennsylvania?—A. I never saw that case or heard what you have just read, Mr. Manager. I only assume that it must have been that case to which he referred. He spoke of it as having been used by some one in aspersion of his character.

Mr. WORTHINGTON. May I ask the manager whether in

justice and fairness he ought not to read the next sentence and

not stop where he did?

Mr. Manager CLAYTON. We have had the whole opinion printed in the record, but I have no objection to reading it all except that it would take time.

Mr. WORTHINGTON. I think the next sentence qualifying what has just been read ought to be read before the Senate in the same connection. Let me read it, if you will not.

Mr. Manager CLAYTON. Very well; I will read the whole opinion.

Mr. WORTHINGTON. Only the next sentence that qualified what you have just read.

Mr. Manager CLAYTON. I read as follows:

To enter upon business with the credit which the possession of a paid-up capital of \$25,000 would give the association, when in fact nothing had been paid, either in money or property, was an evasion of the law and a fraud upon the public.

In saying this we do not impute an intention to defraud or reflect upon the motives of the gentlemen by whom the Amity Coal Co. was organized.

Mr. WORTHINGTON. That is what I wanted read.

Mr. Manager CLAYTON. Of course very naturally the Su-

preme Court wanted to qualify what it said.

Mr. WORTHINGTON. Mr. President, I object to argument.

The PRESIDING OFFICER. The Chair has grave doubt of the propriety of reading extracts from that case except so far as it may be intended to show what was generally known to the

Mr. Manager CLAYTON. That is the fact, and I merely desire to know of the witness, and I read it solely for the purpose of knowing, whether Judge Buffington, who was a judge in Pennsylvania, had directed the attention of the witness to that case or if anything was said about it.

The PRESIDING OFFICER. But the witness's own opinion

is not a matter in controversy.

Mr. Manager CLAYTON. I am not asking for the witness's opinion, but he has referred to a conversation he had with Judge Buffington, and I am merely asking him, on cross-examination, if Judge Buffington said anything about that particular matter. I think it is entirely a proper question. What did I

understand the witness to say?

The WITNESS. I never read that case, and, of course, not the language that has just been read by the manager, nor did I ever hear it read. I heard only just what I have said, that Judge Buffington spoke of that case as having been brought up by some one when Judge Archbald was appointed to the Commerce Court: and he said to me that he knew all the facts in the case, and that in his opinion there was nothing in it. That is the only time I ever heard any allusion to what I presume to be the case the manager has referred to.

Mr. Manager CLAYTON. Mr. President, we are willing that

the witness shall be excused.

Mr. WORTHINGTON. One minute. Q. (By Mr. SIMPSON.) Did I understand, Judge Gray, that this conversation between you and Judge Buffington was on a matter in relation to this or some case that was brought up as an objection to Judge Archbald before he was appointed to the Commerce Court?-A. Yes.

Q. And it resulted in the defeat of his appointment?-A. No. Mr. SIMPSON. I think that is all. The witness may be finally excused.

The PRESIDING OFFICER. The witness is excused.

TESTIMONY OF J. B. M'PHERSON. J. B. McPherson appeared, and having been duly sworn was

examined and testified as follows:

Q. (By Mr. SIMPSON.) You are circuit judge of the United States?--A. Yes, sir.

Q. In what circuit?-A. Third circuit.

Q. Located in Pennsylvania, in the city of Philadelphia?-Yes, sir.

Q. Do you know Judge Archbald?—A. Yes; I have known Judge Archbald for about 20 years at least.

Q. Do you know him socially as well as a judge?-A. I do. Q. Can you tell us, please, in very brief language, how well you have known him socially?

The PRESIDING OFFICER. In the opinion of the Chair

that is not a proper question.

Mr. SIMPSON. It is simply to lead up to show the extent of his acquaintance with the judge.

The PRESIDING OFFICER. Counsel should ask the wit-

The PRESIDING OFFICER. Counsel should ask the witness if he knows his general reputation.

Mr. SIMPSON. But I have to lead up to that.

The PRESIDING OFFICER. No.

Mr. Manager CLAYTON. I suggest that the question be put without any leading at all.

Mr. SIMPSON. Well, the manager may not know there are two senses of the phrase "lead to."

The PRESIDING OFFICER. The counsel will propound the

The PRESIDING OFFICER. The counsel will propound the question in proper form.

Q. (By Mr. SIMPSON.) Do you know other people who know him?—A. To some extent.

Q. How long have you known other people who knew him?-About as long as I have known him myself.

Q. Will you please tell us what his general reputation is for integrity?

The PRESIDING OFFICER. First, does the witness know his general reputation?

Q. (By Mr. SIMPSON.) Do you know his general reputation for integrity?-A. I know it in the sense that I know about it as I know about the reputation of many other people. I have never heard it questioned.

Q. Have you sat with him as a judge?

Mr. Manager NORRIS. I object to that as immaterial. I think the witness has answered the question.

The PRESIDING OFFICER. What is the purport of the question?

Mr. Manager SIMPSON. It is simply to lead up to his general reputation.

The PRESIDING OFFICER. Can not the question be propounded without the counsel leading up to it?

Q. (By Mr. SIMPSON.) What is his general reputation for integrity as a judge?—A. I make the same answer that I made to the other question. I never heard it questioned.

Mr. SIMPSON (to the managers). Cross-examine.

Mr. Manager NORRIS. That is all.

The PRESIDING OFFICER. The witness is excused.

TESTIMONY OF D. NEWLIN FELL.

D. Newlin Fell appeared.

Mr. Manager NORRIS. Now, I want to inquire of counsel if this witness is to be examined along the same line.

Mr. SIMPSON. This witness and a number of other wit-

nesses to follow are to be examined along the same line.

Mr. Manager NORRIS. Mr. President, this will make the fourth witness on this line. I wish to call the attention of the President and of the Senate to the fact that the managers will not offer any testimony on this subject, except what we have offered on the cross-examination of the first two witnesses, and therefore we feel that a limit ought to be placed upon the number of witnesses that can be used by the respondent for this particular purpose. We ask that that limit be fixed to four wit-I think that is the usual number everywhere. nesses.

The PRESIDING OFFICER. In this case the Chair would not take the responsibility of fixing it unless the Senate indicates a purpose to that effect. The respondent will go on.

Mr. SIMPSON. I can assure the Chair we will not infringe any fair rule.

D. Newlin Fell was sworn, and examined as follows:

Q. (By Mr. SIMPSON.) You are Chief Justice of the Supreme Court of Pennsylvania ?- A. I am.

Q. Do you know Judge Archbald?-A. I do.

Q. How long have you known him?-A. Some 30 years. Q. Do you know other people who know him?-A. I do.

Q. Do you know what his general reputation for integrity, is?-A. I do.

Q. What is it?—A. Very good. I never heard it questioned. Mr. SIMPSON (to the managers). Cross-examine, Mr. Manager NORRIS. No questions. Mr. SIMPSON. That is all. I thank you, Judge.

TESTIMONY OF CHARLES E. RICE.

Charles E. Rice appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) You are president judge of the Superior Court of Pennsylvania?-A. Yes, sir.

Q. Do you know Judge Archbald?—A. Yes, sir.
Q. How long have you known him?—A. More than 35 years.

Q. Do you know other people who know him?-A. Very well. Q. Do you know what his general reputation for integrity is?—A. I think I do.

Q. What is it?-A. Good.

Q. How near to him have you lived during this period?-A. I live in the adjoining county.

Q. How far away-how many miles?-A. Eighteen or nine-

Q. Do you know his general reputation for integrity as a judge?—A. I do. Q. What is it?—A. Good.

Mr. SIMPSON (to the managers). Cross-examine.
Mr. Manager NORRIS. That is all.
Mr. WORTHINGTON. I take it that these witnesses as to reputation may be considered as discharged when they leave the

The PRESIDING OFFICER. The witnesses will be finally discharged unless otherwise specified.

TESTIMONY OF M. J. HOBAN.

M. J. Hoban appeared, and having been duly sworn, was ex-

amined and testified as follows:
Q. (By Mr. SIMPSON.) What is your profession, please?—
A. I am bishop of the Catholic Church.
Q. Where?—A. In Scranton.

Q. Do you know Judge Archbald?-A. I have known him for 16 years.

Q. Do you know other people who know him?-A. Several;

yes, sir.
Q. What do you mean by "several"?—A. I have no doubt all the prominent people of Scranton know him.

Q. Do you know his general reputation for integrity?—A. He

has a reputation for integrity in Scranton.

Q. What is his reputation?—A. His reputation is good.

Mr. SIMPSON (to the managers). Cross-examine.

Mr. Manager NORRIS. That is all.
Mr. SIMPSON. That is all. We are much obliged to you. You will be discharged.

TESTIMONY OF W. W. SCRANTON.

W. W. Scranton appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) State your name, please .- A. W. W. Scranton.

Q. Where do you reside?-A. I live in Scranton.

Q. Do you know Judge Archbald?-A. Yes; I have known him about 55 years.

Q. Do you know other people who know him?-A. Oh, yes. Q. Do you know what his general reputation for integrity is?—A. I think so.

Q. Well, you tell us, please, what it is .-- A. His reputation for

integrity is good. I think it is as good as possible.

Mr. SIMPSON (to the managers). Cross-examine.

Mr. Manager NORRIS. That is all.

Mr. SIMPSON. That is all. You may be discharged.

TESTIMONY OF ALONZO T. SEARLE.

Alonzo T. Searle appeared, and having been duly sworn, was

examined and testified as follows:
Q. (By Mr. SIMPSON.) You are one of the judges of the State of Pennsylvania?—A. I am.

Q. Of what county?-A. The twenty-second district, Wayne County.

Q. Are you any relation to Edward R. W. Searle?-A. I am

Q. You were one of the contributors to the purse that was given to Judge Archbald when he sailed for Europe some years A. I was.

Q. Will you tell us, please, what your connection with that matter was?—A. Two or three days before Judge Archbald sailed I received a phone message from the clerk of the court stating that the judge was to sail on a certain day and if convenient that he would like to have me come down to New York and see the judge off. It was convenient, and I went down to New York. I met the clerk of the court at the Hotel Marlborough the evening before the judge sailed. He then told me

that some of the judge's friends and attorneys had raised a purse to be given to him on that trip. Then I went to my own hotel. The next morning I went over to the Hotel Marlborough and Mr. Searle and I went down to the boat. The money that Mr. Searle had the next morning was in a package all done up. What was in the package, whether \$1 or \$500, I do not know, only as Mr. Searle said. I did not know what was in the package. He asked me if I would hand it to Judge Archbald and make a few remarks. I said I would not make a few remarks, but we wrote upon it, either he or I, I do not know who: "Hon. R. W. Archbald; sailing orders; not to be opened until 24 hours at sea." This I handed Judge Archbald.

Q. When you handed it to him and until the ship left the

wharf was, so far as you know, the package still sealed up?-

A. It surely was.

Q. Did you know that there was included in that package the names of the subscribers to that fund?—A. I did not. I would say I noticed Maj. Warren testified I was at that time

would say I noticed Maj. Warren testined I was at that time assistant United States attorney. I was judge at that time.
Q. Did Judge Archbald say anything to you when you handed it to him, that you recall?—A. I think he said, "What does this mean?" and I said, "A good sailor never questions his orders."

Cross-examination:

Q. (By Mr. Manager NORRIS.) Judge, you heard Maj. Warren's testimony in regard to his contribution?—A. Yes. Q. Was he mistaken about it?—A. He certainly was.

Q. You did not get any contribution from Maj. Warren?—A. Not from anybody, and I never heard of the matter until I met the clerk of the court at the Hotel Marlborough the night before.

Q. The only person with whom you had any conversation, either directly or indirectly, was Mr. Searle, the clerk of the judge's court?-A. It was.

Q. You did not know how much money there was in the en-

velope?-A. I did not.

Q. You did not make any contribution yourself, did you?-A. I did.

Q. Did you give that to the clerk?—A. I gave a check to the clerk that night, because I knew nothing about the matter, and I gave him a check.

Q. At whose request?-A. I do not think he asked me for money. I think I said I would be glad to contribute. I do not think he asked for any money.

Q. He did not suggest that you should?-A. I do not think

Mr. Manager NORRIS. That is all.
Mr. SIMPSON (to the witness). You may be discharged.
The Witness. May I be discharged?
Mr. Manager NORRIS. Yes, sir.

TESTIMONY OF JOHN VON BERGEN.

John Von Bergen appeared and, having been duly sworn, was

examined and testified as follows:

Q. (By Mr. MARTIN.) Mr. Von Bergen, you reside in Scranton?—A. Yes, sir.

Q. What official position do you hold at the present time?-A. At present I am mayor of Scranton.

Q. How long have you been acquainted with Judge Archbald?—A. Well, since I was quite a small boy—perhaps 25 years. Q. Are you accuainted with the speech of the people of that

community?-A. Fairly well; yes. Q. You are acquainted with people who know Judge Arch-

bald?—A. Yes, sir.

Q. Do you know his reputation in that community?-A. I know it in so far as it can be judged by the speech of the people whom I have met.

Q. What, from the speech of the people, is his reputation for honesty and integrity?—A. Ask the question again, please.
Q. What, from the speech of the people in that community, is his reputation for honesty and integrity?—A. I would say it was good.

Mr. MARTIN (to the managers). Cross-examine.
The Witness. I want to say that I never heard his reputation for integrity under question until this matter came up. Mr. Manager CLAYTON. The witness may be excused.

Mr. MARTIN. That is all.

TESTIMONY OF SAMUEL J. M. M'CARRELL,

Samuel J. M. McCarrell appeared and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. MARTIN.) Where do you reside, Judge McCarrell?—A. Harrisburg, Pa.

Q. Are you acquainted with Judge Archbald?-A. I am.

Q. How long have you been acquainted with Judge Archbald?—A. For 15 or 20 years.

Q. Are you acquainted with other people who know Judge Archbald?—A. I am.

Q. Are you acquainted with his reputation?—A. I am.

The PRESIDING OFFICER. The counsel has not propounded the question in proper shape. The question is if the witness

knows his general reputation, and then—
Mr. MARTIN. I will see if I get the meaning of the Chair.
[To the witness.] What is his reputation for honesty and integrity, if you know?

The WITNESS. Good.

Q. What was your answer, sir?-A. Good. I never heard it

questioned by anyone.

Q. What is his reputation for honesty and integrity as a judge, if you know ?- A. Good. I never heard it questioned by

Mr. MARTIN (to the managers). Cross-examine.

The Witness. I may say that— Mr. Manager NORRIS. That is all.

Mr. MARTIN. What were you about to say? The Witness. I was about to say—

Mr. Manager CLAYTON. Mr. President, I think that is

W. D. RUSSELL. Mr. Manager CLAYTON. Mr. President, while we are waiting for the next witness, I ask that the witness W. D. Russell, who was subprenaed on behalf of the managers, may be finally discharged at this time.

The PRESIDING OFFICER. It will be so ordered.

TESTIMONY FROM JOHN M. GARMAN.

John M. Garman appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. MARTIN.) Where do you reside?-A. Wilkes-Barre, Pa.

Q. How far is that from Scranton?-A. Eighteen miles.

Q. Are you acquainted with Judge Archbald?-A. Very well. Q. How long have you known him?-A. About 30 to 32 years.

Q. Are you acquainted with the speech of the people in the community in which he has lived and moved with reference to his honesty and integrity?-A. I am.

Q. What, from the speech of the people, is his reputation

for honesty and integrity?-A. Good.

O. What, from the speech of the people in that community, is his reputation for judicial honesty and integrity?-A. Good. Mr. MARTIN (to the managers). Cross-examine.

Mr. Manager CLAYTON. The witness may be excused.

The PRESIDING OFFICER. The witness is finally excused. TESTIMONY OF WILLIAM A. STONE.

William A. Stone appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. MARTIN.) Where is your place of residence?-A. Pittsburgh, Pa.

Q. You were at one time governor of the State of Pennsylvania?-A. Yes, sir.

Q. Do you know Judge Archbald?-A. I do.

Q. How long have you known Judge Archbald?—A. I have known him at least 21 years. I do not know but that I have known him a little longer, but at least 21 years.

Q. Do you know other people who know Judge Archbald?-

A. Yes, sir; a great many people.

Q. What, from the speech of those people who know him, is his reputation for honesty and integrity?-A. Good.

Mr. MARTIN (to the managers). Have you any questions? Mr. Manager CLAYTON. The witness may be excused. The PRESIDING OFFICER. The witness is finally excused. Mr. Manager CLAYTON. I should like to be heard briefly.

Mr. President, the managers have offered no character witnesses anywhere in these proceedings; it is not their purpose to offer any character witnesses. Ten character witnesses have been examined. The rule adopted, or the practice, I may say, to be more accurate, in all the courts of justice, so far as I know, is that the court has the discretionary power to limit the number of witnesses as to character. I take it that that power is an inseparable incident of the court to regulate its proceedings and for the purpose, among others, of bringing the trial to an end.

In so far as I know, all courts permit a reasonable number of witnesses to be examined on character; but where the testimony of the character of the party is not controverted the court has always, after a reasonable number of witnesses have been examined, held that no more should be examined on that par-ticular matter. Some of the courts of the Union hold that four character witnesses are sufficient where the testimony of those

witnesses is not controverted. We have another instance. The Supreme Court of Illinois is permitted to prescribe rules, and among the rules that they have prescribed is that there can be only eight character wit-

nesses examined where the question of character is not controverted. That rule of the Supreme Court of Illinois has the force and effect of a statute there. That is the most liberal rule that I can now call to mind on the subject obtaining in any of the courts.

So, Mr. President, I respectfully submit to you and to the Senate that after these gentlemen have examined 10 witnesses on character and when the testimony of those character witnesses is not disputed, is not controverted, and when the managers tell the Senate it will not be controverted, it seems to me that the further examination of character witnesses might well

be dispensed with. The PRESIDING OFFICER. The Chair recognizes, of course, that the practice is such as the manager has indicated, and the necessity of it is apparent. Otherwise the time of a court might be indefinitely taken up through the introduction of innumerable witnesses. At the same time, the Chair recognizes that in this case the character of the respondent is necessarily in issue, and on account of the gravity of the case and the peculiar position which the Presiding Officer holds, simply as the mouthpiece of the Senate, the Chair does not feel authorized to take the responsibility of shutting off the respondent in the proof which he seeks to make upon this line. The Senate has full control over the matter whenever it sees proper to exer-

Mr. Manager CLAYTON. Mr. President, not desiring to discuss the question as to which the Chair has indicated his ruling, I desire to respectfully submit to him another reason. This evidence as to character is not only not controverted, but will not be controverted by the managers; but the evidence is merely cumulative, and the courts have always held that there was a right to limit cumulative testimony.

The PRESIDING OFFICER. The Chair assumes that counsel for the respondent will not exceed proper limits in this regard. In the absence of direction from the Senate, the Chair will not interfere with counsel in their proper presentation of their defense in this particular according to their judgment of the best way to do it.

JAMES H. TORREY SWORN.

Mr. REED. Mr. President, I submit the order which I send to the desk.

The PRESIDING OFFICER. The Senator from Missouri presents an order in which he asks the concurrence of the Senate. The order will be read.

The Secretary read as follows:

Ordered, That the number of character witnesses shall be limited

Mr. GALLINGER. Mr. President, I raise the question of a quorum. There is no quorum present.

Mr. SIMPSON. We will limit, if I may

The PRESIDING OFFICER. Counsel will suspend. Senator from New Hampshire has made the point of order that there is no quorum present. Under the rule the Secretary will proceed to call the roll of the Senate.

The Secretary called the roll, and the following Senators answered to their names:

Cullom du Pont Gallinger Guggenheim Hitchcock Johnson, Me. Johnston, Ala. Smith, S. C. Smoot Stephenson Ashurst O'Gorman Oliver Overman Page Perkins Perky Pomerene Reed Richardson Root Simmons Smith, Ariz. Smith, Ga. Smith, Md. Smith, Mich. O'Gorman Bacon Bailey Stephenson Stone Sutherland Swanson Thornton Tillman Borah Bourne Brandegee Bristow Bryan Chamberlain Chilton Jones Kenyon La Follette Lodge McCumber Martin, Va. Townsend Warren Wetmore Works Clapp Clark, Wyo. Clarke, Ark. Crane Crawford Myers Newlands

I desire to announce that my colleague [Mr. Mr. BRYAN. FLETCHER] is absent from the Senate Chamber on business of the Senate

The PRESIDING OFFICER. On the call of the Senate 57 Senators have responded to their names. A quorum of the Senate is present.

The Senator from Missouri [Mr. REED] presents an order, which will be read to the Senate.

The Secretary read as follows:

Ordered, That the number of character witnesses shall be limited

Mr. WORTHINGTON. Mr. President, if it will save any time we are perfectly willing to limit ourselves to 15 character witnesses without any order of the Senate.

The PRESIDING OFFICER. It will be so ordered, without;

objection.

Mr. MARTIN. In view of the adoption of the order to limit the number of character witnesses, we should like to withdraw Mr. Torrey, who has just been sworn, inasmuch as he was to testify as to another matter. We desire now that Henry Belin, jr., may be called.

TESTIMONY OF HENRY BELIN, JR.

Henry Belin, jr., having been duly sworn, was examined and testified as follows

Q. (By Mr. MARTIN.) Mr. Belin, where do you reside?-A. Scranton.

Q. Are you acquainted with Judge Archbald?-A. Yes.

Q. How long have you known him?-A. About 35 years. Q. Are you acquainted with other people who know Judge Archbald ?-A. Yes.

Q. From the speech of those people who know him, what is his reputation for honesty and integrity?-A. Perfectly good.

Mr. MARTIN. Do the managers desire to examine this witness?

Mr. Manager WEBB. I do not care to ask him any questions.

Mr. MARTIN. Then he may be discharged.
The PRESIDING OFFICER. The witness will be discharged. TESTIMONY OF W. L. CONNELL.

W. L. Connell, having been duly sworn, was examined and testified as follows

Q. (By Mr. MARTIN.) Mr. Connell, where do you live?-A. Scranton, Pa.

Q. How long have you lived there?-A. I have lived there all my life-50 years.

Q. During that time have you been acquainted with Judge Archbald?—A. I have known Judge Archbald practically all my

Q. Are you acquainted with other people there who know him?--A. I am.

Q. What, from the speech of those people who know him, is his reputation for honesty and integrity?-A. It is very high.

Mr. MARTIN. Is it desired by the managers to cross-examine the witness?

Mr. Manager WEBB. We have no questions, Mr. President. Mr. MARTIN. The witness may be discharged.

The PRESIDING OFFICER. The witness will be discharged. TESTIMONY OF E. B. STURGES.

E. B. Sturges, having been duly sworn, was examined and testified as follows

Q. (By Mr. MARTIN.) Mr. Sturges, do you live in Scranton?-A. Yes, sir; I make that my headquarters.

Q. Are you acquainted with Judge Archbald?—A. I am. Q. How long have you been acquainted with Judge Arch-

bald?-A. Over 40 years. Q. Are you acquainted with other people who know him?-A.

I am. Q. What is your business, Mr. Sturges?—A. By profession I am a lawyer. I practiced law in Scranton for about 25 years. My health gave out. As some one said, I wanted to get honest, and I went into other business.

Q. What, from the speech of people who know Judge Archbald in that community, is his reputation for honesty and integrity?—A. I do not think you could find a man who knows Judge Archbald well that would not—

Mr. Manager WEBB (to the witness). Just answer the question.

The PRESIDING OFFICER. The witness will suspend.
Mr. Manager'WEBB. I insist on the question being answered
categorically, according to the rule.

The PRESIDING OFFICER. The witness will please re-

spond to the question directly without commenting.

The Witness. Will you allow me to make an apology? The PRESIDING OFFICER. No, sir; proceed with your testimony

The WITNESS. His reputation could not be better, in my judgment.

Mr. MARTIN. Is it desired by the managers to cross-examine the witness?

Mr. Manager WEBB. We have no questions, Mr. President. Mr. MARTIN. The witness may be discharged.

The PRESIDING OFFICER. The witness will be discharged. TESTIMONY OF JOSEPH O'BRIEN.

Joseph O'Brien, having been duly sworn, was examined and

testified as follows Q. (By Mr. MARTIN.) Mr. O'Brien, you live in Scranton?-A. I do.

Q. What is your profession?—A. Practicing law.

Q. Are you acquainted with Judge Archbald?-A. I am.

Q. For how many years have you been acquainted with Judge Archbald?-A. For 30 years.

Q. Are you acquainted with other people in that community

who know Judge Archbald?—A. I am. Q. What, from the speech of those people who know Judge Archbald, is his reputation in the community for honesty and ttegrity?—A. The very best. Mr. MARTIN. You may cross-examine, gentlemen. integrity?-

Cross-examination:

Q. (By Mr. Manager NORRIS.) Where did you say you reside?—A. In the city of Scranton, sir.

Q. Are you a member of a firm of attorneys there?-A. A member of the firm of O'Brien & Kelly.

Mr. Manager NORRIS. That is all.

Mr. MARTIN. The witness may be discharged.

TESTIMONY OF A. LEO WEIL,

A. Leo Weil, having been duly sworn, was examined and testified as follows

Q. (By Mr. MARTIN.) Where do you live, Mr. Weil?-A. In Pittsburgh.

Q. You know Judge Archbald?-A. I do.

Q. How long have you known Judge Archbald?-A. I have known him over 10 years.

Q. Do you know other people who know him?-A. I do.

Q. What, from the speech of the people who know him, is his reputation for honesty and integrity?—A. Excellent.

Mr. MARTIN. You may cross-examine, gentlemen.

Cross-examination:

Mr. Manager NORRIS. I did not hear the name of this witness.

Mr. MARTIN. A. Leo Weil. Q. (By Mr. Manager NORRIS.) Where do you reside?—A. Pittsburgh.

Q. Are you acquainted with the reputation of Judge Archbald in Scranton?-A. No, sir.

Q. Do you know what his reputation is in Pittsburgh?—A. I do.

Q. Have you heard his reputation discussed by anybody in Pittsburgh?—A. I have.
Q. By whom?—A. I can not recall any names, but when

Judge Archbald came to Pittsburgh to hold court the bar and those connected with the court discussed his character as a judge.

Q. Was there any member of the bar there who knew or professed to know anything about his reputation for honesty?-They professed to know because they declared his reputation was of the highest.

Q. Can you tell why there was any occasion for the discussion in Pittsburgh of his reputation for honesty?-A. Yes, sir; I can.

Q. Had there anything arisen in which his reputation as an honest man was in dispute?—A. When a judge from another district comes to a city like Pittsburgh to hold a Federal court we naturally discuss what kind of a man he is before whom we are to try our cases.

Q. Exactly; but how do you find out anything that is said about his honesty by men who necessarily were not acquainted with him?-A. There were undoubtedly some there who were acquainted with him.

Q. There were some?—A. Undoubtedly.

Q. Do you know who they were?—A. I do not recall their names at this time.

Q. Had you heard anyone who was acquainted with him talk about his reputation when he came there to hold court?had, because the first time he came there to try a case I had a most important case to try, and I was naturally anxious to know the kind of a man before whom it was to be tried.

Q. And you looked up his reputation for honesty in Pittsburgh at that time?—A. No; but I paid attention to what members of the bar said his reputation was.

Q. How often did he come there to hold court?—A. Oh, I can not say—a number of times.

Q. Was he there long at any time?—A. Sometimes for several weeks.

Q. That was not in his district, was it?—A. No; he was in the middle district, and Pittsburgh is in the western district.

Q. Was that when he was Federal judge or State judge?—A. Federal judge.

Q. You never heard of him until he came there to hold court, did you?-A. Oh, I had heard his name simply, but nothing more.

Q. Was the reputation which you heard discussed connected with the times and the incidents when he was there holding Federal court?—A. Yes, sir.

Mr. Manager NORRIS. That is all. Mr. MARTIN. That is all, Mr. Weil.

Mr. WORTHINGTON. Mr. President, Mr. Saums was on the stand when we adjourned last night, and I obtained from him some of his papers which we wanted to use. I handed them to Mr. Manager Sterling, so that he might have them overnight, as he desired to examine them. We can not proceed with the examination without the papers.

Mr. Manager WEBB. Mr. President, Mr. Manager Sterling has been here all afternoon, and is in the corridor now, I think.

Mr. WORTHINGTON. Suppose, then, in order to save time, that we have Mr. Torrey called back and examine Mr. Saums afterwards.

TESTIMONY OF JAMES H. TORREY.

James H. Torrey, having been previously sworn, was examined and testified as follows

Q. (By Mr. WORTHINGTON.) Mr. Torrey, give your full name, please.—A. James H. Torrey.

Q. And your residence.—A. Scranton.

Q. And your business.—A. I am an attorney at law.

Q. Member of what firm?—A. Welles & Torrey.

Q. How long have you been practicing law in that town, Mr. Torrey?-A. Thirty-six years.

Q. And you have been with Mr. Welles how long?-A. Since 1898.

Q. Is your practice there of a general character—in the city courts, in the Federal courts, and so on ?-A. It is; yes, sir.

Q. Did you at any time represent Mr. Conn, who is an officer of the Laurel line, as it is called?-A. We are regularly retained by that line; yes, sir.

Q. By the corporation?—A. Yes, sir.

Q. That is the company that has a little line running from Wilkes-Barre to Scranton?—A. Yes, sir; the Laurel line.

Q. There have been some questions asked here of Mr. Conn as to how he found out that I had a certain contract. I will show you the paper, and perhaps you can throw some light on that subject. I show you United States Senate Exhibit No. 22.

The Witness (after examining the paper). I recognize the

paper; yes, sir.

Mr. WORTHINGTON. I think I should state, Mr. President, in order that the Senate may know what we are talking about, that that is the contract which it has been testified was drawn up by Judge Archbald when it was expected to make the sale to Conn, in which he recites that it was between him and Williams on the one hand and Conn's company on the other; and there were some pencil interlineations in that paper, about which we had some testimony.

O. (By Mr. WORTHINGTON.) Now, Mr. Torrey, will you tell me whether you were consulted by Mr. Conn in reference to

that proposed purchase?—A. We were; yes, sir.
Q. And what did you do about it?—A. I think either Judge

Archbald or Mr. Conn came to me, in the first instance, saying that they had agreed upon the terms embodied in this contract, subject to the examination of the title, and requested that our firm examine the title. I was especially busy at that time, and turned it over to Mr. Welles, who made the examination of title and found that there were defects in it. After he had reported that—I do not know just when it was—Judge Archbald came to me to inquire what our report was and what could be done about it. I told him that one of three things could be done, and only those—either we must get a warranty conveyance from the Hillside Coal & Iron Co. of the dump, or, regarding it as personal property the title to which passed upon delivery, we would take the lease of it at the royalty mentioned on this contract, paying for it as we got it; or, if it was to be a down payment, that we must have some indemnity. He could not comply with any one of those three suggestions. The Hillside Co. would not give any warranty of any title whatever in the dump; they would simply sell their interest. They had to have the down payment in order to pay the purchase money, and so they could not let us pay for it as we got it, and Judge Archbald said they were not in a position to give us indemnity, and that ended it.

Q. Then you advised Conn what?-A. Then we advised him

not to sign the agreement.

Q. In that connection, did anything come to your notice about the claim of the Everhart heirs?-A. I believe that was the principal reason why Mr. Welles refused to pass the title.

Q. Do you know it to be a fact that your partner refused to pass that title to Conn because of the outstanding interest

of the Everhart heirs?—A. I do; yes, sir.
Q. Now, in reference to the history of that paper, do you know in whose handwriting the pencil interlineations there are?—A. I would not know myself; no, sir.

Q. You only know from hearsay?-A. I only know from report.

Q. Did you receive that paper from anybody with the request that you trace it back and see in whose handwriting the pencil memoranda were?-A. When you were in Scranton preparing this case shortly before it began-

Q. When I was in Scranton?-A. Yes, sir; when you were in Scranton, Mr. Worthington, you showed the paper to me, and asked me if I knew in whose handwriting it was. I told you

it was not in the handwriting of any member of our firm.

Q. You say "handwriting"; you mean the pencil interlineations?—A. The pencil interlineations; yes, sir. I said if you would give me time I thought I could find out. I sent it to Judge Knapp's office, of the firm of Warren, Knapp & O'Malley, to see if it was in the handwriting of anyone there. I thought possibly it might be in Judge Knapp's handwriting, though I did not think it was. I then sent my youngest son, a member of the firm, to Mr. Conn's office to ascertain if it was in the handwriting of anyone there, knowing that it had been in his possession. Mr. Conn was out of town, but his private secretary told him-

Mr. Manager DAVIS. Mr. President, I submit that this is clearly incompetent. The witness may identify the handwriting, if he knows it, and, of course, if he does not, what he

learned from other people is not competent.

Mr. WORTHINGTON. The honorable manager directed a long question to Mr. Conn as to how the paper found its way into Mr. Worthington's possession. Just what he meant I do not know, but counsel seemed to think it was important and wanted to know whether Mr. Conn was in collusion with Judge Archbald's counsel in the matter.

Mr. Manager DAVIS. If this examination is simply to relieve the feelings of counsel in the matter, I am willing to do that at once and to state that it was not asked because of any presumed impropriety on the part of counsel, but simply in an endeavor to get Mr. Conn to state the history of the document; and he further stated, if it is necessary to relieve counsel's feelings, that these interlineations were in his handwriting.

Mr. WORTHINGTON. I am not concerned now about the feelings of the managers or in whose handwriting it was, but there was a very protracted examination of Mr. Conn on this point, apparently on the line that there was something wrong

point, apparently on the line that there was something wrong in his knowing that I had the paper, but I showed it to him as he testified, just before he went on the stand.

Q. (By Mr. WORTHINGTON.) Do you say that you sent this paper to Mr. Conn's office by your son and partner?—A. Yes; and the report came back that his private secretary—Mr. Manager DAVIS. I object.

Mr. WORTHINGTON. I do not care what the report was.

Q. (By Mr. WORTHINGTON.) But did you send it with the

Q. (By Mr. WORTHINGTON.) But did you send it with the information that I wanted to know whose handwriting it was

on the paper?—A. Exactly; yes, sir.
Q. You spoke about Judge Archbald coming there, and Judge Archbald's name is used as one of the contracting parties

there?-A. It is.

Q. I should like to know whether there was any suggestion that Judge Archbald's connection with the proposed purchase from the Hillside Coal & Iron Co. and Robertson & Law and the sale to Conn was a matter that was to be kept quiet or concealed in any way?-A. Not at all. He frankly said that he was interested with Mr. Williams.

Q. Was that known generally in your office?-A. It was,

Q. To how many people?—A. Well, to at least three.

Q. Were you one of the contributors to the purse which was presented to Judge Archbald when he was about to sail for Europe in the spring of 1910?—A. I was.

Q. I wish you would tell your connection with that.—A. Mr. Searle, the clerk of the court, called at my office and said that such a purse was being contemplated and some of the lawyers had subscribed to it, and asked if we desired to do so; and I

think after consulting with my partner, Mr. Welles, I drew a firm check, or had it drawn, and gave it to him.

Q. Did you understand it was a presentation of a sum of money which was to be made to Judge Archbald?—A. I did;

yes, sir.

Q. You were told about the circumstances under which it was to be given?—A. I do not think so.

Q. You had no communication with Judge Archbald on the

subject?-A. Not at all.

Q. Did you know that it was thought best to conceal it from him until he was about to sail?—A. I did not know anything about that. I assumed—and I am not quite sure I did not say to Mr. Searle—that it would be wiser not to let Judge Archbald know the names of the contributors; and I certainly assumed that he would not know.

Mr. WORTHINGTON. You may cross-examine.

Cross-examination:

Q. (By Mr. Manager DAVIS.) What was the amount of your contribution, Mr. Torrey?—A. If I recollect aright, it was \$25.
Mr. Manager DAVIS. We have no further questions.
Mr. WORTHINGTON. That is all. The witness may be dis-

charged. Please call Mr. Welles and finish up this phase.

TESTIMONY OF CHARLES HOPKINS WELLES.

Charles Hopkins Welles, being duly sworn, was examined and testified as follows

Q. (By Mr. WORTHINGTON.) Do you reside in Scranton?-A. I do.

Q. How long have you lived in that burg?—A. Since 1861. Q. What is your business?—A. I am a lawyer.

Q. You are a partner, I believe, of Mr. Torrey, who has just left the stand?—A. I am.
Q. And have been for how many years?—A. Twelve or fifteen.

Q. Are you acquainted with Judge Archbald, the respondent here?-A. I am.

Q. And you have known him how long?-A. All his life, I think.

Q. Well, or only incidentally?-A. Very well.

Q. Do you remember anything about the submission to your firm by Mr. Conn. of the Laurel line, of a proposed contract in reference to the Katydid culm dump?-A. I do.

Q. What did you have to do with that, Mr. Welles?-A. It was given to me to look up the question of the title to the property.

Q. Given to you by whom?-A. By Mr. Conn as representing, I believe, the Lackawanna & Wyoming Valley Railroad Co.

Q. The so-called Laurel line?—A. The so-called Laurel line. Q. Up there they called it the Laurel line for short?-A. Yes.

Q. Did you investigate the title?-A. I did. And reported to Mr. Conn?-A. I did.

Q. What was your conclusion so communicated to him?—A.

That there was no title that they could sell.

Q. What was the trouble, Mr. Welles?—A. As soon as it came into my hands I went to Judge Knapp's office to see if I could get the lease under which this culm dump was produced. found in Judge Knapp's office Judge Archbald, Mr. Beyea, the real estate agent of the Pennsylvania Coal Co., and I asked for the lease. I was told by Judge Knapp that the Hillside Coal & Iron Co. owned one half of this property in fee; that the other undivided half was owned by others. I asked them there under what authority; if the Hillside Coal & Iron Co, had any lease of the property; and they smiled and said they had a letter. I wanted to see the letter, and they said that they had just been calling up Mr. W. A. May, the general superintendent, and the letter could not be found. I asked them from whom the letter came, and they said it came from Mr. Darling-E. P. Darlingway back in 1882 or 1883, I think it was—somewhere in the early eighties—and it was simply a letter that authorized the Hillside Coal & Iron Co. to mine on payment of a certain royalty; I do not remember the amount. I asked them if they could not furnish me a copy of this letter, and they said they could not. I said I could not pass the title on such a record as that. Before I communicated that to Mr. Conn—

Q. Judge Archbald was there all the time, I understand?—A.

Judge Archbald was there all this time. Before I communicated that to Mr. Conn I had a call from Mr. John M. Robertson. He said that Robertson & Law owned the culm dump and that they could give a good title to it. I said I begged to differ with him, and I asked him this question: "Did you not relinquish this property several years ago?" He said yes; they had. said, "How can you claim, then, to be in possession of that dump?" He said, "We have on several occasions gone there and taken away a wagonload of culm." I said, "As long as and taken away a wagonload of culm." I said, "As long as you have withdrawn from the property, I can not understand how you can make any claim to it." Then a man by the name of E. J. Williams came in. He said, "We have got good title to that property." I said, "I beg to differ with you; I do not think you have any title at all." I communicated these facts to Mr. Conn, and Conn said that somebody representing a portion of this mydivided helf theorem when the letter of Mr. tion of this undivided half, through whom the letter of Mr. Darling came, claimed to be the owners of it and would not consent to its being sold, and that ended all of the negotiations with

Q. If I understand you, you found nobody had the title?—A.

reference to it.

I said to Mr. Beyen, in Judge Archbald's presence—
Q. Mr. Beyen was an officer of the Hillside Coal & Iron Co.?—
A. He was the real estate agent of the Hillside Coal & Iron Co. I said to him, "If you will allow the Lackawanna & Wyoming Valley Railroad Co. to take the culm away and pay for it as they take it, my clients will consent to take it under those circumstances." He said, "No; we will sell our interest in it, and that is all we will sell." I said, "Will you give an agreement came under our general charge.

that we can remove all of that culm?" He said no; that they would give no agreement; that all they would do would be to sell what interest they had in it. This culm dump had been produced by Robertson & Law on a corner of the property that could not be reached by the mining operations of the Hillside Coal & Iron Co., and I believe it was all mined out; that there was nothing left, and this was the only thing that remained, and it was known as the Katydid dump.

Q. The upshot of it was that you advised Mr. Conn what?-

A. That he could not safely purchase it.

Q. Did he afterwards consult with you further about it, or was that the final conclusion?-A. Several times we consulted about it, and it was thought that the interests might be harmonized, and he get the title; but it could not be brought about.

Q. Who were the other persons who had the other interests? I think you have not mentioned them.—A. The Everhart heirs.

Q. The Everhart heirs?—A. The Everhart heirs had a certain portion, and some family that lived near Birdsboro, not far from Reading, owned the other undivided interests in it. never got so far that I looked up the title at all as to the ownership of the land from which the coal was produced.

Q. What suggestion was made by anybody, if any was made, with respect to the fact that Judge Archbald was interested in this matter, and that his dealing with you in regard to it was something that should be kept quiet?—A. Never anything

of the kind occurred.

Q. As a matter of fact how many people about your office and Judge Knapp's office knew it, to your knowledge?—A. There were five in our firm. We all knew it.

Q. How was it in Judge Knapp's office?—A. Judge Knapp knew of it and Mr. Beyen, of the Hillside Coal & Iron Co., knew of it.

Q. By the way, do you know about the condition of Mr. Beyea's health now?—A. I do not. I know that he was very ill at Atlantic City. I think it was said to be paralysis; but I

am not certain about that.

Mr. WORTHINGTON. That is all, Mr. President.

Cross-examination:

Q. (By Mr. Manager DAVIS.) When you were instructed to investigate this title you went first to the office of Mr. Knapp, as I understand?—A. I had nothing from which I could get any reference to the title, and I went to Judge Knapp knowing he was the attorney of the Hillside Coal & Iron Co. He was on the second floor above

Q. And in his office, at that interview, you found Mr. Beyea, of the Hillside Coal & Iron Co., and Judge Archbald?—A. And

Judge Archbald.

Q. And you discussed this matter in this conversation you have narrated?-A. Yes, sir.

Q. And it occurred in the presence of those three gentlemen?-A. Yes, sir.

Q. You found that the original paper from which the Hillside Coal & Iron Co. derived its rights could not be found?-A. To the undivided half that was in the Everharts and this other family; the Hillside Coal & Iron Co. owned half of it in fee and the other half was owned by the others.

Q. I say you could not find the original document?-A. I could not find anything which showed they had any right to

mine it at all, except their undivided half.

Q. And you found their statement as to their possession unsatisfactory to you?-A. Yes.

Q. And on those two grounds you refused to advise the purchase of the property?-A. Yes.

Q. And that is as far as you went in the way of the examination of the title?—A. Yes, sir. It was admitted that the Hill-side Coal & Iron Co. only owned half of it.

Q. But held the other half under this paper which could not be produced?—A. Under this letter, they said. It was a very

remarkable thing, in my mind.

Q. They told you, did they not, that in accordance with that letter they had paid royalty upon the operation for a great many years?—A. No.

Q. Royalties had been paid and received by virtue of that

paper?—A. I do not know.
Q. What was the exact date of this conference?—A. Sometime, I think, early in this year. I went through my records to see if I could find any communications with Mr. Conn. We always keep carbon copies of our correspondence. I could not find anything. I think all my communications with Mr. Conn were verbal in my office.

Q. You say in the month of January?-A. I think it was a little later than January. As I say, I have no way of ascer-We made no charges, because we are general counsel for the Lackawanna & Wyoming Valley Railroad Co., and this

Q. Can you say whether it occurred before or after the 1st of March?-A. I could not fix it more definitely than I have done.

Mr. Manager DAVIS. We have nothing further.

Redirect examination:

Q. (By Mr. WORTHINGTON.) Can you say really that it did not occur in November or December, 1911?-A. I can not I thought at first that it was in December, but I have nothing to refresh my memory from that would fix the date.

Q. If I understand you about the letter concerning which Mr. Manager Davis asked you, you said it was a remarkable letter and that it could not be produced .- A. No; I said that they should mine coal under a letter written by an attorney and not by the owner of the property.

Q. Was that letter produced?—A. No, sir.

Q. They could not find the letter?-A. They could not find

the letter or give me a copy of it.

- Q. When you say the Hillside Coal & Iron Co. had a one-half interest in the land, was it the land that the coal was mined -A. Yes, sir.
- Q. (Continuing.) Or on which it was placed, or both?-A. Both.

Q. And the other one-half was outstanding?-A. The other half was outstanding.

- Q. And Robertson & Law were claiming to own it by virtue of having made the dump?-A. They were claiming that they made the dump and that they had been in possession of it, and that they could sell it and give a good title. I differed with them.
- Q. I think you differed with Mr. Williams about the title, to.—A. I believe I did; yes. I told him that I did not think he knew much about the law in reference to those things.

Mr. WORTHINGTON. That is all. The WITNESS. May I be excused?

Mr. WORTHINGTON. You can be finally discharged, Mr. Welles.

Mr. Manager CLAYTON. Yes. Mr. WORTHINGTON. While we are on this let us call Judge Knapp.

TESTIMONY OF HENRY A. KNAPP.

Henry A. Knapp, having been duly sworn, was examined and testified as follows

Q. (By Mr. WORTHINGTON.) Judge Knapp, your full name is Henry A. Knapp?—A. Yes, sir. Q. And you live in Scranton?—A. Yes; I live in Scranton.

Q. You are a member of the bar?-A. I am.

Q. How long have you been practicing that profession?-A. About 37 years-between 37 and 38 years.

Q. Of what firm are you a member?-A. Warren, Knapp &

O'Malley.

Q. How long has that firm been in existence, if you remember?—A. In that form the firm has been in existence only about two or three years, since Judge Willard died. Prior to his death the firm was Willard, Warren & Knapp, and in that way it had been in existence something over 20 years.

Q. In 1911 was your firm so unfortunate as to represent any railroad companies in that region?-A. Oh, yes; we did some business for what is called the Lackawanna, which is the Delaware, Lackawanna & Western Railroad, although, as Maj. Warren has said, they have their own legal department there; but still we do some of their business. We also do some business for the Erie Railroad Co. and sometimes we do some business for

the Lehigh Valley Railroad Co.

Q. Do you remember anything that took place with reference to the examination of the title or inquiries about the title to the Katydid dump, when it was expected that a sale might be made to Mr. Conn's company, the Laurel line?—A. Yes, sir. I remember Capt. May speaking to me about the matter, but I do not think there was any real examination made of the title beyond what Capt. May explained to us as to the manner in which this dump had been formed by the operation of the coal company and by Robertson & Law. I do not think we made any examination of the title such as you would make-to examine the records-but we simply took the statement of Capt. May and tried to form some conclusion as to the ownership of the culm pile.

Q. Are you able to reach any conclusion now?-A. Well, I thought then, and I still think, that it was a matter which was

involved in a good deal of doubt.

The truth of the matter is that when that culm pile was formed such things were not considered worth very much, and nobody paid very much attention to the ownership of it; but I should say that Robertson & Law certainly had an interest. It is probable that the Hillside had an interest, so far at least as the royalty was concerned, on the small sizes of coal. And

whether or not the Everhart heirs and the E. & G. Brooke Land Co. had an interest would be a matter about which lawyers might differ, I think.

Q. Very well. Is it still an open question?-A. I regard it as

quite so.

Q. Is there anything certain about the Hillside Coal & Iron Co.'s interest in it except that it certainly would have the royalty which it had been receiving?—A. No; I think Robertson & Law might very well claim that they had the entire right to the dump, only paying royalties upon such sizes as under their arrangement with the Hillside Coal & Iron Co. they had agreed to pay royalties upon. But, of course, that would mean washing it out, you know, and they had no intention of washing it out, because they did not care to go to the expense necessary to put up the appliances for that purpose.

Q. Do you remember, in connection with this title, Judge Archbald being at your office or being in communication with him about it?-A. I remember his being there once on the

matter; yes.

Q. Do you remember who was present?-A. I remember that Mr. Conn was present and Mr. Welles and Judge Archbald. Whether anybody else was present I do not remember, but I do not think there was. I think it was confined to the four besides myself.

Q. Is that the only time, so far as you recollect, that you came into immediate contact with Judge Archbald about that matter?-A. I do not recall that at any other time I ever said a word to him or he to me in relation to the matter. I do not think so.

Q. On that occasion did he come in by the front door or slip in some back way?-A. Oh, he came in the front door, as he always does.

Q. Was there any sort of an attempt to conceal the fact that

he was interested in this matter?—A. None whatever. Q. And was trying to get this title fixed up?—A. Not the

slightest.

Q. How many people in your office knew all about it?-A. Why, everybody that had—well, I do not know about that. I think Maj. Warren knew about it at the time; he had a certain amount of familiarity with it; and I know I drew some papers which would make the stenographers somewhat knowing about it-although I do not know that his name was in the paper-but I drew the contract of sale. But certainly there was no attempt at concealment or anything of that kind.

Q. Do you recall Capt. May consulting you in reference to any written communications that had reached him as to this Katydid dump?—A. I remember that Capt. May said to me after, as I supposed they had practically agreed upon a sale, that the Everhart heirs were giving him notice, or had given him notice, or that he had received notices from several of them, and that they all raised very strong opposition to his doing any such thing; and I remember his taking the matter up with me in consultation for advice on the subject.

Q. What advice did you give him?-A. I told him that I did not think his company, the Hillside Coal & Iron Co., could afford to get into a controversy with the Everhart heirs, and that if they objected to his selling the dump I thought he had better not sell it. I can give the reason why I told him that.

Q. That is what I want to know. You understood that the company was proposing to convey only its interest in the Katydid dump?—A. That is true, and if the whole thing was confined to that one dump there was no necessity whatever of taking any notice of any notices by the Everhart heirs. But the difficulty was that the Hillside was mining coal from the same property, and they were cleaning coal from the same property by some kind of a washery, and their tenure, or their agreement, with the Everhart heirs and with the E. & G. Brooke Land Co., the other owners of the property, was very indefinite. I did not regard that the Hillside had a very good contract with these people, you understand. It was nothing but an old letter, written a great many years ago, giving no term, and might be terminated at any time. At any rate, they might put up the claim that they could terminate it at any time. For that reason it seemed to me to be very unwise on the part of the Hillside to get into any controversy with them over this culm dump.

Q. Do you remember whether at that time Capt. May told you that he had sent out a form of a contract to be executed? A. Well, I know that he got a form of contract, because I

drew it.

Q. You drew it yourself?—A. Yes.
Q. Was this conversation in which you advised him not to sell after you drew the contract?—A. Yes.
Q. Can you fix the time at all?—A. I think it was early in

April; I should say about the 10th or 11th.

Q. Was it before or after the fact that these charges against Judge Archbald were to be investigated came out in the Scranton newspaper?-A. It was about 10 days or 2 weeks before, or something like that.

Q. I want particularly to ask you whether in the advice you gave about that matter you were governed at all by anything you had heard or heard rumored about Judge Archbald?—A. I had not heard Not the slightest. I had not heard anything. a thing at that time.

Q. Was there any reason, except what you have stated, that there was danger that your client might get into trouble with the Everhart heirs?-A. No reason except what I have stated.

Q. How did the value of this other property to which the Everhart heirs had some claim and which the Hillside Co. was operating under some arrangement, compare with the value of

the Katydid dump?—A. Vastly in excess.
Q. You know Mr. Beyea, the real estate agent of the Hill-

side?-A. I know him very well.

Q. Do you know his condition at the present time?-A. Yes, I know that he is in a very precarious condition of health. He was seized with some kind of mental trouble in New York some few weeks ago and was moved to a hospital in Philadelphia, where he was attended to by his brother, who is a physician. I saw a letter which he recently wrote to Mr. Beyea, in which he said he thought if Mr. Beyea could be kept quiet for two or three months he might get well, but it would be absolutely impossible for him to do any business in that time.

Mr. WORTHINGTON. That is all, Mr. President.

Cross-examination:

Q. (By Mr. Manager DAVIS.) I understood you to say, Judge Knapp, that in your opinion Robertson & Law had the right to wash this dump and take the coal from it, paying royalty to the Hillside?—A. I should think so. It is usually covered, you understand, by a written contract. Here there was no contract, either between the Everharts and the Hillside or between the Hillside and Robertson & Law; so that the matter was not covered. But usually the operator who takes out the coal, the result of which operation is the making of a culm pile, is entitled to the sizes of coal in the culm pile which are smaller than the royalty sizes; that is, they are smaller than those upon which a royalty has been reserved. I think Robertson & Law would have been entitled, but the difficulty was their washery or something or other burned down, and they kind of left the place. There was a good deal of talk for a time about their having abandoned it. Of course, if they had abandoned it they would have lost all interest in it; but then the Hillside never set up a claim they had actually abandoned it. They were perfectly willing they should proceed in it if it could be settled and some money got out of it.

Q. Of course, if Robertson & Law had that right, their as-

signee would have the same right, with the consent of the Hill-side Co.?—A. Oh, yes; if they had a right there an assignee

would have the right.

Q. You knew, of course, the facts about the status of that title before you drew the contract between these parties?-A.

I believe I did.

Q. You knew at the inception of the negotiations everything you knew when the negotiations ended?-A. Well, I imagine I did, although I do not know that I can recall whether I learned anything during the time the negotiations were under way or whether I did not; but all I knew I learned from Capt. May, who asked me to do this business for his company.

Q. And the contract which you drew only provided for the sale of the Hillside Coal & Iron Co. of its right, title, and inter-

est in the property?-A. That is my recollection.

Q. You knew, of course, that such a contract could not affect the title of the Everhart heirs, if any title they had?-A. Yes.

Q. Therefore there was no just ground of protest on their part against any transaction of that kind?—A. While perhaps the contract could not affect their rights, yet the situation might be such as to call for their interference. I will explain that this way: If somebody had gone to work taking away that culm under this contract, for instance, if it had been turned over to the Laurel line, or whoever purchased it, and they had gone to work to take it away, the Everharts would have then been put to a lawsuit. They would have had to get out an injunction in court or to have done something about it. It was always, I believe, the claim and hope of the Everharts that all the parties would be united, and with some division of the purchase money, so that they would be recognized as part owners in that dump and get their money without any lawsuit.

Q. They would have been put to a lawsuit, which, I gather from you, there would have been no foundation for, in your judgment.—A. I am not so sure about that. They were owners of an interest in the land from which this culm pile had been

Q. You have already expressed your opinion that the producers or makers of this culm pile owned it without reference to the ownership of the land on which it rested .-- A. That is true. If they are mining coal under a coal lease, and get a lease in this way, that the operator shall get all the coal, has been decided that under such a lease the operator is entitled to the small sizes of coal upon which no royalty is reserved. But the Hillside Co. did not even have that from the Everharts. The E. & G. Brooke Land Co. simply had a letter a great many years old, in which it was stated that they might mine the coal and pay a certain royalty to the coal owners. Now, that letter I never had seen, nor a copy of it. It was simply a matter of information that such a letter had been written by Mr. Darling, who was a prominent lawyer in Wilkes-Barre a great many years ago. His son was on the stand yesterday. He has been dead some years. Mr. E. P. Darling, when an attorney for the E. & G. Brooke Land Co. and the Everhart heirs, had written a letter to the Hillside Coal & Iron Co. stating that they might mine this coal and pay a certain royalty to those interests. You understand that as long as they took those royalties month by month it closed up the past, but it did not open out the future.

Q. You knew in all the years the company had been mining there never had been any dispute about the terms on which they had been doing it. You knew the contents of that letter, whether in existence or not, and that it was perfectly understood between the lessors on the one hand and the company on the other, did you not?—A. I am not so sure. I have never seen the letter or a copy of it. If I could have seen the letter perhaps I could have come to a little more definite conclusion

as to the matter.

Q. Is there any phase of this matter on which you are sure?-A. You can not say that I ought to be sure of a letter I never saw or of which I have never seen a copy. I am only stating what I believe to be the fact.

Q. Did you ever draw an option or contract for sale from the company to E. J. Williams?--A. My recollection is that the one

I did draw was to E. J. Williams.

Q. When was that drawn?—A. I can not fix the time exactly.

I should say it was early this year.

Q. It was the 10th of last April, was it not?—A. I presume it was about that time. I would not say for sure. I think it was about that time

Q. That paper was drawn for the purpose of empowering Williams to dispose of the Hillside interest in this property, was it not?-A. No; I did not so regard it. I should rather regard it as a contract of sale to Williams by the Hillside Coal & Iron Co.

Q. An assignable contract, of course?—A. Well, I believe so.

I have not seen it since. I can not state. Q. You knew at that time that Judge Archbald was a party in interest, I suppose?—A. As I have said, I knew he was interested in the matter some way, but how I did not know. The only way I knew he was interested in it was because he called at my office on a day when Mr. Welles and Mr. Conn, of the Laurel Line, were there. The nature of his interest I did not know.

Mr. Manager DAVIS. That is all.
Q. (By Mr. WORTHINGTON, presenting paper.) I will ask you to look at this paper, U. S. S. Exhibit No. 5 in this case, and tell me whether that is the contract about which you have been testifying and which you drew for Capt. May?—A. (Examining.) I believe this is it. I have not read it through, but certainly it has every appearance of it. I believe this is the one. It is the one. I recognize it.

In the questions you have been asked by Mr. Manager Davis, as I understood your answers, you have been referring to the Katydid dump and the title to it, the ownership of it?—A. Yes, sir.

Q. I want to ask you what you have to say about the interests of the Everharts and the danger you feared as to the other more important, more valuable

Mr. Manager DAVIS. I object to that. Mr. WORTHINGTON. On what ground?

Mr. Manager DAVIS. On the ground that it has all been gone over in chief.

Mr. WORTHINGTON. Perhaps it was. I did not know it was the manager's recollection of the examination in chief.
The Witness. Is that all?

Mr. WORTHINGTON. That is all, Judge Knapp. The witness may be discharged. It is possible he may have to come back. TESTIMONY OF L. A. WATRES.

L. A. Watres appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Watres, you are a member of the bar?-A. Yes, sir.

Q. How long since you have been in active practice?-A. About 15 years. I have been practicing but very little in 15

O. Do you remember the purse that was given to Judge Archbald on his sailing to Europe some years ago?-A. I do.

Q. Were you one of the contributors to that purse?-A. I

O. Will you tell us, please, the circumstances under which your contribution was asked for and received ?- A. Mr. E. R. W. Searle, who was at that time the clerk of the court, the district court, called upon me to solicit a contribution to the fund. After some hesitation I told him that if it was a fact that the names of the contributors were not to be given to the judge I would very gladly subscribe, and I did subscribe. He told me that the matter would be attended to. I presumed it would be. I gave him my check.

Q. Had you been a personal friend of Judge Archbald's? A. For 30 years and over. I have known him for over 40 years. I lived in the same community with him for over 40

Q. Do you represent any railroad or other companies?-A. No, sir; I do not think so at the present time.

Mr. SIMPSON (to the mahagers). Cross-examine, gentle-

Cross-examination:

Q. (By Mr. Manager NORRIS.) You reside at Scranton, Mr. Watres?—A. Yes, sir.

Q. You are a practicing attorney?-A. I have not been in

active practice for about 15 years.

Q. Did anyone else talk to you about making a contribution to this fund except the clerk, Searle?-A. No one but Mr. Searle.

Q. He was clerk of Judge Archbald's court at that time?—A.

He was the clerk of that court; yes, sir.
Q. Did you hear any talk in Scranton about it by any other persons?-A. I did not.

Q. You did not know of any meeting of attorneys whatever

in regard to it?-A. I did not.

- You did not hear of any meeting where they discussed the advisability of getting up a dinner, and finally abandoned it because they could not get the fellows together?—A. I think Mr. Searle spoke of it in a casual way at the time. I do not recall what was said.
- Q. All you know about it is what Mr. Searle told you?-A. That is all. He is the only one I ever talked to about it. Q. What was the amount of your contribution?-A. \$50.
- Q. Did he tell you when he solicited the contribution that it was to be given to the judge as a purse in cash?-A. I believe he did; yes, sir.
- Q. Did you get any acknowledgment of your contribution? A. I received from the judge a letter from Europe, I do not recall just where, a few weeks after he landed there. The letter was giving a description of his trip and mentioning the purse, and he seemed to be quite embarrassed in that letter.

Q. Have you that letter ?-A. I have not; no, sir.

- Q. Have you made any effort to get it?-A. No, sir. If I recall it aright, that letter was not preserved.
- O. It was not preserved?-A. I believe not, as I recall it. As I do with many such letters, I threw it in the wastebasket as of no consequence to file.

Mr. Manager NORRIS. I think that is all.

Mr. SIMPSON. That is all. The witness may be discharged, Mr. President

The PRESIDING OFFICER. The witness will be discharged. TESTIMONY OF WILLIAM J. FITZGERALD.

William J. Fitzgerald appeared and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Fitzgerald, you are a member of the bar?-A. I am.

Q. Of what firm?-A. O'Brien & Kelly.

Q. Do you remember the case of Peale against the Marian

Q. What connection had O'Brien & Kelly with that case?—A. We were of counsel for the plaintiff.

What connection had you with it personally?-A. I per-

sonally assisted in the trial of the case.

Q. Will you look at this book [presenting book] which I hand you and tell us, please, what that is?—A. (Examining.) That is a printed copy of the record as prepared by the appellant in the circuit court of appeals, in the case of the Marian Coal Co., appellant, versus John W. Peale, appellee, in the third circuit, being an appeal from the case of Peale versus the Marian Coal Co. before the middle district of Pennsylvania.

Q. I call your attention in this book to the order which is made by Judge Archbald on January 27, 1911, on page 44. you present when that order was made?-A. I was.

Will you state the circumstances leading up to the making of the order and what occurred at the time it was made?-A.

Prior to that date-

Mr. Manager NORRIS. Mr. President, may I ask the attorney what the object of this evidence is. I do not want to object to it if it is proper, but I do not see its relevancy or materiality.

Mr. SIMPSON. Mr. Boland, when upon the witness stand, testified that-I will not say the principal objection, but the first objection which he made and which caused him to feel his enmity toward Judge Archbald was the requirement to go to New York made by Judge Archbald. This is the particular order to which he refers. I am referring simply to that.

Mr. Manager NORRIS. Mr. President, if I am not mistaken. that evidence was brought out on cross-examination. It is immaterial evidence, and I do not believe that counsel ought to be

allowed to controvert it.

Mr. SIMPSON. I will not say that the point was not brought out in cross-examination; that is to say, voluntarily stated by Mr. Boland; but in point of fact, the connection of this case was the act of the managers then, and it is referred to by the managers in the second article of impeachment.

Mr. Manager NORRIS. But the reference to the order was only for the purpose of connecting the dates or something of that kind. I think all those are in the RECORD, and there is no dispute about them. As far as the order that was made, that is not in controversy here. We have no contention in

regard to that.

The PRESIDING OFFICER. The Chair remembers there is no issue raised in the articles of impeachment as to the improper conduct of Judge Archbald in that particular case. the Chair recollects correctly, the counsel for the respondent endeavored to show by Mr. Boland that he was prejudiced against Judge Archbald, and that there was, in fact, a conspiracy on his part to institute proceedings against Judge Arch-No issue was raised by the managers as to any connection with that case, and the Chair does not think that this evidence would elucidate any issue raised in this case.

Mr. SIMPSON. The allegation, if the Chair please, in the

articles of impeachment is that Judge Archbald was sitting as a judge in the district court and acted in this particular matter while sitting as a judge in the district court, and at the same time had caused or consented to the presentation to Mr. Boland of a note for \$500 to be discounted while he was sitting as a

judge in relation to this particular matter.

When Mr. Boland was examined in chief he was asked about this particular case. He did not go, as I recall, in fairness to the managers, into any details in relation to that matter, but he was asked about the particular case, and when in crossexamination his attention was called to the particular case then he made the remark which I referred to awhile ago.

Now, the thought on behalf of the respondent is that we are justified in showing the facts in relation to the matter about which Mr. Boland had built up his complaint, namely, that the fact as he stated it was not so; that there was no such order made as he said was made, but on the contrary that this identical order, the one he referred to, was entirely different and distinct from that which he said it was.

The PRESIDING OFFICER. If the managers had offered evidence on that subject and the respondent had objected to it, the Chair would certainly have ruled it out. Now, if counsel bring in what is irrelevant testimony, the Chair does not think that it is competent for them to proceed further with the elaboration of that matter. If the fact indicated by the question were established by the evidence it would not affect the case in any manner, because there is no charge in the articles of impeachment of any improper conduct of Judge Archbald in that particular case, as the Chair recollects.

Mr. WORTHINGTON. I want to offer this evidence in an entirely different light. I was endeavoring, from the statements made by Mr. Boland, to show that he was biased and prejudiced against Judge Archbald. The Chair ruled that I could not do that by asking him, but that I must prove that as an independent fact when the time came for us to introduce our testimony.

William P. Boland has testified here that because of what Judge Archbald did when this order about which we are now asking this witness was made he made up his mind that Judge Archbald was dishonest, and that he proceeded from that time to watch him to try to prove that that was so. Now, we propose to prove by this witness Boland's prejudice and bias against Judge Archbald. It is competent, without any reference to what the articles of impeachment say, because he is a witness in this case, to show that, so far from it being the fact that Judge Archbald at that time did anything as to which the witness could properly reach any conclusion that he was not honest, in everything he did he was perfectly fair and just and did all that William P. Boland's counsel wanted him to do, and that instead, as Mr. Boland claimed, of cutting off Boland from taking testimony or getting at the facts he wanted, he was given every opportunity that his counsel asked.

It will show, therefore, in the strongest light that William P. Boland is prejudiced against Judge Archbald, and that no word that he says should weigh against Judge Archbald a feather's weight when we find the absolute lack of foundation there is for the kind of statements William P. Boland is mak-

ing and has made.

This whole proceeding, according to William P. Boland and what we know of this case so far as we have gone, grows out of the fact that William P. Boland says that in what Judge Archbald did when that order was made he showed to William Boland that he was not honest. Let me remind the Chair what happened on cross-examination when I was asking questions of Mr. Boland. I read from page 459 of the record:

tions of Mr. Boland. I read from page 450 of the record:

Mr. Worthington. I do not wish to be persistent about it, but certainly I have a right at some time or other to show that this witness has a deadly bias and prejudice, an unreasonable bias, as I think, against Judge Archbald.

The President pro tempore. There is no question about the counsel's right in the matter.

Mr. Worthington. The President holds that I can not do it on cross-examination, and the question is how it may come up later.

The President pro tempore. The Chair does not rule on that, but the Chair rules that the counsel can not do it by the infraction of another rule. The counsel can cross-examine the witness in any way that may disclose that fact without going into subjects matter relating to this case which were not brought out in the direct examination. Counsel are not concluded by that. There are two ways in which counsel can reach all that is wanted. One is by proving the same by other parties and the other by introducing the witness as his own.

Now, I want to prove by other parties what it was thus ruled

Now, I want to prove by other parties what it was thus ruled I could not prove out of the mouth of William P. Boland himself. And I want to make this the starting point in proving that everything William P. Bolaud says Judge Archbald did that was wrong is a falsehood, and to show that he can not stand here for one minute on the theory that he is testifying as an impartial witness, as he pretended to be, against the judge, but is his deadly enemy. Certainly his testimony is here, put in here by the managers, and Senators ought to know all they can know that will tend to show that he is biased and prejudiced in the highest possible degree against Judge Archbald, so that they may consider whether his evidence is worth anything.

The PRESIDING OFFICER. The Chair does not think that

this evidence is admissible. Issue can not be raised upon a matter which is not in issue at all. The same latitude now sought would open the case to an interminable investigation as

applied to other features of the case.

Mr. SIMPSON. I think, sir, under the ruling of the Chair, there is no other question that we wish to ask this witness, and

he may therefore be discharged.

I desire, sir, not for the purpose of having it printed in the record, but for the purpose of use hereafter in the argument, to offer this transcript [producing a volume], which completes the record as offered in evidence on behalf of the managers. Their's was only a part-

Mr. Manager CLAYTON. Will you let us see that, please? Mr. SIMPSON. Certainly. It is the official transcript of the

record. Mr. Manager CLAYTON. In what case?

Mr. SIMPSON. The Peale case. Mr. Manager NORRIS. We object to that, Mr. President, as being immaterial. This is the record in the Peale case?

Mr. SIMPSON. It is the record in the Peale case.

Mr. Manager NORRIS. The case of the Marian Coal Co.

against Peale?

Mr. SIMPSON. The case of Peale against The Marian Coal Co.—the record of the circuit court of appeals on appeal.

Mr. Manager NORRIS. Everything that is of any materiality that would be shown by that is already in evidence, such as dates, and so forth, but the record of that case, Mr. President, is certainly not material in this case; it has not anything what-ever to do with it that I can see. Besides, it is a record of I do not know how many pages.

Mr. Manager CLAYTON. About a thousand pages.

Mr. Manager NORRIS. Of printed matter,

Mr. Manager CLAYTON. To be accurate, I can give the num-

ber of pages-1,034, I think it is.

Mr. Manager NORRIS. In addition, it is objectionable for other reasons. It is objectionable because it would unnecessarily encumber the record.

Mr. SIMPSON. I did not ask to have it printed at all. Mr. Manager NORRIS. Then how do you expect it to be

considered?

Mr. SIMPSON. The same as the evidence you offered which was left with the Secretary but not to be printed-in exactly the same way and in no other way.

Mr. Manager CLAYTON. I desire to call attention to what

this is. The title of it is:

In the United States Circuit Court of Appeals for the Third District. Marian Coal Co., appellant, v. John W. Peale, appellee. Appeal from the Circuit Court of the United States for the Middle District of Pennsylvania.

The following is a transcript of the record of the above case appealed from the Circuit Court of the United States for the Middle District of Pennsylvania.

This case was not in the Commerce Court at all. We insist that it is not proper evidence.

The PRESIDING OFFICER. Are counsel prepared to show in what way this case has any bearing upon the case the Senate is now investigating?

Mr. SIMPSON. The managers have offered in evidence here, sir, a portion of the docket entries in this particular case; it is only a portion of the docket entries which they have offered. This record shows the remainder of the docket entries and the matter to which the docket entries relate.

The PRESIDING OFFICER. The Chair would inquire if the docket entries in this case have been put in evidence?

Mr. SIMPSON. A portion of them have been by the mana-

Mr. Manager CLAYTON. I think that some of them have,

I may say

The PRESIDING OFFICER. The Chair thinks, if that is the case, and only a part of the entries have been introduced, that the suggestion of counsel is a reasonable one; that the matter shall be subject to use just as were the other voluminous documents which were offered by the managers-not to go into the record, but with permission to use them in argument.

Mr. SIMPSON. That is all I wish, sir.
Mr. Manager NORRIS. I have not examined the document, but I presume it contains all the evidence that was taken in that case.

Mr. SIMPSON. If you are going to argue from the evidence, you are going to do more than I am. I am simply offering this

as a complete record.

Mr. Manager NORRIS. I want to fix it so that you can not. The PRESIDING OFFICER. The suggestion of the Chair is to apply the same limitations as were applied to the voluminous documents presented by the managers-simply that the document may be referred to by counsel in argument without being incorporated in the record.

Mr. Manager CLAYTON. We think it is not admissible to go into a discussion of the evidence in that case here.

Mr. SIMPSON. We will not do so, Mr. Manager CLAYTON.
Mr. Manager CLAYTON. We will claim the right, Mr. President, to restrict the use of that document in the argument and in the trial of the case.

Mr. Manager NORRIS. Mr. President, in fairness to the managers, we ought to know something of the use to which this record is to be put. Here is a document of over a thousand pages, and, by virtue of its admission, counsel can use any part of it they may desire. We have not examined it; it would take us a week to do so if we took the time to do it, and we ought to know or have some indication as to what they are going to use it for and what particular parts they expect to use, in order that we may, if we see fit, call for evidence in rebuttal of it or in explanation of it. It would be unreasonable for us. with the information we have now, to be compelled to go through this large volume of documentary evidence and to see what evidence we might be called upon to offer in rebuttal at our peril.

The PRESIDING OFFICER. The Chair only gave that direction because of the fact that the managers had been allowed similar liberty as to four or five different books that were presented, as the Chair recollects.

Mr. Manager NORRIS. I am not aware of that. Mr. WORTHINGTON. There were introduced in evidence a pile of briefs and other documents in a case before the Interstate Commerce Commission—the lighterage case—a pile of printed matter about that high [indicating], without the slightest suggestion to us as to what use the managers were going to make of it.

Mr. Manager NORRIS. That was confined to the printing on the outside of the briefs.

Mr. WORTHINGTON. It was not confined to the printing on the outside of the briefs; but they produced all of the documents, and they were all admitted in evidence, not to be printed but to be used as occasion might require. I may say the great

Mr. Manager NORRIS. I think that counsel— Mr. WORTHINGTON. The great bulk of this record here is made up of the evidence in the case. Of course we are not going to refer to that in any way, and that narrows it down to a few pages which show the proceedings in the case. Those proceedings are very material in this trial. They figure in a great many ways. That was the case which was pending when the \$500 note which has been referred to was presented to Boland for discount; that is the case as to which Mr. Boland has testified that he thought Judge Archbald was dishonest because of certain orders that he made in it; that is the case as to which Judge Witmer delivered a final opinion upon the merits in the summer of 1911, and as to which Mr. Boland charges that a decree or judgment was brought about by the Interposition of Judge Archbald under the command of Mr. Loomis.

Mr. Manager NORRIS. Now, Mr. President, I want to object

to the

The PRESIDING OFFICER. Counsel and the managers will

proceed one at a time in order.

Mr. Manager NORRIS. I want to object, Mr. President, to the statement which counsel is making and which he has made a great many times in regard to what that evidence shows.

Mr. WORTHINGTON. You deny that William P. Boland— Mr. Manager NORRIS. We deny distinctly that we brought it out. It was all brought out on cross-examination. Counsel have set up here a straw man of their own, and are now proceeding to knock it down. We did not bring it out; we are not responsible for it; we have never denied that Mr. Boland was a prejudiced witness and had a bias against Judge Archbald. I think he admitted it himself; at least we have never controverted it; and we do not want to be put to the trouble now, at our peril, of overlooking to answer a whole lot of evidence in another case which we have never examined, which has never been called to our attention, and as to which, even now, in over a thousand pages it is not suggested what part counsel expect to use either in argument or in quotations to the Senate.

The PRESIDING OFFICER. If counsel will indicate the parts which they desire to use, the Chair will then pass upon

the question.

Mr. WORTHINGTON. Very well, we will do that later.

Mr. Manager CLAYTON. So it is not admitted in evidence at this time?

The PRESIDING OFFICER. Not under the statement of the

managers.

Mr. Manager NORRIS. May we not have an understanding that by the meeting of the court to-morrow counsel will indicate what parts of it they desire to introduce and take the matter

The PRESIDING OFFICER. Counsel will indicate at their convenience the parts which they wish to introduce, and they

will have an opportunity to do so.

Mr. WORTHINGTON. I think we can do that by the time we again meet to-morrow.

The PRESIDING OFFICER. Then it can be passed on to-

morrow

Mr. Manager NORRIS. That is satisfactory.
The PRESIDING OFFICER. The Chair only gave the direction which he indicated because of the fact that similar books had been presented in a similar way and there had been no objection made on the other side; but objection now being made, counsel will have to indicate the portions they wish to introduce.

Mr. WORTHINGTON. Mr. President, in order that the RECORD may be complete I wish to ask now for the final discharge of the following witnesses, who were summoned with a charge of the following withesses, who were summoned with a view of giving evidence as to reputation and character, but whom, under the rule in which we have acquiesced, we can not examine: Henry M. Edwards, E. C. Newcomb, Frederick W. Fleitz, and W. W. Watson, all of Scranton; Joseph C. Fraley, of Philadelphia; and Henry C. Niles, Harold M. McClure, Charles M. Clement, and W. J. Schaffer.

The PRESIDING OFFICER. The witnesses named, summoned on the part of the respondent will be finally discharged.

moned on the part of the respondent, will be finally discharged.

CHARLES B. SQUIRE.

Mr. Manager CLAYTON. Mr. President, the witness Charles B. Squire, for whom an attachment was issued the other day, is now in attendance upon the sessions of the Senate sitting in the trial of this case. After a personal conversation with him, I have every reason to believe that the following are the facts in the case, as he has stated them to me: That his mother, who is, I believe he says, of the advanced age of 87 years, very ill; that he thought his presence was necessary there, which detained him a day or two; that as soon as her condi-

tion permitted he had bought his ticket and was in the act of starting to Washington to obey the subpœna when the officer stepped into his office and served the attachment upon him. Those facts being true-and I have no reason to doubt them, and after talking to the witness I believe they are true-I therefore ask that the order of attachment be vacated, but I do not wish the witness discharged at this time.

The PRESIDING OFFICER. Under the statement made, without objection, the order of attachment will be vacated, but

the witness will remain in attendance.

TESTIMONY OF JOHN P. KELLY.

Mr. SIMPSON. I ask that John P. Kelly be called. John P. Kelly, having been duly sworn, was examined and

testified as follows:

Q. (By Mr. SIMPSON.) Are you a practicing attorney?-A.

Q. Of what bar?-A. Lackawanna County, Pa.

Q. And what is the name of the firm?-A. O'Brien & Kelly.

Q. You know Judge Archbald?—A. Very well. Q. How long have you known him?—A. About 30 years.

Q. Were you one of the contributors to the purse which was given to him at the time he sailed for Europe some years ago?-A. I was

Q. Will you please tell us the circumstances under which your contribution was made?-A. Well, as I remember, Mr. E. R. W. Searle, the clerk of the court, spoke to me about it. He said that Judge Archbald was going to take a trip to Europe and that some of his friends were getting up a present or testimonial or purse, or something of that kind—I have for-gotten the exact language—and he wanted to know if I wanted to be in it, and I told him I certainly did. We talked it over a little while, about the kind of present he was to get. He spoke about his getting a present of money, and I expressed my idea that that was all right, or words to that effect, and I gave Mr. Searle our firm check for \$50. I spoke to Mr. O'Brien about it, but I do not remember whether I spoke to him about it before or since, but the check covered both our contributions.

Q. Will you tell us whether or not you knew that the names of the contributors were to be disclosed to Judge Archbald?-A. Well, I am not clear about that, but my recollection is that they were not. I am not at all clear about it. It did not make very

much of an impression upon my mind.

Q. You were on the bench for a while with Judge Archbald?-A. Yes; for about a year.

Mr. SIMPSON. Cross-examine, gentlemen.

Cross-examination:

Q. (By Mr. Manager NORRIS.) Did you talk with anybody else about it except Mr. Searle, the clerk of the court?—A. I do not remember talking to anybody else, except my partners, Mr. O'Brien and Mr. Fitzgerald. I think I spoke to Mr. Fitzgerald about it afterwards.

Q. They were your partners?-A. Yes, sir.

Q. There was not anybody else who suggested any contribution except the clerk, was there?-A. Not to me; not that I have any recollection of.

Q. You did not know of anybody else making any such suggestion, did you?-A. I have no recollection of anyone else.

Mr. Manager NORRIS. That is all.

Mr. SIMPSON. Mr. President, the witness may be discharged. The PRESIDING OFFICER. The witness is finally dis-

TESTIMONY OF FRANK R. SHATTUCK.

Mr. SIMPSON. I ask that Frank R. Shattuck be called. Frank R. Shattuck, being duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Shattuck, you are a member of

the bar?-A. I am, in Philadelphia.

Q. Were you counsel in the various suits brought by the Old Plymouth Coal Co. against various insurance companies?—A. I represented all the defendants.

Q. Did you take any part in the trial in the one case that was tried?—A. The cases in the United States court were tried as one. I tried for the defendant and Mr. Lenahan for the plaintiff.

Q. How many cases, roughly speaking, were there altogether?—A. I think there were 13 suits brought in the Lackawanna court, and I removed 6, involving over \$2,000, to the United States court.

Q. Now, will you tell us, please, in as brief a way as you possibly can, the circumstances attending that trial?-A. The trial had proceeded three or four days until the afternoon of a Friday—I think it was the 19th of November—when Mr. Lenahan, who sat within 3 or 4 feet of me, made the suggestion that if I would make him an offer they might be able to settle,

I told him I never made offers for insurance companies, but if

he would submit one I would see what I could do.

He then proposed to take the face amount of the policies, without interest-that was \$27,000-and there was something over \$2,000 of interest. My first offer was \$20,000. He then came to \$25,000, and then I agreed to split the difference, at \$22,500. A remark was made by him, to the effect, "I suppose you would go \$500 more to help to pay counsel fees." I said: "Yes; \$500 does not make much difference where there is so much involved." So I offered \$23,000. Mr. Lenahan said he was only the trial lawyer; that the real attorney was a gentleman named Reynolds, and that they were very stubborn, and he could not do much with them, but he suggested that we wait over until morning and they might be able to arrive at a settlement.

settlement.

The next morning I recall was Saturday morning, and the plaintiff's side were quite late coming in. They were, I think, in an outside room debating this thing. But when they came in Mr. Lenahan stated they would take \$23,000. Mr. Reynolds, who was there then, said, "What security have we that the amount will be paid?" I told him that in Philadelphia they generally took my word for that. He said that he was afraid of the financial responsibility of some one. So I made the suggestion that I would give him confessions of judgment, my understanding being that they were to be merely security; that if I did not pay in 15 days he would enter up the judgments. As a matter of fact, the total amount was paid, but, contrary to my understanding, he entered up the judgments. We afterwards had some acrimonious correspondence about the costs

Mr. SIMPSON. Never mind that. The Witness, This is merely important as showing that they were not satisfied afterwards with the settlement.

Q. Who removed the cases from the county court to the

United States court?-A. I did.

Q. You were the counsel for the defendant insurance company?—A. Yes, sir; I removed all cases involving over \$2,000. There were six.

Q. Will you tell us please whether during that time there was any favor shown to the plaintiff by Judge Archbald?
Mr. Manager STERLING. We object to the question.

wholly immaterial whether there was any favor shown or not.

The PRESIDING OFFICER. The Chair will hear from counsel for the respondent on that objection.

Mr. SIMPSON. I am a little in difficulty how to present it As I understand the article of impeachment, it is claimed that Judge Archbald while acting with Mr. Rissinger, who was a party in interest, as shown by the managers, in the Old Plymouth Coal Co., undertook to sit as judge while interested in this particular matter, thereby, I assume, undertaking to show that there was some partiality or prejudice or some-thing on Judge Archbald's part in behalf of the plaintiff in this case. If the managers disclaim that, of course this ques-tion goes out; I do not want to ask it.

The PRESIDING OFFICER. Will counsel for the respondent point to the particular allegations in the article to which he

refers?

Mr. WORTHINGTON. I have it here. Article 7 says:

That the said coal company was principally owned and entirely controlled by one W. W. Rissinger, which fact was well known to said Robert W. Archbald; that on or about November 1, 1908, and while said suit was pending, the said Robert W. Archbald and the said W. W. Rissinger wrongfully and corruptly agreed together to purchase stock in a gold-mining scheme in Honduras, Central America, for the purpose of speculation and profit.

Just what "wrongfully" and "corruptly" entering into a speculation means, of course, we have to speculate about. Then

it goes on:

That in order to secure the money with which to purchase said stock, the said Rissinger executed his promissory note in the sum of \$2,500, payable to Robert W. Archbald and Sophia J. Hutchison, which said note was indorsed then and there by the said Robert W. Archbald, for the purpose of having same discounted for cash; that one of the attorneys for said Rissinger in the trial of said suit was one John T. Lenahan; that on the 23d day of November, 1908, said suit came on for trial before said Robert W. Archbald, judge presiding, and a jury, and after the plaintiff's evidence was presented the defendant insurance company demurred to the sufficiency of said evidence and moved for a nonsult, and after extended argument by attorneys for both plaintiff and defendant the said Robert W. Archbald ruled against the defendant and in favor of the plaintiff, and thereupon the defendant proceeded to introduce evidence before the conclusion of which the jury was dismissed and a consent judgment rendered in favor of the plaintiff for \$2,500, to be discharged upon the payment of \$2,129.63 if paid within 15 days from November 23, 1908, and on the same day judgments were entered in a number of other like suits against different insurance companies, which resulted in the recovery of about \$28,000 by the Old Plymouth Coal Co.; that before the expiration of said Robert W. Archbald, presented said note to the said John T. Lenahan for discount, which was refused and which was later discounted by a bank and has never been paid.

All of which acts on the part of the said Robert W. Archbald were improper, unbecoming, and constituted misbehavior in his said office as judge, and render him guilty of a misdemeanor.

We have been wondering in our camp ever since this proceeding opened just what they meant by that and what there was corrupt or wrongful that they intend to charge; and the only thing we can find that they could allege is that because of the relations which they say existed between Rissinger and Judge Archbald he manifested some favoritism in the trial of that case. If it does not mean that, it ought to be pitched out of the court.

Mr. Manager STERLING. I think I can make it clear to the gentleman what there is wrong about it. It will be observed that we do not charge in that count that Judge Archbald extended any favors to the plaintiff in that case, and we are not saying now that he extended any favors to him; but we say this: While Rissinger or his company was a plaintiff in Judge Archbald's court in a number of cases—and it seems from this witness that there were six of them-Judge Archbald entered into a partnership with W. W. Rissinger, and that Judge Archbald got 84 shares of stock in this gold-mining scheme, and that the negotiations were going on while this case was pending in his court; that they began the latter part of September, according to Russell, who was here from New York yesterday; that Mr. Rissinger brought Russell down from New York to talk to Judge Archbald about a transaction; and while those cases were pending in his court before him this man Rissinger negotiated this deal, by which Judge Archbald got 84 shares of stock, which was delivered to him; soon after these cases were terminated, without paying one cent for the stock.

That may not look bad to counsel on the other side, but it does to me, and that is the charge in this count. We have not alleged that Judge Archbald extended the plaintiff any favors and we are not going to try to prove that he extended the plaintiff any favor.

Mr. WORTHINGTON. Or that he agreed to?

Mr. Manager STERLING. It is wholly immaterial whether he extended him any favors or not in this case.

Mr. WORTHINGTON. Or whether he agreed to? Mr. Manager STERLING. Well, it is pretty hard always for the prosecution to prove the intent; but we will draw our inference; and we believe, and we say now, and we will argue to the Senate when the time comes, that there was an understanding. Why, these men are gentlemen; they do not have to say, "Here, these cases are before you, now you help me along in these cases and we will give you some stock." Gentlemen understand each other.

That is what we say about it, and what we will argue in this case. It looks bad to the managers for a party to a lawsuit, and without knowledge now on the part of the defendant—this gentleman will not say that he had any knowledge of these negotiations going on between the plaintiff and Judge Archbald-to have these transactions with Judge Archbald by which he, without paying anything, gets an interest in this gold-mining scheme.

Mr. WORTHINGTON. It seems to me that nothing can more clearly demonstrate the necessity of this evidence than what the honorable manager has said. He said there was an implied understanding between them-being gentlemen, he said, they need not say so-that the plaintiff would be favored. Now, what stronger piece of circumstantial evidence could we offer tending to show that there was no such agreement between them, implied or expressed, than that in the case Judge Archbald acted as an honest and upright judge and favored neither side. In fact Mr. Lanahan, who was one of Rissinger's counsel in the case, testified, as you will remember, that he was called down by the judge when he was examining a witness because he was too sharp about it. And we want to follow that up with the testimony of this gentleman, who was one of the counsel, as to the conduct of Judge Archbald during the trial, so that the Senate may be able to determine whether there is anything in the inference the managers seek to draw from the negotiations about that stock, and that as a matter of fact it was understood between Rissinger and the judge that the judge understood between Rissinger and the judge that the judge would favor him in his suit.

The PRESIDING OFFICER. The Chair will ask to have the question read exactly as it was propounded.

The Reporter read as follows:

Q. Will you tell us, please, whether during that time there was any favor shown to the plaintiff by Judge Archbaid?

Mr. Manager STERLING. We make the further objection that it would be purely a matter of opinion on the part of the gentleman whether there were any favors extended or not. It is not a matter of fact, but a matter of opinion whether there were any favors rendered or not.

Mr. WORTHINGTON. That can be fixed up by changing

the form of the question.

The PRESIDING OFFICER. The Chair is unable to see how that issue could very well be tried out by a question of that

kind. If the issue is a legitimate one, the only way it could be determined would be by taking up the trial and going through it step by step to show whether the judge decided each point properly and whether in any case he decided corruptly. The Chair does not think general testimony as to whether the conduct of the case was or was not fair is sufficiently definite or could be made certain. It is not the subject matter of testimony. The Chair, however, will state this: As the Chair understands the issue made by the pleadings, it is that a certain agreement alleged to have been made between the respondent and a litigant in his court was an improper agreement to be made between a judge and a litigant regardless of what may have happened afterwards. I understand that to be the claim.

And regardless of whether or not Mr. Manager STERLING.

it influenced the court's decision.

Mr. WORTHINGTON. If that is all they claim-

The PRESIDING OFFICER. And there is no allegation that there was a corrupt decision made by the judge in this case. If there was, of course the evidence would be admissible and a

good deal more on the same line.

Mr. WORTHINGTON. The manager has just said that he was going to argue to the Senate, from the evidence as now in, that Rissinger and the judge understood each other; that without anything being said he was to be favored. Now, if it is necessary in behalf of Judge Archbald to go through every step in the trial and show what questions arose and how he decided them, I submit that even if it should take a week or a month it ought to be done, and they ought not to be allowed to go to the Senate and convict Judge Archbald of that implied agreement without having the benefit of what he did and what rulings he made while the trial went on. As a matter of fact, it will take only a few minutes to show what he did, and then the Senate will be able to conclude from what he did if he had a corrupt intention in his mind.

The PRESIDING OFFICER. The Chair thinks it is competent for counsel to show anything that was done, and that the question as to any particular act that was done is competent; but the general question as to whether or not the judge was fair or unfair on the trial is, in the opinion of the Chair, too indefinite. It is asking the witness to testify to a conclusion.

Q. (By Mr. SIMPSON.) Mr. Shattuck, in the seventh article of impeachment in this case it is averred that there was a motion made for nonsuit, and after extended argument by the at-torneys for both the plaintiff and the defendant the said Judge Archbald ruled against the defendant and in favor of the plaintiff. Will you tell us, please, exactly what was done in that regard?—A. The suit was brought to recover on insurance policies for the amount covering a washery building and the machinery therein. The washery building had been a breaker belonging to some railroad company, the Delaware & Hudson or the Delaware & Lackawanna, I forget which. The evidence was that they had given to the Rissingers the use of it; that was that they had given to the Rissingers the use of it; that thereupon the Rissingers incorporated this company, and the Rissingers had testified that after they got the old breaker from time to time they put in new boards—the old jackknife proposition, really, as to whether it was the same building or a new building. I made a motion in the usual way for a non-suit on the ground that the evidence had disclosed the fact that the building was not completely and entirely repaired or rebuilt and therefore was the old building.

Judge Archbald denied the motion for a nonsuit on the ground that if the jury believed that the building which was burned was the old building the verdict must be for the de-fendant; but that the question was one entirely for the jury;

that he would not pass on it.

I should say there was only one real legal proposition that came up in that case and that proposition Judge Archbald decided for the defendant. It was whether an insurance policy covering two items written for a single premium was an entire contract; and he ruled that it was; and therefore that if the Rissingers could not recover the policies were void under the building item; also that they were barred from recovering on the machinery item. Their claim had been some \$18,000 on building and \$14,000 on machinery. He ruled they could not recover for the machinery if they could not for the building.

Q. What part, if any, did Judge Archbald take in the negotiations for and leading up to the compromise?—A. He had nothing whatever to do with it. It was entirely between Mr. Lenahan and me.

Mr. SIMPSON. You may cross-examine, gentlemen. Mr. Manager STERLING. That is all.

Mr. SIMPSON. The witness may be discharged, Mr. President.

Mr. WORTHINGTON. I would like to examine Miss Mary Boland this afternoon, if possible. Her examination will be B

very short. She is very anxious to get away, and I have just a

single question I wish to ask her.

The PRESIDING OFFICER. It lacks three minutes of the time for adjournment. Is it the pleasure of the Senate to ex

tend the time long enough to examine this witness?

Mr. WORTHINGTON. I will not ask that, Mr. President.

The PRESIDING OFFICER. What is the pleasure of the

Mr. ROOT. I move that the Senate sitting for the consideration of the articles of impeachment adjourn.

The motion was agreed to.

Thereupon the managers on the part of the House, the respondent, and his counsel withdrew.

Mr. CULLOM. I move that the Senate adjourn.

The motion was agreed to, and (at 6 o'clock p. m.) the Senate adjourned until to-morrow, Wednesday, December 18, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

Tuesday, December 17, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the fol-

lowing prayer

Father of faith and hope and love, we wait upon Thee for the bread of heaven, the water of life, the light that makes bright the dark, smooths the rough way, and inspires to good thoughts and noble deeds, that we may contribute somewhat to the public weal and be reckoned among the benefactors of mankind, thus leaving our footprints along life's way for the inspiration of those who shall come after us. So may the peace that passeth understanding be ours and glory and honor and praise be Thine forever. Amen.

The Journal of the proceedings of yesterday was read and

approved.

Mr. SLAYDEN. Mr. Speaker-

Mr. MANN. Mr. Speaker, I make the point of order that no

quorum is present.

The SPEAKER. The Chair will ask the gentleman from Illinois to withhold that suggestion for the present until a few minor matters can be disposed of.

Mr. MANN. I will withhold it for the present,

THE LATE SENATOR RAYNER.

Mr. LINTHICUM. Mr. Speaker, I offer the following resolution, which I send to the Clerk's desk.
Mr. SLAYDEN. Mr. Speaker, I respectfully suggest that I

have been recognized.

The SPEAKER. The gentleman from Illinois made the suggestion that there was no quorum, and at the request of the Chair reserved it, as the Chair asked him to do so until two or three formal matters that will take no time can be disposed of. After that the Chair will recognize the gentleman from Texas. The Clerk will report the resolution offered by the gentleman from Maryland.

The Clerk read as follows:

Ordered, That Sunday, February 2, 1913, at 12 o'clock noon, be set apart for addresses on the life, character, and public services of Hon. ISIDOR RAYNER, late a Senator from the State of Maryland.

The order was agreed to.

VIEWS OF MINORITY ON OUTAGE BILL.

Mr. RAINEY. Mr. Speaker, I ask unanimous consent of the House to file minority views on the outage bill, reported by the

Committee on Ways and Means.

The SPEAKER. The gentleman from Illinois [Mr. RAINEY], a member of the Ways and Means Committee, asks leave to file views of minority on the outage bill. Is there objection?
There was no objection.

Mr. MANN. Mr. Speaker, I now renew my point that no quorum is present.

Mr. FITZGERALD. I move, Mr. Speaker, a call of the House.

The SPEAKER. Evidently there is no quorum present, and the gentleman from New York moves a call of the House. The motion was agreed to.

Accordingly the doors were closed, the Clerk called the roll, bers faile to their names:

a.

na the rong	wing mem
damson	Brown
iken, S. C.	Burgess
kin, N. Y.	Burke, I
mes	Cannon
nthony	Conry
arnhart	Copley
radley.	Cox, Oh
rantley	Cravens
ronecard	Campion

ed to answer
Daugherty
Davenport
Davidson
Davis, W. Va.
Dickson, Miss.
Dodds Draper
Driscoll, D. A.
Ellerbe

Fairchild Focht Fordney Fornes Gardner, N. J. Gould Gray Green, Iowa Greenc, Mass.

Merritt Moon, Pa. Moon, Tenn. Murdock Norris Olmsted Gregg, Tex. Griest Knowland Smith, N. Y. Sparkman Speer Stack Stanley Sulloway Korbly Lafean Lamb Langham Gudger Guernsey Hamill Hanna Lawrence Lee, Ga. Legare Lenroot Hardwick Harris Harrison, Miss. Harrison, N. Y. O'Shaunessy Sulzer Talcott, N. Y. Taylor, Ala. Taylor, Colo. Taylor, Ohio Thayer Turnbull Tuttle Vare Weekeneyer Palmer Parran Patten, N. Y. Plumley ever Harrison, Hart Hartman Haugen Hawley Heflin Levy Lindsay Pou Prouty Pujo Ransdell, La. Reilly Lindsay Littleton Lloyd McCall McCreary McGuire, Okla. McHenry McKellar McKinley Higgins Hill Hobson Wedemeyer Weeks Whitacre Wilson, N. Y. Wood, N. J. Woods, Iowa Young, Mich. Young, Tex, Reyburn Riordan Roberts, Nev. Howard Howard
Howell
Howland
Humphrey, Wash. McMorran
Humphreys, Miss. Maher
Jackson
Johnson, S. C.
Kindred
McLaughlin
McMorran
Martin, Colo.
Martin, S. Dak. Scully Sells Sherwood Simmons Slemp Smith, Cal.

The SPEAKER. Two hundred and fifty-two Members are present, a quorum

Mr. FITZGERALD. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to. The doors were opened.

CHANGE OF REFERENCE-LINCOLN MEMORIAL.

Mr. SLAYDEN. Mr. Speaker, I respectfully invite the attention of the Chair to what I conceive to have been an improper reference of Senate concurrent resolution 32, respecting the Lincoln memorial. On Friday, December 13, the Speaker referred this concurrent resolution to the Committee on Appropriations, and cited as an authority for doing so clause 2 of Rule XXIV.

The SPEAKER. The Chair will take the liberty of suggesting that he did not cite any authority at all, according to his recollection

Mr. BORLAND. Mr. Speaker, I rise to a point of order. The SPEAKER. The gentleman will state it.

It seems to me, from what the gentleman Mr. BORLAND. from Texas has already stated, that his purpose is to ask a correction of an erroneous reference, or a reference which is claimed to be erroneous, on a matter referred to the Committee on Appropriations by the Speaker. The rule points out how that change of reference may be made, and among other things it is required that it shall be made immediately after the reading of the Journal. I was present in the Chamber and I saw the gentleman from Texas rise, and I understood that the Chair agreed

to recognize the gentleman from Texas.

The SPEAKER. That part of the gentleman's point of order will be overruled, because if there is any trouble about it the

Chair is responsible for it.

Mr. BORLAND. Mr. Speaker, I was about to say that the Chair agreed to recognize the gentleman from Texas after certain preliminary business was transacted, but, strictly speaking, the intervention of the motion in regard to the late Senator Rayner would have been intervening business. I do not intend to raise that point of order because the gentleman wishes to raise the question of change of reference, but I do raise this point, that it must be done in accordance with the rules of the House by a motion or by unanimous consent and without debate.

Mr. SLAYDEN. That is all true. Mr. MANN. The gentleman from Texas can ask unanimous consent.

Mr. BORLAND. But that does not give the gentleman any right to make a statement.

The SPEAKER. The point of order is sustained.

Mr. Speaker, I ask unanimous consent for Mr. SLAYDEN. the privilege of making a brief statement in reference to the matter.

The SPEAKER. The gentleman from Texas asks unanimous consent to make a brief statement. Is there objection?
Mr. BURNETT. Mr. Speaker, I shall be compelled to object.

Mr. BORLAND. Mr. Speaker, I object.

The SPEAKER. The gentleman from Alabama and the gentleman from Missouri object.

Mr. SLAYDEN. Mr. Speaker, a motion to correct a reference

would be in order at any time, would it not?

The SPEAKER. Yes; by direction of the committee.

Mr. BORLAND. By the direction of the committee claiming jurisdiction

Mr. SLAYDEN. Mr. Speaker, to be perfectly frank there has not been any formal direction by the committee, although every member of the committee is cognizant of my purpose to do this thing, and is not only willing to have it done but is desirous.

The SPEAKER. The present occupant of the chair ruled last summer, after a good deal of debate, after examining the las an amendment in the third degree.

authorities, that the sanction of the committee had to be had. The Chair so ruled in a matter which was raised by the gentleman from Alabama [Mr. Hefilm].

Mr. BORLAND. Mr. Speaker, I shall withdraw any point of

order on the formal action of the committee represented by the gentleman from Texas. We do not make any point upon that.

Mr. RODDENBERY. Mr. Speaker, I raise the point of or-

der that the gentleman from Missouri can not withdraw the point of order so as to bind the Speaker or the House.

Mr. GARDNER of Massachusetts. Mr. Speaker, I suggest to the gentleman on the committee that he withdraw his motion. Mr. FITZGERALD. But the gentleman has not yet made any motion.

The SPEAKER. The Chair rules that Rule XXIV ought to be strictly enforced.

Mr. SLAYDEN. Mr. Speaker, then I shall make no motion at this time, but will endeavor to get the formal direction of

The SPEAKER. The Chair will recognize the gentleman the first thing after the reading of the Journal on Thursday morning next.

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 3175, the immigration bill.

Mr. GARDNER of Massachusetts. Mr. Speaker, pending that,

parliamentary inquiry.
The SPEAKER. The gentleman will state it.
Mr. GARDNER of Massachusetts. The rules of the House state that an amendment in the Committee of the Whole can only be debated for 10 minutes. Ordinarily that difficulty is obviated by moving to strike out the last word from the amendment proposed, but in the case of this bill such a motion would appear to be an amendment in the third degree. Unless some agreement is made before we go into the Committee of the Whole, it seems to me that we are making it impossible to debate any amendment for more than 10 minutes. My parliamentary inquiry is as to the Chair's view of the situation.

The SPEAKER. The Chair agrees with the gentleman that if the rule about five minutes' debate was strictly enforced that there would be five minutes' debate on each side and no more, but in the 18 years that the Chair has been here it is only on very rare occasions that that rule has been enforced. The Chair has seen it done two or three times. The Chair knows he en-deavored to get five minutes himself once and the gentleman from New York [Mr. PAYNE] objected on the ground that time

was too precious.

Mr. GARDNER of Massachusetts. The Chair remembers that is usually obviated by moving to strike out the last word.

The SPEAKER. The situation is this, that the House inserted a substitute to take the place of the Senate bill. Now, in a parliamentary sense that is an amendment. Then somebody—the gentleman from Massachusetts [Mr. GARDNER], for instance-offers an amendment to the substitute. That apparently exhausts the range of the amendment. Now, nobody the Chair knows of ever considered striking out the last word a bona fide amendment. Of course, we all understand what it is;

it is simply a way to contravene the general rule.

Mr. MOORE of Pennsylvania. There will be no objection to striking out the last word on this side. We are anxious to have a little bit of discussion on this bill.

The SPEAKER. The Chair understands, but the gentleman from Massachusetts is trying to find out apparently what would happen if somebody raises a point of order against an amendment to strike out the last word.

Mr. GARDNER of Massachusetts. Precisely.

Mr. MANN. I apprehend the gentleman from Massachusetts knows what will happen; the Chair will be compelled to hold the motion to strike out an amendment which was offered to an amendment was an amendment in the third degree and hence not admissible

The SPEAKER. Of course.

Mr. MANN. I thought the gentleman was going to ask unanimous consent.

Mr. GARDNER of Massachusetts. If the gentleman will permit, the minority leader raised this point with me in discussion the other day, and I entirely agreed with him as to the construction of the rules.

The SPEAKER. There is no doubt about the construction being right.

Mr. GARDNER of Massachusetts. In that event, before we go into the Committee of the Whole, I desire to ask unanimous consent that the pro forma amendment shall not be considered Mr. UNDERWOOD. Mr. Speaker, I shall be compelled to object to that. I do not think it would be good practice. When you get into the Committee of the Whole the committee itself can give unanimous consent to any man speaking, and that is all that is necessary.

Mr. GARDNER of Massachusetts. Ah, but, Mr. Speaker-Mr. UNDERWOOD. Mr. Speaker, I ask for the regular order.

The SPEAKER. The regular order is the vote to go into the Committee of the Whole House on the state of the Union.

Mr. GOLDFOGLE. Mr. Speaker, pending that, I ask unanimous consent that general debate may be extended 30 minutes, one-half to be controlled by each side. Allusions were made which I think call on me for reply, and I would like to have some little time, and therefore I submit this request.

The SPEAKER. Now, who is to control this 30 minutes?

Mr. GOLDFOGLE. To be controlled as it was controlled before.

The SPEAKER. The gentleman from New York [Mr. Gold-

FOGLE] asks unanimous consent-

Mr. GARDNER of Massachusetts. Mr. Speaker, the regular order has been demanded by the gentleman from Alabama. Mr. MANN. The gentleman has submitted a request since

then.

Mr. GARDNER of Massachusetts. Mr. Speaker, I demand the regular order.

Mr. GOLDFOGLE. I understand the gentleman from Ala-

bama is willing I shall submit this request.

The SPEAKER. The demand for the regular order is equivalent to an objection and the gentleman from Massachusetts demands the regular order, and the regular order is, Will the House go into the Committee of the Whole House on the state of the Union?

The question was taken, and the motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 3175) entitled "An act to regulate the immigration of aliens to and the residence of aliens in the United States, with Mr. HAY in the chair.

Mr. MOORE of Pennsylvania. Mr. Chairman-

The CHAIRMAN. The gentleman from Pennsylvania [Mr. Moore] is entitled to 15 minutes, and the gentleman from Ala-

bama [Mr. Burnett] to 20 minutes.

Mr. MOORE of Pennsylvania. Before taking advantage of the 15 minutes I should like to ask the gentleman from Alabama [Mr. Burnett] whether we could not come to an agreement that there should be an extension of time for general debate, say half an hour on each side?

Mr. BURNETT. Not unless we can come to an agreement that there should be a close of debate within a reasonable time

and this bill voted on this afternoon.

The CHAIRMAN. The Chair will state to the gentleman from Pennsylvania [Mr. Moore] that that can not be agreed to in committee. Does the gentleman from Pennsylvania desire to be heard?

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like

to be heard in a matter of parliamentary inquiry.
The CHAIRMAN. The gentleman will state it.

Mr. MOORE of Pennsylvania. The effect of the demand for the regular order as made by the gentleman from Massachusetts [Mr. GARDNER] was to prevent my making the request in the Committee of the Whole House on the state of the Union for the extension of time.

The CHAIRMAN. The Chair does not think that is a parliamentary inquiry. Does the gentleman from Pennsylvania [Mr. Moore] desire to take the floor?

Mr. MOORE of Pennsylvania. I want to take advantage of even the 15 minutes in which I have a right to speak to ask the gentleman from Alabama [Mr. Burnett] if he will not agree, without regard to the parliamentary status, to an extension of time of 30 minutes on a side?

The CHAIRMAN. The Chair will state to the gentleman that that can not be done in the Committee of the Whole House on the state of the Union. The committee is proceeding under a rule, and it is impossible for the committee to change that rule even by unanimous consent.

Mr. SABATH. Mr. Chairman— Mr. MOORE of Pennsylvania. Mr. Chairman, I still want to ask the gentleman from Alabama [Mr. Burnert], chairman of the committee, whether he proposes to conclude his general debate in one speech?

Mr. BURNETT. No; I will yield five minutes now to the gentleman from Indiana [Mr. Adair], and then afterwards will

conclude in one speech.

Mr. MOORE of Pennsylvania. Will the gentleman take that five minutes now?

Mr. BURNETT. Yes. Mr. Chairman, I yield five minutes to the gentleman from Indiana [Mr. ADAIR].

The CHAIRMAN. The gentleman from Indiana [Mr. ADAIR]

is recognized for five minutes.

Mr. MANN. Mr. Chairman, a parliamentary inquiry. much time remains for general debate on the respective sides?

The CHAIRMAN. The gentleman from Alabama [Mr. Bur-NETT] is entitled to 30 minutes and the gentleman from Pennsylvania [Mr. Moore] to 15 minutes. The gentleman from

Indiana [Mr. ADAIR] is recognized for 5 minutes.

Mr. ADAIR. Mr. Chairman, I believe the subject of immigration is one of the most important questions before the American people to-day. I shall vote for this bill, and in doing so I feel that I am casting a vote in the interest of American citizenship and in the interest of American institutions. I have listened with great interest and pleasure, and I might say with much profit, to the very able and eloquent discussion of this subject by the gentleman from New York [Mr. Goldfogle] and the gentleman from Illinois [Mr. Sabath]. While I agree with much they have said upon this subject, I do not yet fully understand how they can justify their opposition to this meritorious bill. I am willing to concede that the marvelous growth and development of the two great cities to which they have referred—New York and Chicago—are largely due to the enterprise, the ability, the capacity, and the progressiveness of many citizens of foreign birth. I am proud of their achievements in both business and professional life. Their loyalty to our country and their devotion to our flag have attracted the attention and won the admiration of all our people. But I do not see how they can oppose this measure. That there are undesirable citizens in every country in the world no one will deny.

We have many of them in the United States, American-born citizens, who contribute but little, if anything, to our country's welfare, and what right have we to unload our undesirable citizens upon any other country, or what right have other nations to unload their undesirable citizens upon us?

You can not make me believe that the dumping of 250,000 illiterates upon our shores annually will not lower the standard of American citizenship and the standard of American living. If this be not true, then our boasted system of schools in this country is a failure, and we are annually wasting millions of dollars of the people's money in their maintenance. You can not tell me that bringing into this country 250,000 illiterates each year and throwing them in direct contact and direct competition with American labor will not reduce the wages of American workmen and the standard of their living. I can see no reason why any Member should oppose this legislation.

Mr. SABATH. Mr. Chairman, will the gentleman yield? The CHAIRMAN. Does the gentleman yield?

Mr. ADAIR. I can not yield. I have only five minutes.

The CHAIRMAN. The gentleman from Indiana declines to

Mr. ADAIR. Mr. Chairman, I believe this bill is not only in the interest of all American citizens, both of native and foreign birth, but I also believe it is in the interest of illiterate foreigners who expect at some time in the future to make this country their home. It will have a tendency to stimulate and develop a better system of schools the world over and will result in causing thousands of foreigners who desire to become American citizens to prepare themselves for admission.

The bill under consideration reads as follows:

[H. R. 22527, Sixty-second Congress, second session.]

A bill to further restrict the admission of aliens into the United States.

A bill to further restrict the admission of aliens into the United States.

Be it enacted, etc., That after four months from the approval of this act in addition to the aliens who are by law now excluded from admission into the United States the following persons shall also be excluded from admission thereto, to wit: All aliens over 16 years of age, physically capable of reading, who can not read the English language, or the language or dialect of some other country, including Hebrew or Yiddish: Provided, That any admissible alien or any alien heretofore or hereafter legally admitted or any citizen of the United States may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not: and such relatives shall be permitted to land.

Sec. 2. That for the purpose of ascertaining whether aliens can read or not the immigrant inspectors shall be furnished with copies of uniform slips, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more 40 words in ordinary use, printed in plain type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip.

Sec. 3. That the following classes of persons shall be exempt from the operation of this act, to wit: (a) All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; (b) all aliens in transit through the United States and who later shall

go in transit from one part of the United States to another through foreign contiguous territory.

SEC. 4. That an alien refused admission to the United States under the provisions of this act shall be sent back to the country whence he came in the manner provided by section 19 of "An act to regulate the immigration of aliens into the United States," approved February 20, 1907.

It will be seen that the main purpose of the bill is to exclude from the United States alien immigrants over 16 years of age who are unable to read their own language or dialect. In order that there might be no doubt about the Hebrew and Yiddish being considered as either a language or dialect, they are expressly embraced in the bill.

From the requirement of the illiteracy test in the bill, there are several exceptions which the committee thought wise to make. We believe that those who are fleeing from religious persecution should find a city of refuge on our shores. Hence the provision excepting immigrants of that class from the test Hence where they are otherwise admissible.

Out of regard for marital and other close family ties and the duties and obligations arising therefrom, as well as high moral considerations, the committee thought proper to make the other exceptions embraced in the bill.

A bill in its main features similar to this was considered by the House on February 20, 1907. The House felt that before action of that nature should be taken there ought to be careful investigation of the question, both in this country and in Europe. An amendment was offered by those opposed to the illiteracy test, providing for a commission for that purpose, and it was adopted.

The commission, after nearly four years of investigation and study of the question both in this country and in Europe, made its report to Congress more than a year ago. There were nine members of that commission, and they were unanimous in the following statement:

The commission as a whole recommends restriction as demanded by economic, moral, and social considerations, furnishes in its report reasons for such restrictions, and points out methods by which Congress can attain the desired result if its judgment coincides with that of the

Eight out of the nine, after citing various methods of restriction, concurred in the following report:

A majority of the commission favor the reading and writing test as the most feasible single method of restricting undesirable immigration.

It is certainly interesting, and I believe important, to know some of the reasons which led the commission up to these conclusions, and I will make a few extracts from the "Brief statement of conclusions and recommendations of the commission." On page 25 of this statement they say:

The proportion of the more serious crimes of homicide, blackmail, and robbery, as well as the least serious offenses, is greater among the foreign born. The disproportion in this regard is due principally to the prevalence of homicides and other crimes of personal violence among Italians and to the violation of city ordinances previously

On pages 29 and 30 they say:

on pages 29 and 30 they say:

It is certain that southern and eastern European immigrants have almost completely monopolized unskilled labor activities in many of the more important industries. This phase of the industrial situation was made the most important and exhaustive feature of the commission's investigation, and the results show that while the competition of these immigrants has had little, if any, effect on the highly skilled trades, nevertheless, through lack of industrial progress and by reason of large and constant reenforcement from abroad, it has kept conditions in the semiskilled and unskilled occupations from advancing.

Several elements peculiar to the new immigrants contributed to this result. They came from countries where low economic conditions prevailed and where conditions of labor were bad. They were content to accept wages and conditions which the native Americans and immigrants of the older class had come to regard as unsatisfactory. They were not, as a rule, engaged at lower wages than had been paid to the older workmen for the same class of labor, but their presence in constantly increasing numbers prevented progress among the older wage-earning class, and as a result that class of employees was gradually replaced. An instance of this displacement is shown in the experience in the bituminous coal mines of western Pennsylvania. This section of the bituminous field was the one first entered by the new immigrants, and large numbers of the middle West. Later these fields were also invaded by the new immigrants, and large numbers of the old workers again migrated to the mines of the Southwest, where they still predominate. The effect of the new immigration is clearly shown in the western Pennsylvania fields, where the average wage of the bituminous coal worker is 42 cents a day below the average wage of the bituminous coal worker is 42 cents a day below the average wage of the bituminous coal worker is 42 cents a day below the average wage of the bituminous coal worker is 42 cents a day

ter to successfully compete with them. They usually live in cooperative groups and crowd together. Consequently, they are able to save a great part of their earnings, much of which is sent or carried abroad. Moreover, there is a strong tendency on the part of these unaccompanied men to return to their native countries after a few years of labor here. These groups have little contact with American life, learn little of American institutions, and aside from the wages earned profit little by their stay in this country. During their early years in the United States they usually rely for assistance and advice on some member of their race, frequently a saloon keeper or grocer, and almost always a steamship ticket agent and "immigrant banker," who, because of superior intelligence and better knowledge of American ways, commands their confidence. After a longer residence they usually become more self-reliant, but their progress toward assimilation is generally slow. Immigrant families in the industrial centers are more permanent and usually exhibit a stronger tendency toward advancement, although, in most cases, it is a long time before they even approach the ordinary standard of the American or the older immigrant families in the same grade of occupation. This description, of course, is not universally true, but it fairly represents a great part of the recent immigrant population in the United States. Their numbers are so great and the influx is so continuous that even with the remarkable expansion of industry during the past few years there has been created an oversupply of unskilled labor, and in some of the industries this is reflected in a curtailed number of working days and a consequent yearly income among the unskilled workers which is very much less than is indicated by the daily wage rates paid; and while it may not have lowered in a marked degree the American standard of living, it has introduced a lower standard which has become prevalent in the unskilled industry at large.

On pages 33 and 34 they say:

ASSIMILATION OF IMMIGRANTS.

ASSIMILATION OF IMMIGRANTS.

It is difficult to define and still more difficult to correctly measure the tendency of newer immigrant races toward Americanization, or assimilation into the body of the American people. If, however, the tendency to acquire citizenship, to learn the English language, and to abandon native customs and standards of living may be considered as factors, it is found that many of the more recent immigrants are backward in this regard, while some others have made excellent progress. The absence of family life, which is so conspicuous among many southern and eastern Europeans in the United States, is undoubtedly the influence which most effectively retards assimilation. The great majority of some seffectively retards assimilation. The great majority of some wives and families are in their native country. It is a common practice for men of this class in industrial communities to live in boarding or rooming groups, and as they are also usually associated with each other in their work they do not come in contact with Americans, and consequently have little or no incentive to learn the English language, become acquainted with American institutions, or adopt American standards.

On page 37 they say:

On page 37 they say:

On page 37 they say:

As a result of the investigation the commission is unanimously of the opinion that in framing legislation emphasis should be laid upon the following principles:

1. While the American people, as in the past, welcome the oppressed of other lands, care should be taken that immigration be such both in quality and quantity as not to make too difficult the process of assimilation.

2. Since the existing law and further special legislation recommended in this report deal with the physically and morally unfit, further general legislation concerning the admission of aliens should be based primarily upon economic or business considerations touching the prosperity and economic well-being of our people.

3. The measure of the rational, healthy development of a country is not the extent of its investment of capital, its output of products, or its exports and imports, unless there is a corresponding economic opportunity afforded to the citizen dependent upon employment for his material, mental, and moral development.

4. The development of business may be brought about by means which lower the standard of living of the wage earners. A slow expansion of industry which would permit the adaptation and assimilation of the incoming labor supply is preferable to a very rapid industrial expansion which results in the immigration of laborers of low standards and efficiency, who imperit the American standard of wages and conditions of employment.

Mr. Chairman, I believe this bill is in the interest of America.

Mr. Chairman, I believe this bill is in the interest of America. I believe it is in the interest of American institutions. I also believe it is in the interest of the illiterate foreigner who may in the future desire to make this country his home, and I believe it will help make the American home the most magnificent product of American civilization, and believing this, I shall

give it my hearty and enthusiastic support. [Applause.]
Mr. BURNETT. Mr. Chairman, I yield to the gentleman
from Kentucky [Mr. LANGLEY].

[Mr. LANGLEY addressed the committee. See Appendix.]

Mr. MOORE of Pennsylvania. Mr. Chairman, I yield two minutes to the gentleman from Louisiana [Mr. Estopinal]. The CHAIRMAN. The gentleman from Louisiana [Mr. Es-

TOPINAL] is recognized for two minutes.

Mr. ESTOPINAL. Mr. Chairman, I rise to correct a statement made by the gentleman from Massachusetts [Mr. Curley] in the debate on this bill on Saturday, where he cited figures purporting to show illiteracy in Louisiana as compared with illiteracy in the State of New York. His figures were both incorrect and misleading.

Mr. Chairman, he stated the illiteracy to be 38.5, whereas it is but 29. The figures 38.5 were probably correct according to the census which was taken in June, 1900, more than 12 years ago; but, by these later figures, from the census of 1910, it is seen that illiteracy has been reduced 25 per cent since the census of 1900. I wish to show how this illiteracy is divided, as between the whites and the negroes; for it is known that Louisiana has a large black population, with illiteracy running very much higher than with

the white population. The percentage of illiteracy in the negro population in 1900 was 61.1. In 1910 it had fallen to 48.4. The percentage of illiteracy in the native whites in 1900 was 20.04. In 1910 it was 15. Contrary to the figures submitted by the gentleman from Massachusetts, showing a smaller illiteracy percentage in foreign-born whites on the Atlantic coast—or, rather, at New York-than of the native born, the percentage of illiteracy in the foreign born in Louisiana is higher than in nativeborn whites, being 24 in the foreign born as against 15 in the native whites.

Since illiteracy in youth nearly always means illiteracy through life, it is an exceptionally good showing for a State to reduce its percentage of illiteracy one-fourth within 10 years. I am glad to say that we are spending more money in Louisiana and are getting more results during this decade than during any other decade of her existence; and, doubtless, when the next census is taken, the illiteracy among the native whites in Louisiana will

be considerably less than 10 per cent.

There are topographical peculiarities in Louisiana which are largely responsible for the comparatively large illiteracy among the whites-deep bayous, large rivers, and coast lines of great

extent and isolation.

While the matter of Black Hand outrages is doubtless one that should be considered in connection with immigration, there is no reason that the United States should deny any honest man the right to come to these shores, seeking a home, simply because he has not had the opportunity to acquire an education from books. I would very strongly draw the line against doubtful or criminal immigration, enforcing, with pressing diligence, the capable laws we now have and supplementing these with others if needed. But if a man has two good strong arms, and is honest, he has the making of a good citizen and is needed in the development of this country. To deny him this opportunity would be an act of uncharity at variance with the traditions of our country.

Having been raised in a State where we have had to face the problem of extensive illiteracy among the negroes, and among whites proportionately large as compared to the illiteracy of the whites throughout the entire country, I have found that it is not the illiterate man that is the criminal. The illiterate man is usually a common laborer or fisherman, generally living in isolated communities; but he is nearly always a peaceable citizen, and while living meagerly he lives honestly, and is ambitious for his children to receive the education which circum-

stances denied to him.

But, Mr. Chairman, let us examine where the tide flows back to our forefathers. Let us see something of the illiteracy conditions among those who laid the first foundation of our institutions, banished the Indians, conquered the forests, and, finally, whose descendants, the still closer progenitors of gentlemen here who are now seeking to deny to others these same rights and opportunities of becoming citizens, gained for us our liberties and established us as a Nation on a broad and lasting foundation.

A bulletin of the United States Bureau of Education dealing with the Dutch schools of New Netherlands and colonial New York, by Prof. William Heard Kilpatrick, contains the figures

from which I quote. It says:

The showing of the American Dutch in the matter of illiteracy is better than found in some other colonies. In Albany, of 360 men's names examined, covering the years 1654-1675, 21 per cent made their marks. Of 274 men's signatures at Flatbush, covering a longer period, 19 per cent made their marks.

Of the German immigrants in Pennsylvania, it is shown that in an examination of 11,823 names 26 per cent made their

The historian Bruce, who compiled the Institutional History of Virginia in the seventeenth century, shows that of 2,165 male adults who signed jury lists 46 per cent made their marks, and of 12,445 male adults who signed deeds and depositions 40

per cent made their marks.

In the case of women among the Dutch at Flatbush, of 55 persons whose names were secured 32, or 56 per cent, made their Thirty-three Albany names among women gave 55 per cent illiteracy. Another case of 46 women showed an illiteracy of 66 per cent. Thus, putting all the Dutch women together, we get a percentage of illiteracy of 60 per cent. Prof. Bruce, the historian mentioned, found in Virginia in 3,066 women signers of deeds and depositions an illiteracy of 75 per cent. In Suffolk County (Boston), Mass., of the deed signers but 11 per cent of the men failed to sign their names; but among the women illiteracy was 58 per cent in some names secured about 1650 and 38 per cent among some collected near the close of the seventeenth century.

It must be recalled that in most of these instances names were taken from signatures to deeds and conveyances, which indicate

a property-holding class. Literacy, of course, rules higher in that class than those taken promiscuously from all grades of population; therefore if our glory has descended in large part from those who could not even sign their names, it is evident that there is no great menace to our admitting men and women of honesty and physical strength who are thus similarly hampered.

Mr. Chairman, here is a simple statement in this bulletin of Prof. Kilpatrick's which contains a moral of much force:

A further significant result appeared from our study of illiteracy, namely, that the male Dutch inhabitants of Flatbush made continuous improvement in this respect, the percentage of illiteracy decreasing gradually from 40 per cent in 1675 to about 5 per cent in 1738.

Now, Mr. Chairman, here is a decrease from 40 to 6 per cent in the course of a little more than 50 years, and as the discussion of this bill seemed to point in its application to the backward Latin and other southern and western European races, I maintain that if the Dutch at that early period of this country, when education was nothing like as well developed in science and practical application as it is to-day, could reduce their illiteracy from 40 to 6 per cent in a little over 60 years, it holds no menace to this country to admit honest people lacking literacy in books yet otherwise competent for citizenship. The history of these people and the present advance of these countries is ample guaranty of their capacity for progress with us.

I can readily understand the apparent demand for this restrictive legislation which has arisen from our failure to properly distribute the immigrants who have come to our shores. There are millions with us to-day, crowded in tenements in industrial centers, and working in occupations entirely foreign to their experience, for they were raised as peasants, as farmers, and in the range of opportunities which this country gives they ought to still be farmers with us, and remain so. The solution of this problem lies not in denying the illiterate and honest immigrant an entrance to these shores, but in seeing that he has the opportunity to gain a home under the best conditions for his own prosperity and the prosperity of our country.

Mr. Chairman, I protest against any measure that will prevent a sound and honest man from seeking to better himself in finding a new home, protection, and prosperity under the benefi-

cent folds of Old Glory. [Applause.]
Mr. MOORE of Pennsylvania. Mr. Chairman, I yield 13 minutes to the gentleman from California [Mr. KAHN] The CHAIRMAN. The gentleman from California [Mr.

Kahn] is recognized for 13 minutes.

Mr. KAHN. Mr. Chairman, I am just as anxious as any other Member of this House to keep from our shores the criminals, the vicious, and the physically and mentally defective; I would exclude these classes as much as any gentleman who favors this bill. But I do not believe that the illiteracy test will have the effect of keeping out undesirable immigrants.

The member of the mafia, the member of the camorra society, the black hander, the anarchist, and the dynamiter can

invariably read and write.

This matter of the restriction of immigration is not a new subject, and the present agitation is but a recrudescence of antiforeign agitation that has occurred periodically from the very beginning of our Government. On Saturday the gentleman from New York [Mr. GOLDFOGLE] called the attention of the committee to the fact that Benjamin Franklin, in 1753, had deprecated the great influx of Germans into Pennsylvania. A few years later, in 1776, the same Benjamin Franklin was a member of that committee of five that reported the Declaration of Independence to the Continental Congress, and one of the leading causes of complaint against the King of England named in that Declaration of Independence was that-

He has endeavored to prevent the population of these States, for that purpose obstructing the laws for naturalization of foreigners, refusing to pass others to encourage their migration hither, and raising the condition of new appropriations of land.

It is a strange thing, Mr. Chairman, to see gentlemen upon this floor who are descendants of some of those Pennsylvania Germans—and their ancestors made mighty good citizens—inveighing against the immigration that is coming to these United States to-day and insisting upon the passage of this law for a literacy test.

Mr. RUCKER of Colorado. Will the gentleman from Cali-

fornia yield?

Mr. KAHN. I have only a few minutes. I desire not to yield

just at present, I may later on.

The cry against the immigrant has made itself heard in nearly every period of the existence of the Republic. the managers of the Society for the Promotion of Patriotism in the city of New York made their second annual report, quote a few sentences from that document:

An almost innumerable population beyond the ocean is out of emoyment. * * * This country is the resort of vast numbers of ployment.

these needy and wretched beings. * * * They are frequently found destitute in our streets; they seek employment at our doors; they are found in our almshouses and in our hospitals; they are found at the bar of our criminal tribunals, in our bridewell, our penitentiary, and our State prison, and we lament to say that they are too often led by want, by vice, and by habit to form a phalanx of plunder and depredations, rendering our city more liable to increase of crimes and our houses of correction more crowded with convicts and felons.

That language did not refer to the immigrants from eastern and southeastern Europe, against whom the present bill is said to be aimed. That language referred to the immigrants from Ireland, from Germany, from France, from Scandinavia, from those countries that sent that class of immigrants whom the gentlemen who are in favor of this bill say was a splendid im-I agree that it was a splendid immigration; but migration. the quotation that I have just read might have been written to-day against the immigration that is sought to be prevented under the terms of this bill. The language used to-day against the immigrants from eastern and southeastern Europe is not stronger in its terms of condemnation.

Later on the cutcry against the Irish and the Germans grew louder. The churches of the Irish were desecrated. Their children were subjected to petty persecution in the public schools. The Germans were publicly denounced. Their newspapers were mobbed, their Turner halls were wrecked. And yet gentlemen who profess to see something awful in the immigration from eastern and southeastern Europe claim that there was no opposition to the immigrants from northern and western Europe.

In 1853 this feeling against foreign immigrants had grown so acute that the Know-Nothing Party was organized. directed expressly against foreign immigrants. In the elections of 1854 it was very successful, and elected a large number of Members of Congress. In 1856 it had grown strong enough to put up a candidate for the Presidency, Millard Fillmore, but he only carried the electoral vote of one State—Maryland.

It may interest some of the Members of the House to know

how far this doctrine of Know-Nothingism was carried at that period. Let me call their attention to the picture, the mural decoration on the extreme right of this Chamber. It is by Brumidi, whose frescoes are such a prominent feature of the decorative work in the Capitol Building. It represents a scene at Washington's headquarters at Yorktown. The date is said to be October 17, 1781. Lord Cornwallis has just sent a flag of truce and has requested the cessation of hostilities for 24 hours that commissioners might be appointed to settle upon terms of surrender. Washington, believing it to be but a subterfuge to await reenforcements from New York, grants Cornwallis an armistice of only two hours. This was coupled with a stipulation that at the end of that time he must transmit, in writing, definite proposals.

The painting is a fresco. While it is not the best of Brumidi's work in this Capitol, it may be interesting to note the fact that the artist, incensed at the attacks that were made upon for-eigners during that exciting period, signed the painting "C. Brumidi, Artist, Citizen of the U. S.," so as to emphasize his citizenship and his patriotism.

I merely cite this incident to show how bitterly the patriotic foreigners of the Know-Nothing period resented the petty, narrow, unpatriotic, un-American attacks that were made upon them at that time.

As late as 1898 one of the trades-unions of New York protested against the Swedes and the Danes on the ground that

interfered very much with the keeping up of the wages in our trade. That is the principal thing we find fault with.

Now those Swedes and Danes were not immigrants from eastern or southeastern Europe. They were immigrants from northern Europe, and yet they were found fault with as late as 1898. It is a surprising thing that many of the advocates of the pending legislation are themselves of foreign birth; many of them, if they be of native birth, can not go back farther than one generation to foreign parentage.

The educational test, in my judgment, is no test at all. Nancy Hanks, the mother of Abraham Lincoln, was an illiterate. Andrew Johnson, who became President of the United States, was an illiterate until after his marriage. Many of the colonists who settled Virginia and the other colonies were illiterates; they could not read nor write, and yet to-day their descendants are proud of their ancestry, as they have a right to be. [Applause.]

Education is a matter of opportunity; it is also a matter of The Russian Government positively refuses environment.

higher education to many of its citizens.

It is a surprising thing to me that many of the Members of this House who favor this legislation come from rural districts. and the statistics of the Bureau of the Census for 1910 show absolutely that there is 10.2 per cent of illiteracy in the rural districts in this country as against 5.1 per cent of illiteracy in the urban centers of the country. It is evident that these illiterate emigrants, so much objected to by Members who represent rural constituencies, usually settle in the urban centers and do not locate in the rural communities.

Mr. Chairman, the distinguished gentleman from Kentucky [Mr. Cantrill], in speaking for his side on Saturday, said that the 10.7 per cent of illiterates among the native whites of the State of Kentucky, to which I had referred, were found largely in the eastern section of that State, and that that was the Republican section. I did not attempt to bring politics into this question, but the gentleman from Kentucky called to the attention of the House that it was the Republican section of Kentucky that is illiterate. Well, Kentucky has been under Democratic domination for many years, and I daresay that if the Democrats had furnished proper schools in the eastern section of Kentucky, there would have been less illiteracy in that State than there is to-day.

Mr. LANGLEY. Will the gentleman yield? Mr. KAHN. I have only a short time, but I will yield for a question.

Mr. LANGLEY. We have good schools in the mountains of eastern Kentucky, just as good as they have in the western or any other part of the State, and just as high a standard of education, too. My colleague, Mr. Cantrill, is entirely mistaken when he says that most of the illiteracy of the State is there, or that politics has anything to do with it. His defense of Kentucky and the says that most of the illiteracy of the State is there, or that politics has anything to do with it. His defense of Kentucky and the says that most of the s tucky would have been much more appreciated if he had omitted that statement.

Mr. KAHN. I am glad to hear the gentleman's statement. the matter of schools Kentucky has not given education to 27.6 per cent of the negro laborers in her corn fields and her cotton

But it can be said that Alabama has no Republican section whatever. Alabama is the home of the distinguished author of the pending bill, Mr. Burnett. In that State the illiteracy among the native white population of native parentage is 10.1 per cent according to the census of 1910, while the illiteracy per cent according to the census of 1910, while the interacy among the native whites of foreign or mixed parentage in that State is only 2.3 per cent. But in Alabama the illiteracy among the negroes in 1910 is 40.1 per cent. The State of Georgia has no Republican district, but the illiteracy among the native whites of native parentage in that State in 1910 was 8 per cent, as against 1.6 per cent among the native whites of foreign or mixed parentage. The illiteracy among the negro laborers of Georgia in that year was 36.5 per cent.

The illiteracy in Tennessee among the native whites of native parentage in 1910 was 9.9 per cent. The illiteracy among native whites of foreign or mixed parentage in that State in 1910 was only 1.8 per cent, while the illiteracy among the negro laborers of that State was 27.3 per cent.

I mention these figures because distinguished gentlemen from those States have arisen on this floor in advocacy of the illiteracy test. It seems to me that one could well exclaim, "Physician, heal thyself!" to any of these gentlemen. Among the negro laborers of the South in the year 1910, 33½ per cent were illiterate. They are the men who do the rough, unskilled work that no one else can or will do in that section of the country.

Many of the illiterate whites who come to these shores under our present immigration laws are the unskilled laborers who work in our mines and who lay railroad tracks across the prairies and the plains under the burning rays of the summer sun in the Northern States. The American will not do it, and the second generation of the foreign immigrant will not de it. It is this foreign element, this illiterate foreign element, that does this class of work not alone in our own country, but in Germany, in England, and in the progressive industrial nations of the world.

Comment has been made upon this floor that many of these arrivals from eastern and southeastern Europe are assisted immigrants; that the agents of steamship companies, by holding out inducements for bettering the conditions of these people, persuade them to come to our shores. To me that is rather a sign of ambition on the part of the man who makes up his mind to come here by reason of such solicitation. If he did not feel that he could better his condition in life, the arguments that are submitted to him would fall upon deaf ears. If he had no ambition to better himself, he would spurn the offer of the agents and would continue his humdrum existence in the land of his nativity. But he desires to seek to free himself from the prison of his mean estate. He wants to buy his ransom from "those twin jailers of the daring heart, Low Birth and Iron Fortune." And so he comes to this land of freedom and Iron Fortune." And so he comes to this land of freedom and of opportunity; and hundreds of thousands of his countrymen succeed in their efforts to better their condition in life and make good citizens of the Republic.

Mr. Chairman, in 1910 12.7 per cent among the foreign-born whites were illiterate. The illiterates among the native whites of native-born parentage in the United States were 3.7 per cent of our population, while the percentage of illiteracy among the native whites of foreign or mixed parentage was only 1.1 per cent. These figures show that the immigrants seek education for their children. They recognize, if they be illiterate, that they are seriously handicapped in the struggle for existence by reason of their educational disadvantages, and they determine that their children shall not suffer by reason of similar handicaps. And so they promptly send them to our schools to be educated. They learn to know and to love our institutions. They have repeatedly demonstrated their readiness to die for the flag when the country has called them to the colors of the Republic.

Mr. Chairman, the bill that is now under consideration will not accomplish the purpose of keeping out the really undesir-

able immigrant. For that reason I shall vote against it.

Mr. MOORE of Pennsylvania. Mr. Chairman, is the time exhausted on this side?

The CHAIRMAN. It is; the gentleman from California used 13 minutes

Mr. BURNETT. Mr. Chairman, has the gentleman from Pennsylvania consumed all of his time?

The CHAIRMAN. The time on that side is exhausted.

Mr. BURNETT. How much time have I remaining?

The CHAIRMAN. The gentleman has 145 minutes.

Mr. BURNETT. Mr. Chairman, I desire to state at the outset that on account of the shortness of the time which I have left I shall decline to yield to anyone. Mr. GOLDFOGLE. Mr. Chairman-

Mr. BURNETT. Mr. Chairman, I can not yield. Gentlemen, especially the gentleman from Pennsylvania, have referred to the fact that this bill does not keep out the Black Hand. This bill does not enlarge or liberalize the law against the We have laws now by which it is sought to Black Hand. keep out that class of immigrants, and if they are not sufficient the gentleman from Pennsylvania, who has been on the Committee on Immigration for a long time, could certainly have introduced and had reported some bill for that purpose if he had wanted to strengthen that law. That is always the dodge that is taken when the literacy test is up—that it does not keep out the Black Hand.

Well, Mr. Chairman, it does keep out those who are the pliant victims and easy dupes of the Black Hand. If this bill had been the law, it would have kept out many of those who last winter at Lawrence were following the banners on which was inscribed the motto "No God, no master." Those are the kind of people that follow Black Hand and anarchist leaders so easily, and it would have kept out in New York the motley horde that last summer were trampling the American flag under foot while they were following the lead of men who hate the Stars and Stripes because it is the emblem of law and order. Ninety-two per cent of those people in Lawrence who defied the law were foreigners, and eighty-odd per cent of that 92 per cent were from the southern and eastern sections of Europe.

Gentlemen have referred to the message of President Cleveland vetoing a bill of similar character-much less liberal, however, than this. At that time the records show that during the year 1897, when the veto message was signed, the total immigra-tion to this country was only 230,832, while in 1911 it was 878,000, and the south Italians and Polish were 241,000 alone, or 11,000 more than came from all nationalities during the year The gentleman from Nebraska [Mr. Lobeck], in explanation of the fact that so few came that year, remarked that times were so hard then that there was no work for them to do and people were not coming here. That is one trouble with these birds of passage. Whenever the bow of prosperity spans our country they come in hordes for the purpose of crowding out our laborers and beating down American standards and wages and living, and as soon as adversity comes to our country they fold their tents like the Arabs and as silently steal away, and sometimes steal everything else they can lay their hands on. [Laughter and applause.]

Mr. Chairman, the alien insane that are filling the asylums of New York and other sections of the country are among this

class of people.

Mr. MURRAY rose.

The CHAIRMAN. Does the gentleman from Alabama yield

to the gentleman from Massachusetts?
Mr. BURNETT. No. I have stated that I would not yield, and the gentleman must have understood that. In regard to the insane aliens, the New York Times on March 28, 1912, said:

The Times is informed by Secretary McGarr, of the State Commission in Lunacy, that of the 31,432 insane patients under treatment in the 14 State hospitals on February 10 last, 13,163, or 41.9 per cent, were

aliens. Foreign-born patients have increased since the Federal census of December 31, 1903, by 1,552, or 13.4 per cent. In the two State hospitals for the criminal insane there were 1,230 patients on February 10, of whom nearly 44.4 per cent were of alien birth; the Federal census of 1910 showed a percentage of aliens to total population in this State

of 1910 showed a percentage of aliens to total population in this state of 29.9 per cent.

The prevalence of insanity among immigrants is evidently much greater than among the native born. Of the 5,700 patients admitted to the civil hospitals for the year ending September 30, 1911, 2,737, or 48 per cent, were aliens, and 1,481, or 26 per cent, were of alien parentage, while only 1,224, less than 26 per cent, were of native stock. Of the whole number, the nativity of but 218, which is 3.8 per cent, was not ascertainable. Insanity among the foreign peoples of this city occurs in a still larger percentage of cases. Of the first admissions to the hospitals 2,006 out of 3,221 residents of the city were of foreign birth; that is 64.1 per cent, although the foreign-born population is but 40.4 per cent of the whole.

Mr. SHERLEY. How many of those were illiterate?

Mr. SHERLEY. How many of those were illiterate? Mr. BURNETT. Many of them; as the records of the New York Board of Lunacy shows that a large per cent of them came from those countries that are sending most of the illiterates.

Mr. Chairman, the gentleman from Massachusetts [Mr. Cur-LEY] has referred to the Junior Order of American Mechanics being A. P. A. The gentleman would not yield to some gentleman who wanted to ask him a question, because he thought it would not add to the sum of human knowledge. I notice that the gentleman has eliminated from the RECORD some of the harsh things he said in regard to that order. Perhaps he thought those remarks would not add to the sum of human knowledge. I just want to read a little extract.

Mr. CURLEY. Mr. Chairman, will the gentleman yield? Mr. BURNETT. I do not yield. I have stated that time and time again.

Mr. CURLEY. The gentleman is not afraid to yield on that, is be?

Mr. BURNETT. Mr. Chairman, may I have order? Mr. John Weitzel, the national councilor of the Junior Order, said before our Immigration Committee at one time:

I desire to call the committee's attention to the friendly feeling existing between three conventions of Catholics, Juniors, and Daughters of America, which happened to meet in Canton, Ohio, September, 1906.

The Junior Order is not an antireligionist society; it is no more anti-Catholic than the Knights of Pythias, Elks, Odd Fellows, or the American Federation of Labor for that matter, every one of which have members of the Catholic faith and favor the enactment of more restrictive immigration laws. The Junior Order is a patriotic, fraternal, benevolent, and beneficiary organization, dating back almost a century. It cares for its sick, buries its dead, looks after their widows and orphans, provides insurance, stands for compulsory education, believes in freedom of conscience and liberty of worship, advocates good naturalization laws and the judicious restriction of undesirable immigration. Its motto, "Virtue, liberty, and patriotism," appeals to the very highest sentiment and to the very best in man.

I am an honorary member of that organization. Could the gentleman, or anyone else, find any A. P. A. matter in the enunciation of these doctrines? I know that there is nothing that is sectarian or that is opposed to any particular nationality in it. That is not the only organization that has declared for this bill. Certainly the gentleman would not say that the 3,000,000 members of the American Federation of Labor were A. P. A.'s. Certainly he would not say that the Grange and the Farmers' National Congress of the North and the members of the Farmers' Union of the South are A. P. A.'s. Certainly he would not say that John Mitchell and Mr. Gompers and Mr. Morrison are Certainly he would not say that Charles P. Neill, A. P. A.'s. a member of our commission, who agreed with us in every one of these propositions, himself a splendid Catholic, is an A. P. A. Certainly no one would say that the gentleman from Kentucky [Mr. Johnson], a man by whose friendship I am honored on the floor of this House, who earnestly favors this bill, is an The gentleman would not say that Vice President Marshall, in the splendid speeches he made throughout the country during the last campaign, decrying the influx of foreign pauper labor, was an A. P. A., and that the Legislatures of Vermont, Ohio, Virginia, Tennessee, West Virginia, and 14 or 15 other States of the Union were composed of members of the A. P. A.

But, Mr. Chairman, the unkindest cut of all was when the gentleman from Massachusetts [Mr. Curley] spoke of the lynching bees that he wanted to hold the South responsible for. Here is his language:

I have sat here and listened to the talk about the Black Hand. Wby, Mr. Chairman, I can not distinguish any difference in the disregard to established law between a lynching bee in the South and the operation of the Black Hand in New York. If the Black Hand of New York is bad, its evil does not exceed the evil of the lynching bees in the South.

In the first place, Mr. Chairman, these lynching bees are not confined to my section of the country, but they occur North and South whenever a black brute outrages a white woman; yet the gentleman says that he can see no difference between them. Mr. Chairman, the Black Hand is an organization composed of men banded together for the purpose of loot or for the purpose of revenge, with a stiletto in one hand and dynamite in the other, to strike down human beings. The other is a protest and an effort to avenge, either North or South, the attacks of black brutes on white mothers, daughters, and wives of my country. Yet the gentleman says he can see no difference between the I believe, Mr. Chairman, that he did not represent that splendid Celtic race from which he sprang when he made the statement, nor did he represent the sentiment of the splendid citizenship of the city of Boston, whose commission he holds. I am opposed to mob law anywhere, but there is no comparison between the Black Hand and those who strike to avenge the desecration of the chastity of white women.

Gentlemen have told us that Nancy Hanks would have been kept out and other very distinguished and celebrated people would have been kept out by the illiteracy test. They would not have been, because those people were every one of them Americans. And the American boy-my boy and your boywhether he be in Kentucky or Alabama, has to live here 21 years before he can vote to make the laws or make the lawmakers of this country, and yet an alien may come here and after a few years can file declaration papers and become a citizen to put the lawmakers and laws upon the people of this whole country. Gentlemen talk about un-Americanism, and the gentleman from Illinois [Mr. Sabath] referred to the fact that some of us come from sections of the country where there are but few of these immigrants and therefore know nothing about them. By this same token, Mr. Chairman, I might say the gentleman himself certainly knows nothing of Americans, on account of the fact that he has seldom come in contact with American people by whom the rest of us are surrounded. Some gentlemen have de-nounced principles as un-American here to-day when on account of the citizenship of their particular districts about all they learn of Americans and Americanism is when they associate with the Members of the American House of Representatives in this Congress assembled. Now, Mr. Chairman, I think—

How unfortunate that is. Mr. MANN.

Mr. BURNETT. I think so myself; but especially is it fortunate that the scales may sometimes fall from their eyes by association with Americans, so they can learn something outside of the environments that surround them. Mr. Chairman, in regard to the difference of the ideas that these illiterate and irresponsible birds of passage have of our land and its conditions and those of our native-born and our northwestern European citizens, I can not more forcefully express it than by reading an extract from a speech made in the Senate on this subject by the former great Democratic leader of this House, JOHN SHARP WILLIAMS. He said:

John Sharp Williams. He said:

It is true that education is not all gotten from books. Nor is culture. The most perfect gentleman I ever knew in my life could not write a word, except to sign his name. I frequently said he was also one of the wisest men from a citizenship standpoint I ever knew. He was. But when you come to the consideration of the knowledge that men have as to how to govern a country, there is a school far superior to the schools wherein instruction is given from the books. The old immigrants who came to us came principally from England and Ireland and Scotland and Wales, Switzerland, and countries of that sort—Scandinavians and Germans—and although some of the Scandinavians and most of the Germans never had a republican form of government, nor even a free representative government, in the sense in which we speak of it in England and here, they were the people of all Europe who possessed in the highest degree, and do now, personal liberty, and cherish it.

If you were to take an illiterate man who came from Norway, England, Scotland, or Ireland, he would not necessarily be an ignorant man, because he has attended this great school of the common people in free countries. What is that school? In our own country it is the school of jury service; it is the school of public discussion of political and social matters, where all matters can be and are discussed. It is the school of talking about and participating in elections, where men learn from one another.

The gentleman from Minnesota [Mr. Nye] has spoken elo-

The gentleman from Minnesota [Mr. Nye] has spoken eloquently of a character test, and yet he has never introduced a bill to establish such a test, nor has any other gentleman. Should he try to frame such a test, its futility would become evident in every line he would write. On this point I again quote from the great speech of Senator Williams, in which he says:

from the great speech of Senator Williams, in which he says:

If I had any way of determining how much better one man was than
another, how much more nearly honest one man was than another, how
much truer and more loyal to principle one man was than another, how
much more unselfish one man was than another, how much more
courageous one man was than another—if I had any way of ascertaining all that, I should gladly write it into a statute and let the literacy
and all other tests go to the winds.

But what foolishness it is to talk to lawmakers about writing a character test in words and letters into a statute. How shall it be done?
I can write a physical test, that the man must not be diseased; I can
write a political test, a social test, that he must not be an anarchist,
that he must not be an enemy of organized government; I can write an
intellectual test, that he must be able to read and write in some language, so that he is not shut off from communication with current
printed thought; but I can not write a character test. There is nobody
but God who can look into a man's heart and tell what his character is.

acter is.

I might be able to write a reputation test, if I could bring over the man's whole neighborhood in order to have them bear witness to what his reputation was. But all of us are standing demonstrations of the fact that reputation and character do not always go together.

I have heard much about this thing of admitting or refusing to admit men "on their character" and not on their information. If any man is wise enough to tell me how to prescribe a character test, then, in my opinion, he is a wiser man—mere man—than ever lived on the surface of this earth. "The outward and visible signs of an inward and spiritual grace" or of character is a thing I flety any legislator to write into a statute, and when you go beyond that and want to write "the inward and spiritual grace" or character itself, there is nobody in the world who can write it except God, and He has been too merciful to mankind thus far to do it.

Gentlemen will search in vain for a better test to keep out those who know nothing of the genius of our institutions, who know nothing of the flag of country and the Constitution of our

fathers.

After groping in darkness in the futile search for such a test the fair-minded student of justice and truth will be forced, as our commission was forced, to turn to the test embraced in this bill.

I want immigrants to come to our hospitable shores; but I want those who, in the language of our beloved President elect, come voluntarily to become citizens and to build up our material prosperity and support our free institutions and not those induced by the agents of steamship companies to fill their coffers, and to breed anarchy and crime.

The people who will be kept out by this bill are mainly those who care nothing for America or Americans only so far as they may fill their wallets with American gold and return it

and themselves to the lands whence they came.

To show how little they appreciate the blessings of American citizenship, I call your attention to what the records show as to how many ever become naturalized citizens. Prof. Jenks, a member of the Immigration Commission, makes the following statement from records which he has compiled:

The lack of political or civic interest of southern and eastern Europeans is shown by the following percentages of fully naturalized representatives of some of the principal races with a residence of 10 years or longer; Croatians, 28.6 per cent; South Italians, 34 per cent; Magyars, 26.9 per cent; Russians, 33.6 per cent; Slovaks, 25.3 per cent.

In contrast with these he shows that-

more than three-fourths of the Bohemian and Moravian, Danish, German, Irish, Norwegian, Swedish, Scotch, and Welsh races who have been in the United States 10 years or longer have been fully naturalized. Can we look on this comparison with other than fear for the

perpetuity of our cherished institutions?

Sad indeed is the story told by the reports of the insane asylums of the States where the low and illiterate hordes are being dumped. Only yesterday the press brought the news that the governor of New York is about to call a meeting of representatives from 15 States to adopt some method by which Congress can be compelled to make provision for the insane that are filling their asylums. This is contemplated in all serious-Think of the injustice of forcing the people of Indiana and of Mississippi to be taxed to care for the insane to whom New York City wants to open wide its gates.

Think of the gentleman from Massachusetts taunting my people of the South with the illiteracy which we are struggling to overcome and yet asking that the illiterates in Alabama and Kentucky be taxed to maintain the insane aliens to whom he

wants the gates of Boston to be opened wide.

I quote the following from page 22, Report of New York Board of Aliens, for the year ending September 30, 1911:

Board of Aliens, for the year ending September 30, 1911:

For the first few years after the commencement of that remarkable migration of the races of southern and eastern Europe to this country—to which Austria-Hungary, Italy, and Russia have contributed nearly 500,000 persons a year—it is noted that the increase of patients of those nationalities in the State hospitals was gradual. By 1905, however, it was possible to predict that when the effects of the "new immigration" commenced to be felt the "old immigration"—of Germans, Irish, and Scandinavians—would be outdone in the numbers of insane added to the foreign-born population of our State hospitals. Today that prediction is fulfilled, and during the year more than 55 per cent of the aliens deported by the United States Immigration Scryice were natives of those three countries.

On Decomberg 17, 1912, the New York American printed the

On December 17, 1912, the New York American printed the following:

IMMIGRANTS BLAMED FOR INSANITY INCREASE.

The chief cause of the increase in insanity in New York State is the admission of immigrants who are insane when admitted or who become insane soon after admission, usually from causes exiting prior to admission. There has been little, if any, increase in insanity in the native population during recent years.

CHARLES D. WAGNER, M. D.,

Superintendent, Binghamton state Hospital.

In a letter to me, written December 18, 1912, Dr. George B. Campbell, medical examiner of the State Hospital Commission of the State of New York, referring to the great increase of insane patients among new immigrants, says:

It is shown by the State hospital commission's report that this increase dates back to about 1903. This is the time that the new immigration from southern and eastern Europe commenced.

The New York Sun of May 26, 1912, said that a conference between representatives of the steamship companies and the insane hospital would result in sending to Europe in the coming year 2,000 alien insane from that State. This is to be done at the expense of the State. How much better for the State had these people been kept out in the first instance, and this bill would have kept a great part of them out.

With such official statements before us, can anyone doubt

that something must be done?

Gentlemen have referred in this debate to the achievements of great Italians, Greeks, and other foreigners in the fields of literature, art, oratory, and on the martial field. But they forget that the South Italians of to-day are not descendants of those who followed Caesar's triumphant eagles, but they are descendants of the foreign slaves who came to Rome chained to the chariot wheels of his victorious armies.

The Greeks of to-day are not the Greeks who fought and died at Thermopylæ, but they are descendants of those who have

mixed their blood with an alien and an inferior race.

The Syrians of to-day are not the Phoenicians who were once the inventors of letters and the lords of the sea, but they are the products of an amalgamation with inferior races to the westward.

The fate of these people should be a warning to those who

love America and American civilization.

The preservation of the sacred heritage transmitted to us by the fathers demands that the ax be put to the very root of the tree, and let no patriot shirk his duty now.

In conclusion, I will insert the resolutions of the Legislature

of Vermont:

Joint resolution requesting the Vermont delegation in Congress to advo-cate and aid in the passage of an immigration bill containing the illiteracy test.

Resolved by the Senate and House of Representatives:

Resolved by the Senate and House of Representatives:

Whereas there were admitted to the United States during the fiscal year ending June 30, 1911, 1,030,300 persons as immigrants. That prior to 1883 among the immigrants coming to this country there was only 2.7 per cent of illiteracy. That for the past five years, illiteracy has alarmingly increased to more than 36 per cent, and that of the 1,500,000 south Italians, who came here from 1890 to 1909, over 800,000, or more than 54 per cent, could not read and write; 54 per cent of the Syrians could neither read nor write; 35 per cent of the Potuguese; 38 per cent of the Ruthenians; 51 per cent of the Russians; 58 per cent of the Ruthenians; 51 per cent of the Russians; 58 per cent of the Turks; 27 per cent of the Greeks; and 41 per cent of the Bulgarians and Servians and Montenegrins could neither read nor write; and

Whereas Congress, by its act of February 20, 1907, created an Immigration Commission, composed of three Senators, three Members of the House of Representatives, and three persons to be appointed by the President of the United States, for the purposes of making a careful and searching investigation into the entire question of immigration, both in this country and abroad, and now, after several years of painstaking investigation at a cost of more than a million dollars, said commission has rendered its exhaustive report of 40 massive volumes to Congress, and urgently recommends the passage of a measure which will greatly restrict the admission of those less likely to become desirable citizens; and

Whereas the commission, with a single dissenting opinion, suggests and recommends that the illiteracy or reading and writing test is the one single measure best calculated to restrict undesirable immigration; and

Whereas the Hon. William P. Dillingham, senior Senator from Vermont, who was chairman of the Immigration Commission, has introduced into the Senate of the United States a bill containing the illiteracy requirement, and that said bill has passed th

Resolved, That the congressional delegation from Vermont are urgently requested to advocate and aid in the passage of an immigration bill containing the illiteracy requirement; and be it further Resolved, That the secretary of state is hereby directed to forward a copy of these resolutions to each Member of the Vermont delegation in Congress and a copy to the chairman of the Senate and House Committee on Immigration.

FRANK E. Howe,
President of the Senate.
CHARLES A. PLUMLEY,
Speaker of the House of Representatives.

Approved December 10, 1912.

ALLEN M. FLETCHER, Governor. STATE OF VERMONT, Office of the Secretary of State.

Office of the Secretary of State.

I hereby certify that the foregoing is a true copy of "A joint resolution requesting the Vermont delegation in Congress to advocate and aid in the passage of an immigration bill containing the illiteracy test." Approved December 10, 1912, as appears by the files and records of this office.

Witness my signature and the seal of this office, at Montpelier, this 18th day of December, 1912.

[SEAL.]

GUY W. BAILEY.

GUY W. BAILEY, Secretary of State. The CHAIRMAN. The time of the gentleman has expired. All time has expired.

Mr. BURNETT, Mr. Chairman, I ask leave to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent to extend his remarks in the Record. Is there objection? [After a pause.] The Chair hears none.

Mr. GOLDFOGLE. Mr. Chairman—

Mr. GOLDFOGLE. Before the bill is read I would like to inquire of the gentleman from Alabama whether he has any objection to this committee rising-

The CHAIRMAN. The gentleman is not in order, and the

Clerk will read the committee amendment. The Clerk read as follows:

Mr. MANN. Mr. Chairman, a parliamentary inquiry. The CHAIRMAN. The gentleman will state it.

Mr. MANN. Is not the committee amendment an amendment to strike out all after the enacting clause of the Senate bill and to insert the matter which the committee recommended to be inserted?

The CHAIRMAN. The Chair thinks the rule expressly provides that the committee amendment shall be read and not the substance that was stricken out by the committee.

Mr. MANN. What is the committee amendment? Is not the committee amendment an amendment to strike out and insert?

The CHAIRMAN. The Chair is proceeding under the rule adopted by the House.

Mr. MANN. Well, the rule only refers to the committee amendment; the rule does not define the committee amendment. The CHAIRMAN. Does the gentleman from Illinois make the point of order?

Mr. MANN. Well, I am making a parliamentary inquiry. The CHAIRMAN. The Chair has already answered the gen-

The CHAIRMAN. The Chair has already answered the gentleman's parliamentary inquiry.

Mr. MANN. Does the Chair hold that the—
The CHAIRMAN. The Chair holds that under the rule adopted by the House the amendment of the committee shall be read, and by the committee amendment it means the part of the bill that has been reported as a substitute by the Committee on Immigration.

Mr. MANN. Yes; but my parliamentary inquiry is, What is the amendment reported by the committee? Is not the amendment reported by the committee an amendment to strike out and

The CHAIRMAN. The committee is now proceeding under the rule.

Mr. MANN. I beg the Chair's pardon, but the rule does not define what is the committee amendment. I am not seeking to have the bill read for amendment. The Chair must not misunderstand me. The rule provides for the consideration of the committee amendment. Now, what is the committee amendment? Certainly it contemplates and proposes to strike out the language of the Senate bill after the enacting clause and to insert other matter in its place.

Mr. GARRETT. Mr. Chairman, will the gentleman permit? wish to submit this observation: That the rule under which the committee is now proceeding must be construed as a whole, and, being construed as a whole, I submit to the Chair that the clear intent of the rule and of the House in adopting the rule was that the amendment—the substance—the bill proposed by the House committee should be first read, because it provides in express language and express terms that if it be adopted the Senate bill shall not be read. If the contention for which the gentleman from Illinois [Mr. Mann] seems to be standing were to prevail, then, if I follow it correctly, it, would necessitate the reading of the Senate bill, a thing which this rule was especially designed to prevent except in a certain contingency.

Mr. MANN. I think the rule was designed to prevent the reading of the Senate bill for amendment under the five-minute rule until the committee amendment had been disposed of. The rule provides for the consideration of the committee amendment. Now, this committee must act upon the motion to strike out the Senate bill after the enacting clause, or else there is no striking out. You either strike out or you do not.

Mr. GARRETT. Mr. Chairman, will the gentleman permit? Mr. GARDNER of Massachusetts. Mr. Chairman-

The CHAIRMAN. The Chair is ready to rule. However, the Chair will recognize the gentleman from Massachusetts [Mr. GARDNER

Mr. GARDNER of Massachusetts. I wanted to know if the gentleman from Illinois was claiming a right to demand a division of the motion?

Mr. MANN. I was not. The rule expressly provides that the motion to strike out and insert is not divisible. I am not asking for that. But I am asking to have the committee amendment reported as the committee made it-to strike out the Senate bill and insert.

The CHAIRMAN. The rule reads:

objection? [After a pause.] The Chair hears none.

Mr. GOLDFOGLE. Mr. Chairman—

The CHAIRMAN. For what purpose does the gentleman rise?

The amendment proposed by the House committee shall be first read for amendment and perfected. After same has been so perfected the vote shall be taken upon the question of adoption of said amendment. If same shall be adopted, then the Senate bill shall not be read.

And the Chair thinks that under the terms of that rule it is not necessary, and was not contemplated, that the Senate bill should be read. The Clerk will read.

Mr. MANN. I appeal from the decision of the Chair.

Mr. UNDERWOOD. Mr. Chairman, I move that the appeal be laid on the table.

Mr. MANN. That is not in order in the committee. I desire,

Mr. Chairman, to be heard.

The CHAIRMAN. The Chair will recognize the gentleman. Mr. MANN. I have no doubt the ruling of the Chair is erroneous, although I have no doubt the ruling is in consonance with the intention of the committee that reported the It is not, however, what the rule says. But here is a proposition which says that the committee shall be called upon to vote to strike out the bill which has passed the Senate, and been sent to the House for consideration, without even reading Gentlemen say that immigrants coming here shall be required to read or write. For what purpose? You do not propose here even to read the language you intend to vote upon. You do not propose to give any consideration to the bill which has come from the Senate, but you insist upon a ruling of the Chair that the very bill passed by the Senate, and which is here for consideration, shall be voted upon without reading. What more ridiculous position could be presented in a supposed deliberative body? [Applause.]
Mr. GARDNER of Massachusetts. Mr. Chairman, I move

to close debate on the motion of the gentleman from Illinois

[Mr. MANN]

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

The question was taken, and the decision of the Chair was

sustained.

The Clerk read as follows:

The Clerk read as follows:

On page 58, line 11, of the Senate bill: "That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States the following persons shall also be excluded from admission thereto, to wit: All aliens over 16 years of age, physically capable of reading, who can not read the English language, or the language or dialect of some other country, including Hebrew or Yiddish: Provided, That any admissible alien or any alien heretofore or hereafter legally admitted or any citizen of the United States may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to land."

Mr. MANN. Mr. Cheirman, a parliamentary inquiry.

Mr. MANN. Mr. Chairman, a parliamentary inquiry. The CHAIRMAN. The gentleman will state it.

Mr. MANN. The committee amendment consists of four sections, although it is one committee amendment. Is it in order to offer an amendment at the conclusion of the reading of the first section of the committee amendment?

The CHAIRMAN. The Chair thinks so. The Chair thinks it is clearly the intention to take up the bill as other bills are

-by sections.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the fol-

lowing amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MOORE] offers an amendment, which the Clerk will report.

Mr. MOORE of Pennsylvania. It is to be inserted after the word "land," on page 58, line 24.

The Clerk read as follows:

Amend, page 58, line 24, after the word "land," by inserting the following: "And provided further, That the provisions of this act shall not apply to peaceful and industrious and law-abilding immigrants whose moral character is established by the accredited authorities of the countries from which they come."

Mr. MOORE of Pennsylvania. Mr. Chairman, before speaking on this amendment, I want to say to gentlemen on the other side that I sincerely trust there may be no application of that third-degree rule which was referred to by the gentleman from Massachusetts [Mr. Gardner], which will close fair debate under the five-minute rule. Give us a chance, who had no opportunity under general debate, to speak our minds with regard to this important and, in some respects, inhuman proposition that is now before us.

I have offered an amendment which is vital to this bill; an amendment that proposes that the real test to be imposed on those coming into the United States shall be a moral test and not a sumptuary one. [Applause.] Nothing in the bill has any regard whatever to the morality or the good intent of the man or

woman seeking in the United States a haven from foreign shores, but the language and the spirit of the bill are the language and spirit of proscription and prohibition.

My amendment brings up squarely to the Members of the House the proposition whether, by the passage of this bill, we shall impose upon the unfortunate and the burdened a return to conditions of devices and conversion which to conditions of darkness and oppression which we did not impose upon our own forefathers and which was not imposed

upon many of us.

I contend, and believe the American spirit supports the contention, that the real test of a man's worth is not whether he can read and write, but whether he is law-abiding, God-fearing, and well intentioned amongst his fellow men. A gentleman near me says, "It will sound well."

It is well if we would live and seek to continue to live in the spirit of brotherly love, or, if you please, in that spirit of

brotherhood which ought to hold amongst men.

This measure proposes to turn aside from these shores those who have committed no crime and whose only offense is inability to read, an accomplishment which they can acquire readily enough if they are permitted to land here as your forefathers landed. The suppressed hopes of those who have been crowded down upon foreign shores find vent here under our American educational institutions. There is no lack of study in the districts congested by those who come from foreign shores. soon learn to stand the test imposed by American conditions.

The CHAIRMAN. The time of the gentleman has expired.

Mr. POWERS. Mr. Chairman, on last Saturday, when the House was considering this immigration question and being enlightened and entertained by the distinguished gentleman from Massachusetts [Mr. Curley], I interrupted him for the purpose of asking a question. He refused to yield, as he had a right to do, but he had no right to assault me in the same breath. In refusing to yield he made this statement:

If I felt that it would add to the sum of human knowledge I would gladly do so, but I regret that I do not think it will. Therefore I refuse to yield.

A mere question, Mr. Chairman, is not supposed to add to the sum total of human information. A question implies information sought, and if the able gentleman had not forgotten the common courtesies of debate and had permitted the question to be asked and then, out of the profundity of his information, his extended scholarship, and great learning, had proceeded to answer and enlighten the House, no doubt the world to-day would be under a debt of lasting gratitude to him. [Applause.]

But, Mr. Chairman, since there is such a panting desire in the swelling breast of the able gentleman from Massachusetts to add to the sum total of human information, this House would like to know, and the country would like to know, why on last Saturday he made the statement in his speach that the Junior Order of United American Mechanics was a new A. P. A. or anti-Catholic order and then in his printed remarks that went to the people of his district and the entire country he eliminated any such statement? The gentleman knows, or at least he ought to know enough to know, that the Junior Order of United American Mechanics was organized in the year 1852, and that the A. P. A. was organized in the year 1887, 35 years after the organization of the Junior Order. It is therefore clear that the Junior Order of United American Mechanics is not a new A. P. A. order; and in behalf of the Juniors all over this land and country I deny that the order is anti-Catholic or anti any religion.

Was it the purpose of the gentleman from Massachusetts to array against the Burnett bill, now under consideration here, the Catholic Members of this body by charging that the Junior Order of American Mechanics, an order much interested in the success of this measure, is but a new A. P. A. movement? Why make the statement in the presence of the Members here that the Junior Order of American Mechanics is a new A. P. A. movement and then leave the statement out of the RECORD that goes to his district and before the world?

The gentleman knows that the Junior Order of American Mechanics is not anti-Catholic.

On February 19, 1912, there appeared before the House Immigration Committee, of which Mr. Curley is a member, Mr. William B. Griffith, State vice counselor for the Junior Order of American Mechanics for the State of New York, and in his statement in the presence of the gentleman from Massachusetts Mr. Griffith said:

In the first place, let me say that we are strictly nonpartisan and nonsectarian. Any American of any religious faith, be he Jew, Gentile, or Catholic, can become a member if he comes under the tongue of good repute and is a good citizen.

The Representative from Massachusetts was present when Mr. Griffith made that statement, for he asked Mr. Griffith a number of questions on other matters. At no time did he challenge or ask about the statement on the part of Mr. Griffith that the Junior Order of American Mechanics was strictly nonpartisan and nonsectarian."

Mr. John J. Weitzell, national counselor of the Junior Order of American Mechanics, together with a great number of representative Juniors, appeared before the House Immigration Committee on February 2, 1912, and Mr. Weitzell in his statement before the committee said:

We are nonsectarian and nonpartisan,

The Rev. M. D. Lichilter, of Harrisburg, Pa., chaplain of the national council of the Junior Order of United American Mechanics, in his remarks before the committee on that day said:

We have nothing to do with anybody's religion. We believe in the enstitution—that every man has a right to worship God according to his conscience.

These statements went unchallenged, unquestioned.

If the gentleman from Massachusetts wants to add to the of human knowledge he might tell this House why sum total he wrongfully branded the Junior Order of American Mechanics as the new A. P. A. movement in his speech on the floor here and then failed to have it appear in his written speech in the Record. There could be but one purpose in his statement to the Members here. The Junior Order of American Mechanics favor the passage of this legislation, and he hoped to prejudice the Catholic Members of this House by the statement to which I have made reference.

Does the gentleman mean to say that the demand for this legislation is based on opposition to Catholicism on the part of the American Federation of Labor, among whose national officials are to be found strong Catholics like John Mitchell and

John J. O'Connell?

The State Legislatures of Ohio, Pennsylvania, Tennessee, Vermont, and others have passed resolutions favoring the literacy test, and have memorialized Congress for the passage of this legislation. Was the movement on the part of these legislatures anti-Catholic? Does the gentleman mean to have this House understand that the eight members of the Immigration Commission who recommended this very legislation were trying to discriminate against the Catholic religion when every Catholic on the commission recommended it and when the only dissenting voice was that of an ardent Presbyterian? The gentleman might add to the sum total of human knowledge by telling this House why he wrongfully charged the Junior Order of American Mechanics with being a new A. P. A. movement and why he has tried to drag a religious question into a discusion of a subject that ought to demand legislation of the highest patriotism and wholly removed from all religious prejudices and predilections.

Mr. GOLDFOGLE. Mr. Chairman, while I was out of the

The CHAIRMAN. The Chair will state that the time on this amendment has expired.

Mr. GOLDFOGLE. I move to strike out the last word. The CHAIRMAN. That is not in order.

Mr. GOLDFOGLE. I ask unanimous consent that I may pro-

ceed for five minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent that he may proceed for five minutes. Is there

objection?

Mr. MONDELL. Mr. Chairman, there are many Members of the House who have not had an opportunity to speak at all on this important question. There are some Members of the House who have spoken at very considerable length on the subject. I have no desire to prevent any Member speaking. I am anxious that all may have the opportunity; but I think if we are to extend time to those who have already occupied a considerable amount of time it should be understood that others who have not had the opportunity to speak at all may at least be recognized briefly.

The CHAIRMAN. Does the gentleman from whome Mr. MONDELL. With these suggestions I do not object, Does the gentleman from Wyoming object?

Mr. RODDENBERY. Reserving the right to object, Mr. Chairman, is it generally understood that we will reach a final vote on this bill to-day?

Mr. GOLDFOGLE. I want to say to the gentleman that I will use no obstructive measures whatever. [Applause.]

Mr. RODDENBERY. I have no objection.

The CHAIRMAN. The Chair hears no objection. The gentleman from New York is recognized for five minutes.

Mr. GOLDFOGLE. Mr. Chairman, while I happened to be absent for a few minutes last Saturday the gentleman from Texas [Mr. Dies] undertook to say in the course of his speech, which has not yet been printed in the RECORD, that-

A great many of the wards in the asylums, as far as their constituencies are concerned-

Having reference to the constituencies of my colleague on the committee [Mr. Sabath] and of mine-

are already filled, and some of them sleeping on cots and some of them wandering aimlessly through the corridors of the asylums seeking some place to rest.

Never was there a greater libel or baser slander uttered gainst a people or against any class of people. [Applause.] The statement made by the gentleman from Texas [Mr. Dies] was born of a fevered imagination. It has neither foundation nor justification in fact. It was a flight of vivid imagination

that never ought to have found utterance in this Chamber. The gentleman from Texas knows nothing about these constituencies, for if he did he could not have indulged in this extravagance of speech.

Speaking for my constituency, I want to say the people of my district are a good, honest, thrifty, and industrious class of men and women. They toil honorably, and that is to their credit. They are home-loving people who merit the community's respect They need no defense at my hands. Yet in the face of the unfounded statements concerning them and of the unwarranted aspersions cast on them, it may not be out of place, while the immigration bill is under discussion, to say that these people are as finely healthy in body and mind as any constituency represented in this House. That constituency, sir, consists of a decent, honorable citizenship, a credit to my city and to the country whose institutions they admire, respect, and revere. [Applause.]

Mr. DIES. Mr. Chairman—
The CHAIRMAN. Does the gentleman from New York yield

to the gentleman from Texas?

Mr. GOLDFOGLE. I have only five minutes. The CHAIRMAN. The gentleman declines to yield. Mr. GOLDFOGLE. Is it for a question only?

Mr. DIES. I wish to ask the gentleman whether he can distinguish the difference between an asylum for the oppressed and an asylum for the insane?

Mr. GOLDFOGLE. The gentleman in his utterances made on the floor had reference to an asylum for the insane, and he knows it. [Applause.] He undertook also to declare that 95 knows it. per cent of the foreign born do not know anything about Americanism in this country. Again the gentleman is grievously mistaken. I thought I had covered that subject fully last Saturday, when under general debate I held the floor. The gentleman perhaps ought to be pardoned for his serious error. I have computed the number of foreign born in his district from the census figures and find them just 212. I take it the gentleman can know little or nothing about the foreign born. Had the gentleman traveled broadly, had he gone on journeys such as Members of Congress ought to take, to become acquainted with their country and learn its people in the different sections of it, he would have learned that most of the foreign born have a realization of what American citizenship stands for, but that they come with law-abiding hearts and minds to dwell in peace and happiness, to build for themselves and their families, and that when they become enrolled into American citizenship they evince a patriotic love of country and are loyally devoted to our flag. [Applause.]

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Pennsylvania.

Mr. MURRAY rose.

The CHAIRMAN. For what purpose does the gentleman from Massachusetts rise?

Mr. MURRAY. To discuss the amendment. The CHAIRMAN. Debate is exhausted on the amendment. Mr. LANGLEY. Mr. Chairman, can we have the amendment again reported?

The Clerk again reported the amendment.

Mr. MURRAY. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. That motion is not in order. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania.

The question was taken; and on a division (demanded by Mr. Moore of Pennsylvania) there were 45 ayes and 65 noes.

Mr. MOORE of Pennsylvania demanded tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. Moore of Pennsylvania and Mr. Burnett.

The committee again divided; and the tellers reported that there were 52 ayes and 84 noes.

So the amendment was not agreed to.

Mr. HAYES. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend by inserting in line 14, page 58, between the words "to wit" and the word "all," the following:

"Persons who are not eligible to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into; but this provision shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fall to maintain in the United States a status or occupation placing them within the excepted classes, shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided by law."

Mr. BURNETT. Mr. Chairman, I make the point of order that the amendment is not germane to the amendment reported by the committee.

Mr. HAYES. Mr. Chairman, it seems to me that the amendment is germane. The committee amendment to the Senate bill is an amendment providing additions to the classes that shall be included under the immigration law. This simply adds

another class to those that are to be excluded.

Mr. Chairman, on Saturday last the gentleman from Illinois [Mr. Sabath] asked that I name some one of the persons who have appeared before the Committee on Immigration and Naturalization who testified to facts which demonstrated the truth of the extract from the annual report of the Commissioner General of Immigration, which I caused to be read by the Clerk. I had not then the record of the hearings It seems to me unreasonable to expect a Member to remember, among many scores of witnesses, the names of those who testified to certain facts, especially when the testimony of the witnesses covers a long period of time. Now, in reply to the gentleman's inquiry I desire to state that Mrs. Mary Quackenbos, an attorney of New York, was one such witness, among several. I read the following extracts from her testimony before the committee in the Sixty-first Congress:

fore the committee in the Sixty-first Congress:

To continue: Nevertheless, from my experience in this work, I knew very well that immigration was stimulated abroad by steamship and private employment agencies. For nearly three years I had assisted the Department of Justice in the prosecution of peonage cases, and had sole charge of the cases in New York City against labor agents who had lured ignorant foreigners into peonage camps. As an attorney for the Department of Justice, I filed charges against these agents before the commissioner of licenses in New York City and various licenses were revoked. Immigrants had been horribly defrauded, in some instances, by their own countrymen. I do not find that they are defrauded by Americans. Through the courtesy of the Department of Justice, I have brought over some records of these cases, taken from the files. Before reading the records, I will say that when I was engaged upon this work we found no Federal statute under which we could prosecute these agents and have their licenses revoked.

As to immigration, it is not induced at all by the Federal distribu-tion bureau, but I will prove to you how it is induced. There is a way of stopping abnormal immigration, and upon this point I have much information which I shall be glad to give to this committee at another time.
Mr. Burnert. Induced by whom?

Mrs. QUACKENBOS. By the steamship agents abroad. There are 13,000 of them in Italy alone. There is generally one in every Province, and he has many subagents and runners.

The unconscionable steamship agent abroad, who lives in the Province with the peasant, who tempts him to leave his native land and his family and often to mortgage his old home in order to secure money for the ticket, from which the agent will get a commission—he is the man who helps induce our abnormal immigration. His friend, or business associate, the labor agent, on this side of the water, preying upon the immigrant after he is admitted in a like unconscionable way, too frequently dominates him and defrauds him and lives at the expense of this his less enterprising countryman. In this miserable business both agents become well to do. The worst evil is not wrought by the immigrant, but is suffered by him.

The CHAIRMAN. The Chair will hear the gentleman from Alabama.

Mr. GARDNER of Massachusetts. Mr. Chairman, that which is sought to be amended is the committee substitute, which provides solely for an illiteracy test. Now the gentleman from California proposes to amend that illiteracy test by providing a test based on a question of eligibility for naturalization in the United States.

If the Chair will turn to page 454 of volume 5 of Hinds' Precedents, at the bottom of the page he will find section 5870, which reads as follows:

5870. To a provision excluding immigrants unable to read and write and requiring a certificate with each immigrant admitted, an amendment to exclude all foreign-born laborers was held not to be germane.

Even without that decision, which relates to a matter on all fours with the question now before us, it seems to me that under general parliamentary law the situation is clear enough. To amend an illiteracy test by superimposing a test relating to naturalization is surely a linking together of unrelated subjects.

Mr. MANN. Mr. Chairman, it seems to me that the Chair is called upon to determine again what is the committee amendment. When I raised the point this morning to the Chair on a parliamentary inquiry, the Chair, I think, in a way sidestepped the proposition. Is the committee amendment an amendment to strike out the Senate bill and insert other matter, so that the whole subject matter of the bill is before the committee, or is the committee amendment an addition to the Senate bill, so that amendments must be germane solely to the new matter inserted by the committee? The gentleman from Massachusetts has cited paragraph 5870 of Hinds' Precedents. I call the attention of the Chair to paragraph 5873 of the same volume:

And amendments providing for an educational test for immigrants was held to be germane to the bill to regulate the immigration of

aliens into the United States. On May 22, 1902, the Committee of the Whole House on the state of the Union was considering the bill (H. R. 12199) to regulate the immigration of aliens into the United States, when Mr. Oscar W. Underwood, of Alabama, proposed an amendment providing an educational qualification, there being no such qualification in the bill.

A point of order was made that the amendment was not germane. The Chair has the ruling before him, in which the Chairman of the Committee of the Whole held that the bill being a bill upon the general subject of immigration, it was a germane amendment to provide that persons should not be permitted to enter into the United States who could not read Is the general subject of immigration before us on and write. this proposition now? Certainly, if the committee amendment is one to strike out the Senate bill and to insert something else, the whole subject matter of the Senate bill is before the committee, and any amendment which is germane to the general subject of immigration is a germane amendment to the committee amendment, the whole subject of immigration being now under consideration.

I will wonder continually whether the new rules of the House of Representatives, which were advertised to enlarge the freedom of consideration by the House and committees of bills, are to be so construed that when an immigration bill is brought before the committee and the House the Chair will be constrained to hold nothing can be offered to the subject matter of this general bill relating to immigration unless it relates to a specific proposition which has been recommended by the committee.

The CHAIRMAN. The Chair is of the opinion that the whole subject of immigration is not before the House under the rule before the committee, which was adopted by the House, and is of opinion that an amendment to be in order must be germane to the amendment of the committee. The Chair, therefore, sustains the point of order.

Mr. RAKER. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend by inserting, on line 14, page 58, after the semicolon and before the word "All," the following: "All aliens, native of any part of Asia or the islands adjacent to Asia or in Asiatic seas, and the descendants of such natives, who can not read and write in some European language, including Hebrew or Yiddish"; to be followed with a semicolon, and change the capital "A" to a small "a" in the word "all," in line 14, same page.

Mr. GARDNER of Massachusetts. Mr. Chairman, I raise the point of order that in its present form that amendment is not germane on account of the words "and write." That can be easily remedied, to be sure. However, I am going to ask the gentleman to withdraw that amendment before the Chair rules on the question of order.

Mr. RAKER. Mr. Chairman, if the Chair holds it is not in order, then I shall reintroduce it with the words "and write" stricken out, but I am thoroughly convinced personally that it is in order.

Mr. GARDNER of Massachusetts. I would be inclined to agree with the gentleman that it is in order, but it is of such vast importance, and being especially anxious that the gentle-man who is acting with us and has been acting with us right along, should not do anything that will give aid and comfort to the enemy, I ask him to withdraw it.

Mr. RAKER. If the gentleman will pardon me, I do not agree with him respecting his expression, "aid and comfort to

the enemy." In the first place, I do not believe there can be a man in the House to-day who will not vote for this amendment.

Mr. GARDNER of Massachusetts. I shall not vote for it.
Mr. RAKER. That being the case, we ought to adopt this
amendment, and then let the House be in a position to pass upon the proposed substitute of the gentleman from Alabama with this attached to it. Then we get before the Congress an illiteracy test that really amounts to something.

Mr. GARDNER of Massachusetts. Mr. Chairman, I with-

draw my point of order.

Mr. BURNETT. Mr. Chairman, I make the point of order.

The CHAIRMAN. The Chair sustains the point of order. Mr. RAKER. Then, Mr. Chairman, I reoffer the amendment with the words "and write" stricken out.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend by inserting, on line 14, page 58, after the semicolon and before the word "All," the following:

"All aliens, natives of any part of Asia or the islands adjacent to Asia or in Asiatic seas and the descendants of such natives, who can not read in some European language, including Hebrew or Yiddish;" to be followed with a semicolon, and change the capital "A" to a small "a" in the word "all," in line 14, same page.

Mr. BURNETT. Mr. Chairman, I make the point of order against that.

The CHAIRMAN. The Chair sustains the point of order.

Mr. RAKER. Mr. Chairman, I would like to be heard upon the point of order.

Mr. KENDALL. Regular order!

The CHAIRMAN. The Chair is very clear that the gentleman's amendment is not in order, but if the gentleman desires

to be heard the Chair will hear him.

Mr. RAKER. Mr. Chairman, of course ordinarily after a judge has decided a matter it is difficult to get him to change his mind, but I have always, when he permits a hearing, gone at it with the same confidence as though he had not expressed his opinion, for I know the judge will pass upon the matter in the same way as though he had not passed upon it in the first

The very object and purpose of this bill is an illiteracy test. It does not specify in the bill any particular locality where they should come from, and this amendment simply intends to cover the whole subject of illiteracy and not make it specific. seems to me that when the bill covers that question of reading, this, then, is an amendment that would make it definite, more certain, and it would be germane when it does not curtail the reading of the bill nor the language of it.

It relates to the Hebrew and Yiddish language, relates to the subject of those who are permitted to enter when they are in a

condition to read, and I can not for the life of me see—
The CHAIRMAN. What has the gentleman to say to the fact that this amendment practically points out people who live in Asia and the islands adjacent to Asia?

Mr. RAKER. Well, that is intended to reach out and make it more extensive instead of including those of the south of Europe. It just extends across in an imaginary line and takes in Asia instead of making it those of Europe, as the present bill does. This amendment proposes and says that it shall sweep that entire country and make a great distinction to those in Asia and a little different rule than those in the southern part of Europe. That is the object and purpose of it, and I can not see how if they could limit it to one State in the old country it would not be germane to say you can step over an imaginary border and exclude those in an adjoining State.

The CHAIRMAN. The Chair will yet hear the gentleman from Alabama if he has anything to say. The Chair overrules

the point of order; he was wrong before.

Mr. FITZGERALD. I ask to have the amendment reported which has been held to be in order.

The CHAIRMAN. The Clerk will again report the amend-

The amendment was again reported.

Mr. RAKER. I want to call the committee's attention to the fact that this amendment is in substance the law that to-day is the law of Australia, that is the law to-day of Cape Colony and Natal, that it is the law that is adopted and acted upon by British Columbia so far as the Province is concerned, and, notwithstanding the objections of England to the addition of such a provision in the laws of Australia, the people finally carried it out, and that is the law to-day, and the record shows that it practically excludes from the United States of Australia coolie labor.

Will my colleague yield? Mr. KAHN.

Mr. RAKER. I yield to the gentleman from California.
Mr. KAHN. I simply desire information from the gentleman. As I recall, the Chinese exclusion laws exclude all coolies whether they can read or write. There is an agreement with Japan that she keep all of her coolies at home. How does the gentleman believe that his amendment is going to be of any particular advantage in the exclusion of oriental aliens?

Mr. RAKER. Why, surely. Where do you find that agree-

ment between Japan and the United States?

Mr. KAHN. Well, there is an agreement between Japan and the United States, which is known as a gentleman's agreement, that she entered into after the Congress had passed a law prohibiting orientals from coming from our insular possessions to the mainland of the United States.

Mr. RAKER. Do I understand the gentleman to say that there is any agreement that can be obtained or that exists anywhere between the United States and Japan to that effect?

Mr. KAHN. There is such an agreement, and Japan is refusing to give passports to any of her laborers to come to the main-

land of the United States under that agreement.

Mr. RAKER. Of course it is easy to say there is such an agreement, and it would be just as easy for me to say there is not, because I have been investigating and trying to find out and obtain that information.

Mr. GARDNER of Massachusetts. Does the gentleman say

there is no such agreement?

Mr. RUCKER of Colorado. There is no such record agree-

Mr. RAKER. There is no record of any such agreement, I mean.

Mr. MANN. The gentleman had printed in the RECORD the other day an amendment to be offered to this bill. Does the gentleman propose to offer it?

Mr. RAKER. I am going to offer it if I get the chance.

Mr. MANN. I did not know whether this amendment took the place of it or not.

Mr. RAKER. Not at all.

Mr. MOORE of Pennsylvania. I would like to have the gentleman answer a question.

Mr. RAKER. I yield.

Mr. MOORE of Pennsylvania. Would not the effect of the adoption of his amendment be at once to involve the United States in a controversy with the Empire of Japan?

Mr. RAKER. Why, no. What are you passing here to-day on your immigration bill? Does it not include every nation on earth? Do you make any distinction? Are you going to ask any particular foreign power whether or not you shall say that no citizens of their country who can not read shall be admitted into the United States? With as much propriety why should you not go and ask whether or not the coolie labor of India, that is coming and has been coming into the western country, and which is such a detriment to us, should not be excluded?

The CHAIRMAN. The time of the gentleman has expired.

Mr. DIES. Mr. Chairman— Mr. GARDNER of Massachusetts. Mr. Chairman—

The CHAIRMAN. The Chair will recognize the gentleman from Massachusetts, a member of the committee.

Mr. GARDNER of Massachusetts. Mr. Chairman, in the first place, the gentleman is entirely mistaken. The coolie agreement is a matter of record between the United States and Japan. have here a copy of the treaty with Japan, proclaimed April 5, 1911.

Mr. FITZGERALD. Has it been ratified?

Mr. GARDNER of Massachusetts. The treaty has been rati-ed. It is not confidential. I invite the committee's attention to the following declaration made when the treaty was signed:

In proceeding this day to the signature of the treaty of commerce and navigation between Japan and the United States the undersigned, Japanese Ambassador in Washington, duly authorized by his Government, has the honor to declare that the imperial Japanese Government are fully prepared to maintain with equal effectiveness the limitation and control which they have for the past three years exercised in regulation of the emigration of laborers to the United States.

Now, Mr. Chairman, if this amendment is adopted-Mr. RAKER. Will the gentleman yield right there? Mr. GARDNER of Massachusetts. I can not yield. I can not yield.

Mr. RAKER. Only for a question.

Mr. GARDNER of Massachusetts. We have only five minutes, and I can not yield. This amendment, if it were to become law, would embroil us with Russia, with Turkey, with Persia, with Holland, with France, with Great Britain, and with Siam. All of those countries have innumerable subjects in Asia who can not read any European language. The proposal of the gentleman from California is to make the subjects of all those nations, born in Asia, read the European language. Am I incorrect?

Mr. FITZGERALD. I think the gentleman's amendment reads "native," as it was reported from the desk.

Mr. GARDNER of Massachusetts. "Native and descendants."
Now, no man born in Persia, for instance, according to the gentleman's amendment could come into the United States unless, perchance, he was able to read some European language. His amendment goes further than the Chinese-exclusion laws. It excludes not only coolies, but it excludes every man in China, in India, or in the East, unless he can read some European language, which is an unusual accomplishment for Asiatics. In other words, merchants could not come here; lawyers could not come here-nobody could come here-unless he could read in some European language. Furthermore, as if that were not enough, this amendment clearly violates Article I of our treaty with Japan, which says:

The citizens or subjects of each of the high contracting parties shall have liberty to enter, travel, and reside in the territories of the other to carry on trade, wholesale and retail; to own or lease and occupy houses, manufactories, warehouses, and shops; to employ agents of their choice; to lease land for residential and commercial purposes, and generally to do anything incident to or necessary for trade upon the same terms as native citizens or subjects, submitting themselves to the laws and regulations there established.

Now, Japan, if the amendment were adopted, would be at perfect liberty to-morrow to discontinue this agreement which I have read to you and to denounce us as having violated the treaty. Furthermore, Mr. Chairman, I am in favor of Mongolian exclusion, as is the gentleman from California [Mr. RAKER], but the result of adopting this amendment would entail a succession of events. First, the bill would go to conference. Even supposing that the Senate conferees were to accept this amendment, it is extremely unlikely that before the 4th of March the Senate would agree to any bill with such a provision in it. Even if the Senate did so, the President would be almost

I ask every man in this House who sincerely desires to see this bill enacted into law to vote down the amendment of the

gentleman from California. [Applause.]

The CHAIRMAN. The time of the gentleman has expired. All time has expired. The question is on the amendment offered by the gentleman from California [Mr. RAKER].

The question was taken, and the amendment was rejected. Mr. MOORE of Pennsylvania, Mr. MADDEN, and Mr. MON-DELL rose.

The CHAIRMAN. The Chair recognizes the gentleman from

Wyoming [Mr. Mondell].
Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

Mr. GARDNER of Massachusetts. Mr. Chairman, I desire to make the point of order that the motion is out of order.
The CHAIRMAN. The Chair overrules the point of order.

Mr. MOORE of Pennsylvania. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOORE of Pennsylvania. Is it in order to recognize a gentleman to strike out when there is no amendment pending? Mr. MONDELL rose.

The CHAIRMAN. That is the only time a gentleman can be recognized for that purpose—when there is no amendment The gentleman from Wyoming [Mr. MONDELL] is

Mr. MONDELL. Mr. Chairman, I voted against the rule brought in by the Committee on Rules for the consideration of this bill, because it was, in my opinion, under the circumstances, entirely indefensible. I shall, however, vote for the bill as reported by the Committee on Immigration, not because I consider it ideal legislation, but because, under existing conditions, it is at least worthy of a trial.

No one has greater confidence than I in the efficacy of free institutions in the preparation of the mind and the molding of the character of immigrants for the honest and intelligent discharge of the duties of citizenship under a republican form of government.

My firm belief in the good intentions of the great majority of mankind, our experience as a people, my own personal observation, all fortify and strengthen my faith in the marvelous efficiency of the air and the institutions of liberty in the evolution of a patriotic and useful citizenship from seemingly crude and ofttimes doubtful material.

We must all admit, however, that there is a limit to the capacity of even the best of free institutions and the widest of opportunities to assimilate and harmonize with our ideas and ideals those who, through no fault of their own, perhaps, yet none the less clearly, are lacking in the information and training which all admit are so essential to the intelligent exercise of the duties and responsibilities of our citizenship.

The question before us is, therefore, Have we in the recent past, and are we likely in the future, with no further restriction of immigration than we now have, to receive a tide of unprepared immigration in excess of our capacity to train, prepare, and assimilate into useful citizenship? Our opinion on this question must be formed in the light of the unfortunate fact that the burden of the assimilation of uneducated immigration is not distributed anything like equally over our entire area or population. If it were, I for one should doubt the necessity or advisability of further restriction. It falls largely on a limited number of communities, mostly in large cities and populous industrial centers. These ofttimes fail to afford the immigrant that contact with the body of our native or thoroughly amalgamated foreign-born population, or oppor-tunity for instruction in or familarity with our institutions, which all admit are essential to his preparation for his future responsibilities.

I freely admit that the educational test is not an ideal one, that it will not exclude the educated knave, or incompetent, and that it will exclude some ignorant but honest and competent people whom we would gladly welcome to our shores. But no test can be devised which will search men's hearts and reveal their intentions. This test will at least reduce the number of those who are, by reason of their inability to read, handicapped in securing the knowledge that they should have of our institutions. It will diminish the number of those who, while themselves generally well meaning, are oftentimes the

instruments and frequently the victims of the vicious and designing, the criminal and the trouble maker, both native and foreign born.

If our experiences under a law such as this shall prove unsatisfactory and fail to provide the results expected, it can be repealed. It is altogether possible that such a restriction as this may have a stimulating effect on the intending immigrant in the pursuit of the limited educational requirement of the law. If such is the effect, that fact alone will largely justify its enactment. At any rate it will tend to challenge attention to the value of the opportunities which our land and institutions afford. After the lapse of the brief period necessary to enable the intending immigrant to inform and prepare himself, the reading test will exclude few, if any, who possess the ambition and determination which form a part of the part of the equipment of those we invite to share with us the opportunities and blessings of liberty under law. [Applause.]

Mr. CANNON. Mr. Chairman, I have been surprised at many statements made during this debate abounding not in fact, but statements made either in ignorance or otherwise.

I want to call attention to the great outcry that has been made as to the harm that will come and the bad conditions that will come with respect to wages in labor centers unless immigration is checked. It is an economic question. Will anybody tell me why the native American, born on the farm and in the country, goes to the labor center? It is because he receives there more uniform and better pay than he gets on the farm and in the smaller city and village. That is the reason, and that is also the reason why the immigrants go to the labor centers-for more uniform employment at a better wage.

Will anybody tell me why it is that this immense immigration to this country does not go South? I can tell you. because the wage in the North is better than it is in the South, The wage in the factory North is better than it is South. So, after all, I do not see why our southern brethren are so insistent upon shutting out labor that comes to this country will-

ing to be employed.

Have wages been reduced with this great immigration coming to this country—greater in the aggregate from 1900 up to the present time than in any other 12 years in the history of the Republic? No. Wages have greatly increased notwithstanding that immigration. Gentlemen misapprehend what the facts are. It is an economic question so far as the immigration is concerned, not a racial question.

I want to say again to our southern brethren that I rejoice in their advance from the material standpoint. But there are shorter hours to-day in the Northland than there were before this great block of immigration came, and there is better em-

ployment at a better wage.

Mr. MADDEN. And shorter hours also than in the South-

Mr. CANNON. Yes; shorter than in the Southland. Mr. MADDEN. And better working conditions. Mr. CANNON. Yes; better working conditions. The ing conditions are improving constantly, and will continue to improve. I am surprised at many gentlemen who are familiar with the influence that has come from this immigration in the Northland. I am surprised that they are protesting and agonizing. I say it in all kindness, not to criticize; I say it is my judgment that if a hundred thousand or more of this immigration that comes to this country could go into the Southland occasionally it would better your condition.

The CHAIRMAN. The time of the gentleman has expired. Mr. BARTHOLDT. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Missouri [Mr. Bar-THOLDT] offers an amendment, which the Clerk will report. The pro forma amendment will be withdrawn.

The Clerk read as follows:

On page 58, line 14, after the word "all," insert the word "male."

Mr. BARTHOLDT. Mr. Chairman, the effect of my amendment would be to limit the operation of this bill to male immigrants, and I offer the amendment for the reason that certainly none of the classes in this country who are now looking upon immigration as a hostile invasion or as unwelcome competitors with American labor would have any objection to the coming hither of female servants.

I read in a New York paper the other day the following:

NEW YORK NEEDS 100,000 SERVANTS.

An exhaustive report on New York employment agencies which Commissioner of Licenses Herman Robinson has prepared was turned in to Mayor Gaynor yesterday by the commissioner. The servant problem, which it deals with in detail, shows that there is a great scarcity of servants. More than 100,000 of them could find employment in New servants. More York City alone.

And the same condition prevails all over the United States. Certainly it would look almost ludicrous for the American Congress to insist upon a servant girl being able to read or write when she comes to this country. I think all the objects which gentlemen want to accomplish would be attained if the bill

should be limited-to male immigrants.

While I am on my feet I want to say that our friends of the restrictive persuasion always lay great stress upon the total number of immigrants who are coming every year, but not one of them has yet told the House, and I have not heard it stated during the whole debate, how many are going back every year. I have the figures here, reported by the Department of Commerce and Labor, which show that in the year ending June 30, 1911, 155,000 laborers arrived in this country and 172,000 laborers departed during the same time. In the reports for the fiscal year 1912 you will find that 135,726 laborers arrived in the United States and 209,279 departed from the United States. In other words, many more laborers are departing than are coming at the present time, and I believe there is no country in Europe that does not receive more immigrants than this country receives at the present time. What is the reason? The reason is the inimical spirit which is being displayed toward the men who are coming here in good faith, with good intentions, with their muscle, their brawn, and their brain fitted to aid us in building up our country.

Mr. SLAYDEN. Will the gentleman yield?

Mr. BARTHOLDT. I can not yield.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SLAYDEN. If the gentleman's time has expired, then he

must yield to the gavel of the Chairman.

Mr. DIES. Mr. Chairman, I join with my distinguished friend, the chairman of the Committee on Immigration, in the hope that all amendments to this measure will be voted down. The bill itself is a long step in the right direction. It is true some gentlemen seem to misunderstand its terms. My friend from New York [Mr. Goldfogle] seems obsessed with a misunderstanding of some terms of the bill and of some remarks I made about it on yesterday. He seemed unable to distinguish between an asylum for the oppressed of all nations and an insane asylum for the inmates of his particular district. Of course, I am not responsible for that. He says I do not know how to look at this question because I have no immigration into my district. Mr. Chairman, in all seriousness, standing upon a corner of Broadway in the city from which the gentleman comes and beholding the shivering forms of the bread line at Fleischmann's corner had something to do with the opinion that I have formed about the desirability of restricting immigration into this great country.

Mr. GOLDFOGLE. Is that all the gentleman knows about it? Mr. DIES. And traveling through the gentleman's district, on the east side of New York, and beholding the unclad and shivering forms of his constituents, who, I am told, live partially, at least upon rotten bananas and orange peels, I felt that in their behalf something ought to be done to stop the competition which had driven them to that desperate strait.

Mr. Chairman, I sympathize with the idea of maintaining this great Republic as an asylum for the oppressed of the nations of the earth, but in the interests of constituencies like those of my friend from the east side of New York [Mr. GOLDFOGLE], believe that the time has come when the master should hoist the gangway and declare that the ship is loaded to its gunwale. If I were the gentleman from New York, instead of looking to the ports of eastern Europe for new objects of pity to come into my district, I should take steps to relieve the condition of those already here and protect their labor and their living against the further importations of the pauper and the cheap labor of Europe to this country. [Applause.]
The CHAIRMAN. The question is on agreeing to the amend-

ment of the gentleman from Missouri [Mr. BARTHOLDT].

The question was taken, and the amendment was lost. Mr. MURRAY. Mr. Chairman, if I thought the pending bill would cure illiteracy and do away with the necessity for the free bread line, if I thought the pending amendment to the Senate bill would cure of itself those ills so graphically described, I would not rise to oppose this legislation, which proposes to exclude from admission to our country those over 16 years of age who can not read or write. I believe it is pertinent to inquire as to what classes of aliens may already be excluded, and for that purpose I want to remind this House that there are already 20 causes of exclusion of persons who may come to this country seeking admission to its shores.

was surprised to find by a cursory reading of the October Immigrant Bulletin, published by the Commissioner General of Immigration, which every one of you can obtain even as I have obtained it, that aliens may be deported because they are idiots, imbeciles, and feeble-minded; because they are

insane or epileptics; because they are afflicted with tuberculosis, even though it is noncontagious; that aliens may be deported because they are loathsome or have dangerous contagious diseases. If they are professional beggars or likely to become a public charge, they can be deported. They can also be deported if there is a surgeon's certificate of defect, mental or physical, which may affect the alien's ability to earn a living

If they come here as contract laborers, they can be deported. If they come here accompanying aliens who may also be ex-cluded, they can be deported. They can not be admitted if they are under 16 years of age and unaccompanied by a parent. Assisted aliens may be deported. Criminal aliens may be excluded. All polygamists may be excluded, as also anarchists. Prostitutes and females coming for any immoral purpose may be deported. Aliens who procure or attempt to bring in prostitutes or females for any immoral purpose can be excluded. People are not admissible without passports, and those under the provisions of the Chinese exclusion act, as also those supported by proceeds of prostitution, may be deported.

Now it is proposed to add to that already extensive list those who may not be able to read and write a given language if they happen to be over 16 years of age. The gentleman from If they happen to be over 10 years of age. The general and elo-Texas [Mr. Dies] has talked to us most interestingly and elo-quently, but he has said nothing that was not said in my own Commonwealth of Massachusetts in 1855. I have here the inaugural message of the governor of that Commonwealth in 1855, when he took the oath of office to serve as governor of that State. I can state to him the statements that were made in that inaugural, and also the inaugural of 1856, and ask him whether any thought he uttered is new or strange to the period that these messages were written. I ask any man whether he would have this country go back to the conditions that did exist in 1855 and 1856 in its early development as contrasted with the glorious advances we have made in the present century and what we have gained since that time.

I have lived to the day when those who were objects of hostile legislation in Massachusetts in 1855 and 1856 have produced descendants who are the pride and glory of our citizenship. I shall not lend my aid nor give my vote to any measure that is designed to keep out Italians and Hebrews because they may not be able to read and write. And I predict that the time will come when the descendants of these Italians and Hebrews, now the object of hostile legislation, will have shown their worth and won their right to be classed as real contributors to the glory of American citizenship.

Mr. BURNETT. Mr. Chairman, I move that all debate on

the pending paragraph and amendments thereto be concluded

in five minutes.

The CHAIRMAN. The gentleman from Alabama moves that all debate on the paragraph and amendments thereto be concluded in five minutes.

The question was taken; and on a division (demanded by Mr.

Mann) there were 66 ayes and 52 noes.

Mr. MANN. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. BURNETT and Mr. MANN.

The committee again divided; and the tellers reported that there were 67 aves and 52 noes.

So the motion was agreed to.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend, page 58, line 24, after the word "alien," by inserting the following: "That the word 'alien' wherever used in this act shall include any person not native born or a naturalized citizen of the United States."

Mr. MOORE of Pennsylvania. Mr. Chairman, I should like to have the attention of the gentleman from Alabama [Mr. BURNETT]. It has been brought to my attention that the Supreme Court has decided that the word "alien" does not embrace seamen, and the purpose of the amendment is to cover that loophole. I think the gentleman will understand that there is a great deal of complaint with regard to the administration of the law as it affects alien seamen, and that much of the difficulty that arises from the whole immigration question is due to the admission in some subterranean way of men who come in as seamen; and the Supreme Court having decided that a seaman is not necessarily an alien, the amendment is offered to cover that point.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the amendment was rejected. Mr. MADDEN. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

Amend, by adding on page 58, line 24, after the word "land":
"Provided further, That this (act) shall not be applicable to any
person who shall emigrate from any country wherein persecution is
directed against the religious denomination to which he belongs, by
means of laws, customs, regulations, orders, or otherwise, nor to any
person seeking to avoid persecution because of political beliefs or activities."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

Mr. BURNETT. Mr. Chairman, that is entirely taken care of. Mr. MANN. Mr. Chairman, I call the gentleman to order.

The CHAIRMAN. Debate is not in order.

Mr. MANN. On the gentleman's own motion he cut off debate. Mr. KENDALL. It is not taken care of on the political part

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. Madden) there were—ayes 27, noes 70.

Mr. MANN. Mr. Chairman, I ask for tellers.

The CHAIRMAN. The gentleman from Illinois asks for tellers. As many as favor ordering tellers will rise and stand until counted. [After counting.] Eighteen gentlemen have risen, not

sufficient number, and tellers are refused.

Mr. KENDALL. There is one more back there, Mr. Chairman.

Mr. SABATH. Were there not 20 Members rose? I have counted 19, with the gentleman from California [Mr. KAHN].

Mr. BARCHFELD. Mr. Chairman, I do not think the Chair counted me

The CHAIRMAN. The committee will be in order. The Chair counted the gentleman from Pennsylvania. The Chair has already ruled.

Mr. SABATH. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read, and I know there is no gentleman who will vote against this amendment. I will ask the Clerk to read it carefully.

The Clerk read as follows:

Page 58, after the word "land" on line 24, add: "Provided, That in no case shall any alien be excluded if such exclusion would separate him or her from his or her parent or parents; if parent, from his or her children, or if such parent or parents or the majority of the members of such family are entitled to be admitted into the United States: Provided, however, That such alien is not insane or afflicted with a loath-some or dangerous contagious disease or convicted of a felony involving moral turpitude.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The question was taken; and on a division (demanded by

Mr. Sabath) there were—ayes 32, noes 72.
Mr. Sabath. Mr. Chairman, I demand tellers.
Tellers were ordered, and the Chair appointed the gentleman from Illinois [Mr. Sabath] and the gentleman from Alabama [Mr. BURNETT] to act as tellers.

The committee again divided; and the tellers reported-ayes 28, noes 62,

So the amendment was rejected.

Mr. WILLIS. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

In line 15, page 58, after the word "reading," insert the words "and

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Ohio.

The question was taken, and the amendment was rejected. Mr. BARTHOLDT, Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

On page 58, lines 16 and 17, after the word "language," strike out the words "or the language or dialect of some other country" and insert in lieu thereof the words "or any other language."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Missouri.

Mr. BARTHOLDT. Mr. Chairman, I ask unanimous consent for two minutes. This is an important amendment to cure

a defect in the bill.

Mr. BURNETT. Mr. Chairman, I object.

The question was taken, and the Chairman announced the noes seemed to have it.

Mr. MANN. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 23, noes 67. Mr. BARTHOLDT. Mr. Chairman, I demand tellers. The CHAIRMAN. Eighteen gentlemen have risen; not a sufficient number, and tellers are refused.

Mr. MANN. Mr. Chairman, I make the point of order there is no quorum present in the committee.

The CHAIRMAN. The gentleman from Illinois makes the point of order there is no quorum present. The Chair will

count. [After counting.] One hundred and forty-five Members are present, a quorum, and the Clerk will read.
The Clerk read as follows:

Sec. 2. That for the purpose of ascertaining whether allens can read or not the immigrant inspectors shall be furnished with copies of uniform slips, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plain type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

After the words "Section 2," page 59, line 1, insert: "Each alien shall be examined to ascertain whether he can read."

Mr. MOORE of Pennsylvania. Mr. Chairman, the purpose of this amendment is to perfect the bill. There is nothing in the bill directing that immigrants shall be examined.

The question was taken, and the amendment was rejected. Mr. GOLDFOGLE. Mr. Chairman, I move to strike out the

last word. The CHAIRMAN. The gentleman from New York is recog-

nized. Mr. GOLDFOGLE. The gentleman from Texas [Mr. Dies], in attempting a portrayal of New York conditions, indulged in language so extravagant that I am led to doubt that he ever was in New York. Blinded to real conditions—I say willingly blinded to conditions—and guided, I fear, by that spirit which, sad to say, is inborn in some, which breathes racial prejudice and religious hatred, he stood on this floor misrepresenting the living conditions in my city, especially in the district I represent. There are no conditions over there such as he described. I can not understand what could have led him to venture to describe a situation which exists only in dream and fancied imagination. If, Mr. Chairman, the gentleman ever was over to the East Side of New York he came, it is true, to a crowded section, but to a locality filled with the homes of a decent people and an honest working class. Yes, and there, too, dwell professional men who have earned for themselves name and fame for ability and skill and character. It is a cosmopolitan population, but there are no such pitiful sights there as the gentleman from Texas would have you understand are

In that district, Mr. Chairman, you will find the homes of good people, in whose dwellings pure and becoming family life is observed and wherein domestic peace and virtue are enshrined. You will find a people alive to civic duty, of patriotic impulse, and who value and esteem American citizenship as a boon and a blessing. You will find the schools—the day and the evening schools—filled with children eager to learn, remarkably apt at study, bright and intelligent. You will find students in colleges and universities winning honors and prizes for their educational attainments. You will find homes for the aged, hospitals for the sick, and sheltering homes for the immigrant. You will find a people who largely aid in helping the poor and the distressed and maintain with credit institutions which are a credit to our great metropolis. You will find in that district highly prosperous banks, and in the neighborhood you will find busy mechanics, artisans, tradesmen, storekeepers, and manufacturers all actively at work. And there, too, you will find good lawyers, excellent physicians, and professional men generally whose abilities well qualify them for their profes-

Mr. Chairman, in that district we have the establishments of a number of foreign-language newspapers, and those who can not yet read the English find there the newspapers that are published in their native tongue. They are well edited and convey, as does the so-called metropolitan press, the news of the day, and contain reading matter which not only is enlightening and interesting but tends to the better Americanization of the newcomer amongst us.

In that district, Mr. Chairman, though the territory of it is comparatively small, we have a number of libraries and educa-tional institutions. These libraries are packed nightly with men and women, with boys and girls. Had the gentleman from Texas been over there really to see what conditions prevail there he would have observed these splendid libraries. In the hurry in which I must necessarily make these remarks I shall mention but a few of the many illustrations I could cite.

In the Seward Park (N. Y.) Public Library branch the circulation for the year 1911 was one-half million. This is said to be the largest number of books circulated in any branch library in

the world. In the Rivington Street branch 265,405 volumes were taken out, 60 per cent being drawn by children and 40 per cent by adults, during the year. And think of it! Many of these were texbooks selected by young men and young women anxious to prepare for the civil service or regent examination.

In the Hamilton Fish branch during 1911 there was a total circulation of 350,539 volumes, of which 215,712 were taken out by children.

Think of it! Only 7 per cent of the books circulated in this library in the section where so many foreign born dwell are in

foreign languages,

This, Mr. Chairman, in a very meager way, gives you and the Members of this House an insight into conditions in my district, and though it is far from thorough, yet the statement suffices to refute what has been asserted against the people

The gentleman from Texas talks of illiteracy. In the district he represents I find the rate of illiteracy exceeds

Mr. BURLESON. Mr. Chairman, I desire to direct the attention of the gentleman from New York to the fact that Mr. DIES is not upon the floor.

Mr. FITZGERALD. The gentleman from Texas spoke a few

moments ago.

Mr. GOLDFOGLE. Mr. Dies spoke a few moments ago and should have remained here. He took advantage of my absence during general debate the other day to villify and slander the district I represent.

Mr. BURLESON. I am quite sure he did not take advantage of the gentleman's absence to say anything he would not have

said had the gentleman been present.

The CHAIRMAN. The time of the gentleman has expired. Mr. GOLDFOGLE. I ask unanimous consent for five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. BURNETT and Mr. YOUNG of Texas. Mr. Chairman, I

object.

The CHAIRMAN. The gentleman from Texas objects.
Mr. GOLDFOGLE. Mr. Chairman, I ask unanimous consent that I may extend the remarks made to-day in the RECORD.

The CHAIRMAN. The gentleman from New York asks unanimous consent to extend the remarks he made to-day in the RECORD. Is there objection?

Mr. MANN. Mr. Chairman, reserving the right to object, I merely wish to say if it is the evident intention to cut off debate I shall object hereafter to any requests to extend remarks in the RECORD.

Mr. DIES. Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. GOLDFOGLE] be given five minutes more in which to conclude his remarks. [Applause,]

The CHAIRMAN. The gentleman from Texas [Mr. Dies] asks unanimous consent that the gentleman from New York may proceed for five minutes. Is there objection?

Mr. GARDNER of Massachusetts. I object. Mr. RUCKER of Colorado. Mr. Chairman-

The CHAIRMAN. The gentleman from Colorado [Mr. RUCKER] is recognized.

Mr. RUCKER of Colorado. Mr. Chairman, for two days in this debate I have been bowing my head in humble prayer that out of this great aggregation of farmers in this Congress [applause] somebody would get upon his feet and make the speech that I now propose to deliver.

Mr. Chairman, I have been employing farm labor for 35 years. I have never found the laborer getting more than he was worth. I have never been compelled to pay him more than he ought to I have never discovered that the increase of population of this country has tended to decrease his daily wage.

Nobody has greater respect for the gentleman from Pennsylvania [Mr. Moore] than I have, and I was surprised the other day when he quoted from the Declaration of Independence, written by the immortal Jefferson. I was gratified to find a Republican who would quote from him, but he sticks in the bark, it seems to me. The gentleman from California [Mr. KAHN] this morning also quoted from Franklin. Why, both Franklin and Jefferson were dealing with a situation then very different from what it is now. If I read aright, Franklin must have gotten mixed up in his mathematics in determining how much he owed for wine in Paris and how much he owed this Government when he got away from there. Nevertheless, Thomas Jefferson was of the opinion that coincides very much with the remarks of the gentleman from Massachusetts [Mr. GARDNER], that there ought to be a limit of time upon the immigration into this country. I am not at all enamored with this idea of putting on an educational qualification. But Thomas

Jefferson was in favor of limiting the time to a 27-year period in order to keep out Europeans who were possibly destructive not of social relations in this country so much, but more particularly of political relations. And I want to say in apology to the gentleman from Pennsylvania [Mr. Moore] that I had to vote against his amendment fixing a moral qualification, because that touches me very closely.

I came from progenitors who would have come in here under the literacy clause easily enough, because in this country are men of letters and learning, as you will easily observe by the remarks of one of them; but as I read the history of my family, they were the most notorious pirates that ever plowed the great seas. [Laughter.] Therefore, out of respect for my progenitors, I did have to vote against the gentleman's amendment fixing the moral standard.

The CHAIRMAN. The time of the gentleman has expired.
Mr. RUCKER of Colorado. I am glad of it, Mr. Chairman.

[Laughter.]

Mr. WILLIS. Mr. Chairman, I desire to offer an amendment. The CHAIRMAN. The gentleman from Ohio offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 59, line 2, by inserting after the word "read" the words "and write."

Mr. WILLIS. Mr. Chairman, this amendment is offered in perfect good faith and not at all for the purpose of embar-rassing friends of the bill. I am in favor of the bill; I am in favor of financial, physical, and moral tests for admission of immigrants; and I think there ought also to be a literacy test, but that ought to include a writing just as well as a reading test. In my judgment, that is what the people of the country expect; and what they want when they ask for a literacy test is for it to include both reading and writing. I hope that the amendment will be accepted by the gentlemen in charge of the bill and agreed to by the committee and the House.

Mr. GARDNER of Massachusetts. Mr. Chairman, as a matter of fact, on the figures of last year the amendment of the gentleman from Ohio would exclude only 3,024 more persons than are excluded under a reading test. In other words, almost everybody who knows how to read can also write. After consulting with immigration officials in New York some years ago the Committee on Immigration came to the conclusion that the extra cost and difficulty of the writing test overbalanced the very slight additional advantage. Furthermore, Mr. Chairman, if this amendment is adopted it will be necessary to revert to the previous paragraph and amend it in conformity with this paragraph.

MESSAGE FROM THE SENATE.

The committee informally rose; and, Mr. Adair having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 3947) to provide for a bridge across Snake River, in Jackson Hole, Wyo., asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. Jones, Mr. Warren, and Mr. Newlands as the conferees on the part of the Senate.

IMMIGRATION.

The committee resumed its session.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. Willis].

The question was taken, and the Chair announced that the

noes seemed to have it.

Mr. MANN. Mr. Chairman, I ask for a division on this important question. The committee divided; and there were—ayes 17, noes 70.

So the amendment was rejected. The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Page 59, line 13:

"Sec. 3. That the following classes of persons shall be exempt from the operation of this act, to wit: (a) All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; (b) all aliens in transit through the United States; (c) all aliens who have been lawfully admitted to the United States and who later shall go in transit from one point of the United States to another through foreign contiguous territory."

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. Moore] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 59, line 18, after the word "religious,"-insert the words "or political."

Mr. MOORE of Pennsylvania. Mr. Chairman, very many of the immigrants who come to this country come because of religious persecution abroad, but an equal number, perhaps, come because of political persecution, which at times is even more harsh than religious persecution. It is a difference of opinion between those who do not agree with the crowned heads or the potentates of foreign countries and those who are subservient thereto, and it would seem a fair inclusion to admit the man who comes to this country because of political convictions differing from those of the ruling dynasties, as well as those who come because of religious beliefs that do not conform to the established standard.

It seems to me this amendment ought to be adopted, and that we should not deny admittance into the United States of those who come because of political persecution in foreign lands.

[Applause.]

Mr. GARDNER of Massachusetts. Mr. Chairman, the line of reasoning of the gentleman from Pennsylvania [Mr. Moore] is precisely that of a distinguished anarchist who appeared before our committee some years ago from my own State [laughter], in which he held that the objection to anarchy was purely political; that it was a political persecution which they were trying to escape abroad, and that now we are politically persecuting them by excluding them here.

Now suppose, Mr. Chairman, you had an inspector who agreed with that gentleman, and the stranger were admitted. very clear that under the amendment offered by the gentleman

from Pennsylvania

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gen-

theman yield?
The CHAIRMAN. Does the gentleman yield?
Mr. GARDNER of Massachusetts. Yes.
Mr. MOORE of Pennsylvania. The gentleman is perfectly aware, I am sure, that anarchists are explicitly excluded from

Mr. GARDNER of Massachusetts. They are already excluded, but under a subsequent statute, I think, it would be held that there would at least be some question as to whether they would be admitted or not, provided they did not admit themselves to be anarchists.

Mr. MOORE of Pennsylvania. But the gentleman knows that I am as much opposed to the admission of anarchists as the gentleman himself is. I am speaking of men, not anarchists, who differ in their political views from their oppressors.

Mr. KENDALL. Like the men of 1848 in Germany? Mr. MOORE of Pennsylvania. Yes.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania [Mr. Moore]. The question was taken, and the Chairman announced that the "noes" seemed to have it.

A division, Mr. Chairman. Mr. MOORE of Pennsylvania. The committee divided; and there were-ayes 26, noes 67. So the amendment was rejected.

Mr. TOWNER. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Iowa [Mr. Towner] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, section 3, page 59, by striking out from lines 15 and 16 the following words: "Shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they"

Mr. TOWNER. Mr. Chairman, my amendment is intended to make effective this provision in the exception of the bill relating to those who flee from religious persecution. In my judgment, those who really favor the bill and are in favor of the exception ought to accept this amendment.

It will be noted that there are three exceptions in section 3. It will also be noted that the language which I have asked to have stricken out, with regard to the particular section that refers to those who are seeking these shores for the purpose of escaping religious persecution, applies only to this particular section. It gives to the immigration officer the power of determining to his satisfaction whether or not the person is fleeing from religious persecution. It puts upon the immigrant the burden of proving beyond a reasonable doubt that he is so doing.

Since the determination of the case of Ju Toy, the Chinese exclusion case, the courts have held that immigration officers who had this power committed to them acted with absolute and complete authority, such authority that the courts themselves could not interfere with it. The case of the United States v. Jn Toy (198 U. S.) decides that-

Even though the fifth amendment does apply to one seeking entrance to this country, and to deep him admission may deprive him of liberty, due process of law does not necessarily require, a judicial trial, and Congress may intrust the decision of his right to enter to an executive

That is what this language does. It gives to the executive officer the absolute right to determine. But it goes still further than that. It provides that this proof must be to the satisfaction of this officer. Those words go further, I think, than gentlemen could have supposed them to go, because the courts have decided that when that kind of language is used it means, in effect, not only that there shall be a preponderance of proof, but that the proof shall be beyond a reasonable doubt.

I want to quote from a decision delivered in the State of the chairman of this committee [Mr. Burnett]-the case of Torrey against Burney, 113 Alabama, 496—in which that court, in interpreting the word "satisfied," said:

"Satisfied," as used in a statement that one party to a cause must satisfy the jury of the existence of a certain material fact, means to relieve of all uncertainty or doubt.

I want to quote also from another authority, the case of Keich against State, an Ohio case reported in American State Reports, 680, in which it is stated that-

The word "satisfy," when used in the sense of satisfying a body of men of the truth of a disputed fact, means to free the mind from doubt regarding that fact—to set it at rest. The word implies much more than a preponderance of the evidence.

There is another decision from Wyoming that I desire to quote, in which the court says:

To satisfy the mind, we think the evidence must be such as to remove all reasonable doubt. The general definition of the word, as given in Webster's Dictionary, is "to fill up the measure of a want of a person or thing," and, more specifically, "to free from doubt, suspense, or uncertainty; to give assurance to, to set at rest the mind; to convince,"

So we give now, under the terms of this act as it stands, the power to determine this question so that no court can interfere with it, and then we put upon the immigrant the burden of proving beyond a reasonable doubt that he is fleeing from religious persecution. The effect of this will be to make valueless the exception and to put it within the power of the immigration officer to exclude anyone who fails to satisfy his mind that he

or she is seeking here an asylum from religious persecution.

Mr. BURNETT. Mr. Chairman, in regard to the question as to the official to whom the proof that the immigrant is fleeing from religious persecution must be made, it seems to me it is in the interest of the immigrant himself that that proof should be made to some proper immigration officer or to the Secretary of Commerce and Labor. Under the amendment offered by the gentleman, as I caught the reading of it, it simply would leave it up in the air as to whom this proof should be made. The bill simply says it shall be made to the proper immigration authority or the Secretary of Commerce and Labor. The immigrant would have the right of appeal to the Secretary of Commerce and Labor if the inferior immigration authority should decide against him.

Mr. MANN. Will the gentleman yield?

Mr. BURNETT. Certainly.

Mr. MANN. Under the provision of the bill I take it that the decision of the Secretary of Commerce and Labor is final.

Mr. BURNETT. Yes; and under a number of other provi-

sions in the general immigration law.

Mr. MANN. I am not criticizing that. I am simply trying to get it straight in my own mind. If the gentleman's amendment prevails, the decision in the first instance, of course, would have to be made by the immigration service?

Mr. BURNETT. Certainly. Mr. MANN. Would there then be an appeal to the courts on the claim made by the man that he was trying to escape religious persecution?

Mr. BURNETT. I think not; he would have the right of habeas corpus, and it would be the same as the law with relation to one afflicted with contagious disease and other diseases. It puts him in the same category as a man in that class.

Mr. MANN. This is really a pretty wide door anyhow.

Mr. BURNETT. I think we are giving a pretty wide door in favor of the immigrant.

Mr. MANN. I mean in favor of the immigrant. If this means anything at all, there ought to be somebody to enforce it.

Mr. BURNETT. I think there is under the law. I think it ought to be as it is. It is in favor of the immigrant, in the interest of the Government, and in the interest of all that there should be some specific person designated to whom this proof may be made.

I do not think the authorities bear the gentleman from Iowa out in regard to his construction of the law that the word "satisfaction" of the proper immigration officer means satisfaction beyond a reasonable doubt. It may not mean by a preponderance of evidence, but whatever evidence he may have, if it convinces the proper immigration officer to his satisfaction. not as in the criminal law beyond a reasonable doubt, but as in civil cases, to a reasonable certainty, that is sufficient.

think that is all that this means and all that it implies. That is what our courts have held—what would satisfy a reasonable man.

The fact that there is a persecution of the Jews in Russia, of which the whole country knows, it would be a matter of common knowledge if such persecution was given as a reason for the entry of the immigrant; that of itself would satisfy a reasonable man. I do not think that it imposes any hardship. It does not say that he must satisfy him beyond a reasonable doubt; but when it is proved to a reasonable certainty or the satisfaction of a reasonable man, that would be all that the immigrant inspector would require.

The CHAIRMAN. The question is on agreeing to the amend-

ment offered by the gentleman from Iowa.

The question was taken, and the amendment was lost.

Mr. TILSON. Mr. Chairman, I move to strike out the last

Mr. Chairman, I oppose this bill, in the first place, because even if it should become a law as it passes this House I regard the literacy test provided for in the bill as incorrect in principle and unwise. In the second place, I oppose it because as it will finally pass both Houses it will be very different from what it is now, and I fear not nearly so good. It really makes little difference what the bill contains when it leaves this Chamber. When it arrives at the other end of the Capitol it will be disagreed to, and the bill that finally becomes a law will be written by the conferees of the two Houses. It will go out of this House like the evil spirit out of the man described in Holy Writ. will pass through the dry places of the other end of the Capitol and the conference room, and, having taken unto itself seven or more other spirits, probably more wicked than itself, will return to us in the dying hours of this session, and, like the man in the Scriptures, our last state will be worse than the first.

I am much opposed to unrestricted immigration. I am in favor of every fair restriction that is founded upon sound economic or social principles. I favor a physical test that will keep out imbeciles, epileptics, diseased persons, weaklings, and any others that will tend to lower our race in physical strength and vitality. We must have a physically strong and vigorous people. I favor every reasonable and effective requirement that can be made as to character, for it is even more important that we be a people of strong moral fiber. I would keep out the crook, the criminal, the anarchist, the Black Hander, but this bill aims at nothing in this direction. Its entire force is directed against the poor unfortunate man or woman who has not had the opportunity of learning to read and write.

Although I favor a broad humanity, I believe in beginning at home and measuring outward. I stand for this country first and foremost; and if I believed, as it seems some gentlemen do, that European immigration is an unmixed evil and that its effect is altogether harmful, then I should favor absolute exclusion. If I believed that to be true, I should favor building a wall around this country so high that no alien could scale it. One country in history literally adopted such a program, but no one cites China as a model for a progressive country.

I believe that in the present state of our economic, industrial, and social development, the immigration of virile able-bodied young men and women of good moral character from Europe is one of the requisites of our continued progress. This is no new question. There has been scarcely a time since the establishment of our Government that this question was not a living one. The pages of our history are filled with it. Read some of the political literature of the first half of the last century. You will think some of the eloquent proponents of this bill have been plagiarizing, only substituting the downtrodden peoples of southern and eastern Europe for the then equally hated German, Irish, and other immigrants of the period. look back through the years and scan the record of accomplishment of those immigrants and their immediate descendants, observing how large a place they have filled and are filling in our national life, we bow our heads in shame at the narrowmindedness of some of our forbears. Know-Nothingism and A. P. A.-ism have gone to join witch burning, or at least I had supposed they had until this debate began. As I look out into the future and see a strong, virile, self-reliant, self-governing Nation of 200,000,000 people made up of the blood of all Europe. but all Americans, loyal to the same flag and ready to die for it, I can fancy the broad-minded statesmen of that time looking back upon this day with much the same feelings with which we look back upon the antiforeign demonstrations of the earlier

The ability to read has no correlation with sound bodies, clear intellects, and good morals, and these are the basic requisites of a great people. If a literacy test had been applied in this

country from the beginning, how many of us would be here to-day? Go back through the probate and land records of the last two and a half centuries and see how many of your own ancestors made their cross in lieu of a signature.

I was born in the mountainous section of Tennessee. The purest American blood on all this continent is found there today. The people there are the direct descendants of the men who fought the Battle of Kings Mountain and of the men who were with Jackson at New Orleans, and yet within the memory of men still living comparatively few of them could read or write even so much as their names. My dear old father—still living there at a ripe old age—was the first to teach in his community the three R's to those brave, capable people. Such men as they laid the foundations of our earlier new Commonwealths, and comparatively few of them could either read or write. Would you shut out such men if they came to us now across the seas? You would if this bill were a law.

Some of you gentlemen who are casting such bitter aspersions upon the immigrants now coming here from the countries of southern and eastern Europe do not know what you are talking about. They are not a "coarse crew," neither are they the "scum" or "offscourings" of Europe, as they are so flippantly called. They are from among the best people of those countries. True, they do not come largely from the nobility nor from the broken-down aristocracy, but of the dregs of those countries they are not. They are largely from the substantial, rugged middle class, the kind making up the bone and sinew of every country. Though not of the poorest class—for these can not pay the cost of passage—it is admitted that most of them are poor, but pray since when was it a crime to be poor? If poverty were a crime, I was born a criminal and have never been pardoned or paroled from the consequences of it.

The percentage of illiteracy to-day is very high among the mountaineers of western North Carolina, eastern Tennessee, and eastern Kentucky; much higher, in fact, than it is in the cities of the East, which are supposed to be flooded with these illiterate immigrants. Would you argue that these mountain people are undesirable citizens on that account? Illiterate, many of them are; but ignorant, no. There is a difference. If there are people in this Union well qualified to govern themselves and others, it is those same brave, independent, generous mountain people. Many of them have had to face poverty both as individuals and as communities. School facilities have been inadequate and inconvenient; but keep your eye on the mountaineers, they are coming. So with many of our best immigrants. School facilities have been lacking in the land from which they come. They have had to endure poverty, and poverty hinders education; in fact, it precludes it in many countries outside of our own. Is it a mark of depravity that these people wish to come here to better their condition in life and enable their children to be educated?

It is seriously claimed here that these illiterate immigrants are crowding out our native skilled laborers and mechanics by competing with them in the labor market. What a compliment to the immigrant and what a reflection upon our native-born artisans. I do not believe it. From the beginning the immigrant of whatever nationality has done the hard, undesirable, though absolutely necessary, work. His continued coming, entering at the lower industrial level, has not forced the older immigrant and the native born down or out, but upward. Behold the course of the immigrant of half a century ago! First he dug the ditches and did the hard work in constructing the railroads. When other immigrants came to dig the ditches and build the railroads they pushed him up to be a gang boss, foreman, a contractor, or a policeman. Then, still others kept coming and kept crowding him, always upward, until now he is in Congress, and the end is not yet.

The coming of the immigrant furnishes the opportunity for

The coming of the immigrant furnishes the opportunity for the bright and capable among the native born and older immigrants to rise in the industrial scale. Somebody must do the work at the bottom of the scale, and there is much of such work to be done in a great and growing country like ours. Who shall do it? It is honorable, as all honest work is honorable; but it is hard and yields the smallest return. Yet it must be done, or industry must languish or stop altogether. Shall we by legislation attempt to make it necessary that a large share of this work be done by men already fitted for a higher grade of work? In my judgment, no worse blow could be struck at our skilled laborers and mechanics than to shut off the stream of ablebodied immigrants.

Admitting that it would be an industrial mistake to unreasonably restrict immigration, some have argued that in spite of that fact the restrictions of this bill should be imposed for social and political reasons. It is said with much fervid rhetoric that the very existence of our free institutions is threatened by this influx of immigration. I am not at all alarmed. All sorts of

dire consequences to our social order are predicted if these illiterate immigrants are not shut out. The Prophet Jeremiah was an optimist compared with some of these gentlemen. Again I say, gentlemen, you do not know these people. Last Saturday, when the gentleman from Massachusetts [Mr. Curley] called the Italian and Hebrew rolls of honor, it was suggested that the immigrants of to-day are not to be compared with those worthies. You make a serious mistake if you think we are not receiving some excellent material now, not only Italian and Hebrew, but other nationalities as well. Come with me to the city of my home and there call for a list of the men who are doing things worth while, making good in their chosen fields of activity, helping to make city, State, and Nation a better place to live in. High up on the list will be found representatives, not a few of the very people sought to be excluded by this legislation. Some of the very highest places in the learned professions, as well as in business, are held by men of these nationalities, either immigrants themselves or the sons of such immigrants. They are just as good Americans as you or I. Those of you who have had no opportunity to know such men can not appreciate them. I know them. They are my friends and neighbors, and the country is not in danger from the coming of their friends and former neighbors who are willing to do for a while the very hardest work in order to have a part in making this the greatest as well as the best country in all the world. [Applause.]

The CHAIRMAN. The time of the gentleman has expired. Mr. TILSON. I ask unanimous consent to extend my remarks

in the RECORD.

The CHAIRMAN. The gentleman from Connecticut asks unanimous consent to extend his remarks in the Record.

there objection? The Chair hears none.

Mr. TILSON. Under the leave to extend just granted I desire to have printed as a part of my remarks an editorial from Financial America, as follows:

DILLINGHAM-BURNETT BILL.

Financial America, as follows:

DILINGHAM-BURNETT BILL.

With a persistency worthy of a better cause each recurring session of Congress in secent years witnesses the introduction of a bill, or bills, to recurring the property of the House is pledged to its support. This is the Dillingham-Burnett bill, and Mr. Burnarra assures us that an overwhelming majority of the House is pledged to its support. In discussing a measure of this sort it is well to look facts as they exist squarely in the face. What is the evil sought to be overcome by this bill? Ostensibly crime, we suppose; but where are the statistics to warrant the fest proposed of a preponderance of fraud and crime among the new arrivals? They are not at hand, nor may they be produced, for they are wholly nonexistent. On the other hand, is it sought by this measure to assure the laborer in this country benefits now enjoyed by him or to grant him an improved condition? We can not assent to either proposition, for our expendiorly of new arrivals in this country are not skilled workmen, and, accordingly, do not clash with the labor unions. In the second place, the preponderating number of aliens are unskilled in any particular training and are ready and willing to do manual work of almost any grade. We need men for employment of this character, and we have not a sufficiency among our own natives our youth for common labor and trains few as skilled mechanics. Our public school and high-school graduates, in the main, do not become mechanics or artisans. They seek and usually obtain more genteel employment. Only a few are young of effection and present living to therewise. We know, without any extended argument, that these things are so; and we should know that the lower grades of human employment in this country are taken by the immigrants who come to us, and that if they were not here to render us the service they do and have otherwise. We know, without any extended argument, that these things are so; and we should know that the lower grades of human employment

paid the fines of minor offenders to procure their services, so difficult is it for these concerns to secure necessary labor. The commissioner of licenses in this city reports a shortage of 100,000 in the ranks of domestic service. Allens are the class from whom the farmer, the steel mill, the coke works, and the mistress obtain the help they require. Pass the Dillingham-Burnett bill and you will intensify the difficulties now existing through a shortage in the supply of manual labor or inferior employment.

If an alien is moral, law abiding, healthy, and honest, although lacking an education, we should permit him to enter, for we have need of his services. Indeed, his educational handicap is a badge of his carnestness and industry, for he must work to live. On the other hand, almost every "crook" can read and write some language. As between a crook passing the proposed test and an honest laborer failing to meet it, is the country the gainer by the admission of the former and the rejection of the latter? The educational test is necessary for citizenship. For mere admission it is not necessary, but, on the contrary, is a departure from earlier and long-established precedent, and a discrimination against unfortunate human beings who differ from us merely in the fact that they never enjoyed our opportunities. It is unworthy of America, unworthy of the spirit of "76, a reproach to the civilization we enjoy, to evolve which millions of aliens have nobly done their part, and a menace to our commercial and industrial expansion.

Mr. DYER. Mr. Chairman, I offer an amendment which I

Mr. DYER. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

In line 15 strike out the word "who," and in line 16 strike out the word "or" and insert in lieu thereof the words "with right of appeal." Mr. DYER. Mr. Chairman, if the amendment is agreed to,

the paragraph will read as follows: All aliens shall prove to the satisfaction of the proper immigration officer, with the right of appeal to the Secretary of Commerce and Labor, that they are seeking admission to the United States solely for the purpose of escaping from religious persecution.

In other words, Mr. Chairman, it makes the language plain and puts it in such a way that there can be no mistake in the meaning that Congress desires the alien to have the right to appeal from the decision of the inspector wherever it is wanted. In many of the ports, and as well in inland places, the inspector passes upon the rights of the alien to stay in this country without opportunity to be represented fully in the premises. would offtimes be a sad miscarriage of justice to deport aliens under this act, if it does become an act-which I hope it dees net, however-if there was no opportunity to have the case or cases appealed for consideration by the Secretary of the Department of Commerce and Labor. These people are usually ignorant of their rights in the premises, and it is not an unusual thing for the inspector to be anxious to deport them.

If this section should remain as it is in the bill and become a law, it will, in fact, be very doubtful if there is the right of appeal to the Secretary of the Department of Commerce and Labor to review or reconsider de novo the decision of the immigration officers. I hope that the chairman of the committee will allow the amendment to be adopted. I think it will help this section and help the bill. If the bill is to become a law, it will be of some benefit. I hope, of course, that the bill will not pass, for I believe it is pernicious to the spirit of the American people to provide educational tests for those who desire to come and seek opportunities in this country.

If the illiteracy test had been in operation in this country in

the past, it would have robbed us of some of our best citizens and of some of our ablest and greatest patriots. In my city-St. Louis-some of the ablest of our professional and business men are the progeny of parents who could neither read nor write when they landed here from foreign shores. To-day they are as good citizens of this country as there can be found. The illiteracy test will neither cheapen nor degrade American labor. It will not keep out the undesirables. It will hinder and in many cases prevent good emigrants from coming to this country. We want all the good ones we can get. They are needed in the city factories and mills and to build railways, and they could, many of them, be used to advantage in the South on the plantations and otherwise. Read our country's history and learn of the great patriots that came to these shores without any education. This proposed test is wrong in principle and un-American, in my judgment, and I trust it will not prevail, Mr. Chairman.

Mr. GARDNER of Massachusetts. Mr. Chairman, touching the gentleman's first amendment, striking out the word "who," it will destroy the sense, as the gentleman will see if he will read the first part of the section. The bill provides as follows:

That the following classes of persons shall be exempt from the operations of this act, to wit, (a) all allens who shall prove to the satisfaction, etc.

Is the gentleman not convinced that that word should remain there?

Mr. DYER. That, perhaps, should remain there. Mr. GARDNER of Massachusetts. I think the gentleman was probably correct in the other amendment which he offers; that is, the substitution of the words "with the right of appeal" for the word "or.'

Mr. BURNETT. Mr. Chairman, I would not object to the right of appeal to the Secretary of Commerce and Labor, but this gives the immigrant an advantage—even at that—because it allows him in the first instance to make his proof to the proper immigration officer or to the Secretary of Labor. I will be willing to have the further statement made, that if he has tried in the first instance

Mr. MANN. But if the gentleman will permit, Does not the language of the bill authorize the Secretary of the department to make general rules concerning what proof is necessary?

Mr. BURNETT. I think so.
Mr. MANN. It could not be done if the amendment offered by the gentleman from Missouri were agreed to.

Mr. BURNETT. That is true. I think that is a dangerous

proposition.

Mr. DYER. But I will say that there are now instances where the immigration authorities have the full power to act upon these cases, and to have these people deported, and if there is no right of appeal to the Department of Commerce and Labor, in lots of cases men will be sent back, as they have been sent back wrongfully, where if they had an opportunity to pre-sent their case before the Secretary or even before a chief or the Board of Immigration and Naturalization great wrongs would never have happened as they have happened.

Mr. BURNETT. They have now under the general law that

right of appeal.

Mr. DYER. Oh, I beg to differ from the gentleman.

Mr. GARDNER of Massachusetts. Yes; except in surgical

The CHAIRMAN. The time of the gentleman from Missouri has expired. Does the gentleman from Alabama desire to oppose the amendment?

Mr. BURNETT. I think it is unnecessary to oppose it. The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri.

Mr. MOORE of Pennsylvania. Mr. Chairman, is it too late

to move to strike out the last word?

The CHAIRMAN. It is not in order to move to strike out the last word. This is an amendment to the amendment. If the gentleman is opposed to the amendment of the gentleman from Missouri, the Chair will hear him upon that.

Mr. MOORE of Pennsylvania. I am not opposed to it. Mr. GARDNER of Massachusetts. Mr. Chairman, I rose

in opposition to the amendment.

The CHAIRMAN. The Chair understood that the gentleman from Massachusetts spoke in the time of the gentleman from Missouri.

Mr. DYER. Mr. Chairman, I yielded the floor, and the gentleman from Massachusetts took the floor in his own right.

The CHAIRMAN. The question is on the amendment offered

by the gentleman from Missouri.

The question was taken, and the amendment was rejected. Mr. CALDER. Mr. Chairman, I am opposed to this bill for two reasons. First, because it is against the broad American spirit which has always opposed class distinction. If enacted into law, it will not prevent the coming into this country of the anarchist, the ultrasocialist, who we believe is a menace to the institutions of our country, members of the Mafia and Black Hand organizations of southern Europe, all of whom are able to read and write. What it will do is to shut the door of opportunity to the men or women who have never had a chance and who in the past have come to this country, the haven of the oppressed, to be afforded the opportunity to work out their own and their children's future. This whole movement, in my judgment, is a prejudice on the part of unthinking people against the so-called foreigner. This prejudice has existed since the establishment of the country. In the minds of some people it has always been a habit to say that we want America for the Americans. Those who have adopted that shibboleth have forgotten that their ancestors, struggling for the opportunity to serve God and work out their own salvation, were immigrants themselves.

An examination of the record from the beginning of the last century down to this very late day will show many periods in the country's history when apparently this whole matter would come up and be discussed. I recall reading in the Congres-SIONAL RECORD a discussion which took place over 100 years ago on this very subject, when a distinguished Representative in Congress in referring to the large immigration from Ireland expressed alarm at the effect of the coming of the "wild" Irish on our institutions; he referred to their herding in the large cities, saying they would control our politics and were even then being elected to Congress. He was certain that if we permitted it to continue the Nation would be destroyed. The subsequent developments showed he was in error, and so during all the years that have gone the agitation over the large Irish,

German, Scandinavian, and French immigration has disappeared, and the opposition now seems to be centered against the Jew, the Italian, and the Pole,

The strange thing about it all is that the Representatives in this House from the districts where there is no foreign population are the ones that are advocating this legislation, while those from the great cities of the country, who have to deal with the problem in everyday life, are opposed to the enactment of this legislation, which will put upon the illiterate alien this most unjust discrimination.

In the city of New York the difficulty of the assimilation of the immigrant is a great problem, but it is being worked out. A reference has been made by some of the advocates of this legislation to crime committed in our city, but when you stop to consider the fact that we have a population of nearly 5,000,000 within the limits of the city and another one and onehalf million within a radius of 25 miles, the crime in proportion to the population is not excessive. We are proud of the city of New York; we are proud of the progress it has made as the greatest metropolis of the world; we are proud of its manufacturing industries, of its art and literature, of its great financial institutions; we are proud of the fact that our people are able and willing to leave open the door of opportunity for the strong and healthy of Europe who are willing to come here We build and maintain at great expense a system of public schools, which is the greatest leveler of the human race. and which has done and is doing more to inculcate the true spirit of this country into the sons and daughters of the illiterate alien than anything else we know of. We ask no assistance to take care of them, and if the people of the rest of the country would take a broader view of this important subject and do their part they would not only be happier, but more prosperous. If their communities were like our great city, they would develop more rapidly.

The following is an interesting table of the population in the city of New York, furnished me by the Census Bureau, showing the native and foreign born of that city. You will observe the foreign born in 1880 was about 33 per cent and that in 1910 it has only increased to about 38 per cent, in spite of the immigration of the last 30 years:

New York City.

20,11		La Branch	
1880		1890	
Total.	Foreign born.	Total.	Foreign born.
1,206,299 599,495 90,574 38,991	478, 670 188, 312 22, 001 10, 961	1,515,301 838,547 128,059 51,693	630, 943 272, 895 35, 146 14, 779
1,935,359	699, 944	2,533,600	962,763
19	00	19	10
Total.	Foreign born.	Total.	Foreign born.
2,050,600 1,166,582 152,999 67,021	850, 884 355, 697 44, 812 18, 687	2,762,522 1,634,351 284,041 85,969	1,265,904 574,730 79,329 24,394
3,437,202	1,270,080	4,766,883	1,944,357
	Total. 1,206,299 599,495 90,574 38,991 1,935,359 Total. 2,050,600 1,166,582 162,999 67,021	Total. Foreign born. 1,206,299 478,670 599,485 188,312 90,574 22,001 38,991 10,961 1,935,359 699,944 1900 Total. Foreign born. 2,050,600 850,884 1,166,582 355,697 152,999 44,812 67,021 18,687	1880 18 Total. Foreign born. Total. 1,208,299 478,670 1,515,301 599,495 188,312 838,547 90,574 22,001 128,059 10,961 51,603 1,935,359 699,944 2,533,600 1900 19 Total. Foreign born. Total. 2,050,600 850,884 2,762,522 1,166,582 35,697 152,999 44,812 67,021 18,687 85,969

My second reason for opposing this legislation is that it is economically wrong. The recent immigration has not displaced the native American wage earner and the earlier immigrant, but has only covered the shortage of labor resulting from the excess of the demand over the domestic supply. I am competent, I believe, to discuss this question. I have studied it from every phase as affecting the business interests of New York City and the wage earning of the American workman; neither has it increased the hours of labor of the so-called skilled American workman. The real fact in the matter that can be demonstrated clearly is that this immigration has tended to actually decrease the hours of labor and increase the wages of the skilled American workman. I am engaged in the building business in New York City, and from my own observation have noted in the past 25 years first a reduction of the hours of labor of men engaged in that industry from 10 to 8 hours and an actual increase in compensation for every branch of labor of from 30 to 100 per cent. The following are a few of the trades

picked out at random showing how much the compensation has increased during the time above indicated:

Common laborer, with pick and shovel, from \$1.25 to \$2.25

Hod carrier, from \$1.75 to \$3.25 per diem. Stonemason, from \$3 to \$4.50 per diem. Bricklayer, from \$4 to \$5.60 per diem. Plasterer, from \$4 to \$5.60 per diem. Plumber, from \$3.50 to \$5 per diem. Carpenter, from \$3 to \$4.50 per diem. Roofer, from \$3 to \$4.50 per diem. Tile layer, from \$3 to \$5.25 per diem.

Take the first item, the commonest kind of labor, the man who works with a pick and shovel. Twenty-five years ago he received \$1.25 a day and worked 10 hours, and we had all of the men we needed for this character of work. To-day we pay the same man \$2.25 and in many cases \$2.50, and he works 8 hours a day, and at present we are 25 per cent short of the required number of men needed for this work. This is the kind of work the illiterate men of Europe do for us. Only last week I talked with a contractor in New York City who had 125 laborers engaged in excavating work. One hundred and fourteen of these were foreign born and 96 could neither read nor write. We have employed in common labor, building our great subway systems of New York City, thousands of men who work with the pick and shovel. We are unable to get anywhere near the number of men we need for this character of labor, and if immigration is cut off 25 per cent you are going to severely cripple the building of railroads, besides the numerous private enterprises of the country. These illiterate immigrants are not men who are threatening our institutions, but from close intimate observation I know them to be law-abiding citizens, easy to manage; they live quietly and unpretentiously, so that in the main they stay here, send their children to school, and in the second generation are assimilated by the people of our great city.

I have here a statement furnished me by the Department of Commerce and Labor relative to the number of immigrants who arrived at the port of New York between 1881 and 1910:

Years.	Number of ar- rivals.	Number of illiterates over 14 years of age.	Per- centage of illit- eracy.
Total immigration, 1881 to 1890. Total immigration, 1891 to 1900. Total immigration, 1901 to 1910.	5,246,613 3,687,564 8,795,386	2,126,153	27.5
Italian, South, 1901 to 1910	1,761,948 342,261	843,300 36,121	53.9 11.6
Total Italians, 1901 to 1910	2,104,209	879, 421	46.9

It will be observed by this statement that 27 per cent of the immigrants coming here between 1901 and 1910 were illiterate, and of a total of 2,126,153 illiterate immigrants 843,300 were from southern Italy, the people who furnish the common labor in America. The additional fact has not been brought out that at least one-half of these illiterate immigrants return to their homes, so that, after all, the sum total of the increase is hardly perceptible, taken throughout the country as a whole.

I can sum up the situation in no better way from the economical side of the question than to read the following extract from an article by Dr. Isaac A. Hourwich, printed recently in one of the current magazines:

Recent immigration has displaced none of the native American wage earners or of the earlier immigrants, but has only covered the shortage of labor resulting from the excess of the demand over the domestic supply.

domestic supply.
2. Immigration varies inversely with unemployment; it has not in-

2. Immigration varies inversely with unemployment; it has not increased unemployment.

3. The standard of living of the recent immigrants is not lower than the standard of living of the past generations of immigrants in the same occupations. Recent immigration has not lowered the standard of living of Americans and older immigrant wage earners.

4. Recent immigration has not reduced the rates of wages, nor has it prevented an increase in the rates of wages; it has pushed the native and older immigrant wage earners upward on the scale of occupations.

5. The hours of labor have been reduced contemporaneously with recent immigration.

6. The membership of labor organizations has grown apace with recent immigration; the new immigrants have contributed their quota to the membership of every labor organization which has not discriminated against them, and they have firmly stood by their organizations in every contest.

Mr. Chairman, this is a big question and one not to be considered in a spirit of prejudice, but to be worked out in keep-ing with the great principles of our American institutions. If I were to be influenced in my vote on this question by the num-

ber of letters I have received from my constituents favoring the bill as against those opposed to it, I would vote for this amendment, but I am convinced that in principle it is wrong and that it will work great harm to the country; it will injure rather than help American labor; that it will be more detri-mental than beneficial to our institutions, and will be a step backward, and I can not bring myself to vote for it.

The discussion of the day seems to indicate that it will be passed by an overwhelming vote, in view of the agitation now being worked up in its favor, and unquestionably go to the President for his action. I hope he may take the broad ground that others before him have, and see what I believe to be a situation that in the end will work great harm to us.

I am the grandson of immigrants myself, and glad of the fact that my Irish and Scotch ancestors came here in the early part of the last century, and confident of the fact that they helped, with others of their race, to work out the problems of their day and generation, and certain the immigration of this period is beneficial rather than injurious to this country, and hopeful in the end this legislation will not become a law.

The reasons that I have already given are the chief reasons which ought to occur to any broad-minded observer and true lover of his country. They are the reasons which actuate me lover of his country. They are the reasons which actuate me in my capacity as a Representative, not only from the State of New York but as a Representative for the benefit of the whole United States. Each Representative, however, is not only a national Representative but the representative of the interests of his State and of his district. I deem it proper, therefore, to call the attention of the House to the additional reasons which actuate a Representative from New York State and from New York City. Not only have we there now an absolute dearth of labor, but we are confronted by the fact that our State has just voted to bond itself in the sum of \$50,000,000 for additional good roads and that our city within 30 days will have signed contracts for the building of new subways costing \$300,000,000. The bulk of this vast sum of \$350,000,000 will be spent for labor, and the greater portion of that labor will be unskilled If, coming from Brooklyn, I vote to cut down the supply of unskilled labor, I vote to postpone the coming of our sorely needed additional subways. If there were no other reason for voting against this amendment, I would not vote on the eve of these great public works to exclude healthy, clean-minded, hard-working, unskilled laborers simply because they can not read, especially when I note from the reports of the Commissioner General of Immigration for 1910, 1911, and 1912 that the increase of population through immigrants is steadily decreasing, having been 817,619 in 1910, 512,085 in 1911, and but 440,000 in 1912. What justification is there for further restriction, as such, in the face of an increased demand for labor and a decreasing supply?

Mr. RAKER. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read. The Clerk proceeded to read the amendment, as follows:

Amend by inserting the following at the end of line 22, on page 59, as new sections, and numbered section 4 and section 5:

"Sec. 4. That section 2 of the act entitled An act to regulate the immigration of aliens into the United States, approved February 20, 1907, is hereby amended so as to read as follows:

"Sec. 2. That the following classes of aliens shall be excluded from admission into the United States: All Aslatic laborers; all idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within

Mr. BURNETT. Mr. Chairman, I rise to a point of order. The reading thus far makes it apparent it is out of order, and I

make the point of order at this point that it is not germane.

Mr. RAKER. Mr. Chairman, is it not ordinarily the custom
to read the bill before the Chair is able to determine?

The CHAIRMAN. The Chair will hear the amendment read.
Mr. BURNETT. Mr. Chairman, a parliamentary inquiry.
The CHAIRMAN. The gentleman will state it.
Mr. BURNETT. If the reading of the bill proceeds far enough to make it apparent that it is not germane, is not it in order to make the point of order at that time? If it were a little short amendment I would not care, but I do not care to have a long bill read to kill time.

The CHAIRMAN. The Chair will state to the gentleman from Alabama that the Chair will hear it read a little further.

The Clerk continued to read as follows:

"five years previous; persons who have had two or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars"——

The CHAIRMAN. The Chair is clearly of the opinion that this amendment is not germane, and therefore sustains the point of order.

Mr. MANN. Before the Chair sustains the point of order I would like to be heard on it.

The CHAIRMAN. The Chair is ready to rule.

Mr. MANN. Well, the Chair ruled awhile ago, and then after hearing it argued reversed himself. The Chair is very positive that he knows how to rule upon an amendment that he has not heard read.

The CHAIRMAN. The Chair does not ask the gentleman from Illinois to instruct him on that point.

Mr. MANN. That is the duty of the Chair to be instructed by gentlemen of the House.

The CHAIRMAN. The gentleman from Illinois will come to

Mr. MANN. The gentleman from Illinois is in order. I appeal from the decision of the Chair.

Mr. RODDENBERY. Mr. Chairman, I move to lay the appeal upon the table.

The CHAIRMAN. That is not in order in the Committee of the Whole House on the state of the Union.

Mr. MANN. Mr. Chairman, the Chair declined to grant me the courtesy of a hearing; I take it in my own right. Here is a proposition to forbid the admission of aliens over 16 years of age physically capable of reading who can not read the English language, and so forth. Now, the gentleman from Call-fornia offers an amendment excluding other aliens. Is the Chair prepared to rule that no alien can be excluded except those specifically provided for in this amendment? Is that the liberality of amendment under the provisions of this rule which we were told would obtain when the gentleman from Wisconsin [Mr. LENROOT] defended the rule? Here is a proposition excluding certain classes of aliens, and it is now ruled by the Chair that no other alien can be excluded; that no proposition can be put into this by way of amendment which enlarges in any way the provisions of the committee amendment. By the same token of reasoning the Chair might equally well rule that you could not take anything out of this provision; that you could not enlarge and you can not decrease the number provided for by the committee amendment; and yet we were told the other day that this was not a gag rule; that this permitted liberal amendment; that this permitted the House to act as it pleased upon the questions which should come before it; that the House could determine who and what they would put into the bill. The Chair rules you can not add to it; that you can not detract from it. A liberal rule! I said the other day the rule was a gag rule. The Chair construes it to be a gag rule. There never was a rule introduced into this body more of a gag rule, which cunningly provides that the Chair shall rule you can not add to it and you can not take away from it.

The CHAIRMAN. The question is, Shall the judgment of the Chair stand as the decision of the committee?

The question was taken, and the decision of the Chair was

Mr. CURLEY. Mr. Chairman, I move to strike out the last two words. Mr. Chairman, I regret exceedingly, as a Member of this body, that the majority Members who are in favor of this restrictive legislation are not basing their position on a sound economic theory. Representative WYATT AIREN of South Carolina, as a Member of this House, on April 22, 1904, said this in support of a bill authorizing the Commissioner General of Immigration to establish an information bureau on Ellis Island for the better enlightenment of the immigrants and for their better distribution throughout the land:

The land area of the South is 585,310,000 acres. In 1900 the total farm acreage was 387,690,426 acres. The total improved acreage was only 145,185,599 acres, leaving 242,000,000 acres of farm land to be put into profitable cultivation.

And speaking of the immigrants that to-day are condemned by men from the South as undesirable, he said:

Until latterly considerable prejudice existed against the Italian, but with most favorable testimony in his behalf from Georgia, Louisiana, and a number of other Southern States, our people look with a great deal more favor on these hardy industrial agriculturists.

Now, then, Mr. Chairman, if that was the position some 10 years ago, I do not know in what particular that condition has changed. I believe, Mr. Chairman, if this question is to be determined on an economic theory, an economic basis of a sound character, then the real question is one of distribution and not discrimination. Establish laws in your State that will prohibit the employment of women and children at night, that will prohibit the employment of boys and girls under 18 years of age, and you will compel the settlement and the development of your farm lands.

The gentleman from Alabama [Mr. Burnett] wants to know why I changed what I said in my remarks when I referred to the Junior Order as an A. P. A. society, or a proscriptive society, and I will say to him that I was informed by one of the delegates attending the convention in this city that it was not an A. P. A. organization. I presumed the gentleman was telling the truth. I sent to the library and I have here a

liberality of the Junior Order of American Mechanics. The first principle of your organization-

Is to maintain and promote the interests of Americans and shield them from the depressing effects of unrestricted immigration.

The second section reads:

To assist them [Americans] in obtaining employment.

Third section:

To encourage them [Americans] in business * * *. To uphoid the American free public-school system, to prevent any interference therewith, and to encourage the reading of the Holy Bible therein.

Is there any reason why an Episcopalian, a Methodist, a Catholic, or an Israelite should be compelled to attend school and because of his attendance rend the Bible of some other religion than the religion in which he believes if this is a country where free religious belief exists? You talk about your chivalry, and you fear the competition of the foreigner. You make provisions, further, here so that encouragement shall not be given to anyone who furnishes employment or assistance in securing employment for anyone other than a member of the Junior Order of American Mechanics. And, further, here in your criticism in this book, you refer to ex-Speaker David B. Henderson, whom I never met, and say that he was the champion of the Roman Catholic Church, and made a very bitter speech, and complimented the Junior Order of United American Mechanics on their part in defeating the sectarian amendments by denouncing it as a secret society that works in the dark.

The CHAIRMAN. The time of the gentleman has expired. Mr. DYER. Mr. Chairman, I ask unanimous consent that

the gentleman may have five minutes more. The CHAIRMAN. Is there objection?

There was no objection.

Mr. CURLEY. Now, then, Mr. Chairman, some reference has been made to my reference to the question of the Black Hand. I have believed, Mr. Chairman, that the ignorant man, not possessed of education, the man who is always with his back to the wall, is a different class of man to deal with than the man who has the advantages of our public-school system, the advantages of association with men of intelligence, men of culture, and men of refinement. And I am surprised that the distinguished gentleman from Alabama [Mr. Burnert] should see fit to bring that up as a subject for comparison. There is no comparison between the intelligence of the South and the ignorance of the foreigner landing on our shores, who has had no opportunity for education and no opportunity for the refining influences that are to be found in our public-school system and in our American associations.

With reference to the gentleman from Kentucky [Mr. Pow-ERS], I had a perfect right to determine whose questions I should answer and whom I should permit to ask questions of me. And I yielded to those who in my opinion I believed might ask a question, as I said, that might contribute some-thing to an intelligent discussion of this question. And I take nothing back from that proposition.

Now, then, Mr. Chairman, if this question were to be determined on merit, I believe that every man in the South knowing the development that has taken place in the West through the influx of the immigrant and through the influence of the immigrant would vote for this proposition to make Dixie land what it should be-the fairest and the finest of any section of the entire earth.

You are blessed by divine Providence with sunlight for a longer period of the year than any other section of the country.

Mr. DIES. Mr. Chairman, will the gentleman yield? The CHAIRMAN. Does the gentleman from Massachusetts yield to the gentleman from Texas?

Mr. CURLEY. Yes; I yield.
Mr. DIES. May I ask the gentleman this question: Does the gentleman believe that these 250,000 who are sought to be excluded by the provisions of this bill will by their coming help to maintain the standard of wages and living in this country? And does the gentleman believe they are capable government and can help us to solve the difficult problems of

Mr. CURLEY. Mr. Chairman, on that proposition I submit that the best evidence obtainable is the evidence of a Representative of the gentleman's own district who served in Congress, on whose own admission the land of the South is as yet scarcely scratched.

There is no section where the immigrant has taken up an abode that has not become enriched materially. The presence of the immigrants makes of them a contributing factor to the entire community. Even allowing that they send money home occasionally, the fact remains that they do bring their families here. And it is not the scum of the earth that we get here. Of the 232,000 immigrants who arrived in 1903, 197,600 were history of that order. I am surprised when you talk about the from Italy and were between the ages of 15 and 45, and the immigration commissioner of Italy made the statement that every male Italian coming here between the ages of 15 and 35 represented a loss to the Italian Government of at least \$1,000 in each individual case. If he represented that loss to the Italian Government, then he represented that gain to this Government.

You have no immigrant problem to disturb you in the South, and the Representatives from New York are in no wise disturbed over the immigration in New York, which they are handling to their entire satisfaction.

Mr. LINTHICUM. Mr. Chairman, will the gentleman yield? The CHAIRMAN. Does the gentleman yield?

Mr. CURLEY. With pleasure.

Mr. LINTHICUM. I want to ask the gentleman if the voters of his own State are not required to sign their own names and to read the Constitution of the United States before they can register as a preliminary preparation for voting?

Mr. CURLEY. In answering that question I will refer the gentleman to the parent organization of our dear Junior Order once more and to the provision that insisted that an immigrant should live in this country for 21 years before he could acquire the right to take out naturalization papers and thereby

secure the advantages of citizenship.

The principles of the Native American Association, as adopted in 1837 and modified in 1844, were as follows:

First. We maintain that the naturalization laws should be so altered as to require of all foreigners who may hereafter arrive in this country a residence of 21 years before granting them the privilege of elective franchise; but at the same time we distinctly declare that it is not our intention to interfere with the vested rights of any citizen or lay any obstruction in the way of foreigners obtaining a livelihood or acquiring property in this country, but, on the contrary, we would grant them the right to purchase, hold, and transfer property and to enjoy and participate in all the benefits of our country (except that of voting or holding office) as soon as they declare their intention to become citizens.

Second. We maintain that the Bible, without note or comment, is not secturian; that it is the fountainhead of morality and all good government and should be used in our public schools as a reading book.

Third. We are opposed to union of church and state in any and every

form.

Fourth. We hold that native Americans only should be appointed to office and to legislate, administer, and execute the laws of the country.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. SABATH. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended five minutes.

The CHAIRMAN. The gentleman from Illinois [Mr. Sabath] asks unanimous consent that the time of the gentleman from Massachusetts [Mr. Curley] be extended five minutes. there objection?

Mr. LANGLEY. I object.

Mr. BUCHANAN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. Bu-

CHANAN] moves to strike out the last word.

Mr. BUCHANAN. Mr. Chairman, the solution of the immigration question is one that has been taxing the intellectual ability of the best men in the country. Those who have been active in the organized-labor movement of this country almost from the beginning of the success of that movement, men who have been earnest and honest in exercising their influence for the uplift of the working people of the country, have favored a limited restriction of immigration, not because they are enemies of the foreign element but because they want to protect the foreign element against a condition under which they are brought here in their ignorance to be exploited by greedy, profitseeking corporations.

This amendment, Mr. Chairman, probably will not produce the results that are desired by the labor people of this country and when I say "the labor people" I mean those who have studied the labor questions; those who favor the improvement of the conditions of the wage earners of this country. It may not, as I stated, do all that they hope it will do, but it certainly is not an unreasonable amendment, this educational It ought to encourage the foreign nations to educate their people if they want them to come here. It ought to fit

them the better for citizenship.

I would probably favor something which should provide for a minimum-wage scale, or prohibit these foreign workingmen from working for less than the prevailing wage. In my judgment, that would tend to solve this problem. But the constitutionality or the validity of such a provision would probably be successfully attacked. Hence the labor people who have studied this question from the point of view of labor's interests in this country are in favor of this limited restriction, and therefore, with that view in mind-the protection of the laboring people against the exploitation of profit-seeking corporations-I favor this measure.

Mr. Chairman, I do not care to take up further time, and so I ask unanimous consent to extend my remarks in the RECORD. CHAIRMAN. The gentleman from Illinois [Mr. Buchanan] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

Mr. DYER. Mr. Chairman, I would like to ask the gentle-

man a question.

Mr. Mann. Mr. Chairman, I ask that my colleague have five minutes more.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the time of his colleague be extended five minutes. Is there objection?

Mr. BUCHANAN. I do not care to take the five minutes.

The CHAIRMAN. Is there objection?

Mr. DYER. I would like to ask the gentleman a question.

Mr. BUCHANAN. I yield to the gentleman.
Mr. DYER. Does the gentleman believe that the enactment of this bill, providing for a literacy test, will decrease the price

of labor in this country or increase it?

Mr. BUCHANAN. Well, I am of the opinion that it will tend to improve our citizenship, and that means that it will improve the condition of the working people. If the foreign working people who are educated and who desire to come here and secure a home for themselves and become citizens of the United States would endeavor to understand our institutions and exercise an influence for the improvement and betterment of the working people, instead of permitting themselves to be used to reduce the standard of wages, legislation of this sort would probably be less desired, but since facts prove that there has been rapid deterioration in the mode and standard of living of the working classes consequent on the incoming swarms of lifelong poverty-stricken aliens I believe that the educational test should be adopted, since it would tend to eliminate to a great extent the undesirable element of foreign countries coming here and thus tend to again place the social life of the American working people up to the standard that we desire.

The organized-labor movement has always been in favor of a restriction of immigration by means of the literacy test. the Pittsburgh convention of the American Federation of Labor

in 1905 the following resolutions were adopted:

in 1905 the following resolutions were adopted:

A further check should be put upon assisted immigration. The law now permits the passage of an alien to be paid by any relative or "friend" living in this country. Every employer who wants to bring in cheap laborers is of course a "friend" to them, or can find some-body to play the part. It is one of the readiest means of evading the contract-labor law. The privilege of paying the passage of others should be rstricted to the nearest relatives—fathers, mothers, and children, brothers and sisters, husbands and wives.

In accordance with the views here outlined, we recommend that you authorize your officers to use all honorable means for the amendment of our immigration laws so as to exclude persons physically unfit, to check the evil of assisted immigration, to introduce an educational test, and to provide that ports of entry shall be confined to those on the Atlantic and Pacific oceans and the Gulf of Mexico.

In the 1909 convention of the American Federation of Labor

In the 1909 convention of the American Federation of Labor at Toronto, Canada, these resolutions were indorsed:

at Toronto, Canada, these resolutions were indorsed:
Whereas the filiteracy test is the most practical means for restricting
the present stimulated influx of cheap labor, whose competition is so
rulnous to the workers already here, whether native or foreign; and
Whereas an increased head tax upon steamships is needed to provide
better facilities, to more efficiently enforce our immigration laws, and
to restrict immigration; and
Whereas the requirement of some visible means of support would enable
immigrants to find profitable employment; and
Whereas the effect of the Federal bureau of distribution is to stimulate
foreign immigration: Therefore be it

Resolved by the American Federation of Labor in twenty-ninth annual
convention assembled, That we demand the enactment of the illiteracy
test, the money test, an increased head tax, and the abolition of the
distribution bureau; and be it further
Resolved, That we favor heavily fining the foreign steamships for
bringing debarable allens where reasons for debarment could have been
ascertained at time of sale of ticket.

The following extract from the annual report of President

The following extract from the annual report of President Gompers, of the American Federation of Labor, which was indorsed at the recent convention held at Rochester, N. Y., November 11-23, 1912, with reference to Senate bill 3175, explains the present position of the organization in regard to the matter:

The illiteracy test advocated by the American Federation of Labor was added to the bill and passed by the Senate.

In the January, 1911, issue of the American Federationist, under the title of "Immigration—Up to Congress," President Gompers, of the American Federation of Labor, says:

pers, of the American Federation of Labor, says:

The final inning of the tug of war over immigration has now begun. In this contest tremendous forces are engaged. On the side of America are the upholders of two distinctive American sentiments, the maintenance of the American standard of living for our wage-working classes and the maintenance of American institutions as they are, unimpaired through the financial degradation of the working classes. On the proimmigration side is the powerful immigration machine, composed of the transocean combine, with all its thousands of agents and other innumerable parasites, the bankers, padrones, etc., who are coining money out of the millions of immigrants coming in the course of years into this country from Europe.

The center of this tug of war has at last shifted to Congress. No longer is the discussion indefinite, casual, or partisan, or without an immediate object, conducted through the press and other insufficient agencies of information and debate. No longer, either, is it backed up merely by individual impressions or the partial investigations heretofore promoted by various private institutions. The Federal Government undertook four years ago the solution of the immigration question through scientific means. It set out to ascertain the undeniable facts, and after three full years of research its commission has brought forward in less than 40 volumes on the subject, covering every possible phase. Its recommendations it has brought forward in concise form in a separate pamphlet.

A reading of these recommendations confirms the facts of the case as they have been accepted by the American Federation of Labor after the serious study its members had given the question for decades. The local, and then the international unlons, and finally the annual conventions of the American Federation of Labor itself have had immigration up for consideration as one of the principal labor topics on literally thousands of occasions. The membership as a whole, from upholding the sentiments the great majority once entertained, namely, that this country could go on indefinitely absorbing the entire possible stream of immigration, have reluctantly, in view of the facts, passed over to the sway of the sentiment that their own good heartedness toward the immigrants and he laborers of the Old World was being exploited by large employers for the purpose of reducing wages as well as by the steamship combine and its myriad of parasites for the sake of their own profits. At last the great body of the American industrial wageworkers have come to see one fact above others, which is, that the immigrants are assimilated in America through the wageworking class. This names that the American broad and the relegions have witnessed a rapid deterioration in

citizens should be made subject to deportation, and that the division of information should cooperate with the States desiring immigrant settlers.

At the recent St. Louis convention of the American Federation of Labor the president in his report called the attention of the delegates to the fact "that a veritable flood of bills" designed to check immigration had been introduced in the last session of Congress, and the report of the executive council on the president's report expressed the hope that this flood of bills and the work of the Immigration Commission would result "in the enactment of legislation which will protect the workers in this country from the unfair competition resulting from indiscriminate immigration."

On behalf of American labor it is to be said that the action of the trade-unlons in this country on this most delicate international question involves a step that touches the heart of every man contemplating it. That step, the advocacy of exclusion, is not prompted by any prejudices against the foreigner. We recognize the noble possibilities in the poorest of the children of the earth who come to us from European lands. We know that their civilization is sufficiently near our own to bring their descendants in one generation up to the general level of the best American citizenship. It is not on account of their assumed inferiority, or through any pusillanimous contempt for their abject poverty, that, most reluctantly, the lines have been drawn by America's working classes. Changes are constantly going on in Europe for the uplift of the men of labor, and it can well be believed that each country in Europe is in position to solve its own labor questions in the way best for itself. A fact now obvious in this country is that American labor and European labor have both been made the subject of a colossal bunco game played by avaricious exploiters of the poor. The sounding phrase, "protection of American labor," has of recent whole, to be made the mode of the working classes, the net gains, on the w

The first annual report of the New York Bureau of Industries and Immigration, a branch of the State department of labor, was submitted to the New York Legislature while in session. The year reported for closed September 30, 1911. The summary read as follows:

In the matter of distribution of labor, that this State is without any machinery for distribution or supervision of private distribution agencies, except through a law administered by separate cities according to the standard and belief of each individual mayor, although a great part of the furnishing of labor is intercity and interstate.

In the matter of transportation, that the combination of steamship

In the matter of transportation, that the combination of steamship agents, emigrant hotels, runners, porters, expressmen, and cabmen throughout out the country, operating chiefly through New York City, forms one of the most stupendous systems for fleecing the alien from the time he leaves his home country until he reaches his destination in America, and vice versa.

In the matter of living and labor conditions in labor camps and colonles, that aliens are discriminated against in regard to housing, sanitation, food supplies, and employment methods, being denied the ordinary decencies of life; that in regard to labor conditions, aliens are checked and tagged, amounts ordered by the padroni are deducted from their wages without their knowledge or express sanction, and exploitations occur in hospital charges and the purchase of supplies.

In the matter of industrial calamities and personal injuries, exploitations occur in hospital charges and the purchase of supplies.

In the matter of savings, and property in his home country.

In the matter of savings, that the private banking laws are affording only a small measure of protection, owing to evasions of the law, and no protection whatever outside of cities of the first class; that frauds in the sale of homes to aliens by means of the solving of puzzles or by means of excursions arranged to interest aliens in "show" pieces of property, or by other means, are widespread; and that the settlement of affairs in the old country, when an allen wishes to settle here, is in the hands of a most unscrupulous class of lawyers, notaries public, collection agents, information bureaus, and protective leagues.

In the matter of education for children, that inadequate provisions exist for taking care of groups of people who collect with the starting of new industries in remote places, such as mines and quarries, and that adults outside of cities are wholly neglected in matters of instruction in English, civics, and naturalization. There are no systematic assimilation processes by t

Commenting on the above report in the American Federationist for November, 1912, Mr. Gompers, president of the American Federation of Labor, said:

Federation of Labor, said:

The reader of this indictment of America's civilization may well wonder if there could be worse conditions for the bureau to investigate and describe. In the body of the report, of which there are 184 pages, and diagrams besides, the details bear out the ugly summary. If there are any bodily ills or human brutishness or crooked customs or skin games to which the immigrants are not exposed, from their landing at Ellis Island until they either go back home to Europe or get away from the clutches of the harples that beset them here, it would be interesting to have them set forth. The record of the ills under which they suffer, as given in the report, is sickening, and the thought that most of them come from the immigrants' own countrymen or from men who should be their protectors is, in the extreme, discouraging.

The question naturally arises, Why do the immigrants come at all, when their experiences are so outrageously bad as here officially given? Do they know beforehand the risks they run of misfortune in endless forms? Or, bad as conditions are for them here, are they possibly worse off in their own country?

Of coures there are immigrants and immigrants. The attention of the bureau is naturally taken up with the case of the poorest, most ignorant, most helpless. But of these there are great numbers. The moving sentiments of the chief investigator, Frances E. Kellor, with regard to the immigrants are well known. They are humanitarian. We all sympathize with her work. As a fact, on reading her statements one is selzed with the feeling that there is urgent need for her work, and nothing else is to be done but have her go on with it. She is tackling, in a way creditable to her heart, one phase of immigration.

One phase only. There are larger phases. The one having the closest interest to American labor—a matter frequently dealt with in this magazine. We make note of it now merely to denote our position and not to dwell upon it or even to restate it. It is unchanged. But when we conte

Organized labor for more than a quarter of a century has persistently sought the passage by Congress of restrictive immigration laws. Some steps in that direction have been taken, but as yet they have been entirely inadequate for the protection desired. Every commission that has been appointed by our Government has recommended that immigration be restricted, and about all, if not all, have recommended the educational test as the most feasible. The provisions of this bill are very moderate, and it seems to me that no patriotic American who understands the need of solving this immigration question can find reasonable grounds for opposing this mild modification of our immigration laws.

It has been argued here by some that we need these poor for-eigners for the purpose of doing our drudgery. In other words, these men seem to favor unlimited immigration, so that the shackles of industrial slavery may be clamped upon the incoming foreigners as fast as they arrive, and this, in my opinion, is far more brutal than the negro-chattel slavery which existed before the Civil War. To their further contention that Americans will not do the work that the foreign pauper labor is employed to do, I say that if a sufficient wage scale were maintained and the men were employed under equitable working conditions, such as an eight-hour day, and so forth, it would not be difficult to find willing American workmen on hand to do the work. And if it were possible to effect a law that would require the payment of a fair minimum wage and an eight-hour day the employers of this country would not desire to employ foreigners in preference to Americans, as is the case to-day with the United States Steel Trust and other large industrial corporations, and evidence of which is found in the following advertisement appearing in the Pittsburgh papers not long ago:

Men wanted; tinners, catchers, and helpers; to work in open shops. Syrians, Poles, and Roumanians preferred. Steady employment and good wages to men willing to work. Fare paid and no fees charged.

In an article in the Federationist for January, 1911, containing the above advertisement, John Mitchell, ex-president of the United Mine Workers of America, says:

United Mine Workers of America, says:

The suggestion that American labor is not wanted is likely to arouse a sentiment of hostility against the foreign workers whose labor is preferred by the companies responsible for advertisements of this character. Nothing but evil can come from discord and racial antagonism. At the same time that the American workman recognizes the necessity of reasonable restriction upon the admission of future immigrants, he realizes that his own welfare depends upon being able to work and to live in harmony and fellowship with those who have been admitted and are now a part of our industrial and social life.

There is perhaps no group in America so free from racial or religious prejudice as the workingmen. It is a matter of indifference to them whether an immigrant comes from Great Britain, Italy, or Russia; whether he be black, white, or yellow; whether he be Christian, Mohammedan, or Jew. The chief consideration is that, wherever he comes from, he shall be endowed with the capacity and imbued with the determination to improve his own status in life, and equally determined to preserve and promote the standard of life of the people among whom he expects to live. The wage earners, as a whole, have no sympathy with that narrow spirit which would make a slogan of the cry, "America for the Americans"; on the contrary, we recognize the immigrant as our fellow worker; we believe that he has within him the elements of good citizenship, and that, given half a chance, he will make a good American; but a million aliens can not be absorbed and converted into Americans each year; neither can profitable employment be found for a million newcomers each year, in addition to the natural increase in our own population. our own population

The great labor leaders of this country, who have fought the battles of labor against the concentrated power of predatory wealth for many, many years, see the need of a law restricting immigration in this country, not alone for the protection of the American workingman but for the protection of the immigrants themselves. When we are prepared to protect these ignorant immigrants against the avarice and greed of the commercial pirates and industrial highbinders that seem to be in control of our industries to-day, and prevent them from being exploited to lower the standard of living and character of the American workingmen, we may eliminate the restriction; until then let us at least have the mild modification for which this bill

provides. Mr. LINTHICUM. Mr. Chairman, I am in favor of this bill, and hope to see it passed by this House. I represent a district in the city of Baltimore, of which I am justly proud, embracing in its boundaries people of many nationalities, each pursuing his chosen profession or business and with great credit to himself and to the city of his birth or adoption. They have made names for themselves in the business and professional world, they have become eminent in the law, the arts and sciences, in manufacture and commerce, and in carrying to successful fruition the vast enterprises of our Maryland metropolis. The artisans and laborers have performed their duty with equal ability and are to-day building a greater Baltimore, which will

be even more beautiful than ever before.

Immigration and immigrants are not new to me. During my boyhood days my father employed many of them-first, the Germans, then the Poles, and after them the Bohemians. know them to be good workmen and honest toilers, and I am familiar with their habits, their troubles, and their enjoyments. Many of them have accumulated wealth; others are still toiling, and quite a number have passed that solemn bourn from which no traveler returns. They make good citizens and they have always had my sympathy and assistance. I am not, therefore, like some Members have said of others on this floor-

unfamiliar with the immigration question.

I would not vote to do anything which would prevent any desirable immigrant from coming here who wishes to come here and take part in the further development of our country. I do not believe the Burnett bill will keep from our shores very many aliens who wish to make this their home. The alien is required only to read in his own language, including the Hebrew and Yiddish, some 30 or 40 words, and this, I believe, can be done by almost the entire body of aliens. Besides this, the bill

provides:

That any admissible alien or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to land.

This would enable any alien now in this country, or who may hereafter come and be admitted under the provisions of this bill, to send for those of his family whom he has left behind and to bring them in, whether they can read 30 or 40 words or not, because under the bill they would not be required to perform this task. We therefore find that practically any member of a family who can read in his own language a few words can bring in

the members of his family who can not do so, and which, I believe, would cover almost any person who desires to be admitted and who is not prohibited under the provisions of the pres-

ent immigration laws.

The literacy test is not new in this country. ralization law requires that a man must be able to speak the English language, and the very State from which the able and distinguished gentleman from Massachusetts [Mr. Curley] comes requires that a man must be able to sign his name and read the constitution of the State of Massachusetts before he can register and be qualified to vote and take part in the affairs of that State.

Mr. MURRAY. Will the gentleman yield?

Mr. LINTHICUM. I will yield for a question.

Mr. MURRAY. I ask the gentleman from Maryland in how many States of this great Union the naturalization law he speaks of is a prerequisite to the right of suffrage?

Mr. LINTHICUM. In nearly all the States. I do not know how many do not require it, but they are very few.

Mr. MURRAY. May I inquire of the gentleman if the read-

ing and writing test is required in the great State of Texas, represented by the gentleman [Mr. Dies] who sits by his side? Mr. LINTHICUM. It is not required in the State of Texas,

and it is not required in my State.

Mr. MURRAY. If the gentleman will allow me-Mr. LINTHICUM. I can not yield further, I have only five

As I was saying, Mr. Chairman, the great State of Massachusetts requires a man to be able to sign his own name and read the constitution of that State before he can register and vote. The requirements of the bill before us are certainly not as drastic as these, in that he is required only under this bill to read a few words in his own language. But that is not all. This bill does not keep out or require this literacy test if the alien is fleeing from persecution. In that event he is allowed to come into this country, although he may be absolutely illiterate and unable to read. We in nowise shut our gates to those of other nations who are seeking a place of refuge from persecution in their own land, and were we I should certainly not vote for the bill.

I believe this bill will help us to improve upon the character of our immigration. I do not believe it will keep out any desirable citizens, and I do believe that it will be of great benefit, not only to those native-born Americans of our country but those who make this their home and intend to live with us.

I can not but be surprised at the inconsistency of some Members who have been talking upon this floor for lo these many years about protecting American labor from foreign competition by keeping out goods of foreign make, which they claim are manufactured or made by pauper labor, and yet they would keep down the bars and let illiterates and all others who may desire to come to this country come in without any hindrance except those debarred by our immigration laws, and here, upon our own soil and in our own midst, compete with our American labor, whether native or foreign born. As for myself, I prefer to keep out the class aimed to be excluded by this bill and to spend my time and my efforts in the further protection of those aliens now with us, through granting to them salutary laws and more healthful surroundings, than to permit illiterates from every country of the globe to be dumped upon us, flooding our labor market and depreciating the value of the labor now performed by our citizens, both native and foreign. I would rather have our people happy and prosperous than to see them competing with every class of illiterates which might be brought in by the steamship and railroad corporations who are engaged in promoting immigration to this country, and whose supreme object in bringing them here is the profit they derive from the charge for their transportation.

Furthermore, I do not believe it is in the interest of the illiterate aliens themselves to be encouraged to come to this country by stories of vast wealth and large wages and thereby induced to leave a country where they have lived all their lives in comparative prosperity, happiness, and contentment. We know that many come because they believe that here fabulous fortunes are to be amassed with ease, and when they get here they experience a bitter awakening and find that the work is just as hard, and after the expenses of living have been de-ducted there is but little left toward those savings to which, under false pictures, they looked forward with such happy anticipations.

Mr. BURNETT. I move that all debate on the pending paragraph and amendments thereto be closed in five minutes.

The CHAIRMAN. The gentleman from Alabama moves that all debate on the pending paragraph and amendments thereto be closed in five minutes.

Mr. SHERLEY. I offer an amendment to close the debate immediately. I do not see any reason why it should continue for five minutes, if there is to be no more debate than that.

Mr. BURNETT. I accept the amendment.

I think that is better, if we are not going to Mr. SHERLEY.

have any debate.

Mr. MANN. Let the amendment be reported, Mr. Chairman. The CHAIRMAN. The question is upon the motion made by the gentleman from Alabama that the debate on this paragraph and all amendments thereto close in five minutes, to which motion the gentleman from Kentucky moves an amendment to close debate immediately.

Mr. MOORE of Pennsylvania. Mr. Chairman, I desire to

oppose that amendment.

The CHAIRMAN. The gentleman knows that it is not debatable. The question is on the amendment offered by the gentleman from Alabama.

The question was taken; and on a division (demanded by Mr. Mann) there were 85 ayes and 46 noes.

Mr. MOORE of Pennsylvania. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. Burnerr and Mr. Moobe of Pennsylvania.

The committee again divided; and the tellers reported that there were 78 ayes and 39 noes.

So the amendment was agreed to.

Mr. SABATH. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

Mr. MANN. Mr. Chairman, a parliamentary inquiry. The CHAIRMAN. The gentleman will state it.

Mr. MANN. I understood the gentleman from Alabama made a motion to close debate, and the gentleman from Kentucky offered an amendment.

The CHAIRMAN. The gentleman from Alabama accepted the amendment of the gentleman from Kentucky.

Mr. MANN. The gentleman from Alabama could not accept the amendment.

The CHAIRMAN. Does the gentleman from Illinois desire

that the question be put? Mr. MANN, No; not if it has already been disposed of; but

I like to see matters disposed of according to the rules.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. Sabath].

The Clerk read as follows:

Page 59, after line 22, insert the following:
"Provided, That any allen excluded from admission into the United
States under the provisions of this act shall have all the rights of
appeal conferred upon aliens by the act approved February 20, 1907,
entitled 'An act to regulate the immigration of aliens into the United
States.'"

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. Sabath].

The question was taken, and the amendment was lost. The Clerk, proceeding with the reading of the bill, read as

follows:

SEC, 4. That an alien refused admission to the United States under the provisions of this act shall be sent back to the country whence he came in the manner provided by section 19 of "An act to regulate the immigration of aliens into the United States," approved February

Mr. BARTHOLDT. Mr. Chairman, I move to strike out the last word, and I do it for the purpose of calling attention to what has been done here this afternoon. I offered an amendment to correct what I believed to be a serious defect in this bill. I called the attention of the distinguished chairman to it, but the amendment was voted down. I merely want to call the attention of the House to the fact that under the phraseology of section 1 not a single Pole can be admitted into the United States, whether he can read and write or not, because the language is that he must speak either the English language or the language of some other country. As we all know, Poland is no country; it is only a historical conception, so that the Polish language is a language without a country, and a man from any one of the three provinces which in the last century have been divided between Russia, Prussia, and Austria who would come to our ports would have to be rejected because he could not read the English language or the language of another ountry.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. MOORE of Pennsylvania. If the gentleman's argument in regard to Poland is true, would not the same argument apply to that country in which we are all so much interested— Ireland?

Mr. BARTHOLDT. It might-apply to Ireland; I have not investigated the question, but under the phraseology of this bill which you have adopted neither Kosciusko nor Pulaski,

the great Revolutionary heroes, to whose memory we have erected monuments in this great Capital, could have been admitted to the United States.

Gentlemen who have spoken here representing districts in Chicago who are in favor of this bill and voted against my amendment I am sure have a large number of Poles in their district, and this matter will surely be brought to their attention when they return home, because under this bill no Pole could be admitted to the United States, and no judge would construe the language differently, in my judgment, from what I construe it, and as every man who reads the language must construe it.

Mr. LENROOT. Mr. Chairman, we have come to the close of the consideration of this substitute, and I greatly fear that some members of the committee have been laboring under a misunderstanding as to what the power of this committee is over this bill. The statement of the gentleman from Illinois [Mr. Mann] a few moments ago should not go unchallenged at this time. Mr. Chairman, the rule we are operating under in the consideration of this bill is not a gag rule. This committee has it within its power to consider every line and every word of the Senate bill if it so chooses to do it. The consideration that has been given to that substitute bill this afternoon, Mr. Chairman, has not been under this special rule at all. It has been under the general rules of the House. All that the special rule does, all that the rule did, is to give precedence in consideration to this substitute bill offered by the House committee, and that is all. If this committee shall desire to consider the Senate bill, desire to amend it, desire to do anything they choose with it, the way is open for doing so by rejecting the substitute bill, and the Senate bill is then wide open. Furthermore, let me say, if the committee desires to do that thing, they have lost nothing by rejecting the substitute, because every provision in this substitute is found somewhere in this Senate bill; and, Mr. Chairman, if the committee desires, as I believe they will and as I shall vote to do, to adopt this substitute, saying by their votes they do not propose to consider the Senate bill, that is the right of the committee so to do, and it is not a curtailment of the power of the committee in any sense. [Applause.]

The CHAIRMAN. The question is on the substitute offered

by the committee.

Mr. MANN. Mr. Chairman, before that is voted upon I have an amendment which I desire to offer which is in the nature of

a new section.

Mr. MOORE of Pennsylvania. Mr. Chairman, I have an

amendment to the paragraph.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment to the paragraph, which the Clerk will report.

The Clerk read as follows:

Page 60, line 1, strike out the word "section" and insert in lieu thereof the words "sections 15 and."

Mr. MOORE of Pennsylvania. Mr. Chairman, unless this amendment is adopted there will be no authority of law permitting or authorizing immigrant inspectors to go upon vessels for the purpose of the particular tests provided for in this act, and the master of any vessel could forbid the test being made. Mr. Chairman, I desire by way of extending my argument to send to the Clerk's desk and have read in my time a letter from the Hon. William S. Bennet, formerly a Member of this House and a member of the Committee on Immigration and Naturalization and also of the Immigration Commission, that is reported to favor this bill.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

BENNET & COOLEY,
ATTORNEYS AND COUNSELORS AT LAW,
New York, December 16, 1912.

Hon. J. Hampton Moore, House of Representatives, Washington, D. C.

Hon. J. Hampton Moore,

House of Representatives, Washington, D. C.

My Dear Moore: I was somewhat amused and very much interested last week to be told that some of the New York papers were alluding to the Burnett literacy test as the "Bennet bill." Of course the confusion grows out of the similarity of names; but I find that there are those who actually believe that the Burnett bill is one drawn and approved by me, and that some of those people and other people have the impression that I joined as a member of the Immigration Commission in that commission's approval of a reading and writing test. As a matter of fact, I dissented from that approval. Mr. Burnett on Saturday so stated, but I would be glad if the fact could be brought even more emphatically to the attention of the House, in which there are many still who were my colleagues in one or more Congresses. I find also that there is a widespread belief that the Burnett bill was in form approved by the Immigration Commission. This impression is not well founded. I do not doubt that there are individual members of the commission who would approve the form, but there was never any discussion of the form in the commission. I, of course, want to make it very clear that Mr. Burnett does not claim and never has claimed that the form of his literacy test had the approval of the Immigration Commission.

Inasmuch as there is the impression that in some way the Burnett literacy test is mine, I feel that I ought to point out briefly some rea-

sons why I do not desire to have that belief prevalent. Irrespective of the principle, the bill is distinguished for bad English, and in addition to that is drawn without apparent knowledge of or reference to existing law and conditions, and, worst of all, is unworkable.

As to the question of English, take section 2 on page 59 alone. Why the words "or not" on line 2? On line 3 the draftsman speaks of "uniform slips" when the whole context shows that the slips are to be different; doubtless what the draftsman meant was slips of uniform size, but he has not said it. Take the phrase "each containing not less than 30 nor more than 40 words in ordinary use printed in plain type in the various languages and dialects of immigrants"; what the draftsman meant evidently was to insert after the word "in," where it occurs the second time, on line 6, the words "some-one of," but he forgot to do it. On line 7 the word "may "is used when "must" is meant. Under the language as it stands there is no penalty if the allen neglects to make the choice so politely given him, if he picks out the slip he is required to read, but as nowhere in the bill is an examination directed, nothing happens unless he picks out the slip. I could multiply instances in this and other sections of the faulty construction and bad English of this test framed on the idea that the people desired in this country are experts in language.

As to collisions with existing laws and conditions I note, among other things, that it applies to the Canal Zone. The immigration law excepts the Canal Zone. It applies to the Philippines and provides for the enforcement of the act by immigrant inspectors; there are no immigrant inspectors in the Philippines. It applies to the ambassadors, ministers, and other officials of foreign Governments, their suites, families, and guests; the immigration law excepts these from all other tests, but if a member of the hone had been applied to the hardy solve and the provides of the hand and made to read her "not less than 30 nor more

nation.

These criticisms are not captious; not one of them would have applied to section 38 of the Gardner bill of 1906; that test was equally bad in principle, but its English was good; it did not collide with other provisions of the immigration law, and being made a part of the immigration law it would have been workable. The Burnett bill is much the least desirable in form and draftsmanship of any of the literacy tests which have been considered in the House during the past eight years.

Very truly, yours, WILLIAM S. BENNET During the reading of the foregoing letter the time of Mr. Moore of Pennsylvania expired, and by unainmous consent sufficient time was granted to enable the Clerk to conclude the reading of the letter.

Mr. MOORE of Pennsylvania. Mr. Chairman, under general leave, I also offer the following protests against the bill:

PHILADELPHIA, PA., December 17, 1912. Hon, J. HAMPTON MOORE.

House of Representatives, Washington, D. C .:

Philadelphia Board of Trade appeals by unanimous vote to oppose passage Dillingham-Burnett bill restricting immigration.

WM. M. COATES, President.

PHILADELPHIA, PA., November 27, 1911.
A remonstrance against further restriction of immigration.

A remonstrance against further restriction of immigration.

In view of a number of propositions now pending in Congress for the further restriction of immigration, the Jewish Community of Philadelphia, a representative organization constituted by delegates from many congregations, educational institutions, charitable associations, benevolent orders, and other societies, begs leave to submit to the Senators from Pennsylvania and the Representatives from the congressional districts of Philadelphia the following considerations:

I. Existing law prohibits the incoming of criminals, paupers, lunatics, persons of immoral life, those affilicted with contagious diseases, and all others who may reasonably be regarded as dangerous to the public welfare or likely to become burdens upon the public purse. These provisions are sufficient for the exclusion of all unfit immigrants, and any further restriction must inevitably result in inhumanity and wrong.

II. Two of the proposed restrictive measures are especially objectionable, namely, the imposition of an educational test and the increase of the head tax.

(a) With regard to the literacy requirement, it is submitted that this is not a fair measure of moral worth, of economic value, of mental capacity, or civic virtue.

Experience proves that moral soundness—simple honesty—is independent of intellectual culture. The vast majority of those ignorant of letters are morally sound, while a minority of the literate are morally defective, despite their education.

(b) With respect to the proposed increase of the head tax, it is submitted that for the special purpose of providing for the cost of administering the immigration law the present head tax of \$4\$ furnishes a large surplus and is therefore more than enough. As a source of revenue for general purposes it would be essentially unjust, putting an undue burden upon those least able to bear it.

III. Many important economic objections might be urged against these proposed restrictions, but the Jewish Community prefers to base it

earth. It is inconceivable that a free and prosperous people whose institutions are founded upon the broadest humanity and the most explicit recognition of the rights of man could wish to close its ports against peaceable, honest, worthy, and industrious men and women seeking for themselves and their children political, religious, and industrial freedom. To turn them back because of defective education in the oppression and misery from which they are escaping, or to diminish by an unnecessary tax the remnant of their possessions, already depleted by official robbery in their native lands, would be for this Nation stultification and shame.

While beyond our concern for the national character and entional honor we have a particular interest in our brethren the Jews fleeing from persecution and massacre in Russia, we do not limit our remonstrance against these cruel and unjust proposals by any consideration of nation or creed.

from persecution strange and unjust proposate strange against these cruel and unjust proposate of nation or creed.

Respectfully submitted by committee representing the Jewish Community.

Dr. S. Solis Cohen, chairman; Adolph Eichholz, Dr. B. L.

Dr. S. Solis Cohen, chairman; Adolph Eichholz, Dr. B. L. Gordon, Joseph Gross, Joseph L. Kun, Rabbi B. L. Levinthal, Louis E. Levy, William Gerstley, B. N. Berman, Wolf Klebansky, Com. B. Hackenburg, Abraham Ellis, Max Herzberg, Ellis Gimbel, Edwin Wolf, Harry Nathanson, Samuel D. Lit, Ralph Blum, August B. Loeb.

Mr. GARDNER of Massachusetts. Mr. Chairman, I rise to oppose the amendment offered by the gentleman from Pennsylvania. The sections to which he referred have to do with vessels' manifests. As to the Gardner bill being in better shape than the Burnett bill, it is not unnatural that the gentleman who wrote that letter should think so. He had a large hand in drafting the Gardner bill. As to the Burnett bill, there was complete collaboration between the gentleman from Alabama [Mr. Burnert] and myself. Much as I like the former Member from New York, Mr. Bennet, I do not think that any of his criticisms, except one or two minor ones, are very important. To be sure, I myself formerly contended that Canada and Mexico should be exempted from the provisions of the bill; but if I recollect rightly the very people who objected to that exemption are the very ones who now are desirous of amending the bill so as to exempt Canada and Mexico. [Applause,]

The CHAIRMAN. The question is on the amendment offered

by the gentleman from Pennsylvania.

The question was taken, and the amendment was rejected.

Mr. HEFLIN. Mr. Chairman, I am heartily in favor of this legislation. My colleague, Mr. Burnerr, the author of the bill, is entitled to the thanks of the whole country. The time has arrived when the American people must pay some attention to the kind of people who come here from foreign countries. We are not opposing the coming of people who are fleeing the persecution of other countries, seeking this land of liberty and opportunity, with the intention of becoming good citizens and of supporting our institutions. This bill does not strike at them, but it strikes at a class of people dangerous to peace and order in the United States. Gentlemen here know, and I know, that under the present immigration law undesirable people are coming into our country, poisoning our civilization and striking at the very vitals of this Republic. [Applause.] Mr. Chairman, the time has come when we must guard our liberties and protect our civilization in the United States. [Applause.] Some of the opposition to this bill does not arise from sympathy with the downtrodden, as the term is used.

Mr. Chairman, some of the steamship companies are opposing this bill because they want unrestricted immigration so that this traffic in human beings may continue. They are not thinking of the good of society in the United States. They are not considering the danger to our civilization that will come by an indiscriminate class of foreigners coming into our country. [Applause.] They favor unrestricted immigration because it furnishes to them a lucrative trade. They now send agents abroad, who urge every class and condition of people to come to the United States—no thought of the well-being of the people in America; no thought of the perpetuity of this Republic inspires them when they are seeking to load their ships in

foreign lands. [Applause.]

The American people have seen and felt the evils of unrestricted immigration, and they are determined to provide ways and means for safeguarding American ideals and institutions. We must have some standard by which the foreigner seeking our country can be measured. There must be a test of fitness. We must determine who shall or shall not come here and take up his abode in our country. [Applause.] Some gentlemen here are unnecessarily alarmed. We are not trying to keep out the man or woman inspired by the love of liberty and actuated by the desire to better his or her condition and support our institutions, but we are striving to safeguard our institutions, protect our civilization, and to prevent this from becoming the dumping ground for the unfit and criminal hordes of other

ountries. [Loud applause.]

Mr. FITZGERALD. Mr. Chairman, I wish to oppose the amendment of the gentleman from Alabama. Mr. Chairman, the gentleman from Alabama has given utterance to the keynote of much of the discussion on this bill, which shows how erro-

neously some gentlemen reason. He states that the object of this bill is to keep out the undesirable immigrants, and his remarks are predicated upon the belief that the mere capacity to read 30 words of the Constitution of the United States in any language is a proper criterion of whether a man will be a One desirable or an undesirable acquisition to this country. of the great minds of England, who has given considerable attention to the effect of culture upon morals in his well-known work on the Study of Sociology, Herbert Spencer, has written as follows upon the question:

as follows upon the question:

Are not fraudulent bankrupts educated people and getters up of bubble companies, and makers of adulterated goods, and users of false trademarks, and retailers who have their light weights, and owners of unseaworthy ships, and those who cheat insurance companies, and those who carry on turf chicancries, and the great majority of gamblers? Or, to take a more extreme form of turpitude, is there not among those who have committed murders by poison within our memories a considerable number of the educated, a number bearing as large a ratio to the educated classes as does the total number to the total population?

This belief of the moralizing effects of intellectural culture, flatly contradicted by the facts, is absurd a priori. What imaginable connection is there between learning that certain clusters of marks on paper stands for certain words and the getting of a higher sense of duty? What possible effect can acquirement of faculty in making written signs or sounds have in strengthening the desire to do right? How does knowledge of the multiplication table or quickness in adding and dividing so increase the sympathles as to restrain the tendency to trespass against fellow creatures? In what way can the attainment of accuracy in spelling and parsing, etc., make the sentiment of justice more powerful than it was? Or why, from stores of geographical knowledge, perseveringly gained, is there likely to come increased regard for truth?

Mr. Chairman, this bill will not accompalish what the sentiment of accuracy in the content of the

Mr. Chairman, this bill will not accomplish what those who advocate it desire. I come from a very cosmopolitan district. Those I represent and I myself favor legislation that will keep out the undesirable elements of other countries that are detrimental to our citizenship, but the mere capacity to read will not do so. The most expert agriculturist, who might be highly desirable to every section of the country, if perchance he can not read will be excluded; experts in mining and other arts, highly desirable to this country, would be excluded.

Mr. Chairman, many men of this House are descendants of a race who when their ancestors came to this country it was a penal offense for Irishmen in Ireland to attend any school, and they were educated in the hedge schools of Ireland by the persecuted priests who were not tolerated in the Kingdom because of their religious beliefs. I regret to find in this House to-day the descendants of such people attempting to exclude from this country honest, desirable, capable men because unable to read. They aspire as earnestly as those who are here for the opportunity of developing and bringing up their children in a country whose institutions appeal to them most forcibly. They leave behind all that is associated with the love of native land and devotion to ancestry and, striking out hopefully and enthusiastically, come here that they may be a part of a government and of a country and of a people which reflects so gloriously and creditably upon the ability of all men when given an opportunity to rise to that high state which God intended they should have on this earth. [Applause.]
The CHAIRMAN. The gentleman from Illinois [Mr. MANN]

is recognized to offer an amendment.

The Clerk read as follows:

The Word "alien" wherever used in this act shall include foreignborn, unnaturalized seamen. That the term "United States," as used in the title as well as in the various sections of this act, shall be construed to mean the United States, including the Territories of Alaska and Hawaii; and if any alien shall attempt to enter the United States from the Canal Zone, the Philippines, Porto Rico, or any other place outside of the United States but subject to the jurisdiction thereof, such alien shall be permitted only on the conditions applicable to aliens entering the United States from a foreign country.

That nothing is this act shall be construed to apply to accredited officials of foreign governments nor to their suites, families, or guests.

Mr. MANN. Mr. Chairman, that merely defines the term "alien" in the act, and includes one other thing, namely:

That nothing in this act shall be construed to apply to accredited officials of foreign Governments nor their suites, families, or guests.

Of course, it is not to be presumed that these officials shall not be able to read or write, but under the language of the bill when they enter they shall be subjected to the trial as to whether they can read or not. They shall be handed a slip to see whether they can read. I do not believe the House ought to be inclined to take the position that the ambassador of Great Britain when he enters the port of New York, or Boston or Philadelphia, shall be rquired to show to the immigrant inspector that he is able to read the English language.

The CHAIRMAN. The question is on the amendment offered

by the gentleman from Illinois [Mr. MANN].

The question was taken, and the amendment was rejected.
Mr. MANN. I offer a further amendment as a new section.
The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read a portion of the amendment, as follows:

SEC.— That there shall be levied, collected, and paid a tax of \$5 for every alien, including alien seamen regularly admitted as provided in this act, entering the United States. The said tax shall be paid to the collector of customs of the port or customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States, or by the alien himself if he does not come by a vessel, transportation line, or other conveyances or vehicle. The tax imposed by this section—

Mr. BURNETT. Mr. Chairman, a parliamentary inquiry.
The CHAIRMAN. The gentleman will state it.
Mr. BURNETT. I do not think the amendment is germane to the bill under consideration. It provides for a head tax, as I catch the meaning of it, and I do not think it is germane to the bill. I make the point of order that it is not germane.

The CHAIRMAN. The Clerk will complete the reading of the

amendment.

Mr. MANN. I do not think it is necessary to read the amendment through after that point of order has been made.

The CHAIRMAN. The Chair will be glad to hear the gentleman from Illinois [Mr. MANN] on the point of order.

Mr. MANN. Mr. Chairman, the rule under which we are operating provides:

The amendment proposed by the House committee shall be first read for amendment and perfected. After same has been so perfected the vote shall be taken upon the question of the adoption of said amendment. If same shall be adopted, then the Senate bill shall not be read, but the committee shall rise and report the measure to the House.

It says that, when it is perfected, the committee shall rise and report the same to the House. Immediately upon the perfected measure being reported to the House the previous question shall be considered as ordered upon the bill, and so forth.

Now, the Chair is called upon to rule as to whether, in the consideration of the proposition pending in the committee, it is in order to offer any amendment which may not be germane to the committee substitute but is germane to the original bill. I did not offer this as an amendment to the committee substi-tute. I offered it as a new section to the bill. The rule provides that the committee amendment shall be perfected. After the same shall have been so perfected a vote shall be taken upon the question of the adoption of said amendment. Is it a gag rule to prevent any other matter being offered as an amendment? If it were a bill pending before the House, it would be in order to offer this amendment.

The gentleman from Wisconsin [Mr. Lenroot] a moment ago assured the House that this gave the widest latitude to the House. Here is an amendment, admittedly germane to the bill, admittedly germane to the general proposition of immigration, but which I admit is not germane to the mere literacy test, but which is germane to the matters involved in the bill and germane to the committee amendment, which proposes to strike out all of the Senate bill, and it seems the rule could have no purpose unless the purpose was to prevent the House from having a chance to consider proper provisions relating to im-

migration and to gag the House. I have heard my distinguished colleague from Illinois [Mr. CANNON], the ex-Speaker of the House, repeatedly state in the House that the majority of the House at any time could do anything it pleased. I wondered when I heard my friend from Wisconsin [Mr. Lenroot] repeat that speech, because many times have I heard him in the House declare that the rules ought to give protection to the minority in the House; ought to give the House an opportunity to vote on questions in which the House is interested. We shall be called upon, presumably, in the end to vote upon a conference report covering this and other matters. Have we taken away from ourselves by a rule the power to express in committee our opinion upon these matters upon which later we will be compelled to vote in the House?

Mr. LENROOT. Mr. Chairman, will the gentleman yield? The CHAIRMAN. The time of the gentleman has expired. The Chair is ready to rule. The Chair is of opinion that this amendment is not germane to the committee amendment. the committee votes down the committee amendment, then this amendment could be made to some portion or some part of the Senate bill. The Chair therefore sustains the point of order. The question is on the adoption of the committee amendment.

Mr. MANN. That does not require a vote, Mr. Chairman. I beg the Chair's pardon, but that does not require a vote; does it, now?

The CHAIRMAN. The Chair thinks so.

Mr. MANN. I take it that so long as it was read section by section it would follow the ordinary course—that when it is not voted out it stays in.

The CHAIRMAN. The Chair will read to the gentleman: After same has been so perfected, the vote shall be taken upon the question of the adoption of said amendment. The question is on the adoption of the amendment,

The question was taken, and the amendment was agreed to. Mr. GOLDFOGLE rose.

The CHAIRMAN. For what purpose does the gentleman rise? Mr. GOLDFOGLE. To strike out the last word. The CHAIRMAN. But the amendment is agreed to.

Mr. SABATH. Mr. Chairman, I rise to offer an additional amendment.

Mr. BURNETT. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with the amendment, with a recommendation for its passage.

The motion was agreed to.

Mr. SABATH. I offer an amendment. This is a new section, Mr. Chairman.

The CHAIRMAN. An amendment to what?

Mr. SABATH. To the bill; a new section. The CHAIRMAN. But the committee has already adopted the committee amendment, and no other amendment is now in order. The motion that the committee rise has been agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. Hay, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration Senate bill 3175, to regulate the immigratton of aliens to and residence of aliens in the United States, and had directed him to report the same back with the amendment proposed by the Committee on Immigration, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

The SPEAKER. Under the special rule that the House is operating under, the vote will be taken on the committee amendment, which is in the nature of a substitute. The question is on agreeing to the substitute.

The question was taken, and the Speaker announced that the "ayes" seemed to have it.

ayes" seemed to have it.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. Under that rule a provision is inserted to the effect that-

 $\boldsymbol{\Lambda}$ separate vote may be demanded on any amendment or amendments thereto adopted by the Committee of the Whole.

The Chair did not put the question whether a separate vote was asked for. There was an amendment or two adopted in Committee of the Whole.

The SPEAKER. The Clerk informed the Chair that no amendment was adopted to the amendment.

Mr. MANN. I thought I heard the Chair declare that an amendment was adopted.

The SPEAKER. No; the thing which the Chair was talking about is really what is the bill. Under that special rule this amendment from the committee is treated and considered

as a bill. Mr. MANN. If the Chair will pardon me, I think that the Chair is in error. The rule provides that "a separate vote may

be demanded on any amendment or amendments thereto."

The SPEAKER. That is to the committee amendment.

Mr. MANN. To the committee amendment adopted by the Committee of the Whole.

The SPEAKER. The Clerk informs the Chair that none was adopted. The Clerk is the source from which the Chair gets official information.

Mr. MANN. If I am mistaken, I beg the Chair's pardon. I ask for a division.

The SPEAKER. The gentleman from Illinois [Mr. MANN] demands a division. Those in favor of adopting this committee amendment will rise and stand until they are counted. [After counting.] One hundred and forty-one gentlemen have risen in the affirmative. Those opposed will rise and stand until they are counted. [After counting.] Forty-seven gentlemen have risen in the negative.

Mr. MANN. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 201, nays 62, answered "present" 3, not voting 123, as follows:

YEAS-201.

Adair	Buchanan	Collier	Edwards
Ainey	Burke, S. Dak.	Cooper	Evans
Alexander	Burnett	Cox, Ind.	Faison
Allen	Butler	Crago	Farr
Anderson	Byrnes, S. C.	Cullop	Ferris
Ashbrook	Byrns, Tenn.	Dalzell	Fields
Austin	Callaway	Danforth	Finley
Ayres	Candler	Davis, Minn.	Flood, Va.
Bartlett	Cantrill	Dent	Floyd, Ark.
Bathrick	Carter	Denver	Focht
Beall, Tex.	Cary	Dickinson	Foss
Bell, Ga.	Clark, Fla.	Dies	Foster
Blackmon	Claypool	Difenderfer	Fowler
Borland	Clayton	Dixon, Ind.	Francis
Browning	Cline	Doughton	French

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Garrett	Jame
Gillett	Johns
Glass	Johns
Godwin, N. C.	Jones
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Good	Kent
Goodwin, Ark.	Kink
Greene, Vt.	Kitch
Gregg, Pa.	Kopp
Griest	Laffer
Hamilton, Mich.	La Fo
Hamilton, W. Va.	Lamb
Hamlin	Langl
Hardy	Lawr
Harrison, Miss.	Lee, C
Haugen	Lenro
Hay	Lever
Hayes	Lewis
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Heflin	Linth
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Fitzgerald	McCov
Gallagher	McDermott
George	Madden
Gill	Mann
Goldfogle	Miller
Graham	Moore, Pa.
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Hawley	Nye
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So the amendment was agreed to. The Clerk announced the following pairs:

On this vote:

Davenport

Draper

Davidson
Davis, W. Va.
De Forest
Dickson, Miss.
Dodds

Mr. HARDWICK (for Burnett bill) with Mr. VREELAND (against).

Mr. Mondell (for Burnett bill) with Mr. Maher (against). Mr. Guernsey (for Burnett bill) with Mr. McGillicupdy (against).

Mr. LAFFAN (for Burnett bill) with Mr. Conry (against).
Mr. Kopp (for Burnett bill) with Mr. Levy (against).
Mr. Lloyd (for Burnett bill) with Mr. Kendall (against).

Mr. PARRAN (for Burnett bill) with Mr. WEDEMEYER (against).

Mr. THOMAS (for Burnett bill) with Mr. Boehne (against, only on final passage of bill).

Mr. McCall (for Burnett bill) with Mr. Copley (against). Mr. Gudger (for Burnett bill) with Mr. Daniel A. Driscoll Mr. Palmer (for Burnett bill) with Mr. Reilly (against).

Mr. Jacoway (for Burnett bill) with Mr. SMITH of New York (against).

Mr. HOWARD (for Burnett bill) with Mr. THAYER (against).

For the session:

Mr. Adamson with Mr. Stevens of Minnesota. Mr. AIKEN of South Carolina with Mr. AMES. Mr. RIORDAN with Mr. ANDRUS.

Mr. Fornes with Mr. Bradley. Mr. LITTLETON with Mr. DWIGHT. Mr. Hobson with Mr. Fairchild. Mr. Pujo with Mr. McMorran. Until further notice:

Mr. RICHARDSON with Mr. ESCH. Mr. PEPPER with Mr. PROUTY. Mr. TAGGART with Mr. HARTMAN.

Mr. BARNHART with Mr. BATES. Mr. Brantley with Mr. Burke of Pennsylvania.

Mr. Broussard with Mr. Crumpacker. Mr. Brown with Mr. CURRIER. Mr. COVINGTON with Mr. DE FOREST.

Mr. Cox of Ohio with Mr. Dodds.

Mr. Davenport with Mr. Gardner of New Jersey. Mr. Davis of West Virginia with Mr. Greene of Iowa.

Mr. GOULD with Mr. HANNA. Mr. GREGG of Texas with Mr. HARRIS.

Mr. HAMILL with Mr. HIGGINS. Mr. HARRISON of New York with Mr. HOWLAND.

Mr. Harr with Mr. Jackson.
Mr. Hayden with Mr. Knowland.
Mr. Kindred with Mr. Langham.
Mr. Legare with Mr. McCreary.

Mr. McKellar with Mr. McKinley. Mr. Martin of Colorado with Mr. Matthews.

Mr. Moon of Tennessee with Mr. MERRITT. Mr. NEELEY with Mr. Moon of Pennsylvania. Mr. PATTEN of New York with Mr. MURDOCK.

Mr. RANDELL of Texas with Mr. OLMSTED.

Mr. STACK with Mr. REYBURN.

Mr. Saunders with Mr. Roberts of Nevada. Mr. Stephens of Nebraska with Mr. Slemp. Mr. Sulzer with Mr. Smith of California.

Mr. TAYLOR of Colorado with Mr. Speer.

Mr. Taylor of Colorado with Mr. Speer.
Mr. Turnbull with Mr. Sulloway.
Mr. Tuttle with Mr. Weeks.
Mr. Wilson of New York with Mr. Wilson of Illinois.
Mr. Lindsay with Mr. Woods of Iowa.
Mr. Burgess with Mr. Michael E. Driscoll.
Mr. Korbly with Mr. Wood of New Jersey.
Mr. Sparkman with Mr. Dayldson.
Mr. Stanley with Mr. Anthony.
Until January 10.

Until January 10: Mr. Mays with Mr. Thistlewood.

The result of the vote was then announced as above recorded. The SPEAKER. The question is on the third reading of the Senate bill as amended.

The question was taken, and the bill was ordered to be read the third time.

Mr. MANN. Mr. Speaker, I ask for the reading of the engrossed bill.

The SPEAKER. The gentleman from Illinois demands the reading of the engrossed bill. He has that right, but the engrossed bill is not here.

Mr. MANN. I suppose the Senate engrossed bill is here. The SPEAKER. What is it the gentleman from Illinois demands to have read?

Mr. MANN. Everything that I have the right to demand. have the right to demand the reading of the Senate engrossed

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 3974. An act to increase the limit of cost of the United

States public building at Denver, Colo.,; and S. 6899. An act increasing the limit of cost for the erection and completion of a public building in the city of Richford, State of Vermont.

LEAVE OF ABSENCE.

Mr. THAYER, by unanimous consent, was given leave of absence, indefinitely, on account of sickness.

ADJOURNMENT.

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 38 minutes p. m.) the House adjourned until to-morrow, Wednesday, December 18, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Illinois at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

2. A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of the certificate of the final ascer-tainment of electors for President and Vice President appointed in the State of Idaho at the election held therein on November 5, 1912; to the Committee on Election of President, Vice Presi-

dent, and Representatives in Congress.

3. A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Alabama at the election held therein on November 5, 1912: to the Committee on Election of President, Vice President, and Representatives in Congress.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, Mr. CULLOP, from the Committee on Industrial Arts and Expositions, to which was referred the bill (H. R. 26190) to provide for participation by the Government of the United States in the National Conservation Exposition, to be held at Knoxville, Tenn., in the fall of 1913, reported the same with an amendment, accompanied by a report (No. 1275), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials

were introduced and severally referred as follows:

By Mr. McKENZIE: A bill (H. R. 27364) to extend the time for the construction of a dam across Rock River, Ill.; to the Committee on Interstate and Foreign Commerce.

By Mr. RUCKER of Missouri: A bill (H. R. 27365) to amend paragraph 447 of an act entitled "An act granting pensions and increase of pensions to contain soldiers and stilling of the Chill increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war," approved August 23, 1912; to the Committee on Invalid Pensions.

By Mr. CULLOP: Resolution (H. Res. 757) providing for the appointment of a committee of the House of Representatives to aftend and represent the House at the dedication and unveiling of a memorial statue to Thomas Jefferson at St. Louis, Mo., April 30, 1913, in commemoration of the acquisition of the Louisiana territory; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions

were introduced and severally referred as follows:

By Mr. BARTHOLDT; A bill (H. R. 27366) for the relief of

Mrs. H. C. Sankey; to the Committe on War Claims.

Also, a bill (H. R. 27367) granting a pension to Herman J.

Wacker; to the Committee on Pensions.

Also, a bill (H. R. 27368) granting a pension to James H. Ross; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27369) granting a pension to Malinda Rogers; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27370) granting a pension to Helen Paus; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27371) to correct the military record of Abraham Hoover; to the Committee on Military Affairs.

Also, a bill (H. R. 27372) granting an increase of pension to

McQuiller Green; to the Committee on Invalid Pensions.

By Mr. CARY: A bill (H. R. 27373) granting an increase of pension to Barbara Cordes; to the Committee on Invalid Pen-

By Mr. CULLOP: A bill (H. R. 27374) granting an increase of pension to David La Bontie; to the Committee on Invalid Pensions.

By Mr. DIXON of Indiana: A bill (H. R. 27375) granting a pension to Allen Roseberry; to the Committee on Invalid Pen-

Also, a bill (H. R. 27376) granting a pension to William B. Adams; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27377) granting a pension to Merit C.

Welsh; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27378) granting an increase of pension to Mary B. Lawless; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27379) granting an increase of pension to C. R. Rudolph; to the Committee on Invalid Pensions.

By Mr. ESCH: A bill (H. R. 27380) granting an increase of pension to Martin H. Johnson; to the Committee on Pensions. Also, a bill (H. R. 27381) granting an increase of pension to

Royal E. Dake; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 27382) granting a pension to Richard King; to the Committee on Invalid Pensions.

By Mr. HEALD; A bill (H. R. 27383) granting an increase of pension to Jacob C. Wilson; to the Committee on Invalid Pen-

By Mr. HOBSON: A bill (H. R. 27384) for the relief of William W. Prude; to the Committee on Military Affairs

By Mr. KENNEDY; A bill (H. R. 27385) granting an increase of pension to Elizabeth Willett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27386) granting an increase of pension to Henry Cooper; to the Committee on Invalid Pensions.

By Mr. KINKAID of Nebraska: A bill (H. R. 27387) granting a pension to Sophia F. C. Mather; to the Committee on Invalid Pensions.

By Mr. LAFFERTY; A bill (H. R. 27388) granting a pension

to John W. Avis; to the Committee on Pensions.

By Mr. McKENZIE: A bill (H. R. 27389) granting a pension to Margerit R. Bennett; to the Committee on Invalid Pensions. Also, a bill (H. R. 27390) granting an increase of pension to Fred J. Harris; to the Committee on Invalid Pensions.

By Mr. MARTIN of South Dakota: A bill (H. R. 27391) for the relief of George H. Grace; to the Committee on Claims. By Mr. NYE; A bill (H. R. 27392) granting a pension to

John A. Kelly; to the Committee on Invalid Pensions. By Mr. O'SHAUNESSY: A bill (H. R. 27393) granting an

increase of pension to Ann M. Regan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27394) granting an honorable discharge to Amos Maker; to the Committee on Military Affairs.

By Mr. PARRAN: A bill (H. R. 27395) granting a pension to Elizabeth Freeman; to the Committee on Invalid Pensions.

By Mr. RODENBERG: A bill (H. R. 27396) granting an increase of pension to Mary E. Edmonds; to the Committee on Invalid Pensions.

By Mr. RUBEY: A bill (H. R. 27397) granting a pension to Sarah E. Burress; to the Committee on Invalid Pensions.

By.Mr. RUSSELL: A bill (H. R. 27398) granting an increase pension to William H. Simmons; to the Committee on In-

Also, a bill (H. R. 27399) granting an increase of pension to Charley C. Gullic; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27400) granting an increase of pension to Joseph Bundy; to the Committee on Invalid Pensions.

By Mr. SLOAN: A bill (H. R. 27401) granting a pension to

Sarah I. Smith; to the Committee on Invalid Pensions.

By Mr. VREELAND: A bill (H. R. 27402) granting an increase of pension to Silas H. Hamilton; to the Committee on Invalid Pensions.

By Mr. WARBURTON: A bill (H. R. 27403) granting an increase of pension to Isaiah Elwood; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27404) granting an increase of pension to G. W. Bering; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27405) granting an increase of pension to Lydia A. Harris; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27406) granting an increase of pension to James C. Montgomery; to the Committee on Invalid Pensions.

By Mr. WILLIS: A bill (H. R. 27407) granting an increase of pension to Marinda Lowe; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27408) granting an increase of pension to Daniel S. Poling; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. AYRES: Petition of the American Peat Society, asking a topographical survey of the swamp lands of the United States; to the Committee on Agriculture.

Also, petition of the Merchants' Association of New York City, favoring the passage of House bill 25106, providing for the incorporation of a chamber of commerce of the United States of America; to the Committee on the Judiciary.

By Mr. CALDER: Petition of the New York Board of Trade and Transportation, favoring the passage of House bill 21479, making appropriation for international investigation of the high cost of living; to the Committee on Foreign Affairs.

By Mr. CARY: Petition of the National Society for the Pro-

motion of Industrial Education, favoring the passage of Senate bill 3, giving Federal aid to vocational education; to the Committee on Education.

By Mr. COLLIER: Papers to accompany bill (H. R. 27332)

for the relief of John Wixon; to the Committee on War Claims. By Mr. FULLER: Petition of Jacob L. Link, of Peru, Ill., protesting against the passage of the amended Kenyon bili, preventing the shipment of liquor into dry territories; to the Committee on the Judiciary.

Also, petition of Amos D. Curran, favoring the passage of

legislation giving Federal aid to vocational education; to the Committee on Education.

Also, petition of the Rockford (Ill.) Manufacturing & Shipping Co., favoring the passage of House bill 26277, to create a final court of patent appeals; to the Committee on Patents.

By Mr. LAFFERTY: Petition of Alice E. McKennon and other residents of Union, Oreg., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territories; to the Committee on the Judiciary.

By Mr. LINDSAY: Petitions of E. E. Kesley and William F. Irvin, of Melrose, Mass., and H. A. A. Cozzens, of Brooklyn, N. Y., favoring the passage of House bill 1339, granting a pension to veterans of the Civil War who have lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of the American Talking Machine Co., Brooklyn, N. Y., protesting against the passage of the Oldfield bill, changing the present patent laws; to the Committee on Patents.

Also, petition of the Merchants' Association of New York, favoring the passage of House bill 25106, for the incorporation of a chamber of commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of Holmes Beckwith, of New York, N. Y., and the National Society for the Promotion of Industrial Education, favoring the passage of Senate bill 3, for promotion of industrial education; to the Committee on Education.

By Mr. LINTHICUM: Petition of the Eutaw Place Baptist Church, of Baltimore, favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

By Mr. MANN; Petition of the Chicago Woman's Aid, favoring legislation amending the tax on oleomargarine to not exceed cents per pound; to the Committee on Agriculture.

By Mr. MOTT: Petition of the Federated Men of Oneida,

favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquor into dry territories; to the Com-

mittee on the Judiciary.

Also, petition of the Merchants' Association of New York, favoring the passage of House bill 25106, for incorporation of a chamber of commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Grain Dealers' National Association, favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, for the regulation of the telegraph and telephone service; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Society for the Promotion of Industrial Education, favoring the passage of Senate bill 3, for industrial education; to the Committee on Agriculture.

By Mr. PARRAN: Papers to accompany bill (H. R. 26845) granting a pension to Mary Eva Keyes; to the Committee on Pensions

Also, papers to accompany bill (H. R. 26846) granting a pension to Martha A. Rea; to the Committee on Invalid Pen-

By Mr. SHARP: Petition of the Elyria Chamber of Commerce, Elyria, Ohio, favoring the passage of Senate bill 3, for vocational education; to the Committee on Agriculture.

Also, petition of Mansfield Council, No. 13, United Commercial Travelers of America, favoring the passage of House bill 20590, changing the date of the national elections; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. TILSON: Petition of the Grain Dealers' National Association, favoring the passage of Senate bill 957, for regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

By Mr. UNDERHILL: Petition of the Woman's Christian Temperance Union of Horseheads, N. Y., favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

SENATE.

Wednesday, December 18, 1912.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D. The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. Lodge and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore (Mr. Gallinger) laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate ascertainment of the electors for President and Vice President appointed in the State of Kansas at the election held therein on November 5, 1912, which was ordered to be filed.

ANNUAL REPORT OF THE RECLAMATION SERVICE (H. DOC. NO. 948).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, the Eleventh Annual Report of the Reclamation Service, which was referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed.

JOINT COMMITTEE ON INQUIRY INTO PARCEL POST.

The PRESIDENT pro tempore. The Chair announces the appointment of Mr. Townsend to fill the vacancy occasioned by the resignation of Mr. Barggs on the Joint Committee to make Further Inquiry into the Subject of Parcel Post, so that the Senate members will now be Mr. Bristow, Mr. Bryan, and Mr. TOWNSEND.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House insists upon its amendments to the bill (8, 3947) to provide for a bridge across Snake River, in Jackson Hole, Wyo., disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. SMITH of Texas, Mr. Rucker of Colorado, and Mr. Kinkaid of Nebraska, managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President pro tempore:

S. 3974. An act to increase the limit of cost of the United

States public building at Denver, Colo.; and S. 6890. An act increasing the limit of cost for the erection and completion of a public building in the city of Richford, State of Vermont.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented the memorial of Capt. Joseph B. Sanborn and 21 other citizens of Fremont, N. H., praying for the adoption of an amendment to the Constitution prohibiting a third term for President and Vice President of the United States, which was referred to the Committee on the Judiciary.

Mr. CULLOM presented petitions of the congregations of the Presbyterian Church of Baldwin; the Congregational Church of Pittsfield; the Methodist Episcopal Church of Farina; the Methodist Episcopal Church of Pittsfield; the Congregational Church of Payson; the Methodist Church of Essex; the First Christian Church of Galesburg; of sundry churches of Clayton; of the Baptist Church of Kinderhook; the Methodist Episcopal Church of Kinderhook; the Presbyterian Church of Clayton; the Swedish Methodist Church, of Galesburg; of sundry churches of Raritan; of the Methodist, Congregational, and Lutheran Churches of Mendon; of sundry churches of Charleston; of the Ministerial Association of Peoria; of the Ministers' Association of Lawrence County; of the Swedish Evangelical Mission Church, of Galesburg; of the First Baptist Sunday school of Jerseyville; of the Bible school of the Christian Church of Clayton; of the Methodist Episcopal Sunday school of Savanna; of the Epworth League of the Church of Clayton; of the Woman's Christian Temperance Unions of Elgin and Pittsfield; of the Olivet Public Welfare Club, of Chicago; and of sundry citizens of Streator and Momence, all in the State of Illinois, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on

He also presented memorials of Local Union No. 149. Interthe diso presented memorials of Pocta Chica vo. 148, international Union of the United Brewery Workmen, of Joliet; of the Chicago Engraving Co.; of the Holt Caterpillar Co., of Peoria; of E. G. Isch & Co., of Peoria; of the Drill & Seeder Co., of Peoria; of the Herschel Manufacturing Co., of Peoria; of Suffern, Hunt & Co., of Decatur; of the Criterion Publishing

Co., of Chicago; and of sundry citizens of Peoria and Chicago, all in the State of Illinois, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of the Woman's Christian Temperance Unions of Bethel, Galesburg, Barry, and Bellflower; of the congregations of the Protestant churches of Galena; of the First Congregational Church of Elgin; the First Presbyterian Church of Geneseo; the First Congregational Church of Sterling; of members of the New Hebron circuit, Lower Wabash Conference of the United Brethren Church, of New Hebron; of sundry citizens of Plainfield, Champaign, Galena, and Springfield; and of the men's Bible class of the First Methodist Episcopal Church of Grant Park, all in the State of Illinois, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BROWN presented a petition of members of the Omaha Ministerial Union, representing 60 churches in Nebraska, praying for the passage of the so-called Kenyon-Sheppard interstate

liquor bill, which was ordered to lie on the table.

Mr. WARREN presented a memorial of Local Union No. 273, United Brewery Workmen, of Sheridan, Wyo., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. McLEAN presented petitions of Whigville Grange, No. 48, of Bristol; of Local Grange No. 29, of Meriden; of Local Grange No. 138, of North Stonington; of Local Grange No. 149, of Easton; of Local Grange No. 45, of Harwinton; of Hillstown Grange, No. 87, of Hartford; of Local Grange No. 144, of Prospect; and of Local Grange No. 49, of Farmington, all of the Patrons of Husbandry, in the State of Connecticut, praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which were ordered to lie on the table.

Mr. JOHNSON of Maine presented a petition of sundry citizens of Columbia, Me., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented memorials of sundry citizens of Portland, Glenwood, Frankfort, Waterville, and Richmond, in the State of Maine; of Washington, D. C.; Cincinnati, Ohio; St. Louis, Mo.; Girard, Ala.; and Rochester, N. Y., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. CRAWFORD (for Mr. GAMBLE) presented sundry papers in support of the bill (S. 7467) for the relief of George H. Grace, which were referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. WETMORE, from the Committee on Naval Affairs, to which was referred the bill (S. 7169) to transfer Capt. Frank E. Evans from the retired to the active list of the Marine Corps, reported it without amendment and submitted a report (No. 1077) thereon.

Mr. WARREN, from the Committee on Appropriations, to which was referred the bill (S. 7493) for the relief of Thomas G. Running, asked to be discharged from its further consideration and that it be referred to the Committee on Claims, which was agreed to.

HENRY E. RHOADES.

Mr. LODGE. From the Committee on Naval Affairs I report back adversely the bill (S. 3027) placing Henry E. Rhoades, assistant engineer, United States Navy, on the retired list with an advanced rank. I ask to have the accompanying letters from the Secretary of the Navy printed in the RECORD, and then the bill may be indefinitely postponed.

There being no objection, the matter referred to was ordered

to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY, Washington, August 4, 1911.

The CHAIRMAN COMMITTEE ON NAVAL AFFAIRS, United States Senate.

United States Senate.

My Dear Senator: In reply to that portion of the committee's letter of July 15, 1911, requesting the department's opinion on bill (S. 3027) placing Henry E. Rhoades, assistant engineer, United States Navy, on the retired list with an advanced rank, your attention is respectfully invited to the department's letter of May 24, 1911, to the committee, giving its opinion and recommendation on a bill (S. 2028) of May 4, 1911, for the relief of Henry E. Rhoades, a retired officer of the Engineer Corps, United States Navy. For reasons fully set forth therein it is recommended that the present bill (S. 3027) be not given favorable consideration. A copy of the department's letter referred to is herewith inclosed.
Faithfully, yours,

BEEKMAN WINTHROP.

BEERMAN WINTHROP, Acting Secretary of the Navy.

MAY 24, 1911.

The CHAIRMAN COMMITTEE ON NAVAL AFFAIRS.

United States Senate.

The CHAIRMAN COMMITTEE ON NAVAL AFFAIRS.

United States Senate.

My Dear Senator: Referring to your letter dated May 5, 1911, inclosing a bill (S. 2028) for the relief of Henry E. Rhoades, a retired officer of the Engineer Corps, United States Navy, and requesting the department's opinion thereon, I have the honor to inform you that Mr. Rhoades was appointed an acting third assistant engineer in the Navy February 11, 1865, and was honorably discharged October 3, 1865; the was reappointed in the same grade December 19, 1866. and was mustered out April 22, 1869. Subsequently, on February 25, 1871, he was appointed in the Regular Navy.

After a cruise in the Arctic on the U. S. S. Juniala Mr. Rhoades appeared before a naval retiring board on November 20, 1874, and the medical members thereof found him subject to frequent epileptic attacks, accompanied with neuralgia of the chest and palpitation of the heart, shown to have existed prior to his entry in the Navy, and therefore not originating in the line of duty. The full board found that his incapacity did not originate in the line of duty or from any incident of the service. In pursuance of this finding of the board, it was optional with the President, under the provisions of the act of August 3, 1861 (12 Stat., 291, sec. 23), either to retire Mr. Rhoades on furlough pay.

Under date of January 28, 1893, the then Secretary of the Navy. Mr. Tracy, in reporting to the committee upon a bill (H. R. 980, Flifty-second Congress, first session) authorizing the name of Mr. Rhoades to be placed upon the list of efficers who have been retired on account of incapacity of service origin, as provided in section 1588 of the Revised Statutes, stated that the department perceived no objection to the proposed legislation. At the same time the committee was furnished with a copy of the record of proceedings of the retiring board before which Mr. Rhoades was examined in November, 1874. Subsequently, however, under date of April 21, 1896, Mr. Secretary Herbert, and on April 1, 1897,

the beneficiary's retirement, nearly 30 years before. The foregoing recommendation was made on April 1, 1904, and again reiterated February 1, 1906.

It might be stated that on a number of occasions favorable reports were made by committees of Congress on bills for the transfer of Mr. Rhoades from the half-pay to the three-quarters-pay list of retired officers, on the theory, apparently, that the finding of the retiring board that his disability was not of service origin was erroneous; and that when the measure by which he was finally so transferred, viz, H. R. 9297. Fifty-ninth Congress, first session, was under consideration in the House of Representatives a motion to recommit it for an amendment providing that the increased retired pay take effect from the date of the passage of the bill (instead of from the date of the officer's retirement) was defeated by a large majority. (Congressional Record, May 18, 1906, p. 7298.)

That bill became a law on May 26, 1906, and on June 2, 1906, Mr. Rhoades was transferred from the half-pay to the 75 per cent pay list of retired officers under the provisions of section 1588 of the Revised Statutes, to take effect from December 30, 1874, the date from which he was originally transferred to the retired list. Under this authority Assistant Engineer Rhoades received the sum of \$13,695.72.

After the passage of the act of June 29, 1906, increasing the rank and pay of certain officers "retired on account of wounds or disability incident to the service," etc. (34 Stats., 554), Mr. Rhoades was nominated to and confirmed by the Senate to receive the rank of the next higher grade, viz, that of passed assistant engineer with the rank of lieutenant.

In a decision rendered by the Comptroller of the Treasury on Septem-

nated to and confirmed by the Senate to receive the rank of the next higher grade, viz, that of passed assistant engineer with the rank of lieutnant.

In a decision rendered by the Comptroller of the Treasury on September 20, 1907 (14 Comp. Dec., 162), in a similar case, that of Lieut. Jerome E. Morse, it was held that upon the passage of a special act of Congress approved June 10, 1902, transferring Lleut. Morse from the 50 to the 75 per cent retired pay list, "such officer thereby became an officer retired on account of disability originating in the line of duty from the date of the passage of said act, and, being otherwise qualified within the act of June 29, 1906, possessed the qualifications which enable the President and Senate, under the act of June 29, 1906, to advance him in rank and pay on the retired list one grade above that actually held by him at the time of retirement, and is entitled to the pay of such higher grade from June 29, 1906."

On March 13, 1909, upon request of this department, the Attorney General rendered an opinion holding that a special act of Congress, approved January 5, 1909, transferring Assistant Engineer Jabez Burchard, United States Navy, from the half-pay list to the 75 per cent pay list of retired officers "to take effect from the date of his retirement," did not operate to change the officer's original cause of retirement, and that Mr. Burchard was not therefore entitled to the rank and pay of the next higher grade under the act of June 29, 1906, he having been retired for disability not incident to the service.

This opision of the Attorney General was applied by the Comptroller of the Treasury to the case of Lieut. Jerome E. Morse, who, because of a special act of Congress transferring him from the half-pay list to the 75 per cent pay list, as hereinbefore referred to, had been nominated to and confirmed by the Senate to receive the rank and retired pay of the next higher grade, under the act of June 29, 1906, The comptroller reopened and reversed his prior decision, st

tion 1588 of the Revised Statutes of the United States, to take effect from the date of his retirement," "did not make him an officer of the Navy who had heretofore been 'retired on account of wounds or disabilities incident to the service * * *," the fact being, as the record shows, that, although unadvisedly or erroneously, Mr. Burchard was definitely retired for a physical disability which was not due to an incident of the service." The case of Mr. Rhoades was similar to that of Mr. Burchard.

of Mr. Burchard.

Under the law then and now existing, namely, the act of June 29, 1906, Mr. Rhoades was not entitled to advancement on the retired list to the rank and pay of the next higher grade, i. e., to the rank and pay of a passed assistant engineer on the retired list with the rank of leutenant.

of a passed assistant engineer on the retired list with the rank of lieutenant.

Notwithstanding that Mr. Rhondes does not come within the terms of the existing law upon the subject, as just stated, the bill under consideration proposes not only to give him what the present law itself does not now provide, but also aims to secure for him, though retired for disability not incident to the service, advantages which Congress has not deemed it proper to provide for officers retired for disability which was incident to the service, a bill for the latter during the last session (H. R. 31598, 61st Cong., 3d sess.) having falled of enactment.

Mr. Rhoades has received every proper consideration, both from the department and from Congress, even generous treatment when it is recalled that he was (1) retained on the retired list on furlough pay in 1874, when, in the President's discretion, he might have been wholly retired, i. e., separated completely from the service; and (2) that he was, by special act of Congress of May 18, 1906, transferred from the furlough or half-pay list to the 75 per cent pay list to take effect from the date of his retirement 32 years before, whereby he received nearly \$14,000 from the Government and a continuing substantial increase of pay.

pay.

In view of all the foregoing facts and of the additional fact that this measure comes within that class of special legislation the enactment of which is not thought desirable, it is recommended that the committee do not take favorable action upon the bill here under consideration.

Faithfully, yours,

The PRESIDENT pro tempore. Without objection, the bill will be indefinitely postponed.

LANDS OF FORT ASSINNIBOINE MILITARY RESERVATION.

Mr. DIXON. From the Committee on Public Lands I report back favorably with amendments the bill (S. 5138) authorizing the Secretary of the Interior to survey the lands of the abandoned Fort Assinniboine Military Reservation and open the same to settlement, and I submit a report (No. 1075) thereon. On account of the somewhat urgent situation I should like to ask immediate consideration. The bill is accompanied by a unanimous report from the committee.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill.

The PRESIDENT pro tempore. Is there objection to the

present consideration of the bill?

Mr WORKS. Mr. President, I did not rise to object, but I call the attention of the Senator from Montana to the fact that there seems to be a mistake in the bill as I heard it read.

Mr. DIXON. This is the original bill. The amendments will

now be read.

Mr. WORKS. The bill should read "\$1.25 an acre."

Mr. DIXON. The amendments which the committee have

reported will now be read.

Mr. GRONNA. Mr. President, I do not rise to object to the consideration of the bill, but I should like some information from the author of the bill. Is it a local measure affecting only the State of Montana or is it general in its scope?

Mr. DIXON. It merely opens the abandoned Fort Assimiboine Military Reservation to settlement under the usual terms.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

whose, proceeded to consider the bill.

The amendments were, on page 2, line 13, before the word "dollars," to strike out "two" and insert "one"; on page 2, line 14, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 15, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 16, before the word "cents," to strike out "fifty" and insert "twenty-five"; and insert "twenty-five"; on page 2, line 16, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 16, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 16, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 16, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 16, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 16, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 16, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 16, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 16, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 16, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 16, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 16, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 16, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 16, before the word "cents," to strike out "fifty" and insert "twenty-five"; on page 2, line 16, before the word "cents," twenty-five "twenty-five"; on page 2, line 16, before the word "cents," twenty-five "twenty-five "twenty-"twenty-five"; on page 2, line 17, to strike out the words "two dollars and fifty cents" and insert the words "one dollar and twenty-five cents"; on page 2, strike out line 24, and on page 3, to strike out lines 1 and 2 up to and including the word "two"; on page 3, after the word "Montana," in line 22, to trike out the control and increase and including the word "two"; on page 3, after the word "Montana," in line 22, to strike out the period and insert a comma and the following words, "upon the payment by the State of Montana of the sum of \$2.50 per acre," so as to make the bill read:

of \$2.50 per acre," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized and directed to immediately cause to be surveyed all of the lands embraced within the limits of the abandoned Fort Assinnibolne Military Reservation, in the State of Montana.

SEC. 2. That before said lands are opened to entry the Secretary of the Interior shall have said lands classified by an inspector or special agent of the Department of the Interior into two classes—first, agricultural lands; second, timber lands—and in making such classification all lands susceptible of cultivation that do not contain in excess of 75,000 feet of merchantable timber to the 40-acre tract shall be classified as agricultural lands, and all lands containing in excess of 75,000 feet of merchantable timber to the 40-acre tract shall be classified as timber lands.

SEC. 3. That when so classified, all of said lands classed as agricultural land shall be opened to settlement and entry under the homestead laws of the United States: Provided, however, That the enlarged homestead act, approved February 19, 1909, shall not apply until six months after said land has been opened to settlement and entry as aforesaid.

homestead act, approved February 19, 1909, shall not apply until six months after said land has been opened to settlement and entry as aforesaid.

SEC. 4. That entrymen upon said lands shall, in addition to the regular land-office fees, pay the sum of \$1.25 per acre for said land, such payments to be made as follows: Twenty-five cents per acre at the time of making entry and 25 cents per acre each and every year thereafter until the full sum of \$1.25 per acre each and every year thereafter until the full sum of \$1.25 per acre shall have been paid. In case any entryman falls to make annual payments, or any of them when due, all right in and to the lands covered by his entry shall cease; and any payments theretofore made shall be forfeited and the entry canceled, and the land shall be again subject to entry under the provisions of the homestead law at the fixed price thereof: Provided, however, That the commutation provision of the general homestead law shall be applicable to all persons making homestead entry on said land under the provisions of this act, save and excepting entries made hereunder in accordance with the provisions of the enlarged homestead act, approved February 19, 1909, which shall not be subject to commutation.

SEC. 5. That this act shall not apply to an area of 640 acres embracing the Government buildings at Fort Assinniboine.

SEC. 6. That if, within five years from the date of the approval of this act, the State of Montana shall, by act of its legislative assembly, agree to establish and maintain any agricultural, manual-training, or other educational or public institution at the present site of Fort Assinniboine, then, in that event, the President of the United States is authorized and directed to transfer, grant, and set over its right, title, and interest of, in, and to the said 640 acres of land hereby reserved and embracing the buildings at Fort Assinniboine to the State of Montana, upon the payment by the State of Montana of the sum of \$2.50 per acre.

SEC. 7. That sections 16 and 36

of the State of Montana, and are hereby granted to the State of Montana.

SEC. S. That the lands shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which the lands may be settled upon, occupied, and entered by persons entitled to make entry thereon; and no person shall be permitted to settle upon, occupy, or enter any of said land except as prescribed in said proclamation.

SEC. 9. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$20,000, or so much thereof as may be necessary, for the survey and classification of said lands and for the expenses incident to their opening to settlement and entry.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LANDS RESERVED FOR RESERVOIR PURPOSES.

Mr. NELSON. From the Committee on Public Lands I report back favorably, with an amendment, the bill (8. 7448) restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and its tributaries, and I submit a report (No. 1076) thereon. I ask for the present consideration of the bill.

The PRESIDENT pro tempore. The bill will be read for the

information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendment was, on page 2, line 11, after the word "law," before the period, to insert a comma and the following words: "for the period of 90 days following the time fixed hereunder for the restoration of the lands," so as to make the bill read:

for the restoration of the lands," so as to make the bill read:

Be it enacted, etc., That there is hereby restored to the public domain, subject to the easement provided for in section 2 hereof, any and all lands hitherto reserved by Executive order in connection with the construction, maintenance, and operation of reservoirs at the headwaters of the Mississippi River and its tributaries the restoration of which the Secretary of War has recommended or may hereafter recommend to the Secretary of the Interior.

Sec. 2. That the lands hereby restored shall forever be and remain subject to the right of the United States to overflow the same or any part thereof by such reservoirs as now exist or may hereafter be constructed upon the headwaters of the Mississippi River, and all patents issued for the lands hereby restored shall expressly reserve to the United States such right of overflow.

Sec. 3. That the time when such restoration shall take effect as to any of such lands shall be prescribed by the Secretary of the Interior; and in all cases where actual settlement has been made on any of said lands prior to January 1, 1912, and improvements made the said settlers shall have a preferred and prior right to enter and file on said lands under the homestead law for the period of 90 days following the time fixed hereunder for the restoration of the lands.

Sec. 4. That no rights of any kind, except as specified in the foregoing section, shall attach by reason of settlement or squatting upon any of the lands hereby restored to entry before the hour on which such lands shall be subject to homestead entry at the several land offices, and until said lands are opened for settlement no person shall enter upon and occupy the same except in the cases mentioned in the foregoing section, and any person violating this provision shall never be permitted to enter any of said lands or acquire any title thereto.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULLOM:

A bill (S. 7798) granting an increase of pension to Alfred J. Adair (with accompanying papers); and

A bill (S. 7799) granting a pension to Eliza Fosha (with accompanying papers); to the Committee on Pensions.

By Mr. MASSEY:

A bill (S. 7800) for the relief of Fred E. Jackson (with accompanying paper); to the Committee on Claims.

By Mr. SANDERS:

A bill (S. 7801) for the relief of George T. Larkin; to the Committee on Claims.

By Mr. PENROSE:

A bill (S. 7802) to amend section 103 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary

A bill (S. 7803) granting a pension to William F. Woolsey

(with accompanying papers)

A bill (S. 7804) granting an increase of pension to Jennie M.

Metz (with accompanying papers); and

A bill (S. 7805) granting an increase of pension to Delphine R. Burritt (with accompanying paper); to the Committee on Pensions.

By Mr. BORAH:

A bill (S. 7806) granting an increase of pension to James M. Wells (with accompanying papers); to the Committee on Pensions.

By Mr. CHAMBERLAIN:

A bill (S. 7807) granting a pension to Ellen Barrett (with

accompanying papers); and
A bill (S. 7808) granting an increase of pension to Ornan F. Hibbard (with accompanying papers); to the Committee on Pensions. By Mr. DU PONT:

A bill (S. 7809) for the relief of the Virginia Military Institute, of Lexington, Va.; to the Committee on Claims.

By Mr. CURTIS:

A bill (S. 7810) to correct the military record of Eli Lewis; and A bill (S. 7811) for the relief of Albert H. Dooley (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 7812) granting a pension to Mary R. Mayhall; A bill (S. 7813) granting an increase of pension to William H. Ruckle:

A bill (S. 7814) granting an increase of pension to Luke Mor-(with accompanying paper)

A bill (S. 7815) granting an increase of pension to Allen Brown (with accompanying papers);

A bill (S. 7816) granting a pension to Elizabeth Davis (with accompanying papers);

A bill (S. 7817) granting an increase of pension to William A. Douglass (with accompanying papers);

A bill (S. 7818) granting an increase of pension to George

B. Olney (with accompanying paper); A bill (S. 7819) granting a pension to Elizabeth U. Burson (with accompanying papers); and

A bill (S. 7820) granting an increase of pension to Jefferson Hurst (with accompanying papers); to the Committee on Pen-

sions. By Mr. BRISTOW:

A bill (S. 7821) to provide for a nominating election for postmasters; to the Committee on Post Offices and Post Roads. By Mr. BRANDEGEE:

A bill (S. 7822) granting an increase of pension to Lillie D. Thompson; to the Committee on Pensions, By Mr. CHILTON:

A bill (S. 7823) granting an increase of pension to Mary E. Workman; to the Committee on Pensions.

By Mr. CHILTON (for Mr. WATSON):

A bill (S. 7824) granting an increase of pension to Oakaley Randall (with accompanying papers); and

A bill (S. 7825) granting a pension to William R. Swearingen (with accompanying papers); to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. MYERS submitted an amendment proposing to appropriate \$20,000 for suport and civilization of the Indians at the Blackfeet Agency, Mont., etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appro-

priate \$250,000 to encourage industry among the Indians and to aid them in the culture of fruits, grains, and others crops, etc., intended to be proposed by him to the Indian appropriation

bill, which was referred to the Committee on Indian Affairs and

ordered to be printed.

Mr. GUGGENHEIM submitted an amendment proposing to appropriate \$400,000 for the enlargement, extension, remodeling, or improvement of the post-office building under present limit at Denver, Colo., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

CLAIMS OF JOHN GLANZMAN AND OTHERS FOR EXTRA TIME ON PUBLIC BUILDINGS.

Mr. NEWLANDS. I desire to have printed as a public document a statement or memorandum, with accompanying decu-ments and quotations, regarding certain claims for extra time of certain employees on public buildings, including John Glanzman, of Nevada, an amendment covering which claims was offered by me on the 17th day of December, 1912, to the omnibus bill, H. R. 19115, reported by the Committee on Claims.

The PRESIDENT pro tempore. Is there objection to the request made by the Senator from Nevada that the papers he sends to the desk be printed as a public document? The Chair

hears none, and it is so ordered.

ORDER OF BUSINESS.

The PRESIDENT pro tempore. If there are no further concurrent or other resolutions the morning business is closed.

Mr. CULLOM. I desire to make a motion to-day for an executive session, but I understand that the Senator from Iowa [Mr. Kenyon] is almost through with his speech, and I yield to him for that purpose. I observe that the Senator from Georgia [Mr. Smith] has also given notice that he desires to speak this morning, and I will give way to him, too,

Mr. KENYON. Mr. President—
Mr. CRAWFORD. Is the morning business closed?
The PRESIDENT pro tempore. The morning business is The Senator will be recognized for morning business.

Mr. CRAWFORD. No; I move to take up House bill 19115, the omnibus claims bill, so that it may maintain its place, and then I will yield to the Senator from Iowa.

The PRESIDENT pro tempore. The Senator from South Da-kota moves that the Senate resume the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts. Without objection, it is agreed to.

Mr. CRAWFORD. I will yield to the Senator from Iowa to

conclude his remarks.

Mr. SMITH of Georgia. Mr. President, I desire to occupy the attention of the Senate briefly this morning under the notice I have given, for the purpose of calling to the attention of the

The PRESIDENT pro tempore. The Chair had recognized the Senator from Iowa. Does the Senator from Iowa yield to the Senator from Georgia?

For a speech or argument?

Mr. KENYON. For a speech Mr. SMITH of Georgia. Yes.

Mr. KENYON. I will say to the Senator from Georgia I desire to finish the remarks I was making at the close of the morning hour yesterday.

Mr. SMITH of Georgia. Then I would be glad to yield to the Senator from Iowa, but give notice that after he concludes I will follow him.

The PRESIDENT pro tempore. That order will be made. The Chair lays before the Senate the bill called up by the Senator from Iowa.

INTERSTATE SHIPMENT OF LIQUORS.

The Senate, as in Committee of the Whole, resumed consideration of the bill (S. 4043) to prohibit interstate commerce in in-

toxicating liquors in certain cases.

Mr. KENYON. Mr. President, on yesterday, to complete my argument by the close of the morning hour, I proceeded perhaps a little more rapidly than I otherwise would have done, but I think I made my position reasonably clear. I wish to devote just a few moments in closing to section 2 of this act, which is the committee amendment.

Section 2 of this act is the committee amendment. It is identical with the Wilson law, except in the present bill are found the words "and before delivery to the consignee." Otherwise there is no difference. This bill clearly states, by section 2, what was in fact the object and purpose of the framers of the Wilson bill. In the Rahrer case the court sustained the Wilson Act, rather destroying its effect, however, in the Rhodes case, There can be no reasonable doubt, from the reading of the interesting debates, as to the purpose in mind of Congress with

refence to the Wilson Act. Senator Wilson, the author thereof,

It is a bill to grant to the States what may be called a local option, to allow them to do as they please in regard to the liquor question.

They could have prohibition, high license, local option, or free liquor, as they please. It was the intention that each State should be free to determine its own policy in regard to the liquor traffic. If the State wanted prohibition, that was its business; if it wanted license, that was its business; if it wanted free liquor, that was its business. Senator Vest argued that the bill was a delegation of the power to the States to regulate interstate commerce, and asked this significant ques-

Can the Congress of the United States delegate a constitutional power exclusively vested in it to any of the States?

The distinguished Senator Hoar said:

Mr. President if this bill be not within the constitutional power of Congress, I think we must all agree that the condition of the American people in regard to this particular subject is more miserable than that of any other civilized nation on the face of the earth. I suppose there does not exist a community where men live together under law where the danger of permitting the unrestricted sale of intoxicating liquor is not recognized and guarded against by public authority.

Senator Edmunds, of Vermont, who had as profound regard for the Constitution as any other man, in discussing the bill, said .

Now, where is the line? The line is, I think, a line which the Supreme Court of the United States appears to have gone over—that when your act of transportation, your act of commerce among the States or from foreign nations has become complete and the word "among" no longer applies, and the commodity is in the State where its transportation is ended, and it is in the hands of its owner there, whether that owner be a citizen of one State or another makes no difference, it is then just like the commodity of the same nature, all the laws being equal, in the hands of the citizen of the State who made it there himself, the subject of State law; and that is what the Supreme Court of the United States within the next 20 years will come to. * *

This has proved prophetic, indeed, as the Supreme Court came to that proposition in a later case. Senator Edmunds continued: The objection that has been made to this bill is that we are delegating

That is an objection that has been raised as to the pending

That is an objection that has been raised as to the pending bill—

I deny the proposition. I say that by this bill, although its mere terminology is not what I would have adopted, but in substance it comes to the same thing, Congress is undertaking to regulate the traffic among the States of things by saying, "We employ the agency of the people through its legislative authority, the State of Missouri, for instance, to say whether it is wise to admit this thing in the community that is there from the State of Illinois or not." We say to the State of Vermont, "We employ you as the agent of Congress in the regulation of this traffic to determine whether the condition of things as to the state of public morals there will warrant that thing."

Congress, therefore, instead of delegating a power is exerting the same power in respect of internal commerce that it has always exerted in respect of external commerce, to authorize somebody to determine how and under what conditions this commerce, if you call it that, shall be carried on. Giving no preference to one State over another, not as a remitted or delegated authority but as the exertion of the power of Congress to regulate this traffic among the States, on the theory of the Supreme Court, it says to one body of people, "You may carry it into another if our agents there think it right to exclude it." So in whatever aspect you look at it, if the power to provide for the safety and regulate the transactions among men in the several States is in the States, as I think it is, it can not be touched at all; but on the strength of these decisions, and assuming it to be in Congress, we are exerting the very power which gentlemen say belongs to Congress, we are exerting the very power which gentlemen say belongs to Congress, we are exerting the very power which gentlemen say belongs to Congress, we are exerting the very power which gentlemen say belongs to Congress, we are exerting the very power which gentlemen say belongs to Congress, we are exerting the very power which ge

Senator Faulkner, of West Virginia, to whom I referred yesterday, offered the following amendment, showing that the debate ranged around the very question that was afterwards determined in the Rhodes case:

Strike out all after the enacting clause and insert: "That when fermented, distilled, or intoxicating liquids or liquors are transported or conveyed by a common carrier as an article of commerce from a State or Territory into another State or Territory, such fermented, distilled, or intoxicating liquids or liquors so transported or conveyed shall be considered as incorporated as a part of the common mass of property within such State or Territory and subject to its regulation, control, or taxation in the exercise of its police powers on delivery of the original package by the common carrier to the owner or consignee."

This amendment of Senator Faulkner's embodied exactly what the Supreme Court subsequently held in the Rhodes case and this amendment was voted down by the Senate, showing that the construction subsequently put upon the Wilson Act in the Rhodes case was exactly what the Senate did not intend. It is claimed by opponents of this measure that section 2 is a delegation of power to the States to regulate interstate com-

merce; that the section recognizes transportation into the State and yet permits the police power to operate upon the commodities while in transportation; that interstate commerce in its fundamental aspect continues until delivery to the consignee; and that Congress can not change the actual fundamental of interstate commerce. These objection are answered to some extent by the Rahrer case in the language therein used. It must be remembered, as has heretofore been argued, that prior to Leisy against Hardin the sale was an essential ingredient of interstate commerce just as much as the transportation, and that same doctrine as to practically everything but intoxicating liquors has been reaffirmed by the Supreme Court of the United States within the last few years. As late as the 225th United States, in the case of Savage against Jones, it was said:

The protection accorded to this commerce (interstate) extended to the sale by the receiver of the goods in the original package.

This had been the unbroken precedent of the courts, and if the court could cut off the sale as a part of commerce, why can Congress not further restrict and say that the article shall cease to be a matter of commerce 50 miles from destination, 10 miles from destination, or 5 miles within the State?

I do not say that it can; but in the Rahrer case the court used language which would indicate that that might be done.

Senator Nelson, of Minnesota, in his report some years ago to Congress on this question, stated that matter from that standpoint so clearly that I use his language. He said:

Under the Wilson law the Federal Government relinquished a portion of its control over interstate commerce, and under the proposed legislation it proposes to relinquish an additional portion. In neither case is there a delegation to the State; in both cases it amounts merely to a declaration on the part of Congress that interstate commerce in intoxicating liquors shall only be free to the extent that it does not interfere with or embarrass the police power of the State.

It is pertinent to call attention to a decision in the case of In re Vliet (43 Fed. Rep., 763), which follows the case of In re Rahrer (140 U. S., 561-564):

It is competent for Congress, under the grant of power to regulate commerce among the States, to determine when a subject of that commerce shall become amenable to the law of the State in which the transit ends.

In the Rahrer case it will be remembered the court said:

No reason is perceived why, if Congress chooses to provide that certain designated subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within its competency to

If the power is, in fact, in Congress to divest articles of their interstate-commerce character at any period, at any place, or at any time, then why can not Congress, as is done in section 2, provide that the police power shall apply before delivery to the consignee, or, in other words, that the interstate-commerce char-

acter shall cease before delivery to the consignee?

Mr. SUTHERLAND. Mr. President, will the Senator from

Iowa permit me a single question?

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Utah?

Mr. KENYON. Certainly.

Mr. SUTHERLAND. Interstate transportation, as I understand, begins when the article is delivered by the consignor in the State from which it is shipped and ends, and only ends, when it is delivered to the consignee in the State to which it is shipped. Now, if Congress may divest an article of its inter-state character and surrender to the State the power to regulate it and deal with it as it pleases immediately after it has crossed the line of the State in which it is shipped, may it not, by the same reasoning, surrender the power to the State from which the article is shipped until the time it reaches the State line? If that be true, would it not result in Congress surrendering to the two States the whole power of interstate commerce?

Mr. NELSON. Mr. President, will the Senator from Iowa

yield to me for a moment?

Mr. KENYON.

Very gladly.
The Senator from Utah [Mr. SUTHERLAND] Mr. NELSON. fails to state the entire proposition in its integrity. preme Court, in the case of Leisy against Hardin, held that interstate commerce extended until the consignee had disposed of the goods in the original package; and in the case of Rahrer, under the Wilson law, the Supreme Court held that Congress had relinquished its power over a part of interstate commerce, to wit, the sale of the unbroken package.

In that case the Supreme Court held that it was not a delegation of legislative authority, but that under the terms of the Wilson law the goods had not arrived within the State until delivery to the consignee. In the case of Leisy against Hardin the Supreme Court decided that the sale by the consignee in the unbroken package to the retail trade was a part of interstate commerce, and just as much subject to the protection of Congress as the transit by rail to the point of destination. In that

case Congress chopped off a part of interstate commerce; it chopped off the sale in the unbroken package; and in section 2 of this bill it is simply proposed to go a step further. So that the question propounded by the Senator from Utah did not cover the whole case; it did not cover one part of interstate commerce that was eliminated by the Wilson law.

Mr. SUTHERLAND. Let it cover that element, then, and then does the Senator from Minnesota say that Congress has the power to surrender to the State in which the shipment originates the power to regulate it until it reaches the State

line?

Mr. NELSON. There was a surrender in that case of a part of interstate commerce, and there is no reason why Congress can not surrender another portion. The question of the delegation of legislative authority was discussed by the court in the Rehrer case, and the court held that there was no delegation of legislative authority.

Mr. SUTHERLAND. Then Congress may surrender to both States the entire power of interstate transportation?
Mr. NELSON. There is no doubt about that.

Mr. NELSON. There is no doubt about that.
Mr. KENYON, Mr. President, I want to get into this joint discussion. My answer to that is perhaps not as good as that of the Senator from Minnesota [Mr. Nelson]. There can be an interstate shipment that is not protected by the interstate commerce clause, such as putrid meats. There is no delegation of power any more than the bankruptcy law results in a delegation of power, to which I will refer in a moment.

If the Supreme Court should take a different view of the proposition, yet it could sustain section 2, and I assume it would try to save any constitutional infirmity by holding that the fundamental of commerce is the actual physical transportation, and that from the point of destination to the hands of the consignee was but a mere incident of commerce. If they could hold as contrary to the unbroken line of decisions that a sale was a mere incident of commerce, then they certainly could hold that when the actual physical transportation ended, the delivery to the consignee was a mere incident of commerce. If section 2 did, in fact, as the Senator from Utah [Mr. Suther-LAND] seems to assume, delegate to the States the power to regulate interstate commerce, I do not believe anyone would claim that it could be constitutional, although some of the language in the case of Leisy against Hardin, as the Senator from Minnnesota has suggested, would seem to indicate that the States might act as agents of the Government in the regulation of commerce.

The language used there, as he suggests, is that the States can not exercise that power

without the assent of Congress-

And further-

to concede to a State power to exclude, directly or indirectly, articles so constituted without congressional permission is, etc. * * *

Without criticizing in any way the decision in Leisy against Hardin, it has always seemed to me that the minority opinion was the better law. I do not think it can be successfully claimed that this statute is a delegation of power. It is a mere rule prescribed by Congress, removing the impediment to the exercise of certain police powers by providing that intoxicating liquors to be used in violation of law are a pollution of interstate com-merce and will not be permitted. Congress has passed other acts analogous to this, for which some of the best constitutional lawyers in this branch of Congress as well as in the other voted—for instance, the Lacey Act, providing that dead bodies of foreign game or the dead bodies of any wild game transported into any State or Territory or remaining therein for use, consumption, sale, or storage, should upon arrival in such State be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police power. I do not find that this act has received consideration by the Supreme Court, but the Federal court had passed upon and upheld it in One hundred and eighty-first Federal, page 87; and the court of appeals of New York, with reference to said act and the Federal enactment in The People of the State of New York v. Hill (184 N. Y., 126), said, among other things:

That Congress can authorize an exercise of the police power by a State which without such authority would be an unconstitutional interference with commerce has been expressly decided by the Supreme Court of the United States in the matter of Rahrer, 545.

Further, the court says:

The object of the legislation, reference to the Lacey Act, was to enable the States by their local law to exercise a power over the subject of the preservation of game and song birds, which without that legislation they could not exert.

Further:

By the Lacey Act Congress determined to aid the States in the enforcement of their game laws, but did not deem it wise to enact a game law of its own, and this for the very obvious reason that the game laws of the different States vary greatly, a variation justified in no small degree by the varying climatic conditions,"

Likewisa reference might be made to the practice in the Federal courts conforming under statute to the practice of the various States; likewise bankruptcy proceedings and exemptions

under the bankruptcy law.

In the case of Hanover National Bank v. Moyees (22 Sup. Ct. Rept., 857), the court had the very question as to the recognition of the local law in the matter of exemptions, dower, priority of payments, and the like; whether it rendered the bankruptcy act in question void as an attempt by Congress unlawfully to delegate its legislative power.

The provision as to exemptions, for instance, is that they shall be controlled by the existing State law at the time of the institution of the proceedings. That would obviously be an adoption of State laws yet unenacted.

Nor can we perceive

Says the court-

in the recognition of the local law in the matter of exemptions, dower, priority of payments, and the like, any attempt by Congress to unlawfully delegate its legislative power. (Re Rahrer, 140 U. S., 545; 35 L. Ed., 572, 576; 11 S. C., 865.)

The real difficulty with section 2 is this: The section recognizes the transportation of liquors into the State and then permits the operations of the police power that might stop the liquor at the State line, thus keeping it out of interstate commerce. The first section takes certain liquor out of commerce and the second section seems to recognize it as being in. There is some incongruity in this. That is the proposition on which I have had great difficulty in harmonizing my views.

Mr. McCUMBER. Mr. President—
The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from North Dakota?

Mr. KENYON. Certainly.

Mr. McCUMBER. I think the Senator agrees with me that the only way we can sustain the constitutionality of section 2 is on the assumption that Congress has divested the article of its interstate character the moment that it crosses the line. Do I correctly understand that to be the Senator's position?

Mr. KENYON. I agree with the Senator from Minnesota that a strong argument can be made under the Rahrer case, and in the language of the court in the Leisy case, that the interstate feature may be removed some time in the journey.

Mr. McCUMBER. That is correct.

Mr. KENYON. I do not myself so argue.

Mr. McCUMBER. That is correct; but it must be in the act itself which divests it of its interstate character.

Mr. KENYON. That is done by section 1.

Mr. McCUMBER. I have no doubt of the authority of Congress to divest it of its interstate character.

Mr. KENYON. I have no doubt of that.

Mr. McCUMBER. But as section 2 now appears is it not open to the possibility, at least, of a construction that it is not a delegation of authority and that there is no attempt to really divest it of its interstate character; and could we not cure that by a simple amendment, such as was suggested by Senator Edmunds in the argument which you have just read, by a clear and definite declaration that it shall cease to be an object of interstate commerce the moment it crosses the State line? With that declaration, I believe that the constitutionality of it may properly be sustained.

Mr. NELSON. Will the Senator yield to me for a moment? Mr. KENYON. I will be very glad to yield.

Mr. KENYON. I will be very glad to yield.
Mr. NELSON. I want to call the attention of the Senator
from North Dakota to what the Supreme Court stated in the The language is significant and right to the point. Rahrer case. Here is what the court said, speaking about the Wilson law:

Here is what the court said, speaking about the Wilson law:

The Constitution does not provide that interstate commerce shall be free, but, by the grant of this exclusive power to regulate it, it was left free except as Congress might impose restraint. Therefore it has been determined that the failure of Congress to exercise this exclusive power in any case is an expression of its will that the subject shall be free from restrictions or impositions upon it by the several States.

* * Congress now has spoken and declared that imported liquors or liquids shall, upon arrival within a State, fall within the category of domestic articles of a similar nature. Is the law open to constitutional objection? * * No reason is perceived why, if Congress chooses to provide that certain designated subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within its competency to do so. * * We recall no decision giving color to the idea that when Congress acted its action would be less potent than when it kept silent. The framers of the Constitution never intended that the legislative power of the Nation should find itself incapable of disposing of a subject matter specifically committed to its charge. * * Congress did not use terms of permission to the State laws in respect to imported packages in their original condition, created by the absence of a specific utterance on its part. It imparted no power to the State not then possessed, but allowed imported property to fall at once upon arrival within the local jurisdiction.

In other words, the court could see no reason why Congress could not by its legislation divest an article of that kind of its interstate commerce privilege at an earlier time than it otherwise would lose that character.

Now, if in that case Congress could divest it of the right of sale in the unbroken package, why can it not go a little further and say that the article shall be subject to the laws of the State before it comes into the hands of the consignee?

Mr. KENYON. Would it have become interstate commerce if it never got over the boundary line of the State? That is

the proposition that occurs to me.

Mr. McCUMBER. Will the Senator yield to me further?

Mr. KENYON. I do. Mr. McCUMBER. The opinion read by the Senator agrees exactly with my proposition, that it may be divested, but that the law itself should show the congressional intent that it should be divested of its commercial character the moment it crosses the line. I am not arguing against the authority of Congress to divest it of its commercial character, but I insist that there should be such an amendment, or the language should be clear that the purpose is to divest it of its commercial character the moment that it crosses the line, and not leave it open to the implication that we are allowing it to proceed further as an article of interstate commerce, and yet be subject to the authority of the State.

I think there is no disagreement between the opinion the

Senator has just read and the suggestion I make.

Mr. KENYON. The Senator from North Dakota will agree with me, will he not, that the Supreme Court, of course, would try to save any constitutional infirmity?

Mr. McCUMBER. Yes; but I think the act should be made wholly clear by a little statement that the article shall be divested of its commercial character the moment it arrives within the State. That would make it so clear there could be no question.

Mr. KENYON. What would be the need of that if the first section, which divests it of its interstate character, became a law?

Mr. McCUMBER. The only difference, as I understand, is that those who favor this section 2 desire to keep the article out of the State entirely or make it subject to the laws of the State the moment it gets into the State without the necessity of having to prove an intent, and if that can be done it is better than the first section.

Mr. KENYON. Mr. President, I have felt that this section could be sustained by the Supreme Court on the theory I have advanced, of holding the delivery at the end of the actual physical transportation, from there to the consignee, as an incident of commerce. But outside of this troublesome question, and one on which I confess I have no abiding legal conviction, it seems to me very clear that the power is in Congress to absolutely prohibit, as has been argued, the transportation of intoxicating liquors in commerce. In other words, to take such liquors out of interstate commerce. This full plenary power existing, it is within its power, as a part thereof, to make any regulation it may desire with reference to such intoxicating liquor, and hence it has the right to prohibit, as is done in this measure, the transportation of liquors intended by the parties interested therein to be used in violation of the law of a State.

Mr. President, the whole question was epitomized in just a few words which I want to read in closing from the dissenting opinion of Justice Harlan, in the Bowman case. I think no man has ever occupied a position on our Supreme bench or on any bench in any government in the world who in all his utterances has rung out so true for the right thing and for the human side of legislation and of law as did that great-bodied, great-hearted, great-brained Kentuckian.

Twenty-five years ago in the Knight case he painted, in a dissenting opinion, an accurate picture of the condition of this country if the majority opinion of that court as to trusts and combinations was to prevail. And looking over the condition in this country to-day and reading the views of Justice Harlan in that dissent, it would seem as if he was endowed with almost

prophetic vision. His voice rang out again in the Northern Securities case, and in his dissenting opinion in the Standard Oil and the Tobacco Trust cases. He believed that the conservation of human rights was as much the concern of legislation and of the courts as the conservation of property rights, and he said, with reference to this very question, and it ought to be final, in his dissenting opinion in the Bowman case:

If, consistently with the Constitution of the United States, a State can protect her sound cattle by prohibiting altogether the introduction within her limits of diseased cattle, she ought not to be deemed disloyal to that Constitution when she seeks by similar legislation to pro-

tect her people and their homes against the introduction of articles which are, in good faith and not unreasonably, regarded by her citizens as "laden with infection" more dangerous to the public than diseased cattle, or than rags containing the germs of disease.

And he further said:

Does the mere grant of the power to regulate commerce among the States invest individuals of one State with the right, even without the express sanction of congressional legislation, to introduce among the people of another State articles which by statute they have declared to be deleterious to their health and dangerous to their safety? In our opinion, these questions should be answered in the negative.

Then, Mr. President, in one sentence he states this proposi-

tion that this bill seeks to reach:

It is inconceivable that the well-being of any State is at the mercy of the liquor manufacturers of other States.

That is the whole problem in this bill. That is the problem which this Congress is asked to meet, and in my humble judgment this measure will help to meet it.

AGRICULTURAL EXTENSION DEPARTMENTS.

Mr. SMITH of Georgia. Mr. President, I desire very briefly to bring to the attention of the Senate the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and acts supplementary thereto.

Fifty years ago the Morrill Act was passed. Under it a landgrant college was established in each State of the Union. Twenty-five years ago the Hatch Act was passed. Under it an experiment station was established in each State of the Union.

In most of the States these two institutions work in close association. They have conducted investigations and made tests bearing upon many important questions connected with the farm, and their investigations and tests have been especially with reference to conditions in their respective States. They have studied plants and determined with accuracy the foods upon which they live and mature crops. They have analyzed different classes of soil in their respective States to determine the plant food contained, and have learned how to make it valuable. They have ascertained defects of soils and how to remove They have worked out improvements in seeds, and have found the way to resist plant diseases. They have tested stock, cattle and hog foods and diseases. They have found what foods will bring the best results, and have advanced in the treatment of diseases.

The National Government has spent on the agricultural colleges and experiment stations, in round figures, \$70,000,000. It spends now upon them nearly \$4,000,000 annually. From State appropriations and other sources they receive even a larger sum, but most of this last-named amount is required for new

buildings and equipment.

The Government appropriates \$15,000,000 a year for carrying on the exclusively agricultural work of the Department of Agriculture. Much the larger portion of this amount is spent in investigation and experimentation. Information of great value to the rural interests of the country is secured, but an apparently small sum is devoted to showing those at work upon the farms how to apply this information. There are students at these colleges who are obtaining much aid from the instruction which they receive, but there is no sufficient provision to carry to the farmers at their homes the valuable information which has been and will be obtained by the work of the colleges and experiment stations.

Dr. True, Director of the Office of Experiment Stations, is authority for the statement that for several years the officers of the colleges and experiment stations have been pressed with the demand to carry the result of their research to the home of the farmers. A number of the colleges have secured small amounts to do this work in a partial way, but, he declares, "their work was limited by lack of sufficient funds." It is of vital importance to carry promptly to the farmers the knowledge ac-

quired at these institutions.

A number of bills have been introduced in Congress in recent years seeking to meet this pressing want of the agricultural interests. Last fall a bill was perfected by the executive committee of the colleges and experiment stations, by officers of the Agricultural Department aided by officers of the National Soil Fertility League and Congressman Lever and myself. I introduced the bill in the Senate, and he introduced it in the

The bill under consideration this morning is substantially the bill perfected, as I have just stated, the only changes of importance being two amendments, one which provides that this work from the colleges shall not interfere with the demonstration work now being done by the Department of Agriculture, and, further, that 75 per cent of the money appropriated shall be used in actual demonstration work.

The bill under consideration provides for the establishment and maintenance in each of the land-grant colleges of agriculture of an extension department to give instruction in agriculture and home economics to the farmers at their homes. This instruction is to be given by demonstration work on their own land in the local farm communities. It provides for a fixed appropriation from the Treasury of \$10,000 annually, unconditionally, to each State. It provides for an appropriation beginning with \$300,000 a year, July 1, 1913, to be prorated among the States on a basis of rural population. This appropriation is to be increased each year \$300,000 until the maximum of \$3,000,000 is reached in 1923. No State is to receive a pro rata of this sum unless it provides an equal amount for the same purpose. The money is to be expended by the State colleges of agriculture through their extension departments in each State. Seventy-five per cent of the money must be used in actual field demonstration, 5 per cent may be used in printing and publications, and the remaining 20 per cent for instructions in household economics or for further field demon-

The bill provides that any Federal money lost or misused must be made good by the State, and it prohibits the use of the money for purposes except those specified. It provides for reports from the colleges to the Secretary of Agriculture, and

through the Secretary of Agriculture to Congress.

According to the plans of the bill, the representatives of the colleges in the various States will enlist farmers, who, under the direction of the representative of the agricultural college, will test the value on their own land of the information brought by the representative of the college. The farmer will be invited to plant under the direction of the representative of the college. The character of the soil will be tested, the nature of the fertilizer to be used explained, the selection of seed advised, and the time of planting and manner of cultivation suggested, and demonstrations will be made which will teach and prove the value of the knowledge acquired at the colleges and experiment stations. In another place the representative of the college will teach, and by experimentation demonstrate, the best manper of caring for fruit trees. In another place the best system for feeding cattle and stock, and dairying and butter making may be the subject of the demonstration. Demonstration will also be made in home economics and labor-saving machines.

The colleges of agriculture and experiment stations in each State have been devoted to a study of the peculiar conditions in the localities of their States and will, through their representative, carry to the farmer in his home the accurate information which experimentation has demonstrated, and in turn give practical demonstrations in the locality before the farmer and his neighbors of the value of the information acquired and how

to use it.

This class of work will be supplemented by printed discussions of the best mode of farming, on hygiene, and on household economics, and the means available will be used to give those on the farm all that research can develop which will be of service to them.

The value to the agriculture of the country of such work is

not a matter of experiment. It has been tried and proved in our own country to a limited extent. To a far greater extent it has been tried and proved in other countries. In many parts of Europe the representatives of the colleges and experiment stations are constantly engaged in the field among the farmers showing the grown farmers what has been learned at the colleges and experiment stations. I will take Belgium as an illustration. For 20 years this course has been pursued there. Information gathered at the Department of Agriculture shows the fact that as a result of this work in Belgium the production per acre in 20 years' time has increased 30 per cent and the cost of production has been decreased.

Let us think what this would mean for our country. annual value of our agricultural products is, in round figures. \$9,000,000,000. If the increase as the result of this work were only 20 per cent, we would have an increased value of \$1,800,000,000, or a sufficient sum to meet the proposed appro-

priation for 600 years.

The colleges of agriculture and experiment stations sent their representative to appear before the congressional committee to tell us that they were ready for the work, could do the work. and how valuable it would prove.

This measure has been indersed by the Association of American Agricultural Colleges and Experiment Stations, by the can Agricultural Coneges and Experiment Stations, by the International Dry Farming Congress, by the New England Conference on Rural Progress, by the Tri-State Grain Growers' Convention, comprising Minnesota and the two Dakotas; by the State Grange, the State Federation of Farmers' Clubs, and the State Horticultural Society, of Michigan; by the Farmers' Union; by the Third Wisconsin Country Life Conference; and by the Eastern Fruit Growers' Association, and by the National

It received the approval of the Secretary of Agriculture, who, referring to this bill, said:

Unquestionably such a plan, if properly carried out, would result in great good and would do much toward making useful and valuable the rapidly growing store of knowledge developed along agricultural lines.

The farm lands of our States are occupied by over 49,000,000 men, women, and children. A large number of them struggle to earn a livelihood and can not afford to experiment for the purpose of learning things that are new. If we will only carry to them those truths which have been demonstrated in the colleges of agriculture and experiment stations, they can be shown how to double the yield of their lands and at the same time

lessen the cost of production.

I believe that the greatest power and chief hope of this country are found in our farm population. We have made the investment and prepared for the work. Shall we carry the results of the investment to the people who need it?

I am sure that no piece of legislation has been before Congress in years which will bring larger results for the amount

There are measures we may support because we believe they are right, but we may know that this is right. There are measures ures we may support because we believe that they will do good, but we may know that this will do good. Most measures have possible harm connected with them. This has no possible harm.

I urge the speedy adoption of this measure, feeling sure that

not alone the tiller of the soil but the people of our entire country will feel the beneficient effects of the operation of this bill.

Mr. SMITH of Arizona. Before the Senator from Georgia takes his seat, I will ask, for information, if the bill provides that on the gift by the Federal Government of \$10,000 to a State the State must also give \$10,000 in order to reap the benefit of the bill?

Mr. SMITH of Georgia. No. I explained at the outset that the bill gives \$10,000 unconditionally to each State. The further appropriations are conditioned upon like appropriations from the States, but the \$10,000 appropriation is to go to each of the States unconditionally.

PROPOSED EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

Mr. SMITH of Georgia. I desire to suggest that there is no quorum present.

The PRESIDENT pro tempore. The Senator from Georgia suggests the absence of a quorum. The roll will be called. The Secretary called the roll, and the following Senators an-

swered to their names: Martin, Va. Martine, N. J. Massey Myers Nelson Newlands O'Gorman Oliver Overman Cullom Curtis Dixon du Pont Gallinger Ashurst Balley Bankhead Root Sanders Smith, Ariz, Smith, Ga. Smith, Mich, Smith, S. C. Smoot Stone Sutherland Borah Bourne Brandegee Garinger Gore Gronna Guggenheim Bristow Bristow Brown Burnham Burton Chamberlain Clapp Clark, Wyo. Crane Crawford Culberson Johnson, Me. Johnston, Ala. Jones Overman Sutherland Page Penrose Perkins Perky Pomerene Swanson Townsend Warren Kenyon La Folicite

Lodge McCumber McLean Richardson Culberson Mr. KENYON. I desire to state that my colleague [Mr. Cum-MINS] is detained at home by serious illness in his family

Wetmore

Mr. PAGE. I wish to announce that my colleague [Mr. Dil-LINGHAM] is detained on account of illness.

Mr. SMITH of Michigan. The Senator from New Mexico [Mr. Fall] is in the performance of special service, for which he was designated by the Senate, and he is obliged to be absent from the sessions. I desire the RECORD to show that his absence is due entirely to official business outside the Chamber.

The PRESIDENT pro tempore. Sixty-one Senators have answered to their names. A quorum of the Senate is present. The question is on the motion made by the Senator from Illinois, that the Senate proceed to the consideration of executive

Mr. MARTINE of New Jersey. I ask for the yeas and nays. Mr. REED. Let us have the yeas and nays. Mr. CULBERSON. Have the yeas and nays been ordered? The PRESIDENT pro tempore. The yeas and nays have been demanded. Is there a second to the demand?

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CRANE (when his name was called). The Senator from Maine [Mr. GARDNER], with whom I am paired, is absent. In his absence, I refrain from voting.

The PRESIDENT pro tempore (Mr. Gallinger, when his name was called). The present occupant of the chair is paired with the Senator from Arkansas [Mr. Davis]. He transfers that pair to the Senator from South Dakota [Mr. Gamele], and will vote "yea."

Mr. McCUMBER (when his name was called). general pair with the senior Senator from Mississippi [Mr. PERCY1. I transfer that pair to the junior Senator from Maryland [Mr. Jackson] and vote. I vote "yea."

Mr. MASSEY (when his name was called). with the Senator from Virginia [Mr. Swanson]. In his absence I refrain from voting. My vote would be in the affirmative if the Senator from Virginia were present.

Mr. PERKINS (when his name was called). eral pair with the junior Senator from North Carolina [Mr. OVERMAN]. As he is absent from the Senate, I will withhold my vote.

The roll call was concluded.

Mr. CLAPP (after having voted in the affirmative). I notice that the senior Senator from North Carolina [Mr. Simmons], with whom I have a general pair, is not in the Chamber. therefore feel compelled to withdraw my vote.

Mr. PENROSE (after having voted in the affirmative). I notice that the junior Senator from Mississippi [Mr. Williams], with whom I am paired, has not voted. Therefore I withdraw my vote.

my vote.

Mr. McLEAN (after having voted in the affirmative). I notice that the junior Senator from Montana [Mr. Myers], with whom I am paired, is not in the Chamber. When I voted I thought he was present. I therefore withdraw my vote.

OLIVER (after having voted in the affirmative). notice that the junior Senator from Oregon [Mr. CHAMBERLAIN]. in company with most of the Senators on the other side, is out of the Chamber, and having a general pair with him, I am compelled to withdraw my vote.

Mr. ROOT. Mr. President, I think all those Senators were here when the roll call began. I think they were in the Chamber and that they are probably now in the cloak room. I do not

Mr. JONES. I desire to state that my colleague [Mr. Poin-DEXTER] is detained from the Chamber by important business. I do not know how he would vote if present.

YEAS-29.

The result was announced—yeas 29, nays 2, as follows:

Borah Bourne Brandegee Bristow Brown Burnham Burton Clark, Wyo.	Crawford Cultom Curtis du Pont Gallinger Gronna Guggenheim Jones	Kenyon Lodge McCumber Nelson Page Root Sanders Smith, Mich.	Smoot Sutherland Townsend Warren Wetmore
	NA NA	YS-2.	
ALC: MINISTER STATE	Martin, Va.	Martine, N. J.	
	NOT V	OTING-63.	
Ashurst Bacon Bailey Bankhead Bradley Briggs Bryan Catron Chamberlain Chilton Clapp Clarke, Ark. Crane Culberson Cummins Davis	Dillingham Dixon Fall Fletcher Foster Gamble Gardner Gore Hitchcock Jackson Johnston, Me. Johnston, Ala. Kern La Follette Lea Lipplit	McLean Massey Myers Newlands O'Gorman Oliver Overman Owen Paynter Penrose Percy Perkins Perky Poindexter Pomerene Reed	Richardson Shively Simmons Smith, Ariz. Smith, Ga. Smith, Md. Smith, S. C. Stephenson Stone Swanson Thornton Tillman Watson Williams Works

The PRESIDENT pro tempore. Twenty-nine Senators have voted in the affirmative and 2 in the negative-not a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst Bacon Balley Bankhead Borah Bourne Bristow Bristow Burnham Burnham Burnham Burnham Burnham Clapp Clark, Wyo. Crane Cuberson Culberson Cutlom Curtis du Pont Fletcher Gallinger Guggenheim Hitchcock Johnston, Ala. Jones Kenyon Lodge McCumber	McLean Martin, Va. Massey Myers Nelson Newlands O'Gorman Oliver Overman Page Penrose Perkins Reed Richardson	Root Sanders Smith, Ga. Smith, Mich. Smith, S. C. Smoot Stone Sutherland Swanson Tillman Townsend Warren Wetmore
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Mr. OLIVER (during the calling of the roll). If it is in order now, I call attention to the fact that my pair is here, and I therefore ask to have my vote recorded on the vote just taken.

The PRESIDENT pro tempore. It is too late for the Senator to vote. The roll is now being called to determine whether a quorum is present.

Fifty-five Senators have answered to their names. A quorum of the Senate is present. The Senator from Georgia [Mr. BACON] will please take the chair to preside over the impeachment proceedings.

Mr. BACON assumed the chair as Presiding Officer.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDING OFFICER (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDING OFFICER. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeachment.

The Secretary read the Journal of Tuesday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDING OFFICER. Are there any inaccuracies in the Journal? If not, it will stand approved. Counsel for the respondent will proceed.

TESTIMONY OF DWIGHT J. BEARDSLEE.

Mr. WORTHINGTON. I ask that Dwight J. Beardslee may now be called.

Dwight J. Beardslee, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Give us your full name, please, Mr. Beardslee.—A. Dwight J. Beardslee.
Q. Where do you live?—A. Peckville, Pa.
Q. What is your business?—A. I am in the coal business.

Q. In what species or department of the coal business?—A. In the washery business,

Q. Washing culm dumps?—A. Yes, sir.

Q. Do you know what is called the Katydid culm dump, near Moosic, Pa.?-A. I do.

Q. Did you ever have occasion to examine it with a view to determining its value?-A. Yes; I looked it over.

Q. When was that?—A. I think it was some time last April. Q. At whose instance?—A. A man by the name of Davis.

Q. Do you know his full name?—A. I believe the man's name was Jones. I had that wrong. It was Mr. Jones. I do not know the man's first name.

Q. Do you know whether it was Thomas Star Jones, or-I believe that was what they called him; but I am not sure about it.

Q. Did you go alone or were you in company with somebody else?—A. I was in company with somebody else.
Q. Who?—A. C. C. White, Robert Davis, and Mr. Jones.
Q. What kind of an examination did you make of the dump?—A. I looked the dump over. I did not examine it particularly collections and problems of the second state of the

quantification of the dump over. I did not examine it particularly, only just as I walked around it, to see the size of it.
Q. About how much time did you spend on the examination or around the dump?—A. About two hours.
Q. Tell us what conclusion you reached, if you reached any?—A. I could not find any water. That was the first thing I asked about. And the next thing, I thought the dump was too small to warrent an apparation. to warrant an operation.

Q. Why too small to warrant an operation; what does that mean?-A. It was too small a tonnage to pay for building a

plant there, I thought.

Q. What would it have cost to have built a plant and operated it properly and to have gotten the water up to it?—A. I do not know what it would have cost to get the water, because I did not know where you could get it. To build a plant there would have cost from \$15,000 to \$18,000.

Q. Fifteen to eighteen thousand dollars to build the plant?—

A. I should think so.

Q. And for the water an additional sum, whatever it would cost?-A. Yes, sir.

Q. But you did not see where you could get it at all?-A. I did not that day; no, sir.

Mr. WORTHINGTON. That is all.

Mr. Manager CLAYTON. We have no questions.

The PRESIDING OFFICER. The witness is excused.

TESTIMONY OF REESE ALONZO DAVIS.

Reese Alonzo Davis, being duly sworn, was examined and testified as follows

Q. (By Mr. WORTHINGTON.) Where do you live?—A. Scranton, Pa.

Q. What is your business?—A. I am office man for my brother, mining engineering office.

Q. Have you had any experience in the matter of ascertaining the value of coal dumps in that region?—A. Just a little. Q. Tell us briefly what your experience has been .- A. Well,

I used to look after the mines we operated ourselves for several years. I used to look after the mines mostly.

Q. You say the mines "we operated"?—A. My brother and

Q. For how many years were you engaged in that way?-About the mines:

Q. Yes.—A. All my life. Q. You say all your life. Might I ask how old you are?— A. Forty-two.

Q. And for twenty-odd years you have been engaged in that sort of business?—A. Yes

Q. Did you at any time have occasion to visit the Katydid dump near Moosic, Pa.?—A. Yes, sir.

Q. When was that?—A. April 6, 1912.

Q. At whose instance did you go there, for what purpose?-A. Mr. Jones, of Scranton-Thomas H. Jones-came in the office one day and said that he had a culm dump with 150,000 to 200,000 tons of culm; and I said, "If you have a dump like that I have got a purchaser." So I got Mr. Beardslee in the office and we went down to look it over, and when we got there I could not see any value in it myself. I did not measure it up, did not test it, but just paced it off.

Q. You paced it and examined it, and reached your conclusion in that way, did you?—A. Well, we saw the tonnage was not

there, and we did not bother.

Q. What do you mean by saying you saw the tonnage was not there?—A. The tonnage that Mr. Jones claimed. He claimed about 150,000 to 200,000 tons. Mr. Beardslee said it was not worth while to bother with it; he said he would not take it for a gift.

Q. Mr. Beardslee has been here and told us what he thought about it, but I would like to have your judgment about it.— A. Those are the very words he said. He said he would not take it as a gift.

Mr. Manager NORRIS. We object to that kind of an exami-

The PRESIDING OFFICER. That will be excluded.

Q. (By Mr. WORTHINGTON.) I do not want that. Of course, that is not an answer to my question. What we want to know is the conclusion you reached as to the quantity and value.—A. I did not think there was much value there, because it would not pay to put up a washery to operate it; at least, I did not think so.

Q. Do you know about the cost of washeries?—A. No, sir; I have not been in that line—in the operating line—for the past eight years. Therefore I am not versed on the price of material and stuff to-day.

Q. Have you had experience in estimating the quantity of material in these dumps?—A. A little; yes, sir.

Q. As foreman, you said, or acting for your brother?—A. Acting for my brother; I worked for him.

Q. Did you form any conclusion as to how much material there was in the dump when you looked at it?—A. We just paced it off; did not measure it, you understand. We did not test it, but just paced it off.

Mr. Manager STERLING. Then I object to any question along that line. Evidently the witness knows nothing about it. Mr. WORTHINGTON. I understand the witness has testified

he has had some experience.

The PRESIDING OFFICER. He can give his estimate of the value of the property, and it will be a question as to how much weight his opinion is entitled to.

Mr. WORTHINGTON. I am asking him more particularly

about the quantity. The Witness. I think there was about 20,000 tons. That is,

fair coal. Q. (By Mr. WORTHINGTON.) That much fair coal?-A. Yes; below pea coal.

Q. You say below pea coal?—A. Yes.
Q. Did you form any estimate about the pea and sizes above?—
A. No; I did not. We just pushed it over with our feet when we were walking over it, and we could not see—

Q. I want to find out why you say you estimated the quantity below pea. Did you find no pea and no chestnut there?-A. Well, we could not see any.

Mr. WORTHINGTON. That is all.

Cross-examination:

Q. (By Mr. Manager STERLING.) Do you know Mr. Rittenhouse?—A. I know him to see him, but not personally.
Q. Is he a competent engineer?—A. As to that I can not say.
Q. If he measured it and tested it and found 49,000 tons of coal there, you would say you did not know much about it,

would you not?
Mr. WORTHINGTON. I object to asking one witness what he thinks about the testimony of another. In view of the ob-jections made yesterday to our questions, I think it is a little

Surprising that such a question should be put.

Mr. Manager STERLING. If you bring witnesses here and put them on the stand and do not qualify them as experts, I

do not think you have a right to ask them their opinion.

Mr. WORTHINGTON. I do not think the manager has a right to ask him what conclusion he draws from the testimony

of other witnesses whom he has not heard.

The PRESIDING OFFICER. The manager might ask him, if he thought it proper to do so, whether the fact that the estimate of another person was so and so, and that was brought to this witness's knowledge, it would cause him to change his mind.

Q. (By Mr. Manager STERLING.) If an estimate and a mechanical test made by Mr. Rittenhouse showed 49,000 tons, then you would say you were mistaken in your judgment?—A. No, sir; I would not. I would take my own judgment.

Q. You can tell better by just looking at the dump than a mining engineer can tell by actual measurement and test?-A.

Not necessarily: no.

Q. If Mr. Saums, the engineer who measured it and tested it for the Du Pont Powder Co., disclosed 90,000 gross tons and 55,000 tons of coal, then would you say that your judgment was wrong?-A. No.

Mr. Manager STERLING. That is all.

The WITNESS. I take my own judgment. Q. (By Mr. Manager STERLING.) Yes; you would go out and just look at a dump and step it off and then take your judgment in preference to any engineer's, would you?-A. No; not necessarily so.

Q. Just answer that question .- A. If I thought the dump was of any value when I took a man down there to purchase

it, then it would be worth while to measure it.

Q. Just answer my question—A. I am trying to. Q. Would you take your judgment based on the examination you made against the judgment of any competent engineer who had measured it and tested it; would you do that?—A. If it was necessary I would go down and measure it myself.

Mr. Manager STERLING. That is all.

Redirect examination: Q. (By Mr. WORTHINGTON.) One question about Mr. Rittenhouse. Do you know something about him?—A. I do not know Mr. Rittenhouse only to see him. I am not personally acquainted with him.

Q. Do you know anything about his reputation up there?—A. No; I do not.

Q. As an expert?—A. I do not. Mr. WORTHINGTON. Well, then, I can not ask you about That is all.

it. That is all.

The PRESIDING OFFICER. The witness may retire, and is finally excused.

TESTIMONY OF OSCAR WENDEROTH.

Oscar Wenderoth, being duly sworn, was examined and testified as follows:
Q. (By Mr. WORTHINGTON.) You are the Supervising

Architect of the Treasury?-A. I am, sir.

Q. Have you been subpænaed to bring here from your office the plans of the Federal building in Scranton?-A. I have, sir. Q. Where the offices of the judges there are located?-A. Yes, sir.

Q. And the post office?—A. Yes. Q. Have you them with you?—A. I have brought what we call in the office the assignment plans—a complete set of plans of the building-the original office copy, showing the assignment of space and the arrangement of the building. I brought a duplicate.

Q. You have a duplicate set which you can leave here?—
I was not sure whether you would demand the originals. have a duplicate, with a certification that it is a true copy.

Mr. WORTHINGTON. As far as I am concerned, we can use the duplicate, and let the witness take the originals back with him.

Mr. Manager FLOYD. We object, unless we know the purpose of it.

Mr. WORTHINGTON. Let us have the plans identified first, and then when we offer them it will be time enough to raise any question. We can identify them and let the witness go.

Mr. Manager FLOYD. Certainly. Q. (By Mr. WORTHINGTON.) What is this [indicating]?— That is a photograph of the building, in case it should be called for.

The PRESIDING OFFICER. Speak louder, so everyone can

The WITNESS. I brought a photograph of the building in case there should be a call for it and two sets of plans, one an original office copy and the other a certified duplicate of the original office copy.

Mr. WORTHINGTON. I ask to have these plans marked now simply for identification, and the question of offering them in evidence will come up later. Take the photograph first. am having the certified copies marked, not the originals, which I propose to let the witness take back with him, unless there is objection.

Mr. Manager FLOYD. You are not offering them in evi-

dence now

Mr. WORTHINGTON. No; I am not offering them in evidence now. I called this witness at this time so that he may be allowed to go. He is in charge of the office up there, and we ought not to keep him waiting any longer than is necessary. So far as we are concerned, the witness can go. It is perfectly understood these papers are not now offered in evidence; they are merely marked for identification.

Mr. Manager FLOYD. I desire to say, Mr. President, on behalf of the managers, that we did not object to them on the ground that they were certified copies instead of the originals, but we desire to reserve the right to object to the testimony

for other reasons when it is offered.

Mr. WORTHINGTON. Then the witness may be discharged. The PRESIDING OFFICER. The witness may be finally discharged.

TESTIMONY OF CLARENCE S. WOODRUFF.

Clarence S. Woodruff, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) What is your full name?-A. Clarence S. Woodruff.

Q. Where do you reside?--A. Scranton, Pa.

What is your business?-A. I am an attorney at law

O. In what building there is your office?-A. In the Republican Building.

Q. How far is that from the office of W. P. Boland?-A. Right next to it.

Q. Do you know him?-A. Very well. And his brother?-A. Yes, sir.

Q. He has an office there, too?-A. Yes.

Q. Where is it?-A. Next to Mr. Christy Boland is Mr. Will Boland's office. Q. I will ask you whether or not, about the 1st of November,

last, you had an interview Mr. Christopher G. Boland, and he took you into his office in the Republican Building?-A. I did.

Q. And shut the door, and then had a conversation with him?--A. Yes, sir.

Mr. Manager FLOYD. I object to any conversation between this witness and Christopher Boland.

Mr. WORTHINGTON. When Mr. Christopher Boland was on the stand I laid the foundation for this evidence—

Mr. Manager CLAYTON. Where did you lay it?
Mr. WORTHINGTON. By asking him on cross-examination whether he did not have this interview with this witness at this time and make the statement that I now offer to prove he did make.

Mr. Manager CLAYTON. What page? Mr. WORTHINGTON. I do not remember. Mr. Simpson will give it to you in a moment.

Mr. Manager FLOYD. I do not object to his repeating to this witness the question he asked Mr. Boland.

Mr. WORTHINGTON. That is what I propose to do.
Mr. Manager FLOYD. If that is what he is proposing to do,
go ahead with the question. If it is for the purpose of contradicting Mr. Boland, I do not object, and I presume that is the

Mr. WORTHINGTON. That is the purpose and the sole purpose of it-to contradict Mr. Christopher Boland.

Mr. Manager FLOYD. We do object, because that is a matter that counsel brought out on cross-examination.

The PRESIDING OFFICER. Counsel for the respondent may proceed. Objection has been made, and counsel for the respondent has the floor.

Mr. WORTHINGTON. I will now proceed to state the question I propose to ask. You will not answer until-

Mr. Manager STERLING. Will counsel give us the date on which that question was asked?

Mr. WORTHINGTON. We are looking for it. We will have it in a moment. While they are looking for that let me ask you about another matter.

Q. (By Mr. WORTHINGTON.) Is your office on the same side of the Republican Building; is it on the side next to the Federal building?-A. Yes, sir.

Q. Where Judge Archbald had offices while he was judge

there?-A. Yes, sir.

Q. Do you know about the relation of the office of William P.

Boland to the office the judge occupies?— Λ . I do.

Q. What is that relation?—A. It is about 60 feet back from the street from Judge Archbald's window, and the distance between the Republican Building, where Mr. Boland's office is, and the Federal building, where Judge Archbald's office is, is 50 feet, so that the distance across would be the hypotenuse of a right angle, one side being about 50 feet and the other side about 60 feet.

Q. Do you know about Judge Archbald's offices there, those he formerly occupied and those he has occupied since he became

a judge of the Commerce Court?—A. Yes, sir; I do. Q. What change was made then?—A. A change was made from the office in front to an office in the rear; about 50 feet.

Q. I ask you if that change was made about the time he became a judge of the Commerce Court? As a matter of fact, do you know when it was made?-A. I do not remember just when it was made.

Q. Do you remember that it was made last spring?-A. It was made recently; yes; since he became judge of the Commerce Court.

Q. You do not know just when it was made?-A. I think some time last spring. My office is just across from where he is

Mr. Manager FLOYD. On what page?
Mr. WORTHINGTON. I am trying to find it. [After a pause.] It is page 420. I will ask the witness the question in the language in which I asked it to Christopher Boland. Do not answer, you understand, until you hear it, whether there is objection to the question. [To the witness:] I will ask you whether on or about the 1st of November last, in Christopher G. Boland's office in the Republican Building, he requested you to see Judge Archbald, and to state to Judge Archbald for him that if the suit of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co. was settled he, Christopher, would withdraw from all impeachment proceedings against Judge Archbald, and asked you to communicate that message to Judge Archbald.

Mr. Manager FLOYD. I object.

Mr. Manager WEBB (to Mr. Worthington). What does Bo-

The PRESIDING OFFICER. The manager objects, Mr. WORTHINGTON. Shall I go on and read what he said? The PRESIDING OFFICER. No; the Chair understands that counsel is now proposing to answer the objection of the

Mr. WORTHINGTON. The manager asked me what Chris-

topher Boland said in response to that.

Mr. Manager WEBB. Never mind; I know.

Mr. WORTHINGTON. I will remind the Chair and the Senate that later the senior Senator from Texas asked the witness a question about that on page 422, and the witness gave an answer which covers three-fourths of a page.

Mr. Manager FLOYD. On what page is the first question? Mr. WORTHINGTON. At the top of page 420 is the first question. The question put to him by the Senator from Texas

Mr. Manager FLOYD. Yes, sir; we object.
Mr. WORTHINGTON. I am waiting to hear the objection. propounded the question.

The PRESIDING OFFICER. Which question is it that was asked the witness?

Mr. WORTHINGTON. I paraphrased the question put to Christopher G. Boland at the top of page 420.

Mr. Manager FLOYD. Mr. President, to that we object. object to this testimony because we think it is on a collateral matter and is wholly immaterial and irrelevant to the issue in this case. We can not impeach a witness on immaterial matters. That is a well-known rule of law. As to whether at some subsequent time he had a conversation with Mr. Boland in which Mr. Boland made any such statement or request of this

case, and for that reason we object to it. We concede the right of counsel to contradict a witness upon material matters, unless they have brought them out themselves on cross-examination, and then we do not concede that right. That is one reason for objecting, Mr. President.

The PRESIDING OFFICER. The counsel for the respondent

will proceed.

Mr. WORTHINGTON. The managers were consulting together, apparently, as to whether they would say anything further.

Mr. Manager CLAYTON. We reserve the right to be heard

at the end of your remarks.

Mr. WORTHINGTON. Christopher G. Boland, as the President remembers, was a witness called on behalf of the managers, and gave testimony which they considered of great importance and which the Senate thought of sufficient importance for a vote to admit. I had always supposed until now that there was no question that when any witness is put on the stand his adversary may show whether that witness has done anything which shows that he is interested in the result of the case or has attempted to bring about a result in that case by unfair

If Christopher G. Boland, for instance, had come to Judge Archbald and said to him, "If you will pay me \$100,000 I and my brother will withdraw from these impeachment proceedings," I take it for granted nobody would deny that that was competent evidence to show the kind of a man he is and to show what credibility should be attached to his evidence. That is just in substance what he did. We contend, and we offer to prove by this witness, that he asked Mr. Woodruff to come down into his office, took him into his office, where there was no one else, and carefully shut the door, and then said to him, "I want you to go and see Judge Archbald and tell him that if the claims of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co., the rate case before the Court of Commerce of which we have heard so much, could be settled, he and his brother would withdraw from the impeachment proceedings. What is that but an attempt of the witness to get somebody to bribe him and to come here and give testimony because he was not bribed. We expect to follow that up by showing that the witness, as a matter of fact, did communicate his message to Judge Archbald in the presence of another witness, who is here. So far as that is concerned, that is another matter. The question now is whether we may prove that Christopher G. Boland, a witness for the managers, undertook in this way to get money from or through Judge Archbald for the purpose of stifling his testimony here.

Mr. Manager WEBB. Mr. President, the absurdity of the answer to that question is perfectly evident from the fact that the case which counsel speaks of was settled by the Interstate Commerce Commission last summer and could not have been pending when this conversation took place last month, as is

alleged.

It is a universal rule of evidence, Mr. President, that wherever counsel on cross-examination brings out collateral testimony they are forever bound by the answers of the witness with reference to all collateral matters. This is purely, of course, a collateral question which Mr. Worthington brought out from Mr. C. G. Boland, and he is bound by those answers. only object that he has now in the introduction of this witness is to contradict Mr. Boland about a purely collateral matter, and it is a universal rule of practice and of evidence that that can not be done. If that were not so, we could be piling up straw men here from one year to another to knock them down.

If Mr. Boland made a false statement about a matter which

is purely collateral, he could not be indicted for perjury, because it is not a material statement. Therefore the rule is wise that wherever counsel draws out from a witness on cross-examination a collateral matter counsel can not put up additional evidence to contradict that. The only object of this testimony is to contradict what Mr. Worthington brought out from the witness on a collateral question entirely. Therefore we say that it is

not competent in any view of the case.

The PRESIDING OFFICER. The Chair thinks that for the purpose of contradicting a witness upon a collateral matter it is clearly inadmissible; but independently of the fact that the witness, Boland, had testified one way or the other on this particular point, it seems to the Chair that the counsel is entitled to show any fact which would indicate bias on the part of the witness.

The Chair puts his ruling on that ground exclusively, not on the ground that counsel has not a right to contradict it; but if the witness had not been interrogated as to that matter at all witness, it seems to us, is wholly immaterial to the issue in the by the counsel, it appears to the Chair that counsel would have a right to show any facts which would prove bias on the part of the witness. The Chair will state to counsel in the beginning that the question whether or not the witness ultimately communicated to the respondent has nothing to do with this case.

Mr. WORTHINGTON. Well, I will have to restate the question, I presume. The Reporter would probably have to hunt some time for it. [To the witness:] Mr. Woodruff, I will ask you whether, on or about the 1st of November last, Mr. Christopher G. Boland took you into his office in the Republican Building

The PRESIDING OFFICER. The Chair would suggest to counsel that in view of the ruling of the Chair the question ought to be asked independent of any interrogatory which was propounded to the other witness.

Mr. WORTHINGTON. Very well.

The PRESIDING OFFICER. It is purely on the ground that

it is to show bias.

Mr. WORTHINGTON. I have simply made a memorandum for myself to frame the question on. [To the witness:] I will ask you, then, whether or not, on or about the 1st of November last, Mr. Christopher G. Boland invited you into his office in the Republican Building in Scranton, and whether you went with him, and then he shut the door?—A. Yes, sir.
Q. Nobody else was present?—A. I think not.

Q. I will ask you whether or not he then and there said to you in substance that he wanted you to see Judge Archbald?

Mr. Manager NORRIS. Mr. President, I object to the form I think under the ruling of the Chair the of the question. question counsel has asked and which the witness has answered is wrong. He can not put the answer into the witness's

Mr. WORTHINGTON. The witness had already testified that he went there. I will not ask the witness whether he said anything that might prejudice this case. I ask him whether or not he said anything in relation to the claim of the Marian Coal Co. against the Delaware, Lackawanna & Western Railroad Co., and the settlement thereof.

Mr. Manager FLOYD. We object. I do not see how that

could have any relation to the showing of bias.

The PRESIDING OFFICER. The Chair thinks the question is legitimate on the line already indicated.

Mr. WORTHINGTON. Now, Mr. Woodruff-

The WITNESS. What he said might result in substance to that, but I did not take in that way what he said to me.

Mr. WORTHINGTON. Tell us what he did say.

Mr. Manager STERLING. Mr. President, we object. He can
only answer "yes" or "no" to the question which is asked.

If we desire on cross-examination to know what he did say we can draw it out. There is just one question the counsel can ask—the direct question he asked of Boland—and this witness can answer "yes" or "no."

The PRESIDING OFFICER. The Chair would rule that the question is not for the purpose of contradicting the former witness, Boland, but for the purpose of showing bias, and for that purpose the counsel has a right to show what the witness said.

The counsel for the respondent will proceed.

Q. (By Mr. WORTHINGTON.) Will you proceed to state what Mr. Christopher G. Boland said to you on that occasion?—
A. He said that there had been negotiations made between
Morgan Davis, of Scranton, and the Delaware, Lackawanna & Western Co. in reference to the purchase of the Marian coal dump. He said that that had been going on for some three months, and that it had virtually come to an end. He said that his brother in Wilkes-Barre had been very anxious about mak-ing the sale, as he himself was, and that he had seen Judge Wheaton, of Wilkes-Barre, and Judge Wheaton had suggested that some one should see Maj. Warren, who was the attorney for the Delaware, Lackawanna & Western Co., and suggested my name, so Mr. Boland said, with a view that the sale might be made, and that, as that was the bone of contention in this mat-ter, this trial here might be obviated and done away with, and I should also see Judge Archbald and tell him for Mr. Boland what his feelings were in the matter.

Mr. Manager WEBB. Mr. President, do you think that shows bias?

The PRESIDING OFFICER. It is not for the Chair to deter-

It is for the Senate to determine. mine.

Mr. Manager WEBB. I ask you to rule out the answer. It does not show bias, and is not the way to show bias if it did

Mr. WORTHINGTON. I had supposed, as the Chair ruled a few moments ago, it had been settled for the purposes of this case we might show bias in the way indicated.

The PRESIDING OFFICER. The counsel will proceed.

Q. (By Mr. WORTHINGTON.) Mr. Woodruff, you made a statement to me in Scranton about this proposition, did you not?-A. I did.

Q. On the 22d of November last?-A. Some time; I do not know just when it was.

Q. About the 22d of November?—A. Yes, sir; about that time.

Q. In the Hotel Casey in Scranton?-A. Yes, sir.

Q. Mr. Simpson was present?—A. Yes, sir.
Q. And Mr. R. W. Archbald, jr.?—A. Yes, sir.
Q. I want to know whether or not at that time you did not tell us that what Christopher G. Boland said on that occasion

Mr. Manager WEBB. We object to that, Mr. President. The counsel is going to impeach his own witness now.

Mr. WORTHINGTON. I listened to my friends the managers arguing the other day when their witness was upon the stand.

The PRESIDING OFFICER. The counsel will confine his

question.

Mr. Manager WEBB. He could only be permitted to do it on the ground that the witness is unfriendly, but he has no unfriendly witness before him now.

Mr. WORTHINGTON. Nearly every witness examined in this case on behalf of the managers, as soon as he did not say anything, was hauled up by what he said before the Judiciary Committee of the House.

Mr. Manager STERLING. We object to that kind of a

The PRESIDING OFFICER. The counsel will proceed.

Mr. WORTHINGTON. I wish to read this question to the witness and refresh his memory by it, and then ask him if he did not say that and if it is not true. It is precisely the line of examination pursued by the managers, as to which we objected, but the Chair decided that it was proper.

The PRESIDING OFFICER. The Chair thinks counsel has

a right to question the witness along the line he is pursuing. Q. (By Mr. WORTHINGTON.) I will ask you whether or

not you did, on the occasion I have referred to, at the Hotel Casey, on or about the 22d of November last, in the presence of the gentleman I have mentioned, say to me that on the occasion concerning which you have just testified, Christopher G. Boland said to you this in substance, that he was about to go on a trip, and he requested you to attend to the matter right away; that he requested you to see Judge Archbald and Maj. Warren and tell them that if the case of Boland against the Delaware, Lackawanna & Western Railroad before the Interstate Commerce Commission could be settled, he and his brother, W. P. Boland, would withdraw from the impeachment proceedings against Judge Archbald?

Mr. Manager WEBB. Mr. President, we object to that on two grounds. First, it is a leading question; and it contradicts what the witness has already sworn.

The PRESIDING OFFICER. The Chair does not understand it to be a leading question except that in so far as refreshing the memory of the witness there is necessarily always a

and the memory of the witness there is necessarily always a suggestion to the witness. That can not be avoided. The latter question is not admissible, in the opinion of the Chair.

Q. (By Mr. WORTHINGTON.) In order that there may be no misunderstanding, Mr. Woodruff, I repeat the former questions. tion, and that is whether or no at the Hotel Casey in Scranton,

at the time in question, November 22 last, or thereabouts—
The PRESIDING OFFICER. The Chair thinks that the question should be put in a different way. That is not properly refreshing the witness. The counsel does not need any suggestion from the Chair as to putting it in such a shape as will make it admissible. Refresh the memory of the witness and then ask him what is the fact.

Q. (By Mr. WORTHINGTON.) Well, Mr. Woodruff, to refresh your memory, I will ask you whether you did not tell me at the Hotel Casey, on the occasion in question, that Chris-

topher G. Boland-

The PRESIDING OFFICER. The Chair does not think that is the proper question. The counsel can read to the witness the words before him, and then ask him, if his memory is refreshed,

what does he now say as to the conversation.

Q. (By Mr. WORTHINGTON.) Let me, as a preamble to that, ask the witness this question: Did you observe that while you were making the statement I was making notes and apparently writing down what you said—A. I did, sir.

Q. I will read this to you and see whether it refreshes your memory of it, so that you can recall what actually happened when you were talking with Christopher G. Boland:

He requested me to see Judge Archbald and Maj. Warren and tell them that if the case of Boland against the Lackawanna & Western

Railroad Co. before the Interstate Commerce Commission could be settled he and his brother, W. P. Boland, would withdraw from the impeachment proceedings against Judge Archbald.

A. I knew nothing from Christy Boland at the time about the case in the Interstate Commerce Commission at all. There was nothing of that sort mentioned. The only question was as to the sale being perfected of this Marian Coal Co. to the Delaware, Lackawanna & Western Co., which he said had been going on for three or four months through Morgan Davis, and that if that could be accomplished, so that they would be wiped out entirely from that, the bone of contention in this case here would be ended.

Q. That is, if the Lackawanna Railroad Co. would buy their claim-

Mr. Manager WEBB. Mr. President, I object. Mr. WORTHINGTON. And buy their property-

The WITNESS. Yes.

The PRESIDING OFFICER. The manager objects to the question.

Mr. WORTHINGTON. I should correct that. Mr. Manager WEBB. Let the witness explain what next he did, and let the Senate interpret what the words mean.

The PRESIDING OFFICER. Counsel has a right to interro-

gate him without putting a leading question.
Q. (By Mr. WORTHINGTON.) Did Christopher G. Boland at that time say anything to you about what would happen if the Lackawanna Railroad Co, would buy the property of the Marian Coal Co.?-A. He did not say what would happen, but he said he was sick and tired of this thing, and that he wanted to be entirely free from it, and that if that could be done he thought that the source of contention would be ended. I said to him, "Christy, does Will feel the same way?" and he said, "I think he does.

Q. Now, as to taking you into his room and shutting the door and having that conversation with you, did he not tell you to go and see Judge Archbald and make the proposition to him?—A. No; he said to make a proposition to Maj. Warren, as he was the attorney for the Delaware, Lackawanna & Western Co., and then he said, "Go to see Judge Archbald about it. I want him to know just how I feel in this matter."

Mr. WORTHINGTON. I understand, Mr. President, you have already held that I can not ask him whether he did go to

Judge Archbald and what took place.

The PRESIDING OFFICER. The Chair does not think that is material.

Q. (By Mr. WORTHINGTON.) Very well, I will not press it. [To the witness:] What was it he said that he was sick and tired of?-A. I do not know what he said, but I inferred, and I think rightly, the impeachment proceedings.

Q. Did Mr. Christopher G. Boland tell you anything about going away-the trip he was about to make at that time?-A.

Yes, sir.

Mr. Manager WEBB. We object to that, as it comes within

your honor's ruling as to showing bias.

The PRESIDING OFFICER. If it is for the purpose of

showing bias, the Chair will hold that it is in order.

Mr. WORTHINGTON. Nothing that I have said will amount to much, unless I show that he did report to Christopher G. Boland after he came back from that trip and that his proposition of settling this case in that way would not be accepted or considered, and hence his bias and prejudice when he comes here on the stand as a witness against Judge Archbald. I think it is absolutely essential for me to show that. I do not ask him it is absolutely essential for me to show that. I do not ask him to say whether he saw Judge Archbald, but when Christopher G. Boland returned from that trip, what he did report to him about this matter. Then we have the foundations for the bias and prejudice of Christopher G. Boland in this case.

The PRESIDING OFFICER. The Chair thinks when testimony is admitted showing the proposition which has been testified to, the whole limit has been reached. The question what was afterwards done does not affect the question whether or not be was biased. The fact of him would be shown by

or not he was biased. The fact of bias would be shown by testimony already adduced if it is sufficient for that purpose, and would not be added to by showing that it was communi-

cated to the respondent.

Mr. WORTHINGTON. This was only a short time ago, and if nothing further transpires to show that the result was communicated to him it might be that he would still suppose there was a chance to effect a settlement in that case.

The PRESIDING OFFICER. The Chair does not think it is

admissible.

Q. (By Mr. WORTHINGTON.) Well, I bow to the decision of the court. [To the witness, presenting paper.] I wish to show you the plan of the second floor of the Federal building which has been identified here and ask you to point out on is finally excused.

that the rooms which Judge Archbald formerly occupied and those to which he changed last spring .- A. (Examining pa-

WORTHINGTON. Wait a moment. with the letter A the office Judge Archbald occupied before he changed last spring.

The WITNESS. I mark the "A" here.

Mr. WORTHINGTON (exhibiting). Mark "A" is the office formerly occupied. The witness marked with red pencil the letter "A." [To the witness.] Now, please mark with the letter "A." [To the witness.] Now, please mark with the letter "B" the office to which he changed last spring.

Mr. Manager CLAYTON. The document is not offered in

evidence yet?

Mr. WORTHINGTON. Not yet. As soon as I have exhibited these marks to you I propose to offer it in evidence.

Mr. Manager CLAYTON. Let us get through with the wit-

Mr. WORTHINGTON. That is all.
Q. (By Mr. Manager CLAYTON.) Mr. President, I desire to ask the witness a question. [To the witness:] What is your feeling toward Judge Archbald?—A. Very friendly.
Q. Did you not intercede with the President to prevent an investigation.

investigation, which has led to these impeachment proceedings?-A. I wrote a letter to the President, but not until afterwards. I simply set forth the feeling that the community had as regards Judge Archbald in Scranton.

Mr. WORTHINGTON. Mr. President, I think I will have to

call for that letter unless

Mr. Manager CLAYTON. I have not offered any letter. was just asking him about his feeling for Judge Archbald. never referred to the letter.

The PRESIDING OFFICER. The manager will proceed. Mr. Manager CLAYTON. That is all I desire to ask. witness has answered my question. I called for no letter.

Mr. WORTHINGTON. Unless he has stated the contents of the letter he may have to strike out what he has said as to what the letter was, on the ground that the letter is the proper

Mr. Manager CLAYTON. We have no objection to that. We do not call for the letter. It was merely to show the friendly bias of this witness toward Judge Archbald. I have accomplished that, and I have no further question to ask.

Mr. WORTHINGTON. There is a question that I should have asked before I announced that I was through with this I want to ask him about his relation with Christopher G. Boland and William P. Boland up to the present, and to show that he is friendly to them.

The WITNESS. We have been the very best of friends always. Q. (By Mr. WORTHINGTON.) Let me ask you another question. Since Christopher G. Boland was asked this question. has he not been to talk with you about it?

Mr. Manager WEBB. Mr. President, we object to that. Mr. WORTHINGTON. Is not that to show bias, when our friends are trying to prevent this witness from giving testimony in this case-

The PRESIDING OFFICER. The Chair does not understand the question to be of that character.

Mr. WORTHINGTON. That is the question I do mean to ask him.

The PRESIDING OFFICER. It is the proper way to ask it. Q. (By Mr. WORTHINGTON.) Has Christopher G. Boland approached you since he testified in this case in reference to the question which I asked about-this conversation with you?-A. No, sir.

Q. He has not?—A. No, sir. Mr. WORTHINGTON. It is suggested—and I think it is wisely suggested-that the witness mark the position on this map of the office of William P. Boland.

(The map was handed to the witness.)

Mr. WORTHINGTON (to the witness). Put the letter "C" on it.

The witness marked the letter "C" on the paper.

Mr. Manager CLAYTON. The managers were unable to hear the conversation between the respondent's counsel and the witness. As he was doing something there on the suggestion of respondent's counsel, I would like to know what it was.

Mr. WORTHINGTON. The nefarious suggestion I made was to put the letter "C" on this map about where the office of Boland would be. I think the President heard me. I will submit the nefarious result to the managers,

(The paper was handed to the managers.)
Mr. WORTHINGTON. That is all.
The PRESIDING OFFICER. The witness may retire. He

TESTIMONY OF CHARLES B. WITMER.

Charles B. Witmer appeared, and having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Judge Witmer, you are the United States district judge for the middle district of Pennsylvania? A. I am.

Q. When were you sworn in as such judge?-A. On the 8th of March, 1911.

Q. You have been such district judge ever since?-A. Yes, sir. Q. Before you were appointed district judge what office in connection with the administration of justice in the United States courts in that place did you hold?—A. I was United States marshal from July, 1906, until December, 1908, and district attorney from 1908 until I was appointed to the district bench.

Q. United States district attorney?—A. Yes, sir. I was also assistant United States district attorney in the Department of Justice before I was appointed marshal, in the administration of Attorney General Knox.

Q. Now, will you please tell us during the time you were United States marshal who it was that drew from the jury wheel the names of jurors who served in that court?-A. I did so.

Q. That was in every instance, was it?-A. In every instance. Q. There is a question I am going to ask, Judge Witmer, which kindly do not answer until there is an opportunity to object to it. It has been testified here that in the case of Peale against the Marian Coal Co. the decision-

Mr. Manager STERLING. We object to that question. It is wholly immaterial what has been testified to here.

The PRESIDING OFFICER. Counsel has already cautioned the witness not to answer until objection may be made.

Mr. SIMPSON. It has been testified here that in the case of Peale against the Marian Coal Co. the decision of that case, which was rendered by you on August 24, 1911, was so rendered at the dictation or under the direction or influence in some way of Judge Archbald. Now, do not answer, please, until the managers can object. Will you please tell us whether that is so?

Mr. Manager STERLING. We object.

The PRESIDING OFFICER. The Chair will hear from

counsel for the respondent.

Mr. SIMPSON. If the Chair please, the managers have put in evidence in this case the docket entries in this particular matter—in the matter, I mean, of Peale against the Marian Coal Co. They have asked Mr. Boland in their own case whether or not-I want to put that accurately, and it is a little difficult to do it-they have asked Mr. Boland in their own case whether the decision of that case did not affect him in that which he did in relation to this particular matter-I mean the matter which has resulted in this impeachment. When he was turned over for cross-examination, he himself then volunteered, not in answer to any question which Mr. Worthington had asked, but, in fact, volunteered-and it remains upon this record-the statement that I have embodied in the question which is now before the witness. It seems to us that it ought to be known, so that the Senators may give such effect to it as to them seems best, whether or not there was any such influence brought to bear against the Bolands as was intimated or stated in that That is the reason for asking this particular question of the witness.

The PRESIDING OFFICER. The Chair will state that the testimony was brought out by the counsel for the respondent, and the respondent's counsel now state that the evidence was volunteered. That evidence would have been ruled out by the Chair as immaterial if counsel had so requested. It being immaterial and having been brought out in that way, the Chair does not think that the question as now propounded is

admissible.

Mr. WORTHINGTON. On another ground, Mr. President, I ask that the witness be allowed to answer this question. honorable managers produced as a witness here Mr. Meyer, and proved by him the steps which were taken in the Interstate Commerce Commission, between the Interstate Commerce Commission and the President, for the purpose, they said, of giving the Senate the history of this transaction. In the memorandum made by Mr. Cockrell, Mr. Meyer's confidential clerk, and which Mr. Meyer, on behalf of himself and the other members of the Interstate Commerce Commission, took to the President, there

Boland says the litigation referred to by Seager is the suit filed by Peale, and that Seager has inside advance information of the decision of the court, which has not yet been handed down.

allowed to show that they took to the President that astound-

ing piece of information, which was wholly untrue.

The PRESIDING OFFICER. That is not evidence in this case as to any matter in issue; that is simply the history of the steps taken which resulted in this proceeding on the part of the House of Representatives. It is not in any manner evidence as to any issue here. The Chair still thinks the question is inadmissible.

Mr. SIMPSON. There is no other question we desire to ask, in view of the Chair's ruling.

The PRESIDING OFFICER. The witness may retire, unless

the managers desire to question him.

Mr. Manager STERLING. We do not care to ask the witness

any questions.

Q. (By Mr. SIMPSON.) There is one other question which I had overlooked. Can you tell us when it was that the room which was formerly occupied by Judge Archbald in the Federal Building in Scranton was changed so that you thereafter occupied it?-A. I do not believe that I am able to state that correctly.

Q. Can you approximate it?-A. It was done about nine months after I was appointed to the office and accepted the posi-

Q. About nine months after?-A. About nine months after I

entered upon the duties of my appointment.

Mr. SIMPSON. That is all. Thank you.

Mr. Manager STERLING. That is all.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF FRANK E. DONNELLY.

Frank E. Donnelly, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Donnelly, you are a lawyer, practicing in Scranton, Pa., I believe?—A. Yes, sir.

Q. How long have you been doing so?—A. Since 1900.
Q. You were attorney for the Marian Coal Co. in the case of Peale against the Marian Coal Co., which has been referred to here?-A. I was.

Q. During what period did you act as attorney for the Marian Coal Co. in that case?—A. The suit started in the early part of March, 1909, and I continued to act as attorney for the Marian Coal Co. until the 31st of July, 1912.

Q. Do not answer the question I am about to put to you until we see whether or not it is objected to, Mr. Donnelly. It has been stated here that you were in collusion with Judge Archbald against your own clients in that case. I want to ask you what you have to say about it?

Mr. Manager STERLING. We object. It is very apparent counsel knows it is improper, or he would not have presented

Mr. WORTHINGTON. I do not quite like that statement, Mr. President. I had anticipated that the Chair would rule out this conversation, but I thought, in view of what had been stated in this public place and practically all over the country about this gentlemen, that I would not do my duty by him unless L gave him a chance on the stand to say what he has to

The PRESIDING OFFICER. The Chair does not think that counsel have the right to ask the question. The managers having objected, does counsel for the respondent desire to say anything further on the question of admissibility?

Mr. WORTHINGTON. No; I think we have argued that

The PRESIDING OFFICER. Conforming to the prior ruling, the Chair will rule out the testimony.

Mr. WORTHINGTON. Then, we have nothing further to ask this witness, Mr. President.
Mr. Manager STERLING. That is all.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF C. E. SPEGUT.

C. E. Sprout, having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Sprout, what is your business or profession?-A. I am a practicing lawyer.

Q. Where?-A. At Williamsport, Pa.

Q. Do you know Judge Archbald ?- A. I know Judge Archbald.

Q. Were you one of the contributors to a purse given to him at the time of his going to Europe a few years ago?-A. I was.

Q. Will you tell us, please, how you became such contributor?-A. The matter was first brought to my attention at the of the court, which has not yet been handed down.

Now, it seems to me, Mr. President, since the managers have introduced the history of the case for the purpose of showing that it was properly and fairly presented, we ought to be

friends in Scranton and Wilkes-Barre to give him a complimentary dinner in New York prior to his sailing. He asked me whether I would see one or two of the prominent lawyers in Williamsport and ascertain whether they wanted to participate in this function. Subsequent to that time I had one or two telephonic conferences with Maj. Warren, and one also, I think, with Judge Frank Wheaton, of Wilkes-Barre. In those conferences we ascertained that the plan had been changed; that, instead of giving him the complimentary dinner as originally contemplated, on account of the difficulty of getting a sufficient number to attend, they would put into a purse or a fund the amount of money which it was thought the dinner would cost and give it to Judge Archbald prior to his sailing under such circumstances as would not disclose to Judge Archbald what had been done nor the names of the donors until after he had sailed from New York Harbor.

Q. Did you contribute?-A. I did.

Q. How much?-A. \$25.

Q. Did you know that the names of the contributors were to be told to him?—A. On the contrary, I was informed that the names of the contributors were not to be told or to be disclosed to Judge Archbald at all.

Q. Do you know C. La Rue Munson?-A. Very well, sir. Q. Was he one of those to whom you made application after the plan had been changed from a dinner to a contribution?-A. I did see Mr. Munson.

Q. And he declined to make any contribution?-A. And he

declined to make any contribution.

Q. What were your relations with Judge Archbald?-A. My relations were those of a practicing attorney in his court.

Q. Had you known him long?-A. I had known him since

Mr. SIMPSON. Cross-examine, gentlemen,

Cross-examination:

- Q. (By Mr. Manager NORRIS.) To whom did you give your contribution?—A. I am not certain about that; but my best recollection is that I gave it to Mr. Searle, the clerk.
- Q. The clerk of the court?-A. The clerk of the court Q. There are two Searles. To whom did you give it? You do not mean Judge Searle?-A. Not Judge Searle. I gave it either to Maj. Warren or to Ed. Searle, the clerk of the court.

Q. How much was your contribution?-A. \$25. Q. Did you give a check for it or the cash?-A. I think I

gave a check; I am certain that I gave a check. Q. Where do you reside?-A. Williamsport, Pa.

Q. Did you talk with Mr. Munson, of Williamsport, about

it?-A. Since the occurrence?

Q. Well, I had reference to about the time of the occurrence .-A. As I said a moment ago, I did see Mr. Munson and requested him to make a contribution, telling him that I intended doing so and that other members of the bar in Scranton and Wilkes-Barre were doing likewise. I did not speak to him at the time when it was contemplated giving the judge c. Ginner.

Q. Your contribution was made with the understanding that

it was going to be a cash contribution, was it not?-A. At the

time given; yes, sir.

Q. Did you learn that Mr. Searle, the clerk of the court, had put in the envelope containing the contributions the names of those who had subscribed to the fund?—A. I did not learn that until a long time after the occurrence. After Judge Archbald had sailed and while he was abroad I received a letter from him. That was the first intimation I had that he had any knowledge of the fact that I had been one of the contributors

Q. Was your first conversation with anyone in regard to this with Mr. Searle, the clerk of the court?-A. My first conversa-

tion was with Maj. Warren.
Q. He did not live at Williamsport, did he?—A. He lived at Scranton; I lived at Williamsport, and we met in Philadelphia. We were both there attending court at that time—the supreme

Q. But that conversation had no relation to a cash contribution to the judge, did it? Was that not in reference to a dinner?—A. That was entirely in reference to a dinner; but, of course, that transaction was the initiative of the movement which resulted in the cash contribution.

O. Well, so far as the cash contribution was concerned, was not that initiated by the clerk of the court?-A. So far as I

know, it was initiated by Maj. Warren himself.
Q. At your meeting in Philadelphia?—A. No; subsequently, when I telephoned him. The first information I had of it was in a telephonic conversation with Maj. Warren, I being at Williamsport and he at Scranton. He told me that they had found it impossible to get a sufficient number of Judge Archbald's friends to go to New York to the dinner, and that they had therefore modified the plan.

Q. How did you happen to get in communication with the clerk about it? Do you remember that?-A. I think I had a letter from Maj. Warren, or information by telephone, that he had turned the matter over to Clerk Searle, to gather contributions, and that I should send mine to him.

Q. And you acted accordingly?-A. And I think I acted ac-

cordingly.

Mr. Manager NORRIS. That is all. Mr. SIMPSON. That is all, Mr. President.

Mr. CULBERSON. Mr. President, I desire to ask the witness a question.

The PRESIDING OFFICER. The Senator from Texas submits a question which he wishes to have propounded to the witness. The Secretary will read the question.

The Secretary read as follows:

Q. What was the purpose in raising the fund? What was it to be used for? What was the fund actually used for by Judge Archbald?

The WITNESS. Of course, I can only answer that question in part. I am not able to say how Judge Archbald used the fund. It was contemplated to give Judge Archbald a complimentary

The PRESIDING OFFICER (to the Secretary). Hand the witness the question.

The Secretary handed the witness the question.

The Witness (after examining the question). I will answer the questions in their order. "What was the purpose in raising the fund?" It was supposed to be a testimonial of respect to Judge Archbald by a number of his friends who had been practicing in his court. "What was it to be used for?" I apprehend that I could not answer that. "What was the fund actually used for by Judge Archbald?" I experience the same difficulty in answering that question.

The PRESIDING OFFICER. Is there any other question for

the witness? If not, he may retire.

Mr. SIMPSON. And he may be discharged, sir. The PRESIDING OFFICER. The witness is The witness is finally discharged.

TESTIMONY OF WILLIAM G. VANDEWATER.

William G. Vandewater, having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Vandewater, what is your business?—A. Auditor of the coal department of the Delaware, Lackawanna & Western Railroad Co.

Q. What are your duties as such auditor?-A. To keep ac-

count of the production of the coal mined.

Q. Will your books show the extent of the coal shipped by the Marian Coal Co.?-A. Our books will show the production of the Marian Coal Co. and certain of their shipments; yes, sir.

Q. Can you tell us what the amount of-

Mr. Manager FLOYD. We object, Mr. President. Mr. SIMPSON. Wait until I finish the question and then object to it, if you please.

The PRESIDING OFFICER (to the witness). Do not

answer the question until directed so to do.

O. (By Mr. SIMPSON.) Will you tell us, please, from your books what was the production of the Marian Coal Co. Now, do not answer until directed to do so.

Mr. Manager FLOYD. We object, Mr. President; we do not think the question is relevant.

Will counsel please state the

The PRESIDING OFFICER. materiality of that question?

Mr. SIMPSON. There was a letter, Mr. President, offered in evidence by the managers, under date of September 1, 1911, written by Mr. Phillips, of this same company, to Mr. Loomis, of the company, setting forth what Mr. Watson's claim was, which is the matter referred to in the second of the articles of impeachment. I desire to show how that claim was made up. The purpose of this offer is to show that the books of the Delaware, Lackawanna & Western Railroad Co. show that the production of this washery was in accord with the amount stated in that letter, for the purpose of showing that Mr. Watson did not present, as is claimed by the managers, a highly exorbitant claim, but that he presented a claim in accordance with the figures which appeared upon the books of this particular company.

The PRESIDING OFFICER. The Chair does not understand that the question of whether or not Mr. Watson's claim

was an exorbitant one can elucidate the issue at all.

Mr. SIMPSON. That is one of the very contentions that is made here, and that is a contention in regard to which we hada very considerable argument at length the other day, as the Presiding Officer may remember. The contention of the manngers is that Mr. Watson was directed in presenting his claim to

the Delaware, Lackawanna & Western Railroad Co. to claim only \$100,000, but that, in point of fact, he presented a claim for a very considerably larger amount, and that the amount above the amount which he was originally directed to present was to be divided up in the way that is stated in the testimony, without referring further to it here.

The purpose of this evidence is to show that that claim was made up in fact from the figures which appear in the letter which the managers themselves offered in evidence, in order to avoid the contention that it was then an exorbitant claim, in

the way which the managers stated.

The PRESIDING OFFICER. Has counsel finished?

Mr. SIMPSON. Yes, sir; I have finished.

The PRESIDING OFFICER. The Chair did not understand that the contention was as to the exorbitancy of the demand, but as to the difference between the amount agreed upon and the amount which the lawyer afterwards demanded. The Chair does not think it relevant to this issue.

Mr. SIMPSON. Of course, sir, if the managers take the view that the Chair does upon that main question, then this question would not be admissible at all and would not be thought of, and if that is a matter disclaimed, of course, I am content and

do not wish to ask this witness any question.

The PRESIDING OFFICER. The Chair can not rule on anything except the testimony. The Chair does not recall any testimony to the effect of any issue being raised as to whether or not \$161,000 was, in fact, more than the party was entitled to receive. The previous testimony was as to the discrepancy between the amount which was originally agreed upon as that to be demanded and that which was ultimately demanded.

Mr. SIMPSON. It is unfortunate, perhaps, that counsel understood it differently from the way the Chair does. If that is the situation, of course this witness ought not to be called. Mr. WORTHINGTON. Mr. President, excuse me a moment;

was out of the Chamber at the time this question was asked. The PRESIDING OFFICER. The Chair has no knowledge as to the purpose of the managers. The Chair was simply

going on what evidence has been adduced.

Mr. SIMPSON. I understand the Chair's position exactly, but I want to avoid argument if I can when the final argument comes in this case. It will be long enough, in all conscience, even then.

Mr. WORTHINGTON. Mr. President, may I add one word to what has been said? We are here in the very embarrassing position of having this testimony given against Mr. Watson, when he is, as I think everybody understands, on his deathbed, and it is impossible even to communicate with him. It does seem to me that if we can show, as we offer to show, that the reduction per ton which was claimed on the part of the Bolands amounted to \$161,000, it would be a very important piece of circumstantial evidence which the Senate ought to have for the purpose of considering its weight along with the other evidence. Of course, I recognize the fact that a man may have a claim of \$300,000 or \$400,000 against somebody and be willing to compromise it for \$100,000, but when it is denied that there was any such difference and, as we contend, that there is no truth in the statement, it seems to me the Senate ought to have the information as to what the facts are out of which the claim

There is in evidence, I think, a letter to which Mr. Simpson was referring as I was coming into the Chamber, from Mr. Phillips to Mr. Loomis, dated in September, in which he says he has seen Mr. Watson and the claim which Mr. Watson has obtained from the Bolands is a claim for 43 cents a ton for 376,000 tons of coal which they had shipped. It seems to me we ought to be permitted to show that that was a fact so as to indicate that Watson got these figures immediately from the Bolands and could not have got them anywhere else. It is not conclusive one way or the other, but in the situation in which we are placed, where Mr. Watson is as incapable of being used as a witness here as if he were in his grave, that fact ought to be known to the Senate.

The PRESIDING OFFICER. The question is whether or not the issue can properly be raised and determined in this case as to the output of the Marian Coal Co. If so, it could be gone into fully, just as fully as we have gone into the question of the contents of the culm dump, and there would be no end to it. If the witness is authorized to give his testimony as to what the output was, the managers will have a right to join issue on that, and to go just as fully into that question as we have gone into the question of the contents of the culm bank, which would be manifestly improper; and if it is improper to go into it fully, it is improper to go into it at all. The Chair excludes the evidence.

Mr. SIMPSON. There is no other question we want to ask this witness, then.

Mr. Manager WEBB. The witness may be excused, so far as

we are concerned.

The PRESIDING OFFICER. The witness is finally discharged.

TESTIMONY OF MISS MARY F. BOLAND.

Miss Mary F. Boland, being duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) You are the niece of William P. Boland and Christopher Boland, are you?—A. Yes, sir.
Q. And have been a stenographer, I believe, in William P.

Boland's office for some years?-A. Yes, sir.

Q. Were you there in September, 1911?—A. Yes, sir. Q. I will ask you whether or not on or about the 18th day of September, 1911, Mr. Edward J. Williams in that office made the following statement in substance-

Mr. Manager WEBB. What page is that? Mr. WORTHINGTON. I am looking at the page in the proceedings of the Judiciary Committee for the purpose of getting those notes

Mr. SIMPSON. About page 1087. Mr. Manager FLOYD. We object to any such statement, Mr. President.

The PRESIDING OFFICER. What is the question?

Mr. WORTHINGTON. When Mr. Williams was on the stand he testified that after his visit to Capt. May on the 31st of March, when he took that letter from Judge Archbald, which is in evidence, he went back at once to Judge Archbald, and that while there on Judge Archbald's desk he saw a paper, which he has referred to as a brief and sometimes as a trial list, upon which there was the word "lighterage," and then that the conversation followed, which the Chair will remember.

It has already appeared that that lighterage case was not in the Commerce Court until the middle of the month of April, and also that the trial list on which it appeared was made up about the middle of the month of September following, after Judge Archbald's interview with Mr. Brownell and after Capt. May had given the paper here, which is called an option, dated the

30th day of August, 1911.

Now, I propose to show that it is a mistake entirely of dates on the part of Mr. Williams as to that, and to show that he ap-peared in the office of Mr. William P. Boland first on the 18th of September, and then on the 28th of September, and then said that he had then just seen that paper; so as to show that if this conversation did occur and this thing happened, it had no possible effect upon what is in dispute here about Capt. May's action.

I laid the foundation by asking Mr. Williams the question when he was on the stand.

The PRESIDING OFFICER. Does the manager desire to say anything on the subject?

Mr. Manager FLOYD. Mr. President, our objection to that is this: That they are attempting to contradict Mr. Williams, not by any fact within the knowledge of this witness, but by proving by this witness that at some time Mr. Williams came in there and had some conversation which she, as a stenographer, noted in her notebook. We do not object to his asking this witness about any facts within her knowledge that may contradict Mr. Williams; but it might be that the first conversation was never noted; it might be that he had a dozen conversations on the same subject, and that some subsequent conversation was noted. So we object to it as hearsay and as not tending to contradict the proposition by any knowledge within the mind of this witness referred to by counsel for the respondent. The PRESIDING OFFICER. The Reporter will please read

the question.

The Reporter read as follows:

I will ask you whether or not on or about the 18th day of September, 1911, Mr. Edward J. Williams, in that office, made the following statement, in substance.

The PRESIDING OFFICER. The Chair does not pass on the question whether or not the substance of the conversation can be read, but the Chair thinks it is admissible to prove what Mr. Williams then said. The objection of counsel is a legitimate argument as to the weight of it, but it does not affect the question of its admissibility.

Q. (By Mr. WORTHINGTON.) Then, Miss Boland, I will ask you whether on or about the 18th day of September, in Mr.
William P. Boland's office in Scranton, Mr. E. J. Williams said in your hearing, "I was in this morning"; that he had seen the judge, Judge Archbald, and he showed him a brief he was pre-paring for the Eric Railroad Co.?—A. My recollection is that he did tell me that.

Q. I beg your pardon .- A. My recollection is that he did tell me that.

Q. I will ask you whether or not on the 28th of September, 1911, Mr. E. J. Williams was again in the office, and said he was going to the judge's office to look at a brief the judge was preparing for the Erie Railroad Co., and said he would see it that afternoon?-A. Yes, sir.

Q. And whether later in the day he came back and said he saw the brief and that it was about a case against the Erie

Railroad Co., about a lighterage charge?-A. Yes, sir.

Q. That happened?—A. Yes, sir. Q. Now, Miss Boland, did you make note of those conversations at the time, so that you are sure of the date?-A. Yes, sir;

Mr. WORTHINGTON. That is all. Cross-examination:

Q. (By Mr. Manager WEBB.) Did you make this additional note at the same time-

Mr. WORTHINGTON. I object to that. I have asked the witness everything on the subject of the brief. Miss Boland made a great many notes and, of course, they are not competent evidence in this case, unless they are made competent by something brought out by us. If they can find anything in these notes which refers to the matter concerning which I have asked the witness, that I have not read, I will consider it a part of the

evidence introduced by us. The PRESIDING OFFICER. Was this on the same occa-

Mr. Manager WEBB. Yes; on the same occasion and on the

Mr. WORTHINGTON. Oh, that is an entirely different matter.

The PRESIDING OFFICER. Does it relate to the same matter?

Mr. WORTHINGTON. No.
Mr. Manager WEBB. I do not know that I can say that.
The PRESIDING OFFICER. If not, the manager will have
to introduce this witness as his own witness. He can only interrogate the witness-and that is the rule the manager himself has invoked-about matters inquired about on direct examination. If the manager desires to inquire further as to the continuance of this conversation, he will have to introduce the witness as his own.

Mr. Manager WEBB. The way I look at it is this: The respondent's counsel has shown about four lines of a notation the stenographer has made. There are three or four more lines

The PRESIDING OFFICER. If it relates to the same subject matter, the manager has a right to ask the witness about it; but if it does not relate to the same subject matter, then he has not such a right.

Mr. Manager WEBB. It relates to the relationship she noted, or what Mr. Williams said of the relationship, between him and the judge. It is immediately following her notation of the visit to the judge's office to see the brief, and is part of the same

conversation—the same minute.

That would make it admissible The PRESIDING OFFICER. whenever the manager recalls the witness. The rule is plain that the counsel can only cross-examine the witness about matters upon which the witness has been interrogated on direct

Mr. WORTHINGTON. Is that all? Mr. Manager WEBB. Yes; I think that is all. Mr. WORTHINGTON. Then the witness may be finally dis-

The PRESIDING OFFICER. No; the witness will not be finally discharged. The witness can retire, subject to call.

Mr. Manager STERLING. I suggest that counsel permit us

to make her our witness now, so as to save this young lady

from coming back.
Mr. WORTHINGTON. I object to that.

The PRESIDING OFFICER. Counsel for the respondent may proceed with their case.

Mr. REED. Mr. President, may I ask by way of inquiry why

the Senate has not now the right to make an order-

The PRESIDING OFFICER. If the Senator from Missouri has any order to propose to the Senate, the Chair will submit it to the Senate. That is the only way it can be brought to the attention of the Senate under the rule.

Mr. REED. Is there a rule which denies a Senator the right

to propound an inquiry?

The PRESIDING OFFICER. Except in writing.

Mr. REED. I mean to the Chair. I am not asking the witness a question; I am asking the Chair.—

The PRESIDING OFFICER. If it is a question or order.

Mr. REED. Very well; that is what I am inquiring—whether it is not within the power of the Senate to direct by a vote at this time that this witness shall be examined by the managers

without requiring her to return at a subsequent time?

The PRESIDING OFFICER. Undoubtedly the Senate has a right to do whatever it sees fit to do.

Mr. REED. Very well.
Mr. WORTHINGTON. Another objection, Mr. President, to what the counsel is about to ask is that it is a matter about which the learned manager-

The PRESIDING OFFICER. It is not now before the Senate.

Mr. WORTHINGTON. Very well. If it is not before the Senate, I will not occupy the time of the Senate.

The PRESIDING OFFICER. The Senator from Missouri

[Mr. Repp] presents an order, which he asks the Senate now to adopt. It will be read.

The Secretary read as follows:

Ordered, That the witness now on the stand, Miss Mary F. Boland, be at this time interrogated by the managers relative to that part of the conversation sought to be elicited.

Mr. WORTHINGTON. Mr. President, if the order asked for were that the managers be now allowed to make her their own witness, without waiting for their turn, we should say nothing; but that determines the question of the admissibility of the evidence, and certainly the Senate is not going to say whether the evidence shall be admitted before it finds out whether it is competent. The evidence is as to the declaration of Williams with respect to his relations with Judge Archbald.

The PRESIDING OFFICER. The Chair did not understand

it to go further than the right of the manager to now examine

Mr. WORTHINGTON. And not to pass upon the question of whether or not the testimony is competent?

The PRESIDING OFFICER. The Chair does not under-

stand that it includes that question.

Mr. WORTHINGTON. Very well, then.

The PRESIDING OFFICER. What is the pleasure of the Senate; does the Chair hear objection to the adoption of the order? [A pause.] The Chair hears no objection, and the order read will be considered unanimously adopted. Counsel will proceed with the examination.

Q. (By Mr. Manager WEBB.) On September 18, 1911, Mr.

Worthington has asked if you made this notation:

E. J. W. was in this morning and said he saw the judge, who showed him a brief he was preparing for the Erie Railroad Co.

I ask you if that is all of that notation as to what Mr. Williams said about the judge?—A. I really could not say with-

out looking at it. I could not recall it now.

Q. We can not hear you.—A. I say I do not recall it just now.

Q. Can you look at your notes and tell—September 18, 1911?—

Yes, sir. Do you want me to read it?

Q. I will ask you, first, if what Mr. Worthington asked you as to what Mr. Williams said about seeing the brief in the judge's office was all the notation on that day?—A. I just do not remember Mr. Worthington's question. I thought he asked me if Mr. Williams did not tell me that on that day.

Q. Yes.—A. And I answered him "yes, sir."
Q. Will you tell us what the notation is you have on that day that Mr. Worthington asked you about?—A. He asked me about the first part of the notation.

Q. Well, read that first part, then.—A. "E. J. W. was in this morning and said he saw the judge, who showed him a brief he was preparing for the Erie Railroad Co." That is all he asked me about.

Q. That is all Mr. Worthington asked you about?—A. Yes.

Q. I ask you to read, if it is another two lines or more, the remainder of the notation.

Mr. WORTHINGTON. I object, on the ground that it is not at all pertinent to the part of the conversation I have introduced in evidence; on the ground that the managers had their time to offer any evidence they pleased as to the relation between Judge Archbald and Mr. Williams, and they exhausted that subject; and on the further ground that there is no rule of evidence in any court of the United States that makes it competent evidence to prove the relations between A and B by offering evidence as to what A said about it somewhere when B was not present.

The PRESIDING OFFICER. The Chair would undoubtedly hold that to be correct if it was not a part of the same conversation. If it is a part of the same conversation, the Chair

would consider it competent.

Mr. OLIVER rose.

The PRESIDING OFFICER. Does the Senator desire to propound a question before the other question is answered?

Mr. OLIVER. I think it is proper that it should be pro-

pounded now. It is something that occurs to me.

The PRESIDING OFFICER. The Senator from Pennsylvania submits a question which will be propounded to the

The Secretary read as follows:

Are you reading from your original notes or from a transcript?

The WITNESS. From a transcript. Do you want me to read from the notes now?

Q. (By Mr. Manager WEBB.) Have you your original notes

with you now?—A. Yes, sir.
Q. Please read from your original notes the conversation with Mr. Williams which you noted. Mr. WORTHINGTON. I am obje

I am objecting to them.

The PRESIDING OFFICER. Yes. Wait a moment.

Mr. WORTHINGTON. Does the Chair rule that because it was said in the same conversation it may be read, no matter what it relates to?

The PRESIDING OFFICER. Yes; if it is related in any manner to this matter. Of course if it relates to a matter entirely foreign to the subject it would not be admissible.

Mr. WORTHINGTON. The Chair has not been advised what

it is. How can the Chair rule upon the question whether it is a part of the same subject matter when the Chair has not heard what it is? It is a statement that Mr. Williams was said to have made as to the relation between him and Judge Archbald. Does the Chair hold it is admissible?

The PRESIDING OFFICER. Yes. The Chair thinks it is sufficiently cognate to make it a part of the conversation.

Q. (By Mr. Manager WEBB.) Read the note.—A. The whole

Q. Yes.—A. "E. J. W. called this morning. Said he talked with Judge A. He showed him a brief he was preparing for the Eric Railroad Co. He said the judge would tell him most anything. He has no confidence in John Henry Jones."

Mr. Manager STERLING. Some of the Senators did not

hear the witness.

The PRESIDING OFFICER. When the witness is through the Chair will direct the Reporter to read it to the Senate.

Mr. Manager STERLING. It is suggested that the clerk read from the transcript.

Mr. Manager WEBB. I would like to have it read so that the Senate can hear it.

The PRESIDING OFFICER. The Chair has just stated that that would be done.

Mr. Manager STERLING. Excuse me; I did not hear it.

The Reporter read the answer, as follows:

E. J. W. called this morning. Said he talked with Judge A. He showed him a brief he was preparing for the Eric Railroad Co. He said the judge would tell him most anything. He has no confidence in John Henry Jones.

Q. (By Mr. Manager WEBB.) Miss Boland, do you remember anything about writing the contract in which the words "silent party" were used?—A. Yes, sir.

Mr. WORTHINGTON. I object to that. That was all gone into—about that silent-party paper—through W. P. Boland and Mr. Pryor. Are we to reopen the whole case?

The PRESIDING OFFICER. The Chair does not know what the question is to be. The Senate has ordered that this witness be interrogated in chief by the managers. Of course, the question of the admissibility of any evidence is open under the understanding at that time. But unless the question is proposed to elicit evidence that is not properly admissible, the Chair will hold that the manager may proceed.

Chair will hold that the manager may proceed.

Q. (By Mr. Manager WEBB.) Do you remember drawing a contract dated September 5, 1911, signed by E. J. Williams, to W. P. Boland and a silent party?—A. Yes, sir.

Mr. WORTHINGTON. I object. All about that silent-party paper was asked of Mr. W. P. Boland and of Mr. Pryor, who was examined as a witness, and Miss Mary Boland was here at the time under subpæna of the managers and was not called

and asked about that paper.

I submit that under such circumstances, unless there be some extraordinary and good reason for it, the case ought not now to be reopened for the purpose of starting the trial over again. Of course, it is a matter entirely within the discretion of the Senate, as it is of any court, to hear evidence at any stage of the case; but I have heard no reason why the managers, who knew all about the connection of the witness with reference who knew an about the confection of the writes with reference to that paper, when they were putting in their case, before we were called upon to reply, did not examine her then.

The PRESIDING OFFICER. Has counsel finished?

Mr. WORTHINGTON. Yes, sir.

The PRESIDING OFFICER. This particular contract has

been inquired about by the respondent, and evidence has been introduced in response to the evidence introduced by the

managers. The Chair can not tell what question is going to be asked by managers; but witnesses on the part of the respondent have been asked as to this contract.

Mr. WORTHINGTON. It is my recollection and that of my associates that we have not introduced a particle of evidence about the "silent party" contract.

Mr. Manager WEBB. You asked Mr. E. J. Williams about

it, and brought out the response that he did not know anything about it.

Mr. WORTHINGTON. Oh, that was on cross-examination.

Mr. Manager WEBB. Certainly. Mr. WORTHINGTON. Mr. Williams is not our witness; he

is the managers' witness.

Mr. Manager WEBB. We disclaim him.

Mr. WORTHINGTON. You disclaim him? I did not know whether the remark was intended for me or for the Senate.

Mr. McCUMBER. Mr. President, I would like to ask the Chair to have the order which was just adopted by the Senate read again to see whether the case was opened simply for that subject matter or whether it was opened up for the whole

The PRESIDING OFFICER. Yes. The attention of the Chair has been called to the wording of the order. The Chair thinks the Senator from North Dakota is right in thinking that the order extended only to the notation made of the conversation at the particular time referred to.

Mr. Manager WEBB. Yes; I think that is true. My purpose was simply to ask this witness one or two questions about this contract, and finally dismiss her, without having to call her

The PRESIDING OFFICER. Consequently the witness will not now be examined upon any other matter.

Mr. WORTHINGTON. Is the witness to be retained? She is

anxious to get away, and I ask on her account.

Mr. Manager WEBB. Yes; we do not excuse the witness at present.

The PRESIDING OFFICER. The witness is temporarily excused.

TESTIMONY OF JAMES E. HECKEL

James E. Heckel, being duly sworn, was examined, and testified as follows

Q. (By Mr. WORTHINGTON.) What is your full name?-A. James E. Heckel.

Q. Where do you live?-A. Scranton, Pa.

Q. What is your business?-A. Manufacturing.

Q. Manufacturing what?—A. Brass; mine and mill supplies. Q. Have you any connection with a family known here as the Everharts?-A. I have.

Q. In a brief way what is your relation to that family?—A. Administrator.

Q. Of whom?-A. Five twenty-fourths interest of the James Everhart heirs.

Q. And as such administrator have you at any time set up a claim to an interest in the Katydid culm dump near Moosic, Pa.?-A. I have.

Q. I wish you would look at "U. S. S. Exhibit E" in this case, a letter dated April 11, 1912, addressed to Capt. May of the Hillside Coal & Iron Co., and purporting to be signed by you as administrator; and I ask you whether that is your sig-

nature?—A. (After examination.) It is.
Q. Did you send that notice?—A. I did.
Q. I also show you another exhibit, "U. S. S. Exhibit P," in this case, being a letter of the same date, addressed to Robertson & Law, and purporting to be signed by you, and ask you if that is your signature?—A. (After examination.) That is.

Q. Will you tell us under what circumstances you sent those notices to Robertson & Law?—A. To protect the five twentyfourths interest that I represented in the Katydid dump.

Q. Were these notices mailed on the day they are dated?-A. They were mailed, I think, on the day they are dated.

Q. Why did you send those notices on that particular day? How did it happen?—A. Happen? On consultation with my bookkeeper, Mr. Holden, and myself we thought it was best to send them-not just at that time, but it happened to be that time-April 11.

Q. I wish you would tell us fully-because there is some question made here, I understand, about the honesty of these notices-how they happened to be sent on that day .- A. As a mat-

ter of business we sent the notices.

Q. But what brought the subject to your attention at that

Q. Who is Mr. Holden?—A. C. P. Holden, of Boston, Mass. Q. Who is he, and what is his connection with this business?—A. He represents a one twenty-fourth interest.

Q. Of the Everhart heirs?-A. His wife.

Q. His wife is one of the Everhart heirs?-A. Yes.

Q. Did you see him the day these letters were written?-A. I saw him that day.

Q. Where ?-A. In the office and at the Delaware, Lackawanna & Western depot in Scranton.

Q. In what office?—A. My office.
Q. What took place between you and him that resulted in the sending of these notices?—A. We thought it best to send the notices to the different parties who were selling the dump.

Q. What was said about the sale of the dump or the sale that was about to be made?-A. In what way?

Q. Well, you referred to selling the dump. I want to know what sale was talked about?—A. A sale of the Katydid dump on lot 46.

Q. The sale by whom?-A. By the Hillside and Robertson & Law.

Q. It was Mr. Holden, then, coming to your office that brought the matter to your attention at that time, was it?-A. He brought the matter to my attention then.

Q. At that time what did you know, if anything, of the investigation that was soon afterwards made public in regard to the conduct of Judge Archbald?-A. At that time, nothing; it had not come out then.

Q. When did you first hear in any way of the charges against Judge Archbald?—A. That was a month later, I think, and only

by the papers.

Q. Only by the papers?—A. Only by the papers. Q. In what paper did you see it?—A. I think in the Scranton

Tribune. It was in all the papers.

Q. Are you able to say, then, that when it first appeared in the Scranton papers was when you first learned about it?—A. That was about the first.

Q. About the time of these notices?-A. I could not give the exact date, but about that time. It was about a month after

this notice was given.

Mr. Manager STERLING. We object to all this testimony. It can not possibly be material in this case. No one on this side of the case has intimated that he ever knew anything about it.

Mr. WORTHINGTON. With that disclaimer, I have no further question to ask this witness on that subject.
Q. (By Mr. Manager STERLING.) What is your name?

Mr. WORTHINGTON. But on another subject. Mr. Manager STERLING. Excuse me.

Q. (By Mr. WORTHINGTON.) Did you have any dealings with Judge Archbald himself about this Katydid culm dump or your interest in it?-A. I did.

Q. Was that before or after these letters which I have just

called your attention to were written?-A. Before.

Q. How long before?—A. Four months.

Q. What did you have to do with Judge Archbald about that Katydid dump or your interest in it?-A. He inquired of the heirs of that interest, who they were, their names, and ad-

Q. Did he make that inquiry of you?—A. He did.

Q. Did he tell you why he was making the inquiry?—A. In order to purchase the interest.

Q. Did he make any offer in reference to the interest?—A. There was no amount decided upon.

There was no amount decided upon.

Q. Did he say why he was making those inquiries, why he wanted to get that information?—A. No, sir; not just exactly.

Q. Just what did he say?—A. Well, what did he say?

Q. Yes; if you remember?—A. I think in order to buy the Katydid dump. I think so.

Q. Now, when he was making that proposition to you to buy the Katydid dump and if he could get the interest of the Everhart heirs, what, if anything, did he say about keeping quiet the fact that he was making this offer or having the conversation?—A. He did not say anything about keeping quiet tion?-A. He did not say anything about keeping quiet.

Q. Was any suggestion of any kind made not to speak about

it to anybody?-A. Not that I know of.

Q. Do you know Capt. May?—A. I do. Mr. WORTHINGTON. I do not see any necessity of pursuing that in view of the disclaimer made by the managers a moment ago.

Cross-examination:

Q. (By Mr. Manager STERLING.) Your name is Heckel?-A. Yes, sir.
Q. You are administrator of the Everhart estate?—A. Of

the Everhart estate.

Q. And Mr. Holden's wife is one of the Everhart heirs?-A. Yes, sir.

Q. And you and he talked about sending these notices. That was immediately after Holden had been down to Scranton? A. At the same time he was there.

Q. How?-A. We talked about these notices the same day they were sent.

Q. Do you live at Scranton?

Mr. WORTHINGTON. I do wish to ask the witness about the matter I started to ask him. Would the manager prefer that I should do it now or that I should wait until he gets through?

Mr. Manager STERLING. I will wait.

Q. (By Mr. WORTHINGTON.) You say you know Capt. May?—A. I do.

Q. Did you have any communication with him of any kind before sending out these notices?—A. None whatever.

Q. (By Mr. Manager STERLING.) But Mr. Holden did have communication with him, did he not?—A. I do not know.

Q. Did not Holden come to the office and tell you he had just been to Capt. May's office, and Capt. May told him they were about to sell this property?—A. He did not.

Q. Who was it first introduced the subject of sending these

notices?-A. I think Holden.

Q. Who told you that the sale was pending?-A. The sale was pending, I learned from Judge Archbald.
Q. How is that?—A. I learned the sale was pending from

Judge Archbald.

Q. When did you learn it was pending?-A. I think the last of December.

Q. And it was on the 11th of April-A. That the notices were given.

Q. And it was on the 11th of April that Holden went to May's office?-A. I do not know if he did.

Q. Do you know whether May sent for Holden to come down?-A. I do not.

Q. You do not know?-A. I do not.

Q. But you do know he was down there and talked with May?—A. I do not know.

Q. Did not Holden tell you he had been to May's office and May had talked about the contract that was then on his desk for the sale of this property to Bradley?—A. He did not.

Q. He did not tell you about that?-A. No, sir.

Q. How did you happen to write on the 11th, the day that contract was sent out?-A. By the consultation we had.

Q. You had the consultation on that day?-A. Yes; on

Q. And the consultation was just after Holden's visit to May's office?—A. If it was, I do not know anything about it. Q. Are you sure Holden did not tell you he had been to

Q. Are you sure Holden did not tell you he had been to May's office?—A. I am sure he did not.
Q. And May had told him that this was about to be consummated, and had the contract on his table?—A. He did not tell me that about his visit in the office.
Mr. Manager STERLING. That is all.
Q. (By Mr. WORTHINGTON.) Do you know anything about Mr. Holden's condition of health now?—A. I understand he is very sick

very sick.
Q. He lives in Boston?—A. He lives in Boston.
Mr. WORTHINGTON. That is all.

Mr. Manager CLAYTON. Mr. President, I move to exclude that as irrelevant testimony, which has no bearing on this case. The PRESIDING OFFICER. This testimony, if objected to, must go out.

Mr. WORTHINGTON. I wish to show why the witness is

not here to-day. He has been subpœnaed.

The PRESIDING OFFICER. That is not the way to show it. Mr. WORTHINGTON. Very well; if the managers object, we will try to send evidential evidence.

The PRESIDING OFFICER. The witness may retire. He

is finally excused.

TESTIMONY OF WALTER S. BEVAN.

Walter S. Bevan appeared, and having been duly sworn was

examined, and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Bevan, give your full name.—A. Walter S. Bevan.

Q. Where do you live?—A. Scranton, Pa. Q. What is your business?—A. Practicing attorney.

Q. Have you any relations with what are known as the Everhart heirs?—A. I represented Mr. Charles P. Holden, who is married to one of the Everhart heirs.

Q. You represented him as his attorney?—A. Yes, sir.

Q. Look at this paper [presenting paper], which is in evidence here, "U. S. S. Exhibit F," a letter, dated April 11, 1912, to Capt. May, purporting to be sent by you as attorney for Charles P. Holden. State whether that is your signature.—A. (Examining.) It is.

Q. Did you sign that letter and send it on the day it bears date?—A. I did.

Q. Why?-A. At the request of Mr. Charles P. Holden.

Q. Did he make any explanation as to the circumstances which he thought required the notice to be sent?-A. He told me that he had learned that the Hillside and the other interests in the Katydid culm bank were about to be sold. He said he m the Ratydid culm bank were about to be sold. He said he was in a hurry to go to New York, and asked me if I would not write these letters to Capt. May and Robertson and Law.

Q. Please look at "U. S. S. Exhibit O," in this case [presenting paper], and tell me whether that is a letter which you sent

to Robertson & Law at the same time and with your signature

as attorney?-A. (Examining paper.) It is.

Q. At that time what, if anything, did you know about the investigation or charges against Judge Archbald which have resulted in this trial? Mr. Manager STERLING. Mr. President, we object to that

as wholly immaterial.

Mr. WORTHINGTON. You do not claim that he had an

interest?

Mr. Manager STERLING. We do not claim it, and we never have claimed it

Mr. WORTHINGTON. Very well. We are getting wiser as we go along, Mr. President.

Mr. Manager STERLING. Is that all you want to ask the witness?

Mr. WORTHINGTON. That is all.

Cross-examination:

Q. (By Mr. Manager STERLING.) You say Mr. Holden first

told you about this sale?-A. Yes, sir.

Q. He said he had just been down to May's office, and May told him about the closed deal with Bradley?-A. No; he did not say that.

Q. Where did he say he had learned it?-A. He did not say where he had learned it.

Q. Did you ask him where he had learned it?-A. I did not.

Q. That was on the 11th of April?-A. It was.

- Q. Did you learn afterwards that that was the day Holden went down there to May's office?-A. I did not. I did not know he had been there.
- Q. Did you learn that May had sent for Holden and told him that they were about to sell and he had better get these notices in?-A. I did not.

Mr. Manager STERLING. That is all.

The PRESIDING OFFICER. The witness is finally excused. TESTIMONY OF WILLIAM A. MAY-CONTINUED.

William A. May was recalled.

Q. (By Mr. WORTHINGTON.) Capt. May, is it a fact that you turned over some papers relating to this matter to the managers when you were here before the Judiciary Committee?—A. I did.

Mr. WORTHINGTON (to the managers). Have you the papers now, gentlemen?

Manager CLAYTON. Will you indicate them. Mr. Mr. Worthington?

Mr. WORTHINGTON. I want all the papers that were turned over by Capt. May that relate to this matter of the Katydid dump.

Mr. Manager CLAYTON. Some of the papers have already

been introduced in evidence.

Mr. WORTHINGTON. The blue print of the Katydid dump

is the particular paper I was looking for.

Mr. Manager CLAYTON. We have just found that. be glad to oblige you by giving all of them to you. Will you indicate them? We have so many papers turned over to us that I do not recall just what papers Mr. May turned over.

Mr. WORTHINGTON (examining papers). This is a very large Katydid dump according to this map. It begins at Maine

and ends in Missouri. I think it must be the wrong production.

Mr. Manager CLAYTON. I see this is a topographical map. Mr. Manager FLOYD (handing papers to Mr. Worthington). See if these are the papers.

Mr. WORTHINGTON (examining). These have been offered

in evidence, have they not?

Mr. Manager CLAYTON. Mr. President, we have looked through the papers here, and I think possibly the particular papers the counsel has referred to may be at the room of the Committee on the Judiciary. I have sent word to ascertain whether they are there or not, and as soon as I can get them,

if I have them, they shall be produced.

The PRESIDING OFFICER. Can counsel proceed with other parts of the examination? The managers have indicated

that they purpose to produce the papers if possible.

Mr. WORTHINGTON. It would be somewhat difficult, Mr. President. I probably can supply the place with a paper in the possession of another witness, Mr. President. (Robert W. Archbald, jr., left the Chamber and, returning,

handed a paper to Mr. Worthington.)

Q. (By Mr. WORTHINGTON.) I wish you would look at this paper [presenting paper], which purports to be a map of the Katydid culm bank, and tell me if you recognize that and know whence it comes .- A. (Examining.) That is a sketch of the Katydid dump, I presume, from which the blue print was made that they are searching for.

Q. This is the original, then, from which that blue print was

made?-A. So far as I know, it is the original sketch.

Q. Do you know who made that paper?—A. It was found among Mr. Merriman's papers, the man who made the survey of the dump.

Mr. Manager WEBB. The witness is not answering the question.

Mr. WORTHINGTON. He says it was found among the papers of Mr. Merriman. [To the witness:] Mr. Merriman was what?-A. He was surveyor for the land department.

Q. Of the Hillside Coal & Iron Co.?-A. Yes, sir; of the Hill-

side Coal & Iron Co.

Q. He is now dead?—A. He is now dead.

Q. It was found among the papers in his office?-A. Yes;

among the papers in his office.

Mr. Manager CLAYTON. May I not inquire of counsel whether the document now before the witness is not the original of the document of which the committee was furnished a

copy?
Mr. WORTHINGTON. Yes; we have stated that.
Mr. Manager CLAYTON. You had that in your possession

Mr. MARTIN.

Mr. WORTHINGTON. I am informed, however, I will say in reply to the suggestion my respected friend has just made. that there are notations on that blue print which was given to the managers which are not on the original. We would like to have it.

Mr. Manager CLAYTON. I think we will be able to produce

the copy in a few moments.

Mr. WORTHINGTON. I want to have that offered in evidence. Mr. Manager WEBB. Mr. President, I believe we will object

unless this witness knows who made it.
Q. (By Mr. WORTHINGTON.) Did Mr. Merriman at any

time for you make an investigation as to the Katydid dump? The PRESIDING OFFICER. Wait a moment.

Mr. WORTHINGTON. I am not going on with the paper, but I want to lay a further foundation for the introduction of it. The PRESIDING OFFICER. The counsel for the respondent will proceed.

- The Witness. What was the question? Q. (By Mr. WORTHINGTON.) I ask you whether Mr. Merriman at any time for you or under your directions made an investigation of the Katydid dump to ascertain its cubical contents?-A. Mr. Merriman made an investigation at my direction.
- Q. And did he make any report to you?-A. The only report was the blue print that-

Mr. Manager STERLING. We object. The WITNESS. We made no—

The PRESIDING OFFICER. Wait a moment. What is the objection?

Mr. Manager STERLING. We do not object to that statement, but the witness was going on to state what the report was, as I understood it. That is what I object to.

The PRESIDING OFFICER. The Chair does not under-

stand that the objection relates to the testimony as far as it

has been elicited.

Mr. WORTHINGTON. The fact about it, as I understand it, Mr. President, is that the blue print was what the official gave to his superior, Capt. May, and Capt. May says he has turned that paper over to the managers.

The PRESIDING OFFICER. That is evidence already in. Mr. WORTHINGTON. And he finds the original, from which the official made the blue print. The managers said they would find the blue print, and when they have not found it they object to our using that which had been made.

Mr. Manager STERLING. We have not objected. We do not know the purport. We have just objected to the witness giving this report. That is all we objected to.

giving this report. That is all we objected to.

Mr. WORTHINGTON. The purpose is to show the amount of material in the dump which was reported at that time by this official of the Hillside Coal & Iron Co., who is now dead, and that investigation as has already appeared we made in connection with the proposal to sell this Katydid dump to the Du Pont Powder Co. [To the witness:] I am right about that, Capt. May, am I not?

The Wayness Evense me I did not get your question

The WITNESS. Excuse me, I did not get your question.

Q. (By Mr. WORTHINGTON.) I say this examination and report was made with reference to this proposed sale to Judge Archbald and Mr. Williams. That is true, is it, Capt. May?-A.

Q. Did you see this paper at the time, after his investiga-tion?—A. No, sir; I did not.

Q. What he gave to you was a blue print?-A. It was a blue print.

Q. Was the blue print a copy of this? Mr. Manager STERLING. We object.

The PRESIDING OFFICER. The Chair thinks that the wit-

ness can state whether it is a copy of that or not.

Mr. WORTHINGTON. Let me make sure, Mr. President. [To the witness:] That blue print, you say, you did turn over to the managers?-A. It was in my file that I turned over to

Mr. WORTHINGTON. We seem to be blocked. Evidently we have traced the paper into the hands of the managers and the managers say that they have it not, and they object to our using the original.

The PRESIDING OFFICER. The managers expect to pro-

duce the copy in a short time.

Mr. WORTHINGTON. I understand. I am not suggesting any concealment of anything on the part of the managers, of course. I should say we gave notice to the managers yesterday that we understood the papers had been turned over to them and that we would like to have them to-day.

Mr. Manager CLAYTON. Counsel did not specify yesterday what particular papers, but spoke in a general way, and we loaded down one messenger with every conceivable paper that I thought related to the subject and brought them here. Unfortunately, the particular paper now specified is not in the bundle that we have.

The PRESIDING OFFICER. Can the counsel for the respondent proceed further without the production of the paper?

- Q. (By Mr. WORTHINGTON.) When you were here before you testified as to the information you had showing 85,000 tons of material in this dump. Where did you get that?—A. I did not testify that we had \$5,000; I testified \$0,000.
- Q. Eighty thousand; I beg your pardon.—A. The S0,000 tons, that amount, I got from what Mr. Robertson said in his letter. The engineer had made an estimate of about 80,000 tons. Q. And who was that engineer?—A. The engineer I think

he referred to was Yewens.

Q. So you only know as to that what Mr. Robertson and Mr. Yewens reported to him?—A. And Mr. Yewens reported to him.

- Q. Your testimony in that regard was based upon hearsay information?-A. It was based upon the information in that letter.
- Q. Did Yewens make any report to you?—A. He did not.
- Q. Was he in the employ of the Hillside Coal & Iron Co.? A. He was.
- Q. How did he come then to make a report to Robertson and not to you?-A. He did Robertson's work as well as ours.
- Q. When you turned this blue print over to the managers were there any other papers attached to it?-A. I turned my file, that I had with me, over to them. I do not know now what papers were in it.

Mr. WORTHINGTON. I think that is as far, Mr. President, as we can proceed with this witness until we learn whether the

blue print can be produced.

to that.

The PRESIDING OFFICER. Does the counsel for the respondent care to withdraw the witness temporarily and proceed with other matters?

Mr. WORTHINGTON. Yes; Mr. President. The PRESIDING OFFICER. That being the case, the crossexamination had better be postponed until the witness can again be put upon the stand. He will retire temporarily.

Mr. WORTHINGTON. Capt. May is very anxious to get away.

Mr. Manager STERLING. I have a suggestion to make to counsel which, I believe, will shorten all this matter. I procounsel which, I believe, will shorten all this matter. I propose that we put in the evidence the report made by the engineer, Rittenhouse; the report made by Mr. Saums, the Du Pont engineer; the report made by Mr. Marion, the Katydid engineer; and the report made by Mr. Yewens, who made the report for Robertson & Law. There are the reports of four The Rittenhouse report has been ruled out, and I engineers. suppose they had better all be ruled out; but I suggest that all four go in together in the record now, if counsel will agree

Mr. WORTHINGTON. I decline to accept that suggestion, Mr. President. The Rittenhouse report was ruled out as a report, but he was allowed to read from it to refresh his recollection, and it practically went in.

I find Capt. May exceedingly anxious to get away to-day, if that paper could be found.

The PRESIDING OFFICER. Possibly within a few moments it can be produced.

Mr. WORTHINGTON. We will proceed with Mr. Saums, whose testimony was interrupted when we adjourned day before

Mr. Manager CLAYTON. Mr. President, I have now the papers which the counsel wanted. I deliver them [handing papers to Mr. Worthington]. There is the envelope addressed to Capt. May, with certain writing on it, and here is the blue print I presume you were talking about. In fact, this is the lot of papers that I suppose Capt. May referred to as his file; and they, together with the papers which have already been introduced in evidence, are all the papers that came into the possession of the committee or the managers from Capt. May that I can now recall. I think I may state as a fact that they

are all. They are all, to my best recollection.
Q. (By Mr. WORTHINGTON.) Capt. May, I now show you the paper which the managers have found [presenting paper], which purports to be a blue print representing the Katydid culm dump. I ask if that is the paper which your engineer gave to you as indicating, so far as it goes, what he found at the Katy-did culm dump?—A. (Examining.) That is the blue print that he turned in to me.

Q. And was that the paper before you and a part of the information upon which you acted?-A. It was,

Q. When you wrote the letter of August 30, stating that you would recommend the sale of your company's interest in that dump for \$4,500?—A. It was.

Mr. WORTHINGTON. I offer that in evidence.

Mr. Manager CLAYTON. Let me see it, please, Mr. Worthington.

Mr. WORTHINGTON. You have had time enough to see it.
Mr. Manager CLAYTON. I know, but it is some time since
we examined it critically. Give us the jacket the papers were in.

Mr. Manager STERLING. We object to the introduction of the blue print.

The PRESIDING OFFICER. The Chair will hear from coun-

sel for the respondent, if he desires.

Mr. WORTHINGTON. Mr. President, the claim here is that Capt. May, because of Judge Archbald's position on the Commerce Court, agreed to recommend the sale of this dump for less than it was worth. Is it not competent to show what Capt. May had before him when he said he would make the recommendation, so that the Senate may determine whether it was made in good faith or with a view of giving a benefit to Judge Archbald? So far as article 1 is concerned, this is the gist of the whole matter.

The PRESIDING OFFICER. The counsel is undoubtedly entitled to show by the witness that he made the report or based his action, whatever that might be, upon the fact that he received information from a certain party; but the rule does not go to the extent of saying that that information can be introduced in evidence. If that were the case, any secondary evidence would always be introduced. The fact that some one acted upon that report does not make it evidence any more than the report of any other man would be evidence. It may be a reason why he acted, but that does not go to the extent of saving that the paper itself should be put in evidence.

Mr. WORTHINGTON. Mr. President, if this report had shown that Capt. May was informed by his engineer that this culm dump was of such kind and quality and size that it was worth \$100,000, would it not be competent for the managers to put it in evidence to show that he did not make that recom-mendation to sell it for \$4,500 in good faith? The mere fact that that report was made upon it helps us in no wise to determine whether Capt. May was acting in good faith or bad faith, unless we know what the information was.

The PRESIDING OFFICER. The Chair does not think that secondary evidence may be gotten in in that way. The only object of the evidence at all is in explanation of why a certain thing was done by a witness, as illustrated by the books as referred to by the Chair on another occasion of this trial. A witness may say that, in consequence of certain information given to him by a certain party, he went to a certain place; but he can not state what that statement was. It would be the introduc-

tion of secondary evidence, if he did.

Mr. WORTHINGTON. I think, perhaps, the indication of the Chair prevents me from asking the question in any form, but I should like, in order to make sure of that, to put it in another form. [To the witness.] Capt. May, I will ask you the question in another way, but you will not answer until you find out whether you are permitted to answer it. I want

to ask, when you said in your letter of August 31, 1911, in evidence, to Mr. Williams that you would recommend the sale of the interest of your company in the Katydid culm dump for \$4,500, what was your knowledge at that time as to quantity of material in that dump?

Mr. Manager STERLING. We object. The PRESIDING OFFICER. The Chair thinks counsel can ask the witness whether or not he knew it of his own knowledge, but secondary evidence can not be gotten in by that form of question.

Q. (By Mr. WORTHINGTON.) Well, captain, what did you know of your own knowledge about the Katydid dump?-A. I had seen the dump. I had never made a measurement of it. I had seen it a number of times, but took no measurement of any kind.

Q. You had made no measurement of any kind?—A. No, sir.

Q. Had you formed, from your examination of it, any estimate as to the quantity of material in it?—A. I did not. Q. None at all?—A. No, sir.

Q. When you made that recommendation, then, you were guided entirely by information you had received from your engineers, were you?—A. Yes, sir.
Q. And the question of whether you made it in good faith

or bad faith depends upon that information?
Mr. Manager STERLING. We object.

The PRESIDING OFFICER. What is the question?
Mr. WORTHINGTON. That is a question of law, perhaps. If that is the ruling of the Chair, and the Senate does not think it of sufficient importance—

The PRESIDING OFFICER. There are four reports here, and it is sought to introduce one of them as evidence simply because it has been seen by this witness.

Mr. WORTHINGTON. Mr. President, I am not concerned about what was in that dump, but I am concerned about what Capt. May thought was in it and what his information was when he agreed-

The PRESIDING OFFICER. The witness has testified fully as to that, that he did not act upon his own personal knowledge.

Mr. WORTHINGTON. I do not know of anything else I can ask this witness, Mr. President, under the rule which has been laid down.

Mr. OLIVER. Mr. President, is it in order to submit an order that this evidence be admitted?

The PRESIDING OFFICER. It is.

Mr. OLIVER. I submit the order, which I send to the desk. The PRESIDING OFFICER. If it is the desire of the Senate that the question be submitted, it is not necessary to pass

an order. The Chair will submit it to the Senate.

Mr. OLIVER. Then I suggest that the question desired to be asked by the counsel for the respondent be submitted to the

The PRESIDING OFFICER. The Chair will submit to the Senate, at the request of the Senator from Pennsylvania, the question whether or not the paper now offered in evidence shall be admissible in evidence.

Mr. OLIVER. It is only, Mr. President, for the purpose of showing the basis upon which he made his offer of \$4,500.

The PRESIDING OFFICER. That is the right of the Sen-

ate, and the Chair will always submit a question when any Senator so desires.

Mr. LODGE. I desire to make an inquiry. Is this one of the four reports?

The PRESIDING OFFICER. It is one.

Mr. LODGE. Have all the reports been admitted? The PRESIDING OFFICER. None has been.

Mr. OLIVER. But, Mr. President, if I may be allowed to state, as I understand this is the only report that was submitted to the

The PRESIDING OFFICER. It is not in order to discuss the question.

Mr. WORTHINGTON. May I state to the Senate what is the purpose of this question?

Yes. The PRESIDING OFFICER.

WORTHINGTON. The purpose of this question is to have the Senate see the only report which was before this witness, which was the report of his proper officer, made after investigation, under his direction, for the purpose of letting him know what this dump was worth before he decided what he would ask for it. The Rittenhouse report, which has been referred to, was made long afterwards by instructions of somebody representing the Department of Justice. No one of them was before him or known to him at the time that he made this recommendation or agreed to make a recommendation. We offer the report which was made to him by his engineer for the

purposes of showing that he acted honestly, in good faith, when he made the recommendation that he did.

It will be remembered—and the Senate must remember this in order to pass intelligently upon the question—that when Judge Archbald wrote his letter of the 31st of March to Capt. May, asking him whether the dump would be sold; and if so, at what figure, Capt. May has already testified that he then directed an investigation to be made so that he might know what the dump was worth. This is the result of the first the country was a result. what the dump was worth. This is the result of that examina-tion accordingly made and submitted to Capt. May by his officer. After receiving that, he then decided what in his mind was a proper sum to ask for the dump. The other reports have nothing to do with the question whether in making that recommendation or agreeing to make it he acted in good faith or in bad faith.

Mr. Manager STERLING. I trust I may be permitted to say word.

The PRESIDING OFFICER. The manager will proceed. Mr. Manager STERLING. Counsel say that the question is whether Mr. May acted in good faith. The question is not whether Mr. May acted in good faith, but, although we have said all along whether he was paying less or more than the dump was worth was not material, if we go into the question of the value of the dump, the question is what Judge Archbald thought about it, whether, by committing the offense which is charged in the article—that is, unduly influencing these railroad companies to sell the dump—he expected to make a profit out of it. It is not a question as to what Mr. May thought about it at all; the only question is, if we are going into the value of the dump, whether Judge Archbald thought he was getting it for less than it was worth. Mr. May is not on trial at all. If there is any question that is important here as to the value of this dump, it is to find out the real value of the dump, and we can best get it from all of these reports.

It was suggested yesterday by counsel on the other side that this Rittenhouse report was manufactured for the purpose of evidence, and it was proven on the witness stand that Mr. Rittenhouse did not know for whom he was making the report

I suggest, in all fairness, that if this report goes in, all of these other three reports should also go in. We have made the proposition to let them all go in, and I trust that the Senate will permit the other three reports to go in in the same connection, so that the Senate can see side by side the estimates of these three engineers.

Mr. WORTHINGTON. Mr. President, I do not know what reports the honorable manager is speaking of, except three. So far as the Rittenhouse report is concerned, Mr. Rittenhouse, with his report before him, read into the record its contents, refreshing his recollection by having the report before him.

Mr. Manager STERLING. Then, may I state, the other two?

Mr. WORTHINGTON. Let me finish. Another report was one made by Mr. Saums, who investigated the dump for the purpose of informing the Du Pont Powder Co. as to what it was worth when that company proposed to buy it early in 1909. We have Mr. Saums on the stand now, with this interruption, for the purpose of putting that report in evidence.

The third report is the one which is now before this witness,

which we are proposing to put in evidence. If there is any

other I do not know what it is.

Mr. Manager STERLING. I merely want to say to the counsel that the other two reports are the report made by Mr. Saums for the Du Pont Powder people when they were about to buy it and the report made by Yewens.

Mr. WORTHINGTON. Where is Yewens's report.

Mr. Manager STERLING. Your witness just testified about it awhile ago. I do not know anything about it.

Mr. WORTHINGTON. Just one moment on this point, please. Perhaps this matter can be settled right here. Capt. May has testified that his officer, Yewens, made an investiga-tion of this dump for Mr. Robertson, and made a report to Mr. Robertson, he being also in the employ of Robertson. That report has not been produced. It is not in evidence and nobody has seen it, so far as I know.

Mr. Manager STERLING. Then, confine it to the other three reports, if that report can not be had.

Mr. WORTHINGTON. I have just stated that the Rittenhouse report is already in evidence. We have Mr. Saums here for the purpose of putting his report in evidence, and had offered it day before yesterday, when the managers asked to examine the report before they passed on the question of whether they would object to it; and this is the third one.

Mr. Manager STERLING. Mr. President, the counsel is en-

tirely mistaken about the Rittenhouse report being in evidence. We offered it, but it was objected to and ruled out.

Mr. WORTHINGTON. As to the material in the dump and the value thereof?

Mr. Manager STERLING. The written report which we

are presenting and have here now.

Mr. WORTHINGTON. He made a report on a good many other things besides the value and material of the dump. far as that is concerned, we have no objection at all to his report. He has already testified fully in regard to it.

Mr. Manager STERLANG. Then, what do you say about Mr.

Saums's report?

Mr. WORTHINGTON. I had Mr. Saums on the stand for the purpose of putting his report in evidence, but it was objected to by the managers, and the matter held up here the night before

last until they could examine the reports.

Mr. Manager STERLING. Then, I understand counsel accepts the proposition to put the Rittenhouse report, the Saums report—that is, the report Saums made after his investiga-tion—and the report of Mr. Merriman in the record.

Mr. WORTHINGTON. If the manager confines himself to the report Rittenhouse made as to the quality and quantity of

material in this dump and its value, we consent

Mr. Manager STERLING. If there is anything else in the report except that we might, on inspection, strike out some of it, but it relates to that matter entirely. It was made for no

other purpose than to find the value of the dump.

Mr. WORTHINGTON. I have stated, Mr. President, what we are perfectly willing to do, what we understand is proposed, and what we understand is practically done, that the Rittenhouse report as to the quantity of material in that dump and its value, if it is not in evidence, shall go in evidence. I am about to offer the Saums report in evidence, and had Mr. Saums on the stand for that purpose when interrupted, and this is the third report which we are now offering.

Mr. Manager STERLING. Mr. President, here is the report which Mr. Rittenhouse made. It covers the subject and nothing also.

ing else. It all goes to the value of the dump, the quantity of coal in it, and the different grades of coal.

Mr. WORTHINGTON. I find, Mr. President, on examination, that a matter which I had supposed was in the Rittenhouse report is not in it; so we have no objection to the whole report going in, but we had supposed that it was already in substance before the Senate.

Mr. Manager STERLING. It is just as he made it.

Mr. WORTHINGTON. Very well. Mr. Manager STERLING. Then, Mr. Saums's last report

and the report of Mr. Merriman-

Mr. WORTHINGTON. I propose to examine Mr. Saums on direct examination and will bring his report in in connection with his testimony.

Mr. Manager STERLING. In order that the Presiding Officer and the Senate may understand our proposition, it will be remembered that Mr. Saums made two reports. One was after he had gone out and stepped the dump and then estimated it. We object to that report. He afterwards measured the dump definitely and tested it mechanically. As to that report, we have no objection.

Mr. WORTHINGTON. Very well; but as to the first report he has already testified, and we were about to prove the second one when the interruption occurred day before yesterday

The PRESIDING OFFICER. Is it agreed that the four re-

ports shall go in?

Mr. WORTHINGTON. The three reports. There is no fourth report.

Mr. Manager STERLING. Mr. Yewen's report does not seem

The PRESIDING OFFICER. Then it is agreed that the three reports shall go into the record?

Mr. WORTHINGTON. That is agreed.

Mr. Manager STERLING. It is agreed that those three reports shall be admitted.

Mr. OLIVER. I withdraw the order which I submitted, Mr. President.

The PRESIDING OFFICER. The Senator from Pennsylvania withdraws the order submitted by him, and the three reports will be put into the record.

Mr. Manager STERLING. With the understanding that it does not apply to the first report which Mr. Saums made.

Mr. WORTHINGTON. That is already in evidence.

Mr. Manager STERLING. The report is not in evidence.

Mr. WORTHINGTON. His figures are. Mr. Manager STERLING. He testified from it, but the re-

port was not submitted as an exhibit.

Mr. WORTHINGTON. Very well. Now, may I have this blue print [exhibiting] marked as an exhibit?

The paper was handed to the Secretary and marked "U.S.S. Exhibit V."

Mr. WORTHINGTON. This map, Mr. President, contains what purport to be the outlines of the Katydid culm dump, with a number of figures which I will not read, and below is the in-

Katydid culm dump, near Consol, BR. Avoca, Pa., April 15, 1911. Estimate, 55,000 gross tons (available), exclusive of slush, rock, dirt, etc., of no value, as per Mr. Johnson, inspector.

To Mr. Manager Sterling.] Do you want to see this?

Mr. Manager STERLING. I want it when I cross-examine. Mr. Manager CLAYTON (to Mr. Worthington). Are you through with the witness?

Mr. WORTHINGTON. Yes, that is all.

Cross-examination:

Q. (By Mr. Manager STERLING.) Mr. May, you testified before the Judiciary Committee that there were from 80,000 to 85,000 gross tons in this culm dump, did you not?-A. I stated that an engineer made an estimate of 80,000 tons.

Q. You meant Merriman?—A. No.

Q. You did understand, then, that an engineer had estimated it at 80,000 tons?—A. Yes, sir; that was based upon-Q. What does that mean—80,000 gross tons?

Mr. WORTHINGTON. One moment, Mr. President, the witness was in the midst of answering the question when the

manager interrupted him with another.

The PRESIDING OFFICER. The question was answered, and the witness went on as to another matter. The manager desires to interrogate him on that particular line. The witness will have an opportunity before he gets through to state fully anything he wishes.

Mr. WORTHINGTON. I did not think the manager knew

the witness was still answering the question.

The PRESIDING OFFICER. No; the witness started on an explanation.

Q. (By Mr. Manager STERLING.) You read the notation on the bottom of this plat marked "Exhibit V," did you not?—A. I

Q. And it says "estimate 55,000 gross tons." By "gross tons" did you understand is meant all the material in the bank?-A. I did.

Q. Well, do you not think that has a different meaning here?—A. No; I do not think it has.

Q. All the material in the bank means the rock, the dirt, the slush, the coal, and the slate, does it not?-A. I think he referred to-

Q. I am not asking what he referred to, but in ordinary lan-guage, when you speak of gross tons, it means everything in the culm dump, including dirt and everything else?—A. No, sir.
Q. What does it mean?—A. What he meant——

Q. I am not asking you what he meant.

The PRESIDING OFFICER. The witness ought to be permitted to answer.

Mr. Manager STERLING. I did not ask him that question. My question is what does it ordinarily mean?

The Witness. It ordinarily means a ton of 2,240 pounds. Q. And the term "gross material in the bank" includes all of it, does it not?-A. It would include 55,000 tons of material of 2,240 pounds to the ton.

Q. Do you not think it has a different meaning here for this reason? The notation is "Estimate 55,000 gross tons (available)"?—A. No; I do not.

Q. He means that there are 55,000 gross tons of coal, does he not?-A. No; I do not think so.

Q. Then, let us add the next clause, "Exclusive of slush, rock, dirt, etc., of no value."—A. Well, he meant—
Q. Taking that in connection with the "55,000 gross tons (available)" it means that he thought that there were 55,000 gross tons of coal; do you not think so?—A. No, sir.
Q. When you exclude the "slush, rock, dirt, etc., of no value,"

what else is there left in the dump?—A. Culm.

Q. What is culm?—A. Culm is the material that is made from

breaking down the coal.

Q. Well, do they not generally call that slush?-A. No, sir. Q. So you think that includes everything, then, except what you call the culm? It is fine coal, is it not?—A. Fine coal.

Q. And it is used?—A. It is sized and marketed.
Q. And used and marketed, is it not?—A. Yes.
Q. So you think he means there 55,000 tons, exclusive of everything in the dump, excepting the culm?—A. He means 55,000 tons of culm. Q. How is that?-A. In my opinion, he means 55,000 tons

of culm; that is before it is sized. It is the gross material. Q. Not including rock?-A. No, sir; not including rock.

Q. Not including dirt?—A. Nor including dirt. Q. It includes all the coal material?—A. All the coal material.

Mr. Manager STERLING. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) Did you understand by that that there were 55,000 tons of coal there which could be utilized

and sold?-A. Of culm before it was sized.

Q. What percentage of that would be waste? How does it run in these dumps?—A. It runs differently in different dumps. Mr. Johnson's test shows just how much slush there would be in it. They call it that; it is the material that would pass through a three thirty-second inch mesh; that would be waste, and that was included in this.

Q. That was included?—A. Yes.

- Q. Mr. Johnson has given us the figures as to what proportion of this 55,000 tons would be material that could be sold?-A. I think that is in evidence.
- Q. I know it is. Now, did you talk with Mr. Merriman when he made this report to you?—A. Not particularly. I took his report because we always make our reports in gross—I mean taking the entire culm bank-and I took that as the quantity there.
- Q. When you received that, you understood it to mean 55,000

tons of culm?—A. I did.
Q. And not 55,000 tons of coal?

Mr. Manager STERLING. We object. The witness has just

said that that meant all coal material in the culm.

Mr. WORTHINGTON. Yes; but I submit, Mr. President, that is not fair to the witness, because, while he says it means culm, he says a large part of that would be waste which would not be available at all. That is what you say, is it not, Capt. May?

A. Yes; that it is culm; but in that culm there would be material that would pass through a three-thirty-second-inch mesh which we could not market. That means the gross amount

of culm. I can not make it any plainer than that.

Recross-examination:

- Q. (By Mr. Manager STERLING.) But this report of your engineer says 55,000 tons are available. That is what you had before you when you made this offer, is it not—that 55,000 gross tons were available?—A. Of culm; not of marketable material.
- Q. What does he mean by "available," Mr. May?-A. Well, I understood that he meant material that could be used.

 Mr. Manager STERLING. That is all.

Mr. WORTHINGTON. That is all, Capt. May.

Mr. WORTHINGTON. That is an, capt. May.
The Witness. May I be excused?
Mr. WORTHINGTON. So far as we are concerned, we will
be very glad to have Capt. May finally discharged.
The PRESIDING OFFICER. Do the managers desire that

the witness shall be detained further?

Mr. Manager CLAYTON. The witness may be discharged, Mr. President.

The PRESIDING OFFICER. The witness is finally discharged.

TESTIMONY OF H. W. SAUMS-CONTINUED.

Mr. WORTHINGTON. Now, we should like to have Mr. Saums recalled, if we may.

H. W. Saums, having been previously sworn, was recalled and testified as follows:

Q. (By Mr. WORTHINGTON.) Will you look at this letter, dated February 12, 1900, purporting to bear your signature, and addressed to Mr. Henry Belin, jr., president of the E. I. Du Pont Powder Co.? Is that your signature?—A. (After examining letter.) It is; yes, sir.
Q. Is that the letter which you sent to Mr. Belin at that time,

after you had made an investigation of the Katydid dump?-

A. Yes, sir.

Q. I will show you another paper dated February 12, 1909, addressed "Dear Sir" only, and purporting to be signed by you. Is that your signature and your report in this matter?-A. (After examining paper.) Yes, sir.

Q. I show you another paper, without date, which is entitled "Estimate of different sizes of coal and value of same contained in the Katydid culm dump," purporting to have your signature. Is that your signature?—A. (After examining paper.) It is;

Q. Do these several papers contain the result of your investigations into the Katydid dump or only the result of the first investigation and not the second?-A. This last [indicating] has reference to the second examination that I made, and this [indicating] has reference to the first.

Q. That is the letter to Mr. Belin of February 12, 1909, and the paper addressed "Dear Sir" of that date referred to the first investigation .- A. Yes, sir.

Mr. WORTHINGTON. Now, Mr. President, conforming to our understanding of a few moments ago, I first offer in evidence his report after the second examination, as to which we agreed.

Mr. Manager STERLING. That is included in the agreement. We do not object to that.

Mr. WORTHINGTON. Very well. Then I will ask to have that marked and read now, and then we will see whether we can get the rest of it in.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read the paper, marked "U. S. S. Exhibit W," as follows:

[U. S. S. Exhibit W.]

Estimate of the different sizes of coal and value of the same contained in the Katydid culm bank. Number of gross tons in old bank, being 15 per cent of the total, 13,500.

Composed of—	(0
18.7 per cent slate	Tons.
17 per cent culm	2, 020
7 per cent cont lawren then mee	2, 295
7 per cent coal larger than pea	945
.6 per cent pea	81
21.2 per cent buck	2, 862
21.5 per cent rice	2, 902
14 per cent barley	1,890
100.0	13, 500
Number of gross tons in new bank, being 85 per cent of	
Composed of—	Tons.
15 per cent slate	11, 475
28 per cent culm	21, 420
2.9 per cent coal larger than pea	2, 219
.o per cent pea	229
8.1 per cent buck	6 1961
23.5 per cent rice	17 9771
22.2 per cent barley	16 982
	10,000
100.0	76, 500
Total number tons of each size in both banks and eal	

otal number tons of each size in both banks and value of same on the

Slate	9, 0583	tons.	\$5, 695, 21 465, 00 9, 964, 35 14, 615, 65 5, 661, 90
	90, 000		36, 402. 11

H. W. SAUMS.

Q. (By Mr. WORTHINGTON.) Mr. Saums, from your investigation of this dump and your knowledge of the subject, what do you say as to whether or not that dump at the time you made that investigation which resulted in the report just read was one that would pay to put a washery to work?

Mr. Manager STERLING. We object. It is wholly imma-

Mr. WORTHINGTON. I suppose the question whether this dump was worth anything would depend, in the first place, upon the material in it and the value of that material, and then

what it would cost to get it out.

The PRESIDING OFFICER. Upon that the witness would be justified in testifying as to what he thought was the value of the dump, and he could give as his reason the amount of material to be found there and the cost of extracting it. other words, the Chair thinks the question of counsel asks him to testify to a conclusion. He ought to state the facts and let the Senate find the conclusion.

Mr. WORTHINGTON. I am asking him what would be the cost of a proper washery to take out that dump and wash the

material in it.

Mr. Manager STERLING. We object. The PRESIDING OFFICER. The Chair thinks that that is legitimate. Q. (By Mr. WORTHINGTON.) Answer my question .- A.

Shall I answer that question?

Q. Yes; the President rules that you may answer the question.—A. May I ask whether you refer to the washery alone or

the complete plant?
Q. I mean the complete plant.
The PRESIDING OFFICER. The witness will answer the question as asked.

Q. I mean whatever construction would be necessary to get the coal that is merchantable out of the material that was not merchantable, separate it, and have it ready to sell .- A. In the neighborhood of \$35,000.

Q. Have you given any consideration to the question of a scraper line to take that material—you have seen the consoli-

dated washery near the Katydid dump?-A. Yes.

Q. You know all about that situation, do you?-A. I am some-

what familiar with the location there; yes, sir.

Q. Have you made any calculation as to whether or not a scraper line from the Katydid dump could be utilized in connection with that Consolidated washery?-A. Oh, yes; it could be done. What would the cost of a conveyer line be from the Katydid bank to the consolidated breaker?

Q. Yes; that is the first question.—A. About \$4.50 a foot. In

other words; between eight and ten thousand dollars.

Q. And that scraper line would be valuable for what when you got through with it?-A. Scrap, generally.

Would you require anything but the mere track itself?-A. Yes. The \$8,000 to \$10,000 would be exclusive of the pump

- and water pipes.

 Q. Well, what would the whole thing cost? I mean, to do whatever was necessary to get the culm from the Katydid dump to the Consolidated washery.—A. Between \$10,000 and
- Q. Do you know whether or not when you get the coal there to the Consolidated washery it is equipped to get out the larger sizes of coal above pea?-A. I do not.

Q. You do not know?-A. No.

Q. In the calculation that you have made in the report which is in evidence, "U. S. S. Exhibit W," what size mesh did you have in mind when you put the item "barley" at 18,873 tons?— A. Through three-sixteenths round and over one-sixteenth

Q. Is that the customary size of the mesh?-A. It is what we

Q. There is another subject I wish to ask you about, Mr. Saums, and that is as to what extent, if at all, you can get out chestnut coal-coal of the chestnut size and above-in a dump like this, or in this particular dump?—A. You can get a certain per cent of chestnut, but not prepared so it will enter into com-

- petition with freshly mined chestnut.
 Q. Why is that?—A. Owing to its appearance. The larger size—nut coal—for instance, made from the washery is composed largely of different grades of bone with some pure coal, of course, and it carries a much larger per cent of ash than the freshly mined coal. Therefore we have never found it practicable to prepare this coal clean enough to have it compete with freshly mined coal. We sell it for from 75 cents to \$1 a ton less than the circular price for freshly mined coal of that size.
- Q. I notice in this report of yours, which is in evidence, you have put this "coal larger than pea, 3,164 tons," at \$1.80. Why do you put it at \$1.80, in view of what you have just said?—A.

 In making that report for Mr. Belin he gave me to understand that he did not wish to erect a washery there, but he wished to use this fuel for a power plant he proposed to locate back across the hill.

Q. Of the Du Pont Powder Co.?-A. Yes, sir. And he wanted to use this material-coal, slate, and culm all mixed togetherand he asked me to put a value on it. Therefore I had to

classify it to a certain extent, you see.

Q. In reference to his use?—A. In reference to his use; yes.

Q. If you were computing it with reference to putting it on the market generally-A. (Interrupting.) I would have computed it as per my first report.

Q. And what would that be?-A. \$2.30, I believe I used for

Q. Suppose the scraper line to have been constructed as you have estimated, from the Katydid dump to the consolidated washery, what would be the cost of operation? You have told us now what would be the cost of the construction required to get the coal from the Katydid dump to the consolidated washery. What would be the cost of operation per ton?—A. I think 30 cents would be about right.

Q. According to your estimate that would cost how much-30 cents a ton for how many tons? Let us see what the ultimate result would be.—A. (After calculation.) \$15,685.50.

Q. Does that estimate include the cost of operating the

- scraper line or the scraper line and the washery, both?-A. That includes all of the operating expense.
- Q. Now, in reference to the map to which you referred yesterday, you see in the southwest corner of it, as it hangs on the wall, is a part called the conical dump. Do you see that?-A. Yes.
 - Q. Did you include that in your estimate?-A. Yes.
- Q. As of the same average quality as the rest of it?-A. Yes, sir.
- Q. You knew nothing, as a matter of fact, as to what was in the core of that conical dump?-A. No, sir; I did not. I assumed that everything that could be seen was coal.

Mr. WORTHINGTON. That is all.

Cross-examination:

Q. (By Mr. Manager STERLING.) And if your assumption was correct, and according to the testimony in the case, you think that your estimate of the amount of the coal in that conical dump is correct, do you not?-A. According to my test;

Q. You did not test the material that was down in the draw there, did you? The testimony is that they filled up a draw There was a fill there under the conical dump. You there.

did not test anything down there?—A. No, sir.

Q. And you did not estimate for it, did you?—A. No, sir; because I knew nothing about it.

Q. You made this investigation for the Du Pont Powder Co.?—A. For Mr. Belin, of the Du Pont Powder Co.; yes, sir. Q. And at that time the Du Pont Powder Co. was a prospective purchaser?—A. I presumed so.

Q. And you estimated the value of this coal at what you

thought it would be worth to them for their use?-A. I estimated what I thought it would be worth on the ground, the cost of picking it up.

Q. I understood you to say that this coal, which you estimated at \$1.80 a ton, would be worth \$2.30 on the market? -A.

Yes, sir.

Q. It would be worth 50 cents more a ton, would it, on the market than your estimate here?-A. Allow me to explain, if I may.

Q. Answer my question first and then you may explain. Is that what I am to understand?—A. Not in that size, sir.

Q. The size that you have estimated at \$1.80, I understand you say, would be worth \$2.30 on the market; is that right?—A. That represents sizes from what we call broken—

Q. I am not asking you what sizes. But this coal which in your report you estimated at \$1.80, for the Du Pont Powder Co. purposes, you would consider worth \$2.30 on the market?—
A. If it was reduced to nut coal; yes, sir.

- Q. Now you may make any explanation you see fit about sizes.—A. Very well, sir. This coal larger than pea is composed of various sizes, from what we call steamer and broken size down to nut size. In washery practice, all these sizes, promiscuously, are run through a set of rolls and reduced down to nut. We do not find it practicable to make any size larger than put coal from a washery. In this process of wind larger than nut coal from a washery. In this process of grinding a great deal of it, of course, is reduced into small sizes, and some goes off in dirt, in waste. That is why I made that difference of 50 cents—the difference between \$1.80 and \$2.30 a ton.
- Q. And you say chestnut coal is not worth so much when you get it from a culm dump as when you get it from the mine?— A. No. sir.
- Q. That it is worth 75 cents to \$1 less per ton on account of its appearance. Now, what was chestnut worth at that time in Scranton from the mine?-A. I can not answer that question. The circular price at that time was about \$3 a ton, I think.
- Q. About \$3 a ton there?—A. At tide; I am speaking of tide. Q. Mr. Saums, you have divided the culm dump into two parts. I wish you would add the percentages in both parts, of everything except what you have marked as slate. That is, all the different kinds of coal; add the percentages in both parts. What is the percentage of coal in the old part, that which you have marked the old part of the culm; what is the total of the percentages of coal material in the old part of the dump, according to your report?-A. I do not think I understood you right at first.
 Q. Well, I will ask you to add the percentages.—A. The total

percentage is 100 per cent.

Q. I said of the coal; I said excepting slate.-A. Oh, I beg

your pardon.
Q. Just deduct the slate from 100.—A. All right, sir.

Q. How much is the percentage in the old part?-A. 82.30 per cent.

Q. What is the percentage in the new part?-A. Sixty-seven per cent.

Q. What is the total number of tons of coal in both parts, according to your report; that is, of everything—of all the kinds of coal material in the dump?—A. Exclusive of the—

Q. Exclusive of the slate. That is the only thing you marked

there as waste, I think. How many tons of coal are there in the dump, according to your report?—A. In both dumps?

Q. In both of them together?-A. (After calculation.) 52,285 tons.

Redirect examination:

(By Mr. WORTHINGTON.) Does that mean coal or culm ?-A. Coal.

Q. Can you tell us what proportion of that would be of a size under pea?-A. Seventy-six and a fraction per cent of that would be under pen size. Mr. WORTHINGTON.

That is all. Mr. Manager STERLING. That is all.

Mr. WORTHINGTON. This witness may be discharged, as far as we are concerned.

The PRESIDING OFFICER. The witness is discharged finally.

Mr. WORTHINGTON. Now, we will call Mr. Jennings. TESTIMONY OF JOSEPH P. JENNINGS-RECALLED.

Q. (By Mr. WORTHINGTON.) Since you were upon the stand have you obtained the original figures of the engineer who made the estimate upon which you based your figures?-A. Yes, sir: I have.

Q. Have you it with you?-A. I have the notebook.

Whose figures are those; whose book?-A. That book was used by Mr. Merriman.

Q. Where did you get it?-A. I sent to Scranton and got it from the office.

Q. From the Hillside Co.'s office, where you were employed?-A. Yes.

Q. From where he was employed?-A. Yes.

Q. I wish you would go on with the calculation you were making when you were on the stand and was stopped because we did not have the original document here. Have you gone over his figures?-A. I had that map.

Q. That is the map of which a blue print copy is in evidence.-A. And Mr. Merriman's notes as he made them on the

field at the time he made the survey of the dump.

Mr. WORTHINGTON. The map to which the witness refers is the one identified by Capt. May, which was left at the office

of the Hillside Coal & Iron Co. when Mr. Merriman died. Mr. Manager STERLING. We object to this witness testify ing from those notes, for the reason that we have Mr. Merriman's report in there, and this is purely secondary evidence. He does not know whether they are correct or not. Inasmuch as Mr. Merriman's report itself is in evidence, I can see no purpose in offering any secondary testimony, even if it was com-

petent.
Mr. WORTHINGTON. If the objection is insisted upon, as I understand, Mr. President, we will have to ask the witness to step down once more and take that blue print, which the witness could not use because it was in the possession of the managers, and have him go over the calculation which he has made, based on the plat from which the blue print was made and the original figures. The question was made in the cross-examination of Capt. May by the manager who has just been speaking for the purpose of leading to the conclusion that the 55,000 tons reported by Mr. Merriman on the blue print, or stated on the blue print, was coal. This witness has gone over the figures which Mr. Merriman put upon his map and which are upon the blue print of the dump, and has gone over the calculations to verify them. He has made the calculation himself, and finds that it means the cubical contents of the pile and not the coal. He has found some slight errors in the calculation, making the total cubic content of it a little more than that figured out by Mr. Merriman himself on the blue print which is in evidence.

Mr. Manager STERLING. That puts counsel in this atti-

tude

Mr. WORTHINGTON. And, further, that Mr. Jennings has testified already that he went upon the ground himself and examined the dump, so that he is in a position to determine with absolute certainty the question whether 55,000 means coal or means culm.

Mr. Manager STERLING. That is a different question, what he saw personally. The other question puts them in this attitude-of putting in the report of Mr. Merriman, the engineer, and then he being dead they bring some one else on to contradict him; and it being purely secondary evidence, we object to it.

The PRESIDING OFFICER. The Chair thinks the witness could be used to testify to anything on that paper which is in

Mr. WORTHINGTON. I do not understand the Chair. The PRESIDING OFFICER. The Chair thinks the witness can be interrogated as to any matter on the paper which is already in evidence.

Mr. WORTHINGTON. Then we will ask him to step aside and give him that paper, and ask him to make his calculation

from that paper.

The PRESIDING OFFICER. Of course, so far as his calculations are based on any paper in evidence, he can testify to that. The Chair does not think that loose notes are admissible. There is no evidence that those are the notes on which the cal- rect?-A. Yes, sir.

culation was based. They may or may not be. It would be

secondary evidence.

Mr. WORTHINGTON. Without pressing that matter now, and without abandoning our claim that the book might be put in evidence, we will pass the matter until he has an opportunity to look at the blue print in evidence and see whether we can

get along with that and without the other.

Mr. Manager STERLING. I will say to the counsel that we shall certainly object to this witness interpreting what is on the blue print. The Chair and the Senate can interpret that as well as the witness. We shall certainly object to that tes-

timony.

Mr. WORTHINGTON. Here is a memorandum at the bottom of the blue print, which says "55,000 tons available"; and the man who made it is not alive, and the managers contend that it means 55,000 tons of coal, Capt. May says that the notation on it means 55,000 tons of crim, and this engineer, having the figures from which the calculation was made, has gone over it and can show it means culm and not coal.

The PRESIDING OFFICER. The figures founded on that report, of course, are subject to examination, but not otherwise, in the opinion of the Chair, and the calculations can be made by counsel and used in the argument as well as if produced by

the witness

Q. (By Mr. WORTHINGTON.) While the witness is here there is another matter about which I wish to examine him. You have examined this dump, Mr. Jennings?-A. Yes, sir.

Q. When did you make an examination of it and in what

way?—A. Do you mean an examination as to this map?
Q. No; I mean the dump itself. Did you go on the ground and examine the Katydid dump itself?—A. Yes, sir; I went there over a year ago with Mr. May, and I went there in November of this year. Mr. Manager WEBB. I think the witness has testified to

that already

Mr. WORTHINGTON. That was my recollection, but my associate thought he had not.

Mr. Manager WEBB. I think he had.

Q. (By Mr. WORTHINGTON.) How long ago was your last visit?-A. Two or three days before Thanksgiving Day.

Q. You had information at that time that there were 55,000 tons of culm in it?

Mr. Manager STERLING. We object.

Mr. WORTHINGTON. I want to ask him if he made a calculation as to the portion of culm, assuming that it was culm.

The PRESIDING OFFICER. What is the question?

Mr. WORTHINGTON. The question is, from the examina-

tion this witness made of the pile, assuming that there were 55,000 tons of culm in it, what proportion of it was coal of different sizes and what proportion was culm. It is in evidence that there were 55,000 tons of something there, according to the report of a man who is dead, and it is a question for the Senate to pass upon, probably, whether that means 55,000 tons of culm, as Capt. May says he understood it, or 55,000 tons of available coal, as the managers seem to contend. We have a right, and I am only asking this witness

The PRESIDING OFFICER. The witness may testify as to

anything within his own knowledge.

Mr. WORTHINGTON. We are asking him upon an examination made of the dump to testify as to the proportions of the different kinds of coal in it. That is all.

The PRESIDING OFFICER. Of his own knowledge?

Mr. WORTHINGTON. Yes, Mr. Manager STERLING. The question involves this: The counsel asked the witness to assume that there were 55,000 cons of gross material, and for him to make an estimate on that assumption is simply for the witness to interpret the meaning of the report made by Mr. Merriman, in which he undertakes to assume that that was gross material, when, as we insist, the report plainly shows it was available coal. For him to make an estimate of the coal on the assumption that that report means that there were 55,000 tons of gross material would simply be interpreting that for the Senate which we say the Senate themselves must interpret.

The PRESIDING OFFICER. The Chair thinks the witness ought to limit his testimony to what he knows from his own

knowledge of the case.

Q. (By Mr. WORTHINGTON.) Perhaps we can work this out. [To the witness:] Did you have this paper with you when you went on the dump?—A. I did.

Q. Did you find stakes there?-A. I did.

Q. Agreeing with those indicated on the map?—A. I did. I found nearly all of them. There are one or two I could not find, but I found nearly all of them.

Q. So you are able to say that the map is substantially cor-

Mr. WORTHINGTON. I offer that map in evidence.
Mr. Manager STERLING. It is offered in evidence?
Mr. WORTHINGTON. Yes. The witness says he took it to

the dump and saw the stakes there and compared them with those on the map, and he told us of his own knowledge that the map is substantially correct. I offer it in evidence.

Mr. Manager STERLING. We object.

The PRESIDING OFFICER. What is the ground of the objection?

jection?

Mr. Manager STERLING. For the reason that this witness testified he has no knowledge. He only found that in the office of the engineer. We think that because a man found certain stakes on this culm dump, and the stakes are correct as indicated on the map, does not indicate anything about whether the map is correct otherwise or not. It is purely secondary evi-You are proving a map by some one who knows nothing dence.

The PRESIDING OFFICER. The Chair thinks the witness must prove the correctness of the map, as to the measurements and everything else, if the map is to be introduced in evidence.

Q. (By Mr. WORTHINGTON.) To what extent, Mr. Jennings, can you state whether that map is or is not a correct representation of the dump?-A. I took these notes and worked

Mr. Manager WEBB. The notes are not in evidence and

have been excluded.

The PRESIDING OFFICER. The witness may testify as to whether or not he has verified all the details of the map, and if

A could not go and measure all those distances.

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The PRESIDING OFFICER. Unless he has done so, the map is not admissible in evidence. If he has, it is.

Mr. WORTHINGTON. Let us see the memorandum book. [To the witness, handing book:] Do you know whether or not that is in the handwriting of Mr. Merriman and that is the book he kept while in the performance of his duties?-A. (Examining.) Yes, sir; that is the book.

Q. It was his custom to make those entries at that time?-

A. Yes, sir.

Q. In the course of his business, at the time he made the inestigations?—A. Yes, sir; that is the book. He itemized it. Mr. WORTHINGTON. I think, under all the rules of evivestigations?-

dence, that book, being a record made in the course of the performance of the duties of Mr. Merriman while making this investigation, and which were among his papers found in the office of the Hillside Coal & Iron Co. after his death, is competent evidence of the facts stated in it just as much as the book entries of a bookkeeper or a record of marriages made by one whose business it was to keep an account of marriages or the performance of any other thousand and one things for which books are put in evidence to prove the truth of the facts stated

The PRESIDING OFFICER. The Chair thinks that it is perfectly competent for parties who desire to prove the correctness of that map to have those measurements verified by a living witness, and unless that is done, in the opinion of the Chair, the map is not admissible in evidence.

Mr. WORTHINGTON. • Very well. That is all, Mr. Presi-

The PRESIDING OFFICER. It is not a case of proof as to a matter which rested within the knowledge of somebody now dead and where the proof could not be made by others. perfectly competent to have the measurement now made to verify that map.

Mr. Manager STERLING. That is all.

Mr. WORTHINGTON. That is all, Mr. Jennings. I should like to have it understood that this witness is not discharged. The PRESIDING OFFICER. He will be so notified.

TESTIMONY OF V. L. PETERSEN.

V. L. Petersen appeared and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Petersen, your full name, please.—A. V. L. Petersen.

Q. Where do you live?—A. Scranton, Pa.

Q. What is your business?—A. Mining and real estate.

Q. Mining what?—A. Coal.

Q. In what department of mining have you been engaged?-All departments.

Q. Including washeries?—A. Yes, sir.
Q. Have you any personal knowledge of the Consolidated washery, which is situated in the neighborhood of the Katydid culm dump?-A. That was built after I left the Hillside Coal & Iron Co.

Q. When were you connected with the Consolidated, or with the Hillside, so that you knew about the operations of the Consolidated?-A. Up until 1909-June, 1909.

Q. How many years had you been there prior to June, 1909?— I had been in the employ of the Hillside Iron Co. for some-

thing better than 25 years.

Q. Did you have charge of that particular plant, the Consolidated?-A. It is one of the plants I had charge of.

Q. Were you engaged there at the time Mr. Robertson was

working or washing the Katydid dump?-A. I was.

Q. What can you tell us, of your own knowledge, as to whether or not in that operation he did not win chestnut coal from that dump?-A. When they first started to work the Katydid dump they tried to win chestnut and other sizes, but found that that was not commercially practicable.

Why?-A. Because they could not make it pay.

Q. Why could they not make it pay?—A. Because there was so much impurity and waste to be handled in proportion to the small amount of coal that could be won, that it was not commercially feasible.

Q. What sizes then could be commercially produced from

that dump?-A. From No. 1 buckwheat down.

Q. Now, can you tell us from your observation there whether he was working an average part of the dump or the better part of it, or the worst part of it?—A. He was working the better part of the dump.

Q. What would you say as to the part of the dump which remained there, as to whether it is possible to win chestnut coal from it to any extent or of any value?—A. Not commercially. Q. What do you mean by "not commercially?"—A. That you

can not make it pay.

Q. Did you have any connection with the negotiations for the purchase of the dump known here as Packer No. 3, near the Oxford washery?—A. Not the negotiations; no.

Q. Did you have anything to do with that business in connection with Judge Archbald?—A. I went down twice to examine the dumps.

Q. The Packer No. 3?—A. Packer Nos. 3 and 4. Q. Well, go on and tell just what you had to do with that, Mr. Petersen, as your name figures here in the matter?-A. A friend of mine, Mr. J. F. Bell, an attorney in Scranton, I think, was the first one who spoke to me about this dump or these dumps, and asked me if I would go down and look them over, which I did in company with Mr. Jones.

Q. Which Jones?-A. His first name is Thomas, Thomas

Jones.

Q. Thomas H. Jones?—A. I think that is it.

Q. Very well.-A. I made an examination, a cursory examination, not a thorough one, and came back and reported to Mr. Bell on the contents of the dump as I found them and the estimated amount of coal.

Q. Do you remember what your estimate was?-A. I took some notes, but I have not been able to lay my hands on them.

Q. You do not recollect, do you, right now, what conclusion you reached?—A. Not definitely, I think.

Q. Very well; I will not ask you to guess it. Go on, then, and tell what followed. We want to know what your connection was with this proposed purchase of Packer No. 3 from the beginning to the end.—A. I told Mr. Bell I would like to go down again, before the matter was finally determined, to look over the dump again, which I did. After I came back I was asked by Mr. Bell or Mr. Jones, I do not know who, to meet Judge Archbald in his office in Scranton, in the Federal The three of us met Judge Archbald there one forebuilding. noon.

Q. The three of you were whom?-A. Mr. Bell, Mr. Jones, and

myself.

Q. All right. Proceed .- A. While there we spoke about the dump and about the proposed organization of a company to wash it out, and I was asked whether I would take charge of the operation if a lease were consummated for the dump. I said I would, provided the salary, and so forth, was satisfactory That was all until some time later another meeting was held in Judge Archbald's office, where Mr. Bell, Mr. Jones, and two gentlemen from New York, Judge Archbald, and myself were present.

Q. Do you remember the names of the gentleman from New York? Was Mr. Farrell one?—A. Mr. Farrell was one—the coal dealer. I do not remember the name of the other gentle-

Q. Very well.-A. We spoke about the selling of coal and about the financing of the undertaking. Mr. Farrell said that he would finance it with the understanding that I was to handle it on the ground. That is all that I know about it.

Q. Do you remember signing an application to Judge Archbald and Mr. Jones and Mr. Bell?-A. Yes, sir.

Q. For that lease?-A. Yes, sir,

Q. I should like to ask you if anything was said about that time about keeping quiet or concealing Judge Archbald's connection with that proposed purchase?-A. Not at all.

Q. Did you ever hear from any source any suggestion or inti-

mation of that kind?—A. No, sir.

Q. Have you any personal knowledge as to whether this was an unusual or a usual transaction, having one man put up all the money-

Mr. Manager WEBB. We object to that, Mr. President. Mr. WORTHINGTON. Will you not allow me to ask the

question?

Mr. Manager WEBB. You have asked it. It is for the Senate to say whether it is unusual.

The PRESIDING OFFICER. The counsel will complete the

question.

Mr. WORTHINGTON. On that question, Mr. President, when Mr. Farrell was on the stand he was asked precisely the same question and gave testimony. I do not remember whether we had any contention then about it or not.

Mr. Manager WEBB. We did. Mr. WORTHINGTON. Mr. Manager Webb says we did. The question was answered and Mr. Farrell told what he knew about it.

Mr. Manager WEBB. No; Mr. Farrell finally said he had but two transactions of the same kind, and that is all he said. The counsel for the respondent asked him what the general custom or habit was, and the reply was that he had had only two transactions like it. He never did answer the counsel's question.

The PRESIDING OFFICER. What is the question put by

counsel?

Mr. WORTHINGTON. The question is if he knows whether it is a usual or an unusual thing in that anthracite country, of which Scranton is the center, for one person to put up all the money for exploiting a coal operation and others who produce the property and find it to share with him in the benefits of it? I understand the suggestion to be made here that Judge Archbald has done something that he ought not to have done, something criminal, because he did not put any money into this

The PRESIDING OFFICER. The Chair thinks the counsel can lay the foundation for that question by asking to what extent the witness has knowledge of other transactions or how

general his knowledge might be.

Mr. WORTHINGTON. That is what I am asking him. I may call attention here to the previous ruling upon this question. Mr. Farrell was on the stand. It is at the top of page 805:

The Chair thinks, under the circumstances, that counsel is justified in bringing out the fact that there are such other transactions, but the Chair would hardly consider it proper to go into details.

The PRESIDING OFFICER. The Chair thinks the question ought to be as to how many transactions of this kind he has known or as to which he has knowledge.

Q. (By Mr. WORTHINGTON.) How many other similar transactions have you known about, Mr. Petersen; that is, similar in the respect that one man puts up the money and others share the benefits?-A. I know of two quite recently.

Q. And have you known of others?-A. Yes; but I do not

know that I could recall them.

Q. You have known of others, but you can not recall now who they were?-A. Not just who they were.

Q. Can you give us any idea?

The PRESIDING OFFICER. The Chair thinks that it would be better to ask the witness how many he has known of that kind.

Q. (By Mr. WORTHINGTON.) How many altogether would you say you have known of?

Mr. Manager WEBB. He has said two.
Mr. WORTHINGTON. He says two recently, and others the details of which he could not remember. [To the witness.] About how many would you say you have known of altogether, Mr. Petersen?

The WITNESS. Why, I should think possibly a half dozen at

Mr. WORTHINGTON. That is all, Mr. President.

Cross-examination:
Q. (By Mr. Manager WEBB.) You say you remember two recently? When were the other four?—A. Some time in the

Q. What were they?—A. What were they?

Q. Yes; the other four .- A. Money put up for the purpose of developing coal lands.

Q. What was the name of the company, corporation, or jointstock company of each of the four?—A. Pardon me, I told the counsel that I could not recollect.

Q. Then you only recollect two; that is the fact, is it not?-

A. I could not recollect the names of them.

Q. Well, can you recollect the amounts of the other four?—A. I may not have known the amounts.

Q. Can you recollect the men who were in them?-A. Yes; I recollect, for instance, one.

Q. Well, now, one; who was that?—A. That is a coal company up at Peckville.

Q. Were you in that company?-A. No; I have been employed by them.

Q. That is one. Now, do you remember any other?—A. I do not know that I can give it offhand.

Q. Are you a partner or a stockholder in the two recent ones ?-A. I am not.

Q. Were you interested in the formation of the recent ones?-A. Not in their formation.

Q. So all you can remember now are three companies where some other man has put up the money-that is, three definite ones?-A. Yes, sir.

Q. You have been in the coal business 25 or 30 years?-A. Yes, sir.

Q. Now, getting to the Katydid dump, Mr. Petersen-you do not think the Katydid dump is worth anything, do you?-A. Oh, yes; it is worth something.

Q. You think it is worth something?-A. Yes, sir.

Q. What do you think it is worth?-A. Offhand, not having measured it or tested it, I would not pay \$10,000 for it.

Q. You would not pay \$10,000. Would you pay \$5,000?-A. Yes; I would pay \$5,000.

Would you pay \$6,000?-A. Yes, sir.

Q. How much do you think it is worth?—A. Well, I think five or six thousand dollars is all it is worth.

Q. That is all it is worth?—A. Yes, sir.

Q. You have never measured it; you have never examined it; you have never had an engineer to survey it?-A. No; but I know it quite well.

Q. Now, coming to Packer No. 3, when was the first time you saw Judge Archbald with reference to the corporation that was to be known as the Jones Coal Co.—or did you know that it was to be called that?—A. Yes, sir; I heard that. Q. You heard it?—A. Yes, sir.

Q. Did you not know it when you signed your application to the Girard estate?—A. Possibly; I do not know whether that was mentioned in there or not.

Q. When was the first time you talked to Judge Archbald about it?-A. Some time in the late spring or early summer of

Q. In the spring or summer of 1911?-A. Yes, sir.

Q. When was it you made your application finally to the Girard estate?—A. All I know about that application is that letter that I signed there.

O. That is, the application of December 19, 1911. Then, if your application was signed December 19, 1911, Judge Archbald and you had been negotiating or had been discussing the formation of a coal company to take over Packers Nos. 3 and 4 from the spring of 1911 until December, 1911; is that right?-A. Possibly you are right. It might have been later than that. I thought it was early in the summer; but it might have been later than that. I am not positive about that.

Q. When you and Mr. Farrell and Mr. Thomas Howell Jones met in Judge Archbald's office one night in Scranton about this matter, it was agreed that you should supervise the work of

the corporation?-A. Yes, sir. Q. It was agreed that Farrell should put up the money?-A. Yes, sir.

Q. It was agreed that James F. Bell should be the attorney to look after the legal business?-A. I am not positive as to that.

Q. That is the only reason you know of why he would have been in it, is it not-he is an attorney at law?-A. It is possible that was spoken of there; I do not know.

Q. And that Judge Archbald should secure the consent of the Lehigh Valley Railroad Co. to sublease it? Is not that what he was to do?-A. No; he was to get the lease, if possible, from the Girard estate.

Q. They had already gotten it from Mr. Warrher, acting

for the Lehigh Valley people?—A. That I do not know. Q. Who was to get it from the Lehigh Valley people, Mr. Petersen?—A. I do not know that.

Q. Was Farrell to get it?-A. I can not tell you.

Q. You knew he was not, but that he was to put up the money?

Mr. WORTHINGTON. I submit, Mr. President, that the witness should do the testifying and not the manager.

Mr. Manager WEBB. I am asking the question on cross-

Mr. WORTHINGTON. The manager said "You knew he was not."

Mr. Manager WEBB. I raised my voice, Mr. President, indicating it was a question. [To the witness:] I say you knew that Mr. Farrell was to put up the money and that that was the end of his connection with the business, because he was not one of the incorporators?-A. No; I did not know that that was to end it.

Q. Do you know what Farrell was to do?—A. I know that he was to put up the money, but I do not know anything else.
Q. Do you know what Judge Archbald was to do then?—A. Only that he was to try to get the lease from the Girard estate.

Q. Did you know at that time that it was necessary to get the consent of the Lehigh Valley Coal Co. from Mr. Warriner before you could get it from the Girard estate, or vice versa? A. No; I understood that the Lehigh Valley were quite willing to consent to the re-leasing of the dump, not only to the proposed Jones Coal Co., but to all others, provided the coal was shipped over their road.

Q. You need not go outside of that to make a defense. Who told you that? Did Judge Archbald tell you that he had gotten the consent of the Lehigh Valley Coal Co. to sublease it in case the Girard estate agreed to it?-A. No; I do not recollect that

Q. Then did you not know when you signed that application that Mr. Warriner or the Lehigh Valley Coal Co. had already agreed to sublease it if the Girard estate were willing?-A. I did not; no, sir.

Mr. Manager WEBB. I will ask the Secretary to give me the

number of the exhibit showing the application.

The Secretary. It is Exhibit No. 27.

Q. (By Mr. Manager WEBB.) I believe you said that you did not know at the time you signed this application to the Girard estate that the Lehigh Valley Coal Co. had agreed to sublease to you?-A. I do not remember that I did; no.

Q. I will ask you if you did not sign this statement, which is directed to the Girard estate:

But we have the assurance of that company-Referring to the Lehigh Valley Coal Co .-

But we have the assurance of that company that on certain terms and conditions, which have practically been agreed upon between us, it will be satisfactory to them to have us lease from you to the extent suggested. * * *

R. W. ARCHBALD. JAMES F. BELL. V. L. PETERSEN. T. H. JONES.

Q. Did you not sign that?-A. I have no doubt I did, if my signature is there; but I do not remember what was in that

Q. Do you mean to say you signed an important application for a culm bank containing about 500,000 tons of coal without knowing what you were stating to the Girard estate?-A. As to that part of it, yes.

Q. Run over the application, Mr. Petersen, and see if that is what you signed. [Handing paper to witness.]-A. (After

examining paper.) Yes, sir.

Q. Now, do you tell us that you do not remember that the expression that you had the assurance of the Lehigh Valley Coal Co. that their consent could be gotten was not in this application when you signed it?-A. I say that I do not remem-

Q. You do not remember ?- A. Of course, it was there; cer-

- tainly.

 Q. Now, perhaps, you can refresh your recollection after you have read that. Do you not remember that Judge Archbald told you that he had already secured the consent of the Lehigh Valley Coal Co., and that the next step was to get the consent of the Girard estate, and that is why you signed this application in this form and made that statement in it?-A. He may have said that.
 - Q. Did he not say it?-A. I would not be positive that he did. Q. Was anything like that said?-A. Possibly, but I am not
- sure. Q. You are an old coal miner there and know that the railroads or coal companies own these banks, and do you mean to say that you would have applied to the Girard estate without first knowing that you had assurances from the coal company that you could get the sublease?—A. I think that ought to have been the first step taken.

Q. The first step that was taken?-A. No; the first step that ought to have been taken-to apply to the Girard estate.

Q. Precisely, but it was not. Evidently somebody had gotten the consent of the coal company for their lease before you applied. Now, who was it that got that consent?-A. I do not know; I did not.

Q. You do not know?—A. No, sir.
Q. Then, you do not know why you signed such a statement as that to the Girard estate, telling them that you had already received assurances from the Lehigh Valley Coal Co.?—A. I was asked to sign that paper there, and that is all that I know about it.

Q. Did you read it over at all?—A. I think I did. Q. But you do not remember that statement?—A. No; I have

no recollection of it.

Q. Is it not a fact, Mr. Petersen, that you do remember that statement very well and remember the fact that Judge Archbald's part in this transaction was, first, that he had received the consent of the Lehigh Valley Coal Co. to sublease it, and the next step was to apply to his nephew, Col. James Archbald, to receive the consent of the Girard estate, and then the matter would be complete, and you would go to work?-A. I believe there was some such understanding as that, but I am not positive about it.

Mr. Manager WEBB. I think you can stand aside, Mr.

Petersen.

Redirect examination:

Q. (By Mr. WORTHINGTON.) One moment. Have you any recollection at all as to what was said about Mr. Bell's consideration for his interest in the proposed company? You said it might have been stated that he was to act as attorney; that that is what he was to do. Do you recollect that anything was said on the subject?—A. No; I am not sure about that.

Mr. WORTHINGTON. That is all.

Recross-examination:

Q. (By Mr. Manager WEBB.) Did you state that you had been in the employ of the Hillside Coal & Iron Co. for 25 years?—A. Yes, sir.

Q. That is the company that is owned by the Erie Rail-

road?-A. It is a subsidiary company of the Eric Railroad;

Q. Have you been employed by any other railroad or coal company during that time?—A. I was superintendent of the New York, Susquehanna & Western Coal Co., which was also a subsidiary.

Q. All of the companies you have been employed by belong

to the Erie Railroad Co.?-A. Yes, sir.

Mr. Manager WEBB. That is all. Mr. WORTHINGTON (to the witness). How are you employed now?

The WITNESS. I am in business for myself. Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF HENRY E. MEEKER,

Henry E. Meeker, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Meeker, will you give us your full name?-A. Henry Eugene Meeker.

Q. Where do you live?—A. New York, Q. And your business?—A. Coal merchant.

Q. How long have you been a coal merchant?-A. For 22

Q. In that business have you had dealings with people who furnish coal in the anthracite region around Scranton?-A. Yes.

Q. What can you tell us, if anything, as to transactions in which persons in New York put up all the money to operate some coal plant, and other persons who find the plant share with the persons who put up the money in the profits of the operation?

Mr. Manager WEBB. We object to that on the ground that counsel has not asked the question based upon a similar transaction to this. We do not deny that independent coal companies may be formed when coal land is bought, but counsel certainly can not ask a question on all fours, as we would say, with this proposition, where it has been shown in evidence that it required some effort or influence to secure from a coal-owning railroad their consent to sublease their coal land.

think the case can possibly be parallel and therefore in point.

The PRESIDING OFFICER. The witness can testify generally; and then it will be competent for counsel to show in what respect this particular case is to be differentiated from the general rule. The Chair thinks it is better, however, for counsel to ask the witness as to his particular knowledge of

such cases, instead of as to his general knowledge.

Q. (By Mr. WORTHINGTON.) Well, Mr. Meeker, do you know of your own knowledge of cases in which that has been

done?-A. I do.

Q. How many ?-A. Well, I know of three of my own knowledge; that I have done myself. I know of several outside of

that from hearsay.

Q. Are any of those cases in which the coal property was owned or controlled by a railroad company?—A. In one case part of the property was controlled by a coal company which was owned by a railroad company.

Q. What coal company was that?—A. The Pennsylvania

Coal Co.

Q. That is the one of which Capt. May is the vice president,

is it not?—A. I think so; I do not know.
Q. Owned by the Erie Railroad Co.?—A. Yes.

Q. How long ago was that transaction?-A. That was about 18 months ago.

Q. How large an operation was it?-A. Well, I think we have

about 200,000 tons of coal there.

Q. Now, tell us the others of which you have personal knowledge.—A. The other two were 15 years ago. They were down near Plymouth. One was a mining proposition and the other was a washery proposition.

Mr. WORTHINGTON. That is all, Mr. President. I do not care to go into the details of any of these transactions. The

managers can ask for them if they so desire.

Cross-examination:

- Q. (By Mr. Manager WEBB.) Mr. Meeker, what did the company you formed 18 months ago propose to work-a culm bank or coal property?—A. They proposed to work what is called a fill, which was composed of coal that was dumped by the Pennsylvania Coal Co. many years ago to make the gravity
- Q. And abandoned when the old gravity railroad was taken up?-A. Yes.
- Q. And, therefore, the Pennsylvania Coal Co. did not own an interest in it, because it had abandoned it 25 or 30 or 40 years ago. Is not that true?—A. One bank, as I understand, was leased by the Pennsylvania Co. to an individual, and the people who came to me had bought from that individual their lease.
 Q. Who was that individual—V. L. Petersen?—A. I could not

say off hand; I think it was, but I am not sure.

Q. He was the man who was on the stand awhile ago and employed——A. I would not want to say that. I have the papers, and I can find out for you. My recollection is that there is a Petersen fill there, or what is known as "Petersen's fill," but whether Petersen was the individual who had the lease that was sold to a man named Mumford I do not know.

Q. You know, as a matter of fact, do you not, that the old fills along the gravity railroad were abandoned by the Penn-

- sylvania Coal Co. many years ago?—A. I do.

 Q. And that when they abandoned the fills they lost possession of them?—A. I do not know that as a matter of fact.

 Q. Well, did anybody else claim this fill, or did you get a lease from anybody else, besides the Pennsylvania Coal Co.?—

 A. I did not get any lease. Mr. Mumford and others had a lease.
- Q. Did you see the lease?-A. I saw the lease, or my attorney saw the lease.

Q. Whom was it from-who made the lease?-A. The Penn-

sylvania Coal Co. made the lease.

Q. To whom?-A. You say it was to Mr. Petersen. I can

not give you the name now.

Q. I ask you if it was not Petersen, and Petersen leased or deeded it to some trustees, did he?—A. No; he leased—no; Mr. Petersen did not lease to anybody. To be perfectly frank with you, I have forgotten entirely. I have the papers; if you would like me to give those names, I could give that to you from the papers.

Q. Have you them here?—A. Upstairs; yes, sir.

- Q. I will be glad to see them after you stand aside to-night. Do you know anything about the title to the old gravity fill?-
- Q. You do not know what interest the Pennsylvania Coal Co. had in it after it was abandoned, but you do know it was abandoned by them years ago?-A. I do know that from general knowledge

Redirect examination:

- Q. (By Mr. WORTHINGTON.) You do know that this lease under which this operation was to be carried on was a lease from the Pennsylvania Coal Co. on the-—A. Part of the lease;
- Q. Is it not a fact that the dump was called not the Petersen dump but the Patterson dump; was not that the dump?—
 A. No; the Patterson fill is the name; I know that.
- Q. What kind of material was the fill?-A. It was all culm, It was culm?-A. Yes. But I do not believe the lease was in Mr. Petersen's name, as I recollect it.

Recross-examination:

Q. (By Mr. Manager WEBB.) How far is this fill from the

Q. What railroad?—A. From the Eric road.
Q. (By Mr. WORTHINGTON.) Was the coal that was made from the fill shipped by the Eric?—A. Yes. The washery is on

the Erie. The culm is moved to the washery.

Q. (By Mr. Manager WEBB.) I will ask you if you do not know that it is a universal policy of the coal-owning roads in

Pennsylvania not to sell or lease their properties?

Mr. WORTHINGTON. I object to that as not being cross-examination. I did not ask him anything about that. I ask that the cross-examination be confined to the subject to which the direct examination was addressed.

The PRESIDING OFFICER. The point is well taken.

Mr. Manager WEBB. That is all we care to ask him.

Q. (By Mr. WORTHINGTON.) I will ask you one other question. Are you the Mr. Meeker of the Meeker case that we have heard something before the Interstate Commerce Commission?-A. Yes, sir.

Mr. WORTHINGTON. That is all.

The Witness. May I be excused?
Mr. WORTHINGTON. Yes; so far as we are concerned.
The PRESIDING OFFICER. Is it desired that this witness should be retained for any purpose?

Mr. Manager WEBB. Yes, sir; it is, Mr. President.

The PRESIDING OFFICER. The witness will be tempo-

rarily excused but not finally discharged.

Mr. WORTHINGTON. If after reading the papers the managers do not want him, he may be discharged so far as we are concerned. He need not wait on our account.

Mr. Manager WEBB. Very well, then; the arrangement is

satisfactory.

TESTIMONY OF MORITZ RICHARD HELLBUT.

Moritz Richard Hellbut, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Please give us your full nme.—A. Moritz Richard Hellbut.

Q. Where do you live?—A. Red Bank, N. J. Q. What is your business?—A. Coal business.

Q. What branch of the coal business?—A. Selling coal. Q. How long have you been engaged in that business?—A. Nearly all my life-for 25 years.

Q. Did you have any connection with the proposed purchase. in the year 1911, of what is known as Packer No. 3 dump?-A. I did.

Q. Near the Oxford washery?-A. I did.

Q. Tell us about that, please.—A. I was trying to get a dump for Robertson, Haydon & Co., the firm in which I was interested, and I tried to find a good dump. I was told about this dump through a man named T. H. Jones.

Q. T. H. Jones?—A. T. H. Jones. He wrote me a letter about it, and I told him that if the dump was as he represented it I could find him some money to get this dump. He asked me, then, on the 20th of December last year to come to Scranton with my party and see Judge Archbald about it, who was partly interested in this dump. We got to Scranton and saw the judge at his office in Scranton that evening. We spoke over the proposition, talked it all over, and decided to go the next day up to Shenandoah, where the dump is, and inspect it. After we inspected it we considered spected it we considered-

Q. Who inspected it with you?—A. Mr. Farrell was with me, and Mr. Jones and Mr. Farrell's son, and we measured the dump and found, I think, it was about 700 square feet. We considered that it was a safe proposition to put in the amount

of money that was to be required to build the washery.

Q. You say, "We considered it a safe proposition." Whom do you mean by "we"?—A. Mr. Farrell asked my advice on it. That is the reason I say "we."

Q. And you did agree then to put in the money?-A. Yes.

Q. What were you to get for your money?-A. Mr. Farrell put in also some money and he was to get 20 per cent of the profits

of the company and 6 per cent on his money.

Q. And the rest was to go to whom?—A. The rest was to go to the stockholders. Mr. Jones proposed to give him a share of the stock, but he said he would not take it. He said he did

not want any stock, only wanted a profit in the company.

Q. He did not want to become a stockholder?—A. He did not want to become a stockholder.

Q. Do you know of other transactions of that kind—I mean

where one person or a set of persons find a coal property and other persons put up all the money necessary to operate it?-A. I am interested in another one now where exactly the same thing happened.

Q. Where is that?—A. At Hawley, Pa.

Q. In a general way, what is the extent of that operation; is that a large or small operation?-A. Quite a large one, considerably more than \$30,000.

Q. And from what company or concern does that property come?-A. In some part directly from the Pennsylvania Coal Co., and in some part from sublessees of the Pennsylvania Coal

Q. Is that the operation in which Mr. Farrell is interested with you, too?-A. Yes.

Q. And as to which he has testified?—A. Yes; I guess he has. Q. Do you know through what party or parties that interest comes from the Pennsylvania Coal Co.?-A. I think through Mr. Petersen.

Q. You think through Petersen?-A. I think so, but-Q. You know Mr. Petersen has been on the stand?-A. Yes.

Is that the man?—A. Yes; that is the man.

Q. Do you know of any other cases of this kind, where one person or party finds the property and gets somebody else to put up the money?-A. I know of Mr. Meeker-

Q. Do you know of any others?-A. I only have heard about

other cases. I could not say positively.

Do you know of a case in which a man named Hildebrand was concerned?-A. His case is a little different from that. We had a case-

Mr. Manager WEBB. Never mind about that, unless the counsel wants it.

Mr. WORTHINGTON. No; I do not care about troubling

you about that, Mr. Hellbut.
Q. (By Mr. WORTHINGTON.) I want to know if anything was said at the meeting where you met Judge Archbald or at any other time, for that matter, by anybody about keeping quiet the fact that Judge Archbald was an interested party in this transaction?—A. Not at all.

Mr. WORTHINGTON. That is all, Mr. Manager.

Cross-examination:

- Q. (By Mr. Manager WEBB.) The reason why you put your money in it was because Judge Archbald was one of the in-corporators?—A. I did not put my money in. You mean Mr. Farrell?
 - Q. You found the man who put his money in?-A. Yes.

Q. That is the reason why he put his money into the propo-

sition?-A. Oh, no.

Q. Because Judge Archbald was interested in it?-A. No, sir; he did not put his money in for that reason. He put it in be-

cause he thought the proposition was a good one.

Q. But he had to have somebody back of the proposition before he would get his money out of it?-A. He had full se-We had to hold the stock in escrow until all his money was paid back. The whole stock was in escrow until his money was paid back at 20 cents a ton, with interest.

Q. I understood that Mr. Jones found you and you found Mr. Farrell and Mr. Farrell furnished the money. Is that

right?-A. That is right.

Q. You spoke about a fill containing something like 200,000 Is that one of the old gravity railroad fills?-A. Yes: one of the old gravity railroad fills.

Q. One of the old fills that the Pennsylvania Coal Co. abandoned?-A. It is 12, 13, and 14, and, I think, 15, too.

Q. An abandoned gravity fill?-A. Yes; an abandoned gravity

fill; one of the best coals in the market.

Q. Abandoned 35 or 40 years ago?-A. Abandoned, I think, 30 years ago-about.

Q. Do you not know that the Pennsylvania Coal Co. does not own the land or the coal that you are working now?

Mr. WORTHINGTON. I submit this witness can hardly be expected to know.

Mr. WEBB. I ask him if he does, and he can answer that. The PRESIDING OFFICER. It is put interrogatively. The Witness. May I have that question asked again?

Q. (By Mr. Manager WEBB.) Do you not know that the Pennsylvania Coal Co. does not now own either the land on

which this fill is or the culm in it?-A. No; I do not. Q. You do not know whether it owns it or not?-A. I am

told-and I have leased of the Pennsylvania Coal Co .- I have seen a lease of the Pennsylvania Coal Co. where they claimed to own it.

Q. They claimed to own it?-A. Yes.

Q. And the lease you have is through this man Petersen, who has been employed by them for 25 years?—A. I have not the lease from Petersen; I have the lease from the Pennsylvania Coal Co. Mr. Beyea signed the lease as land agent.

Q. How does Mr. Petersen figure in it?-A. There was some part of the fills which was sublet locally, and he got them all together so as to make a tonnage which would justify building a washery to take care of any amount of coal.

Q. Have you a lease from Petersen?—A. We have no lease from Petersen.

Q. What has he to do with, or did he have to do with, the forming of the company?-A. The forming of the company he

had nothing to do with. Q. How did he figure in the transaction, then? You spoke of him a while ago. - A. Mr. Petersen figured in the transaction in this way: He has gotten together from four or five people there the leases which they owned.

Q. Four or five people, you say?—A. Yes; four or five different people—the leases which they owned.

Q. And Petersen leases to you?—A. No. He had the people turn the leases over to us direct. Mr. Petersen is not in it at

Q. He turns these leases over to you directly?—A. Yes. Q. And if the Pennsylvania Coal Co. had any interest, they have leased that to you, too?-A. They approve the leases, and

they were turned over to us.

Q. Do you not know that those individuals that leased to Petersen owned the land, and because the Pennsylvania Coal Co. abandoned it 35 or 40 years ago they also abandoned their right to the culm, and those individuals own both the culm and the land?-A. That is new to me.

Q. Do you know what proportion the Pennsylvania Coal Co. claims in the bank-what interest they claim?-A. What in-

terest, you mean, they own in the land?

Q. I want to know if you know what interest the Pennsylvania Coal Co. claims in this old gravity fill that you are

working?—A. That they own it all.

Q. What interest do the individuals have who give you the lease?-A. They did not claim to own anything. The Pennsylvania Coal Co. has the right of way, as I understand, on each side for 25 feet. They own the actual land, I am told.

Q. What did the individual own?-A. The individual had a

lease from the Pennsylvania Coal Co.

Q. When were these leases made?—A. Ten years ago, think, some; eight years ago. They screened it locally, with hand screens, for local consumption, and left everything below pea and even pea in that screening.

Q. Then if individuals were leased this fill by the Pennsylvania Coal Co. and you owned the individuals' leases, why did the Pennsylvania Coal Co. make you a lease direct?—A. On part of it the Pennsylvania Coal Co. did not have any leases given out.

Q. What part? That is what I asked you awhile ago .- A. I think it was the twelfth level. I will have to look that up.

And the thirteenth and fourteenth plane. Q. What proportion in decimal figures would that be of the dump, if you know?-A. I never have figured it all together. I

did not figure it especially, you know.

Q. All you know is, then, that the Pennsylvania Coal Co. claimed an interest in the fill; you do not know what it is?—A. I know we have the fill from the Pennsylvania Coal Co. direct and the re-lease from others, with the consent of the Pennsylvania Coal Co., which is required.

Mr. Manager WEBB. All right, sir; stand aside. Q. (By Mr. WORTHINGTON.) Who do you say signed the lease for the Pennsylvania Coal Co.?—A. Mr. Beyea, the land agent.

Q. (By Mr. Manager WEBB.) Have you that lease with you?—A. No; there is a set of leases. There is not only one

lease; there are quite a few leases.

Mr. Manager WEBB. All right, sir. Stand aside.

The PRESIDING OFFICER. Is there a desire to retain this witness?

Mr. WORTHINGTON. No, sir.

The PRESIDING OFFICER. He may be finally excused.

Mr. WORTHINGTON. The examination of the next witness will probably take somewhat longer than the time we have remaining before 6 o'clock.

The PRESIDING OFFICER. It lacks three minutes of the adjourning time, or two minutes and a half. What is the pleasure of the Senate?

Mr. NELSON. I offer the following order.

The PRESIDING OFFICER. The Senator from Minnesota offers the following order, which will be read by the Secretary. The Secretary read as follows:

Ordered. That the proceedings in this case, printed in pamphlet form, be indexed and bound, for the use of the Senate, during the holiday recess of Congress, ready to be furnished Senators, managers, and counsel for the respondent by the 2d of January, 1913.

The PRESIDING OFFICER. The Chair will state for the information of the Senate that the committee which has had charge of the details of this proceeding has already had a clerk engaged in the work of indexing. In view of that fact, it may not be necessary that the full order be adopted as written, unless it is made to cover the work already done.

Mr. NELSON. It will cover that, Mr. President. The PRESIDING OFFICER. The question is on the adoption

of the order just read. Is there objection?

Mr. REED. Is it not possible to have the time of delivery shortened, so that we can have that record to read before the Senate reconvenes and the trial is resumed? Will it not be possible to have it delivered five or six days sooner than the time stated?

Mr. NELSON. I do not know as to that. I presume it can

Mr. NELSON. I do not know as to that. I presume it can be printed as soon as it is ready. The object is to have these loose copies bound in a book with an index for our use. I will ask to have the words "as soon as possible" substituted for the words "by the 2d of January, 1913."

The PRESIDING OFFICER. Is there objection to the adoption of the order as modified? If not, it will be considered as unanimously ordered by the Senate. The hour of 6 o'clock has anxiety and the Senate sitting as a Court of Impeachment arrived and the Senate sitting as a Court of Impeachment stands adjourned until 1 o'clock and 30 minutes p. m. to-morrow.

The managers on the part of the House of Representatives and the respondent and his counsel retired.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. 6283) increasing the cost of erecting a public building at Olympia, Wash., and it was thereupon signed by the President pro tempore.

REGULATION OF IMMIGRATION.

Mr. LODGE. I ask that the immigration bill as amended by the House of Representatives, which has just been received,

may be laid before the Senate.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, which was to strike out all after the enacting clause and insert a substitute.

Mr. LODGE. I move that the Senate disagree to the amendment of the House and ask for a conference, and that the Chair appoint the conferees on the part of the Senate.

Mr. STONE. Mr. President, I ask that this action be not

taken at this time.

Mr. LODGE. Mr. President—
Mr. STONE. Just a moment. I do not care to move, at least
I would rather not now move, that the Senate concur in the
amendment of the House. I should like to have the bill as

passed by the House lie on the table until to-morrow

Mr. LODGE. The House has struck out all of the Senate bill except the illiteracy test, and that the House has inserted in a slightly different form, but in substance the same. Unless we are prepared to abandon all the administrative features of the bill, which no one suggests, I think concurrence is out of the question. We adjourn to-morrow for the holiday recess, and it is very important that the House should have the opportunity to appoint their conferees to-morrow. They have sent the bill here to-day on that account.

Mr. STONE. Of course, we can not dispose of the bill at

this session. Mr. LODGE. At this session of Congress?

I mean before the holiday recess. Mr. STONE.

There is not the slightest intent of even taking Mr. LODGE. it into conference before that time. The object is merely to get conferees appointed.

Mr. STONE. They can be appointed to-morrow, perhaps, as well as to-day. I should like to have the bill go over, so that I may confer with several Senators who have spoken to me about it on this side before that action is taken. I ask that it may lie on the table.

Mr. LODGE. Mr. President, I do not want to assent to that delay in action on the bill.

The PRESIDENT pro tempore. The Senator from Massachusetts moves that the Senate disagree to the amendment made by the House of Representatives and ask for a conference on the disagreeing votes of the two Houses, and that the Chair appoint the conferees on the part of the Senate.

Mr. STONE. I make the point of no quorum.

The PRESIDENT pro tempore. The Senator from Missouri raises the question of a quorum. The roll will be called. The Secretary called the roll, and the following Senators

answered to their names:

Ashurst Bacon Gallinger Hitchcock Nelson Smith, S. C. Oliver Overman Page Pomerene Root Smoot Thornton Johnston, Ala. Jones Lodge Martin, Va. Martine, N. J. Brandegee Bristow Bryan Crawford 'ownsend Warren

Smith, Ga. The PRESIDENT pro tempore. On the call of the roll 26 Senators have answered to their names-not a quorum.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to, and (at 6 o'clock and 8 minutes p. m.) the Senate adjourned until to-morrow, Thursday, December 19, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

Wednesday, December 18, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the fol-

lowing prayer:

Fletcher

Our Father in heaven, keep us, we beseech Thee, in all our intercourse with our fellow men in touch with Thee, lest we forget the admonition, "Judge not, that ye be not judged; for with what judgment ye judge, ye shall be judged; and with what measure ye mete, it shall be measured to you again"; that we may put into our daily life that sublime injunction, "All things whatsoever ye would that men should do to you, do ye even so to them; for this is the law and the prophets."

Thus may we hallow Thy name, in the spirit of the Lord

Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

ONE HUNDRED YEARS OF PEACE.

Mr. MOORE of Pennsylvania. Mr. Speaker, I ask unanimous consent for leave to print in the RECORD an address on One Hundred Years of Peace Among English-Speaking People, delivered in New York recently by the Hon. WILLIAM D. B. AINEY, a Member of this House from the State of Pennsylvania.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to print in the Record the address by his colleague [Mr. Ainey] on One Hundred Years of Peace. Is

there objection?

There was no objection.

Address of Hon. WILLIAM D. B. AINEY. Member of Congress, at the dinner given by the American committee for the celebration of one hundred years of peace among English-speaking people to Ambassador Bryce, Hotel Astor, New York, December 13, 1912, Hon. Alton B. Parker, presiding.

Parker, presiding.

Your Excellency, Mr. Chairman, ladies, and gentlemen, it affords me a high sense of privilege to be present with you on this occasion, distinguished and graced by the British ambassador, who has consented to be your guest, and to unite with you in behalf of my colleagues in the Congress of the United States in expressions of felicitation and encomium and in conveying to him America's tribute of great affection. I am deeply appreciative of the harmonious blending of thought and expression, of person and place, of illustrious guest and purposeful host in this complimentary dinner tendered to Ambassador Bryce by the American committee for the celebration of one hundred years of peace among English-speaking peoples.

America is not unmindful of the diplomatic brilliancy of the distinguished guest; it will not forget him as one deeply versed in history—a man of letters. He will be remembered for his charm of manners and engaging personality, but the emphasis of his accomplished work among us has been in a sense, perhaps, to him unknown. He has interwoven the fibers of his own generous sympathies into the very fabric of American heart life and bound the English-speaking peoples by the cords of love.

can heart life and bound the English-speaking peoples by the cords of love.

A hundred years of peace between elbow-touching nations, wherein the thoughts and purposes of each have run in parallel lines in unbroken course, notes a great era of the world.

The signing of the treaty of Ghent marks a new source from whence spring the fountains of English-speaking history. Since that day the two mighty rivers of Anglo-Saxon life and influence have flowed steadily on and, side by side, never overflowing their banks, but in their onward course bound in the very nature of things to mingle their waters in the great ocean of a common destiny and accomplishment.

It would be interesting to follow them in their history under this figure of speech from small beginnings to the mighty present, and peer, as far as the mere human may, into the region of the coming days.

The similarity is so apparent that it has been ofttimes remarked, common in language, literature, history, and traditions, with similar religious and ethical conceptions, possessed of the same ideas as to the fundamentals in government, they have both sought, through all these means of expression, to obtain and give that liberty which means the exaltation of the individual life to a place where it may fulfill the duty of its created purpose.

The common goal is quite apparent, the waters may overflow the banks, and, God forbid it, wars may come to hinder and delay; but as surely as the day is day, as right is right, and rivers flow to ocean, the Anglo-Saxon problem will ultimately find solution in the broadest and deepest unity of purpose.

Among the world's great thinkers of other races the peculiar aptitude of the Anglo-Saxon to grasp the thought of his own and others' rights in his quest for liberty has been pointed out. He has been intensely but not selfshily individualistic in his views. To him personal liberty has meant Individual liberty, if one may here differentiate in terms. Not merely the liberty to throw off restraint, but liberty to do and be and think and to acquire; liberty to express himself in life and influence, to reach, the topmost rung, to climb the highest peak, to fulli with himself the topmost rung, to climb the highest peak, to fulli with himself the person of peak of the peak of peak of the himself in life and influence, to reach, the topmost rung, to climb the highest peak, to fulli with himself peak of peak of the himself himself and these in turn have made new problems, have been met and solved, and these in turn have made new problems, and the has a statished it and has increased in stature by the attainment. With liberty came enlightenment, and this gave him a vision of opportunity, and he has attained it and has increased in stature by the attainment. With liberty came enlightenment, and this gave him a vision of opportunity, and he has seized upon it.

The rank and file have answered to the Anglo-Saxot cry to step up higher. Thus far their destiny is accomplished. It has brought an important of the himself of the himself and the himself and himself and the himself and himself and the himself and h

To bring about an international understanding, using the apt term formulated by Dr. Nicholas Murray Butler, so freighted in meaning as to be quickly seized by the English world, we need an "international mind."

We may not stop here, else we fail in our philosophy to realize how much the great world hangs its activities upon the broad sympathies of mankind; the potency of the emotional in man; its quick response to words of love or hate, to kiss or blow; the ready yielding of both men and nations to the common influence of a kindred feeling.

Some years ago an article touching the relations between the United States and Great Britain appeared in the Atlantic Monthly. It closed with a sentiment so high and exalted that I bring it here:

"Though our countries may have no formal alliance, They have a league of hearts."

The author was your distinguished guest, the sentiment a page from is great heart and life and work.

Let it be paraphrased and then enthroned beside the other one.

Give us then—

An international mind to understand, An international heart to feel,

and our hundred years of peace are but the beginning of an endless day of peace on earth, good will to men.

DIRECT ELECTION OF UNITED STATES SENATORS.

Mr. RODDENBERY. Mr. Speaker, I ask unanimous consent to print in the Record a report of the committee on resolutions, adopted by the General Assembly of Georgia, relative to the proposed amendment to the Constitution of the United States providing for the direct election of United States Senators by the people. It is the official action of the Legislature of Georgia on that question.

The SPEAKER. The gentleman from Georgia asks unanimous consent to print in the Congressional Record the proceedings of the Georgia Legislature on the subject of the constitutional amendment affecting the election of United States Senators by direct vote of the people. Is there objection?

There was no objection.

The report is as follows:

Report of the joint committee of the Legislature of Georgia relative to the resolutions of Congress proposing an amendment to the Constitution of the United States providing for the election of Senators by the people of the several States.

the resolutions of Congress proposing an amendment to the Constitution of the United States providing for the election of Senators by the people of the several States.

To the General Assembly of Georgia:

Your committee to whom was referred the resolution of the Congress proposing to amend the Constitution of the United States in the matter of the election of the Senators, with instructions to inquire and report whether the amendment is proposed according to the terms of the Constitution report as follows:

In the year 1776 the 13 American Colonies, then subject to the British Crown, jointly published to the nations of the world a declaration of their purpose to sever their connection with the mother country for reasons fully set forth in that instrument. The declaration made was in these words:

"That these United Colonies are and of right ought to be free and independent States; that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain is and ought to be totally dissolved, and that as free and independent States they have full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things which independent States may of right do."

The Colonies were not at that time united by any other bond than as allies in war.

Upon the issue made by this declaration wager of battle was joined with the State of Great Britain, and the war terminated by a treaty of peace signed at Paris in the year 1783, whereof the first article was as follows:

"His Britannic Majesty acknowledges the sald United States, viz. New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia to be free, sovereign, and independent States; that he treats with them as such, and, for himself, his heirs, and successors, relinquishes all claim to the government, propriety (?), and territor

ence, and every power, jurisdiction, and right which is not by this consederation expressly delegated to the United States in Congress assembled."

By the fifth of these articles it was provided that each State should annually, and in such manner as its own legislature should determine, appoint delegates to a Congress of the United States "for the more convenient management" of their general interests, the number so selected by any one State to be not less than two nor more than seven, each State maintaining its own delegates, and each State having one vote in the Congress and no more.

The government created by these articles did not prove adequate to its own necessities, and in the year 1787 delegates were selected from the several States to meet in convention at Philadelphia under a resolution of the Congress adopted February 1, 1787, in these words:

"Resolved, That in the opinion of Congress it is expedient that on the second Monday in May next a convention of delegates, who shall have been appointed by the several States, be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several legislatures such alteration and provisions therein as shall, when agreed to in Congress and confirmed by the States, render the Federal Constitution adequate to the exigencies of Government and the preservation of the Union."

In response to this expression from the Congress 12 of the States did send delegates to such a convention, and the present Constitution, except the amendments thereto, was the result of its deliberations, being proposed by the convention in September, 1787, and afterwards, and before the end of the year 1788, ratified and agreed to by 11 of the States, and the new Government put into operation between them. Afterwards, in November, 1789, the States all showed during the entire

the new government, and Rhode Island did likewise in May of the year 1790.

There can be no doubt that the States all showed during the entire period of the negotiations and proceedings extreme solicitude for the preservation unimpaired of their respective sovereignties and an almost jealous apprehension of any possible assumption by the Federal Government of any authority not expressly delegated to it by the free consent of all the States. This solicitude, indeed, found expression in an amendment agreed to so early and so earnestly insisted upon in the ratification of many of the States as a condition upon their consent as to be practically a part of the original Constitution. That amendment stands in these words:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people."

Nor can there be any doubt that prior to the final adoption of the Constitution no State could be subjected to any new subtraction from its sovereignty except by its own free consent. That is to say, no change in the Constitution could be imposed upon any State prior to that time without its own consent, even though all other States so decreed; a principle clearly illustrated in the fact that, although 11 States agreed at first to the new Constitution as a substitute for the dld, no attempt was made to impose its obligation upon Rhode Island or North Carolina.

This principle that no State could ever have any alteration of the

States agreed at first to the new Constitution as a substitute for the old, no attempt was made to impose its obligation upon Rhode Island or North Carolina.

This principle that no State could ever have any alteration of the Constitution imposed on it except by its own consent was departed from for the first time by the terms of the Constitution of 1787, and then only by the free consent of every State. It is therefore pertinent to look to the question of how this alteration occurred, and see to it that no extension be consented to by implication beyond the exact terms of the original grant.

When the convention of delegates, representing only 12 States, formulated the Constitution, they fully recognized their own want of authority to impose its changes upon any State, and took notice at the same time of the fact that it was impossible to foresee which States would and which would not accede to the new Government. Therefore they wrote into it as the last article this provision:

"The ratification of the convention of nine States shall be sufficient for the establishment of this Constitution between the States so ratify-

would and which would not accede to the new Government. Therefore they wrote into it as the last article this provision:

"The ratification of the convention of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same."

The inith State to ratify the Constitution, New Hampshire, did so on June 21, 1788, but Virginia and New York did likewise on June 26, and the new Government went into operation between 11 States.

The fifth article of this Constitution made the first provision ever contemplated by the United States or any of them for the amendment thereof without the unanimous consent of the States, and therefore was the first authority that the States ever consented to for the Imposition upon any one of them of any dereliction from its own sovereignty by a vote of the others or of any number of the others. That provision remains of force.

Bearing in mind the histore reluctance of the several States to part with any of their reserved powers, or to permit any impairment of the sovereignty and independence or to permit any impairment of the sovereignty and independence or to permit any impairment of the sovereignty and independence safeguarded in the formation of this Government, it seems but a prudent and proper adherence to our just and honorable traditions to make no further concessions upon this subject, and consent to no changes in the fundamental law except such as are made in strict conformity to its terms.

The provisions on this subject to which our fathers agreed are expressed in the following words:

"The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of legislatures of two-thirds of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the

be a fair argument to contend that if the framers had intended "two-thirds of those present" they would have said so in unambiguous words.

But it happens that there is other light in that great instrument, for by the third section of the first article, dealing with the question of impeachment, it provides that "no person shall be convicted without the concurrence of two-thirds of the Members present." In like manner the power to make treaties, granted to the President in the second section of the second article, has this condition, "Provided two-thirds of the Senators present concur." By all the approved rules of legal construction, sanctioned by the wise experience of a thousand years, these passages ought to solve all doubts unless some other clause be found to raise a just renewal of the question.

The provision in the fifth section of the first article which constitutes a majority of each House a quorum to do business can not be considered to raise such question, for, obviously, that section refers only to the general ordinary course of normal legislation, and if it had any application to extraordinary matters no necessity would have existed for the provision that in case of impeachment the two-thirds required to convict means two-thirds of those "present."

Impeachments are in the nature of bills of attainder, of such high authority as are not necessary to be based on previous statute defining and prohibiting the offense, and are therefore extraordinary in their nature. The treaty power is perhaps most dangerous to the reserved sovereignty of the States, for under it the President, with the requisite advice and consent, may exercise fur-reaching power over them. Amendment of the Constitution, for reasons already stated, is in much higher degree an extraordinary power. Indeed, we feel safe in saving, in view of the history herein set forth, that to no subject whatever did the prudent men who framed the Government give more cautious attention than to the fixed purpose that each State should reserve its sown

that the difference in the isinglange used by the exact their who who who constitution was designed.

These considerations, it seems to us, are greatly emphasized by the fact that, if the meaning we have attached to the Constitution in this regard be not the true one, then it follows that barely more than one-third of each House could set in motion the extraordinary machinery which might result in the subtraction from a State of some vital portion of its sovereignty without its own consent. Such a possibility

In wholly inconceivable as having been consented to by the grave and cautious man who framed the Constitution of so jestionsity guarded the sourceignty of the several States therein.

The amendment proposed by the Congress and referred, to this committee did not seed to the committee of the com

2d. That the governor be, and he is hereby, directed to return to the proper office of the United States from which it emanated, the communication proposing an amendment as to the election of Senators, with the respectful protest of this State against the proposal as having been made by less than the requisite vote and therefore in derogation of the Constitution.

3d. That a copy of these resolutions and of the report in which the same are embodied be communicated to our Senators and Representatives in the Congress, with the request that the same be brought to the attention of that body.

4th. That the governor be, and he is hereby, directed to communicate like copies to the governors of the several States of the Union, with

the request that the same be laid before their respective legislatures as an expression of the sentiment of this State, and in the hope that all the States may join with Georgia in earnest insistence that the Congress do not hereafter propose amendments to the Federal Constitution otherwise than upon the vote of two-thirds of the entire membership of each House thereof.

5th. That in the interest of candor we conceive it proper to say that the State of Georgia will be prompt to agree to the election of Senators by the people of the respective States, if the proposal therefor be made in what we conceive to be the method provided by the Constitution for its own amendment, but not in any terms which derogate in any degree whatsoever, directly or consequentially, from our reserved right of entire and unqualified control over our own suffrage, registration, and elections.

Respectfully submitted.

J. E. Sheppard,

J. E. Sheffard,
W. T. Roberts,
Committee on behalf of Senate.
Hooper Alexander,
J. Randolph Anderson,
Committee on behalf of House.
John N. Holder,
Speaker of House.
John T. Boiffulllet,
Clerk of House.
John M. Slaton,
President of Senate.
C. S. Norther,
Secretary of Senate.

Approved August 19, 1912.

JOSEPH M. BROWN, Governor.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the bill (S. 2118) to aid in the erection of a monument to Pocahontas at Jamestown, Va., in which the concurrence of the House of Representatives was requested.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee as indicated below:

S. 2118. An act to aid in the erection of a monument to Pocahontas at Jamestown, Va.; to the Committee on the Library.

BRIDGE ACROSS SNAKE RIVER, JACKSON HOLE, WYO.

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 3947) to provide for a bridge across Snake River, Jackson Hole, Wyo., with House amendments thereto, insist on the House amendments, and agree to the conference asked for by the Senate.

The SPEAKER. The gentleman from Texas asks unanimous consent to take from the Speaker's table the bill S. 3947, with House amendments thereto, insist on the House amendments, and agree to the conference asked for by the Senate. Is there

objection?

There was no objection.

The SPEAKER appointed the following conferees on the part of the House: Mr. SMITH of Texas, Mr. RUCKER of Colorado, and Mr. KINKAID of Nebraska.

CALENDAR WEDNESDAY.

The SPEAKER. This is Calendar Wednesday.
Mr. BURNETT. Mr. Speaker, I move that the House dispense with Calendar Wednesday for this day.

Mr. MANN rose.

The SPEAKER. The gentleman from Illinois is entitled to five minutes.

Mr. MANN. Mr. Speaker, on various occasions there have seemed to be reasons for dispensing with Calendar Wednesday. I remember when the railroad bill was before the House in 1910 the House was very anxious to proceed with the consideration of that bill. The House was considering it on a sideration of that bill. The House was considering it on a Tuesday. I desired to obtain the consent of gentlemen on the Democratic side to dispense with Calendar Wednesday on the following day, in order that we might proceed with the rail-Objection was made by gentlemen at that time. think it was the understanding at that time, although that bill was of the greatest importance, that the House ought not to break down the rule for Calendar Wednesday. It is quite certain that if the House, because it has a bill under consideration that it desires to pass, begins to dispense with Calendar Wednesday when Calendar Wednesday stands in the way, that Calendar Wednesday will have passed out of existence, practically, because it will seldom happen that Tuesday night will come without some measure under consideration which might be continued on Wednesday morning. The country hailed with delight the reform in the rules providing for Calendar Wednesday, for the purpose of insuring one day in the week on which bills reported from committees might be con-sidered without either asking the Speaker for recognition or the Committee on Rules for a special rule.

Now it is proposed by the gentleman to dispense with Calendar Wednesday. The gentleman who makes the motion might | Butler

have called up his bill on Calendar Wednesday. Instead of that he chose to resort to the Committee on Rules, and he now proposes to take a step backward and abolish Calendar Wednes-As long as the rules provide for a calendar day called Wednesday it seems to me the House ought to stand in favor of maintaining the integrity of that rule and that day. [Applause on the Republican side.] The gentleman has the right to proceed with his bill to-morrow, and it is not necessary in order to pass the immigration bill to break down this day. I regret that some gentlemen may assume that my opposition to the motion now is because I have not favored the House amendment to the immigration bill; but we have had this question up in the House on several occasions when the House desired to pass a bill and yet refused to break down the rule for Calendar Wednesday. All of the reforms proposed by the other side of the House to the rules they are gradually dispensing with. We had a great reform in a rule for a committee discharge. They have taken out of that all that amounts to anything. There has been no opportunity in this House for a year to move to discharge a committee from further consideration of a bill. You have ruined that reform that you proposed and you now propose to take the bowels, the whole life, out of the rule providing for Calendar Wednesday, and I protest against that

Mr. GARDNER of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. MANN. And the distinguished gentleman from Massa-chusetts [Mr. GARDNER] who now interrupts me was one of the men favoring the rule then and now proposes to knife it.

The SPEAKER. The time of the gentleman has expired. Mr. BURNETT. Mr. Speaker, it comes with poor grace from the gentleman from Illinois, after the motion he made and the attempt he made yesterday to prevent the consideration of the immigration bill, for him to talk about it being an outrage to dispense with Calendar Wednesday and call up this bill. [Applause on the Democratic side.] We were right on the eve of the passage of the bill. Many gentlemen made their arrangements to go to their homes last night and to-night. Now, if we pass this bill over until Thursday, there might not be a quorum here. I do not say that is the motive of the gentleman, but that would practically be the result. Calendar Wednesday is no more sacred than the rule which provides for dispensing with Calendar Wednesday by a two-thirds vote. It is part of the rule creating Calendar Wednesday, and there is no more important measure, Mr. Speaker, before this Congress or before the American people [applause on the Democratic side] than this immigration bill. We have had a six-year filibuster against this bill, and now we have come to the point of its passage, concerning which the country is so insistent and so urgent, and therefore I insist that we can certainly suspend one Calendar Wednesday in order that we may meet the demands of the people and of right for the passage of this bill. Mr. Speaker, I ask [Applause on the Democratic side.] for a vote.

Mr. MARTIN of South Dakota. Mr. Speaker, a parliamentary

inquiry.

The SPEAKER. The gentleman will state it.

Mr. MARTIN of South Dakota. If the pending motion prevails, will the call on next Wednesday morning be precisely where it is this morning?

The SPEAKER. It would, undoubtedly.

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division. The House divided; and there were—ayes 71, noes 33, Mr. MANN. Mr. Speaker, I make the point of order there

is no quorum present.

The SPEAKER. Evidently there is not. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 157, nays 67, answered "present" 8, not voting 157, as follows:

YEAS-157.

Dent
Denver
Dickinson
Dies
Difenderfer
Dixon, Ind.
Edwards
Evans
Faison Byrnes, S. C. Byrns, Tenn. Callaway Candler Adair Alexander Allen Fowler Francis Ashbrook French
Gardner, Mass.
Garner
Garrett
Gillett
Glass
Godwin, N. C.
Goeke
Goodwin, Ark.
Greene, Vt.
Gregg, Pa.
Hamilton, W. Va. French Contrill Austin Contrill
Carlin
Clark, Fla.
Clayton
Cline
Collier
Cox. Ind.
Cullop
Dalzell
Danforth
Davis, W. Va. Ayres Bartlett Bathrick Beall, Tex. Bell, Ga. Blackmon Borland Farr Ferris Fields Finley Flood, Va. Floyd, Ark. Buchanan Burnett

Hamlin Hardy Harrison, Miss. Hay Hayden Hayes Hellin La Follette Lamb Langley Lenroot Lever Lewis Lindbergh Linthicum Padgett Slayden Smith, J. M. C. Smith, Sami. W. Smith, Tex. Page Payne Pepper Plumley Smith, Tex.
Stedman
Stephens, Cal.
Stephens, Miss.
Stephens, Nebr.
Stephens, Nebr.
Stephens, Tex.
Sterling
Sweet
Talbott, Md.
Townsend
Tribble
Underhill
Watkins
Webb Porter Post Powers Pray Prince Helgesen Helm Littlepage
Lloyd
Longworth
McKenzie
McKinney
McLaughlin
Macon
Maguire, Nebr.
Martin, S. Dak.
Moore, Tex.
Morgan, Okla,
Morrison
Morse, Wis.
Moss, Ind.
Neeley
Nelson
Oldfield Littlepage Helm Henry, Conn, Henry, Tex. Hensley Hinds Holland Raker Robinson Roddenbery Rothermel Rouse Rubey Rucker, Mo. Russell Houston Hughes, Ga. Hughes, W. Va. Hull Webb White Willis Wilson, Pa. Witherspoon Young, Tex. Russell Saunders Shackleford Sharp Sheppard Simmons Sims Sisson Jacoway James Johnson, Ky. Johnson, S. C. Jones Kent Kopp NAYS-67. S-67.
Kinkaid, Nebr.
Kinkaid, N. J.
Konop
Lee, Pa.
Loud
McCoy
McDermott
Madden
Miller
Mondell
Moore, Pa.
Morzana, La. Rees Reilly Roberts, Mass. Rodenberg Rucker, Colo. Sabath Sherley Sloon Ainey Ames Anderson Bartholdt Fergusson Fitzgerald Foster Fuller Fuller George Goldfogle Good Graham Greene, Mass. Hamilton, Mich. Hammond Booher Bulkley
Burke, S. Dak.
Burke, Wis.
Burleson
Campbell
Cannon
Crago Sloan Steenerson Stone Talcott, N. Y. Morgan, La. Mott Murray Needham Tilson Towner Volstead Whitacre Crago HIII Hill Howell Howland Kahn Kendall Kennedy Crumpacker Davis, Minn. Dupré Dyer Estopinal Nye Peters Wilder ANSWERED "PRESENT"-8. Browning Driscoll, M. E. Dwight Lobeck MeGillicuddy Mann Olmsted Stevens, Minn. NOT VOTING-157. Langham Lawrence Lee, Ga. Legare Driscoll, D. A. Adamsen Roberts, Nev. Aiken, S. C. Akin, N. Y. Andrus Ellerbe Esch Fairchild Scott Scully Sells Legare
Levy
Lindsay
Littleton
McCall
McCreary
McGuire, Okla,
McHenry
McKellar
McKinley
McMorran
Maher Sherwood Slemp Small Ansberry Focht Fordney Fornes Gallagher Gardner, N. J. Anthony Barchfeld Small Smith, Cal. Smith, N. Y. Sparkman Speer Stack Barnhart Gardner, N. J.
Gill
Gould
Gray
Green, Iowa
Gregg, Tex.
Griest
Gudger
Guernsey
Hamill
Hanna
Hardwick
Harris
Harrison, N. Y.
Hart
Hartman
Haugen Bates Berger Boehne Bradley Brantley Broussard Brown Stanley Sulloway Maher Martin, Colo. Sulzer Switzer Burgess Burke, Pa. Matthews Mays Merritt Moon, Pa. Moon, Tenn. Murdock Taggart
Taylor, Ala.
Taylor, Colo.
Taylor, Ohio
Thayer Calder Carter Cary Cary Claypool Conry Cooper Copley Covington Cox, Ohio Cravens Curley Currier Curry Thayer Thistlewood Thomas Turnbull Tuttle Underwood Vare Vreeland Warburton Wedemeyer Murdock Norris O'Shaunessy Palmer Parran Patten, N. Y. Patton, Pa. Pickett Pou Pronty Hartman Haugen Hawley Heald Higgins Hobson Howard Curry
Curry
Daugherty
Davenport
Davidson
De Forest
Dickson, Miss. Howard Pou Humphrey, Wash. Prouty Humphreys, Miss. Pujo Jackson Rainey Kindred Randell, Tex. Kitchin Ransdell, La. Wedemeyer Weeks Wilson, Ill. Wilson, N. Y. Wood, N. J. Woods, Iowa Kitchin Knowland Konig Korbly Lafean Lafferty Dodds Donohoe Doremus Rauch Redfield Young, Kans. Young, Mich.

So, two-thirds having voted in favor thereof, the motion was agreed to.

Riordan

The Clerk announced the following pairs:

On this vote:

Mr. Covington (in favor) with Mr. Doremus (against).

Mr. Hardwick (in favor) with Mr. Vreetand (against).
Mr. Guernsey (in favor) with Mr. McGillicuddy (against).

Mr. LAFFAN (in favor) with Mr. Coney (against). Mr. Switzer (in favor) with Mr. Berger (against). Mr. Parran (in favor) with Mr. Wedemeyer (against).

Mr. Howard (in favor) with Mr. Thayer (against). Mr. Kitchin (in favor) with Mr. Lobeck (against). Mr. Palmer (in favor) with Mr. Smith of New York

(against).

Doughton

Draper

Mr. GUDGER (in favor) with Mr. DANIEL A. DRISCOLL

(against).

Mr. McCall (in favor) with Mr. Copley (against) Mr. DOUGHTON (in favor) with Mr. MAHER (against). For the session:

Mr. LITTLETON with Mr. DWIGHT.

Mr. Pujo with Mr. McMorran.
Mr. Riordan with Mr. Andrus.
Mr. Fornes with Mr. Bradley.
Mr. Adamson with Mr. Stevens of Minnesota.

Mr. Hobson with Mr. FAIRCHILD.

Mr. Scully with Mr. Browning. Until further notice:

Mr. Moon of Tennessee with Mr. OLMSTED.

Mr. STANLEY with Mr. ANTHONY.

Mr. Korbly with Mr. Wood of New Jersey. Mr. Burgess with Mr. MICHAEL E. DRISCOLL.

Mr. UNDERWOOD with Mr. MANN. Mr. SHERWOOD with Mr. DRAPER.

Mr. SPARKMAN with Mr. DAVIDSON. Mr. RICHARDSON with Mr. ESCH.

Mr. AIKEN of South Carolina with Mr. BARCHFELD.

Mr. Ansberry with Mr. Bates.

Mr. Barnhart with Mr. Burke of Pennsylvania.

Mr. BOEHNE with Mr. CURRIER. Mr. BRANTLEY with Mr. CALDER. Mr. BROUSSARD with Mr. CABY.

Mr. CARTER with Mr. DE FOREST. Mr. CLAYPOOL with Mr. Dodds.

Mr. Cox of Ohio with Mr. Focht. Mr. Curley with Mr. Fordney.

Mr. DAVENPORT WITH Mr. GARDNER of New Jersey.
Mr. GILL With Mr. GREEN of Iowa.
Mr. DONOHOE WITH Mr. HARRIS.
Mr. ELLERBE WITH Mr. HANNA. Mr. GALLAGHER with Mr. HAUGEN. Mr. GOULD with Mr. HAWLEY.

Mr. Hamill with Mr. Heald. Mr. Harrison of New York with Mr. Humphrey of Washington.

Mr. HART with Mr. HIGGINS.

Mr. Humphreys of Mississippi with Mr. Jackson.

Mr. KINDRED with Mr. KNOWLAND.
Mr. KONIG with Mr. LANGHAM.
Mr. LEE of Georgia with Mr. LAWRENCE.

Mr. LEGARE With Mr. McCreary. Mr. Levy with Mr. McGuire of Oklahoma.

Mr. McKellar with Mr. McKinley.

Mr. MARTIN of Colorado with Mr. MATTHEWS.

Mr. O'SHAUNESSY with Mr. SULLOWAY. Mr. PATTEN of New York with Mr. MERRITT.

Mr. Pou with Mr. Moon of Pennsylvania. Mr. RAINEY with Mr. PATTON of Pennsylvania. Mr. RANDELL of Texas with Mr. MURDOCK.

Mr. RANSDELL of Louisiana with Mr. PICKETT.

Mr. RAUCH with Mr. PROUTY.

Mr. Brown with Mr. Woods of Iowa.

Mr. TAGGART with Mr. HARTMAN.

Mr. Taylor of Alabama with Mr. Roberts of Nevada. Mr. Taylor of Colorado with Mr. Scott.

Mr. THOMAS WITH Mr. SELLS. Mr. TURNBULL WITH Mr. SLEMP.

Mr. Tuttle with Mr. Smith of California. Mr. Wilson of New York with Mr. Speer. Mr. Lindsay with Mr. Taylor of Ohio. Mr. Dickson of Mississippi with Mr. Vare.

Mr. Cravens with Mr. Wilson of Illinois. Mr. Sulzer with Mr. Weeks. Mr. Small with Mr. Young of Michigan.

Until January 10:

Mr. Mays with Mr. Thistlewood.
Mr. BROWNING. Mr. Speaker, I voted "yea.". I am paired with my colleague the gentleman from New Jersey, Mr. Scully, and I wish to withdraw my vote of "yea" and vote "present." The name of Mr. Browning was called, and he answered

"Present."

Mr. OLMSTED. Mr. Speaker, I have a general pair with the gentleman from Tennessee, Mr. Moon. Not knowing how he would vote if present, I do not feel at liberty to vote, and

desire to be recorded as present. The name of Mr. OLMSTED was called, and he answered

"Present."

Mr. MANN. Mr. Speaker, may I asl Alabama, Mr. Underwood, voted? The SPEAKER. He is not recorded. Mr. Speaker, may I ask if the gentleman from

Mr. MANN. I have a general pair with the gentleman. I voted "nay," and I desire to withdraw my vote and vote present."
The name of Mr. Mann was called, and he answered

"Present."

Mr. LOBECK. Mr. Speaker, I voted "nay." I am paired with the gentleman from North Carolina, Mr. Kitchin, and I wish to withdraw that vote and vote "present."

The name of Mr. Lobeck was called, and he answered

" Present.'

The result of the vote was announced as above recorded. A quorum being present, the doors were opened.

ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 6283. An act increasing the cost of erecting a public building at Olympia, Wash.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on Arid Lands was discharged from further consideration of the bill (H. R. 12826) providing for the discovery, development, and protection of streams, springs, and water holes in the desert and arid public lands of the United States, for rendering the same more readily accessible, and for the establishment of and maintenance of signboards and monuments locating the same, and the bill was referred to the Committee on Public Lands.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as

To Mr. Scott, for two days, on account of illness.

To Mr. Cooper, indefinitely, on account of illness in his family. To Mr. WARDURTON, until January 10, in order to visit the Panama Canal.

IMMIGRATION.

The SPEAKER. The unfinished business yesterday was the demand of the gentleman from Illinois [Mr. MANN] for the reading of the engrossed copy of the immigration bill.

Mr. MANN. Mr. Speaker, I withdraw the demand for the reading of the engrossed copy of the bill.

The SPEAKER. The Clerk will report the bill by title.

The Clerk read as follows:

An act (S. 3175) to regulate the immigration of aliens to and residence of aliens in the United States.

Mr. MANN. Mr. Speaker, I move to recommit the bill to the Committee on Immigration and Naturalization, with instructions to that committee to report the bill back forthwith with an amendment striking out all after the word "That" and inserting the language which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the motion to re-

The Clerk read as follows:

The Clerk read as follows:

Amend by striking out all of the bill after the word "That" and inserting the following:

"The word 'alien' wherever used in this act shall include foreign-born, unnaturalized seamen. That the term 'United States,' as used in the title as well as in the various sections of this act, shall be construed to mean the United States, including the Territories of Alaska and Hawaii; and if any alien shall attempt to enter the United States from the Canal Zone, the Philippines, Porto Rico, or any other place outside of the United States but subject to the jurisdiction thereof, such alien shall be permitted to enter only on the conditions applicable to aliens entering the United States from a foreign country. That the term 'seaman' as used in this act shall include every person signed on the ship's articles and employed in any capacity on board any vessel arriving in the United States from any foreign port or place. That nothing in this act shall be construed to apply to accredited officials of foreign Governments nor to their suites, families, or guests.

"Sec. 2. That there shall be levied, collected, and paid a tax of \$5 for every alien, including alien seamen regularly admitted as provided in this act, entering the United States. The said tax shall be paid to the collector of customs of the port or customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line."

Mr. GARDNER of Massachusetts. Mr. Speaker, I raise the

Mr. GARDNER of Massachusetts. Mr. Speaker, I raise the point of order that it is not permissible, by a motion to recommit, to attempt to adopt that which was not germane when considered by the House in the first place. I make the point of order that the bill has been read sufficiently far to show that it is not germane to the substitute.

The SPEAKER. The Chair will hear the gentleman from

Illinois.

Mr. MANN. Mr. Speaker, the rule that was adopted by the House in reference to the consideration of this bill does not affect the present situation at all. The only application of that rule was that the previous question should be ordered on the bill when reported from the committee. It is true that the Chairman of the Committee of the Whole House on the state of the Union ruled that any amendment which was offered to the committee amendment must be germane to the committee amendment, but he expressly stated that he made that ruling because of the rule that had been adopted by the House governing the action of the Committee of the Whole. That rule

applied only to the action of the Committee of the Whole in the committee.

Here is the situation: Here is a bill, a Senate bill, to regulate the immigration of aliens and the residence of aliens in the United States-a general bill. The Committee of the Whole has out all of the original bill and inserting other language. I recommended and the House has agreed to that bill, striking claim that the entire subject is before the House now. House is not cut off from the consideration of any portion of it by the rule, because the rule limiting consideration to the committee amendment applied only in the Committee of the Whole. The rule limiting the consideration does not apply to the House. The whole bill is before the House.

I am surprised that the gentleman from Massachusetts [Mr. GARDNER] should make the point of order as to a bill covering the entire subject of immigration pending before the House that it is improper in the House to offer to that bill an amendment which relates to any portion of the immigration subject at all. The whole subject is before the House.

Under the rule that the House has adopted it is true that in accordance with the ruling of the Chair you could only add, by way of amendment, something which was germane to the committee amendment. But here the rule provides that there may be a motion to recommit. We have the entire subject before the House. I do not believe that the Speaker will rule that when a Senate bill covering the entire subject of immigration is under consideration by the House a motion to recommit must apply only to something germane to an amendment which the House has adopted.

The SPEAKER. The Chair will hear the gentleman from

Massachusetts.

Mr. GARDNER of Massachusetts. Mr. Speaker, not having anticipated this situation, I have not been able to consult Hinds' Precedents with regard to a motion to recommit; but I am very clear in my own mind that the whole principle of that motion lies in a purpose of giving the House a final review of that which it has decided upon. That which is not permis-sible for the House to do directly, either in committee or in the House itself, may not subsequently be done under the guise of a motion to recommit. The recommittal stage is in the nature of a fourth reading.

I can not quote the precedents in this case, but I am very confident that the general principle that you may not seek to accomplish by a motion to recommit that which you could not have accomplished directly, either in the Committee of the Whole or in the House, is based on many decisions, which I

suppose are easily available.

Mr. MANN. Mr. Speaker, let me call the attention of the Speaker to this fact: The gentleman says that a motion to recommit is not in order which could not have been offered by way of amendment. I agree with that proposition; but the right of amendment in this case was cut off by the previous question. If the previous question had not been operating, it is perfectly clear to anyone that when it was proposed to strike out all of the bill and insert other language any amendment germane to the original bill would have been in order in the The previous question being in operation, no such amendment could be proposed; but any motion to recommit is in order, which would have been in order as an amendment if the previous question had not been operating. The proposition here was to strike out the entire Senate bill, a bill covering the general subject of immigration. It is true that no amendment could be offered in the House, because the previous question would shut out the right; but the motion to recommit was preserved, because the Committee on Rules could not report differently.

Under section 5873 of Hinds' Precedents an amendment providing for an educational test for immigration was held to be germane to a bill to regulate the immigration of aliens into the The Chair, in ruling upon it, stated that it United States.

being-

a general bill on the subject of immigration, it is not the province of the Chair to pass on the merits or demerits of any amendment or its wisdom or justice. It appears to the Chair that this amendment is clearly, distinctly, and logically connected with the general scope of a bill regulating the immigration of aliens into the United States, and under these circumstances the Chair feels constrained to overrule the point of order and hold that the amendment is germane to the bill.

The SPEAKER. What was the amendment?

Mr. MANN. The amendment was to apply the educational test to a bill regulating the immigration of aliens.

The SPEAKER. That was a general bill regulating immigration.

That was a general bill regulating immigration, Mr. MANN. just exactly like this one.

The SPEAKER, And the educational test was offered as an

amendment.

Mr. MANN. The educational test was offered as an amend-

The SPEAKER: What section of Hinds' Precedents did the gentleman read from?

Mr. MANN. Section 5873. Mr. FITZGERALD. Will the gentleman yield for a question? Mr. MANN. Certainly.

Mr. FITZGERALD. Is the gentleman's motion a motion to direct the committee to report the text of the Senate bill?

Mr. MANN. It is not the text of the Senate bill. Even I would know better than to try to do that. [Laughter.] It is very largely similar in many provisions, and is certainly germane to the provisions of the Senate bill and certainly germane

to the general subject of immigration.

Mr. HILL. Mr. Speaker, I should like to call attention to what seems to me to be a parallel case. In 1909 the gentleman from New York brought in what was known as the Payne tariff bill, and by a vote of the House certain portions of it were allowed to be voted upon and the rest were not. Of course, those portions only were subject to amendment in the consideration of the bill in accordance with the vote of the House, but when the bill came back into the House the gentleman now occupying the chair [Mr. Clark of Missouri] offered a motion to recommit proposing an entirely different policy, and it was admitted and voted on. It seems to me that the case is almost

The SPEAKER. The Chair will jog the gentleman's memory a little by stating that nobody raised a point of order against it. Mr. HILL. I admit it, but the principle is the same, and in

this case the same policy is pursued.

The SPEAKER. In that case the gentleman from Connecticut and his confrères were so sure that they could vote down the motion to recommit that they never took the trouble to make a point of order against it.

Mr. HILL. Is not that the condition now?

The SPEAKER. No; the situation is different. The Chair thinks, to add to the story, that if anybody had raised the point of order against the motion to recommit the Speaker would have been compelled to bowl it out and give permission to offer one that was in order.

Mr. GARDNER of Massachusetts. Mr. Speaker, I invite the attention of the Chair to a ruling made on the 8th of May, 1911, by Speaker Clark. It will be found on page 1120 of the Record of the first session of this Congress. The gentleman from Illinois [Mr. Mann] offered a motion to recommit a tariff bill—the farmers' free-list bill, I think—inserting as section 2 of the bill a certain paragraph. After a good deal of discussion the Speaker decided the question as follows:

It is not necessary for the Chair to pass any opinion on the wisdom or unwisdom of this new rule. It is his duty to decide according to the rule. It is clear that the amendment offered by way of a motion to recommit under this rule would not have been in order if offered as an amendment, and on the high authorities of Speaker Reed and Speaker Cannon, I sustain the point of order made by the gentleman from Ala-

The gentleman from Illinois [Mr. MANN] appealed from the decision of the Chair, and the Chair was sustained by a vote of 200 as against 129. The gentleman from Massachusetts voted

Mr. MANN. Mr. Speaker, the gentleman from Massachusetts is in error as to what rule the Speaker was referring to when he referred to this new rule. The gentleman from Massachusetts says he had reference to the motion to recommit; that was not the case, as I remember it. The gentleman has the papers before him, and I do not have, but he can correct me if I am in error. My recollection is that the Speaker had reference to this rule, which was a new rule, the motion to recommit being as old as the hills. It is the rule under which the Speaker decided that question:

No amendment shall be in order to any bill affecting revenue which is not germane to the subject matter in the bill; nor shall any amendment to any item of such bill be in order which does not directly relate to the item to which the amendment is proposed.

When I offered the motion to recommit at that time I did it for the purpose of emphasizing the fact that a rule had been adopted specially relating to tariff legislation which took that kind of legislation out from the general provision in reference to offering amendments and motions to recommit.

The Speaker was probably right in his ruling on that question, but that was under the special rule limiting the right of amendment on tariff legislation, and by itself indicates that without that special rule the motion to recommit, such as I have offered, is germane on other matters.

This is not an entirely new proposition. When the immigra-tion bill was before the House in the Fifty-ninth Congress there was a provision in it with reference to an educational

test. The bill was considered under a special rule providing for amendment, I believe, to two sections of the bill, one of them being the educational test. The gentleman from Ohio, Mr. Grosvenor, proposed an amendment to strike out the section providing for the educational test and to insert in place of it a new section providing for a commission to study the whole, subject of immigration. The gentleman from Massachusetts at that time made the same point of order which he makes now, that the proposed amendment offered by the gentleman from Ohio, Mr. Grosvenor, was not germane. But the Chairman ruled that it was germane, and held it in order, and it was adopted, although it was not germane to the particular section. It was germane to this bill, it being a general immigration bill, and on the strength of that the Chair held, and properly held, that it was a proper amendment. The same kind of amendment would have been in order in Committee of the Whole at this time if it had not been for the gag rule which was passed to prevent amendments except the one that the Committee on Rules favored. But the operation of that rule has ceased, except so far as the previous question applies.

Mr. GARDNER of Massachusetts. Mr. Speaker, the decision to which the gentleman from Illinois alludes is distinctly the

worst decision I ever heard made in that chair.

Mr. MANN. Many people think that when they are overruled. They always "cuss" the court.

Mr. GARDNER of Massachusetts. Will the gentleman yield to me?

Mr. MANN. If the gentleman desires, I will be glad to yield to the gentleman, although I dislike to hear him libel a splendid

former Member of Congress and one of the greatest Chairmen we ever had.

Mr. GARDNER of Massachusetts. Mr. Speaker, I am familiar with that decision, because it was at the time of the hair-pulling match six years ago upon this educational test. By the terms of the special rule under which we were operating at that time only 2 sections of the long bill of 38 or more sections were open to amendment. Nobody on earth thinks a provision for an immigration commission is germane to an educational test, and yet it was practically so decided at the educational test, and yet it was practically so decided at the time. The Chair in his ruling began by saying that inasmuch as no one had seen fit to raise a point of order against a certain previous amendment offered by Mr. Littauer, therefore Members were estopped in the case of the Grosvenor amendment. The Chair admitted that the Littauer amendment was not strictly in order, and clearly indicated his belief that the Littauer amendment and the Grosvenor amendment involved the same question of order. Then he went on to say that owing to the exceptionally narrow rule under which the bill was being considered, permitting, as it did, amendments to only 2 out of some 38 sections, he considered the case worthy of exception, and so he held the Grosvenor amendment to be in order.

Mr. MONDELL. Mr. Speaker, will the Chair indulge me for

moment upon this question?

The SPEAKER. The Chair will hear the gentleman briefly,

although the Chair is ready to rule.

Mr. MONDELL. Mr. Speaker, it seems to me this matter is very clear. The House is about to vote on the bill S. 3175, an act to regulate the immigration of immigrants into the United States-an act covering the entire subject. A motion to recommit is offered by the gentleman from Illinois [Mr. MANN] under paragraph 4 of Rule XVI.

The SPEAKER. What does the gentleman from Wyoming

say is before the House?

Mr MONDELL. The bill S. 3175.

The SPEAKER. Is that whole bill before the House? Mr. MONDELL. Clearly, Mr. Speaker, it is, as I was going on to elucidate. Assuming that the statement I have made is a correct statement, that the House has before it this bill and is about to vote upon it, the gentleman offers a motion to recommit under the rule. That motion is in order if germane to this bill and its provisions, and clearly the motion made by the gentleman from Illinois is germane to the general provisions of the bill. It is true, Mr. Speaker, that we considered this bill under a special rule, but that special rule can not be construed to in any way affect paragraph 4 of Rule XVI. There is a provision of the rules that no special rule shall take away or modify the rights under the motion to recommit. After the motion for the previous question prevailed the special rule ceased to operate. The House is now considering this measure as though it had been taken up in the usual way under the rules. As a matter of fact, if we are to assume that the special rule still operates, still the motion is in order, because the special rule simply gave precedence to a certain amendment and did not, as the gentleman from Wisconsin assured us, and as the gentleman from Massachusetts assured us, prevent the House

from the consideration of the entire subject matter contained in the Senate bill after the privileged amendment offered by the committee had been considered. The fact that the House did not see fit to consider the Senate bill does not change the situation. So whichever way you take it, even assuming that we are operating under the rule, and I do not believe we are, the gentlemen who defend that rule all insist that the rule has no other effect, that nothing else was intended but to give the House an opportunity to first take up a certain amendment, and then, if it so desired, to consider the entire matter. But if we take the other horn of the dilemma, assume the other, which I believe to be the correct view of the matter, that we are now proceeding under paragraph 4, Rule XVI, independent of the special rule, then clearly the House has before it this bill and all it contains and any motion to recommit germane to the general proposition contained in the bill is in order.

The SPEAKER. The Chair is ready to rule. The rule about motions to recommit is simple enough in its statement, though it is sometimes difficult to apply it. It is that the propositions contained in a motion to recommit must have been germane to the subject matter of the bill if offered as an amendment. The special provision which the gentleman from Illinois has cited on two or three occasions in his argument, that in revenue bills the amendment must be germane both to the particular item that is pending as well as to the general bill, has nothing to do with this controversy. That was a special provision, made for special reasons. The situation in this case is very peculiar. The Chair does not believe that a similar situation has arisen in the 18 years he has been in the House. In the first place, this special rule is peculiar. It contains a provision that the Chair does not remember ever to have seen in one before; and while the House got out from under that rule when it got back

the House was trying to do and what the House intended to do: Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 3175, with the amendment reported by the House Committee on Immigration and Naturalization.

into the House, still the Chair will read the rule and see what

Of course, everybody who paid any attention to the debate knows the amendment was a substitute and covered everything the House wanted to do.

That there shall be four hours' general debate, to be divided equally between those favoring and those opposing the measure. At the expiration of said four hours' general debate the same shall be considered under the five-minute rule as follows: The amendment proposed by the House committee shall be first read for amendment and perfected. After same has been so perfected the vote shall be taken upon the question of the adoption of said amendment. If same shall be adopted, then the Senate bill shall not be read—

That is the remarkable statement in that rule. If it ever was in any other, the Chair has forgotten it-

Was in any other, the chair has forgotten it—

If same shall be adopted, then the Senate bill shall not be read, but the committee shall rise and report the measure to the House. If it shall not be adopted, then the Senate bill shall be considered for amendment under the five-minute rule, and when perfected the committee shall rise and report the same to the House. Immediately upon the perfected measure being reported to the House the previous question shall be considered as ordered upon the bill and all pending amendments to final passage amendments to final passage

And there was only one amendment, that is the committee amendment, and it was not changed in a single respectand all pending amendments to final passage without intervening motions, except one motion to recommit. But a separate vote may be demanded upon any amendment or amendments thereto adopted by the Committee of the Whole.

The only purpose of reading that rule was to show what the louse was trying to get at. Evidently the intention of the House was trying to get at. Evidently the intention of the House was to consider the educational test and nothing else. The Senate bill has never even been read to the House. question before the House is evidently this educational test and nothing else.

Mr. MANN. Will the Speaker pardon me for making a sug-

The SPEAKER. Certainly.

Mr. MANN. The rules reserve the right of the minority to make a motion to recommit. Under the rules the Committee on Rules can not even report a rule which affects the right of the minority to make a motion to recommit.

The SPEAKER. The Chair knows that, but that is a stringent provision to safeguard the rights of the minority-not the political minority but the legislative minority-on any particular

Mr. MANN. I understand; but the adoption of a rule by the House can not affect the right of the minority to make a motion to recommit, which they would have the right to make if no rule was adopted in the House, because the majority, under the rule, can not take away by special rule the right of the minority to test the sense of the House on a motion to re-

commit, but if the Speaker holds that having adopted a special rule whereby the minority lost a portion of its right to recommit, that rule will be rendered somewhat innocuous.

The SPEAKER. The Chair does not mean to rule that the minority lost any of their rights. The Chair says this, that the propositions contained in a motion to recommit must have been propositions which would have been germane if offered as amendments.

The Senate bill discusses the whole question of immigration. It defines the terms to be used. It has a section in it as to what shall happen to people in the Philippines, and so on, and so on, to the end of the bill. But the House indicated its intentions to hold this matter down to the educational test. That is all the Chair reads this special rule for. Under the rule the gentleman from Illinois [Mr. MANN] could not offer the propositions in this motion to recommit as amendments in the Committee of the Whole. The House was so determined that it would not consider the Senate bill that it provided it should not be even read-a most extraordinary provision.

There is another thing about this. The Chair has heldthis occupant of the chair, and it was held before, although not quite so elaborately as the present Speaker stated it, because the matter had not been argued, I suppose, so vociferously-but on one occasion the Chair held that you could not do by indirection, in a motion to recommit, what you could not do by direction, and the Chair was backed up by the authority of a long line of illustrious Speakers. They did not go into it as fully as I did. You can not take a proposition that has been ruled out directly by the House and put it back again by a motion to recommit.

As far as the suggestion of the gentleman from Connecticut [Mr. Hill] is concerned, when the Payne tariff bill reached the proper stage I offered a motion to recommit, largely for the sake of expressing my own opinion about the tariff subject, and I set forth in that motion to recommit most of the propositions that I thought ought to be put into a tariff bill. Some of them had nothing to do with the things which properly would have been in a motion to recommit, and I knew it as well as anybody else did when I offered it.

I supposed that somebody on that side would raise the parliamentary point against it. If that had been done, I had another motion in my pocket to recommit that would have been in order. But nobody raised the point, and consequently they voted on my motion to recommit and voted it down by a substantial majority, which I expected they would do.

In this case clearly the only thing about immigration before this House is the educational test. If the general Senate bill had been pending and the previous question had not been or-dered, and the gentleman from Illinois [Mr. Mann] or any other gentleman had offered the educational test as an amend-ment to a general immigration bill, the Chair would have held it in order, because it would have been in order. But this situation turns the question squarely around. The matter pending before this House is on the educational test. This motion of the gentleman proposes to recommit with an entire immigration bill as an amendment. Consequently the point of order is sustained. [Applause.] The question is, Shall the bill pass?

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. BURNETT. Division, Mr. Speaker.

The House divided; and there were-ayes 123, noes 37.

Mr. SABATH. Mr. Speaker, I raise the point of no quorum. Mr. MOORE of Pennsylvania. Mr. Speaker-

The SPEAKER. Evidently there is not a quorum present. Mr. MOORE of Pennsylvania. A parliamentary inquiry, Mr.

Speaker. The SPEAKER. The gentleman will state it.

Mr. MOORE of Pennsylvania. If there is a call of the House now it would mean that we would vote "yea" or "nay," I understand, on the bill before the House?

The SPEAKER. Of course. Mr. MOORE of Pennsylvania. May I ask whether the vote will be in favor of the Senate bill and the House amendment? The SPEAKER. The practical effect of it is to adopt the

House bill, if you get a majority in favor of it.

Mr. MOORE of Pennsylvania. Pardon me one moment, Mr. Speaker. Several times in the early stages of the discussion, and particularly in the Chair's announcement of his decision on the point of order raised by the gentleman from Illinois [Mr. Mann], the Speaker referred to the House amendment as a substitute to the bill.

The SPEAKER. The Chair referred to it as being in the nature of a substitute.

Mr. MOORE of Pennsylvania. That left the impression upon the minds of many of the Members that they were to vote ultimately on the House amendment which embodied the educa-

The SPEAKER. That is all they are voting on,

Mr. MOORE of Pennsylvania. Then there is nothing-

Mr. GARRETT. Did the Chair announce that there was no quorum?

The SPEAKER. The Chair did not formally announce it. Mr. GARRETT. I understood the Chair announced that there was no quorum present.

The SPEAKER. Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll. Those in favor of the bill as amended—that is, this House substitute—will vote "yea" and those opposed "nay."

Mr. MOORE of Pennsylvania. Mr. Speaker, a parliamentary

inquiry

The SPEAKER. The gentleman will state it.

Mr. MOORE of Pennsylvania. When we vote now do we vote only upon the question of the educational test as embodied in the House amendment or does that vote include—

The SPEAKER. That is exactly what you vote upon.

Mr. MOORE of Pennsylvania. And not upon the Senate bill,

which has not been discussed?

The SPEAKER. Technically you are voting on the Senate

bill, but really you are voting on the House bill.

Mr. LANGLEY. Of course, everybody understands that this

is the last vote on the proposition.

Mr. CANNON. Does this vote pass the House bill?

The SPEAKER. Yes; the House amendment has already been adopted.

Mr. JAMES. The regular order, Mr. Speaker. Mr. MOORE of Pennsylvania. Then we are compelled to vote on both bills.

The SPEAKER. If you are in favor of the educational test, on this roll call vote "yea"; and if you are opposed to it, vote "nay."

The question was taken; and there were-yeas 179, nays 52, answered "present" 8, not voting 150, as follows:

YEAS-179.

	Ferris	TT	with the state of
Adair	Fields	Humphreys, Miss.	Post
Ainey		Jacoway	Pou
Alexander	Finley	James	Powers
Allen	Flood, Va.	Johnson, Ky.	Pray
Ames	Focht	Johnson, S. C.	Prince
Anderson	Foss	Jones	Raker
Ashbrook	Foster	Kennedy	Rauch
Austin	Fowler	Kent	Redfield
Avres	Francis	Kinkaid, Nebr.	Rees
Bartlett	French	Kopp	Roberts, Nev.
Bathrick	Fuller	La Follette	Roddenbery
Beall, Tex.	Gardner, Mass.	Lamb	Rothermel
Bell, Ga.	Garner	Langley	Rouse
Blackmon	Garrett	Lawrence	Rubey
Borland	Gillett	Lee, Ga.	Rucker, Colo.
Browning	Glass	Lever	Rucker, Mo.
Buchanan	Godwin, N. C.	Lewis	Russell
Burke, S. Dak.	Goeke	Lindbergh	
Burnett	Good	Linthicum	Saunders
Butler	Goodwin, Ark.	Littlepage	Shackleford
		Littlepage	Sharp
Byrnes, S. C.	Greene, Vt.	Lloyd	Sheppard
Byrns, Tenn.	Gregg, Pa.	Longworth	Simmons
Callaway	Hamilton, Mich.	McGuire, Okla.	Sims
Candler	Hamilton, W. Va.	McKinney	Slayden
Cantrill	Hamlin	McLaughlin	Small
Carlin	Hardy	Macon	Smith, J. M. C.
Carter_	Harrison, Miss.	Maguire, Nebr.	Smith, Saml. W.
Clark, Fla.	Hay	Martin, S. Dak.	Smith, Tex.
Collier	Hayden	Mondell	Stedman
Cox, Ind.	Hayes	Moore, Tex.	Stephens, Cal.
Crago	Heflin	Morgan, Okla.	Stephens, Miss.
Cullop	Helgesen	Morrison	Stephens, Tex.
Dalzell	Helm	Morse, Wis.	Sweet
Danforth	Henry, Conn.	Moss, Ind.	Talbott, Md.
Davis, Minn.	Henry, Tex.	Mott	Tribble
Dent	Hensley		Underhill
Denver	Hill	Neeley	Warburton
Dickinson	Hinds	Nelson	Watkins
Dies	Holland	Oldfield	White
Difenderfer	Houston	Padgett	Willis
Dixon, Ind.	Howell	Page	Wilson, Pa.
Edwards	Hughes, Ga.	Payne	Witherspoon
Evans	Hughes, W. Va.		Young, Kans.
Faison	Hull	Plumley	Young, Tex.
Farr	Humphrey, Wash.		Toung, Ica.
Barr	Humpurey, wasn.	Lorter	
	NAY	2 50	

	NA	YS-52.	
Ansberry Barchfeld Bartholdt Booher Bulkley Burke, Wis. Burleson Campbell Cannon Curley Curry Donolioe	Dyer Estopinal Fergusson Fitzgerald Gallagher George Goldfogle Graham Greene, Mass. Hammond Kendall Kinkead, N. J.	Lee, Pa. Loud McCoy McDermott Madden Miller Moore, Pa. Morgan, La. Murray Nye O'Shauncssy Peters	Roberts, Mass. Rodenberg Sabath Scully Sherley Stephens, Nebr. Stone Tilson Towner Townsend Volstead Wilder
Dupre	Konop	Reilly	Young, Mich.

	ANSWERED	"PRESENT "-8	and the second of
Burgess	Dwight	McGillicuddy	Sloan
Driscoll, M. E.	Lobeck	Mann	Stevens, Minn.
AND VEHICLE I			
Driscoll, M. E. Adamson Aiken, S. C. Akin, N. Y. Andrus Anthony Barnhart Bates Berger Boehne Bradley Brantley Brantley Brown Burke, Pa. Calder Cary Clayton Cliny Conry Cooper Copley Covington Cox, Ohio Cravens Crumpacker Currier Daugherty Davenport Dayledson	Lobeck NOT VO Ellerbe Esch Fairchild Floyd, Ark. Fordney Fornes Gardner, N. J. Gill Gould Gray Green, Iowa Gregg, Tex. Griest Gudger Guernsey Hamill Hanna Hardwick Harris Harrison, N. Y. Hart Hartman Haugen Hawley Heald Higgins Hobson Howard Howland Jacksom	Mann DTING—150. Langham Legare Lenroot Levy Lindsay Littleton McCall McCreary McHenry McKellar McKenzie McKinley McMorran Maher Martin, Colo. Matthews Mays Merritt Moon, Pa. Moon, Tenn. Murdock Norris Olmsted Palmer Parran Patten, N. Y. Patton, Pa. Pickett Prouty Pujo	
Davis, W. Va.	Kahn	Rainey	Weeks
De Forest	Kindred	Randell, Tex.	Whitacre
Dickson, Miss.	Kitchin	Ransdell, La.	Wilson, III.
Dodds	Knowland	Reyburn	Wilson, N. Y.
Doremus	Konig	Richardson	Wood, N. J.
Doughton	Korbly	Riordan	Woods, Iowa
Draper	Lafean	Robinson	
Driscoll, D. A.	Lafferty	Scott	

So the bill was passed.

The Clerk announced the following additional pairs:

For this vote:

Mr. SWITZER (in favor of Burnett bill) with Mr. Berger (against)

Mr. Howard (in favor of Burnett bill) with Mr. THAYER (against)

Mr. Covington (in favor of Burnett bill) with Mr. Doremus (against)

Mr. PARRAN (in favor of Burnett bill) with Mr. WEDEMEYER

(against) Mr. LAFEAN (in favor of Burnett bill) with Mr. CONRY

(against) Mr. THOMAS (in favor of Burnett bill) with Mr. BOEHNE

(against).

Only on final passage of bill:
Mr. McCall (in favor of Burnett bill) with Mr. Copley (against)

Mr. GUDGER (in favor of Burnett bill) with Mr. DANIEL A. DRISCOLL (against)

Mr. HARDWICK (in favor of Burnett bill) with Mr. VREELAND

Mr. GUERNSEY (in favor of Burnett bill) with Mr. McGilli-CUDDY (against).

Mr. Doughton (in favor of Burnett bill) with Mr. Kahn (against)

Mr. KITCHIN (in favor of Burnett bill) with Mr. LOBECK (against)

Mr. Palmer (in favor of Burnett bill) with Mr. Smith of New York (against)

Until further notice: Mr. Arkin of South Carolina with Mr. Fordney.

Mr. HARRISON of New York with Mr. DE FOREST.

Mr. CLINE with Mr. HAUGEN.

Mr. GREGG of Texas with Mr. LAWRENCE.

Mr. RANSDELL of Louisiana with Mr. Sulloway.

Mr. Robinson with Mr. Griest. Mr. Sisson with Mr. McKenzie.

Mr. TALCOTT of New York with Mr. LAFFERTY.

Mr. MANN. Mr. Speaker, may I inquire if the gentleman from Alabama, Mr. UNDERWOOD, voted?

The SPEAKER. He is not recorded.

Mr. MANN. I am paired with that gentleman. I voted "no." and I desire to withdraw my vote, and to be recorded "present." The result of the vote was announced as above recorded.

The SPEAKER. A quorum being present, the Doorkeeper will open the doors.

On motion of Mr. BURNETT, a motion to reconsider the last vote was laid on the table.

Mr. BURNETT. Mr. Speaker, I ask unanimous consent that all gentlemen who have spoken on this bill may have five legislative days in which to extend their remarks.

The SPEAKER. The gentleman from Alabama asks unantmous consent that all gentlemen who have spoken on this bill may have five legislative days in which to extend their remarks

in the RECORD. Is there objection?

Mr. MANN. Reserving the right to object, I should like to ask the gentleman from Alabama who there is who has spoken who has not obtained leave to extend already? I think everybody who spoke has obtained leave to extend, with one excep-I should be glad to have leave extended to the gentleman from Maryland [Mr. LINTHICUM].

Mr. BURNETT. I think the gentleman from Missouri [Mr.

DYER] did not get leave.

Mr. MANN. I thought he did.

Mr. MANN. I thought he did. Mr. BURNETT. I think there are several gentlemen who did not, and I am not sure that I did.

Mr. MANN. I think the gentleman did.

The SPEAKER. Is there objection?
Mr. MANN. I shall object to the general request. I have

no objection to specific requests.

Mr. LINTHICUM. Mr. Speaker, yesterday when I asked leave to extend there was objection. I now ask for leave to extend my remarks in the RECORD.

Mr. DYER. I make the same request.

The SPEAKER. The gentleman from Maryland [Mr. Linthicum] and the gentleman from Missouri [Mr. DYER] ask unanimous consent to extend their remarks in the RECORD. Is there objection?

There was no objection.

Mr. BURNETT. In view of the lateness of the session I move that the House appoint a committee of conference.

Mr. MANN. I make the point of order that that motion is

Mr. BURNETT. The same course was pursued in the immigration bill when the gentleman from Indiana, Mr. Watson, was in the chair.

The SPEAKER. For what reason does the gentleman from

Illinois object?

Mr. MANN. I make the point of order that the motion is not in order.

The SPEAKER. Why is it not in order?

Mr. MANN. There is no disagreement as yet between the vo Houses. We have amended the Senate bill, but they have not disagreed, and until the point of disagreement is reached conferees can only be appointed by unanimous consent. It is sometimes done by unanimous consent, but conference comes from disagreement. Neither body can appoint a conference committee until there is a disagreement and an insistence upon the position which that body takes. The Senate may agree to the House amendment, but until the Senate hay agree to the House amendment, but until the Senate disagrees and in-sists upon that it is not in order to appoint conferees. Mr. GARDNER of Massachusetts. Mr. Speaker, the rule is perfectly clear. There is no disagreement necessary. It is an

old principle of parliamentary law that conferees may be appointed and a conference asked for before disagreement. I invite the attention of the Chair to Jefferson's Manual. I am vite the attention of the Chair to Jefferson's Manual. I am reading from paragraph 5264, volume 5, Hinds' Precedents, as

follows:

A conference may be asked before the House asking it has come to a resolution of disagreement, insisting or adhering. In which case the papers are not left with the other conferees, but are brought back to be the foundation of the vote to be given.

This same question arose on the 25th of June, 1906. The point of order was not made against the motion of Mr. Watson, who, after being Chairman of the Committee of the Whole, moved to appoint conferees. But I, knowing that the motion was to be made at the time, had inquired in an informal way of parliamentarians in the House, and I found that there was no disagreement whatever as to the power of the House to appoint conferees before the resolution of disagreement had been arrived at. If the syllabus at the beginning of the paragraph 6254 in this precedent is read the third paragraph says distinctly:

conference may be asked before the House has come to a resolution A conference of disagreement.

Mr. SHERLEY. Will the gentleman yield?

Mr. GARDNER of Massachusetts. Certainly.

Mr. SHERLEY. Was that a case where the House that could disagree was asking for the conference? Is not this a case where the House has already acted?

Mr. GARDNER of Massachusetts. No; the case was absolutely parallel.

Mr. SHERLEY. What the gentleman read does not seem to indicate it.

Mr. GARDNER of Massachusetts. Certainly; they have either got to insist, adhere, or recede.

Mr. SHERLEY. That is a case where the Senate might ask for a conference, but this is a case where the House asks for a conference on a bill of the Senate that it has amended.

Mr. GARDNER of Massachusetts. I have told the gentleman that that was an exactly parallel case. The House had amended a Senate bill by substitution.

Mr. SHERLEY. I understand, and that was done by unanimous consent. I am asking the gentleman if what he reads from Jefferson's Manual-

Mr. GARDNER of Massachusetts. It is the general principle; it says "the House," which means the Chamber, as the gentleman knows from his long familiarity with Jefferson's

Mr. SHERLEY. The gentleman does not know it, and if the gentleman from Massachusetts will permit me, I think he may get my point. The reference there to the House is to the House that may agree or disagree and not to the House that has acted on a matter, as this House has.

Mr. GARDNER of Massachusetts. It is especially after action, before coming to the resolution of disagreement. There is no intermediate stage. "A conference may be asked before the House asking it has come to a resolution of disagreement to insist or adhere."

Mr. SHERLEY. This is a case where the House has come to

a resolution of disagreement by amendment.

Mr. GARDNER of Massachusetts. All right. Then it is clearly a resolution of disagreement, and you can ask for a committee of conference.

Mr. SHERLEY. The point that I desire to suggest to the

gentleman is this-

Mr. MADDEN. Mr. Speaker, suppose the Senate should

Mr. GARDNER of Massachusetts. One gentleman at a time. can not answer too many at once.

The SPEAKER. Will the gentleman from Massachusetts

yield to the gentleman from Illinois?

Mr. GARDNER of Massachusetts. I yield to the gentleman

from Kentucky.

Mr. SHERLEY. The suggestion I desire to make is that the paragraph that the gentleman read from Jefferson's Manual indicates that the House would have before it the question of whether it would recede from its position or insist, and that in that case it could ask for a conference before acting om it

by receding or further insisting.

This is a case of a House having a bill from the other body and having amended it. There is nothing that this House can now do until the Senate has asked for a conference or has receded from its position and agreed to the position of the

House

Mr. MONDELL. Mr. Speaker, will the gentleman yield?
Mr. GARDNER of Massachusetts. Not until I have answered
the gentleman from Kentucky. There are only two possible
stages in which a House can find itself—either that it has come to a resolution of disagreement or that it has not come to a resolution of disagreement. A mere disagreement is not a resolution of disagreement. After a resolution of disagreement had been arrived at, I have never heard it disputed that it was in order to ask for a conference. I have heard it disputed this morning by the gentleman from Illinois [Mr. Mann], whether you might ask for a conference before a resolution of disagreement had been arrived at. There are three resolutions of disagreement, to wit, to insist, to adhere, or to recede. The question as to the ability of the House to ask for a committee of conference after one of those three votes has been taken is undoubted, and unquestionably, if we are to follow Jefferson's Manual, it is also in order to ask for a conference before it is arrived at.

To continue:

To continue:

A conference may be asked before the House asking of it has come to a resolution of disagreement, insisting or adhering, in which case the papers are not left with the other conferees, but are brought back to be the foundation of the vote to be given. And this is the most reasonable and respectful proceeding, for, as was urged by the Lords on a particular occasion, "it is held vain and below the wisdom of Parliament to reason or argue against reasonable resolutions and upon terms of impossibility to persuade." So the Commons say, "An adherence is never delivered at a free conference, which implies debate." And on another occasion the Lords made it an objection that the Commons had asked a free conference after they had made resolutions of adhering. It was then affirmed, however, on the part of the Commons that nothing was more parliamentary than to proceed with free conferences after adhering, etc.

Mr. Sherries of the Commons to the conferences after adhering, the conferences after adhering to the conference after the shear of the commons had asked a free conference after they had made resolutions of adhering.

Mr. SHERLEY. Mr. Speaker, I suggest to the gentleman that there is not presented to this House the question of whether the House shall recede or shall insist upon the disagreement. That question is presented to the Senate, and there the proposition that the gentleman is here presenting would

be, under the authority he cites, in order; but it is not a condition that confronts this House at all.

The gentleman is famil-Mr. GARDNER of Massachusetts.

iar with the reference to 3 Hatsell.

Mr. SHERLEY. I do not know that I know that particular reference, but I am familiar with what the gentleman has just read.

Mr. GARDNER of Massachusetts. Has the gentleman ever known of an occasion where the right of the House to appoint conferees before arriving at a resolution of disagreement has before been questioned?

Mr. SHERLEY. I do not recall any instance except the one that the gentleman recites. The absence of precedents would

indicate that it was never before thought of.

Mr. GARDNER of Massachusetts. Until the gentleman from Illinois suggested it, I thought it was an indisputable right. Mr. MONDELL. Mr. Speaker, will the gentleman now yield?

Mr. GARDNER of Massachusetts. Certainly.

MONDELL. Mr. Speaker, I voted with the gentleman from Massachusetts, and I hope to see this measure enacted into law, but aside from the question of the regularity of procedure now proposed, is not the gentleman prejudicing his measure by what he proposes? I do not know anything as to the state of mind at the other end of the Capitol-

Mr. GARDNER of Massachusetts. It seems to me that the gentleman is discussing the merits of the motion and not the point of order. I am willing to discuss the point of order with

the gentleman.

Mr. MONDELL. Will the gentleman allow me to make a very brief statement? It is altogether possible that the measure passed by the House might be acceptable at the other end of the Capitol. The motion proposed by the gentleman precludes the possibility of an agreement and postpones in any event the final enactment of the legislation.

Mr. GARDNER of Massachusetts. Has the gentleman fin-

ished?

Mr. MONDELL. Yes.

Mr. GARDNER of Massachusetts. I now yield to the gentle-

man from Illinois [Mr. Madden].

Mr. MADDEN. Mr. Speaker, I was simply going to ask if it was not possible that the Senate might accept the action of the House and in that case there would not be anything for a conference. In view of that possibility of the Senate accepting the action of the House, would it not be unwise to ask for a conference in advance of our knowledge of what the Senate will do?

Mr. GARDNER of Massachusetts. The wisdom of the action is a question to be decided after the point of order is settled.

The SPEAKER. The Chair is ready to rule.

Mr. MANN. Mr. Speaker, I was waiting until I might say a word without offending the sensibilities of the gentleman from Massachusetts [Mr. GARDNER].

The SPEAKER. The Chair will hear the gentleman from

Illinois.

Mr. MANN. Mr. Speaker, I was waiting until the gentleman from Massachusetts had yielded the floor. He seems to dislike to have anyone interrupt him, and hence I did not interrupt him. The first object of a conference is that there should be a disagreement between the two bodies. It is true, as stated in Jefferson's Manual in one place, "A conference has been asked after the first reading of a bill. This is a singular instance." That is the language of Mr. Jefferson, not mine. Then preceding that is a footnote by the parliamentary clerk, "Obsolete provision as to a conference on first reading." What is a conference on matters pertaining to legislation on bills and amendments? It is to compose differences between the two bodies. The House may ask for a conference with the Senate on an immigration subject if it pleases. It is wholly within the power of the House to ask for a conference with the Senate on the subject of whether the President should be removed or whether his term should be extended or shortened, or a constitutional amendment, but the purpose of this conference is to compose differences relating to the amendments to the bill. There are no differences between the House and the Senate. The House has passed an amendment and until the Senate disagrees to that amendment there is no disagreement between the two bodies.

The SPEAKER. The Chair will not bother the gentleman from Illinois for further argument. The proper function of a conference committee is to settle differences between the two Houses, and there are no differences between the two Houses as far as has been developed. For all the House knows or all the Chair knows the Senate will accept this amendment, and therefore the point of order is sustained. A motion to insist would have been in order, and the Chair will not say that in an emer-

gency as to time or any other thing of the sort he would not hold the pending motion out of order, but no emergency exists, and this bill should take the usual course.

TOLLS ON PANAMA CANAL.

Mr. GOLDFOGLE. Mr. Speaker, I ask unanimous consent to have printed in the RECORD an interview published in the New York Herald of Sunday, December 15 of this year, with the Hon. Steven B. Ayres, one of my colleagues from New York, on the subject of tolls on the Panama Canal.

The SPEAKER. The gentleman from New York asks to have printed in the Congressional Record an editorial from the New York Herald of a certain date containing an interview with his colleague Mr. Ayres. Is there objection? [After a

pause.] The Chair hears none.

The interview is as follows:

The interview is as follows:

Great Britain's protest against the decision of Congress to give American vessels in the coastwise trade free passage through the Panama Canal has found strong support in the press of the United States. Many of the great newspapers are urging that the action of Congress be rescinded or that the question be sent to The Hague for arbitration. The reason given is that the word of the United States has been pledged by the Hay-Pauncefote treaty and that if we now do not live up scrupulously to the terms of that treaty we shall stand before the world a faithless Nation.

It is easy to sympathize with a sentiment so admirable, because every citizen desires to uphold the honor of his country. But in the present instance this sentiment is beside the mark; it is not properly called forth, since the honor of our Government is not involved.

Congress has in its action on this question followed a precedent long ago, established, well known to Great Britain, and acquiesced in by her Government for 95 years. The protest now lodged is specious and undoubtedly made in the same spirit which has animated Great Britain in all the marine treaties and conventions she has hitherto negotiated with us. And it is to be observed that the grounds upon which this formal protest are made are different from those stated last summer, when the tentative protest was filed. Then it was stated that a repayment by the United States of the toils charged to American vessels would be violative of the spirit of the treaty. But since then Great Britain has perceived that the temper of the American people is adverse to the repayment of toils or the payment of any subsidy whatever to our merchant vessels, and that the contention has therefore been abandoned as academic.

OPPOSES AMERICAN MERCHANT MARINE.

OPPOSES AMERICAN MERCHANT MARINE.

In considering this subject it must be remembered that Great Britain has always been hostile to any effort of ours to establish an American merchant marine and share with her the carrying thade of the world. After the formation of our Constitution the earliest measures adopted at the first session of Congress in 1789 were those granting differentials in duties and tonnage dues to American ships.

These differentials, and the fact that Great Britain was constantly involved in marine warfare with other European nations, so built up our merchant marine that by 1810 our ships not only carried 90 per cent of our own commerce but also a large percentage of the indirect trade of the world. And it was to drive our ships out of this indirect trade, where we were keen competitors, that the War of 1812 was forced upon us. That war was disastrous to us and absolutely successful to her, because it almost entirely destroyed our indirect carrying trade and we were compelled to negotiate and assent to the reciprocity treaty of 1815. This treaty declared, among other matters:

"There shall be between the territories of the United States of America and all the territories of His Britannic Majesty in Europe a reciprocal liberty of commerce.

"So higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels than those payable in the same ports by vessels of the United States nor in the ports of any of His Britannic Majesty's territories in Europe on the vessels of the United States than shall be payable in the same ports on British vessels."

SAVING COASTWISE TRADE.

SAVING COASTWISH TRADE,

Now, this is absolutely the same spirit breathed in the Hay-Pauncefote treaty—equality of tolls and charges, the same to one country as
to the other. Yet what followed? Our foreign commerce was prostrated at the termination of the war. Many of the vessels remaining
lay rotting at the wharves of Boston and New York and Philadelphia.
Therefore, in 1817, Congress enacted a law which absolutely prohibited
British vessels from engaging in our coastwise trade—the trade from
one American port to another. This law reads:

"No merchandise shall be imported, under penalty of forfeiture
thereof, from one port of the United States to another port of the
United States in a vessel belonging wholly or in part to a subject of
any foreign power."

This law was entirely subversive of that portion of the treaty of
1815 which stated that "no higher or other duties" shall be charged
on British ships than on those of the United States. It established
for the first time, and perhaps for all time, our own coastwise trade.
Yet the law stood, and it has been acquiesced in by Great Britain
since that time.

since that time.

since that time.

Congress has now adopted the same policy precisely with regard to the Hay-Pauncefote treaty. As I view the matter, by the paragraph in the Panama Canal act granting free toils to our coastwise marine Congress abrogated such part of that treaty as conflicted with the Panama Canal act, just as the law of 1817 abrogated that part of the reciprocity treaty of 1815 with which it was in conflict.

STATUS OF A COMMERCIAL TREATY.

Now, those persons who believe that this conduct involves the honor of the Nation—and their motives are of the highest—do so from a misconception of what a commercial treaty really is. A commercial treaty is not a document like a promissory note, in which a promise is made for a consideration to do or perform certain acts. A commercial treaty is merely a statement, agreed to and signed by the agents of the contracting parties, of the terms upon which the contracting parties find it most desirable and most comfortable and most advantageous to have relations with each other. When either of the contracting parties finds that it is undesirable to continue such relations, it is its right to give notice of such fact and terminate such relations.

And by inserting the free-toll provision in the Panama Canal act Congress merely gave notice, at least two years before it became effective, of its intention to abrogate that portion of the Hay-Pauncefote treaty. And the remission of tolls was not considered as a gift or subsidy to our domestic merchant marine, because it is well understood that competition between lines now in existence and those which will come into existence will lower the marine freight rates by precisely the amount of the remitted tolls.

What Congress then believed was that the lower the marine rates could be kept between the two coasts the better chance shippers would have of emancipation from transcontinental railroads and that farther inland would be moved the zone of competition between rail and marine rates. In other words, Congress believed that the remission of tolls was not to be so direct a benefit to the coastwise marine as to the merchants and consumers who pay the freights. The reason Great Britain protests against the remission of tolls is because her economists know, better than the great bulk of our people yet know, what an effect the Panama Canal is to have on our commerce with South America. That commerce is now largely carried by British ships, and her statesmen fear, and well may fear, the effect upon her indirect carrying trade of the opening of the Panama Canal with free tolls to vessels of the United States. Even the prospect of this condition has given an impetus to American shipbuilding that it has never had since steel vessels were built.

The interesting, the suggestive fact is that for the first time since the era of iron steamships began American capital has now just begun to take an interest in marine investments. In the last year, for the first time in our history, steam cargo vessels built in American shipyards, officered by American citizens, flying the American flag, have been chartered to carry American products to European ports. Great Britain has bested us in the past, with commercial treaties cleverly

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to call up the bill H. R. 26874, and move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the Indian appropriation

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, the Indian appropriation

bill, with Mr. Saunders in the chair.

Mr. STEPHENS of Texas. Mr. Chairman, we arrived at the end of line 20, page 4, and I ask for the reading of the bill.

The Clerk read as follows:

For construction, lease, purchase, repairs, and improvements of school and agency buildings, and for sewerage, water supply, and lighting plants, \$300,000.

Mr. RAKER. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I notice in the bill which was passed last year there was an appropriation of \$480,000 for this same pur-pose. This year it is \$300,000. Would the chairman of the committee permit a question upon the matter?
Mr. STEPHENS of Texas. Certainly.

I desire to ask why the reduction in the Mr. RAKER.

appropriation?

Mr. STEPHENS of Texas. The gentleman will notice that of the appropriation for the fiscal year 1912 \$130,000 remained unexpended. There is quite an unexpended balance, and, again, there are numerous items carrying appropriations for new buildings, and we have not put in any new buildings at all. Those two reasons show the reason why we have not granted the full amount.

Mr. RAKER. From the report of the committee and bill one would not be advised as to what buildings these are that are under construction or intended to be constructed under the

appropriation for last year.

Mr. STEPHENS of Texas. I will state to the gentleman that each one of the superintendents having charge of these agencies and schools has made recommendation for new buildings and the enlargement of buildings, and so forth, requiring new construction, but we did not feel that it was the best thing to do at the present time.

Mr. RAKER. Do I understand from the committee that it is the intention of the committee at this time to oppose all new

improvements about and around the schools?

Mr. STEPHENS of Texas. We have not appropriated for a single new building or for the enlargement of plants now.

Mr. RAKER. I ask the chairman's attention to this. For instance, where it is really and absolutely for the life and condition of the school, as for the construction of a septic tank, the building of dormitories for the boys, and so forth, as, for instance in a school there is one large building, the girls in one end and the boys at the other, and they have to go up the

there be built for this particular location a dormitory for the

Mr. STEPHENS of Texas. Is not that school separately appropriated for?

Mr. RAKER. No; it is not. Mr. STEPHENS of Texas.

Then it can be paid out of the lump-sum appropriation?

Mr. RAKER. The trouble with it is that they do not pay it

out unless we especially provide for it.

Mr. STEPHENS of Texas. Your trouble is with the Commissioner of Indian Affairs.

Mr. RAKER. These appropriations are all parceled out to the schools generally.

Mr. STEPHENS of Texas. Let me state to the gentleman that the department, under "new construction," used last year \$155,722 for repairs, \$105,671 for rents, and elsewhere \$35,560, and they failed to take the appropriation of \$130,000, which is remaining unexpended. Why do they want more money when they did not expend last year the money that was given them?

Mr. RAKER. Suppose that in a particular case, now, there is no apportionment by the Indian Bureau-the Department of Indian Affairs-for the various schools; or, suppose it has been made, it is so insufficient that these improvements can not be made. If the department recommends such new improvement and it is necessary for the proper conduct of the school, I apprehend that the committee would not seriously oppose such legis-

lation, would they? Mr. STEPHENS of Texas. We have given them more money than they used last year by \$130,000, and if they had seen proper to do so they could have built the stairways and additional improvements, as you suggest. We have furnished them the money. As you state, your schools are under the general appropriation act, and they have appropriated a lump sum for that purpose. Therefore you ought to get this out of the lump-

sum appropriation.

Mr. MONDELL. Mr. Chairman, I move to strike out the

last word.

I called attention the other day when this bill was under consideration to the fact that there were no printed hearings. Since that time I have been furnished with a copy of what purports to be hearings before the committee. In regard to this particular item, I find there were no hearings, but that the Commissioner of Indian Affairs furnished the committee with a statement in justification of the increase of \$120,000 asked, and the committee's reply to that was a reduction of \$180,000. The commissioner sets forth in detail the expenditures that he desires to make under this head, and the committee does not seem to have interrogated the commissioner or anyone else as to the necessity for those buildings and improvements, or any portion of them, but have reduced the item from \$480,000 last year to \$300,000 this year, although the commissioner had asked me for an increase of \$600,000.

Mr. STEPHENS of Texas. If the gentleman will examine

the statement from the commissioner, on page 26, next to the

last paragraph, he will find this language:

It will be noted that of the appropriation for the fiscal year 1912, \$130,000 remains unexpended.

Now, if they had that much money left that had not been expended last year, why should we increase it this year?

Mr. MONDELL. He refers to unforeseen and unfortunate

conditions or circumstances which prevented him from spending the money for construction and betterments for which it was appropriated. But the money he is asking for now is for other and further construction and improvement.

Mr. STEPHENS of Texas. Will the gentleman permit me to state that at the top of this same page-page 26-we find for new construction, \$155,742.45? We did not give them that because we thought it was not necessary. We thought the schools as they now exist, with the great amount for repairs and improvements on the school buildings, was sufficient.

Mr. MONDELL. Did the committee interrogate the commis-

sioner at all in regard to the necessity in any of these cases?

Mr. STEPHENS of Texas. We had him before us and went over the various items, and the subcommittee had a few hearings with him.

Mr. MONDELL. I can not find out. Perhaps the chairman of the committee can point out the place in the hearings where the commisioner was interrogated in regard to these items.

Mr. STEPHENS of Texas. I am not certain that we had a stenographer present at the time the commissioner was interrogated about this item, but we notified him that it was not the intention of the committee to construct any new buildings outside same stairs in the same building.

Now, the superintendent of this particular school is very desirous, for the proper handling and conduct of the school, that expended on buildings erected on Indian reservations. I am opposed to spending more money in building schools outside the reservations and to removing the Indians from the reservations to the outside boarding schools. I think the money can be much beter expended on the reservations than off the reservations.

Mr. MONDELL. Do I understand that it is the chairman's understanding that this money is to be used for construction off of reservations? My understanding was exactly to the con-

trary. I would like to be set right in the matter if I am wrong.

Mr. STEPHENS of Texas. As I stated, we have not put any
new buildings in this bill at all. It was our policy to leave that out this year.

Mr. MONDELL. But I understood the chairman of the Committee on Indian Affairs to say that the committee had provided for no new construction off of reservations.

Mr. STEPHENS of Texas. Only lump-sum appropriations.

Mr. MONDELL. But this item is for improvements on reservations, is it not?

Mr. STEPHENS of Texas. This appropriation is on the res-

ervations.

The CHAIRMAN. The time of the gentleman has expired. Mr. RAKER. Mr. Chairman, I move to strike out, at the end of line 23, page 4, the words "three hundred thousand dollars" and substitute therefor the words "three hundred and

sixty thousand dollars."

Now, Mr. Chairman and gentlemen, upon that matter I want to follow that amendment with other amendments, and I want to call the matter to the attention of the committee. not a personal matter with me, but it is a matter of the proper government and proper improvement of these schools. The first one is the school at Greenville, in Plumas County, some 200 miles south of where I live. I am familiar with the location. It is located at the side of a valley, in the foothills, and is a small piece of land of 6 or 7 acres, without a spear of grass on it, but with some oak trees and a considerable number of large pine trees on it. There is plenty of land right adjacent in the valley where we could get 20 or 30 acres for the purpose of demonstrating and teaching them how to become farmers, and get some use out of the school. This is in the heart of the Indian country. The Indians are living all about there, within 5 or 10 or 15 or 20 miles, on their allotments. If we obtain a wificient tract of lead to allow them. sufficient tract of land to allow then to have a dairy and an orchard and raise grain and vegetables we will do them some good.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentle-

man yield?

The CHAIRMAN. Does the gentleman yield? Mr. RAKER. Yes.

Mr. STEPHENS of Texas. On page 10 of the bill, section 3, under the head of "California," the gentleman will find this

Sec. 3. For support and civilization of Indians in California, including pay of employees, and for the purchase of small tracts of land situated adjacent to lands heretofore purchased, and for improvements on lands for the use and occupancy of Indians in California, \$57,000.

Mr. RAKER. Yes.

Mr. STEPHENS of Texas. There is a special fund for the gentleman's State, and it covers the exact reasons that the gentleman gives for the acquisition of this additional land.

Mr. RAKER. The general idea is all right, but the superintendent wants that for other purposes, and ours would be

excluded entirely.

Now, I believe that the committee and the House do not want to appropriate money unnecessarily. The object is to benefit those who attend the schools. In the first place there is no water supply, and in the next place there is no laundry here, with one hundred and some odd pupils, and there is no place to teach the boys to be efficient in blacksmithing and in learning to repair their wagons and doing some work out on the farm. If you are going to have your school-and it is there-why not have a blacksmith shop in connection with the school, as they have at other places? While there is \$57,000 appropriated generally in the main bill, it does not provide for it for these other schools. I shall ask \$26,800 for this particular school at Greenville, first for the construction of a septic tank and sewerage system, \$3,000; for an employees' building, to be used for employees' quarters, club, kitchen, and dining room, \$4,000; for shop building for instructing boys in blacksmithing and carpentry, \$1,200.

Right in that connection, can there be anything better done than to give these young Indian boys practical lessons in carpentry, so that when they go on their allotments, which they all have, or when they go to their homes, they may be competent to build upon their allotments and may become blacksmiths, with sufficient knowledge to repair wagons and tools as white men do.

The CHAIRMAN. The time of the gentleman has expired. Mr. RAKER. I shall not take up much more of the time of the committee, but I should like to have unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection to the request of the

gentleman from California?

There was no objection. Mr. STEPHENS of Texas. I should like to ask the gentleman a question in that connection.

Mr. RAKER. I submit for a question.

Mr. STEPHENS of Texas. Is it not a fact that these schools

which the gentleman mentions are not specially provided for?

Mr. RAKER. They are not specially provided for.

Mr. STEPHENS of Texas. Then they come under the general lump-sum appropriation. Is the gentleman aware that this language is carried in the bill, beginning in line 10, page 4:

For support of Indian day and industrial schools not otherwise provided for.

That covers your schools, as I understand from your statement.

Yes.

Mr. STEPHENS of Texas. It provides:

And for other educational and industrial purposes in connection therewith, \$1,420,000.

Now, is not that sufficient to cover the case you mention? Mr. RAKER. In answer to the question of the chairman, I will say that I have been to see the superintendent and the Indian Commissioner, and I am informed by the commissioner, Indian Commissioner, and I am informed by the commissioner, "We have these amounts specified and carried in this bill, and this school is entirely eliminated from any amount for new buildings. We can only make the necessary repairs, and if you desire to have your schools improved, you must get an additional amount included in the bill."

Mr. BURKE of South Dakota. Will the gentleman yield? Mr. RAKER. I yield to the gentleman from South Dakota.

Mr. BURKE of South Dakota. Is the gentleman aware of the fact that in the last fiscal year ending June 30, 1912, about \$1,700 was expended at this school in the construction of new buildings?

Mr. RAKER. Not this school, but the one 200 miles north. Mr. BURKE of South Dakota. I am asking about Greenville.

Mr. RAKER. I did not quite understand the gentleman's question.

Mr. BURKE of South Dakota. The Greenville school had an

average attendance of 90 pupils. Is that correct?

Mr. RAKER. About that number; yes.

Mr. BURKE of South Dakota. And there was expended for new buildings-in the construction of new buildings-\$1,673, and a little less than \$700 for repairing.

Mr. RAKER. I think that is right.

Mr. BURKE of South Dakota. So we are doing something in connection with the building up of the school; and in one school in the gentleman's State last year there were new buildings constructed from this general appropriation amounting to \$6,000 or \$7,000.

Mr. RAKER. That was a long distance off, where it was needed. In this school the floors are worn out. When I was there in October they were putting down a new floor where the floor was worn out entirely. They put up a small new building for the superintendent's private office. Now, con-

tinuing-

For school farm: For maintaining the school stock and small dairy herd and for raising fruits, grains, and vegetables, \$7,000; for a school and assembly building for general meetings and entertainments, \$8,000—

There is no place now where you can assemble these pupils all together-

for a complete steam-heating plant for school and accessory buildings, \$6,000; for a boys' dormitory with a capacity of 75, \$5,000—

There is nothing of that kind there now. You have got these young men and women there. In the first place, you ought to keep them thoroughly clean. You ought to teach them to do these things-to keep their clothes in proper shape

for a steam laundry, with a capacity of washing and ironing for 150 persons, \$2,600.

Mr. MONDELL. Will the gentleman yield? Mr. RAKER. Certainly.

Mr. MONDELL. I notice the last item was a steam laundry. I have followed the gentleman with interest, and generally with full accord in his views; but when he proposes a steam laundry at a place where he is trying to teach Indian girls how to carry on and perform the duties of the household, it seems to me that he is not in harmony with the views he has generally expressed. Does not the gentleman think it would be very much better to invest the money in washtubs and washboards

and teach the girls how to wash? Can they have a steam laundry in each tepee when they get back to the reservation? What advantage to them is it to see a steam laundry in opera-

Mr. RAKER. I will answer the gentleman's question. The gentleman's argument is fallacious. He evidently has not been in an Indian school where they have a steam laundry.

Mr. MONDELL. Oh, yes; I have.

Mr. RAKER. He does not realize that they have the washtubs also; he does not realize that it teaches them how to do general laundry work.

The CHAIRMAN. The time of the gentleman from Cali-

fornia has expired.

Mr. MONDELL. Mr. Chairman, I rise to support the amendment. I am in favor of this increase, but I hope it will not all be used at one school in California, and particularly not for the construction of a laundry. Now, I do not mean to say that steam laundries are not necessary about Indian schools, but I have more than once on the floor of the House, and several times when about Indian schools, called attention to the fact that we do better, if instead of paying quite so much attention to elaborate up-to-date machinery for carrying on the work, teach these Indians, boys and girls, to do the things they must do when they go back to the farms.

We are educating them with a view of their being able to support themselves on their lands. We ought to educate them on the reservation, and we ought to keep them, so far as we can, with their families while we are educating them, so that the daily contact will not only improve the mind and the character of the pupil, but improve and elevate the people at home. We ought to teach the young girls how to use the washtub and the washboard; the boys to farm, mend harness, do iron

and wood work.

Mr. RAKER. Will the gentleman yield?

Mr. MONDELL. I have only five minutes, and there are other points that I want to discuss. I think the chairman did not intend to say a moment ago that this appropriation was for schools not on Indian reservations. If I am rightly informed, it is for schools on Indian reservations. These are reservation schools, and nonreservation schools are provided for in a separate item. There are, however, reservation schools that are also provided for in separate items. Among such schools there is one in my State. The committee in its wisdom did not grant what the commissioner asked for—a new dairy barn at that school. The present dairy barn is about to fall down; it is propped up. I saw it a few months ago, and it was in a sadly dilapidated condition.

Mr. STEPHENS of Texas. It is a nonreservation school,

is it?

Mr. MONDELL. It is one of the reservation schools carried

in a separate item.

Mr. STEPHENS of Texas. Separately appropriated for?

Mr. MONDELL. Yes; and we can get nothing out of this appropriation for that barn, and the committee did not see fit to provide for the appropriation in a separate item. We shall get no benefit for that dairy barn, even though the amendment of the gentleman shall prevail. When we reach the other item, I hope the committee will give me an opportunity to call their attention to the fact that it is a needed structure, serving an exceedingly useful purpose—that of housing the dairy stock on the reservation—and that it needs rebuilding. They have a fine herd of cows, they are producing butter and, I think, cheese, They have a and doing many useful things. As that barn can not be built from this appropriation, I hope the committee, when they reach the other, will provide for it.

Mr. STEPHENS of Texas. We have already allowed you

\$4,000.

Mr. MONDELL. That is for general repairs on a great reservation. The chairman is sufficiently familiar with these matters to know that that amount is necessary for general and ordinary repairs, but what is wanted is a special item of \$4,000 for this barn.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. BURKE of South Dakota. I would like to ask the gentleman if there are other buildings on the reservation besides school buildings, agency buildings, and so forth?

Mr. MONDELL. Yes.

Mr. BURKE of South Dakota. They may be repaired and new buildings constructed out of the appropriation. The appropriation for the school can only be used at that particular school.

Mr. MONDELL. The gentleman understands that the Indian Office holds that they can not use any of the general appropriation for such construction as I have referred to.

Mr. BURKE of South Dakota. They can not use any of the general appropriations for any schools that are specifically appropriated for.

Mr. MONDELL. This barn is in connection with the school. The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. STEPHENS of Texas. Mr. Chairman, I hope that this amendment will be voted down.

Mr. CANNON. Mr. Chairman, I move to strike out the last word. I pick up the report, and I find the following:

This bill carries appropriations payable from the Federal Treasury as follows: For gratuity appropriations, \$6,052,393.28; for fulfilling treaty stipulations, \$740,560; for reimbursable items, \$850,000; and further appropriations aggregating \$489,075.07 payable from Indian trust funds now on deposit in the United States Treasury.

The reimbursable item is smaller, I think, than is commonsmaller than it used to be. Reimbursements formerly did not materialize to any great extent. I think that most of the Indians now have citizenship, have they not?

Mr. STEPHENS of Texas. A great many of them have. Mr. CANNON. And their last estate is worse than their first, as a general rule. The best Indians, the richest Indians from a material standpoint, and perhaps from every other standpoint, are in Oklahoma, and I recollect a few days ago hearing what was not encouraging in reports from that State, so far as the Indian is concerned. I was led to believe that the time is not far distant when great blocks of these people will be absolutely without property, a charge upon the Federal Treasury, or a charge upon the State of Oklahoma. I know there are exceptions. The Indians, of course, are human beings. Away back in 1885 I was upon a committee to make investigations of the Indian Service. We made a very thorough investiga-tion. Judge Holman was the chairman of that committee. Great amounts of money were being expended to educate the Indian. He received an education that he did not utilize after he had received it. Of course there was an exception here and I speak from a general standpoint. We found that when the Indian went out of the public schools it seemed to be a matter of pride to have him become an ordinary Indian, and the educated schoolgirl to go back to her former state or to the estate of her mother and grandmother. We must walk before we can run.

I wish every Indian school in this country were abolished. I refer to the kind of schools that are covered by the amendment. I would have education such as would pay and would be practical. It will take generations for the Indians to grow as it took generations for our forebears to grow. It is not very

encouraging-

Mr. FERRIS. Mr. Chairman, will the gentleman yield?
Mr. CANNON. Yes.
Mr. FERRIS. Mr. Chairman, I gather from what the gentleman says that he feels that some line of industrial pursuits would bring about more civilization and advancement among the Indians than would be this intense education.

Mr. CANNON. Precisely.
Mr. FERRIS. In that I am in full accord with the gentleman. Does not the gentleman think that a way could be devised among the incompetent Indians where their annuities and appropriations might be withheld from them, payable to them according to the amount of industry they manifested on their own allotments? Of course this could only reach the ablebodied ones, and perhaps only be administered among the incompetent ones

Mr. CANNON. I wish some such plan could be worked out. Some years ago I was more familiar with these appropriations than I am now, given under treaties and as gratuities, such as were given to that great Sioux people in South Dakota and to kindred tribes. They were receiving treatment and relief with-out labor, and were being treated in such a way as would have made paupers of a similar number of white people, even with all our great civilization.

The CHAIRMAN. The time of the gentleman from Illinois

has expired.

Mr. RAKER. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended five minutes.

Is there objection? The CHAIRMAN.

There was no objection.

Mr. RAKER. Mr. Chairman, will the gentleman yield? Mr. CANNON. Certainly. Mr. RAKER. Mr. Chairman, I agree with what the gentleman has said after personal observation of 25 or 30 years. Does not the gentleman believe that wherever we can put an industrial school for these boys and girls that that would be the best education we could give them?

Mr. CANNON. No; I do not think so; especially if you are going to bunch them together and have your steam laundries and your higher mathematics at the same place, together with a great many other things that they will never utilize. truth is that, like the white man, on the average they do not prosper except where under the necessity of ordinary employment pretty soon after they leave the cradle the child should begin to learn that by industry they live.

I would rather have the chances of an American boy, to say nothing of Indians, who under the hand of necessity sells newspapers upon the streets or blacks boots, I would rather have his chances than those of a boy who never earned a dollar and goes to the higher schools with his automobile [applause] and all that kind of thing.

Mr. STEPHENS of Texas. Will the gentleman yield? Mr. CANNON. And I will make this remark, and I do not believe it can be successfully contradicted, if you go to every man in this House and every man in the Senate and every man in considerable public life in the United States and in our respective States and ask him, "Where did you have your genesis." On the farm or in the factory a genesis that involves labor and saving so that he could walk alone and develop to a good manhood. Now, I think that the treatment that the Indians have is to continue. I suspect it is to continue to pauperize them. What would I do? I do not know. I think I would have the education about where the Indian parents live and educate the parents while I was educating the boy, and I would give him subsistence according to his effort of muscle and brain.

Mr. RAKER. Will the gentleman yield?
Mr. CANNON. I do.
Mr. RAKER. Now, the schools I speak of, the ones that are involved here, are right in the center of the territory where these boys' and girls' parents live. Most of the parents and most of the boys and girls parents live. Most of the parents and most of the boys and girls, no matter how young they are, have allotments of public lands. Now, is not it better to put them in the position that when they get old enough that they may go out and use these allotments just like you give your boy and girl some opportunity to make a good livelihood? I agree with the gentleman as to the best start in helping the Indians to-day on these reservations in competition with the white men, but he has not the opportunity no matter if he does make good.

·Mr. CANNON. Oh, I tell you if a man lives on 40 acres or 20 acres and holds it, whether it is allotted to him or given to him, or whether he earned the money and bought it, he and his wife and his children are better off if they are living upon that 40 acres, and if it is necessary to train them or to give them additional knowledge that they may apply it and earn their living in the sweat of their faces do so, and if they establish that character and become competent and become thus trained they will grow and continue to grow as they have matured. May I just cite one instance. In Douglas County, Ill., way back 54 years ago there were several large tracts of land where the title was obtained frequently by men who could not read and write, a section, two sections, three sections-by military land warrants-all black lands costing about 70 cents an acre and worth now from \$200 to \$250 an acre.

There was one man, whom I will call Jones-I will not give his true name-who could not read and write. He was a great cattleman who had three sections of land. He knew how to There was another man, his brother-in-law, Smith, I will call him-that was not his name-who had about an equivalent amount of land. Their families grew up. Jones taught his boys how to handle stock; the other man tried to do so. Finally Jones came up into my office one day and 1 said, "How is it down in your township; how are you getting along?" He replied, "Oh, pretty well." "Well, how is Smith getting along? He has a large family and you have a large family." "Oh, first rate," says he. "But he is going to send the said and two hove over to Asbury University." "Well," family." "On, first rate," says he. "But he is going to send three girls and two boys over to Asbury University." "Well," I said, "that is all right; he has worked hard and has got the money to send them." "Yes," he said, "it is all right, but they have got the notion that they do not care about farming, and he will send them over there and when they come out of Asbury College"—that was over at Greencastle, Ind.—this man was a very profane man—"they will jist come back damn eddicated idjits"; and they did. [Laughter and applause.] eddicated idjits"; and they did. [Laughter and applause.] And the property of that family was all divided and squandered. Now, those were white folks, and how could we expect the Indians to do better than white folks? If a man gets a common-school education and learns how to make a living he will prosper and be a good citizen. If he desires to follow a specialty and requires more education by utilizing the schools, nothing can stop him. If he does not utilize the higher training, the time is wasted in attaining it.

The CHAIRMAN. The time of the gentleman has again

expired.

Mr. STEPHENS of Texas. Mr. Chairman, I hope that the amendment of the gentleman from California [Mr. RAKER] will not prevail.

The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

Line 4, page 23, strike out the figures "300,000" and insert in lieu thereof "360,000."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from California.

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. MANN. Mr. Chairman, I ask for a division.

The committee divided; and there were-ayes 3, noes 22.

So the amendment was rejected.

Mr. MANN. Mr. Chairman, there are only five more Members present than there are on the Committee on Indian Affairs, and I make the point of no quorum.

Mr. STEPHENS of Texas. I hope the gentleman will with-

draw that motion.

The CHAIRMAN. There is evidently not a quorum present. The Clerk will call the roll.

The roll was called, and the following-named Members failed to answer to their names:

Adair Adamson Aiken, S. C. Akin, N. Y. Andrus Esch Estopinal Evans Fairchild Kopp Korbly Lafean Lafferty Langham Lawrence Ransdell, La. Reyburn Richardson Riordan Roberts, Mass. Roberts, Nev. Flood, Va. Floyd, Ark. Fordney Anthony Barnhart Bartholdt Legare Levy Lewis Lindsay Littleton Lloyd Robinson Robinson Rodenberg Rucker, Colo. Sabath Scott Sells Fornes Bartlett Bates Bell, Ga. Garner Gill Godwin, N. C. Goldfogle Berger Shackleford Sherley Sherwood Simmons Blackmon Loud McCall McCreary McDermott McGreary McDermott McGillicuddy McHenry McKeellar McKeellar McKenzle McKinley McJaughlin McMorran Maher Martin, Colo. Matthews Mays Merritt Moon, Pa. Moon, Pan. Moore, Pa. Moore, Moore, Murdock Murray Needham Norris Olmsted O'Shaunessy Palmer Boehne Gould Gould Gray Green, Iowa Greene, Mass. Greene, Vt. Gregg, Pa. Gregg, Tex. Griest Gudger Gudger Bradley Brantley Broussard Sisson Slemp Smith, Cal. Smith, N. Y. Brown Burgess Burke, Pa. Burnett Calder Smill, N. 1,
Sparkman
Speer
Stack
Stanley
Sterling
Sulloway
Sulzer
Switzer
Taylor, Colo.
Taylor, Colo.
Taylor, Ohio
Thayer
Thistlewood
Thomas
Towner
Tribble
Turnbull
Tuttle
Underwood
Vare
Vreeland
Webb
Wedemeyer
Weeks
Whitacre
White Sparkman Guernsey Hamill Hamilton, W. Va. Hanna Hardwick onry Conry Cooper Copley Covington Cox, Ind. Cox, Ohio Harris
Harrison, N. Y.
Hart
Hartman
Hay
Heald
Higgins
Hill
Hobson
Howard
Howell
Howland
Howland
Hughes, Ga.
Hughes, W. Va.
Humphrey, Wash.
Humphreys, Miss.
Jackson
James
Jones
Kahn Harris Cravens Currier Curry Danforth Daugherty Daugherty Davenport Davidson Davis, W. Va. De Forest Dent Parran
Patten, N. Y.
Patton, Pa.
Pepper
Peters
Pickett
Plumley
Porter
Pout
Prouty
Pujo
Rainey
Randell, Tex. Parran Denver Dickson, Miss. Dies Difenderfer Dixon, Ind. Dodds White Wilder Wilson, Ill. Wilson, N. Y. Kahn Kennedy Kindred Kinkaid, Nebr. Doremus Doughton Witherspoon Wood, N. J. Woods, Iowa Young, Mich. Draper* Driscoll, D. A. Kitchin Knowland Konig

Thereupon the committee rose; and Mr. Fitzgerald, as Speaker pro-tempore, having assumed the chair, Mr. Saunders, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having had under consideration the bill H. R. 26874, the Indian appropriation bill, and finding itself without a quorum, he had caused the roll to be called, and he therewith reported a list of absentees.

The SPEAKER pro tempore. The Chairman of the Committee of the Whole House on the state of the Union reports that 179 gentlemen have answered to their names, a quorum of the committee, and the Chairman reports the names of the absentees to be entered on the Journal in accordance with the rule.

Mr. MANN. Would it not be in order to report the names? They have not been reported.

The SPEAKER pro tempore. The Chairman reported the list of names. The uniform practice of the House is for the Chairman to report the names in a list, and that has been done.

Mr. MANN. The rule provides that the names be reported. The SPEAKER pro tempore. The names have been reported. Mr. MANN. I would not want to take advantage of the present occupant of the chair.

The committee resumed its sitting with Mr. SAUNDERS in the

The CHAIRMAN. The question now recurs, a quorum of the committee being present, on the amendment offered by the gentleman from California [Mr. RAKER].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For collection and transportation of pupils to and from Indian schools, and for the transportation of Indian pupils from any and all Indian schools and placing them, with the consent of their parents, under the care and control of white families qualified to give such pupils moral, industrial, and educational training, \$70,000. The provisions of this section shall also apply to native pupils of school age under 21 years of age brought from Alaska.

Mr. MADDEN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. MADDEN]

moves to strike out the last word.

Mr. MADDEN. Mr. Chairman, I wish to inquire of the gentleman from Texas [Mr. Stephens] in charge of the bill whether this money appropriated in this item is taken out of the Indian funds or whether it is taken out of the Treasury of the United States?

Mr. STEPHENS of Texas. This is a gratuity.

Mr. MADDEN. This is given by the United States Gov-

ernment?

Mr. STEPHENS of Texas. This is a gratuity, given for the purpose of collecting the Indian children from all parts of the United States and sending them to these schools, nonreserva-tion schools, mostly. Of course, it is necessary to take them from the reservations to the schools. This appropriation is for that purpose.

And the Indian children who are taken to Mr. MADDEN. these schools are taken from reservations, where Indians on the reservations have funds of their own, are they not?

Mr. STEPHENS of Texas. That is a gratuity for the purpose of sending them to the nonreservation schools, and after they are there they can be distributed among white farmers for the purpose of having the white farmers teach them to acquire the habits of civilized life.

Mr. MADDEN. Are not the parents of these young Indians able to pay the cost of their transportation to and from the

schools out of their own funds?

Mr. STEPHENS of Texas. I do not think that is the case, for the reason that where the Indians have property of their own the parents, in order to keep them at home and prevent them from being sent to distant places, will pay for their education at near-by schools out of their own funds.

Mr. MADDEN. Then this is a compulsory attendance on

schools away from home that is to be paid for?

Mr. STEPHENS of Texas. I would not say that it is com-The Indian Department urges parents who are not pulsory. The Indian Department urges parents who are not able to take care of their children at home to send them away The school at Carlisle, Pa. to the nonreservation schools. accommodates about 1,000 pupils. It requires considerable money to get the children there and take them back. During the vacations the children are sent out amongst farmers, who take care of them and teach them the arts of living, and so forth, and the practice is found to be very beneficial to the

Mr. MADDEN. I know of a great many children of white families throughout the United States who would be glad to have the Government extend its fostering care over them and pay the cost of transportation charges of their children to and from school and board them while they are away and send them back again, and while they are not attending the school teach them the arts of farming and all of those other things that would make them useful citizens in the future.

Mr. STEPHENS of Texas. For the reason that they are the wards of the Government, and we feel ourselves under the wards of the Government, and we teel ourselves under the obligation, and have for a hundred years felt ourselves under the obligation, to take care of these Indians, and it is only a part of the duty we have assumed. Whether wisely or not, it is too late to change it. We have assumed it and are carrying it

out to the very best of our ability.

Mr. MADDEN. It is all very well for us to protect the Indians in every way that is proper and right, but it seems to me that to pay transportation charges from one point in the country to another is going outside of the duty of the Government of the United States, and this appropriation surely ought not to be made.

Mr. STEPHENS of Texas. I will state to the gentleman that if I had had the making of the laws 30 or 40 years ago I would not have launched into the building of these nonreservation schools, but would have instructed the Indians on the reserva-

tions. But having the schools on our hands, having organized them and having hundreds of thousands of dollars invested in industrial plants, I think it would be wrong to stop the schools or cripple them in any way. We had better pursue the course on which we have started.

Mr. MADDEN. I am not in favor of stopping the schools, and I should like to see granted to the Indians all the educational facilities they ought to have to the fullest extent. am opposed to is the payment of the expenses of transportation by the Government to the schools and back from the schools to their homes. The gentleman has stated that he would not have been in favor of the establishment of these schools if he had had his way. Would it not be wise for him as chairman of the Committee on Indian Affairs to provide some means by which the Government can save the expense of transporting these children back and forth? I am in favor of the maintenance of the schools.

The CHAIRMAN. The time of the gentleman has expired. Mr. MONDELL. Mr. Chairman, I rise to oppose the amendment of the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. I have offered no amendment.

Mr. MONDELL. This item is a gratuity. A moment ago the gentleman from Illinois [Mr. MADDEN] called attention to the fact that the great bulk of these appropriations are gratul-ties. It is a remarkable fact that although many of the Indians in the United States are very wealthy, of the amount carried in this bill \$6,084,000 is in the form of gratuities, the reimbursable items amounting to only \$55,000 out of the total appropriation of \$7,674,000. Our school items in Indian appropriation bils have for many years been in the main gratuities. Perhaps that is a good policy and a wise policy, possibly not in all cases.

The item we have just passed, \$300,000 for school buildings, is entirely a gratuity, although some of the buildings contemplated are for Indians like the Crows and the Shoshones, who have hundreds of thousands of acres of valuable land and large sums of money in the Treasury. But it seems to have been the rule of the committee and the practice of Congress in the matter of school appropriations to provide for them gratuitously, without regard to the ability of the Indians to provide

for themselves.

That may be justifiable, but I question whether we are justified in expending large sums of public money for the construction of works enhancing the value of the property of the Indians, where such Indians have great areas of land, and in cases where they have cash in the Treasury.

There is a very considerable item in this bill for the construc-

tion of irrigation works on Indian reservations.

Mr. MILLER. That is not contained in this paragraph. Mr. MONDELL. Not in this paragraph, but in a provision which we have passed. I did not have the opportunity to discuss it as I should have liked to discuss it at that time, so I propose to discuss it briefly now.

Among the reclamation works proposed under that item is, for instance, the project for the irrigation of lands of the Navajos under the San Juan project. These Indians have 14,000,000 acres of land, according to the statement of the Commissioner of Indian Affairs. We have already spent \$97,363.77 for that project, and its estimated cost is \$140,000. In addition to that it was necessary to spend from this appropriation last year some \$25,000 to repair temporarily a break in the dam that is being constructed.

Mr. MILLER. How much is that land worth an acre?

Mr. MONDELL. There is a good deal of it that would not bring much per acre. Out of the 14,000,000 acres owned by these Indians there is a considerable amount of land that is of small value.

There are no richer lands on the face of the earth, however, than the lands on the San Juan, where this irrigation project is located. It is the site of an ancient irrigation work, one of the most interesting in the country, where there is an ancient waterway 40 or 50 miles in length, still well preserved; along the line of that canal in the ancient times lived a large population and were many pueblos.

The CHAIRMAN. The time of the gentleman from Wyoming

has expired.

Mr. STEPHENS of Texas. Mr. Chairman, I move that all

debate on this paragraph be closed in five minutes.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent that I may proceed for five minutes.

The CHAIRMAN. The gentleman from Texas moves that all debate on the paragraph close in five minutes.

The motion was agreed to.

The CHAIRMAN. The gentleman from Wyoming is recog-

Mr. MONDELL. Mr. Chairman——
Mr. MILLER. Will the gentleman yield?

Mr. MONDELL. Certainly. Mr. MILLER. The land as it stands is practically valueless but when irrigated it becomes extremely valuable, and therefore the project must be one of merit. Is not the gentleman aware that it is reimbursable; that the Treasury will be reimbursed?

Mr. MONDELL. On the contrary, I do not understand that a single penny of the appropriation I have referred to is reimbursable, and certainly it can not be held to be reimbursable under the terms of the bill, if the gentleman will read it. The gentleman is a member of the committee and knows perfectly well that no part of that appropriation is reimbursable.

Mr. MILLER. Practically, or under the terms of the bill?
Mr. MONDELL. Practically, or under the terms of the act.
No demands can be made on the Indians to return it. There can be no question about that. No demand has ever been or ever will be made on any Indian under this item of appropriation to reimburse the Treasury for the amount expended unless the language shall be changed.

And not only have the Navahos 14,000,000 acres of land, a portion of which is of considerable value, but, in addition to that, they are an industrious people, as Indians go. They have been accustomed to labor; they make great quantities of the finest rugs in the world down there on the Rio Las Animas and the San Juan, and we pay large prices for them. They have a

rery considerable income, and they live very well, indeed.

I know of no reason why these Indians can not pay for their own irrigation works. I believe it would be better for them if they did. Now, I am not inclined to be parsimonious in the matter of these appropriations. I will go as far as any Member of the House will go in giving the Indians an opportunity to earn a livelihood, but we simply pauperize the Indians when we say to men with large landed estates running into millions of acres, owning some of the fairest valleys on the continent, men who are accustomed to work, families accustomed to work, producing some of the finest specimens of the Indian art, earning a fairly good livelihood, that we will tax the people of the United States for the purpose of building irrigation works for irrigation and fertilization of their land. They have no funds now, but the expenditure for the irrigation of their lands should be made a charge against them, to be paid in the future. This is not the only item under this appropriation where it is proposed to build irrigation works for Indians having enormous landed estates. The Northern Cheyennes are to receive \$8,000 out of this item. They own several hundred thousand acres of very excellent land. There is no reason on earth why the Northern Cheyennes should not reimburse the Government.

Another proposition. It is my opinion that if the Government never did receive all of these sums, if they never were all paid back into the Treasury, the very fact known to the Indians that there was an obligation on their part in the matter, that they were expected to return the money to the Treasury, would in and of itself enhance the value of the property in their eyes, and would tend to teach them and lead them to give better attention to this property and value it more highly than they

The item, among other things, provides for maintenance charges and proposes to expend money to maintain these projects after we have built them. Is it not quite enough to build irrigation works for the Indian and to put it in condition to be used? Must we tax the people forever to pay for their mainte-nance? If so, it seems to me the expenditure is useless, and instead of accomplishing any worthy or valuable or useful pur-pose we are simply tending further to pauperize the Indians and build up in their minds the notion that they are getting something for nothing. Build these works by all means, but with the understanding that the Indians are to pay for them.

The CHAIRMAN. The time of the gentleman from Wyoming has expired, and the Clerk will read.

The Clerk read as follows:

All moneys appropriated herein for school purposes among the Indians may be expended, without restriction as to per capita expenditure, for the annual support and education of any one pupil in any school.

Mr. MANN. Mr. Chairman, I reserve the point of order on this. I believe this is current law. What is the effect of this? How does it work out? It was put in in the first place, I believe, as an experiment.

Mr. STEPHENS of Texas. It was formerly restricted to \$167 per capita for each Indian who was taken off the reservation

and put into these boarding schools.

Mr. MANN. I understand that is the law.

Mr. STEPHENS of Texas. That limit has been taken off.

Mr. MANN. I think that limit has not been taken off except in the current appropriation law each year. The limit remains, I think. What is the effect of this? It was tried as an experi-What is the cost of educating these Indians?

Mr. STEPHENS of Texas. In the northern countries, where they have long winters and very cold weather, it is much harder to maintain the Indians, on account of the better clothing they require, than it is in the southern country, in Arizona and New Mexico. That is the difference. I find this memorandum covering this item:

The memorandum covering this item explained that the per capita allowance of \$167 per pupil was adopted by Congress about 25 years ago, and was probably legitimate and proper for many years following. Within the last decade, however, conditions have so altered that the restriction became injurious to the welfare of the schools. With the increasing cost of supplies the necessity was imposed on superintendents of filling their schools in order to maintain a sufficiently full attendance therein to conduct the plant properly and to provide the usual necessities for the school and the Indian children.

Congress has a legitimate check upon the expenditure of any given school in that it requires annually a statement of its cost.

Mr. MANN. The general law provides that the expense of

the pupils should not exceed \$167.

Mr. STEPHENS of Texas. That is true.

Mr. MANN. What is the effect of it? Of course, we all know that under ordinary conditions a school that is fairly well filled up can probably get along for \$167 per pupil, but it will cost you a great deal more than that if you maintain a school for one pupil. What is the effect of it all? What has been the actual experience under this experiment?

Mr. BURKE of South Dakota. Perhaps I can answer the

gentleman, if the chairman will yield?

Mr. MANN. I have no doubt the chairman of the committee can answer, but I would be very glad to hear from the gentleman from South Dakota.

Mr. STEPHENS of Texas. The larger the school, the less the expense. The gentleman is correct in that statement. Some schools cost more than \$167 per pupil to maintain, while others get along with less, some of them falling as low as \$122 and some running over the limit of \$167. We thought it would be wise to take that limit off and let the matter be adjusted by the department.

Mr. MANN. Is the gentleman able to give the House the per

capita expenditure at each of these Indian schools?

Mr. STEPHENS of Texas. We have each one of them provided for here that this would apply to under the heading of the various States.

Mr. MANN. It might be well to let this item remain, then, until after the other matters have been disposed of.

Mr. STEPHENS of Texas. I think not; because this is the existing law, the current existing law, as stated by the department. In each State as we reach it we can give the cost per capita of the schools. Each school is especially provided for, and each is given, stating how many students are in that school, and the amount appropriated for the school.

Mr. MANN. If this item goes in the bill before we take up the others it is beyond us.

Mr. STEPHENS of Texas. I think not.

Mr. MONDELL. Mr. Chairman, will the gentleman yield for suggestion?

Mr. STEPHENS of Texas. Yes.

Mr. MONDELL. It seems to me the gentleman's statement that the cost depends a good deal on the climate, being higher in the north, is scarcely borne out by the facts. For instance, at the Shoshone Reservation, on the Wind River, Wyo., the cost is \$167, and at Santa Fe and Carson City, Nev., the cost is \$175.

Mr. STEPHENS of Texas. The department is to blame for If there are such conditions the supplies have cost more

there than in the gentleman's country.

Mr. KENDALL. It depends on what is taught in the school, does it not?

Mr. STEPEHNS of Texas. Perhaps so. If one is an industrial school it costs more money to run it.

Mr. FERRIS. Mr. Chairman, the gentleman from Illinois is

undoubtedly striking at the question of whether it is advisible to remove this limitation.

Mr. MANN. Yes.

Mr. FERRIS. Dealing with this school item, the commis-

sioner has liberally furnished with justifications and just what it costs at each school. The expense per capita varies to a marked degree. It runs from \$122 up to as high as \$247, I think, at one place, but there might be a reason for that which I think would satisfy the gentleman. In other words, at one school they have a school farm and they raise a part of what they eat there. That naturally reduces the grocery bill and expenses of running the school. At another place they have to

haul their provisions farther from the market, so the drayage and hauling facilities cost more, and while there is some danger attached to removing a limitation of this kind there are a good many advantages. The commissioner who appeared before us went to great lengths and was unusual in his insistence that that remain, so he might do full justice to each particular school. For instance, when a tribe has diminished or intermarried or gradually coalesced and joined the white people, as some are in some localities, the Indian school becomes less and less in numbers all the while, but the commissioner has power to recommend the discontinuance of these schools, and if it reaches the stage where Congress will no longer provide for it, Congress will discontinue them.

He has the power to recommend the discontinuance, but he has no power to discontinue them.

Mr. FERRIS. I did not assert he had that power.

Mr. BURKE of South Dakota. If the gentleman from Illinois will permit, supplementing what the gentleman from Oklahoma has stated, we went into this matter very closely in the hearings on the last year's appropriation bill, and we found we were not spending any more for education now than we were when the limitation was in force and educating just as many children; but, as the gentleman says, in some instances it exceeds \$167.

Mr. MANN. This item was inserted in the Indian appropriation a few years ago, and it was then stated, as I recall, that it was to be in the nature of an experiment and at the proper time the House would be given full information as to that experiment and the effect of making this change. So far we have had no information upon the subject, except in a general way. The gentleman has made a statement, but it seems to me this limitation either ought to go out of the bill or else be postponed until the House has acted upon the specific appropriations.

Mr FERRIS Does not the gentleman think that due to the method of making the estimates, handling each school as an entity and each State as a separate matter, that the question of dealing with the per capita expenses is, as it should be, in

each respective State and each respective school?

Mr. MANN. Oh, I think it is desirable to do it in the way the committee has done it in that respect, but I am not sure it is desirable to remove the restriction of \$167, which ought to be, in the ordinary course, the full amount of the expenditure for each applications. ture for each pupil in the school.

Mr. FERRIS. Well, I know of no particular grievances to any people with whom I am acquainted if this was stricken but the Commissioner of Indian Affairs was exceedingly insistent about this.

Mr. KENDALL. Is not that because he claimed experience justified the change, because it has been demonstrated that \$167 in some localities under circumstances referred to by the gentleman from Texas is not sufficient for the purpose?

Mr. FERRIS. Precisely. Mr. KENDALL. There is no danger, I think, in adopting the modification made by the committee or recommended by the committee. These sums are to be safeguarded as they always have been.

Mr. FERRIS. This is not a new matter. It is a matter which has been carried in the bill for several years, and we merely reincorporate it at the strong solicitation of the commissioner himself, who insisted that some latitude in dealing with these different schools should be allowed.

Mr. MANN. Mr. Chairman, I do not like to put my own judgment in these cases against the committee's judgment, although I had hoped that the committee would explain why the per capita expenditure at certain schools was much above the limit authorized by law.

Mr. McGUIRE of Oklahoma. Will the gentleman permit a suggestion? I call his attention to one particular instance, and that is the Cushman School in Washington, where some time ago they added what they called a mechanical department, and a great number of pupils are being employed now in that part of the institution, where they have installed machinery and where they are making things of iron and wood. I was talking to the superintendent the other day and he told me that had increased the cost per capita, but that ultimately there would be no increase.

There is a disposition now on the part of the heads of these institutions to increase the number of things taught in order that the pupil may be made more practical; that is, by teaching him carpentry and blacksmithing and all that sort of thing. Heretofore they have been instructing them in agriculture, and that was about all. But where they add these things, there is an additional cost, and I know nothing as to whether that

additional cost would continue, except from the statement of superintendents

Mr. MANN. I understood the gentleman to say that the Cushman School put the Indians at work doing blacksmithing and other labor in connection with ironwork on the institution, and therefore that added to the cost of maintaining the pupils.

Mr. McGUIRE of Oklahoma. In making things, perhaps not

alone for the institution.

Mr. MANN. For other people?

Mr. McGUIRE of Oklahoma. For other people.

Mr. MANN. Who got the benefit of that? Mr. McGUIRE of Oklahoma. The installation of the machinery is an additional cost.

Mr. MANN. By what authority? We make an appropriation for the installation of machinery, and if any pupils did that the school gets paid for it.

Mr. McGUIRE of Oklahoma. That is true; but I take it that certain installations may be made without any specific legisla-That is true; but I take it that There is a general appropriation for these institutions, and the commissioner is allowed some discretionary power.

Mr. MANN. Does my friend from Oklahoma maintain that these pupils could be employed by the school, adding something new to the buildings, and that that should be charged to the

maintenance of the school?

Mr. McGUIRE of Oklahoma. I do not mean to say that the fact of the additional things taught of itself would increase the cost per capita to the pupil. But if they installed new machinery that would temporarily increase the cost, whether they made them for the school or any other purpose. While I think the item ought to go out, in deference to the gentlemen of the committee I will withdraw the point of order.

Mr. MADDEN. I reserve the point of order so as to ask the chairman of the committee a question. I wish to know whether \$167 limit of cost for the education of each Indian pupil in-

cludes the cost of transportation.

Mr. STEPHENS of Texas. It does not. There is a separate fund here.

Mr. MADDEN. What is the cost per capita for transporta-

Mr. STEPHENS of Texas. It varies according to distance. Mr. MADDEN. There must be a cost per capita. Mr. STEPHENS of Texas. Some of them are from Oregon

or from Washington, and they travel to Carlisle, for instance.

Mr. MADDEN. There must be so much per capita. Mr. STEPHENS of Texas. The figures are here, and the

gentleman could very easily ascertain the amount.

Mr. MADDEN. I thought maybe the committee knew, and we might be able to get the information through the channel that had it.

Mr. STEPHENS of Texas. As I understand the matter, these men are sent out from the schools, and they gather up all the Indians that can be had in various communities and take them on the cars and carry them to the schoolhouse, and when the schools are out, unless they are distributed over the country among the farmers, they are sent back. As I understand the matter, all the expense is railroad expense of transporting the pupils and the expense of the man who attends them.

Mr. MADDEN. Can the gentleman state whether it is \$50 per capita, or \$100, or \$25?

Mr. STEPHENS of Texas. It would be as impossible to state as it would be to state how much the average amount is that we draw for mileage here. I do not think that has ever been averaged up.

Mr. MADDEN. Oh, yes. Mr. STEPHENS of Texas. Per capita for each individual Member of the House?

Mr. MADDEN. Yes

Mr. STEPHENS of Texas. I have never done it, and I have never seen such a statement.

Mr. MADDEN. We know the amount of mileage which is paid and the number of men, and all you would have to do would be to divide one by the other and get the per capita cost.

Mr. BURKE of South Dakota. At the Carlisle School, in-

cluding the cost of transportation, the pupils being brought long distances, in many instances, the education is as low or lower than at any other school in the service.

What does that mean? Mr. MADDEN.

Mr. BURKE of South Dakota. It means it is a large school, and that the sources of supply are nearer available than at some of these other schools. The Government is not losing anything, because the per capita cost, as I have stated, is lower than at any other school, I think, that we have in the country.

Mr. KENDALL. The gentleman means not losing anything

in comparison with other schools?

Mr. BURKE of South Dakota. Other schools.

Mr. MADDEN. Would it not be economy to transfer the Carlisle School to a place more adjacent to the people to be educated?

Mr. BURKE of South Dakota. If it was not for the Carlisle School, I would not be in favor of an appropriation to build a school at Carlisle.

Mr. MADDEN. The gentleman thinks the expenditure for the maintenance of these schools and the transportation of the pupils from one point to the other is justified?

Mr. BURKE of South Dakota. I do.

Mr. MADDEN. But nobody knows the cost per capita.
Mr. STEPHENS of Texas. I think I can give the gentleman the information right here. The amount required for the transportation of pupils for 1914 is \$82,000. The enrollment of the nonreservation schools for the fiscal year ending June 30, 1911, was 7,134, and for the fiscal year ending June 30, 1912, it was

Mr. MONDELL. Was the gentleman inquiring as to the cost per capita at the schools?

Mr. MADDEN. Yes; and the cost of transportation per

Mr. STEPHENS of Texas. The transportation cost is about eight and one-third dollars for each pupil.

Mr. MADDEN. How many pupils is the man who gathers them up supposed to bring in one cargo?

Mr. STEPHENS of Texas. I do not think they could possibly have any definite rule about that. They gather them in the different reservations in the best way they possibly can.

Mr. MADDEN. Do any of these pupils go to the schools

from their homes without any attendant?

Mr. STEPHENS of Texas. I do not quite understand the

gentleman.

Mr. MADDEN. I understood the gentleman from Texas to say that they had men in charge who were responsible for gathering the pupils up in the places where they live and taking them to the schools in the various parts of the country.

Mr. STEPHENS of Texas. They are competent men in the lines along which they are educated, and they become good citizens.

Mr. MADDEN. What I want to know is whether any of these Indian children go to the schools without a guide?

Mr. STEPHENS of Texas. Oh, it is only the smaller chil-

dren who are supposed to be incompetent to take care of them-selves and require guides. The smaller ones do have guides.

Mr. BURKE of South Dakota. Mr. Chairman, last week during the general debate on the Indian appropriation bill in connection with some remarks I brought to the attention of the House a report made by Mr. M. L. Mott, tribal attorney for the Creek Nation, showing a deplorable condition of affairs with reference to extravagance on the part of guardians in the handling of Indian minor estates in the probate courts in the several counties comprising the Creek Nation. The gentleman from Oklahoma [Mr. DAVENPORT], without attempting to defend the charges contained in the report, assailed the author of it, Mr. Mott, and attempted to make it appear that he is not responsible, and I think it was charged that he is a "carpetbagger." I am just in receipt of a letter from Moty Tiger, principal chief of the Creek Nation, in which he states that Mr. Mott has been or the creek Nation, in which he states that Mr. Mott has been the attorney for the tribe since 1904, and that his services have been entirely satisfactory, and that though he—the principal chief—is a Democrat and Mr. Mott a Republican that he will continue Mott as attorney for the tribe while it is within his power to do so; and in this letter he mentions a number of important matters where Mr. Mott has succeeded in protecting the Indians against legislation that had been enacted relating to taxation of their lands and other important matters, and that he had done so in several cases by going to the Supreme Court of the United States and securing a favorable decision, notwithstanding the Supreme Court of the State of Oklahoma had decided against the Indians. For the purpose of giving the House the opinion of the principal chief as to his estimate of Mr. Mott and to show some of the things that Mr. Mott has accomplished for the Indians, I send to the Clerk's desk and ask to have read the letter I have referred to:

WASHINGTON, D. C., December 17, 1912.

Hon. Charles H. Burke, United States House of Representatives Washington, D. C.

My Dear Sir: I noticed in the proceedings of the House on last Thursday, and when a report by Mr. Mott on probate conditions was under consideration, that members of the Oklahoma delegation expressed a desire to get rid of Mr. Mott as attorney for the Creek Tribe of Indians, and declared that they would gladly pay the cost of transporting him out of the State of Oklahoma. That you and Congress should have some idea of the value of the services rendered the Indians in Oklahoma by Mr. Mott, I hand you this communication.

Mr. Mott was appointed attorney for the Creek Tribe by General Porter, late chief of the Creek Tribe, in May, 1904.

The treaty of 1902 provided that none of the surplus lands of members of the Creek Tribe should be alienable for a period of five years. In 1904, two years after the ratification of this ireaty by Congress and just a month before Mr. Mott's appointment, Congress removed the restrictions on the surplus lands of all freedmen members of the tribe. Within 60 days of the passage of this act there was not one adult freedman in ten who owned an acre of his surplus lands or had a dollar in money to show for it.

The conditions following this legislation were so disastrous and destructive that Mr. Mott determined to use every effort to extend the period of restriction on the lands of the Indian members of the tribe beyond the five-year period provided for in said treaty or agreement, and thereupon he, together with the chief of the Creek Tribe and the Creek delegation, came to Washington and prevailed upon Senator Mc-CUMBER to offer an amendment to the Indian appropriation bill of 1906 extending the restrictions on full-blood Indians of the Five Tribes for a period of 25 years.

Senator McCUMBER stated on the floor of the Senate that he was not sure of the constitutionality of the legislation, but insisted that the legislation should pass, and in support of the necessity for the same had read from the Clerk's desk and inserted in the Recom a statement by Mr. Mott of the conditions in Indian Territory and what would be the result when the restrictions were taken off these lands. There were also published in the Recomp at the time statements by the chief and the delegation. The amendment was passed and became a law, and but for this amendment there would not be one member of the tribe in ten who would to-day own a foot of land other than his restricted homestead.

The constitutionality of the McCumber amendment was attacked in the McCumber amendment was attacked in the McCumber amendment was attacked in

law, and but for this amendment there would not be one member of the tribe in ten who would to-day own a foot of land other than his restricted homestead.

The constitutionality of the McCumber amendment was attacked in the Marchie Tiger case. The courts sustained and upheld the amendment.

Prior to the act of May 27, 1908, the Indian land grafters in Oklahoma had secured from full-blood Indians deeds to thousands of tracts of inherited lands. These deeds were secured by all kinds of fraud and for comparatively no consideration, and the lands so conveyed were worth into the millions.

Mr. Mott took the position that all conveyances by full-blood Indians prior to the act of May 27, 1908, were void unless the same had been approved by the Secretary of the Interior, and in accordance therewith there was filed a suit contesting the legality of these conveyances. In this case, commonly known as the Marchie Tiger case, the State Supreme Court of Oklahoma held these deeds to be good and valid. On a writ of error the case was brought to the Supreme Court of the Supreme Court of Oklahoma and held all these deeds and conveyances to be absolutely void, and thereupon millions of dollars were saved to the full-blood Indians of the Five Tribes.

When in 1908, the first year after statehood for Oklahoma, Congress, upon the earnest and persistent insistence of the Oklahoma, Congress, upon the earnest and persistent insistence of the Oklahoma, the Five Tribes and declared such lands subject to taxation, Mr. Mott resisted this legislation and insisted to the department and the committees of Congress that under the agreements of the Government with the Indians to exempt certain lands from taxation for a certain period Congress, under the Constitution, had no authority to authorize the State of Oklahoma to tax said lands.

One year in advance of any action by anyone else Mr. Mott secured from the Creek council an appropriation of funds to resist the taxatlon of these said lands. Injunction suits were filed in all the counties comp

my knowledge that the department gives to air. About the run creant for the institution of this litigation and the benefits accruing therefrom to the tribe.

Mr. Mott, in 1906, after numerous efforts, caused to be had an investigation of the fraudulent scheduling of town lots in the Creek Nation. This investigation resulted in the filing of a large number of suits by Mr. Mott against many prominent citizens, including the former governor of the State. These civil suits resulted in the indictment of a number of these prominent citizens. The indictments finally went out of court on the statute of limitations, pleaded by the defendants.

A number of the civil cases are still pending; a number have been settled, and in such settlements Mr. Mott has collected, in round numbers, \$100,000, and turned the same over to the Secretary of the Interior, and which has been deposited in the Treasury to the credit of the Creek Nation. There has also been secured decrees of the court on ninety-odd lots, valued at not less than \$60,000. An additional recovery of \$125,000 on the remaining suits is a conservative estimate. And it is for these things that thousands in Oklahoma would rejoice to see Mr. Mott's services to the Indians terminated. He is in the way of those who want to despoil and plunder my people.

Mr. Mott is a Republican. I am a Democrat. But I am first and last for my oppressed people. And so long as I am chief, Mr. Mott, if he desires and I can have my way, will remain the attorney for the Creek Tribe.

I desire to express to you my deepest appreciation for your stand on leads of the Indians in the State of Oklahoma.

I desire to express to you my deepest appreciation for your stand on behalf of the Indians in the State of Oklahoma. Very respectfully, yours,

Principal Chief of the Creek Nation.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

To conduct experiments on Indian school or agency farms designed to test the possibilities of soil and climate in the cultivation of trees, grains, vegetables, and fruits, for the purposes of preserving living and growing timber on Indian reservations and allotments, and to advise the Indians as to the proper care of forests: Provided, That this shall not, as to timber, apply to the Menominee Indian Reservation in Wisconsin; for the employment of suitable persons as matrons to teach

Indian women housekeeping and other household duties, and for furnishing necessary equipments and renting quarters for them where necessary; for the employment of practical farmers and stockmen, in addition to the agency and school farmers now employed; and to superintend and direct farming and stock raising among Indians, \$300,000: Provided further, That not to exceed \$5,000 of the amount herein appropriated may be used to conduct experiments on Indian school or agency farms to test the possibilities of soil and climate in the cultivation of trees, grains, vegetables, and fruits: Provided also, That the amounts paid to matrons, farmers, and stockmen herein provided for shall not be included within the limitation on salaries and compensation of employees contained in the act of June 7, 1897.

Mr. MANN. Mr. Chairman, I reserve a point of order on the paragraph.

The CHAIRMAN. The gentleman from Illionis [Mr. MANN]

reserves a point of order on the paragraph.

Mr. MONDELL. Mr. Chairman, I move to strike out, on line 24, page 5, the words "\$300,000," and insert in lieu thereof the words "\$400,000."

The CHAIRMAN. The question is on the point of order. Mr. STEPHENS of Texas. I hope, Mr. Chairman, that the

amendment will not prevail.

The CHAIRMAN. The question is on the point of order

made by the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Chairman, may I ask the gentleman from Texas in charge of the bill just what is the necessity of continually providing that the salaries paid to the officials employed under this appropriation shall not be included within the limitation of salaries provided by law? How much is paid, as a matter of fact, in the way of salaries to the persons employed as matrons, farmers, and stockmen?

Mr. STEPHENS of Texas. The question is why?

Mr. MANN. Yes; both why and how much.

Mr. STEPHENS of Texas. I will give the statement that is printed here:

This estimate provides mainly for the continuation of those positions which are now in force and the establishment of other positions at places where the present force is inadequate or where no farmers are employed at all.

We are following up the old law, with the same salaries and with the same amounts as heretofore. They have repeatedly asked for more salaries, and we have refused to allow them in this bill and in other bills. This is simply a repetition of the law as it has existed for several years.

Mr. MANN. Of course under this language they could pay as much salary as they pleased. The commissioner could double the salary if he chose to do so. What are the salaries now paid to the matrons, farmers, and stockmen?

Mr. STEPHENS of Texas. I will give the gentleman what the department says here:

Two hundred and thirty thousand dollars of the \$400,000 appropriated for the current fiscal year was set aside for agricultural and stock purposes, \$120,000 for forestry work, and \$50,000 for the employment of field matrons. One supervisor, at \$3,000 per annum, and one superintendent of live stock, at \$2,000, are paid from this appropriation. These men have no particular districts assigned to them, but are subject to the direction of the Commissioner of Indian Affairs, and visit all the reservations. In addition to their salaries the supervisors of farming and superintendent of live stock receive per diems ranging from \$3 to \$2.50, respectively, in lieu of subsistence when away from their headquarters.

Mr. MANN. What is the gentleman reading from, may I

Mr. STEPHENS of Texas. I am reading from page 29 of the hearings on the Indian appropriation bill, where this item is explained by the department. Those are the items given by the department to the committee.

Mr. MANN. The postponement of the consideration of the bill the other day has accomplished one good thing, and that is it has enabled the members of the committee to get copies of the printed hearings.

Now I want to ask another question. This is a legitimate question, especially in view of the attitude of the gentlemen on the other side and their probable action after the 4th of March next. How much pay do the matrons receive? How much do the farmers get paid and how much do the stockmen get paid? How can the gentleman from Texas and his colleagues on that side tell whether they would wish to recommend their constituents for appointment to these places unless they know how much the compensation is?

Mr. FOSTER. Is my colleague able to give to this side of the House the same information that that side of the House has enjoyed for some years?

Mr. MANN. I can give some information to my colleague from Illinois.

Mr. FOSTER. I will say to my colleague that after we get in we shall be able to find these places without any difficulty. [Laughter.]

Mr. MANN. I am asking for information. Mr. STEPHENS of Texas. The amount of \$50,000 is given for the payment of field matrons. Does that answer the gentleman's question?

Mr. MANN. No. What is the salary of the matron? What is the salary of the farmer? What is the salary of the stockman?

Mr. STEPHENS of Texas. Fifty thousand dollars is paid to the matrons.

Mr. MANN. How many of them are there?
Mr. FOSTER. Probably in the past they have just been apportioning this \$50,000 on that side as they saw fit.

Mr. MANN. I can remember when I used to ask the chairman of the Committee on Indian Affairs on this side the same questions in former years, and the information was forthcoming, and I am sure it will be forthcoming now.

Mr. STEPHENS of Texas. I will give the gentleman the information, which comes from his side of the House, if he wants to put it in a political sense. The salaries have all been fixed by the Indian Bureau. Certainly the gentleman has no right to complain.

Mr. MANN. I am not complaining. I am asking for infor-

Mr. STEPHENS of Texas. I am trying to give it to you. Mr. MANN. "Trying" is a good word. Mr. STEPHENS of Texas. The salaries of the expert farmers range from \$1,000 to \$1,500 per annum. There is only one man employed, however, at \$1,500, and this man has charge of the demonstration farm on the Fort Berthold Indian Reservation, established in pursuance of the act of June 1, 1910, and also has general supervision of the farming operations throughout the reservation. He is not confined to one place, but has

charge of everything.

Mr. MANN. That is, one man?

Mr. STEPHENS of Texas. The usual salary paid such em-

ployees is \$1,200 a year.

Mr. MANN. Is that for farmers or stockmen?

Mr. STEPHENS of Texas. The salaries of expert farmers range from \$1,000 to \$1,500. The salaries of stockmen farmers range. from \$720 to \$1,200 per annum. While the figures for the fiscal year 1912 are not yet complete, the reports which are being received from the various reservations indicate that there has been a revival of interest in agricultural pursuits on the part of the Indians, and there is in some localities need for the employment of more men to direct the operations of the Indians and advise them, not only in the proper method of cultivating their crops and the care and upbreeding of their live stock, but also in helping them find markets where the best returns may be procured for their products.

Mr. MANN. What are the salaries of the matrons?

Mr. STEPHENS of Texas. The sum of \$50,000 is appropriated to pay the matrons on the various reservations. reservation has a certain number of matrons allotted to it.

Mr. MANN. The gentleman has not the information as to the amount paid each one?

Mr. STEPHENS of Texas. The department does not give that information.

Mr. MANN. That answers the question.

Mr. STEPHENS of Texas. Therefore I can not state. Mr. MANN. I am very much obliged to the gentleman.
Mr. STEPHENS of Texas. I can not state it for the reason
that it is given under the head of the various reservations.

Mr. MANN. I am not complaining. I am very much obliged to the gentleman for the information, and in view of the in-

formation I withdraw the point of order.
Mr. FOWLER. I renew the point of order.

Mr. DIES. I should like to know, Mr. Chairman, who has

Mr. STEPHENS of Texas. I think the gentleman from Illinois [Mr. Mann] took the floor to interrogate the chairman of the committee.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] took the floor and reserved a point of order.

Mr. MANN. I now withdraw the point of order.

Mr. FOWLER. And I have renewed it.
Mr. MONDELL. Mr. Chairman, may I be recognized on my amendment?

Mr. FOSTER. The gentleman from Illinois [Mr. Fowler] has reserved a point of order.

The CHAIRMAN. The gentleman from Illinois [Mr. Fowler] has renewed the point of order.

Mr. FOWLER. I reserve the point of order. I desire to ask the chairman of the committee if the \$1,420,000, provided for on page 4, for day and industrial schools carries with it also the power to use a portion of that money to teach Indians how to farm?

Mr. STEPHENS of Texas. I do not think it does.

Mr. FOWLER. My understanding has always been that in connection with the industrial schools farming is taught.

Mr. DIES. Mr. Chairman, I make the point of order that the gentleman from Illinois is not discussing the point of order. Mr. FOWLER. Mr. Chairman, I had reserved a point of order, and if the gentleman from Texas had been listening he would not have interrupted this committee on his point of order.

The CHAIRMAN. The gentleman from Illinois will proceed, Mr. DIES. Mr. Chairman, I would like to know if the gentleman from Illinois is not discussing the point of order what

right he has to the floor? The CHAIRMAN. The gentleman from Illinois reserved the point of order, and is engaged in making some inquiries of the chairman of the committee, the gentleman from Texas.

Mr. FOWLER. I desire to ask if it is not a fact that agriculture is taught in the industrial schools instituted for the

benefit of the Indians? Mr. FERRIS. If the gentleman will pardon me, I will say that the \$1,420,000 provided for the Indian schools, some of which are industrial schools, and some of the money in the natural course of things is spent in connection with what they call the school farm—that is, the farm used in conjunction with the schools. The item under discussion particularly relates to individual field matrons and field farmers and those who go out and help the Indians who try to carry on agriculture on their own hook.

As the gentleman knows, a great many Indians are out on allotments, and as they begin to settle they get advice and help of the Indian farmers and the matrons and the Indian farmers.

Mr. FOWLER. I call the attention of the gentleman from Oklahoma to the fact that the paragraph begins as follows:

To conduct experiments on Indian schools or agency farms.

Mr. DIES. Mr. Chairman, I renew my point of order that the gentleman from Illinois is not proceeding according to the rules.

The CHAIRMAN. The gentleman from Illinois is recognized under the familiar practice in the Committee of the Whole to extend recognition, when requested, to a Member reserving a point of order. Strictly speaking under this recognition the gentleman is not entitled to five minutes, if objection is made. But the usual practice allows him to proceed in the absence

of objection for certainly as much as five minutes.

Mr. STEPHENS of Texas. If the gentleman will look further he will find that the funds are to be expended on Indian reservations and on Indian allotments and for giving advice to the Indians on the proper care of forestry, and so forth.

Mr. FOWLER. That is true, but the committee provides

specifically for experiments on Indian schools and agency farms. What I am trying to get at is that I do not want any lapping in this matter. If there is an appropriation made for the benefit of teaching the Indians farming in connection with these industrial schools, then I can not see what use there will be in making appropriations again for the same purpose under a different item.

Mr. FERRIS. I can readily see from the reading of the language that it looks as if there might be a lapping over and a conflict, but practically there is not. The money they use in connection with the school farm is independent of the matrons and the agents and what they call farmers. For example, in my own county we have an Indian school.

Mr. FOWLER. An industrial Indian school? Mr. FERRIS. It is. They have alfalfa and raise corn, and so forth.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FERRIS. I ask unanimous consent that the gentleman from Illinois have five minutes more.

Mr. DIES. I object.

Mr. FERRIS. I hope the gentleman from Texas will not object.

Mr. DIES. I object because I do not think the gentleman from Illinois properly had the floor.

The CHAIRMAN. The Chair will say to the gentleman from Texas that the gentleman from Illinois rose, obtained recognition, and thereupon reserved a point of order. practice, he was thereupon entitled to proceed for five minutes, and longer if no objection was made. This practice is a mere convention, a system of informal procedure which has grown up as a matter of convenience, and is favored because in the main it really expedites business. The gentleman from Illinois has used his time to make inquiries of the gentleman relating

to the paragraph just read. This is in conformity with what the Chair understands to be a practice of long standing, and general acquiescence. The five minutes having expired, the Chair called the attention of the gentleman from Illinois to that fact

Mr. FERRIS. Does the gentleman from Texas still object? Mr. DIES. I do object,

Mr. FERRIS. Mr. Chairman-

The CHAIRMAN. Just one moment. Does the gentleman from Oklahoma ask unanimous consent to reply to the gentleman from Illinois for five minutes?

Mr. FERRIS. Mr. Chairman, I move to strike out the last word.

Mr. MONDELL. But that motion is not in order. Mr. FERRIS. Then, Mr. Chairman, I move to attike out Mr. FERRIS.
the last two words.
Mr. MONDELL. That is not in order.
Mr. FERRIS. Mr. Chairman, I ask unanimous consent to

The CHAIRMAN. The gentleman from Oklahoma asks unani-mous consent to reply to the gentleman from Illinois. Is there objection?

Mr. DIES. Mr. DIES. Mr. Chairman, I object, for the reasons stated. The CHAIRMAN. Objection is heard.

The CHAIRMAN. Objection is heard.

Mr. CAMPBELL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CAMPBELL. Mr. Chairman, I think we may as well settle the question of order here. I ask the question that we may settle the question of order. The gentleman from Illinois reserved the point of order and proceeded to ask the chairman of the committee in charge of the bill some questions, as he had a right to do. It was the right of the Chair to shut him off at any time he say fit. The gentleman from Objectoms now off at any time he saw fit. The gentleman from Oklahoma now has a perfect right on a question of order, the point of order not having been withdrawn, to proceed without unanimous consent, as I understand the rules and practice of the House, and to proceed within the discretion of the Chair, not for 5 minutes, not for 10 minutes, but for an hour, if the Chair will permit the discussion.

The CHAIRMAN. The gentleman from Illinois reserved a point of order to the paragraph, and asked to be recognized. Recognition was extended. Some objection being made, the Chair stated that the recognition would be limited to five minutes. At the expiration of five minutes, the gentleman from Illinois was so informed. The gentleman from Oklahoma asked unanimous consent to proceed for five minutes, and the Chair put that request to the committee and objection was made.

That is the exact parliamentary situation.

Mr. MANN. Mr. Chairman, will the Chair recognize me for a suggestion?

The CHAIRMAN. The gentleman from Illinois is recognized.

Mr. MANN. The Chairman stated, and stated correctly, that in the practice of the House where a point of order is reserved gentlemen are recognized on the floor for a discussion for five minutes. Any gentleman at any time can insist upon the point of order being determined by making the point of order himself. Until some one does make the point of order or insists upon a ruling I think the practice is that the Chair recognizes gentlemen on the floor to discuss the merits for five minutes, under which provision the gentleman would be entitled to be heard.

The CHAIRMAN. There was no request upon the Chair for recognition to discuss the merits. The gentleman from Oklahoma asked unanimous consent to proceed and that was refused.

Mr. FERRIS. I now ask to be heard on the point of order that has been reserved.

Mr. DIES. Mr. Chairman, I make a motion to strike out the last word.

The CHAIRMAN. The Chair does not see how the gentleman can be heard on a point of order that has been reserved and not

Mr. FERRIS. I thought it was agreed, both by the Chair and also by the suggestion of the gentleman from Illinois, that it was within the discretion of the Chair to hear gentlemen so long as the point of order was reserved.

The CHAIRMAN. The Chair does not see how the gentleman can be heard on a point of order that is reserved. nothing before the committee,

Mr. FERRIS. The practice is so uniform here in the House that when a point of order is reserved almost universally, I think, different Members proceed to explain the section, and that is what I am seeking to do now—to explain away the objections of the gentleman from Illinois. I think that is the uniform practice.

The CHAIRMAN. The Chair understands the conventions of the committee; but when objection is formally made quite a different situation is presented.

Mr. FERRIS. Have I not, within the province of the Chair, the right to proceed, independently of objection, in my own right, so long as the point of order is not made?

The CHAIRMAN. In respect to what?

Mr. FERRIS. In respect to the section on which the point of order is reserved.

The CHAIRMAN. The point of order was reserved by the gentleman from Illinois, and his rights, if any, were exhausted, in the opinion of the Chair, at the expiration of five minutes. There is no point of order to discuss, none having been made.

Mr. FERRIS. I think the practice has been otherwise, Mr. Chairman; and if I may, I would like to proceed to reply to the

gentleman.

Mr. CARTER. Mr. Chairman, is there not just as much now before the committee as there was when the gentleman from Illinois was addressing the committee a few moments ago?

Mr. FERRIS. The reservation of the point of order, under the convention of the House, gives the gentleman who reserves the point of order the right to the floor for five minutes, in-That has been the practice of the committee.

The CHAIRMAN. But not after objection is made.

Mr. CARTER. Objection had not been made.

The CHAIRMAN. Objection has been made by the gentleman from Texas [Mr. Dies]. The gentleman from Texas asked how the gentleman had the floor, and the Chair explained the situation to him.

Mr. DIES. Mr. Chairman, I move to strike out the last

word.

Mr. FOSTER. Mr. Chairman, I call for the regular order. The CHAIRMAN. The gentleman from Oklahoma asked recognition of the Chair.

Mr. MANN. Mr. Chairman, it seems to me we ought to have more Members present, and therefore I make the point of order

that there is no quorum present.

Mr. RODDENBERY. Mr. Chairman, I desire to make a parliamentary inquiry. Under the ruling of the Chair, at the expiration of five minutes

The CHAIRMAN. The gentleman from Georgia will state

his parliamentary inquiry.

Mr. MANN. I submit a parliamentary inquiry can not be

mar. MANN. I submit a parmamentary inquiry can not be made when a point of order of no quorum present is made.

The CHAIRMAN. Well, the gentleman from Illinois was not recognized by the Chair, but the gentleman from Georgia was recognized to state a parliamentary inquiry. He is now stating it.

Mr. MANN. I beg the Chair's pardon; he does not have to

Mr. MANN. I begine Chair spation, he does not have to be recognized to make a point of order of no quorum present.

The CHAIRMAN. The Chair recognized the gentleman from Georgia to propound a parliamentary inquiry.

Mr. MANN. But I can take the gentleman off the floor—
The CHAIRMAN. The Chair has recognized the gentleman from Georgia to propound a parliamentary inquiry.

Mr. MANN. Mr. Chairman, I make the point of order that

there is no quorum present in the committee.

The CHAIRMAN. The gentleman from Georgia will state his parliamentary inquiry.

Mr. Chairman, I call attention to the fact that Mr. MANN.

there is no quorum present in the committee.

The CHAIRMAN. The gentleman from Georgia will pro-

pound his parliamentary inquiry.

Mr. RODDENBERY. Under the ruling of the Chair that the gentleman from Illinois having reserved a point of order and by the reservation having been recognized is entitled to five minutes, that time having expired the gentleman from Okla-homa having addressed the Chair and having been recognized might have obtained the floor by himself reserving the point of order, could he not?

The CHAIRMAN. The matter contained in the gentleman's inquiry is no longer before the committee. It is not a present question, but a moot one. The Chair of course when objection is made can require a Member reserving a point of order to

proceed to state it.

Mr. MANN. Mr. Chairman, I make the point of order there

is no quorum present in the committee.

The CHAIRMAN. The Chair will count. [After counting.] The Chair sustains the point of order, and the Clerk will call

The Clerk began the calling of the roll.

Mr. BUCHANAN. Mr. Chairman, I move that the committee

Mr. STEPHENS of Texas. Mr. Chairman, I make the point of order against the motion of the gentleman for the reason that the roll call is in progress.

The CHAIRMAN. The Chair had directed the roll to be called, and in due course this was being done. The point of order is sustained.

Mr. STEPHENS of Texas. The Clerk had called one name. The roll was called, and the following Members failed to answer to their names:

Adair Driscoll, D. A. Kendall Adamson Aiken, S. C. Akin, N. Y. Ames Anderson Rainey Randell, Tex. Ransdell, La. Reyburn Richardson Edwards Ellerbe Esch Estopinal Kennedy Kent Kindred Kitchin Evans Fairchild Knowland Andrus Ansberry Anthony Barchfeld Konig Korbly Lafean Riordan Roberts, Mass. Roberts, Nev. Robinson Finley Floyd, Ark. Focht Fordney Fornes Foss Lafferty Barchfeld Barnhart Bartholdt Bartlett Bates Bathrick Langham Langley Lawrence Rodenberg Rothermel Rucker, Mo. Francis Legare Rucker, Mo.
Scott
Scully
Sells
Nhackleford
Sharp
Sherwood
Simmons
Slemp
Small
Smith Cal Fuller Gallagher Gardner, Mass. Garner Levy Lewis Lindsay Linthicum Bell, Ga. Berger Boehne Booher George Gill Littlepage Littleton Bradley Brantley Broussard Littleton Longworth Loud McCall McCreary McHenry McKellar McKenzie Gillett Glass Brown Burgess Burke, Pa. Burke, Wis. Burleson Goldfogle Goodwin, Ark. Gould Graham Smith, Cal. Smith, N. Y. Sparkman Speer Graham
Gray
Green, Iowa
Greene, Mass.
Greene, Vt.
Gregg, Pa.
Gregg, Tex.
Griest
Gudger
Guernsey
Hamill
Hanna McKinley
McLaughlin
McMorran
Maher
Martin, Colo.
Matthews Calder Carlin Stack Stanley Stephens, Nebr. Sterling Cary Claypool Clayton Cline Sulloway Sulzer Matthews
Mays
Merritt
Moon, Pa.
Moon, Tenn.
Moore, Pa.
Moore, Tex.
Moss
Murdock
Murray Sulzer Switzer Taggart Talbott, Md. Taylor, Ala. Taylor, Colo. Taylor, Ohio Thayer Thistlewood Thomas Cline Conry Cooper Copley Covington Cox, Ohio Crago Cravens Crumpacki Hanna Hardwick Harris Harrison, N. Y. Crumpacker Hart Hartman Haugen Heffin Thomas Towner Turnbull Tuttle Curley Murray Currier Dalzell Daugherty Norris Nye O'Shaunessy Heffin
Henry, Conn.
Higgins
Hobson
Houston
Howard
Howland
Hughes, Ga.
Hughes, W. Va.
Humphreys, Miss.
Jackson Underwood Vare Vreeland Warburton Davenport Page Davidson Davis, W. Va. De Forest Palmer Parran Patten, N. Y. Patton, Pa. Webb Dent Webb
Wedemeyer
Weeks
Whitacre
Wilson, Ill.
Wilson, N. Y.
Witherspoon
Wood, N. J.
Woods, Iowa
Young, Mich. Payne Pepper Pickett Denver Dickson, Miss. Difenderfer Dixon, Ind. Dodds Plumley Porter Donohoe Doremus Doughton Jackson Johnson, Ky. Johnson, S. C. Kahn Pou Pray Prince Prouty Draper

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, having under consideration the bill H. R. 26874, the Indian appropriation bill, reported that the committee, finding itself without a quorum, he had directed the roll to be called, and that upon the roll call 154 Members answered to their names, and that he therewith reported a list of the absentees.

The committee resumed its session.

Mr. DIES. Mr. Chairman, I move to amend by striking out the last word.

Mr. MANN. Mr. Chairman, I make the point of order that the motion is not in order at this time.

Mr. STEPHENS of Texas. Mr. Chairman, I move that all debate on this section be closed in five minutes.

The CHAIRMAN. What is the point of order the gentleman from Illinois [Mr. Mann] makes?

Mr. MANN. My colleague, Mr. Fowles, had a point of order pending on the paragraph, which I understood was not yet disposed of.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] is correct. Does the gentleman from Illinois [Mr. Fowler] in-

sist on his point of order?

Mr. FOWLER. Mr. Chairman, I was desiring information concerning this appropriation, so that I might determine as to whether the point of order ought to be made against the paragraph. There are questions, Mr. Chairman, requiring an appropriation which is not provided for by law, and yet the appropriation ought to be made in good conscience. If that information can be had, then the party reserving the point of order can determine as to whether he ought to make it or not. I was seeking that information, Mr. Chairman, at the time when was taken off the floor.

Mr. OLMSTED. Mr. Chairman, I ask for the regular order.

Mr. DIES. I make the point of order, Mr. Chairman, that

the gentleman is not discussing the point of order.

The CHAIRMAN. The Chair will again state that the gentleman from Illinois was recognized, in conformity with an established practice in the Committee of the Whole. Having been recognized the gentleman from Illinois proceeded in the usual manner, made his inquiries, and discussed informally the replies received. All of this was in accord with established practice. At the end of five minutes his time expired. The Chair does not recall any ruling on this precise point, but in reason a Member recognized in connection with the reservation of a point of order should not have more than five minutes, save by the acquiescence of the committee. Strictly speaking, on objection made he may be required to make his point of order without proceeding for five minutes.

Mr. OLMSTED. If the Chair will permit me, just for the purpose of raising a point of order, I demand the regular order.

The CHAIRMAN. The regular order is that the gentleman from Illinois shall state his point of order, as requested by the

Mr. OLMSTED. If the Chair will permit me, I was just going to cite the law upon this point, which seems to be much misunderstood by everyone who has discussed it. The parliamentary law is that no gentleman can reserve a point of order at all, except by unanimous consent, which is either expressly given or is assumed.

The CHAIRMAN. That is in conformity with what the Chair as already stated. I have so ruled.

has already stated. I have so ruled.

Mr. OLMSTED. It is often the practice to assume unanimous consent, but when objection is made and the regular order is demanded, then all debate ceases and the point of order is

The CHAIRMAN. That is precisely what the Chair has held, and the gentleman from Illinois [Mr. Fowler] has been informed that he must state his point of order, if he insists upon

Mr. OLMSTED. I understood a little while ago when the gentleman from Texas [Mr. Dies] objected, that the Chair held that the Member reserving the point of order was entitled to five minutes of debate.

The CHAIRMAN. The Chair was careful to state that his ruling was in conformity with the conventional procedure in Committee of the Whole. Being temporarily in the chair, the present occupant would not depart from this practice, even if so disposed, which he is not.

Mr. OLMSTED. The Chair did so state. I find in Hinds'

Precedents, Volume V, section 6869, the following:

A point of order may not be reserved by a Member if another Member insists on an immediate decision.

That was decided by Mr. DALZELL, who was in the chair at the time. Mr. Underwood reserved a point of order and Mr. Hepburn of Iowa objected, and after discussion the Chair [Mr. DALZELL] said:

The Chair thinks the gentleman can not reserve the point of order in the face of an objection on the part of any member of the committee. If the gentleman from Alabama [Mr. Underwood] desires to insist on his point of order and the gentleman from Iowa, Mr. Hepburn, insists that it shall not be reserved, it must be disposed of now.

The CHAIRMAN. The ruling cited is in conformity with

parliamentary law, as the Chair understands it.

Mr. OLMSTED. Mr. Chairman, I withdraw my demand for

the regular order, as I have no desire to cut off debate.

The CHAIRMAN. In conformity with the authority quoted, the Chair rules now, as it has ruled heretofore, that the reservation of a point of order is not a matter of right under the rules, but of general acquiescence. All proceedings under such a reservation are a form of unanimous consent. Objection having been made, the gentleman from Illinois [Mr. Fowler] is requested to state his point of order.

Mr. FOWLER. Mr. Chairman, on page 4 of the bill there is a provision appropriating \$1,420,000 for day and industrial

schools.

Mr. DIES. Mr. Chairman, I make the point of order that the gentleman is addressing himself to a paragraph that has been passed, and I make the further objection that the five

minutes indicated by the Chair have elapsed.

The CHAIRMAN. The gentleman from Illinois is merely referring to a paragraph that has been read. He has been requested to state his point of order, and as the Chair understands, is now proceeding to do so.

Mr. FOWLER. That is the case, Mr. Chairman.

The paragraph under consideration provides for an appropriation of \$300,000 for the purpose of conducting experiments on Indian school farms or agency farms. It would appear, Mr. Chairman from a reading of these two sections that there is a ling the high cost of living.

double appropriation. - Certainly the appropriation of \$1,420,000. a portion of which is to be applied to industrial schools for the purpose of teaching the Indians farming, is for the same object as is provided for in the paragraph under discussion.

Also, Mr. Chairman, the proviso concluding that paragraph

That the amounts paid to matrons, farmers, and stockmen herein provided for shall not be included within the limitation on salaries and compensation of employees contained in the act of June 7, 1897.

Mr. Chairman it would seem also that there was an attempt at a double appropriation in that portion of this paragraph. Under the explanation given by the gentleman from Texas [Mr. STEPHENS], the chairman of the Committee on Indian Affairs, and by the gentleman from Oklahoma [Mr. Ferris], I withdraw the point of order.

Mr. MONDELL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MONDELL. At the time the gentleman from Illinois [Mr. Fowler] reserved a point of order—as a matter of fact, before he reserved a point of order, I think-I was recognized. At any rate, I offered an amendment to this paragraph. Am I not entitled to an opportunity to discuss this paragraph?

The CHAIRMAN. The gentleman from Wyoming has not been recognized, but of course the present occupant of the chair

intends to recognize him in due course. The Chair will state that the amendment referred to must have been offered while the present occupant of the chair was temporarily out of the Chamber.

Mr. MONDELL. It was certainly offered while the Chair-

man was in the chair.

The CHAIRMAN. As the gentleman from Wyoming will recall, the gentleman from Missouri [Mr. Rubey] occupied the chair for some moments, and doubtless the amendment to which the gentleman refers was offered during that time.

Mr. MONDELL. Doubtless that is so.
Mr. RUBEY. Mr. Chairman, I want to state to the Chair that the gentleman from Wyoming was in fact recognized, and had sent up an amendment, when the gentleman from Illinois [Mr. Fowler] reserved a point of order, and then the gentleman from Wyoming was taken off the floor-

Mr. MANN. And before the amendment was offered.

The CHAIRMAN. As the Chair has stated, all of this occurred during the present Chairman's temporary absence from the Chamber.

Mr. DIES. Mr. Chairman, I am glad the item I have referred to in the bill is for an appropriation to teach farming rather than to teach parliamentary law; else I should be tempted to support the substitute. [Laughter.] It provides that \$300,000 shall be appropriated for the purpose of teaching agriculture. And, Mr. Chairman, in view of the hue and cry heard all over this country with regard to the high cost of living, I think the

item is deserving and ought to be appropriated.

It seems to me that if there is a science that ought to be taught in this Republic to-day it is the science of agriculture. Those who inhabit the cities of our country and who complain of the high price of potatoes ought to know that land can be had in the West at from \$5 to \$10 an acre that will produce 300 bushels of potatoes to the acre. Those who look to the new administration for a decrease in the price of beef ought to know that the best way to decrease the price of beef is to go into the farming business and raise beef cattle. Those in the great crowded cities who are making a propaganda for a decrease in the price of eggs ought to know that the only sure way to bring about a reduction in the price of that commodity

is to understand the poultry business.

So, Mr. Chairman, if there is one piece of information that the people of this country ought to have in this day of false Republicanism and blind bull mooseism, it is that the cost of living can be reduced by an increase of production rather than by a ferment of political agitation. Why, sir, the old earth upon which we live stands ready to respond to the touch of the husbandman. Down in the South and out in the West lie with beckoning hospitality the untilled acres of the earth bidding the inhabitants of the teeming cities to come and raise hay and horses and eggs and beefsteak. Mr. Chairman, you will get more good results by teaching the people to raise the necessities of life than by this maudlin agitation about the high cost of living. Sir, in the community in which I live 500 gallons of sirup can be produced upon a single acre of land that can be bought for \$10 or \$15. Surely to teach the poor Indian that he can get out and go to work and reduce the high cost of living will do him more good than a dissertation upon the tariff or upon international arbitration for the purpose of determin-

I am sincerely glad, Mr. Chairman, that this item is in the bill, and I hope some poor Indian will read and get the benefit of it, and that instead of joining societies to break the egg market he will get him some young pullets and feed them hot mash in the morning and take care of them and harvest his eggs and learn that that is the best way to reduce the price of eggs. [Applause.]

Mr. STEPHENS of Texas. Mr. Chairman, I move that all debate on the paragraph and all amendments thereto be closed

in five minutes.

Mr. MONDELL. Is it the desire of the gentleman from Texas to cut off all amendment to the paragraph and all de-

Mr. STEPHENS of Texas. I understand that the gentleman

from Wyoming has offered his amendment, and I am willing—Mr. MONDELL. The Chair informed "the gentleman from Wyoming" that he had not offered his amendment, and he has certainly had no opportunity to discuss it, and there has been

The CHAIRMAN. The Chair desires to say that the gentleman from Wyoming is in error. The Chair did not state that the gentleman from Wyoming had not offered his amendment, but that the amendment was not offered while the present occupant of the chair was in the House. The gentleman from Missouri [Mr. Rubey] stated that during his occupancy of the chair the amendment of the gentleman from Wyoming was sent to the desk.

Mr. MONDELL. I have had no opportunity to discuss it. Mr. STEPHENS of Texas. Then I will move that the de-

bate be limited to 10 minutes instead of 5.

The CHAIRMAN. The gentleman from Texas moves that all debate on this paragraph and amendments thereto be concluded at the expiration of 10 minutes.

The motion was agreed to.

Mr. MONDELL. Mr. Chairman, I offer my amendment. The CHAIRMAN. Does the gentleman desire to have his amendment reported?

Mr. MONDELL. I do. The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

Amend, page 5, line 15, after the word "Indians," by inserting "in the growing and care of agricultural crops and."

Mr. FERRIS. Mr. Chairman, I reserve a point of order on

Mr. MONDELL. Mr. Chairman, I think the amendment ought to be adopted, and I hope the committee will not object

Mr. FERRIS. It is subject to a point of order. Mr. MONDELL. I had intended to offer an amendment increasing the appropriation \$100,000. I should offer that amendment now if I thought there was any hope of its being adopted, but in the present temper of the Committee of the Whole I fear there is no hope of that. But, Mr. Chairman, I will say to my friend from Illinois that this is the only appropriation carried in the Indian appropriation bill providing for the employment of farmers and matrons and other employees to instruct the Indians. The provision is unfortunate in that while the services of farmers, stockmen, and matrons are employed in instructing the Indians, there is not anything in the paragraph that authorizes any expenditure except in connection with the agency farms.

Mr. FOWLER. Will the gentleman yield? Mr. MONDELL. In just a moment. I offer this amendment in order to make it clear that these people are to be employed—as a matter of fact they are employed—in the instruction of Indians generally. The most important part of their work is the instruction of Indians in agricultural pursuits.

It is much more important to have these people go about among the Indians and instruct them on their own farms a portion of the time than it is to have them spend all the time in experiments on the agency farms. They are so employed and yet a strict construction of this paragraph would not allow such employment. I simply want to amend the paragraph so that these people can be employed as the House contemplates that they shall be, and, as a matter of fact, they are being

Mr. STEPHENS of Texas. Will the gentleman permit me to

ask him a question?

Mr. MONDELL. Certainly.

Mr. STEPHENS of Texas. Does not this language cover it, in lines 21 to 24, page 5:

For the employment of practical farmers and stockmen, in addition to the agency and school farmers now employed; and to superintend farming and stock raising among the Indians.

Mr. MONDELL. I do not think so, in view of the fact that the first part of the paragraph states how the money shall be

Mr. STEPHENS of Texas. But this part that I have read bys, "in addition to the agency and school farmers now emsays,

ployed."

Mr. MONDELL. That says that farmers, in addition to farmers employed in other parts of the bill, paid for out of the tribal funds. These are in addition to that, and I do not think that the language would necessarily justify the Commissioner of Indian Affairs employing these people, and why not make it plain?

Mr. STEPHENS of Texas. I think it is as plain as language can make it. It says:

In addition to the agency and school farmers now employed; and to superintend and direct farming and stock raising among the Indians.

Mr. MONDELL. That does not control the appropriation in general, and in my opinion the Commissioner of Indian Affairs might hold, and is likely to hold, that he has no authority to use these funds for any other purpose than to conduct experiments on the farm. This is an important appropriation, and, as a matter of fact, it ought to be largely increased, and I hope

that the amendment will be adopted.

Mr. FERRIS. Mr. Chairman, personally I have no serious objection to the amendment of the gentleman from Wyoming. The language, however, in line 18, beginning with the words "for the employment of suitable persons" and ending on line 24, with the figures \$300,000, certainly give them ample power to expend these moneys in aid of the individual allottees and give them ample power to go out in the field and aid individual Indians living on the allotments, showing them when to plant, when to sow, and when to reap, and when to cultivate, and all the other things that the individual Indians ought to know. I know from personal observation, from my own experience and actual contact with them, that that is the purpose for which this money is paid out, in at least that part of the country. think it is used for this purpose everywhere.

The justifications—we have five or six pages of reasons and explanations which disclose that the money has been and will be spent as the gentleman hopes for-are all to the effect that the money is actually used to assist the individual allottee.

We have adopted precisely the language that has been carried right along. There has been no complaint of it. The Indian Commissioner advocates it and says it works well, and it is the

same language that was used last year.

Mr. FOWLER. Mr. Chairman, I desire to inquire if the \$300,000 is to pay for teaching Indians farming and rotation of

crops, regardless of the age of the Indians?

Mr. MONDELL. What item is the gentleman from Okla-

homa giving figures upon?

Mr. FERRIS. I beg the gentleman's pardon, the figures I quoted were wrong. I will give him the correct figures. The estimate is for \$625,000. Last year we gave them \$400,000. This year we give them \$300,000. The increase they ask for was to create some new positions and to increase some salaries. The committee thought that we should not at the short session of Congress increase any salaries or create any new positions. I think there was something of this fund left over from last

Mr. FOWLER. Mr. Chairman, I desire to know what this \$300,000 is intended for. Is it intended for teaching Indian children how to farm or old men how to farm?

Mr. FERRIS. Both, on their individual allotments. I think I replied to the gentleman partially a while ago what it is used The individual farmers are employed to go out to each Indian and show him when to plant and when to reap and when to sow and how to breed stock and how to improve stock, and so forth.

Mr. FOWLER. Regardless of the age of the Indian?
Mr. FERRIS. I think irrespective of age; that is, they teach
the entire families and instruct them in all these things. The old Indians that are incompetent need education along these lines on their allotments the same as the children.

Last year we appropriated sixteen and one-half millions of dollars to educate white people in agriculture. Here we have \$300,000 with which to educate the Indian people in agriculture. The language of the paragraph is just as it was last year. It works well. It should be continued. The language is that of the commissioner.

Mr. FOWLER. That provision for industrial schools I desire to inquire about. Does anybody attend them except children under 21 years of age?
Mr. FERRIS. I think not.

Mr. FOWLER. And this \$300,000 is to go further than that?

Mr. FERRIS. Yes. Mr. FOWLER. And instruct the Indians above the age of 21 years

Mr. FERRIS. Yes; those that live on their individual allot-They need the help more than words can tell. However, I would always limit it to incompetent ones.

Mr. FOWLER. Is there any provision under the law giving

authority for making such appropriation?

Mr. FERRIS. I think the general installation of the Indian Bureau is to instruct not alone children, but incompetent Indians, whether they be between the ages of 6 and 21 years or between the ages of 21 years and 60 years, if they need the assistance of instruction in agricultural pursuits.

Mr. FOWLER. Has this amount or a similar amount been carried by the appropriation bills in past years for the same

purpose:

Mr. FERRIS. Yes; and the language is identical with that We gave a smaller amount this year than was in former years. asked for. We allowed no increase of salaries; no new positions will be created. I think the paragraph is and will be acceptable to both the department and this Congress.

The CHAIRMAN. The time of the gentleman has expired. The question is on agreeing to the amendment offered by the

gentleman from Wyoming [Mr. MONDELL].

The question was taken; and on a division (demanded by Mr. Mondell), there were—ayes 4, noes 27. So the amendment was rejected.

Mr. MONDELL. Mr. Chairman, I move to amend by striking out the sum of \$300,000 in line 24, and inserting \$400,000.

The CHAIRMAN. The question is on agreeing to the amend-

ment offered by the gentleman from Wyoming.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

For witness fees and other legal expenses incurred in suits instituted in behalf of or against Indians involving the title to lands allotted to them, or the right of possession of personal property held by them, and in hearings set by United States local land officers to determine the rights of Indians to public lands, \$2,000: Provided, That no part of this appropriation shall be used in the payment of attorney fees.

Mr. MANN. Mr. Chairman, I reserve the point of order on

the paragraph.

Mr. FOSTER. Mr. Chairman, I desire to ask the chairman of the committee a question. This item provides for expenses incurred in suits instituted in behalf of or against Indians when the title is involved to lands allotted to them, and I think the bill of last year provided for the contingency of where there was some question raised respecting the title. Why is that left out? That is, the word "question" before the word "title" was left out.

Mr. STEPHENS of Texas. Mr. Chairman, a great many In-dians have gone on the public domain of the United States, as they have a right to do, and have taken up lands, the same as white men, under the same rules and regulations, and so forth. If the right of those Indians is contested in the local land offices and the matter should get into the courts, this is for the purpose of determining their right or title, whatever it may be, to the lands they have located.

Mr. FOSTER. Why was that word left out?

Mr. STEPHENS of Texas. We thought it was unnecessary. Mr. Chairman, this is a very complicated Mr. MADDEN. question, and I think we ought to have between now and tomorrow morning to properly consider it. I therefore make the point that there is no quorum present.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the

committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 26874, the Indian appropriation bill, and had come to no resolution

CHANGE OF REFERENCE.

The SPEAKER laid before the House a request for unanimous consent on the part of the Committee on Rules to be discharged from further consideration of H. Res. 757, appointing a committee to attend the unveiling of a statue of Thomas Jefferson in St. Louis, and to have the same referred to the Committee

on Industrial Arts and Expositions.

The SPEAKER. Is there objection?

Mr. FOSTER. Mr. Speaker, I reserve the right to object to

Mr. MANN. Mr. Speaker, I shall have to ask that that go over for the present.

The SPEAKER. Objection is heard.

ADJOURNMENT.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to: and accordingly (at 5 o'clock and 25 minutes p. m.) the House adjourned until to-morrow, Thursday, December 19, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Interior, transmitting, pursuant to law, Eleventh Annual Report of the Reclamation Service (H. Doc. No. 948); to the Committee on Irrigation of Arid Lands and ordered to be printed.

2. A letter from the Secretary of the Treasury, submitting estimates of urgent deficiencies in appropriations required by the Department of Public Health Service (H. Doc. No. 1181); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of a circular issued by the Nobel committee of the Norwegian Parliament furnishing information as to the distribution of the Nobel peace prize for the year 1913 (H. Doc. No. 1180); to the Committee on Foreign Affairs and ordered to be printed.

4. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Kansas at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. MURRAY, from the Committee on the Public Lands, to which was referred the bill (H. R. 26812) to provide for State selection of phosphate and oil lands, reported the same with amendment, accompanied by a report (No. 1276), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials

were introduced and severally referred as follows:

By Mr. KINKAID of Nebraska: A bill (H. R. 27409) providing that the marriage of a homestead entryman to a homestead entrywoman shall not impair the rights of either to a patent; to the Committee on the Public Lands.

By Mr. LAFFERTY: A bill (H. R. 27410) limiting the hours of labor in the District of Columbia; to the Committee on the

District of Columbia.

Also, a bill (H. R. 27411) to create a minimum wage commission for the District of Columbia, and to provide minimum wage schedules; to the Committee on the District of Columbia.

Also, a bill (H. R. 27412) to create a public-service commission for the District of Columbia; to the Committee on the District of Columbia.

By Mr. LOBECK (by request): A bill (H. R. 27413) for the extension of Maryland Avenue east of Fifteenth Street to M Street NE.; to the Committee on the District of Columbia.

By Mr. DYER: Resolution (H. Res. 758) providing for the appointment of a committee of Representatives to attend and represent the House of Representatives at the unveiling and dedication of a memorial statue to Thomas Jefferson at St. Louis, Mo., April 30, 1913, in commemoration of the acquisition of the Louisiana territory; to the Committee on Industrial Arts and Expositions.

By Mr. JOHNSON of Kentucky (by request of the Commissioners of the District of Columbia): Joint resolution (H. J. Res. 374) to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions

were introduced and severally referred as follows:

By Mr. AMES: A bill (H. R. 27414) granting an increase of pension to Martha Rogers; to the Committee on Invalid PenBy Mr. CLARK of Missouri: A bill (H. R. 27415) granting a pension of Louisa Squires; to the Committee on Invalid Pensions.

By Mr. CRAGO: A bill (H. R. 27416) granting an increase of pension to Allen Bollen; to the Committee on Invalid Pensions. By Mr. DONOHOE: A bill (H. R. 27417) granting an increase of pension to Frederick Sachsenheim; to the Committee

on Invalid Pensions.

By Mr. DOREMUS: A bill (H. R. 27418) 'granting a pension to Catharine McCricket; to the Committee on Invalid Pensions. By Mr. FLOOD of Virginia: A bill (H. R. 27419) for the relief of the Virginia Military Institute, of Lexington, Va.; to the Committee on Claims.

By Mr. FORDNEY: A bill (H. R. 27420) granting an increase of pension to William H. Loomis; to the Committee on Invalid

By Mr. GARRETT: A bill (H. R. 27421) granting an increase of pension to Hugh Hayes; to the Committee on Pensions.

By Mr. GILL: A bill (H. R. 27422) granting a pension to Joseph A. Lloyd; to the Committee on Pensions.

By Mr. GOEKE: A bill (H. R. 27423) granting an increase of pension to Caroline Seib; to the Committee on Invalid Pen-

By Mr. GUERNSEY: A bill (H. R. 27424) granting an increase of pension to Herbert Wadsworth; to the Committee on Invalid Pensions.

By Mr. HART: A bill (H. R. 27425) granting a pension to William H. Adam; to the Committee on Invalid Pensions.

By Mr. HAYES: A bill (H. R. 27426) granting a pension to Gertrude M. Farrar; to the Committee on Invalid Pensions.

By Mr. KINKAID of Nebraska: A bill (H. R. 27427) granting a pension to Emily J. Walton; to the Committee on Invalid Pensions.

By Mr. LA FOLLETTE: A bill (H. R. 27428) confirming titles of Deborah A. Griffin and Mary J. Griffin, and for other purposes; to the Committee on the Public Lands.

By Mr. LITTLEPAGE: A bill (H. R. 27429) granting an increase of pension to John F. Grayum; to the Committee on Invalid Pensions.

By Mr. LLOYD: A bill (H. R. 27430) to correct the record of H. J. Stanly; to the Committee on Military Affairs.

By Mr. LONGWORTH: A bill (H. R. 27431) granting a pension to Thomas Pryor; to the Committee on Pensions.

Also, a bill (H. R. 27432) granting a pension to John McManus; to the Committee on Pensions.

Also, a bill (H. R. 27433) granting a pension to Sarah A. Shinkle; to the Committee on Pensions.

Also, a bill (H. R. 27434) granting a pension to Sarah M. Mounts; to the Committee on Invalid Pensions.

By Mr. LOUD: A bill (H. R. 27435) granting an increase of pension to Cornelius Howard; to the Committee on Invalid Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 27436) granting an increase of pension to Lavina Sharp; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27437) granting an increase of pension to

J. Milton Carlisle; to the Committee on Invalid Pensions. By Mr. POST: A bill (H. R. 27438) granting an increase of pension to William M. Duff; to the Committee on Invalid

By Mr. REILLY: A bill (H. R. 27439) granting a pension to Elmie Byington; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27440) granting an increase of pension to Francis L. Lewis; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27441) to correct the military record of Michael Houlihan; to the Committee on Military Affairs.

By Mr. RUSSELL: A bill (H. R. 27442) granting an increase of pension to George W. Blair; to the Committee on Invalid Pensions.

By Mr. SIMS; A bill (H. R. 27443) for the relief of the heirs of W. H. Sneed; to the Committee on War Claims.

By Mr. STEENERSON: A bill (H. R. 27444) for the relief of Arthur Brose; to the Committee on Claims.

By Mr. STEPHENS of California: A bill (H. R. 27445) granting a pension to Harry E. Low; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid en the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of a mass meeting

held in Cleveland, Ohio, favoring an investigation of the present

disturbances in the mining regions of West Virginia; to the Committee on the Judiciary.

Also (by request), petition of the Woman's League, Carmel, Cal., with reference to the trial of E. G. Lewis; to the Committee on the Post Office and Post Roads.

Also (by request), memorial of Joseph J. O'Brien, member of the Franklin Institute and the National Geographic Society, relative to the failure of the Panama Canal system of elevated engineering works; to the Committee on Interstate and Foreign

By Mr. ASHBROOK: Petition of the Ransom Dry Goods Co. and 22 other merchants of Coshocton, Ohio, favoring legislation giving the Interstate Commerce Commission further power toward controlling the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. CALDER: Petitions of the Buffalo Chamber of Commerce, Buffalo, N. Y.; J. J. Castellini, Cincinnati, Ohio; and the Merchants and Manufacturers' Association of Birmingham, Ala., favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

By Mr. DYER: Petition of the president of the National Conservation Exposition, Knoxville, Tenn., favoring an appropriation for the erection of a Government building, etc., at the conservation exposition; to the Committee on Public Buildings and Grounds.

Also, petition of the National Society for the Promotion of Industrial Education, favoring the passage of Senate bill 3, for the promotion of industrial education; to the Committee on Agriculture.

By Mr. FITZGERALD: Petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, for regulating the telegraph and telephone service; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of Senate bill 957, for the regulations of bills of lading; to the Committee on Interstate and Foreign Commerce.

By Mr. FLOOD of Virginia: Petition of citizens of Augusta County, Va., favoring the passage of the amended Kenyon bill, preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

By Mr. FULLER: Petition of Frank Reyes and 5 other citizens of Porto Rico, favoring the enactment of legislation making the executive council of Porto Rico elective; to the Committee on Insular Affairs.

Also, petition of T. A. Wright, president of the National Conservation Exposition, favoring an appropriation for the erection of a Government building, etc., at the conservation exposition; to the Committee on Public Buildings and Grounds.

Also, petition of George M. Bridgeman, Kintland, Ind., favoring the passage of House bill 1339, giving pensions to the one-armed and one-legged veterans of the Civil War; to the Committee on Invalid Pensions.

By Mr. GARRETT: Papers to accompany bill granting an increase of pension to Hugh Hoyds; to the Committee on Pensions.

By Mr. HAMILTON of West Virginia: Petition of citizens of Parkersburg and vicinity, favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

By Mr. HAYES: Petition of Frederick J. Koster, San Francisco, Cal.; of W. E. Wretmann, San Jose, Cal.; of Albert Dickerman, Watsonville, Cal., favoring the passage of House bill 22589, making appropriation for the building of proposed diplomatic buildings; to the Committee on Foreign Affairs.

Also, petition of Woman's Christian Temperance Union, of San Francisco, Cal., favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

Also, petition of Weil Bros. & Sons, San Francisco, Cal., protesting against the passage of the amended Kenyon liquor bill (H. R. 4043) preventing the shipment of liquors into dry territories; to the Committee on the Judiciary.

Also, petition of the Junior Order United American Mechanics and the State Council of California, Junior Order United American Mechanics, favoring the passage of the Burnett immigration bill for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the State Council of Pennsylvania, Order of Independent Americans, favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. KAHN: Petition of John H. Miller, of San Francisco, Cal., protesting against the passage of House bill 26277, to establish a final court of United States patent appeals; to the Committee on the Judiciary.

By Mr. LEVY: Petition of the Brooklyn League, Brooklyn, N. Y., favoring the passage of legislation relocating the pier headline in the Hudson River between Pier 1 and West Thirtieth Street; to the Committee on Rivers and Harbors.

Also, petition of the Farmers' National Congress, Chicago, Ill., protesting against any restriction of the press; to the Committee on the Post Office and Post Roads.

By Mr. LINDSAY: Petition of veterans of the Civil War of Franklin, Ohio, and Bedford Hills, N. Y., favoring the passage of House bill 1339, granting pension to limbless veterans of the Civil War; to the Committee on Invalid Pensions.

Also, petition of Ludwig Nissen & Co., New York, favoring the passage of House bill 25106, incorporating a chamber of commerce of the United States; to the Committee on the Judi-

By Mr. MOTT: Petition of the president of the National Conservation Exposition, favoring appropriation for the purpose of erecting a Government building at the National Conservation Exposition; to the Committee on Public Buildings and Grounds.

By Mr. REYBURN: Petition of Washington Camp, No. 533, Patriotic Order Sons of America, Philadelphia, Pa., favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Mr. REILLY: Petition of the Social Service League of Salisbury, Conn., favoring the passage of Senate bill 3, for promotion of industrial education; to the Committee on Agri-

Also, petition of the Federation of Jewish Farmers of America, favoring the passage of legislation establishing systems of farmers' credit unions; to the Committee on Banking and Currency.

By Mr. TILSON: Petition of the Federation of Jewish Farm-

ers of America, favoring enactment of legislation establishing a system of farmers' credit unions; to the Committee on Banking and Currency.

By Mr. WILLIS: Papers to accompany bill (H. R. 27408) granting pension to Danlel S. Poling; to the Committee on Pensions.

SENATE.

THURSDAY, December 19, 1912.

The Chaplain, Rev. Ulysses G. B. Pierce, D. D., offered the fol-

lowing prayer:

Our heavenly Father, now as always we are in Thy presence, as always, so now, we borrow strength from Thee. But now, our Father, we know ourselves to be in Thy presence, now we accept the strength and the opportunities of this day as gifts from Thee, which we in turn consecrate to Thy service. as we part for a season, do Thou watch over us and guard us from all evil. If it be Thy will, bring Thou us together again when, by Thy grace, we will again offer unto Thee the sincere gratitude of trusting and obedient hearts. Amen.

THOMAS B. CATRON, a Senator from the State of New Mexico,

appeared in his seat to-day.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. Crawford and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of ascertainment of the electors for President and Vice President appointed in the State of Massachusetts at the election held therein on November 5, 1912, which was ordered to be filed.

CONTINGENT EXPENSES, NAVY DEPARTMENT (S. DOC. NO. 986).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of the Navy submitting supplemental estimates of appropriations for inclusion in the legislative appropriation bill for the fiscal year ending June 30, 1914, under the title of "Contingent expenses, Navy Department," \$17,875. which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

RECORD OF SALES OF COTTON (S. DOC. NO. 987).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting, in response to a resolution of April 22, 1911, the report of sales

of cotton to the Confederate States, which, with the accompanying papers, was referred to the Committee on Claims and ordered to be printed.

PROPOSED EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

Mr. SMITH of Georgia. Mr. President-

The PRESIDENT pro tempore. The motion is not debatable. Mr. SMITH of Georgia. I suggest that there is no quorum present.

The PRESIDENT pro tempore. The Senator from Georgia makes the point of no quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

shurst dacon dailey dorah dourne drandegee dristow drown durnham durnham datron datron dapp	Clark, Wyo. Crane Crawford Culberson Curtis du Pont Fletcher Gallinger Gronna Hitchcock Johnston, Ala. Jones Kenyon	La Follette Lodge McCumber Martin, Va. Martine, N. J. Massey Myers Nelson Oliver Page Penrose Perkins Poindexter	Root Sanders Smith, Ga. Smith, Mich Smoot Stone Sutherland Swanson Warren Wetmore Works
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Mr. PAGE. I am compelled again to announce the continued illness of my colleague [Mr. DILLINGHAM]. He is unable to be present.

The PRESIDENT pro tempore. Fifty Senators have answered to their names. A quorum of the Senate is present. The question is on the motion made by the Senator from Massachusetts.

Mr. BAILEY. I ask the Senator from Massachusetts to withhold his motion until I can dispose of a matter of morn-

ing business.

The PRESIDENT pro tempore. Does the Senator from Massachusetts withhold his motion?

Mr. LODGE. I will withhold it for the Senator from Texas, but I can not do it again.

THE INITIATIVE AND REFERENDUM.

Mr. BAILEY. I offer the following resolution, which I will ask the Secretary to read.

The resolution (S. Res. 413) was read, as follows:

Resolved, That such a system of direct legislation as the initiative and referendum would establish is in conflict with the representative principle on which this Republic was founded, and would, if adopted, inevitably work a radical change in the character and structure of our Government.

Mr. BAILEY. Mr. President, I ask that the resolution remain on the table, because at the Senate's convenience I desire to speak to it; and unless something occurs to prevent it I shall ask the Senate to hear me after the morning business on the 2d day of January.

The PRESIDENT pro tempore. The resolution will be printed and lie on the table, subject to the call of the Senator from Texas.

EXECUTIVE SESSION.

Mr. LODGE. I renew my motion that the Senate proceed to the consideration of executive business.

Mr. SMITH of Georgia. On that I ask for the yeas and nays. The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CLAPP (when his name was called). Owing to the absence of my pair and not knowing how he would vote, I with-

The PRESIDENT pro tempore (when Mr. Gallinger's name was called). The Chair is paired with the Senator from Arkansas [Mr. Davis]. He transfers that pair to the Senator from South Dakota [Mr. Gamble] and votes "yea." Mr. PERKINS (when his name was called). I have a gen-

eral pair with the junior Senator from North Carolina [Mr. OVERMAN]. He being absent, I withhold my vote.

Mr. SMITH of South Carolina (when his name was called). I am paired with the Senator from Delaware [Mr. RICHARD-SON] and withhold my vote. If he were here, I would vote

The roll call was concluded.

Mr. CURTIS. I wish to announce the pair of the Senator from Kentucky [Mr. Bradley] with the Senator from Indiana [Mr. Kern]; of the Senator from New Jersey [Mr. Bridgs] with the Senator from West Virginia [Mr. Watson]; of the Senator from Rhode Island [Mr. Lippitt] with the Senator from Tennessee [Mr. Lea]; of the Senator from Wisconsin [Mr. Stephenson] with the Senator from Indiana [Mr. Shively]; of the Senator from Delaware [Mr. RICHARDSON] with the

Senator from South Carolina [Mr. SMITH]; and of the Senator from Vermont [Mr. DILLINGHAM] with the Senator from South Carolina [Mr. TILLMAN].

Mr. SIMMONS. I vote "yea." I desire to state that my colleague [Mr. Overman] is absent on important business.

The PRESIDENT pro tempore. Forty-five Senators have answered to their names, not a quorum. The list of Senators not voting will be called.

The Secretary proceeded to call the names as directed. Mr. CLAPP (when his name was called). I vote "yea."

Mr. JOHNSTON of Alabama (when his name was called). I vote "yea."
vote "yea."

Mr. LA FOLLETTE (when his name was called). I vote "yea."

Clarke, Ark. Culberson Cullom Cummins

Davis Dillingham

Mr. PERKINS (when his name was called). I transfer my pair with the junior Senator from North Carolina [Mr. Over-MAN] to the senior Senator from Iowa [Mr. CUMMINS] and will vote. I vote "yea."

The Secretary concluded calling the roll, and the result was

announced-yeas 49, nays 0, as follows:

YEAS-49. McCumber Martin, Va. Martine, N. J. Massey Nelson Ashurst Bacon Bailey Borah Clark, Wyo. Simmons Smith, Ga. Smith, Mich. Smoot Sutherland Thornton Crane Crawford Curtis du Pont Gallinger Bourne Brandegee Nelson Newlands Oliver Page Penrose Perkins Townsend Warren Wetmore Works Bristow Brown Burnham Gronna Jackson Johnston, Ala. Jones Burton Catron Kenyon La Follette Poindexter Chamberlain Clapp Lodge Sanders NOT VOTING-45. Smith, Ariz. Smith, Md. Smith, S. C. Stephenson Stone McLean Myers O'Gorman Overman Owens Bankhead Fletcher Foster Gamble Bradley Briggs Bryan Chilton Gardner Owens
Paynter
Percy
Perky
Pomerene
Reed
Richardson Gore Guggenheim Hitchcock Johnson, Me. Kern Lea

Lippitt So the motion was agreed to, and the Senate proceeded to the consideration of executive business. After one hour and five minutes spent in executive session the doors were reopened.

Shively

Swanson Tillman Watson

Williams

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore. The hour of 1.30 having arrived, the senior Senator from Georgia [Mr. Bacon] will kindly take the chair to preside over the impeachment proceedings

Mr. BACON took the chair as Presiding Officer.
The PRESIDING OFFICER (Mr. BACON) having announced The PRESIDING OFFICER (Mr. Bacon) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation. Mr. JONES. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Washington suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Martin, Va.
Martine, N. J.
Myers
Nelson
Newlands
O'Gorman
Oliver
Owen
Page
Paynter
Penrose
Perkins
Perky
Poindexter Clapp Crawford Curtis Fletcher Gallinger Ashurst Bacon Balley Borah Pomerene Reed Root Sanders Smith, Ariz, Smith, Ga. Smith, S C. Sutherland Bourne Brandegee Bristow Gronna Hitchcock Jackson Johnson, Me. Johnston, Ala. rown Swanson Thornton Bryan Burnham Burton Catron Chamberlain Chilton Jones La Follette Lodge McCumber Townsend Warren Wetmore Williams

The PRESIDING OFFICER. On the call of the roll of the Senate 56 Senators have responded to their names. A quorum of the Senate is present. The Secretary will read the Journal of the last sitting of the Senate as a Court of Impeachment.

of the last sitting of the Senate as a Court of Impeachment.

The Secretary read the Journal of Wednesday's proceedings of the Senate sitting as a Court of Impeachment.

The PRESIDING OFFICER. Are there any inaccuracies in the Journal? If not, it will stand approved. Counsel for the respondent will proceed.

Mr. WORTHINGTON. I wish to call attention to an error in the record of the proceedings of day before yesterday, on page 726 of the Congressional Record, in an expression by the witness Knapp. As it reads it says, "I remember that Capt. May said to me often, as I supposed," and so forth. It should read, "I remember that Capt. May said to me after," and so forth. I may say that I have called the attention of the Official Reporters to this, and they have shown me, by producing the copy sent to the Printing Office, that it was an error made in the Printing Office. The context shows clearly what was meant and that it is an error.

Mr. Manager CLAYTON. It occurs on page 726, in the second column, a little above the middle of the page, and I think it is clearly an error and that the correction ought to be made.

The PRESIDING OFFICER. The correction will be made in the permanent RECORD.

TESTIMONY OF JOHN W. PEALE.

John W. Peale, being duly sworn, was examined and testified as follows

Q. (By Mr. WORTHINGTON.) State your full name .- A. John W. Peale.

Q. Where do you live?-A. New York City.

Q. What is your business?—A. Coal business.
Q. In what branch of the coal business?—A. In both branches-anthracite and bituminous.

Q. Do you mine, or buy, or sell, or what?—A. We buy and sell anthracite and mine bituminous.

Q. Do you know the respondent here, Judge Archbald?-A. Yes, sir.

Q. And do you know John Henry Jones, who has been a witness here ?- A. Yes, sir. I met both of them on Monday of this week.

Q. I wish to show you some correspondence, and see if you can identify it. In the first place I show you a letter dated March 8, 1911, purporting to have been written by John Henry Jones to you. I ask you whether you can identify that letter? A. Yes, sir.

Q. Did you receive that letter from John Henry Jones about the time it bears date?—A. Yes, sir.

Mr. WORTHINGTON. I ask to have it marked for identifi-

cation.

Q. (By Mr. WORTHINGTON.) Please look at the letter I show you, dated March 23, 1911, purporting to be from Judge Archbald to you, and state whether or not you received that letter from him about the time it bears date.-A. (After exam-

ination.) Yes, sir.

Mr. WORTHINGTON. Let the letter be marked for identification.

Q. (By Mr. WORTHINGTON.) Please look at what purports to be a carbon copy of a letter dated March 30, 1911, addressed to Judge Archbald, and let me know whether that is a carbon copy of a letter which you sent to Judge Archbald about that time.-A. (After examination.) Yes, sir.

Mr. WORTHINGTON. I ask that that be marked, please. Q. (By Mr. WORTHINGTON.) Finally, I show you a letter dated April 29, 1911, purporting to be from John Henry Jones to you, and ask you whether you received that letter from the writer about the time it bears date?—A. (After examination.) Yes, sir,

Mr. WORTHINGTON. Let that be marked, please. I now offer these four letters in evidence.

Mr. Manager STERLING. We desire to read them first. The PRESIDING OFFICER. If counsel has other questions

to put to this witness, he may proceed while the managers are examining the letters

Mr. WORTHINGTON. Very well. Q. (By Mr. WORTHINGTON.) Mr. Peale, have you any knowledge, as a man in the business in which you say you have been engaged, with respect to transactions relating to the purchase of coal property in the anthracite region about Scranton, where some persons put up all the cash, and the persons who merely find the property share with the other persons in the ultimate profits of the venture?

Mr. Manager STERLING. We object to this line of examina-tion as wholly immaterial. It is wholly immaterial what they do in other cases.

The PRESIDING OFFICER. The Chair would suggest to counsel that that testimony has been adduced from a number of witnesses and so far has not been contested by the managers. There ought to be a limitation to evidence of that kind. It could be continued indefinitely. Counsel will recognize that fact.

Mr. WORTHINGTON. This is the last witness we expect

to examine on this subject. If the managers will say

The PRESIDING OFFICER. With that statement by counsel the Chair suggests that he ask the same question that he asked other witnesses as to the practice.

Mr. WORTHINGTON. Very well. I asked him in the first

place if he knew of any, and then I was going to ask him how

Q. (By Mr. WORTHINGTON.) Will you state whether you have personal knowledge of any such transactions?—A. Yes, sir. Mr. Manager STERLING. We object.

The PRESIDING OFFICER. The manager objects. What

is the objection?

Mr. Manager STERLING. On the ground that it is not at all material in this case what was done in reference to other

The PRESIDING OFFICER. Similar testimony has been elicited from a number of other witnesses. We would have to go back and rule it all out if the objection were insisted upon and sustained.

Mr. Manager STERLING. If I am not mistaken, the Chair yesterday ruled against this kind of testimony.

The PRESIDING OFFICER. No; the testimony was admitted. The Chair did suggest that it would be better for counsel to inquire of the witness to what extent he had known that, in order that the Senate might judge whether or not it was general rather than to have the witness testify that it was general. That was the extent of the ruling.

Mr. Manager STERLING. I will say that, while we know nothing about it and contend that it is wholly immaterial, we are willing to admit that other cases of that kind have occurred; how many, I do not know. I do not suppose the witness knows how many. If the Chair holds that it is competent, we are willing to say now that we have no doubt it has been

done in other cases.

Mr. WORTHINGTON. We started out on this inquiry by asking the witnesses if it was the custom, as customs are known, and it was ruled that we could not ask about the general custom, but had to bring out particular instances-how many they knew of-and that is why we are pursuing this line of inquiry.

Mr. Manager STERLING. May I ask counsel what is the

purpose of this testimony?

Mr. WORTHINGTON. Evidence is offered on the part of the managers and in one of the articles of impeachment, article No. that Judge Archbald in connection with John Henry Jones, Mr. Bell, and Mr. Petersen had entered into an arrangement by which they were to get considerable interest in Packer No. 3 dump without putting up any money.
The PRESIDING OFFICER. The

The Chair will permit the

question unless the managers

Mr. Manager STERLING. Will the Chair hear me just briefly on that point? I do not want to unnecessarily take

That does not go to the question which is involved in this count at all. What Mr. Petersen and John Henry Jones might have done and what they did do I have no doubt was perfectly proper in this transaction. Those gentlemen are private citizens, and they had a right to go to the Lehigh Valley Railroad Co. or any other company they saw fit and persuade the railco, or any other company they saw ht and persuade the rair-road company to sell them this property, and it would not con-stitute an offense. It would not constitute even bad practice in a private citizen. But for Judge Archbald to do it, being a judge and using his influence to persuade railroad companies to do this, is the offense charged in this count.

Now, unless Mr. Worthington can prove that it is the practice and the custom among judges in Pennsylvania and elsewhere to make transactions of this kind, the evidence does not relate

to the count at all. For that reason we object,
The PRESIDING OFFICER. The Chair thinks the sugges tions of counsel address themselves to the question of the weight which shall be given to the testimony and the effect of it, rather than to its admissibility. The testimony is admitted.

Q. (By Mr. WORTHINGTON.) State how many such transactions you had had personal knowledge of, Mr. Peale .- A. I have advanced the money myself twice, and I know of several other instances

Q. May I ask if with one of those the Marian Coal Co. had anything to do?-A. Yes, sir.

Q. What was that?-A. I advanced the Marian Coal Co.

\$35,000.
Q. Was that dump in operation when you purchased it?—A. I did not purchase it. I loaned \$35,000.
Q. You loaned the money to operate it?—A. Yes, sir. Mr. Manager STERLING. Is that all?
Mr. WORTHINGTON. That is all on that point. I want now to read these letters in evidence.

Mr. Manager STERLING. We object to them as immaterial. Mr. WORTHINGTON. Let me have the letters.

Mr. Manager STERLING. Mr. WEBB has them now.

We think they are not material at all, but we withdraw any objection to them if it will save time.

Mr. WORTHINGTON. We do not consider it material whether the managers think the letters are material or not.

The PRESIDING OFFICER. The letters will be read from the desk

The Secretary read as follows:

[U. S. S. Exhibit X.]

(J. Henry Jones. Expert reports furnished on timber, rubber, and plantations, 318 Twelfth Avenue.)

SCRANTON, PA., March 8, 1911.

Mr. John W. Peale, No. 1 Broadway, New York City.

No. 1 Broadway, New York City.

Dear Sir: In reply to yours to hand would say that the coal dump referred to is a going concern. I give you the following detail: It is estimated that there is from 300,000 to 400,000 merchantable coal in the dump. There is a washery on the property, with a capacity of 500 tons per day. They are now shipping 20 cars daily. The property would be delivered free from debt for the sum of \$75,000.

The owners feel they would not care to have it generally known in the trade that their property is on the market, therefore would like our parties, if interested, to act for themselves and not go from place to place offering same for sale. We have assured them that this would not be done.

I would like to have you call at Judge R. W. Archbald's office in the Federal building, Scranton, at your earliest convenience or have some one delegated to do so, and the judge would go into the matter of negotiation with you at once, he having the power to sell.

The property is located not far from Shamokin, or Shenandoah. It is really first class.

Yours, very truly,

J. Henry Jones.

[U. S. S. Exhibit Y.]

(R. W. Archbald, district judge, United States courts, middle district of Pennsylvania, Scranton.) SCRANTON, March 23, 1911.

JOHN W. PEALE, Esq.

JOHN W. Peale, Esq.

Dear Sir: I regret to learn through your letter to Mr. John Henry Jones, of this city, that I was out when you called to see me about the culm-dump washery about which he wrote you recently. This dump is located at Shaft, near Shenandoah, Pa., and is the property of the Oxford Coal Co. Mr. Jones has given you the price and the particulars. It is a going property, with plenty of coal left in the dump, and with more in the vicinity. I believe, although I am not sure about the latter. I have to go to Washington on April I to attend a session of the Commerce Court, of which I am a member, and hope that you will be able to let us know something as to your intentions in the matter before I leave.

I expect to be at home here at Scranton every day until that time, and if I do not happen to be at my office, I can be readily summoned.

Yours, very truly,

R. W. ARCHBALD.

[U. S. S. Exhibit Z.]

NEW YORK, March 30, 1911.

Hon. R. W. ARCHBALD, Scranton, Pa.

Scranton, Pa.

Dear Sir: Pardon delay in reply to yours of the 23d instant, which is due to my absence, and sorry that I was unable to see you when I was at Scranton the week before last. I note the culm bank mentioned by Mr. Jones and am fairly well acquainted with this Oxford proposition, which I examined before purchased by its present owner. There is so much rock mixed with the coal in this dump that I do not believe it could be worked to advantage, at least that was my conclusion when I examined it several years ago. Therefore, while I am obliged to you for writing me on the subject, I do not believe that it would be a profitable venture for me to take up at this time.

Truly, yours,

[U. S. S. Exhibit AA.]

(J. Henry Jones. Expert reports furnished on timber, rubber, and plantations, 318 Twelfth Avenue.)

SCRANTON, PA., April 29, 1911.

J. HENRY JONES.

Mr. John W. Peale,

No. 1 Broadway, New York.

Dear Sir: Yesterday I invited Mr. Winn to accompany me on a dump or an old filling between plane No. 4 and No. 5 of the old gravity which is located between Virginia and Rocky Glen on the Laurel line running between Scranton and Wilkes-Barre. The filling is a very excellent one, and Winn took a sample of it in order to forward same to you. It is estimated at various figures; some claim there is 125,000 tons, others ranging from S0,000 to 100,000 tons; but I think the most accurate figure would be about 60,000 tons merchantable coal. The option on the property is held by Judge Archbald and myself, and we wanted to make you the following proposition: That if you will advance \$12,500 on the understanding that you are to receive this amount back in coal or royalty, as we will agree upon, that you are to receive 45 per cent of the stock which would be figured at a capitalization of not exceeding \$25,000. All chestnut and a certain quantity of pea coal could be shipped to your orders and loaded at a switch near by on the Laurel line, which transfers to the D., L. & W. While in reality all the small sizes can be sold by the company to the Sagwolt Silk Mill, the Lackawanna Woolen Mills, and other concerns of this city. While the pea coal could be all delivered at Minooka for local trade at a good profit, the distance for delivery being less than a mile. Could you spend few hours some day next week to accompany the judge and myself on the dump I am satisfied that you will be readily convinced that it will be a big money maker for all parties concerned.

Thanking you in anticipation of an early reply, I remain, dear sir, Yours, very truly,

Q. (By Mr. WORTHINGTON.) In reference, Mr. Peale, to this letter, which has been marked "Exhibit X," of March 8, 1911, from John Henry Jones to you, I wish yon would identify the dump which is referred to when he says, "I give you the following detail. It is estimated that there is from 300,000 to 400,000 merchantable coal in the dump." Do you want to look at the letter?-A. That is the Oxford dump.

Q. Have you personal knowledge as to whether that is the so-called Oxford dump which is near the Packer dumps of the Lehigh Valley or the Girard estate?—A. I do not know anything about where the Packer dumps are a fall.

thing about where the Packer dumps are at all.

Q. In this letter of April 29, 1911, from Jones to you, there is a mention of a fill. Are you able to identify that piece of property?—A. No, sir; I do not know where it is. I never looked at it it all looked at it at all.

Q. It is referred to as the "old gravity, which is located between Virginia and Rocky Glen, on the Laurel line." You do not know just what that was?—A. I do not know. I never have seen it; no, sir.

Q. You did not proceed with that matter?—A. I did not proceed with it at all.

Mr. WORTHINGTON. Very well. That is all, Mr. President, I think for this witness at present.

Cross-examination:

- Q. (By Mr. Manager STERLING.) Mr. Peale, where is this Oxford dump?-A. I do not remember. I could not describe to you where it is, because it has been some time ago, and I do not really remember. It was near some station on the Philadelphia & Reading Railroad.
- Q. You stated in one of these letters that you had seen it at one time?—A. Yes, sir; I had been there at one time.

Q. But you forget where it was?—A. I forget what station on the Reading road it was.
Q. At the time of this correspondence which has been read I understand that John Henry Jones and Judge Archbald owned that dump. Is that your understanding from the correspondence?—A. I think so; yes, sir.

Q. Did they own it or just have an option on it?—A. I really

do not know that.

Q. Who owned it before them?-A. I think it was originally operated by the North American Coal Co.

Q. What railroad company is the North American Coal Co. connected with?-A. I do not think any, sir.

Q. Do you know where Jones and Archbald got this dump?-A. I do not; no, sir.

Q. Do you know how long they had had it?-A. I do not;

Q. As a matter of fact, you understood they simply had an option on it and were holding the option until they sold it?-A. I presumed so.

Q. From whom did they get it, do you know?-A. I really do

Q. You say that you have known personally of two other transactions where persons bought coal dumps and got some other party to furnish the money on certain terms?—A. Yes, sir.

Q. Was Judge Archbald a party to either of them?—A. No, sir; I think not.

Q. Was any other judge in Pennsylvania or elsewhere con-

cerned in it at all?-A. I do not think so; no, sir.

Q. Those two that you know of were obtained from the rail-road company without the use of Judge Archbald's influence or any other judge's influence?-A. I do not think they were obtained from railroad companies.

Q. They never did belong to railroad companies?-A. I do not

think so, sir.

- Q. They belonged to mining companies?-A. I think so.
- Q. Do you know of your own knowledge of any other instances of transactions of that kind where persons bought dumps but bought them of railroad companies—interstate railroad companies-without the influence of Judge Archbald?-A. I do not know of any that were obtained from railroad companies, except dumps obtained from the Central Railroad of New Jersey by the North American Coal Co.

Q. Is that the one--A. There were several-

Q. That Jones and Judge Archbald afterwards owned?-A. No. sir.

Q. Your name is John W. Peale?-A. Yes, sir

Q. You are the same party who was plaintiff in the Peale case that was pending in the Federal court at Scranton?—A. Yes, sir.

Q. Against the Marian Coal Co.?-A. Yes, sir.

Q. The correspondence which has been read was had during the time that case was pending, was it not, or had the case been disposed of?

Mr. WORTHINGTON. I submit that it is shown by the record when the suit was brought and when it was pending.

Mr. Manager STERLING. It is much easier for this witness to state it.

Mr. WORTHINGTON. I submit that it is much easier to tell the dates from the record.

The PRESIDING OFFICER. Is it already in evidence?

Mr. Manager STERLING. I do not think it is. I do not

Mr. WORTHINGTON. All these letters, Mr. President, bear date after Judge Archbald had left-

Mr. Manager STERLING. Mr. President, I object to the at-

torney interfering. If he has an objection, let him state it.
The PRESIDING OFFICER. What is the objection to the question?

Mr. WORTHINGTON. I object to endeavoring to fix dates by the recollection of the witness, when they are exactly fixed by the record already put in evidence.
The PRESIDING OFFICER. The

The record is the highest

evidence.

Mr. Manager STERLING. I did not hear the remark of the President

The PRESIDING OFFICER. The Chair says the record is the highest evidence, of course.

Mr. Manager STERLING. We are entitled to have this wit-

ness's recollection with reference to the time it occurred.

The PRESIDING OFFICER. There is no objection to

asking as to the relative date, or anything of that kind, whether before or since.

Q. (By Mr. Manager STERLING.) This correspondence occurred during the time this case was pending in the Federal court?—A. Let me see. That correspondence, I think, was March, 1911, and I think the decision in that case was in August, 1911.

Q. It was before the case was disposed of?-A. Yes; I

think so.

Q. And it was after Judge Archbald had overruled the demurrer in that case, was it not?-A. I do not know anything about the demurrer, sir. That was entirely—Q. You do not know about that?—A. No, sir.

Q. What railroad company was it that owned this dump which was sold to the North American Coal Co.?—A. I think it was the Central Railroad of New Jersey.

Q. Has it any lines in Pennsylvania?-A. Yes, sir. Q. Into the coal fields of Pennsylvania?-A. Yes, sir.

- And goes to this dump?-A. What dump do you refer to? The one that Jones and Judge Archbald owned-A. Oh, I think not.
 - Q. Or had an option on?—A. I think not. Mr. Manager STERLING. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) Mr. Peale, I think you have said you have visited this Oxford dump?-A. Yes, sir.

Q. Do you remember who was in control of it at the time you made your visit?-A. I do not remember the man's name. think it was some engineer at Scranton.

Q. Do you remember the name of Madeira, Hill & Co.?-A. Yes, sir.

Q. Was that it?-A. No; Madeira, Hill & Co., I understood, bought it after that.

Q. Oh, after that?-A. After I had seen it.

Q. Do you know whether Mr. W. P. Boland owned it at that time?-A. Well, he may have had an interest in it. I do not know.

Q. You did not know?-A. No, sir.

Q. You say none of these cases in which money was advanced to get coal property were in the matter of coal property that came from railroads? From whom did the Marian Coal Co.'s dump come?—A. It was three undivided interests, I believe the Hoysradt estate, the Felts estate, and the D. & L. Railroad Co.

Q. The Delaware, Lackawanna & Western Railroad Co.?-A. Yes, sir.

Q. They had sold their interest in that dump, or leased it, at least?—A. No; I think at that time the Marian Coal Co. had leased only all the interest of the Felts estate, an undivided interest.

Q. You took over the management of that dump?—A. No, sir. Q. Or the sale of the coal?—A. I did not.
The PRESIDING OFFICER. The Chair permits this examination simply because objection has not been made.
Mr. Manager STERLING. We will object now.
The PRESIDING OFFICER. It seems to be going to a great

extent.

Mr. WORTHINGTON. The Chair will remember that it was on cross-examination this witness was asked if he was the

Peale of the Marian Coal Co. I had not asked—

The PRESIDING OFFICER. The Chair had reference to the examination prior to that time. The Chair thinks all this testimony about the Oxford matter is entirely irrelevant, and he does not exclude it, only because no objection has been made to The Chair does not feel that he is justified in excluding it without an objection made to it.

Mr. WORTHINGTON. I was not asking the witness about the Oxford dump. It was about the Marian Coal Co. I was asking him when I was interrupted just now.

The PRESIDING OFFICER. The Chair did not think that those letters were material or admissible.

Mr. WORTHINGTON. We had not been heard on that subject, and probably the Chair—
The PRESIDING OFFICER. The Chair does not propose to

rule them out. He is simply stating what seems to be very clear to him.

Mr. WORTHINGTON. I understood the Chair to say they would have been excluded if objection had been made. The Chair certainly could not have done that without knowing the object for which they were offered. We consider them a very important and material part of this case.

The PRESIDING OFFICER. The Chair will not make any

ruling in regard to it. The Chair simply desires, if possible, to arrest what appears to be an unduly extended examination.

Mr. WORTHINGTON. Well, we are through with the witness, Mr. President.

Mr. Manager STERLING. That is all.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF MICHAEL W. SCANLON.

Michael W. Scanlon appeared, and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Give your full name, please.—A. Michael W. Scaulon.
Q. You live here in Washington?—A. About 12 years.
Q. You are connected with what hotel?—A. The Grafton.

Q. The Grafton Hotel, at Connecticut Avenue and De Sales Street, this city?-A. Yes, sir.

Q. Were you connected with that hotel in the spring of

1912?—A. I have been; yes, sir.

Q. In what capacity were you then connected with that

hotel?-A. Chief clerk.

Q. Have you brought with you any information which will enable us to show at what time, if at all, Judge Archbald was stopping at that hotel in the spring of 1912?-A. (Producing paper.) Yes, sir; a leaf from our ledger.

Q. I do not care for the paper itself. Can you tell us?-A.

Very good, sir.

Q. During what time was he stopping at your hotel last

spring from that?

Mr. Manager WEBB. May we ask the object of this testimony? If he is going to read that long list, it will be a waste

of time unless it is material.

Mr. WORTHINGTON. I do not expect the witness to read any long list, but just to state whether Judge Archbald was stopping at that hotel in Washington during certain days in April last, and they happen to be days when the Bradley contract was about to be completed and was recalled.

Mr. Manager STERLING. That is wholly immaterial. have never charged that he was anywhere else. We have never charged that Judge Archbald was in Scranton at that

The PRESIDING OFFICER. The Chair will permit the evidence in explanation to show where the respondent was at the time.

Q. (By Mr. WORTHINGTON.) Now, will you answer the question, please. At what time was Judge Archbald stopping at your hotel last spring?—A. He arrived on the 12th of April for dinner and left on the 20th.

Q. The 20th of the same month?-A. Yes, sir; April,

Q. Can you state whether he was there continuously or not?—A. Yes, sir; he was, to the best of my knowledge, sir.
Q. Do not your books show?—A. I received him personally

and roomed him and saw him daily from the time he arrived until he departed.

Mr. Manager STERLING. Mr. President, the testimony seems to prove he was not there at the date this contract was rescinded—the 11th of April.

The PRESIDING OFFICER. That is a matter of argument. Q. (By Mr. WORTHINGTON.) I do not recall the dates you spoke of. Between what dates?-A. He arrived on the 12th of April.

Q. And remained until when?-A. Until the morning of the 20th, after breakfast.

Mr. WORTHINGTON. The rest of the time we will cover by the evidence of another hotel. Judge Archbald changed his residence from one hotel to another. That is all we wish to ask this witness.

Mr. Manager STERLING. That is all,

The PRESIDING OFFICER. The witness is discharged.

TESTIMONY OF T. ELLSWORTH DAVIES

T. Ellsworth Davies appeared, and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Ellsworth Davies is your name?—A. T. Ellsworth Davies.

Q. Where do you live, Mr. Davies?—A. Scranton, Pa.

Q. How long have you lived there?-A. Forty-four yearsall my life.

Q. What is your business?—A. Mining engineer.

Q. How long have you been a mining engineer?—A. I began about 15 years of age.

Q. And how continuously have you been engaged in the business of a mining engineer?—A. Practically ever since.
Q. Practically all the time?—A. Yes, sir.

Where?-A. At Scranton.

Q. What position do you hold now, if any?—A. I am the official mining engineer for Lackawanna and Luzerne Counties and Susquehanna County, and consulting engineer for the State tax board of Pennsylvania.

· Q. What do you mean by saying you are mining engineer for those counties? What are your duties?—A. To fix areas and conditions and appraise the valuation of coal in the ground.

improvements, and so on.

Q. What other position do you say you hold?-A. Consulting engineer for the State tax board.

Q. What are your duties as such, in a general way?-A. To fix values.

Q. Of coal property?—A. Yes, sir.

Q. Did you ever visit the Katydid coal dump near Moosic, Pa.?—A. Yes; I did one time, about a year ago.

Q. For what purpose?-A. For the purpose of examining and reporting on it.

Q. For your own use or at the request of somebody else?—A.

At the request of a party from New York.

Q. Who was the party?—A. A man by the name of Hanley.

Q. What kind of an investigation or examination of that dump did you then make?-A. I spent two hours going over the ground and looking at the dump-looking at the dump from every standpoint and every side.

Q. What conclusion did you reach?—A. I reached——Mr. Manager STERLING. Mr. President, we object, for the reason that this witness has not qualified to testify about the

Mr. WORTHINGTON. It appears this is a man who was employed by several of those counties up there and by the State for the purpose of valuing coal property for taxation, and has for several years, and besides has been engaged in business 35 or 40 years for himself. He went and examined this bank for the very purpose of determining its value there as the advisor of a prospective purchaser. He certainly had as much information about it as anything here tends to show Judge Archbald had. As it was stated here yesterday by one of the managers, the main thing is about Judge Archbald's information and views about this matter at the time he entered into the transaction in connection with it.

The PRESIDING OFFICER. The Chair thinks the counsel can show by the witness the value of the dump, but as to whether the witness shall state his general conclusions or state what he found there is possibly a matter of some doubt. The Chair will suggest that counsel examine the witness as to what he found.

Mr. WORTHINGTON. I asked him to state the result of his investigation, and by that I mean what he found there, and also as to what he found there was worth-the character of the

The PRESIDING OFFICER. If the witness is prepared to state the value of it after examination, the Chair thinks that counsel is entitled to bring that out.

Q. (By Mr. WORTHINGTON.) State, in the first place, what you found there.-A. I found about 90,000 tons of material, vein and vein matter, in the bank, scattered about in four or five separate banks, with a large bank of silt near by.

Q. What do you mean by "vein and vein matter," Mr. Davies?—A. Well, the coal and the refuse as it came from the

Q. You found about 90,000 tons there altogether?-A. I did,

sir: to the best of my judgment.

Q. Did you investigate it and reach a conclusion as to what proportion of that 90,000 tons could be utilized for the market?-A. Yes; I found that it would contain about 50 to 55 per cent, not more than 60 per cent, of all sizes of coal that could be taken out of it.

Q. What proportion of those did you estimate were sizes of what are called prepared sizes, above pea?-A. I did not find

that it ran more than 1½ to 2 per cent of chestnut.

Q. Did you reach a conclusion also as to about what the dump was worth?—A. I did.

Q. As it stood and as it stands?-A. I reported to my people that they should not touch it.

Q. Why?—A. Because it was not worth the money asked. Q. What was asked?

Mr. Manager STERLING. We object.

The PRESIDING OFFICER. The witness can state what in his opinion was the value.

Mr. WORTHINGTON. Very well; that is what I want to

The WITNESS. From \$2,500 to \$3,000.

Q. (By Mr. WORTHINGTON.) Now, Mr. Davies, do you know Mr. Von Storch, who is a lawyer and banker in Scranton?-A. Mr. Charles H. Von Storch?

Q. Yes, sir.-A. Yes, sir.

Q. Do you know John Henry Jones?-A I do.

Q. Do you remember any occurrence in relation to a \$500 note in which you and they figured?—A. I do.

- Q. Tell us about that, please.—A. In the latter part of November or the beginning of December of last year John Henry Jones came to me with a note and asked me if I knew where he could have it discounted—cashed. I told him I did not know at the time, and he went away. In a day or two I met him on the street again. I said to him, "Have you taken that to Charlie Von Storch's bank? Go and see Charlie Von Storch." He said, "I do not know him." We were then within a block of Mr. Von Storch's office. I said, "I will go with you." I went with him and introduced him to Mr. Von Storch, and left That is all I know about it.
- Q. What do you say was the date of that occurrence, according to your recollection?-A. I think it was the latter part of November or the beginning of December, 1911.

Q. Are you clear about the year?-A. No; 1909. I beg your

Q. What motive or information had you which led you to suggest taking that note to Von Storch?-A. I had none whatever.

Mr. Manager STERLING. We object to the evidence as im-

The PRESIDING OFFICER. The witness says he had none. Mr. WORTHINGTON. Very well. [To the witness:] What communication, direct or indirect, had you with Judge Archbald?-A. None whatever, sir.

Q. And what had he to do with your suggestion in taking that note to Von Storch?—A. Not any. I had not seen Judge

Archbald for a year, perhaps, before that.
Q. Did you see the note?—A. No; I do not think I did.

Q. Did anything of that kind happen more than once?-A. No. Sir.

Q. Do you know whether Judge Archbald was on the note? Was anything said about that?-A. No, sir; I can not say that I do know Judge Archbald was on the note.

Q. Do you know whether John Henry Jones was on the note?-A. John Henry Jones told me that he had a note indorsed by a party, and he would like to know where to take it.

Q. What do you know about John Henry Jones? What was his position at that time?-A. John Henry Jones was then connected with the Maplewood Lumber Co., if I remember aright.

Q. Connected in what way?-A. He was a stockholder and, I think, secretary of the company.

Q. In a general way, is that a small or a large company?-A. That was a concern that did business

Mr. Manager STERLING. We object, Mr. President, to this

Mr. WORTHINGTON. Well, the learned managers put Von Storch on the stand and asked him about John Henry Jones and elicited the statement by Von Storch that John Henry Jones was a man of such appearance that he doubted whether the note which he brought there was Judge Archbald's signature or if it did not have the forged signature, thereby implying, I suppose, that John Henry Jones is such a character that for Judge Archbald to have anything to do with him implies guilt on his part. John Henry Jones is to be the next

witness, and Senators can judge of his appearance, and his business, and so forth, can be stated by him. I want to show by this witness, who knows all about Mr. Jones, that he is not such a man as that Judge Archbald or anybody else in Scranton might not have business with and be on notes with him without any reflection on his judgment or his conduct.

The PRESIDING OFFICER. The Chair is not informed as to the evidence to which counsel refers. Of course, if there was evidence to that effect counsel would be entitled to show to the contrary. The Chair is not informed as to whether or not that

is in the record.

Mr. WORTHINGTON. I will read it, at the top of page 769 of the record in this trial, from Von Storch's evidence:

Q. Why did you suspect this note when it was brought to you by John Henry Jones?—A. I did not think that a man of John Henry Jones's appearance would be carrying Judge Archbald's note around.

He had already said that he suspected it was a forgery, and being asked why he suspected that he answered:

I did not think that a man of John Henry Jones's appearance would be carrying Judge Archbald's note around.

Now, necessarily that must carry to the minds of Senators the notion that for Judge Archbald to be having business transactions, or to be in a transaction on which his name and the name of John Henry Jones were on a note—
The PRESIDING OFFICER. The Chair does not desire to

hear further from counsel on that.

Mr. Manager STERLING. I think the fact is, if I remember, the testimony which counsel has read was in the direct examination.

Mr. WORTHINGTON. It is in the direct examination by the managers

Mr. Manager STERLING. It is in the direct examination. Now counsel intimates that the managers had caused Von Storch to elicit the fact that Jones was a man of bad appearance. Counsel himself called that evidence out. Now he brings this witness on to sustain the character of the man whom his own witness impeached.

Mr. SIMPSON. It was your witness, Mr. Manager Sterling.
Mr. Manager CLAYTON. I know, but you called it out.
Mr. Manager STERLING. You called it out.
Mr. Manager CLAYTON. You called him as a witness; we

Mr. WORTHINGTON. It was called out by the managers. God forbid that we should call that out about John Henry Jones.

Mr. Manager STERLING. You just stated, did you not-Mr. WORTHINGTON. You said that was on direct examina-tion, and I said "yes."

Mr. Manager STERLING. In any event, how can what this witness thinks of John Henry Jones be material?

Mr. WORTHINGTON. We are not going to prove what he thinks of him, but what he knows his position and standing in Scranton are.

Mr. Manager STERLING. I should like to say what I have got to say, if counsel will give me an opportunity. It is not very much.

John Henry Jones testified to all these things himself. He told what lumber companies he had been interested in, but that does not give him a good character. What this gentleman may say about his appearance does not give him a good character or anything of the kind. It is utterly immaterial to any issue in

The PRESIDING OFFICER. The Chair will admit the evidence.

Q. (By Mr. WORTHINGTON.) Mr. Davies, what position, if you know, did John Henry Jones hold in Scranton at that time?-A. At present?

Q. At the time of this transaction and since?--A. At that time he was promoting some lumber companies. He was connected with two or three, I think. I think there was another lumber company or two that he was connected with.

Q. You said he was secretary of some company?—A. I think he was secretary at the time of the Maplewood Lumber Co.

Q. I was about to ask you, when interrupted, whether that was a large or a small concern.—A. It was a concern, as I understand it, that sold quite a little timber and lumber for

breaker building, washery construction, and so forth.

Q. Has he held any official position in Scranton?—A. Yes; for the last year or two he has been a chief clerk in the county commissioner's office there in charge of the county assessments.

Q. And holds that position now?-A. He does, sir. Q. Has he been at any time a man of property there in Scranton?—A. Oh, yes; I think so; I believe so. He owns his own home, and I think he had some other property there

Q. Let me ask you this question, which you need not answer: Whether, until now, you ever intimated that on account of his appearance and standing there it was a disgrace to anybody to have business with him or to be seen with him?

Mr. Manager STERLING. We object. Mr. WORTHINGTON. It has gone so far here that the wit-ess, Von Storch, intimated that he was led to the conclusion that Judge Archbald's name on this note was a forgery, because John Henry Jones brought it to him.

Mr. Manager STERLING. We will admit that it was not a forgery. We have claimed all the time that it was Judge Arch-

bald's signature to this note. He signed it himself. There has never been any pretense on our part that it was a forgery.

Mr. WORTHINGTON. I am not talking about whether it was a forgery or not, but whether it was a justification for the suspicion that it was a forgery because John Henry Jones's

name was connected with it.

Mr. Manager STERLING. I do not know how you can better prove it than to prove that it was not a forgery, which we

The PRESIDING OFFICER. The Chair permitted the counsel to prove the business character of Mr. Jones, but it is not proper to put in evidence the opinion of the witness.

Mr. WORTHINGTON. Well, then, I will not pursue the matter further, and the managers may cross-examine.

Cross-examination:

- (By Mr. Manager STERLING.) Your name is Davies?-Yes, sir.
- Q. Are you a banker?—A. No, sir; I am a mining engineer. Q. John Henry Jones met you on the street one day with a
- \$500 note, and wanted you to cash it?—A. He did; yes.
 Q. And asked you if you knew where he could cash it?—A.
 That is, he told me had a note for several hundred dollars. I did not know it was for \$500. He told me it was a note for several hundred dollars, and wanted to know where he could cash it.
- Q. You did not know whether it was Judge Archbald's note or not?-A. No, sir; I did not.

Q. And you do not know whether it was for \$500 or not?-A. I could not swear that it was.

Q. You answered Mr. Worthington that Jones did meet you and asked where he could cash a \$500 note. Did he?—A. If I said that I made a misstatement. I meant a note for several hundred dollars.

Mr. Manager STERLING. I move that the testimony of this witness be stricken out, because there is no proof that it

relates to the note in question.

Mr. WORTHINGTON. We can not prove everything at I think it is sufficient now to identify the transaction. John Henry Jones will be the next witness, and he will not leave any doubt as to whether it was this note.

The PRESIDING OFFICER. The Chair will permit the

testimony to stand for the present, at least.

Q. (By Mr. Manager STERLING.) Did Jones tell you he had been trying to cash the note?—A. No, sir; he did not.

Q. And you told him you did not know where he could cash it?—A. I did not, then; no.

Q. And you met him the next day and told him that Von Storch might cash it?-A. Yes, sir.

Q. You understood from what he had told you that he had been hawking that note around Scranton for some time?-A. No, sir; he never told me that he had.

Q. And he could not find anybody who would cash the \$500 note-Mr. Jones's note with Judge Archbald's name on it?-A. No, sir; I did not know that he had.

Q. You went with him, then, to Von Storch's law office and introduced him to Von Storch?-A. I did.

Q. And Von Storch called up Judge Archbald?—A. Not in my presence. I introduced him and then left.
Q. You left then, did you?—A. Yes, sir.

Q. In looking over this dump you found there were 90,000 tons of material in it?—A. I figured it; yes, sir.

Q. You thought it would measure or test out some 55 or 65 per cent of coal?—A. Yes, sir; about that.
Q. That would make about 54,000 or 55,000 tons of coal in it, would it not?—A. Yes, it would; in that neighborhood.
Mr. Manager STERLING. That is all.

The PRESIDING OFFICER. The witness is excused.

MICHAEL W. SCANLON-RECALLED.

Mr. Manager WEBB. We should like to recall Mr. Scanlon

The PRESIDING OFFICER. As a witness for the managers?

stand a few moments ago. He is the clerk at the Grafton Hotel. We merely wish to ask him one question.

Michael W. Scanlon, having been previously sworn, was re-called and testified as follows:

Q. (By Mr. Manager WEBB.) Mr. Scanlon, from your record what hour of the day or what time of the day did Judge Archbald arrive at your hotel?—A. Just before dinner. Our dinner hour is from 6 to 8.

Q. He arrived for the evening meal?-A. For the evening

Mr. Manager WEBB. That is all, Mr. President. Q. (By Mr. WORTHINGTON.) Was he alone or in company with some one else?-A. Mrs. Archbald was with him.

TESTIMONY OF JOHN HENRY JONES.

John Henry Jones, having been previously sworn, was further examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Your name is John Henry Jones?-A. Yes, sir.

Q. You have already been examined as a witness in this case?-A. Yes, sir.

Q. How are you at present engaged? What is your present business?-A. I am in charge of the assessment department for Lackawanna County.

Q. Is that an appointive or an elective office?—A. It is an appointive office.

Q. You were appointed by whom?—A. By the county commissioners

Q. How long have you held that office?-A. Since the 1st of January

Q. Before that what was your business or vocation?-A. Various jobs in the clerical line-bookkeeping or anything of that nature.

Q. Have you been at any time connected with any lumber companies or anything of that kind?—A. I have.

Q. Just state in a very general way what companies and in what way you were connected with them .- A. I was secretary and stockholder in two companies.

Q. Give the names of them, please.—A. The Maplewood Lum-

ber Co. and the Paupac Lumber Co.

Q. And those companies were engaged in business where?— A. In Wayne County, Pa.

Q. How far is that from Lackawanna County?-A. Well, from the city of Scranton to where our offices were, one of them would probably be in the neighborhood of 18 miles and the other about 35 miles.

Q. Mr. Jones, did you at any time have anything to do in connection with Judge Archbak in relation to a dump called

the Oxford dump?—A. I believe I did.

Q. What do you recollect about that so far as Judge Archbald's connection with it is concerned?-A. Well, my recol'action is this: That a certain party came to me one day and said that there was a dump or a going concern that could be gotten down somewhere near Shenandoah, and I found out as to who the owner was and mentioned the matter to Judge Archbald.

Q. You mentioned the matter to Judge Archbald?-A. I did; yes, sir.

Q. Go on and tell us what followed so far as his connection with it was concerned .- A. My imprecsion is that Judge Archbald opened up negotiations with the owner and got the right to offer it for sale. He was acting at my request.

Q. Who was the party who first spoke to you about it? You said "a party"—who was it?—A. If my memory serves me

right, it was a man named Gray.

Q. Well, go on and tell about what took place with relation to that Oxford dump matter.—A. I think the judge said that I could offer it for sale, and I wrote a letter, I think, to Mr. Peale on the subject, and when I received his reply it was of such a nature that it ended there, so far as I was concerned.

I wish you would look at this letter, which is U. S. S. Exhibit X in this case, a letter dated March 8, 1911, from you to Mr. Peale, and I will ask you if that is the letter you wrote to Mr. Peale and sent to him about that date in connection with this matter?-A. (After examining letter.) Yes, sir; that is the letter.

Q. I will show you a letter dated April 29, 1911, purporting to be signed by you and addressed to Mr. Peale, and being "U. S. S. Exhibit AA" in this case, and will ask you if you wrote that letter and sent it to Mr. Peale at about the time the letter bears date?-A. Yes, sir; but this is pertaining to another matter.

Q. Yes; I am going to ask you about that; but before I take up the other matter I want to finish what there is to say about Mr. Manager WEBB. No; the witness has just left the the Oxford dump. You have told us that you took the matter to Judge Archbald and he authorized you to offer it for sale,

I think you said?-A. Yes, sir.

Q. Go on and tell what followed .- A. I wrote a letter to Mr. John W. Peale, whom I knew and had known for 11 years, and I placed the matter, as the letter states, before him as a business proposition. His reply was such—he had already— Mr. Manager WEBB. Mr. President, we think the best evi-

dence is the letters which counsel have introduced, and we

need no explanation of them.

Mr. WORTHINGTON. His reply is here, so we need not bother about that. [To the witness:] Go on and state what followed after the negotiations with Peale.

The Witness. After I received Mr. Peale's reply? Q. Yes.—A. That ended it, so far as I was concerned.

Q. Do you remember anything in connection with a man named Connor?

Mr. Manager WEBB. We object.
Mr. WORTHINGTON. Well, I believe there is—
The PRESIDING OFFICER. The manager objects. What is the objection?

Mr. Manager WEBB. That it is immaterial and has nothing to do with the case, so far as we can possibly see. A question is asked about a man by the name of Connor.

The PRESIDING OFFICER. What is the question?

WORTHINGTON. I suppose anything irrelevant which relates to a man named Connor, but nothing has appeared except Mr. Connor's name. I want to ask also whether an effort was made to sell to him on behalf of Judge Archbald this witness?

Mr. Manager WEBB. We object to that. It does not make any difference to whom they undertook to sell the Oxford dump. It is irrelevant and immaterial. We are discussing the Katydid dump and culm bank No. 3; and to whom he offered to sell the Oxford dump is an entirely different proposition and is

wholly immaterial

Mr. WORTHINGTON. Well, Mr. President, we despair of finding anything that seems to the managers to be relevant, but I ask to call the attention of the Chair and of the Senate to what one of the issues in this case is. It is charged in the third article that Judge Archbald wrongfully, corruptly, and unlawfully applied to the Lehigh Valley Coal Co. for the privile ilege of leasing from the Girard estate, with the consent of the company, Packer No. 3 dump; and it is charged in another article that after Judge Archbald became a member of the Commerce Court he formed a scheme to go to work and apply to other railroads to get all the culm dumps he could, using his influence as a judge to get them. We have shown as to one of the two cases in which he was concerned-the Katydid culm dump-that the suggestion of his being interested in that came from Mr. William P. Boland through Mr. Williams, and that it was not anything which was formed in his own mind. As to this dump, the answer sets up that Judge Archbald had entered into-I was about to state what my recollection is of the answer, but my associate says it is not in the answer. think it is. But whether it is in the answer or not, it is part of our reply to that article. Judge Archbald had become interested, in the way which has already appeared, in the Oxford dump, with which no railroad had had anything whatever to do, and was negotiating to sell that or to form a company to operate it when his attention was called, as will appear, to the fact that there was, across the creek from the Oxford damp, this Packer No. 3 dump, or the Packer dumps; and in that way he was led by force of circumstances or by a chain of circumstances, being advised that the Oxford dump and Packer No. 3 dump could be worked profitably together when the Oxford dump could not be worked profitably by itself, to endeavor to secure that dump.

The PRESIDING OFFICER. The Chair would inquire of counsel if he offers this in support of his contention against

article 3?

Mr. WORTHINGTON. Article 3. I have already said, Mr. President, that I am informed by my associate that I am mistaken in what I was about to say is in the answer. We do not, of course, have to set up all the details of the evidence in the answer. The answer does deny that the respondent unlawfully, or corruptly, or maliciously, or wickedly, or whatever those adverbs are, undertook to use his influence as a judge to induce railroad companies to consent to his securing a lease.

The PRESIDING OFFICER. Does this testimony relate to

Packer No. 3?

Mr. WORTHINGTON. All the testimony relating to the Oxford dump is to show how Judge Archbald was led to become interested in Packer No. 3. The witness, Thomas Star Jones, has already given considerable evidence along this very same line when on the witness stand.

The PRESIDING OFFICER. If it is for that purpose it would fall within the terms of the article. The Chair understood counsel to say that there was a general charge as to endeavoring to lease a number of culm dumps. That is not in article 3.

Mr. WORTHINGTON. That is in the last article. After setting forth various alleged improper dealings about culm duinps, then there is a general charge in the last article that as soon as Judge Archbald became a judge of the Commerce Court he formed in his mind the intention to go to the railroads which would have business before the Commerce Court and get culm dumps from them. We have succeeded in showing two cases—

The PRESIDING OFFICER. Counsel will proceed if the purpose is to elucidate the manner in which the respondent was

induced to become interested in Packer No. 3.

Mr. WORTHINGTON. That is precisely the object, Mr. President.

Q. (By Mr. WORTHINGTON.) Did you have any communication with Thomas Star Jones about this Oxford dump?-A.

The PRESIDING OFFICER. Counsel will

Mr. WORTHINGTON. Mr. President, Thomas Star Jones has already been examined in reference to his connection with It is impossible to show how Judge Archbald was led up to this without connecting the different parts of it together. [To the witness:] What did you say about Thomas Star Jones?—A. I met Tom Star Jones in the post-office building one day and he asked me whether I knew of a dump that he could secure somewhere; that he had a purchaser ready; that he was delegated to locate one for him. I told Jones that l was informed that there was one, and I named the Oxford to him.

Q. Was that after or before you had been in communication with Judge Archbald about the Oxford dump?-A. After had asked the judge to see whether I could have the right to sell and after I had written to Mr. Peale. That is my best

recollection.

Q. After Mr. Peale had turned down the proposition?-A.

Yes, sir; after he had turned it down.

Q. Have you any recollection or knowledge as to Packer No. 3 dump being mentioned afterwards in connection with the Oxford dump?-A. I have not.

Q. You were not concerned with that yourself?—A. No, sir. Q. Now, did you have anything to do with the matter of the old gravity fill of which the Lacoe & Shiffer Co. were formerly the owners?-A. I did.

Q. In connection with Judge Archbald?-A. Yes, sir.

Q. Now, tell us all about that Mr. Jones.-A. That fill was called to my attention, if I remember correctly, somewhere about February, March, or April, 1911, by a man named Fred Jones. He and I worked together on the tax duplicates, and one day he told me he knew where there was a good fill, and that if I could secure it he had a purchaser that was ready to hand over the cash and buy it the next day; that he had been trying to secure it, and could not. That was his story to me. He took me and showed me the fill. Of course, I had known the fill before I knew Fred Jones, so far as showing me anything I did not know was concerned; but when we started. I did not know where he was going. I located the owner or the man with whom I could get in touch from a man who lived there, and not from any information that Fred Jones gave me as to whom I should communicate with. I found it out from a man who lived there

Q. Get down to Judge Archbald's connection with it, Mr. Jones.—A. I did not know Mr. Berry personally, then—

Q. What had Mr. Berry to do with it?-A. I was informed by this man who lived there that Mr. Berry was the agent for Lacoe & Shiffer.

Q. For the owner?—A. For the owner.

Q. Now, get to Judge Archbald's connection with it.—A. Then I happened into Judge Archbald's office, and I asked Judge Archbald whether he knew John W. Berry, of Pittston. I do not remember whether the judge said yes or no; but, in any event, the judge got in touch with Mr. Berry and I also got Mr. Berry on the new phone myself.

Q. Go on and tell what connection you had with that gravityfill transaction, so far as Judge Archbald was concerned with it.—A. Outside of securing that first right to sell, I pro-

ceeded-

Q. Now, you say "outside of getting that first right to sell." You have said, I think, that Judge Archbald got in communication with Mr. Berry about it?-A. Yes, sir.

Q. Did he get the right to sell or not?-A. I understood he did.

Q. You proceeded on that theory afterwards, did you?—A. On the ground that the judge said I could go ahead and sell it,

I proceeded to find a buyer. The buyer, Fred Jones, had fallen down; he did not want it.

Q. Who was he?-A. A man named Charlie Stone.

Q. Jones failed to sell to Stone. Then what happened?—A. That ended it at that time. I think, then, that I wrote to Mr. Berry, through his old coal inspector, named Billy Wynn. happened to speak to Billy Wynn about it, and he said that he had been speaking

Q. No matter about that. You then wrote this last letter to Judge Peale, which you have identified and which does refer

to the old gravity fill transaction?—A. Yes, sir.

Q. Did Peale go on with that transaction, or did he say he

did not want it?-A. No, sir; it was too small.

Q. I want to get down to the real question. We have information of two who did not buy. What happened then?—A. Then, after several months, I took the matter up with the Cen-

tral Pennsylvania Brewing Co. and Mr. Robinson. Q. We have heard all about that. That afterwards led up to Mr. Warnke, did it not? Now, come down to the Warnke transaction. That is what we want to know about really.—A. Well, Mr. Warnke and I went and examined the property; we went over it thoroughly, and I informed him that, so far as fixing a price was concerned, I would put him in touch directly with the owners, with the understanding that he was to pay-it made no difference to us how low he could get it or what he would pay for it, but that he would have to pay \$500 commission.

Q. Well, go on, then, and tell about what followed. You have told you made this bargain with Warnke. What was done?-A. I should like to correct right here a statement I made before

the Judiciary Committee.

Q. You need not correct anything here that you said anywhere else unless you are asked to do so. I do not care anything about that now. Tell what is your personal recollection about it.—A. Well, I worked on it, I think, probably for two months. Finally it came to a point where they were ready to close the deal.

Q. Who was ready to close?-A. Warnke; and in the final

settlement they made a note-

Q. Now, one moment. Who made a note? Did Warnke buy it?-A. So far as I knew, I was dealing with Warnke alone, who was going to organize a company that was not organized at that time, and finally they made a note which was handed over to Judge Archbald, out of which I received \$250.

Q. Before you go on about that, do you know whether or not

the Premier Coal Co. was the name of that company which Warnke and his associates organized?-A. Yes, sir.

Q. That is what you are referring to?—A. Yes, sir.
Q. Did the Premier Coal Co. buy the gravity fill from the Lacoe & Shiffer Co. through Mr. Berry ?- A. Yes, sir.

Q. Then where did the \$500 come from?-A. For commission.

Q. From whom?-A. From the purchasers,

Q. From the Premier Coal Co.?—A. Yes, sir. Q. Do you recollect who received that, whether Judge Archbald received it or you?-A. That is what I want to correct.

- Q. Never mind about correcting anything, Mr. Jones. Tell us your present recollection upon the subject .- A. Judge Archbald received the note,

Q. Did you get anything out of it?—A. I got \$250.
Q. And he retained the other \$250?—A. He did.
Q. And that was your commission for effecting this sale?—A. Yes, sir.

Q. Now, did you know, as a matter of fact, whether or not Judge Archbald had a written option from Mr. Berry as representative of the Lacoe & Shiffer Co., authorizing him to make

this sale?—A. Well, I would not like to say.

Q. Very well; we will get that from some one else, perhaps. I will not press you if you do not know about it. In reference to the division of that \$500, was there anything that entered into the transaction except the services that you and he had rendered in making this sale of the gravity fill from the Lacoe & Shiffer Co. to the Premier Coal Co.?—A. Nothing whatsoever.

Q. Were those companies railroad companies or companies composed of private individuals?-A. Private individuals.

Q. Both of them?—A. On each side.
Q. Do you remember going to Judge Archbald's office with Fred Jones in connection with this transaction?—A. I do.

Q. I do not care to go into details of it, but I want to know what, if anything, was said there about any railroad company or any rights any railroad had in connection with this gravityfill dump transaction?-A. Nothing whatever there.

Q. Was there anything said on that subject at any time in Judge Archbald's presence, as far as you know?-A. No, sir.

Q. Or by Judge Archbald?-A. No, sir.

Mr. WORTHINGTON. You may cross-examine, gentlemen. Cross-examination:

(By Mr. Manager WEBB.) Where were you born?-A. In Wales.

Q. Are you a man of property and were you a man of property two years ago?-A. Just the same as I am now.

Two years ago you were not worth anything, were you?-A. Well, I was in one sense, and you may think, like a good many others, that I was not.

Q. I think I can bring you down to the point, Mr. Jones .- A. All right.

Q. Four years ago you had a little stock in a lumber company, did you not?—A. Yes. Q. A thousand dollars' worth?—A. Yes, sir.

Q. But you never got anything out of it—the lumber company was closed out?-A. Well, I have since. I will get something.

Q. How much?—A. Well, I will have now coming of the amount that I spoke of as a loss something like \$1,200.

Q. You will have it, but you did not have it then, and you thought three years ago you had lost it all .- A. Well, I had the right to expect it and count upon it.

Q. You swore before the Judiciary Committee that your stock had turned out to be worth nothing and that you had a home up there in Scranton, but your wife owned it, and nothing could be made out of you by execution under the laws of Pennsyl-

Mr. WORTHINGTON. Mr. President, I respectfully suggest that this witness was not asked anything on direct examination that justifies this cross-examination.

Mr. Manager WEBB. I submit that is exactly what counsel did ask him.

Mr. WORTHINGTON. I asked him his connection with a single company, and he has told us about that. I did not examine him about his financial responsibility.

Mr. Manager WEBB. You examined Mr. Davies fully about how many different corporations he was connected with and what his financial standing was supposed to be, and I want to show the contrary on cross-examination.

Mr. WORTHINGTON. I do not understand that one witness

can be cross-examined about the direct examination of another That is a new idea to me. witness.

The PRESIDING OFFICER. The managers will have a full

right to examine him on their own behalf.

Q. (By Mr. Manager WEBB.) As a matter of fact, when the note signed by Judge Archbald, yourself, and Mr. Williams was executed and presented for discount, you were execution proof, were you not, and owed more money than you could pay?-A. I will answer "Yes" conditionally; but there are thousands who have been worse off a good deal.

Q. Is it not true, Mr. Jones, that you knew that you were insolvent when this note was signed, and that to your bank, the bank you had been dealing with, you owed something like \$1,200 or \$1,500, and therefore your bank would not discount

the note?-A. That is not true.

Q. Well, what is true about it?-A. The bank would not discount the note for the simple reason that I had two notes which came to the bank as reverses, and I had exceeded the limit of my discount. That is the reason.

Q. Exactly. You owed them more money than you could pay them?-A. Exactly; but it was an asset nevertheless. It had

gone bad, but was still outstanding.

Q. But still at that time you owed your bank more money than you could pay, and that is the reason they would not discount the \$500 note.-A. No; that was not the condition at all.

Q. Then why did you not get it discounted at your bank?-A. For the simple reason that just previous to that two notes I had had discounted for a customer, which had become due, turned out to be bad, and consequently it was up to me to straighten that out without going further. It did no prove—

Q. But you did not have the money to do it?-A. I guess I

had pretty near.

Q. Why did you not do it and have the note discounted?-A. Because I went and got it somewhere else. It was good at another bank.

Q. But you presented it to your bank for discount?-A. Yes, sir.

Q. Why did not you get it discounted?-A. For the reason I have already told you.

Q. That is, for the reason that you did not have the money to pay what you already owed them and they would not let you get any deeper in debt to them?—A. Would that be anything new in business?

Q. Well, is not that true?-A No; not from that standpoint, the way you take it.

Q. Were you solvent at that time?-A. I consider that I was.

Q. Did you have any property, real estate, at that time?-A. Just the same as now.

Q. That is, your wife owned it? In Pennsylvania they can not collect your debts from your wife's property, can they?-A. But I can show my solvency in the same way.

Q. That is, if your wife is solvent you are solvent?-A. Well,

if I have the right to use it I am solvent.

Q. If you have the right to give a mortgage on your wife's property, you are solvent to the extent of that property?—A. Or if I can get her to sign with me.

Q. Is there a mortgage on your wife's property?-A. Yes,

sir: certainly.

Q. And you still say you were solvent four years ago when you presented that note for discount?—A. If I put the assets against the liabilities, I was solvent then and I am solvent now.

Q. You are solvent now?-A. Yes, sir; on the same grounds. Q. Your assets are purely speculative, you say, and may

realize on them some time, because you may recover something ou the option in Venezuela?—A. Not necessarily, but I will recover out of the losses, which will offset the liabilities.

Q. You say you found Davies on the street, who finally directed you to go to Von Storch and get your note cashed?-A. I asked Mr. Davies the question; I told him, because we were familiar, that I had a note for discount, and I believe I told him that I had presented it at the West Side Bank, and gave the reasons, and he suggested that I go to Von Storch—

Mr. WORTHINGTON. One moment. Since my friends the managers have been so critical about matters not brought out on the direct examination, I will say that I do not remember

that I went into this on direct examination.

The PRESIDING OFFICER. The Chair rules that the manager can interrogate the witness on his own behalf and examine him fully, but not on this point on cross-examination.

Mr. WORTHINGTON. I object to examining him any fur-

ther on it on cross-examination.

The PRESIDING OFFICER. The Chair will repeat the rul-The managers can reintroduce the witness. petent testimony, but it must be brought out in a different way. It must be brought out by them by an examination in chief and not on cross-examination.

Mr. WORTHINGTON. Very well. I submit it is not the managers' time for putting in their testimony, and I object to

their proceeding further along this line now.

Mr. Manager WEBB. My recollection is that three or four or five days ago the question was asked him as to who directed him to the bank of Von Storch, and he replied that Davies did.

The PRESIDING OFFICER. If the present cross-examination relates to any matter which was gone into on the previous examination of the witness in chief it would be in order, otherwise it would not be.

Mr. Manager WEBB. I am quite sure the Chair will find that when he was put on the witness stand by the respondent the question was asked, who directed him to the bank of Von Storch, and he replied, "Davies."

Mr. SIMPSON. He was your witness before.

Mr. Manager WEBB. It came out on cross-examination. Mr. SIMPSON. No.

Mr. WORTHINGTON. No. You will find on page 692 that it was gone into on direct examination by the managers.

Mr. Manager WEBB. He has stated prior to this time, Mr. President, that a man by the name of Davies directed him to the Von Storch Bank, and they have examined Mr. Davies with particularity.

Mr. WORTHINGTON. We did not examine him about that transaction. We did not ask him anything about this \$500 note transaction.

Mr. Manager WEBB. You asked him, Mr. Davies, about it? Mr. WORTHINGTON. Oh, no. The PRESIDING OFFICER. The Chair has enforced the rule when the managers objected to counsel for respondent cross-examining witnesses on matters not brought out on direct examination, and it must apply it to the other side.

Mr. Manager WEBB. Very well, sir.
Q. (By Mr. Manager WEBB.) Now, we want to know something about the Oxford coal dump. Who owned it?
Mr. WORTHINGTON. I object to that unless this witness is shown to have examined the title. I have asked with whom he had dealings, but nothing about the title, as to which, of course, this witness could not know.

Q. (By Mr. Manager WEBB.) You know that the railroad companies did not own the Oxford dump, do you not?-A. That the railroad did not own the dump?

Q. You know that no railroad owned it?-A. I do not think

Q. Or ever did?—A. I do not think so, but I do not know. I am not an authority on the subject.
Q. Did you ever hear that a railroad company owned the

Oxford dump?—A. No, sir.
Q. And you have been around Scranton for how many years?-A. I have been around there for 18 or 19 years.

Q. You say Thomas Star Jones is the first man who ever suggested this packer No. 3 dump to you?—A. Thomas Star Jones never suggested anything to me. I said that I directed Thomas Star Jones in reference to the Oxford dump. was my answer.

Q. As a result of your direction to Thomas Starr Jones about the Oxford dump, did Judge Archbald secure an option or purchase the Oxford dump?—A. I had taken up the matter with Judge Archbald with reference to the rights of sale prior to

Q. Did Judge Archbald ever secure an option on the Oxford dump?-A. That I do not know.

Q. Did he ever tell you he did?-A. My impression is that

the judge said that he had the rights to sell.

Q. Did he ever tell you he had secured an option on the Oxford dump?-A. I think the judge told me that he had the rights to sell.

Q. Did he ever tell you that he bad an option on it?—A. That I can not recollect—outside of the rights to sell, which is equivalent; one is as good as the other.

Q. Do you know from whom he got the option or the right to sell, as you call it?—A. I do not.

Q. Did you have anything to do with Packer No. 3 dump?-No, sir.

Q. You know nothing about that?—A. No, sir.
Q. You spoke of Berry gravity fill. Let me ask you if this is not the way you came to learn about the gravity fill, and if these are not the facts about it: Fred W. Jones was the first man who ever mentioned to you the Berry gravity fill, owned by the Lacoe & Shiffer Co.?-A. No.

Q. I thought you stated a while ago that Fred Jones was the first man to mention it.—A. No; my statement was that Fred W. Jones told me—he did not use the word "fill"; he used the word "dump"—and when he took me over to it, I had known

that fill before I knew Fred Jones.

Q. What time in the year did he take you over to it?believe it would be somewhere around March-February, March, or April; somewhere around there. It was in the spring of the year.

Q. Can you not come nearer than within three months of the time?-A. Sir?

Q. Can you not come nearer than within three months of the time; was it in April, March, or February?—A. I believe it would be—we were working at the courthouse in February and March-in April, to the best of my recollection.

Q. What time in April?-A. I would not confine myself to

dates.

Q. The first part or the last part, or the middle?-A. It may be the first part.

Q. It may be the first part?—A. Yes.

Q. You think now it was the first part, do you not?-A. Well, I believe that would be somewhere near the mark.

Q. All right. Now, then, immediately after Fred Jones spoke you about this gravity fill, you communicated with Judge Archbald?-A. I did.

Q. And Judge Archbald immediately picked up the phone and communicated with Mr. Berry, the agent for Lacoe & Shiffer. Is not that so?—A. I do not remember how it was done.

Q. Well, you saw Judge Archbald often, did you not?-A. I

Q. I ask you if that was not done—if Judge Archbald did not tell you that he had phoned Mr. Berry immediately after you communicated to him that you had found the fill?-A. I do not remember how it was done, because, in the first place, the judge could not telephone from the office there, because he would have to do it on the new phone, and he did not have the new phone in his office.

Q. My recollection is that the judge admits in his answer that he did phone him.-A. Then, the judge is right. I am not

supposed to know that.

Q. You did not hear him phone Mr. Berry?—A. No, sir. Q. Anyway, after you and the judge had taken up the sale of the fill that Fred Jones had told you about, you finally sold it to Warnke?-A. Yes, sir.

Q. When you sold it to Warnke there was a \$500 commission coming?-A. There was.

Q. A commission-was that your money or the judge's ?- A. Well, it was half and half.

Q. Half yours and half the judge's?-A. Yes, sir.

Q. Did Warnke know that you were to get half of it?-A. Warnke knew when I negotiated the deal that he was to pay \$500 commission.

Q. Did Warnke know that you were to get half of \$500 com-

mission?—A. He was supposed to know.

Q. Did he know?—A. Well, I do not—whether he recognized the fact or not is immaterial. He was supposed to know, because I was negotiating the deal with Fred Warnke.

Q. Upon whose authority were you negotiating the deal?—A. I was negotiating the deal on my own as well as Judge Arch-

bald's.

Q. Had you ever taken it up with Mr. Berry, the agent for Lacoe & Shiffer?—A. I myself talked with Mr. Berry on the phone.

Q. And did he tell you that Judge Archbald had an option

on it?-A. I can not remember.

Q. What did Mr. Berry tell you?-A. I understood from Mr. Berry that I had the right to go ahead and sell.

Q. Then you understood you had an option from Mr. Berry?—A. No, sir; I did not say that.

- Q. If you had a right to sell that is a verbal option, is it not?-A. I had the rights to sell on the information given me by Judge Archbald.
- Q. Then you would not have had any right to sell except that Judge Archbald gave you the right to sell?-A. In a sense: no.
- Q. Then you were the agent of Judge Archbald, is that it?-A. No. It would look a great deal better if you would put it that I was interested with him in that particular deal.

Q. Were you a partner with the judge, then?-A. That would

look better.

Q. You were a partner with him?-A. On that particular deal: ves.

- Q. And you got \$250?—A. Yes, sir. Q. And the judge got \$250 out of the deal?—A. Yes, sir; that is correct.
- Q. And that \$250 was yours, and you kept it?-A. I did. Q. What did Judge Archbald do to entitle him to \$250?-He secured the rights to sell, which is the first essential point.

Q. He secured it from Mr. Berry?-A. Yes, sir.

Q. Do you know how he secured the right?-A. I have said already that I do not know.

Q. You do not know. When was this deal consummated with Mr. Warnke?-A. I think it was some time in 1912. I am not I would not be positive on that.

Q. Two hundred and fifty dollars is a good big amount for you to make at one time, is it not? Do you not remember when you got the money?-A. Oh, I have handled more than

Q. I know; but that was a pretty fair amount. Do you remember when you got the \$250?—A. I got it in 1912.

Q. This year?-A. Yes.

- Q. Was it January, February, or March?—A. I think it would be somewhere around March, or somewhere around that way, or April, may be; I would not be sure. The note is the best evidence on that time.
- Q. Do you know what Mr. Warnke was to pay for this fill?-A. That was a matter to be decided between Mr. Berry and himself.

Q. Berry and whom?—A. Warnke and his partners.

- Q. Did not Judge Archbald have anything to do with the price?-A. It was a case of make the best bargain you can, That is what I understood.
- Q. In all these dealings you did not know the price that Warnke paid to Judge Archbald and Berry for the fill?—A. I did.
- Q. You did?-A. Yes; I did; on the information of Fred Warnke himself.
- Q. I will ask you if you did swear before the Judiciary Committee that you did not know what the price was?-A. As far as I personally am concerned I would not, because the negotiation would be on one side of the purchaser from the seller. I would have to learn it from the purchaser, which I did.

Q. After all that circumlocution let me ask you if you swore

this before the Judiciary Committee last May; Mr. WORTHINGTON. What page? Mr. Manager WEBB, Page 641.

The ACTING CHAIRMAN. How much was paid for this filling?
Mr. JONES. Now, I couldn't really say, because the price was left
between the purchaser and the owner. There was no option, so far as
price was concerned, to me or price to them; let them make the best bargain they could.

The WITNESS. That is what I have answered to-day.

Q. And that is so?-A. Yes, sir.

Q. But you did not know at the time this contract was completed what the fill was being sold for or how much Warnke was paying for it?-A. I said that I had learned that from them; that I had no personal knowledge. I had to learn it from the other side-from the purchaser.

Q. Did you get this \$500 note cashed that was signed by

Warnke's coal company?—A. No, sir.
Q. Who got it cashed?—A. Judge Archbald.
Q. Judge Archbald?—A. Yes, sir.

Q. Did you give him the money or did he give you the money?-A. The judge gave me the money.

Q. You have got that mixed, too, have you not?—A. No. That is what I want to explain. I was mixed on that before the Judiciary Committee.

Q. Yes. Before the Judiciary Committee you swore you got the note cashed and turned over \$250 to the judge as a present .-- A. That is where, as I said before, I got confused-

Q. Let me see if this is what you said—
Mr. WORTHINGTON. I submit that the witness ought to be allowed to finish his answer, and I ask that the stenographer read the answer as far as the witness has gone.

Mr. Manager WEBB. I thought he had finished.
The PRESIDING OFFICER. The witness may finish his

Mr. Manager WEBB. Go ahead and explain what you want

to explain.

The Witness (continuing). I got confused as to how that note passed; I had it in my mind all the time that I admitted that the judge got the note and that I received my share of it. but when I received the congressional report I found out that I had made a mistake on that point, and that is why I asked to correct that to-day.

Q. Then, what you did swear to before the Judiciary Committee was that the \$500 was just for selling the fill?—A. Yes,

Q. And that you made the judge a present of \$250?-A. That was forced in by the Judiciary Committee.

Q. Now, let us see how much force there was. Let us see if you did not swear this, on page 614:

Mr. Floyd. Do you mean to say, Mr. Jones, that you proposed to Judge Archbald that you were going to make this deal and going to give half of your profits or commission to him without any consideration or services on his part?

Mr. Jones, that you proposed to Judge half of your profits or commission to him without any consideration or services on his part?

Mr. Jones, that you proposed to Judge half of your profits of your profits of your profits of him without any consideration or services on his part?

The accommodation, I may add there, was his signing of the \$500 note for you which you finally had discounted by Von Storch.

Mr. WORTHINGTON. I object to the manager stating what

the witness said. He did not say that.

Mr. Manager WEBB. Read the following questions and answers, and it will show that he did say that.

Mr. WORTHINGTON. I have no objection to reading the questions and answers, but I object to the manager stating what he said.

Mr. Manager WEBB. I will read it.

Mr. Manager WEBB. I will read it.

Mr. Floyd. What did he tell you when you told him you were going to give him the \$250 in return for the accommodation he had rendered you in signing that note for you?

Mr. Jones. He said he was not doing it for that purpose.

Mr. Floyd. But when you bad made the deal and received your commission of \$500 you personally turned over \$250 to him?

Mr. Jones. Yes, sir.

Mr. Floyd. And he accepted it?

Mr. Jones. Yes, sir.

Mr. Floyd. Did he protest against taking it?

Mr. Jones. No; because I simply said that that was what I proposed to do. It was unsolicited on his part.

Mr. Floyd. Did he take it with the understanding that it was to be applied on your note or as a gift?

Mr. Jones. No, sir.

Mr. Floyd. Just as a gift?

Mr. Jones. Yes, sir.

The Witness. That is why I said it was the Judiciary Com-

The WITNESS. That is why I said it was the Judiciary Committee that put in the word "gift," and I simply, to get rid of it. said "Yes, sir."

Q. (By Mr. Manager WEBB.) I ask you if you did not swear before that committee on more than three of four occasions that this \$250 you gave to Judge Archbald at the time of the Warnke deal was a mere gift to him for his having signed for you the \$500 note for your speculation in Venezuela?—A. There are two ways of answering that question, and this explains it.

Q. That would be a conclusion. Did you not swear that in effect before the Judiciary Committee?-A. Just as it says.

That is the answer. Q. Now, you want to change it?-A. I can explain it without changing it.

Q. Go ahead and explain it .- A. I took this view: That when the matter was terminated and, as I testified there, that Judge Archbald had lost all confidence in that fill and he did not think it could be sold, I took the view that when I took it up months later with Fred Warnke it was an entirely different proposition. There was no option right at that time.

Q. There was no what?—A. There was no option on it at that time, at the time I sold it. That had lapsed.

Q. Mr. Berry's option had expired?—A. Yes. Consequently, I was working on my own hook, in a sense, and I could look at it from two standpoints and be consistent with that answer.

Q. Then you gave the \$250, as I understand you now, partly as a reward for his having signed your \$500 note and partly for his services in the sale of the Warnke fill. Is that right?—A. No. Looking at it from the other angle, of his agreement with me and mine with him, when he secured the right to sell, it

was no gift, it was no present; it was his just rights.

Q. But you have just stated that his option from Berry had expired and he had no right to it at all?-A. That does not change the condition so far as the result of the sale is con-

Q. Can you now give any reason for paying the \$250 to Judge Archbald?—A. Because he was entitled to it for services rendered in securing the rights to sell.

Q. Then it was not a gift to him, as you swore before the Judiciary Committee?—A. As the Judiciary Committee formed it, I said "yes," to get rid of the answer.

Q. Do you mean to say that because of the way the question was formed you swore falsely?—A. I can show the answers in was formed you swore inisely?—A. I can show the answer to that was—
the Congressional, Record where my first answer to that was—
why I gave the judge \$250; I said that was his share. You
will find my answer to that. Why did they not accept it instead
of pushing the issue down to the present point of business?

Q. I have just read you what you swore-on page 644-where you said it was a gift to Judge Archbald in consideration of his kindness in signing the note.—A. I would not be ashamed

to own that that is correct.

Q. Was your answer there correct?-A. From one angle it

may be and from the other angle it may not be.

Q. Then, after all, the Judiciary Committee did not make you swear falsely?-A. I recognized that all that was needed at the time was something that was incriminating, and the other might not be so acceptable.

Q. That is the answer you make to that question, is it?-Yes, sir.

Q. That the Judiciary Committee was looking for something incriminating, and you thought you would give it to them? A. I thought I would not volunteer it.

Q. Let me ask you if you did not say this, on page 647:

Mr. RUCKER. Then in March, 1912, when you made this deal by which you made a profit of \$500, a commission of \$500, you tell the committee that a man in your financial condition went to Judge Archbald and voluntarily made him a donation of \$250?

Mr. JONES. Yes. sir.
Mr. RUCKER. Without consideration, except that he had signed the note for you?

Mr. JONES. Yes, sir; positively.

The WITNESS. There is nothing inconsistent in that with the answer I have made.

The PRESIDING OFFICER. The Chair thinks the witness has gone over this ground a half a dozen times.

Mr. Manager WEBB. I think he has said as much as I can get from him.

Q. (By Mr. Manager WEBB.) When Jones told you where this fill was you agreed to give him quite a commission on the sale of it?-A. Yes; if he could fulfill his part of the contract.

Q. I ask you if you did not propose to give him a commission on this property?—A. Yes, sir.

a this property?—A. Yes, sir. Q. If it was sold for over \$12,000, for having rendered service

to you in the past?—A. Yes, sir.
 Q. For pointing out the fill?—A. The contract read that way.
 Q. You went to Judge Archbald and drew it?—A. No, sir.

Q. Did you go to Judge Archbald's office and tell him what your contract with Fred Jones was?—A. I told Judge Archbald-and Jones was with me-that I had been with Fred Jones and we had seen the fill, and that I proposed to compensate Fred Jones on the understanding that he delivered his customer, which he failed to do. He never had him to deliver.

which he falled to do. He never had min to deriver.

Q. I will ask you if you and Fred W. Jones did not sign this agreement, witnessed by R. M. Speich, which was made in the presence of Judge Archbald?—A. No, sir.

Q. Did you not tell Judge Archbald you were going to give him this contract?—A. The chances are that I did so.

Q. Never mind about the chances. Did you not tell Fred W. Jones, in Judge Archbald's presence, that you were going to give him this contract?—A. I am not clear on that.

Q. And he said "We will go down to Mr. Davis's office and get it drawn up?-A. Positively no.

Was anything of that kind said in the judge's presence?-

There was not. Q. Did the judge know you had given Jones this contract?-A. It had not been given at the time I am referring to.

Q. Did the judge know you had given the contract to

Jones?-A. No.

Q. Did you discuss it in the judge's presence?-A. We discussed it from the standpoint I indicated, to give something to

Q. Did you tell him that?-A. I do not think I did. I may

have, but I would not be sure of that.

Q. Did you ever give Fred anything?
Mr. WORTHINGTON. I do not want to have the time taken
up in discussing the division of commissions between this Jones and Fred Jones. It strikes me that it is too much Jones

Mr. Manager WEBB. There are three Joneses, and I want to get them distinct. I want to show that this witness signed an agreement with Fred W. Jones, and the judge knew about it, to give him 6 per cent of the sale over \$12,000 and 5 per cent

below \$12,000. Did you sign that kind of a contract?

Mr. WORTHINGTON. I object. We are not called upon to go into the question about the division of a commission between Fred Jones and this witness or anybody else. The question is whether, when Judge Archbald received \$250, he received it on account of something he had done or was supposed to have done in connection with the purchase of the gravity fill, or whether, as charged in the article with which we are dealing now, he received it as a reward for having gone in behalf of this witness to a railroad official some months before and asked him to give the man a hearing.

Q. (By Mr. Manager WEBB.) Let me ask you, Did you sign

this contract there?

The PRESIDING OFFICER. Wait a moment. The counsel has objected.

Mr. Manager WEBB. I did not know that he objected to my

asking him if he signed this contract.

Mr. WORTHINGTON. I did object. It is a contract between Fred Jones and this witness in relation to Fred Jones's commission. We are now dealing, I understand, with the question whether this witness treated Fred Jones properly about Fred Jones's connection with this matter.

The PRESIDING OFFICER. The counsel is not objecting to

the contract

Mr. WORTHINGTON. I am objecting to the contract, and talking about the relation between this witness and Fred The only question properly to ask the witness about this transaction is whether he was at the office of Judge Archbald, and if anyhing was said there about the right of any railroad in reference to the approaches to this gravity fill. That was all. I purposely avoided going into this transaction in

which Fred Jones was a party. It is a side issue to a side issue.
Mr. Manager WEBB. But he said that Fred Jones was the first man who mentioned this matter to him. Now, I am entitled to bring out the whole conversation and the agreement with Fred W. Jones. Mr. President, you will remember it is our contention, in one aspect of this case, that this \$500 which we are discussing now was paid by this man Warnke to Judge Archbald for his influence with the Philadelphia & Reading Railroad—with its vice president, one Richards. The President will at least see that there is something peculiar or shadowy about this \$500 note, from the fact that this contract was given to Fred W. Jones by John Henry Jones, and that no money has ever been paid from the sale of this contract is some evidence at least that it was not a commission; that it was a pure gift to Judge Archbald for some other purpose.

The PRESIDING OFFICER. The counsel will remember

that the Chair requested the manager to make his examination

as concise as possible.

Mr. Manager WEBB. I will do that. This witness has been examined upon four different propositions, and it is tedious I know. [To the witness:] Now, Mr. Jones, did you sign this agreement with Fred W. Jones, dated April 25, 1911?

The Witness. I did. Mr. Manager WEBB. Read it, Mr. Secretary, please, Mr. WORTHINGTON. I object to reading it. The original document the witness should see before he is asked whether he signed it or not.

Mr. Manager WEBB. I think the counsel admitted that all documents published in the record were correct and could be read from the book. I did not know he was making that captious objection.

Mr. WORTHINGTON. I am very much obliged for the suggestion of making a captious objection. I supposed it was

a very proper remark, when the witness was asked as to whether he signed the document and the original document is

here that it should be shown to him. Mr. SIMPSON. It is Exhibit 88.

The PRESIDING OFFICER. It will be read.

The Secretary read as follows:

[U. S. S. Exhibit 88.]

Whereas Fred W. Jones, of Scranton, Pa., has on divers occasions rendered valuable services to me in the matter of locating and securing a culm dump, located in the borough of Moosic, Pa., between Plains No. 4 and 5; and Whereas in consideration of said services it was agreed that upon the sale and disposal of said dump said Fred W. Jones was to be compensated:

and disposal of said dump said Fred W. Jones was to be compensated:

Now, therefore, I hereby agree in the event of said dump being sold by me for a sum in excess of twelve thousand dollars (\$12,000) to pay said Fred W. Jones 6 per cent (6%) of the amount of the price, and in the event of said dump being sold for the sum of twelve thousand dollars (\$12,000), or any portion thereof, I agree to pay to said Fred W. Jones 5 per cent (5%) of the price or sum so received.

In witness whereof I have hereunto set my hand and seal this 25th day of April, A. D. 1911.

J. HENRY JONES. FRED W. JONES.

Witness: R. M. SPEICH.

Q. (By Mr. Manager WEBB.) Mr. Jones, when you and Fred W. Jones met at the judge's office did you tell him and Fred Jones that if there was any difficulty about getting a right of way over the railroad property to haul away the coal from the fill that Judge Archbald had agreed to attend to that with the D. & H. Railroad?-A. Never.

Q. Did you tell him outside the judge's presence?-A. No, sir.

Q. Was the D. & H. Railroad ever concerned or discussed in connection with the gravity fill?—A. Will you allow me to

explain how that occurred?

O. If it is not too long, I have no objection .- A. After we left Judge Archbald's office there was no mention of right of way there, but Charlie Stone and I and Fred Jones went down to a placed called the Backus, and while in there Stone mentioned that he was doubtful as to whether he would be permitted to get across the land.

Q. The land of whom?—A. To get out to the main road.

Q. From the D. & H. railroad property?—A. I think he said it would be necessary to get the right of way from the D. & H. I said, "First of all, Mr. Stone, make up your mind to buy the property or refuse, and then talk about getting out afterwards." That is all that was spoken.

Q. Did you tell him the judge had told you that he would

take care of that?-A. No, sir; never.

Q. The judge had discovered the D. & H. right of way with you, had he not?—A. No, sir. Q. He had not?—A. No, sir.

Q. Was this Berry fill one of the old gravity-railroad fills?-

A. It is an old gravity-railroad fill.

Q. I understand. I want to bring it out clearly—you seem to know—that that fill was abandoned along with other fills by the gravity railroad some 30 or 40 years ago?—A. Yes, sir.

Q. And now the landowners claim to own the fills on which

the coal is deposited?-A. Yes, sir.

Q. And Lacoe & Shiffer owned this particular fill?—A. They owned the land all around there as well as the fill.

Q. Is this near the Schmit fill? Do you know where the Schmit fill and the Petersen fills are?—A. No; it can not be

Mr. Manager WEBB. That is all, Mr. President.

Redirect examination:

Q. (By Mr. WORTHINGTON.) Just one question. I want to ask you, Mr. Jones, whether before the Judiciary Committee on this subject you further testified, as I find on page 660, as

Mr. RUCKER. How did you pay Judge Archbald? Did you pay him cash or give him a check?
Mr. JONES. The judge got the note. I gave the note to the judge

to deposit.

Mr. RUCKER. You sold him the note, then?

Mr. JONES. Yes.

Mr. RUCKER. They gave you a note for \$500?

Mr. JONES. Yes, sir.

Mr. RUCKER. And you delivered that to Judge Archbald, and he gave you \$250 and kept the note?

Mr. JONES. Yes, sir.

Mr. RUCKER. And has the note; or, at least, did have it?

Mr. JONES. Yes, sir.

Mr. RUCKER. That is the way it was paid?

Mr. JONES. Yes, sir.

Did that happen? Is that the way you testified before the Judiciary Committee?—A. Yes; because the—Q. I do not ask you to qualify or explain it now. I also ask you whether you did not further testify in the very last words of your examination before the Judiciary Committee—Mr. Managar WEBB. On what page?

Mr. Manager WEBB. On what page?

Mr. WORTHINGTON. I read from pages 664 and 665, beginning at the bottom of page 664:

ginning at the bottom of page 664:

Mr. Worthington. In reference to the \$500 note, of which Judge Archbald got \$250, you gave him that note, and you said he paid you \$250 for it?

Mr. Jones. Yes, sir.

Mr. Worthington. As a matter of fact, did he not take it and get it discounted?

Mr. Jones. He took the note and got it discounted.

Mr. Worthington. And turned over the proceeds to you, and you gave him \$250; or did he retain it out of the discount?

Mr. Jones. He retained his \$250, and gave me mine out of it.

Mr. Worthington. That is all, Mr. Chairman.

Mr. Nye. You say he retained his \$250; what do you mean?

Mr. Jones. \$250 that I had agreed he was to have.

Mr. McCoy. What do you mean when you say you had agreed he should have that?

Mr. Jones. That, I told him, was going to be his; I was going to give him that.

Mr. McCoy. On the deal; on the sale of the dump, of the fill.

Those were the last words of your examination before the

Those were the last words of your examination before the Judiciary Committee?

The WITNESS.

The WITNESS. Yes. Mr. WORTHINGTON.

Mr. WORTHINGTON. That is all.
The PRESIDING OFFICER. The witness may retire. He is finally excused.

TESTIMONY OF ROBERT N. PATTERSON.

Robert N. Patterson appeared, and, having been duly sworn, was examined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Patterson, where do you

live?-A. At the Hamilton Hotel.

Q. The Hamilton Hotel in this city?-A. Yes, sir.

Are you employed there?—A. Yes, sir. In what way, please?—A. I am head clerk there. How long have you been head clerk?-A. Four years.

Q. Have you at our request looked at your records to see whether Judge Archbald was there last April?—A. Yes, sir.

Q. Have you brought with you your record to show what the fact is in that regard?—A. Yes sir [producing paper].

Q. And what is it?-A. He was with us from the evening of the 8th of April until after breakfast on the morning of the 12th.

Q. Was he alone when he was at the Hamilton House on that occasion?—A. He was; yes, sir. Mr. WORTHINGTON. That is all.

Cross-examination:

Mr. Manager WEBB. May we see your record, Mr. Patterson?

(The paper was handed to the manager.)
Q. (By Mr. Manager WEBB.) I wish you would just read the record you have there. Read the record on your register book.—A. I have him registered here from the evening of the 8th-

Q. Just read the figures you have.—A. Room 39, lodging, fourth month, eighth day, breakfast, until after breakfast, fourth month, twelfth day. Board, three and one-half days.

Q. Who was with him?—A. He was alone. That is, according to our record he was alone with us.

Mr. Manager WEBB. That is all.
Mr. WORTHINGTON. You have not stated the year.

1912. The WITNESS.

Mr. WORTHINGTON. That is all.
The PRESIDING OFFICER. The witness may be excused.

Mr. GALLINGER. Mr. President, may I be permitted to make an observation?

The PRESIDING OFFICER. Under the rules the Senator authorized to submit any order he wishes to the Senate, but if he wishes to discuss anything the rules prescribe that it shall be done in another way.

Mr. GALLINGER. It was not to offer an order; but I think inquiry has been made of the counsel for the respondent whether

or not they could get in their testimony to-day.

Mr. WORTHINGTON. Mr. President, I should like to say it is utterly impossible to finish to-day, if we should sit until midnight, with our evidence. When we started in with our evidence Monday morning we had expected to be able to finish, but the cross-examinations have been so long that where we calculated on 20 witnesses a day we have examined only a dozen or less. I do not mean in the slightest degree to criticize or to find fault with the managers, but simply to show that we were in error in our calculation as to what would probably happen. I would myself say it would be a very great accommodation to us, and especially to me personally, if at this time we could stop the taking of testimony in this case and let it go over until the 3d of January. There are but a few of us here, and the labors we have been engaged on have been very trying, especially upon me. It would be a personal accommodation to me if we could stop now.

Of course, Mr. President, in a case which has lasted so long and where there have been so many witnesses and so many facts gone over, it is very important for us, in justice to our client, to go over what has been done and see what it is necessary for us to offer or whether we have covered all the points in the

For all these reasons we had intended to suggest in a few moments what has already been suggested to the Chair, that the proceedings in this case should stop at or about this time.

I should like to say further, Mr. President, while I am on my feet, I understand the two Houses have decided to adjourn to-day until the 2d of January. It is our purpose when the Senate meets, after presenting a little more testimony that we have, to place Judge Archbald himself upon the stand, and we would very much dislike to do that on the 2d of January when, as I think, we may take it for granted it will be very difficult to have a full attendance of the Senate just after the 1st of Janu-In the same connection I may state that Senators have said to us openly that they wish to be here when Judge Archbald is examined. For that reason I urge that as a further reason why when the court adjourns to-day it shall be until

the 3d of January instead of the 2d.

Mr. Manager CLAYTON. Mr. President, the managers are entirely agreeable to what I believe to be the wish of the Senate at this time. It is now nearly 4 o'clock, and I understand the session was to close this afternoon probably at 5, certainly not later than 6. In view of the statement made by the respondent's counsel that he can not conclude this afternoon, perhaps it would serve the convenience not only of the respondent's counsel but of the court itself that a recess of the

court be had at this time.

Mr. President, there is one observation the respondent's counsel has made that perhaps I should make an observation in the nature of a reply to, and that is as to the length of time consumed by cross-examination. I think that if the record were examined since the respondent has been introducing his witnesses it would reveal the fact that a very little time of the Senate has been occupied in cross-examination. A considerable part of the time was used in the discussion of admissibility of testimony. That was not the fault of the managers. In about nine cases out of ten the objection of the managers, I think, was sustained by the Chair.

So, Mr. President, if it meets the wishes of the Senate that the court do now adjourn until the 3d of January, the managers have no objection to that at all, but will cheerfully acquiesce in

that determination.

Mr. CLARK of Wyoming. Mr. President, I offer the follow-

ing order and ask for its adoption.

The PRESIDING OFFICER. The Senator from Wyoming submits an order for the consideration and action of the Senate. The Secretary will read it.

The Secretary read as follows:

Ordered, That when the Senate sitting as a Court of Impeachment adjourns to-day it be to meet at 1 o'clock and 30 minutes p. m. January 3, 1913.

The PRESIDING OFFICER. Is there objection to the order? If not, it will be considered as having been unanimously so

ordered by the Senate.

Mr. GALLINGER. I move that the Senate sitting as a Court

of Impeachment do now adjourn.

The motion was agreed to, and (at 3 o'clock and 50 minutes p. m.) the Senate sitting as a Court of Impeachment adjourned until Friday, January 3, 1913, at 1 o'clock and 30 minutes p. m. The managers on the part of the House and the respondent

and his counsel retired.

WORK OF EXECUTIVE DEPARTMENTS OF THE GOVERNMENT (S. DOC. NO. 989).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, ordered to lie on the table, and be printed:

To the Senate and House of Representatives:

This is the third of a series of messages in which I have brought to the attention of the Congress the important transactions of the Government in each of its departments during the last year and have discussed needed reforms.

HEADS OF DEPARTMENTS SHOULD HAVE SEATS ON THE FLOOR OF CONGRESS.

I recommend the adoption of legislation which shall make it the duty of heads of departments—the members of the President's Cabinet—at convenient times to attend the session of the House and the Senate, which shall provide seats for them in each House, and give them the opportunity to take part in all discussions and to answer questions of which they have had due notice. The rigid holding apart of the executive and the legislative branches of this Government has not worked for the

great advantage of either. There has been much lost motion in the machinery, due to the lack of cooperation and interchange of views face to face between the representatives of the Executive and the Members of the two legislative branches of the Government. It was never intended that they should be separated in the sense of not being in constant effective touch and relationship to each other. The legislative and the executive each performs its own appropriate function, but these functions must be coordinated. Time and time again debates have arisen in each House upon issues which the information of a particular department head would have enabled him, if present, to end at once by a simple explanation or statement. Time and time again a forceful and earnest presentation of facts and arguments by the representative of the Executive whose duty it is to enforce the law would have brought about a useful reform by amendment, which in the absence of such a statement has failed of passage. I do not think I am mistaken in saying that the presence of the members of the Cabinet on the floor of each House would greatly contribute to the enactment of beneficial legislation. Nor would this in any degree deprive either the legislative or the executive of the independence which separation of the two branches has been intended to promote. It would only facilitate their cooperation in the public interest.

On the other hand, I am sure that the necessity and duty imposed upon department heads of appearing in each House and in answer to searching questions, of rendering upon their feet an account of what they have done, or what has been done by the administration, will spur each member of the Cabinet to closer attention to the details of his department, to greater familiarity with its needs, and to greater care to avoid the just criticism which the answers brought out in questions put and discussions arising between the Members of either House and

the members of the Cabinet may properly evoke. Objection is made that the members of the administration having no vote could exercise no power on the floor of the House, and could not assume that attitude of authority and control which the English parliamentary Government have and which enables them to meet the responsibilities the English system thrusts upon them. I agree that in certain respects it would be more satisfactory if members of the Cabinet could at the same time be Members of both Houses, with voting power, but this is impossible under our system; and while a lack of this feature may detract from the influence of the department chiefs, it will not prevent the good results which I have described above both in the matter of legislation and in the matter of administration. The enactment of such a law would be quite within the power of Congress without constitutional amendment, and it has such possibilities of usefulness that we might well make the experiment, and if we are disappointed the misstep can be easily retraced by a repeal of the enabling legislation.

This is not a new proposition. In the House of Representatives, in the Thirty-eighth Congress, the proposition was referred to a select committee of seven Members. The committee made an extensive report and urged the adoption of the reform. The report showed that our history had not been without illustration of the necessity and the examples of the practice by pointing out that in early days Secretaries were repeatedly called to the presence of either House for consultation, advice, and information. It also referred to remarks of Mr. Justice Story in his Commentaries on the Constitution, in which he urgently presented the wisdom of such a change. This report is to be found in Volume I of the Reports of Committees of the First Session of the Thirty-eighth Congress, April 6, 1864.

Again, on February 4, 1881, a select committee of the Senate recommended the passage of a similar bill, and made a report, in which, while approving the separation of the three branches, the executive, legislative, and judicial, they point out as a reason for the proposed change that, although having a separate existence, the branches are "to cooperate, each with the other, as the different members of the human body must cooperate with each other in order to form the figure and perform the duties of a perfect man."

The report concluded as follows:

The report concluded as follows:

This system will require the selection of the strongest men to be heads of departments and will require them to be well equipped with the knowledge of their offices. It will also require the strongest men to be the leaders of Congress and participate in debate. It will bring these strong men in contact, perhaps into conflict, to advance the public weal, and thus stimulate their abilities and their efforts, and will thus assuredly result to the good of the country.

If it should appear by actual experience that the beads of departments in fact have not time to perform the additional duty imposed on them by this bill, the force in their offices should be increased or the duties devolving on them personally should be diminished. An under secretary should be appointed to whom could be confided that routine of administration which requires only order and accuracy. The principal

officers could then confine their attention to those duties which require wise discretion and intellectual activity. Thus they would have abundance of time for their duties under this bill. Indeed, your committee believes that the public interest would be subserved if the Secretaries were relieved of the harassing cares of distributing clerkships and closely supervising the mere machinery of the departments. Your committee believes that the adoption of this bill and the effective execution of its provisions will be the first step toward a sound civil-service reform which will secure a larger wisdom in the adoption of policies and a better system in their execution.

GEO. H. PENDLETON,
W. B. ALLISON,
D. W. YOORHEES,
J. G. BLAINE.
J. T. FARLEY.

It would be difficult to mention the names of higher authority

It would be difficult to mention the names of higher authority in the practical knowledge of our Government than those which are appended to this report.

POSTAL SAVINGS BANK SYSTEM.

The Postal Savings Bank System has been extended so that it now includes 4,004 fourth-class post offices, as well as 645 branch offices and stations in the larger cities. There are now 12,812 depositories at which patrons of the system may open accounts. The number of depositors is 300,000 and the amount of their deposits is approximately \$28,000,000, not including \$1,314,140 which has been withdrawn by depositors for the purpose of buying postal savings bonds. Experience demonstrates the value of dispensing with the pass book and introducing in its place a certificate of deposit. The gross income of the postal savings system for the fiscal year ending June 30, 1913, will amount to \$700,000 and the interest payable to depositors to \$300,000. The cost of supplies, equipment, and salaries is \$700,000. It thus appears that the system lacks \$300,000 a year of paying interest and expenses. It is estimated, however, that when the deposits have reached the sum of \$50,000,000, which at the present rate they soon will do, the system will be self-sus-By law the postal savings funds deposited at each post office are required to be redeposited in local banks. State and national banks to the number of 7,357 have qualified as depositories for these funds. Such deposits are secured by bonds aggregating \$54,000,000. Of this amount, \$37,000,000 represent municipal bonds.

PARCEL POST.

In several messages I have favored and recommended the adoption of a system of parcel post. In the postal appropriation act of last year a general system was provided and its installation was directed by the 1st of January. This has entailed upon the Post Office Department a great deal of very heavy labor, but the Postmaster General informs me that on the date selected, to wit, the 1st of January, near at hand, the department will be in readiness to meet successfully the requirements of the public.

CLASSIFICATION OF POSTMASTERS.

A trial, during the past three years, of the system of classifying fourth-class postmasters in that part of the country lying between the Mississippi River on the west, Canada on the north, the Atlantic Ocean on the east, and Mason and Dixon's line on the south has been sufficiently satisfactory to justify the postal authorities in recommending the extension of the order to include all the fourth-class postmasters in the country. In September, 1912, upon the suggestion of the Postmaster General, I directed him to prepare an order which should put the system in effect, except in Alaska, Guam, Hawaii, Porto Rico, and Samoa. Under date of October 15 I issued such an order which affected 36,000 postmasters. By the order the post offices were divided into groups A and B. Group A includes all postmasters whose compensation is \$500 or more, and group B those whose compensation is less than that sum. Different methods are pursued in the selection of the postmasters for group A and group B. Criticism has been made of this order on the ground that the motive for it was political. Nothing could be further from the truth. The order was made before the election and in the interest of efficient public service. I have several times requested Congress to give me authority to put first, second, and third class postmasters, and all other local officers, including internal-revenue officers, customs offi-cers, United States marshals, and the local agents of the other departments, under the classification of the civil-service law by taking away the necessity for confirming such appointments by the Senate. I deeply regret the failure of Congress to follow these recommendations. The change would have taken out of politics practically every local officer and would have entirely cured the evils growing out of what under the present law must always remain a remnant of the spoils system.

COMPENSATION TO BAILWAYS FOR CARRYING MAILS.

It is expected that the establishment of a parcel post on January 1 will largely increase the amount of mail matter to be transported by the railways, and Congress should be prompt to

provide a way by which they may receive the additional compensation to which they will be entitled. The Postmaster General urges that the department's plan for a complete readjustment of the system of paying the railways for carrying the mails be adopted, substituting space for weight as the principal factor in fixing compensation. Under this plan it will be possible to determine without delay what additional payment should be made on account of the parcel post. The Postmaster General's recommendation is based on the results of a far-reaching investigation begun early in the administration with the object of determining what it costs the railways to carry the mails. The statistics obtained during the course of the inquiry show that while many of the railways, and particularly the larger systems, were making profits from mail transportation, certain of the lines were actually carrying the mails at a loss. As a result of the investigation the department, after giving the subject careful consideration, decided to urge the abandonment of the present plan of fixing compensation on the basis of the weight of the mails carried, a plan that has proved to be ex-ceedingly expensive and in other respects unsatisfactory. Under the method proposed the railway companies will annually sub-mit to the department reports showing what it costs them to carry the mails, and this cost will be apportioned on the basis of the car space engaged, payment to be allowed at the rate thus determined in amounts that will cover the cost and a reasonable profit. If a railway is not satisfied with the manner in which the department apportions the cost in fixing compensation, it is to have the right, under the new plan, of appealing to the Interstate Commerce Commission. This feature of the proposed law would seem to insure a fair treatment of the railways. It is hoped that Congress will give the matter immediate attention and that the method of compensation recommended by the department or some other suitable plan will be promptly authorized.

DEPARTMENT OF THE INTERIOR,

The Interior Department, in the problems of administration included within its jurisdiction, presents more difficult questions than any other. This has been due perhaps to temporary causes of a political character, but more especially to the inherent difficulty in the performance of some of the functions which are assigned to it. Its chief duty is the guardianship of the public domain and the disposition of that domain to private ownership under homestead, mining, and other laws by which patents from the Government to the individual are authorized on certain conditions. During the last decade the public seemed to become suddenly aware that a very large part of its domain had passed from its control into private ownership, under laws not well adapted to modern conditions, and also that in the doing of this the provisions of existing law and regulations adopted in accordance with law had not been strictly observed, and that in the transfer of title much fraud had intervened, to the pecuniary benefit of dishonest persons. There arose there-upon a demand for conservation of the public domain, its protection against fraudulent diminution, and the preservation of that part of it from private acquisition which it seemed necessary to keep for future public use. The movement, excellent in the intention which prompted it, and useful in its results, has nevertheless had some bad effects, which the western country has recently been feeling and in respect of which there is danger of a reaction toward older abuses unless we can attain the golden mean, which consists in the prevention of the mere exploitation of the public domain for private purposes while at the same time facilitating its development for the benefit of the local public.

The land laws need complete revision to secure proper conservation, on the one hand, of land that ought to be kept in public use and, on the other hand, prompt disposition of those lands which ought to be disposed in private ownership or turned over to private use by properly guarded leases. In addition to this there are not enough officials in our Land Department with legal knowledge sufficient promptly to make the decisions which are called for. The whole land-laws system should be reorganized, and not until it is reorganized will decisions be made as promptly as they ought or will men who have earned title to public land under the statute receive their patents within a reasonably short period. The present administration has done what it could in this regard, but the necessity for reform and change by a revision of the laws and an increase and reorganization of the force remains, and I submit to Congress the wisdom of a full examination of this subject, in order that a very large and important part of our people in the West may be relieved from a just cause of imitation. may be relieved from a just cause of irritation.

I invite your attention to the discussion by the Secretary of the Interior of the need for legislation with respect to mining claims, leases of coal lands in this country and in Alaska, and

for similar disposition of oil, phosphate, and potash lands, and also to his discussion of the proper use to be made of waterpower sites held by the Government. Many of these lands are now being withheld from use by the public under the general withdrawal act which was passed by the last Congress. That act was not for the purpose of disposing of the question, but it was for the purpose of preserving the lands until the question could be solved. I earnestly urge that the matter is of the highest importance to our western fellow citizens and ought to command the immediate attention of the legislative branch of the Government.

Another function which the Interior Department has to perform is that of the guardianship of Indians. In spite of everything which has been said in criticism of the policy of our Government toward the Indians, the amount of wealth which is now held by it for these wards per capita shows that the Government has been generous; but the management of so large an estate, with the great variety of circumstances that surround each tribe and each case, calls for the exercise of the highest business discretion, and the machinery provided in the Indian Bureau for the discharge of this function is entirely inadequate. The position of Indian commissioner demands the exercise of business ability of the first order, and it is difficult to secure such talent for the salary provided.

The condition of health of the Indian and the prevalence in the tribes of curable diseases has been recently exploited in the press. In a message to Congress at its last session I brought this subject to its attention and invited a special appropriation, in order that our facilities for overcoming diseases among the Indians might be properly increased, but no action was then taken by Congress on the subject, nor has such appropriation been made since.

The commission appointed by authority of the Congress to report on the proper method of securing railroad development in Alaska is formulating its report, and I expect to have an opportunity before the end of this session to submit its recommendations.

DEPARTMENT OF AGRICULTURE.

The far-reaching utility of the educational system carried on by the Department of Agriculture for the benefit of the farmers of our country calls for no elaboration. Each year there is a growth in the variety of facts which it brings out for the benefit of the farmer, and each year confirms the wisdom of the expenditure of the appropriations made for that department.

PURE-FOOD LAW.

The Department of Agriculture is charged with the execution of the pure-food law. The passage of this encountered much opposition from manufacturers and others who feared the effect upon their business of the enforcement of its provisions. The opposition aroused the just indignation of the public and led to an intense sympathy with the severe and rigid enforcement of the provisions of the new law. It had to deal in many instances with the question whether or not products of large business enterprises, in the form of food preparations, were deleterious to the public health; and while in a great majority of instances this issue was easily determinable, there were not a few cases in which it was had to draw the line between a useful and a harmful food preparation. In cases like this, when a decision involved the destruction of great business enterprises representing the investment of large capital and the expenditure of great energy and ability, the danger of serious injustice was very considerable in the enforcement of a new The public law under the spur of great public indignation. officials charged with executing the law might do injustice in heated controversy through unconscious pride of opinion and obstinacy of conclusion. For this reason President Roosevelt felt justified in creating a board of experts, known as the Remsen Board, to whom in cases of much importance an appeal might be taken and a review had of a decision of the Bureau of Chemistry in the Agricultural Department. I heartily agree that it was wise to create this board in order that injustice might not be done. The questions which arise are not generally those involving palpable injury to health, but they are upon the narrow and doubtful line in respect of which it is better to be in some error not dangerous than to be radically destructive. I think that the time has come for Congress to recognize the necessity for some such tribunal of appeal and to make specific statutory provision for it. While we are struggling to suppress an evil of great proportions like that of impure food, we must provide machinery in the law itself to prevent its becoming an instrument of oppression, and we ought to enable those whose business is threatened with annihilation to have some tribunal and some form of appeal in which they have a complete day in court.

AGRICULTURAL CREDITS.

I referred in my first message to the question of improving the system of agricultural credits. The Secretary of Agriculture has made an investigation into the matter of credits in this country, and I commend a consideration of the information which through his agents he has been able to collect. It does not in any way minimize the importance of the proposal, but it gives more accurate information upon some of the phases of the question than we have heretofore had.

DEPARTMENT OF COMMERCE AND LABOR.

I commend to Congress an examination of the report of the Secretary of Commerce and Labor, and especially that part in which he discusses the office of the Bureau of Corporations, the value to commerce of a proposed trade commission, and the steps which he has taken to secure the organization of a national chamber of commerce. I heartily commend his view that the plan of a trade commission which looks to the fixing of prices is altogether impractical and ought not for a moment to be considered as a possible solution of the trust question.

The trust question in the enforcement of the Sherman antitrust law is gradually solving itself, is maintaining the principle and restoring the practice of competition, and if the law is quietly but firmly enforced, business will adjust itself to the statutory requirements, and the unrest in commercial circles provoked by the trust discussion will disappear.

PANAMA-PACIFIC INTERNATIONAL EXPOSITION.

In conformity with a joint resolution of Congress, an Executive proclamation was issued last February, inviting the nations of the world to participate in the Panama-Pacific International Exposition to be held at San Francisco to celebrate the construction of the Panama Canal. A sympathetic response was immediately forthcoming, and several nations have already selected the sites for their buildings. In furtherance of my invitation, a special commission visited European countries during the past summer, and received assurances of hearty cooperation in the task of bringing together a universal industrial, military, and naval display on an unprecedented scale. It is evident that the exposition will be an accurate mirror of the world's activities as they appear 400 years after the date of the discovery of the Pacific Ocean.

It is the duty of the United States to make the nations welcome at San Francisco and to facilitate such acquaintance between them and ourselves as will promote the expansion of commerce and familiarize the world with the new trade route through the Panama Canal. The action of the State governments and individuals assures a comprehensive exhibit of the resources of this country and of the progress of the people. This participation by States and individuals should be supplemented by an adequate showing of the varied and unique activities of the National Government. The United States can not with good grace invite foreign governments to erect buildings and make expensive exhibits while itself refusing to participate. Nor would it be wise to forego the opportunity to join with other nations in the inspiring interchange of ideas tending to promote intercourse, friendship, and commerce. It is the duty of the Government to foster and build up commerce through the canal, just as it was the duty of the Government to construct it.

I earnestly recommend the appropriation at this session of such a sum as will enable the United States to construct a suitable building, install a governmental exhibit, and otherwise participate in the Panama-Pacific International Exposition in a manner commensurate with the dignity of a nation whose guests are to be the peoples of the world. I recommend also such legislation as will facilitate the entry of material intended for exhibition and protect foreign exhibitors against infringement of patents and the unauthorized copying of patterns and designs. All aliens sent to San Francisco to construct and care for foreign buildings and exhibits should be admitted without restraint or embarrassment.

THE DISTRICT OF COLUMBIA AND THE CITY OF WASHINGTON.

The city of Washington is a beautiful city, with a population of 352,936, of whom 98,667 are colored. The annual municipal budget is about \$14,000,000. The presence of the National Capitol and other governmental structures constitutes the chief beauty and interest of the city. The public grounds are extensive, and the opportunities for improving the city and making it still more attractive are very great. Under a plan adopted some years ago, one half the cost of running the city is paid by taxation upon the property, real and personal, of the citizens and residents, and the other half is borne by the General Government. The city is expanding at a remarkable rate, and this can only be accounted for by the coming here from other parts of the country of well-to-do people who, having finished

their business careers elsewhere, build and make this their

permanent place of residence.

On the whole, the city as a municipality is very well governed. It is well lighted, the water supply is good, the streets are well paved, the police force is well disciplined, crime is not flagrant, and while it has purlieus and centers of vice, like other large cities, they are not exploited, they do not exercise any influence or control in the government of the city, and they are suppressed in as far as it has been found practicable. Municipal graft is inconsiderable. There are interior courts in the city that are noisome and centers of disease and the refuge of criminals, but Congress has begun to clean these out, and progress has been made in the case of the most notorious of these, which is known as Willow Tree Alley. This movement should continue.

The mortality for the past year was at the rate of 17.80 per 1,000 of both races; among the whites it was 14.61 per thousand, and among the blacks 26.12 per thousand. These are the low-

est mortality rates ever recorded in the District.

One of the most crying needs in the government of the District is a tribunal or public authority for the purpose of super vising the corporations engaged in the operation of public utili-Such a bill is pending in Congress and ought to pass. Washington should show itself under the direction of Congress to be a city with a model form of government, but as long as authority over public utilities is withheld from the municipal government it must always be defective.

Without undue criticism of the present street railway accommodations, it can be truly said that under the spur of a public utilities commission they might be substantially improved.

While the school system of Washington perhaps might be bettered in the economy of its management and the distribution of its buildings, its usefulness has nevertheless greatly increased in recent years, and it now offers excellent facilities for primary and secondary education.

From time to time there is considerable agitation in Washington in favor of granting the citizens of the city the franchise and constituting an elective government. I am strongly opposed to this change. The history of Washington discloses a number of experiments of this kind, which have always been abandoned as unsatisfactory. The truth is this is a city governed by a popular body, to wit, the Congress of the United States, selected from the people of the United States, who own Washington. The people who come here to live do so with the knowledge of the origin of the city and the restrictions, and therefore voluntarily give up the privilege of living in a municipality governed by popular vote. Washington is so unique in its origin and in its use for housing and localizing the sovereignty of the Nation that the people who live here must regard its peculiar character and must be content to subject themselves to the control of a body selected by all the people of the Nation. I agree that there are certain inconveniences growing out of the government of a city by a national legislature like Congress, and it would perhaps be possible to lessen these by the delegation by Congress to the District Commissioners of greater legislative power for the enactment of local laws than they now possess, especially those of a police character.

Every loyal American has a personal pride in the beauty of Washington and in its development and growth. There is no one with a proper appreciation of our Capital City who would favor a niggardly policy in respect to expenditures from the National Treasury to add to the attractiveness of this city, which belongs to every citizen of the entire country, and which no citizen visits without a sense of pride of ownership. We have had restored by a Commission of Fine Arts, at the instance of a committee of the Senate, the original plan of the French engineer L'Enfant for the city of Washington, and we know with great certainty the course which the improvement of Washington should take. Why should there be delay in making this improvement in so far as it involves the extension of the parking system and the construction of greatly needed public build-ings? Appropriate buildings for the State Department, the Department of Justice, and the Department of Commerce and Labor have been projected, plans have been approved, and nothing is wanting but the appropriations for the beginning and completion of the structures. A hall of archives is also badly needed, but nothing has been done toward its construction, although the land for it has long been bought and paid for. Plans have been made for the union of Potomac Park with the valley of Rock Creek and Rock Creek Park, and the necessity for the connection between the Soldiers' Home and Rock Creek Park calls for no comment. I ask again why there should be delay in carrying out these plans? We have the money in the Treasury, the plans are national in their scope, and the improvement should be treated as a national project. The plan will find a

hearty approval throughout the country. I am quite sure, from the information which I have, that, at comparatively small expense, from that part of the District of Columbia which was retroceded to Virginia the portion including the Arlington estate, Fort Myer, and the palisades of the Potomac can be acquired by purchase and the jurisdiction of the State of Virginia and the purchase and the jurisdiction of the State of Virginia and ginia over this land ceded to the Nation. This ought to be

The construction of the Lincoln Memorial and of a memorial bridge from the base of the Lincoln Monument to Arlington would be an appropriate and symbolic expression of the union of the North and the South at the Capital of the Nation. I urge upon Congress the appointment of a commission to undertake these national improvements and to submit a plan for their execution; and when the plan has been submitted and approved and the work carried out Washington will really become what it ought to be-the most beautiful city in the world.

WM. II. TAFT.

THE WHITE HOUSE, December 19, 1912.

EXTENSION OF CAPITOL GROUNDS (H. DOC. NQ. 1186).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the acquirement of title to certain property necessary to enlarge the Capitol grounds and the receipts therefrom from the time of such acquirement, which, with the accompanying paper, was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. PERKINS presented a resolution adopted by the Chamber of Commerce of Oakland, Cal., favoring the recognition of the Chinese Republic by the United States, which was referred to the Committee on Foreign Relations.

Mr. BRISTOW presented a petition of the congregation of the First Presbyterian Church of Garnett, Kans., praying for the passage of the so-called Kenyon-Sheppard interstate liquor

which was ordered to lie on the table.

Mr. CURTIS presented a petition of the congregation of the United Presbyterian Church of Garnett, Kans., praying for the passage of the so-called Kenyon red-light injunction bill, which was referred to the Committee on the District of Columbia.

Mr. GRONNA presented petitions of sundry citizens of Dazey and Northwood, in the State of North Dakota, praying for the passage of the so-called Kenyen-Sheppard interstate liquor bill,

which were ordered to lie on the table.

Mr. WETMORE presented a petition of Lime Rock Grange, No. 22, Patrons of Husbandry, of Pawtucket, R. I., and a petition of Lime Rock Grange, No. 22, Patrons of Husbandry, of Lincoln, R. I., praying for the passage of the so-called Lever agricultural extension bill, which were ordered to lie on the table

Mr. OLIVER presented petitions of the congregations of the First United Presbyterian Church of Sharon and the Croton Avenue Methodist Episcopal Church, of New Castle; of the Men's League of the Covenant United Brethren Church, of Lancaster; of the Presbyterian Ministers' Association of Phila-delphia; and of sundry citizens of Mercer County, Butler, Garland, Windber, Edinburg, and Milroy, all in the State of Pennsylvania, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table. - CAR

He also presented a memorial of Pennsylvania Wholesale Liquor Dealers' League, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was

ordered to lie on the table.

Mr. CRAWFORD presented a memorial of members of the Black Hills Trades Assembly, of Lead, S. Dak., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. SMITH of Maryland presented a petition of the congregation of the Eutaw Place Baptist Church, of Baltimore, Md., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

REPORTS FROM COMMITTEES.

Mr. PENROSE, from the Committee on Finance, to which was referred the bill (H. R. 25741) amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909, reported it without amend-

He also, from the same committee, to which was referred the bill (H. R. 24137) to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty, reported it without amendment.

Mr. SMOOT, from the Committee on Public Lands, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 7568. A bill to validate certain homestead entries (Rept.

No. 1078); and

H. R. 45. A bill affecting the town sites of Timber Lake and Dupree, in South Dakota (Rept. No. 1079).

RILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. PERKINS:

A bill (S. 7826) to provide for the participation of the United States in the Panama-Pacific International Exposition; to the Committee on Industrial Expositions.

By Mr. STONE:

bill (S. 7827) to provide for furnishing modern approved and efficient artificial limbs and apparatus for resection to persons injured in the United States service; to the Committee on Military Affairs.

By Mr. JONES:

A bill (S. 7828) to extend the time for the completion of the Alaska-Northern Railway, and for other purposes; to the Committee on Territories.

By Mr. SIMMONS:

A bill (S. 7829) to establish a fish-cultural station on Lumber River in Moore County, N. C.; to the Committee on Fisheries. By Mr. CHILTON:

A bill (S. 7830) to regulate the collection of internal revenue; to the Committee on Finance.

By Mr. BORAH:

A bill (S. 7831) to authorize further advances to the reclamation fund, and for the issue and disposal of certificates of indebtedness in reimbursement therefor, and for other purposes; to the Committee on Irrigation and Reclamation of Arid Lands

A bill (S. 7832) granting an increase of pension to Sarah A.

Bailey (with accompanying paper); and A bill (S. 7833) granting an increase of pension to Mary M. Hancock (with accompanying paper); to the Committee on Pensions.

By Mr. OWEN:

A bill (S. 7834) granting a pension to Joseph McCoonse (with accompanying papers); to the Committee on Pensions.

A bill (S. 7835) for the relief of certain Shawnee and Dela-

ware Indians; to the Committee on Indian Affairs.

A bill (S. 7836) to establish the legislative reference bureau of the Library of Congress and the congressional corps of legislative investigators, and to maintain them until July 1, 1913; to the Committee on the Library.

By Mr. FLETCHER:

A bill (S. 7837) granting a pension to Loretto L. Watt; to the Committee on Pensions.

By Mr. WILLIAMS:

A bill (S. 7838) for the relief of the heirs of W. H. Sneed, deceased; to the Committee on Claims.

By Mr. CATRON:

A bill (S. 7839) granting an increase of pension to Mrs. M. L. Mann:

A bill (S. 7840) granting an increase of pension to Annie J. Jones

A bill (S. 7841) granting a pension to Benjamin F. Gumm; and

A bill (S. 7842) granting a pension to Alvina McCabe; to the Committee on Pensions.

By Mr. LODGE

A bill (S. 7843) granting a pension to William E. Powell; and

A bill (S. 7844) granting a pension to Catharine T. Laffan; to the Committee on Pensions.

By Mr. NELSON:

bill (S. 7845) relating to the adjudication of homestead entries in certain cases; to the Committee on Public Lands.

By Mr. CRAWFORD

A bill (S. 7846) granting an increase of pension to Mary J. Hubbard (with accompanying paper); to the Committee on Pensions.

By Mr. OLIVER:

A bill (S. 7847) granting a pension to William S. Shaffer (with accompanying papers); to the Committee on Pensions. By Mr. SMITH of Maryland:

A bill (S. 7848) for the relief of Henry A. Garheart (with accompanying papers); to the Committee on Military Affairs.

A bill (8. 7849) for the relief of the widow of Joseph Culley;

to the Committee on Claims.

By Mr. HITCHCOCK: A bill (S. 7850) to provide for paving with a proper material the Fort Crook Military Boulevard from Fort Crook Military Reservation to the south city limits of South Omaha, Nebr., so as to perfect a continuous paved highway from Fort Crook Military Reservation to Fort Omaha Military Reservation; to the Committee on Military Affairs. By Mr. LA FOLLETTE:

A bill (S. 7851) to make it unlawful for foreign corporations to own or control the capital stock, bonds, or indebtedness of local public utility corporations of the District of Columbia; to the Committee on the District of Columbia.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. CURTIS submitted an amendment proposing to appropriate \$40,000 for the purchase of a site and the completion of the post-office building at Osage City, Kans., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. OWEN submitted an amendment proposing to appropriate \$10,000 to pay Ivy L. Merrill, a quarter-blood Pottawatomie Indian, Pottawatomie County, Okla., in full compensation for injuries received while in the employ of the United States Government, etc., intended to be proposed by him to the Indian appropriation bill, which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Indian Affairs.

Mr. JONES submitted an amendment proposing to appropriate \$20,000 for repair and improvement of the road to Fort Canby, Wash., etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on

Military Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate \$45,260 to defray the expenses of the First Legislative Assembly of the Territory of Alaska, etc., intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to increase the salary of the Second Assistant Commissioner, Indian Office, from \$2,250 to \$2,750, intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to authorize one assistant in preparing for publication the American Ephemeris and Nautical Almanac to act as or be appointed director of the Nautical Almanac Office, etc., intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

SNAKE RIVER DAM, WASH.

Mr. JOHNSTON of Alabama. I have a copy of a speech delivered by Hon. Henry M. Teller, of Colorado, in the Senate of the United States March 31 and April 2, 1908, on the question of authorizing the Benton Water Co. to construct a dam across Snake River in the State of Washington. I ask that the speech be printed as a Senate document and that 500 additional copies be printed for the use of the Senate.

The PRESIDENT pro tempore. Without objection it is so

ordered.

Mr. JOHNSTON of Alabama subsequently said: I made a request for the printing as a Senate document of a speech made by an ex-Senator. I am informed that under the custom of the Senate such matter has not been printed as public documents, and I withdraw the request.

The PRESIDENT pro tempore. The request is withdrawn.

POSSIBILITIES OF A DEMOCRATIC ADMINISTRATION (S. DOC. NO. 988).

Mr. SMITH of Georgia. I ask to have printed as a Senate document an article by Senator Newlands, published in the Independent Magazine, on the Possibilities of a Democratic Administration.

The PRESIDENT pro tempore. Without objection it is so ordered.

REGULATION OF IMMIGRATION.

Mr. LODGE. I ask that the message from the House which was not disposed of yesterday be laid before the Senate.

The amendment of the House of Representatives to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, which was to strike out all after the enacting clause and to insert a substitute, was laid before the Senate by the President pro tempore.

The PRESIDENT pro tempore. The amendment has already been read and a motion made by the Senator from Massachusetts. It is that the Senate disagree to the amendment made by the House of Representatives, ask a conference on the disagreeing vote of the two Houses, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the President pro tempore appointed Mr. Lodge, Mr. Dhlingham, and Mr. Smith of South Carolina conferees on the part of the Senate.

UNITED STATES COURT FOR PORTO RICO.

Mr. POINDEXTER. I report from the Committee on Pacific Islands and Porto Rico the bill (H. R. 10169) to provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge favorably without amendment

Mr. President, in explanation I should like to say that the bill is for the purpose of enacting legislation to enable the President to fill the temporary vacancy in the district court of Porto Rico, an emergency existing by reason of the fact that there is no other judge who can be appointed under the law to take the place of the judge who is absent or disqualified to try a case. There is a great deal of important litigation pending in that court. Among other matters are receiverships of a number of large companies, which require the constant supervision of the court.

This bill has been passed by the House of Representatives and has been reported favorably, unanimously, by all the members of the Senate committee who are in the city. I submit the report, and ask to have printed the accompanying letter as a part of the report of the committee, and ask unanimous consent for the present consideration of the bill.

The PRESIDENT pro tempore. In the absence of objection, the report will be received. Does the Senator from Washington desire to have the letter to which he refers printed in the RECORD?

Mr. POINDEXTER. No, sir; I simply desire that it shall be printed as a part of the report of the committee.

The PRESIDENT pro tempore. In the absence of objection that order will be made.

Mr. SMOOT. Let the bill be read by title.

The Secretary. A bill (H. R. 10169) to provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge.

The PRESIDENT pro tempore. Is there objection to the pres-

ent consideration of the bill?

Mr. BAILEY. Mr. President, my attention was diverted for a moment, and I am not sure whether the bill provides for the designation of this judge by the judges of the Supreme Court of Porto Rico or for an appointment by the governor.

Mr. POINDEXTER. By the governor.

Mr. BAILEY. Mr. President, I venture to say that we could not authorize the governor of Porto Rico to appoint an officer of the United States. The only way anybody can become an officer of the United States is either through appointment by the President, confirmed by the Senate, or Congress may vest the appointment in the President alone or in the head of a department or in the courts of law. I think Congress could authorize the supreme court of that island to designate a judge, or it could authorize the Attorney General here to do it, but I am not of the opinion that Congress can authorize the governor of Porto Rico to appoint any officer of the United States. therefore suggest to the Senator that we might have a court there which would be no court at all.

Mr. POINDEXTER. Mr. President, I can hardly agree with the view taken by the Senator from Texas as to lack of power in Congress to authorize the governor of Porto Rico to assign a judge who is already in office to act as a temporary judge of another court. There are a great many precedents for laws of that kind. The Senator from Texas is familiar with the act constituting the Court of Commerce, which authorizes and directs the Chief Justice of the Supreme Court of the United States

Mr. BAILEY. I do not doubt that we can authorize the courts to do it; the Constitution expressly provides that. I do not doubt that we could authorize the head of a department to do it; the Constitution expressly authorizes that; but the difficulty I have in this matter is, that here we propose to

authorize the governor of Porto Rico to designate this officer.

It may be that this judge, already being an officer of the
United States, can be designated in this way to hold the court. I will ask the Senator from Washington if there is any supreme court in that island?

Mr. POINDEXTER. There is.

Mr. BAILEY. Then why not let the chief justice of that court designate one of the members to perform this duty?

Mr. NELSON. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Minnesota?

Mr. POINDEXTER. I yield.

Mr. NELSON. If Senators will permit, I will state that the same objection would lie against that supreme court as against the governor, because it is not a Federal court; it is a court local to Porto Rico. This appointee is to act in the place of a Federal judge. If the objection of the Senator from Texas is valid, the appointment ought to be made by one of our Federal judges or by the Department of Justice. The supreme court of the Territory of Porto Rico is exactly in one sense in the same

condition as the governor. It is not a Federal office.

Mr. BAILEY. Mr. President, none of these Territorial officers are Federal judges, as we commonly understand the term under the Constitution; in other words, they are appointed not in virtue of the judicial clause of the Constitution. If they were appointed so, they must be appointed for life. They are were appointed so, they must be appointed for life. appointed under our authority to govern the Territory, and I imagine that we could authorize the court there to make this appointment. The point is purely that this man is to be an officer of the United States. I would have absolutely no doubt in my mind on the question if he was not already an officer and thus simply assigned. I am not very confident that, being an officer of the United States, he could not be assigned by the governor under the authority of an act of Congress; but I have no doubt whatever that if he were not an officer the governor of Porto Rico could not appoint him an officer of the United States, because he does not fall within any definition of the head of a department or a court of law.

Mr. BACON. Mr. President, I will hand to the Senator from Texas the section of the Constitution, which he has practically stated the substance of, in order that he may read it to the

Mr. BAILEY. Very well-

He shall have power-

The language refers to the President-

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

Now, obviously the governor of Porto Rico is not the head of a department, nor is he a court of law, and consequently he can not, under the Constitution, appoint an officer of the United States.

Mr. SUTHERLAND. Mr. President-

Mr. POINDEXTER. Just one moment, if the Senator will permit me.

I understood that the Senator from Texas had about concluded, but, if he will permit me, I should like to comment upon that portion of the Constitution which he has just read and upon which the Senator seems to rely. The phrase authorizing Congress to provide for the appointment of inferior officers by the President alone or by the heads of the departments or by the judiciary evidently does not include Federal judges.

Mr. BAILEY. This is not a Federal judge as we ordinarily understand that term. Although a Federal judge of a circuit court or a district court is an inferior officer, or, at least, is an officer of an inferior court, the Constitution expressly authorizes Congress to establish inferior courts-that is, as contradistinguished from the Supreme Court of the United States-and I am rather inclined to think that, under the plain language of the Constitution, if Congress were unwise enough, it could authorize the President alone to appoint the judges of our inferior Federal courts; but, as I have said, the officer affected by the pending bill is not such an officer as we commonly mean when we speak of a Federal judge; he is a Territorial judge.

Mr. POINDEXTER. Mr. President, in either alternative,

whether this judge is one of the higher officers, the appointment of whom can not be delegated by Congress, in which case the constitutional provision which the Senator cites has no applica-

tion whatever

Mr. BAILEY. It applies to all officers of the United States. Mr. POINDEXTER. It only applies to inferior officers; it does not apply to the chief officers of the United States, as I understand.

Mr. BAILEY. If they are not inferior, then the President would have to appoint them with the consent of the Senate.

Mr. POINDEXTER. If they are not inferior, then the in-stance which I cited of the selection of circuit judges to sit as members of the Commerce Court is a precedent for such legislation. The Senator then turns to this express provision of the Constitution, which he says is applicable because it includes inferior officers.

The Commerce Court judges were appointed Mr. BAILEY. by the President and confirmed by the Senate. They thus become judges under the judicial clause of the Constitution, and what the Chief Justice of the Supreme Court does with

respect to them is merely to assign them.

I stated frankly to the Senator in the beginning, although I am not very confident about it, that this officer, already being an officer of the United States, a Territorial judge, Congress might authorize the governor to assign him; but certainly if he is not already an officer of the United States the governor can not make him one; and, although I shall not insist upon it, I think it would be safer to let the court designate the judge. Then, whether it be an appointment or a designation, he would be safe in law; or, upon proper certificate, allow the Attorney General or the President alone to designate or appoint this judge. I do not know while on my feet here exactly what duties are prescribed for these different judges. Of course, if this new duty is added to any of the duties which judges in Porto Rico must now perform, we have ample authority to pass this bill; and the only question in my mind is simply whether this amounts to an appointment of this particular judge as an officer of the United States.

I recall years ago when, under the anomalous conditions then existing in the Indian Territory, it was sought to provide for cases in which the judge might be disqualified by authorizing the bar to elect a judge. I thought then it was not competent, and upon a discussion of the matter the House recommitted that bill to the Judiciary Committee, concurring in my view that it was not competent to authorize the bar of the court to elect a judge. I know it is not competent to authorize the governor of Porto Rico to appoint a judge of a United States court, but I do not express any very confident opinion that this is such a case. This may be within the power of Congress upon the ground that it is merely the designation of a judge already an officer of the United States to perform another duty as that same officer of the United States. That may be the case.

Mr. POINDEXTER. Mr. President, I think there is not a great deal of difference of opinion between the Senator from Texas and myself about this matter. It seems to me that the effect of the bill is simply to enlarge the duties of a judge of the Supreme Court of Porto Rico, and providing that under certain circumstances, namely, when he is designated by the governor, he may ex officio perform certain duties in addition to those which are now provided for in the organic act. I want to read just a paragraph of a statement made by a lawyer of Porto Rico, which is confirmed by the Attorney General and by the head of the Bureau of Insular Affairs, as to the importance of some immediate action on this matter.

Mr. BAILEY. I can understand that.

Will the Senator from Washington Mr. SUTHERLAND. permit me a moment?

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Utah?

Mr. POINDEXTER. I yield to the Senator.

Mr. SUTHERLAND. As I recall, under the system which we had for the appointment of judges in the various Territories, judges were appointed to the Territorial supreme court, and the governor assigned them to their respective districts. that correct?

Mr. POINDEXTER. Yes.

Mr. SUTHERLAND. Now, would this be any more than

Mr. POINDEXTER. It seems to me, Mr. President-

Mr. SUTHERLAND. As I understand from reading the bill, the judge has already been appointed in pursuance of the Constitution; and this bill simply provides that the governor may assign him to certain judicial duties.

Mr. POINDEXTER. To sit in place of another judge.
Mr. SUTHERLAND. It seems to me that is nothing more
than Congress did repeatedly in dealing with the Territories, appointing the judge first as a judge of the supreme court, and then permitting the governor to assign the different supreme court judges to the various districts.

Mr. NELSON. Will the Senator yield to me for a moment? Mr. POINDEXTER. I yield to the Senator from Minnesota. Mr. NELSON. It is my recollection, although I may be mistaken, that I was a member of the committee at the time we passed the organic act for Porto Rico. The judge referred to in the bill is distinctly a Federal judge. He has simply juris-diction in such cases as a district judge would have in one of the States. They have a Territorial or local supreme court and legislature were office an independent judicial system. This one judge is a Federal of the United States.

judge in exactly the same sense as is a United States district judge in one of the States.

Mr. BAILEY. He could not be.

Mr. NELSON. I mean his jurisdiction is the same.

Mr. BAILEY. That might be.

Mr. NELSON. That is what I meant. His jurisdiction is the same; but he does not have jurisdiction like judges in our Territories, who have a Territorial side and a Federal side. This judge has strictly a Federal side and Federal jurisdiction over what in a State would be Federal cases.

Mr. BAILEY. Mr. President, the statement of the Senator

from Minnesota

Mr. POINDEXTER. Before the Senator from Texas begins, I should like to read just a paragraph from the organic act, so that the Senator will have in mind the structure of these courts.

Mr. BAILEY. I have not that in my mind now.

Mr. POINDEXTER. I read from the organic act of Porto Rico:

Provided, however, That the chief justice and associate justices of the supreme court and the marshal thereof shall be appointed by the President, by and with the advice and consent of the Senate, and the judges of the district courts shall be appointed by the governor, by and with the advice and consent of the executive council.

Mr. BAILEY. Then, those courts last mentioned must not be courts of the United States, and their officers must not be officers of the United States, because, if so, the governor can not be au-

thorized to appoint them.

But, Mr. President, another thing occurs to me just here, and that is, that I am not so certain that all the officials who serve in Porto Rico are considered officers of the United States. Certainly the judges who are appointed by the governor of that Territory and confirmed by the council of it are not officers of the United States.

Mr. WORKS. Mr. President—
The PRESIDENT pro tempore. Does
Texas yield to the Senator from California? Does the Senator from

Mr. BAILEY. I do.

It seems to me that the constitutional provi-Mr. WORKS. sion limiting the power of appointment to office has no bearing upon this question at all, for the simple reason that this is not an appointment to an office. There might be some question about the power to vest in a judge having one jurisdiction the power to preside over a court having an entirely different jurisdiction, one of them being a Federal court and the other not. That would seem to me to be a much more serious question than the one raised by the Senator from Texas under the Constitution.

Mr. BAILEY. There could be no debate; there could be no difference of opinion upon the question which I originally raised; and that is if this were the appointment of an officer of the United States, then plainly the governor of that Territory could not be authorized to make the appointment. It seems, as we discuss it, that this is not the appointment of an officer, but is a proposal to designate an officer already appointed and existing to perform the duties of another office.

The difference between these two offices and these two jurisdictions does raise the further question which the Senator from California has suggested; but that was not in my mind, and probably it would have been just as well if I had not raised any question about it, because I frankly say to the Senate that I have never examined the organic act of Porto Rico, and I am not sure upon what theory it proceeds.

The extract which the Senator from Washington has just read presents to my mind the usual condition of a Territorial government, where some of the officers hold their appointments from the United States and other officers hold their appointments from the governor, who is himself appointed by the

President of the United States.

I would not have the slightest doubt in my mind about the power of Congress, under its authority to govern this Territory, to give to the people of the Territory, or to any of the functionaries of the Territory, the right to appoint officers or elect officers for the Territory. That procedure is familiar to us all, and has been for many years, in all of our Territories. those officers are not officers of the United States; they are officers of the Territory; and evidently some of the judges concerning whose appointment the Senator has read from the organic act were not judges of the United States. They are not officers of the United States, but they are judges of the Territory of Porto Rico, just as when Utah was a Territory they had their local officers. I have no doubt they elected some of their judges. They certainly elected members to their Territorial legislature. They elected their sheriffs and constables, But those sheriffs and constables and those members of the legislature were officers of the Territory of Utah and not officers Mr. SUTHERLAND. Mr. President— Mr. NELSON. Mr. President—

Mr. SUTHERLAND. The Senator will permit me for just a moment?

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Minnesota?

Mr. POINDEXTER. I do.

The PRESIDENT pro tempore. The Senator from Washington is entitled to the floor.

Mr. SUTHERLAND. Will the Senator from Washington yield

to me for a moment?

Mr. POINDEXTER. Certainly.
Mr. SUTHERLAND. In the system by which we appointed Territorial judges provision was made for the appointment of judges of the supreme court. Then each of the Territories was authorized to create districts and fix the limits of the districts, and so on, and the governor was authorized, until otherwise provided by law—that meant the law of the Territory—to assign the judges to those various districts. So if the assignment of the judges to those various district courts and, indeed, the creation of the districts themselves could in any manner be said to be appointments, that would have been as objectionable under the constitutional provision as the bill to which the Senator has called attention.

Mr. BAILEY. Oh, no; that is not my view of it at all. other words, the President of the United States might be given the power to appoint a Territorial officer, but no power in the Territory could be given the right to appoint an officer of the United States, it being expressly provided in the Constitution how a man may become an officer of the United States.

Mr. SUTHERLAND. But these were officers of the United

States

Mr. BAILEY.

Mr. SUTHERLAND. Only, the Senator very well said, they were not appointed under the judicial clause of the Constitution, and therefore they did not hold a life tenure.

Mr. BAILEY. They held for a term of years.

Mr. SUTHERLAND. Yes; they held for a limited term of years provided by the law. But still they held office, as I understand it-the Senator from Washington knows about it better than I-precisely the same way as these judges in Porto Rico,

for a term of years.

Mr. BAILEY. Then, if they do, if this judge is an officer of Porto Rico, we can have him appointed as we please, in my opinion; but I am not sure whether they are treated as officers of the United States there. My understanding is that there is not a form of real Territorial government there.

Mr. POINDEXTER. There is a form of Territorial govern-

ment there.

Mr. BAILEY. I said a form of real Territorial government. Mr. LODGE. Porto Rico is not a Territory.

Mr. SUTHERLAND. Were the judges referred to in the

Mr. SUTHERNAND. Were the judges referred to in the bill appointed for a term of years?

Mr. BAILEY. I am sure they are.

Mr. POINDEXTER. I am not advised as to whether it was for a term of years or for life.

Mr. NELSON. Mr. President, I have before me—

The PRESIDENT pro tempore. Does the Senator from

Washington yield to the Senator from Minnesota? Mr. POINDEXTER. I do.

Mr. NELSON. I have here the section of the organic act under which this judge was appointed. It was not read by the Senator from Washington. Here is the language:

Senator from Washington. Here is the language:

Sec. 34. That Porto Rico shall constitute a judicial district to be called "the district of Porto Rico." The President, by and with the advice and consent of the Senate, shall appoint a district judge, a district attorney, and a marshal for said district, each for a term of four years, unless sooner removed by the President. The district court for said district shall be called the district court of the United States for Porto Rico and shall have power to appoint all necessary officials and assistants, including a clerk, an interpreter, and such commissioners as may be necessary, who shall have like power and duties as are exercised and performed by commissioners of the circuit courts of the United States, and shall have, in addition to the ordinary jurisdiction of district courts of the United States, jurisdiction of all cases cognizant in the circuit courts of the United States, and shall proceed therein in the same manner as a circuit court.

With the exception of being appointed for a four-year term, the jurisdiction of this judge is limited strictly to what appertains to a Federal district judge in the States, and he has no jurisdiction of cases arising under local or Territorial law.

Mr. BAILEY. That is exactly what we have always known in this country as a United States court for a Territory, and that is exactly what that is now in Porto Rico. It is a United States court for the district of Porto Rico, and the officers of that court are officers of the United States, undoubtedly.

Mr. LODGE. But they are not constitutional judges.

Mr. BAILEY. But, of course, not constitutional judges. While I know the governor could not appoint an officer of that court-because the officer of that court is an officer of the United States-I am not so clear that the governor may not be authorized to designate an officer of the United States court to perform some duty with respect to the local jurisdiction of that island. At any rate, Mr. President, I am not clear enough about it to resist the passage of the bill.

I am sure it would be better, if the Senator were willing to amend it, to vest that power of designation in the chief justice of the court if you please rather than in the governor; but I

leave it.

Mr. WORKS. As I understand the effect of this bill, it provides for the appointment by the governor of a judge who has been appointed by the governor to preside over a Federal court in the place of a judge appointed by the President and confirmed by the Senate.

Mr. BAILEY. Then he could not preside in the Federal court. That is certain.

Mr. LODGE. Excuse me. The governor is to designate. Mr. WORKS. I understand. I do not mean "appoint."

Mr. LODGE. It is not a judge appointed by the President

and confirmed by the Senate.

Mr. WORKS. The governor is to have the power to assign to another jurisdiction a judge appointed entirely by his own power and authority.

Mr. LODGE. He is to assign him to another jurisdiction.

Mr. WORKS. Certainly. The question in my mind whether he has the power to assign such judges appointed by a different power and having entirely different jurisdiction to preside over a Federal court.

Mr. POINDEXTER. The Senator from California is in error as to the appointment of Supreme Court judges of Porto The organic act provides that they shall be appointed by the President by and with the advice and consent of the

Mr. WORKS. But, as I understand, it authorizes the appointment of other judges as well.

Mr. POINDEXTER. Which provision-that of the organic act:

Mr. WORKS.

Mr. POINDEXTER. T. Mr. WORKS. The bill. The bill?

Mr. WORKS. The one.

Mr. POINDEXTER. No; not of other judges, only a judge of the Supreme Court of Porto Rico. The effect of the bill is simply adding a duty to the functions of the supreme court judge of Porto Rico. I apprehend that there can be no continued in the court of the supremental than the court of the supremental than the recognition of the supremental than the tention made that it is not within the power of Congress at any time to enlarge the functions of any court of the United States, and that the judge holding that office would have authority, although he had been previously appointed, to perform those additional duties. It is not an appointment to office, but simply makes him eligible to perform additional duties and to provide that in case of emergency he shall be designated therefor by the governor of Porto Rico.

The designation is a mere administrative act. Somebody has to designate the judge, and Congress has power, undoubtedly there is nothing in the Constitution in conflict with it-to say what authority shall designate the particular supreme judge to temporarily perform the duties of the district court. Both judges are Federal judges in the sense that they are holding office under the Federal law. Both are appointed by the President; both are confirmed by the Senate.

I have here a letter, from which I will read just a few lines, from an attorney practicing in Porto Rico, who says:

I am an attorney, practicing at the bar at San Juan, P. R., and am interested in various matters of litigation before the United States court of the island, and among other interests there are at present two sugar companies, one of them having properties valued at more than a million dollars, which are at present being operated by receivers under the orders of the Federal court, and which receiverships require constant attention and orders from the Federal court in order to attend to the interests of the interested parties.

It is obvious that it is an emergency case and that there ought to be some immediate action. I think there is a great deal of merit in the suggestions of the Senator from Texas, but if the bill is amended in accordance with those suggestions, it will have to go back to the House of Representatives. This is not my bill. I did not prepare it. It is a House bill. It came to the Senate. If amended, it would have to go over until after the holidays, and under the procedure and the pressure of business in the House of Representatives a considerable length of time might elapse then before it could be taken up.

If there is a serious defect in the procedure provided for by this bill, which I do not think there is, it can be taken care of, of course, by an amendment to the act which can be passed at

Mr. WORKS. I have no desire to oppose the passage of the bill. I made my suggestions with respect to it, and I shall not object to its passage this evening.

The PRESIDENT pro tempore. Is there objection to the

present consideration of the bill?

There being no objection, the Senate, as in Committee of the

Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, and was read the third time.

The PRESIDENT pro tempore. The question is, Shall the

bill pass?

Mr. BAILEY. Mr. President, I merely wish to say, out of an abundance of caution, that I desire to be regarded as voting against the passage of the bill. If I had the time to read it carefully, I might agree to it.

The PRESIDENT pro tempore. The question is, Shall the

bill pass?

The bill was passed.

REGISTRATION OF TRADE-MARKS.

Mr. BRANDEGEE. From the Committee on Patents I report back favorably, without amendment, the bill (H. R. 10648) amending an act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with the Indian tribes, and to protect the same," and I ask unanimous consent for its present consideration.

There being no objection, the Senate, as in Committee of the

Whole, proceeded to consider the bill.

Mr. BRANDEGEE. I will simply say that that section is reenacted with an amendment which appears in the bill, commencing in line 9, page 1, with the last two words in the line, "or of," and including line 17, the effect of which is to insert this language in the law as it stands at present, to wit:

Or of any name, distinguishing mark, character, emblem, colors, flag, or banner adopted by any institution, organization, club, or society which was incorporated in any State in the United States prior to the date of the adoption and use by the applicant: Provided, That said name, distinguishing mark, character, emblem, colors, flag, or banner was adopted and publicly used by said institution, organization, club, or society prior to the date of adoption and use by the applicant.

It is a bill which has passed the House, having been unanimously reported by the House Committee on Patents, and is reported with the approval of all the members of the Senate committee who are now in town, which are five members out of the seven.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to; and (at 4 o'clock and 50 minutes p. m.) the Senate adjourned, the adjournment being, under the concurrent resolution of the two Houses, until Thursday, January 2, 1913, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate December 19, 1912. UNITED STATES ATTORNEY.

Fred C. Cubberly, of Florida, to be United States attorney for the northern district of Florida. (A reappointment, his term expiring January 12, 1913.)

RECEIVERS OF PUBLIC MONEYS.

George P. Bennett, of Rapid City, S. Dak., to be receiver of Public moneys at Rapid City, vice Myron Willsie, term expired.

William M. Enright, of Billings, Mont., to be receiver of public moneys at Billings, vice Luther T. Hauberg, temporary appointee. (Reinstatement.)

Julius H. Weiss, of Colorado, to be receiver of public moneys at Del Norte, Colo., his term expiring January 5, 1913. (Reap-

pointment.) D. J. Muri, of Montana, to be receiver of public moneys at Miles City, Mont., vice Joseph C. Auld, term expired.

Hugh Taylor, of Colorado, to be receiver of public moneys at Denver, Colo., his term expiring February 27, 1913. pointment.)

Charles E. Arnold, of Arizona, to be receiver of public moneys at Phoenix, Ariz., his term expiring January 5, 1913. (Reappointment.)

REGISTERS OF THE LAND OFFICE.

Harry H. Mitchell, of Springfield, Mo., to be register of the land office at Springfield, vice Cornelius N. Van Hosen, de-

Charles L. Harris, of Billings, Mont., to be register of the land office at Billings, his term expiring December 16, 1912. (Reappointment.)

UNITED STATES MARSHAL.

Gilbert B. Deans, of Alabama, to be United States marshal, southern district of Alabama. (A reappointment, his term having expired.)

ASSISTANT AGENT ALASKA SALMON FISHERIES.

Carl P. Henkel, of Missouri, to be assistant agent Alaska salmon fisheries, Division of Alaska Fisheries, Bureau of Fisheries, Department of Commerce and Labor, vice Ward T. Bower, nominated for promotion to agent.

ASSISTANT COMPTROLLER OF THE TREASURY.

Walter W. Warwick, of Ohio, to be Assistant Comptroller of the Treasury in place of Leander P. Mitchell, deceased.

COLLECTOR OF CUSTOMS.

Lewis Crandall, of Connecticut, to be collector of customs for the district of New London, in the State of Connecticut, in place of Thomas O. Thompson, deceased.

JUDGE OF THE CIRCUIT COURT OF HAWAII.

Selden B. Kingsbury, of Hawaii, to be judge of the Circuit Court of the Second Circuit of the Territory of Hawaii. (A reappointment, his term expiring February 8, 1913.)

UNITED STATES CIRCUIT JUDGE.

George A. Carpenter, of Illinois, to be United States circuit judge, seventh circuit, vice Peter S. Grosscup, resigned.

UNITED STATES DISTRICT JUDGE.

Charles S. Cutting, of Illinois, to be United States district judge, northern district of Illinois, vice George A. Carpenter, nominated to be circuit judge.

SURVEYOR OF CUSTOMS.

Joseph G. Gardner, of Iowa, to be surveyor of customs for the port of Des Moines, in the State of Iowa, in place of George L. Godfrey, whose term of office has expired by limitation.

SURVEYOR GENERAL OF ALASKA.

William L. Distin, of Illinois, to be surveyor general of Alaska, his term expiring December 17, 1912. (Reappointment.)

PROMOTIONS IN THE ARMY.

MEDICAL CORPS.

Lieut. Col. William D. Crosby, Medical Corps, to be colonel from December 7, 1912, vice Col. William W. Gray, retired from

active service December 6, 1912.

Maj. Champe C. McCulloch, jr., Medical Corps, to be lieutenant colonel from December 7, 1912, vice Lieut. Col. William D. Crosby, promoted.

Capt. Perry L. Boyer, Medical Corps, to be major from December 7, 1912, vice Maj. Champe C. McCulloch, jr., promoted.

INFANTRY ARM.

Maj. Waldo E. Ayer, Second Infantry, to be lieutenant colonel from December 12, 1912, vice Lieut. Col. Lawrence J. Hearn, Third Infantry, who died December 11, 1912.

Capt. William F. Grote, Eighteenth Infantry, to be major

from December 12, 1912, vice Maj. Waldo E. Ayer, Second Infantry, promoted.

COAST ARTILLERY CORPS.

Second Lieut. George L. Van Deusen, Coast Artillery Corps, to be first lieutenant from November 16, 1912, vice First Lieut.

Francis B. Upham, resigned, November 15, 1912.

Second Lieut. Belton O'N. Kennedy, Coast Artillery Corps, to be first lieutenant from November 19, 1912, vice First Lieut. George M. Morrow, jr., transferred to the Field Artillery.

QUARTERMASTER CORPS.

Capt. David B. Case, Quartermaster Corps, to be major with rank from November 1, 1912.

Capt. William Elliott, Quartermaster Corps, to be major with rank from November 1, 1912.

Capt. James A. Logan, jr., Quartermaster Corps, to be major from November 1, 1912.

APPOINTMENT IN THE ARMY.

CHAPLAIN.

Rev. Jeremiah Augustine Lenehan, of Kansas, to be chaplain with the rank of first lieutenant from December 12, 1912, Chaplain Laurence L. Denning, Coast Artillery Corps, resigned September 1, 1912.

APPOINTMENT, BY TRANSFER, IN THE ARMY.

Second Lieut. Walter F. Winton, Seventh Cavalry, to be second lieutenant of Field Artillery, with rank from July 23, 1912.

PROMOTIONS IN THE NAVY.

Asst. Paymaster Maj. C. Shirley to be a passed assistant paymaster in the Navy from the 23d day of August, 1912, to fill a

Lieut. Commander Francis L. Chadwick to be a commander in the Navy from the 1st day of July, 1912, to fill a vacancy.

Medical Inspector Francis W. F. Wieber to be a medical director of the Navy from the 28th day of October, 1912, to fill vacancy

Surg. Luther L. von Wedekind to be a medical inspector in the Navy from the 28th day of October, 1912, to fill a vacancy.

COMMISSIONERS ON INDUSTRIAL RELATIONS.

GEORGE SUTHERLAND, of Utah; George B. Chandler, of Connecticut; Charles Simon Barrett, of Georgia; Frederic Adrian Delano, of Illinois; Adolph Lewisohn, of New York; Ferdinand Charles Schwedtman, of Missouri; Austin Bruce Garretson, of Iowa: John B. Lennon, of Illinois; James O'Connell, of the District of Columbia, to be Commissioners on Industrial Relations, under the provisions of the act approved August 23, 1912.

MINISTER.

Montgomery Schuyler, jr., of New York, now secretary of the embassy at Mexico, to be envoy extraordinary and minister plenipotentiary of the United States of America to Ecuador, vice Evan E. Young, resigned.

SECRETARIES OF EMBASSIES.

Nelson O'Shaughnessy, of New York, now second secretary of the embassy at Mexico. to be secretary of the embassy of the United States of America at Mexico, Mexico, vice Montgomery Schuyler, jr., nominated to be envoy extraordinary and minister plenipotentiary to Ecuador.

Ralph B. Strassburger, of New York, now secretary of the legation and consul general to Roumania, Servia, and Bulgaria, to be second secretary of the embassy of the United States of America at Tokyo, Japan, vice Charles Campbell, jr., nominated to be secretary of the legation and consul general to Roumania,

Servia, and Bulgaria.

Henry F. Tennant, of New York, now third secretary of the embassy at Mexico, to be second secretary of the embassy of the United States of America at Mexico, Mexico, vice Nelson O'Shaughnessy, nominated to be secretary of the embassy at Mexico.

Cyrus F. Wicker, of New York, now secretary of the legation at Tangler, to be secretary of the legation of the United States of America at Panama, Panama, vice William W. Andrews, appointed secretary of the legation at Lisbon.

SECRETARY OF LEGATION AND CONSUL GENERAL.

Charles Campbell, jr., of Virginia, now second secretary of the embassy at Tokyo, to be secretary of the legation and consul general of the United States of America to Roumania, Servia, and Bulgaria, vice Ralph B. Strassburger, nominated to be second secretary of the embassy at Tokyo.

CONSULS GENERAL.

Carl Bailey Hurst, of the District of Columbia, now consul at Lyon, to be consul general at large of the United States of America, vice Fleming D. Cheshire, appointed consul general at

P. Merrill Griffith, of Ohio, now consul at Pernambuco, to be consul general of the United States of America at Callao, Peru, vice William H. Robertson, nominated to be consul general at Moscow.

William H. Robertson, of Virginia, now consul general at Callao, to be consul general of the United States of America at Moscow, Russia, vice John H. Snodgrass, nominated to be con-

sul general at Sydney, Australia.

John H. Snodgrass, of West Virginia, now consul general at Moscow, to be consul general of the United States of America at Sydney, Australia, vice John P. Bray, nominated to be consul at Manchester.

CONSULS.

John P. Bray, of North Dakota, now consul general at Sydney, Australia, to be consul of the United States of America at Manchester, England, vice Church Howe, resigned.

John W. Dye, of Minnesota, now a consular assistant, to be consul of the United States of America at St. Johns, Quebec, Canada, vice Andrew J. McConnico, nominated to be consul at Owen Sound.

William Dawson, jr., of Minnesota, to be consul of the United States of America at Sierra Leone, West Africa, vice William J. Yerby, nominated to be consul at Mersina.

Paul H. Foster, of Texas, to be consul of the United States of America at Teneriffe, Canary Islands, vice William W. Kitchen, deceased.

Cornelius Ferris, jr., of Colorado, now consul at Asuncion, to be consul of the United States of America at Malta, Maltese Islands, vice James Oliver Laing, nominated to be consul at Maracaibo.

Claude E. Guyant, of Illinois, now consul at Salina Cruz, to be consul of the United States of America at Ensenada, Mexico, vice Frederick Simpich, nominated to be consul at Nogales.

Arminius T. Haeberle, of Missouri, now consul at Tegucigalpa, to be consul of the United States of America at Vladivostok, Siberia, vice John F. Jewell, nominated to be consul at Tsingtan

James W. Johnson, of New York, now consul at Corinto, to be consul of the United States of America at St. Michaels, Azores, vice Edward A. Creevey.

John F. Jewell, of Illinois, now consul at Vladivostok, to be consul of the United States of America at Tsingtau, China, vice James C. McNally, nominated to be consul at Hanover

James Oliver Laing, of Missouri, now consul at Malta, to be consul of the United States of America at Maracaibo, Venezuela, vice John A. Ray, nominated to be consul at Corinto.

Stuart K. Lupton, of Tennessee, now consul at Karachi, to be consul of the United States of America at Tampico, Mexico, vice Clarence A. Miller, nominated to be consul at Pernambuco.

James C. McNally, of Pennsylvania, now consul at Tsingtau, to be consul of the United States of America at Hanover, Germany, vice Albert H. Michelson, nominated to be consul at Milan.

Andrew J. McConnico, of Mississippi, now consul at St. Johns, Quebec, to be consul of the United States of America at Owen

Sound, Ontario, Canada, vice Augustus G. Seyfert, resigned.
Lucien Memminger, of South Carolina, now a consular assistant, to be consul of the United States of America at Salina Cruz, Mexico, vice Claude E. Guyant, nominated to be consul at Ensenada.

Clarence A. Miller, of Missouri, now consul at Tampico, to be consul of the United States of America at Pernambuco, Brazil, vice P. Merrill Griffith, nominated to be consul general at

Albert H. Michelson, of Massachusetts, now consul at Han-over, to be consul of the United States of America at Milan, Italy, vice Charles M. Caughy, resigned.

Edward I. Nathan, of Pennsylvania, now consul at Mersina, to be consul of the United States of America at Karachi, India, vice Stuart K. Lupton, nominated to be consul at Tampico.

Kenneth S. Patton, of Virginia, now a consular assistant, to be consul of the United States of America at Asuncion, Paraguay, vice Cornelius Ferris, jr., nominated to be consul at Malta.

John A. Ray, of Texas, now consul at Maracaibo, to be consul of the United States of America at Corinto, Nicaragua, vice James W. Johnson, nominated to be consul at St. Michaels.

Henry P. Starrett, of Florida, to be consul of the United States of America at Tegucigalpa, Honduras, vice Arminius T. Haeberle, nominated to be consul at Vladivostok.

Frederick Simpich, of Washington, now consul at Ensenada, to be consul of the United States of America at Nogales, Mexico, vice Alexander V. Dye, resigned.

Frederick Van Dyne, of New York, now Assistant Solicitor for the Department of State, to be consul of the United States of America at Lyon, France, vice Carl Bailey Hurst, nominated to be consul general at large.

William J. Yerby, of Tennessee, now consul at Sierra Leone, to be consul of the United States of America at Mersina, Turkey, vice Edward I. Nathan, nominated to be consul at Karachi.

POSTMASTERS.

ALABAMA.

Thomas U. Baskin to be postmaster at Union Springs, Ala., in place of Thomas U. Baskin. Incumbent's commission expired May 11, 1912.

James B. Sinquefield to be postmaster at Lockhart, Ala., in place of Robert H. Trammell. Incumbent's commission expired December 16, 1912.

CALIFORNIA.

Jessie H. Dugan to be postmaster at Woodland, Cal., in place of Jessie H. Dugan. Incumbent's commission expires February 9, 1913.

John M. Jolley to be postmaster at Oceanside, Cal., in place of John M. Jolley. Incumbent's commission expired December 14,

Sarah Jane Sherrill to be postmaster at Davis, Cal., in place of Joseph J. Gallagher, resigned.

Homer C. Trippett to be postmaster at Roseville, Cal., in place of Homer C. Trippett. Incumbent's commission expires January 28, 1913.

Samuel G. Watts to be postmaster at East Auburn, Cal., in place of Samuel G. Watts. Incumbent's commission expires January 22, 1913.

J. H. Williams to be postmaster at Compton, Cal., in place of J. H. Williams. Incumbent's commission expired December 14,

1912.

CONNECTICUT.

Alexander B. Gardner to be postmaster at Milford, Conn., in place of Alexander B. Gardner. Incumbent's commission expired December 14, 1912.

Charles C. Georgia to be postmaster at West Farmington (late Unionville), Conn., in place of Charles C. Georgia, to change

name of office.

Harvey S. Halligan to be postmaster at Seymour, Conn., in

place of Harvey S. Halligan. Incumbent's commission expired December 14, 1912.

William H. Kelsey to be postmaster at Clinton, Conn., in place of William H. Kelsey. Incumbent's commission expired December 14, 1912.

FLORIDA.

Charles E. Barnes to be postmaster at Plant City, Fla., in place of Charles E. Barnes. Incumbent's commission expired December 17, 1912.

Newell B. Hull to be postmaster at Starke, Fla., in place of Newell B. Hull. Incumbent's commission expired December 17,

GEORGIA.

William T. Johnson to be postmaster at Collegepark, Ga., in place of William T. Johnson. Incumbent's commission expired February 27, 1912.

IDAHO.

Nettie B. Carpenter to be postmaster at Grangeville, Idaho, in place of Nettie B. Carpenter. Incumbent's commission expired December 17, 1912.

Joseph R. Collins to be postmaster at Moscow, Idaho, in place of Joseph R. Collins. Incumbent's commission expires January 13, 1913.

Charles C. Moore to be postmaster at St. Anthony, Idaho, in place of Charles C. Moore. Incumbent's commission expired December 17, 1912.

James Nye to be postmaster at Paris, Idaho. Office became

presidential October 1, 1912.

A. T. Shane to be postmaster at Idaho Falls, Idaho, in place of A. T. Shane. Incumbent's commission expired December 17, 1912.

ILLINOIS.

Harry K. Alexander to be postmaster at Palestine, Ill., in place of Harry K. Alexander. Incumbent's commission expired March 24, 1912.

John F. Ashwill to be postmaster at Toledo, Ill., in place of John F. Ashwill. Incumbent's commission expired December 14, 1912

Henry C. Bogue to be postmaster at Vermont, Ill., in place of Henry C. Bogue. Incumbent's commission expired December 14, 1912.

Theodore Boltenstern to be postmaster at Cambridge, Ill., in place of Theodore Boltenstern. Incumbent's commission expired December 14, 1912.

H. G. Hotchkiss to be postmaster at Prophetstown, Ill., in place of Edgar Rodee. Incumbent's commission expired December 14, 1912.

Henry C. Jones to be postmaster at Marion, Ill., in place of Henry C. Jones. Incumbent's commission expired December 14, 1912.

William A. Kelly to be postmaster at West Frankfort, Ill., in

place of William A. Kelly. Incumbent's commission expired December 14, 1912.

William Knigge to be postmaster at Area (late Rockefeller), Ill., in place of William Knigge, to change name of office.

Robert L. Lutton to be postmaster at Clifton, Ill., in place of Robert L. Lutton. Incumbent's commission expired December 14, 1912.

Mary S. McClymonds to be postmaster at Kirkwood, Ill., in place of John Holliday. Incumbent's commission expired December 14, 1912

Henry P. Miller to be postmaster at Cobden, Ill., in place of Henry P. Miller. Incumbent's commission expired December 14, 1912.

Leander W. Niles to be postmaster at Bethany, Ill., in place of Leander W. Niles. Incumbent's commission expires January 14, 1913.

Paul P. Shutt to be postmaster at Paris, Ill., in place of Paul P. Shutt. Incumbent's commission expired December 14, 1912.

J. W. Thompson to be postmaster at Granite City, Ill., in place of J. W. Thompson. Incumbent's commission expired December 14, 1912.

George E. Wiedman to be postmaster at Zion City, Ill., in place of George E. Wiedman. Incumbent's commission expired December 11, 1911.

INDIANA.

A. G. Coffman to be postmaster at Roachdale, Ind., in place of Charles McCaughey. Incumbent's commission expires January 13, 1913.

Elmer Ferguson to be postmaster at Albany, Ind., in place of

William A. Hayes, deceased.

Timothy C. Fesler to be postmaster at Morgantown, Ind. Office becomes presidential January 1, 1913.

George M. Foland to be postmaster at East Chicago, Ind., in place of Moses Specter. Incumbent's commission expired De-

cember 17, 1912. Clem D. Fosler to be postmaster at South Whitley, Ind., in place of Cash M. Graham. Incumbent's commission expired February 12, 1911.

Charles A. Frazee to be postmaster at Rushville, Ind., in place of Charles A. Frazee. Incumbent's commission expires January 12, 1913.

James Gastinan to be postmaster at Lyons, Ind., in place of Charles T. O'Haver, deceased.

Charles E. Hillstrom to be postmaster at Chesterton, Ind., in place of Charles E. Hillstrom. Incumbent's commission expired December 17, 1912.

Ada McCain to be postmaster at Kentland, Ind., in place of Richard C. McCain. Incumbent's commission expired April 22, 1912

Leonard E. Moore to be postmaster at Shirley, Ind., in place of Leonard E. Moore. Incumbent's commission expires Feb-

ruary 1, 1913. Ora Myers to be postmaster at Greenfield, Ind., in place of

George W. Duncan, removed.

Howard H. Newby to be postmaster at Sheridan, Ind., in place of Howard H. Newby. Incumbent's commission expires January 13, 1913.

W. G. Pettijohn to be postmaster at Arcadia, Ind., in place of W. G. Pettijohn. Incumbent's commission expires January 25.

Knode D. Porter to be postmaster at Hagerstown, Ind., in place of Knode D. Porter. Incumbent's commission expires January 13, 1913.

Phineas O. Small to be postmaster at Laporte, Ind., in place of Phineas O. Small. Incumbent's commission expired December 17, 1912.

Plin L. Truesdell to be postmaster at Hobart, Ind., in place of Harry C. Linkhart, deceased.

Shad Young to be postmaster at Cicero, Ind., in place of Shad Young. Incumbent's commission expires January 14, 1913.

George Banger to be postmaster at Laporte City, Iowa, in place of George Banger. Incumbent's commission expired December 14, 1912.

Charles O. Barry to be postmaster at Walker, Iowa, in place of Charles O. Barry. Incumbent's commission expired December 14, 1912.

Robert A. Gardner to be postmaster at West Point, Iowa, in place of Robert A. Gardner. Incumbent's commission expires January 26, 1913.

Erank A. Nimocks to be postmaster at Ottumwa, Iowa, in place of Frank A. Nimocks. Incumbent's commission expires January 26, 1913.

Lewis W. Sley to be postmaster at Oxford Junction, Iowa, in place of Lewis W. Sley. Incumbent's commission expired December 14, 1912.

Charles Smith to be postmaster at Clarence, Iowa, in place of Charles Smith. Incumbent's commission expired December 14,

W. H. Vance to be postmaster at Winterset, Iowa, in place of W. H. Vance. Incumbent's commission expired December 14,

Don R. Whitmore to be postmaster at Olin, Iowa, in place of Dennis Bittner. Incumbent's commission expired December 14, 1912.

KANSAS.

Ulysses S. Davis to be postmaster at Morrill, Kans., in place of Ulysses S. Davis. Incumbent's commission expires January 12, 1913,

David D. McIntosh to be postmaster at Marion, Kans., in place of David D. McIntosh. Incumbent's commission expired

Frank S. McKelvey to be postmaster at Gas, Kans., in place of Frank S. McKelvey. Incumbent's commission expired Decem-

ber 17, 1912.

Benson L. Mickel to be postmaster at Soldier, Kans., in place of Benson L. Mickel. Incumbent's commission expires January 28, 1913.

Lewis Pickrell to be postmaster at Minneapolis, Kans., in place of Lewis Pickrell. Incumbent's commission expired December 17, 1912.

Guy A. Swallow to be postmaster at Fort Leavenworth, Kans., in place of Guy A. Swallow. Incumbent's commission expires January 14, 1913.

KENTUCKY.

Felix G. Begley to be postmaster at Hazard, Ky. Office became presidential October 1, 1912.

Isaac N. Bryant to be postmaster at Corbin, Ky., in place of Isaac N. Bryant. Incumbent's commission expires February 20, 1913.

Charles Crowell to be postmaster at Earlington, Ky., in place of Charles Crowell. Incumbent's commission expired December 14, 1912.

W. S. Griffith to be postmaster at Benton, Ky., in place of W. S. Griffith. Incumbent's commission expires January 14, 1913.

H. G. Hicks to be postmaster at Olive Hill, Ky., in place of H. G. Hicks. Incumbent's commission expired December 14,

William Henry Jones to be postmaster at Glasgow, Ky., in place of William Henry Jones. Incumbent's commission expires February 9, 1913.

John D. Littlejohn to be postmaster at Grayson, Ky., in place of John D. Littlejohn. Incumbent's commission expired December 14, 1912.

Robert L. Oelze to be postmaster at Cloverport, Ky., in place of Robert L. Oelze. Incumbent's commission expires January

John S. Welch to be postmaster at Smiths Grove, Ky., in place of William J. Wade. Incumbent's commission expires January

Charles E. Atwood to be postmaster at Biddeford, Me., in place of Charles E. Atwood. Incumbent's commission expires January 11, 1913.

Montrose E. Hill to be postmaster at Old Orchard, Me., in place of Montrose E. Hill. Incumbent's commission expires January 5, 1913.

George D. Libby to be postmaster at Gardiner, Me., in place of George D. Libby. Incumbent's commission expired December 16, 1912.

LOUISIANA.

James F. Moore to be postmaster at Logansport, La. Office became presidential October 1, 1911.

MARYLAND.

Samuel Hambleton to be postmaster at Rising Sun, Md., in place of Samuel Hambleton. Incumbent's commission expired February 21, 1912. Charles H. Holtzman to be postmaster at Cumberland, Md.,

in place of William Pearre, removed.

Oscar Leser to be postmaster at Baltimore, Md., in place of William H. Harris. Incumbent's commission expires January

Mary W. West to be postmaster at Northeast, Md., in place of Jesse West. Incumbent's commission expires January 11,

MASSACHUSETTS.

Henry W. Dolliver to be postmaster at Whitinsville, Mass., in place of Henry W. Dolliver. Incumbent's commission expires February 9, 1913.

Asa B. Fay to be postmaster at Northboro, Mass., in place of Asa B. Fay. Incumbent's commission expired December 14,

1912

Edwin F. Lilley to be postmaster at Milford, Mass., in place

of George G. Cook, resigned. George E. Ricker to be postmaster at Merrimac, Mass., in place of George E. Ricker. Incumbent's commission expired December 14, 1912.

George M. Solomon to be postmaster at Hinsdale, Mass., in place of George M. Solomon. Incumbent's commission expired December 14, 1912.

William F. Wiley to be postmaster at Peabody, Mass., in place of William F. Wiley. Incumbent's commission expired Decem-

MICHIGAN

Louis Basso to be postmaster at South Range, Mich., in place of William Trevarthen. Incumbent's commission expired December 14, 1912.

Winthrop A. Hayes to be postmaster at Rochester, Mich., in place of Winthrop A. Hayes. Incumbent's commission expired April 25, 1912.

Jens Hemingsen to be postmaster at Grant, Mich., in place of Jens Hemingsen. Incumbent's commission expired December

14, 1912.
William T. Hosner to be postmaster at Romeo, Mich., in place of William T. Hosner. Incumbent's commission expires January 5, 1913.

John A. Sherman to be postmaster at Ludington, Mich., in place of Frank P. Dunwell, deceased.

MINNESOTA.

Marion G. Crawford to be postmaster at Lakefield, Minn., in place of Marion G. Crawford. Incumbent's commission expired December 14, 1912.

Olaf H. Dahl to be postmaster at Lyle, Minn., in place of

Burton J. Robertson, resigned.

James M. Diment to be postmaster at Owatonna, Minn., in place of James M. Diment. Incumbent's commission expires

January 22, 1913. Charles Hoegh to be postmaster at Spring Grove, Minn., in place of Ole B. Tone. Incumbent's commission expired January 23, 1912.

Osborne A. Walker to be postmaster at Ellsworth, Minn., in place of James Walker. Incumbent's commission expired December 14, 1912.

MISSISSIPPI.

James W. Bell to be postmaster at Pontotoc, Miss., in place of James W. Bell. Incumbent's commission expires February 9,

Jasper F. Butler to be postmaster at Holly Springs, Miss., in place of Jasper F. Butler. Incumbent's commission expires January 29, 1913.

Walter A. Collins to be postmaster at Hattiesburg, Miss., in place of Walter A. Collins. Incumbent's commission expires

February 24, 1913. Harvey E. Fitts to be postmaster at Aberdeen, Miss., in place of Harvey E. Fitts. Incumbent's commission expires February 9, 1913.

Truman Gray to be postmaster at Waynesboro, Miss., in place of James R. S. Pitts. Incumbent's commission expired January 14, 1912.

Monroe L. Lott to be postmaster at Sumrall, Miss., in place of Monroe L. Lott. Incumbent's commission expires February 9, 1913.

Lillie W. Nugent to be postmaster at Rosedale, Miss., in place of Lillie W. Nugent. Incumbent's commission expires January 13, 1913.

Alexander Yates to be postmaster at Utica, Miss., in place of Alexander Yates. Incumbent's commission expires January 11, 1913.

MISSOURI.

J. Orval Ferguson to be postmaster at Willow Springs, Mo., in place of Charles Ferguson, resigned.

Arthur W. Schmidt to be postmaster at Clayton, Mo., in place

of Frederick W. Deuser, removed.

Franklin E. Smelser to be postmaster at Doniphan, Mo., in place of Otis M. Gary. Incumbent's commission expires January 12, 1913.

MONTANA.

Ithel S. Eldred to be postmaster at Deer Lodge, Mont., in place of Ithel S. Eldred. Incumbent's commission expires January 11, 1913.

Alice B. Hensley to be postmaster at Moore, Mont., in place of Patrick H. Tooley, deceased.

L. L. Mayland to be postmaster at Chester, Mont. Office became presidential April 1, 1911.

Horace A. Moulton to be postmaster at Lewistown, Mont., in

place of Albert Pfaus. Incumbent's commission expires January 11, 1913.

Edward Stubban to be postmaster at Medicine Lake, Mont. Office became presidential October 1, 1912.

NEBRASKA.

George H. Borden to be postmaster at Beaver Crossing, Nebr., in place of George H. Borden. Incumbent's commission expired December 17, 1912.

Benton Cotterman to be postmaster at Petersburg, Nebr., in place of Benton Cotterman. Incumbent's commission expires January 11, 1913.

Charles C. Craig to be postmaster at Morrill, Nebr., in place of Walter L. Minor, resigned.

Estella M. Davisson to be postmaster at Long Pine, Nebr., in place of Estella M. Davisson. Incumbent's commission expires January 11, 1913.

James W. Fairfield to be postmaster at Mason City, Nebr., in place of James W. Fairfield. Incumbent's commission ex-

pires January 14, 1913.

Charles W. Gibson to be postmaster at Litchfield, Nebr., in place of Charles W. Gibson. Incumbent's commission expires January 12, 1913.

Darwin C. Grow to be postmaster at Loup City, Nebr., in place of Darwin C. Grow. Incumbent's commission expires January

11, 1913.

Peyton A. Montgomery to be postmaster at Edgar, Nebr., in place of J. J. Walley. Incumbent's commission expired May 15, 1912.

Isaac Roush to be postmaster at Kimball, Nebr., in place of Isaac Roush. Incumbent's commission expired December 17,

1912 Clifton F. Stockwell to be postmaster at Bassett, Nebr., in place of Clifton F. Stockwell. Incumbent's commission expired December 17, 1912.

NEVADA.

Jessie E. Burnett to be postmaster at McGill, Nev., in place of Jessie E. Burnett. Incumbent's commission expired December 14, 1912.

Eugene L. Dutertre to be postmaster at Golconda, Nev., in place of Mary E. Langwith, resigned.

NEW JERSEY.

Isaiah Apgar to be postmaster at Califon, N. J., in place of Isaiah Apgar. Incumbent's commission expires January 13, 1913.

Frederick W. Bohlen to be postmaster at Maurer, N. J., in place of Frederick W. Bohlen. Incumbent's commission expired December 16, 1912.

Charles F. Burney to be postmaster at Bradley Beach, N. J., in place of Charles F. Burney. Incumbent's commission expired December 16, 1912.

Leslie I. Cooke to be postmaster at Hackettstown, N. J., in place of Leslie I. Cooke. Incumbent's commission expired February 10, 1912.

Louis H. Donnelly to be postmaster at Atlantic City, N. J.,

in place of Harry Bacharach, resigned.

Joseph E. Fulper to be postmaster at Washington, N. J., in place of Joseph E. Fulper. Incumbent's commission expired December 16, 1911.

Thomas Graham to be postmaster at Point Pleasant, N. J., in place of Thomas Graham. Incumbent's commission expired December 16, 1912.

Howard V. Locke to be postmaster at Swedesboro, N. J., in place of Howard V. Locke. Incumbent's commission expires January 13, 1913.

Theodore S. Moore to be postmaster at Stockton, N. J., in place of Theodore S. Moore. Incumbent's commission expired May 11, 1912.

NEW MEXICO.

E. L. Ozanne to be postmaster at Santa Rita, N. Mex., in place of L. H. Bartlett, who declined appointment.

NEW YORK.

Arthur C. Agan to be postmaster at Fayetteville, N. Y., in place of Arthur C. Agan. Incumbent's commission expired December 16, 1912.

Putnam Allen to be postmaster at Fulton, N. Y., in place

of William E. Hughes, resigned.

George W. Armstrong to be postmaster at Manlius, N. Y., in place of George W. Armstrong. Incumbent's commission expires January 29, 1913.

Clarence E. Bird to be postmaster at Sidney, N. Y., in place McKinnon. Incumbent's commission expires of George A. January 21, 1913.

Thomas A. Braniff to be postmaster at New Brighton, N. Y., in place of Thomas A. Braniff. Incumbent's commission expired December 16, 1912.

Elbert D. Crane to be postmaster at Addison, N. Y., in place

of Charles L. Crane, resigned.

Fred A. Davis to be postmaster at Fort Edward, N. Y., place of Fred A. Davis. Incumbent's commission expired December 16, 1912.

Fred A. Green to be postmaster at Copenhagen, N. Y., in place of Fred A. Green. Incumbent's commission expires January 21, 1913.

Norval D. Hart to be postmaster at Mexico, N. Y., in place

of Wilfred A. Robbins, resigned.

Allen K. Hoag to be postmaster at Orchard Park, N. Y. Office became presidential October 1, 1912.

Melbourne Hutton to be postmaster at Nanuet, N. Y., in place

of William Hutton, jr., resigned.
William B. Le Roy to be postmaster at Cohoes, N. Y., in place of William B. Le Roy. Incumbent's commission expired February 15, 1911.

Jonathan B. Morey to be postmaster at Dansville, N. Y., in place of Jonathan B. Morey. Incumbent's commission expired December 16, 1912

J. Johnson Ray to be postmaster at Norwich, N. Y., in place of J. Johnson Ray. Incumbent's commission expired December 16, 1912.

Andrew B. Saxton to be postmaster at Oneonta, N. Y., in place of Charles F. Shelland. Incumbent's commission expired January 14, 1912.

Richard J. Shanahan to be postmaster at Syracuse, N. Y., in place of William Cowie. Incumbent's commission expired December 16, 1912.

Frank Stumpf to be postmaster at Stillwater, N. Y., in place of Frank Stumpf. Incumbent's commission expired December 16, 1912.

Mortimer R. Tefft to be postmaster at Greenwich, N. Y., in place of Mortimer R. Tefft. Incumbent's commission expired

December 16, 1912.

Charles K. Williams to be postmaster at Phoenix, N. Y., in place of Charles K. Williams. Incumbent's commission expired December 16, 1912.

Judson S. Wright to be postmaster at Tully, N. Y., in place of Judson S. Wright. Incumbent's commission expires January 29, 1913.

William G. Wright to be postmaster at Milford, N. Y., in place of George Mumford. Incumbent's commission expired December 16, 1912.

NORTH CAROLINA.

place of William H. Jenkins. Incumbent's commission expired June 22, 1910.

NORTH DAKOTA.

Robert D. Beery to be postmaster at Mott, N. Dak., in place of Frank I. Bonesho. Incumbent's commission expires January 27, 1913.

Anna Callahan to be postmaster at Casselton, N. Dak., in place of Anna Callahan. Incumbent's commission expires February 20, 1913.

William T. Cameron to be postmaster at Aneta, N. Dak., in place of William T. Cameron. Incumbent's commission expires

February 20, 1913.

Henry Engelter to be postmaster at New Salem, N. Dak., in place of Henry Engelter. Incumbent's commission expires January 11, 1913.

Alice Gilbertson to be postmaster at Towner, N. Dak., in place of Alice Gilbertson. Incumbent's commission expires January 11, 1913.

Anthony Hentges to be postmaster at Michigan, N. Dak., in place of Maggie Fox. Incumbent's commission expires January 11, 1913.

Mads C. Knudsen to be postmaster at Esmond, N. Dak., in place of Mads C. Knudsen. Incumbent's commission expired February 4, 1912.

OHIO.

W. A. Carpenter to be postmaster at Athens, Ohio, in place of Charles H. Bryson, removed.

E. C. Gething to be postmaster at Hubbard, Ohio, in place of E. C. Gething. Incumbent's commission expired December 17.

Roscoe G. Hornbeck to be postmaster at London, Ohio, in place of Roscoe G. Hornbeck. Incumbent's commission expires January 13, 1913.

OKLAHOMA.

Sydney L. Bristow to be postmaster at Maud, Okla. Office became presidential January 1, 1912.

Alfred M. Clark to be postmaster at Gage, Okla., in place of Alfred M. Clark. Incumbent's commission expired December 17, 1912.

Erastus G. McRee to be postmaster at Granite; Okla., in place of Erastus G. McRee. Incumbent's commission expired December 17, 1912.

Downey Milburne to be postmaster at Coweta, Okla., in place of Downey Milburne. Incumbent's commission expired December 17, 1912.

George Ruddell to be postmaster at Weatherford, Okla., in place of George Ruddell. Incumbent's commission expired December 17, 1912.

S. C. Thompson to be postmaster at Dewey, Okla., in place of

James M. Lusk, resigned.

Benjamin F. Williams to be postmaster at Sayre, Okla., in place of Benjamin F. Williams. Incumbent's commission expired December 17, 1912.

OREGON.

Marion F. Davis to be postmaster at Union, Oreg., in place of Marion F. Davis. Incumbent's commission expired February 12, 1912.

Wallace W. Smead to be postmaster at Heppner, Oreg., in place of Wallace W. Smead. Incumbent's commission expired December 18, 1911.

PENNSYLVANIA.

Edward C. Atticks to be postmaster at Steelton, Pa., in place of Henry F. Hershey, deceased.

M. Z. Bassler to be postmaster at Martinsburg, Pa., in place

of Charles A. Straesser, resigned.

Zacharias A. Bowman to be postmaster at Annville, Pa., in place of Zacharias A. Bowman. Incumbent's commission expires January 13, 1913.

Margaret W. Buchanan to be postmaster at Scalp Level, Pa., in place of Margaret W. Buchanan. Incumbents' commission

expires January 12, 1913.

Elmer D. Carl to be postmaster at Greencastle, Pa., in place of Elmer D. Carl. Incumbent's commission expires January 13,

James G. Cook to be postmaster at New Alexandria, Pa., in place of James G. Cook. Incumbent's commission expired January 22, 1912

Lehman E. Gantt to be postmaster at Newport, Pa., in place of Lehman E. Gantt. Incumbent's commission expires February 18, 1913.

Christian E. Geyer to be postmaster at Catawissa, Pa., in place of Christian E. Geyer. Incumbent's commission expires January 12, 1913.

John H. Grove to be postmaster at New Freedom, Pa., in place of John H. Grove. Incumbent's commission expired May 14, 1912.

Samuel W. Hamilton to be postmaster at Vandergrift, Pa., in place of Samuel W. Hamilton. Incumbent's commission expires January 26, 1913.

Burrell G. Ingraham to be postmaster at Herminie, Pa., in place of Burrell G. Ingraham. Incumbent's commission expired February 10, 1912.

Harry B. Jacobs to be postmaster at White Haven, Pa., in

place of Pearl T. Feist, resigned.

Roger A. McCall to be postmaster at Trafford, Pa., in place of Roger A. McCall. Incumbent's commission expires January 14, 1913.

Walter L. Stevenson to be postmaster at West Newton, Pa., in place of Walter L. Stevenson. Incumbent's commission expires February 11, 1913.

Royal A. Stratton to be postmaster at Conneaut Lake, Pa., in place of Royal A. Stratton. Incumbent's commission expired December 16, 1912.

Albert H. Swing to be postmaster at Coatesville, Pa., in place of Albert H. Swing. Incumbent's commission expired December 16, 1912.

RHODE ISLAND.

Nathaniel H. Brown to be postmaster at East Greenwich, R. L., in place of Nathaniel H. Brown. Incumbent's commission expired December 14, 1912.

SOUTH CAROLINA.

James R. Montgomery to be postmaster at Marion, S. C., in place of James W. Johnson. Incumbent's commission expired March 13, 1912.

SOUTH DAKOTA.

Christian Aisenbrey to be postmaster at Menno, S. Dak.

Office became presidential January 1, 1912.

Alvah T. Bridgman to be postmaster at Springfield, S. Dak., in place of Alvah T. Bridgman. Incumbent's commission expires January 22, 1913.

Minnie E. Long to be postmaster at Kimball, S. Dak., in place of John B. Long, deceased.

A. F. Miles to be postmaster at Mobridge, S. Dak., in place of John G. Vawter, resigned.

Marion H. Moore to be postmaster at Bellefourche, S. Dak., in place of Marion H. Moore. Incumbent's commission expired December 17, 1912.

TENNESSEE.

John Redd to be postmaster at Bolivar, Tenn., in place of John Redd. Incumbent's commission expires March 3, 1913.

TEXAS.

William W. Alexander to be postmaster at Ennis, Tex., in place of A. H. Culver, resigned.

George W. Andruss to be postmaster at Rotan, Tex., in place of George W. Andruss. Incumbent's commission expired December 16, 1912.

Leonard F. Barnhardt to be postmaster at Palmer, Tex. Office became presidential October 1, 1912.

W. H. Bradley to be postmaster at Trinity, Tex., in place of John H. Hill. Incumbent's commission expired December 16, 1911.

Harry C. Butler to be postmaster at Anson, Tex., in place of Clara A. Boynton, deceased.

James Wiley Butler to be postmaster at Tyler, Tex., in place of Jeff D. Burns, deceased.

Frank P. Cummins to be postmaster at Bellville, Tex., in place of Josephine Chesley, resigned.

John T. Cunningham to be postmaster at Graham, Tex., in

place of John T. Cunningham. Incumbent's commission ex-

pired June 7, 1910.

Joseph M. Davis to be postmaster at Teague, Tex., in place of J. Wed Davis. Incumbent's commission expired May 23, 1912. Gerhard Dube to be postmaster at Thorndale, Tex., in place of Gerhard Dube. Incumbent's commission expired April 2,

Lucius C. Guin to be postmaster at Mount Calm, Tex., in place of Lucius C. Guin. Incumbent's commission expired April

Samuel H. Heath to be postmaster at New Boston, Tex., in place of Richard B. Harrison. Incumbent's commission expired May 28, 1910.

Jerra L. Hickson to be postmaster at Gainesville, Tex., in place of Jerra L. Hickson. Incumbent's commission expires January 7, 1913.

Albert S. Jones to be postmaster at Kosse, Tex., in place of Albert S. Jones. Incumbent's commission expired December 16,

W. H. Love to be postmaster at McKinney, Tex., in place of Samuel H. Cole, Incumbent's commission expired May 15, 1912.

George M. Mabry to be postmaster at Madisonville, Tex., in place of Joshua C. Brown, resigned.

Charles B. Milliken to be postmaster at Weatherford, Tex., in place of Robert B. Milliken, deceased.

William F. Neal to be postmaster at Overton, Tex. Office became presidential January 1, 1912.

Kate Nelson to be postmaster at Snyder, Tex., in place of Kate Nelson. Incumbent's commission expired April 2, 1912. Edmund A. Potts to be postmaster at Caldwell, Tex., in place

of Edmund A. Potts. Incumbent's commission expired December

16, 1911. Clarence R. Reddon to be postmaster at De Leon, Tex., in place of Clarence R. Reddon. Incumbent's commission expired April 2, 1912.

Lucilus A. Robertson to be postmaster at Tioga, Tex. Office became presidential January 1, 1912.

Lora L. Rowell to be postmaster at Pearsall, Tex., in place of Lora L. Rowell. Incumbent's commission expires January 11, 1913.

Romulus S. Salmon to be postmaster at Brackettville, Tex., in place of Henry J. Veltmann. Incumbent's commission expired April 28, 1912.

Clarence Smith to be postmaster at Hereford, Tex., in place of Clarence Smith. Incumbent's commission expired December 16, 1911.

Joseph Stanley to be postmaster at Schulenburg, Tex., in place of Joseph Stanley. Incumbent's commission expired December 16, 1912.

Frank L. Waller to be postmaster at Mount Pleasant, Tex., in place of Michael A. Rickard. Incumbent's commission expired April 28, 1912.

Sam Wanda to be postmaster at Brookshire, Tex. Office became presidential April 1, 1912.

John W. White to be postmaster at Uvalde, Tex., in place of Guido R. Goldbeck, removed.

UTAH.

James Clove to be postmaster at Provo, Utah, in place of James Clove. Incumbent's commission expires January 13, 1913. Effie R. Day to be postmaster at Lehi, Utah, in place of

Stephen W. Ross, resigned.

L. W. Shurtliff to be postmaster at Ogden, Utah, in place of W. Shurtliff. Incumbent's commission expires January 11,

WASHINGTON.

Alonzo W. Carner to be postmaster at Castlerock, Wash., in place of Alonzo W. Carner. Incumbent's commission expires February 20, 1913.

William P. Ely to be postmaster at Kelso, Wash., in place of William P. Ely. Incumbent's commission expires January 5, 1913.

H. R. Grahlman to be postmaster at Conconnully, Wash., in place of Walter W. Cloud, resigned.

Theo Hall to be postmaster at Medical Lake, Wash., in place of Theo Hall. Incumbent's commission expired December 16,

Thomas N. Henry to be postmaster at Prosser, Wash., in place of Thomas N. Henry. Incumbent's commission expired January 16, 1911.

C. H. Kellogg to be postmaster at Puyallup, Wash., in place of George W. Edgerton. Incumbent's commission expired December 16, 1912.

Theodore W. Radtke to be postmaster at Mansfield, Wash. Office became presidential October 1, 1912.

WISCONSIN.

Erik N. Anderson to be postmaster at Sawyer, Wis., in place of Erik N. Anderson. Incumbent's commission expired December 12, 1911.

Altie B. Barnard to be postmaster at Red Granite, Wis., in place of Altie B. Barnard. Incumbent's commission expired

December 14, 1912.

Morris F. Barteau to be postmaster at Appleton, Wis., in place of Morris F. Barteau. Incumbent's commission expired January 10, 1911.

Herman M. Blumenthal to be postmaster at Columbus, Wis. in place of Herman M. Blumenthal. Incumbent's commission expires January 11, 1913.

George E. Bogrand to be postmaster at Wausaukee, Wis., in place of George E. Bogrand. Incumbent's commission expired May 16, 1912.

Irving L. Bonniwell to be postmaster at Hartford, Wis., in place of Irving L. Bonniwell. Incumbent's commission expired April 24, 1912.

Frank C. Brown to be postmaster at Brandon, Wis., in place of Frank C. Brown. Incumbent's commission expired February 10, 1912.

Charles S. Button to be postmaster at Milton Junction, Wis., in place of Charles S. Button. Incumbent's commission expires January 22, 1913.

John L. Extrom to be postmaster at Tomahawk, Wis., in place of John L. Extrom. Incumbent's commission expired December 14, 1912

Wallace S. Hager to be postmaster at West De Pere, Wis., in place of Wallace S. Hager. Incumbent's commission expired December 11, 1911.

Frank K. Havens to be postmaster at Prescott, Wis., in place of Frank K. Havens. Incumbent's commission expires January 12, 1913.

J. F. Jones to be postmaster at Pewaukee, Wis., in place of James B. Weaver. Incumbent's commission expires January 22, 1913.

Asenath A. Kasson to be postmaster at Mattoon, Wis., in place of Asenath A. Kasson. Incumbent's commission expired December 14, 1912.

George A. Kraemer to be postmaster at Elkhart Lake, Wis. Office became presidential July 1, 1910.

Joseph Longbotham to be postmaster at Cuba, Wis., in place of Joseph Longbotham. Incumbent's commission expired May 14, 1912.

Robert A. McDonald to be postmaster at Grand Rapids, Wis., in place of Robert A. McDonald. Incumbent's commission expired February 26, 1912.

Thomas McKinney to be postmaster at Berlin, Wis., in place of Thomas McKinney. Incumbent's commission expired December 18, 1911.

Phillip Menzner to be postmaster at Marathon, Wis. Office

became presidential January 1, 1911.

George A. Robbins to be postmaster at Sheboygan Falls, Wis., in place of George A. Robbins. Incumbent's commission expired April 24, 1912.

James W. Simmons to be postmaster at Corliss, Wis., in place of James W. Simmons. Incumbent's commission expires Janu-

ary 12, 1913.
William White to be postmaster at Algoma, Wis., in place of William White. Incumbent's commission expired February 4,

CONFIRMATION.

Executive nomination confirmed by the Senate December 19, 1912.

POSTMASTER.

NEW HAMPSHIRE.

John H. Brown, Concord.

WITHDRAWAL.

Executive nomination withdrawn from the Senate December 19, 1912.

The nomination sent to the Senate on December 4, 1912, of John Holliday to be postmaster at Kirkwood, in the State of Illinois.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 19, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the fol-

lowing prayer:

Father in heaven, we bless Thy holy name for the beautiful custom which obtains throughout Christendom in the Yuletide season, and we most fervently pray that the Christ spirit abroad in the land, knocking at the door of every heart, may be received with joy and gladness; that the affections of the home, ties of friendship, and brotherly love may be strengthened; that Thy kingdom may come and Thy will be done in earth as it is in heaven. And now, O Father, as we separate, in memory of the advent of the world's great Exemplar may Thy blessing be upon us to keep us in health and strength and bring us together again at the appointed time stronger, purer, nobler, the better fitted to do the work whereunto Thou hast called us; and we will ascribe all praise to Thee in the name of Him who lived and died that the world might know Thy love eternal and everlasting. Amen.

The Journal of the proceedings of yesterday was read and

approved.

RESIGNATIONS.

The SPEAKER. The Chair lays before the House the following communications from the gentleman from Arkansas [Mr. ROBINSON 1.

The Clerk read as follows:

DECEMBER 19, 1912,

To the SPEAKER OF THE HOUSE OF REPRESENTATIVES. Washington, D. C.

MR. SPEAKER: I ask to be excused from further service on the Committee on the Public Lands of the House of Representatives and also on the Committee on the Merchant Marine and Fisheries.

JOS. T. ROBINSON, M. C.,

Sixth Arkansas District.

DECEMBER 19, 1912.

To the Speaker of the House of Representatives, Washington, D. C.:

You are hereby informed that I have tendered my resignation as a Member of the Sixty-second Congress, to take effect January 14, 1913.

Jos. T. Robinson, M. C.,

Sixth Arkansas District.

The SPEAKER. Without objection, the resignation from the committees will be accepted. The other is simply an announce-

There was no objection.

WITHDRAWAL OF PAPERS.

By unanimous consent, Mr. Richardson was granted leave to withdraw from the files of the House, without leaving copies, the papers in the case of Xantippe Jackson, Sixty-second Congress, no adverse report having been made thereon.

EXTENSION OF REMARKS ON IMMIGRATION BILL

Mr. RAKER. Mr. Speaker, I ask unanimous consent that I may extend my remarks on the immigration bill as it relates to Asiatic exclusion.

The SPEAKER. The gentleman from California [Mr. RAKER] asks unanimous consent to extend his remarks in the Record on Asiatic immigration. Is there objection? [After a pause.] The Chair hears none.

CHANGE OF REFERENCE.

Mr. SLAYDEN. Mr. Speaker— Mr. STEPHENS of Texas. Mr. Speaker, I move that the

House resolve itself into-

The SPEAKER. The Chair promised to recognize the other gentleman from Texas [Mr. SLAYDEN] about the reference of a bill, and under the rule he comes first. The Chair will recognize the other gentleman from Texas [Mr. Stephens] afterwards.

Mr. STEPHENS of Texas. Then I desire to be recognized

afterwards

Mr. SLAYDEN. I desire to say to my colleague I shall take only a minute, because, if objection is made, under the rule I can not. I simply want to invite the attention of the House to what, as I previously stated, I conceive to be an erroneous reference of Senate concurrent resolution 32 which on the 13th of this month was sent to the Committee on Appropriations instead of to the Committee on the Library that had jurisdic-

tion of this matter.

The SPEAKER. The gentleman from Texas [Mr. SLAYDEN] moves to change the reference of Senate concurrent resolution 32 from the Committee on Appropriations to the Committee on

This motion is not debatable. the Library.

Mr. SLAYDEN. Mr. Speaker, I ask unanimous consent for the privilege of making a brief reference to the rules that touch on this matter.

Mr. BORLAND. Mr. Speaker, I will have to object to that.

The gentleman from Missouri objects. The SPEAKER.

Mr. SLAYDEN. Then, Mr. Speaker, I make the motion the

Speaker has just stated.

The SPEAKER. The Chair will state, to elucidate this matter, that if this change of reference is made a change also ought to be made about the report. The Clerk will report the concurrent resolution, so the House will understand it.

The Clerk read as follows:

Senate concurrent resolution 32.

Resolved by the Senate (the House of Representatives concurring), That the plan, design, and location for a Lincoln Memorial, determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled "An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln," approved February 9, 1911, be, and the same are hereby, approved.

The SPEAKER. The question is on the change of reference of the concurrent resolution from the Committee on Appropriations to the Committee on the Library.

The question was taken, and the Chair announced that the

ayes seemed to have it.

Mr. BORLAND. Division, Mr. Speaker.

The House divided; and there were—ayes 41, noes 14.
Mr. BORLAND. Mr. Speaker, I raise the point of no

quorum.

The SPEAKER. The gentleman from Missouri [Mr. Bor-LAND] makes a point that there is no quorum present. The Doorkeeper will close the doors, and the Sergeant at Arms will notify the absentees.

ADJOURNMENT.

Mr. FOSTER. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The gentleman from Illinois moves that the House do now adjourn.

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. MADDEN. Division, Mr. Speaker.

The House divided; and there were—ayes 51, noes 35.

So the motion was agreed to; accordingly (at 12 o'clock and 17 minutes p. m.) the House, under its previous order, adjourned until Thursday, January 2, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, pursuant to law, report of expenditures on account of appropriations for contingent expenses of the War Department, 1912 (H. Doc. No. 1182); to the Committee on Expenditures in the War Depart-

ment and ordered to be printed.

2. A letter from the Secretary of the Navy, transmitting, pursuant to law, a statement showing in detail what officers or employees of the Navy Department who are paid out of the appropriation contained in the legislative, executive, and judicial act have traveled on official business from Washington to points outside the District of Columbia during the fiscal year ended June 30, 1912 (H. Doc. No. 1183); to the Committee on Invalid Pensions,

Expenditures in the Navy Department and ordered to be

3. A letter from the Secretary of the Treasury, transmitting communication from the Secretary of War submitting supplemental estimate of appropriation for barracks and quarters for such United States troops as may be in China during the fiscal year 1914 (H. Doc. No. 1184); to the Committee on Military Affairs and ordered to be printed.

4. A letter from the Secretary of the Treasury, transmitting communication from the Secretary of War submitting supplemental estimate of appropriation for establishment of post for Coast Artillery troops on the military reservation at Fort Kamehameha, Hawaii (H. Doc. No. 1185); to the Committee on Ap-

propriations and ordered to be printed.

A letter from the Secretary of State, transmitting, pursuant to law, authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Massachusetts, at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

A letter from the Board of Commissioners of the District of Columbia, transmitting to the House of Representatives the report of the Auditor of the District of Columbia relating to the expenditure of travel expenses (H. Doc. No. 1187); to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of the Interior, transmitting reports of receipts from rentals, extension of Capitol Grounds, for the period ending November 30, 1912 (H. Doc No. 1186); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (H. R. 25527) for the relief of George W. Cary, reported the same without amendment, accompanied by a report (No. 1277); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. MERRITT: A bill (H. R. 27446) to provide for the extension, enlargement, and remodeling of the Federal building at Plattsburg, N. Y.; to the Committee on Public Buildings and

Grounds. By Mr. SLOAN: A bill (H. R. 27447) to grant pensions to blind sons and daughters of ex-Union soldiers; to the Committee on Invalid Pensions.

By Mr. HEALD: A bill (H. R. 27472) to amend section 3287 of the Revised Statutes of the United States as amended by the act of March 2, 1911; to the Committee on Ways and Means.

By Mr. HARDWICK: Memorial from the General Assembly of the State of Georgia, relative to the proposed amendment to the Constitution of the United States providing for election of United States Senators by the people; to the Committee on Election of President, Vice President, and Representatives in Congress.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions

were introduced and severally referred as follows:

By Mr. ANDERSON: A bill (H. R. 27448) granting a pension to Michael Fogarty; to the Committee on Invalid Pensions.

By Mr. AUSTIN: A bill (H. R. 27449) granting an increase of pension to Mary A. Clawson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27450) granting an increase of pension to Derris Gregg; to the Committee on Pensions.

Also, a bill (H. R. 27451) granting an increase of pension to Jacob G. Dague; to the Committee on Invalid Pensions.

By Mr. AYRES (by request): A bill (H. R. 27452) for the relief of C. Willis Goff; to the Committee on Claims.
By Mr. BARTHOLDT: A bill (H. R. 27453) granting a pen-

sion to Laura Hohlstein Hromatka; to the Committee on Pen-

Also, a bill (H. R. 27454) granting a pension to Philipine Schubert; to the Committee on Invalid Pensions.

By Mr. COX of Indiana: A bill (H. R. 27455) granting an increase of pension to Smith McCallister; to the Committee on

By Mr. DICKINSON: A bill (H. R. 27456) for the relief of James M. Mock; to the Committee on Military Affairs.

Also, a bill (H. R. 27457) granting an increase of pension to James K. Dickinson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27458) granting an increase of pension to Robert A. White; to the Committee on Invalid Pensions.

By Mr. HINDS: A bill (H. R. 27459) granting a pension to

Barbara Henderson; to the Committee on Pensions.

By Mr. LAFEAN: A bill (H. R. 27460) granting an increase of pension to David F. Forney; to the Committee on Invalid Pensions.

By Mr. LITTLEPAGE: A bill (H. R. 27461) granting an increase of pension to Allen T. Landress; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27462) granting an increase of pension to John A. McDermott; to the Committee on Invalid Pensions. Also, a bill (H. R. 27463) for the relief of the legal repre-

sentatives of George W. Spruce, deceased; to the Committee on War Claims.

By Mr. MADDEN: A bill (H. R. 27464) for the relief of John

M. Green; to the Committee on Military Affairs. Also, a bill (H. R. 27465) granting a pension to Frederick M. Ottmar; to the Committee on Pensions.

By Mr. RAUCH: A bill (H. R. 27466) granting a pension to David W. Brannen; to the Committee on Pensions.

Also, a bill (H. R. 27467) granting a pension to Amos W.

Hills; to the Committee on Pensions. Also, a bill (H. R. 27468) granting a pension to Lucetta

Bentz; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 27469) granting an increase of pension to William R. Whittaker; to the Committee on Inva-

By Mr. SHERWOOD: A bill (H. R. 27470) granting an increase of pension to Horace W. Hunt; to the Committee on Invalid Pensions.

By Mr. STEVENS of Minnesota: A bill (H. R. 27471) directing the accounting officers of the Treasury to credit and settle an account of Maj. George H. Penrose; to the Committee on

By Mr. HOBSON: A bill (H. R. 27473) granting a pension to Sarah B. Scott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27474) granting an increase of pension to La Salle C. Pickett; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN: Petition of citizens of Cincinnati, Ohio,

favoring an investigation by Congress of the mining conditions in West Virginia: to the Committee on Labor.

By Mr. ANDERSON: Papers to accompany bill granting a pension to Michael Fogarty; to the Committee on Invalid Pensions. By Mr. BARTHOLDT: Petition of the Sisters of Notre Dame

of St. Louis, Mo., favoring passage of a bill for reduction of postage on all written school work and examination papers; to the Committee on the Post Office and Post Roads.

Also, petition of Edward V. P. Schneiderhahn and the St. Louis Branch of the American Federation of Catholic Societies, of St. Louis, Mo., protesting against the passage of the Jones bill granting the Philippine Islands their independence; to the

Committee on Insular Affairs.

By Mr. BURNETT: Petition of the Farmers' Educative and Cooperative Union of America, favoring the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FULLER: Petition of the Manila Welfare Committee, favoring a bond issue of \$10,000,000 for the reclaiming and making sanitary the swamp lands around Manila; to the Com-

mittee on Insular Affairs.

Also, petition of the National Society for the Promotion of Industrial Education, favoring the vocational education bill; to the Committee on Education.

By Mr. GALLAGHER: Petition of the Chicago Woman's Aid, Chicago, Ill., favoring legislation reducing the tax on oleomar-garine from 10 cents per pound to not more than 2 cents; to the Committee on Agriculture.

By Mr. HINDS: Papers to accompany bill granting a pension to Barbara Henderson; to the Committee on Pensions.

Also, petition of the First Baptist Church of Yarmouth, Me.,

favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquors into dry territory; to the Committee on the

Also, papers to accompany a bill to amend and correct the military record of Thomas Decker; to the Committee on Military

By Mr. MERRITT: Petition of Rev. James A. Perry and others, of Champlain, N. Y., and of Rev. C. E. Torrance and others, of Chazy, N. Y., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. SIMMONS: Petition of 34 residents of Silver Springs, Y., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Com-

mittee on the Judiciary

By Mr. SMITH of Michigan: Petition of 49 members of the Congregational Christian Endeavor of Kalamazoo, Mich., favoring the passage of the Kenyon-Sheppard liquor bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of 53 citizens of Kalamazoo, Mich., protesting against the passage of any legislation enlarging the parcel-post zone bill; to'the Committee on the Post Office and Post Roads.

SENATE.

THURSDAY, January 2, 1913.

The Chaplain, Rev. Ulysses G. B. Pierce, D. D., offered the following prayer:

O God, our help in ages past, our hope for years to come, as Thou dost open before us the portals of a new year we enter with thanksgiving for all Thy mercies and with fervent prayers for Thy continued guldance. Hitherto, O Lord, hast Thou led us; take not from us now, we beseech Thee, Thy tender compassions. We know not the way before us, neither do we ask; we are content, our Father, to follow where Thou shalt lead us and to commit our lives to Thy keeping. So receive us, and grant that no sorrow may overwhelm us, and that no prosperity may make us forget Thee. And so at the end of the year, as at its beginning, may we render unto Thee thanksgiving and praise. And Thine shall be the glory now and forevermore.

WILLIAM O. BRADLEY, a Senator from the State of Kentucky, and John W. Kern, a Senator from the State of Indiana, appeared in their seats to-day.

Mr. GALLINGER took the chair as President pro tempore under the order of the Senate of December 16, 1912

The Secretary proceeded to read the Journal of the proceedings of Thursday, December 19, 1912, when, on request of Mr. LODGE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate communications from the Secretary of State, transmitting, pursuant to law, authentic copies of the certificates of ascertainment of electors for President and Vice President appointed in the States of Arizona, California, Connecticut, Iowa, Kentucky, Louisiana, Montana, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, and West Virginia at the elections held in these States November 5, 1912, which were ordered to be filed.

EXPENSES OF ATTENDANCE AT MEETINGS OR CONVENTIONS.

The PRESIDENT pro tempore laid before the Senate a communication from the Attorney General, transmitting, pursuant to law, a statement of the expenses incurred from June 30, 1912, to December 1, 1912, of the attendance of officers or employees of the Department of Justice at meetings or conventions of societies or associations (H. Doc. No. 1213), which was referred to the Committee on Appropriations and ordered to be

He also laid before the Senate a communication from the Librarian of Congress, transmitting, pursuant to law, a detailed statement of all expenses of the attendance of officers or employees of the Library of Congress at meetings or conventions that have been incurred from June 30, 1912, to December 1, 1912 (H. Doc. No. 1212), which was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, pursuant to law, a detailed statement of all expenses incurred from June 30, 1912, to December 1, 1912, for the attendance of officers and employees at meetings of societies and associations (H. Doc. No. 1210), which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed. He also laid before the Senate a communication from the

Secretary of Agriculture, transmitting, pursuant to law, a statement showing in detail the expenses incurred from June 30, 1912, to December 1, 1912, by officers and employees of the Department of Agriculture who attended meetings or conventions of any society or association (H. Doc. No. 1215), which, with the accompanying paper, was referred to the Committee on Appro-

priations and ordered to be printed.

He also laid before the Senate a communication from the Interstate Commerce Commission, transmitting, pursuant to law, a detailed statement of expenses incurred by officers and employees in connection with meetings or conventions, under written direction of the commission (H. Doc. No. 1209), which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

EXPENSES OF LEGISLATURE OF TERRITORY OF ALASKA.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of the Interior, submitting an estimate of appropriation to meet the expenses of the Legislature of the Territory of Alaska in the sum of \$45,260 (S. Doc. No. 991), which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

J. WEBSTER HENDERSON V. UNITED STATES.

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion filed by the court in the cause of J. Webster Henderson, executor of Robert M. Henderson, deceased, v. The United States (S. Doc. No. 990), which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a petition of members of the Maritime Association of the Port of New York, praying that an appropriation be made for the construction of a jetty upon the Grand Bank of Newfoundland, which was referred to the Committee on Commerce.

He also presented resolutions adopted at a meeting of the Association of National Advertising Managers, held at Chicago, Ill., remonstrating against the passage of the so-called Oldfield patent bill, which were referred to the Committee on Patents.

He also presented resolutions adopted by members of Camp Sitka, Arctic Brotherhood, of Sitka, Alaska, favoring an appropriation for the repair and improvement of the Sitka National Monument, which were referred to the Committee on Territories.

He also presented resolutions adopted by the Coal Exchange of Philadelphia, Pa., favoring an appropriation for the building of a dry dock at the navy yard at that city, which were referred to the Committee on Naval Affairs.

Mr. LODGE. I present a communication from the president of the Massachusetts Historical Society. It is very brief, and I ask that it be printed in the Record and referred to the Committee on the Library.

There being no objection, the communication was referred to the Committee on the Library and ordered to be printed in the RECORD, as follows:

MASSACHUSETTS HISTORICAL SOCIETY, Boston, December 16, 1912.

To the Senate and House of Representatives:

To the Senate and House of Representatives:

The Massachusetts Historical Society urges the erection of a national archives building in the city of Washington, and the transfer to it from time to time of such archives in the possession of the various departments and Congress as are not needed for the immediate service of administrative or legislative routine. The wholesale injury and loss of such archives in the past, the absence of organized care and arrangement in the preservation of what remain, and the lack of space and trained attendance for use and consultation call for such a central building and a properly organized bureau of archives. Widely scattered as these records now are, and often placed in storage where they can not be consulted or guarded from the dangers surrounding such material, they are carried at great cost and inconvenience both to officers in charge and to investigators in history. The preservation of this historical and administrative material can not be too strongly urged, and a central archives building is the only rational and economic solution of the problem.

e problem. On behalf of the Massachusetts Historical Society and by authority of

CHARLES FRANCIS ADAMS, President.

Mr. CULLOM presented a petition of Local Union No. 1117, United Mine Workers of America, of Marion, Ill., praying for the passage of the so-called injunction limitation bill, which was ordered to lie on the table.

He also presented the petition of C. L. Harcourt and A. Z. Harcourt, of Chestnut, Ill., praying that an appropriation be made for the protection of migratory birds, which was ordered

Mr. BRANDEGEE presented a petition of members of the State Board of Education of Connecticut, praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

Mr. JONES presented resolutions adopted by the Chamber of Commerce of Montesano, Wash., remonstrating against the sub-

mission to The Hague Tribunal for ratification the matter of the Panama Canal controversy between Great Britain and the United States, which were referred to the Committee on Interoceanic Canals.

He also presented a resolution adopted by the Chamber of Commerce of Montesano, Wash., favoring an appropriation for the fortification of Grays and Willapa Harbors in that State, which was referred to the Committee on Military Affairs.

He also presented resolutions adopted by the Chamber of Commerce of Montesano, Wash., favoring the enactment of legislation to further restrict immigration, which were ordered to lie on the table.

Mr. PENROSE presented a petition of members of the Maritime Exchange of Philadelphia, Pa., praying for the enactment of legislation providing for a reduction of the rate of postage on first-class mail matter, which was referred to the Committee on Post Offices and Post Roads.

Mr. JOHNSON of Maine presented petitions of sundry citizens of North Anson, China, and Monticello, all in the State of Maine, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the

table. Mr. McLEAN presented petitions of Local Grange No. 24, of Berlin; Local Grange No. 38, of New Canaan; Local Grange No. 169, of Riverton; Local Grange No. 147, of Lyme; Local Grange No. 54, of Plainville; and of Local Grange No. 94, of East Windsor, all of the Patrons of Husbandry, in the State of Connecticut, praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which were ordered to lie on the table.

He also presented a petition of members of the State Board of Agriculture of Connecticut, remonstrating against any change being made in the oleomargarine law, which was referred to the

Committee on Agriculture and Forestry.

He also presented memorials of members of the German-American Alliance of New Haven, Waterbury, and Seymour, all in the State of Connecticut, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. PERKINS presented a resolution adopted by the Prospect Heights Citizens' Association, of California, praying for the passage of the so-called Page vocational education bill, which

was ordered to lie on the table.

He also presented resolutions adopted by the California Associated Societies for the Conservation of Wild Life, favoring the establishment of additional game refuges throughout the country, which were referred to the Committee on Forest Reservations and the Protection of Game.

He also presented resolutions adopted by the California Associated Societies for the Conservation of Wild Life, favoring Federal protection of migratory birds, etc., which were ordered

to lie on the table.

He also presented a resolution adopted by the executive committee of the Railway Business Association, favoring the enactment of legislation granting a Federal charter to the Chamber of Commerce of the United States, which was referred to the Committee on the Judiciary.

He also presented resolutions adopted by the Chamber of Commerce of San Francisco, Cal., remonstrating against a reduction of the tariff on sugar, which were referred to the Com-

mittee on Finance.

Mr. CURTIS presented petitions of sundry citizens of Oxford, Olathe, and Soldier, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. GALLINGER presented the petition of Joseph H. Haskell, of Claremont, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a petition of the Ministerial Association of Berlin, N. H., and a petition of the City Council of Berlin, N. H., praying that an appropriation be made for the erection of a Federal building in that city on the site already acquired by the Government, which were referred to the Committee on Public Buildings and Grounds.

He also-presented a petition of the Columbia Heights Citizens' Association, of the District of Columbia, praying for the enactment of legislation regulating the use of public-school buildings in the District, which was referred to the Committee on the District of Columbia.

He also presented a petition of members of the Bankers' Association of the District of Columbia, praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which was ordered to lie on the table.

He also presented a petition of Emanuel Chapter, No. 191, Brotherhood of St. Andrew, of Washington, D. C., praying for the passage of the so-called Kenyon red-light injunction bill, which was referred to the Committee on the District of Columbia.

EXTENSION DEPARTMENTS IN AGRICULTURAL COLLEGES.

Mr. SMITH of Georgia. Mr. President, I wish to present to the Senate numerous additional indorsements of the bill for the creation of extension departments in the land-grant agricultural colleges. I do not ask that they be printed in the RECORD, but I will call attention to them.

They are from the Maine Seed Improvement Association; the Maine Dairymen's Association; the Maine Association of Agricultural Students; the Maine Creamerymen's Association; the Maine Live Stock Breeders' Association; the Maine Federathe Maine Live Stock Breeders' Association; the Maine Federation of Agricultural Associations; Cumberland Grange, No. 2, of Rhode Island; Richmond Grange, No. 6, of Rhode Island; Laurel Grange, No. 4, of Rhode Island; Ashaway Grange, No. 50, of Rhode Island; Quonocontaug Grange, No. 48, of Rhode Island; West Virginia Federation of Women's Clubs; Illinois Federation of Women's Clubs; Hope Valley Grange, No. 7, of Rhode Island.

I wish also to call attention to a short article by Dr. Kenyon S. Butterfield, president of the Massachusetts Agricultural College, urging the prompt passage of this measure. The article appeared in Business America. He refers to the impossibility of passing the Page bill at the present session of Congress, and, while approving the general policy of Federal aid to industrial education, he questions the wisdom of passing the bill in its present form, and suggests the appointment of experts from different parts of the country to whom the measure should be referred to work out the details and have the same ready for introduction at the next session of Congress.

I ask that the article by Dr. Butterfield be printed in the RECORD, and hope that the views he presents will receive consideration by Senators on account of their clearness and the

value of the source from which they come.

The PRESIDENT pro tempore. The bill having been reported to the Senate the petitions will lie on the table, and, without objection, the article referred to will be printed in the RECORD.

The article referred to is as follows:

AN IMPORTANT ISSUE.

The article referred to is as follows:

AN IMPORTANT ISSUE.

There are now before Congress two bills of vital significance in the development of American agriculture.

One bill, introduced by Congressman Lever, of South Carolina, is known as H. R. 22871, and is intended "to establish agricultural extension departments in connection with agricultural colleges in the several States." It is sincerely hoped that this bill will be passed.

A similar bill was introduced into the Senate by Senator Hoke Smith, of Georgia, who is now championing the House bill in the Senate.

The other bill, introduced by Senator Page, of Vermont, is known as S. 3, and if passed would make it possible for "the National Government to ecoperate with the States in encouraging instruction in agriculture, the trades and industries, and home economics in secondary schools; in maintaining instruction in these vocational subjects in State normal schools; in maintaining extension departments in State colleges of agriculture and mechanic arts."

The terms of both of these bills and arguments for them are simply stated in the articles by Congressman Lever and Senator Page, which appear in this issue. We have also outlined in another article the main features of what we regard as the most important reasons for the passage of the agricultural extension bill.

Both of these measures should be passed eventually, because both are essential to the best development of our American system of agricultural education.

Unfortunately some antagonism has been created between the friends of the two bills. The main provisions of the extension bill are incorporated in the Page bill. This is a mistake. The two do not belong together. The extension bill is intended to complete the system of Federal aid to colleges of agriculture which now provide for instruction to students, and research or investigation, and which ought also to provide for that third great task of the colleges, the extension of agriculture is concerned. We know enough about scientific agriculture

On the other hand the Page bill proposes a system of institutions of high-school grade partly for the purpose of teaching agricultural college. Very little practical agriculture can be taught in the lower grades. We need agricultural departments in the public schools as well as special schools of agriculture. We believe that this work also should be supported in part by the National Government. We do not agree with all the details of the Page bill, but the purpose is sound, the object of vital consequence, and the appropriation should be made. The bill, however, should not include the extension service. The two bills have different alms and cover entirely different grounds. The funds appropriated by them must be administered separately, and it is neither statesmanlike nor wise to bring these two things into one bill.

We therefore urge all the friends of both measures to try to come together in a plan for cooperation. The practical thing to do is to pass the extension bill at the short session of Congress and then to call a conference of not to exceed 25 experts, representing all the interests involved in the legislation contemplated by the Page bill, and patiently thrash out the details of the bill in the light of a few broad, general principles that should be agreed upon at the outset. This is a bill that involves a good deal of money. More than that, it involves a new procedure in our whole scheme of education. It should not be entered upon hastily. No bill should pass Congress that does not have the practically unanimous approval of all those institutions and agencies that will be obliged to cooperate when the bill becomes a law.

This is no time for misunderstanding or controversy. It is a time for action, and the practical, sensible action we have just indicated. And we hope that every friend of these two bills will accept this suggestion and that it may be acted upon at once.

It is peculiarly appropriate that the extension bill should pass before January 1. In 1862 President Lincoln, during the darkest

coincidence is merely a matter of sentiment, but it is a worthy sentiment.

The extension bill has passed the House. It simply requires the prompt action of the Senate immediately on its assembling this month. We know of no more important act of legislation for advancing the welfare of our agricultural people, nor one that promises more directly or immediately to reduce the cost of living, than the immediate passage of this bill.

KENYON L. BUTTERFIELD.

ILLINOIS RIVER BRIDGE.

Mr. MARTIN of Virginia, from the Committee on Commerce, to which was referred the bill (S. 7637) to authorize the con-struction of a railroad bridge across the Illinois River near Havana, Ill., reported it without amendment and submitted a report (No. 1080) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. PAYNTER:

A bill (8. 7852) for the relief of Lexington Lodge, No. 1, Free and Accepted Masons, of Lexington, Ky., and the Grand Lodge, Free and Accepted Masons, of the State of Kentucky; to the Committee on Claims.

By Mr. McCUMBER:
A bill (S. 7854) for the relief of John H. Fesenmeyer, alias
John Wills (with accompanying papers); to the Committee on

Military Affairs.

A bill (S. 7855) to authorize the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota; to the Committee on Commerce.

A bill (S. 7856) granting a pension to Lucinda H. Knox; A bill (S. 7857) granting an increase of pension to Helen L. Chatfield;

A bill (S. 7858) granting an increase of pension to John A. Baird;

A bill (S. 7859) granting an increase of pension to George Washington Sumpter (with accompanying papers)

A bill (S. 7860) granting a pension to Emma Myers (with

A bill (8, 7861) granting a person accompanying papers);
A bill (8, 7861) granting an increase of pension to Lurinda
P. Barnes (with accompanying papers); and
A bill (8, 7862) granting a pension to William A, Smylle
(with accompanying papers); to the Committee on Pensions. By Mr. CUMMINS:

A bill (S. 7863) granting an increase of pension to David R. Edmonds (with accompanying papers);

A bill (S. 7864) granting a pension to Electa Marsh (with accompanying papers); and

A bill (S. 7865) granting a pension to Tilford A. Steele (with accompanying papers); to the Committee on Pensions.

By Mr. SMOOT: A bill (S. 7866) for the relief of James Lafferty; to the Committee on Claims.

By Mr. TOWNSEND:

A bill (S. 7867) granting a pension to Belle Palmer (with accompanying paper); and

A bill (S. 7868) granting a pension to Martha E. Patterson (with accompanying paper); to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 7869) granting an increase of pension to David A.

A bill (S. 7870) granting an increase of pension to John N. Jones

A bill (S. 7871) granting a pension to David R. Todd (with

accompanying paper);
A bill (S. 7872) granting an increase of pension to James H.

A bill (8. 7873) granting at increase of pension to James II.

Ragsdale (with accompanying paper); and

A bill (8. 7873) granting a pension to Daniel Howrey (with accompanying paper); to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 7874) granting a pension to James Allison; to the Committee on Pensions.

By Mr. PERKINS:

A bill (S. 7875) to exempt from cancellation certain desertland entries in the Chuckawalla Valley and Palo Verde Mesa, Riverside County, Cal.; to the Committee on Public Lands.

A bill (S. 7876) to prevent hazing at the United States Naval

Academy; and A bill (S. 7877) to authorize a dietitian for the Nurse Corps (female) of the United States Navy; to the Committee on Naval

By Mr. NELSON:

A bill (S. 7878) for the relief of Severin and Berthe L. Evensen, dependent parents of Sigurd Evensen; to the Committee on Claims

A bill (S. 7879) to remove the charge of desertion from the military record of John Inglis (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 7880) granting an increase of pension to Edward A.

Mace (with accompanying papers); and

A bill (S. 7881) granting an increase of pension to Mary J. Van Orden (with accompanying papers); to the Committee on Pensions.

By Mr. BURTON: A bill (S. 7882) granting a pension to Mary J. Thomas; to the Committee on Pensions.

By Mr. CLAPP (for Mr. GAMBLE):

A bill (S. 7883) to establish a reservation for the Rocky Boy's Band of Chippewa Indians and certain other Indians in the State of Montana; and

A bill (S. 7884) providing for the prohibition of the sale of intoxicating liquor within the present boundaries of the Blackfeet Indian Reservation, in the State of Montana; to the Committee on Indian Affairs.

By Mr. PENROSE:

A bill (S. 7885) for the relief of Caleb Aber; and

A bill (S. 7886) for the relief of every officer or private soldier who was honorably discharged after 90 days' service in the Army, Navy, or Marine Corps of the United States during the War of the Rebellion; to the Committee on Military Affairs.

A bill (S. 7887) to provide for the retirement of employees in the civil service; to the Committee on Civil Service and Retrenchment.

A bill (S. 7888) granting a pension to Eleanor R. Evans (with accompanying paper); to the Committee on Pensions.

By Mr. GALLINGER :

A bill (S. 7889) to authorize the widening and opening of Rhode Island Avenue from Fourth Street east to the District line (with accompanying papers);

A bill (S. 7890) to authorize the opening of a minor street from Georgia Avenue to Ninth Street NW., through squares 2875 and 2877, and for other purposes (with accompanying papers); and

A bill (S. 7891) to provide for annual assessments of real estate in the District of Columbia; to the Committee on the District of Columbia.

A bill (S. 7892) granting an increase of pension to Susan M. Wyatt (with accompanying papers); to the Committee on Pensions.

A bill (S. 7893) to correct the military record of F. E. Smith; and

A bill (S. 7894) to correct the military record of A. Charlesworth; to the Committee on Military Affairs.

A bill (S. 7895) granting a pension to Frank Ferris; A bill (S. 7896) granting a pension to Mrs. H. P. Knapp;

A bill (S. 7897) granting an increase of pension to Sarah Frye;

A bill (S. 7898) granting an increase of pension to Belle Huff (with accompanying paper);

A bill (S. 7899) granting a pension to Elizabeth Harris (with

A bill (S. 7901) to amend section 4747 of the Revised A bill (S. 7901) to amend section 4747 of the Revised

Statutes relating to pensions (with accompanying paper); to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 7902) granting a pension to Margaret L. Thompson:

A bill (S. 7903) granting an increase of pension to William H. Brewster

A bill (S. 7904) granting an increase of pension to Margaret

M. Cady; and A bill (S. 7905) granting an increase of pension to Emma T. Barnes; to the Committee on Pensions.

By Mr. CATRON:

A bill (S. 7906) to remove the charge of desertion from the military record of James Pollock; to the Committee on Military

A bill (S. 7907) granting a pension to Frank A. Hill; to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 7908) granting an increase of pension to Marion C. Turrill;

A bill (S. 7909) granting an increase of pension to Abbie A. Upson (with accompanying papers);

A bill (S. 7910) granting an increase of pension to Maria L. Bishop (with accompanying papers);

A bill (S. 7911) granting an increase of pension to Delia Wight (with accompanying papers);

A bill (S. 7912) granting an increase of pension to Imogene

Crissey (with accompanying papers);
A bill (S. 7913) granting a pension to Cora H. Griswold (with

accompanying papers);
A bill (S. 7914) granting an increase of pension to Henry A.
Kelsey (with accompanying papers); and
A bill (S. 7915) granting an increase of pension to Ruth A.

Quien (with accompanying papers); to the Committee on Pensions.

By Mr. FLETCHER:

A bill (S. 7916) granting an increase of pension to Michael Kearns: to the Committee on Pensions.

SANITARY WRAPPING OF BREAD IN THE DISTRICT OF COLUMBIA.

Mr. McCUMBER. I introduce a bill which I ask may be printed in the RECORD and referred to the Committee on the District of Columbia.

The bill (S. 7853) to provide for the sanitary wrapping of bread in the District of Columbia was read the first time by its title, the second time at length, and referred to the Committee on the District of Columbia, as follows:

on the District of Columbia, as follows:

Be it enacted, etc., That it shall be unlawful for any person, firm, or corporation engaged in the manufacture or baking of bread to be sold for food in the District of Columbia to remove such bread from the building in which it is baked or manufactured before inclosing it in a suitable sanitary wrapper or package that will protect it from dust, insects, or other contamination: And provided further, That it shall be unlawful for any dealer or other person to sell, deliver, or cause to be delivered in the District of Columbia any bread intended to be used as food unless the same is inclosed in a suitable sanitary wrapper or package that will protect it from dust, insects, or other contamination, and any person who shall violate the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof for each offense shall be fined not to exceed \$100 or imprisoned not to exceed three months, or both, in the discretion of the court.

REPUBLICAN GOVERNMENT IN CHINA.

Mr. BACON. I introduce a joint resolution, which I ask may be read.

The joint resolution (S. J. Res. 146) providing for the recognition of the republican Government in China was read the first time by its title and the second time at length, as follows:

Whereas the people of China have asserted the right of self-government, and in pursuance thereof have thrown off the rule of monarchy and sought to establish for themselves a representative republican Government; and Whereas in the time which has elapsed since the establishment of their present republican Government satisfactory evidence has been given that a permanent and stable Government has been established and will be maintained: Therefore be it

Resolved, etc., That the present republican Government of China is hereby recognized by the United States of America, with all the powers and privileges of their intercourse and relations with this Government properly appertaining to and in general extended to independent and sovereign governments and nations.

Mr. BACON. Mr. President, before moving the reference of

the joint resolution, I desire to say one word.

It has been a subject matter of discussion almost ever since the foundation of this Government as to whether the function

of the recognition of an independent government, or, when there has been a change in government, the recognition of the stability and authority of a government is a function which belongs to the Executive or to the legislative branch of the Government. When I say "legislative," I should properly say the lawmaking branch of the Government, which includes both the two Houses and the President.

By some it is contended, and has been contended with much earnestness, that it is a function which exclusively belongs to the executive branch of the Government, whereas by others it has been contended with equal earnestness that it belongs to the lawmaking power of the Government. I believe the more conservative view is that which is represented by the opinion of many that the initiative can be taken by either the Executive alone or by the lawmaking power, embracing the joint action of both the legislative and the executive branches of the Government-the Congress and the President-acting in a legislative capacity. In my opinion, the ultimate power of decision is with the lawmaking power; and where the final action in such case has been taken by the Executive, it has been final through the acquiescence and approval of the Congress. But without now stopping to discuss the question I simply make the statement in order that my attitude may not be misunderstood in introducing the joint resolution. I move that it be referred to the Committee on Foreign Relations.

The motion was agreed to.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. CLAPP submitted an amendment relative to the pay of electrical expert aids in the classified service of the Navy, etc., intended to be proposed by him to the naval appropriation bill, which was ordered to be printed and, with the accompanying

paper, referred to the Committee on Naval Affairs

He also (for Mr. GAMBLE) submitted an amendment proposing to appropriate \$10,000 for the construction of headquarters for employees and \$5,000 for repair and improvement of agency buildings, Pine Ridge Agency, S. Dak., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also (for Mr. Gamble) submitted an amendment authorizing the Secretary of the Interior to approve voucher No. 53 for the second quarter of the fiscal year ended June 30, 1911, for payment of the benefits to the Pine Ridge Indians, South Dakota, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. CURTIS submitted an amendment proposing to appropriate \$270,400 for new construction at the military post, Fort Riley, Kans., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee

on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate \$50,000 for the construction of a bridge across the Kansas River at Fort Riley, Kans., etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate \$4,010.75 to pay D. C. Tillotson, of Topeka, Kans., in payment for work done in carrying out the provisions of the treaty with the Pottawatomie Indians, proclaimed April 9, 1862, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. ASHURST submitted an amendment proposing to appropriate \$150,000 to provide school facilities for the children of the Navajo Tribe of Indians, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Com-

mittee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate \$100,000 for the development of a water supply for the Navajo Indians, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate \$30,000 for enlarging the irrigation system for the protection and irrigation of Indian lands within the Camp McDowell Indian Reservation, Ariz., etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

WITHDRAWAL OF PAPERS LUCY L. BANE.

On motion of Mr. SANDERS, it was

Ordered, That the papers accompanying Senate bill 5050, Sixty-second Congress, second session, granting a pension to Lucy L. Bane, be withdrawn from the files of the Senate, no adverse report having been made thereon.

HOMESTEAD ENTRYMEN IN NORTH IDAHO.

Mr. BORAH submitted the following resolution (S. Res. 414). which was read, considered by unanimous consent, and agreed to:

agreed to:

Resolved, That the Secretary of the Interior be, and he is hereby, directed to furnish the Senate with a statement showing under and by what authority of law and by reason of what facts there is inserted in patents issued to certain homestead entrymen in north Idaho, upon lands formerly covered by the Coeur d'Alene Indian Reservation and other lands in what is known as the St. Maries and St. Joe country, a clause making said patents and the title of the said entryman subject to the application and rights of the Washington Water Power Co. for rights of way or the right of said company to submerge or overflow the land. The information is desired for the purpose of determining the right and authority of the department to insert such a clause in the patent both from the standpoint of the facts and the law.

FRIEDMAN CURE FOR TUBERCULOSIS.

Mr. GORE submitted the following resolution (S. Res. 415). which was read, considered by unanimous consent, and agreed to:

Resolved, That the President be requested to submit to the Senate at the earliest practicable date the results of any investigation made or being made by the American consul general in Germany or any other officer of the United States in regard to the Friedman cure for tuberculosis.

COMMITTEE SERVICE.

Mr. OWEN. I ask to be relieved from the chairmanship of the Committee on Pacific Railroads and from further service on

The PRESIDENT pro tempore. Without objection, the request of the Senator from Oklahoma will be complied with.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following acts and joint resolution:

On December 17, 1912:

S. J. Res. 144. Joint resolution authorizing payment of December salaries to officers and employees of the Senate and House of Representatives on the day of adjournment for the holiday recess.

On December 19, 1912:

S.6899. An act increasing the limit of cost for the erection and completion of a public building in the city of Richford, State of Vermont; S. 3436. An act granting to Phillips County, Ark., certain lots

in the city of Helena for a site for a county courthouse; S. 6283. An act increasing the cost of erecting a public build-

ing at Olympia, Wash.; and S. 3974. An act to increase the limit of cost of the United States public building at Denver, Colo.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move that the Senate resume the consideration of what is known as the omnibus claims bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

The PRESIDENT pro tempore. The question is on the amendment

Mr. CRAWFORD. The amendment which I offered. Mr. BRANDEGEE. I rise to a point of order, Mr. President. Mr. LODGE. It is utterly impossible to hear what is going on.

The PRESIDENT pro tempore. The Senator from Connecticut will state his point of order. The point of order is that there is no

Mr. BRANDEGEE. order in the Chamber.

The PRESIDENT pro tempore. The Senator from Connecticut raises the point of order that there is too much disorder in the Chamber and that business can not be transacted. Chair will appeal to Senators to preserve order, and will especially appeal to visitors in the Chamber and in the galleries to

preserve order.

Mr. CRAWFORD. Mr. President, my amendment to the amendment offered by the Senator from Massachusetts [Mr. President of the Amendment offered by the Senator from Massachusetts [Mr. President of the Massachusetts [Mr. President of Lodge] has never been read at length. It was only partially read. I do not wish to call the bill up with a view of taking the time of the Senate now, as I understand the Senator from Texas [Mr. Bailey] wishes to address the Senate. I only call the bill up so that it may have its place. Of course I expect to yield at any moment that the Senator from Texas is present, otherwise I will ask that the reading of my amendment to the amendment offered by the Senator from Massachusetts be re-

Mr. SMOOT. Mr. President, I should like to ask the Senator from South Dakota if he would be willing to lay the bill aside in order that the Senate may take up the calendar under Rule VIII, only considering bills to which there is no objection? The Senator from Texas will be here in a very few minutes, and meantime we can go on with those bills.

Mr. CRAWFORD. Upon that I desire to say that the omnibus claims bill has been before the Senate, and, if we are ever to get through with it, I feel that, in accordance with the pledge I have made, it is my duty to urge it at every possible oppor-

tunity.

Mr. SMOOT. Then I withdraw the suggestion. The PRESIDENT pro tempore. The Secretary will resume, at the point where it was last left off, the reading of the amendment submitted by the Senator from South Dakota [Mr. CRAW-FORD] to the amendment of the Senator from Massachusetts [Mr. Lodge].

The Secretary resumed the reading of the amendment to the amendment, at the top of page 12, and read to the bottom of page 16.

Mr. BAILEY entered the Chamber.

Mr. CRAWFORD. The Senator from Texas [Mr. Balley] now being in his place, I ask that the further reading of the amendment to the amendment be discontinued.

The PRESIDENT pro tempore. The reading will be sus-

pended and the bill laid aside.

Mr. CRAWFORD. I give notice that to-morrow, at the close of the routine morning business, I shall ask the Senate to continue the consideration of the pending bill.

THE INITIATIVE AND REFERENDUM.

Mr. BAILEY. Mr. President, I ask that Senate resolution 413 be laid before the Senate.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution which the Secretary will read.

The Secretary read the resolution (S. Res. 413) submitted

by Mr. Balley December 19, 1912, as follows:

Resolved, That such a system of direct legislation as the initiative and referendum would establish is in conflict with the representative principle on which this Republic was founded, and would, if adopted, inevitably work a radical change in the character and structure of our Government.

Mr. BAILEY. Mr. President, during my service of more than twenty-one years in the two Houses of Congress I have never before delivered an address in either of them intended more for the country at large than for the body itself, and I would not now depart from a rule which I have followed so long and which commends itself so fully to my judgment except for the extraordinary situation in which we find ourselves with respect to the questions embraced in the pending resolution.

For several years the advocates of the initiative and referendum have conducted a campaign in their behalf with an industry and a zeal unparalleled in American politics. They have used the Congressional Record to disseminate their arguments, and not content with the number or the kind of readers whom they could reach through that publication, they have printed what they desired to circulate as separate documents, which they have sent into more than three million homes. They have filled every newspaper and magazine whose columns were open to them with their appeals; and from every lecture platform in the land they have urged those proposals as the true and the only remedy for the industrial and political evils which afflict our age and country.

On the other hand, the men who are opposed to the initiative and referendum have made no special effort to combat them. They have, it is true, protested from time to time with some degree of earnestness, but they have not followed their words with either the work or the organization calculated to achieve results, and in more than one instance they have suffered those cumbersome and illogical legislative methods adopted almost without resistance. An examination of the returns will show that those miscalled "reforms" have been incorporated into the organic law of several States by votes which did not represent twenty-five per cent of the qualified electors in those States, for the simple reason that no adequate attempt was made to instruct the people and bring them to the polls.

This remarkable condition has been due to different influences

operating on the minds of different classes. Many of our most intelligent and successful business men are always so engrossed with the management of their private affairs that they often neglect, I regret to say, the performance of their highest duty to the public, and they have not up to this time taken any part in this contest. A still larger, and an equally intelligent, number of our people have treated it all as a transient distemper of the public mind, and expecting that it would soon pass away they have permitted the propaganda to proceed unchallenged. With these numerous and intelligent citizens inactive and ap-

parently indifferent, many ambitious politicians have concluded that by an advocacy of those measures they could win official preferment and accordingly have joined in the noisy demand for

their adoption.

Thus, Mr. President, these innovations have acquired a false appearance of strength, and that false appearance of strength has attracted the support of many who do not understand them and who will reverse their positions when they are made to understand them. But, sir, if the men who believe in a written Constitution and in the principles of a representative democracy do not meet this question courageously and discuss it before the people, we will soon reach the time when a discussion can not produce its proper effect. Personally, I have not been delinquent in this matter, for on every suitable occasion I have endeavored to expose, to the best of my ability, the dangers of this new political evangel; and yet, sir, I would feel that I had left something undone, if I did not, before retiring from the Senate, leave upon our record a fuller statement of the argument than I have heretofore found an opportunity to make.

When I drew the resolution to which I am speaking I limited it to the single proposition that the initiative and referendum are repugnant to the principles upon which this Government was founded; and I so limited it because I feared that the business of the Senate would not permit me to occupy more of its time than would be required to establish that proposition. I perfectly understood, of course, that the work which I had thus laid out for myself, no matter how thoroughly I might do it, would dispose of only one-half of the question; and the more I have considered it the more I have become convinced that, even at the risk of unduly taxing the patience of the Senate, I ought to go further and demonstrate also, if I can, that this Government, as established by our fathers, is a better government than that which the initiative and referendum would establish. And to that double task I shall now apply myself.

In the convention which framed our Constitution some delegates believed that a limited monarchy was the best government which the wisdom of men could devise, and the greatest intellect in that memorable body was one of that number; other delegates preferred an aristocracy, and among them were men of exalted character and unselfish patriotism; still other delegates—and I rejoice to say they composed an overwhelming majority—demanded a representative democracy; but among all of those illustrious patriots and statesmen there was not one who seriously contended for a direct democracy. That our fathers deliberately, and after great consideration, chose a representative democracy as the government best calculated to secure the liberties and promote the happiness of the people can be established by such an abundance of historical evidence that my difficulty has been to select from the mass of it sufficient to answer my purpose without unnecessarily consuming the time of the Senate. Fortunately, too, this evidence does not come from any one school of political thought, but men who held the most opposite opinions upon other questions were at perfect agreement on this. Here Hamilton and Madison occupied com-mon ground; here Patterson and Pinckney, each the author of a plan of government, were in full accord; here Monroe and Marshall entertained and expressed the same views.

Mr. President, I realize that it will be extremely irksome for those who do me the honor to hear what I am saying on this occasion to listen to the quotations which I shall read from the letters and speeches of "The Fathers"; and if I were seeking merely to influence the opinion of Senators, I would not feel obliged to subject my audience to that tedious procedure, because I hope that I do not overestimate the esteem in which I am held by my associates when I assume that they would accept my statement of any historical fact without compelling me to support it by quotations. But, sir, I am striving to reach those outside of the Senate Chamber, upon whose intelli-gence and patriotism this Republic must depend for its existence; and as many of them have been misled by the yellow journals into doubting whatever I might say, I feel constrained to read into this record the conclusive evidence that with a full knowledge of the different kinds of government before them, our fathers rejected a monarchy, rejected an aristocracy, re-jected a direct democracy, and wisely chose a representative democracy, which they called a Republic.

THE HISTORICAL EVIDENCE.

I shall first lay before the Senate what Mr. Madison has said upon this subject, and I give this precedence to his testimony because to him, more than to any other man, we owe the Constitution under which we live. It may be that there were delegates in the Philadelphia convention who bore a larger part in drafting the Constitution, or who did more to adjust the differences which at one time threatened to disrupt that con-

vention, though I doubt that; and it may be that there were those who were more potential in securing the ratification of the Constitution after it was submitted to the several States for their action, though I also doubt that. But certainly there was no single man who did more, first in drafting the Constitution and then in securing its ratification, than Mr. Madison, and his opinions upon all matters connected with it have possessed a weight with the American people never accorded to any of his contemporaries. It is true that if Madison lived and taught in this day what he taught through all the years in which he lived, he would be denounced as a Tory and a reactionary, as those of us who still follow his teachings are often denounced; but the most radical Progressives of this time will hesitate to stand before our countrymen and condemn what James Madison has said, for they know as well as I do the deep veneration in which his name is held by the people. Long after our poor voices are silent those who come after us will read and accept what Madison has written and his memory will be cherished as long as this Republic endures. Indeed, sir, if some new folly or madness should seize upon the minds of our people and dissolve the Union which he helped to create, he would still be held in affectionate remembrance as long as civil liberty shall survive in the noble Commonwealth which gave him birth and to whose services he consecrated his talents and the best years of his life.

In the tenth number of the Federalist Mr. Madison discussed this question somewhat elaborately; and after pointing out the dangers which all free governments had encountered, he summed

up that phase of the matter in these words:

up that phase of the matter in these words:

But the most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors and those who are debtors fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation and involves the spirit of party and faction in the necessary and ordinary operations of government.

If anything were needed to confirm our confidence in the wisdom of Madison, the passage which I have just read would be sufficient, because it shows that looking with rare foresight through the century which separates our day from his he could see the conflict of class interests which we now witness and which every thoughtful man regards as a menace to the peace of this country, and to the permanence of these insti-Not only was Madison wise enough to understand that this conflict of class interest would come, but he was also wise enough to know that no free government could ever eradicate its causes, and that the most enlightened statesmen could hope to do no more than to control its effects. That this could not be accomplished under a direct democracy, and that it could be accomplished under a republic was his firm conviction expressed in these words:

in these words:

A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect and promises the cure for which we are seeking. Let us examine the points in which it differs from the pure democracy, and we shall comprehend both the nature of the cure and the efficacy which it must derive from the Union. The two great points of difference between a democracy and a republic are: First, the delegation of the government in the latter to a small number of citizens elected by the rest; * * *.

The effect of the first difference is, on the one hand, to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose.

Not only has Madison in these unequivocal terms expressed himself in favor of a representative democracy, which he called a republic, but in the same paper from which I have just been reading he condemned the ancient democracies as "spectacles of turbulence and contention, incompatible with personal security

or the rights of property."

Mr. Madison again discusses the character of the government which it was proposed to establish in the thirty-ninth number of the Federalist, where he propounds and answers the specific question as to what constitutes a republican form of government. It will perhaps better emphasize the expressions upon which I desire to concentrate the special attention of the Senate for me to read what precedes them, and as the entire essay is an interesting one I do not think that Senators would consider it a waste of their time to hear all of it, though I shall only read the part which follows:

The last paper having concluded the observations, which were meant to introduce a candid survey of the plan of government reported by the convention, we now proceed to the execution of that part of our under-

The first question that offers itself is whether the general form and aspect of the Government be strictly republican. It is evident that no other form would be reconcilable with the genius of the people of America, with the fundamental principles of the revolution, or with that honorable determination which animates every votary of freedom to rest all our political experiments on the capacity of mankind for self-government. If the plan of the convention, therefore, be found to depart from the republican character, its advocates must abandon it as no longer defensible.

What, then, are the distinctive characters of the republican form? Were an answer to this question to be sought, not by recurring to principles, but in the application of the terms by political writers to the constitutions of different States, no satisfactory one would ever be found. Holland, in which no particle of the supreme authority is derived from the people, has passed almost universally under the denomination of a republic. The same title has been bestowed on Venice, where absolute power over the great body of the people is exercised in the most absolute manner by a small body of hereditary nobles. Poland, which is a mixture of aristocracy and of monarchy in their worst forms, has been dignified with the same appellation. The Government of England, which has one republican branch only, combined with a hereditary aristocracy and monarchy, has with equal impropriety been frequently placed on the list of republics. These examples, which are nearly as dissimilar to each other as to a genuine republic, show the extreme inaccuracy with which the term has been used in political disquisitions.

If we resort for a criterion to the different principles on which difextreme in quisitions.

quisitions.

If we resort for a criterion to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from the great body of the people and is administered by persons holding their offices during pleasure for a limited period or during good behavior.

I do not need to tell those who are familiar with his views that Alexander Hamilton was more aggressive than Madison in his opposition to a direct democracy. He did not hesitate to declare that even if it were possible to organize a government which the people would control in their primary capacity and without the intervention of representatives it would not be desirable to do so. Speaking on that point in the New York convention, he declared:

It has been observed by an honorable gentleman that a pure democracy, if it were practicable, would be the most perfect government. Experience has proved that no position in politics is more false than this. The ancient democracies, in which the people themselves deliberated, never possessed one feature of good government. Their very character was tyranny; their figure, deformity.

Speaking on another day to the same convention, and describing the representative principle as the one which distinguishes our system from all others which had gone before it, Hamilton

Mr. Chairman, it has been advanced as a principle that no government but a despotism can exist in a very extensive country. This is a melancholy consideration, indeed. If it were founded on truth, we ought to dismiss the idea of a republican government, even for the State of New York. This idea has been taken from a celebrated writer, who, by being misunderstood, has been the occasion of frequent fallacies in our reasoning on political subjects. But the position has been misapprehended, and its application is entirely false and unwarrantable; it relates only to democracies, where the whole body of the people meet to transact business and where representation is unknown. Such were a number of ancient and some modern independent cities. Men who read without attention have taken these maxims respecting the extent of country and, contrary to their meaning, have applied them to republics in general. This application is wrong in respect to all representative governments.

Although it is generally understood that Madison and Hamil-

Although it is generally understood that Madison and Hamilton deserve the highest credit for the government under which we live, there are many profound students of our history who assign to Charles Pinckney a place above them both. I shall indulge in no comparisons; but I must be permitted to say that the Pinckney draught became the basis of our Constitution, and Madison's great service consisted largely in perfecting it. Nor is it out of place for me to say that Hamilton's well-known preference for a government modeled after that of Great Britain so far diminished his influence among the delegates to that convention that his authority was less than his intellect and patriotism would otherwise have made it. But whether the order should be Madison, Hamilton, and Pinckney, or Madison, Pinckney, and Hamilton, or Pinckney, Madison, and Hamilton does not concern us here, because on the point which we have under discussion they did not differ; and having already laid before the Senate the views of Madison and Hamilton, now desire to read from Pinckney's opening speech to the South Carolina convention:

Carolina convention:

Much difficulty was expected from the extent of country to be governed. All the republics we read of, either in the ancient or modern world, have been extremely limited in territory. We know of none a tenth part so large as the United States; indeed, we are hardly able to determine, from the lights we are furnished with, whether the governments we have heard of under the names of republics really deserved them or whether the ancients ever had any just or proper ideas upon the subject. Of the doctrine of representation, the fundamental of a republic, they certainly were ignorant. If they were in possession of any other safe or practicable principles, they have long since been lost and forgotten to the world. Among the other honors, therefore, that have been reserved for the American Union not the least considerable of them is that of defining a mixed system, by which a people may govern themselves, possessing all the virtues and benefits and avoiding all the dangers and inconveniences of the three simple forms.

To the same effect spoke one of the most gifted men in the

To the same effect spoke one of the most gifted men in the Massachusetts convention. In that great Commonwealth the town meeting had been employed so long as a method of government that its people were perhaps more reluctant than those of any other State to divest themselves of power in order to confer it upon their representatives, and it was to his doubting colleagues that Fisher Ames addressed these wise and imperishable sentences:

Much has been said about the people divesting themselves of power when they delegate it to representatives, and that all representation is to their disadvantage because it is but an image, a copy, fainter and more imperfect than the original, the people, in whom the light of power is primary and unborrowed, which is only reflected by their delegates. I can not agree to either of these opinions. The representation of the people is something more than the people. I know, sir, but one purpose which the people can effect without delegation, and that is to destroy a government. That they can not erect a government is evinced by our being thus assembled on their behalf.

They may destroy but they can not exercise the powers of government in person, but by their servants they govern. They do not renounce their power; they do not sacrifice their rights; they become the true sovereigns of the country when they delegate that power, which they can not use themselves, to their trustees.

In the Connecticut convention sat the governor of that State, Mr. Huntingdon, who delivered the second speech to that body, following Oliver Ellsworth, and these were the sentiments which he declared:

which he declared:

The great secret of preserving liberty is to lodge the supreme power so as to be well supported and not abused. If this could be effected, no nation would ever lose its liberty. The history of man clearly shows that it is dangerous to intrust the supreme power in the hands of one man. The same source of knowledge proves that it is not only inconvenient, but dangerous to liberty, for the people of a large community to attempt to exercise in person the supreme authority. Hence arises the necessity that the people should act by their representatives; but this method, so necessary for civil liberty, is an improvement of modern times. Liberty, however, is not so well secured as it ought to be when the supreme power is lodged in one body of representatives. There ought to be two branches of the legislature that one may be a check upon the other.

In the Pennsylvania convention this same question was discussed by James Wilson, considered by many the ablest man, and considered by all one of the ablest men in that body. Such was his reputation for character, ability, and learning that when Bushrod Washington came to prepare himself for admission to the bar, James Wilson was selected as his instructor, and there is in existence to-day the promissory note which George Washington gave to James Wilson for the tuition of his nephew. Indeed, so highly was Wilson esteemed by the American bar that his appointment as our first Chief Justice was desired by many, and he was called by Washington to serve as one of the first justices of our Supreme Court. These were the views expressed by that learned and upright judge:

One thing is very certain—that the doctrine of representation in government was altogether unknown to the ancients. Now, the knowledge and practice of this doctrine is, in my opinion, essential to every system that can possess the qualities of freedom, wisdom, and energy.

For the American States were reserved the glory and the happiness of diffusing this vital principle throughout the constituent parts of government. Representation is the chain of communication between the people and those to whom they have committed the exercise of the powers of government.

I come now, Mr. President, to the Virginia convention, in which this matter was alluded to more frequently, and seemed to be more generally understood than in any of the other conventions. That may be due to the fact that the Virginia convention contained a larger number of delegates, and it also contained, upon the average, a higher class of men than the other conventions, thus leading inevitably to a more thorough discussion. In some of the conventions there was practically no discussion. In Delaware, New Jersey, and Georgia there was absolutely none, and, so far as its proceedings have been re-ported, none in Maryland. In New Hampshire there were only two short speeches, both on the provision which made it impossible to prohibit the importation of slaves prior to 1808; and in Connecticut the debate consisted of only four speeches, the longest one being that of Oliver Ellsworth, in which he discussed mainly the details of the Constitution, the next longest being that of Gov. Huntingdon, from which I have read, and the other two being very brief speeches by Richard Law and Oliver Wolcott.

But, whatever may be the explanation, the undoubted fact is that the debates in the Virginia convention took a wider range than the debates in any other convention, and there-fore furnish us with the best evidence of the kind of government which our Constitution was intended to establish. One of the first delegates to express himself on this particular point was James Monroe. In repelling the assertion that the lessons of all history made it manifest that a free government could not be established and maintained over an extensive territory, Monroe examined the history of those ancient and modern leagues whose turbulent lives and violent deaths had moved Madison to admonish his countrymen against repeating their mistakes, and he concluded his reply in these words:

Let us see how far these positions are supported by the history of these leagues and how far they apply to us. The Amphictyonic council consisted of three members, Sparta, Thebes, and Athens. What was the construction of these States? Sparta was a monarchy more analogous to the constitution of England than any I have heard of in modern times. Thebes was a democracy, but on different principles from modern democracies. Representation was not known then. This is the acquirement of modern times.

These Governments had failed, according to the argument of Monroe, because the principle of "representation was not known" to them.

In reply to that same objection, John Marshall pointed out that the principle of representation rendered any conclusions based upon the so-called republics of the ancient world inapplicable to our own Government. This was his answer to George Mason .

The extent of the country is urged as another objection, as being too great for a republican government. This objection has been handed from author to author and has been certainly misunderstood and misapplied. To what does it owe its source? To observations and criticisms on governments where representation did not exist.

The honorable gentleman has asked if there be any safety or freedom when we give away the sword and the purse. Shall the people at large hold the sword and the purse without the interposition of their representatives? Can the whole aggregate community act personally? I apprehend that every gentleman will see the impossibility of this. Must they, then, not trust them to others? To whom are they to trust them but to their representatives, who are accountable for their conduct?

Edward Pendleton recorded, for the benefit of posterity, his opinion on this question at-some length and with a definiteness and a clearness which leaves nothing more to be desired. This is what he said:

is what he said:

As a republican, sir, I think that the security of the liberty and happiness of the people, from the highest to the lowest, being the object of government, the people are consequently the fountain of all power.

They must, however, delegate it to agents, because, from their number, dispersed situation, and many other circumstances they can not exercise it in person. They must therefore, by frequent and certain elections, choose representatives to whom they trust it.

Is there any distinction in the exercise of this delegation of power? The man who possesses 25 acres of land has an equal right of voting for a representative with the man who has 25,000 acres. This equality of suffrage secures the people in their property. While we are in pursuit of checks and balances and proper security in the delegation of power we ought never to lose sight of the representative character. By this we preserve the great principle of the primary right of power in the people.

When the hands of our former society were dissolved and we were under the necessity of forming a new government, we established a Constitution founded on the principle of representation, preserving therein frequency of elections and guarding against inequality of suffrage. I am one of those who are pleased with that Constitution because it is built on that foundation.

Mr. President, what I have read from the proceedings of the

Mr. President, what I have read from the proceedings of the Virginia convention includes an expression from every member of that body whose fame has outlived his generation, except Patrick Henry and George Mason, who were opposed to the Constitution and their objections to it would not help us to understand its true intent and meaning. It must not, however, be supposed that because Henry and Mason made no declaration on this particular point that they differed from their colleagues with respect to it, for such is not the fact.

In what was done and said by the smaller delegates to that convention the Senate will feel little interest, and I have not obtruded quotations from them upon it; but there was one of that class whose words I think are worth preserving, and I think that because the speech which he delivered to the Virginia convention was one of the most felicitous made in that or in any of the other State conventions. It was so lofty in thought and so excellent in diction that I am compelled to believe that the only reason we do not know more of him is that his early death or his withdrawal from public affairs deprived the country of his services. His name was Zachariah Johnson, and this is a part of what he said:

Johnson, and this is a part of what he said:

As to the principle of representation, I find it attended to in this Government in the fullest manner. It is founded on absolute equality. When I see the power of electing the representatives—the principal branch—in the people at large, in those very persons who are the constituents of the State legislatures; when I find that the other branch is chosen by the State legislature; that the Executive is eligible in a secondary degree by the people likewise, and that the terms of elections are short and proportionate to the difficulty and magnitude of the objects which they are to act upon; and when, in addition to this, I find that no person holding any office under the United States shall be a member of either branch, I say, when I review all these things, that I plainly see a security of the liberties of this country to which we may safely trust. Were this Government defective in this fundamental principle of representation, it would be so radical that it would admit of no remedy.

Mr. President I have not laid before the Senate all which the

Mr. President, I have not laid before the Senate all which the fathers said upon this question, because I could not do that without extending this address beyond all reasonable length; but I have laid before the Senate enough to establish, beyond a reasonable doubt, that the wise and patriotic statesmen who

dedicated this Republic to liberty and independence rejected a direct democracy in which the people would rule without the intervention of representatives and adopted a representative democracy in which the people should rule through their duly chosen agents. How, sir, can a man in the face of this testimony attempt to controvert that statement? Are there those, sir, who will not recognize the right of the men whose very words I have repeated to describe the nature and structure of this Government? They were its architects and its builders; they drew its plans; they laid its foundations; they reared its splendid superstructure. Ah, sir, they were more than its architects and its builders; they were its prophets and its apostles, and no man can justly deny their right to say what this Government is and its apostles. ernment is and what they intended it to be.

Doubtless some who are unwilling to challenge the wisdom of

the fathers will seek to escape the responsibility of differing with them by claiming that I have not correctly interpreted their teachings; and, in order that no man can evade the issue in that way, I will now lay before the Senate extracts which will make it plain that the construction which I have placed upon what was said by them is in exact accordance with the highest authorities and for many years has been universally received as correct by all men who understand the question.

I am sure that some of you, forgetting for the moment your history, have been inclined to suspect that as I have adduced nothing from Jefferson I have not been able to find anything from him to support my contention. But you will instantly dismiss that suspicion when you recall that up to this time I have been offering only what was said by men who made or who ratified the Constitution, and Jefferson took no part either in the Federal convention which formulated, or in the State conventions which ratified the Constitution, because during all of that time he was absent on a foreign mission. But notwith-standing the fact that Jefferson was not at the Federal convention to advise it upon the kind of a government which ought to be established, and was not in this country to inform the people as to the kind of a constitution which had been proposed for their ratification, we are not without the benefit of his opinion on that question.

THE FATHERS INTERPRETED.

The first expression from Mr. Jefferson on this particular point, so far as my reading extends, appears in a letter to M. L'Abbe Arnond. This letter was written within a year after the Constitution of the United States had been adopted and the new Government put into operation. Nothing could be plainer, nothing could be more specific, and nothing could be more conclusive than this statement made by Mr. Jefferson in that letter:

The annexed is a catalogue of all the books I recollect on the subject of juries. With respect to the value of this institution, I must make a general observation. We think in America that it is necessary to introduce the people into every department of government, as far as they are capable of exercising it, and that this is the only way to insure a long-continued and honest administration of its powers.

1. They are not qualified to exercise themselves the executive department, but they are qualified to name the person who shall exercise it. With us, therefore, they choose this officer every four years. 2. They are not qualified to legislate. With us, therefore, they only choose the legislators.

3. They are not qualified to judge questions of law, but they are very capable of judging questions of fact. In the form of juries, therefore, they determine all matters of fact, leaving to the permanent judges to decide the law resulting from those facts.

Twelve years after he had written that letter to Arnond and

Twelve years after he had written that letter to Arnond and within 10 months after he entered upon his first presidential term he wrote a letter to the Hon. Amos Marks expressing his satisfaction with an address adopted by the Vermont House of Representatives and transmitted to him by Mr. Marks. Here is a part of the second paragraph of that letter:

With them I join cordially in admiring and revering the Constitution of the United States, the result of the collected wisdom of our country. That wisdom has committed to us the important task of proving by example that a government, if organized in all its parts on the representative principle, unadulterated by the infusion of spurious elements, if founded not in the fears and follies of man, but on his reason, on his sense of right, on the predominance of the social over his dissocial passions, may be so free as to restrain him in no moral right and so firm as to protect him from every moral wrong.

In a letter to Isaac H. Tiffany, dated at Monticello on August 26, 1816, Jefferson again expresses his opinion as to the character of this Government. Tiffany had sent Jefferson a translation of the Politics of Aristotle, and after reviewing the ancient ideas of liberty and government Jefferson continued:

The full experiment of a government democratical, but representative, was and is still reserved for us. The idea (taken, indeed, from the little specimen formerly existing in the English constitution, but now lost) has been carried by us, more or less, into all our legislative and executive departments; but it has not yet, by any of us, been pushed into all the ramifications of the system so far as to leave no authority existing not responsible to the people, whose rights, however, to the exercise and fruits of their own industry can never be protected against the selfishness of rulers not subject to their control at short periods. The introduction of this new principle of representative

democracy has rendered useless almost everything written before on the structure of government, and, in a great measure, relieves our regret if the political writings of Aristotle or of any other ancient have been lost or are unfaithfully rendered or explained to us.

These three letters by Mr. Jefferson extend from 1789 to 1816. They cover the most active period of his great career, and they all speak the same political faith.

Mr. President, I have here one of the most celebrated pamphlets in our literature, and it sustains my theory of our Government. This is the second part of Thomas Paine's "Rights of Man." I know the prejudice which exists against Paine on account of the excesses into which he sometimes allowed himself to fall and the religious intolerance which he provoked; but he was a man of the most extraordinary genius, and re-calling his services to a people struggling for freedom, on this day at least I am willing to forget that he was an infidel and remember only that he was a patriot. In his Rights of Man, Thomas Paine describes the American Government as founded upon the representative principle. This is what he wrote:

upon the representative principle. This is what he wrote:

Referring, then, to the original simple democracy, it affords the true data from which government on a large scale can begin. It is incapable of extension, not from its principle but from the inconvenience of its form, and monarchy and aristocracy from their incapacity. Retaining, then, democracy as the ground and rejecting the corrupt systems of monarchy and aristocracy, the representative system naturally presents itself, remedying at once the defects of the simple democracy as to form and the incapacity of the other two with regard to knowledge.

Simple democracy was society governing itself without the use of secondary means. By ingrafting representation upon democracy we arrive at a system of government capable of embracing and confederating all the various interests and every extent of territory and population, and that also with advantages as much superior to hereditary government as the republic of letters is to hereditary literature.

It is on this system that the American Government was founded. It is representation ingrafted upon democracy. It has settled the form by a scale parallel in all cases to the extent of the principle. What Athens was in miniature America will be in magnitude. The one was the wonder of the ancient world; the other is becoming the admiration and model of the present. It is the easiest of all the forms of government to be understood and the most eligible in practice, and excludes at once the ignorance and insecurity of the hereditary mode and the inconvenience of the simple democracy.

With this abundant and, I might well say superabundant, evi-

With this abundant and, I might well say superabundant, evidence before us I could well afford to rest this part of my case; but, sir, I want the Senate now to learn, what many Senators already know, that the greatest commentators on our system have understood it exactly as I am attempting to enforce and to explain it. It will be no disparagement of others for me to say that the first great work which attempted a full exposition of our Constitution was that of Justice Joseph Story, and I now ask the Senate to attend to this passage from the first volume of his Commentaries:

story, and I now ask the Senate to attend to this passage from the first volume of his Commentaries:

In surveying the general structure of the Constitution of the United States we are naturally led to an examination of the fundamental principles on which it is organized for the purpose of carrying into effect the objects disclosed in the preamble. Every government must include within its scope, at least if it is to possess suitable stability and energy, the exercise of the three great powers upon which all governments are supposed to rest, viz, the executive, the legislative, and the judicial powers. The manner and extent in which these powers are to be exercised and the functionaries in whom they are to be vested constitute the great distinctions which are known in the forms of government. In absolute governments the whole executive, legislative, and judicial powers are, at least in their final result, exclusively confined to a single individual; and such a form of government is denominated a despotism, as the whole sovereignty of the state is vested in him. If the same powers are exclusively confided to a few persons, constituting a permanent sovereign council, the government may be appropriately denominated an absolute or despotic aristocracy. If they are exercised by the people at large in their original sovereign assemblies, the government is a pure and absolute democracy. But it is more common to find these powers divided and separately exercised by independent functionaries, the executive power by one department, the legislative by another, and the judicial by a third; and in these cases the government is properly deemed a mixed one; a mixed anistocracy if it is hereditary in several chieftains or families, and a mixed democracy or republic if it is delegated by election and is not hereditary. But in a representative republic all power examents from the people and is exercised by their choice, and never extends beyond the lives of the individual to whom it is entrusted. It may be entrusted for any short

As Judge Story represents the extreme Whig or Federalist theory of our Government, Democrats might not readily accept as sound the views expressed by him, and therefore I will now read an extract from Tucker, who represents the extreme Democratic theory of our Government. To all who will read attentively these extracts from Story and Tucker it will be plain that the most inveterate partisan differences disappear when we reach this question. Tucker's statement is not quite so elaborate as the one which I have just read from Judge Story, but it is quite as definite and quite as satisfactory. Here it is:

Representation is the modern method by which the will of a great multitude may express itself through an elected body of men for deliberation in lawmaking. It is the only practicable way by which a large country can give expression to its will in deliberate legislation. Give suffrage to the people, let lawmaking be in the hands of their representatives, and make the representatives responsible at short periods to the popular judgment and the rights of men will be safe,

for they will select only such as will protect their rights and dismiss those who upon trial will not. True representation is a security against wrong and abuse in lawmaking.

Having read from these two text writers, who represent extreme and opposite views of our Government generally, I desire to read from two others who are considered somewhat less partisan.

In his excellent treatise on the "Principles of Constitutional Law " Judge Cooley defines a republican government as follows:

Law" Judge Cooley defines a republican government as follows:

By republican government is understood a government by representatives chosen by the people, and it contrasts on one side with a democracy, in which the people or community as an organized whole wield sovereign powers of government, and on the other with the rule of one man, as king, emperor, czar, or sultan, or with that one class of men, as an aristocracy. In strictness a republican government is by no means inconsistent with monarchial forms, for a king may be merely a hereditary or elective executive, while the powers of legislation are left exclusively to a representative body freely chosen by the people. It is to be observed, however, that it is a republican form of government that is to be guaranteed; and in the light of the undoubted fact that by the Revolution it was expected and intended to throw off monarchial and aristocratic forms, there can be no question but that by a republican form of government was intended a government in which not only would the people's representatives make the laws and their agents administer them, but the people would also, directly or indirectly, choose the executive. the executive.

Black, in his book entitled "Constitutional Law," lays down the distinction between a pure democracy and a republic in these

The system of government in the United States and in the several States is distinguished from a pure democracy in this respect: That the will of the people is made manifest through representatives chosen by them to administer their affairs and make their laws, and who are intrusted with defined and limited powers in that regard, whereas the idea of a democracy, nonrepresentative in character, implies that the laws are made by the entire people acting in a mass meeting or at least by universal and direct vote.

The highest of all courts has given its sanction to what these text writers have taught us. I do not mean that the Supreme Court of the United States has ever said that a system of direct legislation by the people would render a State government unrepublican in form, because that court has wisely, in my judgment, held that question to be a political one and therefore beyond its judicial cognizance; but I do mean that it has defined a republican form of government in language which excludes the idea of direct legislation by the people. In the Duncan case Chief Justice Fuller, delivering the opinion of the

By the Constitution a republican form of government is guaranteed to every State in the Union, and the distinguishing feature of that form is the right of the people to choose their own officers for governmental administration and pass their own laws in virtue of the legislative power reposed in representative bodies whose legitimate acts may be said to be those of the people themselves.

But while this scheme of direct legislation by the people, owing to its purely political nature, has not been, and perhaps never can be, presented to the Supreme Court of the United States in a way to require a decision upon its constitutionality by that tribunal, it can be and it has been presented to many of our State courts for their determination, and the courts which were first called upon to consider it, in almost every instance, condemned it as involving a departure from the fundamental principles of this Government. No clearer statement of the objection to it was ever made by any court than by the Supreme Court of Texas in one of the early cases. That court then consisted of Hemphill, Wheeler, and Lipscomb, than whom no greater lawyers ever adorned the bench of any State in All of their successors have been upright and many of their successors have been wise; but none of their successors have been more upright or wiser than they were. The question as presented to that great court arose out of a local-option law, about which I shall have something more to say before I close; and although the law itself had been repealed before the case reached a decision they held it invalid upon the ground that under our Constitution as it then stood, the legislature had no power to submit that or any other legislative question to a direct vote of the people. Judge Lipscomb, who delivered the opinion of the court, said:

But besides the fact that the Constitution does not provide for such reference to the voters to give validity to the acts of the legislature we regard it as repugnant to the principles of the representative government formed by our Constitution. Under our Constitution the principle of lawmaking is that laws are made by the people not directly, but by and through their chosen representatives. By the act under consideration this principle is subverted, and the law is proposed to be made at last by the popular vote of the people, leading inevitably to what was intended to be avoided—confusion and great popular excitement in the enactment of laws.

Mr. Proceidant I could the confusion and great popular excitement.

Mr. President, I could cite other cases which fully sustain this Texas opinion, but I feel that I have multiplied these authorities beyond every reasonable requirement, and I shall conclude this part of my address by bringing to the attention of the Senate the best definitions of a democracy and a republic ever written or spoken in the history of the world. They come

neither from statesman nor judge nor commentator. They are from Webster's Unabridged Dictionary, where, under the word "Republic," I find this definition:

A State in which the sovereign power resides in the whole body of the people and is exercised by representatives elected by them.

Under "Democracy" Webster first defines a direct democracy, such as the initiative and referendum would establish, and follows that with a definition of a representative democracy, which is synonymous with a republic. If he had left us nothing but his definition of a republic to contrast with his definition of a direct democracy, he would have made clear to our minds the difference between the two forms of government; but, with a thoroughness characteristic of all his great labors, he made the matter doubly plain by contrasting the two kinds of "democracy," under this form and in these words:

1. Government by the people; a form of government in which the supreme power is retained and directly exercised by the people.

2. Government by popular representation; a form of government in which the supreme power is retained by the people, but is indirectly exercised through a system of representation and delegated authority periodically renewed; a constitutional representative government; a republic republic.

These definitions of a democracy and a republic seemed so perfect to me that I was curious to know whether they had been improved in the various editions through which Webster's Dictionary has passed, and I concluded to examine that question. I therefore went back to the first edition, which was issued in 1828, where I found substantially the same definitions as those which appear in the last edition. It is true that those definitions have been slightly abbreviated, and to that extent improved, but they have not been improved in any other respect; and in order that those who hear me, as well as those who may do me the honor to read this speech, may be able to make the comparison for themselves, I will read the definitions

make the comparison for themselves, I will read the definitions as they are taken from the edition of 1828. Here they are:

Republic: A Commonwealth; a State in which the exercise of the sovereign power is lodged in representatives elected by the people. In modern usage it differs from a democracy or democratic State in which the people exercise the powers of sovereignty in person. Yet the democracies of Greece are often called republics.

Democracy: Government by the people; a form of government in which the supreme power is lodged in the hands of the people collectively, or in which the people exercise the power of legislation. Such was the government of Athens.

Mr. President, I am not vain enough to suppose that anything I have said has produced the slightest impression on the mind of any Senator, but I am sure that what I have read has produced a profound impression on the mind of every Senator. It could not be otherwise. There, sir, is the testimony of the men who helped to frame the Constitution, together with the testiwho helped to frame the Constitution, together with the testimony of the men who helped to ratify it; there is the deliberate conviction, repeatedly declared, of the greatest statesman who ever served as President of this Republic; there are the opinions of eminent text-writers and wise judges, all concurring in the doctrine that this is a representative democracy in which the people govern themselves through agents of their own selection. And with that proposition satisfactorily established I will now attempt to demonstrate that a representative democracy is safer and wiser than the direct democracy which the initiative and referendum would introduce. REPRESENTATIVE DEMOCRACY VS. DIRECT DEMOCRACY.

While the authorities which sustain me in this branch of my argument are numerous and high, they could not, in the nature of things, be so conclusive as they were on the other branch, because that was a question of historical fact, and therefore susceptible of historical proof, while here we must form our own judgment as to the relative merits or demerits of these systems. But it is nevertheless true, in this case, as in all other cases, that the thought bestowed upon the subject by learned men will help to enlighten us.

I shall not detain the Senate by reading in this connection anything from those who framed the Constitution or from those who ratified it, because in choosing a representative democracy as against a direct democracy they gave the world an incontestable proof that they believed the one a better form of government than the other. Neither shall I call the lawyers to testify on this branch of the case. I do not, however, omit to call them out of any deference to the prejudice which now seems to be so rife against them. I have no patience with prejudice, and no cause ever exhibits its weakness or its injustice more clearly than when it feels compelled to attack one of the learned professions in order to promote its success. excuse the lawyers because our inquiry now is not so much what the Constitution is as what it ought to be, and while many lawyers are competent to instruct us on that point I prefer here to consult the men who have studied government as a science.

Among the scholars who sympathized with the aspirations and labors of those who established this Government, but who took no part in its establishment, Noah Webster enjoys a special distinction. Even many well-informed people of this day know Mr. Webster only as a lexicographer, and perhaps a larger number remember him more as the author of a spelling book which we studied as children. But, sir, Noah Webster was more than a lexicographer and more than a mere author of schoolbooks. He was a lawyer of eminent ability and he was a philosopher in more than one department of literature. At the request of a delegate to the Federal convention, Mr. Webster wrote and published a pamphlet in which he stated the basis of majority rule and the basis of representative government with a clearness and a force which has never been surpassed. Indeed, sir, he stated them in such a convincing manner that his statement of them dispenses with any argument upon them. Though the rule of the majority is not involved in this discussion, I shall read what he said upon that for the benefit of those who might find it difficult to secure a copy of the pamphlet which contains it, and also because, as it immediately precedes his comment on the representative principle, it serves in some degree to illuminate that. I hope the Senate will listen

On the first view of men in society we should suppose that no man would be bound by a law to which he had not given his consent. Such would be our first idea of political obligation. But experience, from time immemorial, has proved it to be impossible to unite the opinions of all the members of a community in every case, and hence the doctrine that the opinions of a majority must give law to the whole state, a doctrine as universally received as any intuitive truth.

Another idea that naturally presents itself to our minds on a slight consideration of the subject is that in a perfect government all the members of a society should be present and each give his suffrage in acts of legislation by which he is to be bound. This is impracticable in all large states; and even were it not, it is very questionable whether it would be the best mode of legislation. It was, however, practiced in the free states of antiquity, and was the cause of innumberable evils. To avoid these evils, the moderns have invented the doctrine of representation, which seems to be the perfection of human government.

Foremost among the men of his class in the generation succeeding that of Noah Webster stands Prof. Francis Leiber, of German birth, but long identified with American life and with our higher education. He occupied the chair of political science at the State College of South Carolina for many years, and was afterwards called to the same professorship in Columbia College. Prof. Leiber gave his unqualified approval to a representative democracy, and did not, as some others have done, predicate that approval upon the impracticability of a direct democracy. According to his philosophy, a representative democracy is not only relatively but it is absolutely the best government; and I now invite your attention to what he says on this subject in his celebrated book entitled "Civil Liberty and Self-Government." Here it is:

Subject in his celebrated book entitled "Civil Liberty and Self-Government." Here it is:

Of all the guaranties of liberty there is none more important and none which in its ample and manifold development is more peculiarly Anglican than the representative government. Everyone who possesses a slight acquaintance with history knows that a government by assembled estates was common to all nations arising out of the conquests of the Teutonic race; but the members of the estates were deputies or attorneys sent with specific powers of attorney to remedy specific grievances. They became nowhere, out of England and her colonies, general representatives—that is, representatives for the state at large, and with the general power of legislation. This constitutes one of the most essential differences between the deputative medieval estates and the modern representative legislatures—a government prized by us as one of the highest political blessings and sneered at by the enemies of liberty on the Continent at this moment as "the unwieldy parliamentary government." I have endeavored thoroughly to treat of this important difference; of the fact that the representative is not a substitute for something which would be better were it practicable, but has its own substantive value; of political instruction and mandates to the representatives, and of the duties of the representative in the political ethics, to which I must necessarily refer the reader.

With reference to the great subject of civil liberty and as one of the main guaranties of freedom the representative government has its value as an institution by which public opinion organically passes over into public will that is law; as one of the chief bars against absolutism of the executive on the one and of the masses on the other hand; as the only contrivance by which it is possible to induce at the same time an essentially popular government and the supremacy of the law or the union of liberty and order; as an invaluable high school to feach the handling and the protecti

Although he lived and wrought under a government which was not a representative democracy, one of the most exhaustive disquisitions on representative government came from the pen of John Stuart Mill; and he closes its third chapter with this summary which it would be well to have printed in every textbook on political economy used in the colleges of this land:

From these accumulated considerations it is evident that the only government which can fully satisfy all the exigencies of the social state is one in which the whole people participate; that any participation, even in the smallest public function, is useful; that the participation should everywhere be as great as the general degree of

improvement of the community will allow; and that nothing less can be ultimately desirable than the admission of all to a share in the sovereign power of the State. But since all can not in a community exceeding a single small town participate personally in any but some very minor portions of the public business, it follows that the ideal type of a perfect government must be representative.

I have selected Webster, Leiber, and Mill as the best exponents of the political philosophy of their respective generations, but as they did not live in our generation the progressive statesmen of this day will perhaps despise what they have said as obsolete and irrelevant. I shall therefore supplement the quotations which I have made from those illustrious phidistinguished and, without flattery I can add, one of the very ablest men who has written upon governmental science in our day. Even before I mention his name you have anticipated it, and you know that I refer to Prof. Woodrow Wilson, now governor of New Jersey, and soon to become President of the United States. In the course of a series of lectures of the United States. In the course of a series of lectures delivered at Columbia University in 1907, which have been published under the title of "Constitutional Government in the United States," Prof. Wilson said many excellent things about our Government, but he said nothing more excellent than what I am about to read. Indeed, sir, I very greatly doubt if the same thought has ever been better expressed, and I am sure that more wisdom was never compressed into so few and such short sentences.

But before reading this matter, I desire to expressly disclaim any thought of reading it for the purpose of contradicting what Mr. Wilson is reported to have said in a recent political cam-I sincerely hope that there is to be no conflict between the opinions of the philosopher and the practices of the states-I am a Democrat, and though I did not favor Gov. Wilson's nomination by our party, no living man more sincerely hopes for a successful administration of this Government by him than I do. Nor is any man more confident than I am of a successful administration by Gov. Wilson, if he will adhere steadfastly to Democratic principles, turning neither to the right in order to please Republicans nor to the left in order to please Progressives. I know that certain men are working assiduously to impress him with the idea that he is under a great obligation to the Progressives; but his worst enemy could not wish him to commit a more serious blunder than to act upon the assumption that he owes his election to Progressives and not to Democrats.

The Democrats of this country-those who are Democrats without prefixes or affixes-voted for Gov. Wilson almost without exception, and without their votes he would have been the third, instead of the first, man in that race, while many of those who call themselves Progressive Democrats voted against him. This defection of the Progressives was not universal, but it occurred in every close and doubtful State. In the great State of Illinois Gov. Wilson received 43,000 votes less than were cast for our candidate there in 1908, and this does not measure the whole Democratic loss, because there were thousands of Republicans who earnestly desired the reelection of President Taft, but thinking that to be impossible, and thinking that the contest was between Roosevelt and Wilson, they cast their ballots for Gov. Wilson, in order to make the defeat of ex-President Roosevelt certain. In addition to these Republican votes which our candidate received, there were many young men who had reached a voting age since the presidential election four years ago, and it is safe to say that a majority of them voted our ticket. But with those Republicans and those first presidential voters supporting our candidate, he still received 43,000 votes less in the State of Illinois than our candidate received there four years ago, which means that at least 75,000 voters re-neurced their allegiance to the Democratic Party. Where did they go? Not to the Republican Party. No Democrat voted for Taft, though all Democrats respect him as an honest man and a sincere patriot; but those who would have regarded his election with complacency or even with satisfaction did not vote for him, because they knew he could not be elected. Those 75,000 Democratic voters joined the Progressive Party and voted for ex-President Roosevelt. The same thing which happened in Illinois happened even to a larger extent in the State of Ohio, where our party vote at the last election was something like 100,000 less than it was in 1908. Those men are lost to us forever, and more of their kind will follow them, for as long as Theodore Roosevelt lives and leads the Progressive movement neither Gov. Wilson nor any other man, unless it be Eugene V. Debs, can ever successfully compete with him for the discontented and radical vote of this country.

But neither the votes which we have lost to the Progressive Party nor the votes which we may lose to it can seriously imperil our success if Gov. Wilson gives us a safe and a satisfactory administration; for if he does that the Republican Party will never nominate another candidate for the Presidency, the best of it will enlist under our standard, and the contest four years hence will be between the Democratic and the Progressive Parties. I do not expect my Republican friends across the nisle now to concede that under any circumstances their party will not present a candidate at the next election; but if the next administration is as wise as it ought to be the disintegration of the Republican Party is inevitable. With the Democratic Party successfully conducting the Government, and with the people prosperous, the Republican Party could not hope to do as well in the next election as it did in the last one, when it carried only 2 out of the 48 States, and those 2 among the smallest in the Union.

Looking forward to that condition, I would do nothing to embarrass Gov. Wilson; and it is not, therefore, for the purpose of quoting him against himself, but it is in the hope of illuminating this question that I invite you to listen to these words from his book:

A government must have organs; it can not act inorganically—by masses. It must have a law-making body; it can no more make law through its voters than it can make law through its newspapers.

This is much stronger than Webster, it is much stronger than Leiber, it is much stronger than Mill, because it practically declares, in effect, that a government in which the people legislate directly is impossible.

But, Mr. President, I am fortified in my contention by the opinion of one wiser than Webster or Leiber or Mill or Wilson. With a scholarship as ripe as theirs and as thoroughly conversant with all governmental systems as they were, he possessed the further advantage of having borne a conspicuous part in making history rather than in writing it.

As Jefferson's second presidential term was drawing toward its close the Legislature of Vermont adopted an address cordially approving his administration and expressing a desire that he should again become a candidate for the Presidency. To that address Jefferson responded on the 10th of December, 1807, and after expressing his grateful appreciation of its friendly sentiments announced his determination not to allow his name to be proposed again for the office which he had then held for nearly seven years, and which he had administered with signal ability and success. In that response he ascended from the personal and particular case, as was always the habit of his mind, to general principles, and said:

That I should lay down my charge at a proper period is as much a duty as to have borne it faithfully. If some termination of the services of the Chief Magistrate be not fixed by the Constitution or supplied by practice, his office, nominally for years, will, in fact, become for life, and history shows how easily that degenerates into an inheritance. Believing that a representative government, responsible at short periods of election, is that which produces the greatest sum of happiness to mankind, I feel it a duty to do no act which shall essentially impair that principle; and I should unwillingly be the person who, disregarding the sound precedent set by an illustrious predecessor, should furnish the first example of prolongation beyond the second term of office.

"That a representative government, responsible at short periods of election, is that which produces the greatest sum of happiness to mankind" was thus set down as the deliberate conviction of Jefferson. The letter in which this passage occurs must not be confused with the one from which I have read in another connection. That first letter was in reply to an address sent him by the Vermont House of Representatives at the beginning of his first term, and the one from which I have just read was in reply to an address of the Vermont Legislature to him, as I have already said, toward the expiration of his last term. In the first letter he stated what he understood our Government to be, while in this second letter he states what he considers the best form of government.

Under date of July 12, 1816, in a letter to Dr. Samuel Kerchival, who had requested his opinion upon the advisability of calling a constitutional convention to revise and modify the constitution of Virginia, Jefferson reiterates his devotion to a representative government, and even declares a direct democracy impossible in Virginia. This is what he says to one of his most intimate friends who had sought his counsel:

A government is republican in proportion as every member composing it has his equal voice in the direction of its concerns (not, indeed, in person, which would be impracticable beyond the limits of a city or small township, but) by representatives chosen by himself and responsible to him at short periods, and let us bring to the test of this canon every branch of our Constitution.

Mr. President, I suppose that no man will venture to deny that Jefferson thoroughly understood the difference between a direct democracy and a representative democracy. Nor can it be doubted, in the face of what I have already read from his letters, that his deliberate judgment was against a direct democracy and in favor of a representative democracy; but I want to make that still plainer, if possible, and I therefore crave the indulgence of the Senate while I read from a letter which he wrote to the Greek scholar and patriot, M. Coray, in 1823.

This letter was written less than two years before his death, but while his faculties were still unimpaired. Indeed, sir, it is a happy circumstance that the faculties of that great man remained unimpaired to the end, for the years which wasted his body seemed only to invigorate his mind.

Knowing his devotion to liberty throughout the world and valuing him as one of the greatest constructive statesmen of all the ages, this Greek patriot had turned to him for advice concerning the institutions of his own country; and in a letter of unusual length Jefferson prefaced his detailed instruction with this general statement:

The equal rights of man and the happiness of every individual are now acknowledged to be the only legitimate objects of government. Modern times have the signal advantage, too, of having discovered the only device by which these rights can be secured, to wit: Government by the people, acting not in person, but by representatives chosen by themselves; that is to say, by every man of ripe years and sane mind who either contributes by his purse or person to the support of his country. The small and imperfect mixture of representative government in England, impeded as it is by other branches, aristocratical and hereditary, shows yet the power of the representative principle toward improving the condition of man.

A "government by the people, acting not in person, but by representatives," is the kind of a government which Jefferson there recommends to the liberty-loving patriots of Greece, and that is the same government which he had advised his own people in Virginia to establish. Both in his letter to Dr. Kerchival and in his letter to M. Coray Mr. Jefferson not only distinctly recognizes the difference between a representative democracy and a direct democracy, but he takes particular pains to emphasize the fact that a direct democracy is impracticable beyond very narrow limits, and to exclude it from the cordial approval which he gave to a representative democracy.

he gave to a representative democracy.

With this imposing array of sages, philosophers, historians, statesmen, and jurists all asserting with one unbroken voice that a representative democracy is the best government for mankind, and asserting with equal unanimity that a direct democracy is fraught with unspeakable disasters, I do not fear the verdict of the American people when this question is submitted to them after a fair and a full debate. My faith is unwavering that the counsel of Washington and Jefferson, of Hamilton and Madison, of Marshall and Monroe, will prevail. Indeed, sir, when the passions aroused by these appeals to ignorance and prejudice have subsided and the sober second thought has returned to the American people, they will marvel that any considerable number of them could have ever consented to abandon those governmental principles which until recent times they have cherished with an almost religious fervor.

tell us that the doctrines of the fathers were good enough for the time of the fathers, but that we have outgrown them, and this cunning appeal to the pride of an age has flattered many weak-minded men into scoffing at what they irreverently call "the wisdom of the dead." Mr. President, that the growth of a nation may call for the adoption of new policies, and that it may even call for either a lesser or a larger application of old principles, is undoubtedly true, and no man could be more ready to recognize an act upon that truth than I am. But, sir, I utterly deny that the growth of a nation in area or population or wealth can ever alter the fundamental principles of a free government. Policies must change with changed conditions, but principles are as eternal as the stars; they are as immutable as God's law. Will they tell me that we have out-grown that cardinal principle of personal liberty which guarantees that no citizen can be condemned without a trial or tried without a jury? Will they tell me that we have outgrown that other great security of freemen which guarantees to every man the fruits of his own labor by providing that his property shall not be taken, even for the public use, without a just compensation to him?

It is just as foolish to discard one proposition because it is old as it is to reject another because it is new. The men who made our Constitution realized that their great work was not so perfect as to permit no change. Absolutely confident of their patriotism, and reasonably confident of their wisdom, they could still foresee that time might disclose some defects in the Constitution, and therefore they solemnly provided in that instrument for its amendment. Devoutly as I cherish the spirit of it, and faithfully as I strive to live up to the letter of it, I do not hold it in any superstitious reverence. I do not look upon it as the ark of a covenant, which shall provoke the curse of God against all who touch it, and I have twice voted to amend it. But, sir, while I have been willing to amend it, I am not willing to destroy it. That Constitution is definite enough to protect the humblest citizen in his every right, and it is elastic enough to punish the mightiest corporation for its every wrong. Through more than a century's trial it has been sufficient for every emergency. It carried us successfully through three foreign

wars; it walked with this Republic like a redeeming spirit through the fiery furnace of a civil war, preserving the Union even against the wrath of the men who would now give their lives in defense of its flag; and when that cruel war was over, it was held aloft by brave and generous men in the North as a shield over the bosom of the bleeding and prostrate South. That Constitution, like a flaming sword, waved back from the gates of our stricken land the merciless adventurers who had come to prey upon our misfortunes. Ah, sir, so long as I remember how that Constitution saved my father and his vanquished comrades from the awful fate of those who surrendered to the armies of the unrestrained democracies of old, I shall cherish and defend it.

If we lay aside all the admonitions and advices which the wise and patriotic of other days have tendered to us and conwise and particle of other days have tendered to us and con-sider this question upon our own reasoning, without regard to what others have said upon it, our minds are conducted to the same conclusion. I do not think that a government in which the people shall either make or execute the laws directly would be feasible, even within a small township or city if that township or city contained a population too great for a convenient meeting of them all at the time and place when and where public questions were to be decided. But whether I am right or wrong about that is not material here, for we are not dis-cussing those petty political subdivisions. Our problem is with the Nation, and if they yield to our argument so far as to say that the initiative and referendum are State remedies and are not proposed for the Nation, then I answer that all that can be said about these processes in the Nation apply with equal force to their operation in the State.

The question with us is whether the people of a given sovereignty—and either State or Nation is the same in this respect—can exercise the legislative power of that sovereignty prudently and wisely without the aid of representatives. I would have the right, inasmuch as I am defending an existing institution, to require those who propose this change to show that it is practicable and that it will be beneficial; but I do not choose to stand upon that technicality of debate. I am willing to waive the rule which I could justly invoke against them and to assume the burden of proving a negative by showing that this change is not practicable and would not be

What is the first and the most indispensable element in wise legislation? It is deliberation, and any legislation proposed or adopted without mature deliberation can only be good by acci-This has heretofore been one of the axioms of American politics and nobody has disputed it. In every legislative assembly in this land, from our city councils to the Senate of the United States, this deliberation has been deemed so necessary that all of the rules under which our public business is transacted looks primarily to that end. If the greatest Senator in this were to introduce a bill to-morrow, it would be ferred to a committee so that it might be considered carefully and perfected by such amendments as the collective wisdom of that committee might deem necessary and proper. That is not only our rule to-day, but that was the rule in what men who delight to praise the past call the "Golden Age" of the American Senate. The wisest Senator of that day was compelled to submit his bill, though drawn with his utmost care, to the scrutiny of a Senate committee. The sole and only reason for that rule is that the minds of several men concentrated upon any subject or any document, exchanging their views not only upon its general purpose, but upon its details and even its phraseology, are absolutely necessary to make the bill do what is desired, and no more than that. Perhaps I ought not to say that is the only reason, because there is another, but so cognate to that as hardly to be distinguishable from it, and that other reason is that when the bill comes before the Senate for consideration in open session Senators will have the benefit not only of an explanation of it by the man who introduced it, but also have the benefit of a report from the committee which has carefully considered it. So deeply embedded in all the thoughts and practices of the American people is this plan of sifting every general proposition, of performing every general act with care and deliberation, that even where the people come together in their primary capacity to consider matters of purely local interest they generally appoint committees to prepare such addresses as they think it expedient to issue.

It is sometimes said that the people, with their excellent common sense, can better judge their own needs and interest than great intellects can. I have lately read several editorials in which the writers have declared that the ability of the Senate is being steadily reduced to what they were pleased to call the level of average intelligence; and have expressed the great-est satisfaction with that change in this body. But, Mr. Presi-

dent, even if legislation does not require great ability and even if the average man would be a better legislator for the country than the man of genius, it still must be true that the average man can not legislate wisely unless he studies the question thoroughly for himself and then exchanges views with the others who are engaged jointly with him in the performance of that highly important duty. It does not matter whether men are great or small, above the average, or below the average, or at the average, they can only legislate wisely for this country and these people by debating with each other every question

which they are called upon to decide.

But, Mr. President, instead of endeavoring to enforce this view in my own way and with my own words, I can perhaps convince those who differ with me better by directing their attention to what has been said by another. Many sensible things have been written upon the necessity and the efficacy of debate, but no man has ever set forth its advantage, and even its necessity, more clearly or more forcibly than has been done by the next President of the United States. In his admirable book on "Constitutional Government in the United States," from which I have already quoted, Prof. Wilson goes at length into this subject. He not only stresses the necessity of debate, but he goes further and declares that the only debate which will answer the purpose is a debate face to face, mind to mind, and man to man. He dismisses the suggestion so often made, that the people can learn all they need to know about public questions from the newspapers, by adverting to the well-known fact that, as a rule, each newspaper becomes a partisan on every question and presents only one side of the argument, and to the further fact that many newspapers are controlled by special interests. I do not know whether this last statement is well founded or not. I have been told by gentlemen who have long been connected with the press that there are very few newspapers actually owned and controlled by special interest. One of these gentlemen, however, tells me that it is too true in many cases that the attitude of newspapers is controlled by the counting office, and that the matter of dividends to the stockholders sometimes overrules a consideration of the public interest. All this may or may not be true; I do not know. But I do know that certain indibe true; I do not know. But I do know that certain individuals with political ambitions, personal disappointments, and personal animosities now control many newspapers, and al-though they are loudest in their denunciations of the trusts, they are constantly extending their ownership and control over newspaper properties for the double purpose of terrorizing public men and reaping the larger returns upon the investment which a chain of newspapers is apt to bring. Considerations like these undoubtedly diminish the value of every newspaper discussion of any public question and render them unsafe guides, as Gov. Wilson says in the following dissertation.

guides, as Gov. Wilson says in the following dissertation.

There is discussion and discussion. I suppose that we have come to think debate less necessary in our legislative assemblies than it may once have been, because we have allowed ourselves to fancy that the action of government was sufficiently discussed and nicely enough squared with opinion by the news columns and editorials of our newspapers. But even if the chief newspapers were not owned by special interests; even if their utterances really spoke the general opinion of the communities in which they are printed, as very few of them now do, their discussion of affairs would not be of the kind that is necessary for the maintenance of constitutional government. There are many things to be said about the newspapers which will make this at once evident. For one thing, few men outside the big cittes read more than one newspapers they read more than one side of any question; and they generally decide for themselves beforehand which side that shall be by their choice of a newspaper. But far more important than that is the little recognized fact that no number of separate discussions of a question, no matter how assembled, no matter from how many different points of view, from how many different papers or different sections of the country, constitute such a comparison of views as a responsible representative assembly can institute in its debates.

Discussions which are to lead to action must be combined com-

views as a responsible representative assembly can institute in its debates.

Discussions which are to lead to action must be combined, compounded, made up out of many elements, or else out of a few, by a process which can be thorough and trustworthy only when these several elements are, so to say, brought personally face to face, as living, contending forces embodied in men authorized to be the spokesmen of voters and speaking with a constant sense of being held responsible for what they say. Common counsel is not jumbled counsel. There is often common counsel in the committee rooms of the House, but there is never common counsel on the floor of the House itself. It goes without saying that the combined acts of a session are not a product of common counsel. They have been produced by a thousand agencies, not thrashed out by one, and they have not been thrashed out in the presence of the country, but behind closed doors.

It may sound a very subtle matter, but it is in fact intensely practical, and is worth looking into. It is because we do not look into it or understand it, though it lies at the very heart of our whole practice of government, that we sometimes allow ourselves to assume that the "initiative" and the "referendum," now so much talked of and so imperfectly understood, are a more thorough means of getting at public opinion than the processes of our representative assemblies. Many a radical program may get what will seem to be almost general approval if you listen only to those who know that they will not have to handle the perilous matter of action and to those who have merely formed an independent—that is, an isolated—opinion, and have not entered into common counsel; but you will seldom find a deliberative

assembly acting half so radically as its several members professed themselves ready to act before they came together into one place and talked the matter over and contrived statutes. It is not that they lose heart or prove unfaithful to the promises made on the stump. They have really for the first time laid their minds alongside other minds of different views, of different experience, of different prepossessions. They have seen the men with whom they differ, face to face, and have come to understand how honestly and with what force of genuine character and disinterested conviction, or with what convincing array of practical arguments, opposite views may be held. They have learned more than any one man could beforehand have known. Common counsel is not aggregate counsel. It is not a sum in addition, counting heads. It is compounded out of many views in actual contact; is a living thing made out of the vital substance of many minds, many personalities, many experiences; and it can be made up only by the vital contacts of actual conference, only in face to face debate, only by word of mouth and the direct clash of mind with mind.

Mr. President I am sure that every Senator who has followed.

Mr. President, I am sure that every Senator who has followed closely the reading of this extended quotation from Prof. Wilson is now ready to concur in my statement, made before it was read, that no clearer presentation of the necessity for debate has ever been made; and after conceding all which his friends claim for his ability, I am still surprised that any man, whose personal experience had not taught him the value of debate, could have written so intelligently about it.

Every man who has practiced law has learned how dangerous it is to go into the court room unprepared on a case, because he knows that a well-equipped adversary will demolish his halfbaked arguments. Every man who has served as a judge upon the bench can easily recall how often the attorney for the plaintiff had made out his case until the attorney for the defendant had pointed out the defects in the argument, or some substantial distinction between the case at bar and the cases which had been cited. But, even more than lawyers and judges, men who have served in legislative assemblies have witnessed how a debate has changed the whole trend of opinion. How often have we gone into our committee rooms confident in the correctness of our position upon some bill pending before that committee, and how completely we have been convinced of our error after hearing all that could be said on both sides. Perhaps that experience has not come to me as often as it has come to others, because a tenacity of opinion is one of the infirmities which those who do not love me often allege against me; but I count it no reflection on my firmness or upon my intelligence to say that I have been compelled, more than once, upon the fuller information furnished by a debate, to modify my opinion. No man can ever be sure of any opinion until he has subjected it to the searching test of an analysis by those who differ with him. It is only after our opinions have been assailed from every side that we can find their weak places, or else find that there are no weak places in them.

Not only would the initiative and referendum result in hasty and inconsiderate legislation through a lack of illuminating debate, but it would destroy also the safeguards afforded by our present system of double legislative chambers; and, in my opinion, that would be a calamity from which our country could never recover. The most enlightened opinion in this country, and the most enlightened opinion in every civilized nation in the world, calls for two houses in every legislative assembly. Manifestly the two legislative chambers are designed to insure a consideration by one house and a reconsideration by the other for every law by which the people are to be bound; and it would be the excess of folly to strike down this arrangement which the wisest statesmen in every country have pronounced one of the most salutory restraints ever devised by any people for the protection of their liberty and happiness.

Another safeguard which would be swept away by this system of direct legislation would be age as a qualification for the lawmaker. At present a minimum age is prescribed for the members of each legislative body, in the just expectation that legislation will be matured by men of reasonable experience and ability. Not only does the Constitution of the United States require that men shall have attained a greater age before they are eligible to the Senate than to the House of Representatives, but the same discrimination exists in almost every State in this Union with respect to the members of the lower and upper houses of their legislatures. But in this new and dangerous legislative assembly, composed of all the people, without any distinction as to age, character, or ability, the rashest youth in Georgia who had attained the age of 21 years would be as much a legislator as the distinguished Senator [Mr. Bacon] who sits His character and his attainments have won for before me. him a third reelection to the Senate—an honor never before bestowed by Georgia on one of her sons—and yet, sir, if laws are to be passed by a direct vote of the people, his neighbor, who might be lowest in character and intellect, would be as much a legislator as he. Is this wise; is this prudent; is this safe? Every man who will put that question to his conscience and his judgment must answer, no.

Another serious objection to a system of direct legislation is that it will culminate in a dissolution of political parties and the division of our people into groups or factions. I am aware, of course, that some who look only at the surface of things would hail that as a consummation devoutly to be wished, because they are constantly lamenting the violence of party spirit. But, sir, we can never correct that evil by substituting factions for parties, because the factional spirit is always incomparably more violent than party spirit. I do not need to appeal to history in proof of that assertion. I do not need to interrogate the philosophers about it, for some very recent political events must have made the truth of it patent to every unbiased mind. Sixteen years ago, when the Democratic Party divided into warring factions, each hated the other worse than the Republican Party, and men who had spent their lives in de-claiming against Republican policies openly and actively solicited their neighbors to vote the Republican ticket. Last year the Republican Party was torn asunder and, as we all know, each faction hated the other worse than its ancient enemy, the Democratic Party. We saw men who had passed their manhood in defending the Republican Party, men who had fought shoulder to shoulder through many campaigns, denouncing each other with a bitterness more intense than that which had riven our party in 1896. No, Mr. President, you can not moderate party spirit in this country by breaking up the great parties into small factions, but you can in that way destroy all responsible party government and turn this Republic over to the management of a minority. The rule of a minority is not the kind of a government which is desirable in any country, and least of all in this country. It is not the kind of a government which any thoughtful statesman would be willing to establish, but it is the kind of a government which must inevitably result from the destruction of our parties and the reign of factions. Senate has witnessed within the last two years the group system in operation, and we have seen the legislation of this body controlled by less than a dozen men, who were in turn largely controlled by one man. With something like 45 regular Republicans and with 42 Democrats less than 10 Progressives have dominated this body upon some of its most important measures. They would first vote with the regular Republicans to defeat our Democratic bill and then force us to join them in passing their own bill, or else defeat all legislation on the subject.

Take the woolen bill for an illustration. The Republican Party was opposed to any revision of the woolen schedule; the Democratic Party earnestly desired a substantial reduction in its duties; and between them stood this small group of progressive Senators, who voted with the regular Republicans against the passage of our bill and then compelled us to vote with them to pass their bill or leave that schedule untouched. That bill as it passed the Senate was opposed by practically every Republican Senator and was supported by the Democrats only because they were forced to pass it or nothing. It did not fairly represent the views of one Senator in every ten. Is this the way to "restore the Government to the people" and execute the will of the majority? I think not.

Political parties, if organized and manipulated merely as a means of working out personal or partisan ends, are, of course, worse than useless; but political parties organized and used as a means of conducting the Government according to certain great principles upon which the members of it agree in the main are instruments of good government the value of which it would be difficult to overestimate. Indeed, sir, it is inconceivable to me that a free government could be administered safely and wisely without political parties, because men of the same mind could not otherwise render their opinions effective in the conduct of the Government. As long as they serve this useful purpose parties are necessary and partisans may be patriots. In that sense Washington was a partisan, and though loved and trusted by all parties he was such a Federalist that Jefferson found it unpleasant to remain in his Cabinet. It was in this sense that Jefferson was a partisan, and I am by no means certain that he did not render his greatest service to his country as the founder and leader of his party. Certain it is that through the leadership of his party he acquired an ascendancy over the minds of men and exercised an influence over political events never equaled by any other man in this country. It is in this sense, I hope, that I am myself a partisan. I am a Democrat purely because I want to preserve the principles of that party and not because I am anxious to elect some man to an office. I believe, too, in party organization, and my record for party loyalty is untarnished. I have never scratched a single name from a Democratic ticket, and my vote has not been given grudgingly to the nominees of my party. But, sir, while I am a partisan, I am not an intellectual slave, and I have always reserved the right to think for myself, and I have always held it to be my

duty to vote according to my own judgment on every great question. My first speech in the House of Representatives was made against the rule which clothed the Committee on Rules of that body with such extraordinary powers. That rule was reported by the Democratic leaders and made a party question; but that fact could not convince me that all of the committees of the House should be subjected to the control of a single committee, and I felt obliged by my sense of duty to say so. actly what I predicted would come to pass under that rule did come to pass, and everything I said against it has been fully jus-tified. If I thought my party were about to make a mistake like that to-day, I would make my last speech against it just as readily as I made my first. But, sir, while exercising a liberty of thought and speech, which no self-respecting and patriotic man will ever surrender, I am a firm believer in the value of party organization, and I can support no policy which, in my judgment, is certain to eventuate in the decoy of political parties. If we do not follow parties we will follow persons, and when we have walked in that course long enough the man on horseback will come and a military despotism rises upon the ruins of a free

WE TRUST THE PEOPLE.

When I plead for the government of our fathers and for those wise arrangements which have preserved our liberties and independence; when I warn my countrymen against experiments which have been tried in many lands and which have failed in every land where they have been tried, these progressive statesmen call me a reactionary and say that I do not trust the people. Sir, I trust the people more than they do, for I believe that they are intelligent enough to choose capable and honest men to represent them. I would trust with implicit confidence the American people to do anything which they will take the time to do as it ought to be done, but I would not trust them with a work which involves their liberty and their happiness, unless they will prepare for that work in a manner commensurate with its importance.

I would not be guided by any man on any question unless I knew that he had studied that question; and even then I would know that after the most thorough study the wisest will sometimes make mistakes. What is true of each man individually must be true of all men collectively, and as I would not follow with unquestioning confidence the greatest intellect and the loftiest character among us until I was assured that he was familiar with the subject on which he sought to lead me, neither will I follow all the people until I am sure that they can find time to bestow on every question the study

necessary to understand it.

If you charge that I do not trust the people, because I say that they are not qualified to legislate for themselves, then you must prefer that same indictment against Thomas Jefferson, because in his letter to Arnond he declares flatly and without any qualifications that-

They are not qualified to legislate. With us, therefore, they only choose the legislators.

No man in his day, and no man since his day, confided more absolutely in the capacity of the people for self-government than Thomas Jefferson, and he did not mean to impeach either their intelligence or natriotism when he declared that they are not qualified to legislate. He simply recognized, as I do, that legislation for a great country and a free people requires a study which the occupations of the people will never allow them to bestow upon it. If you tell me that what Jefferson said might have been entirely right in his day, but entirely wrong in this day, my answer is that every man who knows the conditions which existed then and the conditions which now exist understands that the people of that day were better qualified to legislate than the people of this day. That is true, in the first place, because there was much less legislation then than now, and all legislation was much simpler; and it is true, in the Thomas Jefferson, and he did not mean to impeach either their and all legislation was much simpler; and it is true, in the second place, because the average intelligence of the people who were then permitted to vote was greater than it is to-day. When Jefferson wrote that letter our country was not menaced by the mass of black ignorance, which the fifteenth amendment injected into our body politic, or by an enormous immigration of men wholly incapable of understanding our institutions.

Mr. President, it does not reflect upon the intelligence of any man to say that he is not competent to do a work to which he has not given any special attention. Nobody thinks that it impeaches a lawyer's ability to say that he can not practice medicine. When one of my family falls sick I call a doctor, and I do not consider that I thus acknowledge that he has more

ones. Sir, I have seen my older boy wavering between life and death, and by his bedside I sat through the long watches of the night, suffering an agony greater than his, but not once did I venture to countermand the physician's orders. Did I thus imply the superior ability of the doctor or his greater interest in my boy? No, sir; I simply acknowledged that it was safer to follow the directions of a man who had studied medicine than it was to have those directions varied by the father, who had studied law. We will not permit a man to manage a bank or to superintend a farm or to conduct a mercantile enterprise without some previous experience, reenforced by a constant and personal attention to the business. The best engineer on a railroad seldom has more sense than the president or the general attorney of that road, but I ride without any thought that I am incurring a risk upon a railroad train drawn by an engine at whose throttle stands a sturdy and experienced engineer, while I would not ride between the stations nearest to each other on that same train if its engine were driven by the president or the general attorney of that same road.

In every relation of life we recognize the necessity of experience and of a diligence in every matter according to its importance. We will not employ a man to do any work for us in our individual capacity unless he has served some sort of apprenticeship, or at least is willing to give some time and thought to it, and yet, sir, we commit the grotesque absurdity of pretending to think that the greatest of all work, the legislation of a free people, can be wisely done without previous experience and without diligent attention to it. It is a crime against the memory of our fathers, and it is a greater crime against the safety of our children, to flatter the people with an assurance that they can legislate wisely without applying themselves to a thorough study of the measures upon which

they must vote.

When these gentlemen who call themselves progressives say that they believe in the rule of the people, they say no more than has been said by all public men, with rare exceptions, throughout our history, unless they intend that hereafter a significance shall attach to that expression different from that which has attached to it heretofore. I believe as sincerely as any man in the rule of the people, but I believe in the rule of the people under our written Constitution and according to the principles of this Republic. Is that the creed of our progressive friends? If so, then there is nothing either new or dangerous in it; but neither does it give them any special claim upon the confidence and support of the people. If those gentlemen disaconnidence and support of the people. If those gentlemen disagree with me, and with those who think as I do on this question, it must be because they desire to establish the rule of the people in some way not sanctioned by the Constitution or the principles of a representative democracy; and that is precisely what they aim to do. They are seeking to work a radical change in the character and structure of this Government. Many of their followers do not believe that, but the candid leaders of the movement admit it, and declare that while they propose to change the character of the Government they expect to make it better. They have shown themselves politicians of consummate skill in selecting as their battle cry "The rule of the people," because that finds universal acceptance in this country as an abstract proposition, but in its actual application it is subject to many exceptions.

There is not a Senator from a Southern State who will not declare that he believes in the rule of the people, and yet they must permit me to say that they believe in that rule with several very important qualifications. They do not believe in the rule of all the people, because no Southern State has yet granted the franchise to women, and I sincerely hope they never will. I can not comprehend how any woman can desire to reduce the difference between her and a man, because the closer she is brought to him, outside of the family relation, the less he will respect her. I can not understand how any woman can voluntarily step down from the pedestal upon which the chivalric men of this country have placed her to mingle in the strife and broils of a political campaign. It may be that the women would help our politics for a time, but our politics would hurt women for all time, and, reacting upon the home, would poison the very fountains of true progress and civilization. long as we deny the franchise to women we can not consistently declare our belief in the absolute rule of the people, for women are people, and the very best people, though not the kind of people to engage in the responsible work of declaring wars or in the rough work of fighting them.

In the Southern States we not only exclude women from all participation in our government and thus reduce the formula to sense than I have, or that he is more interested in restoring the sick member of my family to health than I am. I send for him because he has devoted himself to the study of medicine, and therefore into his keeping I commit the very lives of my loved ments designed to exclude a large number of men from all participation in the government; and consequently the formula, according to the theory and practice of the Southern States, must read that they are in favor of the rule of the white men In California they are willing for white men and black men, white women and black women to rule, but they are not willing for yellow men and yellow women to rule. There is not a State in this Union to-day which will permit convicts or idiots to vote, and yet convicts and idiots are people, but the crime of the one and the affliction of the other have long been regarded as a sufficient reason for withholding from them the right of as a sufferent reason for withholding from the suffrage. The truth is, Mr. President, that when we analyze this matter we see that what passes amongst us to-day as a sign of devotion to the people is nothing more than shallow thinking or unadulterated hypocrisy. I believe in the rule of the people, but I do not believe that vice and ignorance should govern this country. I believe in the rule of those who possess intelligence and virtue, because I know that they alone can save this Republic.

Unable to answer the argument in favor of a representative democracy, our opponents, or at least some of them, disavow any desire or intention to subvert it and insist that they propose the initiative and referendum merely as a means of preserving the representative principle. I seldom allow myself to suspect the intellectual integrity of my opponents, because, in a public career covering almost a quarter of a century, I have found that men are generally honest in their political opinions. Of course, I know that public men are not always governed by a sense of deep conviction in espousing popular measures; but the vice even in such cases is rather a want of knowledge than a want of integrity. If a man does not understand a question, he can not possibly know which is the right side of it, and without knowing the right side he can hardly be censured for taking the popular side. But liberal as I am toward those who differ with me, it is extremely difficult for me to understand how any man can really believe that the representative principle can be preserved by superseding it; and certainly the initiative and referendum do supersede it so far as they may be adopted and applied. Not until two bodies can occupy the same space will it be possible for a representative democracy and a direct democracy to exist side by side under the same government. A direct democracy is as different from a representative democracy on the one side as an aristocracy is different from a representative democracy on the other side; and it is an elementary of political science that no government can be successfully conducted upon principles which run in opposite directions. Prof. Wilson recognizes the truth of that proposition in this book, from which I ask permission again to read:

There are many evidences that we are losing confidence in our State legislatures, and yet it is evident that it is through them that we attempt all the more intimate measures of self-government. To lose faith in them is to lose faith in our very system of government, and that is a very serious matter. It is this loss of confidence in our local legislatures that has led our people to give so much heed to the radical suggestions of change made by those who advocate the use of the initiative and the referendum in our processes of legislation, the virtual abandonment of the representative principle, and the attempt to put into the hands of the voters themselves the power to initiate and negative laws—in order to enable them to do for themselves what they have not been able to get satisfactorily done through the representatives they have hitherto chosen to act for them.

That the initiative and referendum involves "the virtual abandonment of the representative principle" is not only recognized by Gov. Wilson in the extract which I have just read, but the conflict between the two has been recognized and asserted by the Senator from Oregon [Mr. Bourne], and surely his opinion can not be lightly brushed aside, because he enjoys the doubtful honor of being one of the leaders of this crusade. He understands the question as well as any of his associates, and I cheerfully do him the justice to say that he is as sincere and as patriotic in his views as I am in mine. Within the last two years he delivered a speech in the Senate which has perhaps been given a wider circulation than any speech ever delivered by any Member of this or the other House. I understand that more than 5,000,000 copies of it were printed and distributed, and I have been told that 5,000 copies of it were placed by one Socialist club in Texas. That speech was considered such an authoritative statement of the progressive position that it was printed by unanimous consent of the Senate as a public document, and on the title page of it stands the sloran "Popular as Delegated Consents of the sloran popular as Delegated Consents of the progressive statement of the progressive search progressive statement of the progressive search progressive statement of the progressive search progressive Popular vs. Delegated Government." That carries with it no suggestion that the initiative and referendum are to be employed as mere aids to the representative principle, but it boldly proclaims the conflict between them, and that conflict will not end until the one shall have triumphed over the other. My intellectual vision does not enable me to penetrate the future, and I shall not attempt to prophesy which shall perish and which shall survive; but I am authorized by the

history of the past to say that if the representative principle falls this Republic must fall with it.

The development of the initiative and referendum has a curious history in this country, and it is not traceable to any respect which the politicians have entertained for the will or the wisdom of the people. The initiative, of course, has grown out of the referendum, and the origin of the referendum is really the interesting part of the story. So far from it being true that questions were first referred to a direct vote of the people out of any deference to their will or eagerness to serve their interest the real truth is that the practice grew out of the cowardice of politicians, and when you consider the questions which were first dealt with in that manner you can not doubt the correctness of what I say. It must, however, be said to the credit of the politicians of those days that they did not insult the intelligence of their constituents by indulging in the cant which is now so prevalent. The chief subjects of the referendum in the early stages of its development were the questions which gave the politicians most trouble, such as the location of capitals, county seats, and the liquor traffic.

Every man who has lived in a new State knows the intense bitterness and the absorbing interest which the location of a capital always excites; and the same is true even in a greater degree with respect to the courthouse towns of counties. not at all uncommon for contests of this latter kind to result in public disorder and bloodshed. And yet, Mr. President, we can scarcely imagine a question which less concerns the happiness of the people, the security of their liberties, or the permanence of their government. Whether the capital shall be located at one place or another, or whether the courthouse shall be located at Johnstown or at Jamestown may deeply affect the prosperity of the one or the other locality, and may affect the convenience or inconvenience of a larger or smaller number of people; but no question of that kind can ever advance or retard the general prosperity or involve any principle of good government. Questions of that kind, however, do very seriously involve the future of the politicians called upon to decide them, and with a cunning which has brought reproach upon their class they promptly transferred the settlement of those questions to the people.

In adopting the local-option method of dealing with the liquor question the politicians builded better than they knew, because the difficulty of enforcing a prohibition law in a community where the sentiment favors the sale of liquor renders it especially wise to take the sense of the people on that question; and a close comparison of all the methods of dealing with the liquor traffic convinces me that the local-option method is the best. after all, whether liquor shall be sold or its sale prohibited, is a mere matter of police regulation-an important one, I grant you, vitally affecting, in many cases, the peace and the good order of communities—but it is still a question of police regulation, and I have never been able to comprehend how sensible men could become so excited over it as to subordinate all other questions to it. But, sir, while I can not comprehend how this can be true, I know perfectly well that it is true; and when the politicians learned that more than a half century ago they sought to relieve themselves by submitting the question to a vote of the people. But the politicians of that time, while seeking an escape from a responsibility which they were afraid to meet, did not really propose a radical change in our system of government, for, after all, the questions which they submitted through a referendum did not require the people to engage in legislation, as that term is properly understood. They did no more than to say that in particular cases the people, acting under a law already passed by the legislature, should really determine a fact. IS REPRESENTATIVE GOVERNMENT A FAILURE?

And now, Mr. President, upon what ground are we asked to abandon the very basic principle of this Republic? It is neither more nor less than that representative government has proved a failure. It is true, sir, they do not employ that exact phraseology, because these progressive statesmen shrink from presenting the issue in that naked form to the people, and the most they now venture to say is that under selfish and sinister influences, which some of these very progressives helped to set in motion, representative government is breaking down. Is that true? It is exactly the opposite of the truth, for there has never been an hour since Washington took the oath as our first President when the representatives of the people were so responsive to the will of the people as they are to-day, and if there be any ground for criticism it is that these representatives are so eager to execute the will of their constituents that they too often act without waiting to learn the mature and deliberate judgment of the people.

Of course if it can be proved that a people as intelligent as ours and with a suffrage as broad as that which they enjoy can not secure the services of men who are faithful to their interest and obedient to their will, then we must confess before the world that this Government, as it was founded by our fathers, has failed; but we can not rescue it from failure by converting it into a direct democracy, and we might as well admit that it furnishes another melancholy proof of man's incapacity for self-government. If our people lack the intelligence to select wise and honest men to make their laws, or if they are too negligent to make such a choice, we can not reasonably expect that they will perform with greater intelligence or with better diligence the more difficult and perplexing duty of making laws for themselves. If the people will not discharge the simple duty imposed upon them by our present system, it is absurd to suppose that they will discharge additional duties of greater delicacy and complexity. Judging human nature by what little I know about it, I would say that we can not compel the people to take more interest in their elections by increasing the frequency of those elections, and we will greatly aggravate their difficulties if, in addition to the more frequent elections, we add the enactment of measures to the selection of men.

Happily we are not without some light to guide us in forming an opinion on this question; and that light does not come from the musty pages of the Federal Convention; from events so recent that even a Progressive will hardly refuse to follow where it leads. I have here the book of Prof. Dodd on "The Revision and Amendment of State Constitutions," and it contains an appendix giving the popular vote on constitutional amendments in the several States since 1900. The whole table is full of instructive interest, and conclusively proves the aversion of the American people to direct legisla-In seeking to extract its lesson from this table, I will begin with my own State, because I can comment freely upon what our people have done. The first Texas vote which it re-cords was on November 6, 1900, the day on which our general election for that year was held. The total vote for candidates at that election was 449,339, while the total vote on that constitutional amendment was only 240,098, which means that less than 54 per cent of the men who went to the polling places and cast their ballots for the candidates voted on the constitutional amendment. But even that does not tell the whole story, because owing to the great disparity in the strength of political parties in our State we seldom have a contest spirited enough to bring out a full vote; and, therefore, the 240,098 men who voted on that amendment represented less than 35 per cent of those who were entitled to vote.

The next amendment to our constitution provided for the payment of a poll tax, and more than 99 per cent of those who voted for the candidates at that election voted on that constitutional amendment. That is a percentage unprecedented in our State, and, I believe, unprecedented in any other State. The explanation of that remarkable vote is that it involved the prohibition question. The Prohibitionists were striving to secure the adoption of the amendment, because they believed that many of those who regularly voted against prohibition would not pay the poll tax; and the anti-Prohibitionists, taking the same view of the matter, sought to defeat the amendment because they believed that its adoption would seriously affect all future prohibition elections; but, notwithstanding the excitement of a question like that, only 309,150 electors participated in that election. I have already stated that the lack of party contest greatly reduces our vote, but here was a contest over a question which provokes an intensity of feeling such as no other question ever arouses, and yet, under that stimulus, less than one-half of our qualified voters took interest enough in it to cast a vote upon it. With this peculiar question settled the normal public interest in constitutional amendments again exhibits itself, and on the 15 amendments to our constitution which have been submitted in the last 10 years the vote has never risen above 61 per cent, and has fallen as low as 43 per cent, of the total vote cast for candidates, which itself represented, upon an average, only half of the electorate. Upon 9 of the last 15 amendments the total vote cast both for them and against them aggregated less than 100,000 out of more than 600,000 qualified electors.

Utah is next on this list, and 29, 43, 42, 35, and down as low as 23 per cent was the average in that State.

Virginia comes next, and her average on three amendments

was 52 per cent, 11 per cent, and 10 per cent.

If any State in this Union ought to make a good showing in this respect it should be Wisconsin; but her votes, as set forth by Prof. Dodd, were only 35 per cent, 29 per cent, 29 per cent, 24 per cent, 27 per cent, 25 per cent, 27 per cent, and 36 per cent. On eight constitutional amendments the percentage in the great State of Wisconsin has ranged from 36 down to 24.

Nothing could better illustrate the impossibility of inducing the voters of this country to settle questions of a legislative or a constitutional character by their direct votes than the

history of the very questions upon which I am now addressing the Senate. In 1904 the State of Missouri rejected a constitutional amendment providing for the initiative and referendum by a vote of 115,741 for it to a vote of 169,281 against it, making a total of 285,022 votes cast on that question, while the total vote cast for candidates at the same election aggregated 643,969. With a tenacity and an energy which I regret to say their opponents do not emulate the advocates of the initiative and referendum procured the submission of a second constitutional amendment providing for the initiative and referendum in 1908, and it was then adopted by a vote of 177,615, against 147,290, making a total of 324,905 votes out of a total cast for candidates

at the same election of 715,618.

During the year just closed the people of Ohio voted upon an initiative and referendum amendment to their constitution. Had that amendment been submitted alone, we could better understand the small vote which was cast, but 40 other amendments to the constitution of that State were submitted with this initiative and referendum amendment. The State was can-vassed from one end to the other by politicians of high and low degree, practically all of them declaiming with vehemence against faithless representatives and demanding that "the government should be restored to the people." According to my information, a thousand speeches were made in favor of the initiative and referendum, while less than 100 were made against it. When the vote was counted it was found that in round numbers 275,000 had voted for that amendment, while 225,000 had voted against it. Stated in that way and looking no further into the matter, the majority would seem decisive enough, and the vote itself seems reasonably large; but, sir, when we remember that Ohio cast more than 1,100,000 at the preceding presidential election we know that the 500,000 who voted both ways on that constitutional amendment were less than one-half of those who were entitled to vote on it, and about one-half of those who within 60 days afterwards went to the polls and voted upon the election of candidates. Had the other 600,000 voters gone to the polls that constitutional amendment would have been defeated by an overwhelming majority, for it is certain that among the absentees there were no advocates of these modern isms. The men who believe in converting this Republic into a direct democracy never remain away from the polls when there is an opportunity to advance their cause; and the plain moral of all this is that a system of direct legislation tends to reduce this Government to the control of active and radical

If it be true, as I am sure it is, that our representative system works more perfectly to-day than it ever worked before in our history, what has created the distrust which, I regret to say, now so largely pervades the minds of our people? My own opinion is that it is due largely, if not entirely, to a certain class of newspapers and magazines, and I do not think that in the beginning they expected or intended to seriously disturb public confidence in our Government. Years ago, as a kind of light and idle gossip, the reporters began to print a list of senatorial millionaries, and describe the Senate as a rich man's club. Unfortunately the public seemed to relish gossip of that kind, and the scribes forwith increased the length of that list as well as the frequency of its publication. They were not always scrupulous about its accuracy, and many Senators of modest fortunes were set down as millionaires. I remember well a Senator who sat next to me for years-one of the gentlest, bravest, truest men I ever knew—and seeing his name included amongst the millionaires of the Senate one day I congratulated him upon having a bond against poverty in his old age, expressing at the same time the hope that he had not been so badly misplaced as I had, for I was also included in that list. He turned to me, and with a candor which won for him the respect and affection of all who knew him, said that at no time in his life was he ever worth as much as \$150,000, and that was before he came to the Senate. He further said that if his property were reduced to cash that hour, and his debts all paid, he would not have \$25,000 left, and yet he was advertised to this country and to the world as a senatorial millionaire.

From this habit of exaggerating the wealth of Senators these same gossipers passed by easy stages to insinuations that many of them had acquired their wealth while in the public service. I remember a Senator, of long and useful service in this Chamber, who was accused for years of having accumulated his millions in politics, and though he was a Democrat of unswerving party fidelity that accusation was often printed in Democratic newspapers. I had read it so many times before I was elected to the House of Representatives that I accepted it as true. In fact, it never occurred to me to doubt it, and I came to Washington with a prejudice against him. It was afterwards my privilege to know him well, and to learn that instead of growing rich out of the public service he had spent more in helping to

maintain the organization of his party than he had saved. The partners with whom he had engaged in certain legitimate business enterprises had made and paid over to him as his share of their profits more than three times as much money as he was worth when he died. These are examples which I could easily multiply, but they sufficiently indicate the heedlessness of such

Having falsely assumed that men had made great fortunes while serving in the Senate, it was easy to insinuate into the public mind a suspicion against their integrity. To ask if a man could make millions honestly in the public service, of course admitted of but one answer; but the question assumed a lie, and therefore required no answer. Senators were too proud to file an inventory of their possessions with the newspapers, and they submitted in silence to those imputations upon their

Emboldened by the refusal to deny their charges and encouraged by the avidity with which the public received and read them, those newspapers proceeded to instill their poison into the public mind in a bolder fashion. Mr. President, I do not want what I am saying to be misunderstood. I do not mean that all newspapers were guilty of this infamous practice. Many of them were not, but I grieve to say that those which were seemed to prosper more than those which were not. Avaricious owners were swift to learn, what I blush for my countrymen to say is true, that assaults on public men secure many readers, while eulogies bring none. If one of the Washington papers would announce in to-morrow's issue that on next Sunday it would recount the virtues and the services of a certain Senator, that announcement would not sell two hundred extra copies of that paper; but if that same paper were to announce that next Sunday morning it would expose the immoralities, the debaucheries, and the corruptions of that same Senator, the extra demand would exceed 5,000 copies. Let us hope that this will not always be true. Let us hope that the time will come when the truth will outsell falsehood, and when groundless libels will reduce a paper's circulation as certainly as they now reduce its

Once having learned that sensational attacks, though utterly destitute of the truth, would be eagerly read by the public, unscrupulous editors and owners found that they could gratify their spite and increase their incomes by assailing public men whom they happened to dislike, for personal or political reasons; and the carnival of slander was deliberately inaugurated. I do not know, and therefore I am not willing to say, how far they counted the consequences; but they ought to have understood that they could not destroy the confidence of the people in their representatives without also destroying the confidence of the people in our system of representative government. Doubtless when some of those men began to realize that, they would have turned back except for the fear that they would thus draw the fire from both sides. Others, however, welcomed the state of mind which they had, perhaps unwittingly, helped to produce as offering them a still better opportunity to reach a bad eminence; and knowing that the ignorant prejudices to which they were appealing would tolerate no moderation, they entered upon a systematic effort to still further dissatisfy the people with their government by assailing the patriotism and integrity of every man who had the character and the courage to oppose their selfish and diabolical schemes. They have done me the honor to single me out as the object of their fiercest attacks, and have slandered me with more malevolence and less reason than any man in public life. They hate me because I entreat the people to hold fast to the safeguards of a written Constitution; and because I believe in an orderly government which shall protect the life, the liberty, and the property of every citizen they denounce me as a "corporation lawyer." They have not, of course, attempted to show wherein I have served the corporations against the people, because mendacity and malice combined could not do that. There is my record, sir: it covers more than 21 years. During that time I have participated in every great debate, and I have voted on every important measure, but they can not find where I have ever spoken or voted against the honor or the interest of the people whose commission I have held. They have charged me with practicing law, but the most reckless of them do not claim that I have been employed in any case which could affect legisla-tion or which could be affected by legislation.

I have here a sample of these attacks, in a magazine owned and published by one William R. Hearst, who affronts the decency of this Nation by posing as an apostle of civic righteous-Politics with him are a trade and patriotism a pretense; he delights in assassinating the character of honest men and revels in the slime of the gutters. Without conscience, fidelity, or courage he is a moral pervert and political degenerate and a physical coward.

Mr. ASHURST. Mr. President—
The PRESIDENT pro tempore. Does the Senator from exas yield to the Senator from Arizona?

Mr. BAILEY. I do.

Mr. ASHURST. I would be false to friendship-

Mr. BAILEY. If you want to reply for him, you must do so outside; you can not interrupt me for that purpose here. Mr. ASHURST. I will when you get through, sir.

The PRESIDENT pro tempore. The Senator from Texas

declines to yield.

Mr. BAILEY. The one article in this magazine which has perhaps been read more widely than all of the others is an attack upon Members in both Houses of Congress, who are charged with subservience to the Standard Oil Company. That article consists almost entirely of certain letters written by Mr. J. D. Archbold, or written to him, and the comments of the author upon those letters. The obvious purpose of the publication is to impress the people of this country with a belief that their representatives instead of serving them are serving the great corporations. Among the letters which appear in this magazine is one which purports to have been written by the Hon. J. C. Sibley, of Pennsylvania, to Mr. Archbold, in which he refers to "Mr. B., a Democrat," and whom he identifies further on as a Member of this body. The author of this article assumes that I was the Mr. B. referred to by Mr. Sibley, and proceeds to assail me as one of the Standard Oil Senators, seemingly oblivious to the fact that the very letter on which he based his charge completely refuted it.

On one page he classified me as a Standard Oil Senator and on another page prints a letter which shows that, within the knowledge of the man who wrote it, I had little or no acquaintance with Mr. Archbold, the manager of that corporation. This would seem to convict the man who wrote this article of a stupidity almost sufficient to excuse him for lying; but we must not leap to the conclusion that he is so stupid as his screed makes him appear to sensible men. The letters which he was publishing had been stolen, and he was shrewd enough to know that the readers whose prejudices he was striving to inflame would consider it a matter of suspicion that a man's name was mentioned at all in a stolen letter. When I was a boy at the law school I was taught that the man who received stolen property, knowing that it had been stolen, was as guilty as the thief himself, and that is just as true in morals as it is in law. Up to within these last few years any man who would have hired thieves to rifle the letter books and letter files of his employer would have been ostracized from the association of honest men, and he could not have found an audience in America which would have heard him publicly proclaim his lufamy. But the times are different now, and if a man will pretend to be a reformer the people seem to forgive all his misconduct and applaud his thefts if they can be used against the reactiona-

Mr. President, there is something wrong about this letter, for if the date of it is correct the Mr. B. to whom it refers as a Member of the Senate could not have been me, because the letter is dated February 26, 1900, and I was not then a Senator. I was not elected to the Senate until January, 1901, and took my seat as a member of this body on the 4th of March, 1901. But, sir, even if I was the Mr. B. to whom that letter referred, it imputes to me no act or opinion which could reflect on me in the slightest degree either as a Senator or as a man. It represents me as opposed to the then administration's corporation policy and states that I was prepared to "make a great fight" against the right of the Government to open a man's books for the purpose of ascertaining the profits of his business. I do not recall that I ever discussed that question with Mr. Sibley one way or the other, but I have never hesitated to express my position substantially as it is there stated to everyone with whom I have talked on that subject. I was then, and I am now, unalterably opposed to the Rooseveltian policy of legalizing monopolies and then attempting to control them, I believe that monopolies ought to be treated as commercial outlaws and punished with severity enough to exterminate them; but I am not such a fool as to think, or such a demagogue as to pretend that I think that every successful enterprise is a monopoly, nor do I think that any man should be condemned either by law or public opinion simply because he has managed his business with such sagacity as to make it a large and prosperous one. I have no prejudice against any business because of its size until it reaches a size which renders it a monopoly, and then I think that the law ought to lay its hand upon it with crushing weight. The other statement that I deny the right of the Government to search any man's books and expose his business secrets merely for the purpose of ascertaining his profits will hardly be construed as a proof of corporate sympathy by any man except a Socialist or a near-Socialist. The man who wrote this article perhaps understood all that as well as I do, and he also understood, perhaps, that the sensible people who would read the Sibley letter would instantly perceive the absurdity of the inference against me, which he sought to draw; but he was not writing an appeal to the intelligent people of this country. He was striving to reach those who can be made to feel rather than to think.

While I could not rejoice in any result accomplished through theft or a breach of confidence, I am personally very glad that these Standard Oil letters have been printed, because they answer completely and forever the miserable wretches who have been filling this country with the charge that I am the friend and one of the attorneys for the Standard Oil Company, for these letters conclusively show that men connected in a business way with that corporation were telling them who I was and what my views were on certain public questions. Certainly, if I had been their attorney their business associates would not have thought it necessary to suggest that the manager of that colossal business ought to know me.

These letters do not, however, explode the charge against me individually any more than when properly considered they explode the charge against Congress generally. Remembering that for years these yellow journals and uplift magazines have saturated the public mind with the suspicion that all influential Senators and Representatives were in the pay of the Standard Oil Company and took orders from its officers, even their dupes must be surprised to find that there was no foundation for that charge; and that there was no foundation for it is made evident by the fact that after trusted and confidential employees had been bribed to steal everything that they could find which might inculpate Senators or Representatives, they have found correspondence with only three Senators, and none of that proves any official corruption. In saying that I do not forget that the owner of this magazine attempted to make out a case of official corruption against one Senator based upon those letters, by charging that Senator with having received a certificate of deposit for \$50,000 from Mr. Archbold, and when that Senator replied by saying that the money furnished by that certificate was borrowed for a business transaction and had absolutely no relation to his official duties, Hearst replied by reading a letter from Mr. Archbold, in which that Senator's attention was called to what is known as the Jones bill. That letter was not different from letters received by every Congressman. I have received thousands of letters from merchants, manufacturers, farmers, and labor organizations urging me to oppose or support certain measures; and upon many measures I have received hundreds of letters from those who favored them as well as those who opposed them. But by connecting the \$50,000 certificate of deposit with the letter about the Jones bill, Hearst sought to fix in the public mind a belief that the two had some connection, although at the moment when he read the letter about the Jones bill in an effort to establish a connection between it and the certificate of deposit he had in his possession a letter, or at least a copy of it, written by that Senator to Mr. Archbold returning the \$50,000, with the statement that the business transaction for which it was borrowed had been abandoned; and that letter returning the \$50,000 with that statement was written, as Hearst well knew, 10 days before Archbold's letter about the Jones bill was sent to that Senator. If every business transaction, no matter how innocent or proper it may be, is to be used as a pretext for charging that Senators are dishonest, whose reputation, sir, is safe? Only those who have no business, and the Government of this country must be reduced to the control of bankrupts and professional politicians.

Mr. President, I would be the last man here, or elsewhere, to defend a Senator or a Representative who had been recreant to his trust. Such apostates should be scourged from their high places, and their names should be effaced from the memory of men, or, if remembered at all, remembered only to excite in the minds of honest men a horror against their infamy. But, sir, to falsely accuse an honest and faithful Senator or Representative is a crime almost as great as to excuse the other kind. That dishonest men have sometimes cultivated their popularity with such success as to win an election to the Congress of the United States is undoubtedly true, but they have been the exception and not the rule. When unmasked such men should have been driven forth as unfit for association with their colleagues, and not treated simply as a type of all the others, as these scandal mongers have treated them.

Dishonest men sometimes find their way into the pulpit, but shall we distrust all preachers because a bad one now and then degrades his sacred calling? Shall we join the surging mob made up of infidels and atheists to tear down the churches; shall we reject the consolations of religion, close our Bibles, and search the Scriptures no more for eternal life because a hypocrite

occasionally procures permission from the church to preach? Shall we take our children from the schools and colleges and let them grow up in ignorance because some teacher or professor turns out to be a rascal? Shall we deny ourselves the conveniences of a bank and bury our hard-earned savings because now and then a cashier absconds, stealing the widow's mite and the orphan's portion? Shall we set our faces against the honest merchants of the land because now and then we find one who will cheat us with light weight or short measure? It would, sir, be as sensible to do all these things as it is for us to tear down this best and greatest Government under which the human race has ever found protection because now and then some man who has been trusted by the people abuses their confidence and betrays their interest.

Oh, no, Mr. President: what we need in this country and at this time is more confidence in our representatives, because this eternal war against them has made too many of them cowards. Every man in these two Houses of Congress knows that his associates are, with rare exceptions, as upright and as honest as he is; but many of them are afraid to say that much to their constituents, lest they should themselves become suspected. Many of them hear their colleagues slandered and do not defend them, because the curse of the age seems to be that no man is considered honest unless he accuses all other men of dishonesty or else sits silent when they are accused.

Mr. President, I am soon to terminate my public service, and I shall henceforth have no interest in this Government other than that of a private citizen; but before I go I want to bear this testimony in behalf of the men with whom I have served: I want to say of those with whom I have differed, as well as of those with whom I have agreed in politics, that they were as much above treachery and dishonor as any equal number of men ever assembled for any work. During my 22 years in these two Houses of Congress I have been associated with perhaps 2,000 men, and among all that number I could count on the fingers of a single hand those whose absolute integrity I have ever had the slightest reason to suspect. Among them I do not believe that there have been five men who could have been bribed with any sum of money to do what they knew was wrong; but candor toward all and good faith toward the people require that I shall also say that I have known a much larger number whom fear sometimes deterred from doing what they knew was right. I do not mean that they feared some special interest, or that they feared the lobby, of which we hear so much and see so little; but, sir, they feared the displeasure of their people.

No nobler sentiment ever animated a Representative than a desire to please those who had honored him with their confidence, but to my way of thinking it is nobler still to serve the people than it is to please them. There was a time when Senapeople than it is to please them. There was a time when Senators and Representatives, having done what they believed their duty required of them, did not fear to go back to their States and districts and lay the question fully and frankly before their people. By such a course a Senator or Representative sometimes lost his office, but he saved his self-respect, and that ought to be worth more than all of the offices in the world. Under a system like that the people can be educated on public questions; for in those great debates principles instead of men were the themes and they became the high schools of American politics, where the people were trained in the difficult art of self-government. Let us pray that those days and those debates will come again, so that in them and through them we may learn to appreciate the debt we owe "The Fathers" for this Government which in the words of Jefferson is so free as to restrain us in no moral right, and so firm as to protect us from every moral wrong. With this lesson on our minds and with an undying gratitude in our hearts, we can teach our children to repeat the inspiring words of Justice Story, who thus concluded the last chapter of his commentaries:

Let the American youth never forget that they possess a noble inheritance, bought by the toils and sufferings and blood of their ancestors, and capable, if wisely improved and faithfully guarded, of transmitting to their latest posterity all the substantial blessings of life, the peaceful enjoyment of liberty, property, religion, and independence. The structure has been erected by architects of consummate skill and fidelity; its foundations are solid; its compartments are beautiful as well as useful; its arrangements are full of wisdom and order; and its defenses are impregnable from without. It has been reared for immortality, if the work of man may justly aspire to such title. It may, nevertheless, perish in an hour by the folly or corruption or negligence of its only keepers—The People. Republics are created by the virtue, public spirit, and intelligence of the citizens. They fall when the wise are banished from the public council, because they dare to be honest; and the profligate are rewarded, because they flatter the people in order to betray them.

Mr. President, I am now, and I shall be to the end of my life, opposed to kings, aristocracies, and mobs. shall support so long as I live, the glorious Republic of our fathers. [Applause on the floor and in the galleries.]

During the delivery of Mr. Balley's speech,
The PRESIDENT pro tempore. Will the Senator from Texas
kindly suspend for a moment? The hour of 2 o'clock having
arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The Secretary. A joint resolution (S. J. Res. 78) proposing

an amendment to the Constitution of the United States.

Mr. LODGE. I ask that the unfinished business be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Massachusetts asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none, and the Senator from Texas will proceed.

After the conclusion of Mr. BAILEY's speech, Mr. ASHURST. Mr. President, as I have the honor in part to represent a State in which the people have reserved to themselves a part of their power under the initiative and referendum, I feel it incumbent upon me here and now to make reply to the distinguished Senator from Texas [Mr. Balley], whom the Senate is always pleased to hear, and as I sat in my seat and listened to the singularly sweet and flexible voice of the Sen-ator and heard him swell the most commonplace subjects and even untenable propositions into rich eloquence, I thought how apt was the statement of Boswell, "that the object of oratory was not truth only, but persuasiveness as well." Indeed, the allurement of the Senator's oratory reminded me of the lines which Swift is said to have indited to Pope:

From him I can not hear a line, Except I sigh and wish it mine. For he can in one sentence fix More things than I can say in six.

During his address the Senator from Texas adverted to Hon. William Randolph Hearst, and, if I understood the Senator's words aright, he intended to impute some questionable motives to Mr. Hearst. I would be false to the conduct I have marked out for myself, and false to a valued friend, if I did not in this place say that, while I know nothing of the differences which exist between Mr. Hearst and the Senator from Texas [Mr. BAILEY], I am able to say that I know Mr. Hearst to be a loving father, a faithful husband, a loyal friend, and a man whose name is honorably associated with the auspicious commence ment and successful conclusion of hundreds of movements that make for the strength of the State, the happiness, the prosperity, the glory, and the greatness of our Nation. I believe, moreover, that Mr. Hearst is a sincere patriot, a true friend of the people, and a man of great courage and foresight. On this subject more than this need not be said; less than this by me could not be said.

The PRESIDENT pro tempore. The Senator will please sus-

pend for one moment

Mr. ASHURST. Mr. President, I do not ask for order.
The PRESIDENT pro tempore. The Chair will endeavor to
preserve order whether the Senator asks for it or not. The
Senate will be in order and the galleries will be in order.

DIRECT LEGISLATION.

Mr. ASHURST. The Senator from Texas has proceeded upon a false hypothesis in assuming, as he seemingly has all through his argument, that the advocates of direct legislation intend to destroy representative government. Such is not the intention of the advocates of direct legislation, but they do take the position that while direct legislation is not intended as a substitute for the lawmaking power it is intended to supplement the lawmaking power and to supply the deficiencies and delinquencies which the people's chosen representatives sometimes exhibit in the State legislatures.

During the course of the brilliant speech of the Senator from Texas, he stated that frequently a large percentage of the voters do not go to the polls, and therefore do not vote upon constitutional amendments, referred laws, and measures proposed by initiative petition. Mr. President, admitting for the sake of argument that this criticism is apt and just, I ask, Where will relief be found? Certainly not in the Senate, for here we have, when all the States are represented, 96 Senators, each paid a salary of \$7,500 per year to remain here and vote upon measures, yet sometimes we find that we are without a quorum, and frequently legislation is determined by a vote as low as 30 per cent of the entire membership of the Senate, with only 55 per cent, 60 per cent, or 70 per cent of the membership of the Senate voting on the measure. In other words, a close investigation will disclose that there is as large a percentage of the Senators not voting on various questions as there is percentage of voters in a State who fail or decline to vote upon constitutional amendments, referred laws, or measures proposed by ini-I have at some labor investigated the RECORD, and find that during the second session of the Sixty-second Congress

there was an astonishingly large percentage of nouvoting Senators, so that the argument that the people do not vote under the initiative and referendum must fall to the ground when it is remembered that the percentage of persons not voting is no greater than the percentage of the Senators who are absent or paired, and who therefore do not vote, and I shall here read into the RECORD a list of various roll calls showing the percentage of Senators not voting. The list is as follows:

April 26, 1912. Being a bill (S. 2234) to provide for primary nominating election for presidential candidates in District of Columbia.

Yeas, 23; nays, 18; not voting, 54.

Less than quorum voted. Only 45 per cent of the membership voted on this bill.

Less than quorum voted. Only 45 per cent of the membership voted on this bill.

March 19, 1912. Amendment to increase salaries of Commissioners of the District of Columbia.

Yeas, 36; nays, 13; not voting, 42.
Only 42 per cent of the membership of the Senate voted on this amendment. Carried by 38 per cent of the membership.

March 19, 1912. Amendment relating to disposition of fees collected for permits in District of Columbia.

Yeas, 35; nays, 13; not voting, 43.
Only 53 per cent of the membership voted on this amendment. Passed by vote of 38 per cent of membership.

May 31, 1912. H. R. 18960. Conference report on Agriculture Department appropriation bill:

Yeas 27, nays 36, not voting 32.
Only 66 per cent of the membership of the Senate voted on this report.

ment appropriation bill:
Yeas 27, nays 36, not voting 32.
Only 66 per cent of the membership of the Senate voted on this report.
Rejected by 38 per cent of membership.
August 14, 1912. A bill (H. R. 25034) to reduce the duty on cotton.
Mr. La Folletter's amendment:
Yeas 14, nays 46, not voting 34.
Only 64 per cent of membership voted on this amendment.
Defeated by 48 per cent of membership of Senate.
August 14, 1912. Mr. Oliver's amendment:
Yeas 29, nays 31, not voting 34.
Only 64 per cent of membership voted on this amendment.
Rejected by 33 per cent of membership of Senate.
August 14, 1912. Mr. Kenvon's amendment:
Yeas 51, nays 9, not voting 34.
Only 64 per cent of membership voted on this amendment.
Carried by 54 per cent of membership voted on this amendment.
Carried by 54 per cent of membership.
August 14, 1912. On passage of bill:
Yeas 36, nays 19, not voting 39.
Only 59 per cent of membership.
January 31, 1912. A bill (S. 252) to establish a children's bureau;
Overman substitute:
Yeas 30, nays 46, not voting 15.
Only 84 per cent of membership voted on this substitute.
Defeated by 48 per cent of membership of Senate.
January 31, 1912. Mr. Thornton's amendment:
Yeas 30, nays 42, not voting 19.
Only 80 per cent of membership voted on this amendment.
Rejected by 46 per cent of membership.
January 31, 1912. Mr. Culberson's amendment:
Yeas 39, nays 34, not voting 19.
Only 80 per cent of membership voted on this amendment.
Rejected by 46 per cent of membership.
January 31, 1912. Mr. Culberson's amendment:
Yeas 39, nays 34, not voting 17.
Eighty-two per cent of membership voted on the bill.
Passed by 71 per cent of membership voted on the bill.
Passed by 71 per cent of membership voted on the bill.
Passed by 72 per cent of membership voted on the bill.
Passed by 74 per cent of membership voted on the bill.
Passed by 75 per cent of membership voted on the bill.
Passed by 77 per cent of membership voted on this bill.
Passed by a vote of 45 per cent of membership.
Only 63 per cent of membership voted on this bill.

ment:
Yeas 35, nays 0, not voting 59.
Only 37 per cent of membership of Senate voted on this amendment.
Passed by 37 per cent of membership.
July 3, 1912. An amendment to:
Yeas 58, nays 0, not voting 36.
Only 65 per cent of membership of Senate voted on amendment.
Passed by 65 per cent of the membership of Senate.
July 3, 1912. On passage of bill:
Yeas 27, nays 32, not voting 35.
Only 63 per cent of membership voted on bill.
Defeated by vote of 34 per cent of membership.
April 11, 1912. H. R. 18956, Army apprepriation bill. Vote on amendment:
Yeas 47, nays 6, not voting 42.

amendment:
Yeas 47, nays 6, not voting 42.
Only 56 per cent of the membership of the Senate voted on this amendment.
Carried by 49 per cent of membership.
June 10, 1912. On conference report:
Yeas 27, nays 24, not voting 43.
Only 51 per cent of membership of Senate voted on report.
Report was accepted by vote of 28 per cent of membership.
June 12, 1912. To reconsider:
Yeas 28, nays 29, not voting 37.
Only 61 per cent of membership voted on this measure.
Defeated by 29 per cent of membership.
May 20, 1912. A bill (S. 6864) to construct a railroad in Alaska:
Yeas 31, nays 23, not voting 41.
Only 60 per cent of the membership of the Senate voted on this bill.
The bill was passed by a vote of 32 per cent of the membership of the Senate.

The system of direct legislation, commonly designated "the initiative and referendum," has been in various ways and different forums assailed as being opposed to a republican or repre-sentative form of government, and many who argue against the initiative and referendum take the position that there is only one kind of republican form of government.

In discussing what was "a republican form of government"

the Supreme Court of the United States, through Mr. Chief

Justice Waite, in the case of Minor v. Happersett (21 Wall., 175), said, speaking of the guaranty clause of the Federal Constitution:

The guaranty is of a republican form of government. No particular government is designated as republican; neither is the exact form to be guaranteed in any manner especially designated. Here, as in other parts of the instrument, we are compelled to resort elsewhere to ascertain what was intended.

And Mr. James Madison, in No. 43 of the Federalist, wrote as follows:

Whenever the States may choose to substitute other republican forms, they have a right to do so and to claim the Federal guaranty for the latter.

Thus we observe that the States may substitute other republican forms, and in doing so they do not forego the right to claim the Federal protection as to the substituted form; in other words, no particular form is prescribed.

The edition of 1785 of Dr. Johnson's Dictionary contains the

following:

Republican (adjective). The placing of government in the hands of the people.

The 1791 edition of Walker's Dictionary contains the following:

Republican (adjective). Placing the government in the hands of the people.

Republican (substantive). One who thinks a commonwealth without monarchy the best government.

Charles Pinckney, who served in the Federal Constitutional Convention, in a speech on May 14, 1788, in the debates in the Legislature and in convention of the State of South Carolina on the adoption of the Federal Constitution, said:

We have been taught here to believe that all power of right belongs to the people; that it flows immediately from them, and is delegated to their officers for the public good; that our rulers are the servants of the people, amenable to their will, and created for their use. (See Elliott's Debates, vol. 4, p. 319.)

And in the same speech Mr. Pinckney, quoting Paley, a deacon of Carlisle (vol. 2, pp. 174-175), in enumerating the three principal forms of government, said:

A republic is where the people at large, either collectively or by representation, form the legislature. (See Elliott's Debates, vol. 4, p. 328.)

It might further illuminate the discussion as to what is a republican form of government by stating that under the now deposed "President" Diaz Mexico was republican as to form, but there was some difference of opinion as to whether it was republican in substance; but I only use this illustration to emphasize the fact that there are a number of different forms of republican government.

In the case of Chisholm v. Georgia (2 Dallas, U. S., p. 419 et seq.) the judges delivered their opinions seriatim, and Mr. Justice James Wilson said:

As a citizen I know the government of that State (the State of Georgia) to be republican, and my short definition of such a government is one constructed on this principle, that the supreme power resides in the body of the people. (See p. 453 et seq.)

This opinion was announced in 1793, and only six years after the drafting of the Federal Constitution, and it may be considered at least as a contemporaneous definition of the phrase "republican form of government"; and no authority, not even Alexander Hamilton or James Madison could be followed with more safety than this eminent James Wilson, the same James Wilson who in the Constitutional Convention of 1787 advocated the election of Senators by direct vote of the people. This same James Wilson was one of the great lawyers of his day, and became one of the most illustrious judges of the Supreme Court of the United States for under the judiciary act passed by Congress in 1789 President Washington appointed him as one of the Associate Justices of the Supreme Court, naming also as Associate Justices John Rutledge, William Cushing, John Blair, and James Iredell, naming John Jay, of New York, as Chief Justice; and I might digress to say that this same James Wilson, with that loyalty to the public interest, that devotion to duty which characterized him and many others of his type, lost his life while traveling in the southern circuit where he was assisting Judge Iredell in the work of Judge Iredell's circuit.

We should not forget that when this James Wilson stated that he knew the State of Georgia to be republican in form the constitution of Georgia contained an "initiative" provision in a form as pure as the initiative may be found in any of the States to-day. Indeed, Mr. President, the constitution of that State provided as follows:

Arr. 63. No alteration shall be made in this constitution without petition from a majority of the counties, and the petitions from each county to be signed by a majority of the voters in each county within the State, at which time the assembly shall order a convention to be assembled for that purpose, specifying the alterations to be made according to the petitions preferred to the assembly by the majority of counties as aforesaid.

Mr. President, there is only one forum which has the authority to determine whether or not there exists in those States which have the initiative and referendum a republican form of government. That forum is not the Supreme Court of the United States nor any other court, and this has been settled by a line of decisions so convincing that it would seem idle to discuss the question. In every case, so far as I am informed, the Federal authorities, including the Supreme Court of the United States, have treated this question as a political one.

In the case of Luther v. Borden (7 How., 1), where the question was raised on the so-called charter government, or so-called Dorr rebellion, it was contended that there did not exist in Rhode Island a republican form of government, and the court said :

court said:

The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guarantee to every State in the Union a republican form of government, and shall protect each of them against invasion, and, on the application of the legislature or of the executive (when the legislature can not be convened), against domestic violence.

Under this article of the Constitution it rests with Congress to decide what government is the established one in a State. For as the United States guarantee to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union the authority of the government under which they are appointed as well as its republican character is recognized by the proper constitutional authority. And its decision is binding on every other department of the Government and could not be questioned in a judicial tribunal. It is true that the contest in this case did not last long enough to bring the matter to this issue, and as no senators or representatives were elected under the authority of the government of which Mr. Dorr was the head, Congress was not called upon to decide the controversy. Yet the right to decide is placed there and not in the courts. (See p. 42.)

In the case of Texas v. White (7 Wall. U. S., 700-730)

In the case of Texas v. White (7 Wall. U. S., 700-730) and the case of Taylor v. Beckham (178 U. S., 548) the question in both cases as to whether any government set up in a State was republican was held to be a political rather than a judicial question.

In the case of Minor v. Happersett (21 Wall., 162), at pages 175 and 176, the court, considering the question of a republican form of government, said:

form of government, said:

The guaranty is of a republican form of government. No particular government is designated as republican, neither is the exact form to be guarantied, in any manner especially designated. Here, as in the other parts of the instrument, we are compelled to resort elsewhere to ascertain what was intended.

The guaranty necessarily implies a duty on the part of the States themselves to provide such a government. All the States had government when the Constitution was adopted. In all the people participated to some extent, through their representatives elected in the manner specially provided. These governments the Constitution did not change. They were accepted precisely as they were, and it is therefore to be presumed that they were such as it was the duty of the States to provide. Thus we have unmistakable evidence of what was republican in form within the meaning of that term as employed in the Constitution. form within the meaning of that term as employed in the Constitution.

A part of the "unmistakable" evidence which the court had before it when that decision was rendered must have been judicial notice of the initiative provision in the constitution of the State of Georgia adopted in 1777.

The latest expression of the Supreme Court of the United States upon this question is the famous case commonly known as the Oregon case, wherein the plaintiff in error contended that the "initiative" was in contravention of a republican form of government. (Pacific States Telephone & Telegraph Co. v. Oregon, reported in 223 U. S. Rept., p. 118 et seq.) M Justice White, delivering the opinion of the court, said: Mr. Chief

Justice White, delivering the opinion of the court, said:

We premise by saying that while the controversy which this record presents is of much importance it is not novel. It is important, since it calls upon us to decide whether it is the duty of courts or the province of Congress to determine when a State has ceased to be republican in form and to enforce the guaranty of the Constitution on that subject. It is not novel, as that question has long since been determined by this court conformably to the practice of the Government from the beginning to be political in character and therefore not cognizable by the judicial power, but solely committed by the Constitution to the judgment of Congress.

As the issues presented, in their very essence, are and have long since by this court been definitely determined to be political and governmental and embraced within the scope of the powers conferred upon Congress and not therefore within the reach of judicial power, it follows that the case presented is not within our jurisdiction, and the writ of error must therefore be, and it is, dismissed for want of jurisdiction.

Of course all candid and well-informed persons will admit that the Federal constitutional convention of 1787 provided for national representative government, but it does not follow that national representative government, but it does not follow that the delegates in their debates committed themselves to the idea that there is only one kind of republican form of government. Senators and Representatives from various States which have adopted the system of direct legislation designated as the "initiative and referendum" have been admitted into the Congress of the United States and occupy seats in the Senate and House of Representatives. Thus the only forum known to our Constitution, laws, and institutions possessing power and our Constitution, laws, and institutions possessing power and

jurisdiction to pass upon the question as to whether or not the initiative and referendum constitute a republican form of government has determined that question in the affirmative, for surely Congress would not admit Representatives or Senators into the councils of the Nation from political subdivisions not

republican in form.

Mr. President, I ask permission at this point to insert in the RECORD as part of my remarks an excerpt from the able brief of Hon. George Fred Williams, counsel for the States of California, Arkansas, Colorado, South Dakota, and Nebraska, and of counsel for the State of Oregon, which brief Mr. Williams filed in the Supreme Court of the United States in the case of The Pacific States Telephone & Telegraph Co. against Ore-gon, reported in Two hundred and twenty-third United States Reports, pages 118 et seq.

The PRESIDENT pro tempore. Without objection, leave is

granted.

The excerpt is as follows:

THE DEMAND FOR THE SYSTEM.

IMPERFECT POLITICAL CONDITIONS.

IMPERFECT POLITICAL CONDITIONS.

It is apparent that our country is in a condition of reaction against the control of privilege as powerful as that of France in 1792, or England in 1838, or Switzerland in 1848.

In France the Republic was created, in England parliamentary government became a reality, and in Switzerland the Union of States was perfected; here we are perfecting our democracy. The present movement constitutes the most momentous political revolution in our history, conducted without bloodshed and even without acrimonious political contests. It is a movement economic in its nature and, accordingly, steady and irresistible. Its objects are political and it moves on like a tidal wave, which legislatures and courts can not halt.

The causes of this movement are apparent. Political organizations have not been responsive to the popular will. The effort to obtain good government by the selection of "good men" has failed. Legislators have become the people's masters in the exercise of unlimited power. Party platforms are not regarded as pledges. The people are unable to trust their servants. A power has developed which dominates politicians, parties, and public servants. Evidences of repeating, bribery, corruption, and perversion of delegates, representatives, and officials in cities and States have persisted, and even the judiciary has at times been found subject to influences hostile to the people's interests. The average citizen has abandoned efforts to regulate party machinery and to participate in party caucuses.

The new political movement aims to clear the avenues between the people and their institutions.

The new political movement aims to clear the avenues between the people and their institutions.

The new political movement of legislatures in the election of United States Senators have caused two-thirds of the States to devise methods of circumventing the constitutional method of election by the legislatures, and it is probable that in the immediate future the National Constitution will be amen

the people.

The numerous laws of States for the prevention of corrupt practices and the limitation of campaign expenditures have been supplemented by national legislation, which is probably but the beginning of drastic enactments to maintain the purity of elections.

FAILURES OF THE LEGISLATIVE SYSTEM.

The founders of the Republic dreaded the power of the Executive. Patrick Henry inveighed against it. Jefferson insisted with impassioned force that the Republic would fall through the usurpation of power by the judicial department.

Prophecy takes a hard test by the light of experience. All fear of the Executive has ceased after more than a century of trial. For the first time the judiciary has become the subject of apprehension in the last few years.

But it is the legislative department that has proved the weakest of the departments of state. The people are strengthening this branch of democratic government by applying more democracy.

The sovereignty is being placed in practice where it exists in theory, with the people; the instrument is direct legislation.

In adopting this system there have been no interferences with the regular operations of the customary legislative machinery. Representative government remains, but its products are no longer beyond popular reach. Vicious and corrupted acts can no longer be fastened upon the people against the will of the majority.

Experience has proven that it is not safe to trust delegates with unlimited power to make laws, and the question presented in this case is whether there remains in the people the power to apply controlling influences to them.

whether there remains in the people the power to apply controlling influences to them.

The history of this year's legislation furnishes a long list of broken pladges.

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The governors of Colorado, New York, and New Hampshire have publicly denounced the legislatures of their States for failure to redeem the direct promises of party platforms.

Gov. Shafroth, of Colorado, declared that in the longest legislative session in 30 years not a pledge has been redeemed.

In Maine a direct primary act was refused by the legislature, and at the polls, under the "initiative" amendment of the constitution, the measure was adopted by a vote of 55,840 yeas to 17,751 nays.

In 1902, under a law permitting an expression of public opinion at the polls, the people of Illinois favored by a vote of 428,000 to 87,000 a constitutional amendment providing the initiative and referendum. The legislatures for eight years took no action. In 1910 the people again made the demand by vote of 447,908 yeas to 128,398 nays. All the political platforms indorsed it. The legislature this year has refused to pass the measure.

Even in England faith in parliamentary government has been shaken. Mr. Lecky says:

Mr. Lecky says:

"A growing distrust and contempt for representative bodies has been one of the most characteristic features of the closing years of the nineteenth century." (Democracy v. Liberty, I, pp. 142-143.)

Mr. Dicey remarks: "Faith in parliaments has undergone an eclipse." (13 Harvard Law Rev., 73-74.)

Gov. Woodrow Wilson has described the political situation as follows:

"Many of the old formulas of our business and of our politics have been outgrown. We still revere 'representative government,' but we are forced to admit that the governments we actually have have been deprived of their representative character. They do not represent us. They are filtered too fine through the sieve of secret caucuses and other machine processes; there are too many conventions preceded by too many private conferences between us and the persons through whom we legislate and conduct our governments.

"We, the people, have not free access enough to our own agents or direct enough control over them. We mean by one change or another too make our governments genuinely popular and representative again. We are cutting away anomalies, not institutions." (Boston Common, May 13, 1911.)

Such are the fallures and scandals which have created distrust in parties and legislatures and caused the people to secure direct control of their political machinery, their officials and legislative bodies through direct primaries, elections, and legislation.

States and governments were made for man; and at the same time how true it is that His creatures and servants have first deceived, next villified, and at last oppressed their Master and Maker. (Mr. Justice Wilson, in Chisholm v. Georgia, 2 Dal., 455.)

THE RECALL.

Mr. ASHURST. Mr. President, in discussing the recall, I must not be understood as making an assault upon the Supreme Court of the United States. I venerate that great court. judgments and decrees prove that it realizes the tremendous changes in political and economic conditions and that the present is a dynamic, not a static, condition of society. We hear frequent criticisms of the judiciary, but those criticisms are directed toward the inferor Federal judges.

Judges are very like the rest of human beings; they are as easily swayed by passion as are other men; some of them are as valu, as ambitious, and as subject to flattery as any other class of men. Their learning, virtue, integrity, and morality are no higher than that of the profession from which they are

exclusively chosen—the legal profession.

There are good judges and bad judges, and the people may always be relied upon to exercise the power of recall wisely and judiciously. The people would never vote to recall a judge merely because of his rendering an unpopular decision, nor for reversing or affirming any decision, unless such decision or judgment were procured by corruption or bribery. With remarkable precision the public sees through the guises and disguises of the judge whose decisions are discolored by improper influence, by favoritism, or by bribery.

The recall would in no manner lessen the independence of a judge and the intemperate criticism or abuse of a judge by litigants, suitors, and attorneys temporarily disappointed over the loss of a case pending before the court would evoke no sympathy nor encouragement from the voters, while unfounded, unfair, unjust, or untrue charges or criticisms would strengthen

the judge.

None of the Federal judges is elected by the people; none is removable by the people. Hence those judges who are incompetent or unworthy have yielded to temptation; the weak and needy have fallen, for the mere fact that a man has been appointed as a Federal judge seldom transforms his nature.

The Federal judiciary in America has grown to be the most powerful institution in our Government. More than any other agency it is in a position to promote or retard the advance-ment and true progress of the people.

There exists to-day a widespread belief that some of our superior Federal courts are havens of refuge for lawbreaking corporations and favor-seeking "interests." Many factors have contributed to this belief, chief of which

is the method of selecting a Federal judge, supplemented with the fact that he is to a great degree subjected to certain insidious social influences and environments, and is thrown almost exclusively into the company of opulent men whose views he, perhaps unconsciously, adopts and acts upon.

The people are losing faith in the inferior Federal judges, and the chief excellence of the recall is that it would restore the

people's confidence in these judges.

Mr. President, I ask permission at this point to incorporate into the RECORD as a part of my remarks an excerpt from La Follette's Weekly Magazine of November 23, 1912, entitled "The Arizona Spirit," which is as follows:

THE ARIZONA SPIRIT.

Besides giving women an equal voice in government with men, the new State of Arizona distinguished itself in the recent election by restoring to its constitution the provision for the recall of judges.

Thus is ended an interesting chapter in the present movement toward more complete self-government in State and Nation.

It was in October, 1910, that the constitutional convention of the Territory of Arizona wrote into the constitution, with which it planned to set out upon its career of statehood, the provision for the recall of all elective officers, including judges. This constitution was decisively approved by the voters at the polls.

Then the question of admitting Arizona to statehood came before Congress. A contest arose. Foes of the judicial recall wanted to force all mention of this "heresy" out of the Arizona constitution. Friends of the recall, reenforced by others who were not convinced of its wisdom but nevertheless unwilling to deny the people of this Common-

wealth the right to determine for themselves the kind of government they wanted, fought against striking out the recall provision. A compromise was reached whereby Arizona was to be required to vote once more upon this matter of applying the recall to Judges. But on August 15, 1911, President Taft vetoed this proposal. He vigorously denounced the recall of judges, and declared, "I must disapprove a constitution containing it."

So, as the price of statehood, Arizona was compelled to strike this provision out of her constitution.

This the voters did in the election of December 12, 1911, but with the openly expressed determination to put the judicial recall back into her fundamental law as soon as possible.

And in the recent election, on November 5, they did so.

The voters of Arizona have again asserted a fine spirit of independence which will in the end transform all her institutions into instruments for maintaining full and complete self-government.

It is well for Arizona to have the recall of judges in her constitution if her people want it. It is even better for Arizona to manifest so dogged a determination to rule herself.

I am in no humor this afternoon to throw bouquets, but I will

I am in no humor this afternoon to throw bouquets, but I will pause long enough to say—and I see the publisher of that magazine honors me with a hearing—that Democrats and Republicans will not spend their time unprofitably in reading that magazine.

It is well known, of course, that President Taft objected to the recall feature of the Arizona constitution—placed his opinion above and against opinions of the people of Arizona and against the opinions of the men who in the constitutional convention represented the people of Arizona, deliberated upon and decided what the organic law of the State of Arizona should be. The convention which framed the Arizona constitution, which has been such a storm center, but has lighted the way toward a larger liberty for the people even of the older and more populous States, is well worth considering. The result of the convention's labor affords reliable means of judging the qualifications of its members, but the following data will be found interesting:

A former Boston man, a graduate of Harvard University, namely, Hon. M. G. Cunniff, now president of the State senate of the legislative assembly of the State, was the chairman in the convention of the committee on revision, style, and compilation. With Mr. Cunniff on this committee were four other gentlemen, holders of the degree of bachelor of arts, and there were many other learned men in that body. It was said that there were no leaders in the convention, and that was true, for each man had a strong, vigorous mind and did not need any leadership. The sovereignty of his citizenship, his education, and experience, which come soon in the great Southwest, were sufficient leadership for him. Moreover, a large majority of the delegates were instructed by the voters as to the kind of constitution the people wished, and the delegates so instructed regarded themselves as bound in conscience and in honor to carry out the solemn mandate of the people. Of the 52 delegates it is interesting to note that they come from 19 different walks

There were: Lawyers_ Miner
Railroad switchman
Locomotive engineer
Civil engineers
Stockmen
Clergyman
Physicians
Mine operator
Bankers
Retired capitalist
Machinists
Merchants
Trailic experi Machinists
Merchants
Traffic expert
Farmers Newspaper man
Plumber
Butcher Accountant_____

in life, as follows:

Total_

All of the members of the convention were taxpayers. Thirty per cent of the convention were college men, and every member possessed a wealth of information and practical experience gathered in that romantic land so near to nature's heart. Three were native-born Arizonans; five were foreign born. The foreign born were:

Mexico	DOTAL PROPERTY.
	-
Canada	
Germany	1955 A 1
Honolulu	
England	
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motel .	Sept.

And the	various	States	of the	Union	were	represented	9
follows:							
Alahama							
Kentucky							
New York							
Illinois							
Georgia							
UCUI SILL							

Indiana	
Texas	
The Control of the Co	
P1	
Iissouri	
/irginia	
ennsylvania	
North Carolina	
ennessee	
olorado	
alifornia	
Cansas	

Total. The five foreign born all were of English descent. The average age of the members was 44 years, and the average number

of years they had resided in Arizona was 19.

While the convention was, in every sense of the word, a deliberative body, the members did not use language as did Talleyrand—to conceal thought, but they used language to express thought. Moreover, in the debates they did not balance each sentence with the stand caution that characterizer passive each sentence with the stupid caution that characterizes passive intellectualism; nor did they immerse every sentence in a tank of diplomatic antiseptic before they allowed it utterance, as we do here.

Mr. President, I now ask unanimous consent that I may include in the RECORD as Appendices A, B, and C, being, respectively, copy of a letter to the public which other citizens of Arizona and I addressed to the people of Arizona upon the subject of the initiative and referendum, also copy of a letter addressed by me to the constitutional convention of the State of Arizona, and also a copy of an address delivered by me on March 27, 1912, to both houses of the Legislature of the State of Arizona upon the occasion of their assembly in joint session to ratify my election to the United States Senate.

The PRESIDENT pro tempore. Without objection, leave is

granted

[The matter referred to will be found in the appendices.] Mr. ASHURST. Mr. President, many statesmen, publicists, and editors frequently make the observation that we are now living in an era of widespread dissatisfaction, unrest, and searching criticism. It is fortunate for our country that their observations are not wholly inaccurate and the complaint not wholly unfounded, for smug contentment is a corrosive effluent, deadly to the progress, advancement, and happiness of a nation. A people free from the exigencies of life lose their keen in-centive to improvement; moreover the present conditions of unrest are only waves from the ocean of the great demo-cratic movement which ultimately will reach all the shores of the world.

From the very dawn of history, from the beginning of the human family down to the present time, the tendency of the human race has been toward liberty-mankind reaching out for freedom and immeasurably attaining it.

For the purposes of these remarks when I use the word "liberty" I must be understood as meaning "liberty under the law," for according to my view liberty is the result of law and not the absence of law, as some persons erroneously suppose, and I shall use the word "liberty," for the purposes of this speech, as an antonym of the words "serfdom," "oppression," "servitude," "captivity," "slavery," "injustice," and "in-

Civilizations were built up in ancient times, notably in Rome and Greece, and it is a singular fact that in the civilizations of those ancient times it occurred to but few of the greatest men and profoundest thinkers that all people had equal natural rights. The fight of mankind for liberty and advancement in one respect has been peculiar, in that at no time, so far as we know, was the movement ever completely arrested.

I could descant upon numerous instances in the history of

the world where great men and great women made heroic sacrifices in behalf of human liberty, but the field is too wide in its scope for copious references to individuals, hence eras and movements only may be considered within the limits of this address

When the world emerged from the darkness of the middle ages the year A. D. 1492 was strangely propitious in heralding the dawn of a glorious epoch, for not only was America discovered in that year by Columbus but that same year beheld Boabdil, the last of the Moorish sultans, come forth from the Alhambra and yield up the famous city of Granada, a favorite seat and stronghold of Moorish power, to Ferdinand and Isabella. expulsion of the Moors from Spain and the discovery of this continent gave birth to an amazing awakening, for soon the stories of the voyages of Columbus and the discoveries of

Cortez, Coronado, Drake, the Cabots, Frobisher, Hawkins, and Raleigh kindled the theretofore apparently dormant imagination of men. These discoveries doubled the earth, and ships of conquest, adventure, glory, and science began to cut through the billows of every sea. The expanse and magnificence of this new physical world thus opened to mankind had, as such things always have, its beneficent influence upon human character and the trend of the world's events, for mental and moral evolution and growth flow from a contemplation of the external charms of nature, and they always excite a lively and intense interest in human existence.

Seventy-two years after the discovery of America began the Shakespearean age, a period during which liberty, progress, and civilization made forward strides; and when Shakespeare's works were published it was ascertained that his writings, in addition to delighting and glorifying the intellectual world, also evoked remarkably strong patriotic and liberty-loving sentiments. For instance, in the play of of Julius Cæsar, he made one of his characters to say:

So every bondman in his own hand bears the power to cancel his captivity.

Years later the noble rhetoric and inescapable logic of John Milton and the bitter satires of Jonathan Swift, in his newspaper called the Examiner, published in 1710, forced the abolition of the censorship over the press, which was another forward step in securing a larger liberty for the people. The past 150 years, however, has been an age during which liberty has advanced to a greater degree than in any other equal number of years in the world's history.

In 1775 the population of the American Colonies numbered approximately 3,000,000 and was principally composed of the descendants of those persons who had emigrated hither to enjoy freedom of conscience, thought, and worship. They lived along that strip of land which fringes the Atlantic coast, stretching from Florida to Maine. In their veins was the blood of the Saarsfields and the Calverts, of John Hampden, who arraigned his King for the unconstitutional exactions of ship money; the blood of the Irish, whose ardent zeal for and affectionate attachment to liberty and freedom, and whose loyalty and devotion to free government no power can ever crush; the blood of the stubborn Britisher; the Huguenots, the sturdy Scotch, Welsh, Dutch, Scandinavians, the German, and last, but by no means least, the Jew, who has contributed to the progress, glory, and strength of every civilization.

These various families of men, transplanted to this new soil, and welded together by events and years, became the bravest race that ever lived Their spirit evolved the Declaration of Independence, written by Thomas Jefferson, that contemplative lover of mankind; and on the committee with him were Roger Sherman, John Adams, R. R. Livingston, and Dr. Benjamin Franklin, whose capacious brain could contain both lightning rods and constitutions.

These brave people cried out, "A curse upon the rule of kingly government and a blessing upon the newborn Republic!" and with their bayonets wrote another charter of American liberty on the backs of the fleeing soldiers of Gen. John Burgoyne and Lord Cornwallis. England then caught somewhat the spirit of liberty and "made good the declaration of her great Lord Mansfield that 'no slave could breathe her free air,' and thus in all her world-encircling possessions, from the Pillars of Hercules to the Indus, the fetters dropped from the limbs of every English bondman whose ear could catch the music of her drumbeats," so the present contest of the people in behalf of a larger measure of freedom is not a spasm. It is not a pulsation nor a leap nor a jerk nor a sudden start. It is simply part and parcel of the resistless advance of progress which can not be stopped or stayed. The movement is seemingly more pronounced at this particular time, because the facilities for communication afforded by the telephone, the telegraph, and the newspapers are easier than they have ever been before, the facilities for acquiring knowledge are greater, and for the further reason that men who sternly stand for national progress in times of peace are now recognized to be patriots as truly as those who upon the battle field fight for national safety.

In criticizing or discussing a "reactionary," a "stationary," or a "standpatter" it is unjust and unfair to apply opprobrious epithets to him. He is simply unfortunate, for he has either misread or failed to read the history of the world. Almost everything that has ever been proposed for the benefit of the people or for their increased liberty has been stubbornly opposed by reactionaries. Every world-important invention, whether it be a ponderous engine or an ingenious electrical contrivance, was ridiculed and opposed. Every discovery in science has been ridiculed by the reactionary. "Galileo was denounced and imprisoned for asserting, in accordance with the theory of Copernicus, that the sun was the center of the planetary system and that the earth had a diurnal motion of rotation. In both science and government many people prefer to remain static and undisturbed and naturally resent any interference with their settled beliefs. They look with suspicion upon innovations, new suggestions, and ideas as, in their opinion will interfere in any manner with their present interests." (See S. Doc. No. 438, 56th Cong., 1st sess.)

Hence their tendency to remain in the old ruts, violently oppose improvements or changes, and denounce inventors as cranks and progressives as demagogues. The stubborn opposition of the standpatter and reactionary in invention and government passes all understanding, and the singularly sad feature of it is that many of these inventions and reforms in government and economics have been opposed by truly great men.

Chancellor Livingston, one of the learned men of the State of New York, ridiculed the idea of a railroad in the United States, and stated it was his belief that if a moving body as heavy as a train of cars should ever get started the momentum would be so great that it would fly several miles beyond its destination before it could be stopped, and that no sensible person would risk his life by flying through the air at the rate of 12 or 15 miles per hour. When Murdock invented the means by which illuminating gas could be produced, the great Sir Hum-phrey Davy and Sir Walter Scott ridiculed the idea of its being put into practical use.

Daniel Webster, the expounder of the Constitution, expressed the gravest doubts as to the advisability of railroads, and said in public speech that the frost on the rails would prevent the train from moving or prevent the train from being stopped if it ever got started. (See S. Doc. No. 438, 56th Cong., 1st sess.) Every useful thing has been opposed in its day and generation.

Lord Macaulay once said:

Lord Macaulay once said:

Not only in politics, but in literature, in art, in science, in surgery and mechanics, in navigation and agriculture—nay, even in mathematics—we find this distinction. Everywhere there is a class of men who cling with fondness to whatever is ancient and who, even when convinced by overpowering reasons that innovation would be beneficial, consent to it with many misgivings and forebodings. We find also everywhere another class of men, sanguine in hope, bold in speculation, always pressing forward, quick to discern the imperfections of whatever exists, disposed to think lightly of the risks and inconveniences which attend improvements, and disposed to give every change credit for being an improvement. In the sentiments of both classes there is something to approve. But of both the best specimens will be found not far from the common frontier. The extreme section of one class consists of bigoted dotards; the extreme section of the other consists of shallow and reckless empirics.

Lloyd-George, one of the strongest statesmen of the day, in supporting his bill, noted that the public-school system when first inaugurated in America created a widespread protest from taxpayers similar to the present protests in England against the insurance bill.

The struggle for social justice for the people who perform physical labor has been even greater and more stubbornly resisted. As late as the year 1800 men were severely punished in England for organizing guilds or labor unions, and the condition of the working class was little better than that of slaves. It was not until 1875, in England, that the laws against the trades-unions were repealed. In the early days of our own Government nearly all the work was performed either by slaves or indentured servants, and wages amounted to an average of \$1 per day. Heartless writers referred to the laboring classes as the "living machines which wealth possesses.

When Eli Moore, the first member of a labor union to be elected to the Congress of the United States, was about to take his seat in the Twenty-fourth Congress there was a movement set on foot to try to prevent his being seated. Contumely, scorn, and derision were heaped upon him by the reactionaries of that day, who believed that the liberties of the Republic were in danger because a member of the labor union had been elected to Congress. But the stubborn courage of Eli Moore, his superlative eloquence, biting sarcasm, and wonderfully piercing analysis convinced the Nation that no mistake had been made in sending a member of a labor union to Congress, and so strikingly did this journeyman printer, this organizer of labor unions, this so-called "agitator" and "demagogue" distinguish himself for patriotism, learning, and ability, that he became a confidential adviser of the administration of President James K. Polk. I mention these circumstances so that those who are supporting this contest in behalf of a larger human liberty will not become discouraged, but will become encouraged, when they reflect how much more intensely heated was the opposition to these reforms in the days gone by. He is wasting his time who believes he can stop or stay these forward movements in their progress. The movement, especially in behalf of those who perform physical labor, for a greater share of freedom, for the right to enjoy a part of the creation of their hands and of their own toil, will inevitably live, for it is as broad based as the

world itself and as deep as humanity.

Independent voting is now a protest against the machine politician in public affairs, and the great power of the people has written itself in much advanced legislation in the past few years, for we have restricted illegal combinations of capital and we are now engaged in the struggle to conserve the natural

rights of men and women.

There is a growing sentiment against private ownership of public utilities, and the people demand the right to elect United States Senators by popular vote. Markets and the mere piling up of yellow metal are beginning to be a secondary considera-tion. There is something more in the world than food and raiment. "Man can not live by bread alone." Hence natural justice demands that the labor of men and women shall be rewarded not only with sufficient food, clothing, and shelter, but also with independence, books, paintings, music, and flowers; with leisure time to spend with the family; with leisure time within which to cultivate the idealistic, asthetic, and spiritual side of life; for, as R. D. Owen once well said, "There is a corner even in our warkaday souls where the ideal lurks." corner even in our workaday souls where the ideal lurks."

We are now realizing that the lawbreaker is a human being, and that the lash, the horrors of subterranean dungeons, star-vation, and other evidences of vengeance are of no avail.

Under the old system-

the man went crushed in spirit, broken in body, hopeless in soul, to the grim confines of the penitentiary, perhaps to emerge a marked man, branded with society's scariet scar of disgrace, a hunted and hated thing forever after, or perhaps never again to come forth, but wasting away in want and discomfort, doomed to die the death of a neglected outcast.

Under the Arizona system, with the wise, humane, and Christian treatment instituted by Gov. Hunt, the erring brother will

emerge from prison reclaimed instead of ruined.

The great lesson yet to be learned by nations is the lesson of distribution. The earth can produce a hundred thousand times as much as is required for the comfort, convenience, and luxury of those who live upon it, and it might as well be understood here and now as elsewhere that this question of distribution of commodities must be settled, and it is not to be settled by a little timely patting on the back. It is not wise, it is not statesmanlike, to kick down the thermometer because it registers hot or cold weather not to our comfort. It is not wise, it is not statesmanlike, to destroy the barometer because it registers a coming storm. The heaping of all the wealth in the hands of the few, the unlawful speculations and gambling in food prices, have the effect of increasing the cost of living to a shocking degree. The heaping of all wealth in the hands of the few has the effect of reducing the multitude to poverty. With all our great wealth, the figure of want stalks amongst us, and thousands each year are destroyed by the Moloch of poverty. In New York City on December 17, 1912, a distinguished American statesman delivered an address and made use of the following

God knows the poor suffer enough in this country. We must move for the emancipation of the poor, and that emancipation will not come without our own emancipation from the error of our mind as to what constitutes prosperity.

Prosperity does not exist for a nation unless it pervades it. And the amount of wealth in a nation is much less important than the accessibility of the wealth. The more people you make it accessible to the more energy you call forth.

Mr. President, nothing wiser, truer, or more profound has been uttered recently, and I need not inform the Senate who made that statement, for Senators will perceive at once from the beauty of its diction and the correctness of its philosophy

that it is the statement of Gov. Woodrow Wilson.

Gen. Knox, one of the first if not the first man who called George Washington "the Father of his Country," said in one of his reports as Secretary of War to President Washington:

It is the wisdom of political establishments to make the wealth of individuals subservient to the general good and not to suffer it to corrupt or attain undue indulgence.

Writing further, he said that-

Certain people solicitous to be exonerated from their proportion of public duty will exclaim against the proposed arrangement as an intolerable hardship but it ought to be thoroughly impressed that while wealth and society have their charms, they also have their indispensable obligations.

So, Mr. President, when we contemplate the infinite affluence and opulence of our Nation, and then remember that the eyes of millions of our countrymen "are sad with wakefulness and tears" because of the oppressions and hidden injustices caused by an improper and an unequal distribution of this wealth, when we see giant trusts, grasping combinations, and enmil-lioned monopoly madly and wildly struggling for more millions we must admit that the noblest service in which the public man may engage, the most courageous service the patriot may perform, and the most useful work which the humanitarian may do is to try to apply a remedy. This reform is a part, and a

part only, of the great work yet to be done to insure complete liberty to all persons. That this evil will be abolished in the fullness of time let no one doubt, for Liberty has made her difficult but glorious way over thrones of tyrants, over injustice, over monarchs, and monopolies. She has been wounded at times, but has flown an eagle's flight, with "an eye that never winks and a wing that never tires." Her progress has sometimes been impeded by men who hold out delusive promises obviously incapable of fulfillment. Her progress has possibly been aided at times by cold and passionless conservatism, but aided much more by the erdent, fervent, and impetuous impulses of the human heart, for the spirit of liberty brooks no delay. She does not deal in diplomacy, policies, nor stratagems, nor does she deal with metaphysical subtleties. She is not proficient in the ignoble art of flattery.

The "conservative temperament" has rendered some service in advancing and preservice it between the conservative temperament.

in advancing and preserving liberty under the law, but enthuin advancing and preserving interty under the law, but slasm, enterprise, vehemence, experiment, and adventure have rendered services much more valuable, as they are the attributes that have carried the standards of progress and human butes that have carried the standards of progress and human but in the standards of progres happiness into the domain of ignorance, superstition, and injustice, and the noble enthusiasm of men and women of humanitarian impulse will in the years—the centuries—to come carry the standards of liberty yet farther and higher until shall

come that day

When the war drums throb no longer and the battle flags are furled In the parliament of man, the federation of the world.

That day when no more men shall be hewn down by the sword of war; that day when in all this earth there shall be found no people oppressed, when no longer shall men and women die in a land of plenty for want of bread, and all shall have "the right to live by no man's leave underneath the law."

I thank the Senate for its attention.

APPENDIX A.

Copy of open letter addressed to citizens of Arizona advocating the adoption of the initiative and referendum: PRESCOTT, ARIZ., August 4, 1910.

To the people of Arizona:

PRESCOTT, ARIZ., August 4, 1910.

To the people of Arizona:

The Republican Party, after many years of "paltering with us in a double sense, keeping the word of promise to our ear and breaking it to our hope," has finally passed an enabling act granting statehood to Arizona, provided, of course, her people make a constitution that will be suitable not to Arizona's people but to President Taft and Senator Aldrich.

The enabling act itself is unworthy of the Republican Party, for by the terms of the Beveridge enabling act every principle of home rule was trampled upon, every precedent violated, and every true man and woman in Arizona humiliated.

Passing for the present the gratuitous slight flung at Arizona by the Beveridge bill, it is timely to say that by the passage of this enabling act the people of Arizona are confronted with the gravest responsibility they have ever met. They are face to face with State building. They are to build a constitution for a glant Commonwealth, that will guard the southwest border of this Republic until the end of time. They must build a constitution not only for themselves but for their children and their children's children—a structure that will endure. In this situation it behooves us to act as men, not as politicians or "place hunters"; it behoves us to subordinate every personal ambition, for upon our correct action in building this constitution depends the everlasting success or misery of our people and of our posterity, and if we build a constitution guaranteeing equal rights to all men and special privileges to none we may rest assured that whatever woes betide our people they will with their sterling manhood and womanhood triumph over every difficulty and make the State of Arizona the glory of America, the admiration of all the world.

The paramourt duty of Arizona's constitution builders will be to write into that constitution those simple, organic provisions that will enable the people to rule, and chiefest of these are the initiative and referendum.

It is true some p

write into that constitution those simple, organic provisions that will enable the people to rule, and chiefest of these are the initiative and referendum.

It is true some people object to the initiative and referendum, but these objections vanish like a bubble when pierced with the sharp steel of truthful analysis and experience.

The initiative and referendum is in full force and effect in Oregon, Montana, and Oklahoma, and in effect in a modified form in Maine, Missouri, and South Dakota, and within the past 10 days Arkansas and Minnesota have declared for it.

The initiative gives the people the right to initiate or to introduce legislation, if perchance, as frequently happens, their representatives refuse to give expression to the people's wishes.

The referendum reserves to the people's wishes.

The referendum reserves to the people's weapon, their representatives whenever a considerable number of voters desire to test public sentiment by a popular vote."

The initiative and referendum is the people's weapon, "that weapon that comes down as still as snowflakes fall upon the sod and executes a freeman's will as lightning does the voice of God."

The initiative and referendum allows the people to rule. The initiative and referendum will compel a legislature to enact laws the people want and it will cancel laws the people do not want.

Look about you and ascertain who are the enemies of the initiative and referendum.

Capitalistic greed (which cuts down, blasts, and withers the blossoming hopes of the honest toller and small business man) denounces the initiative and referendum. The attorneys for the trusts and monopolies denounce the initiative and referendum.

But, say some, Why not depend entirely on the legislature to make our laws?

We say in reply: The trusts and monopolies and those seeking special privileges maintain lobbyists at the capitol, and these lobbyists, with the patience of the spider and the industry of the ant, strangle measures calculated for the good of the people. These lobbyists infe

the capitols and with a princely expense account, dispense hospitality, liberality, geniality, and favors; these lobbyists exude amiability and in presence and appearance are usually suave and urbane. They lavish praise and adulation upon this or that guilible legislator, and with scornful disdain refer to the honest and homely legislator as a "demagogue," thus, in the gay and giddy whirl of glittering things of the capitol, the legislator forgets his duty; but when the farmer, fresh from the farm, with the inspiration of the soil about him, which breathes the spirit of purity, of incarnate honesty and justice, goes to the ballot box, he casts his vote directly for or against a particular law, and he is uninfluenced by any consideration save the absolute justice and efficiency of the measure upon which he votes.

When the merchant, the miner, the railroader, the cowboy, the artisan, and the plain citizen goes to the polls under the initiative and referendum he acts as his own legislator and fearlessly casts his ballot according to the dictates of his own conscience for or against this or that particular law.

The constitution should provide for the enactment of a direct primary for the nomination of all officers. He who would go into public service must serve the public, not the system. He must serve his country, not special interests.

It is a fundamental principle of this Republic that each citizen shall have equal voice in the Government. To preserve his sovereign right to an equal share in the Government he must be assured an equal voice in naming his party ticket. The naming of men upon the party ticket is the naming of men who will make and enforce the laws. It not only settles the policy of the party, it determines the character of the Government, and the direct primary will abolish the "snap" caucus and the purchased proxies.

The constitution makers, however, must not attempt to make a constitution such as was desired by the late illustrious Titbat Tittleemouse, who wanted "a law giving everybody every

HENRY F. ASHURS'
N. A. VYNE.
J. E. RUSSELL.
P. W. O'SULLIVAN.
H. R. WOOD.
J. LAWLER.
J. J. SANDERS. ASHURST.

APPENDIX B.

Copy of letter from HENRY F. ASHURST, addressed to the constitutional convention of Arizona:

PRESCOTT, ARIZ., December 9, 1910.

on. George W. P. Hunt, President, and to the Members of the Consti-tutional Convention, Phoenix, Ariz.:

tutional Convention, Phoenix, Ariz.:

Gentlemen: I write simply to convey my congratulations to the constitutional convention. The Democrats have faithfuly kept their pledges. The Democrats will leave a name remembered with expressions of good will in those places in Arizona which are the homes of those who believe in a "government of the people, for the people, and by the people." They have provided for the enactment of a direct primary for the nomination of all officers, thereby guaranteeing to each citizen an equal voice in the government and abolishing machine politics.

You have provided for the initiative and referendum, which will place into the hands of the people the power to protect themselves against the mistakes or indifference of their representatives in the legislature. Under the initiative and referendum it will always be possible for the people to demand a direct vote and to repeal a bad law which the legislature has enacted or to enact by direct vote a good measure which the legislature has refused to consider.

You have provided for the recall, which will enable the people to dismiss from the public service a representative whenever he shall cease to serve the public interest. Under the recall no official can hold his office in defiance of the will of the constituency whose commission he has dishonored.

No one, however, not even the most enthusiastic champion of the constitution which you have labored so assiduously to form pretends.

his office in defiance of the will of the constituency whose commission he has dishonored.

No one, however, not even the most enthusiastic champion of the constitution which you have labored so assiduously to form, pretends that the instrument you have darfed will, as to each and every particular provision, meet with the entire approbation of all persons—unanimity in such cases is impossible; it does not exist even in the domain of imagination—consummation devoutly to be wished though it be; but you have drafted the most concise and progressive constitution ever offered to any people in the history of the Nation. You have been criticized by some of the public press, as is its right, and these criticisms, although severe, in my judgment, were not inspired by malice, but by misfortune, for his horoscope is indeed clouded by lamentable misfortune who fails to see that you have labored to make and have made a constitution for the people and not for the system, for public interest and not for special interest, and that you have taken care to see to it that United States Senators in the new State shall be chosen by election instead of by auction.

You will meet with the approbation and thanks of the people of Arizona for your labors, for, by your methods of continually discussing, sifting, and winnowing, you have pursued the path by which alone the truth may be found.

With impressions of respect and sentiments of esteem,
Yours, very truly,

Henry F. Ashurst.

HENRY F. ASHURST.

APPENDIX C.

Address of Henry F. Ashurst to both houses of the Legislature of Arizona upon the occasion of their assembly in joint session to ratify his election as United States Senator, March 27, 1912:

Mr. President, Mr. Speaker, gentlemen of the legislature, ladies and gentlemen, I thank the people of Arizona for this high mark of their

confidence and esteem and I congratulate your honorable body upon the fidelity with which you have obeyed the mandate of the people.

I do not subscribe to the political philosophy of the celebrated Mr. Dooley, who said:

"A genuine statesman must be on his guard;

If he must have beliefs, not believe them too hard."

For myself I believe in popular government. The remedy for a half-way popular government is to give the people more power. A celebrated statesman once said to the Right Hon. William E. Gladstone:

"The people are not always right."

"No," replied Mr. Gladstone; "but they are very rarely wrong."

Thomas Jefferson once said:
"Always trust the people."

Henry VIII, the most cruci tyrant that ever sat upon the English

"Always trust the people."

Henry VIII, the most cruel tyrant that ever sat upon the English throne, once said:

"Always watch the people."

It would be tiresome were I to describe in the limits of this address the details of the reforms that must come and that will come in the Nation, and in securing reforms I would especially urge that nothing be done in haste or in anger. We must remember that no wound ever healed except by slow degrees.

Nation, and in securing reforms I would especially urge that nothing be done in haste or in anger. We must remember that no wound ever healed except by slow degrees.

THE SENATE.

The United States Senate has been referred to as the Millionaires' Club. Bankers' Syndicate, and American House of Lords, and there is a widespread belief throughout the content of the senate is a form wherein monopoly and special privilege sit enthe Senate is a form wherein monopoly and special privilege sit enthe Senate is a form wherein monopoly and special privilege sit enthe Senate is a form the senate of the senate senate

THE JUDICIARY.

Section 1 of Article III of the Constitution of the United States reads as follows:

"The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior. * * ""

In other words, these judges hold their positions for life, unless removed by the process of impeachment, the impeachment power being lodged with the Senate. These judges of the Supreme Court of the United States, not one of them elected by the people and not one of them susceptible of being defeated or dismissed by the people, by a vote of five out of nine may undo the work of both Houses of Congress and the President and thus set at naught the will of a Nation of 96,000,000 people.

people.

We hear very much of the independence of English judges. It is true they are independent of the Crown only, but not independent of Parliament. A most cursory glance will show that with all the boasted superiority of English judges they are not independent of Parliament.

"The act of settlement passed in 1701, which provided for what is known as the judicial tenure, made the judges independent only of the

Crown, since it enacted that judges might be removed by the Crown only upon the address of both houses of Parliament. The result in England was that while the judges made a few feeble attempts to claim the right to declare void acts of Parliament on the ground that they were violative of the judicial idea of natural right, they soon abandoned such attempts, and for more than a century no English judge has dared so much as to hint that an act of Parliament does not have the force of law."

We must not forget that there are also a number of inferior Federal courts that have been created by Congress from time to time. The reactionary decisions, particularly against the laboring men, as well as sweeping injunctions, have in a large majority of cases come from these Federal judges, who sit for life, are not elected by the people and may not be dismissed by the people. Hence it will not be sufficient to confine the operations of the recall merely to the members of the State courts. Therefore, I shall support the resolution recently introduced by Senator Owen, to subject these inferior Federal judges to a recall.

Thomas Jefferson, that sage of Democrats, had some very definite ideas about Federal judges, for, in writing to Mr. Ritchie, he said:

"The judiciary of the United States is a subtle corps of sappers constantly working underground to undermine the foundation of our confederated fabric."

Again, Mr. Jefferson, in writing to Mr. Jarvis, speaking of the judges, declared:

"They (Federal judges) have with others the same passion for party, for power, and the privileges of their corps. Their maxim is, 'It is the business of a good judge to extend his jurisdiction,' and their power is the more dangerous, as they are in office for life, and not responsible, as the other functionaries are, to elective control."

RADICALISM.

RADICALISM.

There is a strong suspicion as to the true progressiveness of those public men, who during political campaigns promise to serve the people, but who, after election, whenever any proposal is made for the real benefit of the people, cry out that such attempt is paternalism, or socialism, or radicalism.

A real Progressive will never be frightened from a high purpose. The calling of hard names did not frighten John Hampden when he arraigned his King for the unconstitutional exactions of ship money, and Thomas Jefferson did not permit himself to entertain politic doubts when he declared all men to be created free and equal. David Lloyd George, British chancellor of the exchequer, was furiously denounced when, in 1909, he introduced his budget. The lords called him a radical. Worse than that, they called him a thief. When he attempted to pass the graduated income tax and the graduated inheritance tax they said these were new and revolutionary measures, but they forgot that in the same year France raised more than \$150,000,000 from these two sources. Lloyd George also included a pension system to save the workingmen of his land from the bitterness of want in their old age, and a system of compulsory insurance for workingmen, and the lords were immediately alarmed. They said these were revolutionary and radical, and forgot that when iron-handed Bismarck was building anew the German Empire one of the first things he did was to organize a plan to insure the workingmen and their families against those misfortunes so frequently met in the lives of workmen; and that on February 6, 1890, the German Emperor wrote Bismarck that "it is the duty of the State to regulate the duration and conditions of work in such a manner that the health, happiness, and morelity of the workingmen may be preserved and their equality before the law assured."

The Commerce Court:

ABOLITION OF COMMERCE COURT.

The Commerce Court is an unnecessary tribunal.

"The Interstate Commerce Commission as now constituted consists of five lawyers and two railroad and economic experts. The legal members by their long experience have become experts, while the purely expert members have in like manner become good lawyers within the field of railroad litigation. When such a body has fairly and fully investigated a matter within its jurisdiction, it is absurd in all cases, and rank injustice in many, to require its action to run the gantlet of two courts before the questions are finally decided."

Moreover, the law should be changed, to the end that any and all findings, judgments, decrees, and rates fixed by the Interstate Commerce Commission shall remain in full force and effect until after a full and final hearing by the court of last resort, to the end that the people instead of the railroads shall have the benefit of the law's delay.

SHERMAN ANTITRIST LAW.

SHERMAN ANTITRUST LAW.

SHERMAN ANTITRUST LAW.

The mere imposition of fines upon trust magnates who violate the Sherman antitrust law is little more than a farce.

Trusts are composed of property and persons. Laws in this respect can do no more than to imprison persons and confiscate property. The Sherman antitrust law authorizes both of these punishments. Many statesmen believe in the theory of regulation, but if that theory is good why doesn't it work? If that theory is good, why is it that the trusts are more powerful to-day than they have ever been? The Sherman law has been on the statute books 22 years, and these 22 have been the era of the stupendous growth of the trusts. The truth is that you may fine a trust magnate as heavily as you please and by a simple raising of the price of the articles which the trust sells the trust magnate will quietly bring the money from the pocket of the consumer into his own pocket with which to pay the fine. There is, however, a remedy, and it is governmental competition or governmental cooperation. Governments now do many things for citizens that citizens can not do for themselves. If the Government has enough intelligence to build large irrigation dams, dig the Panama Canal, operate post offices, and build battleships, it surely should have the intelligence to follow the English example and build large cold-storage warehouses, so that the cattle grower and sheep raiser will not be obliged to accept the price which Armour, Cudahy, and Swift are pleased to fix.

A very good way to curb the Coal Trust would be to let the Nation open up coal mines, build railroads to carry the coal to the market, and there sell to all without favor or discrimination. And in this connection I quote from the very able and thoughtful article recently written by Gen. H. M. Crittenden:

"If it be 'paternalism' to do work in a more efficient rather than a less efficient way, to guard the people's interests and give them the best results for their money, then let it be 'paternalism.' If it be 'socialism. As to absenteeis

I read the other day of a boy's essay on the Government of the United States, and the boy defined our Government to be an organization—
"That can build warships, but not peace ships;
That can distribute mail, but not express matter;
That can run navy yards, but not stockyards;
That can build canals, but not railways;
That can give away valuable rights, but never get them back."

THE GOVERNMENT COULD SAVE MILLIONS BY USING ITS OWN POSTAL CARS. THE GOVERNMENT COULD SAVE MILLIONS BY USING ITS OWN POSTAL CARS. The United States pays each year to the railroads \$4,800,000 for rent of postal cars with which to carry the mails, and the railroad susually furnish wooden cars that "telescope" during wrecks and kill or main the underpaid and overworked postal clerks. Remember that this \$4,800,000 paid to the railroad companies each year as rental for the post-office cars is in addition to the \$46,000,000 paid each year to the railroad companies for carrying the mails. Consider for a moment what an enormous sum of money could be saved to the Government if it would build its own cars.

The most expensive car, all steel, costs \$12,000 and its average life is 25 years, so that with this \$4,800,000 which the Government pays the railroads each year for the rent of cars we could build 400 steel cars annually.

the rallroads each year for the rent of cars we could build 400 steel cars annually.

The sum of money, aggregating \$46,000,000 annually, for carrying mail, is reached because railroads charge the United States 42 cents per pound for carrying mail matter, but the railroads carry the express matter for express companies at three-fourths of a cent per pound. Such robbery of the Government must not be permitted to continue.

I am an advocate of the parcel post, and, as John Wanamaker said, there are only four reasons why we have been unable to get the parcel post, and these four reasons are the four express companies of the United States.

CONSERVATION.

I am in favor of common-sense conservation of our natural resources, but am strongly opposed to that bureaucratic policy of so-called conservation, which is really retrogression and stagnation, and which excludes the miner, the prospector, the live-stock raiser, and the homesteader from legitimate opportunity.

Land, coal, timber, iron, oil, and all natural resources were created for man's use. They are valuable only after labor has been applied to their raw condition and converted them into products useful to mankind.

kind.

The wholesale withdrawals of public lands and the narrow, strained, and illiberal constructions placed by the Interior Department upon the laws relating to such subjects have resulted in denying hundreds of thousands of our citizens the opportunity to earn a living, and such policy is annually driving thousands of Americans to Canada, where they may "get back to the soil."

Of course the Coal Trust, Oil Trust, and Lumber Trust encourage and promote these withdrawals of public lands so that the trust may retain its monopoly, which would be loosened, if not broken, were such lands placed within the reach of the ordinary citizen.

The best, indeed the only, way to promote settlement and cultivation of the public lands is to open these lands to the poor, to those who are looking for opportunities to make themselves independent, and to those who are endeavoring to escape from the landlordism of another.

THE TARIFF.

to those who are endeavoring to escape from the landlordism of another.

THE TARIFF.

In the schoolbooks that are used by the students in our schools we find a tariff to be defined as "an indirect tax, paid by the consumer, laid upon goods imported into a country."

It would be difficult to find a more apt definition of a tariff than this one found in our schoolbooks, but Senator Gore's definition is more sententious. He recently defined a tariff to be "a means of allowing one man to get without working for it that which another man works for but does not get."

The tariff affects the earning capacity of a man; it enters into the expenses of the home builder and the housekeeper; the prices of the children's clothing from hats to shoes are fixed and determined by it; and therefore it is of the utmost importance that husbands and wives, fathers and mothers, should acquaint themselves as fully as possible with the subject.

During the past 40 years the protected interests of this country, with marvelous success, have deluded the public into accepting and believing the ridiculous and false proposition that low tariffs bring low wages and that high protective tariff schedules bring high wages. Nothing could be falser or further from the truth.

Now, what is the purpose of a tariff? Tariffs are levied for revenue or for protection. Sometimes for both. But tariff for protection is the real purpose of the tariff in this country. Revenue tariffs contemplate the bringing of goods into the country. Protective tariffs contemplate the exclusion of goods, and are therefore always higher than revenue tariffs. Under a protective tariff sare high the consumer power of his goods, forces the consumer to pay more for the goods than he—the manufacturer—could sell them for in an open, competitive market. Hence when tariffs are high the consumer pays all the goods are worth, plus the amount of the daty to the prices of his goods, forces the consumer becomes a contributor out of his earnings and savings to the enormous profits of the

labor.

The system of tariff for protection is a fraud; it taxes the consumer and does not raise his wage, and the fictitious prices of goods, under the tariff's operations, are fraudulently obtained by the false pretense of protection to labor.

The tariff baron is privileged to buy labor in the open market, and then, under the thin disguise of protecting labor, he sells his product to the people at enormous prices.

High protective-tariff barons and reactionary Republicans point with tiresome regularity to the fact that laborers' wages are higher in protected America than they are in Great Britain, but no intelligent or well-informed person will be deceived by that "half-told truth."

In England wages are not as high as in the United States when measured by the number of dollars received for a day's work. But when the purchasing power of a dollar is taken as the basis of com-

parison, the American is paid less for his services than the Briton. For instance, the English laborer can buy the necessaries of life for one year with 205 days' labor, but to buy these same necessaries of life it costs the American laborer 225 days' labor.

Thus we find a great work before the Democratic Party, and that party has always proved equal to every contingency. Its Thomas Jefferson was called a demagogue and his followers a mob when he announced "Equal rights to all and special privileges to none."

Its Andrew Jackson was called an anarchist when he destroyed the conspiracy of the national bank and saved the Union, but the immortal Jackson dared to follow the best promptings of his heart. To-day there are issues to be met as momentous as those which confronted Jefferson and Jackson.

After 15 years of reactionary Republican rule we find evils and

and Jackson.

After 15 years of reactionary Republican rule we find evils and abuses which have discouraged and scandalized the Nation, but the Democratic Party is coming back to power. It is coming to untwist the choking grasp which the railroad companies have upon the throat of commerce, it is coming to drive from public office those who have betrayed the people, and as it comes it shakes the very earth with its mighty tread. In its ranks are the dust-begrimed toilers who make their sad appeal.

In its ranks are human sympathy and human love, and the women of this land, who in the silence of self-abnegation suffer while they serve.

serve.

It is coming to lift "some portion of that weight and care which crushes into dumb despair one-half of our people."

It hears the prayers of the oppressed and sounds the bugle note of the courageous and the strong. Those whose natural rights have been denied to them so long that they have even begun to doubt the justice of this world are thrilled with the joy of the deliverance which it will bring; the guilty grafters are trembling before it; it is coming to answer the voices of God's angry workmen, whose pockets a high protective tariff has picked; and as it comes it is sounding forth the trumpet that shall never call retreat.

DEATH OF REPRESENTATIVE JOHN G. M'HENRY.

A message from the House of Representatives, by J. C. South, its Chief Clerk, communicated to the Senate the intelligence of the death of Hon. John G. McHenry, late a Representative from the State of Pennsylvania, and transmitted resolutions of the House thereon.

Mr. PENROSE. I ask the Chair to lay before the Senate the resolutions just received from the House of Representatives. The PRESIDENT pro tempore. The Chair lays before the Senate resolutions of the House of Representatives, which will

The resolutions were read, as follows:

IN THE HOUSE OF REPRESENTATIVES, January 2, 1913.

Resolved, That the House of Representatives has heard with profound sorrow of the death of the Hon. John G. McHener, late a Representative from the State of Pennsylvania.

Resolved, That the Clerk be directed to communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of John G. McHener the House do now adjourn.

Mr. PENROSE. Mr. President, I offer the resolutions which I send to the desk, and ask for the present consideration of the

The PRESIDENT pro tempore. The resolutions will be read. The resolutions (S. Res. 416) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved. That the Senate has heard with deep sensibility the announcement of the death of Hon. John Geiser McHenry, late a Representative from the State of Pennsylvania.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of

Mr. PENROSE. I submit the following resolution, which I ask the Secretary to read.

The PRESIDENT pro tempore. The resolution will be read. The Secretary read the resolution, as follows:

Resolved, That as a further mark of respect to the memory of the deceased the Senate do now adjourn.

The PRESIDENT pro tempore. The question is on agreeing to the resolution submitted by the Senator from Pennsylvania. The resolution was unanimously agreed to, and (at 5 o'clock and 18 minutes p. m.) the Senate adjourned until to-morrow,

Friday, January 3, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 2, 1913.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the fol-

lowing prayer:

Father of our souls, eternal and ever-present energy, the in-spiration of every worthy thought and deed, we thank Thee for the riches which have come down to us out of the past, material, intellectual, spiritual; for the glory of life, the pleasure of possessing, the joy of serving, the heroism of sacrifice, the sympathy for the sorrowing, the charity for the unfortunate, the praise for the well-dones along life's rugged way, the faith that lifts above the stars, the hope that never dies; the love that sanctifies the home, insures the perpetuity of the Nation, and makes the world akin. So may we bring our possessions, our

wealth of mind and soul, into the new year, a thank-offering to Thee, O God our Father, making the world richer, brighter, more joyous that we have lived and wrought. And all praise shall be Thine forever. Amen.

The Journal of the proceedings of December 19, 1912, was

read and approved.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as fol-

To Mr. Burke of Wisconsin, for three days, on account of illness

To Mr. Bartlett, indefinitely, on account of illness in his family.

To Mr. Campbell, indefinitely, on account of the serious illness of his mother.

To Mr. Harr, for one week, on account of illness.

To Mr. Neeley, indefinitely, on account of illness in his family.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Curtiss, one of its clerks, announced that the Senate had passed without amendment bills of the following titles:

H. R. 10169. An act to provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge, and for the trial of cases in the event of the disqualification of or inability to act by the said judge; and

H. R. 10648. An act amending an act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with the Indian tribes, and to protect the same."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 5138. An act authorizing the Secretary of the Interior to survey the lands of the abandoned Fort Assinniboine Military Reservation and open the same to settlement; and

S. 7448. An act restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries.

The message also announced that the President pro tempore had appointed Mr. Townsend to fill the vacancy occasioned by the resignation of Mr. Briggs on the joint committee to make the resignation of Mr. Briggs on the joint committee to make further inquiry into the subject of parcel post created under the act entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes," approved August 24, 1912.

The message also announced that the Senate had disagreed to the amendment of the House of Representatives to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, asked a conference with

dence of aliens in the United States, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. Lodge, Mr. Dillingham, and Mr. Smith of South Carolina as the conferees on the part of the Senate.

CHANGE OF REFERENCE-LINCOLN MEMORIAL.

Mr. SLAYDEN. Mr. Speaker, a parliamentary inquiry.

The gentleman will state it. The SPEAKER.

Mr. SLAYDEN. When the House adjourned on the afternoon of the 19th of December, a roll call was pending on a motion to change the reference of Senate concurrent resolution 32, if I remember the number correctly, which had been sent to the Committee on Appropriations, back to the Committee on the Library

Mr. BORLAND. Not back. Mr. SLAYDEN. I would like to know, Mr. Speaker, whether the proceedings before taken make it necessary to renew that

motion at this time.

The SPEAKER. The Chair thinks that inasmuch as the previous question had not been ordered you would have to begin de novo.

Mr. SLAYDEN. Mr. Speaker, I move that the Senate concurrent resolution 32—I think it is—referring to the Lincoln Memorial, be withdrawn from the Committee on Appropriations,

to which it was sent, and sent to the Committee on Appropriations, to which it was sent, and sent to the Committee on the Library.

Mr. BORLAND. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. SLAYDEN] may have five minutes in which to make his statement, and if he avails himself of the opportunity I move that I may have five minutes in

which to reply.

The SPEAKER. This matter is not debatable.

Mr. BORLAND. I know; and therefore I asked unanimous consent

The SPEAKER. So the gentleman from Missouri [Mr. Bor-LAND] asks unanimous consent that the gentleman from Texas [Mr. Slayden] may have five minutes in which to state his contention.

Mr. MANN. Mr. Speaker, I do not desire to object, but I think the House ought not to get into a position where it can not hear an announcement which I understand the gentleman from Pennsylvania [Mr. Palmer] has to make. The House will soon be in that position if the gentleman from Missouri [Mr. Borland insists upon his request or the gentleman from Texas [Mr. SLAYDEN] on his motion at this time.

Mr. SLAYDEN. Mr. Speaker, I may say, for the information of the Chair, that I know of the resolution that the gentleman from Illinois [Mr. Mann] refers to, and it being evident that there is no quorum present I am willing, with the understand-ing that there shall be no forfeiture of rights in this matter, that the gentleman from Pennsylvania [Mr. Palmer] shall present his resolution of condolence, and let this matter go over until to-morrow without prejudice.

The SPEAKER. By common consent the matter referred to by the gentleman from Texas [Mr. Slayden] goes over until to-morrow morning.

Mr. MANN. It will be in order to-morrow morning anyway.

IMMIGRATION BILL.

Mr. BURNETT. Mr. Speaker, I move that the House insist on its amendment to the Senate bill 3175, to regulate the immigration of aliens to and the residence of aliens in the United

States, and agree to a conference.

The SPEAKER. The gentleman from Alabama [Mr. Bur-NETT] moves that the House insist on its amendment to Senate bill 3175, and agree to a conference as asked by the Senate. The Clerk will report the title of the bill.

The Clerk read as follows:

An act (8, 3175) to regulate the immigration of aliens to and the residence of aliens in the United States.

The SPEAKER. The question is on agreeing to the motion

of the gentleman from Alabama [Mr. BURNETT].
Mr. BARTHOLDT. Mr. Speaker, I should like to ask the gentleman from Alabama what is the character of the Senate amendments?

Mr. BURNETT. The Senate has not made any amendments. The Senate has refused to concur in the amendment of the House and has appointed conferees. We are insisting on our amendment and agreeing to the committee of conference which the Senate asks.

The SPEAKER. The question is on agreeing to the motion of the gentleman from Alabama.

The motion was agreed to, and the Speaker appointed as conferees on the part of the House Mr. BURNETT, Mr. SABATH, and Mr. GARDNER of Massachusetts.

DEATH OF REPRESENTATIVE M'HENRY.

Mr. PALMER. Mr. Speaker, I offer the resolution which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 759.

Resolved, That the House of Representatives has heard with profound sorrow of the death of Hon. John G. McHenray, late a Representative from Pennsylvania.

Resolved, That the Clerk be directed to communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

The resolution was agreed to.

Mr. PALMER. Mr. Speaker, I offer the following additional

The SPEAKER. The Clerk will report the resolution,

The Clerk read as follows:

Resolved, That as a further mark of respect to the memory of John G. McHenry, the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 11 minutes p. m.) the House adjourned until to-morrow, Friday, January 3, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Redondo Harbor, Cal. (H. Doc. No. 1192); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Plymouth Harbor, Mass. (H. Doc. No. 1194); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of channel between Great Peconic and Little Peconic

Bays, N. Y. (H. Doc. No. 1199); to the Committee on Rivers and Harbors and ordered to be printed.

4. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Baltimore Harbor, Md., at York Spit, Chesapeake Bay (H. Doc. No. 1190); to the Committee on Rivers and Har-

bors and ordered to be printed, with illustrations.

5. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Scuppernong River, N. C., to the town of Cherry (H. Doc. No. 1196); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

A letter from the Acting Secretary of War, transmitting statement of publications on hand, received, and issued by the War Department during the fiscal year ended June 30, (H. Doc. No. 1197): to the Committee on Expenditures in the War Department and ordered to be printed.

7. A letter from the Secretary of War, transmitting statement of mileage paid to officers of the Army for travel performed in connection with attendance at societies and associations from June 30 to December 1, 1912 (H. Doc. No. 1210); to the Committee on Expenditures in the War Department and ordered to be printed.

8. A letter from the Secretary of War, requesting that the sum of \$100,000 of the estimate of appropriation for the fiscal year 1914 for "Horses for Cavalry, Artillery, Engineers," etc., be made immediately available (H. Doc. No. 1198); to the Committee on Military Affairs and ordered to be printed.

9. A letter from the Secretary of War, transmitting report of expenditures, "Extensions and betterment of the Washington-Alaska military cable and telegraph system," pursuant to an act of Congress approved March 23, 1910 (H. Doc. No. 1201); to the Committee on Military Affairs and ordered to be printed.

10. A letter from the Secretary of the Treasury, recommending the repeal of that clause in the sundry civil appropriation act for 1913 which provides that "No additional appointment as cadet or cadet engineers shall be made in the Revenue-Cutter Service unless hereafter authorized by Congress" (H. Doc. No. 1206); to the Committee on Appropriations and ordered to be

11. A letter from the Secretary of the Treasury, calling attention to House Document No. 525, relating to "Power plant for certain public buildings, District of Columbia," and urging favorable consideration by Congress (H. Doc. No. 1208); to the Committee on Appropriations and ordered to be printed.

12. A letter from the Secretary of the Treasury, transmitting communication from the Board of Commissioners of the District of Columbia submitting supplemental estimate of appropriation for altering the Pennsylvania Avenue Bridge across the Anacostia River or Eastern Branch by the insertion of a draw span as required by the Secretary of War (H. Doc. No. 1203); to the Committee on Appropriations and ordered to be printed.

13. A letter from the Secretary of the Treasury, calling attention to his letter of December 2, 1912, transmitting copy of a communication from the Secretary of State, submitting estimate of appropriation in the matter of the international effort to eradicate the opium evil and recommending that an appropriation therefor be included in the urgent deficiency bill (H. Dec. No. 1193); to the Committee on Appropriations and ordered to be printed.

14. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting estimate of deficiency appropriation required by the War Department for Army paymasters and clerks (H. Doc. No. 1200); to the Committee on Appropriations and ordered to be printed.

15. A letter from the Secretary of the Treasury, submitting estimate of appropriation for construction and installation of special automatic and recording scales for weighing merchandise, etc., in connection with imports at the various ports of entry (H. Doc. No. 1191); to the Committee on Appropriations and ordered to be printed.

16. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of the Navy submitting supplemental estimate of appropriation required for the naval establishment for the fiscal year ending June 30, 1914 (H. Doc. No. 1207); to the Committee on Naval Affairs and ordered to be printed.

17. A letter from the Secretary of the Treasury, submitting supplemental estimate for appropriation to provide temporary quarters for Government officials during progress of work in connection with enlargement of public buildings in Boston, Mass., and Charlotte, N. C. (H. Doc. No. 1205); to the Committee on Appropriations and ordered to be printed.

18. A letter from the Postmaster General, transmitting a statement of expenses of attendance of officers and employees of the Post Office Department at conventions of postal employees incurred from June 30 to December 1, 1912 (H. Doc. No. 1211); to the Committee on Expenditures in the Post Office Depart-

ment and ordered to be printed.

19. A letter from the Librarian of Congress, submitting a statement of expenses incurred by officers and employees in attendance at meetings or conventions under written authority of the Librarian of Congress from June 30 to December 1, 1912 (H. Doc. No. 1212); to the Committee on Appropriations and ordered to be printed.

20. A letter from the Acting Secretary of Commerce and Labor, transmitting statement of expenses incurred by officers and employees of the department from June 30 to December 1, 1912, while in attendance upon societies or conventions (H. Doc. No. 1214); to the Committee on Expenditures in the Department

of Commerce and Labor and ordered to be printed.
21. A letter from the Secretary of the Interstate Commerce Commission, transmitting a statement of travel expenses incurred by officers and employees of the commission when employed outside of Washington, D. C., from June 30, 1912, to December 1, 1912 (H. Doc. No. 1209); to the Committee on Appropriations and ordered to be printed.

22. A letter from the Board of Commissioners of the District

of Columbia, transmitting report of investigation made by the Commissioners of the District as to the desirability of establishing a municipal asphalt plant and recommending the establishment of such a plant (H. Doc. No. 1195); to the Committee on

Appropriations and ordered to be printed.

23. A letter from the Secretary of Agriculture, transmitting statement of expenses incurred by officers and employees of the Department of Agriculture from June 30 to December 1, 1912, while in attendance upon societies or conventions (H. Doc. No. 1215); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

24. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting estimate of appropriation for the construction of the necessary officers' quarters and other buildings required at the remount depot, Front Royal, Va. (H. Doc. No. 1204); to the Committee

on Appropriations and ordered to be printed.

25. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the ascertainment of electors for President and Vice President appointed in the State of Arizona at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

26. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of California at the election held therein on the 5th day of November, 1912; to the Committee on Elec-tion of President, Vice President, and Representatives in

27. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertament of electors for President and Vice President appointed in the State of Connecticut at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in

28. A letter form the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Iowa at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

29. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Kentucky at the election held therein on the 5th day of November, 1912; to the Committee on Elec-tion of President, Vice President, and Representatives in

30. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Louisiana at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

31. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Montana at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

32. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Nevada at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

33. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of New Jersey at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

34. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of New Mexico at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

35. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of North Carolina at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress

36. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of North Dakota at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Con-

37. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President apascertainment of electors for President and Vice President appointed in the State of Ohio at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

38. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the ascertainment of electors for President and Vice President appointed

in the State of West Virginia at the election held therein on the 5th day of November, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

39. A letter from the Attorney General of the United States,

submitting statement of expenses incurred by officers and employees of the Department of Justice in attending societies or conventions from June 30 to December 1, 1912 (H. Doc. No. 1213); to the Committee on Expenditures in the Department of Justice and ordered to be printed.

40. A letter from the Secretary of War, transmitting report of expenditures for extensions and betterment of the Washington-Alaska military cable and telegraph systems pursuant to act of March 3, 1911 (H. Doc. No. 1202); to the Committee on Mili-

tary Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. REDFIELD, from the Committee on Invalid Pensions, to which was referred sundry bills, reported in lieu thereof the bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, accompanied by a report (No. 1278), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. COX of Ohio: A bill (H. R. 27476) to increase the limit of cost of the Federal building heretofore authorized at Dayton, Ohio; to the Committee on Public Buildings and Grounds.

By Mr. McKINNEY: A bill (H. R. 27477) for the purchase of a site and the erection thereon of a public building at Aledo, Ill.; to the Committee on Public Buildings and Grounds.

By Mr. RAKER: A bill (H. R. 27478) authorizing the State of California to select public lands in lieu of certain lands granted to it in Imperial County, Cal., and for other purposes; to the Committee on the Public Lands.

Also, a bill (H. R. 27479) appropriating money for the continuing improvement of harbor at the entrance to Humboldt

Bay, Cal.; to the Committee on Appropriations.

By Mr. PRAY: A bill (H. R. 27480) authorizing resurveys and retracements in Montana; to the Committee on Appropriations.

Also, a bill (H. R. 27481) providing for appropriation for survey of public lands in the counties of Chouteau, Hill, Blaine, Valley, Dawson, Fergus, Rosebud, and Custer, in Montana; to the Committee on Appropriations.

Also, a bill (H. R. 27482) providing for an exchange of lands and indemnity rights with the State of Montana; to the Com-

mittee on Agriculture.

Also, a bill (H. R. 27483) appropriating money for the improvement of the Missouri River from Le Beau, S. Dak., to Fort Benton, Mont.; to the Committee on Rivers and Harbors. By Mr. BOOHER: A bill (H. R. 27484) authorizing the Sec-

retary of War to donate to the city of Tarkio, Mo., one small bronze cannon, with its carriage and six cannon balls; to the Committee on Military Affairs.

By Mr. HAYDEN: A bill (H. R. 27485) granting certain lands in Arizona to the National Indian Association; to the Com-

mittee on Indian Affairs.

Also, a bill (H. R. 27486) to provide for the construction of a bridge across the Colorado River between the Yuma Indian Reservation, in California, and the town of Yuma, in Arizona; to the Committee on Indian Affairs

By Mr. TOWNER: A bill (H. R. 27487) to strike out books and pamphlets from the third class of mail matter and to include them as entitled to parcel-post rates, and for other pur-

poses; to the Committee on the Post Office and Post Roads.

Also, a bill (H. R. 27488) for the reclassification of mail matter, for the consolidation of the third and fourth classes, and for other purposes; to the Committee on the Post Office and Post Roads.

By Mr. RUCKER of Missouri: A bill (H. R. 27489) to amend section 3240 of chapter 3 of the Revised Statutes of the United States as amended by act approved June 21, 1906, so as to provide for furnishing certain records or certified copies thereof, and for other purposes; to the Committee on the Judiciary. By Mr. KINKAID of Nebraska: A bill (H. R. 27490) to

authorize the Secretary of the Interior to issue patent to the State of Nebraska for section 9, township 34, range 27 west, sixth principal meridian, Nebraska, in exchange with the State of Nebraska for its school section 36 in the same township; to the Committee on the Public Lands.

By Mr. ROBERTS of Nevada: A bill (H. R. 27491) legalizing certain conveyances heretofore made by the Central Pacific Railroad Co. and others within the State of Nevada; to the

Committee on the Judiciary.

By Mr. STEENERSON: A bill (H. R. 27492) for preventing the manufacture, sale, or transportation of imitated or mis-branded articles of commerce and regulating the traffic therein, and for other purposes; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 27493) for the relief of settlers who purchased land under the act of February 20, 1904; to the Com-

mittee on the Public Lands.

Also, a bill (H. R. 27494) governing homestead entries in the State of Minnesota; to the Committee on the Public Lands.

By Mr. KENT: A bill (H. R. 27495) authorizing and directing the Secretary of War to cause preliminary examination and survey to be made of the Feather River, Cal., and for other purposes; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 27496) authorizing a survey of Napa River in California; to the Committee on Rivers and Harbors.

By Mr. LOBECK: A bill (H. R. 27497) to provide for paving with a proper material the Fort Crook military boulevard from Fort Crook Military Reservation to the south city limits of South Omaha, Nebr., so as to perfect a continuous paved highway from Fort Crook Military Reservation to Fort Omaha Military Reservation; to the Committee on Military Affairs.

By Mr. FRENCH: A bill (H. R. 27498) to amend an act to

provide for an enlarged homestead, approved June 17, 1910; to

the Committee on the Public Lands.

By Mr. MARTIN of South Dakota: A bill (H. R. 27499) providing an appropriation to enable the Sioux Indians to employ a competent attorney to make certain investigations and report; to the Committee on Indian Affairs.

Also, a bill (H. R. 27500) to amend section 2291 of the Revised Statutes of the United States as amended June 6, 1912; to

the Committee on the Public Lands.

Also, a bill (H. R. 27501) to repeal section 3 of an act providing for second and additional homestead entries, and for other purposes, approved April 28, 1904; to the Committee on the Public Lands.

By Mr. PARRAN: A bill (H. R. 27502) authorizing the purchase or acquisition of the aviation fields at College Park, Md.,

and property adjacent thereto, for aviation, maneuvers, and other military purposes; to the Committee on Military Affairs.

By Mr. CRUMPACKER: A bill (H. R. 27503) to provide for the admission of lumber and other articles of foreign production into the ports of the United States free of duty; to the Committee on Ways and Means.

By Mr. LINTHICUM: Resolution (H. Res. 760) authorizing

the appointment of a select committee to investigate the causes

of railroad wrecks and accidents; to the Committee on Rules. By Mr. GODWIN of North Carolina: Resolution (H. Res. 761) authorizing the Committee on Reform in the Civil Service to investigate the present organization of the civil service and submit report thereon; to the Committee on Rules.

By Mr. CRUMPACKER: Joint resolution (H. J. Res. 375) proposing an amendment to the Constitution of the United

States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions

were introduced and severally referred as follows:

By Mr. REDFIELD: A bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; to the Committee of the Whole House.

By Mr. ANDERSON: A bill (H. R. 27504) granting a pension to Louisa M. Salim; to the Committee on Invalid Pensions.

By Mr. BOOHER: A bill (H. R. 27505) granting an increase of pension to William S. Nash; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27506) granting an increase of pension to William C. Barnes; to the Committee on Invalid Pensions. By Mr. BORLAND: A bill (H. R. 27507) granting a pension

to John H. Shaw; to the Committee on Pensions.

Also, a bill (H. R. 27508) granting an increase of pension to Clark H. Shepherd; to the Committee on Pensions.

Also, a bill (H. R. 27509) granting an increase of pension to

Frances E. Malloy; to the Committee on Pensions.
Also, a bill (H. R. 27510) granting an increase of pension to

Ralph E. Truman; to the Committee on Pensions.

By Mr. CLINE: A bill (H. R. 27511) granting an increase of

pension to Levi D. Bodley; to the Committee on Invalid Pen-

By Mr. CRUMPACKER; A bill (H. R. 27512) granting an increase of pension to Lusenah Fuller; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 27513) granting a pension to

Moses Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27514) granting a pension to Ida De Portee; to the Committee on Invalid Pensions,

By Mr. FULLER: A bill (H. R. 27515) granting an increase of pension to George G. De Wolf; to the Committee on Invalid Pensions.

By Mr. KINKAID of Nebraska: A bill (H. R. 27516) for the relief of Uriah S. Town; to the Committee on the Public Lands.

Also, a bill (H. R. 27517) for the relief of Grace Harris; to the Committee on the Public Lands.

By Mr. LINDSAY: A bill (H. R. 27518) granting an increase of pension to Joseph W. Jeroloman; to the Committee on Invalid Pensions.

By Mr. LOBECK: A bill (H. R. 27519) for the relief of Lavern Walker; to the Committee on Military Affairs.

Also, a bill (H. R. 27520) granting a pension to Augustus E. Oberton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27521) granting an increase of pension to Sarah C. Gross; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27522) granting an increase of pension to James M. Emmons; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27523) granting an increase of pension to Elizabeth J. Dennis; to the Committee on Invalid Pensions.

By Mr. MARTIN of South Dakota: A bill (H. R. 27524)

granting an increase of pension to Joshua Minthorn; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27525) granting an increase of pension to George Wells; to the Committee on Invalid Pensions.

By Mr. WILLIS: A bill (H. R. 27526) granting a pension to Emma B. Showalter; to the Committee on Invalid Pensions.

By Mr. MURDOCK: A bill (H. R. 27527) granting a pension to Elizabeth M. Burson; to the Committee on Invalid Pensions. Also, a bill (H. R. 27528) granting a pension to Lyman E. Tibbitts; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27529) granting a pension to Charles F. Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27530) granting an increase of pension to Levi Myers; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27531) granting an increase of pension to Jacob C. Rennaker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27532) granting an increase of pension to Robert Harris: to the Committee on Invalid Pensions.

Also, a bill (H. R. 27533) granting an increase of pension to Lafayette Cook; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27534) granting an increase of pension to Charles W. Botkin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27535) granting an increase of pension to Bailey Spivey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27536) granting an increase of pension to

Martin Parker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27537) granting an increase of pension to Jonathan Colyar; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27538) granting an increase of pension to Henry Miller; to the Committee on Invalid Pensions. By Mr. PRAY: A bill (H. R. 27539) for the relief of Thomas

G. Running; to the Committee on Claims.

Also, a bill (H. R. 27540) granting a pension to Sarah M. Wood; to the Committee on Pensions. Also, a bill (H. R. 27541) granting an increase of pension to

John W. Stults; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27542) granting an increase of pension to

Lucy A. Ellithorp; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27543) for the relief of the legal repre-

sentatives of Thomas B. McClintic, deceased; to the Committee on Claims

By Mr. RAKER: A bill (H. R. 27544) for the relief of Thomas F. Howell; to the Committee on the Public Lands.

Also, a bill (H. R. 27545) for the relief of James Diamond, for horse lost while hired by the United States Forest Service; to the Committee on Claims.

By Mr. RUCKER of Missouri: A bill (H. R. 27546) granting an increase of pension to Brackett Munsey; to the Committee on Invalid Pensions

By Mr. SMITH of New York: A bill (H. R. 27547) granting an increase of pension to Thomas M. Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27548) granting an increase of pension to

Ira Baker; to the Committee on Invalid Pensions.

By Mr. STEENERSON: A bill (H. R. 27549) granting a pension to Adolph Lalonde; to the Committee on Pensions.

By Mr. STEVENS of Minnesota: A bill (H. R. 27550) for the relief of the Minnesota & Ontario Power Co.; to the Committee on Claims.

Also, a bill (H. R. 27551) granting a pension to Mitilde K. Schiffman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27552) granting a pension to Ole Hamrey; to the Committee on Pensions.

Also, a bill (H. R. 27553) granting a pension to August Jobst; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27554) granting an increase of pension to Frank B. Doran; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27555) granting an increase of pension to

James T. Moran; to the Committee on Invalid Pensions.

By Mr. TOWNER: A bill (H. R. 27556) granting an increase of pension to George Ingram; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid

on the Clerk's desk and referred as follows:

By Mr. ANDERSON: Papers to accompany bill granting a pension to Louisa M. McLean; to the Committee on Invalid

By Mr. ASHBROOK: Petition of the Woman's Christian Temperance Union of Wooten, Ohio, favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into

dry territory; to the Committee on the Judiciary.

Also, petition of the Baltimore Clothing Co. and 13 other merchants of Newcomerstown, Ohio, favoring legislation increasing the power of the Interstate Commerce Commission over the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. FORNES: Petition of F. Reichmann, superintendent of weights and measures of the State of New York, protesting against the passage of House bill 23113; to the Committee on Ways and Means.

Also, petition of the Central Federated Union of New York, protesting against the passage of the Kenyon-Sheppard bill or any other bill preventing the shipment of liquor into dry territories; to the Committee on the Judiciary.

Also, petition of the National Society for the Promotion of Industrial Education, favoring the passage of the Page-Wilson bill (S. 3) for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Merchants' Association of New York, favoring the passage of House bill 25106, for the incorporation of the chamber of commerce of the United States of America; to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Papers to accompany bill for the relief of George G. DeWolf; to the Committee on Invalid Pensions.

Also, petition of Christopher Finkbeirner, of Toledo, Ohio, favoring the passage of House bill 1330, increasing pension of those who lost a limb in the Civil War; to the Committee on Invalid Pensions.

Also, petition of the Railway Business Association, favoring the passage of House bill 25106, to grant a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on Interstate and Foreign Commerce.

By Mr. HANNA: Petition of citizens of the State of South Dakota, favoring the passage of the amended Kenyon bili (S. 4043), preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. HENRY of Texas: Petition of the Texas State Historical Association, favoring passage of legislation providing for the building of a national archives building; to the Committee on Public Buildings and Grounds.

By Mr. HINDS: Petition of the Maine State Grange, favoring the passage of the Page bill (S. 3), for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Maine State Grange, favoring the passage of legislation to prohibit the destruction of insect-eating birds; to the Committee on Agriculture.

By Mr. KINDRED: Petition of Holmes Beckwith, favoring the passage of the Page-Wilson bill (S. 3) for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Merchants' Association of New York, favoring the passage of House bill 25106, providing for the incorporation of the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the American Federation of Labor, Rochester, N. Y., and the National Society for the Promotion of Industrial Education, New York, favoring the passage of the Page-Wilson bill (S. 3) for Federal aid for vocational education; to

the Committee on Agriculture.

Also, petition of the State Council of Pennsylvania, Order of Independent Americans, Philadelphia, Pa., favoring the passage of Senate bill 3175, for the restriction of immigration; to the

Committee on Immigration and Naturalization.

By Mr. LEVY: Petition of the American Federation of Labor, favoring the passage of the Page bill (S. 3) for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the National Conservation Association, favoring legislation making appropriation for the building of a Gov-

ernment building at the National Conservation Exposition; to the Committee on Public Buildings and Grounds. Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, regulating the transmission of all telephone and telegraph messages; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the New York Civic League, favoring the passage of any legislation preventing the shipment of liquor

into dry territory; to the Committee on the Judiciary.

Also, petition of the Central Federated Union, New protesting against the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the general executive committee of the Railway Business Association, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on Interstate and Foreign Commerce.

Also, petition of National Federation of Retail Merchants, St. Louis, Mo., protesting against the passage of any legislation abolishing the rights of the manufacturers to regulate the prices; to the Committee on Patents.

Also, petition of Federation of Jewish Farmers of America, favoring the passage of legislation adopting system of farmers'

credit unions; to the Committee on Banking and Currency.

By Mr. LINDSAY: Petition of the national advisory board of the National Conservation Exposition, favoring legislation making appropriation for the erection of a Government building

at the National Conservation Exposition; to the Committee on

Public Buildings and Grounds.

Also, petition of general executive committee of the Railway Business Association, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Federation of Retail Merchants, St. Louis, Mo., and the Associations of National Advertising Managers of the United States, protesting against the passage of section 2 of House bill 23417, preventing manufacturers fixing prices on

all goods; to the Committee on Patents.

Also, petition of the New York Civic League, favoring the passage of any legislation preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of Federation of Jewish Farmers of America,

favoring passage of legislation adopting systems of farmers' credit unions; to the Committee on Banking and Currency.

Also, petition of J. F. Lambson, Lexington, Nebr.; Christopher Finkbeiner, Toledo, Ohio; John Brosnon, Brooklyn, N. Y.; and Stephens Meloche, New Orleans, La., favoring the passage of bill 1339, granting an increase of pension to veterans who lost a limb in the Civil War; to the Committee on Invalid Pen-

Also, petition of the New York Produce Exchange, favoring the passage of House bill 25106, incorporating the Chamber of Commerce of the United States of America; to the Committee on

Interstate and Foreign Commerce.

By Mr. MARTIN of South Dakota: Petition of business men of Fairfax, Colome, Winner, Herrick, and Bonesteel, S. Dak., favoring passage of legislation inserting a clause in the interstate-commerce laws making it possible to cause concerns selling goods directly to consumers or entirely by mail to contribute their portion of the funds toward development of the community, county, and State; to the Committee on the Judiciary

By Mr. MOORE of Pennsylvania: Petition of the Fifth Phila-delphia District Committee and Washington Camp, No. 533, Patriotic Order Sons of America, favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee

on Immigration and Naturalization.

By Mr. MURDOCK: Petition of the Woman's Christian Temperance Union of Oxford and citizens of Wichita and the Church of Brethren of McPherson, Hansall, favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary

By Mr. SMITH of New York: Petition of the Buffalo Chamber of Commerce, favoring the passage of House bill 26677, relocating the pierhead line in the Hudson River between Pier 1 and West Thirteenth Street; to the Committee on Interstate and Foreign Commerce.

By Mr. STEPHENS of California: Petition of the Civic Association of Alhambra, Cal., protesting against the passage of any legislation tending to destroy the present national system of protecting the forests; to the Committee on Agriculture.

By Mr. STEVENS of Minnesota: Petition of the Primrose Club, of Stillwater, Minn., favoring the passage of legislation removing the tax on oleomargarine; to the Committee on Agriculture.

SENATE.

Friday, January 3, 1913.

The Chaplain, Rev. Ulysses G. B. Pierce, D. D., offered the

following prayer

O Thou who hearest prayer, hearken unto us, we beseech Thee, as we make our morning supplication. Thou knowest our frame, Thou rememberest that we are dust. Thou hast made us to know how frail we are, and how brief and uncertain is our tenure in these houses of clay. Thou hast called from our midst a Member of this Senate, making us to know anew that the way of man is not in himself alone, and that it is not in us who walk to direct our steps. And to whom may we turn, our Father, but to Thee who holdest us in Thy keeping, living or dying? We humbly commit ourselves to Thee, praying that Thou wilt keep us evermore in Thy love and uphold us with

And now may God, our Father, who hast loved us with an everlasting love, and who hast called us into His eternal kingdom in Christ, comfort our hearts and establish them in every good word and in every good work. Unto Him be glory and honor, dominion and power, now and for evermore.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. Cullom and by unantmous consent, the further reading was dispensed with and the Journal was approved.

DEATH OF SENATOR JEFF DAVIS.

Mr. CLARKE of Arkansas. Mr. President, it becomes my melancholy duty to announce to the Senate the death of my neeancholy duty to announce to the Senate the death of my colleague, Senator Jeff Davis, who departed this life at Little Rock on yesterday. With this simple statement there is announced the close of the career of one of the most extraordinary men of his time and section. This is not the appropriate time to analyze his purposes and his plans with a view of determining the philosophy that controlled his life, public and private, but another time will be cheen for that named when I shall. but another time will be chosen for that purpose, when I shall ask the Senate to lay aside its usual business to give attention to that feature of his career.

He was extraordinary in the sense that he inspired friendships that knew no deviation and no surrender and provoked criticisms that absolutely went beyond the bounds of all pos-To ascertain the purposes that ran through his sible reason. life will be the interesting study of those of us who had some opportunity to observe his course and to know his motives. I said, I shall not proceed further along that line at this time, as I hope to be able hereafter to join with his other friends here in paying proper tribute to his life and his memory.

I ask for the adoption of the resolutions which I now send to the desk.

The PRESIDENT pro tempore. The Senator from Arkansas submits resolutions, for which he asks present consideration. The resolutions will be read.

The resolutions (S. Res. 417) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow of the death of the Hon. Jeff Davis, late a Senator from the State of Arkansas.

Resolved, That a committee of eight Senators be appointed by the President of the Senate pro tempore to take order for superintending the funeral of Mr. Davis at his late home in Little Rock, Ark.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

the deceased.

The PRESIDENT pro tempore appointed as the committee under the second resolution Mr. Clarke of Arkansas, Mr. Pomerene, Mr. O'Gorman, Mr. Bryan, Mr. Ashurst, Mr. Mar-TINE of New Jersey, Mr. Curtis, and Mr. Clapp.

Mr. CLARKE of Arkansas. Mr. President, I offer the following resolution, and ask for its adoption.

The PRESIDENT pro tempore. The resolution will be read. The Secretary read the resolution, as follows:

Resolved. That as a further mark of respect to the memory of the deceased the Senate, and the Senate sitting as a Court of Impeachment, do now adjourn.

The PRESIDENT pro tempore. The question is on agreeing to the resolution submitted by the Senator from Arkansas.

The resolution was unanimously agreed to, and (at 12 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Saturday, January 4, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 3, 1913.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Help us, O God, our Father, to realize that we are Thine, that nothing in life or death can separate us from Thee. It is Thou who hast made us and not we ourselves. Death comes all unbidden and touches the deeps of our hearts. Comfort, we beseech Thee, the families connected with this body into which the angel of death has so recently come, that they may look forward into the bright beyond without doubt or fear.

Be with the family of the Member who is sorely afflicted; restore him, we pray Thee, to health and strength that he may pursue the useful walks of life. Keep us all and our dear ones close to Thee in the faith and hope of Thy ruling and overruling Providence. In the spirit of the Lord Christ.

The Journal of the proceedings of yesterday was read and ap-

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

Sundry messages, in writing, from the President of the United States were communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House that the President had, on December 10, 1912, approved

and signed bill of the following title:

H. R. 20287. An act to amend section 5 of the act entitled "An act to incorporate the American Red Cross," approved

January 5, 1905.

Anderson Austin Ayres Bartholdt Bates

Bates
Booher
Borland
Buchanan
Byrns, Tenn.
Candler
Carter
Clark, Fla.
Claypool
Collier
Conry
Cox, Ind.
Crago
Curry
Daugherty

Daugherty Davis, Minn. Dickinson

Farr

Andrus

Browning

Adair Adamson Aiken, S. C. Akin, N. Y. Ames Anthony Barchfeld

Barnhart Bartlett Bell, Ga.

Berger Boehne

Bradley Brantley

Broussard

Brown Burke, Pa. Burke, Wis. Butler

Calder Callaway Campbell Cantrill

Cary Cline Copley Covington Cox, Ohio

Currier

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 7448. An act restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries; to the Committee on the Public Lands.

S. 5138. An act authorizing the Secretary of the Interior to survey the lands of the abandoned Fort Assinniboine Military Reservation and open the same to settlement; to the Committee on the Public Lands.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 10648. An act amending an act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with the Indian tribes, and to protect the same"; and

H. R. 10169. An act to provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge.

CHANGE OF REFERENCE.

Mr. SLAYDEN. Mr. Speaker, I rise to renew the motion to correct the reference of Senate concurrent resolution 32, which was sent to the Committee on Appropriations instead of the

Committee on the Library.

The SPEAKER. Does the gentleman make the motion by

direction of the Committee on the Library?

Mr. SLAYDEN. By the unanimous direction of the Commit-

tee on the Library.
Mr. BORLAND. Mr. Speaker, on that I ask unanimous consent that the gentleman from Texas [Mr. SLAYDEN] have five minutes to make a statement, and if he avails himself of the privilege that I may have five minutes in which to reply.

Mr. SLAYDEN. Mr. Speaker, in order to arrive at an understanding, I would like to ask the gentleman from Missouri whether this statement is to be confined simply to a discussion

Mr. BORLAND. I am going to reply to any statement which

the gentleman makes.

Mr. SLAYDEN. I am perfectly willing to have a simple discussion of the rule, and have it confined to the rule.

The SPEAKER. The question is not debatable.

Mr. BORLAND. I will not limit the gentleman; he can say

what he wishes to, and I will reply to it.

The SPEAKER. The gentleman from Missouri asks unani-The SPEAKER. The gentleman from Missouri asks unanimous consent that the gentleman from Texas have five minutes

to address the House. Is there objection?

Mr. BORLAND. And that I have five minutes in which to

The SPEAKER. And that the gentleman from Missouri have

five minutes in which to reply.

Mr. COOPER. Mr. Speaker, reserving the right to object, I wish to say that I shall object unless it is agreed in advance that the debate shall be limited, as it ought to be limited, to a discussion of the rule and does not go into a discussion of the bill on its merits. If it can be limited to that in advance, I will not object.

The SPEAKER. Does the gentleman from Texas and the gentleman from Missouri agree to the limitation suggested by

the gentleman from Wisconsin?

Mr. SLAYDEN, I do.

I have no objection. Mr. BORLAND.

Mr. FERRIS. Mr. Speaker, reserving the right to object, I would like to ask a parliamentary question.

Mr. GARDNER of Massachusetts. Mr. Speaker, I ask for the regular order.

Mr. FERRIS. A parliamentary inquiry, Mr. Speaker. The SPEAKER. The gentleman will state it.

Mr. FERRIS. I would like to ask which committee this really belongs to.

The SPEAKER. That is the question that is up for decision. Mr. SLAYDEN. Will the gentleman permit me to interrupt

Mr. FERRIS. Let me first pursue my inquiry a little further. What rules govern the decision of this question? I would

like to know so as to vote intelligently on it.

The SPEAKER. The rules of the House govern it. Is there objection to the request of the gentleman from Missouri?

Mr. GARDNER of Massachusetts. Mr. Speaker, I ask for the regular order, and I object.

The SPEAKER. The gentleman from Massachusetts objects to unanimous consent, and the question is, Whether the Senate concurrent resolution shall be referred to the Committee on the

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. LINTHICUM. Mr. Speaker, I raise the point of no quorum.

The SPEAKER. The gentleman from Maryland makes the point of order that no quorum is present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. All those in favor of referring the Senate concurrent resolution to the Committee on the Library will, when their names are called, answer "aye," and those op-posed will answer "no," and the Clerk will call the roll.

The question was taken; and there were—yeas 102, nays 89, answered "present" 5, not voting 190, as follows:

YEAS-102.

Alexander	Esch	Jones	Nelson
Allen	Estopinal	Kahn	Padgett
Ansberry	Floyd, Ark,	Kennedy	Page
Ashbrook	Foster	Kent	Payne
Bathrick	Fuller	Lamb	Pou
Beall, Tex.	Gardner, Mass.	Lawrence	Prince
Blackmon	Garrett	Lee, Pa.	Rainey
Bulkley	Gillett	Lenroot	Reilly
Burke, S. Dak,	Godwin, N. C.	Lever	Roberts, Nev.
Burleson	Graham	Longworth	
Burnett	Hamill	McCoy	Roddenbery
Byrnes, S. C.	Hamilton, Mich.	McDermott	Sheppard
Cannon	Hamilton, W. Va.	McKenzie	Sims
Carlin	Hardy Hardy		Slayden
Clayton	Hawley	McKinney	Smith, Tex.
	Hav	Macon	Steenerson
Cooper		Maguire, Nebr.	Stephens, Tex
Crumpacker	Helm	Mann	Sterling
Cullop	Henry, Tex.	Martin, S. Dak.	Taylor, Ala.
Curley	Hinds	Miller	Taylor, Ohio
Dalzell	Holland	Mondell	Tilson
Danforth	Howell	Morgan, La.	Townsend
Dent	Howland	Morgan, Okla.	Tribble
Dies	Hughes, Ga.	Morrison	Underwood
Doughton	Humphrey, Wash.	Murdock	Young, Tex.
Dwight	James	Murray	
Edwards	Johnson, S. C.	Needham	

NAYS-89.

Tanaham	Darbon
	Rubey
	Rucker, Mo.
Lindbergh	Russell
Linthieum	Saunders
Littleton	Sisson
Lloyd	Slemp
	Smith, Saml, W.
	Speer Speer
	Stedman
McLaughlin	Stephens, Cal.
Moore De	
Mounia	Stephens, Miss.
	Stephens, Nebr.
	Stone
	Talbott, Md.
Powers	Thomas
Prav	Towner
	Vare
	Webb
	Willis
	Witherspoon
	Witherspoon
Rouse	
	Langham Lewis Lindbergh Linthicum Littleton Lloyd Lobeck McGuire, Okla. McLaughlin Moore, Pa. Norris Palmer Peters Powers Pray Raker Rauch Rees Richardson Roberts, Mass, Rothermel

ANSWERED "PRESENT"-5.

Burgess Fitzgerald

NOT VOTING-190.

1101
Davenport Davidson Davis, W. Va. De Forest Denver
Dickson, Miss. Difenderfer Dixon, Ind. Dodds Donohoe
Doremus Draper Driscoll, D. A. Driscoll, M. E. Dupré
Dyer Ellerbe Evans Fairchild Faison
Fergusson Fields Finley Flood, Va.
Focht Fordney Fornes Foss Gallagher Gardner, N. J.

Garner George Gill Goeke Goldfogle Good Goodwin, Ark. Groodwin, Ark Gray Green, Iowa Greene, Mass. Gregg, Pa. Gregg, Tex. Griest Guernsey Hammond Hammond Hanna Hardwick Harris Hart Haugen Hayes Heald Heflin Hanna Littlepage
Hardwick Loud
Harris McCall
Hart McCreary
Haugen McKellar
Hayes McKilley
Heald McMorran
Heflin Madden
Henry, Conn. Marrin, Colo.
Hill
Hobson Mays
Howard
Howard
Hughes, W. Va.
Humphreys, Miss. Moon, Tenn.

Kitchin Knowland Konig Konig Konop Kopp Korbly Langley Lee, Ga. Legare Levy Lindsay Littlepage

Pujo.

Jackson Johnson, Ky. Kendall

Kindred

Moore, Tex,
Morse, Wis,
Moss, Ind.
Mott
Neeley
Nye
Oldfield
Olmsted
O'Shaunessy
Parran
Patten, N. Y.
Patton, Pa.
Pepper
Pickett
Plumley
Porter Randell, Tex. Ransdell, La. Redfield Redfield Reyburn Riordan Robinson Rodenberg Rucker, Colo. Sabath Scott Scully Sells Shackleford Sharp Sharp Sherley Sherwood Porter Simmons Sloan Prouty

Small Smith, J. M. C. Smith, Cal, Smith, N. Y. Sparkman Stack Stanley Stevens, Minn. Sulloway Sulloway
Sweet
Switzer
Taggart
Talcott, N. Y.
Taylor, Colo.
Thayer
Thistlewood
Turnbull
Tuttle

Underhill Volstead Vreeland Warburton Watkins Watkins
Weeks
Whitacre
White
Wilder
Wilson, Ill.
Wilson, N. Y.
Wilson, Pa.
Wood, N. J.
Woods, Iowa
Young, Kans.
Young, Mich.

So the motion was agreed to.

The Clerk announced the following pairs:

For the session

1.95

Mr. Hobson with Mr. Fairchild. Mr. Fornes with Mr. Bradley. Mr. Adamson with Mr. Stevens of Minnesota.

Mr. RIORDAN with Mr. ANDRUS.

Until further notice:

Mr. Pujo with Mr. McMorran.
Mr. Fields with Mr. Langley.
Mr. Patten of New York with Mr. McCall.
Mr. Burgess with Mr. Michael E. Driscoll.

Mr. Bell of Georgia with Mr. Griest.

Mr. Lee of Georgia with Mr. Merritt. Mr. Levy with Mr. Moon of Pennsylvania. Mr. McKellar with Mr. Mott.

Mr. Moon of Tennessee with Mr. Olmsted.

Mr. Moss of Indiana with Mr. Nye. Mr. Neeley with Mr. Patton of Pennsylvania.

Mr. OLDFIELD with Mr. PICKETT.

Mr. O'SHAUNESSY with Mr. PLUMLEY.

Mr. Post with Mr. Porter.

Mr. RANDELL of Texas with Mr. PROUTY.

Mr. Sabath with Mr. Reyburn. Mr. Shackleford with Mr. Rodenberg. Mr. Sharp with Mr. Scott.

Mr. Sherley with Mr. Simmons. Mr. Small with Mr. J. M. C. Smith. Mr. Smith of New York with Mr. Sells.

Mr. SMITH OF NEW YORK WITH Mr. SELLS.
Mr. STANLEY WITH Mr. SMITH of California.
Mr. TALCOTT of New York with Mr. SULLOWAY.
Mr. TAYLOR of Colorado with Mr. SWITZER.

Mr. THAYER WITH Mr. VREELAND.
Mr. UNDERHILL WITH Mr. WARBURTON,
Mr. WATKINS WITH Mr. WEEKS.

Mr. White with Mr. Wilder.
Mr. Wilson of New York with Mr. Wilson of Illinois.
Mr. Goeke with Mr. Young of Michigan.

Mr. HARDWICK with Mr. CAMPBELL.

Mr. Aiken of South Carolina with Mr. BARCHFELD,

Mr. BARNHART with Mr. BURKE of Pennsylvania.

Mr. BOEHNE with Mr. CARY, Mr. BROUSSARD with Mr. COPLEY.

Mr. BRANTLEY with Mr. DE FOREST.

Mr. Brown with Mr. Dodds.

Mr. Burke of Wisconsin with Mr. Dyer.

Mr. SHERWOOD with Mr. DRAPER.

Mr. CALLAWAY with Mr. FOCHT.

Mr. CANTRILL with Mr. FORDNEY.

Mr. CLINE with Mr. Foss.

Mr. Covington with Mr. Gardner of New Jersey.
Mr. Davis of West Virginia with Mr. Good.
Mr. Direnderfer with Mr. Green of Iowa.
Mr. Dixon of Indiana with Mr. Greene of Massachusetts.

Mr. Donohoe with Mr. Guernsey. Mr. Daniel A. Driscoll with Mr. Hanna.

Mr. Dupré with Mr. Haugen. Mr. Faison with Mr. Hayes.

Mr. Flood of Virginia with Mr. HEALD.

Mr. TURNBULL with Mr. VOLSTEAD.
Mr. GALLAGHER with Mr. HENRY of Connecticut.

Mr. George with Mr. Higgins. Mr. Garner with Mr. Hill.

Mr. Goldfogle with Mr. Hughes of West Virginia.

Mr. Goodwin of Arkansas with Mr. Kendall, Mr. Gregg of Texas with Mr. Knowland.

Mr. Gregg of Pennsylvania with Mr. Kopp.

Mr. Heflin with Mr. Loud. Mr. Humphreys of Mississippi with Mr. McCreary. Mr. Johnson of Kentucky with Mr. McKinley.

Mr. KITCHIN with Mr. MADDEN.

Mr. Konop with Mr. Matthews. Mr. Konig with Mr. Young of Kansas. Mr. Korbly with Mr. Wood of New Jersey. Mr. Howard with Mr. Parran.

Mr. BARTLETT with Mr. BUTLER,

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. SCULLY with Mr. BROWNING.

Mr. FITZGERALD with Mr. CALDER.

Mr. KINDRED with Mr. HARRIS.

Mr. FINLEY with Mr. CURRIER.

Until January 8:

Mr. Pepper with Mr. Sloan. Mr. Mays with Mr. Thistlewood.

Mr. BURGESS. Mr. Speaker, how am I recorded?

The gentleman is recorded in the affirma-The SPEAKER.

Mr. BURGESS. Mr. Speaker, I desire to withdraw my vote of "yea" and answer "Present."

The name of Mr. Burgess was called, and he answered

"Present."

Mr. BROWNING. Mr. Speaker, is my colleague, the gentleman from New Jersey, Mr. Scully, recorded as having voted?

The SPEAKER. He is not.

Mr. BROWNING. Mr. Speaker, I am paired with the gentleman from New Jersey. I voted "yea," and I wish to withdraw my vote and be marked "present."

The name of Mr. Browning was called, and he answered

"Present."

The result of the vote was announced as above recorded.

CHANGE OF REFERENCE.

Mr. STEPHENS of Texas. Mr. Speaker-

Mr. CULLOP. Mr. Speaker, I move a change of reference of House resolution 757 from the Committee on Rules to the Committee on Industrial Arts and Expositions. It belongs to the Committee on Industrial Arts and Expositions.

The SPEAKER. The gentleman from Indiana will please send the resolution up and let the Clerk report it, so that the House will know what it is.

The Clerk read as follows:

House resolution 757.

House resolution 757.

Whereas the president of the Louisiana Purchase Exposition Co. has informed the Senate that with the approval of Congress, as expressed by an act of March 4, 1909, the Louisiana Purchase Exposition has erected upon the site of the world's fair in the city of St. Louis a memorial to Thomas Jefferson, at a cost of \$450,000, in commemoration of the acquisition of the Louisiana territory; and Whereas this statue of Mr. Jefferson is to be unveiled and dedicated on the one hundred and tenth anniversary of the signing of the Louisiana Purchase treaty, the 30th of April, 1913; and Whereas the trustees in charge of this great memorial have, through the president of the exposition company, requested the presence of a committee of the House of Representatives to participate in the dedicatory services on the day named: Therefore be it

Resolved, That a committee of 12 Members of the House of Representatives be appointed by the Speaker of the House to attend said ceremonies and represent the House of Representatives at the unveiling and dedication of said memorial.

Mr. FOSTER Mr. Speaker, is this a unanimous request?

Mr. FOSTER. Mr. Speaker, is this a unanimous request? The SPEAKER. It is a motion. Mr. CULLOP. It is the same matter in regard to a change of reference which we had up the other day to which objection was made.

The SPEAKER. Is there objection to the change of refer-

Mr. FOSTER. I do, Mr. Speaker.

The SPEAKER. If the gentleman from Indiana is authorized by his committee to make the motion to make this change of reference, the Chair will recognize him.

Mr. CULLOP. Mr. Speaker, I am.
The SPEAKER. The gentleman from Indiana moves a change of reference of House resolution 757 from the Committee on Rules to the Committee on Industrial Arts and Exposi-

The question was taken, and the Speaker announced the noes seemed to have it.

On a division (demanded by Mr. Cullop) there were—ayes 41, noes 62,

So the motion was rejected.

ISTHMIAN CANAL COMMISSION (H. DOC. NO. 1216).

The SPEAKER laid before the House the following message from the President of the United States, which was read, and, with the accompanying papers, ordered printed and referred to the Committee on Appropriations.

The Clerk read as follows: To the Senate and House of Representatives:

In accordance with the requirements of section 10 of the act approved August 24, 1912, I transmit herewith a letter addressed

to me by the Secretary of War, dated December 23, 1912, submitting a letter from the chairman of the Isthmian Canal Commission, dated December 13, 1912, and accompanying statement of all expenses incurred by officers and employees of the Isthmian Canal Commission in attending meetings and conventions from June 30 to December 1, 1912.

WM. H. TAFT.

THE WHITE HOUSE, January 3, 1913.

CIVIL SERVICE COMMISSION (H. DOC. NO. 963).

The SPEAKER also laid before the House the following message from the President of the United States, which, with the accompanying papers, was ordered printed and referred to the Committee on Reform in the Civil Service.

The Clerk read as follows:

To the Senate and House of Representatives:

I transmit herewith, for the consideration of the Congress, the Twenty-ninth Annual Report of the United States Civil Service Commission for the fiscal year ended June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, January 3, 1913.

SUNDRY UNITED STATES GOVERNMENT DEPARTMENTS (S. DOC. NO. 989).

The SPEAKER also laid before the House the following message from the President of the United States in regard to the work of certain departments of the Government, which was read, ordered printed, and referred to the Committee of the Whole House on the state of the Union.

The Clerk read as follows:

To the Senate and House of Representatives:

This is the third of a series of messages in which I have brought to the attention of the Congress the important transactions of the Government in each of its departments during the last year and have discussed needed reforms,

HEADS OF DEPARTMENTS SHOULD HAVE SEATS ON THE FLOOR OF CONGRESS.

I recommend the adoption of legislation which shall make it the duty of heads of departments—the members of the President's Cabinet-at convenient times to attend the session of the House and the Senate, which shall provide seats for them in each House, and give them the opportunity to take part in all discussions and to answer questions of which they have had due notice. The rigid holding apart of the executive and the legislative branches of this Government has not worked for the great advantage of either. There has been much lost motion in the machinery, due to the lack of cooperation and interchange of views face to face between the representatives of the Executive and the Members of the two legislative branches of the Government. It was never intended that they should be separated in the sense of not being in constant effective touch and relationship to each other. The legislative and the executive each performs its own appropriate function, but these functions must be coordinated. Time and time again debates have arisen in each House upon issues which the information of a particular department head would have enabled him, if present, to end at once by a simple explanation or statement. Time and time again a forceful and earnest presentation of facts and arguments by the representative of the Executive whose duty it is to enforce the law would have brought about a useful reform by amendment, which in the absence of such a statement has failed of passage. I do not think I am mistaken in saying that the presence of the members of the Cabinet on the floor of each House would greatly contribute to the enactment of beneficial legislation. Nor would this in any degree de-prive either the legislative or the executive of the independence which separation of the two branches has been intended to promote. It would only facilitate their cooperation in the public

On the other hand, I am sure that the necessity and duty imposed upon department heads of appearing in each House and in answer to searching questions of rendering upon their feet an account of what they have done, or what has been done by the administration, will spur each member of the Cabinet to closer attention to the details of his department, to greater familiarity with its needs, and to greater care to avoid the just criticism which the answers brought out in questions put and discussions arising between the Members of either House and the members of the Cabinet may properly evoke.

Objection is made that the members of the administration, having no vote, could exercise no power on the floor of the House, and could not assume that attitude of authority and control which the English parliamentary Government have and which enables them to meet the responsibilities the English system thrusts upon them. I agree that in certain respects it

would be more satisfactory if members of the Cabinet could at

the same time be Members of both Houses, with voting power, but this is impossible under our system; and while a lack of this feature may detract from the influence of the department chiefs, it will not prevent the good results which I have described above both in the matter of legislation and in the matter of administration. The enactment of such a law would be quite within the power of Congress without constitutional amendment, and it has such possibilities of usefulness that we might well make the experiment, and if we are disappointed the misstep can be easily retraced by a repeal of the enabling legislation.

This is not a new proposition. In the House of Representatives, in the Thirty-eighth Congress, the proposition was referred to a select committee of seven Members. The committee made an extensive report, and urged the adoption of the reform. The report showed that our history had not been without illustration of the necessity and the examples of the practice by pointing out that in early days Secretaries were repeatedly called to the presence of either House for consultation, advice, and information. It also referred to remarks of Mr. Justice Story in his Commentaries on the Constitution, in which he urgently presented the wisdom of such a change. This report is to be found in Volume I of the Reports of Committees the First Session of the Thirty-eighth Congress, April 6,

Again, on February 4, 1881, a select committee of the Senate recommended the passage of a similar bill, and made a report, in which, while approving the separation of the three branches, the executive, legislative, and judicial, they point out as a reason for the proposed change that, although having a separate existence, the branches are "to cooperate, each with the other, as the different members of the human body must cooperate with each other in order to form the figure and perform the duties of a perfect man.

The report concluded as follows:

The report concluded as follows:

This system will require the selection of the strongest men to be heads of departments and will require them to be well equipped with the knowledge of their offices. It will also require the strongest men to be the leaders of Congress and participate in debate. It will bring these strong men in contact, perhaps into conflict, to advance the public weal, and thus stimulate their abilities and their efforts, and will thus assuredly result to the good of the country.

If it should appear by actual experience that the heads of departments in fact have not time to perform the additional duty imposed on them by this bill, the force in their offices should be increased or the duties devolving on them personally should be diminished. An undersecretary should be appointed to whom could be confided that routine of administration which requires only order and accuracy. The principal officers could then confine their attention to those duties which require wise discretion and intellectual activity. Thus they would have abundance of time for their duties under this bill. Indeed, your committee believes that the public interest would be subserved if the Secretaries were relieved of the harassing cares of distributing clerkships and closely supervising the mere machinery of the departments. Your committee believes that the adoption of this bill and the effective execution of its provisions will be the first step toward a sound civil-service reform which will secure a larger wisdom in the adoption of policies and a better system in their execution.

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GEO. H. PENDLETON GEO. H. PENDLETC W. B. ALLISON. D. W. VOORHEES, J. G. BLAINE. M. C. BUTLER. JOHN J. INGALLS. O. H. PLATT. J. T. FARLEY.

It would be difficult to mention the names of higher authority in the practical knowledge of our Government than those which are appended to this report.

POSTAL SAVINGS-BANK SYSTEM.

The Postal Savings-Bank System has been extended so that it now includes 4,004 fourth-class post offices, as well as 645 branch offices and stations in the larger cities. There are now 12.812 depositories at which patrons of the system may open counts. The number of depositors is 300,000 and the amount their deposits is approximately \$28,000,000, not including \$1,314,140 which has been withdrawn by depositors for the purpose of buying postal savings bonds. Experience demonstrates the value of dispensing with the pass book and introducing in its place a certificate of deposit. The gross income of the postal savings system for the fiscal year ending June 30, 1913, will amount to \$700,000 and the interest payable to depositors to \$300,0000. The cost of supplies, equipment, and salaries is \$700,000. It thus appears that the system lacks \$300,000 a year of paying interest and expenses. It is estimated, however, that when the deposits have reached the sum of \$50,000,000, which at the present rate they soon will do, the system will be self-sustaining. By law the postal savings funds deposited at each post office are required to be redeposited in local banks. State and national banks to the number of 7,357 have qualified as depositories for these funds. Such deposits are secured by

bonds aggregating \$54,000,000. Of this amount, \$37,000,000 represent municipal bonds.

PARCEL POST.

In several messages I have favored and recommended the adoption of a system of parcel post. In the postal appropriation act of last year a general system was provided and its installation was directed by the 1st of January. This has entailed upon the Post Office Department a great deal of very heavy labor, but the Postmaster General informs me that on the date selected, to wit, the 1st of January, near at hand, the department will be in readiness to meet successfully the requirements of the public.

CLASSIFICATION OF POSTMASTERS.

A trial during the past three years of the system of classifying fourth-class postmasters in that part of the country lying between the Mississippi River on the west, Canada on the north, the Atlantic Ocean on the east, and Mason and Dixon's line on the south has been sufficiently satisfactory to justify the postal authorities in recommending the extension of the order to include all the fourth-class postmasters in the country. In September, 1912, upon the suggestion of the Postmaster General, I directed him to prepare an order which should put the system in effect, except in Alaska, Guam, Hawaii, Porto Rico, and Samoa. Under date of October 15 I issued such an order, which affected 36,000 postmasters. By the order the post offices were divided into groups A and B. Group A includes all postmasters, whose compares tion is \$500 or more and group B. postmasters whose compensation is \$500 or more, and group B those whose compensation is less than that sum. Different methods are pursued in the selection of the postmasters for group A and group B. Criticism has been made of this order on the ground that the motive for it was political. Nothing could be further from the truth. The order was made before the election and in the interest of efficient public service. I have several times requested Congress to give me authority to put first, second, and third class postmasters, and all other local including internal-revenue officers, customs officers, United States marshals, and the local agents of the other departments under the classification of the civil-service law by taking away the necessity for confirming such appointments by I deeply regret the failure of Congress to follow these recommendations. The change would have taken out of politics practically every local officer and would have entirely cured the evils growing out of what under the present law must always remain a remnant of the spoils system.

COMPENSATION TO RAILWAYS FOR CARRYING MAILS.

It is expected that the establishment of a parcel post on January 1 will largely increase the amount of mail matter to be transported by the railways, and Congress should be prompt to provide a way by which they may receive the additional compensation to which they will be entitled. The Postmaster General urges that the department's plan for a complete readjustment of the system of paying the railways for carrying the mails be adopted, substituting space for weight as the principal factor in fixing compensation. Under this plan it will be possible to determine without delay what additional payment should be made on account of the parcel post. The Postmaster General's recommendation is based on the results of a far-reaching investigation begun early in the administration with the object of determining what it costs the railways to carry the mails. The statistics obtained during the course of the inquiry show that while many of the railways, and particularly the larger systems, were making profits from mail transportation, certain of the lines were actually carrying the mails at a loss. As a result of the investigation the department, after giving the subject careful consideration, decided to urge the abandonment of the present plan of fixing compensation on the basis of the weight of the mails carried, a plan that has proved to be exceedingly expensive and in other respects unsatisfactory. Under the method proposed the railway companies will annually submit to the department reports showing what it costs them to carry the mails, and this cost will be apportioned on the basis of the car space engaged, payment to be allowed at the rate thus determined in amounts that will cover the cost and a reasonable profit. If a railway is not satisfied with the manner in which the department apportions the cost in fixing compensation, it is to have the right, under the new plan, of appealing to the Interstate Commerce Commission. This feature of the proposed law would seem to insure a fair treatment of the railways. It is hoped that Congress will give the matter immediate attention, and that the method of compensation recommended by the department or some other suitable plan will be promptly

DEPARTMENT OF THE INTERIOR.

The Interior Department, in the problems of administration included within its jurisdiction, presents more difficult questions

than any other. This has been due perhaps to temporary causes of a political character, but more especially to the inherent difficulty in the performance of some of the functions which are assigned to it. Its chief duty is the guardianship of the public domain and the disposition of that domain to private ownership under homestead, mining, and other laws, by which patents from the Government to the individual are authorized on certain conditions. During the last decade the public seemed to become suddenly aware that a very large part of its domain had passed from its control into private ownership, under laws not well adapted to modern conditions, and also that in the doing of this the provisions of existing law and regulations adopted in accordance with law had not been strictly observed, and that in the transfer of title much fraud had intervened, to the pecuniary benefit of dishonest persons. There arose thereupon a demand for conservation of the public domain, its protection against fraudulent diminution, and the preservation of that part of it from private acquisition which it seemed necessary to keep for future public use. The movement, excellent in the intention which prompted it, and useful in its results, has nevertheless had some bad effects, which the western country has recently been feeling and in respect of which there is danger of a reaction toward older abuses unless we can attain the golden mean, which consists in the prevention of the mere exploitation of the public domain for private purposes while at the same time facilitating its development for the benefit of the local

The land laws need complete revision to secure proper conservation on the one hand of land that ought to be kept in public use and, on the other hand, prompt disposition of those lands which ought to be disposed in private ownership or turned over to private use by properly guarded leases. In addition to this there are not enough officials in our Land Department with legal knowledge sufficient promptly to make the decisions which are called for. The whole land-laws system should be reorganized, and not until it is reorganized will decisions be made as promptly as they ought, or will men who have earned title to public land under the statute receive their patents within a reasonably short period. The present administration has done what it could in this regard, but the necessity for reform and change by a revision of the laws and an increase and reorganization of the force remains, and I submit to Congress the wisdom of a full examination of this subject, in order that a very large and important part of our people in the West may be

relieved from a just cause of irritation.

I invite your attention to the discussion by the Secretary of the Interior of the need for legislation with respect to mining claims, leases of coal lands in this country and in Alaska, and for similar disposition of oil, phosphate, and potash lands, and also to his discussion of the proper use to be made of water-power sites held by the Government. Many of these lands are now being withheld from use by the public under the general withdrawal act which was passed by the last Congress. That act was not for the purpose of disposing of the question, but it was for the purpose of preserving the lands until the question could be solved. I earnestly urge that the matter is of the highest importance to our western fellow citizens and ought to command the immediate attention of the legislative branch of the Government.

Another function which the Interior Department has to perform is that of the guardianship of Indians. In spite of everything which has been said in criticism of the policy of our Government toward the Indians, the amount of wealth which is now held by it for these wards per capita shows that the Government has been generous; but the management of so large an estate, with the great variety of circumstances that surround each tribe and each case, calls for the exercise of the highest business discretion, and the machinery provided in the Indian Bureau for the discharge of this function is entirely inadequate. The position of Indian commissioner demands the exercise of business ability of the first order, and it is difficult to secure such talent for the salary provided.

The condition of health of the Indian and the prevalence in the tribes of curable diseases has been exploited recently in the press. In a message to Congress at its last session I brought this subject to its attention and invited a special appropriation, in order that our facilities for overcoming diseases among the Indians might be properly increased, but no action was then taken by Congress on the subject, nor has such appropriation been made since.

The commission appointed by authority of the Congress to report on proper method of securing railroad development in Alaska is formulating its report, and I expect to have an opportunity before the end of this session to submit its recommendations,

DEPARTMENT OF AGRICULTURE.

The far-reaching utility of the educational system carried on by the Department of Agriculture for the benefit of the farmers of our country calls for no elaboration. Each year there is a growth in the variety of facts which it brings out for the benefit of the farmer, and each year confirms the wisdom of the expenditure of the appropriations made for that department.

PURE-FOOD LAW.

The Department of Agriculture is charged with the execution of the pure-food law. The passage of this encountered much opposition from manufacturers and others who feared the effect upon their business of the enforcement of its provisions. The opposition aroused the just indignation of the public, and led to an intense sympathy with the severe and rigid enforcement of the provisions of the new law. It had to deal in many instances with the question whether or not products of large business enterprises, in the form of food preparations, were deleterious to the public health; and while in a great majority of instances this issue was easily determinable, there were not a few cases in which it was hard to draw the line between a useful and a harmful food preparation. In cases like this when a decision involved the destruction of great business enterprises representing the investment of large capital and the expenditure of great energy and ability, the danger of serious injustice was very considerable in the enforcement of a new law under the spur of great public indignation. The public officials charged with executing the law might do injustice in heated controversy through unconscious pride of opinion and obstinacy of conclusion. For this reason President Roosevelt felt justified in creating a board of experts, known as the Remsen Board, to whom in cases of much importance an appeal might be taken and a review had of a decision of the Bureau of Chemistry in the Agricultural Department. I heartily agree that it was wise to create this board in order that injustice might not be done. The questions which arise are not generally those involving palpable injury to health, but they are upon the narrow and doubtful line in respect of which it is better to be in some error not dangerous than to be radically destructive. I think that the time has come for Congress to recognize the necessity for some such tribunal of appeal and to make specific statutory provision for it. While we are struggling to suppress an evil of great proportions like that of impure food, we must provide machinery in the law itself to prevent its becoming an instrument of oppression, and we ought to enable those whose business is threatened with annihilation to have some tribunal and some form of appeal in which they have a complete day in

AGRICULTURAL CREDITS.

I referred in my first message to the question of improving the system of agricultural credits. The Secretary of Agriculture has made an investigation into the matter of credits in this country, and I commend a consideration of the information which through his agents he has been able to collect. It does not in any way minimize the importance of the proposal, but it gives more accurate information upon some of the phases of the question than we have heretofore had.

DEPARTMENT OF COMMERCE AND LABOR.

I commend to Congress an examination of the report of the Secretary of Commerce and Labor, and especially that part in which he discusses the office of the Bureau of Corporations, the value to commerce of a proposed trade commission, and the steps which he has taken to secure the organization of a national chamber of commerce. I heartily commend his view that the plan of a trade commission which looks to the fixing of prices is altogether impractical and ought not for a moment to be considered as a possible solution of the trust question.

The trust question in the enforcement of the Sherman antitrust law is gradually solving itself, is maintaining the principle and restoring the practice of competition, and if the law is quietly but firmly enforced business will adjust itself to the statutory requirements, and the unrest in commercial circles provoked by the trust discussion will disappear.

PANAMA-PACIFIC INTERNATIONAL EXPOSITION.

In conformity with a joint resolution of Congress, an Executive proclamation was issued last February, inviting the nations of the world to participate in the Panama-Pacific International Exposition to be held at San Francisco to celebrate the construction of the Panama Canal. A sympathetic response was immediately forthcoming, and several nations have already selected the sites for their buildings. In furtherance of my invitation, a special commission visited European countries during the past summer, and received assurances of hearty cooperation in the task of bringing together a universal industrial, military, and naval display on an unprecedented scale. It is evident that

the exposition will be an accurate mirror of the world's activities as they appear 400 years after the date of the discovery of the Pacific Ocean.

It is the duty of the United States to make the nations welcome at San Francisco and to facilitate such acquaintance between them and ourselves as will promote the expansion of commerce and familiarize the world with the new trade route through the Panama Canal. The action of the State governments and individuals assures a comprehensive exhibit of the resources of this country and of the progress of the people. This participation by States and individuals should be supplemented by an adequate showing of the varied and unique activities of the National Government. The United States can not with good grace invite foreign governments to erect buildings and make expensive exhibits while itself refusing to participate. Nor would it be wise to forego the opportunity to join with other nations in the inspiring interchange of ideas tending to promote intercourse, friendship, and commerce. It is the duty of the Government to foster and build up commerce through the canal, just as it was the duty of the Government to construct it.

I earnestly recommend the appropriation at this session of such a sum as will enable the United States to construct a suitable building, install a governmental exhibit, and otherwise participate in the Panama-Pacific International Exposition in a manner commensurate with the dignity of a nation whose guests are to be the peoples of the world. I recommend also such legislation as will facilitate the entry of material intended for exhibition and protect foreign exhibitors against infringement of patents and the unauthorized copying of patterns and designs. All allens sent to San Francisco to construct and care for foreign buildings and exhibits should be admitted without restraint or embarrassment,

THE DISTRICT OF COLUMBIA AND THE CITY OF WASHINGTON.

The city of Washington is a beautiful city, with a population of 352,936, of whom 98,667 are colored. The annual municipal budget is about \$14,000,000. The presence of the National Capitol and other governmental structures constitutes the chief beauty and interest of the city. The public grounds are extensive, and the opportunities for improving the city and making it still more attractive are very great. Under a plan adopted some years ago, one half the cost of running the city is paid by taxation upon the property, real and personal, of the citizens and residents, and the other half is borne by the General Government. The city is expanding at a remarkable rate, and this can only be accounted for by the coming here from other parts of the country of well-to-do people who, having finished their business careers elsewhere, build and make this their permanent place of residence.

On the whole, the city as a municipality is very well governed. It is well lighted, the water supply is good, the streets are well paved, the police force is well disciplined, crime is not flagrant, and while it has purlieus and centers of vice, like other large cities, they are not exploited, they do not exercise any influence or control in the government of the city, and they are suppressed in as far as it has been found practicable. Municipal graft is inconsiderable. There are interior courts in the city that are noisome and centers of disease and the refuge of criminals, but Congress has begun to clean these out, and progress has been made in the case of the most notorious of these, which is known as Willow Tree Alley. This movement should continue.

The mortality for the past year was at the rate of 17.80 per 1,000 of both races; among the whites it was 14.61 per thousand, and among the blacks 26.12 per thousand. These are the lowest mortality rates ever recorded in the District.

One of the most crying needs in the government of the District is a tribunal or public authority for the purpose of supervising the corporations engaged in the operation of public utilities. Such a bill is pending in Congress and ought to pass. Washington should show itself under the direction of Congress to be a city with a model form of government, but as long as such authority over public utilities is withheld from the municipal government, it must always be defective.

Without undue criticism of the present street railway accommodations, it can be truly said that under the spur of a public-utilities commission they might be substantially improved.

While the school system of Washington perhaps might be bettered in the economy of its management and the distribution of its buildings, its usefulness has nevertheless greatly increased in recent years, and it now offers excellent facilities for primary and secondary education.

From time to time there is considerable agitation in Washington in favor of granting the citizens of the city the frunchise and constituting an elective government. I am strongly opposed to this change. The history of Washington discloses a

number of experiments of this kind, which have always been abandoned as unsatisfactory. The truth is this is a city governed by a popular body, to wit, the Congress of the United States, selected from the people of the United States, who own Washington. The people who come here to live do so with the knowledge of the origin of the city and the restrictions, and therefore voluntarily give up the privilege of living in a municipality governed by popular vote. Washington is so unique in its origin and in its use for housing and localizing the sovereignty of the Nation that the people who live here must regard its peculiar character and must be content to subject themselves to the control of a body selected by all the people of the Nation. I agree that there are certain inconveniences growing out of the government of a city by a national legislature like Congress, and it would perhaps be possible to lessen these by the delegation by Congress to the District Commissioners of greater legislative power for the enactment of local laws than they now possess, especially those of a police

Every loyal American has a personal pride in the beauty of Washington and in its development and growth. There is no one with a proper appreciation of our Capital City who would favor a niggardly policy in respect to expenditures from the National Treasury to add to the attractiveness of this city, which belongs to every citizen of the entire country, and which no citizen visits without a sense of pride of ownership. We have had restored by a Commission of Fine Arts, at the instance of a committee of the Senate, the original plan of the French engineer L'Enfant for the city of Washington, and we know with great certainty the course which the improvement of Washington should take. Why should there be delay in making this improvement in so far as it involves the extension of the parking system and the construction of greatly needed public buildings? Appropriate buildings for the State Department, the Department of Justice, and the Department of Commerce and Labor have been projected, plans have been approved, and nothing is wanting but the appropriations for the beginning and completion of the structures. A hall of archives is also badly needed, but nothing has been done toward its construction, although the land for it has long been bought and paid Plans have been made for the union of Potomac Park with the valley of Rock Creek and Rock Creek Park, and the necessity for the connection between the Soldiers' Home and Rock Creek Park calls for no comment. I ask again why there should be delay in carrying out these plans? We have the money in the Treasury, the plans are national in their scope, and the improvement should be treated as a national project. The plan will find a hearty approval throughout the country. I am quite sure, from the information which I have, that, at comparatively small expense, from that part of the District of Columbia which was retroceded to Virginia the portion including the Arlington estate, Fort Myer, and the palisades of the Potomac can be acquired by purchase and the jurisdiction of the State of Virginia over this land ceded to the Nation. This ought to be done.

The construction of the Lincoln Memorial and of a memorial bridge from the base of the Lincoln Monument to Arlington would be an appropriate and symbolic expression of the union of the North and the South at the Capital of the Nation. urge upon Congress the appointment of a commission to under-take these national improvements, and to submit a plan for their execution; and when the plan has been submitted and approved, and the work carried out, Washington will really become what it ought to be-the most beautiful city in the world.

WM. H. TAFT.

THE WHITE HOUSE, December 19, 1912.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following resolutions: Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. John Geiser McHenry, late a Representative from the State of Pennsylvania.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased the Senate do now adjourn.

Resolved, That the Senate has heard with profound sorrow the death of the Hon. JEFF DAVIS, late a Senator from the State of Arks.

Resolved, That a committee of eight Senators be appointed by he President of the Senate pro tempore to take order for superintending the funeral of Mr. Davis at his late home in Little Rock, Ark, Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased the Senate, and the Senate sitting as a Court of Impeachment, do now adjourn.

That in compliance with the foregoing resolution the President pro tempore had appointed Mr. Clarke of Arkansas, Mr. Pomerene, Mr. O'Gorman, Mr. Bryan, Mr. Ashurst, Mr. Martine of New Jersey, Mr. Curtis, and Mr. Clapp as said com-

DEATH OF SENATOR JEFF DAVIS OF ARKANSAS.

Mr. MACON. Mr. Speaker, I move the adoption of the resolution which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 762.

Resolved. That the House has heard with profound sorrow of the death of Hon. JEFF DAYIS, late a Senator of the United States from the State of Arkansas.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased Senator.

Resolved, That a committee of 14 Members be appointed on the part of the House to join the committee appointed on the part of the Senate to attend the funeral.

The question was taken, and the resolution was unanimously agreed to.

The SPEAKER. The Chair appoints the following committee in the case of Senator Davis of Arkansas.

The Clerk read as follows:

Mr. Robinson, Mr. Goodwin of Arkansas, Mr. Macon, Mr. Cravens, Mr. Floyd of Arkansas, Mr. Oldfield, Mr. Jacoway, Mr. Cullor, Mr. Davenport, Mr. Nelson, Mr. Miller, Mr. Greene of Vermont, Mr. Rees, and Mr. Kinkaid of Nebraska.

DEATH OF REPRESENTATIVE WEDEMEYER OF MICHIGAN.

Mr. HAMILTON of Michigan. Mr. Speaker, information has just been received, through the War Department, of the death of Hon. WILLIAM W. WEDEMEYER by drowning. Mr. WEDEMEYER was returning from the Canal Zone. Some time later I shall ask the House to set a time for paying tribute to the life, character, and public services of the deceased. Meanwhile I offer the following resolutions, which I send to the Clerk's desk

The SPEAKER. The Clerk will report the resolutions. The Clerk read as follows:

House resolution 763.

Resolved, That the House has heard with profound sorrow of the death of Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan.

Resolved, That the Clerk communicate this resolution to the Senate and transmit a copy thereof to the family of the deceased.

The SPEAKER. The question is on agreeing to the resolutions.

The resolutions were agreed to.

ADJOURNMENT.

Mr. MACON. Mr. Speaker, I move the adoption of the resolution which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 764.

Resolved, That as a further mark of respect to the memory of the deceased Senator and Representative the House do now adjourn.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to; accordingly (at 1 o'clock and 27 minutes p. m.) the House adjourned until to-morrow, Saturday, January 4, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of Agriculture, transmitting a list of documents received and distributed by the Department of Agriculture during the fiscal year ended June 30, 1912 (H. Doc. No. 1218); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a etter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Monongahela River, Pa., with a view to reconstructing Locks 4 and 6 (H. Doc. No. 1217); to the Committee on Rivers and Harbors and ordered to be printed.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were thereupon referred as follows:

A bill (H. R. 24180) granting an increase of pension to Rachel I. Holloway; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 16879) granting a pension to Martha Fitzpatrick; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials

were introduced and severally referred as follows:
By Mr. MANN: A bill (H. R. 27557) to repeal section 5 of the act entitled "An act amending the charter of the Freedman's Savings & Trust Co., and for other purposes"; to the Committee on the District of Columbia.

Also, a bill (H. R. 27558) to repeal the act entitled "An act to incorporate the Maritime Canal Co. of Nicaragua"; to the Committee on Interstate and Foreign Commerce.

By Mr. DAUGHERTY: A bill (H. R. 27559) providing for the erection of a public building at Lamar, Mo.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27560) providing for the erection of a public building at Neosho, Mo.; to the Committee on Public Buildings and Grounds.

By Mr. ROBERTS of Nevada: A bill (H. R. 27561) to grant the State of Nevada lands for educational purposes; to the Committee on the Public Lands.

Also, a bill (H. R. 27562) relating to the recording of notice and certificate of location of mining claims in certain cases; to

the Committee on Mines and Mining.

By Mr. LA FOLLETTE: A bill (H. R. 27563) to authorize further advances to the reclamation fund and for the issue and disposal of certificates of indebtedness in reimbursement therefor, and for other purposes; to the Committee on Irrigation of Arid Lands.

By Mr. STEPHENS of Texas: A bill (H. R. 27564) to authorize the sale of lands alloted to Indians under the Moses agree-

ment of July 7, 1883; to the Committee on Indian ! fairs.

Also, a bill (H. R. 27565) authorizing the Secretary of the Interior to lease for grazing, agricultural, and mining purposes unalloted lands within Indian reservations established by act of Congress or Executive order; to the Committee on Indian

Also, a bill (H. R. 27566) setting apart and declaring to be a reservation for the Rocky Boy's Band of Chippewa Indians and other homeless Indians in the State of Montana certain lands in the abandoned Fort Assiniboine Military Reservation in the State of Montana; to the Committee on Indian Affairs.

By Mr. WEEKS: A bill (H. R. 27567) for reduction of postage rates on first-class mail matter; to the Committee on the Post Office and Post Roads.

By Mr. McKINLEY: A bill (H. R. 27568) amending section 1 of the act of May 11, 1912, relating to pension of Civil War soldiers and sailors; to the Committee on Invalid Pensions.

By Mr. COX of Indiana: A bill (H. R. 27569) to raise rev-nue, equalize duties, and encourage the industries of the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. LAMB: A bill (H. R. 27570) to facilitate the use of square No. 673, in the city of Washington, for storage warehouse purposes; to the Committee on the District of Columbia.

By Mr. MONDELL: A bill (H. R. 27571) to compensate star-

route carriers for additional work imposed on them and losses sustained through the establishment of the parcel post; to the Committee on the Post Office and Post Roads.

By Mr. AYRES: A bill (H. R. 27572) to restore the foreign merchant marine; to the Committee on the Merchant Marine and Fisheries.

By Mr. STEENERSON: A bill (H. R. 27573) to amend an act entitled "An act to amend sections 2291 and 2297 of the Revised Statutes of the United States relating to homesteads," approved June 6, 1912; to the Committee on the Public Lands.

By Mr. HINDS: A bill (H. R. 27574) for the purchase or construction of a vessel or launch for the customs service at and in the vicinity of Portland, Me.; to the Committee on Interstate and Foreign Commerce.

By Mr. HOBSON: A bill (H. R. 27575) providing that certain professors at the United States Naval Academy shall be commissioned as professors of mathematics with rank of lieutenant

commander; to the Committee on Naval Affairs.

By Mr. COX of Indiana: A bill (H. R. 27576) to raise revenue, equalize duties, and encourage the industries of the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. STEPHENS of Texas; Joint resolution (H. J. Res. 376) extending the time for the survey, classification, and appraisement of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations in Oklahoma; to the Committee on Indian Affairs.

By Mr. LINTHICUM: Joint resolution (H. J. Res. 377) granting to the Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia; to the Committee on the District of Columbia.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions

were introduced and severally referred as follows:

By Mr. ASHBROOK: A bill (H. R. 27577) granting an increase of pension to Laura Coalman; to the Committee on Invalid Pensions.

By Mr. BROWNING: A bill (H. R. 27578) to correct the military record of John Banks; to the Committee on Military Affairs

By Mr. BUCHANAN: A bill (H. R. 27579) granting an increase of pension to Sarah J. Benton; to the Committee on Invalid Pensions

By Mr. BURNETT: A bill (H. R. 27580) granting an increase of pension to John Watts; to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 27581) for the relief of Peter A. Bratton; to the Committee on War Claims.
By Mr. COOPER: A bill (H. R. 27582) granting an increase of pension to Noah M. Diehl; to the Committee on Invalid Pensions

By Mr. COPLEY: A bill (H. R. 27583) granting an increase of pension to Benjamin S. Van Doozer; to the Committee on Invalid Pensions

Also, a bill (H. R. 27584) granting an increase of pension to

William Garvean; to the Committee on Pensions.

By Mr. CRUMPACKER: A bill (H. R. 27585) granting an increase of pension to Catherine Hayden; to the Committee on Invalid Pensions.

By Mr. CULLOP: A bill (H. R. 27586) for the relief of John H. Bray; to the Committee on War Claims.

Also, a bill (H. R. 27587) granting an increase of pension to Carrie Coleman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27588) granting an increase of pension to

Also, a bill (H. R. 27989) granting all increase of pension to Clayton Clements; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27589) granting an increase of pension to Lewis Pugh; to the Committee on Invalid Pensions.

By Mr. DAUGHERTY: A bill (H. R. 27590) granting a pension of the Committee on Pensions.

sion to Alpheus R. Bascom; to the Committee on Pensions.
Also, a bill (H. R. 27591) granting an increase of pension to

Mary Heffleman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27592) granting an increase of pension to John P. Walker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27593) granting an increase of pension to Lutisha A. Carpenter; to the Committee on Invalid Pensions.

By Mr. DICKINSON: A bill (H. R. 27594) granting an in-

crease of pension to Samuel J. Boyer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27595) granting an increase of pension to Taylor Hulin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27596) granting an increase of pension to George W. Wade; to the Committee on Invalid Pensions.

By Mr. FIELDS: A bill (H. R. 27597) granting a pension to Jane Burton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27598) granting a pension to Nannie Yocum; to the Committee on Invalid Pensions. Also, a bill (H. R. 27599) granting a pension to Alice M. Ham;

to the Committee on Invalid Pensions.

Also, a bill (H. R. 27600) granting an increase of pension to William L. Duncan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27601) granting an increase of pension to George W. Lawson; to the Committee on Invalid Pensions. Also, a bill (H. R. 27602) granting an increase of pension to

John Woods; to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 27603) granting an increase of pension to Nelson J. Weller; to the Committee on Invalid Pensions.

By Mr. HENSLEY: A bill (H. R. 27604) granting an increase of pension to Mary A. Stitzel; to the Committee on Invalid Pensions.

By Mr. HINDS: A bill (H. R. 27605) for the relief of Walter

Whitney; to the Committee on Military Affairs.

Also, a bill (H. R. 27606) to amend and correct the military record of Simon Scribner; to the Committee on Military Affairs.

By Mr. HOBSON: A bill (H. R. 27607) granting a pension to Sallie E. Cooper; to the Committee on Invalid Pensions.

By Mr. KINKAID of Nebraska: A bill (H, R. 27608) for the relief of William Keough; to the Committee on War Claims.

By Mr. KONOP: A bill (H. R. 27609) to remove the charge of desertion standing against John G. Day; to the Committee on Military Affairs.

By Mr. LANGLEY: A bill (H. R. 27610) granting a pension to Nancy J. Picklesimer; to the Committee on Invalid Pensions. Also, a bill (H. R. 27611) granting a pension to J. H. Malear; to the Committee on Pensions.

Also, a bill (H. R. 27612) granting an increase of pension to Henry Horn; to the Committee on Pensions.

Also, a bill (H. R. 27613) granting an increase of pension to Rebecca Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27614) granting an increase of pension to Clara A. Collins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27615) granting an increase of pension to Ed N. Wilson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27616) granting an increase of pension to Isaac Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27617) for the relief of the estate of David W. Allen; to the Committee on War Claims.

By Mr. LAWDENCE: A bill (H. R. 27610)

By Mr. LAWRENCE: A bill (H. R. 27618) granting a pension to Julia F. Roraback; to the Committee on Invalid Pensions.

By Mr. LINDBERGH: A bill (H. R. 27619) for the relief of

Andrews & Co.; to the Committee on Claims, Also, a bill (H. R. 27620) for the relief of Jacob Weyland; to the Committee on Claims.

Also, a bill (H. R. 27621) granting a pension to John Shir-

mer; to the Committee on Pensions. Also, a bill (H. R. 27622) granting a pension to George W.

Cole; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27623) to correct the military record of

Also, a bill (H. R. 27023) to correct the military record of John Brown; to the Committee on Military Affairs.

By Mr. LITTLEPAGE: A bill (H. R. 27024) for the relief of the legal representatives of Joseph and Newton Haynes, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27625) granting a pension to Margaret Jane Racer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27626) granting an increase of pension to Andrew J. Holdren; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27627) for the relief of the widow of

Nathan Reed, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27628) for the relief of the legal representa-

tives of Henry F. and Nancy W. Crotty, deceased; to the Committee on War Claims.

By Mr. LONGWORTH: A bill (H. R. 27629) for the relief of John Nicholson; to the Committee on Military Affairs

Also, a bill (H. R. 27630) for the relief of George W. Platt; to the Committee on Naval Affairs. Also, a bill (H. R. 27631) granting an increase of pension to

Eva Buhler; to the Committee on Invalid Pensions.

By Mr. McKINLEY: A bill (H. R. 27632) for the relief of Lloyd Rawlins; to the Committee on Military Affairs.

Also, a bill (H. R. 27633) granting a pension to Louisa Sny-

der: to the Committee on Invalid Pensions.

Also, a bill (H. R. 27634) granting a pension to Eva Murray; to the Committee on Invalid Pensions.

By Mr. MONDELL: A bill (H. R. 27635) for the relief of

John E. Keys; to the Committee on Claims.

By Mr. MORRISON: A bill (H. R. 27636) granting an in-

crease of pension to John Hull; to the Committee on Invalid

By Mr. MURDOCK: A bill (H. R. 27637) granting a pension

to Elsie M. Smith; to the Committee on Pensions.

By Mr. POWERS: A bill (H. R. 27638) granting a pension to Isom W. Foley; to the Committee on Pensions.

Also, a bill (H. R. 27639) for the relief of the heirs of George

Humphreys, deceased; to the Committee on War Claims.
Also, a bill (H. R. 27640) for the relief of the heirs of Elizabeth Wright, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27641) for the relief of the heirs of Parks D. Brittain, deceased; to the Committee on War Claims.
Also, a bill (H. R. 27642) for the relief of Dutton Davis, ad-

ministrator of the estate of John Davis, deceased; to the Committee on War Claims.

By Mr. PRINCE: A bill (H. R. 27643) granting an increase of pension to Mordecai F. Riley; to the Committee on Invalid

By Mr. RICHARDSON: A bill (H. R. 27644) granting a pension to Rella Potts; to the Committee on Pensions.

By Mr. ROBERTS of Nevada: A bill (H. R. 27645) for the relief of Fred E. Jackson; to the Committee on Claims.

By Mr. ROUSE: A bill (H. R. 27646) granting an increase of pension to Amelia E. Hatfield; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27647) for the relief of the estate of William Thomas Lowe; to the Committee on War Claims. By Mr. RUCKER of Missouri: A bill (H. R. 27648) granting

pension to Frances M. Rhodes; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 27649) granting a pension to Elizabeth Newman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27650) granting a pension to Sarah F. Morris; to the Committee on Invalid Pensions.

Also, a bill '(H. R. 27651) granting an increase of pension to Anita Stone; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27652) for the relief of the estate of George Patterson, deceased; to the Committee on War Claims.

By Mr. STERLING: A bill (H. R. 27653) granting an increase of pension to Daniel T. Foster; to the Committee on Invalid Pensions.

By Mr. WEEKS: A bill (H. R. 27654) granting a pension to Henry Hatch; to the Committee on Invalid Pensions,

Also, a bill (H. R. 27655) granting an increase of pension to Lewis G. Whiting; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27656) granting an increase of pension to

Leucrecia M. Hodge; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of J. D. Westhafer and 6 other merchants of Uhrichsville, Ohio, asking that Congress give the Interstate Commerce Commission more power toward regulating the express companies; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Select List of Ohio Daily Newspapers, protesting against the passage of the section of the postal appropriation act relative to the filing and publishing of circulation lists, of stockholders' indebtedness, etc.; to the Committee on the Post Office and Post Roads.

By Mr. AYRES: Petition of the North Side Board of Trade of New York and the general executive committee of the Railway Bureau Association, favoring the incorporation of the National Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the City Island Board of Trade, favoring legislation reducing the letter rate of postage to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of the Federation of Jewish Farmers of America, favoring legislation establishing a system of farmers' credit unions; to the Committee on Banking and Currency

Also, petition of the Association of National Advertising Managers, protesting against the passage of the Oldfield patent bill, preventing the fixing of prices on patent goods by the manufacturers; to the Committee on Patents.

By Mr. BARTHOLDT: Petition of the Merchants' Exchange of St. Louis, Mo., favoring the passage of House bill 3010, regulating the delivery of all telephone and telegraph messages; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Federation of Retail Merchants, Lexington, Mo., and the Association of National Advertising Managers of New York, protesting against the passage of the Oldfield patent bill, preventing the fixing of prices by the manu-

facturers of patent goods; to the Committee on Patents.

Also, petition of the Business Men's League of St. Louis, Mo.; the Campbell Glass Paint Co., St. Louis, Mo.; and the Mound City Paint & Color Co., St. Louis, Mo., favoring the passage of House bill 25106, providing for the incorporation of the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the National Indian Wars Association, of St. Louis, Mo.; the Army and Navy Union of the United States, St. Louis, Mo.; John H. Bromen, Jersey City, N. J.; John Kelber, St. Louis, Mo.; Thomas J. Allen, Ganter, Mo., and 5 citizens of St. Louis, Mo., favoring the passage of House bill 19800, granting pensions to the veterans of the Indian wars: to the Committee on Pensions.

By Mr. BUCHANAN: Petition of the Chicago Woman's Ald Society, favoring the reduction of tax on oleomargarine to not exceeding 2 cents per pound; to the Committee on Agriculture.

exceeding 2 cents per pound; to the Committee on Agriculture.

By Mr. COX of Indiana: Petition of citizens of New Albany.

Ind., favoring passage of bill giving Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. ESCH: Petition of the Chamber of Commerce of Milwaukee, Wis., favoring passage of legislation reducing the letter postage to 1 cent; to the Committee on the Post Office and Post Reads.

By Mr. ESTOPINAL: Petition of the Louisiana State Board of Health, favoring an appropriation for investigating and preventing pellagra; to the Committee on Appropriations.

Also, petition of the New Orleans Board of Trade, protesting against the passage of Senate bill 7208; to the Committee on

Interstaté and Foreign Commerce.

By Mr. FULLER: Petition of the Rock Island Club, the Rock Island Retail Merchants' Association, and the Fifty Thousand Club of Rock Island, Ill., favoring proposed appropriation for equipping one of the present buildings for the manufacture of field carriages for artillery, etc.; to the Committee on Military

Also, petition of J. F. Lambson, Lexington, Nebr., favoring the passage of House bill 1339, granting an increase of pension to veterans who lost a limb in the Civil War; to the Committee on Invalid Pensions.

By Mr. GARDNER of Massachusetts: Petition of the directors of the Springfield Board of Trade, favoring the passage of the bill providing for practical navigation of the Connecticut River from Long Island Sound to Holyoke; to the Committee on Rivers and Harbors.

Also, petition of the Federation of Jewish Farmers of America, favoring the passage of legislation creating a system of farmers' credit unions; to the Committee on Banking and

Also, petition of the general executive committee of the Railway Business Association, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the

By Mr. HARTMAN: Petition of Washington Camp, No. 79, Patriotic Order Sons of America, Hopewell, Pa., favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. HENSLEY: Petition of Minnie Steel, Woman's Christian Temperance Union, of Alliance, Mo., favoring the passage of the Kenyon-Sheppard interstate liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Ju-

By Mr. HINDS: Papers to accompany bill for the relief of

Walter Whitney; to the Committee on Military Affairs.

By Mr. LANGLEY: Petition of citizens of Pikeville, Ky.,
favoring the passage of the Kenyon-Sheppard liquor bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. LEVY: Petition of the Northwestern Mutual Life Insurance Co., of Milwaukee, Wis., and of Kirkland Bros. & Co., New York, favoring the passage of House bill 36, giving Federal protection to migratory birds; to the Committee on Agriculture.

Also, petition of the American Automobile Association of America, favoring the proposed road from Gettysburg to Washington in connection with the Lincoln Memorial; to the Committee on the Library.

Also, petition of the North Side Board of Trade, of New York City, favoring the relocation of the plerhead line in the Hudson River between Pier 1 and West Thirtieth Street; to the Committee on Interstate and Foreign Commerce

Also, petition of the American Academy of Political and Social Science and the Columbia University, of the city of New York, favoring appropriation for holding of the second Pan American Scientific Congress at Washington; to the Committee on Appropriations.

Also, petition of Pine Bluff Lodge, No. 305, Brotherhood of Railroad Trainmen, protesting against the passage of the proposed employees' compensation act; to the Committee on the Judiciary.

By Mr. LINDSAY: Petition of Henry L. Harris and Jacob Sands, of Kirksville, Mo., favoring the passage of House bill 1339, granting fensions to limbless veterans of the Civil War; to the Committee on Invalid Pensions.

By Mr. MOORE of Pennsylvania: Petition of the Philadelphia Board of Trade, reaffirming its belief in a permanent tariff commission; to the Committee on Ways and Means.

Also, petition of the Philadelphia Board of Trade, favoring the passage of legislation for the restoration of the American merchant marine; to the Committee on the Merchant Marine and Fisheries.

Also, petition of the board of directors of the Philadelphia Maritime Exchange, favoring the passage of Senate bill 7503, for the reduction of letter postage to 1 cent; to the Committee on the Post Office and Post Roads.

By Mr. PEPPER: Petition of Hubert J. Bryce and 50 other citizens of Canton, Iowa, favoring the passage of the KenyonSheppard liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. POWERS: Papers to accompany bill for the relief of the heirs of Parks D. Brittain; to the Committee on War Claims

By Mr. WEEKS: Petitions of H. A. Wilder and John F. Brant, of Newborn, Mass., and the class of sociology of Boston University, Boston, Mass., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary

Also, petitions of citizens and clubs of Newton, Mass., and the class of sociology of Boston University, Boston, Mass., favoring the passage of the Kenyon bill to clean up Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. WICKERSHAM: Petition of Indians and other resident fishermen in Alaska, praying for legislation by Congress to prevent setting fish traps in tidal waters of Alaska; to the Committee on the Territories.

By Mr. WILLIS: Papers to accompany bill (H. R. 27526) granting a pension to Emma B. Showalter; to the Committee on

Invalid Pensions.

By Mr. WILSON of New York: Petition of the Central Federated Union of Greater New York and Vicinity, protesting against the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Brooklyn League, favoring the passage of the bill for the relocation of the pierhead line in the Hudson River between Pier 1 and West Thirtieth Street; to the Committee on Interstate and Foreign Commerce.

Also, petition of William Knappman & Co., Brooklyn, N. Y., protesting against the reduction of the present tariff on whiting and Paris white; to the Committee on Ways and Means.

Also, petition of the general executive committee of the Railway Business Association, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judi-

Also, petition of the Busburck Avenue Methodist Episcopal Sunday school, Brooklyn, N. Y., favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the manufacturers and journey men and women of the gold-leaf industry, asking that the tariff on gold leaf in paragraph 177, Payne tariff, be made to read 50 cents in place of 35 cents, etc.; to the Committee on Ways and Means.

Also, petition of the Federation of Jewish Farmers of America, favoring the passage of legislation establishing a system of farmers' credit unions; to the Committee on Banking and Currency.

SENATE.

Saturday, January 4, 1913.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D. WILLIAM P. DILLINGHAM, a Senator from the State of Vermont, appeared in his seat to-day.

The Journal of yesterday's proceedings was read and approved.

RESIGNATION OF SENATOR J. W. BAILEY.

The PRESIDENT pro tempore (Mr. Gallinger). The Chair lays before the Senate a communication, which will be read. The Secretary read as follows:

UNITED STATES SENATE, Washington, D. C., January 3, 1913.

Hon. J. H. Gallinger,
President of the United States Senate pro tempore.

DEAR SIR: I hereby tender my resignation as a Senator from the State of Texas.

J. W. BAILEY.

The PRESIDENT pro tempore. If there is no objection the communication will lie on the table.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate communications from the Secretary of State, transmitting, pursuant to law, authentic copies of the certificates of ascertainment of electors for President and Vice President appointed in the States of Michigan, Utah, and Texas at the elections held in those States November 5, 1912, which were ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, transmitted to the Senate resolutions on the death of Hon. JEFF DAVIS, late a Senator from the State of Arkansas.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were there-

upon signed by the President pro tempore:

H. R. 10169. An act to provide for the holding of the district court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge; and

H. R. 10648. An act amending an act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with the

Indian tribes and to protect the same.

PETITIONS AND MEMORIALS.

Mr. CRAWFORD presented a petition of sundry citizens of Mitchell and Hitchcock, in the State of South Dakota, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. NELSON presented resolutions, adopted by the State Forestry Board of Minnesota, remonstrating against the enactment of legislation transferring the control of the national forests to individual States, which were referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a memorial of the Godahl Creamery Association, of St. James, Minn., remonstrating against the passage of the so-called Lever oleomargarine bill, which was referred

to the Committee on Agriculture and Forestry

He also presented a petition of members of the Monday Afternoon Club, of Willmar, Minn., praying for the enactment of legislation for the protection of migratory birds, which was ordered to lie on the table.

Mr. BRISTOW presented petitions of sundry citizens of Mc-Pherson and Belleville, in the State of Kansas, praying for the enactment of legislation to prohibit the interstate transportation of race-gambling bets, etc., which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of McPherson and Belleville, in the State of Kansas, praying for the enactment of legislation to prohibit the nullification of State anticigarette laws through "original packages" shipped in from other States, which were referred to the Committee on the Judiciary

He also presented petitions of sundry citizens of McPherson and Belleville, in the State of Kansas, praying for the passage of the so-called Kenyon red-light injunction bill, which were re-

ferred to the Committee on the District of Columbia. He also presented petitions of sundry citizens of the fifth congressional district of Kansas and of Rawlings County, Kans., praying that an investigation be made into the methods used in the prosecution of the Appeal to Reason, a socialist newspaper published at Girard, Kans., which were referred to the

Committee on the Judiciary.

He also presented petitions of sundry citizens of McPherson, Belleville, McLouth, and Bonner Springs, and of the congregations of the Methodist Episcopal Church of Spearville, the Methodist Episcopal Church of Beloit, and of the Church of the Brethren, Southeast District, all in the State of Kansas, praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were ordered to lie on the table.

Mr. JOHNSON of Maine presented petitions of sundry citizens of Vassalboro, Kittery, Nobleboro, South Paris, and Norway, and of the Woman's Christian Temperance Union of Nobleboro, all in the State of Maine, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were or-

dered to lie on the table.

He also presented a memorial of sundry citizens of Whitefield, Me., and a memorial of sundry citizens of Rockland, Me., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on

Mr. BROWN presented a petition of members of the Inter-denominational Men's League of Hastings, Nebr., and a petition of the congregations of sundry churches of Hastings, Nebr., praying for the passage of the so-called Kenyon-Sheppard in-

terstate liquor bill, which were ordered to lie on the table.

He also presented sundry papers to accompany the bill (S. 45) granting an increase of pension to Michael Liebhart, which were referred to the Committee on Pensions.

He also presented sundry papers to accompany the bill (S. 7595) granting an increase of pension to Nelson Taylor,

which were referred to the Committee on Pensions.

He also presented sundry papers to accompany the bill (S. 7597) granting a pension to Charles F. Lane, which were referred to the Committee on Pensions,

Mr. SHIVELY presented a petition of sundry citizens of New Albany, Ind., praying for the enactment of legislation to protect migratory game and insectivorous birds in the United States, which was ordered to lie on the table.

Mr. WORKS presented a memorial of members of the Wednesday Afternoon Club, of Alhambra, Cal., remonstrating against the enactment of legislation proposing to change the present national system of protecting the forests of the country, which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a resolution adopted by the Chamber of Commerce of Los Angeles, Cal., praying for the establishment of a quarantine station on Deadmans Island, Los Angeles Harbor,

which was referred to the Committee on Commerce.

Mr. GALLINGER presented the petition of Rev. Edward A. Tuck, of West Concord, N. H., and a petition of the superintendent and employees of the Sears-Roebuck Shoe Factories, of Littleton, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a petition of sundry inmates of the Pacific Branch of the Soldiers' Homes, in the State of California, praying for the adoption of certain reforms and improvements at the soldiers' home at Santa Monica, Cal., which was referred to the Committee on Military Affairs.

PANAMA-PACIFIC INTERNATIONAL EXPOSITION.

Mr. WORKS. I present a number of petitions for reference, one being a letter from Hon. W. W. Morrow, judge of the United States circuit court, with reference to the participation of the United States in the Panama-Pacific International Exposition to be held in San Francisco in 1915. I ask that the letter be printed in the RECORD and referred to the Committee on Industrial Expositions.

There being no objection, the letter was referred to the Committee on Industrial Expositions and ordered to be printed in

the RECORD, as follows:

WASHINGTON, D. C., December 27, 1912.

Hon. John D. Works, United States Senator, Washington, D. C.

Hon. John D. Works,

United States Senator, Washington, D. C., December 27, 1912.

Hon. John D. Works,

United States Senator, Washington, D. C.

My Dear Senators: Senate bill 7826, introduced by Senator Perkins on December 19, 1912, provides very appropriately for the participation of the United States in the Panama-Pacific International Exposition, to be held in San Francisco in 1915. The participation is declared to be for the exhibition of "such articles and materials as illustrate the function and administrative faculty of the Government of the United States, tending to demonstrate the nature and growth of our institutions, their adaptation to the wants of the people, and the progress of the Nation in the arts of peace and war." For the purpose of providing for the collection and exhibition of such articles and materials a board is to be created, "to be known as the Government exhibit board, to be composed of one person to be named by the head of each executive department and one each by the Regents of the Smithsonian Institution, the Ishmian Canal Commission, the Commissioners of the District on the Civil Service Commission, the Commissioners of the District on the Civil Service Commission, the Commissioners of the District on the Civil Service Commission, the Commissioners of the District of Printer, the governor of Alaska, and the Geographic Board."

I beg leave to suggest that the American National Red Cross be added to this list. This society, as you know, occupies a very prominent and important position in this country and in the web-d at large in the care of the sick and wounded in time of war and in mitigating the sufferings caused by pestilence, famine, fire, floods, and other great natural calamities in times of peace. It therefore illustrates in its work and in the methods it employs the progress the people have made in the disasters caused by great calamities.

The American National Red Cross as new organized was incorporated the progress that provide the mitigating the evils inseparable from w

wounded of armies in time of war, as, for example, in the Russian-Japanese war and in the present war between the Balkan States and Turkey. In this relief work it has expended over \$6,000,000 since 1905. I mention these features of the work and organization of the American National Red Cross to show that it is practically a Government organization, whose work and methods of procedure bring it peculiarly within the terms of the bill providing for a participation of the United States in the Panama-Pacific International Exposition in San Francisco in 1915.

in the Panama-Pacific International Exposition in San Francisco in 1915.

The society is not only national but international, and in both form of activities it is proposed to hold national and international sessions in San Francisco in 1915 for the purpose of illustrating its work in both peace and war, and it is also proposed to make an exhibition of articles and materials illustrating the scope and character of such relief work.

In this connection, San Francisco itself will be an exhibit of the value of Red Cross relief in promoting its recovery from the direful effects of the earthquake and fire of 1906. In other words, the Red Cross, both national and international, will be an instructive feature of the exhibition, showing the function and administrative faculty of the people of the United States in mitigating the evils of war and affording relief to sufferers in times of great calamities.

I therefore respectfully suggest that a representative of the American National Red Cross be placed on the board provided in Senate bill 7826, and that the bill should be so amended in committee.

I inclose for your information copies of the following:

1. The American National Red Cross—Charter and by-laws.

2. The American National Red Cross—Origin, purpose, organization.

3. Conservation. The principle of the Red Cross. An address by Miss Mabel Boardman.

Very respectfully,

Very respectfully, War THE AMERICAN NATIONAL RED CROSS. WM. W. MORROW.

ORIGIN.

The International Conference of Geneva, held in 1863, recommended "that there exist in every country a committee whose mission consists in cooperating in times of war with the hospital service of the armies by all means in its power."

The Geneva Convention of 1864 and the Geneva Convention of 1906, the Inter held for the revision of the treaty of Geneva—sometimes called the "Red Cross Treaty"—give definite status to the officially recognized volunteer aid societies. These volunteer aid societies, because of the character of the insignia or badge adopted to distinguish their personnel and matériel—a Greek red cross on a white ground—are universally known as "Red Cross Societies."

PURPOSES.

The original purpose for the organization of Red Cross Societies, as will be inferred from the above, was to supplement the medical services of armies in time of war.

The great need, however, of a thoroughly trained and efficient organization, national in scope and permanent in character, to render assistance after great disasters, has been so well established that many of the Red Cross Societies have extended their functions to include rellef operations in time of peace. Indeed, it has been proved that those societies which are most active in conducting relief and preventive measures in time of peace are best prepared to cope with the extraordinary requirements of war.

Recognizing this fact, the United States Congress, by the act approved January 5, 1905, to incorporate the American Red Cross and place it under Government supervision, declared its purposes—in addition to its duties in time of war—to be: "To continue and carry on a system of national and international relief in time of peace and apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other great national calamities, and to devise and carry on measures for preventing the same."

ORGANIZATION.

ORGANIZATION.

ORGANIZATION.

The American National Red Cross is incorporated by act of the United States Congress. Its officers are a president, vice president, secretary, counselor, treasurer, and national director. Section 5 of the act of incorporation provides that "the governing body of the said American Red Cross shall consist, in the first instance, of a central committee numbering 18 persons." The law also provides that the chairman and five members of the central committee shall be appointed annually by the President of the United States, the five members appointed by the President to represent the Departments of State, War, Navy, Treasury, and Justice. Twelve members are elected at the regular annual meeting of the society.

The central committee is empowered by law to elect from its own members an executive committee of seven, to which is given all powers of the central committee when the latter is not in session.

The by-laws provide for three relief boards, namely, the war relief board, the national relief board, and the international relief board. To each of these boards have been assigned special duties in connection with its particular department of relief operations.

The first-aid department and the nursing service are under the direction of two subcommittees appointed by the war relief board. The first-aid committee is engaged in promoting first-aid instruction among the employees of mining companies, railroads, industrial establishments, and the public at large, and the committee on nursing service is engaged in the organization of a large corps of the best trained nurses of the country for service under the Red Cross in time of war or disaster.

State and local organizations: State boards, consisting of from 3

State and local organizations: State boards, consisting of from 3 to 10 persons, appointed by the chairman of the central committee, constitute a permanent emergency committee in every State. The governor of the State is the president of the board.

Besides these State boards there are local organizations in upward of 100 cities. These local bodies are known as chapters. Each has its own officers and members. These chapters are of service in the collection of funds and supplies for relief when a call is made upon them by the central committee. When a disaster occurs in the territory of a chapter, the chapter, together with the institutional member, if there be one within its jurisdiction, enters immediately upon measures of relief.

Institutional members: It has been regarded by the central committee

of relief.

Institutional members: It has been regarded by the central committee as desirable to bring to the command of the Red Cross for emergency work following great calamities trained service such as is to be found only in the ranks of well-organized charitable societies in the larger cities of the United States. To meet this need there has been created an "institutional membership" in which there have been enrolled a number of the most efficient charitable societies of the United States.

The national director: The national director is the official representative of the central committee and national relief board, and upon

his arrival at the scene of a disaster where Red Cross assistance is rerequired takes charge of the relief operations.

The endowment fund: The endowment fund is managed and controlled by a board of nine trustees.

Reports: The Red Cross is required by law to make an annual report of its proceedings to the Secretary of War. This report is transmitted by the Secretary of War to Congress, where it is printed as a public document.

Audit of accounts: The law requires that the accounts of the American Red Cross be audited annually by the War Department. This is the best possible assurance that the funds intrusted to the society for expenditure will be properly and accurately accounted for.

The American Red Cross bulletin: The Red Cross publishes a quarterly magazine devoted to the interests of the society and contains illustrated articles relating to relief operations in the United States and foreign countries.

Magnitude of the work of the American Red Cross: Since the reincorporation of the society in 1905, the Red Cross has rendered relief after more than 40 disasters caused by earthquakes, volcanic eruptions, fires, floods, famines, mine explosions, and wars in this and foreign countries. The funds received by the American Red Cross and expended in relief since January, 1905, exceed \$5,000,000.

General membership: Any citizen of the United States is eligible for enrollment as a member of the Red Cross. There are three classes of membership—life membership, sustaining membership, and annual membership. The dues for life membership and for annual membership, \$1, payable annually; and for annual membership, \$1, payable annually: Applications for enrollment should be addressed to the secretary of the American Red Cross, Washington, D. C., or to the secretary of a local chapter. All members receive the quarterly bulletin during the period of their membership.

October 1, 1911.

RIGHT OF APPEAL FROM DEPARTMENTAL DECISIONS.

Mr. JONES. I have a copy of a resolution adopted by the American Mining Congress at its fifteenth annual session held at Spokane, Wash., November 25 to 29, 1912, favoring legislation conferring jurisdiction upon the proper United States district courts to entertain suits at the instance of any person in interest, and so forth, in all cases involving the claim or right and possession, occupation, title, or right to acquire title to any nonmineral or mineral lands under the mining or other publicland laws. I ask that the resolution be printed in the RECORD without reading, and that it be referred to the Committee on Public Lands.

There being no objection, the resolution was referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

Resolution adopted by the American Mining Congress at its fifteenth annual session held at Spokane, Wash., November 25 to 29, 1912. Whereas the Executive Department of the United States Government has from time to time withdrawn from entry a very considerable portion of the remaining public domain for purposes of permanent reservation or classification with a view of securing legislation from Congress, including forest, mineral and agricultural lands; and Whereas these withdrawals are avowedly made upon Executive and departmental conviction that the existing laws of Congress in relation to the disposition of public lands are unwise, and that new laws meeting Executive or departmental approval should be passed; and Whereas thousands of citizens have initiated or perfected claims to title to such withdrawn lands prior to the Executive withdrawal thereof, and have initiated or perfected states to the configuration of the configuration of the executive withdrawal thereof, and have initiated or perfected states to the configuration of the executive withdrawal thereof, and have initiated or perfected states to title under existing laws; and

laws; and
Whereas such existing claims so perfected or made prior to the various
withdrawals are adverse and antagonistic to Executive and departmental belief as to the best use to which such lands should be put;

whereas the laws and Executive orders of withdrawal provide that upon the departmental rejection or cancellation of any such existing private claims the lands thereby, by reason of such rejection, become subject to and available for the uses and purposes of such Executive or departmental withdrawals; and Whereas great controversy, complaint, and departmental litigation has resulted by reason of the departmental investigation, adjudication, and cancellation of such private entries and claims; or in delay in final action and because of long-continued suspension of such claims; and

and
Whereas there is widespread conviction among such private claimants
and entrymen that the executive department, in adjudicating the
rights of claimants, have not in all instances been successful in
ignoring the departmental policy and belief that present legislation is
unwise and rights granted thereunder are improvident and inimical
to the uses to which the department believes the land can best be

unwise and rights granted thereunder are improvident and inimical to the uses to which the department believes the land can best be put; and
Whereas it is a fundamental proposition in law and natural equity that no person, officer, or judge should have an interest or bias which could be aided or gratified by a decision rendered by himself in determining the liberty or property rights of another; and
Whereas the present Commissioner of the General Land Office, in considering his general jurisdiction in adjudicating questions affecting the right of persons generally to acquire title to public lands, stated, on page 20 of his annual report for the fiscal year ending June 30, 1911:
"It is impossible for the commissioner and his assistant to pay the judicial attention to these cases which they should receive. The bar practicing before this office has very little opportunity to submit its cases directly to those who are by law responsible for the decisions, because of the multitudinous duties placed on these officers. The head of the office can not find time to give individual attention to many of the most important cases which are submitted for his consideration"; and
Whereas it escretary of the Interior has numerous bureaus and manifold duties requiring his attention; and in his report to Congress under date of February 13, 1912, on H. R. 18235, in speaking of the single subject of appeals to him from the decisions of the Commissioner of the General Land Office, said: "During the past two months, as an example, an average of over 300 cases per month have been decided in the department on appeal from the General Land Office." Which statement demonstrates the physical impossibility of

the Secretary or his assistant secretary giving personal attention to the real merits of individual cases; and
Whereas the investigating agents and many of the witnesses used by the Secretary of the Interior in the preparation of adverse reports and the introduction and giving of evidence upon which the department must rely in canceling existing private entries are his own appointees and employees in whom he necessarily must place great faith and reliance, while the witnesses for the private entrymen and claimants are either unknown to him or by reason of their residence in the vicinity of the public lands frequently are themselves claimants to like lands; and
Whereas final decision by the General Land Office or the Interior Department is rendered at Washington, several thousand miles from the land and residence of the claimants; and
Whereas under existing law the decision of the Interior Department canceling an entry or claim upon questions of fact is final and can not be reviewed by the courts; and
Whereas we believe that in all cases wherein the Executive Department has withdrawn lands for a use or purpose adverse or inconsistent with the existing private eatry of a citizen, it is fair and just that such citizen may have his rights and the facts in the case determined in the courts and not in the Executive Department; and also that such citizen may secure action in the courts whenever his application is for any reason so delayed in the department; and also that such citizen may secure action in the courts whenever his application is for any reason so delayed in the department; as to amount to a practical rejection thereof: And therefore be it

*Resolved**, That the American Mining Congress favors legislation conferring jurisdiction upon the proper United States district courts to entertain suits at the instance of any person in interest, and determine the law and fact de novo, and render final decision in all cases involving the claim or right to possession, occupation, title, or right to acquire title to an

REPORTS OF COMMITTEES.

Mr. CLAPP, from the Committee on Interstate Commerce, to which was referred the bill (H. R. 16450) to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same, asked to be discharged from its further consideration and that it be referred to the Committee on the Judiciary, which was agreed to.

Mr. GALLINGER, from the Committee on the District of Columbia, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 7508. A bill to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia (Rept. No.

1081); and H. R. 22010. An act to amend the license law, approved July 1, 1902, with respect to licenses of drivers of passenger vehicles

for hire (Rept. No. 1082).

Mr. GALLINGER, from the Committee on the District of Columbia, to which was referred the bill (H. R. 8619) to amend "An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes, approved May 7, 1906, reported it with an amendment and submitted a report (No. 1083) thereon.

He also, from the same committee, to which was referred the bill (S. 1787) to amend "An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes," approved May 7, 1906, submitted an adverse report (No. 1084) thereon, which was agreed to, and the bill was postponed indefinitely.

Mr. JONES, from the Committee on the District of Columbia, to which was referred the bill (S. 6919) to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia, reported it with amendments and submitted a report (No. 1085) thereon.

Mr. WORKS, from the Committee on the District of Columbia, to which was referred the bill (8, 7509) to authorize the extension of Twenty-fifth Street SE, and of White Place, reported it without amendment and submitted a report (No. 1086) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. NELSON:

A bill (S. 7917) granting an increase of pension to Jerome S.

Pinney; and A bill (8, 7918) granting an increase of pension to Mary J. Richardson (with accompanying paper); to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 7919) for the relief of Gabriel Campbell (with accompanying papers); to the Committee on Military Affairs.

By Mr. WORKS:

A bill (S. 7920) for the relief of W. T. Rice (with accompany-

ing paper); to the Committee on Claims.

A bill (S. 7921) granting an increase of pension to James Tiernan (with accompanying papers); to the Committee on Pensions.

By Mr. BRISTOW:

A bill (S. 7922) granting a pension to Caroline J. McBratney with accompanying papers); to the Committee on Pensions. By Mr. SMITH of Maryland;

A bill (S. 7923) for the relief of the heirs of Ann Gregory, deceased; to the Committee on Claims.

A bill (S. 7924) granting a pension to Golda M. Morrison (with accompanying paper); to the Committee on Pensions. By Mr. MYERS:

A bill (S. 7925) to increase the limit of cost of the United States public building at Miles City, Mont.; to the Committee on Public Buildings and Grounds.

A bill (S. 7926) giving the right to an additional homestead to all persons who have exhausted or who shall exhaust their original right of entry through the purchase of Indian lands; to the Committee on Public Lands.

By Mr. SHIVELY:

A bill (S. 7927) to place on the retired list of the Army the names of the surviving officers who were mustered out under the provisions of the act of Congress approved July 15, 1870; to the Committee on Military Affairs.

A bill (S. 7928) for the relief of Leonidas Stout (with ac-

companying papers); to the Committee on Claims.

A bill (S. 7929) granting pensions to volunteer Army nurses of the Civil War; to the Committee on Pensions. By Mr. FLETCHER:

A bill (8, 7930) granting an increase of pension to Frederick. Douglass (with accompanying papers); to the Committee on Pensions

By Mr. REED:

By Mr. RELD;
(By request.) A bill (S. 7931) to remove the charge of desertion from the military record of Thomas W. Hopkins and extend to him pensionable rights (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 7932) granting an increase of pension to Luke

Cassidy (with accompanying papers);
A bill (S. 7933) granting an increase of pension to Lewis F. Branson (with accompanying papers); A bill (S. 7934) granting an increase of pension to Amanda

E. Glenn (with accompanying papers); and

A bill (S. 7935) granting an increase of pension to Solomon Kessinger (with accompanying papers); to the Committee on Pensions.

By Mr. KERN: A bill (S. 7936) for the relief of William M. Burns; to the Committee on Military Affairs.

A bill (S. 7937) granting an increase of pension to James F.

McGrew (with accompanying papers);
A bill (S. 7938) granting an increase of pension to John W.

Wareham (with accompanying papers);
A bill (S. 7939) granting an increase of pension to William Woodford Mitchell (with accompanying papers);

A bill (S. 7940) granting an increase of pension to Alfred H. Fodrea (with accompanying papers);

A bill (S. 7941) granting an increase of pension to Frances F. Godown (with accompanying papers);

A bill (S. 7942) granting an increase of pension to Aaron Stauter (with accompanying papers); and

A bill (S. 7943) granting an increase of pension to Hiram Brubaker (with accompanying papers); to the Committee on Pensions.

By Mr. BOURNE:

A bill (S. 7944) to protect the water supply of the city of Portland, Oreg.; and

A bill (S. 7945) to create the Oregon Caves National Park in the State of Oregon; to the Committee on Public Lands.

By Mr. BURTON: A bill (S. 7946) granting an increase of pension to Mary McClure; to the Committee on Pensions.

By Mr. JONES:

A bill (S. 7947) granting a pension to James B. Gillick;

A bill (S. 7948) granting an increase of pension to David E. Wood; and

A bill (S. 7949) granting an increase of pension to John C. Vennum; to the Committee on Pensions.

By Mr. CULBERSON:

A bill (S. 7950) granting a pension to Sara S. Dowdy; to the Committee on Pensions.

By Mr. DIXON:

A bill (S. 7951) to provide for the construction of an addition to the Federal building at Missoula, Mont.; to the Committee on Public Buildings and Grounds.

A bill (S. 7952) granting an increase of pension to Henry C. Hollenbeck; to the Committee on Pensions.

By Mr. BROWN:

bill (S. 7953) granting an increase of pension to Peter

Binkley (with accompanying papers); and A bill (S. 7954) granting a pension to Ida M. Smith; to the Committee on Pensions.

By Mr. TOWNSEND:

A bill (S. 7955) granting a pension to John Partello (with accompanying papers); to the Committee on Pensions. By Mr. JOHNSON of Maine:

A bill (S. 7956) granting an increase of pension to John R. Mayhew:

A bill (S. 7957) granting a pension to Walter W. Dow; and A bill (S. 7958) granting a pension to Benjamin Wentworth (with accompanying papers); to the Committee on Pensions.

By Mr. JOHNSON of Maine (for Mr. GARDNER);

A bill (S. 7959) to correct the military record of Charles K.

Bolster; and
A bill (S. 7960) to correct the military record of William Bartlett; to the Committee on Military Affairs.

By Mr. STONE: A bill (S. 7961) for the relief of the estate of George Patterson, deceased (with accompanying papers); to the Committee on Claims.

A bill (S. 7962) granting an increase of pension to Edmond Melton (with accompanying papers);

A bill (S. 7963) granting an increase of pension to Eli W.

Pierce (with accompanying papers);

A bill (S. 7964) granting an increase of pension to John Painter (with accompanying papers); and

A bill (8, 7965) granting an increase of pension to Lefford Matthews (with accompanying papers); to the Committee on Pensions.

By Mr. CRAWFORD:

A bill (S. 7966) providing for the disposal of certain lands containing coal and other minerals within portions of Indian reservations heretofore opened to settlement and entry in the State of South Dakota; and

A bill (S. 7967) providing for the disposal of certain lands containing coal and other minerals within portions of Indian reservations heretofore opened to settlement and entry; to the Committee on Public Lands.

AMENDMENT TO APPROPRIATION BILLS.

Mr. PERKINS submitted an amendment proposing to appropriate \$40,000 for special mail facilities from the United States naval station at Pago Pago, Island of Tutuila, via Honolulu and San Francisco, etc., intended to be proposed by him to the Post Office appropriation bill, which was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

Mr. CRAWFORD submitted an amendment proposing to ap propriate \$2,000 for the salary of the surveyor general of South Dakota, etc., intended to be proposed by him to the legislative appropriation bill, which was referred to the Committee on

Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate \$6,200 for the maintenance of the assay office at Deadwood, S. Dak., intended to be proposed by him to the legislative appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

COOPERATIVE DAIRYING IN DENMARK (S. DOC. NO. 992).

Mr. FLETCHER. Mr. President, I ask unanimous consent to have printed as a document a lecture delivered by Hon. Maurice F. Egan, American minister to Denmark, on the subject of cooperative dairying as practiced in that country. It contains some very valuable data of interest to our agricultural people.

Mr. SMOOT. I should like to ask the Senator where the lecture was delivered. It is not a report as minister, but, as I understand, a lecture delivered somewhere in the United States,

Mr. FLETCHER. Mr. Egan came at the invitation of the Southern Commercial Congress to address its meeting held in Nashville, Tenn., last April, and while he was here he delivered this lecture in a number of States on the subject of cooperative dairying as practiced in Denmark. I think it is a very valuable

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Florida? The Chair hears none, and

the order is entered.

ADDRESS BY NICHOLAS MURRAY BUTLER (S. DOC. NO. 993).

Mr. CLARK of Wyoming. I have a copy of an address before the Commercial Club, Chicago, Ill., December 14, 1912, by Nicholas Murray Butler. It is a very important paper. I ask that it be printed as a Senate document.

The PRESIDENT pro tempore. Without objection, it is so

ordered.

FAMILY BEREAVEMENT.

Mr. KERN. I desire to announce the unavoidable absence of the junior Senator from South Carolina [Mr. SMITH], who was called home last week on account of the sudden death of one of his children.

INAUGURATION OF THE PRESIDENT ELECT.

The PRESIDENT pro tempore. Under the concurrent resolution of the Senate of December 9, 1912, providing for the appointment of a joint committee to make necessary arrangements for the inauguration of the President elect of the United States on the 4th day of March next, the House having appointed a committee on behalf of that body, the Chair will name the Senator from Massachusetts [Mr. Crane], the Senator from Georgia [Mr. Bacon], and the Senator from North Carolina [Mr. Over-MAN] members of the joint committee on the part of the Senate.

ISTHMIAN CANAL COMMISSION (H. DOC. 1216).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Senate and House of Representatives:

In accordance with the requirements of section 10 of the act approved August 24, 1912, I transmit herewith a letter addressed to me by the Secretary of War, dated December 23, 1912, submitting a letter from the chairman of the Isthmian Canal Commission, dated December 13, 1912, and accompanying statement of all expenses incurred by officers and employees of the Isthmian Canal Commission in attending meetings and conventions from June 30 to December 1, 1912.

THE WHITE HOUSE, January 3, 1913.

ANNUAL REPORT OF CIVIL SERVICE COMMISSION (H. DOC. NO. 963).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read and referred to the Committee on Civil Service and Retrenchment and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith, for the consideration of the Congress, the Twenty-ninth Annual Report of the United States Civil Service Commission for the fiscal year ended June 30, 1912.

WM. H. TAFT.

THE WHITE HUOSE, January 3, 1913.

[Note.—Report accompanied similar message to the House of Representatives.]

OMNIBUS CLAIMS BILL.

Mr. CULLOM. I submit a proposed amendment to the omnibus claims bill and ask that it be accepted by the chairman. It is a longevity claim that I present.

Mr. CRAWFORD. It is in the form of an amendment?

Mr. CULLOM. An amendment offered,

Mr. CRAWFORD. Very well. When we take up the bill it can be considered.

The PRESIDING OFFICER (Mr. McCumber in the chair). The Chair will state that, as we are now under morning business, the proposed amendment will lie upon the table until the morning business is concluded and the claims bill is regularly before the Senate.

Mr. GALLINGER submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered

to lie on the table and be printed.

INVESTIGATION OF CAMPAIGN CONTRIBUTIONS.

Mr. CLAPP. I offer the following resolution and ask unanimous consent for its present consideration.

The PRESIDING OFFICER. The resolution will be read. The resolution (S. Res. 418) was read, as follows:

Resolved, That Senate resolution 79, agreed to August 26, 1912, be, and the same is hereby, amended by inserting, in line 2, page 2, of said resolution, after the word "eight," the words "November 5, 1912."

The PRESIDING OFFICER. The Senator from Minnesota asks unanimous consent for the present consideration of the resolution. Is there objection?

Mr. GALLINGER. I will ask what is the purpose of the

Mr. CLAPP. I was going to state it as soon as I had an opportunity. It is to amend the resolution which provided for the creation of a special committee of the Committee on Privileges and Elections to investigate the matter of campaign contributions. The original resolution authorized the committee to take up the question of contributions in the campaigns of Subsequently it was amended to include the 1904 and 1908. primary or preliminary campaigns of 1912, but it does not cover the presidential campaign of 1912. I think, for the purpose of comparison in the report the committee will probably make, they should have the statements of 1912. I wish to be frank about it. I expect possibly that we will take some testimony with reference to the campaign of 1912.

Mr. OLIVER. Mr. President—
The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Pennsylvania?

Mr. CLAPP. With pleasure.
Mr. OLIVER. Do I understand the Senator from Minnesota to offer this as coming from the committee?

No, sir; I offer it as coming from myself. The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. POMERENE. I ask to have the resolution read.

The PRESIDING OFFICER. Does the Senator from Ohio ask that the original resolution may be read, or the resolution now proposed?

Mr. POMERENE. The amendment proposed.
The PRESIDING OFFICER. The Secretary will again read the resolution.

The Secretary again read the resolution.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. OLIVER. I think it had better go over. I object.

The PRESIDING OFFICER. The Senator from Pennsylvania objects.

Mr. CLAPP. Then I move that, notwithstanding the objection, the Senate shall proceed to the consideration of the resolu-

Mr. GALLINGER. That can not be done under the rule, Mr. President.

The PRESIDING OFFICER. The Chair would inform the Senator from Minnesota that under the rule, when an objection is made, a resolution just offered must go over.

Mr. CLAPP. I understand the rule. I made the motion;

The PRESIDING OFFICER. The resolution will go over.

COMMITTEE SERVICE.

Mr. GALLINGER. I submit a resolution and call the attention of the senior Senator from Virginia [Mr. MARTIN] to it. I ask unanimous consent for the present consideration of the resolution.

There being no objection, the resolution was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That Mr. Jackson be assigned to service on and to the chairmanship of the Committee on Expenditures in the Department of State, and to service on the Committees on Manufactures, Mines and Mining, the Philippines, Public Buildings and Grounds, and Public

Mr. MARTIN of Virginia submitted the following resolution. which was read, considered by unanimous consent, and agreed to:

which was read, considered by unanimous consent, and agreed to:

Resolved, That Senator Robert L. Owen, of Oklahoma, be assigned to the chairmanship of the Committee on Indian Depredations:

That Senator Benjamin F. Shively, of Indiana, be assigned to the chairmanship of the Committee on Pacific Railroads;

That Senator James A. O'Gorman, of New York, be assigned to the Committee on Foreign Relations;

That Senator Duncan U. Fletcher, of Florida, be assigned to the Committee on the Judiciary;

That Senator Kintland I. Perky, of Idaho, be assigned to the following committees: Education and Labor, Civil Service and Refrenchment, Industrial Expositions, Transportation Routes to the Seaboard, and Expenditures in the Department of Justice.

THE PRESIDENTIAL TERM.

Mr. CUMMINS. I ask the unanimous consent of the Senate to the following agreement:

That on Tuesday, January 21, at 4 o'clock in the afternoon, the Senate shall proceed to vote upon Senate joint resolution No. 78, with all amendments that have been or may be offered, without further debate, provided that the mover of any amendment may speak upon it for not to exceed 10 minutes and each other Senator not to exceed 5 minutes.

Mr. REED. We could not hear in this part of the Chamber.

Will the Senator kindly restate the matter?

Mr. CUMMINS. I can not hear the Senator from Missouri. Mr. REED. There seems to be confusion on the other side of the Chamber also. I ask the Senator if he will kindly restate the proposition? We could not hear him in my immediate

vicinity.

Mr. CUMMINS. It is that on Tuesday, January 21, at 4 o'clock in the afternoon, the Senate shall proceed to vote upon Senate joint resolution No. 78—that being the joint resolution for the proposed amendment to the Constitution rendering ineligible for election one who has once held the office of President-together with all amendments that have been or may be offered to the resolution, without further debate, provided that the mover of any amendment may speak upon it for 10 minutes, and that each other Senator may speak upon it for not to exceed 5 minutes.

I make the last provision because it is our experience that amendments offered after we begin to vote, without the opportunity for explanation, are often misunderstood. I take it for granted that substantially the whole debate upon the joint resolution has already taken place. I ask this unanimous consent because, if it is not granted, I shall feel it my duty to very soon insist upon the continuous consideration of the joint resolution until we reach a vote.

Mr. WORKS. Mr. President-

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from California?

Mr. CUMMINS. I do.

Mr. WORKS. I presume that request does not preclude the right of discussion between now and the time of taking the vote?

Mr. CUMMINS. Oh, certainly not. We have more than two weeks' opportunity for debate between now and then; the joint resolution will come up every day automatically at 2 o'clock, and any debate that is desirable can go on during the two weeks.

The PRESIDING OFFICER. The Secretary will state the request of the Senator from Iowa.

The Secretary. It is that unanimous consent be given that on Tuesday, January 21, 1913, at not later than 4 o'clock p. m., the Senate will proceed to the consideration of the resolution, Senate joint resolution 78, and that before adjournment on that

Mr. CUMMINS. That is not the agreement for which I ask. I believe that we ought to fix a definite time to vote, so that Senators can all be here; and, inasmuch as the debate has largely taken place

The PRESIDING OFFICER. The Chair understands that the request was that the vote be taken without further debate, except that upon an offered amendment the mover might have five minutes in which to discuss the same.

Mr. CUMMINS. That the mover might have 10 minutes and any other Senator not to exceed 5 minutes in which to reply.

The PRESIDING OFFICER. That any other Senator shall have not to exceed 5 minutes.

Mr. HITCHCOCK. Mr. President, I do not quite understand the request of the Senator from Iowa. It seems to me that if this important question is to be taken up on that date, the order should provide that it should be taken up at an earlier hour in the day, say immediately after the morning business.

Mr. CUMMINS. The Senator from Nebraska will permit me to say that the joint resolution will come up every day at 2 o'clock and will be open for debate. It will come up on that day at 2 o'clock and will continue, if any Senator desires to discuss it, until 4 o'clock. I have fixed a definite time for beginning to vote because I know that every Senator wants to be here when the vote is taken, and my observation is that it is a great deal better to fix a definite hour than to leave the matter undetermined.

Mr. HITCHCOCK. We know by experience that that will probably result simply in an active and general discussion confined to the day for which the unanimous consent is given; and it seems to me that two hours debate, from 2 to 4 o'clock,

Simmons Smith, Ga. Smoot

Sutherland Swanson Thornton Townsend Works

Stone

is too limited. The debate which would occur after 4 o'clock would be almost negligible.

Mr. CUMMINS. I can not agree with the Senator that the debate will be delayed until that time; I think there will be some debate upon the matter between now and then.

Mr. HITCHCOCK. I was going to say

Mr. CUMMINS. Any Senator will have the right to insist upon the consideration of the joint resolution every day after the morning hour has expired.

Mr. GALLINGER. Mr. President, if the Senator from Ne-

braska will yield to me-

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from New Hampshire?

Mr. HITCHCOCK. I do. Mr. GALLINGER. If the Senator will permit me, I rise to state that I agree with him, and that I think the hour ought to be earlier. It is a certainty that during the next week we shall not have an opportunity to consider the unfinished business, inasmuch as the impeachment proceedings will doubtless continue during that week, and I apprehend that we have no certainty that they will not go beyond the next week. There may not be much opportunity to debate the question between now and the time the Senator suggests. I want very much to accommodate the Senator in his request. I think we ought to take this matter up and vote on it; and I think if the Senator would make the hour 3 o'clock in place of 4 o'clock it would be better.

Mr. CUMMINS. I am perfectly willing to do so. choice so far as the hour is concerned, and if the date I have named is too early I am quite willing to postpone it until another day.

Mr. BORAH. Mr. President-

Mr. HITCHCOCK. Mr. President, it seems to me-

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I do.

Mr. BORAH. Mr. President, I do not desire to object to the consideration of the joint resolution or to fixing a time to vote upon it, although I am opposed to the measure; but I should like, if the Senator from Iowa would consent, to have a later date fixed, and I would like very much that we should have the same agreement which we have had heretofore with reference to voting before the close of the legislative day. My experience here has been that when the Senate agrees to vote at a certain hour debate is always cut off before those who desire to participate in it on that particular day have concluded, and especially would I like to have a later date fixed, because I am quite sure I shall not be able to be here at that particular time.

Of course, if the Senator from Idaho will Mr. CUMMINS. not be here upon that day, I am very far from insisting upon fixing that time to vote. Will the Senator from Idaho suggest

a day that will be convenient?

Mr. HITCHCOCK. Mr. President— Mr. MARTIN of Virginia. Will the Senator from Nebraska

Mr. CUMMINS. The Senator from Idaho [Mr. Borah] suggests to me that he would like to have the matter postponed until one of the early days of February. I have no objection

Mr. MARTIN of Virginia. Mr. President, I suggest that the Senator from Iowa—indeed, I request—that he will not press the unanimous-consent agreement to-day. There are quite a number of Senators absent from the city, and I will be much gratified if the Senator will just let this operate as a notice. There are a number of very important and sharp differences about the matter between the four-year presidential term and the six-year term even amongst the advocates of the amendment. I am one of those who will be glad to see something done on the line of the proposition, but I should like very much for the Senator to simply let what he has said operate as a notice and not now press the exact date, in view of the absence of so many Senators from the Chamber. In a few days he can bring up the matter, and I am sure that we shall reach some conclusion that will be satisfactory to him.

Mr. CUMMINS. Very well. I understand, of course, that a request of that kind is equivalent to a command. I very gladly accede to it, and I will say to the Senator from Virginia that very soon—whenever it seems to be agreeable to Sena-tors—I will again ask to have a day fixed to vote upon the joint resolution.

The PRESIDING OFFICER. Then the Senator from Iowa withdraws his request?
Mr. CUMMINS. I withdraw the request at this time.

OMNIBUS CLAIMS BILL.

The PRESIDENT pro tempore. Morning business is closed. Mr. CRAWFORD. Mr. President, I move that the Senate resume the consideration of House bill 19115, known as the omnibus claims bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from South Dakota [Mr. Crawford] to the amendment submitted by the Senator from Massachusetts

[Mr. Lodge]

Mr. CRAWFORD. Mr. President, I ask that the reading of the amendment to the amendment be resumed. It has only

been read in part. I desire to have the reading finished.

The PRESIDENT pro tempore. The Secretary will proceed with the reading of the amendment to the amendment.

The Secretary resumed the reading of the amendment to the amendment at the top of page 17 and read to the end of line 12 on page 74.

I suggest the absence of a quorum. Mr. SMOOT.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Crawford Culberson Cullom Curtis Dillingham Ashurst Bacon Myers Nelson Oliver Page Borah Bourne Bradley Page Paynter Perkins Perky Pomerene Reed Richardson Fletcher Gallinger Hitchcock Johnson, Me. Brown Burnham Burton Catron Chamberlain Jones Clark, Wyo. Crane Kern La Follette Sanders

Mr. ASHURST. My colleague [Mr. SMITH of Arizona] is detained from the Chamber by reason of a slight illness, which illness has been brought upon him by assiduous attention to public business

Mr. SIMMONS. I desire to state that my colleague [Mr.

OVERMAN] is detained from the Senate by illness.

Mr. TOWNSEND. The senior Senator from Michigan [Mr. SMITH] is absent on business authorized by the Senate.

Mr. KERN. I again announce that the Senator from South

Carolina [Mr. SMITH] has been called from the city on account of a death in his family.

Mr. CLARK of Wyoming. My colleague [Mr. WARREN] is unable to attend the session of the Senate because of absence from the city

Mr. JONES. I desire to state that my colleague [Mr. Poin-DEXTER] is absent from the city on important business.

Mr. PAYNTER. I desire to announce that the Senator from Alabama [Mr. Johnston] is absent on account of illness.

Mr. OLIVER. My colleague [Mr. Penrose] is necessarily absent from the city for the day.

Mr. POMERENE. I desire to state that the Senator from Arkansas [Mr. Clarke], the junior Senator from New Jersey [Mr. Martine], and the junior Senator from New York [Mr. O'GORMAN] are detained from the Chamber on business of the

Mr. FLETCHER. I desire to announce that my colleague [Mr. Bryan] is necessarily absent from the Senate.

The PRESIDENT pro tempore. Forty-five Senators have answered to their names; not a quorum. The list of absentees will be called.

The Secretary called the names of the absent Senators, and Mr. Dixon, Mr. Martin of Virginia, and Mr. Smith of Maryland, answered to their names.

The PRESIDENT pro tempore. Forty-eight Senators have

answered to their names. A quorum of the Senate is present.

Mr. CATRON. I desire to state that my colleague [Mr. Fall] is necessarily absent on business of the Senate.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore. The hour of 1.30 having arrived, the senior Senator from Georgia [Mr. Bacon] will please take the chair to preside over the impeachment proceedings.

Mr. BACON took the chair as Presiding Officer.
The PRESIDING OFFICER (Mr. BACON) having announced that the time had arrived for the consideration of the articles

Tons.

74, 081 16, 105

of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDING OFFICER. The Secretary will read the Journal of the last session of the Senate sitting as a Court of Impeachment.

The Secretary read the Journal of the proceedings of Thursday, December 19, 1912, of the Senate sitting as a Court of Impeachment.

The PRESIDING OFFICER. Are there any inaccuracies in the Journal? If not, the Journal will stand approved. Mr. Manager CLAYTON. Mr. President, by some inadver-

tence a document which was admitted in evidence and which it was agreed should be printed in the body of the hearings has not been printed. I refer now to pages 986 and 987. There were three reports which it was agreed should be admitted and printed on page 986—Mr. Merriman's report, Mr. Saum's report, and Mr. Rittenhouse's report. By some inadvertence the Rittenhouse report was not printed in the Recorp, and I desire, Mr. President, to have that correction made, and that it be now printed in the RECORD, conformably to the agreement had in the hearing heretofore.

Mr. WORTHINGTON. I had noticed the same omission and

intended to make the same request.

The PRESIDING OFFICER. Does the manager desire that the part which has been printed shall be reprinted, or that the

document to which he refers shall be added?

Mr. Manager CLAYTON. I ask that it be printed as a part of to-day's proceedings. I think what I have said in that connection will enable anybody who wants to examine the testimony to refer it back to the proper place into which it should be read into the record.

The PRESIDING OFFICER. It will be ordered accordingly. The report is as follows:

[U. S. S. Exhibit 98.]

(J. H. Rittenhouse, C. E., civil and mining engineer, 713, 714, 715 Connell Building, Scranton, Fa.)

SCRANTON, PA., March 30, 1912.

REPORT ON THE KATYDID CULM DUMP.

The culm dump, known as the Katydid, is situated in the Borough of Moosic, Lackawanna County, and State of Pennsylvania. The dump was made during the years of 1888'to 1908, and contained the buck-wheat coals that were a waste product until they became marketable, the larger size (No. 1) being the first to be marketed and the others following in order as the years rolled by.

The dump was made in the shape of a crescent to take advantage of good dumping ground. After this was made and the buckwheats in it became marketable, the Katydid owners added a washery to their plant, and not only treated the small sizes as they were made in the breaker but also began to wash this bank, as shown on the sketch where the pile has been nearly cut in two, when they stopped because of the burning of the breaker and washery.

We have made a survey of the dump and find the contents, in cubic feet, to be as below:

 Culm (treatable), 3,133,632 cubic feet
 gross tons
 74,081

 Slush, 1,344,391 cubic feet
 do
 31,782

Water supply is another item that would make it more favorable for the Erie, as any other party operating would have to have his own separate supply and also separate slush dam. Having their own transportation would add to the profits of the Erie.

As to the "Laurel line." This company could not handle the material in the same way, but would have to put a swinging scraper line at the dump and another from the dump to a point near their tracks, where they would have to erect a small washery and accessories. It would be valuable to them, as they have to buy their fuel, and being in the transportation business, it would help them. At the same time it would be more expensive for them to operate the washery than it would be for the Erie, though they would get their fuel cheaper than at present, provided they could get the dump for a reasonable price.

To an outsider, one not engaged in the transportation business, it would be more expensive than to either of the transporting companies, especially if he had to be tied up by a 65 per cent contract, and for the following reasons: Culm banks made about the same time this was run about 45 per cent to 50 per cent in the different buckwheat sizes.

The bulk of the product is in No. 2 and No. 3. Prices for these the past year, based on the 65 per cent contract, have been for No. 2. 55 cents and for No. 3. 30 cents. Later in the year 70 cents for No. 2 and for No. 3. If a flat rate of 25 cents or 30 cents per ton for royalty or cost at a purchase had to be take into consideration, this, with the cost of handling and preparation plus cost of construction to be charged off for depletion and short life of washery, would make it a losing proposition to any individual operating it. The 65 per cent contract, for instance, made a freight charge of \$1.30 tidewater for No.

buckwheat and \$1.54 for No. 2.

As to prices paid for culm piles, either by purchase outright or on a royalty basis, flat rate or silding scale, I have to say that leaving out the recent wild prices paid, due to i

days. It is one of the best dumps in the valley and was leased to the Scranton Traction Co, as a fuel proposition. It is not made a washery proposition.

Another dump made by this same Mr. W. H. Richmond, but in later years (1884 to 1895) was leased at a flat rate of 30 cents to the Central City Coal Co. in 1907, and, though favorably situated for local city trade, but no railroad facilities, it was a losing proposition.

The Carbon Hill dump along the Lackawanna & Bloomsburg Railroad and the Lackawanna River, a few miles below this city, sold for practically a cash price of 50 cents per ton in the fall of 1911.

During the past year or so the finer culm, such as would pass through the standard mesh of \$\frac{1}{2}\$ of an inch, has begun to show market value. This, passed over a 3/64 mesh, is successfully used as a fuel at the Oxford mines in this city, and I am informed that the D., L. & W. are using the fine stuff, such as barley coal and finer, very successfully in some of the specially constructed boiler plants. This being the case, what has been in the near past a waste product will probably in the near future be utilized as a fuel without treatment.

If this late waste product is soid instead of having to take care of it and the 65 per cent contract is cut out, it will be a close question as to just what would be a fair flat rate of royalty on this pile. Until such time as I can test the pile for the percentage of the different sizes, I would say from 25 cents to 30 cents per gross ton for the merchantable coal in the bank would be all it would be possible for a selling and nontransporting proposition to bear.

My supplemental report will follow in a short time.

Yours, very respectfully,

J. H. Rittenhouse,

Civil and Mining Engineer.

J. H. RITTENHOUSE, Civil and Mining Engineer.

[See pages 960 and 961 for illustrations.]

(J. H. Rittenhouse, C. E., civil and mining engineer, 713-714-715 Connell Building, Scranton, Pa.]

SCRANTON, PA., April 11, 1912. Mr. WRISLEY BROWN,
Department of Justice, Washington, D. C.

DEAR SIR: I herewith submit my supplemental report on the "Katydid" bank.

Number of cubic feet in the bank, as outlined by the Erie_ 3, 133, 632
Additional dump, making 3 in all________681, 229 Total
Weight per cubic foot=52.9 pounds.
43.3 cubic feet=1 ton of 2,240 pounds.

_ 90, 186 Total. A test of the component parts of the various sizes in the dump I find as follows:

	Coal.	Waste.	Total.
Sizes above ehestnut	6.086 1.041 12.419 9.893 22.454	Per cent. 2.765 .261 45.080 3.026	Per cent, 8,851 1,302 12,419 9,893 22,454 45,080
Total	51.893	48,106	99,999

This, worked out on the basis of values received for the various sizes according to their percentages, would make the dump figure up in gross receipts, \$47.533.

If a $\frac{1}{16}$ -inch mesh were used instead of a $\frac{3}{12}$, as is sometimes done, the per cent reclaimed would be increased by 14.087 per cent, or a total of 65.98 per cent.

Assuming that the bank contains 90,000 tons, we then have the va-

	Tons.			
No. 1 Buck No. 2 Buck	937 11, 177 8, 904	at at at	\$3.25 \$1.78 \$1.41 70 cents 30 cents	15, 759, 57
Total	46, 704			47, 533, 18

Total____ 46, 704

as it would be a fuel proposition pure and simple, it would not need so much of a plant, and as they consume only about 100 tons a day, the cost of preparation would be greater, or about 20 cents per ton, or \$18,000. This, plus the cost of the bank—\$27,000—would make \$45,000, to which must be added the cost of the necessary plant, or about \$5,000, which would be junk at the end of the operation, which would be in about two years. Another item would be the freight cost from the washery to their plant, which, at less than the usual freight charge, would make the cost just about equal to what their fuel costs them. I think they would break just about even.

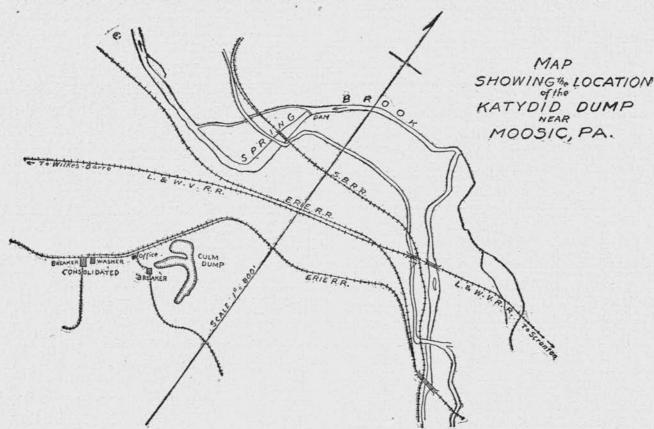
To the individual operator selling his product this party, in my judgment, would fare worse than the "Laurel Line," for if he sold his prepared product, he would have to build more of a plant and greater pocket capacity, costing from \$8,000 to \$10,000, and, with the same output of 300 tons per day, have pretty much junk on his hands at the end of the year. I would consider this as a losing proposition.

Trusting that I have covered the ground you have outlined for me, I am,

Yours, very respectfully, J. H. RITTENHOUSE.

RELATIVE TO THE OWNERSHIP OF THE KATYDID BANK OR DUMP.

I find Mr. J. M. Robertson claims a half interest or thereabout in the dump under a term he calls "mining rights." He states he has never had a lease, and that there is no lease to him on record; that his only source of title is from certain letters from the Hillside Coal & Iron Co. and verbal agreements had from time to time relative to the several different parcels which he was given the right to mine. He worked his



plant from 1887 to 1908 under the above agreements. Since the breaker and washery burned, the property has been virtually abandoned.

He claims that most of the coal came from the Caldwell lot, owned wholly by the H. C. & I. Co., adjoining lot No. 46, which is jointly owned by the Everhart estate and the Hillside Coal & Iron Co., and these coals were of course mixed and put on a common dump, said dump being on lot No. 46.

This property was mined and operated for over 21 years, and vouchers made and accepted without question. I understand royalties were paid on "prepared" sizes or for chestnut coal and larger sizes, but no royalty on pea coal and smaller sizes. The relative proportion of the different interests represented in the dump could be determined from the vouchers paid for coal mined from the different tracts.

The Hillside Coal & Iron Co. has given an option for its interest (supposed to be one-half) in the dump, not specifying what that interest is. Mr. Robertson states he thinks his interest should be about the same as that of the company, but has given an option for a less amount than that given by the company, which I am informed is for \$5,000.

The Eric Co. could possibly go ahead and put this coal through their washery and no questions be raised, yet this may not be possible. The Everhart estate, owning an individual one-half interest, gets no payment for the small sizes. Coal from other lands has been dumped on land in which they have a half interest in the surface and coal, and since the question of ownership has been raised they would quite likely have something to say.

I find on investigation that there is no lease recorded from the Everhart to the Hillside Coal & Iron Co. and that they never had any, nothing more than a letter, which can not be found. This may account for Mr. Robertson having similar conditions to work under.

In order to determine the exact conditions, a detailed investigation would have to be made, not only as to the title, but also as to the proportions due each. I am in

get the tangle straightened out, but with the small amount involved, and the numerous heirs, making the amount due each small, there is not much likelihood of its being pushed with vigor.

J. H. RITTENHOUSE.

[See pages 962, 963, 964, and 965 for illustrations.]

The PRESIDING OFFICER. Is the respondent ready to proceed?

Mr. WORTHINGTON. Yes, Mr. President. We will recall Mr. Brownell.

TESTIMONY OF GEORGE F. BROWNELL-RECALLED.

George F. Brownell, having heretofore been duly sworn, being

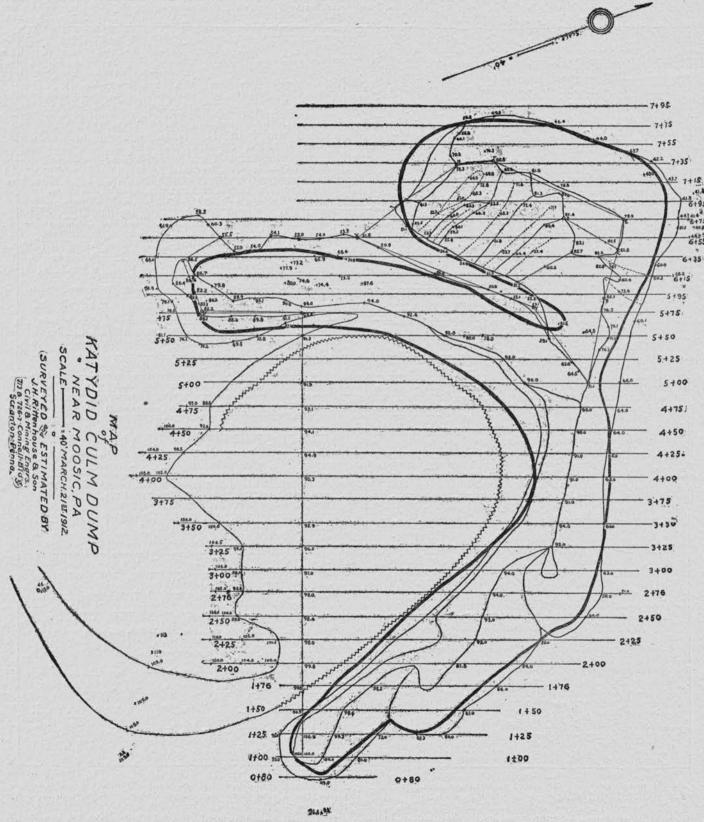
recalled, was examined and testified as follows:
Q. (By Mr. WORTHINGTON.) I have called you back for the purpose of asking you one question, and that is to what extent, if at all, did you hear anything about the result of Judge Archbald's visit to Mr. Richardson when you took him to Mr. Richardson's office and left him there; what, if anything, did you hear about the matter after that, until after these charges against Judge Archbald became a matter of newspaper publication?—A. I knew nothing of what occurred between Mr. Richardson and Judge Archbald or as to the result of their conversation until some time in the following May, when I had a talk with Mr. Richardson and about the same time with Capt. May. That was subsequent to the institution of the inquiry before the House Judiciary Committee, and this was just prior

to the occasion when I and Mr. Richardson requested that we be given an opportunity to appear before that committee and make a statement. Preliminary to that Mr. Richardson accompanied me there, leaving a sick bed for the purpose, and told

me what occurred. That was the first information I had in

regard to it.

Q. Between the time you took Judge Archbald to Mr. Richardson's office and left him there, as you have already testified,



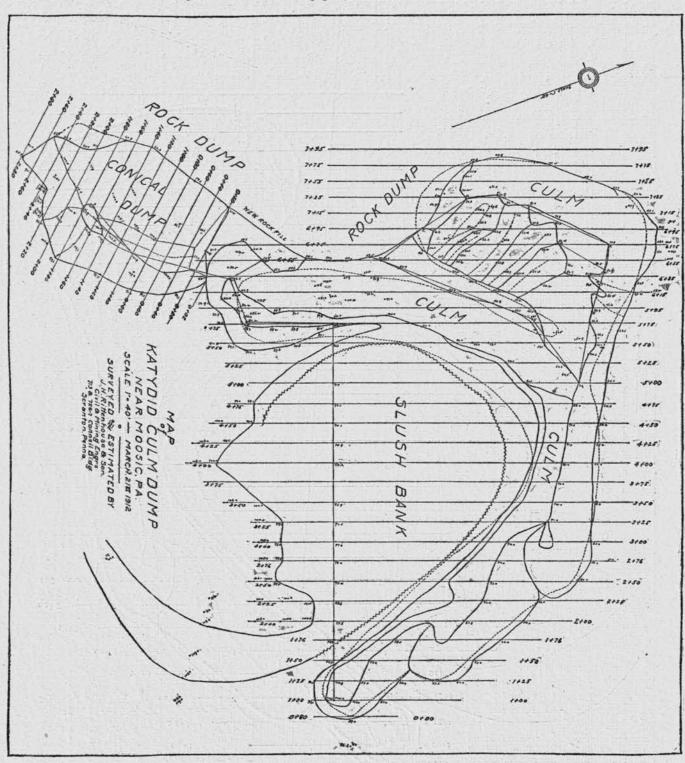
and the conference you had with him in May, shortly prior to the inquiry before the Judiciary Committee, had you heard about the matter from any source?—A. Not subsequent to the 4th day of August, until a date about the middle of April, when

sults of it; but subsequent to the middle of April I did have conversation with various people as to what information I had

Q. I do not care to ask you about anything that happened after the newspaper publications.—A. I was trying to make a distinction between the time in April, when I saw newspaper

reports, and the time in May, when I had a conversation with Mr. Richardson and Capt. May in regard to what occurred between them.

Mr. WORTHINGTON. That is all, gentlemen. The PRESIDING OFFICER. Have the managers any cross-



Mr. Manager HOWLAND. No cross-examination, Mr. WORTHINGTON. We will call Judge Knapp. TESTIMONY OF MARTIN A. KNAPP.

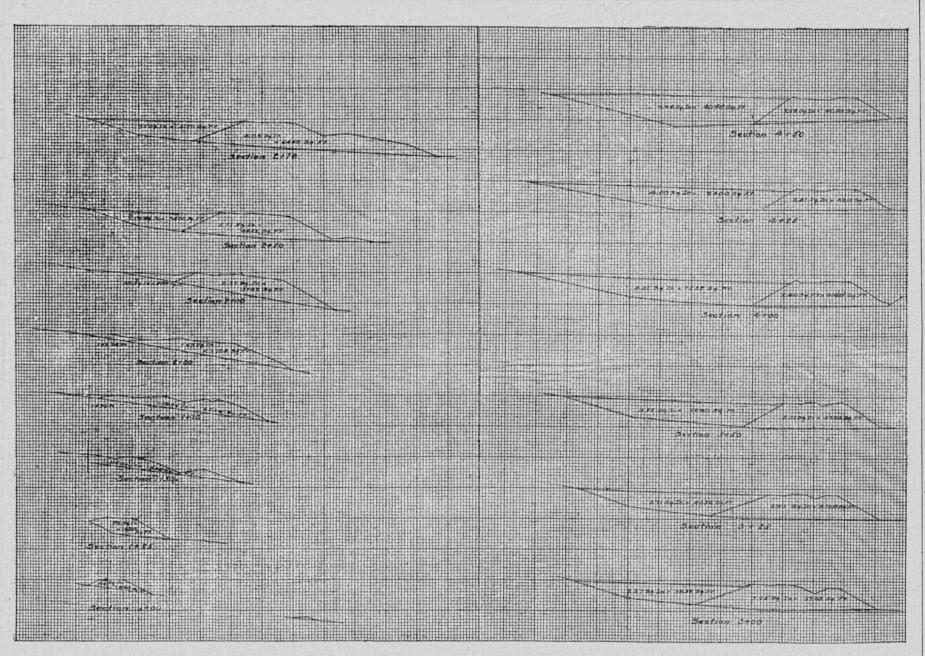
Martin A. Knapp, being duly sworn, was examined and testified as follows:

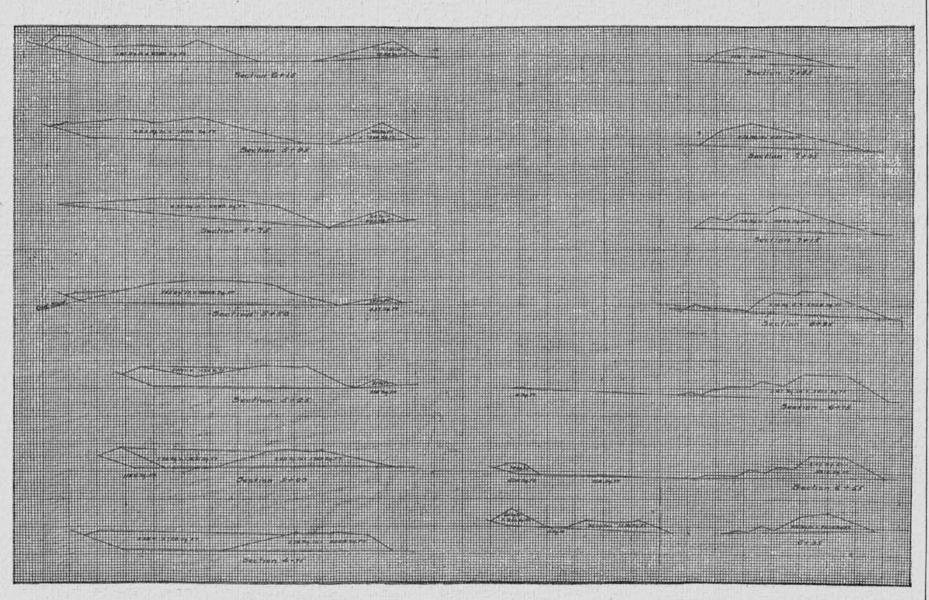
Q. (By Mr. SIMPSON.) You are the president judge of the Commerce Court, and have been since its creation, have you not?-A. I have.

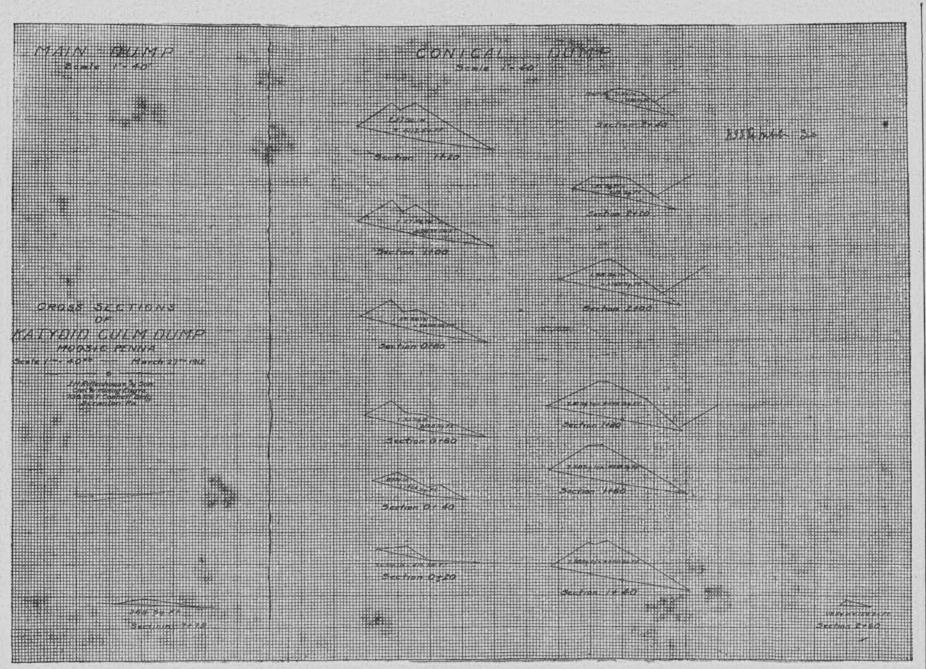
Q. Do you remember the case of the Louisville & Nashville Railroad Co. against the Interstate Commerce Commission?—A.

Q. I hand you a printed copy of the opinion of the Commerce Court in that case. Will you kindly indicate the portion of that opinion which was written by you?

Mr. Manager NORRIS. I did not hear the question. I should like to hear it.







The PRESIDING OFFICER. The Reporter will read the question.

The Reporter read as follows:

I hand you a printed copy of the opinion of the Commerce Court in that case. Will you kindly indicate the portion of that opinion which was written by you?

Mr. Manager NORRIS. We object to that as immaterial. The PRESIDING OFFICER. The counsel will please indi-

cate the purpose for which the testimony is offered.

Mr. SIMPSON. The Presiding Officer will recall that the managers introduced evidence here showing various letters written by Judge Archbald to Mr. Bruce and the replies made by Mr. Bruce to Judge Archbald in connection with this particular case Those letters referred to two certain questions. The inference growing from the article of impeachment is that Judge Archbald obtained information in relation to these two particular matters, which particular information thus obtained found its way into the opinion of the court as the result of that correspondence.

We propose to prove by the testimony of Judge Knapp that the parts of the opinion which related to that matter were written by him and not by Judge Archbald, and that he had no

knowledge at all in relation to that correspondence.

Mr. Manager NORRIS. Mr. President, the contention of the managers has not gone to the extent that counsel has indicated. I think it is immaterial even what was the decision of the court in the case. It is certainly immaterial who wrote the opinion.

The charge made in this case is that Judge Archbald invited one of the attorneys to file practically a brief, to reargue or at least to argue some of the propositions involved. That is as far as we go. We think that is improper and a misbehavior. Now, how the case finally terminated or who wrote the opinion we think entirely immaterial, as far as the conduct of Judge Arch-

bald is concerned in the particular charge we make.

Mr. SIMPSON. If the managers, sir, disclaim that the writing and the receipt of those letters had anything to do as affecting the opinion of the court in that case, then, of course,

this evidence becomes immaterial.

Mr. Manager NORRIS. We will not disclaim that.
Mr. SIMPSON. Very well. Then, that being so, I have
the right to show, I submit, sir, that the writing and receipt of those letters had nothing to do with the opinion in the case, because Judge Knapp himself wrote that portion of the opinion, and he had never heard of the letters.

The PRESIDING OFFICER. Does counsel propose to go further and show that no other judge other than Judge Knapp

was instrumental in arriving at that conclusion?

Mr. SIMPSON. I propose to show that no other judge than Judge Knapp had anything to do with writing the opinion

which related to these two subjects matter.

The PRESIDING OFFICER. The inquiry of the Presiding Officer was whether counsel proposed to go further and show that no other member of the court had anything to do with the conclusion arrived at by the court.

Mr. SIMPSON. I do not see, sir, how I could go to that extreme, because there are five judges of the court, and it was necessary, of course, that at least three of the judges should coincide in the judgment attained. But we do propose to show that no other judge of the court had any knowledge of any kind of these letters, and that Judge Knapp, who wrote that part of the opinion, which related to those subjects matter, never heard of the letters.

The PRESIDING OFFICER. The Chair is of the opinion that the evidence is not material to the charges made in the articles of impeachment. The decision of the Chair is always subject to the higher decision of the Senate, if the Chair is in

Mr. SIMPSON. My colleagues seem to think that I have not made clear to you, sir, that none of the other judges knew of the writing or receipt of those letters. I thought I had made that clear. My colleague, Mr. Archbald, calls my attention to the fact that in the opening by Mr. Manager Clayton this language was used. I read from page 104 of the record:

On February 28, 1912, this case was decided by the Commerce Court in favor of the railroad company. Judge Archbald wrote the opinion of the majority, which followed the views expressed by Bruce, and Judge Mack dissented. The attorneys for the Interstate Commerce Commission and the United States were given no opportunity to examine and answer the arguments.

The PRESIDING OFFICER. The Chair understands the charge to be one of personal impropriety, official impropriety on the part of the respondent, and the Chair does not think this material evidence.

Mr. SIMPSON. Under the ruling of the Chair there is no need for the further retention of this witness, sir.

Mr. HITCHCOCK. Mr. President, I should like to have this

question propounded to the witness.

The PRESIDING OFFICER. The Senator from Nebraska desires a question propounded to the witness, which the Secretary will read.

The Secretary read as follows:

Did Judge Archbald communicate to you or to other members of the court sitting in conference on this case the fact that he had communicated with one of the attorneys in the case and received from him certain argument or information relating to the case?

The WITNESS. He did not.
The PRESIDING OFFICER. The witness may retire.

Mr. WORTHINGTON. We will call Mr. Hill.

TESTIMONY OF FRANK A. HILL.

Frank A. Hill, being duly sworn, was examined and testified as follows

Q. (By Mr. WORTHINGTON.) Where do you live?-A. Pottsville, Pa.

Q. What is your business?-A. Coal.

Q. In what way are you or have you been in the coal business?—A. I have charge of the mining department of the

Madeira, Hill & Co.
Q. Did the Madeira, Hill & Co. have anything to do with what is known as the Oxford dump, which has been referred to here?—A. Yes; they operate the washery of the Oxford Coal Co.

Q. How long ago did they begin that operation?—A. I do not know. I have known of it for four and one-half years.

Q. In connection with the operation of the Oxford dump, did you at any time have occasion to consider making application for a lease of what is known in this case as the Packer No. 3 dump, belonging to the Girard estate?-A. Yes, sir.

Q. There is a letter in evidence in this case on page 659; you are familiar with that letter?-A. It is my letter of March 26.

Q. Your letter of March 26 to Mr. Warriner ?- A. Yes.

Q. Relating to No. 4?—A. No. 4 bank. Q. And No. 2, at the end of the letter?—A. A proposition to

work No. 4 and a mention of No. 2.

Q. I wish you would go ahead and state what you had to do, if anything, in connection with any project for getting No. 3, the one that is involved here; how that arose.—A. In September, 1911, Col. James Archbald, the engineer of the Girard estate, called my attention to that bank and the possibility of our operating it. I looked it over very casually and made an application to the Girard estate for it.

Q. And when you looked it over were you in company with anybody else?-A. Mr. Archbald, Mr. Weller, and Mr. Klock,

of Shenandoah.

Q. Who is Mr. Weller?—A. Mr. Weller is inspector for the Girard estate.

Q. After you had looked it over, you say you made an application for No. 3?—A To the Girard estate; yes, sir.
Q. Go on, then, and tell the story along until Judge Archbald gets into it .- A. We learned from the Girard estate it was their purpose not to make any change in their lessee, and the matter dropped.

Q. You are familiar, of course, with the Oxford dump that your company has been washing for several years?-A. Very.

Q. Have you made an examination of Packer No. 3 dump? . I would not call it an examination. I walked over the top of the bank.

Q. Had you any thought of making an application for No. 3 Packer, the one involved in this case, until Col. James Archbald made an application?-A. I had not.

Q. Did he give you any reason for making the application, anything as to the probability of its being operated by the Lehigh Valley or by the Girard estate itself?—A. He created the impression in my mind that he thought the Lehigh Valley would not operate it.

Q. Do you remember when it was that you made that application?—A. The formal application was made in November,

1911.

Q. Was that in writing or verbal?-A. It was in writing.

Q. Have you a copy of it with you?-A. I have.

Q. I should like to see it, please.

(The paper was produced and handed to counsel and then to the managers.)

Mr. Manager WEBB. What is the purpose of this letter, Mr.

Mr. WORTHINGTON. The purpose is to finish out the story which was started by the managers. The managers themselves put in evidence the application that was made by Madeira, Hill & Co. to Packer No. 3, and that with the application of Madeira, Hill & Co. to Judge Archbald and his associates are referred to in the proceedings of the Girard estate. I think we ought to be able to complete what they began and make the argument afterwards. We found on the page I have already referred to the application of this company for two of these

Mr. Manager STERLING. On what page?

Mr. WORTHINGTON. On page 659. The application dated March 26, 1911, made by this company—Madeira, Hill & Co. to Warriner was put in evidence by the managers, and also the answer given by Mr. Warriner on behalf of the Lehigh Valley Coal Co.

Mr. Manager WEBB. I have no objection to the letter going in for what it is worth.

Mr. WORTHINGTON. Very well. Let it be marked, and let the Secretary read it, please.

The Secretary read as follows:

[U. S. S. Exhibit BB.]

OXFORD, November 27, 1911.

Mr. George E. Kirkpatrick, Superintendent Girard Estate, Philadelphia.

Mr. George E. Kirkpatrick,

Superintendent Girard Estate, Philadelphia.

Dear Sir: As you are aware, the amount of coal that still remains in the Oxford bank is being rapidly depleted with the large tonnages that we are putting out, and the consequence is that it would appear that we have hardly a year's work still before us, providing the present rate of output is continued. At the exhaustion of this bank, if there are no further supplies for us in the way of coal, the plant will go to pieces, and as it has paid large royalty to your estate and no profit to us as operators so far we are extremely anxious to prolong the life in the hopes of getting remuneration and a return on our investment.

A year or so ago we informally spoke to you and made application for the No. 4 Packer bank, if that could be obtained by release from the Lehigh Valley Coal Co., and we now also desire to make further application and enter a specific one for the No. 3 bank, which we understand is not being operated and does not now look as if it would be by the present tenants.

While this bank is not so desirable as the No. 4, it would temporarily enable us to keep our operation going until some other decision might be reached by your board or some other coal found available with which to feed our plant.

This No. 3 bank we could arrange to handle through our Oxford plant, and as our necessities in the way of supplies are getting to be so urgent, I beg to ask your consideration of this application as soon as the matter is one which you can take up. We think the Lehigh Valley Coal Co. would release this bank, as we can not see that it is of any interest to them. The No. 4 bank would be more desirable and convenient for us, and we hope eventually that our application for this may be considered favorably also.

Very truly, yours,

Q. (By Mr. WORTHINGTON.) Mr. Hill, how, if you know, did the royalties which you were paying on this Oxford dump, and to which you referred in that letter, compare with the royalties generally that the Lehigh Coal Co. was paying?-A. They were lower.

Q. Are you able to make any comparison between No. 3 and

the Oxford dump?-A. In what way?

O. As to which was the more valuable?-A. It would be only an impression.

- Q. It is an opinion based on your own experience of it?— A. It is an opinion based on observation of the outside of the
- Q. Well, what is your opinion based upon that?-A. I think 4 is a better bank than 3.

Q. You think No. 4 is better than No. 3?-A. I think so.

- Q. There are two No. 4s, I suppose you know .- A. I speak of Big 4 and Big 3.
- Q. My question related to a comparison between Oxford and No. 3 .- A. I think Oxford and No. 3 are about the same. know the Oxford bank thoroughly and I only saw No. 3 from the outside.

Q. Did you get any reply to the application which has just been read?—A. Verbally, I think; no written reply.
Q. What was it?—A. That it was the intention of the Girard

- estate not to change their lessees-not to take the bank from the Lehigh Valley.
- Do you remember that anything was said about their waiting until new leases were made, the lease of the Lehigh Valley then being about to expire?—A. Nothing positively. Mr. WORTHINGTON. That is all.

Cross-examination:

Q. (By Mr. Manager WEBB.) Mr. Hill, did you know at the time you made the application which has just been read from the desk, dated November 25, 1911, that Judge Archbald had also made application for Packer No. 3 and had obtained the consent of the Lehigh people for it?—A. I think I knew he had made application, but I knew nothing beyond that.

Q. Did you know he had obtained the consent of the Lehigh

people to release it?-A. I did not ..

Your investigation of Packer No. 3 extended only to merely walking over it?-A. That is all,

Q. And for those reasons you think the Oxford and Packer No. 3 are about the same in quality?-A. I do.

Q. That is the only means of ascertaining the quality of No. 3 that you used, just looking at it?-A. That is all.

Mr. Manager WEBB. That is all.
Mr. WORTHINGTON. That is all.
The PRESIDING OFFICER. The witness may retire. He is

TESTIMONY OF HENRY J. WELLER,

Henry J. Weller appeared and, having been duly sworn, was examined and testified as follows:
Q. (By Mr. WORTHINGTON.) Where do you live?—A. Gir-

ardville, Schuylkill County, Pa.

Q. What is your occupation?-A. Mine inspector for the Girard estate.

Q. How long have you been mine inspector for that estate?-

A. Ten years.

Q. And in a general way your duties are what?—A. To see that the coal is mined out as thoroughly as possible; to get all the benefits from all the coal on the estate as thoroughly as

Q. To keep things moving, eh?-A. Yes, sir.

Q. Do you have any particular acquaintance with the dump known here as Packer No. 3 and the other Packers?—A. I know them well.

Q. What way have you for being so well acquainted with them?-A. We have been at them frequently and tried to get them worked. We have been trying to get them worked, so as to get the coal reclaimed that was contained in those banks.

Q. I would like to know what you have had to do with the negotiations, as we know here, what went on for the purchase or leasing of Packer No. 3 dump, both on the part of Maderia, Hill & Co. and Judge Archbald and his associates.-A. The eastern No. 4 bank was going to be covered by a new rock bank that they were making at Packer 4.

Q. I will ask you to go back to the map and show the location of these Packer dumps and the Oxford dump. You will find a pointer there. Please stand to one side a little and indicate the positions so that all may understand them .- A. The Lehigh

Valley Coal Co. worked Packer 4.

Q. Where is that?—A. It is located there [indicating]. put a trestle across the Ashland branch of the Lehigh Valley Railroad and were making a big fill of rock between the creek and the railroad. That fill of rock is extending east and getting around that bank.

Q. Before you go on, please indicate where the Oxford dump is.—A. This is the bank [indicating]. This is the washery.
Q. Where is No. 3?—A. No. 3 is just a little to the east of

Eastern Packer No. 4.

Q. Where is eastern No. 4?—A. Right there [indicating].

Q. Where is No. 4 proper?-A. No. 4 proper is here [indicatingl

Q. Where is No. 2?-A. No. 2 is here [indicating] on the

extreme west end.

Mr. POMERENE. Mr. President, one of the Senators the other day called attention to the indefinite manner of this testimony as it appears in the record when referring to a map or The witness is referring to this point here and that point there in such a way that the record will be entirely unintelli-

The PRESIDING OFFICER. The counsel for the respondent will please note the suggestion of the Senator from Ohio and endeavor to remedy the difficulty by the character of the questions propounded to the witness

(By Mr. WORTHINGTON.) To begin again, in what way is what is called the Oxford washery named on this map?—A. This is the Oxford washery [indicating].

Q. The name Oxford washery is used there?—A. Yes, sir. Q. As to Packer 4 dump, what is the legend on the map?—A.

We call this west No. 4 bank [indicating]. Q. That is the legend on it?—A. Yes.

Q. The legend on Packer No. 3 is what?—A. Packer No. 3 colliery bank.

Q. And eastern Packer 4?—A. Eastern Packer 4. Q. You referred to a creek. How is that named?—A. The Shenandoah Creek.

Q. It is so named on the map?—A. Yes, sir.
Q. Go ahead with the story.—A. They built a trestle across the Ashland Branch, and so filled this place between the creek

and that bank.

Q. Between the creek and what bank?—A. Between the creek and Packer 4 eastern bank. This rock fill will eventually surround that bank. So we were anxious to try to have whatever coal was in there reclaimed before they would cover, and we asked the engineer of the Girard estate to take it up with Mr. Frank A. Hill, or the manager of the Oxford washery, to see what they could win, inasmuch as the bank was not very large.

Q. You asked the engineer of the Girard estate. Who was he?—A. James Archbald, jr.
Q. To take it up with the Oxford washery people and see

whether they would not take that?-A. Yes, sir.

Q. Very well; go ahead.—A. The bank was not a very rich bank. The Lehigh Valley Coal Co. tried to work into Packer 4. They tried it first in 1903, next in 1904, next in 1906, and next in 1907. In the whole time they only took about 300 cars. The colliery people objected to the condition of the material, and every time they stopped working it.

Q. They could not use it?-A. They could not use it.

Q. Go on .- A. Mr. Hill asked the engineer of the Girard estate to make an estimate showing how much coal was in that bank-

Q. What bank?-A. Eastern Packer 4 bank, with a view of seeing whether it would be worth his while to try to work it. In

the meantime this other matter came up.

Q. What other matter?—A. The Archbald matter. In the meantime they applied to the Lehigh Valley, as I understand, for that bank and for Packer No. 3 bank, and Mr. Hill never made his application to the Lehigh Valley Coal Co.

Q. He never made his application?—A. Not for that bank.

Q. Not to the Lehigh Valley Coal Co.?—A. No, sir. Mr. Hill

did make application for west Packer No. 4 bank. That was a year or two previous.

Q. Did you go on Packer No. 3 at any time with James Archbald?-A. I went on Packer No. 4, on the culm bank, with James Archbald.

Q. How far is that from Packer No. 3?-A. They are very close, only a few feet dividing them at the base of the bank. It is the same bank. We made some tests to show the quality of coal contained in it and we found a fairly good piece of bank in quality, but surrounded by a later bank, a rock bank. Can you see that encircling it [indicating]?

Q. Around where?—A. It starts there [indicating] and goes around and comes through here [indicating], encircling all the east, south, and southwest side of the bank. So the good part of the bank is surrounded by a poor bank, a rock bank,

which contains very little coal. Q. So you have to get the poor stuff away to get at the

good?-A. We can not get it without that.

Q. You say you made an estimate?—A. Yes; me made tests. Q. Who are "we"?—A. I had men working with me and doing it. The tests were made under my supervision.

Q Was that report reduced to writing so that we can see

what the result was?-A Yes, sir. Q. Where is it?-A. I have a copy of it. It is in my pocket. [Producing paper.]

Q. We would like to have it. That is the test of Packer No. 3?-A. Yes, sir.

Mr. WORTHINGTON. I should like to have this paper read at the Secretary's desk.

The Secretary proceeded to read the paper.

Mr WORTHINGTON. I am reminded that it is already in evidence, and I do not care about having it repeated.

Mr. Manager WEBB. There is no necessity of repeating it. The PRESIDING OFFICER. The stenographer will please omit what has been read.

Q. (By Mr. WORTHINGTON.) Can you give us any information as to whether Packer No. 3 dump could have been worked economically, paying more than the royalties which had to be paid to the Girard estate?-A. In my opinion, not.

Q. Why?-A. We were being surrounded by this rock bank which made it inconvenient to get at the good material which was contained in a portion of the bank.

Q. Aside from the expense of getting at the good material, what was the average product or quantity of coal in the whole dump as compared with the total mass?-A. About 44 per cent.

Q. To what extent can a dump with only 44 per cent be worked economically?—A. If it was a bank that contained 44 per cent coal and did not contain much large rock, it could be worked profitably, but a bank containing much rock, where the large rock was dumped indiscriminately with the finer dirt containing coal, it would make it unprofitable to work.

Q. You would apply that latter proposition to Packer No. 3?—A. I certainly would.

Q. From your knowledge of it?—A. Yes.
Q. Do you know anything about a part of this dump contained in this Packer No. 3 having been put into the creek?-A. About a year or two previous to the time the leasing was taken up they were filling where this new rock dump is now being evidence put in. They were filling in with ashes and silt from the into it.

breaker and from the boiler house. To stop that from getting into Shenandoah Creek they took thousands of cubic feet and dumped it all along the creek for a fill, losing that much indefinitely, because it can never be regained from the ashes that were put behind it.

Q. They took thousands of cubic feet from what bank?-A.

From eastern Packer 4 bank.

Q. Do you know anything about a part of that No. 3 going into a mine and being lost in that way?-A. Yes. There was a large quantity of No. 3 bank taken down into the mine by the mining underneath. As those mine openings caved in, it took thousands of cubic yards of Packer No. 3 into the mine, where it can never be regained.

Q. You notice mark "A" on the map. Can you see it?-A.

Yes, sir.

Q. You know what it is?-A. Yes, sir.

Q. Do you know anything about taking a part of bank 4?—A. Yes, sir. The Lehigh Valley Railway Co. wanted to straighten their main track. The bank, or a part, which belonged to Packer No. 3 colliery, was on the northern side of the Ashland branch of the railroad. The Girard estate agreed with the Lehigh Valley Railroad that if the Lehigh Coal Co. would take that dirt into the breaker and reclaim the coal contained in it, there would be no objection to straightening out their tracks, or if they would pay for the coal contained in the dirt bank they could leave the bank there and use it still to straighten out their track. So the Lehigh Valley Railroad Co. agreed with the Lehigh Valley Coal Co. that they would load that material into railroad cars and deliver it to the breaker free of charge if they would open up their breaker and reclaim the coal; the Girard estate would get the royalty and they would not need to pay for it and leave it lie on the ground. After trying three or four times to get this coal worked, the coal company every time objected to it on account of some rock contained in it. They finally abandoned it, and the Lehigh Valley Railroad Co. paid for 19,500 tons of coal in that bank, and left it underneath their railroad. Yet that was a much better bank than the other Packer No. 3 bank.

Q. You are familiar, of course, with the Oxford bank?-A. That is one of our collieries.

- Q. That is one as to which you made inquiries?-A. Yes; it is one of the Girard estate banks.
- Q. How does that compare with Packer No. 3?-A. It is about equal.

Q. It is just about the same?-A. Yes, sir.

Q. You told me that the percentage of coal in this Packer No. 3 is about 44.-A. About 44.

Q. Was that equally over the whole dump or were parts higher and parts lower?—A. That was the average. The northwest corner was the better and the southern and eastern sides the poorer.

Q. Where the rock is?—A. Yes, sir. Q. Now, about eastern No. 4, with respect to ashes.—A. Eastern No. 4 had a lot of ash scattered over the bank and through the bank. That was why we questioned if anyone could work that. That was one objection the Lehigh Valley Coal Co. always found. When they took into the breaker the ashes it could not be separated from the coal.

Q. It is harder to separate ashes than other material from coal?-A. It is one of the hardest things to take from coal.

Mr. WORTHINGTON. That is all.

Cross-examination:

Q. (By Mr. Manager WEBB.) How long have you been associated with the Girard estate?—A. Ten years,
Q. Have you ever been associated with the Eric Railroad Co.,

or the Lehigh Valley, or the Philadelphia & Reading?-A. formerly worked for the Lehigh Valley Coal Co. before I worked for the Girard estate.

Q. Immediately before?—A. Immediately. Q. Col. James Archbald is a nephew of Judge Archbald, is he not?—A. Yes, sir.

Q. And he knew all about this bank that you now know?-A. Yes, sir.

Q. No. 3 and No. 4?-A. Yes, sir.

Q. Which the Lehigh Valley people consented to let Judge Archbald have. He knew all that you knew about it?—A. I would not say that he was as thoroughly familiar with it, be-cause he did not get over the ground as often as I did.

Q. Did he not make this report?-A. Yes, sir.

Q. And filed it with the Girard estate, showing that eastern

Packer No. 4 had 48,000 tons of coal in it?

The PRESIDING OFFICER. As that report is a matter of evidence, the Chair suggests that it is a waste of time to go Mr. Manager WEBB. I am going to be very brief, I assure you, but I want to show by this witness that Maj. Archbald had as much knowledge about this matter as the witness had himself, and I am only asking questions along that line. [To the witness:] You say this rock bank extends around eastern Packer No. 4

The Witness. Packer 3.

Q. I understood you to point it out on the map. a rock fill or a rock ridge being made by the railroad company around Packer No. 4 eastern. Is that right?-A. Excuse me, I thought you referred to the rock dump that I said was around That is a new one they are making now. That is right.

Q. I am referring to the quantity of rock you spoke of around

eastern No. 4 .- A. That is right.

Q. You spoke of a rock bank or fill which would make it impossible for anybody to work that bank No. 4 except the Lehigh people.-A. I do not know whether that is exactly right. The only thing we asked them not to do was not to dump over on the bank and cover it up.

Q. I ask you if they continue making that ridge around there will it not make it practically impossible for anybody to work No. 4, the eastern bank, except the Lehigh Valley people?-A. No; it would not, because the same access to the bank that the Lehigh Valley people would have any person else would have that would want to work it.

Q. Then it can be worked by any person, notwithstanding this rock bank? Is that it?—A. It certainly can be.

Q. Then this rock bank does not affect the value of eastern Packer No. 4, which contains 48,000 tons of coal? Is that right?-A. The new rock bank that is going in there will make it more unhandy to get at, but it will not make it impossible to get at it.

Q. It will make it more unhandy for anybody, but it will not make it impossible?-A. It will not make it impossible; no.

Q. You say there is a rocky ridge or fill extending all around

- or partially around No. 3?—A. Yes, sir.
 Q. When was it put there?—A. Before I went with the Girard estate, but this later part of the bank, when Packer No. 3 colliery was working-in later years they do not work Packer No. 3 colliery; they do not prepare coal at Packer No. 3; they take the coal to Packer No. 4 breaker and prepare it—this was a later bank put out before Packer No. 3 was abandoned, about one or two years previous to my going over there. So that would be about 12 years ago.
- Q. What is the size of the rock around Packer No. 3?-A. Some are very large.
- Q. What are the sizes?—A. They are all sizes, from a couple of hundred pounds to the size of your fist.

Q. What is the size of the original rock?-A. The size was

very bulky.

Q. Well, how high is it from the base to the top?-A. I have not measured the width or the height.

- Q. You do not know?—A. No, sir.
 Q. Can you say, or is it right, that you do not know what it contains, how high it is, or whether it extends all around the base of Packer No. 3?—A. All around the east, south, and southwest sides.
- Q. That rock was put there, then, after the dump was made, was it?—A. It was put there after the good dirt was put there, The good dirt is the older dirt out of the collieries, because at that time they did not dig the coal so thoroughly out. There was no demand for the smaller sizes, and the older the bank, in almost every instance, the better the bank.

 Q. How high is this ridge of rock that you speak of with

reference to the height of culm bank No. 3?—A. A little higher. In making the new bank they came out over the old bank, and I would say it is from 8 to 10 feet higher than the

old bank. It was put very high.

Q. It would be necessary, then, to climb up over the rock bank to get out onto the culm bank? Is that your idea?—A. On one side some of the good dirt is exposed, because it did not reach around to the northwest side, to the east, the south, and the southwest side. You would certainly have to go over the rock bank to get at the good dirt bank.

Q. After you made one breach in the rock wall, you could dig

it all, could you not?-A. Not without digging the rock.

- Q. I know. But you could dig the rock away from the breach that you made, and then you could move the coal through this breach to your washery?-A. I do not think you
- Q. Your idea is that you would have to dig all the rock away?—A. You would. The bank is very high, and it would rush in on you. You would not have to dig absolutely all, but nearly all.

Mr. Manager WEBB. I think that is all, Mr. President. Redirect examination:

(By Mr. WORTHINGTON.) When you speak of rock around the east, south, and southwest sides of No. 3, do you mean that is all rock?—A. Yes; nearly all rock.

Q. Have you included that when you have given your estimate of 44 per cent of coal on the whole business?—A. That

was the average of the whole bank.

Q. What is the proportion of this rock part of the dump, then, to what you call the good part?—A. That is a little hard to determine on account of the new rock dump coming over the top of the good dirt bank. We can not tell how much the good dirt would be in that new rock bank. So it is a little hard to determine that.

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. Then the witness is finally discharged.

TESTIMONY OF JOHN M. HUMPHREY.

John M. Humphrey, being duly sworn, was examined and testified as follows

Q. (By Mr. WORTHINGTON.) Mr. Humphrey, what is your full name?-A. John M. Humphrey.

Q. And your residence?—A. Wilkes-Barre, Pa.

Q. What is your business?—A. I am chief mining engineer of

the Lehigh Valley Coal Co.

Q. How long have you been the chief mining engineer of the Lehigh Valley Coal Co.?-A. Since June 1 of last year-1912. Q. Before that time what was your business?-A. I was the

division superintendent of the Mahanoy and Shamokin division of the Lehigh Valley Coal Co.

Q. We are concerned here just now about these Packer dumps. Were they within your bailiwick before you got your present position?—A. Yes, sir.

Q. You are familiar with Packer dur Q. How familiar?—A. Very familiar. You are familiar with Packer dumps?-A. Yes, sir.

Q. Mr. Warriner was your chief, I believe?-A. Yes, sir.

Q. Did you have any occasion at any time within late years to have any talk with Mr. Warriner on the question of what should be done about Packer No. 3 dump?—A. Yes, sir.

Q. When was that?-A. That was a little more than a year ago, I think. It was either in the late fall or early winter of

1911—in November, I think, of 1911.

Q. Did you know anything about applications that had been made for that dump by Madeira, Hill & Co. and by Judge Archbald and some associates of his?—A. Madeira, Hill & Co. never made any application for that dump—for Packer No. 3.

- Q. Not to your company?—A. No, sir.
 Q. Well, you knew about Judge Archbald's having made application?—A. Yes, sir.
 Q. As to the conversation that you had with Mr. Warriner that I am talking about, was that before or after you knew about Judge Archbald's application?—A. That was at the time the matter of leasing the dump had been referred to me by Mr. Warriner.
- Q. Now, go on and tell us what you did about it.—A. I made a map and estimated the quantity in the several dumps in the vicinity of our Packer 4 colliery. I then went to Wilkes-Barre, Mr. Warriner's headquarters, with this data, and went over it with him. Shortly after we were together Judge Archbald came in the office, and the Packer No. 3 dump and the Packer No. 4 dump we decided not to lease on account of our working them ourselves at that particular time, but we told the judge that he could have the Packer No. 3 dump-at least, Mr. Warriner told him so.

Q. I know what Mr. Warriner did; we have had him here as a witness; but I should like to know what you did, if anything, about it?—A. Well, what I did was to advise Mr. Warriner as to the character of these dumps and as to their

worth to us.

Q. Well, what information did you give him?-A. The packer No. 4 dump we were working and putting through our breaker at that time, and it was my advice not to lease that dump or the Packer No. 2 dump. I advised the leasing of Packer No. 3 on account of its inferior quality and its location, it being located at such a point that we could not take it through our breaker economically for two reasons; one, on account of the distance from the breaker, and, another, we were putting a large rock bank between the breaker and this dump.

Mr. WORTHINGTON. I wish you would speak a little londer.

The WITNESS. The No. 2 dump and No. 4 dump were both removed from the discussion, leaving only the No. 3 dump, and the reason for that was because No. 3 dump was of no value to us, or at least we considered it so, it being too far from our operation, for one thing, to make it economical to rework, and, another, we were putting a large rock bank between our operation and the dump that would make it very expensive for us to remove that dump to the breaker.

Q. Did you give that advice to Mr. Warriner while Judge Archbald was there or before or after he was there?—A. I gave

it to Mr. Warriner before the judge came in.

Q. Did you participate in the conversation after the judge

got there?-A. Yes, sir.

Q. Well, go on and tell what took place then .- A. The banks were generally discussed-the three banks, the No. 2 bank, the No. 4 bank, and the No. 3 bank.

Q. Had you before you the application that Judge Archbald and his associates had made?—A. That was the first I knew of Judge Archbald's application—meeting him in Mr. Warriner's office.

Q. Did you know that there was any No. 4 in that application or any No. 2?-A. No; I did not know that at that time. Q. Not at that time?—A. That the judge wanted the bank

there.

Q. Very well. You advised Mr. Warriner, from your knowledge of the business, that it would be to the interest of the company to let Judge Archbald have No. 3, did you?—A. Yes, sir. Q. Excuse me for the question, but I want to know whether

you made that honestly and with any thought but the best interests of the Lehigh Valley Coal Co. in mind?—A. Certainly I made it with that idea only; that was my only idea.

Q. Now, I wish you would tell us a little more about why you

gave Mr. Warriner that advice about No. 3. What kind of a dump was it? Tell us about it.—A. The No. 3 dump had been originally a coal dump; that is, the smaller sizes of coal from the old Packer No. 3 breaker. Afterwards they had dumped rock on this same coal dump, making it very much less valuable as a washery proposition than it would have been had the rock not been dumped there, and consequently there was a very much less percentage of coal in the dump than there was in either of our other dumps. In addition to that, the location of the dump made it a much more expensive proposition for us; and the rock bank I mentioned, which we were dumping between our breaker and the dump, would almost make it impossible for us to get the dump to the breaker.

Q. Now, in your judgment, at the time Judge Archbald was there and that application on his behalf was being made, could Packer No. 3 dump have been worked with any profit by the Lehigh Valley Coal Co., paying the current royalty to the Girard estate?—A. No, sir; it could not have been.

Q. Could anybody do it from that time to this, so far as you know?-A. No, sir.

Q. You have seen the map, have you not, of these dumps?-

A. Yes, sir. Q. Upon which there is a letter "B," which, it has been stated, indicates where a certain hole was. Do you know about that?—A. I can not see the letter "B" from here, but—

Q. On the map it is located between eastern No. 4 and Packer

No. 3. Is that where it is?-A. Yes, sir; there is a hole there. Q. Very well; tell us what you know about that hole .-- A. We drove a hole out there about 1893.

Q. 1893?-A. I should say about 1903, and prepared a small

portion of the small No. 4 Packer—Q. "Eastern No. 4," we call it.—A. Eastern No. 4, and during the years from 1904 to 1907 it was worked intermittently, and we put through about a thousand cars altogether. That is a thousand mine cars, which contain about 3 tons each. would be about 3,000 tons of this bank we put through the

Q. Why did you not take more?-A. The reason we did not take more was on account of the quality of the bank. The bank contained a lot of flat slate, which is very difficult of separation;

it is very hard to remove from the coal.

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. Are there any further ques-

tions for the witness? If not, he may retire.

Mr. HITCHCOCK. Mr. President, I desire to submit a question.

The PRESIDING OFFICER. The Senator from Nebraska presents a question which he desires to have propounded to the witness. The Secretary will read the question.

The Secretary read as follows:

Q. What reason was there why your company should let Judge Archbald buy or lease one of its coal dumps?

A. I do not know of any reason why they should let Judge Archbald buy or lease one of their coal dumps any more than any other business man.

The PRESIDING OFFICER. Are there any further questions of the witness.

Mr. Manager STERLING. Just one question, Mr. President. [To the witness:] What was the general policy of your company with reference to leasing or selling dumps? Had you at time before that leased or sold dumps?—A. I can not recall any in my division.

Q. Well, you know there were none, do you not, and you know there were none in any division, do you not?-A. No; I do not know that, sir.

Q. You do not know that they did lease any?-A. No; I do not know that they did lease any.

Mr. Manager STERLING. That is all.

Redirect examination:

Q. (By Mr. WORTHINGTON.) What had Judge Archbald's connection with the matter to do with your recommending that the Lehigh Valley Coal Co. should allow it to be leased?-A. I did not know that Judge Archbald was the applicant for this dump when I made my recommendation.

You made your recommendation before you knew who was

making the application, did you?-A. Exactly.

Q. You were personally in charge of these matters under Mr. Warriner at that time?-A. Yes, sir.

Recross-examination:

Q. (By Mr. Manager STERLING.) Mr. Warriner knew who the applicant was, did he not?—A. I think he did, as I read his testimony.

Q. He is the gentleman in authority with reference to the leasing of these dumps?—A. Yes, sir. Mr. Manager STERLING. That is all.

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. The witness may retire, and is excused. TESTIMONY OF JOHN W. BERRY.

John W. Berry, having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) Mr. Berry, you are secretary and treasurer of the Lacoe & Shiffer Coal Co., are you not?—A.

Q. And have been how long?-A. Six or eight years.

Q. Do you know the old gravity fill which was leased by that company to Frederick Warnke?—A. Yes, sir.
Q. Who owned that fill?—A. The Lacoe & Shiffer Coal Co.

Q. Who owned the land upon which it was situated?-A.

The Lacoe & Shiffer Coal Co.

Q. With whom did you have negotiations in relation to the leasing of it by the Lacoe & Shiffer Coal Co. to Mr. Warnke?-A. Well, they started with Judge Archbald, and finally we made a sale to Frederick Warnke.

Mr. Manager STERLING. Mr. President, I did not hear the answer to that question myself, and I should like to have it read.

The PRESIDING OFFICER. The witness will speak louder, so that he can be heard over the entire Chamber.

The WITNESS. The negotiations started with Judge Archbald and ended with the sale to Frederick Warnke and his business associates.

Q. (By Mr. SIMPSON.) Who made the proposition to the Lacoe & Shiffer Coal Co., which was accepted, to sell it to Mr. Warnke and his associates?-A. The final proposition was made by Judge Archbald.

Q. I show you certain correspondence. Will you kindly look at it and see if that is a copy of the letters written by you in relation to the matter?—A. (After examining papers.) Yes; this is the correspondence that started away back in regard to an option that ran out on August 1.

Mr. SIMPSON (to the managers). Cross-examine, gentle-

men.

Mr. Manager DAVIS. Give us a moment to read the correspondence, if you please.

Q. (By Mr. Manager DAVIS.) These letters that have been shown you are the only contract or option that was ever given by you to Judge Archbald?—A. That is all.

Q. And such rights as he had under that option——A. Well, there was one on December 2. I offered it to him for \$6,000 for 10 days; that was by telephone.

Q. Your initial option to him was given, as demonstrated by this correspondence, on the 27th of April, 1911, and by successive extensions until its expiration, August 1?—A. That is ght. It expired on August 1.
Q. After that time did he hold any formal option from you

on the property at all?-A. Only the verbal option given by telephone on December 2 for 10 days.

Q. For what time?-A. For 10 days.

Q. And that was never renewed?-A. No, sir.

Q. So that at the time the deal was made to Frederick Warnke Judge Archbald held no option whatever from your company?-A. There was no option at that time.

Mr. Manager WEBB (to Mr. Simpson). Do you desire to have

the letters read?

Mr. SIMPSON. Yes; we might as well have them read. offer the letters in evidence, Mr. President, and ask to have them read.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read the letters, marked "U. S. S. Exhibit CC," as follows: .

[U. S. S. Exhibit CC.]

PITTSTON, PA., April 22, 1911.

PITTSTON, PA., April 27, 1911.

Hon. R. W. ARCHBALD, Scranton, Pa.

DEAR SIR: Your letter of yesterday, inquiring about the old gravity fill, received.

Yes; we will sell the coal in the same for cash. I expect to be in Scranton Monday and will try to see you for a few minutes.

Yours fruly Yours, truly,

JOHN W. BERRY.

Hon. R. W. Archbald, Scranton, Pa.

My Dear Sir: Your letter of April 26 received, and in accordance with your request we hereby offer you the coal in the old gravity fill between planes 4 and 5 for \$7,500 cash, and will allow two years for its removal. This option to end in two weeks from the date hereof.

I shall be glad if you will let me know as soon as convenient. Two other parties have made application for the fill since I talked with you last Monday, and are awaiting your decision.

Yours, truly,

Secretary and Treasurer the Lacoe & Shiffer Coal Co.

PITTSTON, PA., May 11, 1911.

Hon. R. W. Archbald, Scranton, Pa.

My Dear Judge: I have your letter of May 10, 1911, requesting an extension of the option given to you under date of April 27, 1911.

You state the necessity of going to Washington, etc. Your request is agreed to. It would be better, however, for us to fix a time when the option expires, and we hereby extend the option to June 1, 1911.

Yours, truly,

The Lacon & Superes Coal Co.

THE LACOE & SHIFFER COAL CO., JOHN W. BERRY, Secretary.

PITTSTON, PA., May 25, 1911.

Hon. R. W. ARCHBALD, Washington, D. C.

My Dear Judge: Your letter of May 23 received, and in accordance with your request we again extend the time of the option on the old gravity fill to June 15, 1911.

We own for a distance of 400 or 500 feet west of the fill and will agree to your floating the refuse into the marsh on the west side and to use such surface land as may be necessary for a washery.

Yours, truly,

THE LACOE & SHIFFER COAL CO., JOHN W. BERRY, Secretary.

PITTSTON, PA., June 17, 1911.

Hon. R. W. ARCHBALD, Scranton, Pa.

DEAR JUDGE ARCHBALD: I have your letter of June 16. You need more time, and we hereby extend the option to July 1, 1911.
Yours, truly,

THE LACOE & SHIFFER COAL CO. JOHN W. BERRY, Secretary.

PITTSTON, PA., July 5, 1911.

Hon. R. W. ARCHBALD, Scranton, Pa.

DEAR JUDGE ARCHBALD: Your letter of July 1 received. We extend the option on the old gravity fill until August 1, 1911.
Yours, truly,

THE LACOR & SHIFFER COAL CO. JOHN W. BERRY, Secretary.

Hon. R. W. Archbald, Scranton, Pa. Pittston, Pa., December 16, 1911.

Dear Judge Archbard, Pa. Hon. R. W. Archbald, Scranton, Pa.

Dear Judge Archbald: Your letter of December 12, 1911, received. I can not answer your letter for a few days for this reason: When you telephoned me on the 2d of the month I offered it to you for 86,000 cash, giving you 10 days. Two or three days after I gave another option at a higher price, to commence at the expiration of your option in case you did not accept the offer within the 10 days. I will know by the latter part of next week whether this party takes it or not.

Yours, truly,

JOHN W. BERRY.

PITTSTON, PA., December 23, 1911.

Hon. R. W. ABCHBALD, Scranton, Pa.

DEAR JUDGE ARCHBALD: Your letters of December 18 and 21 received.

I have postponed answering your letter of December 18, hoping to have a definite answer to give you. In case I do not get a definite answer by Tuesday morning I will probably see you in Scranton. However, at the low price I gave you we must have cash.

Yours, truly,

JOHN W. BERRY.

Q. (By Mr. Manager DAVIS). Mr. Berry, have you the letters from Judge Archbald to which these are the replies?-A. Two I sent to Mr Manager Clayton. The others were thrown into the waste basket, when they became of no use, long before this investigation started.

Q. What other letters were thrown into the waste basket?— . Well, the letters that I received from him except those which I sent to Mr. Manager Clayton. Letters dated December 27,

1911, and February 21, 1912, were the two which I sent to Mr. Manager CLAYTON.

Q. You have in your possession no other letters from Judge Archbald?—A. I have no other letters. They were destroyed when they became of no use after that option expired.

Q. So that you have no letters from him in your files at all at this time?-A. Not at this time. Two original ones I sent to you at the time of the examination before the Judiciary Committee.

Mr. SIMPSON. Will you kindly produce those two letters,

gentlemen?

Q. (By Mr. Manager DAVIS.) What is the date when you destroyed those letters?-A. The date of what?

Q. What is the date when you destroyed that correspondence?-A. Oh, it was away back in the summer some time, after August 1.

Q. What year?—A. 1911. Just about that time, I guess.

Q. How did these escape at that time?—A. I do not know. I happened to have them when you wanted them, and so I sent you all I had.

Q. What I am trying to get at is whether there was any reason why you saved some of the letters rather than others. A. No; there was not. They just happened to lie on my desk there, what remained. The others were destroyed in clearing the desk, some time in August, I guess-August or September.

Redirect examination:
(By Mr. SIMPSON.) Are these the two letters you sent to the Judiciary Committee [exhibiting]?—A. (After examination.) They are.

Mr. SIMPSON. I offer these letters in evidence, and ask the

Secretary to read them.

The Secretary read as follows:

[U. S. S. Exhibit DD.]

SCRANTON, PA., December 27, 1911.

SCRANTON, P.A., December 27, 1911.

My Dear Mr. Berry: I have just seen the party here to whom I was going to turn over the old Gravity Fill at the price which you named. He is not able, however, to make a cash payment for the whole \$6,000, the price at which you put it, and if that is essential he will have to give it up. He wishes me to say, however, that if at any time you wish to consider the offer which he made—that is to say, \$2,000 cash and the balance in notes, payable at the rate of 20 cents a ton as the material is removed—he will be willing to go into it at any time.

Yours, very truly,

R. W. Archbald.

R. W. ARCHBALD.

(United States Commerce Court, Washington.)

SCRANTON, PA., February 21, 1912.

MY DEAR MR. BERRY: If you have not disposed of the old Gravity Fill, the party here who has been interested in it wishes me to make you another proposition. He will pay you \$7,000, provided you will take \$2,000 cash and the other \$5,000 at the rate of 20 cents a ton for each ton of material removed. This will give you \$1,000 more than the \$6,000 cash for which you offered to sell, and you would be entirely secure for the balance above the down payment.

Trusting that this will appeal to you,

Yours, very truly.

R. W. Archbald.

R. W. ARCHBALD. Yours, very truly,

(By Mr. SIMPSON.) Mr. Berry, did anyone besides Judge Archbald bring the purchasers and sellers together in that matter?-A. No one else.

Q. There is another question, which I overlooked asking you before. Will you tell us, please, what rights, if any, the Delaware & Hudson Co. have over the surface of that ground?-A. No rights.

Mr. SIMPSON. That is all.
The PRESIDING OFFICER. Are there any further ques-

Cross-examination:

Q. (By Mr. Manager DAVIS.) Does the Delaware & Hudson own any land adjoining this fill?—A. I do not know. I think it is what is called the East Side Bondholders, of which Capt. May is one of the trustees.

Is that an adjunct of the Delaware & Hudson?-A. No; I think not. The East Side Bondholders hold some bonds. think the mortgage was foreclosed and the property got into the hands of the bondholders.

Q. Has it any connection with the Pennsylvania Coal Co.?-I think not.

Q. You closed this transaction with Mr. Warnke in person, did you not?—A. I did; with him and his business associates.

Q. Who are his business associates?-A. Mr. Schlager and Mr. Kiser.

Q. Swingle?—A. Swingle; yes.

Q. They came to your office in person for that purpose, did they not?-A. Yes; they did.

Q. And the final negotiations were conducted between you without the interposition of Judge Archbald?—A. Yes; with one exception. We met once at Judge Archbald's office, after I had made the first draft of the contract and read it over there.

Q. What was the purpose of that meeting in Judge Archbald's office?—A. I do not know. They lived in Scranton and I lived

in Pittston, and I frequently go to Scranton, and I think it was probably through my suggestion that we met there, having no other place to meet.

Q. What was the date of that conference?-A. I do not know. It was between February 26 and March 7. On March 7 the con-

tract was signed in my office in Pittston.
Q. In 1911?—A. In 1912 it was signed.

Q. Your ownership or the ownership of the Lacoe & Shiffer Co. of this dump was open and notorious, was it not?-A. Oh, yes.

Q. And there was never any question as to who the parties were with whom negotiations had to be had in order to purchase it?-A. Not the slightest.

Q. And your relation to the Lacoe & Shiffer Coal Co. was equally notorious?-A. Yes.

Redirect examination:

Q. (By Mr. SIMPSON.) These East Side bondholders, so called, were a bondholders' committee of bonds on a defunct coal company, were they not?—A. I think so. I do not know enough about it to give you the details, but they are always spoken of as the East Side bondholders.

Mr. SIMPSON. That is all.

The PRESIDING OFFICER. The witness may retire and be excused.

Mr. WORTHINGTON. Call Mr. Holden.

TESTIMONY OF CHARLES P. HOLDEN.

Charles P. Holden, being duly sworn, was examined and testified as follows

(By Mr. WORTHINGTON.) Where do you live?-A. Boston, Mass.

Q. What is your business?—A. Manufacturer of machinery.

Q. Have you at any time had any relation with what is known as the Katydid culm dump near Moosic, Pa.?-A. I have, sir.

Q. Just in what way? Will you tell us briefly how you are concerned in that property?—A. In the latter part of 1911—December, I think—I was in the office of the Laurel line, so-called.

Q. In Scranton?-A. And I saw Mr. Conn. Mr. Conn informed me that they were about to buy a culm dump on 46. Forty-six being a lot that my wife had an interest in, he asked me if I knew anything about it. I said, "Forty-six belongs to the Everhart estate in part."

Q. The Everhart estate?—A. The Everhart estate, of which my wife is a member, her interest being very small, a onetwenty-well, I have forgotten exactly what it is, but it is very

small.

I then told him I thought he would make a mistake to buy something that belonged to somebody else. He told me he would drop it.

Q. What did you say was the date of that conversation?—A. In December, 1911. Two or three days after that I went to my attorney, Walter S. Bevan-

Q. In Scranton?-A. In Scranton, and instructed him to see

the Brooke people at Birdsboro, Pa.

Q. Who were they?-A. The E. & G. Brooke Co., the owners of a one-fourth full interest in this particular property. He did I sent him there to ask if he could get an option for me, so as to protect Mrs. Holden's interest and the collateral interests. He wrote me under date of December 11 that they were willing under certain conditions to grant me that option. Q. Have you that letter?—A. I have that letter here.

Q. Have you any objection to letting us use it here?-A. It is a private letter, and I do not care to show it unless I have to do so. I think I have it here. I have no objection to showing the letter to the committee. I do not want to show it unless I have to.

Q. You have no objection to showing it to me, in the first place, and to the managers?-A. Not at all, sir.

Mr. WORTHINGTON. I have seen it before.

(The letter was produced and examined by the managers,) Mr. WORTHINGTON. Mr. Holden, I feel obliged to offer this letter in evidence. It would do no good for counsel and the managers to see it unless the Senators, who have to pass judgment on this case finally, see it. I therefore ask that it be marked as an exhibit and read from the desk.

The Secretary read as follows:

[U. S. S. Exhibit EE.]

(Walter S. Bevan, attorney and counselor, Scranton, Pa.)

SCRANTON, PA., December 11, 1911.

Mr. Charles P. Holden, Prince George Hotel, New York, N. Y.

DEAR Mr. HOLDEN: I have just returned from Reading, where I interviewed the Brooke people. While they refused to sign an option to-day, they assured me that they would not give anybody an option until they heard again from me, and I promised to write them Thursday or Friday of this week.

Before signing an option they desired to have a few days to look into their interests there, as they were not familiar with the extent of it. I promised to communicate with them and give them some definite information, and I would therefore request you to answer the following questions, which they put up to me: How much are you willing to pay for an option? For what period of time do you desire the option? What is your proposition as to the purchase of their interest, either outright or upon a royalty basis? If upon a royalty basis, name the sizes and the prices for each size? What is the extent of the tract?

I found them to be very decent people to deal with, and I am sure that if we propose any reasonable terms, that I can secure the option this week. Answer this communication immediately. The gentlemen interested in this land company will be out of town until Thursday or Friday, so that will give us ample opportunity to communicate with them.

Any other data that you think would be useful in my communication to them kindly give to me.

Very truly, yours,

WALTER S. BEVAN.

Q. (By Mr. WORTHINGTON.) Now, will you go on with the story?-A. After receiving that letter I went with Mr. Bevan to Birdsboro and had an interview with the Brooke people. They did not know what to say about the property. told them there had been an offer made

Q. I do not care for the details of that conversation. If it resulted in anything I would like to know what the result was.—A. I wanted to bring out that I told them at that time that I understood the Laurel line had offered somewhere like \$25,000 for the property to start with. Then Mr. Brooke said he would go with me to see the property. He did go. He went over the property. He did not have it examined at that time, but paced it off. It resulted in my getting an option—it resulted in my buying that interest from the Brooke people.

Q. For how much?—A. I do not care to say; I do not think I ought to say. It is an entirely private matter, and unless I have to do so I do not want to say.

Q. When did you buy their interest?—A. Some time in the

summer of 1912.

Q. That was last summer ?- A. Yes. That is, I completed the thing. The option was given to me right after this time in December.

Q. When did you get the option?—A. The 17th of January, 1912, I think.

Q. Anyhow, it was before April, 1912?-A. It was the 17th of January, 1912.

Q. It was before April, 1912?-A. Yes.

Q. That is what I want to lead up to. Go ahead and tell what happened about this matter that brought you finally to Capt. May's office.-A. Having obtained that option, I again saw Mr. Conn on some business of my own, looking to getting a railroad rate on other property.

Q. Something else entirely?-A. Yes, sir. That was my object in seeing Mr. Conn. Mr. Conn told me that the matter had been dropped so far as the Katydid was concerned, and so I supposed the whole thing was dropped, so far as Judge Archbald was concerned or anybody else.

Q. When you say the whole thing was dropped what do you mean?—A. The Katydid.

Q. Dropped by whom?—A. By the Laurel line.
Q. That the Laurel line would not buy it?—A. That the Laurel line would not buy it. I assumed that nobody would buy it, because it seemed to be common news, and everybody in Scranton at that time knew where the ownership lay. It so happened I was in Scranton several times from January until April. This particular day—the 11th day of April—happened to be my birthday. I called at Capt. May's office on business connected with this Everhart estate.

Q. Excuse me, you say the 11th of April. What year?—A.

1912. I went to see Capt. May about lots 20 and 21, which the Everhart estate owned, and from which they mined coal, and also lot 26, of which my wife owns a quarter interest. As I was about to leave Mr. May's office he turned to me and said, "By the way, I have sold the Katydid property." I said, "What do you mean?" He said, "I have sold it; I have sold it

to one Bradley.

Q. One Bradley?—A. One Bradley. Said I, "Capt. May, you are taking a great chance. By the way," said I, "I notify you right here not to sell that property. It belongs to Mrs. Holden as far as her interest is concerned, and I have an option on a quarter interest." The property was owned by the Brooke people, one full quarter interest; the Everhart estate, one quarter; and the Hillside Coal & Iron Co., one-half interest. The culm dump was an undivided interest and could not be sold in part; the Erie could not sell it; it had to be sold as a whole.

Consequently my notice to Capt. May was that the property could not be sold unless it was sold in its entirety.

I left Scranton on the 12.40 train. A half hour before I left I called up Mr. Heckle, who was the administrator on behalf of part of the Everhart estate. I asked him, on behalf

of his people, to notify Mr. May. I sent for my lawyer to come to the Delaware, Lackawanna & Western Railroad and asked him to notify Capt. May in writing. I left Scranton on the 12.40 train. I arrived in New York at 4.40, I think.

Q. What, 12.40 in the day?—A. The 11th of April.
Q. The middle of the day, or the night?—A. 12.40 p. m. I arrived in New York at 4.40, I think. As I was about to take the train for Boston, which left at midnight, it occurred to me I had better send Capt. May a written notice for myself. I then went across the street to the Grand Union Hotel and sent him the notice, which appears in the record.

Mr. WORTHINGTON. It is in evidence.

The WITNESS. On my arrival in Boston I went to the office of Mr. Saltonstall, of the firm of Gaston, Snow & Saltonstall, who represented John Everhart's widow, and got him to notify Mr. May. On my next trip to Philadelphia I saw Mr. Taylor, the husband of Mrs. Holden's sister, and got him to notify Mr. May.

Q. Do you happen to know whether Mr. Taylor is in this country now?—A. Mr. Taylor is in Europe. That was the result of my efforts to notify Capt. May not to sell this undivided interest. He pretended to say he could sell whatever interest he had. So he could; but he could not sell that bank,

because it was an undivided interest. Q. You mean now that that is what you told him?-A. That is what I told him; the Katydid bank, or any bank up there

on that property.

Q. I want to ask you, at the time you had that conversation with Capt. May on the 11th of April last and at the time you spoke to Mr. Bevan and Mr. Heckle and Saltonstall, what knowledge or suspicion you had, if any, of any connection of Judge Archbald in that matter?—A. I never heard of it, sir.

Q. What knowledge or suspicion had you at any time of any investigation that was impending in reference to Judge Archbald's connection with the Katydid or anything else?-A. Not in the slightest degree. I never heard of it.

Q. Had you any reason, except what you have stated, for giving or having those notices given?—A. No, sir.

Q. Do you happen to know anything about the sale by the Hillside Coal & Iron Co. or the leasing by the Hillside Coal & Iron Co. of any other dump about this time?-A. I do not.

Q. Well, some time before. When I say about this time I mean within two or three years .- A. Oh, I bought part of an interest myself of the Hillside.

Q. On what dump is that?-A. That is on lot 38.

Q. What dump is that?-A. It is known as the Florence dump.

Q. Did you buy it from Capt. May individually?-A. From the Hillside Coal & Iron Co.

Q. Do you mean from Capt. May individually or the company ?-A. No; through Capt. May as the vice president of the Hillside Coal & Iron Co.

Q. Where is that dump situated?-A. That is situated in Pittston, on lot 38; in Pittston Township, or in a town called Dupont, Pa., Luzerne County.

Q. How does that dump compare in size with the Katydid?-A. There is no comparison.

Q. Do you mean that the Katydid is much larger?-A. The Katydid is so much smaller and so much poorer.

Q. Do you know of any reason why the Florence was disposed of? Was there any special reason for selling that dump specifically?—A. For the same reason I suppose that inspired him to sell this one-the undivided interest.

Q. That was another case of an undivided interest?-A. Yes. By the way I might say there I had part of the leases from the other owners of this Florence dump, and that may have influenced Capt. May, because I had them, to sell that interest.

Q. Do you mean to say that the Hillside Coal & Iron Co. had interests and that you owned interest?-A. Yes, sir; absolutely.

Q. And Mr. May sold to you?—A. Yes, sir, absolutely.
Q. That is, his company did?—A. His company did, the Hill-side Coal & Iron Co. That was three years ago, long before anything happened as to this matter.

Q. I understand. Mr. Holden, I beg your pardon, but I want to ask you whether or not, when you had that conversation with Capt. May on the 11th of May last, when you gave him this warning, you received any intimation or tip from him that he would like to have you raise such objection?

Mr. Manager STERLING. We object. They have been all

over that.

The WITNESS. I think I have already said that. I will answer it again if I am allowed to.

The PRESIDING OFFICER. The Chair would suggest that it is not only in the interest of time, but in the interest of not ling nothing except to protect my wife's and my own interest.

having an unnecessarily cumbersome record, that the same thing should not be proved twice, unless it is challenged.

Mr. WORTHINGTON. I was then using the same expression that has been used by the managers in the examination of other witnesses. I withdraw it.
Mr. Manager STERLING. I object to that statement. There

was no intimation that this witness

Mr. WORTHINGTON. No; the intimation was that Capt. May had given him the tip to make the objection.

Mr. Manager STERLING. No; it was simply a statement by me that Capt. May had given him the tip, so that he would

Cross-examination:
Q. (By Mr. Manager STERLING.) Are you a lawyer?—
A. No.

Q. What is your business?—A. Manufacturer of machinery.
Q. Where is your home?—A. Pittston.
Q. And you or your wife had an interest in the Katydid culm dump?-A. I have an interest in lot 46.

Q. Well, you claim on that basis an interest in this culm, did

you not?—A. Yes.
Q. About a one twenty-fourth part?—A. That is right.

Q. And Mr. Bevan is your lawyer?-A. He was my lawyer in that particular matter.

Q. You gave Capt. May notice personally on the morning of the 11th?-A. Yes,

Q. At his office?-A. In his office.

Q. Who first mentioned the matter of selling the Katydid culm dump?-A. Mr. Conn, the vice president of the

Q. No; at this meeting on April 11 .- A. I have testified that Capt. May spoke to me as I was about to leave the office.

Q. So he first suggested to you that they were selling the culm dump?-A. Yes.

Q. He knew that your wife was interested in it, did he not?—A. I presume he did; I do not know.
Q. He knew that the Everharts had a claim there for roy-

alty?-A. I do not know whether he knew it or not.

Q. Did he not call your attention to the contract which he had made out and which was on his table at that time?-A. He did. sir.

Q. And did not the contract itself provide that the purchaser should pay royalty to the Everhart estate?-A. This contract he read to me? It did not.

Q. How is that?-A. It did not.

O. The contract that was made out to Mr. Williams that was to be delivered to Bradley. Do you say that that did not have a provision in it to pay royalty to the Everhart estate?—
A. I will qualify that. Mr. May read some of that document to me, but not the whole of it. I never saw anything in it that related to the Everharts.

Q. Anyhow, the contract was there and you saw at least a

part of it?-A. I did not see it.

Q. You heard him read a part of it?-A. Yes.

Q. And it was after you were there and after you notified him not to sell it that he sent the contract to Mr. Bradley ?-A. I do not know anything about that.

Q. Did you know or did you learn afterwards that on the same day he sent it to Bradley and did not recall it until the

next day after that?—A. I did not, sir. Q. You did not know that?—A. No, sir.

Q. Did you notify Capt. May not to sell the Hillside inter--A. No, sir.

Q. You simply notified him not to sell your interest or your

wife's interest?—A. Yes, sir.
Q. Do you know whether or not he was seeking to sell your

wife's interest?—A. I do not.

Q. Did he not read that part of the contract that indicated that he was simply selling the interest of the Hillside Coal & Iron Co.?-A. He was selling his interest, as I understood it, and assuming to work with Robertson & Law, who claimed another part of the interest, to sell it together. That is the impression I got.

Q. Robertson & Law were not mentioned in this contract?-A. Robertson & Law were mentioned in that contract, if my mem-

ory serves me.

Q. Were they mentioned as parties to the contract?-A. If my memory serves me-I do not know; I paid little attention to it.

Q. Anyhow, the contract did not purport to be a guaranty of title or anything of that kind?-A. I do not know anything about that, sir. I did not take much interest in it.

Q. And you were not seeking to prevent the Hillside Coal & Iron Co. from selling their interest in the dump?-A. I was seek-

Q. You conceded that they had a perfect right to sell their interest in the dump to Judge Archbald .- A. I conceded nothing; I did not know anything about it. I did not have any objection to it, and I could not have any objection to it.

Q. After you left the office you immediately notified Mr.

Heckle?-A. Yes, sir.

Q. He is administrator of the Everhart estate?-A. Of a part of the Everhart estate.

Q. And you also notified your attorney, Mr. Bevan?—A. Yes. Q. And they both wrote notices to Mr. May?—A. Yes.

Q. So the notice from you and the notice from Bevan and the notice from Heckle all related to the interest of the Everhart estate, the interest of which was provided for in the notice itself. Is not that true?-A. I did not see the contract.

Q. Who is Mr. Saltonstall, who sent a notice also?-A. He is a member of the firm of Gaston, Snow & Saltonstall, guardian of the minor children of John F. Everhart. John F. Everhart was one of the children of John T. Everhart, who died.

Q. He had an interest through the Everhart estate?-A. He

did, sir.

Q. So every one of these notices came from persons who were interested directly or indirectly in the Everhart estate?-A. That is right.

Q. About whose interest Capt. May knew perfectly well and had provided for in this contract. Now——

Mr. WORTHINGTON. Is that a statement or a question? I object to the statement.

The PRESIDING OFFICER. The Chair understands it to be a question.

Mr. WORTHINGTON. The witness has not answered.

The PRESIDING OFFICER. The witness can negative it if he does not agree to it.

The Witness. I have no knowledge of its truth. I do not

know anything about it.

Q. (By Mr. Manager STERLING.) You do have knowledge of the fact that all four of those persons who gave notices were interested in the matter through the Everhart estate?-A. That is right, sir.

Q. The contract speaks for itself. Do you know any other reason why Capt. May withdrew this contract from Bradley? A. I do not, sir. Neither have I had any word from Capt. May

since the 11th day of April about the subject.

Q. From your knowledge of the situation and your knowledge of the transaction did you personally see any reason why Capt. May should withdraw the contract because of these notices?-A. I certainly do.

Q. What is it?-A. He would get into great trouble if he

made that contract.

Q. How get into trouble?-A. In many ways.

Q. How?—A. In the first place, he has been operating that property, much to our surprise, without any lease, without any right whatsoever.

O. Who has?-A. The Hillside Coal & Iron Co. That is one

serious thing he would be up against.

Q. Had they operated it all?-A. They operated it for 30 or 40 years.

Q. How did they operate it?-A. How do you mean?

Q. How do you mean?—A. I mean that they put up a breaker there and took the coal out of the ground.

Q. Who did?—A. The Hillside Coal & Iron Co. Q. Did not Robertson & Law operate it?—A. Robertson did not until some 30 years, and then in the year 1882-I do not know that my dates are right-that portion was pretty well mined. They had leased to Robertson & Law and then Robertson got through, and then the Hillside in turn leased to the Delaware & Hudson Coal Co., who are now operating the property, as I understand the situation. The Hillside Coal & Iron Co. have not any lease whatsoever nor any right to mine the coal on that property.

Q. They own half there, do they not?-A. They own half of it.

Q. That is all they were selling?—A. You did not ask me at. You asked what was the reason, as I understood your question, for selling this coal, and the reason, in my judgment, is this, that when they began to find that we knew, which we did not know prior to this time, that they were operating this property without any lease, not even with a letter which they could show, they were up against something which-

Q. Would that prevent the Hillside Coal & Iron Co. from

selling their interest in this dump?

Mr. WORTHINGTON. I submit the witness should be allowed to finish his answer, and not be stopped in the midst of it.

Mr. Manager STERLING. I object to the witness talking

about anything except an answer to my question.

The PRESIDING OFFICER. The witness will confine his reply to the question asked, and then he can explain as fully as he desires.

Q. (By Mr. Manager STERLING.) Let me ask this question, so that we may understand each other: What do you mean when you say the Hillside Coal & Iron Co. would get into trouble by selling their half interest in the Katydid culm dump to Judge Archbald or anybody else?-A. I do not think that

Q. Answer the question.

The PRESIDING OFFICER. Answer the question as asked. The WITNESS. I mean to say that, because of their having no lease from the Brooke people and from the Everhart people in all these years they have been operating the property, they were fearful-this is my judgment-that an action might be brought showing up the whole transaction for the last 30 or 40

Q. Did they have to have a lease on their own interest in order to sell it?-A. They could not sell it. It was an un-

divided interest.

Q. Could they not sell an undivided interest?-A. They could sell their right, title, and interest.

Q. That is what they were doing, just as you bought from the Brook Land Co. the right, title, and undivided interest, is it not?—A. Yes, sir.

Q. That is all there is to it?-A. Yes.

Q. You say that the Hillside Coal & Iron Co. sold their interest in the Florence dump?-A. Yes, sir.

Q. And that was undivided?—A. That was undivided.

Q. Did you buy it?—A. Yes, sir.
Q. And they sold it because the title was complicated, did they not?—A. They sold it because the interest had been leased by other people; in other words, I had a portion of the lease myself and controlled it. I bought simply their right, title, and interest in that particular interest.

Q. And they sold their interest in the Florence dump?-A.

That is right.

Q. And they refused to sell an interest finally in the Katydid dump for the reason that the title was complicated ?- A. I do not know what influenced them.

Q. Did Mr. May on the morning of April 11 when you were

there read this part of the contract to you-Mr. WORTHINGTON. On what page?

Mr. aMnager STERLING. On page 146:

Whereas a certain tract of land situated partly in Lackawanna and partly in Luzerne County, known and designated as lot No. 46, of certified Pittston Township, patented to John Bennett March 25, 1849, is owned in the following proportions, to wit: The Hillside Coal & Iron Co., twelve twenty-fourths; E. & G. Brook Land Co., six twenty-fourths; estate of James Everhart, five twenty-fourths; and heirs of John T. Everhart, one twenty-fourth.

Did he read that to you that morning when he showed that contract to you?—A. I think not. He did not read that portion of it. He merely handed the paper down, saying, "I am going to sell to a man named Bradley, and here is the document."

Q. If it was in the contract that May had prepared, it would be partly good avidence he know all about these interests?—A

be pretty good evidence he knew all about these interests?-A.

I do not know.

Q. As I read the contract it states the interest correctly, does

it not?—A. I think so, sir. Q. Mr. Holden, after you had given Capt. May verbal notice in such positive language as you stated a moment ago, why did you think it necessary for you still to write a letter to the same effect and also have your attorney, Bevans, write a letter?—A. Simply to emphasize it; that is all. Then I had not notified Robertson & Law, which I did that same night.

Q. All you claimed to do in these notices was to notify them not to sell the Everhart interest?-A. That is right.

Q. You were not pretending to prevent them from selling the Hillside interest?—A. No, sir; no, indeed.

Mr. Manager STERLING. That is all.

Redirect examination:

(By Mr. WORTHINGTON.) You said, Mr. Holden, that the Hillside Coal & Iron Co. was operating that property without a lease. What do you mean, the Katydid, or what?-A. Oh, no; lot 46. Q. Including the consolidated breaker property?—A. I do not

know how far the consolidated breaker goes. It comprises sev-

eral properties.

Q. They had been mining and selling that whole ledge of coal?—A. They had been mining coal and returning 20 cents a ton for sizes above pea or chestnut; I have forgotten which. Q. They had been doing it for years without a lense?-A.

Q. That is what you meant when you said that they were operating without any right?—A. Without any lease. That is

Q. Without any right to continue?-A. Yes, sir.

Q. Was there anything, so far as you know, that prevented the Brook people and the Everhart people from stopping them and raising their royalty?—A. Nothing save the diversified interest and the hard work to get a lot of heirs to do anything. That is all.

Q. Mr. Holden, in view of your examination, I feel obliged to ask you to let me have the paper relating to that option which you have and which fixed the price which you paid for it .- A. I think that is a private matter, and I do not know that I can be compelled to state what I paid for that interest.

Mr. Manager STERLING. We object to it as immaterial. It makes no difference what he was to pay the Brook Land Co.

for their interest.

Q. (By Mr. WORTHINGTON.) The interest was onefourth?-A. One-fourth interest.

Q. In the Katydid culm bank?—A. Yes, sir.

Mr. WORTHINGTON. I think we ought to have it, for we have had so much about the value of that property. It appears now that Judge Archbald and Mr. Williams were to pay \$8,000 for the interest of the Hillside Coal & Iron Co. and of Robertson in that dump. We ought to be permitted to show, it seems to me, what was the value of the other interests, so as to have before us what they were getting when they acquired these various interests. It bears on the question of fairness of the Hillside price.

The PRESIDING OFFICER. The Chair thinks that the respondent can show the value of the property which was endeavored to be purchased by Judge Archbald and those with

whom he was associated.

Mr. WORTHINGTON. I can conceive of no better way of showing the value than by showing the sale of an interest in it.

The PRESIDING OFFICER. The Chair means the interest that Judge Archbald was seeking to purchase. That, the Chair thinks, the counsel has a right to show as fully as he can in any legitimate way, but as to the value of another interest-

Mr. WORTHINGTON. If we show the value of one onefourth interest, surely it would show what the value of another fourth interest was.

The PRESIDING OFFICER. Does the respondent propose to prove that as an independent fact?

Mr. WORTHINGTON. I propose to prove that the witness acquired and paid for one-fourth, and what he paid for it.

The PRESIDING OFFICER. In the same dump?

Mr. WORTHINGTON. In the same dump.

The PRESIDING OFFICER. Does the respondent desire to Introduce a paper to that effect?

Mr. WORTHINGTON. I would be satisfied with the statement of the witness about it. If he stands on that, I would like to have him produce the paper.

Mr. Manager STERLING. I desire to say, Mr. President, that the sale of the property is not competent evidence to show what its fair market value is. They have gone into the question as to the value of the Katydid culm dump very extensively and it seems to me a great deal more extensively than the issue We insisted that it was not material at all to the issue what the value was. This will open up the question as to Brook's title, as to whether he had any title or not. The very contract that May submitted, where May knew that Archbald and Williams were to get the Katydid culm dump, provided that the purchaser should pay a royalty to the Everharts just as they had been paying a royalty to the Brook Co. So it is wholly immaterial, not only what these gentlemen agreed to pay for the Brook land interest, but it is immaterial as to what its value is. They have gone into the whole question as to what these gentlemen were selling, and providing in the agreement that the Brook Land Co. should be taken care of by way of royalties.

The PRESIDING OFFICER. The Chair thinks that the question of materiality of evidence is a different one from the question as to its conclusiveness. The counsel still have the opportunity to argue as to whether or not the price offered or paid was conclusive or unimportant evidence as to the value.

Mr. Manager STERLING. I should like to suggest further, if the President will permit me, if evidence with reference to the value is pertinent at all to the issue in article 1 it is per-tinent for the purpose of showing Judge Archbald's attitude of mind in purchasing it, as to whether or not he could make money out of the transaction. Inasmuch as he was simply purchasing and May was simply selling the interest of the Hillside may be read.

Coal & Iron Co. in this contract which he made to Bradley, it is certainly immaterial as to what the witness agreed to pay Brook and what the value of Brook's interest was in the

The PRESIDING OFFICER. The Chair thinks that, in view of the fact that the value of the property has been thoroughly gone into and stress has been laid on it, the respondent is entitled to introduce any evidence he can which will throw light on the question as to the true value of this property. It may be evidence which may be shown by argument not to be entitled to much weight, but still it is evidence the Chair would not feel justified in excluding under the circumstances. Therefore, while the Chair does not rule on the question of the admissibility of the particualr paper, he does rule to the effect that the fact may be proven as to any sale or offer for sale of any equivalent or partial interest in this property.
Q. (By Mr. WORTHINGTON.) Well, Mr. Holden, what did

you pay for that one-fourth interest in the Katydid dump?

The WITNESS. Am I obliged to answer? The PRESIDING OFFICER. You are.

The WITNESS, \$1,750.

Q. (By Mr. WORTHINGTON.) When?—A. I can not tell you exactly, but some time in the middle of the summer.

Q. In the middle of last summer?—A. Last summer: 1912. Mr. WORTHINGTON. That is all.

Mr. Manager STERLING. That is all.

The PRESIDING OFFICER. The witness may be retired and be excused.

TESTIMONY OF W. W. RISSINGER-RECALLED.

W. W. Rissinger, having been previously sworn, was recalled and testified further, as follows:

Q. (By Mr. SIMPSON.) Mr. Rissinger, when you were examined as a witness on behalf of the managers you testified that you had paid to Mr. Russell \$2,000 out of the proceeds or discount of a note given by yourself to the order of Mr. Hutchinson and Judge Archbald and indorsed by them. Have you since that testimony endeavored to find the check by which that payment was made?-A. Yes, sir; I found it was paid direct to the owners of the concession, because it had been a discount between the secretary and president of the company. I found we paid it to the owners of the concession direct.

Q. Have you the check with you?-A. (Producing paper.) I

have the check from the bank; yes, sir.

Mr. Manager STERLING. Mr. President, I think it is my duty to object for the simple reason that this is wholly immaterial to the issue in the case, and in the interest of time we do object.

Mr. SIMPSON. It was a matter brought out by the managers themselves in the examination of Mr. Rissinger. I propose to offer this check simply to fix the fact as to the actual payment. When we had Mr. Russell on the stand, to whom Mr. Rissinger said he paid the money, under the cross-examination of Mr. Sterling there was a book produced to show that there was no payment made to Mr. Russell, notwithstanding the fact that Mr. Rissinger said he paid it to Mr. Russell. For that reason we have recalled him to produce the check which shows the payment. They themselves brought it out in their examination of this witness

Mr. Manager STERLING. It does not justify them in sinning because we did. The only thing we drew out or sought to draw out that was material was whether or not any of this money went to Judge Archbald. That was the purpose of our examination.

The PRESIDING OFFICER. The Chair will inquire of the counsel for the respondent in what way the payment or nonpayment of this check illustrates any issue made in this case?

Mr. SIMPSON. The managers themselves have made the Their claim was, and I suppose is, that this note which was given by this witness to the order of Judge Archbald and Mrs. Hutchinson and indorsed by Judge Archbald was a note given in payment of the interest or a portion of the interest in which this witness was interested, and it is the subject matter of the article of impeachment.

Mr. Manager STERLING. Mr. President, we withdraw the

objection.

Mr. SIMPSON. Very well.

Mr. Manager STERLING. We can save time by doing it.

Q. (By Mr. SIMPSON.) This is the check which paid a portion of the money?-A. Yes, sir.

Mr. SIMPSON. I offer that check in evidence, Mr. President.

Mr. Manager WEBB. Let it be read first.

Mr. SIMPSON. I hand it to the Secretary and ask that it

The Secretary read as follows:

[U. S. S. Exhibit FF.]

SCRANTON, PENNSYLVANIA, December 11, 1908

COUNTY SAVINGS BANK

Pay to the order of W. W. Rissinger Two thousand &00/100

No. 129 \$2000... Dollars

W. W. RISSINGER

Perforated:

" PAID 12:10:08"

Stamped on face:

CERTIFIED for \$ Two thousand #

COUNTY SAVINGS BANK, L. B. Tyler, Teller.

Cashier:

Indorsed on back:

Pay to Alfred H. Morris, Agt. W. W. Rissinger Pay to the order of A. H. & D. H. Morris, Alfred H. Morris, Agt. Pay to the order of the Mercantile Trust Co. A. H. & D. H. Morris by A. H. Morris

Stamped on back:

Pay to the order of any Bank, Banker or Trust Co.

Dec 15 1908
Endorsements Guaranteed.
NAT. BANK OF COMMERCE IN N. Y.

Through Clearing House
Dec 16 1908
THIRD NATIONAL BANK
SCRANTON, PA.
Pay to the order of
NATIONAL BANK OF COMMERCE
IN NEW YORK,

Endorsements Guaranteed.
THE MERCANTILE TRUST CO.

Q. (By Mr. SIMPSON.) Who was Alfred H. Morris, agent?-A. He was one of the owners of the Honduras concession that we spoke about.

Cross-examination:

Q. (By Mr. Manager STERLING.) Mr. Rissinger, this \$2,000 check was a part of the money that you got on Judge Archbald's note?—A. Yes, sir.

Q. And that you sent to the promoters of this gold-mining

scheme?-A. Yes, sir; to the owners of the concession.

Q. And \$500 of the money you put in your own pocket?used it personally, but Judge Archbald did not get any of it.

Q. The \$500 went to you?—A. Yes, sir. Mr. Manager STERLING. That is all.

Mr. SIMPSON. That is all.

TESTIMONY OF JOSEPH P. JENNINGS-RECALLED.

Joseph P. Jennings, having been previously sworn, was re-

called and testified further, as follows:
Q. (By Mr. WORTHINGTON.) Since you were upon the stand have you gone to the Katydid dump and made a survey?-A. I have.

Q. Have you the result of that survey here?-A. I have.

Q. Please produce it.

(The witness produced a paper, which was handed to the counsel for the respondent and then to the managers.)

Q. (By Mr. WORTHINGTON.) You have both a map and a statement?—A. I have, sir.

Mr. WORTHINGTON. I offer both the map and statement

This witness, it will be remembered, was put on in evidence. the stand, but testified from figures made by a deceased surveyor. His testimony was excluded on that ground. So he has gone back and made a survey of his own.

Mr. Manager STERLING. We remember it very well, and we

object to the report, because the witness before was questioned thoroughly as to his competency and he never qualified to make a survey of this kind. He knew absolutely nothing about how

to make a survey of this kind.

Mr. WORTHINGTON. If the Chair wants to hear from us on that objection, we will ask leave to examine the witness as

to his qualifications.

The PRESIDING OFFICER. The Chair will suggest to counsel to refer to the former examination and it may not then

Mr. SIMPSON. It is on page 840, when he was first called. Mr. WORTHINGTON. Shall I read it?

The PRESIDING OFFICER, No.

Mr. WORTHINGTON. It is at page 840. He was not asked any question particularly on his qualification as a surveyor. The PRESIDING OFFICER. Without repeating questions,

the Chair will recognize the right of counsel to propound additional questions. It is not necessary to repeat questions heretofore asked.

Q. (By Mr. WORTHINGTON.) What has been your experience and your qualifications as a mining engineer?-A. I worked on the corps of the Hillside Coal & Iron Co. for two and a half years, after which time I went to Lafayette College at Easton and took the engineering course and graduated from the technical department of that institution in 1904.

Mr. GALLINGER. We have not been able to hear clearly

the answer.

Mr. WORTHINGTON. Let the answer be read.

The Reporter read the preceding question and answer. Q. (By Mr. WORTHINGTON.) You graduated as what?— A. Civil engineer.

Q. And since 1904 in what way have you been engaged in reference to coal property and culm and coal dumps?-A. I have been in active charge of two collieries for five years, and of three for six.

The PRESIDING OFFICER. The Chair will inquire if the

managers desire to be heard upon the question.

Mr. Manager STERLING. I have nothing further to add to

what I have said. The PRESIDING OFFICER. The Chair thinks the witness

is sufficiently qualified.
Q. (By Mr. WORTHINGTON.) Is this the first coal dump

you ever measured?—A. No, sir.

Mr. WORTHINGTON. I have offered the map in evidence,

and I offer the statement.

The PRESIDING OFFICER. The Chair thinks that counsel

will have to get the witness to testify to it.

Mr. WORTHINGTON. The witness has already stated that he went to the Katydid dump and made a survey, and that this is the result of his survey.

Mr. Manager STERLING. We object to the map.
The PRESIDING OFFICER. The witness can testify as to the details of the map. The witness can prove that he has made the map and then it may be offered in evidence.

Mr. Manager STERLING. We shall urge the same objec-

tion to this report that was urged to the others.

three reports went in by agreement.

The PRESIDING OFFICER. The Chair has not admitted the report. On the contrary, the Chair has expressly ruled that it can not be admitted at this time.

Mr. Manager STERLING. I understood the president to say that it would be admitted later.

The PRESIDING OFFICER. No; we are taking one thing at a time.

Q. (By Mr. WORTHINGTON.) Leaving the map aside for the present, I will ask you to state-

The PRESIDING OFFICER. The witness can testify from the map to refresh his memory in general. There is no objection to that.

Q. (By Mr. WORTHINGTON.) Very well. State then the result of your measurements and investigation; and you may refresh your memory by anything that you made yourself at the time.

The WITNESS. Katydid dump:

Number of cubic feet in dump, 2,437,795; weight per cubic foot, 53 pounds, which gives us 57,679 gross tons, as per survey of Joseph P. Jennings.

Percentages of coal as given by F. A. Johnson.

Q. (By Mr. WORTHINGTON.) When you say that, you mean the report in evidence-Mr. Johnson's figures in evidence?-A. Yes, sir.

[17] [4] [4] [4] [4] [4] [4] [4] [4] [4] [4	er cent
Stove and aboveChestnut	
Pea	;
Buckwheat	12
Rice	12.7
Barley	31. 0
	139300
	59. €
Estimate the quantity of coal by sizes.	Tons
Stove and above	1, 500
ChestnutPea	404
Buckwheat	6, 979
Rice	7, 325
Barley	17, 880
Total	34.376

Value of royalty in Katydid bank; based upon above estimate and royalties paid by Robertson & Law.

	Tons.	
Pea Buckwheat Rice Barley	404 at 18 cents 6, 979 at 9 cents 7, 325 at 6 cents 17, 880 at 6 cents	\$72, 72 628, 11 439, 50 1, 072, 80
Total -	29 588	2, 213, 13

Value of coal in Katydid bank; based upon above estimate and prices furnished by Mr. Rittenhouse.

Pea Buckwheat Rice Barley	Tons	\$719. 12 9, 840. 39 5, 127. 50 5, 364. 00
Total	32, 588	21, 051. 01

JOSEPH P. JENNINGS.

Mr. WORTHINGTON. In view of that statement-counsel do not care to have the map go in if the managers do not-I want to ask the witness whether or not that included the conical dump which is shown on the map here?-A. No, sir.

Q. You have been referring to Mr. Rittenhouse's figuresmean those which are in evidence? Are you familiar with them?-A. Yes, sir; those are the figures that he gave.

Q. And with his map?-A. I am familiar with his map; yes, sir.

Q. And all in evidence?-A. Yes, sir.

Mr. Manager WEBB. Johnson's figures? Mr. WORTHINGTON. Both. [To the witness.] Whenever you refer to Johnson's figures, you mean those in evidence?-A. Yes, sir; I took that out of the record.

Q. Is there any difference between your method of calculation and Rittenhouse's, except that you omit the conical dump which he included?—A. There is no difference in calculation. He puts in more of the bank than I do-more of that rock fill.

Q What is that difference? Explain that .- A. That difference comes in where the rock and culm were dumped in together, as was testified to by Mr. Johnson, and formed a vertical wall. Mr. Rittenhouse did not know that was there. He assumed that the bank sloped both ways and, of course, he would get more than I would.

Q. Why do you say Mr. Rittenhouse assumed that?-A. His

profile shows it.

Q. The profile in evidence ?—A. The profile in evidence shows

the slope; yes, sir.

Q. I wish you would go to the map back there and show just where this location is of which you are speaking.-A. (After going to and examining the map in the rear of the Chamber.) It is marked on here, starting at point B [indicating] and following this zigzag line around to about the point A there as marked [indicating].

Q. Now, just explain right there what you mean. You have given a vertical line there, and Mr. Rittenhouse has given a slope.-A. The culm was dumped along here [indicating], and the rock was dumped along there [indicating]. The slope—the old mine opening—went under the cliff here [indicating], and Robertson & Law put in a number of mine tracks radiating from a common point in order to dispose of the mine rock. That rock material was dumped there [indicating] before the culm was dumped. A person going on the ground to-day could not tell which was dumped first. Mr. Rittenhouse in his profile estimates that this bank slopes under this slush bank, which is not so.

Q. That is shown by his profile that is in evidence?-A.

Yes, sir.
Q. Will you please look at this map [indicating], which is in evidence, and the blue print, which is marked "U. S. S. Exhibit V," being the map which, as it appears from the evidence, Capt. May acted upon when he made the recommendation to sell for \$45,000-

Mr. Manager STERLING. We object to the statement for the reason that that does not appear. We understand it appears in the evidence that Capt. May testified that he estimated \$5,000 gross tons. That is his testimony.

Q. (By Mr. WORTHINGTON.) Look at that map, then, which counsel for the respondent claim is the one that the evidence Capt. May acted upon. Have you also taken that

dence shows Capt. May acted upon. Have you also taken that map and made a calculation as to the material in this bank from that?-A. I have.

Q. Have you got that calculation?-A. I have.

Q. I wish, refreshing your memory by any figures you have, you would state the result of that.—A. The number of cubic feet in solids, as shown in that print, is 2,316,065, which, at 53 pounds to the cubic foot, is 54,800 tons of material.

Q. Why do you take 53 pounds to the cubic foot?—A. It

measuring it up. It depends upon the amount of moisture. You never could weigh a portion of a culm dump and get the same thing twice, because the amount of moisture in it would determine the weight.

Q. Is there a large variance or is it generally in a small degree?-A. There might be a variance of a few pounds to the cubic foot. I took it at 53 because it is the easiest to calculate.

Q. I wish you would now look at the map, which is in evidence, and which is known as the Merriman map, which appears facing page 987 in the record in this case. I ask you, taking the same blue print, U. S. S. Exhibit V, to tell me if you can tell from that map whether it is based upon the assumption of a vertical line where you have indicated Mr. Rittenhouse had a slope?-A. Yes; it is.

Q. And that, too, omits the conical dump?-A. It omits the

conical dump.

Q. I observe, Mr. Jennings, on this blue print, Exhibit V, there appear to be some figures in pencil which appear clearly on the map as printed in the record. Can you identify those figures ?- A. Those figures are Mr. May's figures.

Q. Capt. May's figures, you mean?—A. Yes, sir. Mr. WORTHINGTON. That is all, gentlemen.

Cross-examination:

Q. (By Mr. Manager STERLING.) The map you are testifying about there, the blue print, was made by Merriman, was it not?—A. It was made by Mr. Merriman.

Q. He is dead?—A. Yes, sir.

Q. He was the engineer for the Erie Railroad Co. and the Hillside Coal & Iron Co. for many years, was he not?-A. He was the engineer for the land department for many years.

Q. He had great experience, did he not, in measuring culm

dumps?-A. I could not say as to that.

Q. Well, he was thoroughly qualified to do it, was he not, from his experience, being connected with the coal business?-A. I suppose he was; yes, sir.

Q. Well, do you think he was as well qualified as you are?-

A. I think I am as well qualified as he was.

Q. Better? Do you think you are better qualified?-A. I

think I am just as qualified as he was.

Q. I have to agree with you on that, because I do not know. Now, who wrote at the bottom of the map there that Mr. Merriman made in the lower right-hand corner?-A. He wrote that, sir.

Q. He says, "Estimate, 55,000 gross tons available"-

Yes, sir.
Q. "Exclusive of slush, rock, dirt, etc., of no value, as per Mr. Johnson, inspector"?—A. Yes, sir.

Q. So Mr. Merriman, an experienced engineer, and Mr. Johnson found 55,000 tons of coal, did they not?—A. No, sir.

Q. What did they find there? What does that mean?-A. That means 55,000 tons of material.

Q. In the whole dump?—A. No, sir. Q. What does it mean?—A. In that part outlined in that blue print.

Q. That means everything that they measured, does it?-

A. Yes, sir.
Q. Well, it says "exclusive of rock, slate, dirt, &c.," does it not?—A. Rock, slush, dirt, &c.
Q. So it excludes everything but coal, does it not?—A. No,

sir. Q. And finds 55,000 tons of coal, which is within about three or four thousand tons of what Mr. Saums estimated and

what-Mr. WORTHINGTON. We object to arguing with the wit-

ness as to what Mr. Saums said. Q. (By Mr. Manager STERLING.) And what Mr. Rittenhouse made? You knew that Mr. Saums made a survey of this, did you not?-A. I knew that.

Q. You knew he made it for the Du Pont Powder Co. when they were considering purchasing?-A. Not until I heard it

spoken of here.

Q. You know now that he did make it, and made it for that purpose?-A. I did not understand that Mr. Saums made a survey.

Q. He found 40,000 gross tons of material, did he not?-A. I do not know what he testified to.

Q. And Mr. Rittenhouse found something over \$5,000 gross tons?

The PRESIDING OFFICER. The Chair thinks all that is in evidence. The witness can not strengthen it by saying it is there. Unless it is intended to ask a question predicated on

Q. Why do you take 53 pounds to the cubic foot?—A. It varies a pound or so. You never get the same thing twice in

mate at the time when there were no impeachment proceedings on hand.

The PRESIDING OFFICER. It is not necessary to have testimony from him as to what other witnesses testified.

Mr. Manager STERLING. Very well; I will not pursue it any further.

Q. (By Mr. Manager STERLING.) You sa that Rittenhouse made a survey?—A. Yes, sir. You say that you knew

Q. And he made it not knowing the purpose of his survey, did he not ?- A. No, sir; he did not know what was there; he did not know the lay of the ground.

Q. You have made your survey, and were sent by the counsel for Judge Archbald since this trial commenced to make a survey for the purposes of this hearing, were you not?-A. Yes, sir.

Mr. Manager STERLING. That is all. Redirect examination:

(By Mr. WORTHINGTON.) In view of the cross-examination, what is meant by the reference there to slush, rock, dirt, and so forth?-A. When we-

Mr. Manager STERLING. We object. It speaks for itself.
The PRESIDING OFFICER. The Chair is of opinion that
all that evidence is improper. That report speaks for itself, all that evidence in unless it is in ambiguity.

Mr. WORTHINGTON. Very well, Mr. President, I will not

abuse your patience further.

The PRESIDING OFFICER. The witness may retire.

Mr. GALLINGER. Mr. President, it has been suggested that both sides are agreeable to an adjournment at this time.

Mr. WORTHINGTON. So far as the counsel for the re-

Mr. WORTHINGTON. So far as the counsel for the respondent are concerned we are entirely content.

Mr. Manager WEBB. That is agreeable to us, Mr. President.

Mr. GALLINGER. I then, Mr. President, ask unanimous consent that the Senate sitting as a Court of Impeachment do now adjourn.

Mr. CRAWFORD. May I inquire if it is not possible to close the testimony to-day? The time of the Senate is very valuable, and we ought to get through with this testimony, it

seems to me.

Mr. WORTHINGTON. I think, if we could go on, we could close to-day with everybody except Judge Archbald, whom we expect to put upon the stand. Of course, his direct examination will be quite lengthy. We have yet a number of witnesses and some papers to offer in evidence. The testimony of those witnesses will all be comparatively short, I should say, but I think if we should go on and undertake to finish with the evidence, except the examination of the respondent, it would probably take us until 6 o'clock. It is a little hard to tell as to that; but, so far as we are concerned, we are entirely content

to adjourn now or to go on.

Mr. GALLINGER. Mr. President, if there is a disposition to go on, of course, I will not make the request. I understood that both sides were rather desirous of adjourning at the present time, but I may have been misinformed.

Mr. CRAWFORD. I simply express the hope that we may finish the testimony, with the exception of the respondent's statement, if possible, to-day on account of the other work we have before us. We have had a vacation of a couple of weeks, and it seems to me we might as well continue until 6 o'clock this evening.

The PRESIDING OFFICER. Counsel for the respondent

will proceed with the testimony.

TESTIMONY OF R. M. SALTONSTALL.

Mr. WORTHINGTON. Mr. President, I desire now to make a statement in regard to Mr. Saltonstall, whose name has been mentioned here as one of the persons who sent the notice to Capt. May at the suggestion of the witness, Mr. Holden. Mr. Saltonstall was here yesterday, and we went with him to confer with the managers, and arrived at an agreement which I was about to state. Mr. Saltonstall was very anxious to be allowed to go back to keep an engagement which he had in Boston

Mr. Manager STERLING. Mr. President, the agreement was submitted to the managers, and we have no objection to the statement going in in lieu of the testimony of Mr. Saltonstall; but it is admitted, I presume, that he is the Saltonstall who represented a part of the Everhart interests?

Mr. WORTHINGTON. Certainly; that is the reason why we desire his testimony.

Mr. Manager STERLING. With that understanding, we have no objection to it.

Mr. WORTHINGTON. The statement is as follows: R. M. Saltonstall would testify that he wrote the letters of April 13, 1911, to Capt. W. A. May and to Robertson and Law, which are in evidence as Exhibits G and Q, at the suggestion of Mr. Charles P. Holden, who told him that the Hillside Coul & Iron Co. was about to sell the dump on lot 46, referred to in the evidence; that nothing was said to him at that time by said Holden about Judge Archbald; that

he, Saltonstall, when he wrote those letters, had no knowledge or susplicion that any investigation of Judge Archbald was contemplated; and that, so far as the witness knew, Judge Archbald had no interest in the proposed sale.

That, as has been stated by Mr. Manager Sterling, we agree may stand in place of the evidence of Mr. Saltonstall.

TESTIMONY OF ALLEN V. COCKRELL.

Allen V. Cockrell, having been duly sworn, was examined and testified as follows

Q. (By Mr. WORTHINGTON.) Mr. Cockrell, your full name. please.-A. Allen V. Cockrell.

Q. You are connected in some way with the Interstate Commerce Commission, I believe?-A. I am now a special examiner.

Q. In January and February of 1912 how were you employed?-A. I was confidential clerk.

Q. Of Commissioner Meyer?—A. Assigned to him; yes, sir. Q. You remember, do you, the time when William P. Boland came from Scranton down to Washington and saw you and Commissioner Meyer?-A. I do.

Q. And you know, of course, of the statement that was taken

to the President by Commissioner Meyer?-A. I do.

Q. You prepared that statement, I believe?-A. I prepared a statement, which, I understand, Mr. Meyer took to the President.

Q. I show you the statement which appears in this record on pages 702 and 703. Just glance at it, so as to be able to identify Look at it as closely as may be necessary to satisfy you that it is the paper you drafted .- A. (After examining paper.) I identify this as a copy of the paper.

Q. From whom did you get the information which was embodied in that statement?-A. From Mr. William P. Boland.

Q. I believe you were present at a hearing at the Attorney General's office, which took place on the 21st of February, 1912 when Mr. Edward J. Williams was there and was examined, and Mr. William P. Boland and Mr. C. G. Boland?—A. I was.
Q. How did you come to be there, Mr. Cockrell?—A. I do not

know. Mr. Meyer told me to go and take those gentlemen to the

Attorney General's office.

Q. And you participated in the questioning of Mr. Williams there?—A. The questioning was done by the Attorney General. At times I would make a remark to elucidate some of the statements

Q. Well, I will not go into the details of that.

Mr. Manager STERLING. That is all.

Mr. WORTHINGTON. One more question. Why was the name of Judge Witmer omitted from this statement?

Mr. Manager FLOYD. We object. Nothing has been said about Judge Witmer.

Mr. WORTHINGTON. Oh, yes. Mr. Meyer was asked about that, and he said-

Mr. Manager FLOYD. I am talking about this witness. You have asked this witness nothing about Judge Witmer.

Mr. WORTHINGTON. No; but I am asking him about it

The PRESIDING OFFICER. What is the question?

Mr. WORTHINGTON. I was trying to save time, but I will withdraw the question for the present and ask another. Did Boland, in this same conversation, make charges to you against Judge Witmer?

Mr. Manager STERLING and Mr. Manager FLOYD. We

object to that.

Mr. WORTHINGTON. Mr. President, when Mr. Commissioner Meyer was on the stand he was asked about that, and he stated that if Judge Witmer's name was intentionally left out of the paper that was taken to the President it must have been done by Mr. Cockrell and not by him, because Cockrell had the interview. Now, I think we ought to be permitted to show a little something more about the history of this transaction than the managers saw fit to introduce through Mr. Meyer. They called Mr. Commissioner Meyer here as their witness. He did not know anything about Judge Archbald's transactions or anything he had done, and did not give a word of testimony that was competent on any issue in this case, except that the managers stated that they proposed to show the history of the movement or proceeding which resulted in this impeachment. I think that we ought to be able to show, as we propose to show, that the same W. P. Boland who made the charges against Judge Archbald which are embodied in this statement, nearly every one of which has been shown to be utterly false, made similar charges against Judge Witmer at the same time, and that the paper which was prepared and taken to the President omitted entirely any reference to Judge Witmer, but bore only upon Judge Archbald, who happened to be a member of the Commerce Court, to which court appeals lie from the decisions of the Interstate Commerce Commis-

I think that is a part of the history of this transaction with which the Senate ought to be acquainted, because I propose to prove that William P. Boland charged before the Interstate Commerce Commission, as he charged on this witness stand, that Judge Witmer had rendered a decision in the Peale case which he said ruined him, or was intended to ruin him, at the instigation of Judge Archbald. Why, when they embodied in the statement the charge about Judge Archbald, they did not also embody the charge about that other Federal judge is what we want to find out, and I think the Senate ought to know the reason. The entire history of this case, since we have gone back to Commissioner Meyer, ought to be before the Senate. As it is now, it is a mangled proceeding. We have got here a part of it, but we have not got what may prove to be the most important part of it.

The PRESIDING OFFICER. If the evidence were admitted as to what has been said regarding Judge Witmer, of course, issue could be raised on it as to whether or not what was then said was true or false, and that would open another investigation as to whether or not Judge Witmer had done wrong, which is not involved in this case. The Chair will, therefore, exclude

the evidence.

Mr. WORTHINGTON. That being so, Mr. President, I have nothing further to ask this witness.

Cross-examination:

Q. (By Mr. Manager FLOYD.) Mr. Cockrell, I will ask you whether or not you took down this statement in shorthand, or took it down at the time it was made, or made it out from memory after he had made the statement to you?-A. Mr. Boland's statement was made in the morning. I was not asked until late that afternoon to make a memorandum; and I had to rely entirely upon my memory in preparing the memorandum which went to the President.

Mr. Manager FLOYD. That is all.

Redirect examination

Q. (By Mr. WORTHINGTON.) Is that an accurate statement of what Boland said, or the substance of it?-A. So far as I can remember; yes, sir.

Mr. WORTHINGTON. That is all.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF ROBERT C. TRACY.

Robert C. Tracy, having been duly sworn, was examined and testified as follows

Q. (By Mr. SIMPSON.) You are connected with the Depart-

ment of Justice?—A. Yes, sir.
Q. In what capacity?—A. Clerk.
Q. Did you make a schedule showing the names and occupations of the jury commissioners of the various Federal districts

throughout the country?—A. Yes, sir.

Q. Will you look at the paper I hand you, and tell me, please, whether that is the schedule which was prepared by you?—A.

(After examining paper.) Yes, sir.
Mr. Manager FLOYD. We object, Mr. President.

Mr. SIMPSON. In order to get the record straight, I will offer it so that Mr. Manager Florp may object to it. I now offer the schedule in evidence.

Mr. Manager FLOYD. We object to it as wholly immaterial. It purports to be a list of jury commissioners and their occupations. We object to it; it is wholly irrelevant and incompetent.

The PRESIDING OFFICER. Jury commissioners of what

jurisdiction?

Mr. SIMPSON. Of various Federal districts throughout the country. You may remember, sir, if you will listen a moment so that I may get before you exactly the point of it, that in one of the articles of impeachment—the twelfth article, I think—objection was made to the appointment by Judge Archbald of Mr. Woodward as a jury commissioner, he being a lawyer. This schedule is made up simply for the purpose of showing throughout the country, in all the judicial districts of the country, the names and occupations of the jury commissioners and that a large number of them are in fact lawyers. That bears upon the question as to whether or not there was any exercise of ill faith or bad faith, or whatever you may choose to call it, in selecting a lawyer for that office.

Mr. Manager CLAYTON. Mr. President, has counsel con-

cluded?

Mr. SIMPSON. I have concluded offering the schedule and

all I have to say on it.

Mr. Manager CLAYTON. Mr. President, I desire to say that we object to this particular testimony for two reasons. In the first place, if it be a bad custom to appoint lawyers as jury commissioners, the fact that other judges may have indulged in that bad custom can not make it a law. The present occupant of the chair is familiar with the rule, which is funda-

mental, that a custom, even under the law merchant, to become

a law must be a good custom.

And again, Mr. President, we object to it because the par-And again, Mr. President, we object to it because the particular charge here is that he appointed as a jury commissioner a railroad attorney. This list here purports on its face to show no more than that they were attorneys. Perhaps it may not be the subject of criticism for a judge to appoint as a jury commissioner an attorney disassociated with the railroad business, disassociated with the business of the court over which the judge presides.

The very gravamen of this charge is that he appointed not only a lawyer-that is not the test-but that he appointed a lawyer of corporations having litigation before the court over which he presided; and we think it is clear upon that point

that this evidence is not admissible.

Mr. SIMPSON. I do not claim that we are proving a custom here in any such sense as the chairman of the managers The question we have here, sir, is a question of suggests. criminal intent, of corrupt action on the part of Judge Archbald, and anything which tends to show that there was no such criminal intent, no corrupt motive on his part, is evidence, the weight of which the Senate will ultimately have to determine.

Now, one of the first steps in showing that is that there has been throughout the country the appointment of lawyers as jury commissioners. Then, when Judge Archbald is on the stand, the next step will necessarily have to be taken, by way of our proofs upon that point, and then the Senate, sir, will pass upon the whole matter.

The PRESIDING OFFICER. The Chair is in grave doubt as to whether or not it is material, but does not think it is a matter of very great importance. It will give the respondent the benefit of the doubt in the mind of the Chair, and let the evidence go in for what it is worth.

Mr. SIMPSON. I will not ask that it be read; I think it would be quite a waste of time; but ask that it be marked as

an exhibit and go into the record. The paper is as follows:

[U. S. S. Exhibit GG.]

Statement showing the names and usual occupations of the jury com-missioners throughout the United States.

Judicial district.	Name.	Occupation.
Al-lama northern:		
Alabama, northern: Southern division	J. B. Cobbs	Real estate.
Town or division	J. O. Long	Farmer, etc.
Jasper division	Frank M. Moody	Banker.
Western division	F T Hollingworth	Do.
Eastern division	R. H. Stickney	Druggist.
Northeastern division		Grocer.
Northwestern division	Turner Rice	Banker.
Northwestern division		Lawyer and farmer.
Alabama, middle		
Arizona	Vernon L. Clark	Ostrich farmer.
Arizona	Wm. P. Feild	
Arkansas, eastern	WIII. F. Fend	Banker and planter.
Harrison division	Wm. A. Brittin	Merchant.
Fort Smith division		
Texarkana division		Do.
California, northern	Frank Dalton	Manager, building.
California, southern:		
Northern division	C. T. Cearley	Stationer.
Southern division	U. D. Woolwine	Banker.
Colorado	Chas. D. Cobb	Insurance agent.
Connecticut	Chas. E. Pickett	Deputy clerk, United States District Court.
	The second of th	
Delaware	J. Wilkins Cooch	Capitalist.
	(Aulick Palmer	United States marshal.
District of Columbia	John R. Young	Clerk, Supreme Court,
District of Columbia		District of Columbia.
	C. C. Rogers	Collector of taxes, Dis-
		trict of Columbia.
Florida, northern:	*** ** - 1 - 1 - 1 - 1 - 1	
Pensacola division	Walker Anderson	Insurance agent.
Tallahassee division	G. W. Saxon	Banker.
Gainesville division	W. B. Taylor	Merchant.
Florida, southern	Peter E. Dignon	Grocer.
Georgia, northern	A. L. Walde	Real estate.
Idaho	Benj. S. Howe	Manager water com-
THE COURSE OF THE PARTY OF THE	Possel II Tours	pany. Banker.
Illinios, northern (northern di- vision).	Frank H. Jones	Banker.
Illinois, eastern	Wilber P. Craig	Do.
Illinois, southern:	"Hoer a . craig	2704
Northern division	H. W. Danforth	Lawver, etc.
Southern division	W. O. Converse	
Indiana	A. Q. Jones	
Indiana	11. Q. 50HCST	Dan you.
Iowa, northern: Eastern division	Thomas M. Irish	Schoolmaster. *
Cedar Rapids division		Real estate.
Central division	Harry L. Weiss	Do.
Central division	William E. Powell	Do.
Iowa, southern: Central division. Eastern division. Western division Southern division Davenport division Ottumwa division.	D W Smouse	Physician
Factory division	T W Hobbe	Incurance event
Western division	O H Luces	Ratirod from business
Conthorn division	W II Brady	Marchant
Bouthern division	H I McForland	Clark county court

Statement showing the names and usual occupations of the jury com-missioners throughout the United States-Continued.

Judicial district.	Name.	Occupation.
Kansas Kentucky, eastern (Covington division)	John Mileham	Lawyer. Merchant.
Kentucký, western: Louisville division	Charles D. Grainger	President water com-
Paducah division	Muscoe Burnett	pany. Treasurer water com- pany.
Owensboro division Bowling Green division Louisiana, eastern	Frank H. Mortimer	pany. Farmer. Banker. Clerk circuit court of appeals.
Louisiana, western	Different persons ap- pointed for each term.	
Maine Maryland Massachusetts Michigan, eastern Michigan, western:	Different persons appointed for each term. Frank L. Clark. Thomas T. Tonzne. Joseph H. O'Neil. Edw. C. VanHusan	County official. Insurance agent. Banker. Real estate.
Southern division Marquette division Minnesota	Joseph S. Courtney	Banker. Insurance agent. Lawyer. Banker.
Mississippi, northern	James Galceran	Clerk, railroad com- mission.
Missouri, eastern	Insenh S. Rust	Do.
Moniana. Nebraska: Omaha division Norfolk division Chadron division Grand Island division Grand Island division Lincoln division McCook division North Platte division North Platte division Nevada. New Hampshire New Jersey New Mexico New York, eastern New York, eastern New York, eastern New York, eastern North Carolina, eastern North Carolina, eastern North Dakota Ohio, northern Ohio, southern Oklahoma, eastern Oklahoma, eastern Ordgon Pennsylvania, middle Pennsylvania, middle Pennsylvania, middle Pennsylvania, western Rhode Island South Carolina: Charleston division	George D. Smith George A. Birdsall	Farmer. Contractor.
Grand Island division Hastings division	Guy A. Harrison George A. Allen	Lumberman. Postmaster.
McCook division	F. M. Kimmell	Farmer. Publisher.
North Platte division	J. E. Gignoux	Miner.
New Hampshire	Fred. S. McNeely	Retired from business.
New York, northern	Sylvester Dering	Insurance, etc.
New York, southern	Edw. L. Patterson	Lawyer.
North Carolina, eastern	Joseph G. Brown R. M. Rees	Banker. State official.
North Dakota	J. P. Hardy J. J. Sullivan	Printer. Banker.
Ohio, southernOklahoma, eastern	Thos. W. Allen M. E. Williams	Merchant. Insurance.
Oklahoma, western	Geo. W. Ball T. M. Wood	Real estate. Do.
Pennsylvania, eastern Pennsylvania, middle	Chas. H. Matthews Eugene Zeoping	Lawyer. Ex-banker.
Pennsylvania, western Rhode Island	Geo. W. Burgruoin F. H. Jackson	Lawyer. Broker.
South Carolina: Charleston division	W. M. Bird	Merchant.
South Dakota	W. M. Bird Frank Hammond Danl. G. Glidden	Capitalist.
Tennessee, eastern: Northern division Southern division Northeastern division	Henry R. Gibson Prosper Lazard J. W. Howard	Lawyer. Fruit farmer. Officer fraternal society.
Tennessee, middle: Cookeville division Nashville division	John G. Duke W. M. Woodcock	Not known. Publisher.
Tennessee, western: Eastern division. Western division.	W. P. Robertson Harry E. Coffin	
Texas, northern 1	C. D. Hughes Geo. B. Dobson	
Texas, western	E. C. Barthalomew Josiah Barnett	Capitalist. Banker-broker.
Vermont	Harvey Willson	Lawyer,
Texas, western. Utah. Vermont. Virginia, eastern. Virginia, western. Washington, eastern. Washington, western (northern division).	Dana Child Earl R. Jenner	Banker. Lawyer.
West Virginia, northern: Philippi division Clarksburg division	Worthington Chenoweth	Dentist.
Martinspire division	A. C. Nadenbousch	Lawyer, retired.
Wheeling division	John G. Hogan	Treasurer, building as- sociation.
West Virginia, southern: Charleston division Huntington division Bluefield division Addison division Wisconsin, eastern.	Jas. F. Cork B. F. Morris J. H. McCullough	
Wisconsin, eastern	Chas. H. Swan	Sales agent.
Madison division La Crosse division	John Corscot	Corporation official. Lawyer.
Wyoming	Geo. F. Forrest	Proprietor of a ma-
Porto Rico	Albert Lee	Not known.

¹ Has no jury commissioner at present.

DEPARTMENT OF JUSTICE, UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF WEST VIRGINIA, Parkersburg, October 7, 1912.

The ATTORNEY GENERAL, Washington, D. C.

The Attorney General, Washington, D. C.

Sie: Replying to the department's letter dated September 26, 1912, initials JJG-AGM, I beg to advise I have made inquiries of A. C. Nadenbousch and J. J. Jackson, jury commissioners, respectively, for Martinsburg and Clarksburg, with respect to the information desired, and beg to report first with reference to Mr. Nadenbousch:

He is regularly retained as attorney by the Cumberland Valley Railroad Co., a small railroad operating in that region, I understand running between Harrisburg, Pa., and Winchester, Va.

After having ascertained this fact I reported the same to Judge Dayton, who directed me to say that if for any reason the department would consider Mr. Nadenbousch's office of jury commissioner inconsistent with the employment noted above, he will request his resignation and appoint some one in his stead. Mr. Nadenbousch was appointed by the former Federal judge, Hon. John J. Jackson, and Judge Dayton was not cognizant of his employment by the railroad in question, and in fact the subject had never been under discussion during Judge Dayton's tenure of office. Our next regular term of court at Martinsburg does not convene until next April.

With respect to Mr. J. J. Jackson, jury commissioner at Clarksburg, he is not retained by any railroad or corporation, and in fact informs me he is entirely out of the active practice of the law.

Very respectfully,

C. B. Kefanner, Glerk.

C. B. KEFANVER, Clerk.

Mr. Manager FLOYD. We have no questions. The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF JOHN T. BROWN.

John T. Brown, being duly sworn, was examined and testified as follows:

Q. (By Mr. MARTIN.) Where is your home?-A. Scranton, Pa.

Q. What is your business?-A. I am employed on the Scranton Times as a reporter.

Q. How long have you been employed as such reporter on that paper?—A. Ten years.

Q. Were you working on that paper in April, 1912?-A. Yes,

Q. Do you remember the date on which the articles appeared in your paper for the first time with reference to Judge Arch-

Dald?—A. Yes, sir.
Q. I show you the Scranton Times bearing date April 22, 1912, and ask you if that is the paper in which that first appeared in Scranton?—A. (After examination.) Yes, sir; this is the first one.

Q. The article in the paper entitled "Charges filed against Judge R. W. Archbald, of the Commerce Court," is the first appearance of any newspaper article published in Scranton?— A. Yes, sir.

Q. Do you recollect the appearance of the article in the Philadelphia North American?—A. Yes, sir; I think it was the same day. It was the morning of the 22d of April.

Q. I show you the copy of the Philadelphia North American dated Monday, April 22, and ask you if that is the edition of that paper in which the articles first appeared?—A. (After examination.) Yes, sir.

Q. What time does the Philadelphia North American circulate in Scranton? I mean what time of the day would that newspaper reach Scranton for circulation?-A. Well, I do not know anything about the general circulation of the North American through the city, although it has quite a circulation, except we get two copies of it at our office, delivered by a newsboy, every morning about 9 o'clock.

Q. I think you misunderstood my question. time of the day it appeared in Scranton?-A. That is what I

have said-9 o'clock in the morning.

Q. That is the first time it appears there-9 o'clock in the morning?-A. That I have any knowledge of.

Q. What time of the day is the Scranton Times published?—A. The first edition of the Scranton Times gets on the streets

of Scranton about half past 1 o'clock in the afternoon.

Q. Can you say whether this paper I have shown you, the Scranton Times, was the first or last edition, or what time of day this edition does appear upon the streets of Scranton?—A. We have three editions a day; one that gets on the streets about half past 1; the second one gets out about half past 3; and the last about quarter past 4—that is our last edition, the stock

Q. That would appear on the streets, then, about quarter past 4 of that date?—A. Yes, sir.

Mr. MARTIN. You may cross-examine. Mr. Manager WEBB. We have no questions.

The PRESIDING OFFICER. The witness may retire.

TESTIMONY OF GEORGE M. WATSON.

Mr. SIMPSON. Mr. President, I desire to offer in evidence the testimony of George M. Watson, as taken by the Judiciary

Committee of the House of Representatives and published at pages 1317 to 1401 of those proceedings.

Mr. Manager FLOYD. Mr. President-

Mr. SEMPSON. Pardon me one minute. We submitted this to the chairman of the managers, or, rather, the question of putting in only a part of it, and the chairman of the managers has told us to-day that he prefers to have the whole testimony go in. We do not ask to have it read, because it would take the larger part of the day to do so, but there are parts of it that both sides would like to refer to, and so I ask that it all go in. The witness is ill; and the managers tried to get him and reported they could not; and he is unable to leave his room, I understand.

Mr. Manager FLOYD. That is satisfactory. I simply desired to object to reading portions of the testimony.

Mr. SIMPSON. We do not desire to read any of it.

The PRESIDING OFFICER. If there be no objection it will be incorporated as a part of the record in this case.

Mr. WORTHINGTON. Then it ought to be printed in the record as if it had been given here.

The PRESIDING OFFICER. Undoubtedly-

Mr. SIMPSON. Yes; but we are not going to read it.

The PRESIDING OFFICER. The same as if the witness had been on the stand here.

Mr. POMERENE. If it is not out of order, Mr. President,

may I ask to what charge this applies?

Mr. SIMPSON. It relates to the second article, in the matter of the attempt to settle the controversies between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co.

The matter referred to is as follows:

George M. Watson, being first duly sworn, was examined and testified

George M. Watson, being first duly sworn, was examined and testified as follows:

The Chairman. Mr. Watson, please give your full name, your address, and your occupation.

Mr. Watson. My name is George M. Watson. I live in Scranton, at 1659 Jefferson Avenue. My office is at present 322 Conneil Building. It was 822 until very recently. I moved downstairs several flights.

The Chairman. And your occupation?

Mr. Watson. My occupation is that of a lawyer, an attorney.

The Chairman. How long have you known Edward J. Williams?

Mr. Watson. A good while; I could not tell, but I remember him as a mine foreman many years ago, when he was employed. For many years he has not been empleyed as a miner, working about the mines, and when he was employed I knew him. I judge it was—well, twenty-odd years ago.

The Chairman. What has been his occupation since he quit mining? Mr. Watson. I really do not know. Until the last year or two I met him very infrequently, and I do not know.

The Chairman. What has he been doing in the last year or two?

Mr. Watson. I hardly know that. I have seen him on the street. There seem to be two blocks which we have to travel very often to get to the courthouse and to the post office, and he is moving along the street there when I see him.

The Chairman. Do you know of his operating any culm banks or doing any of that sort of business?

Mr. Watson. I never knew that he did. Since this suit began I have understood that he was indirectly interested in this coal company or this culm washery.

nnderstood that he was indirectly interested in this coal company or this culm washery.

The Chairman. How long have you known Judge Archbald?

Mr. Watson. A great many years; I Judge 30; maybe longer—32.

The Chairman. Will you please state in your own way, but fully, just how you became retained by the Bolands to negotiate the sale of their interest in the Marian Coal Co. to the Delaware, Lackawanna & Western Railroad, and just how and by whom those ugediations were conducted from the time you were originally employed by the Bolands, up to the present time.

Mr. Watson. What moved Mr. Boland to come to my office, I do not know. He came to my office, my recollection is, some time in August; perhaps the latter part.

were conducted from the time you were originally employed by the Bolands, up to the present time.

Mr. Warson. What moved Mr. Boland to come to my office, I do not know. He came to my office, my recollection is, some time in August; perhaps the latter part.

The Chairman. Which Boland, and when?

Mr. Warson. That was C. G. Boland, in August of last year. I will not be positive about that. My better judgment would be September; but there has been so much in the testimony here about August that I may be mistaken, and it might have been August. I made no note of it, and all the data I did have I gave to Mr. William P. Boland when I returned the papers to him, I think about the 10th day of October.

Mr. Boland came to my office and told me that he desired to get rid of this washery, to sell it; and he said, "I am satisfied that you can sell the washery for me." I told him I knew nothing of it, and he said they had a lawsuit, and I never heard of that either. It seems to me it was Peale, Peacock & Kerr, the way he gave the name—and I know something of them as coal men—had begun an action; perhaps it was an equity proceeding; I have forgotten just what it was; but, at any rate, it was brought in the United States circuit court for that district, years before—I do not know how long before, but a couple of years before that, and that they had a judge that had been appointed quite recently, Judge Witmer, and he asked me if I knew him. I told him I did just know the man—that was all; I never talked with him much and never practiced law before him any, so I did not know him much. Well, he wanted something done by which we could find out if that case could be adjusted. It seems that they were talking about rates, or there was some difficulty about what interest Peale had, or if he had any interest, and he had made advances of money or something like that, and he wanted to know if I could get the data. Now, this was C. G. Boland. I had not seen W. P. Boland at that time, or for some time after. I told him I would look the m

begun; I found there had been a demurrer; I found it had been disposed of; I found that a commissioner had been appointed to take testimony, and I found that they had taken the testimony and closed the case, and that the report was then in the hands of Judge Witmer. That is what I discovered when I first went into this case.

I told Mr. Boland that that was the status of the case, and I said, "It is all in the hands of Judge Witmer now, and the arguments are all over." Well, he did not like it. He did not like that way. He said there ought to be some way of getting into that court and getting the court to understand the case better than he knew they did; and there was some comment made upon Mr. Donnelly. This was the first I knew that Mr. Bonnelly was connected with that case.

Finally, after three or four meetings with Mr. Boland—and these meetings may not have been planned, because my office was so located that Mr. Boland was obliged to pass it in going to the Underwriters' Insurance office, which was two doors beyond me; he passed there every day, sometimes a couple of times a day, and he may have dropped in casually. I do not know that he came over purposely to see me, but he came in, as I say, frequently, three or four or five times, before Mr. W. P. Boland came into the case at all.

Then he made a suggestion to me that they would like to sell this property, and asked me if I thought I could negotiate with the Lackawanna road, and I told him perhaps I could; I did not know; I knew some of the men, but some of them I did not know, that were to me, you know. The foad has changed management within a dozen years, and some of those people are there that I do not know. But after a while he told me that he would like to retain me to do this work for them, and that he would give me \$5,000 for a fee if I could get the Lackawanna Baliroad to take this property. Now, he did not know were there together, and there was some little discussion as to the status of this case. This case in the United States court seemed to

ago," and he named the man that told him. So he believed, I fancy, that this—

The Chairman. Let us have it all. You say he named the man?

Mr. Warson. He did; he named the man.

The Chairman. State his name.

Mr. Warson. His name is Searle—E. R. W. Searle, I think it is, or E. W. R. Searle. I have forgotten the name, but it was two or three letters anyway.

The Chairman. Who was that?

Mr. Warson. E. R. W. Searle was the clerk of the circuit court and district court of the middle district of Pennsylvania.

The Chairman. And who was the judge of that court?

Mr. Warson. At this time? Judge Witmer.

The Chairman. Who was it hat had been the judge before that, when he "could have told him months before that he was beaten"? Who was the judge at that time?

Mr. Warson. He did not say who told him months before, but the judge before that, his predecessor, had been Judge Archabid. He had been there for a number of years—from the organization of the court.

The Chairman. How recently had Judge Witmer come upon the bench before this talk of yours with the Bokunds?

Mr. Warson. I could not tell you, Judge; I could not tell you. In fact, I have not been in very good thinking order for about a year?

Mr. Warson. Yes: and I can not go back and give dates.

a year?

Mr. Watson. Yes; and I can not go back and give dates.

The CHAIRMAN. What time do you fix, if you can, when this conversation occurred with the Bolands that you have spoken of?

Mr. Watson. My recollection would be—my own independent recollection would be—that it was in the month of September, and toward the middle.

Mr. WATSON. My recollection would be—my own independent recollection would be—that it was in the month of September, and toward the middle.

The Chairman. 1911?

Mr. Watson. 1911. Now, as I say, Judge Witmer came on the bench at the organization of the Commerce Court.

The Chairman. This conversation with the Bolands happened before the decree was rendered, did it not?

Mr. Watson. Yes; there was no decree when I looked at the record. There had been no decree then, because I suggested to him, when he told me that, that the orderly way to proceed would be to draw up a petition setting forth the fact that the judge had not properly discussed or digested the evidence, and ask for a reargument. I suggested it to Boland; told him I would join with his Mr. Donnelly, after I found Mr. Donnelly was there, and present the petition; so I know that the decree had not been handed down at that time. Then I told him right there at that time that after the decree was handed down the way to do was to go into the—

The Chairman. When was it that that clerk said that he could have told this months before?

Mr. Watson. Well, in the light of present events, I would not want to say that he ever said it. The clerk never said it to me. He said it to Mr. Boland, so Mr. Boland said, and I am not so sure now. At that time I thought perhaps there had been something of that kind said.

The Chairman. But you do not know of it of your own knowledge?

Mr. Watson. He did not fix any time at all.

The Chairman. That he could have told him that menths ago?

Mr. Watson. He could have told him that he was beaten.

The Chairman. That he could have told him that was an adjustment before the lerk told him that the was obtain an adjustment before the literstate Commerce Commission. I knew nothing about the practice; I never had had a case before the Interstate Commerce Commission, and we did some little talking about it, and Mr. Boland tunished me maps—that is, a distance map, you call it—showing the towns along the lines where they were selling anth

I think it went as far west and southwest, perhaps, as St. Louis, as far north as Duluth—somewhere up in there—and west of Buffalo, and various points. Many New York State points, many Pennsylvania points, and New Jersey, were on this map, and the lines were drawn from a center leading to this place, the mileage put on, and the rate per ton that they charged. That was one of the papers that he gave me.

The Chairman. Mr. Watson, going back now to the conversation with the Bolands, you say that was in August or September of 1911?

Mr. Watson. Yes; my judgment would be it was in the middle of September.

The Chairman. But since you heard the witnesses testify here fixing it in August, you are in doubt about it?

Mr. Watson. Well. I could not say that.

The Chairman. What do you say?

Mr. Watson. I am not in doubt, but I am perhaps leaning toward the date in August, not having it fixed in my mind and not having made any memorandum. If so many men know it was in August, why, I am not so stubborn that I would not—

The Chairman. It was before the decree was entered?

Mr. Watson. Yes; it was before the decree was entered.

The Chairman. If the decree was entered on the 24th day of August, this conversation which you had with the Bolands must have happened in August?

Mr. Watson. Yes; and that does refresh my mind now, my recollection of the matter. I am satisfied now that it was somewhere about two or three days before that decree, because I remember the fact of the decree coming down and Mr. Boland coming to my office and telling me.

The Chairman. What refreshes your mind and makes you now locate

Mr. WATSON. Yes; and that does refresh my mind now, my recollection of the matter. I am satisfied now that it was somewhere about two or three days before that decree, because I remember the fact of the decree coming down and Mr. Boland coming to my office and tell. The CHAIRMAN. What refreshes your mind and makes you now locate it two or three days before the date of the decree?

Mr. WATSON. Because we were discussing this matter just a day or two before that, and I was surprised to think that the decree came drawn with them, as I understood II.

The CHAIRMAN. The fact that you yourself felt surprised at that time now refreshes your memory about it? Is that so?

Mr. WATSON. Well, no; I would not exactly say that, but I recall the came in the came of the convergence of the came of the ca

The CHAIRMAN. Did you have any understanding with the Bolands about the fee that you would get in case the Marian Coal Co. property was sold?

The CHAIRMAN. Did you have any understanding with the Bolands about the fee that you would get in case the Marian Coal Co. property was sold?

Mr. WATSON. Why, a business man that assumes to be doing business comes into my office, and he wants to fix the fee, and he does, and he mentions the amount of \$5,000 for the fee. I did not need a paper.

The CHAIRMAN. You said "a business man."

Mr. WATSON. Yes.

The CHAIRMAN. Do you mean by that that Boland came into your office?

Mr. WATSON. Why, surely.

The CHAIRMAN. And proposed to give you a fee of \$5,000 if you were successful in negotiating the sale of the Marian Coal Co. property?

Mr. WATSON. I do not know that "if I were successful" was mentioned at all. I don't think it was at that time, when he first offered me the \$5,000.

Mr. WORTHINGTON. Which Boland?

Mr. WATSON. Mr. C. G. Boland. I never talked with W. P. Boland about fees.

The CHAIRMAN. But you do remember that you were to have a fee of \$5,000?

Mr. WATSON. Yes, sir.

The CHAIRMAN. On account of the sale of that Marian Coal Co. property?

Mr. WATSON. Surely; that is right; and no other fee—only that.

The CHAIRMAN. Mr. Watson, will you please look at this paper and see if you ever had the original or a copy of that paper, or ever saw the original or a copy of that paper before?

Mr. WATSON (after examining paper). I have no recollection of ever seeing anything like that before. There is one part of that paper that I remember was discussed.

The CHAIRMAN. This paper reads:

SCRANTON, PA., August 23, 1911.

SCRANTON, PA., August 23, 1911.

C. G. Boland, Esq., Scranton, Pa.

C. G. BOLAND, Esq., Scranton, Pa.

Dear Sir: In reference to the matter of G. M. Watson being taken into the case of the Marian Coal Co. against the D., L. & W., would say, in confirmation of what I told you heretofore, that if through the efforts of Mr. Watson a satisfactory settlement is brought about, the Marian Coal Co. agrees to pay him \$5,000 for such settlement.

Of course Mr. H. C. Reynolds has been in this case from the beginning and will be attorney in it until its final settlement.

Very truly, yours,

MARIAN COAL Co., President.

This copy has a blank and the word "President" underneath; but did you see a paper of which this is exactly a copy with the exception that Mr. W. P. Boland's name is omitted from this paper at present? You say you saw no such paper?

Mr. WATSON. There is one paragraph there—I do remember a conversation in which Mr. Reynolds was named as being the attorney in the rate case. If that is what they mean, in the rate case—that is, the matter before the Commerce Commission—and Mr. Reynolds was to receive some money out of this money that I got from the Lackawanns if I were to get it. I know we did talk about that, and I think the fee was fixed by W. P. Boland at \$12,500, or something like that. Now, that is my recollection of it.

The CHAIRMAN. You were to have a fee, then, from the Bolands for the sale of the Marlan Coal Co. property, but no fee in the Interstate Commerce Court case?

Mr. WATSON. Oh, no; it was altogether. It was altogether, but Mr. Reynolds was not their attorney in the Marlan Coal Co. case in the United States court, Mr. Reynolds was the attorney before the Interstate Commerce Commission. Mr. Donnelly was the attorney in the United States court, and Mr. Reynolds did not appear there, so far as I know.

"The CHAIRMAN I should like to have you tall the committee inst

United States court, and Mr. Reynolds did not appear there, so far as I know.

The Chairman. I should like to have you tell the committee just exactly what you were employed to do.

Mr. Watson. I was employed finally, after we got down and talked it all over—there were a number of meetings before we got down to what I was to do. I was to present the rate claim to the Lackawanna Railroad, and collect from them—well, something in the neighborhood of \$300,000. Three hundred and some odd thousand dollars was the claim, and I whittled it down to about sixty, and told them that that was all they could get, if they got anything. They had some exemplary damages, and it piled up four times the amount of the freight, or something of that sort; and I whittled that down to the actual damages as allowed under the law, and it amounted to about \$60,000, as I recall it. The coal property was to be \$100,000, and the \$60,000 made \$161,000 when added together, and that is what I asked the Lackawanna Railroad—\$161,000.

The Chairman, Did Judge Archbald have anything to do, by way of suggestions or assistance to you, with your negotiations for the settlement of that matter against the Delaware, Lackawanna & Western Railroad?

Mr. Warson, My recollection is that Judge Archbald said he would

settlement of that matter against the Delaware, Lackawanna & Western Railroad?

Mr. Watson. My recollection is that Judge Archbald said he would give me an introduction to Mr. Loomis. My recollection is that Judge Archbald did not do it.

The Chairman. That he did not do what?

Mr. Watson. That he did not give me the introduction. The Chairman. He did not give you the letter?

Mr. Watson. He did not. I still have a recollection that Judge Archbald said that he had written a letter—that is, that he told me he had—to Mr. Loomis.

The Chairman. Do you remember when he told you that, that he had written it?

Mr. Watson. It was right after I was over in the office looking up Mr. Watson. It was right after I was over in the office looking up

The CHAIRMAN. Do you remember when he told you that, that he had written it?

Mr. Warson. It was right after I was over in the office looking up the record. Now, I have an indistinct recollection that that is what he said, that he would introduce me. In the first place, I never had met Loomis, and Loomis was coming to Scranton every two weeks, as remarkable as that may be, and he was around the clubs there; but I never happened to meet him, and I regretted that when I was-talking about endeavoring to make a settlement, that I did not know Mr. Loomis, who was the man we would have to settle with. He was at the head of the coal department. Judge Archbald said, "Why, I know him very well, and I will give you a letter"—something of that sort. He never gave me the letter. Now, whether he wrote a letter or not. I don't know; but my recollection is that he told me that: but that did not make the meeting, because I have a carbon copy of the very letter that we had the meeting on right here, and I know when it happened, pretty nearly, now.

The Chairman. What is that paper you have?

Mr. Warson. It is a carbon copy of a letter dated October 2, 1911.

Exhibit 86.

Mr. E. E. Loomis, Vice President Delaware, Lackawanna & Western Railroad Co., 99 West Street, New York City.

Dear Sir: In relation to a matter existing between the Marian Coal Co. and your road and coal department, and also a claim against the traffic department of your road, which I have had under consideration here and with which I pressme you are more or less familiar, I decided, after a conference with your Mr. Phillips, of the coal department, to ask for a meeting with you and the president of your road, Mr. Truesdale, if convenient, at the earliest time you could find your way clear to meet me, either in New York or Scranton. If you will kindly advise me either by wire or letter, I will hold myself in readiness to meet you on a few hours' notice.

I am, very truly, yours,

Thet is not signed but it is my letter, and my carbon conv.

That is not signed, but it is my letter, and my carbon copy.

The foregoing letter was subsequently marked by the stenographer "Exhibit 86." The CHAIRMAN, What date is that?
Mr. WATSON, It is dated October 2, 1911.
The CHAIRMAN, What did you do after that letter? What happened?

The CHARRMAN. What did you do after that letter? What happened?

Mr. Warson. I think that is when the negotiations began with the Bolands. I think they came over, and we talked it over, and I told them what I had done, and, in fact, perhaps they knew that I was a busy week then. We talked a good bit about it, because I expected an answer to this letter saying when they would meet me, and I expected that meeting would take place on the following Monday, because I was advised by Mr. Phillips that Mr. Loomis would be in Scranton on that day, Monday or Tuesday, and there was more or less talk about it. Then, I had gone into the case far enough, if you will pardon me, to know that our claim for damages on account of the shipping charges was not in good shape to present to any company, and that brought the Bolands and myself together more or less during that week.

When we got up to about Thursday or Friday, Mr. C. G. Boland came in my office, and I called his attention to the fact that we would simply go before these people and they would laugh us out of the office; that we would have nothing to stand upon—that is, nothing definite to present to them—in relation to the rate business. He told me then that Henry Meeker, surviving executor of the firm of Meeker & Co., had a case that they had appealed and was going to be argued in the Commerce Court, and he could give me very little information about it, only what the newspapers said or what he had learned from somebody, or what Mr. Reynolds had said or what somebody else had said, and I could get no information about it. So I said to him, "Now, if my conclusions are right, and Mr. Loomis answers this letter, and Mr. Loomis comes to Scranton, he will expect to meet me, and I would like to have something to meet Mr. Loomis with." I said, "The only orderly way to do it is to study the Meeker case, and the only way to study the Meeker case is to get the briefs or get the record, and that is in Washington."

C. G. Boland said, "Well, go down and get it." After some conside

in Washington."

C. G. Boland said, "Well, go down and get it; go down and get it."

After some considerable talk, I think the following morning—I am quite sure it was the next day—he came in and asked me if I could go to Washington. Now, as I recall it, that was on the 6th. I won't say the dates, but it was on Friday; I remember that; and I think the 6th day of October. If I am right, I sent a telegram that day, and I think that is the day. Now, I sent that telegram, and wrote it in my office on the day that it is dated, for this reason: I said to Mr. Boland, "It will be Saturday when we go to Washington, and if they do business in Washington as they did 10 or 12 years ago, when I knew something about it, they always go away on Saturday, and we will find the doors closed and locked; and how I can get into any clerk's office on Saturday I don't know."

inbout it, they always go away on Saturday, and we will find the doors closed and locked; and how I can get into any clerk's office on Saturday I don't know."

The Chairman. That was in the good old days.

Mr. Warson. Perhaps, Judge, that might be. I do not know how that was. I was here more then than I have been in recent years. There was some talk about it, and finally it was decided that I would send this telegram to Judge Archbald. Now, I am just as sure as I am that I am here now that Mr. Boland suggested that I send it to Judge Archbald, because we knew him—we all knew him, and he was the only man I did know connected with any of those courts down there. So I wrote that telegram, which I can not exactly repeat, but I remember my wife at that time was down in the Pocono Mountains and I wanted to spend as much time as I could with her, and I did not want to come away and be gone on Sunday or over Sunday without letting her know. So I wired Archbald to wire me if he could met me on Saturday, and to wire me at East Stroudsburg, and I went to Stroudsburg that day. Now, I either went to Stroudsburg at 1.40 or at 3.40, because those are the two trains going down there, and the only two after IO o'clock in the morning, and from there I remember taking an early train, and I came to Washington.

To go back, when I got off the train at East Stroudsburg I received this, which I suppose is responsive to the telegram that I sent him. I presume I asked him what time and place, or something like that, I could see him in Washington, and he answered: "George M. Watson, East Stroudsburg." To go back, it is dated "Washington, D. C."—"Almost any time you wish."

Mr. Floyd. What day of the month?

Mr. Warson. That is dated "10/6/1911."

The Chairman. That is the 6th day of October, 1911, is it not?

Mr. Warson. That is dated "10/6/1911."

The Chairman. The envelope can be pinned to it.

Mr. Warson. This envelope, I judge, was addressed by the boy. I see he has tacked on 20 cents.

The Chairman. Mr. Watson, will you look at thi

Hon. R. W. Archbald, Judge Court of Commerce, Washington, D. C.:

Wire me East Stroudsburg what time to-morrow I can meet you in

Washington.

G. M. Watson.

The Chairman. And you say this telegram that you have just referred to, and which is now in the testimony as Exhibit No. 85, was the reply to that telegram that you have just read?

Mr. Watson. I judge so, because it is the only one I received. It must be so. This is my telegram to him, surely.

The Chairman. Yes. Now, do you not know, having looked at this telegram, that the same man who signed "G. M. Watson" to that wrote that date, October 6, at the top of that telegram? Is it not the same handwriting?

Mr. Watson. Well, it may be. I would not say.

The Chairman. Look at it.

Mr. Watson. I did not look at it carefully.

The Chairman. You are familiar with your own handwriting. Did you write that "October 6"?

Mr. Watson. Well, when I look at it sgain—

The Chairman. Look and see if you did not write that.

Mr. Watson. What started me is because it is not the same colored ink as the body of the telegram. That is, it looks as if it might have been written at a different time. But I have no doubt but what I wrote "October 6," since I look at it now.

The Chairman. Is not that your handwriting—"October 6, 1911"?

Mr. Watson. I think so. I think so; yes. I think that is right. It is so, I think. If not, I forgot to date it, and somebody did it.

The Chairman. Because the ink did not look the same color to me; that is all; and I thought it had been dated at another time.

The Chairman. Look now, and see if that ink is not colored exactly like the "G. M. Watson."

Mr. Watson. Well, I did not look at the "G. M. Watson" enough to know.

The Chairman. Perhaps a blotter was used, and it was not spread

The CHAIRMAN. Look now, and see if that ink is not colored exactly like the "G. M. Watson."

Mr. Watson. Well, I did not look at the "G. M. Watson" enough to know.

The CHAIRMAN. Perhaps a blotter was used, and it was not spread on quite so thickly in the case of the date.

Mr. Watson. Now, pardon me a moment—

The CHAIRMAN. See if it is not the same.

Mr. Watson. I have a little mist here; I will wipe my glasses, and then I can look at that more carefully. I am an expert on handwriting, and I can tell that in about a minute, as it impresses me, anyhow. [After examining paper.] Well, on reflection, I would say that it was the same color and written at the same time.

The CHAIRMAN. The whole, every word, from start to finish?

Mr. WATSON. Well, the body of the telegram looks darker to me, but I wrote it.

The CHAIRMAN. The body of the telegram is darker than your signature, is it not?

Mr. WATSON. It is darker than my signature and darker than "October 6."

The CHAIRMAN. The "October 6." and your signature seem to be exactly the same shade or color.

Mr. WATSON. They do; the same shade. Oh, there is no question about this telegram, Judge. I wrote it. It was written in my office and handed to—

The CHAIRMAN. I did not think so, but you expressed a little doubt in the beginning.

Mr. WATSON. There is no question at all about it.

The CHAIRMAN. I did not know how material it was; but still I thought it was well enough to have you bring out what is manifestly the truth about it.

Mr. WATSON. There is no question at all about it.

The CHAIRMAN. I do not know how material it was; but still I thought it was well enough to have you bring out what is manifestly the truth about it.

The CHAIRMAN. There is no question at all about it.

The CHAIRMAN. The was that the first conversation that the Bolands talked to you before that decree was rendered about the Meeker case, did he not?

Mr. WATSON. I think not.

The CHAIRMAN. At the first conversation that the Bolands had with you? Is not that what you said?

Mr. WATSON. When M

Mr. WATSON. When Mr. W. F. Bound came over, when we were talking about it.

The CHAIRMAN. When was that?
Mr. WATSON. Oh, within two or three days.
The CHAIRMAN. That was before the decree was rendered in the Marian Coal Co. case?
Mr. WATSON. I would say so.
The CHAIRMAN. When and where was the Meeker case decided?
Mr. WATSON. Really, I do not know. I got the books down there on the 6th of October, and my recollection is that it was argued on the 8th of October.

The CHAIRMAN. Argued where?
Mr. WATSON. In the Commerce Court. I got these books from the clerk or a deputy marshal, or somebody who gave them to me down in the office there, and I brought them along. I remember reading it a day or so after I had been down here that it was argued; and it was in the New York papers.
The CHAIRMAN. Had it been decided when Boland mentioned the Meeker case to you?
Mr. WATSON. Had it been decided how?
The CHAIRMAN. Had the Meeker case been decided by the Commerce Court?
Mr. WATSON. My recollection is, from the examination that I made

The CHAIRMAN. Had the Meeker case been decided by the Commerce Court?

Mr. Watson. My recollection is, from the examination that I made and from what he said to me, that the Interstate Commerce Commission had found in favor of Meeker and that the railroad company had taken an appeal.

The CHAIRMAN. To what court?

Mr. Watson. To the Interstate Commerce Court, I presume, you know. I did not know them.

The CHAIRMAN. Do you remember the status of that case before the Commerce Court at that time?

Mr. Watson I do not

Mr. Watson. I do not.

The Chairman. You do not know when the decision of the Meeker case was reached in the Commerce Court, do you?

Mr. Watson. I do not. I think, though—well, I do not know as to the decision. I know the argument was a few days after I was here. The case was argued, because I remember seeing it in the possesser. newspaper.

The CHAIRMAN. Did you not say you came down here to learn something about the Meeker case?

Mr. Watson. I came down to find out what had been done. I did not know what the Interstate Commerce Court had done, except some little stuff you would read in a newspaper, and I thought I could get the record, and when I came they gave me these books.

The CHAIRMAN. Did you then find out what had been done in the Commerce Court?

Mr. Watson. Why, surely. It was on appeal, waiting to be argued. These, I take it, are the paper books containing the case and its history. The CHAIRMAN. Did you ever have any other conversation with Judge Archbald about this case of the Marian Coal Co. other than that you have mentioned?

Mr. Watson. I have seen Judge Archbald so infrequently that I can not recall what we did talk about. He has been down here, and comes up on a flying visit, and I may meet him and talk about something, but I do not recall having talked with him about this case. It seems to me, though, that there was something said one time about my efforts with the Lackawanna; but what it was I could not gather now to tell you.

The CHAIRMAN. Mr. Webb desires to ask you some questions.

Mr. Webb. Mr. Watson, have you a letter from the judge stating that this whole transaction was off and could not be settled?

Mr. Watson. No, no.

Mr. Webb. Did you ever get such a letter?

Mr. Watson. No, no.

Mr. Webb. Did you ever receive a letter from Judge Archbald in your life in reference to this matter?

Mr. Watson. No, I did not know that Judge Archbald knew it was off, really. I did not know that he knew that I had failed. I never knew that—that he knew it—unless I told him casually. I never knew that he knew it. I knew that I had failed, but I did not know that he knew it.

Mr. Webb. You know C. G. Boland, do you not, Mr. Watson.

that he knew it. I knew that I had failed, but I did not know that he knew it.

Mr. Webb. You know C. G. Boland, do you not, Mr. Watson?

Mr. Watson. Yes; I know him very well. That is, I thought I did. I do not know whether I do or not.

Mr. Webb. How is that?

Mr. Watson. I thought I knew him very well, but I do not know.

Mr. Webb. You think he is as good a man as you have in your county, do you not? Is he not a good man, a man of good character?

Mr. Watson. I would rather not make comparisons.

Mr. Webb. Is he not a man of good character

Mr. Watson. I do not know.

Mr. Webb. You do not know?

But it is your word against his now, and you have admitted here in the beginning that your memory is weak.

and you have admitted here in the beginning that your memory is weak.

Mr. Watson. I did not say any such thing.

Mr. Webb. And that for the last year you can not recollect things; they are rather hazy to you, I thought you said.

Mr. Watson. I did not say my memory was weak.

Mr. Webb. What did you say about your memory?

Mr. Watson. I said I did not remember as well as I did once.

Mr. Watson. I said I did not remember as well as I did once.

Mr. Watson. Yes; but I had a memory once that I did not have to have discounted in any way.

Mr. Webb. It is not as good as it was, then?

Mr. Watson. Perhaps it is when I get fired up a little; I think it is just as good as it was then.

Mr. Webb. Well, let us get fired up, then.

Mr. Watson. I think I can recall everything that happened in my life right now; but it will take an effort to do it, and if I go moving along, why perhaps I may make a mistake. I might get twisted on a date; I don't know how that would be. But I will remember you as long as I live; that is, unless something happens to me that has not yet. I have a very good recollection of faces and facts.

Mr. Webb. That is because you are fired up now. A week from now you might not.

Mr. Watson. No, sir; I am not fired up. You never saw me when I was illuminated.

Mr. Webb.
you might not.
Mr. Warson. No, sir; I am not fired up.
Mr. Warson. No, sir; I am not fired up.
was illuminated.
Mr. Webb. When you are what?
Mr. Warson. When I get a little bit excited on these matters, sometimes I say things.
Mr. Webb. I hope you will not get excited here.
Mr. Warson. I will not, sir; I have too much respect for the committee.

I do not care how many things you remember, just so

Mr. Warson. I will not, sir; I have too much respect for the committee.

Mr. Warson. I will not, sir; I have too much respect for the committee.

Mr. Webb. I do not care how many things you remember, just so you remember them.

Mr. Warson. Yes, sir.

Mr. Webb. The thing I am getting at is that Mr. C. G. Boland, who you say you thought was a man of good character until this investigation, testified that Judge Archbald told him over the telephone to come over to his office, and when he went over to his office you and he were there talking together and discussing this very transaction; that something was said about the fee, and you mentioned \$5,000 as being a proper fee, and the judge assented, saying that that was about right, and that you and he went down to this attorney—what was the name of that attorney? Anyway, it was suggested by Judge Archbald that that statement ought to be put in writing, and thereupon it was put in writing. Now, do you say that is absolutely false?

Mr. Warson. I say that it is absolutely false, and I never heard of it in my life until I saw something of it in this record, and heard it here to-day—never. It could not have happened. Now, I qualify: I don't mean to say that I did not meet C. G. Boland in Judge Archbald's office, because that is a thing that I would not make note of. It may have happened, some time, that I met him there. It may have happened that he was there about this particular time. But the latter part of that question, that there was ever a discussion in the presence of Judge Archbald about my fee—either I was dumb and deaf, or it never happened there.

Mr. Webb. Did Mr. C. G. Boland ever come into the judge's office and find you and the judge together?

Mr. Webb. Yes; C. G. Boland, the man we are talking about now. Do you swear that you and Judge Archbald were never together in his office when C. G. Boland came in and found you there together?

Mr. Webb. Yes; at any time.

Mr. Warson. No; but you say, "Did I ever."?

Mr. Warson. No; but you say, "Did I ever."?

Mr. W

Mr. Watson. Well, now, I don't know but what Boland was there a hundred times in Judge Archbald's office when I was there; but at this particular time I have no recollection of meeting Boland in Judge Archbald's office, and I am positive that he never was there.

Mr. Webb. Do you remember your ever being in Judge Archbald's office in company with him, and C. G. Boland coming into the office at that time?

Mr. Watson. No; I do not.

Mr. Watson. No; I do not.

Mr. Watson. Well, I say, I don't know but what he may have come in the office while I was there, sometimes, but in regard to this particular time I don't remember it if he did. But I would not deny it if Mr. Boland said that some time he had met me there. Maybe he did.

Mr. Webb. Then maybe it was about the time this suit was being discussed.

lan. Mr. russ

Mr. WATSON. Well, I say, I don't know but what he may have come in the office while I was there, sometimes, but in regard to this particular time I don't remember it if he did. But I would not deny it If Mr. Boland salb. Then maybe it was about the time this suit was being discussed.

Mr. WATSON. Hen maybe it was about the time this suit was being its was not because there never was any such discussion; and if this discussion was a part of that visit, it is not so. Mr. Webb. Did you and the judge discuss it then?

Mr. WATSON. Never.

Mr. WATSON. Hend Group go to see him for, then?

Mr. WATSON. He had a frebald?

Mr. WATSON. I will all you what I went over there to get at the records, to find out the status of the Peale case. Now, that is what well.

Mr. WATSON. He had.

Mr. WEBB. And you went over to get it from the judge Instead of from the clerk?

Mr. WATSON. He had.

Mr. WEBB. What did you go for? You just said that that is what you went for, did you not?

Mr. WATSON. He had.

Mr. Wats

day, that I did.

Mr. Webb. "The chances are, if you went;
definite.

Mr. Warson. That particular day I don't know whether I went

Mr. Warson. That particular day I don't know whether I went

"Grad up" a little you may remember it.

MI. WEBE. "The chances are, if you went? That is not very definite.

Mr. WATSON. That particular day I don't know whether I went or not.

Mr. WEBE. If you will get "fired up" a little you may remember it. Mr. WATSON. I can not recall whether I went to the judge's office that day—an office that I go into very frequently, in a building that I am in every day. I can not recall that.

Mr. WEBE. Do you know whether you went to the clerk's office before you saw the judge or not?

Mr. WATSON. I am quite sure that I did.

Mr. WEBE. Would you not want to get an introduction to Mr. Loomis before you began to look up the case?

Mr. WATSON. I don't think it would be necessary for me to do that. Mr. WEBE. Can you tell when it was you saw the judge when you discussed this case?

Mr. WATSON. It may have been that day, and it may have been the next day, or it may have been the next day. It was within two or three days of the time that I went to the clerk's office. It may have been the day I went to the clerk's office.

Mr. WEBE. Did you ever tell him what fee you were going to get out of it?

Mr. WATSON. I do not think I ever spoke of the fee to him in my life.

Mr. WEBE. Verne Well you ever you you have been the fee to him in my life.

Mr. Warson. I do not think I ever spoke of the fee to him in my life. Mr. Webb. Will you swear you did not? Mr. Warson. I think so; yes, sir. I can swear to that.

Mr. Webb. You think you will swear to it?
Mr. Warson. Yes, sir: I can swear to it?
Mr. Warson. Not that I recall. I can not recall ever talking with him about fees.
Mr. Webb. Your memory is all right now, is it?
Mr. Warson. Not that I recall. I can not recall ever talking with him about fees.
Mr. Webb. Your memory is all right now, is it?
Mr. Warson. It is all right on fees; yes. When you say "fees" to me I remember it.
Mr. Warson. Well, I don't know him intimately now. I know him as a man that I have met on the street. I have talked with him to say "Good morning," and he has said that same thing to me for years. I knew him when he worked, I think, for the Lackawanna, and perhaps for the Jonesce.
Mr. Webb. Yes.
Mr. Webb. Yes.
Mr. Warson. That Mr. Williams had suggested me?
Mr. Warson. That Mr. Williams had suggested me?
Mr. Warson. No; I am sure of that. Mr. Williams would not appeal to me, anything that he might say.
Mr. Warson. No; I am sure of that. Mr. Williams would not appeal to me, anything that he might say.
Mr. Warson. They say the reason why they got you was because Williams had suggested you.
Mr. Warson. They say the reason why they got you was because Williams had suggested you.
Mr. Warson. They say the reason why they got you was because Williams had suggested you.
Mr. Warson. They thought was a friend of Williams's?
Mr. Warson. They did not.
Mr. Warson. I can not help Judge Archbald's picking his associated with Ed. Williams upon any subject I would deny it, sir.
Mr. Warson. I can not help Judge Archbald's picking his associates; it is none of my business.
Mr. Warson. I can not help Judge Archbald's picking his associates; it is none of my business.
Mr. Warson. How you pick yours outside of Williams?
Mr. Warson. I ought to know; I got clubbed

have had some very
Mr. Webb. What is the most important integration.

Mr. Webb. What is the most important integration.

Mr. Warson. In that court? Well, sir, I don't like to say what I have done in that court. I defended a man, by appointment, for selling whisky to Indians. That is one case I had there. That was a very important matter. As a matter of fact, I have not practiced in the Federal court since Judge Archbald has been on the bench.

Mr. Webb. Then you have been thrown with him very little in a local way?

Federal court since Judge Archbald has been on the bench.

Mr. Webb. Then you have been thrown with him very little in a legal way?

Mr. Warson. Well, there were reasons why I did not at that time. I don't care to discuss them here. They were personal reasons.

Mr. Webb. You have had very little practice in that court, and the only case you can remember is that of defending a man for selling whisky to Indians?

Mr. Warson. No; I have tried half a dozen. I have tried a dozen cases there, perhaps. I do not recall them now.

Mr. Webb. Were all of them liquor cases?

Mr. Warson. I remember one case, somebody against—it was a small matter, anyhow. I think I tried an insurance case there; not very much. I have not tried as many cases in the United States court since Archbald has been there as I did before. I was trying quite a good bit there before that time.

Mr. Webb. There was no court there?

Archand has been there as I did before. I was trying quite a good bit there before that time.

Mr. Webb. There was no court there?

Mr. Warson. Oh, yes, there was—oh, yes. That court was established about 25 years ago—23 or 24 years ago.

Mr. Webb. Was it abolished?

Mr. Warson. It was not. The court came there from Pittsburgh and met and had its regular terms in Scranton for a number of years.

Mr. Webb. Oh, yes; but they did not have a judge?

Mr. Warson. They did not have a judge; no.

Mr. Webb. When you went to see the judge did you ask him to write you a letter to Loomis, or did he volunteer it? "Fire up" a little on that point.

Mr. Warson. I could not tell you that.

Mr. Webb. That is very important for us to know.

Mr. Warson. I could not tell you whether he volunteered it or not; but I think that the statement I made, that I did not know Mr. Loomis, brought forth some response from Judge Archbald. It was either that "I know him very well," or "He comes here very frequently," and I

asked him to write that letter for me, or he said, "I will introduce you to him," or something like that.

Mr. Webb. He never introduced you to him, anyway?

Mr. Watson. He never did. He may have written the letter. I don't know how that was.

Mr. Webb. Did he write the letter?

Mr. Watson. Well, now, I don't know.

Mr. Webb. Did he ever tell you he had written it?

Mr. Watson. I think he has said something about writing a letter.

Mr. Watson. Yes; I am quite sure that he told me he had said something to Loomis. Now, he either told me he met Loomis or he had written a letter to him.

Mr. Webb. That he had met Loomis?

Mr. Watson. He told me one or the other of those things. I can't recall now whether it was meeting Loomis or whether he wrote the letter to him.

Mr. Webb. You explained what you wanted to do to the judge; you explained to him that you wanted some intercession, or wanted to meet Loomis; you explained that you wanted to sell or unload this coal washery on the Lackawanna Railroad and settle the Commerce Commission case, and that you needed Loomis's influence, or you had to reach Loomis in some way or other?

Mr. Watson. To put it in that way, I don't think I did.

Mr. Webb. Is that the substance of it?

Mr. Watson. It was substantially this: That I needed an introduction, or at least I thought I did, to Mr. Loomis; and I could have had it from a hundred men in Scranton just as well as from Judge Archbald.

Mr. Webb. You say you journeyed all the way from Scranton, Pa., down here, to get these few little paper books?

Archbald.

Mr. Webb. You say you journeyed all the way from Scranton, Pa., down here, to get these few little paper books?

Mr. Watson. Yes, sir; I did.

Mr. Webb. And telegraphed Judge Archbald before you would come?

Mr. Watson. Yes, sir; I did.

Mr. Webb. Did you think he was the custodian of papers of that kind?

Mr. Watson. I know he was not

Air. WATSON. Yes, sir; I did.
Mr. Webb. Did you think he was the custodian of papers of that kind?
Mr. Watson. I knew he was not.
Mr. Webb. You knew he was not?
Mr. Webb. You want to know if he was in Washington for, and if he could meet you at a certain hour?
Mr. Watson. I did not say a certain hour, I think.
Mr. Webb. You wanted to know what time, what hour, he could meet you, did you not?
Mr. Watson. I don't know that I did. I asked if he could meet me—what day; if he would be here that day, Saturday. I didn't know what time I would get here.
Mr. Webb. Your language is, "Wire me East Stroudsburg what time to-morrow I can meet you."
Did you think that telegram was necessary to know what time you could meet him to get those two little paper books you speak of there?
Mr. Watson. Yes, I thought so.
Mr. Webb. Those briefs?
Mr. Watson. Yes, sir; I thought so.
Mr. Webb. Those briefs?
Mr. Watson. Because I expected to meet Mr. Truesdale and Mr. Loomis on Monday, and this was on Friday, and I could not get the books back there in time, and I wanted to familiarize myself with the Meeker case so that I could talk rates. I never had had anyone with intelligence enough to talk about the rates to me.
Mr. Webb. What did you want to see Judge Archbald in connection with it for? Could you not go to see Truesdale—he was president of the road, was he not?
Mr. Webb. What did you want to come down here and see Judge Archbald for?
Mr. Watson. I think Mr. Boland—Mr. C. G. Boland—suggested that we wire Judge Archbald, because I said I knew no one connected with

Mr. WATSON, I think Mr. Boland—Mr. C. G. Boland—suggested that we wire Judge Archbald, because I said I knew no one connected with

Mr. Warson. I think Mr. Boland—Mr. C. G. Boland—suggested that we wire Judge Archbald, because I said I knew no one connected with the court.

Mr. Waebb. You honestly did not think you could get into the court and get these records without the judge being here?

Mr. Warson. I did not, on Saturday; no; I did not think so.

Mr. Warson. No. And I want to say right now to you that there was only one man there in that place when I went there, except Judge Archbald—only one man, floating around there, doing something, and I don't know what his business was. Finally another man came in, and the judge called him in and introduced him to me, either as the clerk or a marshal or a deputy somebody, and then I asked him about these books, and he went in and got them.

Mr. Webb. You asked whom?

Mr. Warson. This man that came there. Now, there was no one in the building.

Mr. Webb. After you had come down from Scranton to Washington to get two books, you did not even ask the judge for them, did you? You asked this other man?

Mr. Warson. I think I did. We stood there talking, and I think the judge asked him for them. I am not sure about that.

Mr. Warson. I think I did. We stood there talking, and I think the judge asked him for them. I am not sure about that.

Mr. Warson. I know somebody got these books for me that was not Judge Archbald. Now, I don't know who it was. I know that he was introduced to me by Judge Archbald, and I presume that I asked him to get the books. Now, if I did not ask him to get the books, perhaps Judge Archbald said, "Mr. Watson wants the briefs in that case," or something like that. Now, that may have been said there.

Mr. Webb. Yes.

Mr. Warson. We talked about Mrs. Archbald for a while, and we talked about the weather. It was raining right good and sharp, I remember. We talked about a few other things; but to talk about these books or this case, I should judge it would consume about five minutes, or two minutes, maybe.

Mr. Warson. I don't think so.

Mr. Webb. You came down here from Scranton to

Mr. Watson. I don't think I did. Mr. Webb. You did not tell him what you wanted the books for, did

Mr. Watson. Oh, well, we may have talked about it. I may have id: "I am going to meet the Lackawanna folks," or something like Mr. Warson. Ob, well, we may have talked about it. I may have said: "I am going to meet the Lackawanna folks," or something like that.

Mr. Webb. When you come to these important matters can you not remember a little better? Did you do it?

Mr. Warson. Well, it is a matter that of course I did not charge my mind particularly with, but I have no doubt in my mind—

Mr. Webb. You charged your mind with knowing that you did talk about Mrs. Archbald and the rainy weather.

Mr. Warson. That would be the thing that I would naturally talk about—something that he was interested in and that I would be interested in.

about—something that he was interested in and that I would be interested in.

Mr. Webb. You remember that, though?

Mr. Webb. Your business here was looking after this particular case, and you can not tell the committee whether or not you discussed this case with the judge and told him that you were to meet Truesdale the following Monday; can you?

Mr. Watson. I came down here, not to discuss the case I was settling with the Lackawanna, but to get the information that had been brought out before the Interstate Commerce Commission. That is what I was here for.

Mr. Webb. Yes; and you got it all in these two little briefs?

Mr. Watson. Such is the case.

Mr. Webb. And you got the judge to get them for you, or got them in his presence, and never told him what you were going to do with them?

Mr. Webb. And you got the judge to get them for you, or got them in his presence, and never told him what you were going to do with them?

Mr. Watson. I assume I may have said, "I am going to try and settle it, and I wanted to get familiar with the Meeker case."

Mr. Webb. Why do you assume it? You are on your oath now. Did you do it?

Mr. Watson. Well, I can not tell you.

Mr. Webb. You can not tell?

Mr. Watson. I can not.

Mr. Webb. You will not even assume that, then?

Mr. Watson. I can not.

Mr. Watson. I can not say positively that I said to him that I was going to settle that case on Monday, or expected to meet these people on Monday; but it is a hundred to one that I did say something of that kind.

Mr. Webb. A hundred to one?

Mr. Watson. Yes.

Mr. Webb. That is pretty big odds; is it not?

Mr. Watson. But I can not remember. I don't remember that I called him off in one corner and said: "I am going to meet the Lackawanna people Monday," or anything like that. I don't think I ever did that.

Mr. Webb. I said nothing about your calling him off in a corner.

Mr. Watson. I don't know what we said. We talked along the same as people that are reasonably honest would talk?

Mr. Watson. Yes; and we don't charge our minds with everything we say, either.

Mr. Watson. I remember that, because I got most beautifully wet.

Mr. Webb. Exactly; but you charged your mind with the part about the rainy weather and the part about Mrs. Archbald?

Mr. Webb. Exactly; but you charged your mind with the part about the rainy weather and the part about Mrs. Archbald?

Mr. Webb. Let me ask you this question: Is it not the fact that you have not charged your mind about this matter because you did come down here to see him and tell him the negotiations were hanging up, and that he must do something to help you?

Mr. Watson. If I ever said that, sit, I want to meet my God above and have him condemn me forever; if I ever said to him, "You must help me to settle a case." I never said it in my life to any man living, not only Judge Ar

man—never.

Mr. Webb. How many do you pin it to?
Mr. Watson. To enough so that I know I am going to get something in return.
Mr. Webb. Did you leave Washington the same day?
Mr. Watson. I did, at night.
Mr. Watson. I did, at night.
Mr. Webb. At night?
Mr. Watson. Yes, sir; and I went to New York.
Mr. Webb. On the following Monday you met Truesdale?
Mr. Watson. Oh, I don't know now; it may have been Tuesday. It was Monday or Tuesday. It was Monday or Tuesday. It was right on the heels of this that I met him right there.

Mr. Warson. Oh, I don't know now; it may have been Tuesday. It was Monday or Tuesday. It was right on the heels of this that I met him right there.

Mr. Webb. It was Monday or Tuesday, you say?
Mr. Warson. I think so.
Mr. Webb. You went from here to New York?
Mr. Warson. I did.
Mr. Webb. Do you know what day you got to New York?
Mr. Warson. I do. It was on the Sabbath of the Lord.
Mr. Webb. The Sabbath of the Lord?
Mr. Warson. Yes, sir.
Mr. Webb. All Sabbaths are the Sabbaths of the Lord, are they not?
Mr. Warson. Yes; some of them. In New York they are. I don't know how they are down here.
Mr. Webb. Then do you remember whether you saw Truesdale on the day following the Sabbath, or was it Tuesday?
Mr. Warson. Well, now, I know my movements and I can tell you. I went from New York the following morning.
I went to New York because it was late that night, and I stayed there that night. I could not get home from Philadelphia, and I had to go to East Stroudsburg. I went up there on Sunday morning some time. I went to Scranton, I think, perhaps, Monday morning early, and maybe Sunday night—there are two trains that I used to go up on—and I went to my office. Now, I imagine that Loomis came in there on Monday afternoon, and it would be Tuesday morning if that is true.
Mr. Webb. That was in New York?
Mr. Warson. No, no; in Scranton.
Mr. Webb. That was in New York?
Mr. Warson. I think it would be about Tuesday morning?
Mr. Warson. Well, how can I charge my mind and carry along whether it was Tuesday morning or Monday morning? I can not do it. It was within a day or so of this.
Mr. Webb. And who else?
Mr. Warson. Wes, Phillips; I remember seeing him.
Mr. Webb. Phillips was there?

Mr. Watson. I think Mr. Phillips introduced me to Mr. Loomis. I had met Mr. Truesdale before. I think Mr. Phillips introduced me to Mr. Loomis.
Mr. Webb. You knew Truesdale; you had met him, and you were not at a disadvantage with him like you were with Loomis?
Mr. Watson. Well, yes; at some banquet or some meeting or other I was introduced to him, some time.
Mr. Watson. Truesdale?
Mr. Watson. Truesdale?
Mr. Watson. Truesdale?
Mr. Watson. I never met him on this matter, except the one day; that is, that morning when we did meet there.
Mr. Watson. I never met him on this matter, except the one day; that is, that morning when we did meet there.
Mr. Watson. Well, now, it may have been when they opened the depot at Scranton; it may have been at some function where they had given a banquet or something of that kind.
Mr. Watson. Wo.
Mr. Webb. Do you remember ever speaking to him about this case?
Mr. Watson. No.
Mr. Webb. Except in the conference?
Mr. Watson. No. Inc.
Mr. Watson. No. I never talked to Mr. Truesdale on coal at all.
Mr. Floyd. Mr. Watson, when you left Washington you went from here to New York, did you?
Mr. Watson. No. I never talked to Mr. Truesdale on coal at all.
Mr. Floyd. Watson, when you left Washington you went from here to New York, did you?
Mr. Watson. I did not have any business in New York?
Mr. Watson. I did not have any business there. I went to New York in order to get home.
Mr. Floyd. That was on your way home?
Mr. Watson. Oh, my way home would have been to have gotten off at Philadelphia and gone up from Philadelphia to Stroudsburg. My wife was on the mountain at Stroudsburg. We had broken up house-keeping for several months, and they were out on the mountain, and I had to go to Stroudsburg over the Lackawanna. The Belvidere division of the Pennsylvania Railroad runs infrequent trains, and I could not find out if I could get up at all for the first 100 miles from Stroudsburg; and knowing the line from New York runs trains daily, and what they were, I went to New York and got there at midn

Mr. FLOYD. Yes, sir.
Mr. FLOYD. What did you offer them this property for; what consideration?
Mr. WATSON. \$161,000.
Mr. FLOYD. \$161,000?
Mr. WATSON. Yes, sir.
Mr. FLOYD. What did the Bolands agree to take for the property when they made the agreement to pay you \$5,000?
Mr. WATSON. Well, now, that will require some little explanation.
Mr. FLOYD. No; that will not require any explanation.
Mr. FLOYD. No; that will not require any explanation.
Mr. WATSON. Why, they agreed to pay, after we had gotten through—

Mr. Watson. Well, now, that will require some little explanation.

Mr. Floyd. No; that will not require any explanation.

Mr. Floyd. My, they agreed to pay, after we had gotten through—

Mr. Floyd. I want the first of it.

Mr. Watson. First, \$100,000.

Mr. Floyd. At the time you said they agreed to pay you \$5,000 for your services.

Mr. Watson. S100,000.

Mr. Floyd. That is the point I wanted to get you to state.

Mr. Watson. Yes, sir.

Mr. Floyd. And out of that \$100,000, if the deal was closed and a sale effected, you were to receive \$5,000?

Mr. Watson. Yes, sir.

Mr. Floyd. And out of that \$100,000 proposition up to these business; that is it.

Mr. Floyd. You never put that \$100,000 proposition up to these railroad people at all, did you?

Mr. Watson. No, sir; I never did.

Mr. Floyd. Will you explain why it was that you did not?

Mr. Watson. No, sir; I never did.

Mr. Floyd. Will you explain why it was that you find not?

Mr. Watson. From the first time that the price was fixed at \$100,000, the property that was to be passed had changed very materially. There were different things to be done with it, and then when they offered this property first there was no two-thirds interest offered. The Marian Coal Co. in its entirety was offered to me.

Mr. Floyd. For \$100,000?

Mr. Watson. For \$100,000?

Mr. Watson. For \$100,000?

Mr. Watson. For \$100,000 That would include the suit—well, I may say the suit; yes. There was the Peale matter; Mr. Peale had \$16,000, which was admitted. Mr. Peale finally got a judgment stated for thirty-odd thousand dollars, \$24,000, or something like that. Now, that was hanging fire over there, and I didn't know that that was a part of this transaction when I first undertook to handle this for \$100,000. Now, there was another thing that I didn't know, and that is that one-third of this stock that represented the Marian Coal Co. was in Mr. Peale's hands and belonged to him. That is two things that I didn't know about. The first, the increased indebtedness, the \$16,000, I did get an idea

that to the \$161,000, and I was to make that up on the rates. That is what was to happen.

Mr. Floyd. Which one of the Bolands agreed to that?

Mr. Watson. My recollection is that there was only one Boland that talked about railroad rates, and that was W. P. Boland. The conversations I had with him about railroad rates were when he had the papers there and could show from the papers what had been going on and the discrimination in the rates. Now, I am quite sure he would come to my office, and we would go over that. I imagine it was no one but Mr. W. P. Boland. I never talked about rates with C. G. Boland, because he knew nothing about them.

Mr. Floyd. You say you imagine it was W. P. Boland?

Mr. Watson. Yes; alone.

Mr. Floyd. What is your memory about it?

Mr. WATSON. Oh, I think it was—no one else.
Mr. FLOYD. You think it was W. P. Boland?
Mr. WATSON. Yes; I am sure C. G. Boland was never present when
we talked raliroad rates, because he knew nothing about it and con-

Me taked railroad rates, steps of the season of the season

you might study up a particular case in order to get anowedge of those rates?

Mr. Warson. No, no, no.

Mr. Flodd. And then did you not testify that you left Washington after you had your interview with Judge Archbald, went home by way of New York, because you were able to get there quicker in that way, or you were led to understand you could, and then went from there home, and then, just in a day or two after that, you met Loomis and Truesdale in Scranton and made this proposition to them, which they refused? Did you not testify to that?

Mr. Warson. Yes, sir; I say that I read that book through three or four times.

Mr.

bome and then, just in a day or two after that, you met Loomis and Truesdale in Scranton and made this proposition to them, which they full followed in Scranton and made this proposition to them, which they four times.

Mr. Warson. Yes, sir; I say that I read that book through three or four times.

Mr. Flovp. When did this great time intervene after you learned something about rates up to the time that you made this proposition, so that you changed the proposition, on that Boland changed the proposition, and you added \$60,000?

Mr. Warson. Oh, no; that is wrong. You don't understand me. This \$161,000 was a price that was agreed upon possibly two or three weeks before I went to New York. I knew what I had to ask them, and that was the reason I did not have the data. I did not know that the court had done in the Meeker case. That is a failes of anthracite coal growing out of occurrences within 16 or 20 miles of where this place was located.

Mr. Flove. That was a case entirely separate from and independent of the Boland case was located.

Mr. Flove. All you got out of that case was the decision of the court and the evidence—

Mr. Warson. Oh, not much evidence.

Mr. Flove. Supparison of that case with the facts in this Boland case you expected to get some information that you did not possess in regard to this rate matter?

Mr. Warson. Yes, sir; I wanted to know how they handled a case of this kind.

Mr. Flove. William P. Boland did not know anything about rates?

Mr. Warson. Oh, he did. He told me the best he could. I may have been dull and did not get hold of it right—I do not know—but he told me many times about the rates. I think Boland had fortified himself well—W. P. Boland. I think he did know about the rates, and he knew the distance and the differences, and he knew where they had charged a little more for one distance than for another.

Mr. Flove. What is your explanation of coming down to Washington to see Judge Archbald. I came to get these books, because that Meeker case was a decision directly from the

Mr. Watson. Now you are speaking of rates.
Mr. Floyd. Coal and certain other things; not rates altogether, but their entire claim was \$100,000?
Mr. Watson. Yes, elr.
Mr. Floyd. And you finally whittled it down to about sixty thousand?
Mr. Watson. Yes; that is, rates; that is, in relation to the rate matters.

Mr. FLOYD. When did you do that whittling down?

Mr. Watson. That was, perhaps, while I was working at the case, within a week or so of my coming down to New York. I was quite busy on this case for a week.

Mr. FLOYD. Within a week or so of your coming down to Washington?

Mr. Watson. To Washington; yes. It was during that period when we knew, or expected to meet these people; that is when we were doing that.

we knew, or expected to meet these people; that is when we were doing that.

Mr. Floyd. If you had that whittled down before you came down to Washington, until, in your judgment, they would not be warranted in claiming more than fifty or sixty thousand dollars by reason of this price, then let me ask you again to explain why it was that you left Washington, went by way of New York home, met Truesdale and Loomis in Scranton, and asked \$160,000 or \$170,000 for this property?

Mr. Watson. I can explain it to you very quickly. There was a certain price fixed on the rates. Those two together, as they were originally put up, would amout to nearly a half a million dollars. I can not give you the exact figures, but pretty near that. When we got at the rates, and I found that the punitive damage idea would have to be done away with, we reduced it by maybe three or four—I have forgotten, but it was about one-third or one-fourth of the amount that they asked in the rate war. That put it down, I say, to fifty, sixty, or seventy thou-sand dollars—somewhere along there, whatever it was—and that, added to what they claimed the washery was worth and they could sell it for—I had Mr. Boland show me a proposition to buy for \$90,000—so my judgment was not as good as some coal man's judgment who said he would give them \$90,000, and I had every reason to believe perhaps it

was so, and therefore we added it together and it made \$161,000, and that is the only price I ever had, the only price I was ever authorized to offer the land for to the Lackawanna road, and I offered it at that price.

Mr. FLOYD. I understood you to say, since I have been questioning you here, that the first price offered was \$100,000.

Mr. WATSON. That is right.

Mr. FLOYD. And that you were to have \$5,000 of that in case the deal was made?

Mr. FLOYD. Did you not think you could sell it to the Lackawanna road for \$100,000 easier than you could for \$160,000?

Mr. WATSON. That did not dispose of the rate business. There was nothing in the rates then. The rates was another matter.

Mr. FLOYD. I thought you stated it was to settle all these cases.

Mr. FLOYD. The Peale case?

Mr. WATSON. Not for \$100,000.

Mr. FLOYD. The Peale case and the colliery were to be turned over to them for \$100,000; the washery and the coal dump and their leases; and then, when I examined that, I found a quarter interest, or such a matter, whatever it was, claimed by the Lackawanna. This coal dump, if you will pardon me, was made at three different times and by three independent operations. I did not know that when I was first negotiating for this, but it seems that Mr. Felts dumped some of it by an earlier mining. Then came the Lackawanna, and they dumped some of it; then came some one else, and they dumped some of it. During that time Mr. Felts, who was the former owner of the fee—something had happened to him in a financial way, and he was obliged to take a nephew, a Mr. Hoysradt, or somebody, in there, and there was another dispute about that, Mr. Hoysradt's interest, Mr. Felt's interest, and the Lackawanna failroad's interest, and then they claimed that did not amount to anything. I did not know whether it did or not.

Mr. FLOYD. When who got through talking about it?

Mr. Watson. Boland and ourselves; we were discussing that for a long time.

Mr. FLOYD. When who got through talking about it?

Mr. Watson. Boland and ourselves; we

long time.

Mr. FLOYD. I thought you said the Bolands claimed it did not amount to anything?

Mr. Warson. Boland and ourselves; we were discussing that for a long time.

Mr. FLOYD. I thought you said the Bolands claimed it did not amount to anything?

Mr. Warson. They did.

Mr. FLOYD. Who told you it did amount to something? Where did you get the information?

Mr. Warson. Because I knew it, as a matter of fact, living in the community, that Mr. Felts owned that. I asked Mr. Felts's executor about that; I recall mentioning the fact to him, and asking him what the business was down there, and he could not tell me definitely what it was. Then I knew from the Lackawanna people. I remember a law-suit about it, recalled it readily, that there was a disputed claim there. I talked with Mr. Phillips a good many times, four or five times, perhaps, before I went down to New York. It was during that period of, say, approximately two or three weeks, that I was talking with Mr. Phillips, trying to get an arrangement. Mr. Phillips had an estimate made of the pile, and told me it was only worth \$14,000. I would naturally sit up and take notice, when I was offering it for \$100,000, and he said it was worth \$14,000.

Mr. FLOYD. That is what I can not understand, Mr. Watson, when you had a contract to sell the property and settle this difficulty between these parties at \$100,000, that when you ascertained that various complications had arisen, and somebody else owned one-third interest, you raised the price instead of lowering it.

Mr. Warson. When we had the contact for \$100,000, I say there was no rate discussed. There was no interstate-commerce business discussed all the papers.

Mr. FLOYD. After this rate matter was added to it and you were trying to sell the property for \$161,000, did you have any change in your contract about your \$5,000 fee?

Mr. Warson. No; there was no interstate-commerce business discussed all the papers.

Mr. FLOYD. After this rate matter was added to it and you were trying to sell the property for \$161,000, did you have any contact mouth the property in the property of the fact had you have an

or Will Boland.

Mr. Floyd. Which one?

Mr. Watson. I could not tell you. The chances are that all of the rate business was talked by Will Boland, because I do not ever recall talking rates with Christy Boland, because he did not know them.

Mr. Floyd. Do you have any recollection about that? Is it possible that an item of \$60,000, your contract changed to your disadvantage.

Mr. Watson. No: it was not to my disadvantage; I had the same fee.

Mr. Floyd. Would it be to your advantage, If your fee depended upon the sale of the property, to raise it from \$100,000 to \$161,000? Did not that lessen your chances to float the property and get your \$5,000?

Mr. Watson. This Marlan Coal Co., when we got down to the going to the company, and the Lackawanna Co., was simply used as a vehicle to carry all the burdens of the Bolands in there, and get them all settled at one time. I knew when I went over to the Lackawanna that

the coal was not worth over \$15,000 or \$16,000; I knew that. I did not know it when I began. I supposed it was worth \$100,000. But the rate claim was the bogey; that was the big thing.

Mr. Floyd. Then, if you knew when you made the proposition to the railroad company that the Marian Coal Co.'s property was not worth over \$15,000 or \$16,000—

Mr. Watson. I knew that. Do you wonder I would have the nerve to ask that?

Mr. Floyd. Then I will ask you again why it was that instead of lowering the price at which you offered it to the coal company you raised it to \$160,000?

Mr. Watson. I did not raise it at all; get this in your mind. I never fixed a price on that property at all. The price was fixed by Mr. W. P. Boland, and agreed to by his brother no doubt, \$161,000; and the reason it was raised was because they had people to take care of. What would it be worth to secure a culm pile with Mr. Peale with some interest in it and not going along with you, and the Lackawanna claiming one-fourth interest in the pile? So something had to be done in eliminating all those. When I say thirteen or fourteen thousaid dollars I take out those interests.

Mr. Floyd. Will you tell me when and where W. P. Boland directed you or instructed you to raise that price to \$161,000?

Mr. Watson. I did not raise it.

Mr. Floyd. Instructed you to raise it?

Mr. Watson. He did not instruct me to raise it; I did not raise it. He made that price to me.

Mr. Floyd. When and where did he make the price?

Mr. Watson. My recollection is it was in my office. I never did any business with Mr. Boland outside of this, except I might speak to him on the street corner or something.

Mr. Floyd. Who was present?

Mr. Floyd. Who was present?

Mr. Watson. Nobody but Boland and myself.

Mr. Floyd. Who was present?

Mr. Watson. Nobody but Boland and myself.

Mr. Floyd. Have you the papers?

Mr. Watson. No. I dim not the papers?

Mr. Watson. No. I diverse everything back to Mr. Boland that I had not man and that I had not man and that I had not man and that I

has now

has now.

Mr. FLOYD. Have you the papers?

Mr. WATSON. No; I gave everything back to Mr. Boland that I had, every memorandum and everything else, excepting these letters; and I did not know I had those until I went digging around for them and I found those books, and those letters were in the books, and that telegram—the letters and the telegram; and I brought all that I had. Mr. FLOYD. Did anybody come to Washington with you?

Mr. WATSON. No.

Mr. FLOYD. At the time you wired Judge Archbald?

Mr. WATSON. No; I came from Stroudsburg directly to Washington. Mr. FLOYD. You were well acquainted with Judge Archbald, were you not?

Mr. Warson. Oh, yes; I have known Judge Archbald, I think, as early as 1880. I went to Scranton 34 years ago, and shortly after going there I knew Judge Archbald.

Mr. FLOYD. Why was it you did not wire Judge Archbald, as a matter of courtesy to you, to send you copies of briefs in this case?

Mr. Warson. I did not know what I wanted until I looked at the record. I did not know who where the records, and I did not know that they had any, really, to be honest; I did not know what they had. When I had talked about this Commerce Court, I did not know what they were keeping. They were just beginning. I did not know whether they had done any business before that.

Mr. FLOYD. Did you not state the case had been decided, and that on account of the importance of the decision you came down here to get the papers, or get knowledge of the papers, in this other case reference to?

Aff. FLOYD. Did you not state the case had been declored and count of the importance of the decision you came down here to get the papers, or get knowledge of the papers, in this other case referred to?

Mr. Warson. Maybe I can impress on your mind what I did say, and what I intended to say.

Mr. FLOYD. All right.

Mr. Warson. That is, that I had learned, through some indirect source, or through the newspapers, that the Harry Meeker case—as we called it; I knew the Meekers—had been decided by the Interstate Commerce Commission favorably to Meeker. I had heard that, and it had been talked about; I will not say how long, whether it was a week or a month, but I should judge a month or two; that I had heard it, and I had never examined it, and I did not know that I had heard it, and I had never examined it, and I did not know that an attorney in our town at that time was the representative of one of the companies, or I would have gone to him. I did not know that I had been shoult be would come to my office. He did tell me a number of times about the Meeker case, how it had been disposed of, and that it had been appealed by the company. I did not know whether it was in the Circuit Court of Appeals or in the United States Commerce Court, as I recall it. They had not been doing very much business; at least, I had heard nothing of them, and whether they had met and decided cases or not I did not know.

I talked to perhaps a half a dozen people—I do not recall who, but lawyers who ought to have known about those things; they were practicing in that kind of business—and I got no information. It was my idea of coming down here. I may have spoken to Mr. Martin about it—I would be very apt to; he was right in the building where I was—and asked him how I got into that court. I asked some one surely, and they told me that the appeal was taken to the United States Commerce Court. I knew there must be some record, and I knew they must get in there in some way. Therefore I came down to see if I could get the record, the docket e

Mr. FLOYD. As a matter of fact, did you not ask him to do it?
Mr. WATSON. I did not, because I did not have to. I asked the
young man if he could get me the books. He said he could, and the
young man went in and got them. I do not know who he was.

Mr. FLOYD. Did you not state that when you went into the Commerce Court room there was some young man in there with Judge Archbald, and you had a conversation, were talking, and Judge Archbald introduced some other person to you, and that this person Judge Archbald introduced to you went and got the books? Did you not state that?

state that?

Mr. Warson. If I can be understood, the way I recall now was that when I went to that building—

Mr. FLOYD. I am asking you did you not state that?

Mr. Warson. Not as you put it, no: because that is not true. I do not think I saw the young man until after I had seen Judge Arch-

Mr. Prote. Y am asking you did you not state that?

Mr. Warson. Not as you put it, no: because that is not true. I do not think I saw the young man until after I had seen Judge Archbald.

Mr. Floyd. That is the way I put it.

Mr. Warson. Judge Archbald was standing there—I remember the fact now; I met Judge Archbald, and we went in the building together. Maybe I asked him where I could see him—I imagine I did, now send a telegram asking him if he would meet me at a place I knew. I did not know where the court met, and I think he met me at some place, but I can not tell you where now.

Mr. Floyd. Then you sent two telegrams, did you?

Mr. Warson. That was sent, perhaps, from Philadelphia, on my way down here; I think so.

Mr. Floyd. Then you ac copy of that?

Mr. Warson. No, sir; I do not keep copies of telegrams.

Mr. Floyd. Have you a copy of that?

Mr. Warson. Vou do not keep copies of telegrams.

Mr. Floyd. Then, at Philadelphia, or somewhere along the line, you sent. Bloyd. Then, at Philadelphia, or somewhere along the line, you sent. Bloyd. Then, at Philadelphia, or somewhere along the line, you sent. Bloyd. Then, at Philadelphia, or somewhere along the line, you sent. Bloyd. Then, at Philadelphia, or somewhere along the line, you sent. Bloyd. Then, at Philadelphia, or somewhere along the line, you sent. Bloyd. Then, at Philadelphia, or somewhere along the line, you sent. Bloyd. Warson. I do not knew where; I asked him to, anyhow.

Mr. Floyd. Warson. I do not knew where; I asked him to, early wow. Mr. Floyd. Warson. I do not knew where; I asked him to, early wow. Warson. I do not knew where; I asked him to, early wow. Warson. I do not knew were to the details of that. I remember now that I came to Washington, and the hour of the day I can not give you, because I got mixed up on a train in Philadelphia and did not get down quite as early as I ought to have got here. I left the station after inquiring of somebody what car to take to get to the Hotel Raleigh, and I went to the Hotel Raleigh and I checked my s

Mr. Watson. Because it gets pretty close to the fact, as I understand it, by innuendo, that I was down for some improper purpose to this judge.

The Chairman. Did anybody send you down here to bribe Judge Knapp or anybody else?

Mr. Watson. I have heard it around here some. There has been some hinting I want to resent.

The Chairman. I would like to know who has hinted at it.

Mr. Watson. Perhaps my skin may be a little thin on that subject. I think I have heard it.

The Chairman. I had heard nothing of the sort, and I wanted to get what that remark, interjected at that point, meant.

Mr. Watson. Well, I read in the evidence that Christy Boland, or some one, said in this trial that I told him I had two judges besides Judge Archbald that I could rely on in the United States Commerce Court to decide cases my way; it is in your record; something like that. That may be putting it a little stronger than it really appears; and I never met those men.

The Chairman. You said that Boland said that you told him that? Mr. Watson. Yes.

The Chairman. And that you read that in the record?

Mr. Watson. I read it in the record; something like that. The Chairman. Are you not mistaken about it?

Mr. Watson. Or in a newspaper or something. I do not know where I read it.

The Chairman. You read that statement?

Mr. Watson. Or in a newspaper or something. I do not know where I read it.

The Chairman. You read that statement?

Mr. Watson. Yes, sir; that I had two judges—

Mr. Webb. I do not think he attributed that much influence to you.

The Chairman. I never heard that much influence attributed to you.

Mr. Watson. Let us change it and put that I said I had. That is the way they always put it.

Mr. Webb. He said that you said that you had two judges you could influence?

influence?
Mr. Warson. He must have said that I said that the judge said to

Mr. Watson, he must have said that I said that the judge could influence two other judges?

Mr. Watson. Then I beg the committee's pardon. I supposed I was the guilty one, that I was doing it myself. I have not very much influence, I know.

Mr. Webb. He did not say that, either.

Mr. Noraris. Mr. Watson, the object of your coming down to Washington to get the papers, or to see the record in the Meeker case, was to enable you to prepare yourself to meet the railroad officials in that conference that was going to take place in Scranton, was it not?

Mr. Watsox. Yes, sir; I wanted to know something about how they did those things, that is all, and I did not know it.

Mr. Norris. Those people you were going to meet in Scranton were simply officials of the railroad; you were not going to argue this case in court, were you?

Mr. Watsox. No; but we were going to talk about rates.

Mr. Norris. And you wanted to know something about rates so you would be able to cope with them in that negotiation, did you not?

Mr. Watsox. Yes.

Mr. Watson, Yes.
Mr. Norms. That was the object of your coming to Washington?
Mr. Watson, Yes.
Mr. Norms. You got what you call "books" when you came down

Mr. Warson. Yes.

Mr. Norris. You got what you call "books" when you came down hore?

Mr. Warson. That is all.

Mr. Norris. These two [indicating]?

Mr. Warson. I did get another one.

Mr. Norris. What other one?

Mr. Warson. Something like that; some amendment to those.

Mr. Norris. This is entitled "United States Commerce Court, case No. 40. Lehigh Valley Railroad Co., petitioner, v. The United States, respondent. Brief for Henry E. Meeker, surviving partner of the firm of Meeker & Co." That is one of the books, is it?

Mr. Warson. Yes.

Mr. Norris. The other one is in the same case, case No. 49. United States Commerce Court, entitled the same way, October session, 1911, brief for petitioners. That, I take it, is the railroad company's brief?

Mr. Warson. Yes.

Mr. Norris. These are the two books that you have been speaking about, these briefs?

Mr. Warson. Yes, sir.

Mr. Norris. What was the other book?

Mr. Warson. Something like that. It was either an amendment or else that is an amendment of the other one.

Mr. Norris. It was, perhaps, a reply brief, or something like that?

Mr. Warson. No. The book you have in your hand, I think, is the Valley book, is it not? That is the one that the railroad company filed?

Mr. Norris. Yes.

Mr. Norris. Yes.
Mr. Watson. My recollection is that perhaps this book contains more than the other one.
Mr. Norris. It does.
Mr. Watson. No; but I mean the other one I got. I got two books of the Valley Railroad.
Mr. Norris. You had two of their briefs instead of one?
Mr. Watson. Yes; but one was not as full as the other, or there was something there.
Mr. Norris. You did not get anything except briefs?
Mr. Watson. I looked at the record—at the docket, or something they had there.
Mr. Norris. I believe you testified here that that was one of your objects in coming down?
Mr. Watson. Yes; I wanted to see what sort of a record they had there.

there.

Mr. Norris. You wanted to see the docket entries?

Mr. Watson. It would hardly be that. The record would be all they

there. r. Norris. If you did not mean what you said, tell us what you

Mr. Warson. It you did not mean what you said, tell us what you do mean.

Mr. Warson. I wanted to get the whole case.

Mr. Norris. The docket entries would be part?

Mr. Warson. Yes; and this would be part [indicating book].

Mr. Norris. Now, tell the committee, will you, what good you expected, what benefit you expected, in negotiating with these railroad officials would be any knowledge you might have of what was on the docket, what were the docket entries in another case entirely independent of the one you were trying to settle?

Mr. Warson. I can tell you in one moment what I had in my mind when I came here. My experience with railroad companies is that they deny everything in sight; they will not agree to anything until you bring them up to where they can see. Their vision is affected on anything that concerns them. You have to bring them forcibly up to it. I understood from the newspapers, or from Mr. Boland also, and from others I had talked with, that this Meeker case was tried greatly to the advantage of Mr. Meeker: that they had reduced the rates of the railroad company; and that Mr. Meeker was likely to recover a couple of hundred thousand dollars by the reduction of the rates. Now, you say it was on an entirely different case. A case where a railroad company is shipping coal from about the same point, and the same sizes, and to the same destination, is pretty nearly the same case.

Mr. Norris. It was not shipping coal from the same point, was it?

Mr. Warson. Yes; they were within almost a stone's throw of the same point. The Lackawanna Valley opens into the Wyoming Valley, and they are not 15 miles apart.

Mr. Norris. As a matter of fact, what information did you get that was of any benefit to you in those negotiations?

Mr. Norris. Will you point out to me the place in either one of three grades.

Mr. Norris. Will you point out to me the place in either one of three grades.

Mr. Norris. I would be very glad to have you show me that. [Handing the witness briefs]

Mr. Norris. Will you point out one to prove these briefs where you got that information?

Mr. Wayson. I think I can show you where it was reduced two or three grades.

Mr. Norris. I would be very glad to have you show me that. [Handing the witness briefs.]

Mr. Wayson. I think I can. I am not familiar with the book now. It has been out of my hands a long time.

Mr. Norris. You went over it carefully, did you not?

Mr. Wayson. Yes; but I do not hug things so long as that.

Mr. Norris. Your memory was good at that time?

Mr. Wayson. It was not so good at that time?

Mr. Wayson. It was not so good at that time, either. My recollection is that it was a comparison of rates we were making here, and the things I got I do not seem to put my hand on.

Mr. Norris. The information you are looking for is where they reduced the rates, so that you could show in this other case how they reduced the rates in the Meeker case? [After a pause.] Mr. Watson, I do not want to delay the committee too long.

Mr. Wayson. You are asking me to look for something in this book. I have found where this rate is discussed here.

Mr. Norris. Now, Mr. Watson, just let me call your attention to the fact that those are briefs.

Mr. Wayson. I understand that. They were appeals.

Mr. Wayson. I understand that. They were appeals.

Mr. Warson. I understand that. They were appeals.
Mr. Norms. You can not find in those briefs any action, of course, that the courts took in that case?
Mr. Warson. But I can find what the attorneys said they took. I did not have the decree.

Mr. Norris. You were getting to it, and you said you did argue at great length what they had done in the Meeker case?

Mr. Watson. I did; and perhaps I have it in the other book.

Mr. Norris. Is it not true that the Meeker case was not decided, and that they had not done anything, and that it was never decided on its marits?

Mr. Norris. Is it not true that the most and that they had not done anything, and that it was never decided on its merits?

Mr. Watson. They reduced several sizes.

Mr. Norris. At this time the Commerce Court had not taken any action in the Meeker case; and how could you use anything in the Meeker case with these railroad officials to show what action the court had taken in that case?

Mr. Watson. I simply did it by calling their attention to certain reductions I knew of, and I got the information from what they did.

Mr. Norris. But there could not be any information in the briefs filed by attorneys before the case was disposed of?

Mr. Watson. This case was before the United States Commerce Court, and the United States Commerce Court, and the United States Commerce Court, and the United States Commerce Commission had gotten through with it, as I understood it.

Mr. Norris. Yes; the Interstate Commerce Commission?

Mr. Watson. Yes; and it was their finding that I was talking about and not the court's.

Mr. Norris. Did you expect to use that?

Mr. Watson. Yes; because it gave me information as to what they might expect.

Mr. Norris. No: that could not possibly be, because it was the Commission.

might expect.

Mr. Norris. No; that could not possibly be, because it was the Commerce Court that was going to pass upon it. Why did you go to the Commerce Court to get what the Interstate Commerce Commission had

Mr. Norkis. No; that could not possibly be, because it was the Commerce Court to get what the Interstate Commerce Commission had done?

Mr. Watson. Because I went to those books to get what the Interstate Commerce Commission did.

Mr. Norkis. They do not show it. They show the claims made by the respective attorneys. Do you want this committee to believe that a lawyer of many years' experience and practice would go to the Commerce Court and get the briefs of the attorneys in order to find out what the Interstate Commerce Commission had done, when, right in the same city, he could go over to the Interstate Commerce Commission and get their decision directly?

Mr. Watson. Ves; but I did not know it.

Mr. Norkis. You did not know it?

Mr. Norkis. You did not. I am frank to say that I never knew anything about the Interstate Commerce Commission.

Mr. Norkis. You have just said that it was the action of the Interstate Commerce Commission that you were looking for.

Mr. Watson. It was; I wanted the information.

Mr. Norkis. Then you did know there was such a thing?

Mr. Watson. Did I know it? I have known it ever since they have been in existence. But to go before them, to get them to have anything to do with this, or to study their decisions, I never did in my life, because I never was interested.

Mr. Norkis. You wanted to arm yourself, for this argument with these railroad officials, with the action of the Interstate Commerce Commission in the Mecker case?

Mr. Watson. That is just what I wanted.

Mr. Norkis. And you were right here in Washington where the Interstate Commerce Commission sits?

Mr. Watson. I did not know. I perhaps did not know how; I will admit that.

Mr. Norkis. And did not know. I perhaps did not know how; I will admit that.

Mr. Norkis. And satisfied yourself by taking the briefs of the attorneys?

Mr. Watson. Yes; and something else; I got something else.

Mr. WATSON. Yes.
Mr. NORRIS. And satisfied yourself by taking the briefs of the attorneys?
Mr. WATSON. Yes; and something else; I got something else.
Mr. NORRIS. The other one was a brief?
Mr. WATSON. I think it was a brief of some kind.
Mr. NORRIS. You got matter for the argument that you expected to be of benefit to you up in Scranton, and that is the reason you wired Judge Archbald and came clear down here to Washington, was it?
Mr. WATSON. To a man who knew nothing about the practice before the Interstate Commerce Commission any information I could get would be very agreeable to me.
Mr. NORRIS. You did not get any information at all?
Mr. WATSON. I got information—
Mr. NORRIS. As a matter of fact—
Mr. WATSON. I got information enough so that they admitted what I said was true.
Mr. NORRIS. The record of the Interstate Commerce Commission you did not get?
Mr. WATSON. That is true, unless that other book was the record of the Interstate Commerce Commission. I do not know whether it was or not.
Mr. NORRIS. It is not likely you would get that in the Commerce Court?
Mr. WATSON. No; I do not know. I do not know any other place only there. I do not know whet I had. Somehody ways it to me.

Court?

Mr. Watson. No; I do not know. I do not know any other place only there. I do not know what I had. Somebody gave it to me.

Mr. Norris. You said in the beginning of your testimony, that you went to see Judge Archbald about the practice in the Commerce Court?

Mr. Watson. That is, after you had been employed by the Bolands?

Mr. Norris. You were employed, then, in a case that was before the Interstate Commerce Commission that you thought might eventually get to the Commerce Court?

Mr. Watson. No, sir; it was not before the Interstate Commerce Commission.

Mr. Watson. No, sir; it was not before the Interstate Commerce Commission.

Mr. Norris. Where was it?

Mr. Watson. Oh, I guess it was; yes.

Mr. Norris. Did I state it correctly?

Mr. Watson. Yes; that is right.

Mr. Norris. And you wanted to know the procedure in the Commerce Court so that you would know what to do in case your case did reach that court?

Mr. Watson. Yes.

Mr. Norris. And you went to see Judge Archbald to get that information?

Mr. Watson. I spoke to him about it; yes, sir.
Mr. Norris. You testified that at that time you had not even read the
law providing for the Commerce Court?
Mr. Watson. I had not.
Mr. Norris. As a lawyer, does it not appear to you that when you
finally got a case that might possibly reach this court, the way to find

out what the court was would be to read the law instead of going to the judge who presided and asking what the law was when he would have to pass on the case when you got up to it?

Mr. Watson. I did not ask him what the law was. That was not it. It was a matter of practice. I have practiced long enough to know that the courts fix their own rules of practice. That is what I was talking to him about.

Mr. Norris. You had not read the law?

Mr. Watson. I had not.

Mr. Norris. Does it not appeal to you as a lawyer of a great many years' standing that before it is necessary for you to find out what the practice is you ought at least to read the law?

Mr. Watson. I did; that day.

Mr. Norris. You did that afterwards?

Mr. Watson. Yes; I did it that day. I got a little pamphlet, or something that had the act printed in it, and I read it.

Mr. Norris. Now, Mr. Watson, will you tell the committee that, employed as an attorney in a case involving quite a large sum of money, employed by the Bolands in a case pending before the Interstate Commerce Commission, in order to equip yourself for an argument with the railroad officials you knew was coming on soon, it being necessary for you to find out something about what the Interstate Commerce Commission did, you sent this telegram and then followed it up and then came down to see Judge Archbald without going to the Interstate Commerce Commission or making any attempt to get the record or the decision or the opinion in that case?

Mr. Watson. It may seem so to you, but, so far as I recall now, it did not appeal to me.

Mr. Norris. Does it seem to you that a man who will accept a fee, or who expects to get paid for his services as an attorney, and who pursues that course is entitled to any fee for his services?

Mr. Watson. I do not know why I would not be entitled to it if I brought about a settlement, no matter what happened, or how I got the information. But I want to answer the question. You asked a question. I had been led to believe, through Mr. W. P. Boland, from the be

to settle this rate case if they could get some excuse for paying the money.

Mr. Norris. You are not answering my question, Mr. Watson.

Mr. Watson. And that was the reason why, perhaps, nothing was looked up until we got advantageously close to it. Then I did want to know more about it.

Mr. Norris. You were seeking information as to what the Interstate Commerce Commission had done in the Meeker case?

Mr. Watson. I was.

Mr. Norris. Can you explain to this committee, when you were seeking this information, why you did not go where you must have known the information existed?

Mr. Watson. I thought the information existed in this court.

Mr. Norris. Where?

Mr. Watson. I thought I could find it in the United States Commerce Court.

Mr. Norris. Did you not know that you would not find it?

Mr. Norris. Did you not know that you would not find it?
Mr. Watson. I did not.
Mr. Norris. You did not know when you got those briefs you had not found it?

Mr. Watson. I did: I supposed I did. I had some other paper that gave me the information I wanted.

Mr. Norris. You have already testified that that other paper was a

Mr. Watson. I did; I supposed I did. I had some other paper that gave me the information I wanted.

Mr. Norris, You have already testified that that other paper was a brief.

Mr. Watson. It was the same kind; yes.
Mr. Norris, So that it would be along the same line of these you have testified to and identified?

Mr. Watson. Perhaps so.
Mr. Norris. Do you know now what the Interstate Commerce Commission did in the Meeker case?
Mr. Watson. I know that at that time they had reduced the rate on two or three sizes of the coal.

Mr. Norris. Did you ever read the opinion in the Meeker case?
Mr. Watson. I have not; because it was handed down since my coming—since I have been out of this case.
Mr. Norris. I am speaking of the decision of the Meeker case before the Interstate Commerce Commission. That had been passed on prior to this date, because the case had been appealed by the railroad company, and was pending in the Commerce Court.
Mr. Watson. I did, at the time, know it was a reduction on the smaller sizes of the coal.
Mr. Norris. I asked you, have you ever read the opinion?
Mr. Watson, No; I do not think so.
Mr. Norris. The opinion had been written and was published and was a public document.
Mr. Watson, Yes; I suppose so.
Mr. Norris. Prior to the time you were arming yourself for this controversy with the railroad officials?
Mr. Watson, I presume it was.
Mr. Norris. And you were seeking information in regard to that very case and what they did, and never looked it up to see?
Mr. Watson, I was seeking information—
Mr. Norris. And you were seeking information and I thought I had it.
Mr. Norris. You satisfied yourself by getting some briefs filed by attorneys in the case;
Mr. Norris. You satisfied yourself by getting some briefs filed by attorneys in the case;
Mr. Norris. You was feeking information and I thought I had it.
Mr. Norris. You knew that how what I did have it, or there was some expression.
Mr. Watson, I do not know but what I did have it, or there was some expression.
Mr. Watson. I those work as a matter

Mr. Norris. You knew that the opinion would not be m the brief—there might be a reference to it—and you knew that to get that opinion all you had to do was to go to the Interstate Commerce Commission, or to send a telegram from Scranton to the clerk of the Interstate Commerce Commission and got that opinion by mail quicker than you got it this way, could you not?

Mr. Warson. I presume I could, if I had known that. I did not know; that is ali.

Mr. Webb. Let me ask you a question again. You carried these important briefs back that you came all the way down here, 250 or 300 miles, for. Did you show them to Mr. Truesdale, and say, "Here is your railroad that has a case pending in the Commerce Court."? Did you say, "Mr. Truesdale, here are the briefs. You have a case pending down there in court, and I have been down to Washington, and I saw Judge Archbald yesterday, and I know something about these rates now, and you had better just stand and deliver"?

Mr. Warson. No, sir; I never spoke to Mr. Truesdale in that way. Mr. Warson. No, sir. I showed him one I had, in which I claimed certain rates. I showed him a paper I had with these printed on it, what we claimed.

Mr. Webb. Did you know that this suit was one pending in the Commerce Court when you came down here?

Mr. Warson. I did not.

Mr. Webb. Tou did not know it was then pending?

Mr. Warson. No, sir.

Mr. Webb. Webb. No, sir.

Mr. Webb. No, sir.

Mr. Webb. No, sir.

Mr. Webb. Webb. No, sir.

Mr. Webb. No, sir.

Mr. Webb. Webb. Webb. No went to the judge about this rate case, I

Mr. Webb. And that it was dismissed only here in April on motion of counsel for the railroad?

Mr. Watson. No, sir.

Mr. Webb. When you went to the judge about this rate case, I ask you if he did not tell you that this rate action was a very good one to settle out of court; Boland's case?

Mr. Watson. No, sir.

Mr. Webb. That was not ever said by the court.

Mr. Watson. No. I heard it was said to Boland, but it never was to me; or else I have read it in the papers that it was said to Boland.

Mr. Webb. Has there been any feeling between you and Judge Archbald in the last 10 years?

Mr. Watson. I do not know; I would not want to say that; no.

Mr. Webb. You have been very close friends, then, have you?

Mr. Watson. Well, I would not say that we had.

Mr. Webb. You impressed me that, for some reason, you did not practice before Judge Archbald's court.

Mr. Watson. I do not think I ought to be compelled to state all my personal reasons for not being there. If the committee asks for it, I will tell them why.

The Chairman. Unless it has some bearing upon this matter.

Mr. Watson. Absolutely nothing. It was simply a matter of the appointment of Judge Archbald under certain conditions, when he was appointed judge; and after I knew he was going to be appointed judge, I helped him; and maybe I ought not to have done it, because there are certain reasons—

Mr. Webb. That is not the reason you have not practiced in his court, is it?

Mr. Watson. I did not go over there the next day to help him open court, and I did not go back for some little time; but I had no feeling about it.

Mr. Webb. You have not had any?

about it.

Mr. Webb. You have not had any?

Mr. Watson. No; I like Judge Archbald very much.

Mr. Watson. No; I like Judge Archbald very much.

Mr. Webb. As a matter of fact, you hold a position now to which
you were recommended by the judge, do you not?

Mr. Watson. If he recommended me, I want to thank him now;
I did not know that he did.

Mr. Webb. Do you hold the position now?

Mr. Watson. I do.

Mr. Webb. What is it?

Mr. Watson. It is solicitor for the county of Lackawanna.

Mr. Webb. And you did not know that the judge, if he ever did
recommend you, had done it?

Mr. Watson. No. I wish to thank him, if he did it, because I did
not know it. I supposed that I got it from an entirely different
source.

Mr. Webb. When I examined you awhile ago I did not know that you had wired the judge a second message to meet you somewhere in Washington. Did you wire him on your way down here to meet you at the Raleigh Hotel?

Mr. Warsax. I do not know. I think very likely I did, if he met

Mr. WATSSN. I do not know. I think very likely I did, it he accome there.

Mr. Webb. Do you remember now? Awhile ago you remembered the very side of the street you went up on, and every little detail.

Mr. WATSON. I did not remember the side of the street I went up on, but I met him at the Raleigh Hotel, and we walked up to this build-

Mr. Webb. Was it raining?
Mr. Watson. Maybe not, when I got in here; but it had been raining, and it did rain afterwards.
Mr. Webb. It rained before and after?
Mr. Webb. It rained before and after?
Mr. Watson. Maybe not; just at that moment it was not raining.
Mr. Webb. You remember you went into this building from the H
Street side?

Mr. Webb. To the hold you went into this building from the H Street side?

Mr. Warson. Yes; I did. I know how we got into the building, because one winter I lived on the corner opposite that, a number of years ago, and I noticed the building and its location when we went in, and I noticed the Shoreham Hotel from where we went in.

Mr. Webb. I thought you were an entire stranger here?

Mr. Warson. I have been down here a couple of times.

Mr. Webb. Can you tell us where you wired the judge to meet you; that is, at what point did you wire the judge to meet you?

Mr. Warson. From what point did I send the telegram?

Mr. Webb. No; you sent that telegram from somewhere on the way. But where did you tell the judge to meet you here in Washington?

Mr. Warson. That is a blank to me. But if he met me at the Raleigh Hotel, that is probably where it was.

Mr. Webb. That is the only reason you have? I thought you met him on the street?

Mr. Warson. It was in front of the hotel, I imagine. That is what I think; I think, now, he was standing in front of the hotel.

Mr. Webb. You just happened to go up and meet him ther?

Mr. Warson. No; it was the place I expected to meet him; I have no doubt of that.

Mr. Webb. Do you know what street the Raleigh Hotel is on?

Mr. WATSON. Yes; Twelfth Street and Pennsylvania Avenue. Mr. WEBB. That is right; and you can not tell us now, although you now where the Raleigh Hotel is, what point you wired the judge to

know where the Raleigh Hotel is, what point you wired the judge to meet you?

Mr. Watson, I do not; but from the fact that I checked my satchel in the Raleigh Hotel—I remember that very well—I suppose that I asked him if he would meet me at the Raleigh Hotel. I presume I did. Mr. Webb. You presume you did?

Mr. Webb. You presume you did?

Mr. Watson, Yes.

Mr. Webb. Can you not swear that you did or did not? You told us a while ago about going to the Commerce Court and meeting one fellow and another, and meeting the judge, and what was said. Can you not tell us what was in your telegram you sent to the judge?

Mr. Watson, No; I can not. If I were going to tell you my best recollection, I would say, "Meet me at the Raleigh Hotel," at a certain time, and that time I knew when it was, when I would arrive here. I think that is just what I did say.

Mr. Webb. Is not that a very peculiar telegram from a man who is coming down to Washington seeking information about a case about records to wire a United States Commerce Court judge to meet him at a certain point in this city? Do you think you sent the judge any such telegram as that?

at a certain point in this city? Do you think you sent the judge any such telegram as that?

Mr. Watson. I do not know, but I imagine that is what I sent, something like that. I think I did. I think I knew, from some information that I had gotten, that the courts were closed on Saturday afternoon, and I thought I knew the judge well enough to ask him to meet me at a certain place. I did not know I was going to the Commerce Court when I met him. I had no idea where I was going. I expected to go somewhere where I could get this information, and I heard that the appeals were in the United States Commerce Court. That is all I knew.

Mr. Webb. You do not even know the time of day when you came here?

Mr. Webb. You do not even know the time of day when you came here?

Mr. Watson. It was later than I expected to get here, on account of something the matter with the train.

Mr. Webb. Do you remember about the time it was?

Mr. Watson. I would say neon—about 12 o'clock; something like that. It may have been an hour earlier.

Mr. Webb. When did you leave him?

Mr. Webb. Yhen did you leave him?

Mr. Watson. I went away from here at 6; I do not know that I left him at 6.

Mr. Webb. You were with him from 12 to 6 o'clock?

Mr. Watson. I think I was, nearly all the time. We sat down on a bench in the hotel, or somewhere, and talked.

Mr. Webb. You were with him from 12 to 6 o'clock?

Mr. Watson. Perhaps so; maybe it was the Pennsylvania Station; I do not know. I know that I sat down somewhere with him and talked, not in the court bullding.

Mr. Webb. When you say you were employed to assist in this case of the Marian Coal Co. against the railroad company in the Commerce Court, did you know Mr. Reynolds was their counsel then?

Mr. Watson. Yes; that was talked.

Mr. Webb. Why did you not go to Reynolds to get his opinion about these things, the practice that you talked about?

Mr. Watson. Mr. Reynolds would not settle with the Lackawanna—so Christy Boland told me after—that he would not settle with the Lackawanna, and they wanted some one who would settle this case. What the reason was I do not know. I told them I would not take hold of the case and try it out, or go into the Commerce Court, unless Mr. Reynolds agreed to it, and they said: "You settle this with the Marian washery case."

Mr. Watson. No; this case was put in. As I say, they used the Marian washery case?

Mr. Watson. No; this case was put in. As I say, they used the Marian washery case to give the Lackawanna an opportunity, or a

Mr. Webb. That was all the authority you had to settle the Marian washery case?

Mr. Watson. No; this case was put in. As I say, they used the Marian washery case to give the Lackawanna an opportunity, or a chance to buy them out without paying rates.

Mr. Webb. Were you ever employed by the Bolands before in any lawsuit in your life?

Mr. Watson. Never. I have known Christy Boland a great many years. He was treasurer of the city of Scranton when I was an advisor of the mayor at that time, and I learned to know him very well; and then he ran for treasurer—county treasurer—at a time when some of us got licked, and I was among them, and so wus Mr. Boland. We were together more or less then, although we were on opposite tickets.

Mr. Webb. That is not necessary—

Mr. Watson. And I knew him very well.

Mr. Webb. You were never employed by him before?

Mr. Watson. No; unless it was in some minor matter, to see some-body.

Mr. Watson. No; unless it was in some minor matter, to see somebody.

Mr. Webb. Can you tell the committee why you did not consult Reynolds about this important litigation?

Mr. Watson. Because I was advised not to, and I did not know what I was going to do, and what I had. The washery case had nothing to do with Reynolds, and this was hooked on afterwards.

Mr. Webb. Did you know that Reynolds would not recognize you in the case at all?

Mr. Watson. Did I know?

Mr. Webb. Yes.

Mr. Watson. I do not know what Mr. Reynolds would do, whether he would recognize me or not. He has often recognized me when he wanted something; I know that.

Mr. Webb. Had you not heard—

Mr. Watson. I do not dodge anywhere for any Reynolds I ever knew that was ever born under the sun.

Mr. Webb. You did know that Mr. Reynolds was more of a rate expert lawyer than you were?

Mr. Watson. I know that Mr. Reynolds has been fiddling around this Commerce Commission for some time; that is, I heard that within the last year. I never knew it before; I did not know what his business was.

Mr. Webb. He could have told you how to get the record in this case without coming to Washington after it.

Mr. Watson. Maybe; I do not know. I do not know what he knew. I did not go to him because I was advised not to.

Mr. Webb. Are you sure you did not come to Washington until after the conference with Truesdale?

Mr. Watson. Sure. I know that the conference with Truesdale—this letter—I could not have told anything about this if I had not got some data. This letter is dated on the 2d; the telegram was on the 6th, and I know it was after the 6th.

Mr. Webb. Of October?

Mr. Watson. Of October; it was after that telegram.
Mr. Webb. How do you know it was after the 6th?
Mr. Watson. Because I met them on Monday or Tuesday.
Mr. Webb. That could have been the 6th, could it?
Mr. Watson. Yes. sir; it is an answer to that letter.
The CHAIRMAN. What letter? Name it so that it may go in the

Mr. Warson. The letter of October 2, 1911.

The letter referred to, heretofore marked "Exhibit 86," was at this point read in the record by the witness, as follows:

OCTOBER 2, 1911.

Mr. E. E. LOOMIS,

Vice President Delaware, Lackawanna & Western

Railroad Co., 90 West Street, New York City.

Dear Sir: In relation to a matter existing between the Marian Coal Co. and your road and coal department, and also a claim against the traffic department of your road, which I have had under consideration here, and with which I presume you are more or less familiar, I decided, after a conference with your Mr. Phillips, of the coal department, to ask for a meeting with you and the president of your road, Mr. Truesdale, if convenient, at the earliest time you could find your way clear to meet me, either in New York or Scranton. If you will kindly advise me, either by wire or letter, I will hold myself in readiness to meet you on a few hours' notice.

I am, very truly, yours,

Mr. Webb. I asked you if you did not have this conference with Mr.

I am, very truly, yours,

Mr. Webb. I asked you if you did not have this conference with Mr. Truesdale and Mr. Loomis on the 6th day of October, the very day this telegram was sent to Washington?

Mr. Webb. You are willing to swear to that, are you; you remember distinctly it was not?

Mr. Webb. You are willing to swear to that, are you; you remember distinctly it was not?

Mr. Watson. I know it could not have been, because I know what I was occupied in that day. I know Mr. Boland was in my office in the morning, and it was a matter of some concern about getting away and how we could do it, and he came back in the afternoon, and then he brought his brother with him—Mr. William Boland came with him in the afternoon, after he had taken the telegram; he took the telegram in the morning.

Mr. Webb. You swear that telegram was not sent after you had the conference with Mr. Truesdale?

Mr. Watson. Surely, or I would not have been asking for the conference.

ference.

Mr. Webb. I wish you would not reason about it; are you willing to swear it was not sent on the day you had the conference with Trues-

swear it was not sent on the day you had the conference with Truesdale?

Mr. Watson. On that day?

Mr. Webb. Yes.

Mr. Watson. I do not know when the telegram was sent. The telegram I wrote was written on the 6th of October, apparently.

Mr. Watson. I was in Washington the 7th day of October. I came down here on the 7th. I know the meeting with Truesdale was several days after that.

Mr. Webb. When were you subpensed to come down to Washington?

Mr. Watson. Saturday noon, I think.

Mr. Webb. You mean last Saturday noon?

Mr. Watson. Yes.

Mr. Webb. With whom have you discussed this case, or who has talked to you about it, since it sprang up.

Mr. Watson. Some people have laughed at me, that is all, because I was subpensed.

Mr. Webb. Has anybody talked to you about this case? You know what I mean.

Was Subpensed.

Mr. Webb. Has anybody talked to you about what I mean.

Mr. Watson. What I was to say, or what they wanted me to say?

Mr. Webb. Has anybody discussed the case with you at all?

Mr. Watson. No.

Mr. Webb. Not a living soul?

Mr. Watson. No; not to mention the case—only the fact of my mention.

Mr. Watson. No; not to mention the case—only the fact of my coming.

Mr. Webb. Just laughed at you?

Mr. Watson. Some have, yes; not everybody.

Mr. Watson. Some have, yes; not everybody.

Mr. Webb. You can not remember a single person during the last two months who has discussed this case with you?

Mr. Watson. That is too long. I was not subpensed two months ago. I suppose I have talked about it many times in two months.

Mr. Webb. I was going beyond the subpense. I want to know if, in the last two months, anybody has talked to you about this case, and, if so, who it was.

Mr. Watson. Within two months, since this case has been called here.

the last two months, anybody has talked fo you about this case, and, if so, who it was.

Mr. Watsox, Within two months, since this case has been called here, there has been more or less discussion of the case. I presume I have talked with a dozen people.

Mr. Webb. Not over some of them?

Mr. Webb. Not a single soul?

Mr. Webb. Not a single soul?

Mr. Watsox. I could not tell you one.

Mr. Webb. Not a single soul?

Mr. Watsox. No; because it was a source of common gossip, the talk of the streets; people were talking about it.

Mr. Webb. Did you talk with men or women?

Mr. Watsox. Judge Edwards talked to me about it, if I knew anything about it. Judge Kelly, who is now off the bench, he says, "What do you know about the Archbald case?" Gorman Thomas says, "I hear you have to go to Washington and testify. What do you know about it?" Mr. Allen, another man who is in the commissioner's office, was present when I was subpeched, and he says, "It serves you right," or something of that kind. Something was said about my going to Washington. But to get down into the merits of the case, nobody ever talked to me about it.

Mr. Webb. Not a soul ever asked you what you knew about it?

Mr. Webb. Not a soul ever asked you what you knew about it?

Mr. Webb. Not a short a way as I could.

Mr. Webb. Who was it?

Mr. Webb. Who was it?

Mr. Webb. Would you not know, but I think I have heard that from somebody, "I wonder what he is going to swear to," or "What does he know?"

Mr. Webb. Would you not know if a man were so impertinent as to

Mr. Webb. Would you not know if a man were so impertinent as to ask you what you were going to swear to?

Mr. Watson. I was in the prothonotary's office—that is the clerk's office in our State—a day or so ago, since this case has been discussed here, and there were some people said about what they were going to swear to, "What does he know?" or "What does this one know?" or

"What does that one know?" That was by the clerks in the office, and I can name one or two of them I know. Whether it was they or not I do not know who asked this question.

Mr. Webb. Has any lawyer in Scranton ever asked you what you knew about it?

Mr. Watson. I do not recall any now. They all knew pretty well, because they were reading the newspapers.

Mr. Webb. Have you seen or talked with the judge in the last few months about anything?

Mr. Watson. Judge Archbaid?

Mr. Webb. Yes.

Mr. Watson. I saw Judge Archbaid two or three weeks ago on Sunday, when I was either going to church or he was—no; I was going to church and he was coming down. That is all the time I have seen him that I recall in two or three months.

Mr. Webb. Watson. I do not know. I think I asked him how he was getting along—maybe I did. Maybe he said it was going all right—something like that.

Mr. Webb. "I t" was going all right—did you mean this matter?

Mr. Watson. I think I alluded to it, if I said that. I have no doubt that something was said about this hearing, but the nature of it I do not know. I can not talk to Judge Archbaid about this matter.

Mr. Webb. You did; you broached it to him; asked him how he was getting along.

Mr. Watson. Just incidentally; but to go into the detail, I would

Mr. Webb. You did; you broached it to him; asked him how he was getting along.

Mr. Wayson. Just incidentally; but to go into the detail, I would not do it, and I have not talked to him.

Mr. Webb. You never mentioned your connection with the case at all; what you knew?

Mr. Wayson. I de not think so.

Mr. Webb. Do you not know? That has just been three weeks ago.

Mr. Wayson. That I mentioned my connection?

Mr. Webb. Can you not be more frank with us and tell us the truth, whether or not you talked about this case with Judge Archbald?

Mr. Wayson. I did not talk with Judge Archbald about anything I would testify to, or what I did, or what I said, or what I was going to say.

Mr. Webb. Can you not be more frank with us and tell us the truth, whether or not you talked about this case with Judge Archbald?

Mr. WATSON. I did not talk with Judge Archbald about anything I would testify to, or what I did, or what I said, or what I was going to say.

Mr. Webb. What did you talk to him about?

Mr. Watson. And he replied the same, and I went on my way, and he went on his way.

Mr. Webb. That is all that was said?

Mr. Watson. And he replied the same, and I went on my way, and he went on his way.

Mr. Webb. That is all that was said?

Mr. Watson. That is all I recall. There might have been more said. I do not know what was said. He might have talked about some condition; might have asked me if I remembered something.

Mr. Webb. Had any witnesses testified then?

Mr. Webb. Had any witnesses testified then, when you and the judge met and discussed matters on Sunday morning?

Mr. Watson. I can not say that. I have been fairly busy in the last week or 10 days, or two weeks, and I have not charged my mind with every little thing that has been going on there. I have not been reading this case, except at nighttime when I would go home I would pick up the newspaper.

Mr. Watson. I knew that there was a committee appointed for the purpose, or he was cited before the Judgleary Committee of Congress; I knew that. I did know that later along Mr. Martin and Mr. Price had come down here, after some one told me that.

Mr. Webb. You knew all that, and you knew that when you and the judge met that morning?

Mr. Watson. No; when I met the judge was before they came.

Mr. Webb. You knew all that, and you knew told us everything you said to the judge and all the judge was before they amount they came.

Mr. Webb. You we mean to say now that you have told us everything you said to the judge and all the judge was before they.

Mr. Watson. But I do not think these people were bere.

Mr. Webb. Thoy you mean to say now that you have told all that was said to the judge and all the judge said to you about this case in t

Mr. Webb. That is as near as you can tell us the details of the conversation you had with the judge the first time you saw him after he was cited to appear down here? Have you seen him since to talk with him?

WATSON. Yes; I talked to him. I said, "How do you do this

morning."

Mr. Webb. Have you seen him any other time; anywhere else outside of this room?

Mr. Warson. Yes; down on the corner of the street. I walked down with him, and Mr. Worthington was making some arrangement for them to go down town, and Judge Archbaid's sons were along with him. Maybe we went down on the elevator together; I do not

know that. But I know I met them on the corner of the street, because I asked somebody where I could get something to eat, and they told me to go around here somewhere.

Mr. Webb. You do not know whether you went down on the elevator with him or not?

Mr. Watson. I do not know.

Mr. Watson. I do not know.

Mr. Watson. He may have been on the elevator; I do not know. I am not tagging him up. When I got out there I know I saw him on the street corner, because I talked to him. I spoke to him something about the weather, or the way he was going down town.

The Chairman. Mr. Watson, since this investigation has been begun by this committee of Judge Archbald's conduct, you say you had a conversation with him in Scranton about the investigation?

"Mr. Watson. No; I do not think I met him but once, and that was when I asked him how he was getting along.

The Chairman. I just simply want to get at what you said and what he said at that time. As near as you can tell the committee, oblige us by telling, as near as you can recollect, what the judge said and what you said.

Mr. Watson. The only thing I recall asking him was how he was get.

he said at that time. As near as you can tell the committee, oblige us by telling, as near as you can recollect, what the judge said and what you said.

Mr. Watson. The only thing I recall asking him was how he was getting along, and he replied; he may have told me considerable, and may have said, "Well, we are going along; we have been taking testimony"; and he may have given me something of the nature of the testimony."; do not recall whether he did or not. But he led me to understand it was all right, it was getting along all right, just as he expected it would. That is about all there was of it.

The Chairman. That was on Sunday?

Mr. Watson. On Sunday morning. I remember telling him that I was going to church when I met him.

The Chairman. I wish you would tell the committee exactly what happened at this conference between you and Mr. Truesdale and Mr. Loomis, everything that you said, everything that Mr. Loomis said, and in your own way; I have not got that matter clear. There have been disjointed statements, more or less, made, and I would like to have a verbal photograph, if I may so speak, of the conversation had between the three of you.

Mr. Watson. I will try to give you the conversation.

The Chairman. Just what Truesdale said, just what Loomis said, and just what you said, without going off into foreign matter.

Mr. Watson. Do you desire me to give you the reason I went there?

The Chairman. No, sir. Just find yourself right in conference with Truesdale and Loomis, and tell us exactly what Truesdale, Loomis, and you said, as near as you can, and as fully as you can remember.

Mr. Watson. I went to the office of the Lackawanna road—it is in the depot, the new depot, the coal office is over it—and sat down there for a moment, and some young man took me into Mr. Phillips's office adjoining the room I was in, and Mr. Phillips met me and shook hands with me, and in a moment or so Mr. Loomis and Mr. Truesdale came in the office. There may have been some one else, but if so I do not remember who it was.

a thousand or two dollars on the rate cases."

Then I get into an argument with him about that these rates had been fixed in an arbitrary way, and in the time when there was no supervision over rates, and that the Lackawanna had been slow to change their rates, that they had kept their switching charges, which I had a memorandum of. If they were true, it was the most outrageous charges I ever heard of they were charging these people for shipping their cars, and I read those to him. "Well," he says, "switching engines cost money," or something of the kind, and laughed about it. Finally Mr. Truesdale wanted me to show him those switching charges, and I read them to him, and handed him the paper I had them marked on

Finally Mr. Truesdale wanted me to show him those switching charges, and I read them to him, and handed him the paper I had them marked on.

Now, I recall there was something like 30 cents charged to one man, a coal operator, and I may be mistaken, but it strikes me it was more than a dollar to Mr. Boland for a like service, or to this washery. He said that could not be so, and they would investigate it. We got at the washery, and he turned to Mr. Phillips and asked Mr. Phillips—I think this was Truesdale that asked Phillips—if he had made up the data on that washery, and he said he had, and he read it, or a summary of it, or the conclusions that he had come to, and I am quite sure that he said it inventoried \$14,000, and he says, "What are you asking us \$161,000 for?" I tried to explain to him that it was a settlement of rates and that I had been advised by Mr. Boland that I could not settle a rate claim with them, and that they could use this washery, and buy it for that amount of money, and that would adjust their rate cases. He said that the amount was too high, and that he would not recognize any claim of more than twelve or fifteen thousand dollars. He said it was enough; and then Mr. Loomis told me what a washery it was and how little profit there was in the business, and how the Peale story of, I think, not cleaning the coal was true; that the Peale story of a trade of coal from the Lackawanna, giving it to the Lackawanna and taking something else in return for it; he said it was all rot. This is Loomis that said that. Mr. Phillips rather supplemented that; said it was not true. Then I talked with Mr. Loomis about the advisability of adjusting those matters and doing away with the litigation, and he said that that was true, but that the amount asked was too great; that they could not excuse themselves for spending \$150,000, or \$160.000, or even less—he told me how much; I think about twenty or fifteen thousand, or something, would be the maximum amount. I showed him the map that had been given me by Mr.

I went to Mr. Boland and told him—I think Will Boland first—and from that day until this I have done nothing toward an adjustment. Of the papers and the data that I had; whatever memoranda I had saved I gave to him, and I recall there were contracts, there was a charter—a copy of a charter—there was a map, and there was a good manual to the papers and the data that I had; whatever memoranda I had saved I gave to him, and I recall there were contracts, there was a charter—a copy of a charter—there was a map, and there was a good manual to the save of the copy of the charter—there was a map, and there was a good manual to the copy of the charter of the charter of the copy of the charter of th

The CHAIRMAN. Do you remember of the conference with Judge Archbald?

Mr. WATSON. No; I never heard of it. I never heard of the conference never heard of anything; so I know nothing about it; absolutely nothing.

The CHAIRMAN. Do you know why Judge Archbald interested himself in the matter at that point, or subsequently?

Mr. WATSON. I do not. He certainly did not do it at my request, because I did not know it was done until I heard it here.

Mr. Webb. A few days ago it was asked here if Judge Archbald had not written Mr. Christy Boland, saying, "My Dear Christy: I have seen the parties and the case can not be settled," or something like that; and later Mr. Worthington introduced a letter addressed to G. M. Watson, starting out "My Dear George," and stating practically the same?

Mr. Worthington, No; the letter produced was addressed to

Mr. Worthington, No: the letter produced was addressed to Christy—"My Dear Christy."

The Chairman, The "Dear Christy" letter was put in evidence.

Mr. Worthington. No: I did not put it in evidence. I showed it to C. G. Boland, and he could not identify it.

Mr. Webb. Where is that letter?

The Chairman. I think you will find in the printed record the letter addressed to C. G. Boland, and beginning "My Dear Christy."

Mr. Worthington. It begins "My Dear Christy." That is the letter. I really do not recollect whether I have it here or not. I handed it up to some of the committee at the time.

Mr. Webb. I would like to see a copy of that letter. I thought you offered it in evidence, but I do not find it here.

Did you ever get such a letter as that from Judge Archbald, saying "My Dear George: I have seen the parties, and the transaction is all off"?

Mr. Watson No. Judge Archbald never told me that he had over

Did you ever get such a letter as that from Judge Archbald, saying "My Dear George: I have seen the parties, and the transaction is all off."?

Mr. WATSON, No. Judge Archbald never told me that he had ever said one word to those people, so I do not know if he did or did not. If he did, he never communicated that fact to me, either by word of mouth or letter. Let me correct myself just a little on that. I think that I did know of the fact, either through him or somebody else, of his talking with Loomis at the club before I ever went near them. I think I did know that.

Mr. Webb. Did what?

Mr. WATSON, I think some one told me that Judge Archbald met Mr. Loomis at the Scranton Club before I took this matter up with the Lackawanna road, before I had even met Mr. Loomis. I think I heard that, and maybe Judge Archbald told me that he did meet him there. Outside of that, Judge Archbald has never said one word to me about a statement of this case, price, condition, or settlement, when I was going to settle, or what I was going to do with the proceeds.

Mr. Webb. Then you never heard from Judge Archbald has never told you on the phone, or talked to you, or written you, that the transaction was all off?

Mr. WATSON. In relation to this case?

Mr. WATSON. In relation to this case?

Mr. WATSON. Yes.

Mr. Webb. This is the only case you have had to do with?

Mr. WATSON. No; I do not think so. I do not think I ever talked with him about it at all. As a matter of fact, I did not see Judge Archbald very much, and I would remember if he had talked with me about this case, and I do not think that he did or that I did.

Mr. Sterling. You say some one told you that Judge Archbald had talked to Loomis at the club about it?

Mr. WATSON. That is another hazy thing. Perhaps it was Judge Archbald who told me that he had seen Mr. Loomis up at the club?

Mr. WATSON. That is another hazy thing. Perhaps it was Judge Archbald who told me that he had seen Mr. Loomis up at the club?

Mr. WATSON. Before I had gone to the Lackawanna; I think I

Mr. Sterling. You said that occurred before you had been engaged by the Bolands.

Mr. Watson. If I did, then I want to correct my testimony, because I know nothing about Judge Archbald talking with him, except it happened since my engagement on these cases.

Mr. Sterling. Who told you that they had a conversation at the club?

Mr. Watson. It may have been Judge Archbald who told me that he had met Mr. Loomis there.

Mr. Sterling. What did Judge Archbald tell you they had said?

Mr. Watson. I do not know, unless he said to me that "I met Mr. Loomis, and he will meet you." I know I got that information, and I am sure from Judge Archbald, that Mr. Loomis told him he would meet me.

Mr. Sterling. Where did that conversation occur?

meet me.

Mr. Sterling. Where did that conversation occur?

Mr. Watson. It may have happened in his office or it may have happened on the street; I do not know. I did not go to his office very much—very frequently. I do not recall his being in my office.

Mr. Sterling. How did he come to tell you that?

Mr. Watson. Because he volunteered to introduce me to Loomis, or I had asked him to do it. He either said he would, or I asked him if he would not do it.

Mr. Sterling. This was not in his office when you told him that

Nr. Warson (interrupting). That was right in his office. Mr. Sterling. It was there that he told you he had talked with

Mr. Watson (interrupting). That was right in his office.
Mr. Sterling. It was there that he told you he had talked with Loomis?
Mr. Watson. No; because he had not talked with him then. It was after that that he talked to him.
Mr. Sterling. Where was it?
Mr. Watson. It may have been in his office.
Mr. Sterling. Where did you see him where he told you he had talked with him at the club?
Mr. Watson. I would think it was in his office.
Mr. Sterling. Did you go there to see him about it?
Mr. Watson. No.
Mr. Sterling. What did you go for?
Mr. Watson. I do not know.
Mr. Sterling. You did see him, then, and asked him if he had talked to Loomis?
Mr. Watson. I do not think I did. I think he voluntarily said he had seen Loomis and Loomis would see me. I am quite sure he told me that.
Mr. Sterling. He volunteered to tell you that he had seen Mr. Loomis and that Loomis would see you with reference to this dump?
Mr. Watson. You have included not only what he volunteered to say, but what Mr. Loomis said. I would not go as far as that. But my recollection is that Mr. Loomis would see me. I think that is what he said. I recall very well the morning I went along past his door, he was talking with some man—perhaps Mr. Green, or somebody—and he says, "Say, by the way, I saw that man." That is what I remember about it. "You can see him. It will be all right. Make an arrangement with him. You had better do it through somebody." Whether he mentioned the man or not, the man at the station who would know when he would be there, to call me on the phone—
Mr. Sterling. How long was that after your first conversation?
Mr. Watson. I do not know. Maybe a week, maybe two weeks, maybe three weeks; I do not know.

Mr. Sterling. He just said to you, then, that he had seen that man? Mr. WATSON. Yes.
Mr. Sterling. You knew whom he meant?
Mr. WATSON. When he mentioned his name I stopped.
Mr. STERLING. Did he mention his name, or that he had seen "that an"?

man"?

Mr. WATSON. Yes.
Mr. STERLING. Did he just say to you that he had seen that man?
Mr. WATSON. Yes; but I stopped, and he said, "Mr. Loomis will meet you," as I recall it now.
Mr. STERLING. What other conversations did you have with Judge Archbaid?
Mr. WATSON. I do not think any at that time, and I do not know that I talked with him since.
Mr. STERRING. Are you acquainted with these two gentlemen who sit on either side of Mr. Worthington [referring to Mr. Price and Mr. Martin]? Martin]?
Mr. Warson. Yes; I think I know them. I have known them a
Mr. Warson. Yes; I think I know them. I have known them a

Martin]?

Mr. Watson. Yes; I think I know them. I have known them a great many years.

Mr. Sterling. Mr. Martin and Mr. Price; are those their names?

Mr. Watson. Yes.

Mr. Sterling. How long have you known them?

Mr. Watson. I have known Mr. Price for more than 30 years.

Mr. Sterling. They live in Scranton?

Mr. Watson. Yes. I have known Mr. Price for more than 30 years, and I have known Mr. Martin since he was a boy living up at Moscow.

Mr. Sterling. They are practicing attorneys at Scranton?

Mr. Watson. Oh, yes.

Mr. Sterling. And they have offices in the same place you do, the same building?

Mr. Watson. Mr. Martin's office is in the Connell Building. Mr. Price's office is in the board of trade now, I think; is it not, Mr. Price's office is in the board of trade now, I think; is it not, Mr. Price?

Mr. Price Yes.

Mr. Sterling. Has either of those gentlemen talked to you about this case since it became public?

Mr. Watson. No.

Mr. Sterling. Since the papers first published an account of these charges?

Mr. Watson. No.

Mr. Jewe not spoken to Mr. Price until I met.

Air. Sterling. Since the papers first published an account of these charges?

Mr. Watson. No, sir. I have not spoken to Mr. Price until I met him, I think, here this morning. I have not seen him since this matter has been going on. Mr. Martin, I met him—I do not know when he came home—some time when he came home from here; maybe it was Saturday night or Sunday, this last week some day, when he came up; I saw him on the street by the office building, and I said to him, "How are you getting along?" He says, "All right. I can not talk to you now," and he went into the building.

There was some lady with him, maybe a stenographer that came over with him. That is the extent of my conversation with Mr. Martin until yesterday morning on the train. Mr. McGardee and Mr. Martin got on the train I was on, and I did not want to get off because they got on, and I have been advised that Mr. Martin would not talk to me; but he did, and we talked about everything from killing chickens to running automobiles, from Philadelphia, or Wayne Junction.

Mr. Sterkling. Have you ever talked with Mr. Martin about this case?

Mr. Watson, I have not

Mr. Watson. I have not.
Mr. Strellno. If you had said that five minutes ago you would have saved a lot of time.
Mr. Norms. I want to ask you again, Mr. Watson, about that meeting with these railroad officials. In answer to the question of the chairman you reviewed what happened. Have you told us all that occurred?
Mr. Watson, I do not think I have told half that was said there.

colliman you reviewed what happened. Have you told us all that occurred?

Mr. Watson. I do not think I have told half that was said there, because there was more or less talk about these matters.

Mr. Nornis. You know the chairman asked you to tell all?

Mr. Watson. I can not tell all.

Mr. Nornis. Have you told all you know?

Mr. Watson. I have told about all that I can remember, only I know there was a great deal more conversation, because we talked an hour and a half.

Mr. Nornis. In listening to you tell what occurred there I did not notice that you made any use of those briefs you had come to Washington to get at the time you wired Judge Archbald.

Mr. Watson. You did not notice it?

Mr. Nornis. No.

Mr. Watson. I will tell you what I did, and the brief I had before that committee. I had a statement made up of my own, made from the data given me by Mr. Boland, together with what I had learned as to the rates that had been changed in the Meeker case.

Mr. Nornis. I do not care for that; that is not answering my question. Will you tell us the use you made of those briefs?

Mr. Watson. Only the information I got from them; that is all.

Mr. Norris. You have not told us anything yet. All the information you have told about using was what you got from Mr. Boland, or simply you knew yourself.

Mr. Watson. I did not get very much information from those books; no; that is true. But I did get a discussion of rates in there.

Mr. Norris. You had a discussion of rates in there.

Mr. Norris. Sut had a discussion of rates.

Mr. Norris. But you did not accomplish anything on that, notwithstanding those briefs in that other case. You did not seem to know enough about rates to hold up your end of the debate with those officials.

Mr. Watson. I knew what they were doing there, and the largest part of this matter was made up of a shipment to Stroudsburg, and

Mr. Watson. I knew what they were doing there, and the largest part of this matter was made up of a shipment to Stroudsburg, and to, maybe, the Lehigh & Hudson—some railroad; I forget the title of it now. That was the largest thing we talked about. There were a good many hundred dollars, a good many thousand dollars.

Mr. Norris. Do you remember the date of that?

Mr. WATSON. That I can not give you, because the paper there—
Mr. Norris. It was Monday or Tuesday after your trip to Washington?

Ington?

Mr. Watson. This meeting?
Mr. Norris. Yes.
Mr. Norris. Yes.
Mr. Norris. Can you be positive it was after your trip to Washington?
Mr. Watson. I can be positive; so that I am sure that I did not meet those people until Monday or Tuesday after the 6th.
Mr. Norris. After the 6th?
Mr. Watson. Yes; I am sure of that.

Mr. Norris. I want to ask you again, Will you swear positively that that meeting with those officials in Scranton occurred after your trip to Washington, the time you had wired Judge Archbald to meet you?

Mr. Watson, No, sir; I will not swear positively to anything that happened after that meeting; I do not know.

Mr. Norris. Do you want this committee to understand that you do not know whether that took place before or after that trip to Washington?

not know whether that took place best ington?

Mr. Warson. I am of the opinion that it took place after my coming here, and I do not know how it could have taken place before, because I am sure I came here for information, and I would not have come for information.

Mr. Norris. You know whether it took place before or afterwards, do you not?

Mr. Norris. You know whether it took place before or afterwards, do you not?
Mr. Watson. My recollection is it took place before.
Mr. Norris. But you will not swear to it?
Mr. Watson. I want to get some data, because I do not know.
Mr. Norris. Then why do you not say so?
Mr. Watson. The thing may have happened, and it may not have, that I used those books, and I came after them for that purpose, just that very purpose, and it was for my information.
Mr. Norris. You might have come after them for some other purpose?
Mr. Watson. No: not some other purpose: it was on the same case.

Mr. Norris. 15u might mave come after them for some other purpose?

Mr. Watson. No; not some other purpose; it was on the same case.

Mr. Norris. Then you must have come after them for that purpose.

I would like to know, if you can tell, if you can make it positive, whether that thing took place before or after your trip to Washington?

Mr. Watson. My recollection is that is what I came to Washington for—to get the information.

Mr. Norris. I know; you said that before.

Mr. Watson. That is my recollection, and I swear to the best of my recollection that is what I did.

Mr. Norris. That is all.

Mr. Webb. On that point, you say the next day was Sunday?

Mr. Watson. After I was here? Yes.

Mr. Webb. You were here on the 6th?

Mr. Watson. No; I was here on the 7th. It was the 6th that I sent the telegram.

Mr. Warson, No; I was here on the ren.
Mr. Warson, No; I was here on the ren.
Mr. Were. You were here the 7th, were you?
Mr. Warson. Yes. I remember that I went from New York up on Sunday, because I could not get up from Philadelphia on the Belvidere

Mr. Watson. It may have been later in the week; but I think it was right close on the heels of my being here. If I had kept a record, which I thought I had, I could have given you the dates.

Mr. Webb. Did you ever tell Mr. Boland that Judge Archbald would not take your watch, but he might take your chain?

Mr. Watson. No, sir; I never heard of that until I read it in the papers.

which I thought I had, I could have given you the dates.

Mr. Webb. Did you ever tell Mr. Boland that Judge Archbald would not take your watch, but he might take your chain?

Mr. Watson. No, sir; I never heard of that until I read it in the papers.

Mr. Webb. You never used that expression?

Mr. Watson. In never did in my life in relation to Judge Archbald; no. I never heard it until I read it in the papers.

Mr. Watson. In never did in my life in relation to Judge Archbald; no. I never heard it until I read it in the papers.

Mr. Watson. In relation to a watch and chain? I should say not. I do not think I ever used that expression. I thought it was a kind of a new one on me, "take your chain and leave your watch," or "take your watch and leave your chain." I do not know that I ever heard that. It sounded foreign to me.

Mr. Webb. I ask you if you did not show W. P. Boland a letter from Judge Archbald starting out, "blear George," and telling you that the deal had fallen through. Do you not remember getting that letter?

Mr. Watson. I say positively that I never received a letter like that from Judge Archbald; never; and I could not have shown it to Boland if I had not received it.

The Chairman. Mr. Worthington, you may question the witness if you desire.

Mr. Worthington. One thing, there has been some testimony here in relation to you that I have not heard you asked about, and that is about a division of the difference between one hundred thousand and a hundred and sixty thousand dollars into fours. Have you read the testimony on that subject?

Mr. Worthington. What have you to say about it, Mr. Watson?

Mr. Watson. I never heard that until I read it.

Mr. Worthington. What have you to say about it, Mr. Watson?

Mr. Watson. I never heard that until I read it.

Mr. Worthington. Was there any suggestion by anybody, while the negotiations were going on, that Mr. Phillips or Mr. Loomis should participate in what was to be paid?

Mr. Watson. No tweet heard was to get any money out of this, and one was me. That is

orad company?

Mr. Watson. I think the paper Mr. Boland gave me showed shipping charges, switching charges, rates, and mileage, and it was brought to me in rather a fragmentary way, and then afterwards compiled. I had it in form when I was over before the railroad people.

Mr. Worthington. What did you do with that paper that was in form?

Mr. Worthington. I gave it back to Mr. Belend.

form?
Mr. Watson, I gave it back to Mr. Boland.
Mr. Worthington. Which Mr. Boland?
Mr. Watson, Mr. W. P. Boland, I think, took all of the papers, the contract, a copy of the charter, and a map, and everything. I told him I could do nothing with it, and I gave it to him.
Mr. Worthington. When did you give it back to him?

Mr. Warson. It was just after this interview. When I decided I could not do anything, that is when it was; I do not know when that

Mr. Worthington. About the third paper that you received when you were down here in Washington, on the 7th of October; do you recall anything about what the indorsement on it was?

Mr. Watson. No; because it may have been a statement of this case; I do not know.

Mr. Worthington. What has become of that paper?

Mr. Watson. I do not know; I supposed I had it.

Mr. Worthington. What instruction was given to the clerk, or the official who went off to get the papers? What was said to him about what he was to get?

Mr. Watson. I think I told him that I wanted to get the record of this case. I think I gave him all the instruction that was given him. I think I asked him what he had on that Meeker case, and he brought back this stuff.

Mr. Worthington. Can you tell the committee whether or not that

I think I asked him what he had on that Meeker case, and he brought back this stuff.

Mr. Worthington. Can you tell the committee whether or not that other paper book which you got was a copy of the petition which was filed in the Court of Commerce, and which contained the opinion in full of the Interstate Commerce Commission in the case?

Mr. Warson. I could not tell you, but I know I got information from one of these papers, and I did not find it in these books.

Mr. Worthington. As to these books, look on page 17. There is something there I would like to have read into the record, about what the Interstate Commerce Commission had said in the way of reducing rates. Will you look at that book, on page 17?

Mr. Warson. I remember seeing that.

Mr. Worthington. I would like to have that read into the record. The Chairman. All right.

Mr. Worthington. I would like to have that read into the record. The Chairman. All right.

Mr. Worthington. Read it into the record, then, just that quotation. Mr. Norris. Let us get what it is first.

Mr. Worthington. It is a quotation.

Mr. Norris. I understand it is a quotation taken from the brief.

Mr. Norris. Which brief?

Mr. Norris. State also from what the quotation is taken, so that we will understand just a little what he is reading.

The Chairman. Yes; tell us the title of the pamphlet, and then the page the quotation is on.

Mr. Worthington. It have already stated it is a brief that was filed on behalf of Meeker in the Commerce Court.

The Chairman. By whom?

Mr. Worthington. By William A. Glasgow, jr., counsel for Henry Mr. Worthington.

on behalf of Meeker in the Commerce Court.

The CHAIRMAN By whom?
Mr. WORTHINGTON. By William A. Glasgow, jr., counsel for Henry E. Meeker, surviving partiner.

The CHAIRMAN. You desire to read something?
Mr. WORTHINGTON. On page 17, under the heading, "The conclusion reached by the commission was," then in quotation marks the conclusion reached by the commission in the reduction of rates.

The CHAIRMAN. The witness says he remembers having read that. Mr. WATSON. I do not remember reading that. I remember I got the information somewhere, and I might possibly have read that; I presume I did.

The CHAIRMAN. The witness says he remembers having read that, Mr. WATSON. I do not remember reading that. I remember I got the information somewhere, and I might possibly have read that; I presume I did.

Mr. WORTHINGTON. May I read it, to save the witness?

Mr. WATSON. I wish you would.

The CHAIRMAN. You may read it, Mr. Worthington.

Mr. WORTHINGTON. The quotation is this:

"After careful study of defendant's exhibits, relating to tonnage and cost of movement, as well as a painstaking analysis of defendant's voluminous exhibits respecting its past and present financial condition, we are of opinion, and so find, that defendant's rates for the transportation of coal from the Wyoming region to Perth Amboy of \$1.55 per gross ton on prepared sizes, \$1.40 on pae coal, and \$1.20 on buckwheat roal are unreasonable so far as they exceed \$1.40 on prepared sizes, \$1.30 on pea coal, and \$1.15 on buckwheat."

Have you any means of fixing, by reference to anything you have, or may be able to put your hands on, the date of that meeting with Mr. Truesdale and Mr. Loomis in Scranton?

Mr. WATSON. I have nothing but this letter [indicating].

Mr. WORTHINGTON. That is the letter of October 2?

Mr. WATSON. Marked "Exhibit 86." That is the only thing I have, and I am quite sure that I met these people very soon after, and I think it was the following Monday or Tuesday. That is from recolection. I recall that I was advised of their coming by some one calling me, which I believe to have been Mr. Phillips, who was here and testified. On that call, or that notice that they would be in Scranton, I want to ask the witness a question about this [referring to brief]. This statement that was read by Mr. Worthington from page 17 of this brief you say was called to your attention, and you got that information somewhere?

Mr. WATSON. Yes; I read it somewhere; and more than that, very much more than that.

Mr. Norris. The information contained in that statement would not be of any value, would it, in that discussion with those railroad compa

wheat."
Where is Perth Amboy?

Mr. Warson, It is on tidewater in New Jersey, close to New York That is a point where the reights, or the tarift, is just the same as it is to Hoboken, across the river.

Mr. Norman, And the Wyoming region was this same region?

Mr. Warson, The Wyoming region is a few miles below Scranton, Mr. Norman, and the Wyoming region is a few miles below Scranton, Mr. Norman, Do you know whether that is the only quotation from the opinion of the Interstate Commerce Commission that you saw?

Mr. Warson, I do not recall that I do not recall reading that out if I read the book, I read it.

Mr. Norman, I thought you studied it so closely you would perhaps remember it yet.

Lase: I think I did.

Mr. Norman, I do not.

Mr. Norman, Who paid your expenses down to Washington to get the Interstate Commerce Commission opinion in the other brief?

Mr. Warson, I do not.

Mr. Norman, Who paid your expenses down to Washington to get the Norman, Who paid your expenses down to Washington to get Mr. Warson, I do not.

Mr. Warson, I the superior of the telegram, and some time in the afternoon Mr. Christy Boland came and gave me \$50.

Mr. Warson, I prepared the telegram, and some time in the afternoon Mr. Christy Boland came and gave me \$50.

Mr. Norman, That was to pay your expenses?

Mr. Warson, I suppose so. That is what I used if for.

Mr. Norman, That was to pay your expenses?

Mr. Warson, I suppose so. That is what I used if for.

Mr. Norman, And all you for that \$50 were these two little burst of the part of the

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Tuesday, May 28, 1912.

The committee met at 10.35 o'clock a. m., Hon. Henry D. Clayton (chairman) presiding.

Present: The committee; Hon. Robert W. Archbald; Hon. A. S. Worthington, M. J. Martin, Esq., and Samuel B. Price, Esq., counsel for Judge Archbald; Wrisley Brown, Esq., assistant to the Attorney General, and others.

FURTHER TESTIMONY OF GEORGE M. WATSON. The Chairman. Mr. Watson, I understand that you desire to say something further?
Mr. Watson. I wish to make a statement in relation to the meeting.

The CHAIRMAN, Yes.

Mr. Watson. Last night in thinking over the meeting in the Lackawinna office, the question was asked me, and asked Mr. Phillips also, as I recall, if Judge Archbald's name was mentioned in that conference, Now, Judge Archbald's name was mentioned in that conference, and my recollection is, by Mr. Loomis, who passed some comment on Judge Archbald and our being there at that meeting. He said it loud enough so that all ought to hear, because I was farther from him than Mr. Phillips, or even Mr. Truesdale, and he spoke out and said something: "We are here," or "How is Judge Archbald'?" or something like that, which implied, as I took it, that we were there by some arrangement that Judge Archbald had made.

The CHAIRMAN. Who was it who said that?

Mr. WATSON. I think it was Mr. Loomis.

The CHAIRMAN. Mr. Loomis, you think, said it?

Mr. WATSON. I think so. I don't know why Mr. Truesdale would say it, unless he had been advised by some one else, because I had not written him, and I know it must have happened in that meeting, because Mr. Loomis did say something about Judge Archbald, and it was the only time I met Mr. Loomis—so it must have been in that meeting. I want that corrected, to correct my statement.

The CHAIRMAN. Well, your statement this morning will, of course, go into the printed record.

Mr. WATSON. Yes.

The CHAIRMAN. And when your testimony is under consideration this will be considered in connection with your previous statement.

Mr. WATSON. That is all I desired to say. It came to my mind last evening, or last night, and I wanted to correct it.

Mr. WATSON. That is all I desired to say. It came to my mind last evening, or last night, and I wanted to correct it.

Mr. WORTHINGTON. I said last night that I would get a copy of the perition that was filed in the Commence Court in the Meeker case and exhibit to the witness, and see if he could identify that as one of the papers that he got when he came down here. We got that paper, but I left it at my office and one of our party has go

(Copy.)

SCRANTON, PA., November 13, 1911.

SCRANTON, Pa., November 13, 1911.

C. G. BOLAND, Esq.,
Scranton, Pa.

My Dear Christy: I had an interview with our friend this afternoon, and I regret to say that I did not succeed in doing anything. I tried to get him to make a counter proposition to the one which had been submitted upon your side. But he seemed to feel that the amount which he would be willing to offer was so inconsiderable that it was hardly worth the while. I regret to report this as the final outcome of the efforts of settlement which have been made, but I see nothing to be attained any further here.

or settlement which have been made, but I see nothing to be attained any further here.

I return herewith the papers which you let me have.
Yours, very truly,

Mr. Webs. Who is that supposed to be signed by? It is a copy.
Mr. Worthington. It is supposed to be signed by Judge Archbald.
The Chairman. Do not let us have suppositions. You are Judge Archbald's counsel. Is that a copy of the "Dear Christy" letter that Judge Archbald sent?

Mr. Worthington. I am informed that it is a copy of that letter sent to him. The committee will remember that I produced that letter sent to him. The committee will remember that I produced that letter hand showed it to Boland and asked if it was not a copy of the letter he received, and he could not identify it; neither could W. P. Boland say that there ever was such a letter seen by him.

The Chairman. There is a great deal of latitude allowed by the committee in taking testimony in an investigation of this sort, but I hardly think it ought to cover suppositions.

Mr. Worthington. This letter is referred to on page 554 of serial No. 5.

The Chairman. Then you will want to interrogate Mr. Westen for

The Chairman. Then you will want to interrogate Mr. Watson further when the paper comes from your office to which you have just referred?

ther when the paper comes from your office to which you have just referred?

Mr. Worthington. I should like to.

The Chairman. Well, you may do that. [The paper above referred to having been received, the following took place:]

Mr. Worthington. Mr. Chairman, I have shown Mr. Watson this paper, and I will ask him some questions about it.

The Chairman. Very well.

Mr. Worthington. I want to show you this paper entitled "Petition and exhibits" in No. 49, United States Commerce Court, and ask you what is your recollection as to whether that is one of the papers you got when you were down here on the 7th of October last?

Mr. Watson. The last part of this book is the information that I had when I talked with the people in the Lackawanna office.

The Chairman. Please give Mr. Worthington, if you can, a categorical answer to his question, and then make your explanation.

Mr. Watson. I got a book like this at the time I was here, but whether that was the information that I carried in there, or whether it was made from a typewritten statement that I had in my possession, I do not know. I do not know whether I took the book before the railroad men, but I got a book like this.

The Chairman. Like that?

Mr. Watson. Yes; I read a book like that.

Mr. Worthington. I do not care to ask anything further.

The Chairman. Read the title of that book, please.

Mr. Watson. No: there is "United States, respondent."

The Chairman. Is that all that is on the title page?

Mr. Watson. No: there is "United States Commerce Court."

The Chairman. Give it to me, and I will read it so that there will be no mistake about it. I will ask the reporter to take it down as I read it.

The chairman read the title page of the book referred to, and the same is as follows:

UNITED STATES COMMERCE COURT.

Lehigh Valley Railroad Co., petitioner, against United States, respondent.

Term, --, 1911. No. -PETITION AND EXHIBITS.

E. H. Boles, Solicitor for Petitioner, 143 Liberty Street, New York, N. Y.

JOHN G. JOHNSON, FRANK H. PLATT, EVERETT WARREN, Counsel.

Counsel.

Stillman Appellate Printing Co., 51 Broad Street, N. Y.

The Chairman. That is the title page of the pamphlet about which Mr. Worthington has interrogated you?

Mr. Worthington has interrogated you?

Mr. Norris. Is that all?

Mr. Worthington. Yes, sir.

Mr. Norris. I want to see the book. Will you hand it to me, please. (The book referred to was handed to Mr. Norris.)

Mr. Norris. Mr. Watson, this pamphlet that you exhibit, of which the chairman has just read the title, is the other one of the three books that you were testifying about yesterday, is it?

Mr. Watson. Yes; I think so; because the back part of this book contains the information that I had. This \$1.40—

Mr. Norris. Then you were mistaken yesterday in your testimony when you testified that the third book, as you called it, was another brief?

Mr. Watson. Well, maybe I was, if I called it a brief.

Mr. Norris. Well, you did yesterday.

Mr. Watson. Then it was a mistake, because I think it was that book.

Mr. Norris. That is it?

when you testified that the third book, as you called if, was another brief?

Mr. Warson. Well, maybe I was, if I called it a brief.

Mr. Norgis. Well, you did yesterday.

Mr. Norgis. Then it was a mistake, because I think it was that book.

Mr. Norgis. Then it was a copy of that book.

Mr. Norgis. Then it is?

Mr. Warson. I think it was a copy of that book.

Mr. Norgis. You think it was either this or a copy of it?

Mr. Warson. Oh, it was not that one. It could not be.

Mr. Warson. Oh, it was not that one. It could not be.

Mr. Warson. Oh, it was not that one. It could not be.

Mr. Warson. Oh, it was not that one. It could not be.

Mr. Warson. Oh, it was not that one. It could not be.

Mr. Warson. Oh, it was not that one. It could not be.

Mr. Warson. The back part of it—

Mr. Warson. The back part of it—

Mr. Warson. Oh, in.

Mr. Normis. The back part of the order?

Mr. Warson. Oh, in.

Mr. Warson. Before the order. I think it is about the last paragraph of the page?

Mr. Warson. Before the order. I think it is about the last paragraph is "And it is further ordered that a copy of this order be served upon each of the parties to said case." Is that it?

Mr. Warson. Well, I can not tell you right.—

Mr. Normis. That last paragraph is: "And it is further ordered that a copy of this order be served upon each of the parties to said case." Is that it?

Mr. Warson. No; there is a place where it says \$1.40 for prepared sizes and another rate for pea and another rate for pea and another rate for buckwheat coal.

Mr. Warson. That is what I read yesterday, is it not, out of the bird.

Mr. Warson. The same thing?

Mr. Warson. His is in a different—

Mr. Normis. The same thing?

Mr. Warson. His is in a different—

Mr. Normis. The same thing?

Mr. Warson. That is what I read yesterday, is if not, out of the bird.

Mr. Warson. And some men that were connected with these roads that I had in my possession for the various reasons. Pirit, because it ames some engineers that I knew.

Mr. Warson. And some men that were connected

Mr. Norris. Did you not testify yesterday that what you wanted to get was the record of the case before the Interstate Commerce Commission?

Mr. Warson, Yes give the way and I would be a second of the case of the Interstate Commerce Commission?

Mr. Warson. Yes, sir; it was; and I wanted to get the disposition that they had made of that case. I wanted to get it.
Mr. Norris. All right. You evidently told Judge Archbald that because you did not know just where you could get this record, did

because you did not know just where you could get this record, did you?

Mr. Watson. No, sir.
Mr. Norris. You were hunting for it?
Mr. Watson. No, sir; I did not know.
Mr. Norris. You did not know?
Mr. Watson. No, sir.
Mr. Norris. Then I presume you asked Judge Archbald where you could get it, did you not?

Mr. Watson. It is more than likely that I did.
Mr. Norris. Did not Judge Archbald tell you that the place to get the record, the Interstate Commerce Commission in that case, was to go to the Interstate Commerce Commission and not to the Commerce Court? Did he not tell you that?

Mr. Watson. I have an indistinct recollection that we did talk about some commission or some other office. This was Saturday afternoon—

Mr. Warson. I have an indistinct recollection that we did talk about some commission or some other office. This was Saturday afternoon—
Mr. Norris. At that time had you studied the law enough to know that there was such a thing as the Interstate Commerce Commission?
Mr. Warson. Yes; I knew of it. I knew about the Sherman law.
Mr. Norris. When he told you that was the place to get their records, what did you say to him?
Mr. Warson. I don't know.
Mr. Norris. That is all.
Mr. Warson. I don't know what I said.
The Chairman. Mr. Worthington, the committee desires that those three pamphlets—
Mr. Norris. I have another question about this.
The Chairman. But let me finish this statement.
Mr. Norris. Certainly; but I want to finish the examination.
The Chairman. Referring to those three pamphlets or documents that have been referred to, numbered 49, the three several pamphlets or documents that have been read in the testimony, the committee desires that those papers be left in the custody of the committee, but not to be incorporated into the record, as it would unnecessarily encumber the record. The committee desires to have them left with it, so that it may make such use as it desires of the pamphlets. You do not desire to have them printed in the record?
Mr. Worthington. Not at all.
Mr. Norris. How did you happen to have your memory refreshed since you have been on the witness stand in regard to this other exhibit that you have identified this morning?
Mr. Warson. It was shown to me. They handed me the book and I read it.
Mr. Norris. Who showed it to you?
Mr. Warson. Mr. Worthington.
Mr. Norris. Who showed it to you?
Mr. Warson. Mr. Worthington.
Mr. Norris. You recognized it as being a copy of the other pamphlet?
Mr. Warson. I recognized that last part of that book as being contained in a book that I had read, and I—
Mr. Norris. You recognized that last part of that book as being contained in a book that I had read, and I—
Mr. Norris. You found that, did you?

Mr. Norris. It is not a brief, though. I do not suppose he told your

Mr. Norris. It is not a brief, though. I do not suppose he told you that.

Mr. Watson. Not a brief, but a petition; and he opened it at that point where the petition occurs, right there [indicating].

Mr. Norris. That is not anywhere near the page you identified.

Mr. Watson. No, sir.

Mr. Norris. You located that there yourself?

Mr. Watson. I did. I just turned it over and looked at the back part of it, because I recall that is where it was that I read that.

Mr. Norris. That is all.

Mr. Worthington. I handed that to you right across the table here, did I not?

Mr. Watson. Yes, sir; just here.

The Chairman. The Chair may say, right in this connection, that last night Mr. Worthington called the attention of the Chair to this matter, and said that he did not have that pamphlet with him, but would probably want to get it and interrogate Mr. Watson with reference to it. I told him it would be quite proper for him to do so; to show it to Mr. Watson when he brought it, and that then Mr. Watson could resume the stand and answer his questions with respect to it.

Now, Mr. Watson, you wrote a letter to Truesdale and Loomis saying that you would be ready to meet him on this coal-property deal at any time, on an hour's notice, did you not?

Mr. Watson. Well, I don't know that I said an hour.

The Chairman. The letter was here vesterday; yes, sir. That is the

dated October 2?

Mr. Warson. The letter was here yesterday; yes, sir. That is the letter.

The Chairman. Why did you write that letter telling them that you would be ready to see them at an hour's notice before you came down to Washington and got this information, which you say you came down here and got, informing you as to the procedure before the Interstate Commerce Commission and the procedure in the Commerce Court? In other words, Mr. Watson, to be perfectly frank about it, that letter would seem to indicate that you had all the information that you wanted in dealing with Truesdale and Loomis in respect to this matter; and your testimony now seems to be that you wanted to inform yourself fully as to the law governing the procedure in the Interstate Commerce matter and the procedure in the Commerce Court before you had the interview with them. It appears to me that there may be a possible discrepancy there in your testimony, and I desire you to explain it.

Mr. Watson. The data I had to study this case on was prepared in

Mr. Warson. The data I had to study this case on was prepared in typewritten form—that is, the information, the reductions that they wanted—and I think possibly some expression of the *ommerce Commission was incorporated in this notice.

The CHAIRMAN. I do not think I have made myself clear.
Mr. WATSON. Yes; you did, because I wanted to get the data—
The CHAIRMAN. Very well; proceed.

Mr. Warson. In this meeting, or at this session yesterday, the question was asked me by some one if Mr. Pryor did not prepare a paper. There was a paper prepared by some one that was given to me by Mr. Boland, Mr. W. P. Boland, together with the other papers, and that paper contained what we claimed, and all that we wanted, and the things they had done which we said were against the law; and that the Interstate Commerce Commission had expressed itself on it. At that time I am quite sure that W. P. Boland, or it may have been C. G. Boland, on the morning that I went down to Washington, called my attention to this case and asked me if I could not get those papers to be ready if we had a meeting. That is the reason, or one of the reasons, I came to Washington. We did not have all the data that is in this book. I have been thinking this matter over, and this meeting was discussed for some weeks, or a week or so after I had met Mr. Truesdale, about some way of getting another meeting or another hearing. I am now hazy on that. I do not recall just what we did in relation to these books, but there was sometaing done there, and maybe that may be the second letter—the letter of the 2d. It may have been that the meeting was held before the 2d, but my recollection is now that it was not. Understand me. Mr. Boland and myself went over all of these papers after Mr. Loomis had gone away, and Mr. Truesdale; and there was to be an effort made to get Mr. Truesdale or Mr. Loomis to take the case up and go over it again with some data that we thought we had. That was the very day that they were there, or the day after; and Mr. Phillips was talking about it to some one—at least it was reported so. We went into some discussion about that. I do not recall what we did; but then, when that fell through, I left the case, and it was about a week, I judge, that we were working on it. Or it may be that I used those books in that last—

The CHAIRMAN, Did not Loomis tell you that he had turned down the proposition?

Mr. WATSON. I don't think there was anything said like "turning down." I think they said: "We can not consider it—we won't consider it in this shape."

The CHAIRMAN. He rejected it, then?

Mr. WATSON (continuing). "He is asking too much money," or some such thing.

The CHAIRMAN. He rejected in the is asking too much more Mr. Watson (continuing). "He is asking too much more such thing.

The CHAIRMAN. I was using a vulgarism which is very common, "turned down," thinking you would understand that perhaps quite as well as more refined language. I will now adopt another phrase. Then, did he inform you that the proposition to buy that coal property was rejected?

Mr. Watson. Well, it would not be that; I don't know that he said that

Mr. Warson. Well, it would not be that; I don't know that he said that.

The Chairman. Then did he say, either in the common vernacular of the streets that the proposition was "turned down," or in the refined language of the court room or ball room that it was rejected, or language of equivalent import to either one of these expressions that I have used? You can take your choice as to which one.

Mr. Warson. Oh, he would not take the property; that is all. He did not take it. He said they would not.

The Chairman. He said they would not take the property?

Mr. Warson. That is what he said.

The Chairman. You prefer that language, which is quite satisfactory to the chairman.

did not take if. He said they would not take the property?

Mr. WATSON. That is what he said.

The CHAIRMAN. You prefer that language, which is quite satisfactory to the chairman.

Mr. WATSON. I do not know his exact language; I could not tell you that; but I know that is what it amounted to.

The CHAIRMAN. Did you ever have any other conference with Mr. Truesdale?

Mr. WATSON. I did not. I tried to, but did not.

The CHAIRMAN. I must confess, Mr. Watson, that you have not made perfectly clear to me your answer to the question that I asked a while ago, and I beg to repeat it, perhaps in a little different form. On October 2 you wrote the letter which has been read into the testimony, and is now known as "Exhibit 86."

Mr. WATSON. Yes.

The CHAIRMAN. In this letter to Mr. Loomis to which I have just referred, in which you seek a conference with Loomis and Truesdale, you wind up with this sentence:

"If you will kindly advise me, either by wire or letter, I will hold myself in readiness to meet you on a few hours' notice."

You were ready, then, to meet them and go over the matter of the trade for this coal property on October 2? This letter imports that you were ready to meet them and to discuss that matter on an hour's notice. Mr. Worthington. A few hours' notice.

Mr. WORTHINGTON. A few hours' notice.

Mr. WORTHINGTON. A few hours' notice?

Mr. WATSON. Yes.

The CHAIRMAN. On a few hours' notice?

Mr. WATSON. Yes.

The CHAIRMAN. Why was it necessary, then, for you afterwards to come to Washington to get this information that you got from the three pamphlets that you have referred to after your conference in Washington with Judge Archbaid?

Mr. WATSON. Yes.

The CHAIRMAN. Why as it necessary, then, for you afterwards to come to Washington to get this information that you got from the three pamphlets that you have referred to after your conference in Washington with which we not washington to get this information that you got from the three pamphlets that you have referred to after your conference in Washington,

Mr. Watson. Mr. Boland gave it to me. I do not know who prepared it.

The Chairman. Which one of the Bolands?

Mr. Watson. Mr. W. P. Boland here. It was in with all the papers that he gave me. The leases and all the other things were together.

The Chairman. Then you afterwards concluded, after having written this letter of October 2, that you wanted further information about the law governing the Commerce Commission and the Commerce Court, did you?

Mr. Warson. It was about what they had done that I wanted to get

law governing the Commerce Commission and the Commerce Court, did you?

Mr. Watson. It was about what they had done that I wanted to get information.

The Chairman. Did you not say something yesterday to the effect that you wanted to be informed as to the law?

Mr. Watson. About the appealing?

The Chairman. Yes.

Mr. Watson. And the court—yes; I knew nothing about it at all.

The Chairman. Did it occur to you after October 2, when you had written that letter, that you wanted further data, or that you wanted further legal information?

Mr. Watson. Oh, it was the data that we wanted.

The Chairman. You did not want any further legal information?

Mr. Watson. Well, we all want further legal information, but then I did not want—

The Chairman. I am not asking you now about generalities.

Mr. Watson. But I do not know whether I was hunting for it in that particular case. I do not think I was.

The Chairman. I am asking you whether, in your own mind, you came down to Washington here for further legal information as to the Commerce Court? You said, I believe, yesterday, that you did not know the law about the Commerce Court and you knew very little about the Commerce Commission.

Mr. Watson. Yes.

The Chairman. And did you not say in substance that you wanted to come down here and learn about the law and the procedure in those two tribunals? Did you not recall saying it, but it was perhaps the fact that I did want to know something about it.

The Chairman. Was that your object—to get this information as to the law and the procedure in these tribunals, or was it to get data?

Mr. Watson. It was to get data and information and the record—what I wanted to see.

The Chairman. What record?

Mr. Watson. The record of this commission—what they had done. I wanted to get their findings.

The Chairman. In what case?

Mr. Watson. In this Meeker case, because that is a case right in our immediate neighborhood—the same freight rates, the same zone.

The Chairman. How long before that had you heard of the Meeker case?

Mr. Watson.

immediate neighborhood—the same freight rates, the same zone.

The CHAIRMAN. How long before that had you heard of the Meeker case?

Mr. WATSON. Possibly a week or so we had been talking about it, the Bolands and myself.

The CHAIRMAN. And you could not get the record in the Meeker case without making your trip to Washington?

Mr. WATSON. Well, I do not know that we thought of going to Washington—I do not know that I could; I might have gotten it by writing for it, but I did not know that.

The CHAIRMAN. You did not know that you could write down here?

Mr. WATSON. Oh, I knew that I could in a general way, but I did not know how to get it; that is it; and they did not know how to get it; that is it; and they did not know how to get it; that is it; and they did not know how to get it; that is ti; and they did not know how to get it; that is just what I am trying to say now—that it may possibly have been that when I came to Washington for this data, it was for the purpose of going back again and asking for another meeting with Truesdale.

The CHAIRMAN. Another meeting with Truesdale?

Mr. WATSON. Yes. Now, after this came out yesterday, I did not know but what that might be so. I do not know.

The CHAIRMAN. It occurs to you now that possibly you had two conferences or meetings?

Mr. WATSON. I did not have a second conference; I know that, I never met them again.

The CHAIRMAN. Did you ever write any letter to either Loomis or Truesdale inviting them to a second conference?

Mr. WATSON. No: I did not. The only business I ever had was, perhaps, with Mr. Phillips, trying to get another meeting, and I did do that. I recall that.

The CHAIRMAN. You never made any effort to have the second meeting?

Mr. WATSON. Not directly to Mr. Truesdale. Mr. Phillips was the

that. I recall that.

The CHAIRMAN. You never made any effort to have the second meeting?

Mr. WATSON. Not directly to Mr. Truesdale. Mr. Phillips was the superintendent of the coal department—of the coal-producing end—and I went to him.

The CHAIRMAN. Phillips would have had no power to overrule Truesdale, would he?

Mr. WATSON. No; but he could ask him to have another hearing, and I think he does that very frequently.

Mr. WORTHINGTON. Mr. Chairman, since yesterday I have found what purports to be the telegram that the witness said he sent to Judge Archbald from Philadelphia when he was on his way down here. I should like to show it to him.

The CHAIRMAN. One minute, Mr. Worthington.

Mr. WORTHINGTON. I thought you were through, Mr. Chairman.

The CHAIRMAN. Did you use this information that you got about the Meeker case in your conversation with Phillips, or did you use it in your conversation or conference with Truesdale and Loomis?

Mr. WATSON. That I do not know. I do not remember about using that book or those books. I do not think I ever had them before Loomis. The CHAIRMAN. You may have used that information in your conference or conversation with Phillips and not with Truesdale and Loomis?

Mr. WATSON. No; I think I called Mr. Phillip's attention to this freight rate.

Loomis?

Mr. Watson. No: I think I called Mr. Phillip's attention to this freight rate. Mr. Truesdale denied the rate.

The Charman. I think you said, in substance, yesterday, that you used that information which you got in Washington from those pamphlets and otherwise in your hour and a half conference with Truesdale and Loomis.

Mr. Watson. I think I did. I said that yesterday, but I am not sure about it.

The Charman. Now, Mr. Worthington, you may show the witness the telegram you have referred to.

Mr. Norris. Mr. Chairman, before he does that I should like to ask the witness a few questions.

The Chairman. Certainly.
Mr. Norris. You were sure of it yesterday, were you not, Mr. Watson?
Mr. Watson. I don't know how sure; maybe.
Mr. Norris. You testified as though you were sure of it.
Mr. Norris. You testified as though you were sure of it.
Mr. Watson. I did.
Mr. Norris. When did you change your mind?
Mr. Watson. Through the night I have been thinking this matter over, and I am now uncertain as to the meetings we had.
Mr. Norris. Do you not remember that yesterday I called your attention to those briefs and asked you what particular part of them you used in that conference, and you pointed out the particular paragraph that you used, and that was the basis of your argument before Truesdale?
Mr. Watson. The contents of that paragraph was. I never said I

dale?

Mr. Watson. The contents of that paragraph was. I never said I had those books before Truesdale.

Mr. Norris. No; you did not say you took the books there; but you based your argument on the information that you got out of that pamphlet.

Mr. Watson. That is my thought now. That is what I think now. Mr. Norris. You believe that now, do you?

Mr. Watson. Yes; but I may be mistaken about it.

Mr. Norris. You may be mistaken?

Mr. Watson. And it may have been in the papers that Mr. Boland gave me.

Mr. Watson. Yes; but I may be mistaken about it.

Mr. Norris. You may be mistaken?

Mr. Watson. And it may have been in the papers that Mr. Boland gave me.

Mr. Norris. Yes; and it may be, then, that you had never seen those pamphlets when you had that conference?

Mr. Watson. If, as has been suggested by some one, I went there before I came to Washington, I had never seen them.

Mr. Norris. Is it not true that since you testified yesterday you have learned from other sources that the probabilities are that you came to Washington after that conference rather than before it?

Mr. Watson. I have not talked to a soul about this.

Mr. Norris. I have not asked you that.

Mr. Watson. It is all my own idea.

Mr. Norris. I have not asked you if you have talked to anybody.

Mr. Watson. You said "did I learn."

Mr. Norris. I have not earn it by reading, and I have not learned it by talking. It has come out of my mind, that is all.

Mr. Norris. Then you have not learned it; you have just thought about it yourself?

Mr. Watson. A doubt may arise.

Mr. Norris. Do you want us to believe now that you came to Washington and got those three pamphlets for the purpose of arming yourself and equipping yourself for the contest that you were to have with those raliroad officials in Scranton? Do you want us to believe that or not?

Mr. Watson. I did; certainly. I came here to get information, and that was the information I took back.

Mr. Norris. It is your impression now that that is the way it occurred, is it, and your belief?

Mr. Watson. Yes; I think so.

Mr. Norris. Before the same officials?

Mr. Norris. Before the same officials?

Mr. Norris. Before the same officials?

Mr. Norris. And then went home without it? You did not get it, did you?

Mr. Watson. Yes.

Mr. Norris. And then went home without it? You did not get it, did you?

Mr. Watson. Well, I think I had it. I am not sure. I think I did have it.

Mr. Watson. Yes.
Mr. Norris. And then went home without it? You did not get it, did you?
Mr. Watson. Well, I think I had it. I am not sure. I think I did have it.
Mr. Norris. Did you have anything besides those three pamphlets?
Mr. Watson. I think so.
Mr. Norris. Let us have that information, then. Yesterday you only had those three pamphlets.
Mr. Watson. Well, I don't know.
Mr. Norris. Did you have four pamphlets?
Mr. Watson. No; I don't know. I don't think so. Whatever I had Mr. Boland has now, except these two books.
Mr. Norris. Your experience had been very limited in practicing before the Commerce Court and before the Interstate Commerce Commission?
Mr. Watson. I never had been in it.
Mr. Norris. You had never been in either one of them?
Mr. Watson. No.
Mr. Norris. And that is the reason why you took this course to get information that, if you had been better posted, you could have obtained otherwise?
Mr. Watson. If I had had time; yes; I could.
Mr. Norris. In this rate case that you were coming down here to Washington to get information about there was another attorney representing Mr. Boland by the name of Reynolds, was there not?
Mr. Watson. Yes, sir.
Mr. Norris. Does he live in Scranton?
Mr. Watson. Yes, sir.
Mr. Norris. Mr. Reynolds is rather an expert on the rate business, is he not?
Mr. Watson. I do not know about that. I know he has those kind of

Mr. Norris. Mr. Rejudence is he not?

Mr. Watson. I do not know about that. I know he has those kind of cases some. I have heard that since then.

Mr. Norris. He practices before the Interstate Commerce Commission and before the Commerce Court, does he not?

and before the Commerce Court, does he not?

Mr. Watson. I think he does.
Mr. Norris. And he was in that case with you?
Mr. Watson. No. I was not to say anything to Mr. Reynolds.

Mr. Norris, What is your answer?
Mr. Watson. I was not to talk to Mr. Reynolds about this case.
Mr. Norris. You knew he was in the same case?
Mr. Watson. I knew that Mr. Reynolds had tried one branch of that case, but the settlement of the case with the Lackawanna Railroad was another matter.
Mr. Norris. I understand that; but in order to make that settlement advantageous to your clients you wanted to get information from the Interstate Commerce Commission?

Mr. Watson, Yes.
Mr. Norris. Why did you not go to Reynolds, who was right there in Scranton, and was an expert in that line, and get that information?
Mr. Watson. Because I had been told by Mr. Boland that Mr. Reynolds did not want anything to do with the settlement; that he would not settle the case; and therefore he asked me to go into the settlement.

would not settle the case; and therefore he asked me to go into the settlement.

Mr. Norris. Why would not Reynolds settle the case?

Mr. Warson. That I do not know.

Mr. Norris. You could have gotten information, probably, from Mr. Reynolds, in regard to the Meeker case, without intimating that you were in this case with him, had you wanted to, could you not?

Mr. Warson. Well, I might, but I did not think that would be exactly fair, to go to a man's office—

Mr. Norris. Would it not have been fair to have gone to any attorney's effice who practiced in that court, and ask him, instead of wiring down to Judge Archbald and then coming clear to Washington? It would not have been unfair to go to a man that was right there in town and ask him how to get a record from the Interstate Commerce Commission, would it?

Mr. Warson. Well, I see that I could have done that.

Mr. Norris. You could have done that?

Mr. Warson. Yes. It did not occur to me. In my conversation with these people it did not occur to me. I think they desired me to come here and get it. My recollection is that we expected that meeting on Monday; that is what I remember now; and if not, we knew that Mr. Loomis came there on Monday, and I expected to meet Mr. Loomis again, in any event.

Mr. Norris. So your coming down here would fit either one of those circumstances?

Mr. Warson. The matter of fact was that we knew the meeting would be on Monday next, or Tuesday: we knew that. He always comes on Monday or Tuesday. Everyone knew that.

Mr. Worthington. You say "He always comes Monday or Tuesday." Whom do you mean?

Mr. Warson. Mr. Loomis. He comes up early in the week when he does come up.

Mr. Norris. All right.

Mr. Watsox. Mr. Loomis. He comes up early in the week when he does come up.

Mr. Norris. All right.

Mr. Floyd. I want to ask you a question now. If I understood you on yesterday, Mr. Watson, in speaking of your first interview in the office of Judge Archbald, you said that you were so well acquainted with him that if you had wanted to ask him any opinion about legal matters you would not have hesitated to do so?

Mr. Watsox. I do; I say that now.

Mr. Floyd. Is it not a fact that after these rallroad attorneys had turned you down and refused your settlement you made that trip to Washington to see Judge Archbald to get his advice or assistance in getting another interview with the railroad people?

Mr. Watsox. No; I did not.

Mr. Floyd. You say that is not a fact?

Mr. Watsox. I did not. I did not speak to him about that branch of it, I am sure.

Mr. WATSON. I did not. I did not speak to him about that branch of it, I am sure.

Mr. FLOYD. If you would not have hesitated or thought there was anything wrong in asking his advice, why did you not do so?

Mr. WATSON. Well, I don't know. When I said I did not mind asking his advice, that was about the preliminaries of a case. But if this had gotten to a place where the question would indicate that it had, I do not think it would have been proper for me to talk to him about it, and I did not think then it would be, if I thought about it at all; but I don't think I thought about it.

Mr. FLOYD. That is all.

Mr. Norris. If you had your conference with Truesdale and the other railroad officials before coming to Washington, then what was the reason that you sent the telegram to Judge Archbald?

Mr. WATSON. I think that was suggested by C. G. Boland. I am not sure. He was in the office, and we had to get somebody that we could be sure of on Saturday, and he either suggested the name of Archbald or I did, and we prepared the telegram.

Mr. Norris. All right. Now, if you had had your conference before coming here, then what was the hurry of getting this record from Washington? You had made no arrangements to use the information and had fixed no date for another meeting?

Mr. WATSON. The only answer I can make to that would be that Mr. Loomis came there on Mondays, and if, as you say, the meeting had been held, I wanted to see him as early as I could on Monday.

Mr. Norris. Yes; but Archbald did not come there with Loomis always?

Mr. WATSON. No; Archbald was not there at all.

Mr. Norris. I do not mean Archbald; I mean Truesdale.

Mr. Norris. You did not care to see the president?

Mr. WATSON. Well, I did want to see him; yes.

Loomis.

Mr. Norris. You did not care to see the president?

Mr. Watson. Well, I did want to see him; yes.

Mr. Norris. But you were after Loomis?

Mr. Watson. But Mr. Loomis was the coal man.

Mr. Norris. Yes. You were expecting, however, to make arrangements for a future meeting? You talked that over after the failure of this other meeting for several days, did you not?

Mr. Watson. I think so.

Mr. Norris. And that would imply that you were going to fix a date for a meeting. When you came to Washington you had not fixed that date, had you? Mr. Norms. And that would be a substituted by the for a meeting. When you came to Washington you had not fixed that date, had you?

Mr. Watson. I think possibly I had talked with Mr.—

Mr. Norms. Mr. Boland?

Mr. Watson. No: Mr. Phillips—about when Mr. Loomis would come again. But, now, that is not my recollection.

Mr. Norms. I understand that; but you have been saying that that might be true.

might be true.

Mr. Warson. I know it was true afterwards. I know we did try to get Mr. Loomis afterwards, after that meeting. Now, then, that is all

get Mr. Loomis afterwards, after that meeting. Now, then, that is all that I can say.

Mr. Norris. But you gave as a reason for hurrying in your trip, and coming down here on Saturday rather than spending a postage stamp and getting this record without the expenditure of money, that you were crowded for time, and that you had to have that information by the next Monday, when that meeting came on. Now, if it turns out—

Mr. Warson. That is my recollection now, that that is what we talked about.

Mr. Norris. I understand: but you say possibly that was not true.

Mr. Norris. I understand; but you say possibly that was not true. If it is not true, if it develops that that meeting had already been held when you came to Washington, then I want you to explain to the committee what was the necessity of the great hurry and the wiring to Archbald and making a trip on Saturday, when you could just as well

have taken your time to it and gotten it by mail; or if you had had to come down for it, you could have taken your time and come on Monday, when the court would be in session, if it was from the court that you had to get your information?

Mr. WATSON. I think I came here at the request of Mr. C. G. Boland. Mr. Norris. You know about that, do you not?

Mr. WATSON. No. I think he asked me to go that particular day. Mr. Norris. That particular day?

Mr. Norris. That particular day?

Mr. WATSON. Yes.

Mr. NORRIS. What was the cause of the hurry?

Mr. WATSON. Something that had arisen in the case that we were talking about there in the office. Just the detail of it I can not give you.

you.

Mr. Norris. In looking back over it now, you know you could have talked to Reynolds and could have gotten the information that you came to Washington for and did not get, do you not?

Mr. Watson. It could have been gotten, perhaps. I do not know that he would give it to us. I think he was not pleased with the settlement—with the effort to settle.

Mr. Norris. That is all,

Mr. Webb. Did Judge Archbald tell you that he was trying to help settle this case?

Mr. WEBS. Did Judge Archbaid tell you that he was trying to help settle this case?

Mr. Warson. I do not think he did. I do not think he ever told me that he was trying to help settle it.

Mr. WEBS. Do you know that he did or did not, Mr. Watson?

Mr. Warson. Well, I don't know. I did know that he was friendly with the Bolond's

Mr. Webb. Do you know that he did or did not, Mr. Watson?
Mr. Warson. Well, I don't know. I did know that he was friendly
with the Bolands.
Mr. Webb. Yes; but that does not answer the question.
Mr. Watson. But I do not think he told me—
Mr. Webb. Here you were associated with the judge right much with
reference to this matter. Can you tell us whether he was trying to
help you settle it or not?
Mr. Watson. Well, if he was, I never saw anything beyond perhaps
asking for the appointment; asking Mr. Loomis to see me.
Mr. Webb. "Perhaps?"
Mr. Watson. Well, that is all.
Mr. Webb. Did you hear this letter read here a while ago, beginning
"My dear Christy"?
Mr. Watson. I do not know anything about that letter, and I never
saw it until now; until I heard it read here.
Mr. Webb. Since you have heard it read, what interest do you think
the judge had in it?
Mr. Watson. That would be expressing an opinion on it. I do not
know what was in his mind; but the way that letter reads, it would
read as if he had been interested and that he was regretting that he
had failed.

know what was in his mind; but the way that letter reads, it would read as if he had been interested and that he was regretting that he had failed.

Mr. Webb. That is just the impression it makes on my mind, too. Mr. Watson. Let me see the letter, please.

Mr. Webb. Yes; of course. [Handing letter to Mr. Watson.]

Mr. Watson (after examining letter). From that letter standing alone I would say that he was trying to get a settlement—it would seem to me so—and that he regretted that he could not.

Mr. Webb. And that was written in November, was it not?

Mr. Watson. That is what it says.

Mr. Worthington. November 13.

Mr. Webb. November 13. If he was interested in the settlement of this case, with all your association with him, you never found it out?

Mr. Watson. He never had talked with me about this case.

Mr. Webb. I say if he was interested in the settlement of it, as indicated in that letter, you never found it out?

Mr. Watson. I won't say that, because I say that Judge Archbald wrote or talked to Loomis, and that may be the basis of our meeting. Now, that would show, maybe, an interest for the Bolands; I don't know. It would be, maybe, for me, in order to get to Mr. Loomis, and that would indicate that he had something. But so far as our talking about the case, I didn't see much of him, and so I am sure I didn't talk with him.

Mr. Webb. You are sure you did not talk with the judge?

Mr. Watson. Yes. I didn't see him much. He was away from Scranton.

Mr. Webb. You and the judge had had some conversation and under-

Mr. WATSON. 1es. I didn't see that Scranton.

Mr. WEBB. You and the judge had had some conversation and understanding about the settlement of this case, because you talked about it in his office, and he had introduced you to Loomis, or, rather, said he was going to write Loomis for you. Now, when you came down here to Washington and got here about noon—by the way, did you take lunch with him?

Mr. WATSON. No; I think I had my lunch on the train. I am not cure

you take lunch with him?

Mr. Watson. No; I think I had my lunch on the train. I am not sure.

Mr. Watson. No. I went back too early.

Mr. Watson. I do you mean to say that you never did tell him your mission in getting these records, what you never did tell him your mission in getting these records, what you were going to do next Monday or Tuesday when you met Truesdale and Loomis?

Mr. Watson. I won't say that I didn't talk to him. I may have said something of that kind. I presume I did.

Mr. Webb. What did you say?

Mr. Watson. I told him what I was down there for—that I was down to get information in relation to this case.

Mr. Webb. What did you say to him? Is that all you said?

Mr. Watson. Well, I can not tell you.

Mr. Watson. Well, I can not tell you.

Mr. Watson. I don't think he did.

Mr. Watson. I don't think he did.

Mr. Watson. I don't think he did. I don't think there was any advice to be given, except the information that I wanted in relation to the matter here.

Mr. Webb. You had to come down here to get that information, when

Mr. Webb. You had to come down here to get that information, when you could have sent Boland, your client, across the street to his other lawyer and gotten it from Mr. Reynolds; and you knew that you could. Mr. Watsox. There were two Bolands.
Mr. Webb. There were two Bolands; but you represented both of them, did you not?

Mr. Watson. Yes; I represented the Marian Coal Co.
Mr. Webb. If you had wanted this information contained in this
pamphlet or record, you could have sent just across the street to Mr.
Reynolds by one of your clients and got all you wanted, because you
know Mr. Reynolds is more or less of an expert and keeps up with the
Interstate Commerce Commission decisions as well as the Commerce
Court decisions, do you not?

Mr. Watson. I did not know Mr. Reynolds was an expert, and so—
Mr. Webb. You knew, though, that he could have given you all the
information you wanted about this particular case, did you not?
Mr. Watson. I did not know it; no. I do know now that Mr.
Reynolds had considerable to do with this case; but at that time I did
not know very much about it. In fact, they had two lawyers. Mr.
Donnelly was the lawyer that I knew about, and he was in the culmdump case, and I talked with Mr. Donnelly several times, but I do not
recall ever speaking to Reynolds. Up to the present moment I never
spoke to Reynolds about this case.
Mr. Webb. I imagine this is the largest fee you ever worked for its

dump case, and I talked with Mr. Donnelly several times, but I do not recall ever speaking to Reynolds. Up to the present moment I never spoke to Reynolds about this case.

Mr. Webb. I imagine this is the largest fee you ever worked for; is it not?

Mr. Webb. I imagine this is the largest fee you ever worked for; is it not?

Mr. Webb. Yes.

Mr. Watson. What—\$5,000?

Mr. Webb. Yes.

Mr. Watson. Well, I think not. I think not.

Mr. Webb. You have had larger fees than that?

Mr. Watson. I have had cases that I have gotten more money out of; you can call them fees.

Mr. Webb. Have you had many cases of that sort?

Mr. Watson. I say I have had them that I have gotten more money out of it.

Mr. Webb. More than \$5,000?

Mr. Watson. Yes.

Mr. Webb. More than \$5,000?

Mr. Watson. Yes.

Mr. Webb. Have you had any other case that involved a fee of \$5,000?

Mr. Watson. Well, I have had matters in which I was interested in a way, in the passing of properties, where I have gotten more.

Mr. Webb. More than \$5,000 fees?

Mr. Watson. Yes; I did that in cases where I was not known at all, the Delaware & Hudson cases. I was not known in those, and I got more than \$5,000 on the transfer of property. Oh, I have managed to keep the wolf from the door; and while I do not presume to be brilliant, or an expert on any point, I have tried to do what my hands have found to do, and to do it honestly.

Mr. Webb. I want to ask you if you told Mr. Boland. when he employed you, that you could "produce the goods." I never boasted of what I could do. I know I did not.

Mr. Webb. You never thought that?

Mr. Watson. I never talked ti—"produce the goods." I never boasted of what I could do. I know I did not.

Mr. Webb. I ask you if you did not tell him that you could "produce the goods." I never boasted of what I could do. I know I did not.

Mr. Webb. I ask you if you did not tell him that you could "produce the goods." I never boasted of what I could aloue the limit hat you could "produce the goods." I never boasted of what I could do. I know I

claimed to have any with these people, except Mr. Phillips or some of those.

Mr. Webr. You evidently thought you could effect a settlement, because you agreed to take \$5,000 and try it.

Mr. Warson. I did agree to try it for \$5,000. I will do it tomorrow, the same thing. I would if I were well. I would not do it now in my condition, but if I were well. I would not do it now in my condition, but if I were well I would do it-in the common language, "produce the goods"?

Mr. Warson. I did think I could do it; yes; or I would not have gone working around for a month or two if I had not thought so.

Mr. Norris. Which one of the Bolands paid you \$50?

Mr. Norris. Which one of the Bolands paid you \$50?

Mr. Norris. When did he pay it to you?

Mr. Natson. It was the day that I went to Stroudsburg; that is, the day before I came here.

Mr. Norris. The day before you came to Washington?

Mr. Warson. Yes; the dhy the telegram was sent. The telegram had been sent out long before.

Mr. Norris. The same day the telegram was sent?

Mr. Norris. I would like to know, if you know. Was it a check, or was it a draft, or was it money?

Mr. Norris. Currency?

Mr. Norris. Currency?

Mr. Norris. Currency?

Mr. Narson. Yes.

Mr. Watson. My recollection of the matter is that it was money—in currency.

Mr. Norris. Currency?

Mr. Watson. Yes.

Mr. Norris. Do you remember the bills?

Mr. Watson. I do not. I don't remember that.

Mr. Norris. You know it was \$50?

Mr. Norris. You know it was \$50?

Mr. Norris. Who was present when he gave it to you besides you and Mr. Boland?

Mr. Watson. Well, I don't remember, unless W. P. Boland was there.

Mr. Norris. Was he there?

Mr. Norris. Did you give him a receipt for the money?

Mr. Norris. Did you give him a receipt for the money?

Mr. Norris. Do you know whether you did or not?

Mr. Norris. Do you know whether you did or not?

Mr. Norris. Do you know whether you did or not?

Mr. Watson. I do not; but I gave it to him if he asked me, and I do not know whether he asked me or not. I don't know that. I know he handed me that money, and we had sent the telegram some hours before, and I am sure it was money, because I would perhaps remember if it had been a check and I had gone out to get the money on it.

Mr. Webb. That is all, Mr. Worthington.

Mr. Worthington. Now, will you look at this telegram, Mr. Watson, and tell me whether that is the telegram you sent Judge Archbald when you were on your way to Washington?

Mr. Watson (after examining telegram). Well, it seems as if it would fit. I presume it is.

Mr. Floyd. Will you read it, please?

Mr. Worthington. Let me read it; Mr. Watson's voice apparently is not in good condition. It is on a Postal Telegraph blank and reads:

PHILADELIPHIA, PA., October 7, 1911.

PHILADELPHIA, PA., October 7, 1911. Hon. R. W. Archbald, Court of Commerce, Washington, D. C.:

Will be at Hotel Raleigh at 1.30. Leave instructions.

G. M. Watson.

The foregoing telegram was marked "Exhibit 89."

Mr. Worthington. There is another thing I want to bring out. I do not know whether it has been noticed by the committee or not, but I think, in justice to the committee as well as to the witness, attention ought to be called to it while he is here. One of these pamphiets that he brought here, and which he says he recollects is one of those that he got here on the 7th of October, is stamped "Filed October 9, 1911." The other is not stamped at all. It does not bear any stamp.

Mr. FLOID. Stamped by whom, how, Mr. Worthington?

Mr. Worthington. It is a printed stamp. I presume—I do not know—it is the stamp of the court. They have a way of stamping papers there when they are filed. I did not myself notice that yesterday, or I would have called attention to it then.

Mr. Webb. Let me see that, please. I do not know whether I catch the point or not. Are you prepared to say you did not get this document on the 6th?

Mr. Warson. No; I know it was not the 6th. I am quite sure it was the 7th when they handed them to me in the building there.

Mr. Worthington. The point I made about that is that he said he got it here on the 7th, and according to the file mark it was not filed in the court until the 9th.

Mr. Webb. I see; that is right. In other words, as I judge it, Mr. Watson, you could not have gotten this document here on the 7th, because it was not filed until the 9th of October.

Mr. Warson. I certainly got that book handed to me in the Commerce Court on the day that I was down here. I know it was on the 7th. It could not have been any other time.

Mr. Webb. I do not know a thing about it except what counsel hands me here. The one he hands me here is an identical copy of the one you say you got, and it seems to have been filed October 9; and, of course, if it was not filed until October 9 you could not have gotten it on October 7.

Mr. Warson. I am sure it is the one I brought down here. The one I brought here is the one I got.

Mr. Warson. I am sure it is the book handed me the books, and that is one of them as nea

trouble. It has been around my office, and I have not been there, so I don't know what happened to it. I assume it is the book, the same book.

Mr. Norris. That is the book you took home to your office?

Mr. Watson. I am quite sure it is.

Mr. Norris. And you brought it here with you from your office?

Mr. Watson. I am quite sure of it; yes. I don't know; I have no identification of the book, but I had a book just like that and brought it in here, and I suppose this is it.

Mr. Webb. This is the one you presented here yesterday, because I marked it; I can tell it is.

Mr. Watson. Yes.

Mr. Watson. Yes.

Mr. Webb. Just one more question: When you wired the judge on your way down here, through the Postal Telegraph Co., asking him to meet you at 1.30 at the Raleigh

Mr. Worthington. He does not ask him to meet him, Mr. Chairman; he says. "Leave instructions."

Mr. Webb. Let me see that telegram, please. [After examining telegram.] "Will be at Hotel Raleigh at 1.30; leave instructions." What did you mean by "leave instructions in the Raleigh?

Mr. Webb. But he did meet you at the Raleigh?

Mr. Webb. But he did meet you at the Raleigh?

Mr. Watson. Where I could find him; I think I said—

Mr. Webb. But he did meet you at the Raleigh?

Mr. Watson. He met me, so he did not need to leave the instructions."

Mr. Webb. But he did meet you at the Raleigh?
Mr. Webb. But he did meet you at the Raleigh?
Mr. Watson. He met me, so he did not need to leave the instructions.
Mr. Webb. He did not need to leave the instructions.
Mr. Watson. No; he met me; but if he had been engaged he could have sent a boy there to have told me where I could have found him. I did not know.
Mr. Webb. The instructions you were after, then, were as to where you could find him?
Mr. Watson. Yes.
Mr. Webb. You were determined to see the judge?
Mr. Watson. Yes.
Mr. Webb. All right.
Mr. Worthington. You made a remark a while ago that I should like to ask you about to see what you meant by it. You said that whatever papers you had you had turned over to Mr. Boland, or something of that kind.
Mr. Watson. Yes.
Mr. Worthington. Did you say that?
Mr. Watson. Yes; the papers that we used.
Mr. Worthington. Your remark: "Whatever I had, Boland has."
Mr. Worthington. What did you mean by that?
Mr. Watson. Yes.
Mr. Worthington. It is the papers that we went before these people with, the data that he furnished. He furnished to me a paper—
Mr. Worthington. I do not want to go over those details again; but did you turn over to him all the papers that you had and that you had used?
Mr. Watson. According to your recollection?
Mr. Watson. Yes; I did.
Mr. Worthington. Is it possible you might have turned over the pamphlets that you go down here, and that these pamphlets that you have produced have come into your office since?
Mr. Watson. Well, I don't know.
Mr. Watson. Well, I don't know; I don't know. It is possible that. I did; but I don't know.
Mr. Watson. That is all I wish to ask, Mr. Chairman.
Mr. Web. You may stand aside, Mr. Watson.
The witness was thereupon excused until Friday, May 31, 1911.

TESTIMONY OF WILLIAM P. BOLAND—RECALLED.
W. P. Boland, having heretofore been duly sworn, was exam-

TESTIMONY OF WILLIAM P. BOLAND-RECALLED. W. P. Boland, having heretofore been duly sworn, was exam-

ined and testified as follows:

Q. (By Mr. WORTHINGTON.) Mr. Boland, have you the subpena that was served on you at the instance of the respondent in this case?—A. I think I have a copy.

Mr. WORTHINGTON. We had a subpœna duces tecum served upon this witness, Mr. President. I have him here simply for the purpose of having him produce the papers he was asked to produce, or state that it is impossible for him to do so. The PRESIDING OFFICER. Ask him if he has the papers. Q. (By Mr. WORTHINGTON.) Have you a copy of the sub-

poena served on you?-A. I am sure I have it. Whether I have it here

Q. I have the original here with the return of the Sergeant at Arms. Will you look at that and tell me whether that is the paper a copy of which was left with you?

The PRESIDING OFFICER. The Chair would suggest that it would be sufficient for counsel to call for the papers, and then, if he does not get what he seeks, he can show that the subpæna has not been complied with.

The WITNESS. I have the tonnage books with me, but I do not have them here, because I asked the gentleman if I was going to be called this afternoon. I wanted to know from the Sergeant at Arms if my name was to be called this afternoon, and they did not seem to know, and consequently I left the books at the hotel.

Q. (By Mr. WORTHINGTON.) Let me ask you about these things in the order in which they are mentioned in the sub-poena. First, the tonnage books of the Marian Coal Co. You say you have them at your hotel?-A. I have them at my hotel, and I have a memorandum of the weights or tonnages right here with me.

Q. I do not care for that without the books themselves. The next is, "The records of said company showing all shipments of coal by that company since the beginning of their operations."—A. I have that.

Q. At your hotel?—A. Yes, sir.
Q. The next is: "And all maps, pamphlets, data, statistical tables, and other papers pertaining to the Marian Coal Co. which were submitted to George M. Watson in connection with the attempted settlement of the litigation with the Delaware, Lackawanna & Western Railroad Co., or the sale by the said company to the said railroad company of its property, and which were returned by him."—A. That I have not got, because I never gave him any papers or ever received any papers from him.

Mr. WORTHINGTON. That is all. The books can be brought here Monday, and we can examine them and see if we care to make use of them.

Mr. Manager WEBB. Provided they are competent.

The WITNESS. I will have them here Monday. I can have them here in 10 minutes.

Mr. WORTHINGTON. We will have the books here Monday,

Mr. Manager CLAYTON. The witness has suggested that he can have the books here in 10 minutes. Then he can be recalled this afternoon. I merely suggest that, in order that we may expedite the trial of this case.

The PRESIDING OFFICER. What is the pleasure of counsel

in that regard?

Mr. WORTHINGTON. Of course we do not care to examine the books to-night. We can not keep the Senate waiting while we examine those books. We can examine them just as we examine those books. We can examine them just as well Monday morning, before the Senate meets, if the witness will have them in the office of the Sergeant at Arms at 10 o'clock Monday morning.

The Witness. Very well. I will do that.

Mr. Manager CLAYTON. I suggest to the honorable counsel for the respondent that he proceed to examine another witness. Mr. Boland will go for the books immediately, and be back in 10 minutes. Counsel does not certainly wish to tell the Senate that he desires a prior opportunity to examine those books. He has never manifested that desire heretofore.

The PRESIDING OFFICER. If the manager insists upon it, the witness will produce the books as promptly as possible, and in the meantime counsel can call another witness.

Mr. WORTHINGTON. Very well. We will call Mr. C. G. Boland.

TESTIMONY OF CHRISTOPHER G. BOLAND-RECALLED.

Christopher G. Boland, having heretofore been duly sworn,

was examined and testified as follows:
Q. (By Mr. WORTHINGTON.) A subpœna has been served upon you at the instance of the respondent, requiring you to

produce certain papers here?—A. Yes, sir.
Q. I will read a description of the papers as it appears in the subpena and then ask you whether you have the papers. Did you bring a "letter from R. W. Archbald to C. G. Boland, dated November 13, 1911, and papers mentioned therein and

returned herewith"? It should be "therewith"; the sub-pœna reads "herewith." It should be "returned therewith." You understood that was what was meant, Mr. Boland?—A. did not pay much attention to what was said in that regard. I have the subprena.

Q. You are aware of the fact that it appears here that Judge Archbald wrote you a letter on the 13th of November, stating that he had seen Mr. Loomis and that his efforts were without avail and saying at the end of it that he returned certain papers. You remember that?-A. I was questioned in regard to it heretofore.

Q. And you stated that you did not have the papers?—A. That I did not have the papers.

Q. Can you give the Senate any information as to what became of them after they were returned to you?-A. I inquired after my last appearance on the witness stand in reference to them, and the best information I could obtain was from Mr. Pryor, who also appeared as a witness here, that he had been asked to prepare some data or statistics for Mr. George M. Watson in reference to the Marian Coal Co. property.

Q. I do not care to have a statement by the witness as to what has been told him, but I want to know whether you have found any of the papers which were returned to you in that letter of Judge Archbald to you of November 13, 1911?—A. No, sir.

Q. You can not tell what has become of them?-A. No, sir; I can not, except that Mr. Pryor told me he believed he saw the papers in the office of the Marian Coal Co. I questioned W. P. Boland as to his knowledge of the papers and the letter of Judge Archbald, which is referred to here, and he had no recollection of them, so that I was unable to locate the papers.

Mr. WORTHINGTON. Very well; that is all.
Mr. Manager FLOYD. No questions.
The PRESIDING OFFICER. The witness may retire. He may be discharged finally unless there is some desire on the part of counsel or the managers to retain him.

Mr. Manager FLOYD. We may need this witness in rebuttal. The PRESIDING OFFICER. He will remain in attendance,

Mr. WORTHINGTON. Mr. President, that is all, with the exception of the respondent himself and Mrs. Archbald, and certain documents and exhibits that have been referred to, something in the way of documentary evidence, which it will take a few minutes to refer to. We would prefer not to examine Mrs. Archbald at this hour of the day, and would like it very much if the Senate would now adjourn until Monday morning.

The PRESIDING OFFICER. What is the pleasure of the

managers in that regard?

Mr. Manager CLAYTON. Mr. President, I am informed that the Senate has some other business which it desires to transact this afternoon. I had hoped that we could get through with the examination of the witness—Boland—so that the respondent could conclude on Monday the examination of all of his witnesses, including the testimony of himself, but Mr. Boland has not returned, and in view of the suggestion that the Senate has other business that it desires to transact at this time, I acquiesce in the suggestion that we let the furher trial of this case go over until Monday.

Mr. GALLINGER. I move that the Senate sitting as a court considering the articles of impeachment adjourn.

The motion was agreed to.

Thereupon the managers on the part of the House, the respondent, and his counsel retired.

MEXICAN NORTHWESTERN RAILWAY CO.

Mr. SMOOT. I introduce a joint resolution, and ask unanimous consent for its immediate consideration.

The joint resolution (S. J. Res. 147) appropriating the sum of \$7,245 out of money appropriated by Senate joint resolution No. 129, for the payment of transportation of American refugees from points in Mexico to the American border, was read the first time by its title, and the second time at length, as follows:

Resolved, etc., That out of the money appropriated by Senate joint resolution No. 129 (public resolution No. 49), providing for transportation for American citizens fleeing from threatened danger in the Republic of Mexico, there shall be paid by the Secretary of War to the Mexican Northwestern Railway Co. the sum of \$7.245, in full settlement of the statement rendered to A. W. Ivins and E. E. Bowman, dated August 22, 1912, for the transportation of American refugees from points in Mexico to the American border.

The PRESIDENT pro tempore. Is there objection to the

present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DEATH OF REPRESENTATIVE WILLIAM W. WEDEMEYER.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, communicated to the Senate the intelligence of the death of Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan, and transmitted resolutions of the House thereon.

Mr. TOWNSEND. I ask the Chair to lay before the Senate the resolutions received from the House of Representatives.

The PRESIDENT pro tempore. The Chair lays before the Senate the resolutions of the House, which will be read.

The resolutions were read as follows:

IN THE HOUSE OF REPRESENTATIVES, January 3, 1912.

Resolved, That the House has heard with profound sorrow of the death of Hon. WILLIAM W. WEDEMEYER, a Representative from the State of Michigan.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Mr. TOWNSEND. Mr. President, at the proper time I shall ask that a day be set apart for the purpose of commemorating in a proper manner the character and life of the late Mr. WEDEMEYER. I ask at this time for the adoption of the resolutions I send to the desk.

The PRESIDENT pro tempore. The Senator from Michigan submits resolutions for which he asks present consideration.

The resolutions (S. Res. 419) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved. That the Senate has heard with deep sensibility the announcement of the death of Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of

Mr. TOWNSEND. Mr. President, I move, as a further mark of esteem and respect, that the Senate do now adjourn.

The motion was unanimously agreed to; and (at 4 o'clock and 55 minutes p. m.) the Senate adjourned until Monday, January 6, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

SATURDAY, January 4, 1913.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Once more in the dispensation of Thy providence, Almighty Father, our hearts are bowed in sorrow.

Swift to its close ebbs out life's little day; Earth's joys grow dim, its glories pass away; Change and decay in all around I see; O Thou who changest not abide with me.

So may our faith be fixed in Thee; so may our hopes lead on to the brighter day. Let the everlasting arms be about the members of the stricken family to uphold and sustain them in the awful shock, assuage in Thine own way their grief and comfort their sorrows; help us to work while it is day, for the night cometh when no man can work. Thus may we fulfill our destiny and pass on unperturbed into the somewhere prepared for Thy children. So we pray, so we hope, so we aspire through the faith once delivered to the saints. In the name of Him who is the resurrection and the life. Amen. The Journal of the proceedings of yesterday was read and

approved.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. CARY, for 10 days, on account of death in his family.

CHANGE OF REFERENCE-REMOUNT DEPOT, FRONT ROYAL, VA.

The SPEAKER. If there be no objection, the Committee on Appropriations will be discharged from the further consideraappropriations will be discharged from the further considera-tion of House document 1204, Sixty-second Congress, third ses-sion, being a letter from the Secretary of the Treasury, trans-mitting copy of a communication from the Secretary of War, submitting estimate of appropriation for the construction of the necessary officers' quarters and other buildings required at the remount depot, Front Royal, Va., and the same will be referred to the Committee on Military Affairs.

There was no objection.

INDIAN APPROPRIATION BILL

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the Indian appropriation bill, H. R. 26874.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 26874) making appropriation for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914, with Mr. SAUNDERS in the chair.

Mr. STEPHENS of Texas. Mr. Chairman, I ask that the reading of the bill for amendment be resumed.

The Clerk read as follows:

For witness fees and other legal expenses incurred in suits instituted in behalf of or against Indians involving the title to lands allotted to them, or the right of possession of personal property held by them, and in hearings set by United States local land officers to determine the rights of Indians to public lands, \$2,000: Provided, That no part of this appropriation shall be used in the payment of attorney fees.

Mr. FOSTER. Mr. Chairman, in line 18, page 6, in the paragraph which has just been read, I notice that the words "question of" have been omitted before the word "title." These words were in last year's bill, which read:

Suits instituted in behalf of or against Indians involving the question of title to lands allotted to them.

I should like to ask the gentleman from Texas why those words were omitted from this bill.

Mr. STEPHENS of Texas. We left them out because we

thought the words were immaterial and that the word "question" was only descriptive.

Mr. FOSTER. By leaving out the word "question" is it possible for the department to go ahead and look up the title to any of these lands that it may see fit, whether the question of title is raised or not?

Mr. STEPHENS of Texas. I think not. I will say to the gentleman from Illinois that the justification for this item arises from the fact that Indians are allowed to file upon the public domain, and the committee think that when questions of title arise at the local land offices they ought to have some one to represent them. That is the object of this appropriation.

Mr. FOSTER. It seems to me this word ought to be inserted

in this bill.

Mr. STEPHENS of Texas. I am perfectly willing that the gentleman shall offer that amendment.

Mr. FOSTER. I move to insert, after the word "the," in line 18, page 6, the words "question of."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 6, line 18, after the word "the," insert the words "question of."

The amendment was agreed to.

The Clerk read as follows:

For expenses of the Board of Indian Commissioners, \$4,000, including not to exceed \$300 for office rent.

Mr. SIMS. Mr. Chairman, I move to strike out the last word, simply for the purpose of submitting a request for unanimous consent. I ask unanimous consent to extend some remarks in the Record, for the purpose of printing certain newspaper articles and editorials with reference to tolls through the

Panama Canal.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The matter referred to is as follows:

[From the New York World, Dec. 23, 1912.]

Prof. Emory R. Johnson, the special commissioner named by President Taft to investigate the approximate tonnage which will pass through the Panama Canal, asserts that even if we levy instead of remitting the regular toil of \$1.20 a net ton on our coastwise shipping, this shipping passing through the canal in 1915 will amount to 1,000,000 tons. The remission of these tolls constitutes a concealed annual subsidy of \$1,200,000 in the first years of the canal's operation.

We have had in the tariff more than enough of indirect taxation of one class for the direct enrichment of another class.

Let the Government levy this \$1,200,000 from our coastwise monopoly. After it has that \$1,200,000 safely in its Treasury, let it then honestly and openly put the question whether the country wants a direct subsidy of \$1,200,000, or of any other amount, paid by the Government to that monopoly. Then we shall have a clean-cut, unbefogged issue for the people to decide.

If the people do not want a subsidy, it should not be paid under an alias against their will. If the people do want a subsidy, it can be paid without repudiating our international treaties and sullying our national honor.

[From the Century Magazine, Nov., 1912.] A WAY OUT OF THE CANAL BLUNDER

A WAY OUT OF THE CANAL BLUNDER.

Anyone who knows how little consideration is given to the preparation of political platforms can readily understand how both the Democratic and the Frogressive Parties were "committed" to the blunder of advocating the exemption of our coastwise shipping from the tolls to be charged for the use of the Panama Canal. It is this sort of inside arrangement of party policies—which usually, in the last hours of fatigue, restlessness, and excitement, there is never time to discuss on their merits—that has cast discredit on platforms and has justified many a candidate in disregarding or modifying a given "plank." The overwhelming judgment of our people, as reflected in the press, that nothing is so important to us as a strict observance of our plighted faith—just as nothing is so important to a merchant as his credit and reputation for honorable dealing—shows how easy it is for half a dozen men in a hotel parlor, at the suggestion of some "good fellow," to lead a convention to the indorsement of a disastrous policy.

To claim that we have not broken our pledge that there shall be no discrimination in the tolls and conditions when we thus favor our own coastwise trade, as against that of Canada, Mexico, and Colombin—each with an Atlantic and a Pacific coast—simply does not rise to the dignity of a quibble. Already, by misrepresentation of the sense of fair dealing which pervades American commercial life, incalculable injury has been done to our standing abroad—an injury which can not be measured in money. After all our honorable diplomacy—the return of the Boxer indemnity, the open-door policy in the Far East, and the strict observance of our promise to withdraw from Cuba, which foreign sneerers at America said we never would observe, "and never meant to observe"—tit is shameful to have to drop to a lower plane of national conduct.

As if our cup of humiliation were not already full, it is argued that

observe "—it is shameful to have to drop to a lower plane of national conduct.

As if our cup of humiliation were not already full, it is argued that we are at liberty to refuse to submit the question of the breach of the Panama treaty to The Hague Tribunal if Great Britain should make the appeal. "Nicht zwei dumme streiche fur eins" (Not two stupid strokes for one), says Lessing's character in "Minna von Barnhelm."

Unless we desire to become the welcher of the nations, it is time that the good faith of the people should find an adequate expression in the good faith of the Government. All the money saved (to whom?) in folls in a hundred years by the exemption could not compensate for the loss in money—not to reckon honor—which will result from the loss of credit and of great commercial opportunities all over the world. A strange way, indeed, to promote American commerce.

But there remains for us another chance—or will, if Great Britain shall a little longer pursue her friendly and forbearing course of wating for our public opinion to assert itself. The coastwise exemption should be repealed. And, our obligations aside, why should we enter upon a policy of subsidizing our ships just at the time when apparently we are giving up the policy of subsidizing our manufactures? Are we never to get away from the inequality of privilege that has already corrupted the sources of government by the "vicious circle." creating and feeding by legislation agencies whose natural interest it thus becomes to destroy the principle of equality? Why subsidize ships any more than subsidize rallways or newspapers or authorship? But if we must subsidize our ships, let it be done outright, in bills for that purpose, and not through the violation of the plain words of a solemn treaty.

Not only should the exemption be repealed, but, if we are to recover

Not only should the exemption be repealed, but, if we are to recover the ground that has been lost, it should be done in the first week of the December session of Congress. We feel sure that President Taft, whose misgivings tinctured his message of assent, now that the canal bill has provided for a modus operandl would not interpose his veto to the sober second thought of Congress. If the repeal is not accomplished, and if we refuse the appeal to The Hague, the great cause of arbitration—the substitute for war—will be set back for unreckonable years. And it is the championship of arbitration, together with his far-sighted and consistent defense and extension of the merit system, which will give the President his highest claim to the respect of posterity. The object of the latter is to keep politicians from gambling with the resources of office; the object of the former is to prevent Governments from gambling with the lives of men.

Should the repeal not be promptly made, it will become the duty

Should the repeal not be promptly made, it will become the duty of the people to organize to bring it about. We much mistake the temper of the country if within another six months its servants do not remove this blot on the national escutcheon.

[Editorial in The Independent.] THE PANAMA DISGRACE.

The President in signing the Panama bill calls it "one of the most beneficial that has been passed by this or any other Congress." That may be true, for it provides for the opening of an international highway needed for the last 400 years. But it is certainly true that the bill is one of the most discreditable and dangerous that has been passed by this or any other Congress, for it covers legislation that could never have been passed upon its merits, throws a heavy financial burden upon the American people, involves us in complications with European and American powers to an unpredictable extent, violates our treaty with England, puts us before the world as resorting to trickery to gain a commercial advantage, and destroys confidence in the arbitration movement in which the United States has had a leading part. Let us briefly enumerate some of the illegitimate features which this bill conceals:

which this bill conceals:

First. It grants to coastwise shipping a perpetual subsidy of an incalculable amount, millions of dollars a year at any rate. Now, if this money had been appropriated from a surplus in the United States Treasury, it would not be so bad, but it is not. It is money that we have borrowed for the purpose of building the canal and on which we must continue to pay interest indefinitely. That is to say, this new law puts the American people in the position of borrowing money at a cost of some \$10.000,000 a year to themselves for the purpose of enabling the owners of coastwise ships to make a profit out of what might otherwise be a losing business. Worse than that. We have already given these men protection at our expense by the law prohibiting foreign vessels from stopping at two American ports. It has often been argued that we should subsidize the American lines that compete with foreign lines, but no one has ventured to put forth so preposterous a claim as that the coastwise ships should have a subsidy added to their monopoly as is done by this act. If any gratuitous favors of this kind are to be granted it would be less absurd to reverse it and grant free toils to American lines coming into competition with foreign lines

instead of to those protected from such competition, and this would be no more of a violation of the treaty than the present act.

Second. The Panama bill admits free of duty foreign-built ships and shipbuilding material when used in the foreign trade. Already we hear complaints that this has caused the loss of millions and will mean ruin to American shipbuilders. That may not be true, or if true it may be worth the sacrifice. We are not arguing that point now. But we do say that such a sudden and unpremeditated change in our protective system should not be forced through on a rider to a worthy bill having quite another object.

Third. A like objection applies to the radical and extraneous legislation of the bill, such as that empowering the Interstate Commerce Commission to determine whether or not the ownership by any railroad of a steamship line is prejudicial to public interest and to compet if necessary the divesting of the steamship holdings. Such a measure, whether wise or unwise, affecting as it does the ferryboats of New York and San Francisco Harbors, the passenger steamers of Long Island and Puget Sounds, and the shipping of the Great Lakes, has no business in a bill stated by its title to be concerned only with "the opening, maintenance, projection, and operation of the Panama Canal and the sanitation and government of the Canal Zone."

Fourth. This discrimination in tolls in favor of our own ships is just what we protested against as unfair and put a stop to when it was a question of canals on the territory of Canada and New Granada. Fifth, Our treaty with Great Britain expressly prohibits such discrimination, as is shown by the fact that when the treaty was under consideration the Senate voted specifically against an amendment permitting such discrimination.

Sixth. President Taft's recommendation to Congress that the question of the interpretation of the treaty be referred for decision not to The Hague Court, but to our own Supreme Court.

[From the New York World.] A SURREPTITIOUS SUBSIDY.

A SURRETITIOUS SUBSIDY.

The proposal to subsidize American shipping, though often and eloquently urged, has never met with the approval of the people, and Senators have no right to introduce it in disgnise. What is still worse, they have introduced it in such a way as plainly to violate our treaty with England. The Senators who advocated it admitted that if the matter were brought before The Hague Court it would inevitably be decided against us, and we should then have to pay back the tolis collected from foreign vessels in the meantime, say 10 years or so; that is, whether the action taken by the Senate be right or wrong, it is what all the other nations of the world would call wrong. But Senator Cummins says that we will never consent to submit the question to such a tribunal; that there is but one tribunal to settle such a question—the arbitrament of war. In saying this Senator Cummins is advocating the violation not only of the Hay-Pauncefote treaty, but, what is worse, of all our arbitration treaties.

[Editorial from the Louisville Courier Journal, Dec. 16, 1912.] THE LONG AND THE SHORT OF IT.

The exemption of the coastwise trade of the United States from tolls through the Panama Canal was, to begin with, flagrant and dishonest, a violation of the treaty obligations of the Nation, and, to end with, a gigantic and perpetual subsidy to a Shipping Trust quite as objectionable as the Sugar Trust or the Steel Trust.

The act of Congress was passed in the teeth of a presidential campaign. The Shipping Trust could afford to contribute a million of money to each party for its support. Mr. Taft, a candidate for President, signed the bill. Who, if not Perkins, of the Harvester Trust. In community of interest, worked the Roosevelt end of it we know not; but the Democratic end of it was worked by Lewis Nixon, once chief of Tammany Hall and now head of the Crescent Shipyard, of Elizabeth, N. J.

Such Members of Congress as gave any reflection to the votes they cast in its favor looked to a certain anti-English feeling, which, in the last equation, would carry with it the German vote and the Irish vote, not stopping to inquire where the spoliation of the Nation's honor and the people's money might lead—relying upon indirection and subterfuge to see them through—corruption and cowardice thus playing hide and seek with the public integrity and their duty.

Upon this simple statement, which can not be denied, the case admits of no debate. Behind Mr. Nixon the Steel Trust, with all its ramifications, stands paramount. Plate armor is his right bower, long-range guns his left, with every jingo in the land to whoop 'em up with "Who's afraid of John Bull?" Where falsification will not suffice, evasion is the word, and legal eminence, in and out of Congress, is employed to quibble and hoodwink when a straight vote for ship subsidy—which this legislation is, no more and no less—would never be dared.

War with England is unthinkable. But wars, nevertheless, are often provoked on less provocation. Both the Shipping Trust and the Steel Trust would welcome war with England or any other country, for the money mad know no relenti

[Editorial from the Southern Lumberman, Dec. 21, 1912.] WILL HURT PINE AND CYPRESS.

Prof. Emory R. Johnson's able paper in this issue on "Panama Canal and Southern Lumber Trade" should be carefully studied by southern lumber manufacturers, particularly yellow pine and cypress

Prof. Johnson was opposed, as we were, to the exemption from tolls of American ships in the coastwise trade, but he does not think that the increased competition of west-coast woods will seriously hurt southern lumber. He thinks that on account of their superiority southern soft woods will be able to substantially hold their own in the markets cast of the Mississippi against the west-coast product. We seriously doubt of the Mississippi against the west-coast product. We seriously doubt strength and durability, but it is doubtful if superiority on any other screen have an advantage of the Mississippi against the west-coast product. We seriously doubt strength and durability, but it is doubtful if superiority on any other screen have an advantage of uses where strength and durability are not of first consideration. These qualities cut little figure in house construction and finish, whereas in softness and case of working fir and redwoods in hundreds of uses where strength and durability are not of first consideration. These qualities cut little figure in house construction and finish, whereas in softness and case of working fir and redwood from the Pacific coast are quite their equal. We shington by the manufacturers of vessels and the second of the second of the manufacturers of vessels and the second of the sec

[Statement of Benjamin Ide Wheeler, president University of California.]

The device of remitting tolls on our coastwise commerce seems to me a peculiarly unfortunate method of subsidization. Why should a subsidy be provided solely for those ships which happen to use the canal?

[Statement of David Starr Jordan, president Leland Stanford University.]

I can see no reason why any American ships should be relieved from the necessity of paying their share in this matter.

Mr. MURRAY. Mr. Chairman, I ask unanimous consent to print in the Record an address by Gov. Eugene N. Foss, of Massachusetts, at the conference of governors in Richmond, Va., on

December 5, 1912.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts to print certain matter in the RECORD?

There was no objection.

The address referred to is as follows:

[Address by Gov. Eugene N. Foss, of Massachusetts, at the conference of governors, Richmond, Va., Dec. 5, 1912.] THE DEVELOPMENT OF INLAND WATERWAYS.

INTRODUCTION.

I have asked to have the subject of our inland waterways brought officially before this conference because I am satisfied that to a proper settlement of the transportation problems of this country the concerted action of the States is absolutely necessary.

CONGRESS HAS FAILED.

We need not review the repeated failures of successive national administrations to provide constructive plans for the improvement of our transportation system as a unit.

INDEPENDENT STATE ACTION HAS FAILED.

INDEPENDENT STATE ACTION HAS FAILED.

If, on the other hand, we review the improvements which have been made by the individual States acting independently, we shall not find any substantial progress toward an effective general system.

The history of American waterways shows that State authority has failed and that the opportunities of effective Federal administration have been neglected.

The result has been that the waterways of the United States have never been developed as a system upon any national scale, but have been improved principally through the efforts of Congressmen to get a share of the rivers and harbors appropriations for their respective districts, and the efforts of those districts and of the States, independently of Federal aid, to help themselves.

But I do not believe that the situation is hopeless. The groundwork for cooperation is already laid. Only concerted action upon a comprehensive plan is now wanting.

CONCERTED STATE ACTION IS NECESSARY.

I am firmly convinced that the development of our inland waterways can be accomplished through the concerted action of the States affected; brought about not only by their own enterprise and the expenditure of State funds, but to an even greater degree through their united power in forcing from Congress an intelligent and broad-minded study of the

in forcing from Congress an intelligent and broad-minded study of the whole situation.

As soon as the American people realize that it is directly counter to their own good to leave this important subject as the chief political perquisite of Representatives in Congress, they will bring about an end of this method of handling the question; and it is in every way proper that such concerted action should be taken, for the country geographically is a unit with respect to its waterways.

UNITY OF THE UNITED STATES WATERWAY SYSTEM.

UNITY OF THE UNITED STATES WATERWAY SYSTEM.

The United States is cut in two by the Mississippi River, which thus forms a trunk line, as you may say, of water communication from north to south.

Along the northern border we have the Great Lakes, making a most effective commercial frontier which unites us with Canada commercially while it divides us only in a territorial sense.

This chain of lakes (giving us a substantially east-and-west communication) forms, in conjunction with the Mississippi River, a remarkable waterway which has potentially no equal on earth, with a southern outlet for practically the whole of the middle section of our country and for eastern Canada as well.

This tremendous natural water system extends uninterruptedly to the Panama Canal, and the completion of that canal will give us a seaboard in one unbroken line from the cities of Puget Sound to Eastport, Me.

Me.

These, broadly speaking, are the great waterway projects which form the framework of our water-transportation system and to which the concerted attention of the several States should be given.

The governors of the various States have a splendid opportunity to impress upon their people the importance of realizing this commercial unity, and a concerted public sentiment must be aroused which will make it impossible for any private or special interest to secure from the Federal Government any appropriation out of harmony with the best general development of our commercial waterways, and which will compel the Congress to provide for a uniform and businesslike development of these natural resources.

I urge upon the conference of governors the imperative need of arousing and cooperating with this public sentiment as the only means of placing before the Congress a program of waterway development which will have public sentiment behind it and from which every vestige of special or selfish interest shall be eliminated.

In this work of coordinating public sentiment, and compelling the attention of Congress, the governors of the several States will find splendid cooperation in several public bodies which are already organized and hard at work on this line of progress.

The great River and Harbor Congress now in session in Washington is probably the most notable of these bodies.

Then there is the Atlantic Deeper Waterways Association and the Lakes-to-the-Gulf Waterway Association, and the various public bodies which are concerned with the conservation of our natural resources.

All of these groups of citizens and officials are in a position to do splendid work along the lines here indicated, and they are doing it with a will.

INTERSTATE ACTION ALSO NEEDED.

Nevertheless, even with the most effective action which Congress can take, the responsibility will still rest in some degree upon the individual States, and they must plan and construct such local canals and subsidiary water channels as the general waterway development of the country may demand.

The task of the governors is to coordinate the action of the several States between themselves and to effect the still higher coordination of this uniform work with the work of Congress.

MASSACHUSETTS AS AN EXAMPLE,

I am proud to say that Massachusetts has to a great degree recognized the failure of the Federal Government to meet this crisis and has jumped into the breach with an appropriation of \$9,000,000 for the development of the port of Boston.

The Commonwealth is doing this as a matter of self-preservation, and the act is a wonderful expression of the public spirit and enterprise of the people of Massachusetts.

Massachusetts not only realizes that she must do her part (without waiting for Congress) in maintaining and improving her commercial standing, but she is especially resolved that the opening of the Panama Canal shall find her ready to do business with the rest of the world. We have not only appropriated \$9,000,000 for the development of the port of Boston, but we are hard at work upon the problems presented by the present undeveloped condition of our principal rivers.

Our State commissioners are cooperating with the commissioners of Connecticut in a project for the commercial development of the Connecticut River.

This river, which is of splendid potential importance, can be dredged.

Connecticut in a project for the commercial development of the Connecticut River.

This river, which is of splendid potential importance, can be dredged at least as far north as Springfield, and perhaps Holyoke, for ships suited to navigation in the Sound and along the Atlantic coast.

It can be furthermore dredged for smaller vessels and reenforced by canals to furnish an effective outlet for the western half of New England, opening up the interior of that section in a wonderful degree to water traffic.

Railroad advocates are accustomed to jeer at the development of this river as a visionary project, forgetting that Europe has utilized much smaller streams and has channeled them for from 50 to 100 miles inland and built upon their banks some of the greatest seaports of the world at distances as far from the seaboard as northern Massachusetts is from Long Island Sound.

(I shall take up more in detail later on the discussion of these great inland seaports of Europe.)

Furthermore, we are bent upon the commercial development of our other principal rivers, such as the Taunton and the Merrimac.

The Taunton River penetrates one of the most important industrial sections of our State, and we propose to make it effective as a means of cheaper transportation.

We are at work on the development of the Merrimac River, planning its commercial development at least to Lowell, and hoping that New Hampshire will cooperate with us to make it a commercial waterway as far north as Nashua, and perhaps Concord.

THE CAPE COD CANAL,

We are also recognizing now as never before the importance of digging canals to supplement the natural waterways of the State.

Under private auspices a canal is now being dug across the neck of Cape Cod, and this splendid private enterprise has enabled the State to concentrate its own resources upon our harbor and river develop-

ocncentrate its own resources upon our harbor and river development.

The project for a Cape Cod canal was first taken up in the earliest days of the colony and abandoned.

New York, however, had built the Eric Canal, and we now know that it was that canal, small and imperfect as it was, which made New York the Empire State.

We are realizing that if our ancestors had dug the Cape Cod Canal when the Eric Canal was built, Massachusetts might never have lost her commercial supremacy.

Cape Cod has undoubtedly been a serious physical barrier to the maritime development of Massachusetts.

At least 2,000 vessels have been wrecked in the Nantucket Shoals alone, and hundreds of sailors have perished in these dangerous regions.

In spite of this difficulty, there is at the present time an annual movement of 25,000,000 tons of traffic around Cape Cod and 500,000 passengers.

The Cape Cod Canal is estimated to represent an expenditure of \$6,000,000.

But if only half of this total traffic passes through the canal, a

But if only half of this total traffic passes through the canal, a substantial return will be made on the investment.

This is to be a sea-level canal, with only 8 miles of excavation, the entire length of waterway being 13 miles and the depth at low water 25 feet

entire length of waterway being 13 miles and the depth at low water 25 feet.

It brings New York and Boston 66 miles nearer than they were before, by water.

Surely a project of this kind, with its wonderful possibilities of shortening distance and cheapening and safeguarding maritime traffic, ought not to have been left to twentieth century enterprise.

It ought to have been consummated a hundred years ago.

Another lesson that we are learning in Massachusetts is very significant in connection with our pending waterway enterprises.

We are realizing now that if we had concentrated at an earlier date upon the development of our waterways, we should not have lost to the West and to Canada many of our so-called heavy industries—industries in which the cost of the transportation of raw materials is a serious factor.

One by one these great industries are moving westward and northward, where transportation, particularly by water, is cheap and ample. We are determined that in the future the industries of New England shall have their raw materials on practically as favorable a basis as any other section; and we thus hope to overcome the handicap which 100 years of shortsighted and narrow-minded policy has fastened upon us.

TRANSPORTATION CRISIS IN UNITED STATES.

TRANSPORTATION CRISIS IN UNITED STATES.

I think I am speaking conservatively when I say that we are standing at the critical point of American history in regard to our transportation.

The key to the situation undoubtedly lies in the development of our

waterways.

Let us see why.
For 50 years the financial and business interests of the country have concentrated the greater part of their energies on the construction and extension of our rallroad service.

The United States has therefore become wonderfully well equipped with trunk railroad lines and local railroad facilities.

We have gone to an extreme in this direction, and have practically surrendered our own transportation interests into the hands of the railroads.

The country has gone railroad mad.

roads.

The country has gone railroad mad.
One hundred years ago this country was digging canals in earnest;
4,000 miles of them were constructed; then came the era of the railroad, and the canals and waterways were allowed to go to ruin.

Also, during our whole history we have spent but five hundred millions on our rivers and harbors as against possibly eighteen thousand millions on our railroads.

Meanwhile France, for example, has equalized her expenditures, putting seven hundred and fifty millions into harbors and waterways and seven hundred millions into railroads.

This policy, taken in connection with our peculiar tariff system, has resulted in stunting our foreign commerce and in impeding the development of our coastwise shipping.

It has resulted in subordinating one of the most vital considerations of American life to the private needs of the railroads, OUR ONE-SIDED POLICY HAS RESULTED IN EXCESSIVE FREIGHT RATES.

Consequently, freight rates have reached a point many times as high as they would be if an effective water competition existed, and the cost of freight is one of the principal factors entering into the cost of living. We are at this moment wrestling with the problems of railroad regulation.

We are in debate as between the advantages of private and public resilienced expressions.

We are in debate as between the advantages of private and public railroad ownership.

The problems are vexatious and deep seated.

We are only just now learning how to handle them.

And it is remarkable that throughout all this discussion and public agitation, more attention is not centered on waterway development as the one most effective means of meeting the railroad situation and compelling a fair railroad rate.

WATER-BORNE COMMERCE THE NATURAL COMPETITOR OF RAILROADS.

WATER-BORNE COMMERCE THE NATURAL COMPETITOR OF RAILROADS.

Water traffic is the cheapest known means of transportation.

It is so cheap that it forms the most effective natural competition for the railroads.

It is remarkable that the railroad systems of America have been so successful in choking off water competition, in buying up our water terminals and leaving them unused, and in preventing proper recognition by Congress of our waterways as the natural avenues of commerce. I am told that the average charge per ton-mile for freight on the American railroads is 7½ mills.

Contrast this figure with the average per ton-mile for freight on the Great Lakes, which is eight-tenths of a mill, or less than one-ninth the average charge for the same service by the railroads.

But the most significant comparison has yet to be given.

It is this: During the season when the Great Lakes and their tributary channels are freely open to navigation the railroads which compete with the Great Lakes transportation service reduce their rates to 1½ mills per ton-mile on the average, or approximately one-quarter of their usual charge.

And yet, instead of maintaining this natural competition between waterways and railroads as the most effective possible stimulus to industry, we have abandoned most of our earlier waterways projects—not only abandoned them, but permitted their confiscation by the railroads.

And where the water traffic itself is not dominated by the railroad we have permitted the railroads to utilize the old canal banks for their own right of way—a remarkably effective means of choking off any attempted restoration of the canal project itself.

EUROPEAN EXAMPLE.

European countries have uniformly developed their waterways as a means of assuring commercial prosperity and rapid growth, and they have done it with a truly prophetic instinct, in anticipation of the necessity.

necessity.

A generation ago Belgium, with an area less than Massachusetts and Connecticut, had over 1,000 miles of internal waterways.

On this system of canals she has spent over \$80,000,000.

In Belgium and in Holland the ocean is brought to every city, and as a result these little countries have become world powers in commerce and manufactures.

A ton of raw material comes to them 1,000 miles for \$1.

The British Isles have 4,000 miles of canals and an equal length of impraved waterways.

improved waterways.

Germany has over 10,000 miles of internal waterways, much of which represents engineering work, and her policy makes a highway of every stream that has water enough to fill a canal.

She makes immense appropriations for the extension of these water-

ways.
Austria and Hungary have spent fully 200,000,000 on rivers and

Even China has such a wonderful system of shallow canals that almost every town can ship to the ocean by water.

WATERWAY DEVELOPMENT PREVENTS RAILROAD MONOPOLY, BUT ENLARGES

Again, a remarkable illustration of the fact that the railroads and waterways, while natural competitors, are of mutual benefit is found in the experience of Europe.

When the River Elbe was adapted to canal service the river traffic increased fivefold, and yet the railroads which had to compete with the river were not ruined, but paid greater dividends than ever before.

The River Main has been channeled, and while there is a railroad on each side of it and the river traffic has grown more than tenfold in 10 years, yet the railroad trade has not suffered a decline, but has been increased.

The Northern Railway of France computer with the railroads and while there is a railroad trade has not suffered a decline, but has been increased.

years, yet the railroad trade has not suffered a decline, but has been increased.

The Northern Railway of France competes with numerous canals. Surely here we would expect to find injury done, if anywhere, to the railroads, but, on the contrary, this railway is said to have been the most prosperous of any in France.

It has prospered when other railroad systems have been in trouble. London is well served by railroads—more intimately related to the rest of the country by railroad service than most of the cities of America.

Nevertheless, London has not hesitated to invest \$186,000,000 in the development of her port and the dredging of the Thames to make that port effective for modern shipping.

Liverpool has spent \$125,000,000; Manchester—practically an inland city—has made herself a seaport by the investment of \$90,000,000. Glasgow has invested \$40,000,000; Newcasile, \$80,000,000; Bristol, \$30,000,000; Hamburg, \$100,000,000; Aursep, \$45,000,000. All this expenditure represents the most effective possible means of checking the aggrandizement of the railroads or the inflation of freight rates under railroad control.

No one, however, can say that this development has wrought harm to the railroads of Europe, whether owned privately or by the Government.

On the contrary European waterway development has proceeded so

ment.

On the contrary, European waterway development has proceeded, so to speak, hand in hand with the railroad development; and each has been made possible and has profited by the development of the other.

A trunk line of railroad can, to a certain extent, defy authority and maintain a high rate of freight.

But a canal is essentially a public way.

Lines of towboats and barges can move upon a canal or river in direct competition with each other; monopoly can be prevented; and the average freight rate via waterways is therefore kept automatically at the lowest figure consistent with maintaining the service.

It is for these very reasons that our waterway development must proceed under the public auspices of State and Nation and must be pushed as a work of public exigency, just as the Panama Canal has been pushed, irrespective of any railroad influence.

Still the railroads are dependent solely upon the prosperity of the district which they serve, and this prosperity increases in proportion as we open up cheap transportation for low-grade freights.

This we can only do with the help of the canal.

We are still congesting our railroads with a mass of cheap, low-grade freights which they can not carry economically.

We can not get satisfactory service from the railroads for the shipment of our factory products so long as these roads are tied up with undelivered shipments of coal, pig iron, and other raw materials.

The European practice is to move these low-grade freights by canal and river.

The European practice is to move these low-grade freights by canal and river.

The railroads, freed from this low-grade business, at the same time build up the general business interests which they serve and increase the mass of high-grade freights which they must still continue to carry and which they always will carry, no matter how many canals are built.

are built.

The public servants of France and Germany have recognized this basic difference between the railroad and the canal and have seen that the proper development of both together would be mutually beneficial.

Our railroads have been afraid of canal development from the most narrow-minded reasons, and their successful activity in defeating our canal projects has reacted disastrously upon themselves.

EUROPEAN PORTS ARE INLAND, CONNECTED WITH THE SEA BY IMPROVED CHANNELS.

The secret of the success of the great commercial countries of Europe lies in their remarkable foresight, in the way in which they have prepared for expanding trade and commerce, and in the location of their great commercial centers.

Practically all of the great seaports of Europe have been equipped with modern transportation facilities far in advance of their actual requirements in anticipation of growth.

With us the typical commercial city is located either directly on the seaboard or some natural inland waterway.

Europe has built her seaports inland and connected them with the sea by dredging and excavation.

For example, Hamburg is 76 miles inland, and has been made available as a seaport only by the expenditure of a hundred million dollars.

dollars.

But by reason of her inland location she is completely surrounded by a vast producing territory, and the genius of the German nation has foreseen the strategic advantage of bringing the ocean to the interior of her great industrial sections.

In comparison New York and Boston at best have only 50 per cent territorial efficiency, for they face directly on the ocean, and even Chicago pays heavily for her location on the shore of Lake Michigan in the fact that it shuts off all industrial environment on the northeast.

Antwerp is another of the great seaports of Europe, but she is located 55 miles from the ocean.

She still suffers from the natural handicap of the tide.

It is not often that a ship can make the entire journey up to Antwerp in one turn of the tide.

It is not often that a sinp can make the entire journey up to Antwerp in one turn of the tide.

But Antwerp draws from a productive territory which completely encircles her.

Manchester, London, and Glasgow are equally significant examples of the European idea of commerce.

These cities are all far inland, Manchester being 50 miles—measured along the available water levels out to natural ocean channels—from the sea and shut off absolutely by nature from any maritime connection. Glasgow is situated 60 miles inland from the Irish Sea, and has been made a great seaport only by dredging the river, which presented in the beginning a more serious obstacle than most of our American rivers to commercial development.

The River Clyde was originally a river of such small size that it could be forded by man or beast at many points.

I need not multiply these examples.

Great Britain and the commercial countries of the European Continent have become tremendous powers in the commercial world only through their public spirit and foresight in providing themselves with maritime facilities, either natural or artificial or both, as might be the case.

The main reason for the commercial supremacy of these countries is in the fact that they have already met and solved the transportation problems which we are still facing.

They went through their formative commercial period long before we did; they wrestled with the problems of municipal, private, or State ownership of waterways and railroads; and while we are still under the domination of our railroad monopolies, other countries have found the way out, even to the extent of digging a way through to the ocean at an enormous expense.

We must therefore look to the older communities of Europe and frankly copy their example; and by doing this we shall find that practically all the commercial centers of Europe have grown through the joint and parallel development of marine and rail transportation.

PANAMA: THE FIRST STEP IN OUR NEW POLICY.

By digging the Panama Canal we have struck at the heart of the problem.

We are obtaining for ourselves by concerted public action the type of transportation which is potentially many times cheaper than railroad transportation, and Congress, by the sections of the Panama Canal act with respect to the ownership of steamships by railroads, has taken effective action to make this potential value real.

We are thus beginning to see the utility of water-borne transportation as a natural means of controlling railroad monopoly.

THE LAKES-TO-THE-GULF PROJECT.

The Panama Canal being an assured fact, the most important remaining projects now on foot for the reconstruction of American commercial supremacy are the Lakes-to-the-Gulf waterway, the Atlantic deeperwaterways project, and the restoration of the Eric Canal to meet the needs of modern commerce.

While I can not undertake the discussion in detail of all these projects, I wish to refer briefly to the Lakes-to-the-Gulf enterprise as the one which in the largest sense will form the backbone of our future commercial development.

The distance from Chicago to the Gulf of Mexico is slightly in excess of 1,600 miles, and the connecting link formed by the Chicago River and the Chicago ship canal is only 38 miles long.

The remaining distance is covered by existing natural waterways which need only to be channeled and improved.

Of this total distance of 1,659 miles the entire route is now open, I understand, for vessels drawing 4½ feet.

For over three-fourths of the way, i. e., from the Gulf up to St. Louis, vessels of 8 feet draft are accommodated.

To complete a modern 14-foot channel from the southern end of the artificial Chicago ship channel down to the Gulf is estimated to involve an expenditure of \$150,000,000; and the broadening of the Chicago River and ship canal it is estimated will cost \$100,000,000.

By this development we shall have a 14-foot channel connecting the Lakes to the Gulf of Mexico at a total expenditure of \$250,000,000, with an estimated annual maintenance charge of possibly \$10,000,000.

Even if only the territory immediately tributary to the Mississippi were to be benefited, nobody could dispute the commercial importance of this scheme.

But, in fact, there are many large and important rivers tributary to the dispute the commercial and the standard waterway which feed and are reconstructed the section and the standard and the feed and are conveniented the section and the section and the standard trivers tributary to the first contact the section and the section an

of this scheme.

But, in fact, there are many large and important rivers tributary to this great waterway which feed an area comprising the greater part of our industrially developed continental territory.

This backbone once constructed, the laterals of the system will quickly follow, and the existing rivers will be dredged and the necessary east and west canal channels will be excavated. The diversion of the course of rivers for irrigation purposes shows what may be done in this respect.

east and west canal channels will be excavated. The diversion of the course of rivers for irrigation purposes shows what may be done in this respect.

The only argument that I have ever heard advanced against this project rested on the fact that we could build a north and south railroad from Chicago down to New Orleans at a slightly lower cost and double track it—the statesman in question sagely arguing that we could give the unexpended difference to public charity.

The absurd contention that a double-track railroad from Chicago to New Orleans would serve as economically and satisfactorily as a vast river system with practically unlimited carrying capacity need not be refuted before this audience.

Some years ago a project was brought up for the construction of canal which should connect Pittsburgh with the Great Lakes, but went by the board, and in place of it the railroads interested in tisted and iron industries constructed railroad outlets for the Pittsburgh district at enormous cost.

I think it should now be evident that if the steel industry had provided itself with a waterway outlet to the Lakes instead of spending its money on the railroads. Pittsburgh might have maintained its old industrial supremacy.

Its freight rates on raw materials would have been reduced to perhaps one-tenth of their present amount, and the industries which by reason of this high cost of freight are now moving northward and westward and even into Canada might have been retained in Pittsburgh indefinitely.

Cheap rates on low-grade freights are the basis of industrial success.

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THE ERIE CANAL.

The Eric Canal is a project to which the attention of New York State

The Eric Canal is a project to which the attention of New York State is carnestly needed.

I mention it as one of those projects to which State initiative rather than Federal initiative may well be given.

It will furnish us with a new outlet from the Lakes to New York City and the Atlantic Ocean, and will enable us to compete once more with the great 14-foot channel of the St. Lawrence system.

Twenty years ago the Committee on Railways and Canals of the Fifty-second Congress said: "On the day that it becomes possible to send ships direct from the Great Lakes to the ocean by way of the St. Lawrence River, while they are unable to go by way of the Hudson,

* * the merchant marine of the United States, which has had a new birth on the Lakes, will receive its death blow from Canadian competition."

That statement was made in 1892, and the report advocated the con-

new birth on the Lakes, will receive its death blow from Canadian competition."

That statement was made in 1892, and the report advocated the construction of a deep-water channel from the Lakes to the Hudson. Somehow the railroad interests succeeded in convincing the people that New York interests would be better served by a mere barge canal. But Canada proceeded with her own development, and her guiding principle was that freights should be carried in an unbroken bulk from the Lakes to whatever foreign port they were consigned to, or, at most, with only one transshipment.

We must have a way out to the sea for our own ships by which they can come and go as freely as if on the ocean.

Canada has flanked us commercially and is taking the commerce of the West through Montreal.

Already our farmers are finding their closest competitors in the great Canadian Northwest, and Winnipeg has become the greatest wheat market in the world.

Our wheat supremacy passed from Chicago to Minneapolis and then to Duluth, and now Manitoba has become the center of the wheat market.

Our cereals compete with those of the Saskatchewan Basin, which, with its splendid outlet to the world, will displace our own agricultural districts unless we provide a low-cost outlet to our markets.

THE CANADIAN SYSTEM.

One of our obstacles to waterway development is found in the failure of our canal promoters and advocates to insist upon channels of sufficient depth.

clent depth.

Consequently, while the Canadians carry an unbroken cargo of 80,000 bushels on a channel 14 feet deep, our Erie system is limited to a cargo of 8,000 bushels on a channel less than half the depth of the Canadian system.

The Canadian method is right; our way has been wrong.

The Canadian system has developed in accordance with a broadminded governmental policy.

Our policy has been badly defined, narrow, and selfish.

Canada has spent on her canals and navigable inland waterways a total of \$130,000,000, as against \$475,000,000 on her railroads—a ratio of about 1 to 35.

We have expended sums on our waterways and railroads on the ratio of 1 to 36.

Relatively Canada has spent 10 times as much on her waterways as we have spent.

we have spent.

With the development of the Canadian canals the cost of carrying freight has almost steadily declined.

For instance, on the Sault Ste. Marle Canal in 1890 the cost of a ton-mile was 120 mills.

Twenty years later it had dropped to seventy-nine one-hundredths mill.

mill.

And at the same time the total shipping has tremendously increased. For example, the total freight carried from the Canadian system of canals in 1908 was 17,000,000 tons.

Within the next year it jumped to 33,000,000 tons.

Yet the number of trips diminished, showing the steady increase in the tonnage of the average carload.

In fact, the average cargo in 1908 was approximately 1,000 tons.

The comparison of this record with the pitful shipments of our own canals need not be dwelt upon here.

Canada has recognized the essential difference between waterway and railroad traffic, and has realized that both kinds are indispensable.

The function of the waterways is to move the lower grades of freight at a cheap rate.

at a cheap rate.

The function of the railroad is to move the higher grade freight and

to move them fast.

That is the natural distinction between railroads and inland water-

That is the natural distriction between the ways.

Throughout the greater field of raw materials and cheap merchandise speed is not essential, but economy is.

The raliroads have a sufficient field of service and profit in connection with the higher grades of freight which demand prompt shipment and upon which a heavier charge can be paid.

Our public policy should have recognized this relation between waterway and railroad transportation and maintained it as the basis of a more equitable adjustment between the two methods.

I think I have made it clear that we are the only country of commercial importance which has ignored this vital consideration.

THE ARGUMENT FOR SPEED.

THE ARGUMENT FOR SPEED.

The railroad advocates are loud in their criticism of the inland waterway as an impracticable means of transportation on account of the alleged slowness of waterway service; and we may freely admit that, in general, the railroads ought to render a faster freight service than could be given by the inland waterways.

The fact is, however, that we have congested our railroads with so much low-grade freight that all American freight movements are impeded beyond reason; and we shall not get a satisfactory rate of speed from the freight train until we have learned to ship our raw materials more generally by water.

Let us examine this statement in detail:

In 1910 the American railroads moved, in round numbers, 18,000,000,000 freight-car miles, and the number of freight cars in service was 2,000,000. (The actual number of car-miles was 18,349,000,000, and the actual number of freight cars in service was 2,135,000.)

Is,000,000.000 freight car miles, and the number of car-miles was 18,349,000,000, and the actual number of freight cars in service was 2,135,000.)

From this it is evident that our freight cars moved on an average of 9,000 miles a year, which is slightly in excess of 24 miles a day. So much time is lost by demurrage, on sidings, and in the repair shop that the potential service of our freight cars is reduced in practice to this excessively low figure.

It will be noticed that the figure of 24 miles (or, to be exact, 24.6 miles) per day represents the average travel of an American freight car. Of course, there is a good deal of fast freight that moves more rapidly, but I am a shipper of machinery and other manufactured goods, and I know from my personal experience that many carload shipments proceed at the rate of only 5 or 10 miles per day.

I do not think that we need to debate at any great length from these data that the inland waterways are capable at least of rendering a sufficiently fast freight service for our cheaper grades of freight.

I personally know of many freight vessels which have averaged not 24 miles a day, but 150 miles a day, day in and day out, during every month of the year.

If our waterways were properly developed, the immediate effect upon the railroads would be to enable them to move the higher grades of freight at a much increased average rate of speed.

The European practice of utilizing the inland waterways (natural and artificial) for low-grade freights has, indeed, taken this business away from the railroads, but it has not crippled the railroads.

The average percentage of net revenue to capital on American railroads for 1911 is stated to have been 5.36 per cent.

In Germany, with its splendid equipment of waterways and canals, the average per cent of net revenue to capital on the German railroads was 5.09.

CONCLUSION.

If we were to rest our appeal for the development of our inland waterways only on the necessity of effecting a better freight service through the interior of our country, the issue would even then be unmistakable.

But this is only the lesser of the two considerations involved, for we are rapidly assuming a more important place in the larger field of foreign trade.

But this is only the lesser of the two considerations involved, for we ner rapidly assuming a more important place in the larger field of foreign trade.

The opening of the Panama Canal will not only stimulate our own domestic commerce, but will act as a stimulus to our foreign trade also. It will make our western seaports easily available to Europe, and it will put our eastern seaports within the reach of the Orient.

But we can not benefit as we should by this expanding commerce without a radical change in our public policy respecting transportation. We must have outlets to the ocean from our principal industrial centers; we must have lateral canals connecting with our principal waterways, and we must open up as much as possible of our continental territory to our own merchant marine and to the ships of other countries as well.

Only from the most parrow and short-sighted policy could we further ignore the need of such development.

The change of public sentiment in favor of a broader commercial policy is further evidenced in the universal dissatisfaction with established tariff schedules and the demand for closer relations between ourselves and the rest of the world.

Surely we can not shut our eyes to the growing sentiment for an expanding international commerce on the one hand or to the pressing needs of our own domestic transportation on the other.

Both considerations unite in giving the sumost weight at this time to a plea for the concerted development of all our principal inland waterways, our lakes, rivers, and canals; for the building up of our existing seaports; and for the planning of future ocean terminals upon the broadest scale.

The Clerk read as follows:

The Clerk read as follows:

For pay of special agents at \$2,000 per annum; for traveling and incidental expenses of such special agents, including sleeping-car fare, and a per diem of \$3 in lieu of subsistence when actually employed on duty in the field or ordered to the seat of government; for trans-

portation and incidental expenses of officers and clerks of the Officer of Indian Affairs when traveling on official duty; for pay of employenot otherwise provided for; and for other necessary expenses of t Indian service for which no other appropriation is available, \$83,960.

Mr. MANN. Mr. Chairman, I move to strike out the last word. May I ask the gentleman from Texas in charge of the bill the reason for cutting down this appropriation \$44,000?

Mr. STEPHENS of Texas. I will say that there are several agents formerly under this item that are now specially provided for. Therefore it is necessary to deduct that amount and put them in under the heads of the agencies in the respective States, and I will point those out as we go along. This is a lump-sum appropriation. We have appropriated along through the appropriations for the States for these various items so that the totals are the same; but instead of a lump sum we have made special appropriations in the States under the proper heads for these agents.

Mr. MANN. The specific appropriation for the States maintains appropriations for these special agents, but I take it that these special agents would be confined to those States. What is the object of removing the discretion of the department in having special agents sent from one place to another where they are most needed and requiring them to be retained in particular States?

Mr. STEPHENS of Texas. I think the gentleman from Illinois misapprehends the matter. The justification will show the object of this.

This same amount was carried in the hill last year. As the reading of the item indicates, it is used for the various expenses of the service which are not otherwise provided for. This fund is indispensable to the efficient administration of the service and permits of a smaller appropriation than would be practicable if the several matters were specifically provided for. That is the justification.

Mr. MANN. I do not see that that justifies. amount is the same as last year. You have reduced the amount and made specific appropriations, which the witness declares

would require a larger sum of money.

Mr. STEPHENS of Texas. Here is a more full explanation: Mr. MERITT. I should like to submit a justification for this item, as

Contingencies, Indian Department,

	Fiscal year ending June 30, 1912: Amount appropriated	\$115, 000. 00
	Fiscal year ended June 30, 1911: Amount appropriatedAmount expended	115, 000. 00 100, 084. 63
ı	Unexpended balance	14, 915, 37
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Analysis of expenditures: Employees Repair material Heat, light, and power. Subsistence Hardware, furniture, etc. Medical supplies Purchase of live stock Forage Traveling expenses Telephoning, etc. Stationery and office supplies. Miscellaneous	802.00 211.40 1, 678.36 347.25 460.00 3, 341.27 38, 170.84 1, 168.49 4, 188, 73
		100, 084. 63

CHANGE IN FORM OF ITEM "CONTINGENCIES, INDIAN DEPARTMENT."

CHANGE IN FORM OF ITEM "CONTINGENCIES, INDIAN DEPARTMENT."

The item as it appears in the act of 1912 is badly arranged and so indefinite as to make it difficult in some cases to determine whether expenses should be paid from this or some other appropriation. This is especially true with respect to "traveling and incidental expenses of " " other officers and employees of the Indian service."

It is obviously not intended that all traveling expenses shall be paid from this appropriation; if they were, there would not be enough for this purpose alone, to say nothing of anything else; yet with such a specific provision for such expense there is always a doubt as to what appropriation should be used. These doubts, with the ever-present possibility of a disallowance by the accounting officers of the Treasury, will be climinated by the proposed change in phraseology.

Mr. MANN. The amount appropriated for the current year is \$125,000 and not \$115,000, which I suppose was the appropriation for the last fiscal year. Now, last year you increased the amount to \$125,000, and you say that is necessary. This

year you decrease the amount to \$80,960.

Mr. STEPHENS of Texas. That brings up the controversy

relative to the district agents in Oklahoma.

Mr. MANN. Does that involve the district agents of Okla-

Mr. STEPHENS of Texas. Yes. None of these agents could be used in Oklahoma, and we were willing to increase the amount last year so that we could meet the increased demand in Oklahoma. For that reason we propose to dispense with \$100,000 appropriated for district agents in Oklahoma and permit it to be used for agents all over the United States instead of specifying special agents in Oklahoma.

Mr. MANN. Last year you increased to

Last year you increased the amount so as to authorize special agents to go to Oklahoma, and now you reverse it and make an appropriation for agents in Oklahoma. What is the theory upon which you do that; why do you change the theory from that of last year to that of this year?

Mr. CARTER. Mr. Chairman, I would suggest that I noticed from the hearings that it is stated that this is the same amount

that was appropriated last year.

Mr. MANN. That probably was the estimate. The amount

appropriated last year was \$125,000, unless I am mistaken.

Mr. CARTER. That is my recollection of it, but I noticed this on page 36 of the hearings:

The following justification has been submitted:
"This is the same amount as last year. As the reading of the item indicates, it is used for various necessary expenses of the service which are not otherwise provided for. This fund is indispensable to the efficient administration of the service and permits of a smaller appropriation than would be practicable if the several matters were specifically provided for."

Mr. MANN. Why was the amount reduced from \$125,000,

which they say is necessary, to \$80,960?

Mr. CARTER. I was not aware that it had been reduced until the gentleman just called my attention to it. Perhaps the gentleman from Oklahoma [Mr. Ferris] can make some explanations

Mr. BURKE of South Dakota. Mr. Chairman, will the gen-

tleman yield?

Mr. MANN. Certainly, Mr. BURKE of South Dakota. Mr. Chairman, I will state that last year when the bill passed the House no appropriation was made for the district agents in Oklahoma. I think the gentleman from Illinois [Mr. MANN] will remember that I submitted some observations at that time as to why I thought the district agents ought to be continued and that it would be a calamity if they were discontinued. The Senate increased the appropriation for special agents and other purposes, and in the conference it was the desire, it seems, of the House conferees to carry \$50,000, I think it was, of the amount that was to be used for district agents under this item. Therefore the amount was increased in the Senate to \$125,000, as I remember it.

The House committee in reporting the bill this year has again eliminated the appropriation for district agents, and therefore they reduced this appropriation the amount that had been addded to it last year which was to be used for district agents. Personally I think it is a mistake, as I said last year, to discontinue the special agents in Oklahoma, and when we reach the item in the bill relating to the Five Civilized Tribes I shall submit very briefly some observations upon the subject of district agents. I think that explains why the amount was decreased in the pending bill.

The Clerk read as follows:

For the purpose of conducting hearings and taking evidence to determine the heirs of deceased Indian allottees, pursuant to the act of June 25, 1910 (36 Stat. L., pp. 855-866), and the regulations thereunder prescribed by the Secretary of the Interior, \$25,000.

Mr. MONDELL. Mr. Chairman, I reserve the point of order

on this paragraph.

Mr. STEPHENS of Texas. Mr. Chairman, I hope the gentle-man will state his point of order against the paragraph. I

think that we would gain time if he would do that.

Mr. MONDELL. Mr. Chairman, I may withdraw my point of order after proper explanation as to the necessity for the

Mr. STEPHENS of Texas. Would not the proper procedure then be to strike out the last word and ask for an explanation? Mr. MONDELL. I prefer to reserve the point of order, if the gentleman does not object.

Mr. STEPHENS of Texas. Oh, I do not like to object.

Mr. MONDELL. Without objection, I reserve the point of

Mr. STEPHENS of Texas. The gentleman has a chance to expedite the passage of the bill by not reserving a point of order, but asking for an explanation. It seems to me that we ought to hurry this bill. However, I do not object.

Mr. MONDELL. My reservation of the point of order is on the general proposition that there is no provision of law for

an expenditure of this character.

Mr. STEPHENS of Texas. Mr. Chairman, I yield to the gen-

tleman from Oklahoma [Mr. FERRIS].

Mr. FERRIS. Mr. Chairman, the reason for this appropriation is more than apparent, and when the gentleman hears what it is, I believe he will be satisfied with it. In 1910, two sessions back, we passed an act, I think introduced by the gentleman from South Dakota [Mr. Burke], which provided that the Indian rolls, as kept by the Secretary of the Interior, should the Indian rolls as to beirships. This is what that bill did. It imposed some new work on the Indian Bureau for which they had no appropriation. The necessity for the appropriation it seems

lands are sold extensively, as they must be from time to time, and under regulations and through the courts, it becomes peculiarly important to know who the heirs of the deceased Indians are. The department does not attempt to issue patents or deeds direct from the department, for which the department stands sponsor; but, on the contrary, they do issue to the purchasers of the land a deed signed by all the heirs. It becomes important of course to tell who the heirs are. In numerous Indian reservations, as the gentleman no doubt is aware, Indians have multiplicity of wives. One Indian may have three or four wives and have several children.

Mr. MONDELL. That is in the running of the years. Mr. FERRIS. Even of longer duration than that. Mr. MANN. The gentleman means shorter duration.

Mr. FERRIS. No; at the same time.

It becomes necessary to know what children are interested in a particular plece of property. The Indian rolls are the best authority we could get on the subject, and in order to make the Indian lands worth anything and the titles to have any stability for the purpose of sale or loan or barter, you must fix the heirship somewhere. The two Houses of Congress agreed in 1910 that the Interior Department rolls should be final, and they need this money.

Mr. MONDELL. Does the gentleman want the House to understand that we are recognizing polygamy among the In-

dians or anything of that kind?

Mr. FERRIS. I think the gentleman will bear me out in saying that it has been the tribal custom for Indians in the more backward tribes to have several wives at the same time. They do have them, and that has prevailed in my own county in Oklahoma up to two years ago. Then the Indian agent said, "We will have no more plurality of wives," and so he ordered each Indian buck to make a selection and take the wife of his choice in and be legally married before a probate court and that was done. However, that left women with children who have no legal marriage, and he is attempting as best he can by the use of this fund to help this condition. There has to be place to stop somewhere. I do not know how many tribes it has prevailed in, but it has been prevalent among the Kiowa and Comanche and numerous others of the backward tribes. I do not think it prevails in the eastern half of the State among the Five Civilized Tribes. I feel sure it does not, for the bulk of them are not real Indians at all; they are white people with a small strain of Indian blood, and should be allowed to go their way

Mr. MONDELL. Mr. Chairman, I think the gentleman has made it very clear that it is necessary to have some fund available for the purpose of determining cases of heirship. In fact, those who are familiar with the conditions in the Indian country have never had any doubt in regard to it. My objection to this new item of appropriation, however, is based on the fact that it proposes to spend the money of the people of the United States for the purpose of determining title to Indian property. Now, people who own property, whether they be Indian or white, certainly ought to be able to pay the expense necessary for determining the character of the title and determining the ownership. There ought to come a time when we cease to treat the Indians as indigents, to be supported by the people of the United States, without regard to the property they own. Such a policy as we have pursued and as this item proposes to now inaugurate in a new line is not only bad in principle as a governmental proposition, unfair to the taxpayers of the country, but its effect upon the Indian is injurious. The Indians ought to learn-

Mr. FERRIS. Will the gentleman yield?

Mr. MONDELL. In a moment. I am in earnest about this thing. I think the gentleman and his committee, without intending to do it, have for years past been too liberal, if I may use that term, in using the money of the Government in expenditure on behalf of Indians who are fully competent by reason of ownership of property to pay their own way. The department has at present on the reservation in my State an agent whose business it is and has been for some months past to determine questions of heirships. They are badly tangled. It will require a considerable length of time to untangle them and determine whom the heirs to various pieces of property are. But that property has value. Those Indians are not paupers

Mr. FERRIS. Will the gentleman yield at that point?
Mr. MONDELL. In just a moment—to determine who the heirs are, and in that case I have understood that the department had some method whereby the expense was chargeable against the Indians or against the property to be ultimately reimbursed. It ought to be. The Indian ought to be made selfrespecting. We should not go on forevermore treating these people as though we were going to coddle them along for all time; to me is thrice apparent. In an Indian country where Indian that it is our purpose to continue to look after their property

for them without seeking reimbursement from them. We should bring them to realize and understand that while the Government is as a guardian protecting them from the hand of the despoiler, or attempting at least to do so, at the same time they must pay the reasonable cost for the care of their property and the determination of title. Now, if the gentleman had made the item \$50,000, reimbursable in cases at least where reimbursement is possible, I think the item would be much more defendable than it is at \$25,000, one-fourth of what the department asked for, paid out of the Treasury for the purpose of investigating titles Why, many of these Indians are much better off to property. financially than the average white people of the United States who support the Government. The people of my Common-wealth are fairly well to do, much better off than the average American citizen, and yet I doubt whether the average wealth in the State among the white people is much greater than that of the Indians on the reservation, taking into consideration the value of their property. There is not any reason under heaven why the Government should bear this expense. We continue to pauperize these people; we continue to make them feel their dependence upon the Government, coddling them along and paying their debts, providing for those things for which they themselves should provide, and which in the majority of cases I imagine they are perfectly willing to provide.

While I shall not insist upon my point of order, or shall not even demand an amendment, it does seem to me that it is a very great mistake not only to continue many of the items already in this bill, but to start out on new lines of expenditure entirely without justification, in view of the fact that we are taxing all the people for the purpose of caring for the property

of a few of the people who happen to have red skins.

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. MONDELL. I will be glad to do so.

Mr. STEPHENS of Texas. Is it not a fact that the regular administrative work of these agencies does not provide for these heirs, and that it is necessary, on account of the court, that these heirs have no authority to appoint? A great many of these allotments are going to heirs, and it is impossible to determine what portion of the money is coming to them unless It is first ascertained who the heirs are. The department will be handicapped unless we give them this amount of money.

Mr. MONDELL. If the department has any difficulty in determining who the heirs are, of course it means money. said, the department has now in my State an efficient attorney engaged in this class of work. Here is an appropriation to pay for that kind of work. I am not objecting to making money available for this kind of work if it is not now available. If it is not obtainable from the funds of the tribes, then it should be made available, and afterwards provision shall be made whereby these amounts may be taken from the funds and should be made reimbursable. I object to the items because it is taxing the people of the United States with an obligation to take care of the property of the red brother. The latter is very much of a man, as I have met him. They would suggest that in caring for their property, provided we keep the cost in bounds, we should pay for them.

Mr. STEPHENS of Texas. This is what the department said: In order to clear up the tangled condition of the estates of deceased Indians so that the inherited lands may be disposed of to white settlers, and so that the money may be available to provide the Indian heirs with funds with which to begin the farming of their own allotments and the building of sanitary homes, it is desirable that this item should be retained in the bill.

I think that is sufficient justification for this item.

Mr. MONDELL. I have not suggested, as the gentleman knows, that it is not necessary to have money for the work, but I have suggested that there is no justification for the payment of the money of all the people for work of this character.

Mr. STEPHENS of Texas. Mr. Chairman, I would like to

know the point of order which the gentleman has raised.

Mr. BURKE of South Dakota. Will the gentleman from Texas [Mr. Stephens] yield to me for a minute?

Mr. STEPHENS of Texas. I yield.

Mr. BURKE of South Dakota. I would like to ask the gentle-

man from Wyoming if he is in favor of the act of June 25, 1910. which places the matter of administering the estates of deceased Indians in the Interior Department rather than in the courts?

Mr. MONDELL. The gentleman, who is an expert in Indian matters, is, as I understand, author of the act?

Mr. BURKE of South Dakota. Yes, sir.

Mr. MONDELL. I am willing to accept the judgment of the gentleman from South Dakota as to whether that act is good and wise legislation until I learn otherwise.

Mr. BURKE of South Dakota. I want to say the proposition of making a charge against the estate was carefully considered

it would be rather difficult to determine what the amount ought to be in each case, and that in any event it would be a mere bagatelle so far as the Government is concerned. propose to appropriate \$25,000 for the purpose of administering this law. I think the gentleman will appreciate that in the course of a fiscal year there will be probably several hundred cases determined, and that the amount in each case would probably not exceed \$20 or \$25. Of course, we could authorize a charge to be made to cover the expenses in each case, take it out of the proceeds received from the sale of the land when the land is sold, and the expense to the Government would be more than reimbursed.

Mr. MONDELL. Why not do business with the Indians in a

businesslike way?

Mr. BURKE of South Dakota. The time will probably come when that will have to be done-when we can determine just how much the charge ought to be. Personally, I question very much whether we ought to make a charge to the Indians for determining the heirship of inherited lands.

The gentleman talks about the Indians in his own State. He knows that in many instances the allotment of an Indian on some of the reservations in his State has very little value, not over \$200, and perhaps it might not be sold for several years, and if a charge was made it would be rather difficult to collect it in many cases. I am in sympathy with the gentleman's position, and have tried on every occasion when I have had opportunity to favor legislation that makes expenditures on account of the Indians reimbursable where it is proper to do so. I think, perhaps, in this instance some way might be found so that the Government could be reimbursed for this small expense that will occur in each case in determining heirships.

Mr. MONDELL. If the gentleman will allow me at that point, he says, "just a small expense." It is true we are appropriating only \$25,000, although the department asked for \$100,000. I doubt if \$100,000 would be too much to cover the

expense in all these cases

Mr. BURKE of South Dakota. That is all.

Mr. MONDELL. I understand there are 350 cases which require a good deal of investigation upon one reservation in Ultimately this investigation on all reservations will

amount to hundreds of thousands of dollars.

Now, I have no desire to split hairs in a matter of appropriations for the benefit of the Indians. We should be liberal, but I do think we ought to get down to a business basis in regard to these matters. These people own property. Some of the allotments are not very valuable it is true, but in addition to the allotments most of these Indians share in holdings in common, of very considerable value. Many of them have funds to their credit in the Treasury, and yet the people of all the country are going to be evermore taxed for the purpose of settling the questions of ownerships.

Mr. BURKE of South Dakota. In other words, to ad-

minister the affairs of the Indians.

Mr. MONDELL. I think the time has arrived when we ought to teach the Indian—and I think he will be a willing pupil—that he must pay for the administration of his estate, and then possibly gentlemen like my friend from Oklahoma [Mr. Ferris] will have among the Indians themselves some support in a matter in which I sympathize with him very considerably some support from the Indians themselves in opposing large expenditures out of their funds. But so long as we hire agents and send them abroad over the land to investigate questions affecting Indians at the public expense, the Indian has no special interest in it. It does not cost him anything; he does not care how much of the Federal money you spend; he can not be expected to, and therefore he sometimes fails to differentiate between the funds which he himself must ultimately meet and pay, and those expenditures which are made from the Federal Treasury

The CHAIRMAN. The gentleman from Wyoming withdraws his point of order.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] moves to strike out the last word.

Mr. MANN. May I ask the gentleman in charge of the bill whether the act of June 25, 1910, referred to in the item, was not the omnibus Indian bill?

Mr. STEPHENS of Texas. I will yield to the gentleman from South Dakota.

Mr. BURKE of South Dakota. If the gentleman means the gentleman from South Dakota and not the gentleman from Oklahoma [Mr. Ferris], I will say that the act of June 25, when this act was presented to the House, and it was thought | 1910, was what is known as the omnibus bill, and I will also

say in that connection that this provision, this legislation that is referred to, was enacted in a prior act of Congress and re-

enacted in the act of June 25, 1910.

Mr. MANN. I would not lay any great stress upon the fact of anybody in particular supporting the bill, because it had so many items in it that nobody could say what was in it except the author, probably, in whom we had and still have great confidence. I take it that the question then was whether the Government, through the Interior Department, would settle the heirship of deceased Indians, or whether the matter should be left to the probate courts. We have recently seen that there was at least some suspicion in reference to the matter of leaving the settlement of the question to the probate courts in some parts of the country. I am somewhat delighted that the gentlemen from Oklahoma are in favor of having the Interior Department settle the heirship of Indians outside of Oklahoma at the expense of the Government, probably, as has been stated, at nominal expense, while apparently some gentlemen from Oklahoma who do not have the privilege of the floor of the House seem to be in favor of having the heirship of Indians in Oklahoma settled by the probate courts, not only at the expense of the property of the Indians but at a very high rate of expense.

Mr. STEPHENS of Texas. Will the gentleman yield at that

point?

Mr. MANN.

Mr. STEPHENS of Texas. Is it not a fact that Oklahoma has for many years had a commission known as the Dawes Commission, and that they have not been under the control of the Indian Department as have all the other States? And is not that the reason why Oklahoma has been separated from the other States in the matter of the making of these laws?

Mr. MANN. I will answer that question categorically, no, that is not the reason; although there has been a Dawes Commission as long as I can remember, and probably will be after

I am dead and gone.

Now, we make the Indian's estate in the probate court in Oklahoma pay the expense of probating the estate, including proof of heirship. In some cases the expenses of the probate court apparently run as high as 20 per cent of the total amount of the estate. Here it is proposed to have the Government pay the expense, which the gentleman from South Dakota [Mr. Burke] says is a nominal expense. I think it is well to have the Secretary of the Interior find the heirship, and I can see no reason, when that is done and the property is sold, why the property should not pay back to the Government the expense of proving the heirship.

Mr. BURKE of South Dakota. Right at that point, if the gentleman will permit me, the act of June 25, 1910, does not necessarily require the property to be sold. It may be partitioned and divided and patents issued to the heirs, and they may retain possession of it. So in cases of that kind there would be no moneys from the sale to reimburse the Government

for the expense incurred in determining the heirship.

Mr. MANN. Well, it would be a charge against the property. My recollection of the act of June 25, 1910, is that it does not provide that this work shall be done at the expense of the Government. If I am wrong about that I shall be very glad to be

Mr. BURKE of South Dakota. I have the act here, if the gentleman would like to have me refer to it. It simply provides that when an Indian dies, the Secretary of the Interior, upon notice of hearing, under such rules as he may prescribe, shall ascertain the legal heirs of such decedents, and his de-cision thereon shall be final and conclusive. There is nothing said about who shall pay the expense.

Mr. MANN. No; there is nothing said there, nor was there anything said here when the act was passed. I do not think it was contemplated by Congress when that act was passed that the final expense should be borne by the Federal Treasury in-stead of by the estate which was settled. The gentleman from Wyoming [Mr. Mondell] suggests that the estimate was \$100,000, and my friend from South Dakota [Mr. Burke] says, Oh, well, that is a mere nominal sum."

Mr. BURKE of South Dakota. I think it is, Mr. MANN. It would be to my friend from South Dakota, but to me \$100,000 would seem as large as Pikes Peak.

Mr. MONDELL. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amend, page 7, by adding at the end of line 24 the following:

"Encouraging industry among Indians: For the purpose of encouraging industry among Indians. For the purpose of encouraging industry among Indians, and to aid them in the culture of fruits, grains, and other crops, \$250,000, or so much thereof as may be necessary, to be immediately available, which sum may be used for the purchase of animals, machinery, tools, implements, and other equipment necessary to enable Indians to become self-supporting: Provided, That said sum shall be expended under conditions to be prescribed by the Secretary of the Interior for its repayment to the United States

on or before June 30, 1925, and all repayments to this fund made on or before June 30, 1924, are hereby reappropriated for the same purpose as the original fund, and the entire fund, including such repayments, shall remain available until June 30, 1924; and all repayments to the fund hereby created which shall be made subsequent to June 30, 1924, shall be covered into the Treasury and shall not be withdrawn or applied except in consequence of a subsequent appropriation made by law: Provided further, That the Secretary of the Interior shall submit to Congress annually on the first Monday in December a detailed report of the use of this fund."

Mr. FERRIS. Mr. Chairman, I reserve a point of order on that amendment

The CHAIRMAN. Does the gentleman from Wyoming desire to be heard on the amendment?

Mr. MONDELL. I do, Mr. Chairman. I do not think the item is subject to a point of order, but I should like to be

allowed to speak briefly to the merits of the amendment.

The act of April 30, 1908 (35 Stat. L., 70-83), appropriated the sum of \$25,000 to be used as a reimbursable fund at the Fort Belknap Reservation for the purchase of machinery, tools, implements, and other equipment and animals to enable the Indians to engage in the raising of sugar beets and other crops. There are approximately 154 accounts outstanding against the Indians on this reservation by reason of their participation in the use of the money appropriated.

These accounts involve the purchase of agricultural imple-

ments, fence wire, and seed.

The total expenditures made under the appropriation since its establishment amount to \$29,768.26, and more than \$15,000 has been already repaid by the Indians and is being again used for a similar purpose under the provisions of the act of March 3. 1909 (35 Stat. L., 781-795), which provides that the money repaid shall be available for reexpenditure.

The act of April 4, 1910 (36 Stat. L., 269-277), appropriated the sum of \$15,000 for the purpose of encouraging industry among the Indians residing on the Tongue River Reservation, in the State of Montana, to aid them in the culture of fruits, grains, and other crops. This money has been expended in the purchase of agricultural implements, mares, stallions, seeds, and nursery stock, and sales amounting to more than \$12,000 have been made to the Indians, and the collections already made amount to more than \$7,000.

The sum of \$30,000 was appropriated by the act of March 3, 1911 (36 Stat. L., 1058-1061), for the purpose of encouraging industry among Indians, and this money was apportioned in various amounts, ranging from \$1,000 to \$5,000, to 15 different reservations. Expenditures have been made in the purchase of farming implements, equipment, wagons, horses, and other breeding stock, and while the actual number of Indians who participated in the use of the money on the various reservations is not known at the present time, the reports received indicate that the money is serving a very useful purpose.

At the Blackfeet Reservation in Montana \$10,000 was set aside from "Indian moneys, proceeds of labor," to be used as a reimbursable fund, but this sum is entirely inadequate to meet the needs of these Indians. It is estimated that at least \$25,000 more could be used, but the tribal funds will not permit the setting aside of that sum for the purpose. At the Menominee Reservation in Wisconsin a reimbursable fund of \$7,500 has been established, but here, too, this sum is entirely inadequate.

The three appropriations referred to above, augmented by the two reimbursable funds established from tribal moneys, amout to \$87,500, and it has been inadequate to aid all the Indians, who not only need but want and are asking for assistance from the Government in providing stock and agricul-

tural equipment under the reimbursable plan.

The Indian Office has found it necessary to deny requests because of the limited funds available. In April last reports were called for from various reservations with a view of ascertaining how much money in addition to tribal funds and individual Indian moneys now available would be needed to enable the Indians on the various reservations to become established in farming, stock raising, and industries which would place them on a self-supporting basis. The reports received indicate that an appropriation of \$9,123,350 would be necessary for the purpose.

These estimates are based upon the apparent needs of the Indians to enable them to engage in agricultural pursuits, including the live-stock industry. The amount asked for, therefore, is reasonable and could be made to serve a very useful purpose in the industrial upbuilding of the interests of the Indians, a very large number of whom, through lack of means to farm their lands, are earning a livelihood through working for their neighbors at such times as they can obtain employ-

ment.

Regulations governing the use of the \$30,000 appropriated by the act of March 3, 1911, were prepared and approved by the Secretary of the Interior, and the last paragraph of these regulations provides that they shall apply to and govern the use of similar appropriations and funds where the law will permit.

It is believed that a fund of \$250,000, in addition to what has been already appropriated, used under the regulations referred to, will go a long way toward helping the Indians to reach that state where they will be self-supporting, who, under the present conditions, are unable to get ahead because of economic embarrassment.

It will be seen that we have from time to time made these appropriations for the general good of the Indians, for the encouragement of industry among them, reimbursable. I am very much in favor of this kind of an appropriation. I have on various occasions in the discussion of this bill called attention to what I conceive to be a radical error, a very unfortunate policy—that of appropriating indiscriminately for the benefit of Indians, in many cases for Indians who have large sums in the Treasury of the United States, at the expense of the taxpayers of the United States.

We should be liberal toward our Indian wards. We should do everything that is necessary in the fulfillment of our duty toward them. We have been doing more than that, but above all things we must teach the Indian to be self-supporting and self-respecting. We can not teach him to be self-supporting, and he never will be self-respecting, so long as, without regard to the amount of property he owns, we scatter Federal funds

broadcast for his benefit.

In many cases there are Indians who have no available funds, though they have very considerable property. There are many other cases where Indians have very considerable funds that are doled out to them in driblets, driblets that are dissipated used oftentimes for the purchase of articles of but little per-

manent use or value to them.

The CHAIRMAN. The time of the gentleman from Wyoming

has expired

Mr. MONDELL. Mr. Chairman, I ask unanimous consent for

five minutes more.

Mr. FERRIS. Will the gentleman withhold for a moment? Mr. Chairman, I move that at the expiration of seven minutes Will the gentleman withhold for a moment? all debate upon this paragraph be closed.

Mr. MANN. I would like to be heard for a few moments on this

Mr. FERRIS. I will withhold my motion, Mr. Chairman.

Mr. MONDELL. Now, the purpose of this item is that we shall provide a loaning fund to be expended in the discretion of the Commissioner of Indian Affairs for the purchase of cattle, horses, agricultural implements, or other articles, the possession of which will enable the Indian to become self-supporting. Books are to be kept with him, and in the course of time he is expected to repay the Government the sum.

The history of the past reimbursable items is the strongest argument in favor of this one. For the Indian has proved himself in almost every case to be mindful of his obligation, anxious to meet it, and in the great majority of cases these sums loaned to the Indians have been and are being returned much more

speedily than we could have expected.

I have talked with a number of gentlemen, particularly with the agent for the Northern Cheyennes in Montana, in regard to these funds, and the story he tells me is a marvellous one, remarkably interesting. That tribe is rather backward in some repects in its development. They are a wonderful race of Indians, manly in many ways, but backward in development as an agricultural people. We have been purchasing seed, tools, and implements for them, and they have been paying for them. They are learning that in their dealings with the Government they must return all their dealings with the Government. they must return all that is expended in their behalf.

We should now inaugurate this policy generally. made great progress in breaking up the communal system. We are giving the Indians their land in severalty, in many cases turning them loose with 40, 80, or 160 acres of raw land that a white man, conditioned as they are, could do nothing with and the ownership of which to the Indian is simply a burden.

Of course, they can not be expected to go out on sagebrush plains and grub out the brush and dig their laterals, or to go out on the dry farms, where irrigation is not possible, and without funds cultivate, plant, and reap.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent to proceed for five minutes more. This is a very important matter.

Mr. FERRIS. Mr. Chairman, I hope the gentleman will not take any more time on this amendment. The committee is consuming no time at all and the gentleman is consuming much

Mr. MONDELL. Mr. Chairman, I do not expect to talk again on this particular item.

Mr. FERRIS. Oh, the gentleman hopes to continue to talk.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Chairman, we are endeavoring to teach habits of industry to these Indians. That is the hardest thing for an Indian to learn; not that the Indian is lazy, for he is not. He is among the most energetic of men, but he is the greatest aristocrat, as that term is sometimes used, known in the world. No race of people has ever lived that has had such an ingrained prejudice against labor. The noble red man degrades himself when he labors either mentally or physically, according to the tribal tradition handed down from time immemorial. It is a part of his blood, a part of his being. It is hard to get away from it. We are trying to teach the Indian that labor is honorable, and it is an exceedingly hard lesson for him to learn) Yet we turn him loose on an allotment without seed, without tools, without stock, with neither plow nor ox, nor grain to plant, and expect him to become self-supporting. It is impos-We ought not to give these Indians funds unlimited with which to buy these things. We ought not to buy them for them and charge the cost to the good people of these United States, but we should do what we have been doing wisely and success--that is, establish a credit fund for them; and if we shall have the same success in the future with this credit fund that we have had in the past it will mark the most important step yet taken in the civilization of the Indians, a step as important as the day when they first moved from the tepee into the walled tent, where he can put up a cookstove and a washtub.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentle-

man yield?

Mr. MONDELL. Certainly.

Mr. MOORE of Pennsylvania. How many Indians are there in the United States?

Mr. MONDELL. The gentleman from South Dakota [Mr.

Burke], who is an authority, says about 300,000.

Mr. MOORE of Pennsylvania. And to those 300,000 the Government makes allotments, both of lands and money, does it not? Mr. MONDELL. There are very few Indians now receiving any annuities

Mr. MOORE of Pennsylvania. They are wards of the Gov-

ernment?

Mr. MONDELL. Yes.

Mr. MOORE of Pennsylvania. And receive a direct financial benefit from the Government without any quid pro quo.

Mr. MONDELL. As to about four-fifths of the items in this

Mr. MOORE of Pennsylvania. No such consideration is given to the young white farmer who wants to start out and work the arid or semiarid ground.

Mr. MONDELL. Oh, no.

Mr. MOORE of Pennsylvania. No consideration is given to the mill hand who has no opportunity for employment or for profit except as his own energy brings it about. So the Indian is the favored ward of the Nation?

Mr. MONDELL. Oh, surely. Mr. MOORE of Pennsylvania. I do not want to trespass upon the gentleman's argument, because it is a fine argument, and his statement is clear and lucid; but does the gentleman not bring us up to the problem which some day may have to be faced in this country of providing means for assisting the white man who wants to cultivate the ground or the white man in the city who finds himself in need?

The time of the gentleman from Wyoming The CHAIRMAN.

has again expired.

Mr. MONDELL. The gentleman from Pennsylvania has taken

three or four minutes of my time.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended for three or four minutes.

Mr. MONDELL. One minute. The CHAIRMAN. The gentleman from Wyoming asks unanimous consent to have his time extended one minute. Is there objection?

There was no objection.

Mr. MONDELL. My proposition is this: You can not get blood out of a turnip. You can not wring a fortune or a liveli-hood from a stone. The Indian will not become self-supporting hood from a stone. unless he is assisted, where he has not the stock, the machinery, or the seed.

I would not give it to him, but I would loan it to him, and it has been proved conclusively to the satisfaction of anyone who will investigate these records that some of these Indians have returned these moneys from time to time and in small sums until they finally, in many cases, have entirely wiped out their obligations; and others are wiping them out. They return these sums; they are learning the habits of business; they are

learning their obligations; they become more self-respecting. If we do not do that, we must continue as we are in this bill to give them the moneys of the good people of this country without expecting a return of the sums necessary to put them on their feet and start them in business.

The CHAIRMAN. The time of the gentleman has again ex-

pired.

Mr. MANN. Mr. Chairman, I think, possibly, on the general purpose which the gentleman from Wyoming has in view I might be in accord. The gentleman stated a number of times in the course of his address to the committee that this money had been returned so completely by the Indians that the Gov-ernment might well take the chance of making the appropriation. I have such high regard for the statement of the gentle-man from Wyoming that I am going to call his attention to a little report, so he can more fully explain that. Two years ago we made an appropriation for this same purpose, reimbursable, and we have a report from the Secretary of the Interior as to the expenditure of that fund. There was expended under that appropriation \$151.70 for seeds, trees, and so forth, Flathead, Mont.; \$150 for the same purpose at Pechanga, Cal.; \$687 for live stock at Soboba, Cal., and \$107.66 for implements, harness, and so forth; \$1,430.50 for live stock at Santa Fe, N. Mex.; \$495 for live stock at Shawnee, Okla.; \$737 for live stock at Walker River, Nev.; and the total amount expended for encouraging industry among the Indians out of that appropriation was \$4,541.06. It was a fund made specifically reimbursable, and we learn by the report of the Secretary of the Interior that it has been reimbursed to the extent of \$150. Out of \$4,541.06

Mr. MILLER. Will the gentleman yield?

Mr. MANN. I am going to yield for an explanation. I have no doubt it is forthcoming-\$150 was returned. The gentleman from Wyoming very often referred to the fact that wherever we had made these appropriations and these expenditures that they were promptly reimbursed, so I thought I would call his attention to this official communication on the subject.

Mr. MILLER. The gentleman from Illinois is aware of the fact that these expenditures are loans that were made during the past year. Does the gentleman think it probable or likely or proper that they should be returned so soon as this?

Mr. MANN. I did not suppose they would all be returned, but the appropriation was made two years ago. I did not assume that a repayment of \$150, which does not begin to equal the interest on the investment, is a very large reimbursement of the appropriation.

Mr. MILLER. Would the gentleman expect when a loan is made for live stock that it will be repaid during the exact

season in which the loan was made?

Mr. MANN. Certainly not; and it would not have to be paid during the exact season by any means. The appropriation was made for the fiscal year 1912, that is true, but it became available on the 1st day of July, 1911. I should suppose there would possibly be some of it reimbursed by this time. However, I simply call the attention of the gentleman, who is going to put in the RECORD a statement of how it has been reimbursed, to these facts. I would be glad to see those statements.

Mr. MONDELL. I would be very glad to read the gentleman some of those statements now if I had the time.

Mr. FERRIS. Mr. Chairman, the gentleman from Wyoming has offered an amendment which is full of legislation and is

undoubtedly subject to the point of order. However, before making the point of order, which I intend to make, I want to say that, on line 8, page 6, there is an appropriation of \$300,000 to encourage agriculture among the Indians, which covers the point which the gentleman has referred to very completely.

Mr. MONDELL. Not reimbursable. Mr. FERRIS. However, the item has already been agreed to so that even if the amendment was not subject to the point of order, I take it that it would not be the judgment of the committee to adopt the amendment. However, I make the point of

Mr. MONDELL. Will the gentleman yield for a moment? The item to which the gentleman has just referred is an appropriation chargeable to the people of the United States and no

dollar of which is to be returned.

Mr. FERRIS. Undoubtedly, but the gentleman at great length and with considerable force urged as an original proposition that the Federal Government should not expend anything at all on the Indians.

Now, that policy is so well defined and so well recognized by everyone, that we must care for the indigent Indians all over the country, that the gentleman's argument must of necessity

Mr. MONDELL. The gentleman from Oklahoma wants to be fair, and he generally is fair, but when he says I have argued at great length that we should not do much of anything for the Indians, he certainly misstates my position.

Mr. FERRIS. I did not mean to misinterpret the gentleman: but his argument is that we should not do anything for them from the Federal Treasury, which I intended to say to the gentleman.

Mr. MONDELL. On the contrary, so far as possible, we should teach the Indian that he must care for himself and, so far as he is able, to reimburse the Federal Government for its assistance

Mr. FERRIS. And with what the gentleman says I am in accord to a large extent, but I have referred to the Indians all over the country which the Government must look after. Therefore, Mr. Chairman, I ask for a ruling on the point of order.

The CHAIRMAN. The Chair believes this provides for new

and original legislation, and therefore the Chair sustains the point of order.

The Clerk read as follows:

That superintendents and acting superintendents in charge of Indian reservations, schools, irrigation and allotment projects are hereby authorized and empowered to administer the oath of office required of employees placed under their jurisdiction.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I regret that the gentleman from Illinois [Mr. MANN] did not have more time in which to address the committee on the interesting subject we had under discussion a moment ago, for in his discussion he only got far enough to refer to one reimbursable item, made available very recently, and he was unable by reason of the lapse of time to got do cases where reimbursable items were contained in an appropriation bill some time ago and where Indians have at times made repayments. For instance, as to the Tongue River item, which the gentleman had not time to refer to, although he has it before him, I find in that case the Indians have been repaying quite rapidly. I will place in the RECORD a statement of the Tongue River fund.

The statement is as follows:

Report of "Purchase of implements, etc., for Indians of Tonque River Reservation. Mont. (reimbursable)," as of date Nov. 30, 1912.

	Beneficiary.	Articles.	Para la sant			Payments.		Balance due by
Ac- count No.			Date of purchase.	Item cost.	Total cost.	Date.	Amount.	beneficiary on or be- fore June 30, 1916.
1	George Americanhorse, jr	12 mares	June 24,1911 May 11,1911	\$150.00 8.19	} \$158.19	Nov. 25, 1911 July 1, 1912 Oct. 25, 1911	\$25.07 10.00 8.19	
2	Walter Ant	1 stallion	May 26,1911	175.00	175.00	Dec. 4,1911 Dec. 31,1911 June 12,1912	10.00 80.00 10.00	75.00
3	William Blackeagle	f200 pounds oats (765 pounds potatoes 150 pounds potatoes f500 pounds oats	May 9,1911 June 10,1911 June 1,1911 May 1,1911	4.36 14.18 2.52 7.50	} 18.54 2.52 7.50	Nov. 20, 1911 do Nov. 14, 1912	4.36 14.18 2.52	
0	Donald Brady	300 pounds potatoes	May 3,1911	5.47	12.97	July 10, 1912	5,00	12.97
7	Robert Bearblack	1 sulky plow	May 5,1911 June 1,1911	33.50 8.37	33, 50 8, 37	Oct. 31,1912	28.50	
8	Charles Bearcomesout	(351 pounds oats	July 5, 1911	7.89 3.08	10.97			10.97
9	Charles Bigback	155 pounds potatoes	June 1,1911	3.93	3.93	Sept. 2,1912	2.00	1.93
10	Hinton Bigleg	I stallion 1,024 pounds oats. 1600 pounds potatoes	June 5,1911 May 1,1911 May 10,1911	150.00 15.36 9.09	112.30	June 15, 1911 Oct. 25, 1911 do Dec. 10, 1911	8. 47 15. 36 9. 09 5. 00	136, 53

Report of "Purchase of implements, etc., for Indians of Tongue River Reservation, Mont. (reimbursable)," as of date Nov. 30, 1912-Continued.

Ac-	Beneficiary.	eneficiary. Articles.				Paymo	ents.	Balance due by
No.			Date of purchase.	Item cost.	Total cost.	Date.	Amount.	on or be- fore June 30, 1916.
11	William Bites	/1 mare	Apr. 1,1911	\$100.00 11.33	\$111.33			\$111.33
12	Ben Bixby	[1,025 pounds oats	June 1,1911	15.37	24.44	Aug. 31,1912	\$15.37	
12	2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 20000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2000 2	600 pounds potatoes		9.07 8.52		Dec. 1,1911	9.07 8.52	1
445		150 pounds potatoes	do	2.52		May 17,1912	2.52 24.07	
13	Arthur Blindman	1 stallion	Apr. 28, 1911	100.00 200.00	335. 28	Nov. 25, 1911	48. 17	200.74
		la share in drill	June 15, 1912	24. 24	1	Sept. 14,1912 Nov. 25,1911 July 10,1912	3. 26 23, 25	
		1 set harness. 226 pounds potatoes.	May 26, 1911	33. 26 4. 23		July 10, 1912	33, 26	
14	John Buffalohorn	1150 pounds potatoes	do	2.52 7.60	47.61	Nov. 25, 1911	14.35	
15	Louis Blu hawk	450 pounds potatoes fl stallion.	Apr. 24, 1911	100.00	105.01	(1404. 20, 1511	11.00	105.01
10	Doub Dia liava	[300 pounds potatoes		5.01	1	(Aug. 6, 1912	14.98	1
16	Elizabeth D. Burns	280 pounds potatoes.	June 10, 1911	5.08	} 105.08	Oct. 31, 1912 Aug. 6, 1912	30.00 5.08	55.02
17	Andrew Callsfirst	300 pounds potatoes.	June 9, 1911	5.47	5.47			5. 47
18 19	Joseph Crazymule	452 pounds oats	May 5, 1911	11.16 2.18	11.16 2.18			11. 16 2. 18
20	Floyd Clubsoot and William Swal-	[1 plow	do	39. 88 6, 62	53.90	Oct. 25, 1911	10. 94 6. 62	28.94
	low.	I harrow. 150 pounds potatoes.	do	7.40		do	7. 40	
21 22	John Divesbackward	12 fruit trees	Nov. 15, 1911	2.73 2.70	2.73 2.70	May 10, 1912	2.70	2.73
23	Jacob Eaglefeathers		June 1, 1911	5. 88 33. 26	39.14	Oct. 26, 1911	5. 88 33. 26	
24	Henry Elkshoulders	1 set harness. 550 pounds oats.	May 21, 1911	13.11	15.63	(00.20	15.63
		150 pounds potatoes	May 2, 1911	2.52 100.00		(Oct. 25, 1911	37.00	
25	Alfred Fisher	100 pounds oats	July 1, 1911	1.50 33.50	143.19	{do	20.00	43.00
	Disk Pisks	1 mare	do	8. 19	75 00	[do	43. 19	75.00
20	Dick Fisher	11.277 pounds oats	do	75. 00 19. 16	75.00			75.00
		3,076 pounds oats. 150 pounds potatoes.	do	57.52 2.75	100.00	D 01 1011	00.50	100.00
27	Eugene Fisher	l sharein mower	do	13.50	136.88	Dec. 31,1911	33. 50	103. 38
		III plow	May 1 1011	10. 45 33. 50	THE WAY	0.00		
28	Edgar Fightingbear	1 (210 nonnds notators	May 5, 1911 June 15, 1911	13. 29 6. 14	13. 29	Oct. 30, 1912	6.14	13, 20
29	John Crazymule	(4 share in plow	May 5,1911	13. 29	19.43	Oct. 25, 1911	13. 29 2. 61	
30	Edward Gray	1 stallion	do	2.61 100.00	147.61	Nov. 25, 1911	47.00	53.00
		{ stallion } share in horse } 630 pounds outs	June 10, 1911 May 1, 1911	45.00 9.45	000 15	Nov. 25, 1911 May 1, 1911 July 1, 1912	45.00 9.45	000.00
31	Arthur Ghostbull	2 mares 100 pounds oats.	Aug. 8,1912	300.00 2.18	309.45	July 1,1912 Nov. 4,1912 Nov. 25,1911	7.00 2.18	293.00
32	Robert Hardground	71 plon	A.O.	33.50	41.53	{do	20.79	12.71
		li harrow		5. 85		July 1,1912 Oct. 25,1911	5. 85 9. 21	1
33	William Harris	1.035 pounds seed oats	May 1,1911 May 3,1911	19.35 12.55	80.37	Oct. 25, 1911 July 1, 1912	5.39 7.18	44.90
		1 grain drill	Apr. 23, 1911	48.47		July 1,1912 do	3.57 10.12	
34	Henry Harris	150 pounds potatoes	May 11,1911	1.64	1.64			1.64
35	Ed. Harris	450 pounds potatoes. 1 reaper.	May 3,1911 May 1,1911	4.92 62.23	67.15	July 10, 1912	4. 92 62. 23	
		[1 stallion	June 12, 1911	150.00	1	June 12, 1912 July 1, 1912	21. 20 16. 00	
36	Charles Hart	936 pounds oats	May 1,1911 May 5,1911	14.04 35.00	201.87	Nov. 1,1911	14.04	112.80
		300 pounds potatoes	July 10, 1911	2.83		Oct. 25, 1911	35.00 2.83	
37	Floyd Highwalking	450 pounds potatoes	May 9,1911 May 1,1911	8.19 5.37	8.19	June 30, 1912	8. 19	
38	Richard Hollowwood	155 pounds potatoes.	June 1, 1911	2.61	7.98		CONTRACTOR DE ACRES	7.98 8.18
39	Thomas Horseroads	(350 pounds oats	May 10, 1911 May 11, 1911	8.18 8.68	8.18			
40	Hubert Hollowbreast	620 pounds potatoes	June 15,1911 May 5,1911	12.27 11.17	32.12			32. 12
41	Howlingcoyote	1239 pounds oats 11.55 pounds potatoes 1750 pounds potatoes 1750 pounds oats 1750 pounds potatoes 1750 pounds potatoes 1750 pounds oats 1750 pounds oats 1750 pounds potatoes 1750 pounds	May 1,1911	2.52 200.00	2.52	(Dec. 1,1911	9.65	2.52
42	William Ironhand	1 stallion	do	100.00	305.35	May 1,1911	.35	290.00
- 44	71 111111111111111111111111111111111111	150 pounds potatoes	May 11, 1911 June 5, 1911	2.75 2.60	000.00	Dec. 1,1911 do	2.75 2.60	
43	Edward Killsnight	1 stallion	STOLES INCOME	100.00	100.00	(July 10, 1912	5.00 8.00	
40	Edward Kinsingue		De tara de servicios de la constante de la con		100.00	Sept. 30, 1912 Nov. 4, 1912	87.00	
44	Herman Kingfisher	{445 pounds oats	May 1,1911 June 10,1911	10.01	} 15.00			15.00
45	Frank Lightning	1 stallion		100.00	100.00	Oct. 25, 1911 Aug. 18, 1911	25.00 30.00	45.00
46	Fred Limpy	[1,057 pounds oats		18.50	} 20.02	(Aug. 10,1911	200000	20, 02
	Gaorga Littlehear	100 pounds potatoes. 510 pounds oats	June 10, 1911 May 1, 1911 May 10, 1911	1.52 7.65	12.55			12.53
47	George Intellegeat	\$10 pounds oats \$\\ \tau \text{50 pounds potatoes} \\ (1 stallion \text{150 pounds potatoes} \)	May 10, 1911 June 1, 1911	4.90 200.00	12.00			12.00
48	Paul Littlebear	{750 pounds oats	May 1,1911	11.40	244.90	Oct. 31,1912	10.00	234, 90
		1 sulky plow	May 1.1911	33.50 8.06	1	(Oct. 25, 1911	8.06	Y .
49	Pater Littlebird	1 harrow. 150 pounds potatoes.	do	8.55 2.50	25.23	do	8,55 2,50	1.00
		310 pour de potatoes	June 15, 1911	6.12 2.18		do	5.12]
		(100 pounds oats						

Report of "Purchase of implements, etc., for Indians of Tongue River Reservation, Mont. (reimbursable)," as of date Nov. 30, 1912-Continued.

Ac- ount No.	Beneficiary.	Beneficiary. Articles.				Payme	Balance due by	
			Date of purchase.	Item cost.	Total cost.	Date.	Amount.	beneficiar on or be- fore June 30, 1916.
51	Henry Littlewhiteman	600 pounds potatoes	May 10, 1911	\$6.54	\$6.54			\$6.5
52	Littlewhiteman	1 stallion 150 pounds potatoes	May 11, 1911	100.00 2.75 2.52	105. 27	Oct. 25, 1911 Sept. 12, 1912 Oct. 25, 1912 Oct. 25, 1911	\$44.00 4.75 2.52 2.75	51.
53	Laban Littlewolf	1 plow 632 pounds oats 600 pounds potatoes	May 5,1911 May 1,1911 May 5,1911	35.00 9.48 5.65	50. 13	May 30, 1912 Oct. 25, 1911 Oct. 30, 1911	12.87 22.13 9.48 5.65	
54	Robert Littlewolf	/3 geldings	Apr. 25, 1911	300.00 11.50	311.50	Oct. 25, 1911 Dec. 20, 1911 Oct. 25, 1911	38.00 161.67	100.:
55	William Littlewolf	592 pounds oats	May 1, 1911	8.88	8.88		11.50	8.8
£6	Charles Loneelk	1767 pounds oats 1592 pounds oats 1 stallion 2 mares 250 pounds oats 112 pounds oats 112 pounds oats 112 pounds oats 112 pounds oats 130 pounds potatoes 250 pounds oats 130 pounds potatoes 1 plow 100 pounds oats 230 pounds oats 230 pounds oats 230 pounds oats 230 pounds oats 250 pounds potatoes 250 pounds potatoes 250 pounds potatoes 250 pounds oats 250 pounds oats 250 pounds potatoes 250 pounds potat	May 4, 1911 May 1, 1911	100.00 170.00 6.55 2.77	290. 23	Oct. 25, 1911 Nov. 21, 1912 Oct. 25, 1911 do	4.00 126.53 6.55 2.77	139.
57 58	George Longroach	(600 pounds potatoes. 1,360 pounds potatoes.	June 5,1911 May 21 1911	10.91 24.25 6:08	24. 25 6. 08	July 1,1912	10.91 12.00	12.
59	Robert Medicinebull	310 pounds potatoes.	May 1,1911 May 21,1911	6. 13 33. 50	45.56	Nov. 25, 1911	6. 13	6.0
09	Maniana Manual	100 pounds oats	June 5,1911	2. 18 3. 75		(do	33.50	4.1
60	Henry Playingbear	575 pounds oats	May 9, 1911	2. 75 10. 06 7. 84	2. 75 10. 06	Oct. 31, 1912	10.06	2.7
€2	John Powderface	300 pounds potatoes.	May 11, 1911 June 10, 1911	5. 47 2. 27	15.58		•••••	15.5
€3	Mary Powell	(515 pounds potatoes	Apr. 10,1911 Apr. 11,1911	9. 16 47. 12	56.28	June 30, 1911 Oct. 25, 1911	9.16 47.12	
64 65	William Redbird	349 pounds oats 155 pounds potatoes (200 pounds potatoes	May 1,1911 June 5,1911	7. 65 2. 60	7.65 2.60			7. 6 2. 6
66	Henry Redneck	li share of plow.	May 5, 1911	5. 01 16. 75 16. 75	21.76	Oct. 30, 1912	5. 01 16. 75	***********
68	Fred Redrobe	350 pounds potatoes. 605 pounds potatoes.	May 10, 1911 May 11, 1911	8. 68 10. 80	25. 43 10. 80	Oct. 30, 1911	10.80	25. 4
69	Robert Ridgewalker	(1 seeder, endgate	do	10. 45 16. 89	45.98	Oct. 25, 1911	16.89 13.64] 10.
		1300 pounds potatoes (215 pounds oats	May 11, 1911 Apr. 11, 1911	13. 64 5. 00 5. 17	7	(do	5.00	1
70	Hubert Risingfire	450 pounds potatoes	June 5, 1911	7.51	12.68	(Nov. 12, 1912	150.00	12.6
		(1 stallion. 2,387 pounds oats. 904 pounds oats. 150 pounds potatoes. 300 pounds potatoes. 4 share in drill. 17 fruit trees.	do	35. 81		Nov. 25, 1911 Nov. 11, 1912	5.81 13.00	
71	Philip Risingsun	150 pounds oats.	do	22.33 2.73	266. 51	Nov. 25, 1911	2.73	
		share in drill. 17 fruit trees.	do	4. 53 24. 24 1. 50		do	26.87	
		(1 harrow	do	25.37		Nov. 11, 1912	10,00 17,00	
72	Antoine Rondeau			6.80 11.31	6.80	Aug. 15, 1912 Nov. 25, 1911	11.31	
73	William Rondeau	11 plow	May 1, 1911 Aug. 10, 1911	15.36 36.72	63.39	Aug. 12,1912 Nov. 25,1911	14.00	
	Part Part Labor	790 pounds oats	May 1,1911	19.52 9.60		July 15, 1912	19.52	
74	Fred Roundstone	1,050 pounds potatoes	June 10, 1911 Aug. 22, 1911	9.91 25.36	64. 39	do June 30, 1912	9.91 25.36	
75	Clay T. Rowland	I stamon	May 1,1911	150.00 39.16	200.05	Sept. 30, 1912	9. 10 . 32	189.8
		(1 plow	Apr. 15 1911	10. 89 60. 62 150. 00		Oct. 31,1912 Oct. 25,1911	.79 6.50	1
76	Willis T. Rowland	1 stallion	May 27, 1911 June 10, 1911	13.50 5.00	229.12	do	5.03 13.50	204.
77	Zac Rowland	(t plow		53. 37 35. 00	88.37	Nov. 25, 1911 July 1, 1912 Nov. 25, 1911	14.37 10.00 35.00 35.00	29.0
78	William Russel	1 stallion. 2 mares. 630 pounds oats. 150 pounds potatoes.	May 8 1011	100.00 175.00 11.78 2.52	289.30	Dec. 20, 1911 Nov. 25, 1911 de. Sept. 12, 1912	31. 25 14. 30 5. 00	200.
79	Otis Scabby	(950 nounds nate	Apr. 9, 1911 July 15, 1911 May 11, 1911	21.68 6.14	27.82	(Sept. 12, 1912	3.75	27.1
03	John Scalpcane		Carried County of County	10.91	10.91	Oct. 25, 1911	47.00	10.5
81	Charles Scalpcane	{1 stallion	June 12, 1912 June 1, 1912	150.00 2.52	152.52	Mar. 13, 1912	30, 20 10, 00	62.8
82	Mrs. Lucy Spang	620 pounds potatoes	May 10, 1911 May 1, 1911	11. 26 8. 55	11.26	May 15, 1912 Oct. 25, 1912 June 30, 1911	2.52 11.26	·····
83	Alfonso Spang	415 pounds potatoes	May 10, 1912 Apr. 22, 1912	4. 52 25. 37	38.44	Aug. 26, 1912	.50	37.9
84	Eugene Standingelk	(200 pounds oats	May 1, 1911 May 25, 1911 May 1, 1911 May 5, 1911 Oct. 15, 1911	5. 24 250.00 7. 20 8. 19 1. 60 39. 35	311.58	Nov. 25, 1911 do	5. 24 7. 20 8. 19 1. 60 37. 35 2. 00 13. 00 15. 00	195.8
	John Standsintimber	100 pounds oats. 4 share in plow. 1000 pounds potatoes.	do	2. 18 13. 30	25.48	Nov. 4, 1911	26. 13	25.

Report of "Purchase of implements, etc., for Indians of Tongue River Reservation, Mont. (reimbursable)," as of date Nov. 30, 1912—Continued.

ic-			200		Eller's	Payme	ents.	Balance due by
int lo.	Beneficiary,	Articles.	Date of purchase.	Item cost.	Total cost.	Date.	Amount.	on or be- fore June 30, 1916.
86	William Swallow	/600 pounds oats	June 7, 1912	\$14.31 24.24	\$38.55	June 18, 1912	\$14.31	\$24.5
87 88	Jules Seminole	150 pounds potatoes.	June 10, 1911 May 2, 1911	2.27	2.27 100.00	Sept. 4, 1912 Oct. 31, 1912	10.00	80.0
89	Joseph Shell.	{515 pounds oats	May 1,1911 May 5,1911 May 11,1911	7.72 33.50 2.73	43.95	July 1, 1912	7.72 2.73 7.55 5.00	20.5
90	David Sweetmedicine	{ stallion. 750 pounds potatoes.		225.00 13.64	338.64	Nov. 21, 1912 Jan. 31, 1912 June 18, 1912 July 1, 1912 Oct. 25, 1911	112.50 12.50 5.00 13.64	95.1
91	John Smith	\$1,037 pounds oats	May 1, 1911 June 10, 1911	15.56 2.83	18.39			18.
92	Thomas Sioux	(1 stallion	Apr. 25, 1911 May 1, 1911 Juna 1, 1911	150.00 7.80	157.80	Nov. 25, 1911	17.00 7.80	} 133.
93	Soldierwolf	150 pounds potatoes	June 1,1911	2.52	2.52			2.
94	Ben Shoulderblade	11,037 pounds oats 1300 pounds potatoes 11 stallion 1520 pounds oats 150 pounds oats 150 pounds oats 155 pounds oats 165 pounds oats 165 pounds oats 165 pounds potatoes 165 pou	May 1,1911 June 15,1911 May 8,1911	7. 22 3. 06 100. 00	10.28			10.
95	Charles Spottedelk	1 plow 600 pounds potatoes 20 fruit trees	May 8, 1911 Apr. 15, 1911 May 11, 1911 Nov. 15, 1911	45.00 10.91 1.60	184.51			184.
96	Charles Spottedwolf	1 mower. 155 pounds potatoes.	June 27, 1911	27.00 2.60	2.60	May 5, 1911	1.63	W.
		f1 stallion. 655 pounds oats.	June 12, 1911	125.00	1	may o, mi	1.05	
97	Patrick Spottedwolf	150 pounds potatoes.	May 1, 1911 May 11, 1911	14.73 2.73	142, 46	(Nov. 25, 1911	25.00	142.
98	John Sunroadš	1 stallion	Apr. 24, 1911	100.00	100.00	Nov. 21, 1911 Dec. 21, 1911 Apr. 9, 1912 Sept. 17, 1912	2.00 15.00 3.00 5.00	40.
99	Charles Teeth	[1,271 pounds oats] 1 stallion	May 4, 1911	19.07 100.00 10.91 2.52	132.50	Jan. 31, 1912 (Nov. 25, 1911) Oct. 31, 1912 do Nov. 25, 1911	10.00 19.07 5.00 2.91 2.52	103.
100	Austin Texas	1 stallion 2 mares 4 share in drill 500 pounds potatoes 150 pounds potatoes	June 12, 1911 Apr. 23, 1912 May 9, 1911	150.00 185.00 24.23 10.91 2.52	372.66	Oct. 25, 1911 do Sept. 4, 1912 Nov. 23, 1912 July 1, 1911 Oct. 25, 1911	21, 00 25, 00 3, 01 21, 63 13, 23 10, 91	275.
101	Henry Twobulls	[349 pounds oats	May 1,1911 June 5,1911	7.85 2.51	13.42	July 1, 1912	2.52 7.85 2.15	} 3.
102	Bert Twomoons	[305 pounds potatoes.] 1 stallion. 280 pounds oats. 325 pounds potatoes.	May 9, 1911	3.06 5.12 100.00 4.20 5.92	115.24	Dec. 20, 1911 do June 18, 1912 Oct. 31, 1912 Dec. 20, 1911	5. 12 34. 76 5. 24 5. 00 4. 20	55.
103	Seth Walkingbird	(628 pounds oats	HALL SALES	11.74	} 18.80	Aug. 30, 1912	5.92 8.00	10.
104	John Walkinghorse	J401 pounds oats	June 10, 1911 June 15, 1911	7.06	14.10	Significant of the control of the co	respective miner	14.
105	Richard Walkslast	1		3.06 10.89	10.89	June 30, 1911	10.89	
106	William Wanderingmedicine	1 stallion 1 share in plow 350 pounds oats 465 pounds potatoes	May 5, 1911 June 15, 1911	275.00 16.75 8.68 9.20	309.63	Nov. 25, 1911 dododo	6.75 8.68 9.20 10.00 70.00	205.
107	Bird Wildhog	{1 harrow	do	7.20 13.64	25.84	Oct. 25, 1911 do	7. 20 13. 64 4. 00	
100	Community Whitehird	300 pounds potatoes		5.00		June 30, 1912	1.00	
108	George Whitebird Charles Whitecrane	100 pounds oats {227 pounds oats 152 pounds potatoes	do	2.62 5.10 2.54	2.62			7.
110	Arthur Whitedirt	(1 stallion 500 pounds oats 450 pounds potatoes 500 pounds po	Apr. 24, 1911 May 1, 1911	100.00 13.10 8.19	121.29	Nov. 25, 1911 Nov. 24, 1911 do	10.00 2.00 13.10 8.19	79.
111 112 113	Ernest Mexicancheyenne James Whitepowder. Paul Wolfname	155 pounds potatoes	June 5, 1911 May 1, 1911	2.60 7.85 7.50	2.60 7.85 7.50	May 23, 1912 June 30, 1912 July 1, 1912	8.00 2.60 4.00	3. 7.
114	Mack Wolfroads	[625 pounds oats	do	9.38	312.21	Nov. 25, 1911 do	9.38 56.76	223
115	Richard Woodenleg	300 pounds potatoes	June 10, 1911	2.83 7.81	7.81	Nov. 21,1912 Nov. 25,1911 Sept. 14,1912	20.00 2.83 2.84	4
116	Hugh Woodenthigh	1 harrow. 1 stallion. 2 mares. 150 pounds potatoes.	June 15, 1911	8.56 125.00 145.00	8.56	Dec. 4,1911	.65	} 271
		[1 stallion	June 1.1911	2.52 9.35 100.00		(Nov. 25, 1911	9.35	1
118	Abram Yelloweyes	1150 pounds potatoes	May 1,1911 June 5,1911	10.21 2.52	115.80	do	10.21 2.52	66
119	Wilbur Yelloweyes	1 stallion.	Apr. 24, 1911	3.07 100.00	100.00	[do	3.07	100
120	William Yellowrobe	200 pounds oats.	May 1,1911	100.90 5.24	113.80			113
101	Your War and	1 harrow. 1 share in plow. 225 pounds oats.	May 11,1911	8.56 19.94		Nov. 25,1911	19.94	1
121	James Youngbird	225 pounds oats.	May 5,1911	5.43 10.32	85.69	do	10.32	}

Report of "Purchase of implements, etc., for Indians of Tongue River Reservation, Mont. (reimbursable)," as of date Nov. 30, 1912—Continued.

		Beneficiary. Articles,				Paym	Balance due by	
Ac- count No.	Beneficiary.		Date of purchase.	Item cost.	Total cost.	- Date.	Amount.	beneficiary on or be- fore June 30, 1916.
122	Beans Youngbird	{ share in plow } share in grain drill	Apr. 4,1911 May 5,1911	\$19.94 10.32	\$38.95			\$38, 95
123	Youngwolftooth	350 pounds oats	Apr. 25, 1911 June 22, 1911	8.69 125.00	125.00	Sept. 19, 1912	\$15.50	109, 50
		I gelding. share grain drill. I disk harrow.	May 21, 1912 Aug. 22, 1911	24. 23 25. 37]	Sept. 19, 1912 Feb. 10, 1912 Nov. 1, 1912	25.37 25.94	1
124	Young Woodpecker	1 stallion 650 pounds oats 300 pounds potatoes	June 12, 1911 May 1, 1911	125.00 9.75	184.35	Nov. 21, 1912	19.12 4.63	109, 20
125	James Braidedlocks	300 pounds potatoes.	May 10, 1911 Apr. 20, 1911	5. 45 8. 68	5.45		4.00	5.45
126	David Littleoldman	111 DIRCKSIMILITING OUT INT	June 7, 1912 Aug. 9, 1912	24. 24 166. 82	199.74	June 18, 1912	8. 68	191.06
127	Robert Yellowfox	11 stallion	Apr. 24, 1911 May 9, 1911 June 1, 1911	100,00 5,47 2,52	107.99	Apr. 27, 1911 Oct. 25, 1911		
128	John Yellowhorse	0D	June 1, 1911	2.52		ldo	2.52	
129 130	Charles Youngbear Nellie Blackwolf	1 drill	May 1,1911 Apr. 20,1911	6.30 48.47	6.30 48.47	May 14,1911	6.30 23.47	25. 00
131	John Badger	450 nounds notatoes	June 5 1911	7.51	7.51	Oct. 25, 1911	7.51	
132	Isaac Blackbird	448 pounds oats. 452 pounds potatoes. 30 pounds potatoes.	May 1,1911 May 3,1911	8.38 8.23	8.38	fdo	8.38 8.23	
133	Charles Blackstone	30 pounds potatoes	June 1,1911	. 52	£3.75	{do	. 52	
134	Clara Blackmedicine	1 sulky plow. 450 pounds seed potatoes	Apr. 15,1912 June 12,1911	45.(0 7.54	7.54	Nov. 25, 1911	45, 00 7, 54	
		189 pounds oats	May 1,1911 May 10,1911	13. 34 5. 45	1	do	13. 34 5. 45	1
135	Paul Blackree	11 harrow	May 1,1911	8, 56	327.35	do	8. 56	300.00
136	John Blackwolf	2 mares	Aug. 8,1912 May 3,1911	300.00 8.19	8.19	Nov. 25, 1911	8 19)
137	William Braidedlocks	260 pounds cats	May 1, 1911	3.90	3.90	Nov. 25, 1911 Oct. 25, 1911	3.90	
100		1 stallion	35	200.00 11.70	000 00	Nov. 25, 1911		
138	Penjamin Bearchum	450 pounds potatoes	Sept. 1, 1911	4. 90 7. 20	223. 80	do	4.90	
139	Edward Bearquiver	885 pounds oats	do	13. 20	13. 20	Oct. 25, 1911	13. 20	
140	Thomas Beaverheart	1155 pounds potatoes	do	15. 56 2. 60	18.16	{do		
141	August Bigbeaver	780 pounds oats 450 pounds potatoes 1 harrow 885 pounds oats 1,037 pounds oats 155 pounds potatoes 150 pounds potatoes 155 pounds potatoes	June 1, 1911	2.52	2.52	do	2.52	
142	Benjamin Bigheadman	155 pounds potatoes. 122 pounds oats 165 pounds oats 150 pounds oats 150 pounds potatoes. 1 harrow 1 harrow 150 pounds oats 150 pounds oat	May 1,4911	3.08 2.74	5.82	Nov. 25, 1911		
142	7 Pi	105 pounds oats	do	2.75	1	fdo	2.75	
143	James Bignose	1 harrow	May 1, 1911	2.73 8.56	14.04	do	8.56	
144	William Bixby	395 pounds oats	do	5.93 4.24	10.17	Oct. 25, 1911		
145	Thomas Bobtailhorse	450 pounds potatoes. 300 pounds potatoes. 350 pounds oats.	do	4.00	4.99	Nov. 25, 1911 do	4.99	
146	David Boxelder	1350 pounds oats	May 11, 1911 May 5, 1911	8. 68 11. 17	32.12	do		
147 148	Joseph Brownbird	. 155 pounds potatoes	June 15, 1911	3,06	3,06	Oot 95 1011	3.06	
149	Fred Calf	326 pounds oats	do	3, 93 7, 33	3.93 7.33	Nov. 25, 1911 Oct. 25, 1911 do	7.33	
150 151	Charles Crawling	310 pounds potatoes 600 pounds potatoes	June 15, 1911 May 0 1911	6.13 10.91	6.12 10.91	do	6, 13	
152	Samuel Curly	1 sulky plow	June 20, 1911	33.50	33.50	Nov. 25, 1911	33.50	
153	Nicholsa Crookednose	1 harrow	do	5. 24 8. 55	13.79	{do	5. 24 8. 55	
154	John Clubfoot	300 pounds oats	Apr. 19, 1911	7.80 15.54	7.80	do Jdo	7.80	
155	M. G. Eastman	300 pounds potatoes	June 10, 1911	4.53	20.07	\do	4.53	
156	Thomas Elkshoulders	1310 pounds potatoes.	June 15, 1911	10. 87 6. 14	17.01	Oct. 25, 1911		
157 158	Peter Firecrow	. 225 pounds oats	May 1, 1911	5.06 3.25	5.06 3.25	Nov. 25, 1911	5.06	
159	Floyd Fisher	770 pounds oats.	May 1, 1911	11.55	11.55	Dec. 23, 1911	11.55	
160	Colonel Hardrobe	10150 nounds notatoes	June 5, 1911 May 11, 1911	2.60 2.73	2.60	Oct. 25, 1911	2.60	
161	Henry Hairyhand	11	June 1,1911	2.52 8.68	The second section is a second	do		
163	John Highbear	300 pounds potatoes.	June 10, 1911	2.83	2.83	do	2.83	
164 165	Albert Howlingantelope	155 pounds potatoes	June 15, 1911	3.07 2.52	3.07 2.52	do		
166	John Issues. Hugh Killsnight.	475 pounds oats	May 1, 1911	- 10.68	10.68	do	10.68	
167 168	Nancy Killsontop Vistor Littlechief	1990 nounds oats	May 2,1911 May 1,1911	100.00	100.00	Apr. 2,1911 (Oct. 25,1911	13, 20	
709	Vistor Littlechiei	150 pounds potatoes	May 11, 1911	2.73 5.47	20,00	do	2.73 5.47	
169	Henry Littlecoyote	486 pounds oats. 155 pounds potatoes.	May 1, 1911	10.93	19.46	Nov. 25, 1911	10.93	
100		(356 pounds oats	May 1, 1911	3.06 8.01		Oct. 25, 1911	3.06 8.01	
170	Charles Littleeagle	(600 pounts potatoes	June 5,1911 May 3,1911	5. 01 2. 84	3.02 2.84	Nov. 25, 1911		
172	Arthur Brady	(315 pounde oate	May 1,1911	5.89	} 14.06	(Dec. 21, 1911	5.89	
173	David Littlewhiteman	450 pounds potatoes	May 10,1911 May 1,1911	8.17 6.92	6. 92	Nov. 25, 1911	8. 17 6. 92	
174	Frank Littlewolf	. 450 pounds potatoes	May 9,1911 Apr. 22,1911	8. 19 2. 18	8.19	Oet. 25,1911	8.19	
175	Littleyellowman	1310 pounds potatoes	June 15, 1911	6.13	8.31	1do	6.13	
176	William Lonewolf	1(35 fruit trees	Apr. 15, 1912	2.73 3.75	2.73	do (Nov. 25, 1911	3.75	
-177	Lonetravelingwolf	1,400 pounds oats. 450 pounds potatoes.	May 1,1911 May 10,1911	21.00	32, 92	do	21.00	
178	Fred Longroach		Apr. 9,1911	8.17 3.25	10.74	1do	3.25	
	C T I	(325 pounds potatoes	June 10, 1911 May 19, 1911	7. 49 7. 61		Dec. 6,1911	7.49	
179	George Lostleg	1300 pounds potatoes.	June 5,1911	5.01	12.62	Oct 25 1911	5.01	
181	Louis Magpie Robert Manbear		May 1,1911 May 10,1911	12.56 7.85	13.30	Oct. 25,1911 do Oct. 25,1911 do	7.85	
	Common Madiale	300 pounds potatoes. 	May 10,1911 May 9,1911 June 1,1911	5. 45 5. 47		do	5.47	
182	campson atemente	1150 pounds notatoes	June 1, 1911	2.52	7.99	do	2.52	

Report of "Purchase of implements, etc., for Indians of Tongue River Reservation, Mont. (reimbursable)," as of date Nov. 30, 1912—Continued.

						Payme	nts.	Balance due by
Ac- count No.	Beneficiary.	Beneficiary. Articles.	Date of purchase.	Item cost.	Total cost.	Date,	Amount.	beneficiary on or be- fore June 30, 1916.
		(130 pounds oats	May 1,1911 May 9,1911	\$1.95 11.15	1	Oct. 25, 1911	\$1.95 11.15	
184	John Medicineflying	300 pounds potatoes.		5. 01 11. 16	\$29. 27	do	5. 01 11. 16	
185	James Medicinetop	100 pounds oats	Apr. 9, 1911 June 5, 1911	2.18 5.00	16.37	do	2.18 5.00	
186	Marion Mexicancheyenne	465 pounds potatoes	Apr. 16, 1911	9. 19 5. 47	5.47	do	9. 19 5. 47	
187	Arthur Prairiebear	(150 pounds potatoesdo	May 11, 1911 June 1, 1911	2.73 2.61	5.34	Nov. 25, 1911	2.73 2.61	
188	Daniel Oldbull	7400 manuada anta	May 19, 1911 June 10, 1911	9.98 4.99	14.97	Oct. 25, 1911 do	9. 98 4. 99	
189	Vincent Oldbear	. 150 pounds potatoes	May 3, 1911	2.75 3.51	2.75	Nov. 25, 1911 Oct. 25, 1911	2.75 3.51	
190	Charles Pawnee	1055 pounds coto	Apr. 12, 1911 May 5, 1911 May 1, 1911	2.61 3.83	6.12	1do	2.61	
191	Frank Pine	1 mower	June 3, 1911	27.00	30.83	Feb. 13, 1912	3, 83 27, 00	
192	Albert Porcupine	le matco	May 11, 1911 Aug. 8, 1911	10.91 350.00	360.91	Nov. 26, 1911 Oct. 31, 1912	10.91 14.86	\$335.1
193	Frank Whitewolf	1000 pourius potatoes	May 1,1911 June 10,1911	7.47 4.99	12.46	Oct. 25, 1911	7.47 4.99	
194	John Redbeads	1199 pounds potatoes	May 1,1911 June 15,1911	10.75 3.07	13.82	Oct. 24,1911	10.75 3.07	
195	Charles Redbreath	1256 pounde oate	May 1,1911	8.01 3.18	11.19	Nov. 25, 1911	8.01 3.18	
196	William Redcherries	(500 pounds oats	do	13.10 5.21	26.87	do	13.10 5.21	
190		1 harrow (430 pounds oats	do	8.56 11.27		do	8.56	
197	James Redfox	1300 pounds potatoes	June 5, 1911	5.01	16.28	{do	11.27 5.01	
198	William Redfox	/2 geldings 634 pounds oats	Apr. 28,1911 May 1,1911 do	325.00 9.51	334.51	June 31, 1911 (Mar. 15, 1912	325.00 9.51	
		200 pounds oats. 300 pounds potatoes. 150 pounds potatoes.	do	5.24 5.47		Oct. 25,1911	5.24	1
199	Zac Ridgebear	150 pounds potatoes.	June 1,1911 May 3,1911	2.52 7.20	220, 43	do	5.47 2.52	200.00
		2 mares	Aug. 8, 1911	200.00 9.82		(do	7.20 9.82)
200	William Wolfname	1600 pounds potatoes	May 3, 1911 May 10, 1911	10.91 2.73	20.73	\do	10.91	
201	Louis Romannose	155 pounds potatoes.	June 5, 1911	2.60	5.33	{do	2.73 2.60	
202	John Rondeau	350 pounds oats	May 11, 1911 Apr. 20, 1911	8.19 8.69	819	Nov. 25, 1911	8.19 8.69	
204	George Shavedhead	1020 pounts potatoes	May 3, 1911	12.27 8.19	8.19	Oct. 25, 1911	12. 27 8. 19	
205	Bob Standingelk	100 pounds oats	Apr. 18,1911 May 11,1911	2.18 5.47	2.18	do	2.18 5.47	
206	James Starvingbear	10150 pounds notatoes	June 1.1911	2.52 11.64	7.99	1do	2.52 11.64	
207	John Strangeowl	776 pounds oats 7 apple trees 600 pounds potatoes	Apr. 15, 1911	.70	21.41	do	.70	
208	Harshey Wolfchief	JI harrow	May 1,1911	9.07 8.56	11.08	do	9.07 8.56	
-00		(500 pounds potatoes		2.52 13.10		dodo	2.52 13.10	
209	Tom Seminole	500 pounds potatoes. 300 pounds potatoes. 2 mares.	June 5, 1911 Aug. 8, 1912	5. 00 300. 00	318, 10	Sept. 18, 1912 Oct. 31, 1912	5.00 20.00 70.00	210.0
010	Taha Saniatana	1 stallion 450 pounds potatoes 1,295 pounds oats	Aug. 24, 1911	100.00 8.18	127.60	Dec. 26, 1911 Mar. 6, 1912	60.68 39.32	·
210	John Squinteye	1,295 pounds oats	do	19.42	121.00	June 30, 1911	8.18 19.42	
	2	1 share in plow	May 5, 1911	16.75	32.94	Oct. 25, 1911 do	16.75 6,20	
211	Spottedblackbird	$ \begin{cases} \frac{1}{2} \text{ share in plow}. \\ 255 \text{ pounds oats}. \\ 600 \text{ pounds potatoes}. \end{cases} $	Apr. 16,1912 June 5,1911	6. 20 9. 99	02.94	do	9.99	
212	Hugh Spottedhawk	459 pounds oats 300 pounds potatoes. 1 share in plow	May 1,1911	10.32 4.99	23.68	June 24,1911 Oct. 25,1911	1.63	
212		the polaries potatoes	May 5, 1911	8.37		June 24, 1911	8.37	
213 214	Anna Spottedwolf	d share in plow	Apr. 9, 1911	8.37 5.47	8.37 5.47	May 5, 1911 Oct. 25, 1911	5.47	
215	John Sunbear		June 10, 1911 June 15, 1911	2.54 6.14	8.68	{do	2.54 6.14	
216	Frank Stumphorn	J150 pounds potatoes	May 11, 1911	2.75 2.52	5.27	do	2.75 2.52	•••••
217	Jacob Tallbull	600 pounds potatoes	May 11, 1911	10.91	10.91	Nov. 25, 1911	10.91	
218 219	Tallwhiteman	. 155 pounds potatoes	June 10, 1911 June 15, 1911	2.59 3.07	2.59 3.07	Mar. 6, 1912 Dec. 13, 1911	3.07	
220 221	John Teeth	1-12 plow	June 1, 1911 May 5, 1911	2.52 37.85	2. 52 37. 85	Dec. 22, 1911	37.85	
222	Peter Twobirds	1-12 plow [642 pounds oats 1600 pounds potatoes. [160 pounds potatoes.	May 1, 1911 June 10, 1911	9. 63 5. 65	15.28	Oct. 25, 1911	5.65	
223	John Twofeathers	(80 pounds pocatoes	June 15, 1911	2. 68 1. 58	4.26	do do May 1 1911	1.58	
		(1 plow	Apr. 15, 1911	60.61	1	May 1, 1911 Nov. 20, 1911 Oct 25, 1911	19.00	
224	John Twomoons	450 pounds oats	May 9, 1911 June 27, 1911	4.92	248.53	Oct. 25, 1911 Oct. 1, 1911	27.00	
		1 mower	June 27, 1911 June 12, 1911	27.00 150.00		Oct. 25, 1911	4.92	
225	John Turkeylegs	450 pounds potatoes	June 10, 1911	4.24	4.24	Dec. 20, 1911 Oct. 25, 1911	4.24	
226	Charles Walkingbear	900 pounds potatoes	do	8. 47	8.47	(Apr. 4,1911	8.38	
227	David Walkseasy	Share in plow	May 5, 1911 May 1, 1911	8.38 7.27	20.64	Oct. 25, 1911	1.62 5.65	
		[300 pounds potatoes	June 10, 1911	4.99		do	4.99	
228	Dick Walkslast	(344 pounds oats	June 15, 1911	7.74 6.13	13.87	1do	6.13	
229	Adolph Walksnice	150 pounds oats 152 pounds potatoes 1512 pounds potatoes 1512 pounds oats 150 pounds potatoes 150 pounds potatoes	June 10, 1911	4.78 2.54 7.68	7.32	do	2.54	
	Panels Water	Joiz pounds oats	May 1, 1911	7.68 4.53 2.73	12.21	Nov. 25, 1911 do	4 53	

Report of "Purchase of implements, etc., for Indians of Tongue River Reservation, Mont. (reimbursable)," as of date Nov. 30, 1912-Continued.

Ac-		Beneficiary. Articles.				Payme	ents.	Balance due by
No.	Beneficiary.		Date of purchase.	Item cost.	Total cost.	Date,	Amount.	beneficiary on or be- fore June 30, 1916.
		(350 pounds oats	May 1,1911	\$8.68	1	(Oct. 25, 1911	\$8.68	
232	Frank Weaselbear	300 pounds potatoes.	June 5,1911 June 15,1911	5.00 3.07	\$16.75	do	5.00 3.07	
233	Edward Womanleggins	300 pounds potatoes.	May 5, 1911 June 10, 1911	33.50 4.53	38.03	Nov. 26, 1911 Nov. 25, 1911	33.50 4.53	
234	Charles Whistlingelk	1 mare 630 pounds pats	May 4,1911 May 1,1911	85.00 11.78	102.25	Dec. 31, 1911	85.00 11.78	
235	White Bigfoot		May 9,1911 May 1,1911	5.47 15.18	15.18	Oct. 25, 1911	5.47 15.18	
236	John Whitebuffalo.	1 stallion	May 24,1911 May 1,1911	100,00 4,12	112.31	(do	4.12	
200		450 pounds potatoes	May 11, 1911	8, 19	112.31	Dec. 26, 1911	8, 19 90, 00	
237	Jules Whiteelk	1 gelding	May 1,1911	100.00 7.24	100.00	May 1, 1911 (Oct. 25, 1911	100.00 7.24	
238	Benjamin Whitehawk	155 pounds potatoesdo	June 5, 1911 June 15, 1911	2.60 3.06	12.90	do	2.60 3.06	
239	George Whitemoon	do	June 1,1911	2.61	2, 61	do (May 5,1911		
240	Martin Whiteshield	share in plow. 210 pounds oats. 155 pounds potatoes.	May 5,1911 May 1,1911 June 15,1911	12.73 4.52 3.06	20.31	Oct. 25, 1911 do	2.73 4.52 3.06	
241	Charles Blackcrane	1 stallion	Aug. 8, 1912	150.00	150.00	Oct. 31, 1912	70.00	\$80.0
242 243		1 team maresdo	do	300.00	300.00	Aug. 22, 1912 Nov. 4, 1912	6.14 198.26	293. 8 101. 7
244 245	Stanley Littlewhiteman	do	do	300.00	300.00 300.00	Aug. 9,1912	2.50	300.0 297.5
246	Looksbehind	do do	do	300.00	300.00			300.0
248 249	Dallas Wol-black	do	do	300.00	300.00 300.00			300.0
	White persons 1	7,126 pounds potatoes		67.69	67.69		67.69	
	Total			2,617.69	2,617.69	,	344.59	2,273.1
27 49	Eugene Fisher	2 maresdo	Nov. 15, 1912	160.00 80.00	160.00 80.00			160.0
56 61	Charles Loneelk	4 mares	do	95.00 150.00				95.0 150.0
76 77	William RowlandZac Rowland	3 mares	Nov. 15, 1912	65.00 215.00				65. 0 215. 0
78 97	William Russel	5 mares	do	120.00	120.00			
147	Patrick Spottedwolf	2 mares do	do	80.00 160.00	160.00			160.0 160.0
174 220	John Teeth	do	do	160.00 160.00	160.00 160.00			160.0
250 251	James Deafy	I mare		160.00 40.00	160.00 40.00			160.0 40.0
	Total			1,645.00	1,645.00			1,645.0

¹ These sales represent the residue of a carload of potatoes purchased for seed. After supplying our Indians with the seeds they required this quantity remained unsold, and, to prevent loss through deterioration, the potatoes were disposed of to white residents at the agency.

RECAPITULATION.

	Total number of accounts.	Item cost.	Total cost.	Amount of payments.	Balance due by beneficiary on or before June 30, 1916.
Page 1 Page 2 Page 2 Page 3 Page 4 Page 4 Page 5 Page 6 Page 7 Page 8 Page 9 Page 10 Page 11 Page 11 Page 12 Page 12 Page 13 Page 14 Page 15 Page 15 Page 16 Page 16 Page 17 Page 16 Page 17 Page 17 Page 17 Page 18 Page 19	12 12 14 16 10 12 10 12 18 16 24 21 16 24 21	\$734. 21 725. 89 1, 237. 41 923. 42 965. 12 1, 013. 52 1, 052. 08 989. 70 890. 84 1, 114. 98 670. 30 789. 91 327. 43 249. 77 1, 091. 489. 82 2, 617. 69 1, 645. 00	\$734.21 7725.89 1,237.41 923.42 1,013.52 1,013.52 1,02.08 989.70 890.84 1,114.98 670.30 789.91 327.43 249.77 1,091.58 866.20 489.82 2,617.69 1,645.00	\$262.18 299.01 484.69 212.77 606.96 542.00 363.80 259.57 316.90 231.19 216.05 464.91 327.43 249.77 556.31 656.20 489.82 344.59	\$472.03 426.89 752.72 710.65 388.16 471.52 688.28 730.13 573.94 883.79 454.25 325.00 2,273.10 1,645.00
Total		18,394.74	18,394.74	6, 884. 15	11,510.59
Originál amount appropriation					\$1,500.00
Total sales to beneficiaries. Reimbursable property on hand. Unhypothecated balance					18,394.74
Total available to date					21,884.15
't'otal sales Cash payments					18,394.74
Balance due by beneficiaries.					11,510.59

Mr. MONDELL. The gentleman from Oklahoma [Mr. Fer-RIS] proposes going on forever appropriating for these people out of the funds of the people of the country generally without any hope of any return or without regard to its necessarily disastrous effect upon the character and dignity of the Indians rather than to appropriate for a loan which the Indian has shown he desires to make and is anxious to return.

Mr. FERRIS. Will the gentleman yield? Will the gentleman observe that the paragraph over which he is exhorting does not carry a penny of appropriation? It merely authorizes the head of an irrigation project to administer oaths to employees in order to save notary fees.

Mr. MONDELL. I thought the gentleman had been here long enough to know that sometimes we debate all sorts of matters on a pro forma amendment.

Mr. FERRIS. I hope the gentleman will debate the paragraph under consideration.

Mr. MONDELL. But I am debating an important matter. At least, it ought to be an important matter, with a Democratic majority with its claim of proposed economy. I want you gentlemen to economize and save the money of the people. At the same time I desire to assist in retaining self-respect among the Indians. The way to do it is not to appropriate for them without stint or limit, to throw the people's money among them as a drunken sailor scatters his dollars, but to do a banking business with the wards of the Government and thereby teach them habits of business, teach them the importance of their obligations to the Government and their obligations to their fellow men, and give them a chance in life without making

The CHAIRMAN. The time of the gentleman from Wyoming [Mr. Mondell] has expired.

Mr. MANN. Mr. Chairman, the gentleman from Wyoming [Mr. MANN. All. Charlman, the gentleman from Wyomfor [Mr. Mondell] says I did not refer to the appropriation for encouraging industry among the Indians of the Tongue River Reservation, Mont. It is true that when the gavel of the Chairman fell I had not yet reached that report. I think I can add even a little to the information furnished by the gentleman from Wyoming on that subject. There an appropriation was made for a specific reservation, and during the last fiscal year the total amount loaned to the Indians was \$4,292.02, and the amount that was repaid by the Indians was \$4,174.55. Nearly the entire amount was reimbursed. The appropriation was made specifically. But I did call attention to the general item, to the appropriation encouraging industry among the Indians, reimbursable, where, out of an expenditure of \$4,500, the large sum of \$150 had been reimbursed during the same fiscal year, and I mentioned the fact that where the specific appropriation was made, \$4,175 was reimbursed out of \$4,292.

The gentleman proposed not only a general appropriation, reimbursable, not specific in its location, but leaving it arbitrarily to the department for the next 10 years to do as it pleased, without any accounting practically to the Government, and without any appropriation made by Congress hereafter.

Mr. MONDELL. Well, the gentleman does admit that, where specific loans of funds are provided, at least in the one case referred to the Indians have met their obligations promptly and under all the circumstances to a very much greater extent than we could have anticipated.

Mr. MANN. I do not know how much we could have anticipated. I have no doubt that most of the money that could be expended in this way would be reimbursed if it were required to be reimbursed or if it is required to be reimbursed. I doubt if it would be reimbursed very rapidly if an appropriation of money were simply left in the hands of the department to expend as they please, without being appropriated for every year, where they had control of it and did as they pleased about it.

Mr. HILL. Mr. Chairman, I just came in and listened with much interest to the remarks of the gentleman from Wyoming [Mr. MONDELL], and I cordially agree with him in his efforts to assist this Democratic House in its principles of economy, and especially in his enthusiastic and vigorous efforts to assist in preventing a deficiency in the next House, with a still larger and greater majority. It reminded me of an incident that occurred on Monday, when I came down here. I had just come into the Pennsylvania Railroad station and I met in the café a chauffeur who had come in to buy a piece of pie, and, as he a chauneur who had come in to buy a piece of pie, and, as he turned around to go out, I said to him, courteously and pleasantly, "Is not this a beautiful day?" He said, "It is a domned foine day, thanks be to God for it." I looked at him a moment, and I said, "Would you say just that if it had rained all

day?" He looked up at me and said, "I think I could, but not with the same ardor." [Laughter.]

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

To reimburse Clara D. True for traveling expenses incurred by her under instructions from an official of the Indian service in the closing of her accounts as a former superintendent in the Indian service,

Mr. MANN. Mr. Chairman, I reserve a point of order on the paragraph

The CHAIRMAN The gentleman from Illinois [Mr. MANN]

reserves a point of order on the paragraph.

Mr. MANN. I see from the statement an explanation of the reasons given for this claim, and I shall withdraw the point of order in the end. But why is it necessary, when they propose to adjust the accounts of a superintendent of a reservation, that they send a general superintendent and a financial officer to the agency, or require the superintendent to come to the office of the general superintendent, any more than it is necessary, when they adjust the accounts of a postmaster, to send the Postmaster General or one of his agents to the post office or require the postmaster to come to Washington? Why does it require the personal attention of any person to adjust accounts which are supposed to be made out subject to be transmitted by the mail?

Mr. FERRIS. If the gentleman will yield, we have the statement of the Indian Commissioner. I know the gentleman is well informed on this bill, and I think he will admit that this is one of only two or three items that may at all be considered a claim. This bill is free from claims, aside from one or two little items that are simply self-evident.

Mr. MANN. I am not complaining about the matter of a claim.

Mr. FERRIS. The Indian Commissioner says the Comptroller of the Treasury refuses to allow the item. The supervisor had the superintendent brought to him rather than to go to her, as a matter of economy, and he thought he was justified in doing it.

Mr. MANN. Why was it necessary to have this done at all? Here was a case where the chief supervisor was ordered to go from Denver, Colo., to Santa Fe for the purpose of having the superintendent of the agency adjust her accounts. Why was that done? Why could not she adjust her accounts by making out her statement and having it transmitted by mail? Why should somebody have to go from Denver to Santa Fe, or wherever it was, to adjust the account? What sort of administration is that?

Mr. FERRIS. The Commissioner of Indian Affairs explained to us that once in so often they journey around to these different agencies, and the accountants examine their books, to the end that there may be no fraud or mistake or money squandered, and it is exceedingly important that that be done. At the different agencies the agents have considerable latitude, and the officers have to do with the moneys of incompetent Indians who can not protect themselves, and in that way it becomes neces-

Mr. MANN. Here is a statement in addition, that after having ordered the chief supervisor to go from Denver to a point in New Mexico to adjust an account, it was necessary to take a financial clerk to assist in the work. Is it true that they have to send around to all of these places occasionally officers to adjust the accounts of the superintendent, or require the superintendent at the agency to go to the office of the chief supervisor to be examined as to the accounts? I should think it was a very cumbersome and expensive method of administration. However, as the woman expended the money, I am not disposed to complain. I withdraw the point of order. The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For maintenance, care, and protection of machinery and irrigation wells already completed, in connection with the irrigation of the lands of the Pima Indians in the vicinity of Sacaton, in the Gila River Indian Reservation, \$5,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. This item of \$5,000 is in lieu of an estimate of \$15,000, and in lieu of an appropriation of \$15,000 carried in the current appropriation bill. As I recollect it, we have spent about \$500,000 for the irrigation of the lands of the Pima Indians on the Gila River. There has been some scandal and a great deal of dissatisfaction, and the claim is made that the water is salt, and the Indians have refused to use the wells and have made fun of the electrical devices installed, and the department estimates that it will cost \$15,000 to build the additional laterals

that must be built before the expenditure of \$500,000 can be utilized and to maintain the system. We have on this Indian reservation Pima Indians, who, with their ancestors, have from time immemorial practiced the art of irrigation. We have established there a system which can only be maintained by the employment of highly paid electrical engineers. Whether or no it was wise to install that sort of a plant I am not prepared to say. A committee, of which I am a member, sent a subcommittee down to investigate these matters last summer, but that committee has not as yet reported. We either ought to appropriate \$15,000 or nothing at all. There is no rhyme or reason in appropriating \$5,000 when the department says that \$15,000 is necessary for the building of the additional laterals and the care of the property on which we have expended half a million dollars. Now, we are either going to maintain that enterprise, which cost us half a million dollars, or we are going to let it go to ruin and decay-one or the other. If we are to maintain it, we ought to expend \$15,000, and if we are not, let us strike out the appropriation and not spend any money at all there, rather than waste an entirely inadequate sum. I find nothing in the hearings to justify this reduction of the appropriation, although there was some discussion on this point, and in that it differs from almost every other item in the bill. There was some discussion before the committee in regard to this matter. After reading that discussion I am not enlightened as to any good reason for the reduction of the amount in the appropriation, provided it is intended to maintain that expensive plant down on the Gila. I should like to hear from the gentleman from Oklahoma as to the reason for reducing this appropriation.

Mr. FERRIS. Mr. Chairman, the gentleman from Wyoming complains over the reduction of the appropriation.

Mr. MONDELL. I do not complain, I protest. Mr. FERRIS. The gentleman protests as to the reduction of the appropriation from \$15,000 to \$5,000, apparently without There is nothing in the hearings that discloses the reason. reason, but there was information before the chairman and information before us as a committee, personal in its nature, from the gentleman from Arizona [Mr. HAYDEN] in which the members of the committee were unanimous that there is a big dispute as to whether or not the Indians will ever accept the water from these wells. In time gone by the Reclamation Service diverted certain flood waters and waters from the Gila River, which the Indians felt they were entitled to, and gave it to the white settlers. In place of that they dug wells and gave it to the Indians in lieu of the water they had diverted. The expense of running an irrigation plant that comes from wells, from the constant rusting out of the machinery, causes a much larger expense per acre, and the Indians felt that they were mistreated.

The view of the committee was that we ought not to build a system which up to this time the Indians have totally refused to receive until we knew whether or not justice had been done. We have not neglected the question of what was justice in the premises. A board of Army engineers has been appointed, and they are down there investigating as to what is the actual justice in the case. As they have not reported, the committee thought that if we gave \$5,000 for some caretaker to keep the machinery painted and oiled and protected, that is all we ought to do for the present, and that was the reason we arrived at the \$5,000 appropriation instead of \$15,000 for completing a project which might never be used.

Mr. MANN. Mr. Chairman, I move to strike out the last This appropriation heretofore has been reimbursable. I notice that this item now proposes to pay the money out of the Treasury without reimbursement. I suppose we may reach that in a great many cases. How much land is being irrigated at this point now?

Mr. FERRIS. There is none under this project. I will give the gentleman the data, so that he may have it before him. How much is being irrigated on the reserva-Mr. MANN.

I notice the statement is that there are 12,000 acres Mr. FERRIS. There are 4,246 Indians, and 12,000 acres that can be irrigated from these wells if you can get the Indians to use the water.

Mr. MANN. I think the gentleman is in error. The gentleman is reading from the same document that I am holding in my hand. It says 12,000 acres are now being irrigated and 12,000 additional to be supplied by pumping water, and 8,000 acres additional to be supplied with irrigation. How much land

is actually being irrigated from this plant?

Mr. FERRIS. There is not any at all being irrigated from this plant. The Indians have a superstition that if they allow

the water to be turned onto the land at all from the well system they will abandon their rights to the waters of the Gila River that have been taken away from them.

Mr. MANN. This is, apparently, one of those cases where perhaps the Government has made a mistake. The estimated cost of this plant is something over \$50 an acre for the irrigation plant. Now, when the plant is constructed the Indians do not wish to use it. It cost something over a half a million dollars, all of which heretofore has been appropriated to be reimbursable. This bill proposes to appropriate an additional sum without being reimbursable, and that may be correct. If we made a mistake, if we spent a large amount of money there uselessly, we ought not to charge the Indians with that, because they had nothing to do with it.

We ought to charge it to experience or to the men who spent the money. The fact is we went crazy on the irrigation subject, and I am not sure but that we still are. We have been spending large amounts of money out of the Public Treasury without sufficient knowledge or caution. There are some items in this Indian bill which I do not criticize because I guess they could not be left out, where they are liable to have somewhat the same experience that they have had with this proposition.

Mr. FERRIS. Mr. Chairman, just a word. The criticism of the gentleman from Illinois [Mr. MANN] is undoubtedly a good one, and it should address itself to every Member in this Chamber. Mistakes have been made in irrigation matters, serious ones which have cost the Government lots of money, and there may be some made in this bill. We went into the matter as thoroughly as we could, but we were up against this proposi-tion. We had before us Mr. Newell, head of the Reclamation Service, and also had before us the whole Indian Irrigation We tried as best we could to get information from them, but were up against this difficulty. We found that in Montana and in numerous other States great projects were under way, committing the Government to hundreds and hundreds of thousands of dollars. We made it our policy from one end of the bill to the other to permit them to begin no new projects, and it is the policy of the committee to try to hold these projects down so that we may complete those we have started in and have gotten so far along with that we are committed to them thoroughly.

In other words, where a project is to cost \$500,000 and there have already been expended on the project \$350,000 or \$450,000, leaving only \$50,000 or \$60,000 yet to be paid, I think all will concede the folly of abandoning it, for a project once abandoned becomes abandoned in toto. The ditches fill up, and the floodgates destroy the entire system. While I do not expect the different items in this bill to be free from criticism, I think it is about the best we can do under the plan we have already been committed to. And on this proposition, if I may be permitted a word further, I think it is intensely proper that we do not appropriate any more than enough to protect this machinery until the board of Army Engineers tells us exactly what the situation is down there. In other words, we should know whether we have squandered \$400,000 or \$500,000 in the construction of a plant which the Indians refuse to receive, and which the Indians may well refuse to receive, because the expense per acre is so high that they can not afford to use it. If the Indians refuse to be divested of the headwaters of the Gila River, we ought to at least get the benefit of the best information upon the subject that we can before we commit the Government to any more expenditure. I think the \$5,000 is necessary, but I think any more than that would be felly until we know what the trouble is.

The Clerk read as follows:

For the development of a water supply for domestic and stock purposes and for irrigation for nomadic Papago Indians in Pima County, Ariz., \$5,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the last I have no special information as to the necessity for this item. I assume that the sum is probably needed, but I would like to correct the record just a little in regard to a matter that was under discussion a moment ago.

The situation relative to the Gila River is quite sufficiently confused without the gentleman from Oklahoma [Mr. Ferris], who is generally so accurate, further confusing it. He is held to be such an authority on land and water subjects that his statement made a moment ago might involve the Government in serious difficulty if attention were called to it. He said, as I understood him, that the Government had diverted the waters of the Gila River, and that that diversion by the Government, under authority of Congress, had left the Pima Indians without

water. The gentleman was not as accurate as usual. The Government has not taken water from the Gila River. velt project, so called, takes water from the Salt River. water which the Pima Indians originally used, and which their forefathers used for many years, was diverted by settlers many years ago. The Indian Office, refusing to make the proper application for Indian rights upon the theory that the Government did not have to bow to a State, allowed the water rights of the Indians to be transferred elsewhere and left them with nothing but the flood waters of the Gila. In building the great plant on the Salt River we developed a large amount of power, and it was suggested that we use some of that power for the purpose of pumping water for the Pimas adjacent to the Gila, instead of doing what the Indians wanted to have done and what a lot of other people wanted to have done, namely, build a great dam on the Gila River, a river that earries more silt than any other river in the world, which in a few years would have filled up. We refused to do that. We did the other thing. Whether it was wise or not I do not know.

I am inclined Mr. FERRIS. Mr. Chairman, just a moment. to think the gentleman is stating more accurately than I did what the situation is, and if I said more than to show that was the contention of the Indians I said what I did not intend to say.

The contention of the Indians is-and I have talked personally with them, they were here last year-that the Federal Government allowed patent to issue and title to these lands and did not properly conserve their interests.

Mr. MONDELL. The settlers diverted the water higher up

the stream

Mr. FERRIS. I did not intend to assert anything to be a fact other than their contention, and as a board of Army officers is now investigating, the committee thought we ought to wait.

Mr. MONDELL. The Government is in a way responsible for that, however. If the Indian Office at the proper time had filed with the territorial officials water rights on behalf of the Indians they would have secured them.

Mr. FERRIS. That is exactly what I think the facts are. Mr. MONDELL. I worked with the Indian Office here years age month after month to get them to take out water rights in our State for the benefit of the Indians, in order that they might be protected. Our people did not want to take their water, but the Indians can not sit beside a stream and use water without regard to the forms of law any more than a white man and preserve his rights as against others. The Indian Office finally came down off its high horse and admitted in some respects we had a sovereign State with some reserved powers, and they made application in due form. They could have secured these water rights in Arizona just as well, but the Indian Office refused to do it—took the position that, in some peculiar way, the Indian, as the ward of the Government, has a perpetual right, a proprietary right to the water that flows past his land without regard to the State laws or institutions governing the use of water. This is an illustration of how the department failed to do its duty. Settlers came along, as it was natural for them to do, and diverted the water higher up the stream on better land, and the Indians were left without anything but flood waters, and we are now trying to provide water for their use.

The Clerk read as follows:

For continuing and completing the construction of the Ganado irrigation project on the Navajo Indian Reservation in Arizona, in accordance with the plans submitted by the chief engineer of the Indian service and approved by the Commissioner of Indian Affairs and the Secretary of the Interior, in conformity with section I of the act approved April 4, 1910, \$25,100: Provided, That the total cost of the project shall not exceed \$60,100.

Mr. MONDELL. Mr. Chairman, I desire to ask the chairman of the committee if these Indians are the owners of any considerable areas of land? Is there any reason why these Indians should not pay for their reclamation projects?

Mr. FERRIS. I will state to the gentleman there are 30,000 Indians in the Navajo and Moqui Reservations in Arizona and New Mexico, and they have a large reservation. Of course a great deal of it is nonirrigable desert land and without much value.

Mr. MONDELL. But does not the gentleman think it better policy to make this fund reimbursable, even though it never is reimbursed-in other words, have these Indians understand that when the Government builds an irrigation project there is an obligation on their part in connection with it and it is not simply a gratuity, the value of which they fail to realize because it is not costing them anything?

Mr. FERRIS. I will say to the gentleman this project has been appropriated for in former years

Mr. MONDELL. I realize that.

Mr. FERRIS. And it was begun with a specific provision that it should not exceed \$60,100, and this \$25,100 here appropriated merely enables the Reclamation Service to continue the project which was lawfully begun under a former act. derstand that does not answer the gentleman's question.

Mr. MANN. Does the gentleman say this project has been

begun very long ago?

Mr. FERRIS. I said formerly; this last Congress, I think was.

Mr. MANN. The statement in the hearings here is that nothing has been done but to make the survey.

Mr. FERRIS. I think that is the project on which there has been expended about \$35,000.

Mr. MANN. The gentleman will find on page 5 it refers to this project-what is the condition of the project; what has been done—a statement that nothing but surveys have been made and they are practically ready now to begin construction.

Mr. FERRIS. Well, the gentleman understands we have to provide money a year in advance so they can go ahead.

Mr. MANN. I was not saying anything about that. saying in regard to whether the project was under way and begun as the gentleman stated.

Mr. FERRIS. I understood that the appropriation of \$35,000 had been expended or contracted for.

Mr. MANN. The question as I understand is whether it should be provided that the money should be reimbursed.

Mr. FERRIS. I understood the question of the gentleman, but I was trying to state historically what had happened in connection with this appropriation.

Mr. MONDELL. It seems also the discussion developed the question of whether it is advisable to make this appropriation, in view of the fact there is \$35,000 now available.

Mr. FERRIS. I think the gentleman will agree this money we are appropriating now is, of course, not available until after the end of this fiscal year.

Mr. MONDELL. I understand.

Mr. FERRIS. And that the \$35,000 appropriated by the preceding bill will undoubtedly have been consumed by the time this money becomes available.

Mr. MONDELL. I judge not from the statement which has been quoted.

Mr. FERRIS. The engineer explained to us at great length the folly of letting them expend a part of the money for the project and having it washed away before it was completed.

Mr. BURKE of South Dakota. And, Mr. Chairman, if the gentleman will permit me to make a suggestion, the amount heretofore appropriated is available and probably will be expended by the end of the fiscal year. The \$25,100 carried in the present law will complete the project, and if the gentleman will examine the hearing he will discover the engineer of the Indian Office stated it would be economy to make this appropriation and complete the construction of this plant rather than to allow it to go over to another year.

Mr. MANN. Will the gentleman permit?

Mr. BURKE of South Dakota. If I have the floor, I certainly will do so.

Mr. MANN. I notice the engineer, in making his statement before the committee, was asked this question: Mr. MANN.

Will the \$35,000 which is now available, carried in the last bill, be as much as you can expend in this next fiscal year?

And the answer is:

Not as much as we might expend, but possibly as much as we would. It depends entirely upon the conditions, both the climate and the river. That does not indicate it will be spent during this fiscal year.

Mr. FERRIS. Not necessarily.
Mr. MANN. Well, not probably.
Mr. FERRIS. But it should be available.

Mr. MANN. I have no objection to the appropriation being made.

Mr. FERRIS. He stated that the idea is that after a work of that kind is started it would not be economical policy for it to be stopped in the middle for lack of funds.

As the gentleman will recall, we put a provision in the appropriation act of 1910 that no irrigation project could be started costing more than \$35,000 without authority of Congress. the Congress authorized this project to be constructed, and limited the cost to \$60,100, and we are now simply authorizing the money to complete it, the same as we would do with a public building. If Congress, having jurisdiction of the expenditure of the money, should recommend that they should have the

Mr. MANN. Well, but as to the reimbursability. Mr. FERRIS. I think I have something here th I think I have something here that has something to do with the question of reimbursability.

Mr. MANN. And that is the only point.
Mr. FERRIS. The act to which I have reference is the act of April 4, 1910, section 1 of which provides that this shall be reimbursable. I will read the section to the gentleman so that we will have the matter in the RECORD:

we will have the matter in the Record:

For the survey, resurvey, and classification of lands to be allotted in severalty under the provisions of the act of February 8, 1887, entitled "An act to provide for the allotment of lands in severalty to Indians," and under any other act or acts providing for the survey and allotment of lands in severalty to Indians, including the necessary clerical work incident thereto, and to the issuance of all patents in the field and in the office of Indian Affairs, and to the delivery of trust patents for allotments under said act, or any such act or acts; and for the survey and subdivision of Indian reservations and lands to be allotted to Indians under authority of law, \$215,000, to be repaid proportionately out of any Indian moneys held in trust or otherwise by the United States and available by law for such reimbursable purpose and to remain available until expended: Provided, That the unexpended balances of all continuing appropriations heretofore made for allotment work, general or specific, are hereby made available for the purposes enumerated herein.

I think this section properly refers to that

I think this section properly refers to that. Mr. MANN. Not at all. The reimbursability was probably

the only money recommended in that appropriation.

Mr. FERRIS. But, if I may be pardoned, the act of last year, which began this project, specifically refers to section 1 of that act of April 4, 1910.

Mr. MANN. In what way? The reference is not sufficient. Mr. FERRIS. I will give the gentleman the law of last year.

This is the provision that began this project:

For beginning the construction of the Ganado irrigation project, on the Navajo Indian Reservation in Arizona, in accordance with the plans submitted by the chief engineer of the Indian service and approved by the Commissioner of Indian Affairs and the Secretary of the Interior, in conformity with section 1 of the act approved April 4, 1910, \$35.000: Provided, That the total cost of the project shall not exceed \$60,000.

Mr. MANN. I do not think that is reimbursable at all. Mr. FERRIS. Does not the gentleman think that when it makes specific reference to a section which is a reimbursable section that makes it reimbursable?

Mr. MANN. Section 1 of the act of 1910——
Mr. FERRIS. It says, "In conformity with that section"——
Mr. MANN. Provides that the money appropriated in that act shall be reimbursable. Now, the same thing is true about the Gila River Reservation, which we have just passed. That question we had up a moment ago. They were asked there in your hearings why that was not made reimbursable and the your hearings why that was not made reimbursable, and the officer in charge said that was already provided by the law of last year. But he was wrong about it, because the law of last year on the subject provides only this:

That the proportion of the cost of irrigation project on the Gila iver Indian Reservation heretofore and herein authorized to be paid om public funds shall be repaid into the Treasury of the United

And so forth.

That does not authorize the reimbursement of a subsequent

appropriation.

Mr. FERRIS. I am rather slow to set my judgment up against that of the gentleman from Illinois, and I do not do it now, but only suggest to him that it was undoubtedly the intention of the committee, when this was begun, to make it refer to it and come under that section 1 of the act of 1910; so much so that it specifically refers to it. I can not help but think it is reimbursable.

Mr. MANN. I do not know how the department would construe it, but I am inclined to think that if I were the department I would not think it was reimbursable. It is an easy matter to correct it now or hereafter if the intention is to make it

reimbursable.

Mr. MONDELL. Let me make this suggestion, in order to make this perfectly clear; that you add at the end of line 18, page 9, these additional words, "and reimbursable under the terms of that act."

Mr. FERRIS. I have no objection to that at all. It already

says that, however. The language of this year says that.

Mr. MONDELL. It does not say "reimbursable."

Mr. FERRIS. It says, "In conformity with section 1 of the act of 1910." If the gentleman wants to insert the word "reimbursable" all right. I have no chieston. act of 1910." If the gentleman wants to insert the word "reimbursable," all right. I have no objection.

Mr. MONDELL. I doubt it that act itself makes this reim-

bursable. I think it would be better to say "and reimbursable,"

and let it stand there, because I doubt whether that act provides for the reimbursement of any funds excepting the specific amount appropriated.

Mr. BURKE of South Dakota. If such an amendment is put in, I suggest that you add language to the effect that the amount herein appropriated and hereafter appropriated upon this project be reimbursable.

Mr. MONDELL. I think that would be better.
Mr. FERRIS. I have no objection to it; but I repeat, it was
the intention of the committee to do it.

Mr. MANN. Let us pass it over for the time being.
Mr. FERRIS. The gentleman from Wyoming will offer an amendment, and it can be passed later.
The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The Clerk read as follows:

The Secretary of the Interior is hereby authorized and directed to make an investigation of the conditions on the western Navajo Indian Reservation in Arizona, with respect to the necessity of constructing a bridge across the Moencopi Wash, on said reservation, and also to cause surveys, plans, and reports to be made, together with an estimated limit cost for the construction of a suitable bridge at that place, and submit his report thereon to Congress on the first Monday in December, 1913, and the sum of \$1,000, or so much thereof as may be necessary, is hereby appropriated for the purpose herein authorized.

Mr. MANN. The Chairman Interest and the state of carbon the

Mr. MANN. Mr. Chairman, I reserve a point of order on the paragraph.

paragraph.

The CHAIRMAN. The gentleman from Illinois [Mr. Mann] reserves a point of order on the paragraph.

Mr. MONDELL. Mr. Chairman, this paragraph is evidently in lieu of an estimate, submitted by the department, of \$10,000 for the construction of a bridge. It is now proposed to authorize an investigation of the conditions necessitating the conditions of the condit struction of the bridge, and \$1,000 is appropriated, not made reimbursable.

These Indians have large areas of land, and it is proposed to build a bridge on the reservation. Up our way either the Indians build bridges on their reservations or the counties build them. The committee has shown some disposition to oppose the proposition which I presented and which I shall present in a form similar to this a little later on, authorizing an investigation as to the necessity of building bridges and roads at the expense of the Indians on the Wind River Reservation. But here is an investigation proposed as to the necessity of building a bridge on an Indian reservation at public If the Indians do not need the bridge and have no use for it, and it is to be used wholly by the white people, the white people ought to pay for it and not the people of the United States. If, on the other hand, the Indians need the and they own much land, some of it valuable and some of it of little value-they ought to pay for the bridge. In any event, if we build the bridge and make an appropriation ultimately for the building of the bridge we ought to provide that the sums expended should be reimbursable, and that without regard to whether we ever expect to get it back or not. We do expect to get it back, and we ought to get it back, and undoubtedly would get it back as these Indians in the course of years secure enough to pay for it. But in any event they should understand that we are not proposing to construct roads and bridges across their enormous reservation at the expense of the people of the country. It is not a good thing for the Indians. It is not good public policy. It is not defendable from anybody's standpoint. While I shall not insist upon the thousand dollars here appropriated being made reimbursable, I think it ought to be made reimbursable. I think it is all right to examine as to the necessity of building this bridge. Quite likely it is. I do not know anything about it; but the cost of investigation and the cost of building, if it is ultimately to be constructed, ought to be at the expense of the Indians.

Mr. MANN. Will the gentleman yield for a question?

Mr. MONDELL. Yes,
Mr. MANN. Is there any reason why the great State of
Arizona should not build a bridge for the benefit of its citizens,

and pay for it out of its treasury?

Mr. MONDELL. I think there are many reasons why the State can not be expected to build roads and bridges on Indian reservations, even in those cases where the whites make some use of the roads on those Indian reservations. In the first place, the State derives no revenue whatever from these reserva-We are compelled to maintain order upon them within the jurisdiction of the State, and we derive no revenue whatever from them. So far as the bridges and roads are necessary, the Indians ought to pay for them. We ought not to burden the Indians more than their necessities and the necessities of their neighbors require; but, as I look at the matter, the white people on the one hand and the Indians on the other, using the roads and bridges jointly on each other's property, should maintain these roads and bridges, each in his own country, in fair and passable condition. The Indians should not expect the white people to build their roads and bridges, and should not expect the Government to do it. So far as they are necessary for the joint use of the Indians and the white men, they should be paid for by the owners of the property, whether white or Indian.

Mr. McKENZIE. If the gentleman will yield for a question, want to ask for information if the Indians on these reservations have the right to construct bridges or build roads?

Mr. MONDELL. Oh, yes; they own the land. Mr. FERRIS. But they have no money with which to do it. Mr. MONDELL. They own the land, and they can do as they see fit.

Mr. FERRIS. I think the question asked by the gentleman ought to be more fully answered than it has been by the gentle-man from Wyoming. They have the right to build these roads and bridges, but every cent of their money is tied up in trust funds, so that they can not use it.

Mr. MONDELL. A great deal of road building can be accomplished without the expenditure of a considerable amount of

cash. It is largely labor.

Mr. McKENZIE. These Indians have no trust fund.

Mr. FERRIS. This is the situation as it was presented in the hearings: The commissioner says these Indians are located about 90 miles from Flagstaff; that this road goes to an Indian school and agency; that a bridge with an 85-foot span has already been constructed, which could be used if the bridge across this wash was built, which it will cost about \$10,000 to build. We did not want to take the responsibility of providing for its construction, even although by the expenditure of \$10,000 the Indian reservation would have the advantage of the 85-foot bridge, without sending some one out there to make an investi-We have appropriated \$1,000 for the purpose of making an investigation to ascertain whether any bridge should be constructed, although the commissioner urged in the strongest terms that it should be constructed.

I find on looking at the property qualifications of these Indians that while they have no trust fund they have property estimated and valued at \$2,100,000. If anyone cares to offer an amendment providing that this \$1,000 shall be reimbursable, certainly I have no objection to it, although the amount is only \$1,000 and it does not construct anything for the Indians. I do not think we ought to construct anything until we see whether

it ought to be done or not.

Mr. MONDELL. I think the committee ought to offer such an amendment. The item is so small that probably no other Member of the House will care to offer it. Yet the principle is involved. We ought to establish the principle, and adhere to it, that where the property of the Indians is going to be improved and the Indians are going to be benefited they ought to pay for the improvement. At least we should contemplate the repayment of it by the Indians.

Mr. FERRIS. I think unless some one has an amendment prepared it would hardly be worth while to apply it to this \$1,000, but I will say to the gentleman that in dealing with the bridge proper, which may be constructed in the future, that

principle ought to be applied.

Mr. BURKE of South Dakota. Mr. Chairman, if the gentleman from Oklahoma will permit me to add to his statement another reason for not making an appropriation for a bridge than the one that the gentleman has given and why this item was inserted instead of an appropriation, I will say that it was to ascertain from an engineering standpoint the estimated cost of such bridge. An appropriation might be made for \$10,000 and the bridge might not cost more than \$100, and therefore, instead of undertaking to appropriate for it, we have asked by this provision that there be submitted an estimated cost.

Mr. FERRIS. The gentleman states it correctly.
Mr. MANN. Mr. Chairman, I doubt the advisability of the Government paying for these bridges. Since my distinguished and lovable friend from Arizona came on the floor of the House, representing the State of Arizona, we have had a number of these bridge projects which his predecessor, the distinguished Senator from Arizona, with all his keenness, never was able to unearth in his long service in this House. It strikes me that when the Territory of Arizona was created into a State it assumed some responsibilities. Now, the pretense is that these bridges are for the benefit of the Indian. From the two reports made last year, which have come in, it appears that in the in referring these matters to the engineers of the department

main, or at least to a large extent, the bridges proposed are for the benefit of the white man and not merely for the Indian.

Now, the gentleman says that we ought to have this report as to the need of the bridge. The report is already written as to the need of the bridge by the officer who would have to write it; he has already declared himself that they need the bridge. Last year we appropriated for an investigation as to the need of a bridge on the Navajo Indian Reservation, Ship Rock, San Juan River. The officer in charge at Denver, Colo., having been directed to investigate as to the need of the bridge, wired this statement to the officer in charge at the place:

Mail here at once number Indians living south of river, danger of fording, peril when ford is impossible, and any data for use in report justifying need of bridge.

All they asked for was information for a report justifying the need of a bridge. Having been directed to investigate the necessity of a bridge, they directed the officer to send them information which they proposed to incorporate in a report justifying the need of the bridge. That was all they wanted, and that is all they want in this case, if it goes through, for they have concluded that they need the bridge and do not need any investigation to ascertain it; nor do they need any special investigation as to the cost. You can send the length of the investigation as to the cost. You can send the length of the bridge, which is easily ascertained, to any of the bridge companies of this country and obtain offhand the probable cost of a steel bridge, which in the end will be recommended. It will cost between \$20,000 and \$30,000, and the estimate of the engineer will not add anything to it. Why should not the State of Arizona do something for these people? They live in Arizona, they trade in Arizona, they are the life of Arizona, and yet whenever anything is to be done they want the Federal Treas-

ury to pay the money.

Mr. HAYDEN. Mr. Chairman, in reply to the gentleman from Illinois [Mr. Mann] as to why the State of Arizona should not be compelled to build bridges and roads on the Indian reservations, permit me to suggest to the committee that over one-quarter of the entire area of my State has been set aside for Indian reservations. There are 28,685 square miles of territory in Arizona reserved for the use of the In-That is an area larger than the whole State of West Virginia, and almost as large as the State of Maine or the State of South Carolina. The Indian country in Arizona is equiva-lent in size to any one of these three States. A region rich in minerals, particularly copper and coal, containing vast forests of virgin timber, large areas of irrigable lands, and other larger areas suitable for dry farming and for grazing purposes. All of this domain is not subject to taxation and does not con-

tibute one cent to the upbuilding of my State.

The white people of Arizona on their own land, in that part of Arizona that is not reserved for the Indians, are doing their full share of building roads and bridges. Last year there was raised in my State over \$500,000 by direct taxation for the purpose of constructing roads and bridges. The Indians in Arizona contribute nothing to that end. It seems to me that when we consider the vast area of land that has been given to the Indians and the great value of their property, that they ought to contribute in part to the construction of the State highways

I thoroughly agree with the gentleman from Wyoming [Mr. MONDELL] that any expenditure of this kind should be made reimbursable out of the Indian funds. It is true they have no trust funds now, but ultimately they will have money to their credit, and when they do have it they should pay for any work

that is done for their benefit.

Mr. MANN. Mr. Chairman, will the gentleman yield? Mr. HAYDEN. Certainly. Mr. MANN. The gentleman is familiar with the two reports made in conformity with the appropriations last year, for two different bridges in Arizona?

Mr. HAYDEN. Yes, sir.

Mr. MANN. In one of them this statement is made:

Bridges would prove a great convenience to the general public in addition to actual necessity for the use of the Indians.

In the other the statement is made:

Also a convenience to the white people of the valley, who make frequent trips across the reservation to sell their products in towns along the Santa Fe Railroad.

How will the gentleman determine how much of this money, if it is to be reimbursed, shall be reimbursed out of the Indian funds when it appears from the reports that the bridges are largely to be utilized by and for the benefit of the white citizens of Arizona who do not own the Indian lands?

Mr. HAYDEN. Mr. Chairman, the policy of the committee

and having estimates made and plans and specifications prepared has been justified by every report made in accordance with the act last year. In the case of one of the bridges to which the gentlemen refers there was a bill before the committee to appropriate \$100,000.

This appropriation was favorably recommended by the department. It turns out that the actual cost in that particular case was \$63,500, making a saving of over \$35,000. Another bill for a bridge at Yuma had the favorable recommendation of the department and an appropriation of \$100,000 was asked for, but when the report of the engineers is made we find that the bridge will cost but \$75,000, and the recommendation of the department is that the United States should not bear the entire expense, that only \$25,000 could properly be spent on behalf of the Indians. I am not familiar with the conditions at Shiprock, N. Mex., but as far as the Arizona reports are concerned, I believe they amply justify the policy of the committee in ordering these investigations, and that the reports show the extent of the interest of the Indians in the building of these bridges.

Mr. MANN. One of the reports to which I referred was for a bridge at the San Carlos Reservation, Ariz., where the proposition has been to have the Government pay the entire expense, and where it appears it is largely for the benefit of the general public.

Mr. HAYDEN. Not from the reports.

Mr. MANN. I just read it to the gentleman. That is what the report says:

Bridges would prove a great convenience to the general public.

Mr. HAYDEN. That does not mean entirely in the interest of the general public.

Mr. MANN. I will not quibble with the gentleman about the meaning of words. That is what I think it means. Perhaps I am mistaken. Perhaps it would not be to the interest of the general public to have their convenience served. I supposed

that it would be.

Mr. HAYDEN. Of course I am quite willing to admit that you can not improve a road or a bridge in the State of Arizona that will not be for the benefit of all the people in Arizona, Indian and white, but as to the measure of benefit, and who should pay the cost, I think it is proper to have these investigations made, and then act according to the reports given to us, unless we have other detailed information to the contrary.

The CHAIRMAN. Does the gentleman insist upon the point

of order?

Mr. MANN. Mr. Chairman, I had intended to insist upon the point of order. I do not know why it is, but as to these little thousand-dollar appropriations, at least, the gentleman from Arizona [Mr. Hayden] exercises a sort of hypnotic effect upon me. I do not think that that will be the case when the appropriation is over \$1,000. Under the circumstances I shall withdraw the point of order.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I think while this matter is under discussion that we ought to have it a little more thoroughly understood. It is true, as the gentleman from Arizona [Mr. HAYDEN] says, that it is impossible to construct a bridge or to build a road on any Indian reservation in the country and not have the bridge or the road of some benefit to the general public. For instance, to illustrate the situation, in my State we have an Indian reservation lying wedgewise a very well-settled country, with rivers of considerable size for that country bounding the reservation on either side. The county has constructed the bridges on either side at considerable expense, one end of the approaches of the bridges so constructed resting on the privately-owned land of the county and the other end on the Indian reservation. Under our law we could not tax the people of the State to build a road on the reservation or build a bridge on the reservation, and we ought not to do it if we had authority. The people of the vicinity are taxed for the purpose of building roads and bridges. The Indian owns his own land. There is no reason on earth why he should not be called upon and expected to pay for road and bridge construction upon his own land.

The Indians use the roads and bridges we have built in the adjoining territory and they travel a good deal, many of them. Therefore it is no argument against our building roads and bridges on their reservation that the white people will likewise to a certain extent use those roads and bridges. It is to the advantage of all concerned, Indians and whites, that there should be more or less communication between them, traveling about in the country, and the Indian in my country is perfectly willing to build the bridges and the roads on his own land if we allow

him to do it, and I presume that it is true of the Navajos, and there should not be any question of doubt in the mind of any gentleman on this proposition that on an Indian reservation wholly owned or generally owned by the Indians, nontaxable, that the Indians should be expected to build the roads and bridges and maintain them in fair condition. As a matter of fact they should be maintained in as good condition as the roads that join on either side of the reservation.

The Clerk read as follows:

For completion of the construction of necessary channels and laterals for the utilization of water in connection with the pumping plant for irrigation purposes on the Colorado River Indian Reservation, Ariz., as provided in the act of April 4, 1910 (38 Stat. L., p. 273), for the purpose of securing an appropriation of water for the irrigation of approximately 150,000 acres of land and for maintaining and operating the pumping plant, \$25,000, reimbursable as provided in said act, and to remain available until expended.

Mr. STEPHENS of Texas. Mr. Chairman, I have a committee amendment which I desire to have read.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

After line 17, page 10, insert as a new paragraph the following:

"For the construction of a bridge across the Gila River on the San Carlos Apache Indian Reservation, Ariz., \$45,500; and for the construction of a bridge across the San Carlos River on said reservation, in said State, \$19,800, both appropriations to be immediately available; said bridges to be constructed across said streams in the places and manner recommended by the Secretary of the Interior in House Document No. 1013, Sixty-second Congress, third session; in all, \$65,300, to be reimbursable out of any money that may hereafter be deposited in the Treasury of the United States to the credit of the Indians having tribal rights on the Fort Apache and San Carlos Indian Reservations."

Mr. MANN. Mr. Chairman, I reserve a point of order on the

Mr. MONDELL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Will the disposition of this item preclude Mr. MONDELL. the possibility of offering an amendment to the paragraph which has been just read, to which this is an amendment?

Mr. STEPHENS of Texas. This is an amendment to the

entire section.

Mr. MANN. The gentleman stated that he offered an amendment to the paragraph.

Mr. STEPHENS of Texas. To what is the point of order

reserved—to the language of the original bill?

Mr. MONDELL. I desire to offer an amendment to the paragraph; this is new matter. I simply desire to be informed whether I could offer an amendment after this matter has been disposed of.

The CHAIRMAN. What is the gentleman's amendment? Mr. MONDELL. Mr. Chairman, I move to strike out the last

The CHAIRMAN. Will the gentleman send up his amendment?

Mr. STEPHENS of Texas. Mr. Chairman, I submt that would be an amendment to an amendment.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word of the paragraph that was read.

Mr. STEPHENS of Texas. To the bill or to the amend-

ment?

Mr. MONDELL. I have no objection to the gentleman's amendment being considered, providing it does not preclude my

offering an amendment to this paragraph later.

Mr. STEPHENS of Texas. The gentleman's amendment is to strike out the last word, and on that I presume the gentle-man desires to speak. I desire to yield, if I can do so, to the gentleman from Arizona to explain the amendment.

The CHAIRMAN. The gentleman from Texas is recognized. Mr. HAYDEN. Mr. Chairman, I desire to give a brief history of this amendment in order to show that it is not a new proposition, but that it has been well considered.

On April 5, 1911, House bill 1682 was introduced by the then Delegate from Arizona appropriating \$100,000 for the construction of these two bridges. It was referred to the Committee on Interstate and Foreign Commerce. The committee referred the bill to the War Department and to the Department of the Interior for their views. The Secretary of War reported that—

The rivers which it is proposed to bridge have no value as highways of commerce, and I know of no objection to the enactment of the measure from the standpoint of navigation.

The Secretary of the Interior at first recommended that the construction of these bridges be held in abeyance until the controversy over the San Carlos Dam site, then pending in the department, was settled, for the reason that if the bridges were built as then proposed they might be flooded by the waters of the reservoir if constructed. However, on March 25, 1912, the Secretary wrote to the chairman of the Committee on Interstate and Foreign Commerce, in which he said:

The department would be much pleased to see the proposed legislation enacted into law and an appropriation made available for the construction of the bridges, which would be an important factor in the development of that section of the country.

The Secretary inclosed a report from the superintendent of the San Carlos Indian Agency, in which the agent discussed the construction of the bridge in connection with the San Carlos The dam will be built in a narrow canyon in the mountains just below the junction of the Gila and the San Carlos The original place where these bridges were proposed to be located was near the junction of the two streams, but it was discovered that if the San Carlos Dam were built, they would be flooded by the water in the reservoir, and for this reason sites were selected higher up on each stream. Mr. Lawshe, the Indian agent, says in this letter:

Without the dam these bridges are very desirable; with the dam they become absolute necessities.

If the dam is not built, the construction of the bridges referred to would be, simply, a great benefit to the public and to the Indians, as the rivers are unfordable at certain times in the year, and for considerable periods. If the dam is built, the construction of the bridges becomes an absolute necessity, as the rivers would thereby be made unfordable at all points where road construction is practicable.

On the receipt of this report I immediately took up the mat-ter with the Committee on Interstate and Foreign Commerce, but was informed by the chairman that the committee was without jurisdiction, since both the Gila and the San Carlos are nonnavigable streams.

A similar bill appropriating \$100,000 having been introduced by the Delegate from Arizona was referred to the Committee on I went before that committee and was in-Indian Affairs. formed that a rule had been adopted that no construction of this character would be favorably considered by the committee unless surveys had been made and plans, specifications, and an estimate of cost had first been made by the Department of the Interior.

I then introduced a bill providing for a survey and the making of plans and an estimated limit of cost, which bill became a part of the last Indian appropriation act, which is as follows:

a part of the last indian appropriation act, which is as follows:

To enable the Secretary of the Interior to make an investigation of
the conditions on the White Mountain or San Carlos Indian Reservation in Arizona, with respect to the necessity of constructing, for the
use of the Indians, suitable bridges across the San Carlos Creek and
the Gila River, in the vicinity of San Carlos, on said reservation.
\$1,000, and the Secretary of the Interior is hereby authorized and
directed to cause surveys, plans, and reports to be made, together with
an estimated limit of cost of construction of said bridges, at such sites
as he may select, and submit his report thereon to Congress on the
first Monday in December, 1912.

As required by the act, the Secretary of the Interior submitted.

As required by the act, the Secretary of the Interior submitted his report to the Speaker of the House of Representatives under date of December 2, 1912. The letter was sent to the Public Printer and I could not obtain a copy of it in time to have the matter considered by the committee at the meeting when the Indian appropriaion bill was reported to the House. The Secretary's report includes a report of the engineer, John Charles, supervisor of construction for the Indian Office, which in part is as follows

is as follows:

The San Carlos Agency is located approximately 14 miles west from the confluence of the San Carlos and Gila Rivers. A ford is now found across the Gila River a few hundred feet from this junction, which can not be used with loaded wagons for a period of approximately 120 days in each year on account of high water. The Indians usually ride to the river, leave their teams there, and walk across the railroad bridge to reach the agency during these periods.

In considering the best location for bridges above flow line of the proposed San Carlos Reservoir, it was found necessary to go approximately 6 miles northeast from the San Carlos Railroad station on the Gila and 4 miles northwest on the San Carlos Rivers. These rivers run through adobe and sand formation, and quicksand is found in large quantities in both rivers.

There are approximately 500 Indians living east of San Carlos, who must cross both rivers to reach the agency. The Bylas farming district is located on the south side of the Gila River and east of the proposed bridge site. It is estimated that 4,000 acres of land is available for the use of the Indians in this district. Ditches are now in to cover about 1,400 acres, and 750 acres are platted and will be under cultivation this year. This land is divided up into 118 small farms, ranging from 5 to 10 acres each. This is the largest farming district located on the opposite side of the river from the agency.

He further states:

He further states:

There is a great deal of travel over this reservation, and, while the rivers can be forded when the stage of water is low, there is always some danger of getting into quicksand, especially in the Gila. When the water raises only a little, it is considered very dangerous to attempt to ford this river without a guide. The amount of travel over this part of the reservation is steadily increasing, and the necessity for bridges becomes more apparent each year. Indians ford these rivers when they are extremely dangerous, and it is not uncommon to find teams stick in the quicksands. Some are helped out by others and some are lost.

Mr. MONDELL. Will the gentleman yield for a question? Mr. HAYDEN. Certainly. Mr. HAYDEN.

Mr. MONDELL. Are the streams across which it is proposed to construct these bridges wholly on the Indian reservation?

Mr. HAYDEN. They are entirely on the Indian reservation. The road across the reservation is 56 miles long, and the bridges are in about the middle of it.

I have a letter here, signed by the governor of the State of Arizona, the chairmen of the boards of supervisors of Gila and Graham Counties, and the mayor of the city of Globe. The communication is dated April 5, 1912, and is addressed to the chairman of the Committee on Indian Affairs:

Hon. John H. Stephens, Chairman Committee on Indian Affairs, Washington, D. C.

Hon. John H. Stephens,

Chairman Committee on Indian Affairs, Washington, D. C.

Dear Sir: In reference to House bill No. 19950, being a bill to authorize the Secretary of the Interior to construct bridges across the San Carlos and Gila Rivers on the White Mountain or San Carlos Indian Reservation, in the State of Arizona, and for other purposes, we desire to call your attention to the following facts:

That owing to the lack of bridge facilities in this vicinity it is impossible for the Indians to ford the Gila and San Carlos Rivers during a number of months of each year. There are large tracts of land susceptible of irrigation and cultivation which lie in the reservation, and if bridges are built the Indians would irrigate and cultivate the same, which would practically make the Apache Indians on this reservation self-sustaining. The Indians have attempted to Irrigate and cultivate these lands at great loss to themselves and the Government because of the fact that their crops had to be abandoned and became an absolute loss, as the crops matured when the rivers were not fordable. If the above-mentioned bridges are constructed, the Indians will be able to irrigate and cultivate these lands, raise crops, be in direct communication with the agency, and be in a position to market their crops and to have their grain ground at the mill established at the agency at San Carlos.

The construction of these bridges will place the Indian agent in closer touch with the Indians than heretofore. He will be able to control them more successfully, give them the benefit of school facilities, and teach them habits of industry, and thus make them self-sustaining.

The bridges will place the matured timber now in said reservation within easy reach, making it possible for the department to market the timber now ready for use. This matured timber will not increase in value because of future growth, and it will be a benefit to the remaining timber upon the reservation to remove such timber and market it, thus creating a large fund fo

I might say in this connection that on page 32 of the hearings there is reported the sale last year of 300,000,000 feet of timber on the Apache Reservation, and the company who desired to make the purchase deposited \$5,000 as a bond, which was forfeited to the Government because there were no roads over which they could get into the reservation in order to move the timber out.

The letter says further:

The letter says further:

Owing to the fact that these rivers can not be forded, the agency at San Carlos is now compelled to ship its firewood by rail for a considerable distance. If these bridges were constructed the Indians would cut and haul, by their own labor, all firewood used at the agency, thus giving employment to a considerable number of Indians for several months in the year. This is also true with respect to driving beef cattle to the agency and the obtaining of many of the supplies used at the agency.

If these bridges are constructed it will place the Federal authorities in a position to properly manage and control the Indians in case of disturbances, and give them every opportunity to suppress the iniquitous liquor traffic with this tribe of Indians and to fully enforce all Federal laws relating to Indians and the reservation.

We would call your attention to a letter of January 19, 1911, written by A. L. Lawshe, superintendent of the agency at San Carlos, to the Commissioner of Indian Affairs, and also his telegram of January 22, 1912, addressed to the Indian Commissioner, fully indorsing the construction of the two bridges for the reasons we have recited.

The construction of these bridges will be of great benefit to the United States Government in the transportation of United States troops to and from the various forts in Arizona, and particularly in case of serious outbreaks on the Indian reservation; of great benefit to the State of Arizona and the counties of Glia and Graham in connecting the large mining districts of Globe and Miami, containing a population of 15,000 to 18,000 people, with the large farming community along the Glia River in Graham County, thus giving the farmers in Graham County an opportunity to market their produce in the mining camps at Globe and vicinity, and will give the Indians an additional market for their crops.

Said bridges, if constructed, will be on the State and county road.

Globe and vicinity, and will give the indians an additional their crops.

Said bridges, if constructed, will be on the State and county road passing through said reservation, and of such benefit to the counties of Graham and Gila that said counties have agreed to and will build, maintain, and keep up the 56 miles of road crossing the reservation in order to receive the benefits thereof.

If there is any additional information or data desired by your committee, we will be glad to furnish same.

We urgently request that your committee take immediate action in the matter of the report on the above bill.

Yours, respectfully,

GEO. W. P. Hunt,

Governor of Arizona.

tfully,

GEO. W. P. Hunt.

Governor of Arizona.

David Devore,

Chairman Board of Supervisors, Gila County.

Phil C. Merrill.

Chairman Board of Supervisors, Graham County.

W. W. Brookner.

Acting Mayor, City of Globe.

Now, in conformity with the ideas of the gentleman from Wyoming [Mr. Mondell], you will note that I have made this appropriation reimbursable.

The CHAIRMAN. The time of the gentleman has expired.
Mr. FERRIS. Mr. Chairman, I ask unanimous consent that
the gentleman have five minutes more.

The CHAIRMAN. Is there objection to the gentleman's

request?

There was no objection.

Mr. HAYDEN. I believe that this appropriation should be reimbursable out of any moneys that may hereafter be placed to the credit of the Apache Indians in the Treasury of the United States. I am frank to admit that they have no trust funds to their credit at present, but I want to make the prediction here and now that this particular tribe of Indians will in time to come be one of the richest in the United States.

The Fort Apache and San Carlos Indian Reservations contain an area of 5,494 square miles, so that the tribal lands of the Apaches is a little larger in extent than the entire State of Connecticut, and more than twice the size of Delaware and Rhode Island combined. The reservation lies squarely across the great mineral belt that crosses the State of Arizona from the northwest to the southeast. On the eastern edge of the Indian lands lie the Clifton and Morenci mining districts that produced in 1910 metals, principally copper, valued at \$9,410,777.83, as shown by the returns required to be made under the Arizona bullion tax law.

On the very western edge of the reservation are the mining districts around Globe and Miami that, according to the same returns, produced \$4,407,964.41. These statistics are two years old, but they happen to be the only exact figures that I have at hand. I know that there has been a great increase in the production of copper in all of these mining districts since 1910. I might say, in passing, that the United States Geological Survey for 1911 shows that Arizona produced in that year 303,202,532 pounds of copper, which was 27 per cent of the copper produced in the United States, or over an eighth of all the red metal produced in the world. Under the stimulation of the present high prices it is freely predicted that Arizona's production of copper for 1912 will total 350,000,000 pounds.

Now, I have talked with a number of men who have personally prospected the Apache Reservation, and they all inform me that there is every indication of large bodies of copper ore. I do not believe that there is a mining man in Arizona who is at all familiar with the conditions who would not give it as his opinon that some of the largest copper mines in Arizona will some time be developed within the present boundaries of the Apache Reservation, and the royalties from these mines alone should make the Apaches as rich as any of the Indians of Oklahoma.

As to the timber and agricultural resources of the reservation, if the committee will indulge me for a moment, I will read an extract from the report of the State land commission of Arizona made to the governor on December 1, 1912. The land commission has been traveling all over the State, making a personal appraisement of the school lands and examining other lands with a view to their selection under the grants made to the State by the act admitting Arizona into the Union.

FORT APACHE AND SAN CARLOS INDIAN RESERVATIONS.

"From Sulphur Springs Valley the commission, on its way to Apache and Navajo Counties, where weather conditions were most favorable for expeditions and effective operations, traveled through and over the White Mountains of eastern Arizona, lying in the counties of Gila, Navajo, and Apache. The objective point of this overland trip was Springerville, and the route lay over the ocean-to-ocean highway from Rice, on the Arizona Eastern Railway and San Carlos Creek. From Rice to Springerville the road lies, with the exception of the last few miles, in the Fort Apache and San Carlos Indian Reservations—a body of land which is worthy of at least passing mention.

mention.

"These two reservations constitute a vast and beautiful and inexpressibly rich inland empire, stretching more than 70 miles north and south and east and west, containing 5,494 square miles of territory, or more than three and a half million acres of land. The altitude ranges from the lowlands of the Glia and San Carlos Valleys to the towering heights of the White Mountains, clad with immense forests of pine, cedar, juniper, and quaking aspen, 8,000 feet or more above the level of the sea. The San Carlos Agency is at San Carlos, in the low-lying southern portion, while the Fort Apache Agency is at White River, in the timber-covered mountainous north, and about

these agencies and the Rice and Cibicu schools are mainly gathered the 4,545 Apache Indians—men, women, and children—comprising the remnants of many branches of a once famed and bloodthirsty nomadic tribe. At Fort Apache, 3 miles from White River Agency, are stationed two troops of United States Cavalry.

"The potentialities of the empire embraced within the boundaries of these reservations can not be estimated. are they that they may hardly be guessed at. Blessed by nature with scenic beauties of the most fascinating type, and clothed with billions of feet of valuable timber, the mountain valleys and sky-kissed mesas of the highland portion possess agricultural and horticultural possibilities realized by few and by fewer seriously considered. Cut by the White and Black Rivers, which form the Salt, seamed by their numerous forks and tributaries, these mountains form what is perhaps the best watered portion of Arizona. High up as they are, and subject to the rigors in winter of a northern climate, there are numerous protected areas, aggregating many thousands of acres of land, where farming and fruit growing could unquestionably be prosecuted with complete success. Apples, peaches, cherries, and similar fruits would find an almost perfect home, while many varieties of grains and vegetables which thrive best under temperate summer conditions, and are now grown to a certain extent by the desultory Indian farmers, would handsomely reward the husbandman. These things are not possible, of course, while the present boundaries of the Fort Apache and San Carlos Indian Reservation maintain, and the possessors of the arts of civilization are prohibited from availing themselves of the natural advantages here set aside and reserved for the red

As I stated a few moments ago, the State of Arizona is alive to the advantages of good roads. The people of the State have already built three bridges, each one at a cost greater than the cost of these bridges, and there is another bridge being built across the Salt River at Tempe at a cost of \$80,000. These bridges are of reinforced concrete, and the work is being done by convict labor. As soon as the Salt River bridge is completed the construction gang will go to another place to continue the work there. Under the direction of the State engineer a system of State highways has been planned and many miles of good roads have been built.

It has been proposed by the goods roads association of the State that the next legislature, which will meet this month, shall provide for a bond issue of \$5,000,000 for the construction of roads and bridges. From all I can learn from the press of the State that proposition is meeting with favorable consideration. It is in the line of work that has been done in California and the other Western States in the good-roads movement.

I am not now complaining about the great area of my State that has been turned over to the Indians. The United States has given them their reservations, which belong to them, and I do not want to take an acre away from them without just compensation.

It is now their land, and I am willing to assist them in making the best possible use of it, because I realize that no part of Arizona can prosper without benefiting the whole State. The Indian lands would still be a valueless wilderness if the remainder of Arizona had never been settled by the white people, It is the coming of the white people that has made valuable the timber, the coal, the copper deposits, and the agricultural lands that are now the property of the Indians.

On the other hand the development of the great natural resources of the Indian country is bound to add to the material prosperity of the white people in Arizona. The Indian and the white man have a common heritage, and it is only by the development of the whole of Arizona that all of her people, red and white alike, can find true prosperity.

All of this being true, my people are united in the opinion that the Indian should do his share in at least building the roads and bridges where the main highways cross the reservations. The Indian can not expect to enjoy all of the benefits of civilization without hearing some of its burdens.

tion without bearing some of its burdens.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. STEPHENS of Texas. I ask that the gentleman from Arizona have five minutes more, if he desires it, for the purpose of explaining the amendment.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that the time of the gentleman from Arizona be extended five minutes. Is there objection?

There was no objection.

Mr. HAYDEN. I hope that I will not take that much time, Mr. Chairman. As I say, I think the Indians ought to do their share in building up the good roads of the State. There is no better way in which to improve a country than to build roads and bridges. That is one of the best ways I know of in which to expend public funds. The construction of these particular bridges will benefit the Indians in opening up the country so that the timber, coal, and copper there will be worth something. This reservation would be worthless, as it was before the advent of the white people, except for the fact that the whole surrounding country has been settled by white people, which makes a market for the material things that the Indians own. And as the Indians will get the benefit of the increased value which comes from the settlement of the country by white people, a part of that value ought to go into the improving of roads and the building of bridges for the common benefit of all the people of the State.

Mr. STEPHENS of Texas. If the gentleman will allow me to ask him a question, is the State of Arizona in a financial condition to put in these bridges at its own expense, or to furnish a part of the money at this time, owing to the fact that it is a new State and in an undeveloped condition?

Mr. HAYDEN. The State of Arizona is in a financial condition to do any necessary bridge and road work. I do not think there will be any difficulty about the State doing its share.

In the case of the Yuma bridge the interest of the Indians in its construction across the Colorado River amounts to one-third of the cost. Under the circumstances the State of California should pay one-third of the cost and the State of Arizona onethird. In the case of the Gila and San Carlos bridges it is shown by the reports, and there is no evidence to the contrary, that the work is primarily of the greatest benefit to the Indians, of more benefit to them than to anybody else, and the benefit to the State is only incidental. The benefit to the State is in hav-

ing a through road across the reservation.

Mr. STEPHENS of Texas. What is the distance across the San Carlos Indian Reservation at the point where the bridges are to be built?

Mr. HAYDEN. Fifty-six miles from where you enter the reservation to where you come out of it, and the bridge is about half way between the two points.

Mr. STEPHENS of Texas. How far are the streams apart where these bridges are to be built?

Mr. HAYDEN. I do not know how far it is across the neck of land, but I suppose it is 4 or 5 miles.

Mr. STEPHENS of Texas. Then the persons to be immediately benefited would be the Indians, who now have the land and have 100 settlements of farms, and so forth?

Mr. HAYDEN. Yes; those facts are shown in the report, al-

though I have no personal knowledge of them.

Mr. STEPHENS of Texas. Has the gentleman personal knowledge as to the time that would be saved by these bridges? Mr. HAYDEN. I never have crossed the Gila River at the San Carlos Crossing but once, and at that time there was about

2 feet of water in it, but there were quicksands enough to stop an automobile for half a day. There is more danger from quicksands than from anything else. But it is a torrential stream, liable to rise in a few hours and become unfordable.

Mr. TILSON. May I ask the gentleman a question?
Mr. HAYDEN. Certainly.
Mr. TILSON. The gentleman has said that it is about 50 miles across the reservation one way, and that the bridge is about in the center. Will the gentleman state as to the other direction, how far across it is and how near the bridge is to the

Mr. HAYDEN. The reservation is about 70 miles across each way—approximately square. The line of road cuts the west boundary, dropping to the south, and then goes farther east and leaves the reservation about the middle of the south boundary.

Mr. TILSON. How near is the bridge to the boundary? Mr. HAYDEN. It is about 30 miles from Globe to San Carlos, where the bridges are located. It is about 25 miles to where the road leaves the other side of the reservation.

Mr. TILSON. It is well within the reservation? Mr. HAYDEN. Yes, indeed.

Mr. MANN. Will the gentleman yield?

Mr. HAYDEN. I will.

Mr. MANN. How large an appropriation does the amendment

Mr. HAYDEN. Sixty-five thousand three hundred dollars.

For how many bridges?

Mr. HAYDEN. Two.

Mr. MANN. Both on the San Carlos?

Mr. HAYDEN. One across the San Carlos and one across the

Mr. MANN. Where does the gentleman get his figures for the estimated cost?

Mr. HAYDEN. On page 4 of the report. The estimate of the bridge across the San Carlos is \$19,800; across the Gila River, \$45,500.

Mr. MANN. That is the basis of the gentleman's estimate?

Mr. HAYDEN. Yes. Mr. MANN. Is the gentleman able to say how much land there is on the off side of the river which requires the bridge across the Gila River?

Mr. HAYDEN. According to the report there are 4,000 acres of irrigable land on the south side of the stream, and of that amount 1,400 acres is now ready for cultivation.

Mr. MANN. There is, I believe, a proposition to erect a dam there, is there not?

Mr. HAYDEN. Yes.
Mr. MANN. How much of the 4,000 acres will be submerged if the San Carlos Dam is constructed?

Mr. HAYDEN. According to the report, the way I read it, these particular 4,000 acres, being located upon the south side of the Gila and above the junction of the two streams, would not be flooded, but could be used to create farms for the In-dians whose farms might be flooded lower down near the reservoir.

Mr. MANN. How does the gentleman figure that out from the report? In the instructions we gave the engineers they were directed to locate the bridge so that the dam could be thereafter constructed and the bridge would not be under water.

Mr. HAYDEN. Yes.

Mr. MANN. What is there in the report that indicates that the 4,000 acres would not be submerged?

Mr. HAYDEN. I may be drawing on my knowledge of the geography of the country. Mr. MANN. Or on the

Mr. MANN. Or on the imagination.
Mr. HAYDEN. If the gentleman would permit me to draw on my imagination on the floor of the House, I might.

Mr. MANN. The gentleman said that he had no personal knowledge of this situation.

Mr. HAYDEN. Except by traveling across the reservation once.
Mr. MANN. The report says there are 4,000 acres of land,
of which 1,400 have been and 700 more are being platted, and this land is divided into 118 small farms.

And immediately following that:

The construction of the proposed San Carlos Dam would submerge valuable land below the agency, and many Indian families will be compelled to find homes elsewhere. The amount of land that would be submerged and the number of Indians that would be disturbed are unknown to me.

The two are in that conjunction which would lead one not personally familiar with the physical condition there to suppose they related to the same matter.

Mr. HAYDEN. The Gila River flows westward-

The CHAIRMAN. The time of the gentleman from Arizona has expired.

Mr. RAKER. Mr. Chairman, I ask unanimous consent that the gentleman be permitted to proceed for five minutes. The CHAIRMAN. Is there objection?

There was no objection.

Mr. HAYDEN. This report states that these 4,000 acres of land are located east of the proposed site of the bridge. The river flows to the west. And if the bridge is located far enough upstream not to be submerged and this land is still to the east of the bridge, then the land naturally will not be submerged, because the basin of the reservoir is located lower down the

That would bring one to the consideration of Mr. MANN. where the bridge is to be located. The gentleman says these 4,000 acres are east of the site of the bridge. Where is the bridge to be located?

Mr. HAYDEN. Six miles above the junction of the San Carlos and the Gila.

Mr. MANN. There are two bridges—and where else? I notice the report says 4 miles northeast of the San Carlos River. The gentleman says that the property just east of the San Carlos is east of the bridge. The report of the Secretary of the Interior says that the bridge will be 4 miles north-east of the San Carlos River. In order to assist the gentleman's recollection as to the physical condition of the ground there, I will state it is true that the Secretary of the Interior

locates the bridge 4 miles northeast of the San Carlos and the supervision of construction locates it 4 miles northwest of the San Carlos. I do not undertake to say where it is to be between these two points, 8 miles apart.

Mr. HAYDEN. If the gentleman will pardon me, there are

two bridges.

Mr. MANN. I am talking about one bridge. It is true there are to be two bridges. I am talking about one bridge. Where is it to be?

Mr. HAYDEN. The engineer who was on the ground says:

In considering the best location for bridges above flow line of the proposed San Carlos Reservoir, it was found necessary to go approximately 6 miles northeast from the San Carlos railroad station on the Gila and 4 miles northwest on the San Carlos River.

Mr. MANN. Now, if the gentleman will pardon me, reading from the Secretary of the Interior, he says:

Therefore, in considering the best location for bridges above the flood line of the proposed San Carlos Reservoir, it was found necessary to go approximately 6 miles northeast of the San Carlos railroad station on the Gila and 4 miles northeast on the San Carlos River.

Mr. HAYDEN. Perhaps the Secretary of the Interior is in the same situation that I was when I first came to Washington. I have hardly yet found out which way is north. He may be

suffering from the same sort of trouble.

Mr. MANN. But this is not a question of north. cases they located it north, but one says northeast and the other says northwest. I was trying to discover from the gentleman, who says he has been there, where the bridge is to be, especially in connection with this submerged land. With reports that the land that is now used by these Indians is likely to be submerged, and the Indians permanently removed, what is the object of building a bridge for their special accommodation?

Mr. HAYDEN. On the San Carlos River above the proposed bridge is the farming country of the Indians, and on the Gila River above the proposed bridge is the farming country of the Indians, and in order that these people may get together and go to the agency when the streams are high it is necessary that these two bridges be constructed; otherwise the reservation would be divided into three parts-that part which lies to the west of San Carlos, that part which lies in between the two streams, and that part south of the Gila.

Mr. MANN. Is the gentleman able to tell the House whether these Indians themselves have been consulted in reference to spending their money in the construction of a bridge partly for their use and partly for the use of the general public?

Mr. HAYDEN. I have no knowledge of anything having been

submitted to the Indians.

Mr. MANN. Does not the gentleman think that if we are to build bridges for the use of certain people at some places at their expense that it will be just as well to know something about what they think about it?

Mr. HAYDEN. Well, I do not know that it has ever been

the custom for the Indian Office to refer matters of this kind to the Indians. We are supposed, as their guardians, to know

what is best for their interest and to act accordingly.

Mr. MANN. I suppose it has been the custom. almost invariably in matters of this kind the superintendent who makes the report obtains or purports to obtain information as to the opinion of the Indians.

Mr. HAYDEN. There is nothing in this record on that

subject.

Mr. MANN. I see there is nothing in this record on the subject. It might be these Indians would like to have this bridge built out of the Federal Treasury, because it would, at least, give some work to them. It might be that they would like to have it built at their own expense. It is quite certain that the white people who trade with them would be glad to have it built either out of the Federal Treasury or at the expense of the Indians if none of it comes out of their pockets; but does not the gentleman think we ought to consult the Indians somewhat as to whether we will use their funds to do something for their special good?

Mr. HAYDEN. They have no tribal funds at the present

The CHAIRMAN. The time of the gentleman has expired. Mr. MANN. Mr. Chairman, I make the point of order against the amendment.

Mr. STEPHENS of Texas. Mr. Chairman, I hope the gentleman will not make the point of order. I think it has been shown clearly here that these Indians would be greatly benefited if they had these bridges, and unless money is spent by the United States Government for the purpose of building these

bridges and developing their lands they will remain there for hundreds of years, possibly, as they have in the past. it has been shown that it would be for the benefit of the Indians, that it would be for the benefit of the State and for the benefit of the white people of that country that these bridges and dams should be built in order that that land can be irrigated and the country developed. I desire to say, further, it is quite a hard matter to get a bill through separately. We could not now; we would have to wait until next year before anything can be done. The Government has been amply protected. We have spent a thousand dollars in having this examination made. It is perfectly satisfactory to the department, perfectly satisfactory to the Indian agent, and therefore why should not the gentleman be willing that this small amount of money be expended for the benefit of the Indians that will help them immensely in the future? It has been stated by the gentleman from Arizona [Mr. Hayden]—and I have been in that country and know his statement to be true—that this tribe will probably be the wealthiest tribe of Indians in the United States, and that undeveloped country will never be developed unless we build bridges and open up canals and irrigation projects. Every dollar is reimbursable; nothing comes out of the Treasury of the United States in the end but what will be reimbursed. We have constituted ourselves the guardians of these Indians, and as their guardians I feel it is our duty to protect them by giving them this small amount of their own money to build bridges for themselves.

Mr. MANN. Mr. Chairman, I think likely what the gentleman says may be true, and yet before we expend their money for this purpose I think it would be advisable to know what they think about it. I doubt whether the amendment would

make it reimbursable.

Mr. STEPHENS of Texas. If there is any question, I will let the gentleman amend the amendment so there will be no question about it.

Mr. MANN. I heard the amendment read. I would have no objection to building bridges reimbursable out of the funds of the Indians, recommended by the Indian officers, which was agreeable to the Indians themselves, who proposed to use the However, Mr. Chairman, I think the item is subject to the point of order. There is no authorization for the bridge. There was in the last year's bill an item similar to the one which was embodied in the bill a few moments ago, providing for a survey and an estimate of cost, but it has been the ruling always that that did not commit the Government to a project, so that it is not a work in construction. There is no authoriza-tion of law, and no one pretends there is, for the construction of this bridge. I do not know whether the Chair cares to hear further on the subject or not.

Mr. STEPHENS of Texas. I desire to state simply that we only authorized the plans and specifications to be made, the estimated, and the matter was referred back to the House for further action, and we now have acted upon it and asked for this appropriation, as the Government is the general guardian for these Indians; and as there has been an Indian Bureau created under the act of 1832, the President of the United States and the Commissioner of Indian Affairs have the right to control, where they see proper, these Indian matters of every kind and character, and it seems that would be within our province, after we have gone to the trouble of having these surveys made and the estimates made, and determine the necessity for the purchase, as we have done. It has all been agreed on, and we should have the appropriation.

The CHAIRMAN. The Government has the largest control

in relation to the Indian funds and Indian appropriations. So far as the House is concerned, it must stand by its rules, and

the Chair sustains the point of order.

Mr. HAYDEN. Mr. Chairman, I ask permission to extend my remarks in the RECORD by printing in full some of the letters to which I referred.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. RAKER. Mr. Chairman, I ask unanimous consent that the reading of the bill, under the head of "California," on page 10, commencing with line 18, and on page 11, from line 1 to 7, inclusive, be passed for to-day, and that it be taken up at the next meeting of the committee.

Mr. STEPHENS of Texas. The gentleman refers to the Com-

mittee on Indian Affairs?

Mr. RAKER. Yes; this committee here, which is now considering the bill.

Mr. STEPHENS of Texas. I have no objection to passing that part until we reach the close of the bill, but in the event of closing to-day we could take it up at the end of the bill.

The CHAIRMAN. A portion of the motion of the gentleman from California [Mr. RAKER] is that the part indicated by him shall be passed without prejudice for the present.

Mr. CARTER. Does that include the entire State?
Mr. RAKER. It includes it, as I understand, down to the
word "Florida," line 8, on page 11.
Mr. MANN. Mr. Chairman, reserving the right to object, I will ask the chairman of the committee what his disposition is? I notice the gentleman from California [Mr. RAKER] first asked to have the California items passed for the day. man from Texas [Mr. Stephens] suggested that they pass to the end of the bill, which, of course, is perfectly agreeable. Will the gentleman let me know how long he intends to keep the House in session?

Mr. STEPHENS of Texas. I have a faint hope that we will

get through with this bill to-day.

Mr. MANN. That may be true. But how long will the committee remain in session?

Mr. STEPHENS of Texas. That will be subject to the wish

of the committee.

Mr. MANN. I know. But we might stay here until 12 o'clock to-night. What I want to know is whether the gentleman intends to keep the House in session longer on Saturday night than formerly?

Mr. STEPHENS of Texas. Oh, I think not.

Mr. MANN. It does not look to me, from the number of items in which myself and others are interested in this bill, that it is

practical to finish the bill to-day by 5 o'clock.

Mr. STEPHENS of Texas. We can certainly do something Mr. STEPHENS of Texas.

on the bill.

Mr. MANN. There will be no objection to that. I simply

wanted to know the disposition of the gentleman about it.

The CHAIRMAN. The motion of the gentleman from California [Mr. Raken] is that the items as to California, down to the word "Florida," page 11, line 8, may be passed until the balance of the bill is completed, and that then the California items may be taken up for consideration. Is there objection?

There was no objection. Mr. MONDELL. Mr. Chairman, I move to strike out the last

word.

Mr. STEPHENS of Texas. Mr. Chairman, there has nothing been read since the California items have been passed. We have reached "Florida" and none of the items have been read.

Mr. MONDELL. That is the situation. But I made inquiry

of the Chair whether the disposition of the matter just referred to would preclude my offering an amendment taking up the Wyoming item?

The CHAIRMAN. The Chair will state the situation, which is as indicated by the gentleman from Wyoming [Mr. Mondell] After we have disposed of the part referred to, the Chair will certainly, in pursuance of what he stated, recognize the gentle-

man from Wyoming [Mr. MONDELL].

Mr. MONDELL. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman of the committee why the committee failed to insert in the bill an item contained in the estimates for the continuation of the construction of dikes and other protection for allotments on the Fort Mohave Reservation.

There would seem to be quite as urgent reasons for that particular item as for any of the items that are contained in the bill. It seems that the Cotton Land & Irrigation Co.-I get this from a hurried reading of the statement made by the commissioner-furnished the Government with the water rights of a certain acreage, 1,000 acres, it is stated, in lieu of a right of way across the reservation. That would seem on its face to be a rather liberal proposition, favorable to the Indians and the Government. Now, it has been discovered that the lands over which the water right is thus acquired are subject to overflow, and therefore the water right can not be utilized, because at times there is too much water coming from the rise of the river, and there is the necessity of building dikes for the purpose of protecting the lands to be irrigated, the water right for which is already acquired, from the rise of the river. Now,

that would seem to be a mighty important thing.

Mr. STEPHENS af Texas. I think the gentleman has got the wrong idea here. I think the item under consideration

begins on line 7 of page 10:

For completion of the construction of necessary channels and laterals for the utilization of water in connection with the pumping plant for irrigation purposes on the Colorado River Indian Reservation, Ariz.

Mr. MONDELL. My inquiry was why the committee in its wisdom-I assume it was in its wisdom, and I hope not in its lack of wisdom-failed to insert the item in the bill which I have just read. It occurs in the Book of Estimates just before the item to which my formal motion was made. The item was Why? left out.

Mr. STEPHENS of Texas. Because we did not think we were justified in inserting that item without information from the irrigation engineers and the parties in charge of the work

on that reservation.

Mr. MONDELL. From a rather hurried reading of the statement, it seems to me quite clear that the Indians can not use the water rights they already have. This is exceedingly im-The department wants to secure an appropriation for these Indians. The department has been rather derelict in its duty in that regard in the past-not the recent past-and I am glad they are proposing to do this in this case. They ought to have the money necessary. The department does not ask much, but whatever is necessary they ought to have. They already have this 1,000 acres of land with the water right. river rises and overflows the land. The water recedes, the land dries out, and the ditches are gone. They want some dikes to hold back the inundating floods. They want to appropriate some more water, and, of course, they will have to make surveys and prepare maps and plans in order to meet the requirements of the State engineer's office, and all that, and all that costs money.

Now, there is something said about the purchase of additional water rights at \$25 an acre. The committee may have some question as to the advisability of doing that, but the commissioner calls attention to the fact that the sum he seeks is primarily for the purpose I have indicated—that of building the dikes and acquiring the necessary water rights.

Mr. STEPHENS of Texas. And they are asking for 1,000

We were not willing to go into that.

Mr. MONDELL. Well, assuming that the committee was not prepared to have that done, surely that would not justify the denial of the request for sufficient money to build small dikes and to secure some water rights-in other words, to clinch what the Government now has and make it available for use.

The CHAIRMAN. The time of the gentleman has expired. Mr. FERRIS. Mr. Chairman, the gentleman from Wyoming [Mr. Mondell] complains that we left out here a \$50,000 item,

Mr. MONDELL. The gentleman should not reiterate the statement that I complained. I inquired in this case. I protested in the other.

Mr. FERRIS. Well, let it go at that. The gentleman inquired. I do not care to be technical about it. I do not want to misrepresent the gentleman. This calls for a new project of 1,000 acres of irrigable land, and it calls for a pumping plant. We have had a serious experience with pumping-plant projects down there, because the price per acre is more than the lessees are willing to pay, and the money is expended without getting anything of value in return. Now let me read what the department says:

This item should be a nonreimbursable appropriation. These Indians have but little assistance from the Government and are practically destitute and without resources. Great destruction has been done to their lands by the encroachment of the Colorado River.

Now, here is his estimate:

It is estimated that at a cost of \$35,000 water can be pumped onto 1,000 acres of irrigable land on the Nevada side of the river, and it is proposed that \$20,000 be used during the fiscal year 1914 to make a start on this work.

Now the facts are these: They get 1,000 acres of land irrigated from this Cotton Land Development Co. free. It costs the Government nothing. It costs the Indians nothing. afforded them by the company for the use of the water. We thought that that in all probability was as much or more than they would utilize and more than they would farm, and we did not want to launch out on a new project, on a pumping plant, which in all probability would cost so much that it would be prohibitive. The Director of the Reclamation Service, Mr. Newell, explained to us, not once but on nearly every one of these items, that where you have to lift the water out of the earth, the wear and tear of machinery and the rusting out and deterioration of the machinery makes the expense so high that it is often prohibitive.

The Indians do not farm as much in reality as this legislation and this justification would oftentimes indicate. The real truth about it is that a good deal of this land that is being irrigated at the expense of the Government is being used by

lessees of the Indians, who do the work for them. And, being constantly criticized by the House and by nearly everyone as we have been, we did not want to commit the Government to any new project, and that is the reason we left out the item for \$35,000.

Mr. MONDELL. If the gentleman will allow me, the beginning of the item is for continuing the construction of dikes and their protection, and attention is called to the fact that a continuation of the construction of these dikes is necessary to protect the land already irrigated, to what extent I do not know, but there is essentially a continuing expenditure. Then there is the part for securing an additional appropriation. Now, I agree entirely with the gentleman as to that part of the amendment which proposes new construction. I think that feature is probably questionable, but I think that the committee must have made a mistake in striking out the entire item, because there is a part of that expenditure which it seems to me is entirely

Mr. FERRIS. We gave them \$25,000.

Mr. MONDELL. Last year. Mr. FERRIS. We gave them \$25,000 this year.

No; you did not give them anything. The Mr. MONDELL.

item is not in the bill.

Mr. FERRIS. We gave them the same amount that we gave them last year. The thing the gentleman complains of is that we did not launch out on a new project costing \$35,000, which the Indian Office says must be nonreimbursable, so we will have

o opportunity ever to reimburse it.

Mr. MONDELL. I think the gentleman is mistaken. This item was in the appropriation bill at \$25,000 last year.

Mr. FERRIS. We have it in the bill now, on page 10, lines

7 to 17, at \$25,000:

For completion of the construction of necessary channels and laterals for the utilization of water in connection with the pumping plant for irrigation purposes on the Colorado River Indian Reservation, Arlz., as provided in the act of April 4, 1910 (36 Stats, L., p. 273), for the purpose of securing an appropriation of water for the irrigation of approximately 150,000 acres of land and for maintaining and operating the pumping plant, \$25,000, relmbursable as provided in said act, and to remain available until expended.

Mr. MONDELL. I am not talking about the Colorado Indian

Reservation item at all.

Mr. FERRIS. What item is the gentleman talking about?

Mr. MONDELL. About the item in the Book of Estimates above that. That is not in the bill.

Mr. FERRIS. That is a new item entirely. It was not in

the bill last year.

Mr. MONDELL. Then the Book of Estimates is in error. Mr. FERRIS. The Book of Estimates does not contain what was in the bill last year. It merely contains what the department suggested.

Mr. MONDELL. The Book of Estimates contains the statement of what was in the bill last year.

Mr. FERRIS. This was not in the bill last year.

Mr. MONDELL. What I refer to is the act of August 24, 1912. volume 37, page 533, section 25, \$25,000. I do not know whether that is the same item or not, but the Book of Estimates indicates that this item was in the bill last year for \$25,000.

Mr. FERRIS. It was in the bill last year and it is in the bill this year. There is nothing left out of the bill this year that was in last year. We merely refused to put new stuff in.

Mr. MONDELL. Where?

Mr. FERRIS. In the same place, beginning with line 7, on

page 10, and ending with line 17, on page 10.

Mr. MONDELL. On the contrary, the item that the gentleman refers to is an entirely different item. I am talking about the Mojave Reservation item. The gentleman is talking about the Colorado River Indian Reservation. I am talking about an item that is not in the bill, but which is in the Book of Esti-

Mr. FERRIS. We did not allow the item.

Mr. MONDELL. The gentleman stated that it was in the

Mr. FERRIS. It is not. Last year the bill carried this language: "For continuing the construction of dikes or other protection for the allotments on the Fort Mojave Reservation, \$25,000." That was to build dikes to be constructed for the benefit of the Fort Mojave Indians. The Indian Committee investigated that fully and believed that the \$25,000 was sufficient for continuing the construction of the dikes. But the department sought a new section, and they inserted another item in the bottom of the bill they sent to us, reading in this way, "To purchase additional water rights for \$50,000"; and the matter with the commissioner.

that is the reason why we did not insert it, because they wanted to put in a thousand acres more, costing \$50,000 for the new project, and that is the reason we did not grant it.

The Clerk read as follows:

FLORIDA.

Sec. 4. The unexpended balance of the appropriation of \$10,000 "for relief of distress among the Seminole Indians in Florida, and for purposes of their civilization," made in the Indian appropriation act approved March 3, 1911, is hereby reappropriated and made available.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word for the purpose of inquiring why the committee left out the three last items in the Book of Estimates following the item we have just passed, the last item on page 10.

Mr. STEPHENS of Texas. We have just read the item rela-

tive to Florida.

Mr. MONDELL. I realize that we have, but I desire to ask about an item not in the bill. I assume that I can make that inquiry as well after the Florida item was read as I could after the reading of any other item, because these items would have been in the bill before we reached the Florida item, but as they were not in the bill I could not call attention to an item that was not read.

Mr. STEPHENS of Texas. What item does the gentleman

Mr. MONDELL. I will read them:

For the purpose of enabling the Secretary of the Interior to carry into effect the provisions of the sixth article of the treaty of June 8, 1868, between the United States and the Navajo Nation or Tribe of Indians proclaimed August 12, 1868, whereby the United States agrees to provide school facilities for the children of the Navajo Tribe of Indians, the sum of \$150,000, or so much thereof as may be necessary, is hereby appropriated out of any funds in the Treasury not otherwise appropriated.

Mr. STEPHENS of Texas. But, Mr. Chairman, we have

passed Arizona to which those items relate.

Mr. MONDELL. Yes; but I rose to ask a question of the chairman why the committee in its wisdom left the item out, and also another item following it, the water supply for the Navajo Indians, \$100,000. And another item for enlarging the irrigation system for the protection and irrigation of Indian lands within the Camp McDowell Indian Reservation, Ariz., \$30,000. These two last items are new items, but the first item I read is an item proposing to carry out a treaty stipulation.

Mr. STEPHENS of Texas. I desire to answer the gentleman

fully. I presume the Committee on Indian Affairs has the right to legislate by adopting the legislation asked for of the House by the department, or we have the right to reject it, and we saw proper to reject it. That is the only statement I can

Mr. MONDELL. I realize that the gentleman's committee saw fit to reject it, but is it not proper for me to ask the chair-man for the reasons that led the committee to reject it? Did they investigate it?

Mr. STEPHENS of Texas. We investigated every item presented to us, and after a full examination of this matter we thought that we could not afford at the present time and under present conditions to allow these matters to creep into the bill.

Mr. MONDELL. I do not understand how the committee could well refuse to take action in regard to this matter, and I can not find anything in the hearings to indicate that the committee went into it at any length.

Mr. STEPHENS of Texas. I do not know that we are responsible to the gentleman from Wyoming for our action. thought we were responsible to the House and that we were justified in not reporting the items.

Mr. MONDELL. If the chairman of the committee does not want to answer

Mr. STEPHENS of Texas. I have answered the gentleman as fully as I can.

Mr. MONDELL. Why, he can do so. He is not responsible

Mr. STEPHENS of Texas. I am not responsible for the committee I preside over except as one of its members.

Mr. MONDELL. I deem it my duty to be informed as to these matters, and I simply asked a question, which I think is a very proper question, why the committee saw fit to leave these items out of the bill.

Mr. STEPHENS of Texas. I will again make as succinct an answer as I can. We did not think the condition of the Treasury justified us in making these appropriations at this time, and the committee was of the unanimous opinion that they

should not now be granted.

Mr. MONDELL. You did not think it necessary to discuss

Mr. STEPHENS of Texas. Oh, there were hearings on every We had the commissioner and the clerks before us, both the chief clerk and the Assistant Commissioner of Indian Affairs. If the gentleman will turn to pages 56, 57, and 58 of the printed hearings of this session he will find that matter fully discussed, and I do not think it is necessary to discuss it again on this floor.

Mr. MONDELL. There was very little inquiry with regard to the Camp McDowell matter, and that is a matter that has

been agitated a good deal in the past year.

Mr. STEPHENS of Texas. I will refer the gentleman to the printed hearings and the statements I made. I think that is a sufficient answer.

Mr. MONDELL. The gentleman may consider it sufficient. It does not seem to me there is any sufficient answer in the

hearings as printed.

Mr. MANN. Mr. Chairman, I move to strike out the last two words for the purpose of asking the distinguished gentleman from Texas [Mr. Stephens] a question, hoping I will get more information than the gentleman from Wyoming [Mr. MONDELL] obtained by his question.

Mr. STEPHENS of Texas. If the gentleman will permit me, will let the gentleman read in his own time the reasons given by the committee why they did not permit those three items to

Mr. MANN. Mr. Chairman, the gentleman from Texas and myself have very different ideas of the duties of a man in charge of a bill. When the gentleman in charge of a bill is asked a question in regard to the bill, I have never understood that it was a sufficient answer to reply "Read the hearings," because everybody knows every Member of the House can not read the hearings before all the committees. It is expected that when a gentleman in charge of a bill has had hearings and is asked a question on the floor of the House that he will be able to tell in a succinct way the substance of his position and what is in the hearings, without advising the gentleman asking the question to go and read the hearings, which in this case were only recently printed, and in any event were never had before the full committee. Those hearings were had before only three members of the Committee on Indian Affairs, which is an outrageous way of conducting a hearing.

Mr. STEPHENS of Texas. We had the stenographic report from the reporters after it had been written out in full before the full committee, and any member of the committee could take up those reports and have them fully investigated.

Mr. MANN. How could any member take up a stenographic report and do that, with only one copy of the report for a com-

mittee of how many members?

Mr. STEPHENS of Texas. We had three copies,

Mr. MANN. The bill was reported before anybody had a chance to read the report, and, as the gentleman stated once before on the floor of the House, before the stenographic report had been transcribed. It had not been printed, because it had not been transcribed.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. MANN. No; because I want to ask a question about the this \$10,000 for the Florida Indians, where it is now proposed to reappropriate the unexpended balance? Has any one cent of it ever been paid to any Florida Indian?

Mr. STEPHENS of Texas. I will refer the gentleman to the

top of page 61 of the hearings:

The unexpended balance of the appropriation of \$10,000 "for relief of distress among the Seminole Indians in Florida, and for purposes of their civilization," made in the Indian appropriation act approved March 3, 1911, is hereby reappropriated and made available.

The Indians of Florida are becoming less and less able to provide for themselves from revenues derived from hunting and fishing, which is practically the only occupation they know, owing to the reclaiming of the Everglades. They have been slow to accept the aid of the Government, although land has been provided for them, which it is expected they will settle upon and improve when their present haunts are made to disappear. They are not citizens of the State of Florida, and Inasmuch as their situation is liable to become acute at any time funds should be available for their relief.

Mr. MANN. Oh, that is in the Book of Estimates, and I read that before the bill had been reported. It is just as well to put it in here, but that does not answer the question. Two or three years ago we appropriated \$10,000 for the support and maintenance of Indians in Florida. Last year we reappropriated the unexpended balance. It is now proposed to reappropriate the unexpended balance. How much is the unexpended balance?

Mr. STEPHENS of Texas. I have it right here.

Mr. MANN. How much of the money that has been expended has been paid to the Indians and how much has been used by the department?

Mr. STEPHENS of Texas. There was \$154 expended for the purpose of investigating this matter, leaving a balance of \$9,846 out of the \$10,000. Here is an analysis. Salaries and wages \$100, traveling expenses \$54, total \$154. Taking that

from \$10,000 it leaves a balance of \$9,846.

Mr. MANN. I think the gentleman's arithmetic is correct. Now, for two years we have carried this appropriation for the support of Indians in Florida. The temptation has not proven beyond the control of the gentleman in charge of the Indian Office. There never was any occasion for appropriating one cent for those Indians. I tried to persuade the House to that effect when we made the first appropriation, but the Committee on Appropriations represented how much money we would have to expend to keep these Indians there from starving to death. They had the money two years and have not expended one cent except \$154 for some gentleman to take a nice trip to Florida during the wintertime.

Mr. FERRIS. Will the gentleman yield? Mr. MANN. I always yield.

Mr. FERRIS. I desire to say to the gentleman that the President has really taken some steps. These Indians in the Everglades are as wild as rabbits, and up to this time they have not been able to do anything with them, but the President has by Executive order set aside a tract of land comprising 85,000 acres and the Indian Office has tried to get these Indians on it, tried to get hold of them, lasso them, or catch them in some other way, and put them on it.

Mr. MANN. This talk about the Indians being so wild is all

fudge.

Mr. FERRIS. Well, the Indian Office does not say so.

Mr. MANN. What do they know about it? Mr. FERRIS. They have been down there.

Mr. MANN. They sent one man on a winter trip, at a cost of \$154; that is all they know about it. They do not know anything about it. There never was any occasion for the Government spending a cent on these Indians down there; they are not asking it.

Mr. FERRIS. They have not got sense enough to ask any-

Mr. MANN. The gentleman need not be alarmed; they have got a great deal more sense than some of the native crackers of Florida and are quite able to take care of themselves; they are pretty bright people down there.

Mr. FERRIS. They are the wildest Indians in the United

States, whatever the gentleman says.

But the gentleman knows people who are so Mr. MANN. wild usually do not live down in that hot climate around the water: they are not so wild.

Mr. FERRIS. Just one word further. They have not spent but \$154 up to this time, so it has not been costing the Govern-

ment very much.

Mr. MANN. No; it has not been costing the Government; that is true. But is that a reason for making the appropriation?

Mr. FERRIS. As long as the President has set reservation of 80,000 acres and as long as the Indian Office was trying in good faith to get the Indians on it, it seems to me it is not too much to follow up the judgment of two prior Congresses which have set aside \$10,000 to be expended for that purpose and which up to this time has not been spent. It does not carry anything, but is merely a reappropriation.

Mr. MANN. I understand you do not include it in the total appropriation where it belongs. You do not call it part of

the appropriation bill, although in fact it really is.

Mr. CARTER. Mr. Chairman, it would not be necessary, I think, to have an appropriation for investigation of the Seminole Indians of Florida unless something is accomplished toward draining the Everglades.

I have made trips through Florida both ways, north and south and east and west, and met a good many of these Indians. found very few of them able to speak any English at all. While they may not be classed as wild Indians they are certainly primitive Indians and know very little about the white man's way of sustaining themselves.

Originally they owned the State of Florida and perhaps a portion of some of the surrounding States. They have been driven back and narrowed down now to the Everglades. If the Everglades are drained and inhabited by the white man, then some place must be found on which they can make their existence, because the Everglades no longer belong to them legally, and as this work progresses there is going to be some necessity for an investigation of the condition of these people to find out just what should be done with them and just what can be done for them, and for that reason I think this appropriation of \$10,000 should remain in the bill until it is made use of for their benefit or until a final investigation of the question is made by the department.

Mr. AUSTIN. How many are there? Mr. CARTER. One of the purposes of this investigation is to find out the number of Indians and to enroll them.

Mr. AUSTIN. Would not the census report of Florida show

Mr. CARTER. A census report never shows conclusively the exact number of any people of any nationality. It shows in a general way, but does not show as definitely as would be necessary for allotment purposes or for support and civilization. I think there are about 400 of them.

Mr. MOORE of Pennsylvania. A great many of these Indians drift into Miami and St. Augustine and Jacksonville. They

drift out of the Everglades and go into these cities.

Mr. CARTER. I did not meet any in Jacksonville, but saw

several at Miami

Mr. MOORE of Pennsylvania. I have gone through the Ever-glades and I have seen those Indians seemingly engaged in pursuits, selling trinkets and cotton goods, and coming into town to make purchases. Does the gentleman infer when he speaks of those Indians with whom he came in contact, that they were supposed to live far off in the Everglades and out of reach of civilization and did not come into town?

Mr. CARTER. Those I saw were mostly Indians who came into town, and if those remotely removed from civilization are any less capable than those I met in the towns, then, indeed,

they need some care from the Federal Government. Mr. MOORE of Pennsylvania. Well, some of them assuredly

are self-supporting.

Mr. CARTER. That is true as long as the fish and game remain in the Everglades.

Mr. MOORE of Pennsylvania. Some of them act as guides

out of Miami.

Mr. CARTER. And if the Everglades remain, will there be

use for guides?

Mr. MOORE of Pennsylvania. The State of Florida is already draining the Everglades, and there is a constant report concerning the condition of the Indians.

Mr. CARTER. The Indian as an attraction has got to be done away with as civilization progresses, and these Indians will have to be given some attention in order that they may be

made a self-supporting, self-reliant people.

Mr. MOORE of Pennsylvania. That is what I should like to see, but the gentleman from Oklahoma [Mr. Ferris] spoke of the Seminoles as wild rabbits, but that statement is somewhat modified by the gentleman from Oklahoma [Mr. CARTER]. They certainly do fraternize with the white man and come out in the open, although there is certainly a mystery concerning those who live far off in the Everglades, and are never supposed to get into a civilized territory-Mr. CARTER. Undoubtedly.

Mr. MOORE of Pennsylvania. But an improvement has been

made in the Seminoles.

Mr. CARTER. The Government owes something to the Seminoles of Florida, both on the grounds of having deprived them of millions of dollars' worth of valuable property and on account of their incapacity, for as soon as their native haunt, the Everglades, are destroyed as hunting and fishing grounds they will become poverty-stricken and degenerate to the level of beggars and mendicants. But if the proper care and supervision are accorded them they may become substantial, selfreliant citizens.

Mr. MOORE of Pennsylvania. Does not the gentleman, who is so conversant with the ramifications of the subject, think the Seminole will take up all the farm land of Florida, which is

also an inducement to the white man?

Mr. CARTER. I think they will, if they are given proper attention and proper care along certain lines by the Federal Government, be merged into our citizenship. Without that care and attention they may become extinct in a few years and pass out of existence, as is usually the case when nothing is done for helpless people.

Mr. MOORE of Pennsylvania. But will this \$10,000 be a Would it not constitute a temptation for drop in the bucket? investigation like those which have already been made for acquiring information which the State of Florida has made?

Mr. CARTER. The real purpose of this \$10,000 item is invesigation. It has been explained in the House that the President has set aside a certain amount of land for them, and now it is going to take some money to investigate and find out who are Seminoles, and find out when and how they shall be placed on the land.

The CHAIRMAN. The time of the gentleman from Oklahoma

[Mr. Carter] has expired.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask that the gentleman have five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The gentleman from Oklahoma [Mr. Carter] is recognized for five minutes more.

Mr. MOORE of Pennsylvania. The item of \$10,000 provides for the relief of distress among the Seminole Indians. It is not a question of investigation at all. That is the point that I am making.

Mr. STEPHENS of Texas. It is a question of reappropriation, I will state to the gentleman from Pennsylvania. It is made available in accordance with the provisions of the act of

March 3, 1911.

Mr. MOORE of Pennsylvania. I have not the act before me. I have the bill. The bill says, in quotation marks, "For relief of distress among the Seminole Indians in Florida, and for purposes of their civilization," so that it is not a question of information and it is not a question of investigation or securing any more data than we already have on this subject. As presented to the House, the proposition is that we shall lay aside this \$10,000 for possible relief of distress that may occur among the Seminoles.

Mr. CARTER. I think, Mr. Chariman, we can assume that before we can relieve distress we must first investigate about the relief of that distress and to what extent relief can be

Mr. MOORE of Pennsylvania. Yet we have a statement here that but little over \$100 has been spent for an investigation of a situation concerning which we have very little information before the committee, so that it would seem that the main purpose of the item pending here is to send people down there to look into the Everglades, which has been done time and time again, and to withhold that fund until the department is assured by somebody that the Indians are in distress.

Mr. CARTER. Perhaps, Mr. Chairman, the wording of the provision might be changed to advantage. What should be done, in my opinion, is that an investigation should be made at the earliest possible moment of the condition of these people and the number of them, the number of acres that would be required for their allotments, and as to what plan should be pursued by the Federal Government for their education and civilization.

Mr. MOORE of Pennsylvania. They should be treated as

other Indians are treated.

Mr. CARTER. Yes. That is the point exactly. they should be treated as other Indians are treated. The time has probably not come yet when any funds might be used for the relief of distress among them, because, as I stated two or three times already, as long as the Everglades are there they will probably not need any relief from distress, but they do need something for civilization. Something is needed, I think, for investigation of the condition.

Mr. MONDELLI. Mr. Chairman, will the gentleman yield? The CHAIRMAN. Does the gentleman from Oklahoma yield

to the gentleman from Wyoming?

Mr. CARTER. Yes; I yield to the gentleman from Wyoming. Mr. MONDELL. The gentleman suggests that we should care for these Indians, particularly if the Everglades are drained. Is not the gentleman aware of the fact that practically all of those lands have gone to the State of Florida, and that they are the property of the State of Florida, and that they have been disposed of, substantially? Why should not the State of Florida take care of these poor, unfortunate people?

Mr. CARTER. It is not, I think, and it has never been the policy of the Federal Government to impose those duties on the States. I am free to admit that in some cases the States might do this better than the Federal Government, but, as the gentleman well knows, since the inception of this Government its avowed policy has been to care for the Indians itself, and care for Indian affairs, especially of those of Indians that are helpless and incompetent.

Mr. MONDELL. But these are Indians that have never been placed on a reservation.

Mr. CARTER. They ought to be allotted. I do not believe

in the reservation system.

MONDELL. They have never been on a reservation. They have never been under Government care. They are part of the State of Florida. The State of Florida occupies the They hunt and fish over them. Why should not the State of Florida take care of them?

Mr. CARTER. The same thing might apply to the gentleman's own State or to the State which I have the honor in

part to represent.

Mr. MONDELL. I hope, if the time ever comes that the people of my State have received from the Indians all the property they have in the State, we will not forevermore be calling upon the Federal Government to take care of our own unfortunates. I do not think that is good policy.

Mr. CARTER. Is the gentleman so sure-

Mr. MONDELL. Of course, I realize that the gentleman, being from Oklahoma, wants to fortify himself on that proposition, because he may be looking forward to the time—

Mr. CARTER. On what proposition? Mr. MONDELL. On the proposition that the Federal Government must forevermore care for those who are unfortunate and unable to take care of themselves and who may have a strain of Indian blood in them. I say that because the gentle-man from Oklahoma has a great many such people in his State.

Mr. CARTER. Does the gentleman mean that personally? Mr. MONDELL. Oh, no. The gentleman from Oklahoma, to whom I am now addressing my remarks, is always able to take care of himself, and always will be, and I am sure his pos-

terity will be. Mr. MANN. I hope the gentleman from Oklahoma will be supported at the expense of the Government as long as he

[Laughter.]

Mr. MONDELL. In his present position. I join in that hope. Mr. CARTER. I thank both gentlemen. Now I will yield to the gentleman from Minnesota [Mr. MILLER].

Mr. MILLER. I simply desired to make a statement in connection with what the gentleman was then saying, but I would

rather be recognized in my own right now.

Mr. CARTER. I think I have said about all I cared to say. Mr. MILLER. Mr. Chairman, my recollection of the time when this item was first inserted in the bill is rather distinct. I think it was three years ago that representation was made to the committee that the Seminoles of Florida were in a distressing condition, and needed some immediate aid from the Government. I think it is necessary that we should bear in mind that these particular Seminoles are those who refused to migrate or leave their native place when the main body of the Seminoles were removed to what is now Oklahoma. In other words, these Indians are refugees. They are swamp birds. They are unrelated to any other band of Indians. They have no means, they have no property. All the ownership they have of anything is so much of the air as they breathe and so much of the fruit of the trees as they can gather that nature gives them. It was represented at that time that they were in a distressing condition and that they needed \$10,000 to aid them.

Now, I do not think it is at all wise to suggest that the State of Florida should be required or expected to take care of these Indians. Everybody knows that the State of Florida will not No State has ever done it. No State expects to do it. These Indians, if they are wards of any sovereignty, are the wards of the Federal Government, and it is the duty of the Federal Government to take care of them, as it has been the duty of the Federal Government to take care of Indians every-

Mr. MONDELL. The gentleman comes from a State having considerable Indian population?

Mr. MILLER. Yes.

Mr. MONDELL. I suppose that has nothing to do with the gentleman's position.

Mr. MILLER. They do not draw one cent from the Federal

Treasury, but pay their own expenses.

Mr. MONDELL. That is as it should be, and I am surprised that the gentleman does not want the State of Florida to adopt the same methods.

Mr. MILLER. I do; but here are refugees without any property, without a tribe, without a home that they can call their

Mr. MONDELL. Has it come to this-that the great State of Florida, a beneficiary of the Government to the extent of to accomplish that purpose.

12,000,000 acres of swamp land, is so unmindful of the people of its State that it will not support them because the strong arm of the Federal Government does not reach out and protect them? I have no such low estimate of the character of the people of Florida or the State of Florida. I think they can be depended upon to do the right thing.

Mr. MILLER. Mr. Chairman, I did not yield to the gentleman from Wyoming to make a speech. He has made his speech repeatedly, and I have always listened to it with pleasure. last time he made it with greater emphasis than before, and I listened to it with greater pleasure on my part. I want that I do not deem it my duty to defend the State of Florida, but I do believe the State of Florida has taken as much care of its people and spent as much of its own money to care for the Seminoles in the Everglades as the State of Wyoming has spent on the Indians of that State.

Mr. STEPHENS of Texas. Mr. Chairman-

tleman from Texas will be considered as agreed to.

Mr. MILLER. I have not quite closed.

Mr. STEPHENS of Texas. I simply want to ask unanimous consent that all debate on this paragraph close in five minutes. The CHAIRMAN. Without objection, the request of the gen-

There was no objection.

Mr. MILLER. Mr. Chairman— Mr. FOWLER. Mr. Chairman, I rise to a point of order. Mr. MILLER. I believe I have the floor.

The CHAIRMAN. The gentleman from Illinois will state his point of order.

Mr. FOWLER. The gentleman from Minnesota has the floor, and there was one motion pending before the House at the time when the gentleman from Texas made the motion to limit debate on this paragraph to five minutes.

The CHAIRMAN. That was only by unanimous consent that the Chair put it in that way. The Chair did not state it in a formal way, but if the committee desires will do so.

Mr. FOWLER. I desire to inquire of the Chair if it is not

in effect a motion?

The CHAIRMAN. It is.

Mr. FOWLER. Then there can not be two motions pending before the House at the same time.

The CHAIRMAN. Only by unanimous consent; you can do anything by unanimous consent. The gentleman from Minne-sota did not object to the request made by the gentleman from Texas in his time.

Mr. MILLER. No; but I shall object to my five minutes being consumed by the discussion of this point of order.

The CHAIRMAN. This does not come out of the gentleman's

Mr. MILLER. Mr. Chairman, I desire in addition to state that the urgency of the situation existed three years ago, because the Committee on Indian Affairs of the House incorporated this appropriation. I remember a year ago when this item came back as one not having been expended and to be reappropriated it was remarked that the department had done nothing toward relieving the distress among these Indians. That comes back to-day with greater strength than a year ago. and I for one believe that there should be incorporated in the item a requirement that the department should make a detailed statement of the situation respecting the Indians within the current year.

Mr. FOWLER. Mr. Chairman, I desire to ask the chairman in charge of this committee a few questions with reference to determining the status of the Indians in Florida. I understood from the speech of the gentleman from Minnesota that these Florida Indians are refugees. Now, I have always understood. Mr. Chairman, that they are descendants of the Indians who were originally found in Florida at the discovery of America, or of that portion thereof, and that when the Seminole Indians were transferred from Florida to the West these Indians or their ancestors were so devoted to their homes that they refused to leave and go to the mountains, where there was nothing but rocks and rills. They desired to stay in the fertile land of flowers amid the Everglades. Mr. Chairman, I desire to ask the gentleman, the distinguished chairman of this committee, if anything has ever been done for the purpose of aiding these Indians in Florida in their civilization and education?

Mr. STEPHENS of Texas. That was the purpose of this appropriation-for the relief of distress among the Seminole Indians in Florida, and for the purpose of their civilization. investigation is being made by the department as to how best

Mr. FOWLER. Nothing has ever been done in the way of their education?

Mr. STEPHENS of Texas. No; because they have not determined as yet what is the best means to pursue in order to educate and civilize them.

Mr. FOWLER. They have always taken care of themselves? Mr. STEPHENS of Texas. Up to the present time; but it is believed they can not do it in the future, owing to the fact that the Everglades are being drained and the land parceled out and sold, so that they will have no hunting and fishing grounds.

Mr. FOWLER. No land has been allotted to them in the State of Florida?

Mr. STEPHENS of Texas. It is proposed to do that.

Mr. FOWLER. Is that the contention of the committeethis appropriation is intended for that?

Mr. STEPHENS of Texas. It is intended to see how best to accomplish the purpose of the bill, which is to relieve the distress among them and to civilize them.

Mr. FOWLER. Does the gentleman not think that as much attention ought to be given to these Indians as is given by the Government to any other Indians in the United States?

Mr. STEPHENS of Texas. That is exactly what we are endeavoring to do, and that is the object and purpose of the bill.

Mr. FOWLER. But, in fact, are they not more dependent now than many other tribes of Indians because of a lack on the part of the Government in the past in giving them the proper attention and the appropriations necessary for their education and civilization?

Mr. STEPHENS of Texas. I think so. I will state to the gentleman that it was only a year ago that their condition became known, for the reason that the Everglades had theretofore furnished them hunting and fishing grounds and it was not necessary to take care of them.

Mr. FOWLER. Is the remainder of the appropriation of \$10,000 made two years ago anything like adequate to care for those Indians at the present time?

Mr. STEPHENS of Texas. It is, because they have spent

less than \$500 of that appropriation.

Mr. FOWLER. I know that is true, according to the report; buf does the gentleman think the department did its duty toward the maintenance, education, and civilization of these Indians in Florida?

Mr. STEPHENS of Texas. The presumption is that the department did. The men in the department are officers of the law.

Mr. FOWLER. That is the presumption, but is it not a very violent one?

Mr. STEPHENS of Texas. I can not answer the gentleman's

question.

Mr. FOWLER. Mr. Chairman, I am not only in favor of this appropriation, but I would go much further than that and would extend the helping hand of this Government to these unfortunate people in a much larger sum than this bill proposes to carry; and I say, Mr. Chairman, with respect to the gentle-man from Minnesota [Mr. Miller], that I do not regard them in any other sense than that they are upon the same footing and the same basis as the other Indians in this country, and that we owe to them the same duty that we owe to the other Indians of the country

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman

permit a question?
Mr. FOWLER. Certainly.
Mr. STEPHENS of Texas. The Government, by Executive order of the President, has set apart about 85,000 acres of land in these everglades for these Indians. They will not occupy it. What would the gentleman do if he were the Secretary of the Interior or the Commissioner of the Land Office? Would he catch those Indians and hold them on their allotments?

Mr. FOWLER. Mr. Chairman, if the incoming President should make me Secretary of the Interior, which I know he will not do, then I shall be in a better condition to answer

that question after some experience.

The CHAIRMAN. The time of the gentleman has expired.

The Clerk read as follows:

IDAHO.

Sec. 5. For support and civilization of Indians on the Fort Hall Reservation in Idaho, including pay of employees, \$30,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. A few moments ago I made inquiries of the chairman of the committee in entire good faith relative to three items which had been submitted in the Book of Estimates

Mr. STEPHENS of Texas. Mr. Chairman, I make the point of order that we are not on those items at the present time, and I ask that the gentleman be confined to the matter before the committee

The CHAIRMAN. As far as the gentleman has gone, he has referred to matters that have been been disposed of in connection with what he intends to say.

Mr. STEPHENS of Texas. We are now under the head of "Idaho," and the gentleman desires to go back to some items under the head of "Wyoming."

Mr. MONDELL. Mr. Chairman, I am willing to discuss the

Idaho item. Before us is an item for the support of Indians on the Fort Hall Indian Reservation. The committee proposes to expend \$30,000 for that purpose. I do not know we are under any treaty obligation to do it, but the committee proposes to do it; probably it is proper they should; but the committee when I asked why they did not include in the bill a provision for \$150,000 or any part of it to carry out the obligation of the Government under the treaty with the Navajos, referred me to the hearings. Well, now, I did not want to be too insistent at the time. I had not been able to find anything about it in the hearings and I feared I had overlooked it and I have gone through the hearings again and I can not find a single solitary word in the hearings relative to the item to which I have referred.

Mr. FERRIS. Will the gentleman yield?

Mr. MONDELL. Yes; in just a moment. In regard to the item for fulfilling treaties with the Navajos I can not find anything. If there is anything in the hearings in regard to the item I will be glad to read it, but I have not seen it.

Mr. FERRIS. I take it the gentleman is proceeding in good faith, and the facts are these: The original book of justifications, which I hold in my hand, has nothing in relation to these three items. Finally they came up with three supplemental estimates in three separate

Mr. MONDELL. They came in time to get in the Book of

Estimates.

Mr. FERRIS. They were new provisions providing for new projects. The committee, which were perhaps in error, in accordance with the judgment of the gentleman, refused to accept them. The first item the gentleman refers to has this:

The CHAIRMAN. The next item is at the top of page 22, as follows: "For the development of a water supply for the Navajo Indians, \$100,000, to be immediately available and to remain available until expended, \$100,000." This is a new item. It has never been carried in a bill in any shape that I am familiar with.

Mr. MONDELL. If the gentleman will allow me, I find there was a little discussion of two items, but on the other and more important item there was no discussion whatever. Now, if the gentleman says that the committee had a general policy under which it refused to take into consideration any new matter, why that is an explanation. It may not be satisfactory, but it is an explanation.

Mr. FERRIS. That was the view of the committee-that we

should not start in with a lot of new projects.

MONDELL. The chairman could have informed the committee to that effect when I made the inquiry that these items were not considered because it was the thought of the committee that they should not add any new items to the bill. Mr. STEPHENS of Texas. That is exactly what I stated,

Mr. Chairman.

Mr. MONDELL. Without consideration of their merits.

The Clerk read as follows:

For fulfilling treaty stipulations with the Bannocks in Idaho: For pay of physician, teacher, carpenter, miller, engineer, farmer, and blacksmith (art. 10, treaty of July 3, 1868), \$5,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I want to ask the chairman about this Fort Hall irrigation project. This does not seem to be reimbursable. My understanding is these Fort Hall Indians have a very large and valuable reservation, and it seems to me if they have—I may be misinformed—that that ought to be a reimbursable item. That is on page 11, lines 19 and 20.

Mr. STEPHENS of Texas. The gentleman desires to know

whether it is reimbursable?

Mr. MONDELL. It clearly is not reimbursable. My inquiry

is why it is not reimbursable.

Mr. STEPHENS of Texas. Because it was not supposed. after there had been allotted to the Indians the amount of land that the bill called for, that there would be a sufficient balance to reimburse for this vast amount of money it would take to put on this irrigation plant.

Mr. MONDELL. My recollection is-and if I am wrong I hope the chairman will correct me-there is a large irrigation enterprise there. It was constructed under an act of Congress, and that act of Congress was peculiarly worded, so, as a matter of fact, the Indians, instead of paying anything like what the project cost, only paid a small proportion of what the project cost, and this is a continuation.

Mr. MANN. Will the gentleman pardon me?

Mr. MONDELL. In just a moment. This ought to be reimbursable, all the same, because it is for maintenance and oper-Now, does the gentleman think that we ought to first build irrigation projects for the Indians and not charge them for it and then proceed to maintain them for all time to come without charge? Should not the Indian at least be given to understand that he must exert himself to maintain his enterprise after it has been built? We may not secure from the Indian these sums, but he at least ought to understand that he must take care of his own property.

Mr. MANN. As the chairman of the committee does not seem to have the information at hand, may I give the gentleman the information? In fact, this is a reimbursable item, and under the law now maintenance charges are collected from the 12,000 acres included in the irrigation scheme, but that money has to be placed in the Treasury and can not be paid out without an appropriation; and this is merely an appropriation for maintenance, which is covered by maintenance charges turned

into the Treasury.

Mr. MONDELL. Is the gentleman certain that this would be

reimbursable, without so stating?

Mr. MANN. I will read the information, which I call to the attention of the chairman of the committee, so that he may

Mr. STEPHENS of Texas. I have the information here.

Mr. MANN. In the statement justifying the appropriation is this statement-

Mr. STEPHENS of Texas. I desire to inquire what the gentleman is reading.

Mr. MANN. If the gentleman will not interrupt me, I desire to read this first:

Though the 12,000 acres on the ceded strip bear maintenance assessments, the amounts collected have to be turned in to the Public Treasury and are not available for expenditure. It is, therefore, necessary that Congress appropriate for the upkeep and operation of this expensive

Mr. STEPHENS of Texas. I will state to the gentleman that I asked the question of the Indian Commissioner.

Mr. MANN. I think the gentleman covered it fully in the hearing. I have no question as to that.

Mr. STEPHENS of Texas. This is the question I asked:

The CHAIRMAN. That is the same as last year. Does it cost that much every year to keep up a ditch, and is that going to be perpetual, to supply the Indians?

To which Mr. Connor, the agency engineer, answered as follows:

Mr. Connor. It will probably be perpetual until the Indians get to the point of paying for their own maintenance. That is, farming their lands and producing something from them. We are collecting maintenance there from the first water users at the rate of \$1 per acre every year, but we have no authority of law to use that money without further appropriation. It only amounts to \$800 or \$1,000 per year at the present state of development.

The Clerk read as follows:

IOWA.

Sec. 6. For pay of one financial clerk, at \$600, and one physician, at \$480 per annum, at the Sac and Fox Agency, Iowa; in all, \$1,080.

Mr. MANN. Mr. Chairman, I move to strike out the last word for the purpose of asking a question. In the two items last read the current law provides for the employment of certain clerks in addition to the two employees already provided for. I notice that expression is left out of this appropriation,

Mr. STEPHENS of Texas. That was carried in the lumpsum appropriation, and it was explained that we already had them appropriated for before.

Will they still have authority to employ addi-Mr. MANN. tional clerks?

Mr. STEPHENS of Texas. I think not.

Mr. MANN. How was it carried in the lump sum?

Mr. STEPHENS of Texas. It was carried in the lump sum, but was deducted from it.

Mr. MANN. But this financial clerk at \$600 and the physician at \$400 were carried in the current appropriation bill, and there was also provided additional employees already provided for by law. Now, is it intended to have no other em-

Mr. STEPHENS of Texas. We have the same employees as heretofore, but instead of putting them in the lump-sum appropriation they put them in specifically.

Mr. MANN. The gentleman is mistaken about that. The two employees appropriated for here were specifically appropriated for in the last appropriation bill. Are there any other employees there, and what was the reason for leaving out the provision? There might be other employees otherwise provided for. I would like to know if there was any special reason

The Clerk read as follows:

KANSAS.

SEC. 7. For support and education of 750 Indian pupils at the Indian school, Haskell Institute, Lawrence, Kans., and for pay of superintendent, \$127,750; for general repairs and improvements, \$11,000; in all, \$138,750.

Mr. MANN. Mr. Chairman, I move to strike out the last word. Is the gentleman able without any difficulty to give us

the expense per pupil at this Haskell school?

Mr. STEPHENS of Texas. You desire the per capita? The

cost per capita is \$185. The number of employees is 67, and the enrollment of the school is 768, while the capacity is 750, showing that it has a few scholars over the capacity.

Mr. MANN. The Haskell school is a special school?

Mr. STEPHENS of Texas. It is especially appropriated for. Mr. MANN. Yes, I know; but it is not altogether like the ordinary Indian school?

Mr. STEPHENS of Texas. It is an industrial school as I understand it. I have visited the Chiloco school, but not the Haskell school.

Mr. MANN. What do those Indian scholars do there? Mr. STEPHENS of Texas. As I understand, they take all of the usual branches which they have at other industrial schools, such as blacksmithing, making shoes and harness, and doing laundry work, buggy making, and everything of that kind.

Mr. MANN. Are there any receipts from this school which are turned into the Treasury?

Mr. STEPHENS of Texas. The value of the products of the school last term was \$9,116.

Mr. MANN. It seems to be like an expensive school for that

kind of a school.

Mr. STEPHENS of Texas. Our experience is that these industrial schools cost more than ordinary schooling, for the reason that they have more machinery to purchase and more expensive appliances to keep up.
The CHAIRMAN. The Clerk will read.

The Clerk read as follows.

MINNESOTA.

SEC. 9. For support and education of 225 Indian pupils at the Indian school, Pipestone, Minn., and for pay of superintendent, \$39,175; for general repairs and improvements, \$4,000; in all, \$43,175.

Mr. STEPHENS of Texas. Mr. Chairman, I have a committee amendment to that section which I wish to offer.
The CHAIRMAN. The gentleman from Texas offers a com-

mittee amendment, which the Clerk will report.

The Clerk read as follows:

On page 13, line 11, strike out "\$4,000" and insert in lieu thereof "\$6,700"; and in line 12 strike out "\$43,175" and insert in lieu thereof "\$45,875."

Mr. STEPHENS of Texas. Mr. Chairman, I desire to state, in connection with that amendment, that the reason is this: This is a nonreservation school and it has been used as an Indian school for a number of years. This is the reason given by the department in a letter recently received:

House of Representatives, Washington, December 19, 1912.

Hon. Scott Ferris,
House of Representatives.

My DEAR MR. FERRIS: The Indian Office says of the Pipestone Indian

My Dear Mr. Ferris: The Indian Office says of the Pipestone Indian School:

"This school is accessible to a large number of Indian pupils needing school facilities, is well equipped, is doing efficient work, and will be needed in the present plan of Indian education for a number of years."

While it is a nonreservation school, it will be used as an Indian school for a number of years. Hence the reasonableness of requests for necessary improvements. If it were to be abandoned in the near future we might try to get along without improvements.

Two years ago \$1.500 were appropriated for an electric-lighting plant. The estimate was too small. To complete the work it is necessary that \$1,200 more be appropriated.

This year the committee allowed \$2,000 for a boys' avatory annex. The amount is not sufficient; \$1,500 in addition are required.

My amendment is:

"Strike out \$4,000, in line 11, page 13, and insert \$6,700, \$1,200 thereof for completion of electric-lighting system and \$3,500 thereof for lavatory annex to boys' building; in all, \$45,875."

Last year the total appropriation was \$46,175. So, with the adoption of the amendment, the total appropriation will be less than that of last year.

I visited the school last fall and went over the premises carefully. With me were citizens of Pipestone who were well informed as to the committee reported the bill, and from my own observations and from

information I obtained upon the ground, I am confident that the amounts I have named are necessary to complete the things to be undertaken.

undertaken.

Of course, the school needs a gymnasium, a dairy building, and machinery for the steam laundry. But the gymnasium would cost \$6,500, the dairy building at least \$4,000, and the machinery for the laundry \$1,500.

I shall hope at some future time to have the committee look favorably upon these items, but now I am simply asking for what is absolutely necessary to complete the work which the committee has seen fit to undertake.

I have talked with Mr. BURKE and Mr. STEPHENS concerning the matter, and I would be greatly obliged to you if, in my absence, you will offer this amendment and secure its adoption.

Very truly, yours,

W. S. HAMMOND.

This seems to have been a rearrangement, and a letter justify-

ing it comes through the department to the committee, and at a committee meeting held on last Saturday we agreed to this amendment.

Mr. MANN. As I understood the reading of the amendment by the Clerk, it was to strike out "\$6,000" and insert "\$4,000." Mr. STEPHENS of Texas. No. It was to insert "\$6,700" and strike out "\$4,000," making an increase of \$2,700. Still it is less than the appropriation carried last year.

The CHAIRMAN. Without objection, the Chair will put the two amendments together. The question is on agreeing to the two amendments, respectively.

The amendments were agreed to.
The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States, at his discretion, the sum of \$165,000, or so much thereof as may be necessary, of the principal sum on deposit to the credit of the Chippewa Indians in the State of Minnesota, arising under section 7 of the act of January 14, 1889, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," and to use the same for the purpose of promoting civilization and self-support among the said Indians in manner and for purposes provided for in said act.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. Mann] moves to strike out the last word.

Mr. MANN. This item proposes to take \$165,000 of the principal in the Treasury and appropriate it for the support and civilization of these Indians. It is the same as in the current law. May I ask how this principal sum is expended in the support and civilization of the Indians? In other words, is it really being expended for things which are of permanent value to the Indians or is it the use of a part of their principal to pay current living expenses?

Mr. STEPHENS of Texas. I will state to the gentleman in

reply that-

The act of January 4, 1889, referred to in this item, provides, among other things, that, after the principal sum accruing to the credit of the Chippewa Indians thereunder from the sale of Chippewa timberlands should exceed the sum of \$3,000,000, the United States shall be reimbursed out of the proceeds accruing therefrom for all amounts advanced for the support and education of the Chippewa Indians, and, inasmuch as the balance of the fund to the credit of these Indians on October 31, 1912 (the United States has been reimbursed for advancements), amounted to about \$4,250,000, it would appear that no further appropriation should be made for them.

With this vast sum on hand, and additional funds being placed to the credit of the Indians, they are in position to provide funds for their own support and civilization. There are 11,000 Indians under six superintendencies.

Mr. MANN. I am not complaining at all of the payment of money to these Indians for their support out of their own funds, instead of out of the Treasury, but this is a portion of their principal. Now, how is this money being expended? It is not required to be expended. It is a matter of discretion with the Secretary. How does he expend it? Is the money being expended for just food to eat or for permanent improvements in some way for the benefit of the Indians?

Mr. STEPHENS of Texas. The statement from the depart-

ment on this item proceeds:

Six superintendencies are necessary, as each of the reservations bandled thereunder are either so large or so widely separated from each other as not to be handled successfully by combining the jurisdic-

each other as not to be handled successfully by combining the jurisdictions of two or more.

The increase of \$20,000 over the amount withdrawn last year is asked for the following reasons:

First. Because it is contemplated to use \$15,000 in providing lands for certain homeless Mille Lac Chippewa Indians who are entitled to share in the fund and who have not received allotments of land; and, Second, Because it is desired to increase the facilities for giving the adult Indians practical instruction and aid in the pursuit of agriculture.

Mr. MANN. That is not on this item. I think that is on one of the items that the committee did not insert.

Mr. STEPHENS of Texas. This is the justification given to the committee:

With regard to this proposition, it is stated that the Indians now obtain a large part of their employment in the lumber industry, but as the timber becomes scarce more and more dependence in gaining their livelihoods must be placed upon cultivation of the soil. The Indian Office plans to employ practical farmers, who are to live among the Indians and who are to have under their charge equipment which may be loaned to the Indians until such a time as they will farm tracts large enough to justify individual purchases of implements and machinery. machinery.

Mr. MANN. Does the gentleman know how much money these Indians receive each year from the Government as in-terest on their funds which are on deposit?

Mr. STEPHENS of Texas. I gave the total amount of their

fund, which is about \$4,250,000.

Mr. MANN. That is the total amount on deposit.

Mr. STEPHENS of Texas. Yes.

Mr. MANN. How much is paid each year in the way of interest?

Mr. STEPHENS of Texas. I do not know. Probably the gentleman from South Dakota [Mr. Burke] can state that. He is more familiar with it, as it is in his section of the

Mr. BURKE of South Dakota. I think these Indians have about \$4,000,000 on deposit, and I think the interest is about per cent, but I am not certain.

Mr. MILLER. Will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.
Mr. MILLER. The amount of the funds of the Minnesota Chippewas has not been determined exactly, because the accounting has not yet been had. They have between \$8,000,000

and \$9,000,000 in the Treasury, against which the Government claims an offset of about \$3,500,000 or \$3,700,000.

Mr. BURKE of South Dakota. If the gentleman will permit me, I think there has gone into the Treasury to the credit of these Indians nearly \$9,000,000, but as I recall it \$4,250,000 was charged up to them on account of moneys that had been advanced previously, that were reimbursable. I think they actually have in the Treasury something over \$4,000,000.

Mr. MILLER. They have also coming into the Treasury the

proceeds from the sales of timber that will be available in the next two or three years, which will be likely to amount to about

\$3,000,000.

Mr. MANN. The gentleman from Minnesota is familiar with the situation. Is this money that has been expended from their principal expended for current living expenses practically, or is it expended in the way that people ordinarily would spend the principal of their funds?

Mr. MILLER. It is expended in a great variety of ways. The provision is for their education and support. They expend it in constructing buildings and in other ways. I do not know that there is any particular limitation on it. They expend it

in whatever way they think proper.

I will say in addition that the interest on this general permanent fund—if I may use that expression—has never been distributed among the Indians until this year. The original law provided that a large part of it should be distributed among the Indians for education. That has never been done. It provided that the balance should be distributed in other ways, but the distribution has never taken place until this year, although the aggregate amounts to about \$1,750,000. This year, however, after some repeated importunities, the department has consented to make a per capita payment, of \$75 per Indian, and they have been making that payment during the last month.

Mr. MANN. And yet, notwithstanding that, it is proposed now to appropriate a portion of the principal in addition to

that for current expenses.

Mr. MILLER. That is practically true. I have always been somewhat in doubt about the propriety of this particular appropriation, but it seems that they have used it on the whole to

good advantage.

Mr. MANN. I have no doubt of that fact; and yet here is a sum to their credit in the Treasury upon which they are entithe to the interest, which they will now receive. Of course if you keep on appropriating part of the principal each year, that means that the interest will grow less, and hence each year the appropriation of a part of the principal will have to be increased, and in the end the principal will be exhausted.

Mr. MILLER. I will say to the gentleman that the increase

each year is greatly in excess of this \$165,000, and that the total amount has been increasing in recent years.

Mr. MANN. I do not know that the interest is so very much in excess of the \$165,000. Probably it does not exceed \$250,000. If the fund amounts to \$5,000,000, 5 per cent on it would be \$250,000, and that ought to be sufficient. If they have been satisfied with \$165,000 heretofore without receiving the interest, and if they now receive the interest on \$5,000,000, they ought to be willing, I should think, not to spend a portion of the principal unless it is expended for something which is a permanent benefit to them.

Mr. STEENERSON. Will the gentleman yield?

Mr. MILLER. Certainly.

Mr. STEENERSON. As I understand, \$165,000 is due them under the act of 1889. The Government is simply carrying out what it promised to pay.

Mr. MILLER. I was about to state that.

Mr. STEENERSON. It is a matter of treaty, and this amount is due them.

Mr. MILLER. The treaty was made and the Government agreed that they should have this amount each year.

Mr. MANN. I understood the gentleman from Texas to state that there was included in this item \$15,000 for the purchase of homesteads for certain Indians. I think probably that was an accidental statement.

Mr. MILLER. That was stricken out on my own motion. will say, if the gentleman wants further information as to the \$15,000 item, the original home of the Chippewa Indians was in the vicinity of Mille Lac, and when the treaty was made it contemplated that they would be removed to the White Earth Reservation, and nearly all of them were removed; but about 250 of them have refused to move. The Government has tried every means at its disposal to induce them to move, but they flatly refuse. They go over sometimes, but come back some way or other, if they have to walk back, and live in the vicinity of Mille Lac. They are trespassers there. They occupy small tracts of land which their ancestors occupied, but they are trespassers, as the land belongs to the whites, to individuals. The whites are discontented and the Indians are not particularly contented, and the problem of the department is what to do with these Indians. I received word a year ago that these Indians were destitute and suffering.

I called upon the department and they sent an agent there, and he reported that they were destitute and rations were issued to them. The agent suggested that a purchase should be made from the Chippewa fund of homes for these Indians there. What to do with the Indians is a big question. The whites do not want them, and they have no land there. I do not believe we will apply the combine the combine of the not believe we will ever solve the problem of these or any other Indians by building little homes where they can have an Indian village. They are all dependent, poverty stricken, wards of the Government, and if we are going to do anything for them permanently we have got to provide allotments and sufficient land upon which they can make a living. Fifteen thousand dol-lars, of course, would do nothing toward that; and I thought, rather than have a small beginning without any real benefit, we had better postpone it until a proper disposition of it could

Mr. MANN. Mr. Chairman, I am somewhat surprised that the gentleman from Minnesota did not follow the example of the distinguished gentleman from Oklahoma [Mr. Ferris] and secure a large enough appropriation from the Government to buy a homestead for these Indians anywhere in the great State of Minnesota. The gentleman from Oklahoma, for the Fort Sill prisoners, secured authorization for the Government to purchase a home anywhere-land sufficient for a farm-in any place in Oklahoma or any other good State.

Mr. STEPHENS of Texas. Does the gentleman think it right to charge up to Oklahoma these Indians brought there by the United States and held as prisoners? Those Indians belong to New Mexico and Arizona, but ran away and went to war and were captured and held at Fort Sill, not by the authority of the State of Oklahoma, but were prisoners of war.

Mr. MANN. I do not charge up anything to Oklahoma, but credit the ingenuity to my distinguished friend from Oklahoma in persuading Congress to give the men a home and a farm because theoretically the Government had them in jail and because they were Indians. If they had been white men, they would have thrown them out with \$15 if they had been really in jail. These people were only theoretically in jail, and yet the Government is authorized to buy them farms. I commend the example to my friend from Minnesota.

Mr. CARTER. If they had been white men, they would not have been in jail.

Mr. MANN. These Fort Sill Indians are not in jail.

Mr. MILLER. As an incident to this general proposition, the authority of Congress was given to the Mille Lac Band of Indians to bring suit against the United States Government about four years ago, growing out of the treaty of 1889, and there was a recovery-the case is now before the Supreme Courtapproximately of a million dollars. The disposition of that may enter into the general settlement of this question.

The Clerk read as follows:

The Secretary of the Interior is hereby authorized to advance to the executive committee of the White Earth Band of Chippewa Indians in Minnesota the sum of \$1,000, or so much thereof as may be necessary, to be expended in the annual celebration of said band to be held June 14, 1913, out of the funds belonging to said band.

Mr. MANN. Mr. Chairman, I reserve a point of order on the

Mr. STEPHENS of Texas. Mr. Chairman, I have a committee amendment that I desire to offer at this time, which I send to the desk and ask to have read.

Mr. MANN. Mr. Chairman, I think the point of order had better be disposed of. I do not understand that the amendment refers to this particular item.

No; it is an amendment submit-Mr. STEPHENS of Texas. ted by the gentleman from Minnesota [Mr. Steenerson].

Mr. MANN: Mr. Chairman, this item, which has been carried in the bill for some time, is for the sum of \$1,000 for what is denominated in the bill as an "annual celebration." There are other terms which are applied in other parts of the country to similar celebrations. What I want to know of the gentleman from Minnesota [Mr. MILLER] is whether it is at these celebrations, with the circumstances attendant upon them, that Indians have been persuaded to assign their claims or sell their property, so that there has come up so many charges at least of fraud in connection with the White Earth allotments and allottees!

Mr. MILLER. Mr. Chairman, I can say to the gentleman that this is not an occasion when anything of that kind has ever occurred or probably ever will occur. It is purely an Indian matter. The Indians have complete charge, with the proper supervision of the department officers. It is simply a celebration that they have had for many years. Members of the big tribe gather from the various sections of the country, where they now live, and this is the one thing that is dear to their hearts, and if you strike out one thing from the bill that would work havoc among them it would be this.

Mr. MANN. I have not any intention of endeavoring to strike it out of the bill, but I would like to know whether the law and the rules and regulations concerning intoxicating liquors in Indian country are at all suspended at this annual celebration.

Mr. MILLER. Mr. Chairman, I was about to add that they are not; that there is the most perfect sobriety and orderliness characterizing all of the days and hours of the days and nights of this celebration.

Mr. MANN. Mr. Chairman, I accept the gentleman's statement on that, although I have heard it insinuated that there was more or less illegitimate traffic in fire water on this occasion, and that there were more or less white people gathered around the celebration seeking to obtain the consent of Indians

to sell some of their property. I did not know about that.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to ask the gentleman from Minnesota if they connect the holding of an agricultural fair with this appropriation, so that when the Indians get together they exhibit the products of the farms, and so forth

Mr. MILLER. No; they do not. Mr. STEPHENS of Texas. I recently visited the Saxton Reservation in Arizona, and found there a very creditable exhibit made by those Indians, and I was in hopes that they were

following the same example in Minnesota.

Mr. MANN. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Texas [Mr. STEPHENS].

The Clerk read as follows:

Page 14, at the end of line 7, add the following as a new paragraph:
"That the unexpended balance of the appropriation for the completion of the drainage survey of ceded Indian lands made by act of April
30, 1908, is hereby reappropriated and made available for an extension
of the drainage survey, together with an estimate of the cost of the
project, to cover the Red Lake Diminished Reservation, in Minnesota,
with a view to determining what portions thereof may be profitably and
economically reclaimed by drainage and make the same suitable for
agricultural purposes."

Mr. MANN. Mr. Chairman, on that I reserve the point of

Mr. FOSTER. Mr. Chairman, I reserve the point of order on the amendment.

Mr. STEPHENS of Texas. Mr. Chairman, I yield to the gentleman from Minnesota, in whose district this Red Lake Reservation is situated, to explain the reason for the amendment. It is a committee amendment, agreed to by the committee.

Mr. STEENERSON. Mr. Chairman, I would say that I submitted this item to the committee at the request of the Red Lake Indians. They first held a council last June and adopted resolutions and sent them down to me, but they came too late to have the amendment included in the last year's appropriation bill. They wanted this survey made last summer, but it came too late and it could not be very well included in any other bill, although it was put in the sundry civil appropriation bill in the Senate, but was struck out in conference. again held a council while I was present last November, and one of the things that they requested is this extension of the drainage survey to the diminished reservation; and they have recently held another council and sent a copy of the proceedings to me and to the Indian Office, making the same request. Now, I will explain

Mr. STEPHENS of Texas. Will the gentleman read the letter from the department?

Mr. STEENERSON. I will do so. The matter was submitted to the department, and I will read the letter to the chairman of the Committee on Indian Affairs from the Secretary of the Interior.

The letter is as follows:

DEPARTMENT OF THE INTERIOR, Washington, January 2, 1913.

Hon. John H. Stephens,
Chairman Committee on Indian Affairs,
House of Representatives.

Chairman Committee on Indian Affairs,

House of Representatives.

Sir: I understand that the following has been suggested to your committee as an amendment to the Indian appropriation bill now pending:

"That the unexpended balance of the appropriation for the completion of the drainage survey of ceded Indian lands made by the act of April 30, 1908, is hereby reappropriated and made available for an extension of the drainage survey, together with an estimate of the cost of the project, to cover the Red Lake Diminished Reservation in Minnesota, with a view to determining what portions thereof may be profitably and economically reclaimed by drainage to make the same suitable for agricultural purposes."

The Indian Office desires me to point out that the suggested amendment would be highly desirable, as it will enable that bureau to cause a preliminary survey to be made with a view to determining the feasibility of reclaiming by drainage a considerable quantity of wet, swampy land within the diminished reservation, which it is believed can be drained, and when so drained will be highly adaptable for agricultural purposes. Making the unexpended balance of the prior appropriation available for use within the diminished reservation will enable this department to cause the necessary preliminary surveys to be made without the necessity of asking an additional appropriation for this particular purpose, which the Indian Office advises me it contemplated doing either at the present or the next session of Congress.

I am advised by the Indian Office that the balance of the appropriation remaining unexpended is \$4,546.21.

I have the honor to recommend, therefore, that the matter be given favorable consideration by your committee.

SAMUEL ADAMS,

First Assistant Secretary.

SAMUEL ADAMS, First Assistant Secretary.

Now, if the committee will indulge me, I will explain that the Red Lake Reservation contains about 450,000 acres. There are about 150,000 or 200,000 acres of pine and other timber lands. The western part is very good agricultural land providing it could be drained. There are 1,350 Indians on this reservation, and they are reasonably prosperous and doing very well, but their agricultural operations are quite limited. They are desirous of extending their agricultural work. They have made good progress. These Indians are divided into two factions, called the standpatters and progressives. The standpatters are principally composed of the "cross lakers," who are still, are principally composed of the "cross lakers," who are still, I believe, heathen. They are conservatives; they do not believe in allotments in severalty. They want all their property held in common, and I admire them for their sturdiness of character. The other faction or more advanced Indians, the progressives, so called, are very strongly in favor of allotment. Now, this Indian reservation has perhaps two or three hundred million feet of standing timber, which is valuable and is not being cut only where it has been burned, as there is no authority for cutting it. This reservation is owned in common, and no allotments in severalty have yet been made. A few of them have opened farms and some of them have built very good houses, but of course there being no allotments in severalty the man who makes the finest farm and best house is liable to have his house taken away or his land divided up with somebody when the allotments are finally made. For that reason the great question there is the allotment question. There is not sufficient amount of land actually suitable for agriculture available for allotment unless we drain the land. This western part of this reservation is bounded by what we call the 11 towns, which were ceded by this same band in 1904 under an act of Congress which I introduced and which Congress passed. That embraced about a quarter of a million acres of similar land. It was to be sold at \$4 an acre, or so much more as it would bring in the market. It was necessary, in order to comply with the treaty with the Indians, to raise a million dollars to pay them for this land—that is, for the 11 towns.

The land was so low and wet that it could not be sold under those conditions, and Congress refused to appropriate the million dollars, so we had the dilemma of how to dispose of it, and on my initiative an item was included in the Indian appropriation bill for a drainage survey, first of \$10,000 and then of \$10,000 and then of \$5,000, to ascertain what could be done with this quarter of a million acres adjoining this unceded land, and the Geological Survey sent out men who made a fine survey, and it was done on scientific principles. We then passed a law allowing that Government land to be assessed for the drainage improvements under the State law the same as if it was owned by private persons. The result was that the land was sold at good prices, but instead of realizing the million dollars that the Indians had agreed to take for it we realized \$1,260,000, and we have got land enough to raise \$12,000 more, and that land is now the best land in northern Minnesota. This has excited the Indians who own the adjoining land so that they want their land drained also, and hence they have held these three conventions, demanding that their lands be drained in order that they may have agricultural lands to be allotted to them.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. STEENERSON. Certainly. Mr. BURKE of South Dakota. This \$1,260,000 which was received for 268,000 acres, did that money go to the Indians-all

Mr. STEENERSON. It is in the United States Treasury. Mr. BURKE of South Dakota. To the credit of the Indians? Mr. STEENERSON. To the credit of these Indians.

Mr. BURKE of South Dakota. Was the \$35,000 appropriated

for the drainage survey reimbursed or not?

Mr. STEENERSON. I forgot to state that. The money appropriated for the drainage survey, it was provided by the act, should be raised by raising the price of the unsold ceded Indian lands 3 cents an acre.

There was a million and a half of ceded land which, if it was raised 3 cents an acre, would amount to \$45,000. When all that land is sold the United States will be reimbursed by an income of \$45,000. Now, they have only expended \$30,000, and there is a little over \$4,500 left for no specific purpose. There is no provision for it. Now, as you will see, this white here [indicating on map] is the Indian land. That has not been ceded. That is still owned in common. This on the west here [indicating] is where there has been drainage operations and where more than 1,000,000 acres have been reclaimed.

The CHAIRMAN. The time of the gentleman from Minne-

sota [Mr. Steenerson] has expired.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. STEENERSON. This land was sold all around here. Now, it was proposed to take the unexpended balance and extend the survey, which only provided for the ceded lands-this colored part of the map-to the unceded part-this white partand that is simply a preliminary step in order to determine whether this land is as suitable for successful drainage as the land immediately west, or whether this river channel can be sufficiently deepened, and so on; and if it is then determined it is a feasible project and is good for the Indians, it is proposed to follow it up pursuant to this resolution of the Indians. The timber land will be sold for the common benefit of all these 1.300 Indians

Mr. BURKE of South Dakota. Will the unexpended balance which it is proposed to use accomplish all you state you desire? Mr. STEENERSON. Very nearly. They stated that there

was \$4,500 unexpended.

Mr. STEPHENS of Texas. Will the gentleman point out the part of the Indian land that has had this survey made?

Mr. STEENERSON. All this in green and colored is the former Red Lake Indian Reservation, and is ceded land, and the piece in white is unceded.

Mr. STEPHENS of Texas. Is that unallotted and held in

Mr. STEENERSON. It is unalletted and is held by these 1,350 Indians. I want to take the money that was raised by increasing the price of these unsold lands and survey the Indian lands, because that land belongs to the Indians, if it belongs to anybody, and it will give us the first step toward what we desire. The Government in selling the land simply acted as trustee for the Indians.

Mr. STEPHENS of Texas. I understood the gentleman to say that it was reimbursable under the original act, and the Indians

desire it to be done.

Mr. STEENERSON. They are unanimous on that point. had a council with them before I came, and even the standpatters, who were not in favor of the allotment in severalty, wanted it settled so as to know whether it could be put in shape or not.

Mr. MANN. Was all of this in possession of the original

1,300 Indians?

Mr. STEENERSON. No. Before 1859 it did not belong to any specific tribe that anybody knew of, and hence under the Nelson Act, the act of 1889, it was thrown into a common pot, so to speak, and the land throughout all this country was sold for the benefit of the whole Chippewa Nation of Minnesota.

Mr. MANN. And not for the Red Lake Indians? Mr. STEENERSON. No.

Then, what interest have the Red Lake Indians Mr. MANN. in this fund?

Mr. STEENERSON. I will explain that. After the act of 1889 passed, the divided Red Lake River Reservation extended down to the Thief River Falls, and these 260,000 acres were, by the treaty of 1904 ceded to the United States under an agreement made by an Indian inspector, Maj. McLaughlin, whereby the Indians ceded the land to the United States in consideration of \$1,000,000, in consideration of the fact that thereafter the Red Lake Reservation should belong to the Red Lake Reservation as a separate treaty. And in that treaty the remnant that was occupied by these Indians should be a separate property.

Mr. MANN. I think not. When this original survey was

authorized and an appropriation was made that money was to be raised by adding 3 cents an acre to the land that was yet

unsold, as I remember. Mr. STEENERSON, Yes.

Mr. MANN. Now, was that land that was yet unsold all the property of these Red Lake Indians?

Mr. STEENERSON. No.

Mr. MANN. That land was sold, and the amount that was accumulated therefrom was used largely for making a survey for the drainage of the land that was sold and the land that was allotted?

Mr. STEENERSON. Yes.

There was some land unallotted, was there not? Mr. MANN.

Mr. STEENERSON. Unallotted?

Mr. MANN. Yes; unallotted. There is some land there now unallotted, is there not?

Mr. STEENERSON. No. I do not think I understan gentleman's question. Where does the gentleman mean? Mr. MANN. Where these Red Lake Indians are, No. I do not think I understand the

Mr. STEENERSON. That is all unallotted.

Mr. MANN. Some of this original land is unallotted?

Mr. STEENERSON. The whole reservation is held unallotted.

Mr. MANN. The present reservation is held unallotted?

Mr. STEENERSON. Yes.

Mr. MANN. All the land that was surveyed and on which

3 cents an acre was contributed is not unallotted?

Mr. STEENERSON. The gentleman certainly does not mean to say that you can allot land that was ceded and disposed of? Mr. MANN. No. I have not yet been able to trace any connection between these Red Lake Indians and this fund that is in the Treasury except their desire to expend the fund.

Mr. STEENERSON. Oh, no; they have not asked especially The fact is that they have always contended that for this fund.

the old Red Lake Reservation belonged to them.

Mr. MANN. But the Government did not agree to that. We did not agree to that. Now they have a reservation of their own which they wish to have surveyed for drainage. do not they pay for it?

Mr. STEENERSON. The gentleman means, Why do they not

do it out of their own money?

Mr. MANN. The money does not belong to them.

Mr. STEENERSON. Oh, yes; it does. Mr. MANN. In what way? I have not been able to find any connection between this fund and these Indians.

Mr. STEENERSON. I will explain the connection. Thirty thousand dollars already has been expended to facilitate the sale of these other lands, and they have been sold, and the Chippewas of the State of Minnesota got their money sooner than they otherwise would have gotten it; that is, \$30,000. Eventually there will be \$45,000, and there will be \$10,000 that could be used for some other branch of the Chippewa Indians.

Mr. MANN. But the Red Lake Indians do not own it.

Mr. STEENERSON. It is their share of it from other lands. Mr. MANN. Their lands have been sold, and the fact that they claim it does not make it theirs.

Mr. STEENERSON. There are no other Indians who claim it. Mr. MANN. I see no reason, because a fund has been created by the sale of certain Indian lands, and is in the Treasury, why that fund should be expended for the benefit of other

Indians, simply because they want it.

Mr. STEENERSON. Well, if the fund was derived in part from a sale of their property, they are entitled to a share in

the property.

Mr. MANN. How much property did these Red Lake Indians have-lands which have been sold and which contributed 3 cents an acre to this fund?

Mr. STEENERSON. They claimed to have the whole of that

land.

Mr. MANN. They do not claim it now, because that was a claim that was not admitted by the Government and has not

been carried out by the treaty.

Mr. STEENERSON. Even the Government said that the Red Lake Indians had contributed more than their share to the common fund when they had contributed these 3,000,000 acres under the act of 1889. The report of the Secretary of the Interior so stated, and President Harrison so stated in his message to Congress

Mr. MANN. Did the gentleman ever introduce a bill on this

subject?

Mr. STEENERSON. We have a bill now in course of preparation, but this would give an examination sooner than that.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. Mr. Chairman, it seems to me that a matter of this sort, which, of course, is perfectly intelligible to the gentleman in charge, can not very well be understood by other Members on the floor without some opportunity to examine it. It seems to me that the gentleman ought to have had a bill introduced and reported to the House by the committee if such a condition existed, so that Members might have an opportunity to examine it. Then there might be no objection to including it. But to offer an amendment on the floor of the House in a mat-ter of this sort, which in itself does not amount to very much, but which goes far as a matter of principle when you take into consideration that we may be entering upon the drainage of all the Indian and other swamp lands in the United States, I do not think even the committee ought to ask to have it inserted in the bill under those circumstances at this time.

Mr. STEPHENS of Texas. I call the attention of the gentleman from Illinois to the fact that part of this money has already been expended on these same lands for the purpose of drainage, making a survey, and seeing whether or not a portion of the reservation could be drained. We are only asking for the use of the unexpended balance in extending the same drainage system for the same Indians. If we made a mistake in the first instance, we are making a mistake now.

Mr. MILLER. Will the gentleman from Illinois yield?

Mr. MANN. Certainly.

Mr. MILLER. I hope the gentleman will not deem it necessary to make a point of order against this. It seems to me it is probably a more just case of its kind than is likely ever to arise again. When these lands were ceded, in 1904, as pointed out by my colleague, Mr. Steenerson, the Government was unable to sell the lands, and it then sought to recoup itself for the amount it agreed to pay the Indians. Thereupon it devised the scheme of having a drainage survey, which called for an appropriation of \$35,000.

Mr. MANN. That amount has been received up to date, has it not?

Mr. MILLER. The amount of \$35,000 has been appropriated. and about \$30,000 has been used. In order to recoup itself for this appropriation of \$35,000 the Government distributed a tax of 3 cents per acre over these lands.

Mr. MANN. Over what lands?

Mr. MILLER. Over these ceded lands where the survey was

Mr. MANN. Did that apply to anything except lands which were sold?

Mr. MILLER. It did not. It was not necessary that it should.

Mr. STEENERSON. It applied to the unsold lands also.

Mr. MILLER. It applied to the unsold lands that were to be sold.

Mr. MANN. I mean lands that were sold and that were to be sold.

Mr. MILLER. It applied to those lands that were to be sold and which were sold, and that gave the Government \$45,000.

They sold the land for that much more. Indians did not have to pay it.

Mr. MILLER. They sold the land for that much more than the Government agreed to pay the Indians.

Mr. MANN. So that it was not paid by the Indians? Mr. MILLER. The land was sold by the United States, and it belonged to the United States, because it had been ceded by

the Indians to the United States. The Government of the United States has expended in that survey \$30,000 and has received back \$45,000 and has actually gained \$15,000. Now, that profit-if we can speak of it as such-was derived from the property of this particular band of Indians.

Mr. MANN. This particular band of Indians did not own the

property, by the way.

Mr. MILLER. The Chippewas of Minnesota owned it.

Mr. MANN. But, assuming for the sake of the argument that they did own it, the Government made a treaty with them in which it agreed to pay them so much for the land.
Mr. MILLER. Precisely.

Mr. MANN. Thereupon the Government sold the land for a little more.

Mr. MILLER. Yes.

Mr. MANN. Is the Government under any obligation to turn over the excess to the Indians?

Mr. MILLER. I think not. I do not maintain that it is. Mr. MANN. That is what this amounts to.

Mr. MILLER. Not necessarily. The Government came out winner in the transaction, as it always has in transactions of this sort.

Mr. MANN. No; the Government usually comes out loser; and it took the chance of losing in this transaction, and it has not yet come out a winner, because it has not sold all the land.

Mr. MILLER. I beg the gentleman's pardon. In Minnesota the Government has come out a very big winner in every transaction with the Indians.

Mr. MANN. On the contrary, in Minnesota in many cases the Government has come out a loser, and may come out a loser on these lands, which have not yet been finally disposed of.

Mr. MILLER. What I am trying to show to the gentleman is—and I know that at first glance it requires a moment's reflection—that it would be only just to give these Indians an opportunity to have their lands surveyed when the cost is so

Mr. MANN. Yes; but the lands which they are proposing to survey are valuable lands. Why should not they contribute toward paying for the surveys on their land? They have not contributed anything yet. Other lands where the Government agreed to pay the Indians for it-it may be in some cases more than they were worth-have paid 3 cents an acre. These Indians have not paid anything and the lands have not paid anything. Why should not they pay in the case of the surveys of

their own land for drainage purposes?

Mr. STEENERSON. Mr. Chairman, I am unwilling that any wrong impression should go out as to a matter of fact. My last advice was to the effect that the whole \$45,000 had not all been paid into the Treasury. I think that the unsold lands when they are sold will realize \$45,000, but that has not been done as yet.

Mr. MILLER. How much has been reimbursed?

Mr. STEENERSON. I do not know; they say it was pretty fast last year, and I think it comes to quite a high figure.

Mr. MANN. The gentleman does not know whether the Government will ever sell the land for the amount it agreed to pay the Indians. It has not been able to sell it yet for that

Mr. STEENERSON. I want to say further that in view of the very fine distinction made by the gentleman between the Red Lake Chippewas and the Chippewas of Minnesota, many of whom I have the honor to represent, to avoid any technicality whatever I am willing to have the appropriation amended so as to make it reimbursable out of the Red Lake fund.

Mr. MANN. Mr. Chairman, I wish the gentleman from Texas would ask to let this go over until Monday, so that we will have a chance to see what the proposition is, and then we can pre-

pare the necessary amendment.

Mr. FERRIS. If the gentleman asks that it be passed on the theory that there might not be anything to reimburse from, I want to say that they have \$552,550 cash on hand belonging to this particular band, so that there would be no doubt about the reimbursability of it.

Mr. MANN. I have no doubt about that; the land is good for reimbursement.

Mr. STEENERSON. They have the money, and they want it used.

Mr. STEPHENS of Texas. Mr. Chairman, I had hoped to proceed for a half an hour longer.

Mr. MANN. I understood that the gentleman at 5 o'clock was going to move that the committee rise.

Mr. STEPHENS of Texas. I thought that we might finish up these provisions with relation to Montana.

Mr. MANN. I have no objection to running a little while longer. Do I understand that this item is passed by unanimous consent with the point of order pending?

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous

consent that this item be passed with the point of order pending.

The CHAIRMAN. Without objection, the request of the gentleman from Texas will be considered as agreed to.

There was no objection.

The Clerk read as follows:

For continuing the construction of irrigation systems to irrigate the allotted lands of the Indians of the Flathead Reservation, in Montana, and the unallotted irrigable lands to be disposed of under authority of law, including the necessary surveys, plans, and estimates, \$150,000, reimbursable in accordance with the provisions of the act of April 4, 1910.

Mr. PRAY. Mr. Chairman, I offer the following amendment. The Clerk read as follows:

On page 14, line 25, strike out the figures \$150,000 and insert \$250,000.

Mr. STEPHENS of Texas. Mr. Chairman, to that I make a point of order.

Mr. PRAY. Mr. Chairman, I do not think the amendment is subject to a point of order.

Mr. STEPHENS of Texas. I hope that the amendment will not be adopted.

Mr. PRAY. Mr. Chairman, I do not intend to occupy the time of the committee at this late hour in the afternoon to any great extent. But I sincerely hope that this amendment may be adopted, because I believe it is a meritorious and necessary amendment; that the appropriation not only ought to be increased to \$250,000 but to \$450,000, in accordance with the estimates and recommendations of the supervising engineer of the Flathead irrigation project and in accordance with the suggestions of the Director of the Reclamation Service.

It is intended when this project is completed to irrigate about 150,000 acres of land on this reservation. It will cost \$3,781,000 to complete the project. At the rate the appropriations are now being made, it will be in all probability many years before the project is finished. Many of the people who are now residing upon this reservation, waiting patiently for water to be turned into the ditches, which they claim the Government had promised, will be dead and gone when the project is completed.

I have received a number of protests from people residing in that section of the State against these unusual and, as they allege, unnecessary delays. Therefore I consider it my duty to bring this matter to the attention of the committee, and ask them, if they will, to appropriate the sum of money recommended by the Director of the Reclamation Service, who is in charge of this construction work, so that the people who are now living upon the reservation may derive some benefit from this project before they are summoned to another world.

Mr. STEPHENS of Texas. Is it not a fact that the people insisting on that are mainly white persons?

Mr. PRAY. There are some 1,500 settlers who are now occupying the surplus lands, and they have a perfect right, in my judgment, to insist upon the completion of the project.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. PRAY. Certainly.

Mr. MANN. How much are these combined irrigation sys-

tems to cost? There is only one system, I will say to the gentleman, on the Flathead project. It is composed of five units.

Mr. MANN. I am taking the language of the law, which calls it "systems.

Mr. PRAY. I accept the gentleman's correction. The amount is estimated at \$3,781,000.

Mr. MANN. How much money has been expended upon it up

Mr. PRAY. I think about \$500,000. Mr. MANN. Is that utilizable at all?

Mr. PRAY. In what respect? Mr. MANN. Is there anything there that can be used in the

way of irrigation now?

Mr. PRAY. Oh, yes; to some extent. Some of the units are partially completed. One unit, I believe, is 85 per cent com-

Mr. MANN. Is there any land being irrigated there at the present time?

Mr. PRAY. Some land; yes.

Mr. MANN. I notice that the director asked for \$250,000.

The Commissioner of Indian Affairs, I believe, Mr. PRAY. asked for \$250,000, but the director and supervising engineer estimated for \$450,000. Right in that connection I will say to the gentleman that a year ago \$200,000 was appropriated, but the expenditure of that appropriation was limited to two projects, and it was considered practically inadvisable to expend it on those two projects. In fact, it could not be done economically; at any rate, it was so stated by the engineer on the project, when I visited there last fall.

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. STEPHENS of Texas.

Mr. PRAY. Certainly.

Mr. STEPHENS of Texas. I presume the project to which the gentleman refers is the Jocko division, 84 per cent of which has been completed, and the other project is the Pablo division, of which 42 per cent has been completed. Are not these two items the units which the committee desires to finish before going ahead with any other?

Mr. PRAY.

Mr. STEPHENS of Texas. Is not that the reason that the

committee refused the larger appropriations?

Mr. PRAY. That is exactly what I am trying to bring to the attention of the chairman of the committee. A year ago in the Indian appropriation bill you appropriated \$200,000 for this project, but so limited the use of that appropriation as to make it practically useless.

Mr. MONDELL. Mr. Chairman, will the gentleman yield

for a question? Mr. PRAY.

Mr. MONDELL. The gentleman is familiar with the conditions upon that reservation. Is it not true that the making of these small appropriations increases the cost of the construction because of the fact that only small units can be constructed at one time and it is impossible to let the contracts in the most economical manner?

That is quite true.

Mr. MONDELL. And that the delay in making large appropriations now keeps the Government and the Indians out of the use of the lands for the reclamation of which large sums have already been appropriated?

Mr. PRAY. Yes; it does. Mr. MONDELL. So that in the interest of economy and in the interest of the early utilization of the land now partly irrigated and for the irrigation of which large sums have been expended we need a very much larger amount than this?

Mr. PRAY. The Director of the Reclamation Service and other officials have stated repeatedly that it necessarily increases the cost of the project where inadequate sums are appropriated from time to time. Let me go into the subject a little

more fully.

Three great irrigation projects are now and have been for some time under construction on Indian reservations in Montana. These projects are being built by the United States Reclamation Service for the Indian Office. If they should ever be completed, they would irrigate thousands of acres of fertile lands on the Flathead, Blackfeet, and Fort Peck Indian Reservations. With the meager appropriations that are now being made by Congress for this important work it will be many years before the projects will be finished. People who are now occupying these lands, relying upon the implied promise of their Government to furnish the water, will be old and decrepit or else in their graves before that promise is fulfilled, unless a different course is pursued in making appropriations. Take the Flathead project, which we have been considering, for example, that being the largest and most expensive one undertaken.

The reclamation officials asked the Committee on Indian Affairs to appropriate \$450,000 for the coming season, and have received, as this bill will show, \$150,000 instead. The other appropriations are cut proportionately. If the present policy is continued, it will probably be about 30 years before the Flathead project is finally completed. In the meanwhile there are 1,500 homesteaders on this reservation marking time, unable to cultivate their lands profitably because of lack of water for irrigation during the season when water is most needed. The Indian appropriation bill at the last session carried an item of \$200,000 for this project, but the engineers found when they called for money to proceed with the work that they could expend economically only about \$90,000 of the amount thus appropriated, because of the conditions imposed requiring the entire sum to be used in work on but two units of the project. For the purposes of administration and economical management, Reclamation Service has divided the project into several units, and the work of construction is carried on according to plans adopted by the engineers far in advance of construction. One of the units upon which the appropriation was required to be spent was nearly completed, and it was not found to be practicable, in the judgment of the officials in charge, to do more than a small amount of work on the other unit at that particular time. So, as a matter of fact, the greater part of the season was wasted and they were unable to use \$110,000 of the appropriation. If an abandonment of the remaining units of these projects is contemplated by our friends who now control the House, a most excellent beginning has been made.

It is my understanding that the committee has been thoroughly acquainted with the needs of the different projects by the Government officials in charge of the work; that they have presented to the committee from time to time complete information relating to the plans of construction and appropriations required, but that the response has been unfavorable to an expeditious and economical completion of the projects. What sort of business judgment and foresight is it to turn down the estimates of the department calling for an appropriation of \$450,000 and allow \$150,000 for a year's work on a project which, when finished will cost \$3,781,000, when all of these appropriations can be economically used and are reimbursable? The answer to this query would probably be that it is not good business to appropriate large sums of money out of the Treasury without knowing when and in what manner it is going to be returned. The fact is that we have now expended, or had at the close of the fiscal year June 30, 1912, \$490,000 on the Flathead project and that \$390,000 of that amount has already been reimbursed to the United States and paid into the Treasury. The reports show that the timber alone on this reservation is worth several hundred thousand dollars more than the entire cost of the project, and that is not taking into account at all the increased value of the land from \$75 to \$150 per acre. If we are going to irrigate 200,000 acres of land which, when water is furnished, will be worth \$20,000,000, it seems to me that the Government is not entering upon a speculative or hazardous enterprise in any sense, but is proceeding along conservative lines in the furtherance of a policy enacted by Congress and favored by two different administra-

These great projects have been under way for three years. The opening of these reservations was given wide publicity, likewise the fact that the Government proposed to reclaim large areas by construction of irrigation works. Thousands of settlers took up land and established their homes upon these reservations, believing in the responsibility and good faith of the Government and that it would really accomplish what it apparently was making every preparation to undertake when they went upon these lands.

These projects present no specially difficult engineering roblems. The plans have all been perfected by the reclamation officials, and the men and equipment are on the ground and all is in readiness to proceed with all possible expedition. the money has been withheld or else offered in small driblets, and every season of delay caused by inadequate appropriations will undoubtedly greatly increase the present estimate of cost on all these projects.

Mr. STEPHENS of Texas. Mr. Chairman, Mr. Newell, engineer in charge of this work, states:

There appeared to be, at the time of the last hearing, 2,265 Flathead Indians. The land to be irrigated comprises 150,000 acres, at an estimated cost of \$3,781,000, the cost per acre being \$30. There was expended to July 1, 1911, \$490,019.44. We appropriated for the fiscal year ended June 30, 1912, \$400,000, and in the last appropriation bill,

for the fiscal year ending June 30, 1913, we appropriated \$200,000. Now, they are asking for the next fiscal year an appropriation of \$200,050.

Will the gentleman yield?

Mr. STEPHENS of Texas. I desire to finish reading this, as it gives a succinct statement of the whole matter.

Mr. PRAY. I think the gentleman made a mistake in the

Mr. STEPHENS of Texas (reading):

Mr. STEPHENS of Texas (reading):

The former hearings disclosed the fact that these Indians have lands and timber conservatively estimated to be worth about \$5,000,000; and \$370,000 of the moneys expended on this project had been actually reimbursed in the Treasury at the time of the hearings a year ago. There appears to be five units in connection with this project, and when the hearings were held last year the Jocko unit, I think, was said to be \$1.5 per cent completed, the Mission unit was 9.6 per cent completed; the Pablo unit was 28.7 per cent completed; the Polson unit was 9.8 per cent completed; and the Post unit was 31 per cent completed.

Now, the present condition of the work, as shown by the last copy of the Reclamation Record for November, 1912, is as follows: The Jocko division is 84 per cent completed; the Mission division is 11.6 per cent completed; the Pablo division is 42.5 per cent completed; the Polson division is 9.9 per cent completed; and the Post division is 35.8 per cent completed.

We desired that the Jocko unit should be completed, so that water could be furnished to parties underneath those ditches, and also the Pablo division 42 per cent, nearly half of that was completed. That is the reason we cut the appropriation to what it is.

Mr. PRAY. Is not the recommendation \$250,000 instead of \$200,050?

Mr. STEPHENS of Texas. Yes.

Mr. PRAY. And is it not further the fact that the officials stated that last year's appropriation of money could not be economically expended because of the limitations imposed upon its use?

Mr. STEPHENS of Texas. Oh, certainly; they wanted the full amount they asked for, but we did not think it proper to give it to them before they completed these two units now so nearly completed. I ask for a vote.

The CHAIRMAN. The gentleman made a point of order.

Does the gentleman desire a ruling on that?

Mr. STEPHENS of Texas. I withdraw the point of order and ask for a vote.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

That the Secretary of the Interior is hereby authorized, in his discretion, to withdraw from the Treasury the entire share of the Northern Cheyenne Indians in the permanent fund created under section 17 of the act of Congress approved March 2, 1889 (U. S. Stat. L., vol., 25, p. 888), and to expend it for the benefit of said Northern Cheyenne Indians in the purchase of stock cattle or such articles as in his judgment will best advance said Indians in civilization and self-support, \$48,075.07.

Mr. PRAY. Mr. Chairman, I offer the following amendment. The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

After the figures in line 16, page 16, insert as a new paragraph the

After the figures in line 16, page 16, insert as a new paragraph the following:

"The sum of \$75,000, or so much thereof as may be necessary, \$25,000 of which shall become immediately available, is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, for the purpose of surveying the land within the Tongue River or Northern Cheyenne Indian Reservation, Mont., for completing the survey of the lands within the Fort Belknap Indian Reservation, Mont., and for making a meander survey around the Flathead Lake so as to identify the lands embraced within the power-site withdrawal of 100 linear feet around that lake back from the high-water mark for the year 1909."

Mr. STEPHENS of Texas. Mr. Chairman, I desire to make a point of order against the amendment offered by the gentleman. think it is clearly subject to a point of order, as it is new

Mr. BURKE of South Dakota. Pending that I want to inquire in regard to the paragraph from lines 7 to 16. The amendment of the gentleman from Montana is a new paragraph. I want to make inquiry in regard to the paragraph beginning at line 7 and ending in line 16. I call the attention of the chairman to the fact that at the end of line 16 is the sum of \$48,075.07.

Mr. STEPHENS of Texas. I understand this amendment to be offered as a new paragraph and has no connection with this. It does not propose to touch the total.

Mr. BURKE of South Dakota. His amendment has no refer-

ence to this paragraph at all.

Mr. STEPHENS of Texas. I understand.

Mr. BURKE of South Dakota. I call the attention of the Chairman again to line 16. At the end of the line are the fig-

ures \$48,075.07. Do I understand that is the amount appropriated by this item?

Mr. STEPHENS of Texas. That is the amount authorized by

the department.

Mr. BURKE of South Dakota. That is the amount of the

Northern Cheyenne Indians in the permanent fund?

Mr. STEPHENS of Texas. That is right, and they have asked this amount be given for the purpose stated in the amendment

Mr. BURKE of South Dakota. I call the Chairman's attention again to the fact that the language is very ambiguous, and it is doubtful whether it appropriates it. It seems to me it has no connection with it.

Mr. STEPHENS of Texas. That is in accordance with the letter they have forwarded.

Mr. BURKE of South Dakota. That does not help it.

Mr. STEPHENS of Texas. What amendment does the gentleman suggest?

Mr. BURKE of South Dakota. I am not certain it requires

But here is an authorization:

That the Secretary of the Interior is hereby authorized, in his discretion, to withdraw from the Treasury the entire share of the Northern Cheyenne Indians in the permanent fund—

And so forth.

And to expend it for the benefit of the said Northern Cheyenne Indians in the purchase of stock cattle or such articles as in his judgment will best advance said Indians in civilization and self-support, \$48,075.07.

Mr. STEPHENS of Texas. This follows the law already. That is the unexpended balance.

Mr. BURKE of South Dakota. How do we know it is the unexpended balance?

Mr. STEPHENS of Texas. That is what they state in the letter.

Mr. BURKE of South Dakota. Then, in line 13, after the comma, should it not state "which amount is \$48,075.07, and the Secretary of the Interior is authorized to expend it

I am simply calling the attention of the committee to the way in the paragraph the \$48,000 is appropriated.

Mr. STEPHENS of Texas. I think the first part of the sentence makes that clear, namely:

That the Secretary of the Interior is hereby authorized, in his discretion, to withdraw from the Treasury the entire share—

In a certain event.

Mr. BURKE of South Dakota. Suppose the entire share happened to be \$58,000?

Mr. STEPHENS of Texas. These are their figures, and they keep books there.

Mr. BURKE of South Dakota. I would like to call the gentleman's attention to the fact that this item does not state that this is the balance. It stands as \$48,000 and odd in figures.

Mr. STEPHENS of Texas. That is the appropriation. Mr. BURKE of South Dakota. It does not so state. It does not appropriate \$48,000.

Mr. STEPHENS of Texas. What amendment would the gentleman suggest?

Mr. BURKE of South Dakota. I do not think the \$48,000, as it stands at present-

Mr. STEPHENS of Texas. Has the gentleman noticed the first language in line 7, namely:

That the Secretary of the Interior is hereby authorized, in his discretion, to withdraw from the Treasury—

And so forth?

Mr. BURKE of South Dakota. He has draw it if it is \$48,000 or if it is \$148,000? He has authority to with-

Mr. STEPHENS of Texas. It says that it is for the benefit of the Shawnee Indians.

Mr. BURKE of South Dakota. What have the figures \$48,000 there to do?

Mr. STEPHENS of Texas. I have no objection to their going

Mr. BURKE of South Dakota. I do not think they ought to

be there in that form. Mr. STEPHENS of Texas. If you will make a motion-

Mr. BURKE of South Dakota. I am not going to make a motion, but I think it is inadvertently inserted in that way, and I think it ought to go out, or to make it so that it is understood that we can not expend more than \$48,075.07. Suppose the share of the Cheyenne Indians is \$148,000, would that limit the Secretary of the Treasury from drawing from the Treasury

Mr. STEPHENS of Texas. I think that is merely directory.

Mr. BURKE of South Dakota. I think so.

Mr. STEPHENS of Texas. I think so. It directs him to take out whatever balance there is there.

Mr. FERRIS. Will the gentleman yield just a moment? Mr. BURKE of South Dakota. Certainly.

Mr. FERRIS. I am rather inclined to think the gentleman's suggestion is a good one. If you will turn over to page 19, lines to 24, you will find there the following language used to withdraw trust funds:

Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States at his discretion the sum of \$25,000.

This language has always answered the purpose, all right The specific amount withdrawn is stated in the body of the paragraph—and I wonder if it might not help the language by inserting, after the word "Treasury," page 16, line 8, the words "the sum of \$48,075.07, which is the share of the Northern Cheyenne Indians"?

Mr. BURKE of South Dakota. The gentleman will see that if you made a period where the comma apears, after the word "support," in line 16, that the sentence would be complete, and

the \$48,075.07 would not mean anything

Mr. MANN. Is the gentleman sure that it would not be contended as meaning something? I think the suggestion made by the gentleman from South Dakota [Mr. Burke] as to the form is quite apt, but this being a trust fund I do not suppose that we make an appropriation.

Mr. FERRIS. Simply withdraw it.

Mr. MANN. We simply withdraw it, and where the act says, "the entire share of the Northern Cheyenne Indians, which was \$48,075.07," I apprehend the department would not allow them to withdraw more than the \$48,075.07. I at first thought that this being an item that does draw interest, there might be no way of ascertaining the exact amount that was in the Treasury at the date at which it was to be withdrawn, but, as I understand now, the interest is payable without the action of Congress at all, and the department has certified that there remains this amount, \$48,075.07.

Without taking time to strike out that 7 cents, I would like to suggest to the gentleman from Texas [Mr. Stephens] that

it is now 7 minutes of half past 5.

Mr. STEPHENS of Texas. I would like to have this item settled

This item is settled.

Mr. FERRIS. There is a point of order pending. Mr. STEPHENS of Texas. Yes; a point of order is pending.

Mr. FERRIS. But to another section.

The CHAIRMAN. There is no point of order pending to The point of order that was made does not relate this section. to this section.

Mr. BURKE of South Dakota. Mr. Chairman, I wish to offer an amendment. On line 13, page 16, after the parenthesis, insert the words "which amount is \$48,075.07." And then strike out the figures in line 16, after the words "selfsupport.

Mr. STEPHENS of Texas. Mr. Chairman, I accept the

amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from South Dakota.

The Clerk read as follows:

Amend, page 16, line 13, by inserting, after the parenthesis, "\$48,075.07" and striking out, on line 16, after the words "self-support," the figures "\$48,075.07."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Dakota [Mr. Burke].

The amendment was agreed to.

Mr. STEPHENS of Texas. Mr. Chairman, I ask for a ruling on the point of order suggested by the gentleman from Montana [Mr. Pray]

Mr. PRAY. Mr. Chairman, would it not be possible for the committee to rise now and leave this matter pending?

Mr. STEPHENS of Texas. I would like to have a ruling ow. I think it is perfectly clear, Mr. Chairman, that it is new legislation. It provides for a survey, and it is certainly new legislation.

Mr. PRAY. Would not the gentleman agree to rise now? I

desire to discuss the amendment briefly later.

Mr. STEPHENS of Texas. I will yield to the gentleman to make such observations as he pleases now. It is six minutes until half-past 5.

Mr. PRAY. I hope the gentleman from Texas will consent to allow it to go over.

Mr. STEPHENS of Texas. I will reserve temporarily the point of order. The gentleman can conclude on Monday. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 26874) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914, and had come to no resolution thereon.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL. Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the

United States, for his approval, the following bills:

H. R. 10169. To provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge; and

H. R. 10648. Amending an act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with the Indian tribes

and to protect the same."

ADJOURNMENT.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 25 minutes p. m.) the House adjourned until Monday, January 6, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Duwamish River, Wash. (H. Doc. No. 1219); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of West Fork, South Branch Chicago River, Ill., from Robey Street west to Forty-eighth Avenue (H. Doc. No. 1220); to the Committee on Rivers and Harbors and ordered to be printed.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on examination and survey of Mississippi River between Winnibigoshish and Pokegama reservoirs; and from Leech Lake Dam to the mouth of Leech River, Minn., with a view to straightening and improving the channel (H. Doc. No. 1223); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

4. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of the Interior, submitting an urgent deficiency estimate of appropriation for improvement of electric-light plant, Department of the Interior (H. Doc. No. 1221); to the Committee on Appropriations and

ordered to be printed.

5. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Utah at the election held therein on November 5, 1912: to the Committee on Election of President, Vice President, and Representatives in Congress.

6. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Texas at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and

Representatives in Congress.

7. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Michigan at an election held therein November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

8. A letter from the Doorkeeper of the House of Representatives, transmitting an inventory of all property in his charge belonging to the United States (H. Doc. No. 1222); to the Com-

mittee on Accounts and ordered to be printed.

REPORTS OF COMMITTEES.

Under clause 2 of Rule XIII,

Mr. GRAHAM, from the Committee on Expenditures in the Interior Department, submitted a report (No. 1279), together with the views of the minority, on the matter of the investiga-tion of the Indian Bureau, with transcript of testimony taken and exhibits offered from April 9, 1912, to August 17, 1912, which said report was referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred, as follows:

By Mr. JOHNSON of Kentucky (by request of the Commissioners of the District of Columbia): A bill (H. R. 27657) to authorize the opening of a minor street from Georgia Avenue to Ninth Street NW., through squares 2875 and 2877, and for other purposes; to the Committee on the District of Columbia.

Also (by request of the Commissioners of the District of Columbia), a bill (H. R. 27658) to authorize the widening and opening of Rhode Island Avenue from Fourth Street east to the District line: to the Committee on the District of Columbia.

By Mr. STEENERSON: A bill (H. R. 27659) amending section 2 of an act entitled "An act to increase the pension of widows, minor children, etc., of deceased soldiers and sailors of the late Civil War, the War with Mexico, the various Indian wars, etc., and to grant a pension to certain widows of the de-ceased soldiers and sailors of the late Civil War," approved April 19, 1908; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 27660) granting to the city

of Klamath Falls, Oreg., certain unsurveyed lands for park pur-

poses; to the Committee on the Public Lands.

By Mr. BATHRICK: A bill (H. R. 27661) to establish a bureau to institute a system of loaning money to farmers upon agricultural lands; to the Committee on Ways and Means.

By Mr. REILLY: A bill (H. R. 27662) making it unlawful for any society, order, or association to send or receive through the United States mails, or to deposit in the United States mails, any written or printed matter representing such society, fraternal order, or association to be named or designated or entitled by any name hereafter adopted, any word or part of which title shall be the name of any bird or animal, the name of which bird or animal is already being used as a part of its title or name by any other society, fraternal order, or associa-tion; to the Committee on the Post Office and Post Roads.

By Mr. HAWLEY: A bill (H. R. 27663) to amend section 2291 of the Revised Statutes of the United States relating to

homesteads; to the Committee on the Public Lands.

By Mr. LOBECK: A bill (H. R, 27664) to incorporate the Virginia Terminal Co.; to the Committee on the District of Columbia.

By Mr. MAGUIRE of Nebraska: A bill (H. R. 27665) to authorize the extension and enlargement of the post-office building in the city of Lincoln, Nebr.; to the Committee on Public Buildings and Grounds.

By Mr. TAGGART: A bill (H. R. 27.66) to amend an act entitled "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," approved July 25, 1912; to the Committee on Rivers and Harbors.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER: A bill (H. R. 27667) granting a pension to Wilburn Munkers; to the Committee on Invalid Pensions. By Mr. AMES: A bill (H. R. 27668) granting a pension to

Charles E. Brackett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27669) granting a pension to Gertrude

Meloy; to the Committee on Invalid Pensions.

By Mr. BUTLER: A bill (H. R. 27670) granting a pension to Katherine M. Keegan; to the Committee on Pensions.

By Mr. BARCHFELD: A bill (H. R. 27671) granting an increase of pension to George W. Haney; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27672) granting an increase of pension to Thomas Lowe; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27673) granting an increase of pension to

George Bailey; to the Committee on Invalid Pensions.
Also, a bill (H. R. 27674) authorizing the Secretary of War to grant an honorable discharge to John P. Barry; to the Committee on Military Affairs.

By Mr. CAMPBELL: A bill (H. R. 27675) granting a pension to Faithie P. Nolan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27676) granting an increase of pension to

Sarah Frye; to the Committee on Invalid Pensions.

By Mr. CANNON: A bill (H. R. 27677) granting an increase of pension to August Fink; to the Committee on Invalid Pen-

Also, a bill (H. R. 27678) for the relief of John McElhiney; to the Committee on Military Affairs.

By Mr. COX of Indiana: A bill (H. R. 27679) granting an increase of pension to James F. Hubbard; to the Committee on Invalid Pensions.

By Mr. CRUMPACKER: A bill (H. R. 27680) granting an increase of pension to Elizabeth Hoon; to the Committee on In-

valid Pensions.

By Mr. DAUGHERTY: A bill (H. R. 27681) for the relief of Ed. P. Ambrose; to the Committee on Claims.

By Mr. FIELDS: A bill (H. R. 27682) granting an increase of pension to Newton Ridgway; to the Committee on Invalid Pen-

By Mr. FOCHT: A bill (H. R. 27683) granting an increase of pension to Ida C. Taylor; to the Committee on Invalid Pen-

By Mr. FULLER: A bill (H. R. 27684) granting an increase of pension to Everett G. Ford; to the Committee on Invalid Pensions

By Mr. HAMILTON of Michigan: A bill (H. R. 27685) granting a pension to Roxanna Starkey; to the Committee on Pen-

By Mr. HAMLIN (by request): A bill (H. R. 27686) for the relief of A. P. Holcomb and the heirs of Samuel Thompson, deceased; to the Committee on War Claims.

Also, a bill (H. R. 27687) granting a pension to Matilda J.

Sweaney; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27688) granting a pension to Stella Griffitts;

the Committee on Pensions.

By Mr. HAWLEY: A bill (H. R. 27689) granting an increase of pension to Pleasant H. Harper; to the Committee on Pen-

By Mr. LAFFERTY: A bill (H. R. 27690) granting an increase of pension to Robert D. Rector; to the Committee on Invalid Pensions

By Mr. LANGHAM: A bill (H. R. 27691) granting an increase of pension to Harvey Haugh; to the Committee on Invalid Pen-

By Mr. LAWRENCE: A bill (H. R. 27692) for the relief of the heirs of William G. Patience; to the Committee on Claims. By Mr. McGILLICUDDY: A bill (H. R. 27693) granting a pension to Rachel D. Barnes; to the Committee on Pensions.

Also, a bill (H. R. 27694) granting a pension to Hattie E.

Delano; to the Committee on Invalid Pensions. By Mr. McKINLEY: A bill (H. R. 27695) for the relief of

Edward N. McCarty; to the Committee on Claims. By Mr. MACON: A bill (H. R. 27696) granting an increase of pension to George M. Thomas; to the Committee on Invalid

Also, a bill (H. R. 27697) granting an increase of pension to Harvey H. M. Moore; to the Committee on Invalid Pensions.

By Mr. MAGUIRE of Nebraska: A bill (H. R. 27698) granting an increase of pension to Mary R. Clarke; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27699) granting an increase of pension to Isaac Lint; to the Committee on Invalid Pensions.

By Mr. MILLER: A bill (H. R. 27700) granting a pension to Charles N. Ashford; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27701) granting a pension to Emma J. Goodrich: to the Committee on Invalid Pensions.

By Mr. PALMER: A bill (H. R. 27702) granting a pension to Howard S. Gardner; to the Committee on Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 27703)

granting an increase of pension to William Jones; to the Committee on Invalid Pensions.

By Mr. RAUCH: A bill (H. R. 27704) granting an increase of pension to Charles E. Burr; to the Committee on Invalid Pen-

Also, a bill (H. R. 27705) granting an increase of pension to Sarah Flook; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27706) granting an increase of pension to Michael N. Musselman; to the Committee on Invalid Pensions. By Mr. REILLY: A bill (H. R. 27707) granting a pension to Charles Voos; to the Committee on Pensions.

Also, a bill (H. R. 27708) granting a pension to Daniel A. Millard; to the Committee on Pensions.

Also, a bill (H. R. 27709) to remove the charge of desertion against Walter S. Goodrich; to the Committee on Military Affairs.

Also, a bill (H. R. 27710) to remove the charge of desertion from the military record of Peter S. Beauchamp; to the Committee on Military Affairs.

By Mr. RUBEY: A bill (H. R. 27711) granting a pension to

By Mr. RUBEY: A bill (H. R. 27711) granting a pension to Aaron Walker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27712) granting a pension to Rebecca Rapalyea; to the Committee on Invalid Pensions.

By Mr. SCULLY: A bill (H. R. 27713) granting an increase of pension to Annie Conroy; to the Committee on Invalid Pensions. By Mr. SHERWOOD: A bill (H. R. 27714) granting an increase of pension to Edward Gifford; to the Committee on Invalid Pensions.

By Mr. STONE: A bill (H. R. 27715) granting an increase of pension to John L. Beck; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27716) granting an increase of pension to James McCormick; to the Committee on Invalid Pensions.

By Mr. TAGGART: A bill (H. R. 27717) granting an increase of pension to Sylvania Collins; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Colorado: A bill (H. B. 27718) granting an increase of pension to Sarah F. Meade; to the Committee on Invalid Pensions.

By Mr. THOMAS: A bill (H. R. 27719) for the relief of J. Will Morton and the estate of Clarissa H. Morton, deceased; to the Committee on War Claims.

the Committee on War Claims.

By Mr. WHITACRE: A bill (H. R. 27720) granting an increase of pension to Daniel Ruff; to the Committee on Invalid Pensions.

By Mr. WHITE: A bill (H. R. 27721) granting a pension to Ida M. Gleaves; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANSBERRY: Petition of Chistopher Fickbeiner, Toledo, Ohio, favoring the passage of House bill 1339, granting an increase of pension to veterans who lost an arm or leg in the Civil War; to the Committee on Invalid Pensions.

Also, petition of the Chilton Co., Philadelphia, Pa., favoring the passage of the section of the Post Office appropriation bill requiring the statement of circulation of all publications under Government supervision; to the Committee on the Post Office and Post Roads.

Also, petition of John T. Mack and other representatives of the Ohio Daily Newspapers Association, asking for the repeal of the publicity section of the Post Office appropriation bill; to the Committee on the Post Office and Post Roads.

Also, petition of Pine Bluff Lodge, No. 305, Brotherhood of Railroad Trainmen, protesting against the passage of the workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of E. B. Opelycke, Bryan, Ohio, favoring the passage of the Kenyon "red-light" injunction bill to clean up Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of the local chapter of the Socialist Party of Newark, N. J., favoring a congressional investigation of the prosecution by the Government of the Appeal to Reason; to the Committee on the Judiciary.

Also, petition of Moore & Mead and 2 other merchants of Coshocton, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power toward controlling the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. AYRES: Petition of the North Side Board of Trade, favoring the passage of House bill 26677, providing for the relocation of the pierhead line in the Hudson River between Pier 1 and West Thirtieth Street; to the Committee on Interstate and Foreign Commerce.

By Mr. BARCHFELD: Papers to accompany bill granting an increase of pension to George W. Haney; to the Committee on Invalid Pensions.

By Mr. CANNON: Petition of C. J. Laverenz, Danville, Ill., and the citizens of Chisman, Ill., favoring the passage of House bill 4043, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. DANFORTH: Petition of A. H. Swift, manufacturer of gold leaf, of Rochester, N. Y., praying for an increase of duty on gold leaf from 35 to 50 cents per 100 leaves, leaf not exceeding 3\hat{2}\hat{3}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}\hat{5}

Also, petition of the Schlegal Manufacturing Co., Rochester, N. Y., protesting against a reduction in the rate of duty on coach

lace; to the Committee on Ways and Means.

By Mr. ESCH: Petition of the general executive committee of the Railway Business Association, favoring the passage of legislation granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Association of National Advertising Managers, New York, protesting against the passage of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent goods: to the Committee on Patents.

facturers of patent goods; to the Committee on Patents.

By Mr. FITZGERALD: Petition of the board of directors of the New York Civic League, favoring the passage of legislation preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Federation of Jewish Farmers of America, favoring the passage of legislation establishing a system of farmers' credit unions; to the Committee on Banking and Currency.

By Mr. FORNES: Petition of Kenyon & Kenyon, New York, N. Y., favoring the passage of House bill 26277, for creating a United States court of patent appeals; to the Committee on the Judiciary.

Also, petition of the Garvin Machine Co., New York, N. Y., protesting against the placing of machine tools on the free list;

to the Committee on Ways and Means.

Also, petition of the New York Produce Exchange, New York, N. Y.; and the Railway Business Association, New York, N. Y., favoring the passage of House bill 25106, granting a federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Mariani Co., New York, N. Y., favoring the passage of legislation creating an advisory tariff board; to

the Committee on Ways and Means.

Also, petition of the Association of National Advertising Managers of New York, protesting against the passage of House bill 23417, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the Grain Dealers' Association, favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, for the regulation of the telephone and telegraph service; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Brooklyn League, Brooklyn, N. Y., favoring the passage of bill for the relocation of the plerhead line in the Hudson River between Pier 1 and West Thirtieth Street; to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Petition of William McLeod, Hemlock, N. Y., favoring the passage of House bill 1339, to increase the pension of veterans who lost an arm or leg in the Civil War; to the Committee on Invalid Pensions.

By Mr. HARRISON of New York: Petition of William Houston Kenyon and other citizens of New York and Brooklyn, favoring the passage of House bill 26277, establishing a United States court of patent appeals; to the Committee on the Judician.

By Mr. KINKAID of Nebraska: Petition of residents of 20 towns of the sixth district of Nebraska, favoring the passage of legislation making it possible to compel all concerns selling goods direct to consumers entirely by mail to contribute their portion of the funds to the development of the local community, the county, and the State; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Oshkosh, Nebr., favoring the passage of House bill 4043, preventing the shipping of liquor into dry territory; to the Committee on the Judiciary.

By Mr. LEE of Pennsylvania: Petition of the Pennsylvania Sealers' Conference, Harrisburg, Pa., favoring the passage of House bill 23113, fixing a standard barrel for fruits, vegetables, etc.; to the Committee on Coinage, Weights, and Measures.

By Mr. NORRIS: Petition of citizens of Dundy County and other citizens of Nebraska; the Nazarene Church of Hastings, Nebr.; the First Presbyterian Church; the First Congregational Church; the Federation of Churches; and the First Baptist Church, Hastings, Nebr., favoring the passage of the KenyonSheppard liquor bill preventing the shipment of liquor into dry

territory; to the Committee on the Judiciary.

Also, petition of citizens of Geneva, Nebr., favoring the passage of the Kenyon "red-light" bill to clean up Washington for the inauguration; to the Committee on the District of Co-

By Mr. REYBURN: Petition of Pennsylvania Sealers' Conference, Harrisburg, Pa., favoring the passage of House bill 23113, fixing a standard barrel for fruits, vegetables, etc.; to

the Committee on Coinage, Weights, and Measures.

Also, petition of the Philadelphia Board of Trade, reaffirming its belief in a permanent tariff commission; to the Committee on Ways and Means.

Also, petition of the general executive committee of the Railway Business Association, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States; to the Committee on the Judiciary.

By Mr. REILLY: Petition of the general executive committee of the Railway Business Association, favoring the passage of House bill 25106, for the incorporation of the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Board of Agriculture of the State of Connecticut, protesting against the passage of any legislation reducing the present tax on oleomargarine; to the Committee

on Agriculture.

Also, petition of the Association of National Advertising Managers of New York, protesting against the passage of section 2 of the Oldfield patent bill, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the New Haven Chamber of Commerce, New

Haven, Conn., expressing their belief in the integrity of the

officials of the New York, New Haven & Hartford Railroad Co.;

to the Committee on Interstate and Foreign Commerce.

Also, petition of the Pennsylvania Sealers' Conference, favoring the passage of House bill 23113, fixing a standard barrel for fruits, vegetables, etc.; to the Committee on Coinage, Weights, and Measures

Also, petition of the New London Business Men's Association, New London, Conn., protesting against the passage of the provision contained in the sundry civil bill stopping the appointment of any more cadets or cadet engineers in the Revenue-Cutter Service unless authorized by Congress; to the Committee on Naval Affairs.

By Mr. STEPHENS of California; Petition of the Afternoon Club of Alhambra, Cal., protesting against the passage of any legislation tending to interfere with the present national system

of protecting the forests; to the Committee on Agriculture.

By Mr. THOMAS: Papers to accompany bill for the relief of J. Will Morton and the estate of Clarissa H. Morton; to the

Committee on War Claims.

By Mr. TILSON: Petition of the Chamber of Commerce of New Haven, Conn., expressing their confidence in the integrity of the officials of the New York, New Haven & Hartford Railroad Co.; to the Committee on Interstate and Foreign Commerce.

By Mr. WICKERSHAM: Petition of resident fishermen at Ketchikan, Alaska, favoring the passage of legislation preventing the setting of fish traps in the tidal waters of Alaska; to

the Committee on the Territories.

By Mr. WILLIS: Petition of John T. Mack and other representatives of the Ohio Daily Newspaper Association, asking for the repeal of the publicity section of the Post Office appropriation bill; to the Committee on the Post Office and Post